

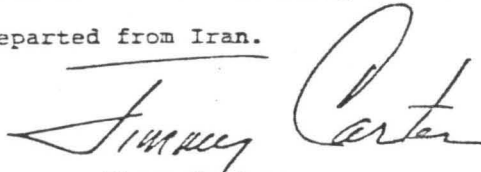
to report such property or knowledge to the Secretary of the Treasury in accordance with such regulation.

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

1-104. The Attorney General of the United States having advised the President of his opinion that no claim on behalf of the Islamic Republic of Iran for recovery of property of the kind described in Section 1-101 of this Order should be considered legally barred either by sovereign immunity principles or by the act of state doctrine, the Attorney General is authorized and directed to prepare, and upon the request of counsel representing the Government of the Islamic Republic of Iran to present to the appropriate court or courts, suggestions of interest reflecting that such is the position of the Government of the United States, and that it is also the position of the United States that all Iranian decrees and judgments relating to the assets of the former Shah should be enforced by such courts to the extent permitted by United States law.

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

1-106. This Order shall become effective at such time as the Government of Algeria certifies to the United States Government that all employees of the United States Embassy in Iran and all other U.S. nationals being held hostage in Iran have safely departed from Iran.

  
Jimmy Carter

THE WHITE HOUSE

November 8, 1980.

DECLARATION OFFICIELLE  
DU PRESIDENT DES ETATS-UNIS D'AMERIQUE

Tous les décrets et déclarations signés ce jour par le Président des Etats-Unis (8 novembre 1980), lesquels doivent entrer en vigueur dès certification du Gouvernement d'Algérie, pourraient autrement entrer en vigueur, dès certification du Président des Etats-Unis que tous les employés de l'Ambassade des Etats-Unis en Iran ainsi que tous les autres ressortissants américains détenus comme otages en Iran ont quitté l'Iran sains et saufs.

Jimmy Carter

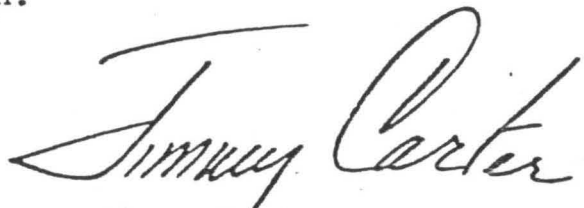
Le 8 novembre 1980

THE WHITE HOUSE

WASHINGTON

FORMAL DECLARATION OF THE  
PRESIDENT OF THE UNITED STATES OF AMERICA

Any or all of the orders or declarations signed by the President of the United States today (November 8, 1980) which are designated to become effective upon the certification of the Government of Algeria may, in the alternative, become effective upon the certification of the President of the United States that all employees of the United States Embassy in Iran and all other U.S. nationals being held hostage in Iran have safely departed from Iran.



Jimmy Carter

November 8, 1980



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## TALKING POINTS

### Short Negotiating History

-- Our effort during the past year to free the hostages has involved a complex of initiatives by ourselves and other nations. From the start, we have had two objectives:

- Protection of the honor and vital interests of the United States; and
- Protection of the well-being of the hostages and their safe release at the earliest possible moment.

-- The United States has worked to achieve these objectives through diplomacy designed;

- to bring home to the Iranian people and their leaders the increasing cost of continuing to hold our people hostage;
- to open channels of communication and influence with the Iranian leadership to work out a peaceful solution;
- to activate humanitarian channels to establish contact with the hostages, to ease conditions of their confinement, and to enable them to communicate with their families.

DECLASSIFIED  
per 9/12/06 NSC 14m  
NLTJ-06-087  
BY BAE NARA, DATE 9/25/06

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-- Four early developments in the crisis provided convincing evidence that the Iranian authorities were unwilling or unable to bring about the hostages' immediate release:

- Khomeini's support for the militant students, the collapse of the relatively moderate Bazargan government, the unacceptable conditions announced by Bani-Sadr, and Khomeini's orders against any Iranian contact with the U.S.

-- The President then took a number of steps, including a ban on U.S. imports of Iranian oil, and the blocking of Iranian government assets in the United States and in foreign branches of American banks abroad, to press Iran for the early release of the hostages.

