MODERN TREATIES OF FRIENDSHIP, COMMERCE AND NAVIGATION

HERMAN WALKER, JR.*

The bilateral "treaty of friendship, commerce and navigation" is one of the most familiar instruments known to diplomatic tradition. The title, commonly used to describe a basic accord fixing the ground-rules governing day-to-day intercourse between two countries, designates the medium *par excellence* through which nations have sought in a general settlement to secure reciprocal respect for their normal interests abroad, according to agreed rules of law.[1]

The precise content of the instrument as treaty-type, and the manner in which that content is treated, has varied from era to era depending on the needs of the time, the usages of the countries involved and the foreign policy objectives in view.[2] In United States practice, however, it has evolved into a comprehensive charter of relations in the domain of private affairs. In the course of that evolution, it has figured repeatedly in the conduct of American foreign relations from the earliest days, and with all manner of nations, beginning with the treaty of Amity and Commerce with France in 1778 and continuing into the present. The number of such treaties concluded by the United States runs well over a hundred.[3] This discussion focuses on the sixteen that have been signed since 1946.[4]

---

*First Secretary of Embassy, Foreign Service of the United States, Paris. This article is without official attribution.

1. Leading writers on international law do not seem to have commented extensively on this treaty function. But see Fiore, International Law Codified and Its Legal Sanction 373-74 (Borchard trans., 1918).

2. For a brief discussion of the historical development of treaties of this type (sometimes known as "commercial" treaties, a term which also can refer to instruments of lesser scope), see Culbertson, *Commercial Treaties*, 2 Encyc. Soc. Sci. 24-31 (1930). Summaries of their purposive evolution in United States policy may be found in Setser, *Treaties to Aid American Business Abroad*, 40 Foreign Commerce Weekly 3 (September 11, 1950); *Commercial Treaty Program of the United States*, U.S. Dept. of State Pub. 6565 (1958).

3. The treaty with France, 1778, 8 Stat. 12, T.S. No. 83 was next followed by those with the Netherlands 1782, 8 Stat. 32, T.S. No. 249; Sweden 1783, 8 Stat. 60, T.S. No. 346; and Prussia 1785, 8 Stat. 84, T.S. No. 292 even prior to the Constitutional Convention. A convenient compilation of treaty texts, prepared under Senate auspices, is the four volume Treaties, Conventions, International Acts, Protocols and Agreements between the United States of America and Other Powers (1776-1909 (2 vols.) Malloy ed.; 1910-1923, Redmond ed.; 1923-1937, Trenwith ed.). The Trenwith volume contains a table from which can be readily derived a chronological compilation of treaties of this type, under whatever variant title.

4. *Republic of China*, 1946, 63 Stat. 1299, T.I.A.S. No. 1871; *Italy*, 1948, 63 Stat. 2255, T.I.A.S. No. 1965, (Supplemented by Agreement of Sept. 26, 1951, Sen. Exec. H., 82d Cong., 2d Sess.); *Uruguay*, 1949, (Sen. Exec. D., 81st Con., 2d Sess.); *Ireland*, 1950, 1 U.S. Treaties & Other Int'l Agreements 785, T.I.A.S. No. 2155; *Columbia*, 1951, (Sen. Exec. M., 82d Cong., 1st Sess.,

Annex 1

I. Scope and Content

In United States practice, although "friendship" is attributed an honored place in the title and although the conclusion of a treaty presupposes friendliness and good-will between the signatories, these treaties are not political in character. Rather, they are fundamentally economic and legal. Moreover, though "commerce" and "navigation" complete the title and accurately describe part of their content, their concern nowadays is only secondarily with foreign trade and shipping. They are "commercial" in the broadest sense of that term; and they are above-all treaties of "establishment," concerned with the protection of persons, natural and juridical, and of the property and interests of such persons. They define the treatment each country owes the nationals of the other; their rights to engage in business and other activities within the boundaries of the former; and the respect due them, their property and their enterprises.

Their current preoccupation with these matters has been especially responsive to the contemporary need for a code of private foreign investment; and their adaptability for use as a vehicle in the forwarding of an investment aim follows from their historical concern with establishment matters. Familiar elements in them stood ready to be amplified and reconditioned to meet contemporary needs and circumstances.[5] The pattern formed by the series of sixteen signed since 1946 is accordingly distinguished in complexion from that formed by the several different series concluded in past eras.[6]

withdrawn from Senate June 30, 1953); *Ethiopia*, 1951, 4 U.S. Treaties & Other Int'l Agreements 2134, T.I.A.S. No. 2864; *Israel*, 1951, 5 U.S. Treaties & Other Int'l Agreements 550, T.I.A.S. No. 2948; *Greece*, 1951, 5 U.S. Treaties & Other Int'l Agreements 1829, T.I.A.S. No. 3057; *Denmark*, 1951, (Sen. Exec. I., 82d Cong., 2d Sess.); *Japan*, 1953, 4 U.S. Treaties & Other Int'l Agreements 2063, T.I.A.S. No. 2863; *Federal Republic of Germany*, 1954, 7 U.S. Treaties & Other Int'l Agreements 1839, T.I.A.S. No. 3593; *Haiti*, 1955, (Sen. Exec. H., 84th Cong., 1st Sess., withdrawn from Senate Aug. 8, 1957); *Iran*, 1955, T.I.A.S. No. 3853; *Nicaragua*, 1956, (Sen. Exec. G., 84th Cong., 2d Sess.); *Netherlands*, 1956, T.I.A.S. No. 3942; *Korea*, 1956, T.I.A.S. No. 3947. The treaties with Ethiopia and Iran represent considerably abridged versions and vary also from the others in that they contain provisions on consular rights. A subject matter usually dealt with in separate conventions, by current United States practice. The Uruguay example also has a variant detail in its title: "Economic Development" in lieu of "Navigation."

5. See Walker, *Treaties for the Encouragement and Protection of Foreign Investment: Present United States Practice*, 5 Am. J. Comp. L. 229 (1956).

6. The 12 treaties in the last-preceding series, the period between the two World Wars, beginning with the German treaty of 1923, 44 Stat. 2132, T.S. No. 725, usually carried a number of articles dealing with consuls, consistent with their scheme of devoting the major part of their space to trade and shipping. By contrast, the major part of the significant establishment rights, now usually spread over a dozen articles, was covered in a single article which was given the lead position. *Id.* at art. I.

Annex 1

Nevertheless, this pattern is at the same time of a kind with its predecessors, and in the same direct line of evolution, having the same broad design and covering generally the same subject-matter. There has taken place merely a shift in internal emphasis away from trade and shipping, and that which is ancillary to trade and shipping, a shift facilitated by the recent development of alternative instruments for dealing with international trade.[7]

Because of their common identification with common objectives all sixteen of the current series show close kinship, but no two of them of course are identical. The several units of the series each reveal numerous variations, especially in their secondary details, owing to having each been negotiated free-will with a different country and having taken account of individual differences in viewpoint and condition. They differ particularly in that, subsequent to the first two (China, 1946 and Italy, 1948) the model form used to initiate negotiations was completely recast in the interest of compactness, greater clarity and legal sufficiency, and completeness of content. Further, the form used in another two of them (Ethiopia, 1951 and Iran, 1955) represents a specially abridged edition.[8] The universality of the program—as witness the geographical spread, the variety in size and circumstance of the countries involved, and the avowed willingness of the United States to treat equally all like-minded countries—demands flexibility along with adherence to a common core of purpose, orientation and basic content.

With the accretion of precedent and experience in framing acceptable norms, the later ones tend towards a greater display of uni-

7. The executive trade-agreement device, originally authorized by the Trade Agreements Act of 1934, 48 Stat. 943, 19 U.S.C. §§ 1351-54 *rev.*, 1948, 62 Stat. 1053, 19 U.S.C. §§ 1360-67. This type of agreement provides a flexible framework within which specific concessions in rates of duty can be reciprocally negotiated, item-by-item. Originally, the negotiating program was bilateral; but since 1947 the negotiations and agreements reached have been principally under the aegis of the multilateral General Agreement on Tariffs and Trade 61(5)(6) Stat. A3, A2054 T.I.A.S. No. 1700. 37 countries, accounting for approximately 80 per cent of the world's international trade, now adhere to the GATT.

8. These abridgements were occasioned, on the one hand, by the lack of any practical need for negotiating certain provisions or elaborations of provisions occurring in the standard form of the treaty that could be regarded as having secondary consequence or as largely irrelevant to relations with the countries concerned and, on the other hand, by the desire to use the treaty as a vehicle for dealing with the essentials of diplomatic and consular status. For synopses of the content of typical recent treaties and comparison with that of the Ethiopia and Iran treaties, see tables in *Commercial Treaties, Hearing before a Subcommittee of the Senate Committee on Foreign Relations*, 83d Cong., 1st Sess., 6-17 (1953); *Commercial Treaties with Iran, Nicaragua, and the Netherlands, Hearing before the Senate Committee on Senate Foreign Relations*, 84th Cong., 2d Sess., 5-9 (1956).

Annex 1

formity; the following synoptical outline of normal content follows the later rather than the earlier examples:

Preamble, general purposes.
Entry, movement and residence of individuals.
Liberty of conscience and communication.
Protection of persons from molestation and police malpractices.
Protection of acquired property.
Standing in the courts.
Right to establish and operate businesses.
Formation and management of corporations.
Non-profit activities.
Acquisition and tenure of property.
Tax treatment.
Administration and exchange controls.
Rules on international trade and customs administration.
Rules governing the state in business.
Treatment of ships and shipping.
Transit of goods and persons.
Reservations, definitions and general provisions.
Settlement of disputes.
Procedural clauses.
Protocol, an appendix of varying length, containing material construing and clarifying the treaty text, and making accommodations to take account of individual situations.[9]

This broad framework allows room for serving a variety of subsidiary interests, for which no other practicable medium may be available, or the regulation of which raises complications not readily overcome by the normal rules of the treaty, or with respect to which the other party to the negotiation may cherish a particular interest. Thus, a detailed scrutiny of signed treaties would show that, in addition to the subject matter outlined above, the treaty also has been used as a vehicle for dealing with a number of special questions, such as: freedom of reporting, social security, commercial arbitration, commercial travelers, marine insurance and restrictive business practices.[10] On the other hand, just as some of these special

9. The Protocol, by serving *inter alia* as a convenient vehicle in attending to special variations or preoccupations of individual countries, reduces the amount of deviation between treaties, with respect to general outline, basic content and array of principles. It also serves as a bulletin board for posting certain tenets of construction which are considered desirable to record formally but which may lead to mischievous inferences of being substantive additions rather than precautionary explanations, if they are integrated into the rule to which they relate.

10. Freedom of reporting and restrictive business practices are examples of particular subjects of interest to the United States on which satisfactory multilateral progress under United Nations auspices has been wanting. See, *e.g.*, on freedom of reporting, *Report of the United States Delegates to the United Nations Conference on Freedom of Information*, U.S. Dept. of State Pub. 3150 (1948); on restrictive business practices, Domke, *The United*

features are not to be found in earlier examples of the series, so there are missing from the later ones provisions on compulsory military service and the practice of the professions, dropped because of domestic developments.[11]

II. The Rules of Treatment

The attribute these treaties share which gives consistency to their pattern, even more than the similarity of their subject matter, is the way in which that subject-matter is molded into concrete provisions. The considerations determining the character of the rules applicable to the various topics covered are several. In the first place, the protective objects in view require firm rules of law, established on a relatively stable basis. These treaties are normally concluded for an initial period of ten years certain and indefinitely thereafter, unless and until terminated upon the giving of one year's formal notice.[12] Durability requires in turn that the commitments be essentially reasonable. Both this and the long list of subjects covered demand rules framed in terms of principles that remain valid regardless of an unpredictable future. Being occupied with essential principles of equity and fair treatment, their negotiation does not provide an arena for the trading of concessions or the bargaining for an

Nations Draft Convention on Restrictive Business Practices, 4 Int. & Comp. L. Q. 129 (1955). Marine insurance (a post-1952 development) and commercial arbitration illustrate subjects requiring special handling. See, *e.g.,* discussion on marine insurance in *Commercial Treaties, Hearing before a Subcommittee of the Senate Committee on Foreign Relations,* 82d Cong., 2d Sess., 36-37 (1952); and, for arbitration, Walker, *Commercial Arbitration in United States Treaties,* 11 Arb. J. (n.s.) 68 (1956). Social Security exemplifies a subject of practical interest to the other countries rather than to the United States. See, *Analysis of the Social Security System, Hearings before a Subcommittee of the House Committee on Ways and Means,* 83d Cong., 1st Sess., 174-75 (1953).

11. For an interesting explanation, from a mainly European point of view, of some of the factors involved in United States military service policy, see Probst, *International Demarcation of Compulsory Military Service with Special Emphasis on the Swiss-United States Situation,* 45 Geo. L. J. 60 (1956). For the relationship between selective service legislation and treaty provisions on military service, see particularly Petition of Moser, 182 F.2d 734 (2d Cir. 1950), *rev'd sub nom.* Moser v. United States, 341 U.S. 41 (1951); United States v. Rumsa, 212 F.2d 927 (7th Cir. 1954); United States v. Gredzens, 125 F. Supp. 867 (D.C. Minn. 1954); *Ex parte* Blazekovic, 248 F. 327 (D.C. Mich. 1918); Summertime v. Local Board, Div. No. 10, 248 F. 832 (D.C. Mich. 1917); *Ex parte* Larrucea, 249 F. 981 (D.C. Cal. 1917). Domestic policy considerations affecting treaty provisions on the practice of professions are brought out in: *Commercial Treaties, Hearing before a Subcommittee of the Senate Committee on Foreign Relations,* 82d Cong., 2d Sess., 35-40 (1952); *Commercial Treaties, Hearings before a Subcommittee of the Senate Committee on Foreign Relations,* 83d Cong., 1st Sess., 28 (1953).

12. The 1815 treaty with Great Britain, 8 Stat. 228, T.S. No. 110, is still in force, and there are examples only less venerable with other countries, *e.g.,* Columbia, 1846, 9 Stat. 881, T.S. No. 54.

Annex 1

array of tangible *quid pro quos*. Negotiable rule-making, entailing freely accepted limitations upon sovereign liberty of action, cannot therefore exceed in intensity that which nations consider to be compatible with international comity and internal law-making dignity.

The lively debate recently attending the proposed constitutional amendment with which Senator Bricker's name is associated has underscored the weightiness of this consideration. As the treaty of friendship, commerce and navigation is the classic example of an instrument having potential or actual impact on domestic law, a great deal was heard of these treaties during the course of that debate. Opponents of the proposed amendment were fearful lest it frustrate the government's ability effectively to negotiate them in future; proponents contended these fears were ill-founded.[13] But if the concurrence of both sides on their desirability and acceptability as law of the land[14] attests to the judiciousness with which treaty provisions have been fitted into the known fabric of United States law, the issue likewise exemplifies a concern not confined to the United States. Other countries as well scrutinize carefully the way treaty commitments affect their internal law. Accordingly, the successful development of a treaty program of world-wide applicability entails the construction of an equation in which must be reconciled the need for positive, universally tenable rules of law, with the equal need for moderation and a spirit of accommodation within a distinctive framework of basic purpose.

These considerations have led to the extensive use of so-called contingent standards as the cornerstone of rule-making. A contingent standard is, as its name implies, one that defines the treatment provided in relative terms. The specific content of the treatment, at any given point of time and in connection with any given

13. The former view was frequently urged by both private and government witnesses. For a typical general expression thereof see the subcommittee minority report, S. Rep. No. 412, 83d Cong., 1st Sess., 45 (1953). For the latter view, see testimony of Senator John W. Bricker, *Treaties and Executive Agreements, Hearings before a Subcommittee of the Senate Committee on the Judiciary on S.J. Res. 1 and S.J. Res. 43*, 83d Cong., 1st Sess., 8 (1953), and in *Treaties and Executive Agreements, Hearings before a Subcommittee of the Senate Committee on the Judiciary on S.J. Res. 1*, 84th Cong., 1st Sess., 297-98 (1955); also testimony of Dr. George A. Finch, *id.* at 506.

14. The Senate roll-call vote, on the question of advice and consent to ratification of a group of five of them at a time when the controversy was at its height, was virtually unanimous in favor, 99 Cong. Rec. 9316-17 (1953). The Congress as a whole contemporaneously displayed a favorable disposition towards these treaties by calling for an acceleration of the program for their negotiation. See Section 7(k) of Mutual Security Act of 1952, 66 Stat. 146, 22 U.S.C. § 1667 (1952), amending Section 516(d) of the 1951 Act (65 Stat. 382). This provision was revised and reenacted by Section 413(b)(2) of the Mutual Security Act of 1954, 68 Stat. 847, 22 U.S.C. § 1933 b(2) (Supp. IV, 1952).

Annex 1

subject, is determinable not from a reading of the treaty itself, but by reference to an exterior state of law and fact. The objective is to secure non-discrimination, or equality of treatment: a sort of "equal protection of the laws" objective.

There are two principal contingent standards: the "most-favored nation" clause and the "national treatment" clause. The former assures non-discrimination as compared with other aliens or alien things; the latter, as compared with citizens of the country and national things.[15] Which of these clauses is made applicable to a given subject can make a great deal of difference in the strength of the treaty assurance vouch-safed. Under past regimes of extra-territoriality, where aliens enjoyed special status, most-favored-nation treatment often meant privileged treatment and was accordingly a standard sought in preference to national treatment in many situations. But such situations are exceptional in the present era, dominated as it is by ideas of nationalism, self-determination and the sovereign equality of all nations.[16] The most-favored-nation rule can now, therefore, imply or allow the status of alien disability rather than of favor. In applicable situations nowadays, the first-class treatment tends to be national treatment; that which the citizens of the country enjoy. The hallmark of the current treaty program is the advanced degree to which it espouses the rule of national treatment; and the achievement of this standard, in turn, is beset by the obstacles growing out of the nationalism and *etatisme* of the age.

There is also a certain margin for the play of non-contigent standards, or "absolute" rules, in the formulation of treaty provisions. This is rule-making in independent terms, without reference to the treatment given to others. Although non-contingent standards, because of their implication of definiteness might at first blush appear to provide the avenue to provisions of maximum positiveness and efficacy, the utility of the approach is in fact quite limited. The scope of these treaties is such that, to be manageable, their content of rules must be stated essentially in a summary or simple fashion. A

15. As typically defined in the treaties: "The term 'national treatment' means treatment accorded within the territories of a Party upon terms no less favorable than the treatment accorded therein, in like situations, to nationals, companies, products, vessels or other objects, as the case may be, of such Party." Korea treaty, 1956, T.I.A.S. No. 3947, art. XXII, Para. 1. Similarly, *mutatis mutandi*, for most-favored-nation treatment, with the pole of reference being "any third country" in lieu of "such Party" *id.* at para. 2.

16. For the passing of remaining vestiges of classic extraterritoriality, see Young, *The End of American Consular Jurisdiction in Morocco*, 51 Am. J. Int'l L. 402 (1957). For a special-situation modern examples of extra-territorial jurisdiction, see Rouse and Baldwin, *The Exercise of Criminal Jurisdiction under the NATO Status of Forces Agreement*, 51 Am. J. Int'l L 29 (1957).

Annex 1

summary contingent rule has definiteness, because its content is measured against a determinable pole of reference. But a summary non-contingent rule may often be considerably less than so, when reduced to language of agreement between nations of unlike faculties of appreciation and different cultural and juridic backgrounds. The need for avoiding rigidity—freezing today's wisdom into tomorrow's folly—can not, in our international tower of Babel be served by the same semantics that have so successfully kept the American Constitution abreast of the times; *raisonnable* is not the "reasonable" of American jurisprudence, nor is our "due process of law" faithfully translatable into a foreign language.

An attempt to construct a treaty primarily in non-contingent terms can prove self-defeating because increases in specificity spawn corresponding increases in reservations. This tends to rob the reference rules of the very definiteness it was their aim to accomplish. You agree to something concrete, but reserve your "public policy" or your "internal legislation." This is for the two-fold reason that prudent governments will wish escapes for future contingencies and will also wish to avoid purporting to attribute to aliens independent rights placing them in a privileged status over citizens of the country. Contingent standards, by contrast, carry built-in automatic equalization and adjustment mechanisms. Therefore, the non-contingent standard generally finds its best utility in a few contexts in which, no contingent standard being adequate, some recognizable body of applicable international law and terms of art has nevertheless evolved;[17] it is also used at times *faute de mieux,* or to suggest a general guide-post of behavior *en principe,* or to solve some special problem.

III. The Choice of Applicable Standard

The varying considerations that govern the choice and cast of the standard or standards applicable, subject to subject, may be illustrated by a few concrete major examples, which will indicate the range of the differences to which treaty provisions need to be adapted.

A. Entry of Individuals.

Being concerned with the "whole man" as it were, these treaties start their rule-making at the beginning—the point at which an individual, a company, a consignment of goods, or a ship, identified

17. It is possible to use international law itself, by name, as a standard in commercial treaties. See Wilson, The International Law Standard in Treaties of the United States 87-105 (1953).

Annex 1

by national ties with one of the signatory countries, appears at the threshold of the other.

As concerns natural persons, rights-of-entry cannot, by definition, be assured on a national treatment basis. Moreover, because of our selective immigration control and the differential national origins quota feature of our immigration law, the United States is not in a position to agree to a most-favored-nation treatment clause. Therefore, the approach devised takes the form of a non-contingent rule which positively assures the reciprocal admission, and indefinite sojourn, of individuals who function in an international commerce or investment capacity.[18] Because it is positive, this commitment is subjected to the reserved right of each country to exclude or expel particular individuals who are deemed undesirable for health, morality or security reasons.

A commitment so framed tends to be a least common denominator, for the entry-control policies of other governments usually do not involve national-origin quotas; and the selection they practice tends to be exercised less at point of entry than at the point of gainful occupation within the country. The problem for them is not necessarily solved by the wording of the entry-clause, as such, but focuses upon the provision dealing with the business and occupational rights of admitted persons, especially as they might affect the national labor market and the petty trades. The United States objective, generally speaking, is to establish the principle of national treatment in this connection.[19] Therefore, the safeguards which the United States side can adequately provide for by careful

18. Present statutory authority for these "treaty trader" and "treaty investor" clauses is contained in Section 101(a)(15)(E) of the Immigration and Nationality Act of 1952, 66 Stat. 168, 8 U.S.C. § 1101 (1952). The former was included in the Immigration Act of 1924 (43 Stat. 155), and the "treaty investor" provision was introduced in the course of the extensive revision of the immigration laws which resulted in the Act of 1952. Hence provisions on treaty investors appear only in treaties concluded since 1952. For comment see Wilson, *"Treaty Merchant" Clauses in Commercial Treaties of the United States,* 44 Am. J. Int'l L. 145 (1950); *"Treaty Investor" Clauses in Commercial Treaties of the United States,* 49 Am. J. Int'l L. 366 (1955).

19. The standard rule is: "Nationals and companies of either Party shall be accorded national treatment with respect to engaging in all types of commercial, industrial, financial and other activities for gain . . . within the territories of the other Party. . . ." (Korea treaty, *op. cit. supra* note 15 at art. VII, para. 1 as well as ". . . with respect to engaging in scientific, educational, religious and philanthropic activities . . ." *id.* at art. VIII, para. 2. There is an express reservation allowing alienage restrictions as to "transport, communications, public utilities, banking involving depository or fiduciary functions, or the exploitation of land or other natural resources." *Id.* at art. VII, para. 2. Moreover, the practice of the professions is not included in the recitation of rights for which commitments are undertaken (*e.g.,* Netherlands treaty, 1956, T.I.A.S. No. 3942, Protocol para. 8. See note 11, *supra*).

Annex 1

framing of the entry-clause[20] must be sometimes paralleled by an understanding regarding the other country's administration of its occupational permit system.[21]

B. Entry of Goods.

The entry of goods is placed under the regime of the traditional most-favored-nation treatment clause, the national treatment clause being patently inapplicable, so long as nations maintain tariffs and other differential regulations upon products of foreign origin. This most-favored-nation clause is now in the unconditional form, and has been since the United States abandoned the cumbersome "conditional" form in 1922-23.[22]

The securing of non-contingent commitments regarding duties (for example, the fixing of rates of duty) is not the function of a general, long-term treaty, but rather of "trade agreements" especially devised for that purpose and subject to revisions on short notice. It is, however, possible to establish certain positive rules with regard to administrative practices; and the treaties have been a vehicle for treating a number of these (for example, public notice of new or changed requirements, so that traders can be informed and forewarned; and procedures whereby the decisions of customs officers can be appealed).[23]

20. By affirmative description, the assured entry right is limited to those falling in a defined international trader or investor category; and the maintenance of occupational restrictions attached to limited visas (*e.g.*, temporary tourist or student visas) is left unambiguous, through insertion of an understanding that: "Nationals of either Party admitted into the territories of the other Party for limited purposes shall not enjoy rights to engage in gainful occupations in contravention of limitations expressly imposed, according to law, as a condition of their admittance." Korea treaty, *op. cit. supra* note 15 at art. XXI, para. 4.

21. *E.g.*, Federal Republic of Germany, 1954, 7 U.S. Treaties & Other Int'l Agreements 1839, T.I.A.S. No. 3593, Protocol para. 8: "With reference to Article VII, paragraph 1, a Party may apply regulations under which alien employees within its territories are required to have employment permits; but, in keeping with the objectives of that paragraph, such regulations shall be administered in a liberal fashion as to nationals of the other Party." Wording of this sort, which emphasizes compliance with procedure without impairment of main substance, is made possible by the circumstance that, as a practical matter, Americans do not typically go abroad to seek work in the kinds of capacity that local occupational restrictions are primarily designed to protect.

22. The unconditional form of the most-favored-nation clause is the usual rule of international practice in commercial matters, *e.g.*, GATT, 1947, 61(5)(6) Stat. A3, A2054, T.I.A.S. No. 1700, art. I. Under it, all advantages and rights accorded any third country accrue automatically, in contrast with the "conditional" regime whereunder such advantages, if accorded in return for a compensation, accrued only on payment of an equivalent compensation. An understanding that the most-favored-nation clauses of the current series of treaties are in principle unconditional is generally set forth in their preambles. For materials illustrating the policy considerations involved

In dealing with trade there are a number of special problems for which a simple most-favored-nation clause does not, in and of itself, provide a solution. Among them are the following, for each of which special provision has been necessary: (1). Quantitative restrictions are often, in current practice, a more important control over imports than the tariff. Countries often administer them through allocations by country of origin; that is, giving named countries fixed allotments rather than opening the total amount to all comers on a competitive, first-come first-served basis. What does most-favored-nation treatment mean in a country allotment situation?[24] (2). State-trading, or the control of imports by a state-controlled monopoly, has come to have an important part in the commercial practices of many countries. The conduct of import trade thus by entity, rather than by rules of generally applicable law concerning rates of duty and amounts under quantitative regulations, escapes the prescriptions of a most-favored-nation clause, which is an objective rule of the game rather than a code of conduct for an entity.[25] (3). In a day when administered controls have been necessitated by balance-of-payments difficulties, and when the controls have to necessarily distinguish between sources of supply according to the respective availabilities of "soft" and "hard" currencies, a simple most-favored-nation rule breaks down. It must be supplemented by specially-drafted provisions which make a realistic adjustment to this phenomenon, in a mutually agreeable manner.[26] (4). Finally, the emergence of international (*e.g.*, the General Agreement on Tariffs and Trade) and regional (*e.g.*, the Benelux and the new Common Market) organizations concerned with trade, have again necessi-

in the shift to the unconditional form, see 1 Foreign Relations of the United States 1923, 121-31 (1938); 2 Foreign Relations of the United States 1924, 183-92 (1939). See also Culbertson, Reciprocity 167-70, 238-79 (1937).

23. *E.g.*, Korea treaty, *op. cit. supra* note 15 at art. XV, para. 1, 2.

24. The rule sought is a pro-rating according to the amount of the commodity supplied historically ("during a previous representative period"). *E.g.*, *id.* at art. XIV, para. 3(b); GATT, *op. cit. supra* note 22 at art. XIII, para. 2(d), second sentence.

25. The rule sought is to oblige state-trading and monopolistic entities to conform in their external purchases and sales to exclusively "commercial considerations," that is, to act without favor or discrimination in keeping with the aim of the most-favored-nation treatment principle. *E.g.*, Korea treaty, *op. cit. supra* note 15 at art. XVII, para. 1; GATT, *op. cit. supra* note 22 at art. XVII, para. 1(b).

26. The solution allows quantitative restrictions to be applied in a manner deviating from the rule of non-discrimination, to the extent they can be rationally justified by state-of-reserves considerations (*e.g.*, the need for closely managing limited holdings of convertible currencies, notably dollars). For wording, see, *e.g.*, Korea treaty, *supra* at art. XIV, para. 7. Compare GATT, *supra* at art. XIV, and Annex J, for a more elaborate attempt to regulate the complex problem posed by exchange difficulties and the accompanying phenomenon of inconvertibility and tight currency controls.

tated the formulation of exceptions to the simple bilateral most-favored-nation rule. These exceptions have been designed, on the one hand, to avoid treaty interference with their proper and successful functioning and, on the other, to assure that essential United States interests will be safeguarded.[27]

C. Entry of Ships.

In the field of international shipping, owing to the evolution of international practice among major shipping powers, it has been possible to espouse the rule of national treatment as the preferred standard to apply to the entry of ships and their cargoes into the ports and harbors of each country.[28] The spreading of this rule through a network of treaties is calculated to build a dam against retrogression to flag discrimination[29] which the United States and other maritime nations struggled hard to overcome during the course of the nineteenth century.[30] The simple national treatment rule even here, however, is not unattended by complications arising from the fact that the United States, in company with other countries, does subsidize its own merchant marine and cannot agree to extend equal subsidies to foreign flag vessels. The solution to this problem has been through careful framing of the scope of the

27. A reservation for a true customs union (*e.g.*, the Benelux) insulating the trade between the members thereof from the ambit of the most-favored-nation clause, is customary. *E.g.*, Korea treaty *supra* at art. XIV, para. 6(c). A reservation to assure that the commitments of the treaty do not interfere with the functioning of the GATT, so long as the United States is party thereto, is also standard at present. *E.g.*, *id.* at art. XXI, para. 3. But the emergence of a new and untried economic integration entity such as the Common Market (Treaty of Rome, signed March 25, 1957, establishing a European Economic Community between France, Germany, Italy and the Benelux countries. Rome, 1957, 51 Am. J. Int'l L. 865 (1957)) poses potential problems for U.S. trade interests for which no simple formula is adequate. For an endeavor to provide prudently for future contingencies in this connection, see Exchange of Notes attached to the Netherlands treaty, T.I.A.S. No. 3942 at 49-52 (1956).

28. For a brief general discussion of navigation provisions in treaties see Hawkins, Commercial Treaties and Agreements: Principles and Practice 34-44 (1951).

29. The term "flag discrimination" refers to the policy of requiring by law or regulation that particular types of cargo or portions of a country's foreign trade be carried by vessels flying the national flag. This policy may be embodied in a variety of restrictive measures, perhaps the most common is the "50-50 law" dividing cargoes equally between national and foreign vessels. The "50-50 law" also may be applied by bilateral agreement between the two contracting parties to divide carriage of the foreign trade equally between the vessels of each. For a brief summary of discriminatory shipping practices affecting the United States merchant marine, see Corter, United States Shipping Policy, 122-26 (1956).

30. For early United States policy, see Setser, The Commercial Reciprocity Policy of the United States 1774-1829 (1937).

Annex 1

national treatment clause, in a manner obviating the need for exceptions or express qualifications.[31]

D. Entry of Capital.

There remains the major question of the entry of investment capital and the establishment of corporations. Here, in distinction to persons, goods and ships, there is no tangible form appearing at the border. The entry of capital and corporations is a more elusive phenomenon that takes concrete form in connection with pursuing a purpose within the country. The "entry" problem, therefore, is very closely interlinked with the rule governing the right of establishing a business or making a lucrative investment: the right of the alien interest to enjoy major participation in the economic life of the country. Because of the present-day importance of the corporate form of doing business, and of the powerful aggregates of capital that can be assembled under the corporate form for investment purposes, the way in which this question is resolved can become one of decisive importance in the negotiation of a treaty.

Historically, treaties were concerned at best only to a limited extent with the rights of corporate enterprise; and the devising of workable rules to deal with them has been an outstanding contribution of the post-1946 treaties.[32] The rule which is in principle sought is that of national treatment. This implies, in effect, the policy of the "open door" for foreign investment. Though this is a policy in line with general American practice since the earliest days, both as to our receptivity toward foreign capital coming here and our attitude toward the movement of American capital abroad, it is one not attributed universal acceptance. The development of bilaterally agreed rules on the subject are accompanied by several special prob-

31. By rule of construction (*i.e.*, the rule of the treaty does not affect the conditions which the Government, in its proprietary capacity, might choose to stipulate in connection with lending or granting its own money), a national law reserving to carriage by national flag vessels of a certain percentage of government-financed cargo, is also saved without express reservation. A case in point is the Act of August 26, 1954 (68 Stat. 832, 46 U.S.C. § 1241 (Supp. IV, 1952)) which amended the Merchant Marine Act, 1936, 49 Stat. 2015 to require that as a general rule at least 50 per cent of foreign aid cargoes shall be carried in privately owned United States flag vessels. An earlier law (Public Resolution 17 (1934) 48 Stat. 500, 15 U.S.C. § 616(a) (1952)) requires that in general 100 per cent of cargoes financed by Export-Import Bank loans be transported in United States flag vessels, but, because of exceptions provided in the law, in practice United States vessels carry approximately 50 per cent of such cargoes. See Gorter, *op. cit. supra* note 29 at 106-08. This legislation is to be distinguished from the "50-50 laws" of certain countries which apply to cargoes for private account.

32. For a discussion of this subject, see Walker, *Provisions on Companies in United States Commercial Treaties*, 50 Am. J. Int'l L. 373 (1956).

Annex 1

lems. On the United States side, there are two major ones. First, despite the historical liberality of American law toward the foreign investor, there are certain sensitive lines of business, specially affected with a public interest, in which the law or administrative regulation has developed either latent or actual restraints on alien participation. These have been designed to preclude the possibility of alien control (*e.g.*, deposit banking, domestic air transport, radio-communications).[33] However, the legal policies of other countries often manifest like tendencies, so that a consensus normally is easily established concerning a minimum list of activities to be reserved from the national treatment standard as to the right of establishment.

The problem which tends to be peculiar to the United States arises from the prerogatives enjoyed by our states over the admission of out-of-state corporations for domestic business. It is national policy that the treaty power should respect this state prerogative. This restraint on the latitude of the national government to assume national treatment commitments undoubtedly figured among the reasons explaining the lack of provisions on corporations in past United States treaties. The opportunity for pursuing the subject in the post-1946 treaties came with the devising of a special "federal clause," which assimilates the alien corporation to the corporations of sister states.[34] Both are equally "foreign" in jurisprudence generally, and are so considered for treaty purposes. The treaty alien is thereby assured of treatment on a par with the bulk of his actual competitors in interstate and intra-state commerce. In the context of an economy which operates in fact preponderantly on an interstate basis, and enjoys as such constitutional protection against state harrassments, this solution assures a quantum of rights sufficiently

33. See note 19, *supra*, for a typical reservation. Examples of federal statutes thus saved include: the Civil Aeronautics Act of 1938 (52 Stat. 978, 1005, 49 U.S.C. § 401(13), 521(b)(1) (1952)—domestic airlines); the Communications Act of 1934 (48 Stat. 1086, 47 U.S.C. § 310 (1952)—radio broadcasting licenses); the Federal Power Act of 1920 (41 Stat. 1065(d), 16 U.S.C. § 797(e) (1952)—licenses for water power facilities on public lands and navigable streams). The reciprocity requirements of the Mineral Leasing Act of 1920 (41 Stat. 437, 30 U.S.C. § 181 (1952)) involve a special situation and are treated separately in the Protocol. See, *e.g.*, Korea treaty *op. cit. supra* note 15 at Protocol, para. 6. For explanation of the special nature of these requirements, see the discussion of their origin in De Novo, *The Movement for an Aggressive American Oil Policy Abroad*, 1918-1920, 61 Am. Hist. Rev. 854, 870-72 (1956).

34. Typical wording goes: "National treatment accorded under the provisions of the present Treaty to companies of the Republic of Korea shall, in any State, Territory or possession of the United States of America, be the treatment accorded therein to companies created or organized in other States, Territories, and possessions of the United States of America." Korea treaty, *supra* at art. XXII, para. 4.

Annex 1

ample to render it a negotiable one—acceptable alike to the foreign country and the United States Senate. It has made possible the reciprocal provision for national treatment vis-a-vis countries willing to accept the national treatment principle as a matter of their own general policy.

Negotiating compromises have been necessary in the measure that other countries have not been prepared to undertake formal commitments concerning the establishment of alien-controlled investments in their territories. Some countries insist that their national interest requires retention of freedom of action in determining what alien-controlled investments they will permit from time to time in the future. The right of these countries to retain this sovereign right uncommitted must be respected. There is no useful purpose to be served, from the point of view either of the prudent investor or of harmonious international relations, in attempting to use these treaties as a vehicle for forcing countries to agree to allow investments they do not want. The so-called right to "screen" foreign investments is hence recognized explicitly or implicitly in a number of treaties that are considered otherwise satisfactory. There is a great variation in the way this is done, because it is a highly individual affair. The aim is to attain as much clarification of the country's intended policies as may be practicable and, especially, to guarantee duly established investors against subsequent discrimination. The failure to find a welcome as to entry is of much less importance than would be a failure, once having entered and invested in good faith, to be protected against subsequent harsh treatment.

Aside from countries that require retention of general screening prerogatives, there are certain others prepared to accept in general the concept of national treatment, subject to a reservation related to balance-of-payments difficulties. Because of past and current experience with exchange shortage problems, they do not wish to be committed to accept investments likely to engender demands for foreign exchange (*e.g.*, for remittance of earnings) disproportionate to the constructive contribution the investments are calculated to make to visible national production. The consequent screening reservations adopted in some of the treaties are in terms open to a certain latitude of interpretation because of the difficulty of formulating precise criteria by which cause can be objectively correlated to effect.[35] In purport and intent, however, they are limited and

35. See, *e.g.*, Korea treaty *supra* at Protocol, para. 7: "Either Party may impose restrictions on the introduction of foreign capital as may be necessary to protect its monetary reserves as provided in Article XII, para-

qualified, leaving the emphasis on national treatment as the major rule in the treaty text.

However, all the treaties assure national treatment to permitted investments. If there is full or qualified exception to the national treatment rule to allow the screening of an investment at its point of initiation, there is no recognized impairment of the standard as concerns post-initiation treatment. For while practical treaty negotiating objectives must concede the notion of selectivity and differential control on entry of investments, its historical protective role would be lost if it began admitting the legitimacy of discriminating against investments legally present in the territory. There is also a supplementary, cumulative most-favored-nation treatment rule covering all aspects of an investment activity.[36]

E. Acquisition of Interests.

One of the corollaries to the rules concerning the establishment and activities of persons, natural or juridical, is the right to acquire. The underlying right of establishment logically carries with it "necessary and proper" ancillary rights; and the national treatment rule, if recognized for the underlying right, would normally be supposed to carry over to the things ancillary thereto.[37] But a couple of apparent ancillary rights, both describable under the rubric "acquisition" of property, raise particular problems. The subject is therefore handled independently for this reason, as well as for the reason that provision for property acquisition has been traditionally a feature of treaties, whether or not in connection with business or investment, and that acquisition of property does not require physical presence in the country.

The regulation of property tenure figures among the normal prerogatives of the states; and various of the states have in past made plain their desire to restrict alien tenure in one degree or

graph 2." The provision so referred to reads: "Neither Party shall impose exchange restrictions . . . except to the extent necessary to prevent its monetary reserves from falling to a very low level or to effect a moderate increase in very low monetary reserves. . . ." Thus the reservation, though leaving a considerable margin of appreciation as concerns what or what may not be "necessary," is susceptible of being invoked, in any event, only when the country's monetary reserves are in a fragile situation requiring careful management.

36. This means both (a) that most-favored-nation treatment is assured in those exceptional instances where it might be more advantageous than national treatment, and (b) that at least most-favored-nation treatment is assured in situations not covered by the national treatment commitment.

37. For a case applying the famous doctrine of McCulloch v. Maryland, 18 U.S. (4 Wheat.) 316 (1819), in a treaty context, see Jordan v. Tashiro, 278 U.S. 123 (1928).

another.[38] The development of a viable and acceptable United States treaty policy has therefore had to resolve the dilemma posed by the need for respecting state prerogatives, on the one hand, and, on the other, for obtaining definite reciprocal commitments in effectuation of the international objectives in view. The accommodation devised contains two elements: (1). The first is a reciprocal commitment for national treatment in the acquisition and tenure of such leaseholds as might be necessary to the carrying out of any treaty-authorized purpose (*e.g.*, residence or a factory site). Since appropriately drawn lease arrangements can afford a reasonable degree of security, the indispensable access to property required for the conduct of a treaty-recognized business or investment is thus assured. (2). However, as to tenure of property over and above this and as to acquistion of title in all cases, a so-called "de facto reciprocity" formula is offered. Through this formula, first appearing in the 1937 treaty with Siam,[39] the American abroad is in principle assured national treatment. But this assurance is subjected to the proviso that this quantum of treatment may be withheld to the extent that the laws of the state of his domicle (state of charter, in case of a corporation) contain alien disabilities.[40] The states thus retain their basic legislative freedom, to which is linked the responsibility for deciding what treatment their citizens will obtain in the foreign country. A most-favored-nation rule does not preclude the extension of the national treatment provision contained in one of the

38. For recent surveys of existing State restrictions in this field, which differ in some particulars, see 1 Powell on Real Property 372-404 (1949); McGovney, *The Anti-Japanese Land Laws of California and Ten Other States*, 35 Calif. L. Rev. 7, 21-24, 59-60 (1947); Blumrosen, *Constitutional Law—Equal Protection—Validity of State Restraints on Alien Ownership of Land*, 51 Mich. L. Rev. 1053, 1055-57 (1953). For relationship of State restrictions to treaty provisions on this subject, see Blythe v. Hinckley, 180 U.S. 333 (1901); Geofroy v. Riggs, 133 U.S. 258 (1890); Hauenstein v. Lynham, 100 U.S. 483 (1879); Chirac v. Chirac, 15 U.S. (2 Wheat.) 259 (1817); Fairfax's Devisee v. Hunter's Lessee, 11 U.S. (7 Cranch) 603 (1812); Ware v. Hylton, 3 U.S. (3 Dall.) 199 (1796).

39. 53 Stat. 1731, T.S. No. 940.

40. A typical example of the formula is as follows: "Nationals and companies of the United States of America shall be accorded, within the territories of the Kingdom of the Netherlands, national treatment with respect to acquiring by purchase, lease, or otherwise, and with respect to owning, occupying and using land, buildings and other real property. However, in the case of any such national domiciled in, or any such company constituted under the laws of, any State, Territory or possession of the United States of America that accords less than national treatment to nationals and companies of the Kingdom of the Netherlands in this respect, the Kingdom of the Netherlands shall not be obligated to accord to such national or company treatment more favorable in this respect than such State, Territory or possession accords to nationals and companies of the Kingdom of the Netherlands." Netherlands Treaty, 1956, T.I.A.S. No. 3942, art. IX, para. 2. In a number of treaties, this formula does not appear, the obligations of the other party being variously framed in a less extensive manner.

mid-nineteenth century treaties that remains still in force.[41]

By contrast, as to personalty, whether tangible or intangible, both national treatment and most-favored-nation treatment are cumulatively provided. But this is subject to a necessary qualification: namely, an exception allowing restraints to be maintained to prevent alien acquisition of shares in enterprises to a degree in conflict with the reservations maintained concerning certain sensitive fields of activity above cited.[42]

The provisions on acquisition also extend to the right to buy into, or to buy up existing domestic corporations, in order to open to the treaty-investor an alternative to operating through the form of a direct branch. Provision for this right and its companion, the right to form a domestic corporation, has occasioned an interesting development in international jurisprudence, in that the giving of treaty protection to the alien-controlled domestic corporation means that the signatory country has assumed an international obligation vis-a-vis one of its own creatures, and has recognized the right of the other signatory to intervene in behalf thereof. In view of what a lerned scholar has ascertained to be the probable state of international law in this respect,[43] this obligation has not been left to implication in the treaties' wording.

F. Protection of Persons and Property.

Probably the most important purpose a treaty is designed to serve—even more than the settling of rules to govern entry, establishment, acquisition, and the conduct of business—is the protection of persons, property and other acquired interests from ill-usage and spoliation. Here, national treatment and most-favored-nation treatment with regard to protection of the laws, access to the courts,[44]

41. Treaty of 1853 with Argentina, 10 Stat. 1009, T.S. No. 4, art. IX. At that epoch, several other treaties, not now in force, signed with countries of the Western Hemisphere contained this rule, *e.g.*, Salvador, 1850, 10 Stat. 891, T.S. No. 308. But the policy of not safeguarding State laws was not extended elsewhere even then. For an account of a contemporary European treaty that had to be renegotiated because the American plenipotentiary had not observed this policy, see 5 Miller, Treaties and Other International Acts of the United States of America 868-69, 878-81, 891-94 (1937), concerning the Treaty of 1850 with Switzerland, 11 Stat. 587, T.S. No. 353.

42. See note 19, *supra*. This exception is to close the technical loophole of allowing aliens to acquire an interest in corporations engaged in reserved "sensitive" activities, by purchasing stock through the national treatment right to acquire personalty.

43. Jones, *Claims on Behalf of Nationals Who Are Shareholders in Foreign Corporations*, 26 Brit. Yr. Bk. Int'l L. 257 (1949) says that "*ex hypothesi*, no state can intervene on behalf of a corporation against its own government."

44. Further on this particular subject, see Wilson, *Access to Courts Provisions in United States Commercial Treaties*, 47 Am. J. Int'l L. 20 (1953).

Annex 1

and so on, while of course generally provided, are not sufficient.[45] Certain non-contingent principles that immunize the treaty alien and his property from possible vagaries of national law and administration are also needed. This is a reflection of the basic standard of treatment that enlightened international practice in countries owe to their alien guests. Thus, in addition to other rules, it is provided that the treaty alien, in the peaceful pursuit of his lawful occasions, shall enjoy freedom of movement, freedom of conscience, and freedom of communication; that he shall be extended the "most constant security and protection" by the authorities, and not be subject to molestations; and that, if placed in custody, he shall enjoy the right of having his consul immediately notified, be promptly informed of the charges against him, receive a prompt trial with benefit of competent counsel, and be always treated humanely.[46] His property cannot be searched or seized except for due cause and in lawful and reasonable manner.

Most importantly, any sequestration or expropriation must be accompanied by prompt, just and effective compensation: that is, convertible valuta representating the worth of the property, paid expeditiously.[47] This is an especially valuable right in a day when nationalizations, often entailing great losses to the private owners, has tended to become not uncommon. The provision is given force through the use of words that have meaning in international jurisprudence, and by a provision for the submission of otherwise unresolvable disputes to the International Court of Justice (a submission provision which, in fact, applies to all parts of the treaty).[48]

IV. Concluding Remarks

The traditional treaty of friendship, commerce and navigation, which in its recognizable modern form found its most widespread

45. For a general discussion of the national treatment status of aliens under the law in the United States, see Gibson, Aliens and the Law (1940). Basically, a treaty serves to embody in the form of reciprocal commitment the fundamental protections aliens receive as a matter of course under the Constitution and laws of the United States.

46. These matters are given the emphasis of simple assertion, and early mention in the organization of the treaty, *e.g.*, Korea treaty, 1956, T.I.A.S. No. 3947, art. II, para. 2, and art. III, prefaced by a general admonition for equitable treatment at all times. *Id.* at art. I.

47. "Property of nationals and companies of either Party shall not be taken within the territories of the other Party except for a public purpose, nor shall it be taken without the prompt payment of just compensation. Such compensation shall be in an effectively realizable form and shall represent the full equivalent of the property taken. . . ." Korea treaty, *supra* at art. VI, para. 4.

48. This important "compromissory clause" is found in standard form in the Korea treaty *supra* at art. XXIV, para. 2. It is also standard for this provision to be preceded by a consultation clause designed to facilitate the settlement of difficulties before they develop into disputes. *Id.* at para. 1.

Annex 1

use during the nineteenth century and the first third of the present one, has continued to enjoy a place in the diplomacy of the United States in the post-World War II years of international affairs. This is because it affords a ready-made and versatile medium capable of adaptation to present needs, for the satisfaction of which no suitable alternative medium has yet been devised, notwithstanding the latter-day proliferation of multilateral organizations and new techniques for approaching the world's economic problems. The need is present because private persons and business continue to venture abroad—indeed are encouraged to venture themselves and their capital abroad, where they require the protection of their government—in a world divided into independent sovereign states not yet subject to an adequate corpus of international law of recognized applicability to the area of the treaty's major concern. This area has historically been a concern of these treaties: the rights and status of the person, and of his property and enterprise.

The intergovernmental regulation of these rights, by the establishment of reciprocally binding rules of law, requires a certain community of ideals regarding the respect for private property, the dignity of the individual, and the degree to which the foreigner should be allowed to participate in the economic life of the country. It also requires mutual forebearance, and an interest in undertaking formal long-term commitments towards the foreigner, binding as against internal legislative and administrative freedom. The outward limits of any treaty to which the United States subscribes are accordingly set by the extent of the rights it is willing to accord in face of its own state and federal legislation, just as the inner limits are set by what are considered to be the minimal provisions of an efficacious treaty.

The technical tasks presented by a negotiation, though often taxing upon the ingenuity, are solvable when there exists reciprocal willingness on the level of principle in the margin lying between these two limits. The lack of a sufficiently worldwide consensus on this level of principle still seriously clouds the prospects for any satisfactory multilateral code of protection for foreign investment, as is sometimes advocated. Yet at no time in history have Americans had a heavier stake of business and other interests in foreign countries. Meanwhile, the traditional bilateral approach offers the opportunity, in the context of a general regulation of relations commencing with the idea of "friendship," to accomplish step-by-step such progress as is now possible in building international rules of law for the protection of persons and their legitimate interests abroad.

THE POST-WAR COMMERCIAL TREATY PROGRAM OF THE UNITED STATES *

DURING the decade 1946-1956, the United States completed the negotiation of commercial treaties with sixteen countries. These countries, in geographical distribution, size and national circumstance, comprise rather a cross section of the world outside the Soviet bloc. In Asia those represented include Nationalist China, Korea, Japan, Iran and Israel; in Africa, Ethiopia; in Latin America, Colombia, Haiti, Nicaragua and Uruguay; in Europe, Denmark, the Federal Republic of Germany, Greece, Ireland, Italy and the Netherlands.[1] As the Department of State avowedly stands ready to negotiate with every like-minded country, others will undoubtedly be added to the list in due course.

These treaties, more fully known as treaties of "friendship, commerce, and navigation", are long-range instruments of a general type made familiar by international practice of former years. In contradistinction to limited-purpose trade agreements dealing with commerce in the narrow sense, they are designed to establish the ground rules regulating economic intercourse in the broad sense, and they accordingly must reflect a meeting of minds regarding proper international standards of behavior on a variety of subject matters.

* The views expressed here are those of the author only and do not necessarily reflect the position of the Department of State.

1 *China*, 1946 (63 Stat. 1299); *Italy*, 1948 (63 Stat. 2255) supplemented by Agreement of September 26, 1951 (S. Exec. H, 82d Cong., 2d Sess.); *Uruguay*, 1949 (S. Exec. D, 81st Cong., 2d Sess.); *Ireland*, 1950 (1 UST 785); *Colombia*, 1951 (S. Exec. M, 82d Cong., 1st Sess., withdrawn from Senate June 30, 1953); *Ethiopia*, 1951 (4 UST 2134); *Greece*, 1951 (5 UST 1829); *Israel*, 1951 (5 UST 550); *Denmark*, 1951 (S. Exec. I, 82d Cong., 2d Sess.); *Japan*, 1953 (4 UST 2063); *Federal Republic of Germany*, 1954 (TIAS 3593); *Haiti*, 1955 (S. Exec. H, 84th Cong., 1st Sess., withdrawn from Senate, August 8, 1957); *Iran*, 1955 (TIAS 3853); *Nicaragua*, 1956 (S. Exec. G, 84th Cong., 2d Sess.); *Netherlands*, 1956 (TIAS 3942); *Korea*, 1956 (TIAS 3947). The treaties with Ethiopia and Iran represent considerably abridged versions and vary also from the others in that they contain provisions on consular rights, a subject matter usually dealt with in separate conventions in current United States practice.

This content downloaded from 169.252 4.23 on Mon, 10 Sep 2018 16 11 28 UTC
All use subject to https //about.jstor org/terms

Annex 2

Because of the nature of the treaties and the scope of the negotiation effort, the current treaty program of the United States, though little remarked during these ten years of crisis and more spectacular endeavor, is thus one of some magnitude; and its unfolding illustrates the adaptability of a traditional device to present international requirements.

Background and Objectives

The program now under way carries forward one of the oldest continuing diplomatic activities of this nation, reaching back to the Revolutionary War. From 1778 onward, with varying degrees of intensity from era to era, the commercial treaty device has been repeatedly used in the conduct of American foreign relations. In terms and content, the purpose of the treaties has been to promote trade relations and to protect shipping and the citizen and his interests abroad, according to legal principles. Throughout, they have maintained this evident purpose. But historically they have also had other purposes. As suggested by the wording of their full title and preamble, they have been designed to strengthen normal friendly relations between the signatories.[2] Depending on the era in which the treaties were negotiated, they have as well been responsive to varying special motivations. In pre-Constitutional days, for example, they betokened and helped secure recognition of American independence.[3] In the first half of the nineteenth century, the period in which the American clipper became mistress of the seas, they were employed to open foreign ports to American shipping. The conclusion of the treaties with countries of Latin America in this period, through emphasizing the sovereignty and rising importance of those countries and their ties with the United States, served to emphasize the Monroe Doctrine; and in the era of intense power competition for

[2] A typical preamble (e.g., that of the recent Netherlands treaty) recites, as first justification of the treaty: "desirous of strengthening the bonds of peace and friendship traditionally existing between them."

[3] Our first, the Treaty of Amity and Commerce with France, signed on February 6, 1778, was followed on the same day by signature of the Treaty of Alliance. Before the Revolutionary War formally ended, commercial treaties were signed also with the Netherlands (1782) and Sweden (1783); and thereafter also with Prussia (1785), prior to the Constitutional Convention.

This content downloaded from 169.252 4 23 on Mon, 10 Sep 2018 16 11 28 UTC
All use subject to https //about jstor org/terms

Annex 2

colonies and spheres of influence, they served to support the open-door principle.

Following World War I, special motivations such as these, pertaining to a new-born and then to a rising nation intent upon developing its own economy and establishing its place in the world community, no longer obtained. That war established the United States as a world Power of first rank, a leading international creditor and a major exporter of manufactures. But the normal and evident purposes of promoting commercial intercourse remained, being intensified by the new foreign economic interests of the nation. A new series of negotiations was therefore undertaken during that period, with special emphasis on international trade.[4] The reciprocal trade agreements program which subsequently developed, however, after 1934, provided a more precise and efficacious medium for attaining trade promotion objectives.[5] A new consideration which then emerged, and which lent special impetus to the program following World War II, was the need for encouraging and protecting foreign investment, responsively to the increasing investment interests of American business abroad and to the position the United States has now reached as principal reservoir of investment capital in a world which has become acutely "economic-development" conscious. The pre-existing content of the commercial treaty (now often known as "FCN treaty") was therefore overhauled with a view to improving and strengthening its relevance to investor needs;[6] and the eventuating new edition

[4] This program resulted in the conclusion of treaties with twelve countries, beginning with the Treaty of Friendship, Commerce and Consular Rights with Germany, 1923, and including Austria, Finland, Estonia, Latvia, Norway, Honduras, El Salvador, Poland, Hungary, Siam (Thailand) and Liberia.

[5] The Trade Agreements Act of 1934, so prominently identified with Cordell Hull, as periodically extended and revised. Under this legislation bilateral agreements were concluded with 28 countries, 1934-46, prior to adoption of the policy of conducting trade agreement negotiations principally within the framework of the General Agreement on Tariffs and Trade (GATT) (*q.v., infra*). By contrast only two commercial treaties of the type herein discussed were concluded between 1934 and 1946 (those with Siam and Liberia).

[6] See my article "Treaties for the Encouragement and Protection of Foreign Investment: Present United States Practice", 5 *American Journal of Comparative Law* 229-247 (1956). See also, e.g.: Vernon G. Setser, "Treaties to Aid American Business Abroad", 40 *Foreign Commerce Weekly* 3-5, 38-39

This content downloaded from 169 252.4.23 on Mon, 10 Sep 2018 16.11 28 UTC
All use subject to https //about.jstor org/terms

Annex 2

of this traditional treaty type has been repeatedly recommended in an authoritative way, in both official and private circles, as a vehicle for building an international "climate" favorable to private investment.[7]

The current program then, in so far as the United States is concerned, has been specially actuated by investment-related motives. This primary investment objective is, however, sought in the context of a larger regulation of bilateral intercourse in the private sector, and in company with the other objectives appertaining to such instruments. The treaty thus retains its familiar outline and scope. There have always been substantial investment elements in treaties of this type because they have always dealt with the protection of the citizen abroad, his property (capital) and his right to engage in business activities (that is, to make and operate investments). Their reworking for investment ends, accordingly, has simply entailed the recasting, elaboration and supplementation of familiar features. Their trade and cultural and shipping elements are also maintained, in perspective; and they remain, too, vehicles for generally strengthening neighborly ties between peoples, though there is no element of political alliance in them. In this way, they afford an ample

(Sept. 11, 1950); Robert R. Wilson, "Postwar Commercial Treaties of the United States", 43 *American Journal of International Law* 262-287 (1949), "Property-Protection Provisions in United States Commercial Treaties", 45 *ibid.* 83-107 (1951), "Access-to-Courts Provisions in United States Commercial Treaties", 47 *ibid.* 20-48 (1953), and "Natural-Resources Provisions in United States Commercial Treaties", 48 *ibid.* 355-379 (1954).

[7] For example, sec. 516(d) of the Mutual Security Act of 1952 (66 Stat. 146), reënacted and revised in 1954 (68 Stat. 847); House Committee on Foreign Affairs, Subcommittee on Foreign Economic Policy, Report on *The Mutual Security Act and Overseas Private Investment* (83d Cong., 1st Sess., 1953), pp. 26-29; President's Materials Policy Commission, *Resources for Freedom* (H. Doc. 527, 82d Cong., 2d Sess.), vol. I, p. 68; Department of Commerce, *A Study of Factors Limiting American Private Foreign Investment* (Summary of Preliminary Findings and Recommendations, July 1953), p. 31; Commission on Foreign Economic Policy ("Randall Commission"), *Report to the President and the Congress* (January 1954), p. 17; Resolution of the Board of Directors of the National Association of Manufacturers, quoted in the House Committee Report, p. 26; Chamber of Commerce of the United States, *What the National Chamber Stands for in World Affairs* (June 1952), pp. 11, 13-14; National Foreign Trade Council, various *Final Declarations* of their annual New York conventions—e.g., that of 1950, pp. 16-17.

This content downloaded from 169 252.4 23 on Mon, 10 Sep 2018 16 11 28 UTC
All use subject to https://about.jstor org/terms

Annex 2

framework within which can be harmonized the views and interests of both the United States and each other country; the latter may not be, and often is not, animated by quite the same desires and needs in negotiation as the United States.

In sum, they are multi-purpose treaties, if anything even more so now than in the past. They seek to deal with the whole citizen, in his person and his property, who has lawful concerns in another country: his rights of entry and residence; his personal freedoms, such as liberty of conscience and due process of law; his rights to legal benefits and recourse to the courts in pursuit and defense of his interests; his rights to establish and conduct business enterprises, to engage in both lucrative and nonprofit activities; his right to acquire, possess and dispose of property, and to receive a high standard of respect for his property; the rules of financial policy, as represented by taxes and exchange regulations, to which he is subject. They now deal alike with juridical persons (companies). They deal also with the various aspects of the international movement of goods and ships, and with such miscellaneous matters as the behavior of state-controlled business enterprises, the letting of government contracts and concessions, and restrictive business practices.

The Relative Rôle of Commercial Treaties

Because these treaties cut across or impinge upon fields of interest of other international agreements, and of multilateral conferences and organizations, the question therefore arises of their consonance with, and their purposiveness in light of, the ever-growing complex of international agreements and organizations. Where does this essentially traditionalist bilateral approach fit in the pattern of multilateralism and specialized arrangements that has evolved with the growing complexity of international society?

The principal existing multilateral conventions involving the United States, which have a large world-wide participation and which deal with topics also covered in the commercial treaties, are the International Monetary Fund, the General Agreement on Tariffs and Trade (the GATT), and the Paris Industrial Property Convention. The first of these is involved in the exchange-control article of the commercial

This content downloaded from 169.252.4.23 on Mon, 10 Sep 2018 16:11:28 UTC
All use subject to https://about.jstor.org/terms

Annex 2

treaty; and the relationship of the two may be very briefly summarized as follows. The stipulated objective of the Fund is to eliminate governmental restrictions on international payments for "current transactions", particularly those affecting the flow of international trade; and according to the Fund Articles of Agreement (Article VI, section 3), each member specifically retains virtually complete freedom of action with respect to capital transfers.[8] The primary objective of the treaty, on the other hand, is to provide for the servicing of investor—as distinguished from trading—needs and requirements.[9] It therefore supplements the Fund by establishing agreement on matters with respect to which the Fund leaves an area of discretion; it does this interstitially, and the integrity of the Fund is safeguarded by a reservation preserving all obligations a country may have to that organ.[10]

As to relationship with the GATT, the treaty does not deal with specific tariff and quota concessions, which it is the primary purpose of the GATT to attack. But it does repeat certain general rules of behavior contained in the GATT; and here again, as in the case of the International Monetary Fund, possible conflict between the treaty and the GATT is avoided by a reservation expressly making the lat-

[8] Text in Annex A, *Final Act and Related Documents* of the United Nations Monetary and Financial Conference at Bretton Woods (Washington, 1944). See also statement of purposes of the Fund, as set forth in Article I of the Agreement, clauses (ii) and (iv).

[9] This objective is indicated by the key wording of the treaty's exchange-control article (e.g., Article XII, par. 3, of Netherlands treaty): "If either Party imposes exchange restrictions in accordance with paragraph 2 of the present Article, it shall, after making whatever provision may be necessary to assure the availability of foreign exchange for goods and services essential to the health and welfare of its people, make reasonable provision for the withdrawal, in foreign exchange in the currency of the other Party, of: (a) the compensation referred to in Article VI, paragraph 4, (b) earnings, whether in the form of salaries, interest, dividends, commissions, royalties, payments for technical services, or otherwise, and (c) amounts for amortization of loans, depreciation of direct investments, and capital transfers to the extent feasible, giving consideration to special needs for other transactions."

[10] E.g., Article XII, par. 2, second sentence, of the treaty with the Netherlands: "It is understood that the provisions of the present Article do not alter the obligations either Party may have to the International Monetary Fund or preclude imposition of particular restrictions whenever the Fund specifically authorizes or requests a Party to impose such particular restrictions." This wording is carefully chosen to permit both the treaty and the Fund to operate side by side, so long as the former does not actually interfere with the latter.

This content downloaded from 169 252 4.23 on Mon, 10 Sep 2018 16 11 28 UTC
All use subject to https //about jstor org/terms

Annex 2

ter prevail.[11] Despite the subordination of the treaty thus provided, however, the treaty is calculated to serve at least three practical purposes. First, especially as the GATT still operates on a provisional basis, the treaty provides a basic agreement to fall back on if, for any reason, the GATT should cease to be in effect between the treaty signatories. Second, it provides now such a basic agreement with respect to those countries which are not party to the GATT (for example, Ethiopia, Ireland, Israel). Third, the treaty seeks to supplement the GATT by making bilateral advances with respect to certain matters on which multilateral agreement has not proved possible in the GATT. Examples are the treaty rule concerning nondiscrimination in the furnishing of government services; and the so-called "30-day" or "en route" rule, which provides a certain period of grace between the time new trade restrictions are promulgated and their going into effect.[12]

In the case of industrial property, the treaty merely reaffirms the national-treatment rule contained in the international convention; and no problem of conflict or variance arises. Mention should also be made of the treaty's coverage of commercial arbitration, a subject dealt with in the Geneva Protocol of 1923 on the enforcement of arbitration contracts

[11] As exemplified by the Netherlands treaty, the paralleling materials are in Articles XIV, par. 1 (most-favored-nation treatment as to customs duties), pars. 2-4 (nondiscriminatory administration of prohibitions and restrictions affecting imports or exports), and par. 6 (exception for balance-of-payments difficulties); XV, par. 1 (public notice and equitable administration of new customs regulations), par. 2 (appeals and penalties, in customs administration) and par. 3 (marking requirements); XVI, par. 1 (internal treatment of imported goods); XVII, par. 1 (operations of state-trading entities), par. 2 (a) (purchase of government supplies); XXI (c) (transit of goods); and certain customary exceptions in Article XXII. The clause providing for cross-relationship between the two instruments is paragraph 4 of Article XXII: "The provisions of the present Treaty relating to the treatment of goods shall not preclude action by either Party which is required or specifically permitted under the General Agreement on Tariffs and Trade during such time as such Party is a contracting party to the General Agreement. Similarly, the most-favored-nation provisions of the present Treaty shall not apply to special advantages accorded by virtue of the aforesaid Agreement."

[12] The former—e.g., Article XVII, par. 2 (c), of the Netherlands treaty—has been generally accepted in the treaties signed to date; but the latter (e.g., Article XV, par. 2, second sentence, of Japan treaty) has been omitted from some of them (e.g., those with Ireland, Israel and Germany) and is in the Netherlands treaty in modified form.

This content downloaded from 169.252.4.23 on Mon, 10 Sep 2018 16:11:28 UTC
All use subject to https://about.jstor.org/terms

Annex 2

and the Geneva Convention of 1927 on the enforcement of arbitration awards.[13] These instruments have been adhered to by many European countries, but not by the United States and most other non-European countries. The treaty approaches this subject in a way which is consistent with that of the Geneva instruments and which adherents and non-adherents to those instruments alike can accept. In effect, the treaty affords a bilateral medium through which the general objectives sought in the Geneva instruments are being subscribed to by additional countries.[14] Finally, there is in process of formation a multilateral organization dealing with shipping.[15]

In the domain of bilateral agreements, the principal type in United States practice covering subject matter also included in the commercial treaty is the convention for the avoidance of double taxation with respect to taxes on income, and for the mutual protection of revenue, more briefly known as the double-tax convention.[16] This convention is a detailed

[13] Texts may be found, for example, in *International Yearbook on Civil and Commercial Arbitration*, vol. I, pp. 239-43 (1928).

[14] The unique form of the provision as it appears in the Netherlands treaty suggests this result: "In conformity with subparagraphs (1) and (2) hereof, awards duly rendered pursuant to any such contracts, which are final and enforceable under the laws of the place where rendered, shall be deemed conclusive in enforcement proceedings brought before the courts of competent jurisdiction of either Party. (1) As regards recognition and enforcement in the United States of America, such awards shall be entitled in any court in any State thereof only to the same measure of recognition and enforcement as awards rendered in other States thereof. (2) As regards enforcement in the Kingdom of the Netherlands, such awards shall be dealt with in the same way as awards as referred to in the Convention on the execution of foreign arbitral awards concluded at Geneva on September 26, 1927." An arbitration provision is missing from the treaties with Uruguay and Ethiopia. For an account of this subject, see my article "Commercial Arbitration Provisions in United States Treaties", 11 *Arbitration Journal* (new series) 68-84 (1956).

[15] Convention on the Intergovernmental Maritime Consultative Organization, signed at Geneva March 6, 1948 (S. Ex. L, 80th Cong., 2d Sess.).

[16] Such conventions had entered into force with 19 countries by April 1, 1957 and in addition one convention, that with Austria, was awaiting ratification. For discussion of the program, see: E. Roy Gilpin and H. Gilmer Wells, "International Double Taxation of Income: Its Problems and Remedies", 28 *Taxes* 9-32 (1950); Burton W. Kanter, "United States Income Tax Treaty Program", 7 *National Tax Journal* 69-88 (1954): and address by Eldon P. King, Director, International Tax Relations Division, Internal Revenue Service, Department of the Treasury, "The Income Tax Conventions with Germany and Japan, and Prospective Conventions with Latin America", de-

This content downloaded from 169 252.4.23 on Mon, 10 Sep 2018 16 11 28 UTC
All use subject to https://about.jstor org/terms

Annex 2

technical instrument concerned with which country will tax, or not tax, income that is potentially subject to taxation by both, and with measures of coöperation between the taxing authorities of the two signatories: that is, with jurisdiction and the system and basis of taxation. The commercial treaty, on the other hand, is concerned broadly with the principle of nondiscrimination in the levy and collection of taxes, whatever be the system; and thus the two instruments supplement and reinforce one another. In the one connection in which the treaty covers a double-tax subject,[17] it provides an elementary rule of equity to rely upon in those instances in which a double-tax convention is not in force between the signatories. Necessary cross-relationship is provided through a reservation assuring that the more general instrument, the treaty, cannot interfere with the specific arrangements that may be made in the more specialized instrument, the double-tax convention.

The commercial treaty, finally, can impinge to a degree upon other types of agreements which other countries make among themselves, such as, for example, conventions on *assistance judiciare* or agreements relating to social security benefits. But negotiating experience so far has not revealed any dissonances which on this account require substantial adjustments in, or reservations to, the affected commercial treaty provisions normally favored by the United States when it enters negotiation (aside from normal reservations for recognized territorial trade preferences).[18]

---

livered before the International Fiscal Association, New York, May 6, 1955. A parallel series of conventions deals with the avoidance of double taxation with respect to estates (inheritance); and their relationship to the commercial treaties is the same. Thirteen such conventions were in force on April 1, 1957. (The numbers in force on January 1, 1958 were, respectively, 20 and 13.)

[17] This provision (e.g., Article XI, par. 4, of Netherlands treaty) assures that a company of one party will be taxable in the other only on the business it does in the latter, rather than on the basis of its "world income" as might be possible under the national-treatment clause.

[18] The exchange of notes appended to the Netherlands treaty—dealing with the problem of harmonizing the strict most-favored-nation rules of the treaty with the preferences that might develop among countries participating in a future European integration arrangement—and the Commonwealth preference reservation in Article XX, par. 3 (b), of the Irish treaty—just as the customary United States reservations for its preferential trading arrangements with Cuba

This content downloaded from 169 252 4.23 on Mon, 10 Sep 2018 16:11.28 UTC
All use subject to https //about.jstor org/terms

Annex 2

A recitation of actually operative international agreements, multilateral and bilateral, then reveals: first, that the commercial treaty serves a definite practical purpose in those cases when it is dealing with the same subject as other agreements; and, second, that only a fraction of its content is concerned with or duplicates things otherwise regulated by interstate agreements of concern to the United States. This second fact—namely, that the commercial treaty provides the only vehicle so far devised and demonstrably capable of utilization for treating an important range of subject matter—provides the major explanation and justification for its active use in the conduct of foreign policy of the United States. To start with, it fills a void conspicuously left by the persistent lack of any successful multilateral agreement, either piecemeal or frontal, on the ground rules which should govern in the foreign investment process: the treatment of the alien entrepreneur, his enterprise and his property. Indeed, past experience strongly suggests that multilateral endeavors in this area are foredoomed to failure, under present circumstances, owing to the lack of any sufficiently elevated international consensus or community of interest concerning the degree to which and conditions under which the alien should be welcomed to participate in a nation's economic life; and that, accordingly, the bilateral country-by-country approach is apparently as yet the only feasible one.

Scope of the Treaties

Topics in addition to exchange control, trade and taxation, on which progress has been recorded in the commercial treaties over the past ten years, include those listed below. These, together with the provisions mentioned above, summarize the general content and purposes of the treaties.

Companies.[19] The general standard of national treatment —that is, nondiscrimination as between the alien and the citi-

---

and the Philippines—illustrate the typical kinds of adjustments that sometimes have to be made to allow for the international commitments of a party to the commercial treaty.

[19] For a fuller discussion, see my "Provisions on Companies in United States Commercial Treaties", 50 *American Journal of International Law* 373-93 (1956).

This content downloaded from 169.252.4.23 on Mon, 10 Sep 2018 16:11:28 UTC
All use subject to https://about.jstor.org/terms

Annex 2

zen—has in principle been normal for many years in United States treaties (as well as those of many other countries), in so far as natural persons are concerned. However, prior to World War II, the same was not true of juridical entities. These were in practice either ignored, or else dealt with in only a limited or restricted way,[20] or else assured only of most-favored-nation treatment. But in the current series of treaties, a comprehensive endeavor is made to extend the same liberal standard to companies and the activities of companies. This outstandingly important advance over previous international practice has obvious pertinence to the value of these treaties for investment purposes, in view of the predominant way in which foreign investment is made in modern times through the corporate device. The right of corporations to engage in business on a national-treatment basis may be said to constitute the heart of the treaty as an investment instrument.[21]

Beyond this, the treaties represent a perhaps overdue response to the need for crystallization of internationally recognized rules concerning the status and rights of corporations, whether or not in the investment setting. The treaty provisions on companies are accordingly not confined to investment corporations, but extend to juridical entities generally. Thus express provision is made for the nonprofit entity, and its activities, a subject toward which past international treaty practice has tended to manifest even greater reserve than toward the business corporation.[22] Again, on the subject of

[20] See, e.g., the reservation which was included in all the treaties of the inter-war period: "The right of such corporations and associations of either High Contracting Party so recognized by the other to establish themselves within its territories, establish branch offices and fulfill their functions therein shall depend upon, and be governed solely by, the consent of such Party as expressed in its National, State, or Provincial laws." Article XII, second par., of 1923 treaty with Germany.

[21] This is basically set forth in Article VII, par. 1, of the Netherlands treaty: "Nationals and companies of either Party shall be accorded national treatment with respect to engaging in all types of commercial, industrial, financial and other activity for gain (business activities) within the territories of the other Party, whether directly or by agent or through the medium of any form of lawful juridical entity."

[22] Treaties of various nations have tended to limit such company provisions as they have contained to corporations organized for business purposes. The United States policy of including also nonprofit entities began, however, with the German treaty of 1923. See Article XII, first paragraph, thereof.

This content downloaded from 169.252.4.23 on Mon, 10 Sep 2018 16:11:28 UTC
All use subject to https://about.jstor.org/terms

Annex 2

juridical status of entities, these treaties have sponsored a return to the "classical" theory: that is, that the mere fact of lawful creation in either country shall *ipso facto* be sufficient to endow the entity with lawful being and recognition in the other, without any additional tests, such as where it maintains its seat, the nationality of its ownership or direction, the character of its aims or otherwise.[23] The contribution which the current treaties make in this connection is pointed up by the debate and confusion which have marked the subject of the proper tests applicable to the recognition of juridical personality of foreign entities,[24] and by the great extent to which the simple classical test has been departed from in international practice, over the last half century.[25] The resolution attained has been made possible by the clear distinction maintained, in the treaty's provisions, between the civil and the functional capacities of companies.[26] Cognately, provision has been made for the free privilege of the nondomesticated foreign company, which is not engaged in business in the other country, to sue and be sued in the courts of the latter.[27] On the other hand, provision is also made for "piercing the corporate veil", in order to assure protection of the real parties-in-interest lying behind the corporate façade, in certain instances in which the corporate entity has a nationality different from that of such parties and hence

[23] For example, see wording of Article XXIII, par. 3, of the Netherlands treaty: "As used in the present Treaty, the term 'companies' means corporations, partnerships, companies, foundations, associations, and other legal entities or juridical persons, whether or not with limited liability and whether or not for pecuniary profit. Companies constituted under the applicable laws and regulations within the territories of either Party shall be deemed companies thereof and shall have their juridical status recognized within the territories of the other Party."

[24] E.g., the observation of Sigmund Timberg that, as to a recognized test, "in the corporate field, we find confusion and uncertainty." "Corporate Fictions", 46 *Columbia Law Review* 533, 572 (1946).

[25] The United States treaties of the inter-war period, for example, required as a condition precedent to recognition that the company maintain a "central office" in the country of its creation and pursue no aims in the host country contrary to the laws thereof. Article XII, German treaty of 1923.

[26] That is, logically the mere acknowledgment of the fact of being of an entity need not be qualified when the purposes for which qualifications are desired can be adequately served by appropriately wording the provisions dealing with the operation of the entity within the country.

[27] E.g., Article V, par. 1, second sentence, Netherlands treaty.

This content downloaded from 169 252 4 23 on Mon, 10 Sep 2018 16 11 28 UTC
All use subject to https://about.jstor org/terms

Annex 2

not technically entitled to claim protection from the country of which the latter are nationals.[28]

Property Protection. The extent to which the institution of private property has of late come under question or attack has underscored the need for reaffirming and reinforcing traditional international law regarding the protection which a government owes to the property of the alien.[29] In addition to providing generally for " the most constant protection and security " and prohibiting unreasonable searches and seizures,[30] the treaties therefore introduce injunctions against arbitrary impairments of established interests [31] and give greater definition to the obligation to pay just compensation for property expropriated or otherwise taken. The formula evolved in connection with the latter, in view of its importance, warrants quotation:

> Property of nationals and companies of either Party shall not be taken within the territories of the other Party except for a public interest, nor shall it be taken without the prompt payment of just compensation. Such compensation shall be in an effectively realizable form and shall represent the equivalent of the property taken; and adequate provision shall have been made at or prior to the time of taking for the determination and payment thereof.[32]

Moreover, a protocol has been devised to assure that, when the affected property belongs to a juridical entity which itself, because of its nationality, is not entitled to treaty protection (for example, it is chartered under the laws of a third

[28] For example, an American corporation is assured the right to organize and control a subsidiary under the laws of the other country; and such subsidiary, although having the nationality of the latter, rather than United States nationality, is given treaty rights which the United States is enitled to espouse.

[29] The great difficulty, apparently, of achieving such a result in a multilateral forum at present is illustrated by the silence or ambiguities regarding obligation to pay compensation in event of expropriation manifested by such documents as: General Assembly, United Nations, Resolution 626 (Seventh Assembly 1952) regarding resources: Article 12 of the abortive Havana Charter of 1948 for an International Trade Organization (see William Diebold, " The End of the ITO ", *Princeton Essays in International Finance* No. 16, 1952, pp. 18-19) and the projected United Nations Covenant on Human Rights.

[30] Netherlands treaty, Article VI, pars. 1 and 2.

[31] *Ibid.*, par. 3.

[32] *Ibid.*, par. 4.

This content downloaded from 169 252 4 23 on Mon, 10 Sep 2018 16 11 28 UTC
All use subject to https //about.jstor org/terms

Annex 2

country), the obligation to pay compensation nevertheless holds as to such persons entitled to treaty protection as may ultimately hold interests in the entity, to the extent of their interest. This provision reads as follows:

> The provisions of Article VI, paragraph 4, providing for the payment of compensation shall extend to *interests held directly or indirectly* by nationals and companies of either Party in property which is taken within the territories of the other Party.[33] (Italics supplied)

Waiver of Sovereign Immunity. The commercial treaties, beginning with the Italian treaty in 1948, have been a vehicle through which the United States government has espoused the restrictive theory of sovereign immunity, to the extent set forth as follows:

> No enterprise of either Party, including corporations, associations, and government agencies and instrumentalities, which is publicly owned or controlled shall, to the extent that it engages in commercial, industrial, shipping or other business activities within the territories of the other Party, claim or enjoy, either for itself or for its property, immunity therein from taxation, suit, execution of judgment or other liability to which privately owned and controlled enterprises are subject therein.[34]

This reflected a shift in United States policy which had been in the making for some time, tracing back conceptually to the Court of Claims Act of 1853 and the Tucker Act of 1887, through the Admiralty Acts of the 1920's and the Tort Claims Act of 1946.[35] The practical purpose, from the treaty standpoint, was to narrow the range of competitive inequality between private and state-owned business enterprise. After this clause had appeared in several treaties, the shift culminated in the so-called Tate letter of May 19, 1952, in which the Department of State announced that it would thereafter favor the restrictive theory as to immunity claims advanced

[33] *Ibid.*, Protocol, par. 6. [34] *Ibid.*, Article XVIII, par. 2.

[35] Respectively, 10 Stat. 612; 24 Stat. 505; 46 U.S.C., chs. 20 and 22; and 28 U.S.C., ch. 171. The basis for the treaty rule had been fairly well laid by 1948 by the approach taken by the courts to immunity claims of foreign government commercial corporations. See "Sovereign Immunity for Commercial Instrumentalities of Foreign Governments", 58 *Yale Law Journal* 177 *et seq.* (1948).

This content downloaded from 169.252.4.23 on Mon, 10 Sep 2018 16:11:28 UTC
All use subject to https://about.jstor.org/terms

Annex 2

on behalf of any foreign government.[36] Thus, finally, the United States joined the camp of the continental nations which had earlier abandoned the "classical" theory of sovereign immunity.

Human Rights. These treaties in the broad sense have always been concerned in a major way with human rights—the respect and protection owed by each member of the international community to the stranger within its gates. Indeed, provisions on the rights of persons—so-called "establishment" provisions—commonly form the first sections of such treaties.[37] The current treaties have proceeded with obtaining confirmation of basic principles in this area of affairs, at a time when the United Nations continues to encounter frustration in its pursuit of a generally acceptable universal convention on human rights. The treaties do not, of course, share the latter project's ambition to provide a charter for all individuals, including the protection of citizens against their own government, but are limited to the duties that nations owe to the alien. Moreover, they are confined to matters of more or less traditional treaty concern, to the exclusion of the sociological dispositions of national laws and traditions.

In addition to providing for the protection of the alien's property, already alluded to, the treaties provide for: the protection of his person against molestations; his right to equal protection of the laws; his right, if arrested, to humane treatment, to communicate with his consul, to be informed promptly of the accusations against him, to a prompt trial, to ample opportunity to prepare his defense, and to the services of counsel of his choice; his liberty of movement and residence; his freedom of conscience and his right to worship,

[36] Letter from the Acting Legal Adviser to the Attorney General, Department of State *Bulletin*, June 23, 1952, pp. 984-85. The special significance of the State Department's views results from the fact that the judiciary tends to seek guidance from the political branch when a question of this kind arises. On this point see concurring opinion of Justice Frankfurter in *Republic of Mexico v. Hoffman* 324 U. S. 30, 38 (1945).

[37] If the titles normally given to these treaties were more fully spelled out, they could suitably be termed treaties of "friendship, establishment, investment, commerce and navigation". The rights of persons covered in the establishment provisions extend, of course, to such matters as engaging in business and occupations, and the protection of their property.

This content downloaded from 169 252.4 23 on Mon, 10 Sep 2018 16 11 28 UTC
All use subject to https //about jstor org/terms

Annex 2

either publicly or privately, according to his own faith; his right freely to communicate with others; and his right to engage in both gainful and nonprofit work.[38]

Freedom of Information. Cognately, the treaties since 1948 have normally contained a provision assuring the right without interference to gather and report the news, more exactly "to gather and to transmit material for dissemination to the public abroad". Here again these instruments have been used as vehicles for attaining in principle an objective concerning which a multilateral effort, under United Nations auspices, was unable to agree on a generally acceptable convention.[39] This further illustrates the resiliency and adaptability of the traditional commercial treaty to the needs of its time; and also the potentiality it holds for achieving step by step, in the quiet atmosphere of patient and amicable bilateral discussions, a variety of objectives which have not proved attainable through more spectacular or ambitious conventional media.

Settlement of Disputes. The inclusion, beginning with the China treaty of 1946, of an unqualified provision for the submission of otherwise unresolvable disputes to the International Court of Justice for adjudication is a landmark in the treaty policy of the United States. These treaties represent for the first time the unreserved acceptance by the United States of an international tribunal's jurisdiction, in a major and systematic manner, as to future disputes.[40] Prior to the signing of the first of these treaties, the Senate had adopted the Connally resolution through which the United States accepted the optional clause of the Court Statute, subject to

[38] These matters are covered, in the Netherlands treaty, mainly in Articles II, par. 2; III, both pars.; V, par. 1; VII, par. 1; and VIII, par. 2.

[39] See *Report* of United States Delegates to the United Nations Conference on Freedom of Information (Geneva, 1948) (Department of State Publication 3150); Robert R. Wilson, "International Law and Proposed Freedom of Information", 39 *American Journal of International Law* 790-93 (1945).

[40] There was a precedent in the International Civil Aviation Convention of 1944. See memorandum submitted by the Department of State in justification of the court clause in the first of the current series, the China treaty of 1946, in *Hearing before a Subcommittee of the Committee on Foreign Relations . . . 80th Congress, 2d Session, on a Treaty . . . [with] China,* April 26, 1948, pp. 29-30. The normal wording of the clause may be found in the Netherlands treaty, Article XXV, par. 2.

This content downloaded from 169.252 4 23 on Mon, 10 Sep 2018 16 11 28 UTC
All use subject to https //about.jstor org/terms

Annex 2

certain reservations.[41] The type of controversies potentially arising over the interpretation or application of the terms of a bilateral commercial treaty would appear to be altogether proper for reference to an international court, without raising the kinds of questions that occasioned the Connally reservations. The standard form of compromissary clause now used in the commercial treaties, however, leaves open the precise procedure to be followed in referring a dispute.

Miscellaneous. In concluding the recitation of the subject matter of the treaties, mention should be made of a provision which has been designed to curb restrictive business practices (" cartels "), another topic on which multilateral efforts to find a viable consensus among nations has proved unsuccessful.[42] This provision of the treaty is a modest and imprecise statement, being in terms of an agreement on a point of view, rather than an exact legal rule, and being considerably short of an impracticable endeavor to export the Sherman Antitrust Act.[43] Finally, it may be noted that a navigation article reaffirms a liberal régime of treatment to be applied to international shipping. The rules set forth reflect the practices which have historically been developed by leading maritime nations, and are designed to curb ultranationalistic or protectionist tendencies, of which there is considerable evidence, in the shipping field. On the multilateral front, in comparison, there is in process of creation an Intergovernmental Maritime Consultative Organization (as a specialized agency in relationship with the United Nations),[44] designed to provide an international forum for the

41 Sen. Res. 196, August 2, 1946. The reservations were for (a) disputes which might be entrusted to another tribunal, (b) disputes concerning matters essentially within the domestic jurisdiction of the United States, and (c) disputes arising under multilateral treaty except under certain conditions.

42 See, e.g., Martin Domke, "The United Nations Draft Convention on Restrictive Business Practices", *International and Comparative Law Quarterly*, January 1955, pp. 129-40.

43 The provision is missing from the treaties with China, Ethiopia, Iran and the Netherlands. The normal wording may be found, for example, in Article XVIII, paragraph 1, of the Japan treaty of 1953. It expresses disapproval of restrictive practices that have harmful effects on international trade, calls upon the parties to consult about any such practices, and commits each to undertake such corrective action as it might deem appropriate.

44 *Supra*, note 15. The ratification of the United States was deposited on August 17, 1950.

This content downloaded from 169 252 4 23 on Mon, 10 Sep 2018 16.11 28 UTC
All use subject to https //about jstor org/terms

Annex 2

airing of shipping problems but which does not purport, as does the treaty, to impose explicit obligations as to the treatment any country will grant to another's vessels. The value of reconfirming traditional rules through treaty is pointed up by the fact that the various differences of interest among nations has led to great delays in arriving at the adherences necessary to the coming into force of the IMCO Convention (drafted at an international conference in 1948), even though by definition the Organization is to be only "consultative and advisory".[45]

Nature and Limitations of the Treaties

The treaties deal with the subjects within their purview in language of simple elementary principle, of a constitution-like character. Their avoidance of detail and of statute-like elaboration and specificity is in keeping with their essential character. Being comprehensive instruments, cutting across a wide range of interests, they must correspondingly be fashioned with broad strokes, if they are to be at all manageable. Being designed to serve as a basic charter of relations for a long period of years, they must be confined to fundamentals so framed as to preserve their validity over the vicissitudes and changing conditions of an indefinite future. Predominantly, therefore, the norms of treatment set forth are of a contingent character, permitting an endlessly flexible adaptation of content within the integument of a governing legal principle. These norms are mainly national treatment or most-favored-nation treatment, or both, as the case may be.[46] In the establishment provisions—those dealing with the rights of persons and enterprises—the former is normally sought, as being obviously much the stronger of the two; for a country is not in general likely to accord any aliens better treatment than it accords its own nationals, whereas the most-favored

[45] Article 2 of the Convention. By the terms of Article 60, the Convention will come into force when adhered to by 21 countries of which 7 must each have at least 1,000,000 tons of shipping, a number still short of attainment as of April 1, 1957, and the Convention was not in force on January 1, 1958.

[46] In certain very fundamental matters (e.g., freedom of conscience, compensation for expropriated property) these norms are passed, in order to assure the treaty alien a basic minimum protection regardless of the treatment others might receive.

This content downloaded from 169 252 4 23 on Mon, 10 Sep 2018 16 11 28 UTC
All use subject to https //about jstor org/terms

Annex 2

nation standard allows any amount of discrimination against aliens as a class.

In this characteristic of the treaties lie both their strength and their weakness. On the one hand, the essential moderation and reasonableness of constructing a dike against discrimination, of attending to first things first without purporting further to circumscribe or prescribe either country's legislative policy, make the negotiation and conclusion of the treaties possible as a practical matter. Governments can with prudence undertake long-term commitments of a foundation character, but may not be at all prepared to freeze their freedom of action and judgment regarding the details of legislative and internal policy, especially over so broad an area as is covered by a commercial treaty.[47] On the other hand, nondiscrimination may of itself fall considerably short of creating conditions prerequisite to investment and trade, for the legal system and policies of a country may be quite inhibitory without being at all discriminatory. This truism has led, for example, to the development of the trade agreement device, now expanded into the GATT,[48] to effectuate progress in the

[47] The moderation of the treaties, and their avoidance of interference with domestic policy except to the extent of assuring the alien a basic measure of protection on a reciprocal bilateral basis, in conformity with international usage, undoubtedly account for the tolerant regard which many proponents of the so-called Bricker Amendment aparently hold for these treaties, notwithstanding that they create obligations with respect to many matters over which the several states exercise legislative authority. The roll-call vote by which the Senate gave its advice and consent to ratification of a group of five of these treaties, on July 21, 1953, at the height of the controversy over the Amendment, was 86 yeas to 1 nay (*Congressional Record* for that date, p. 9623). Senator Bricker has testified that the Amendment is not in his judgment calculated to interfere with the conclusion of such treaties (*Hearing before the Senate Judiciary Subcommittee on S.J. Res. 1 and S.J. Res. 43*, 1953, p. 8; *Hearing before Senate Judiciary Subcommittee on S.J. Res. 1*, 1955, pp. 297-98); and similarly Dr. George Finch, a leading expert witness in favor of the Amendment, has challenged the opposition's fears lest the Amendment make impossible the conclusion of such treaties in future (1955 *Hearing*, p. 506).

[48] The General Agreement on Tariffs and Trade, concluded at Geneva in 1947, to which 37 countries are now party. For text, with proposed revisions, see Department of State brochure of March 1955; and for a brief explanatory account, Department of State Publication 5813, April 1955. It is in force generally through a "Protocol of Provisional Application". Its status in the United States is that of an executive agreement, on authority derived from the Trade Agreements Act; and Congress has so far taken the position, in the domestic controversy over the GATT, that it neither approves nor

This content downloaded from 169 252 4 23 on Mon, 10 Sep 2018 16 11 28 UTC
All use subject to https //about jstor org/terms

Annex 2

absolute lowering of duty rates and the general level of barriers to international trade. But so far there has not evolved any feasible device for accomplishing results in the field of investment comparable with those sought through the trade agreement–GATT mechanism in the field of trade.

The principal criticisms which might accordingly be directed at the treaties concern their failures to provide stronger or more specific rules, especially as regards the investor. A list would include the following: (1) The extent to which particular treaties recognize "screening", that is, a signatory's reserved right to determine whether particular investments by foreigners will be allowed (a departure from that aspect of the national-treatment principle which assures the treaty alien a right equally with the citizen to initiate an investment).[49] (2) Failure to require that no established interest of any kind may be impaired by government action except upon payment of prompt, just and effective compensation.[50] (3) Failure to prohibit the nationalization of private industry or, at least, to require that there may be no expropriation until after the compensation has been agreed upon and paid.[51] (4) Absence of specific commitments regarding

disapproves it. There is projected an Organization for Trade Cooperation (OTC), to provide a regular international machinery for administering the GATT; and United States participation in this Organization will require congressional authorization.

[49] The National Foreign Trade Council objected to the Ethiopia treaty, for example, because of its acknowledgment of the screening right (Letter to the Senate Committee on Foreign Relations, reproduced on p. 21 of the *Hearing* on that and other commercial treaties held before the Subcommittee of that Committee, May 9, 1952). Screening is without prejudice, of course, to the important treaty principle of national treatment for enterprises after their initiation.

[50] See, for example, the suggestion of National Foreign Trade Council, *ibid.*, p. 22. The treaty rule parallels the United States federal constitutional requirement as to "property taken". The greater obligations entailed by a commitment to pay for impairment of any established interest would surpass present federal law and practice (e.g., with regard to "consequential damages"). Further, see Department of State memorandum, *ibid.*, p. 28, in reply to the Council's suggestion.

[51] The treaty does not attempt to outlaw any expropriation, but merely to regulate the manner and consequences of an expropriation; and it is doubtful whether an attempt to forbid expropriation would be considered a tenable restraint on sovereignty. A prior-payment commitment, for its part, would preclude the federal "declaration of taking" procedure.

This content downloaded from 169 252.4 23 on Mon, 10 Sep 2018 16 11 28 UTC
All use subject to https //about jstor org/terms

Annex 2

[52] Federal law prior to 1952 authorized treaty provision for special ... privileges only for international traders, but in that year an additional category was provided for the principal investor. See 101(a) (15) E (i) (ii) of the Immigration and Nationality Act of 1952. See Robert R. Wilson, "Treaty-Investor Clauses in Commercial Treaties of the United States", 49 *American Journal of International Law* 366-70 (1955). At the time the Act was under consideration, a spokesman for the National Foreign Trade Council recommended the inclusion of a clause also on technical personnel, but Congress did not accept it. *Joint Hearings before the Subcommittees on the Judiciary . . . 82d Cong., 1st Sess. . . . on Bills to Revise the Laws Relating to Immigration,* etc., 1951, pp. 314 *et seq.*

[53] The treaty stipulates only a rather imprecise "reasonable provision" in the light of the exchange stringency situation. *Supra,* note 9.

[54] The treaty rule—Article XVII, par. 2(b), of Netherlands treaty, for example—provides only for "fair and equitable treatment, as compared with that accorded" to third countries.

This content downloaded from 169.252.4.23 on Mon, 10 Sep 2018 16:11:28 UTC
All use subject to https://about.jstor.org/terms

Annex 2

the entry of foreign technical personnel, and of clearer rights for American accountants and other professional categories.[52] (5) Insufficiently categorical guarantees regarding the remittance of earnings and the repatriation of capital.[53] (6) Lack of precision and advance in the rule regarding the awarding of government contracts and concessions.[54]

These and other possible shortcomings, which may be found to exist notwithstanding that the current treaty series is probably the most far-reaching and affirmative that has yet been extensively negotiated by any country, are ascribable to several causes which on the whole would appear to be unavoidable, at least under present circumstances. One cause, the comprehensive nature of treaties of this type, has already been mentioned. A second would lie in the intractability of certain of the subject matters: that is, the bafflement encountered in attempting to draw up exact rules that would be realistic and susceptible of practicable application over a future period. This would be true, in part at least, of items (5) and (6) listed above, lacking some kind of viable joint administrative machinery yet to be invented. A third cause lies in the fact that, as these treaties are negotiated through the free-will consent of sovereign nations, and by the very nature of the case represent self-agreed limitations on each country's freedom of action, they are perforce confined to reasonable commitments which governments can prudently see their way clear to assuming as a matter of enlightened self-interest. Governments can hardly be expected to be

the entry of foreign technical personnel, and of clearer rights for American accountants and other professional categories.[52] (5) Insufficiently categorical guarantees regarding the remittance of earnings and the repatriation of capital.[53] (6) Lack of precision and advance in the rule regarding the awarding of government contracts and concessions.[54]

These and other possible shortcomings, which may be found to exist notwithstanding that the current treaty series is probably the most far-reaching and affirmative that has yet been extensively negotiated by any country, are ascribable to several causes which on the whole would appear to be unavoidable, at least under present circumstances. One cause, the comprehensive nature of treaties of this type, has already been mentioned. A second would lie in the intractability of certain of the subject matters: that is, the bafflement encountered in attempting to draw up exact rules that would be realistic and susceptible of practicable application over a future period. This would be true, in part at least, of items (5) and (6) listed above, lacking some kind of viable joint administrative machinery yet to be invented. A third cause lies in the fact that, as these treaties are negotiated through the free-will consent of sovereign nations, and by the very nature of the case represent self-agreed limitations on each country's freedom of action, they are perforce confined to reasonable commitments which governments can prudently see their way clear to assuming as a matter of enlightened self-interest. Governments can hardly be expected to be

[52] Federal law prior to 1952 authorized treaty provision for special entry privileges only for international traders, but in that year an additional category was provided for the principal investor. See 101(a) (15) E (i) (ii) of the Immigration and Nationality Act of 1952. See Robert R. Wilson, "Treaty-Investor Clauses in Commercial Treaties of the United States", 49 *American Journal of International Law* 366-70 (1955). At the time the Act was under consideration, a spokesman for the National Foreign Trade Council recommended the inclusion of a clause also on technical personnel, but Congress did not accept it. *Joint Hearings before the Subcommittees on the Judiciary . . . 82d Cong., 1st Sess. . . . on Bills to Revise the Laws Relating to Immigration,* etc., 1951, pp. 314 *et seq.*

[53] The treaty stipulates only a rather imprecise "reasonable provision" in the light of the exchange stringency situation. *Supra,* note 9.

[54] The treaty rule—Article XVII, par. 2(b), of Netherlands treaty, for example—provides only for "fair and equitable treatment, as compared with that accorded" to third countries.

This content downloaded from 169.252.4.23 on Mon, 10 Sep 2018 16:11:28 UTC
All use subject to https://about.jstor.org/terms

Annex 2

eager to bind themselves to rigid or special-privilege engagements to the alien when there is no necessity for their doing so. A corollary to the doctrine of sovereign equality of nations, moreover, is that the treaties must be mutual in their provisions, with the consequence that they can in general contain only such commitments as the United States itself is prepared to undertake.[55]

Treaties of the type here under discussion do not entail bargaining for concessions. Rather, they deal with matters of right principle, to which both signatories are willing to subscribe formally; and they can in the large serve only to define and reduce to stable international engagement an existing state of national policies rather than to create new policy. A country, therefore, which is persuaded that it must particularly retain control over the extent to which aliens may be allowed to acquire economic influence within its boundaries is not likely to be prepared to waive its "screening" rights in favor of the open door, even with respect to the ordinary run of commercial and industrial activities regarding which the United States advocates a "no-screening" rule in its standard treaty proposals. Other countries, while admitting that there should be competitive equality between the alien and the citizen in initiating investments, and thus agreeing in principle with the open-door approach, may nevertheless nurture fears lest the unregulated entry of foreign capital during times when they are very short of dollar exchange might allow certain investments to be made which will create demands for remissions of earnings out of proportion to the net contributions such investments make to the national economy.[56] On the other hand, reservations to the

[55] Special adjustments, however, have to be made to care for the federal system, as regards the meaning of "national treatment" as applied to companies—e.g., Netherlands treaty, Article XXIII, par. 4 (a)—for which there is usually no equivalent on behalf of the other country. See also the special provision regarding ownership of real property likewise occasioned by the United States federal system, included in a number of the treaties (Article IX, par. 2, Netherlands treaty), the only firm right which the United States is prepared to accord being with regard to leasehold rights as to property needed for treaty-authorized purposes (*ibid.*, Article IX, par. 1).

[56] Certain balance-of-payments reservations are accordingly found, relative to the introduction of capital, in the treaties with Denmark (Protocol, par. 7); Japan (Protocol, par. 6); Germany (Protocol, par. 16); and the Netherlands (Protocol, par. 14).

This content downloaded from 169 252.4 23 on Mon, 10 Sep 2018 16 11 28 UTC
All use subject to https //about jstor org/terms

Annex 2

national-treatment rule as regards the initiation of an investment must also be maintained with respect to certain sensitive areas of business activity (for example, deposit banking) because of the alien disabilities which are present in state or federal law or administrative regulation on the United States side.[57] Similarly, shortcomings of the nature of those listed as (2), (3) and (4) above, even were they correctible with the consent of foreign countries, are necessitated by the inability of the United States to go further than the treaties actually provide, either because stronger rules would pass the bounds of established law and practice or because the federal government is unwilling to use the treaty power to override conflicting state legislation, actual or potential, in the premises.

Conclusion

Perhaps as time goes on, ways may be found for remedying or narrowing some flaws which may be said to persist in the treaty structure, even after ten years of extensive and varied negotiating experience and of experimentation with ways of making these instruments more effective. Certainly a comparison of successive texts appearing during the ten years, especially those completed during the first half of that period, will reveal evidence of a continuing effort to improve their content over that of the China treaty of 1946—which set the pattern for the series after World War II. For example, since that pioneering instrument, there has been a thorough reorganization and restatement of the provisions, with a view to better clarity and conciseness, fewer ambiguities and qualifications. The rights of corporations to engage in the normal run of business activities, on a national-treatment basis, have been defined in more legally sufficient terms; [58] and formulae have been devised for viably protecting those categories of enterprise which because of their sensitive nature (for example, deposit banking, as above mentioned) are as a matter of

[57] Examples in the federal jurisdiction: 16 U.S.C. 797(e) (hydroelectric licenses); 46 U.S.C. 19, 252, 802, 1151(c), 1159, 1171, 1244(c) (shipping operations); 47 U.S.C. 310 (radio licenses); 49 U.S.C. 401 (13), 521(b) (1) (domestic airlines).

[58] In the China treaty, the firm legal commitment was most-favored-nation treatment, accompanied by a general policy objective of "adhering generally to the principle of national treatment . . . in conformity with the applicable laws and regulations." Article III, par. 3.

This content downloaded from 169 252 4 23 on Mon, 10 Sep 2018 16 11 28 UTC
All use subject to https://about jstor org/terms

Annex 2

course excepted from the operation of the national-treatment clause applicable to other businesses.[59] Greater definition has been given to the rights of arrested persons; there have been added a clause to provide for the right of free communication and a paragraph regarding social security benefits; and rights with regard to legal aid and the *cautio judicatum solvi* have been spelled out. The rule with regard to expropriations has been amplified; and certain provisions to deal to an extent with the phenomenon of the state as entrepreneur have been devised. The provisions on exchange controls and commercial arbitration have been recast into more realistic and effective terms; greater attention has been given to management's right to employ essential personnel without government interference; and it was also during this period that a provision on restrictive business practices was introduced.

But there are limits on the lengths to which treaties can be carried; indeed, only three innovations of significance (saving, of course, minor improvements, clarifications and negotiated adjustments) have appeared in those signed since 1951; and none since the treaty of 1953 with Japan.[60] Since the negotiating prototype thus has perhaps attained its inner growth for the time being, subject always to further perfections in detail suggested by additional study and experience, prospects for progress in the immediate future perhaps lie more in the direction of an increase in the treaty network

[59] The provision developed to this effect, which had its origin in a general injunction against impairing established interests originally included in the Uruguay treaty of 1949 (Article IV), and in a special provision regarding banking in the Colombia treaty (Protocol, par. 5), first apeared in the treaty of 1953 with Japan: "However, new limitations imposed by either Party upon the extent to which aliens are accorded national treatment, with respect to carrying on such activities within its territories, shall not be applied as against enterprises which are engaged in such activities therein at the time such new limitations are adopted and which were owned or controlled by nationals and companies of the other Party." Article VII, par. 2.

[60] The provision mentioned in the preceding note; the clause on visa rights for investors, first authorized by Congress in 1952; and a special provision regarding a free market as to marine insurance (e.g., Article XV, par. 5, Netherlands treaty). On the other hand, two provisions previously carried were abandoned: the article regarding exemption from compulsory military service (which last appeared in the 1950 treaty with Ireland); and a provision regarding the practice of professions (excluded by Senate reservation from the treaties signed in 1951 and 1953, and thereafter omitted in compliance with the Senate's views).

This content downloaded from 169 252.4.23 on Mon, 10 Sep 2018 16 11 28 UTC
All use subject to https //about.jstor org/terms

Annex 2

numerically than in basic improvements in the content of the typical product. But what rate of progress might be expected in completing negotiations with additional countries is impossible to predict. These treaties, unspectacular and seemingly simple in their terms though they be, cut across the interests of all ministries of a government and potentially pose many problems requiring careful study by any government contemplating a negotiation. In awaiting attention, they must compete with an unprecedented welter of demands, critical and otherwise, upon the time and energy of governments, in the present state of world affairs. They must do so, moreover, in a day when their making has apparently lost, perhaps temporarily, the popularity it previously enjoyed; [61] and when their underlying individual-initiative premises are singularly under question in many quarters.

In the circumstances, the record of accomplishment of the treaty program to date, compared for example with that of similar programs conducted in past periods,[62] is by no means unimpressive. This is so in terms both of the number of treaties brought to signature and of their contribution to the formulation of an enlightened body of law and practice regarding the treatment of the alien and his legitimate interests. They vary greatly among themselves in detail, as befits instruments individually and consensually negotiated, but together they form a pattern bonded by a common core of viewpoint and purpose. It is this, rather than the mere fact of sixteen individual treaties, which gives them cumulatively their larger significance.

HERMAN WALKER, JR.

PARIS, FRANCE

[61] Whereas, prior to World War II, there were many examples of treaties of this general type in the practice of many countries, the United States appears to be the only country which has systematically sought such treaties during the past ten years.

[62] In the two decades between the two World Wars, the United States concluded such treaties with twelve countries. For a comparable decade of treaty activity, it is necessary to go back to the 1850's, when something over a dozen such treaties were concluded, including some of lesser scope than the full-length prototype of the day.

This content downloaded from 169 252 4 23 on Mon, 10 Sep 2018 16 11 28 UTC
All use subject to https://about.jstor org/terms

Annex 2

The American Journal of
COMPARATIVE LAW

A QUARTERLY

Editor-in-Chief:
HESSEL E. YNTEMA

VOLUME 5
1956

American Association for the
COMPARATIVE STUDY OF LAW, INC.
1956

Annex 3

The American Journal of
COMPARATIVE LAW

BOARD OF EDITORS

HESSEL E. YNTEMA, *Editor-in-Chief*
University of Michigan Law School

KURT H. NADELMANN
American Foreign Law Association

ALBERT A. EHRENZWEIG
University of California School of Law

MAX RHEINSTEIN
University of Chicago Law School

JOHN N. HAZARD
Parker School of Foreign and Comparative Law of Columbia University

RUDOLF B. SCHLESINGER
Cornell Law School

HEINRICH KRONSTEIN
Georgetown University Law School

ARTHUR T. VON MEHREN
Harvard Law School

JEROME HALL
Indiana University School of Law

JOSEPH DAINOW
Louisiana State University Law School

DAVID S. STERN
University of Miami School of Law

WALTER J. DERENBERG
New York University School of Law

BRUNSON MACCHESNEY
Northwestern University School of Law

EDWARD D. RE
St. John's University School of Law

ARTHUR L. HARDING
Southern Methodist University School of Law

LAWRENCE F. EBB
Stanford University School of Law

GEORGE W. STUMBERG
University of Texas School of Law

FERDINAND F. STONE
Tulane University School of Law

MYRES S. MCDOUGAL
Yale Law School

ALEXIS C. COUDERT, *chairman, ex officio*
American Association for the Comparative Study of Law, Inc.

