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CERTAIN IRANIAN ASSETS (ISLAMIC REPUBLIC OF IRAN v. UNITED STATES OF AMERICA)

COUNTER-MEMORIAL SUBMITTED BY THE UNITED STATES OF AMERICA

October 14, 2019

ANNEXES VOLUME I

Annexes 1 through 32

ANNEX 1

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 1RAN

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



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ROOKS

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| mercial Treaties Branch, and John J. Czyzak, Assistant to the | - |
| Legal Adviser, Department of State | 1 |
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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, Mans-

field, 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. D

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 distinc-

tion 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 rights of entry and establishment of foreign-owned enterprises, but assures in the same way as the longer treaties nondiscriminatory

treatment of such enterprises once they are established.

The omission of entry provisions in this case came about because of the fear on the part of Iranian officials that to specify entry rights in any treaty would facilitate economic penetration by neighboring countries that would create a danger to national independence—a fear for which we could not deny there may be some basis.

The Iran treaty, as indicated by its title, deals also with consular privileges and immunities, a subject not included in most of the treaties of the present series. The Iran treaty is very similar to the Treaty of Amity and Economic Relations with Ethiopia, signed September 7, 1951, approved by the Senate July 21, 1954, and now in force.

SCOPE AND BENEFITS OF THE TREATIES

There are now represented in the network of treaties so far concluded under this program countries in nearly every major region of the world: South and Central America; Western, Southern, and Southeastern Europe; the Near East; Africa; Central Asia, and the Far East. This means that through these treaties we have secured a rather widespread acceptance by governments many of the basic concepts of free enterprise, of equality of competitive opportunity for the businessman, of private property rights, including the right to just compensation in case of expropriation by the State, of humane

treatment of the alien and his interests in all respects.

While the principles incorporated in these treaties may seem basic and commonplace to us, that is not the case in many parts of the world. Therefore, negotiation of treaties of friendship, commerce, and navigation is seldom easy. We hope and believe that this group of treaties, into which we have put a great deal of effort, together with those like them that have been considered here before, can make at least a modest contribution to the development of the rule of law and of fair treatment of the foreigner and his enterprise, and thereby to an improvement in the general welfare of our own country and of the other parties to the treaties.

Senator Smith. How long do these treaties last, Mr. Kalijarvi? Mr. Kalijarvi. They run 10 years, subject to denunciation on a year's notice, and they will run, unless denounced-

Senator Smith. For 10 years? Mr. Kalijarvi. Yes.

With the committee or the chairman's permission, it might be desirable to insert into the record at this point a list of the agreements that have been entered into of this type since World War II; and there are also treaties concluded before 1920; treaties concluded between 1920 and 1940, because there is a long, distinguished history of these agreements.

We also have submitted to the committee staff a tabular statement indexing the provisions of the Netherland's and Iran treaties, as well as the Nicaraguan one, against the Treaty of Japan, approved in 1953; with the chairman's permission, we would like to insert that in the record at this point.

The CHAIRMAN. Very well.

(List of treaties of friendship, commerce, and navigation and tabular comparison are as follows:)

LIST OF TREATIES OF FRIENDSHIP, COMMERCE, AND NAVIGATION

TREATIES SIGNED SINCE WORLD WAR II

China—Treaty of friendship, commerce, and navigation signed at Nanking November 4, 1946 (entered into force Nov. 30, 1948).

Colombia-Treaty of friendship, commerce, and navigation signed at Washington April 26, 1951 (not in force).

Denmark—Treaty of friendship, commerce, and navigation signed at Copenhagen October 1, 1951 (not in force).

Ethiopia—Treaty of amity and economic relations signed at Addis Ababa September 7, 1951 (entered into force Oct. 8, 1953).

Finland—Protocol modifying the treaty of friendship, commerce, and consular rights (1934) signed at Washington December 4, 1952 (entered into force Sept. 24, 1953).

Germany--Agreement concerning application of the treaty of friendship, commerce, and consular rights (1923) signed at Vonn June 3, 1953 (entered into force Oct. 22, 1954).

Treaty of friendship, commerce, and navigation signed at Washington October 29, 1954 (will enter into force July 14, 1956).

Grecce—Treaty of friendship, commerce, and navigation signed at Athens August 3, 1951 (entered into force Oct. 13, 1954).

Haiti—Treaty of friendship, commerce and navigation signed at Port-au-Prince

March 3, 1955 (not in force).

Iran—Treaty of amity, economic relations, and consular rights signed at Tehran August 15, 1955 (not in force).

Ireland—Treaty of friendship, commerce, and navigation signed at Dublin January 21, 1950 (entered into force Sept. 14, 1950).

Israel—Treaty of friendship, commerce, and navigation signed at Washington August 23, 1951 (entered into force Apr. 3, 1954).

Italy—Treaty of friendship, commerce, and navigation signed at Rome February 2, 1948 (entered into force July 26, 1949).

Agreement, supplementing the treaty of friendship, commerce, and navigation signed at Rome February 2, 1948 (entered into force July 26, 1949).

Agreement supplementing the treaty of friendship, commerce, and navigation (1948), signed at Washington September 26, 1951 (not in force).

Japan—Treaty of friendship, commerce, and navigation signed at Tokyo April 2, 1953 (entered at Tokyo April 2, 1953).

Netherlands—Treaty of friendship, commerce, and navigation signed at The Hague March 27, 1956 (not in force).

Nicaragua—Treaty of friendship, commerce, and navigation signed at Managua

January 21, 1956 (not in force).
Uruguay—Treaty of friendship, commerce, and economic development signed at
Montevideo November 23, 1949 (not in force).

TREATIES CONCLUDED 1920-40

Austria—Treaty of friendship, commerce, and consular rights signed at Vienna June 19, 1928.

Salvador—Treaty of friendship, commerce, and consular rights signed at San Salvador February 22, 1926.

Estonia-Treaty of friendship, commerce, and consular rights signed at Washington December 23, 1925 Finland-Treaty of friendship, commerce, and consular rights signed at Washing-

ton February 13, 1934. Germany—Treaty of friendship, commerce, and consular rights signed at Wash-

ington December 8, 1923.

Honduras—Treaty of friendship, commerce, and consular rights signed at Tegucigalpa December 7, 1927.

Iraq—Treaty of commerce and navigation signed at Baghdad Decamber 3, 1938.

Latvia-Treaty of friendship, commerce, and consular rights signed at Riga

April 20, 1928.
Liberia—Treaty of friendship, commerce, and navigation signed at Monrovia August 8, 1938.

Norway—Treaty of friendship, commerce, and consular rights signed at Washington June 5, 1928.

Thailand—Treaty of friendship, commerce, and navigation signed at Bangkok November 13, 1937.

Turkey-Treaty of commerce and navigation signed at Ankara October 1, 1929. Treaty of establishment and sojourn signed at Ankara October 28, 1931.

TREATIES CONCLUDED BEFORE 1920

Argentina-Treaty of friendship, commerce, and navigation signed at San Jose July 27, 1853.

Belgium-Treaty of commerce and navigation signed at Washington March 8, 1875.

Bolivia-Treaty of peace, friendship, commerce, and navigation signed at La Paz

May 13, 1858.

Borneo—Convention of amity, commerce, and navigation signed at Brunei June 28, 1950.

Colombia—Treaty of peace, amity. navigation, and commerce signed at Bogota December 12, 1846.

Costa Rica-Treaty of friendship, commerce, and navigation signed at Washing-

ton July 10, 1851.

Denmark—Convention of friendship, commerce, and navigation signed at Washington April 26, 1826.

France-Convention of navigation and commerce signed at Washington June 24, 1822.

Morocco—Treaty of peace and friendship signed at Meknes September 16, 1836. Muscat—Treaty of amity and commerce signed at Muscat September 21, 1833. Netherlands—Convention of commerce and navigation signed at Washington

August 26, 1852.

Paraguay—Treaty of friendship, commerce, and navigation signed at Asuncion February 4, 1859.

Spain—Treaty of friendship and general relations signed at Madrid July 3, 1902. Switzerland-Convention of friendship, commerce, and extradition signed at Bern November 25, 1850.

United Kingdom-Convention to regulate commerce and navigation signed at London July 3, 1815.

Yugoslavia-Treaty of commerce and navigation signed at Belgrade October 14 1881.

TABULAR COMPARISON

This table indexes the provisions of the pending treaties of friendship, commerce, and navigation with the Netherlands and Nicaragua and the treaty of amity and economic relations with Iran against comparable provisions in the like treaty of 1953 with Japan (Executive O, 83d Cong., 1st sess.), which received Senate approval July 21, 1953. Where the pending treaty lacks a comparable provision, however, or in some instances where another treaty affords a readier basis for comparison, cross-reference is made to an approved treaty with some other country.

This table is not intended to be interpretative, but is designed as an aid to the comparative analysis of the texts, by indicating where provisions dealing with the same subject matter in a similar, but not necessarily identical. manner may be found. Noteworthy variances between compared passages are shown by the notation "cf." or by parenthetical comments; but no effort is made to indicate minor differences.

| Proposed treaties | | | |
|--|--|---|--|
| Nicaragua Treaty | Iran Treaty | | |
| Art. I | Art. IV, par. 1 | No identical provision (however, cf. art. V. par. 1). | |
| Art. XIX, par. 1 | Art. X, par. 1. Art. II, par. 1. (Cl. Art. VI, par. 1, Ethiopia treaty.) | Art. XIX, par. 1. Art. I, par. 1. | |
| Art. II, par. 3 | No comparable provi- sion. | No comparable provision (art. II, par. 2, German treaty). | |
| Art. II, par. 2 Art. II, par. 4 Art. III, par. 1 | Art. II, par. 2 | Art. I, par. 2. Art. I, par. 3. Art. II, par. 1. | |
| | Nicaragua Treaty Art. I. Art. XIX, par. 1. Art. II, par. 1. Art. II, par. 3. Art. II, par. 2. Art. II, par. 4. | Nicaragun Treaty | |

| Netherlands Treaty | Nicaragua Treaty | Iran Treaty | Approved treaty, Japan | |
|--|--|--|--|--|
| Art. III, par. 2 | Art. III, par. 2 | Art. II, par. 4 (with cer- | Art. II, par. 2. | |
| Art. IV, par. 1 | Art. IV, par. 1 | tain variations). No comparable provision. | Art. III, par. 1. | |
| Art. IV, par. 2 (provides for less extensive cover- age than Japan treaty). | Art. IV, par. 2 | | Art. III, par. 2. | |
| age than Japan treaty). Art. V, par. 1 Art. V, par. 2 (provisions somewhat more specific than in Japan Treaty) | Art. V, par. 1 | Art. III, par. 2 Art. III, par. 3 (more general than in Japan | Art. IV, par. 1. Art. IV, par. 2. | |
| than in Japan Treaty). Art. VI, par. 1 | Art. VI, par, 1 | Art. IV, par. 2 (adds international law standard). | Art, VI, par. 1. | |
| Art. VI, par. 2Art. VI, par. 3 | Art. VI, par. 2 | Art. IV, par. 3. Art. IV, par. 1 (somewhat broader than in Japan treaty; cf. art. VIII, par. 1, Ethiopia | Art. VI, par. 2. Art. V, par. 1. | |
| Art. VI, par. 4 | Art. VI, par. 4. | treaty) | Art. VI, par. 3. Art. VI, par. 4. | |
| Art. VII, par. 1 | | sion. No comparable provi- sion, (Cf. art. IV, | Art. VII, par. 1. | |
| Art. VII, par. 2 (differs somewhat from Japan treaty; cf. art. VII, par. 2, Germany treaty). | Art. VII, par. 2 (differs somewhat from Japau treaty; cf. art. VII, par. 2, Germany | par, 4.) | Art. VII, par. 2. | |
| Art. VII, par. 3 | Art. VII, par. 3 | No comparable provi- | Art. VII, par. 3. | |
| Art. VII, par. 4 | Art. VII, par. 4. Art. VIII, par. 1 (includes exception for employee nationality | sion,do Art. IV, par. 4 (limit- ed provision). | Art. VII, par. 4. Art. VIII, par. 1. | |
| Art. VIII, par. 2 | Art. VIII, par. 2 | Art. II, par. 2 (c) (limit- ed provision). | Art. VIII, par. 3. | |
| Art. IX, par. 1 (limited to treatment of Nether- lands nationals in United States.) | Art. IX, par. 1 | Art. V, par. 1 (most- favored nation instead of national treatment). | Art, IX, par. 1. | |
| Art. IX, par. 2 (accords United States nationals national treatment), sub- ject to reciprocity. (Cf. art. IX, par. 2, Israel | No comparable provi- sion. (Cf. art. IX, par. 1.) | No comparable provision, (Cf. art. V, par. 1), | No comparable prov sion. (Cf. art. IX, par 1). | |
| treaty). Art. IX, par. 3 | Art. IX, par. 3 | Art. V, par. 1 (b) (not subject to national or most-favored-nation treatment). | Art, IX, par. 2. | |
| Art. IX, par. 4 (adds mational treatment as to acquisition certain property; cf. art. VII, par. 1, Ireland treaty). | Art. IX, par. 2 | No comparable provi- sion. (Cf. art. V, par. 1). | Art. 1X, par. 3. | |
| Art. IX, par. 5 (second sentence regarding rights of companies is new). | Art. IX, par. 4 | Art. V, par. 1 (c) (less national treatment rule). | Art, IX, par. 4. | |
| Art. X, par. 1 | Art. X, par. 1 | Art. V, par. 2 ("Effec- tive protection" in place national and most-favored nation treatment). | Article X. | |
| Art. X, par. 2 | Art. X, par. 2 | No comparable provi- | No comparable provi sion. (See art. X, par 2, Germany treaty.) | |
| Art. XI, par. 1 Art. XI, par. 2 Art. XI, par. 3 Art. XI, par. 4 | Art. XI, par. 1 | Art. VI, par. 1 No comparable provision Art. VI, par. 1 Art. VI, par. 3 (simpler provision, limited to companies: see art. X, par. 3, Ethiopia treaty) | Art. XI, par. 1. | |
| Art. XI, par. 5 | Art. XI, par. 5 Art. XII, par. 1 | Art. VI, par. 2 No comparable provi- | Art. XI, par. 5. Art. XII, par. 1. | |

| | Approved treaty, Japan | | | |
|--|--|--|--|--|
| Netherlands Treaty | Nicaragua Treaty | Iran Treaty | - Approved desty, rapad | |
| Art. XII, par. 3 | Art. XII, par. 3 Art. XII, par. 4 Art. XII, par. 5 | Art. VII, par. 2. Art. VII, par. 3. No comparable provision. (Cf. Ethiopia treaty, art. XI.) | Art. XII, par. 3. Art. XII, par. 4. Art. XII, par. 5. | |
| Art. XII, par. 6 | sion. | sion. | No comparable provi- sion. (See art. XII, par. 6, Germany trea- | |
| Art. XIII. Art. XIV, par. 1. Art. XIV, par. 2. Art. XIV, par. 3. Art. XIV, par. 4. Art. XIV, par. 5. | Art. XIII Art. XIV, par. 1 Art. XIV, par. 2 Art. XIV, par. 3 Art. XIV, par. 4 Art. XIV, par. 5 | Store (Oth Min Special | Art. XIII. Art. XIV, par. 1. Art. XIV, par. 2. Art. XIV, par. 3. Art. XIV, par. 4. Art. XIV, par. 5. | |
| Art. XIV, par. 6 | No comparable provision. | Ethiopia treaty.) Art. VIII, par. 5 (generally comparable in substance; see art. XII, par. 5, Ethiopia | Art. XIV, par. 7. | |
| Art. XV, par. 1 ("reasonable time" in place of 30-day or "enroute" rule; cf. art. XV, par. 1, Germany treaty). | Art, XV, par. 1 | treaty). Art. IX, par. 1 (a) (c). (Abbreviated rule; see art. XII, par. 1, Ethiopia treaty). | Art. XV, par. 1. | |
| Art. XV, par. 2 | Art. XV, par. 2 | Art. IX, par 1 (d) (abbreviated rule). | Art. XV, par. 2. | |
| Art. XV, par. 3 | Art. XV, par. 2, 2d sentence. | Art. IX, par. 1 (e) | Art. XV, par. 2, 2d sentence. | |
| Art. XV, par. 4 | No comparable provi- sion, | No comparable provi- sion. | No comparable provi- sion. (See Art. XV, par. 3, Germany treaty.) | |
| Art. XV, par. 5 | Art. XVII, par. 3 | Art, IX, par. 3 | Art. XV, par. 3, (adds "subject to provisions of art. XII"). | |
| Art. XVI, par. 1 | Art. XVI, par. 1 | No comparable provi- | Art. XVI. par. 1. | |
| Art. XVI, par. 2 | Art. XVI, par. 2 Art. XVII, par. 1 Art. XVII, par. 2 Art. XVIII, par. 1 | Art. XI, par. 1 Art. XI, par. 2 No comparable provision. | Art. XVI, par. 2. Art. XVII, par. 1 Art. XVII, par. 2. Art. XVIII, par. 1. | |
| Art. XVIII, par. 1 | Art. XVIII, par. 2 (clause at end is new). | Art. XI. par. 8 | No comparable provision. (See art. XVIII, | |
| Art. XVIII, par. 2. Art. XIX, par. 1. Art. XIX, par. 2. (See art. XXII (f) for "fisheries" exception.) | Art. XVIII, par. 3 Art. XIX, par. 2 Art. XIX, par. 3 | Art. XI, par. 4 | Art. XIX, par. 3, 6 (added provision on admission foreign ves- sels on reciprocity | |
| Art. XIX, pars. 3, 4 (added provision on transportation to or | Art. XIX, par. 4 | Art. X, par. 4 | basis). Art. XIX. par. 4. | |
| from port). Art. XIX, par. 5. (More specific provisions on vessels in distress; see art. XXI, Germany | Art. XIX, par. 5 (abbreviated provision; see art. XIX, par. 5, Denmark treaty). | Art. X, par. 5. (Same as Nicaragua treaty.) | Art. XIX, par. 5. | |
| treaty.) Art. XIX, par. 6 (broader exception for war ves- | Art. XIX, par. 6 | Art. X, par. 6 | Art. XIX, par. 7. | |
| sels). Art, XX, par, 1 | No comparable provi- sion. | No comparable provision. | No comparable provision. (See art. XXII, par. 1, Germany | |
| Art. XX, par. 2 | do | do | treaty.) No comparable provision. (See art. XXII, par. 2, Germany treaty.) Art. XX. Art. XXI par. 1 art. | |
| Art. XXIArt. XXII, par. 1 | Art. XX. Art. XXI, par. 1, Art. XIV, par. 6 (a). | Art. VIII, par. 6 (a); art. XX, par. 1 (less provision on com- panies; see art. XVI, par.1, Ethiopiatresty). | Art. XX. Art. XXI, par. 1, art. XIV, par. 6 (a). | |
| Art. XXII, par. 2 (adds reservation for Netherlands). | Art. XXI, par 2, 4 (adds reservation for Nica- ragua). | par.1, Ethiopiatresty). Art. XX, par. 3 | Art. XXI, par. 2. | |

| | Approved treaty, Japan | | | |
|---|--|--|--|--|
| Netherlands Treaty | Nicaragua Treaty | Iran Treaty | explication stores, super- | |
| | Art. XIV, par. 6 (b, c) Art. XXI, par. 3 | Art. VIII, par. 6 (b, c) Art. VIII, par. 6, con- cluding sentence. | Art. XIV, par. 6 (b, c); Art. XXI, par. 3. | |
| Art. XXII, par. 5 | Art. XXI, par. 5 | No comparable provi- sion. | Art. XXI, par. 4. | |
| Art. XXII, par. 6 | Art. VIII, par. 2, con- cluding sentence. | Art. XX, par. 2 | Art. XXI, par. 5. | |
| Art. XXIII, par. 1 | Art. XXII, par. 1 | No comparable provi- | Art. XXII, par. 1, | |
| Art. XXIII, par. 2 | Art. XXII, par. 2 Art. XXII, par. 3 Art. XXII, par. 4 | Art. III, par. 1 No comparable provision. | Art. XXII, par. 2, Art. XXII, par. 3, Art. XXII, par. 4. | |
| Art. XXIV (added provi- sion regarding Nether- | Art. XXIII | | Art. XXIII. (See Den- mark treaty, art. XXIII.) | |
| Art. XXV, par. 1. Art. XXV par. 2. Art. XXV | Art. XXIV, par. 1. Art. XXIV, par. 2. No comparable provision (no existing agreements to be terminated). | Art. XXI, par. 1 Art. XXI, par. 2 Art. XXII | Art. XXIV, par. 1. Art. XXIV, par. 2. No comparable provision (no existing agreements to be terminated). | |
| Art. XXVII | Art XXV | Art. XXIII | Art. XXV. Art. V, par. 1, concluding clause. | |
| Do | Art. XVI, par. 3 | do | No comparable provi- sion. (See art. XVI par. 3, Colombia treaty withdrawn before Sen ate action.) | |
| | in . | Art. XII. (Cf. art. III, par. 1, Ethiopis treaty.) Art. XIII, par. 1. (Cf. art. III, Ethiopia treaty.) Art. XIII, par. 2. (See art. III, par. 2, Ethiopia treaty.) Art. XIV, par. 1. (See art. IV, par. 1, Ethiopia treaty, also art. XIV, par. 1, United Kingdom Consular Convention, TIAS 2494.) | | |
| | | Art. XIV, psr. 2. (See art. IV, par. 2, Ethiopia treaty, also art. XIV, par. 2, United Kingdom Consular Convention.) Art. XIV, par. 3, (See art. IV, par. 3, Ethiopia treaty.) Art. XV, par. 1. (Cf. art. VII, par. 1, United Kingdom Consular Convention.) Art. XV, par. 2. (Cf. art. XII, par. 1, United Kingdom Consular Convention; also art. IV, par. 4, Ethiopia art. IV, par. 5, Ethiop | | |
| | , | opia treaty.) Art. XVI, par. 1. (See art. V, par. 1, Ethiopia treaty; of, also art. XIII, United Kingdom Consular Convention.) Art. XVI, par. 2. (See art. V, par. 2, Ethiopia treaty.) Art. XVI, par. 3. (See art. V, par. 3, Ethiopia treaty.) | | |

| | Approved treaty, Japan | | |
|---|---|---|--|
| Netherlands Treaty | Nicaragua Treaty | Iran Treaty | Provide Money, vapan |
| Protocol, psr. 1 | No comparable provision. | Art. XVII. (Cf. art. IV, par. 2, and art. V, par. 4, Ethiopia treaty.) Art. XVIII. (Cf. art. III, par. 2, Ethiopia treaty; also art. X, XI, United Kingdom Consular Conven- tion.) Art. XIX. (Cf. art. XV, United Kingdom ConsularConvention). No comparable provi- sion. | No comparable provi |
| Protocol, par. 2 | Protocol, par. 1 | Art. XX, par. 4 | sion. (See Protocol, par. 1, Germany treaty.) No comparable provi- sion. (See Protocol, par. 2, Germany |
| Protocol, par 3 (new) | | | treaty.) No comparable rovision. |
| Protocol, par. 4. (Second sentence is new). | sion. do | do | No comparable provi- sion. (See Protocol, par. 4, Germany |
| Protocol, par. 5 Protocol, par. 6 | Protocol, par. 2 Protocol, par. 4 | No comparable provivision. (Cf. art. IV, par. 2.) | treaty). Protocol, par. 1. Protocol, par. 2. |
| Protocol, par. 7 (new) | No comparable provi- | No comparable provi- | No comparable provi- |
| Protocol, par. 8 | | sion. (Cf. art. II, | Senate reservation relat- ing to art VIII, par, 2. |
| Protocol, par. 9 | | No comparable provi- sion. | No comparable provi- sion. (Cf. Protocol, par. 10, Germany |
| Protocol, par. 10 (new) | | | reaty.) No comparable provi- sion. |
| Protocol, par. 11 | 22.2 | | No comparable provision. (Cf. Protocol, par. 3, |
| Protocol, par. 12 | do | do | Denmark treaty.) No comparable provision (See Minutes, ad art. XI, Denmark treaty.) |
| Protocol, par. 13 | | the property of the party of the | No comparable provision. (Cf. Protocol, par. 14, Germany treaty.) |
| Protocol, par. 14 (adds reference to "specula- tive financial opera- tion"). Protocol, par. 15. | do | do | Protocol, par. 6. |
| Protocol, par. 15 Protocol, par. 16 Protocol, par. 17 | Protocol, par. 7. No comparable provision. | do | Protocol, par. 10. Protocol, par. 11. No comparable provision. (See Protocol, par. 20, Germany treaty.) |
| Protocol, par. 18 (new) Protocol, par. 19 Protocol, par. 20 | Protocol, par. 8 Protocol, par. 9 | | No comparable provision. Protocol, par. 12. Protocol, par. 13 (adds reservation for Japan). |
| No comparable provision | Protocol, par. 3 | sion. | No comparable provision. (Cf. art. IV, par. 2, |
| No comparable provision. (Of. protocol, par. 10). No comparable provision. Exchange of notes regard- | | do | Protocol, par. 4. Protocol, par. 3. |
| ing European integra- tion (new). | sion. | | No comparable provision. |

Senator Knowland. I notice in your statement that:

They contain no innovations raising problems of reconciliation with domestic

Just for the record, I would like to ask whether there is anything in these treaties that would permit or allow, for instance, professional practice within the States or anything within the customary State laws, with which Americans must comply in order to practice professionally medicine, dentistry, or law, as the case may be?
Mr. Kalijarvi. No; there is nothing. That situation was met

some years ago, and we appreciate very much the committee's concern

on that point.

TREATY WITH HAITI NOT CONSIDERED

The CHAIRMAN. I think it might be well to call attention to the fact that the committee is not taking up, today at least, the treaty with Haiti.

Mr. Kalijarvi. That is correct.

The Chairman. For reasons which you understand, but which I

think could be stated to the committee:

There is opposition to that treaty because of the omission of the clause relating to freedom of worship and conscience. There are objections filed with the State Department by the National Council of Churches of Christ in the United States, the National Association of Evangelicals, and the Baptist Joint Committee on Public Affairs. I might say that there are numerous letters from religious organizations objecting to the Haitian treaty simply because of the omission. All these other treaties do contain a guaranty of complete religious freedom in each of these countries.

Mr. KALIJARVI. That is right.

Senator Fulbright. Of Americans in that country.

The CHAIRMAN. That is right; yes.
Mr. Kalijarvi. Yes. We have nothing to offer because our Constitution guarantees religious freedom.

The CHAIRMAN. Any further questions?

Senator Langer. Do these treaties differ substantially from those that we had under William Jennings Bryan, Secretary of State?

Mr. Kalijarvi. There has been a modernization and streamlining

of the agreements, Senator, since the Second World War.

Senator Langer. I understand. Are they very similar to those

under Woodrow Wilson?

Mr. Kalijarvi. They are basically the same. There are substantial elaborations in them of investments and other experiences that we have had since that time that give additional protection and rights to the Americans abroad.

TREATY ENFORCEMENT

Senator Langer. For example, Mexico appropriated the oil lands. Mr. Kalijarvi. You mean under its 1917 constitutional provision? Senator LANGER. Yes.

Mr. Kalijarvi. I am informed we had no such treaty with Mexico

at the time.

Senator Langer. If you had had a treaty with Mexico, would it have been a violation?

Mr. Kalijarvi. Yes, with the treaties as drawn up at the present time.

Senator Langer. What could you have done about it?

Mr. Kalijarvi. We could have made representations to the Mexican Government, we could have attempted to secure compensation through such means and instruments as are available to us—the international courts, diplomatic means, and otherwise.

Senator Langer. Supposing, for example, the treaty with Nicaragua is violated—not denounced but violated—what can you do

about it?

Mr. Kalijarvi. We have a claim against the Nicaraguan Government.

Senator Langer. And you try that, would you, in Nicaraguan

Mr. Kalijarvi. Well, presumably the first position to be taken would be a representation to the Nicaraguan Government pointing out the difference between the action proposed or contemplated and the agreement. If the Nicaraguan Government went ahead in spite of that, then presumably we would continue our representations and seek for an adjudication then in an international tribunal. I would assume that the company would attempt, if the corporation were located there, would attempt to exhaust the remedies available to it in the domestic courts, but if a government, say, in Nicaragua, proceeded to nationalize, the chances are that the courts would furnish little or no relief and the Government of the United States would have to intercede in behalf of its nationals.

MEMORANDUM OF THE BAR ASSOCIATION OF THE CITY OF NEW YORK

The Chairman. I will have to go, and before going, I wish to put into the record and call your attention to it especially, Mr. Kalijarvi, and the State Department, a very thoughtful memorandum filed with the committee by the New York City Bar Association on the treaty with Iran. It is not objecting to the treaty, but they do ask certain pertinent questions which I think the State Department should answer and put into the record so that we may reply to the city bar association.

Mr. Kalijarvi. Yes, sir.

The Chairman. In it, they raise certain questions for the future, and ask why provision should not be inserted concerning enforcibility of arbitration awards, along the lines contained in the German treaty.

It might not be that you would answer all of those to the complete satisfaction of the bar association, but I think that should be put into the record.

(The statement referred to and the comments of the Department of

State are as follows:)

JUNE 25, 1956.

Dear Senator George: The committee on foreign law of the Association of the Bar of the City of New York engaged in a careful analysis of certain of the provisions of two recently signed commercial treaties between the United States and Haiti and Iran respectively.

I enclose two copies of the comments embodying this work of the committee, which it is felt may be of interest and assistance to you and the Committee on Foreign Paletiess.

Foreign Relations. Yours sincerely,

JAMES N. HYDE, Chairman, Committee on Foreign Law, 1956-57. THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK, COMMITTEE ON FOREIGN LAW, COMMENTS ON THE TREATIES OF FRIENDSHIP, COMMERCE, AND NAVIGATION BETWEEN THE UNITED STATES OF AMERICA AND THE RE-PUBLIC OF HAITI, OF MARCH 3, 1955, AND IRAN, OF AUGUST 15, 1955

The committee on foreign law of the Association of the Bar of the City of New York has, at its meetings in 1955-56, engaged in an analysis of certain of the provisions of the two recently signed commercial treaties with Haiti and Iran. These comments are limited to those provisions which apply to subjects with which the members of the committee feel qualified, on the basis of professional

experience, to express an informed opinion.

These two treaties were negotiated in pursuance of the Department of State's program of drafting up-to-date and comprehensive commercial treaties with as many nations as practicable, with the aim of affording as much encouragement and protection to the carrying on of trade with, and participation in investments in, the countries involved. Such treaties are in the interest of American commercial and investing interests, although since treaties with sovereign nations are involved, they are necessarily cast in a reciprocal form. To that end a so-called model draft treaty was prepared by the Department some years ago, and continuously improved on the basis of experience in recent treaty negotiations. The various treaties concluded to date fall into a definite pattern, rather than each being negotiated on a completely ad hoc basis. There are, nevertheless, variances in the exact language of the provisions of the two treaties with Haiti and Iran, some of which may be of significance, and which will be commented on herein.

The comments which follow are not intended so much as specific criticisms of

the particular treaty as it has been negotiated, or in any way as an indication that the committee opposes their ratification by the Senate. Their primary purpose is to be of constructive assistance to the State Department in negotiating further treaties of the same type, as well as (if deemed necessary) negotiating protocols or interpretory letters with regard to the particular treaties under

consideration.

1. Provisions concerning access to courts

The Haitian and Iranian treaties contain provisions in articles V (1) and III (2) respectively (which, except for rather minor textual differences, follow closely the provisions of the draft treaty) guaranteeing, on a mutual basis the right of nationals and companies of either party to free access to the courts and administrative agencies of the other, on both a national and a more-favored-nation basis. A protocol to the Haitian treaty provides that the term "access" to courts includes legal aid and security for costs and judgment. No such protocol has been made in connection with the Iranian treaty, and, unless there are local circumstances peculiar to Iran and to procedures in that country's courts, with which the committee is not familiar, it is felt that the precedent set in the case of the Haitian treaty should be followed in the case of the Iranian treaty.

It has been also suggested that it would be appropriate in this connection to

It has been also suggested that it would be appropriate in this connection to include provisions in commercial treaties for the reciprocal rendering of judicial assistance, for instance, in the taking of depositions. In the absence of such a treaty provision, American practicing lawyers have run into serious practical difficulties in obtaining testimony abroad, in such form as can be used in American courts. However, international judicial assistance is the subject of legislation now before Congress, which would appoint a commission to examine the entire problem and, it is hoped, draft a model treaty or protocol to existing treaties, which, taking the complexities of the problem into account, will provide a means for improving the situation on a reciprocal basis. It appears unlikely that the State Department will participate in the negotiation of provisions in general commercial treaties covering this subject until the proposed commission has submitted its recommendations. The committee, therefore, does not make any suggestions at this time in regard to the desirability of including provisions in this regard in the Haitian and Iranian treaties, except to point out that there is a need for treaty arrangements in the field, which should be negotiated, either in connection with commercial treaties, or in special treaties in the field of reciprocal judicial assistance.

A somewhat similar problem exists in connection with the reciprocal enforcement of foreign judgments, although the committee feels that, here, conventions should be negotiated only with countries whose judicial systems and standards are such that we would have confidence in the fairness of judgments rendered by that country's courts.

2. Enforcement of arbitration awards

Both the Haitian and Iranian treaties contain provisions concerning arbitration (art. V (2) and III (3) respectively). The language in the Haitian treaty is that of the so-called draft treaty, that the Iranian treaty is brief and more general. The provisions of both treaties concerning the enforceability of awards are couched in the negative (i. e., an award entered in a proceeding shall not be defied enforcement because of the alienage of one or more of the arbitrators, etc.) instead of the positive, as in the case of the treaty with West Germany of October 29, 1954 (art. VI (2)) where such awards are declared conclusive and enforceable (subject to certain qualifications). The committee prefers the provision contained in the West German treaty especially in the case of treaties with more important trading nations.

3. Consular protection of the rights of nationals

Both treaties contain provisions (Haiti art. III; Iran art. II (4)) which are intended to insure protection to citizens of the countries involved, in case of their arrest by the authorities of the other. The provisions in the Iranian treaty are couched in somewhat more general terms than in the case of the Haitain treaty. Thus it is provided that on demand of the arrested national, his diplomatic or consular representative is to be notified without unnecessary delay and that such representative have full opportunity to safeguard the interests of the arrested national (which would seem to be a good provision). The corresponding provision in the Haitian treaty (which follows the model treaty in this regard) requires that the consul be notified immediately which is preferable. However the Iranian treaty does add a desirable guarantee that the disposition of the case be prompt and impartial. Article XIX, dealing with the powers of consuls, also authorizes the consul to arrange for legal assistance. Unfortunately the sections of the Iranian treaty (arts. XII-XIX) which apply to consular rights are not quite as extensive as some of our recent consular conventions (e. g., with Costa Rica) which specifically guarantee, for example, the right of private access by the consul to the arrested national, nor does the treaty require the government to notify the consul of the detention of a national of the country he represents, the consul's rights depending solely on a prior "demand" on the part of the arrested national. The authorities of the receiving state before whom the consul may assist his nationals are not defined, so as to include the authorities of local political subdivisions (a possible loophole), and it is suggested that in addition the treaty should explicitly empower a consul to confer in his official capacity with all authorities of the receiving state concerning any criminal or civil proceedings to which one of his nationals is a party.

While the committee does not believe, on the basis of the above comparison of the Iranian treaty with other commercial and consular treaties to which the United States is a party, that this particular treaty entirely lacks teeth, so to speak, in affording protection to United States citizens (indeed some of the language is an improvement over comparable provisions in other treaties), it does believe that, except where local conditions in Iran or elsewhere, such as the lack of capable lawyers, suggest otherwise, the more specific provisions found in the other recent treaties are generally to be preferred, and that, if possible, a protocol be negotiated to cover the point of requiring the government to notify the consul

whenever one of his nationals is detained.

4. Provisions with regard to taxation

There is a serious question as to the advisability of including provisions with regard to taxation in commercial treaties, other, perhaps, than a general pledge of national and most favored treatment. Tax laws and regulations throughout the world are complicated and technical. It should be the policy of the United States to negotiate specific bilateral conventions to avoid double taxation with as many countries as possible. Eighteen such conventions have been ratified through March 30, 1955. This approach is preferable to the rather broad language usually found in commercial treaties, and as is found in both the Haitian and Iranian treaties.

Subject to the above general comment, it is noted that inevitably there is somewhat of an inconsistency between the provisions of both treaties, which in effect ban more burdensome taxes than those borne by nationals of other countries and the simultaneous existence of treaties against double taxation which involve

concessions to some countries and not others.

In article VI (3) of the Iranian treaty it is provided that "companies" (why not individuals or partnerships?) are not, in the territory of the other country

to be subject to taxes on any income or capital not attributable to operations or investment within such territory. This is all right as far as it goes, but the question of when earnings are attributable to one country rather than another is quite often the exact point at issue in any particular controversy, and the treaty does not provide any solution. Would some form of agreed arbitration of such a question be an acceptable answer to the problem?

5. Consular provisions

The treaty with Iran contains (articles XII to XIX) provisions concerning the powers and immunities of consuls, which are often found in separate consular

conventions rather than in a general commercial treaty.

It is believed that these provisions are relatively standard in the light of current and accepted international practice. They provide for the qualified immunity of consular premises, exemptions from customs duties, tax exemption of official premises and official compensation, lack of jurisdiction of the receiving state over the consul's official acts and documents, and the right of a consul to communicate with his fellow nationals.

However, the consul's immunity from taxation is not absolute, and he is subject to taxation on income from sources in the receiving state, other than official compensation, on the ownership or occupation of immovable property, and on the passing of property at death, nor do any exemptions apply if the consul is a national of or a lawfully authorized immigrant in the receiving state.

It has been suggested (a) that a consul be wholly free of taxation in the receiving state, and that the exceptions referred to above are illogical, and (b) that there is no reason why a consul should not, in the absence of a violation of the general national interest of the sending state, be amenable to process from, and his files subject to production before, the courts of the receiving state. It is strongly suggested that such a modification of current practice, along with a requirement that the consul officially represent the nationals of the sending state in legal proceedings in the receiving state involving the status (e. g., marriage, divorce) of such nationals, would greatly simplify the proof of many official acts of foreign governments and generally modernize cumbersome problems of jurisdiction in international transactions. The committee feels that, whatever merit there may be to these suggestions, they should be embodied in a general renegotia-tion of consular conventions, and not in the particular treaty with Iran which the committee is considering.

6. Provisions with regard to ownership of property

Both treaties contain broad provisions dealing with the right to acquire property of various types in the territories of the other party, and for the protection of those rights. But, because of the broad sweep of the language, which means that the phraseology is, necessarily, imprecise, there are always loopholes through which the foreigner's rights, which are seemingly so broadly protected, may be eroded. On the other hand, the committee recognizes the difficulties of more precise drafting in this field, and the fact that, in a controversy, especially where national feelings are aroused, broad provisions may be as effective to protect the interests of investors abroad, at least as a foundation for diplomatic representations.

There are many differences in detail between the two treaties. In particular, the Iranian treaty has been drafted in more general terms than the Haitian treaty, which follows more closely the language of the model draft treaty. It will serve no useful purpose to review these differences in detail, other than to point out the

following:

(a) The Haitian treaty (art. IX) guarantees to nationals and companies of the other party the right to national treatment in leasing and occupying real property, and national and most-favored-nation treatment in regard to purchasing or otherwise acquiring interests in personal property, subject to restrictions on alien ownership in certain fields such as banking and exploration of natural resources. The Iranian treaty (art. V (1)) guarantees the right to lease, for suitable periods of time, real property needed for residence purposes or the conduct of activities under the treaty, together with the right to purchase and dispose of personal property. In addition, most-favored-nation treatment is assured (possibly as a province of the province support of the province

qualification in the broad sweep of the previous guaranties).

(b) In regard to inventions and trademarks the Iranian treaty (art. V (2)) guarantees, upon compliance with applicable laws concerning registration, etc. effective protection to nationals and companies of the other party in their exclusive use thereof. The Haitian treaty (art. X) promises national and most-

favored-nation treatment in these matters.

(c) So far as the rights to establish a business or to make an investment are concerned, the Haitian treaty (art. VII) follows closely the provisions of the model treaty, which generally speaking are favored by the committee. National and most-favored-nation treatment is pledged, although certain rights are reserved to limit the rights of aliens generally in certain fields. The comparable provision of the Iranian treaty is far briefer and more limited. There is no guaranty of the right to establish an enterprise. However, once nationals or companies of the other party are permitted to establish an enterprise they are to be freely permitted. other party are permitted to establish an enterprise, they are to be freely permitted to conduct their activities in the host country "upon terms no less favorable than other enterprises of whatever nationality engaged in similar activities," including a guaranty of the right to continued control and management of such enterprises. The committee feels that the omission in the case of Iran of the right to establish a business, as in the "model" treaty upon which the Haitian and other recent treaties are based, is a serious defect, although there may be good reasons for such omission with which it is not familiar.

(d) There is a further omission in the Iranian treaty, which the committee feels should be corrected in a protocol. The provisions with respect to conducting a business refer to nationals and companies of the other country. No provision is made to protect the rights of companies organized under local laws, in which nations or companies of the other country have a controlling interest. In the Haitian treaty, this right of investment in local companies is specifically recognized in article VII, and both national and most-favored-nation treatment is guaranteed to such controlled enterprises. Further, in connection with the guarantee against expropriation of property without full and effective compensation, which is found in both treaties, a protocol to the Haitian treaty specifically provides that such provision extends to interests held directly or indirectly in property taken within the territory of the host state.

property taken within the territory of the host state.

(e) Again, in connection with the right of individuals to enter the country in order to engage in business, the provisions of the model treaty (and of the Haitian treaty) are more definite than, and preferable to, those of the Iranian treaty. The right of entry in order to carry on trade and to develop or direct an enterprise in which such persons (or their employers) have invested is guaranteed by Article II of the Haitian treaty (as supplemented by protocol). In the case of Iran (art. II (1) most-favored-nation treatment only is promosed, and there is no provision with regard to the rights of employees of traders or investors to enter the country. Here again, Iran seems to have reserved to itself the right to exclude American businesses from its territory (although, to be sure, once admitted, it does agree to furnish a certain amount of protection).

(f) Both treaties contain provisions against expropriation or other taking of property, except for a public use, and only upon prompt payment of full and effective compensation. In this regard, the committee, while in agreement that these provisions of the treaty do accord with enlightened legal principles, and (within necessary limitations as to the effectiveness of treaties) that they afford

(within necessary limitations as to the effectiveness of treaties) that they afford considerable protection to United States investments in Haiti and Iran, believes that definitions of the words "property" and "taken" might be included, possibly by way of a supplemental protocol, which would—

(1) Conform the definition of "property" to that in the postwar treaties of peace, so as to cover all types of property, including intangibles (cf. art. 78 par. 9 (c) of the peace treaty with Italy); and

(2) Broaden the definition of "taking" so as to include measures which, though falling just short of a seizure of the full title to the property, effectively deprive its owner of the use and enjoyment thereof, for example, the appointdeprive its owner of the use and enjoyment thereof, for example, the appointment of a custodian.

7. Provisions with regard to waiver of sovereign immunity and state trading

The provision in the Haitian and Iranian treaties dealing with sovereign

The provision in the Haitian and Iranian treaties dealing with sovereign immunity are identical in the two treaties and reproduce the provisions in the model draft treaty. It reads as follows (Haiti, art. XVIII (2); Iran, art. XI (4)): "No enterprise of either High Contracting Party, including corporations associations, and government 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 High Contracting 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."

The principle embodied in this provision is in accord with forward looking legal It of course is consistent with the position taken in the famous Tate. letter of 1952 (26 Department of State Bulletin 984). It does not attempt a

solution of the thorny problem of distinguishing on the facts of a given situation whether a particular activity of the state is an act jure gestionis or jure imperii. It will still be for the courts to decide whether for example purchasing shees for the Army is a business or governmental activity. As none of the many attempts to define the distinction has been wholly successful, it is probably therefore best to leave the matter for judicial interpretation. Given the terms of the treaty, it may be expected that immunity will not be granted except in very clear cases of

activities of purely governmental character.

One difficulty is however posed by the Iranian treaty when one compares the above-quoted provisions in article XI with article XV (2), which reads:

"Lands and buildings situated in the territories of either High Contracting Party of which the other High Contracting Party is the legal or equitable owner and which are used exclusively for governmental purposes by that owner, shall be exempt from taxation of every kind, national, state, provincial and municipal, other than assessments levied for services or local improvements by which the premises are benefited."

Assume that the Iranian Government establishes a Government aviation company which operates both commercial and governmental services, i. e. combines the functions of, let us say, both Pan American and Military Air Transport bines the functions of, let us say, both Pan American and Military Air Transport Service. The company is a Government agency or instrumentality owned or controlled by the Iranian Government within the meaning of article XI (4) of the treaty with Iran. The company does engage in commercial activities within the United States. Under article XI (4) its property, including lands and buildings, is subject to taxation. But suppose one of these buildings is used exclusively for governmental purposes within the meaning of article XV (2); it would then, under that article be immune from taxation. The difficulty is that article XI is fundamentally based on ownership and the nature of the owner's activities, while article XV (2) is based on the use to which the property is devoted. The conflict between the two provisions is accentuated by the fact that article XV conflict between the two provisions is accentuated by the fact that article XV refers to situations in which the state is either the legal or equitable owner, which would seem to embrace various types of arrangements used for Government agencies and instrumentalities whether or not utilizing the corporate form.

In future treaties this inconsistency should be eliminated by drafting which would make it clear that the principle of article XI (4) prevails over that of article XV (2). In other words, if the agency or instrumentality does engage in business, all its property is subject to taxation even though some of it be used for strictly governmental purposes. It would also be advisable in redrafting the text of article XV (2) and article XI (4), to make clear whether property which under

the former article is immune from taxation, is also immune from execution. Both treaties (Haiti art. XVII, and Iran, art. XI (1) (2)) also contain provisions which are designed to insure, so far as can be, competitive equality between the which are designed to insure, so far as can be, competitive equality between the private enterprises owned by nationals or companies of one country, on the one hand, and government-owned or controlled enterprises of the host country, on the other. The committee approves the purpose of these provisions, which follow the model draft treaty. It does suggest that the phrase "in accordance with customary business practice" which qualifies the promise of an "adequate opportunity to compete for participation in purchases and sales by or to government controlled enterprises or monopolies" be eliminated, because, in many areas of the world, such practices may well have the effect, if they are not deliberately so designed, of discriminating against foreign enterprises. It is also noted that, in the case of Iran, there is no guarantee of competitive equality in the award of in the case of Iran, there is no guarantee of competitive equality in the award of concessions.

The Iranian treaty also contains a paragraph (art. XI (3)) not found in the Haitian treaty, based on art. XVIII (2) of the model draft treaty, which pledges in quite general terms, and subject to several qualifications, conditions of competitive equality between publicly owned or controlled trading or manufacturing enterprises, of the host country, and privately owned and controlled enterprises of nationals and companies of the other country. It is doubtful how far this protection applies to locally organized companies controlled by a foreign investor.

8. Provisions with regard to the exercise of liberal professions

While it is recognized that it is within a country's jurisdiction to enact rules and regulations for the general admission to liberal professions, it should also be noted that a too-restrictive exercise of a country's prerogative in this field may impede the flow of international trade and investments.

Closer attention should be given to the drafting of pertinent clauses in the treaties, i. e. article VIII (1) of the treaty with Haiti, and article IV (4) last sen-

tence of the treaty with Iran. The committee observes, as to the main in-adequacies of the language of the respective clauses, the following: It is too narrow to mention only "accountants and other technical experts," as is the case in the treaty with Haiti. To be sure, the treaty with Iran lists some professions such as attorneys, but also omits architects, engineers, or scientists. An atomic physicist, a geologist, or an agricultural specialist may oppose being classified as "technical expert."

The duration for which such experts are retained does not seem to be a controlling factor. There is no reason why an American company may not engage permanently overseas auditors for its overseas operations. Therefore the criterion manently overseas auditors for its overseas operations. Therefore the criterion in article VII of the Haiti treaty, that the employment shall be on a temporary

basis, is not satisfactory.

Whether the expert is engaged to make reports or for some other purpose, does not appear to be so important. He would not be engaged unless his work were intended to benefit the operations of the persons by whom he was retained. It is important, however, that the foreign expert who is not admitted to practice in the foreign country emphasizes this fact and the restrictions to which he is subject, just as the American counsellor at law in Paris will clearly indicate "not admitted to the bar of Paris."

The language in the Haiti treaty (identical in this respect with that of article VIII of the treaty with West Germany), is too confined in that the expert must be retained either "by 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." More often than not such experts will be engaged for the purpose of reporting on the possible acquisition of a future financial interest in such territory.

The committee, in summary, believes that a treaty clause permitting the employment of experts of one's own choice and nationality regardless of qualifications in such foreign country is highly desirable and important, but that its pre-

cise wording merits careful consideration.

Willis L. M. Reese, Chairman; Paul O. Bleecker; Peter Borie; Martin Domke; Phanor J. Eder; Austin T. Foster; Philip C. Jessup; Doris Jonas; Austin A. Laber; Andre Maximov; Charles P. Noyes; F. E. Oppenheimer; Albert J. Parreno; Howard R. Patch, Jr.; Otto C. Sommerich; Robert F. Weissenstein.

QUESTIONS RAISED BY NEW YORK CITY BAR ASSOCIATION MEMORANDUM ON THE TREATY WITH IRAN

1. The Bar Association of the City of New York, in the attached comments on the Haitian and Iranian treaties (the Haitian treaty is not being considered), points out the desirability of including in future treaties provisions for the repicrocal rendering of judicial assistance, for instance, in the taking of depositions.

Would you give your views on this proposal?

2. The bar association favors a provision concerning the enforceability of arbitration awards along the lines contained in the German treaty (art. VI (2)). The provisions in the three treaties now being considered are more general, except for the Dutch treaty which contains a different provision relating to State courts. Why was it not feasible to use the German model provision in

this regard?
3. The bar association points out that the consular provisions of the Iranian treaty are not quite as extensive as recent consular conventions and suggests that a protocol be negotiated to cover the point of requiring the Government to notify the counsel whenever one of his nationals is detained. Would you com-

ment on this suggestion?

4. The bar association points out that the Iranian treaty contains a provision to the effect that companies of one nation, are not, in the territory of the other to the effect that companies of one nation, are not, in the territory of the other country to be subject to taxes on any income or capital not attributable to operations or investments within such territory. The question of when earnings are attributable to one country rather than another is often the exact point at issue in any particular controversy. "Would some form of agreed arbitration of such a question be an acceptable answer to the problem?" the association asks.

5. The bar association makes a number of suggestions concerning the provisions on ownership of property in the Iranian treaty. It considers the lack of guarantee of the right to establish an enterprise a serious defect. There is no provision to protect the rights of companies organized under local laws, in which nations or

protect the rights of companies organized under local laws, in which nations or

companies of the other country have a controlling interest and this, the bar association feels should be corrected in a protocol. There is no provision with regard to the rights of employees of traders or investors to enter the country. And finally, the association suggests that the words "property" and "taken" should be defined in a supplemental protocol in accordance with their suggestion.

(See p. 7.) What are your views on these comments and suggestions?

6. The association points out an alleged inconsistence between two provisions of the Iranian treaty on state trading. One provision states that no government enterprise in the nature of a business activity shall claim or enjoy tax immunity not enjoyed by private enterprises. The other states that government lands and buildings of one nation situated in the other and used for governmental purposes are immune from taxes. The association avers that these two provisions can work against each other and suggests that in future treaties this inconsistence be eliminated by making clear that the first provision prevails over the second one. It also suggests that the phrase "in accordance with customary business practice" in art. XI (1) (2), which qualifies the promise of an "adequate opportunity to compete for participation in purchases and sales by or to government controlled enterprises or monopolies" be eliminated. What are your views on these two suggestions?

7. With regard to the exercise of the liberal professions, the bar feels that it is too narrow to mention only "attorneys, agents, accountants, and other technical experts, executive personnel, interpreters and other specialized employees of

their choice." Is it feasible to broaden this provision?

RESPONSE OF THE DEPARTMENT OF STATE TO THE QUESTIONS RAISED BY THE BAR ASSOCIATION OF THE CITY OF NEW YORK

Generally, the Department finds the comments of the committee on foreign law of the Bar Association of the city of New York to be constructive and cogent. The officers immediately concerned with the negotiation of commercial treaties have the various suggestions under study with a view to utilizing them insofar as practicable in connection with future negotiations. Because of the necessity of exercising extreme care in matters relating to treaty provisions, it is not possible to give comprehensive and final answers to the above questions at the present

time. Brief answers follow for each of the questions, however.

1. Judicial assistance is a subject with which the United States has had little experience as far as regulation by treaty is concerned. It would appear to be difficult to deal with it without encountering problems in Federal-State relations. Possibly the New York City Bar Association could propose specific provisions

adapted for use in bilateral treaties.

2. The Department is in full agreement with the bar association's view that the arbitration provision in the German treaty constitutes a desirable model for treaties with the principal commercial states. That provision does not differ greatly in essential substance from the provision in the Netherlands treaty. The German model was before the Netherlands negotiators, but they preferred the form that appears in the Netherlands treaty. The provision in the Iran treaty was drafted in a very simplified form, in keeping with the general style of that treaty

treaty.

3. The consular provisions were included in the treaty with Iran for the reason that it was not considered feasible at this time to negotiate a detailed consular convention. Hence the provisions are less extensive than those in regular consular conventions. It was thought that, in view of the vast number of local jurisdictions in the United States and of the difficulty of keeping local officers informed as to treaty provisions, it would be entirely proper to make it a responsibility of the alien to request the authorities to notify his consul.

4. It is thought that the establishment of the general rule that companies should not be subject to taxes on income or capital not attributable to operations or investments within the territories of the taxing country is about all that's feasible in a general treaty of the type of that with Iran. More detailed rules as to the attribution of income, etc., are in the field of treaties for the avoidance of double taxation. Any significant tax controversy arising between the United States and Iran could, however, be adjudicated or otherwise dealt with under the provisions of article XXI.

It is agreed that it would be desirable to have in the Iran treaty a guaranty of the right to establish an enterprise, but it was not obtainable in this case for reasons that have been indicated elsewhere. We think that the rights of companies organized under the laws of one country but controlled by nationals and companies of the other are protected by article IV, paragraph 4 of the Iran treaty; The business of such a company would be an "enterprise which nationals and companies of either high contracting party are permitted to establish or acquire" within the meaning of that paragraph. The right of employees of traders or investors to enter the country is dealt with on a most-favored-nation basis in article II, paragraph 1, and article XX, paragraph 4. That good definitions of "property" and "taken" would be helpful is admitted, and consideration should negligible to developing them. In the light of experience however, it is perhaps be given to developing them. In the light of experience, however, it is difficult to formulate a definition which would not have the effect of narrowing the

scope of the treaty standard sought.
6. Consideration will be given to clarifying in future treaties the provisions country. The intent of the whole of this paragraph is to require to the fullest extent practices of the market place.

7. Consideration of a revision of the list of specialist personnel for which freedom.

7. Consideration of a revision of the list of specialist personnel for which freedom of employment is provided, as in article IV, paragraph 4 of the Iran treaty, could well be undertaken. The itemization is only for illustrative purposes, however, all classes of specialists being covered by the concluding class "specialized employees." In any broadening of the provision, care would have to be exercised to avoid conflict with the established policy of the Senate of preventing any overriding of State laws restricting the practice of professions by aliens

State laws restricting the practice of professions by aliens.

The Chairman. Senator Fulbright will take over the chair now, as I must leave.

Senator Smith. I have some questions here I would like to ask of Mr. Kalijarvi and have him answer, which the staff has prepared.

Senator Fulbright. I would suggest you do ask them now, if you care to, as it will take but a few minutes.

Senator Smith. Very well.

Mr. Kalijarvi, here are some general questions we are asking for the record.

EFFECT ON DOMESTIC LEGISLATION

 In the past, the committee has been concerned with questions of the practice of professions, of copyright, and of social security.

Is there any provision in the three treaties of the type to which the

committee has attached reservations in the past?

Mr. Kalijarvi. The answer is no. On the professional and copyright matters, they have been negotiated with the committee's considerations or concern in mind, and there are no objectionable provisions that we know of in these agreements on those points.

Senator Smith. Second. To what extent will provisions of these

treaties affect Federal or State laws?

Mr. Kalijarvi. There will be a relationship, of course, but the conflict of laws which have been concerning us in the past we think has been reduced to a minimum in these agreements, and there is no basic inconsistency between the agreements and Federal and State laws.

THE SIMPLIFIED FORM OF TREATY

Senator Smith. Three. At the time the Senate considered the treaty of amity and economic relations with Ethiopia, the committee was concerned lest the simple form of that treaty might become a precedent for others. It was assumed that the form was specially designed for Ethiopia. However, the Secretary of State's letter on the Iran treaty states that the treaty resembles most nearly the Ethiopian treaty. Is there a tendency toward usage of the less specific form of commercial treaties?

