

DEVELOPMENTS CONCERNING THE  
NATIONAL EMERGENCY WITH RESPECT TO IRAN

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MESSAGE

FROM

**THE PRESIDENT OF THE UNITED STATES**

TRANSMITTING

A REPORT ON DEVELOPMENTS SINCE THE LAST PRESIDENTIAL REPORT OF NOVEMBER 28, 1995, CONCERNING THE NATIONAL EMERGENCY WITH RESPECT TO IRAN THAT WAS DECLARED IN EXECUTIVE ORDER NO. 12170 OF NOVEMBER 14, 1979, PURSUANT TO 50 U.S.C. 1703(c)



MAY 16, 1996.—Message and accompanying papers referred to the Committee on International Relations and ordered to be printed

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U.S. GOVERNMENT PRINTING OFFICE

*To the Congress of the United States:*

I hereby report to the Congress on developments since the last Presidential report on November 28, 1995, concerning the national emergency with respect to Iran that was declared in Executive Order No. 12170 of November 14, 1979. This report is submitted pursuant to section 204 of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c). This report covers events through March 1, 1996. My last report, dated November 28, 1995, covered events through September 29, 1995.

1. Effective March 1, 1996, the Department of the Treasury's Office of Foreign Assets Control ("FAC") amended the Iranian Assets Control Regulations, 31 CFR Part 535 ("IACR"), to reflect changes in the status of litigation brought by Iran against close relatives of the former Shah of Iran seeking the return of property alleged to belong to Iran (61 Fed. Reg. 8216, March 4, 1996). In 1991, Shams Pahlavi, sister of the former Shah of Iran, was identified in section 535.217(b) of the IACR as a person whose assets were blocked based on proof of service upon her in litigation of the type described in section 535.217(a). Pursuant to that provision, all property and assets located in the United States within the possession or control of Shams Pahlavi were blocked until all pertinent litigation against her was finally terminated. Because the litigation has been finally terminated, reference to Shams Pahlavi has been deleted from section 535.217(b). A copy of the amendment is attached to this report.

2. The Iran-U.S. Claims Tribunal, established at The Hague pursuant to the Algiers Accords, continues to make progress in arbitrating the claims before it. Since my last report, the Tribunal had rendered one award, bringing the total number to 567. The majority of those awards have been in favor of U.S. claimants. As of March 1996, the value of awards to successful U.S. claimants from the Security Account held by the NV Settlement Bank was \$2,376,010,041.91.

In February 1996, Iran deposited funds into the Security Account, established by the Algiers Accords to ensure payment of awards to successful U.S. claimants for the first time since October 8, 1992. The Account was credited \$15 million on February 22, 1996. However, the Account has remained continuously below the \$500 million balance required by the Algiers Accords since November 5, 1992. As of March 1, 1996, the total amount in the Security Account was \$195,370,127.71, and the total amount in the Interest Account was \$37,055,050.92.

Therefore, the United States continues to pursue Case A/28, filed in September 1993, to require Iran to meet its obligations under the Algiers Accords to replenish the Security Account. Iran filed its Statement of Defense in that case on August 30, 1995. The United

States filed a Reply on December 4, 1995. Iran is scheduled to file its Rejoinder on June 4, 1996.

3. The Department of State continues to present other United States Government claims against Iran and to respond to claims brought against the United States by Iran, in coordination with concerned government agencies.

In November 1995, Iran filed its latest Response concerning the United States Request to Dismiss Certain Claims from Case B/61. The United States had filed its Request to Dismiss in August 1995 as part of its consolidated submission on the merits. Iran had previously filed its initial response in July 1995, and the United States filed a reply in August 1995. Case B/61 involves a claim by Iran for compensation with respect to primarily military equipment that Iran alleges it did not receive. Iran had sought to purchase or repair the equipment pursuant to commercial contracts with more than 50 private American companies. Iran alleges that it suffered direct losses and consequential damages in excess of \$2 billion in total because of the United States Government refusal to allow the export of the equipment after January 19, 1981, in alleged contravention of the Algiers Accords. Iran's November 1995 filing failed to show why the Tribunal should not dismiss immediately certain duplicative or otherwise improperly pleaded claims from Case B/61.

In December 1995, the Department of State represented the United States in hearings before the Tribunal on two government-to-government claims. In the first, Chamber Two heard oral arguments in Case B/36, the U.S. claim against Iran for its failure to honor debt obligations created by the sale of military surplus property to Iran shortly after the Second World War. In the second, also before Chamber Two, the Department of State presented the U.S. defense in Case B/58, Iran's claim that the United States is liable for damage caused to the Iranian State Railways during the Second World War.