CONTRIBUTING EDITORS

JAN P. CHARMATZ
University of Mississippi School of Law

MANUEL RODRÍGUEZ RAMOS
Universidad de Puerto Rico Colegio de Derecho

EDGAR BODENHEIMER
University of Utah College of Law

EDITORIAL OFFICE

Executive Secretary: VERA BOLGÁR

The Board of Editors is comprised of one representative of each of the institutions which are sponsor members of the American Association for the Comparative Study of Law, Inc. The Board of Editors do not hold themselves in any way responsible for the views expressed by contributors.

Editorial communications and books for review should be addressed to American Journal of Comparative Law, Legal Research Building, University of Michigan, Ann Arbor, Michigan.

THE AMERICAN JOURNAL OF COMPARATIVE LAW

Published by American Association for the Comparative Study of Law, Inc., quarterly in January, April, July, and October, at Baltimore, Maryland. Editorial offices, Legal Research Building, University of Michigan, Ann Arbor, Michigan. Subscription, $5.00 per year, $1.50 per number. If subscriber wishes his subscription discontinued at its expiration, notice to that effect should be sent; otherwise it is assumed a continuation is desired.

Change of Address: Send your change of address to the American Journal of Comparative Law, Legal Research Building, University of Michigan, Ann Arbor, Michigan, at least 30 days before the date of the issue with which it is to take effect. The Post Office will not forward copies unless you provide extra postage. Duplicate copies will not be sent.

Copyright 1957 by The American Association for the Comparative Study of Law, Inc. All rights of reproduction and translation are reserved.

Annex 3

HERMAN WALKER, JR.

Treaties for the Encouragement and Protection of Foreign Investment: Present United States Practice

THE CURRENT United States interest in treaties for the encouragement and protection of foreign investment weds two national policies of long standing. Treaties in support of American citizens and their interests abroad, in line with the prevailing international needs and usages of each era, have been a normal and repeatedly used feature of American diplomacy since the days of the War of Independence. Concurrently, the Republic has from its earliest years favored the free international movement of private capital. This was true when it was an undeveloped, capital-deficient ex-colony; it remains true now that it has become a world power and reservoir of capital, able to help satisfy the investment requirements of others. Then, to the great benefit of its own economic growth, it embodied in its legal system principles favorable to foreign capital;[1] now through treaty negotiations it seeks to project similar principles onto the international plane, a consummation responsive alike to its own economic position and to the contemporary urge for accelerated economic development being manifested by the members of the world community.[2]

HERMAN WALKER, JR., Member of the Foreign Service, was at the time of writing Adviser on Commercial Treaties, Office of International Trade and Resources, Department of State. This article is personal, and without official attribution.

[1] Alexander Hamilton in his celebrated *Report on Manufactures*, an analytical set of recommendations addressed to the first Congress in 1790, had urged such a policy in the following words:

"It is not impossible that there may be persons disposed to look with a jealous eye on the introduction of foreign capital as if it were an instrument to deprive our own citizens of the profits of our own industry. But perhaps there never could be a more unreasonable jealousy. Instead of being viewed as a rival, it ought to be considered as a most valuable auxiliary; conducing to put in motion a greater quantity of productive labor and a greater portion of useful enterprise than could exist without it. . . . [E]very farthing of foreign capital . . . is a precious acquisition." (Taussig, ed., State Papers and Speeches on the Tariff, Harvard 1892, pp. 39–40).

[2] For a recent authoritative exposition of this view, see section entitled "Promoting the International Flow of Goods and Capital" in the President's Economic Report transmitted January 24, 1956 (H. Doc. 280, 84th Cong., 2d sess.), carried in the Department of State Bulletin, vol. XXXIV, pp. 253–57.

Annex 3

I

Treaties for investment purposes deal with the basic legal conditions which influence the degree to which potential investors are willing to venture their capital in undertakings in a foreign land. They aim, on a joint consensual basis, to establish or confirm in the potential host country a governmental policy of equity and hospitality to the foreign investor. This means, above all, assurance that the enterprise and property of the alien will be respected and that he will be accorded equal protection of the laws alike with citizens of the country. This fundamental idea, then, is the raw material from which the variegated content of the treaties is elaborated.

The principal vehicle advocated by the United States Government thus to deal by agreement with the ground rules affecting investment is the bilateral treaty of friendship, commerce, and navigation—"FCN treaty" or "commercial treaty" for short. In the last ten years, such treaties have been signed with 15 countries,[3] and others are in course of negotiation. The FCN treaty-type became the chosen instrument presumably because it afforded a ready-made framework into which the desired provisions could conveniently be fitted, and because past experience had demonstrated its negotiability. The diplomatic *desiderata* of precedent and tested practicability favored it.

This type of treaty is an instrument widely used by nations over the years to provide the juridical basis for their economic intercourse and to strengthen ties of good neighborliness in their everyday relations. It acquired in time a familiar and distinctive form and character, as a normal medium through which to provide extensively for the rights of each country's citizens, their property and other interests, in the territories of the other, and for the rules mutually to govern their trade and shipping. Around this central theme, this treaty-type has repeatedly proved its

[3] *China*, 1946 (63 Stat. pt. 2, 1299); *Italy*, 1948 (63 Stat. pt. 2, 2255) supplemented by Agreement of September 26, 1951, S. Exec. H, 82d Cong., 2d Sess.); *Ireland*, 1950 (1 UST 785); *Colombia*, 1951 (S. Exec. M, 82d Cong., 1st Sess., withdrawn from Senate, June 30, 1953); *Greece*, 1951 (TIAS 3057); *Israel*, 1951 (5 UST, pt. 1, 550); *Denmark*, 1951 (S. Exec. I, 82d Cong., 2d Sess.); *Japan*, 1953 (4 UST, pt. 2, 2063); *Federal Republic of Germany*, 1954 (S. Exec. E, 84th Cong., 1st Sess.); *Haiti*, 1955 (S. Exec. H, 84th Cong., 1st Sess.); *Nicaragua*, 1956 (S. Exec. G, 84th Cong., 2d Sess); *Netherlands*, 1956 (S. Exec. H, 84th Cong., 2d Sess); Uruguay, 1949 (S. Exec. D, 81st Cong., 2d Sess.); *Ethiopia*, 1951 (4 UST, pt. 2, 2134); and *Iran* (S. Exec. E, 84th Cong. 2d Sess). These treaties fall into three patterns. Those succeeding the China and Italy treaties reflect an extensive reorganization and condensation of the content. The Ethiopia and Iran treaties represent a further abridgment of this material, and add provisions on diplomatic and consular rights. All are substantially similar, however, with regard to the points discussed in this article, except as otherwise noted and except that the Ethiopia and Iran treaties lack some of the refinements found in the others. They all bear the same title, except that in the Uruguay case the term "economic development" occurs, and "amity and economic relations" in the case of Ethiopia and Iran.

Annex 3

flexibility and its adaptability to the varying needs of different eras. Its history of use by the United States antedates the Constitution. Our first treaty, in fact, was a Treaty of Amity and Commerce, concluded in 1778 with France,[4] as part of the arrangement which brought that country into our Revolutionary War as an ally. Numerous other examples followed, with countries of all conditions and locations, and with varying emphases and motivations, depending on the circumstances of the day.[5]

In more recent times, following World War I, such treaties were designed especially to promote international trade; and they afforded the medium through which this country embraced the unconditional form of the most-favored-nation clause. But latterly, since the enactment of the reciprocal Trade Agreements Act in 1934, other conventional tools of a special sort have been fashioned and employed to serve trade promotion and regulation: the bilateral trade agreement and now the GATT (the General Agreement on Tariffs and Trade).[6] With the consequent decrease of emphasis on the FCN treaty's role in international trade, the instrument lay ready to hand following World War II to be retooled to fit the newly-crystallized investment need.[7] This retooling did not mean abandonment of the old; the treaty remains one of commerce and navigation, *inter alia*. It meant rather a shift in orientation and internal balance, with the refinement, building up, and supplementing of familiar features especially pertinent to investor requirements. How this has been done may be described as follows.

[4] Others of the pre-Constitution era included those with the Netherlands (1782), Sweden (1783), and Prussia (1785).

[5] A recent publication mentions the figure "more than 130," counting those of smaller scope and size (Department of State Fact Sheet entitled "Commercial Treaty Program of the United States," March 1952, p. 3). For the various purposes historically served by these treaties, see *ibid* and Setser, "Treaties to Aid American Business Abroad," XL Foreign Commerce Weekly (U.S. Dept of Commerce, Sept. 11, 1950), pp. 3 *et seq.*

[6] Originally negotiated at Geneva, 1947, and now adhered to by 35 countries. The present text, with pending revisions, was published in a State Department pamphlet under date of March, 1955; and a summary explanation in Department of State Publication 5813, April, 1955.

[7] The change in the country's international capital position did not, of course, suddenly occur at this point of time. Even before the first World War, when the United States was the world's leading creditor nation, American investments abroad were growing, especially beginning about 1900. The graph of its creditor status between the two Wars, moreover, was uneven, there being periods in the 30's and early 40's when the net capital flow was markedly inward; and considerable foreign investment continues still to be made here. For the evolution of the United States position, see Lewis, America's Stake in International Investments (Brookings, 1948); Sammons, "International Investment Position of the United States," XVIII Foreign Commerce Weekly (January 27, 1945) 5–7; Pizer and Cutler, "International Investments and Earnings," Survey of Current Business (U.S. Department of Commerce), August 1955, pp. 10–20. See also, e.g., the summaries in Young, The International Economy (3rd ed. 1951) 497–502; and the OEEC Report on International Investment (Paris, 1950) 13–28.

II

"Investment" may be summarily defined as the joining of an investor (a person) and capital (property) into a gainful enterprise (a business activity). FCN treaties traditionally have contained so-called establishment provisions dealing more or less with these three elements: the right of citizens of each country to establish and carry on business activities within the other and to receive due protection there for their persons and property. The range of activities covered, though originally tending to be confined primarily to international trade and that which was relevant or incidental thereto, came in time to cut across commerce and industry generally. Moreover, the basic rule to govern the conduct of such activities has long since been settled, in United States treaty practice, as "national treatment": that is, equality of treatment as between the alien and the citizen of the country. The former thus is entitled freely to carry on his chosen business under conditions of non-discrimination, and to enjoy the same legal opportunity to succeed and prosper on his merits as is allowed citizens of the country. It has become settled, also, that he and his property shall receive not only equal protection, but also a certain minimum degree of protection, as under international law, regardless of a Government's possible lapses with respect to its own citizens.

In respect of the range of covered activities and the quality of the protection vouchsafed, therefore, past treaties have contained the ingredients of an investment policy. The same has not been so, however, in respect of the persons for whom rights were provided, as these treaties were concerned with "citizens" or "nationals," and were concerned with corporations not at all or only to a minor degree. This attitude of reserve toward corporations was manifested in the treaties of the inter-War period, as follows:

> "The right of such corporations and associations of either High Contracting Party so recognized by the other to establish themselves within its territories, establish branch offices and fulfill their functions therein shall depend upon, and be governed solely by, the consent of such Party as expressed in its National, State, or Provincial laws."[8]

This deficiency was a most serious one from the investment viewpoint, since international investment in modern times is predominantly by corporate, rather than individual enterprise. The first task in developing a

[8] E.g., Article XII, Treaty of Friendship, Commerce and Consular Rights with Germany, 1923. U.S. treaty policy regarding corporations is discussed in the author's article "Provisions on Companies in United States Commercial Treaties," 50 Am. Jour. Int. Law, 373–93 (1956).

treaty pattern after the late War, consequently, was to devise ways of providing adequately for the rights of corporations. This posed a special problem for the United States: namely, how in the reciprocal context of an FCN treaty to formulate commitments which would be meaningful while at the same time avoiding interference with the constitutional prerogatives of the several States of the Union over the admission and regulation of foreign corporations.[9] But it so happens that a corporation is "foreign" in any given State by virtue of having been chartered in another, any other, jurisdiction; and a corporation of a sister State is "foreign" equally with one of a foreign country. The solution found, accordingly, was an interpretative clause which for treaty purposes simply assimilates the corporations of the other Party, in any State of the Union, to those of other States of the Union.[10]

With this interpretative formula, the way was open to deal with corporations as fully as with individuals; and this has been done by extending to corporations, in measure equally with natural persons, the benefits of the national treatment and other rules of the treaty, in all situations pertinent to corporations. But so to provide for corporations of each Party in the territories of the other is still insufficient; investors choose to operate abroad not only through branches of corporations of their own country, but also very frequently through subsidiaries chartered under the laws of the foreign country where operations are conducted. Systematic treatment, therefore, required the introduction of provisions to cover this situation, a step representing something of a departure from traditional treaty concepts. Normally and classically, a country extends diplomatic protection abroad for objects which are, and because they are, juridically identified with it—e.g., for individuals who are its nationals, for entities which owe their existence to its laws, for ships which fly its flag. Here however, treaty protection is gained for entities not so identified; the "corporate veil is pierced" for the purpose of making economic interest, rather than legal relationship, the justification and the basis for protection.[11]

[9] This constitutional principle was settled by the Supreme Court in Paul v. Virginia, 8 Wall. 168 (1868); and the treaty-making problem it posed was alluded to in Hearing before the Committee on Foreign Relations U.S. Senate, 68th Cong., 1st Sess. on Treaty of Commerce and Consular Rights with Germany, January 25, 1924, p. 21.

[10] E.g., Article XXII, paragraph 4, of the 1953 treaty with Japan. This formula is only superficially nonreciprocal, as it in fact equates the alien corporation to the bulk of its competitors in interstate business.

[11] To this extent, the treaty may be said to reflect what has been called an "enterprise" theory. See, e.g., Kronstein, "The Nationality of International Enterprise," 52 Columbia Law Review 983 *et seq.* (1952). Compare the axiom propounded by Jones "*ex hypothesi*, no state can intervene on behalf of a corporation against its own government," "Claims on

With corporations suitably fitted into the framework of the establishment provisions, the foundation for an investment treaty was laid; and there remained to complete the conversion process by revising and filling in the content of that framework. Partly this involved the restatement of existing provisions; partly, the addition of new material. In the treaties of the inter-War period, the group most recently concluded prior to those of the current program, the main rules bearing on the establishment, conduct, and protection of enterprise, had for the most part comprised a single article[12] out of the approximately thirty articles to which those treaties tended to run. The amplification and supplementation of this material, together with compression and pruning of the remaining material, has eventuated in a text in which investment-related provisions constitute upwards of half the total.[13]

In the treaties of the 20's and 30's, the rights of entry of individuals had been subjected to a sweeping immigration laws exception. Now, however, firm rights are provided for the entry and indefinite sojourn of international traders and principal investors.[14] Though equal provision for subordinate investor-enterprise employees is not yet possible owing to lack of statutory authority, such personnel is to an extent provided for, in that management is assured freedom of choice in the engaging of essential executive and technical employees in general, regardless of their nationality, without legal interference from "percentile" restrictions and the like; and of accountants, engineers and so on, for special internal audits and surveys, without regard for local professional licencing requirements.[15]

Behalf of Nationals Who are Shareholders in Foreign Corporations," 26 Br. YB of Int. Law, (1949) 225, 257. For two recent discussions relative to the same subject, see M. Domke, "Piercing the Corporate Veil in the Law of Economic Warfare," Wisconsin L. R. (January 1955) 77; R. Berger, " 'Disregarding the Corporate Entity' for Stockholders' Benefit," 55 Columbia L. R. (1955) 808.

[12] E.g., Article I of the treaty of 1923 with Germany.

[13] For example, the subject of consular rights was detached, and, in the treaties following that with Italy in 1948 (note 3, *supra*), a condensed statement of the navigation provisions was developed.

[14] E.g., Article I, paragraph 1, of the 1953 treaty with Japan. The visa provision for "traders" has been in all since the 1946 treaty with China; but that for "investors" became possible only with enactment of the Immigration and Nationality Act of 1952 (Sec. 101 (a) (15) (E) (ii)). See Robert R. Wilson "Treaty-Investor Clauses in Commercial Treaties of the United States," 49 A.J.I.L. (1955) 366–70.

[15] E.g., Article VIII, paragraph 1, of the 1953 treaty with Japan:

"Nationals and companies of either Party shall be permitted to engage, within the territories of the other Party, accountants and other technical experts, executive personnel, attorneys, agents and other specialists of their choice. Moreover, such nationals and companies shall be permitted to engage accountants and other technical experts regardless of

The rule regarding freedom of access to the courts has been clarified and expanded, notably by the incorporation of: a national treatment standard; a clause to prevent the frustration of this right through domestication or registration requirements, in the case of companies; [16] an agreement that the *cautio judicatum solvi* shall not be exacted in any discriminatory manner;[17] and a provision supporting arbitration as a method of settling private controversies, where the parties have contracted to adopt that procedure.[18]

The usual provisions regarding the protection and security of property have been given more definite content by amplification of the concept of the "just compensation" required in the event of expropriation or other taking.[19] Article VI, paragraph 3, of the treaty with Japan, for example, reads:

"Property of nationals and companies of either Party shall not be taken within the territories of the other Party except for a public purpose, nor shall it be taken without the prompt payment of just compensation. Such compensation shall be in an effectively realizable form and shall represent the full equivalent of the property taken; and adequate provision shall have been made at or prior to the time of taking for the determination and payment thereof."

In addition, a provision has been developed to provide in general that expropriations and sequestrations, should they occur, shall be implemented in a non-discriminatory manner (so as, for example, to preclude

---

the extent to which they may have qualified for the practice of a profession within the territories of such other Party, for the particular purpose of making examinations, audits and technical investigations exclusively for, and rendering reports to, such nationals and companies in connection with the planning and operation of their enterprises, and enterprises in which they have a financial interest, within such territories."

The second part of this provision appeared for the first time in the 1949 treaty with Uruguay.

[16] *Idem*, Article IV, paragraph 1:

"Nationals and companies of either Party shall be accorded national treatment and most-favored-nation treatment with respect to access to the courts of justice and to administrative tribunals and agencies within the territories of the other Party, in all degrees of jurisdiction, both in pursuit and in defense of their rights. It is understood that companies of either Party not engaged in activities within the territories of the other Party shall enjoy such access therein without registration or similar requirements."

[17] *Idem*, Protocol paragraph 1.

[18] *Idem*, Article IV, paragraph 2. This subject is discussed in the author's article "Commercial Arbitration in United States Treaties," in 2 *Arbitration Journal* (1956) 68 *et seq.*

[19] The twelve treaties of the 20's and 30's spoke simply of "just" compensation, given through "due process". In the China treaty of 1946, the statement was expanded to "prompt, just and effective," and this in turn evolved into the wording above-quoted beginning with the treaties signed in 1951.

an unequal selection of enterprises for nationalization).[20] Moreover, to account for the possibility of injurious governmental harassments short of expropriation or sequestration, there is included a general injunction against "unreasonable or discriminatory" impairments of vested interests.[21]

The basic principle of national treatment with respect to engaging in business activities and doing the things necessary or incidental thereto, which forms the heart of the treaty as an investment instrument, has been elaborated to mention the various juridical forms under which an activity can be conducted; to emphasize the owners' prerogatives of control and management; and to assure that also the enterprise, qua enterprise, will receive the stipulated treatment.[22] Attention, furthermore, has been paid to providing some kind of rule with respect to areas of activity which, because of their sensitive nature (e.g. deposit banking, domestic air transport), are in principle excepted from the national treatment commitments applicable to the normal run of commercial and industrial activity. To such areas, the minimum rule of most-favored-nation treatment is extended, so that each Party is obligated to grant treatment at least as favorable as that enjoyed by other aliens.[23] In addition, in recognition of the fact that the exceptions may not always be, and often are not invoked in practice, a qualification to this exception has been introduced, so as to restore the benefits of the national treatment standard to

[20] E.g., Article VI, paragraph 4, second sentence of treaty with Japan:

"Nationals and companies of either Party shall in no case be accorded, within the territories of the other Party, less than national treatment and most-favored-nation treatment with respect to the matters set forth in paragraphs 2 and 3 of the present Article. Moreover, enterprises in which nationals and companies of either Party have a substantial interest shall be accorded, within the territories of the other Party, not less than national treatment and most-favored-nation treatment in all matters relating to the taking of privately owned enterprises into public ownership and to the placing of such enterprises under public control."

This provision first appeared in the treaty of 1948 with Italy.

[21] *Idem*, Article V, paragraph 1. This provision first appeared in the treaty of 1949 with Uruguay.

[22] *Idem*, Article VII, paragraph 1:

"Nationals and companies of either Party shall be accorded national treatment with respect to engaging in all types of commercial, industrial, financial and other business activities within the territories of the other Party, whether directly or by agent or through the medium of any form of lawful juridical entity. Accordingly, such nationals and companies shall be permitted within such territories: (a) to establish and maintain branches, agencies, offices, factories and other establishments appropriate to the conduct of their business; (b) to organize companies under the general company laws of such other Party, and to acquire majority interests in companies of such other Party; and (c) to control and manage enterprises which they have established or acquired. Moreover, enterprises which they control, whether in the form of individual proprietorships, companies or otherwise, shall, in all that relates to the conduct of the activities thereof, be accorded treatment no less favorable than that accorded like enterprises controlled by nationals and companies of such other Party."

[23] *Idem*, Article VII, paragraph 4.

any enterprise which has at one time, as by act of grace, actually been allowed to enter upon operations in the excepted area.[24] That is, either Party may prohibit or limit alien entry into an excepted field of activity; but if, nevertheless, entry has been in fact permitted, the enterprise in question is protected against later discriminations.

Since the sweeping national treatment rule is not feasible, or else is not adequate, in the matters of real property tenure and of taxation, special articles have been needed for those subjects—the first because of inhibitions laid on treaty-making by certain State laws, and the second because of the highly technical nature of the subject-matter and the desirability of having a self-contained rule, independent of the manner and degree to which the national treatment standard might be applicable to engaging in activities. The present treaties continue the practice, followed since 1911,[25] of assuring equality to the treaty alien with respect to leaseholds of property needed in the United States for treaty-sanctioned activities. As to the rights of the American in the other country, some provide merely the same rule, *mutatis mutandis*;[26] but in others the right is enlarged, to assure full national treatment as to all manner of acquiring and holding real property generally, whether by ownership, lease, or otherwise.[27] Mutuality is restored in such instances by a formula which reserves to the other country the right correspondingly to reduce this quantum of treatment in the case of American nationals domiciled in, or corporations chartered by, any State of the Union which maintains alien disabilities in its land laws. Further, there have been added mutual national treatment provisions with respect to acquisition and ownership of securities and other personal property;[28] the protection of patents and industrial property generally;[29] and the right to dispose of property of every kind, both real and personal.[30]

In the field of taxation, the cumulative standards of both national

[24] *Idem*, Article VII, paragraph 2, second sentence:

"However, new limitations imposed by either Party upon the extent to which aliens are accorded national treatment, with respect to carrying on such activities within its territories, shall not be applied as against enterprises which are engaged in such activities therein at the time such new limitations are adopted and which are owned or controlled by nationals and companies of the other Party."

[25] Treaty of Commerce and Navigation of that year with Japan, Article I, first paragraph.

[26] E.g., treaty of 1953 with Japan, Article IX, paragraph 1.

[27] E.g., treaty of 1948 with Italy, Article VII, paragraph 1(b); treaty of 1956 with the Netherlands, Article IX, paragraph 2.

[28] E.g., treaty of 1953 with Japan, Article IX, paragraph 2. The present stage of evolution of this provision was first reached in the treaty of 1950 with Ireland (Article VII, paragraph 2).

[29] E.g., Article X, treaty of 1953 with Japan.

[30] *Idem*, Article IX, paragraph 4.

treatment and most-favored-nation treatment are in principle maintained, in language suited to the requirements of orderly tax administration.[31] Moreover, the principle is made subject to certain exceptions, for example, double-tax conventions and special tax concessions granted only on a reciprocity basis. On the other hand, a stipulation has been added to the effect that a company of one Party doing business in the other shall be taxable by the latter, not on the basis of the company's "world income" as might be permissible under the national treatment rule, but only in respect of such part of its business as is conducted therein.[32]

Among the new provisions added to the instrument is an article on exchange controls,[33] a subject of considerable contemporary importance to businessmen. The drafting of a treaty rule, however, is complicated not only by the comparative intractability of the subject, but also because neither of the normal treaty standards of national or most-favored-nation treatment is adequate or realistic to the regulation of international currency movements in periods of exchange stringency. A further special factor relevant to the making of bilateral agreement is the existence of the International Monetary Fund, having a recognized competence and responsibility in the field. The treaty rule, by appropriate language, accordingly acknowledges the paramountcy of this organism, which is especially charged with freeing the channels of trade and "current" (as distinguished from "capital") transactions; and centers its attention on laying down principles to govern the policies of each Party in servicing investor requirements, especially the remission of earnings and the transfer of capital, to the extent that their Fund commitments and their monetary reserves situation allows them latitude.

Another new area to which attention is given is the phenomenon of the state-in-business. In this connection, a provision is included for the waiver of claims to sovereign immunity on the part of state-owned commercial enterprises that have occasion to do business abroad.[34] Con-

[31] *Idem*, Article XI, paragraph 1–3. The rule is stated in terms of comparative "burdensomeness".

[32] *Idem*, Article XI, paragraph 4.

[33] *Idem*, Article XII. The core provision (paragraph 3) reads:

". . . it shall, after making whatever provision may be necessary to assure the availability of foreign exchange for goods and services essential to the health and welfare of its people, make reasonable provision for the withdrawal, in foreign exchange in the currency of the other Party, of: (a) the compensation referred to in Article VI, paragraph 3, of the present Treaty, (b) earnings, whether in the form of salaries, interest, dividends, commissions, royalties, payments for technical services, or otherwise, and (c) amounts for amortization of loans, depreciation of direct investments, and capital transfers, giving consideration to special needs for other transactions . . ."

[34] *Idem*, Article XVIII, paragraph 2:

"No enterprise of either Party, including corporations, associations, and government

versely, a provision has been developed to assure that if a state-owned enterprise engages in a commercial activity, within its own country, in competition with an established private enterprise of the other Party, it shall not avail itself of any subventions or other special privileges that would give it an unfair competitive advantage.[35] This provision, being experimental and outside the national treatment context, is necessarily cautious, in view of the absence of any generally acknowledged guideposts. Thirdly, an adaptation of the most-favored-nation principle has been introduced to regulate the awarding of government concessions and contracts,[36] a literal most-favored-nation clause not being compatible with the realities of contract or concession-letting, and a national treatment clause not being compatible with national policy.

The various arrangements of special concern to investors are in turn, in company with all the other arrangements of the treaty, given added force by provision for submission of otherwise unresolvable disputes over interpretation or application of the treaty's terms, to the International Court of Justice for adjudication.[37] The unreserved acceptance of this jurisdiction for the ultimate determination of treaty rights and obligations, on an impartial legal basis, may perhaps be said to rank in significance with the systematic provision for corporation rights, in signalling the outstanding advances which current treaty policy has effected over that prevailing in previous years.

III

In classifying the instrumentality which has been chosen by the United States Government jointly with like-minded governments of other countries to forward investment objectives, two characteristics stand out. First, the FCN treaty is not a special-interest vehicle, but rather one into which investor requirements, with scarcely an express reference to "investment," are fitted as integral parts of a larger regulation of private affairs in international relations. Such a treaty is concerned with the

---

agencies and instrumentalities, which is publicly owned or controlled shall, if it engages in commercial, industrial, shipping or other business activities within the territories of the other Party, claim or enjoy, either for itself or for its property, immunity therein from taxation, suit, execution of judgment or other liability to which privately owned and controlled enterprises are subject therein."

This provision first occurs in the 1948 treaty with Italy (Article XXIV, paragraph 6).

[35] This provision first appeared in the 1948 treaty with Italy (Protocol, paragraph 2). It is missing from those with Colombia, Japan, Germany, Ethiopia, and Haiti.

[36] E.g., treaty of 1953 with Japan, Article XVII, paragraph 2. The rule is in terms of "fair and equitable treatment as compared with that accorded to the nationals, companies and commerce of any third country."

[37] *Idem*, Article XXIV, paragraph 2.

rights and interests abroad of all citizens, as well as with a much ampler cross-section of foreign commerce and business than is discoverable within the definition of "investment." Secondly, the instrument is negotiated on a bilateral, rather than a multilateral, basis. It has been at times suggested that a different approach be used: a multilateral convention, or special agreements confined to "investment" as such. The advantages ascribed to these alternatives would be that a multilateral convention is calculated to bring sooner universal results through a single negotiation among a large number of countries; and that a special-purpose agreement, for its part, would be speedier because it would allow the negotiations to concentrate on a single subject-matter to the exclusion of extraneous complications.

Experience, however, does not give much ground for hope that a generally acceptable multilateral investment convention, containing a body of provisions satisfactory from the investor viewpoint, is attainable under present circumstances. Each of the at least three major projects for multilateral conventions of an investment nature, which have been undertaken over the last quarter century, has been attended by failure. First was the conference on the treatment of foreigners, convoked at Paris in 1929 under the auspices of the League of Nations after careful preparations.[38] The sessions of this conference ended without accord and with little real prospect that resumed sessions, indefinitely postponed by the onset of the Great Depression, would prove substantially more fruitful. Second was the section on Economic Development and Reconstruction in the Charter for an International Trade Organization. Here, under pressure to settle trade problems, the conference delegates reached a draft agreement also on investment, but at the cost of compromises and deficiencies that rendered the result markedly short of satisfactory;[39] and this Charter has now been abandoned in favor of an instrument confined exclusively to commercial matters, the General Agreement on Tariffs and Trade, the subject on which a viable meeting of minds proved possible owing to the existence of a community of reciprocal interests in the pro-

---

[38] League of Nations doc. C. 97. M.23. 1930. II reports the proceedings of the conference, and C. 174. M.53. 1928. II. 14, the draft text of a convention, with explanations, which was before it for consideration. For a brief appraisal of the outcome, see Potter, "International Legislation on the Treatment of Foreigners," 24 Am. J. Int. Law (1930) 748–51; for a more detailed account, Cutler, "The Treatment of Foreigners in Relation to the Draft Convention and Conference of 1929," 27 *ibid.* (1933) 224–46.

[39] Final Act and Related Documents of the United Nations Conference on Trade and Employment (Havana, 1948), especially Article 12. On businessmen's objections to the Charter's investment section, see Diebold, The End of the I.T.O. (Princeton, Essays in International Finance, No. 16, October 1952), pp. 18–19.

motion of international trade. Third was the 1948 inter-American conference at Bogota, which attempted a general economic agreement. The eventuating draft was vitiated by exceptions and, after a renewed attempt at the Pan-American Union in Washington in 1949 to reconcile differences, the project was dropped.[40]

The cause of these failures would seem to be an inherent one. An investment convention, to be worth-while, must embody firm reassurances to the alien, to private capital, and to private business. Since multilateral undertakings tend to a least-common-denominator position, an effective investment document presupposes a high level of international consensus concerning the sanctity of private property, the advantages of private enterprise, and the acceptability of alien participation in the country's economy; it presupposes also a shared incentive to encourage and protect the foreigner and his capital. This basic international community of attitude, will, and interest patently is nonexistent in the present state of affairs, and its development is not aided by the fact that investment questions are susceptible of being regarded as touching upon sensitive issues of domestic sovereignty, internal economic policy, and national political philosophy.

Even to the extent that an adequate avowed consensus can be found *en principe*, many persistent divergences arise over details, owing to variances in national legal systems and in the provisions of legislation. Whether such details be great or small in significance, their number can accumulate into a massive total in connection with a far-reaching instrument of multiple aspects such as an investment convention, in the setting of a large and variegated gathering.[41] All must somehow be reconciled before the objective of exact texts can be reached; the process of reconciliation can be virtually interminable, and the end, if not frustration, can as likely be an array of compromises, reservations, and equivocations tantamount

---

[40] For text see "Economic Agreement of Bogota" (9th Int. Conf. of American States) issued by the Pan American Union (Washington, 1948); and for an indication of the divergencies which finally prevented consummation of the agreement, see report of the Special Commission on Reservations concerning the Economic Agreement of Bogota (Pan American Union, Washington, July 13, 1949, Spanish original).

[41] The difficulty faced in finding general accord on a single small segment of a total investment agreement is illuminated, for example, in Professor Nussbaum's analysis of experience with the Geneva instruments of 1923 and 1927 on commercial arbitration, "Treaties on Commercial Arbitration," 56 Harvard L.R. (1942) 219 *et seq.* Similarly, as to the problem of an acceptable rule on the nationality of corporations, see 1927 Report of the League of Nations Committee of Experts on the "Nationality of Commercial Corporations and their Diplomatic Protection," 22 Am Jour. Int. Law, Spec. Supp. (1928) 171, 177–78; and Voelkel, "A Comparative-Study of the Laws of Latin America Governing Foreign Business Corporations," 14 Tulane L. R. (1939) 42, 68–70.

to frustration. The reaching of satisfactory results is not helped by the phenomenon that a country which may be quite willing to profess sympathy for the foreign private investor, and may indeed in practice actually accord him fair treatment, may nevertheless be less than eager to bind itself internationally to do so, whether because of domestic political complications or otherwise. Finally, what a country may be willing to undertake on a selective bilateral basis may be considerably different from the engagements it is prepared to assume indiscriminately vis-à-vis all the world.

The production attained so far in the current FCN treaty program of the United States Government, under which this government has consistently over the past ten years stood ready and desirous of negotiating with each and every like-minded country at the latter's convenience, may be taken to betoken the difficulties implicit in multilateralism in the field of investment. The total to date is signed treaties with fifteen scattered countries, a number of them not yet in force. While they are all of a type, and are all interlinked by a common bond of principle and foundation substance, they are otherwise rather kaleidoscopic in variety—in their superstructural content, their reservations and exceptions, their organization, style and wording, their shades of emphasis, their date of signature, the rate and duration of their negotiation, and the time required to effectuate ratification.[42] Each of these instruments reflects presumably a mutually satisfactory regulation of paired interests and bilateral relationships. But it is not easy to visualize just how they might be amalgamated into a composite unit which would reflect an equally satisfactory fusing of plurilateral relationships and an equally viable pooling of multiple interests. On a single important investment question, national treatment for business enterprise, for example, the whole is conspicuously less than the sum of its parts, owing to the variations in the exceptions and the approach to "screening";[43] and the variations

[42] For range of conspicuous difference compare, for example, the voluminous China treaty of 1946 with the compact Ethiopia treaty of 1951; the German treaty of 1954, which contains a Protocol with 24 paragraphs of clarification and adjustment, with the Greek treaty of 1951, which has none, but which in turn is quite differently organized from others of its contemporaries. The total time required, from the first steps to signature, has ranged from 18 months to 8 years, in the case of the fifteen treaties so far completed since 1946; the Irish treaty of 1950 came into force within eight months of signature, but the Uruguay treaty of 1949 is still unperfected. A detailed tabulation of all the variances, treaty from treaty, aside from those of an inconsequential verbal character, would require more space than the present article occupies.

[43] By this is meant the qualifications which are placed on the extent to which national treatment is assured with respect to initiating an investment in ordinary commercial and industrial enterprises, an objective sought wherever possible in the U.S. treaty proposals.

Annex 3

otherwise in content suggest that what appeals to one country does not necessarily appeal to another. It is not easy to visualize, either, how a collective negotiation, bracketed within the Procrustean confines of a scheduled conference, could bid to produce equal results among the countries concerned, much less among the far larger number of countries which would be expected to participate.

Conversely, these treaties illustrate also the feasibilities of bilateralism: the case-by-case approach, marked by flexibility in timing, in length of deliberation, and in the peripheral adjustments needed to take account of individual national circumstances and to achieve an agreeable balance of reciprocal advantage. They likewise illustrate the feasibility of the broad-gauged FCN treaty, as compared with the specialized, uni-purpose "investment" agreement. The former has an accordion-like quality. It can be of variable scope; and, so long as it contains the basic investment-interest content, it can be shortened or lengthened to suit the desires and needs of each country. That none of the treaties so far signed actually has been pared down to its investment hard-core, or anywhere near so, evidently signifies that countries willing to entertain the subject are very apt to choose to do so in the framework of a comprehensive settlement of their relations with the United States.

An FCN treaty in its fully realized form is a house of many mansions, concerned with all citizens and their interests, great and small, and whether or not of an economic nature; it is implicitly concerned also, in a major way, with the intangibles of good will between nations in their everyday relations. Although the United States may now in general be motivated primarily by investment considerations in seeking such treaties, the other side may share this motivation only to a secondary extent. For example, the preambles to the treaties with Japan and Germany, in summarizing the general purposes in view, list the promotion of commercial intercourse ahead of the encouragement of investment, and the treaty with Ethiopia lays particular stress on peace, friendship, and good diplomatic relations. Again, while conclusion of a treaty means perforce that both sides concur on the mutual desirability of investment provisions, in the case of a country having little or no capital to export the

---

The treaties with Ethiopia and Iran, for example, altogether lack a national treatment rule concerning this phase of the investment process; the rule in the treaty with China is an imprecise "adhering generally to the principle" (Art. III, par. 3), in the case of corporate investments; the treaty with Ireland contains a reservation for that country's Control of Manufactures Act (Art. VI, par. 4 and the Minute of Interpretation applicable thereto); and those with Denmark, Japan, Germany, and the Netherlands in their respective Protocols contain limited reservations framed in balance-of-payments terms.

legal rights vouchsafed investors can appear on their face to constitute a lopsided bargain unless balanced by rights utilizable in actual practice by that country's own citizens. Provisions on such matters as visa rights for merchants, and rights for citizens of humble station to work in the common occupations and enjoy workmen's compensation and social security benefits, can thus assume material significance in the process of reaching a meeting of minds on purely "investment" questions.

Difficulty, moreover, is encountered in trying to identify only certain provisions as "investment provisions" and segregate them into a separate, self-contained packet. The building and operation of a motor factory by a big corporation clearly is "investment" in its major "economic development" connotation; but how can and why should treaty protection be written that does not cover also, at the other end of the business scale, the individual entrepreneur engaged in a sales activity? Investors, *inter alia*, are interested in treaty provisions regarding lawful protection for their rights, and access to the courts of justice, familiar subject-matter for FCN treaties; but why should the benefits of such provisions be confined to only those persons classed as "investors," even assuming that an acceptable treaty definition of "investor" could be devised? Fundamental personal rights, such as freedom of conscience and humane treatment from policemen and jailors, do not fall under the "investment" heading; but can the investor be considered properly protected unless such traditional FCN treaty rights are assured him? Even the navigation and trade provisions of the treaty, for that matter, are not without an investment bearing. On the one hand, trade and shipping entail capital outlays ("investment") and, on the other, investors going into a foreign country usually have an interest in importing equipment and supplies and in utilizing maritime transportation.

In a real sense, therefore, the FCN treaty as a whole *is* an investment treaty; not a mosaic which merely contains discrete investment segments. It regards and treats investment as a process inextricably woven into the fabric of human affairs generally; and its premise is that investment is inadequately dealt with unless set in the total "climate" in which it is to exist. A specialized "investment agreement" based on a narrower premise would be to that extent unrealistic and inadequate. This is by no means to say that special agreements dealing with fragments of the investment complex do not have their place. In fact, the United States has underway programs for the negotiation of at least two kinds of such special-purpose agreements. One is the double-tax convention, which deals specifically with the highly important subject of taxation, in a detailed and technical way which is impracticable in a

general treaty of the FCN type.[44] The other is the so-called investment guaranty agreement, an arrangement of a derivative administrative character designed to protect the interests of the United States Government when acting as insurer under the "investment guaranty" program provided for in a recent Act of Congress.[45] Neither is designed to replace or substitute for the general FCN treaty; each, rather, reinforces and supplements the other.

IV

The factors which cause foreign investments to be made or not to be made are varied and numerous, and include those of a political, economic, social, and environmental nature which are beyond the reach of treaties. A treaty is a legal instrument, dealing with rules of law; in turn, the extent to which a treaty can practicably deal even with legal conditions is limited. It can purport to assure that a country's laws and regulations will be nondiscriminatory in content and even-handed in their administration; but this is no guarantee that the legal regime, even though scrupulously nondiscriminatory, will in its details appear tolerable or attractive in the eyes of the entrepreneur who alone can decide whether capital will actually be ventured. A forbidding tax may be no less forbidding because it falls on everyone alike.

Limitations on the possibilities of the treaty device would appear to follow implicitly also from the idea of sovereign equality of nations, which governs interstate relations in the modern era. Treaties cannot be

---

[44] Conventions for the avoidance of double taxation with respect to taxes on income have been concluded with 18 countries so far ("List of Treaties and Other Agreements Concluded between the United States of America and Other Countries Relating to Double Taxation," Department of State, Office of Legal Adviser, March 15, 1956). For discussion of the program, see, e.g., Gilpin and Wells, "International Double Taxation of Income: Its Problems and Remedies," 28 Taxes (C.C.H., Chicago) (1950) 9–32; Kanter, "United States Income Tax Treaty Program," 7 National Tax Jour. (1954) 69–88; and address by Eldon King (Dir., Internat'l Tax Relations Division, IRS, United States Treasury Department), "The Income Tax Conventions with Germany and Japan, and Prospective Conventions with Latin America," delivered before the International Fiscal Association, New York, May 6, 1955.

[45] The present statutory provision, which stems from the Marshall Plan legislation of 1948, is sec. 413(b) of the Mutual Security Act of 1954 (P.L. 665, 83rd Cong.), and provides for insurance against convertibility or expropriation risks, or both, upon payment of a stipulated premium, for qualified new American investments approved by both Governments. As of May 1, 1956, the necessary covering agreements had been made with 26 countries as to both types of insurance, and with 4 others as to convertibility insurance only. As of that date, approximately $106,000,000 of insurance was outstanding under the program. Information on the program may be found in the "Investment Insurance Manual" issued by the Foreign Operations Administration (Washington, Oct. 1954); and in a recent staff report of the House Committee on Foreign Affairs (Investment and Informational Media Guaranties and the Mutual Security Program, Committee Print, May 1, 1956).

negotiated faster than each country is of a mind to negotiate; nor can they be negotiated at all except as each feels that its national interests will thereby be served. The eventuating agreements, being free-will, must consequently be reciprocal and innocent of special privilege. It is therefore hardly to be expected that another nation will wish to bind itself more tightly than the United States conversely is willing to be bound, at both federal and state levels; at least, unless persuasive and acceptable *quid pro quos* are given. But whether extraneous bargaining power (such as government loans, grants, tariff concessions) may feasibly be used to obtain treaty commitments is quite doubtful. Insofar as unilateral guarantees were sought, going beyond the norm of national treatment, the spectre of extraterritoriality would arise; and there at least would be an implication that commitments which the United States did not consider fit and proper to assume, for its part, were nonetheless fit and proper for someone else. Such a course, in any event, would suggest that the rules which ought to prevail are not matters of right principle in the common good, as should be the premise of an investment arrangement, but are rather mere matters of private advantage and profit, suited to the haggling of the market place. It would presuppose, finally, that the national security considerations and other high policy purposes now actuating United States programs for assisting other nations should be subordinated to the objective of inducing them to accept American private capital.

In sum, the limits of an investment treaty are set by the degree to which the United States is willing to bind its own domestic policy and to waive the alien disabilities actually or potentially present in federal and state statutes. Thus, for example, such a strong investor-interest provision as one forbidding nationalization of private enterprise, or stipulating that expropriation may occur only if the compensation has been agreed upon and paid in advance, is not possible so long as the United States is unprepared to undertake such a predetermined restriction upon its own power of eminent domain. Further limits, in turn, are set in each case by the reservations which the foreign country concerned deems requisite for reasons of its own public policy, a circumstance which accounts in considerable measure for the variations among the several treaties so far signed. Their array of differences in the approach to "screening," for example, reflects the differing degrees to which different countries may insist that the "open door" principle, traditionally favored by the United States, be qualified by retention of the government's right to determine the acceptability of foreign investments on a case-by-case basis.

The treaties developed for promotion and protection of foreign investment thus remain, despite the many improvements effected in them as compared with earlier treaties, essentially moderate in their content and purport. However, moderation is not synonymous with ineffectiveness. These treaties focus, in fundamental terms of enduring value over the long range, upon the line between policy favorable and policy unfavorable to foreign investment: namely, hospitality to and equality for the foreigner under the law, and respect for his person and his property. When this exists, the foundation exists; and perhaps the most effective role which treaties are capable of playing is in the laying of a sound and stable foundation. This fundamental role consists partly, but only partly, in the legal commitments which the document contains. Equally it consists in the general attitude which a country's willingness to assume these formal engagements signifies. These treaties are above all treaties of "friendship," as their title indicates; and their conclusion is evidence of a friendly disposition, an intangible which may be quite as important to the investor as the letter of his legal rights.

Annex 4

HOME PAGE | TODAY'S PAPER | VIDEO | MOST POPULAR | U.S. Edition

SUBSCRIBE NOW | Log In | Register Now | Help

The New York Times

Obituaries

Search All NYTimes.com Go

WORLD | U.S. | N.Y. / REGION | BUSINESS | TECHNOLOGY | SCIENCE | HEALTH | SPORTS | OPINION | ARTS | STYLE | TRAVEL | JOBS | REAL ESTATE | AUTOS

Herman Walker, 83, Professor And U.S. Foreign Officer, Dies

By WOLFGANG SAXON
Published: May 13, 1994

Herman Walker Jr., a former Foreign Service officer and emeritus professor of history, economics and political science at SUNY College at New Paltz, N.Y., died on Sunday at the New Paltz Nursing Home. A resident of New Paltz, he was 83.

He had been ill for a long time, said his wife, Evelyn Acomb Walker, an emiritus professor of history at New Paltz.

A native of Nashville, Dr. Walker graduated Phi Beta Kappa from Duke University, where he received his Ph.D. in 1937. He also studied at the University of Paris and received a master's degree from Harvard University.

He worked as an economist and legislative analyst for the Department of Agriculture. In World War II he served in the Army Air Force and the Office of Strategic Services.
Negotiated Friendship Treaty

From 1946 until his retirement from the Federal Government in 1962 he was successively a treaty adviser to the Department of State, First Secretary in the United States Embassy in Paris, vice chairman of the United States delegation to the General Agreement on Tariffs and Trade conference in Geneva, and chairman of the Trade Agreements Commission.

In those years he helped shape the format for the Friendship, Commerce and Navigation Treaty adopted by the United States after World War II. He also played a role in negotiating political and economic treaties with France and other countries.

After leaving Government service, Dr. Walker taught at Duke and at George Washington University until he moved to New Paltz State College in 1965 as chairman of the division of history and political economy. From 1969 until he reached emeritus status in 1977 he was chairman of the department of economics and political science.

In addition to his wife, Dr. Walker is survived by a son from his previous marriage to the late Betty Friemel Walker, Steven F. Walker of Highland Park, N.J.; and a sister, Martha Summer of Bradenton, Fla.

FACEBOOK TWITTER GOOGLE+ EMAIL SHARE

FACEBOOK
TWITTER
GOOGLE+
EMAIL
SHARE
PRINT
REPRINTS

MOST EMAILED RECOMMENDED FOR YOU


1. What Kids Wish Their Teachers Knew


2. Highlights of Donald Trump's Immigration Speech and Mexico Trip


3. Donald Trump Gambles on Immigration but Sends Conflicting Signals


4. Mexicans Accuse President of 'Historic Error' in Welcoming Donald Trump


5. Love Undone


6. Dilma Rousseff Is Ousted as Brazil's President in Impeachment Vote


7. Creepy Clown Sightings in South Carolina Cause a Frenzy


8. CHARLES M. BLOW
The Duplicity of Donald Trump


9. Donald Trump to Visit Mexico After More Than a Year of Mocking It


10. A Silicon Valley Dream Collapses in Allegations of Fraud

Log in to discover more articles based on what you've read.

Log In | Register Now | What's This? | Don't Show

© 2016 The New York Times Company | Site Map | Privacy | Your Ad Choices | Advertise | Terms of Sale | Terms of Service | Work With Us | RSS | Help | Contact Us | Site Feedback

643 F.2d 353
United States Court of Appeals,
Fifth Circuit.
Unit A

Michael E. SPIESS, Jack K. Hardy and
Benjamin F. Rountree, Plaintiffs-Appellees,
v.
C. ITOH & COMPANY (AMERICA),
INC., Defendant-Appellant.

No. 79-2382.
|
April 24, 1981.

Employees of a company wholly owned by a Japanese corporation filed a class action under equal employment opportunities provisions of the Civil Rights Act of 1964 and under the 1870 statute providing for equal rights of all citizens. The United States District Court for the Southern District of Texas at Houston, Carl O. Bue, Jr., J., 469 F.Supp. 1, denied a motion to dismiss but permitted the company to take an interlocutory appeal, and a question was certified. The Court of Appeals, Charles Clark, Circuit Judge, held that the employer in question could assert rights under the Treaty of Friendship, Commerce and Navigation between the United States and Japan and that such rights permitted the employer to hire only Japanese personnel for executive and technical positions.

Reversed and remanded with directions to dismiss.

Reavley, Circuit Judge, dissented and filed opinion.

Attorneys and Law Firms

*354 Fulbright & Jaworski, Joe P. Martin, Neil Martin, Nancy Morrison O'Connor, Houston, Tex., for defendant-appellant.

Foreman, Dyess, Prewett, Rosenberg & Henderson, Edward John O'Neill, Jr., Charles E. Humphrey, Jr., Houston, Tex., for plaintiffs-appellees.

Lutz Alexander Prager, Marcia Beth Ruskin, E. E. O. C., Washington, D. C., for amicus curiae.

Appeal from the United States District Court for the Southern District of Texas.

*355 Before COLEMAN, CHARLES CLARK and REAVLEY, Circuit Judges.

Opinion

CHARLES CLARK, Circuit Judge:

This interlocutory appeal presents an important issue of first impression in this circuit. C. Itoh & Company (America), a New York corporation wholly owned by a Japanese parent corporation, argues that a 1953 treaty between the United States and Japan permits it to hire only Japanese citizens for managerial and technical positions, in spite of American laws prohibiting discrimination on the basis of national origin. We hold that the treaty affords American subsidiaries of Japanese corporations the limited right to discriminate in favor of Japanese nationals in filling these positions.

I.

Michael E. Spiess and other American employees of C. Itoh-America filed a class action under Title VII of the Civil Rights Act and 42 U.S.C. section 1981. The complaint charged that the company had discriminated against its American employees by making managerial promotions and other benefits available only to Japanese citizens. C. Itoh-America filed a motion to dismiss, asserting that the Treaty of Friendship, Commerce and Navigation between the United States and Japan, April 2, 1953, 4 U.S.T. 2063, T.I.A.S. No. 2863, precluded the plaintiffs' suit. Article VIII(1) of the Treaty provides that

> companies of either Party shall be permitted to engage, within the territories of the other Party, accountants and other technical experts, executive personnel, attorneys, agents and other specialists of their choice.

C. Itoh-America argued that the language permitting companies to engage executive personnel "of their choice" cloaks the company with absolute immunity from American employment discrimination laws as to these positions.



corporation is determined by the place of incorporation." Spiess v. C. Itoh & Co. (America), Inc., 469 F.Supp. 1, 6 (S.D.Tex.1979). We reject this construction of article XXII(3).

The district court's reading of article XXII(3) is compatible with the text of the Treaty, but it fails to account for the unique nature of an international agreement. Unlike domestic legislation, treaties must create a common ground between differing cultures before the rights of the parties can be defined. The negotiating history of the Treaty makes clear that article XXII(3) was designed for this purpose. A contemporaneous memorandum prepared by State Department negotiators demonstrates that the provision was intended, not to determine which forms of corporate organization were entitled to assert Treaty rights, but to ensure that unfamiliar organizations would be recognized as "companies" by the legal institutions of the respective countries. The memorandum noted the following colloquy:

> Mr. Nagai (a Japanese negotiator) then asked what "juridical status" meant, and inquired whether the recognition of juridical status mentioned in paragraph three (of article XXII) meant anything more than the recognition of the existence of a juridical person.
>
> Mr. Bassin (the American negotiator) replied that "juridical status" meant "legal status," the legal position of an organization in, or with respect to, the rest of the community. The recognition mentioned in the second sentence of paragraph three, he added, meant merely the recognition by either Party of the existence and legal status of juridical persons organized under the laws of the other Party.

Dispatch No. 13, Office of the United States Political Advisor for Japan, dated April 8, *357 1952, at 5 (hereinafter referred to as Bassin Memorandum). [1]

1 The necessity for such a provision is well illustrated by another excerpt from the memorandum:

> Mr. Otabe inquired whether a Zaidan Hojin was covered by paragraph 3, and, if so, what would be the nature of national treatment accorded such organizations in the United States. He explained that a Zaidan Hojin is a duly organized juridical person with given property, established for the purpose of employing or disposing of said property for a given public purpose. An example of a Zaidan Hojin, he added, would be an endowed private library.
>
> Mr. Bassin replied such an organization would be considered a juridical person in the United States, pursuant to the provisions of paragraph 3, if it were so considered in Japan.

Bassin Memorandum, at 5.

FCN authority Herman Walker [2] has expressed a similar understanding of article XXII(3). In a 1956 article, Walker described the "distinct problems" encountered in defining "company" broadly enough to accommodate the varied purposes of an FCN treaty. Walker, Provisions on Companies in United States Commercial Treaties, 50 Am.J. Int'l L. 373, 380 (1956) (hereinafter cited as Provisions on Companies). Walker noted that "(t)he standard definition is exemplified by Art. XXII, par. 3, of the 1953 Japan treaty." Id. at 380 n.34. In this definition, Walker explained,

2 A State Department cable notes that Mr. Walker formulated the modern concept of FCN treaties and negotiated many treaties on behalf of the United States. Airgram from Secretary of State Kissinger to American Embassy in Tokyo, No. A-105, dated Jan. 9, 1976. Mr. Walker also served the State Department as Advisor on Commercial Treaties. See United States Practice, supra, at 229.

> (a) "company" is defined simply and broadly to mean ... any "artificial" person acknowledged by its creator, as distinguished from a natural person, whether or not for pecuniary profit. Every association meeting this simple test of valid existence must be accounted by the other party a company of the party of its creation, and have its juridical status recognized without any reservation for the laws of the forum.

Id. at 380-81. Walker also emphasized that there was a

> clear distinction maintained in the treaties between the so-called "civil" and "functional" capacities of companies. The recognition of status and nationality does not of itself create substantive rights; these are dealt with elsewhere on their own merits. Thus the acknowledgment of a fact the existence and legitimate paternity

Annex 5

> of an association is not confused with problems associated with the functional rights and activities of alien-bred associations.

Id. at 383. Thus, both the negotiators on location in Tokyo and the architect of the modern FCN treaty agree that article XXII(3) merely guarantees legal recognition to diverse forms of legal entities and does not determine which of those entities can assert treaty rights.

The Department of State has remained faithful to this interpretation of the Treaty. In a 1976 cable from Secretary Kissinger, the Department informed the American embassy in Tokyo that

> all that para 3 (of article XXII) is meant to accomplish is the establishment of a procedural test for the determination of the status of an association, i. e., whether or not to recognize it as a "company" for purposes of the treaty. Once such recognition is granted, the functional rights accorded to companies under the FCN (for example, the Article VII rights of a company to establish and control subsidiaries) then accrue.

Airgram from Secretary of State Kissinger to American embassy in Tokyo, No. A-105, dated Jan. 9, 1976. A subsequent opinion from a State Department legal advisor reaches the same conclusion. Letter from Lee R. Marks to Abner W. Sibal (October 17, 1978). Thus, the consistent view of the State Department has been that American subsidiaries of Japanese corporations are entitled to the full protection of the Treaty.[3] ***358** This view weighs heavily in our analysis.[4] See Kolovrat v. Oregon, 366 U.S. 187, 194, 81 S.Ct. 922, 926, 6 L.Ed.2d 218, 223 (1961).

3 Spiess calls to our attention a State Department letter of September 1979, in which a deputy legal advisor suggests that "it was not the intent of the negotiators to cover locally incorporated subsidiaries." Letter from James R. Atwood to Lutz Alexander Prager (September 11, 1979). This letter represents the first time, to our knowledge, that the State Department departed from the position expressed in the 1952 Bassin Memorandum, the 1976 Kissinger cable, and the 1978 letter by James Atwood. For this reason, we regard it as an aberration in State Department policy.

4 C. Itoh-America argues that State Department practice in administering the immigration laws is further evidence that Japanese subsidiaries incorporated in the United States are entitled to Treaty protection. The company argues that articles I, VII, and VIII of the Treaty should be read together to create a right of "companies of Japan" to employ Japanese citizens. Article I(1) permits Japanese citizens to enter and remain in the United States "for the purpose of carrying on trade between the territories of the two Parties." In C. Itoh-America's view, this right is implemented by section 101(a)(15)(E)(i) of the Immigration and Nationality Act, 8 U.S.C. s 1101(a)(15)(E)(i) (1970), which grants foreign nationals special visa privileges to enter the United States as "treaty traders." The Department of State has granted treaty trader status to Japanese employees working for American subsidiaries of Japanese corporations. See 22 C.F.R. s 4140(a) (treaty trader must be employed by "an organization which is principally owned by a person or persons having the nationality of the treaty country"). C. Itoh-America concludes that the Department has permitted American subsidiaries of Japanese corporations to assert a right to entry under article I, and that it should be permitted to assert rights under article VIII as well.

Article I grants only a right to individuals to enter the country. C. Itoh-America can assert this right only as an adjunct of its own right to employ Japanese citizens. Thus, the argument depends on a unitary construction of articles I, VII, and VIII. The company has presented no evidence, other than the text of the Treaty and the immigration laws, that articles I, VII, and VIII were meant to be interpreted in this way. Walker lends some support to this theory. See Modern Treaties, supra, at 813 & n. 18. Nevertheless, because our decision that C. Itoh-America can assert Treaty rights is amply supported on other grounds, we need not, and do not, reach this issue.

Finally, we think that the district court's interpretation of article XXII(3) would create an unreasonable distinction between treatment of American subsidiaries of Japanese corporations on the one hand, and branches of Japanese corporations on the other. According to the district court, a company is considered a "company of Japan" for purposes of the Treaty only if it is incorporated in Japan. Under this analysis, American-incorporated

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

Annex 5

Reproduced from the Unclassified / Declassified Holdings of the National Archives

Office Memorandum — UNITED STATES GOVERNMENT

Assistant Secretary for Congressional Relations
JAN 4 1952
Department of State

TO : H - Mr. McGall

DATE: December 29, 1951

FROM : E - Mr. Thorp

SUBJECT: Early Senate Consideration of Commercial Treaties Signed During 1951.

This Document Must Be Returned DD/R Central Files

During the past year, the U. S. has signed treaties of friendship, commerce and navigation with Colombia (April 26), Greece (August 3), Israel (August 23) and Denmark (October 1); a treaty of amity and economic relations with Ethiopia (September 7); and an agreement with Italy supplementing the treaty of friendship, commerce and navigation of 1948 (September 26). Two of these instruments have already been transmitted to the Senate: those with, respectively, Colombia (Executive M) and Israel (Executive R), 82d Congress 1st session. The Report and Message on the Ethiopia treaty is now ready to be sent to the Secretary and White House for transmittal; and it is expected that the other three will very shortly be ready for transmittal.

These six instruments were all negotiated in connection with the Department's program of extending and modernizing the treaty protection of American citizens, corporations, capital, trade and shipping abroad, with special emphasis on establishing conditions favorable to private investment. The importance attached to keeping this program moving forward suggests the eminent desirability of Senate action on these six instruments during the 1952 session. It seems likely that this result might most probably be accomplished if the Foreign Relations Committee were able to schedule them for relatively early consideration, before the Senate becomes preoccupied with other items on its agenda or with pressure for adjournment. The major treaties of this group are of a type which has already been given Senate consideration and approval in connection with its advice and consent to the ratification of the treaty of friendship, commerce and navigation of 1948 with Italy (Executive E, 80th Congress, 2nd session), the treaty of friendship, commerce and economic development of 1949 with Uruguay (Executive D, 81st Congress, 2nd session), and the treaty of friendship, commerce and navigation of 1950 with Ireland (Executive H, 81st Congress, 2nd session). It is not believed that any of them is controversial, or that consideration of them is likely to impose a great burden on the Committee. I should therefore appreciate your seeing what can be done to have them expediently scheduled for action.

611.004/12-2951

DC/S Aug 31

Copies to:

OSA - Mr. Gerberich	WE - Mr. Tesoro
GTI - Mr. Lincoln	BNA - Mr. Montgomery
NE - Mr. Waldo	OFD/ED - Mr. Robinson
AF - Mr. Wellons	L/T - Mr. Bevans

EDT:CP:HWalker:jn

DECLASSIFIED Authority NND 887001 By HHM NARA Date 7/23/86

Revised cut date memo to Feb. 15 cc: Rusk to Walker & P. + to J.R. Committee 1/10/52

CS/WU

611.004/12-2951

COMMERCIAL TREATIES WITH IRAN, NICARAGUA, AND THE NETHERLANDS

HEARING

BEFORE THE

COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE

EIGHTY-FOURTH CONGRESS

SECOND SESSION

ON

Executive E, 84th Congress, 2d session

A TREATY OF AMITY, ECONOMIC RELATIONS, AND CONSULAR RIGHTS WITH IRAN

Executive G, 84th Congress, 2d session

A TREATY OF FRIENDSHIP, COMMERCE, AND NAVIGATION WITH THE REPUBLIC OF NICARAGUA

AND

Executive H, 84th Congress, 2d session

A TREATY OF FRIENDSHIP, COMMERCE, AND NAVIGATION WITH THE KINGDOM OF THE NETHERLANDS

JULY 3, 1956

Printed for the use of the Committee on Foreign Relations

UNITED STATES
GOVERNMENT PRINTING OFFICE
80059 WASHINGTON : 1956

COMMERCIAL TREATIES WITH IRAN, NICARAGUA, AND THE NETHERLANDS

TUESDAY, JULY 3, 1956

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D. C.

The committee met, pursuant to call, at 10:30 a. m., in the committee room, United States Capitol Building, Senator Walter F. George (chairman) presiding.

Present: Senators George (chairman), Fulbright, Sparkman, Mansfield, Smith of New Jersey, Langer, Knowland, and Aiken.

The CHAIRMAN. We will hear you now, Mr. Kalijarvi on the 3 commercial treaties and ask you if you can combine your statement on the 3, pointing out such differences as may exist.

Mr. KALIJARVI. Mr. Chairman, I have a short prepared statement, a little over 2 pages, and I think perhaps it will be better for me to read it. I will just summarize the position of all three treaties.

The CHAIRMAN. All right, sir.

STATEMENT OF THORSTEN V. KALIJARVI, DEPUTY ASSISTANT SECRETARY OF STATE FOR ECONOMIC AFFAIRS, ACCOMPANIED BY VERNON G. SETSER, CHIEF, COMMERCIAL TREATIES BRANCH, AND JOHN J. CZYZAK, ASSISTANT TO THE LEGAL ADVISER, DEPARTMENT OF STATE

Mr. KALIJARVI. First of all, the Department appreciates very much the committee making a place on its crowded calendar for these three agreements which we feel are very important.

I am appearing before the committee in support of three treaties of friendship, commerce, and navigation—with the Netherlands, Nicaragua, and Iran. These treaties are similar to others considered by the committee during the past several years, particularly treaties with Germany, Japan, Denmark, Greece, Israel, and Ethiopia. They deal with the customary subjects, such as the right to carry on business, protection of persons and property, nondiscriminatory treatment of trade and shipping and, in the case of the Iran treaty, consular rights and privileges.

The 3 treaties now before the committee bring to 15 the total number of the same general type that have been negotiated during the present program, which was initiated at the end of the Second World War. This program is now being carried forward in accordance with the directions of the Congress as expressed in section 413 of the Mutual Security Act of 1954 (Public Law 665, 83d Cong., 1st sess.), which repeats as to general substance a provision of the 1952 act. This section provides that the President "shall accelerate a program

of negotiating treaties for commerce and trade * * * which shall include provisions to encourage and facilitate the flow of private investment to nations participating in programs under this act."

Although the principal immediate incentive in the netotiation of these treaties, is the desire to help create conditions favorable to foreign private investment, the treaties have a broader purpose which is to establish a general legal framework for the maintenance of economic and other relations between the parties to the treaties. A particularly desirable effect of the treaties, from the United States point of view, is to strengthen the hands of the Government for the protection of the interests of American citizens abroad in many fields of activity.

The three treaties now under consideration are of the traditional type, based upon existing precedents; they contain no innovations raising problems of reconciliation with domestic law. They differ somewhat among themselves and from other treaties negotiated in the past. The principal variations, which result from necessary adjustments to meet negotiating problems, are described in the reports of the Secretary of State that are printed with the treaty texts.

Senator KNOWLAND. Might I interrupt just a moment here?

EQUAL TREATMENT FOR AMERICAN CITIZENS

Is there anything in any of these treaties that would permit discrimination against any American citizen because of race, creed, or color?

Mr. KALIJARVI. Are you referring to religion?

Senator KNOWLAND. Religion, or anything else. In other words, are all American citizens treated as American citizens? The issue has been raised in certain agreements negotiated some years ago with a Middle Eastern country. It was not negotiated during this administration. I do want to know if all American citizens are treated equally, regardless of what their race, creed, or color may be, under these treaties.

Mr. KALIJARVI. Yes, it is my understanding they are.

I have with me Mr. Setser, who has negotiated these agreements before, and he can answer fully in that respect.

Mr. SETSER. There is nothing on that score, there is no distinction between American citizens on any ground.

Senator MANSFIELD. There is no Dharan clause?

Mr. SETSER. No, no.

Senator KNOWLAND. That question will arise in future treaties that come before us, so I trust the Department will have that in mind.

Mr. KALIJARVI. Yes, sir.

The treaties with Nicaragua and the Netherlands resemble very closely the Treaty of Friendship, Commerce, and Navigation with the Federal Republic of Germany, which was considered and approved by this committee and the Senate last session.

PROVISIONS OF IRAN TREATY

The treaty with Iran, on the other hand, differs appreciably from the Netherlands and Nicaragua instruments both as to form and substance. It is an abridged and simplified version of the treaty type, but incorporates, nevertheless, the substance of most of the protective provisions of the longer treaties. It does not deal with

LIBRARY
Supreme Court, U.S.
DEC 2 1954

The Department of State bulletin

Vol. XXXI, No. 804

November 22, 1954

THE NEW ENVIRONMENT OF AMERICAN DIPLOMACY • *by Assistant Secretary Merchant* 759

STRENGTHENING THE GENERAL AGREEMENT ON TARIFFS AND TRADE • *Statement by Assistant Secretary Waugh* 772

TRADE AGREEMENT NEGOTIATIONS INVOLVING JAPAN 767

U.S. ENDORSES REPORT OF U.N. COLLECTIVE MEASURES COMMITTEE • *Statement by Charles H. Mahoney* 780

For index see inside back cover



The Department of State bulletin

VOL. XXXI, No. 804 • PUBLICATION 5671

November 22, 1954

The Department of State BULLETIN, a weekly publication issued by the Public Services Division, provides the public and interested agencies of the Government with information on developments in the field of foreign relations and on the work of the Department of State and the Foreign Service. The BULLETIN includes selected press releases on foreign policy, issued by the White House and the Department, and statements and addresses made by the President and by the Secretary of State and other officers of the Department, as well as special articles on various phases of international affairs and the functions of the Department. Information is included concerning treaties and international agreements to which the United States is or may become a party and treaties of general international interest.

Publications of the Department, as well as legislative material in the field of international relations, are listed currently.

For sale by the Superintendent of Documents
U.S. Government Printing Office
Washington 25, D.C.

Price:
52 issues, domestic $7.50, foreign $10.25
Single copy, 20 cents

The printing of this publication has been approved by the Director of the Bureau of the Budget (January 22, 1952).

Note: Contents of this publication are not copyrighted and items contained herein may be reprinted. Citation of the DEPARTMENT OF STATE BULLETIN as the source will be appreciated.

anteed to the corresponding American commodities. Obviously, this is something that the American people cannot be expected to do.

Reference was made earlier to the desirability of considering in this review the special requirements of the underdeveloped countries. A major objective of U.S. policy is to encourage the development of the economically less developed countries of the world, and it is a source of satisfaction to my Government that the contracting parties to the GATT include countries in all stages of development. As a general rule the principle of maximum possible freedom of trade which underlies the whole of the general agreement is one whose application is beneficial to all types of economies and to countries in all stages of economic development. Nevertheless, it must be recognized that special problems may be associated with economic development. We believe the agreement should be sufficiently flexible to make it responsive to such problems, subject to procedures which will assure the safeguarding of its general objectives. My Government is prepared to give sympathetic consideration to proposals which would accomplish this purpose.

In conclusion let me repeat the conviction expressed in President Eisenhower's message, that our efforts here must produce a more effective agreement attuned to today's realities. The countries adhering to the general agreement can afford no other outcome, nor can the free world. If we approach our task in the spirit that it is a rededication as well as a review, we shall succeed.

U.S. Policy on Jerusalem

Press release 624 dated November 3

The ranking diplomatic representatives of Jordan, Lebanon, Iraq, Yemen, Saudi Arabia, Libya, Syria, and Egypt called on the Secretary of State on November 3 to make known the views of their Governments with respect to the plans for presentation of credentials in Jerusalem by the appointed American Ambassador to Israel, Edward B. Lawson.

In the course of the conversation the Secretary recalled the policy of the U.S. Government to look to the United Nations as primarily responsible for determining the future status of Jerusalem. Following normal practice, the presentation of credentials would be effected by Ambassador Lawson at the place where the Chief of State actually is. The fact that this means that the presentation will take place in Jerusalem implies no change in our attitude regarding Jerusalem nor does it imply any change in the location of the American Embassy in Israel, which is at Tel Aviv.

FOA Announces Program of Aid to Iran

The Foreign Operations Administration on November 2 announced that the United States is prepared to offer aid to Iran in the form of loans and grants totaling $127.3 million.

Both Iranian and U.S. Government circles have concerned themselves recently with the indication that, even with an oil settlement accomplished, it would be 3 years until Iran's oil revenues would permit it to finance large-scale development from its own resources. To help Iran during the interim period, the United States has decided to make available up to $127.3 million which would be provided from both Foreign Operations Administration and Export-Import sources. This total includes $21.5 million for a technical-cooperation program; $52.8 million for consumer-goods imports, which will be sold by the Iranian Government for local currency (rials), which in turn will be used to support basic governmental expenditures as has been done in the past year; and an additional $53 million largely for short-term developmental assistance, which would be provided for specifically approved projects.

Iran has not yet fully developed its own plans for economic development although it has submitted proposed projects to the Export-Import Bank for preliminary considerations. Some time, however, will be required for Iran fully to prepare project plans and establish priorities among them, and for the bank to make its required investigations. Of the above $127.3 million, $85 million is being offered in the form of loans, the balance in grants; $15 million of the latter has already been allotted on an emergency basis.

With this assistance the Iranian Government will be able to finance essential Government operations as well as develop and initiate a sound economic development program.

American Principles. The New Environment of American Diplomacy (Merchant) . . . 759
Congress, The. Current Legislation . . . 793
Cuba. Trade Agreement Negotiations Involving Japan . 767
Economic Affairs
Cabinet Committee on Telecommunications . . . 778
Eximbank Loan to Mexico for Electric Power Program . . 779
New Customs Regulations Require Fewer Certified Invoices . . . 779
Strengthening the General Agreement on Tariffs and Trade (Waugh, Eisenhower) . . . 772
Talks on U.S.-Philippine Relations . . . 771
Trade Agreement Negotiations Involving Japan . . . 767
U.S. and Japan Discuss Mutual Interests (Eisenhower-Yoshida) . . . 765
Foreign Service. The New Environment of American Diplomacy (Merchant) . . . 759
Germany
Agreement With West Germany on Publications Exchange (text of notes) . . . 791
Payment to German Republic for New Embassy Building (text of notes) . . . 777
India. Proclamation Affirms Reciprocal Copyright Relations With India (text of notes, remarks, and proclamation) . . . 788
International Information. Agreement With West Germany on Publications Exchange (text of notes) . . . 791
Iran. FOA Announces Program of Aid to Iran . . . 776
Israel. U.S. Policy on Jerusalem . . . 776
Italy. Italian Cabinet Expresses Thanks for Offer of Emergency Aid . . . 777
Japan
Japan and the United Nations (Lodge) . . . 766
Trade Agreement Negotiations Involving Japan . . . 767
U.S. and Japan Discuss Mutual Interests (Eisenhower-Yoshida) . . . 765
Libya. U.S.-Libyan Base Rights Agreement . . . 792
Mexico. Eximbank Loan to Mexico for Electric Power Program . . . 779
Military Affairs
U.S. Endorses Report of Collective Measures Committee (Mahoney) . . . 780
U.S.-Libyan Base Rights Agreement . . . 792
Mutual Security
FOA Announces Program of Aid to Iran . . . 776
General Collins Undertakes Mission to Viet-Nam . . . 777
Standardization of FOA Procurement Rules . . . 778
Philippines, The. Talks on U.S.-Philippine Relations . . 771
Presidential Documents. Proclamation Affirms Reciprocal Copyright Relations With India . . . 788
Protection of Nationals and Property. Proclamation Affirms Reciprocal Copyright Relations With India (text of notes, remarks, and proclamation) . . . 788
Publications
Recent Releases . . . 794
U.N. Documents . . . 788
Refugees and Displaced Persons. Responsibilities Relating to Refugees and Displaced Persons . . . 793
South Africa, Union of. Treatment of Indians in South Africa (statements by Smith and text of U.N. resolution) . . . 783
State, Department of. Responsibilities Relating to Refugees and Displaced Persons . . . 793
Treaty Information
Agreement With West Germany on Publications Exchange (text of notes) . . . 791
Current Actions . . . 793
Proclamation Affirms Reciprocal Copyright Relations With India (text of notes, remarks, and proclamation) . . . 788
Trade Agreement Negotiations Involving Japan . . . 767
U.S.-Libyan Base Rights Agreement . . . 792
United Nations
Admission of New Members (Wadsworth) . . . 786
Current U.N. Documents . . . 788
Japan and the United Nations (Lodge) . . . 766
Treatment of Indians in South Africa (statements by Smith and text of resolution) . . . 783
U.S. Endorses Report of Collective Measures Committee (Mahoney) . . . 780
Uruguay. Trade Agreement Negotiations Involving Japan . 767
Viet-Nam. General Collins Undertakes Mission to Viet-Nam . . . 777

Name Index

Allen, George V. . . . 790
Collins, J. Lawton . . . 777
Dulles, Secretary . . . 777, 791
Eisenhower, President . . . 765, 771, 772, 791
Hoover, Herbert, Jr. . . . 789
Krekeler, Heinz L. . . . 777, 792
Laurel, José P. . . . 771
Lawson, Edward B. . . . 776
Lodge, Henry Cabot, Jr. . . . 766
Mahoney, Charles H. . . . 780
Mehta, Gaganvihari L. . . . 789
Merchant, Livingston T. . . . 759
Mumford, L. Quincy . . . 790
Smith, H. Alexander . . . 783
Wadsworth, James J. . . . 786
Waugh, Samuel C. . . . 772
Yoshida, Shigeru . . . 765

Check List of Department of State Press Releases: November 8–14

Releases may be obtained from the News Division, Department of State, Washington 25, D. C.

Press releases issued prior to November 8 which appear in this issue of the BULLETIN are Nos. 600 of October 21, 612 of October 27, 613 of October 28, 622 of November 1, 624 of November 3, and 625 of November 4.

No.	Date	Subject
†631	11/8	Protest to U.S.S.R. in plane case.
*632	11/9	Patterson to attend São Paulo fair.
*633	11/10	Trade talks with Cuba.
*634	11/9	Dulles: press conference transcript.
†635	11/10	Delegation to ILO meeting.
*636	11/10	Economic talks with Yugoslavia.
637	11/10	Waugh: GATT conference.
†638	11/10	Patents agreement with Germany.
†639	11/11	Delegation to UNESCO conference.
640	11/12	Tariff negotiations involving Japan.
*641	11/12	Educational exchange.
†642	11/12	Shipping in Antarctica.
643	11/13	Surplus commodities for Japan.

*Not printed.
†Held for a later issue of the BULLETIN.

U. S. GOVERNMENT PRINTING OFFICE: 1954

IRAN

Surplus Agricultural Commodities [1]

Agreement signed at Tehran July 26, 1960;
Entered into force July 26, 1960.
With exehanges of notes
Signed at Tehran July 26 and 28, 1960.

AGRICULTURAL COMMODITIES AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF IRAN UNDER TITLE I OF THE AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT, AS AMENDED

The Government of the United States of America and the Government of Iran:

Recognizing the desirability of expanding trade in agricultural commodities between their two countries and with other friendly nations in a manner which would not displace usual marketings of the United States in these commodities, or unduly disrupt world prices of agricultural commodities or normal patterns of commercial trade with friendly countries;

Considering that the purchase for Iranian rials of surplus agricultural commodities produced in the United States of America will assist in achieving such an expansion of trade;

Considering that the Iranian rials accruing from such purchase will be utilized in a manner beneficial to both countries;

Desiring to set forth the understandings which will govern the sales, as specified below, of surplus agricultural commodities to Iran pursuant to Title I of the Agricultural Trade Development and Assistance Act,[2] as amended, (hereinafter referred to as the Act) and the measures which the two Governments will take individually and collectively in furthering the expansion of trade in such commodities;

Have agreed as follows:

---

[1] Also TIAS 4592, 4598; *post*, pp. 2208, 2239.
[2] 68 Stat. 455; 7 U.S.C. §§ 1701–1709.

ARTICLE I

SALES FOR IRANIAN RIALS

Subject to the availability of commodities for programming under the Act and to issuance by the Government of the United States of America and acceptance by the Government of Iran of purchase authorizations, the Government of the United States of America undertakes to finance the sale for Iranian rials to purchasers authorized by the Government of Iran of the following agricultural commodities determined to be surplus pursuant to the Act, in the amounts indicated:

Commodity	*Export market value* (millions)
Wheat	$3.075
Ocean Transportation	.615
Total	$3.690

Applications for purchase authorizations will be made within 90 calendar days after the effective date of this Agreement. Purchase authorizations will include provisions relating to the sale and delivery of commodities, the time and circumstances of deposit of the Iranian rials accruing from such sale, and other relevant matters.

It is understood that the sale of wheat under this Agreement is not intended to increase the availability of this or like commodities for export and is made on the condition that no exports of such commodities will be made from Iran during the period that the wheat is being imported and utilized.

ARTICLE II

USES OF IRANIAN RIALS

The two Governments agree that the Iranian rials accruing to the Government of the United States of America as a consequence of sales made pursuant to this Agreement, will be used by the Government of the United States of America, in such manner and order of priority as the Government of the United States of America shall determine, for the following purposes, in the amounts shown:

a. For United States expenditures under subsections (a), (b), (c), (d), (f), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), and (r) of Section 104 of the Act or under any of such subsections, the Iranian rial equivalent of $1.29–million.

b. For loans to be made by the Export-Import Bank of Washington under Section 104(e) of the Act and for administrative expenses of the Export-Import Bank of Washington in Iran incident thereto, the Iranian rial equivalent of $.74–million but not more than 25% of the currencies received under the Agreement. It is understood that:

(1) Such loans under Section 104(e) of the Act will be made to United States business firms and branches, subsidiaries, or affiliates of such firms in Iran for business development and trade expansion in Iran, and to United States firms and Iranian firms for the establishment of facilities for aiding in the utilization, distribution, or otherwise increasing the consumption of and markets for United States agricultural products.

(2) Loans will be mutually agreeable to the Export-Import Bank of Washington and the Government of Iran, acting through the Bank Melli. The Governor of the Bank Melli, or his designate, will act for the Government of Iran, and the President of the Export-Import Bank of Washington, or his designate, will act for the Export-Import Bank of Washington.

(3) Upon receipt of an application which the Export-Import Bank is prepared to consider, the Export-Import Bank will inform the Bank Melli of the identity of the applicant, the nature of the proposed business, the amount of the proposed loan, and the general purposes for which the loan proceeds would be expended.

(4) When the Export-Import Bank is prepared to act favorably upon an application, it will so notify the Bank Melli and will indicate the interest rate and the repayment period which would be used under the proposed loan. The interest rate will be similar to that prevailing in Iran on comparable loans, and the maturities will be consistent with the purposes of the financing.

(5) Within sixty days after the receipt of the notice that the Export-Import Bank is prepared to act favorably upon an application, the Bank Melli will indicate to the Export-Import Bank whether or not the Bank Melli has any objection to the proposed loan. Unless within the sixty-day period the Export-Import Bank has received such a communication from the Bank Melli it shall be understood that the Bank Melli has no objection to the proposed loan. When the Export-Import Bank approves or declines the proposed loan, it will notify the Bank Melli.

(6) In the event the Iranian rials set aside for loans under Section 104(e) of the Act are not advanced within 3 years from the dates of this Agreement because the Export-Import Bank of Washington has not approved loans or because proposed loans have not been mutually agreeable to the Export-Import Bank of Washington and the Bank Melli, the Government of the United States of America may use the Iranian rials for any purpose authorized by Section 104 of the Act.

c. For a loan to the Government of Iran under subsection (g) of Section 104 of the Act, the Iranian rial equivalent of not more than $1.66-million for financing such projects to promote economic development, including projects not heretofore included in plans of the Government of Iran, as may be mutually agreed. The terms and conditions of the loan will be set forth in separate agreements between the two Governments. In the event that agreement is not reached on the use of the Iranian rials for loan purposes within three years from the date of this Agreement, the Government of the United States of America may use the Iranian rials for any purposes authorized by Section 104 of the Act.

d. In the event the total of Iranian rials accruing to the Government of the United States of America as a consequence of sales made is less than the Iranian rials equivalent of $3.69-million, the amount available for a loan pursuant to this Agreement to the Government of Iran under Section 104(g) will be reduced by the amount of such difference; in the event the total Iranian rial deposit exceeds the equivalent of $3.69-million 45% of the excess will be available for a loan under Section 104(g), 20% for loans under Section 104(e), and 35% for any use or uses authorized by Section 104 as the Government of the United States of America may determine.

ARTICLE III

DEPOSIT OF IRANIAN RIALS

The deposit of Iranian rials to the account of the Government of the United States of America in payment for the commodities and for ocean transportation costs financed by the Government of the United States of America (except excess costs resulting from the requirement that United States flag vessels be used) shall be made at the rate of exchange for United States dollars generally applicable to import transactions (excluding imports granted a preferential rate) in effect on the dates of dollar disbursement by United States banks, or by the Government of the United States of America, as provided in the purchase authorizations.

ARTICLE IV

GENERAL UNDERTAKINGS

1. The Government of Iran agrees that it will take all possible measures to prevent the resale or transshipment to other countries, or the use for other than domestic purposes (except where such resale, transshipment or use is specifically approved by the Government of the United States of America), of the surplus agricultural commodities purchased pursuant to the provisions of this Agreement, and to assure that the purchase of such commodities does not result in increased availability of these or like commodities to nations unfriendly to the United States of America.

2. The two Governments agree that they will take reasonable precautions to assure that all sales or purchases of surplus agricultural commodities, pursuant to the Agreement, will not unduly disrupt world prices of agricultural commodities, displace usual marketings of the United States of America in these commodities, or disrupt normal patterns of commercial trade with friendly countries.

3. In carrying out this Agreement, the two Governments will seek to assure conditions of commerce permitting private traders to function effectively and will use their best endeavors to develop and expand continuous market demand for agricultural commodities.

4. The Government of Iran agrees to furnish, upon request of the Government of the United States of America, information on the progress of the program, particularly with respect to arrival and condition of commodities, and the provisions for the maintenance of usual marketings, and information relating to exports of the same or like commodities.

ARTICLE V

CONSULTATION

The two Governments will, upon the request of either of them, consult regarding any matter relating to the application of this Agreement or to the operation of arrangements carried out pursuant to this Agreement.

ARTICLE VI

ENTRY INTO FORCE

The Agreement shall enter into force upon signature.

IN WITNESS WHEREOF, the respective representatives, duly authorized for the purpose, have signed the present Agreement.

DONE at Tehran in duplicate this twenty-sixth day of July, 1960.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

EDWARD T. WAILES

FOR THE GOVERNMENT OF IRAN:

[1]

[1] Musa Khatatan.

The American Ambassador to the Iranian Minister of Customs and Monopolies

No. 502 TEHRAN, *July 26, 1960*

EXCELLENCY:

I have the honor to refer to the Agricultural Commodities Agreement between the Government of the United States of America and the Government of Iran signed today.

I wish to confirm my Government's understanding of the agreement reached in conversations which have taken place between this Embassy and the Government of Iran with respect to the use of Iranian rials accruing under the subject Agreement for agricultural market development purposes by the Government of the United States of America under Section 104(a) of the Agricultural Trade Development and Assistance Act, as amended.

It is understood that the Government of Iran will provide facilities for the conversion of up to $74,000 worth of Iranian rials into other currencies. These facilities for conversion are needed for the purpose of securing funds to finance agricultural market development activities of the Government of the United States in other countries.

I shall appreciate receiving Your Excellency's confirmation of the above understanding.

Accept, Excellency, the renewed assurances of my highest consideration.

EDWARD T. WAILES

His Excellency
MUSA KHATATAN,
Minister of Customs and Monopolies,
Tehran.

The Iranian Minister of Customs and Monopolies to the American Ambassador

وزارت گمرکات و انحصارات

اداره کل دفتر وزارتی
تاریخ ۵/۹/۱۳۳۹
شماره ۱۱۱۲۷
ضمیمه

سفارت کبرای امریکا ــ تهران

وزارت گمرکات و انحصارات با تجدید احترامات مفاد نامه شماره ۵۰۲ مورخ ۲۶ ژوئیه ۱۹۶۰ آن سفارت کبری را دائر به تبدیل تامیزان هم ارز ریالی ۷۴۰۰۰ دلار به ارزهای سایر کشورها تائید مینماید. وزیر گمرکات و انحصارات

TIAS 4544

Annex 9

Translation

MINISTRY OF CUSTOMS AND MONOPOLIES

MAIN OFFICE
INTERDEPARTMENTAL BUREAU
Date—*Mordad 6, 1339*
[*July 28, 1960*]

No. 11127

AMERICAN EMBASSY,
Tehran.

The Ministry of Customs and Monopolies presents its compliments and confirms the contents of the Embassy's note No. 502 dated July 26, 1960, regarding the conversion of rials up to the equivalent of 74,000 dollars into the currencies of other countries.

MUSA KHATATAN
Minister of Customs and Monopolies

The American Ambassador to the Iranian Minister of Customs and Monopolies

No. 503

TEHRAN, *July 26, 1960*

EXCELLENCY:

I have the honor to refer to the Agricultural Commodities Agreement signed today between the Government of the United States of America and the Government of Iran and, with regard to the rials accruing to uses indicated under Article II of the Agreement, to state that the understanding of the Government of the United States of America is as follows:

With respect to both paragraphs b and c of Article II:

Local currency will be advanced or reimbursed to the Government of Iran for financing agreed projects under paragraphs b and c of Article II of the Agricultural Commodities Agreement upon the presentation of such documentation as the United States Operations Mission may specify.

The Government of Iran shall maintain or cause to be maintained books and records adequate to identify the goods and services financed for agreed projects pursuant to paragraphs b and c of Article II of the Agricultural Commodities Agreement, to disclose the use thereof in the projects and to record the progress of the projects (including the cost thereof). The books and records with respect to each project shall be maintained for the duration of the project, or until the expiration of three years after final disbursement for the project has been made by the USOM, whichever is later. The two Governments shall have the right at all reasonable times to examine such books and

Annex 9

records and all other documents, correspondence, memoranda and other records involving transactions relating to agreed projects. The Government of Iran shall enable the USOM to observe and review agreed projects and the utilization of goods and services financed under the projects, and shall furnish to the USOM all such information as it shall reasonably request concerning the above-mentioned matters and the expenditures related thereto. The Government of Iran shall afford, or arrange to have afforded, all reasonable opportunity for authorized representatives of the Government of the United States to visit any part of the territory of Iran for purposes related to agreed projects. If USOM determines that any disbursement under paragraphs b and c of Article II of the Agricultural Commodities Agreement made by it for agreed projects is not supported by the documentation submitted by the Government of Iran, is not made in accordance with the terms of this agreement or any applicable agreement or arrangement between the Government of the United States and the Government of Iran, or is in violation of any applicable laws or regulations of the United States Government, the Government of Iran shall pay to the USOM as may be requested by it, an amount in local currency not to exceed the amount of such disbursement. Where any payment is made by the Government of Iran to the USOM pursuant to the preceding sentence on the basis of a disbursement which has been charged as an advance under the line of credit established by the loan agreement, the total amount charged as advances under the line of credit shall be reduced by the amount of such payment.

The USOM shall expend funds for agreed projects only in accordance with the applicable laws and regulations of the United States Government. The USOM may decline to make further disbursements for any agreed projects if it determines that further disbursements would not fulfill the purpose of paragraphs b or c of Article II of the Agricultural Commodities Agreement.

I shall appreciate your confirming to me that the contents of this note also represent the understanding of the Government of Iran.

Accept, Excellency, the renewed assurances of my highest consideration.

EDWARD T. WAILES

His Excellency
MUSA KHATATAN,
Minister of Customs and Monopolies,
Tehran.

Annex 9

The Iranian Minister of Customs and Monopolies to the American Ambassador

وزارت گمرکات و انحصارات

اداره کل دفتر وزارتی
تاریخ ۱۳۳۹/۵/۶
شماره ۱۱۱۲۵
ضمیمه

سفارت کبرای امریکا ــ تهران
وزارت گمرکات و انحصارات باتجدید احترامات مفاد نامه شماره ۵۰۳ مورخ
۲۶ ژوئیه ۱۹۶۰ را تائید مینماید ۰ وزیر گمرکات و انحصارات

Translation

MINISTRY OF CUSTOMS AND MONOPOLIES

MAIN OFFICE
INTERDEPARTMENTAL BUREAU
Date—*Mordad 6, 1339*
[*July 28, 1960*]

No. 11125

AMERICAN EMBASSY,
Tehran.

The Ministry of Customs and Monopolies presents its compliments and confirms the contents of note No. 503 dated July 26, 1960.

MUSA KHATATAN
Minister of Customs and Monopolies

Annex 9

IRAN

Economic, Technical and Related Assistance

Agreement signed at Tehran December 21, 1961;
Entered into force December 21, 1961.

GENERAL AGREEMENT FOR ECONOMIC COOPERATION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE IMPERIAL GOVERNMENT OF IRAN

PREAMBLE

Whereas the Imperial Government of Iran desires to raise the standard of living of the people of Iran by promoting economic and social development of the country, and,

Whereas the Government of the United States of America is willing to extend economic, technical and related assistance to Iran, and the Government of the United States of America and the Imperial Government of Iran, desiring to strengthen the traditional ties of frienship between the two countries, have agreed as follows:

ARTICLE I

The Government of the United States of America will furnish such economic, technical and related assistance hereunder as may be requested by representatives of the agency designated by the Imperial Government of Iran to cooperate in the planning and implementation of such assistance and approved by representatives of the agency designated by the Government of the United States of America to administer its responsibilities hereunder, or as may be requested and approved by other representatives designated by the Government of the United States of America and the Imperial Government of Iran. The furnishing of such assistance shall be subject to the applicable laws and regulations of the Government of the United States of America; the utilization of such assistance shall similarly be subject to the constitution, laws and regulations of Iran. It shall be made available in accordance with written arrangements agreed upon between the above-mentioned representatives.

ARTICLE II

The Imperial Government of Iran agrees to make the full contribution permitted by its manpower, resources, facilities and general economic condition in furtherance of the purposes for which assistance is made available hereunder; to bear a fair share of the costs of such assistance and to give the people of Iran full publicity concerning programs and operations hereunder. The Imperial Government of Iran will take appropriate steps to insure the effective use of assistance furnished pursuant to this Agreement and will afford every opportunity and facility to representatives of the Government of the United States of America to observe and review programs and operations conducted under this Agreement and will furnish whatever information they may need to determine the nature and scope of operations planned or carried out and to evaluate results.

ARTICLE III

1. In any case where commodities or services are furnished on a grant basis under arrangements which will result in the accrual of proceeds to the Imperial Government of Iran from the import or sale of such commodities or services, the Imperial Government of Iran, except as may otherwise be agreed upon by the representatives referred to in Article I hereof, will establish in its own name a Special Account in the Bank Markazi Iran, and will deposit promptly in such Special Account the amount of its currency equivalent to such proceeds.

2. Except as may otherwise be agreed upon by the representatives referred to in Article I hereof, the currency in the Special Account will be utilized as follows: Upon notification from time to time by the Government of the United States of America of its requirement for the currency of Iran, the Imperial Government of Iran will make available to that government in the manner requested by it out of any balances in the Special Account such sums as are stated in such notifications to be necessary for such requirements. The Imperial Government of Iran may draw upon any remaining balances in the Special Account for such purposes beneficial to Iran as may be agreed upon from time to time by the representatives referred to in Article I hereof. Whenever funds from such Special Account are used by the Imperial Government of Iran to make loans, all funds received in repayment of such loans prior to the termination of assistance hereunder shall be reused only as may be agreed upon by the representatives referred to in Article I hereof. Any unencumbered balances of funds which remain in the Special Account upon termination of assistance hereunder to the Imperial Government of Iran shall be disposed of for such purposes as, subject to approval by Act or joint resolution of the Congress of the United States of America, may be agreed upon by the representatives referred to in Article I hereof.

Annex 10

ARTICLE IV

The Imperial Government of Iran will receive a special mission and its personnel to discharge the responsibilities of the Government of the United States of America hereunder; will consider this special mission and its personnel as part of the diplomatic mission of the United States of America in Iran for the purposes of enjoying the privileges and immunities accorded to that diplomatic mission and its personnel of comparable rank; and will give full cooperation to the special mission and its personnel, including the furnishing of facilities and personnel necessary for the purpose of carrying out the provisions hereof. It is understood that the detailed application of this Article would, when necessary, be the subject of intergovernmental discussion.

ARTICLE V

In order to assure the maximum benefits to the people of Iran from the assistance to be furnished hereunder:

(a) Any supplies, materials, equipment, commodities, or funds introduced into or acquired in Iran by the Government of the United States of America or any contractor financed by that Government, for purposes of this Agreement shall, while such supplies, materials, equipment, commodities, or funds are used in connection with this Agreement, be exempt from any taxes on ownership or use of property and any other taxes, investment or deposit requirements and currency controls in Iran, and the import, export, purchase, use or disposition of any such supplies, materials, equipment, commodities or funds in connection with this Agreement shall be exempt from any tariffs, customs duties, import and export taxes, taxes on purchase or disposition of property, and any other taxes or similar charges in Iran.

(b) All personnel, except citizens and permanent residents of Iran, including employees of the Government of the United States of America or its agencies or individuals under contract, or employees of public or private organization under contract, with the Government of the United States of America, the Imperial Government of Iran, or any agencies of either the Government of the United States of America or the Imperial Government of Iran, who are present in Iran to perform work in connection herewith, shall be exempt from income and social security taxes levied under the laws of Iran and from taxes on the purchase, owner-

Annex 10

ship, use, or disposition of personal movable property (including one automobile) intended for their own use. Such personnel and members of their families shall receive the same treatment with respect to the payment of customs, import, and all other duties and fees on personal effects (including one automobile), equipment, and supplies imported into Iran for their own use as is accorded by the Imperial Government of Iran to diplomatic personnel of the Embassy of the United States of America.

(c) Funds introduced into Iran for purposes of furnishing assistance hereunder shall be convertible into currency of Iran at the rate providing the largest number of units of such currency per United States dollar, which, at the time the conversion is made, is not unlawful in Iran.

(d) The Imperial Government of Iran will deposit, segregate, or assure title to all United States funds allocated to, or derived from, any program of assistance undertaken hereunder by the Government of the United States of America so that such funds shall not be subject to garnishment, attachment, seizure, or other legal process by any person, firm, agency, corporation, organization or other government when the Imperial Government of Iran is advised by the Government of the United States of America that any such legal process would interfere with the attainment of the objectives of the program of assistance hereunder.

ARTICLE VI

1. This Agreement shall enter into force on the date on which it is signed by the two governments and it shall terminate six months after the close of the first regular session of the Iranian Parliament, i.e., the Majlis and the Senate whichever closes later, held after the signing of this Agreement, unless, before the expiration of said six months, the Imperial Government of Iran shall have notified the Government of the United States of America that this Agreement has been ratified, in which case it shall remain in force until ninety days after receipt by either government of written notification of the intention of the other to terminate it. It is understood, however, that the provisions of this Agreement shall remain in full force and effect after termination of the Agreement with respect to assistance furnished pursuant to this Agreement before such termination.

2. All or any part of the program of assistance provided hereunder may, except as may otherwise be provided in arrangements agreed upon pursuant to Article I hereof, be terminated by either gov-

ernment if that government determines that because of changed conditions the continuation of such assistance is unnecessary or undesirable. The termination of such assistance under this provision may include the termination of deliveries of any commodities hereunder not yet delivered.

3. The two governments or their designated representatives shall, upon request of either of them, consult regarding any matter on the application, operation or amendment of this Agreement.

4. This Agreement supersedes the Agreement relating to the program of Technical Cooperation and Economic Development effected by an exchange of notes signed at Tehran on January 19 and 20, 1952.[1] Arrangements or agreements implementing the above-mentioned Agreement and concluded prior to the entry into force of this Agreement shall hereafter be subject to this Agreement.

Done in Tehran on December 21, 1961, in the Persian and English languages.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA

J. C. HOLMES

[SEAL]

FOR THE IMPERIAL GOVERNMENT OF IRAN

H. GHODS NAKHAI

[SEAL]

[1] TIAS 2637; 3 UST (pt. 4) 4741.

70075 O - 62 - pt. 3 - 55

Annex 10

٤) این موافقتنامه جانشین موافقتنامه برنامه همکاری فنی و توسعه اقتصادی خواهد شد که در تاریخ نوزدهم و بیستم ژانویه سال ۱۹۵۲ بوسیله مبادله یادداشتها در تهران بامضاء رسیده است . ترتیبات یا موافقتهائی که برای اجرای موافقتنامه سابق قبل از موافقتنامه فعلی بموقع اجراء گذاشته شود داده شده از این تاریخ به بعد تابع موافقتنامه فعلی خواهد بود .

این موافقتنامه در تهران بدو زبان انگلیسی و فارسی در تاریخ ۳۰ آذر هزار و سیصد و چهل منعقد گردید .

ازطرف دولت ایالات متحده امریکا

[SEAL]

ازطرف دولت شاهنشاهی ایران

[SEAL]

Annex 10

نسبت بمأمورین سیاسی سفارت ایالات متحده امریکا در ایران معمول میدارد .

ج — وجوهی که برای کمکهای این موافقتنامه بایران وارد میشود قابل تبدیل بپول رایج ایران بنرخی خواهد بود که بالاترین مبلغ را نسبت بهر دلار امریکا عاید دارد و آن نرخ در موقع تبدیل وجوه درایران غیرقانونی نباشد .

د — دولت شاهنشاهی ایران وجوهی را که بعنوان کمک عاید شده یا ازهر گونه برنامه کمک دولت ایالات متحده امریکا بدست آمده تودیع یا تفکیک یا تملک خواهد نمود تا اینگونه وجوه مورد توقیف یا ضبط برای تأمین مدعایه یا تصرف یا سایر عملیات مشابه قضائی از طرف اشخاص یا تجارتخانه ها یا مؤسسات وشرکتها و سازمانها و هر دولت دیگر واقع نشود و این در هنگامی است که دولت ایالات متحده امریکا بدولت شاهنشاهی ایران اطلاع دهد که بنظر جنین اقدام قضائی مانع انجام مقاصد و منظورهای کمک مورد این موافقتنامه میباشد .

ماده ششم

۱) این موافقتنامه از تاریخی که بامضای دو دولت برسد بموقع اجراء گذاشته خواهد شد و شش ماه پس از پایان دوره قانونی مجلسین ایران یعنی مجلس شورایملی و مجلس سنا (هرکدام که دیرتر پایان یابد) که پس ازامضای این موافقتنامه تشکیل بشود خاتمه خواهد یافت مگر آنکه قبل از انقضاء مدت شش ماه فوق دولت شاهنشاهی ایران بدولت کشورهای ایالات متحده امریکا اطلاع دهد که این موافقتنامه بتصویب رسیده است و در آنصورت تا مدت نود روز پس از تاریخی که یکی از دو دولت فوق بدولت دیگر کتبا اطلاع دهد که قصد خاتمه دادن بآنرا دارد بقوت خود باقی خواهد ماند معذلك مسلم است که مواد این موافقتنامه پس از اختتام مدت آن در مورد کمکهائی که طبق این موافقتنامه قبل از چنین اختتامی داده شده است کاملا بقوت تأثیر خود باقی خواهد ماند .

۲) جز در مواردی که بموجب ترتیبات مندرج در ماده اول این موافقتنامه مورد قبول طرفین واقع نشده باشد هرکامیکی از دو دولت تصمیم بگیرد که بعلت تغییر اوضاع ادامه چنین کمکی لازم یا مطلوب نیست ممکن است تمام یا قسمتی ازبرنامه کمک موضوع این موافقتنامه از طرف یکی از دو دولت خاتمه یابد . اختتام کمك از این لحاظ ممکن است شامل قطع تحویل کالاهائی باشد که بموجب این موافقتنامه هنوز تحویل نشده باشد .

۳) دو دولت فوق یا نمایندگان آنها بنا بتقاضای هریك از طرفین نسبت بطرز عمل و اجراء یا اصلاح این موافقتنامه با یکدیگر مشاوره خواهند نمود .

Annex 10

مخصوص و کارمندان آنرا از نظر مزایا و مصونیت های سیاسی بتناسب رتبه و مقام آنها جزو هیئت سیاسی دولت ایالات متحده امریکا خواهد شمرد و با این هیئت مخصوص و کارمندان آنها همکاری کامل بعمل خواهد آورد که شامل فراهم ساختن تسهیلات و کارمندانی که برای اجرای مأموریت آنها ضرورت دارد باشد . بدیهی است که اجرای جزئیات این ماده در صورت لزوم بین دو دولت مورد مذاکره قرار خواهد گرفت .

ماده پنجم

بمنظور آنکه از کمکهائی که در این موافقتنامه مندرج است حداکثر استفاده برای مردم ایران تضمین شود :

الف — هرگونه ملزومات مواد اسباب و ابزار کالا یا وجوهی که بمنظور اجرای این موافقتنامه بوسیله دولت ایالات متحده امریکا بایران وارد میشود یا بوسیله دولت ایالات متحده امریکا یا مقاطعه کاران آن دولت در ایران تهیه میگردد مادام که آن ملزومات مواد اسباب و ابزار کالا و وجوه بمصارف مربوط باین موافقتنامه برسد — از هرگونه مالیات که بدارندگان یا استفاده کنندگان این قبیل اجناس و اشیاء تعلق میگیرد و هرگونه مالیات دیگر و تشریفات مربوط به بکار بردن سرمایه یا تودیع وجوه و کنترل ارزی در ایران معاف خواهد بود و ورود و صدور و خرید و استعمال و فروش ملزومات مواد اسباب و ابزار کالا و وجوه مربوط باین موافقتنامه از عوارض و مالیات گمرکی و مالیات بر واردات و صادرات و مالیات خرید و فروش اموال و هرگونه مالیات و عوارض مشابه آن در ایران معاف میباشد .

ب — باستثنای اتباع ایران و کسانیکه در ایران اقامت دائمی دارند تمام کارمندان از جمله کارمندان دولت ایالات متحده امریکا با مؤسسات وابسته بآن یا افرادی که با دولت ایالات متحده امریکا یا دولت شاهنشاهی ایران یا هرمؤسسه وابسته بدولت ایالات متحده امریکا یا دولت شاهنشاهی ایران قرارداد دارند یا مؤسسات دولتی و خصوصی که قرارداد دارند و برای انجام کارهای مربوط بسیاین موافقت در ایران هستند از مالیات بر درآمد و مالیات مربوط بامنیت اجتماعی که در ایران وضع و دریافت میشود و از مالیات خرید تملک استفاده یا فروش اموال منقول (که شامل پیکان اتومبیل هم است) که برای استفاده شخصی دارند معاف میباشند . اینگونه کارمندان و افراد خانواده آنها نسبت به پرداخت عوارض گمرکی و مالیات بر واردات و سایر مالیات ها و عوارض و حقی که از اموال شخصی (که شامل پیکان اتومبیل هم است) اخذ میشود و اسباب و ابزار و موادی که از خارج برای مصارف شخصی بایران میآورند مشمول همان معامله ای خواهند بود که دولت شاهنشاهی ایران

Annex 10

دولت ایالات متحده امریکا بتوانند برنامه ها وعملیاتی راکه طبق این موافقتنامه بموقع اجراء گذاشته میشود مورد مشاهده و بررسی قرار دهند همه گونه فرصت و تسهیلات برای آنها فراهم خواهد ساخت و هرگونه اطلاعاتی راکه برای تعیین کیفیت و حدود عملیاتی که طرح شده و یا بمرحله اجراء درآمده و تعیین ارزش نتایج عملیات انجام شده لازم دانسته باشند در اختیار آنها خواهد گذاشت .

ماده سوم

۱) در کلیه مواردی که کالا یا خدمات بطور بلاعوض داده میشود و نسبت بآنها ترتیباتی داده میشود که بالنتیجه عوائد حاصله از آن خدمات یا کالاها در اثر وارد کردن یا فروش بدولت ایران میرسد دولت شاهنشاهی ایران جز در صورتیکه نمایندگان مذکور در ماده ۱ بشکل دیگر موافقت کنند بنام خود حساب مخصوصی در بانک مرکزی ایران باز خواهد نمود و بلافاصله بپول رایج کشور مبلغی که معادل عوائد حاصله باشد در آن حساب تودیع خواهد کرد .

۲) جز در مواردی که نمایندگان مذکور در ماده ۱ فوق بشکل دیگر موافقت کنند پولی که در حساب مخصوص تودیع شده بطور ذیل مورد استفاده قرار خواهد گرفت . گاهگاه که دولت ایالات متحده امریکا مبلغ نیازمندی خود را بپول رایج ایران اطلاع دهد دولت شاهنشاهی ایران از هرگونه موجودی حساب مخصوص بطریقی که دولت ایالات متحده امریکا تقاضا کند مبلغی را که برای نیازمندیهای مزبور تقاضا شده در اختیار دولت مذکور خواهد گذاشت . دولت شاهنشاهی میتواند بطوریکه مورد موافقت بین نمایندگان مندرج در ماده یک قرار میگیرد گاهگاه از بقیه موجودی حساب مخصوص برای مقاصد مفید بحال ایران برداشت نماید . هروقت از حساب مخصوص مبالغی از طرف دولت شاهنشاهی ایران بمنظور دادن وام مورد استفاده قرار میگیرد تمام مبالغی که از بابت آن وام تا قبل از انقضای کمکهای مندرج در این موافقتنامه مسترد میشود فقط با موافقت بین نمایندگان مذکور در ماده یک مجددا مورد استفاده قرار خواهد گرفت . هر مبلغ که در انقضای کمکهای بدولت ایران مندرج در این موافقتنامه در حساب مخصوص بدون تعهد باقی مانده باشد بشرط تصویب قانونی با قطعنامه کنگره امریکا بطوریکه بین نمایندگان مذکور در ماده اول موافقت شود بمصرف خواهد رسید .