Mr. Kalijarvi. I think there has been a change in respect to the approach to these problems, especially as concerns the underdeveloped countries where the negotiating of the longer provisions, that is the treaties of friendship, commerce and navigation, and consular arrangements is extremely difficult, and there is under contemplation negotiation with some countries that is quite similar, Senator, to both the Ethiopian and Iranian treaties.

Senator Smith. Then, we are moving on toward a simpler form

with the underdeveloped countries.

Mr. KALIJARVI. That is right.

QUESTIONS ON THE IRAN TREATY

Senator Smith. There are some special questions that I would like to ask for the record.

Has Iran ratified the treaty? Mr. Kalijarvi. No, it has not.

Senator Smith. Two. The Secretary of State's letter states that this treaty includes certain provisions normally found in consular conventions. Is it intended to negotiate a consular convention at a later date?

Mr. Kalijarvi. That is correct; a more detailed Consular Convention might be negotiated at a later date. It is thought, however, that the consular provision in this treaty will take care of our needs in

that respect in Iran for some time.

Mr. Smith. Three. The letter also points out that the commitments in article IV relate largely to the assurance of nondiscriminatory treatment once business enterprises have been established and do not deal with rights of entry and establishment.

Could you explain the significance of this more fully?

Mr. Kalijarvi. Well, there is a broader provision that we seek to get into our agreements, and under normal circumstances—well, I shouldn't say "normal circumstances," but with most countries we are able to provide for no screening of American enterprise as it comes in. This is the best provision that we can get with a country such as Iran, where we guarantee that the Americans, once they are in, will not be discriminated against.

The omission of entry provisions in this case came about because of the fear on the part of Iranian officials that to specify entry rights in any treaty would facilitate economic penetration by neighboring countries that would create a danger to national independence.

Senator Smith. You testified about that a little bit earlier.

Mr. KALIJARVI. Yes.

Senator Smith. Now, four: Article II, paragraph 2, provides that the nationals of one party in the territory of the other party shall also-

be permitted to engage in the practice of professions for which they have qualified under the applicable legal provisions governing admission to professions.

Do those "applicable legal provisions" encompass State laws in the United States?

Mr. Kalijarvi. Yes; they do. Senator SMITH. So much for Iran.

QUESTIONS ON NICARAGUAN TREATY

Now, the next is in regard to the treaty with Nicaragua.

One. Has Nicaragua ratified this treaty?

Mr KALIJARVI. No.

Senator Smith. Two. Is the social security and workmen's compensation provision (art. IV) consistent with past practice in these treaties?

Mr. Kalijarvi. Yes, I am informed they are.

Senator Smith. Three. Article VI, paragraph 4, limits the right to expropriate property to—

public purposes and reasons of social utility as defined by law.

What does "social utility" mean?

Mr. Kalijarvi. May I turn to Mr. Setser on that point, please?

Mr. Setser. Senator, it has been customary in all of these treaties to specify in similar language that expropriation is only for public purposes, and the intent was to specify in this one that there should be a public object in any taking of private property.

Senator Smith. Well, this says "public purposes and reasons of

social utility."

Mr. Setser. It was simply an additional suggestion in this case by Nicaraguan authorities. We don't think they had any other object than simply to express in their own language the idea of expropria-

tion for public purpose.

Senator Mansfield. Mr. Chairman, might I suggest to the Senator from New Jersey that the State Department be requested to spell out what they mean by "social utility" and give us the definition of that term.

Senator Smith. That is what the question was, "What does 'social

utility' mean?"

Your suggestion is that they be asked to spell that out.

Senator Mansfield. Yes, they could supply a memorandum on it. Senator Fulbright. For incorporation in the record, do that, please.

(The information referred to is as follows:)

THE TAKING OF PROPERTY FOR PUBLIC PURPOSES

The introduction of the phrase "and reasons of social utility as defined by law" in the clause relating to expropriation in article VI, paragraph 4, of the Nicaragua treaty came about in the following manner. This treaty is based upon a draft supplied by the Department of State, and we used, of course, concepts and terms familiar to us. Some of our terms and concepts may not be familiar to officials in other countries, and they sometimes like to substitute for our terms, language that more nearly corresponds to that used in their own country. In this case, the Nicaraguan negotiator proposed the additional phrase quoted above, presumably because it would make the language of the treaty clause very similar to that in the property protection provision (art, 58) of the Nicaraguan Constitution. We believe there is no significant difference between the phrase "for a public purpose" as understood in this country and the phrase "for reasons of social utility" as understood in Nicaragua. In both the United States and Nicaragua; the right of eminent domain extends to any property the taking of which the constitutional authorities find to be necessary in the public interest. The significant part of the provision in question is, of course, that part which prescribes that property may not be taken, whatever the purpose, without prompt and just compensation.

Senator Smith. Four. Is the reservation of rights in article VII, paragraph 2, a customary clause in these treaties?

Mr. Setser. The question is—is the list of exceptions customary? Senator Smith. The reservation of rights in article VII.

Mr. Setser. It is considered necessary to assure that there will be no conflict in the treaties with the Federal and State laws in a number

of respects.

Senator Smith. And, number five: Does article XX, pledging the parties to cooperate in the interchange of technical and scientific knowledge with a view to improving living standards, commit the United States to do anything in addition to what it does now? Would it, in the absence of a technical assistance program?

Mr. Kalijarvi. I would think not. Senator Smith. Six. Are articles XI, paragraph 5, and article XIV, paragraph 6 (c), designed along with article XXI, paragraph 4, to facilitate Nicaraguan participation in a Central American economic

Mr. Kalijarvi. Would you repeat those?

Senator Smith. The question is: Are these articles designed to facilitate Nicaraguan participation in a Central American economic union?

Mr. Kalijarvi. Yes.
Senator Smith. That is their purpose?
Mr. Kalijarvi. That is right.
Senator Smith. Seven. Does the provision defining "coffee," article XVI (3), affect United States domestic laws?

Mr. Kalijarvi. This is designed to conform to our law. Senator Smith. Designed to conform with our law?

Mr. Kalijarvi. Yes.

Senator Smith. Thank you. That is all for Nicaragua.

QUESTION ON THE NETHERLANDS TREATY

Now, Mr. Chairman, I have questions on the Netherlands treaty. Number one: Has the Netherlands ratified this treaty?

Mr. KALIJARVI. No.

Senator Smith. Two. The exchange of notes, in effect, provides that at such time as an agreement of European ecohomic unity is reached, the Netherlands need not accord national or most-favorednation treatment to the United States and its nationals. Are we, in effect, thereby, providing special inducements to the Netherlands to assist in the development of closer European economic unity at the expense of benefits to United States citizens?

Mr. Kalijarvi. May I ask Mr. Setser to answer that question,

please?

Mr. Setser. The principal purpose of the exchange of notes is to permit or to relieve the Netherlands Government from according the United States most-favored-nation treatment principally in trade matters, when such privileges would create difficulties for a program of European integration, but it provides also that the United States might withdraw similarly from the Netherlands equivalent concessions, so that it is reciprocal in its terms. It is designed, of course, to facilitate Netherlands participation in European economic organiza-

Senator Smith. We are protected by being permitted to withdraw. similar privileges if they withdraw them?

Mr. SETSER. That is right.

STATUS OF RATIFICATIONS

Senator Fulbright. Would the Senator yield for a question? Senator Smith. Yes.

Senator Fulbright. Why must we always ratify first? In all three cases they are waiting on us. Why don't they ratify them?

Mr. Kalijarvi. I don't think we must necessarily ratify first, Mr.

Chairman.

Senator Fulbright. That seems to be the pattern. Why don't they go ahead or, put it the other way, why must we ratify first?

Mr. Setser. In the case of Iran, a bill for approval of the treaty is before the Iranian Senate. It is still in session. It has not been There was no indication that they are awaiting acted upon yet. action by the United States Senate.

The Netherlands treaty has been laid before the States General, but they have not proceeded to action on it yet, but again we do not think there was any desire to delay, awaiting action by the United

States.

Senator Smith. That is the situation, though, as the chairman points out, in all three treaties. You said they haven't acted, we are

expected to act first.

Mr. Kalijarvi. May I make this observation here: I don't know of any concerted or intentional delay until we shall have ratified. We are confronted by the desire to get these argeements approved before the Congress adjourns.

Senator Smith. Did we initiate most of these agreements? Mr. Kalijarvi. Yes, most of these agreements we initiated.

Senator Smith. It is to our interest then to get them approved and to get the other countries to approve them also?

Mr. KALIJARVI. That is right.

OTHER PROVISIONS OF NICARAGUAN TREATY

Senator Smith. The third question: The provisions concerning the rights to hold real property in this treaty are broader and more detailed than any since 1951. They provide that nationals of either party may acquire real property in the other, subject, however, to State and Territorial laws. If a State or territory accords a Dutch national or company less favorable treatment than its own residents in this matter, can the Netherlands accord a resident of that State less favorable treatment in the Netherlands? Has this formerly been used? Is it expected to be used in future treaties of this nature?

Mr. Kalijarvi. I am informed that it goes back before the war,

Senator.

Senator Smith. You mean that this is an old provision?

Mr. Kalijarvi. An old provision. Senator Smith. You mean before the war, in a Netherlands treaty,

it doesn't apply to others, this is a Netherlands treaty?

Mr. Kalijarvi. We have had it in other treaties—not with the Netherlands. A provision somewhat similar to it was included in a treaty with Siam in 1937, and it is a provision we incorporate whenever we can.

Senator Smith. The fourth question: The broadened provision concerning commercial arbitration provides that awards made thereunder shall be entitled in any court in any State of the United States to the same measure of recognition and enforcement as awards rendered in other States of the United States. Will this provision require any change in any State laws?

Mr. Kalijarvi. I would think not. Senator Smith. This is No. 5: has the restrictive business practice provision been omitted in this treaty?

Mr. Kalijarvi. May I ask Mr. Setser to answer that, with respect

to business practices and provisions.

Mr. Setser. The Netherlands Government found those provisions unacceptable because their attitude toward the formation of cartels and the control of restrictive business practices is different from ours, and they did not wish to commit themselves on the subject.
Senator Smith. You don't consider that a matter of any serious

Mr. Setser. We would like to obtain acceptance of the same policies that we follow in this country, but we cannot always obtain it, and in the case of the Netherlands, that is one of the cases where we could not obtain it.

Senator Smith. Mr. Chairman, that completes the series of questions that the staff thought we ought to have replies to, in the record.

Senator Fulbright. Any further questions?

(No response.)

Thank you very much. Mr. Kalijarvi. Do you have anything further to add?

Mr. KALIJARVI. No.

Mr. Marcy. Senator, this should go in the record along with the action of the committee on these treaties.

Senator Fulbright. This fetter from the American Arbitration

Association shall be made a part of the record.

(Letter from American Arbitration Association to the chairman of the Committee on Foreign Relations under date of June 22, 1956. is as follows:)

AMERICAN ARBITRATION ASSOCIATION, New. York, N. Y., June 22, 1956.

Hon. WALTER F. GEORGE, Chairman, Committee on Foreign Relations, United States Senate, Washington, D. C.

My DEAR SENATOR: The Committee on Foreign Relations will soon consider the treaties of friendship, commerce, and navigation between the United States and Haiti of March 3, 1955, and with the Netherlands of March 27, 1956.

These treaties embody, as a number of other commercial treaties have, a provision which will facilitate the reciprocal enforcement of arbitration agreements and of arbitral awards in trade controversies between nationals of the respective

The State Department is to be highly commended for its contribution to the advancement and use of trade arbitration, by embodying the important provision in bilateral commercial treaties. We also note that when the enforcement of foreign awards against Americans is being sought in any State of the Union, the law prevailing in the respective State has to be observed. The application of State arbitration laws is thereby safeguarded.

This association has been dealing with foreign-trade arbitration, in the interest of the American business community for more than 30 years. We sincerely believe that the provision on reciprocal enforcement of arbitration agreements and awards protects American interests in the settlement of foreign-trade disputes. We therefore recommend a favorable consideration of the treaties with Haiti and the Netherlands.

Very sincerely yours,

SYLVAN GOTSHAL, President.

(Whereupon, the committee proceeded to the consideration of other matters.) .

ANNEX 2

COMMERCIAL TREATIES

HEARING

BEFORE A

SUBCOMMITTEE OF THE COMMITTEE ON FOREIGN RELATIONS UNITED STATES SENATE

EIGHTY-SECOND CONGRESS

SECOND SESSION

ON

TREATIES OF FRIENDSHIP, COMMERCE, AND NAVIGATION BETWEEN THE UNITED STATES AND COLOMBIA, ISRAEL, ETHIOPIA, ITALY, DENMARK, AND GREECE

EXECUTIVES M AND R, EIGHTY-SECOND CONGRESS, FIRST SESSION, AND EXECUTIVES F, H, I, AND J, EIGHTY-SECOND CONGRESS, SECOND SESSION

MAY 9, 1952

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II

COMMERCIAL TREATIES

FRIDAY, MAY 9, 1952

United States Senate,
Committee on Foreign Relations,
Subcommittee on Commercial Treaties
and Consular Conventions,
Washington, D. C.

The subcommittee met, pursuant to notice, in the committee hearing room, United States Capitol, at 10 a. m., Senator John Sparkman (chairman of the subcommittee) presiding.

Present: Senators Sparkman (chairman of the subcommittee) and

Hickenlooper.

Senator Sparkman. Let the committee come to order, please.

The members of this subcommittee, in addition to myself, are Senator Fulbright, who is out of town, and Senator Hickenlooper.

The chairman of the Committee on Foreign Relations, Senator Connally, has asked this subcommittee to consider six treaties of friendship, commerce and navigation, now pending before the committee. The treaties now before us are the following:

Executive M (82d Cong., 1st sess.), treaty of friendship, commerce,

and navigation with Colombia;

Executive R (82d Cong., 1st sess.), treaty of friendship, commerce, and navigation with Israel;

Executive F_(82d Cong., 2d sess.), treaty of amity and economic

relations with Ethiopia);

Executive H (82d Cong., 2d sess.), agreement supplementing treaty of friendship, commerce, and navigation with Italy;

Executive I (82d Cong., 2d sess.), treaty of friendship, commerce,

and navigation with Denmark; and

Executive J (82d Cong., 2d sess.), treaty of friendship, commerce,

and navigation with Greece.

I propose, if it is agreeable to the subcommittee, to ask representatives of the Department of State first to direct their comments to the six commercial treatics and then to the two consular conventions.

In recent years the Senate has given its advice and consent to treaties of friendship, commerce, and navigation with Italy in 1948, Uruguay, 1949, and Ireland, 1950. These postwar treaties are part of the program that the Department of State has been carying on over a period of years seeking to modernize treaties with a number of countries with whom earlier treaties were negotiated in the nineteenth century.

The Department of State, in a recent publication, has described

these treaties as-

a charter of the American citizen's rights when he is in a foreign country. They assure him for the most part the fundamental personal liberties that he enjoys in this country. They pledge constant protection and security for his person and property. They allow him to engage in the normal run of business pursuits, whether by himself or in association with others, and in general assure to him the privileges necessary to carry on his business effectively.

Annex 2

The first witness this morning will be Mr. Harold Linder, Deputy Assistant Secretary of State for Economic Affairs. Mr. Linder, will you proceed, please, sir, in your own way?

STATEMENT OF HAROLD F. LINDER, DEPUTY ASSISTANT SECRETARY OF STATE FOR ECONOMIC AFFAIRS, DEPARTMENT OF STATE

Mr. Linder. Senator, the treaties with Colombia, Greece, Israel, Ethiopia, and Denmark which are now before you bring to nine the number of treaties of this general type which have been signed on behalf of the United States since the war. You will recall that the first two treaties of this series, those with China and Italy, were considered by the committee in 1948 and those with Uruguay and Ireland 2 years later, and that those treaties were approved by the Senate. The treaty with Italy has now been supplemented by an agreement, also before you, designed to bring it abreast of developments reflected in the more recent ones.

SIMILARITIES AND DIFFERENCES BETWEEN THE COMMERCIAL TREATIES

While there are differences among these nine treaties, fundamentally they are alike. The treaties with Columbia, Denmark, and Israel follow closely the treaty with Uruguary, which in turn was a restated form of the one with Italy. The treaty with Greece is also based on the Uruguary model, but with changes in matters of form. The treaty with Ethiopia is a specially adapted version of the document negotiated with the other countries, involving considerable abridgment of the usual provisions and the addition of articles on diplomatic and consular officers no longer usual in this type of treaty. All these treaties also reflect differences of varying extent in matters of detail, both as a result of new or improved provisions which have been developed from time to time by the Department of State, with counsel, of course, from other agencies and as a result of the adjustments that inevitably occur during the give-and-take of negotiation. For example, the basic establishment provisions have been extensively restated in the treaty with Israel, additional provisions on shipping are included in the Greek treaty, and a provision regarding the use of the term "coffee" has been added to the treaty with Colombia. But the general objectives remain the same and, with the departures that may be noted in the case of Ethipoia, all the treaties go about realizing these objectives in essentially the same way.

The more notable differences in the several treaties now before you, both as among themselves and as compared with those previously approved by the Senate, are summarized in the report of the Secretary of State attached in each case to the President's message of transmittal. I want to submit now, for the convenience of the committee, copies of a tabular comparison which indicates in greater detail the similarities and differences of these instruments on a provision-by-provision basis. In my opening remarks I shall not attempt to repeat or elaborate on that information, leaving the discussion of details to be guided by the questions the committee might have. To assist in providing specific information about particu-

lar provisions, I have with me two officers of the Department who have been immediately responsible for the technical aspects of these treaties.

I have these exhibits.

Senator Sparkman. They will be received and made a part of the committee files.

(The exhibits referred to were received and made a part of the

committee file.)

Senator Sparkman. It was not your idea to have these printed in the record, but simply to be made exhibits?

Mr. Linder. That is correct.

COMMERCIAL TREATY PROGRAM

The commercial treaty program is the oldest continuing economic program of our Government. It dates back to the beginning of our national independence and has been kept up, with minor interruptions, ever since. As a rule the first treaty concluded with a foreign country has tended to be a treaty of friendship, commerce, and navigation, which sets the framework in which our economic relations can be conducted on a stable basis for the future. The instrument aims at establishing the rule of law in our everyday relations with the country concerned, at protecting our citizens and their property in the foreign country, at promoting our trade, and at reducing discriminations against our shipping. An idea of the enduring character of these treaties may be gained from the fact that the treaty with Denmark now before you is to replace a treaty negotiated with that country in 1826 and the treaty with Colombia will take the place of one signed in 1846.

MODERN PHASES OF THE TREATY PROGRAM

While this is a traditional program with a history of over a century and a half, its modern phase dates from the years immediately after the First World War. At that time, a broadened and revitalized program devoted particularly to the expansion of our foreign trade was developed under the direction of Secretary Charles Evans Hughes. Negotiations were carried on extensively until the outbreak of World War II, resulting in the conclusion of treaties with 12 countries.

While the current program is a continuation of that instituted under Secretary Hughes, remaining similar in fundamentals to what has gone before, the present program reflects new emphasis occasioned by problems which have taken on increased importance in recent years. The consular provisions have been detached in the interest of more effective treatment of each subject matter. The form and content of the treaty has been expanded and revamped; and the pace of negotiation has accelerated. In this connection it may be noted that in the first 6 years after the end of World War I three treaties were concluded. In the same length of time after World War II nine treaties have been signed, although the commitments contained in the current treaties tend to be more far-reaching, and the general international climate is less sympathetic to the free-enterprise premises on which these treaties are based. Moreover, as you will recognize, Annex 2

governments all over the world are constantly preoccupied with pressing and critical problems—not exactly an atmosphere conducive to negotiations of agreements of the type now before you.

EMPHASIS ON ENCOURAGING PRIVATE INVESTMENT ABROAD THROUGH GREATER PROTECTION OF THE INVESTOR

Perhaps the most important respect in which the current treaties differ from those of the twenties and thirties is in the greatly increased emphasis on the encouragement of American private investment abroad, by the expansion and strengthening of provisions relating to the protection of the investor and his interests. This development, of course, reflects the process of continuous adjustment to the needs and conditions of the era in which negotiation takes place. United States came out of the war with a greatly expanded industrial machine and, alone among the major nations of the world, with a surplus of private capital available for export. To encourage the investment of this capital in the production of goods and services abroad was a matter of importance to our domestic economy and to economic development and world prosperity generally. Apart from these purely economic considerations, moreover, foreign investment can strengthen the common defense and promote the prevalence of ideas of individual liberty and individual initiative under law.

The basic aim of these new provisions has been to safeguard the investor against the nonbusiness hazards of foreign operations, an objective emphasized by the Congress in the Act for International Development of 1950. There is no intent here, of course, to shield the investor from the economic risks to which venture capital is subject, a matter which cannot and should not be reached through international agreement. However, there are grave hazards of a nonbusiness nature which have become characteristic in everseas business operations since the war. They assume many forms: Inequitable tax statutes, confiscatory expropriation laws, rigid employment controls, special favors to State-owned businesses, drastic exchange restrictions, and other discriminations against foreign capital. Taken together, they can be a formidable obstacle to the American investor, for they impair from the very start the prospect of fair competition and a reasonable profit. Yet these hazards are not infrequently legal rather than economic, and they can be checked to a substantial extent by treaties which establish mutually agreed standards of treatment for the citizens and enterprises of one country within the territories of another.

RIGHTS OF CORPORATIONS RECOGNIZED

Perhaps the most striking advance of the postwar treaties over earlier treaties is the cognizance taken of the widespread use of the corporate form of business organization in present-day economic affairs. In the treaties antedating World War II American corporations were specifically assured only small protection against possible discriminatory treatment in foreign countries. In the postwar treaties, however, corporations are accorded essentially the same treaty rights as individuals in such vital matters as the right to do business, taxation on a nondiscriminatory basis, the acquisition and enjoyment of real and personal property, and the application of exchange controls.

Furthermore, the citizens and corporations of one country are given substantial rights in connection with forming local subsidiaries under the corporation laws of the other country and controlling and managing the affairs of such local companies. The legal reason inhibiting a more extensive provision for corporations in earlier treaties (namely, the reserved rights of the states as to the admission of foreign corporations; has been solved in the current treaties by a formula which equates the alien corporation to other out-of-state corporations, rather than to the domestic corporation, for purposes of "national treatment" in the United States.

PROBLEMS ARISING OUT OF STATE OWNERSHIP OF ECONOMIC ENTERPRISES

Another significant feature of the postwar treaties of interest to the prospective investor is the body of provisions which deals with problems arising from the state ownership of economic enterprise. There is a growing tendency abroad for the real competitor of private business to be the government itself. The Department of State has, accordingly, endeavored to work out treaty provisions designed to reduce the hazards of unfair competition from state-controlled busi-These clauses provide assurances of most-favored-nation treatment in the conduct of state-trading operations and in the awarding of government contracts and concessions. They also establish broadened rules governing the carrying out of nationalization programs. There are as well newly developed provisions, found first in the 1948 treaty with Italy, to assure American private business concerns which must compete with foreign state-owned concerns the same economic favors that the latter received from their government, and to assure that state-owned commercial enterprises of the one country engaged in business in the other country will not be immune from taxation, suit, or other normal liabilities by reason of their public character.

PROVISION ON EXCHANGE CONTROL

Another important development in the post-World War II treaties is the provision on exchange controls. The formulation of such a provision poses difficulties. Many foreign countries have a genuine need to protect their limited foreign-exchange reserves in order to insure that the highest-priority needs of their economy are met. At the same time, there is a real need for liberal provisions on withdrawals of earnings that will afford a proper protection to investors. We have sought to achieve a fair balance between the two factors.

OLDER PROVISIONS REVISED

In addition to the innovations introduced to better the climate for investment, substantial improvements have been introduced in provisions of longer standing. The rules on expropriation of property have been worked out in more detail; more explicit assurances have been formulated on basic personal freedoms and protection for the individual; and clauses have been added on freedom of communication and of reporting. Provisions on commercial arbitration and the employment of technical personnel have been added; and traditional

provisions for nondiscriminatory treatment of shipping have been

strengthened.

The continuing process of revamping of the standard provisions has benefited these treaties as a whole, both as to content and language. What we hope constantly to achieve is stronger articles, fewer exceptions and, above all, a document which can give the American citizen who goes abroad, whether for business, pleasure, livelihood, or study, a firm and clear body of rights and privileges.

MUTUALITY OF RIGHTS ACCORDED BY THE TREATIES

So far I have spoken mainly about the rights these treaties assure and the protection they give to American citizens and businesses in foreign countries. However, these treaties are not one-sided. They are drawn up in mutual terms, in keeping with their character as freely negotiated instruments between friendly sovereign equals. Rights assured to Americans in foreign countries are assured in equivalent measure to foreigners in this country. In undertaking treaty commitments that would formally confirm to foreigners a substantial body of rights in the United States, the Department of State has exercised great care to frame provisions that would be in conformity with Federal law. The exception is that article VII of the supplementary agreement with Italy provides for the development of arrangements not provided for by existing Federal statute regarding totalization of social-security benefits. Furthermore, where the subject matter covers fields in which the States have a paramount interest, such as the formation and regulation of corporations and the ownership of property, the treaty provisions have been worked out with the same careful regard for the States' prerogatives and policies that has traditionally characterized agreements of this type.

LIMITATIONS AND OBJECTIVES OF THE TREATIES

These documents are concerned primarily with legal conditions and with the effect such conditions may have on economic activities carried on across international boundaries. While they are compre-hensive documents, they are not able to remove all legal impediments to investment, owing both to the inherent nature of such a treaty and the complexity of present-day economic affairs. While these treaties are concerned with everyday matters, they are not exclusively economic in nature or purpose; they are also, and perhaps above all, treaties of friendship. Their objectives are the normal objectives of friendship between nations: to protect the foreigner, to maintain good order in everyday affairs, to encourage mutually beneficial relations, to strengthen the rule of law in the dealings of one nation with another. They are practical expressions of good faith and good neighborliness as much as they are legal contracts. Their worth rests as much on their equity and reasonableness as on the number and scope of the privileges they specify; and their spirit, which goes beyond the limits and wording of the treaties themselves, is in every way as important as the letter of the undertakings they actually make.

The Department of State for many reasons regards these treaties as an important element in promoting our national interests and build-

ing a stronger economy within the free world through the traditional American means of private enterprise; and it is most gratified that your committee is finding time from a very crowded calendar to give them its study and attention.

Thank you, Mr. Chairman.

Senator Sparkman. Thank you, Mr. Linder.

ENCOURAGEMENT OF PRIVATE INVESTMENT

Now let me ask you a few questions pertaining to this. You are familiar with the provision in the proposed Mutual Security Act of 1952, written in by the House in the following language—or, rather, reported out by the House committee; the House has not acted on it yet (reading):

The Department of State shall accelerate a program of negotiating commercial and tax treaties or other arrangements where more suitable of expeditious, which shall include provisions to encourage and facilitate the flow of private investment to countries participating under this Act.

Are these proposed treaties which we have before us now designed

to accomplish this purpose?

Mr. Linder. I think without question, Mr. Chairman, they provide a climate in which private investment can flow. They do not guarantee private investment, but I think it is fair to say that without such treaties certain impediments exist which would retard the flow of investments, and to that extent I think they stimulate them.

Senator Sparkman: You think they represent a step forward?

Mr. LINDER. Very definitely.

Senator Sparkman. What is the effect of the unconditional most-favored-nation clauses in these treaties?

MOST-FAVORED-NATION CLAUSES AND "NATIONAL TREATMENT"

Mr. Linder. Well, I have referred to both most-favored-nation clauses and I have also referred to the expression "national treatment." The most-favored-nation clause guarantees to us that we shall receive equivalent treatment to any treatment accorded to any other nation. "National treatment" insures that our own nationals or corporations will receive treatment equal to the treatment accorded to the nationals of the country with which we have the treaty.

Senator Sparkman. That is, their nationals in this country?

Mr. Linder. No; their nationals in their own country.

Senator Sparkman. I see; so as to make uniform national treatment.

Mr. LINDER. That is correct.

Senator Sparkman. Let me ask you, do some of the treaties contain the most-favored-nation clause and others contain the national-treatment clause?

Mr. Linder. I think it is fair to say that all treaties contain both. There are times when the most-favored-nation clause is more important than the national-treatment clause, because the country with whom we have the treaty may have accorded rights to other foreigners which are better than the rights they have accorded to their own nationals. On the other hand, there are times when the national-treatment clause is more important, because rights accorded to the nationals of that country may not have been accorded thus far to any

other foreigner; and, therefore, we strive to get in that case national treatment.

Senator Sparkman. And you have worked in these treaties to get the mst favored position for our nationals?

Mr. Linder. We have, sir.

PROTECTION AGAINST NATIONALIZATION

Senator Sparkman. Do these treaties give Americans any protection in the case of nationalization of properties affected with American interest?

Mr. Lander. I think they give a great deal of protection, Mr. Chairman. The basic rule, of course, is that if there is to be nationalization—and we do not feel that we can negotiate a treaty which would deny another government the right to nationalize property—there must be for the American interest prompt, just, and effective compensation.

In addition to that, there must be national treatment or most-favored-nation treatment, whichever is the better from our point of view. In other words, they cannot nationalize us when they do not nationalize other industries engaged, or other businesses engaged, in the same type of business. They can't pick us out so that we become

discriminated against.

These standards of as good treatment as their own nationals get, or as good treatment as the national of any other country gets, are not enough. In addition to that, we go back to our basic thing: That there must be full compensation, and that it must be prompt and just and effective, and that it must also contain provisions which will permit the conversion of that compensation from a local currency back into dollars; and, further, in addition to that, we have taken the position—I think most effectively—that countries that propose nationalization must have planned the thing sufficiently so that they are able to meet the conditions of our treaties. They can't just say they are going to nationalize without making provision in advance for that nationalization, without knowing where the money is going to come from, how they are going to nationalize, what the criteria of "just compensation" are going to be; and, in other words, just decide that they are going to nationalize.

TAXATION PROVISIONS

Senator Sparkman. Do these treaties give protection to Americans and American corporations against discriminatory treatment with respect to taxation?

Mr. Linder. These are not tax treaties; that is to say, they do not

provide for-

Senator Sparkman. I understood in your direct statement you did

include some reference to taxation.

Mr. Linder. They do include a guaranty that we will not be taxed in any country, and no American corporation will be taxed, beyond the activities of that corporation within the country. That is to say, if a large American corporation has a subsidiary operating in a foreign country, the only thing the foreign country can tax is the business that is conducted within its territory. To that extent the answer surely is "Yes."

Furthermore, we do have provisions which will insure that we will not be taxed, or our corporations will not be taxed, beyond the tax that is enacted by that government and affects its own nationals, and also we have the guaranties with respect to most-favored nation.

Senator Sparkman. In other words, those provisions apply to the

matters of taxation as well as they do to anything else?

Mr. LINDER. They do.

REFERENCES TO THE GENERAL AGREEMENT ON TARIFFS AND TRADE

Senator Sparkman. Some of these conventions refer to the General Agreement on Tariffs and Trade. Do these references imply in any

way to congressional approval of that?

Mr. Lander. They do not, sir; but I would like to answer, if I may, sir, for the record, that statement a little bit more carefully by reading an excerpt from a letter which we addressed to Senater Millikin in respect to this point. Our letter read:

The purpose of this kind of provision is not to obtain Senate approval of the general agreement. Its purpose is simply to clarify the relationship between the treaty and the General Agreement on Tariffs and Trade, where the two instruments exist side by side, so as to obviate possible confusion concerning the international rights and obligations of a country which is party to both instruments. The provision is thus in the interests of orderly treaty procedure. Being framed in the form and style of a reservation, to provide for a contingency, it does not in any way bind the United States as to participation or nonparticipation in the General Agreement on Tariffs and Trade.

The Senate has already given advice and consent to ratification of two treaties containing a nearly identical clause which also refers to the charter for an international trade organization (Treaty of Friendship, Commerce, and Fronomic Development with Uruguay, signed November 23, 1949, 81st Cong., 2d sess. * * and Treaty of Friendship, Commerce, and Navigation with Ireland, signed January 21, 1950). * * * We do not consider that Senate action on these treaties constitutes approval by the Senate of the General Agreement on

Tariffs and Trade.

REFERENCES TO COPYRIGHT MATTERS

Senator Sparkman. Are there any provisions in these treaties, or any one of them, that affect the copyright laws?

Mr. Linder. No; there are not.

Senator Sparkman. The copyright laws of the United States?

Mr. IANDER, I do not think there are.

Senator Sparkman. I believe we have had a letter from the State Department with reference to that, have we not? It might be well

to incorporate that in the record at this point.

There will be placed in the record at this point an exchange of letters between Mr. Arthur Fisher, Register of Copyrights of the Library of Congress, and Mr. Adrian S. Fisher, Legal Adviser to the Department of State, under dates of April 23 and May 6, 1952.

COPYRIGHT OFFICE, THE LIBRARY OF CONGRESS, Washington 25, D. C., April 23, 1952.

Mr. ADRIAN S. FISHER.

Legal Adviser, Department of State, Washington 25, D. C.

DEAR Mr. FISHER: There are presently pending before the Senate Foreign Relations Committee treaties of friendship, commerce, and navigation with Colombia, Greece, Israel, Ethiopia, Italy, and Denmark, similar to those ratified within the past few years with Uruguay and Ireland. In connection with these latter two treaties, there appeared in the report of the Senate Foreign Relations

Committee a statement to the effect that neither treaty touched on any question

In view of the fact that the six pending treaties have provisions similar to those embodied in the treaties relating to Uruguay and Ireland, it would seem to follow that the pending treaties also do not relate in any manner to questions of copyright. Kindly advise me whether or not my understanding is correct in this respect.

Sincerely yours,

ARTHUR FISHER, Register of Copyrights.

DEPARTMENT OF STATE, Washington, May 6, 1952.

Mr. ARTHUR FISHER,

Register of Copyrights, Copyright Office. The Library of Congress.

My DEAR MR. FISHER: Reference is made to your letter of April 23, 1952, in which you request confirmation of your understanding that certain treaties which are presently pending before the Senate Foreign Relations Committee do not relate in any manner to questions of copyright.

You are advised that your understanding in this respect is correct and that the

treaties of friendship, commerce, and navigation with Colombia, Denmark, Greece, and Israel, the treaty of amity and economic relations with Ethiopia, and the agreement supplementing the treaty of friendship, commerce, and navigation with Italy do not relate to copyright matters.

Sincerely yours,

JACK B. TATE, Acting Legal Adviser.

Senator Sparkman. Mr. Linder, in a statement that has been submitted in letter form from the National Foreign Trade Council a suggestion is made for a broader investment clause. Are you familiar with that?

Mr. LINDER. Sir, I saw the letter just as I came in. I really have

not had an opportunity to study it.

Senator Sparkman. He starts out discussing it on page 5 and continues on page 6. I wonder if you could discuss that and tell us why the State Department has not been able to get this broad coverage.

Mr. LINDER. Mr. Chairman, I am a little loath to discuss it be-

cause I have given it only the most superficial reading.

CONVERTIBILITY IN EVENT OF NATIONALIZATION

Senator Sparkman. I wonder if I might ask this question, that might at least show it a little more clearly on the record. As I understand, these treaties provide for convertibility in the event of nationalization or taking over.

Mr. LINDER. They do, sir.

Senator Sparkman. They provide first for compensation, and that that compensation shall be in dollars rather than in the currency of the country, for the amount that was originally invested in the company. The Foreign Trade Council, as I understand it, recommends that the entire amount that has gone in, the earnings that have been plowed back in, should be covered also.

Mr. LINDER. We think they are covered.

Senator Sparkman. You think they are covered by these treaties? Mr. LINDER. I think they are. As I understand, the way this treaty would be interpreted in case of an expropriation is that this specific clause does not in any way impair just compensation, and just compensation and equitable compensation must be in terms of the value which then exists.

Senator Sparkman. The question was raised as to ambiguity in the provision. The Foreign Trade Council particularly points out a qualifying phrase "which they have supplied." The contention of the Foreign Trade Council is that this might be held to apply only to the amount of capital originally supplied, and that it would not cover the investments that had been plowed back.

Now, is it your interpretation that it does cover the reasonable

value of the entire capital structure?

Mr. LINDER. Yes, sir; that is my interpretation, and I am sure, while I didn't take an active part in the negotiation of any one of these, that that is clearly understood on the part of each signatory to any of our treaties. I don't think it would make any sense whatever to talk only in terms of an original investment. W. R. Grace & Co. made an investment in Chile 120 years ago, or certainly a long, long number of years ago, and there may have been an accumulation of earnings in that company over a very long period of time. Surely if that property were to be expropriated by the Chilean Government the original investment could not in any sense be regarded as a just and equitable standard for compensation. What must be determined is the value of the property as it exists at the time it is expropriated, and while, as I say, I have a certain reluctance to discuss this in detail (a) because I am not a lawyer and (b) because I have not read carefully the comment of the Foreign Trade Council, I feel reasonably certain of my ground in stating as I have, that it does cover the investment, as it exists at the time of expropriation.

Mr. HERMAN WALKER, Jr. (Office of Assistant Secretary of State for Economic Affairs). We have a specific clause on expropriation

which says:

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 the expropriation for determining and effecting such compensation.

Senator Sparkman. Now let us go one step further. That is as far as compensation. I wonder if you can point out the clause relating to convertability at the same time.

Mr. LINDER. The clause in the treaty with Colombia, for example,

Mr. Chairman, is article XII, section 3. That says—

If either party imposes exchange restrictions in accordance with paragraph 3 above—

which permits certain types of exchange restrictions necessary to preserve the economy of the country—

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—

the one to which I have previously made reference-

(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.

This is subsidiary to that, and it guarantees where there is a multiple rate of exchange. If you would like me to read that, I can go on.

Senator Sparkman. Where does this phrase to which the Council points occur?

Mr. WALKER. It is in a different paragraph, sir.

Senator Sparkman. I wonder if you could read that sentence. It is hard to tell, when words are just lifted out of context such as this.

Mr. WALKER (reading):

Neither party shall take unreasonable or discriminatory measures that would impair the legally acquired rights or interests within its territories of nationals and companies of the other party in the enterprises which they have established or in the capital, skills, arts or technology which they have supplied; nor shall either party unreasonably impede nationals and companies of the other party from obtaining on equitable terms the capital, skills, arts and technology it needs for its economic development.

Mr. Linder. I am informed, sir, that that is supplemental to and in no way restricts or limits the broad basis for compensation which we have just been discussing.

Senator Sparkman. Then it is your opinion that the objection raised with reference to that matter by the National Foreign Trade

Council is not justified?

Mr. Linder. Sir, I would say absolutely, except that I have not read every word of the National Foreign Trade Council's letter. I just received it as I came into this room. I would say categorically, with only the reservation that if I find our Legal Adviser has any reservation, he will communicate it to the committee.

Senator Sparkman. I wonder if it might not be well simply to have the Legal Department address a letter to us to be put in the record

on that question.

Mr. LINDER. We will be happy to do it, sir.

(The following information was subsequently furnished:)

MAY 21, 1952.

Hon. John J. Sparkma'n, Committee on Foreign Relations, United States Senate.

My Dear Senator Sparkman: I refer to the hearing held by your subcommittee, May 9, on the pending commercial treaties and to the question raised during the course thereof concerning what these treaties provide as to compensation for property which is expropriated, with particular reference to the effect of article VIII of the treaty with Greece. The Legal Advisor's Office has prepared a brief statement, enclosed herewith, which confirms the opinion I expressed in this matter. I offer the Legal Advisor's statement for inclusion at an appropriate place in the record, in order that there not be the slightest doubt about the correct answer to this important question.

Sincerely yours,

HAROLD F. LINDER,
Deputy Assistant Secretary for Economic Affairs.

Enclosure.

STATEMENT OF THE OFFICE OF THE LEGAL ADVISER-MAY 16, 1952

Article VIII of the treaty with Greece, and the similar provision of the other treaties before the subcommittee, is entirely independent of, and in no way modifies, the provisions of article VII, paragraph 3, and comparable provisions of the other treaties, which establishes the rule of compensation applicable when property is expropriated through nationalization or otherwise. Article VII, paragraph 3, of the treaty with Greece states the governing rule in all cases of expropriation, that compensation shall be payable on the basis of the full value of the property taken, at the time of the taking. Compensation based on the value of the initial investment would not meet the standard of the treaty or of international law, if it were less than the value at the time of taking; if the value of the initial investment were greater than the value at the time of taking, a country is obliged only to provide compensation for the value at the time of taking.

Annex 2

Senator Sparkman. I may say that at the end of Mr. Linder's testimony I will insert in the record, if there is not objection, the letter from the National Foreign Trade Council, Inc., addressed to me on May 8.

Senator Hickenlooper. Can we identify, at least for my benefit, Mr. Chairman, the National Foreign Trade Council? Of what is it

composed?

Mr. Linder. I prefer to have Mr. Vernon describe it, if I may.

Mr. Vernon. The National Foreign Trade Council is an organization which has been in the field of promoting foreign trade and international investment for rather a long time. I would say they are probably "the" organization in the field at this moment in the United States.

Senator Sparkman. It is a well-known and reputable organization? Mr. Vernon. Well-known and reputable, and its membership looks like a glossary of Standard & Poor's.

Senator Hickenhooper. Throughout the United States?

Mr. Vernon That's right.

Senator Sparkman. Senator Hickenlooper, do you want to ask

Mr. Linder some questions?

We have had Mr. Linder's statement, which was a prepared statement. You have a copy of it there in your file, and I addressed these questions to him.

Senator Hickenlooper. There is one line of questioning I would like to address, probably two or three questions, to Mr. Linder. Did you ask Mr. Linder all of these questions?.

Senator Sparkman. Yes.

RELATIONSHIP OF TREATIES TO GATT

Senator Hickenlooper. I am sorry to ask you to repeat, Mr. Linder, but I would like to know, especially, do any of these conventions in any way, and under any circumstances, according to your interpretation and the Department's interpretation, involve us in

the General Agreement on Tariffs and Trade?

Mr. Linder. They do not, sir. I introduced and read, in order to be sure that we were quite explicit about is, a statement which is quoted from a letter which we addressed to Senator Milliken very recently—as a matter of fact, a couple of months ago, the last day of February. If you would like me to do so, I shall be very glad to read that to you again.

Senator Sparkman. I may say, Senator Hickenlooper, that we have a letter from the State Department signed by Mr. John M. Leddy, Director, Office of Economic Defense and Trade Policy, in which he

brings out the same point, and says (reading):

* * * it does not in any way bind the United States as to participation or nonparticipation in the General Agreement on Tariffs and Trade.

Mr. Linder. Senator, would you prefer that I read this statement? Senator Hickenlooper. If you have already put it in the record, there is no use in putting it in again. Is it already in the record?

Mr. LINDER. I have read it carefully and we will be glad to provide

it for the record.

Senator Hickenlooper. If you have already read it in the record, there is no use in repeating it here.

Senator Sparkman. Without objection, we will also put this letter in the record, which is to the committee in answer to this particular

(The communication is as follows:)

DEPARTMENT OF STATE, Washington, February 29, 1952.

Mr. CARL MARCY,

Staff Associate, Committee on Foreign Relations,

United States Senate.

DEAR MR. MARCY: This is in response to your inquiry, during our recent telephone conversation, as to what is the Department's view of the provision referring to the General Agreement on Tariffs and Trade in the Treaties of Friendship, Commerce, and Navigation with Denmark (art. XXI, par. 3), Greece (art. XII, par. 4), Israel (art. XXI, par. 3) and Ethiopia (art. XII, par. 6), all of which are now pending before the Senate.

The purpose of this kind of provision is not to obtain Senate approval of the general agreement. Its purpose is simply to clarify the relationship between the treaty and the General Agreement on Tariffs and Trade, where the two instruments exist side by side, so as to obviate possible confusion concerning the international rights and obligations of a country which is party to both instruments. The provision is thus in the interests of orderly trenty procedure. Being framed in the form and style of a reservation, to provide for a contingency, it does not in any way bind the United States as to participation or nonparticipation in the General Agreement on Tariffs and Trade.

The Senate has already given advice and consent to ratification of two treaties containing a nearly identical clause which also refers to the charter for an international trade organization (Treaty of Friendship, Commerce, and Economic Development with Uruguay, signed November 23, 1949, 81st Cong., 2d sess., Senate Executive D, art. XVIII, par. 3; and Treaty of Friendship, Commerce, and Navigation with Ireland, signed January 21, 1950 (TIAS 2155), art. XX, par. 2). We do not consider that Senate action on these treaties constitutes approval

by the Senate of the General Agreement on Tariffs and Trade.

Sincerely yours,

JOHN M. LEDDY, Director, Office of Economic Defense and Trade Policy.

(The following additional information was subsequently supplied:)

DEPARTMENT OF STATE, Washington, May 21, 1952.

Hon. John J. Sparkman, Committee on Foreign Relations, United States Senate.

MY DEAR SENATOR SPARKMAN: I understand that inquiry has been made as to whether the previous statement of the Department of State, with reference to the significance of the provision concerning the General Agreement on Tariffs and Trade, in the various commercial treatics pending before the committee, is applicable specifically to the treaty of friendship, commerce, and navigation with Denmark. The answer is in the affirmative. The additional material found in article XXI, paragraph 3, of that treaty was included for a purely technical reason; namely, to provide for the situation in which Denmark, though not a member of the General Agreement on Tariffs and Trade, was experiencing balance-of-payments difficulties. The additional material is comparable with the additional protocol attached to the treaty of friendship, commerce, and economic development with Uruguay

As Mr. Linder stated in his testimony before the committee, the Department believes that the provision in the treaty with Denmark does not commit the United States as to participation or nonparticipation in the General Agreement on Tariffs and Trade and that Senate approval of this treaty cannot be regarded

as constituting Senate approval of the general agreement.

Sincerely yours,

RAYMOND VERNON, Acting Director, Office of Economic Defense and Trade Policy.

Senator Hickenlooper. The whole burden of my question is, are we backing into that by some involved interpretive provision in any of these trade treaties which would put us in a position where we have committed ourselves to the General Agreement on Tariffs and Trade?

Mr. Lander. The answer to that is, "No, sir."

GENERAL PURPOSE OF THE TREATIES

Senator HICKENLOOPER. The general purpose of these treaties, as of all the other treaties of friendship, commerce, and so forth of a similar type, I take it, is to guarantee and assure equality of treatment of Americans, American nationals, on a reciprocal basis, that is, reciprocating equitable and fair treatment. These treaties contain certain specified safeguards which the respective nations agree to enforce so far as the activity of the American nationals are concerned in business and trade and so on.

Mr. Linder. And travel. That is correct.

Senator Hickenlooper. That is my understanding of the purpose of the treaties.

NEW FEATURE IN ITALIAN PROTOCOL RELATING TO SOCIAL-SECURITY BENEFITS

Is there anything unusual that you could say in any way differentiates these particular treaties which are before us today in specific provisions from the general provisions of the treaties already in force, historically in force, between the United States and other nations?

Mr. LINDER. I think there is only one.

Senator Hickenlooper. I mean, are there any innovations?

Mr. Linder. Yes. I think there is one in respect of the protocol which we are asking your approval on with Italy, and that exception I alluded to in my statement, and if I may quote it again I would say that article VII of the supplementary agreement with Italy provides for the development of arrangements not provided for by Federal

statute regarding totalization of social-security benefits.

I have here for submission a memorandum from the Federal Security Agency which sets that forth more completely than I am able to do. It is a technical problem, but in essence it provides for a consideration by each of the countries of the social-security benefits earned by any national within his own country. In other words, if an Italian had worked in Italy for 10 years and worked in the United States for 15 years there is an adjustment made so that he in effect gets the benefit, in calculating the payments due him by each country under social security, for his years of work in Italy as well as his years of work here, and vice versa. That is the only provision that I believe differs substantially, except for improvements and tightening up both in language and in substance that is the natural result of, we hope, competent negotiation.

Senator Hickenlooper. What is the explanation or the justification of that provision, in view of the fact that manifestly at least now, and we assume for a long time in the future—at least now, and probably will be in the future—greatly in excess of the social-security benefits in any other country, so that someone, for instance from Italy, could come over here and work for 15 or 20 years and go

back to Italy and retire very nicely on those benefits, with the tie-in-

under the Italian system.

Mr. Linder. I think, sir, that there has been a general movement all over the industrial world, particularly in Western Europe, to insure that workers who for one reason or other migrate from one country to another are not penalized, and in effect their social security is guaranteed. I think that this is an attempt -I believe it is an attempt—to do the same kind of thing with respect to anybody who comes to this country, or any American who works abroad.

Senator Hickenloopen. I merely raise the suggestion that it may

be an attempt to internationalize social security.

Mr. LINDER. The Italians do not get the benefits on our scale for the period during which they worked in Italy.

Senator Hickenlooper. I would assume not.

Mr. Linder. They get some sort of combination of the two which has been worked out with each country paying a pro rata share. As I say, sir, in respect of the technical aspects of this, I would like to make available to the committee this statement prepared by the Federal Security Agency.

Senator Sparkman. Without objection, we will insert that in the

record at this point.

(The statement referred to is as follows:)

STATEMENT PREPARED BY THE FEDERAL SECURITY AGENCY UNDER DATE OF FEBRUARY 14, 1952—EXPLANATION OF THE SOCIAL-SECURITY PROVISIONS (ART. VII) OF THE UNITED STATES-ITALIAN SUPPLEMENTARY AGREEMENT, SIGNED ON SEPTEMBER 26, 1951

At present workers who have some coverage under the old-age and survivors insurance systems of more than one country may suffer losses in their benefit rights. In some cases the individuals involved may fail to meet the eligibility requirements of one or both systems because of gaps in their employment records, and thus no benefits at all may be payable. In order to eliminate these losses, various European countries have entered into agreements with each other in order to protect the benefit rights of workers who have employment in more than one country. The countries with which Italy has already concluded treaties include Belgium, France, and Switzerland. The United States thus far has no international agreement in operation.

While no figures are available on the extent of the movement of workers be-

tween the United States and Italy, it seems likely that the number of workers with coverage under the insurance systems of both countries is small. Neverthe less, coordination of the two systems to take care of these cases seems desirable, in order to prevent the hardship which may sometimes occur in the absence of coordination. As the number of cases will not be large, the total adminis-

trative hurden should not be great.

Article VII of the supplementary agreement provides authority for coordinating social-insurance systems. Following are the major provisions of article VII:

(1) The language of the agreement would authorize the immediate coordination only of the "principal old-age and survivors insurance system" of each country. The coordination could later be extended to special old-age and survivors insurance systems or to insurance systems providing protection against permanent disability.

(2) Service time under both systems would be combined and counted for determining eligibility for benefits under each system.

(3) Service which has already been credited under both systems, if any, would

not be included in any combining of employment periods.

(4) Benefits based on combined service would be reduced to take account of the fact that all of the worker's service is counted under each program. This would be done by reducing each benefit amount by the ratio which the period of time spent under the other system bears to the total period of time spent under both

(5) An individual might elect whether or not the coordination provisions shall

apply to him.

(6) The agreement provides that if the Maintenance of Migrants' Pension Rights Convention of 1935 is adopted by both countries, the convention shall supersede any inconsistent provisions in the agreement. (The 1935 convention includes provisions establishing multilateral social-insurance coordination among

the countries adopting that convention.)

While the agreement indicates that each system is to base benefits on combined periods of service, it does not specify how such benefit amounts are to be computed. It is contemplated that a method would be used which would not require a crediting under one system of wages received under the other, but only a crediting of service periods. By so doing, the administrative difficulties involved in such problems as the conversion of Italian currency into American, and the reverse, would be avoided.

The basic framework of the coordination is established in the agreement. Precedents already exist for this type of coordination, and we believe that no serious difficulties would be encountered in effectuating the agreement. country would bear whatever increased costs would arise under its system as a result of additional payments resulting from the agreement. While we have not been able to make cost estimates, because figures on workers with coverage under both systems are not available, we believe that the additional costs will be small.

The Federal Security Agency favors the coordination provisions contained in

section VII of the agreement.

PROTECTION OF AMERICAN BUSINESSMEN IN MOROCCO

Senator Hickenlooper. I want to get back, Mr. Linder, if you know anything about this particular matter—it may not be in your bailiwick over there—to a matter which has been before this committee repeatedly in the past. It directly involves a treaty of commerce, trade, and friendship, and has been the occasion for two rather positive positions taken not only by this committee but by the Congress, and which according to my view, which may not be wrong, have been not only ignored but flouted by the Department. the Moroccan situation and what apparently has moved this Congress to consider that our American citizens in Morocco have not received the guaranteed equality of treatment under the existing treaty with Morocco. As I say, that may be wrong; I don't know. But it has been sufficiently presented so that it has been the occasion of two actions by this committee and two actions by the Congress on that line. But the situation has not seemed to be improved any.

Are you familiar with that Moroccan situation?

Mr. Linder. I am not familiar with it, sir. Maybe Mr. Vernon can speak to that.

Mr. VERNON, I think so.

Right at the moment, sir, as you no doubt know, that issue is before the International Court of Justice.

Senator Hickenlooper. Yes. And may I say that in my unschooled and probably inadequate opinion, it has no business before the International Court of Justice at all. I have had a little superficial examination of that, and at least in the absence of further proof I do not think it ever had any business being taken to the International Court of Justice, and I don't think we had any business joining in that matter in the Court of Justice. I mean, I just wanted to make my position clear so we will know from what standpoint we are arguing.

Mr. Vernon. Let me give just for a moment or two some of the considerations which led us to conclude that it was not easy to determine just what the rights of the Americans were. The American rights in Morocco accumulated out of a whole series of treaties going back to the eighteenth century. That is when the earliest one was. Some of the rights depend upon such a complicated issue as the following: Whether, if we have most-favored-nation rights, and if as a result of the most-favored-nation right we get a right which was expressly given to another country, such as England, and then the treaty by which England acquired certain rights is abrogated, do we continue to have the rights which we acquired indirectly through the most-favored-nation treatment, notwithstanding the abrogation of the U. K. treaty with Morocco.

There was also a problem of whether and to what extent custom and usage would give us a right which was not expressly stated in a

treaty.

I sat down with our lawyers trying to trace back the effect of the accumulation of these principles upon our rights and came away with the very certain conviction, which was shared by anyone who had to go into this in detail, that at a minimum one could say our rights were complex and far from crystal clear.

We were also concerned that whatever the rights may have been as a result of these longer standing treaties, whether in fact recent agreements under the aegis of the Economic Cooperation Act modified

them.

The result was a legal jumble complicated by the fact that it could be interpreted not in terms of domestic law but in terms of the rather

more obscure provisions of international law.

In those circumstances we felt, and I think there is room for honest difference of judgment on this, that the best possible approach was to try to get a clarification from the International Court of Justice.

FACTORS IN THE FRENCH MOROCCAN SITUATION

Senator HICKENLOOPER. Our treaty was with Morocco, where the violations were alleged.

Mr. VERNON. That is correct.

Senator Hickenlooper. And France took it into the International Court.

Mr. Vernon. On behalf of Morocco. France has a relationship with Morocco which we have recognized by treaty, taking over the responsibility for Morocco's foreign relations; therefore she was within her rights, acting on behalf of Morocco and herself, to bring the suit.

Senator Hickenlooper. Nevertheless we have found, on two or three occasions, that the treaty has been violated a number of times.

Isn't that true?

Mr. Vernon. I hesitate to rely on my judgment on this, or on my memory on this, because really the jumble of both fact and law is involved. One thing is clear, that a lot of things the Moroccans and French have done have not been right in equity or any abstract concept of justice that you might want to think of, and we have not by any means been happy about the treatment in certain respects that the Americans have received in Morocco. There is no question about that.

Senator HICKENLOOPER. May I ask you this: Have the Moroccans themselves ever refused to comply with the treaty, under their own steam? In other words, aren't the Moroccans perfectly willing to carry out the treaty, but the fact is the French, through their activities there, prevent the Moroccans from carrying out the treaty and the

French superimpose special advantages to French people in Morocco in trade and otherwise which are not given to American citizens?

Mr. VERNON. That is an awfully difficult one to answer.

This is one of the reasons why it is so difficult to answer: I use this as an illustration rather than the whole group. The currency in which the French Moroccan trade is conducted is the French franc. The Moroccans may be perhaps willing that in imports into Morocco there should be no discrimination against dollars, but in a sense it is not their ox that is gored. The currency that is used for trading in the area is the French franc, and runs on the French franc by reason of, let us say, open imports into the French Moroccan area, and the resulting weakness in the French franc because of the loss of dollars, is a problem which hits France and not Morocco.

I suppose it is true to say that Morocco would be happy if the French permitted all the expenditures of French dollars that would be involved in free imports into Morocco, but I expect it is also true to say that their willingness to permit that is not a reflection of their willingness to extend us favors which France would not be willing to extend us, but rather a knowledge that it does not cost them anything

to extend them to us.