-- At the same time, we approached the Security Council which on December 4, called unanimously for the release of the hostages, and on January 13 proposed economic sanctions against Iran in a resolution which was vetoed by the Soviet Union. The International Court of Justice also ruled unanimously that Iran must release the hostages.

-- Later, after Bani-Sadr was elected President--though not permitted to form a government pending the election of a new parliament--opportunities appeared to open for diplomacy. These were pursued through Secretary General Waldheim and a variety of intermediaries. These efforts finally broke down

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when differences between secular and clerical factions in Iran prevented the Iranian authorities from fulfilling their commitments.

-- The President moved on April 7 to impose economic constraints on Iran. These included the prohibition on exports to Iran and on financial dealings with Iran; he also ordered restrictions on travel to Iran. At the end of May the nine Common Market countries, Japan, Canada and Australia joined us in imposing economic sanctions on Iran.

-- At about this time, having concluded that Iran was unwilling to take the necessary steps to release the hostages, and in the face of its continuing intransigence and defiance of international norms of conduct and behavior, we attempted the aborted rescue mission.

-- In the aftermath of the rescue mission we had virtually no communication with Iran. We monitored carefully the political processes in Iran that were eventually to lead to the seating of a new parliament, formation of at least part of a new government, and a decision to turn finally to debate the hostage issue.

-- As this process was carried out, we renewed our efforts to inform the Iranian authorities of our position on the matters at issue between us. Through the special efforts of the Swiss, Swedish and German governments and with support from 46 other countries we passed information to the Iranians that would give them insights into our views as they framed their demands.

We have some reason to believe that the Majlis proposals were written with our thoughts in mind, although the Iranian drafters seem to have had unhelpful and sometimes incorrect legal advice in developing their proposals.

-- The deliberations of the Majlis' special committee on the hostages and ensuing full debate resulted in the conditions that were announced on November 2.

#### The Situation in Tehran

-- The political situation in Iran, in our view, remains unclear and ambiguous. We believed that three conditions had to be met before the hostages would be released:

- (1) the formation of a government with authority in Tehran;
- (2) a consensus among the leadership that the cost of holding the hostages outweighed any benefits; and
- (3) agreement in Tehran on a mechanism to achieve the hostages' release.

-- We believe that the first condition was met when the government was formed and that the second condition was met when the Majlis acted. The disarray we see in Tehran on the hostage issue focusses on how to achieve the third condition.

-- The incentives in Iran to reach a settlement remain. For example, in addition to the heavy costs imposed by Iran's diplomatic and economic isolation, the war with Iraq has brought

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into even starker focus the need to reach a settlement of the hostage question.

-- At the same time, confusion which seems to exist in Tehran on the respective roles and authority of President Carter and President-elect Reagan may act as a disincentive to move rapidly on this issue.

-- We are becoming increasingly concerned by reports that key Iranian leaders seem to believe that the Carter Administration will not have the authority to resolve the hostage crisis.

-- Under the U.S. Constitution, President Carter remains totally in control of U.S. foreign policy and retains exclusive power to deal with the hostage question until he is succeeded on January 20, 1981, by President-elect Ronald Reagan. While President Carter has signified his intention to facilitate a smooth transition to the new Administration, this will in no way impair the ability of the United States Government to pursue a policy aimed at resolving the hostage crisis promptly.

-- In his press conference on November 6, Governor Reagan said the following: "... The President is still the President and. . . anything in which we could be helpful, if he wanted it, we will be because like everyone else we want the hostages to be returned. But at the same time we want to make it perfectly plain that we are not going to intrude and we are going to

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recognize the fact that this Administration is still in office and foreign leaders must be aware that the President is still the President. . . . We do not want to seem to be trying to invade the province of the President who is still President; and I hope in the news reports that we have seen, that the Iranians will not have any ideas that there will be profit to them in waiting any period of time. We want those people home." Vice President-elect George Bush added: "... We will make clear that we are not trying to set forth policy or in any way negotiate and that President Carter has that responsibility until the day President Reagan is sworn in...."

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Spare Parts for Iran

-- The question of military spare parts for Iran was not specifically addressed in the Majlis Resolution, and therefore we do not address this issue in our response. For the background of the government of Algeria, however, we would like to share, on a confidential basis, the substance of an exchange we had with the Iranians on this issue.