ماده چهارم

دولت شاهنشاهی ایران یک هیئت مخصوص و کارمندان آنرا برای اجرای تعهداتیکه دولت ایالات متحده امریکا بموجب این موافقتنامه دارد خواهد پذیرفت و این هیئت —

موافقتنامه عمومی برای همکاری اقتصادی بین دولت ایالات متحده امریکا و دولت شاهنشاهی ایران

مقدمه

از آنجا که دولت شاهنشاهی ایران مایل است سطح زندگی مردم ایران را بوسیله توسعه اقتصادی واجتماعی ترقی دهد ·

و از آنجا که دولت ایالات متحده امریکا حاضر است کمکهای اقتصادی وفنی و مساعدتهای مربوطه دیگر را نسبت بایران بعمل آورد ·

و دولت شاهنشاهی ایران و دولت ایالات متحده امریکا که مایلند علائق قدیمی دوستی و وداد بین دو کشور را تحکیم نمایند نسبت بمواد ذیل موافقت مینمایند ·

ماده اول

دولت ایالات متحده امریکا طبق این موافقتنامه کمکهای اقتصادی و فنی و مساعدتهای مربوطه ای را بعمل خواهد آورد که از طرف نمایندگان اداره ای که ازطرف دولت شاهنشاهی ایران برای همکاری در طرح و اجرای این کمکها تعیین میشود درخواست بنمایند و نمایندگان اداره ای که از طرف دولت ایالات متحده امریکا برای انجام وظایف و مسئولیت های ناشی از این موافقتنامه تعیین میشود آنها را تصویب ـ نمایند و یا از طرف نمایندگان دیگری که دولت شاهنشاهی ایران ودولت ایالات متحده امریکا تعیین کرده باشند درخواست و تصویب شود اعطای این کمکها تابع قوانین و مقررات مربوطه دولت ایالات متحده امریکا خواهد بود و استفاده ازاین کمکهانیزبهمان نحو تابع قانون اساسی و قوانین و مقررات ایران میباشد ·

این کمکها طبق ترتیباتی که نمایندگان فوق الذکر نسبت بآنها کتبا موافقت نمایند فراهم خواهد گردید ·

ماده دوم

دولت شاهنشاهی ایران موافقت میکند تا آنجا که نیروی انسانی منابع طبیعی تسهیلات و شرایط اقتصادی وی اجازه میدهد نسبت به پیشرفت مقاصدی که برای انجام آنها تسهیلات مندرج در این موافقتنامه فراهم شده است شرکت کامل بنماید و سهم ـ منصفانه ای از هزینه این کمکها را تعهد کند و درباره برنامه ها وعملیاتی که طبق این موافقتنامه انجام میگیرد مردم ایران را کاملا آگاه سازد ·

دولت شاهنشاهی اقدامات لازمه را برای تضمین اینکه از کمکهائی که بموجب این موافقتنامه داده میشود استفاده مؤثر بشود بعمل خواهد آورد و برای اینکه نمایندگان

Annex 10

IRAN

Peace Corps

Agreement effected by exchange of notes
Signed at Tehran September 5 and 16, 1962;
Entered into force September 16, 1962.

The American Ambassador to the Iranian Minister of Foreign Affairs

No. 107

TEHRAN, *September 5, 1962.*

EXCELLENCY:

I have the honor to refer to recent conversations between representatives of our two Governments and to propose the following understandings with respect to the men and women of the United States of America who volunteer to serve in the Peace Corps and who, at the request of your Government, would live and work for periods of time in Iran.

1. The Government of the United States will furnish such Peace Corps Volunteers as may be requested by the Government of Iran and approved by the Government of the United States to perform mutually agreed tasks in Iran. The Volunteers will work under the immediate supervision of governmental or private organizations in Iran designated by our two Governments. The Government of the United States will provide training to enable the Volunteers to perform more effectively these agreed tasks.

2. The Government of Iran will accord equitable treatment to the Volunteers and their property, afford them full aid and protection, including treatment no less favorable than that accorded generally to nationals of the United States residing in Iran, and fully inform, consult and cooperate with representatives of the Government of the United States with respect to all matters concerning them. The Government of Iran will exempt the Volunteers from all taxes on payments which they receive to defray their living costs and on income from sources outside Iran, from all customs duties or other charges on their personal property introduced into Iran for their own use at

or about the time of their arrival, and from all other taxes or other charges (including immigration fees) except license fees and taxes and other charges included in the prices of equipment, supplies and services.

3. The Government of the United States will provide the Volunteers with such limited amounts of equipment and supplies as our two Governments may agree are needed to enable the Volunteers to perform their tasks effectively The Government of Iran will exempt from all taxes, customs duties and other charges, all equipment and supplies introduced into or acquired in Iran by the Government of the United States, or any contractor financed by it, for use hereunder.

4. To enable the Government of the United States to discharge its responsibilities under this agreement, the Government of Iran will receive a representative of the Peace Corps and such staff of the representative and such personnel of United States private organizations performing functions hereunder under contract with the Government of the United States as are acceptable to the Government of Iran. The Government of Iran will exempt such persons from all taxes on income derived from their Peace Corps work or sources outside Iran, and from all other taxes or other charges (including immigration fees) except license fees and taxes or other charges included in the prices of equipment, supplies and services. The Government of Iran will accord the Peace Corps Representative and his staff the same treatment with respect to the payment of customs duties or other charges on personal property introduced into Iran for their own use as is accorded personnel of comparable rank or grade of the Embassy of the United States. The Government of Iran will accord personnel of United States private organizations under contract with the Government of the United States the same treatment with respect to the payment of customs duties or other charges on personal property introduced into Iran for their own use as is accorded Volunteers hereunder.

5. The Government of Iran will exempt from investment and deposit requirements and currency controls all funds introduced into Iran for use hereunder by the Government of the United States or contractors financed by it. Such funds shall be convertible into currency of Iran at the highest rate which is not unlawful in Iran.

6. The Peace Corps may assign a physician to its staff for the purpose of medical supervision of the Volunteers. In order to carry out this work the physician will travel to the areas of Volunteer assignment. The doctor will be available to work in the Government medical facilities to the extent permitted by his duties with the Peace Corps.

7 Appropriate representatives of our two Governments may make from time to time such arrangements with respect to Peace Corps Volunteers and Peace Corps programs in Iran as appear necessary or desirable for the purpose of implementing this agreement. The undertakings of each Government herein are subject to the availability of funds and to the applicable laws of that Government.

I have the further honor to propose that, if these understandings are acceptable to your Government, this note and your Government's reply note concurring therein shall constitute an agreement between our two Governments which shall enter into force on the date of your Government's note and shall remain in force until ninety days after the date of the written notification from either Government to the other of intention to terminate it.

Accept, Excellency, the renewed assurance of my highest consideration.

J C. HOLMES

His Excellency
ABBAS ARAM,
Minister of Foreign Affairs,
Tehran.

The Iranian Minister of Foreign Affairs to the American Ambassador

اداره
شماره ٤١٦٠
تاریخ ١٣٤١/٦/٢٥
پیوست

وزارت امور خارجه

جناب آقای سفیرکبیر

احتراماً عطف بیادداشت شماره ١٠٧ مورخ ٥ سپتامبر ١٩٦٢ ومذاکراتی که بین دو دولت درباره حدمت افراد گروه صلح درکشور شاهنشاهی بعمل آمده باستحضار میرساند که مواد مندرج درمادداشت مذکور بشرح زیر مورد موافقت دولت شاهنشاهی میباشد .

١ ــ دولت ایالات متحده عده ای ازافراد گروه صلح راکه دولت ایران ممکن است تقاضا کند دولت آمریکا تصویب نماید برای انجام دادن کارهائی که مورد توافق طرفین باشد اعزام خواهد نمود . این داوطلبان تحت نظارت وسرپرستی مستقیم سازمانهای دولتی یا سازمانهای خصوصی که دو دولت معین کرده باشند کار خواهند کرد . دولت ایالات متحده آمریکا وسائل کارآموزی این عده رافراهم خواهد ساخت تاوظائف مورد توافق طرفین را بمحومؤثرتری انجام دهند .

٢ ــ دولت ایران نسبت بداوطلبان واموال آنها رفتار منصفانه خواهد نمود وبانها مساعدت وتامین کامل خواهد داد وبااینها رفتاری راخواهد نمود که ازآنچه معمولا نسبت باتباع دولت امریکا ساکن درایران مقصود کمتر نباشد وبانمایندگان دولت ایالات متحده آمریکا در تمام امورمربوط بداوطلبان تشریک مساعی ومشاوره نموده اطلاعات کامل دراختیارشان خواهد گذاشت . دولت ایران داوطلبان رانسبت بوجوهی که برای پرداخت هزینه زندگی خود دریافت میکنند وازدرآمدی که ازخارج ازکشورایران بدست میاورند ازتمام عوارض گمرکی یا سایرعوارضی که باموال شخصی آنهاکه ازخارج ازایران برای استفاده شخصی درهنگام ورود بایران آورده اند وازتمام مالیات هاوعوارض دیگر(که شامل حق مهاجرت هم میباشد) باستثنای حق صدورپروانه ومالیات وعوارض که حروبیت وسائل

Annex 11

ومواد مربوط بکار وخدمات مذکور شده معاف خواهد داشت .

۳ ــ دولت ایالات متحده امریکا برای این داوطلبان مقدار محدودی لوازم و اسباب کار که هردو دولت موافقت کنند که برای حسن انجام کار آنها ضرورت دارد فراهم خواهد ساخت . دولت ایران تمام این وسائل و اسباب کار را که بایران وارد میشود یا دولت امریکا در ایران فراهم میکند یا مقاطعه کاران باوجوه دولت آمریکا تهیه مینمایند از هرگونه مالیات عوارض گمرکی و سایر عوارض معاف خواهد ساخت .

۴ ــ برای اینکه دولت ایالات متحده بتواند مسئولیت هائی را که بموجب این موافقت نامه بعهده گرفته انجام دهد دولت ایران یکنفر نماینده گروه صلح و آن عده از کارمندان این نماینده و افرادی را که در سازمان های خصوصی امریکائی که برای اجرای مقاصد این موافقت نامه با دولت امریکا قرارداد دارند و دولت ایران با آن افراد موافقت کند خواهد پذیرفت . دولت ایران اینگونه افراد را از تمام مالیات هائی که بردرآمد از خدمت در گروه صلح یا منافع دیگر خارج از ایران عاید آنها میشود و از سایر مالیات ها و عوارض (که شامل حق مهاجرت هم هست) باستثنای حق صدور و برروانه و مالیاتها و عوارض که حروقیمت وسائل و مواد مربوط وخدمات مذکور شده معاف خواهد داشت . دولت ایران به نماینده گروه صلح و کارمندان او نسبت به پرداخت عوارض گمرکی یا سایر عوارض که باموال و اشیاء مورد استفاده شخصی بایران وارد کرده اند همان رفتاری را خواهد نمود که نسبت بکارمندان هم درجه آنها در سفارتخانهای آمریکا مینماید . دولت ایران بکارمندان سازمانهای خصوصی که با دولت امریکا قرارداد دارند نسبت بپرداخت عوارض گمرکی و سایر عوارضی که باشیاء و اموال مورد استفاده شخصی بایران وارد کرده اند تعلق

Annex 11

میگیرد همان رفتاری که با افراد گروه صلح میشاید معمول خواهد داشت .

۵ ــ دولت ایران تمام وجوهی را که برای مصارف این موافقت نامه بوسیله دولت آمریکا یا مقاطعه کارانی که با دولت امریکا قرارداد دارند بایران وارد میشود از هرگونه قرار و شرطی که سبب سرمایه گذاری و ورود ایج محسوب باشد و همچنین از نظارت ارزی معاف خواهد داشت . این وجوه باید بپول ایران به بهترین نرخی که در ایران غیرقانونی نباشد قابل تبدیل باشد

۶ ــ گروه صلح ممکن است یکنفر پزشک جزو کارمندان خود داشته باشد تا امور صحی و اوضاع آنان را زیر نظر بگیرد . برای انجام این کار این پزشک میتواند بنقاطی که افراد گروه صلح مشغول کار هستند مسافرت کند . این پزشک تا حدودی که وظائف او در گروه صلح اجازه دهد ممکن است ــ در دستگاههای پرسنل دولت کار کند .

۷ ــ نمایندگان صلاحیت دارند و دولت میتوانند در مواقع مختلف بسمت گروه صلح و برنامه عملیات آنها در ایران بمنظور اجرای این موافقتنامه ترتیباتی که ضروری یا سودمند باشد بدهند تعهد هریك از دو دولت مشروط بفراهم بودن وجه و قوانین جاریه آن دولت خواهد بود .

مدت اعتبار این موافقتنامه از تاریخ این یادداشت تا نود روز پس از تاریخ اخطار کتبی از طرف یك دولت بدولت دیگر که قصد خاتمه دادن باین موافقتنامه را دارد معتبر خواهد بود .

موقع را برای تجدید احترامات فائقه محترم میشمارد .

وزیر امور خارجه

عباس آرام

جناب آقای جولیوس هولمز

سفیر کبیر ایالات متحده آمریکا

تهران

TIAS 7078

Annex 11

Translation

MINISTRY OF FOREIGN AFFAIRS

Number · 4160

SEPTEMBER 16, 1962

EXCELLENCY

I have the honor to refer to your note No. 107, dated September 5, 1962 and to the conversations between representatives of our two Governments with respect to the service of the Peace Corps Volunteers in Iran, and to inform you that the Imperial Government of Iran agrees to the understandings proposed therein, which are set forth below

[For the English language text, see p. 434.]

This agreement shall enter into force as of the date of this note, and shall remain in force until ninety days after the date of the written notification from either Government to the other of intention to terminate it.

Accept, Excellency, the renewed assurance of my highest consideration.

ABBAS ARAM

Minister of Foreign Affairs

His Excellency JULIUS HOLMES,
Ambassador of the United States of America,
Tehran.

IRAN

Education: Commission for Cultural Exchange and Financing of Exchange Programs

Agreement signed at Tehran October 24, 1963;
Entered into force October 24, 1963.

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE IMPERIAL GOVERNMENT OF IRAN FOR FINANCING CERTAIN EDUCATIONAL EXCHANGE PROGRAMS

The Government of the United States of America and the Imperial Government of Iran:

Desiring to promote further mutual understanding between the peoples of the United States of America and Iran by a wider exchange of knowledge and professional talents through educational contacts;

Have agreed as follows:

ARTICLE 1

There shall be established a Commission to be known as the United States Commission for Cultural Exchange between Iran and the United States (hereinafter designated "the Commission"), which shall be recognized by the Government of the United States of America and the Imperial Government of Iran as an organization created and established to facilitate the administration of an educational program to be financed by funds made available to the Commission by the Government of the United States of America.

Except as provided in ARTICLE 3 hereof, the Commission shall be exempt from the domestic and local laws of the United States of America as they relate to the use and expenditure of the funds for the purposes set forth in the present Agreement. With regard to the funds and credits, and property acquired by the Commission in furtherance of the purposes set forth in the present Agreement, the Imperial Government of Iran will make available all facilities needed by the Commission for its successful operation; and, in any event, will accord treatment not less favorable than the treatment accorded to similar foreign institutions in Iran.

The funds made available by the Government of the United States of America under the present Agreement, within the conditions and limitations hereinafter set forth, shall be used by the Commission or

such other instrumentality as may be agreed upon by the Government of the United States of America and the Imperial Government of Iran for the following purposes:

1. Financing studies, research, instruction, and other educational activities (i) of or for citizens and nationals of the United States of America in Iran, and (ii) of or for nationals of Iran in American schools and institutions of learning located in or outside the United States of America; and
2. Financing visits and interchanges between the United States of America and Iran of students, trainees, teachers, instructors, and professors; and
3. Financing such other related educational and cultural programs and activities as are provided for in budgets approved in accordance with ARTICLE 3 hereof.

ARTICLE 2

In furtherance of the aforementioned purposes the Commission may, subject to the provisions of the present Agreement, exercise all powers necessary to the carrying out of the purposes of this Agreement, including the following:

1. Authorize the Treasurer of the Commission or such other person as the Commission may designate to open and operate bank accounts in the Bank Melli Iran in the name of the Commission. The appointment of the Treasurer or such designee shall be approved by the Secretary of State.
2. Authorize the disbursement of funds and the making of grants and advances of funds for the approved purposes of this Agreement, including payment for transportation, tuition, maintenance and other expenses incident thereto.
3. Plan, adopt and carry out programs in accordance with the purposes of the present Agreement.
4. Acquire, hold, and dispose of property in the name of the Commission as the Commission may consider necessary or desirable, provided, however, that the acquisition of any real property shall be subject to the prevailing rules and regulations of the Imperial Government of Iran and prior approval of the Secretary of State.
5. Recommend to the Board of Foreign Scholarships of the United States of America, students, trainees, professors, research scholars, teachers, and instructors, resident in Iran, and institutions of Iran qualified to participate in the programs.
6. Recommend to the aforesaid Board of Foreign Scholarships such qualifications for the selection of participants in the programs as it may deem necessary for achieving the purpose and objectives of this Agreement.
7. Provide for periodic audits of the accounts of the Commission as directed by the auditors selected by the Secretary of State.

8. Engage an Executive Officer, and administrative and clerical staff, and fix and pay the salaries and wages thereof and incur other administrative expenses as may be deemed necessary out of the funds made available.

9. Administer or assist in administering or otherwise facilitate educational and cultural programs and activities that further the purposes of the present Agreement but are not financed by funds made available under this Agreement, provided, however, that such programs and activities and the Commission's role therein shall be fully described in annual or special reports made to the Secretary of State and to the Imperial Government of Iran as provided in ARTICLE 6 hereof, and provided that no objection is interposed by either the Secretary of State or the Imperial Government of Iran to the Commission's actual or proposed role therein.

ARTICLE 3

All commitments, obligations and expenditures authorized by the Commission shall be made in accordance with an annual budget, to be approved by the Secretary of State.

ARTICLE 4

The Commission shall consist of eight members, four of whom shall be citizens of Iran and the other four citizens of the United States of America, and they shall serve one year, and shall be eligible for reappointment. The principal officer in charge of the Diplomatic Mission of the United States of America to Iran shall be honorary chairman of the Commission. He shall have the power of appointment and removal of the American members, and may cast the deciding vote in case of a tie. The Iranian members on the Commission shall be appointed and designated by the Iranian Ministry of Education. A chairman with voting power shall be selected by the Commission from among its members. Meetings of the Commission shall not be considered valid unless at least two Iranian members are present. The members shall serve without compensation but the Commission may authorize the payment of the necessary expenses of the members in attending the meetings of the Commission. Vacancies created by reason of transfer, resignation, or otherwise, shall be filled in the same manner as the original appointment.

ARTICLE 5

The Commission shall adopt such rules and appoint such committees as it shall deem necessary for the conduct of its affairs.

ARTICLE 6

Reports, prepared in a form and with a content which conform to the regulations prescribed by the Secretary of State, shall be submitted annually on the activities of the Commission, to the Iranian Ministry

of Foreign Affairs and the Secretary of State. Special reports may be made more often at the discretion of the Commission or at the request of either the Iranian Ministry of Foreign Affairs or the Secretary of State.

ARTICLE 7

The principal office of the Commission shall be in Tehran but meetings of the Commission and any of its committees may be held in such other places as the Commission may from time to time determine and the activities of any of the Commission's officers or staff may be carried on at such places as may be approved by the Commission.

ARTICLE 8

The Government of the United States of America and the Imperial Government of Iran agree that there may be used for the purposes of this Agreement any funds, including the equivalent of not less than $600,000 in the currency of Iran, held or available for expenditure by the Government of the United States of America for such purposes.

The performance of this Agreement shall be subject to the availability of appropriations to the Secretary of State when required by the laws of the United States of America.

ARTICLE 9

Whenever in the present Agreement the term "Secretary of State" is used, it shall be understood to mean the Secretary of State of the United States of America or any officer or employee of the Government of the United States of America designated by him to act in his behalf.

ARTICLE 10

The present Agreement may be amended by the exchange of diplomatic notes between the Government of the United States of America and the Imperial Government of Iran.

ARTICLE 11

The Government of the United States of America and the Imperial Government of Iran shall make every effort to facilitate the carrying out of the present Agreement and to resolve the problems which may arise in the operation thereof.

United States citizens employed by the Commission, United States grantees engaged in educational and cultural activities and accompanying members of their families shall be exempt from Iranian income taxes, duties or other charges as follows:

A. The Commission shall be entitled to import up to three vehicles which shall be exempt from customs duties and other taxes for three years. Should the Commission, after the expiration of the above-

Annex 12

mentioned period, decide to sell such vehicles it should pay the due taxes and customs duties at the current rate.

B. The Commission may import free from customs duties, directly or indirectly, needed cigarettes, alcoholic liquors and foodstuffs in such quantity as authorized for a head of Diplomatic Mission, as determined by the Protocol Department of the Ministry of Foreign Affairs.

C. United States citizens employed by the Commission and United States grantees, as well as the accompanying members of their families, shall be exempt from income taxes and other similar taxes with respect of salaries and allowances received from the funds of the Commission. Income derived from any other Iranian source shall be subject to current Iranian rules and regulations.

D. United States citizens employed by the Commission and United States grantees shall not need work permits to obtain or renew residence permits.

ARTICLE 12

The present Agreement supersedes the Agreement between the Government of the United States of America and the Imperial Government of Iran signed at Tehran on September 1, 1949, as amended.[1]

The present Agreement shall come into force upon the date of signature.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorized by their respective Governments, have signed the present Agreement.

DONE this 24th day of October, 1963, in duplicate at Tehran, in the English and Persian languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA.

J C HOLMES

Julius C. Holmes
Ambassador of the United States of America
Tehran

[SEAL]

FOR THE IMPERIAL GOVERNMENT OF IRAN.

A. ARAM

Abbas Aram
Minister of Foreign Affairs

[1] TIAS 1973, 3956, 4824; 63 Stat. (pt. 3) 2685; 8 UST 2393; 12 UST 1127.

متبوع خود هستند این موافقتنامه را امضاء کردند .

این موافقتنامه در دو نسخه انگلیسی و فارسی که هر دو متن متساویا" اعتبار دارند در تاریخ زیر تنظیم گشت .

تهران بتاریخ دوم آبان ۱۳۴۲ مطابق با ۲۴ اکتبر ۱۹۶۳

ازطرف دولت ایالات متحده امریکا

جولیوس . سی . هولمز

سفیرکبیر دولت ایالات متحده

امریکا در تهران

[SEAL]

ازطرف دولت شاهنشاهی ایران

عباس آرام

وزیر امورخارجه

TIAS 5451

سپس مبادرت به واگذاری ان نماید .

ب ـ باتشخیص اداره تشریفات وزارت امورخارجه دفتر کمیسیون میتواند سیگار و مشروب ومواد غذائی مورد احتیاج خود راکه میزان ان از مقداری کمتر یک رئیس ماموریت در سفارتخانه ها داده میشود تجاوز ننماید بدون پرداخت حقوق گمرکی مستقیما" و یا غیر مستقیم وارد نماید .

ج ـ اتباع امریکا که باستخدام دفتر کمیسیون درامده اند و همچنین اتباع امریکائی استفاده کننده ازبورسهای مورد بحث در این موافقتنامه و افراد خانواده ایشان که همراهشان هستند نسبت به حقوق و فوق العاده و مزایائی که از وجوه کمیسیون دریافت میدارند از پرداخت مالیات بر درآمد و دیگر مالیات های مشابه معاف خواهند بود ودرغیر اینصورت اینگونه فعالیتها و عوائد حاصله ازان مشمول مقررات و قوانین جاری ایران خواهد شد .

د ـ اتباع امریکا که باستخدام دفتر کمیسیون درامده اند و همچنین اتباع امریکائی استفاده کننده ازبورسهای مورد بحث در این موافقتنامه برای صدور و یا تمدید پروانه اقامت احتیاجی به اخذ پروانه کار نخواهند داشت .

ماده دوازدهم

این موافقتنامه جایگزین موافقتنامه ای است که در تاریخ اول سپتامبر ۱۹۴۹ توسط دولت شاهنشاهی ایران و دولت ایالات متحده امریکا درتهران امضاء گردیده و بعدا" اصلاح شده است.

این موافقتنامه ازتاریخ امضاء اعتبارخواهد داشت

در تائید مراتب بالا امضاء کنندگان زیر که نمایندگان تام الاختیار دول

Annex 12

انجام این موافقتنامه منوط بر ان است که چنانچه طبق قوانین ایالات متحده امریکا لازم شمرده شود بودجه مربوطه در اختیار وزیرامورخارجه ایالات متحده قرارگیرد .

ماده نهم

مقصود از وزیر امور خارجه در هرجا که در این موافقتنامه ذکر شده وزیرامور خارجه ایالات متحده امریکا یاصاحب منصب یا کارمند دولت ایالات متحده امریکا است که نامبرده تعیین نماید و ازطرف وی عمل کند .

ماده دهم

این موافقتنامه رامیتوان بوسیله مبادله یادداشتهائی بین دولت ایالات متحده امریکا و دولت شاهنشاهی ایران اصلاح کرد .

ماده یازدهم

دولت شاهنشاهی ایران و دولت ایالات متحده امریکا جهت تسهیل اجرای این موافقتنامه و حل مسائلی که ممکن است ضمن اجرای ان پیش اید هردونمجاهدتی رامبذول خواهند داشت.

دفتر کمیسیون واتباع دولت امریکا که در ان دفتر انجام وظیفه مینمایند وهمچنین کاراموزان تبعه ایالات متحده امریکا که بااستفاده از بورسهای پیش بینی شده در این موافقتنامه بفعالیتهای تربیتی و فرهنگی میپردازند وافراد خانواده ایشان که همراه انها هستند بشرح زیر ازپرداخت مالیات بر درامد وحقوق گمرکی وعوارض معاف خواهند بود :

الف ــ دفتر کمیسیون میتواند تاسه اتومبیل برای استفاده خود بدون پرداخت حقوق وعوارض گمرکی وسایر مالیاتها بایران وارد نماید مشروط بر اینکه اتومبیل های مزبور قبل ازانقضای سه سال بفروش نرسند ودر صورت تصمیم بفروش میتواند بعد از انقضای سه سال حقوق وعوارض گمرکی ودیگر مالیاتهای انرا به نرخ روز پرداخته و

Annex 12

کمیسیون را ترک کنند بهمان ترتیب انتصاب اصلی خواهد بود .

ماده پنجم

کمیسیون برای انجام امور خود مقرراتی را که لازم بداند وضع و کمیته هائی را منصوب خواهد نمود .

ماده ششم

هرسال گزارشهائی در زمینه فعالیت های کمیسیون به وزارت امور خارجه ایران و وزیرامورخارجه ایالات متحده تسلیم خواهد شد . طرز تنظیم و مفاد این گزارشات طبق مقررات مصوب وزیر خارجه ایالات متحده خواهد بود . کمیسیون میتواند بنا بتشخیص خود یا بنا بتقاضای وزارت امور خارجه ایران یا وزیر امورخارجه ایالات متحده هر سال چند گزارش ویژه تهیه وارسال نماید .

ماده هفتم

دفتر اصلی کمیسیون در تهران خواهد بود ولی جلسات کمیسیون یا کمیته های آن ممکن است در نقاط دیگری که کمیسیون در هر مورد معین خواهد کرد انعقاد یابد و نیز ممکن است فعالیتهای هر یك ازاعضای کمیسیون یا کارمندان در هر محلی که کمیسیون تصویب نماید صورت پذیرد .

ماده هشتم

دولت شاهنشاهی ایران و دولت ایالات متحده امریکا توافق مینمایند که برای مقاصد مندرج در این موافقتنامه هرگونه وجوهی که جهت مقاصد مزبور در نزد و یا در اختیار دولت ایالات متحده امریکا است بمصرف برسد و ازجمله وجوه ریالی که کمتر از معادل ۶۰۰ هزار دلار نباشد .

Annex 12

درانها طی گزارشهای سالیانه یا جداگانه که بنا بر مفاد ماده ٦ این موافقتنامه بوزیر امور خارجه امریکا و دولت شاهنشاهی ایران داده میشود مشخص کردد و همچنین مشروط براینکه از طرف وزیر خارجه امریکا و یا دولت شاهنشاهی ایران مخالفتی با نقش کمیسیون در این برنامه ها ابراز نکردد .

ماده سوم

کلیه تعهدات و مسئولیتهای مالی و مخارج و مصارف مصوب از طرف کمیسیون برطبق بودجه سالیانه ای انجام میکیرد که وزیر خارجه ایالات متحده انرا تصویب کند .

ماده چهارم

کمیسیون مرکب از هشت عضو خواهد بود که چهار نفر انها تبعه ایران و چهار نفر دیکر از اتباع ایالات متحده امریکا باشند . مدت خدمت این اعضاء یکسال است و قابل انتخاب مجدد خواهند بود .

رئیس هیئت نمایندگی سیاسی ایالات متحده در ایران ریاست افتخاری کمیسیون را بعهده خواهد داشت ونصب وعزل اعضای امریکائی از اختیارات او خواهد بود و در صورت تساوی اراء میتواند رای قاطع رابدهد . اعضای ایرانی کمیسیون ازطرف وزارت فرهنگ تعیین و منصوب خواهند شد ــ کمیسیون از بین اعضای خود شخصی رابعنوان رئیسی که حق رای خواهد داشت انتخاب میکند وجلسات کمیسیون بدون حضورحداقل دو نفر نمایندکان ایرانی رسمیت نخواهد داشت .

اعضای کمیسیون بدون حقوق وپاداش خدمت خواهند کرد ولی کمیسیون میتواند اجازه پرداخت مخارج لازمی راکه اعضاء برای شرکت در جلسات کمیسیون متحمل میشوند بدهد .

انتصاب جانشین هرعضو کمیسیون که بعلت انتقال یااستعفا یا علل دیکرعضویت

Annex 12

۲ ــ پرداخت وجوه یا اعطای کمکهای نقدی یا دادن پیش پرداخت ها برای مقاصد مصوب در این موافقتنامه منجمله پرداخت مخارج حمل ونقل ــ حق التعلیم ــ مخارج نگاهداری اموال و سایر مخارج ناشیه از این امور را اجازه دهد .

۳ ــ در اجرای مقاصد این موافقتنامه برنامه های لازم را طرح و تصویب و بمورد اجرا گذارد .

٤ ــ بهر نحوی که کمیسیون لازم و یا مطلوب بداند اموالی را بنام کمیسیون تحصیل و نگاهداری و مورد استفاده قرار دهد مشروط بر انکه تحصیل هرگونه اموال غیر منقول با در نظر گرفتن مقررات جاریه ایران به تصویب قبلی وزیر امور خارجه ایالات متحده برسد .

٥ ــ محصلین و کاراموزان واستادان و محققان و معلمان و مربیان مقیم ایران وهمچنین موسسات ایرانی راکه برای شرکت در برنامه ها واجد شرایط هستند به هیئت بورسهای فرهنگی خارجی ایالات متحده معرفی وتوصیه کند .

٦ ــ بمنظور انجام مقاصد و هدفهای این موافقتنامه خصوصیات مربوط بانتخاب شرکت کنندگان در برنامه ها را بنحوی که لازم تشخیص دهد بهیئت بورسهای فرهنگی خارجی فوق الذکر توصیه نماید .

۷ ــ موجبات ممیزی متناوب حسابهای کمیسیون را طبق تعلیمات حسابداران منتخب وزیر امور خارجه امریکا فراهم سازد .

۸ ــ مدیر عامل و کارمندان اداری و دفتری را استخدام و حقوق و دستمزد انها را تعیین وپرداخت نماید همچنین سایر مخارج اداری را که لازم بداند از محل وجوهی که در اختیار کمیسیون قرار میگیرد بپردازد .

۹ ــ درمورد برنامه ها و فعالیتهای اموزشی و فرهنگی که در پیشرفت مقاصد و هدفهای این موافقتنامه موثر است ولی مخارج انها از محل وجوهی که طبق این موافقتنامه در اختیار گذاشته شود تامین نمیگردد کمیسیون میتواند در اجرا و یا کمک در اجرای این قبیل برنامه ها اقدام نماید مشروط بر اینکه این برنامه ها و فعالیتها ونقش کمیسیون

Annex 12

مشابه در ایـــران بعمل میاید ـ وجوهی که از طرف دولت ایالات متحده امریکا طبق این موافقتنامـــه و تحت شرائط و حدود پیش‌بینی شـــده در این موافقتنامه در اختیـــار (کمیسیـــون) گذاشته میشود بوسیله کمیسیون یا دستگاه مشابه دیگری که ممکن است بین دولت شاهنشاهـــی و دولت ایالات متحده مورد توافق قرارگیـــرد برای مقاصد زیر بمصرف خواهد رسید ·

۱ ـ تامین مخارج مطالعه و تحقیق و تعلیم و سایر فعالیتهای فرهنگی که بوسیله خود اتباع ایالات متحـــده امریکا و یا بنمایندگی ازطرف انها در ایـــران انجام میگیـــرد وهمچنین تامین مخارج مطالعه و تحقیق و تعلیم وسایرفعالیتهای فرهنگی که بوسیله خود اتباع ایران و یا بنمایندگی از طرف انها در مدارس‌وموسسات تعلیماتـــی امریکائی واقع در داخل یا خارج ایالات متحـــده امریکا صورت میگیـــرد ·

۲ ـ تامیـــن مخارج بازدیدها و مبادله محصلین ـ کاراموزان ـ معلمان مربیان و استادان بین ایران وایالات متحده امریکا ·

۳ ـ تامین مخارج سایر برنامه هـــای‌اموزشی و فرهنگی و فعالیتهائی‌که بموجب بودجه ای که طبق ماده ۳ ذیل بتصویب میرسد پیش‌بینی شده است·

ماده دوم

برای پیشرفت مقاصد فوق‌الذکر کمیسیون میتواند در حـــدود مقررات‌این‌موافقتنامه از کلیـــه اختیارات لازم برای اجرای مقاصـــد این موافقتنامه استفاده نماید ازجمله:

۱ ـ بخزانه دار کمیســـیون و یا شخص‌دیگـــری که ممکن است از طرف کمیسیون تعیین شـــود اجازه دهد که در بانك ملی ایران حسابهائـــی بنام کمیســـیون باز و در ان عمل کنـــد · انتصاب‌خزانه دار یا شخص‌دیگـــری که بدین منظور معین میشـــود بتصویب وزیر خارجه ایالات متحـــده امریکا خواهد رسید ·

Annex 12

موافقتنـــــامه بین

دولت ایالات متحـــده امریکا

ودولتشاهنشاهی ایران

برای تامین هزینههای بعضی ازبرنامههای مبادلات فرهنگی

دولتین ایالات متحـــده امریکا وایران که مایلند بمنظور ایجاد تفاهم متقـــابل بیشتر بین ملت ایالات متحـــده امریکا و ملت ایران ازطریق ارتباطات فرهنگی مبادلات بین دو کشور را در زمینه های دانش واستعدادهای حرفه ای توسعه دهند به ترتیب زیر موافقت حاصل نمودند :

ماده اول

کمیسیونی بنام "کمیسیون ایالات متحـــده امریکا برای مبادلات فرهنگی بین ایـران و امریکا" (که ازاین پس بنام کمیسیون خوانده خواهد شـــد) تشکیل میشود .این کمیسیون ازطرف دولت شاهنشاهی ایران و دولت ایالات متحده امریکا بعنـــوان سازمانی برسمیت شناخته خواهد شد که منظور ازایجاد وتاسیس ان تسهیل در اجرای یك برنامه فرهنـــگی است ومخارج ان از وجوهی که ازطرف دولت ایالات متحده امریکا در اختیار کمیسیون گذاشته میشود تامین میگردد .

باستثنای موارد پیش‌بینی شده در ماده ۳ این موافقتنامه کمیسیون در مـــورد خـــرج و استفاده از وجوه مزبور برای مقاصد منظور در این موافقتنامه از قوانین داخل و محلی ایالات متحده امریکا معاف خواهد بود .

دولت شاهنشاهـــی ایران نسبت به وجوه و اعتبارات و اموالی که بمنظور پیشرفت مقاصد منـــدرج در این موافقتنامه از طرف کمیسیون تحصیل میگـــردد کلیه تسهیلاتی را کـــه کمیسیون برای توفیق در عملیات خود نیازمنـــد است فراهم خواهد کرد و در هـــر مورد رفتاری معمول نخواهـــد داشت که نامساعدتر از رفتاری باشد که نسبت به موسسات خارجی

Annex 12

MULTILATERAL

Declaration Respecting the Baghdad Pact

Signed at London July 28, 1958;
Entered into force July 28, 1958.

Declaration

1. The members of the Baghdad Pact [1] attending the Ministerial meeting in London have re-examined their position in the light of recent events and conclude that the need which called the Pact into being is greater than ever. These members declare their determination to maintain their collective security and to resist aggression, direct or indirect.

2. Under the Pact collective security arrangements have been instituted. Joint military planning has been advanced and area economic projects have been promoted. Relationships are being established with other free world nations associated for collective security.

3. The question of whether substantive alterations should be made in the Pact and its organisation or whether the Pact will be continued in its present form is under consideration by the Governments concerned. However, the nations represented at the meeting in London reaffirmed their determination to strengthen further their united defence posture in the area.

4. Article 1 of the Pact of Mutual Co-operation signed at Baghdad on February 24, 1955 [1] provides that the parties will co-operate for their security and defence and that such measures as they agree to take to give effect to this co-operation may form the subject of special agreements. Similarly, the United States in the interest of world peace, and pursuant to existing Congressional authorization, agrees to co-operate with the nations making this Declaration for their security and defence, and will promptly enter into agreements designed to give effect to this co-operation.

[1] British Command 9429, Miscellaneous No. 5 (1955).

Made and signed at Lancaster House, London, on the twenty-eighth day of July, 1958, in five copies.

For the United States of America
JOHN FOSTER DULLES

For Iran
M EGHBAL

For Pakistan
FIROZ KHAN NOON

For Turkey
A. MENDERES

For the United Kingdom of Great Britain
and Northern Ireland
HAROLD MACMILLAN

IRAN

Cooperation

Agreement signed at Ankara March 5, 1959;
Entered into force March 5, 1959.

AGREEMENT OF COOPERATION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE IMPERIAL GOVERNMENT OF IRAN

The Government of the United States of America and the Imperial Government of Iran,

Desiring to implement the Declaration in which they associated themselves at London on July 28, 1958; [1]

Considering that under Article I of the Pact of Mutual Cooperation signed at Baghdad on February 24, 1955, [2] the parties signatory thereto agreed to cooperate for their security and defense, and that, similarly, as stated in the above-mentioned Declaration, the Government of the United States of America, in the interest of world peace, agreed to cooperate with the Governments making that Declaration for their security and defense;

Recalling that, in the above-mentioned Declaration, the members of the Pact of Mutual Cooperation making that Declaration affirmed their determination to maintain their collective security and to resist aggression, direct or indirect;

Considering further that the Government of the United States of America is associated with the work of the major committees of the Pact of Mutual Cooperation signed at Baghdad on February 24, 1955;

Desiring to strengthen peace in accordance with the principles of the Charter of the United Nations; [3]

Affirming their right to cooperate for their security and defense in accordance with Article 51 of the Charter of the United Nations;

Considering that the Government of the United States of America regards as vital to its national interest and to world peace the preservation of the independence and integrity of Iran;

---

[1] TIAS 4084; 9 UST 1077.
[2] British Command 9429, Miscellaneous No. 5 (1955).
[3] TS 993; 59 Stat. 1031.

Recognizing the authorization to furnish appropriate assistance granted to the President of the United States of America by the Congress of the United States of America in the Mutual Security Act of 1954, [1] as amended, and in the Joint Resolution to Promote Peace and Stability in the Middle East; [2] and

Considering that similar agreements are being entered into by the Government of the United States of America and the Governments of Turkey and Pakistan, respectively,

Have agreed as follows:

Article I

The Imperial Government of Iran is determined to resist aggression. In case of aggression against Iran, the Government of the United States of America, in accordance with the Constitution of the United States of America, will take such appropriate action, including the use of armed forces, as may be mutually agreed upon and as is envisaged in the Joint Resolution to Promote Peace and Stability in the Middle East, in order to assist the Government of Iran at its request.

Article II

The Government of the United States of America, in accordance with the Mutual Security Act of 1954, as amended, and related laws of the United States of America, and with applicable agreements heretofore or hereafter entered into between the Government of the United States of America and the Government of Iran, reaffirms that it will continue to furnish the Government of Iran such military and economic assistance as may be mutually agreed upon between the Government of the United States of America and the Government of Iran, in order to assist the Government of Iran in the preservation of its national independence and integrity and in the effective promotion of its economic development.

Article III

The Imperial Government of Iran undertakes to utilize such military and economic assistance as may be provided by the Government of the United States of America in a manner consonant with the aims and purposes set forth by the Governments associated in the Declaration signed at London on July 28, 1958, and for the purpose of effectively promoting the economic development of Iran and of preserving its national independence and integrity.

---

[1] 68 Stat. 832; 22 U.S.C. § 1751 note.

[2] 71 Stat. 5; 22 U.S.C. §§ 1961–1965.

Annex 14

ARTICLE IV

The Government of the United States of America and the Government of Iran will cooperate with the other Governments associated in the Declaration signed at London on July 28, 1958, in order to prepare and participate in such defensive arrangements as may be mutually agreed to be desirable, subject to the other applicable provisions of this agreement.

ARTICLE V

The provisions of the present agreement do not affect the cooperation between the two Governments as envisaged in other international agreements or arrangements.

ARTICLE VI

This agreement shall enter into force upon the date of its signature and shall continue in force until one year after the receipt by either Government of written notice of the intention of the other Government to terminate the agreement.

Done in duplicate at Ankara, this fifth day of March, 1959.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:	FOR THE IMPERIAL GOVERNMENT OF IRAN:
FLETCHER WARREN.	Général HASSAN ARFA
Fletcher Warren	General Hassan Arfa
[SEAL]	[SEAL]

Annex 14

IRAN

Remote Sensing: Acquisition of Satellite Data

Memorandum of understanding signed at Washington and Tehran July 25 and October 29, 1974;
Entered into force October 29, 1974.

MEMORANDUM OF UNDERSTANDING BETWEEN THE PLAN AND BUDGET ORGANIZATION OF THE IMPERIAL GOVERNMENT OF IRAN AND THE UNITED STATES NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA)

1. The purposes of this agreement are to set forth the responsibilities of the parties and the procedures for providing for (a) direct access, by a ground station to be built and operated in Iran by The Plan and Budget Organization, to NASA ERTS–1 and ERTS–B satellite data and to the data from any future ERTS experimental satellites which NASA may launch, and (b) availability to NASA of data acquired by the Iranian station pursuant to (a) above, subject to the provisions which follow.

2. For its part, the Plan and Budget Organization will use its best efforts to:

(a) Develop and operate a facility in the Greater Tehran Area for acquisition and processing of ERTS data as well as other data of interest to the Plan and Budget Organization entirely at its own cost, including the cost of the necessary communication links with the NASA ERTS OCC/NDPF (Operations Control Center/NASA Data Processing Facility) at the Goddard Space Flight Center.

(b) Provide during Phase B, as described below, processed data to ERTS Principal Investigators duly selected by NASA whose test sites are in range of the Iranian data acquisition station for the period of coverage promised to them and under the same conditions as NASA provides data to Principal Investigators. Should another country in the region establish ERTS facilities, the Plan and Budget Organization's obligation to provide data to Principal Investigators in that country will terminate as soon as the new facilities are capable of providing this service. The Plan and Budget Organization will continue to serve Principal Investigators in countries within range of the Tehran station which do not have ERTS facilities unless and until alternative arrangements are concluded.

(c) Provide, to the best of its ability, any support requested by NASA in a spacecraft emergency condition, such as the provision of data indicated in paragraph 2(e) below should the on-board tape recorders fail.

(d) Provide quarterly reports in English to NASA on the progress and results of the Plan and Budget Organization's experimental program with respect especially to the ability to apply data and analyses obtained to real-time decision making, and the principal applications made.

(e) Make available to NASA, on a cost-free basis and in the NASA-preferred format (negative imagery format with identifying annotation) such copies of the ERTS data it acquires and processes as NASA may request in reasonable quantities (except in emergency conditions as noted in paragraph 2(c) above). These data provided to NASA by the Plan and Budget Organization will be made available to the public from U.S. sources on precisely the same terms as data acquired directly by NASA. These provisions apply as well to selected duplicate compatible tapes. Public requests (for data) from the area covered by the Tehran station will be referred as appropriate to the Plan and Budget Organization or to other regional facilities which may be established in the area. Coordination among such facilities would be highly desirable.

(f) Include as output data from the Tehran station Computer Compatible Tapes (CCT's) and 70mm roll film.

3. For its part, NASA will use its best efforts to:

(a) Program ERTS–1 and any subsequent experimental ERTS-type satellites to acquire data in areas accessible for direct read-out by the Iranian station. The frequency of such programming will be subject to mutual agreement by the Project Managers (see below). It will be limited to test purposes in Phase A and expanded as agreed in Phase B.

(b) Provide to the Plan and Budget Organization as necessary antenna pointing elements for acquisition of the ERTS spacecraft transmitted signal and updated definitive orbital information for use in processing the data.

(c) Process, on time-available basis and as may be agreed by the Project Managers, a limited number of data tapes acquired by the Iranian station in Phase A for initial evaluation and calibration of the station's performance.

(d) Provide, during Phase A, ERTS data to any NASA-selected Iranian Principal Investigators to the extent of the time-coverage promised for them.

(e) Make available, for comparison purposes, a limited number of selected NASA data tapes covering portions of the area accessible to the Tehran station.

(f) Keep the Plan and Budget Organization informed of other prospective ERTS facilities in the area so that regional coordination can be effected.

Annex 15

4. The course of the project will be divided into two phases. Phase A is for the test and checkout of the Tehran station. Phase B is for the following period of routine data acquisition and processing at the Tehran station. Phase A will begin when the Project Managers agree on the readiness of the technical and operational interfaces required to carry out the project and on a schedule for accomplishing Phase A and B. Phase A will be concluded and Phase B begun by mutual agreement of the Project Managers.

5. To implement the agreement, the Plan and Budget Organization and NASA will each designate Project Managers to be responsible for coordinating the agreed functions and responsibilities of each side with the other. The Project Managers will be co-chairman of a Joint Working Group (JWG) which will be the principal instrument for assuring the execution of the project and for keeping both sides continuously informed of the project status. The Joint Working Group may establish such committees as required to carry out the project.

6. The following additional understandings are confirmed:

(a) The Plan and Budget Organization will resolve any radio frequency difficulties in the region to the satisfaction of the parties concerned so this cooperation can proceed without difficulty.

(b) The responsibility for spacecraft control, health and status will remain with NASA throughout the program.

(c) There will be no exchange of funds between the Plan and Budget Organization and NASA for ERTS–1 operations. This agreement assures the Plan and Budget Organization access to the ERTS–B satellite throughout its design life of one year without charge by NASA. It is understood, however, that NASA may thereafter establish some cost-sharing arrangement, such as users' fees, for participating ground stations.

(d) It is understood at this stage that NASA cannot make a firm commitment for future ERTS-type satellites.

(e) Decisions taken by the International Telecommunications Union require that radio frequencies for future operational ERTS satellites will differ from those currently used for experimental satellites.

(f) It is understood that the Plan and Budget Organization and the other Iranian agencies participating in the program will pursue an ERTS open-data policy comparable to that of NASA and other U.S. agencies participating in the program, particularly with respect to the public availability of data. The Plan and Budget Organization will thus ensure unrestricted public availability of the earth resources satellite data at a fair and reasonable charge based on actual cost.

(g) Training and exchange of technical personnel will take place as mutually agreed.

(h) The Plan and Budget Organization and NASA will freely share and exchange data and technical information as mutually agreed and consistent with the laws and regulations of the two countries.

Annex 15

(i) It is understood that this project is experimental in character and subject to change in accordance with changes in technical requirements and opportunities.

(j) The Plan and Budget Organization and NASA may each release general information to the public regarding the conduct of their own portion of the project as desired and, insofar as participation of the other agency is concerned, after suitable coordination.

(k) The Plan and Budget Organization and NASA will assure that the project is appropriately recorded in still and motion picture photography and that the photography is made available to the other agency upon request for public information purposes.

(l) It is understood that the ability of the Plan and Budget Organization and NASA to carry out the responsibilities of this agreement is subject to the availability of appropriated funds.

7. This Memorandum of Understanding shall enter into force upon signature by the Plan and Budget Organization and NASA and shall continue in force for four years, subject to extension as may be agreed by the Plan and Budget Organization and NASA.

FOR THE PLAN AND BUDGET ORGANIZATION

A. M. MAJIDI

A. M. Majidi, *Minister of State and Director of the Plan and Budget Organization*

Date *Oct. 29, 1974*

FOR THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

JAMES C. FLETCHER

James C. Fletcher
Administrator

Date *7/25/74*

RICHARD HELMS

Richard Helms, *Ambassador*

IRAN

Civil Emergency Preparedness

Memorandum of understanding signed at Tehran November 22, 1975;
Entered into force November 22, 1975.

Memorandum of Understanding
Between the
Government of Iran
Imperial Iranian Army
and the
Government of the
United States of America
General Services Administration
Federal Preparedness Agency

PREAMBLE

Throughout late 1974 and 1975, representatives of the Supreme Commander's Staff, Imperial Iranian Army, Government of Iran, and the Federal Preparedness Agency, General Services Administration, Government of the United States of America, have conducted a series of exchanges concerning a program of cooperation between the Imperial Iranian Armed Forces and the Federal Preparedness Agency that would provide advisory technical assistance to the Imperial Iranian Armed Forces in organizing all aspects of its civil emergency preparedness capability.

I. PURPOSE OF THE MEMORANDUM OF UNDERSTANDING

Under this Memorandum of Understanding between the Government of Iran, Imperial Iranian Army, hereinafter referred to as the IIA, and the Government of the United States of America, General Services Administration, Federal Preparedness Agency, hereinafter referred to as the FPA, the FPA will provide advisory technical assistance in the form of consultants to the IIA in several emergency preparedness areas, to include the fields of mobilization, national readiness, and non-military defense, comprising, overall, the civil emergency preparedness capability of the Government of Iran.

II. SERVICES TO BE PROVIDED

The FPA is prepared to share its experience and place it at the disposal of the IIA and to assign the requisite temporary duty consultative personnel to a study/working group chaired by an Iranian official and consisting of personnel of both nationalities, organized by and under the direct guidance and supervision of the Supreme Commander's staff. The purpose of the study/working group will be to:

(1) develop a clear conceptual statement of the overall mission to be accomplished in all aspects of civil emergency preparedness (CEP);

(2) develop an organizational structure to carry out the mission;

(3) review the basic CEP tasks to be assigned to specific offices, ministries and agencies and recommend modifications to existing agencies, as appropriate;

(4) develop clear guidelines governing the relationships between elements of the government concerned with CEP to include the kind and degree of authority needed to coordinate and implement the total CEP effort;

(5) assess the adequacy of existing authorities to deal with all potential contingencies, review the delegations of authority for compatibility with organizational arrangements and recommend modification, as appropriate;

(6) recommend an approach to personnel requirements and training to carry out CEP functions;

(7) outline a definitive time-phased program for the development of an effective CEP capability to include implementation of the measures proposed.

The FPA will provide the necessary technically competent personnel (estimated to be 30 man months) to be integrated into the Iranian-directed study/working group. Consultants are expected to be thoroughly familiar with the CEP operations of the FPA, the Defense Civil Preparedness Agency, and the Federal Disaster Assistance Administration.

The IIA will organize a study/working group consisting of personnel of both nationalities and will provide overall policy guidance and operating instructions directly to the study/working group.

III. PERSONNEL

To provide the foregoing services, the FPA expects to assign personnel for a total of thirty man months, whose combined qualifications will include expertise in the following areas: national security affairs; continuity of

government; economic evaluation; resource management; disaster relief; and civil defense. The numbers of personnel assigned to Iran at any one time is expected to approximate the thirty man months figure.

IV. ESTIMATED COSTS

Estimated costs associated with the advisory technical assistance, as discussed with the IIA, total $171,384.80 and are broken down as follows: salaries (six months basis), $83,000; transportation (to and from Iran and in-country), $20,000; per diem, $49,500; incidental costs (rental of in-country transportation, with driver. etc.), $15,000; pre-trip preparations, $3,884.80.

These are the best estimates that the FPA can develop at this time. They may be more or less than the actual expenses which the consultants may entail as part of the group composed of both U. S. and Iranian nationals participating in the Iranian-directed planning effort.

All expenses incurred in the performance of services in connection with the advisory technical assistance program which are to be performed by the FPA will be paid or reimbursed by the IIA. Such expenses shall include cost of salaries, transportation and traveling expenses, and all other properly reimbursable expenses incurred in the performance of such services. All such expenses incurred and reimbursement claimed will be in accordance with applicable United States statutes and regulations.

The compensation of consultative personnel will include salary or fee applicable at the time of payment of the same, per diem as prescribed by applicable United States statutes and regulations in force at the time of payment of the same, and travel expenses from point of residence to Iran and return.

If expenses exceed the estimated figures, the IIA will be expected to defray them, since the FPA is merely providing consultants and a mechanism through which payments to the consultants are made.

V. METHOD OF REIMBURSEMENT FOR COSTS

The compensation for all services provided to the IIA in connection with this Memorandum of Understanding will be paid by the FPA from funds advanced by the IIA. The IIA will provide the amount of the estimated costs, or one hundred seventy-one thousand, three hundred eighty-four and eighty one-hundredths dollars (Dols. 171,384.80), by means of a bank draft in U. S. dollars, payable to the Federal Preparedness Agency, General Services Administration. The FPA will create a dollar working fund in this amount and will control disbursements from this fund in accordance with this Memorandum of Understanding. The FPA will also provide the IIA with periodic reports on the status of the account.

The IIA will replenish the working fund, upon the request of the FPA and the agreement of the IIA, should costs incurred to the date of the request plus estimated costs required to complete the advisory technical assistance program exceed the amount already advanced by the IIA.

Any such requests will be accompanied by itemized statements setting forth all expenditures made from the fund which have not been reported in any previous itemized statement and by such supporting documents as the IIA may reasonably request. The amount of any such replenishment shall equal the amount by which the total of costs to date plus estimated costs to completion exceeds the amount previously advanced. If the IIA does not agree to a requested replenishment, the FPA is not obligated to provide the services estimated to be necessary to complete the advisory technical assistance program and will be reimbursed for any uncovered costs incurred prior to or because of termination.

Promptly following the last expenditure from the dollar working fund and completion of the advisory technical assistance program, the FPA will submit a final itemized statement setting out all expenditures made from the fund which have not been reported in any previous itemized statement and will return to the IIA any balance remaining in the fund after such last expenditure.

Annex 16

VI. EXEMPTIONS FROM LIABILITIES

The IIA agrees to hold the FPA and the Government of the United States of America harmless against any and all claims that may arise as a result of the technical services furnished under this Memorandum of Understanding.

The IIA will. on the basis of existing laws, cause the appropriate authorities of the Government of Iran to grant to American personnel assigned to Iran in connection with this advisory technical assistance program exemption from all Iranian taxes. In the absence of such exemption, the IIA will pay all such Iranian taxes as may be assessed.

VII. LOCAL SERVICES IN IRAN

The IIA will provide the following local services, to the extent necessary for the performance of the services envisioned in this Memorandum of Understanding, to personnel assigned in Iran in connection with the advisory technical services program: necessary office space and facilities; secretarial-clerical, translating, and other local office help; transportation for official business; assistance in obtaining any necessary local permits, licenses, et cetera; and other logistical support.

VIII. EFFECTIVE DATE

This Memorandum of Understanding shall enter into effect on the date upon which it has been signed by the Iranian Deputy Minister of War for the Imperial Iranian Army and the Director of the Federal Preparedness Agency, General Services Administration, and will remain in force until December 30, 1976. It may be renewed, amended, or extended by the mutual consent of the parties thereto. The Memorandum of Understanding may be terminated by either party thereto on sixty-days written notice; such termination will not, however, impair any obligations or commitments properly incurred under it by either party up to and including the effective date of termination.

United States of America
General Services Administration
Federal Preparedness Agency

BY: Leslie W. Bray, Jr.
LESLIE W. BRAY, JR.
Director

Government of Iran
Imperial Iranian Army

BY: Lt. Gen. M. Massumi

DATE: 22 November 1975

Annex 16

IRAN

Technical Cooperation

Agreement signed at Washington March 4, 1975;
Entered into force April 5, 1976.

AGREEMENT ON TECHNICAL COOPERATION BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND THE IMPERIAL GOVERNMENT OF IRAN

The Government of the United States of America, and the Imperial Government of Iran,

Desiring to expand and strengthen their friendly relations,

Confirming their mutual interest in the expansion of economic cooperation between the two countries,

Recognizing the importance of technical cooperation for the expansion of economic relations, and

Wishing to create the most appropriate conditions for the development of technical cooperation,

Have agreed as follows:

Article 1

The Contracting Parties undertake to develop technical cooperation, on the basis of mutual respect for sovereignty and noninterference in each other's domestic affairs.

Article 2

Technical cooperation as mentioned in Article 1 shall cover a wide variety of economic activities including industry, agriculture, social affairs, and the development of infrastructure, and may take the form of furnishing technical and training services, advisory personnel and the supply of related commodities and facilities, for the implementation of joint projects, as may be mutually agreed between the Contracting Parties.

Article 3

The Contracting Parties shall adopt mutually agreeable administrative, organizational and staff arrangements to facilitate implementation of this Agreement.

Article 4

The Contracting Parties or their agencies or ministries may enter into specific agreements to implement technical cooperation described in Article 2.

Annex 17

Article 5

The implementation agreements described in Article 4 will contain, inter alia, standard provisions on:

A. Advance payment, as mutually agreed upon for costs incurred in the technical cooperation described in Article 2 including costs of project development, program implementation, administrative and staff support and project termination;

B. Privileges and immunities, when applicable, of personnel assigned to engage in such technical cooperation in the territory of the other Contracting Party; and

C. Claims arising from such technical cooperation.

Article 6

When requested by either Contracting Party, representatives of both Contracting Parties shall meet to review progress toward achieving the purposes of this Agreement, and to negotiate solutions to any outstanding problems.

Annex 17

Article 7

This Agreement shall be inapplicable to agreements and transactions relating to the sale of defense articles and services by the Government of the United States to the Imperial Government of Iran.

Article 8

This Agreement shall enter into force on the date of an exchange of notes confirming this fact between the Contracting Parties. [1]

Article 9

This Agreement shall remain in effect for five years from the date it enters into force, subject to revision or extension, as mutually agreed, and may be terminated at any time by either Contracting Party by one hundred and eighty days' advance notice in writing.

Done in Washington in duplicate on March 4, 1975, both originals being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

[2]

FOR THE IMPERIAL GOVERNMENT OF IRAN:

[3]

[1] Apr. 5, 1976.
[2] Henry A. Kissinger
[3] Hushang Ansary

Annex 18

ALGIERS ACCORDS
January 19, 1981

DECLARATION OF THE GOVERNMENT OF THE DEMOCRATIC AND POPULAR REPUBLIC OF ALGERIA

The Government of the Democratic and Popular Republic of Algeria, having been requested by the Governments of the Islamic Republic of Iran and the United States of America to serve as an intermediary in seeking a mutually acceptable resolution of the crisis in their relations arising out of the detention of the 52 United States nationals in Iran, has consulted extensively with the two governments as to the commitments which each is willing to make in order to resolve the crisis within the framework of the four points stated in the resolution of November 2, 1980, of the Islamic Consultative Assembly of Iran. On the basis of formal adherences received from Iran and the United States, the Government of Algeria now declares that the following interdependent commitments have been made by the two governments:

General Principles

The undertakings reflected in this Declaration are based on the following general principles:

A. Within the framework of and pursuant to the provisions of the two Declarations of the Government of the Democratic and Popular Republic of Algeria, the United States will restore the financial position of Iran, in so far as possible, to that which existed prior to November 14, 1979.In this context, the United States commits itself to ensure the mobility and free transfer of all Iranian assets within its jurisdiction, as set forth in Paragraphs 4-9.

B. It is the purpose of both parties, within the framework of and pursuant to the provisions of the two Declarations of the Government of the Democratic and Popular Republic of Algeria, to terminate all litigation as between the Government of each party and the nationals of the other, and to bring about the settlement and termination of all such claims through binding arbitration. Through the procedures provided in the Declaration, relating to the Claims Settlement Agreement, the United States agrees to terminate all legal proceedings in United States courts involving claims of United States persons and institutions against Iran and its state enterprises, to nullify all attachments and judgments obtained therein, to prohibit all further litigation based on such claims, and to bring about the termination of such claims through binding arbitration.

Point I: Non-Intervention in Iranian Affairs

1. The United States pledges that it is and from now on will be the policy of the United States not to intervene, directly or indirectly, politically or militarily, in Iran's internal affairs.

Points II and III: Return of Iranian Assets and Settlement of U.S. Claims

2. Iran and the United States (hereinafter "the parties") will immediately select a mutually agreeable central bank (hereinafter "the Central Bank") to act, under the instructions of the Government of Algeria and the Central Bank of Algeria (hereinafter "The Algerian Central Bank") as depositary of the escrow and security funds hereinafter prescribed and will promptly enter into depositary arrangements with the Central Bank in accordance with the terms of this declaration. All funds placed in escrow with the Central Bank pursuant to this declaration shall be held in an account in the name of the Algerian Central Bank. Certain procedures for implementing the obligations set forth in this Declaration and in the Declaration of the Democratic and Popular Republic of Algeria concerning the settlement of claims by the Government of the United States and the Government of the Islamic Republic of Iran (hereinafter "the Claims Settlement Agreement") are separately set forth in certain Undertakings of the Government of the United States of America and the Government of the Islamic Republic of Iran with respect to the Declaration of the Democratic and Popular Republic of Algeria.

3. The depositary arrangements shall provide that, in the event that the Government of Algeria certifies to the Algerian Central Bank that the 52 U.S. nationals have safely departed from Iran, the Algerian Central Bank will thereupon instruct the Central Bank to transfer immediately all monies or other assets in escrow with the Central Bank pursuant to this declaration, provided that at any time prior to the making of such certification by the Government of Algeria, each of the two parties, Iran and the United States, shall have the right on seventy-two hours notice to terminate its commitments under this declaration.

If such notice is given by the United States and the foregoing certification is made by the Government of Algeria within the seventy-two hour period of notice, the Algerian Central Bank will thereupon instruct the Central Bank to transfer such monies and assets. If the seventy-two hour period of notice by the United States expires without such a certification having been made, or if the notice of termination is delivered by Iran, the Algerian Central Bank will thereupon instruct the Central Bank to return all such monies and assets to the United States, and thereafter the commitments reflected in this declaration shall be of no further force and effect.

Assets in the Federal Reserve Bank

4 Commencing upon completion of the requisite escrow arrangements with the Central Bank, the United States will bring about the transfer to the Central Bank of all gold bullion which is owned by Iran and which is in the custody of the Federal Reserve Bank of New York, together with all other Iranian assets (or the cash equivalent thereof) in the custody of the Federal Reserve Bank of New York, to be held by the Central Bank in escrow until such time as their transfer or return is required by Paragraph 3 above.

Assets in Foreign Branches of U.S. Banks

5. Commencing upon the completion of the requisite escrow arrangements with the

Central Bank, the United States will bring about the transfer to the Central Bank, to the account of the Algerian Central Bank, of all Iranian deposits and securities which on or after November 14, 1979, stood upon the books of overseas banking offices of U.S. banks, together with interest thereon through December 31, 1980, to be held by the Central Bank, to the account of the Algerian Central Bank, in escrow until such time as their transfer or return is required in accordance with Paragraph 3 of this Declaration.

Assets in U.S. Branches of U.S. Banks

6. Commencing with the adherence by Iran and the United States to this declaration and the claims settlement agreement attached hereto, and following the conclusion of arrangements with the Central Bank for the establishment of the interest-bearing security account specified in that agreement and Paragraph 7 below, which arrangements will be concluded within 30 days from the date of this Declaration, the United States will act to bring about the transfer to the Central Bank, within six months from such date, of all Iranian deposits and securities in U.S. banking institutions in the United States, together with interest thereon, to be held by the Central Bank in escrow until such time as their transfer or return is required by Paragraph 3.

7. As funds are received by the Central Bank pursuant to Paragraph 6 above, the Algerian Central Bank shall direct the Central Bank to (1) transfer one- half of each such receipt to Iran and (2) place the other half in a special interest-bearing security account in the Central Bank, until the balance in the security account has reached the level of $1 billion. After the $1 billion balance has been achieved, the Algerian Central Bank shall direct all funds received pursuant to Paragraph 6 to be transferred to Iran. All funds in the security account are to be used for the sole purpose of securing the payment of, and paying, claims against Iran in accordance with the claims settlement agreement. Whenever the Central Bank shall thereafter notify Iran that the balance in the security account has fallen below $500 million, Iran shall promptly make new deposits sufficient to maintain a minimum balance of $500 million in the account. The account shall be so maintained until the President of the Arbitral Tribunal established pursuant to the claims settlement agreement has certified to the Central Bank of Algeria that all arbitral awards against Iran have been satisfied in accordance with the claims settlement agreement, at which point any amount remaining in the security account shall be transferred to Iran.

Other Assets in the U.S. and Abroad

8. Commencing with the adherence of Iran and the United States to this declaration and the attached claims settlement agreement and the conclusion of arrangements for the establishment of the security account, which arrangements will be concluded within 30 days from the date of this Declaration, the United States will act to bring about the transfer to the Central Bank of all Iranian financial assets (meaning funds or securities) which are located in the United States and abroad, apart from those assets referred to in Paragraph 5 and 6 above, to be held by the Central Bank in escrow until their transfer or return is required by Paragraph 3 above.

9. Commencing with the adherence by Iran and the United States to this declaration and the attached claims settlement agreement and the making by the Government of Algeria of the certification described in Paragraph 3 above, the United States will arrange, subject to the provisions of U.S. law applicable prior to November 14, 1979, for the transfer to Iran of all Iranian properties which are located in the United States and abroad and which are not within the scope of the preceding paragraphs.

Nullification of Sanctions and Claims

10. Upon the making by the Government of Algeria of the certification described in Paragraph 3 above, the United States will revoke all trade sanctions which were directed against Iran in the period November 4, 1979, to date.

11. Upon the making by the Government of Algeria of the certification described in Paragraph 3 above, the United States will promptly withdraw all claims now pending against Iran before the International Court of Justice and will thereafter bar and preclude the prosecution against Iran of any pending or future claim of the United States or a United States national arising out of events occurring before the date of this declaration related to (A) the seizure of the 52 United States nationals on November 4, 1979, (B) their subsequent detention, (C) injury to United States property or property of the United States nationals within the United States Embassy compound in Tehran after November 3, 1979, and (D) injury to the United States nationals or their property as a result of popular movements in the course of the Islamic Revolution in Iran which were not an act of the Government of Iran. The United States will also bar and preclude the prosecution against Iran in the courts of the United States of any pending or future claim asserted by persons other than the United States nationals arising out of the events specified in the preceding sentence.

Point IV: Return of the Assets of the Family of the Former Shah

12. Upon the making by the Government of Algeria of the certification described in Paragraph 3 above, the United States will freeze, and prohibit any transfer of, property and assets in the United States within the control of the estate of the former Shah or of any close relative of the former Shah served as a defendant in U.S. litigation brought by Iran to recover such property and assets as belonging to Iran. As to any such defendant, including the estate of the former Shah, the freeze order will remain in effect until such litigation is finally terminated. Violation of the freeze order shall be subject to the civil and criminal penalties prescribed by U.S. law.

13. Upon the making by the Government of Algeria of the certification described in Paragraph 3 above, the United States will order all persons within U.S. jurisdiction to report to the U.S. Treasury within 30 days, for transmission to Iran, all information known to them, as of November 3, 1979, and as of the date of the order, with respect to the property and assets referred to in Paragraph 12. Violation of the requirement will be subject to the civil and criminal penalties prescribed by U.S. law.

14. Upon the making by the Government of Algeria of the certification described in Paragraph 3 above, the United States will make known, to all appropriate U.S. courts, that in any litigation of the kind described in Paragraph 12 above the claims of Iran should not be considered legally barred either by sovereign immunity principles or by the act of state doctrine and that Iranian decrees and judgments relating to such assets should be enforced by such courts in accordance with United States law.

15. As to any judgment of a U.S. court which calls for the transfer of any property or assets to Iran, the United States hereby guarantees the enforcement of the final judgment to the extent that the property or assets exist within the United States.

16. If any dispute arises between the parties as to whether the United States has fulfilled any obligation imposed upon it by Paragraphs 12-15, inclusive, Iran may submit the dispute to binding arbitration by the tribunal established by, and in accordance with the provisions of, the claims settlement agreement. If the tribunal determines that Iran has suffered a loss as a result of a failure by the United States to fulfill such obligation, it shall make an appropriate award in favor of Iran which may be enforced by Iran in the courts of any nation in accordance with its laws.

Settlement of Disputes

17. If any other dispute arises between the parties as to the interpretation or performance of any provision of this declaration, either party may submit the dispute to binding arbitration by the tribunal established by, and in accordance with the provisions of, the claims settlement agreement. Any decision of the tribunal with respect to such dispute, including any award of damages to compensate for a loss resulting from a breach of this declaration or the claims settlement agreement, may be enforced by the prevailing party in the courts of any nation in accordance with its laws.

UNDERTAKINGS OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF IRAN WITH RESPECT TO THE DECLARATION OF THE GOVERNMENT OF THE DEMOCRATIC AND POPULAR REPUBLIC OF ALGERIA

1. At such time as the Algerian Central Bank notifies the Governments of Algeria, Iran, and the United States that it has been notified by the Central Bank that the Central Bank has received for deposit in dollar, gold bullion, and securities accounts in the name of the Algerian Central Bank, as escrow agent, cash and other funds, 1,632,917.779 ounces of gold (valued by the parties for this purpose at $0.9397 billion), and securities (at face value) in the aggregate amount of $7.955 billion, Iran shall immediately bring about the safe departure of the 52 U.S. nationals detained in Iran. Upon the making by the Government of Algeria of the certification described in Paragraph 3 of the Declaration, the Algerian Central Bank will issue the instructions required by the following paragraph.

2. Iran having affirmed its intention to pay all its debts and those of its controlled institutions, the Algerian Central Bank acting pursuant to Paragraph 1 above will issue the following instructions to the Central Bank:

(A) To transfer $3.667 billion to the Federal Reserve Bank of New York to pay the unpaid principal of and interest through December 31, 1980 on

(1) all loans and credits made by a syndicate of banking institutions, of which a U.S. banking institution is a member, to the Government of Iran, its agencies, instrumentalities or controlled entities, and

(2) all loans and credits made by such a syndicate which are guaranteed by the Government of Iran or any of its agencies, instrumentalities or controlled entities.

(B) To retain $1.418 billion in the escrow account for the purpose of paying the unpaid principal of the interest owing, if any, on the loans and credits referred to in Paragraph (A) after application of the $3.667 billion and on all other indebtedness held by United States banking institutions of, or guaranteed by, the Government of Iran, its agencies, instrumentalities or controlled entities not previously paid and for the purpose of paying disputed amounts of deposits, assets, and interests, if any, owing on Iranian deposits in U.S. banking institutions. Bank Markazi and the appropriate United States banking institutions shall promptly meet in an effort to agree upon the amounts owing.

In the event of such agreement, the Bank Markazi and the appropriate banking institution shall certify the amount owing to the Central Bank of Algeria which shall instruct the Bank of England to credit such amount to the account, as appropriate, of the Bank Markazi or of the Federal Reserve Bank of New York in order to permit payment to the appropriate banking institution. In the event that within 30 days any U.S. banking institution and the Bank Markazi are unable to agree upon the amounts owed, either party may refer such dispute to binding

arbitration by such international arbitration panel as the parties may agree, or failing such agreement within 30 additional days after such reference, by the Iran-United States Claims Tribunal. The presiding officer of such panel or tribunal shall certify to the Central Bank of Algeria the amount, if any, determined by it to be owed, whereupon the Central Bank of Algeria shall instruct the Bank of England to credit such amount to the account of the Bank Markazi or of the Federal Reserve Bank of New York in order to permit payment to the appropriate banking institution. After all disputes are resolved either by agreement or by arbitration award and appropriate payment has been made, the balance of the funds referred to in this Paragraph (B) shall be paid to Bank Markazi.

(C) To transfer immediately to, or upon the order of, the Bank Markazi all assets in the escrow account in excess of the amounts referred to in Paragraphs (A) and (B).

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

The Government of the Democratic and Popular Republic of Algeria, on the basis of formal notice of adherence received from the Government of the Islamic Republic of Iran and the Government of the United States of America, now declares that Iran and the United States have agreed as follows:

Article I

Iran and the United States will promote the settlement of the claims described in Article II by the parties directly concerned. Any such claims not settled within six months from the date of entry into force of this agreement shall be submitted to binding third-party arbitration in accordance with the terms of this agreement. The aforementioned six months' period may be extended once by three months at the request of either party.

Article II

1. An International Arbitral Tribunal (the Iran-United States Claims Tribunal) is hereby established for the purpose of deciding claims of nationals of the United States against Iran and claims of nationals of Iran against the United States, and any counterclaim which arises out of the same contract, transaction or occurrence that constitutes the subject matter of that national's claim, if such claims and counterclaims are outstanding on the date of this agreement, whether or not filed with any court, and arise out of debts, contracts (including transactions which are the subject of letters of credit or bank guarantees), expropriations or other measures affecting property rights, excluding claims described in Paragraph 11 of the Declaration of the Government of Algeria of January 19, 1981, and claims arising out of the actions of the United States in response to the conduct described in such paragraph, and excluding claims arising under a binding contract between the parties specifically providing that any disputes thereunder shall be within the sole jurisdiction of the competent Iranian courts in response to the Majlis position.

2. The Tribunal shall also have jurisdiction over official claims of the United States and Iran against each other arising out of contractual arrangements between them for the purchase and sale of goods and services.

3. The Tribunal shall have jurisdiction, as specified in Paragraphs 16-17 of the Declaration of the Government of Algeria of January 19, 1981, over any dispute as to the interpretation or performance of any provision of that declaration.

Article III

1. The Tribunal shall consist of nine members or such larger multiple of three as Iran and the United States may agree are necessary to conduct its business expeditiously. Within ninety days after the entry into force of this agreement, each government shall appoint one-third of the members. Within thirty days after their appointment, the members so appointed shall by mutual agreement select the remaining third of the members and appoint one of the remaining third President of the Tribunal. Claims may be decided by the full Tribunal or by a panel of three members of the Tribunal as the President shall determine. Each such panel shall be composed by the President and shall consist of one member appointed by each of the three methods set forth above.

2. Members of the Tribunal shall be appointed and the Tribunal shall conduct its business in accordance with the arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL) except to the extent modified by the parties or by the Tribunal to ensure that this agreement can be carried out. The UNCITRAL rules for appointing members of three-member Tribunals shall apply mutatis mutandis to the appointment of the Tribunal.

3. Claims of nationals of the United States and Iran that are within the scope of this agreement shall be presented to the Tribunal either by claimants themselves, or, in the case of claims of less than $250,000, by the Government of such national.

4. No claim may be filed with the Tribunal more than one year after the entry into force of this agreement or six months after the date the President is appointed, whichever is later. These deadlines do not apply to the procedures contemplated by Paragraphs 16 and 17 of the Declaration of the Government of Algeria of January 19, 1981.

Article IV

1. All decisions and awards of the Tribunal shall be final and binding.

2. The President of the Tribunal shall certify, as prescribed in Paragraph 7 of the Declaration of the Government of Algeria of January 19, 1981, when all arbitral awards under this agreement have been satisfied.

3. Any award which the Tribunal may render against either government shall be enforceable against such government in the courts of any nation in accordance with its laws.

Article V

The Tribunal shall decide all cases on the basis of respect for law, applying such choice of law rules and principles of commercial and international law as the Tribunal determines to be applicable, taking into account relevant usages of the trade, contract provisions and changed circumstances.

Article VI

1. The seat of the Tribunal shall be The Hague, The Netherlands, or any other place agreed by Iran and the United States.

2. Each government shall designate an agent at the seat of the Tribunal to represent it to the Tribunal and to receive notices or other communications directed to it or to its nationals, agencies, instrumentalities, or entities in connection with proceedings before the Tribunal.

3. The expenses of the Tribunal shall be borne equally by the two governments.

4. Any question concerning the interpretation or application of this agreement shall be decided by the Tribunal upon the request of either Iran or the United States.

Article VII

For the purposes of this agreement:

1. A "national" of Iran or of the United States, as the case may be, means (a) a natural person who is a citizen of Iran or the United States; and (b) a corporation or other legal entity which is organized under the laws of Iran or the United States or any of its states or territories, the District of Columbia or the Commonwealth of Puerto Rico, if, collectively, natural persons who are citizens of such country hold, directly or indirectly, an interest in such corporation or entity equivalent to fifty per cent or more of its capital stock.

2. "Claims of nationals" of Iran or the United States, as the case may be, means claims owned continuously, from the date on which the claim arose to the date on which this agreement enters into force, by nationals of that state, including claims that are owned indirectly by such nationals through ownership of capital stock or other proprietary interests in juridical persons, provided that the ownership interests of such nationals, collectively, were sufficient at the time the claim arose to control the corporation or other entity, and provided, further, that the corporation or other entity is not itself entitled to bring a claim under the terms of this agreement. Claims referred to the Arbitral Tribunal shall, as of the date of filing of such claims with the Tribunal, be considered excluded from the jurisdiction of the courts of Iran, or of the United States, or of any other court.

3. "Iran" means the Government of Iran, any political subdivision of Iran, and any agency, instrumentality, or entity controlled by the Government of Iran or any political subdivision thereof.

4. The "United States" means the Government of the United States, any political subdivision of the United States, any agency, instrumentality or entity controlled by the Government of the United States or any political subdivision thereof.

Article VIII

This agreement shall enter into force when the Government of Algeria has received from both Iran and the United States a notification of adherence to the agreement.

ESCROW AGREEMENT

This Escrow Agreement is among the Government of the United States of America, the Federal Reserve Bank of New York (the "FED") acting as fiscal agent of the United States, Bank Markazi Iran, as an interested party, and the Banque Centrale d'Algerie acting as Escrow Agent.

This Agreement is made to implement the relevant provisions of the Declaration of the Government of Algeria of January 19, 1981 (the "Declaration"). These provisions concern the establishment of escrow arrangements for Iranian property tied to the release of United States nationals being held in Iran.

1. In accordance with the obligations set forth in paragraph 4 of the Declaration, and commencing upon the entry into force of this Agreement, the Government of the United States will cause the FED to:

(A) Sell, at a price which is the average for the middle of the market, bid and ask prices for the three business days prior to the sale, all U.S. Government securities in its custody or control as of the date of sale, which are owned by the Government of Iran, or its agencies, instrumentalities or controlled entities; and

(B) Transfer to the Bank of England as depositary for credit to accounts on its books in the name of the Banque Centrale d'Algerie, as Escrow Agent under this Agreement, all securities (other than the aforementioned U.S. Government securities), funds (including the proceeds from the sale of the aforementioned U.S. Government securities), and gold bullion of not less than the same fineness and quality as that originally deposited by the Government of Iran, or its agencies, instrumentalities or controlled entities, which are in the custody or control of the FED and owned by the Government of Iran, or its agencies, instrumentalities or controlled entities as of the date of such transfer.

When the FED transfers the above Iranian property to the Bank of England, the FED will promptly send to the Banque Centrale d'Algerie a document containing all information necessary to identify that Iranian property (type, source, character as principal or interest).

Specific details relating to securities, funds and gold bullion to be transferred by the FED under this paragraph 1 are attached as Appendix A.

2. Pursuant to the obligations set forth in paragraphs 5, 6 and 8 of the Declaration, the Governmentof the United States will cause Iranian deposits and securities in foreign branches and offices of United States banks, Iranian deposits and securities in domestic branches and offices of United States banks, and other Iranian assets (meaning funds or securities) held by persons or institutions subject to the jurisdiction of the United States, to be transferred to the FED, as fiscal agent of the United States, and then by the FED to the Bank of England for credit to the account on its books opened in the name of the Banque Centrale d'Algerie as Escrow Agent under this Agreement (the Iranian securities, funds and gold bullion mentioned in

paragraph 1 above and deposits, securities and funds mentioned in this paragraph 2 are referred to collectively as "Iranian property").

3. Insofar as Iranian property is received by the Bank of England from the FED in accordance with this Agreement, the Iranian property will be held by the Bank of England in the name of the Banque Centrale d'Algerie as Escrow Agent as follows:

--- The securities will be held in one or more securities custody accounts at the Bank of England in the name of the Banque Centrale d'Algerie as Escrow Agent under this Agreement.

---- The deposits and funds will be held in one or more dollar accounts opened at the Bank of England in the name of Banque Centrale d'Algerie as Escrow Agent under this Agreement. These deposits and funds will bear interest at rates prevailing in money markets outside the United States.

---- The gold bullion will be held in a gold bullion custody account at the Bank of England, in the name of the Banque Centrale d'Algerie as Escrow Agent under this Agreement.

---- It will be understood that the Banque Centrale d'Algerie shall have no liability for any reduction in the value of the securities, bullion, and monies held in its name as Escrow Agent at the Bank of England under the provisions of this Agreement.

4. (a) As soon as the Algerian Government certifies in writing to the Banque Central d'Algerie that all 52 United States nationals identified in the list given by the United States Government to the Algerian Government in November, 1980, now being held in Iran, have safely departed from Iran, the Banque Centrale d'Algerie will immediately give the instructions to the Bank of England specifically contemplated by the provisions of the Declaration and the Undertakings of the Government of the United States of America and the Government of the Islamic Republic of Iran with respect to the Declaration of the Government of the Democratic and Popular Republic of Algeria, which are made part of this Agreement. The contracting parties resolve to work in good faith to resolve any difficulty that could arise in the course of implementing this Agreement.

(b) In the event that

(i) either the Government of Iran or the Government of the United States notifies the Government of Algeria in writing that it has given notice to terminate its commitments under the Declaration referred to above, and

(ii) a period of 72 hours elapses after the receipt by the Government of Algeria of such notice, during which period the Banque Centrale d'Algerie has not given the Bank of England the instruction described in subparagraph (a) above,

the Banque Centrale d'Algerie will immediately give the instructions to the Bank of England

specifically contemplated by the provisions of the Declaration, and the Undertakings of the Government of the United States of America and the Government of the Islamic Republic of Iran with respect to the Declaration of the Government of the Democratic and Popular Republic of Algeria.

(c) If the certificate by the Government of Algeria referred to in subparagraph (a) has been given before the United States Government has effectively terminated its commitment under the Declaration, the Iranian property shall be transferred as provided in subparagraph (a) of this paragraph 4.

(d) The funds and deposits held by the Bank of England under this Agreement will earn interest at rates prevailing in money markets outside the United States after their transfer to the account of the Banque Centrale d'Algerie, as Escrow Agent, with the Bank of England, and such interest will be included as part of the Iranian property for the purposes of subparagraphs (a) and (b) of this paragraph 4.

5. On the date of the signing of this Agreement by the four parties hereto, the Banque Centrale d'Algerie and the FED will enter into a Technical Arrangement with the Bank of England to implement the provisions of this Agreement.

Pursuant to that Technical Arrangement between the FED, the Bank of England and the Banque Centrale d'Algerie, the FED shall reimburse the Bank of England for losses and expenses as provided in paragraph 10 thereof. The FED will not charge the Banque Centrale d'Algerie for any expenses or disbursements related to the implementation of this Agreement.

6. This Agreement will become effective as soon as it has been signed by the four parties to it and the Banque Centrale d'Algerie and the FED have entered into the Technical Arrangement with the Bank of England referred to in paragraph 5 of this Agreement.

7. Throughout its duration, this Agreement may be amended, canceled, or revoked only with the written concurrence of all four of the signatory parties.

8. Nothing in this Agreement shall be considered as constituting, in whole or in part, a waiver of any immunity to which the Banque Centrale d'Algerie is entitled.

9. A French language version of this Agreement will be prepared as soon as practicable. The English and French versions will be equally authentic and of equal value.

10. This Agreement may be executed in counterparts, each of which constitutes an original.

In Witness whereof, the parties hereto have signed this Agreement on January 20, 1981.

TERRORIST GROUP PROFILES

For sale by the Superintendent of Documents, U. S. Government Printing Office
Washington, D.C. 20402

Middle Eastern Terrorism

Middle Eastern terrorism revolves around the issues of a Palestinian homeland, Israel's existence and policies, Arab states jockeying for regional power, sectarian strife, religious extremism, and, until recently, the Iran-Iraq War. The dramatic rise of Middle Eastern terrorism is a direct result of the steady growth of state support. Middle East groups and state agents have operated globally and have obtained sophisticated arms, extensive logistics, precise intelligence, and safehaven.

This region's most notorious practitioner of terrorism, Libyan military dictator Colonel Muammar Al-Qadhafi, historically has employed terrorism to lash out against regime opponents and to further his own foreign policy objectives within the Arab political arena and within worldwide revolutionary movements. Libyan People's Bureaus abroad, Revolutionary Committees, the Anti-Imperialism Center in Tripoli, numerous front organizations, and intelligence and security services all have been called upon at times to support Libyan terrorism. Following the April 1986 US airstrikes, however, detectable Libyan involvement in terrorist activity dropped significantly through 1987. Nevertheless, Qadhafi shows no sign of forsaking terrorism, and Libyan agents continue to track and kill opponents of the regime. Qadhafi has turned increasingly to surrogates for attacks, seeking greater plausible denial and safety from retaliation. Libya now hosts the most extreme Palestinian terrorist group — the Abu Nidal Organization — and there are other signs that Libyan involvement in terrorism may be again on the rise.

Syria, under President Assad, previously was an active, if not a more calculated, sponsor of terrorism. Syrian operations normally were confined to the Middle East, although Western Europe occasionally has been the venue for its activities. Three acts of Syrian terrorism occurred in Europe in 1986: an attempted bombing of the El Al airline in London, the bombing of the German-Arab friendship society in Berlin, and the bombing of the El Al ticket counter in Madrid. These attacks drew intense international criticism and sanctions, forcing Syria to distance itself from its previously close association with terrorism, although more circumspect support for terrorist acts in the Middle East likely will continue.

The Khomeini regime in Iran views terrorism as a basic tactic to be used against US and other Western influence and presence in the Middle East as well as a tool to foment Islamic fundamentalist revolution. Iran also uses terrorism to intimidate Arab states in the Persian Gulf and as another means to wage war against Iraq and its allies.

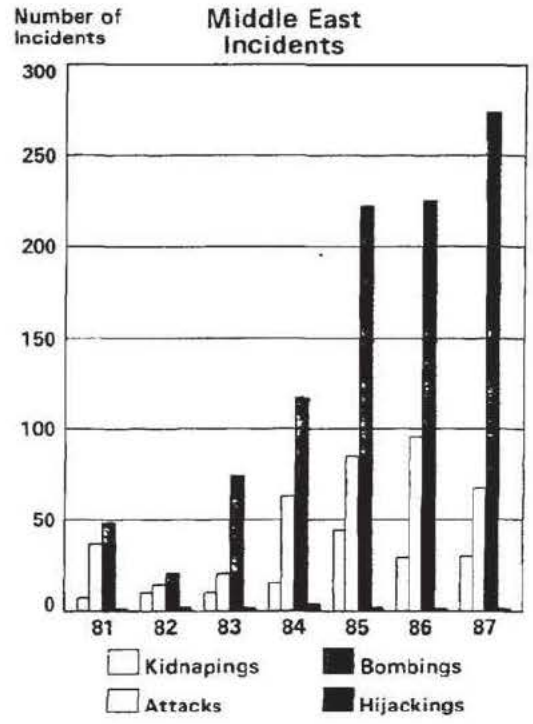
Iran's principal surrogate, the Hizballah movement in Lebanon, has carried out car bombings, kidnapings, hijackings, and other acts of terrorism against Western interests since 1983. Like Libya, and previously Syria, Iran uses its government apparatus to recruit, train, finance, and deploy terrorists, especially in Lebanon.

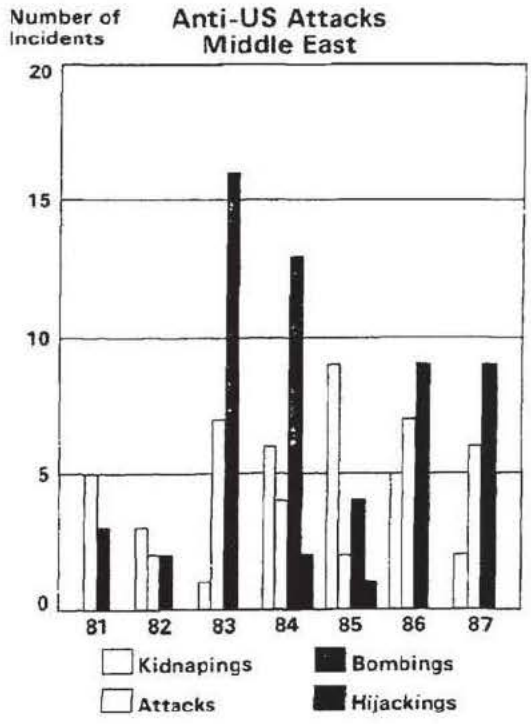
Among the most longstanding and well-known practitioners of terrorism in the Middle East and elsewhere are the various Palestinian organizations that emerged in the 1960s and the 1970s. The best known Palestinian organization is the Palestine Liberation Organization (PLO), which was founded in 1964 as a nationalist umbrella organization dedicated to establishment of an independent Palestinian state. After the 1967 Arab-Israeli War, control over the PLO devolved to the leadership of the various *fedayeen* militia groups, the most dominant of which was the Fatah, led by Yasir Arafat. In 1969, Arafat became chairman of the PLO's Executive Committee, a position he still holds. The United States considers the PLO to be an umbrella organization that includes a number of differing constituent groups and individuals who hold differing and

often opposing views on terrorism. At the same time, US policy has taken into account that elements of the PLO have actively advocated, carried out, or accepted responsibility for acts of terrorism.

In the early 1970s, several PLO groups, including the Fatah, carried out numerous international terrorist attacks. In the mid-1970s, under international pressure, the PLO claimed it would restrict its attacks to Israel and the occupied territories. Nonetheless, several terrorist attacks have been carried out since then by Fatah-affiliated groups (including the Hawari group and Force 17) and a PLO-affiliated group (the Palestine Liberation Front).

The most wide-ranging and vicious Palestinian terrorist group is the Abu Nidal Organization, which has killed scores of people in locations ranging from Karachi and Istanbul to Rome and Vienna. Other international terrorist groups include the Popular Front for the Liberation of Palestine — General Command, the Arab Organization of 15 May, and the Lebanese Armed Revolutionary Faction, a pro-Palestinian Lebanese terrorist group that has conducted its terrorist operations primarily in Western Europe.





Annex 19

August 1987 — One Israeli was killed and two were wounded in two separate shooting incidents in Gaza. Both attacks were claimed by Force 17.

Hizballah (Islamic Jihad)

Date Formed 1983.

Estimated Membership Approximately 3,000 full-time members, with perhaps as many as 500 directly involved in terrorist activity.

Headquarters West Beirut and Bekaa Valley, Lebanon.

Area of Operations Middle East and Europe.

Leadership A Consultative Council (Shura) that reports to Iran. Leading officials are Husayn Musawi, Abbas Musawi, Subhi Tufayli, Muhammed Rad, Naim Qasim, Muhammed Fennish, and Iranian Revolutionary Guard personnel stationed in Lebanon. Shaykh Muhammad Husayn Fadlallah is the overall spiritual leader of the movement.



Muhammad Husayn Fadlallah, spiritual leader of the Hizballah.

Other Names Islamic Jihad, Party of God, Revolutionary Justice Organization, Organization of the Oppressed.

Sponsor Iran.

Political Objectives/Target Audiences

- Establish a revolutionary Shi'a Islamic state in Lebanon, modeled after Iran.
- Eliminate non-Islamic influences and force Western interests out of the region.
- Become institutionalized as Lebanon's principal Islamic movement.

Background

The Hizballah is a political, social, and military organization that gives focus and general identity in Lebanon to Ayatollah Khomeini's Islamic militancy. The Hizballah espouses an intense hatred of any influence that does not support its views of Shi'a Muslim ideology. An element within the Hizballah actively employs terrorism as a tactic to support the group's political and religious goals.

The Hizballah movement was born as a result of the merger of Husayn Musawi's Islamic Amal and the Lebanese branch of the Da'wa Party in 1982-83. Three area councils — for Beirut, the Bekaa Valley, and south Lebanon — oversee activities in their respective geographic areas. Series of functional area committees play roles in policy recommendation and execution. The Shura functions as the principal governing body on day-to-day matters but actually exists to advise Iran on the unique situation of the Islamic movement in Lebanon. Hizballah elements receive training in the Bekaa Valley of eastern Lebanon. Through this connection, Iranian Revolutionary Guardsmen provide political indoctrination, financing, and material support. The Hizballah and the Revolutionary Guards work in close concert on terrorist operations.

Annex 19

The Hizballah itself seldom directly claims specific terrorist acts, but does so under codenames such as Islamic Jihad.

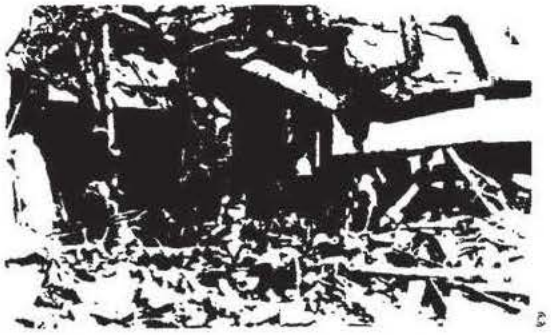
Iran created the Hizballah movement, and some of the Hizballah's cadres are directly tied to the Iranian Revolutionary Guard contingent in Lebanon. The Hizballah's official spokesman, Ibrahim al-Amin, reportedly has stated that he has no influence over certain cadres, who receive orders directly from the Iranian Revolutionary Guard.

Selected Incident Chronology

April 1983 — Committed suicide car bomb attack on the US Embassy in Beirut; operation claimed under the name of the Islamic Jihad. Forty-nine killed and 120 wounded.



The US Marine Headquarters in Beirut, Lebanon, was destroyed by a truck bomb attack in late October 1983.



British soldiers aid in rescue operations at the site of the demolished US Marine Headquarters after the October 1983 truck bombing that killed 241 Marines.

October 1983 — "Kamikazi" terrorists drove two trucks carrying explosives into the US Marine and French military barracks in Beirut, killing 241 US and 56 French. Islamic Jihad claimed responsibility.

November 1983 — A Hizballah operative drove a car bomb into the Israeli headquarters in Tyre, South Lebanon, causing numerous casualties.

December 1983 — Staged a series of car bomb attacks against the US and French Embassies in Kuwait.

January 1984 — Murdured American University of Beirut President Malcom Kerr, a US citizen. Islamic Jihad claimed responsibility.

January 1984 — Kidnaped Husayn Farrash, Saudi diplomat; released May 1985.

February 1984 — Assassinated former Iranian General Gholam Oveisi (Martial Law Administrator for Tehran under the Shah) and his brother in Paris.

February 1984 — Kidnaped Frank Regier, US professor; he was subsequently rescued in April 1984.

March 1984 — Kidnaped Jeremy Levin, US journalist; he escaped in February 1985.

March 1984 — Kidnaped William Buckley, US diplomat; he was reported killed in October 1985. Islamic Jihad claimed responsibility.

May 1984 — Kidnaped Reverend Benjamin Weir. US citizen; he was released in September 1985.

September 1984 — Committed suicide truck bombing of the US Embassy Annex in East Beirut. Twenty-three persons, including 2 Americans, were killed. Islamic Jihad claimed responsibility.

December 1984 — Hijacked Kuwait Air flight 221 to Tehran. Murdered two US Agency for International Development officials.

January 1985 — Kidnaped Father Lawrence Martin Jenco, US citizen; he was released in July 1986. Islamic Jihad claimed responsibility.

March 1985 — Kidnaped Geoffrey Nash, UK professor; he was released shortly thereafter.

March 1985 — Kidnaped Brian Levick, UK businessman; he was released shortly thereafter.

March 1985 — Kidnaped AP journalist Terry Anderson, US citizen.

March 1985 — Kidnaped Marcel Fontaine, Danielle Perez, and Marcel Carton, French diplomats; Perez was released shortly thereafter.

May 1985 — Kidnaped French citizens Jean-Paul Kaufmann, journalist, and Michel Seurat, researcher; Seurat was killed in March 1986.

May 1985 — Kidnaped David Jacobsen, US citizen, American University of Beirut director. Islamic Jihad claimed responsibility. He was released November 1986.

May 1985 — Murder of British citizen Dennis Hill (Hizballah suspected).

June 1985 — Kidnaped Thomas Sutherland, US citizen, American University of Beirut dean. Islamic Jihad claimed responsibility.

June 1985 — Hijacked TWA flight 847 en route to Athens. US Navy diver Robert Stethem murdered. Hizballah held 39 US citizens hostage for 17 days in Beirut.

July 1985 — Simultaneously bombed Northwest Orient Airlines office and a synagogue in Copenhagen. One person killed and 26 injured. Islamic Jihad claimed responsibility.

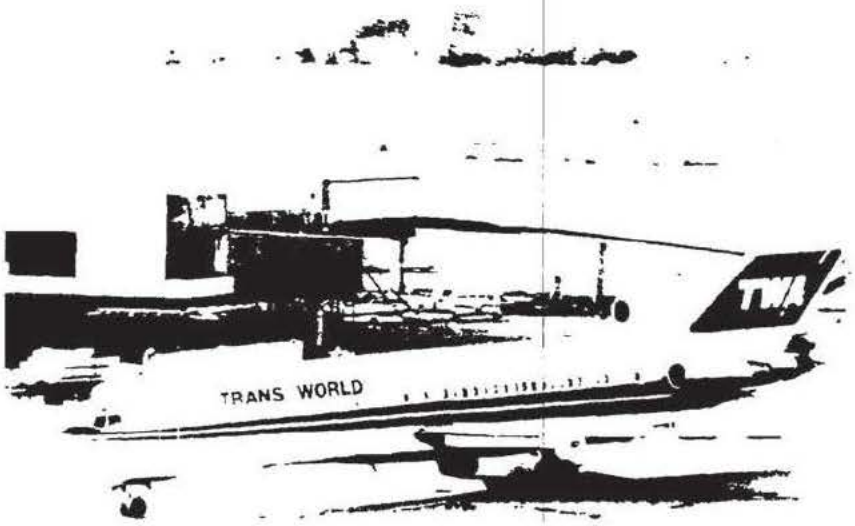
December 1985 — Rocked Paris with a series of bombings. Hizballah members arrested.

March 1986 — Kidnaped four French television news team members: Philippe Rochot, Georges Hansen, Aurel Cornea, and Jean-Louis Normandin. Rochot and Hansen were released in June 1986, Cornea in December 1986, and Normandin in November 1987.

April 1986 — Bombed Northwest Orient Airlines office in Stockholm. Hizballah suspected.

April 1986 — Kidnaped two Cypriot students.

September 1986 — Kidnaped Frank Reed, US citizen.



A TWA Boeing 727 sits on the tarmac at Beirut International Airport after it was hijacked by Islamic Jihad terrorists in June 1985. One American, Navy diver Robert Stethem, was murdered by the terrorists.

September 1986 — Kidnaped Joseph Cicippio, US citizen.

September 1986 — Assassinated Col Christian Goutierre, French military attache, in East Beirut (Hizballah suspected).

September 1986 — Committed another series of bombings in Paris. French police arrested a number of Hizballah members.

October 1986 — Kidnaped Edward Austin Tracy. The "Revolutionary Justice Organization" claimed responsibility.

January 1987 — In two separate incidents, kidnaped two German businessman, Rudolph Cordes and Alfred Schmidt; Schmidt was released in September 1987, and Cordes in September 1988.

January 1987 — Kidnaped Anglican Church envoy Terry Waite.

January 1987 — Kidnaped Beirut University College professors Jesse Turner, Alan Steen, Robert Polhill — US citizens — and Mithileshwar Singh. Singh was released in October 1988.

June 1987 — Kidnaped Charles Glass, US journalist; he escaped in August 1987.

July 1987 — Hijacked Air Afrique jetliner on flight from Brazzaville to Paris. One French citizen was murdered.

February 1988 — Kidnaped United Nations Military Observer Lt Col Richard Higgins, USMC.

April 1988 — Hijacked Kuwaiti Airlines flight 422 from Bangkok to Kuwait and diverted it to Iran. Plane refueled, flew to Cyprus, and subsequently flew to Algeria. The hijackers secretly escaped.

Annex 19

Annex 20

S/15420
22 September 1982
ENGLISH
ORIGINAL: FRENCH

LETTER DATED 21 SEPTEMBER 1982 FROM THE PERMANENT REPRESENTATIVE OF FRANCE TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL [*]

On instructions from my Government, I have the honour to inform you that the Government of Lebanon has officially requested the co-operation of France with a view to the deployment in and around Beirut of a multinational force to support the operations of its armed forces in order to restore its authority over the area and ensure protection for the civilian population.

The French Government, in its desire to support decisions of the Security Council, would have wished that a United Nations force might be created, as proposed in Council resolution 521 (1982), paragraph 5.

In deciding to give an affirmative response to the Lebanese Government's express request, France, realizing the extreme urgency of the situation, took into account the consultations which you effectively conducted and from which it was apparent that lengthy negotiations would be necessary before agreement could be reached on the creation of a United Nations force. Moreover, the French Government was sympathetic to the appeals addressed to it from many quarters in the Arab countries. Lastly, it wants to ensure speedy action in accordance with Security Council resolution 521 (1982), particularly paragraph 5. To that end, the mandate of the force will have to conform to the objectives laid down in the resolution.

As regards the implementation of resolution 521, the French Government is gratified at the speed with which United Nations observers have been deployed in Beirut, in sufficient numbers. These observers will be in a position to play a valuable role in the coming days. The French Government will ensure that the multinational force acts in liaison with them and affords them its co-operation in the mission entrusted to them by the Security Council.

The French Government, whose policies are based on the purposes and principles of the Charter of the United Nations and which, as you know, attaches great value to the role of the Organization, will not fail to remain in close liaison with you.

I should be grateful if you would bring this letter to the attention of the President of the Security Council and all its members.

(Signed) Luc de La BARRE de NANTEUIL

---

*[A similar letter from the Italian Government was also circulated as U.N. Document S/15442 of October 1, 1982.]

S/15435
27 September 1982
ORIGINAL: ENGLISH

LETTER DATED 24 SEPTEMBER 1982 FROM THE ACTING PERMANENT REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

I have the honour to transmit the following message from the President of the United States:

"Dear Mr. Secretary-General:

As you know, the Government of the Republic of Lebanon has made known its determination to restore its sovereignty and authority in the Beirut area and thereby to assure the safety of persons in that area and to bring an immediate end to the violence which has tragically recurred there. Accordingly, it has urgently requested the deployment of a multinational force in Beirut. The mandate of the multinational force will be to provide an interposition force at agreed locations and thereby provide the multinational presence requested by the Lebanese Government to assist it and the Lebanese armed forces in the Beirut area. The Lebanese Government has asked for the participation of United States military personnel in this force, together with military personnel from France and Italy.

I wish to inform you that the United States Government has agreed, in response to this request from the Lebanese Government, to deploy a force of about 1,200 personnel to Beirut for a limited period of time. It is my firm intention and belief that the presence of the troops will serve to assist the Government of Lebanon in the furtherance of its objectives, and that they will not be involved in hostilities during the course of this operation. Although isolated acts of violence can never be ruled out, all appropriate precautions have been taken to ensure the safety of United States military personnel during their deployment in Lebanon.

The deployment of this United States force is consistent with the purposes and principles of the United Nations as set forth in Articles 1 and 2 of the Charter. It furthers the goals of the Security Council resolutions 508 (1982) and 509 (1982) adopted in June 1982 at the beginning of the Lebanese conflict, and is intended, in the absence of agreement that would make possible the deployment of United Nations forces at this time, to serve particularly the purposes of Security Council resolution 521 (1982) pending further consultations between you and the Government of Lebanon. The force will plan to work closely with the expanded United Nations Observer Group stationed in the Beirut area.

This agreement will support the objective of helping to restore control by the Government of Lebanon over its own territory. It is part of the continuing efforts of the United States Government to bring lasting peace to that troubled country, which has too long endured the trials of civil strife and armed conflict.

"Sincerely,
"Ronald Reagan."

I request that this letter be circulated as a document of the Security Council.

(Signed) Charles M. LICHENSTEIN
Acting Permanent Representative

The initial group or groups of PLO personnel destined for Jordan and Iraq would move from their assembly point to the waiting commercial vessel or vessels for onward transport by sea.

August 22

All groups destined for Jordan or Iraq will have boarded ship and will have sailed from Beirut.

Duplicating the model followed on August 21, PLO groups destined for Tunisia assemble and move to the Port of Beirut for departure by sea.

August 23

All PLO personnel destined for Tunisia complete their assembly and embark on commercial vessel for Tunisia.

PLO personnel destined for South Yemen assemble and move to a vessel for departure then or on August 24.

August 24–25

Assembly and departure by sea of PLO personnel destined for North Yemen.

August 25

Provided that satisfactory logistical arrangements have been completed, the initial groups of PLO personnel destined for Syria assemble and move overland via the Beirut-Damascus highway to Syria.

The advance French elements of the MNF already in the port area will have taken up such other agreed positions on the land route in the Beirut area as necessary to assist in the overland departure of the PLO personnel for Syria.

The Lebanese Armed Forces join with the French in occupying such positions.

(If it should be agreed that these initial groups should go by sea to Syria rather than by land, this departure schedule also is subject to amendment to assure that logistical requirements are met.)

August 26–28 (Approximately)

The remaining forces of the MNF (from the United States, France, and Italy) arrive in the Beirut area and deploy to agreed locations as determined through the Liaison and Coordinating Committee. This movement may be accompanied by the transfer of the advance French elements previously in the port area and elsewhere to other locations in the Beirut area.

August 26–27–28

PLO groups destined for Syria continue to move—by land or sea—to Syria.

August 22–September 4

Turnover to the Lebanese Armed Forces of PLO weaponry, military equipment, and ammunition in a continuing and orderly fashion.

August 29–30–31

Redployment out of Beirut of the Syrian elements of the ADF.

September 1–4

Completion of the departure to Syria—by land or sea—of all PLO or Palestine Liberation Army personnel destined for Syria.

September 2–3

Assembly and departure by sea of all PLO personnel destined for the Sudan.

Assembly and movement by sea of all PLO personnel destined for Algeria.

September 4–21

The MNF assists the Lebanese Armed Forces in arrangements, as may be agreed between governments concerned, to insure good and lasting security throughout the area of operation.

September 21–26

Departure of MNF.

EXCHANGE OF NOTES

Lebanese Note Requesting U.S. Contribution to MNF

Beirut
August the 18th, 1982

Ambassador Robert S. Dillon
U.S. Embassy, Beirut

Your Excellency,

I have the honor to refer to the many conversations between their Excellencies the President of the Republic of Lebanon, the Prime Minister and myself on the one hand, and with Ambassador Philip C. Habib, Special Emissary to the President of the United States of America, on the other hand, as well as to the resolution of the Council of Ministers passed today. I have the honor to refer to the schedule set up by the Government of Lebanon, after consultations with interested parties, in order to assure the withdrawal from Lebanese territory of the Palestinian leaders, offices and combatants related to any organization now in the Beirut area, in a manner which will:

(1) assure the safety of such departing persons;

(2) assure the safety of the persons in the area; and

(3) further the restoration of the sovereignty and authority of the Government of Lebanon over the Beirut area.

In this context, the Government of Lebanon is proposing to several nations that they contribute forces to serve as a temporary Multinational Force (MNF) in Beirut. The mandate of the MNF will be to provide appropriate assistance to the Lebanese Armed Forces (LAF) as they carry out the foregoing responsibilities, in accordance with the annexed schedule. The MNF may undertake other functions only by mutual agreement. It is understood that, in the event that the withdrawal of the Palestinian personnel referred to above does not take place in accord with the predetermined schedule, the mandate of the MNF will terminate immediately and all MNF personnel will leave Lebanon forthwith.