Senator HICKENLOOPER. I understand there are some propositions in currency exchange which any country will have to meet equally, and should if there is equality of treatment, but it is the unusual and extraordinary export and import license system and the penalties which are put on American goods and American trade there which are not imposed upon the French, and all those things, which are practical inhibitions and coercive things against Americans operating in Morocco, and treatment which is not accorded with the same severity to the French and perhaps one or two others with French favor.

Mr. Vernon. That is true, sir, and the reverse is true also, that there are areas in which Americans can do things that Frenchmen can't do. That is why in the first instance you have a large American colony trading in Morocco. There are certain products which the Americans may import freely which a Frenchman is prohibited from

importing freely.

Senator Hickenloopen. Do the French prohibit the Frenchmen

from importing them, or do the Moroceans?

Mr. VERNON. The French. That sounds rather curious, but the

answer is simply this-

Senator HICKENLOOPER. Why should we be criticized for operating in an area we are privileged to operate in when the French could raise the restrictions and the French could operate in the same area if they

wanted to, when it is within their control.

Mr. Vernon. That is true, sir, and what this reflects is the fact that there has been a recognition of American rights, which is the reason in the first instance why Americans are living there and trading there. In some situations the result has been that the French, in recognition of these special treaty rights, have permitted Americans to import a large list of products provided that the Americans found the exchange in some way or another, but have prohibited Frenchmen from importing the same products because they knew perfectly well the exchange the French would use would have to come out, directly or indirectly, of the French reserves in Paris.

Senator Hickenlooper. I merely mention the matter. It is not before this committee this morning, but I mention it wondering, after we do get into these treaties of friendship, just how they protect the rights of Americans that are actually guaranteed under the treaty before us. It is a question of where flow the benefits, and I would hope that they would be equitable and give equal benefits to nations that we treat with and, by the same token, that we would be utterly zealous in seeing that American nationals receive their full rights under the treaties we make.

I do not have any more questions.

Senator Sparkman. Thank you very much. You will stay hero, Mr. Linder, I assume.

Mr. LINDER. If you want me to I will be here.

" POSITION OF THE NATIONAL FOREIGN TRADE COUNCIL

Senator Sparkman. It might be well to stay. I do not know whether some other questions will come up. It probably will not take very. long. I suggest the letter from the National Foreign Trade Council, Inc., under date of May 8, 1952, appear in the record at this pointand that it be followed by any comments which the Department of State may wish to submit:

NATIONAL FOREIGN TRADE COUNCIL, INC., New York 8, N. Y., May 8, 1052.

Hon. Joun J. Sparkman, United States Sonate,

1. 1 12.

Senate Office Building, Washington, D. C.

DEAR Sin: The National Foreign Trade Council has been advised that you have been appointed by the chairman of the Senate Foreign Relations Committee, chairman of a subcommittee to take testimony and make recommendation relative to the consent and advice to be given in respect of treaties heretofore signed on behalf of the United States with certain other countries. The treaties concerning which we wish to comment are:

Treaty of Friendship, Commerce, and Navigation between the United States and the Republic of Colombia

Treaty of Friendship, Commerce, and Navigation between the United States and

Treaty of Amity and Economic Relations with Ethiopia

Treaty of Friendship, Commerce, and Navigation between the United States

Treaty of Friendship, Commerce, and Navigation with Israel
Agreement with Italy supplementing the Treaty of Friendship, Commerce, and
Navigation of 1948

We have been advised further that you have designated Friday morning, May 9, 1952, as the time for hearings in this connection. We regret that it appears to be impossible for us to arrange for a witness to be present and testify at that time and in lieu thereof we are respectfully submitting in this communication our views in connection with these treaties.

TREATY OF FRIENDSHIP, COMMERCE, AND NAVIGATION BETWEEN THE UNITED STATES AND THE REPUBLIC OF COLOMBIA

Under date of October 9, 1981, we wrote Hon. Tom Connally, chairman of the Foreign Relations Committee, giving our views relative to the treaty with Colom-

bia. For your ready reference, we attach hereto a copy of this letter.

The only additional comment which we would like to make with regard to this treaty is to make reference to the paragraphs in this letter entitled, respectively, "The Investment Clause" and "The Restrictive Business Practice Clause." Our views with respect to the investment clause and the restrictive business practice clause are the result of study since October 9, 1951, and were therefore not covered in our letter to Senator Connally.

Annex 2

TREATY OF AMITY AND ECONOMIC RELATIONS WITH ETHIOPIA .

We respectfully urge that the Senate shall not give its favorable advice and consent to the above-entitled treaty. Our reasons for taking this position in re-

spect of this treaty are as follows:

It is apparent from the content and phraseology of this treaty that the obstacles to mutual understanding on several phases of commercial relations were not overcome. In fact, it seems doubtful whether, at the present stage of Ethiopia's economic development, any satisfying mutual convictions, or common ground for stipulations regarding private investment, can be found. Moreover, a recent canvass of representative members of the council has not developed any expression of positive interest in potential investment in that country. Therefore, it seems undesirable to dilute the pattern of our bilateral treaties by resorting in this case to such weak phrases as-

"reasonable opportunity for the investment of capital, and for the establishment of appropriate commercial, industrial, or other enterprises * * *" or "nationals" of appropriate commercial, industrial, or other enterprises * * * *" or "nationals or companies * * * which are permitted to establish or acquire enter-

23

The objections to the second clause of article VIII (1) and to the second sentence.

of article VIII (4), are contained in the investment clause section.

While there are other features in this treaty which might prove of practical interest to American business, the aggregate advantage would not seem to out, weight the disadvantage of establishing an undesirable precedent in our treaty.

writing, at this juncture.

Since the objectionable weakness of this treaty is confined practically, to paragraphs 1, 4, and 5 of article VIII, the Senate might consider giving its advice and consent to the ratification of this treaty, with a reservation deleting paragraph 4 of article VIII in its entirety and the words "are permitted to" from the second line paragraph 5 article VIII, and amending article VIII (1) in accordance with the suggested provisions set forth in the section of this letter entitled "The Investment Clause."

AGREEMENT SUPPLEMENTING THE TREATY OF FRIENDSHIP, COMMERCE, AND NAVI-GATION OF FEBRUARY 2, 1948, BETWEEN THE UNITED STATES AND THE ITALIAN REPUBLIC

We respectfully urge that the Senate give its favorable advice and consent to the above entitled agreement or treaty subject, however, to the following comment:

Article I of this pending agreement or treaty appears to be a somewhat watered-down version of the investment clause hereinafter dealt with. It is our belief that the comment in the paragraphs dealing with this matter would apply to article I

of this supplemental Italian treaty.

We also call attention to the fact that article XVIII (3) of the Italian treaty of February 2, 1948, is the restrictive business practice clause hereinafter dealt with. It may be that if your committee is favorably disposed toward the recommendation contained in the memorandum attached to this letter entitled "Restrictive Business Practice Clauses in Proposed Treaties with Denmark, Greece, Israel, and Colombia" you would deem it appropriate in connection with the ratification of the supplemental agreement to request the modification of article XVIII (3) of the original treaty.

TREATIES OF FRIENDSHIP, COMMERCE, AND NAVIGATION BETWEEN THE UNITED STATES AND DENMARK, GREECE AND ISRAEL

We respectfully urge that the favorable advice and consent of the Senate be given to the above-captioned three treaties of friendship, commerce, and navigation, subject, however, to the comment contained in our letter of October 9, 1951, dealing with the treaty with Colombia insofar as said comment applies to these treaties and subject further to the comments hereinafter contained relative to the investment clause and the restrictive business practice clause.

THE INVESTMENT CLAUSE

The clause referred to by this caption is article VI of the treaty with Denmark, article VIII of the treaty with Greece, and article VI (4) of the treaty with Israel. The clause in the treaty with Denmark is less complete than the corresponding clauses of the other two treaties.

Reference is also made to the fact that the substance of this clause is contained in article I of the agreement supplementing the Italian treaty. A corresponding clause is also to be found in the 1949 treaty with Uruguay (art. IV), the 1950 treaty with Ireland (art. V) and the 1951 treaty with Colombia (art. VI (4)). For ready reference we quote as follows the clause as it appears in the treaty with Greece:

"ARTICLE VIII

"Neither party shall take unreasonable or discriminatory measures that would impair the legally acquired rights or interests within its territories of nationals and companies of the other party in the enterprises which they have established or in the capital, skills, arts or technology which they have supplied; nor shall either party unreasonably impede nationals and companies of the other party from obtaining on equitable terms the capital, skills, arts and technology needed for economic development."

This provision is a version of a provision of the Bogota agreement which has never been submitted to the Senate for ratification. The Habana charter of the International Trade Organization also contained a similar provision but this like-

wise has never received approval of the Senate.

The treaty committee of the National Foreign Trade Council has pointed out to us that this clause prohibits only "unreasonable or discriminatory measures " " which impair acquired rights and that the implication in the clause is that by measures which are neither unreasonable nor discriminatory the Government of one party to the treaty may properly impair within its territory the

acquired rights of nationals of the other party to the treaty.

In our opinion, the importance of the defect in this clause as pointed out above is emphasized by recent developments in Iran. The Government of that country, because it apparently believed nationalization to be desirable as a national policy, enacted legislation to nullify the Government's contract with the Anglo-Iranian Oli Co. and thereby impaired, in fact actually destroyed, important acquired

rights of that company in Iran.

A second dangerous implication in the phraseology employed is based upon the qualifying phrase "which they have supplied." As applied to capital, it suggests that only as to the amount of capital originally "supplied" by remittance of foreign funds, would the stipulations of this article provide any security. Historically, American direct investment has grown tremendously not only from funds remitted for investment, but by reinvestment of earnings within the foreign country. There should be no ambiguity or misunderstanding on the point that the investor's interests are to be protected as well in respect of this "plow-back" as in respect of the original "remitted" capital. That this is not an academic issue is clear from the discussions in progress with the Government of Brazil regarding the service of American investments in that country. Unfortunately, we have no modern commercial treaty with that nation; but if we had one reading as does the Bogota stipulation quoted above, it would be a very precarious assurance of equitable treatment.

In view of what are felt to be deficiencies in clarity of this article, we respectfully urge that the investment clause as it appears in pending treaties now under consideration by the United States Senate be so amended as to give additional protection to rights acquired by American nationals in foreign countries. If the government of a foreign country having a treaty of friendship, commerce, and navigation with the United States of the post World War II type takes property of an American national for public purposes, it must pay due compensation with respect thereof. It is urged for your consideration that if the government of a foreign country takes the measures which would destroy or impair the rights or interests of an American national irrespective of the purposes underlying such

destruction or impairment, corresponding payment should be made.

If the first part of the investment clause could be so modified as to read: "Neither party shall take measures that would impair the rights or interests within its territories of nationals and companies of the other party except on payment of prompt, adequate, and effective compensation" we feel that a desirable

result would be accomplished.

We also feel that the balance of article VIII of the treaty with Greece, reading: nor shall either party unreasonably impede nationals and companies of the other party from obtaining on equitable terms the capital, skills, arts, and technology needed for economic development." should be deleted in its entirety. It is to be assumed that it would be the United States which would be inhibited by this language from unreasonably impeding nationals and companies of the other party from obtaining on equitable terms

the capital skills, etc., referred to. It seems to us that the meaning of the phrases "upreasonably impede" and "equitable terms" are so obscure and the implications thereof so broad as to make the inclusion of such a provision in a treaty entirely inappropriate and undesirable from the point of view of the United States. This language or a modification thereof is contained in the treaties with Colombia (art. VI-4), Israel (art. VI-4), Ethiopia (art. VIII-4) and Italy (art. I of the supplemental treaty with Italy). It does not appear in the treaty with Denmark.

THE RESTRICTIVE BUSINESS PRACTICE CLAUSE

The restrictive business practice clause to which we refer has, we believe, been incorporated substantially without change in all of the post World War II treaties of friendship, commerce, and navigation commencing with the 1948 treaty with Italy and it reads (treaty with Denmark, art. XVIII-1) as follows:

"1. The two parties agree that business practices which restrain competition,

"1. The two parties agree that business practices which restrain competition, limit access to markets or foster monpolistic control, and which are engaged in or made effective by one or more private or public commercial enterprises or by combination, agreement or other arrangement among such enterprises may have harmful effects upon commerce between their respective territories. Accordingly each party agrees upon the request of the other party to consult with respect to any such practices and to take such measures as it deems appropriate with a view to eliminating such harmful effects."

The National Foreign Trade Council believes firmly in the principles of private enterprise and business conducted on a competitive basis. Until recently it had viewed the restrictive business practice clause as being merely a comdemnation of practices contrary to the letter and spirit of existing American law.

More recent study of this provision and particularly of the second sentence

More recent study of this provision and particularly of the second sentence has caused us to revise our ideas. At the present time, taking into consideration the fact that treaties duly entered into become under the Constitution the supreme law of the land, and bearing in mind the delicate relationship established by the Constitution between the powers of Congress and the powers of the Executive, we have come to have real apprehension that this clause as now drafted may result in transferring to the executive branch of our Government certain powers heretofore reserved to Congress.

Attached hereto please find a memorandum dealing with this subject in some

detail which we believe will be of interest to your committee.

Respectfully submitted.

WILLIAM S. SWINGLE, President.

RESTRICTIVE BUSINESS PRACTICE CLAUSES IN PROPOSED TREATIES WITH DENMARK, GREECE, ISRAEL, AND COLOMBIA

Article XVIII-1 of the proposed treaty of friendship, commerce, and navigation with the Kingdom of Denmark, now under consideration by the Committee on Foreign Relations of the Senate of the United States, contains a provision designed to eliminate harmful effects upon commerce between the United States and Denmark arising from business practices which restrain competition, limit access to markets or foster monopolistic control as follows: 1

"ARTICLE XVIII

"1. The two parties agree that business practices which restrain competition, limit access to markets or foster monopolistic control, and which are engaged in or made effective by one or more private or public commercial enterprises or by combination, agreement, or other arrangement among such enterprises may have harmful effects upon commerce between their respective territories. Accordingly, each party agrees upon the request of the other party to consult with respect to any such practices and to take such measures as it deems appropriate with a view to eliminating such harmful effects."

any such practices and to take such measures as it deems appropriate with a view to eliminating such harmful effects."

The second sentence of the provision quoted above gives cause for particular concern in that it would bind the United States "to take such measures as it deems appropriate with a view to eliminating such harmful effects." There is at least room for the construction that each party commits itself to enact measures which will eliminate the harmful effects of restraints on competition, leaving

A counterpart of this clause appears in the proposed treaties with Orecce (art. XIV), Dericl (art. XVIII), and Colombia (art. XVIII).

only to the discretion of the parties the choice of the measure or measures which will be appropriate for this purpose. Since a treaty constitutes the supreme law of the land, it may certainly be argued that the United States could be held liable before an international tribunal should it fail to take some measure or measures, whether by act of Congress or by executive action, to carry out

the mandate of the treaty with Denmark.

Presumably, the consultation agreed to under article XVIII-1 would take place with the executive branch of our Government 4 and the executive branch, rather than Congress, would be directed to take "such measures as it deems appropriate with a view to eliminating such harmful effects." Thus read, it may be argued that the provision in question would result in a surrender by Congress to the executive branch of our Government of a portion of its powers regulating our foreign commerce which is now entrusted to Congress under article II of the United States Constitution. Following this line of argument to its logical conclusion, it seems clear that the Executive would not be required to seek congressional approval of measures which it deemed appropriate to the extent that such measures were within the general power of the Executive to carry into effect. For example, the administration could through the Office of International Trade impose export restrictions, thus forcing industry to abandon or change any practice which had been a subject of complaint.

Again, following this line of argument, the executive branch in fulfilling the obligations assumed under the proposed treaty, would not in any way be limited by the existing antitrust laws of the United States, but in fact the executive branch would be committed to take such measures as it might deem appropriate with a view to eliminating harmful effects from "business practices which restrain competition, limit access to markets, or foster monopolistic control whether or not such practices in a particular case were in violation of the anti-trust laws of the United States. In effect, therefore, the executive branch of the Government would be committed to different criteria from the existing

criteria applicable to American enterprises at home or abroad.

If a treaty were not involved, there is little question but that it would be unconstitutional for Congress to delegate its antitrust powers in the manner contemplated. However, a treaty made under the authority of the United States becomes the supreme law of the land? and there is support for the proposition that that which Congress may not do under the Constitution, i. e., the delegation of its power to regulate commerce, may still be accomplished pursuant to a treaty

entered into "under the authority of the United States." 8

The full import of the congressional surrender of power over foreign commerce which is inherent in article XVIII (1) of the proposed treaty is perhaps more pointedly revealed by the potential impact of this article on existing legislation. There are in effect today a number of laws enacted by Congress which grant some form of antitrust exemption to activities affecting our foreign commerce which might be construed to be rest-ictive practices within the meaning of article XVIII (1). For example, the Capper-Volstead Act permits persons engaged in the production of agricultural products to market such products in interstate and foreign commerce by means of marketing agencies in common. Let us suppose the Government of Denmark were to make the contention that agreements establishing such collective marketing agencies pursuant to the Capper-Volstead Act were adversely restricting trade between the United States and Denmark. Under article XVIII (1) the executive branch of our Government, according to the argument stated above, would be obligated to take measures to eliminate the harmful effects of such restrictive practices, including, if desired, the withdrawal of approvals previously extended to the collective marketing agreements. Since the provisions of the treaty supersede the laws of Congress previously enacted, the Executive action would overrule the prior congressional determination that

^{*}United States Constitution, art. VI.

*Hackworth, Digest of International Law, vol. V, p. 164 et seq.; Preuss, Proceedings of the American Society of International Law, Washington, D. C., April, 1951, p. 82, 98-99.

*The Executive has exclusive supervision of international relations—U. S. v. Curtiss-Wright Export Corporation (299 U. S. 304, 81 L. Ed. 255 (1936)); U. S. v. Carrollo (30 F. Supp. 3 (D. C. Mo. 1939)); U. S. v. Bereno (60 F. Supp. 520 (D. C. Md. 1943)).

*Were v. Hylton (3 Dall. 199, 1 L. Ed. 568 (U. S. 1796)).

*Panama Refining Company v. Ryan (293 U. S. 388, 79 L. Ed. 446 (1935)).

*United States Constitution, art. VI.

*Missouri v. Holland (252 U. S. 416, 430-435 (1920)); U. S. v. Curtiss-Wright Export Corporation, supra, note 3.

note 3.
Act of February 18, 1922, ch. 57, 42 Stat. 388: 7 U. S. C., secs. 201, 292.
Ware v. Hyllon (8 Dall. 199, 1 L. Ed. 568 (U. S. 1796)).

such collective marketing agreements were not harmful to our foreign commerce

and should be permitted by law."

If, on the other hand, it is not intended to interfere with the power of Congress to regulate our foreign commerce or to open the way to the nullification of the congressional enactments described above (and there is no indication of a contrary intent), article XVIII (1) should be amended so as to eliminate any question on this score. For that purpose revision along the following lines is suggested:

"Accordingly each party agrees upon the request of the other party to consult with respect to any such practices and to take such measuers as it deems appropriate with a view to eliminating such harmful effects: Provided, however, That shall be obligated to take only measures heretofore or hereafter enacted by Congress." in order to accomplish the aforesaid purposes the United States of America

While existing treaties of friendship, commerce, and navigation with Italy (art. XVIII) and Ireland (art. XVIII (1)) contain similar "restrictive business practice" provision, 12 it is not too late to prevent a more widespread use of the clause as originally drafted. The amendment suggested above may, as a matter of first impression, appear to be too one-sided in favor of the United States. However, the United States is the only country in the world, with the possible exception of France, where a treaty can become a part of the supreme law of the land without the necessity of implementing laws enacted by the legislative body.13 It seems necessary, therefore, by specific reference in the treaty clause to make it clear that the measures to be adopted by the United States must be those which are enacted by Congress.

OCTOBER 9, 1951,

Hon. Tom Connally,

Chairman, Foreign Relations Committee. United States Senate, Washington, D. C.

DEAR SIR: The National Foreign Trade Council, on the basis of a report from Its treaty committee, has reviewed the provisions of the Treaty of Friendhip, Commerce and Navigation between the United States and the Republic of Colom bia executed April 26, 1951, which is now before the Senate Foreign Relations Committee and desires respectfully to urge that the Senate give its advice and consent thereto as provided by the Constitution. The National Foreign Trade Council feels that the State Department should be commended for its activity in negotiating a treaty of freindship, commerce and navigation the provisions of which are in general along lines meeting in a substantial manner the views of the members of the council.

On the assumption that provisions of the treaty with Colombia will serve as a model for corresponding provisions in other treaties to be negotiated, the council's treaty committee has formulated as to certain provisions thereof the following

suggestions the adoption of which it is believed would be desirable:

Article III, paragraph 1, and article VI, paragraph 1.—The words "in no case less than that required by international law" should be added at the end of each of these paragraphs. This phrase has appeared in most other commercial treaties to which the United States is a party and in the judgment of your committee is

Other examples of existing laws which permit some form of exemption from our antitrust laws to activi-

<sup>Other examples of existing laws which permit some form of exemption from our antitrust laws to activities affecting our foreign commerce are:

Shipping Act of 1916 (act of September 7, 1916, ch. 451, 39 Stat. 728, as amended; 46 U. S. C., secs. 801, 812, 814, 815) permits rate agreements between common carriers by water.
Webb Export Trade Associations Act (act of Apr. 10, 1918, ch. 50, 40 Stat. 516; 15 U. S. C., secs. 61-65) permits export-trade associations.
Merchant Marine Act of 1920 (act of June 5, 1920, ch. 250, 41 Stat. 988; 46 U. S. C., sec. 861), permits an association of marine insurance companies for the purpose of apportioning risks.
Civil Aeronautics Act of 1938 (act of June 23, 1938, ch. 601, 52 Stat. 977; 49 U. S. C., secs. 488, 489, 491, 492, 647, 648) permits rate agreements and pooling or apportioning earnings, laws, traffic, service, or equipment.</sup>

^{491, 492, 647, 648)} permits rate agreements and pooling or apportioning earnings, laws, traffic, service, or equipment.

(5) Interstate Commerce Act (act of Feb. 4, 1887, ch. 104, 24 Stat. 739, as amended; 49 U. S. O., secs. 5, 5a, 20a, 213, 228, 327) permits rate and pooling agreements between common carriers.

(6) Fishing Cooperative Marketing Act (act of June 25, 1934, ch. 742, 48 Stat. 1213; 51 U. S. C., secs. 521, 522) permits persons engaged in the fishery industry to enter into contracts and agreements providing for marketing agencies in common.

14 See also agreements for economic cooperation with Italy, France, Denmark, occupied Germany (French and British zones), Greece, Iceland, Ireland, Belgium, Netherlands, Luxemburg, Norway, Sweden, United Kingdom, Thalland, Trieste, and Turkey.

15 Holman, International Proposals Affecting So-Called Human Rights, Law and Contemporary Problems, vol. 14, No. 3 (1949), p. 487.

important in that it suggests what we believe to be a significant principle, namely, that into national law does require governments to give protection of the person

and the property of nationals of another country.

Article III, paragraph 2.—The words "of his choice" should be added at the end of this paragraph. This paragraph indicates that a national of one country accused of crime in the other country may enjoy the right, among others, of obtaining "the services of competent counsel." Obviously he should have the right to sleet such counsel.

Article VII, paragraph 1, and article VIII, paragraph 1.—The proposal of the National Foreign Trade Council Committee on Insurance relating to the specific inclusion of "insurance" in the enumerated enterprises entitled to national or mostfavored-nation treatment should be approved and accepted. The insurance committee advised that specific referenc to insurance not having been made in existing treaties with some countries, the State Department has been unable to make adequate representations on behalf of American companies doing business in such

countries when discriminatory laws or practices were adopted and enforced.

Article IV, paragraph 4.—Neither the use of the words "particular types of activity" nor the reference to article VIII, paragraph 1 is clear. It is recom-

mended that this paragraph be clarified.

Article X.—This article does not but should deal with copy ights as well as trademarks, etc. (It was recommended that, if Colombia is not a member of the International Conference for the Protection of Industrial Property, it should become a member.)

Article XIV.—It is suggested that a new paragraph, reading as follows, be added

to follow paragraph? of this article:

"Neither party shall impose any prohibition or restriction or discriminatory tax preventing or hindering the importer or exporter of goods of either country from

obtaining insurance on such goods in transit in companies of their own choice."

Article XXVI, paragraph 4.—This paragraph provides for terminating on 1 year's written notice the provisions of paragraph 1 of article XIV assuring mostfavored-nation treatment as to customs duties and other related matters. It therefore avoids the necessity of denouncing the entire treaty because of a change in policy affecting customs duties which might be inconsistent with the relevant treaty provision. The treaty committee believes that the freedom of action thus granted to both parties is desirable and should be commended.

The committee would also take this opportunity to refer again to the need for

treaty provisions specifically assuring American enterprises operating abroad the right to secure entry for and utilize the services of American nationals in administrative, technical, and confidential capacities. This subject was discussed in a letter to Senator Connally from the council, dated April 23, 1951, as well as in a

letter to the former chairman, Senator Vandenbrerg, dated June 1, 1948.

Very truly yours,

(Signed) ROBERT F. LOREE, Chairman, National Foreign Trade Council.

(Communications of the Department of State relative to the foregoing letter from the National Foreign Trade Council:)

MAY 15, 1952.

Hon. John J. Sparkman, Committee on Foreign Relations,

United States Senate.

My DEAR SENATOR SPARKMAN: There is enclosed herewith a memorandum concerning the pending Treaty of Amity and Economic Relations with Ethiopia, as requested during the course of hearings before your subcommittee last Friday, May 9, in light of the objection expressed by Mr. Swingle, president of the National Foreign Trade Council, in his letter of May 8 to you. The memorandum has been prepared for the record.

Comments regarding the points raised in Mr. Swingle's letter with reference to certain clauses in the pending treaties with Colombia, Denmark, Greece, and Israel and the supplementary agreement with Italy, will be forwarded separately.

Sincerely yours,

HAROLD F. LINDER, Acting Assistant Secretary for Economic Affairs.

"Enclosure: Memorandum with attachment.

MEMORANDUM

There follow the State Department's comments upon the letter of May 8, 1952, from Mr. Swingle, president of the National Foreign Trade Council, to Senator Sparkman, regarding the pending treaty of Amity and Economic Relations with

Ethiopia.

The State Department considers the treaty with Ethiopia to be an outstandingly good one, in all the circumstances, and particularly urges its approval. It contains provisions of great value (1) to our diplomatic and consular establishments in Ethiopia, certain of which, as indicated in one of the exchanges of notes attached to the treaty, go beyond what the Ethiopian Government is normally prepared to grant; (2) to our citizens in Ethiopia, the exchange of notes regarding the special rights of Americans before Ethiopian justice being especially noteworthy; and (3) to the growth of our trade and the development of other American interests in Ethiopia. As the first treaty of the sort that Ethiopia has concluded with any nation since the war, it may be regarded as having considerable political

significance.

The objection of the National Foreign Trade Council to this treaty seems to be based principally or entirely on the ground that it does not go far enough in obligating Ethiopia to receive American investment. However, this lack of commitment concerning the entry of investment capital was not, as suggested in Mr. Swingle's letter, a failure to overcome an obstacle to mutual understanding. On the contrary, it was evident that, in Ethiopia's existing circumstances, Ethiopia could not be expected to undertake treaty limitations upon her right to regulate the entry of foreign investment. No benefit was to be gained from attempting in this treaty to force Ethiopia to accept American investment, especially as no American would likely wish to venture his capital in Ethiopia anyhow except with the express sanction of the Ethiopian Government. The treaty does, of course, contain valuable assurances, of the sort normally sought in one of these treaties, concerning the protection of investments which are actually made now or hereafter in Ethiopia.

The State Department does not regard this treaty as at all "diluting the pattern of our bilateral treaties," as suggested in Mr. Swingle's letter. It is specially designed for a country like Ethiopia; not for a country of Western Europe. It is to be judged by its many positive accomplishments in relation to Ethiopia rather than by its omissions. As it stands, it is a stronger treaty than most nations commonly make with one another. It represents a great advance over our existing commercial treaty (that of 1914) with Ethiopia, and should serve well until Ethiopia reaches the stage of being able to enter into a still more ambitious treaty.

DEPARTMENT OF STATE, Washington, May 16, 1952.

Hon. John J. Sparkman, Committee on Forcign Relations, United States Senate.

My Dear Senator Sparkman: There is enclosed a memorandum, as requested during the course of the hearing held by your subcommittee on Friday, May 9, concerning questions raised by Mr. Swingle, president of the National Foreign Trade Council, in his letter of May 8 to you with reference to the pending treaties of friendship, commerce, and navigation with Colombia, Denmark, Greece, and Israel and the supplementary agreement with Italy. A memorandum concerning the National Foreign Trade Council's views on the treaty with Ethiopia has

been sent under separate cover.

This Department gives most careful consideration to the suggestions which the Foreign Trade Council offers from time to time with a view to making the treaties a more effective instrument of American foreign policy. However, as will appear from the attached memorandum, we are unable to concur in the advisability of the changes which the council now proposes be made in the several instruments pending before the committee. Agreement on these treaties has been reached after lengthy and often difficult negotiations conducted at the instance of the United States Government and on the basis of United States proposals; and it would not appear advantageous to risk reopening negotiations for the purpose of securing nonessential changes, especially in clauses already appearing in hitherto approved treaties. None of the changes suggested by the council

appears necessary, and at least one appears to be contrary to the interests of the United States.

If there are any further materials you might require, please do not hesitate to call on us, for we are most anxious to be of whatever assistance we can in facilitating the committee's consideration of these treaties.

Sincerely yours,

HAROLD F. LINDER, Acting Assistant Secretary for Economic Affairs,

MEMORANDUM

There follow comments of the State Department on the two points raised in the letter of May 8 from Mr. Swingle, president of the National Foreign Trade Council, concerning the pending treaties of friendship, commerce, and navigation with Colombia, Denmark, Greece and Israel, and the supplementary agreement

with Italy

So-called investment clause.—The quoted provision, as found in article VIII of the treaty with Greece, is one of the least of many clauses relating to investment in the treaty. It first occurred, in a larger form, in the 1949 treaty of friendship, commerce, and economic development, with Uruguay (art. IV), heretofore approved by the Senate; and it was not then criticized by the National Foreign Trade Council in the letter which it sent to the Senate, recommending approval of the Uruguay treaty (letter to Senator Connally, from Mr. Thomas, then president of the organization, dated March 6, 1950). The Uruguay version, however, contained one passage which has been abandoned in the current treaties, in light of further study and in response to a particular objection subsequently raised by the National Foreign Trade Council: namely, a stipulation that neither party should "without appropriate reason deny opportunities and facilities for the investment of capital by nationals and companies of the other party."

The State Department does not agree with the objections or the recommenda-tion contained in the National Foreign Trade Council's letter.

The National Foreign Trade Council recommendation, as set forth in hottom of page 6 of its letter, is that the treaty rule requiring prompt, just, and effective payment of compensation for expropriated property, including interests in property (as, art. VII, par. 3, of the Greek treaty), be extended to require compensation in the event of any "measures that would impair the rights or interests" of any kind which nationals of one country may have in the other. This Department does not believe that this recommendation represents a commitment which the United States could, for its part, undertake. This is for the reason that such a provision would appear to require compensation in circumstances in which the United States Government does not under the Constitution and laws of the United States pay compensation. While the United States, of course, pays compensation for property and property interests which it takes, it does not pay compensa-tion for all "losses" which Government action may cause. For example, the Federal Government does not pay compensation for so-called "consequential damages" occasioned by a condemnation of property, notwithstanding that the condemnation may cause the private owner considerable losses in the nature of consequential damages. There is no obligation upon the United States Government to compensate a distiller for the loss of business brought on by a prohibition law; nor a utility company for the economic consequences of the formation of a Government-supported rural electrification system; nor individuals or business concerns for the loss of prospective profits resulting from price control laws. There are many other instances of Government-caused losses, or alleged losses, which the United States Government under the Constitution and laws declines to make good. The State Department cannot recommend a treaty provision which would go beyond established United States policy in this connection and grant foreign nationals more favorable treatment than citizens receive in the United States.

The Department of State recognizes the limitations of the provision represented by article VIII of the Greek treaty. However, it is believed to serve a useful purpose in that it affords one more ground, in addition to all the other grounds set forth in the treaty, for contesting foreign actions which appear to be injurious to American interests. A given measure of a foreign government might, for example, be fully consistent with the national treatment or most-favored-nation treatment rules of the treaty, and also short of expropriation, but yet arbitrary and unreasonable as it affected some vested American interest in the country concerned. In that event, the only treaty ground for protest might be general

language such as found in articles I and VIII of the Greek treaty. It remains, however, that the real protection of an American investment abroad rests for the most part on the more specific provisions of the treaty; the clause in question does not qualify these more specific provisions, but is merely something additional.

The concluding passage of the provision (relative to impediments on the outflow of investment capital, as quoted on the top of page 7 of the letter in reference) is not phrased in a way to create a source of embarrassment to the United States. The commitment is merely not unreasonably to impede the outflow of free enter-prise investment capital. There is no undertaking positively to encourage the outflow of capital or to supply any capital. All commitments in the treaty are, on the other hand, subject to a broad national security reservation. This passage, therefore, would appear to be a moderate assertion of this Government's favorable attitude toward the private investment process which it is among the major aims of the treaty as a whole to foster and protect.

Restrictive business practices clause.—This clause, which has appeared in several previously approved treaties, is designed to enlist the cooperation of foreign

governments in the congressionally approved efforts of this Government to reduce and remove the adverse effects of cartels and other restrictive practices

on international trade.

It will be observed that the clause is not self-executing, and it is also cautiously worded otherwise. The commitments are (1) to consult, i. e., to hold discussions, and (2) to take such action as each party deems appropriate, in its own discretion and in its own way, with a view to eliminating the harmful effects of defined practices on international trade. While the holding of consultations would be an executive function, any action that the United States might see fit to take would be the normal combination of congressional, executive, and judicial action that exists apart from the treaty. The clause has, furthermore, been drafted in such manner as to avoid conflict with the Webb-Pomerene Act and the other enactments which represent exceptions to the basic antitrust law of the United The clause is not regarded as creating new substantive antitrust law or new procedures of antitrust enforcement in the United States.

It may be stated categorically that the restrictive business practices clause is not in any way designed to enhance executive power or to alter established congressional-executive-judicial relationships in the formulation and execution of antitrust policy. In the State Department's view, the Executive would be bound, in carrying out the clause, to proceed in conformity with statutes duly enacted by the Congress; and there is no intent to authorize the contrary. A proviso spelling out the internal processes by which the United States acts is therefore unnecessary; it would also appear to be inappropriate in an international instru-

ment, since it is not the concern of a foreign government.

(The following additional comments of the National Foreign Trade Council were subsequently received and incorporated in the record:)

> NATIONAL FOREIGN TRADE COUNCIL, INC., New York 6, N. Y., May 12, 1952.

Hon. John J. Sparkman, United States Senate,

Senate Office Building, Washington, D. C.

With reference to article VII of the supplementary treaty with Italy we enclose a memorandum in relation to the social security benefits under the laws of the two countries. We believe this may be helpful to your committee in the study of this provision.

Very truly yours,

WILLIAM S. SWINGLE, President.

MEMORANDUM ON ARTICLE VII OF THE SUPPLEMENTARY TREATY WITH ITALY

Article VII of the proposed Italian agreement provides for combining coverage under the social-security systems of the two countries in accordance with certain broad principles which do not spell out any of the details of how such a combining provision would operate in actual practice. For some time we have been trying to ascertain whether or not the Federal Security Agency has developed any concrete plans for implementing the agreement if and when it is ratified. Our efforts in this direction have been unproductive. Without such information, it is impossible

to evaluate the effect of the proposed agreement on our domestic social-security

program.

The following example will illustrate the type of questions in connection with any such proposal. Assume that an Italian workman enters the United States after 15 years of coverage under the Italian social-security law. He obtains employment in the United States and dies, leaving a widow and children, after working for only 1 year in employment covered by the Social Security Act. Ordinarily, in order for his widow and children to be eligible for survivor benefits, the wage carner must have had insured employment in 6 of the 13 quarters preceding his death. Would the employment under the Italian scheme be considered in determining the eligibility of the widow and children under the United States Social Security Act? If survivor payments are to be made under both laws, how would the proportion of the respective payments be determined?

It seems to us that it is almost impossible to develop a fair and equitable arrangement for combining coverage under United States and foreign social-security schemes which are so radically different in their concepts. Lacking any information as to how the proposed agreement would be implemented, however, makes it extremely difficult at this stage to do more than raise these questions and to insist on complete information as to the types of cases in which the agreement would be applicable and the mechanics which would be employed in its operation.

It should also be noted that this is a precedent-setting agreement, since the President's message states, "Another provision incorporated for the first time in an agreement to which the United States is a party is that contained in article VII." This raises the question as to whether or not it is the policy of the United States to extend this type of agreement to other countries. This fact alone should warrant the Senate Foreign Relations Committee making careful and exhaustive investigation into the possible implications of such agreements for our domestic social-security program.

EXPLANATION OF HOW THE UNITED STATES-ITALIAN TREATY MIGHT OPERATE IN CERTAIN TYPES OF CASES—MAY 15, 1952

The provisions of the United States-Italian agreement establish the general method of coordinating benefits which is to be used. The following is a brief explanation prepared by the Social Security Administration as to how benefit coordination might be brought about as regards the old-age and survivors insurance benefits of the two countries.

There would be eligibility for coordination only if (1) the worker had at least 3 years of employment after 1937 under each system, and (2) the worker gains insured status under one or both programs by reason of the combination of periods

of service.

When there is eligibility for coordination, the worker, or his surviving dependents, may elect whether or not to have the coordination provisions apply. If coordination is elected, the workers' combined service periods would be used in determining his benefit rights, or those of his survivors, under each system.

Each system would use combined periods of service in determining eligibility

Each system would use combined periods of service in determining eligibility for benefits. Each system would use its own qualifying requirements in determining who could receive benefits. While each system would determine benefit amounts on the basis of combined service, it would not be necessary to transfer information about the level of earnings—transfers of records of service would be sufficient.

After the initial benefit computation on the basis of combined service, each system would reduce the benefit according to the relative amounts of service under

the two systems.

Attached are appendix I, giving the insured status requirements of the two programs, and appendix II, giving illustrations of cases which might arise under coordination. While the illustrations go into some detail in describing the benefits payable under the United States system, they present only in rough outline enough information about the benefits payable under the Italian system to show how the basic principles would operate.

show how the basic principles would operate.

The illustrative cases in appendix II are organized according to the insured status of the worker before and after the totalization of his periods of service under the two systems. There are nine possible types of cases which may arise, based on the effect of the coordination upon the worker's insured status. The following

table shows these nine categories of cases:

| | Country in which worker has insured status | | Date benefits under coordina |
|-------|--|---|---|
| | Before coordination | After coordination | tion could first be paid, unde our proposals |
| First | Neither | Neither Italy. United States Both countries Italy. Both countries. United States Both countries. do | Nover. July 1963. July 1957. Do. Never. July 1957. Nover. Effective date of agreement. Nover. |

As shown in the table above, group eight cases are the only cases in which benefits can be paid as soon as the coordination becomes effective. The earliest date for the beginning of benefit payments in any of the other groups of cases is July 1957. The reason why these benefit payments cannot be made earlier is explained for each type of case in appendix II, under "Comments."

Appendix II contains illustrations of cases which might arise in each of the

groups in which there might be eligibility for benefits under coordination.

The coordination plan is not expected to affect in any substantial manner the actuarial status of the insurance system. While it is not possible to estimate the cost of coordination to either the Italian or the United States system, it is expected that, since only a very few cases will be affected, the cost will be negligible. Whatever small additional expenditures may be involved would be justified in view of the contributions paid on behalf of the persons affected, who now contribute to the United States system but do not work long enough to draw benefits.

APPENDIX I.—INSURED STATUS REQUIREMENTS OF THE ITALIAN AND UNITED STATES PROGRAMS AS OF MAY 7, 1952

Insured status requirements of United States program

| Individual dies, or reaches age 65, in— | Number of years of service which will meet the require- ments of the United States system—Dies, or reaches age 65 | |
|---|--|--|
| | January through June | July through December |
| 1953 or earlier | 11/2 11/2 21/4 3 31/4 41/2 5 51/2 6 61/4 77/2 8 81/4 91/4 10 | 11-2-1-1-2-1-1-2-1-1-2-1-2-1-2-2-1-2 |

Also, a worker who has worked under the United States system for roughly 1½ years out of the 3 years immediately preceding his death may be insured on the basis of such employment for some types of survivorship protection. The children under age 18, and the widow caring for such children, may qualify under this last 3-year provision.

INSURED STATUS REQUIREMENTS OF ITALIAN PROGRAM

For old-age benefits under the Italian system, the insured status requirement is taken as being 15 years of coverage. The Italian insured status requirement for survivor benefits is taken as being a total of 5 years of coverage, with the additional requirement that 1 year's coverage must have been in the 5 years immediately preceding death. These requirements follow the general approach of the diately preceding death. These requirements follow the general approach of the actual, more detailed provisions of the Italian system. (It will be noted that the "recency" test of the Italian program for survivorship protection is an additional requirement which must be met, while the recency test of the United States system is an alternative method of meeting the insured status requirements of the program.)

Appendix II.—Illustrative Cases Showing Operation of Coordination UNDER UNITED STATES-ITALIAN TREATY

Group 2. Not insured under either system without coordination; insured under the Italian system with coordination:

B works for 3 years, from 1950 through 1952, under the United States system. He works for 4 years, from 1960 through 1963, under the Italian system. He dies

in July 1966. Without coordination, B cannot of course meet the length of service requirement of either system. With coordination his 7 years of combined service are ment of either system. sufficient to meet the length of service requirement of the Italian program but not of the United States program. (As shown in the preceding table 7% years would be required under the United States system; the alternative requirement for limited survivorship protection, as noted, would be 11/2 years of employment during the 3 years immediately preceding his death.)

With coordination, the benefits for B's survivors under the Italian system would first be computed based on the 7 years of service under the two systems. They would then be reduced to four-sevenths of this amount, as four-sevenths of B's service was under the Italian system.

Comment.—It might be noted that there could be no cases in group 2 until after June 1963, and then only in survivor cases. Group 2 cases could never arise before July 1963 because a worker who meets the 3-year qualifying requirements would also be able to meet the United States insured status requirement which applied before that date. There could be no retirement cases in group 1 even after the middle of 1963, as anyone meeting the Italian length of service requirement could also meet that of the United States system. There could be some survivor cases after June 1964, as after that date the survivorship requirements of the Italian system would be more liberal in some ways than those of the United States system.

Group 3. Not insured under either system without totalization; insured under

the United States system, but not the Italian system, with totalization:

C works under the Italian system for 6 years, from 1944 to 1949. He works under the United States system for 6 years, from 1956 through 1961. He reaches age 65 and retires in January 1966.

As the length of service requirement under the United States system is 71/2 years for an individual reaching age 65 in January 1966 C is not insured under the United States system without coordination. He is not of course insured under the Italian system without coordination. With coordination the 12 years of combined service would still not meet the Italian requirement of 15 years, but would meet the

United States requirement.

It is assumed that C received wages of \$200 per month while under the United States system, and that he had a wife age 65 or over when he retired. The amount of his monthly old-age benefits under the United States system based upon totalized service would be \$40 under the initial computation, and his wife's benefit would be \$20. The 1951 new start would be used in computing his averbenefit would be \$20. age monthly wage and benefit amount in the computation. As C's Italian service is before 1951 it has no effect on the computation of the average monthly wage, as periods before 1951 were not used in the computation.

C's benefit and that of his wife are then reduced to one-half of the amount as originally computed, as one-half of his total service was under the United States The reduced monthly benefit for C is \$20, and his wife's benefit is \$10.

These amounts would be paid under the United States system.

Comment.—The Social Security Administration proposed that when the new start is used in determining the average monthy wage, under the United States system, the benefit reduction under the United States system should be based on the relative amounts of service after January 1, 1951, unless insured status depends on the use of Italian service before January 1, 1951, in which case the reduction would be based on the relative lengths of service periods after January 1, 1937. As C's insured status does depend upon Italian service before 1951 the reduction in this case is based on the total service under the two systems after January 1, 1937.

Group 3 cases could not arise before the middle of 1957, as a worker with the required 3 years of service under the United States system would meet the insured status requirements of the program until that date. After that date there would

be both retirement and survivor cases falling in group 3.

Group 4. Not insured under either system without coordination; insured under

both systems with coordination:

D works for 4 years, from 1952 through 1955, under the United States system. He works for 4 years, from 1956 through 1959, under the Italian system. He dies

in January 1960.

Without coordination, D cannot meet the insured status requirements of either system: (As shown in the table, the United States requirement for a worker who dies in January 1960 would be 4½ years.) With coordination, D would meet the insured status requirements of both programs.

The benefits for D's survivors under the Italian system would first be computed based on the combined 8 years of service under the two systems. They would then be reduced to one-half of this amount, as one-half of D's service was under

the Italian system.

It is assumed that D received wages of \$200 per month while under the United States system, and that he was survived by a widow and two children under age 18. The amount of the monthly benefits based on combined service would be, under the initial computation; widow, \$44.30; first child, \$36.90; second child, \$36.90. The 1951 "new start" would of course be used in computing his average monthly wage in the computation. The benefit amounts would then be reduced to one-half of the amounts as originally computed, as one-half of D's total service was under the United States system. The reduced benefits, as payable to D's survivors, would be: widow, \$22.20; first child, \$18.50; second child, \$18.50.

Comment.—Group 4 cases could not arise before the middle of 1957. (As in group 3 cases, a worker with the required 3 years of service under the United States system would meet the insured status requirements of this program until that date.) After June 1957, both retirement and survivor cases could arise in

group 4.

Group 6. Insured under Italian system only without coordination; insured

under both systems with coordination:

F works under the Italian system for 20 years, from 1951 through 1970. He works under the United States system for 7 years, from 1971 through 1977. He reaches age 65 and retires in January 1978.

F meets the Italian length of service requirements without coordination. He does not meet the United States requirement (10 years for workers reaching age 65 after 1970) without coordination, but does meet the United States require-

ments with coordination.

Without coordination, F would qualify for benefits under the Italian system based on 17 years of service. With coordination, he would qualify for benefits computed on the combined total of 24 years of service and then reduced to seventeen twenty-fourths of this amount, as seventeen twenty-fourths of F's

service was under the Italian system.

It is assumed that F received wages of \$200 per month while under the United States system, and that he had a wife aged 65 or over when he retired. The amount of the monthly benefits based on combined service would be, under the initial computation: F's own benefit, \$65; his wife's benefit, \$32.50. The benefit amounts would then be reduced to seven twenty-fourths of the amount as originally computed, as seven twenty-fourths of F's total service was under the United States system. The amounts of the reduced benefits would be: F's own benefit, \$19; his wife's benefit, \$950. These are the benefits which would be paid under the United States system.

Comment.—Group 6 cases could not arise until July 1957, when the insured status requirements of the United States system first exceed 3 years. After that

date, both survivor and retirement cases could fall in this group.

Group 8. Insured under United States system only without coordination;

insured under both systems with coordination:

H works under the Italiam system for 10 years, from 1937 through 1946. He works under the United States system for 6 years, from 1947 through 1952. He reaches age 65 and retires in January 1953.

Even without coordination, H is insured under the United States system, as the length of service requirement for a worker who retires in January 1953 is but 1½ years of service. With coordination, his combined total of 16 years of service enables him to also meet the Italian requirements.

With coordination, F would qualify for benefits under the Italian system computed on the combined total of 16 years of service, and then reduced to tensixteenths of this amount, as ten-sixteenths of H's service was under the Italian

system.

It is assumed that H received wages of \$200 per month while under the United States system, and that he had a wife aged 65 or over when he retired. The amounts of the monthly benefits based on combined service would be, under the initial computation: H's own benefit, \$65; his wife's benefit, \$32.50. This computation would be based on the 1951 "new start," and H's average monthly wage would be based on his wages in 1951 and 1952.

In this case, there would be no reduction in the benefit amounts as originally computed, if our suggestions are adopted. As H did not depend on Italian service before 1951 for insured status, the reduction, if any, would be based on the relative service periods after 1950. However, as there is no Italian service after 1950 in

this case, there would be no benefit reduction.

Comment.—This group of cases is of particular interest, as it is the only type of case, under our proposals, in which benefits could be paid under coordination before the middle of 1957. Thus, for the first few years under the agreement, the only benefits payable by reason of the coordination would be those payable

under the Italian system.

In the case of II the amounts of the benefits payable under the United States system were not affected. However, the benefits payable under the United States system in group 8 cases will ordinarily be lowered if there was Italian service after 1950, or if the worker's insured status depends on Italian service before 1951.

Senator Sparkman. Mr. Roy Leifflen?

Mr. Leifflen. Yes, sir.

Senator Sparkman. Will you come around, Mr. Leifflen?

For the record, will you give your name and the capacity in which you appear, to the reporter?

STATEMENT OF ROY LEIFFLEN, REPRESENTING THE ASSOCIATION OF MARINE UNDERWRITERS OF THE UNITED STATES

SAFEGUARDS AGAINST DISCRIMINATION IN MARINE INSURANCE ADVOCATED

Mr. Leifflen. My name is Roy Leifflen, and I am appearing as counsel for the Association of Marine Underwriters of the United States, which is an organization comprised of 35 of the leading insurance companies engaged in the marine-insurance business in this country. I have a prepared statement in support of the position of the American marine underwriters, that the United States should, in treaties of commerce and friendship, provide adequate safeguards against the growing prevalence of discrimination in the field of marine insurance which prevents American marine-insurance companies from competing for the marine insurance on imports and exports.

In connection with the treaties under consideration today, insofar as we know, only Colombia and Italy have discriminatory laws or practices, but we are primarily interested in setting a pattern because it seems to us it is far better to include a prohibition against discrimination in a commercial treaty rather than to wait until a country enacts discriminatory laws or regulations and then attempts by diplo-

matic negotiation to have them abrogated.

I have already submitted copies of my statement, Senator, but I will be glad to read it if you wish.

Senator Sparkman. It is not necessary at all. The statement will be printed in full in the record.

(The statement of Mr. Roy Leissen is as follows:)

STATEMENT ON BEHALF OF THE ASSOCIATION OF MARINE UNDERWRITERS OF THE UNITED STATES

This statement is submitted in support of the position of American marine underwriters that the United States should in treaties of commerce and friendship provide adequate safeguards against the growing prevalence of discrimination in the field of marine insurance which prevents American marine insurance companies from competing for the marine insurance on imports and exports.

At the outset we wish to emphasize that the American marine insurance market believes firmly in the principle of free competition in marine insurance and seeks

only the right to compete for the marine insurance.

The problem of discrimination, which is largely a development of the postwar period, and which threatens the development of international trade itself, has become a subject of international concern, both on the private and political level.

Private insurance interests in the Western Hemisphere have in the course of three hemispheric conferences recognized the importance of eliminating such At the First Hemispheric Conference, held in New York City in 1946, practices. a resolution was presented by the Chilean delegation relative to the "Guarantee of freedom to private enterprise in the insurance field." The resolution was approved and its principle reaffirmed in the Second Hemispheric Conference held in Mexico City in 1948 and in the Third Hemispheric Conference, held in Santiago, Chilea, in October 1950.

Similarly, the proposed charter of the International Trade Organization,

"ART. 53. The members recognize that certain services such as transportation, telecommunications, insurance and banking, are substantial elements of international trade, and that any restrictive business practices in relation to them have

harmful effects similar to those described in par. I of Art. 46."

Last year the International Chamber of Commerce presented the question before the Transport and Communications Commission of the United Nations Social and Economic Council. That Commission passed Resolution 12 by a vote of 10 to 3 (Russia, Poland, and Byelorussia voting against) which recognized that discriminatory measures against marine insurance may interfere with the free flow of international trade and recommended a study of the situation by the Social and Economic Council. This resolution was approved by the Council in July.

The International Union of Marine Underwriters, having among its membership the marine insurance associations of nearly all the free countries of the world likewise passed a resolution condemning such practices at its annual meeting held

. in September of last year in Switzerland.

It is submitted therefore that there is abundant evidence of the serious proportions which these practices have reached, and it is felt that the United States should take a realistic approach to the problem in negotiating future treaties of

commerce and friendship.

In addition to conforming to current international opinion evidenced by the foregoing, such action would conform to congressional policy that a strong American marine insurance market is essential to the national economy and defense of this country. The House Committee on Merchant Marine and Fisheries recently stated:

"The Congress has several times in the past forcefully stated its position with regard to fostering the growth of the American marine insurance market" (II.

Rept. 220, 81st Cong., 1st sess., on H. R. 1340).
The committee was referring to the principle, first enunciated in the declaration of policy of the Merchant Marine Act of 1920 and more recently in the Merchant Ships Sales Act of 1946 (Public Law 371, 79th Cong., act of March 8, 1946),

"It is necessary for the national security and development and maintenance of the domestic and the export and import foreign commerce of the United States that the United States have an efficient and adequate American owned merchant marine * * * supplemented by efficient American owned facilities for shipbuilding and ship repair, marine insurance, and other auxiliary services."

The Congress has consistently recognized that a strong American marine insurance industry can only exist in an atmosphere of free international competi-

Legislation dealing with marine insurance has never sought to protect American marine insurance industry from foreign competition but to place it in a position to compete on equal terms internationally. The action requested herein is similarly designed to preserve that free international competition which Congress

has recognized is essential to a strong marine insurance industry.

Discrimination in marine insurance in its several forms, including laws, regulations, taxes and duties, has either directly or indirectly required marine insurance on imports and exports to and from foreign countries to be placed in the national markets, thus effectively preventing American companies not admitted to do business in the foreign country from competing for the business, as well as preventing the importer and exporter from selecting the most advantageous and economic insurance, and in many cases, causing delay, uncertainty, and confusion.

In protected marine insurance markets higher rates are usually charged because there is no international competition. The added expense is, of course, passed directly to the ultimate consumer of the goods. Similarly, the delay, uncertainty, and confusion directly inhibit the flow of goods in international trade.

The treaties of friendship and commerce with Colombia, Israel, and Denmark (art. XIV, subsec. 3), Ethiopia (art. XIII, subsec. 2), Greece (art. XVII, subsec. 1)

provide:

'Nationals and companies of either party shall be accorded national treatment and most favoured nation treatment with respect to all matters relating to importation and exportation.

There is nothing on this point in the agreement supplementing the treaty with

Italy and the original treaty contains narrower language.

The foregoing clause fails to afford any guaranty against the discriminatory practices in question. It does not prevent a party to such treaty from requiring its own nationals to place their marine insurance in the national market, thus preventing the free selection by the parties to international transactions of the most favorable insurance market. Moreover, if a party to such treaty thus restricts its own nationals in the selection of the insurance market it may similarly restrict the nationals of the United States.

For this reason, and for the reason that the gravity and prevalence of such discriminatory practices require affirmative language in order to assure their elimination, the following or similar words should be inserted following the above

quoted words or in some other appropriate place in commercial treaties:

"Neither Party shall impose any prohibition or restriction or discriminatory tax preventing or hindering the importer or exporter of goods of either country from obtaining marine insurance on such goods in companies of either Party.

This matter has heretofore been discussed with the Department of State and a memorandum similar to this one has been submitted to the Department. Although the Department has adopted a sympathetic attitude toward the position of American marine insurance underwriters it has not inserted in a commercial treaty any provisions which would enable the American marine insurance underwriters to compete for this insurance in the traditional American manner.

It is, therefore, respectfully requested that if the Senate ratifies these treaties it be on the understanding, condition, or reservation that the clause suggested herein be made an integral part of the treaties.

DISCRIMINATORY PRACTICES OF ITALY AND COLOMBIA ON MARINE INSURANCE

Senator Sparkman. You state that two countries have discriminatory provisions in their legislation. What two countries are they? Mr. LEIFFLEN, Colombia and Italy.

Senator Sparkman. Italy and Colombia are involved in these

treaties. In what way are those provisions discriminatory?

Mr. Leifflen. Colombia practices its discrimination through its laws and through the office of exchange control, penalizing importers and exporters who place insurance in companies not authorized to do an insurance business in the Republic of Colombia.

Italy, insofar as we know, has no statutory discriminatory provision, but it exercises discrimination by means of its foreign exchange con-

trol board.

Senator Sparkman. Do you feel that the provisions in the presently

proposed treaties are not sufficiently tight on that?

Mr. Leifflen. I don't think it covers the situation at all, Senator, for this reason: Even the so-called national treatment which Mr. Linder was talking about is not effective. If, say, Colombia imposes a restriction on its own nationals with respect to where they place insurance, we cannot expect them under the national treatment clause to give any better treatment to an American importer or exporter who is dealing with merchants, buyers or sellers in the Republic of Colombia.