-- In mid-October we received a request from an Iranian acting on behalf of the leadership for a list of the orders for goods, and their value, which Iran has placed in the United States but which have not yet been delivered to Iran. We responded in a message which noted, specifically on the military side, the following:

(a) There are approximately \$100 million of new spare parts which we could make available from various storage depots for shipment to Iran upon the release of the hostages. This category includes spare parts for F-14's, F-4's, F-5's, Bell helicopters, C-130's, and HAWKS.

(b) There is also about \$45 million worth of spares which Iran paid for and received, but which were returned to the United States for repair or overhauling. This

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includes F-14 engines and spare parts and helicopter spare parts. Virtually all of the repairs have been completed, and upon release of the hostages, those items could also be available for shipment from various storage depots.

(c) Various military items purchased by Iran and held in the U.S. have been sold with the proceeds going to a trust fund. The current balance of this trust fund (\$80 m) would be immediately available to Iran within the context of a solution of the hostage issue. As the sale of military items continues, the additional proceeds will also be added to the trust fund. There are other categories of military equipment, some of which Iran may no longer want, which would also be considered by U.S. and Iranian military experts once the hostage issue is resolved. We would be prepared to discuss promptly with Iran, once the hostages are returned, the best way to achieve a just and equitable resolution of remaining issues relating to military items.

-- The question of the supply of spare parts is a sensitive one, especially considering the state of hostilities between Iran and Iraq and our policy of impartiality.

-- There are conflicting signals from Tehran on whether Iran wants to receive spare parts from the U.S. In any case, we will not



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supply lethal military equipment to Iran while the conflict with Iraq continues, and we do not envision the establishment of a new military supply relationship with Iran in the foreseeable future.

-- It is our hope that military spare parts will not become an issue in these exchanges with Iran. We wanted the government of Algeria to have this background, however, so its understanding of the American position would be complete.

#### Our Specific Response

-- Since the Majlis decision was presented to us, we have been preparing a careful, deliberate and complete response. We have attempted to be forthcoming, and to phrase our response in as positive a manner as possible, consistent with the President's statement that any settlement of this issue must be consistent with American national honor and vital national interests.

## TALKING POINTS (CONTINUED)

### The Background of the American Proposal

- We have given the Majlis' resolution of November 2, 1980, a great deal of study. In some respects there have been translation problems and ambiguities.
- We have now developed a United States response which we ask your Government to present to the appropriate authorities in Tehran.
- As you will see, we accept in principle the Majlis resolution as the basis for ending the crisis.
- You may wonder why we requested this meeting in advance of any presentation of our response to the Iranian Government. The reason is that we believe that the response, no matter how clearly it is written, is bound to raise questions as to why it is framed as it is. We believe that if the Iranians have a chance, when the response is first presented to them, to ask questions about it and thus to understand it fully, they will find it responsive to the Majlis' resolution.
- On the other hand, if they do not have a chance to ask questions and get a full explanation of the proposal, we believe that they might not understand its full scope.
- For these reasons we are very anxious that the response be personally presented by persons who thoroughly understand it and can assist the Iranians in thoroughly understanding it as well.

- In putting together our response we have had in mind the urgent need to be as forthcoming and responsive as possible. For humanitarian reasons we urgently want our people released, and we do not want to engage in a lengthy bargaining process. We have therefore put together the most affirmative response that is possible under the circumstances. We will not be able to go any further in substance -- although we will be quite willing to negotiate about language and procedure and form.

Proposal for Unfreezing the Assets

- I have brought with me an order which will lift the entire freeze on the capital and assets of Iran falling within the U.S. jurisdiction.
- This will enable Iran to get control of the major portion of its total assets expeditiously. The assets fall into three main categories, and I will address each one.
- First, a large portion of the total frozen Iranian assets -- approximately \$2.5 billion -- are in the hands of a Federal bank, the Federal Reserve Bank of New York. The President is in a position to give orders to that institution, and as indicated in Paragraph 2(b) of our response, I have brought with me a signed Presidential order directing the Federal Reserve Bank, immediately after the safe departure of the hostages from Iran, to make all of those assets available to Iran.