In the foregoing context, I have the honor to propose that the United States of America deploy a force of approximately 800 personnel to Beirut, subject to the following terms and conditions:

- The American military force shall carry out appropriate activities consistent with the mandate of the MNF.
- Command authority over the American force will be exercised exclusively by the United States Government through existing American military channels.
- The American force will operate in close coordination with the LAF. To assure effective coordination with the LAF, the American force will assign liaison officers to the LAF and the Government of Lebanon will assign liaison officers to the American force. The LAF liaison officers to the American force will, *inter alia*, perform liaison with the civilian population and manifest the authority of the Lebanese Governement in all appropriate situations.
- In carrying out its mission, the American force will not engage in combat. It may, however, exercise the right of self-defense.
- The American force will depart Lebanon not later than thirty days after its arrival, or sooner at the request of the President of Lebanon or at the direction of the United States Government, or according to the termination of the mandate provided for above.
- The Government of Lebanon and the LAF will take all measures necessary to ensure the protection of the American force's personnel, to include securing the assurances from all armed elements not now under the authority of the Lebanese Government that they will comply with the cease-fire and cessation of hostilities.
- The American force will enjoy both the degree of freedom of movement and the right to undertake those activities deemed necessary for the performance of its mission or for the support of its personnel. Accordingly, it shall enjoy all facilities necessary for the accomplishment of these purposes. Personnel in the American force shall enjoy the privileges and immunities accorded the administrative and technical staff of the American Embassy in Beirut, and shall be exempt from immigration and customs requirements, and restrictions on entering or departing Lebanon. Personnel, property and equipment of the American force introduced into Lebanon shall be exempt from any form of tax, duty, charge or levy.

I have the further honor to propose, if the foregoing is acceptable to your Excellency's government, that your Excellency's reply to that effect, together with this note, shall constitute an agreement between our two governments, to enter into force on the date of your Excellency's reply.

Please accept, your Excellency, the assurances of my highest consideration.

FUAD BOUTROS
Deputy Prime Minister/
Minister of Foreign Affairs

U.S. Reply to Lebanese Note Requesting U.S. Contribution to MNF

August 20, 1982

I have the honor to refer to your Excellency's note of 18 August 1982 requesting the deployment of an American force to Beirut. I am pleased to inform you on behalf of my government that the United States is prepared to deploy temporarily a force of approximately 800 personnel as part of a Multinational Force (MNF) to provide appropriate assistance to the Lebanese Armed Forces (LAF) as they carry out their responsibilities concerning the withdrawal of Palestinian personnel in Beirut from Lebanese territory under safe and orderly conditions, in accordance with the schedule annexed to your Excellency's note. It is understood that the presence of such an American force will in this way facilitate the restoration of Lebanese Government sovereignty and authority over the Beirut area, an objective which is fully shared by my government.

I have the further honor to inform you that my government accepts the terms and conditions concerning the presence of the American force in the Beirut area as set forth in your note, and that your Excellency's note and this reply accordingly constitute an agreement between our two governments.

ROBERT S. DILLON
Ambassador of the
United States of America

PRESIDENT'S LETTER TO THE U.N. SECRETARY GENERAL, AUG. 20, 1982[1]

Letter dated August 20, 1982, from the Charge d'Affaires a.i. of the U.S. Permanent Mission to the United Nations addressed to the Secretary General

I have the honour to transmit the following message from the President of the United States:

"Dear Mr. Secretary-General:

"As you know, the Government of the Republic of Lebanon has requested the deployment of a multinational force in Beirut to assist the Lebanese armed forces as they carry out the orderly and safe departure of Palestinian personnel now in the Beirut area in a manner which will further the restoration of the sovereignty and authority of the Government of Lebanon over the Beirut area. The Lebanese Government has asked for the participation of United States military personnel in this force, together with military personnel from France and Italy.

"I wish to inform you that the United States Government has agreed, in response to this request from the Lebanese Government, to deploy a force of about 800 personnel to Beirut for a period not exceeding 30 days. It is my firm intention and belief that these troops will not be involved in hostilities during the course of this operation.

"The deployment of this United States force is consistent with the purposes and principles of the United Nations as set forth in Articles 1 and 2 of the Charter. It furthers the goals of Security Council resolutions 508 (1982) and 509 (1982) adopted in June at the beginning of the Lebanese conflict. The force will plan to work closely with the United Nations observer group stationed in the Beirut area.

"This agreement will support the objective of helping to restore the territorial integrity, sovereignty and political independence of Lebanon. It is part of the continuing efforts of the United States Government to bring lasting peace to that troubled country, which has too long endured the trials of civil strife and armed conflict.

RONALD REAGAN"

I have the honour to request that the present letter be circulated as an official document of the General Assembly, under item 34 of the provisional agenda, and of the Security Council.

KENNETH L. ADELMAN
Ambassador

PRESIDENT'S LETTER TO THE CONGRESS, AUG. 24, 1982[2]

On August 18, 1982, the Government of Lebanon established a plan for the departure from Lebanon of the Palestine Liberation Organization leadership, offices, and combatants in Beirut. This plan has been accepted by the Government of Israel. The Palestine Liberation Organization has informed the Government of Lebanon that it also has accepted the plan. A key element of this plan is the need for a multinational force, including a United States component, to assist the Government of Lebanon in carrying out its responsibilities concerning the withdrawal of these personnel under safe and orderly conditions. This will facilitate the restoration of Lebanese Government sovereignty and authority over the Beirut area.

In response to the formal request of the Government of Lebanon, and in view of the requirement for such a force in order to secure the acceptance by concerned parties of the departure plan, I have authorized the Armed Forces of the United States to participate on a limited and temporary basis. In accordance with my desire that the Congress be fully informed on this matter, and consistent with the War Powers Resolution, I am hereby providing a report on the deployment and mission of these members of the United States Armed Forces.

On August 21, in accordance with the departure plan, approximately 350 French military personnel—the advance elements of the multinational force—were deployed in Beirut together with elements of the Lebanese Armed Forces, and the departure of Palestinian personnel began. To date, Palestinian personnel have departed Lebanon in accordance with the terms of the plan.

On August 25, approximately 800 Marines began to arrive in Beirut. These troops are equipped with weapons consistent with their non-combat mission, including usual infantry weapons.

Under our agreement with the Government of Lebanon, these U.S. military personnel will assist the Government of Lebanon in carrying out its responsibilities concerning the withdrawal of Palestinian personnel under safe and orderly conditions. The presence of our forces will in this way facilitate the restoration of Lebanese Government sovereignty and authority in the Beirut area. Our forces will operate in close coordination with the Lebanese Armed Forces, which will have 2,500–3,500 personnel assigned to this operation, as well as with a total of approximately 800 French and 400 Italian military personnel in the multinational force. Transportation of the personnel departing is being carried out by commercial air and sea transport, and by land. According to our agreement with the Government of Lebanon, the United States military personnel will be withdrawn from Lebanon within thirty days.

I want to emphasize that there is no intention or expectation that U.S. Armed Forces will become involved in hostilities. They are in Lebanon at the formal request of the Government of Lebanon. Our agreement with the Government of Lebanon expressly rules out any combat responsibilities for the U.S. forces. All armed elements in the area have given assurances that they will take no action to interfere with the implementation of the departure plan or the activities of the multinational force. (The departure has been underway for some days now, and thus far these assurances have been fulfilled.) Finally, the departure plan makes it clear that in the event of a breakdown in its implementation, the multinational force will be withdrawn. Although we cannot rule out isolated acts of violence, all appropriate precautions have thus been taken to assure the safety of U.S. military personnel during their brief assignment to Lebanon.

This deployment of the United States Armed Forces to Lebanon is being undertaken pursuant to the President's constitutional authority with respect to the conduct of foreign relations and as Commander-in-Chief of the United States Armed Forces.

This step will not, by itself, resolve the situation in Lebanon, let alone the problems which have plagued the region for more than thirty years. But I believe that it will improve the prospects for realizing our objectives in Lebanon:

- a permanent cessation of hostilities;
- establishment of a strong, representative central government;
- withdrawal of all foreign forces;
- restoration of control by the Lebanese Government throughout the country; and
- establishment of conditions under which Lebanon no longer can be used as a launching point for attacks against Israel.

I also believe that progress on the Lebanon problem will contribute to an atmosphere in the region necessary for progress towards the establishment of a comprehensive peace in the region under Camp David, based firmly on U.N. Security Council Resolutions 242 and 338.

Sincerely,

RONALD REAGAN

[1] Circulated as a document of the U.N. General Assembly and Security Council (A/37/393–S/15371, Aug. 21, 1982).

[2] Identical letters addressed to Thomas P. O'Neill, Jr., Speaker of the House of Representatives, and Strom Thurmond, President Pro Tempore of the Senate.

The Atlantic

The Origins of Hezbollah

30 years ago, deadly bombings in Beirut forged a powerful new militant group.

MATTHEW LEVITT

OCT 23, 2013 | GLOBAL



Smoke from the 1983 bombing of the Marine Corps barracks in Beirut could be seen from miles away. (Wikimedia Commons)

Thirty years ago, three spectacular attacks in Beirut over an 18-month period announced the debut of a potent new force in Lebanon—the Shiite Hezbollah militia—and defined its relationship with the United States for years to come. The October 1983 bombings of Multinational Force bases took the lives of 241 Americans and 58 French.

Beirut, a city battered by war, was experiencing a period of relative calm in fall 1983. U.S. diplomats and soldiers were still coming to terms with the suicide bombing that struck the U.S. embassy in April, and U.S. Marines wore their combat uniforms everywhere they went—even to social events and diplomatic functions. But to the U.S. Marine commander on site, the threat environment seemed to have eased somewhat. The embassy bombing was seen as an outlier event. Marines were free to roam the city and were interacting with Lebanese children in public without fear of ambush. Beirut was under a cease-fire, and hopes were high for Syrian reconciliation talks. It was the quiet before the storm.

So many marines, sailors, and soldiers perished that day that the base ran out of body bags.

In the early hours of October 23, 1983, a young Lebanese man from a Shi'a family awoke, said his morning prayers, and drank tea. In a suburb overlooking the marine barracks, his superiors shared a few final thoughts with him, after which a senior cleric blessed him before he drove off in a yellow Mercedes truck. At 6:22 a.m., he rammed the explosive-laden truck through the guard post at the entrance to the U.S. Marine Battalion Headquarters Building in Beirut. The blast decimated the four-story, concrete, steel- reinforced structure—considered one of the strongest buildings in Lebanon at the time. A dense, gray ash cloud engulfed the area as emergency vehicles rushed to the scene. Those soldiers lucky enough to escape serious injury quickly mobilized to rescue their fellow marines, sifting through "dust-covered body parts, moaning wounded and dazed survivors." Seconds later, a nearly identical attack targeted the French Multinational Force (MNF) building less than four miles away.

Lebanon's devastating civil war, which lasted from 1975 to 1990, hardened divisions among the country's various sectarian communities. Against this backdrop, the 1982 Israeli invasion and subsequent occupation of southern Lebanon created the space in which Iranian diplomats and agents could help fashion the unified entity Hezbollah from a motley crew of Shi'a militias and

groups. Another turning point in the 1980s involved militants targeting not only fellow Lebanese but also the international forces dispatched as peacekeepers to provide the war-torn country with a measure of security. Over time, Hezbollah and Iran's interests in driving foreign forces out of Lebanon would expand from attacks targeting Western interests in Lebanon to attacks on Western interests abroad.

Over a nine-month period in 1985, the CIA calculated, Iran's Lebanese proxy groups were responsible for at least 24 international terrorist incidents. Such targets were popular given Iran's efforts to dissuade countries from arming and supporting Iraq in its ongoing, costly war against the Islamic Republic. Heeding Iran's call to carry out attacks beyond Lebanon's borders, Hezbollah would engage in plots throughout the Middle East. By February 1985, the CIA would warn that "Iranian-sponsored terrorism" presented the greatest threat to U.S. personnel and facilities in the region. Inevitably some of the Hezbollah operatives sent to conduct attacks in places like Kuwait were caught, leading Hezbollah to plot bombings, hijackings, and other operations in places as diverse as Germany and the Republic of the Congo in an effort to secure the release of jailed comrades.

In Lebanon, three spectacular attacks targeting U.S. interests over an 18-month period defined the group's relationship with the United States for years to come. The U.S. embassy was bombed on April 18, 1983, killing 63, including 17 Americans. The driver of the explosive-filled van entered the embassy compound, slowed to navigate a sharp left turn down a cobblestone lane, and then accelerated and crashed into the embassy's front wall. The seven-floor embassy complex was engulfed in clouds of black smoke that hid the bodies of Lebanese security guards and American government workers torn apart by the blast. Among the dead were the top American intelligence officials stationed in Lebanon, including the CIA's chief Middle East analyst, Robert C. Ames.

Then came the nearly simultaneous attacks of October 23, 1983, targeting the U.S. Marines and French army barracks, both compounds under the aegis of the Beirut-based Multinational Force sent to Lebanon as peacekeepers to oversee the evacuation of the Palestine Liberation Organization (PLO) from Beirut. Those

attacks left 241 Americans and 58 French dead. Less than a year later, on September 20, 1984, the U.S. embassy annex was bombed, killing 24.

The U.S. government had little doubt about who was behind the 1984 attack, even before crime-scene analysis and sensitive source reporting began to flow in. Writing just days after the second embassy bombing, the CIA noted that "an overwhelming body of circumstantial evidence points to the Hizb Allah, operating with Iranian support under the cover name of Islamic Jihad." For one thing, the suicide vehicle bomb employed had become a trademark of the group. And, the CIA added at the time, "Shia fundamentalists are the only organized terrorists in Lebanon likely to willingly sacrifice their lives in such an attack." Following the bombing, two callers claimed responsibility in the name of Hezbollah's Islamic Jihad Organization (IJO). Several times in the year to follow, the CIA noted, anonymous callers in Beirut warned that the IJO planned to continue attacking U.S. interests. FBI forensic investigators determined that the marine barracks bombing was not only the deadliest terrorist attack then to have targeted Americans, it was also the single-largest non-nuclear explosion on earth since World War II. Composed of at least 18,000 pounds of explosives— the equivalent of six tons of dynamite— the bomb demolished the four-story building on the fringe of the Beirut Airport campus, leaving behind a crater at least 13 feet deep and 30 feet wide. So many marines, sailors, and soldiers perished that day that the base ran out of body bags. At the French MNF building, the deaths of 58 French paratroopers marked the French military's highest death toll since the Algerian war ended in 1962. The eight-story building where the paratroopers were staying was literally upended by the blast.

Imad Mughniyeh, the Hezbollah operational leader and terrorist mastermind, and his brother-in-law and cousin, Mustapha Badreddine, reportedly not only watched the marine barracks bombing through binoculars from a perch atop a nearby building overlooking their neighborhood but also coordinated it. In February 1998, Lebanon's highest court announced plans to try Hezbollah's first secretary-general, Subhi al-Tufayli, for his role in the marine barracks bombing, among other crimes. At the time, the CIA assessed that Iran, Syria, and Hezbollah would likely help

Tufayli escape so he could not "implicate them in a variety of illegal activities, including terrorist operations against U.S. citizens." He was never tried. Another suspect was Mohammad Hussein Fadlallah, a leader of the Lebanese Shi'a community often described as one of Hezbollah's founding spiritual figures.

In 1986, the CIA reported that Fadlallah "has long been recognized as the spiritual leader of and political spokesman for Lebanon's Shia Hezbollah." Fadlallah's stature, the CIA added, grew "along with Hizballah's political and military influence." Fadlallah "benefited from and contributed to the growing extremism in the Shia community by his bold sermons attacking Israel and, later, the presence of the Multinational Force in Lebanon." Lebanese Shi'a were inspired by the Iranian revolution to seek an Islamic state in Lebanon, and Fadlallah valued his ties to Iran, in large part because of the significant military, financial, and political assistance Tehran provided to Hezbollah. This assistance helped forge a powerful and potent militant Shi'a group out of several smaller groups.

But over time Fadlallah's relationship with Iran changed. Fadlallah never fully embraced the Iranian revolutionary concept of velayat-e faqih (rule of the jurisprudent), which, according to a 1986 U.S. intelligence report, "virtually equates Khomeini with the Mahdi— the 12th Imam who is in occultation." As much as Fadlallah sought an Islamic state in Lebanon, U.S. intelligence analysts concluded he also recognized the need to maintain the country's religious diversity within an Islamic context. But other, more radical voices within Hezbollah, like the up-and-coming security official Hassan Nasrallah, the CIA warned, promoted a maximalist program in which an Islamic republic in Lebanon would presage a pan-Islamic movement spanning the entire Muslim world. "In our view," the analysts wrote in 1988, "Nasrallah does not represent the mainstream of the movement." Four years later Nasrallah would rise to the leadership of Hezbollah, moving the group's mainstream sharply to the right.

This post is adapted from Matthew Levitt's *Hezbollah: The Global Footprint of Lebanon's Party of God.*

ABOUT THE AUTHOR

MATTHEW LEVITT is the Fromer-Wexler Fellow at the Washington Institute for Near East Policy and the author of *Hezbollah: The Global Footprint of Lebanon's Party of God*.

The New York Times

This copy is for your personal, noncommercial use only. You can order presentation-ready copies for distribution to your colleagues, clients or customers, please click here or use the "Reprints" tool that appears next to any article. Visit www.nytreprints.com for samples and additional information. Order a reprint of this article now. »

October 24, 1983
BEIRUT DEATH TOLL AT 161 AMERICANS

BEIRUT DEATH TOLL AT 161 AMERICANS; ; FRENCH CASUALTIES RISE IN BOMBINGS;; REAGAN INSISTS MARINES WILL REMAIN; BUILDINGS BLASTED

By THOMAS L. FRIEDMAN, Special to the New York Times

BEIRUT, Lebanon, Oct. 23— A suicide terrorist driving a truck loaded with TNT blew up an American Marine headquarters at the Beirut airport today, killing at least 161 marines and sailors and wounding 75.

In an almost simultaneous attack, another bomb- laden truck slammed into a French paratroop barracks two miles away.

According to Lebanese Civil Defense authorities, at least 27 French paratroopers were killed, 12 were wounded and 53 were reported missing and believed buried in rubble. Official Defense Ministry figures issued in Paris listed 12 French soldiers dead, 13 wounded and 48 missing.

It was the highest number of American military personnel killed in a single attack since the Vietnam War. The identity of the attackers still had not been determined tonight.

Truck Loaded With TNT

According to a Pentagon spokesman, a Mercedes truck filled with some 2,500 pounds of TNT broke through a series of steel fences and sandbag barricades and detonated in the heart of the Marines' administrative headquarters building shortly after dawn. The explosion collapsed all four floors of the building, turning it into a burning mound of broken cement pillars and cinder blocks.

Although a marine sentry was able to fire about five shots at the suicide driver and another marine threw himself in front of the speeding, explosive- filled truck, neither could block its entry into the headquarters building, where it exploded in a fireball that left a crater 30 feet deep and 40 feet wide.

In a haunting scene late tonight, rescue workers using blow torches, pneumatic drills and cranes worked furiously under floodlights to pry out the dead and wounded still crushed beneath the smouldering debris. Marine spokesmen said there might have been as many as 300 men sleeping in the building - which doubled as a bunk house - at the time of the blast.

'Carnage' Like That in Vietnam

"I haven't seen carnage like that since Vietnam," the Marine spokesman, Maj. Robert Jordan, said shortly after emerging from the rescue operation with his forearms smeared with blood.

Today's blast brought to 170 the number of Americans killed in Lebanon since the bombing of the American Embassy here in April.

Rescue workers were hindered in their movements by unidentified snipers who intermittently fired shots into the Marine compound from the nearby southern suburbs of Beirut. The marines occasionally returned the fire.

Less that two minutes after the attack on the Marine compound, a truck laden with explosives slammed into a building used by the French as a headquarters for one of their 110-man companies in the southern Beirut suburb of Jnah, two miles north of the Marine headquarters. The explosion brought all eight floors down in a heap, like a fallen house of cards.

(A caller to the Beirut office of Agence France Presse said a group calling itself the Free Islamic Revolution Movement took responsibility, United Press International reported. The caller was quoted as saying that two youths carried out the attacks)

The two suicide missions were almost identical to the assault on the American Embassy here on April 18, when a pickup truck slammed into the front lobby and exploded, killing 63 people including 17 Americans. A collection of previously unknown pro-Iranian and pro-Palestinian organizations said they had been responsible for the embassy bombing, but the real identity of the attackers has still not been determined. No 'Special' Precautions

According to Major Jordan, the Marine unit took no "special" precautions to guard against car-bombs after the embassy bombing, because it was constantly upgrading its security and it was felt that the combination of sandbag checkpoints and steel fence barriers was sufficient to deter any attack.

Major Jordan said the attack on the headquarters of the 1,600-man American force came at around 6:20 A.M.

A French officer who was standing near the Jnah barracks of the Third Company of the Sixth French Parachute Infantry Regiment at the time said the soldiers in that building ran to the windows to see what was happening after being jarred from their beds by the explosion at the Marine compound.

Less than two minutes later, as they peered from the windows, their own structure was blown out from under them by an almost identical attack. A Lebanese Army explosives expert, Yousef Bitar, said the bomb that demolished the Marine headquarters consisted of roughly 2,600 pounds of TNT, while the charge that destroyed the French base consisted of about 600 pounds of the same explosive. Bodies Thrown 50 Yards

The blast at the Marine compound was so strong it threw some bodies out of the building to distances of up to 50 yards. The force rattled windows and shook apartment buildings all over Beirut.

The marines and sailors in the barracks who escaped death or injury were quartered in other Marine installations tonight. An accounting of all the men who had been stationed in the bombed building was

complicated by the fact that 30 or 40 men were on leave in Egypt when the attack occurred, and all personnel records were destroyed in the blast.

Marine replacements for today's casualties were being flown from Camp Lejeune, N.C., but it was not known how many were on the way.

The explosion at the French barracks blew the whole building off its foundations and threw it about 20 feet westward, while breaking the windows of almost every apartment house in the neighborhood. More than 20 Lebanese civilians were injured in the blast.

Grim-faced French paratroopers and Lebanese civil defense workers aided by bulldozers also worked under spotlights through the night at the French barracks, trying to pull apart the eight stories of three-foot-thick cement that had fallen on top of one another and to reach the men they could still hear screaming for help. They regularly pumped oxygen into the mountain of rubble to keep those who were still trapped below alive. Lebanese Family Trapped

A Lebanese family lived on the ground floor of the French-occupied structure. According to neighbors, the father had just gone out to buy bread when the blast ripped through the building, trapping his wife and three children inside. The father leaned against a fence weeping with his aged mother as the rescue workers tried to extricate his family.

The explosions seemed timed to coincide with the start of Lebanon's long-awaited national reconciliation conference. Beirut newspapers said today the discussions were scheduled to begin in Geneva on Oct. 31. A statement issued in the name of President Amin Gemayel after an emergency Cabinet meeting tonight expressed deep regret for the loss of life among the multinational force and vowed that "no obstacles will affect the reconciliation process."

Heavy fighting broke out again this evening in the mountain village of Suk al Gharb, five miles southeast of Beirut, between the Lebanese Army and Druse militiamen.

Whoever carried out the attacks against the Marines and the French seemed to have had detailed knowledge of both the layout of their compounds and their mode of operation. The building occupied by the Marines had been controlled at various times in the last two years by Syrian troops, Palestinian guerrillas and the Israeli Army.

The French Defense Minister, Charles Hernu, flew into Beirut this evening to inspect the destroyed French building. After touring the blast site, he affirmed that the French troops would remain in Beirut.

One of the first American officials to tour the devastated Marine headquarters was the new United States Ambassador, Reginald Bartholomew. Mr. Bartholomew arrived here only yesterday afternoon. Today was his first full day on the job.

Conversations with some of the marines who took part in the rescue operations, as well as others who were caught up in the attack, made it possible to put together a rough reconstruction of how the terrorist bombing took place.

It is believed that at roughly 6:15 A.M. shortly after the sun rose over the mountains, a two-and-a-half-ton Mercedes truck came rumbling down the main highway leading toward the Beirut airport.

About a half mile from the airport there is a Lebanese Army checkpoint, behind which is a sandbag-surrounded bunker where a marine is normally on duty. The truck was apparently waved through the army checkpoint without a search, not unusual here, and it apparently continued on toward the airport. Marine sources could not say at this time whether a marine had been on duty at the post when the truck went through.

About 200 yards before the truck reached the airport building, it apparently turned left, crossed the highway and entered a large parking lot between the airport terminal and the Marine headquarters, situated in a structure called the Aviation Safety Building. There is no guard at the entrance to the parking lot. Building Had 4-Story Atrium

Seventy-five yards long and 50 yards wide, the Aviation Safety Building was a sand-colored four-story structure with an atrium in the middle extending from the ground floor to the roof. It was the headquarters for all the Marine companies serving in the area around the airport and contained a mess hall, library, chapel, gymnasium, administrative offices holding all the medical records of the marines in Beirut, an infirmary, a supply room, an ammunition dump in the basement and cots on almost every floor.

The top of the building contained several telescopes that were used for spotting the sources of attacks on the Marines during the last two weeks. The building was known officially as the "BLT" - Battalion Landing Team headquarters - but was dubbed by the marines "The California Hilton."

It was not the overall command center, however. That building, where the officer in charge, Col. Timothy Geraghty, has his offices, is situated 200 yards farther north. Colonel Geraghty was there at the time of the blast. Truck Headed for Building

According to an unidentified Marine witness quoted by Major Jordan, the Mercedes truck entered the asphalt parking lot, started to pick up speed and began heading north, straight for the headquarters building. The first barrier it apparently encountered was a simple row of barbed wire that bisected the parking lot. The truck apparently ran right over the wire without difficulty.

By now it was speeding and entered the northern half of the parking lot. This is an open area with a bunker made of sandbags situated in the middle. The bunker houses guards from the Lebanese Army and usually a Marine. Whether a Marine was on duty with the Lebanese guards is not clear. In any event, the Mercedes easily drove around the sandbagged bunker and headed straight for the six-foot-high wrought-iron fence that surrounded the headquarters.

At about this point, according to Major Jordan, the Marine sergeant-at-arms standing outside the headquarters radioed the operations room and said something like, "A large truck is bearing down on me." That was all he had time to say. Truck Bursts Through Gate

Seconds later the truck reached the main gate protecting the entry of the building, which also consists of iron grillwork, and smashed through it.

As the truck was bursting through the gate, an unidentified marine quoted by Major Jordan was taking a drink of watr from a tank off to the side of the building.

"The marine said he heard a roar as the truck burst through the fence and approached the BLT," Major Jordan said, "and then he remembers thinking, 'Oh God, a car-bomb.' "

Once the truck was through the fence gate, according to Major Jordan, the sergeant-at-arms standing at the sentry post at the front door of the building ordered his sentry to lock, load and fire his M-16 rifle. According to the witness, the sentry fired at least five rounds at the truck. Sentry Box Smashed

But it did no good. The truck broke down the gate and then swerved around a blast wall of sandbags about 15 feet in front of the building entry. According to the witnesses quoted by Major Jordan, another marine threw himself in front of the truck, but to no avail.

Now the truck was moving even faster, said Major Jordan, and the only thing between it and the building was the sentry box at the front door. The sentry box consisted of sandbags and glass in wood frames. The Mercedes apparently smashed right through it and drove straight into the heart of the building's lobby. There, the driver of the truck detonated the explosive.

Some Marines said that the presence of mind of the driver, who steered the truck through all the barriers, swerved around bunkers, ignored the rifle fired directed at him and then detonated the bomb not a moment too soon was nothing short of remarkable.

SUB BEIRUT Beirut Bombing: How It Happened Driver swerves again to avoid sandbag blast wall. Behind it, at building entrance, is guard hut with sergeant-at- arms and sentry. Sergeant calls in report and sentry fires five shots before driver smashes through hut. Truck reaches central atrium and driver detonates bomb. Terminal TROOPS type 2,000 soldiers - two armored squadrons, one armored car detachment, five infantry companies, a company of engineers and a signal unit - armed with heavy machine guns, mortars, light armored cars and conventional infantry weapons. 1,400 soldiers, armed with heavy machine guns, mortars and conventional infantry weapons. 90 soldiers in a squadron of light armored cars. 1,600 marines, most ashore, armed with howitzers, mortars and conventional infantry weapons, the rest in reserve offshore in amphibious ships. Four Cobra helicopters armed with Tow missiles and machine guns or cannon. Four M-60 tanks armed with 105-mm. guns. Three destroyers, the battleship New Jersey and one aircraft carrier, the Dwight D. Eisenhower, carrying 84 aircraft, stationed with amphibious ships offshore. FRENCH HEADQUARTERS HIT MARINE HEADQUARTERS HIT

map of Beirut (page A6); photo of rescuers removing wounded marine; diagram

---

Copyright 2017 The New York Times Company | Home | Privacy Policy | Search | Corrections | XML | Help | Contact Us | Back to Top

Annex 24

Annex 25

Beirut Death Toll Is 241
Special to The New York Times
New York Times (1923-Current file); Dec 15, 1983; ProQuest Historical Newspapers: The New York Times
pg. A18

Beirut Death Toll Is 241

Special to The New York Times

WASHINGTON, Dec. 14 — The death toll in the bombing of the Marine compound in Beirut on Oct. 23 has risen to 241, a Pentagon spokesman said today. The spokesman said Cpl. Henry Townsend of Montgomery, Ala., died of his wounds Dec. 2 at the Bethesda Naval Hospital in Bethesda, Md. No announcement was made at the time of his death.

Reproduced with permission of the copyright owner. Further reproduction prohibited without permission.

Hashemi-Rafsanjani on Alleged McFarlane Visit

LD042153 Tehran Domestic Service in Persian
1650 GMT 4 Nov 86

[Speech by Majlis Speaker Hashemi Rafsanjani at 4 November rally commemorating the capture of the U.S. Embassy in Tehran — recorded]

[Text] In the name of Allah, the compassionate, the merciful. Praise be to the Lord of the universe and benedictions and peace be unto the apostle of Allah and unto his scion and immaculate imams! [preceding sentence in Arabic]

My heartfelt thanks for your kindnesses and pure and unblemished revolutionary thoughts and sentiments, O dear and beloved brothers and sisters! This occasion of 13 Aban [4 November] marks the day the autocratic Pahlavi regime exiled his holiness the imam for his opposition to the presence of U.S. specialists in Iran, the day the blood of our best and dearest students was spilt in the back streets and alleyways and, finally, the day our heroic, fighting, revolutionary, and vanguard students, by their revolutionary move of occupying the den of espionage, created a turning-point in the history of our revolution, our country, and even world history. On such an occasion, we observe a group of our best youths opposite the Islamic Consultative Assembly, in the presece of the Majlis deputies. Here, at this very eloquent and auspicious rally, I intend to give a fresh reappraisal of the outcome of the revolutionary move by the students following the line of the imam on 13 Aban seven years ago. Of course, this reappraisal is not the final one since this is not the end of our task and we should wait to see the conclusion of this tumultuous revolutionary move and then react in a more objective manner to the problems at hand.

I shall endeavor to bring to your attention things that as of today could be entered in a catalog. I think that today I shall have for you interesting and hitherto unheard-of things in this connection, and, should time allow, in order to have a better idea of the value of this move, new golden pages in the annals of our revolution might be opened with the beginning of this discourse which is entirely new. I shall summarize the preamble.

Following the occupation of that den of espionage and the events that followed, we encountered two opposing and contradictory views in our own environment and in the world. One view emanated from the dissidents who were a type of liberal, those taken with the West, and those who were fascinated by the West's polluted civilization. These people held the view that the move was a harmful one that would emasculate the country and precipitate a state of backwardness in material affairs. Since that date, every time a new issue crops up creating some problem, these people immediately draw the conclusion that it is nothing but the fruit of the very extremist actions which took place on those days. Of course, these are people whose thinking is so fundamentally entwined with the West that they cannot imagine a free, independent move in the world, imagining that should the United States sneeze a person would be beset by fever, and should the United States start brow-beating one would be compelled to perish!

There is another style of thinking which draws its fundamental source from the imam, who, at that very time, graciously commanded that that act constituted the second revolution and was of a higher nature than the first revolution. In that very connection he graciously spoke of such things as, "The United States cannot do a damn thing!" and "What need have we of relations with the United States?" and similar things which our nation enjoys as numerous aphorisms.

The position of the Islamic Republic, the position of sovereignty, and therefore the position of the Hezbollah — whereby people give up their lives, blood, and properties on the fronts and behind the fronts and are ready to put up with difficulties — has not changed since the very beginning and today remains the same! We only wish to develop this position somewhat in order to find out what we have observed during this time.

What might strike one superficially is that as a result of severing relations with the United States we might have suffered material losses. Of course we do not accept this, believing that had that aim been absent, the United States would under no circumstances have returned to us the properties we had in the United States, as it would have found excuses for keeping those properties in the banks; whereas we have been able to retrieve billions of dollars in cash from U.S. banks — prompting them to say at the time that that was the largest volume of money to be moved from one continent to another in the history of banking. [sentence as heard] But of course since the reverse has not happened we cannot draw firm conclusions, but the fact remains that with our experience and with the hostility the United States harbored for the Islamic Revolution were its aims not realized, were not a government of liberals set up in Iran, were not U.S. culture revived in Iran, and were not U.S. experts able to advance U.S. policy in Iran, the Americans would never return that money to us and we would receive nothing. [sentence as heard]

Therefore, those who speak of material losses do so since we have not seen the reverse of the coin and there is nothing there! However, from the moral, revolutionary standpoints which constituted the aims of the revolution, we were victorious on all fronts. Right from the start the slogan of the revolution was independence. How could we have independence if the United States enjoyed a satisfactory and active presence in our country? How could we expel the Pahlavi regime while retaining U.S. experts, U.S. policy, and a serious U.S. presence in the shape of the liberals and others taken with the West in Iran in the universities, schools, factories, the Armed Forces, and throughout the country? Indeed the revolution would have fallen short had we stopped in our tracks at that level of progress!

Therefore, when the imam graciously commanded that this was a higher revolution, it was because it constituted the second step of the revolution. The first step had been the abolition of the Pahlavi regime; the second step was the abolition of the foreign masters who backed the Pahlavi regime. Had the Americans and others remained here, there were a great many Pahlavis in the world and Mohammad Reza would have appeared in other forms whose examples we witnessed at the outset of the revolution. Therefore, that was the second step necessitated by the evolutionary course of the revolution. Therefore, we deemed the third step the ousting of Bani Sadr and the expulsion of all liberals from

the political arena. This took place thanks to the decisive vote of the Islamic Consultative Assembly and the glorious sanction of the imam whereby he graciously commanded that it was up to the Islamic Council [as heard]. Thus, the third step took place whereby we opened up our realm in the political dimensions for the movement we had in mind. From other standpoints, if I were to discuss these extensively I think that I would not make much headway in what I have in mind.

Today, had our relations with the United States stayed as they were, our dependence upon the United States would be worse than it was at the time of the shah; because if, as in the days of the shah, we wanted to remain dependent upon the United States, today our country and the entire region would be placed under the American yoke. All our weapons, facilities, projects, our war, defense, and everything else would be dependent upon the American continent [as heard]. Our economy, income, religion, laws, and everything else would have come under her supervision resulting in a situation similar to the one enjoyed by Saddam's masters in Iraq. Look at the present situation of Iraq. Today the Iraqis are living under conditions that allow anyone around them wishing to suffocate them, to do so. If Turkey wishes to strangle Iraq at a sign from the United States and she cuts off her oil pipeline, then Iraq is finished. If at a sign from the United States Jordan wishes to strangle Iraq and closes the port of 'Aqaba, then Iraq is finished. If Saudi Arabia and Kuwait from the south, at a sign from the United States, wish to boycott Iraq and if they close down the ports, pipelines, and roads, then Iraq is finished. If they cut off the funds from Iraq, then Iraq is finished. If they give her weapons, Iraq is finished. If the United States does not provide political support for Iraq, Iraq is finished. If the Soviet Union does not give her weapons, Iraq is finished.

Well, what kind of a life is that? Today, Iran is independent. Who is there in this world, under this sky, who can say that they can deliver blows upon Iran as a result of their anger, their wrath, or their connection or disconnection? There is no one under the sky except the Iranian nation who can make a decision about our fate. There is nothing like it in the world and we can find no, or very few, examples of such a state in recent world history that enjoys such independence. How did all this come about? Were it not for the decisive action of the students following the line of the imam, if our nation had not supported it in such a manner, and if our leadership had not confirmed the issue as it did, how could we have reached the present juncture?

Despite the fact that all pressures were exerted upon us through oil, the bombing of sensitive points, the cutting off of weapons and spare parts, the denial of equipment necessary for everyday life, and despite a serious economic embargo by world arrogance against this nation which has continued for the past 5 years, after 7 years of fighting this nation is stronger today than it was 7 years ago. It is more present upon the scene and is continuing with great strength this large-scale war which is in fact a war against world arrogance. This is the situation on our side.

What did the United States gain? The United States became the object of the anger of our nation. Immediately, it reacted to this and announced that it would cut off relations and blocked our accounts. Later, it told all its friends throughout the world to impose an embargo, a serious and formal economic embargo, on us. Now, after 7 years, especially in a war situation, let us evaluate the results and see what the American situation is and look at our situation; let us see whether we have become desperate or whether the Americans have become desperate. My house is filled with many examples concerning the desperation of the Americans and I have a great deal of material in this connection, but I cannot discuss them in this meeting and there is no time for it. Maybe in the future opportunities may arise enabling me to talk about those issues.

Here, I can only refer to one instance in connection with the issues of Lebanon and regional matters which are also of interest inside our country. With their policies they wished to imprison us; now let us see if we have been imprisoned. The United States saw Pakistan during the trip of our president to that country. [sentence as heard] How does the United States now see the situation inside Egypt? How does the United States view Lebanon? As far as Iraq is concerned, in the Fath-1 operations you noticed that we have really conquered Iraq. Today, it has been proved that the sovereignty of the Islamic Republic over the Iraqi people is in fact greater than the sovereignty of the Ba'th Party which has physical presence there. These are examples of their success in isolating us. The liberals say that when you take United States hostages you become their hostages. The same thing is true throughout the world, but here we give as examples some of the highlights of what is happening.

At the moment, in various ways the United States has extended its hands towards us and has admitted to its desperate situation. The United States made a historic mistake, and in order to make amends for the great loss and damage which was inflicted upon it in this connection, it is acting in a satanic and sly fashion to make up for its great loss. I would like to explain to you a small part of this process. The Americans put the blame for the blow that was delivered to the United States in Lebanon and the disgrace the Americans suffered there on us; and, in fact, they should blame us for it. If the U.S. Marines had to flee Lebanon and if a group of them also went to their graves under those circumstances, all this was part of the influence of the Islamic Revolution. If Israel was expelled in that disgraceful fashion from southern Lebanon, if the Phalangists who rule Lebanon today live there as defeated Jews, all this is a consequence of the Islamic Revolution.

The issue that the United States faces in Lebanon today is the issue of U.S. hostages. The United States is feeling degraded and U.S. and French leaders feel degraded, and despite the fact that each day they promise their nations that they will free the hostages, each day their problems are increased. All this is due to the awakening of the people of the region and the Muslims that are in Lebanon. Today in Lebanon, which in the past was an American safehouse, its people are so brave and courageous that they capture U.S. spies and say, "Release our prisoners in Israel, or in Kuwait, or in France;" or they say, "Do not engage in more treacherous acts so that we might leave you alone." If other governments take people captive and take hostages, in Lebanon, the people and ordinary individuals who have even lost their homes are now showing steadfastness and resistance in the face of world arrogance.

Annex 26

Last year I went to Libya and Syria. On the way back, when I was in Syria, you may remember that the issue of the TWA aircraft was in progress. When we arrived there the most important incident in the world was in progress. They had stopped an aircraft in Lebanon's airport and were saying that Lebanese prisoners, who, contrary to all international regulations, had been taken from one country and held prisoners in Israel, should be freed. All those who were involved in the incident became powerless. When I was there the discussions we had with the Lebanese president and officials showed that their view was that the issue should be solved. In that connection we expressed an opinion. In an official interview I explained the views of the Islamic Republic and said that in our view they should release the aircraft in exchange for a U.S. and Israeli guarantee of the freedom of prisoners. When we came back to Iran the aircraft was released and a number of Lebanese prisoners were also freed. Now see the U.S. desperation from then onwards.

When I went to Japan, I was surrounded by Western and U.S. reporters saying that with my one effective remark the crisis in Lebanon came to an end. They asked if I would render further assistance to U.S. and other hostages in France — [Rafsanjani corrects himself] in Lebanon — from a humane point of view, and other such questions. In response I said that the United States should put an end to it's mischief, it should leave the Lebanese people alone, and the Lebanese people would free them themselves and there would be no need for our interference. After returning to Iran, we received a letter from the Japanese prime minister who, pursuing the same issue, said that the issue was a major world problem, a festering wound in the region and in the world which could only be solved through the influence and intercessation of the Islamic Republic. My reply to Mr Nakasone's letter was not divulged at the time, but now I will read you the answer.

Of course, we have reported the incident and have discussed it, but we have not revealed the text of the answer. It is an interesting historical incident which had an even more interesting aftermath, but as night is approaching I think we should come to the point. There is about a page of introductory remarks which I will not read until we come to this point:

Regarding the issue of foreign hostages in Lebanon, unfortunately there seems to us to be a number of obscure points, and we hope that they will be clarified as the result of your efforts.

This is what I wrote to the Japanese prime minister:

1. We do not know how true the allegations are regarding the existence of U.S. hostages in Lebanon.

We were not really sure whether the allegation concerning the existence of U.S. hostages in Lebanon was true or whether they raised this issue in order to interfere in the region.

2. If the allegations are true, we do not know who the responsible people are. It is possible that U.S. and Israeli agents have carried out such acts in order to achieve their own special adventurist aims.

We were really suspicious that even if there were any hostages they were taken hostage by the Israelis or the Phalangists for some special aims.

3. We are not at all sure that America desires peace in the region. It is possible that it has created such incidents in order to find an excuse for intervention and for suppression of the people.

4. Even assuming that hostages have been taken by America's opponents, we are not certain whether America wishes to resolve the issue. It is possible that it prefers the present situation to continue in order that it may become a means for achieving the goal of interference in the affairs of others or for using them for the sake of domestic U.S. goals.

5. U.S. actions after the resolving of the incident of the hijacked TWA aircraft strengthen these suspicions. Syrian officials informed us that America guaranteed that after the resolving of the issue of the aircraft in Lebanon, Lebanese prisoners who had been imprisoned in Israel, contrary to all international laws, would be freed, but you notice that they are not fulfilling their promises. A few hundred prisoners were left behind.

6. With the violation of its promises it seems that America wishes to make the people of the region angry and to incite them to engage in such deeds.

7. If this is America's policy, there is a serious possibility that you and we will lose our credibility in the eyes of the oppressed Lebanese people in the course of our new efforts.

8. In my view, in order to prove the seriousness of the issue of hostages and America's serious intentions in finding ways of releasing them, then America should act according to its former promises and should free the Lebanese prisoners kept in Israel.

9. It is possible that if the Lebanese prisoners are still detained in Israel, even if the hostages alleged by America are set free, such incidents might recur in a worse way.

10. We expect the sagacious Japanese officials to pay attention to these friendly remarks, and not to be misled by deceivers so that our efforts would not prove useless or produce bad results.

We sent this letter. Now see the U.S. desperation. After the issue of the TWA aircraft, they started begging us to help them in Lebanon through scores of channels: through Japan, which had some further developments I will refer to again; through our neighboring countries; through our various embassies throughout the world; through certain individuals in the United Nations; and through arms dealers through whom we purchase some of the weapons needed by us, and whom the Americans knew were in contact with Iran. They began contacting us through various channels.

After I sent my reply, Mr Fujio, who was also an intermediary, came to Iran. You gentlemen may remember that at a meeting in the Islamic Consultative Assembly he again referred to the issue and gave us the answer to our letter. They do have hostages, they are serious, and they would like their hostages to be released; they are prepared to show good will. America approached us

through other channels as well and told Mr Fujio about it. Today I looked at the record of the proceedings of the Islamic Consultative Assembly and saw that that particular discussion is recorded in the proceedings.

I told him that they are not sincere when they say that they wish to act with good will. The proof of their lack of good will exists in an incident at Mehrabad Airport. At that time in a letter to Mr Nakasone I also pointed out that I doubted the Americans were sincere and were telling the truth as to whether the hostages were in the hands of U.S. agents or in the hands of other people; and, second, we were not sure whether America wanted them to be released or whether it wanted to use them for its own political ends.

I told him that if we were sure that America was sincere, then we would take steps to help. Our great suspicion was that the Americans were engaged in deceit and were trying to deceive the world. Repeat these comments to them and they will understand. Right now, there is evidence of their deceitful acts at Mehrabad Airport. In any case, if we are assured that they are sincere, as a humane act, we would help them.

Some deputies and some officials of the Ministry of Foreign Affairs who were present at that meeting asked me what the issue was I was referring to. At the moment, I will not refer to it, as it might still have some consequences. Therefore, I will not tell you now about the airport incident.

Following this, Japanese Foreign Minister Abe again wrote us a letter in which he said that the Americans had pledged to be sincere. We, he said, ask you to help them. Of course, they approached the issue from a humanitarian point of view. Finally, he asked me to allow their ambassador to see me to receive an oral reply. I told him that if the Americans were sincere. [incomplete sentence as heard]

So far we have advanced a step and we know that there are hostages in Lebanon. Before, we really did not know that there were hostages. However, their demands have been announced. They have certain prisoners in various parts of the world. Their prisoners should be released.

As far as we are concerned, you are asking us to intercede. How does America get the temerity to ask us to intercede? By what right can America make such a demand on us? It has engaged in nothing but hostility, animosity, plots, and conspiracy against us. What are U.S. satellites in the region doing to us at the moment? Who is giving all these funds to Iraq? Who is putting all these ports at Iraq's disposal? Who is making all these political threats? Who is putting all these radio stations at Iraq's disposal? I pointed all these things out to him. More importantly, I told him that under these war conditions America has confiscated our property in its warehouses — things we paid for 7 years ago. Today we need those things and we are buying them on the black market in various parts of the world.

If America is sincere and if it is not engaged in double-dealing it should release our property it keeps there and allow it to be sent to Iran. I told the Japanese ambassador that it would be our last discussion with him. If the Americans are not prepared to do this he should know that they are lying. If they are telling the truth, he could come and talk to us again when the things that belong to us in the United States had arrived in Iran.

He asked me what we had there. I told him to ask the Americans, and if they were prepared to return our goods to us, which they should do according to law and according to an agreement which we concluded with them under the Algiers Declaration, then he could come and talk to us again. The Japanese ambassador went away and did not return again and that chapter came to a close.

After this issue other channels became active. The interesting part of my speech is here, which makes you see America's desperation. Those who think that Americans have a wise and well-calculated policy and that very capable advisors have gathered together in the White House and are drawing plans to play tricks on the people of the world, can now see what kind of people they are and how they act in desperation regarding the issues and how hopeless they feel at the moment.

My evaluation is based on scores of such experiences, but now I will tell you of one such incident. I thought that today when our students and pupils came here to the Majlis, that this would be the most suitable place to discuss this issue.

The non-Japanese channels, too, almost suffered a fiasco in their efforts and every time they came they heard similar things from us and then obtained no results.

The channels of the arms brokers who had business here via our arms purchasing officials who were communicating the conversations to us played an extremely big confidence trick on and immensely deceived the Americans. Of course, they thought that they were rendering a service, but the United States was so deceived that the story I am going to tell you is unprecedented in U.S. history. Hearing this story is interesting to the whole world: It is interesting to the Americans themselves; it is interesting to the Common Market; it is very interesting to our nation; it is extremely, extremely interesting to the Third World; and it is even more interesting to Syria, which is today being subjected to an official onslaught by the United States and Britain. In hearing this story, which we shall now humbly relate, Syria should know that crossing swords with the United States is not all that difficult and that the United States is not the frightening giant that it has portrayed itself to be. One can fight the United States, can knock it down and humble it by turning it into the thing we have turned it into as I shall now humbly proceed to tell you. [cheers]

One of the aircraft which used to bring us arms from one of the European countries asked permission to cross our air space in order to land and deliver its arms in Mehrabad Airport. Of course, the arms consisted of spare parts for some of our complex needs. Those who received permission to land, posing as aircraft stewards, said they were the five who are usually with an aircraft — the captain, the co-pilot and those who are normally on such aircraft — and they gave us Irish names. When the aircraft entered Mehrabad they informed us that these gentlemen who had left the aircraft at the airport were saying: We are Americans and have brought your country's responsible officials a message from Mr Reagan and U.S. officials!

We immediately held a meeting with our friends and the heads of the Armed Forces and said: Arrest these gentlemen in the airport in order to find out what is on their minds! We then moved their aircraft to the fighter base and detained them. They waited for 3 and 1/2 hours in the airport until we were able to decide what to do and could humbly inform the imam. The imam graciously said to us: There should be no talking with these people and do not receive their message, but find out who they are, what their designation is, and who sent them!

We moved them into a hotel where they said Mr — this is what they claimed, for it is not yet clear to us that that was so — they said that they were Mr McFarlane and one or two other advisers of Mr Reagan, who were at that time special security advisers to Reagan, and that they had brought a message for the Iranian authorities and had brought presents from Mr Reagan for our country's responsible officials. The presents for each one of us consisted of a side arm, and the message was revealed to us in a personal meeting! They also brought along a cake as a key to establishing relations — and that is something we have not heard of before and must be some enigma or another. The boys [the security officers] who were extremely hungry waiting in the airport, the hotel, and elsewhere took the cake and ate it! Well, nothing was left to reach us.

We said: My dear fellows, in the United States we have much better weapons: We have Harpoons there, we have (?Howitzers) and Hawks, we have F-14's. We have such weapons there [referring to arms purchases made by the shah but not delivered to Iran] and now you are sending us Colts! We in no way accept a gift from anyone, have nothing to say to anyone, and do not accept anyone's message. You must tell us how you have arrived illegally in Iran!

We took their passports and we now have their things here. We have made copies of their passports. The photograph is okay and is similar to the face of McFarlane. Of course, we are not yet 100 percent certain that it is him, since no one properly spoke to these people in order to find out whether they were who they said they were or not. Those who dealt with these people were security officials in that area. There was one who engaged in arms purchases and was there with the broker; the arms broker also came with these people. In order to follow their conversation we then introduced them to one of our friends who understood the language well, but who, although a discerning person, was not one of the responsible authorities.

In brief, their purpose was basically to come along, as they put it, and melt the cold ice separating Iran and the United States, to melt the frozen ocean! Their immediate aim was to turn us into intercederes in Lebanon, and their distant goal was to create the amicable relations and the golden vision that they had in mind! They begged, pleaded, and sent messages requesting that one of our country's responsible officials receive them. They said that since they were bearing a message from the President, our president should receive them! We said: No! He does not wish to meet you! They said: Well, let the Majlis speaker receive us! We said: He, too, will not receive you! They said: Well, let the prime minister receive us! We said: He, too, will not meet you!

The self-styled Mr McFarlane became angry and said: What crazy people you are! We have come to your doorstep in order to solve your problems! We have come to solve your problems! Your airspace is controlled by Iraqi aircraft, and so on and so forth, and we have come along to solve your problems and this is how you behave towards us?! He said: If I had gone to Russia — this is an interesting thing so listen to this and let the world hear what he said; let the Americans hear this and let the Russians hear it too! — for he said: If I had gone to Russia in order to purchase furs there — since Russian furs are famous and people go there to make purchases — had I gone to Russia to buy furs Gorbachev would have met me three times a day! Who are you not to speak to the special envoy of the U.S. President?! We said: Birds of a feather flock together. So go there!

This is not the place for such talk! We are angry with the United States. We are at war with you. You have kindled the flames of this war. You are responsible for all these calamities besetting our country. How could we meet and talk to you! Have we forgotten that Brzezinski met our ad interim government in Algiers and our ad interim government has been (?swept aside) and now you have come inside our house, our country intending to meet us!? Could our nation be asleep in such matters?!

So they spent 5 days in detention in the hotel and they were terrified and informed us later that the U.S. Rapid Deployment Forces were put on alert. Naturally, we do not know whether this was so or not. At long last, after 5 days, we permitted them to go. They were angry and we gave them their aircraft, since up to that time they had not seen it. They got into their aircraft in order to establish direct communications, since they did not want to talk on the public telephone and since we had told them that they could not use it. But sometimes they did make contact by telephone and were monitored by us — let them not think of denying that since we we have a tape of the voice of this selfsame Mr McFarlane, if that be him, and should they request it later we could give them the voice recording for (?historical interest), since he says an interesting sentence.

So you can see how the Americans took such a risk in coming here and we questioned them, saying: Sir, how dare you come here with false and wrong passports! You have entered our country illegally. What would happen to you if we were to arrest you as spies and were to declare to the world that you have come to our country?! They said: These brokers told us to do it. They told us: You come to Iran and they will welcome you! In other words, they really deceived them and I am confident they believed them. Of course, a broker who is a counterrevolutionary, one of those refugees who is abroad and sometimes assists us in our purchases, (?has deceived these people and now what would the Americans do to him I have no idea).

Another more interesting fact that, God willing, we might even give you, is [word indistinct] during the messages they sent us and we told them that we did not recognize them, Mr Reagan took a copy of one of the Bibles, chose one of the verses which roughly says that God's religions are together and all God's religions are the same, wrote those verses in his own hand on the cover of the Bible, signed it, and sent it to us in order to win our confidence. Well, we did not need the Bible, but we have a photocopy of Reagan's words, which some day we may publish and you may

see. This is America, that huge giant of the world, that superpower which Western-stricken people imagine has such world power that if it moves such and such will happen; if it decides, such and such will take place; and that the world revolves around its finger. They face issues with such futile thoughts and vain imaginings, which they then instill in the people.

Syria should choose our path, which it of course has done. The Lebanese chose our path. What could they do to them? All of Lebanon is 10,000 square kilometers; it is the size of a city. All of it is not the size of one province. It is even smaller than Ilam Province. Although America has the Phalangists, Israel, and so many forces there, what can it do? Now it has turned to us to solve its problem.

What can France do in Lebanon? France has gone to its knees in the face of the Hezbollah in Lebanon. The world is not like they think it is — that if a country does not compromise with the superpowers, it submits. This is due to the weakness of the leaders of the countries. This is due to the weakness of the West-stricken people, the self-alienated people who think one should always act with humility towards them and should kiss the ground they stand on.

The world should listen to this. The Americans impose a thousand types of extortions on people to allow them to meet individuals such as Brzezinski, McFarlane, [word indistinct] and such. It is the source of pride to the kings of the world to meet one of these American roughnecks. However, the Islamic Republic, as it is standing on its own feet and as it is relying upon God, is so powerful that they come and beg and request, they come without permission to the country in order to arouse our sense of pity and to place us in an embarrassing situation as a guest that has arrived as a Muslim. They bring us signed Bibles in order to meet with us. Nevertheless, the Islamic Republic says we cannot meet with someone whose crimes can be seen here and there. We have conveyed to you our words through the mass media and we repeat them again — the same thing we said about Lebanon through the mass media.

Up to a time we did not know that hostage-taking in Lebanon was taking place. Let them not accuse us of terrorism. We learned that there were hostages there, and some of them — not all of them — were connected with Islamic forces; and some of the Islamic forces listen to what we say. From here we tell the American and French people — I am not addressing governments, but nations — if your governments prove to us in practice that they are not fighting against us, if they prove in practice that they do not engage in treason against us, if they prove in practice that they do not confiscate our assets through bullying tactics, that America does not confiscate our property there, and that France does not without reason block our money in its banks, if they prove these facts in practice then the Islamic Republic in a humane gesture is prepared to announce its views to its friends in Lebanon. Our friends also know our views.

Our views are as follows: The demands of the oppressed Muslims of Lebanon should be satisfied. They have a few prisoners. Well, they are not a government like you, able to keep prisoners in an official jail. They are forced to hide their prisoners somewhere. You are on one side and they are on the other. They are small and you are big, the difference being that they are on the side of right and the right is greater than you. Therefore, if you satisfy their demands and prove to us, as you claim, that you are not hostile to us, that you have no hostility toward us, and that even though you are hostile to us you do not act in a hostile manner towards us — if you prove these things, we, too, in a humane gesture will express our views to our friends in Lebanon and other places, as we did in the case of the TWA aircraft. If they heed our words they will release these people who are held hostage and are detained, as they have already released some of them after receiving something from you in return. They will free them, but the conditions are that you also stop some of their satanic deeds; and Mr Reagan, even if he is a satan, should stop acting like one.

We cannot do anything about your internal differences. They are faced with a large number of such internal differences. In France, one wing is so frightened of the other that it cannot take steps in Lebanon toward freeing their hostages. They are frightened of being accused of being blackmailed by Iran, being blackmailed by the Lebanese. The same is true of America. One wing is frightened of the other. If you sincerely wish to release your hostages — from a domestic point of view you no doubt want to release them — if you can release them yourselves, well do it and we should be very happy, too, to see that a number of people are not needlessly detained. If you want our intervention, then: Woe be to him whose enemy intercedes on his behalf.

At the moment, we are your enemy and you are our enemy. If you wish us to intercede on your behalf, we have left the door open. You should prove that you do not engage in senseless hostility against us. The fact that you have some real hostility toward us and we toward you, is one thing; but the fact that you act in an extortionist manner, that you confiscate our property in America and do not let us have it, or in France confiscate our property and do not let us have it — France is pouring so many weapons into Saddam's mouth and then saying that Iran is its friend and should come and solve its problem — well, acting in such a manner requires a great deal of stupidity.

The first point that the Islamic Republic raises is that we are independent, free, anti-imperialist, antiarrogance, against domination and aggression, we are Muslims, and supporters of the oppressed people. If you want us to condemn the Lebanese people who are defending their right, we will not condemn them; but if, like other people, you also leave us alone, we will help you if our Lebanese friends will listen to our words. Of course, our Lebanese friends are also free. They do not owe us anything that would allow us to make demands on them, and they have not pledged themselves to follow our orders. The issue is their issue, but they accept us as their helpful friend and in some cases they heed our words, as they did in the case of the TWA aircraft.

I thank you sisters and brothers who have patiently listened to my words. I hope you will maintain the path you have chosen as well as you have in the past. God willing, you and the Islamic Republic and your fighters will become victorious. Greetings and God's blessings be upon you.

Annex 27

Ressalat
29 Tir 1366, (July 20, 1987)

The Speech of Our Brother Mohsen Rafiqdoust at one of the Country's Factories for Defense

(Last part)

America and the U.S.S.R., two Corrupt Powers

When the Soviets realized that they were being toyed with by America, they sent their representative to Iran to say that they were about to be caught by American traps.

America has naturally a deeper conflict of interests with us, although our conflicts with both the U.S.S.R. and America remain the same, they are both corrupt powers and we will fight both of them.

With the victory of the Iranian Revolution, America deeply felt the effect of our hard blow to its corrupt body in Lebanon and other parts of the world. It knows that both the TNT and the ideology which in one blast sent to hell 400 officers' NCOs and soldiers of the Marine Headquarters have been provided by Iran.

This is evident and felt by America, that is why America finds itself powerless in the Persian Gulf.

America knows that if it retreats from the Persian Gulf, it will be no more in the position to get a ransom from Kuwait, Saudi Arabia and other sheikdoms of the region. Obviously, it won't retreat. As a insignificant member of an Islamic Republic organization that is burdened by war, I have to tell you that we have been instructed to enter the war against America in the Persian Gulf. What can America do against us? We will sink its

aircraft carriers because we know exactly what to do. If America wants to bomb our ports, we will be ready to defend ourselves and to give it a devastating response.



□ آمریکا و شوروی، دو عنصر پلید

شوروی که دید اینجا دارد بازی آمریکا را می خورد، نماینده‌اش را فرستاد ایران و گفت ما اشتباه کردیم، ما داشتیم در دام امریکا قرار می گرفتیم، و رفت دنبال کارش.

آمریکا، طبیعی است که با ما از این نظر تضاد بیشتری داشته باشد، هرچند که ما تضادمان با هر دو قدرت، شوروی، و آمریکا، یك اندازه است و هر دوی آنها برای ما یك عنصر پلیدی هستند و ما با هر دوی آنها مبارزه خواهیم کرد.

در پیروزی انقلاب در لبنان و در خیلی از جاهای دنیا، آمریکا ضرب شست ما را بر پیکر منحوس خودش احساس می کند و می داند آن مواد منفجره‌ای که با آن

• جنگ اسلام و کفر از طائفه مؤمنین سه گروه بهشتی هستند، گروه اول (که شمائید) آن کسی است که اسلحه را می سازد.

ایدئولوژی ترکیب شد و در مقرّ تفنگدارهای دریایی چهارصد افسر و درجه دار و سرباز را یك مرتبه به جهنم فرستاد. هم تی ان تی آن مال ایران بود و هم ایدئولوژیش ازایران رفته بود. این برای آمریکا بسیار محسوس است، فلذا است که در خلیج فارس درمانده شده.

اگر آمریکا بخواهد از خلیج عقب بنشیند و به اصطلاح کوتاه بیاید، چطور می تواند از کویت و عربستان و از این شیوخ علقهٔ مضغهٔ منطقه باج بگیرد. بسیار خوب، اینکه تحمیل حاصل است، او عقب نخواهد نشست؛ امّا بعنوان یك عضو کوچك نظام جمهوری اسلامی، درمیان شما زحمتکشانی که بخشی از بار جنگ را بر دوش می کشید می گوییم که بما ابلاغ شده است که با آمریکا در خلیج فارس وارد جنگ شویم. اگر آمریکا نخواهد بیاید چه کار می تواند بکند؟ ما ناو هواپیمابرش را به ته دریا خواهیم فرستاد، واعلام هم می کنیم برای همهٔ جوانب کار در خلیج فارس فکر کردیم. اگر آمریکا بیاید سواحل و بنادر ما را بمباران بکند، با آمادگی کامل پاسخ قاطع و مناسب خواهیم داد.

□ انقلاب در کارخانجات در روند جنگ تأثیر دارد.

باید در کارخانجات انقلاب بشود، باید همه از جانشان مایه بگذارند، باید همه از جونشان مایه بگذارند.

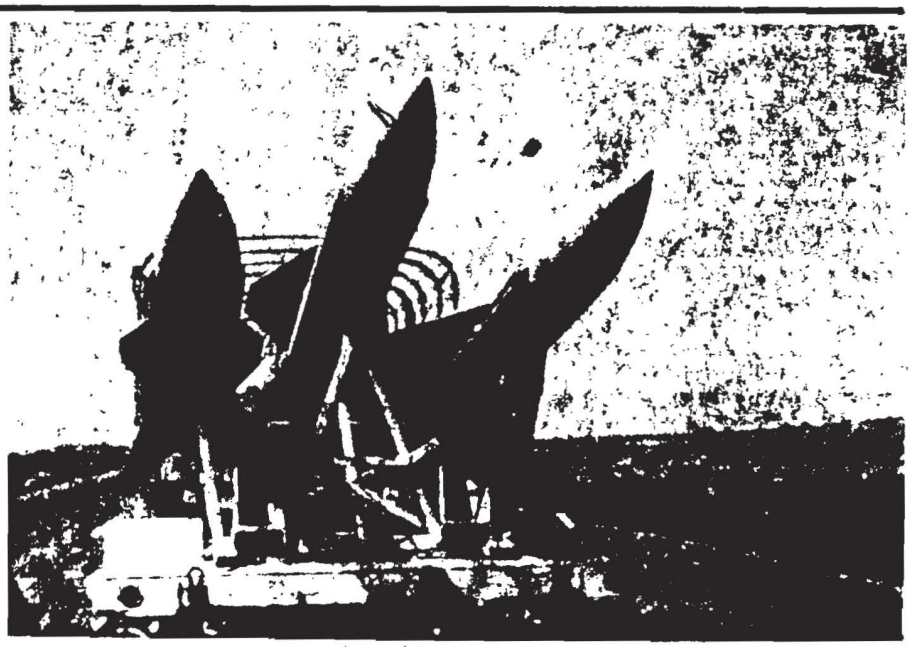
سخنرانی برادر محسن رفیق دوست در یکی از کارخانجات صنایع دفاع کشور

نمی خوانید وصیت‌نامه شهداء را؟ «کار مشکل است، نابسامانی دارد، بن بست دارد، مسائلمان را حل نمی کند،» بهانه است که در یك انقلاب قابل قبول نیست. در دنبالهٔ عملیات نصر ٤، عراق پانزده تیپ خود را جمع کرد و به ماووت آورد تا آنرا پس بگیرد. فرمانده نیروی زمینی سپاه تماس گرفت که: فشار خیلی زیاد است، امّا بلید بسختی مقاومت کنیم، یا همه ما شهید می شویم، یا همهٔ آنها رامی کشیم. که ما در پاسخ گفتیم: شما مأمورید آنها را تارومار کنید. دو شب بعد آنقدر عراقی در منطقه کشته شد که بچه ها گفتند چقدر دیگه از اینها بکشیم. پنجهزار و ششصد نفر در پاتك عراق در پس گیری ماووت که کاملاً با شکست مواجه شد به دیك واصل شدند، می خواهم بگویم که اینطوری باید کار کرد.

استقلال دفاعی،

قسمت آخر

زمینهٔ استقلال سیاسی و اقتصا



Annex 27

The New York Times

This copy is for your personal, noncommercial use only. You can order presentation-ready copies for distribution to your colleagues, clients or customers, please click here or use the "Reprints" tool that appears next to any article. Visit www.nytreprints.com for samples and additional information. Order a reprint of this article now. »

April 19, 1983
U.S. BEIRUT EMBASSY BOMBED

U.S. BEIRUT EMBASSY BOMBED; 33 REPORTED KILLED, 80 HURT; PRO-IRAN SECT ADMITS ACTION

By THOMAS L. FRIEDMAN, Special to the New York Times

BEIRUT, Lebanon, April 18— A bomb exploded in the American Embassy in Beirut today, killing at least 33 people and wounding more than 80 others.

Both the Lebanese police and American officials said there was evidence suggesting that the explosion may have been caused by a car packed with TNT driven up to the embassy's front door and detonated in an suicide attack.

A secretive pro-Iranian Moslem group called the Islamic Jihad Organization said it was responsible for the bombing, in a telephone statement to the Beirut office of Agence France-Presse. The same group said it was responsible for the grenade attack against a group of American marines on March 16 in which five men were wounded.

Precise Cause Still Unconfirmed

The precise cause of the explosion, as well as final casualty figures, will not be confirmed until rescue workers finish clearing away the ruins of the eight-story embassy. Most of the center part of the horseshoe-shaped structure collapsed from the blast in a grotesque avalanche of concrete chunks, pieces of office furniture and dead bodies. Rooms in the other sections of the seafront embassy were either gutted by fire or torn apart by flying steel and bricks.

Civil defense workers guarded by a ring of United States marines from the multinational peacekeeping force worked through the night under floodlights to pull away the rubble in search of more bodies and clues to the explosion. Many Casualties Were Lebanese

Most of those killed or wounded were Lebanese members of the embassy staff, pedestrians on the fashionable Mediterranean esplanade that runs in front of the American mission and Lebanese civilians who were packed into the groundfloor consular office applying for visas to visit the United States.

However, among the 33 people reported dead by the state-run Beirut radio were two United States Marine guards and some diplomats. Other American diplomatic staff may still be buried under the debris along with an undetermined number of Lebanese, police sources said.

(In Washington, Administration officials said that so far, there were six Americans known dead and two others missing and presumed dead.)

The American Ambassador, Robert S. Dillon, was in his eighth floor office when the explosion tore through the embassy at 1:05 P.M., just as many staff members were sitting down for lunch in the cafeteria, which was completely destroyed. The Ambassador managed to escape safely through a back set of stairs, as did almost everyone else who walked out alive. The American envoys, Philip C. Habib and Morris Draper, were at the Presidential Palace in Baabda when the explosion hit.

Wearing a purple warm-up jacket and a red T-shirt, the American Ambassador explained to reporters outside the gutted embassy how he got out alive, suffering only minor cuts.

"I was standing in my office with my telephone in one hand and a T-shirt in the other, getting ready to go out for my afternoon jog," Mr. Dillon said. "All of sudden there was an explosion and my office collapsed. I couldn't move.

"My secretary and deputy Robert Pugh came in and pulled the rubble off of me," the Ambassador said. "We crawled through an open window, around the ledge to the back and then down the stairs."

Asked how a bomb could be placed in the always tightly guarded driveway of the embassy, where only the Ambassador's armor-plated limousine is allowed to enter, Mr. Dillon said he could only speculate that a car packed with explosives crashed through the checkpoint at the end of the driveway and into the entrance. Unlike other American embassies in dangerous locations, the Beirut mission is not guarded by any substantial outer wall. Visitors just walk past a Lebanese Army checkpoint, up the driveway and into the main lobby.

The explosion shook all of West Beirut, spewing glass and metal in all directions and breaking windows up to a mile away. A Navy medical officer from the United States Navy ship Guadalcanal, which was resting off the Beirut coast about five miles out to sea, said his entire ship "shuddered" from the blast tremor.

All of the cars parked around the embassy were blown apart, with fenders, hubcabs and license plates coming to rest 50 yards away. A tree in front of the American mission was cut in half by a piece of flying metal, while a nearby traffic light was melted by the heat of the explosion. 'A Flash and Fireball'

"I saw a flash and fireball shoot up into the sky," said a United States Navy seaman, Michel Paridom, from Doylestown, Ohio, who was walking toward the embassy when the blast occurred. "I knew immediately what happened."

The brunt of the blast went straight upward, bringing down the eight stories in the central portion of the building on top of one another like a fallen house of cards. The entryway where the Marine guards have their main sentry post was obliterated by the falling rubble, and the always crowded counselor section next to it was gutted by a ball of fire.

"I was in the political section," said an embassy secretary, Catherine Nylund, wiping away streams of blood from cuts on her cheeks. "All I know is a bomb went off and things started to fly in every direction."

"One of the men near me - he was new from Washington and I don't know who he was - got hit with a piece of flying metal," she continued, with a stunned look in her eyes. "He had a severe head wound, and

I am not sure what happened to him. We started to walk out and saw that some of the floor was just gone. A marine in a flak jacket helped me out the back." Relatives of Missing Gather

Friends and relatives of people believed to be inside the embassy gathered around the building, wrestling with Lebanese Army soldiers who tried to prevent them from getting near the burning structure to search for their loved ones. The more hysterical among them stood about screaming the names of their missing family members, while others leaned against a wall, gripping handkerchiefs or a purse and weeping silently.

Lebanon's President, Amin Gemayel, came to the smoldering embassy two hours after the blast and walked through the ruins discussing the rescue operation with Col. James Mead of the Marines, the commander of the American peacekeeping unit in Lebanon, who was helping to supervise the cleanup.

President Gemayel also sent a message to President Reagan saying he was "deeply grieved by the criminal act perpetrated against" the American Embassy.

The Lebanese President, clearly concerned that the bombing might raise an outcry in Congress to pull out the 1,300 United States marines stationed in Beirut, added in his message that "those responsible for this crime have united in death innocent Lebanese and American citizens and have strengthened the determination of our two countries to continue to work together in restoring unity, freedom and independence to this tortured land."

Illustrations: photo of victim of bomb attack photo of U.S. Embassy after bomb attack

---

Copyright 2017 The New York Times Company | Home | Privacy Policy | Search | Corrections | XML | Help | Contact Us | Back to Top

The New York Times

This copy is for your personal, noncommercial use only. You can order presentation-ready copies for distribution to your colleagues, clients or customers, please click here or use the "Reprints" tool that appears next to any article. Visit www.nytreprints.com for samples and additional information. Order a reprint of this article now. »

September 21, 1984

23 DIE, INCLUDING 2 AMERICANS, IN TERRORIST CAR BOMB ATTACK ON THE U.S. EMBASSY AT BEIRUT

23 DIE, INCLUDING 2 AMERICANS, IN TERRORIST CAR BOMB ATTACK ON THE U.S. EMBASSY AT BEIRUT; BLAST KILLS DRIVER

By JOHN KIFNER, Special to the New York Times

Editor's Note Appended

AUKAR, Lebanon, Sept. 20— A suicide car bomber raced through a hail of gunfire today and devastated the United States Embassy here, killing at least 23 people and wounding scores.

The Beirut state radio said tonight that the death toll in the attack could reach 40.

The driver, who died in the huge explosion, negotiated the concrete- block defenses around the embassy and detonated the vehicle in front of the six-story building. Shards of Glass, Bent Steel

The force of the explosion, which occurred at 11:44 A.M. (4:44 A.M., New York time), ripped off the front of the embassy, shredding glass, bending steel bars and destroying cars in a nearby parking lot.

Pandemonium ensued. Marines, clutching their M-16's, pulled on flak jackets. Diplomats, some with their clothes smeared with blood, staggered out of the wreckage holding walkie- talkies and looking for their colleagues.

Two Americans were known to be among the dead. Most of those killed or wounded were believed to be Lebanese, either local employees or people seeking visas.

The United States Ambassador, Reginald Bartholomew, was reported slightly hurt after he was trapped in his office. The British Ambassador, David Miers, who was meeting with Mr. Bartholomew at the time of the explosion, was also reported slightly hurt.

Moved From West Beirut

The embassy, officially known as the embassy annex but in fact the main American diplomatic installation, had only recently been moved to this suburb of the predominantly Christian East Beirut. It had been thought that the area was safer than West Beirut.

The car bombing today was the second such attack on an American embassy in Lebanon in 17 months. On April 18, 1983, the embassy in West Beirut was destroyed in a bombing that killed 63 people, including 17 Americans.

A shadowy group known as Islamic Holy War claimed responsibility in a telephone call to Agence France- Presse about an hour and a half after the explosion today. The same group took responsibility for the previous embassy bombing and the suicide bomb attacks on the American and French garrisons in Beirut last Oct. 23 that killed 241 Americans and 58 Frenchmen. 'Our Previous Promise'

"The operation goes to prove that we will carry out our previous promise not to allow a single American to remain on Lebanese soil," the anonymous caller said in Arabic in the telephone call today.

The police said the car may have been carrying 385 pounds of explosives. The state television reported that the force of the blast had been increased because the car was fitted with four Soviet-made Grad rockets. The car began picking up speed as it wove through the barricades, witnesses said, and the guards began firing, first in the air, then at the car, as it speeded up.

"I fired four or five shots from my M-16 before it jammed," a Lebanese guard on duty at the checkpoint, who gave his name only as Saleh, told reporters. "I took out the magazine to replace it and the truck ran by me, scraping the edge of two of the barriers."

The British bodyguards assigned to Ambassador Miers, who were waiting in their Land-Rover in the parking lot, also jumped out and opened fire at the careering vehicle with their Heckler- Koch machine pistols, a diplomat said, and believed they hit the driver.

It was not immediately known if American marines fired on the vehicle. Diplomatic License Plates

The police and witnesses said later that the vehicle was carrying diplomatic license plates that appeared to be Dutch. License plates are commonly forged here, and diplomatic vehicles are a major target of car thieves. The car involved in the attack today, a police source said, may have been one of several stolen recently from the embassy branch in West Beirut.

(In Washington, the Pentagon identified the two Americans killed in the explosion as Chief Warrant Officer Kenneth V. Welch of the Army, 33 years old, of Grand Rapids, Mich., and Petty Officer First Class Michael Ray Wagner of the Navy, 30, of Zebulon, N.C. Both were assigned to the United States Defense Attache Office in Beirut, a spokesman said.

(The spokesman, Lieut. Comdr. John Woodhouse, said five American military personnel were wounded, two of whom were treated in a hospital and released. According to the State Department, a total of 20 Americans and 50 Lebanese were wounded. A State Department official said six Lebanese were killed.)

Cpl. Larry Gill of the Marines, 25, of Montgomery, Ala., was on duty at Post 1, the main entrance, when the explosion occurred. He had only a few days left to serve in Lebanon.

"I heard a burst of shooting and saw the skid marks and then the lights went out," he said later from a stretcher where he was being treated by Lebanese security guards and Red Cross workers.

The state radio reported tonight that people in the car fired back, killing Ambassador Bartholomew's Lebanese driver, Kassam Ayash. Driver May Have Been Hit

It appeared that the driver of the explosives-laden car may have been hit, witnesses said, because instead of driving into the entrance of the building or into the underground parking garage - a car bomb target

often used here to increase the damage - the car seemed to swerve or skid slightly away from the embassy before it exploded.

The blast was heard in seafront districts of West Beirut, more than 10 miles away.

To enter the area around the embassy building, cars must negotiate three sets of waist-high concrete cubes known here as dragon's teeth, which are often used to block entrance ways. These were set in groups of three first at the right, then the left, then the right again, so vehicles must negotiate an S-turn.

American-trained Lebanese private guards in new uniforms of khaki with jump boots and blue berets are normally on guard in front of the dragon's teeth. In the West Beirut branch, these are former Druse and Shiite militiamen whose old organizations control the area. Here, they are presumed to be former Christian Phalangists.

Two holes were visible drilled in the roadway near the concrete blocks, and were said to be for an iron gate that was scheduled to be installed. White painted steel bars, apparently part of the gate, lay nearby on the ground.

"They were going to fix it in the next couple of days," one of the Lebanese guards said. "If they had done so earlier the vehicle could not have entered."

From this checkpoint, the two-lane road runs directly to the front of the embassy, perhaps 150 yards away. A Recent Warning

Twelve days ago a caller claiming to speak for Islamic Holy War warned that "very soon we shall strike at one of the vital American installations in the Middle East" in retaliation for the American veto of a United Nations Security Council resolution critical of Israel's conduct in occupied southern Lebanon.

The United States Embassy had moved for the sake of safety to this tiny suburban village about nine miles northeast of central Beirut, in an area controlled by Phalangist militiamen, after the bombing of its West Beirut building, various threats and the kidnapping of three Americans in the mostly Moslem western sector.

The staff of about 40 Americans moved to a scattering of apartments in the suburbs of East Beirut, again for safety.

That illusion ended shortly before noon when a heavy four-wheel-drive American-made station wagon drove up the steep, winding hill from the sea and turned into the embassy driveway.

Some of the victims near the blast were so mutilated that identification was difficult, the police said later. Others were buried in the wreckage.

The blast tore the car itself apart, leaving a crater about six feet deep in the roadway and scattering debris, including pieces of the engine block, for more than 200 yards around. A small truck parked along the roadway was flipped upside down and burned out.

Ambassador Bartholomew was chatting with the British Ambassador in his top-floor office when the bomb went off, his colleagues said later.

"Some of us went running to his office, and Ambassador Miers pointed to where he was pinned under a considerable amount of rubble and helped us dig him out," a political officer, David Winn, said.

"He was clearly injured but left here under his own control," Mr. Winn added.

The two Ambassadors were taken to nearby Abu Jawadeh hospital, where their wounds were described as not serious. Mr. Bartholomew was reported to have been cut around the left side of his head and his left arm. Cabinet Pauses for 10 Minutes

Lebanon's deeply divided Government, which has been meeting in an extraordinary set of "conclaves" throughout the week to find a way out of a decade of civil strife, paused for 10 minutes when the bombing was announced.

Prime Minister Rashid Karami later issued a statement calling the act "inexcusable and intolerable."

The leader of the Phalangist militia, Fadi Frem, in whose normally relatively secure territory the bombing was carried out, said it was part of a "war of terrorism launched against the free world."

photo of soldier; photo of wounded people

Copyright 2017 The New York Times Company | Home | Privacy Policy | Search | Corrections | XML | Help | Contact Us | Back to Top

Annex 29

Iran Charged for Attack on AMIA

Calls for the capture of a former president of that country, two former ministers and four other former senior officials and diplomats

Thursday, October 26, 2006

By Hernán Cappiello

By holding the government of Iran directly responsible for the terrorist attack that demolished the AMIA [Argentine Jewish Mutual Association] building 12 years ago, the prosecutors investigating the attack yesterday requested international arrest warrants for eight former Iranian government officials, including a former president of Iran, two former ministers, members of Hizballah, and two former diplomats who had been assigned to the Iranian Embassy in Argentina.

"The attack was executed by the Lebanese terrorist organization Hizballah, at the instigation of the highest authorities of the then government of the Republic of Iran," said Prosecutors Alberto Nisman and Marcelo Martinez Burgos, who are heading the investigation.

Now Federal Judge Rodolfo Canicoba Corral will have to analyze the evidence on which this request is based and if he considers the evidence sufficient, he will issue these arrest warrants so that if the persons named are arrested anywhere in the world, they can be extradited to Argentina.

The persons who have been charged by the prosecutors are the former president of Iran from 1989 to 1997, Ali Akbar Hashemi Rafsanjani; the former minister of intelligence and security until 1997, Ali Fallahjan; the former minister of foreign affairs of Iran, Ali Akbar Velayati; the former commander of the Revolutionary Guard, Mohsen Rezal; the head of Hizballah's External Security Service; Imad Fayez Moughnieh (who is also wanted by the United States for the attack on the Embassy of Israel); the former cultural attache of the Iranian Embassy in Buenos Aires, Mohsen Rabbani, the former third secretary of the Iranian Embassy, Ahmad Reza Asghari; and the former commander of the Iranian Quds forces, Ahmad Vahidi.

The persons who have been accused now hold minor posts in the [Iranian] government and have no immunity, judicial sources told *La Nacion.*

The prosecutors stated that, based on a variety of testimony, they established that the motive for this attack in Argentina was the Argentine government's unilateral suspension of the nuclear technology transfer program, which Iran considered crucial.

They also reaffirmed that the Trafic van loaded with explosives that blew up next to the [AMIA] building located at 633 Pasteur, causing the deaths of 85 people, was driven by Ibrahim Huseim Berro, a member of Hizballah.

In charging the highest officials of the Iran government, the prosecutors considered it proven, based on evidence in the case, that the decision to bomb the AMIA had been made on 14 August 1993 in a meeting held in the Iranian city of Mashad, in which the persons accused took part.

Strictly speaking, former Federal Judge Juan Jose Galeano, before he was separated from the case and removed from the bench, on 5 March 2003 had requested the arrest of 12 Iranians and one Lebanese national suspected of the attack. That group included four persons who are on the present list. This was the corollary of an SIDE [Secretariat for State Intelligence] report, prepared during the tenure there of Miguel Angel Toma, which compiled both its own information and data from the intelligence services of the United States, Israel, and some European countries. Galeano had been careful not to accuse Iran and instead had talked about radicalized Iranian elements.

The persons sought at that time included the former Iranian ambassador to Buenos Aires Hadi Soleimanpour, who was arrested in London but was later released by Great Britain because of the dearth of solid evidence that Argentina at that time provided against him.

After the oral and public trial that ended with the acquittal of Carlos Telleldin and the former Buenos Aires Province police agents accused of being part of the local connection, those arrest warrants were dismissed by Interpol, which understood that they had been signed by a judge whose actions in the case had been described as irregular.

For that reason the AMIA Prosecution Unit reviewed the entire case, rejected trails that led nowhere, returned to others that had been ignored earlier, assembled new testimony, collated and crosschecked telephone calls that were made 15 years ago, and arrived at new conclusions.

For example, the prosecutors established that Rabbani, when he returned [to Argentina] after taking part in the August 1993 meeting at which the decision to proceed with this attack was made, opened an account in the Deutsche Bank in which between March and April 1994 $150,000 was deposited. This sort of activity was totally unusual in comparison with his usual financial transactions. This information, combined with the SIDE photo in which he is seen shopping for vans on Warnes [Avenue in Buenos Aires], provided further circumstantial evidence against him.

The telephone records enabled the prosecutors to establish that a call made from Rabbani's cell phone to a mosque had been made from a place close to the parking lot where the Trafic van was parked until it was driven to its target.

An hour later, a cell phone number in Foz de Iguazu was called from a nearby telephone booth [near the parking lot]. This cell phone belonged to the person who coordinated the operation from the TriBorder Area. The prosecutors established that the operations group, commanded by Moughnieh, arrived in Argentina on 1 July 1994 and left on board a flight from the [Buenos

Aires] Aeroparque Newbery at 0715 on 18 July, just hours before the bombing. This was established by telephone calls made to the TriBorder cell phone, which ceased on the very day that the attack occurred. They also found other calls made from the same phone booths to a number that the SIDE has identified as being the number of a Hizballah base in Lebanon.

Judge Rodolfo Canicoba Corral has already begun to analyze the prosecutors' opinion on the AMIA attack. "Measures that are supported, that conform to the law, will be available. It is necessary to read the entire opinion and study each of the references to the evidence cited, do all this work and then resolve whether to order these arrests. If all is well, I will order what the prosecution asks," the judge told the DyN agency.

LA NACION

Acusan a Irán por el ataque a la AMIA

Pidieron la captura de un ex presidente de ese país, de dos ex ministros y de cuatro otros ex altos funcionarios y diplomáticos

JUEVES 26 DE OCTUBRE DE 2006

Al responsabilizar directamente al gobierno de Irán por el atentado terrorista que demolió la sede de la AMIA hace 12 años, los fiscales que investigan el ataque pidieron ayer la captura internacional de ocho ex funcionarios iraníes, entre ellos un ex presidente de ese país, dos ex ministros, integrantes del Hezbollah, y dos ex diplomáticos que estuvieron destinados en la embajada argentina.

"El ataque fue ejecutado por la organización terrorista libanesa Hezbollah, a instancias de las máximas autoridades del entonces gobierno de la República de Irán", dijeron los fiscales Alberto Nisman y Marcelo Martínez Burgos, que tienen la investigación.

Ahora, el juez federal Rodolfo Canicoba Corral debe analizar las pruebas en que se basa este pedido y si las considera suficientes hacer lugar a la medida para que en caso de ser detenidos en algún lugar del mundo puedan ser extraditados a la Argentina.

Los acusados por los fiscales son el ex presidente de Irán entre 1989 y 1997 Alí Akbar Hashemi Rafsanjani; el ex ministro de Información y seguridad hasta 1997, Alí Fallahjan; el ex ministro de Relaciones Exteriores de Irán, Ali Akbar Velayati; el ex comandante de la Guardia Revolucionaria Mohsen Rezai; el jefe del Servicio de Seguridad Exterior del Hezbollah Imad Fayez Moughnieh (también buscado por Estados Unidos por el ataque a la embajada de Israel); el ex consejero

cultural de la embajada iraní en Buenos Aires, Mohsen Rabbani, el ex tercer secretario de la embajada Ahmad Reza Asghari y el ex comandante de las fuerzas QUDS iraníes Ahmad Vahidi.

Los acusados actualmente ocupan cargos menores en el gobierno y no tienen inmunidad, dijeron a LA NACION fuentes judiciales.

Los fiscales señalaron que, por diversos testimonios, establecieron que el motivo por el cual se produjo el ataque en nuestro país fue la suspensión unilateral por parte del gobierno argentino del programa de transferencia de tecnología nuclear, que Irán consideraba clave.

Además, reafirmaron que la camioneta Trafic cargada de explosivos que se estrelló contra el edificio de Pasteur 633 y provocó la muerte de 85 personas, estaba conducida por Ibrahim Huseim Berro, integrante de Hezbollah.

Para acusar a los máximos responsables del gobierno iraní, los fiscales consideraron probado, sobre la base de testimonios, que el atentado contra la AMIA fue decidido el 14 de agosto de 1993 en una reunión realizada en la ciudad iraní de Mashad, de la que participaron los acusados.

En rigor, el ex juez federal Juan José Galeano, antes de que lo apartaran de la causa y de que lo destituyeran, había pedido el 5 de marzo de 2003 la captura de 12 iraníes y de un libanés sospechados por el atentado. Entre ellos se encontraban cuatro que están en la lista actual. Fue el corolario de un informe de la SIDE, realizado durante la gestión de Miguel Angel Toma, que recogió las informaciones propias y de los servicios de inteligencia norteamericanos, israelíes y de países europeos. Galeano se había cuidado de no acusar a Irán y en cambio había hablado de elementos radicalizados iraníes.

Entre los buscados estaba el ex embajador iraní en Buenos Aires Hadi Soleimanpour, que fue detenido en Londres, pero liberado por Gran Bretaña ante la orfandad de pruebas que aportó entonces la Argentina en contra de él.

Tras el juicio oral y público que terminó con la absolución de Carlos Telleldín y los ex policías bonaerenses acusados de integrar la conexión local, esos pedidos de detención fueron dados de baja por Interpol al entender que fueron firmados por un juez cuya actuación fue calificada de irregular.

Por eso la Unidad Fiscal AMIA revisó toda la causa, descartó pistas inconducentes, retomó otras dejadas de lado en un principio, reunió nuevos testimonios, realizó entrecruzamientos de llamadas realizadas hace 15 años y llegó a nuevas conclusiones.

Por ejemplo, se estableció que Rabani, al regresar al país luego de participar de la reunión de agosto de 1993 donde se decidió el ataque, abrió una cuenta en el Deutsche Bank, donde recibió entre marzo y abril de 1994 transferencias de 150.000 dólares, totalmente inusuales en sus movimientos. Este dato, sumado a la foto de la SIDE donde se lo ve buscando camionetas por Warnes, suman indicios en su contra.

Los cruces telefónicos permitieron establecer que desde el celular de Rabbani se hizo una llamada hacia una mezquita realizada desde un lugar cercano a la playa de estacionamiento donde estuvo la Trafic hasta que fue conducida hacia su objetivo.

Una hora después, desde un locutorio cercano se llamó a un celular de Foz do Iguazú, que pertenece a quien coordinó la operación desde la Triple Frontera. Establecieron que el grupo operativo, comandado por Mougnhieh, llegó al país el 1° de julio de 1994 y salió por Aeroparque a las 7.15 del 18 de julio, horas antes del atentado. Esto se estableció por las comunicaciones telefónicas realizadas al celular de la Triple Frontera, las que cesaron el mismo día en que ocurrió el ataque. También se detectaron otras llamadas desde los mismos locutorios a un número que la SIDE identifica como una base del Hezbollah en el Líbano.

Canicoba Corral

- El juez Rodolfo Canicoba Corral ya comenzó a analizar el dictamen de la fiscalía sobre el ataque contra la AMIA. "Se dispondrán las medidas que tengan respaldo, que se ajusten a derecho. Hay

que leer el dictamen completo y estudiar cada una de las referencias, de la prueba citada, hacer todo este trabajo y después resolver si se ordenan las capturas. Si todo está bien, ordenaré lo que la fiscalía pide", dijo el juez a la agencia DyN.

Por Hernán Cappiello De la Redacción de LA NACION

LA NACION | Política

Copyright 2017 SA LA NACION | Todos los derechos reservados

BBC

Home News Sport Radio TV Weather Languages

Search

[an error occurred while processing this directive]

Low graphics | Accessibility help

BBC NEWS

Watch One-Minute World News

News services
Your news when you want it

News Front Page

Africa
Americas
Asia-Pacific
Europe
Middle East
South Asia
UK
Business
Health
Science & Environment
Technology
Entertainment
Also in the news

Video and Audio

Programmes
Have Your Say
In Pictures
Country Profiles
Special Reports

RELATED BBC SITES
SPORT
WEATHER
ON THIS DAY
EDITORS' BLOG

Languages

Last Updated: Thursday, 10 November 2005, 02:37 GMT

E-mail this to a friend Printable version

Buenos Aires bomber 'identified'

A member of the Islamic militant group Hezbollah was the suicide bomber who blew up a Jewish community centre in Argentina in 1994, say prosecutors.



More than 200 people were wounded in the Jewish centre blast

Ibrahim Hussein Berro, 21, of Lebanon, was identified in a joint effort by Argentine intelligence and the FBI, said prosecutor Alberto Nisman.

Islamic militants, backed by Iran, have long been suspected of carrying out the attack that killed 85 people.

Argentina's Jewish community has for years sought a resolution to the case.

Mr Nisman said Hussein had been identified by FBI and Argentine intelligence, and corroborated by at least three witnesses.

He showed reporters a picture of the supposed bomber, a young man with heavy eyebrows, dark skin and short hair who was wearing a sports shirt and jeans.

Hussein's two US-based brothers had testified that he had joined the radical Shia militant group Hezbollah, Mr Nisman said.

"The brothers' testimony was substantial, rich in detail and showed that he was the one who was killed," he added.

Unsolved attacks

But independent investigators are sceptical, pointing to repeated incompetence and deception in the official investigation, says the BBC's Tom Gibb in South America.

No proper autopsies or DNA tests were done on human remains at the site. In one of the most shocking incidents, police simply dumped in a bin a head found near the scene thought to have been that of the bomber, our correspondent adds.

The car bomb at the Jewish Argentine Mutual Association (AMIA), which wounded more than 200, was one of two attacks targeting Argentina's 200,000-strong Jewish community in the 1990s.

The 1992 bombing of the Israeli Embassy in Buenos Aires also remains unsolved.

SEE ALSO:
Argentina admits bomb probe blame
13 Jul 05 | Americas
Argentine bomb probe judge sacked
03 Aug 05 | Americas
Argentines rally for bomb justice
09 Sep 04 | Americas
Argentina bomb suspects acquitted
02 Sep 04 | Americas
Argentina removes bomb case judge
03 Dec 03 | Americas
Iran blamed for Argentina bomb
06 Nov 03 | Middle East
Flashback: Argentina bomb
25 Aug 03 | Americas

RELATED INTERNET LINKS:
Argentine justice ministry
Argentine Jewish Associations
The BBC is not responsible for the content of external internet sites

TOP AMERICAS STORIES
US lifts lid on WikiLeaks probe
Iran scientist heads home
Argentina legalises gay marriage
News feeds

Argentine, US and Israeli officials have all said that Iran is to blame - a charge Tehran denies.

Members of Argentina's Jewish community have repeatedly accused the government of the former president, Carlos Menem, of obstructing the inquiry, something it strongly denies.

In July 2005, President Nestor Kirchner's government issued a decree formally accepting a share of the blame for the failure of investigations into the AMIA attack.

E-mail this to a friend Printable version

PRODUCTS AND SERVICES
E-mail news Mobiles Alerts News feeds Podcasts

MMIX Back to top ^ ^

Help | Privacy and cookies policy | News sources | About the BBC | Contact us |

Annex 31

07 November 2007 - Media release

INTERPOL General Assembly upholds Executive Committee decision on AMIA Red Notice dispute

MARRAKESH – Delegates at the 76th INTERPOL General Assembly have upheld the unanimous decision made by the organization's Executive Committee to publish six out of nine Red Notices requested in connection with the 1994 bombing of the AMIA building in Buenos Aires.

The General Assembly, INTERPOL's supreme governing body, voted in favour of publishing the notices requested by the Argentinean National Central Bureau (NCB) for the following six individuals; Imad Fayez Moughnieh, Ali Fallahijan, Mohsen Rabbani, Ahmad Reza Asghari, Ahmad Vahidi and Mohsen Rezai.

In November 2006, NCB Buenos Aires requested the INTERPOL General Secretariat to issue Red Notices for nine individuals, eight Iranian nationals and one Lebanese national, in connection with the 1994 bombing of the Israeli-Argentine Mutual Association (AMIA) building in Buenos Aires in which more than 80 people were killed and countless others injured.

NCB Tehran challenged the requested issuance of these Red Notices by NCB Buenos Aires.

Despite extensive efforts by the Executive Committee and the General Secretariat to assist the two parties to resolve the matter bilaterally – efforts recognised by both parties during the General Assembly – no agreement could be obtained from NCB Tehran and NCB Buenos Aires.

In March 2007, the Executive Committee unanimously decided to authorise the issuance of six of the nine Red Notices requested by NCB Buenos Aires. Following an appeal by NCB Tehran against this decision, the publication of the Red Notices was suspended until the matter could be put before the 2007 General Assembly, in accordance with Article 24 of INTERPOL's Rules on the Processing of Information for the Purposes of Police Co-operation.

The decision reached in March 2007 by the Executive Committee relied on NCB Buenos Aires and the case prosecutor's presentation that the new Red Notice applications were based on a fresh re-examination of the case and the issuance of new arrest warrants signed by a judge other than Judge Galeano, who had been fired for having acted corruptly in the case.

After long and careful deliberation of all the information and arguments presented by both parties, the Executive Committee concluded that the reasons for having the Red Notices cancelled in 2005 were not present in 2007.

'INTERPOL has treated both National Central Bureaus fairly and impartially and meticulously applied its rules throughout the dispute resolution process, and today's vote by the General Assembly endorsing the Executive Committee's decision is the conclusion of that process,' said INTERPOL President Jackie Selebi.

'We continue however to encourage both National Central Bureaus to try and co-operate in this matter on a bilateral basis, and INTERPOL's General Secretariat is ready to assist in any way.'

Background explanation on Red Notices

Red Notices, or international wanted persons notices, are one of the ways in which INTERPOL informs its 186 member countries that an arrest warrant has been issued for an individual by a judicial authority. It is not an international arrest warrant.

The individuals concerned are wanted by national jurisdictions (or International Criminal Tribunals where appropriate) and INTERPOL's role is to assist national police.

Many of INTERPOL's member countries, however, consider a Red Notice a valid request for provisional arrest, especially if they are linked to the requesting country via a bilateral extradition treaty. In cases where arrests are made based on a Red Notice, these are made by national police officials in INTERPOL member countries.

The issuance or non-issuance of a Red Notice for any individual cannot be construed as an indication of the strength or weakness of the case against that individual, which is a matter for the appropriate judicial authorities to decide.

© INTERPOL 2017. All rights reserved.

Annex 33

Translation

Judgment of the Superior Court of Justice, Berlin, in the Mykonos trial

Today, 10 April 1997, the Berlin Superior Court sentenced the defendants, Darabi and Rhayel, to life imprisonment for quadruple murder and noted that they had brought a particularly grave burden of guilt upon themselves. The Court has sentenced the defendant Amin to a prison term of 11 years for his complicity in the quadruple murder, and the defendant Atris to 5 years and 3 months, which includes the punishment for another crime. It has acquitted the defendant Ayad of the charge of complicity in the crime of quadruple murder.

The Court's oral findings, which took several hours, included the following passages:

"With this judgment the Court has completed proceedings lasting nearly three and a half years concerning the armed attack which took place in the Mykonos restaurant, Berlin, on 17 September 1992. The Chairman of the Democratic Party of Kurdistan-Iran (DPK-I), Dr Sadegh Sharafkandi, the Party's European representative Fattah Abdoli, its German representative Homyoun Ardalan and their adviser and interpreter Nurulah Mohamadpour Dehkordi of Berlin, were killed in the incident and the proprietor of the restaurant was seriously injured.

I

The Court did not limit itself to merely clarifying and establishing how the crime had been committed, and whether and in what manner the defendants had been involved. To have looked only at the crime as such without its background and circumstances would have given an incomplete picture. It would not have been possible to establish who were the perpetrators of and the accessories to the crime and to assess the guilt and hand down a fair judgment. The definition of the crime in terms of procedural law is wider in scope. It encompasses the entire historical process within which the defendants are alleged to have committed acts constituting a punishable offence. Thus in its investigation the Court had to take into account the question why the victims had to die and who was to be held responsible. Moreover, it had to make unequivocally clear that a society based on the rule of law, the principles of democracy and every individual's right to life as guaranteed by Article 2 of the Convention on Human Rights,

will not be prevented from prosecuting such crimes with the legal means at its disposal, from calling the responsible to account and from naming the ringleaders and wirepullers.

Some media reports have spoken of Iran, too, being in the dock However, only the five defendants were on trial. The sole purpose of establishing that other people not affected by the trial had knowledge of and were the originators of the crime was to throw light on the part played by the defendants.

II

The crime had its roots in Iran's historical development since the Islamic Revolution. The aspiration to autonomy of the Kurds living in Iran brought this section of the population and the political organizations representing them, including the DPK-I, into opposition with the regime. As a result, their leaders were persecuted. They were compelled to go abroad from where they sought to achieve their aims mainly through information and propaganda. It was for this reason that they were observed and pursued by the Iranian Secret Service even whilst in exile. It transpired in a television interview given by the Iranian Minister for Information and Security, Fallahian, on 30 August 1992 that one of the most important organizations kept under surveillance was the DPK-I. In order to silence it Iran's political leadership decided not to fight the DPK-I's leaders with political means but to liquidate them. The killing of the DKP-I's chairman, Dr Abdul Rahman Ghassemlou, and two of his confidants in Vienna on 13 July 1989, as well as the crime which has been tried by this Court, are the outcome of that decision. The connection between the assassinations in Vienna and Berlin is obvious. Any suggestion that they were the result of conflicts among Kurdish opposition groups can be ruled out.

The evidence has revealed the decision-making procedures within the Iranian leadership, which in the final analysis has led to the liquidation of opposition politicians abroad. Decisions on such operations are in the hands of the secret, extra-constitutional "Committee for Special Matters", whose members include the President of Iran, the Minister of the Secret Service VEVAK, the foreign policy chief, representatives of the security forces and other organizations, as well as the "religious leader". It needs to be stressed that this "religious leader" is not the spiritual leader of the Muslims. Religious and spiritual leadership continues to be exclusively in the hands of Great Ayatollahs, who are not members of the "Committee for Special Matters". The "religious leader" on this Committee, also styled "revolution leader", is the

holder of a political office which was created after the revolution of 1979; however, he does have to be a senior member of the clergy.

The decision taken by the "Committee for Special Matters" is a prerequisite for carrying out an operation abroad. If the objective is to kill a person, the "religious leader" as a political official confirms the so-called assassination order which then serves as mock justification for the later killing. That order is binding neither in law nor in fact even if it is accompanied by a fatwa, i.e. a legal opinion on general and religious questions. Even Shiite Muslims are not bound by it, rather, it constitutes an extra-judicial liquidation order issued by the government.

The "Committee for Special Matters" will as a rule place the operation in the hands of the member who knows the most about the target person and seems best suited to carry it out. That member in turn instructs a so-called team leader to perpetrate the actual crime. The team leader, who is typically a battle-tried and suitably qualified and trained man, selects the people for the "hit squad" and is in command of those who actually carry out the murder. The assassination of Dr Sharafkandi and his party followed exactly this pattern.

III

After Fallahian had reported to the "Committee for Special Matters" and it had decided to proceed with the liquidation of Dr Sharafkandi, he was given the task of organizing the operation. Preparations for the assassination then began under the code name "Faryad Bozorg Alawi" (roughly translated as "the wish of the leader of the revolution"). Fallahian thereupon brought in the "Council for Special Tasks", a department of VEVAK responsible for such operations. On the instructions of the Council, Asghar Arshat and Kamali travelled to the Federal Republic of Germany at the end of June/beginning of July 1992. Both belonged to a sham firm run by VEVAK and had been charged with planning the operation and reporting to Fallahian. They called upon the services of Darabi, a local VEVAK liaison officer.

Darabi had been living in Germany since 1980. He belonged to the Pasdaran. Owing to his intelligence activities he was particularly well suited to the task of preparing the assassination. He also had connections with supporters of the Hezbollah, a group financed, equipped and trained by Iran which uses military means to remove opponents of the Islamic regime and has claimed responsibility for terrorist acts of violence.

Acting on his instructions, Darabi began forming a group of people to carry out the assassination. He recruited, among others, the Lebanese Amin, Rhayel and Ali Sabra, who belonged to the Hezbollah in Lebanon. Amin and Rhayel had received part of their military and ideological training in Iran. Both of them, together with three other members of Hezbollah, including Ali Sabra, came to Germany as asylum-seekers in 1989/1990.

Atris, likewise an asylum-seeker in Berlin, was in close contact with Amin and Rhayel. Ayad, who had also come to Germany as an asylum-seeker, was not a member of the Hezbollah. He had been a member of the Amal in Lebanon until forced to leave and was known for his considerable experience of military operations. He was the nephew of Darabi's business partner and brother-in-law.

Ayad had already been told about the operation in general terms in July 1992. Amin, Rhayel and Atris knew about the planned operation by the end of August 1992 at the latest and agreed to be a part of it. To help his preparations, Darabi bought a mobile telephone on 25 August 1992 in order to have a rapid means of contact to the other members of the group which could not be tapped.

Round about 7 September 1992 the hit team arrived in Berlin. They were under the command of Sharif who, according to Mesbahi, the "C" source, was Abdolrahman Banihashemi, a man who had been trained in guerrilla warfare. His job was to carry out the actual attack. As part of his task Sharif made contact with Darabi. Sharif excluded Ayad from any further participation in the operation on account of his unreliability, about which no further details are known. Another person recruited was Darabi's close friend Fazajallah Haidar from Osnabrück. His job was to drive the get-away car. They were also joined by a man who worked under the name of "Mohamed" but whose real identity is still unknown. He too was probably a member of the hit team. On 11 September 1992 the preparations entered the final stage. Amin was sent to Berlin where, on 12 September 1992, he met Sharif, Rhayel and Haidar at Darabi's second address. Next day Darabi arrived there as well. He had meanwhile received the keys to a flat at Senftenberger Ring which he had intended to set up as a conspiratorial base. Darabi told the others to remove all traces of their presence at the second address and to take all their belongings with them. He also informed them that he was going to Cologne or Hamburg and that if the police were to find him he would say that he had been in the West at the time of the crime. On the evening of 13 September 1992 Darabi took Sharif and Amin by car to the conspiratorial flat. There he told Sharif to telephone him when it was all over. That same evening Darabi drove to Hamburg as he said he would and remained in West Germany until 18 September 1992. Like-

wise on 13 September 1992, Ali Sabra, a close friend of Darabi, bought the get-away car with money he had received from Darabi. At the latest on the same day, Atris stole his brother's passport so that Rhayel could use it if he had to flee the country.

On the evening of 14 September 1992 Dr Sharafkandi arrived in Berlin. Next day arrangements were made for him to meet members of his party and other opposition representatives in the Mykonos restaurant on Thursday, 17 September 1992. On 16 September 1992 the group in the flat at Senftenberger Ring were told the time and place of that meeting by an informer who has not been identified. On the same day Rhayel and Haidar brought the weapons, an Uzi sub-machine gun and a Llama pistol, each with a silencer, into the flat at Senftenberger Ring. That same evening Amin and Rhayel and other members of the group did a trial run under Sharif's instructions.

The next evening the hit men, armed with their weapons, waited for the signal to go into action. At approximately 9.00 p.m. the telephone rang in the flat at Senftenberger Ring. That was the signal agreed with the informer that the victims were in the restaurant and the operation could begin. Immediately after the telephone call the assassins went to a place near the scene of the crime. At approximately 10.50 p.m. Sharif and Rhayel entered the premises and went straight into the back room. Amin kept guard at the door. Before Dr Sharafkandi or any of the others in the group could sense what was going on and take evasive action, Sharif shouted in Persian "sons of whores" and immediately opened fire. With his sub-machine gun he shot through the sportsbag he was holding in both hands and hit Dr Sharafkandi, Dekhordi, Abdoli and Ardalan. He fired 26 shots in at least two short bursts. Rhayel, following Sharif, fired four shots from his pistol. He shot Ardalan, who had collapsed, in the back of the head which killed him immediately. Two shots hit Dr Sharafkandi in the head from right to left, from which one concludes that Rhayel had moved from his position behind Ardalan and gone round the top end of the table to approach Dr Sharafkandi from the side. Rhayel fired another shot into Dr Sharafkandi's stomach from a distance of less than 5 cm.

Dr Sharafkandi, hit many times, died immediately. Abdoli also died on the spot. Nouri Dekhordi had been taken to the clinic in Steglitz but his life could no longer be saved. Tabib Ghaffari survived with severe injuries.

After committing the murder Sharif and Rhayel ran out of the building. Outside they met Amin and ran to the car in which Haidar and "Mohamed" were waiting and escaped. It has not yet been possible to find out "Mohamed's" identity. Sharif escaped by air to Iran via Turkey There

he was given a Mercedes 230 as reward for a successful mission. Amin and Rhayel were arrested shortly before they were due to leave Germany as the result of a tip-off from the Federal Intelligence Service.

IV

On the basis of these facts the defendant Rhayel was guilty of murder. He deliberately exploited the innocence and defencelessness of the victims and his action was therefore perfidious. He also acted from base motives. The consistent ruling of the Federal Court of Justice has been that a perpetrator is considered as a murderer only if his motives, according to general moral values, are of the lowest possible kind. The motives for Rhayel's action therefore had to be examined. There were no religious grounds for the crime. Nothing in it suggests that religious errors on the part of the victims motivated the killings. They had not been accused of having violated the rules of the Koran or committed any other sacrilege. The reason for their merciless persecution was naked power-politics. The fact that the government of a "theocracy", as Iran styles itself, ordered the assassination does not alter this. The religious trimming does not hide the fact that the sole objective of the regime in Iran was to destroy opposition groups operating from abroad.