Senator Sparkman. Let me ask this question, to see if I understand just what you mean. You mean a shipper from New York shipping goods into Colombia, if he took out insurance on the goods he was shipping with a New York insurance company, how would Colombia

interfere with that?

Mr. Leifflen. There are various types of contracts of purchase and sale. Insurance is a term of the contract between the buyer and the seller, and in some types the insurance is taken out by the Colombian purchaser or seller, and if he is required by Colombian law to take it out in a Colombian insurance company, you have one of the terms of the sale dictated by a government which is historically—and that is the way we like to see it continue—is a matter of open negotiation between the buyer and the seller in a competitive market.

Senator Sparkman. There would be nothing to prohibit the shipper in the case I gave, from taking out his insurance in New York, and that

certainly could not be interfered with by Colombia.

Mr. Leifflen. That is right.

Senator Sparkman. The question would be if insurance was to be provided by the buyer in Colombia, or in the event of shipping out of Colombia if it was to be provided by the shipper in Colombia. Then it would have to be taken by a Colombian company; is that right?

Mr. Leifflen. Yes, sir, that is right. In some cases it goes further. For instance, in Argentina there is a law that if the goods coming into Argentina or going out of Argentina are at the risk of the Argentina purchaser or seller, as the case may be, the insurance must be taken out with an Argentine insurance company or else there is a large penalty.

That also has an effect on the terms of the contract which takes one term of the contract out of the sphere of free negotiation between the buyer and seller, and that is what the American insurance companies want to provide against, because historically it is a free market.

Senator Sparkman. You believe that in negotiating these agreements that should be one matter that should be included in the

negotiations?

Mr. Leifflen. Yes, sir, in negotiating commercial treaties we think our Department of State should endevaor to include a prohibition against governmental interference with the placement of marine insurance so it will be left to the buyer and seller to decide who is to take out the insurance and in what market, exactly like the financing, what the terms will be—10 days, 30 days, 2 months; the method by which the commodity will be packed. All those matters are, we feel, as advocates of private industry and business, matters which should not be dictated by any government.

not be dictated by any government.

Senator Sparkman. Senator Hickenlooper, have you any questions

on this point?

Senator HICKENLOOPER. Mr. Chairman, I think I understand the position.

Annex 2

NATIONAL TREATMENT WITH RESPECT TO THE PRACTICE OF PROFESSIONS

I would like to ask Mr. Linder some questions. This note was just sent me by a member of the Senate who asked me to inquire into it, and it is here. This has to do with article VIII in the treaty with Israel. I have just asked Mr. Marcy to check the other treaties. Perhaps you can tell me whether the same article is in any of the other treaties.

The entire article VIII apparently is an attempt to give great latitude and privilege to the nationals of either party to use their own technical and professional experts within the territory of the other; and then, in paragraph 2 of article VIII, it reads as follows:

Nationals of either party shall not be barred from practising the professions within the territories of the other party merely by reason of their alienage; but they shall be permitted to engage in professional activities therein upon compliance with the requirements regarding qualifications, residence, and competence that are applicable to nationals of such other party.

Now, as I read that, it would mean that nationals of Israel having first been properly admitted here and having met any examinations for professional or technical competence that may apply to American citizens, can go on indefinitely practising their professions here and remain aliens at all times.

Mr. Linder. No. Do you want me to reply, sir?

Senator Hickenlooper. I say, that is the way I would interpret that No. 2, and I would like to comment on that.

First, is a similar provision to article VIII in the treaty with Israel

in any other treaty?

Mr. WALKER. It has been in our treaties since 1923.

Mr. Linder. And it does not carry the implication that you read into it. It rather means that a citizen of Israel or any other country with whom we have such an agreement may, upon being properly admitted to the United States, not be barred by reason of being a citizen of Israel from doing what anybody else in this country may do. In the case of certain provisions that is a matter regulated by the State and, as I understand it, a citizen of Israel, if he wants to practice medicine in, say, Florida or New York, he has to do whatever the requirements of those States are.

Senator HICKENLOOPER. I am not familiar with this subject. I mean, I can't make any positive allegation, but it runs in my mind that there are a number of States that have a flat prohibition against licensing of an alien to practice certain professions or businesses which require a specific professional license. This would abrogate that, I

take it.

Mr. Walker. Insofar as the alienage requirement is concerned, that is correct. That has been treaty policy since 1923. It has been in most treaties since then. This is a more explicit statement of the rule that has been in effect. It is national treatment on the practice of professions.

(The following information was subsequently supplied by the

Department of State:)

Eight treaties (those with Austria, El Salvador, Germany, Honduras, Hungary, Liberia, Norway, and Uruguay) provide for national treatment generally; and two (Italy and Ireland) so provide except for the practice of law, which in turn is covered by a most-favored-nation clause. Five of the remaining six also bontain national-treatment clauses, but subject to qualifications. The treaty with Poland

Annex 2

excepted professions reserved to citizens by laws in force on June 15, 1931; and provided further for most-favored-nation treatment on condition of reciprocity. The treaty with Finland contains the reservation "insofar as may be permitted by local law," but supplements this with a most-favored-nation clause. The treaties with China, Estonia, and Latvia contain an exception for professions "reserved exclusively to nationals of the country," without specifying whether a profession can be considered exclusively reserved to citizens if open to other aliens by virtue of a treaty with any third country. The treaty with Siam merely provides for most-favored-nation treatment on condition of reciprocity.

Senator HICKENLOOPER. Therefore I would interpret it that if an alien, under the provisions in these treaties, who is an engineer or a doctor or a lawyer or of any other profession, once has a proper entry into this country; that is, if he is here under proper entry, then the fact that he is an alien would not bar him—that alone—from the practicing of his profession if he could meet the educational standards or whatever the standards are within the area met by Americans.

Mr. LINDER. He would be required to meet all standards except

the one of citizenship.

Senator Hickenhoopen. And therefore a State law in conflict with

that would fall under this treaty.

Mr. Lander. And under other treaties that we have had for many years.

(The following information was subsequently furnished:)

MAY 16, 1952.

Hon. John J. Sparkman, United States Senate.

My Dear Senator Sparkman: I have been informed by Acting Assistant Secretary of State Linder that some questions have arisen concerning article VIII, paragraph 2, of the Treaty of Friendship, Commerce, and Navigation with Israel (Executive R), Eighty-second Congress, first session, which is now being considered by the subcommittee of which you are the chairman. This article reads as follows:

"2. Nationals of either Party shall not be barred from practising the professions

"2. Nationals of either Party shall not be barred from practising the professions within the territories of the other Party merely by reason of their alienage; but they shall be permitted to engage in professional activities therein upon compliance with the requirements regarding qualifications, residence, and competence

that are applicable to nationals of such other l'arty."

This article means that a national of Israel shall not be barred from practicing a profession in the United States merely because of his alienage. As the article states, he must comply with State laws regarding qualifications, residence, and competence in his profession which a State applies to any citizen of the United States. If a State, for example, requires a written examination, residence in the State, etc., before it will grant a license to a physician, the particular foreign national must meet all such requirements. The only requirement, if it exists in any State, which may not be imposed, is that the individual concerned be a United States citizen.

Counterparts of this provision granting national treatment with respect to the practice of professions are contained in at least 10 treaties between the United States and other countries to which the advice and consent of the Senate have been given after full consideration. These are the treaties between the United States and Germany of 1923 (art. I, par. 1); with Austria of 1928 (art. I, par. 1); with El Salvador of 1926 (art. I, par. 1); with Honduras of 1927 (art. I, par. 1); with Hungary of 1925 (art. I, par. 1); with Liberia of 1938 (art. I, par. 1); with Uruguay of 1949 (art. V, par. 1 (a)); with Ireland of 1950 (art. VI, par. 1 (a), excepting only law); and with Italy of 1948 (art. I, par. 2 (a), excepting only law)., It is also contained in the treaty with Colombia (Executive M, 82d Cong., 1st sess., art. VII, par. 1), which is presently being considered by your committee.

The practice of the United States Government, to include national treatment provious respecting the practice of professions in bilateral friendship and com-

The practice of the United States Government, to include national treatment provious respecting the practice of professions in bilateral friendship and commerce treaties has thus been followed for nearly 30 years, and has been repeatedly approved by the Senate in its advices and consents to ratifications of these treaties. The practice was established and has been followed because it is in the interest of the Government and people of the United States. Americans are engaged in

business and professions all over the world. They have requested, and the United States Government has deemed it appropriate to support, efforts to protect them in their right freely to pursue legitimate business and professional activities without discrimination on account of their American citizenship. Since firm commitments in treaties between foreign countries and the United States respecting this right is the most effective manner by which those rights may be secured, the United States has sought and achieved the execution of treaties with foreign

Since treaties involve reciprocal obligations, the United States cannot expect to secure the protection of rights of American citizens to practice professions abroad, or to engage in other gainful pursuits, without being prepared to accord reciprocal treatment in the United States to nationals of the particular foreign country. Fortunately, the United States is able to accord reciprocity with minimum interference with local legislation, since our country has always been hospitable to persons contribute to the building of a healthy and expanding economy. As a consequence of this traditional hospitality, there are on the whole fee and relatively minor legal restrictions imposed by local laws on account of alienage, far fewer than are to be found in the laws of almost all other countries. As a result, by these reciprocal treaty commitments, the United States has gained most of the advantages for American citizens. A reversal of this established United States practice would be a retrogressive step inconsistent with and harmful to the interests of the United States and of American citizens.

Sincerely yours,

JACK B. TATE, Acting Legal Adviser,

NATIONAL TREATMENT WITH RESPECT TO SCIENTIFIC, EDUCATIONAL, RELIGIOUS AND PHILANTHROPIC ACTIVITIES

Senator HICKENLOOPER. Article VIII, section 3:

Nationals and companies of either party shall be accorded national treatment and most-favored-nation treatment with respect to engaging in scientific, educational, religious and philanthropic activities within the territories of the other Party, and shall be accorded the right to form associations for that purpose under the laws of such other Party. Nothing in the present treaty shall be deemed to grant or imply any right to engage in political activities.

Is that an innovation in treaties?

Mr. Linder. No, sir; it is not. It was in the Uruguayan Treaty and the Italian and Irish treaties.

Senator HICKENLOOPER. It is not in the other treaties heretofore, historically?

Mr. Lander. I don't know how far back, but I know it was in those three treaties.

Senator Hickenlooper. Well then, as I understand it, in these treaties that we have formerly adopted, and in these treaties that are now proposed, any organization or group of people from any of the treaty countries can come here and they have a guaranteed right under this treaty to form such organizations engaged in scientific, educational, religious, or philanthropic activities as they please so long, I assume, as they do not violate criminal laws of some kind. But there is very little limit to this thing.

But there is very little limit to this thing.

Mr. Linder. As I understand it, Senator, it says that they may do the same things that a national of this country may do in that respect, and that we may do the same things as a national of their country may do, and that in any event, if any other foreign country is given more advantageous treatment, we shall share in that treatment and, by the same token, if we give more advantageous treatment to a third country they will have the benefit of that more advantageous treatment.

Senator Hickenhooper. I was not aware that that provision had been in existence with other countries. It has fascinating possibilities.

Mr. Linder. It has on the whole been one that we have sought. We have sought it for our missionary activities, and I think it has been harder for us to obtain rather than the reverse.

Senator Hickenhooper. That is all, thank you.

As I say, this inquiry was made on the request of another Senator,

asking that I inquire into this matter.

Senator Sparkman. May I ask a simple question for the record? An alien is a person who was born abroad and has not been naturalized? Mr. Lander. That is right.

Senator Sparkman. After he is naturalized he is no longer an alien?

Mr. LANDER. That is correct.

(The following communications were received for insertion subsequent to the hearing:)

The Secretary of Commerce, Washington 25, D. C., May 12, 1952.

Hon. TOM CONNALLY,

Chairman, Committee on Foreign Relations, United States Senate, Washington 25, D. C.

DEAR Mr. CHAIRMAN: I am glad to have this opportunity again to endorse the program for the negotiation of modernized general commercial treaties with

interested foreign countries.

Aside from certain refinements and variations in detail, I understand that four of the five commercial treaties that have been concluded during the past year — those with Colombia, Greece, Israel, and Denmark—contain substantially the same provisions as the general commercial treaties with Ireland and Uruguay, to which the Senate gave its consent in 1950. The fifth, that with Ethiopia, is an abridged form designed to achieve the same general objective. In addition, there is the Italian supplementary agreement which is intended to bring the 1948 treaty with that country abreast of later developments.

American businessmen who have investment or trade relations with these countries, or who are contemplating such relationships, have a genuine stake in numerous provisions of these treaties. These provisions include the ones which concern the protection of their persons and property in the other countries involved, the permitted range of their activities in those areas, the conditions of their investment and withdrawal of funds, and the treatment of imports and

exports,

As you may know, the Department of Commerce has recently been giving special attention to the problems of facilitating mutually profitable private United States investments in foreign countries. The conditions under which foreign enterprises may be established and operated in the various countries, the obligations which they must assume, and the rights of which they can feel assured, are outstanding among these problems. It is therefore particularly gratifying that the modernized commercial treaties contain explicit provisions on these questions. In our opinion, they should go far toward creating—so far as governmental agreements can—that much desired favorable climate necessary to attract American capital and technology.

These commercial treaties can do no more, of course, than establish the standards to be applied reciprocally by the contracting governments in these matters. Various other favorable conditions must be present before individual firms will launch ventures where these assurances can come into play. However, our discussions with American businessmen have revealed their belief that the conclusion of commercial treaties of the type now before your committee is one of the most useful steps the Government can take to aid private United States foreign

investors. I am sure they will welcome your approval of these treaties.

Sincerely yours,

CHARLES SAWYER, Secretary of Commerce. AMERICAN ARBITRATION ASSOCIATION, New York 20, N. Y., May 14, 1952.

Hon. Ton CONNALLY; Chairman, Committee on Foreign Relations, United States Senate, Washington, D. C.

My Dear Senator: Your committee is considering the treaties of commerce, friendship and navigation which the United States recently concluded with Denmark, Israel, Colombia, and Greece, and the agreement supplementing the commercial treaty with Italy.

All these treaties contain a provision facilitating the mutual enforcement of arbitration agreements and awards in commercial disputes between citizens of the respective countries. The State Department is to be highly commended for introducing this modern feature in bilateral treaties, thus making a real contribution to the advancement and use of arbitration.

This association, which has been dealing with international commercial arbitration in the interests of American trade and commerce for more than 25 years, considers this provision of the treaties a valuable feature and a successful effort in

the protection of American trade interests.

The standard artitation provisions in these treaties will guarantee the American trader the effective use of arbitration abroad. When, on the other hand, execution of awards rendered in a foreign country is sought in any State of the Union, they are subject to the law prevailing in the respective State and have to comply with its requirements. Thus, the rights of the States of the Union are preserved, in regard to the application of their arbitration laws.

The association welcomes the efforts, as embodied in the treaties, to secure the enforcement of arbitration agreements and awards in the interests of American trade. It recommends in this respect favorable consideration of the treaties.

Very sincerely yours,

A. C. CROFT, President.

(Note.—The subcommittee then considered the consular conventions. This portion of the hearing was printed as appendix to Ex. Rept. 8, 82d Cong., 2d sess., Consular Conventions with Iceland and with Great Britain.)

Senator SPARKMAN. Thank you very much. (The hearing was adjourned at 12:10 p. m.)

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ANNEX 3

The First Bilateral Investment Treaties

U.S. Postwar Friendship, Commerce, and Navigation Treaties

KENNETH J. VANDEVELDE





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Launching the U.S. Postwar FCN Treaty Program

The negotiation of FCN treaties dates from the very founding of the republic. The War of Independence severed the legal ties between the United States of America and the British Empire and placed the new nation outside the imperial trading system. Aware that the United States would need new trading partners to purchase its surplus commodities and to provide it with manufactured goods, the Continental Congress in 1776 authorized the preparation of a model FCN treaty for use in negotiations with the major European powers. In July of that year, it adopted a Declaration of Independence in order to provide a legal basis for other nations to treat with the new republic. The earliest FCN treaties thus were intended to obtain recognition of U.S. independence and to establish trade and maritime relations with the powers of Europe.

The first FCN treaty was signed with France in 1778,⁴ on the same day that the United States concluded its treaty of alliance with that country.⁵ The FCN treaty was signed first and thus it became the first treaty concluded in the history of the United States.⁶ During the War of Independence, the United States also

- 1. The early history of the FCN treaties is sketched in Doron S. Ben-Atar, The Origins of Jeffersonian Commercial Policy and Diplomacy (New York: St. Martin's Press, 1993).
- 2. David Armitage, The Declaration of Independence: A Global History (Cambridge, MA: Harvard University Press, 2007), pages 35–36.
- 3. Department of State, Office of Public Affairs, Commercial Treaty Program of the United States (Washington, DC: Government Printing Office, 1952), NARA, Record Group 59, Department of State File No. 611.004/3-453.
- 4. February 6, 1778, 8 Stat. 12, T.S. No. 83.
- 5. Department of State, Office of Public Affairs, Commercial Treaty Program of the United States (Washington, DC: Government Printing Office, 1952), NARA, Record Group 59, Department of State File No. 611.004/3-453.
- 6. John Bassett Moore, The Principles of American Diplomacy (New York: Harper and Brothers, 1918), page 12.

concluded FCN treaties with the Netherlands in 1782⁷ and with Sweden in 1783.⁸ Following the end of the war, Congress established a commission comprising John Adams, Benjamin Franklin, and Thomas Jefferson to negotiate additional FCN treaties. From 1778 until the second term of the Truman administration, the United States would negotiate some 130 such treaties.⁹

Although the initial series of FCN treaties was directed at establishing U.S. relations with Europe, during the antebellum period the United States undertook to negotiate FCN treaties with the newly independent Latin American countries. 10 FCN treaties concluded before the Civil War, however, were not limited to Europe and Latin America. For example, a leading object of Caleb Cushing's mission to China in 1844 was to conclude an FCN treaty with that country. 11 In the first half of the nineteenth century, the United States placed particular importance on the navigation provisions of the treaties, which gained access to foreign ports for U.S. vessels and which protected the right of U.S. vessels to engage in neutral trade with belligerent countries. 12

In the years following the Civil War, the pace of negotiations slowed. Industrialization in the United States reduced the need to import manufactured goods, while the construction of a transcontinental railroad allowed U.S. producers to concentrate on serving a large domestic market. The United States maintained high tariffs to protect American industry against foreign competition and de-emphasized the promotion of international trade. After World War I, however, the growing U.S. industrial surplus created a need for new markets. Thus, after that war, trade emerged as by far the most important element of the FCN treaties. ¹³ By the mid-1920s, the United States was engaged in highly productive

- 7. Treaty of Amity and Commerce, United States-Netherlands, signed October 8, 1782, 8 Stat. 32, T.S. No. 249.
- 8. Treaty of Amity and Commerce, United States-Sweden, signed April 3, 1783, 8 Stat. 60, T.S. No. 346.
- 9. Herman Walker Jr., "Provisions on Companies in United States Commercial Treaties," 50 American Journal of International Law 373, 374 n. 4 (1956). According to Walker, this estimate was published by the Department of State in 1952. For a brief survey of U.S. FCN treaty practice, see Eric V. Youngquist, "United States Commercial Treaties: Their Role in Foreign Economic Policy," 2 Studies in Law and Economic Development 72 (1967).
- 10. Memorandum from Winthrop Brown dated February 13, 1950, NARA, Record Group 59, Department of State File No. 611.004/3-850.
- 11. Department of State, Office of Public Affairs, Commercial Treaty Program of the United States (Washington, DC: Government Printing Office, 1952), NARA, Record Group 59, Department of State File No. 611.004/3-453.
- 12. Ibid. On the navigation provisions generally, see Don C. Piper, "Navigation Provisions in the United States Commercial Treaties," 11 American Journal of Comparative Law 184 (1962); Harry C. Hawkins, Commercial Treaties & Agreements: Principles & Practice (New York: Rinehart, 1951), pages 34-44.
- 13. Department of State, Office of Public Affairs, Commercial Treaty Program of the United States (Washington, DC: Government Printing Office, 1952), NARA, Record Group 59, Department of State File No. 611.004/3-453.

negotiations with several countries in Central America and Europe. It concluded FCN treaties with Germany¹⁴ in 1923, Estonia¹⁵ in 1925, El Salvador¹⁶ in 1926, Honduras¹⁷ in 1927, and Austria,¹⁸ Latvia,¹⁹ and Norway²⁰ in 1928. The Great Depression and the embrace of autarkic economic policies throughout the world created an inhospitable environment for negotiations²¹ and no further treaties were concluded until the mid-1930s. Ultimately, 12 treaties were concluded during the interwar period.²²

With the trade provisions growing in importance, the United States during the 1920s incorporated into the treaties a clause requiring unconditional most-favored-nation (MFN) treatment with respect to trade. ²³ An unconditional MFN treatment clause requires a country to extend to the other treaty party treatment that is at least as favorable as the treatment that the country extends to any other country. Thus, if an importing country lowers the tariff on a particular product imported from a particular exporting country, it must lower the tariff on that same product imported from any other exporting country to which it has promised unconditional MFN treatment. The clause that had appeared in prior treaties was a reciprocal MFN treatment clause. Under that clause, a country was obligated to extend MFN treatment to other treaty parties only if they reciprocated toward that country. An unconditional MFN treatment clause thus leads to a more rapid liberalization of trade because all trade concessions made by a country

- 14. Treaty of Friendship, Commerce and Consular Rights, United States-Germany, December 8, 1923, 44 Stat. 2132, T.S. No. 725. The treaty with Germany formed the model for those concluded over the ensuing 15 years.
- 15. Treaty of Friendship, Commerce and Consular Rights, United States-Estonia, signed December 23, 1925, 44 Stat. 2379, T.S. No. 736.
- 16. Treaty of Friendship, Commerce and Consular Rights, United States-El Salvador, signed February 22, 1926, 46 Stat. 2817, T.S. No. 827.
- 17. Treaty of Friendship, Commerce and Consular Rights, United States-Honduras, signed December 7, 1927, 45 Stat. 2618, T.S. No. 764.
- 18. Treaty of Friendship, Commerce and Consular Rights, United States-Austria, signed June 19, 1928, 47 Stat. 1876, T.S. No. 838.
- 19. Treaty of Friendship, Commerce and Consular Rights, United States-Latvia, signed April 20, 1928, 45 Stat. 2641, T.S. No. 765.
- 20. Treaty of Friendship, Commerce and Consular Rights, United States-Norway, signed June 5, 1928, 47 Stat. 2135, T.S. No. 852.
- 21. These policies are described in more detail in Jeffrey A. Frieden, Global Capitalism: Its Fall and Rise in the Twentieth Century (New York: W.W. Norton, 2006).
- 22. Commercial Treaties, Hearing Before a Subcommittee of the Committee on Foreign Relations, 82d Cong. 2d Sess. (1952), page 3.
- 23. The history and rationale of this change are described in William B. Kelly Jr., "Antecedents of Present Commercial Policy," in William B. Kelly, Jr., ed., Studies in United States Commercial Policy (Chapel Hill: University of North Carolina Press, 1963).

 Annex 3

are immediately generalized to all treaty parties with which that country has an unconditional MFN treatment obligation, even if those parties do not provide the same concession in return.²⁴

The FCN treaties were not sufficient in themselves to open markets to U.S. exports because they did not reduce tariffs, instead promising only non-discriminatory treatment. Most of the FCN treaty provisions addressed other aspects of trade, such as the treatment of merchants in the territory of the host state.

Because tariffs were taxes and could be reduced only by an act of Congress, efforts by the State Department to negotiate reductions in tariffs were impeded by the Department's inability to ensure that Congress would enact legislation to implement any reductions to which the United States might agree during negotiations. To remedy this situation, in 1934, Secretary of State Cordell Hull persuaded Congress to enact the Reciprocal Trade Agreements Act (RTAA), which authorized the State Department to conclude treaties that reduced tariffs by as much as 50 percent without further approval from Congress. Although the State Department continued to conclude FCN treaties, much of its effort shifted to the negotiation of trade agreements under the 1934 legislation. In the three years after the RTAA was enacted, the State Department concluded 15 trade agreements under the act. By contrast, it concluded only three FCN treaties during the entirety of the Roosevelt Administration—with Finland in 1934, Siam (now Thailand) in 1937, and Liberia in 1938.

World War II reduced commercial affairs "to a bare minimum," and the United States suspended the negotiation of FCN treaties during the war years, even when negotiations were already in progress. For example, the negotiation of an FCN treaty with India ended abruptly when the State Department received a

- 24. As Lloyd Gardner notes, the United States sought more rapid liberalization of trade because its enhanced productive capacity following World War I demanded larger export markets. Lloyd C. Gardner, *Economic Aspects of New Deal Diplomacy* (Madison: University of Wisconsin Press, 1964), page 40.
- 25. David A. Lake, Power, Protection, and Free Trade: International Sources of US Commercial Strategy 1887-1939 (Ithaca, NY: Cornell University Press, 1989), page 204.
- 26. John M. Rothgeb Jr., U.S. Trade Policy: Balancing Economic Dreams and Political Realities (Washington, DC: Congressional Quarterly Press 2001), page 47.
- 27. Treaty of Friendship, Commerce and Consular Rights, United States-Finland, signed February 13, 1934, 49 Stat. 2659, T.S. No. 868.
- 28. Treaty of Friendship, Commerce and Navigation, United States-Siam, signed November 13, 1937, 53 Stat. 1731, T.S. No. 940.
- 29. Treaty of Friendship, Commerce and Navigation, United States-Liberia, signed August 8, 1938, 54 Stat. 1739, T.S. No. 956.
- 30. Dean Acheson, Present at the Creation: My Years in the State Department (New York: W. W. Norton, 1969), page 17.

message from the Indian attorney general stating that it was "wiser, in view of the changed situation in India, to defer the conclusion of the negotiations until conditions are more settled."³¹

INAUGURATION OF THE U.S. POSTWAR FCN TREATY PROGRAM

In 1944, anticipating the imminent end to the war, the Roosevelt administration launched a program to extend and modernize the U.S. FCN treaty program.³² At that time, some 29 FCN treaties were still in force, the oldest of which was an 1815 treaty with the United Kingdom.³³ More than half of these existing FCN treaties had been concluded in the nineteenth century³⁴ and most of those had been concluded before 1860.³⁵

The State Department intended Cordell Hull's trade agreements to lower barriers that impeded trade between nations. The FCN treaties, by contrast, dealt "largely with the rights of persons and corporations and with instrumentalities by means of which the flow of goods and services is carried on." In a sense, whereas trade agreements operated principally at the border to lower barriers to entry for goods, the FCN treaties operated to a large extent behind the border. They addressed the legal climate that would exist within the host country for traders and vessels from abroad.

The business community strongly supported this new initiative and, after the end of World War II, was impatient for the United States to begin concluding FCN treaties with other countries. At its annual meeting in Atlantic City, in late April and early May 1946, the United States Chamber of Commerce adopted a resolution "that the Department of State be urged to negotiate [FCN] treaties with countries with which we have substantial commercial relationships and that negotiations to modernize existing treaties of friendship and commerce be

- 31. The message is quoted in Acheson, ibid., at pages 17-18.
- 32. Current Economic Developments, January 21, 1946, page 9, NARA, Record Group 59, Department of State Lot Files.
- 33. Airgram dated November 17, 1954, from the Department of State to the U.S. embassy in Cairo, NARA, Record Group 59, Department of State File No. 611.004/11-1754.
- 34. Current Economic Developments, January 21, 1946, page 9, NARA, Record Group 59, Department of State Lot Files.
- 35. Treaties concluded before 1860 and still in force in the mid-twentieth century included those with Argentina (1853), Bolivia (1858), Brunei (1850), Colombia (1846), Costa Rica (1851), Denmark (1826), Morocco (1836), Muscat-Zanzibar (1833), Paraguay (1859), Switzerland (1850), and United Kingdom (1851).
- 36. Memorandum by Vernon G. Setser headed "Status of Commercial Treaty Program," dated November 5, 1946, NARA, Record Group 59, Department of State File No. 711.002/11-546.

NEGOTIATING AN FCN TREATY WITH IRAN

The Truman administration submitted a draft FCN treaty to Iran informally in February 1948, but no negotiations resulted. 112 Two years later, the U.S. embassy believed that the time might be right to make another approach, but again no negotiations occurred, 113 largely because of Iranian objections to the provision requiring national treatment with respect to the right to establish investment. 114

By summer of 1954, however, circumstances had created inducements for both parties to negotiate a treaty. The Iranian government was seeking increased treaty protection for Iranians living in the United States. In particular, Iran was concerned about Iranian businessmen in the United States who did not have immigration status to remain in the country. U.S. oil companies were seeking greater protection for their investment in Iran, 116 particularly in the wake of the nationalization of the Anglo-Iranian Oil Company in 1951. Although the United Kingdom had suggested that all that would be necessary for the oil companies would be an investment protection treaty, the United States believed that to suggest a treaty limited to investment protection would offend the Iranian government. 117 Rather, the United States wished to propose an FCN treaty that would provide Iranians with improvements in their personal status in the United States, while also protecting U.S. investment in Iran. 118

Recalling that the Iranian government had paid "scant attention" to the standard draft treaty presented in 1948, the State Department decided to propose a shortened version of the FCN treaty similar to that concluded with Ethiopia in 1951. Notably, the abridged version did not require national treatment with respect to the establishment of investment. ¹¹⁹ The "essential nucleus" of the treaty was the provisions requiring compensation for expropriation and national treatment of American business enterprises once established. The State Department believed that the provision on expropriation combined with the compromissory clause providing for adjudication of disputes by the International Court of Justice "should afford valuable assurances to the American oil companies and other

112. Telegram dated June 4, 1950, from the U.S. embassy in Tehran to the Department of State, NARA, Record Group 59, Department of State File No. 611.884/6-450.

113. Instruction dated June 22, 1954, from the Department of State to the U.S. embassy in Tehran, NARA, Record Group 59, Department of State File No. 611.884/6-2254.

114. Instruction dated July 23, 1954, from the Department of State to the U.S. embassy in Tehran, NARA, Record Group 59, Department of State File No. 611.884/7-2354.

115. Instruction dated June 22, 1954, from the Department of State to the U.S. embassy in Tehran, NARA, Record Group 59, Department of State File No. 611.884/6-2254.

116. Ibid.

117. Ibid.

118. Ibid.

119. Ibid.

American investors."¹²⁰ The immediate reaction of the Iranian ambassador when he saw the proposed treaty was that the abridged version "might be much more workable than the extremely detailed version which had been discussed with his Government some years ago."¹²¹

After reviewing the proposed treaty, the Iranian government was chiefly concerned with certain provisions that would have to be extended to the Soviet Union or other Iron Curtain countries under treaties with those countries granting them MFN treatment. For example, Iran feared that the exchange controls provision would grant certain non-American investments priority in obtaining foreign exchange. The possible extension of treaty benefits to the Soviet Union was not Iran's only concern, however. Iran also bristled at a treaty provision requiring a "modern standard of justice," a provision that did not appear in other U.S. FCN treaties and that could be interpreted as casting aspersions on the Iranian legal system. 124

Iran soon proposed a number of changes, many of them related to concerns about the Soviet Union and its satellites. Iran feared that economic penetration by such countries could threaten its national independence, a fear that the State Department acknowledged to be legitimate. For example, Iran wanted language in the Preamble indicating that the provisions of the treaty had been agreed on a reciprocal basis. Such language would provide grounds for refusing to extend similar rights to the Soviet Union under an MFN treaty obligation. Iran also proposed limiting treaty protection to privately-owned companies, thereby preventing Soviet enterprises from claiming protection. At the same time, however, Iran wanted a secret exchange of letters deeming all Iranian companies operating within the United States to fall within treaty protection, even if entirely financed by the Iranian government. 126

- 120. Instruction dated July 23, 1954, from the Department of State to the U.S. embassy in Tehran, NARA, Record Group 59, Department of State File No. 611.884/7-2354.
- 121. Memorandum headed "Message of Condolence from the Shah," dated September 8, 1954, NARA, Record Group 59, Department of State File No. 611.884/9-854.
- 122. Telegram dated September 15, 1954, from the U.S. embassy in Tehran to the Department of State, NARA, Record Group 59, Department of State File No. 611.884/9-1554.
- 123. Telegram dated October 2, 1954, from the U.S. embassy in Tehran to the Department of State, NARA, Record Group 59, Department of State File No. 611.884/10-254.
- 124. Telegram dated September 15, 1954, from the U.S. embassy in Tehran to the Department of State, NARA, Record Group 59, Department of State File No. 611.884/9-1554; Despatch dated October 16, 1954, from the U.S. embassy in Tehran to the Department of State, NARA, Record Group 59, Department of State File No. 611.884/10-1654.
- 125. Statement of Thorsten V. Karlijarvi, Commercial Treaty with Iran, Nicaragua and The Netherlands, Hearing Before the Committee on Foreign Relations, July 3, 1956, 84th Cong. 2d Sess.(1956).
- 126. Despatch dated October 16, 1954, from the U.S. embassy in Tehran to the Department of State, NARA, Record Group 59, Department of State File No. 611.884/10-1654.

Some of Iran's proposed changes were directed not at denying benefits to the Soviet Union but at weakening treaty protection for U.S. nationals and companies. For example, Iran proposed that the prohibition on unreasonable or discriminatory measures be rephrased as a prohibition on unlawful or discriminatory measures. Iran also proposed rephrasing the expropriation provision to eliminate protection for "interests in property," apparently with the goal of excluding U.S. interests in the international oil consortium from treaty protection. ¹²⁷ Iran had two objections to the provision on exchange controls. First, it wanted to retain sole discretion to determine whether exchange controls were warranted. ¹²⁸ Second, it did not wish to make foreign exchange available to facilitate "hot money" transfers. ¹²⁹ Finally, Iran wanted to delete from the compromissory clause language conferring jurisdiction on the Court to decide disputes involving the "application" of the treaty. ¹³⁰

The State Department was sympathetic to Iran's concern about MFN treatment, but to accomplish the same goal suggested alternative language referring to reciprocity. ¹³¹ The United States also agreed to place the right of entry for traders and investors on an MFN basis, in order to address Iranian concerns about Soviet penetration. ¹³² Regarding the concern about "hot money," the State Department explained that reasonable restrictions on capital to avoid a serious outflow of "hot money" in the form of scarce foreign exchange would not violate the exchange controls article. ¹³³

Otherwise, however, the United States largely objected to Iran's proposals. For example, the State Department replied that a secret exchange of letters was out of the question, both on policy grounds and because Article 102 of the U.N. Charter prohibited secret agreements. ¹³⁴ U.S. negotiators noted that changing "unreasonable" to "unlawful" would destroy the effect of the provision. ¹³⁵ They said that the expropriation provision was one of the most important in the treaty and that any substantial

127. Ibid.

128. Ibid.

129. Ibid.

130. Ibid.

- 131. Telegram dated November 1, 1954, from the U.S. embassy in Tehran to the Department of State, NARA, Record Group 59, Department of State File No. 611.884/11-154.
- 132. Memorandum headed "FCN Treaty with Iran," dated June 14, 1955, NARA, Record Group 59, Department of State File No. 611.884/6-1455.
- 133. Instruction dated November 10, 1954, from the Department of State to the U.S. embassy in Tehran, NARA, Record Group 59, Department of State File No. 611.884/11-1054; Despatch dated October 16, 1954, from the U.S. embassy in Tehran to the Department of State, NARA, Record Group 59, Department of State File No. 611.884/10-1654.
- 134. Telegram dated December 18, 1954, from the Department of State to the U.S. embassy in Tehran, NARA, Record Group 59, Department of State File No. 611.884/12-1854.
- 135. Telegram dated November 13, 1954, from the Department of State to the U.S. embassy in Tehran, NARA, Record Group 59, Department of State File No. 611.884/11-1354.

change would be very difficult for the United States to accept.¹³⁶ They noted that indirect investment contributed to Iran's development and thus the treaty should encourage it.¹³⁷ They argued that language giving each party sole discretion to determine whether to impose exchange controls was unnecessary because a party's determination would be presumed correct in the first instance, and the U.S. negotiators doubted that a dispute under the provision would arise in any event.¹³⁸ They reminded the Iranian negotiators that Iran had agreed on numerous prior occasions to compromissory clauses covering disputes relating to the application of a treaty.¹³⁹

In December, the embassy reported that the Iranian negotiators had been highly receptive to the U.S. comments and had endeavored to accommodate U.S. views wherever possible. The embassy then expressed concern that the Department's negative reaction to so many of Iran's proposals was creating the impression that the United States was prepared to conclude a treaty only on its terms. ¹⁴⁰ The Department held firm, however, and ultimately prevailed on each of these investment-related issues. The United States nevertheless did agree to some modifications to its proposed draft. For example, the treaty omits the provision regarding the right to utilize specialized personnel for internal purposes.

The treaty was signed on August 15, 1955.¹⁴¹ Among its provisions was language terminating a 1928 treaty under which Iranian courts applied U.S. law to certain cases involving U.S. nationals.¹⁴² In this way, the United States surrendered the last vestige of extraterritoriality in Iran.¹⁴³ The State Department noted that treaty provisions requiring prompt payment of just compensation for expropriated property and the submission of treaty disputes to the International Court of Justice represented "almost a complete reversal of the Iranian position in the [Anglo-Iranian expropriation] controversy and may repair much of the damage resulting from that dispute." ¹¹⁴⁴

136. Ibid.

137. Ibid.

138. Telegram dated January 14, 1955, from the Department of State to the U.S. embassy in Tehran, NARA, Record Group 59, Department of State File No. 611.884/1-455.

139. Telegram dated November 12, 1954, from the Department of State to the U.S. embassy in Tehran, NARA, Record Group 59, Department of State File No. 611.884/11-1254.

140. Telegram dated November 27, 1954, from the U.S. embassy in Tehran to the Department of State, NARA, Record Group 59, Department of State File No. 611.884/11-2754; Telegram dated December 17, 1954, from the U.S. embassy in Tehran to the Department of State, NARA, Record Group 59, Department of State File No. 611.884/12-1754.

141. Treaty of Amity, Economic Relations and Consular Rights, entered into force June 16, 1957, 8 UST 899, TIAS 3853, 284 UNTS 93.

142. Iran FCN treaty, Article XXII.

143. Memorandum headed "FCN Treaty with Iran," dated June 14, 1955, NARA, Record Group 59, Department of State File No. 611.884/6-1455.

144. Current Economic Developments, June 21, 1955, page 11, NARA, Record Group 59, Department of State Lot Files.

ANNEX 4

Iran: State of Terror

An account of terrorist assassinations by Iranian agents



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Parliamentary Human Rights Group Palace of Westminster - Britain

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.

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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

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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". 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". 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". 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".

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

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".

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. 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

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

How the Murder Machine Works¹¹

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

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: Rafsaniani'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. 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

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. 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

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. 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. Descriptions

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.

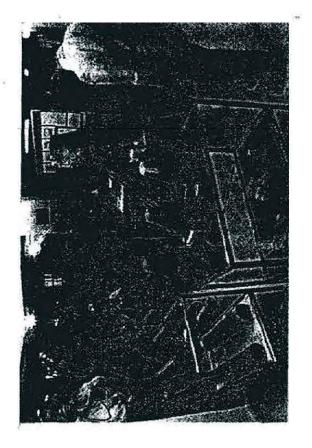
A similar case in Baghdad

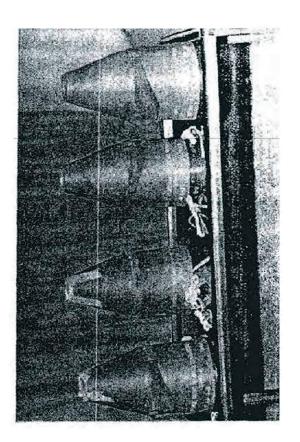
There is reason to believe that a similar terrorist attack was to be launched in Baghdad against Mr Masoud Rajavi, President of the National Council of Resistance on Iran. On May 15, 1995, at a press conference in Baghdad, a Resistance spokesman displayed the weapons and equipment seized from a terrorist network belonging to the Khomeini régime's Intelligence Ministry (VEVAK).

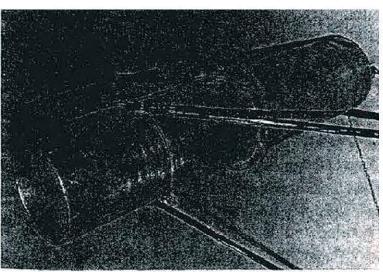
The specially-designed weapon for this terrorist operation seized

¹⁹ The New York Times, June 25, 1995

²⁰ Thid







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

⁵⁶ 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. 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. 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. 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

⁴¹ 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. They had earlier received information indicating that Mr Naghdi was on the Iranian government hit list. 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. 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. Three doorway of the Mykonos Restaurant. Three of the 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. 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. 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".

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.

⁷⁶The 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. 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. Relations between Paris and Iran had warmed up after Naccache's extrajudicial liberation, though Iranian exiles had warned that appearement 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. The warrant described Mr Sheikh-Attar as "an accomplice in murder and criminal conspiracy in connection with a terrorist action". 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.

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. 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 Thid

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 antiterrorist 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 antiterrorist 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 greatnephew 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. Most of the the 13 had entered Switzerland with service passports issued in Tehran on the same date with the notation "on assignment". 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

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. 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

R. Chatelain, Magistrate of Cantonal Investigations, press release, June 22, 1990, Lausanne, Switzerland

¹¹⁰ The Guardian, January 1, 1994

III 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". 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

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

Douglas Hogg MP, unpublished letter to Lord Avebury, Chairman of the Parlia mentary 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

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. 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. 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' gobetween, Fathel Rasoul, an Iraqi exile. 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.

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. 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. 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. A fourth confederate, known only as Montazer, is believed to have been waiting outside the apartment to whisk Sahraroodi away.

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. Arrest warrants were issued for Bozorgian and Mustafavi on minor charges of leaving injured persons whose lives were in danger. 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). 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

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. 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. 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

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Abductions

Majid T

A 28-year-old student named Majid was kidnapped from his house near Bonn by Iranian agents on February 2, 1996, taken to a house and tortured for 48 hours. 153 The victim is described as a former Revolutionary Guard and defector from the Iranian intelligence service. According to information received by Iranian dissidents based in Britain, the German incident followed a visit by staff from the Iranian embassy in Bonn to Tehran where they received their instruction from intelligence chiefs. Iran's largest intelligence centre in Europe is based in Bonn. 154 Bonn police have said the 28-year-old victim told them he was abducted at gunpoint near Bonn on February 2 by four Farsi speaking men who locked him up in a basement for two days and mistreated him. 155 According to the reports Majid was kidnapped while he was coming our of a house visiting an agent of the Iranian régime. He managed to escape when his captors stopped at a petrol station while trying to transfer him to another location. Ebrahim Zakeri, a member of the Iranian National Council of Resistance, accused the Iranian secret service of carrying out the kidnapping. Zakeri told reporters that Iranian embassies in Bonn and the Dutch capital, The Hague, were involved in the abduction. 156

Ali Tavasoli

On February 28, 1996, Amnesty International expressed its concern "over the fate of Ali Tavasoli, a former leader of the Organization of Iranian Fedaian (Majority) who 'disappeared' while travelling in Baku, Azerbijan in September 1995 and whose fate has since been unknown.

¹⁵³ The Sunday Telegraph, February 25, 1996

¹⁵⁴ Ibid

¹⁵⁵ Associated Press, February 2, 1996

¹⁵⁶ Ibid

Unconfirmed reports suggested that Iranian nationals, possibly connected to the security forces, were involved in his abduction."

One authority says that he was lured to Baku on a fake business deal and abducted by four Iranians, posing as would-be buyers. His position in the Fedaian would have given him access to valuable information.¹⁵⁷

Manuchehr Moutamar

The Venezuelan government expelled four Iranian diplomats on July 15, 1994 for allegedly trying to kidnap Iranian political exile Manuchehr Moutamar and his family, who were seeking asylum there. ¹⁵⁸ A foreign ministry spokesman said:

They acted against the law in trying to detain this man and his family who have been in various countries since leaving Iran and new hope for refuge here."

According to the reports he was a high ranking Iranian intelligence official "who knows names, dates and details of his country's international fundamentalist terror network". 159

The Caracas daily newspaper, El Universal, reported that the Iranian diplomats seized the exiles at gun point at Maiquetia International Airport on the Caribbean coast just north of Caracas. According to the newspaper, Venezuelan authorities, with the help of United Nations officials, managed to capture the Iranians and order the four diplomats out of the country. On July 20 the Foreign Ministry in Venezuela announced that

"security services discovered four Iranian diplomats were directly involved in the attempted abduction and that Iran's top envoy here must leave". 161

¹⁵⁷ Mehdi Kia, Less carrot, more stick, Iran Bulletin, Spring 1996, No 12, 6

¹⁵⁸ Reuters, July 15, 1994

¹⁵⁹ The Daily Telegraph, August 5, 1994

¹⁶⁰ Reuters, July 15, 1994

¹⁶¹ Reuters, July 20, 1994

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Ali Akbar Ghorbani

Iranian agents are experts at kidnapping opponents of the régime, generally as a preliminary to murder. One of the best documented cases is that of Ali Akbar Ghorbani, a member of the People's Mojahedin Organization of Iran, who was abducted by terrorists in Istanbul at midday on June 4, 1992. He was attacked as he was getting into his white Mazda car, registration No. 2601 YC95. The struggle between Mr Ghorbani and his assailants was seen by a local resident whose house overlooked the scene, but when he came out into the street, the terrorists had overpowered Mr Ghorbani and taken him away.

On January 29, 1993, it was reported that a probe into the slaying of a well known Turkish journalist had led police to the discovery of the body of an unidentified Iranian believed to have been kidnapped earlier. The mutilated body showed signs the victim had been severely tortured before he died. His fingernails were pulled out, his genitals cut and a rope was found tied around his neck. The body was found several months after this gruesome murder, in a shallow grave in an Istanbul suburb. 162

The following day, the Mojahedin announced that the mutilated body discovered was that of Ali Akbar Ghorbani, and this was subsequently confirmed by the Turkish police. At a press conference on February 4, the Turkish Interior Minister, Mr Ismet Sezgin, revealed that police had arrested 19 members of the previously unknown Islamic Action group. Sezgin said Islamic Action had killed journalist Cetin Emec and writer Turan Dursun in 1990, as well as Iranian dissident Ali Akbar Ghorbani who was kidnapped in Istanbul on June 4, 1992. He said the group had been trained in Iran and three of its leaders were believed to have taken refuge there.

In a letter to The Times on February 20, 1993, Mr Ghorbani's wife, Jamileh Eslami wrote:

"My husband and I, along with our baby daughter, left Iran and settled in France as political refugees. We know that there are a lot of our countryman suffering in Turkey. My husband used to go to Turkey to assist other Iranian refugees

¹⁶² United Press International, January 29, 1993

who had to flee from suppression as we did. He found he could help the most vulnerable to find asylum and accommodation. Through this he became the target for yet another of the régime's terrorist acts in Turkey".

A confession by Mr Ali Seker, one of the terrorists who abducted Mr Ghorbani, broadcast by Turkish television on February 11, 1993, provides ample evidence of the Iranian régime's involvement in terrorist activity in Turkey:

Question: Who sent you to Iran?

Answer: Akram Bay Tep.

Q: What did Akram want from you regarding the bomb? Was it for training?

A: It wasn't the bomb. The trip [to Iran] was for training.

Q: How much training did you receive?

A: Two months.

After Ali Akbar Ghorbani's car was bombed, the terrorist group's members stole a minibus. They then kidnapped Ghorbani and took him to Yolora. Mohammad Zaki Yoldorum, a member of the terrorist group, explains how they kidnapped and murdered Ghorbani:

Q: When you brought him, was he still alive?

A: Yes he was alive but unconscious.

Q: His hands and feet were tied while he was unconscious?

A: Yes, they were tied.

Q: Did you bring him in the trunk of the car?

A: Yes.

Q: You entered through the door?

A: Yes. we brought him through here, we took him inside the building and laid him on the bed. We made him drink some coffee and he came to. Then we gave him some food and water and the interrogations began.

Q: The interrogators were Iranian?

A: Yes.

Q: How many were they exactly?

A: Five, I didn't know they killed him until they left. They gave me something to inject into him, but then they said they would do it

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d him until they left. They gave then they said they would do it themselves. At night they left and found out later that he was killed. They dug a grave for him in Cinarcik woodland, Issa, Kemal and I took him there and buried him.

Mohammad Zaki Yoldorum then describes the training he received in Iran:

Q: Yoldorum, tell us briefly about your trip to Iran.

A: I went to Iran about four of five months ago. A man called Mohammad picked me up at the airport. He first took us to hotel and then took up to a place which I didn't know. It was a military base and was surrounded by high walls, about three to five metres high. Everyone had a beard and outside there were soldiers guarding the base.

Q: Were they on sentry duty?

A: Outside, no. But at the entrance to the base, yes. We spent some time there and they taught us how to use weapons.

Q: How many people were being trained?

A: Akram, Hassan, Ali and myself.

Q: Did you go through Islamic instruction there too?

A: Yes, these training also went on there.

At the end of the broadcast, Yoldorum adds:

"They got what they wanted and then they gave the names of 25 people and they made a shorter list of 10 people [as targets of future assassinations]".

On June 5, 1992, Freedom House asked Prime Minister Demirel to intervene in the case of Mr Manour Ghorbani, stating that *Iranian agents kidnapped him in Istanbul...*". The statement goes on to say:

"In recent years, the Iranian government has had a record of assassinating Iranian oppositions around the world... Freedom House urges the Turkish government to arrest the agents responsible for the kidnapping and bombing".

Once again, the cumulative weight of evidence pins this crime on the master criminals in Tehran. An estimated one million Iranians fled to Turkey after the 1979 Islamic Revolution in Iran, and most of them live in Istanbul. Turkish Foreign Minister Ismet Sezgin said on February 4, 1993 that Iranian trained agents had carried out at least three political murders in Turkey. Apart from the case of Mr Ghorbani, he mentioned the killings of Turkish journalist Cetin Emec and writer Turan Dursun; the attempted murder of Jewish industrialist Jak Kamhi; the murder of Ugur Mumcu, journalist and outspoken opponent of Iranian style Islamic fundamentalism, killed by a bomb on January 24, 1993, and the killing of a woman academic, Bahriye Ucok and a law professor, Muammer Aksoy. The Minister said that 19 members of a radical Islamic group with Iranian links had been arrested in connection with a series of murders and attempted murders in recent years.

Abol-Hassan Mojtahedzadeh

On October 11, 1988, an Iranian student engineer and supporter of the Iranian resistance in Turkey, Abol-Hassan Mojtahedzadeh, was abducted near Aksari Square in Istanbul. He was rescued by Turkish border guards as agents of the mullahs' régime attempted to smuggle him across the border back into Iran in the boot of a diplomatic car. He would have faced certain death if they had succeeded.

US Congressman Mervyn M Dymally wrote to Turkish Prime Minister Turgut Ozal urging him to stop Khomeini's terrorists operating in his country, where they appeared to form part of a larger network in the Middle East, particularly in Lebanon. He added: "I equally strongly urge you to pursue appropriate measures to secure the safety of Iranian refugees in Turkey". ¹⁶³ Many cases in recent years show that Ankara is not interested in the fate of these asylum-seekers, but on this occasion the Turkish police did arrest ten people in connection with Mr Mojtahedzadeh's abduction, four of whom had diplomatic status. ¹⁶⁴ These were Rasoul Bagher Chaian, an attaché at the Embassy; Khousro Abdolllah Pahlou; Hamid Reza Meran, and Ramazani. ¹⁶⁵

Six days before these arrests, Iranian Resistance leader Massoud

Representative Mervyn M. Dymally, letter to Prime Minister Turgut Ozal, October 28, 1988

¹⁶⁴ Tercuman, October 26, 1988

¹⁶⁵ Agence France Presse (AFP), October 26, 1988

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nian Resistance leader Massoud

) Prime Minister Turgut Ozal, October

Rajavi had raised another abduction case with Prime Minister Ozal. He said that on October 20, 1988, Mostafa Abrari had been taken into custody by the Turkish police on the pretext of an identity check and turned over to Khomeini's agents at the Persepolis restaurant. Mr Abrari managed to escape when he was being moved to another location. Congressman Ed Towns wrote to Prime Minister Ozal:

"While Turkish security forces are to be applauded for this arrest of Khomeini's agents who have been responsible for terrorist activity in your country, the above event suggests the beginning of a new campaign against Iranians who have fled from the Khomeini régime. Thus, thousands of Iranian refugees are at risk. 167

Other abductions in Turkey

On October 28, 1988, the Turkish Foreign Ministry said that two Iranian diplomats, allegedly involved in an attempt to remove a dissident back to Iran, had left the country. 168

On October 18, 1993, an agreement was signed by the Interior Ministers of Turkey and Iran, to "counter hostile acts along their common border". This provided that Iran would deny sanctuary to alleged supporters of the Kurdistan Workers' Party (PKK), the armed opposition in the Turkish south-east, while Turkey in turn would crack down on Iranian dissidents. ¹⁶⁹ Early in 1994 20 asylum-seekers, all of whom were officially registered with the UNHCR, were rounded up and deported, and in April, following a visit to Turkey by Iranian Deputy Foreign Minister Mohammad Hashemi, another 17 were arrested. When he returned to Iran, Mr Hashemi boasted of the bilateral agreement which he said allowed the two governments to exchange political opponents. ¹⁷⁰

In 1995, 60 Iranians recognised by the UNHCR, or whose cases were pending, or who had not even had a chance to present their claims,

988

¹⁶⁶ Terrorists, alias diplomats, NLA Quarterly, Autumn 1988

¹⁶⁷ Representative Ed Towns, letter to Prime Minister Turgut Ozal, October 28, 1988

¹⁶⁸ DAWN, October 29, 1988

¹⁶⁹ Human Rights Watch, Annual Report for 1993, 292

¹⁷⁰ Iran Bulletin, Summer 1994, No 6

were unlawfully repatriated to Iran. 171 In one roundup, Turkish police acting in collaboration with the Iranian authorities arrested Amir Khorrami, Najibeh Fattahi, Kamel Nour-Hayat, Amu Kkurian and Kamal Hasanzadeh, members of the KDPI, in Afsus, central Turkey. 172

In another recent case, Mehrdad Kavoussi, who was reported to have been previously held for ten years in Evin prison in Iran and tortured frequently for his political activities, 173 was arrested on April 25, 1996 at Dogubeyazit in eastern Turkey after trying to register as an asylum seeker, and sent back to Iran the same day. 174 It was reported that he had been detained by the Ministry of Information and there was concern over the risk that he might be held in incommunicado detention and tortured, though no announcement was made by the Iranian authorities about his fate. 175

¹⁷¹ UNHCR Ankara, unpublished communication, February 12, 1996.

¹⁷² Iran Bulletin, Spring 1995, No 9

¹⁷³ Reuters, Turkey deports Iran dissident despite UN fears, April 26, 1996

¹⁷⁴ Amnesty International, UA 113/96, April 30, 1996

¹⁷⁵ Amnesty International, Further Information on UA 113/96, May 15, 1996

In one roundup, Turkish police ian authorities arrested Amir Jour-Hayat, Amu Kkurian and DPI, in Afsus, central Turkey.¹⁷² I Kavoussi, who was reported to ars in Evin prison in Iran and tivities,¹⁷³ was arrested on April key after trying to register as an the same day.¹⁷⁴ It was reported nistry of Information and there ight be held in incommunicado mouncement was made by the

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Murder Within Iran

Human life in Iran has very little value, and political as well as criminal executions have been an essential component of the policy of control by terror exercised by the mullahs since the first days of the Islamic revolution. Groups seen for any reason as hostile to the revolution, have been targeted, and among them the religious minorities. Since 1979, 201 members of the Baha'i faith have been killed and 15 others have disappeared and are presumed dead. Because the Baha'i faith is not recognised in the constitution, its members fall into the category of "unprotected infidels", whose rights may be ignored. Thus two persons originally detained for the murder of Mr Ruhu'llah Ghedami in June 1992 were released from prison in March 1993, purely on the grounds that the victim was a Baha'i. 176

Christians also have suffered persecution, and have met mysterious deaths. Three priests, Bishop Haik Hovsepian-Mehr, Pastor Mehdi Dibaj, and Bishop Tateos Michaelian have all been brutally murdered. This has happened in a context where

"scores of young Christians, many converts from Islam, have been imprisoned and tortured, especially in the cities of Gorgam and Kermanshah, church officials say. And pastors have been expelled from parishes or are under surveillance". 177

The Killing of Bishop Michaelian and other Protestant Ministers

The story of the three women accused of murdering Bishop Michaelian deserves close examination. Michaelian had first gone

Situation Update on the Baha'i Community of Iran as of January 1996, unpublished paper, Baha'i International Community, Geneva, January, 1996.