- Since the President has signed the order and is committed to the delivery of the Federal Reserve assets, we would hope that the Government of Iran would accept this commitment that the assets will be delivered immediately upon the departure of the hostages. On the other hand, if Iran wants further assurances on this score, we are willing to place the Federal Reserve assets in "escrow" - in the hands of a third country financial institution in advance in order to reassure Iran of our performance.
- Frankly, I would hope that Iran would not insist upon such an "escrow" arrangement, simply because it would make the whole transaction more complicated, but I have brought with me a copy of a signed Presidential order authorizing me to have the Federal Reserve assets placed in escrow just as soon as the two governments can agree on an appropriate escrow agent. For simplicity we would urge that the Deutsche Bundesbank be used for that purpose.
- Second, there are very substantial Iranian assets in the branches of U.S. banks abroad - e.g. the Bank of America in London. I have brought with me a copy of a signed Presidential order which lifts all U.S. legal restraints as against the approximately \$3 billion of Iranian funds on deposit in U.S. banks in Europe. Again, the order will

automatically take effect when the hostages have safely departed from Iran, and at that point the U.S. banks will be legally free under U.S. law to release those \$3 billion to the Government of Iran.

-- The steps that I have been describing should make available to Iran about \$5.5 billion on an expedited basis.

-- The third category are the Iranian assets in private hands in the United States. I have brought with me a formal declaration committing the United States, immediately after the departure of the hostages from Iran, to join with the Government of Iran to establish a claims settlement program which will lead to the cancellation of all restraints on the remaining Iranian assets in the United States.

-- The reason the claims settlement program is necessary is that the American courts have entered attachments and judgments against these assets in the U.S.

-- Let me give you a concrete example. Many American construction companies built various types of projects for the Iranian government but have not yet been paid. When Iran seized the American hostages and stopped paying its debts to U.S. companies, these construction companies and other claimants went to court and obtained judicial orders which in effect prohibit the transfer of Iranian funds out of the United States. A great many such lawsuits were filed by such

U.S. claimants in late 1979 and in 1980, and a great many judicial orders of that kind have been entered over the past year.

- Under our system the courts are totally independent of the other parts of the Government. The President and his subordinates, the Executive Branch, cannot control the courts and tell them what to do; indeed, in certain contexts the courts can tell the President what he can and cannot do.
- The result is that the U.S. courts are in a position to control the remaining assets, and a way must be found to get rid of the litigation in the courts. That can be done only by bringing about the cancellation of the claims themselves through some sort of settlement arrangement.
- As you know, under international law there are a number of conventional methods for settling and thus cancelling the claims of the nationals of one state against another, and we would be prepared to discuss such methods with the Government of Iran.
- For example, in many cases claims have been settled and cancelled through the use of a lump sum agreement. If the two governments could agree as to the value of all of the claims of U.S. nationals against Iran, Iran could pay over that lump sum to the United States Government (perhaps by assigning some or all of its assets in the U.S.), at which point all U.S. claims would be cancelled

and the funds distributed among the U.S. claimants. If excess Iranian funds were available, they would be paid to Iran. [We have a draft of such an agreement, simply to illustrate one possible settlement device.]

- Another method would be to agree to a system of arbitration. The arbitral tribunal would establish the dollar value of each claim; the claim would then be paid out of Iranian funds; and any remaining balance could be paid back to Iran. [We have a draft of such an agreement available.]
- In addition, the Government of Iran may be able to get rid of many U.S. claims without any such government-to-government negotiations. Private discussions between individual American banks and the Bank Markazi might well lead to the cancellation of many American claims.
- At any rate, as recited in Paragraph 1(d) of our response, the President has already signed a formal declaration committing our Government to join with the Government of Iran in establishing a claims settlement procedure as soon as the hostages have safely left Iran.
- The establishment of a settlement program is the only possible way to achieve the Iranian objective of obtaining release of all of its assets in the United States. We are committed to work in good faith to achieve that objective.