Whether a political crime has been committed from base motives is a question which cannot be answered in general terms. It depends on the circumstances of each individual case. In this particular instance Iran's political leadership ordered the crime purely in order to keep itself in power. The killing of human beings in such manner on the orders of the state is utterly contemptible because the message conveyed is that the life of a political opponent is of no value. The deed therefore has the characteristics of a murder. Nor does the situation change when seen from the point of view of the defendant Rhayel. He did not act out of religious fanaticism. There was no religious motive whatsoever. The defendant knew that the victims were to be killed not because of their religious beliefs but because of their opposition to the regime in Iran. He was in no doubt as to the exclusively political nature of the crime. But even a politically motivated person must resist state orders to liquidate someone. It cannot be argued that Rhayel felt he was in duty bound to carry out an order to kill. Even a fatwa, a legal opinion on general and religious matters which has nothing to do with the order to kill in the present case, cannot oblige a practising Muslim to kill another person. If he does so nonetheless then that is his own free will, his own decision.

The fact that the true originators of the crime and wirepullers were holders of political office in Iran does not negate the conclusion that the crime was committed from base motives. Not only the crime itself deserves the utmost condemnation. The perpetrator who allows himself to be used for the achievement of such criminal objectives is guilty of actions on the lowest moral level. Any other assessment would suggest that terrorist activities by the state were being condoned.

The Court also had to decide whether the defendant had burdened himself with grave guilt within the meaning of section 57a (1), first sentence, No. 2, of the Penal Code. Having considered all aspects of the crime and the personality of the perpetrator, it came to the conclusion that this was the case.

The defendant Darabi is likewise guilty of a treacherous murder committed from base motives. Darabi had been living in the Federal Republic of Germany for many years and was familiar with western attitudes, values and convictions. Especially the experience of having been sentenced for his involvement in a violent attack by supporters of the Iranian regime on opposition Iranian students in Mainz had made clear to him the great importance which the legal system of this country attaches to the protection of a person's physical integrity. His approval of the killing of people purely because they were political opponents has nothing to do with his different cultural background. The reason for that approval lies in the fact that Darabi identified himself in both thought and deed with the real architects of the crime and placed his services at the disposal of a state which ordered a person to be liquidated. Anyone who acts in this manner is not merely the perpetrator but also acts from base motives, for even a person who is prepared to do anything to support the Islamic Revolution must stop short of participating in such a crime. The overall assessment of the act and the personality of the perpetrator led to the conclusion that Darabi, too, had placed a particularly heavy burden of guilt upon himself.

The defendant Amin is guilty of complicity in a quadruple murder. As the person guarding the door Amin clearly played an important role which raises the question whether he was one of the perpetrators. However, there are good grounds for assuming that Amin, because of his attitude towards the crime, was merely an accomplice. Although the evidence has shown that he was involved from a relatively early date, the court cannot rule out that his participation was only half-hearted and that he merely became involved because he felt he had an obligation towards Darabi. After all, when Sharif told him he was to be one of the hit men he refused. He gave family reasons for refusing, which shows that he had mentally and emotionally dissociated himself from the crime. Nor was the death of the victims of any personal interest to him. The

only reason why he took part was that he was a member of the group and that his role enabled him to keep himself physically apart from the actual crime. This attitude shows that Amin no longer wished to exercise a decisive influence on the course of events. He merely performed a function which, having already refused his active participation, he felt he could not avoid. In the final analysis, base motives determined his action as well. Amin knew about the details of the crime proper. He realized that the perpetrators were committing a treacherous act. The punishment for the accomplice must be in line with the punishment for the perpetrator, in this case for murder. But there are cogent reasons for mitigating the accomplice's sentence. In these circumstances he could be given between three and fifteen years in prison. The sentence of eleven years is therefore appropriate.

The defendant Atris, too, is guilty of being an accessory to a quadruple murder. The scope of the punishment is the same as that for Amin. His undertaking to help in the escape and his activities in compliance with that undertaking were substantial. He found out flight schedules abroad, and after the crime had been committed he took Rhayel to Rheine. By stealing his brother's passport he placed him under suspicion of having been involved in the crime. On the other hand, Atris' contribution to the crime was much less than Amin's.

The defendant Ayad had to be acquitted because there was no evidence that he was involved in either the complicity in or the conspiracy to commit a murder. Only towards the end of the proceedings did the evidence suggest that, as a result of the intervention of the hit team, Ayad may at that point have given up any thought of being involved in the crime, so that the charge of complicity in murder could not be upheld. He could not be convicted for having conspired to commit a crime because it remained unclear which role - that of perpetrator or accomplice - Ayad had intended to play".

Senatsverwaltung für Justiz
- Justizpressestelle Moabit -

BERLIN

Justizpressestelle Moabit, Turmstraße 91, D-10559 Berlin-Moabit

Gesch.Z. bei Antwort bitte angeben

Telefon 0 30 / 39 79 - App. Nr. 22 80
intern 9 33 - 22 80
3 94 - 34 17

Telefax 0 30 / 39 79 - 24 77

Datum 10. April 1997

Pressemitteilung
Nr.: 38/97

Kammergericht:
Urteil im "Mykonos" - Prozeß

Das Berliner Kammergericht hat heute, Donnerstag, den 10. April 1997, gegen die Angeklagten Darabi und Rhayel wegen tateinheitlich begangenen Mordes in vier Fällen eine lebenslange Freiheitsstrafe verhängt und die besondere Schwere ihrer Schuld festgestellt. Wegen Beihilfe zum tateinheitlich begangenen vierfachen Mord hat das Gericht gegen den Angeklagten Amin eine Freiheitsstrafe von 11 Jahren und gegen den Angeklagten Atris unter Einbeziehung einer weiteren Strafe eine Gesamtfreiheitsstrafe von 5 Jahren und 3 Monaten verhängt. Den Angeklagten Ayad hat das Gericht vom Vorwurf der Beihilfe zum tateinheitlich begangenen vierfachen Mord freigesprochen.

In der mehrere Stunden dauernden mündlichen Urteilsbegründung hat das Kammergericht unter anderem ausgeführt:

"Mit diesem Urteil beendet der Senat nach fast 3 1/2 Jahren ein Verfahren, dessen Gegenstand der bewaffnete Anschlag vom 17. September 1992 in dem Lokal Mykonos in Berlin war. Der Vorsitzende der Demokratischen Partei Kurdistan - Iran (DPK-I) Dr. Sadegh Sharafkandi, der Europavertreter dieser Partei Fattah Abdoli, der Deutschlandvertreter Homyoun Ardalan und ihr Berater und Dolmetscher Nurulah Mohamadpour Dehkordi aus Berlin fanden dabei den Tod, der Wirt des Lokals wurde schwer verletzt.

I

Der Senat konnte sich nicht darauf beschränken, nur den Ablauf der Tat vor Ort zu klären und festzustellen, ob und in welcher Weise die Angeklagten beteiligt waren. Denn der Kern des Tatgeschehens ohne Kenntnis der Hintergründe und der die Tat begleitenden Umstände hätte ein nur unvollkommenes Bild vermittelt. Die Feststellung von Täterschaft oder Beihilfe und die gerechte Bemessung von Schuld und

Strafe wären nicht möglich gewesen. Der verfahrensrechtliche Begriff der Tat geht weiter. Er umfaßt den gesamten geschichtlichen Vorgang, innerhalb dessen Angeklagte einen Straftatbestand verwirklicht haben sollen. Die Sachaufklärung durch den Senat hatte deshalb die Frage zu umfassen, aus welchen Gründen die Opfer ihr Leben lassen mußten und wer das zu verantworten hat. Darüber hinaus war unmißverständlich aufzuzeigen, daß eine Rechtsgemeinschaft, die rechtsstaatlichen Grundsätzen und dem in Art. 2 MRK geschützten Recht eines jeden Menschen auf Leben verpflichtet ist, sich nicht hindern läßt, solche Taten mit den ihr zur Verfügung stehenden rechtlichen Mitteln zu verfolgen, die Schuldigen zur Rechenschaft zu ziehen sowie Hintermänner und Drahtzieher zu benennen.

In Presseberichten ist gelegentlich die Wendung gebraucht worden, der Iran säße mit auf der Anklagebank. Die Hauptverhandlung richtete sich indes ausschließlich gegen die fünf Angeklagten. Die Feststellung fremder Urheberschaft und Mitwisserschaft dient allein dazu, die Tatbeiträge der Angeklagten zu beleuchten.

II

Der Ausgangspunkt des Geschehens findet sich in den geschichtlichen Verhältnissen Irans, wie sie sich nach der islamischen Revolution entwickelt haben. Das Streben der in Iran lebenden Kurden nach Eigenständigkeit brachte diesen Bevölkerungsteil und die ihn vertretenden politischen Organisationen, zu denen die DPK-I gehörte, in Opposition zum herrschenden Regime. Die Führungspersönlichkeiten der oppositionellen Gruppen, die den Anspruch auf Autonomie erhoben, wurden daher verfolgt. Sie mußten sich in das Ausland begeben und arbeiteten von dort aus im wesentlichen durch Information und Propaganda auf ihre Ziele hin. Deshalb wurden diese Personen auch im Exil durch den iranischen Geheimdienst beobachtet und bekämpft. Zu dessen wichtigsten Aufklärungsobjekten gehörte die DPK-I, wie sich aus einem Fernsehinterview des iranischen Ministers für Information und Sicherheit Fallahian vom 30. August 1992 ergibt. Um diese Stimme zum Schweigen zu bringen, faßte die politische Führung Irans den Entschluß, die Führung der DPK-I nicht nur politisch zu bekämpfen, sondern sie zu liquidieren. Die Tötung des damaligen Vorsitzenden der DPK-I Dr. Abdul Rahman Ghassemlou und zwei seiner Vertrauten am 13. Juli 1989 in Wien sowie die hier abgeurteilte Tat sind Folgen dieses Entschlusses. Der rote Faden, der die Geschehnisse von Wien und Berlin verbindet, ist unübersehbar. Es ist auszuschließen, daß sie auf Konflikte unter kurdischen Oppositionsgruppen zurückzuführen sind.

Die Beweisaufnahme hat einen Einblick in Entscheidungsabläufe der iranischen staatlichen Führungsspitze gegeben, an deren Ende die Liquidierung von Regimegegnern im Ausland steht. Die Beschlußfassung über entsprechende Operationen liegt in den Händen des geheimen und außerhalb der Verfassung stehenden "Komitees für Sonderangelegenheiten", dem der Staatspräsident, der Minister des Geheimdienstes VEVAK, der für die Außenpolitik zuständige Chef, Vertreter des Sicherheitsapparates und anderer Organisationen sowie der "religiöse Führer" angehören. Dieser "religiöse Führer" ist, dies muß zur Klarstellung hervorgehoben werden, nicht das geistliche Oberhaupt der Muslime. Die religiös-geistliche Führung liegt nach wie vor allein in den Händen von Großayatollahs, die nicht dem "Komitee für Sonderangelegenheiten" angehören. Bei dem diesem Komitee angehörenden "religiösen Führer", der auch als "Revolutionsführer" bezeichnet wird, handelt es

sich um ein nach der Revolution von 1979 geschaffenes politisches Amt, dessen Inhaber allerdings ein hochrangiger Kleriker sein muß.

Die in dem "Komitee für Sonderangelegenheiten" getroffene Entscheidung ist Voraussetzung für die Durchführung einer Operation mit Auslandsbezug. Ist das Ziel einer solchen Operation die Tötung eines Menschen, bestätigt der "religiöse Führer" als politische Instanz den sogenannten Tötungsbefehl, der die Scheinrechtfertigung für die spätere Tötung bildet. Verbindlichkeit entfaltet der Tötungsbefehl weder in rechtlicher noch in tatsächlicher Hinsicht, und zwar auch dann nicht, wenn er mit einer Fatwa, einem Rechtsgutachten zu allgemeinen und religiösen Fragen, verbunden ist. Er begründet selbst für schiitische Muslime keine Gehorsampflicht, sondern stellt einen ohne Urteil verfügten staatlichen Liquidierungsauftrag dar.

Das "Komitee für Sonderangelegenheiten" überträgt die Ausführung einer beschlossenen Operation regelmäßig dem Mitglied, welches einen Bezug zu dem Ziel der Operation hat und aufgrund seiner Möglichkeiten am geeignetsten erscheint. Dieses Mitglied betraut seinerseits einen sogenannten Teamführer mit der eigentlichen Durchführung des Anschlags. Der Teamführer, ein kampferprobter, besonders befähigter und geschulter Mann, wählt seine Leute für das "Hit-Team" aus und hat gegenüber den am Ort des Anschlags Beteiligten die letzte Entscheidungsbefugnis. Genau nach diesem Muster ist die Ermordung Dr. Sharafkandis und seiner Begleiter abgelaufen.

III

Nachdem Fallahian im "Komitee für Sonderangelegenheiten" Bericht erstattet und dieses die Liquidierung Dr. Sharafkandis beschlossen hatte, wurde er von dem Gremium auch mit der Durchführung der weiteren Operation betraut. Danach liefen die Vorbereitungen für den Anschlag unter dem Codewort "Faryad Bozorg Alawi" (frei übersetzt: Verlangen des Revolutionsführers) an. Fallahian schaltete daraufhin die im VEVAK für derartige Operationen zuständige Abteilung "Rat für Sonderaufgaben" ein. Im Auftrag dieses Rates reisten Ende Juni/Anfang Juli 1992 Asghar Arshat und Kamali in die Bundesrepublik Deutschland ein. Beide gehörten einer Tarnfirma des VEVAK an und hatten die Aufgabe, die Planung der in Aussicht genommenen Operation in die Wege zu leiten und hierüber Fallahian zu berichten. Bei der Verfolgung ihrer Ziele bedienten sie sich Darabis, eines örtlichen Verbindungsmannes des Geheimdienstes VEVAK.

Darabi lebt seit 1980 in Deutschland. Er gehörte den Pasdaran an. Seine nachrichtendienstlichen Aktivitäten wiesen ihn als für die Tatvorbereitung besonders geeignet aus. Außerdem verfügte Darabi über Verbindungen zu Anhängern der Hizballah, einer vom Iran finanzierten, ausgerüsteten und ausgebildeten Gruppe, der sich der Iran zur Bekämpfung von Gegnern des islamischen Regimes mit militanten Mitteln bedient und die sich zu zahlreichen, schweren terroristischen Gewalttaten bekannt hat.

Auftragsgemäß begann Darabi, eine Gruppe für den Anschlag zusammenzustellen. Hierfür gewann er u. a. die Libanesen Amin, Rhayel und Ali Sabra, die im Libanon der Hizballah angehörten. Amin und Rhayel sind militärisch und ideologisch u. a. im Iran ausgebildet worden. Beide waren 1989/1990 gemeinsam mit drei weiteren

Hizballahmitgliedern, unter ihnen Ali Sabra, als Asylbewerber nach Deutschland gekommen. Atris, der sich ebenfalls als Asylant in Berlin aufhielt, hatte engere Kontakte zu Amin und Rhayel. Ayad, der auch als Asylbewerber nach Deutschland gekommen war, gehörte nicht der Hizballah an. Er war im Libanon bis zu seinem Ausschluß Angehöriger der Amal und galt dort als sehr kampferfahren. Er war der Neffe des Geschäftspartners und Schwagers Darabis.

Ayad war bereits im Juli 1992 in Umrissen in die Operation eingeweiht. Amin, Rhayel und Atris wußten spätestens Ende August 1992 von dem in Aussicht genommenen Vorhaben und erklärten ihre Bereitschaft zur Mitwirkung. In Vorbereitung auf den Anschlag kaufte sich Darabi am 25. August 1992 ein Mobiltelefon, das ihm eine schnelle und abhörsichere Verbindung zu den Mittätern erlaubte.

Um den 7. September 1992 reiste das sogenannte "Hit-Team" in Berlin ein. Das Kommando dieses Teams lag in den Händen von Sharif, bei dem es sich nach den Aussagen von Mesbahi, der Quelle "C", um Abdolrahman Banihaschemi, einen Mann mit einer qualifizierten Guerillaausbildung handelt. Ihm oblag die eigentliche Ausführung der Operation. In Erfüllung seiner Aufgabe nahm Sharif Kontakt mit Darabi auf. Ayad wurde von Sharif von der weiteren Mitwirkung an der Tat wegen Unzuverlässigkeit, über deren Gründe nichts bekannt ist, ausgeschlossen. Als weiterer Tatbeteiligter wurde der mit Darabi eng befreundete Fazajallah Haidar aus Osnabrück gewonnen. Er übernahm es, das Fluchtfahrzeug zu fahren. Außerdem trat ein noch Unbekannter namens "Mohamed", vermutlich ebenfalls ein Mitglied des Hit-Teams, in die Gruppe ein. Am 11. September 1992 begann die letzte Phase der Vorbereitungen. Amin wurde nach Berlin beordert, wo er am 12. September 1992 in der Zweitwohnung Darabis mit Sharif, Rhayel und Haidar zusammentraf. Dort erschien am nächsten Tag auch Darabi, der inzwischen die Schlüssel für eine Wohnung am Senftenberger Ring erhalten hatte, die er als konspirative Wohnung eingeplant hatte. Darabi erteilte den Auftrag, Spuren in seiner Zweitwohnung zu beseitigen und sämtliche Sachen mitzunehmen. Außerdem erklärte er, daß er nach Köln oder Hamburg gehen werde; wenn die Ermittlungsbehörden auf ihn stoßen sollten, würde er sagen, daß er zur Tatzeit im Westen gewesen sei. Am Abend des 13. September 1992 brachte Darabi mit seinem PKW Sharif und Amin in die konspirative Wohnung. Dort forderte er Sharif auf, ihn anzurufen, wenn alles vorbei sei. Noch am selben Abend fuhr Darabi, wie angekündigt, nach Hamburg und blieb bis zum 18. September 1992 im westdeutschen Raum. Ebenfalls am 13. September 1992 kaufte Ali Sabra, ein enger Freund Darabis, mit Geld, das ihm Darabi zur Verfügung gestellt hatte, das Fluchtfahrzeug. Spätestens am selben Tag entwendete Atris den Paß seines Bruders, um diesen für eine etwaige Flucht Rhayels bereitzuhalten.

Am Abend des 14. September 1992 traf Dr. Sharafkandi in Berlin ein. Am nächsten Tag wurde ein Treffen Dr. Sharafkandis mit Mitgliedern seiner Partei und anderen Oppositionsvertretern im Lokal Mykonos für Donnerstag, den 17. September 1992, vereinbart. Am 16. September 1992 wurde der Gruppe im Senftenberger Ring durch einen nicht ermittelten Verräter Ort und Zeit dieses Treffens bekannt. Am selben Tag brachten Rhayel und Haydar die Waffen, eine Maschinenpistole Uzi und eine Pistole Llama, jeweils mit Schalldämpfer, in die Wohnung Senftenberger Ring. Noch am Abend desselben Tages unternahmen Amin und Rhayel sowie andere Beteiligte unter Führung Sharifs einen Probelauf.

Mit den Waffen ausgerüstet warteten die Täter am Abend des folgenden Tages auf das Signal zum Losschlagen. Gegen 21:00 Uhr klingelte in der Wohnung Senftenberger Ring das Telefon. Das war das mit dem Verräter verabredete Signal, daß sich die Opfer in dem Lokal aufhielten und die Operation anlaufen konnte. Unmittelbar nach dem Anruf begaben sich die Täter in die Nähe des Tatortes. Gegen 22:50 Uhr betraten Sharif und Rhayel das Lokal und begaben sich direkt in den hinteren Gastraum. Amin sicherte das Geschehen ab, indem er vor der Lokaltür Posten bezog. Bevor Dr. Sharafkandi oder sonst einer der Teilnehmer die Situation erfassen oder auf sie reagieren konnten, rief Sharif auf persisch das Schimpfwort "Ihr Hurensöhne". Unmittelbar danach eröffnete Sharif das Feuer. Mit der MP schoß er durch die Sporttasche, die er in beiden Händen hielt, hindurch auf Dr. Sharafkandi, Dekhordi, Abdoli und Ardalan. Dabei gab er 26 Schüsse in mindestens zwei kurzen Feuerstößen ab. Rhayel, dem Sharif folgend, gab seinerseits aus der Pistole vier Schüsse ab. Auf den in sich zusammengesunkenen Ardalan gab Rhayel einen Fangschuß in den Hinterkopf ab, der augenblicklich zum Tode führte. Zwei Schüsse trafen Dr. Sharafkandi von rechts nach links in den Kopf, was darauf schließen läßt, daß Rhayel seinen Standort hinter Ardalan gewechselt und um das obere Kopfende des Tisches seitlich an Dr. Sharafkandi herangetreten war. Einen weiteren Schuß feuerte Rhayel aus einer Entfernung von unter 5 cm auf den Bauch von Dr. Sharafkandi ab.

Der von zahlreichen Schüssen getroffene Dr. Sharafkandi war sofort tot. Abdoli verstarb ebenfalls am Tatort. Nouri Dekhordi, der in das Klinikum Steglitz gebracht worden war, konnte nicht mehr gerettet werden und starb im Krankenhaus. Tabib Ghaffari überlebte schwerverletzt.

Nach der Tat wandten sich Sharif und Rhayel zur Flucht. Vor dem Lokal trafen sie auf Amin. Sie begaben sich zu dem bereitstehenden Fahrzeug, in dem Haidar und "Mohamed" warteten, und flohen mit diesen. "Mohamed" konnte bisher nicht ermittelt werden. Sharif setzte sich auf dem Luftweg über die Türkei in den Iran ab. Dort erhielt er als Belohnung für die erfolgreiche Erledigung seines Auftrags einen PKW Mercedes 230. Amin und Rhayel konnten kurz vor der geplanten Flucht aus Deutschland aufgrund eines Hinweises des Bundesnachrichtendienstes verhaftet werden.

IV

Nach diesen Feststellungen hat sich der Angeklagte **Rhayel** des Mordes schuldig gemacht. Er hat die Arg- und Wehrlosigkeit der Opfer bewußt für die Tat ausgenutzt und damit heimtückisch gehandelt. Er handelte außerdem aus niedrigen Beweggründen. Nach ständiger Rechtsprechung des BGH verwirklicht ein Täter dieses Mordmerkmal dann -aber auch nur dann- wenn sein Beweggrund für die Tat nach allgemeiner sittlicher Wertung auf tiefster Stufe steht. Die Rhayel bestimmenden Beweggründe waren deshalb zu prüfen. Die Tat hatte keinen religiösen Hintergrund. Das gesamte Tatgeschehen bietet keinen Anhaltspunkt dafür, daß für die Tötung religiöse Verfehlungen der Opfer maßgebend waren. Den Opfern war nicht vorgeworfen worden, gegen Regeln des Koran verstoßen oder sonst ein Sakrileg begangen zu haben. Die Gründe, die zu ihrer erbarmungslosen Verfolgung geführt hatten, waren rein machtpolitischer Art. Daß die Regierung eines "Gottesstaates", wie Iran sich nennt, die Tötung veranlaßt hat, ändert daran nichts. Die religiöse Verbrämung

verdeckt nicht, daß es dem herrschenden Regime in Iran allein darauf ankam, die vom Ausland aus wirkende Opposition vernichtend zu schlagen.

Die Frage, unter welchen Voraussetzungen bei politisch motivierter Tat niedrige Beweggründe vorliegen, läßt sich nicht allgemein beantworten. Es kommt auf die Besonderheiten des Einzelfalles an. Hier ist die Tat dadurch gekennzeichnet, daß die politische Führung des Iran sie allein aus Gründen der Machterhaltung angeordnet hat. Die solchermaßen staatlich verordnete Tötung von Menschen ist höchst verachtenswert; denn sie spricht dem politischen Gegner jeden Lebenswert ab. Die Tat trägt daher Mordcharakter. Auch aus der Sicht des Angeklagten Rhayel ergibt sich nichts anderes. Ein Handeln aus religiöser Verblendung liegt nicht vor. Es fehlt jeder religiöse Beweggrund. Dem Angeklagten war klar, daß die Opfer nicht wegen ihrer Glaubenseinstellung, sondern wegen ihrer oppositionellen Haltung gegenüber dem herrschenden Regime in Iran getötet werden sollten. Über den ausschließlich politischen Charakter der Tat war er sich nicht im Zweifel. Auch ein politisch motivierter Täter muß einem staatlichen Liquidierungsauftrag widerstehen. Es ist auszuschließen, daß Rhayel sich für verpflichtet gehalten hat, einem Tötungsbefehl Folge zu leisten. Selbst eine Fatwa, ein Rechtsgutachten zu allgemeinen und religiösen Fragen, die mit dem hier in Rede stehenden Tötungsbefehl nichts zu tun hat, kann einen gläubigen Moslem nicht verpflichten, einen anderen Menschen zu töten. Tut er es dennoch, so ist das sein freier Wille und seine eigene Entscheidung.

Der Wertung des Handelns aus niedrigen Beweggründen steht nicht entgegen, daß die eigentlichen Taturheber und Drahtzieher staatliche Funktionsträger des Iran waren. Nicht nur die Tat verdient das schärfste Unwerturteil. Auch der Täter, der sich in den Dienst derartiger verbrecherischer Ziele stellt, handelt auf sittlich tiefster Stufe. Jede andere Bewertung würde der Auffassung Vorschub leisten, daß Nachsicht gegenüber staatsterroristischen Umtrieben geübt werde.

Der Senat hatte auch die Frage zu entscheiden, ob die Schuld des Angeklagten besonders schwer im Sinne des § 57a Abs.1 Satz 1 Nr. 2 StGB wiegt. Aufgrund einer Gesamtwürdigung von Tat und Täterpersönlichkeit hat der Senat diese Frage bejaht.

Der Angeklagte **Darabi** ist ebenfalls des heimtückisch und aus niedrigen Beweggründen begangenen Mordes schuldig. Darabi lebte seit Jahren in der Bundesrepublik Deutschland und war mit westlichem Gedankengut vertraut. Insbesondere die Erfahrung, die er durch seine Verurteilung wegen Beteiligung an einem gewalttätigen Überfall regimetreuer Iraner auf oppositionelle iranische Studenten in Mainz gewonnen hatte, hat ihm gezeigt, welch hohe Bedeutung die hiesige Rechtsordnung dem Schutz der körperlichen Unversehrtheit beimißt. Seine Billigung der Tötung von Menschen aus rein politischer Gegnerschaft hat nichts mit seiner Herkunft aus einem anderen Kulturkreis zu tun. Die Ursache für diese Billigung liegt darin, daß Darabi sein Denken und Handeln mit dem der eigentlichen Taturheber in Übereinstimmung brachte und sich in den Dienst eines staatlichen Liquidierungsauftrages stellte. Wer so handelt, ist nicht nur Täter, er läßt sich auch von niedrigen Beweggründen leiten, denn auch ein zu allem bereiter Gefolgsmann der islamischen Revolution darf sich an einem solchen Verbrechen nicht beteiligen. Eine Gesamtwürdigung von Tat und Täterpersönlichkeit führt zu der Feststellung, daß auch die Schuld Darabis besonders schwer wiegt.

Der Angeklagte **Amin** ist der Beihilfe zum tateinheitlich begangenen vierfachen Mord schuldig. Als Türsteher hat Amin einen objektiv wichtigen Tatbeitrag geleistet, der die Überlegung nahelegt, ob er Mittäter war. Gewichtige Gründe sprechen jedoch dafür, Amin aufgrund seiner Einstellung zur Tat lediglich als Gehilfen anzusehen. Die Beweisaufnahme hat zwar ergeben, daß Amin schon zu einem verhältnismäßig frühen Zeitpunkt in das Geschehen eingebunden war. Der Senat vermag aber nicht auszuschließen, daß er das nur halbherzig und lediglich aus einem Gefühl der Verpflichtung Darabi gegenüber getan hat. Schließlich lehnte er es gegenüber Sharif ab, die von ihm erwartete Rolle eines Schützen zu übernehmen. Die dafür geltend gemachten familiären Gründe zeigen sein inneres Abrücken von der Tat. Ein eigenes Interesse am Tod der Opfer hatte auch er nicht. Bestimmend für seine Mitwirkung waren nur noch die Zugehörigkeit zur Gruppe und die Übernahme einer Tätigkeit, die ihm auch eine räumliche Distanz zu dem eigentlichen Tötungsvorgang erlaubte. Diese Haltung zeigt, daß Amin nicht mehr gewillt war, auf den Ablauf der Tat einen bestimmenden Einfluß zu nehmen. Er übte lediglich eine Funktion aus, von der er glaubte, daß er sich ihr nicht auch noch entziehen könne. Niedrige Beweggründe bestimmten letztlich auch sein Handeln. Amin wußte um die Haupttat in ihren Einzelheiten. Ihm war bewußt, daß die Täter heimtückisch vorgingen. Die Strafe für den Gehilfen richtet sich nach der Strafdrohung für den Täter, hier also nach der Strafdrohung für Mord. Die Strafe für den Gehilfen ist aber zwingend zu mildern. Unter Zugrundelegung des sich danach ergebenden Strafrahmens von drei bis zu fünfzehn Jahren war eine Freiheitsstrafe von elf Jahren angemessen.

Auch der Angeklagte **Atris** ist der Beihilfe zum tateinheitlich begangenen vierfachen Mord schuldig. Der Strafrahmen bestimmt sich wie bei Amin. Die Zusage der Fluchthilfe und die in Ausführung dieser Zusage geleisteten Aktivitäten sind erheblich. Im Ausland erkundete er Flugzeiten, und nach der Tat brachte er Rhayel nach Rheine. Durch die Entwendung des Passes setzte er seinen Bruder dem Verdacht der Tatbeteiligung aus. Andererseits stellt sich der Tatbeitrag des Angeklagten Atris wesentlich geringer dar als der Amins.

Der Angeklagte **Ayad** ist freizusprechen, weil weder der Tatbestand der Beihilfe zum Mord noch der der Verabredung eines Mordes erfüllt ist. Erst gegen Ende des Verfahrens ergab die Beweisaufnahme, daß infolge des Eingreifens des "Hit-Teams" die Überlegungen Ayads zur Tatausführung möglicherweise keine Fortwirkung entfalteten, so daß der Vorwurf der Beihilfe zum Mord nicht aufrecht erhalten werden konnte. Eine Verurteilung wegen der Verabredung eines Verbrechens konnte nicht erfolgen, weil unklar blieb, welche Rolle - ob Täter oder Gehilfe - Ayad sich bei der Tatausführung zugedacht hatte."

Justizpressestelle Moabit

Imam from Trinidad Convicted of Conspiracy to Launch Terrorist Attack at JFK Airport

Defendant Plotted to Explode Fuel Tanks and Pipeline at Airport

U.S. Attorney's Office **Eastern District of New York**
May 26, 2011 (718) 254-7000

BROOKLYN, NY—Following a four-week jury trial, Kareem Ibrahim was convicted today in the Eastern District of New York of conspiring to attack John F. Kennedy International Airport in Queens, New York, by exploding fuel tanks and the fuel pipeline under the airport. The defendant believed the attack would cause extensive damage to the airport and to the United States economy, as well as the loss of innocent lives. The defendant faces a sentence of up to life in prison. Sentencing has been scheduled for October 21, 2011.

The convictions were announced by Loretta E. Lynch, United States Attorney for the Eastern District of New York, and Janice K. Fedarcyk, Assistant Director in Charge, Federal Bureau of Investigation, New York Field Office. The case was investigated by the Federal Bureau of Investigation (FBI) Joint Terrorism Task Force in New York.

The evidence at trial established that Kareem Ibrahim, an Imam and leader of the Shiite Muslim community in Trinidad and Tobago, provided religious instruction and operational support to a group plotting to commit a terrorist attack at JFK Airport. The plot originated with Russell Defreitas, a naturalized United States citizen from Guyana, who drew on his prior experience working at JFK Airport as a cargo handler to plan the attack on its fuel tanks and fuel pipeline. Beginning in 2006, Defreitas recruited others to join the plot, including the defendant Kareem Ibrahim, Abdel Nur and Abdul Kadir, a former member of parliament in Guyana.

In May 2007, Defreitas presented defendant Kareem Ibrahim with video surveillance and satellite imagery of the targets for terrorist attack because Ibrahim had connections with militant leaders in Iran. During cross-examination at trial, Ibrahim admitted that he advised the plotters to present the plot to revolutionary leaders in Iran and to use operatives ready to engage in suicide attacks at the airport. On one of the recorded conversations entered into evidence, Ibrahim told Defreitas that the attackers must be ready to "fight it out, kill who you could kill and go back to Allah."

According to the trial evidence, the conspirators also attempted to enlist support for the plot from prominent international terrorist groups and leaders, including Adnan El Shukrijumah, an al Qaeda leader and explosives expert, and Yasin Abu Bakr, leader of the Trinidadian militant group Jamaat Al Muslimeen. Ultimately, the plotters followed Ibrahim's direction and sent Abdul Kadir to meet with his contacts in the Iranian revolutionary leadership, including Mohsen Rabbani, the former cultural attache indicted for his leading role in the 1994 bombing of the AMIA Jewish cultural center in Buenos Aires, Argentina.

Kareem Ibrahim, Nur and Kadir were arrested in Trinidad in June 2007, with Kadir aboard a plane headed to Venezuela, en route to Iran. All three were subsequently extradited to the United States. Defreitas was arrested in New York. After a trial in 2010, Russell Defreitas and Abdul Kadir were found guilty and sentenced to life in prison. Nur pleaded guilty before trial to supporting the plot and was sentenced to 15 years in prison.

The specific charges Ibrahim was convicted of are: conspiracy to attack a public transportation system, in violation of 18 U.S.C. § 2332f; conspiracy to destroy a building by fire or explosive, in violation of 18 U.S.C. § 844(n); conspiracy to attack aircraft and aircraft materials, in violation of 18 U.S.C. § 32; conspiracy to destroy international airport facilities, in violation of 18 U.S.C. § 37; and conspiracy to attack a mass transportation facility, in violation of 18 U.S.C. § 1992(a)(10).

"In pursuit of a radical terrorist agenda, bent on the destruction of John F. Kennedy Airport and the murder of innocent civilians, Imam Kareem Ibrahim abandoned the true tenets of his religion," stated United States Attorney Lynch. "We will continue to seek out and bring to justice all those who plot to attack the United States and its people." Ms. Lynch extended her grateful appreciation to the FBI Joint Terrorism Task Force in New York for its role in investigating and assisting in the prosecution of the case, as well as to the Guyanese and Trinidadian law enforcement authorities who assisted with the investigation and apprehension of the defendants.

"Ibrahim and his co-conspirators had elaborate plans to attack John F. Kennedy International Airport, not only to cause carnage, but also to damage the economy," said FBI Assistant Director in Charge Fedarcyk. "Today's guilty verdict is not only a victory for the American justice system, it is also a

New York Field Office Links

New York Home

Contact Us
- Overview
- Territory/Jurisdiction

News and Outreach
- Press Room | Stories
- In Your Community

About Us
- Our People & Capabilities
- What We Investigate
- Our Partnerships
- New York History

Wanted by the FBI - New York

FBI Jobs

Pedrick. "Today's guilty verdict is not only a victory for the American justice system, it is also a rejection of the extremist ideology he supported."

The government's case was prosecuted by Assistant United States Attorneys Marshall L. Miller, Berit W. Berger and Zainab Ahmad.

The Defendant:
KAREEM IBRAHIM, also known as "Amir Kareem" and "Winston Kingston"
Age: 65

This content has been reproduced from its original source.

Accessibility | eRulemaking | Freedom of Information Act | Legal Notices | Legal Policies and Disclaimers | Links | Privacy Policy | USA.gov | White House
FBI.gov is an official site of the U.S. government, U.S. Department of Justice

Close

Annex 34

Iran 'in Latin America terror plot' - Argentina prosecutor

29 May 2013 | Latin America & Caribbean



An Argentine prosecutor has accused Iran of trying to infiltrate countries in Latin America to sponsor and carry out "terrorist activities".

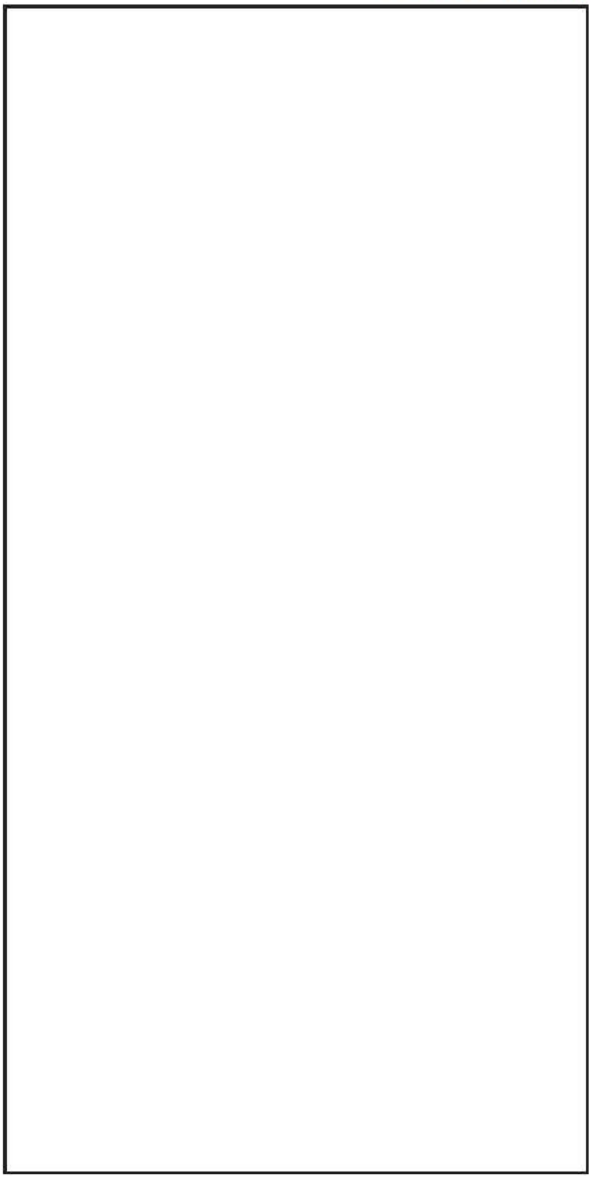
Alberto Nisman said Iran was attempting to set up intelligence-gathering stations in Brazil, Chile, Colombia, and other countries in the region.

Mr Nisman is investigating a bomb attack that killed 85 people in a Jewish centre in Buenos Aires in 1994.

Iran has always denied involvement in the attack.

But in an indictment handed to a federal judge in Buenos Aires on Wednesday, Mr Nisman repeated the often-made claim that Iran sponsored the bombing.

ADVERTISEMENT



And he accused Iran of a nefarious project in the wider region.

"I legally accuse Iran of infiltrating several South American countries to install intelligence stations - in other words espionage bases - destined to commit, encourage and sponsor terror attacks like the one that took place against Amia," Mr Nisman was quoted as saying, referring to the Jewish centre bombed nearly 20 years ago.

He said the countries targeted included Brazil, Paraguay, Uruguay, Chile, Colombia, Guyana, Trinidad and Tobago, and Surinam.

Annex 35

And he claimed that Mohsen Rabbani - the Iranian former cultural attache in Buenos Aires who Argentina blames for the Amia attack - was co-ordinating the alleged infiltration operation.

In February Argentine legislators approved an agreement with Iran to set up an international truth commission to investigate the Amia attack.

The Argentine government proposed this commission as a way to reactivate investigations into the bombing, but the opposition and some Jewish groups in Argentina have criticised it.

Argentina has issued arrest warrants for several Iranian nationals and a Lebanese national in connection with the bombing.

Share this story About sharing

More on this story

Argentina passes deal with Iran to probe Amia bombing
28 February 2013

Amia bombing: Israel condemns Argentina-Iran probe
29 January 2013

Amia bombing: Argentina and Iran agree truth commission
28 January 2013

Iran bomb probe offer 'positive'
18 July 2011

Latin America & Caribbean

United Nations A/62/PV.5

General Assembly
Sixty-second session

Official Records

5th plenary meeting
Tuesday, 25 September 2007, 3 p.m.
New York

President: Mr. Kerim ..... (The former Yugoslav Republic of Macedonia)

The meeting was called to order at 3.15 p.m.

Address by Mr. Mahinda Rajapaksa, President of the Democratic Socialist Republic of Sri Lanka

The President: The Assembly will now hear an address by the President of the Democratic Socialist Republic of Sri Lanka.

Mr. Mahinda Rajapaksa, President of the Democratic Socialist Republic of Sri Lanka, was escorted into the General Assembly Hall.

The President: On behalf of the General Assembly, I have the honour to welcome to the United Nations His Excellency Mr. Mahinda Rajapaksa, President of the Democratic Socialist Republic of Sri Lanka, and to invite him to address the Assembly.

President Rajapaksa (*spoke in Sinhala; English text provided by the delegation*) I am pleased to be able to address the global community on the first day of the current session of the General Assembly of the United Nations.

Please accept my congratulations, Sir, on your assumption of the high office of the President of the sixty-second session. To Sheikha Haya Rashed Al-Khalifa, I wish to convey Sri Lanka's gratitude for her astute leadership of the sixty-first session.

Sri Lanka can boast of a very old and advanced civilization, similar to Greek, Roman and Nile Valley civilizations. One of the important characteristics of our civilization is the use of living languages such as Sinhala and Tamil, two languages used by many even today. I therefore consider it my obligation to use Sinhala, a living language, to address the General Assembly.

Let me begin by quoting the immortal words of Sir Isaac Newton: "We build too many walls and not enough bridges". We all became Members of an Organization that was created to let all our voices be heard and to avoid an approach aimed at resolving problems through violence, revenge and blame. Yet we see a trend to find fault, to place countries in the dock and penalize those who do not fall into line. Instead of seeking solutions through cooperation, we have often created suspicion and built walls between ourselves through double standards.

I am proud to inform the Assembly that, despite the significant challenge posed by the ongoing conflict with a ruthless terrorist group in the north of our country, we have freed the Eastern Province from terrorism and restored law and order there. My Government has already launched a massive programme of rehabilitation and reconstruction in the east. We propose to make the Eastern Province of Sri Lanka a model for development and rehabilitation, essentially through our own effort but also with the assistance of all donors. We are taking steps to return the usurped rights of the people by conducting provincial and local Government elections in the east early next year. There is a clear opportunity for the international community to play a vital role in breaking the cycle of conflict by focusing on development.

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-154A. Corrections will be issued after the end of the session in a consolidated corrigendum.

07-51584 (E)

regrettably ensuring that one human being lives a fulfilling life while another experiences a miserable existence.

Representing the citizens of the world, we have set for ourselves programmes requiring that all of us work together to create better living conditions for humanity and ensure that we achieve that which is necessary for our mutual prosperity.

Together, rich and poor, developed and developing, North and South, we can and must truly hold hands and address the challenges of climate change and sustainable development, work together to defeat poverty and underdevelopment and ensure that every human being is saved from the indecencies and humiliations that are inseparable from poverty. But to do that, we need first and foremost to implement the decisions that we have adopted freely in this eminent house of the representatives of the global community. And so, let our actions speak louder than our words.

The Acting President: On behalf of the General Assembly, I wish to thank the President of the Republic of South Africa for the statement he has just made.

Mr. Thabo Mbeki, President of the Republic of South Africa, was escorted from the General Assembly Hall.

Address by Mr. Néstor Carlos Kirchner, President of the Argentine Republic

The Acting President (*spoke in French*): The Assembly will now hear an address by the President of the Argentine Republic.

Mr. Néstor Carlos Kirchner, President of the Argentine Republic, was escorted into the General Assembly Hall.

The Acting President (*spoke in French*): On behalf of the General Assembly, I have the honour to welcome to the United Nations His Excellency Mr. Néstor Carlos Kirchner, President of the Argentine Republic, and to invite him to address the Assembly.

President Kirchner (*spoke in Spanish*): Allow me at the outset to express my sincerest congratulations to Mr. Srgjan Kerim on his assumption of the presidency of the General Assembly at its sixty-second session. Argentina welcomes the new Secretary-General, Mr. Ban Ki-moon, and expresses its support for his efforts at the head of the United Nations.

As in previous years, we have come to the General Assembly with the aim of revitalizing this world body and with the firm belief that this will ensure the effectiveness of international law in settling disputes, thus successfully dealing with any threats to peace.

The world is facing problems. The only hope we have of resolving them lies in respect for multilateralism, support for local customs, observance of international norms and conventions by all countries, and, of course, the full realization of human rights.

For each individual country, and for the world as a whole, peace will be possible only if we promote equality and work to combat poverty and marginalization. The world cannot and must not be a place where violations of human rights are everywhere. Peaceful coexistence is strengthened and maintained through true solidarity between nations based upon a concept of humanity that goes beyond the purely military or the predominantly unilateral.

Our international policy is based on the values of representative democracy, sovereignty of the people, respect for fundamental human rights, and the active upholding of international peace and security. Those principles are shared by the vast majority of the Argentine people. They help to focus the Government's activities and are reflected in the decisions taken by the Argentine Republic at the international level.

We firmly support the construction of more just and equitable societies that distribute more equitably the benefits of economic growth. We know that each country must have the right to seek out its own development model, without external pressure.

The past few years have been very testing for us. Considerable efforts have been made to rescue a nation that barely five years ago was in the throes of an unprecedented social and economic crisis. At the time, many people thought that recovery might be impossible. But day by day, with a great deal of effort and humility, we revived production in a country burdened by a foreign debt that threatened our future with its conditions and constraints.

Argentina — a developing country which once demonstrated that it is truly possible to climb the social

Annex 36

ladder; a country of immigrants where workers once succeeded in sending their children to university; a country once without illiteracy and having almost banished child mortality — had been reduced to a country of workers demoralized by unemployment, children begging in the streets instead of going to school, and the elderly living off miniscule pensions and becoming dependent on their children and grandchildren.

Our country's coffers had been emptied owing to the rigid application of the rules of the International Monetary Fund (IMF). As a corollary, there was violence in the streets, and Argentina experienced an institutional crisis, with presidents lasting only days. For the first time, Argentina sent off its own children into an unprecedented economic exile.

Today the Argentine State has won its autonomy and itself administers the variables of its macroeconomy as best it can in the current international environment. It pursues a sound, disciplined and predictable economic policy within a stable and democratic framework.

Our capacity for revitalization has allowed us, even without receiving funding, to begin cancelling our net debt with international organizations. We have even paid off in advance all of our debt with the IMF — an IMF that supported and promoted Governments that were self-supporting, adjusting and patching up their budgets, but at the cost of increasing the poverty of their people, promoting deindustrialization and irresponsibly plunging the country into debt.

Faced with the incredulous criticism of the promoters of orthodox prescriptions, Argentina, thanks to cautious monetary policies, disciplined public expenditures and a healthy budget surplus that enabled it to face or mitigate potential foreign crises, has reduced the debt and registered an annual growth rate of 9 per cent during the past five years. This was the strongest uninterrupted economic expansion of any in the past 100 years.

Today we represent the empirical proof that there is life after the Fund and also the certitude that other paths can lead to development and integration. We serve as a reminder of the unreliability of models that claim to be universally valid and the revindication of the right of countries to choose their own path, benefiting from international experience while prioritizing their national interests and circumstances above any other interest. Our case provides proof that the international economic architecture must be reformed, in particular that of IMF. The Fund is an exponent of an old world order that is no longer valid. Our case demonstrates the need for change in the multilateral financial institutions so that they can cooperate in the development of the less-well-endowed nations and help to fight poverty and generate true options for progress.

We are thinking, not of economic growth as defined by economic experts or historians, but of growth that has a strong social component and an emphasis on equity, where citizens are the focus of the results. Whereas one fourth of the labour force experienced the humiliation of being unemployed, unemployment has been reduced to 7.8 per cent since we have taken office. We are speaking, not about just any sort of work, but about appropriate and decent work of the kind we advocated at the most recent summit meeting of the Americas, which was held in our country.

Thanks to a productive policy that generates added value and, in addition, appeals to private enterprises to show social responsibility, we are reindustrializing Argentina. The economic indicators posted by our country today would have been impossible were it not for the complementarity of action between the State and the private sector.

Our sales to all destinations have doubled over the past four years, with a 16 per cent annual growth rate. Investments have improved substantially: gross domestic fixed investment has increased for the past 17 consecutive quarters; the ratio of investment to GDP is between 20 and 23 per cent — in stark contrast to the level of 2002 when it was hardly more than 11 per cent.

When faced with that crisis almost five years ago, we felt compelled to maintain essential assistance policies for the most vulnerable segments of our population. We do not regret those policies, and today we can state that the true solution to the serious social problems affecting our country, and many others around the world, lies in providing jobs, health care and education.

In the area of health, Argentina has launched a national policy that includes prescriptions for generic drugs and the provision of essential medications free of charge. It also strengthens maternity and child

Annex 36

programmes and everything that relates to primary health care, in line with the goals of equity and protection. This has enabled us to compensate in part for the disastrous state of the public health sector a short time ago.

Of course, education is an essential element for renewing the social and moral fabric of the nation, even though the time horizon for its effects to be felt is longer than those of other public policies. In order to remedy the tragic situation that signalled the breakdown of society and the failure on the part of the State to protect those who were most vulnerable, a new law on national education was passed. It will again focus on ensuring equality of opportunity through guaranteed access to a quality education throughout the territory that is linked to the labour market and includes excellent training for teachers. Under the new law, a deadline of 2010 has been set, by which time 6 per cent of the gross national product will be used to finance education.

In this context of steady recovery, Argentina's foreign policy is being strengthened and expanded, with a clear and decisive commitment to the national interest. Regional integration is a priority. Over the past two decades, through the Common Market of the South (MERCOSUR), Argentina has strengthened its commercial ties with the countries of the region. But its trade relations go far beyond the region. In that sense, multilateral negotiations within the World Trade Organization are of particular importance because the liberalization of our agricultural sector — in which our country has clear competitive advantages — depends on them, as does the adequate flexibility we need to carry out our industrial policies.

More equitable and fairer rules in international trade are of great importance to Argentina. We therefore participate actively in multilateral economic negotiations with the firm goal of achieving equity in the norms that govern world trade and of reversing the discrimination erected against our main products through tariff barriers and other trade-distorting instruments imposed by the developed countries.

Argentina will be present in all multilateral forums, where we will participate to ensure more equitable and democratic rules. Multilateralism is the most effective instrument for winning the battle against hunger, poverty, exclusion and environmental degradation.

Everything I have said here is both cause and consequence of institutional stability and respect for the rule of law. The three pillars of the Argentine State are making decisions to combat impunity and preserve memory, truth, and justice. We have begun bringing to justice those guilty of serious human rights violators. Those who imagined themselves having escaped with impunity are fiercely resisting justice and, in an attempt to intimidate witnesses, have caused the disappearance of one witness, Julio Lopez. They have thereby sent a dark message to a society that is seeking the truth about the crimes against humanity which they committed, and that condemns such acts.

Unconditional respect for human rights is our new national paradigm. In the past, we were known throughout the world for violations of those rights; today, as we strive to find the truth and to punish the guilty, we also seek to defend those rights worldwide.

Argentina, the Mothers and Grandmothers of the Plaza de Mayo in the monumental dignity of their struggle, and the Argentine people have personally suffered under the inefficiency of a broken multilateral human rights system. Their sole comfort were the very precious humanitarian gestures of individuals, organizations and countries. While people were being kidnapped, tortured and killed in my country, the mechanisms established precisely to condemn and prevent such horrors remained silent. It is in their memory, so that this will never happen again, that we support the new Human Rights Council and hope that it will live up to the expectations of the international community.

My Government has endorsed instruments of great importance, including the International Convention for the Protection of All Persons from Enforced Disappearance, adopted by this Assembly on 20 December 2006, which we signed in Paris on 6 February. That instrument, along with the Convention on the Rights of Persons with Disabilities and the Optional Protocol of the Convention on the Elimination of All Forms of Discrimination Against Women, gives continuity and concrete form to a policy that ascribes a central role to the promotion of human rights.

In our public policy, we now focus on environmental protection, but we know that there will be no viable solution without cooperation among all the countries of the world, the industrialized countries

in particular, because the nature of the problem is of a global scale.

The issue of climate change should be of concern to all Governments, because no corner of the planet is unaffected by changes that have been identified as due to human activity. The Secretary-General's convening of yesterday's High-level Meeting was a timely manifestation of the urgent need to strengthen international cooperation as an effective and adequate response to protect the environment and prevent the unacceptable exportation of pollutants to the developing countries.

One after the other, various diplomatic efforts to halt the violence in the Middle East once and for all have failed, but we cannot merely throw up our hands. No military solution will lead to peace and the tranquillity that all the peoples of the region so desperately call for. The invasion of Iraq, which we rejected at the time it occurred, is the tragic and painful proof of the truth of our position. The Security Council and the nations of the Quartet have the heavy responsibility of accompanying and, if possible, guiding a peace process that can succeed with courage and great perseverance.

The Argentine Republic continues, year after year, tirelessly to condemn the serious threat of terrorism throughout the world. We believe that all acts of terror are criminal and unjustifiable and that no argument can justify them. Just as no nation of the world is beyond their reach, the response must be a joint effort of all nations, and especially this Organization, to stop and eliminate this scourge. We cannot tolerate the actions of those responsible for terrorism or of those who defend, finance or protect terrorists, be they individuals or countries.

Argentina has twice suffered terrorist attacks. The Israeli embassy was attacked in 1992 and the AMIA headquarters in 1994. Some 102 members of our community, some of whose relatives are here with us today, lost their lives. Those victims, united by terror to those of this city, those of Madrid, those of London, those of Bali, those of Istanbul and those of many other places, impose upon us the moral mandate to respect their memories and to commit all our energies to hunting down, finding and prosecuting those responsible.

Despite the difficulties that have arisen through the passage of time, given that those attacks took place 13 and 15 years ago, respectively, and the subsequent cover-ups, our interest and the justice system continue to seek the truth, and we keep our memory of the horror alive so that it will not recur.

In November last year, the Argentine justice system called for international cooperation in the apprehension of nine people suspected of having initiated and planned the 18 July 1994 attack on AMIA, and the Executive Committee of INTERPOL unanimously recommended the apprehension of six Iranian citizens and one Lebanese involved in the affair. We call here for that recommendation to be ratified during the November session of the INTERPOL General Assembly.

In that context, we hope that the Islamic Republic of Iran, in the context of applicable international law, will accept and respect Argentina's legal jurisdiction and cooperate effectively with Argentine judges to bring to justice those involved in these events. In that respect, I wish to say here, at United Nations Headquarters and before all the countries of the world, that, unfortunately, the Islamic Republic of Iran has to date failed to offer the required cooperation with the Argentine justice system to resolve those issues.

We call on the Secretary-General and on all the nations of the world to persuade the Islamic Republic of Iran to allow the judicial process to move forward. We do so with the sole aim of clarifying the facts and bringing those responsible to justice. Respect for the memory of our 102 victims requires justice to be carried out. We request the Islamic Republic of Iran to cooperate in the implementation of the norms of international law to allow us to come to nothing more, but nothing less than the truth.

Nations big and small, rich and poor, all throughout the world will be highly vulnerable if we fail to grasp that action against terrorism requires urgent multilateral, intelligent and sustained action firmly anchored in legitimacy, respect for individual rights, proportional response and respect for international public opinion.

Efforts to counter the proliferation of weapons of mass destruction can count on the firm support and full participation of the Argentine Republic.

My country is known for the active role it plays in the peaceful uses of nuclear energy. Argentina develops, consumes and exports nuclear energy for

peaceful purposes in the framework of the strictest respect for the norms enshrined in the Treaty on the Non-Proliferation of Nuclear Weapons and the non-proliferation regime in its broadest sense.

Efforts to prevent proliferation are ethically and legally correlated to progress on disarmament. Indeed, the legal instruments on which the prohibition of weapons of mass destruction is based specifically on the firm commitment not to develop new weapons of terror and destruction in the understanding that those who possess such weapons will proceed to their gradual and effective elimination.

In recent years, we have seen disarmament commitments permanently eroded. Nuclear arsenals remain disproportionately large and nuclear disarmament agreements are in stasis. It should come as no surprise, then, that, given the situation, there are those who question the legitimacy of pursuing unilateral advocacy for non-proliferation while solemn commitments in the area of disarmament are ignored.

Conventional weapons are responsible for the deaths of millions of people around the world. Our country has given a high priority to initiatives associated with the conclusion of an arms trade treaty. Domestically, we have initiated programmes for the voluntary handover of firearms, the initial results of which have been encouraging.

The reform of the Security Council is still pending. We are hoping for a reform that will make this central body more responsible, democratically representative and dynamic. It will not, however, achieve this objective by creating new privileged categories. We trust that the ongoing process of consultations will be successful so that the Council can be adapted to today's world.

Before concluding I wish to raise a matter of continuing importance to the Argentine Republic: the question of the Malvinas Islands, which include South Georgia, South Sandwich and the maritime areas surrounding those islands. This year, 174 years will have passed since the British began to occupy this part of Argentine national territory. Ever since that act of force in 1833, my country has protested against this illegal occupation and has demanded that the full exercise of its sovereignty be restored.

We would also mention that 2007 marks the twenty-fifth anniversary of the 1982 conflict in the South Atlantic, a conflict unleashed by the military dictatorship without the backing of the Argentine people, who had always endeavoured to find a peaceful solution to its legitimate sovereignty claim.

The General Assembly has dealt with this matter on many occasions, both prior to and since 1982. Starting in 1965, when the Assembly adopted resolution 2065 (XX), the Organization has recognized, year after year, the existence of a sovereignty dispute between Argentina and the United Kingdom relating to the question of the Malvinas Islands. It urged the two Governments to negotiate, as soon as possible, a peaceful, just and lasting solution to the dispute, taking into account the relevant resolutions of United Nations bodies and the interests of the people of the islands. The ongoing and unrenounceable objective of regaining the full exercise of Argentine sovereignty over this part of our territory and the permanent readiness of my country to resume negotiations aimed at finding a solution to the dispute have been reflected in our national Constitution.

It is incomprehensible to us that the United Kingdom should be unwilling to negotiate this matter, thereby violating the provisions of General Assembly resolution 2065 (XX) and numerous similar resolutions.

The time has come for the United Kingdom to shoulder its responsibility and put an end to an anachronism: the illegal occupation for clearly colonial purposes of territory belonging to another State.

My Government vigorously rejects the British claim on the establishment of maritime areas surrounding the archipelagos. In particular, it rejects the recently divulged intention of the United Kingdom to make a submission to the Commission on the Limits of the Continental Shelf — established by the United Nations Convention on the Law of the Sea — relative to the outer limits of the continental shelf of these Argentine territories.

In this, my last message to the General Assembly as the President of the people of Argentina, I wish to reaffirm our profound conviction that it is only through democracy, accompanied by freedom, social justice and peace, that man can realize his full potential. This Assembly of the peoples has a bounden duty to help ensure that that will come to pass.

United Nations A/63/PV.5

General Assembly

Sixty-third session

Official Records

5th plenary meeting
Tuesday, 23 September 2008, 9 a m.
New York

President: Mr. Miguel d'Escoto Brockmann ..... (Nicaragua)

The meeting was called to order at 9.10 a.m.

Agenda item 100

Report of the Secretary-General on the work of the Organization (A/63/1)

The President (*spoke in Spanish*): In accordance with the decision taken at its 2nd plenary meeting, on 19 September 2008, the General Assembly will hear a presentation by the Secretary-General of his annual report on the work of the Organization (A/63/1), under agenda item 100. I give the floor to the Secretary-General.

The Secretary-General: I welcome all participants to the opening of the general debate of the sixty-third session of the General Assembly. It is customary for the Secretary-General, on this occasion, to assess the state of the world and to present our vision for the coming year.

We all recognize the perils of our current moment time. We face a global financial crisis, a global energy crisis and a global food crisis. Trade talks have collapsed yet again. We have seen new outbreaks of war and violence and a new rhetoric of confrontation. Clearly, climate change threatens our planet ever more. We often say that global problems demand global solutions. And yet, today we also face a crisis of a different sort. Like those others, it knows no borders. It affects all nations. It complicates all other problems. I refer, here, to the challenge of global leadership.

We are on the eve of a great transition. Our world has changed more than we may realize. We see new centres of power and leadership in Asia, Latin America and across the newly developed world. The problems we face have grown much more complex. In that new world, our challenges are increasingly those of collaboration, rather than confrontation. Nations can no longer protect their interests or advance the well-being of their peoples without the partnership of other nations.

Yet, I worry. There is, today, a danger of losing sight of that new reality. I see a danger of nations looking more inward, rather than towards a shared future. I see a danger of retreating from the progress we have made, particularly in the realm of development and a more equitably sharing of the fruits of global growth. That is tragic, for at this time one thing is clear: we must do more, not less. We must do more to help our fellow human beings weather the gathering storm. Yes, global growth has raised billions of people out of poverty. However, if you are among the world's poor, you have never felt poverty so sharply. Yes, international law and justice have never been so widely embraced as on this sixtieth anniversary of the Universal Declaration of Human Rights.

However, those living in nations where human rights are abused have never been so vulnerable. Yes, most of us live in peace and security. However, we see deepening violence in many nations that can least afford it: Afghanistan, Somalia, the Democratic Republic of Congo, Iraq and Sudan, to name but a few. We can do something about it, and with strong global leadership, we will.

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-154A. Corrections will be issued after the end of the session in a consolidated corrigendum.

08-51570 (E)

recent example is the indirect peace talks that Syria and Israel started under Turkey's auspices this past May in Istanbul.

In Iraq, too, Turkey stands firmly with the Iraqi people and Government. Besides our bilateral efforts, I am particularly pleased to see that the Neighbouring Countries process, which I initiated five years ago, is functioning well. If the international community's efforts are to succeed, the Iraqi people need to settle their differences through dialogue and compromise on controversial issues, among them the final status of Kirkuk.

Afghanistan is another country where Turkey is investing heavily in the future of a nation with which we have special historical ties. Turkey will continue to contribute to the security of the Afghan people and to their reconstruction efforts. We will also continue our initiatives to create an atmosphere conducive to regional ownership and cooperation, in particular between Pakistan and Afghanistan. That is equally vital for the common struggle against terrorism and for the stability of the region.

Finally, an urgent and peaceful settlement of the question of Iran's nuclear programme, in conformity with International Atomic Energy Agency norms and Treaty on the Non-Proliferation of Nuclear Weapons obligations and respecting the right to the peaceful use of nuclear energy, remains high on Turkey's active diplomatic agenda.

I am convinced that would-be solutions to individual conflicts in the Middle East will be sustainable only if we adopt a comprehensive approach based on a positive vision for the future. That is why I invite all the parties to give serious consideration to the longstanding idea of collective arrangements for conflict prevention and resolution that would promote regional security and stability by building confidence, facilitating political dialogue and encouraging economic and cultural cooperation in the Middle East.

Turkey gives full backing to diplomatic efforts towards a political settlement in Cyprus. The solution lies in the establishment of a new partnership State composed of two constituent States of equal status. The process towards that goal should be based on the United Nations parameters of bi-zonality and the political equality of the two sides. We welcome and firmly support the comprehensive settlement negotiations recently started between the two leaders under the good offices of the Secretary-General.

At the same time, I believe that efforts to end the unfair isolation of the Turkish Cypriots who voted courageously in favour of the Comprehensive Settlement of the Cyprus Problem in 2004 — a plan that was unfortunately rejected by the other side — are long overdue.

Before concluding, I would like to stress the indispensable nature of the United Nations in resolving all those matters. Indeed, without an effective and functional world body, it is impossible to realize the hopes and expectations of our nations. That is why we attach the utmost importance to reforming and further strengthening the United Nations system as a whole. It is also why Turkey is constantly stepping up its engagement in and contributions to all aspects of the United Nations agenda, ranging from development and peacekeeping to human rights.

It is also with that sense of responsibility that Turkey has decided to put forth its candidature for a non-permanent seat on the Security Council for 2009 and 2010. Turkey has not been represented in the Council for nearly half a century, and we believe that the main tenets of our foreign policy, together with our economic, social and cultural attributes, will allow us to bring added value to the work of the Council. I hope that the General Assembly, with its valuable support, will do us the honour of granting Turkey the opportunity to do so.

The President (*spoke in Spanish*): On behalf of the General Assembly, I wish to thank the President of the Republic of Turkey for the statement he has just made.

Mr. Abdullah Gül, President of the Republic of Turkey, was escorted from the General Assembly Hall.

Address by Ms. Cristina Fernández de Kirchner, President of the Argentine Republic

The President (*spoke in Spanish*): The Assembly will now hear an address by the President of the Argentine Republic.

Ms. Cristina Fernández de Kirchner, President of the Argentine Republic, was escorted into the General Assembly Hall.

The President (*spoke in Spanish*): On behalf of the General Assembly, I have the honour to welcome to the United Nations Her Excellency Ms. Cristina Fernández de Kirchner, President of the Argentine Republic, and to invite her to address the Assembly.

President Fernández de Kirchner (*spoke in Spanish*): As the first female head of State in the history of my country, I would like to address this Assembly by speaking first on the issue of human rights. Members know that, for my country, the policy of unrestricted respect for and promotion of human rights is one of our State policies.

In that context, I would like to urge that the International Convention for the Protection of All Persons from Enforced Disappearance — which was so energetically promoted by our country and which I co-signed, as First Lady of the Argentine Republic, in Paris last year together with 73 other delegations — be ratified by all countries that have signed it. Thus far, only four countries — Argentina, Albania, Mexico and Honduras — have ratified it. I know that the Republic of France will soon be ratifying it, but it is indispensable that we all strongly commit to ensuring that the inviolability of persons be one of the guiding principles for all States.

In this context, I would also like to put forward the Latin American Initiative for the Identification of Disappeared Persons. I would like to say that, together with the Guatemalan Foundation for Forensic Anthropology, the Argentine Forensic Anthropology Team and the Peruvian Forensic Anthropology Team, we are promoting this initiative to establish genetic identity banks to enable us to report precisely on violations of human rights and properly identify victims.

We deem invaluable the testimony of the women who are with us here at the Assembly today, members of Las Abuelas de Plaza de Mayo — the Grandmothers of the Plaza de Mayo — who envisioned the creation of this genetic information bank. They have been able to recover, from oblivion and disappearance, 95 of the 500 grandchildren who disappeared, children of those political prisoners who disappeared under the former dictatorship in Argentina.

The work of these women is living witness to how, even amidst adversity and against all that State terrorism — not just in my country but in other republics — has meant, it is possible to overcome death and fight for life. The recovery of these children shows how important — how crucial — it is to support this type of initiative and underlines the importance of the work that has been done to identify the victims of the Balkan wars and those of the 11 September attack on the World Trade Center.

In the fight against impunity, which is a State policy in the Republic of Argentina, we cannot fail to mention an issue that, for us, is undoubtedly another cornerstone of this inexhaustible struggle. My country, the Republic of Argentina, suffered two attacks, in 1992 and 1994: the 1992 bombing of the Israeli Embassy and the 1994 bombing of the Argentine Israelite Mutual Association (AMIA) building.

Last year, before this very Assembly, former President Kirchner asked INTERPOL to ratify the arrest warrants issued by my country's Ministry of Justice against Iranian citizens accused of participating in the AMIA building bombing. Days later, INTERPOL ratified them, and international arrest warrants were issued accordingly. I call upon the Islamic Republic of Iran, in compliance with international law, please to agree that the Argentine justice system can bring to trial in public, transparent courts, and with the full guarantees given by a democratic system, those citizens who stand accused.

Before all the countries of the world brought together in this Assembly, and with the conviction I have always held that innocence must be respected until an individual has been convicted and sentenced by a competent judge, I would like to affirm that, in my country, those citizens will have a fair and public trial with their full participation, with all the guarantees afforded by Argentine law and by the oversight of the international community. Given the gravity of these events, this would guarantee to the Islamic Republic of Iran that there would be fairness, truth and justice in that trial.

I would thus urge once again that, in compliance with international law and because ensuring access to justice is what truly shows how we respect truth, justice and freedom, this request from the Argentine justice system, accepted by INTERPOL, be respected. That would undoubtedly contribute to providing truth for all — not just for Argentines, but for the entire international community — at a time when truth and justice are elusive values internationally.

Annex 37

In this Hall, as we have been doing since 2003, I would also like to call for the reform of our multilateral bodies — not only of the United Nations, which includes us all, but also of the multilateral financial institutions as well. That involves us all, and it is necessary to recreate a multilateralism which has been lost, leading to a far more insecure world. The Organization needs to be reformed, not just from the point of view of dogmatic approaches to the world, but to meet the real need of all States to ensure the functional, operational and results-oriented character of the activities and interventions of the Organization.

In this context, I would modestly like to put forward an example from our region, South America, of how we were recently able to demonstrate that multilateralism can be achieved, despite differences of approach and vision that different Governments in our region may have.

Here I am looking at the President Evo Morales — the legitimate President of our sister Republic of Bolivia. I would like to say that, a few days ago, the Union of South American Nations (UNASUR) met in support of the democratic legitimacy of that country. In a concrete multilateral exercise, heads of State, who do not always share the same viewpoints or interests when we take decisions, were able to work unanimously to forge a resolution and plan of action to help our sister Republic of Bolivia, affected by those who do not respect the democratic will of the people freely expressed through elections.

That is not our only experience of multilateralism. Previously, at the meeting of the Rio Group in the Dominican Republic, at the time of the incident between the sister Republics of Ecuador and Colombia, heads of State intervened and were able to navigate a conflict which, on the basis of history, in other situations would surely have degenerated into an armed conflict between two sister countries.

What I want to say with this is that, for us, the exercise of multilateralism is not simply a hackneyed speech. It is a deeply-held conviction and a concrete and objective policy, showing results in what are normally called emerging regions, where we are capable of giving examples of multilateral collaboration in overcoming conflicts.

The other reform that we have always promoted is that of the multilateral credit institutions, but fundamentally the reform of an economic model that placed the generation of wealth at the centre of the fictional economy and of the world of finances. Recent days show that those matters, those positions, were not the result of an ideological bias or closed dogmas but of objective and timely observation of what was going on.

Today, we cannot speak of the “caipirinha effect” or the “tequila effect” or the “rice effect”, or the effect that always showed that the crisis moved from the emerging countries towards the centre. Today, if we were to give it a name, we would have to say, perhaps, the “jazz effect”, which moves from the centre of the first economy of the world and spreads to the rest of the world. That situation does not make us content or happy.

Quite the contrary, we consider this an historic opportunity to review behaviour and policies, because during the period of the Washington Consensus, we — the countries of South America — were told that the market would solve everything, that the State was not necessary, that State intervention was something for which groups that had not understood how the economy had developed were nostalgic. However, now we are seeing the most formidable State intervention in memory from exactly the place where we had been told that the State was not necessary, in the framework, moreover, of an incredible fiscal and trade deficit.

My country, the Argentine Republic — which, if it continues to grow at the rates at which it has been growing since 2003, will this year be completing the largest economic growth cycle of its almost 200-year history — has always upheld the need for a State presence, fundamentally because the market does not assign resources to the most vulnerable sectors and because we see the State as connecting the interests of society and market interests.

Since 2003, an Argentina that had been in debt up to as much as 160 per cent of its GDP has today reduced its debt to almost 50 per cent of GDP. We have fully paid our debt to the International Monetary Fund (IMF), and about 15 days ago we announced that we will settle our debt with the Paris Club, which had a cut-off date of 10 December 1983 — the very year when the first democratic President took office, after the dictatorship. Here in New York yesterday, in the Council on Foreign Relations, I announced that Argentina has received a proposal from three very important banks that represent bond-holders who did

Annex 37

not participate in the 2005 bond exchange and who are proposing to do so in conditions more favourable for my country, Argentina, than those of the 2005 exchange.

Thus we believe not only that our strategy has been correct but that it is absolutely necessary for all of us to review, with a great deal of intellectual humility, what is happening today in the markets and see what are the possible solutions for overcoming the situation. We emerging countries have a great advantage in what we do not have: no credit risk agency will come, nobody from the IMF will come tell us what to do, a great country that has grown on the basis of its real economy and today really has problems on the basis of a casino economy or a fictional economy, where it was thought that only capitalism can produce money. I always say that capitalism was invented in order to earn money, but on the basis of the production of goods, services and knowledge. Money alone does not produce more money. It has to go through the circuit of production, work, knowledge, services and goods so that there can be a virtuous cycle that can generate well-being for the whole of society.

Finally, I want to mention a matter that affects not only my country, beyond its geographical location, but also concerns this Assembly and also the need to face the twenty-first century without colonial enclaves. Here I refer to the issue of our Malvinas Islands, where, despite the resolutions of this body, despite all the measures taken here for the United Kingdom to agree, in virtue of what is set out in Article 33 of the Charter of the United Nations, to negotiate in peace between the parties, that country resolutely refuses to discuss with the Argentine Republic the issue of the Malvinas Islands.

I believe that a member of the Security Council — one that is among the principal nations of the world in the defence of freedom, human rights and democracy — should give concrete proof that it is not just talk but that it is truly convinced that it is necessary to end this shame, that of a colonial enclave in the twenty-first century. I want to request again, as have the different Presidents who preceded me — because Malvinas is for Argentineans a State policy as well — the cooperation that this body has always provided to once again urge the United Kingdom to agree to comply with international law and to demonstrate that it is serious in wishing to build a different world and a different citizenry.

Lastly, I wish to speak to all those men and women who have institutional governmental responsibilities in any of the branches of the State in their respective countries to once again advocate for the transformation of an international policy that has its fullest expression in this House. The reform of the instruments that we are requesting is not simply a question of cosmetics and formulas and changes that barely conceal that everything is continuing as it stands. The present situation, the complexity of the world that is coming, in terms of food and energy, requires all of us to re-examine our behaviour and our paradigms. We must accept with humility that it is necessary to build a world that is different from the one we have had to date — one in which respect for human rights, for the will of peoples and for those who are different, do not think as we do or who pray to a different god is not merely a catalogue of good intentions set out in the United Nations Charter, but a reality that is experienced a little more concretely every day.

The President (*spoke in Spanish*): On behalf of the General Assembly, I wish to thank the President of the Argentine Republic for the statement she has just made.

Ms. Cristina Fernández de Kirchner, President of the Argentine Republic, was escorted from the General Assembly Hall.

Address by Mr. Marc Ravalomanana, President of the Republic of Madagascar

The President (*spoke in Spanish*): The Assembly will now hear an address by the President of the Republic of Madagascar.

Mr. Marc Ravalomanana, President of the Republic of Madagascar, was escorted into the General Assembly Hall.

The President (*spoke in Spanish*): On behalf of the General Assembly, I have the honour to welcome to the United Nations His Excellency Mr. Marc Ravalomanana, President of the Republic of Madagascar, and to invite him to address the Assembly.

President Ravalomanana (*spoke in French*): Eight years ago in this very Hall, we, the leaders of the world, solemnly adopted the Millennium Development Goals (MDGs). Three years ago, we reviewed the Goals to assess the progress made thus far. We realized

Annex 37

United Nations A/64/PV.4

General Assembly
Sixty-fourth session

Official Records

4th plenary meeting
Wednesday, 23 September 2009, 3 p m.
New York

President: Mr. Ali Abdussalam Treki ..... (Libyan Arab Jamahiriya)

The meeting was called to order at 3.40 p.m.

Address by Mrs. Cristina Fernández de Kirchner, President of the Argentine Republic

The President: The Assembly will now hear an address by the President of the Argentine Republic.

Mrs. Cristina Fernández de Kirchner, President of the Argentine Republic, was escorted into the General Assembly Hall.

The President: On behalf of the General Assembly, I have the honour to welcome to the United Nations Her Excellency Mrs. Cristina Fernández de Kirchner, President of the Argentine Republic, and to invite her to address the Assembly.

President Fernández de Kirchner (*spoke in Spanish*): I must confess that, when I arrived in this city to participate in this session of the General Assembly, I had intended to begin my statement with a strong appeal on the need to rebuild multilateralism and cooperation as the two basic instruments to overcome what today is undoubtedly the central issue in our global discussion, namely, overcoming the social and economic crisis.

Mr. Berdymukhammedov (Turkmenistan), Vice-President, took the Chair.

However, certain events on Monday and Tuesday oblige me to begin my statement by reporting that the Embassy of the Argentine Republic in Tegucigalpa, Republic of Honduras, had its electricity cut off some two days ago. That, of course, was not because we had not paid the bill, but was for far more serious reasons.

Next to the Argentine Embassy is a television studio which broadcast the news of President Zelaya's arrival in Honduras, the repression and the demonstrations in favour of the return of democracy. That was one of the reasons. In any event, we have had better luck than the Embassy of the sister Republic of Brazil, where, at an early stage they cut off not only the electricity but the water as well — for having given shelter to the constitutional President, Manuel Zelaya.

As a Latin American, I must recall that not even in Chile during the dictatorship of General Pinochet, or in Argentina during the dictatorship of General Jorge Rafael Videla — perhaps the two cruelest dictatorships in Latin America — was there similar behaviour against embassies that were actively working to give shelter to refugees.

I say this because it is crucial that we realize that we must design and forge a multilateral strategy which is strong and specific to return democracy to Honduras. We need a strategy which would actually allow for true respect for human rights and ensure free and democratic elections — which can take place only with full respect for the constitution. If we do not do this, we would be setting a harsh precedent in a region where, for decades during the national security doctrine, suspensions of democracy claimed the lives of thousands and thousands of Latin Americans, led to the exile of many other and created the region's most serious economic and social tragedy in memory.

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room U-506. Corrections will be issued after the end of the session in a consolidated corrigendum.

09-52228 (E)

Please recycle

I make this appeal because I played an active role from the platform of the Organization of American States, and also accompanied the former President of the General Assembly, Father Miguel d'Escoto Brockmann, to El Salvador in order to carry out a task which would safeguard two basic values which, in my opinion, our region has managed to develop: democracy and respect for human rights.

Therefore, I believe that multilateralism would also mean understanding that we have to set common and general rules in this globalized world that must be accepted by all countries. In this case, we are faced with a cynical media coup which was carefully hidden or minimized because, in fact, it was slanted against the advent of populist progressive Governments in the region. I believe that, for all of us, defining multilateralism is going to require specific actions and rules so that absolutely all of us will have the same parameters when it comes time to judge conduct, attitudes and institutional situations.

Yesterday I took part in the climate change event convened by Secretary-General Ban Ki-moon in order to bring positions closer together with a view to the Copenhagen Conference, which will take place in a little more than 10 weeks' time. A decade and a half ago we agreed on the United Nations Framework Convention on Climate Change, dealing with environmental protection, and we later adopted the Kyoto Protocol in order to begin ensuring respect for those obligations undertaken by nations. A decade and a half later, it is clear that neither agreement is being satisfactorily implemented.

Essentially, this is sometimes because the nations most responsible for pollution and gas emissions, which should bear greater responsibility for reducing those emissions, in terms of investments both in their own countries and in developing countries, cannot come to an agreement either. As I was saying yesterday in our meeting, I think we need to understand that the only possibility of successfully approaching globalization lies precisely in the setting of common rules which would be respected by all nations, developed and developing.

In this framework, we should mention the situation of the Argentine Republic, where we still have a colonial enclave, our Malvinas Islands, which persists without the possibility of addressing the question of sovereignty together with the United Kingdom, as proclaimed in many General Assembly resolutions. We were recently able to agree, following a humanitarian request, that family members with loved ones buried on the islands should be able to travel there by air to inaugurate a cenotaph to pay tribute to those who fought for their homeland.

All of this points to the very clear need to look at multilateralism not only as a type of rhetorical statement repeated every year in this or other multilateral forums, but rather in terms of concrete results. Otherwise, it will become increasingly complicated, with ever more unresolved problems. For, in the final analysis, the multilateralism we have been persistently proclaiming since 2003 has not been put into practice.

My country and the United States are the only two countries to have experienced attacks of international terrorism. For Argentina, the first was in 1992, at the Embassy of Israel, and the second was at the Asociación Mutual Israelita Argentina (AMIA). Hundreds of people died in those attacks. Today, in this Assembly, I am joined by the head of AMIA, the entity that was bombed, as well as by family members who have accompanied him.

In 2007, then-President Néstor Kirchner came here to the Assembly (see A/62/PV.5) to call on the Islamic Republic of Iran to agree to extradite officials of its country wanted by the Argentine justice system in order to carry out a proper investigation and assign responsibility for that serious attack. Last year, I myself came here (see A/63/PV.5) to call once again on the authorities of the Islamic Republic of Iran to accede to our request. I said that there were constitutional guarantees in my country; that the principle that no one is guilty until proven guilty beyond a shadow of a doubt prevails from one end of my country to the other; and that we have guarantees for freedom and the administration of justice. Nevertheless, that did not happen. Instead, this year, one of the officials whose extradition was sought by the prosecutor on the case was promoted to minister.

I know that some 4, 5 or 15 speakers from now the President of the Islamic Republic of Iran will take the floor. Surely, he will once again deny tragedies that occurred in the course of western history in the twentieth century. He will surely invoke the threat of other imperialisms. And he will also surely invoke God. I would like to say to him that my country, the

Annex 38

Argentine Republic, is not an imperialist country — neither by way of belief nor as a reflection of our history. To the contrary, ours is a country that suffered from colonial oppression at its founding. During the world's bipolar era, we also suffered from the doctrine of national security. I would like to tell him that, like him, I believe in God. We may do so in different faiths but, in the end, I believe that neither of us believes that God could command us to prefer threats or to avoid justice from being done.

As President of the Argentine Republic, therefore, I humbly reiterate once again our appeal for the extradition of the officials whom Argentina's justice system believes are responsible — not to be found guilty, but to be judged and to be allowed to take advantage of all the rights and guarantees that every Argentine citizen and foreigner has in our country: guarantees under democracy, whose unconditional defence Argentina has made part of its institutional and historical core.

I would not wish to conclude without referring to three events that I believe are very positive, which I would like to share with the members of the Assembly today. The first took place quite recently, on 9 September, when the Argentine Republic received a visit from the Inter-American Commission on Human Rights, including its Chair and the President of the Inter-American Court of Human Rights. That visit occurred 30 years after the Court's first visit, during the dictatorship, when it came to investigate the crimes that were being committed and to take complaints from Argentine citizens — including our Minister for Foreign Affairs, who is with me today and who, like his father, was imprisoned at that time — and to hear testimony about the serious violations that were taking place.

Thirty years later, the men who comprised the Commission and the men and women who are its members today visited an Argentina where criminals responsible for genocide under the dictatorship are being tried by judges in accordance with the Constitution. We have also reached an agreement with the Inter-American Court to send a bill to our legislature — which I have already done — to eliminate the crime of libel and defamation against journalists. That is homage to the freedom of expression and of the press. But I also firmly believe that it should apply to all citizens. It is offensive that, in the twenty-first century, someone could be sentenced to prison for having said something and said it freely.

We have also reached an agreement to send up two bills — which we have also already done — to contribute to the recovery of children born in captivity during the dictatorship. Those will include provisions to ensure respect for the victims, as well as on society's collective right to learn their identities.

The second thing that I would like to share has to do with the fact that I listened today to the President of the United States speak about an issue that is crucial to world peace and security, as well as to the rights of the Palestinian people. It is also a key component of a strategy against international terrorism, which, as ever, we continue to condemn. It is genuinely satisfying, and a salve to the soul, to hear from the mouth of the President of the United States of America that there is a need for the Palestinian people to be able to live on their land free of settlements of any kind, as well as, clearly, a right for Israel's citizens to live in peace within their borders. The words of the President and the timely message he delivered at Cairo University, which many here likely followed with interest, place us in a position that we have not occupied for many years, namely, the possibility of beginning negotiations — successful ones, I hope — between the Palestinian Authority and the Government of Israel to at last resolve a key issue for international peace and security, namely, the Palestinian question.

Lastly, I would like to tell the Assembly that, as a member of the Group of 20 (G-20), which will meet tomorrow in Pittsburgh, we would like to call for the presence of another multilateral body to be heard from at those meetings: the International Labour Organization. In the two previous G-20 meetings, there was a great deal of discussion about the financial crisis. However, as we did then, we continue to believe that a key issue is to once again discuss the real economy. That is why we believed it timely that workers and business owners, as genuine actors in the real economy and as catalysts to re-energizing it, should be heard from as well in those forums, alongside officials from multilateral credit institutions and the World Bank.

We are genuinely convinced that there is a need to build a new multilateralism in which all of us are genuinely on an equal footing; where rights and obligations and the road map for the course to be taken

Annex 38

are the same for rich and poor countries alike; and where the rights and responsibilities of developing countries are the same as those of developed States. We therefore agreed that equal rules of the game for the entire world was one of the basic elements of ensuring success in building multilateralism. If we do not achieve this, we will continue with these rhetorical exercises year after year, but we will never achieve the results that are not a right but an obligation for all of us who make up this body.

In conclusion, democracy, the defence of human rights, and equal rules for all countries in the world are the three key elements to building a new multilateralism. These three requirements must be equal and the same for all countries, but above all for those that, through their own actions and because of their level of social and economic development, lead the major developed countries of the world.

It is clear that those who have the greatest responsibility and hold the greatest leadership roles — won through military, technological, economic and even cultural power — also have an obligation to exercise that leadership in a responsible manner. This is what we, the developing and emerging countries, feel, and what we ask of the major nations of the world. They have the responsibility to build this world. This will no doubt be echoed in all our speeches, but this building must be done every day through our decisions and concrete actions.

The Acting President (*spoke in Russian*): On behalf of the General Assembly, I wish to thank the President of the Argentine Republic for the statement she has just made.

Mrs. Cristina Fernández de Kirchner, President of the Argentine Republic, was escorted from the General Assembly Hall.

Address by Mr. Emomali Rahmon, President of the Republic of Tajikistan

The Acting President (*spoke in Russian*): The Assembly will now hear an address by the President of the Republic of Tajikistan.

Mr. Emomali Rahmon, President of the Republic of Tajikistan, was escorted into the General Assembly Hall.

The Acting President (*spoke in Russian*): On behalf of the General Assembly, I have the honour to welcome to the United Nations His Excellency Mr. Emomali Rahmon, President of the Republic of Tajikistan, and to invite him to address the Assembly.

President Rahmon (*spoke in Tajik; English text provided by the delegation*): At the outset, I should like to congratulate Mr. Ali Abdussalam Treki on his election as President of the General Assembly at its sixty-fourth session. I am confident that his extensive diplomatic experience and talent will contribute to the fruitful and successful work of the General Assembly at this session.

In recent decades, the world has made considerable progress in terms of technology, information and economic and social development, which, due to globalization, is being spread throughout the world. However, the negative aspects of this phenomenon, such as international terrorism, extremism, transnational organized crime, narcotics trafficking, pandemic outbreaks and emerging ecological challenges, pose a serious threat to the international community. The United Nations plays the key role in coordinating Member States' efforts to effectively meet the challenges of modern times and to attain the Millennium Development Goals.

Tajikistan regards peacekeeping as one of the most important aspects of the work of the United Nations. Last year, for the first time ever, citizens of the Republic of Tajikistan joined police forces in peacekeeping operations, contributing to efforts to strengthening peace and stability in conflict zones. A national strategy on the development of Tajikistan's peacekeeping capacity is currently being drafted.

Tajikistan attaches the utmost importance to strengthening the disarmament process. We hope that, at the 2010 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, a constructive exchange of views will take place on urgent issues related to the practical implementation of that agreement. We are convinced that the establishment of nuclear-weapon-free zones is equally important at the regional and global levels. Tajikistan is therefore prepared to work to enhance its practical implementation of the provisions of the Treaty on a Nuclear-Weapon-Free Zone in Central Asia, which came into effect on 21 March 2009.

We support the leading role played by the United Nations in combating the illicit trade in small arms and light weapons. We hope that important measures for

Annex 38

United Nations A/62/519

General Assembly

Distr.: General
2 November 2007
English
Original: Spanish

Sixty-second session
Agenda item 8
General debate

Letter dated 31 October 2007 from the Permanent Representative of Argentina to the United Nations addressed to the President of the General Assembly

I have the honour to enclose herewith the text of the written statement of the delegation of the Argentine Republic in exercise of the right of reply to the letter dated 28 September 2007 from the Permanent Representative of the Islamic Republic of Iran (A/62/485 and annex) referring to the remarks made by President Nestor Kirchner on 25 September 2007, at the sixty-second session of the General Assembly (see annex).

It would be highly appreciated if you could have the present letter and its annex circulated as a document of the General Assembly, under agenda item 8.

(*Signed*) Jorge **Argüello**
Ambassador
Permanent Representative

07-58225 (E) 071107 071107

Annex to the letter dated 31 October 2007 from the Permanent Representative of Argentina to the United Nations addressed to the President of the General Assembly

On 28 September 2007, the Permanent Representative of the Islamic Republic of Iran, in exercise of the right of reply to the remarks made by the President of the Nation, Nestor Kirchner, on 25 September last, at the sixty-second session of the General Assembly, requested that a letter and a statement dated 15 October 2007 be circulated as a document of the General Assembly under agenda item 8 (A/62/485 and annex).

The Government of the Argentine Republic rejects the unfounded and offensive remarks made in that statement against its institutions and against President Nestor Kirchner.

In his address to the General Assembly, the President recalled that the Argentine Republic had repeatedly condemned the serious threat of global terrorism, as he considers terrorist acts to be criminal and unjustifiable. He also recalled that all States in the international community and, in particular, in the United Nations, must work together to prevent and eliminate this scourge.

Accordingly, on behalf of the Argentine Republic, the President of the Nation reiterated his request for the Islamic Republic of Iran, in the framework of applicable international law, to cooperate effectively with the Argentine courts in order to clarify the facts in the AMIA (Argentine-Israelite Mutual Association) case, in connection with the blowing-up in 1994 of the headquarters of that institution in the city of Buenos Aires, in which 85 people lost their lives.

In that regard, President Nestor Kirchner appealed to the Islamic Republic of Iran to process the judicial request, for the sole purpose of clarifying the facts and judging those responsible, out of respect for the memory of the victims.

In the aforementioned proceedings, an arrest warrant has been issued against several Iranian citizens and one Lebanese citizen who were involved. Likewise, both the Secretary General and the Executive Committee of INTERPOL unanimously decided to issue the arrest warrants (known as “red notices”) for those citizens. The final decision will be submitted to the INTERPOL General Assembly, to be held in Morocco from 5 to 8 November 2007, so that the decision of the Executive Committee may be ratified by the Assembly.

United Nations A/63/523

General Assembly

Distr.: General
7 November 2008
English
Original: Spanish

Sixty-third session
Agenda item 8
General debate

Letter dated 5 November 2008 from the Permanent Representative of Argentina to the United Nations addressed to the President of the General Assembly

I have the honour to transmit the response of the Argentine Republic to the reply by the Permanent Representative of the Islamic Republic of Iran to the United Nations to the statement made by Dr. Cristina Fernández de Kirchner, President of Argentina, on 23 September 2008 during the sixty-third session of the General Assembly.

On 28 September 2008, the Permanent Representative of the Islamic Republic of Iran, speaking in exercise of the right of reply to the statement made by Dr. Cristina Fernández de Kirchner, the President of Argentina, on 23 September 2008 during the sixty-third session of the United Nations General Assembly, requested the circulation of a note (A/63/468) and of its annex.

The Government of the Argentine Republic strongly rejects the unfounded and offensive expressions used in the above-mentioned Iranian statement against the President of Argentina and head of the Argentine judiciary.

The Argentine Republic was the target of two serious terrorist attacks, which took a tragic toll with dozens of persons killed and wounded: in 1992, against the Embassy of Israel in Buenos Aires and in 1994 against the headquarters of the Asociación Mutual Israelita Argentina (AMIA).

In the context of the investigation conducted by the Argentine judicial authorities, the INTERPOL General Assembly, held in November 2007, issued an international arrest warrant for five Iranian nationals involved in the attack against AMIA, thus endorsing our country's position, based on the principles of international law and on international judicial cooperation.

In her statement during the sixty-third session of the General Assembly, the President strongly requested the Islamic Republic of Iran to comply with the norms of international law and allow the Argentine judicial authorities to hold a public and transparent trial, with the guarantees provided by a democratic system, of the Iranian nationals accused of participating in the attack against AMIA. The President

08-59473 (E) 101108 111108

also urged Iran to grant the request made by the Argentine judicial authorities and supported by INTERPOL, which would help to shed light on this attack.

The Argentine Republic once again urges the Islamic Republic of Iran to cooperate fully with the Argentine judicial authorities in order to elucidate the horrible attack against AMIA, in the belief that this will make a valuable contribution to justice and to full respect for human rights and human dignity.

I should be grateful if you would circulate this note as an official document of the General Assembly.

Accept, Sir, the assurances of my highest consideration.

(*Signed*) Jorge **Argüello**
Ambassador
Permanent Representative

Enclosure: 1 diskette.

United Nations A/64/505

General Assembly

Distr.: General
28 October 2009
English
Original: Spanish

Sixty-fourth session
Agenda item 8
General debate

Letter dated 27 October 2009 from the Permanent Representative of Argentina to the United Nations addressed to the President of the General Assembly

I have the honour to submit the Argentine Republic's reply to the letter from the Permanent Representative of the Islamic Republic of Iran to the United Nations referring to the address delivered on 23 September 2009 by the President of the Argentine Republic, Cristina Fernández de Kirchner, at the sixty-fourth session of the General Assembly.

On 28 September 2009, the Permanent Representative of the Islamic Republic of Iran, in exercise of the right of reply to the remarks made on 23 September 2009 by the President of the Argentine Republic, Cristina Fernández de Kirchner, at the sixty-fourth session of the United Nations General Assembly, requested the circulation of a letter (A/64/481) and its annex.

The Government of the Argentine Republic hereby categorically rejects the unfounded and injurious accusations levelled in the above-mentioned Iranian letter against the President of the Argentine Republic and the Argentine executive and judicial authorities.

In recent years, Argentina has been the victim of two serious terrorist attacks that took a tragic toll of dozens of dead and wounded: in 1992, against the Israeli Embassy in Buenos Aires, and in 1994, against the headquarters of the Asociación Mutual Israelita Argentina (AMIA).

One of the paragraphs of the Iranian letter refers to and interprets our feelings about these painful events. Indeed, the AMIA bombing is an open wound in Argentine society, and the deep sorrow it has caused can be mitigated only by punishing those responsible for the attack.

Therefore, at the sixty-fourth session of the General Assembly, President Fernández de Kirchner reiterated the request made by Argentina at the sixty-second and sixty-third sessions of the Assembly that the Islamic Republic of Iran agree to extradite officials of its country who are wanted by the Argentine justice system for their alleged connection with the AMIA bombing, so that

09-58246 (E) 021109 031109

Please recycle

they can be judged, while being protected by all the rights and guarantees enjoyed by Argentine and foreign nationals in our country. It is important to note that one of these officials has been promoted to a ministerial post.

The Argentine Republic has repeatedly urged the Islamic Republic of Iran to accept and respect, under the applicable provisions of international law, the jurisdiction of the Argentine justice system and effectively cooperate in bringing to justice the persons accused in connection with the AMIA bombing by acceding to the Argentine Republic's request that arrest warrants be issued for them, a request endorsed by the General Assembly of the International Criminal Police Organization (INTERPOL) in November 2007.

This action will represent an invaluable contribution to justice and full respect for human rights and dignity.

I should be grateful if you could arrange to have this letter of reply circulated as a document of the General Assembly, under agenda item 8.

(*Signed*) Jorge **Argüello**
Ambassador
Permanent Representative

Annex 41

United Nations A/70/445

General Assembly

Distr.: General
26 October 2015

Original: English

Seventieth session
Agenda items 85 and 108

The rule of law at the national and international levels

Measures to eliminate international terrorism

Letter dated 16 October 2015 from the Permanent Mission of Bahrain to the United Nations addressed to the Secretary-General

You may recall that Khalid bin Ahmed bin Mohamed Al-Khalifa, Minister for Foreign Affairs of the Kingdom of Bahrain, had addressed a communication to you on 2 October 2015 dealing with hostile acts by the Islamic Republic of Iran that constituted a flagrant interference in the internal affairs of the Kingdom of Bahrain, as well as an attempt to destabilize it through support to terrorist acts in its national territory (see annex).

I wish to request that the present letter and its annex be circulated as a document of the seventieth session of the General Assembly, under agenda items 85 and 108.

(*Signed*) Jamal Fares **Alrowaiei**
Ambassador
Permanent Representative

15-18652 (E) 121115

Please recycle

Annex to the letter dated 16 October 2015 from the Permanent Mission of Bahrain to the United Nations addressed to the Secretary-General

Preserving regional security and strengthening regional peace is the mutual and shared responsibility of all regional countries. To carry out this responsibility, each country is obliged, in the words of the Charter of the United Nations, to practice tolerance and live together in peace with one another as good neighbours. The Kingdom of Bahrain has — always and without interruption — taken steps to discharge its obligations of good neighbourliness by striving to develop friendly relations with all countries, harmoniously resolving differences and building enduring ties of solidarity and cooperation.

In particular, my Government has worked tirelessly to improve Bahraini-Iranian relations despite significant unfriendly acts on the part of the Government of the Islamic Republic of Iran. Notwithstanding the public speech of the Iranian Supreme Leader, Ayatollah Ali Khamenei, in March 2011, in which he stated that the Iranian Government "will not make a differentiation between Gaza, Palestine, Bahrain, Yemen" in conducting its interventionist regional policy, Bahrain nonetheless maintained its diplomatic representation in Iran and did not withdraw its ambassador. Even though Iran withdrew its ambassador from Manama in March 2011, Bahrain has nevertheless maintained continuous ambassadorial representation in Tehran since that time. Ever since then, the Iranian Government has — consistently — turned down the repeated requests of Bahrain to reinstate ambassador-level ties.

Over the past four years, and even with Bahrain's best efforts to amicably reconcile differences, Iran's distinct lack of cooperation has taken a turn for the worse. Now, Iran is engaged in continuous actions to heighten tensions and breach the peace — in an attempt to establish a regional zone of domination and wield undue influence in other countries' affairs.

Specifically, as detailed in the present letter, Iran has allowed its territory and state resources to be used by terrorist groups to carry out armed attacks in Bahrain. The Government of the Islamic Republic of Iran is actively engaged in spreading weapons, such as assault rifles, grenades, improvised explosive devices (IEDs), explosively formed projectiles (EFPs) and associated technologies, to terrorist groups, including those operating in Bahrain. Such State-sponsored proliferation is contrary to the provisions of the Charter, is against international law and constitutes an impermissible interference in other States' national affairs. As a result of these hostile actions by the Iranian Government, my country is left with no recourse but to formally withdraw its ambassador from Tehran and declare the remaining Chargé d'affaires of Iran persona non grata. The present letter sets out the reasons that compelled Bahrain to take this step.

This step has become necessary because the Islamic Republic of Iran has provided IED- and EFP-related training, information, financing, components and technology, in addition to large caches of weapons, to certain terrorists committed to the destruction of the Kingdom of Bahrain. Since mid-2011, the Kingdom of Bahrain has uncovered several warehouse-scale facilities containing complex IED-making materials supplied by Iran, intercepted a number of ships originating in Iran laden with weapons, including large numbers of IEDs and EFPs, and

discovered technologies, such as chemical recipes, circuit boards, compressors, wireless modules and detonators, traceable to the techniques, tactics and procedures developed by the Qods Force of the Army of the Guardians of the Islamic Revolution (IRGC) and its Lebanese Hizbullah proxy force. These IEDs overwhelmingly resemble the IEDs used by terrorists and insurgents in Iraq and Afghanistan during the 2000s.

In his Friday sermon of 15 May 2015, Ayatollah Ali Khamenei announced that Iran would continue to support what he called the "oppressed people of Bahrain". On 15 July 2015, Bahrain's police intercepted a weapons shipment by boat of 43.5 kg of C-4, eight Kalashnikov rifles, 32 rifle ammunition magazines and numerous IED and EFP electric initiators and components traceable to IRGC. On 27 July 2015, a police transport bus was attacked by an IED, which resulted in two police deaths and five life-threatening injuries. On 23 September 2015, Ayatollah Khamenei stated that "the painful events in Iraq, Syria, Yemen, Bahrain, the West Bank and Gaza as well as in other countries in Asia and Africa are tragedies for the Islamic nation that we must address". Just two days ago, on 30 September 2015, Bahrain's police seized 1.5 tons — an unprecedented amount — of foreign-sourced high explosives, including C4 (RDX), trinitrotoluene (TNT) and other chemical-based mixtures in a warehouse-sized facility that had been clandestinely hidden, including through the digging of underground bunkers and the construction of concealed above-ground structures.

These are the most recent incidents:

- On 30 September 2015, police raided a network of underground bunkers and above-ground concealed structures in Nuwaidrat, Bahrain, containing 1.5 tons of bomb-making materials including C-4 (RDX) and TNT, in addition to AK-47 rifles, pistols, Claymore mines and grenades made in Iran. Further, laboratory-grade factory machinery was found, including a pressing machine for shaping curved charges that are signatures of the most lethal EFPs used in Iraq. The facility is unprecedented in its scope, in terms of the sophistication of the concealment, the size of the structure, the complexity of the manufacturing operation, and the number of weapons and explosives discovered.

- Two factory-sized weapons depots were discovered (in mid-2011 and June 2012). The second discovery, in Salmabad, Bahrain, uncovered 51 kg of finished primary high explosive and enough raw material, worth well over $100,000, to produce 12.8 kg of acetone peroxide-based primary high explosive, hundreds of kilograms of ethylene glycol-based explosives, tens of kilograms of urea nitrate explosives and many kilograms of TNT. In addition, there were four viable IEDs, 5 kg of steel ball bearings, numerous pipe-bomb casings, 61 detonators, various remote-control initiation mechanisms, and a very large number of IED components. This discovery demonstrated that an advanced skill set was present in the individuals who had assembled this factory. DNA and other personal evidence discovered at the site identified the individuals as having extensive ties to Iran.

- At least three terror cells were discovered (in November 2011, October 2012 and March 2013) through joint intelligence and law enforcement operations with other Gulf Cooperation Council States. Among the items discovered on the person of the members were instructions on the design and construction of chemical explosives, guidelines on the creation and operation of terrorist cells, a description of a plot to explode an IED on the King Fahad international

Annex 42

causeway linking Bahrain with Saudi Arabia, instructions on methods of conducting physical surveillance of United States troops stationed in Bahrain, and confidential information on the location, capabilities and readiness of Bahrain's security forces. These persons were financed (about $80,000) and directed by IRGC.

- In December 2011, an IED was discovered underneath a vehicle 50 metres away from the British Embassy in Manama and assessed to be a response to the expulsion of Iranian diplomatic staff members from Britain the week before. In December 2013, Bahrain's police intercepted a weapons shipment on a boat originating in Iraq and bound for Bahrain that included 91.817 kg of C-4 (RDX) explosive, 31 Claymore mines containing TNT, 12 EFPs, 6 magnetically attached IEDs used for vehicular assassination, 295 commercial wireless dual-tone multi-frequency decoder detonators (labelled "made in Syria"), 979 bullets (7.62 mm calibre, made in Iran), 1 Iranian-made PK assault rifle, 29 detonation electronic circuit boards and 50 grenades (made in Iran).

As a consequence, to date, at least:

- 85 Bahrain-based terrorists have been trained by the IRGC: 54 in Iran, 29 in Iraq and 2 in Lebanon.
- 67 wanted Bahrainis are located in Iran.
- $166,500, originating with IRGC, has been seized in various currencies (United States dollars, Bahraini dinars and Saudi Arabian riyals) in six cases involving 20 persons, of which 17 had received military training from IRGC.
- $100,000 of raw materials and components for explosives has been seized.
- 985 fake IEDs have been discovered, causing panic among the population and hindering daily life.
- 439 real IEDs have been found and safely disposed of or have exploded, causing injuries.
- 16 policemen have died.
- 3,169 police personnel have been injured seriously enough by real IEDs that exploded to warrant hospitalization.
- In addition, there have been thousands of gas-cylinder explosions in towns and villages, incidents of fire and arson, properties vandalized and attempts to block main and arterial roads by tire burning and oil burning or by placing dumpster blocks.

The police bear the brunt of these attacks. Nonetheless, they have shown remarkable restraint — demonstrating the tangible impact of the reforms put into place over the past two years. The fatality statistics from 2013 and 2014 demonstrate that more police officers have died than rioters.

Disappointingly the actors that could do much to calm the situation have not taken the opportunity to do so. To date, there has not been any effective effort by politically influential clerics, or the political and human rights groups affiliated with them, to condemn and put a stop to the violence, nor has there been a commitment by the Islamic Republic of Iran to cease its export of weapons, including IEDs and EFPs, to the Kingdom of Bahrain.

Annex 42

Despite the Iranian Government's record of lack of cooperation, unfriendliness, and hostility, the Kingdom of Bahrain remains steadfast in its observance of the principles set out in the Charter of friendly relations and good neighbourliness, including towards the Islamic Republic of Iran. My Government strongly supports the strengthening of regional and international peace and security and looks towards a better future rather than to the past.

My Government is keen to re-establish amicable, cooperative and mutually beneficial diplomatic ties with the Islamic Republic of Iran, but for this to occur, Iran must take the initiative through the undertaking of positive, verifiable steps that show its commitment to refrain from hostile and aggressive acts, alleviate tensions and seek to re-establish friendly relations with the Kingdom of Bahrain. I respectfully request your assistance in conveying this message to the Government of the Islamic Republic of Iran and that you kindly circulate the present letter to Member States.

(*Signed*) Khalid bin Ahmed bin Mohamed **Al-Khalifa**
Minister for Foreign Affairs of the Kingdom of Bahrain

Annex 42

In Kenya, two Iranians get life in prison for plotting attacks



A court in the Kenyan capital, Nairobi, sentenced Iranian nationals Sayed Mansour Mousavi, left, and Ahmad Abolfathi Mohammad to life in prison. (Dai Kurokawa / European Pressphoto Agency)

By **the Associated Press**

MAY 6, 2013, 3:39 PM

NAIROBI, Kenya — A Kenyan court on Monday sentenced two Iranian nationals convicted of plotting attacks against Western targets to life in prison.

Ahmad Abolfathi Mohammad and Sayed Mansour Mousavi were arrested in June 2012 and led officials to a 33-pound stash of the explosive RDX. Officials in Kenya say the two may have been planning attacks on Israeli, American, British or Saudi Arabian interests in Kenya.

Magistrate Kiarie Waweru Kiarie sentenced the two to life in prison for committing acts intended to cause grievous harm. The two were sentenced to additional prison sentences of 15 and 10 years on lesser charges. The sentences will be served simultaneously, Kiarie said.

Kiarie said an expert for the prosecution, who testified that the cache of RDX explosives was capable of bringing down a tall building, influenced his sentencing decision. “I shudder to imagine the amount of life and

property that would have been forever destroyed," the magistrate said.

"Even as I hear the accused persons mitigating and crying for mercy, there is yet a louder cry by the blood of the previous victims of terrorist attacks, the orphan, the widow and widower due to such heinous attacks. All are crying for justice," Kiarie said.

Mohammad and Mousavi displayed little outward reaction when the sentences were read. Mohammad smiled before media cameras.

Defense lawyers said they would appeal.

"The decision is outrageous. It's wrong. It's illegal. It's a nullity. The magistrate has totally misconceived the law," said David Kirimi, who represented Mousavi.

Defense lawyer Wandugi Karathe, representing Mohammad, earlier urged the magistrate to give his client a noncustodial sentence, arguing that Mohammad "is remorseful of the circumstances that brought him to the court" and is a sole breadwinner for six children in Iran.

Mohammad's wife, Fatma Rhahimid, said through a translator that both men are innocent and that their trial was heavily influenced by "extrajudicial forces."

Kenyan anti-terror officials said the two Iranians are members of Iran's Revolutionary Guard Quds Force, an elite and secretive unit.

Militants in 2002 bombed an Israeli-owned luxury hotel near Mombasa, Kenya, killing 13 people. The militants tried to shoot down an Israeli airliner at the same time. An Al Qaeda operative was linked to those attacks.