¹⁷⁷ International Herald Tribune, August 2, 1995

missing on June 29, and was murdered in the early evening of that day, but his death was only reported to his son Galo by the police on July 2.

The principal conspirator and the star witness in a show trial which attempted to place the blame for the crime on the opposition People's Mojahedin was Ms Farahnaz Anami, 30, described as a "business student" and employee of the National Iranian Oil Company. She was said to have been imprisoned for her criminal activities with the Mojahedin between 1980 and 1984, but returned to the life of crime on her release. On this occasion, however, she saw the error of her ways immediately on being taken into custody, and repented, making a full confession. In a press release about her arrest, the Iranian Chargé d'Affaires in London, Mr Gholamreza Ansari, said that Ms Ansari had also taken part in the murder of Pastor Dibaj, 178 but in fact she explained at her press conference on July 6, 1994, that she had been given the responsibility for finding a suitable place for his burial.

Ms Anami's press conference was given on the same day as her arrest in the south-east city of Zahedan, where she was trying to leave the country for Pakistan. She was obligingly carrying what an official described as "valuable documents which confirm her link with the terrorist Mojahedin, as well as her involvement in the slaying of the two Iranian Christians". The original intention was no doubt to nail this woman with the murder of Mehdi Dibaj as well.

It seems implausible that Ms Anami, with the blood of her victim fresh on her hands, would be stupid enough to carry with her as she tried to escape, documentary proof of her guilt, and of the links to her alleged terrorist masters. A request was made for a copy of the "valuable documents", but unsurprisingly, the Iranian Chargé did not reply. Dibaj, it may be remembered, had been imprisoned by the régime and was sentenced to death for apostasy. He was only reprieved as a result of concentrated international pressure.

The conspirators who allegedly killed Bishop Michaelian had evidently acquired an unfortunate habit of leaving incriminating documents and other evidence where they were sure to be found. In the Chargé's statement already mentioned, he mentions that "documents

¹⁷⁸ Press release, Iranian Embassy, London, July 7, 1994

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7, 1994

found on the location where the body had been hidden point to the links between these murderers [of Michaelian] and those who planted bombs at the shrines of Hazrat Ma'Soumeh in Qom and Imam Reza in Mashad".

It was the second accused, Ms Batool Vaferi, 34, a mother with two small daughters, who was arrested as she carried a 2.5 kg bomb hidden in her handbag into the mausoleum of Imam Khomeini (not the shrine of Imam Reza as reported by the chargé), on July 5. The third accused, Ms Maryam Shahbazpour, 30, was arrested on the same day as she tried to carry a 3.5 kg bomb in a prayer book into the Ma'soumeh mosque in the city of Qom. A request was made that this remarkable prayer book be made available for inspection, but this too was ignored. These two women also immediately confessed their guilt, and said they had been ordered to commit the offences by the Mojahedin leadership in Iraq. We are invited to believe that they were so utterly ruthless that they could cheerfully move on from the grisly murder of Bishop Michaelian to an attempted mass killing within a few days, yet to have spontaneously and simultaneously repented the same day.

In Ms Anami's original confession, she said that she had rented a flat in the eastern Tehran district of Majidiyeh, and had lured Bishop Michaelian there by pretending that they wanted him to meet a potential convert. The landlord, Mr Jalal Esfahani reported:

"On June 30 I was at home on the ground floor when I heard a shot upstairs apparently fired at someone. I rushed upstairs and the two girls, Farahnaz Anami and Maryam Shahbaz-Pour pointed the handgun at me so I kept silent. They took me to the bathroom and tied up my hands and feet with rope and struck me on the head. After one hour I managed to unleash the knots". 179

In court a year later, Mr Esfahani said:

"A sound resembling the sound of something dropping on the ground attracted my attention". 180

¹⁷⁹ Islamic Republic News Agency (IRNA), July 12, 1994

¹⁸⁰ Keyhan, June 19, 1995

It must have been pointed out to him by his coach that he couldn't possibly have known that it was a shot, still less that it had been fired at someone.

Mr Esfahani continued:

"I ran upstairs. A youth came out of the room and while introducing himself said 'If you make a noise I will kill you'".

So in the first account, he was threatened by two women, in the second, by the man. In court, he says that:

"They brought me to the lower floor".

whereas in the first statement he was left in the bathroom. In the first statement it was the two women who tied Mr Esfahani up, but now it is said to be the man.

In the account of the murder given by Ms Anami at a press conference on July 18, 1994, she says that Majid Esfandiari, the main conspirator, shot Michaelian once, and she fired two bullets to finish him off. ¹⁸¹ Now, in court, Ms Anami says:

"I heard the sound of a bullet. I came out of the room. I saw that Hamid had hit him. I, too, shot a bullet from behind at his neck. Hamid shot the third bullet. The Pastor fell on the ground with a groan..."

So who fired the third shot, Esfandiari or Anami? How was it that Michaelian remained standing after the first shot while Ms Anami entered the room and fired the second shot into the back of his neck? How was it that he still remained upright after the second shot and only "fell to the ground with a groan" after the third shot? This unlikely tale is designed to agree with the fact that the bullet holes were found in the walls. But there is another mystery. There were four bullet

¹⁸¹ Reuters, July 18, 1994

¹⁸² Ibid

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It was further reported that "Two hand-guns with silencers, two boxes of bullets and several Mujahideen leaflets said to have been seized from the apartment in eastern Tehran were displayed on a table at the... IRNA headquarters". 184 Once again, it was remarkably convenient that the assassins not only left important clues at the scene of the crime, but documentary reinforcement of their confessed association with the Muhahideen.

Maryam Shahbazpour, the third conspirator, said that from the autumn of 1993, the Mojahedeen Khalq had been working with "us" continuously, and from late March 1994, they were assigned to carry out "engineering operations", which she defined as those in which the operative "must not leave behind any trace or evidence, which might be brought to public attention". 185 The trainees do not seem to have learned their lessons very well. It appears, however, from the evidence given by Ms Anami at the trial in June 1995, that neither Maryam nor Batool knew what was planned for Bishop Michaelian. According to Ms Anami, they

"had no knowledge prior to the arrival of the pastor and only I and the person in charge of the organisation knew; I think they had been brought there by the person in charge, knowing of my fear of the affair, to strengthen my morale". 186

This was the first time Maryam and Batool's ignorance had been mentioned, yet both of them had had plenty of opportunities at the press conference of July 18, 1994 to say they had been unaware of the nature of the conspiracy.

Ms Anami was asked by a journalist on July 18 why the conspirators had not killed the landlord, Mr Esfahani, and she replied, somewhat implausibly for such a ruthless murderer, it may be thought:

¹⁸³ Reuters, July 18, 1994

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^{185 &#}x27;Three MKO Terrorists Quizzed by Iranian and non-Iranian Journalists'

¹⁸⁶ Keyhan, June 19, 1995

"Because of his old age and our own state of panic resulting from his surprise appearance, we didn't think of killing him"

These are the terrorists, remember, who were specially trained, so that they "must not leave behind any trace or evidence, which might be brought to public attention".

The landlord, by his own account, escaped from his bonds quickly by calling to a neighbour's son through the window. Bishop Michaelian had arrived at the house at 17:00 on June 29, so it may be assumed that the alarm was raised at about 18:00, and the "Information Ministry agents" must have arrived shortly afterwards. Why were agents from the Information Ministry summoned, rather than the police? Was it because the propaganda campaign had already been planned before the murder? Yet the family was not called to identify the body at the morgue until July 2, three days later. 187

The Protestants in Iran have understandably kept a low profile recently, and the Special Rapporteur on Religious Intolerance, M Abdelfattah Amor has noted the traumatism caused to the Christian and Protestant communities in Iran by the murders of the three pastors. He listened to the three women repeating the stories they had given in court, but went on to say that:

"according to information received, the Iranian Government had apparently decided to execute those Protestant leaders in order not only to bring the Mojahedin organization into disrepute abroad by declaring it responsible for those crimes, but also, at the domestic level, partly to decapitate the Protestant community and force it to discontinue the conversion of Muslims, which was regarded as apostasy and was therefore prohibited according to the Government's interpretation of Islam. It was apparently felt that those conversions weakened Islam and, hence, the Islamic Republic of Iran; that would explain the restrictions imposed in the religious field, as well as the executions of the leaders

¹⁸⁷ Middle East Concern; Iran 1994: The Year of Assassinations.

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of the protestant community. In particular, pastor Dibaj and his colleagues had apprently been executed in order not to encourage the Protestant community, through the release of pastor Dibaj, to continue its conversion activities". 188

It suits the régime to put the MKO in the frame for Bishop Michaelian's killing, but is it not more credible that the same agency, which has the motive and the opportunity for attacks on every religious minority, and which has not been hesitant to use murder as an instrument of policy both in Iran and abroad, is responsible for all these crimes? The Special Rapporteur on Extrajudicial Executions emphasises again that Dibaj and Michaelian "had been threatened on previous occasions, allegedly by the Iranian authorities, for having campaigned in favour of religious freedom in Iran". It is an insult to the world's intelligence to ask observers to believe the fantastic stories concocted by Tehran, and put into the mouths of Farahnaz Anami and other courtroom thespians. 189

The Mashad Atrocity

In the Mashad atrocity, attributed to one of Michaelian's killers by the Chargé d'Affaires, 26 people were killed by a bomb at the shrine of Imam Reza, a great-grandson of the Prophet (PBUH), on June 20. It was reported on August 1st that Mr Mahdi Nahvi was arrested after a gun battle with a special security force set up to catch the terrorists. The report continued:

"Several people, including three women who Tehran said were members of the Mujahideen Khalq, have been arrested in connection with the Mashad bombing and other acts of violence including the killing of two Christian clergymen". 190

UN Special Rapporteur on Religious Intolerance, M Abdelfattah Amor, Report on his visit to the Islamic Republic of Iran, E/CN.4/1996/Add.2, February 9, 1996, 19.

¹⁸⁹ UN Special Rapporteur on Extrajudicial, Summary or Arbirary Executions, M Bacre Waly Ndiaye, Report submitted to Commission on Human Rights resolution 1995/73, E/CN.4/1996/4, January 25, 1996, 65

¹⁹⁰ Reuters, August 1, 1994

At that time, in June 1994, the Iranian media all quoted official statements concerning the complicity of the women in the Mashad bombing, but if there had been any question of their involvement, they would surely have confessed to it, as they did to other crimes.

Mr Nahvi, the Mashad suspect, was severely wounded in the gun battle and was reported to be undergoing surgery on August 1. According to Reuters, the doctor in charge said that he would not be allowed to speak to anybody. But on the same day, he was said to have made a detailed confession. Mr Ali Fallahian, the Minister of Information, said that when asked why he had committed such a heinous crime, Mr Nahvi replied that he had carried out the orders of the "organisation", i.e. the MKO. 191

Mr Fallahian had said he hoped Mr Nahvi would survive so that further information could be obtained about his activities. But his accomplice, Mr Bahram Abbaszadeh, who was filmed standing beside Mr Nahvi's bed and who confirmed that Mr Nahvi was the Mashad bomber, was executed by hanging in Zahedan the following day. If the régime had wanted to reveal the truth, they would have reprieved the only known witness, if only until he had given evidence. The authorities were not so keen, apparently, on finding out whether he had any more to say.

Haji Mohammed Ziaie

The death of Tateos Michaelian has to be seen in the context of other clerics who met violent deaths. What all of them had in common was that they had been in trouble with the régime, some to the extent of serving prison sentences, and all had received warnings or threats. Apart from the two Christian ministers Haik Hovsepian-Mehr and Mehdi Dibaj, there is the case of the Sunni cleric Haji Mohammed Ziaie, whose murder has not been laid at the door of the MKO by the régime.

It is significant that Haji Mohammed Ziaie was originally in hot water because of an interview he gave to the Kuwaiti journal Al-Vatan in 1981, in which he condemned the extrajudicial and judicial execution of its opponents by agents of the régime. The day after this interview

¹⁹¹ IRNA, August 1, 1994

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ned Ziaie was originally in hot the Kuwaiti journal Al-Vatan judicial and judicial execution . The day after this interview was published, Haji Mohammed Ziaie was arrested and for two months he was interrogated and tortured. Pressure from his supporters saved his life and secured his release, but from then on he was continually harassed by the state.

In 1992 he went to Mecca for the Haj, and on his return he was arrested on a charge of conspiracy against the régime, and making a contract with enemies of the Islamic Republic. He was again interrogated and tortured, this time for a month, before he was released on bail.

In 1994, Mr Ziaie protested against the destruction of the only Sunni mosque in Mashad, and the mass executions in the province of Baluchistan, perpetrated under the guise of dealing with drug traffickers.

In June 1994, Haji Mohammed Ziaie went to his birthplace, the village Hood, to spend the vacation among family and friends. There on June 10 he addressed worshippers in the Jamea mosque, condemning violations of human rights in Baluchistan. For this, he was summoned by the Office of the Governor of Laar, and told to report to Tehran, where he was made to sign an undertaking not to protest against the repression.

Two weeks later, he was again required to attend the Office at Laar, and there met the same two interrogators. They adopted a more friendly attitude, and said they would like to stay with him for a few days to see his village. In the afternoon, Mr Ziaie brought the two men back to his village, where he entertained them.

On July 15, he was again asked to report to Laar and to come alone. His brother and other members of his family begged him not to go, but he said that as it was still the same two interrogators who had been so friendly and that there was no risk. He left, intending to come back the same day, but was not seen alive again. At 23:00, he did telephone his father-in-law, who lived in Ahvaz, 36 km from Laar, and told him in a shaky and tense voice that he would be home by midnight. When he did not turn up, the family searched the region and even parts of Tehran, without success.

Then on July 20, a message was sent by the Guards Corps Headquarters in Laar to Mehran Headquarters (near the town of Bostak, 50 km from Bandar-Lankeh) and from there to Bandar-Maghoyeh Headquarters, that a body and a car had been found in a valley of the Chah-Mossallam area. It was Mr Ziaie, as a note pinned to his chest announced. He had been beheaded, an arm and a leg had been amputated, and his abdomen had been split.

The papers of the régime said that Haji Mohammed Ziaie had met his death through a road accident, taking a sharp bend at high speed. This was manifestly false, because the victim had no reason to be on the road to Bandar Langeh, nor could the mutilation of his body have been caused by such an accident.

This case has been dealt with at some length, because it forms part of a pattern. Clerics of all varieties who cross the ruling mullahs are liable to meet violent ends, and it is not suggested even by the régime that all of them are murdered by the MKO.

Dr Ahmad Sayyad Molawi

On February 2, 1996, a leader of the minority Sunni Community from Baluchestan in Iran, Dr Molawi Ahmad Sayyad, was reportedly found dead outside the city of Bandar Abbass in South Iran, only five days after being arrested at the airport on return from the United Arab Emirates. 192

"A member of his family said armed elements arrested Dr Sayyad in airport and did not allowwed his reletives or the who were there to see him. His body was found bearing signs of torture. He had previously been detained for about 5 years without charge after his return to Iran in 1990 on completion of studies in Saudi Arabia". 193

He was one of the signatories of a statement calling for Islam and not the Jafari (Shiite) religion to be the official religion of the country. It is said that more than 60 Sunni leaders are languishing in prisons in Iran.194

¹⁹² Amnesty International, February 28, 1996

¹⁹³ Asharg al-Awsat, February 12, 1996

¹⁹⁴ Ibid

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Other Minority Victims

In spite of the fact that under the Iranian Constitution, religious freedom is guaranteed, the practice is the exact opposite. The Baha'is have suffered intense persecution in the past, to the extent that their "existence as a viable religious community in....Iran is threatened". 195 Jews also have been victims of the mullahs; Amnesty International, in their 1995 report, cite the case of a 77 year old, Feyzollah Mechubad, who was executed in February, allegedly because of his religious beliefs and activities. His body reportedly bore the marks of severe torture, including the gouging out of his eyes.

A Sunni convert, Dr Ali Mozaffarian, a surgeon from Shiraz, and a recognised leader of the Sunni community in Fars Province, was executed in August 1992 on charges of homosexuality and espionage. The Shiraz office of the Medical Council (Nezam Pezeshki, the equivalent of the UK General Medical Council) called a meeting to warn doctors not to mourn his death. 196

Ms Ghazaleh Alizadeh

Saturday May 11, 1996 Ms Ghazaleh Alizadeh, a famous contemporary novelist, was killed in northern Iran. Although the "official" cause of her death, as announced, was suicide, her colleagues believe the Government was responsible for her death.

She was a militant writer, who opposed despotism, and was amongst the writers who signed the important open Declaration of 134 Iranian Writers against censorship in the country. As a result, she was summoned and called to account by the authorities where she was terrorized by the Guards.

In the past she was also detained and tortured for sheltering members of the resistance who were on the run.

Reportedly, the night before her death she travelled out of the city of Mashed in good shape, but the next day her strangled body was found in a wood near her home.

¹⁹⁵ UN Commission on Human Rights, E/CN.4/1995/L.90. March 8, 1995

¹⁹⁶ Mehdi Kia, unpublished communication, May 7, 1996

Ahmad Mir Alaee

On October 24, 1995, the body of Mr Ahmad Mir Alaee, a wellknown Iranian writer and book translator, was found in an alley near his book shop in the city of Isfahan. The official postmortem said the cause of Mr Mir Alaee's death was a heart attack, but the private doctors who examined his body first reprted that there were signs of injections on his body.

To the annoyance of the Government, Mr Mir Alaee had recently started the publication "Zayandehrood" magazine. He had been summoned to the security forces' office in Isfahan and had gone there. His family had been ordered not to say anything about the call. The UN Rapporteur on Iran described Mr Mir Alaee's death as suspicious.

Ali Akbar Saidi-Sirjani

On November 27, 1994, Ali Akbar Saidi-Sirjani, 63, a poet, essayist and satirical writer, was reported to have died of a heart attack in an unnamed Tehran hospital. 197 Mr Saidi-Sirjani had no previous history of heart trouble, but he had been in trouble with the authorities because of his writings, which were banned. He had been accused of an amazing variety of offences including drug abuse, brewing alcohol, homosexual acts, espionage and receiving money from "counter-revolutionary circles" in the west. He had been arrested on March 14, 1994 on these charges, but Amnesty International said that the true reason why he was detained was that he had written to the government objecting to the censorship. He was held incommunicado, having no visits from either his family or lawyers.

Amnesty International called for an investigation into the circumstances of Mr Saidi-Sirjani's death, but of course there has been no response from the Iranian authorities. 198

Ahmed Bakhtiar

Ahmed Bakhtiar, 41, an internationally recognised agricultural

¹⁹⁷ IRNA, November 27, 1994

¹⁹⁸ Iran: Amnesty International calls for investigation into death of well-known writer; Amnesty International, MDE 13/WU 02/94, November 28, 1995

Mr Ahmad Mir Alaee, a wellor, was found in an alley near official postmortem said the attack, but the private doctors there were signs of injections

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engineer whose sister is a British citizen, was arrested on February 16, 1992. He was found guilty of being a member of the Fadaye Khalgh, an illegal opposition group, sedition and armed robbery, and was sentenced to death, execution order number 1/B/14829/71, issued by Branch 5 of the Islamic Revolutionary Court. The main factor against him is that he has refused to "repent" his rejection of Islam. Professor Copithorne saw Mr Bakhtiar in Evin Prison and spoke to him there, although they were not allowed to speak openly because all conversations with prisoners by visitors are recorded. Professor Copithorne reports that while Ahmed is not physically ill, his health has suffered and he shows signs of having a poor diet. The UN Rapporteur adds that Ahmed did not seem very alert, but this was not surprising, considering the length of time he has been under sentence of death.

Mr Bakhtiar has told his family that his appeal to the "Pardon Committee" has been unsuccessful. This information was conveyed to him by Ayatollah Mohammed Yazdi, the head of the judiciary, and Mr Assadollah Lajarvadi, head of the Prison Organisation. The last hope now is that the spiritual leader, Ayatollah Khamene'i, will grant Ahmed a reprieve on the anniversary of the Prophet's Birthday, on August 2, 1996. 199

Other Groups

Other groups besides the religious minorities and political dissidents have also been targetted. Alleged economic criminals are frequently executed, such as for example Mr Fazel Khodadad, convicted of embezzling \$300 million from the Saderat Bank, who was hanged on November 22, 1995. The hijacker of an Iran Air Boeing 727 back in 1984, who was unwise enough to return to Iran after 12 years in exile in France last year, was sentenced to death for making war against God. He pleaded in vain that he was not political, and had only left Iran to escape unemployment²⁰⁰. People seen to be an overt political threat are also at risk. Mr Jalaleddin Farsi, the former radical candidate at the 1981 Presidential elections, who had advocated repression and executions, was himself condemned to death after being acquitted in

¹⁹⁹ Unpublished communication from Mr Bakhtiar's family, June 10, 1996

²⁰⁰ Keyhan, November 23, 1996

another court on a charge of murder201, though he was subsequently reprieved after the court agreed to a payment of blood money in lieu of his execution.

In the early days of the revolution, as Ayatollah Khalkhali sped an airport to another sentencing dozens of victims every day, rivers of blood flowed at the hands of the executioners. Today the régime is not publicising the hangings, but there are still enough executions, judicial and extrajudicial, to act as repeated warnings to the people that conduct unacceptable to the régime will be dealt with harshly. Peaceful demonstrations for social and economic demands are regularly dispersed by the Iranian authorities with the use of live ammunition, with casualties numbering in the hundreds. For example on April 5, 1995 tens of thousands of demonstrators gathered to protest about the fresh water situation in a working-class district of south Tehran and a number of individuals began to set fire to buildings. The security forces responded by opening fire on the crowds, killing hundreds.202

The ultimate penalty is only the tip of the edifice of repression, which extends through arbitrary imprisonment, floggings and torture. These methods of controlling the population by terror have been dealt with extensively elsewhere, notably in the reports of the UN Special Rapporteurs, Amnesty International and Human Rights Watch. They are outside the scope of this report, but should be borne in mind when considering the violations of the right to life which are dealt with here.

²⁰¹ Keyhan, February 1, 1996.

²⁰² Washington Times, Iranian troops fire on crowd protesting economic hardships, April 5, 1995

though he was subsequently nent of blood money in lieu of

as Ayatollah Khalkhali sped of victims every day, rivers of ners. Today the régime is not ll enough executions, judicial ngs to the people that conduct ealt with harshly. Peaceful nands are regularly dispersed se of live ammunition, with for example on April 5, 1995 red to protest about the fresh of south Tehran and a number The security forces responded adreds. 202

p of the edifice of repression, nment, floggings and torture. ion by terror have been dealt he reports of the UN Special Human Rights Watch. They hould be borne in mind when ife which are dealt with here.

protesting economic hardships,

Foreign Targets

Iranian agents are engaged world wide in a network of violent conspiracies, and according to the US State Department,

"Iran remains the premier state sponsor of international terrorism... Iran provides arms, training and money to Lebanese Hizballah and several Palestinian extremist groups that use terrorism to oppose the Middle East peace process... Hizballah, Iran's closest client, remains the chief suspect in the July 1994 bombing of the Argentine-Israel Mutual Association (AMIA) in Buenos Aires. This operation was virtually identical to the one conducted in March 1992 against the Israeli Embassy in Buenos Aires, for which Hizballah claimed responsibility". 203

Latin America

The AMIA car bomb explosion on June 18, 1994 left 98 people dead. There are large Muslim and Jewish communities in Argentina and the government of the Islamic Republic of Iran has said that it intends to attract Muslims in Argentina.

A secret document, number 379, at the Iranian Ministry of Guidance prepared in December 1993, some 6 months prior to the explosion in Buenos Aires, observes: "The approximate number of Arabs who have emigrated from the Middle East to Argentina is 400,000 and most of them, some 250,000, are Muslims".

After referring to the influence of the Iranian 1979 revolution on the Muslims in Argentina, the document points out that there are Alavi (an Islamic sect) youths in Argentina who "run away from all embassies and their only hope is the Islamic Republic and more thought should be

²⁰³ Patterns of Global Terrorism, US State Department, April 1996, 24

given to them ...".

Apart from the Iranian Embassy itself, the régime operated in Argentina through: a Cultural Section; the Commerce Ministry's Office; the Jahad Sazandegi (Construction Crusade) Office; Iranian shipping, and the news agency IRNA. After the explosion in Buenos Aires, Iranian Shipping and the news agency transferred their operations to Brazil.

The Cultural Attaché, a mullah named Rab'bani, has clandestine links with a group of extremist Muslims. These elements are under Sheikh Abdul-Karim's supervision. Abdul Karim is an Argentinean Muslim who has studied in the Iranian town of Qom and is proficient in

The agents belonging to the Intelligence Ministry and Qods Corps (the régime's organ for overseas terror operations) use the Commerce Ministry's Office as their cover for travelling to Argentina.

The Qods Force also uses the Construction Crusade Office to advance its operations in Argentina. The person in charge of this office is Sey'yed Jamal Yousofi, a commander of the First Division of the Revolutionary Guards Corps.

During the two years preceding the blast, more than 70 delegations of the régime's terrorist cover organisations travelled to Argentina to set up clandestine branches in that country. One of these is the 15 Khordad Foundation which has placed a US \$2 million bounty on Salman Rushdie's head. (15 Khordad is the date of an uprising in 1963 after which Khomeini was exiled to Turkey and later to Iraq for 15 years).

In 1993, Kamal Za're and Karim-Zadeh of the Qods Corps' logistics section visited Argentina for three months, during which they were very active and had many meetings. To avoid being recognised, they had travelled with personal (as opposed to diplomatic) passports and hardly visited the embassy. These two men belonged to the Qods Force's logistics section which was responsible during the whole period for surveillance, but not for the bombing itself.

Another agent named as a key element in planning the explosion, is Ali Akbar Parvaresh and some other diplomats at the embassy. It was reported that:

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nstruction Crusade Office to person in charge of this office of the First Division of the

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deh of the Qods Corps' logistics, during which they were very d being recognised, they had lomatic) passports and hardly ged to the Qods Force's logistics whole period for surveillance,

ent in planning the explosion, diplomats at the embassy. It "Ali Akbar Parvaresh, an Iranian parliamentary leader and an intimate of the mullahs who control Tehran's ruling fundamentalist régime, went to Argentina last December to put the final touches on an anti-Jewish terror network run by radical Shi'ite Muslims living there...

Ali Akbar Parvaresh is an elected politician and lieutenant of Ayatollah Ali Khamenei, Iran's tough spiritual leader. Other mullahs and Revolutionary Guard operatives have visited Argentina in the recent past to organise the anti-Jewish network and plan terrorist acts.

Similar rings, guided by Iranian embassy staffers holding innocent-sounding jobs, may soon show themselves in other countries. In Buenos Aires, the Iranian consular affairs and financial officer, named Nowzari, was a member of the Revolutionary Guards in Iran before being posted to Argentina. The economic attaché, named Zaanganeh, has had extensive contacts with the Iranian-run Hezbollah, head-quartered in Lebanon".204

Another person who was involved in the explosion is Ahmad Reza Asghari, the Third Secretary to the Iranian embassy in Argentina. He has been a member of the Guards Corps' 7th division and has been transferred to the Foreign Ministry since 1986 for similar operations. He left Argentina just before the explosion.

Salmanpoor, the régime's ambassador in Buenos Aires, too, left for Tehran immediately after the explosion and returned a day later. He brought a message from Velayati to the Foreign Minister of Argentina, the substance of which was not disclosed.

With explosions in Argentina and Panama, and the abduction of a defector in Venezuela, the footprints of Iranian terrorism in Latin America can now be seen more clearly than ever before.

Clarin, the Argentine newspaper, published excerpts from a document which it claimed was a South American intelligence report. The document said Iranian diplomats in the region provided logistical support for the terrorists using the diplomatic pouch. In some cases

²⁰⁴ New York Post, August 28, 1994

the explosives were delivered to the terrorists through Shi'ite communities living in the south of Brazil or in Uruguay.²⁰⁵

Thailand

On the other side of the world, after a five-month investigation into an attempted truck bombing in Bangkok, Thai authorities pressed charges against an Iranian terrorist. Hossein Shahriarifar was arrested on June 3, 1994 in Hat Yai, southern Thailand, with two other Iranians, on suspicion of involvement in making a powerful truck bomb that officials say was apparently intended to blow up the Israeli Embassy in a suicide mission in March.

The Thai government prosecutor charged that Mr Shahriarifar and one or more accomplices built a massive bomb by packing a one-ton steel water tank with plastic explosives and a large amount of ammonium nitrate fertiliser mixed with diesel fuel. The bomb that devastated the World Trade Center in February 1993 also used ammonium nitrate.

The bomb was discovered after a man of Middle Eastern appearance in his thirties bumped into a couple of motorcycles beside a department store in central Bangkok while driving the truck on March 11, 1994. When the motorcycle owners demanded compensation, the man offered them a wad of foreign currency, which they refused. An argument ensued, and the man fled on foot, abandoning the truck. Police officers drove the vehicle to a police station, where it sat for a week before the owner arrived to claim it. It was only then that the police checked the water tank and found the bomb inside, along with the battered body of a Thai driver for the rental agency.²⁰⁶

Palestine

In the Middle East, the mullahs' régime "continued in 1995 to encourage Hizballah, Hamas, the PIJ, the PFLP-GC and other Palestinian rejectionist groups to form a co-ordinated front to resist Israel and the peace process through violence and terrorism." Their plans

²⁰⁶ International Herald Tribune, August 27-28, 1994

²⁰⁷ Patterns of Global Terrorism 1995; US State Department, April, 1996, 25.

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rtment, April, 1996, 25.

are reported to include murdering Yasser Arafat, who said at the Council of the Autonomous Government of Palestine's session on May 23, 1996: "A secret group had decided to kill me. They acted under a fatwa from Iran." He said members of that group were arrested by the police.²⁰⁸

Mr Arafat, who had heard reports of Iranian plans to assassinate him previously, said at the end of 1995: "No one can affect the Palestinian independence decision, it belongs only to the Palestinian people". ²⁰⁹

Jordan

Jordan has also expressed its concern about the threat of Iranian terrorism. In February 1994 it was reported that Jordan asked the Iranian Embassy in Amman to cut down its numbers drastically because it far outweighed its "normal" functions. The Iranian Ambassador Mr Ahmad Dastmalchian is said to have had a major hand in the 1979 Iranian student take-over of the US embassy and the 1983 suicide attack on the US mission in Beirut, according to security officials in Amman. The request from Jordan was made a few days after bomb explosions in Zarqa and Amman. 210

In December 1995, Said Bateni, a deputy chief of mission at the Iranian embassy in Jordan was declared persona non grata due to activities that were incompatible with diplomatic norms. Jordanian officials claimed Bateni's activities suggested he might have been planning sabotage in the Kingdom. ²¹¹ On March 13, 1996 the Jordanian official news agency Petra reported that in a reply to the Jordan Home Minister's protest; an Iranian delegation led by Mohammad Fallah, a Rafsanjani aide, confirmed the Jordanian views and said that they would stop any Iranian group or person interfering with Jordanian internal affairs. ²¹²

²⁰⁸ AFP on May 23, 1996

²⁰⁹ The Independent, December 7, 1995

²¹⁰ Financial Times, Iran Asked to Reduce Embassy, February 4, 1996

²¹¹ AP, December 9, 1995

²¹² AFP, March 13, 1996

Germany

Fear of Iranian terrorism has also been displayed by European governments, as seen for example in Germany and Sweden last year. In August 1995 it was reported that the German government had expelled two Iranian diplomats. The expulsion was said to have taken place after French police questioned two Iranian diplomats over a bomb blast near Champs Elysées. ²¹³

The People's Mojahedin identified the expelled diplomats as the Third Secretary of the Iranian Embassy in Bonn, Ali Osoulli, and a member of the Iranian Consulate in Frankfurt, Seyed Jalal Abbassi. Neither the Iranians nor the German Foreign Ministry confirmed the expulsions. ²¹⁴ American intelligence officials had concluded that Iran's embassy in Bonn was assembling a team from the terrorist group, the Party of God, to violently disrupt the rally in Germany and perhaps assassinate a leading Iranian dissident, Mrs Rajavi. ²¹⁵

About the same time, Germany asked two Iranian intelligence officials to leave the country because of evidence that they were planning potentially lethal operations from German territory, the American officials said.

Sweden

In Sweden two men, Faisal Ibrahim Attar and Ali Reza Abdullah, were expelled under a Swedish law for the control of aliens suspected of plans to commit terrorist acts. Outrage against Tehran forced it to make efforts to hide its hand in terrorism abroad. Iran then began using Hezbollah and other surrogate extremist groups for its assassinations and attacks. According to Swedish investigators, a pivotal figure in this new strategy is Sheikh Ali Hassan Roushandel, an Iranian spiritual leader of the Stockholm mosque who has close links with the Iranian Embassy in Stockholm, where his son works as a Consular Clerk and is in direct contact with Tehran. ²¹⁶

²¹³ Reuters, August 26, 1995, quoting Kayhan, August 25, 1995

²¹⁴ International Herald Tribune, August 28, 1995

²¹⁵ The New York Times, June 25, 1995

²¹⁶ Sunday Times, May 7, 1995

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Bahrain

On June 5, 1996, the Interior Ministry in the State of Bahrain gave details of an alleged terrorist organisation, Hezbollah-Bahrain, led by Ali Kazim al-Mutaqawwi. This man, said to have lived in the Iranian city of Qom since 1983, had acted under the guidance of Ahmad Sharifi, a senior intelligence officer in the Al-Quds forces, which are affiliated to the Islamic Revolutionary Guard Corps (IRGC). Mr al-Mutaqawwi confessed that he and other named conspirators were planning to set up an armed nucleus of 3,000 youths, as a preliminary to ousting the ruling family through the use of military force. In January 1995, Ahmad Sharifi had introduced him to the head of the IRGC's Al-Quds forces, a man named Wahidi, who told him that he worked under the direct supervision of Imam Khamene'i. 217

The main opposition to the absolute monarchy in Bahrain is totally committed to peaceful constitutional reform, but since the Ruler has been implacably opposed to democratisation, the rule of law, and freedom of expression, inevitably there have been some hot-heads who would use violence. Confessions have to be treated with caution in Bahrain, since they are routinely extracted by torture, but it is not implausible that the mullahs have been fishing in troubled waters.

Land Mines

Yet another instance of the Iranian régime's propensity to use extreme violence is the extensive use of anti-personnel mines in Iranian Kurdistan, particularly in the border districts of Salmas, Urmieh, Ushnu, Piranshar and Nagadeh, Sardasht, Rabat, Bokan, Baneh, Mahabad, Saqez, Sanandaj, and Marivan. In the Province of Kermanshah, from which the inhabitants were forcibly expelled during the Iran-Iraq war, the régime has not allowed the people to return since the war ended, and has extensively mined most of the villages and the border areas.

The Parliamentary Human Rights Group has a full list of the villages mined, and an incomplete list of people killed or seriously injured by mines since the autumn of 1993. In 1995, ten civilians including a 14-year old boy Said Erdak, son of Mohsen, a native of the village of

²¹⁷ Wakh News Agency, Manama, in Arabic 13.00 gmt June 6, 1996

Khanalar in the Marivan region, were reported killed by mine explosions, and another five were reported seriously injured including 7-year old Rahim Mohammadi, a native of the village of Gundassara in the Saqez region, who lost a hand and a foot.²¹⁸

²¹⁸ Kurdistan Democratic Party of Iran, unpublished communication, June 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

²⁰⁴ 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

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

Conclusion

The pattern of atrocities described here, in which enemies of the Iranian régime at home and abroad were killed by terrorist shootings and bombings, or by quasi-judicial execution, provides the strongest imaginable grounds for believing that these appalling crimes are planned at the highest levels in Tehran and executed by agents or surrogates of the régime. The mullahs are conducting a ruthless war, against dissident exiles, and anybody seen to be associated with *The Satanic Verses*. The evidence for this charge may be largely circumstantial, but the proof of their criminal links to various terrorist organisations in the Middle East is visible for all to see. As the Washington Post has pointed out, Tehran Radio itself is full of reports of meetings with Hezbollah leaders stationed in Damascus, and the cordial relationships between the mullahs and other groups such as Hamas are admitted.

Inside Iran, it has been pointed out that

"given the lack of basic procedural safeguards in political trials, most of the executions ordered in such cases amount to summary executions" 228

and that of the several hundred executions every year, many are of political dissidents, though on the face of it they are for criminal offences. There are also many deaths which take place in suspicious circumstances, of persons who had done something to annoy the ruling mullahs.

In the past, the work of investigators into Tehran's crimes abroad has been frustrated by the cowardice of western governments. They fear terrorist reprisals, such as those perpetrated in France in 1986, or, even more ignoble, they allow the murderers to escape in case their

²²⁸ US State Department, Country Reports on Human Rights Practices 1995

prosecution and conviction might damage western commercial interests. In the long run, this is a dangerously short-sighted attitude, since it has the effect of encouraging the murderous mullahs to believe they will suffer no real penalties for the export of terrorism. The epidemic of killings of moderate intellectuals in north Africa, the use of explosives against passenger aircraft, and the repeated public threats against the life of Mr Salman Rushdie and those associated with him as translators or publishers, all show that international terrorism not only undermines law and order, but endangers freedom of expression. The need for the utmost firmness against the terrorists and their sponsors in obvious.

So far, the west's responses to the Iranian régime have been too conciliatory and half-hearted. The American policy of appeasement culminated in the notorious Irangate affair, when Tehran showed how the most powerful nation in the world could be made to strike unscrupulous bargains, against its own national interests, by the manipulation of hostages. In a letter from Mr Manuchehr Ghorbanifar, an Iranian who acted as a go-between in secret dealings of Iran with the United States, to his masters in Tehran, the Americans agreed to sell Iran 504 TOW missiles, and to brand the opponents of the régime as terrorists, amongst a number of concessions.²²⁹ More recently, both France and Germany have been prepared to compound with the régime, in the hope perhaps of securing immunity from terrorist attacks and favourable treatment for their national business.

Following the death of Ayatollah Khomeini in 1989, there was a widespread but unfounded belief in Europe that Rafsanjani would lead Iran towards moderation. There was more than an element of wishful thinking in western government's policies, when the end of Gulf War was perceived as leading to huge business opportunities in the rebuilding of Iran's industries. Yet the promised reforms have failed to materialise, and there are question marks over Iran's credit worthiness, as lower oil prices, mismanagement of the economy, and unchecked population growth undermine the country's ability to service its debt. The inability of the clerical rulers, who lack the most elementary training in management, to deal with Iran's critical economic problems, has fomented popular discontent, and thus raised the stakes of internal

Manoucher Ghorbanifar, letter of July 8, 1986, Tower Commission Report, B-132

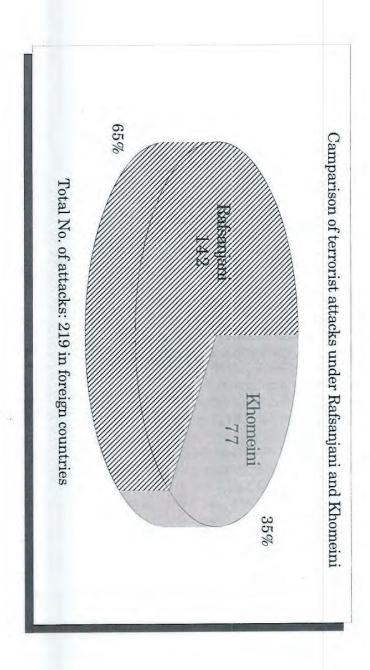
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wer Commission Report, B-132

repression. The mullahs cannot permit real freedom of expression without risking a torrent of criticism and popular demonstrations.

The international community must now take firm and decisive action against Iranian terrorism, as they have done against Libya on far less evidence. The "critical dialogue", the centre piece of the European Union's on Iran, has manisfestly failed to produce any improvement. The violations of human rights within Iran may be no worse than in a number of other countries which have been ruled by criminal psychopaths in recent times, but the mullahs are unique in the scale and extent of their operations overseas. Iranian embassies should be downsized, to reduce the opportunities for infiltration of terrorists under the guise of diplomatic representation; parliamentary and cultural exchanges should be suspended; no new loans should be negotiated by international financial institutions, and there should be no further rescheduling of existing debt; there should be discussions between the US and the European Union about tightening the bans on export to Iran of technology, and investment there by western companies should be discouraged. The world must coordinate action to remove the clerical criminals from government. It cannot, it dare not allow a terrorist state to operate with impunity.



| Venezuela | Germany | Jordan | Turkey | Bahrain | Germany | Country |
|---|--|-----------------------------|--|------------------------------|---|--------------|
| July 1994 | August 1995 | December 1995 | April 1996 | April 1996 | March 1996 | Date |
| 4 diplomats expelled | 2 diplomats expelled | I diplomat expelled | 4 diplomats expelled | I diplomat expelled | Warrant issued to arrest the Minister of Intelligence | Action taken |
| Kidnapping an intelligence defector and trying to smuggle him to Iran | Planning actions against Iranian dissidents in Germany | Planning sabotage in Jordan | Giving aide and providing arms to terrorist to murder Turkish secularist writers; involvement in assassinations of Iranian dissidents in Turky | Aiding terrorists in Bahrain | The German judiciary issued a warrant to arrest Fallahian, the Iranian Minister of Intelligence for his involvment in murdering 4 Kurds in Berlin in 1992 | Reason |

Iranian diplomats and officials implicated in terrorist activities abroad, 1994 - 1996





Cold-blooded murder in a Berlin restaurant, the Mykonos, where four Iranian exiles were assassinated in September 1992. They were Dr Sadegh Sharafkandi, Fathol Abduli, Nuri Dehkudi and Homayoun Ardalan.

Photo Stern, October 21, 1993

ANNEX 5

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[Emblem of the City of Berlin]

THE BERLIN SUPERIOR COURT

In the Name of the People

File No. (1) 2 StE 2/93 (19/93)

In the criminal case against

- 1. Youssef Mohamad El-Sayed Amin, born on 5 November 1967, in Adeissi, Lebanon, no permanent residence in Germany, at present in Moabit Prison, Gef. B. No. 4852/93,
- 2. Mohamad Atris, born on 10 February 1970, in Chihine, Lebanon, resident at 14050 Berlin, 181-183 Spandauer Damm,
- 3. Atallah Ayad, born in 1966 in Borghammoud, Lebanon, resident at 13507 Berlin, 88 Holzhauserstrasse,
- 4. Kazem Darabi, born on 22 March 1959 in Kazeroun, Iran, resident at 10963 Berlin, 38 Wilhelmstrasse, at present in Moabit Prison, Gef. B. No. 4022/92,
- 5. Abbas Hussein Rhayel, born in 1967 (according to him on 12 November 1967), in Khyam, Lebanon, no permanent residence in Germany, at present in Moabit Prison, Gef. B. No. 4747/93,

for murder, etc.,

the First Criminal Division of the Berlin Superior Court, in the trial that took place from 28 October 1993 to 10 April 1997, in which participated:

Presiding Judge of the Superior Court Kubsch, as Presiding Judge,

Presiding Judge of the Superior Court Dr. Noeldeke, Superior Court Judge Klemt, Superior Court Judge Alban, Superior Court Judge Spiegel, as Associate Judges,

Senior Public Prosecutor at the Federal High Court Jost, Senior Public Prosecutor Georg as representatives of the Federal Prosecutor's Office, Attorney Dr. Bungartz,
Attorney Dr. Baumeyer,
Attorney Portius, as defense attorneys for defendant Amin,

Attorney Adam, Attorney Salm, as defense attorneys for defendant Atris,

Attorney Wuerdinger,
Attorney Spangenberg as defense attorneys for defendant Ayad,

Attorney Kihn-Meschkat, Attorney Kolloge, Attorney Panka as defense attorneys for defendant Darabi,

Attorney Hedrich,
Attorney Kaiser as defense attorneys for defendant Rhayel,

Attorney Ehrig as representative of joint plaintiff Abdoli,

Attorney Wieland as representative of joint plaintiff Baddii,

Attorney Schily, Attorney Jeschke as representative of joint plaintiff Ghaderi,

Court clerk Alliger,
Court clerk Lehmann,
Court clerk Schroeder as document clerks of the Court,

in its session of 10 April 1997 has found:

Defendants Darabi and Rhayel are sentenced to life in prison for concurrently committed quadruple murder. The guilt of these defendants is particularly grave.

Defendant Amin is sentenced to 11 years in prison for being an accessory to concurrently committed quadruple murder.

Defendant Atris is sentenced to a total of 5 years and 3 months imprisonment for being an accessory to concurrently committed quadruple murder, concurrently with the sentence by the Tiergarten District Court of 26 May 1993, in combination with the sentence of the Berlin Superior Court of 28 July 1993 - 51 Js 1219/92.

Defendant Ayad is acquitted. He is not entitled to compensation for wrongful prosecution.

The objects mentioned on the list attached as an annex are confiscated.

The defendants who have been sentenced must bear the costs of the proceeding and the necessary costs of the joint plaintiffs. In the case of the acquittal, the costs of the proceeding and the expenses incurred by defendant Ayad are born by the state.

Criminal provisions applied:

Regarding:

Amin: Articles 211, 27, and 52 of the Criminal Code; Atris: Articles 211, 27, 52, and 55 of the Criminal Code;

Darabi: Articles 211, 52, 57a, Section 1, Clause 1, No. 2 of the Criminal Code; Rhayel: Articles 211, 52, 57a, Section 1, Clause 1, No. 2 of the Criminal Code.

Annex to the Sentence

List of Confiscated Objects

Exhibit No. or other description

| TB 12-120762/92 | |
|-----------------|--|
| 1 | "Sportino" black/green plastic bag |
| 1.4 | Machine pistol manufactured by IMI, Israel, Model Uzi, caliber 9 |
| | mm Luger, ID 075884 |
| 4.4 | ilanon (for the monthing piets) |
| 1.4 | silencer (for the machine pistol) |
| 1.4.1 | magazine (for the machine pistol) for 32 cartridges |
| 1.8 | self-loading pistol manufactured by Llama, Model "X-A", caliber |
| | 7.65 mm Browning, ID 517070 |
| 1.8.2 | magazine (for a pistol) |
| 1.0.2 | magazine (tor a pistor) |
| 1.8.1 | 3 pistol cartridges caliber 7.65 mm Browning, |
| 1.8.1.1 | bottom stamp "SBP 7.65", |
| 1.8.1.2 | full metal jacket rounded head round |
| 1.9 | silencer (for a pistol) |
| 1.1 | brown/beige wool scarf, striped length-wise, with a brown fringe |
| 1.2 | knitted black cap with a pompom |
| 1.3 | a left black glove with a beige knitted lining |
| | (A) |
| TB 12-120764/92 | |
| XXVI 1 | BMW automobile, Series 7, metallic sapphire blue, with accessories, FIN WBAF 4106 B 7332529, license no. B-AR 5503 |
| XXVI 1.1.2.1 | a Falk map of Berlin, 56th edition |
| XXVI 1.1.4.1 | a purple Levi's sweatshirt, size L |
| XXVI 1.1.5.1 | dark green knit cap with pompom |
| XXVI 1.1.5.3 | man's black summer trenchcoat size 26 |
| | |

XXVI 1.1.5.7 2 white disposable rubber gloves

XVI 1.2.1.1.2.1 Lebanese passport No. 1024936 made out to Chaouki Hassan Atris

XXX 4.1-4.1.56 white disposable rubber gloves

Grounds:

Part One

Biographies of the Defendants

I. Youssef Amin

Defendant Amin, who was born on 5 November 1967 in Adaissi, Lebanon, and is a Lebanese citizen, grew up initially at the place of his birth in his parents' household together with 14 older siblings. Three of his brothers work in a bank, one is said to be a director of a prison. His father's profession could not be determined with certainty. His mother was a housewife. After attending school for about 2 years, Amin briefly worked as a cabinet maker's assistant. When the family, or at first the defendant and his mother, had moved to Beirut, he attended the practical division of a public school from about 1977 to 1982/83. Due to the upheavals of the civil war, he did not graduate, so that he was barely able to read and write at the time. At the age of about 20, he paid a private tutor who taught him reading and writing. Then he underwent on-the-job training as a plumber for 6 months and worked in that field. In 1989, he was married, briefly. He reported that he agreed to a divorce at the insistence of his wife's fundamentalist Shi'ite parents because he had been accused of having worked for the Amal militia.

In late 1989, Amin, together with defendant Rhayel; Ali Sabra, who is being prosecuted separately; witness Ibrahim El Moussaoui; and two other young men, decided to leave Lebanon because of the dangerous political and military situation and to go to Germany. They flew to Hungary, and with some difficulty found smugglers who helped them to separately get to Germany in late 1989 and early 1990, where they met again in Aachen.

Sometime later, Amin and Rhayel moved to Berlin together where Amin first registered on 1 February 1990 with the alien registration office. On 9 April 1990, he withdrew his petition for asylum, but was granted an extension of his stay, which was extended again, the last time until 5 March 1992.

In Berlin, Amin was temporarily lodged in housing for foreigners in Tegel; later he lived with acquaintances and temporarily with Rhayel in Darabi's apartment at 64B Detmolder Strasse in Berlin-Wilmersdorf. He lived on welfare and wages from occasional jobs which defendant Darabi usually arranged for him. For about 6 months, he worked in witness Adnan Ayad's laundry shop, which later became the Darabi & Ayad Company, in Darabi's grocery shop in Weserstrasse in Berlin-Neukoelln, and at fairs (e.g. the so-called Green Week, and the International Tourism Exchange). Sometimes he also worked in the kitchen of the Habibi Restaurant. This restaurant was a meeting place of Lebanese.

In October 1990, Amin and Rhayel went to Switzerland and asked for asylum there because they had heard that conditions there were more favorable than in Germany. Amin received Sfr. 850 in welfare and Sfr 700 for rent. Off and on he would return to Berlin in order to pick up welfare payments there, too, and to safeguard his residence status. When Amin and Rhayel were expelled from Switzerland, they were deported to Beirut on 20 March 1991. There Amin married his present wife.

In June 1991, Amin returned to Berlin, with the help of a smuggler, via Prague. His wife joined him in October or November 1991 and stayed with her brother-in-law Ahmed

Amin in Rheine, where defendant Amin also stayed most of the time from then on. He often went to Berlin in order to continue to get welfare, to deal with formalities regarding his resident alien status, do occasional work, and to see friends like the defendants Ayad, Atris, and Rhayel, and Shi'ite faithful that he was, to visit the local Imam Djafar Sadegh Mosque. On 19 June 1992, Amin was asked to leave the country. He unsuccessfully contested this decision. A border crossing permit valid until 4 September 1992, was supposed to allow him to leave voluntarily. This, however, he did not do. In December 1992, his wife bore him a son.

On October 4, 1992, Rhayel and Amin were arrested in the apartment of Amin's brother Ahmed Amin in Rheine. He is in pretrial detention on the basis of an arrest warrant issued by the investigating magistrate of the Federal Court of Justice on October 5, 1992. Defendant Amin does not have a criminal record.

II. Mohamad Atris

Defendant Atris, who was bom on 10 February 1970 in Chihine, Lebanon, grew up as the oldest of three children in the household of his parents in West Beirut. His father was a businessman, his mother a housewife. Starting at the age of 4, Atris attended kindergarten, and from 1974 to 1987, the French parochial school "Soeur Francene," from which he graduated with the Lebanese high school diploma. He did not have a specific idea of what he wanted to do, but in any case, he wanted to continue his education and study business management. This turned out to be impossible because of the Lebanese civil war. Since Atris did not see a prospect for finding a job, he thought about leaving Lebanon. These considerations received an added impetus when he came under increasing pressure to become a fighter for the so-called National Lebanese Movement, an association of leftist groups. He did not want to do this although he felt that he should participate in the movement since it dominated the district in which his family lived. He left the country after the National Lebanese Movement had allegedly kidnapped his father and forced the male members of the family to participate in the battles. After his brother Chaouki Atris had already traveled alone to Berlin in February 1989 to join an uncle there, the family followed him, without the father, in March 1989. In late 1989, the father also came to Berlin. The family applied for asylum, but later withdrew the application. They finally received a residence permit which was extended several times. Initially, the family lived in public housing for foreigners, later, they found an apartment in Berlin-Wedding. The Amin family owned property in Lebanon and received welfare, so that they had no financial problems.

The defendant took only a 1-month formal German language course, but learned German quite well outside of school. In mid-1990, he received a work permit. He then worked for several months at the Berlin Steakhouse, then at the Mendoza Steakhouse together with witness Mahmoud Ali Alian, for DM 750 a month (net), until the end of 1991, and after that about 2 months in a pizzeria. Then he was unemployed and received DM 500 a month unemployment compensation. He used his income on himself. At that time, he was mainly interested in sports, discotheques, women, and cars. He became increasingly religious, visited the other defendants, who are also Shi'ite Muslims, the

Imam Djafar Sedegh Mosque, prayed regularly, and sought the acquaintance of defendant Amin because the latter is a descendant of the Prophet Mohammed.

Based on the arrest warrant issued by the investigating magistrate of the Federal High Court on 6 October 1992, later replaced by the arrest warrant dated 21 January 1993, Atris was arrested and placed in pretrial detention on 7 October 1992, where he remained until the arrest warrant was suspended on 28 August 1995. Later, he was rearrested and once more placed in pretrial detention in another matter.

On 26 May 1993, Atris was sentenced by the Tiergarten District Court in Berlin (51 Js 1219/92), in combination with the sentence of the Berlin Regional Court of 28 July 1993, which went into effect on 5 August 1993, for a violation of the law on firearms to 6 months imprisonment. The sentence was suspended on probation for 3 years. It had been found that the defendant had possessed a 9 mm pistol and ammunition from the fall of 1991 to 18 August 1992. By a decision of 10 July 1996, the Tiergarten District Court extended the probationary period by another year until 4 August 1997, because on 23 June 1995, when the Court was in session in this matter, Atris had hit co-defendant Amin in the face with his fist and had therefore been ordered by the Tiergarten District Court on 15 November 1995 (237 Cs 668/95) to pay a fine of 20 daily rates of DM 5 each, which he paid.

III. Atallah Ayad

The defendant Ayad, who was born in 1966 in Borghammoud, Lebanon, reports that he is a stateless Palestinian. After having attended school for 2 years, he joined the Democratic Front, a youth group of the Palestinian Liberation Organization, at the age of 10, went to school for another 3 years, and received military training in Syria in 1979. Thereupon he fought against Israel, based in Lebanon. After the withdrawal of the PLO from Beirut in 1982, he joint the Amal Militia in 1983 and fought as a squad leader against Israel and later against Hizballah. Ayad earned the reputation of being a brave and hard-line fighter and was given the nickname Abu Sakr (Father of the Rock). He was wounded three times.

In April 1990, Ayad fled to Germany and found refuge in Berlin. There are different versions concerning the reasons for his flight. Ayad himself claims that he was threatened by Hizballah; witnesses, on the other hand, reported that he had been convicted by Amal and excluded from the organization for selfish crimes. His wife joined him 2 months later with their two children; a third child was born here. One of the children is handicapped. The family was granted a temporary residence permit and in August 1991 was requested in vain to leave the country.

On 9 December 1992, Ayad was provisionally arrested and held in pretrial detention on the basis of the arrest warrant issued by the investigative magistrate of the Federal High Court on 10 December 1992, until he was exempted from imprisonment on 28 August 1995.

IV. Kazem Darabi

The defendant Darabi, who was born on 22 March 1959 in Kazeroun, Iran, is an Iranian citizen. He has at least two brothers. His father was a businessman, his mother a housewife. Darabi graduated from high school. He did not speak German. Nevertheless, after the fundamentalist Islamic Revolution of February 1979, which he supports, Darabi traveled to Germany to study here and started a German course in Berlin. After serving a 6-month period of practical training from September 1980 to March 1981, he was enrolled for two semesters (the winter semester 1981/82 and the summer semester 1982) at the university for applied science in Hagen and lived in that area.

From 21 July 1982 to 14 October 1982, Darabi was held pending deportation on the basis of a deportation order that was later declared legally binding. The deportation order was based on facts that, because the statute of limitations has run out, can no longer be used (Article 51, Section 2 of the Federal Central Register Law [BZRG]). However, Iran intervened successfully in favor of Darabi and he was able to stay in Germany and receive a temporary residence permit. In early 1983, Darabi moved to Berlin in order to take up his civil engineering studies at the university for applied sciences in the winter semester 1983/84. In late 1985, Darabi married the sister of his future business partner Adnan Ayad. They have three children, two daughters (8 and 6 years old) and a son (5 years old). The older daughter is handicapped.

Since 1983, Darabi has been active in the Association for Islamic Students in West Berlin Inc. (VIS), a gathering point for the partisans of the new Iranian regime. From 1984 on, he was on its board of directors. For a time, he also played a leading role in the umbrella organization the Union of Islamic Student Associations in Europe (UISA). And he was an important figure in the Imam Djafar Sadegh Mosque. However, his success at the university was very limited, so that he was exmatriculated as of 30 September 1987 for sporadic attendance and flunked mid-term exams. He appealed this decision and was admitted once more for the 1988 summer semester.