Cancellation of U.S. Claims

- The Majlis' third point addresses the problem of possible damage claims arising out of the seizure of the U.S. Embassy and the seizure and detention of the American hostages.
- Although the United States considers such claims to be entirely justifiable, in a spirit of compromise I have brought with me a declaration signed by the President, which will take effect upon the safe departure of the hostages from Iran, committing the United States to withdraw all claims against Iran in the International Court of Justice and to refrain from pursuing any such claims for damages on account of injuries or harm resulting from the seizure and detention of the Embassy and the hostages.
- We believe that these undertakings by the United States should satisfy the Majlis' third point insofar as it relates to the relinquishment of U.S. claims based on the Embassy seizure.
- The third of the Majlis' four points also addresses the cancellation of other claims of U.S. nationals against Iran.
- As I have earlier explained, the only way that that can be done is through a claims settlement program.
- Once such a program has been carried out, all of the onerous litigation now going forward in the American courts can be brought to an end.



Cancellation of Economic Sanctions

- The Majlis' third point also appears to call for the cancellation of all economic measures against Iran.
- As you know, last April the President instituted a number of legal prohibitions against trade with Iran, and several Western countries and Japan instituted economic sanctions of the same kind.
- As set forth in Paragraph 3(a) of the United States response, the President has already signed an order revoking all such U.S. sanctions effective upon the departure of the hostages. This will allow trade between the two countries to return to the normal conditions that existed prior to the seizure of the hostages.
- As you know, the other countries which have sanctions in existence have also indicated their intention to revoke their sanctions immediately upon the departure of the hostages from Iran.

The Shah's Assets

- The only entity within the U.S. Government that would have the legal power to turn over the properties of the former Shah to Iran is the U.S. judicial system -- which, as I have explained, is not within the control of the President.
- However, the President does have the legal power and is prepared to take a number of far-reaching steps which will be helpful to the Government of Iran in court proceedings to bring about the return of the Shah's assets.

- First, the President has signed an order, to become effective upon the departure of the hostages from Iran, which will prevent the transfer out of the United States of any assets which are now under the control of the estate of the Shah.
- It is my personal guess that during this past crisis year the Shah and his financial advisers probably removed all significant assets from the United States, but if there are any such assets remaining, they will be held in the United States pending the outcome of the litigation.
- Second, there may be financial institutions or other entities in the United States that are knowingly holding assets which belong to the estate of the former Shah, or there may be institutions or entities which know of such holdings. Recognizing that such information might be helpful to the Government of Iran, the same Presidential order includes a provision for requiring all persons with knowledge of such assets to report such information to the Secretary of the Treasury for transmission to the Government of Iran.
- Third, although we doubt that there are any U.S. Government financial books and records which would be helpful in identifying any assets of the Shah in the United States, the Presidential order directs the Secretary to search out any such books and records and to make any helpful identifying information available to Iran.

- Fourth, there are certain steps that the Attorney General of the United States can take to assist the prosecution of Iran's claims.
- The U.S. courts might be inclined, if the Attorney General remains silent, to allow the estate of the former Shah to make use of certain legal defenses based on the concept of sovereign immunity and the so-called act of state doctrine. Our Attorney General has studied the matter, however, and concluded that such defenses should not be available to the estate of the Shah. Accordingly, the Presidential order directs the Attorney General to make that position known to the courts as an additional assistance to Iran in the litigation.
- Finally, the fourth demand of the Majlis refers to the fact that the Government of the Islamic Republic of Iran has confiscated the assets of the Shah, presumably by various decrees and judgments. United States law permits the courts of the U.S. to enforce decrees and judgments of other states in certain circumstances, and the Presidential order relating to the Shah's assets directs the Attorney General to urge the courts to enforce such decrees and judgments to the extent permitted by U.S. law.

- I want to emphasize that the Presidential order on this subject goes as far as my Government legally can to assist the Government of Iran in pursuing any of the Shah's assets that remain in the United States.

Non-Intervention

- Finally, the Majlis has demanded that the United States Government pledge itself not to "interfere either directly or indirectly, politically or militarily, in the affairs of the Islamic Republic of Iran."
- As to this demand we can be fully responsive. I have with me a copy of a signed formal declaration by the President of the United States which I believe will completely satisfy the demand.