In January 1996, in Case B/1 (Claims 2 & 3), Iran filed its Rebuttal Memorial Concerning Responsibility for Termination Costs, along with 20 volumes of exhibits and affidavits. In this briefing stream, the Tribunal is asked to decide whether Iran or the United States is liable for the costs arising from the termination of the U.S.-Iran Foreign Military Sales program after Iran's default and its subsequent seizure of the U.S. embassy in Tehran in 1979. The United States is currently preparing a comprehensive response to Iran's brief.

In February 1996, the Departments of State and Justice represented the United States in a hearing before the full Tribunal in a government-to-government claim filed by Iran. Case A/27 is an interpretive dispute in which Iran claims that the United States is liable under the Algiers Accords for Tribunal awards issued in favor of Iran against U.S. nationals. The United States maintains that its obligation under the Algiers Accords is satisfied by the availability of domestic judicial procedures through which Iran can enforce awards in its favor.

Also in February 1996, Iran and the United States settled Iran's claims against the United States filed before the International Court of Justice concerning the July 3, 1988, downing of Iran Air

655 and certain of Iran's claims against the United States filed before the Iran-United States Tribunal concerning certain banking matters. The cases in question were dismissed from the International Court of Justice and the Iran-United States Tribunal on February 22, 1996. The settlement, *inter alia*, fulfills President Reagan's 1988 offer to make *ex gratia* payments to the survivors of the victims of the Iran Air shootdown. The survivors of each victim of the Iran Air shootdown will be paid \$300,000 (for wage-earning victims) or \$150,000 (for non-wage-earning victims). For this purpose, \$61 million was deposited with the Union Bank of Switzerland in Zurich in an account jointly held by the New York Federal Reserve Bank, acting as fiscal agent of the United States, and Bank Markazi, the central bank of Iran. Of an additional \$70 million in the settlement package, \$15 million was deposited in the Security Account established as part of the Algiers Accords. The remaining \$55 million was deposited in an account at the New York Federal Reserve Bank, from which funds can be drawn only (1) for deposits into the Security Account used to pay Tribunal awards to American claimants or for the payment of Iran's share of the operating expenses of the Tribunal, or (2) to pay debts incurred before the date of settlement and owed by Iranian banks to U.S. nationals. Under the terms of the settlement, no money will be paid to the Government of Iran.

4. Since my last report, the Tribunal has issued one important award in favor of a U.S. national considered a dual U.S.-Iranian national by the Tribunal. On November 7, 1995, Chamber Three issued a significant decision in Claim No. 213, *Dadras Int'l and Per-Am Construction Corp. v. The Islamic Republic of Iran*, awarding a dual national claimant \$3.1 million plus interest for architectural work performed for an Iranian government agency developing a housing complex outside Tehran, Iran.

The Tribunal held hearings in four large private claims. On October 23-27, 1995, Chamber One held a hearing in Claim No. 432, *Brown & Root, Inc. v. The Iranian Navy*, involving contract amounts owed in connection with the construction of the Iranian Navy Chahbahar and Bandar Projects in Iran. On January 18-19, 1996, Chamber One held a second hearing in Claim Nos. 842, 843, and 844, *Vera Aryeh, et al. v. The Islamic Republic of Iran*, in which allegations of fraud and forgery were considered. Finally, the United States Government filed a Memorial on the Application of the Treaty of Amity to Dual United States-Iranian Nationals in three private claims before the Tribunal: Claim No. 485, *Riahi v. The Islamic Republic of Iran*, in Chamber One on January 29, 1996; Claim No. 953, *Hakim v. The Islamic Republic of Iran*, in Chamber Two on February 27, 1996; and Claim No. 266, *Aryeh, et al. v. The Islamic Republic of Iran*, in Chamber Three on February 29, 1996. The Memorial argues that a good faith interpretation of the ordinary meaning of the 1955 Treaty of Amity leads to the conclusion that it protects all persons deemed to be U.S. nationals under U.S. laws when they undertake activities in Iran, regardless of whether they also possess another nationality.