In October 1988, Darabi bought a grocery store for DM 85,000, at 3-4 Weserstrasse in Berlin-Neukoelln. Where the money came from could not be established. Since Darabi did not yet have a work permit, he ran the store with the help of witness Aydemir, who acted as manager. After the store had burned down in mid-1989, witness Adnan Ayad took over the business. But Darabi continued to work in the store until Adnan Ayad sold it in late 1990. Starting on 1 January 1991, Darabi became a silent partner in Adnan Ayad's laundry business, and in 1992 he joined it as a regular partner. He drew a monthly gross salary of DM 7,000. On 19 January 199 1, Darabi received a residence permit, and on 29 May 1991 he successfully applied for a work permit. On behalf of the Darabi & Ayad Company he bought all sorts of goods, from nuts to clothing, in Iran, which he then sold in Berlin and other places. To what extent the defendant continued his studies, which he has not completed so far, could not be determined.

On 8 October 1992, Darabi was placed under provisional arrest, and has been in pretrial detention on the basis of the arrest warrant issued by the investigating magistrate of the Federal High Court on 9 October 1992.

Defendant Darabi does not have a criminal record.

V. Abbas Rhayel

The defendant Rhayel, who was born in 1967 and is a Lebanese citizen. He grew up in his parents' house in Beirut. His father, with whom he had a very good relationship, ran a small grocery store, where his mother and the defendant occasionally helped out. It could not be determined with any certainty just how many siblings defendant Rhayel has; his own count varied between two and eight siblings. Rhayel attended school from 1973 to 1978, possibly even until 1983, and then he was unemployed. He got occasional jobs, and after his father's death in 1986, he helped out in the store. He also temporarily filled in for his brother at a telephone brokerage office.

In late 1989, he left Lebanon together with Amin, Ali Sabra, and other Lebanese. Via Munich and Essen he got to Aachen, where he applied for asylum. He hoped to be trained in Germany to be an automobile mechanic and get a job in that occupation. Because of the poor accommodations in Aachen, he went to Berlin with Amin, where he again applied for asylum. However, he was referred back to Aachen. Rhayel then stayed in Berlin illegally until his mother sent him a forged excerpt from the civil register under the false name of Imad Ammash and a birth date of 1968. By means of this document, Rhayel obtained a temporary residence permit which was later extended until 18 March 1992.

In Berlin, Rhayel temporarily stayed with fellow Lebanese like witnesses Mahdi Chahrour and Hussein Chamas. He made his living by occasional jobs in the Habibi Restaurant, at the flea market, at a scrap-metal depot, at defendant Darabi's grocery store on Weserstrasse, and by welfare. From time to time, he also succeeded in selling used cars to his brother in Lebanon. Like Amin, he applied for asylum in Switzerland in October 1990. On 20 March 1991, the Swiss authorities deported him to Lebanon, where he allegedly got engaged. However, he soon returned to Berlin alone. As before, he stayed in the apartment of defendant Darabi in Berlin-Wilmersdorf, 64B Detmolder Strasse, which Darabi at that time was using only off and on for his own purposes. Sometimes, Darabi's brother Ghassem also used the apartment. Rhayel was once again on welfare. On the side, he earned some money by working at the flea market with Darabi's brother, also by dealing in used cars, and occasional jobs in restaurants. His religious attitude was evidenced by praying, eating, and drinking in accordance with the rules of the Koran.

After Darabi's brother had returned to Iran in March 1992, Rhayel continued to live in the apartment at 64B Detmolder Strasse, ignoring the order to leave the country issued on 20 May 1992. He made no use of the border-crossing permit which would have allowed him to leave the Federal Republic of Germany voluntarily by 17 September 1992.

On 4 October 1992, Rhayel was placed under provisional arrest in Rheine, together with Amin. He is being held in investigative detention on the basis of an arrest warrant issued on 5 October 1992 by the investigating magistrate of the Federal High Court.

The defendant does not have a criminal record.

Part Two: Facts

On 17 September 1992, shortly before 23:00 hours, Dr. Sadegh Sharafkandi, secretary general of the Kurdish Democratic Party of Iran (KDPI); Fattah Abdoli, the European representative of this party; Homayoun Ardalan, the party's representative in Germany; and Nurullah Mohmadpour Dehkordi, their advisor and interpreter, were killed in the Mykonos Restaurant at 2A Prager Strasse in Berlin-Wilmersdorf by the Iranian Abdolrahman Banihashemi and by the defendant Rhayel. They were shot a total of 30 times with a machine pistol and a pistol. Tabib-Ghaffari, the proprietor of the restaurant, was seriously injured.

I. Historical Background of the Attack

The origin of the crime can be traced back to the historical conditions in Iran following the so-called Islamic Revolution of February 1979 that brought Ayatollah Khomeini to power. The conflict with the Kurdish Democratic Party of Iran intensified under his leadership.

The KDPI was founded in 1945. It is the most important party of the Iranian Kurds, most of whom are Sunni adherents. The party is limited to the Kurdish part of Iran. The KDPI set a goal of achieving autonomy (self-administration) in administration, the legal system, police matters, schools and culture, as well as a measure of democratization for the Kurdish area within Iran. The party was outlawed under the Shah. After the Islamic Revolution, which the party leadership welcomed, the party was able to operate openly at first. This led to hopes that the new government would take a more positive position toward the political demands of the party. Although he did not originally let it be known, leader of the revolution Ayatollah Khomeini was opposed from the beginning to any selfadministration and separate rights for ethnic groups, including the Kurds. He considered such efforts as attempts to leave the "community of believers" (Umma) and to destroy the unity of the state. Ayatollah Khomeini saw such efforts as stemming from a Western conspiracy against the unity of the believers. The problem of the Kurds, in his opinion, could only be solved through destroying the political structures of the Kurdish parties and eliminating their leading personalities. Khomeini began pursuing a course to implement an Islamic state, a so-called "state of God," shortly after the Islamic Revolution. In the end, he was successful. The system is characterized by the "rule of the (religious) jurists," whose rulings also take precedence over the laws. Religious scholars alone are considered competent to decide based on the Koran and the Sharia on all matters of the state, society, and administration of justice. The system presents itself as a "state of God" because it bases itself on the Koran. In the interests of power politics, all opposition was demonized as an attack against this system and therefore an attack against Islam. This ideological-religious facade did not succeed in hiding the real interests that lay behind it, nor did it hide those interests from the defendants either.

As long as this system of rule was not sufficiently secure, there was a phase in relations with the KDPI in which the regime alternated between tactical negotiations and military repression. The Kurds tried to defend themselves with weapons against the repressions. As a result, Ayatollah Khomeini called for a "holy war" (jihad) against the Kurds on 17

August 1979. He declared, among other things, the KDPI to be the party of the devil and outlawed it. The KDPI leaders were considered outlaws and, therefore, were in danger of their lives. As a cover for this power political decision, the KDPI leaders were defamed as corrupt and as blasphemers who deserved to die. This line was continued, and even intensified, after an apparent amnesty in 1983. This policy manifest itself in a systematic elimination by force of all political and ethnic opposition that might endanger the regime's own claim to absolute power. Between September 1979 and November 1979, there were military conflicts followed by a phase of negotiations after witness Abolhassan Bani Sadr was elected president in January 1980. Bani Sadr was a close advisor to Khomeini before the revolution. He supported the separation of church and state and opposed the system of the "rule of the (religious) jurists." He also preferred a negotiated solution with the Kurds. These negotiations failed in the face of opposition from Khomeini, who removed Bani Sadr from power in a coup in June 1981. Bani Sadr and leaders of opposition parties fled abroad and worked through educational activities and propaganda to realize their objectives. The overthrow of the Iranian regime was set as one of the objectives of the KDPI at the fifth party congress in December 1981, because it was felt that without democratization in Iran, there was no chance to gain selfadministration for Kurdistan.

The regime continued single-mindedly to pursued its course of liquidating, in particular, leaders of opposition parties and of smashing Kurdish opposition. In spite of there being various factions in the governing ranks, the regime was unified and united in pursuing this goal. The events in Vienna in the summer of 1989 are typical.

II. Attack on Dr. Ghassemlou in Vienna

Following the end of the Iran-Irak war in the summer of 1988, the Iranian Government entered into sham negotiations regarding autonomy with the KDPI and its secretary general, Dr. Abdul Rahman Ghassemlou. It wanted to create an opportunity to do away with Dr. Ghassemlou. Dr. Ghassemlou was seen as an important and respected leader whom the Kurds were more willing to follow than they were the Iranian Government. Dr. Ghassemlou was willing to enter into negotiations on the assumption that the position of the regime might have changed following the war and because he felt a responsibility to take part in rebuilding Iran. In July 1989, he went to the Austrian capital to resume secret negotiations that had begun with government representatives in December 1988/January 1989. As it turned out, he walked into a trap. Mohammad Hadi Hadavi Moghadam, who will be discussed later, helped prepare the trap. Moghadam, who was in the Ministry for Intelligence and Security (Vezarat-e Ettalaat va Amnihat-e Keshvar, abbr.: VEVAK), the central state secret service, was responsible for gathering intelligence about Kurdistan.

The first round of negotiations began on 12 July 1989. On 13 July 1989, several people forced their way into the room where the talks were being held and opened automatic weapons fire on Dr. Ghassemlou; Dr. Azar Ghaderi, the KDPI's representative in Europe; and on their confidant, Dr. Razoul Fadel, killing them. In order to be sure no one survived, all three victims were shot again to finish them off. The police investigation resulted in arrest warrants on suspicion of murder for Djafari Sahraroodi, the leader of the negotiations for the Iranians, and Mustafa Ajvadi, both members of the Pasdaran

(Revolutionary Guard), as well as for Iranian security officer Bozorgian Assl. There was never a trial because Mustafa Ajvadi immediately went underground and Bozorgian Assl fled to the Iranian Embassy, from where he was later able to leave the country unnoticed. Sahraroodi was permitted to return to Iran on 22 July 1989. The weapons used in the attack—a Beretta 9 mm machine pistol; a Beretta and a Llama pistol, both 7.65 mm; and silencers for these weapons—were found in a plastic bag near a garbage container. The motor cycle used in the attack was left not far from the site of the shooting.

Following this attach, the KDPI leadership broke off all contact with the Iranian Government. This has remained the position of the party to this day. The regime in Iran has continued its course of seeking to find out what it can about opposition parties and groups, including those abroad, and moving against them with force where possible. Ali Fallahian, minister of the secret service VEVAK, was thus able to look back with satisfaction in a television interview on 30 August 1992 and state that they had succeeded in dealing blows—on another occasion it was: decisive and heavy blows—to the cadre, among others the KDPI, including abroad. Their cadre had been forced to flee the country, he said; they were being followed and their central organizations had been infiltrated and their activities were being observed. [Translator's note: The foregoing ends the reference to Fallahian's remarks.] The pursuit of this policy led to the attack on Dr. Sharafkandi and his companions.

III. Preparations for the Attack on Dr. Sharafkandi

Following the attack on Dr. Ghassemlou and his companions, the KDPI showed that it was not shattered but rather continued to be politically active. In Dr. Sharafkandi the party found a leader with political stature who continued the goal of uniting the opposition groups and parties against the regime in Iran. At that point, if not before, Dr. Sharafkandi came to the attention of VEVAK and of the rulers in Iran. They set about to eliminate him.

1. VEVAK's Preparations

Ali Fallahian, as the minister of VEVAK, introduced the initial measures that prepared the way for the subsequent decision to liquidate Dr. Sharafkandi. VEVAK had the general responsibility for gathering intelligence about opposition groups, parties, and individuals within Iran and abroad. Fallahian tasked Mohammad Hadi Hadavi Moghadam with obtaining current information about the KDPI, in particular about its leaders, and with working out recommendations on how to proceed.

Moghadam was particularly well suited for this task because of his earlier activity directly within VEVAK and his participation in preparing the successful assassination of Dr. Ghassemlou and his companions. In the meantime, Moghadam had become director of the firm Samsam Kala—a VEVAK cover firm. As a result, Moghadam was able to pass unnoticed as a businessman, including abroad. The Socialist International was planning on holding a conference in Berlin from 15 to 17 September 1992, and this made it possible for Moghadam to focus on fulfilling the assignment he had been given. Leading representatives of the KDPI had made it a habit to attend the conferences of this organization of social democratic and socialist parties since the conference in Peru in

1981/1982. It was, therefore, to be expected that Dr. Sharafkandi and others would travel to Berlin. The fact that the location was in the Federal Republic of Germany, which had good bilateral relations with Iran, need not hinder carrying out an attack. It was the positive state of bilateral relations that, from the standpoint of Iran, provided a basis for assuming that these relations would survive a strain should there be a suspicion that Iran was involved in what was committed. Moghadam traveled to Germany in the summer of 1991 in order to activate intelligence service sources in Germany, including among the opposition Kurds, and gather information. Moghadam subsequently reported to Fallahian and made suggestions on how to proceed.

2. Decision of the Committee for Special Affairs

Fallahian laid the results of the investigation before the Committee for Special Affairs (Komitee Omure Vijeh). The Committee alone was appointed to decide on particularly important security matters that transcended the competencies of individual departments and which, because of their explosive nature, ought not to be discussed in the official body of the National Security Council. This applied particularly to cases involving the killing of regime opponents abroad. This committee is a product of the system of the "rule of the jurists." It operates outside the constitution and, in fact, stands above the government and parliament. The following belong to the committee: the country's president, the minister of the secret service VEVAK, the person responsible for foreign policy, as well as representatives of the security apparatus and other organizations, and finally the "leader of the revolution." The leader of the revolution is not the spiritual head of the Muslims; rather it is a new position introduced after the revolution in 1979. The incumbent is a high-ranking cleric to be sure, but he exercises a political rather than a religious function. The religious-spiritual leadership lies, as before, alone in the hands of the grand ayatollahs. The decisions made by the official Committee for Special Affairs were prerequisites for carrying out operations, particularly those involving activities abroad. If such an operation involved killing people, the leader of the revolution, acting as the political authority, confirmed the death order. For the leader of the revolution it is a matter of issuing a liquidation order, in secret and without a sentence having been passed, against persons who stood in the way of the Iranian regime's political interests or against others who for other reasons particularly displeased him. As a rule, it was directed against leading personalities of opposition groups or parties. The instructions to kill, also called a command to kill, involved no legal, religious, or other compulsion for Shi'ite Muslims.

Normally that member of the Committee for Special Affairs who had access to the target or could best achieve the purpose of the operation and who seemed best suited based on the capabilities at his disposal was given the responsibility for carrying out an operation approved by the Committee. This Committee member then entrusted the actual accomplishment of the attack to a so-called team leader. The team leader was a battle-tried man who was particularly capable and trained. He chose his people for the hit team and had the final authority to make decisions on the scene, including over people brought in locally.

This pattern was used in the matter at hand of Dr. Sharafkandi and his companions. In 1991, the Committee made a decision to eliminate them.

IV. Preparations for Carrying Out the Liquidation Task

Ali Fallahian, minister for intelligence and security, was given the responsibility for carrying out the instruction to kill. From then on the preparations for the attack on Dr. Sharafkandi proceeded under the code word "Faryad Bozorg Alawi" (freely translated: The desire of the leader of the revolution). Fallahian called on the "Council for Special Operations" (Shoray Amalijat-e Vijeh), the department responsible for such operations within his organization.

1. Final Firm Reconnoitering

Asghar Arshat and Kamali, high-ranking members of VEVAK, entered Germany in June/July 1992 at the request of this Council. Both individuals were members of a VEVAK cover firm. They did not come for business discussions. They had the task of making a final and definitive reconnoitering of the circumstances and possibilities for carrying out the operation and to report their findings to Fallahian. In accomplishing their goals they used a local intelligence service contact, which is normal procedure in such cases of attacks abroad. This man was the defendant Darabi.

Darabi has lived in Germany since 1980. He belonged to the Revolutionary Guards and worked for the Iranian secret service as a freelancer. On instructions from the Iranian secret service, he maintained close contacts with the consular offices of his country in the Federal Republic of Germany, organized political events, used his positions in student organizations to control the views of their members and to propagate the goals of the Islamic Revolution, and to determine the political reliability of his countrymen. His intelligence service activities and the trust he enjoyed among Iran's foreign representations made him particularly well suited for preparing the attack. In addition, Darabi had contacts among adherents of the Lebanese Hizballah. This was important for carrying out the assassination. Hizballah generally can be considered to be an arm of Iranian policy. It was established by Iran and is largely financed, armed, and trained by Iran. This is not done selflessly. Iran uses Hizballah not only to spread the Islamic Revolution in Lebanon, but also to fight the opponents of Iran's Islamic regime with militant means.

2. Darabi's Preparations for the Attack

a) As a loyal and compliant servant of Iranian interests and a convinced supporter of the policies of the Islamic Revolution, Darabi was highly motivated to successfully carry out the task he had been given. He accepted Iran's interest in strengthening its power by eliminating its political opponents. He did not require an order in this regard, and none was given. He felt no obligation just because instructions had been issued to eliminate someone.

Darabi, in accordance with the task, began to assemble a group for the attack. He succeeded in enlisting, among others, the defendants Amin and Rhayal, as well as Ali

Sabra, who is being tried separately. They had belonged to Hizballah in Lebanon, and out of this developed a close acquaintanceship with Darabi.

b) Amin and Rhayel received their military and ideological training, among other places, in Rasht, Iran—a Revolutionary Guards training center. The Revolutionary Guards are a military group very loyal to the fundamentalist Iranian regime. The two came into contact with Darabi in the Imam Djafar Sadegh Mosque, in which Darabi played an important role as an organizer. Over time the relationships grew stronger. For example, their growing relationship led Darabi to arrange a number of odd jobs for defendant Amin. He permitted Amin and Rhayel to help out in the business in the Weser Strasse, and Darabi trusted Rhayel so much that he allowed Rhayel to live in his apartment at 64B Detmolder Strasse by himself. Amin also had Darabi's permission to lodge there during his stays in Berlin. Darabi had retained the apartment after he moved to 38 Wilhelm Strasse and used it now and then for visitors and to temporarily house his handicapped daughter.

It was not because of their feelings of obligation toward Darabi that defendants Amin and Rhayel were prepared to participate in the attack. Rather it was because they were members of Hizballah, which supports Iran's ideology and actively pursues its goals, and because they supported the fundamentalist regime in Iran and wanted to help it solidify its power by getting rid of the leaders of an ethnic group's political opposition. Even though Amin, in contrast to Rhayel, initially vacillated for family reasons about taking part in or withdrawing from the attack, and therefore may not have been firmly committed to the matter, nevertheless in the end he decided to participate because of the above-mentioned political motives. For Amin there was just as little need for an order to participate as there was for Rhayel; they felt no obligation just because instructions had been issued to eliminate someone.

c) Defendant Atris was brought into the group through Amin and Rhayel. He met Amin in the mosque and Rhayel in witness Alian's Rosario Steakhouse. Atris came together with them often in the Arabian Habibi Restaurant, which he frequented regularly. It was here that Atris also came into contact with defendant Ayad, who in turn was well acquainted with Amin. Their relations grew stronger as Atris helped defendant Amin in legal matters concerning foreigners and had him as a guest. Atris took a trip with Rhayel in August 1992 to Tarike Sheile, an activist dedicated to Iran, in Osnabrueck and to defendant Amin in Rheine. Atris and Amin in turn visited defendant Ayad in his apartment.

Atris and Ayad, in contrast to Amin and Rhayel, were not former members of Hizballah. That did not stop Darabi, however, from drawing them into his circle. The fact that Atris was a friend of Amin and Rhayel spoke in favor of doing so. Ayad had the necessary combat experience and was close to Darabi as a member of the extended family. Ayad is the nephew of witness Adnan Ayad, who is Darabi's brother-in-law and business partner.

The motives that caused Ataris and Ayad to take part in the attack were not determined with certainty. They also did not act on the basis of an order or a situation resembling an order.

- 3. The Other Defendants' Knowledge About Plans for an Attack; Further Preparations
- a) Darabi had introduced the basic details of the plan to stage an attack to Amin and Rhayel at the time he recruited them. Ayad also knew about it by the end of July 1992 at the latest. Ayad, on the occasion of a get-together with Amin, Rhayel, and the witness Jarade, who had come from Pforzheim on a visit to Berlin, said in the Habibi Restaurant that there would be "trouble with the Kurds," which might cause him to return to Lebanon. Witness Jarade's suggestion to leave Berlin and go to another city in Germany was dismissed with the remark that "the thing is very big."

The reason why Ayad was worried was not because he had known about the thing, but rather because he had been willing to take part in the attack. Ayad participated in the planning, as far as it involved the immediate actions at the scene of the crime. The planning took shape to the extent that Ayad had an idea of who he would use as shooters in the restaurant, who would keep lookout in front of the restaurant, and who would be the driver of the get-away vehicle.

- b) Amin, Atris, Rhayel, and Ayad—the members of the group Darabi had envisioned as preparing and carrying out the attack—traveled to Bad Homburg at the end of August 1992 to attend a celebration honoring the Schi'ite clergyman Moussa Sadr, the founder of the first political organization of Schi'ites in Lebanon. They were accompanied by Majdi Chahrour, a close friend of Rhayel and Atris. Atris drove the car and proved his driving abilities on this occasion. Atris knew by this time at the latest that an attempt on the life of a Kurdish opposition figure was to be carried out. He knew that in view of the security measures that were to be expected, only a surprise attack promised any success. He, like Amin, Ayad, and Rhayel, was also prepared to take part. Planning of the assignments had at least reached the point that Amin was being considered as the pistol shooter and Atris the driver of the get-away car. It is possible that even at that time Amin was internally rejecting the role being considered for him. It could not be determined what roles Ayad and Rhayel were to receive.
- c) In further preparations for the crime, Darabi bought a mobile telephone on 25 August 1992. This purchase had little to do with business purposes. Rather, it had the purpose of providing an opportunity thereafter to maintain constant and secure contact with the others involved and to allow them to contact him at any time. That was necessary because Darabi was responsible for the local preparations for the operation and had to look after those taking part. Darabi also wanted to leave Berlin before the crime was carried out so as to create an alibi for himself.

4. Scene of the Crime

Tabib-Ghaffari's Mykonos Restaurant was considered a possible place for the attack early on. Iranian-Kurdish opposition members were in the habit of holding their functions here. The initiators of the crime knew this, if not already from the checking done by Moghadam, then at the latest from the information assembled by agents Arshat and Kamali from a traitor among the Kurds. In any event, this is why the provisional planning for the crime was directed at the Mykonos Restaurant. Indications that this

assessment was correct grew when a meeting of opposition figures was held there at the beginning of September 1992 to prepare for the subsequent meeting with Dr. Sharafkandi. The following, among others, took part in the meeting: Dehkordi, the witnesses Dastmalchi and Jafari, other representatives of opposition groupings, and Tabib-Ghaffari, the proprietor. Dehkordi announced that Dr. Sharafkandi would come. Therefore, the discussions dealt not only with the subject of unifying the opposition to the regime in Iran, but they also dealt with potential security measures in connection with Dr. Sharafkandi's visit. The discussions ended with agreement to leave the decision about security measures up to Dr. Sharafkandi.

5. Arrival of the "Hit Team"

The so-called "hit team" from Iran that had been given the task by Fallahian arrived in Berlin around 7 September 1992. In command was team leader Abdolrahman Banihashemi, who called himself "Sharif" during the operation and who was known by this name to the participants. Sharif worked for VEVAK in Lebanon and received training as a guerilla fighter there. He was well suited to carry out the planned attack. He knew his way around Western Europe very well, and he had successfully carried out the assassination of the Iranian pilot Talebi on 20 August 1987 in Geneva. Talebi had fled Iran in an airplane and had settled in Switzerland.

An Iranian named Mohamed also belonged to the team. Team leader Sharif was responsible for actually carrying out the operation. It was his decision which plans and measures that had been prepared to accept and whether additional measures were needed. To fulfill his task, Sharif made contact with Darabi.

a) Darabi's role did not end with the arrival of the team. He was tasked with accomplishing those things that required special knowledge of and connections in Germany and Berlin. Among these things belonged in particular the logistical measures that were necessary for the success of the operation, such as obtaining a conspiratorial accommodation, weapons, photographs of the planned victims, and a get-away vehicle.

Dividing up the work among the local individuals and the hit team, between logistics and actually carrying out the crime, was part of the overall concept of the operation. It served a number of purposes. For one thing, local individuals were supposed to bring the planning and other preparations to such a point that it would give the hit team the optimal conditions for ensuring a successful assassination and they were to support the team with personnel and materials. For another thing, the division of labor made it possible for the hit team to avoid drawing attention to themselves through procuring items needed for the crime or accommodations. The anonymity of the hit team was thus maintained. In addition, the hit team thus avoided all contact in the operational area with foreign representations of Iran, which as intelligence service offices were responsible for obtaining needed items, particularly weapons. Finally, the hit team was to leave the country as soon as possible after the crime so as to be beyond the reach of the investigative organs. The leader of the local forces was available to take care of tasks after the commission of the crime. The responsibilities placed on defendant Darabi fit together with those of the hit team to form a whole. The different areas of responsibility complemented and relied on one another. The success of the undertaking depended on

the smooth functioning together of these different areas of responsibility. Thus Darabi remained integrated in the whole series of events; after the crime he was expected to continue to fulfill his intelligence service functions.

b) Sharif's assumption of command, however, had the effect of excluding Ayad and Atris—neither of whom were members of Hizballah—from immediate participation in the crime. Darabi got his friend and Hizballah official from Osnabrueck Fazjallah Haidar (also known as Faraj or Abu Jafaar) to drive the get-away car. Fazjallah Haidar is being prosecuted separately. Sharif took over further planning.

6. Amin's Change of Location

Amin and his wife had taken up residence with his brother in Rheine. After returning from the Moussa Sadr celebration at the beginning of September 1992, Amin remained in Berlin where the rest of the group Darabi had formed was together awaiting the arrival of the "hit team." Although preparations continued to go forward, Amin returned to Rheine on 10 September 1992. It has not been possible to determine the reasons that led him to do this. It is probable that Amin wanted to see his wife, who was expecting a child at that time, one more time before the crime was carried out. His return to Rheine, however, did not constitute a distancing of himself from participating in the attack.

On 11 September 1992, the preparations entered the final phase. For this purpose, Amin was ordered back to Berlin. Rhayel telephoned him in Rheine. After he informed Amin that Amin should return to Berlin, Darabi took over the conversation to emphasize the point. Amin considered Darabi as not only a person commanding respect, but also as a person to whom he was indebted—Darabi was for him a patron and one who had helped him. Following his arrival he went to the apartment at 64B Detmolder Strasse, which Darabi had placed at the disposal of the participants as their temporary quarters. Sharif and Haidar had also arrived.

7. Transfer to Senftenberger Ring

In further preparation for the crime, Darabi received the keys to an apartment at 7 Senftenberger Ring on 11/12 September 1992. This apartment is in the Maerkischer section in a building complex with more than 200 apartments and thus was well suited for conspiratorial purposes. The apartment was rented by witness Estiaghi. Estiaghi was an Iranian student who had left on 28 August 1992 to spend some time in Iran. Prior to his departure he had asked an acquaintance, witness Bahram Brendjian, to look in from time to time to see that everything was alright. Darabi, who knew Estiaghi well, was aware of this situation. Darabi was looking for a secret accommodation for the participants in the crime, and he turned to Bahram Brendjian and succeeded in getting Brendjian to let him have the keys to the apartment. This provided Darabi the opportunity to house the participants in the apartment on Senftenberger Ring and to keep his own apartment on Detmolder Strasse out of further activities.

After a meeting on 12 September 1992 of Amin, Rhayel, Sharif, and Haidar that took place again in the apartment on Detmolder Strasse, Darabi and Mohamed also showed up there the following day. Because the conspiratorial apartment in Senftenberger Ring had

become available, it was now time to move out of the apartment on Detmolder Strasse. Darabi gave Rhayel the task of removing all signs of their presence and of taking everything with them. According to remarks to Rhayel and Sharif, Darabi thought the apartment might be searched following the attack. Darabi also mentioned that he would go to Cologne or Hamburg. If the investigative offices should approach him, he would say that he had been "in the West."

After the apartment had been thoroughly cleaned, the group moved to quarters on Senftenberger Ring. They had failed, however, to wipe off a fingerprint from Rhayel's left thumb that was on the interior of a glass door of the living room cabinet. Darabi himself drove Amin and Sharif in his own car to the new accommodations. Before he left, he asked Sharif to call him when it was all over. For as yet unexplained reasons, Darabi telephoned once more to the apartment on Senftenberger Ring. Sharif told him not to call any more and let Darabi know that he would call if he needed anything. Such a contact was possible using the mobile telephone, the number of which Darabi gave Sharif for this purpose.

Darabi, his wife, and his children drove to Hamburg late on the evening of 13 September 1992. He arrived at the Savoy Hotel after midnight. He remained in West Germany for a time after that. As intended, he was not in Berlin on the day the crime was committed—17 September 1992.

8. Purchase of the Get-Away Car

On 13 September 1992, Ali Sabra, a close friend of Darabi, Amin, and Rhayel, bought a get-away car with money he received from Darabi for this purpose. Sabra bought the car, a used BMW series 7 with license number B-AR 5503, from a used car market in Berlin-Wedding from witness Oeneri for DM 3,120. Ali Sabra used a forged passport to pass himself off as Muhammed Aslan. Haidar and Rhayel received the vehicle on 16 September at the latest.

9. Assignment of the Shooters

Sharif's plan provided for two shooters. One was to be armed with a machine pistol, the other with a pistol. The job of the shooter with the pistol was to finish off the intended victims thus seeing to it that none of them survived. Amin was to be one of the shooters. When Sharif approached him about this, Amin vigorously declined to participate in the attack in this function. Taking into consideration his family and the imminent birth of his child, Amin was not prepared to accept the role of shooter that was foreseen for him. Sharif tried to get him to change his mind but was not successful. Amin maintained his position, for which he was later called a coward by Rhayel. He did not withdraw his willingness to participate completely; rather, he permitted himself to be assigned a security role, with the job of securing the entrance to the Mykonos Restaurant during the action and thus contributing to the success of the attack. Rhayel took on the role of pistol shooter. Sharif reserved the role of machine pistol shooter for himself.

10. Passport Procurement by Atris

Because of Rhayel's exposed role as pistol shooter, it seemed wise to prepare a means of escape for him. Therefore, Atris was given the assignment to procure a passport for Rhayel. Based on what he already knew about what was being planned, Atris was able to put the pieces together and draw a conclusion. It was clear to him that it dealt with the assassination of people from the Kurdish opposition that had been discussed earlier, that a passport was useful for promoting Rhayel's ability to take part in it, and that the matter was of particular importance. He expected that the attack would result in the death of people. It was not possible to determine whether Atris really wanted the deaths to occur. He accepted such a result; what mattered to him was to make the contribution to the crime that was expected of him. Therefore, Atris agreed to obtain a passport for Rhayel. To accomplish what he had agreed on, Atris stole the passport of his brother, Chaouki Atris. Like Atris, his brother Chaouki also lived with their parents. This occurred at the latest by 13 September 1992.

V. Arrival of the KDPI Delegation

On Sunday, 13 September 1992, Nurullah Dehkordi announced to his wife, Shoreh Badii, that they were to have guests the next evening. Dehkordi and his wife had studied in Berlin and had returned to Iran following the Islamic Revolution. They had to flee with their daughter in 1983/84 and were given political asylum in the Federal Republic of Germany. Dekhordi worked as a caregiver in a home for refugees run by the German Red Cross. He took a position against the Iranian regime and its policy toward the Kurds in public meetings and on television.

Dr. Sharafkandi had asked Dehkordi to take part in the Socialist International conference from 15 to 17 September. Dehkordi had been a confidant of Dr. Ghassemlou, and although he was neither a Kurd nor a member of the KDPI, he worked for its goals in the hope that the various groups opposing the Iranian regime could be brought together and that the Iranian regime would finally have to open up to democratic aspirations. In his political assessment he agreed with Dr. Sharafkandi.

On the evening of 14 September 1992, witness Ezatpour, a longstanding member of the KDPI and the current party leader for Germany; witness Tabib-Ghaffari; and KDPI member Akbali were at Dehkordi's home. They were joined by Fattah Abdoli, who had just arrived from Paris, and Homayoun Ardalan, who came from Mainz. In addition to political conversations, Dehkordi and his guests discussed the planned meeting of the delegation members with local representatives of opposition groups following the end of the Socialist International conference. The political situation in Iran was to be discussed at this meeting and a common position in opposition to the regime arrived at. It turned out that the 18th of September 1992 was not a possible date because delegation members wanted to fly to Paris that morning. At about 9:30 PM, Ezatpour, Abdoli, Ardalan, and Tabib-Ghaffari left to pick up Dr. Sharafkandi, who was coming in from Copenhagen, at the airport. Dehkordi left for a television discussion.

VI. Invitation to a Meeting

By the late evening of 15 September 1992, the decision had been made that the meeting of the KDPI delegation with other opposition representatives should take place on 17

September 1992 at about 7:00 PM in the Mykonos Restaurant. Early Wednesday morning, 16 September 1992, around 1:00 AM, Dehkordi informed the proprietor of the restaurant, witness Tabib Ghaffari, and asked him to prepare the meeting and to invite 10 to 15 guests, whose names he was given. Tabib-Ghaffari carried out the request. He did not invite the guests for 17 September 1992, however, but for the evening of 18 September 1992. The reasons for this could not reliably be explained. It could be that a misunderstanding led Tabib-Ghaffari to confuse the "evening to Friday" (17 September 1992) with "Friday evening" (18 September 1992).

VII. Further Preparations

While this was going on, there was a lively coming and going of Sharif, Rhayel, and Haidar at 7 Senftenberger Ring in further preparation for the attack.

On 16 September 1992, Rhayel and Haidar left the apartment on the orders of Sharif around 9:00 AM to get the weapons. They returned a few hours later. The weapons were in a BMW (B-AR 5503) bought by Ali Sabra. Haidar brought the weapons inside the apartment in a cardboard box; they were then spread out and inspected. The weapons were:

- a machine pistol dismantled into three parts with the manufacturer's imprint IMI (Israel Military Industries), model Uzi, 9 mm caliber Luger, a weapon used in many armies and the origin of which could not be traced, a magazine with 32 shells, and
- A self-loading pistol of the Llama make, Model X-A, 7.65 mm caliber Browning, and magazine for eight shells, which the Spanish manufacturer delivered to the Iranian Army in 1972.

The weapons included two silencers, which fit the two weapons. Although the silencers were not from official manufacturers, they were of good quality.

During the course of 16 September 1992, the group at Senstenberger Ring received information from an hitherto unknown informant that Dr. Sharafkandi's meeting with members of the opposition would definitely take place on the evening of 17 September 1992 at the Mykonos Restaurant. On the orders of and under the leadership of Sharif, the group began a test run around 8:30 PM which served to acquaint all participants with the surrounding area. Sharif ordered Rhayel and Haidar to "go to the place," and subsequently drove to Prager Platz, near the Mykonos Restaurant, with Amin using a bus and the subway. Mohamad and a man in a Mercedes 190, who also participated in the attack but who remains unidentifiable, also turned up there. They separated after having looked the area over and practiced the movements for the attack. Rhayel, Haidar, Sharif, and Amin returned by separate routes to the apartment. The four spent the night prior to 17 September 1992 there.

VIII. Sequence of Events

1. On the morning of 17 September 1992, Rhayel and Haidar provided a black/green sports bag with the inscription "Sportino" for transporting the weapons while carrying out the attack. After that, they left the apartment with Sharif. Rhayel and Haidar returned around 4:00 PM. Sharif returned around 7:30 PM and ordered those present to pray. Afterward they waited for the telephone signal agreed with Mohamed to begin the attack.

At this point, at the latest, they were in possession of photographs of those to be killed. These photos were inspected by Sharif and Rhayel, after the latter was tasked as the pistol shooter.

2. The Mykonos Restaurant was empty when Dr. Sharafkandi, Dehkordi, Ardalan, and Abdoli arrived between 7:30 PM and 7:45 PM on 17 September 1992. They went into a back room which was separated from the main room only by an open entrance. A discussion unfolded on who was responsible for the mistake in the invitation, but the point was not clarified. Dehkordi and the proprietor Tabib-Ghaffari began calling some of the missing persons to the meeting by phone. Most of them could not be reached; others could not come because of business commitments (Dr. Farahati) or illness (Rousta). In response to the telephone calls, only witnesses Dastmalchi, member of the Central Council of the Republic Party of Iran, and later, around 10:00 PM, Ebrahimzadeh Esfahani, member of the Central Council of the People's Fedayeen-Majority, who was invited for 18 September 1992, and witness Sadeghzadeh, who had not been invited originally and who had no party affiliation, arrived at the restaurant. Sadeghzadeh helped the proprietor Tabib-Ghaffari prepare food in the kitchen and later also helped serve it. He later sat at the group's table, after having received permission to do so, and listened to their conversation.

Around 10:00 PM, witness Boehm entered and took a seat in the front part of the restaurant at a table facing the entrance. A young couple, who had nothing to do with the incident, left the restaurant shortly afterward. Since the student Voltschanskaya helped serve the guests that evening, as she did occasionally, Tabib-Ghaffari had time to sit down with Dr. Sharafkandi and his guests and participate in the discussion.

3. The telephone rang around 9 PM in the apartment at Senftenberger Ring. That was the signal agreed with Mohamed, who was already near the restaurant, that the victims were in the restaurant and that the attack could be carried out. Immediately after the call, Sharif gave the order to leave. He ordered Rhayel and Haidar to drive to "the place." They used a BMW bought by Ali Sabra. He told Amin to come with him. Sharif and Amin took a taxi to Kurt Schumacher Platz. They got out and went into the subway, exited again and took another taxi at a nearby taxi stand to the subway at Berliner Strasse. In order to cover their tracks further, they went into the subway and left by a different exit and walked a wide arc around the scene of the crime to Geisenbergstrasse. There they met Mohamed. Sharif left to check the positions of the other participants. In the meantime, Mohamed and Amin continued walking. They met Sharif again as he was speaking to the unknown driver of a Mercedes 190. When the conversation ended, Sharif walked to Prager Platz by way of Grainauer Strasse and Prager Strasse. Mohamed and Amin followed. At Prager Platz Mohamed walked off and Rhayel met up with Amin. Both met with Sharif at Prager Platz. Sharif had in the meantime retrieved the sports bag from the get-away vehicle parked near Prinzregentenstrasse. The machine pistol was in the bag, in any case. Whether Rhayel already had the pistol on him or received it later could not be clarified. Sharif, Amin, and Rhayel walked together to Prager Strasse to the Mykonos Restaurant. Haidar and Mohamed waited in the car in Prinzregentenstrasse. A few meters before the entrance to the restaurant, Sharif said that he would be the first to

enter the restaurant; Rhayel should follow him. Amin was to guard the door and let no one enter.

4. Around 10:50 PM, Sharif and Rhayel went into the restaurant through the entrance door, which Amin shut after them. Sharif, who walked ahead, and Rhayel were so familiar with the place and the persons that they were able to carry out their attack within a very short time without confusion about the identities of the victims. Sharif has a Uzi machine pistol in the sports bag; Rhayel had the pistol on him. Both had their weapons covered, so that witness Boehm did not notice them. Sharif turned to the left of the larger guest area, where no one was sitting at the time, and walked toward the room lying behind it, in which Dr. Sharafkandi and the other participants were. They were sitting at two tables pushed together, which were set up vertically in the right-hand part of the room, from the perspective of a person entering the room. The following were sitting at the table (clockwise): from the front left Mirrashed, Dastmalchi, Abdoli, and Ardalan; at the head Tabib-Ghaffari; from the rear right to the front Dr. Sharafkandi, Dehkordi, Embrahimzadeh Esfahani, and Sadegzahdeh. The lower end of the table was not occupied.

The participants were eating and conversing and not aware of any danger. They had not noticed the attackers come closer. Sharif had pulled his turtleneck sweater up to under his eyes. Rhayel made himself unidentifiable by pulling a cap down over his head. Before Dr. Sharafkandi or any other of the participants could recognize the significance of the situation, much less react to it, Sharif, who was standing behind witness Dastmalchi, called out in Farsi "You sons of whores." Sharif immediately opened fire. He aimed at and shot Dr. Sharafkandi, Dehkordi, Abdoli, and Ardalan through the sports bag, which he was holding with both hands. He fired a total of 26 shots. Witness Tabib-Ghaffari, who was seated at the head of the table between Dr. Sharafkandi and Ardalan, was obviously not a target. He was hit by two bullets, however; one in the leg and another in a kidney. With the concurrence of the Federal Prosecutor's Office, the Court proceeded according to Article 154a, Section 2 of the Rules of Criminal Procedure [StPO] and omitted this offense from prosecution. Rhayel fired four shots at Ardalan and Dr. Sharafkandi to finish them off. He shot Ardalan, from whom signs of life were likely still visible, in the back of the head. He shot Dr. Sharafkandi twice in the head and once in the neck. Before that or afterward, Sharif shot Dr. Sharafkandi in the stomach from a distance of less than 5 centimeters.

Dr. Sharafkandi received a total of 10 shots, mainly in the head, neck, abdomen, lung, liver, and kidney areas. He died immediately. Ardalan was hit in the chest by three shots from the machine pistol, another in the right groin area, and a further one, probably a ricochet, grazed his right knee. The wounds thus inflicted would not have led to his death had immediate medical assistance been available. The shot in the head was the immediate cause of death. Abdoli, who was closest to the attacker, was hit by four bullets from the machine pistol. A shot in the heart was the immediate cause of death at the scene of the crime. Dehkordi was hit by seven bullets, but did not die immediately. He was taken to the Steglitz Clinic, where he died at 25 minutes past midnight from internal and external wounds.

IX. Movements of the Perpetrators After the Attack

1. After the attack, Sharif, with the sports bag, and Rhayel, with the pistol still in his hand, fled. In front of the restaurant they met Amin, who had moved some steps away from the entrance. All three ran to the car in Prinzregentenstrasse in which Haidar and Mohamed were waiting. Sharif sat in front; Amin and Rhayel sat in the back with Mohamed. In driving away, Haidar nearly ran into a bicyclist. During the drive, Amin took off the jacket of his suit and his shirt—which he was wearing over another layer of clothing—and put them in a plastic bag. On Sharif's orders, he also picked up the pistol, which Rhayel had pushed under the passenger's seat, either with Rhayel's cap or another wool cap in order not to leave any fingerprints behind and put it in the sports bag. Sharif and Rhayel left the car at the Bundesplatz subway station at the corner of Detmolder Strasse and Bundesplatz. It was agreed that they would meet later in the apartment on Senftenberger Ring. Amin and Mohamed left the car at the corner of Konstanzer Strasse and Hohenzollerndamm. The further movements of Mohamed could not be clarified.

Amin did not want to return to the apartment on Senftenberger Ring. He turned toward the subway at Konstanzer Strasse. On the way there, he deposited the plastic bag with clothing on the pavement. After that he took the subway toward Rathaus Neukoelln, in order to spend the night with his acquaintance Dhaini at 60 Karl Marx Strasse, where he was also registered as living. When Amin arrived, Dhaini would not let him stay, but permitted him to take off and leave some items of clothing. Afterward, Amin went to his friend Mohammad Abdallah, where he spent the night.

2. Haidar parked the car at 34 Cicerostrasse and threw the sports bag with the weapons and some of the items of clothing under a car parked in front of 33 Cicerostrasse. The bag and contents were found by witness Wank, an employee of the Berolina automobile sales company. On 5 October 1992, a print of Rhayel's right palm area was found on the pistol's magazine. The car, which blocked the entrance to Berolina, was later moved to Schwarzbach Bridge, without anyone being aware of its significance. On 7 October 1992, it was found based on information provided by Amin. The police found inside, among other things, the shell of a 9 mm caliber bullet, which had been shot from the machine pistol, and a plastic bag with a print of Amin's left index finger.

- X. Other Escape Movements; Handing Over of Passport by Atris; Darabi's Behavior
- 1. After the attack, Sharif left Berlin by airplane and returned to Iran via Turkey. There he was rewarded for the successful accomplishment of the attack with a Mercedes 230 and the participation in profitable business transactions.
 - 2. Mohamed, who had an Iranian passport and an airline ticket, also left by plane.
- 3. On 18 September 1992, Amin took a train to visit a friend in Hanover. The next day he continued to Rheine. He wanted to stay in Germany with his family and initially did not have any plans to escape.
 - 4. Rhayel remained in Berlin for several more days but it is not known where.
- 5. Haidar returned to Osnabrucck. Darabi was to meet him there, on his way from witness Saghafi's, on 18 September 1992 in order to find out details from Haidar about how the attack had gone. Darabi was responsible for looking after the local perpetrators. Darabi attempted to announce his visit via mobile telephone, but Haidar could not be reached. Darabi, therefore, spent the night in nearby Georgmarienhuette with witness Fneiche, a mutual friend of his and Haidar's. In the early morning of 19 September 1992, Darabi left Fneiche's apartment to drive to Haidar. It is not known whether he met him. In any case, Haidar visited Amin in Rheine on 20 or 21 September 1992. He gave Amin DM 2,000 and noted that it came from Darabi and informed him of Darabi's instruction that he should flee Germany using the money. Amin declined to do so at this point.

In the meantime, Darabi had returned from Osnabrueck to Berlin, where he arrived during the night of 20 September 1992.

On 23 September 1992, Darabi had a telephone conversation with Haidar. Nothing is known about the content of the conversation. On the following day, however, Haidar again drove to Rheine. Rhayel had in the meantime arrived there from Berlin. Fears had arisen that Rhayel could have left prints on the pistol. Rhayel, therefore, considered it wise to follow Darabi's request and leave Germany using a passport provided by Atris. On 24 September 1992, he let Atris and witness Hussam Chahrour drive him to Rheine to Amin, where he stayed temporarily. Rhayel intended to flee to Lebanon via Amsterdam. For this purpose, Atris and Hussam Chahrour drove to Amsterdam to inquire about departure times. The results of their inquiries were found on a piece of paper and a business card. Rhayel asked witness Hussein Kanj about entering the Netherlands without going through border controls. Rhayel also met with Haidar at Amin's in Rheine on 24 September 1992. After a discussion, Haidar left Rheine again.

In the following period, Rhayel continued to urge defendant Amin, with increasing urgency, to flee. Amin finally agreed. For his escape, however, he needed a passport that had to be altered by attaching his photo. Atris, who was back in Berlin, made his contribution to this effort. In the early morning hours of 2 October 1992, he brought witness Chaachou from Berlin to Rheine. Chaachou had his passport with him, which was to be Amin's. Accompanied by Rhayel, Amin had photos taken at a photo shop. Chaouki Atris's passport that had been altered with Rhayel's photo was available on 3

October 1992. Amin's passport was still with the counterfeiter when Amin and Rhayel were taken into preliminary custody on 4 October 1992 shortly after 10 minutes after midnight in the apartment of Amin's brother in Rheine at 17 Heriburgstrasse.

Haidar returned to Lebanon on 23 September 1992 from Berlin-Schoenefeld. Darabi, who was worried about Haidar, called witness Fneiche several times to ask whether Haidar was still in Germany or had left the country. Darabi was relieved when Fneiche told him that Haidar had returned to Lebanon with his family. Haidar's wife later called the wife of witness Moussa Hassan from a hotel in Tehran.

- 6. After Haidar's successful escape, Darabi flew from Hamburg on 27 September 1992 to Tehran with a one-way ticket in order to make a report and to accept an invitation to a 1 October 1992 wedding. Since developments following the attack made a return feasible, Darabi booked a roundtrip ticket from Tehran to Hamburg and left the return date open. He was not aware of Amin's and Rhayel's arrest when he returned to Berlin on 4 October 1992. After he found out about the arrests, he called Ali Sabra on 5 October 1992, who, in addition to Ayad, had also remained in Berlin. Afterward Darabi decided to return to Iran on 8 or 9 October 1992. He was arrested, however, on 8 October 1992 in his apartment at 38 Wilhelmstrasse.
- 7. Ali Sabra became nervous after he had heard about the arrests of Amin and Rhayel in the news, had seen their photographs in the press, and had spoken with Darabi. He also decided to leave Germany. He flew from Berlin-Schoenefeld via Sofia to Lebanon on 20 October 1992 without his family. At Berlin-Schoenefeld he withdrew his asylum application. In Lebanon he later served guard duty at the headquarters of the Hizballah religious leader, Shaykh Fadlallah.
- 8. Ayad also considered it wise to leave Germany after the arrests of Amin and Rhayel. He did not, however, have the financial means or a passport. He called witness Merhi in Stuttgart several times and asked him for his passport and money. After Merhi declined to give him either, Ayad turned to witness Mohamad Jarade in Pforzheim and announced his visit for the weekend of 10/11 October 1992. He did not turn up, however. On 25 October 1992, Ayad called witness Jarade again. He described his involvement in the attack and asked for DM 2,000 for an airline ticket. Jarade was also not willing to help. At the beginning of November 1992, Ayad met in Heilbronn with Jarade and witness Chehade, the Amal representative in Germany and other European countries and chairman of the "Solidarity With Lebanon" association. Ayad told him of his involvement in the attack, named all the participants to the extent they were known to him, and asked for money, which he was denied. On 9 December 1992, Ayad was taken into preliminary custody at the hostel in Berlin where he and his family had found accommodations.
 - 9. Atris had already been arrested on 7 October 1992.

Section M: Historical Background and Information on the Involvement of Iranian Leaders in the Attack

I. Historical Background

1. Prof. Dr. Steinbach, the director of the German Oriental Institute in Hamburg as expert witness, as well as witnesses Hosseini, Ezatpour, Bani Sadr, Dr. Ganji, and Mesbahi gave information on the history of the Kurdish Democratic Party of Iran, its political program, and the policy of the Iranian Government vis-a-vis that party, especially after the Islamic Revolution of February 1979.

Especially the explanations of the expert witness made it clear that after the Islamic Revolution, Iran established itself as a theocracy, and that the "rule of the jurists" enables the powers that be to determine the contents of the legal order themselves. All opposition movements are systematically suppressed. Their representatives, as witnesses Bani Sadr and Dr. Ganji explained, are persecuted both at home and abroad. The Iranian leadership views the efforts for autonomy of the Kurdish opposition, and the Kurdish Democratic Party of Iran, which represents it, to be a special threat to its claim to power. Therefore, the regime, in spite of different currents in its own ranks, mercilessly fights such efforts and is systematically pursuing their elimination. Even during the time of Khomeini's cooperation with Bani Sadr, the former refused to consider any other solution of the problem besides that of the liquidation of the Kurdish leaders.

2. As noted in the descriptions of the facts of the case, witness Mesbahi reported on the sequence of decisions regarding the persecution of people the regime disapproved of. He described the processes of decision-making in general, and then mentioned essential details regarding the attack in question. The information received through him on members of the secret service and on talks with Banihashemi show that in the case at hand, the same procedures were followed as usual.

An important role in the decision-making processes is played by the "Committee for Special Affairs." It appears to be a consequence of the unlimited "rule of the [religious] jurists," is not subject to the Constitution, ranks practically above the government, and decides on important security measures which cross the competencies of individual ministries and are not suited for discussion in the official institution, the National Security Council. In addition, it is involved in all cases regarding the killing of opponents of the regime abroad. Mesbahi received his information on the structure, function, and staffing of the Committee through a member of that body and a confidant working in the National Security Council.

3. Expert witness Prof. Dr. Halm elaborated further on the position in the Committee for Special Affairs of the Leader of the Revolution, who is a permanent member of the Committee. According to his statements, the office of the Leader of the Revolution, also known as "Religious Leader," was created after the Islamic Revolution. The Leader of the Revolution is a constitutional power, although he is not the highest religious authority. The latter is vested in the Grand Ayatollahs. The Leader of the Revolution fulfills a political function. Therefore, an instruction by a body like the Committee for

Special Affairs for the killing of a person disapproved of by the regime, has nothing to do with religious matters even if it is signed by the Leader of the Revolution; it is strictly a governmental-political act. An instruction for liquidation, as in the case at hand, must not be confused with a "fatwa," a religious decision pursuant to the Koran and the Sharia on different actions that can be of an every-day nature. Even a fatwa which holds that a certain behavior (such as apostasy) is worthy of the punishment of death, is not an instruction for killing. It is up to each Shi'ite to decide whether he will comply with a fatwa or not. It is not a matter of concern here whether a fatwa issued by Khomeini may, because of his importance, have a different impact; this is not the case here. The killing of a human being on the basis of a fatwa is, however, not considered murder under Islamic law.

The explanations of expert witness Prof. Dr. Steinbach that the Kurdish opposition is being persecuted in a brutal power struggle, not for religious, but for national political reasons, points in the same direction. Therefore, it must be noted that references to religious aspects in the persecution of political opponents serve merely as a transparent cover for pure power politics. Under these circumstances, there is no question at all that an instruction to kill can serve as a legal or religious justification of the deed. The accused were quite aware of that in view of the fact that in this case, the political leaders of an ethnic group which finds itself in opposition to Iran were to be liquidated.

4. The [Iranian] regime uses VEVAK, the Revolutionary Guard, and the Lebanese Hizballah for the persecution of its political opponents. Expert witness Prof. Dr. Steinbach gave a convincing explanation of the Islamic Revolutionary Guards, their functions, religious-ideological orientation, and their connections to Hizballah in Lebanon. His explanations concur with the information acquired by the Federal Office for the Protection of the Constitution and the testimony of witnesses Ismail El Moussaoui, Hussein Kanj, and Mesbahi. Ismail El Moussaoui and Hussein Kanj had acquired their knowledge as active Hizballah fighters; Mesbahi had his information from inside the regime.

The Revolutionary Guards organization arose after the Islamic Revolution as a militarily organized force with its own army, air force, and navy. Its members are loyal followers of the fundamentalist system of Iran, and their main function is fighting the domestic opposition and supporting the Islamic struggle abroad. One of its foreign activities was the building up of the Shi'ite Hizballah (Party of God) in Lebanon after the Israeli invasion in mid-1982. Hizballah was recruited largely from splinter groups of the "Party of the Disenfranchised," which had been founded in the mid-seventies by Shi'ite Imam Musa Sadr, and which after his death was renamed Amal (Hope). The Revolutionary Guards further undertook the furnishing of Hizballah with weapons and the military training of its members. According to witnesses Ismail El Moussaoui, Hussein Kanj, Bani Sadr, and Mesbahi, there also were [Hizballah] training camps in Iran. According to expert witness Prof. Dr. Steinbach, Hizballah is ideologically, financially, and militarily dependent on Iran and serves Iran, like the Revolutionary Guards, both as a tool for spreading the thinking of the Islamic Revolution and for fighting against opponents of the regime. This struggle, which is increasingly financed by donations, protection money, and drug trafficking, is led by decentralized groups with special military and terrorist functions. The testimony of expert witness Prof. Dr.

Steinbach concurs with that of witness Ismail El Moussaoui that Hizballah is not organized and quartered in barracks like an army, or is characterized by the principle of command and obedience. According to the expert witness, whoever identifies with its goals and acts accordingly, is considered a member; it is a "community of activists." Witness Moussaoui expressed this very concisely, saying that Hizballah is a militia without a military command structure; the members come and go, and work on the side, as Amin had worked as a plumber and electrician. For participation in battles or operations, no orders were necessary. The testimony by the expert witness that this included attacks, kidnappings, and hijackings for which Hizballah itself had claimed responsibility, is corroborated by information acquired by the Federal Office for the Protection of the Constitution. This accords with the explanations of expert witness Prof. Dr. Steinbach and the testimony of witness Mesbahi that members of the Lebanese Hizballah are the preferred tools for terrorist attacks abroad, which was also noted with regret by witnesses Mohamad Jarade and Chehade.

II. Connections With the Attack

- 1. Mesbahi testified that the Committee for Special Affairs had entrusted the responsibility for the implementation of the instruction to kill Dr. Sharafkandi to Minister of Intelligence and Security Fallahian, as he had found out from two staff members close to the Committee and a source in the security office of the Leader of the Revolution. This accords with information received from the Federal Office for the Protection of the Constitution on 19 December 1995, and the testimony of witness Gruenewald. The body tasked with the further implementation, which official Gruenewald called the Unit for Special Operations (Amaliyat-e-Vige), is, according to Mesbahi, the "Council for Special Operations" (Shoray Amaliyat-e-Vige or Shoray Amaliat-e-Viyeh), which after the establishment of VEVAK in September/October 1985 had absorbed several nameless groups which had earlier carried out attacks abroad and had subordinated them directly to the VEVAK minister. Now, all its members are VEVAK officers.
- 2. General leads concerning the manner and procedures of the preparation of terrorist attacks and the gathering of intelligence on the victims can be found in an (undated) report of the Iran Working Group of the Federal Office for the Protection of the Constitution which was drafted in Mr. Gruenewald's office. It says, among other things:

"The last phase of the gathering of intelligence on the habits of a targeted person (usually leading officials) which is necessary for the preparation of an attack is carried out by a newly arrived operational team, before the so-called hit team goes into action."