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AGREEMENT BETWEEN  
THE GOVERNMENT OF THE UNITED STATES OF AMERICA  
AND  
THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF IRAN  
REGARDING THE SETTLEMENT OF CLAIMS

Whereas the Government of the United States of America and the Government of the Islamic Republic of Iran have taken steps to reduce the tensions between them by arranging for the release of all the American nationals taken hostage on November 4, 1979, and for the unblocking of certain Iranian assets within United States jurisdiction; and

Whereas the two Governments desire to move toward a normalization of financial relationships as between the two countries through the settlement of claims;

The two Governments have agreed upon the following articles:

Article I

For the purposes of this Agreement:

(1) the term "United States national" means (a) a natural person who is a citizen of the United States or who owes permanent allegiance to the United States and (b) a corporation or other legal entity 50 percent of the shares of which are owned, directly or indirectly, by United States nationals. It does not include aliens.

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per 9/12/06 NSC 14.  
NLOCL 06-087  
BY: BAE NARA, DATE 9/25/06

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(2) the term "claims of United States nationals" means claims that satisfy the international law principle of continuity of nationality from the date the claim arises to the date of its espousal.

(3) the term "Government of Iran" includes the government of any political subdivision of Iran or any agency, instrumentality or entity controlled by the Government of the Islamic Republic of Iran or any political subdivision thereof. The term "Iranian assets" means any property interest of the "Government of Iran."

## Article II

The claims settled pursuant to this Agreement are all the claims of United States nationals against the Government of Iran and all the claims of the Government of Iran against United States nationals outstanding on the date of this Agreement and arising out of the following:

(a) the nationalization, expropriation, intervention, or other taking or measure, direct or indirect, affecting rights and interests in property;

(b) any debts, including all obligations under loan agreements or guaranties. For purposes of this Agreement a debt includes the share of a U.S. national in a syndicated

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loan computed without reference to the liability, if any, of the U.S. national to nationals of other countries by reason of sharing arrangements under a loan agreement;

(c) losses resulting from breach or interference with the performance of contractual or other legal obligations [other than contracts for the production or supply of oil, gas or other petroleum products];

(d) damage to or loss of property or personal injury or death other than any such claim relating to the seizure of the United States Embassy and the detention of the American hostages in Iran.

### Article III

Alternative (1). The Government of the Islamic Republic of Iran agrees to pay and the Government of the United States of America agrees to accept the lump sum of \_\_\_\_\_ in United States currency in full and final settlement and in discharge of the claims specified in Article II. This payment shall be made on \_\_\_\_\_, 1980. Upon receipt of said payment, the United States Government shall take immediate steps to release any Iranian assets that may remain constrained by orders of the

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judicial branch of the Government of the United States as of the date of said payment.

Alternative (2). In full and final settlement and in discharge of all the claims specified in Article II, the Government of the Islamic Republic of Iran hereby assigns to the Government of the United States of America all its interests in all Iranian assets in the United States that remain constrained by orders of the judicial branch of the Government of the United States as of the date of this Agreement.

#### Article IV

The distribution of [the lump sum payment] [the proceeds of the assignment] referred to in Article III falls within the exclusive competence of the Government of the United States of America in accordance with its legislation, without any responsibility arising therefrom on the part of the Government of the Islamic Republic of Iran.

#### Article V

In the interests of an equitable distribution by the Government of the United States of America among the several claimants for participation in the amount to be paid by the Government of the Islamic Republic of Iran in full settlement and discharge of the claims described in this Agreement, the Government of the Islamic Republic of Iran will, upon the

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request of the Government of the United States of America, and to the extent possible, furnish such information, including certified copies of books, records, or other documents, as may be necessary or appropriate to support or refute, in whole or in part, any claim for participation in such amount, and will permit, in a manner consistent with the laws of the Islamic Republic of Iran, the taking of depositions of such witnesses as may be requested by the Government of the United States of America.

#### Article VI

After the entry into force of this Agreement, the Government of the United States of America will not present to the Government of the Islamic Republic of Iran, on its behalf or on behalf of any persons included in the definition of United States nationals, any claims which have been referred to in this Agreement and will not support such claims. In the event that such claims are presented directly by nationals of the United States to the Government of the Islamic Republic of Iran, they shall be referred to the Government of the United States of America.

#### Article VII

The present Agreement shall enter into force on the date of signature.

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IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed the present Agreement, and affixed thereto their seals.

DONE at Washington, in duplicate, in the English and Farsi languages, both versions being equally authentic, this \_\_\_\_\_ day of \_\_\_\_\_, 1980.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

\_\_\_\_\_

FOR THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF IRAN:

\_\_\_\_\_

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