5. The situation reviewed above continues to implicate important diplomatic, financial, and legal interests of the United States and

its nationals and presents an unusual challenge to the national security and foreign policy of the United States. The Iranian Assets Control Regulations issued pursuant to Executive Order No. 12170 continue to play an important role in structuring our relationship with Iran and in enabling the United States to implement properly the Algiers Accords. I shall continue to exercise the powers at my disposal to deal with these problems and will continue to report periodically to the Congress on significant developments.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 16, 1996.*

Dated: February 28, 1996.  
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 General Counsel.  
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#### DEPARTMENT OF THE TREASURY

##### Office of Foreign Assets Control

##### 31 CFR Part 535

##### Iranian Assets Control Regulations; Shams Pahlavi Assets Unblocked

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule; amendment to the list of persons whose assets are subject to blocking.

**SUMMARY:** The Office of Foreign Assets Control of the U.S. Department of the Treasury is amending section 535.217 of the Iranian Assets Control Regulations, 31 CFR § 535.217, to remove the name Shams Pahlavi from § 535.217(b). Shams Pahlavi, sister of Mohammed Reza Pahlavi, the former Shah of Iran, previously was identified in § 535.217(b) as a person who had been served as a defendant in litigation brought by Iran in a court within the United States seeking the return of property alleged to belong to Iran. She therefore was identified as a person whose United States assets were blocked pursuant to the provisions of § 535.217(a). Reference to Shams Pahlavi is now removed from § 535.217(b) based upon the final termination of all pertinent litigation against her. Accordingly, her United States assets are no longer blocked pursuant to § 535.217(a).

**EFFECTIVE DATE:** March 1, 1996.

**FOR FURTHER INFORMATION CONTACT:**

Regarding the status of blocked assets, Loren L. Dohm, Blocked Assets Division (tel.: 202/622-2440); regarding legal questions, William B. Hoffman, Chief Counsel (tel.: 202/622-2410); Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220.

**SUPPLEMENTARY INFORMATION:**

**Electronic Availability**

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**Background**

The Office of Foreign Assets Control is amending § 535.217(b) of the Iranian Assets Control Regulations, 31 CFR part 535, to reflect changes in the status of litigation brought by Iran against close relatives of the former Shah of Iran seeking the return of property alleged to belong to Iran. In 1991, Shams Pahlavi was identified in § 535.217(b) based on proof of service upon her in litigation of the type described in § 535.217(a). Pursuant to that provision, all property and assets located in the United States within the control of Shams Pahlavi were blocked until all pertinent litigation against her was finally terminated. Because that litigation has been finally terminated, reference to Shams Pahlavi is deleted from § 535.217(b).

Because the Regulations involve a foreign affairs function, Executive Order 12866 and the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act, 5 U.S.C. 601-612, does not apply. Wherever possible, however, it is the practice of the Office of Foreign Assets Control to receive written submissions or hold informal consultations with interested parties before the issuance of any rule or other public document.

**List of Subjects in 31 CFR Part 535**

Administrative practice and procedure, Banking, Banks, Blocking of assets, Currency, Foreign investment in the United States, Iran, Penalties, Reporting and recordkeeping requirements, Securities.

For the reasons set forth in the preamble, 31 CFR part 535 is amended as follows:

**PART 535—IRANIAN ASSETS CONTROL REGULATIONS**

1. The authority citation for Part 535 continues to read as follows:

Authority: 50 U.S.C. 1701-1706; E.O. 12710, 44 FR 65729, 3 CFR, 1979 Comp., p. 457; E.O. 12205, 45 FR 24099, 3 CFR, 1980 Comp., p. 248; E.O. 12211, 45 FR 26685, 3 CFR, 1980 Comp., p. 253; E.O. 12276, 46 FR 7913, 3 CFR, 1981 Comp., p. 104; E.O. 12279, 46 FR 7919, 3 CFR 1981 Comp., p. 109; E.O. 12280, 46 FR 7921, 3 CFR 1981 Comp., p. 110; E.O. 12281, 46 FR 7923, 3 CFR, 1981 Comp., p. 112; E.O. 12282, 46 FR 7925, 3 CFR, 1981 Comp., p. 113; E.O. 12282, 46 FR 7927, 3 CFR, 1981 Comp., p. 113; E.O. 12283, 46 FR 7927, 3 CFR 1981 Comp., p. 114; and E.O. 12294, 46 FR 14111, 3 CFR, 1981 Comp., p. 139.

**Subpart B—Prohibitions**

2. Section 535.217 is amended by revising paragraph (b) to read as follows:

§ 535.201 Blocking of property of the former Shah of Iran and of certain Iranian nationals.

(b) [No persons presently listed].

Dated: February 1, 1996.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: February 8, 1996.

Dennis M. O'Connell,

Acting Deputy Assistant Secretary (Regulatory, Tariff & Law Enforcement).

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