ALSO:

Former Italian Prime Minister Giulio Andreotti dies

Afghanistan files formal protest after Pakistan border clash

U.N.'s Carla Del Ponte says Syrian rebels may have used sarin

Copyright © 2017, Los Angeles Times

This article is related to: Justice System, Crime, Law and Justice, Iran

Iranians' 30-bomb plot on Kenya

By By Cyrus Ombati | Updated Wed, July 4th 2012 at 00:00 GMT +3
SHARE THIS ARTICLE

Share on Facebook (Javascript:void(0)) Share on Twitter (Javascript:void(0)) (Javascript:void(0)) (Javascript:void(0);mailto:?subject=Iranians' 30-bomb plot on Kenya&body=Iranians' 30-bomb plot on Kenya https://www.standardmedia.co.ke/article/2000061093/iranians-30-bomb-plot-on-kenya)

By Cyrus Ombati

Two Iranian terror suspects in the hands of police have reportedly confessed they planned to detonate a series of 30 killer bombs across Kenya at once.

The shocking confession police report to have secured from the two, not only paints how serious the magnitude of terror planned against Kenya could be, but also shows the plot has attained an international dimension.



Like in the case of the 1998 Nairobi terror bomb targeting American Embassy, and that of 2002 against Israeli-owned Kikambala Hotel in Mombasa, police reveal the latest series of attacks were aimed at local US, Israel, Saudi Arabia, and British interests.

This could be the attacks Kenya's high-level security team had been warned were about to take place, and that the isolated cases of grenade and gun attacks against civilians in North Eastern, Nairobi, and Mombasa were diversionary lower-levels attacks.

LATEST NEWS

Class one pupil drowns in dam accident (https://www.standardmedia.co.ke/article one-pupil-drowns-in-dam-accident)

Colleges move to take charge of their safe (https://www.standardmedia.co.ke/article move-to-take-charge-of-their-safety)

Kiraitu's allies fight poll results (https://www.standardmedia.co.ke/article s-allies-fight-poll-results)

Raila opposes operation in banditry-prone (https://www.standardmedia.co.ke/article opposes-operation-in-banditry-prone-area

What Kenyans and their leaders think abou Easter (https://www.standardmedia.co.ke/article kenyans-and-their-leaders-think-about-ea

It were the two Iranian terror suspects arrested in Nairobi that police say led Kenyan security officials to a 15kg stash of explosives, which were to be used in simultaneous 30-bomb attacks. Each kilo was to produce two bombs.

It is from this information that Israeli Prime Minister Benjamin Netanyahu warned Iran on Tuesday it should take responsibility for the alleged heinous plot.

It is, however, not clear if the intelligence fed on the two Iranians – calling themselves Ahmad Abolfathi Mohammad and Sayed Mansour Mousavi – were from Kenya or Israeli's Mossad and America's international intelligence networks that have always had their eyes riveted on global terror cells and their kingpins.

The terror suspects reportedly planned to take advantage of the attacks being experienced in Kenya by Al Shabaab sympathisers, though their cause was different and focused largely not on war in Somalia, but American, British and Israeli, and Saudi Arabia, the Middle East State perceived by many Muslim-dominated countries as a collaborator of the US and Israel.

Last October US agents claimed to have thwarted a plot by Iran to assassinate Saudi Arabia's ambassador in to the United States.

"In addition to holding these individual conspirators accountable for their alleged role in this plot, the United States is committed to holding Iran accountable for its actions," US Attorney General Eric Holder declared after the plot was neutralised.

"They were to target some of the embassies and other installations had their plans materialised," revealed a senior officer familiar with the tracking of the Iranians after they entered Kenya. He spoke on condition he would not be quoted.

powerful explosives

On June 25, a Kenyan court charged two Iranians with illegal possession of 15kg of the powerful explosive RDX, according to the charge sheet. Both have denied the charges.

The Iranian Foreign ministry said on Saturday it was seeking information about their case, and refused to comment.

Last week, one of the two Iranians facing charges in Kenya told the court that Israeli agents had interrogated him while he was in the hands of local police.

Mohammad on Wednesday said Israeli agents interrogated the two; a claim that, if true, would suggest security officials believe the Iranians might have been targeting an Israeli-owned property.

Kenya got the backing of the top leadership of Israel in its war on Al Shabaab last year, with President Shimon Peres and Netanyahu declaring they would help Kenya in its struggle to secure its borders.

The two signed a memorandum of understanding for co-operation on matters of homeland security in Jerusalem. The late Internal Security minister George Saitoti signed on behalf of Kenya, while Prime Minister Raila Odinga witnessed.

Netanyahu expressed concern that threats from militants threaten Kenya's tourism, adding that Kenya's frustration with fundamentalists was similar to Israel's and the two countries must stand together.

Netanyahu promised to help build "a coalition against fundamentalism" that brings together like-minded regional States including Kenya, Ethiopia, South Sudan, and Tanzania.

President Peres pledged to give Kenya all the support it needs to ensure security within its borders and protect its citizens and economy.

Asian couple in court for assaulting their c (https://www.standardmedia.co.ke/article couple-in-court-for-assaulting-their-child)

President Uhuru plea on gender rule even a ODM misses mark (https://www.standardmedia.co.ke/article uhuru-plea-on-gender-rule-even-as-odm-misses-mark)

Otuoma takes early lead as confusion rock Orange Party primaries (https://www.standardmedia.co.ke/article takes-early-lead-as-confusion-rocks-oran party-primaries)

Lady luck hands Kenyan senate seat in Au (https://www.standardmedia.co.ke/article luck-hands-kenyan-senate-seat-in-austral

NLC chairman Swazuri links his ouster bid cartels (https://www.standardmedia.co.ke/article chairman-swazuri-links-his-ouster-bid-to-cartels)

VII

(https://www.standardmedia.co.ke/breakingne

TRENDING NOW



Otuoma takes early lead as confusion rocks Orange Pa primaries (https://www.standardmedia.co.ke/article takes-early-lead-as-confusion-rocks-oran party-primaries)



Class one pupil drowns in d accident (https://www.standardmedia.co.ke/article one-pupil-drowns-in-dam-accident)



House of cards: It all came for Italian fugitives (https://www.standardmedia.co.ke/article of-cards-it-all-came-down-for-italian-fugi



Lady luck hands Kenyan se seat in Australia (https://www.standardmedia.co.ke/article luck-hands-kenyan-senate-seat-in-austral



ODM Busia nominations: W be Ojaamong or Otuoma? (https://www.standardmedia.co.ke/article busia-nominations-will-it-be-ojaamong-or otuoma)

President Uhuru named in Governor Joho ((https://www.standardmedia.co.ke/article

The Israeli President said then Israel is ready to make "everything available to Kenya" for internal security and food production.

But back home, a section of Muslim leaders led by a Cabinet minister denounced the agreement because of the Israeli factor.

travel ban

The US Embassy issued an alert on June 22, three days after the men were arrested, warning Americans against travelling to Mombasa, ordering Government workers out of the city, and suspending Government travel there through July 1. US agents had been involved in the Mombasa raids in which the chemicals were seized. Their plan was to use local agents to commit the acts.

Mohamed and Mousavi, who appeared in a Nairobi court last week, were arrested on June 19.

Another officer told The Standard the two are believed to be members of the Revolutionary Guards' Quds Force.

The officer revealed the Iranian Government is putting pressure on Kenya to release the two, but other interests have eclipsed their demand.

The two had come from Saudi Arabia and spent three days in a Nairobi hotel before one of them travelled to Mombasa.

It was when he travelled to Mombasa that he moved the explosives close to the Mombasa Golf Hotel and returned to Nairobi.

Police revealed it was after he arrived back at the city hotel that they were informed these guests had refused to have their rooms cleaned.

"An informer aware of their activities revealed they were suspicious. When we arrested them they claimed to be businessmen, but they later led us to Mombasa where the chemical was found," said the officer.

After Iran sent its agents to murder the Saudi ambassador on US soil, the country has engaged in attacks in Azerbaijan, Bangkok, Tbilisi, and New Delhi. Now, we have just discovered a plot for a terrorist attack in Africa," Netanyahu said.


uhuru-named-in-governor-j case)


Asian couple in court for assaulting their child

(https://www.standardmedia.co.ke/article couple-in-court-for-assaulting-their-child)

RELATED TOPICS: Iran (https://www.standardmedia.co.ke/topic/Iran)

bomb (https://www.standardmedia.co.ke/topic/bomb)

Kenya (https://www.standardmedia.co.ke/topic/Kenya)

attack (https://www.standardmedia.co.ke/topic/attack)

WATCH THIS

The Genesis of the international firm IFES's activities in Kenya demystified (https://www.standardmedia.co.ke/ktnnews/video/2000119055/monday-night-news-the-genesis-of-the-international-firm-ifes-s-activities-in-kenya-demystified)

Government accuses IFES illegal and aims to help Raila Odinga rig the elections (https://www.standardmedia.co.ke/ktnnews/video/2000119054/monday-night-news-government-accuses-ifes-illegal-and-aims-to-help-raila-odinga-rig-the-elections)

Russell Defreitas Sentenced to Life in Prison for Conspiring to Commit Terrorist Attack at JFK Airport

Defreitas and Coconspirators Plotted to Explode Fuel Tanks at Airport

U.S. Attorney's Office **Eastern District of New York**
February 17, 2011 (718) 254-7000

BROOKLYN, NY—Earlier today in the Eastern District of New York, United States District Judge Dora L. Irizarry sentenced convicted defendant Russell Defreitas to life in prison for conspiring to commit a terrorist attack at John F. Kennedy International Airport in Queens, New York, by exploding fuel tanks and the fuel pipeline under the airport. Defreitas and his coconspirators believed their attack would cause extensive damage to the airport and to the New York economy, as well as the loss of numerous lives.

The sentence was announced by Loretta E. Lynch, United States Attorney for the Eastern District of New York. The case was investigated by the Federal Bureau of Investigation (FBI) Joint Terrorism Task Force (JTTF) in New York.

A federal jury convicted Russell Defreitas and coconspirator Abdul Kadir in July 2010 after a nine-week trial. The evidence at trial established that Russell Defreitas, a naturalized United States citizen from Guyana, originated the idea to attack JFK Airport and its fuel tanks and pipelines by drawing on his prior experience working at the airport as a cargo handler. In 2006 and 2007, Defreitas recruited Kadir and others to join the plot during multiple trips to Guyana and Trinidad. Between trips, Defreitas engaged in video surveillance of JFK Airport and transported the footage back to Guyana to show Kadir and their co-conspirators. Kadir, a trained engineer with connections to militant groups in Iran and Venezuela, provided the conspirators with links to individuals with terrorist experience, advice on explosive materials, and a bank account through which to finance the terrorist attack.

On December 15, 2010, Judge Irizarry sentenced Abdul Kadir to life in prison. A third defendant, Abdel Nur, pleaded guilty before trial to supporting the plot and was sentenced to 15 years on January 13, 2011. A fourth member of the plot, Kareem Ibrahim, faces trial on the same charges as Defreitas and Kadir.[1]

According to the trial evidence, Defreitas and his fellow plot members attempted to enlist support from prominent international terrorist groups and leaders, including Abu Bakr, leader of the Trinidadian militant group Jamaat Al Muslimeen, and Adnan El Shukrijumah, an al Qaeda leader, as well as the Iranian revolutionary leadership. During cross-examination at trial, Kadir, a former member of the Guyanese parliament, admitted that he regularly passed information to Iranian authorities about sensitive topics, including the Guyanese military, and believed himself bound to follow fatwas from Iranian religious leaders.

On June 1, 2007, Defreitas was arrested in New York, and Kadir was arrested in Trinidad aboard a plane headed to Venezuela, en route to Iran. He was subsequently extradited to the United States.

The specific charges Defreitas was convicted of were: conspiracy to attack a public transportation system, in violation of 18 U.S.C. § 2332f; conspiracy to destroy a building by fire or explosive, in violation of 18 U.S.C. § 844(n); conspiracy to attack aircraft and aircraft materials, in violation of 18 U.S.C. § 32; conspiracy to destroy international airport facilities, in violation of 18 U.S.C. § 37; and conspiracy to attack a mass transportation facility, in violation of 18 U.S.C. § 1992(a)(10).

"Russell Defreitas plotted to commit a terrorist attack that he hoped would rival 9/11," stated United States Attorney Lynch. "But law enforcement detected and thwarted the plot, saving lives. Now, our courts have dispensed justice by handing out the life sentence that Defreitas richly deserves." Ms. Lynch extended her grateful appreciation to the FBI Joint Terrorism Task Force in New York for its role in investigating and prosecuting the case, as well as to the Guyanese and Trinidadian law enforcement authorities who assisted with the investigation and apprehension of the defendants.

The government's case was prosecuted by Assistant United States Attorneys Marshall L. Miller, Jason A. Jones, Berit W. Berger, and Zainab Ahmad.

The Defendant:

RUSSELL DEFREITAS, also known as "Mohammed"
Age: 67

New York Field Office Links

New York Home

Contact Us
- Overview
- Territory/Jurisdiction

News and Outreach
- Press Room | Stories
- In Your Community

About Us
- Our People & Capabilities
- What We Investigate
- Our Partnerships
- New York History

Wanted by the FBI - New York

FBI Jobs

[1] The charges against Ibrahim are only allegations, and Ibrahim is presumed innocent unless and

The charges against Ibrahim are only allegations, and Ibrahim is presumed innocent until proven guilty.

This content has been reproduced from its original source.

Accessibility | eRulemaking | Freedom of Information Act | Legal Notices | Legal Policies and Disclaimers | Links | Privacy Policy | USA.gov | White House
FBI.gov is an official site of the U.S. government, U.S. Department of Justice

Close

Annex 45

Kareem Ibrahim Sentenced to Life in Prison for Conspiring to Commit Terrorist Attack at JFK Airport

Ibrahim and Co-Conspirators Plotted to Explode Fuel Tanks and Pipeline at Airport

U.S. Attorney's Office **Eastern District of New York**
January 13, 2012 (718) 254-7000

BROOKLYN, NY—Earlier today, in the Eastern District of New York, United States District Judge Dora L. Irizarry sentenced convicted defendant Kareem Ibrahim to life in prison for conspiring to commit a terrorist attack at John F. Kennedy International Airport in Queens, New York, by exploding fuel tanks and the fuel pipeline under the airport. Ibrahim and his coconspirators believed their attack would cause extensive damage to the airport and to the New York economy, as well as the loss of numerous lives. At the Ibrahim sentencing, Judge Irizarry stated: "This case shows the government at its best in terms of protecting the security of this country."

The sentence was announced by Loretta E. Lynch, United States Attorney for the Eastern District of New York. The case was investigated by the Federal Bureau of Investigation (FBI) Joint Terrorism Task Force (JTTF) in New York.

A federal jury convicted Kareem Ibrahim of multiple terrorism offenses in May 2011 after a four-week trial. The evidence at trial established that Ibrahim, an Imam and leader of the Shiite Muslim community in Trinidad & Tobago, provided religious instruction and operational support to a group plotting to commit a terrorist attack at JFK Airport. The plot originated with Russell Defreitas, a naturalized United States citizen from Guyana, who drew on his prior experience working at JFK Airport as a cargo handler to plan the attack on its fuel tanks and fuel pipeline. Beginning in 2006, Defreitas recruited others to join the plot, including the defendant Kareem Ibrahim, Abdel Nur and Abdul Kadir, a former member of parliament in Guyana. In May 2007, Defreitas presented Ibrahim with video surveillance and satellite imagery of the targets for terrorist attack because Ibrahim had connections with militant leaders in Iran.

During cross-examination at trial, Ibrahim admitted that he advised the plotters to present the plot to revolutionary leaders in Iran and to use operatives ready to engage in suicide attacks at the airport. On one of the recorded conversations entered into evidence, Ibrahim told Defreitas that the attackers must be ready to "fight it out, kill who you could kill and go back to Allah."

According to the trial evidence, the conspirators also attempted to enlist support for the plot from prominent international terrorist groups and leaders, including Adnan El Shukrijumah, an al Qaeda leader and explosives expert, and Yasin Abu Bakr, leader of the Trinidadian militant group Jamaat Al Muslimeen. Ultimately, the plotters followed Ibrahim's direction and sent Abdul Kadir to meet with his contacts in the Iranian revolutionary leadership, including Mohsen Rabbani, the former cultural attache indicted for his leading role in the 1994 bombing of the AMIA Jewish cultural center in Buenos Aires, Argentina.

Kareem Ibrahim, Abdul Kadir, and Abdel Nur were arrested in Trinidad in June 2007, with Kadir aboard a plane headed to Venezuela, en route to Iran. All three were subsequently extradited to the United States. Defreitas was arrested in New York. After a nine-week trial in 2010, Russell Defreitas and Abdul Kadir were convicted of terrorism charges and sentenced to life in prison. Nur pleaded guilty before trial to supporting the plot and was sentenced to 15 years in prison.

The specific charges Ibrahim was convicted of were: conspiracy to attack a public transportation system, in violation of 18 U.S.C. § 2332f; conspiracy to destroy a building by fire or explosive, in violation of 18 U.S.C. § 844(n); conspiracy to attack aircraft and aircraft materials, in violation of 18 U.S.C. § 32; conspiracy to destroy international airport facilities, in violation of 18 U.S.C. § 37; and conspiracy to attack a mass transportation facility, in violation of 18 U.S.C. § 1992(a)(10).

"Kareem Ibrahim abandoned the true tenets of his religion and plotted to commit a terrorist attack that he hoped would rival 9/11," stated United States Attorney Lynch. "But law enforcement detected and thwarted the plot, saving lives. Now, our courts have dispensed justice by handing out the life sentence that Ibrahim deserves." Ms. Lynch extended her grateful appreciation to the FBI Joint Terrorism Task Force in New York for its role in investigating and prosecuting the case, as well as to the Guyanese and Trinidadian law enforcement authorities who assisted with the investigation and apprehension of the defendants.

The government's case was prosecuted by Assistant United States Attorneys Marshall L. Miller, Berit

New York Field Office Links

New York Home

Contact Us
- Overview
- Territory/Jurisdiction

News and Outreach
- Press Room | Stories
- In Your Community

About Us
- Our People & Capabilities
- What We Investigate
- Our Partnerships
- New York History

Wanted by the FBI - New York

FBI Jobs

The government's case was prosecuted by Assistant United States Attorneys Marshall L. Miller, Beth W. Berger, and Zainab Ahmad.

The Defendant:
KAREEM IBRAHIM, also known as "Amir Kareem" and "Winston Kingston"
Age: 65

This content has been reproduced from its original source.

Accessibility | eRulemaking | Freedom of Information Act | Legal Notices | Legal Policies and Disclaimers | Links | Privacy Policy | USA.gov | White House
FBI.gov is an official site of the U.S. government, U.S. Department of Justice

Close

Iran: State of Terror

An account of terrorist assassinations by Iranian agents

By Eric Avebury
and Robert Wilkinson



Parliamentary Human Rights Group
London, June 1996
ISBN 0 9510238 7X

The Parliamentary Human Rights Group

The Parliamentary Human Rights Group was founded in 1976 as an independent forum in the British Parliament concerned with the defence of international human rights. Since 1976, its members have increased to a current level of 130 Parliamentarians from both the House of Commons and the House of Lords. With the increase in numbers has come an increase in the range and extent of its activities. Members of the group represent all political parties, making the group broadly representative. The group undertakes human rights missions, publishes discussion papers, receives visitors and engages in dialogue with the Foreign & Commonwealth Office.

Officers

President	The Rt Hon The Lord Braine of Wheatley PC (Conservative)
Chairman	Lord Avebury (Liberal)
Vice Chairman	Ms Ann Clywd MP (Labour)
Vice Chairman	Jeremy Corbyn MP (Labour)
Vice Chairman	Anthony Coombs MP (Conservative)
Secretary	Dr Robert Spink (Conservative)
Treasurer	Lord St John of Bletso



Main Objectives

To increase awareness in Parliament, Britain and abroad generally of human rights abuses whenever they occur

To communicate to governments, their representatives in the United Kingdom and visiting delegations, the Group's concern about violations of basic human rights

To work for the implementation by all governments of the Universal Declaration of Human Rights, and of the UN Covenants on civil and political, and on economic social and cultural rights

For more information, contact Lord Avebury, Chairman of the Parliamentary Human Rights Group:

Telephone:	0171 274 4617
Fax:	0171 738 7864
Email:	phrg@phrg.demon.co.uk or 100275.1565@compuserve.com
Mailing address:	House of Lords London SW1A OAA

Table of Contents

Introduction	1
How the Murder Machine Works	7
Attacks on Dissidents Abroad	11
Abductions	55
Murder Within Iran	63
Foreign Targets	77
The Rushdie Case	85
Conclusion	89
Appendixes	92

Introduction

For centuries, it has been a principle of international law that political opponents of an autocratic state could seek and obtain protection from their oppressors abroad. In the twentieth century, the victims of Hitler, Stalin, Mussolini, Pinochet, Pol Pot, Suharto, Ceausescu, Stroessner and Ne Win, all found safety and asylum in other countries, where they were immune from persecution. Now, for the first time, a dictatorship is reaching out its tentacles into the free world, to hunt down and kill its opponents living in exile. The Iranian régime stands accused of the widespread use of extrajudicial killings as part of its reign of terror at home, but sends its agents into the farthest corners of the earth, to plan, commit and instigate murders and other acts of terrorism and violence. This report is an attempt to summarise the evidence, so that Members of Parliament and others may consider what action should be taken by the international community against the leaders of a state which uses assassination as an instrument of policy.

The United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities, in a Resolution of August 17, 1993, strongly condemned *"the continuing flagrant human rights violations of the Islamic Republic of Iran, including...the continuing execution of political prisoners and the assassination of opponents abroad"*.[1] This has had no effect, and in August 1995 the Sub-Commission were still demanding

> *"That the Government of the Islamic Republic of Iran cease forthwith any involvement in or toleration of murder and*

[1] United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities, E/CN.4/Sub.2/1993/L.24, August 17, 1993

state-sponsored terrorism against Iranians living abroad and the nationals of other states".[2]

The former UN Special Representative on Iran, Professor Galindo Pohl detailed "*assassinations and attempts on the lives of Iranians living abroad*" remarking that "*in the absence of conclusive data, the Special Representative has included in this analysis only those cases in which the participation of Iranian agents has been noted by competent judicial or administrative authorities, or by parliamentary bodies*".[3] The Iranian Representative at the UN, in his statement to the Third Committee on December 3, 1993, complained about these references, but the Special Representative, in his report of February 2, 1994, said that he "*cannot but mention cases in which there are statements by judicial, political or administrative authorities containing specific indications of the involvement of Iranian agents*".[4] In the latest report of the new Special Representative, Professor Maurice Copithorne, it is said that statistics had been presented which suggested that "*politically motivated violence...was continuing unabated*".[5]

It is in the nature of human rights investigations that very few allegations can be proved to the standards that would be required in a court of law. The perpetrators generally remain within their own jurisdictions, where they are not likely to be charged. Witnesses may not be available, and where there are any, the accused are not there to answer the charges. Mr Douglas Hogg MP, then Minister of State at the FCO, said in relation to some of the crimes detailed below, that "*it would be a very serious matter indeed if the Iranian government were shown to be behind these murders*". The Minister at the Foreign and

[2] United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities, E/CN.4/Sub.2/1995/L.5/Rev.1, August 21, 1995

[3] Situation of human rights in the Islamic Republic of Iran: Note by the Secretary-General, United Nations, A/48/526, November 8, 1993

[4] Final report on the situation of human rights in the Islamic Republic of Iran prepared by the Special Representative of the Commission on Human Rights, Mr Reynaldo Galindo Pohl, pursuant to Commission resolution 1993/62 of March 10, 1993 and Economic and Social Council decision 1993/273, E/CN.4/1994/50, February 2, 1994

[5] Report of the UN Special Representative on Iran, Professor Maurice Copithorne, E/CN.4/1996/59, April 1996.

Commonwealth Office who now deals with Iran, Sir Nicholas Bonsor Bt MP still reiterates that conclusive proof is lacking:

> *"Press reports alleging Iranian involvement in terrorism are useful media tools in as much as they influence public opinion but they do not amount to a row of beans in a court of law. Firm evidence that will stand up to scrutiny is quite a different matter...the fact remains that we do not yet have evidence of Iranian involvement in terrorism that could be used in court".*[6]

The least that can be said is that in all the cases described, there was some involvement of persons employed by the Iranian government. It would not follow automatically, of course, that the government itself instigated and planned the crimes. But it is simply not credible that so many sophisticated operations including many well-planned murders, committed by highly trained men, were the result of individual initiatives. Only the government itself had the motive, the opportunity and the resources to commit the whole series of assassinations and other terrorist crimes, over a period of many years, and extending from Karachi to Paris, and from Tokyo to Buenos Aires. And only the government had the power to bring pressure to bear, when its agents were arrested, to have them released by the French, German or Austrian Governments.

Over the last seventeen years, over 150 assassination attempts on the lives of Iranian dissidents living abroad, and other terrorist acts, have been committed in 21 countries. Nearly 350 people have been killed or injured in these attacks, two thirds of which have occurred during the seven years of Rafsanjani's rule. Nor have the operations of the state terrorists sent out by Tehran have not been limited to Iranian citizens. Several of the translators and publishers of *The Satanic Verses* have been attacked. The Japanese translator was murdered in 1991; the Italian translator escaped an attempt on his life, as did the Norwegian publisher, and an arson attack was made on the hotel where the Turkish translator was staying in 1993. The fatwa against the

[6] Sir Nicholas Bonsor Bt MP, unpublished letter to Lord Avebury, April 4, 1996

author, Mr Salman Rushdie, was reiterated by President Rafsanjani himself on February 2, 1993,[7] and the reward offered for his murder increased to $2 million. The Speaker of the Iranian Parliament, Mr Ali Akbar Nateq-Nouri said on the fifth anniversary of the fatwa that *"every Moslem is religiously duty bound to kill him whenever and wherever he is able"*.[8]

The British Group of the Inter Parliamentary Union received an invitation from this gentleman to send a delegation to Tehran, and suggestions continue to be made from time to time about an official IPU visit. For instance Dr Saeed Rajaie Khorasani MP, chairman of the unofficial human rights committee of the Majles, proposed such a visit when he met David Atkinson MP and Bob Parry MP on November 1, 1995, during their unofficial visit to Iran. The MPs felt that exchanges were in the spirit of the European Union's policy of critical dialogue, and that there should be an IPU visit during 1996.[9] It would be necessary to consider whether resumption of IPU contacts would send the right signals to Tehran, and indeed whether the critical dialogue has had any impact on human rights in Iran, or on the policy of murder and terrorism abroad for which the evidence is presented here.

The 1986 wave of assassinations in France, the explosive attack on the Israeli Embassy in Buenos Aires, and the destruction of Pan Am flight 103 over Lockerbie are among other terrorist crimes for which there is some evidence of Tehran's responsibility. Mohsen Rafiqdoust, the former Guards Corps Minister, admitted that Iran carried out the bomb attack on the US Marine Headquarters in the Lebanon:

> *"Both the TNT and the ideology which in one blast sent to hell 400 officers, NCOs-and soldiers at the Marine Headquarters have been provided by Iran"*, he said.[10]

---

[7] Reuters, quoting Iranian news agency IRNA, February 2, 1993

[8] Reuters, quoting an interview with the Speaker published in the English-language Tehran Times, February 16, 1994

[9] David Atkinson MP, Bob Parry MP and Andrew Hull, Report on human rights abuse and other obstacles to better British-Iranian relations, November 1995.

[10] Ressalat, July 20, 1987

Michael Eisenstadt, senior research fellow at the Washington Institute for Near East Policy, testifying at the meeting of the Committee on Foreign Relations of the US Congress on March 19, 1996, said:

> *"Terror and subversion have been key instruments of Tehran's foreign policy since the Islamic Revolution in 1979. Since then, Iranian sponsored and inspired terror has claimed more than 1000 lives worldwide"*

The use of terrorism as an adjunct to foreign policy has developed into an organised and professional activity over the last 15 years. It has been used as a lever to gain advantages from western countries or to exert more pressure on surviving opponents of the régime. Many of Iran's diplomats have a record of previous service with the Guards Corps and other security organs. Hossein Sheik-ol-Eslam, Deputy Foreign Minister for Arab and African Affairs, Mohammadi Haeri-Mostafavi, Secretary-General of the Foreign Ministry and Malaek, former Ambassador to Switzerland and now a senior official at the Foreign Ministry, played leading roles in the occupation of the US Embassy in Tehran in 1979. The UK declined to receive Mr Malaek as chargé d'affaires for that reason.

The Iranian régime has close links with organisations in other parts of the Middle East and North Africa which are themselves using terrorism to promote their political objectives. Among these are Front Islamique de Salut (FIS) in Algeria, the Popular Front for the Liberation of Palestine (General Command) in Syria and Hizbollah in Lebanon, and all are financed by Iran. There is also co-operation with the régime of General Omar El-Beshir in Sudan, which promotes terrorism in North Africa and is spreading subversion in Egypt, Eritrea, Uganda and Ethiopia.

It is important to understand that the doctrine of Velayat-e-Faghieh, or guardianship of religious jurisprudence, on which the régime is based, places Tehran above all earthly laws and rules in its own eyes. The régime claims authority from God, and this divine sanction justifies any activity which is considered to uphold the law of God, as they interpret it. Hassan Rohani, Secretary of the Supreme Security Council

says that Iran would not hesitate to destroy its opponents' centres of activity and assembly abroad and adds that to do so would not contravene international laws and human rights. This is not a personal view, but a logical deduction from Velayat-e-Faghieh, accepted by the Iranian Government as a whole. The international community has to confront the unthinkable: that a member state of the United Nations is dedicated to subverting international law, and carrying the infection of its own brand of religious terrorism into the four quarters of the globe. The inference of the Special Rapporteur's comments, and of the General Assembly Resolution which followed, is that the Iranian government is indeed organising an international murder machine. The United Nations has so far developed no mechanism for dealing with a member state which deliberately and systematically carries its violations of the right of life into other countries where its exiles have sought refuge, or where people write and translate a book that a state dislikes. If the case against Iran is supported by this evidence, the task of countering this infection has to be addressed without delay.

How the Murder Machine Works[11]

The planning and execution of terrorist crimes is not, as sometimes suggested, an activity of separate groups within the hierarchy of the Iranian régime. It is co-ordinated within the Intelligence Section of the President's Office, a section established by Rafsanjani when he became President, and directed by him. It is run by Ahmad Behbahani, a relative of the President, and it designates the targets for assassination, as well as deciding which organ is to carry out the plot.

Rafsanjani himself approves initial proposals, which then go to the Ministry of Intelligence to be checked for their feasibility. The plan is then submitted to the Supreme Security Council (SSC) for final approval. Permanent members are:

• President Rafsanjani:	Head of the executive
• Nateq Noori:	Head of the legislature
• Ayatollah Yazdi:	Head of the judiciary
• Ali Fallahian:	Intelligence Minister
• Ali Akbar Velayati:	Foreign Minister
• Ali Mohammad Besharati:	Interior Minister
• Hamid Mirzadeh:	Head of the Budget and Planning Organisation
• General Hassan Firoozabadi:	Head of the Chiefs of Staff of the Armed Forces
• Hassan Roohani and Ali Larijani:	Two representatives of Khamenei
• General Ali Shahbazian:	Head of the Joint Chiefs of

[11] Mohammad Mohaddessin, Islamic Fundamentalism-the new global threat, Seven Locks Press, Washington DC, 1993, and unpublished sources

		Staff of the Army
•	Mohsen Rezaie:	Commander of the Revolutionary Guards
•	Mohammad Foroozandeh:	Minister of Defence
•	Javad Larijani:	Rafsanjani's aid
•	Ali Aga Mohammadi:	Chief of the Command Council for operations inside Iraq.

After approval by the SSC, the Intelligence Section of the President's Office decides whether the Ministry of Intelligence, the Guards Corps' Qods Force, or both together, will execute the plan.

When the Qods Force is given the assignment, a meeting is scheduled by Ahmad Vahidi, the Commander, who decides the list of attendees, and they are notified by Mr Manshavi, head of the office of the Qods Force. Members of the Command Council, who may be present, are Vahidi himself; the deputy commander; the director of logistics; the director of operations; and Mohammad Jafari (Sahraroodi) the operations adviser. The meeting plans the details of the operation, and submits the results back to the Intelligence Section of the President's Office. The go ahead is then given at a meeting attended by the head of the Section, the Minister of Intelligence, Mr Ahmad Vahidi and the Deputy Foreign Minister.

The head of the Intelligence Section then writes to the Foreign Minister detailing the extent of co-operation needed from the Ministry, including the supply of passports and visas and the budget required. For providing diplomatic passports, Mr Mosavi from the Intelligence Ministry co-ordinates with Tale Masooleh from the Foreign Ministry. Weapons are occasionally procured locally, but more often they are sent to the target country in diplomatic pouches. (This raises the question as to whether Iran should forfeit the privilege of sending material via diplomatic pouches unexamined). Tickets are purchased from Iran Air on the account of the Ministry of Defence and Support. The Iranian Embassy in the target country is informed, and the teams establish contact with specific persons in the Embassy, through whom messages are routed.

The Iranian embassy in Bonn is the centre for directing the régime's terrorist activities throughout Europe; it is the centre for

gathering information on the prospective subjects for assassination, Iranian dissident activities and directing assassination.

The Iranian régime uses different methods to approach the victims in order to strike the final blow. The most common method is to use infiltrators, whose responsibility is to introduce the killers. In the case of Mr. Bakhtiar, for instance, the infiltrator took the assassins inside his house which was under French police protection.

Another method is using the small number of defectors who had at one stage co-operated with opposition organisations and individuals. These persons, due to their low or non-existent motivation to continue the struggle and maintain their principles, allowed themselves to be bought by the régime at a later stage. Such people have so far provided régime's terrorists in Europe with the most extensive intelligence and political services. In addition to providing information on the assassination targets to the régime, they prepare the political grounds for the murders of the dissidents by spreading propaganda against the individuals or organisations they had previously co-operated with, defaming them and accusing them of being worse than the ruling régime.

According to National Council of Resistance of Iran (NCR) sources, the Iranian régime utilised fully the information held by one of these elements, named Saeed Shasavandi, to assassinate Professor Kazem Rajavi in Geneva. Shasavandi, who lives in Hamburg, Germany, was also one of the witnesses introduced by the Iranian government to a Swiss court in Geneva, which was dealing with a case against the newspaper, La Suisse. Iran tried in vain to blame Professor Rajavi's murder on his own colleagues.

Majid T was kidnapped as he was coming out of a meeting in Fereydoon Gilani's house, and tortured later. Gilani works in close relation with Jamshid Tafrishi who is discibed by International Educational Development as *"an agent of the Khomeini régime's Ministry of Intelligence"* in Germany.[12] He also co-ordinates his activities with Saeed Shasavandi another agent in Hamburg. Both of them are introduced by the Iranian régime as former leaders of the Resistance and the opposition.

[12] United Nations Economic and Social Council, Document E/CN.4/sub.2/1995/NGO/55; August 1995

Annex 47

Attacks on Dissidents Abroad

The pattern of executions within Iran has been matched by a series of assassinations of the régime's opponents overseas. In many of the killings and attempts, there is evidence of direct involvement by the agents of Tehran, including criminals acting under the shield of diplomatic immunity. In other cases, there is no clue to the identity of the assassins, but common sense and the lack of any other motive lead the observer to the conclusion that the hand of the perverted clerics manipulates the killers from behind the scenes.

Reza Mazlouman

Even as this report went to press, news of a further killing by one of the régime's terrorists in Paris came in. On the evening of May 28, 1996, Reza Mazlouman, a former Professor of Criminology at Tehran University and Deputy Minister under the Shah, was shot dead in his own apartment. A friend opened the door to the assassin, who was known to Professor Mazlouman, having introduced himself to the victim previously as an opponent of the régime. The killer waited until the friend had gone, and then fired two shots into Mazlouman's head, killing him instantly.

The friend was able to identify the caller as Ahmad Jayhouni, owner of a video shop in Bonn. The German police, acting on the request of their French counterparts, detained Jayhouni for questioning, and he immediately admitted that he had been to Paris to see Professor Mazlouman on the evening in question, while denying the crime.[13]

It was found, on investigation, that Jayhouni was a high-ranking member of the Intelligence Ministry of the régime, and had been closely associated with the "*third floor*" of the mullahs' Embassy in Bonn, which

[13] Iran Zamin No 98, June 3, 1996

serves as the Ministry's headquarters in Germany.[14]

The leaders of the Resistance

In 1996 artillery became part of the Iranian government's arsenal of terrorist weaponry in the assassination plot against Maryam Rajavi, the President-Elect of the Iranian Resistance.

On March 14, 1996, a cargo of arms and ammunition was discovered on the Iranian ship Kolahdooz at the Belgian port, Antwerp.[15] This arsenal had been sent by the Food Industry Company, based in the southern Iranian city of Jiroft, and headed by Ahmad Shojaie, a member of the Revolutionary Guards Corps. The Kolahdooz left port on February 24, 1996 carrying a specially designed high-calibre mortar launcher with delayed-action mortar shells, packed in food containers.

A spokesman for the District Attorney's Office in Antwerp said the mortar shell had a time-fuse allowing mid-air explosion and that the launcher had a range of more than 700 metres.

> *"Looking at the size and weight [of the mortar grenade] it is more than plausible that the purpose was to launch it from a truck,"..." The shell's explosive load has a net equivalent of 125 kilos of TNT, which has a deadly effect over a range of 650 metres through shrapnel and shock waves".*[16]

After the container in which the weapon was hidden was unloaded from the Kolahdooz in Belgium, the ship sailed for Germany, where she docked at Quay No 64 in the free port of Stade near Hamburg. The cargo's supposed final destination was Munich where an Iranian firm was listed as the consignee.

In Hamburg, *"The German police questioned two Iranians, both employees of the Iranian Intelligence Ministry, who were on board the freighters when it arrived in Hamburg, according to investigators".*[17]

---

[14] Jayhouni: Khomeini régime's intelligence ministry agent, NCR press release, June 10, 1996

[15] Reuters, March 18, 1996

[16] Reuters, April 30, 1996

[17] International Herald Tribune, May 2, 1996

The shipment was handed over for shipping by a sea-transport company named Haml-e-Varedat, whose central office is located at 15, Garmsar-e-Shargi Street, Shiraz-e-Jonoubi Street, Mollah Sadra Street, Tehran.

This company has offices in Bandar Khomeini, Bandar Abbass, Bandar Anzali, Bandar Bushehr and Khark Island. The head of Bandar Abbass office, which handed over the shipment to the shipping company, is Mr Hossein Daneshmand. The consignments were originally assembled by Jiroft Food Industries, a company affiliated to the Guards Corps. The president of the company is Mr Shojaieem a serving member of the Corps.

In order to conceal the identity of the real shipper, the consignments were registered in the name of Mohammad Khorsand merchant company and Saeed textiles. The shipment was sealed by the customs and was supposed to be dispatched in early February as a 'No Rush' shipment. However on February 20 Jiroft Food Industries stated that it intended to add more gherkins and pickled garlic to the consignment. Export formalities for the addition were undertaken and the container's seal was broken and re-sealed after the new consignment, about one-fourth of the container's volume, was added. At that time they were in a hurry for the load to reach its destination. The consignments were handed over in Bandar Abbass to Hossein Daneshmand, the representative of the Haml-e-Varedat company. On February 23, 1996 he handed over the shipment, in one container, to the ship the following day. The ship left Bandar Abbass on the same day.

The Iranian opposition in Paris on May 13, 1996, declared:

> *"Iran's Intelligence Ministry had a plan to attack the residence of Mrs Maryam Rajavi, the Iranian Resistance's President-elect, in a Paris suburb, using rockets and mortars, according to information obtained from within Iran".*[18]

The huge mortar, although ostensibly consigned to Munich, was not

[18] NCR statement, May 13, 1996; French Channel 3, television, May 14, 1996 and the Parisian newspaper, May 14, 1996

intended for any German targets, as there are good reasons to believe. Belgium, where the weapon and explosives were unloaded, was not likely to be a target either. Paris, three hours drive from Antwerp, was thought to be the real destination.

All previous bombings and terrorist assassinations in France have always involved shootings, stabbings or explosives placed at the target site. With a heavy calibre mortar, the intended target must have been heavily guarded and impossible to approach closely. The size of the charge also indicates that a very large explosion was required to compensate for uncertainties in the exact position of the objective. The only desirable target in Europe for the Iranian régime matching this description is the high security residence of Mrs Maryam Rajavi in the suburb of Paris.

This is not the first time that Mrs Rajavi has been targeted. There was a plot on her life in June 1995 in Germany. American intelligence officials concluded that Iran's embassy in Bonn had assembled a team from the terrorist group, the Party of God, to violently disrupt a huge rally in Germany and assassinate Mrs Rajavi who was scheduled to be the key note speaker.[19] About the same time, the American official said that Germany asked two Iranian intelligence officials to leave the country because of evidence that they were planning potentially lethal operations from German territory.[20]

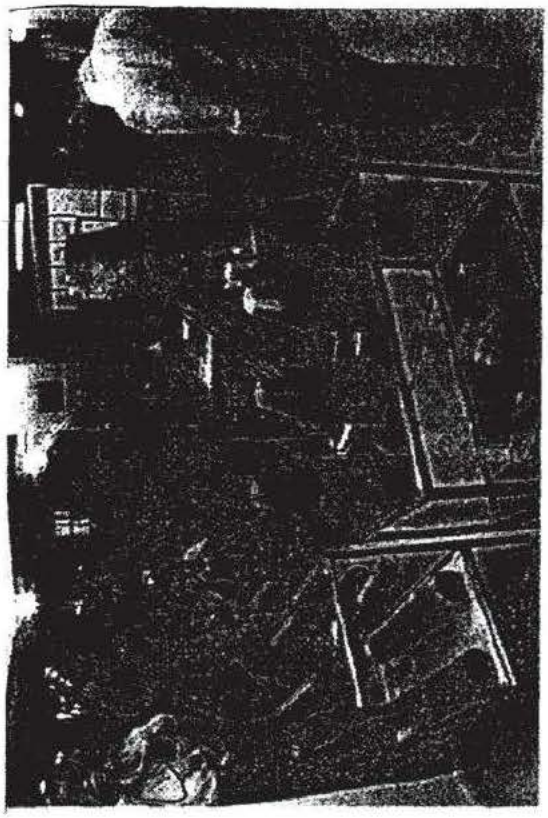
But perhaps the most revealing circumstantial evidence is the similarity between the specially designed weapons confiscated by the Belgians and the one seized in Iraq a few weeks later.

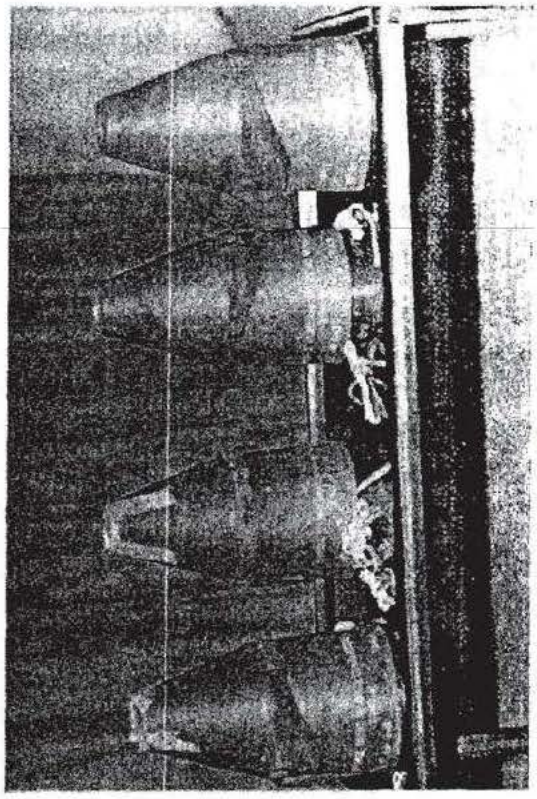
A similar case in Baghdad

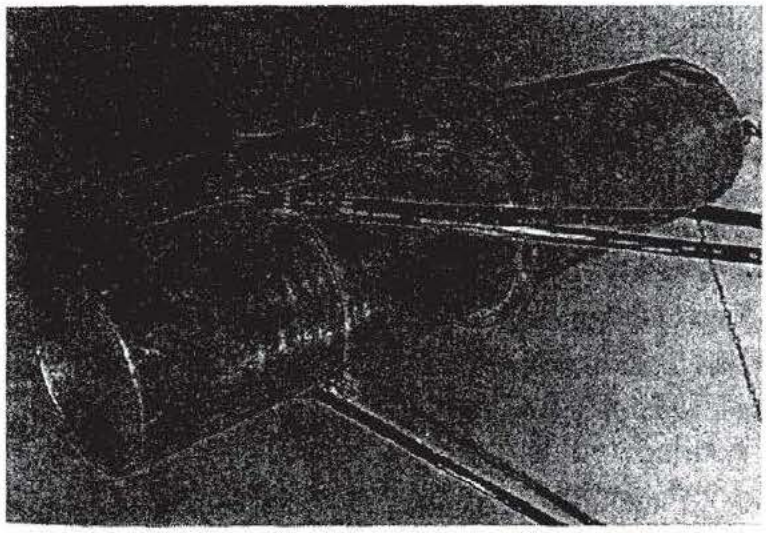
There is reason to believe that a similar terrorist attack was to be launched in Baghdad against Mr Masoud Rajavi, President of the National Council of Resistance on Iran. On May 15, 1995, at a press conference in Baghdad, a Resistance spokesman displayed the weapons and equipment seized from a terrorist network belonging to the Khomeini régime's Intelligence Ministry (VEVAK).

The specially-designed weapon for this terrorist operation seized

[19] The New York Times, June 25, 1995
[20] Ibid







Weapons seized from Iranian régime's terrorists on display at a press conference in Baghdad. A 320 mm mortar launcher, 1.63 m in length and 25 kg high explosive shells. Similar weapons were discovered on an Iranian ship at the Belgian port of Antwerp, intended for use against Mrs Maryam Rajavi's residence in the suburb of Paris.

from the hit squad, was a 320 mm calibre mortar launcher, 163 centimetres in length. Each mortar shell contained 25 kilograms of highly explosive material. The weapon was dismantled into three pieces for transportation over the Iranian border and to Baghdad. They were like pieces of piping, to be joined together to make the weapon ready for use. The Intelligence Ministry ordered the Military Industry, a government-owned corporation, to make these special weapons. Before transferring the weapons to Iraq, the terrorists had tested the weapons with live ammunition.

The terrorists had also planned to detonate a bomb by remote control in a car parked where the Resistance members would have gathered after the explosion of the first bomb. Members of this terrorist network, employed and organised by the Ministry of Intelligence, received six months of special training in the Gayoor Asli Garrison and Navab Safavi Centre in the city of Ahvaz, another military station near Baharestan Square in Tehran and another in Qom. Training sessions were carried out, under the network's leader who had eight years of experience in terrorist activities under the Khomeini régime.

The agents of the Iranian régime in order to carry out their plan, took over a house a few hundred metres from the Mojahedin's main headquarters. As they were about to carry out the operation, however, the terrorists were arrested by the Iraqi authorities and the plot was foiled.[21]

Hamed Reza Rahmani

At 20:00 local time (Baghdad), on Thursday March 7, 1996, a member of the Mojahedin was assassinated on Sa'dun Street, a mile from the Mojahedin's central office in Baghdad. The victim, Hamed Reza Rahmani, 33, who was an officer in the National Liberation Army of Iran (NLA), was near the Sheraton Hotel when gun-fire shattered the rear window of his four-wheel drive vehicle. He died instantly from gunshot wounds to his head. His wife, Ma'soumeh Hashemi, had already been murdered by the Iranian régime several years earlier. Farid Soleimani, a spokesman for the People's Mojahedin, blamed the attack

[21] Press office of the People's Mojahedin of Iran, Paris, May 15, 1996

on the Iranian Government and said it was the sixth assassination of the Mojahedin members in Baghdad since 1995.[22] The murder of Hamed Reza Rahmani came on the eve of the Iranian elections for a new parliament.[23] A spokesman for the Mojahedin said:

> *"The [Iranian] régime needs to engage in these types of actions for its demoralised forces".*[24]

Mowlavi Abdulmaled Mollahzadeh and Abdul-Nasser Jamshid-Zehi

On Tuesday March 5, 1996, two Iranian Sunni Muslim clerics were shot dead in the Pakistani port city of Karachi. The unidentified attackers had fired about 30 bullets at the car carrying the two clerics, setting its petrol tank ablaze and wounding a woman passer-by.[25] Mollahzadeh, 45, who had two wives and more than a dozen children, left Iran about seven years ago and settled in Pakistan's western border province of Baluchestan. Jamshid-Zehi, 23, was a religious man not involved in any political activity. In an interview with Swedish Radio on March 7, 1996, Mr Mollahzadeh's brother said that the Iranian Government had pressured his brother to go back to Iran and that the assassins were one hundred per cent from the Iranian régime. The National Council of Resistance of Iran said in Paris issued on March 6:

> *"Mr Mollahzadeh, son of the late Mowlavi Abdul-Aziz (a renowned clergyman in Baluchestan) was arrested and imprisoned for some time in 1982 for protesting the régime's policies. About to be arrested again, he went to Pakistan in 1990".*

Zahra Rajabi and Abdul Ali Moradi

Mrs Zahra Rajabi, a member of the NCR and one of the officials of the Office of the Iranian Resistance's President-elect, and Mr Ali

[22] AP, March 7, 1996
[23] Ibid
[24] Reuters, March 7, 1996
[25] Reuters, March 5, 1996

Moradi, one of the sympathisers of the Resistance, were murdered in Istanbul on February 20, 1996. Gunmen broke into the home of Mrs Rajabi, fired five shots into her head at point-blank range and then killed her colleague Abdul Ali Moradi.[26]

Mrs Rajabi, who lived in Paris, had travelled as head of an NCR delegation to Turkey to help Iranian refugees there. Mrs Rajabi, whose sister and husband had been murdered by the Iranian régime, had previously been the subject of a foiled assassination attempt on her life in Germany in 1992.[27] Ali, Moradi's brother, had also been executed for activities in support of the Resistance.[28]

The Turkish newspaper Hurriyet reported:[29]

> *"The murderers of Abdul-Ali Moradi and Zahra Rajabi, one of the officials of the People's Mojahedin Organization, who were murdered two months ago in Istanbul, have been arrested. Interrogation of those arrested are continuing by the Anti-Terror Department. Three of those arrested are Iranian and the other three Turkish. Those arrested have confessed that the orders for the murders came from diplomats whose names are also present in the confessions of Erfan Cagirici, Chetin Ranaj's assassin. These diplomats who were working at the Consulate in Istanbul, are: Mohsen Kargar Azad and Mohammad Reza Behrooz-Manesh.*
> *The terrorists were arrested during the period when Mesut Yilmaz, Turkish Prime Minister, was meeting Velayati, the Iranian Foreign Minister, who was visiting Turkey last week. But, to avoid a political diplomatic controversy, the news of the arrest of these individual (terrorists) was kept secret. The information the police gathered from the 3 Iranians and the 3 Turks was immediately transferred to the Foreign and Interior Ministries".*

---

[26] The Sunday Telegraph, February 25, 1996
[27] NCR statement issued February 21, 1996
[28] AFP, February 21, 1996
[29] Hurriyet, April 22, 1996

In this crime, a person called Reza Ma'soumi Barzegar, an agent of the mullahs was arrested. According to his confessions before the Turkish prosecutors' office, while trying to establish a close relation with the Resistance, he found out about Mrs Rajabi's trip to Turkey and led the perpetrators to her apartment.

According to a report by the Turkish Prosecutor's Office, the terrorists had initially intended to abduct Zahra Rajabi. The report describes how two agents of the régime's Information Ministry, Morteza Mohsen Zadeh (real name Sa'eed Choob-Tarash), and Sa'eed Karamatian (real name Rahim Afshar), left Tehran for Istanbul using passports bearing serial numbers R144138 and R144140, and used the Berr Hotel (Room 506) as their base. The Iranian diplomats in Istanbul joined them later to complete initial surveillance.

The commander of the operation from the Information Ministry, Nasser Sarmadi-Nia (alias Haj Ghassem Zargari-Panah), passport number 0012091, left Tehran and arrived in Istanbul on February 20th and used Buyuk Sahzed Hotel (Room 108) as his base. Mobile phones were used for all communications between the terrorists.

On the day of the assassination, three terrorists were positioned outside the house and a fourth one stayed in the getaway car. Three other people entered the building. The assassination team was commanded by Mohsen Kargar-Azad, the régime's Consular Secretary in Istanbul. Having entered the building, they used the lift to go to the fifth floor. They entered the apartment and murdered both Mrs Rajabi and Mr Ali Moradi. The following day, February 21st, the master-mind of the terrorists, Sarmadi-Nia, took flight number PK-254 to Karachi via Damascus and Dubai. Sa'eed Choob-Tarash and Sa'eed Karamatian took flight number TK-826 to Tehran. The Prosecutor General Office's file on the case states that Mohsen Kargar-Azad, who was still in the Iranian Consulate in Istanbul at the time the report being prepared, could not be arrested due to diplomatic immunity.

Many human rights advocates and personalities have condemned the murder of Zahra Rajabi and Ali Moradi by the government of the Islamic Republic. The European Parliament condemned the assassinations on March 14, 1996 and urged EU member governments *"to increase their protection of opposition leaders living in exile in their*

territory". With the murder of Zahra Rajabi and Ali Moradi, the death toll of Iranian opposition members in Turkey reached fifty.[30]

The Turkish paper Hurriyet referred to the most important terrorist operation of the Iranian government:

> *"During the past 11 years, 7 very prominent Iranian opposition members were killed, two others injured and two car bombs exploded in Shishli district....In 1987, in a villa in Istanbul, two gunmen opened fire on opponents, Mohammad Hassan Mansouri and Behnam. In 1988, Abolhassan Mojtahedzadeh, an engineer who opposed the régime, was kidnapped in an attempt to take him back to Iran. In a search of the car at the border, he was found and rescued. In 1990, Hossein Mir-Abedini and his wife were fired at and severely injured. In 1992 also Iranian agents bombed two cars belonging to Ali Akbar Ghorbani, an important member of the Mojahedin who lived in Shishli district of Istanbul. The same day, SAVAMA mercenaries from Hezbullah kidnapped him".*[31]

Expulsion of four Iranian diplomats

On April 11, 1996, Mr Omer Akbel, Turkey's Foreign Ministry spokesman, said that the government had asked Iran to withdraw four Iranian diplomats stationed in Ankara, who were implicated in a series of attacks in 1990 against exiles and prominent Turkish secularist writers.[32]

In their terrorist operations, Tehran's diplomats had used Turkish nationals who had been influenced by fundamentalist ideas. Irfan Cagirici, the leader of one of the Islamic terrorist groups in Turkey, was arrested on March 9, 1996. According to the Turkish security police, he had been trained in Iran.[33]

Following his arrest, Irfan Cagirici, the leader of the Islamic Action

---

[30] Sa'baah, February 23, 1996
[31] Hurriyet, February 23, 1996
[32] Financial Times, April 11, 1996
[33] AFP, March 11, 1996

group, admitted that he had arranged the murder of Iranian dissidents in Turkey. He had also ordered the murder of Turkish secular writers Turan Dursun and Cetin Emec. The Chief of Istanbul police, Orhan Tasanlar, said:

> *"Cagirici visited Iran for instruction frequently".*[34] *"Cagirici named Iranian diplomats as his contacts in Turkey, according to the police, who provided the names of 13 Iranian diplomats as part of their investigation. Only four of them were still serving in Turkey, two at the Embassy and the others at the Consulate in Istanbul. He testified after arrest that he had organised the killings of two activists who opposed the Iranian régime and that he had arranged for members of his group to get training in Iran. Cagirici was also behind the unsuccessful assassination attempt on a prominent Jewish businessman in 1993...".*[35]
> *Mr Cagirici told the police that diplomats at the Iranian embassy and consulate in Istanbul had provided arms and support.*[36]

Reasons behind the assassinations

The assassinations of Zahra Rajabi and Ali Moradi took place at a time when the Tehran régime was in desperate need of presenting an acceptable face. The UN Special Representative on Iran, Professor Copithorne had recently returned after a visit there and his report was anticipated in March. But the Majlis (Parliamentary) elections were being held in Iran on March 8, and this, most probably, was a factor in the decision to go ahead with the assassinations. The Sunday Telegraph commented:[37]

> *"As Iran enters the final phase of its election campaign, President Hashemi Rafsanjani is believed to have ordered*

[34] Reuters, March 11, 1996.
[35] Associated Press (AP), April 9, 1996
[36] Financial Times, April 11, 1996
[37] Sunday Telegraph, April 25, 1996

terrorist hit squads to conduct a series of political assassinations in Europe... While Rafsanjani still has another year of his presidency to run, his supporters look set to take a hammering in the elections for the majlis (parliament) on March 8th... By ordering the murders of Iranian critics who have sought refuge in Europe, Rafsanjani is trying to prove his Islamic credentials to the electorate in the hope of winning votes."

Three Assassinated in Baghdad

At 07:50 on Monday, July 10, 1995 three members of the People's Mojahedin of Iran, Seyed Hossein Sadidi, 34, Ibrahim Salimi, 36, and Yar Ali Gartabar-Firouz, 33, were assassinated by the Iranian régime's agents at Mohammed Qasim highway in Baghdad. They died before reaching hospital. The assassins were driving a Mitsubishi taxi (Baghdad numberplate 97 499) and opened fire from behind. The Mitsubishi taxi had several numberplates stacked on top of each other. The terrorists had three Uzi sub-machine-guns, an RPG-18 anti-tank rocket, two A-U7 assault rifles, five grenades, a round of bullets and a pile of forged documents. Immediately after the incident, one of the assassins was arrested at Baghdad's exit to Kout. The ambush came a day after the Mojahedin reported that the Iranian Revolutionary Guards had fired rockets into its main military base in Eastern Iraq.[38]

The same day, the Mojahedin accused Iranian diplomats in Baghdad of masterminding and organising the operation. They called immediately on the Iraqi Government to follow up on this crime, prosecute the terrorists and close down the Islamic Republic's Embassy in Baghdad. Al-Thawra, the official organ of the ruling Baath Party said the Foreign Ministry summoned Iran's charge d'affaires in Baghdad and protested.[39] Al-Thawra, quoting a spokesman for the Iraqi foreign ministry said:

[38] International Herald Tribune, July 11, 1995
[39] Financial Times, 11 July, 1995

"Iraq strongly denounces and condemns this aggressive act and holds the Iranian Government fully responsible for it".[40]

Effat Haddad and Fereshteh Esfandiari

On May 17, 1995 two Iranian women, Effat Haddad and Fereshteh Esfandiari, were assassinated in Baghdad. This was the first known occasion that women outside Iran have fallen victim to the régime's assassins.

"Gunmen fired at a vehicle of an Iranian exile group in Baghdad killing two senior women members and wounding a third...".[41]

A Mojahedin spokesman said the attack occurred in the morning in the Shaab district of the capital and the attackers fled by car. Mrs Effat Haddad, 32 and mother of four children, was a member of the NCR. Fereshteh Esfandiari, 35, was an official of the Mojahedin's public relations department and the anchorwoman of the Resistance's Radio and Television. They died instantly when terrorists machine-gunned their car from behind. Another woman passenger of the car (Sadigheh Khodai Sefat) was injured.

Women form a sizeable portion of the Mojahedin's fighting force in Iraq. The Mojahedin, which opposes the Tehran government, blamed what it called "terrorist diplomats" in the Iranian embassy in Iraq. It urged the Iraqi government to shut down the embassy and bring the attackers to justice.[42] In another separate terrorist attack in Baghdad, July 10, 1995 which led to the murder of three members of the Mojahedin one the terrorists, an Iranian agent was arrested. According to the Mojahedin's officials he confessed he had also participated in the May 17 assassinations.

---

[40] Reuters, July 10, 1995
[41] Reuters, May 17, 1995
[42] Ibid
[43] Reuters, January 7, 1994

Taha Kermanj

On January 4, 1994, Mr Taha Kermanj, a member of the Kurdistan Democratic Party of Iran's Revolutionary Leadership (KDPI-RL), was assassinated by pistol shots from in the city of Corum in Turkey. Police said that Mr Kermanj, an Iranian Kurdish dissident, was registered by the UN as a refugee. The Turkish Daily News said Kermanj, had been a leader of a faction of the Kurdistan Democratic Party of Iran (KDPI).[43]

The National Council of Resistance of Iran issued a statement from Paris accusing the Iranian authorities of assassinating Kermanj. Police said that several people, including Iranian nationals, had been detained in connection with the killing.[44] An official of the United Nations High Commissioner for Refugees (UNHCR) in Ankara said Mr Kermanj had been registered as a refugee in July and was living in Corum while the UNHCR sought a third country willing to grant him permanent residence.*"Naturally the UNHCR is worried about the safety of such people and we have raised this concern with the country [Turkey]"*, the UNHCR official said. Iran has asked Turkey to crack down on Iranian dissidents, including the KDPI and the People's Mojahedin Organization, which both have adherents among the large Iranian exile community in Turkey.[45] The International Federation of Iranian Refugees (an international body for the defence of Iranian exiles) said on January 6, 1994:

> *"The assassination of Mr Kermanj on Tuesday is the work of Iran's secret service".*[46]

Ghafour Hamzei'i

Another KDPI member, Ghafour Hamzei'i, was shot dead as he left his home in Baghdad on August 4, 1994. Mr Hamzei'i had been elected to the KDPI central committee at the Sixth Congress in 1983, and was the KDPI Representative in Iraq.[47]

---

[43] Reuters, January 7, 1994
[45] Ibid
[46] French Radio, Persian section , January 6, 1994
[47] Keyhan (London) August 4, 1994

Mohammad Hassan Arbab

At 11:30 on June 6, 1993, Mohammad Hassan Arbab, also known as Mohammad Khan Baluch, was shot in the back and killed while walking in the street near his home in the city of Karachi. A passer-by was also shot and killed in the attack.[48]

Mr Arbab was an activist in the Iranian opposition movement the People's Mojahedin Organization of Iran (PMOI), and according to a spokesman for the movement, Mr Ali Safavi,[49] Mr Safavi blamed agents of the Iranian government, saying it was not the first time members of the Mojahedin had been attacked in Pakistan. Three members of the PMOI had been killed and many injured in July 1987 when gunmen attacked them in their houses in Karachi and Quetta, and there had been earlier attacks in 1982 and 1985, he said.[50]

Mohammad Hossein Naghdi

On the morning of March 16, 1993, Mohammad Hossein Naghdi, a member and representative of the NCR, was targeted in a terrorist plot in Rome. Mr Naghdi, aged 42, held a bachelor's degree in geology and worked for some time for the Iranian National Oil Company and Atomic Energy Organization. In 1980 he travelled to Italy on a government scholarship. Upon his return he was employed by the Foreign Ministry and appointed as Iranian Chargé d'Affaires in Rome.

In 1981 he resigned his post in protest at the Khomeini régime's violation of human rights. He later joined the National Council of Resistance of Iran. Since that time Naghdi remained the NCR's representative in Italy, and was well known to most Italian politicians and members of parliament.

Ample Evidence of Authorship

On March 16, Mr Naghdi left home for his office in the Monte Sacro area of Rome. His assailant on the rear of a Vespa scooter fired at him with an automatic weapon. Police spokesman Antonio Vecchione said the driver of Naghdi's blue car then managed to drive the 100 yards

[48] Financial Times, June 7, 1993
[49] Jordan Times, June 7, 1993
[50] Reuters, June 6, 1993

to the group's office. After the shooting the gunmen escaped through heavy traffic. Italian authorities said the victim was hit in the face in the attack by two gunmen. Police revealed that Mr Naghdi had been assigned protection three years previously after the killing in Switzerland of Dr Kazem Rajavi.

Italian officials said the assassination on March 16 was the most visible step in pattern in which terrorist organisations, backed by the Iranian government, appear to be adopting a more aggressive posture.[51] They had earlier received information indicating that Mr Naghdi was on the Iranian government hit list.[52] When, referring to Naghdi's murder, the Interior Minister of Rafsanjani's government, Abdollah Nouri, was asked about the killings of Iranian dissidents abroad, he replied:

> *"Are these types of people terrorists or not? And if someone takes action against such terrorists, does that mean they are terrorists? I don't think so".*[53]

A taped telephone conversation between Mohammad Karim Nasser Saraf, International Deputy of Mohammad Gharazi, Minister of Post, Telegraph and Telephone and officials of the Iranian régime's Ministry of Foreign Affairs shortly after the Rome assassination, provides evidence that Iranian officials ordered the assassination:

-Nasser Saraf: I talked over the phone with our own Jajji (Minister Gharazi). He said the matter is of such a nature that could not be raised in the cabinet.

-Foreign Ministry official: Are you serious?

NS: Anyway, the Haji (Gharazi) himself was happy with the outcome. He said that after all they have discovered the right methods. They strike and these guys strike back. Meanwhile, the Haji said the man [Naghdi] had gained a lot of prestige over there. He was gradually taking the place of that Kazem [Dr Kazem Rajavi, representative of the NCR in Geneva, assassinated on April 24, 1990]. I also said that this

---

[51] The New York Times, March 18, 1993

[52] Statement by the Secretariat of the National Council of Resistance of Iran (NCR), Paris, March 16, 1993 and The Independent, March 19, 1993

[53] The New York Times, June 22, 1993

young man [Majid Hedayat-Zadeh, Iran's ambassador to Italy] is right, because he looks more closely at a number of economic issues. We think so too. He implicitly mentioned that to me. I can not discuss it openly over the phone. The issue I just mentioned is scrutinised here... I will raise it with other friends of high ranking posts so that all of our interests would be considered in a comprehensive manner in similar cases.

FM: And concerning what you said on the Haji remarks. I agree with that completely. That is true, he was substituting for Kazem [Rajavi]. Recently he [was talking about] such issues as the arms sales by a number of these Italian firms. Add to this his meetings in the parliament, etc. You know, some of these parliamentarians have asked this government to recall Italy's Ambassador from Iran and to sever relations with Iran.

NS: Yes, you heard about it too? Yes, that shows how far they had penetrated in these places.

FM: If it was not effective they would not have investigated so much?

NS: Of course not. By the way, do you know whether the folks who carried out this act have returned or have they remained there?

FM: That I don't know because the holiday arrived and our people scattered.

NS: Had they informed our Majid [Hedayat-Zadeh] before that [assassination]?

FM: I have not talked to Majid, I have not reached him yet, but I'll try to...So the Haji said it was Fallahian [Minister of Intelligence] or Rezai [Guards Corps Commander]?

NS: Considering my phone conversation with the Haji, I think it was the former [Intelligence Ministry]. I think Majid knows that well, but perhaps he could not specify it over the phone...

It is also clear why the régime in Iran assassinated Mr Naghdi. First, he was the most important Iranian opposition figure in Italy. Naghdi had played an instrumental role in some of the most important diplomatic achievements of the Iranian Resistance in Italy, among them the Italian government's acceptance of a parliamentary recommendation by Italian deputies proposing recognition of the NCR, as well as the

statement by 377 deputies in the Italian Parliament in support of the Iranian Resistance. Such activities were good reason for the Iranian government's hatred of Mr Naghdi.

Le Monde had no doubt about the responsibilities for this murder:

> *"Beyond the police state which settle accounts with their opponents in exiles through the burst of machine-guns (as shown by the Tuesday assassination in Rome of yet another Iranian dissident), fanaticism no longer recognise any borders: It is even in the export of this violence that these fanatics see the primary signs of the vitality of this issue".*[54]

The Mykonos Killings

On September 18, 1992, shortly before midnight, two gunmen entered the Mykonos [Greek] Restaurant in the west Berlin suburb of Wilmersdorf, and opened fire with a machine-gun and a hand gun, killing four members of the KDPI occupying a table in a back room.

The murdered men were Dr Sadegh Sharafkandi, Secretary-General of the KDPI, the KDPI European representative, Mr Fathol Abdouli, aged 33; the KDPI representative in Germany, Mr Homayoun Ardalan and a translator, Mr Nuri Dehkurdi.[55]

A Berlin police spokesman said the killers seemed to be Iranian as survivors heard the gunmen curse in Farsi when they sprayed the table with bullets from a machine-gun and a hand gun.[56] The two gunmen, screaming *"you sons of whores"*, pumped bullets from a machine gun into eight officials of the KDPI. A third man, armed with an automatic pistol, stood guard in the doorway of the Mykonos Restaurant.[57] Mr Sharafkandi, married with three children, had been waiting for Iranian exiles to meet him in the restaurant. Three of the victims who were in Berlin to attend the Socialist International Conference, died instantly. *"We think this was done by the Iranian*

[54] Le Monde, March 18, 1993
[55] International Herald Tribune, September 19-20, 1992
[56] Reuters, September 18, 1992
[57] Ibid
[58] International Herald Tribune, September 19-20, 1992

secret service" said Selman Arslan, spokesman for the Kurdistan Committee in Cologne.[58] Kurdish exiles as well as the Mojahedin of Iran, the country's main opposition group, accused the Iranian secret service of the killings.[59] Witnesses saw one of the gunmen fire repeatedly with a pistol into Sharafkandi's prostrate body before fleeing from the restaurant.[60]

Iran's intelligence Minister, Ali Fallahian, had warned on August 30 in Tehran that the Islamic Republic would track down and crush expatriate opponents.[61] On October 6, German police arrested two Lebanese men suspected of killing the four Kurds. The two arrested men were seized in the Rhine, between Osnabrueck and the Dutch border, as they tried to obtain false papers to flee from Germany.[62] Lebanese nationals, Mohammad Hassan A and Hussam Hassan C, both Berlin residents in their twenties, were suspected of providing false passports for the assassins to escape Gemany.[63]

On October 14, German police arrested three men suspected of aiding the assassins. They said that a 33-year old Iranian national named only as Kazem D, [Darabi] had been charged with allowing the gunmen to plan the murder in his Berlin apartment.[64]

Police also arrested Abbas Rhayel, 25, a Lebanese, on suspicion of being a gunman, and seized 24 year-old Youssef Amin on charges of guarding the restaurant's front door during the killings.[65]

Kazem Darabi was identified by German authorities as an intelligence agent for the Tehran régime.[66] Iran's Intelligence Minister, Ali Fallahian, widely believed by Western security agencies to have been behind many of the killings, made an unpublicised visit to Bonn in October 1992, apparently seeking to prevent Darabi's trial.[67] Among the officials he met was Bernd Schmidbauer, Chancellor Helmut Kohl's

[59] Reuters, September 23, 1992
[60] Reuters, September 18, 1992
[61] The Observer, September 20, 1992
[62] Reuters, October 6, 1992
[63] Reuters, October 14, 1992
[64] Ibid
[65] Ibid
[66] International Herald Tribune, January 6, 1994
[67] Ibid

top intelligence aide. Britain and the United States were said to be *"furious"* over the high-level meeting and the co-operation between the security agencies of the two countries revealed by Mr Fallahian in an interview with the Tehran Times.

Secretary of State Warren Christopher was said to have telephoned his German counterpart Klaus Kinkel to express dismay at the talks.[68] German federal prosecutors sought to arrest Mr Fallahian when his presence in Bonn became known but were blocked by the western trading partner, with exports totalling about 1.5 billion pounds.[69]

The prosecutor tried to prove that the five alleged assassins were directed by the Iranian secret police (VEVAK). The alleged leader of the killer squad in Berlin, Kazem Darabi is said to be a senior employee of VEVAK but was once a member of the Revolutionary Guard. While living in Germany he was posing as a fruit and vegetable dealer. The German Prosecutor's documentation shows that Iran's intelligence gathering is concentrated in three services. The main foreign spy network is VEVAK and it is supplemented by the military intelligence Unit J2, which secures know-how and goods for Tehran's armed forces and nuclear programme. The third wing is the Revolutionary Guard, which deals with counter intelligence, personal protection of politicians and repression of dissidents. German Counter-Intelligence believes that all three Iranian branches are working in the Iranian Embassy in Bonn and consulates in Hamburg, Berlin, Frankfurt and Munich.[70]

The Mykonos murders refocused public attention in Europe on the systematic extermination of Iran's political foes, at least for a while. The bold brutality of such killings led to protests from human rights groups and western governments. An Amnesty International report documented and condemned the killing of Iranian dissidents abroad. *"Were seeing a growing pattern of killings and this bloody trail leads back to Tehran"* said James Dea, Washington Director of the organisation.[71]

[68] Annika Savil and Safa Haeri, The Independent, Fury at German-Iranian talks, October 13, 1993

[69] The Independent, October 13, 1993

[70] The Times, November 20, 1993

[71] International Herald Tribune, November 22, 1993

The US State Department went as far as it could pending the completion of judicial proceedings, in April 1993: *"There are strong indications that Iran was responsible for the assassinations of the leader of the Kurdish Democratic Party of Iran (KDPI) and three of his followers in Berlin in September".*[72]

The investigation and trial of terrorists suspects in Berlin have provided new insights into the operation of meticulously organised death squads directly linked to the rule of President Hashemi Rafsanjani, American and German officials say.[73]

Three revealing documents

Other than testimonies by eye-witnesses and reports of police investigations presented at the Mykonos trial, three key documents were also presented to the court, demonstrating that German governmental circles - in particular German security services and Ministry of the Interior - are all of the opinion that Berlin assassinations were an operation by the Iranian régime's intelligence ministry. The three documents have been checked and verified.[74]

The first is a report by German Chancellor's Office, dated April 13, 1994, pointing to the régime's Intelligence Minister, Ali Fallahian, using political influence a few weeks prior to the beginning of the trial in October 1993, to stop the proceedings. This office is headed by Minister Bernd Schmiedbauer. He has been one of the main parties conducting negotiations with the régime on the release of German hostages and other issues relating to terrorism.

> *"Fallahian pointed out: Iran has provided help so far. It has influenced the Hemadi family to release the German hostages. In Berlin, however, a penal trial is being set up in which Iran is being wrongly accused. What is the German government doing to stop this court case?"*

The second document is a report by a working group belonging to

[72] Patterns of Global Terrorism, US State Department, 1992
[73] International Herald Tribune, November 22, 1993
[74] Frankfurter Algemeine Zeitung, March 28, 1996

the German internal intelligence organisation, BfV, (known as the Federal Department for the Protection of the Constitution) which relates to the activities of the Iranian intelligence organisations. The report was prepared on June 29, 1993, some nine months after the assassination. The German internal intelligence organisation refrained from commenting on the report and its officials were not given leave to speak about the report. This report has not been made public, but part of it was presented to the court by a plaintiff's lawyer and it was officially read during the session of the court on March 24, 1994, and thus it was recorded as one of the trial's documents on March 28, 1995. The report shows that the assassinations were guided and carried out by the régime's Bonn embassy and the operation was code-named 'Bozorg Alavi'.

The third document is the last report by the German interior security organisation based on information from its reliable sources. This note, presented to the court on December 19, 1995, is the most important document revealed so far. Klaus Grunewald, the Director General of the foreign extremism section of the security organisation has appeared in the court three times. The text of the report is as follows:

Federal Department for the Protection of the Constitution
December 19, 1995

Ref.: Complementary to departmental information on April 22, 1993 and April 21, 1995 on the penal case against the accused, Amin, and others suspected of murder and... (the trial known as 'Mykonos').
In complementing the above departmental information, the Department for the Protection of the Constitution (German internal security organisation), based on reliable information which has recently been assessed by the court, can presently inform you:
A section of Iran's Information Ministry's department for overseas operations has been involved in the assassination attempt on the Kurdish leaders on September 17,1992. This section which is responsible for assassination attempts known as Special Operations Unit, had long targeted

members of the Iranian Democratic Party of Kurdistan. For instance, a team from that section has been directly responsible in the murder of the leader of the Democratic Party, Abdul-Rahman Ghassemlou.
The Iranian Ministry of Information and Security had despatched a team from Tehran in early September and prior to the terrorist assassination, the team was directly co-ordinated with the [régime's] agents residing in Berlin and began surveillance and finalising plans for carrying out the assassination.
Prior to the assassination taking place, the team specifically determined the composition of the members of the Iranian Democratic Party of Kurdistan with the help of an Information and Security Ministry's source who was directly linked to the Kurdish leaders. According to information received, this source was present at the restaurant during the assassination. Following the assassination, the team left Berlin for Tehran according to a meticulously prepared escape plan.

Signature

Grunewald

Warrant to arrest Iranian Minister

In March 1996, German judicial authorities issued a warrant for the arrest of Ali Fallahian, the Iranian régime's Information and Security Minister, for his involvement in the Mykonos murders. The Federal Prosecutor's Office in Karslruhe said,

"The suspect has been head of the ministry since 1989, and said in an interview with the Iranian television a few weeks before the attack that his agency was targeting the murder

[75] Herald Tribune, March 16-17, 1996

victims' party and would pursue them in Iran and abroad".[75] *According to the warrant, "The task of the security section of the Iranian's Intelligence Ministry, and the 'Qods' force of the Guards Corps, is to eliminate the opposition. The head of this system is Ali Fallahian, who is also a member of Supreme Security Council, in which all decisions of this kind are taken..."*

With regard to the authority for issuing an arrest warrent, the investigating judge of the Higher Court of Germany, Dr Wolse says that:

"...since the accused would not willingly give himself up to the judiciary, it will be impossible to clarify the attempted assassination without arresting him...With regard to the existing information, there is a possiblity that the accused would attempt to commit other crimes of this nature...The terror of Kazem Rajavi, Bakhtiar and Naghdi have been carried out during his term of office and these were the responsibity of his ministry".[76]

Two members of Germany's BND intelligence agency slipped out of Tehran before the news broke.[77] Iranian officials warned of possible political and economic retaliations against Germany if it pressed ahead with its efforts to arrest and try Fallahian.[78] The Iranian ambassador in Bonn, Hossein Mousavian told the news weekly Focus:

"Mr Fallahian does not live here and cannot be brought before a court. If no legal consequences are to be expected, you have to ask 'Why was it done?' Then you come to the conclusion — for political reasons."

But Federal Prosecutor Kay Nehm rejected the thesis that Fallahian, as a minister, would always be beyond the reach of German justice.

[76] The Centre for Iranian Political Refugees in Berlin, Press Release, April 3, 1996
[77] Reuters, March 15, 1996
[78] Associated Press, March 23, 1996

"An arrest warrant is never a political act, but always the necessary judicial reaction to a serious crime"

He told the latest edition of the news weekly Der Spiegel.

"You mustn't only see an arrest warrant as a short-term measure. Ministerial office is not a permanent position".[79]

This is probably the first time in European history that an arrest warrant has been issued for a serving minister of another government. It is a reflection of the uniqueness of the Rafsanjani government's involvement in terrorism and slaughter of dissidents abroad.

Dr Shapour Bakhtiar

The last Prime Minister of Iran under the Shah, Dr Shapour Bakhtiar, was assassinated on August 8, 1991 at the age of 76. Mr Bakhtiar and his aide Mr Soroush Katibeh, were stabbed to death in his home outside Paris as two police patrolled outside the house and two other guards sat in an annex.[80] The murder resembled the killing of his friend Abdel Rahman Boroumand five months earlier, just described.

The French Foreign Ministry issued a statement condemning the murder on behalf of the French government. Almost all Iranian dissidents put the blame for Bakhtiar's murder squarely on Mr Rafsanjani himself. *"There is no doubt that it is the work of terrorists sent by President Rafsanjani. Since last March, squadrons of death have been dispatched to Europe"* [81] said Afshin Alavi, a spokesman of the people's Mojahedin, which also accused the Iranian Embassy in Paris of harbouring terrorists and called for the mission's closure.[82]

On Tuesday, August 6, 1991 Mr Fereidun Boyer Ahmadi had told Dr Bakhtiar that two supporters had arrived from Tehran and wanted to meet him.[83] The former PM described Boyer Ahmadi as his second

[79] Reuters, March 23, 1996
[80] The Independent, August 9, 1991
[81] The Independent, August 9, 1991
[82] Ibid
[83] Financial Times, August 12, 1991

son, and his name was on a list of 15 regular visitors to the house. The three men thus had no difficulty getting past the police guarding the premises. Once inside, Mr Boyer Abmadi fetched two serrated knives from the kitchen, and the two killers stabbed Dr Bakhtiar, then cut off his head and slashed his wrists in a gruesome implementation of the "sentence" passed by Ayatollah Khomeini under Islamic sharia law. They removed his gold Rolex wrist watch, a gift from King Fahd of Saudi Arabia.

At that moment, Dr Bakhtiar's assistant, Mr Soroush Katibeh, rushed in, and he too was stabbed repeatedly, as police counted 15 knife wounds, and found a blade broken off in his hip. The killers then cut the telephone line and covered Dr Bakhtiar's corpse with a table cloth. They then waited in the villa while Boyer Ahmadi retrieved their documents from the police, before smuggling the men out. They left his house at around 18:00 and no signs of activity were seen after that time.[84]

The two hit men, Mohammad Azadi and Ali Vakili Rad, were noted by the Corps Republicaine de Sécurité (CRS) guard. They had been recommended for visas by Massoud Hendi, an Iranian businessman with connections in France, where he had been a correspondent for Iranian Television. Hendi later told investigators that he made the recommendation on the order of Mr Mohammad Gharazi, the Minister of Telecommunications. He told the French Consulate in Tehran that the two men were telecommunications experts who wanted to attend a course in France, but in reality they were agents of VEVAK, with the specific job of eliminating opponents abroad. The men were met at Orly airport by Boyer Ahmadi and taken to a flat in Paris.

Dr Bakhtiar had been warned that Boyer Ahmadi was not to be trusted but would hear no ill of him. The traitor had gained a detailed knowledge of the layout of Bakhtiar's villa, and the police believe he had decided to act when, at an executive meeting to elect a successor to Mr Boroumand, Bakhtiar announced that he had decided to move house. After the murder, the assassins tried to cross the border into Switzerland using false Turkish passports, but were turned back by alert Swiss border guards. The French guards allowed them back in without question, the

[84] The Daily Telegraph, August 10, 1991

bodies still remaining undiscovered. This created uncertainty among the plotters in Tehran, and a British monitoring team in Cyprus picked up a message from VEVAK headquarters to an Iranian embassy in Europe asking for confirmation of Dr Bakhtiar's death.[85]

Meanwhile, clues began to appear. A prostitute in the Bois de Boulogne found bloodstained clothing and Iranian passports; a taxi driver reported taking two of the men to the Swiss border; a wallet found in a telephone booth contained Iranian, French and Swiss money, and calls from the booth were traced to a number in Istanbul. This led to 11 arrests, including five Iranians, three of them VEVAK agents. The 11 were charged with providing false passports and visas to the assassins.

The killers finally succeeded in crossing into Switzerland, with the police not far behind. They missed arresting the men in a Geneva hotel by a few hours, but Vakili Rad was detained in a boat on lake Lernan on August 21 and extradited to France. Then Hendi was picked up in Paris on September 21 and, deciding that he would be killed if he returned to Iran, reported the involvement of Minister Gharazi and of Mr Ali Fallahian, Minister of State Security. In the case of the latter, the information was superfluous because he had already been congratulated by Mr Ali Khamenei, Ayatollah Khomeini's successor as spiritual leader, for his *"great achievements in combating and uprooting the enemies of Islam, inside and outside the country".*[86]

Agents or supporters of the Khomeini régime, including Anis Naccache, holder of a Lebanese passport, had tried to assassinate Shapour Bakhtiar in Paris previously, during 1980. It was an attempt which resulted in the death of a French woman neighbour and a police officer.[87] Naccache, a Lebanese Sunni Muslim, and three others were given life sentences while the fifth member of the team received a 20 year sentence. All were pardoned in July 1990 and flown to Iran in July 1990, allegedly in pursuance of a bargain made by M Jacques Chirac,

[85] Safa Haeri, Sunday Times, Iranian Ministers to face Bakhtiar charges, October 6, 1991

[86] Safa Haeri, Sunday Times, Iranian Ministers to face Bakhtiar charges, October 6, 1991

[87] Financial Times, October 17, 1991

who held office as Prime Minister of France from 1986 to 1988, in return for the release of French hostage in the Lebanon.[88] Relations between Paris and Iran had warmed up after Naccache's extrajudicial liberation, though Iranian exiles had warned that appeasement would not stop the use of terrorism.

On October 22, 1991, a French judge issued an arrest warrant for an official of the Iranian government on charges of acting as an accomplice in the assassination of Shapour Bakhtiar. French government officials said Judge Jean-Louis Brugiére ordered the arrest of Hossein Sheikh-Attar, 42, said to be adviser to the Iranian Minister of Post and Telecommunications, Mohammad Gharazi.[89] The warrant described Mr Sheikh-Attar as *"an accomplice in murder and criminal conspiracy in connection with a terrorist action"*.[90] The official said Mr Sheikh-Attar had assisted in arranging for two of the three suspected killers to be given visas to enter France using false identities. Mr Sheikh-Atar's involvement was revealed by Massoud Hendi. Mr Hendi reportedly arranged false Turkish passports to enable two of the alleged killers to flee France.[91]

A third person charged with involvement in the murder was a woman described as an Iranian intelligence officer. She is believed to have helped arrange temporary lodgings in Paris for the alleged assassins.[92] Although Iran had denied involvement in the murder, President Francois Mitterand postponed a planned trip to Tehran after Mr Bakhtiar's death.

The Iranian newspaper, Jahan-e-Islam rejoiced over the assassination of Mr Bakhtiar. *"Destruction of elements such as Bakhtiar gladdens the nation and the suffering families of martyrs"*, the paper said in an editorial.[93] Most Tehran papers were quick to hold other Iranian dissident groups responsible for the murders. But the People's

[88] The Independent, August 9, 1991

[89] International Herald Tribune, October 23, 1991

[90] Ibid

[91] Alan Riding, International Herald Tribune, Paris accuses Iran aid in murder of Bakhtiar, October 23, 1991

[92] Alan Riding, International Herald Tribune, Paris accuses Iran aid in murder of Bakhtiar, October 23, 1991

[93] Financial Times, August 12, 1991

Mojahedin claimed on August 23 that *"in a meeting with several ministers and close associates in mid-July 1991"*, Rafsanjani said *"All of our government's problems are a result of instability, and we must show that we are powerful and stable by assassinating people from the opposition"*.[94]

In February 1994, Mr Jean-Louis Bruguiére, France's top anti-terrorist investigator, finished his inquiry into the 1991 murder of Shapour Bakhtiar, and concluded that the assassination was organised from Tehran.[95]

Mr Bruguiére's report, ending with a request for the three suspects held in France to be tried by an assize court, relied on records of telephone calls to prove the Tehran link. His investigation took him to Turkey, where he said the co-ordinator of the assassination was based during the operation. Telephone traffic between Turkey, Switzerland - where the alleged assassins were based before crossing into France - and Iran turned up a Tehran number that the French DST counter-espionage service has established was used by Iranian intelligence services.[96]

After a trial lasting one month seven judges in a special anti-terrorist court sentenced Ali Vakili Rad to life in jail for killing Bakhtiar and his secretary. Massoud Hendi was sentenced to 10 years in jail for complicity in the assassination but Zeynalabedine Sarhadi, a great-nephew of Ali Akbar Hashemi Rafsanjani, the President of Iran, was acquitted of charges of complicity and freed.[97]

Referring to the trial of Sarhadi, The Independent wrote:

> *"One of the defendants is related to President Ali Akbar Hashemi Rafsanjani and was stationed at the Iranian embassy in Bern. In the past, actions by Western security services involving Iranian diplomats or officials have tended to provoke reprisals against foreign diplomats in Iran".*[98]

Another press report at time said:

---

[94] Office of the People's Mojahedin of Iran, Paris, August 23, 1991
[95] The Independent, February 9, 1994
[96] The Independent, February 9, 1994
[97] The Independent, December 8, 1994
[98] The Independent, November 3, 1994

"The trial has devoted little time to the question of Iranian government involvement. The prosecutors have been hampered by Tehran's refusal to co-operate. There are also suspicions that politics might have influenced the course of events. France has made considerable efforts to maintain warm relations with the Iranian government and is negotiating the return of money and assets stripped from French companies during the 1979 revolution".[99]

The opposition NCR said that the conviction of two others by a court in Paris on Tuesday proved Iran was behind the murder in 1991.[100]

Hashem Abdollahi

Hashem Abdollahi, whose father was an important prosecution witness at the trial of Shapour Bakhtiar's murderers, was killed by a single shot to the back of his head in his father's flat in Paris on September 17, 1995. His father Davoud, who found Hashem's body on returning late that evening, is a member of the monarchist National Resistance Movement, and it had been his testimony above all which had pointed the finger at the Islamic régime for the murder of Shapour Bakhtiar.[101]

Abdol Rahman Boroumand

On April 18, 1991, Mr Abdol Rahman Boroumand, 63, an Iranian dissident, was stabbed to death near his apartment in Paris.[102] Mr Boroumand was a close collaborator of Shapour Bakhtiar, Iran's last Prime Minister before the 1979 anti-monarchical revolution, acting as his Finance and Budget Minister during his premiership. He had been elected, two months before his death, president of the executive committee of the national resistance movement, founded by the former Prime Minister. In March 1992 a French court sentenced two Iranians *in absentia* to five years' imprisonment on illegal weapon charges

[99] The Guardian, December 6, 1994
[100] The Independent, December 8, 1994
[101] Iran Bulletin Autumn-Winter 1995, No 10-11
[102] AFP, April 18, 1991

stemming from 1986. The two had been seen waiting outside the home of Mr Boroumand around the time of his assassination.[103]

Cyrus Elahi

On October 23, 1990, Mr Cyrus Elahi, an Iranian dissident living in exile, and member of the Flag of Freedom Organisation, was found dead in the corridor of his apartment building. Mr Elahi had been gunned down by numerous bullet wounds to the head and body.

Manouchehr Ganji, head of the Paris-based Flag of Freedom Organisation, accused Iran of ordering the killing. *"I am absolutely certain that the Islamic Republic carried* out the assassination" he said. Mr Ganji described Mr Elahi as his "right-hand-man" and when Mr Ganji was Education Minister in the government of the Shah of Iran, Mr Elahi served as his adviser.

Ayatollah Rouhani, who said he represented the Islamic Shiite community in Europe, condemned the *"terrorist action"* and blamed *"Iranian extremists"*.[104]

Dr Kazem Rajavi

Dr Kazem Rajavi had gone to France as a young man in 1957 to continue his education. In 1968 he and his French wife moved to Switzerland. Over the years Dr Kazem earned six Doctorate degrees, in law, political science and sociology, and taught at Geneva University for nearly 10 years.

In 1971 the Shah's notorious secret police (SAVAK) had arrested and brutally tortured his younger brother, Mr Massoud Rajavi, then a leader of the People's Mojahedin Organisation which had rapidly established itself as a major opposition force to the Shah. Dr Kazem campaigned vigorously to have his brother's death sentence commuted to life imprisonment, and thus became a leading critic of human rights abuses under the Shah.

After the fall of the monarchy he was nominated Iran's first Ambassador to the United Nations European Headquarters in Geneva. Within a year however he resigned his post in protest against the

[103] Patterns of Global Terrorism, US State Department, 1992

[104] International Herald Tribune, October 24, 1990

religious dictatorship which had begun to take shape under the leadership of Khomeini. From this time until his death Dr Kazem remained the Iranian Resistance's leading representative to the world's human rights assemblies. He was instrumental in the ratification of nine consecutive United Nations Human Rights Commission resolutions rebuking the régime in Iran for human rights violations. Dr Rajavi's many successes had certainly made him a focus of the régime's hatred, and at the January 1990 meeting of the UN Human Rights Commission, the Iranian Ambassador, Mr Sirous Nasseri, told Dr Rajavi in the presence of 8 witnesses: *"We will kill you"*.

The Swiss Gather Evidence

On April 24, 1990, Dr Kazem Rajavi was assassinated as he returned unprotected to his home in Copet, a suburb of Geneva. He was ambushed and killed by gunmen in two cars.[105] After pinning his red Datsun against the curb, one assassin opened fire with an Uzi 9mm sub-machine gun, hitting Dr Rajavi with six bullets.

Swiss Police Magistrate, Roland Chatelain, subsequently implicated 13 Iranians in the plot. According to the newspaper Le Courrier, investigations confirmed the involvement of 13 persons, among them Yadollah Samadi, 33, an Iranian and Mohammad Said Rezvani, 34, both Iranians.[106] Most of the the 13 had entered Switzerland with service passports issued in Tehran on the same date with the notation "on assignment".[107] Most had also arrived, according to M Chatelain's report, via Iran Air's Tehran-Geneva flights over several months preceding the murder, using tickets with consecutive serial numbers. Several of the men flew from Geneva to Vienna less than two hours after the plot. The accumulated evidence, M Chatelain declared,

> *"permits confirmation of a direct involvement by one or more official Iranian services".*[108]

[105] International Herald Tribune, November 22, 1993
[106] Le Courrier, February 22-23, 1992
[107] International Herald Tribune, November 22, 1993
[108] R. Atkinson, European reaction often tepid to assassination of Iranians, The Washington Post, November 21, 1993

Police investigations discovered that the two diplomats named by the media (Samadi and Rezvani) were indeed in Geneva during the period of the crime and left Switzerland for Tehran on the day of the assassination on a direct Iran Air flight. The commando squad which directly carried out the act on Tuesday April 24 was apparently composed of four persons.[109]

A tape recording was given to the police of a conversation between the Iranian Consul-General in Geneva, Mr Karim Abadi and his bosses in Tehran on the afternoon of the assassination in which he says:

> *"Yes, I know about the one that we have with us. The individual has no legal problems and I'm telling him to telephone in to Headquarters".*

Terrorist Suspects Leave Paris

The French government sparked a diplomatic row on Friday December 31, 1993 by admitting it had secretly flown home to Tehran two Iranian terrorist suspects, Mohsen Sharif Esfahani, 33, and Ahmad Taheri, 32, instead of extraditing them to Switzerland, at that country's request, where they were wanted in connection with the murder of Dr Kazem Rajavi. The two alleged terrorists had been arrested in France on November 15, 1992. In February 1993 the High Court in Paris ordered that they be extradited to Switzerland. The two men were believed to be part of a network of Iranian government agents working to eliminated political opponents living in exile.[110] On Wednesday night, December 29, the pair were released from prison and were put on a flight to Tehran. The decision to deport the men was taken, unusually, by the Prime Minister's office for *"reasons connected to our national interests"* according to a statement issued 24 hours later by the office of Prime Minister Edouard Balladur.[111]

The Swiss government made vigorous protests to France over

[109] R. Chatelain, Magistrate of Cantonal Investigations, press release, June 22, 1990, Lausanne, Switzerland

[110] The Guardian, January 1, 1994

[111] Ibid

the affair. It said that *"the French decision is not only surprising, but is in flagrant violation of all international and European conventions on extradition".*[112] The Swiss were especially galled by the French action because the previous year Switzerland had risked antagonising Tehran when it extradited an Iranian wanted by the French in connection with the 1991 murder of Shapour Bakhtiar in Paris. The US State Department said that the United States did not understand the decision:

> *"We are seeking clarification on this matter from the French government. The United States believes that the rule of law should be applied to terrorists".*[113]

According to the then UK Foreign Office Minister Douglas Hogg MP:

> *"The decision by the French Government to return to Iran two Iranians whose extradition had been requested by the Swiss in connection with Mr Rajavi's murder causes us concern. We have made our views clear to the French. We have underlined to them that any retreat from international solidarity in fighting terrorism could undermine our common objectives in this area".*[114]

Swiss Justice Minister Arnold Koller told the Lausanne newspaper, Le Nouveau Quotidian, that Switzerland regarded France's explanation as wholly inadequate:[115]

> *"My concern is that this should not lead other states to follow France's example".*

Gerard Fuchs, head of the Foreign Relations Department of the French Socialist Party, said the centre-right government had

[112] The Independent, January 1, 1994
[113] Reuters, January 7, 1994
[114] Douglas Hogg MP, unpublished letter to Lord Avebury, Chairman of the Parliamentary Human Rights Group, January 13, 1994
[115] Ibid

dishonoured France by not sending the Iranians back to face trial in Switzerland.[116]

> *"In the eyes of the world, France is giving the shameful impression of lying down under the threats of a terrorist state' said Le Journal du Dimanche, the main Sunday newspaper in France".*[117]

The concern shown by Washington, London, Bern and politicians in France indicates their fear that two dangerous terrorists, sent by Iran to commit murder in Europe, had been allowed to return freely to the centre where these assassinations are planned. The encouragement this gave to the masters of the terrorists in Tehran probably had serious consequences all over the world. Informed sources speaking on condition of anonymity said that Paris had taken *"with great seriousness"* Iranian threats to launch a new wave of terrorist operations not only in France but also against French interests and citizens in both Iran and Lebanon if Paris decided to extradite the two to Switzerland.[118] By their failure to resist Tehran's blackmail, however, the French Government may have succeeded only in diverting the assassins towards other innocent victims.

Truth Prevails

Ms Myriam Gazut Godal, a staff reporter for La Suisse newspaper, reported on April 26, 1990 that President Rafsanjani had masterminded the assassination of Dr Kazem. The Iranian government-run press reported on September 6, 1990 that the Khomeini régime had filed charges in the Swiss court against Ms Gazut. In their libel suit the Iranian government invoked article 296 of the Swiss penal code, according to which, insults directed at a Foreign Head of State constitute a crime. Interestingly, this article had been invoked only once before, when the deposed Shah had pressed a similar charge against a Swiss journalist.

On May 17, 1991, a Geneva court ruled that a foreign Head of

[116] Douglas Hogg MP, unpublished letter to Lord Avebury, Chairman of the Parliamentary Human Rights Group, January 13, 1994

[117] Ibid

[118] The Times, January 3, 1994

State had, in effect, been insulted. However, based on article 173 of the Swiss penal code, the court awarded the accused the right to submit evidence proving either the truth of her statements or her good faith. On July 16, 1991, Judge Manfrini read out the tribunal's verdict acquitting Ms Gazut of the main accusation of insult to a foreign Head of State as defined by article 296 of the Swiss penal code in relation to the article which appeared on April 26, 1990, in La Suisse newspaper. The court declared:

> *"... that from a purely subjective angle, the tribunal also considers that Ms Myriam Gazut Godal had reason to believe in good faith that the information communicated during the press conference was sufficiently likely to be reproduced in the La Suisse daily under the same title as the denial by the Iranian authorities which was in a subsequent edition of the same newspaper.*
> *That as for the motives, the tribunal finds, in view of the combination of circumstances, that Ms Myriam Gazut had proven her good faith, thereby relieving herself of all penalty.*
> *That the tribunal condemns the Islamic Republic of Iran to remit, in addition, to Ms Gazut a share of her lawyers' fees of 5,000 Francs, and condemns the Islamic Republic of Iran to court costs exceeding 2,984 Francs, which includes a judgement fee of 500 Francs".*[119]

The Geneva verdict was issued after four days of testimony by witnesses and cross-examination by the lawyers.

This trial was extraordinary, with the rights of freedom of speech and press at stake. After more than a decade of hostage-taking, crisis making and export of terrorism and fundamentalism, the Iranian régime was now intent on muzzling the press world-wide. The trial's significance however went beyond the question of upholding freedom of expression; the Swiss courtroom marked the first international arena in which the government of Iran had been condemned by the judiciary. The proceedings, convened at Iran's request, rapidly became an inquest into

[119] The Independent, January 1, 1994

their crimes against humanity. The unique character of the case was underscored when the Prosecutor in a dramatic departure from Swiss judicial tradition, asked that the accused be exonerated. Valid reasons, he said, existed to conclude that Tehran was involved in the murder. Rafsanjani's condemnation at the Geneva Palais de Justice represented a reaffirmation of the inviolable right to resist against terrorism.

Hussein Mir Abedini

On the road to Istanbul's airport, at around 16:00, local time, on Wednesday, March 14, 1990, four terrorists obstructed the path of a car carrying Mr Hussein Mir Abedini (Akhavan-jam), a former Tehran University Professor and member of the People's Mojahedin Organization of Iran. As the armed terrorists attacked the car, "*Mr Abedini, unarmed, bravely charged at them and foiled their plans for an assassination or kidnapping*". The terrorists fired a few shots, gravely wounding Mr Abedini in the abdomen, and hurriedly fled the scene. According to a report by the French press agency, AFP, Turkish police said that two other People's Mojahedin members were in the car at the same time.[120]

Later it became clear that the target for the Iranian régime was Mohammad Mohaddessin a top ranking official of the Mojahedin who was in Turkey at the same time. His trip was not publicised.

In the 14:00 local time news bulletin on March 22, the Iranian régime's state-radio referred to the March 14 assassination attempt against Mr. Abedini in Istanbul. The announcer said that "*the target was Mr. Mohammad Seyyed-ol-Mohaddessin*", that he was gravely wounded and, according to the latest report, had died. According to a statement by the People's Mojahedin:

> *"Mr Mohammad Seyyed-ol-Mohaddessin, Executive Committee member of the People's Mojahedin Organisation, who according to Tehran radio 'was killed' in the terrorist attack, was interviewed today by 'Voice of Mojahed' national radio. He exposed the claims of the régime's remnants. The clerical régime's Embassies and representatives abroad*

[120] Reuters, March 15, 1990

provide guidance and logistics for these terrorists".[121]

Turkey expelled two Iranian diplomats in October 1988 after an attempt to smuggle an Iranian dissident back to Iran in the boot of an Iranian Embassy car.[122] On March 23, Reuters reported that Iranian opposition leader, Massoud Rajavi, strongly criticised a Tehran Radio comment on Thursday (March 22, 1990), which described the attempted assassination of a senior Mojahedin member in Istanbul on March 14, as an *"heroic assault"*.

Hussein Keshavarz

On September 14, 1989 a young Iranian refugee was shot and critically wounded by two snipers riding a motorcycle outside the office of the United Nations High Commissioner for Refugees in Karachi, Pakistan. Hospital sources identified him as Hussein Keshavarz aged 22. He received two bullet wounds, one in his hand and the other through his chest.[123]

There had been similar incidents in the past, including an attack on the homes of Iranian refugees in Pakistan by the Iranian régime's agents in July 1987 in which three refugees were killed and many wounded.[124] Again, in December 1988, another Iranian refugee was murdered outside the Karachi offices of the UNHCR.[125]

Prior to the incident on September 14, students supporting the Mojahedin of Iran had confirmed that Iranian refugees in Karachi had been threatened by a group of their fellow countrymen belonging to the ruling clique. They said 12 *"terrorists"* made up of Baluchis and Persians had arrived in Pakistan and were staying at various places. They alleged that these people were armed and might attack those Iranians who did not support the Iranian revolution.[126]

Thousands of Iranians had settled in Pakistan as refugees, many

[121] Office of the People's Mojahedin Organisation, Baghdad, March 22, 1990
[122] DAWN, Two Iranian diplomats leave Turkey, October 29, 1988
[123] DAWN, Karachi, September 18, 1989
[124] Washington Post, July 9, 1987
[125] The Leader, September 18, 1989
[126] The Nation, May 2, 1989

of them in the city of Karachi. They have been forced to leave their own country and live in Pakistan for their security and safety, and many of the women said their sons and husbands had been executed by the régime. They appealed to the Government of Pakistan for better security against revenge attacks.

Bahman Javadi

On August 27, 1989 the opposition personality, Mr Bahman Javadi, aged 33, a member of the Central Committee of the underground Iran Communist Party and its Komala Kurdish guerrilla forces, was killed in Larnaca by two young men firing silenced 7.65 mm pistols.[127] A companion of Mr Javadi, Mr Yussef Rashidzadeh, his brother-in-law, was hit in the chest in the attack and seriously injured.[128] Mr Javadi had arrived in Cyprus from Sweden to meet his mother and sister who had travelled from Iran for a reunion after an eight year separation. The women were walking with Mr Javadi and Mr Rashiszadeh in a back street of Larnaca's restaurant district when the attackers opened fire. The Swedish authorities warned Cypriot police shortly before the killing that Mr Javadi's life was under threat and he should be protected, but police said the warning came too late.[129]

In a statement issued from Stockholm, a Komala spokesman blamed Tehran's revolutionary leaders for the assassination. A prominent theory in the investigation of the assassination is that Iranian intelligence officials approved and monitored the departure of Mr Javadi's relatives and sent an assassination squad to Cyprus in anticipation of his meeting them there.[130]

Ataellah Bayahmadi

On June 4, 1989, Mr Ataellah Bayahmadi, the chief covert Intelligence operative of the Paris-based Flag of Freedom Organization, was gunned down in Dubai, United Arab Emirates. Mr Bayahmadi, who in 1979 joined an unsuccessful coup attempt against the

[127] International Herald Tribune, August 31, 1989
[128] AFP, August 27, 1989
[129] International Herald Tribune, August 31, 1989
[130] Ibid

revolutionary régime in Tehran, was shot after he arrived in Dubai for a pre-arranged clandestine meeting with dissident Iranian military officers. Western officials believe the meeting was a trap.[131]

These killings, and that of Mr Qassemlou (each of which bears the hallmark of careful planning, use of specialised weapons and intelligence techniques) had prompted some western experts to speculate that the death on June 3, of Iran's "spiritual" leader, Ayatollah Khomeini, sparked off an aggressive programme of foreign assassinations. The killings were seen as a means of keeping foreign based opposition groups off balance and to prevent their interference with the delicate transition from Ayatollah Khomeini's rule.[132]

Abdul-Rahman Qassemlou

On July 13, 1989, Abdul-Rahman Qassemlou, aged 59 and leader of the KDPI, was assassinated while meeting representatives of the Iranian government. With Qassemlou in Vienna were his European representative, Abdallah Ghaderi and a Vienna-based Kurds' go-between, Fathel Rasoul, an Iraqi exile.[133] On July 12, 1989, they met, in a Viennese apartment at 5 Linkebahgasse, with three Iranian envoys with whom Qassemblou had negotiated inconclusively in December 1988 and January 1989 in the Austrian capital.[134]

The Iranian delegation was nominally led by Mohaddad Jafari Sahraroodi and included Hadi Mustafavi (also referred to in some accounts as "Mustafa Hajifadi" and "Mustafa Haji" and Amir Mansour Bozorgian. Mr Sahraroodi was deputy commander (operations) of the 15th Corps of Pasdaran, Khomeini's revolutionary guards, based in the western Iranian city of Kermanshah. He carried a diplomatic passport and used the pseudonym "Rahimi". Mr Bozorgian was a Kurdish agent of the Khomeini régime, who had previously been an associate of Dr Qassemlou's Party.[135] He also reportedly had a diplomatic passport,

[131] International Herald Tribune, August 31, 1989
[132] International Herald Tribune, August 31, 1989
[133] The Independent, July 25, 1989
[134] The Washington Post, August 2, 1989
[135] Office of the People's Mojahedin of Iran-Baghdad, July 16, 1989

and the Iranian Embassy refused to let him be questioned.[136] Mr Mustafavi was alleged to be the chief of the Vienna Bureau of Iranian terrorist action.[137]

Shortly after 19:00 local time on July 13, as Qassemlou sat in an armchair in the apartment, he was hit at close range by one bullet in the middle of his forehead, a second just above his mouth and a third under his right ear. His assistant Abdullah Ghaderi-Azar was hit by eleven bullets and Fathil Rassoul by five. Sahraroodi was wounded in the mouth.[138] Within hours police found two revolvers, an Israeli made Uzi sub-machine gun and a bloodstained jacket in a park about a mile from the scene of the crime. Later, police told the Kurds, a Suzuki 500 motorcycle purchased a few days earlier by Sahraroodi had been found, raising the possibility that Mustafavi had used it to escape.[139] A fourth confederate, known only as Montazer, is believed to have been waiting outside the apartment to whisk Sahraroodi away .[140]

Austrian police believe that the killings of Abdul Rahman Qassemlou and two the associates were carried out by Iranian agents, two of whom were reported to have taken refuge in the Iranian Embassy in Vienna.[141] Arrest warrants were issued for Bozorgian and Mustafavi on minor charges of leaving injured persons whose lives were in danger.[142] The Iranian Embassy at first agreed to allow Bozorgian to be questioned by police, then cancelled the appointment. The Austrian Foreign Minister, Alois Mock, was quoted as saying it was "*probable*" that Iran was behind the killings.[143]

Despite the inconclusiveness of the investigation, the government allowed two of the Iranian suspects to leave Austria on July 29. Mr Sahraroodi, hospitalised briefly, was allowed to depart for Iran on the basis that there was *"insufficient evidence'* to have him arrested, while Mr Montazer is reported to have left with permission on July 29. The

[136] The Independent, July 25, 1989
[137] Die Presse, July 27, 1989
[138] The Washington Post, August 2, 1989
[139] Die Presse, July 27, 1989
[140] The Washington Post, August 2, 1989
[141] The Washington Post, August 2, 1989
[142] Reuters, July 21, 1989
[143] Ibid

newspaper Der Standard said

> *"The authorities did everything to facilitate the departure of witnesses and suspects to avoid light being shed".*[144]

The Qassemlou murder was covered widely in the Iranian press and the official media confirmed that peace talks had been under way. Vienna has for a long time been an important centre for Iran's terrorist activities in Europe. According to the Austrian daily Arbeiter Zeitung: *"This kow—towing to Iran will protect Austria for a while from the mullahs' wrath. But its an invitation saying 'Austria's lovely, come here to kill'"*. Dr Qassemlou's party, the KDPI, asked: *"How, in this age, in the heart of Europe, could it happen for the representatives of a member country of the United Nations to open fire at point blank range on the representatives of a country with whom it was at war and had entered into peace negotiations?"*[145]

Iraqi Kurdistan

The mullahs' régime strikes repeatedly in Iraqi Kurdistan, where it maintains a standing force of terrorists, orchestrated from the "Information Office" of the Pasdaran in Suleimaniyeh. On August 8, 1994, for instance, armed men ambushed a car 15 km from Suleimaniyeh, killing two members of the Communist Party of Iran (Kumeleh).[146] On June 2, another two Kumeleh members, Ossman Farman and Ossman Kian, were murdered in Suleimaniyeh, where they had come to see off their brothers who were returning to Iran.