This information, which the Federal Office for the Protection of the Constitution supplemented with the official report of 22 April 1993 by Mr. Gruenewald's office, that Iranian intelligence operatives had been in Berlin and had scouted out locations for the attack, was further complemented by Mesbahi with specific information concerning this attack. Mesbahi had found out from his acquaintance Hadavi Moghadam and a member of a front company which was also involved that Moghadam had carried out the preliminary reconnaissance posing as a businessman, and had activated sources and

passed on his findings and proposals to Fallahian. From conversations with Arshat in 1994, Mesbahi found out that Arshat and Kamali had carried out the final reconnaissance as operational team in late June/early July 1992, before the hit team entered Germany. According to Mesbahi, access for agents Arshat and Kamali to local sources was facilitated by a special code word which Moghadam had agreed on with the local sources and passed on to VEVAK.

3. Mesbahi himself did not know the time of entry of the hit team which, according to official Gruenewald, was established by reliable information acquired by the Federal Office for the Protection of the Constitution. However, he gave a more detailed description of the leader of the team, Banihashemi, who was known to defendant Amin only as Sharif, and stated that:

When he was still working for the Iranian secret service, he had heard of Banihashemi. Banjhashemi had been the leader of an operational team for missions abroad, and on 18 August 1987 he had led the attack on pilot Talebi, who had fled Iran in a Phantom fighter plane and was living in Geneva. Mesbahi had forgotten the name of the victim and the exact date of the attack; however, he remembered the dates when confronted with the facts taken from a list of attacks on Iranian opposition figures drawn up by KOK Schweikert. Mesbahi described how Banihashemi, during a chance encounter in Tehran, had mentioned that "the operation with the Kurds in Germany" had been conducted under the code word "Faryad Bozorg Alawi," which gave the go-ahead for the attack from Fallahian, that he had led the team, that he had received an envelope which, although this was not expressly mentioned but was clear to Mesbahi, contained photographs of the victims, and that after his return to Iran, he, Banihashemi, has been rewarded with a Mercedes 230. Mesbahi saw him leave in such a car after the encounter. Later, Mesbahi heard that Banihashemi had also been rewarded with participation in a profitable import business. The fact that Banihashemi was willing to make such risky statements is due, in Mesbahi's opinion, to the fact that two mutual friends from the intelligence community were also present at the meeting, one of whom was a high-ranking VEVAK official. In addition, the trustworthiness of the interlocutors had been stressed at the beginning of the encounter.

The Court bases its reliance on the credibility of this account on the general comportment of the witness and the additional circumstance that Mesbahi gave particularly revealing details of Banihashemi's flight from Germany. Without being aware of Mr. Gruenewald's testimony that the hit team had left Germany after the attack in accordance with a carefully devised exit plan, Mesbahi reported that Banihashemi had managed to reach Istanbul by air without running into any trouble, but that some unexpected difficulties had arisen there which annoyed Banihashemi. For that reason, he had not taken the very next flight to Iran, but had driven to Ankara and had flown to Tehran from there. This testimony provides such a great number of credible elements that the facts on which it is based can reliably be taken for statements by Banihashemi.

4. The Federal Office for the Protection of the Constitution, too, had received leads to the code word of the enterprise. In the above-mentioned report of the Working Group, it is mentioned as "Bozorg Alavi." Mesbahi, who claims to have heard the code word from

Banihashemi who, given the circumstances, should know best, explained that it was actually "Faryad Bozorg Alavi" (Desire of the Leader of the Shi'ites).

Mesbahi knew the function of a code word from his own experience. The code word could be used to contact VEVAK, which had to give the final go-ahead for an attack right before it was carried out. As he admitted to the Federal Prosecutor's Office in clarification of his testimony, he himself had gotten the go-ahead by telephone through use of the code word from Mohammad Hashemi (cover name Musawizadeh), then Deputy to VEVAK Minister Reyshari, for the planned attack on Hadi Khorsandi in London (1987/1988), which he later prevented.

Mesbahi's explanations that the execution of an attack abroad was made contingent on a special permission to proceed makes sense. This was to ensure that newly arising short-term circumstances could be taken into account, circumstances that could have made the attack inadvisable at the last minute. For this purpose, Mesbahi reports, a special telephone connection was established that was discontinued once the operation was competed. This is corroborated by the testimony of witness Bani Sadr, who confirmed this practice on the basis of information from other sources.

III. The Expertise of the Witnesses and Experts Is Beyond Doubt

1. Expert Witnesses

Prof. Dr. Steinbach is a renowned Orientalist who has become qualified through his scientific work in this field. His interest in the development of Iran into an "Islamic Republic" and frequent trips to Iran provided him with experience and local information as well as with contacts with high-ranking Islamic clerics.

Prof. Dr. Halm is a teacher of Islamic sciences and director of the Oriental Seminar of the University of Tuebingen, which suffices to establish his expertise in the subject.

2. The Witnesses

a) Hosseini, is a member of long standing of the Kurdish Democratic Party of Iran, and since the death of Abdoli he has been representing his party abroad. Ezatpour also has been a member of the KDPI for many years and represents it in Germany as successor to the murdered Ardalan.

Dr. Ganji was a teacher at the University of Tehran and during the Shah's regime was Minister for Education, and for a time also Minister of Science and Higher Education. After fleeing Iran, he established in France the constitutional-monarchist organization "Flag of Freedom for Iran (F.F.I.), which he heads.

Bani Sadr was President of Iran from 25 January 1980 until he was fired by Khomeini on 20 June 1981. In exile in France, he publishes the j oumal "Enghelabe Eslami," which reports on the situation in Iran.

The above-mentioned witnesses are in close contact with members of their organizations and with sympathizers who inform them about developments in Iran and provide them with information not publicly available from inside the Iranian administration.

b) Mesbahi was station chief for the Iranian intelligence service in France for several years until late 1983. As he admitted, his activities were also directed against opposition figures living in exile. After he was expelled from France on 24 December 1983, he became intelligence coordinator for Europe. In this function he entered into contact with Consul General Farhadinia in Hamburg, who was also an intelligence officer. Then he was active on Iranian Government business and even participated in international negotiations.

After having been arrested in November 1988, for alleged treason due to remarks made during negotiations on the release of hostages, and imprisoned for 120 days, he quit government service. He was under house arrest for a year and a half. He was also restricted in his business ventures which he undertook after being released from house arrest. His company was closed down for alleged contacts with U.S. authorities. He had to cede the premises and shares in his company to front companies for VEVAK. Finally, the Committee for Special Affairs decided to have him killed and to stage a truck accident for this purpose. He was secretly warned of these plans on 18 March 1996 by a high-ranking VEVAK official (whose name and precise function the Court is withholding in this verdict for reasons of the safety of the informant) who recommended that he leave the country. On 18 April 1996, he managed to flee to Pakistan, leaving his family behind.

The Court verified Mesbahi's testimony to the extent possible. This was advisable not only because the Court had to get a comprehensive idea of the credibility of the witness, but also because the Iranian Government tried to discredit Mesbahi's testimony. In late November 1996, the Iranian Foreign Ministry transmitted an undated and unsigned dossier to the German Ministry of Justice through the German Embassy in Tehran and the Iranian ambassador in Bonn. The dossier denies any connection between Mesbahi and the Iranian intelligence service or other government agencies and charges him with criminal acts. Yet another questioning of Mesbahi showed that the dossier was not the legal assistance that had been offered, but simply an attempt to sow confusion. However, this attempt was unsuccessful. On the contrary, the evidence collected from other sources confirmed a number of Mesbahi's statements, and they did not disprove any of them.

aa) Concerning Meshabhi's intelligence activities in France, the Court received information through official channels via the Federal Intelligence Service and the Federal Office for the Protection of the Constitution from a foreign intelligence service to the effect that Mesbahi had officially been designated as economic attache at the Iranian Embassy, but in reality was the intelligence station chief. The target of his intelligence activities had been exiled opposition figures.

It is true that the dossier confirms that Mesbahi studied in Paris and worked at the Iranian Embassy. But it claims that this activity had been "under the aegis of an intelligence service." The Court understands this phrase to refer to an intelligence activity on behalf of a foreign intelligence service, since it can hardly be assumed that the Iranian Government intended to communicate that Mesbahi carried out his intelligence activities on its own behalf. Such an admission would reflect back on the Iranian Government and prove its own espionage activities. However, there are no indications that Mesbahi worked for a foreign intelligence service. His expulsion from France was

occasioned by his intelligence activity on behalf of the Iranian intelligence service. This is also confirmed by the fact that he continued to be used in Iranian Government work.

bb) Mesbahi reports that as early as 15 days after leaving France (on 1 January 1984), he entered the Federal Republic of Germany on an Iranian official passport. This is true. The Court has a photocopy of the official passport No. 016317 made out in Mesbahi's name and bearing his photograph. The visa and entry stamp prove that he entered Germany on 16 January 1984, and that by 17 January 1984, Mesbahi received a residence permit. In a letter dated 17 January 1984, the Consulate General of the Islamic Republic requested the Foreigners Registration Office in Hamburg to issue a residence permit for Mesbahi for 2 months. Mesbahi was not traveling as a tourist or businessman, but on an official mission, since the Consulate General in its letter to the Foreigners Registration Office pointed out the fact that Mesbahi was carrying the above-mentioned official passport.

The residence permit was apparently issued, since Masbahi traveled unhindered around Germany. However, the intelligence services kept an eye on him during his stay in the country. As can be seen from the agency report of 11 February 1997, the Federal Office for the Protection of the Constitution kept him under surveillance from 19 - 20 January 1984, and on 15/16 February 1984, and on 22 March 1984. The surveillance was conducted because an Algerian named Yayia Gouasmi was suspected of having been involved in the preparations for an attack on the Iranian dissident Harandi, who, Mesbahi says, was journalist Khosrow Harandi. The surveillance showed that Gouasmi, Mesbahi, and Consul General Farhadinia engaged in conspiratorial behavior.

Concerning that case, Mesbahi had already made statements when questioned by the Federal Prosecutor's Office in September 1996. He correctly gave the name of the team leader as Gouasmi and described Farhadinia's intelligence activities, which is also expressed in connection with his description of Darabi's intelligence activities. Mesbahi further stated that he had prevented the attack. This again is corroborated by the information provided by the Federal Intelligence Service in the agency report of 29 January 1997.

The surveillance also showed that on 22 March 1984, Mesbahi visited the Iran House in Cologne, where he later reported to have met Darabi.

cc) The dossier contained claims that since 1984 Mesbahi had tried in vain to land a job with VEVAK and in the Foreign Ministry. In February 1987, he had been found to be unqualified for such a job. These allegations are disproved by documented information.

The Court's photocopy of a registration form of the Montana Hotel in Geneva proves that Mesbahi stayed there on 24 April 1984, presenting his official passport No. 016317, registering as "chargé de mission." This lends credence to Mesbahi's claims that he participated in April and May 1984 in negotiations at the Iranian UN Office in Geneva.

According to his statements, Mesbahi left VEVAK in February 1986. Thereafter, he conducted political and strategic studies at the Ministry of Foreign Affairs and was charged with taking part in negotiations abroad. It has been confirmed that he carried out official government activities. On 8 July 1986, he made another trip to Geneva. Once again, as the registration form shows, he used his official passport No. 016317.

dd) Mesbahi further reported that starting in March 1987 he participated at the request of the Iranian President together with Said Emami, then Director General of VEVAK, now Fallahian's deputy, in negotiations on the release of German, French, and American hostages. He also came to Germany, together with Emami, for negotiations in the case of kidnapped Hoechst manager Cordes. This has been documented.

Mesbahi's Iranian passport No. 2696362, a photocopy of which is in the Court's possession, shows a visa issued by the German Embassy in Tehran for a visit to the Federal Republic of Germany from 19 June 1988 to 18 September 1988. The still existing ticket stubs show that Mesbahi and Said Emami arrived in Stuttgart on the same Swissair flight from Geneva.

ee) Other registration forms in the Court's possession prove, contrary to the allegations made in the dossier, that Mesbahi continued to make repeated official trips to Geneva from late 1986 to June 1988. As he reported, he had several passports for such missions of which one was issued in his cover name Reza Abdollahi. These statements are true.

As attested to by two registration forms from the Rodania Hotel, Mesbahi used his Iranian tourist passport No. 307198 issued in his cover name Reza Abdollahi. On 5-8 May 1988, he used his tourist passport No. 2696362 at the Ramada Hotel. On the registration form there is an additional entry, not by Mesbahi's hand: "Dr. Sahraoui." This addition is of great importance. As Mesbahi reports, Dr. Sahraoui at that time represented the German side in the Cordes case, and Mesbahi recalls that he visited him in his hotel.

ff) Mesbahi reported that even after he left government service, he was involved in international negotiations as advisor to the government, and that he was present at official functions in the summer of 1993 on the occasion of the state visit of Georgian President Shevardnadze. That, too, is true.

A still photograph from a Georgian television broadcast procured by the Federal Prosecutor's Office shows Mesbahi behind one of two men who are exchanging documents. Mesbahi explained that this was taken on the occasion of the signing of an agreement between the two countries, and that one of the politicians was Adeli, the chairman of the Iranian State Bank at that time.

gg) It is remarkable that the dossier covers a period of several years, but does not completely cover it. The above-mentioned trips by Mesbahi are not mentioned at all, in order to avoid letting on that he was acting on behalf of the government.

The same purpose is served by the claim in the dossier that Mesbahi had tried "to establish contacts with some political intermediaries, which in some cases led to results." With this neutral phrase, the dossier refers to the Cordes kidnapping. It was advisable not to conceal this matter altogether, since the authors of the dossier had to assume that the German side has information on that case.

hh) The dossier confirms Mesbahi's claim that he had been under arrest in November 1988. As reasons, however, it only mentions vaguely and in general terms "numerous offenses" and his "connections with foreigners."

ii) With its accusations that Mesbahi had abused his business activities, written uncovered checks, and defrauded his business partners, the dossier tries to damage the witness's integrity. Mesbahi denied the accusations and claimed that his business activities had been solid, but that he had been forced out of business by his former superior in VEVAK, Hashemi. Furthermore, he charges, the dossier mentions only fractions of the events.

The Court was unable to clear up these facts. Against the reliability of the claims in the dossier speaks the fact that it claims that Mesbahi bounced a check on 18 November 1996, i.e., more than 6 months after he fled the country. Even if it could be proven that Mesbahi behaved incorrectly in his business dealings, this would not essentially damage his credibility regarding the circumstances that support his testimony in the matters we are concerned with here. Furthermore, in discussing general subjects like the field of activity of the student organization UISA, of the Islamic Centers and their importance in spreading the philosphy of the Islamic Revolution, as well as the state foundations and institutions in Iran, Mesbahi's answers are corroborated by the information provided to the Court by expert witness Prof. Dr. Steinbach, other expert witnesses, and reports by the Federal Office for the Protection of the Constitution and the Berlin Land Office for the Protection of the Constitution.

c) Mesbahi's behavior while being questioned also does not give any indication that the truth of his statements should be doubted.

Mesbahi, who had earlier given information to the Federal Prosecutor's Office in another case, was questioned extensively for 5 days during the trial. He responded quietly, thoughtfully, and differentiated matters with exactness. He carefully distinguished between matters he knew from his own experience, information he had from conversations with people involved in the case, and information gained by hearsay. In judging the reliability of information he had by hearsay, he named and characterized the sources and their function within the administration, to the extent he felt he could do this without endangering others. His sources are mostly people in high positions active in areas giving them access to pertinent information.

The witness openly and unhesitatingly admitted when he did not have detailed knowledge of individual subjects. This became especially clear in his answers to questions regarding the preparation for the attack by local personnel in Berlin, the actual commission of the crime, other accomplices besides Banihashemi, and the weapons used. Concerning these subjects, which clearly were of great importance for establishing the facts of the case, Mesbahi frankly stated that he did not have precise knowledge in these regards. This is an important circumstance. It allows the conclusion that Mesbahi did not describe any facts which he had not witnessed himself, or about which he had not heard directly. He further explained that he could not answer the question of who had transmitted the telephone signal to go ahead to the apartment on Senftenberger Ring. Mesbahi limited himself to the information that Moghadam had access to sources in Kurdish opposition circles who would serve him.

Of special value were the details Mesbahi supplied on the decision-making processes in the persecution and liquidation of politically bothersome persons and on the tasks of the Iranian foreign missions and other institutions, as well as on the relations between Iran and Hizballah. This information provided a broad basis for verification and could be compared with other evidence. The verification showed that the highly intelligent Mesbahi has a good memory and reported on not generally accessible areas precisely and with insight. He admitted that he had at first advocated the Iranian Revolution and acted on its behalf. However, the increasingly clear development of the regime in recent years into an arbitrary dictatorship under the guise of the "rule of the jurists," with the consequent increasing loss of legitimacy of the leadership with the population, the police-state-style surveillance intruding even into the families, as well as the plan to kill him, had moved him to leave Iran and testify.

The fate Mesbahi has suffered did not affect his behavior on the witness stand. He always tried to be objective and did not fall for the temptation to make statements that exceeded his knowledge, even in the case of questions of special importance.

3. In evaluating the testimony of the witnesses, the Court took the fact into consideration that the persons giving the testimony are opponents of the present regime in Iran. The Court critically evaluated their statements. It realized that the witnesses themselves were doing their best to limit themselves to reporting on facts alone. It also reduced occasional expressions of opinion through questioning to the actual facts. And it compared the reported facts against the expert opinions of the expert witnesses in order to verify them. There were no notable differences or contradictions either in the area of the historical development of the KDPI, or in the areas connected with the Iranian leadership's policy vis-a-vis the Kurdish opposition, the attack on Dr. Ghassemlou, the relations between the Iranian leadership and Hizballah and the Revolutionary Guards, the functions of the leadership of the Iranian Government, or the Iranian and Islamic institutions in Germany. There was unanimous agreement on the fact that because of its efforts to gain autonomy, the Kurdish opposition was consistently attacked for reasons of power politics, pursued even in foreign countries, and its elimination was pursued with systematic brutality.

IV. Details

The persecution and liquidation of opposition figures or otherwise politically uncomfortable persons are clearly expressed in statements by eminent personalities of the Iranian leadership, as well as in attacks traceable to Iran.

1. Khalkhali Interview

In 1979, Ayatollah Khalkhali advocated in unmistakable words the killing of persons for no better reason than that they take a negative attitude toward the regime in power. These statements are quoted in the verdict of the Paris Criminal Court of 16 June 1995, in combination with the verdict of the Paris Court of Appeals dated 31 March 1994, based on the final report of the investigating magistrate. The verdict involved six defendants convicted in absentia of the killing of Shahpour Bakhtiar, the last prime minister of Iran before the Islamic Revolution, and his secretary, and who were sentenced to life in prison. The reasons for the verdict include, as background information for the attacks

discovered on 8 August 1991, the fact that another attempt on Bakhtiar's life had been made as early as in 1980:

"It is obvious that Bakhtiar's political activities, especially since he went into exile, are the reason for his murder. Ten days after the return of Ayatollah Khomeini in 1979, he was forced to go into exile, and he succeeded in secretly making his way to France.

"On 14 May 1979, Ayatollah Khalkhali, the 'Religious Judge and President of the Revolutionary Tribunal' gave an interview to the Iranian newspaper 'Kayhan.' In it, he announced his intention 'to destroy the depraved on the earth.' He also declared that 'those who have left Iran after the Revolution, must be considered genuine criminals, who deserve the death penalty,' expressly naming Bakhtiar among them. On 7 December 1979, after the murder of Mustapha Chafik, a member of the Shah's family, in Paris, the Ayatollah repeated his threats against Bakhtiar. Declaring that the Islamic fedayin were continuing their activities in Europe and the United States in order to discover the criminals and punish them for their actions, Ayatollah Khalkhali mentioned Bakhtiar as a target on the grounds that 'he is conducting a campaign against Imam Khomeini from his Paris exile.""

2. The Killing of Dr. Ghassemlou

As Bani Sadr reported, the basic policy of persecuting and liquidating opponents of the regime, which Khalkhali officially advocated in 1979, was directed, by Khomeini's orders, especially against leading personalities of the Kurdish opposition and was continued in the attack on Dr. Ghassemlou on 13 July 1989 in Vienna, which shows a number of parallels to the crime at the Mykonos Restaurant.

- a) Witness Hosseini reported on the reasons that prompted Dr. Ghassemlou to negotiate with the Iranian leadership and on the policy pursued by the KDPI after the killing.
- b) The information concerning the course of the attack, the victims, and the suspected perpetrators is based largely on the results of the investigations conducted by the Federal Police Directorate in Vienna. Officer Ostrowits, who led the anti-terrorist investigation unit at the time, testified about these investigations. This witness has extensive knowledge of the subject matter. He knows it from his own experience as well as from information provided him by his men. He is familiar with the content of the documentation and has drawn up, together with his group, a summary of the results of the investigation. The information on how Dr. Ghassemlou came to secretly negotiate with representatives of Iran is also based on his investigation.

Among the people killed during the attack was the European representative of the KDPI, Dr. Ghaderi Azar. The same happened to KDPI European representative Abdoli in Berlin. The position of Dr. Razoul Fadel, who was also killed in the attack, corresponded to that of Dehkordi. The attack can be traced to high Iranian Government circles. The Iraqi Kurdish leader Barzani, who negotiated with the suspected killer Sahroodi on other matters, told the Austrian investigating authorities that Sahroodi was

then commander of the Revolutionary Guards. This information fits with the testimony witness Dabiran gave the Court that Sahroodi is now deputy chief of staff of the Revolutionary Guards.

According to the testimony of expert witness Prof. Dr. Steinbach, the Vienna operation was directed from Iran. He based this opinion on numerous talks he had in Iran. It also corresponds to the information provided by the Federal Office for the Protection of the Constitution in its agency report of 19 December 1995 that the team that conducted the operation in Vienna was from the Council for Special Affairs of the Foreign Operations Directorate of VEVAK. Witness Mesbahi confirmed this. Mesbahi further stated that the Iranian leadership had Dr. Ghassemlou liquidated because they feared, due to Dr. Ghassemlou's political weight and his willingness to negotiate, there might be a crossborder political agreement among the Kurds. Mesbahi testified that at the direction of the Committee for Special Affairs—the seeds of which already existed under Khomeini, but which was established as a permanent institution only after the appointment of Revolutionary Leader Khamenei-Judi and Jafari, two member of the Intelligence and Operations Department of the Revolutionary Guards in Kurdistan, had drafted a report, together with Mohammad Madi Hadavi Moghadam, a VEVAK official responsible for collecting information on Iranian Kurdistan. This report was transmitted to the Committee via VEVAK. Thereupon the Committee decided to have Dr. Ghassemlou killed. Because of his successful work in the Ghassemlou case, Moghadam was charged by Fallahian with working out proposals for a solution in the case of Dr. Sharafkandi.

It is not only the direction of the attacks in Vienna and Berlin that are the same; the conduct of the operations also shows parallels. In Vienna, each of the victims was hit by several shots and then a coup de grâce; in Berlin, too, the same happened to some of the victims (Dr. Sharafkandi and Ardalan). In both cases, the weapons used in the attack, including in the Vienna case, a Llama pistol, were discarded by the killers when they ran away. The get-away vehicle (a motorcycle in Vienna, and a car in Berlin) had been acquired by third persons with forged papers and was abandoned after the operation not far from the crime scene.

c) Expert witness Prof. Dr. Steinbach, however, was of the opinion that there was a difference in the political constellation of the attacks against Dr. Ghassemlou and Dr. Sharafkandi, in spite of the fact that they had the same political motive and the same goal. He saw the difference in the fact that Austria is of little importance for Iran. Germany, on the other hand, is considered the "gateway to the West" due to its constructive policy vis-a-vis Iran. An operation in the Federal Republic would, therefore, have serious consequences for the relations between the two countries.

These considerations are no obstacle to the comparability of the attacks in Vienna and Berlin. Iran's interest in maintaining good international relations with the Federal. Republic of Germany could be superseded by other interests, especially since, as the expert witness explained, there are "Khomeinist" forces in the political system in Iran, i.e., hardliners like Khamenei and Fallahian, who wield considerable influence and whose goal it is to undermine the relations with the Western countries and "reduce them to zero."

It was in keeping with the attitude of the Iranian regime, which is based on considerations of power and not committed to the rule of law, to indulge, because of its

good relations with the Federal Republic of Germany, in the false hope that there would be no serious reaction to an official involvement in the killing. The fact that the killing took place in the Federal Republic of Germany and not in Paris, where Dr. Sharafkandi lived and worked, and where, as in Berlin, he did not have any police protection, and where encountering him would have been far more predictable than at the Berlin conference, gives weight to this consideration.

3. Attack on Javadi in Larnaca

On 26 August 1989, Iranian opposition figure Bahman Javadi was fatally wounded by shots in the head by two killers at Larnaca, Cyprus. Mesbahi testified in this connection that he had heard from a high-ranking Iranian intelligence officer who was involved in the case and was working at the time at the Revolutionary Tribunal that a political decision about the killing of Bahman Javadi had been made and that members of the Revolutionary Guards had then carried out the order.

According to KHK Hoffmann of the Federal Office of Criminal Investigation, who had collected detailed information on the case from Inspector Krokos in Nicosia and had received photocopies of some documents from him, the weapon used for the attack was a self-loading Llama pistol, model XA, No. 496919, 7.65 mm caliber, with silencer. Interpol investigations showed that the weapon had been delivered to the Iranian Defense Ministry in Tehran on 30 March 1971 and was abandoned after the attack as those in the Vienna and Berlin cases. Forensic physicist Braune from the Federal Office of Criminal Investigation examined the pistol and silencer in Nicosia and, since the exhibit could not be taken out of Cyprus, he made imprints of the silencer. In his official expert opinion, he came to the conclusion that the silencer is the same as that used at the Mykonos Restaurant with regard to its external diameter (39 mm), the thickness of its walls (2 mm), and its construction. Both silencer tubes produced by extrusion molding show the same distinctive tool marks in the form of parallel grooves. The fact that experts can tell only that there is "a great likelihood that they come from the same piece of pipe" is, in the Court's opinion, due to the fact that they had only an imprint to work with in the case of the silencer used at Larnaca. Add to this that the markings on the silencers, "L 131" (Berlin), and "L 139" (Larnaca) was significantly similar as to type and size, and in the shape of the letter "L" and the numbers "1" and "3", as the Court was able to see on photographs.

Attack on Mohammadi in Hamburg

The type of manufacture of the silencers and the tool marks also provide connections with an attack made, as testified to by officer EKHK Riege, who had investigated that case, on 18 January 1987 in Hamburg-Bergedorf on former Iranian pilot Ali Akbar Mohammadi. Mohammadi had fled to Baghdad, Iraq, with his brother and a brother-in-law in an Iranian airplane. In April 1986, he had come to Germany, where he was granted political asylum. On the day of the attack, he was killed by two attackers carrying a self-loading Llama pistol model XA, 7.65 mm caliber, with silencer, and a Beretta, model 1934, 7.65 mm caliber, by several shots to the head, the neck, and chest. The weapons were discarded along the way the attackers fled.

5. Fallahian Interview

Minister for Intelligence and Security Fallahian, in an interview on 30 August 1992, made statements that reflect the same thinking that occasioned the Vienna attack and was expressed in Khalkhali's remarks. Fallahian's interview was recorded by the BBC in Farsi and rendered into English by an interpreter. The Court received a translation into English through the Federal Office for the Protection of the Constitution. In this interview, Fallahian, as translated into German, says, among other things:

"... As far as fighting the splinter groups is concerned, they are, as we have already explained in earlier interviews, classified essentially into three groups by the Ministry (the Ministry of Intelligence and Security is meant): splinter groups of adherents of a Leftist ideology; those of adherents of a Rightist ideology, and eclectic splinter groups.

"All in all, the splinter groups active in this country at present are also involved in espionage activities, because of the limitations imposed on them by their nature, for which reason they are forced to work with foreign services, so that governments which oppose us provide them with financial assistance and intelligence information. We have succeeded in infiltrating the central organizations of these splinter groups and in arrestig most of their members.

"All in all, there are at present no active splinter groups in this country. They were forced to flee the country. We continued our operations. We are now pursuing them and keeping them under surveillance outside the country. We have infiltrated their central organizations and are kept informed of their activities. With God's help we have succeeded in keeping all their activities constantly under control.

"They were involved in several bombings in our country, where they distributed leaflets and publications. In the course of last year, we seized about five tons of posters and leaflets that were supposed to be smuggled into this country. We have also succeeded in striking many of these splinter groups abroad and at our borders. As you know, one of these splinter groups is the Democratic Party (of Kurdistan), which operates through two bodies, a main group, and its auxiliary group in Kurdistan. Then there is the Komeleh (the former Kurdish Communist Party). Last year, we managed to inflict decisive strikes on their cadres. The main group and its auxiliary group were hit severely and their activities were curtailed..."

Fallahian's remarks are by no means empty propaganda. They reflect, as expert witness Prof. Dr. Steinbach explained, Iran's political line of forcible elimination of the Kurdish opposition. Eighteen days after the interview, the attack on Dr. Sharafkandi and his colleagues took place in Berlin.

Mesbahi's testimony that a confidant had given him access to the tape recording of a session of the National Security Council after the attack on Dr. Ghassemlou fits perfectly into this line of thought. This body is made up, in accordance with Chapter 13 of the Constitution, of the President of Iran as chairman, and the chiefs of the three powers, the ministers of the interior, of VEVAK, and foreign affairs, as well as two representatives appointed by the Leader of the Revolution. Its function is to coordinate the political and intelligence activities within the framework of the overall security policy. It came to the conclusion, Mesbahi says, that the KDPI as the main force of the Kurdish opposition had

not been decisively weakened by Dr. Ghassemlou's death, and that his place had been taken by a politically eminent personality (meaning Dr. Sharafkandi). The conclusion of this consultation indicates that the same measures would be taken against Dr. Sharafkandi as had been taken against Dr. Ghassemlou. The subsequent events at the Mykonos Restaurant confirm this.

6. Preparatory Measures in Iranian Kurdistan

Of equal importance in this connection are the concurring testimony of witnesses Hosseini and Dabiran that on the day before the Berlin attack, the security forces and troops in the Kurdish part of Iran had been placed on alert. Both witnesses had received information to this effect independently from each other from the ranks of their members and sympathizers.

Witness Dabiran reported that due to a decision by the National Security Council, a special session of the security forces of the Kurdish part of the country had taken place. Participants in this session were the governor of the province, representatives of the police force, VEVAK, the prosecutor general of the province, the Revolutionary Guards, and the army. According to the testimony of witness Hosseini, the information received by the KDPI contained the message that the military had occupied strategically important points. Such measures had normally been taken on the anniversary of the killing of Dr. Ghassemlou and in other critical situations in which the regime had prepared operations against the opposition in Kurdistan, or if riots among the population were to be expected. The situation in the country at the time had not required such measures. Therefore, it had to be assumed that the security measures were connected to fears that there might be uprisings when the attack became known.

This reaction did indeed take place. The copy of the "Political Bulletin on the Session of the Islamic Council" (Parliament) of 23 October 1992, provided by witness Dabiran, the authenticity of which was confirmed by witnesses Dr. Ganji and Mesbahi, reports that on 20 September 1992 all shops in the city of Mahabad closed one after the other; that these shops had been marked with spray paint. Witness Hosseini, who at the time happened to be in Oschnawie, a town in Kurdistan, Iran, added that those shops which closed despite the official order to refrain from all demonstrations were sprayed with red paint by the members of the security forces. The Court views these occurrences as indications that the preventive security measures were connected with the Mykonos attack.

7. Warnings of the Attack

The fact that Dr. Sharafkandi and his companions met with sympathizers in the Mykonos Restaurant, although Dr. Sharafkandi as the successor to Dr. Ghassemlou was at risk, and that there had been a number of warnings does not lessen the seriousness of the crime nor does it in any way exonerate those who ordered it and those who carried it out.

Witness Hosseini reported to the Court that after the killing of Dr. Ghassemlou, the leadership of the KDPI had expected further attempts on the lives of leading figures in the party. There were also warnings. Hosseini found out in talks with Talebani, the Iraqi Kurdish leader and chairman of the Patriotic Union of Kurdistan (PUK), that the latter had warned Dr. Sharafkandi of an impending attack. Witness Bani Sadr testified that about 3 weeks before the attack, he had received the information from a confidant from VEVAK that the decision to have Dr. Sharafkandi killed had been made. This information he had passed on to Dr. Sharafkandi.

The warnings simply confirmed, as Hosseini explained, the general threat to which Dr. Sharafkandi was exposed. Dr. Sharafkandi could have avoided it only by giving up his political activities. However, as Hosseini explained, he considered fulfilling this task too important to sacrifice it to his own safety and give in to pressure. Furthermore, the party was not in a position to guarantee permanent protection.

8. Attacks on Dr. Ganji and Members of His Organization

a) Dr. Ganji credibly reported to the Court about an attack on himself, to which, however, Bay Ahmadi, a member of his organization "Flag of Freedom" had fallen victim.

After the arrest of 18 members of the organization in Iran, Bay Ahmadi had been informed by a high-ranking official of Evin Prison in Tehran, Haj Kabiri, by telephone that he, Kabiri, secretly sympathized with the ideas represented by the organization and that he could help the prisoners. For this purpose, Kabiri wanted to meet with Dr. Ganji and Bay Ahmadi in Dubai. Bay Ahmadi had arranged a meeting in Istanbul, for security reasons, because there, former Major Golizadeh would have been available as bodyguard. He traveled to Istanbul alone. After the meeting with Kabiri, all the prisoners with the exception of two of them were actually released, of which Ahmadi was able to assure himself through inquiries in Iran. Because of these circumstances, Ahmadi had accepted Kabiri's proposal for a meeting in Dubai in order to discuss how to proceed further. Although Kabiri had insisted that Dr. Ganji should also come to Dubai, Ahmadi once more traveled alone.. However, the arrangement had proved to be a trap. Three-and-ahalf hours after his arrival, he was shot dead in the hotel by two killers. The witness found out from the police in Dubai that the killers had left Dubai two-and-a-half hours after the attack on a flight to Teheran; Golizadeh recognized Kabiri on photographs as one of the killers. After the attack, the F.F.I. members who had been released in Iran were rearrested, and some were executed.

Dr. Ganji further testified that the police had also informed him that Golizadeh himself was kidnapped in December of 1992 in Istanbul and had been tortured and killed.

- b) In October 1990, witness Dr. Ganji got wind of another planned attack on him. He therefore left France for a time. In his stead, his deputy Cyrus Elahi was shot dead on 23 October 1990 as he left his house.
- c) The failed attempts to liquidate Dr. Ganji suggest that the persecution must be laid at the doorstep of the Iranian leadership. This is shown particularly by the circumstance that the release of prisoners and their rearrest is not possible without government approval. The assumption of responsibility is further confirmed by another event.

Dr. Ganji submitted a copy of a letter to the Court which he claims to have received in the summer of 1993 from a reliable source. It is a letter from the Prosecutor General of the Islamic Republic, Moussawi Tab:rizi, dated 17 March 1993, to VEVAK. In this letter, which bears the notation: "Attention! Destroy correspondence after completion of the operation" and which concerns Dr. Ganji, the Prosecutor General explains that the Leader of the Islamic Revolution, when asked for an "authoritative decision," had answered as follows:

"The person in question is an apostate and corrupter, and his life is forfeit. Because of his enmity against the exalted and sublime God and the venerable last Prophet (may God save him), because he disregards the orders and commandments of God, and because he spreads trouble and depravity in the Islamic homeland, and in order to protect and preserve Islam and the Muslims, this foul root must immediately be torn out, so as to serve as a warning to the others."

In his letter, the Prosecutor General adds that after careful examination of Dr. Ganji's file, as well as the reports of the ambassadors and some other sources abroad, the Supreme Judicial Council of the Judges of the Sharia had unanimously come to the conclusion that the killing of Ganji was necessary for religious reasons. The President of the Republic had been told by Mohammad Yazdi, who, according to the explanations of expert witness Prof. Dr. Steinbach, is the chief of the Judiciary, about the necessity of carrying out the death sentence.

It is true that the authenticity of the copy could not be checked out beyond any doubt, since the Court did not find out the identity of the source. However, there are no valid doubts regarding the authenticity of the letter either. Expert witness Prof. Dr. Steinbach found the circumstance remarkable that the decision mentioned in the letter was arrived at only in 1993, since usually, enemies are dispatched immediately. But he considered the decision sequences described in the letter possible. The Islamist expert witness Prof. Dr. Halm did not find anything as to content and diction that would throw doubt on the authenticity of the letter and added that this letter represented an act of state. The Federal Intelligence Service, which had examined the letter for its authenticity, also communicated in an agency report that form and style were typical for official documents of the Islamic Republic of Iran.

The picture is further completed by the testimony of witness Mesbahi. He considers the letter a document with which the Prosecutor General's Office concluded its activity after consulting the Leader of the Revolution. It was then the responsibility of the addressee, in this case VEVAK, to collect intelligence on the case in question, work out proposals

for carrying out the instruction, as in the cases of Dr. Ghassemlou and Dr. Sharafkandi, and to transmit the results to the Committee for Special Affairs.

9. The Honoring of Perpetrators

The attitude of the Iranian Government vis-a-vis terrorist attacks is also expressed in another detail of the overall picture.

Witness Dastmalchi showed the Court some Iranian postage stamps. One of the stamps was issued "in memory of Major Islamboli, the instrument of the revolutionary execution of Sadat," whom an additional description in English calls an "agent." This fits with the testimony of witness Mesbahi that a street in Tehran is named after Islamboli. These circumstances clearly indicate that the Iranian Government is not opposed to terrorist killings, that, on the contrary, it advocates them and officially honors the perpetrators.

V. The behavior of the Iranian Government after the Mykonos attack is quite revealing.

In the above-mentioned bulletin of 23 October 1992 establishing the official phrasing for the Deputies, the Iranian Government rejected all responsibility for the crime and tried to lay the blame on others. Under the heading "Comments" it says (as translated into German):

- "1. As has been noted, the imperialist mass media are trying to ascribe the murder of three counterrevolutionary elements without any proof or evidence to the Islamic Republic of Iran. This is an example of the the enmity of of world arrogance vis-a-vis an independent Islamic country. The official authorities of the Islamic Republic have rejected these accusations. It must be noted, first, that the Islamic Republic, under the present world conditions, does not see a need to endanger its reputation by a terrorist attack on some paid elements dependent on the Great Satan. Second, the dissolved Democratic Party and its vacillating leadership, like Sharafkandi, does not have any stature that would warrant the Islamic Republic of Iran wasting time on it. Although this paid little group has tried from time to time to draw attention to itself, the fighters of the Islamic Republic of Iran against faithlessness have dealt it such a slap as to deprive it of all possibility of conducting any counterrevolutionary operations.
- "2. It is within the realm of possibility that intraparty contrasts and differences among the different Kurdish factions were the main motives for this terrorist attack.
- "3. Naturally, it must also be considered possible that the counterrevolution abroad may perpetrate such crimes in order to manipulate international public opinion to turn it against the Islamic Republic of Iran. The murders of Ghassemlou, Bakhtiar, Farrokhzad, and now Sharafkandi, among other things, can all be viewed in this light."

These attempts at exoneration are fruitless. Especially revealing is the quote's last sentence under No. 1. It does not contain a distancing from the crime, as would have had to be expected in the interest of the international reputation of Iran, but actually expresses approval of it. The description of the crime as a "slap" repeats remarks by Fallahian, even to the point of similarities in diction. Just how seriously the expression "serious blows" must be taken, that Fallahian used in his interview, and who actually was behind

the attack, is also made clear by the remark of a deputy minister of the intelligence service VEVAK to witness Mesbahi:

"Our boys have hit Dr. Sharafkandi."

Mesbahi further testified that a confidant from the National Security Council had also provided him information in the form of a tape recording on how the political reactions to attacks abroad could be met. In a session in 1993, it had been noted that the Federal Republic of Germany had taken measures in response to the Berlin massacre that could influence its relations with Iran. It had been decided to bring the judicial proceeding to a close as quickly as possible and to politicize it.

In pursuit of this goal, Iranian Intelligence Minister Fallahian, on the occasion of his visit to the Federal Republic of Germany, tried in talks he had from 6 - 7 October 1993 with a high official of the Federal Chancellor's Office, Mr. Schmidtbauer, to prevent the start of the trial, which was set for 23 October 1993. Witness Schmidtbauer, who was responsible, among other things, for coordinating the German intelligence services, testified that Fallahian had repeatedly broached the subject of the upcoming trial, had claimed that the defendants were innocent, complained that Iran was being accused unjustly, and had demanded that Germany see to it that the case was dismissed. Fallahian reminded his interlocutor in connection with his demands that Iran had done Germany a favor by exerting its influence with the Hammadi clan in Lebanon for the release of German hostages. He also offered to do everything in his power to solve the case. However, nothing ever happened.

The fact that not only did Fallahian not make good on his offer, but that Iranian agencies tried, on the contrary, to delay the completion of the proceeding, is proved by the circumstances cited in the decision rejecting the questioning of Nurara for reasons of inaccessibility. They also make clear that witness Nurara was cooperating with Iranian authorities in this matter and that these authorities also wanted to use the witness Bahrain Brendjian for this purpose. The decision reads as follows:

"1. The witness was summoned to a consular questioning in accordance with the order to take evidence at the German Embassy in Tehran on 12 August 1996, by means of a note verbale dated 25 July 1996 via the Ministry of Foreign Affairs of the Islamic Republic of Iran. The summons was served. However, the witness did not appear (see p. 3 of the record of August 12, 1996 = VerfBd XV p. 134). He gave no reasons for his nonappearance, directly or indirectly, neither at the time specified for the questioning nor during the questioning of witness Brendjian which took place that same day from 10:15 AM to 9:25 PM, nor before 24August 1996 (see the letter from the Foreign Ministry dated 17 August 1996 = VerfBd XV, p. 169).

"In a letter dated August 14, 1996, which arrived together with an Iranian note verbale on 26 August 1996 at the German Embassy, the witness claims that on the day appointed he had arrived punctually at 10:00 AM at the main entrance to the embassy and, presenting his summons, had asked to inform Mr. N., who had signed the summons, of his arrival. He was told that Mr. N. had not arrived yet. When he asked twice more, at intervals of 15 minutes, he had been told the same.

"2. This claim is factually untrue and does not represent an excuse acceptable to the German side. The Court accepts the official response by the German ambassador to the Ministry of Foreign Affairs (VerfBd XV, p. 169). He states that he had given orders, in order to ensure the questioning of the witnesses Brendjian and Nurara, that the witnesses were to be admitted into the embassy no matter at what time they should appear. The security officers on duty noted down the names of the witnesses and gave them to the Iranian foreign national manning the reception desk. He in turn gave them to the guards at the main entrance and the visa office. After witness Brendjian had arrived, the witness Nurara was even 'paged' in the line of people waiting at the visa office. Before noon, he was searched for twice more. None of the guards at the external gates of the embassy recalled Nurara having approached them, or that anyone but Brendjian had presented a summons and asked for N. Because of the above-mentioned efforts to facilitate the questioning of the witness Nurara, the Court is convinced that the statements of the guards at the external entries to the embassy are true. Thus Nurara's claims are totally unfounded.

"This evaluation is confirmed by Nurara's allegation that he had been told that N. had not arrived yet. This conflicts with the actual facts. N. was on home leave. Therefore he could not come at all. It is unlikely that one of the guards could erroneously have said anything like what Nurara claimed; since the embassy has informed the Court that the reception desk and the security guards do not refuse entry to visitors if the official for whom they ask is not present. Instead, they send the visitor to his vacation replacement. The fact that this procedure was also followed on the day in question is proven by the fact that the witness Brendjian, who also had received a summons signed by N., was admitted without demur.

- "3. Another argument against the assumption that the non-appearance of witness Nurara could be due to circumstances within the sphere of influence of the German authorities is the fact that Iranian authorities, in cooperation with Nurara, are influencing the course of events. The former adopted Nurara's false claims that on the appointed day he had not been admitted to the embassy and used it as a pretext to call the German ambassador to the Iranian Foreign Minister on 25 August 1996 (see VerfBd. XV p. 169). On the occasion of that visit, the Iranian side not only used Nurara's allegations, but also added false allegations regarding the witness Brendjian. Contrary to the protest of the envoy of the Iranian Embassy in Bonn, it is untrue that witness Brendjian was refused entry to the embassy. Brendjian appeared and was questioned. Equally groundless is the accusation that Brendjian was refused a lawyer. Had Brendjian made such a request, it would have been included in the record together with the decision of the consular official who questioned him. But there is no mention of this in the record. This proves that Brendjian did not even voice a wish to give his deposition in the presence of a lawyer. It is true that Brendjian did not tape the questioning. But the allegation that he had been refused permission to do so is false. Any discussion to that effect, as well as the respective decision, would also have been included in the record. However, the record shows nothing of the sort. This proves that this did not happen.
- "4. The Court has no doubt that due to the cooperation between Nurara and Iranian authorities, any new attempt to question him within the foreseeable future would be in vain. Therefore, the witness is unavailable.

"The Court became convinced, as stated in its decision issued on 2 May 1996, in which the requests for the questioning of witnesses Brendjian, Nurara, and Darabi were rejected, because of the behavior of the witnesses, that the witnesses will not be allowed to leave the country and that Iranian authorities have, in any case, prevented their testimony at the trial. Equally fruitless was, for the reasons already described, the attempt to have them questioned by a consular official of the German Embassy. Only when it became clear that the taking of evidence was nearing its close and that the evidence could be disregarded, did the Iranian authority relent. A few days before the summations scheduled for 25 June 1996, it informed the Court that the witnesses could be called to the stand immediately (see the letters by the Federal Chancellor's Office and the Ministry of Foreign Affairs dated 24 June 1996 - VerfBd. XIV p. I 1 9, 120 ff. -). This action, which by itself can hardly be considered legal assistance, shows, combined with the nonappearance of witness Nurara, that it must be viewed as a delaying tactic. The false claim that the questioning of Nurara had been prevented by the negligence of German authorities was intended to cause a new date for the questioning to be set. And this interview, too, could be frustrated by the non-appearance of the witness Nurara on equally threadbare and unprovable excuses. A similar purpose is served by the attempt by the Iranian side to cause the Court, through protests of violations of a formality, to set another date for his questioning. This is true even though Brendjian did appear for his consular questioning. Brendjian, who had implicated the defendant Darabi during the preliminary investigation, and on whose contrary testimony Darabi was now relying in his attempt to exonerate himself, was too important to be used for the delaying tactics and to risk thereby that his testimony would not be taken into account. Furthermore, it would have been highly unwise on the part of the Iranian side to prevent both witnesses from undergoing a questioning which it had been offering only shortly before.

"The Court refuses to give in to such obvious attempts by third parties to determine the course of the proceeding.

"Furthermore, the facts known to the witness Nurara are of only minor importance, so that another attempt to question need not be made."

The ambassador of the Islamic Republic of Iran made a last, but fruitless, effort to influence the proceeding in Iran's favor and defuse Fallahian's remarks in his letter to the Federal Minister of Justice dated 28 November 1996 that accompanied the dossier. He claimed that Fallahian's remarks had been presented "incomplete as to their contents and distorted," and then went on to say:

"His words were interpreted to mean that [Iran] had succeeded in inflicting blows on the opposition outside the country. He tried as early as on 8 September 1992, to prevent possible misinterpretations. For that reason, any reference to this report is inadmissible."

This denial is not convincing. His allegation that Fallahian had not made the remark in question is proven to be baseless by his admission that it had been misinterpreted. Misinterpretations can only happen if the remarks in question have been made. The phrase to which he refers, about the blows inflicted on the opposition, fits perfectly in with his overall remarks.

VI. The Responsibility of the Iranian Regime for the Attack

The above explanations make clear that the attack on the leadership of the KDPI under Dr. Sharafkandi is neither a crime committed by lone gunmen, nor is it caused by differences among opposition groups. On the contrary, the attack was organized by the Iranian regime.

- 1. The defendants, as well as the unit under Banihashemi, cannot be regarded as independent originators of the attack. They had no personal relationships with the victims, nor any interests that could have motivated them to commit the crime on their own initiative. Even Darabi, due to his intelligence connections and his obedience to the political interests of the regime, could not have carried out such an attack without being instructed to do so, and given the logistical problems, he could not have managed without help. The same is true for the hit team. It, too, was dependent on preparatory work by Iranian Government authorities.
- 2. Nor was the attack the result of conflicts within the KDPI or with other Kurdish opposition groups. The Court questioned not only expert witness Prof. Dr. Steinbach on this point, but also many witnesses from Germany and other countries (Dastmalchi, Esfahani, Mirrashed, Ezatpour, Dr. Farahati, Dr. Barati-Novbari, Motahamelian, Jafari, Badii, Bani Sadr, Dr. Ganji, Hosseini, and Dabiran. These witnesses cover almost the entire spectrum of the Iranian resistance. Unanimously they reported that in spite of all the differences among their political views and goals, the Iranian opposition parties, in contrast to the Kurdish parties led by Talebani and Barzani, get along peacefully. The Court has not heard anything to the contrary. The expert witness Prof. Dr. Steinbach added to this that he considered an attack by an opposition group practically unthinkable. There would not be a rational motive for such an action. The opposition groups are united by their common enmity to the present Iranian regime. It would run counter to this common interest if members of the opposition groups were to kill each other. Furthermore, no such case has become known.
- 3. On the contrary, the evidence has shown that Iranian leaders not only approve of terrorist attacks abroad and heap honors on their perpetrators, but that they themselves organize such attacks against people who displease them simply because of their political convictions. They are having their political opponents killed purely in order to maintain themselves in power.

A direct line leads from Khalkhali's inhumane arrogance, which causes him to consider a human being as worthy of death only because that person is opposed to the regime presently in power, straight to the killing of Dr. Ghassemlou as the representative of an opposition party. Bodies in which the holders of the highest government positions were represented decided for the same reason as in Dr. Ghasseralou's case to have Dr. Sharafkandi and his leading colleagues killed. The victims wanted to remain part of the state of Iran. They only desired limited autonomy and a greater say for the population in the country's political and social life. Only when these demands were rejected, and the Kurds had been attacked and oppressed, did their leaders start working from abroad toward changing the situation. The government continued to be agreed on fighting

opposition groups and their representatives. Its position on this matter had not changed in the years since Khalkhali's remarks and the Vienna massacre. This is why on 30 August 1992, Fallahian pointed with satisfaction to successes in the fight against opposition movements. In connection with the crime committed only 18 days later, on 17 September 1992, in the Mykonos Restaurant, his remarks represent at the same time a preview of future attacks. This preview was not even concealed, it was quite open, as evidenced by the stated intention to continue the operations and not to hesitate to operate in other countries. Simultaneously with the preparations for the killing, the Iranian authorities in the Kurdish part of the country took precautionary security measures, since it had to be expected that there would be demonstrations by the population once news of the killing became known. In accordance with its principles regarding the elimination of opponents of the regime, and with the traditional pattern involving the competent authorities in the decision-making processes, the Iranian Government organized the attack on Dr. Sharafkandi and his colleagues. This also explains why the legal assistance Fallahian had promised Mr. Schmidtbauer never took place. The Iranian leadership would have had to expose itself.

Actually, it did expose itself. In the bulletin, which in its diction clearly shows the contemptuous and aggressive attitude of the Iranian regime vis-a-vis the Kurdish opposition, it in principle advocates terrorist attacks and makes their execution dependent only on the respective political circumstances.

The realization that the responsibility for having originated this crime falls squarely on the Iranian regime is not contradicted by the fact that representatives of the Iranian intelligence service had assured the German side, in negotiations on the subject of state-sponsored terrorism that took place in the summer of 1992, as Mr. Schmidtbauer reported, that they would not conduct operations on German territory. Their assurances contain the admission that Iran reserves the right to actually conduct such operations in other places. The assurances cannot be taken seriously. Those who gave them were able to formally abide by them simply by denying responsibility for any attack that was made anyway. This is what happened in the case at hand.



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WORLD NEWSOCTOBER 26, 2018 / 7:45 AM / 10 MONTHS AGO

France expels Iranian diplomat over failed bomb plot: sources

John Irish



PARIS (Reuters) - France has expelled an Iranian diplomat in response to a failed plot to carry out a bomb attack at a rally near Paris organized by an exiled Iranian opposition group, diplomatic and security sources say.

France's foreign ministry said on Oct. 2 there was no doubt the Iranian intelligence ministry had been behind the plot against the June 30 rally. It subsequently froze assets belonging to Tehran's intelligence services and two Iranian nationals.

About a month ago it went a step further, expelling an Iranian diplomat based in Paris, five sources said. Two of the sources said the diplomat was an Iranian intelligence operative under diplomatic cover.

A spokesman at the Iranian embassy in Paris did not respond when asked about the diplomat's expulsion. Iran has previously said it had nothing to do with the attempt to carry out a bomb attack at the rally. One Iranian official, who declined to be identified, denied there had been any expulsion.

French President Emmanuel Macron's office referred all enquiries to the foreign ministry, which said it would not comment.

The fallout from the failed plot has further strained ties between Paris and Tehran, especially as France has been one of the strongest advocates of salvaging the nuclear deal between Iran and world powers, which U.S. President Donald Trump withdrew from in May.

The initial move by France to impose asset freeze was deemed relatively symbolic since neither diplomat targeted was based in France or had assets in the country.

French officials at the time said Paris considered the matter closed, although they were still trying to determine how high up the hierarchy the order to carry out the attack came from.

The decision to expel a suspected intelligence operative raises attention to the issue again.

"Yes, it's true," one diplomat said of the expulsion, declining to give further details because of the sensitivity of the issue.

The two sides agreed not to divulge details of the expulsion fearing it could undermine talks between the remaining parties to the nuclear deal - France, Britain, Germany, Russia, China - who are working on ways to continue trading with Iran, two diplomats said.

INTELLIGENCE OPERATION

Two diplomats and one Western security source said the move was directly linked to the plot, which targeted a meeting of the National Council of Resistance of Iran (NCRI).

A co-ordinated intelligence operation between French, German and Belgian services thwarted the planned attack in the days prior to the rally which attracted many VIPs, including Trump's lawyer Rudy Giuliani and several former European and Arab ministers.

Belgium on Oct. 10 charged an Iranian diplomat, who was one of the two sanctioned by Paris, and three other individuals with planning to bomb the gathering.

Any hardening of relations with France could have wider implications for Tehran as a new round of even tougher U.S. sanctions targeting the oil sector and financial transactions come into effect from Nov. 4.

France had warned Tehran to expect a robust response to the thwarted bomb plot. Macron and Foreign Minister Jean-Yves Le Drian spoke to their Iranian counterparts about the issue at the

U.N. General Assembly meeting after demanding explanations over Iran's role.

An internal French foreign ministry memo in August told diplomats not to travel to Iran, Reuters reported, citing the bomb plot and a toughening of Iran's position toward the West.

Paris has suspended appointing a new ambassador to Iran and has not responded to Tehran's nomination of a new envoy in France, underscoring how sensitive the issue is.

No appointments are expected until France receives more detailed information on who was behind the bombing attempt, two senior French diplomats said.

"We are still following up with Tehran on the Villepinte affair to draw all the necessary consequences, but the political and diplomatic dialogue between Iran and France continues," said one senior French diplomat.

Additional reporting by Marine Pennetier and Emmanuel Jarry in Paris, Andrea Shalal in Berlin; Editing by Richard Balmforth

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WORLD NEWS

AUGUST 28, 2018 / 9:11 AM / A YEAR AGO

Exclusive: France restricts travel by diplomats to Iran

John Irish



PARIS (Reuters) - France has told its diplomats and foreign ministry officials to postpone indefinitely all non-essential travel to Iran, citing a foiled bomb plot and a hardening of Tehran's attitude towards France, according to an internal memo seen by Reuters.

Any hardening of relations with France could have wider implications for Iran. France has been one of the strongest advocates of salvaging a 2015 nuclear deal between Iran and world powers, which U.S. President Donald Trump pulled out of in May.

Iran's economy has been hammered by the prospect of the re-imposition of U.S. sanctions that had been lifted under the deal. European countries including France have pledged to try to soften the economic blow, but have been unable so far to persuade their firms to defy Washington and stay in Iran.

French oil and gas major Total and its carmakers PSA and Renault have led an exodus of European companies from Iran, fearful of the extra-territorial reach of Washington's sanctions.

The memo cites a foiled plot to bomb a rally held by an exiled Iranian opposition group near Paris that was attended by Trump's lawyer Rudy Giuliani as a sign of Tehran's more aggressive stance towards France.