In early 1995, two members of the KDPI Revolutionary Command were murdered by Iranian agents in Ranieh, and at about the same time, two KDPI members, Mola Ahmed Khezri and Majid Salduzi, were kidnapped in Rawanduz, handed over to the Iranian authorities, and subsequently tortured in Urumieh Prison.

On January 4, 1996 the KDPI announced a number of murder attempts and assassinations of its members in Iraqi Kurdistan by the

[144] The Washington Post, August 2, 1989
[145] Abdul Rahman Ghassemlou, Man of Peace and Dialogue, Paris, 1989
[146] Iran Bulletin, Winter 1995, No 8

agents of the Iranian régime. These series of assassinations took place during the week starting December 27, 1995 and coinciding with visit of an Iranian delegation led by Ali Agha Mohammadi, Rafsanjani's personal representative, to enter into negotiations with the Iraqi Kurdish political parties.

On Monday March 18, 1996, Iranian agents killed yet another four members of the KDPI. The Party said:

> *"Terrorists sent by the Islamic Republic' shot the four men in a village near the Kurdish-held city of Erbil".*[147]

The KDPI named the dead as Osman Rahimi, Taher Azizi, Hassan Ebrahimzadeh, and seventeen-year old Faramarz Keshavarz. It said four others were wounded in the attack.

The terrorist act happened only four days after the Sharm el-Sheikh summit and two days after an arrest warrant was issued against Ali Fallahian - the Iranian régime's intelligence chief - by the German judiciary.[148]

The Islamic Republic régime has set up a group called Iraqi Kurdish Hezbollah, which interferes extensively in that region.[149] They have also brought pressure to bear from time to time on the leader of the Patriotic Union of Kurdistan, Mr Jalal Talabani, to eject members of the KDPI and other Iranian Kurdish groups, and close down their operations.[150] Iranian agents have committed many acts of terrorism in the region under the control of Mr Talabani, who is vulnerable to blackmail by Tehran, since he is blockaded on all sides, by the Turks, the Iraqis and the rival Kurdistan Democratic Party, and has no other outlet to the world except via Iran.

The KDPI says:

> *"The Islamic government of Iran uses the Red Crescent, which is a humanitarian organisation, as a cover for its*

[147] Reuters, March 18, 1996
[148] Ibed
[149] Radio Israel, March 1, 1996
[150] Lord Avebury, personal observation from a visit to Suleimaniyeh, August 1995

terrorist actions in Kurdish areas of Northern Iraq".[151]

They add:

"A group of armed agents of the Islamic Republic government of Iran this week attacked a camp for the Iranian refugees near Iraqi Suleimanieh. One of the assailants was arrested. He admitted that the Iranian government despatches its armed forces inside the Green Crescent ambulances to carry out terrorist operations in Northern Iraq".[152]

[151] KDPI press statement, February 25, 1996
[152] Radio Israel, April 25, 1996

The Rushdie Case

The fatwa issued by the late Ayatollah Khomeini in 1989 sentencing writer Salman Rushdie to death for writing *The Satanic Verses* is still strongly supported by high level officials in Iran. The efforts to quell the proliferation of this book through assassinations of its translators is another clear example of the murder machine at work.

The Japanese scholar Hitoshi Igarashi, who translated Salman Rushdie's *The Satanic Verses* was stabbed to death in the normally peaceful corridors of the University of Tsukuba. Professor Hitoshi Igarashi's body was found on the morning of Friday July 21, 1991. Professor Igarashi, 44, who taught Islamic studies at the university, had been under police surveillance since his translation had gone on sale in February 1990, but protests and death threats had died down shortly afterwards. Igarashi had been quoted as saying that the he was tired of the police asking him where he was going, and security may have been relaxed. "*I was really shocked that such a thing could happen on our quiet campus*", a university official said. This assassination came nine days after another translator of Rushdie's book was attacked. Ettore Capriolo, 61, was stabbed at his Milan flat on July 3 by an unknown man who had asked him for Rushdie's home address. Capriolo suffered cuts to his neck, arms and chest, and was kicked and beaten on the head by a man who said he was Iranian, police said.[219]

On October 11, 1993, Mr William Nygaard, director of the Norwegian publishers Aschehoug, whose firm translated *The Satanic Verses* , was shot in the back three times outside his house in Olso by an unknown attacker.[220] Few doubted Tehran was behind this attack and those on Rushdie's other publishers and translators, according to Charles

[219] Reuters, July 12, 1991
[220] Reuters, October 11, 1993

Richards, Middle East Editor of The Independent.[221] Christopher Walker in The Times quoted intelligence experts as expressing *"certainty"* that the shooting of Nygaard was *"part of a pattern bloody revenge reliant on Iranian orders or inspiration"*.[222]

Ayatollah Khomeini's original fatwa ordered Moslems to kill not only Salman Rushdie, but also anyone who knowingly helped to publish his novel. Now Ayatollah Hassan Sanei, who offered $2 million for Salman Rushdie's head, has extended the threat of murder to all Rushdie's supporters. He was commenting on Rushdie support committees in the West, which had stepped up their publicity campaigns around the February 14 anniversary of the fatwa.[223]

The Salman Rushdie problem assumed a new dimension in June 1995. The G7 heads of states summit was held on June 16, 1995, and prior to this meeting reports were pointing to a strong decision that would have been taken against Iranian terrorism. Iran suddenly announced its readiness to compromise on the Salman Rushdie issue and negotiate with the EU on its terms. The minimum-terms of the Europeans were

> *"that Iran sign a document guaranteeing not to carry out the fatwa, and to desist from encouraging others to do so".*[224]

But following a mild condemnation of the Iranian régime in response to Iran's new tactics, it was reported that Iran

> *"rejected a call by the European Union to declare that it will neither undertake nor support any attempt to kill Salman Rushdie... Mahmood Vaezi, Iran's Deputy Foreign minister, told EU diplomats that the fatwa against the*

[221] Charles Richards, The Independent, Iran clings to its old violent ways, October 12, 1993

[222] Christopher Walker, The Times, Intelligence experts see hand of Tehran in Oslo shooting, October 13, 1993

[223] Reuters, February 22, 1994

[224] The Times, The Fatwa has failed, admit it - Salman Rushdie calls on EU leaders to force Iran's hand, February 14, 1996

British writer remains in effect...".[225]

In Paris last June, after leading everyone including the French who held the EU Presidency, to believe that the deal was done, Iran refused to sign such a document. Under the Spanish presidency, the matter was pursued without success at meetings in New York and Madrid. A proposed exchange of letters came to nothing. The present Italian presidency of the EU has issued a statement declaring the fatwa *"null and void"*, but that is only a unilateral declaration. As for the threatened *"diplomatic and economic consequences"* if Iran refused to sign, there is, perhaps predictably, no sign of them.[226]

Whatever Iranian diplomats are saying for European consumption about not implementing the fatwa, they are not to be trusted. The real Iranian position is spelled out by Khamenei's allies, who are the ruling faction in Iran and recently strengthened their position by gaining control of the Majlis.

The latest authoritative pronouncement on the Rushdie case was by Mohammad Yazdi, the head of Iran's judiciary, in April 1996. He said the fatwa

> "will *finally be carried out some day. The fatwa relates to all Muslims and will some day be implemented*",

and added for good measure:

> *"The Rushdie problem will only be resolved through implementing the fatwa. We cannot solve this problem through negotiations with or pressures by some Western countries."*

Two days earlier, the Majlis speaker, Ali Akbar Nateq Nouri, reaffirmed his support for the fatwa and said he *"regretted that Rushdie is still alive".*[227]

---

[225] The Daily Telegraph, Iran Refuses to Lift Fatwa on Rushdie, June 23, 1996

[226] The Times, The Fatwa has failed, Admit It - Salman Rushdie calls on EU leaders to force Iran's hand, February 14, 1996

[227] AFP, Rushdie edict reaffirmed, April 21, 1996

RadioFreeEurope RadioLiberty

ARCHIVE

EU: Members Urged Not To Send Ambassadors Back To Iran

May 09, 1997

The Hague, 1 May 1997 (RFE/RL) - The Dutch government today urged European Union members not to return ambassadors to Tehran after Iranian authorities refused to welcome back German and Danish envoys.

A statement by the Dutch EU presidency urged partners who have not yet sent back their ambassadors to suspend their return until further notice. Dutch Foreign Minister Hans van Mierlo also summoned Iran's representative to the Hague to explain Tehran's decision.

Iranian authorities announced yesterday that German and Danish ambassadors would not be welcome and said the EU had no moral standing to criticize Iran's policies.

Tensions have soared between Iran and the EU since April 10, when a German court ruled that Tehran authorities ordered the 1992 assassination in a Berlin restaurant of Iranian opposition figures. The 15-nation EU recalled its ambassadors from Tehran following the ruling and broke off dialogue with Iran.

Radio Free Europe/Radio Liberty © 2017 RFE/RL, Inc. All Rights Reserved.

Latest News

April 10, 1997 Declaration by the Presidency on behalf of the European Union on Iran

In the findings of the Superior Court of Justice in Berlin in the so-called Mykonos case the involvement of the Iranian authorities at the highest level was established.

The European Union condemns this involvement of the Iranian authorities and regards such behaviour as totally unacceptable in the conduct of international affairs.

The European Union has always wanted a constructive relationship with Iran, and its critical dialogue agreed at the European Council in December 1992 was designed to further that objective. However, no progress can be possible while Iran flouts international norms, and indulges in acts of terrorism.

The Presidency invited Member States to recall their Ambassadors for coordinated consultation on the future relationship of the European Union with Iran. The European Union noted that under the present circumstances there is no basis for the continuation of the critical dialogue.

The Council meeting on 29 April will review the European Union's relations with Iran and decide what further action would be appropriate.

The European Union expects the Iranian Government to take measures against possible threats and accusations against any Member State and to take the necessary steps to safeguard the security of all European Union citizens and their institutions in Iran.

Home page Back

The European Union
Press Releases

April 29, 1997
No. 26/97

EUROPEAN UNION DECLARATION ON IRAN

The European Union Council of Foreign Ministers issued today in Luxembourg the following declaration:

The Council had an extensive discussion on European Union relations with Iran, in the light of the Mykonos case. It reaffirmed the Presidency's declaration of April 10, 1997. It reiterated that the European Union has always wanted a constructive relationship with Iran, as expressed in the declaration of Edinburgh of 1992. However, progress can only be made if the Iranian authorities respect the norms of international law and refrain from acts of terrorism, including against Iranian citizens living abroad and cooperate in preventing such acts.

It called on Iran to abide by its commitments under international agreements, including those concerning the non-proliferation of weapons of mass destruction, as well as those concerning human rights. It urged Iran to ratify the Chemical Weapons Convention.

The Council, determined to fight against terrorism in all its forms, regardless of its perpetrators or motives, agreed on the following:

- confirmation that under the present circumstances there is no basis for the continuation of the Critical Dialogue between the European Union and Iran;
- the suspension of official bilateral Ministerial visits to or from Iran;
- confirmation of the established policy of European Union member states not to supply arms to Iran;
- cooperation to ensure that visas are not granted to Iranians with intelligence and security functions;
- concertation in excluding Iranian intelligence personnel from European Union member states.

The Council decided to keep the relationship with Iran under close review and instructed the Political committee accordingly. Member states will instruct their Ambassadors, after their return to Teheran, to contribute in a coordinated way to the continual appraisal by the Council of the relationship.

The Council invited the Associated Central and Eastern European countries, the Associated country Cyprus and the European Free Trade Association countries members of the European Economic Area to align themselves with this declaration.

Press Contacts: Ella Krucoff Tel: (202) 862-9540 **Maeve O'Beirne** Tel: (202) 862-9549

Previous: PR 97-25 | Current: PR 97-26 | Next: PR 97-27

EU Home | News | Press Releases | 1997 Apr-Jun || What's New

European Union
Delegation of the European Commission to the United States
2300 M Street NW, Washington DC 20037
Telephone: (202) 862-9500
Fax: (202) 429-1766

Copyright © European Union, 1995-1997. All Rights Reserved.

Annex 50

Los Angeles Times | ARTICLE COLLECTIONS

← Back to Original Article

Body Dumped in Beirut Identified as Buckley's : Hostage: Former senior CIA official, kidnaped in 1984, was reported slain in 1985.

December 28, 1991 | MARILYN RASCHKA | SPECIAL TO THE TIMES

BEIRUT — Even as hopes dimmed for the 1991 release of two Germans, the last two Westerners known to be held hostage here, Lebanese authorities on Friday positively identified remains dumped hours earlier near a Beirut airport road as those of slain U.S. hostage William Buckley.

After a two-hour autopsy at the American University of Beirut Hospital, Dr. Ahmed Harati, a pathologist and the state coroner, confirmed that Buckley's medical and dental profiles matched those of the body, which was found wrapped in a brown blanket and bound tightly with ropes.

"Tooth fillings and the bridge matched those in Buckley's dental record, and the scar of a broken right pelvis also matched," Harati said.

The remains later were taken in a flag-draped coffin to the American Embassy, where officials declined comment. State Department officials here also would not discuss Buckley, who was dragged from his car at gunpoint March 16, 1984, while traveling the six blocks from the embassy to his 10th-story penthouse apartment.

But the CIA in Washington issued a statement confirming what has been reported often--that Buckley was the senior American intelligence agency official in Beirut when he was kidnaped.

The agency said that it was "carefully following reports" about the body and would make a positive identification of the remains when they are returned to the United States.

The return of Buckley's body, the statement said, would bring to an end "the final chapter in the tragic death of this courageous and dedicated American patriot who gave his life for his country."

Buckley, initially described as a first secretary in the U.S. Embassy's political section here, was believed to have been an expert on terrorism with wide knowledge of CIA operations throughout the Middle East. He arrived in Beirut in the summer of 1983, charged with rebuilding American intelligence operations after the bombing of the embassy in April, 1983.

Buckley, a Medford, Mass., native, was a Boston University graduate, a lieutenant colonel in the military reserve, and a CIA veteran with experience in the Middle East, Africa, Southeast Asia, Europe and at the Directorate of Operations at CIA headquarters. He spent much of his career developing information to deter terrorist attacks on Americans in the Middle East.

Single and without dependents, Buckley--who was 55 when kidnaped--had expressed some concern about his safety in his dangerous post. His relatives also were wary.

"I would say to him, 'Why don't you get out of there and come home?' " said his sister, Maureen Moroney, of Salem, Mass. "But he'd say it was where he wanted to be. That would be just like him to stay where he was supposed to be. To me, he was probably the most patriotic human being you could imagine. His country was everything, and he would do anything for his country."

The return of Buckley's body means that all the Americans taken hostage in Lebanon have now been accounted for. Earlier this week, the body of Lt. Col. William R. Higgins, another slain U.S. hostage, was found, positively identified and released to the embassy.

An anonymous caller gave police directions to Buckley's remains only hours after U.N. Secretary General Javier Perez de Cuellar said in New York that he hoped Buckley's body would be returned by the weekend.

The caller, who said he spoke for Islamic Jihad, the group that claimed responsibility for Buckley's abduction, told a Western news agency: "We have dumped Thursday night the body of American spy Buckley. . . . We have, thus, fulfilled our pledge. The U.N. secretary general . . . (now) has to bring about the release of our brethren in Israel." He apparently referred to about 200 prisoners held by Israel and its militia allies in South Lebanon. Shiite Muslim kidnapers have long demanded that these captives be freed in return for the Westerners.

On Jan. 22, 1985, nine months after his abduction, Buckley appeared in a brief videotape released to a British television news agency, saying: "I am well, and my friends Benjamin Weir and Jeremy Levin are also well. We ask that our government take action for our release quickly." Levin escaped his captors in February, 1985; Weir was released seven months later. Both said they had no contact with Buckley.

In October, 1985, Islamic Jihad released blurred photographs of what it said was Buckley's body. It said he was slain in retaliation for an Israeli air raid on Palestine Liberation Organization headquarters in Tunisia.

But no body was produced, and U.S. officials said the photos did not prove Buckley was dead. Lebanese Shiite Muslim and Western intelligence sources said then that Buckley actually may have died earlier, possibly after having been tortured. On Jan. 20, 1987, President Bush confirmed that Buckley was dead in an oblique reference in a speech to a Washington conference on terrorism.

Freed hostage David Jacobsen has said that for a time he was held, blindfolded, in the same room with Buckley and that he believes Buckley, who was severely ill, possibly as a result of torture, died June 3, 1985. Terry A. Anderson, the last American hostage to be freed, said after his release Dec. 4 that he believed Buckley might have died in the same room with him. But he was chained and blindfolded at the time and did not see Buckley die.

Meantime, a group calling itself the Freedom Strugglers, which claims to hold the two German hostages, repeated its refusal to free the pair until the kidnapers' demands are met. They accompanied their statement, delivered to a Western news agency, with a bizarre videotape of the German captives celebrating in front of a twinkling Christmas tree.

"We hereby thank our kidnapers for their humanitarian and good treatment," said German aid worker Thomas Kemptner, 30, attired in a suit and shown in the tape against a poster backdrop of a lake and fir trees. He appeared to be in good health and was flanked by fellow hostage Heinrich Struebig, 50, shown reading a copy of the German magazine Der Spiegel. The two, abducted in May, 1989, ate cake, smoked cigarettes and drank toasts of fruit juice on camera.

Western diplomats said the kidnap group is under extreme pressure from Iran, Syria, Lebanon, Germany and Giandomenico Picco, Perez de Cuellar's special hostage envoy, to free their captives unconditionally.

But in their statement, the Freedom Strugglers said it still demands, in exchange for the two Germans, freedom for two pro-Iranian Shiite Muslims serving prison terms in Germany for terrorist crimes.

"We seize this opportunity to ask Mr. (Chancellor Helmut) Kohl to give pardon to Mohammed and Abbas Hamadi," Kemptner said.

The Germans are held by relatives of the Hamadi brothers, convicted in Germany on charges of murder, air piracy and kidnaping. Bonn has refused to exchange them for the hostages.

Times staff writer Art Pine in Washington contributed to this report.

Los Angeles Times Copyright 2017 Los Angeles Times

Taking note of the letter dated 13 July 1988 from the Permanent Representative of Lebanon to the United Nations addressed to the Secretary-General,[24]

Responding to the request of the Government of Lebanon,

1. *Decides* to extend the present mandate of the United Nations Interim Force in Lebanon for a further interim period of six months, that is, until 31 January 1989;

2. *Reiterates* its strong support for the territorial integrity, sovereignty and independence of Lebanon within its internationally recognized boundaries;

3. *Re-emphasizes* the terms of reference and general guidelines of the Force as stated in the report of the Secretary-General of 19 March 1978,[13] approved by resolution 426 (1978), and calls upon all parties concerned to cooperate fully with the Force for the full implementation of its mandate;

4. *Reiterates* that the Force should fully implement its mandate as defined in resolutions 425 (1978), 426 (1978) and all other relevant resolutions;

5. *Requests* the Secretary-General to continue consultations with the Government of Lebanon and other parties directly concerned on the implementation of the present resolution and to report to the Security Council thereon.

Adopted unanimously at the 2822nd meeting.

Resolution 618 (1988)
of 29 July 1988

The Security Council,

Taking note of paragraph 23 of the Secretary-General's report on the United Nations Interim Force in Lebanon[23] concerning the abduction of Lieutenant-Colonel William Richard Higgins, a military observer of the United Nations Truce Supervision Organization serving with the Force,

Recalling the Secretary-General's special report on the United Nations Interim Force in Lebanon,[25]

Recalling also its resolution 579 (1985) of 18 December 1985, which, *inter alia*, condemned unequivocally all acts of hostage-taking and abduction and called for the immediate release of all hostages and abducted persons wherever and by whomever they are being held,

1. *Condemns* the abduction of Lieutenant-Colonel Higgins;

2. *Demands* his immediate release;

3. *Calls upon* Member States to use their influence in any way possible to promote the implementation of the present resolution.

Adopted unanimously at the 2822nd meeting.

[24] *Ibid.*, document S/20014.

[25] *Official Records of the Security Council, Forty-third Year, Supplement for January, February and March 1988*, document S/19617.

Decision

At its 2831st meeting, on 30 November 1988, the Council proceeded with the discussion of the item entitled "The situation in the Middle East: report of the Secretary-General on the United Nations Disengagement Observer Force (S/20276)".[26]

Resolution 624 (1988)
of 30 November 1988

The Security Council,

Having considered the report of the Secretary-General on the United Nations Disengagement Observer Force,[27]

Decides:

(*a*) To call upon the parties concerned to implement immediately Security Council resolution 338 (1973) of 22 October 1973;

(*b*) To renew the mandate of the United Nations Disengagement Observer Force for another period of six months, that is, until 31 May 1989;

(*c*) To request the Secretary-General to submit, at the end of this period, a report on the developments in the situation and the measures taken to implement resolution 338 (1973).

Adopted unanimously at the 2831st meeting.

Decisions

At the same meeting, following the adoption of resolution 624 (1988), the President made the following statement:[28]

> "In connection with the resolution just adopted on the renewal of the mandate of the United Nations Disengagement Observer Force, I have been authorized to make the following complementary statement on behalf of the Security Council:
>
> > " 'As is known, the report of the Secretary-General on the United Nations Disengagement Observer Force[27] states, in paragraph 24: "Despite the present quiet in the Israel-Syria sector, the situation in the Middle East as a whole continues to be potentially dangerous and is likely to remain so, unless and until a comprehensive settlement covering all aspects of the Middle East problem can be reached." That statement of the Secretary-General reflects the view of the Security Council.' "

[26] See *Official Records of the Security Council, Forty-third Year, Supplement for October, November and December 1988.*

[27] *Ibid.*, document S/20276.

[28] S/20306.

ChicagoTribune (http://www.chicagotribune.com)

Fbi: Higgins Most Likely Is Hanged Man

August 08, 1989 | By Timothy J. McNulty, Chicago Tribune.

Recommend 1 Tweet

855 G+1 0

WASHINGTON — The kidnapers` videotape of a hanged man most likely shows the body of U.S. Marine Lt. Col. William R. Higgins, the FBI announced Monday, but its experts still could not determine when or how Higgins was killed.

President Bush, after being informed of the FBI`s forensic report, telephoned the officer`s widow at the Pentagon ``to offer his support and encouragement,`` White House spokesman Marlin Fitzwater said. ``The President said the U.S. government will continue to do all it can to obtain a full accounting of what happened to her husband.``

FBI pathologists said that although it was impossible to make a positive identification with only the crudely lit videotape that was released July 31 in Beirut, ``numerous observable characteristics`` led them to conclude it was Higgins` barefoot body hanging from the end of a rope.

But their report said nothing about the cause of death, and White House spokesman William Harlow said the FBI`s video and medical experts could not determine from the two 15-second segments of tape when Higgins died.

Some officials have speculated that Higgins was killed before last week, possibly as long as a year ago, in retribution for a U.S. Navy ship mistakenly shooting down an Iranian passenger plane over the Persian Gulf.

The FBI reported only that ``within a reasonable degree of medical certainty,`` the person in the videotape is dead, and the pathologists believed ``the person depicted is . . . Higgins.``

One FBI official said the identification was made in part with a computer-assisted comparison between earlier pictures of Higgins and the facial characteristics of the body in the kidnapers` videotape. Without fingerprints or body tissues for DNA

analysis, forensic experts routinely rely on enhanced photographic images of body parts such as the head, the ears and the feet for identification.

Shortly before the call from the Oval Office, Marine Corps Commandant Alfred Gray informed Marine Maj. Robin Higgins of the pathologists` opinion that her husband was dead. Maj. Higgins, 38, was at the Pentagon, although she is on leave from her job at the Defense Department`s public affairs office.

Col. Higgins also is survived by a daughter, Christine, 19.

Higgins, 44, was head of an observer team attached to the United Nations Truce Supervision Organization when he was kidnaped in southern Lebanon in February, 1988.

His captors, calling themselves the Organization of the Oppressed on Earth, are believed to be members of Hezbollah, a fundamentalist, pro-Iranian organization of Shiite Moslems in Lebanon. They claimed to have hanged Higgins July 31 in retaliation for Israel`s kidnaping of a Lebanese Shiite cleric, Sheik Abdul-Karim Obeid, three days earlier.

Since then, an intense diplomatic effort has been underway to forestall the execution of more American hostages and to arrange a swap of hostages between Israel and Lebanon.

On Monday, Fitzwater said Bush was ``cautiously optimistic`` that American hostages would be released, but he added that the President ``knows that it`s probably going to be a longer period of time rather than shorter.`` ``There are a lot of ideas being floated, a lot of exchanges being made, but it`s primarily a matter of talking and listening and not signaling your moves . . . ,`` Fitzwater said.

The other hostage most immediately threatened is Joseph Cicippio, 58, an administrator at American University of Beirut, who has been captive since Sept. 12, 1986. He is believed to be held by another Hezbollah group calling itself the Revolutionary Justice Organization, which announced it was postponing his execution after diplomatic appeals were made to Iran to use its influence with the kidnapers.

Hezbollah, which means Party of God, is believed to be holding 16 Western hostages, eight of them Americans.

UN Undersecretary Gen. Marrack Goulding, after holding five days of meetings in Lebanon and Syria, said Monday that a solution could come about only ``through a long process of quiet and patient diplomacy.``

In the meantime, the Pentagon announced that the battleship USS Iowa fired its 16-inch guns in a practice exercise in the Mediterranean. It was the first time both remaining gun turrets were tested since an explosion in the No. 2 turret killed 47 sailors in April.

Israeli officials Monday reiterated there would be no exchange of captives unless three Israeli servicemen, captured several years ago, were part of the swap.

``If we don`t get the Israelis, there won`t be a deal,`` said a Foreign Ministry spokesman in Jerusalem.

The hostage dilemma, dormant since Bush came into office in January, has become his first real foreign policy crisis, just as it plagued his two predecessors, Ronald Reagan and Jimmy Carter.

In the morning, Bush traveled by helicopter across the Potomac River to Ft. Meyer in Arlington, Va., to mark the 200th anniversary of the founding of the Department of War, which later became the Defense Department. Bush ended his speech to the assembled military officers there by saluting ``every brave American`` who ever served in the nation`s armed forces.

Then he mentioned the one individual who has absorbed much of the nation`s attention for the past week.

``And we cannot leave here today without pausing to salute one who stands as a symbol of the courage that burns in the breast of every American in uniform,`` said Bush, ``one marine who has been very much in our thoughts, Lt. Col. Higgins, William Richard Higgins.``

The New York Times

This copy is for your personal, noncommercial use only. You can order presentation-ready copies for distribution to your colleagues, clients or customers, please click here or use the "Reprints" tool that appears next to any article. Visit www.nytreprints.com for samples and additional information. Order a reprint of this article now. »

December 5, 1991
THE LAST U.S. HOSTAGE

THE LAST U.S. HOSTAGE; ANDERSON, LAST U.S. HOSTAGE, IS FREED BY CAPTORS IN BEIRUT

By CHRIS HEDGES,

DAMASCUS, Syria, Dec. 4— Terry A. Anderson, the last American and longest-held hostage in Lebanon, was set free tonight by his kidnappers after nearly seven years in captivity.

"I've thought about this moment for a long time and now it's here," he told reporters at the Syrian Foreign Ministry here. "I'm scared to death. I don't know what to say."

Mr. Anderson, who was chief Middle East correspondent for The Associated Press when he was seized in Beirut on March 16, 1985, said he was in good health. He smiled and laughed as he recognized old friends in the press corps assembled here for the successive release of three American hostages in as many days. 2 Germans May Be Left

Two Germans, Thomas Kemptner and Heinrich Strubig, are believed to be still held captive in Lebanon, and today the United Nations special envoy in negotiating the hostages' release, Giandomenico Picco, said he would continue to work to free them. Mr. Picco is going to Bonn to discuss the situation amid reports that a deal has been struck for the freedom of all Western captives. Mr. Anderson, though, said he had no news from his captors about the Germans.

Asked how he survived the ordeal, Mr. Anderson, who is 44 years old, said he did it through persistence and a little stubbornness.

"You just do what you have to do," he said. "You wake up every day, summon up the energy from somewhere and you get through the day, day after day after day."

[In Wiesbaden, Germany, American military doctors who examined Alann Steen and Joseph Cicippio, the two hostages freed immediately before Mr. Anderson, said they had suffered lasting damage from blows and kicks to the head by their captors. Mr. Steen has seizures, they said, and Mr. Cicippio has experienced disorientation and dizziness. Page A20.] New Clothes, and an Escort

Mr. Anderson's release followed what has become a familiar pattern. His kidnappers in Beirut supplied him with new clothes and drove him to a Syrian military installation. From there, the Syrians drove him to Damascus.

[Mr. Anderson flew to Frankfurt, Germany, on Thursday with his fiancee and the daughter he had met for the first time, The Associated Press reported. He was then flown by helicopter to the United States

military hospital in nearby Wiesbaden for a reunion with family members.]

There were false reports earlier in the day that he had been released, when in fact, Mr. Anderson was still a prisoner. He said wryly that he was playing solitaire in his cell when he heard the BBC report that he was on his way to Damascus.

Mr. Anderson was the ninth Western hostage to be freed since August. His release came after months of negotiations led by Mr. Picco, who represented Secretary General Javier Perez de Cuellar, dealt with Iranians, Israelis and the Lebanese kidnappers in obtaining the captives' release. Today, he greeted Mr. Anderson at the Syrian Foreign Ministry, along with the United States Ambassador to Damascus, Christopher Ross, but said that much "remains to be done."

Ambassador Ross, like others today, said Mr. Anderson's release did not "signal an end of this human tragedy."

He called for the freeing of all those who "remain in detention outside the legal process and at the same time a full accounting of those who have died in captivity and the prompt return of their remains to their families."

The Israelis hold about 275 Lebanese prisoners and are seeking information on missing servicemen in exchange for their release.

Mr. Anderson did not provide many details about his lengthy ordeal. He teased reporters, noting that he had frequently been called a former Marine captain, when, in fact, he was a staff sergeant. 'I Have a Date'

He was met in Damascus today by his fiancee, Madeleine Bassil, whom he was planning to marry when he was kidnapped, and his 6-year-old daughter, Sulome, whom he had never seen.

"I have a date with a couple of beautiful ladies and I'm already late," he said.

His final hours in captivity were difficult, Mr. Anderson said, noting, "These last 24 hours were longer than the whole six and a half years."

On Tuesday, in preparation for his release, the kidnappers brought new clothes and new shoes to his cell, Mr. Anderson said, the first he has had in more than six years. He remarked that the shoes were pinching his feet.

"They told me I would be going home today," he said.

Mr. Anderson said that he had been asked to videotape a statement prepared by the abductors to explain their reasons for taking such action. But he preceded their remarks with a note that he was reading "their statement, not mine." The Few Diversions

While his release was being delayed earlier in the day, Mr. Anderson spent the time pacing his small room, which at one point he called "a cell."

"I spent the afternoon playing solitaire by candlelight and listening to the BBC report on my progress toward Damascus," he said with a grin. "It was kind of fun in a weird kind of way, like listening to your

own obituary."

When asked how he felt about being the longest-held hostage, he said it was "an honor I would gladly have given up a long time ago."

Mr. Anderson was the best-known of the captives, perhaps because his sister, Peggy Say, became a spokeswoman for him. She lobbied hard to keep her brother's plight and that of other Westerners held in Lebanon center stage in the world's attention.

Mrs. Say, in a telephone call today to The Associated Press, said her brother "looked tremendous." She also said that President Bush had called her in Wiesbaden, Germany, where she was awaiting her brother's arrival. He was to undergo medical tests and debriefing there.

"He had seen Terry on televison and he thought he looked wonderful," Mrs. Say said. "He seemed genuinely overcome with emotion. He said he had the greatest respect for what I had done. And he hoped to give me a great big hug very soon."

Mr. Anderson, at least as grateful, thanked his family -- and especially his "incredible sister." Survival Systems

"What kept me going?" he thought aloud in response to reporters' questions. "My companions. I was lucky to have people with me most of the time; my faith; stubborness. You do what you have to. You wake up every day, summon up the energy from somewhere. You think you haven't got it and you get through the day and you do it. Day after day after day."

In addition to listening to BBC radio and playing solitaire, Mr. Anderson spent some of his time pacing his small area and exercising with two plastic water bottles he used as dumbbells. He was an avid weightlifter before his capture.

He said that the messages from his family, broadcast over the BBC or local television stations or printed in local newspapers, were "very, very important."

When he was seized in 1985, Mr. Anderson was pulled from his car by the kidnappers as he returned from a tennis game.

He was taken by a pro-Iranian group, Islamic Holy War, four days after the United States vetoed a United Nations Security Council Resolution condemning Israeli policy and practices in southern Lebanon, where the Israelis and their Lebanese allies patrol a border buffer zone. How Others Fared

At the time of his abduction, four other Americans were being held in Lebanon: William Buckley, later identified as the C.I.A. station chief in Beirut, who was killed; the Rev. Benjamin Weir, who was released a year later; Peter Kilburn, who was found dead in 1986, and a Roman Catholic priest, the Rev. Lawrence Martin Jenco, who was released in 1986. Mr. Buckley and the two clergymen had been held with Mr. Anderson.

Mr. Anderson's daughter Sulome, his second, was born on June 7, 1985. He did not know of her birth until October that year, when his kidnappers permitted him to see a videotape of the child broadcast on Lebanese TV to celebrate his 38th birthday.

Annex 54

In an eight-page letter delivered to his family, Mr. Anderson described his reaction at seeing his daughter for the first time.

"Madeleine, my love, my heart," he wrote, "I saw our daughter on TV the other night and I cried for joy. I only saw her for two or three seconds, enough to notice your black hair and beautiful bright eyes. But I can't describe how it felt to end months of not knowing."

The journalist's captors had told him on several occasions that he would be released, even buying him new clothes and allowing him a rare glimpse of sunlight, according to those held with him.

But each time the hopes were crushed, and at one point the kidnappers demanded that he return a suit they had bought for him.

Mr. Anderson was born in Loraine, Ohio, and grew up in Batavia, 40 miles east of Buffalo. He joined the Marines in 1965 and served six years.

He began work at The Associated Press after graduating from Iowa State University. He worked in Detroit, Louisville and New York before going overseas to Tokyo, Johannesburg and eventually Beirut.

He was married in 1968 while in Japan. His wife, Mihoko, and daughter Gabrielle came to Lebanon with him in 1982. But they returned to Japan in 1984.

Mr. Anderson was awaiting a divorce from his wife to marry his fiancee when he was kidnapped. Above All, Resourceful

Other hostages have described the journalist as an anchor, who kept up morale. He taught fellow prisoners how to make Scrabble and Monopoly games to amuse themselves, according to a conversation that Mrs. Say had with a former hostage, Frank Reed.

Brian Keenan, an Irishman who was held with Mr. Anderson and released on Aug. 24, 1990, described him as "a bit of a bulky and belligerent newspaper man who had a voracious hunger for intellectual conversation, and when he did not get it, he would pace the floor endlessly in his patched, repatched and even more patched but still very holy socks."

"Terry would, like us all, suffer periods of despair and seek solace in his family," Mr. Keenan said. "After many long periods of silence, Terry and myself would sit through those long nights and speak, with much pain and remorse and longing for his daughter."

When Mr. Anderson was asked what he would say to his daughter when he saw her for the first time he said he "hadn't figured it out yet."

"That's between me and my daughter," he said.

But when asked what his last words were to his kidnappers he said, with a sardonic ring in his voice: "Goodbye." ---------- Israel Is Pessimistic

JERUSALEM, Dec. 4 (Special to The New York Times) -- While welcoming Mr. Anderson's release, Israeli officials said today that they saw little chance of receiving word soon about four of their servicemen who

have been missing in Lebanon for years.

And if there is no information on these men, they warned, they are not likely to free any more of the Arabs being held prisoner by Israel and its surrogate militia in southern Lebanon.

Above all, the officials said, they intend to keep on holding Sheik Abdel Karim Obeid, a Shiite Muslim cleric taken by Israeli soldiers two years ago from his home in southern Lebanon.

In much the same way that Mr. Anderson symbolized the plight of the Western hostages because of the length of his ordeal, Sheik Obeid looms large for pro-Iranian groups that have said that freedom for him is essential to end the hostage and prisoner taking.

Uri Lubrani, the chief Israeli negotiator, was interviewed after Mr. Anderson's release. He expressed doubt that he would learn anything quickly about the missing servicemen.

Photos: Terry A. Anderson greeting reporters yesterday in Damascus after being freed by kidnappers in Lebanon. (Associated Press) (pg. A1); Terry A. Anderson was surrounded by reporters and well-wishers yesterday in Damascus after being freed from nearly seven years in captivity.; Madeline Bassil, Mr. Anderson's wife, and their daughter, Sulome, as they awaited his arrival yesterday in Damascus. (Associated Press) (pg. A20)

Copyright 2017 The New York Times Company | Home | Privacy Policy | Search | Corrections | XML | Help | Contact Us | Back to Top

90-133 F

CRS Report for Congress

Lebanon:
The Remaining U.S. Hostages
A Chronology, 1984-1988

Clyde R. Mark
Specialist in Middle East Affairs
Foreign Affairs and National Defense Division

March 6, 1990



Congressional Research Service • The Library of Congress

LEBANON:
THE REMAINING U.S. HOSTAGES
A CHRONOLOGY, 1984-1988

SUMMARY

The detailed chronology in "Lebanon: The Remaining U.S. Hostages -- A Chronology, 1984-1988," is intended to supplement the brief chronology covering 1989-1990 in Congressional Research Service Issue Brief 85183, "Lebanon: The Remaining U.S. Hostages." The Issue Brief also includes background on the hostages, groups involved in the kidnappings, and efforts to free the hostages.

LEBANON:
THE REMAINING U.S. HOSTAGES
A CHRONOLOGY, 1984-1988*

12/26/88 --- In Benghazi, Libya, the Fatah Revolutionary Council (also known as Abu Nidal) released two French girls -- Virginie Betille, age seven, and her sister Marie-Laure, age seven -- held captive with the girls' mother and five Belgian citizens since November 1987. There are contradictory reports about the kidnapping; one report says the group was kidnapped from a yacht off the coast of the Gaza Strip, but another report says they were seized off Libya. One report says they are held in Lebanon, but other reports say they are held in Libya. One reports says the kidnapped group holds dual French-Israeli or Belgian-Israeli citizenship.

11/17/88 -- Peter Winkler, a Swiss national working for the International Committee of the Red Cross, was kidnapped near the Ayn al-Halwah refugee camp near Sidon, in southern Lebanon. Winkler was released on Dec. 16, 1988.

10/31/88 --- Islamic Jihad released a videotape of Terry Anderson, the U.S. hostage held since Mar. 16, 1985, in which Anderson appealed to President Reagan to use his influence in a positive way to gain the release of the hostages.

10/03/88 --- Mithileshwar Singh, a citizen of India and a resident alien of the United States, was released in Beirut by the Islamic Jihad for the Liberation of Palestine. Singh and three U.S. colleagues, all teachers at Beirut University College, were kidnapped on Jan. 24, 1987.

09/12/88 -- Rudolph Cordes, the 55-year-old Hoechst pharmaceutical manager kidnapped on Jan. 17, 1987, was released in west Beirut by the "Strugglers for Freedom." West German officials said there were no conditions for Cordes release, and that no ransom was paid. The "Strugglers for Freedom" said that Cordes was released after receiving West German "guarantees for a

---

*Primary sources include the Foreign Broadcast Information Service Daily Report, the Middle East and Africa, FBIS teletype wire service, the Washington Post, the New York Times, Time, Newsweek, the Christian Science Monitor, and other public news sources.

settlement" of the two Hamadi brothers imprisoned in West Germany for hijacking.

09/12/88 --- Kenneth Paul Wells, a 25-year-old American employed in Saudi Arabia, escaped from would-be kidnappers near Baalbak, Lebanon. The attempt was made as Wells and his Lebanese bride left their wedding celebration. Wells disarmed his attackers and escaped by using karate.

07/29/88 --- The U.N. Security Council passed unanimously Resolution 618 (1988) condemning the abduction of Lt. Col. William Richard Higgins of the U.N. Truce Supervision Organization, and demanding his immediate release. Higgins was kidnapped on Feb. 17, 1988.

07/26/88 --- Iranian majlis speaker Rafsanjani said Iran would intercede with the captors holding U.S. hostages in Lebanon if the United States would release Iranian assets frozen during the hostage crisis of 1979-1981. The assets are the subject of Iranian-U.S. arbitration underway at the Hague, Netherlands.

07/17/88 --- Iran accepted U.N. Resolution 598 of July 20, 1987, which called for a cease-fire in the Iran-Iraq war. Iraq accepted the cease-fire shortly after the resolution was passed. Many analysts assumed that an end to the war could lead to Iranian intercession with the captors holding U.S. and other hostages in Lebanon.

07/10/88 --- The Sunday Express of London cited reports from "intelligence sources" that 10 hostages (three British and seven Americans) had been moved from Beirut to the Bekaa Valley or to Iran. Such rumors have appeared frequently in Lebanon. Another rumor in late June said all the hostages were gathered together at an abandoned army barracks in south Beirut. One rumor circulating in May said Iran would tell the Lebanese captors to release the U.S. hostages in September in an attempt to influence the U.S. Presidential elections.

07/07/88 --- Islamic Jihad told a Beirut radio station that it would execute one U.S. hostage in retaliation for the United States shooting down Iran Air flight 655 over the Strait of Hormuz on July 3. There were no survivors among the 290 passengers and crew of flight 655.

05/27/88 --- Syrian forces entered south Beirut to police a negotiated cease-fire between Amal and Hizballah forces. Many of the hostages are believed to be held in south Beirut.

05/21/88 --- Jan Cools, a Belgian doctor, was kidnapped outside a Palestinian refugee camp near Tyre in southern Lebanon. Cools worked with a Norwegian volunteer group helping Palestinian and Shia Muslim refugees. On Dec. 18, 1988, a group called Jund al-Haq (soldiers of the right) claimed to have kidnapped Cools. The group claimed Cools was an Israeli spy.

05/13/88 --- William Buckley was given a symbolic burial, with military honors, at Arlington National Cemetery. Buckley, the CIA 'station chief' in Beirut, was kidnapped on Mar. 18, 1984, and is reported to have died in captivity on June 3, 1985. His body has not been recovered.

05/04/88 -- Islamic Jihad released three French hostages, diplomats Marcel Canton and Marcel Fontaine, held since Mar. 22, 1985, and journalist Jean-Paul Kaufman, kidnapped on May 22, 1985. According to press reports, France secured their release by agreeing to pay a $1 billion debt owed to Iran from the days of the Shah.

04/18/88 --- Voice of Lebanon radio (conservative Christian) reported that Lt. Col. William Richard Higgins, kidnapped Feb. 17, 1988, had been killed sometime in the past month during fighting between Amal and Hizballah forces in southern Lebanon. The O.O.E. delivered a picture of Higgins to a news agency in Beirut Apr. 21 and said Higgins would be tried for spying.

03/04/88 --- Peter Coleridge, a British official with Oxfam, and Umar Tarabulsi, a Syrian representing Oxfam in Lebanon, were kidnapped near Sidon in south Lebanon. The two were released Mar. 8, 1988.

03/02/88 --- Two Iranians, Adil Irani and Yusuf Istfan, were kidnapped in west Beirut, and were released Mar. 4, 1988.

02/19/88 -- The Organization for the Oppressed of the Earth claimed responsibility for kidnapping William Richard Higgins on Feb. 17, and released photocopies of Higgins' identification cards. On Feb. 22, the group released a 70-second videotape of Higgins. On Mar. 1, the O.O.E. said it would try Higgins for espionage.

02/17/88 --- Lt. Col. William Richard Higgins, USMC, serving with the U.N. Truce Supervisory Organization (UNTSO) in southern Lebanon, was kidnapped south of Tyre while en route back to his headquarters at Ras Naqurah, on the Lebanon-Israel border. On Feb. 18, a group calling itself the Islamic Revolutionary Brigade claimed responsibility for the kidnapping. (U.S. military officers have served with UNTSO since its inception in 1948, when it was formed to observe the cease-fires in the Arab-Israeli war.)

02/11/88 --- Two Swedish journalists, reporter Folke Ryden and photographer Andre Lada, were kidnapped near the Beirut airport, but were released after a few hours when the kidnappers discovered that they were not West Germans.

02/05/88 --- William Jorgenson of Norway and Jan Stening of Sweden, both of whom worked for the United Nations Relief and Works Agency nutrition and supplies program, were kidnapped near Sidon, in southern Lebanon. According to reports from Stockholm and UNRWA officials, the two may have been kidnapped by a PLO faction seeking revenge for UNRWA's firing of six Palestinians accused of stealing by Stening. Jorgenson and Stening were released Mar. 1 by the "Revolutionary Cells Organization."

01/27/88 --- Rolf Schray, a West German engineer and long-time resident of Beirut, was kidnapped in Beirut. News sources reported that Schray was kidnapped on the orders of Abd al-Hadi Hamadi, supposedly the security chief for Hizballah and brother of Muhammad and Abbas Hamadi, both under arrest in West Germany. Schray was released by "Strugglers for Freedom" Mar. 3, 1988.

11/27/87 --- French hostages Jean-Louise Normandine, kidnapped Mar. 8, 1986, along with three other members of a French television team, and Roger Auque, a journalist and photographer kidnapped Jan. 13, 1987, were released at the Summerland Hotel in west Beirut. The Revolutionary Justice Organization claimed the kidnapping of Normandine, but no group had claimed responsibility for Auque's abduction. RJO also announced Nov. 27 that it had released all its French hostages in return for assurances from the French government that France would change its "intentions" in the Middle East.

10/26/87 --- Mr. To Chae-Sung, a secretary at the South Korean embassy in Beirut, was released to Amal, who turned him over to the Korean embassy. To was kidnapped Jan. 31, 1986, and, according to press reports, was released after the payment of $1 million in ransom.

09/07/87 --- West German electronics technician Alfred Schmidt, kidnapped in west Beirut Jan. 20, 1987, was released to Syrian authorities in Beirut. Siemans, Schmidt's employers, denied that the company paid ransom to the "Strugglers for Freedom Organization" that claimed to have kidnapped Schmidt.

08/31/87 --- Joseph Khuri, an Italian citizen of Lebanese origin, was kidnapped in west Beirut. Khuri was released Sept. 5, 1987,

with the help of the Amal militia. Amal officials turned Khuri over to the Italian ambassador at Amal headquarters, but would not say how they had secured his release.

08/18/87 --- Charles Glass, the American journalist kidnapped June 17, 1987, escaped, or was allowed to escape, from his captors in south Beirut. Glass appeared at the Summerland Hotel, was taken to Damascus by Syrian military authorities, and released to U.S. Charge d'Affaires David Ransom.

06/29/87 --- Monte Carlo radio, citing Beirut sources, said Terry Anderson and Thomas Sutherland had been taken to Iran. Beirut radio, citing London sources, reported July 1, 1987, that the two Americans and British negotiator Terry Waite were in the Iran city of Qum. The weekly magazine al-Shira reported on June 13 that U.S. hostages had been moved to Iran. The reports were not verified.

06/22/87 --- West German government sources said the German Government would reject the U.S. request for the extradition of Muhammad Hamadi. According to press reports, West German authorities promised Attorney General Edwin Meese during his June 23 visit that Hamadi would be tried for murder and air piracy.

06/19/87 --- President Reagan sent a letter to Syrian President Hafiz al-Assad offering to improve relations between the two countries. The letter, in the drafting stage before the Glass kidnapping on June 17, included a reference to Syrian efforts to free the U.S. hostages in Lebanon.

06/17/87 --- ABC newsman Charles Glass was kidnapped in south Beirut. Glass was seized by 10 men while traveling with Ali Adil Usayran, son of Lebanon's Defense Minister, and Sulayman Salman, Usayran's guard and driver. Usayran and Salman, who volunteered to accompany Glass into captivity, were released June 24, 1987.

05/26/87 --- The Washington Post reported that West Germany was considering an arrangement that would free the two West Germans held in Lebanon in exchange for trying the Hamadi brothers on lesser charges that would ensure their release within six months. Under the arrangement, according to the press report, Muhammad Hamadi would not be extradited to the United States.

05/14/87 --- Islamic Jihad for the Liberation of Palestine delivered a videotape of Alann Steen to the Beirut newspaper al-Nahar. Steen appeared healthy in the tape, and appealed for the release of Arab prisoners held in Israeli jails.

03/26/87 --- In a videotape released by IJLP, hostage Jesse Turner said Alann Steen was ill, suffering from symptoms that appeared to describe a stroke. IJLP repeated its offer to exchange Steen for 100 prisoners in Israel.

03/23/87 --- Islamic Jihad for the Liberation of Palestine said U.S. hostage Alann Steen was gravely ill, and in danger of dying. IJLP offered to exchange Steen for 100 prisoners in Israel.

03/12/87 --- The Revolutionary Justice Organization threatened to execute French hostage Jean-Louise Normandine within 48 hours unless the French government clarified remarks made by President Mitterand on French aid to Iraq. Two days later, the Revolutionary Justice Organization repeated the threat. On Mar. 18, RJO postponed the execution for one week. On Mar. 23, RJO withdrew the death threat against Normandine.

02/22/87 --- Syrian troops moved into west Beirut in an attempt to quell the fighting and restore order.

02/19/87 --- According to the Voice of Lebanon radio, Hizballah tried to kidnap an Australian officer assigned to the U.N. Truce Supervisory Organization in Beirut, but was stopped by members of the Amal militia.

02/13/87 --- The Nidal al-Shab magazine, which represents views of the Palestine Popular Struggle Front, said Terry Waite had been abducted because he failed to deliver $5 million in ransom for the four university professors kidnapped Jan. 24. The magazine said the United States backed out of the ransom arrangement for fear of another scandal.

02/09/87 --- Both the White House and the Israeli government denied that they were considering a three-way swap of 400 Lebanese and Palestinian prisoners held by the Israelis and the South Lebanon Army for the four professors kidnapped Jan. 24, and the Israeli airman held by Hizballah.

--- Shortly before midnight (10 p.m. GMT, 5 p.m. EST), the Islamic Jihad for the Liberation of Palestine (IJLP) delivered a message and a picture of hostage Polhill to a Western news agency in Beirut stating that the midnight deadline had been "deferred for the time being." IJLP said Jan. 31 that it would kill the four BUC professors at midnight Feb. 9, if Israel did not release 400 imprisoned Lebanese and Palestinians. IJLP said it deferred the deadline to allow time to explore "positive points" offered by Israel. Israel's Defense Minister Yitzhak Rabin said Israel would

consider what it could do if it received a U.S. request to exchange the Israeli prisoners for the Lebanese hostages.

02/08/87 --- Beirut television played a 10-minute videotape of hostage Alann Steen reading a text that asked the United States to "order" Israel to release the 400 Lebanese and Palestinians in exchange for the three U.S. and one Indian citizens held by the Islamic Jihad for the Liberation of Palestine.

--- The Revolutionary Justice Organization issued a statement that said British negotiator Terry Waite was detained on Jan. 20, 1987, because he carried a transmitter capable of telling the United States the location of the kidnappers when he began his negotiations Jan. 20. The message was accompanied by a photograph of U.S. hostage Edward Tracy.

02/07/87 --- Nabih Berri, leader of the Amal group of Lebanese Shia Muslims, offered to exchange an Israeli pilot, captured by Amal Oct. 16, 1986, for the 400 Lebanese and Palestinians held by Israel, which in turn would result in the release of the three Americans and one Indian held by IJLP. Israel, which has made such exchanges before, gave an ambiguous response to Berri's suggestion. On Feb. 14, 1987, IJLP announced that the proposed exchange was called off.

02/01/87 --- The Islamic Jihad Organization for the Liberation of Palestine (IJLP) said it would exchange the four Beirut University College professors kidnapped Jan. 24 for 400 Lebanese and Palestinians detained in Israel. One IJLP statement was accompanied by a photograph of Alann Steen and another IJLP statement was accompanied by a photo of Jesse Turner. Israeli Prime Minister Yitzhak Shamir rejected the proposed exchange the next day.

01/28/87 --- According to a West German radio report, a woman thought to be French was kidnapped in west Beirut, but was released the next day when her abductors discovered she was Swiss.

--- The "Islamic Jihad for the Liberation of Palestine" claimed credit for kidnapped Steen, Turner, Polhill, and Singh Jan. 24, 1987.

--- The Reagan Administration banned travel to Lebanon. The estimated 1,500 citizens, many with dual citizenship or married to Lebanese, have 30 days to leave Lebanon.

01/27/87 --- The West German government arrested Ali Abbas Hamadi, a West German citizen and brother of accused hijacker Muhammad Ali Hamadi who was arrested Jan. 13. According to press reports, another Hamadi brother, Abd al-Hadi, is head of security for Hizballah, the group believed behind many of the

kidnappings, including the two West Germans seized in mid-January 1987.

01/24/87 --- Four men were kidnapped from the campus of Beirut University College by gunmen posing as Lebanese police. The four are Alann Steen, Jesse Turner, Robert Polhill, all U.S. citizens, and Mithileshwar Singh, an Indian citizen and resident of the U.S.; all four are professors at the College, not to be confused with American University of Beirut.

01/20/87 --- Alfred Schmidt, a West German electronics technician, was kidnapped from the Summerland Hotel in west Beirut. Unconfirmed reports suggested that the two West Germans, Cordes and Schmidt, would be offered in an exchange for Hamadi, under arrest in Frankfort.

01/17/87 --- West German businessman Rudolf Cordes was kidnapped by unknown gunsmen as he left the Beirut airport. Cordes' kidnapping was in retaliation for the West German arrest of Muhammad Ali Hamadi Jan. 13. Hamadi has been linked to the June 1985 hijacking of TWA flight 847 and the murder of U.S. citizen Robert Stethem.

12/24/86 --- French hostage Aurel Cornea, one of four French television technicians captured on Mar. 8, 1986, was released in Beirut. The Revolutionary Justice Organization held Cornea and continues to hold U.S. citizens Cicippio and Tracy.

11/27/86 --- The French Prime Minister's office denied reports that France would trade a convicted terrorist for French hostages in Beirut. On Dec. 12, the Prime Minister's office denied another report that France paid 15 million francs for the release of two French hostages freed on Nov. 11.

11/11/86 --- Two French hostages, Camille Sontag, an 85-year-old retired automobile salesman, and Marcel Coudary-Ghassemi, a 54-year-old businessman, were released in Beirut by the Revolutionary Justice Organization, the same group that holds U.S. citizens Cicippio and Tracy. Sontag was kidnapped on May 7, 1986, and Coudary was kidnapped in February 1986, although his kidnapping was not reported until Sept. 24, 1986. Sontag said he may have seen Irishman Brian Keenan, kidnapped on Apr. 11, 1986, during his captivity. The French government thanked Syria, Saudi Arabia, and Algeria for arranging the release.

11/04/86 --- The speaker of Iran's Parliament, Ali Akbar Rafsanjani, told reporters in Teheran that former White House security adviser Robert McFarlane and four unidentified Americans had visited Tehran disguised as airline service personnel with an offer to

provide weapons and spare parts to Iran in exchange for Iranian assistance in securing the release of U.S. hostages held in Lebanon. Rafsanjani said McFarlane and the other four were detained at a Tehran hotel for five days before being deported from Iran. No Iranian officials met with the Americans, the speaker said. The *Washington Post* reported on Nov. 5 that "intelligence sources" confirmed that McFarlane went to Iran in May 1986.

11/02/86 --- David Jacobsen was released in west Beirut near the former U.S. Embassy. Jacobsen, the American University of Beirut (AUB) hospital administrator kidnapped by Islamic Jihad, on May 28, 1985, flew from Beirut to Cyprus with Terry Waite, the envoy of the Archbishop of Canterbury who was involved in the negotiations for his release.

10/24/86 --- Britain broke diplomatic relations with Syria following the trial and conviction of a Jordanian linked to Syria in an airline bombing attempt. How the diplomatic break will affect British negotiations for the release of the two British hostages is not known.

10/21/86 --- Edward Austin Tracy, a 55-year-old American from Rutland, Vermont, was kidnapped in Beirut. The "Revolutionary Justice Organization" sent a letter and two photos of Tracy to a Western news agency in Beirut claiming it kidnapped Tracy because he was a spy for Israel and the CIA. The Revolutionary Justice Organization also claimed to have kidnapped U.S. citizen Joseph Cicippio on Sept. 23, 1986, and Frenchman Marcel Coudary-Ghassemi on Sept. 26, 1986. Tracy was a convert to Islam.

10/06/86 --- Islamic Jihad sent a television tape to a Western news agency in Beirut that showed French hostages Marcel Carton, Marcel Fontaine, and Jean-Paul Kaufmann. The three appealed to the French government to secure the release of the 17 prisoners in Kuwait in exchange for their release from Lebanon.

10/03/86 --- Islamic Jihad sent a television tape to a Western news agency in Beirut that included statements by David Jacobsen and Terry Anderson appealing to President Reagan to negotiate for their release. In the tape, both men said hostage William Buckley was dead. Islamic Jihad repeated its demand that the 17 men held in Kuwait for the December 1983 bombings be released in exchange for Anderson, Jacobsen, and Sutherland.

--- Beirut television broadcast a tape made by members of the hostages' families and former hostage Father Martin Jenco

appealing to Islamic Jihad for the release of the remaining U.S. hostages in Lebanon.

10/01/86 --- French television journalist Jean-Marc Sroussi escaped from a shed where he was held by knocking a hole in a wall with a brick. Sroussi had been kidnapped on Sept. 28, 1986, while crossing from east Beirut into west Beirut.

--- Secretary of State George Shultz met with Syrian Foreign Minister Faruk Sharra at the United Nations to discuss Syrian assistance in freeing the six Americans held hostage in Lebanon.

09/28/86 --- The French Embassy in Beirut confirmed that French television reporter Jean-Marc Sroussi, 41, was kidnapped in south Beirut.

09/26/86 --- British journalist David Hirst was kidnapped by three gunsmen in south Beirut, but escaped by bolting from his abductor's automobile when it stopped in a Beirut neighborhood.

09/24/86 --- The "Organization of Revolutionary Justice" sent a letter and pictures to *al-Nahar*, the Beirut newspaper, claiming to have kidnapped a French citizen, Marcel Michel Coudary-Ghassemi, who the kidnappers claimed was a member of a French intelligence service counterterrorist team. The pictures were of Coudary-Ghassemi and Joseph Cicippio, the American kidnapped on Sept. 12, 1986. AFP identified Coudary-Ghassemi as a dual French-Lebanese national.

09/16/86 --- AFP reported that a Western news agency in Beirut received a letter from Islamic Jihad that accused President Reagan of following a "deceitful" policy because he was willing to negotiate for the release of U.S. journalist Nicholas Daniloff in Moscow but was not willing to negotiate with Islamic Jihad for the release of Jacobsen, Anderson, and Sutherland. The Islamic Jihad letter was accompanied by a photograph of Jacobsen and a three-page letter from Jacobsen.

09/14/86 --- The "Umar al-Muhktar Forces of the Arab Revolutionary Cells" claimed responsibility for kidnapping U.S. citizens Frank Reed and Joseph Cicippio in a telephone call to a Beirut news agency. Umar al-Mukhtar was a Libyan hero in the resistance against italian occupation.

09/13/86 --- The Voice of Lebanon radio (conservative, Christian) reported that an anonymous caller claimed that "al-Baath Cells Organization" was responsible for the kidnapping of Reed and Cicippio. Baath (Arabic for rebirth or renaissance) parties control Syria and Iraq, although the two parties do not cooperate.

09/12/86 --- An American citizen, Joseph James Cicippio, the deputy comptroller at American University of Beirut, was kidnapped by five gunmen while crossing the AUB campus in west Beirut. Cicippio is 56 years old, a convert to Islam, and is married to a Lebanese woman who works for the U.S. Embassy in east Beirut.

09/11/86 --- The Voice of Lebanon radio (conservative, Christian) reported that an international news agency in Beirut received a letter from Islamic Jihad denying involvement in the kidnapping of Frank Reed on Sept. 9, 1986. The letter was accompanied by a color photograph of captive David Jacobsen.

09/09/86 --- U.S. citizen Frank Herbert Reed, the headmaster of the Lebanese International School, was kidnapped in south Beirut, near the Beirut hospital. A person representing Islamic Jihad called the AFP office in Beirut to claim responsibility for the seizure, stating that Reed was a CIA agent and was carrying "compromising documents" at the time of his capture. The Islamic Jihad caller also said that Reed had converted to Islam and married a Syrian woman as a cover for his intelligence activities.

08/12/86 --- Syrian President Assad met with a delegation of Arab-Americans to discuss, among other issues, the Syrian role in securing the release of the U.S. hostages held in Lebanon.

08/09/86 --- Islamic Jihad sent a message to the Beirut newspaper *al-Nahar* denouncing Secretary of State George Shultz for his statement of Aug. 5, in which the Secretary said the United States would not negotiate for the release of the hostages. The Islamic Jihad message was accompanied by a photograph of U.S. hostage David Jacobsen.

07/26/86 --- Father Lawrence Martin Jenco was released in the Bekaa Valley of Lebanon. Jenco was taken to Damascus where he was turned over to U.S. Ambassador William Eagleton. In Damascus, Jenco met with Peggy Say, sister of hostage Terry Anderson. Jenco said he had been held with Anderson, Jacobsen, and Sutherland, but knew nothing about William Buckley. Jenco carried a 7-minute videotape of hostage David Jacobsen, in which Jacobsen appealed to the U.S. Government to negotiate for the release of the other hostages.

07/17/86 --- U.S. Congressman George O'Brien died. Congressman O'Brien had been active in seeking the release of the American hostages held in Lebanon, and had traveled for Syria in August 1985 to appeal to President Assad for assistance.

07/16/86 --- Saudi diplomat, Sulayman Muhammad al-Mubarak was kidnapped in Beirut, but was freed two hours later after a Lebanese police and army dragnet caught his captors.

07/01/86 --- Steven J. Donahue, 32 years old from New Jersey, was released after almost one year in captivity in Lebanon. *The Washington Post* reported that Donahue said he was an undercover agent for the U.S. Drug Enforcement Agency and that he had been released after his family paid a $400,000 ransom. DEA denied that Donahue was an agent. The Department of State had known of Donahue's captivity since October 1985, but did not consider him a political captive similar to the other five U.S. citizens still held in Lebanon.

06/30/86 --- Congressman Robert Dornan met with Syrian President Assad and other Syrian officials in Damascus to present a letter, signed by some 250 Members of the House of Representatives, appealing for Syrian help in freeing the five Americans still held captive in Lebanon.

06/21/86 --- The two Cypriot students, Pirkides and Yiannakis, kidnapped on Apr. 28, 1986, were released in west Beirut after an appeal by PLO leader Yasir Arafat.

06/20/86 --- Two French hostages, Phillipe Rochot and Georges Hansen, were released at a hotel in east Beirut. The two had been kidnapped, along with two other French members of a television crew, on Mar. 8, 1986.

05/07/86 --- A French citizen, 84-year-old Camille Sontag, was kidnapped in west Beirut by two armed men.

04/28/86 --- Panikos Pirkides and Stavros Yiannakis, Cypriot students at the American University of Beirut, were kidnapped in west Beirut. The Abu Nidal terrorist group claimed responsibility for the adduction.

04/23/86 --- *Al-Nahar*, the Beirut newspaper, received a videotape film showing a man being hung. The Organization of Revolutionary Socialist Muslims claimed the man was Alec Collet, missing since Mar. 25, 1985. The ORSM claimed Collet was killed in retaliation for British cooperation in the Apr. 15 U.S. attack on Libya.

04/20/86 --- The body of Peter Kilburn, 62, the former librarian at AUB, arrived at Andrews Air Force base in Virginia.

04/18/86 --- UPI reported that one of the bodies found on Apr. 17 was not Alec Collet, but was Peter Kilburn, the U.S. librarian at AUB kidnapped on Dec. 3, 1984.

04/17/86 --- The bodies of three men, believed to be Alec Collet, John Leigh Douglas, and Phillip Padfield, all British citizens were found 10 miles southeast of Beirut. Collet had been kidnapped on Mar. 25, 1985, Douglas and Padfield had been kidnapped on March 28, 1986. The Organization of Revolutionary Socialist Muslims claimed to have "executed" the three men in retaliation for British cooperation in the U.S. air attack on Libya on Apr. 15, 1986.

--- British journalist John McCarthy was abducted near the Beirut airport. McCarthy worked for the World-wide Television News of Great Britain. A group calling itself the "Hilal ibn al-Qadhafi Organization" ("sons of the Qadhafi crescent") telephoned the Voice of Lebanon radio station in Beirut to claim credit for the kidnapping.

04/11/86 --- Brian Keenan, an Irish national teacher at the American University of Beirut, was kidnapped in west Beirut.

--- Lebanese hunters surprised four or five armed men with a blindfolded and tied captive in the Bekaa Valley. The hunters fired shots and the armed men fled, leaving behind their captive, Michel Brillant, the French teacher kidnapped on Apr. 8, 1986.

04/08/86 --- A French citizen, Michel Brillant was kidnapped in west Beirut. Brillant is a teacher at the Protestant College in Beirut.

03/28/86 --- John Leigh Douglas and Phillip Padfield, British subjects and professors at the American University of Beirut, were kidnapped in Beirut.

03/10/86 -- A Beirut newspaper received a picture of French citizen Michel Sauret, which the senders claimed showed Sauret after he had been killed. Officials said the picture was inconclusive.

03/08/86 -- Four members of an Antenne two French television crew were kidnapped in south Beirut after filming a meeting of the Hizballah Shia faction. The four, Philippe Rochot, Georges Hansen, Aurel Cornea, and Jean-Louise Normandine, and their Lebanese driver, were seized by Islamic Jihad. The Lebanese driver was released the same evening.

03/05/86 -- A letter from Islamic Jihad to a news bureau in Beirut claimed that French citizen Michel Sauret had been executed.

02/19/86 --- Spanish diplomat Pedro Sanchez and two Lebanese employees of the Spanish Embassy were delivered to the House of Amal leader Nabih Berri, who handed the three men over to the Spanish Ambassador.

01/31/86 --- South Korean diplomat To Chae-Song was kidnapped in west Beirut. The "Green Brigades" claimed responsibility for the kidnapping and demanded $10 million in ransom for To's release. Another group, the "Fighting Revolutionary Cells," claimed credit for the abduction two days later. Neither group had been known before the Korean's seizure.

01/17/86 --- Kidnappers seized Spanish diplomat Pedro Sanchez and two Lebanese employees of the Spanish Embassy. An unidentified caller told AFP that the three would be released in exchange for the release of two Palestinians held in Spanish jails for shooting a Libyan diplomat in Madrid in 1984.

11/13/85 --- Terry Waite, a representative of the Archbishop of Canterbury, arrived in Beirut on the first of several trips to negotiate for the U.S., British, and French hostages.

11/08/85 --- Someone delivered a letter from hostages Jenco, Jacobsen, Anderson, and Sutherland to President Reagan to the Associated Press office in Beirut. The letter asked the President to negotiate with the captors. Letters from the hostages to their families, to Members of Congress, and to the Archbishop of Canterbury were also delivered to AP.

10/30/85 --- Three Soviet diplomats, Nikolai Virsky, Valery Mirkov, and Oleg Sprin, were released in front of the Soviet Embassy in Beirut. Four Soviets were kidnapped on Sept. 30; one was found dead on Oct. 2.

10/28/85 --- President Reagan met at the White House with families of the missing six Americans. National Security Council adviser Robert McFarlane told the families that the United States would meet with the abductors if the opportunity presented itself. Previously, U.S. officials rejected meeting or negotiating with terrorists.

10/12/85 --- Islamic Jihad sent a picture, purported to be William Buckley, to a Beirut newspaper to prove that the organization had killed Buckley as they claimed on Oct. 3. The group offered to exchange Buckley's body for the release of 100 Palestinians held by the Israelis and proposed that U.N. Secretary-General Javier Perez de Cuellar act as the negotiator for the exchange.

10/08/85 --- British citizens Hazel Moss and Amanda Magrath, kidnapped on Sept. 26, were released in Beirut. They did not know who their abductors were and said they were well treated.

10/03/85 --- Islamic Jihad claimed to have killed William Buckley, the U.S. diplomat kidnapped on Mar. 16, 1984.

09/30/85 --- Four Soviet nationals, employees of the Soviet Embassy in Beirut, were kidnapped in two separate incidents. The Islamic Liberation Organization later claimed to have the Soviet diplomats. On Oct. 2, one of the Soviets was found dead.

09/26/85 --- Two British women, Hazel Moss and Amanda Magrath, were kidnapped from their Beirut apartment. No group claimed responsibility for the kidnapping.

09/19/85 --- At a Washington press conference, Rev. Benjamin Weir said he was released to deliver a message to the United States that the kidnappers would exchange the remaining six Americans for the 17 Shia Muslims held in Kuwait for the December 1983 bombings. Weir said he had seen hostages Anderson, Jacobsen, Sutherland, and Jenco, but knew nothing of Buckley or Kilburn.

09/14/85 --- Islamic Jihad told a foreign news agency in Beirut that Benjamin Weir had been released. On Sept. 18, President Reagan announced that Weir was free and in the United States. State Department officials said Weir's release was kept secret for four days in the hope that other hostages would also be released.

09/10/85 --- Israel released the last 119 of a total 700 Lebanese prisoners held at Atlit prison in Israel. Israel had transferred the Lebanese, mostly Shia Muslims, from Lebanon when Israel began its withdrawal in April. Release of the Israeli hostages had been a demand for the release of the TWA hostages in June and for the seven remaining American hostages.

08/11/85 --- Representative George O'Brien met with Syrian President Assad in Damascus to discuss the hostage situation.

07/24/85 --- Representatives of the hostage families began two days of lobbying and public relations in Washington, D.C.

07/01/85 --- President Reagan spoke by telephone to Syrian President Assad about the plight of the seven American hostages.

06/31/85 --- 37 American citizens who were hijacked on TWA flight 847 and held in Beirut by Shia extremists were released in Damascus.

06/14/85 --- Trans World Airlines flight 847 was hijacked after leaving Athens, Greece, by Shia gunmen. U.S. Navy diver Robert Stetham was shot by the hijackers in Beirut, Lebanon.

06/09/85 --- Thomas B. Sutherland, the Dean of the School of Agriculture at the American University of Beirut (AUB), was kidnapped.

06/01/85 -- "Free Voice of Iran Radio," a clandestine, anti-Khomeini radio station, claimed that hostages William Buckley and Peter Kilburn were dead.

05/28/85 --- David Jacobsen, the Director of the AUB hospital, was seized.

03/16/85 --- Terry Anderson, the Chief Middle East Correspondent for the Associated Press, was kidnapped.

02/14/85 --- Jeremy Levin was released, or escaped, from captivity in the Bekaa Valley in eastern Lebanon.

01/ /85 --- The second of two videotapes of hostage William Buckley was received by the U.S. State Department.

01/08/85 --- Fr. Lawrence Martin Jenco, a Roman Catholic priest and director of the Catholic Relief Services operation in Lebanon, was taken hostage.

12/03/84 --- Peter Kilburn, a librarian at AUB, was last seen before his disappearance in Beirut.

07/ /84 --- The first videotape of hostage William Buckley was received by the U.S. Department of State.

05/08/84 --- The Reverend Benjamin Weir, a Presbyterian minister, was kidnapped in Beirut.

04/15/84 --- Frank Regier was freed by Amal militiamen during a raid on the hideout of an extremist organization.

03/16/84 --- William Buckley, a political officer at the United States Embassy in Beirut, was abducted.

03/07/84 --- CNN Beirut Bureau Chief Jeremy Levin was seized in Beirut.

02/10/84 --- Frank Regier, the head of the Electrical Engineering Department at AUB, was kidnapped.

The New York Times

This copy is for your personal, noncommercial use only. You can order presentation-ready copies for distribution to your colleagues, clients or customers, please click here or use the "Reprints" tool that appears next to any article. Visit www.nytreprints.com for samples and additional information. Order a reprint of this article now. »

November 19, 1991
THE HOSTAGE DRAMA

THE HOSTAGE DRAMA; 2 Western Hostages Freed in Lebanon

By ELAINE SCIOLINO,

WASHINGTON, Nov. 18— The Anglican envoy, Terry Waite, and an American educator, Thomas M. Sutherland, were released by their Shiite Muslim captors in Lebanon today, amid signs that the remaining Western hostages may be freed soon.

The release today of two of the longest-held hostages came after intense negotiations by the United Nations that have led to the freeing of four other Western hostages since August. It represents a dramatic leap toward ending the nearly eight-year hostage ordeal.

At an impromptu, chaotic appearance before reporters in Damascus after the release to Syrian officials, Mr. Waite said his captors had told him just before his release that they would free two American hostages, Joseph J. Cicippio and Alann Steen, in the next five days and the other American, Terry A. Anderson, the longest-held hostage, by the end of the month. [Excerpts from news conference, page A16.] A Captor's Apology

"This afternoon, when we were sitting together in our cell, chained to the wall as we have been chained to the wall for the last five years and, in some cases of Tom and others, for seven years -- 23 hours and 50 minutes a day -- one of our captors came in and told us that Tom and myself would be freed this evening," said the 52-year-old Mr. Waite, looking thinner, his hair grayer, than when he was abducted in January 1987 during a mediation effort on behalf of other hostages.

"He also said to me: 'We apologize for having captured you. We recognize that now this was a wrong thing to do, that holding hostages achieves no useful, constructive purpose,' " Mr. Waite said.

Mr. Waite said he did not know when two other Western hostages -- Heinrich Strubig and Thomas Kemptner, German relief workers -- would be set free. He did not mention Alberto Molinari, an Italian businessman who has been missing since 1985. Some Lebanese security officials have said they believe he is dead. Remarks by U.N. Leader

In brief remarks to reporters at the United Nations this morning, the usually cautious Secretary General, Javier Perez de Cuellar, said that both the groups holding the hostages and the Iranian Government "some time ago" had "offered" to release all of the hostages by Christmas.

The next move may be up to Israel, which has freed a number of Arab prisoners since August as part of the negotiations, but is still holding Sheik Abdul-Karim Obeid, an Islamic fundamentalist leader captured

by Israeli commandos in southern Lebanon in 1989 and its most valuable bargaining chip.

Israel said tonight that it would not release any more of the 300 Arab prisoners in its hands until it receives word about the fate of an Israeli Air Force navigator who was shot down over Lebanon in 1986. Roles of Syria and Iran

The quickening pace of hostage releases also reflects the pivotal roles played by both Syria and Iran, which have much to gain by a resolution of the thorny issue. Teheran, which has considerable influence over the Shiite Muslim groups holding the hostages, is eager to improve its political standing in the West and rebuild its economy with extensive Western help. Syria, the main power broker in Lebanon and a player in the Middle East peace talks, has tried to move closer to the West with the breakup of the Soviet Union.

Both Mr. Waite, who had been held since January 1987, and Mr. Sutherland, who was taken captive in June 1985, appeared in both good health and good spirits as they addressed reporters under a portrait of President Hafez al-Assad of Syria. But their upbeat remarks also captured some of the pain they endured during their difficult captivity, as well as the changing sentiment of their captors about the value of keeping hostages. 'A Time of Joy'

The White House press spokesman, Marlin Fitzwater, described the release today as "a time of joy," and praised the United Nations and the governments of Iran, Syria and Lebanon for their assistance. But he also called for the release of the remaining hostages, adding, "Our joy is mixed, however, with deep concern over those who remain in captivity."

President Bush has repeatedly said he would not move to improve relations with Teheran until all American hostages are released. And even then, Iran's continuing support for international terrorism remains an obstacle in building the relationship, Bush Administration officials said today.

The two countries also continue to haggle in a special tribunal in The Hague over claims stemming from the seizure of the American Embassy in Teheran in 1979. The most nettlesome are Teheran's compensation claims for United States military equipment it says it paid for before the 1979 revolution but never received and claims of dual nationals against Iran.

"People are thinking about what to do, but it would be wrong to leap to the conclusion that we are about to restore relations or anything like that," said one senior Administration official. "But there may be some small steps in that direction once all Americans are freed and if the Iranians make some statement disavowing terrorism." Major Is 'Delighted'

In London today, Prime Minister John Major said he was "absolutely delighted" by the hostage release, and stressed that it was accomplished with "no backstage deals."

The release of Mr. Waite, the last British hostage, removes the most serious obstacle for an improvement in British-Iranian relations. Britain is now in a position to upgrade its diplomatic representation in Iran by sending an ambassador to its embassy in Iran, and to offer Iran much-needed financial help in the form of loans, credits, joint ventures and other commercial deals.

In his remarks today, Mr. Sutherland, a 60-year-old former Dean of Agriculture at the American University of Beirut, thanked the United Nations, Syria, Iran and Israel for their efforts on behalf of the detainees. Israeli Role in Lebanon

But in a thinly-veiled criticism of Israel's occupation of southern Lebanon, Mr. Waite described how he and the other captives had been living under constant shelling in the last year.

"All of us, all hostages, would plead with those who are holding the people of South Lebanon, innocent people being held as hostages, to release them soon, to put an end to this problem, to put an end to terrorism, and to find peaceful, humane and civilized ways of resolving the very complex problems that face the people of the Middle East," said Mr. Waite, special envoy for the Archbishop of Canterbury who over the years had successfully won the freedom of detainees in Iran, Libya and Lebanon before he himself was seized while trying to free American captives in Lebanon.

Mr. Perez de Cuellar had confided to colleagues last week that he expected all of the remaining hostages to be released together before the end of the month. United Nations officials said the release today, which they had known about for more than a week, was somewhat surprising. Still, the officials added, he is confident that the last hostage will be freed before he leaves office at the end of the year. Condition of Anderson

Mr. Sutherland offered fresh information on the condition of Mr. Anderson, who was chief Middle East correspondent for the Associated Press when he was abducted in March 1985. Mr. Sutherland, who said he spent most of his captivity with Mr. Anderson, said, "We left Terry Anderson about three or four hours ago in Lebanon and he is no longer chained to the wall, thank God, but he is still in a room that has very little fresh air and no daylight whatsoever."

Still, Mr. Sutherland said, "He is in very good health right now; he is in very good spirits," adding that the American journalist has written poetry during captivity, which he hopes to publish eventually.

Mr. Anderson is considered the captors' most valuable bargaining chip, both because of the length of time he has spent in captivity and the extensive publicity his plight has been given over the years, and the Bush Administration has assumed that he will be among the last to be released.

Both freed hostages were in such high spirits that they used their first public statements to crack jokes about each other.

"All I can say, though, about the English -- they take a hell of a long time to get things done," said Mr. Sutherland of Mr. Waite's attempts to free him. "He came to get me out of there about five years ago and it has taken him five years to get me out."

Photo: Terry Waite, left, and Thomas Sutherland, right, at a news conference yesterday in Damascus, Syria, after they were freed in Lebanon. With them was Josef Shakkour, Syrian Assistant Foreign Minister. (Associated Press) (pg. A1) Photos of Terry A. Anderson, Joseph James Cipippio, Alann Steen and Mohammed Ali Hamadi (pg. A16) Charts: "The Pieces of the Puzzle" Westerners Missing in Lebanon Americans Terry A. Anderson: The chief Middle East correspondent of The Associated Press, 44, has been missing since March 16, 1985. He is being held by Islamic Holy War. Joseph James Cicippio: The acting controller of the American University of Beirut, 61, has been missing since Sept. 12, 1986. He is held by the

Revolutionary Justice Organization. Alann Steen: A journalism instructor at Beirut University College, 52, has been missing since Jan. 24, 1987. He is held by Islamic Holy War for the Liberation of Palestine. Other Alberto Molinari: The 72-year-old Italian businessman, who lived in Beirut, has been missing since Sept. 11, 1985. His captors are unknown. Some Lebanese security officials have said that he is dead. Heinrich Strubig and Thomas Kemptner: The two German relief workers, 50 years old and 30, have been missing since May 16, 1989. Their captors are unknown. Arab Prisoners Held in Southern Lebanon About 300 Arabs are held either by Israel or its client militia in southern Lebanon, the South Lebanon Army. Most are Lebanese, but some are Palestinians. Most of these people are labeled terrorist by Israel. But some are clearly being held, or were kidnapped, as potential bargaining chips. Key among them is Sheik Abdel Karim Obeid, a Shiite clergyman and a leader of the pro-Iranian Party of God whom Israeli commandos kidnapped in 1989 from his home in southern Lebanon. Shiite groups say that the Israelis must release Sheik Obeid if there is to be any progress in the comprehensive hostage negotiations. The Israelis he will be the last to go free. Since early August, 66 prisoners have been released. Held in Germany Two Shiite Muslim brothers, Mohammed Ali Hamadi and Abbas Hamadi, are imprisoned in Germany for hijacking, kidnapping and murder. Hostage holders in Lebanon have occasionally warned that freedom for the two German hostages hinges on the Hamadi brothers going free. Bonn says it will make no deals, but there have been reports quoting unnamed "pro-Iranian sources" that a swap agreement has been reached. Missing Israelis in Lebanon Capt. Ron Arad, whose plane was shot down over Lebanon in 1986, is the only missing serviceman believed to be alive. Three others, First Sgt. Zvi Feldman, Sgt. Zachary Baumel and Cpl. Yehuda Katz, were in a tank crew battling Syrian forces in the Bekka Valley of eastern Lebanon early in Israel's invasion of Lebanon in 1982. Publicly, Israeli officials insist in learning what happened to them. Privately, they acknowledge these men are almost certainly dead. Other Questions When Islamic Holy War released the British journalist John McCarthy in August, it demanded that all its "freedom fighters" be freed, in Israel and in Europe. Presumably, this means only the 300 being held in Southern Lebanon and not every Palestinian held in Israeli prisons since the start of the intifada. The same applies for Europe. It is not known who, other than the Hamadis, might meet this definition in other countries. Iran's Claims Missing Iranians in Lebanon Four Iranians have been missing in Lebanon since 1982 after being captured at a checkpoint of the Christian Lebanese Forces. Iran insists the four are alive, but diplomats in Beirut have been quoted as saying that they are probably long dead. A leader of the Christian militia, Samir Geagea, has said that they were killed soon after being stopped, but he has not produced their remains. Iranian Assets The Iran-United States Claims Tribunal in The Hague was set up under the Algiers accords that resolved the Teheran hostage crisis in 1981. Its purpose is to settle claims between the two governments and claims of citizens of each country against the other country's government. Work of the tribunal continues slowly. The most contentious issue involves claims filed against Iran by people who have dual citizenship, in both Iran and the United States. Iran maintains that Iranian citizens should not be allowed to pursue claims against Iran, even though they might also be United States citizens. Another major category of pending cases involves military equipment sold to Iran before the fall of the Shah. Iran says it paid for much of this equipment but never received it. (pg. A16)

Copyright 2017 The New York Times Company | Home | Privacy Policy | Search | Corrections | XML | Help | Contact Us | Back to Top

transcript

Target America
Program #2001
Original Airdate: October 4, 2001

Produced by
Michael Kirk
Martin Smith (U.K.)

Reported by
Jim Gilmore
Peter Taylor

Written by
Michael Kirk and
Peter Taylor

NARRATOR: Once, not so long ago, America faced a war against terrorists.

> **Pres. JIMMY CARTER:** No one should underestimate the resolve of the American government and the American people in this matter.
>
> **IRANIAN MAN:** The hostages are here because this is the only thing that we can have here against America!

NARRATOR: This incident, the taking of hostages at the American embassy in Iran, consumed a presidency, humiliated the U.S. military and kept the nation hostage for 444 days.

> **NEWS ANCHOR:** -and they were there for Easter. It's day number 155.

NARRATOR: A new president vowed to change all that.

> **Pres. RONALD REAGAN:** And I think the fact that they've been there that long is a humiliation and a disgrace to this country.

NARRATOR: And for eight years he tried to win a new kind of war.

This is the story of those first engagements, the battles on the ground and inside the halls of power, where the secretary of state waged bureaucratic war with the secretary of defense, while their deputies, who would one day ascend to power themselves, learned vivid lessons about what it would take to win a new kind of war.

BILL MOYERS, Frontline: Good evening. I'm Bill Moyers.

Tonight we continue our series of special FRONTLINE broadcasts conceived and produced since the tragic events of September 11th. We're trying to think hard about the issues and about the questions you have: Who and what were the forces that led to this attack? How did we Americans fail to understand the nature of the threat? And how should we, as a country, respond to terrorism?

In this report, we begin our exploration of today's events by searching for clues inside yesterday's headlines.

> **Pres. RONALD REAGAN:** Let terrorists be aware that when the rules of international behavior are violated, our policy will be one of swift and effective retribution.

NARRATOR: Once, when Americans were first targeted, the most powerful man in the world reacted with resolve.

> **Pres. RONALD REAGAN:** We must not yield to the terrorists' demands and invite more terrorism. We cannot reward their grisly deeds. We will not cave in.

NARRATOR: In time, he would be sorely tested.

> **Pres. RONALD REAGAN:** The United States gives terrorists no rewards and no guarantees. We make no concessions. We make no deals. Nations that harbor terrorists undermine their own stability and endanger their own people. Terrorists be on notice. We will fight back against you in Lebanon and elsewhere.

NARRATOR: For the Reagan White House, the war on terrorism began almost right away. The first enemy was Libya.

ROBERT OAKLEY, Dir. Counterterrorism, St. Dept. '84-'86: We were very, very worried about Libyan terrorism. We had reports that there were Libyan hit squads loose in the United States. There were dump trucks parked head-to-toe around the entire State Department and Capitol Hill and elsewhere to protect against these Libyan terrorist groups that were thought to be operating in the United States.

NARRATOR: Ronald Reagan had won election at least partly because Jimmy Carter had looked weak in face of terrorism.

BOB WOODWARD, "The Washington Post": They felt initially you have to be tough, that Carter was not tough enough. So toughness is the theme. Reagan was, in a sense, the mad

bomber, the guy who was going to make sure that the terrorist threat was met with a very dramatic military response, if necessary.

NARRATOR: So in response to the perception that Libya was a terrorist threat, the president kicked their diplomats out the country, closed their embassy.

> **NEWSCASTER:** Libya's top diplomat in Washington, Ali Houderi, was summoned to the State Department late this afternoon. He was told that all the Libyan diplomats here would have to leave- expelled.

NARRATOR: And Navy jets shot down two Libyan warplanes inside what was known as the "line of death" over the Gulf of Sidra in the Mediterranean.

L. PAUL BREMER, Dir. Counterterrorism, St. Dept. '86-'89: I think it made quite a deep impression on the top people in the Reagan administration, from the president on down, that we had to deal forcefully with terrorism wherever we saw it. And that was certainly an early theme in the Reagan administration from, really, January 20th on.

NARRATOR: But it wouldn't be long before the president would be challenged somewhere else. It all started after Israel invaded Lebanon. Dozens of villages housing Shi'ite Muslims were destroyed as the Israeli army advanced to Beirut as part of their war against Yasir Arafat's PLO guerrillas. The United States intervened to avoid a bloodbath.

> **Pres. RONALD Reagan:** The Marines are going there into a situation that- with a definite understanding as to what we're supposed to do. I believe that we are going to be successful in seeing the other foreign forces leave Lebanon. And then, at such time that Lebanon says that they have the situation well in hand, why, we'll depart.

NARRATOR: The Marines went ashore to oversee an orderly withdrawal of the PLO. There was no intention to stay. The Palestinians turned evacuation into celebration. Mission accomplished, the Marines left. America had promised the PLO that their families left behind in Beirut would be safe. But they weren't.

With the Marines gone, Israel's allies, the Christian Falangist forces, entered the camps at Sabra and Shatila, where the families of the PLO fighters remained. The Christian militia massacred almost 800 unarmed civilians. For Ronald Reagan, these pictures were enough to cause him immediately to send the Marines back into Beirut.

> **Pres. RONALD Reagan:** My fellow Americans, the scenes that the whole world witnessed this past weekend were among the most heart-rending in the long nightmare of Lebanon's agony. Millions of us have seen pictures of the Palestinian victims of this tragedy. There's little that words can add, but there are actions we can and must take to bring that nightmare to an end.

NARRATOR: But within his cabinet, the president's men were at odds about the costs of going back in.

BOB WOODWARD: The secretary of defense, Weinberger, wanted to solve the problems of terrorism or diplomacy with negotiation, not with military force. George Schultz, the secretary of state, wanted to be tough and wanted to use the military. These were such powerful forces in the Reagan White House and the administration that at times they nullified themselves.

ROBERT C. McFARLANE, National Security Adviser '83-'85: It was a very complicating element in trying to forge sensible policy because to tackle terrorism, you have to have an integrated approach involving diplomacy to build coalitions, but underwritten by the ability and the means and the will to use force when necessary.

NARRATOR: The president took a middle course. A small contingent of Marines would show the flag and separate the warring parties. The secretary of defense had lost the argument in Washington.

CASPAR WEINBERGER, Secretary of Defense '81-'87: It's always been a source of unhappiness to me that I wasn't persuasive enough not to put in American forces, particularly not to put them into the Beirut Airport. So you have a force that was almost a sitting duck in one of the most dangerous spots in the Mideast, and therefore one of the most dangerous spots in the world, unable to protect itself, and it was a disaster waiting to happen.

NARRATOR: Now the United States was thrust into a bloody mosaic of religious factions and feuds. Fired by the revolution in Iran, Hezbollah - "The Party of God" - rapidly emerged as an increasingly formidable force for no less reason than that their warriors believed suicide was a glorious end.

SHEIKH FADLALLAH, Hezbollah Spiritual Leader: [through interpreter]

[1993 interview] Martyrdom in Islamic and Christian history, and the history of all nations, stems from the fact that man is prepared to sacrifice his own life for important causes. When someone is a believer, he believes that he sacrifices his own life for the cause of God and that he will be rewarded and granted a distinguished status by Allah.

NARRATOR: Hezbollah first struck when a pick-up truck loaded with explosives was driven into the United States embassy in west Beruit. Sixty-three died in the blast. Seventeen of the dead were Americans. Eight of them were agents of the CIA.

> **Pres. RONALD Reagan:** As you know, our embassy in Beruit was the target this morning of a vicious terrorist bombing. This cowardly act has claimed a number of dead and wounded. This criminal attack on a diplomatic establishment will not deter us from our goals of peace in the region. We will do what we know to be right.

ROBERT DILLON, Ambassador to Lebanon '81-'83: [1993 interview] The last person taken out alive was taken out five hours after the explosion, I remember very well now the name, Mr. Coffey. He looked like a piece of hamburger. I never thought he would live. He did, was killed later in another terrorist attack. After five hours, it was bodies. At the end of five days, when we stopped- we stopped searching. It was scraps of flesh. We were identifying people occasionally

through- I remember we got some fused toes, and we knew who that belonged to, and found a boot, and knew who the boot belonged to.

NARRATOR: The president and the country were devastated. Ronald Reagan visibly bore the families' grief. Bewilderment and frustration were mixed with the pain. The nation had suffered at the hands of an enemy it did not know and could not see. A deeply emotional and religious man, the president was profoundly affected. His sorrow and anger would influence his political judgment as the tragedy unfolded. The man who challenged the Soviet Union in the cold war would be humiliated in Lebanon by a handful of fanatics driving trucks.

Now the president would listen to those inside his government who wanted to strike back.

GEORGE SHULTZ, Secretary of State, '82-'89: [1993 interview] I tried to carry the banner of a much more forceful policy against terrorists. And I said we have to learn how to defend ourselves better. We have to improve our intelligence capability dramatically. We have to be willing to take offensive action against a threat, when we find out about it, so we preempt it. And we have to be willing to retaliate not simply as an act of vengeance, but as an act of raising the cost of doing these things.

NARRATOR: But the president was told by others he could do nothing.

BOB WOODWARD: The tough guys in the White House would not retaliate because the evidence was not such that you could go on television and prove it or go to a courtroom and prove it.

NARRATOR: The White House needed better intelligence from Lebanon, but after the embassy bombing, there wasn't any.

Lt. Col. BILL COWAN, Pentagon Intelligence Support '83-'94: The CIA station chief and a number of people that worked for him were killed when that happened. And so for the most part, the CIA operations in Beirut were essentially terminated, at that point, when that station went down.

NARRATOR: A secret team entered Beirut to find out what was happening on the ground.

Lt. Col. BILL COWAN: I was a member of this team, whose purpose was to go out and prepare for retaliation against those who had done this to us.

NARRATOR: But the first thing the defense intelligence team saw was how completely exposed the U.S. Marines were at the Beirut airport. They immediately sent a report to Washington.

Lt. Col. BILL COWAN: We said in that report that it could be assumed that there would be some kind of incident against the Marines because we had just had one against the embassy, so it kind of makes sense that the military was at risk.

NARRATOR: And indeed they were. As a symbol of America's resolve, but not a properly equipped or fortified force, the Marines themselves began to take casualties as the fighting intensified and they became targets.

> **1st MARINE:** We're definitely taking casualties. We are caught up in this. You know, we're not separate. We're engaged, and we are engaging other targets. That's a war, in my opinion. That's definitely- that's combat.
>
> **2nd MARINE:** [singing] It's a zippity-doo-da day. I'm the happiest Marine in the whole U.S.A. Bullshit!

NARRATOR: And then, on October 23rd, 1983, the Americans were again the target of a suicide bomber.

Cmdr. GEORGE PUCCIARELLI, U.S. Navy Chaplain: [1993 interview] Nothing was moving, just absolute silence, no gunfire, no yelling, nothing. That whole four-story structure had blown up and collapsed into one mass of rubble. It's beyond words. Beyond words. It was seeing something move that took me out of my trance, and then I recognized, oh, yes, Marines were in that building, a lot of Marines were in that building. And that's when I ran down. And there was a black Marine. He looked white. The dust had just covered him.

NARRATOR: On this quiet Sunday morning, one man had driven a truck full of explosives into the Marines' headquarters. It was the Marines' biggest loss of life in a single day since Iwo Jima in World War II, 241 Marines.

Cmdr. GEORGE PUCCIARELLI: I knew their wives and their children and their dreams and their visions and their youthfulness- people getting married, people with new babies, never to see their young children again or their newborn babe. It was a traumatic event. And for about five days and five nights after that, we just continued to jackhammer, continued to break away the pieces of the floor, the floors of those buildings, extracting our people. And every time a body would come out, the Marines would yell for their chaplain to bless the body before they put it in a green bag.

> **Pres. RONALD Reagan:** There are no words that can express our sorrow and grief over the loss of those splendid young men and the injury to so many others. These deeds make so evident the bestial nature of those who would assume power, if they could have their way, and drive us out of that area.

NARRATOR: The Hezbollah leadership denied the label of terrorist.

HUSSEIN MUSAWI, Islamic Amal Leader: [1993 interview] [through interpreter] We defend righteousness. We defend our freedoms. Don't you see that our land is occupied in the south and the western Bekaa and Palestine? Can't you see that the Jews are committing acts of aggression against our people and killing them? Our holy places, especially Jerusalem, are occupied by the Israelis, who are supported by the Americans and Europeans. We are oppressed people. We are not terrorists.

> **Vice Pres. GEORGE H.W. BUSH:** We're not going to let a bunch of insidious terrorists, cowards, shake the foreign policy of the United States. And it damn sure hasn't shaken the courage of these men, and that comes through loud and clear.

ROBERT C. McFARLANE: The president assembled his NSC. He got the best information we could, tasked the Pentagon to plan an attack on the terrorists in the Bekaa Valley. And with high confidence in their location and so forth, and the ability to avoid civilian causalities, he directed an attack.

NARRATOR: The principal target was in the Bekaa Valley, 50 miles from Beirut. Here, in the town of Baalbek, stands the Sheik Abdullah barracks. Within its walls was stationed a contingent of Iranian Revolutionary Guards. They trained and guided Hezbollah and its allies.

HUSSAIN MUSAWE: [1993 interview] [through translator] Of course, the Islamic Revolutionary Guards help us and train us, but they are not involved in the fighting. There's no need for the Iranians to get personally involved. It is enough for them to help with training, as the Lebanese fighters can fulfill their mission. Iran also provides us with the financial assistance which enables us to buy weapons to fight the enemies occupying our land.

NARRATOR: A U.S. naval aircraft carrier was offshore, waiting to launch its planes against the barracks.

ROBERT C. McFARLANE: The attack was to occur the following morning. And unfortunately, Secretary Weinberger aborted it.

BOB WOODWARD: There were a lot of cautious and reluctant warriors in the Pentagon, the professional military still feeling the over-hang of Vietnam and saying, "What's the mission? How are we going to accomplish this? Do we have a clear objective?" Just going and bombing was not the sort of mission that they wanted.

NARRATOR: Lieutenant General Colin Powell was Secretary Weinberger's chief military aide.

BOB WOODWARD: He's watching Weinberger resist schemes coming out of the White House or somebody saying, "Oh, go bomb," or "Go do this." And Powell is a soldier and says, "Well, what's the objective? And how can I protect my men? How can I minimize casualties?" He's looking for a way to make sure that we don't have more Vietnams.

ROBERT C. McFARLANE: If you have the means and the good intelligence and an accurate location, to go back and destroy a center of terrorism, which we knew this to be, was the right thing to do, and we should have done it. Not to do it showed a division in our government, a lack of resolve and a paralysis.

NARRATOR: The president ordered the battleship New Jersey to shell the hills above Beirut from the safety of the sea.

HISHAM MELHAM, Lebanese Journalist: Ironically, it was perceived as an impotent gesture. It's an act of absolute impotence. The New Jersey did not scare anybody. It did not scare those people in the mountains. And that is ironic. And that's why it didn't work out.

NARRATOR: And then the president ordered the Marines to withdraw. Just four months after the barracks bombing, the last of the Marines left.

> **Pres. RONALD Reagan:** We are redeploying because once the terrorist attack started, there was no way that we could really contribute to the original mission by staying there as a target, just hunkering down and waiting for further attacks.

ROBERT C. McFARLANE: It was seen to be a defeat. There's no other way to read it. We had been bombed, and five months later we pulled out.

ROBERT OAKLEY, Dir. Counterterrorism, St. Dept. '84-'86: The terrorists learned a few casualties can cause us to retreat into our own shell, to give up whatever objective we were seeking, to abandon those with whom we've been working.

Lt. Col. BILL COWAN, Pentagon Intelligence Support '83-'94: I believe, had we used military force at that point, that we would have sent a message that would still be out there today, that when somebody strikes at all -particularly when you kill 241 servicemen - you would think, the American public should think, that we're going to do something about it. To not do anything at all I believe sent a clear message.

NARRATOR: At home, the lessons of Lebanon were painful. The nation's reputation had been tarnished. The cost in lives had been steep. The men in power had hardened their positions and paralyzed the military. They all hoped America wouldn't be a target of terror again. And then it was.

Suicide bombers struck the U.S. embassy in east Beirut, 24 more victims. And this time, even though satellite photos showed who did the bombings, the United States did nothing.

GEORGE SHULTZ, Secretary of State, '82-'89: [1993 interview] We were too paralyzed somehow by self-doubt and by questions about who all was there, were our hostages there, were we sure, and so on. I was- it was very frustrating for me.

BOB WOODWARD: Diplomacy, his portfolio- it failed. And he was the tough guy. He's a former Marine. Weinberger's sitting over there saying again, "What's the objectives? Who do we hit? Give us a very clear mission." And so there's this kind of- they have an ability to neutralize each other. And that's where the CIA fills the vacuum and comes up with some of the covert plans.

NARRATOR: So now, to try to solve the terror problem, it was the Central Intelligence Agency's turn.

L. PAUL BREMER, Dir. Counterterrorism, St. Dept. '86-'89: If you look back today over the last 25 years, it is a fact that we have had a progressive degeneration of our intelligence community, in general, and in particular, in the field of human intelligence. It began with highly politicized attacks by Congress on the CIA in the mid-1970s. It was followed by a disastrous pruning of the operatives, action operatives, in the CIA in the late 1970s. But this is a long-term degeneration of our ability to get human intelligence. And in the target of terrorism, human intelligence is really the only good tool you've got, in terms of finding out what's going on.

NARRATOR: So William Casey, the director of the CIA, improvised.

BOB WOODWARD: Casey had lunch with Prince Bandar, the Saudi Ambassador to the United States, one of the most powerful figures even today in Washington. And they went for a stroll in the garden and they said, "We have to go off the books." And they agreed that the Saudis would put up the money to hire some professionals to go and try to car-bomb Sheik Fadlallah.

And it was so off the books, there's no evidence that Reagan knew about it or Weinberger or Schultz. It was Casey on his own, saying, "I'm going to solve the big problem by essentially getting tougher or as tough as the terrorists in using their weapon, the car bomb."

[www.pbs.org: Read the full interview]

NARRATOR: The new U.S.-and-Saudi-backed Lebanese counterterrorist group set up a car bombing near a Beirut mosque.

JIM HOUGAN, Author/Journalist: The bombing took place in a public square, when the mosque let out and when it was thought that Fahdlallah would be coming through. In effect, you had hundreds of people who were leaving the Muslim equivalent of church. More than 80 people were killed. The remark at the time was that we- everyone was certain it was a CIA operation because everybody got killed except the target.

NARRATOR: Eighty killed, more than two hundred wounded. Sheik Fadlallah survived. He'd left the mosque late.

SHEIKH FADLALLAH, Hezbollah Spiritual Leader: [1993 interview] [through interpreter] I was able, as a result of the bomb, to distinguish the ugliness of American terrorism. I realized that America, which boasts about combating terrorism in the world, is in fact carrying out terrorist acts through its intelligence services in the ugliest of ways.

JIM HOUGAN: I think that the bombing in Beralabid put a halt to covert operations. America doesn't deal very well with failures. I think that, at that point, the American intelligence community really was in a kind of despair, the feeling that they couldn't do anything right. And I think that they just backed off.

[Cockpit communication with airport control tower Beirut]

Capt. JOHN TESTRAKE, TWA 847 Captain: He has pulled a hand

grenade pin, and he is ready to blow up the aircraft, if he has to. We must - I repeat, we must! - land at Beirut. We must-

NARRATOR: But now the pace of terror against Americans was quickening.

[www.pbs.org: Study a timeline of terrorist attacks]

GROUND: I can't give you permission because my responsible didn't give me permission for you to land. They said the airport is closed.

NARRATOR: TWA flight 847 was hijacked.

Capt. JOHN TESTRAKE: We understand. But we must land at Beirut. The hijacker is insisting. Thank you.

[1993 interview] -with that gunman standing directly behind me in the cockpit, holding that cocked pistol to the back of my head, while in his other hand he had a live grenade. And he pulled the pin on it, and he was just holding it from exploding with his fingers. And he held that right there, directly in front of my face. I mean, it was touching my face with it.

ROBERT OAKLEY: The hijacking, which was televised live, had a very profound effect upon the United States because it was in our homes, much as the bin Laden attack on the Trade Towers and the Pentagon.

NARRATOR: There were over 150 passengers on board, most of them Americans, 6 from the U.S. Navy.

Capt. JOHN TESTRAKE: [1993 interview] The thought came to me that the way things were going, within the next five minutes we'd probably all be dead. And I think it was an accurate assessment of the thing. It was just a violent thing that was escalating out of everybody's control.

[Cockpit communication with airport control tower Beirut]

They are beating the passengers. They are beating the passengers. They are threatening to kill them now. They are threatening to kill them now. We want the fuel now! Immediately!

GROUND: Please, sir. Please. We're doing our best.

Capt. JOHN TESTRAKE: Now, he's going to to kill passengers! They will open the door and throw the killed passengers out onto the ramp. Immediately!

NARRATOR: For 17 days, it was primetime terror on international television.

NEWSCASTER: As the aircraft was refueled with its maximum load to give it four-and-a-half hours flying time, the hijackers were announcing their demands- mainly, the

release of Arab prisoners held in Israel and the release of 17 fellow Shi'ite Muslims held in Kuwait after an attack on the U.S. embassy there. Then they released 17 American women and 2 children, apparently chosen at random. They were bundled off the aircraft, down the emergency chutes, most of them leaving relatives behind on board.

NARRATOR: As the drama was played out in the shimmering heat, the White House was paralyzed.

1st REPORTER: Are you doing anything to recover the hijacked TWA airplane?

Pres. RONALD Reagan: Everything that can be done.

1st REPORTER: Is there anything that you can do?

2nd REPORTER: How can you let them get away with that?

1st REPORTER: Is there anything? Is there anything you can do, sir?

NARRATOR: Again extremists had cornered the president of the United States. Meanwhile, on the plane, the hijackers mercilessly assaulted a young Navy diver, Robert Stethem.

Capt. JOHN TESTRAKE: [1993 interview] By this time, they had tied young Stethem back up en route, had beat him some more. He was unconscious. We were on the ground now. They opened the door, pulled him to his feet, shot him and dumped his body out onto the taxiway below. It was just such a tragic, tragic waste. And yet it was done.

Pres. RONALD REAGAN: We consider these murders, hijackings and abductions an attack on all Western civilization by uncivilized barbarians. We will continue to act with appropriate restraint. But let no one doubt our resolve.

NARRATOR: But the hijackers were winning and invited the world's networks to witness their triumph.

NEWSCASTER: A small group of journalists were sent for. They were covered by two gunmen from the aircraft. Another gunman in the cockpit made his presence felt and, throughout the brief chat that followed, kept the gun to Captain Testrake's head.

REPORTER: Captain, many people in America are calling for some kind of rescue operation or some kind of retaliation. Do you have any thoughts on that?

Capt. JOHN TESTRAKE: I think we'd all be dead men if they did because we're continually surrounded by many, many guards.

REPORTER: Do you have any thoughts on whether or not the United States should ask Israel to release the people it's holding in Israel?

Capt. JOHN TESTRAKE: No I - I don't have a comment.

NARRATOR: The hijackers demanded the release of the 700 Shi'ite prisoners held in Israel.

Pres. RONALD Reagan: At what point can you pay off the terrorists without endangering people from here on out, once they find out that their tactics succeed?

NARRATOR: But it seems now the hijackers knew the president was about to give in, and their supporters gathered in the thousands at Beirut airport to bask in the glory of victory over the United States.

ROBERT OAKLEY: The resolution of the TWA 847 hijacking is interesting because there was an implicit but never explicit quid pro quo. So we can say there wasn't really a deal.

NARRATOR: Days after the hostages were freed from TWA flight 847, Israel began releasing prisoners.

ROBERT OAKLEY: And it's fair enough. It depends which way you want to look at it. But it was an implicit arrangement between the United States and Israel, with the hijackers and those who were behind them, that Israel would resume the release of the prisoners they had been releasing in South Lebanon.

NARRATOR: The deal opened a new phase in the war, negotiating with the enemy. A year earlier, Muslim extremists had begun a campaign of kidnapping Americans. One of them was the new chief of the Beirut CIA station, William Buckley.

WILLIAM BUCKLEY: [hostage video] I am well, and my friends, Benjamin Weir and Jeremy Levine, are also well.

Lt. Col. BILL COWAN: Clearly, it was a coup to grab a CIA station chief and be able to keep him. He died under horrible, horrible conditions, which he certainly didn't deserve. But when you can take a CIA station chief, you're making a very substantial impact on the ability of our government to operate.

NARRATOR: Eventually, 30 Westerners would be taken hostage.

ROBERT OAKLEY: And the people they kidnapped and held hostage were those best guaranteed to touch the nerve of the American public, who demanded that they be released: priests, Catholic priest, a Protestant pastor, a journalist, a professor.

BOB WOODWARD: As you look at the Reagan administration's dealing with terrorism, there's one theme that jumps right out, and that is the President's concern and obsession and focus guides everyone. And the secretary of state and the CIA director and the defense secretary and the political people in the White House are sitting around the table, and you have a president like Reagan obsessed with hostages, people will come up with schemes and ideas that in more rational moments they would never even consider.

NARRATOR: This was the idea. The most important player in the terrorist world, Iran, was desperately running out of military supplies in its war with Iraq. The president was told a bargain could be struck: Arms to Iran, hostages back to America. Reagan's men cut a deal. The secretary of defense says he was appalled.

CASPAR WEINBERGER: Here we were, begging the world to stop sending any arms to Iran, and there was this horrible proposal that we try to buy the friendship of these fanatics by giving them arms and violating all of the things we were doing in trying to persuade the rest of the world that they shouldn't sell them arms.

ROBERT OAKLEY: It completely undercut our policy. Our policy was make no deals with terrorists, provide no arms to Iran, which is a country seen as sponsoring terrorists. And after a while, it became visible to the entire world that we were doing both, making deals with the Iranians by providing them with arms in exchange for the release of hostages. So it badly damaged our policy.

NARRATOR: At first the president denied it, then he had to admit it. An independent counsel began an investigation. And then the president faced the American people.

> **Pres. RONALD REAGAN:** For 18 months now, we have had underway a secret diplomatic initiative to Iran. That initiative was undertaken for the simplest and best of reasons: to renew a relationship with the nation of Iran, to bring an honorable end to the bloody six-year war between Iran and Iraq, to eliminate state-sponsored terrorism and subversion and to effect the safe return of all hostages.

BOB WOODWARD: This was a real earthquake to the Reagan administration, and Reagan had to turn to new people. He brought in Howard Baker as his chief of staff and let Shultz gain control of the anti-terrorist policy.

> **Pres. RONALD REAGAN:** We did not trade weapons or anything else for hostages.

VINCENT CANNISTRARO, Dir. NSC Intelligence '84-'87: I think at that point, the hard-liners won out in the debate, that we are to use strong, maybe overwhelming U.S. military force against a state sponsor of terrorism, and one who is not very popular in the world.

NARRATOR: The White House settled on Muammar Qaddafi, the president of Libya, whose terrorist activities, they believed, including the hijacking of an Italian luxury liner, the Achille Lauro.

VINCENT CANNISTRARO: Quaddafi was not a popular figure anyplace, and he did strange things, and he stood up to the Americans sometimes foolishly. So there was no question that Quaddafi in some ways was a symbol of the frustration of the United States, but he was an easier symbol to deal with then, say, Hezbollah and Iran.

ROBERT OAKLEY: And so we sailed a carrier task force into the Bay of Sidra to put the pressure on the Libyans. The Libyans responded by conducting some attempted attacks by

aircraft and by small boats, which were destroyed quickly. At that point, Quaddafi lost his cool and decided to escalate, and we intercepted communications between Tripoli and 12 Libyan People's Bureaus - what they call their embassies abroad - to "Go get the Americans."

NARRATOR: They "got the Americans" at the La Belle disco in West Berlin. An American soldier died in the explosion.

BOB WOODWARD: I actually had in one of my books the language of the intercepts. And when you lay it out, it's clear that they promoted this bombing, knew it was going to occur, and then got a thumbs-up report back right after the discotheque had been bombed. So it was real easy to look at that and say, "We know the Libyans are behind it. We're going to bomb their intelligence agency, and we're going to bomb Qaddafi."

NARRATOR: Finally, the hardliners in the administration would get to do what they wanted, send fighter planes into enemy territory.

Capt. ROBERT STUMPF, U.S. Navy Fighter Pilot: So we were really pumped, and we started getting everything ready, putting the plans together. The Air Force took Tripoli, and we took Bengazi. The captain just lit the burners and we- the ship just took off down through the Straits of Messina. We had the entire battle group going through there at flank speed at sunset. Oh, it was really cool.

And then we launched everybody on the flight deck. And I was actually the last guy off, and I was- and I was just screaming in the cockpit, just out of frustration. I was afraid I was going to miss it.

CASPAR WEINBERGER: We put a 200-plane raid in the air and destroyed many Libyan targets connected with this terrorist act and drove Quaddafi underground, so that nothing was heard from him effectively for two or three years.

> **Pres. RONALD Reagan:** The United States won but a single engagement in the long battle against terrorism. We will not end that struggle until the free and decent people of this planet unite to eradicate the scourge of terror from the modern world.
>
> **NEWSCASTER:** If the Americans were directly trying to wipe out Colonel Quaddafi's home, they couldn't have got much closer. The area is badly damaged by blast, but the house itself was not destroyed, the bombs missing by a whisker.

Lt. Col. BILL COWAN, Pentagon Intelligence Support '83-'94: Quaddafi really didn't do anything against us after that. I think he was kind of surprised that we had done it. He probably had a close call with death. Whether the bomb came within 500 meters or 50 miles, he realized that we were serious about maybe doing something to him.

> **NEWSCASTER:** Perhaps the most dramatic scene was Colonel Qaddafi's sagging Bedouin tent less from 40 yards from where other bombs had fallen.

Lt. Col. BILL COWAN: So that was our only real attempt to strike back at people. Qaddafi's a little bit different situation than when you're dealing with Hezbollah or you're dealing with the Iranians. But nonetheless, it had- it obviously had an impact. It had an effect.

NARRATOR: In the next two years, there would be fewer terrorist incidents. Then four days before Christmas, 1988, Pan American flight 103 from London to New York explodes over Lockerbie, Scotland. All 259 passengers and 11 people on the ground are killed.

There were many theories about who was responsible. Was it payback from Libya? Was it the Hezbollah? Was this a group with connections to Syria or agents from Iran? No one took credit for planting the bomb.

> **Pres. RONALD Reagan:** Now that we know definitely that it was a bomb, we're going to make every effort we can to find out who was guilty of this savage and tragic thing and bring them to justice.

NARRATOR: In the very last days of his presidency, Ronald Reagan seemed to make a policy shift in the war against terrorism. Through the next two administrations, the emphasis would be to bring terrorists to justice.

> **Pres. GEORGE H. W. BUSH:** [December 29, 1988] We've got to seek hard and punish firmly, decisively, those who did this- if you can ever find them.

NARRATOR: It would take them 10 years to bring two Libyan intelligence operatives to trial.

VINCENT CANNISTRARO: Over the last three administrations, they've have had a law enforcement response to the problems of terrorism. We're going to catch the perpetrators and arrest them, which doesn't do very much to deter future acts of terrorism. We have basically arrested all the perpetrators in the bombings of our embassies in east Africa in 1998. But these are secondary parts. They're replaceable tools. The leadership, the sponsorship, is beyond law enforcement. That's the problem with the law enforcement response. It isn't sufficient.

NARRATOR: Everything would change after September 11th, 2001. At the White House, as they struggled to figure out their response, some of the men must have thought about lessons from that earlier war on terror. Vice President Cheney; at Defense, Rumsfeld and Wolfowitz, whose former boss, George Shultz, had argued for military force; Colin Powell, the aide to Secretary Weinberger, who always advocated caution. This time seems different.

CASPAR WEINBERGER: Of course, there's the horror of it. The magnitude of that was such that there's really nothing to compare it to. People keep talking about having a measured response, which I think is one of the stupidest comments I've ever heard because this was an immeasurable act. You can't- there's no measured response except complete destruction of the people who did it.

NARRATOR: Lieutenant Colonel Cowan, a former intelligence officer, has his own cautions.

Lt. Col. BILL COWAN: I believe any time that you conduct an operation that causes civilian casualties, you lessen your ability to effectively work in and among those people you're trying to target. You know, our only success in dealing with terrorists - whether they be in Lebanon or wherever throughout the world - is our ability to find Muslims who will support us, who will do things for us, who are willing to go into some of these areas and acquire intelligence for us. And when we, intentionally or otherwise, kill civilians, create collateral damage, we're less likely to find people who will do things for us.

NARRATOR: Former national security adviser McFarlane reflects on what the enemy learned about us.

ROBERT C. McFARLANE: Well, they learned that the American people can be traumatized by terrorism, that it can create pressure on the government, that we were not in the 1980s well-equipped, in terms of power or political understanding, to deal with it. And so they'll continue to use it, and they've expanded their networks and their capabilities.

NARRATOR: Ambassador Bremer, the former State Department terrorism expert.

L. PAUL BREMER: We had Quaddafi as the number-one enemy from the late '70s to the mid-'80s. Then we had Abu Nidal, who appeared on the scene, and he was the number-one enemy from the mid-'80s till the early '90s. Now we have bin Laden. And the implication of that is, if you can deal with this one guy, the threat will go away. The threat doesn't go away, it evolves.

NARRATOR: And another of George Shultz's deputies, Robert Oakley.

ROBERT OAKLEY: I think the lessons that we learned then are applicable now: building coalitions, picking your target carefully, being able to justify your target, making sure that you have a successful operation when you undertake it, calculating the political downside as well as the military effects. All those things were thought about at the time.

In some cases, we had the right results, in some cases we failed, and we're going through the same process again. And I think that we have to continue to do it, but we have to understand that we're not going to stop all terrorism for all time. That's the one thing that stands out.

[www.pbs.org: More on the lessons of the '80s]

NARRATOR: And the reporter who talked to them about what happened once, not long ago.

BOB WOODWARD: These terrorist incidents- they used the tools that were available, but it was never in a coherent way. I know from talking to those people at the time, it was always, "Oh, we've got this crisis. We're dealing with the Achille Lauro now," or "We're dealing with Quaddafi," or "We're dealing with Libyan hit squads," or "We're dealing with Beirut." And it never- they never got in a position where they said, "You know, this is a real serious threat," not just episodically, but it's going to be a threat to this country throughout the administration, future administrations.

We need to organize to fight it. It can't be a back-bench operation for the FBI and the CIA. It's got to be somebody's issue, so it's on their desk every day. What do we know? What's being planned? What are the threats out there?

MOYERS: If tonight's broadcast reminds us how soon we can forget the events and the lessons of the recent past, in the coming weeks, we'll be asking questions about what we're learning from the present crisis. I hope you'll join us.

For Frontline, I'm Bill Moyers. Goodnight.

Target America

WRITTEN BY
Michael Kirk and
Peter Taylor (BBC)

PRODUCED BY
Michael Kirk
Martin Smith (BBC)

REPORTED BY
Jim Gilmore
Peter Taylor (BBC)

EDITOR
Steve Audette

ASSOCIATE PRODUCER (BBC)
Neil Grant

FILM EDITOR (BBC)
Shelagh Brady

PRODUCTION ASSISTANTS
Corey Ford
Ann Holland (BBC)

FILM RECORDIST (BBC)
Robin Swain

CAMERA
Rob Rainey
Patrick O¡Shea (BBC)

SOUND
Don Hooper

ONLINE EDITOR
Michael H. Amundson

SOUND MIX
David Old (BBC)
Jim Sullivan

FILM RESEARCH (BBC)
Allison McAllan

RESEARCH (BBC)
Jeff Goldberg
Jim Muir

UNIT MANAGER (BBC)
Bhupinder Kholi

GRAPHIC DESIGN (BBC)
Simon Martin

ADDITIONAL SOUND
John Jenkins

ARCHIVAL MATERIALS
ABC News Video Source
AP/Wide World Photos
Corbis-Sygma
BBC News
CBS News
Lebanese TV
NBS News
Reuters TV
Sherman Grinberg

Executive Producer, BBC
Steve Hewlett

Copyright 2001 BBC

FOR WNET

PRODUCER/DIRECTOR
Wayne Palmer

CAMERA
Mark Niedelson

SOUND
Paul Glaser

LIGHTING
Bob Culley

PROMPTER OPERATOR
Charles Comey

MAKE-UP
Darianne Bramberg

FOR FRONTLINE

PRODUCTION MANAGER
Tim Mangini

ON-AIR PROMOTION
PRODUCER
M.G. Rabinow

SENIOR EDITOR
Steve Audette

AVID EDITORS
Michael H. Amundson
John MacGibbon

POST PRODUCTION
COORDINATOR
Patricia Giles

POST PRODUCTION
ASSISTANT
David McMahon
Kate Guiney

SERIES MUSIC
Mason Daring
Martin Brody

CLOSED CAPTIONING
The Caption Center

COMMUNICATIONS MANAGER
Erin Martin Kane

SENIOR PUBLICIST
Christopher Kelly

PUBLICIST
Jessica Smith

PROMOTION ASSISTANT
Jenna Lowe

SENIOR STAFF ASSOCIATE
Lee Ann Donner

SECRETARY
Mary Sullivan

COMPLIANCE MANAGER
Lisa Palone-Clarke

PARALEGAL
Adrienne Armor

UNIT MANAGER
Douglas D. Milton

BUSINESS MANAGER
Tobee Phipps

WEBSITE PRODUCTION ASSISTANT
Todd Goldstein

WEBSITE ASSOCIATE PRODUCERS
Sarah Moughty
Kimberly Tabor

WEBSITE COORDINATING
PRODUCER
Stephanie Ault

WEBSITE PRODUCER/
DESIGNER
Sam Bailey

WEBSITE EDITORIAL DIRECTOR
Wen Stephenson

EDITORIAL RESEARCHER
Catherine Wright

COORDINATING PRODUCER
Robin Parmelee

SENIOR PRODUCER
SPECIAL PROJECTS
Sharon Tiller

STORY EDITOR
Ken Dornstein

SERIES EDITOR
Karen O'Connor

EDITORIAL DIRECTOR
Marrie Campbell

SERIES MANAGER
Jim Bracciale

EXECUTIVE EDITOR
Louis Wiley Jr.

EXECUTIVE PRODUCER
David Fanning

A FRONTLINE coproduction with
The Kirk Documentary Group, Ltd.

© 2001
WGBH EDUCATIONAL FOUNDATION
ALL RIGHTS RESERVED

FRONTLINE is a production of WGBH Boston, which is solely responsible for its content.

ANNOUNCER: Next time on FRONTLINE: There are so many questions. Why did the CIA and FBI fail to find the hijackers and stop this attack? Did America's role in the world fuel this hatred and cause this terror?

MAN: America, it is an empire that will do anything to oppress people outside the United States borders.

ANNOUNCER: Looking for Answers next time on FRONTLINE.

There's more of this FRONTLINE report at our companion Web site: an overview of the rise of militant Islamic movements around the world from the 1960s to now; a chronology of terrorist attacks against Americans in the past two decades and how the U.S. responded; FRONTLINE's extended interviews with White House advisers, policy-makers and national security experts; readings and links on Islamic militancy and the terrorism threat in the post-cold war era and more. Then join the discussion at pbs.org or write us an email at frontline@pbs.org or write to this address. [DEAR FRONTLINE, 125 Western Ave., Boston, MA 02134]

For a videocassette copy of Target America, call PBS Home Video at 1-800-PLAY-PBS. [$19.98 plus S&H]

National corporate funding for FRONTLINE is provided by Earthlink and by NPR.

In Denver, Skopje, in Teheran, Omaha, in Istanbul, in Hong Kong, Belgrade, in Decatur, in Seattle, Beijing, in Pittsburgh, in Johannesburg. This is NPR News.

FRONTLINE is made possible by contributions to your PBS station from viewers like you. Thank you.

About AP Contact Us Get AP Mobile Help

News Archive
BETA



Like 2 Tweet G+1 0 More Text

CHRONOLOGY OF EVENTS IN HIJACKING OF KUWAIT AIRWAYS FLIGHT 422 WITH AM-HIJACK BJT

The Associated Press, Associated Press

Apr. 12, 1988 10:52 PM ET

UNDATED Undated (AP) _ Here is a chronology of events in the hijacking of Kuwait Airways Flight 422:

April 5 - The Boeing 747 with 112 people aboard, including three members of the Kuwaiti royal family, is hijacked on a flight to Kuwait from Bangkok and diverted to Mashhad in northeastern Iran. The Arab hijackers demand freedom for 17 pro-Iranian extremists jailed in Kuwait for their convictions in the bombings of the U.S. and French embassies there in 1983. They threaten to blow up the plane if the demand is not met. Kuwait refuses. One passenger with heart condition is released. Kuwait asks Iran not to allow the plane to take off.

April 6 - Kuwait sends a team to Iran to negotiate with the hijackers but vows not to yield to their demands. The hijackers release 24 women and call a doctor on board to treat passengers they describe as "unwell."

April 7 - The hijackers release 32 more hostages. The plane is refueled after hijackers shoot at airport security and threaten to force the plane to take off with fuel tanks near empty.

April 8 - The plane leaves Mashhad but is refused permission to land in Beirut and Damascus. After seven hours in the air, the plane lands at Larnaca, Cyprus.

April 9 - The hijackers kill a Kuwaiti security guard on the plane after their demands for fuel are not met. The pilot says captives are being beaten. Another captive is freed after a PLO official and two Cypriot officials go to the plane and talk with the hijackers.

April 10 - Negotiations with PLO officials continue. The hijackers threaten a "slow and quiet massacre" and say they'll force the pilot to take off and crash into the Kuwaiti royal palace if demands are not met. In Lebanon, the pro-Iranian Islamic Jihad terrorist group threatens to kill kidnapped foreign hostages if any attempt is made to store the plane.

April 11 - The hijackers kill a second captive, identified as a Kuwaiti security officer. A passenger tells airport officials via radio that the hijackers have threatened to shoot all the passengers if the plane is not refueled.

April 12 - Twelve more hostages are freed.

April 13 - Plane flies from Cyprus to Algiers, Algeria.

© 2017 The Associated Press. All rights reserved. This material may not be published, broadcast, rewritten or redistributed. Learn more about our Privacy Policy and Terms of Use.

[GOOGLEANALYTICS]



About Us The Associated Press
Products AP Images

© 2017 Associated Press. All Rights Reserved. Privacy Policy Terms of Use

UNITED NATIONS

E

Economic and Social Council

Distr.
GENERAL

E/CN.4/1995/55
16 January 1995

ENGLISH
Original: ENGLISH/SPANISH

COMMISSION ON HUMAN RIGHTS
Fifty-first session
Item 12 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Report on the situation of human rights in the Islamic Republic of Iran prepared by the Special Representative of the Commission, Mr. Reynaldo Galindo Pohl, pursuant to Commission on Human Rights resolution 1994/73 and Economic and Social Council decision 1994/263

CONTENTS

		Paragraphs	Page
Introduction		1 - 3	3
I.	COMMUNICATIONS BETWEEN THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF IRAN AND THE SPECIAL REPRESENTATIVE	4	3
II.	INFORMATION RECEIVED BY THE SPECIAL REPRESENTATIVE	5 - 66	3
A.	Right to life	6 - 29	4
B.	Enforced or involuntary disappearances	30	8
C.	Right to freedom from torture or cruel, inhuman or degrading treatment or punishment	31	8
D.	Administration of justice	32 - 38	8
E.	Excessive use of force	39	9
F.	Freedom of expression and opinion and the situation of the press	40 - 45	9

GE.95-10161 (E)

CONTENTS (continued)

		Paragraphs	Page
G.	Freedom of religion and the situation of the Baha'i community	46 - 53	11
H.	Situation of women	54 - 57	12
I.	Freedom of association	58	12
J.	Political rights	59 - 60	13
K.	Events of 6 and 9 November 1994	61 - 62	13
L.	Situation of refugees	63 - 66	13
III.	CONSIDERATIONS	67 - 109	14
A.	Auspicious events for human rights at the international level	67 - 71	14
B.	The 1994 mandate	72	15
C.	Sources of information	73 - 74	16
D.	Cooperation of the Government of the Islamic Republic of Iran	75 - 76	16
E.	Work of the Organization for the Defence of Victims of Violence	77	17
F.	Right to life	78 - 88	17
G.	Attack in Mashhad	89	20
H.	Torture and cruel treatment of persons arrested or sentenced for offences	90 - 92	20
I.	Administration of justice and freedom of expression	93 - 101	21
J.	Freedom of religion	102 - 103	23
K.	Situation of the Baha'is	104 - 105	24
L.	Situation of women	106 - 107	24
M.	Political rights	108	25
N.	Situation of refugees	109	25
IV.	CONCLUSIONS AND RECOMMENDATIONS	110 - 113	25

Introduction

1. At its fiftieth session, the Commission on Human Rights decided in resolution 1994/73 of 9 March 1994 to extend the mandate of the Special Representative, as contained in Commission resolution 1984/54 of 14 March 1984, for a further year and requested the Special Representative to submit an interim report to the General Assembly at its forty-ninth session on the situation of human rights in the Islamic Republic of Iran, particularly on the situation of minority groups, such as the Baha'is, and to report to the Commission at its fifty-first session. In decision 1994/263 of 22 July 1994, the Economic and Social Council endorsed that resolution.

2. Pursuant to these provisions, the Special Representative submitted his interim report to the General Assembly at its forty-ninth session (A/49/514 and Add.1-2). The report relates to the human rights situation in the Islamic Republic of Iran during the period from January to July 1994 and, owing to the short interval between the two reports, was written as the first part of this final report. The two documents should accordingly be regarded as one.

3. In compliance with paragraph 14 of Commission on Human Rights resolution 1994/73 and Economic and Social Council decision 1994/263, the Special Representative submits herewith his final report on the human rights situation in the Islamic Republic of Iran. The report relates to human rights in the Islamic Republic of Iran in the year 1994, although it must obviously be read in the light of the reports submitted by the Special Representative since 1986.

I. COMMUNICATIONS BETWEEN THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF IRAN AND THE SPECIAL REPRESENTATIVE

4. On 1 November 1994, the Permanent Representative of the Islamic Republic of Iran to the United Nations Office at Geneva transmitted the following letter to the Special Representative:

> "... Information received from various sources on violation of human rights of Iranians in certain areas in Iraqi territory has now become public. An article from the Wall Street Journal of 4 October 1994, as annexed, is an example of such public information.
>
> "Noting that the Special Representative has addressed, on a number of occasions, matters related to the human rights of Iranian individuals residing outside Iranian territory and his affirmation that groups should also respect human rights, it is requested that the Special Representative examine these violations of human rights of Iranians and include his observations, conclusions and appropriate suggestions in this regard in his reports."

II. INFORMATION RECEIVED BY THE SPECIAL REPRESENTATIVE

5. The following paragraphs contain a summary of some of the allegations of human rights violations received by the Special Representative in the period

August to December 1994. The information received in the period January to July 1994 is set out in the interim report submitted to the General Assembly (A/49/514, paras. 13-80, and Add.1-2).

A. Right to life

6. Although the Iranian press has ceased to publish most of the cases of executions, at least 63 executions were reported during 1994. In the period August to December 1994 there were 24 executions, including 8 persons who were stoned to death and 14 who were strangled by hanging. At least 12 executions took place in public. During this period, nine persons were executed for rape, procuring or adultery. Information was received on the following specific cases in which the death penalty was applied.

7. The Iranian newspaper Hamshahri reported in its 1 August 1994 issue that Emdad Mahrami and Mikhail Rostami-Zadeh were hanged in public in the main square of Jolfa, a town in the northern part of the country, after receiving 110 lashes. They were found guilty of rape.

8. The Iranian newspaper Jomhuri Islami reported on 11 August 1994 that Mohsen Sozanian was hanged in public in the Arak stadium, after being sentenced to death for murder.

9. Bahram Ababs-Zadeh was hanged in public on 13 August 1994 in Khayam Square, in Zahedan. The newspaper Salam reported on 14 August 1994 that he was sentenced to death by the Islamic revolutionary court in Zahedan on a charge of trying to plant a bomb in a Sunni mosque. Ababs-Zadeh was arrested on 23 June 1994 and reportedly confessed to trying to plant the explosive device in an effort to create dissension between Shiite and Sunni Muslims.

10. The newspaper Abrar reported in its 2 October 1994 issue that a person accused of killing a five-year-old girl was executed in Varamin prison. According to the information published, the oral proceedings leading to this person's conviction lasted less than a week.

11. In its issue of 20 October 1994, Kayhan reported that Hossein Kamali, aged 25, from Amol, was sentenced to death for killing his wife.

12. On 7 November 1994, Kayhan reported that Majid Kheirabadi was executed in Mashhad after being found guilty by an Islamic revolutionary court of armed robbery and assault.

13. The Iranian newspaper Abrar reported on 16 November 1994 that the following persons were stoned to death in public on the road from Jouibar, near Sari, capital of the province of Mazandaran, in the northern part of the country: Ghahreman, aged 30, Akbar, aged 44, and Mrs. Moharram, aged 32. The first two were found guilty by an Islamic revolutionary court of abducting and raping a girl of 20 and of drinking alcohol. Mrs. Moharram was sentenced for illicit sexual relations. Before they were stoned to death, the two men were buried up to the waist and the woman up to the shoulders.

14. The newspaper Hamshahri reported in its 4 December 1994 issue that two women named Horei and Iran and a man called Mohammad Rezaie, alias

Mammad Heiran, were stoned to death in public on 3 December 1994 in the old cemetery in Hamdan. They were sentenced for having formed a network of corruption.

15. Kayhan reported in its 6 December 1994 issue that 10 Iranians were hanged in Bandar Abbas, capital of the province of Hormozgan, after being sentenced to death by an Islamic revolutionary court, which found them guilty of armed robbery and assault.

16. Hamshahri reported in its 8 December 1994 issue that a man and a woman were stoned to death in December 1994 in Ramhormoz, in the south-eastern part of the country for murder and adultery. The couple were accused of killing the woman's husband in order to carry on an affair. They were stoned to death in public.

17. In its 1 August 1994 issue, Kayhan reported that Abdul Hossein Reeici, aged 50, was killed after being arrested by agents from Tehran Municipality No. 3, in Vanak. The agents tried to get away, but were forced by the neighbours to take the victim to a hospital. The head of the public relations office of the Municipality of Tehran, Mr. Jamali, said that the official physician, Dr. Hashemi Nasab, had certified that the victim had died of a heart attack. Dr. Nasab denied issuing any certificate whatsoever and announced that the cause of death would be disclosed in two months' time.

18. Jomhuri Islami reported in its 24 August 1994 issue that Ali Reza Merkand, from Khandaq-Lou, was killed on 15 August 1994 by shots fired by members of the security forces opposite the offices of the Department of Education in Zanjan. Merkand was leaving the Shafieh Hospital, to which his mother had just been admitted. A week after the incident no official information had been provided about it nor had the victim's body been handed over to his family.

19. The mutilated body of Mr. Haji Mohammad Ziaie, aged 55, leader of the Sunni Muslim community in Bandar Abbas, was found on 20 July 1994 in Shah-Mossallam. It was reported that he had been summoned to appear on 15 July 1994 before the authorities of the security forces in Laar, in the province of Fars. In 1981 he was arrested, tortured and sentenced to death. After being released, it is said that he continued to be the victim of hostile acts and threats. The body had been decapitated and an arm and a leg had been cut off. Nothing is known of the details of the inquiry into this death or of the findings.

20. In his interim report to the General Assembly (A/49/514, para. 59), the Special Representative mentioned that Mr. Ali Akbar Saidi-Sirjani, a well-known poet, essayist and satirical writer, had been arrested on 14 March 1994 after distributing bound photocopies of his books in response to an editorial in Kayhan Havai which accused him of having written against Islam in his books. It was also reported that he was being held incommunicado. In its reply, the Government of the Islamic Republic of Iran stated the following: "The person in question is arrested and now in detention on charges of espionage, acts against the moral health of society, including drug possession and use. This individual is at present in good physical and psychological condition" (A/49/514/Add.2, p. 11). On 27 November 1994, IRNA,

the official Iranian news agency, reported that he had died of a heart attack. His family, however, said that Saidi-Sirjani had had no history of heart problems. It is said that no inquiry has been conducted into the death of this writer. It was reported that his body was buried in Tehran and the necessary autopsy had not been carried out.

21. On 1 November 1994, the Islamic Consultative Assembly, the Majlis, enacted a law whereby members of the security forces and the Bassiji (voluntary militia) are allowed to fire on demonstrators. Use of firearms was authorized "to restore law and order during illegal armed rallies, at times of unrest and during illegal armed disorders and revolts". It is also permissible to shoot at vehicles suspected of carrying fugitives, stolen goods, contraband or narcotics. Members of the security forces and the Bassiji who kill or wound someone are exempt from any civil or criminal court action for doing so. The Government undertakes to compensate the families of any innocent person who dies from shots fired by the forces of law and order.

22. On 15 October 1994, the Minister of Justice, Mr. Ismail Shoushtari, announced the restoration of the death penalty for businessmen guilty of speculation or illegal hoarding of goods or excessive price rises.

23. An Agence France Presse dispatch dated 11 September 1994 reported that the President of the Republic, Ali Akbar Hashemi Rafsanjani, had said that the fatwa pronounced against the British writer Salman Rushdie was irrevocable and consequently there was no possibility of a pardon. He added that it was not in the interest of western countries to protect a person who had insulted a thousand million Muslims.

24. With regard to recent assassinations of Iranian citizens, chiefly exiles or refugees abroad, the Special Representative was told that Rafour Hamzai, a member of the Central Committee and representative of the Democratic Party of Iranian Kurdistan (DPIK) in Baghdad was assassinated in that city on 4 August 1994 on his doorstep.

25. The Special Representative was also informed that the Iranian citizen Assadi Mohammad Ali was stabbed to death at his home in Bucharest, Romania, on 12 November 1994. The Romanian police reportedly arrested three Iranian suspects. Assadi Mohammad Ali had applied for political asylum in Turkey in 1986, but his application was rejected. A few days before he was assassinated, he went to the UNHCR office in Bucharest and expressed fears about his safety in Romania. He was to return to the office to back up his statements, when the crime occurred. The Romanian newspaper Evenimentul Zilei reported that the victim had accompanied a nephew of the last Shah who was on a visit to Romania.

26. As to the assassination of Mr. Kazem Radjevi in Coppet, Switzerland, on 24 April 1990, it was reported that the French Council of State had said that the expulsion to Tehran of the two persons suspected of the assassination, whose extradition had been requested by the Swiss authorities, was unlawful and null and void. It will be remembered that Mosen Sharif Esfahani, an Iranian citizen aged 37, and Ahmad Taheri, an Iranian citizen aged 32, were arrested in France in November 1992. On 10 February 1993 the Court of Appeals in Paris handed down an opinion in favour of their

extradition to Switzerland. The decree ordering the extradition was signed on 31 August 1993 by the French Prime Minister and Minister of Justice. However, on 29 November 1993, Esfahani and Taheri were put on a plane to Tehran. This step was justified on the grounds of national interest. The Council of State took the view the two Iranians should have been extradited to Switzerland under the 1957 European Convention on Extradition and the 1977 European Convention on the Suppression of Terrorism, both of them binding on France and Switzerland, and that the French authorities should have specified the overriding reasons that impelled them not to comply with the extradition that had been ordered.

27. In connection with the killing of the former Prime Minister under the monarchy, Shahpour Bakhtiar, and his personal secretary, Katibeh Fallouch, the Special Representative was informed that on 6 December 1994 the Paris Special Criminal Court sentenced an Iranian citizen, Ali Vakili Rad, aged 35, to life imprisonment, without any possibility of conditional release for a period of 18 years. It also sentenced an Iranian citizen, Massoud Hendi, aged 47, a former chief of Iranian Radio and Television, to 10 years' imprisonment, without any possibility of conditional release for a period equivalent to two thirds of the sentence, for helping the killers to enter the country. However, it ordered the immediate release of a third accused person, the Iranian citizen Zeynal Abedin Sarhadi, aged 28, an employee of the Iranian Ministry of Foreign Affairs. Sarhadi, who had been charged with helping the killers to escape to Switzerland, was none the less immediately expelled from France by order of the French Minister of the Interior. In its ruling, the Paris Special Criminal Court took the view that the killers belonged to a criminal organization firmly established in Tehran, Istanbul, Geneva and Paris.

28. The other two persons presumed to have killed Bakhtiar, Farydoun Boyerahmadi and Mohammad Azadi, as well as the consultant at the Iranian Ministry of Telecommunications, Hossein Sheikhattar, and three other persons, were not present at the trial and will be tried later <u>in absentia</u>. It should be noted that the Government Procurator, Jacques Mouton, and the two lawyers in the civil proceedings, stated in court that agents of the Iranian Government were to be found in the organization which allowed the two killings to take place.

29. As to the assassination of three leaders of the Democratic Party of Iranian Kurdistan (DPIK) and their translator, in Berlin, Germany, in September 1992, the Special Representative was informed that Mr. Klaus Gruenewald, director of the Federal Constitutional Protection Office, said on 14 October 1994 that the presumed organizer of the crime, an Iranian citizen, Kasem Darabi, had been in contact with the Iranian secret service since early 1990 and had supplied it with information about members of the Iranian opposition in exile. This statement was made to the Berlin court trying the case. He added that the Iranian Minister of Information, Ali Falahian, "had an interest in getting rid of the four Kurdish opposition leaders". The Iranian secret service has been expressly mentioned in the charges brought by the German Federal Department of Public Prosecutions.

B. Enforced or involuntary disappearances

30. The Special Representative was informed of the recent disappearance in Isfahan of an Australian citizen, David Andrew Lindner, a 28-year-old architect who went to the Islamic Republic of Iran to study Persian architecture. An official of the Isfahan Police Department told one of Lindner's friends who was inquiring into his whereabouts that Lindner had been arrested and executed. The Iranian authorities have denied that Lindner has been executed and have promised to ascertain his whereabouts and investigate the statement by the police officer. However, Lindner's whereabouts are still unknown.

C. Right to freedom from torture or cruel, inhuman or degrading treatment or punishment

31. In addition to the cases mentioned in his interim report to the General Assembly, the Special Representative was informed that two persons had had four fingers of the right hand amputated in public in Dezfoul, in the south-eastern part of the country. The Iranian newspaper Kayhan reported in its 7 November 1994 issue that the fingers had been amputated because the two persons had committed robbery and were recidivists.

D. Administration of justice

32. As to the administration of justice, it is appropriate to refer the reader to the Special Representative's interim report to the General Assembly (A/49/514, paras. 44-56) and the replies provided by the Government of the Islamic Republic of Iran (A/49/514/Add.2, pp. 8-10).

33. With reference to the situation in Iranian prisons, the Chief of the Prisons Department, Asadollah Lajevardi, reported on 10 December 1994 that the total prison population was 100,481 inmates; more than half of them were accused or convicted of offences connected with drug trafficking or drug use, and a significant percentage of the rest for murder, assault, robbery, fraud and sexual offences. According to Mr. Lajevardi's statements, published in the 12 December 1994 issue of the newspaper Kayhan International, there are also a number of prisoners charged with belonging to armed opposition groups.

34. In a note published in the 17 November 1994 issue of the newspaper Salam, one reader reported that he had spent 12 days in prison in Bandar Abbas from 20 September 1994 onwards. While he was in prison he was able to see that the various wings, built for 150 prisoners, actually held 700 to 1,000 persons each. Some prisoners had to sleep in the lavatories. He also said that many prisoners suffered from various skin diseases, tuberculosis and rheumatism and did not receive appropriate medical treatment. Furthermore, no standards of hygiene were observed in preparing the prisoners' food.

35. As to the list of 78 prisoners given in the Special Representative's interim report to the General Assembly (A/49/514, para. 79), the Government of the Islamic Republic of Iran has provided information on two of them, Mohammad Bagher Bourzooi and Manouchehr Karimzadeh, who were pardoned and have been released (A/49/514/Add.2, p. 14).

36. Of particular concern has been the situation regarding Mr. Abbas Amir Entezam, former Deputy Prime Minister of the first Provisional Government of the Islamic Republic of Iran, who was visited by the Special Representative at Evin prison in December 1991. Mr. Entezam is said to have suffered various reprisals and to have been punished for speaking with the Special Representative, including refusal of medical treatment for an ear infection he had at that time. In August 1992, he was injected with substances which gave him nausea and a general feeling of faintness for weeks. At the present time, despite various illnesses and malnutrition, he is not allowed to receive food or medicine sent in from outside the prison or to buy it. Recently, he has been allowed to receive a visit every two weeks, although the visits take place in the presence of an official of the Prosecutor's Office and are frequently and arbitrarily interrupted and brought to an end by prison guards. Mr. Entezam is reportedly asking to be tried with all the guarantees set out in the Constitution of the Islamic Republic of Iran, the country's laws and the international instruments to which the Islamic Republic of Iran is party, in the presence of a jury, in public, and with the assistance of legal counsel. Lastly, it has been reported that Mr. Entezam rejected a proposal by some officials to grant him his freedom in exchange for silence about what he has experienced and seen in prison since 1979.

37. It has been reported that the number of arrests and detentions continues to be very high. On 21 September 1994, Reuters reported that General Reza Seifollahi, Chief of Police, said that the number of persons arrested by his forces on suspicion of drug trafficking and smuggling during the period 21 March to 21 September 1994 was 10,000. On 12 August 1994, nine women were arrested in a private home in the Karim-Khan-e-Zand district in the north of Tehran for playing cards. The Iranian newspaper Ressalat reported in its 21 August 1994 issue that 11 adolescents were arrested in Lahidjan, in the northern part of the country, on charges of belonging to a network of prostitutes.

38. Kayhan reported in its 20 September 1994 issue that 264 people aged 13 to 28 were arrested in various districts in western Tehran in a crime prevention campaign. The persons included about 30 young people wanted by the police for evading military service or for robbery, as well as 8 drug addicts. According to the newspaper, most of the young people were from the western provinces and had gone to Tehran to look for work.

E. Excessive use of force

39. The Special Representative received allegations concerning excessive use of force by the security forces in putting down protest marches and public demonstrations. On 4 August 1994, the riot squad in Qazvin shot at demonstrators who were protesting at Parliament's rejection of a bill that would have created the province of Qazvin. The shots killed at least 4 people and wounded 50 in the Vali-Asr district and in the town centre.

F. Freedom of expression and opinion and the situation of the press

40. It was reported that, on 25 October 1994, 134 Iranian writers, academics, translators, artists and journalists had sent an open letter to the

authorities calling for respect for freedom of expression and opinion and an end to censorship. The intellectuals protested "against the frustrating obstacles and humiliating attitudes that have to be faced by those who do not respect the Government's dictates and against censorship and inadmissible prohibitions". The persons who signed the letter, who were said to include most of the well-known writers and poets living in the country, condemned "the anti-democratic practices of the authorities" and protested particularly "at the sentencing of writers in the name of morality and ideology". They said that "to criticize a writer's work is normal, but to scrutinize his private life in order to discredit his work is an attack against his person". Lastly, they announced the establishment of an association of writers and artists "to oppose, collectively and at the professional level, the obstacles to reading, to free circulation of thought and to the freedoms of expression and publication" and to safeguard their individual independence.

41. The Special Representative was informed that a retired General, Azizollah Amir-Rahimi, aged 73, had been arrested on 3 November 1994 after sending an open letter to the President of the Republic urging the implementation of democratic reforms. His son, Mehrdad Amir-Rahimi, a 28-year-old university student, was also arrested on 8 November 1994 after sending a cable protesting to the authorities about his father's arrest. IRNA, the Iranian News Agency, reported on 7 November 1994 that General Amir-Rahimi had been transferred to a hospital after confessing that he was addicted to opium; it also said the tests confirmed that he was an addict. In his open letter, General Amir-Rahimi said: "No writer can describe the things that Iranian political prisoners have to face, the flagrant abuses perpetrated by the revolutionary courts against the dignity and honour of citizens or the sufferings of the Iranian people as a result of systematic oppression". The former Chief of the Military Police is said to be under psychiatric treatment and sedation at a military hospital.

42. In its 7 November 1994 issue, Kayhan reported that the Governor of Tehran had banned the manufacture and sale of clothing, footwear and accessories with unsuitable patterns or letters from the Latin alphabet on them. The decision is reported to be based on the need to preserve the country's culture and national and religious traditions and to guarantee proper respect for the national literature and language.

43. On 20 September 1994, the Majlis enacted a law which prohibits the importation, manufacture, marketing and use of dish antennas for satellite television. The law assigns the Ministry of the Interior and the Bassiji the task of dismantling and taking away antennas as soon as possible and stipulates fines and confiscation of goods for persons importing, manufacturing and distributing such devices. In the event of a repeated offence, the penalty is three to six years' imprisonment.

44. In its 15 September 1994 issue, the newspaper Abrar reported that the Ministry of Culture and Islamic Guidance had cancelled permission to publish 47 magazines and publications.

45. The Special Representative has also received information that strict censorship is still applied in connection with importing, circulating and translating foreign books.

G. Freedom of religion and the situation of the Baha'i community

46. In addition to the allegations enumerated in the interim report to the General Assembly (A/49/514, paras. 61-71, A/49/514/Add.1 and A/49/514/Add.2, pp. 11-12), the Special Representative received the following information.

47. The New York Times reported in its 1 August 1994 issue that the Deputy Minister for Foreign Affairs, Mr. Jarad Zarif, had said that some evangelical Christian churches were in actual fact organizations of a political character: "We consider them to be political organizations. If someone wants to start a political organization they must go through the process to obtain permission, as is the case for Muslims", he said.

48. In connection with the killing of Pastor Tatavous Michaelian, various inconsistencies have been noted in the police and court investigation. For example, Mrs. Farahnaz Anami, accused of the killing, allegedly said that the Pastor died from two bullet wounds, whereas the owner of the house in which the crime was committed said he had heard only one shot, and the office of the examining magistrate said that three bullets were found in the body. The testimony of the owner is said to have caused some controversy.

49. Farahnaz Anami reportedly confessed to killing Pastor Michaelian; identifying a place to bury the body of Pastor Dibaj in the Sorkheh Hesar woods in east Tehran; planning the killings of Archbishop Iraj Mottahedeh and Dimitri Belous; and planting explosives in the mausoleums of Hazrat Ma'soumeh and Imam Khomeini. Mrs. Batoul Vaferi Kaleteh and Mrs. Maryam Shahbazpoor are said to have confessed to being accomplices in these crimes and to have been arrested while they were trying to plant bombs at these mausoleums. No details are known about the inquiries into the killings of Pastor Dibaj and Pastor Hovsepian Mehr.

50. The situation of the Baha'is remains the same as that described in the Special Representative's interim report to the General Assembly (A/49/514, paras. 66-71). The situation of two Baha'is sentenced to death because of their religion on 8 December 1993, Mr. Bihnam Mithaqi and Mr. Kayvan Khalajabadi, is still precarious, for no reply has yet been received to the appeal against the conviction lodged with the Supreme Court of Justice. These persons have been in prison since April 1989.

51. Five other Baha'is are still in prison because of their religion. Particular concern was expressed about the situation of Mr. Husayn Ishraqi, aged 72, who has been in prison since 1 April 1992 and has been sentenced to a term of 10 years. Another Baha'i, imprisoned since 17 October 1985, Mr. Bakhshu'llah Mithaqui, has been told verbally that he has received a further sentence of 10 years in addition to the term he is serving in Gohardasht prison. It was also reported that, while Mr. Ramidan'ali Dhulfaquari has been released, the charge of apostasy against him has not been withdrawn. This person had been sentenced to death in December 1993.

52. Further acts of discrimination and economic pressure against the Baha'is have been reported, particularly in Mashhad, a city where the private sector is said to be under pressure from the authorities to dismiss Baha'i employees.

The Baha'is in Mashhad are reportedly facing major hurdles in carrying on their professional and commercial activities. Throughout the country, many Baha'is dismissed from the public sector on account of their religious beliefs are still unemployed and receive no financial assistance, grant or pension. It has even been reported that some Baha'is dismissed from the public sector were required to return the salaries and pensions they had received when they were working. Baha'i farmers are still denied access to farm cooperatives, which often provide the only opportunity to obtain credits, seed, fertilizers and pesticides.

53. It has been alleged that marriage, divorce and the right to inherit among the Baha'is continue to be unrecognized in law. Major difficulties, mentioned in information received previously, remain in obtaining passports and exit visas. It is asserted that young Baha'is continue to be denied access to higher education and, for the Baha'i community as a whole, the right to meet freely, to elect their representatives and to maintain their administrative institutions. The cemeteries, holy places, historical sites and administrative centres of the Baha'i community remain confiscated or have been destroyed. It is said that the Baha'is must bury their dead on waste land specified by the Government and that they are not entitled to identify the graves of their loved ones.

H. Situation of women

54. In addition to the allegations that appear in the interim report to the General Assembly (A/49/514, paras. 72-77), the Special Representative has received the following information.

55. An Agence France Presse dispatch of 18 September 1994 reported that the Minister of the Interior, Ali Mohammad Besharati, had announced a step-up in the campaign against women who did not wear the veil properly and who showed other signs of social corruption, such as riding behind men on motorcycles, or begging in chadors.

56. The Iranian Association Football Federation banned women from attending stadiums to see football matches, according to the newspaper Jomhuri Islami in its 21 July 1994 issue. The authorities considered that the presence of women in football stadiums was not compatible with Islamic standards of conduct.

57. Reports are still being received about the strict separation of men and women in public transport, with women being placed at the back in buses and minibuses. It was reported that a taxi service has been set up exclusively for women, and a hospital built exclusively for women patients, and a Women's School of Psychology in Rud-e-Hen, north of Tehran, in October 1994, where the teachers have to wear the chador, as an example to their students.

I. Freedom of association

58. On 7 November 1994, Reuters reported that the Ministry of Culture and Islamic Guidance had prohibited pen-pal clubs, which were, according to an official release by the Ministry, regarded as a tool used by Western culture to undermine Islamic and family values, chiefly among young people. On the same day, Kayhan reported that a man had been arrested in north Tehran on a

charge of running one of these clubs and recruiting members by announcing that he spoke foreign languages. The newspaper also stated that 30 people had confessed to being members of the club and had corresponded with persons abroad by means of the club.

J. Political rights

59. The Minister of the Interior, Mr. Ali Mohammad Besharati, stated that in the past 12 years no organization had asked to be registered as a political party. However, his Ministry had registered 300 associations of a non-political character, and he mentioned associations for occupational groups, students and religious minorities. In a dispatch dated 19 July 1994, Reuters reported that a representative of the Freedom Movement of Iran, Mr. Ibrahim Yazdi, contradicted this statement, maintaining that his organization had requested formal registration in 1983 and had still not received any reply to its application. He added that he knew of other organizations which had also applied to be registered as political parties, and they had not received a reply either.

60. Mr. Dariush Forouhar, a former minister in the first Provisional Government of the Islamic Republic of Iran and leader of the Party of the Iranian Nation, was arrested on 12 August 1994 by agents of the Ministry of Information at Behesht e' Zahra cemetery, while he was attending the funeral of another opposition political leader, Mr. Shamseddin Amir-Alaei. A few days later he was released.

K. Events of 6 and 9 November 1994

61. It was reported that on 6 November 1994 a military base of the People's Mojahedin of Iran organization in Ashraf, Iraq, 70 km from the Iranian-Iraqi border, had been attacked by Scud-B ground-to-ground missiles launched from Iranian territory, without causing any victims. According to the Iranian Government, the attack was a response to attempted infiltration by two commandos of the organization in south-west Iran.

62. Three days later, Iranian Air Force planes attacked a base of the Democratic Party of Iranian Kurdistan (DPIK) east of Erbil, in the north of Iraq, killing and wounding an unknown number of persons. IRNA, the Iranian News Agency, reported on 9 November 1994 that the Iranian Air Force had attacked as a reprisal for various attempts at infiltration and sabotage in the Iranian border regions.

L. Situation of refugees

63. The Islamic Republic of Iran is, according to information the Special Representative has received, the country with the largest number of refugees on its territory. From 1991 to the end of 1994, the number fell by 2,250,000, because the figure for 1991 stood at 4,300,000. The number is now estimated at 2,050,000. The refugees are mainly Afghans. Under an agreement between the Office of the United Nations High Commissioner for Refugees (UNHCR) and the Governments of the Islamic Republic of Iran and Afghanistan, five return stations have been set up on the Afghan-Iranian border. At the stations, each Afghan refugee returning to his country receives US$ 25 and 50 kilograms of

wheat from UNHCR. The International Organization for Migration (IOM) arranges the transport of refugees returning with funds provided by UNHCR. IOM has transported more than 80,000 refugees.

64. Most of the Afghan refugees, estimated to number 1,800,000, live in temporary villages built near Iranian towns, and only a minority are in refugee camps. Many work in construction, in the public or private sectors. UNHCR provides health services, additional food, drinking water, education, vocational guidance and shelter. The World Food Programme continues to provide food aid to 260,000 Afghan refugees. The Iranian Government is also helping refugees who return to Afghanistan at four camps and health centres in Afghan territory. Recently, the repatriation process has slowed down, owing to the civil war that afflicts Afghanistan.

65. Iraqi refugees also account for a significant proportion. They are Shiite Muslims from the south and Kurds from the north of Iraq. At the present time, the number of Iraqi refugees is around 100,000, a figure which has not been properly established because some return to their country while new groups of not less than 5,000 persons each arrive in the Islamic Republic of Iran from time to time. About 50,000 live in refugee camps and the remainder in rural settlements. In the early months of 1994, about 7,000 Iraqis arrived from the southern marsh area. Repatriation of the Iraqi Kurds has recently been hampered by the fighting in the north of Iraq.

66. The Government of the Islamic Republic of Iran has built 10 temporary settlements in the territory of Azerbaijan to assist Azerbaijanis who are displaced persons in their own country and have been affected by the war for control over Nagorny Karabakh. Moreover, it has offered logistical support to send humanitarian assistance to Azerbaijan through Iranian territory and has built camps in the western province of Hamedan for Azerbaijani refugees. The number is estimated at 50,000.

III. CONSIDERATIONS

A. Auspicious events for human rights at the international level

67. There were at least three developments in 1994 which augur well for a better coordination of activities and a better use of the human and material resources available to the United Nations for promoting the effective exercise of human rights and fundamental freedoms throughout the world. These were the establishment of the post of High Commissioner for Human Rights, the first general meeting of rapporteurs, special representatives and experts working specifically on the protection and promotion of human rights, and the creation of a non-governmental organization (NGO) with the specific task of cooperating with the Commission on Human Rights - with a watchful eye, of course.

68. In its resolution 48/141 of 20 December 1993, the General Assembly created the office of High Commissioner for Human Rights, and H.E. José Ayala Lasso of Ecuador, a diplomat of broad experience in international affairs, was designated to serve in that capacity. This positive step in the process of development and consolidation of the United Nations human rights system heartens those who are committed to that goal in the service of the international community. The Special

Representative reiterates the positive view he expressed to Radio Netherlands during the Vienna World Conference on Human Rights regarding the development and consolidation of the international system of human rights and welcomes the appointment of Mr. Ayala Lasso with particular satisfaction.

69. In accordance with paragraph 95 of the second part of the Vienna Declaration and Programme of Action (A/CONF.157/24), a meeting of rapporteurs, representatives, experts and chairmen of working groups on special procedures and the advisory services programme of the Commission on Human Rights was held at the United Nations Office at Geneva from 30 May to 1 June 1994. The purpose of the meeting, and also its justification, was the conviction, shared by all the experts charged with implementing the extra-conventional mechanisms established by the Commission on Human Rights, that their mandates were basically similar without prejudice to their specificity, and that therefore, the harmonization and coordination of their respective activities would enhance the efficiency of each individually and of their activities as a whole.

70. By consensus, the meeting participants recommended: avoiding the duplication of effort by exchanging information and carrying out joint missions; convening periodic meetings of all those responsible for the implementation of extra-conventional mechanisms; preparing a manual or a collection of general outlines for the use of new rapporteurs and experts; suggesting to the Commission on Human Rights that consultative meetings be convened in which the rapporteurs, special representatives and experts could answer questions from Commission members and observers, thereby contributing to the preparation of resolutions; supporting the postponement by two or three months of the Commission's annual meeting period; and emphasizing the importance of field missions, field monitors and permanent observers in the most sensitive spots in relation to the observance of international human rights standards.

71. The objective of United Nations Watch, the new NGO, is to evaluate United Nations human rights activities in terms of the norms established by the United Nations Charter. Among other items, it will examine the shortfall of human and material resources allocated to activities which are increasing in number year after year and even day after day, and which are generally known as special procedures. The activities of NGOs are a pillar of the United Nations human rights system, and their contribution is an asset in terms of its quality and timeliness.

B. The 1994 mandate

72. In renewing the mandate of the Special Representative for another year on the basis of its resolution 1994/73 of 9 March 1994, the Commission on Human Rights requested that its Special Representative present an interim report to the General Assembly during its forty-ninth session, to be followed by a definitive report to the Commission itself at its fifty-first session. In compliance with his mandate, the Special Representative, with the assistance of the Centre for Human Rights, has compiled and classified the new information he received. It comprises accusations and allegations relating to the same categories as those described in earlier reports. The data are of various types: in some cases the veracity of the allegations could not be

substantiated, while in others the information, given its source, can be regarded as serious and reliable and can therefore be evaluated. As in previous years, one of the most reliable sources has been the reports printed in the Iranian press. On the basis of the new information, and taking into account previous information, the Special Representative is formulating his own views concerning the prevailing situation and, as is his duty, is submitting them to the General Assembly and eventually to the Commission on Human Rights.

C. Sources of information

73. It has to be stressed once again that the Special Representative does not base his reports on just one source. He cannot rely on any one single source, however trustworthy it may be. An official Iranian statement to the Sub-Commission on Prevention of Discrimination and Protection of Minorities on 15 August 1994 treated this as grounds for contesting the credibility of the Special Representative's reports. The Special Representative receives information from various sources, both inside and outside Iran. Where individuals are concerned, their names are kept confidential at their request, as is usual under United Nations procedures. When different sources agree on particular points, that obviously strengthens belief in the truth or probability of the allegations in question.

74. The Special Representative pays great attention to the Iranian press, which, under the existing system of control, publishes reports that implicitly have the authorities' approval. Thus, as far as executions are concerned, the Iranian press continues to be the main source of information, although, as stated in a previous report, official instructions have been given to restrict reporting of such matters, with the express intention of depriving the Special Representative of an important source of information which can hardly be disputed (see document A/48/526, para. 92).

D. Cooperation of the Government of the Islamic Republic of Iran

75. Over the past two years, Iranian cooperation with the mandate of the Special Representative has diminished, although it is still at a level allowing a working relationship to be maintained in order to deal with its most important and urgent aspects. The Iranian Government has replied to the allegations contained in the Special Representative's interim report to the General Assembly (A/49/514/Add.1 and 2). Because of the short interval between the interim and final reports, it has not been sent the new allegations received, which are to be found in section II of this report. Contacts with authorized Iranian representatives indicate that there are two sticking points that have led the Government to conclude that it has not obtained the concessions it expected in return for its full cooperation, the most important element of which concerns visits to Iran. One of these points is the repeated criticism they find in the reports of the Special Representative; the other is the absence in recent years of negotiated, consensus-supported resolutions on the part of the competent bodies of the United Nations. On the positive side, it should be emphasized that consideration is once again being given to the possibility of organizing an activity proposed several years ago by the Special Representative: the systematic study of Islamic law in relation to international human rights

instruments. The preliminary organizational questions have already been discussed, and consideration is being given to working out a programme and selecting basic texts.

76. The Iranian Government has recently, in official statements, recognized the universality of human rights. In his statement of 15 August 1994 to the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the representative of the Iranian Government declared: "[Human rights] are thus universal, independent of conditions, transcend all boundaries, be they temporal or geographical, and do not lend themselves to distinctions of race, sex or other superficial attributes and barriers. Nor do they sacrifice the value of the individual for the well-being of the community, or the health of human society for the licence of the individual, and these rights emanate from the totality of the human person. They cannot be the domain of a few powerful States and cultures, with dubious records of human rights observance in the past or even in the present."

E. Work of the Organization for the Defence of Victims of Violence

77. This organization, whose headquarters are in Tehran, promotes knowledge of human rights and distributes information on the means of seeking redress. Among other aims, it seeks to eliminate violence by means of education and the establishment of a human rights culture. Recently the Special Representative received a copy of the organization's bulletin for the year 1994, in which it states that it has distributed throughout the country a basic form for the submission of complaints about violations of human rights, in Farsi and English, explaining the type of information that should be provided when asking a national or international agency to intervene. On page 2 of the bulletin, the organization recognizes the work of the United Nations in promoting the observance of human rights in the world, in the following terms: "From the organization's point of view, activity in the framework of the United Nations Organization is of great importance. Having a correct understanding of this gigantic body and its position in monitoring and taking measures in [the] human rights field at national and international level can be very effective in promoting the world situation."

F. Right to life

78. Although reporting of executions by the press in the Islamic Republic of Iran has been severely restricted, information has been obtained regarding 63 executions carried out in 1994. This figure is similar to the one for 1993. There ought to be a real reduction in the number of executions. Until such time as the press resumes the practice of publishing information on all executions, it will be impossible to make a proper evaluation of the data collected. A number of significant cases which were mentioned in the Special Representative's interim report to the General Assembly are described below.

79. The Special Representative was informed that on 31 January 1994 a woman had been stoned to death at Evin prison in Tehran. In March, another woman, accused of adultery and of collaborating with a prostitution network, was stoned to death in Qom. The latest case of stoning published in the press was in January 1990. In its reply, the Government of the Islamic Republic of Iran stated that these women had in fact been executed, but denied that they had

been stoned or that the executions had taken place in public (A/49/514/Add.2, p. 4), thus contradicting the version published by the newspapers Kayhan and Ressalat. Information was also received that a 15-year-old girl had been sentenced to death in January in Qazvin. On 16 May 1994, according to a report by Agence France Presse, a 17-year-old youth was publicly hanged in Mashhad, having been convicted of sexually assaulting an under-age girl. In its reply on these cases, the Government of the Islamic Republic of Iran stated that both these persons had in fact been executed, but denied that they had been under age (A/49/514/Add.2, p. 5). It is worth mentioning none the less that under the International Covenant on Civil and Political Rights (art. 6.5) sentence of death may not be imposed on persons below 18 years of age.

80. It has recently been reported that during the period between August and December 1994 there were eight executions by stoning. The information comes from the Iranian newspapers Abrar (issue of 16 November 1994) and Hamshahri (issues of 4 and 8 December 1994). During the same period, at least 12 executions were carried out in public.

81. Particular concern has been aroused by the announcement of the extension of the death penalty to the crimes of speculation, illegal hoarding of goods and introduction of unjustified price rises, which was made by Mr. Ismail Shoushtari, the Minister of Justice, on 15 October 1994, and by the new act of 1 November 1994 authorizing the security forces to use their firearms in suppressing protest demonstrations and dealing with disturbances of law and order.

82. Many people throughout the world reacted with shock to the murders of three Protestant clergymen in 1994. Further details on these cases can be found in sections II and III A of the interim report submitted to the General Assembly (A/49/514) and in paragraphs 48 and 49 of this report. The Government should be asked to conduct a thorough investigation of these murders and to prosecute the perpetrators; the latter should of course benefit from the due process of law guaranteed in the relevant international instruments. The victims were the Reverend Tatavous Michaelian, Interim President of the Council of Protestant Ministers of Iran; the Reverend Mehdi Dibaj, pastor of the Church of the Assemblies of God; and the Reverend Haik Hovsepian Mehr, President of the Council of Evangelical Ministers of Iran and Superintendent of the Church of the Assemblies of God. The latter had refused to sign a document declaring that the Churches enjoyed all the rights guaranteed by the country's Constitution, and that the allegations contained in the reports of the Special Representative on the subject were false. The leaders of the evangelical congregations are known to have been summoned to a meeting with important government representatives, at which they were threatened and even warned that the Christmas of 1993 might be their last.

83. The Government of the Islamic Republic of Iran should be asked to conduct a thorough investigation into the deaths of the leader of the Sunni Muslim community, Mr. Haji Mohammad Ziaie, and the writer, poet and essayist Mr. Ali Akbar Saidi-Sirjani.

84. In a number of countries, trials are in progress to prosecute the murders of Iranians in exile. According to statements by judicial and

administrative authorities in the countries where these incidents occurred, Iranian secret agents were found to have been involved. In the case of Professor Kazem Radjavi, the judicial proceedings, begun on 24 April 1990, are being kept open by the Swiss judge, Mr. Roland Châtelain. The judge is in possession of 13 names, which may or may not be authentic, of persons suspected of having participated directly or indirectly in Radjavi's murder. Judge Châtelain has sent the Islamic Republic of Iran, via Berne, a letter of request followed by several reminders, but he has received no reply. Despite international arrest warrants against them, the 13 persons are still at liberty, and the judge was unable to obtain the extradition of 2 accused persons who were in detention in France. Given the lack of progress in the legal proceedings, his statement to the press of February 1992 still applies today. At that time, he declared that he could not commit the 13 accused for trial to be judged in their absence. The reasons that he gave at the time are still valid: "In order to do so, it would be necessary to know who did what and have proof of their true identities. I have names, but are they true or false? The case will remain open. Times can change." (Le Courrier, 23 February 1992). It has recently been reported that the French Council of State has declared the expulsion from Tehran of the two persons whose extradition had been requested by the Swiss authorities to be null and void and contrary to the European Conventions on Extradition of 1957 and on the Suppression of Terrorism of 1977.

85. In connection with the assassination of Mr. Shahpour Bakhtiar and his secretary, Mr. Katibeh Fallouch, it is reported that the Paris Special Criminal Court passed various sentences on the Iranian citizens Ali Vakili Rad and Massoud Hendi on 6 December 1994 and ordered the immediate release of Mr. Zeynal Abedine Sarhadi. Six other persons, who were absent during the trial, will be tried later (see above, paras. 27 and 28).

86. With respect to the assassination of three Kurdish leaders and their translator, which occurred in September 1992 in Berlin, Mr. Bernd Schmidbauer, Minister of State in the German Federal Chancellery, told the court investigating the case on 17 March 1994 that the Government of the Islamic Republic of Iran had tried to prevent the prosecution of those accused of the assassination. On 14 October 1994, Mr. Klaus Gruenewald, Director of the Federal Office for the Protection of the Constitution, told the court that Kasem Darabi, the presumed organizer of the crime, had been in contact with the Iranian secret services since early 1990, supplying them with information on members of the Iranian opposition in exile. The trial of four Lebanese and an Iranian is proceeding. Iranian secret agents have been charged by the German State prosecutor handling the case.

87. It is apparent from the foregoing that the judicial inquiry into the murder of Mr. Radjavi has been blocked by the failure of the Islamic Republic of Iran to cooperate. Two Iranian citizens have been convicted by the Paris Special Criminal Court, and an international arrest warrant has been issued against six other persons. The case of the Kurdish leaders is proceeding normally. Mr. Taha Kermani, an Iranian Kurd who had been granted refugee status by the Office of the United Nations High Commissioner for Refugees (UNHCR), was also assassinated at Corum, Turkey, on 4 January 1994. He had reportedly received death threats from Iranian agents. No further information has been obtained regarding this case. Nor have any more details been

forthcoming on the assassinations of Mr. Rafour Hamzai, member of the Central Committee of the Democratic Party of Iranian Kurdistan (POKI), on 4 August 1994 in Baghdad, and Mr. Assadi Mohammed Ali, on 12 November 1994 in Bucharest. In the latter case, three Iranian citizens are said to have been arrested by the Romanian police.

88. It has been reported that on 22 February 1994, as a protest against unjust treatment, Professor Homa Darabi, paediatrician and paediatric psychoanalyst, burned herself to death screaming "Long live freedom". This occurred at Chemira Ne Square in the northern sector of Tehran. Dr. Homa Darabi had been dismissed from an academic position in an institution affiliated with the University of Tehran, reportedly for failing to adhere strictly to the dress code. The Government of the Islamic Republic of Islam stated that "According to the information received from the husband of the late Dr. Homa Darabi, she had had symptoms of a psychological disorder for some time. Gradual increase in these symptoms resulted in her unfortunate suicide" (A/49/514/Add.2, p. 13).

G. Attack in Mashhad

89. On 20 June 1994, a very serious attack was perpetrated in Mashhad when a bomb packed with 5 kilograms of explosives was set off in the prayer halls of the tomb of Imam Reza, one of the holiest sanctuaries and pilgrimage sites, leaving 26 people dead and 170 wounded. The attack occurred when thousands of pilgrims from all parts of the country had gathered to commemorate the martyrdom of Imam Hussein. The authorities affirm that they arrested at least two suspects. One of them, Mehdi Nahvi, confronted the security forces in Tehran pars, Eastern Tehran, and was seriously wounded. He died in hospital on 2 August 1994 from the wounds he received when he was captured. This utterly senseless attack was unanimously condemned both inside and outside the country. Information has been received about other attacks with explosives both in Tehran and in other towns in the interior.

H. Torture and cruel treatment of persons arrested or sentenced for offences

90. The statements made by Mr. Helmut Szimkus, a German citizen, about the five and a half years he spent in Evin prison have recently come to our notice. The European press published and commented on the statements he made upon his release. This engineer was arrested at Tehran Airport on 13 January 1989 for spying for Iraq. He claims that he was tortured without a stop from the moment he was arrested. He says that he was blindfolded and that he was repeatedly slapped in the face by his interrogator. He was subjected to such abuse on a daily basis for four weeks. He was transferred to section 209 of Evin, reportedly run by the secret service. There, he saw bloodstains on the floor. He was tied to a wooden pole and was beaten repeatedly on the soles of the feet with a copper cable. "They pounded me like crazy." He ended up signing a confession. He says that he heard men and women being tortured screaming for hours on end. In reply to these allegations, the Government of the Islamic Republic of Iran stated the following: "In an interview with Frankfurter Allgemeine, dated 3 August 1994, the person in question has unequivocally confessed to collaboration with American and Iraqi agents in the Islamic Republic of Iran. This confession

not only clarifies his previous actions, but is also a valid criterion to assess the validity of his other statements. His numerous contradictory press fabrications, self-explanatory as they are, could be caused by financial motives or thirst for fame" (A/49/514/Add.2, p. 7).

91. The body of Mr. Feizollah Mekhoubad, an Iranian of the Jewish faith, executed on 26 February 1994, bore signs of severe torture, including a disfigured face, bruises probably caused by blows, broken teeth and contusions on various parts of the body. In its reply, the Government of the Islamic Republic of Iran stated that this person had been sentenced to death for espionage and sabotage and that his corpse had been buried in a Jewish cemetery according to the Jewish faith; it denied the allegations of torture (A/49/514/Add.2, p. 4).

92. Other cases have been reported in the Iranian press. For example, Jomhuri Islami reported on 14 March 1994 that in the central prison of Qom, four fingers on the right hands of Mohammad Hossein Honar Bakhshi and Karim Gol-Mohammadi were chopped off in plain view of the other prisoners. On 26 January 1994 Kayhan reported that two people had been flogged in public in the south of the country. Three youths accused of indecent exposure were publicly flogged in Saveh, south-west of Tehran, no further details being given. According to a France Presse dispatch from Tehran, the Iranian press published this information. Two of the youths were given 60 lashes and the third, 30. Recently, in its issue of 7 November 1994, the newspaper Kayhan reported that two persons had had four fingers of their right hands amputated in the south-west of the country. The sentence was carried out in public.

I. Administration of justice and right to freedom of expression

93. Bearing in mind the already familiar problems, it should be noted that there has been no known reform of Iranian criminal law designed to bring it into line with international standards, nor do efficient measures appear to have been taken to guarantee due process of law. Issues such as public trials, the right to competent counsel, the right of the accused to call witnesses and trial procedures have been extensively dealt with in previous reports and in the Special Representative's interim report to the General Assembly; however, we are not aware of any new steps or at least of any change in attitude regarding these issues. Therefore, it can be stated that no change has been observed in the circumstances under review.

94. On 10 December 1994, Mr. Asadollah Lajevardi, Chief of the Prisons Department, stated that there were 100,481 inmates in Iranian prisons. He said that over half those prisoners were drug traffickers and drug addicts. He recognized that there were some persons in prison on charges of belonging to armed opposition groups. Other sources estimate that there are 4,000 women and 3,776 persons of Afghan nationality in prison.

95. The Special Representative has requested specific information from the Government of the Islamic Republic of Iran on the charges against 78 persons who are known to be detained in various Iranian prisons and the circumstances of their detention and prosecution. One of these persons, Mohammadi Malakeh, is considered by non-governmental organizations to be a prisoner of conscience. It is notable that Mrs. Malakeh was sentenced to 20 years in

prison without having had the benefit of a qualified defence counsel during the trial. In its reply, the Government of the Islamic Republic of Iran provided information on two prisoners, Mohammad Bagher Bourzooi and Manouchehr Karimzadeh, stating that they had been pardoned and released (A/49/514/Add.2, p. 14).

96. Of particular concern has been the situation regarding Mr. Abbas Amir Entezam, who was visited by the Special Representative at Evin prison in December 1991. Despite various illnesses and malnutrition, he is reportedly not allowed to receive food or medicine sent in from outside the prison or to buy it. He has been allowed to receive a visit every two weeks, although the visits are said to be frequently and arbitrarily interrupted and brought to an end by prison guards. It is also reported that Mr. Entezam recently rejected a proposal by some officials that he should be given his freedom in return for keeping silent about what he had seen and suffered in prison since 1979.

97. Mr. Said Niazi-Kermani, a poet and journalist, was arrested on 14 March 1994. The poet, essayist and satirist Ali Akbar Saidi-Sirjani was arrested that same day for distributing bound photocopies of his books, following an editorial in the Kayhan Havai in which he was accused of having written against Islam in his books. Kayan, one of the largest dailies in the country, speculated that the arrest of Mr. Saidi-Sirjani might have been drug-related. Kayhan subsequently published a letter allegedly written by Mr. Saidi-Sirjani, in which he confessed to being guilty of 40 years of corrupt behaviour, including relations with undesirable persons, manufacture of alcoholic beverages, frequent use of narcotic drugs, and accepting money from the Lillian Hellman and Dashiell Hammett Foundation of New York. Persons who knew the writer asserted that the allegation that he had written the letter, which was published on 2 June 1994, was not credible, or that, if he had written it, he had done so under enormous pressure. Some of his colleagues have maintained that the handwriting which the newspaper reproduced does not match that of the author and that the style of the letter is also different. Moreover, the administrators of the Hellman-Hammett Prize have indicated that Mr. Saidi-Sirjani refused to accept the money that went with the prize which he was awarded. In the meantime, there have been demonstrations in the streets near the prison calling for the writer to be sentenced to death.

98. According to information provided by the American Centre of PEN, Mr. Ali Akbar Saidi-Sirjani and Mr. Said Niazi-Kermani received no legal assistance for their defence against the charges. The Centre has collected evidence showing that the attorney, Mr. Hamide Mossadeq, was not allowed to meet with his client, Mr. Saidi-Sirjani. The two prisoners were denied access to defence counsel as well as visits from family members and were held incommunicado from the time of their arrest on 14 March 1994. It is claimed that the arrest warrants did not mention their names and that they were not informed of the charges against them. Publication of the letter alleged to have been written by Mr. Saidi-Sirjani could, moreover, have violated the principles of the presumption of innocence and the impartiality of any future trial.

99. On 27 November 1994, the official Iranian newsagency IRNA reported that the writer Ali Akbar Saidi-Sirjani had died of a heart attack. According to his family, however, he had no history of heart problems. His body is said to have been buried without the necessary autopsy. The Government of the Islamic Republic of Iran should be requested to carry out an exhaustive investigation into the circumstances of this person's detention and death.

100. The Special Representative has received a sketchy report about the arrest of Mr. Nasser Anwari and his wife, whose movements have been restricted to the city of Yazd following accusations that they attempted to provide information to the Special Representative during one of his visits to the Islamic Republic of Iran. In this connection, it is useful to recall Commission on Human Rights resolution 1994/70 of 9 March 1994 in which the Commission urges Governments to refrain from all acts of intimidation or reprisal against, inter alia, those who seek to cooperate or have cooperated with representatives of United Nations human rights bodies, or who have provided testimony or information to them.

101. The criminal investigation system and the regime of punishment for offenders will again be put to the test with the cases of the assassinations of the Protestant ministers. It is to be hoped, and should be requested, that the guilty parties will be tried with full respect for the guarantees of due process of law and that appropriate penalties will be imposed.

J. Freedom of religion

102. The Bible Society of Iran and the Garden of Evangelism society remain closed. The closure of the Christian church at Gorgan has also been reported. The Christian churches at Mashhad, Sari, Ahwaz, Kerman and Kermanshah have been closed. The church at Orumiyeh is open but only one religious service is permitted each week. Christian religious services are permitted in the Armenian and Syrian languages but not in Farsi. Christian church leaders have signed written promises not to permit Muslim believers to attend their religious services. An inter-faith Christian association, "Portes Ouvertes", reported that Hassan Shahjamali, an Iranian Christian living in the United States, disappeared mysteriously in Iran while on his way to Tehran airport from Shiraz on 1 July 1994. The Special Representative was later informed that Mr. Shahjamali has been detained at Shiraz and subsequently released on 20 July 1994. Another Protestant minister, Nathaniel Beni Paul, remains in detention at Ahwaz. Reports have also been received of alleged acts of aggression, persecution and threats against other Protestant ministers and Christian converts at Kermanshah.

103. In its reply to the allegations referred to in the previous paragraph, the Government of the Islamic Republic of Iran emphasized that all religious minorities enjoyed full legal rights in the country. It stated that churches were established and operated in accordance with the law of the land and denied that the persons in question had been arrested. It added that religious minorities had their own private schools, at which they were free to practise and teach their religions. Those schools were supported financially by the Ministry of Education (see document A/49/514/Add.2, pp. 11 and 12).

K. Situation of the Baha'is

104. Section III.F. of the interim report (A/49/514) deals with imprisoned persons of the Baha'i faith. It also reports that on 8 December 1993, two Baha'is, Mr. Bihnam Mithaqi and Mr. Kayvan Khalajabadi, were sentenced to death by an Islamic revolutionary court at Tehran after being held in detention since April 1989 without any formal charges being brought against them. On 8 December 1993, Mr. Ramidan'ali Dhulfaqari was sentenced to death for apostasy and later released. The charges of apostasy have not been withdrawn, however, and his situation is therefore unclear. Mr. Bakhshu'llah Mithaqi, who has been in prison since 1985, has been verbally notified that a revolutionary court has extended his prison sentence by a further period of 10 years.

105. Property of Baha'is resident at Ilkhchi and Saryan has been confiscated. Pressure on the Baha'i community has been particularly severe in the city of Mashhad. Cemeteries, historic sites, administrative centres and property confiscated in 1979 have not been returned to the community.

L. Situation of women

106. The basic principles to be applied to the evaluation of standards and practices with regard to the situation of women by the competent organs of the international community are to be found principally in the Universal Declaration of Human Rights (and in particular, arts. 1, 2, 6, 7 and 16) and in the International Covenant on Civil and Political Rights (art. 3), which reads: "The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant." The Vienna Declaration and Programme of Action (A/CONF.157/23) adopted during the World Conference on Human Rights reaffirmed that the rights of women are an indivisible, integral and inalienable part of human rights and declared that the full participation of women in the civil, political, economic, social and cultural life of their countries and the eradication of all forms of discrimination on grounds of sex are priority objectives of the international community.

107. Section III.G. of the interim report (A/49/514) and paragraphs 54 to 57 of this report deal with the situation of women; according to reports from various sources, matters did not change over the course of 1994. The 1993 reports, which treat the subject at length, are also still relevant (A/48/526 and Add.1, E/CN.4/1994/50). On 5 May 1994, a student of medicine at Beheshti University in Tehran, who had been an activist in recent student demonstrations, was found dead, with marks of strangulation and a broken arm. The forensic examination concluded that she had committed suicide. Her fellow women students did not believe this version of the facts, and some 1,000 of them occupied a university building to protest at what they considered a murder and to demand protection. The students also called for an official investigation of the case. In its reply, the Government of the Islamic Republic of Iran stated that the student had committed suicide as a result of family problems and that the allegation that she had been assassinated was baseless (see document A/49/514/Add.2, p. 13).

M. Political rights

108. The Minister of the Interior stated that over the past 12 years his Ministry had registered 300 associations of a non-political nature and that no organization had applied for registration as a political party. This information was contradicted by a representative of the Freedom Movement of Iran, who said that his organization had been applying for registration since 1983 and knew of other organizations which had also requested formal registration as political parties but had so far received no reply.

N. Situation of refugees

109. The information given in paragraphs 63 to 66 of this report, which supplement previous information, confirms the Special Representative's view that the Government of the Islamic Republic of Iran is complying with its international commitments with regard to refugees and that even with the economic burden imposed on it by the enormous influx of people it is continuing to give refuge to nationals of neighbouring countries.

IV. CONCLUSIONS AND RECOMMENDATIONS

110. Not all the facts mentioned in section II of this report can be taken as substantiated. However, the facts that can be regarded as proven constitute a sufficient basis for a number of conclusions and recommendations that might serve as a guide for the action to be taken by the Commission on Human Rights. This section details the issues that, in the opinion of the Special Representative, merit attention; some of them might be incorporated in the resolution to be adopted on this item.

(a) The Islamic Republic of Iran should immediately resume cooperation with the International Committee of the Red Cross (ICRC), allowing it to make periodic visits to prisons and prisoners in accordance with the agreement concluded in 1991 and still in force.

(b) It should be borne in mind that under article 6.5, of the International Covenant on Civil and Political Rights, of which Iran is a full signatory, minors under 18 years of age are exempt from the death penalty, regardless of the seriousness of the crimes they have committed.

(c) The murders of Protestant Christian ministers and the deaths of Mr. Haji Mohammad Ziaie, Mr. Ali Akbar Saidi-Sirjani, Mr. Abdul Hossein Reeici and Mr. Ali Reza Merkand should be the subject of a thorough, careful and impartial investigation.

(d) The investigation and prosecution of the persons found to be responsible for the attacks carried out in 1994 will test the effectiveness of due process guarantees, since they aroused strong feelings, and understandably so. None the less, the temptation must be avoided to let feeling dominate reason and to allow the desire to punish to replace the need for an objective examination of the evidence during the criminal proceedings.

(e) Forms of punishment which entail torture, such as amputation and flogging, and are incompatible with applicable international human rights

instruments, continue to be inflicted; there has also been evidence of an increase in public executions and executions by stoning.

(f) The information collected on the treatment of prisoners is sufficient to support the conclusion that torture is used to extract confessions, at least in politically sensitive cases. It has been some time since the evidence received has been as direct and convincing as that provided by the testimony of the German prisoner recently released and the condition of the body of the Iranian citizen of the Jewish faith who was recently executed.

(g) There is an urgent need to ensure that the guarantees of due process of law are effectively applied, particularly in proceedings held before the Islamic revolutionary courts. To accomplish that, the laws will need to be revised with particular attention to implementation measures. It goes without saying that even the best laws are ineffective when they are not applied conscientiously.

(h) There must be an end to the harassment and discrimination to which members of the Baha'i community are subjected because of their religious convictions, mainly in matters of marriage, divorce, succession, issue of passports and exit visas, rights of ownership and free possession of their places of worship, cemeteries, historic sites and administrative centres. Careful consideration should also be given to the legal situation of Baha'is who are in prison, particularly those who have been sentenced to death or accused of apostasy.

(i) There must also be an end to acts of surveillance, hostility and discrimination against Protestants, particularly converts from Islam; permission should be given for the re-opening of churches, chapels, libraries, bookshops and other Christian premises that have been closed down and for the construction of new premises; and the right to hold services in Farsi without being kept under surveillance by agents of the security forces should be guaranteed.

(j) The situation of writers and of persons imprisoned for sending open letters to the authorities calling for the observance of human rights is a matter of special concern; the view expressed by the United Nations body responsible for promoting human rights could surely have a positive effect.

(k) Uncontrolled mob attacks on the press have been described in earlier reports. Now similar attacks are being directed at peaceful political gatherings. An urgent appeal must therefore be made to the authorities to intervene in timely fashion with due moderation in order to protect the victims of such attacks and ensure that freedom of opinion and expression and the rights of assembly and association actually prevail.

(l) The situation of women is a sensitive issue, given the historical and cultural background, but the organizations with a mandate to monitor compliance with applicable international human rights instruments cannot, as a matter of duty, ignore the existence of laws and practices that discriminate between the sexes and cannot neglect to point out the need to adapt internal legal systems to the international legal framework.

(m) It is to be hoped, and indeed urged, that the evidence in cases with high political impact, such as the murders of the Protestant ministers and the attacks using explosives, will be examined according to logical and reasonable rules of evaluation and procedure that will support credible conclusions, in other words, by applying what is known in legal language as sana critica. When political crimes are involved, it should be borne in mind that the perpetrators will try to protect themselves by dragging in red herrings and that incriminating others is usually part of the preparation and planning of a political crime. It is best, therefore, to be suspicious of very obvious clues, as in the case of the woman attempting to flee the country through the Zahedan area carrying evidence relating to the murder of the Reverend Tatavous Michaelian.

(n) In the above-mentioned politically sensitive cases involving police investigation and criminal prosecution, the findings would be stronger and more credible if the Government of the Islamic Republic of Iran were to solicit the cooperation of the competent organs of the United Nations and humanitarian organizations in sending observers to the trials and if it were to send photocopies of the records of the judicial proceedings to the competent organs of the United Nations. The observers would note in particular whether the trials were held in a public forum rather than inside a prison, and whether the accused benefited from all the guarantees of due process of law, including the right to be notified in writing of the charges against them; to have the assistance of a professional attorney of their choice, given sufficient time to prepare a defence; to present evidence in their favour and to file motions and appeals. It should be borne in mind that inaction is incompatible with applicable international obligations.

111. It should be explained that the international cooperation referred to in the previous paragraph is consistent with the human rights system promoted by the United Nations, since it simply ensures the credibility and objectivity of the acquittal or conviction handed down in the trial in question, particularly in cases that are highly sensitive and have aroused national and international public opinion. Such cooperation emphasizes the presence of reliable witnesses qualified to testify that the applicable international regulations have been complied with, and it will be still better if photocopies of the documents relating to criminal cases can also be sent.

112. International cooperation is already common in connection with the election of political representatives. Similar grounds can be found, mutatis mutandis, with respect to judicial cases which give rise to accusations and counter accusations, controversy in the media, public discussion of the evidence for guilt or innocence and other circumstances making for politicization, and consequently for an increased risk that the persons on trial may be judged in ways that are not strictly and objectively legal. This type of cooperation is compatible with State sovereignty, provided that the Governments in question give their express or tacit consent.

113. In view of the above observations, the Special Representative considers that continued international scrutiny of the situation of human rights and fundamental freedoms in the Islamic Republic of Iran is warranted and that the subject should remain on the agenda of the General Assembly.

- - - - -

E/1996/23
E/CN.4/1996/177

COMMISSION ON HUMAN RIGHTS

REPORT ON THE FIFTY-SECOND SESSION

(18 March-26 April 1996)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 1996

SUPPLEMENT NO. 3

UNITED NATIONS

E/1996/23
E/CN.4/1996/177

COMMISSION ON HUMAN RIGHTS

REPORT ON THE FIFTY-SECOND SESSION

(18 March-26 April 1996)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 1996

SUPPLEMENT NO. 3

UNITED NATIONS
NEW YORK AND GENEVA,1996

NOTE

Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

A State not member of the Commission may submit proposals in accordance with rule 69, paragraph 3, of the rules of the functional commissions of the Economic and Social Council. The list of participants is contained in annex I.

E/1996/23
E/CN.4/1996/177

CONTENTS

Chapter		Page
I.	Draft resolutions and decisions recommended for adoption by the Economic and Social Council	17
	A. Draft resolutions	
	I. Question of human rights and states of emergency .	17
	II. Question of a draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment . . .	17
	III. Working group of the Commission on Human Rights to elaborate a draft declaration in accordance with paragraph 5 of General Assembly resolution 49/214 of 23 December 1994	18
	IV. Protection of the heritage of indigenous people . .	18
	V. Question of a draft declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms .	19
	B. Draft decisions	
	1. Situation of human rights in Burundi	19
	2. Implementation of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination	20
	3. Question of the realization in all countries of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and study of special problems which the developing countries face in their efforts to achieve these human rights	20
	4. Effects on the full enjoyment of human rights of the economic adjustment policies arising from foreign debt and, in particular, on the implementation of the Declaration on the Right to Development	21
	5. The right to development	21

CONTENTS (continued)

Chapter			Page
I.	B.	Draft decisions (continued)	
	6.	Measures to combat contemporary forms of racism, racial discrimination, xenophobia and related intolerance	22
	7.	Implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief . . .	22
	8.	Human rights of persons with disabilities	23
	9.	Human rights and forensic science	23
	10.	Torture and other cruel, inhuman or degrading treatment or punishment	23
	11.	Report of the Working Group on Indigenous Populations of the Sub-Commission on Prevention of Discrimination and Protection of Minorities . .	24
	12.	National institutions for the promotion and protection of human rights	24
	13.	Right to freedom of opinion and expression	24
	14.	Assistance to States in strengthening the rule of law	25
	15.	Assistance to Somalia in the field of human rights	25
	16.	Situation of human rights in Haiti	25
	17.	Assistance to Guatemala in the field of human rights	25
	18.	Regional arrangements for the promotion and protection of human rights in the Asian and Pacific region	26
	19.	Composition of the staff of the Centre for Human Rights	26
	20.	Situation of human rights in Equatorial Guinea . .	26
	21.	Human rights situation in southern Lebanon and West Bekaa	27

CONTENTS (continued)

Chapter			Page
I.	B.	Draft decisions (continued)	
		22. Situation of human rights in Cuba	27
		23. Situation of human rights in the Republic of Bosnia and Herzegovina, the State of Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro)	27
		24. Situation of human rights in Iraq	28
		25. Situation of human rights in the Sudan	28
		26. Extrajudicial, summary or arbitrary executions . .	28
		27. Situation of human rights in Afghanistan	29
		28. Situation of human rights in Rwanda	29
		29. Situation of human rights in Zaire	29
		30. Comprehensive implementation of and follow-up to the Vienna Declaration and Programme of Action . .	29
		31. Situation of human rights in Nigeria	30
		32. Situation of human rights in Myanmar	30
		33. Evaluation of the human rights programme of the United Nations system, in accordance with the Vienna Declaration and Programme of Action	30
		34. Situation of human rights in the Islamic Republic of Iran	31
		35. Rights of the child	31
		36. Effects of structural adjustment programmes on the full enjoyment of human rights	31
		37. Forced evictions	32
		38. Systematic rape and sexual slavery during periods of armed conflict	32
		39. Human rights dimensions of population transfer, including the implantation of settlers and settlements	33

CONTENTS (continued)

Chapter			Page
I.	B.	Draft decisions (continued)	
		40. Study on treaties, agreements and other constructive arrangements between States and indigenous populations	33
		41. Organization of the work of the fifty-third session	33
		42. Organization of the work of the fifty-third session	34
II.		Resolutions and decisions adopted by the Commission at its fifty-second session	35
	A.	Resolutions	
		1996/1. Situation of human rights in Burundi	35
		1996/2. Human rights in the occupied Syrian Golan . .	39
		1996/3. Question of the violation of human rights in the occupied Arab territories, including Palestine	40
		1996/4. Israeli settlements in the occupied Arab territories	43
		1996/5. Situation in occupied Palestine	44
		1996/6. Question of Western Sahara	46
		1996/7. Middle East peace process	49
		1996/8. Implementation of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination	51
		1996/9. Human rights and unilateral coercive measures	55
		1996/10. Human rights and extreme poverty	56
		1996/11. Question of the realization in all countries of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and study of special problems which the developing countries face in their efforts to achieve these human rights	60

CONTENTS (continued)

Chapter			Page
II.	A.	Resolutions (continued)	
		1996/12. Effects on the full enjoyment of human rights of the economic adjustment policies arising from foreign debt and, in particular, on the implementation of the Declaration on the Right to Development	65
		1996/13. Human rights and the environment	68
		1996/14. Adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights . . .	69
		1996/15. The right to development	72
		1996/16. Status of the International Covenants on Human Rights	75
		1996/17. Violence against women migrant workers	78
		1996/18. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	80
		1996/19. Tolerance and pluralism as indivisible elements in the promotion and protection of human rights	83
		1996/20. Rights of persons belonging to national or ethnic, religious and linguistic minorities .	85
		1996/21. Measures to combat contemporary forms of racism, racial discrimination, xenophobia and related intolerance	88
		1996/22. Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights	91
		1996/23. Implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief	95

CONTENTS (continued)

Chapter			Page
II.	A.	Resolutions (continued)	
		1996/24. Traffic in women and girls	99
		1996/25. Work of the Sub-Commission on Prevention of Discrimination and Protection of Minorities	102
		1996/26. Minimum humanitarian standards	105
		1996/27. Human rights of persons with disabilities . .	106
		1996/28. Question of arbitrary detention	109
		1996/29. Staff members of the United Nations and of the specialized agencies in detention	112
		1996/30. Question of enforced disappearances	115
		1996/31. Human rights and forensic science	119
		1996/32. Human rights in the administration of justice, in particular of children and juveniles in detention	122
		1996/33. Torture and other cruel, inhuman or degrading treatment or punishment	125
		1996/34. Independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers	130
		1996/35. The right to restitution, compensation and rehabilitation for victims of grave violations of human rights and fundamental freedoms . . .	133
		1996/36. Question of human rights and states of emergency	134
		1996/37. Question of a draft optional protocol to the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment .	135
		1996/38. Working group of the Commission on Human Rights to elaborate a draft declaration in accordance with paragraph 5 of General Assembly resolution 49/214 of 23 December 1994	136

CONTENTS (continued)

Chapter			Page
II.	A.	Resolutions (continued)	
		1996/39. International Decade of the World's Indigenous People	138
		1996/40. Report of the Working Group on Indigenous Populations of the Sub-Commission on Prevention of Discrimination and Protection of Minorities	141
		1996/41. A permanent forum for indigenous people in the United Nations system	143
		1996/42. Preparations for the fiftieth anniversary of the Universal Declaration on Human Rights . .	146
		1996/43. The protection of human rights in the context of human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS) . .	147
		1996/44. United Nations Decade for Human Rights Education	150
		1996/45. The Olympic Ideal	152
		1996/46. Human rights and thematic procedures	153
		1996/47. Human rights and terrorism	157
		1996/48. Question of integrating the human rights of women throughout the United Nations system . .	159
		1996/49. The elimination of violence against women . .	162
		1996/50. National institutions for the promotion and protection of human rights	166
		1996/51. Human rights and mass exoduses	170
		1996/52. Internally displaced persons	174
		1996/53. Right to freedom of opinion and expression . .	178
		1996/54. Situation of human rights in Cambodia	182

CONTENTS (continued)

Chapter			Page
II.	A.	Resolutions (continued)	
	1996/55.	Advisory services, technical cooperation and the Voluntary Fund for Technical Cooperation in the Field of Human Rights	185
	1996/56.	Assistance to States in strengthening the rule of law	189
	1996/57.	Assistance to Somalia in the field of human rights	191
	1996/58.	Situation of human rights in Haiti	192
	1996/59.	Assistance to Guatemala in the field of human rights	195
	1996/60.	Question of fundamental trade union and workers' rights	201
	1996/61.	Contemporary forms of slavery	203
	1996/62.	Hostage-taking	206
	1996/63.	Protection of the heritage of indigenous people	207
	1996/64.	Regional arrangements for the promotion and protection of human rights in the Asian and Pacific region	207
	1996/65.	Composition of the staff of the Centre for Human Rights	211
	1996/66.	Situation of human rights in Equatorial Guinea	213
	1996/67.	Situation of human rights in Togo	215
	1996/68.	Human rights situation in southern Lebanon and West Bekaa	216
	1996/69.	Human rights in Cuba	218
	1996/70.	Cooperation with representatives of United Nations human rights bodies	220

CONTENTS (continued)

Chapter			Page
II.	A.	Resolutions (continued)	
		1996/71. Situation of human rights in the Republic of Bosnia and Herzegovina, the state of Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro)	221
		1996/72. Situation of human rights in Iraq	233
		1996/73. Situation of human rights in the Sudan	237
		1996/74. Extrajudicial, summary or arbitrary executions	243
		1996/75. Situation of human rights in Afghanistan . . .	247
		1996/76. Situation of human rights in Rwanda	250
		1996/77. Situation of human rights in Zaire	255
		1996/78. Comprehensive implementation of and follow-up to the Vienna Declaration and Programme of Action	258
		1996/79. Situation of human rights in Nigeria	261
		1996/80. Situation of human rights in Myanmar	263
		1996/81. Question of a draft declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms	268
		1996/82. Strengthening of the Office of the United Nations High Commissioner for Human Rights/Centre for Human Rights	269
		1996/83. Evaluation of the human rights programme of the United Nations system, in accordance with the Vienna Declaration and Programme of Action	272
		1996/84. Situation of human rights in the Islamic Republic of Iran	273
		1996/85. Rights of the child	276

CONTENTS (continued)

Chapter			Page
II.	B.	Decisions	
		1996/101. Organization of work	286
		1996/102. Indigenous issues	288
		1996/103. Effects of structural adjustment policies on the full enjoyment of human rights	289
		1996/104. Forced evictions	289
		1996/105. Recognition of gross and large-scale violations of human rights as an international crime	289
		1996/106. Question of the implications for human rights of United Nations action, including humanitarian assistance, in addressing international humanitarian problems in the promotion and protection of human rights	290
		1996/107. Systematic rape and sexual slavery during periods of armed conflicts	290
		1996/108. Human rights dimensions of population transfer, including the implantation of settlers and settlements	291
		1996/109. Study on treaties, agreements and other constructive arrangements between States and indigenous populations	291
		1996/110. Organization of the work of the fifty-third session	291
		1996/111. Organization of the work of the fifty-third session	292
		1996/112. Question of human rights in Cyprus	292
		1996/113. Organization of the work of the fifty-third session	292
		1996/114. Organization of work	293

CONTENTS (continued)

Chapter		Paragraphs	Page
III.	Organization of the work of the session	1 - 35	294
	A. Opening and duration of the session	1 - 2	294
	B. Attendance	3	294
	C. Election of officers	4	294
	D. Agenda	5 - 8	294
	E. Organization of work	9 - 30	295
	F. Meetings, resolutions and documentation	31 - 34	300
	G. Visits	35	301
IV.	Question of the violation of human rights in the occupied Arab territories, including Palestine . . .	36 - 55	304
V.	Question of the realization in all countries of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and study of special problems which the developing countries face in their efforts to achieve these human rights, including:		
	(a) Problems related to the right to enjoy an adequate standard of living; foreign debt, economic adjustment policies and their effects on the full enjoyment of human rights and, in particular, on the implementation of the Declaration on the Right to Development;		
	(b) The effects of the existing unjust international economic order on the economies of the developing countries, and the obstacle that this represents for the implementation of human rights and fundamental freedoms	56 - 106	307
VI.	Question of the realization of the right to development	107 - 117	315
VII.	The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation	118 - 134	317

CONTENTS (continued)

Chapter		Paragraphs	Page
VIII.	Question of the human rights of all persons subjected to any form of detention or imprisonment, in particular:		
	(a) Torture and other cruel, inhuman or degrading treatment or punishment;		
	(b) Status of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;		
	(c) Question of enforced or involuntary disappearances;		
	(d) Question of a draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	135 - 208	319
IX.	Further promotion and encouragement of human rights and fundamental freedoms, including the question of the programme and methods of work of the Commission:		
	(a) Alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms;		
	(b) National institutions for the promotion and protection of human rights;		
	(c) Coordinating role of the Centre for Human Rights within the United Nations bodies and machinery dealing with the promotion and protection of human rights;		
	(d) Human rights, mass exoduses and displaced persons	209 - 284	335
X.	Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories, including:		
	(a) Question of human rights in Cyprus;		

CONTENTS (continued)

Chapter			Paragraphs	Page
X.	(b)	Study of situations which appear to reveal a consistent pattern of gross violations of human rights as provided for in Commission resolution 8 (XXIII) and Economic and Social Council resolutions 1235 (XLII) and 1503 (XLVIII): report of the Working Group on Situations established by Economic and Social Council resolution 1990/41 of 25 May 1990	285 - 384	347
XI.		Measures to improve the situation and ensure the human rights and dignity of all migrant workers . . .	385 - 397	366
XII.		Implementation of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination	398 - 417	368
XIII.		Status of the International Covenants on Human Rights	418 - 425	372
XIV.		Effective functioning of bodies established pursuant to United Nations human rights instruments	426 - 433	373
XV.		Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its forty-seventh session	434 - 473	374
XVI.		Rights of persons belonging to national or ethnic, religious and linguistic minorities	474 - 486	379
XVII.		Advisory services in the field of human rights . . .	487 - 516	381
XVIII.		Implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief	517 - 526	385
XIX.		Drafting of a declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms . .	527 - 535	387
XX.		Rights of the child, including:		
	(a)	Status of the Convention on the Rights of the Child;		
	(b)	Report of the Special Rapporteur on the sale of children, child prostitution and child pornography;		

CONTENTS (continued)

Chapter		Paragraphs	Page
XX.	(c) Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography;		
	(d) Question of a draft optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, as well as the basic measures needed for their prevention and eradication	536 - 567	388
XXI.	Follow-up to the World Conference on Human Rights . .	568 - 579	395
XXII.	Election of members of the Sub-Commission on Prevention of Discrimination and Protection of Minorities	580 - 586	397
XXIII.	Indigenous issues	587 - 617	399
XXIV.	Draft provisional agenda for the fifty-third session of the Commission	618 - 620	403
XXV.	Report to the Economic and Social Council on the fifty-second session of the Commission	621	415

Annexes

		Page
I.	Attendance	416
II.	Agenda	430
III.	Administrative and programme budget implications of resolutions and decisions adopted by the Commission at its fifty-second session	433
IV.	List of documents issued for the fifty-second session of the Commission	434
V.	Resolutions and decisions adopted by the Commission at its fifty-second session	490

1996/83. Evaluation of the human rights programme of the United Nations system, in accordance with the Vienna Declaration and Programme of Action

The Commission on Human Rights,

Considering that the Vienna Declaration and Programme of Action (A/CONF.157/23), adopted by the World Conference on Human Rights on 25 June 1993 and endorsed by the General Assembly in resolution 48/121 of 20 December 1993, recommends that, among other relevant bodies of the United Nations, the Commission on Human Rights consider ways and means for the full implementation, without delay, of the recommendations contained in the Declaration and Programme of Action and that, for this purpose, the Commission should annually review the progress towards this end,

Recalling its resolution 1994/95 of 9 March 1994, in which it decided to review annually the progress towards the full implementation of the recommendations contained in the Vienna Declaration and Programme of Action,

Considering that the Vienna Declaration and Programme of Action stressed the importance of strengthening the United Nations Centre for Human Rights and the need for it to play an important role in coordinating system-wide attention for human rights,

Recognizing the necessity for the continuing adaptation of the United Nations human rights machinery to current and future needs in the promotion and protection of all human rights, to be conducted in a transparent manner through consultations with Member States and competent intergovernmental bodies,

Having in mind the prominent role played by the Commission on Human Rights as a policy-making body in the field of human rights within the United Nations system,

Recalling General Assembly resolution 48/141 in which the General Assembly decided to create the post of United Nations High Commissioner for Human Rights as the United Nations official with principal responsibility for United Nations human rights activities,

Noting the respective functions of the Secretary-General and the pertinent bodies in the revision of the medium-term plan of the human rights programme of the United Nations system, especially the Committee on Programme Planning and Coordination, the Third and Fifth Committees of the General Assembly and the Advisory Committee on Administrative and Budgetary Questions,

Recalling that, in the ongoing review of the structures of the Secretariat of the United Nations dealing with human rights, in particular the Centre for Human Rights, it is necessary to ensure full implementation of the Vienna Declaration and Programme of Action (A/CONF.157/23) and all mandates established by decisions of competent bodies in the field of human rights,

Emphasizing the importance of maintaining a continuing dialogue between the United Nations High Commissioner for Human Rights and Member States on these issues,

Welcoming the consultations carried out by the United Nations High Commissioner for Human Rights in this regard,

1. Encourages the General Assembly to continue its current examination of the proposed revisions to the medium-term plan of the human rights programme of the United Nations system with a view to its early adoption;

2. Stresses the need for the United Nations bodies responsible for the revision of the medium-term plan of the human rights programme of the United Nations system to ensure full reflection of the Vienna Declaration and Programme of Action and of all mandates established by decisions of the competent bodies in the field of human rights;

3. Also stresses that the process of restructuring the Centre for Human Rights should ensure the full implementation of the Vienna Declaration and Programme of Action and of all mandates established by decisions of the competent bodies in the field of human rights;

4. Requests the Secretary-General to continue to convene at least twice a year in Geneva meetings with all interested States to provide information and exchange views on the activities conducted by the Centre for Human Rights and its process of restructuring;

5. Expresses its confidence that the Secretary-General will continue to keep Member States informed on the follow-up of the present resolution;

6. Decides to consider this matter at its fifty-third session.

61st meeting
24 April 1996
[Adopted without a vote. See chap. XXI.]

1996/84. Situation of human rights in the Islamic Republic of Iran

The Commission on Human Rights,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights and the International Covenants on Human Rights,

Recalling the Vienna Declaration and Programme of Action (A/CONF.157/23) as endorsed by the General Assembly in its resolution 48/121 of 20 December 1993, and in particular Part I, paragraph 1, which reaffirms, inter alia, that human rights and fundamental freedoms are the birthright of all human beings and that their protection and promotion is the first responsibility of Governments,

Reaffirming that all Member States have a duty to fulfil the obligations they have undertaken under the various international instruments in the field of human rights,

Mindful that the Islamic Republic of Iran is a party to the International Covenants on Human Rights,

Recalling in particular its resolution 1984/54 of 14 March 1984, in which the Commission requested its Chairman to appoint a special representative to make a thorough study of the human rights situation in the Islamic Republic of Iran, based on such information as the special representative might deem relevant, including comments and material provided by the Government of the Islamic Republic of Iran,

Noting the appointment by the Chairman of the Commission on Human Rights of Mr. Maurice Danby Copithorne as Special Representative of the Commission on the situation of human rights in the Islamic Republic of Iran, and paying tribute to his predecessor, Mr. Reinaldo Galindo Pohl,

Welcoming the cooperation extended by the Government of the Islamic Republic of Iran to the Special Representative, who has been able to conduct a preliminary visit to the Islamic Republic of Iran,

Recalling its previous resolutions expressing concern at the violations of human rights by the Government of the Islamic Republic of Iran, including its most recent, resolution 1995/68 of 8 March 1995, and those of the General Assembly, including the most recent, resolution 50/188 of 22 December 1995, and of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, including the most recent, resolution 1995/18 of 24 August 1995, which condemned the violations of human rights in the Islamic Republic of Iran,

Noting the concluding observations of the Committee on the Elimination of Racial Discrimination, the Human Rights Committee and the Committee on Economic, Social and Cultural Rights on the human rights situation in the Islamic Republic of Iran,

Reaffirming that Governments are accountable for assassinations and attacks by their agents against persons on the territory of another State, as well as for the incitement, approval or wilful condoning of such acts,

Noting the view of the Special Representative that a number of specific topics warrant his further detailed examination, particularly in the area of criminal procedure and the penal system,

Expressing the hope that the atmosphere for change believed to be detected by the Special Representative will result in relevant improvements,

Welcoming the cooperation extended by the Government of the Islamic Republic of Iran to the Special Rapporteur on religious intolerance and the Special Rapporteur on freedom of opinion and expression, who have been able to

visit the Islamic Republic of Iran, and bearing in mind the reports of these Special Rapporteurs on their visits (E/CN.4/1996/95/Add.2 and E/CN.4/1996/39/Add.2),

1. Welcomes the report of the Special Representative of the Commission and the observations contained therein (E/CN.4/1996/59);

2. Expresses its concern at the continuation of violations of human rights in the Islamic Republic of Iran, in particular the failure to meet international standards with regard to the administration of justice, notably with respect to pre-trial detention and the right of accused persons to defence lawyers, subsequent executions in the absence of guarantees of due process of law and cases of torture and cruel, inhuman or degrading treatment or punishment, the discriminatory treatment of minorities by reason of their religious beliefs, notably the Baha'is, whose existence as a viable religious community in the Islamic Republic of Iran is threatened, lack of adequate protection for some Christian minorities, some members of which have been the target of intimidation and assassinations, violations of the right to peaceful assembly and restrictions on the freedom of expression, thought, opinion and the press, including intimidation and harassment of journalists;

3. Calls upon the Government of the Islamic Republic of Iran to implement fully the conclusions and recommendations of the Special Rapporteur on religious intolerance relating to the Baha'is and to other minority religious groups, including Christians;

4. Expresses its concern at the lack of full and equal enjoyment by women of human rights, and calls upon the Government of the Islamic Republic of Iran to take effective measures to eliminate discrimination against women;

5. Expresses its grave concern at the continued use of the death penalty in the Islamic Republic of Iran in violation of the relevant provisions of the International Covenant on Civil and Political Rights and the United Nations safeguards;

6. Also expresses its grave concern that there are continuing threats to the life of Mr. Salman Rushdie, as well as to individuals associated with his work, which have the support of the Government of the Islamic Republic of Iran;

7. Deplores the continuing violence against Iranians outside the Islamic Republic of Iran, and urges the Government of the Islamic Republic of Iran to refrain from activities against members of the Iranian opposition living abroad and to cooperate wholeheartedly with the authorities of other countries in investigating and punishing offences reported by them;

8. Urges the Government of the Islamic Republic of Iran, as a State party to the International Covenants on Human Rights, to abide by its obligations under the Covenants and under other international instruments on human rights to which it is party, and to ensure that all individuals within its territory and subject to its jurisdiction, including religious groups, enjoy the rights recognized in these instruments;

9. Encourages the Government of the Islamic Republic of Iran to continue to extend maximum cooperation to international humanitarian organizations;

10. Welcomes the invitation extended by the Government of the Islamic Republic of Iran to the Special Representative as well as the Special Rapporteur on the right to freedom of expression and association, and calls upon the Government of the Islamic Republic of Iran to continue to cooperate with the mechanisms of the Commission, including by allowing them continued free access to the country;

11. Decides to extend the mandate of the Special Representative, as contained in Commission resolution 1984/54 of 14 March 1984, for a further year;

12. Stresses the need to apply gender perspective in the reporting process, including in information collection and recommendations;

13. Requests the Special Representative to submit an interim report to the General Assembly at its fifty-first session on the situation of human rights in the Islamic Republic of Iran, including the situation of minority groups such as the Baha'is, and to report to the Commission at its fifty-third session;

14. Requests the Secretary-General to give all necessary assistance to the Special Representative;

15. Decides to continue its consideration of the situation of human rights in the Islamic Republic of Iran, as a matter of priority, at its fifty-third session.

62nd meeting
24 April 1996
[Adopted by a roll-call vote of 24 votes to 7, with 20 abstentions. See chap. X.]

1996/85. Rights of the child

The Commission on Human Rights,

Recalling its resolutions 1995/78 and 1995/79 of 8 March 1995 and General Assembly resolution 50/153 of 21 December 1995,

Recalling also the Vienna Declaration and Programme of Action (A/CONF.157/23), in which the World Conference on Human Rights urged all States, with the support of international cooperation, to address the acute problem of children under especially difficult circumstances, and recalling further that the Vienna Declaration and Programme of Action stated that exploitation and abuse of children should be actively combated, including by addressing their root causes, and that effective measures are required against female infanticide, harmful child labour, sale of children and organs, child prostitution, child pornography, as well as other forms of sexual abuse,