"The behavior of the Iranian authorities suggests a hardening of their position vis-a-vis our country, as well as some of our allies," Maurice Gourdault-Montagne, the ministry's secretary general wrote in the notice dated Aug. 20.

"Given the known security risks ... all departmental officers, whether from headquarters or (overseas) posts, are required to defer until further notice, except for urgent work, any travel plans in Iran," Gourdault-Montagne added.

The instructions were also relayed to officials in government departments outside the foreign ministry to be passed on to staff who intended to travel to Iran, a separate memo obtained by Reuters showed.

The French foreign ministry declined to comment on the memo or say whether embassy staff had been asked to repatriate their families.

Iranian officials at the Embassy in Paris did not respond to a request for comment on Tuesday but, reacting on Wednesday, Iran's Foreign Ministry spokesman said Iran should be vigilant against "enemies" trying to affect ties between the countries.

"The relations between Iran and Europe, especially Iran and France, have some enemies, and we should be vigilant against their actions," Bahram Qasemi was quoted as saying by the state news agency IRNA. "The restriction on the French diplomats' travel (to Iran) is not correct."

France's latest travel advisory for its citizens, published on May 10, cautions against visitors entering Iran with electronic equipment such as drones and walkie-talkies and taking too many photographs.

RELATIONS SOUR

The memo underscores how confidence in the Tehran government has been eroded in Paris as relations between the two become increasingly strained, even as President Emmanuel Macron talks up preserving the nuclear accord.

Iran has said it had nothing to do with the alleged plot to attack a National Council of Resistance of Iran (NCRI) meeting on June 30. Germany has detained an Iranian diplomat based in Austria. Belgium, where the plot was uncovered, has sought the diplomat's extradition.

French officials have not commented on the matter but diplomatic sources have said privately that if Iran's involvement were proven then it would be difficult for France not to react strongly.

Since pulling out of the nuclear accord, Trump has expressed a readiness to negotiate a new deal while warning Tehran of dire consequences "the like of which few throughout history have suffered before" if it made threats against the United States.

It was Macron who led efforts to persuade Trump to stick with the agreement, arguing it was the best means Western powers had to check Iran's nuclear activities.

Rouhani on Monday urged the remaining signatories to the nuclear agreement to act to save the pact.

An Iranian flag flutters as worshippers attend Friday prayers in Tehran, August 2011. REUTERS/Morteza Nikoubazl

Macron reiterated France's commitment to maintaining the accord, but Europe's leaders have appeared powerless to prevent the U.S. sanctions inflicting pain on Iran's economy.

The ministry memo said any staffer who traveled to Iran for personal reasons would not be shielded by diplomatic immunity, even if holding a diplomatic passport. It made specific reference to tourism and language classes.

Britain's foreign ministry said its advice on Iran to diplomats was the same as to the British public. It flags the risks of terrorist attacks and arbitrary detentions and advises against all travel to the frontiers with Iraq and Afghanistan.

Reporting by John Irish; Writing by Richard Lough; Editing by Peter Graff Our Standards: <u>The Thomson Reuters Trust Principles.</u>



IRAN

Iranian Diplomat Extradited To Belgium To Face Charges In Bomb-Plot Case

October 10, 2018 00:45 GMT **UPDATED** October 10, 2018 15:18 GMT

By RFE/RL

An Iranian diplomat who is the suspected mastermind of an attack that allegedly was planned on Iranians living in exile in France has been extradited from Germany to Belgium, security officials said.

Previously identified as Assadollah Assadi by AFP, the 46-year-old diplomat based in Austria was arrested in the southern German state of Bavaria on July 1.

He was extradited to Belgium on October 9 after a court in Bamberg approved an extradition request last week, police and prosecutorial officials said.

Assadi will appear before a Belgian judge in charge of the case on October 10, the Federal Prosecutor's Office in Brussels told AFP. France announced last week it had frozen Assadi's assets for six months.

Assadi is suspected of passing a device containing 500 grams of explosives to a couple living in Belgium who allegedly planned to use the explosives to carry out the terrorist attack.

The planned attack allegedly targeted a rally of the National Council of Resistance of Iran in the Paris suburb of Villepinte on June 30, which was attended by some 25,000 Iranians opposed to the government in Tehran.

The rally was also attended by leading U.S. figures, including President Donald Trump's personal lawyer, former New York City Mayor Rudolph Giuliani, and other close allies of Trump.

A Belgian special unit stopped the couple in their car in Brussels allegedly before they could carry out the attack. German police arrested the diplomat the next day at a highway service station near the town of Aschaffenburg.

Iran last week strongly denied French accusations that one of its diplomats was involved in the alleged plot that took place just ahead of a visit to Europe by Iranian President Hassan Rohani.

Iran has accused one of the opposition groups participating in the rally, the Mujahedin-e Khalq Organization (MKO or MEK), of being a "terrorist" group and orchestrating a plot to discredit Rohani.

"We deny the accusations and forcefully condemn the Iranian diplomat's arrest and call for his immediate release," the Iranian Foreign Ministry said on October 2.

European police say Assadi had been accredited since 2014 to the Iranian Embassy in Vienna, working for Iran's intelligence agency, which monitors opposition groups in the country and abroad.

Since his diplomatic-immunity status applied only in Austria, he was arrested in Germany on a European arrest warrant issued by Belgium.

Belgian authorities have also requested the extradition of a man identified as Merhad A., who was detained in Paris when the alleged plot was uncovered.

Belgian police believe Merhad A. is an accomplice of the husband-and-wife team caught in Brussels in possession of 500 grams of the powerful explosive TATP and a detonator.

All three are Belgian nationals of Iranian origin, police said.

The U.S. State Department welcomed the extradition.

"We support our European allies in exposing and countering the threat that Iranian-backed terrorism poses around the world," U.S. Secretary of State Mike Pompeo said in a statement on October 10. "The United States will continue working with our partners and allies to confront the threat posed by the Iranian regime."

With reporting by AFP and Reuters

Letter of 8 January 2019 from the Minister of Foreign Affairs, Stef Blok, and the Minister of the Interior and Kingdom Relations, Kajsa Ollongren, to the President of the House of Representatives on sanctions against Iran on the grounds of undesirable interference

On 8 January 2019 the European Union, partly at the recommendation of the Netherlands, imposed sanctions in the context of the EU sanctions lists (Common Position 2001/931/CFSP) on the Iranian Ministry of Intelligence and Security and two Iranian nationals. This means that funds and other financial assets of the Ministry and both individuals have been frozen.

On the basis of information gathered by the General Intelligence and Security Service (AIVD) and foreign intelligence services, the Netherlands considers it probable that Iran had a hand in the preparation or commission of assassinations and attacks on EU territory.

When the sanctions were announced today, the Netherlands, together with the United Kingdom, France, Germany, Denmark and Belgium met with the Iranian authorities to convey their serious concerns regarding Iran's probable involvement in these hostile acts on EU territory. Iran was informed that involvement in such matters is entirely unacceptable and must be stopped immediately. Iran is expected to cooperate fully in removing the present concerns and, where necessary, in aiding criminal investigations. If such cooperation is not forthcoming, further sanctions cannot be ruled out.

The AIVD has strong indications that Iran was involved in the assassinations of two Dutch nationals of Iranian origin, in Almere in 2015 and in The Hague in 2017. These individuals were opponents of the Iranian regime. In the Dutch government's opinion, hostile acts of this kind flagrantly violate the sovereignty of the Netherlands and are unacceptable. When confronted by the Netherlands, Iran denied any involvement in these assassinations.

On the basis of the AIVD's findings, the Netherlands took firm diplomatic measures in June 2018. The Iranian ambassador was summoned to the Ministry of Foreign Affairs, and two members of the Iranian embassy's staff were expelled. These diplomats were not expelled because of any confirmed involvement in committing or directing the assassinations, but as a clear signal that the Netherlands regards Iran's probable involvement in these serious cases as unacceptable.¹

Following these developments, the Netherlands, together with other European countries affected by Iranian interference – including a thwarted bomb attack in Paris and a thwarted assassination in Denmark in 2018 – has now taken further measures against Iran with the aim of halting these Iranian activities.

In the interests of facilitating this common EU action, confidentiality was required. This is why the government decided not to disclose sooner the reason for expelling the two Iranian diplomats.

Criminal investigations into the above assassinations are under way in the Netherlands. The appraisal of evidence in the context of the criminal justice system differs from the appraisal of intelligence obtained by the intelligence services. So far, the ongoing criminal investigations have not confirmed, in a criminal law sense, the intelligence that suggests interference by Iran.

It was emphasised at the meeting in Tehran that these measures are not linked to the Joint Comprehensive Plan of Action (JCPOA), known commonly as the Iran nuclear deal. As long as Iran

¹ See also the letter to parliament on Undesirable Foreign Interference of March 2018, Parliamentary Papers, House of Representatives 2017/18, 30 821, no. 42.

fulfils its obligations under the deal, the European Union will do the same. Nevertheless, Iran will be held to account for matters that affect EU and international security interests, as is the case with the acts described above, as well as with respect to its ballistic missile programme and the country's role in the region.

The New Hork Times

E.U. Imposes Sanctions on Iran Over Assassination Plots

By Michael Schwirtz and Ronen Bergman

Jan. 8, 2019

LONDON — The European Union penalized Iran on Tuesday over allegations that the country's intelligence service orchestrated a series of assassination plots in Europe in recent years, including the killing of two Iranians in the Netherlands with ties to anti-government extremist groups.

In a letter outlining its justification for sanctions, the Dutch Foreign Ministry cited "strong indications that Iran was involved in the assassinations of two Dutch nationals of Iranian origin," one in 2015 in the city of Almere and another in 2017 in The Hague.

European intelligence officials have also linked the Iranian government to unsuccessful plots in Denmark and France.

"In the Dutch government's opinion, hostile acts of this kind flagrantly violate the sovereignty of the Netherlands and are unacceptable," the letter said.

The sanctions were imposed under steps devised by the European Union to combat terrorism after the Sept. 11, 2001, attacks in the United States. They involve freezing assets connected to Iran's Ministry of Intelligence and Security and two Iranian officials: Saeid Hashemi Moghadam, a senior Iranian intelligence official, and Assadollah Asadi, an Iranian diplomat arrested in connection with a plot to bomb a rally of an Iranian opposition group in Paris last year, according to officials familiar with the sanctions.

Iran has long been suspected of covertly carrying out violence against opponents living outside its borders. In remarks delivered shortly after becoming secretary of state last year, Mike Pompeo accused Iran's elite Revolutionary Guards force of conducting "covert assassination operations in the heart of Europe."

But it is unusual for the 28-member European Union to confront such an issue so directly.

On Tuesday, ambassadors from Belgium, Britain, Denmark, France, Germany and the Netherlands visited the Iranian Foreign Ministry in Tehran "to convey their serious concerns" about Iran's behavior, according to the Dutch letter.

In response, Iran's foreign minister, Mohammad Javad Zarif, did not deny the allegations, but accused European countries in a Twitter post of harboring militants from the Mujahedeen Khalq, or M.E.K., a group that seeks the violent overthrow of the Iranian government.

M.E.K., designated as a terrorist group by the United States until 2012, has been praised by John R. Bolton, President Trump's national security adviser, and Rudolph W. Giuliani, the president's personal lawyer and former New York mayor.

"Accusing Iran won't absolve Europe of responsibility for harboring terrorists," Mr. Zarif wrote.

The decision to impose sanctions underscores the difficult balancing act facing the European Union as it tries to counter suspected Iranian misbehavior and preserve the Iran nuclear accord.



Secretary of State Mike Pompeo accused Iran's elite Revolutionary Guards force last year of conducting "covert assassination operations in the heart of Europe."

Kevin Hagen/Getty Images

Under that accord, reached in 2015, Iran is supposed to receive economic incentives in exchange for verifiable promises of peaceful nuclear work.

The Trump administration, which withdrew the United States from the accord last year and reimposed tough sanctions on Iran, has pressured Europe to adopt a similarly hard line. The Europeans have so far resisted, vowing to create ways for companies to circumvent American sanctions.

In its letter, the Dutch Foreign Ministry said the European Union would treat the assassination plots and the nuclear accord as separate issues. But that position could become increasingly untenable. If Iran's suspected misbehavior persists, Europe could be forced to come into alignment with the United States, said Sjoerd Sjoerdsma, a Dutch member of Parliament.

"I think ultimately that would not be a good thing," he said, "but it's up to Iran to make sure that that doesn't happen."

The two Iranian nationals killed in the Netherlands were tied to groups accused by Iran's government of involvement in violence. In December 2015, the body of Ali Motamed, 56, was discovered in the street in front of his house in Almere. He had been living in the Netherlands since the 1980s, had obtained Dutch citizenship and had been working as an electrician.

The Dutch authorities later determined that Mr. Motamed was actually Mohammad Reza Kolahi Samadi, an M.E.K. member sentenced by Iran to death for involvement in a 1981 bombing that killed 73 people in Tehran.

His death was followed a few years later by the fatal shooting of Ahmad Mola Nissi in The Hague. Mr. Mola Nissi was the leader of the Arab Struggle movement for the liberation of al-Ahvaz, an armed Iranian opposition group accused of carrying out several bombings in Iran, and an attack by gunmen on a military parade in September that killed at least 25 people.

In response to the killings, the Dutch government expelled two Iranian diplomats in June last year.

The European authorities thwarted several planned attacks on opponents of the Iranian government beginning last summer. In June, police officials from France and Belgium disrupted a plot to bomb a rally organized by a Parisbased group dominated by the M.E.K. The rally was attended by Mr. Giuliani and Newt Gingrich, a former House speaker. A Belgium couple of Iranian origin were arrested in connection with the plot, along with Mr. Asadi, the Iranian diplomat.

Mr. Asadi, based in Vienna, was an officer of the Iranian Intelligence Ministry who used the alias Daniel, said a senior Middle Eastern intelligence official, who spoke on the condition of anonymity to discuss a continuing intelligence operation. He was detained by Germany's antiterrorism police and extradited to Belgium.

In November, Denmark's government accused Iran of trying to assassinate the head of the local branch of the Arab Struggle Movement, which seeks an independent state in Iran's oil-rich Khuzestan Province. A Norwegian man of Iranian descent was arrested, prompting a congratulatory Twitter post from Mr. Pompeo.

The Mossad, Israel's intelligence agency, provided the tip that led to the disruption of the plots, the senior intelligence official said.



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WORLD NEWS

JANUARY 8, 2019 / 5:12 AM / 7 MONTHS AGO

In shift, EU sanctions Iran over planned Europe attacks

Jacob Gronholt-Pedersen, Robin Emmott, Anthony Deutsch



COPENHAGEN/BRUSSELS/AMSTERDAM (Reuters) - The European Union on Tuesday froze the assets of an Iranian intelligence unit and two of its staff, as the Netherlands accused Iran of two killings on its soil and joined France and Denmark in alleging Tehran plotted other attacks in Europe.

FILE PHOTO: Danish Foreign Minister Anders Samuelsen speaks during a news conference in Copenhagen, Denmark, October 30, 2018. Martin Sylvest/Ritzau Scanpix/via REUTERS

The move, although in part symbolic since one of the men is in prison in Belgium, marks the first time the EU has enacted sanctions on Iran since lifting a host of curbs on it three years ago following its 2015 nuclear pact with world powers.

The decision, which includes designating the unit and the two Iranians as terrorists, follows last year's disclosure by Denmark and France that they suspected an Iranian government intelligence service of pursuing assassination plots on their soil. Copenhagen sought an EUwide response.

"EU just agreed to enact sanctions against an Iranian Intelligence Service for its assassination plots on European soil. Strong signal from the EU that we will not accept such behavior in Europe," Denmark's Foreign Minister Anders Samuelsen said on Twitter.

France, which has already hit the two men and the ministry unit with sanctions, has said there was no doubt the Iranian intelligence ministry was behind a failed attack near Paris.

On Tuesday, the Dutch government publicly accused Iran of the plots, as well as two killings in 2015 and 2017, sending a letter to parliament to warn of further economic sanctions if Tehran did not cooperate with European investigations.

The letter signed by the Dutch foreign and interior ministers said Britain, France, Germany, Denmark, the Netherlands and Belgium met Iranian officials to convey "their serious concerns regarding Iran's probable involvement in these hostile acts on EU territory."

"Iran was informed that involvement in such matters is entirely unacceptable and must be stopped immediately ... further sanctions cannot be ruled out," the letter said.

Iran has denied any involvement in the alleged plots, saying the accusations were intended to damage EU-Iran relations.

"Accusing Iran won't absolve Europe of responsibility for harboring terrorists," Iranian Foreign Minister Mohammad Javad Zarif said on Tuesday in a tweet. "Europeans, incl(uding) Denmark, Holland and France, harbor MEK," he added, referring to an exiled Iranian opposition group Mujaheedin-e Khalq.

Paris accused Iran of a plot to carry out a bomb attack at a rally near Paris organized by the MEK. Denmark says it foiled a Iranian intelligence plan to assassinate an Iranian Arab opposition figure on its soil.

On Tuesday, the Netherlands said it had "strong indications" that Iran was behind the assassinations of two Dutch nationals of Iranian origin, in 2015 and in 2017. The latter was dissident Iranian Arab activist Ahmad Mola Nissi who was gunned down by an unidentified assailant in front of his home in The Hague.

Iran denies any involvement in the killings.

SANCTIONS SENSITIVE

The decision to impose the curbs was taken without debate at an unrelated meeting of Europe ministers in Brussels and the asset freeze comes into effect on Wednesday, EU officials said.

The Danish Foreign Ministry named the two employees as the deputy minister and director general of intelligence, Saeid Hashemi Moghadam, and a Vienna-based diplomat, Assadollah Asadi. Their names are to appear in the EU's Official Journal on Wednesday.

Sanctions on the intelligence ministry, which is under the control of Supreme Leader Ayatollah Ali Khamenei, are unlikely to change what the European Union says are Iran's destabilizing activities in Europe and the Middle East.

The deputy minister and director general of intelligence is in Iran, while the Iranian diplomat was charged and is being held by Belgian authorities. Neither appear to have assets in France, which first imposed the asset freeze late last year.

Iranian Foreign Minister Mohammad Javad Zarif delivers his statement, during the Geneva Conference on Afghanistan, ...

But imposing economic sanctions on Iran, once the EU's top oil supplier, remains highly sensitive for the bloc.

The EU has been straining to uphold the 2015 nuclear accord between Iran and world powers that U.S. President Donald Trump pulled out of in May. It has been less willing to consider sanctions, instead seeking talks with Tehran.

Iran has warned it could ditch the nuclear deal if EU powers do not protect its trade and financial benefits.

Reporting by Jacob Gronholt-Pedersen, Emil Gjerding Nielson in Copenhagen, John Irish in Paris, Robin Emmott in Brussels, Anthony Deutsch in Amsterdam, Stephanie van den Berg in The Hague, Bozorgmehr Sharafedin in London; Editing by Catherine Evans, William Maclean, Andrew Cawthorne

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MINISTRY OF FOREIGN AFFAIRS OF DENMARK

Read statement by Foreign Minister Samuelsen on illegal Iranian intelligence activities in Denmark

31.10.2018 11:54

Press conference about illegal Iranian intelligence activities in Denmark 30 October 2018.

CHECK AGAINST DELIVERY

I have called this press conference to inform you about the steps the Government has taken and will take in connection with the very serious matter, which the Head of the Danish Security and Intelligence Service has disclosed today. The Danish Security and Intelligence Service assesses that an intelligence agency of a foreign country has been planning to assassinate a person on Danish soil. Let me be frank about this: That is completely unacceptable and extremely serious. Words can hardly describe the gravity of the matter.

So the Danish government has now reacted, and has reacted sharply.

First of all, it is an unusual step that the government and the Danish Security and Intelligence Service today have disclosed the matter with maximum transparency, and have made it completely clear that the arrow is pointing at the Iranian intelligence service. We have tried as clearly as possible to highlight what is at stake. That has already been noticed abroad.

Secondly, I have decided to recall the Danish ambassador in Teheran for consultations. Allow me to stress that this is a very strong and very unusual diplomatic step.

Thirdly, earlier today we summoned the Iranian ambassador to Denmark to a meeting in the Ministry of Foreign Affairs. At the meeting it was made crystal clear that Denmark cannot under any circumstances accept that persons connected with an Iranian intelligence agency plan an assassination against persons in Denmark.

At the same time, regretfully, it seems that the Iranian behavior is not limited to Denmark. Several other countries share our concern. That's why – fourthly – Denmark has contacted a group of likeminded countries who share our concerns. We will continue the close cooperation with these countries and discuss common measures towards Iran.

And fifthly: When we discussed whether to introduce further sanctions against Iran in the spring, I was in favor. So far, however, that has not gained full support among EU countries. But in light of recent events, Denmark will now be heading efforts to have the EU discuss the need for further sanctions against Iran once again.

Today, Iran has denied that Iran's intelligence service could be behind the attempted assassination in Denmark. Iran is ruled by several fractions, and it is possible that parts of the government are unaware about the Iranian activities. But that does not change the fact that Iran as a state is behind it. And it does not change the fact that it is completely unacceptable.

The government has been concerned about Iran for a long time: About Iran's regional behavior. About the country's ballistic missiles program. And about the human rights situation in the country. I have expressed myself publicly about this before.

What has been disclosed by the Danish Security and Intelligence Service today shows that Iran is also behaving unacceptably on Danish soil – and that behavior needs to stop.

Tomorrow, the heads of the Middle East departments of the EU-countries will meet in Brussels. I have asked the Danish representative account for the Danish case and make it entirely clear how seriously we take this case in Denmark, and how utterly unacceptable the Iranian intelligence activities in Europe are. I have also asked the Danish representative to make the Danish desire to resume discussions about further sanctions against the Iranian regime completely clear.

Already tomorrow, I will raise the issue of Iran's unacceptable behavior when I will be meeting my Nordic colleagues in Oslo.

I would also like to add a comment to the information disclosed by the head of the Danish Security and Intelligence Service made public today: Danish authorities are, naturally, paying attention to whether members of the group ASMLA have violated the Criminal Code. For example by expressly approving the terrorist-attack in Ahwaz. That is under investigation by the police and the Danish

Security and Intelligence Service. That cannot be allowed to take place in Denmark. In Denmark, we condemn all kinds of terrorism – regardless of who is behind. Both the Prime Minister and I have made ourselves quite clear on this issue before.

Over the next few days, the the government will be assessing the situation. We have already taken the first steps today. I will not rule out that we will take more. And at this point, I will not rule out further steps in advance.

However, we are also convinced that in handling this case, it will have the greatest impact if we can act together with our like-minded partners in the EU.

That is why we discuss the case closely with our partners and allies, before we take new decisions and, possibly, take additional steps.

I am grateful that we have already seen such a strong signal of support for Denmark today from the US and UK governments among others. That means a lot for Denmark.

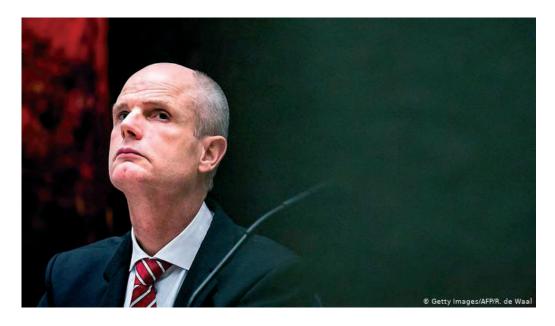
Finally, I would like commend the Danish Security and Intelligence Service for its work. Huge efforts have been put into unravel this case. That makes Denmark a safer place. By the way, this case also shows how vitally important it is for Denmark to cooperate with like-minded countries. Not only in diplomacy, but, indeed, also among intelligence agencies.



NEWS

Netherlands recalls ambassador to Iran

The Dutch ambassador to Iran was recalled for consultations after diplomats at its embassy in Tehran were expelled, Foreign Minister Stef Blok said. Two months ago Iran was accused of being behind political killings.



The Netherlands recalled its ambassador to Iran on Monday after Iran expelled two members of its diplomatic staff.

"The government has decided to recall the Dutch ambassador in Tehran for consultations," Blok said in a statement. "This decision follows the announcement by the Iranian Ministry of Foreign Affairs that two Dutch diplomats at the embassy in Tehran have been declared persona non grata and have to leave the country."

Iran expelled the two staff members in February amid a row between the two countries about the murders of two Iranian dissidents in 2015 and 2017.

The foreign minister said Iran's move was itself a tit-for-tat response to the Netherlands' expulsion of two Iranian embassy workers in June 2018 "due to strong indications from [Dutch intelligence] that Iran has been involved in the liquidations on Dutch territory of two Dutch people of Iranian origin."

EU sanctions

The EU last month approved sanctions against two Iranian nationals for their involvement in thwarted assassination attempts in France and

The two were Assadollah Asadi and Saeid Hashemi Moghadam. Asadi is a diplomat accredited to the Iranian embassy in Vienna who was arrested last year and extradited to Belgium. Moghadam is a deputy chief in Iran's Ministry for Intelligence and Security.

Iran has denied any involvement in alleged plots in Europe.

Business Standard

Bahrain court overturns stripping of 92 Shiites' citizenship: judicial source

AFP | Dubai June 30, 2019 Last Updated at 17:15 IST

A Bahraini appeals court overturned a decision to strip the citizenship of 92 Shiites jailed for plotting to form an Iran-linked "terror" group, a judicial source said Sunday.

The 92 were among 138 sentenced to prison terms and the revocation of their citizenship after being convicted of trying to build a Bahraini version of Hezbollah, the Iran-backed Shiite militia active in Lebanon.

"The appeals court overturned the decision to strip the 92 people of their citizenship," a judicial source told AFP.

"But their prison terms remain the same," the source added.

The Court of Cassation, Bahrain's highest court, will issue a final verdict, but the timing of that decision is not known.

In April's court ruling, the prosecutor said 69 defendants were sentenced to life in jail, 39 to 10 years, 23 to seven years and the rest to between three and five years imprisonment.

Ninety-six of the defendants were also fined 100,000 Bahraini dinars (USD 265,000) each.

The verdict was swiftly condemned by the Bahraini opposition, while human rights group Amnesty International decried a "mockery of justice" and "mass arbitrary denaturalisation".

The opposition Bahrain Institute for Rights and Democracy (BIRD) said the mass sentencing was "the largest single incident" since the Bahraini government began revoking nationalities of opponents in 2012.

Since 2012, Manama has stripped the nationalities of 990 people, including 180 this year, the institute said.

Ruled for more than two centuries by the Sunni Al-Khalifa dynasty, Bahrain is mostly Shiite Muslim, according to unofficial estimates contested by the government.

The small Gulf state, a key US ally, has been gripped by bouts of unrest since 2011, when authorities cracked down on Shiite-led protests demanding political reform.

Since then, hundreds of protesters have been jailed, with Bahrain claiming Iran trained and backed demonstrators in order to topple the Manama government -- an accusation Tehran denies.

All opposition groups have been banned and disbanded.



Advertisement

NEWS

Bahrain arrests 116 on charges of terrorism, Iran collusion

Bahraini security forces have arrested 116 people on charges of terrorism, accusing them of being part of a network established by Iran's Revolutionary Guard. The suspects allegedly plotted attacks on state officials.



A riot policeman in Bahrain

Bahrain authorities have busted a network "formed and supported by the Iranian Revolutionary Guard," the official BNA agency reported on Saturday.

The Bahraini interior ministry said 116 people were arrested, with security forces seizing weapons and explosives in raids across the Gulf state.

The crackdown thwarted multiple terror plots, according to the report.

https://www.dw.com/en/bahrain-arrests-116-on-charges-of-terrorism-iran-collusion/a-42814332

"The network was planning to target Bahraini officials, members of the security authorities and vital oil installations, with the objective of disturbing public security and harming the national economy," the interior ministry said in a statement.

During the raids, police seized 42 kilograms (93 pounds) of high explosives, 757 kilograms of explosive-making materials, grenades, magnetic bombs, as well projectiles and vehicles. The authorities also discovered weapons, including pistols and several Kalashnikov rifles.

Officials claim that 48 of the 116 suspected militants received training in facilities ran by Iran's Revolutionary Guard and its allies.

A country divided



Bahrain faced mass protests in 2011

Bahrain is ruled by Sunnis despite having a Shiite-majority population. The country holds a key strategic position Iran and Saudi Arabia in the Persian Gulf and serves as the host for the US 5th fleet.

The Manama government has repeatedly accused Iran of trying to destabilize it, with Tehran denying the charges.

Read more: Bahrain shuts down newspaper amid opposition crackdown

Oil-rich Bahrain is still struggling with the aftermath of the 2011 Arab Spring. During the unrest, the country's Shiite population rallied against the Sunni-dominated government. In response, authorities launched a massive crackdown and called Saudi

military to quash protests.

In recent years, Bahrain has faced bombings and small-scale attacks by Shiite militias. The country also launched a wave of arrests on against dissidents as well as suspected militants, with 47 people detained on terrorism charges in January.

dj/rc (dpa, AP, AFP, Reuters)



WORLD NEWS

FEBRUARY 7, 2018 / 11:24 AM / 2 YEARS AGO

Bahrain arrests four linked to pipeline blast: ministry



DUBAI (Reuters) - Bahraini authorities have arrested four members of cell behind a bomb attack on an oil pipeline, the interior ministry said on Wednesday, adding two of the group had been trained in Iran, an adversary of the Gulf Arab state.

Iran denies any role in Bahrain's unrest.

The explosion on November 10 caused a fire at Bahrain's main pipeline near Buri village, 15 km (10 miles) from the capital Manama, forcing the evacuation of residents.

A ministry statement said authorities had arrested four people, two of whom had received intensive training in Iran to carry out attacks to harm Bahrain's economy and its oil pipeline.

"Immediately after their return from Iran, they planned and got ready to blast the oil pipeline ...in addition to committing a series of other terrorist acts. They checked out the location and remotely bombed the pipeline," the ministry said.

Authorities were searching for three others "involved in the financing, planning, and implementation" behind the attack, the statement said, two of which live in Iran.

A key Western ally and host to the U.S. Fifth Fleet, Sunni Muslim-ruled Bahrain has for years grappled with protests mainly by members of its Shi'ite Muslim majority who demand a bigger share in running the kingdom.

Several Bahraini dissidents reside in Iran, calling for armed struggle to uproot Bahrain's ruling Al Khalifa monarchy in a holy war.

Iran has called accusations that it had any role in supporting violent acts in Bahrain "baseless and fabricated", but it has allowed the exiled Bahrainis to promote their ideas on Iranian official media and hold mourning ceremonies for those involved in deadly attacks in the country.

Reporting by Sami Aboudi, writing by Hadeel Al Sayegh, Editing by William Maclean Our Standards: <u>The Thomson Reuters Trust Principles.</u>



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WORLD NEWS

NOVEMBER 15, 2017 / 11:32 AM / 2 YEARS AGO

Bahrain says deadly bus attack engineered by Iran



DUBAI (Reuters) - Bahrain said on Wednesday a bomb attack on a police bus which killed an officer and wounded nine last month was carried out by a militant cell trained by its arch-foe Iran.

After authorities quashed Shi'ite Muslim-led "Arab Spring" protests on the Sunni-ruled island in 2011, militants have launched deadly bombing and shooting attacks against security forces that Bahrain blames on Tehran's Shi'ite theocracy.

Iran denies any role in Bahrain's unrest.

There was no immediate Iranian reaction to Wednesday's Bahraini interior ministry statement, which added that authorities had arrested one member of the cell while others were fugitives in Iran.

"The terrorist cell received extensive training in Iranian Revolutionary Guard camps on the use and manufacture of explosives and firearms, as well as material and logistical support," the ministry said.

Bahrain said earlier this week that an explosion at its main oil pipeline on Friday was caused by "terrorist" sabotage, linking the unprecedented attack to Iran.

A key Western ally and host to the U.S. Fifth Fleet, Gulf Arab monarchy Bahrain has for years grappled with protests and sporadic violence coming from its Shi'ite majority.

Reporting By Ali Abdelaty and Noah Browning, Editing by William Maclean $\,$

Our Standards: <u>The Thomson Reuters Trust Principles.</u>

Bahrain accuses Iran of harboring 160 'terrorists'

Minister says Tehran has trained Bahraini 'fugitives' to target police and security forces

By **AFP** 18 October 2017, 2:26 pm



Members of Iran's Revolutionary Guard Corps are seen at an annual military parade in front of the mausoleum of the late Ayatollah Khomeini just outside Tehran on S 22, 2014. (AP/Ebrahim Noroozi/File)

DUBAI, United Arab Emirates — Bahrain's interior minister accused Iran of harboring 160 Bahrainis convicted of terrorism and stripped of their citizenship, in an interview published Wednesday.

All 160 "fugitives" had been stripped of citizenship in "terrorism cases" targeting Bahraini police and security forces, told the Arabic-language daily Asharq Al-Awsat.

He accused Iran's elite Revolutionary Guards of having trained the group, who were convicted of attacks that killed 25 security personnel and wounded 3,000 others, according to Asharq Al-Awsat.

Bahrain, a Shiite-majority kingdom ruled by a Sunni dynasty, has seen sporadic violence since the repression in 2011 of a protest movement demanding a constitutional monarchy and an elected prime minister.

Authorities have since tightened their grip on dissent, jailing hundreds of protesters and stripping a string of highprofile activists and clerics of citizenship.

Bahrain has drawn harsh criticism for its treatment of demonstrators but maintains it does not discriminate against the country's Shiites.

https://www.timesofisrael.com/bahrain-accuses-iran-of-harboring-160-terrorists/

The kingdom, a key US ally located across the water from Iran, regularly accuses Shiite Iran of meddling in its internal affairs, an allegation Tehran denies.

US President Donald Trump has eased restrictions on arms sales to Bahrain, which on Tuesday announced it had signed a \$3.8 billion deal with US company Lockheed Martin to acquire 16 upgraded F-16 fighters.

Bahrain is home to the US Navy's Fifth Fleet and a British army base is currently under construction.



Bahraini demonstrators attend a protest against the revocation of the citizenship of top Bahraini Shiite cleric Sheikh Isa Qassim, near his house in the village of Diraz, west of the capital Manama, June 20, 2016. (AFP/MOHAMMED AL-SHAIKH)

THE SECRET WAR WITH IRAN

The 30-Year Clandestine Struggle Against the World's Most Dangerous Terrorist Power

Ronen Bergman

Translated by Ronnie Hope

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From the Preface

Iran has not launched full-scale invasions against its neighbors, as Saddam did against both Iran and Kuwait. Instead, it has been skillful in conducting its military adventures so as to avoid the wrath of the West. For the past twenty years Iran has masterfully used Hizballah as a proxy, maintaining a veneer of deniability. It has sponsored terrorists, working closely with al-Qaeda prior to 9/11, after which point it became expedient to maintain some distance from that network. And while the world had become obsessed with Osama bin Laden and his lieutenants, it forgot that the most dangerous of all terrorists before the advent of al-Qaeda-a Lebanese Shi'ite by the name of Imad Moughniyeh, who was responsible for the death and kidnapping of the biggest number of Americans until 9/11-was alive and well and a frequent and welcome visitor to Tehran, until he was blown up by a car bomb in Damascus early in 2008. The Iranian threat is a top priority of the U.S. defense and foreign policy establishment. Here, then, is a view of the greatest security challenge the United States is facing.



CHAPTER 11

Terror in Buenos Aires

The year of Yitzhak Rabin's ascension to prime minister, 1992, was a fateful one in the Arad case, for several reasons. After six fruitless years of searching for the captured airman, both sides were impatient. While Iran pressed about its four missing diplomats, and Mossad prepared to snatch Mustafa Dirani, Mossad operatives also decided to strike directly at Hizballah. They planned to kidnap the secretary general of Hizballah, Sheikh Abbas Mussawi, as a bargaining chip. The mericulously planned operation was to be carried out by its elite commando unit, and the order to snatch him was given on February 16, 1992, just days before Rabin became the head of the Labor Party. Mussawi was to be taken when his convoy was close to the village of Jibshit in southern Lebanon, away from the tight security environment of Beirut. In real time, an Israeli drone transmitted images of the convoy to the air force command post at military headquarters in Tel Aviv. But Mussawi was surrounded by too many bodyguards to be sure he could be seized alive. Reluctant to miss the chance, the chief of staff, Lieutenant General Ehud Barak, made a decision, with the approval of Prime Minister Yitzhak Shamir and Minister of Defense Moshe Arens: "If he's already in our sights, let's hit him." Suddenly the operation wasn't about getting Arad home, it was about an assassination. Few would argue that the head of Hizballah was anything other than a terrorist leader who was bent on killing as many Israelis as he could. Yet the possibility of his assassination raised the age-old question: Will it do more harm than good?

A videotape of an interview with an agent of Military Intelligence's Unit 504, the unit that tracked Mussawi's movements on the ground, is to this day locked in a safe in Israel. In it the agent firmly asserts that he had radioed to his controllers that in the car with Mussawi were his wife Siham and his son Hussein, who was then six years old. Nonetheless, two helicopters loosed rockets that blew the Mercedes and an escort vehicle

to smithereens. Everyone in the car was killed. Hizballah's first response was to unleash a five-day barrage of Katyusha rockets at western Galilee, during which a six-year-old girl was killed.

The international media gave Mussawi's assassination extensive coverage, showing the smoking remains of his convoy. Watching TV in their home in Ankara in Turkey were Ehud Sadan, a Shin Bet operative and chief of security at the Israeli Embassy in the Turkish capital, and his wife, Rachel. "I hope this doesn't spark a war of assassinations," Rachel said. Her husband reassured her that nothing would happen. On March 7, 1992, he was blown up by a bomb planted under his car. Turkish authorities apprehended and prosecuted members of Turkish Hizballah for the crime, who were said to be acting under orders from Iranian intelligence.

It was just the beginning.

"You can have a cup of coffee or tea and some cookies if you wish, but I'm not going to give you a proper lunch. Every time I eat with an Israeli, there's a terror attack. Twice was enough for me, I don't want any more." Hugo Anzorreguy, the head of SIDE, Argentina's intelligence organization, from 1990 to 2000, is only half-joking. He is currently the senior partner in one of the biggest Buenos Aires law firms. Sitting in his wood-paneled fortieth-floor office, he recalled a March 1992 polo match and a magnificent luncheon with the head of the Shin Bet, Yaakov Peri, who was visiting the Argentinean capital. One week later, on March 17, the Israeli Embassy there was blown up. Four Israeli Embassy workers and five local Jews were among the twenty-nine people killed, many of them children in a nearby school, when a suicide bomber detonated a car packed with explosives next to the embassy. Over 242 people were injured.

"Yaakov and I spoke about the menace posed by terrorists," Anzorreguy recalls, "but neither of us imagined that a few days later Buenos Aires would become a target of theirs. We are well, and then we went to the polo match. Then Yaakov flew back to Israel, leaving the catastrophe to me."

Israeli intelligence had no doubt the operation was revenge for the killing of Mussawi a month earlier. A team of Israelis, including operatives of the Shin Bet and the Mossad, as well as police explosives experts and ballistics experts from the Arms Development Authority, flew to Annex 19

Argentina. The Mossad agents worked closely with the ClA's Counter Terrorist Center (CTC). One of the Israeli agents described what he witnessed: "It was one big mess. Buenos Aires was full of spies. It was clear to everyone that someone had changed the rules of the game. We, the Americans and the Israelis, soon understood that the attack had seriously embarrassed the local authorities, who were in a hurry to wrap it all up quickly and quietly. From then on, we acted on our own, and kept the findings of our investigation to ourselves."

The American intelligence community held an internal enquiry to establish whether in the days prior to the attack indications of the operation had been received but not interpreted correctly. The National Security Agency located a message from the Iranian Embassy in Moscow to Tehran that had been intercepted three days before the bombing but not translated in real time. It contained clear signs of awareness of an impending attack on an Israeli legation in South America. In addition, two messages, from the Iranian embassies in Buenos Aires and Brasilia to the Foreign Ministry in Iran, appeared in retrospect to contain coded signals about the approaching operation. These messages, which were passed to Israeli intelligence, indicated that Iran was deeply implicated in the embassy attack. Later, NSA supplied Israel with unequivocal proof— "not a smoking gun, but a blazing cannon," in the words of a Mossad official—that Imad Moughniyeh, together with another senior Hizballah member named Talal Hamiyah, were responsible for the execution of the operation. In a phone conversation between the two, Hamiyah was heard rejoicing over "our project in Argentina" and mocking the Shin Bet, which is responsible for protecting Israeli legations abroad, for not preventing it.

The Argentinean service agreed that Iran was involved, based on its own evidence. SIDE produced transcripts of an exchange that took place some time later in the home of an Iranian diplomat. In the course of a noisy family quarrel, the diplomat's wife was heard shouting at him that if he continued to treat her the way he did, she would tell everything the knew about his part in "what happened to the offices of the Zionists."

Ultimately, the CIA investigation report, written by Dr. Stanley Bedlington of CTC, presented the bombing as the model of an Iranian-led operation, with Iran working through Hizballah to avoid direct evidence of its involvement. The model had been used before: a Hizballah agent would leave Lebanon for the target zone equipped with forged

papers supplied by the Iranian Embassy in Beirut. That agent would recruit Shi'ite residents of the zone, well versed in the customs and conduct of the local population, as a "local support cell." The cell would gather information on various targets, and then assist in the execution of a strike, after a target was selected by Beirut or Tehran. A unit of three or four agents would travel to the target zone to carry out the attack.

The Hizballah command in Beirut selected the Israeli Embassy in Buenos Aires as the best target for revenge for the Mussawi assassination. The Triple Frontier area—the border region shared by Argentina, Paraguay, and Brazil—at the Iguazu Falls was the staging ground, due to its large population of Shi'ite immigrants from Lebanon who maintain close links with their families back home and are ready to help when necessary. The Hizballah agent who ran the embassy attack was, according to intelligence assessments, Mohammad Abu Warda. The cell that carried out the bombing was part of Imad Moughniyeh's Special Operations Command, headed by a senior operative of the organization known by his nom de guerre, Abu al-Foul. The Hizballah squad came to Argentina via London and the Paraguayan city of Ciudad del Este, in the Triple Frontier area.

According to the CIA report, Iran and Hizballah had operated in this way in the United States, the Balkans, Cyprus, Spain, Mexico, Thailand, the United Kingdom, Austria, Germany, and Venezuela, as well as Argentina. Few people realize that Hizballah has attempted operations in these countries. The CIA maintains that Hizballah's activities have included the creation of sleeper cells and the gathering of information in preparation for carrying out operations in many countries in Europe and North America.

A Mossad team that visited the Triple Frontier area after the embassy attack came back with hair-raising reports from "a town named hell," as they called Ciudad del Este. "There is a clear and present danger that the next attack is on the way," they reported.

A visit to hot and humid Ciudad del Este nine years later, in late August 2001, revealed that little had changed since the Mossad checked it out. Hamid Nasrallah, a cleric in a Shi'ite mosque, told me he followed events in the Middle East via the satellite dish on the roof of his home, and was angered by the "atrocities" perpetrated by the "Zionist entity" in Lebanon. The Jews, he explained, ruled the world, including America.

Nasrallah's mosque is an unpretentious, gloomy place, with only a small sign reading *Mesquita*, or mosque, hanging over its doorway. It has been identified by Israeli intelligence as well as the Argentinean SIDE as one of the hubs of Hizballah activities in South America.

Like many other residents of this menacing city, Nasrallah carries a weapon—"for self-defense," he explains. His congregation numbers several hundred believers, almost all Lebanese, who visit the mosque with varying regularity. He firmly denies the claim that Ciudad del Este has become a base for the activities of Middle Eastern terrorist organizations: "That's all rumor, invented by the enemies of Paraguay together with the Zionists, in order to smear us." Nevertheless, like many other people in the city, Nasrallah has no problem in declaring his enthusiastic support for his relative, Hassan Nasrallah, head of Hizballah, and for the aims of the organization, which he calls "a respectable political movement," and for which he conducts fund-raising campaigns.

Ciudad del Este is a kind of murky mixture of Hong Kong, Gaza, and Beirut. It used to be called Puerto Presidente Stroessner, after the military dictator of Paraguay, General Alfredo Stroessner, who contrived a unique way to improve the economy of his country, squeezed in between the two giants, Brazil and Argentina. On top of its traditional crime, corruption, and smuggling, Stroessner allocated substantial funds to Puerto Presidente Stroessner, and with the agreement of the neighboring countries turned it into a free trade zone, exempt from export and import duties. At first it worked well. Droves of Argentineans came to visit the breathtaking Iguazu Falls and to buy discounted electrical appliances.

But the formation of a South American common market in 1991 and a tightening of Argentinean Customs regulations made the long trip to Ciudad del Este far less worthwhile. In the five years between 1995 and 2000, two thousand stores were closed in the city and the number of tour buses arriving there from Brazil dropped from three hundred a day to seven hundred a month. It gradually became a city without law. For the tight sum, contraband and counterfeit goods of all kinds are still freely available: Rolex watches, CD players, cigarettes, TV sets, clothing, footwear, alcoholic beverages, cell phones, counterfeit hundred-dollar bills (sold for \$40 apiece), the currencies (possibly fake) of various countries at very reasonable rates, stolen cars, and pirated copies of video games and movies. Most of the goods come from the Far East, by various routes, and from here they are distributed throughout South America.

You can also buy guns. Openly and over the counter, at a store called Personal Security Guns and Ammunition on Adrian Jarra Street, you can purchase a German Mauser semiautomatic rifle for \$1,000. An Uzi submachine gun, or a mini-Uzi, costs \$2,500. No questions asked. At another gun store, clerks offer to dismande and pack each gun in several parcels, to make it easier to transport across the border into Brazil or Argentina. A lively traffic is conducted under the counter in more serious weaponry, such as assault rifles, bazookas, explosives, and for the well-heeled client, even TOW antitank missiles. Whatever can't be smuggled over the border on land is flown. There are some five hundred landing strips for private planes in Paraguay, many of them in the Ciudad del Este area.

The city is also the site of widespread extortion, bribery, money laundering, and trafficking in drugs of all kinds. At night, innumerable prostitutes of both sexes inhabit the streets and bars. No one asks questions. While the legitimate commerce in the city is estimated to reach a billion dollars a year, the volume of illegal trade is believed to be at least double that figure.

The population of the area is about half a million—a mix of Paraguayans, Brazilians, Argentineans, Indians, Chinese, Africans, Germans, Lebanese, Egyptians, and Palestinians. Some come to make money, others come to find rest and shelter after turning up on wanted lists in other countries. A few score are members of Hamas, Islamic Jihad, and Hizballah, according to SIDE, many of whom come here to escape the long arm of Mossad. Altogether there are some 20,000 permanent residents of Arab origin. The migration here from Lebanon began in 1944, and increased greatly with the outbreak of the civil war in Lebanon in the 1970s.

The Arabs have a very high profile in the city. The downtown area is full of hummus and shwarma stands. Lebanese flags, pictures of Lebanese scenery, and texts from the Quran are everywhere. One of the best known and well-liked city councilors is Sheikh Akhram Ahmad Barakat, the brother of Asad Barakat, who according to an investigation carried out by the Paraguyan newspaper ABC is the military commander of Hizballah in the Triple Frontier area. According to the same report, Sheikh Barakat represents the Iranian government in the region on various matters.

A senior SIDE official says that members of Hizballah and Hamas function with almost total freedom in the city: "It may be that in the Middle East there are serious differences of opinion between the various factions. But here, they cooperate with each other. We have observed periodical meetings between Hamas and Hizballah in the city's mosques."

The intelligence services of Argentina, the United States, and Israel agree that the financing and planning of the bornbing of the Israeli Embassy in Buenos Aires in 1992 were carried out by elements of the Shi'ite community of Ciudad del Este, acting under the orders of Hizballah and Iran. The perpetrators set out from the city, and returned there. In the Mossad, there were some who demanded vigorous and aggressive action against the Shi'ite terrorists of South America. Unless we act, they warned, there will be further attacks. These demands were submitted to the Mossad director at the time, Shabtai Shavit, but he was firmly opposed. Shavit rejected the recommendation for a comprehensive operation in South America, arguing that "the Mossad has more important things to do."

A year and a half later, Shabtai Shavit would change his mind. On July 18, 1994, at 9:53 in the morning, a huge blast shook the bustling streets of Buenos Aires and sent smoke and dust billowing into the smoggy skies of the city named for its once clean air. A bomb had detonated under the seven-floor building that housed the offices of the Argentinean Jewish community organization—Asociación Mutual Israelita Argentina (AMIA)—killing 86 people and injuring 252.

The attack was planned and executed along the same lines as the one on the embassy, and Israeli intelligence officials assess that it was in answer to an Israeli operation known as "Knock on the Door."

In 1993, Israel and Iran did come to terms in a two-clause package deal that was formulated with U.S. agreement: Iranian assets that had been frozen in the United States since the Shah's regime was toppled would be thawed, and a favorable solution would be agreed to the arbitration underway in Switzerland over a \$5 billion Israeli debt to Iran for oil and for pre-revolution advance payments for arms and sophisticated weaponry that was never delivered. But on the difficult issue of Arad's fate, and whether his life or his body are actually worth billions

of dollars, no progress had been made. The Iranians had dug in behind their wall of silence, even though Israel offered billions of dollars in economic incentives.

If billions of dollars were the carrot, a stick was also brought into play at that time. By 1993, the Iranian economy was shattered. When the Iraq-Iran War ended in 1988, Iran entered a process of rebuilding and industrialization that required many external loans, obtained mainly from Europe. The Iranian banking system had underwritten immense debts, which began to fall due in 1993, while at the same time oil revenues that constituted 85 percent of the Iranian economy dropped drastically. The total debt was some \$24 billion, and the Iranians simply could not pay.

Iran's income in foreign currency fell from \$22 billion a year to \$10 billion. A secret evaluation ordered by the heads of the Tehran regime indicated that it could not hold out for any prolonged period of time, and that famine would bring the masses out onto the streets. The situation had become so critical that according to some reports reaching Israeli intelligence, the military was sent in to attack the districts of Tehran where the black market in dollars was operating.

The head of Iran's central bank took a large team of advisers to Europe to ask government leaders and bankers there to reschedule the Iranian debts. Like a good Persian bazaar merchant, he cleverly manipulated the different European states, telling the one that the other had offered him better terms, and hoping in this way to maximize the profits from his journey. This ploy, however, had one weak point: The Israelis knew what he was up to. Military Intelligence's economics department, headed by Lieutenant Colonel Yitzhak Lev, carried out a detailed analysis of the Iranian moves and exposed the manipulation. The material was presented to Prime Minister Rabin and other top officials, and a plan was agreed upon, to use the information in an attempt to get Ron Arad home. "Operation Knock on the Door" was launched.

After experts who were recruited from the Bank of Israel confirmed that the suspicions about Iran's fraud were accurate, Tehran was told that if Arad was not released forthwith, its deception would be exposed and negotiations in Europe over the debt rescheduling would be sabotaged.

The Iranians did not respond, and MI concluded that they didn't believe Israel would carry out its threat. With Rabin's approval, it was

decided to show them that Israel meant business. Deputy Foreign Minister Dr. Yossi Beilin organized and studied the evidence, and he and Foreign Minister Shimon Peres went on a trip, taking the file with them. They showed it to their hosts in several Western European countries, proving that the Iranians were intent on deceiving them; the Europeans, who were stunned, then stopped the negotiations and adopted a much tougher stance. The terms for the rescheduling of Iran's debt finally agreed upon were much more difficult than the Iranians had hoped for.

Beilin says: "Before every trip I would meet with the head of MI's POWs and MIAs department and get material from him. This included the economic material on Iran that you have mentioned. Together we would tailor the information we presented to the interests of each country."

A source who served in Military Intelligence at the time recalls: "It was amazing to see how everyone—without any exceptions, not even the most cynical and opportunistic people—harnessed themselves to Operation Body Heat. It was a tumultuous time, and everyone who touched this case . . . it was as if it did something to his heart, deep inside. Beilin, for example, was utterly dedicated. He took the material, studied it, physically carried it himself because of its sensitive nature, and briefed Peres about it before their meetings."

Mnock on the Door did not end with the blow inflicted on Iran. Israel made it clear to Tehran that the Europeans' changed terms had been a direct result of Israeli action and warned: If you don't return Ron Arad, we will expose all of your lies. But Iran never said a word. Israeli intelligence concluded that Iran had interpreted Knock on the Door—together with Israeli anti-Iranian lobbying in the United States and Israel Radio's propaganda broadcasts in Farsi—as a kind of declaration of war. "Obviously the Americans would have taken steps against Iran without us," said a senior intelligence source, referring to various forms of economic sanctions and the blacklisting of Iranian companies and individuals by the State Department and the Pentagon. "But from the point of view of the Iranians—who were exposed to the lobbying activities in Washingson, and who were fighting a Ping-Pong war, including speeches fraught with distress by their president and their spiritual leader countering items broadcast on Israel Radio about the tough economic situation in

Iran—to them, this was tantamount to the implementation of *The Protocols of the Elders of Zion*: the Jews were turning the world economy against them."

In July 1994, several months after Knock on the Door, the Iranians finally came up with their belated response.

The second terror attack in Argentina shocked the Israeli intelligence community. Mossad director Shavit shed his complacency and ordered a thorough inquiry into anti-Israel and anti-Jewish terrorism in South America. The Mossad probe, carried out with the cooperation of SIDE, took over a year, and the result sounded like a broken record: The network responsible for the attack was controlled by a veteran terrorist known only by the nom de guerre Abu al-Foul; the network belonged to the Hizballah offshoot run by Imad Moughniyeh; and it had operated along the same lines as two years previously.

In the United States, Secretary of State Warren Christopher laid direct blame on Iran for the AMIA attack. Argentina, too, hurriedly accused Iran. This was the easiest response, because Iran could not be prosecuted and put on trial. Only the insistence of the Jewish community and some journalists led to the launch of an investigation by the Argentinean authorities. The story of this investigation, its nebulous outcome, and its failure to solve the case could fill a book of its own. An endless series of arrests, announcements, leaks, alleged breakthroughs, and indictments all came to naught. No one has ever been convicted of perpetrating the attack.

The federal judge appointed to conduct the investigation, Juan Jose Galeano, issued arrest warrants against four senior Iranian officials in 1999, and also accused the Iranian ambassador, Hade Soleimanpour, and the cultural attaché, Muhsen Rabani, formerly imam of the al-Tawahid mosque in Buenos Aires, of complicity in the attack. None of them was actually detained, however, as they were conveniently out of the country at the time. Months and then years passed. Innumerable officers and civilians of fifteen different nationalities were arrested on suspicion of involvement, but none was convicted. Soleimanpour, meanwhile, went on to fill a series of senior posts in the Iranian Foreign Ministry. According to information reaching the CIA, he is actually a top official of the Intelligence Ministry.

The investigation became a highly sensitive political issue in

Argentina, due to allegations that neo-Nazi elements in the police and the military were implicated in the attack, which was why the police had neither prevented nor solved the bombing. The president of Argentina, Carlos Menem, was accused of trying to sweep the whole matter under the carpet, or of being involved in it, due to his friendly relations with the Syrian regime. When Menem's son died in a mysterious helicopter crash in 1995, these conspiracy theories were only strengthened. In a country which not long before had been ruled by a vicious totalitarian regime, that such theories would arise around the two attacks was natural. Some members of the Jewish community even attacked the Israeli government for papering over the investigation. None of these conspiracist claims has been proven.

Gabriel Pasquini, a journalist who covers the security services for La Nación, sums up the situation well: "Playing a central role here are the impotence of the Argentinean law enforcement and investigative authorities, which really do not know how to tackle this kind of terrorism, and also the terrible corruption that is deeply rooted in the governmental apparatus here. There is no doubt that the police made many errors in the investigation, but it is not clear whether these errors were made innocently or maliciously."

The story of how the police went about tracing the Renault van that was used by the attackers as a car bomb is a good example of the bumbling way in which the investigation was conducted. Soon after the attack, a man named Carlos Telleldin was arrested on suspicion of having sold the vehicle to the terrorists knowingly. He denied that he was aware that it was going to be used for anything illegal, and especially a terror attack.

The head of SIDE at that time, Hugo Anzorreguy, explains what happened next. "The Mossad requested, and to my mind completely justifiably, that a lie detector test be done on Telleldin to check whether the version he gave about the person who took the car from him was true. A Mossad crew even came here with a polygraph machine and they trained one of our men to take part in the test and ask the questions in Spanish. When we came to Judge Galeano with the request, however, he threw us out. It is very difficult to fight terror with your hands tied behind your back."

Brigadier General Yigal Carmon, counterterrorism adviser to Prime Ministers Rabin and Shamir, remains furious about the affair. "The interrogation of Telleldin was a disgraceful failure and I'm not convinced that it was the result of only negligence and lack of ability, and not a malicious intent to sabotage the investigation."

Telleldin was put on trial in September 2001, together with nineteen former and current police officers accused of varying degrees of involvement and complicity in the purchase of the vehicle and its preparation for the bombing. According to the indictment formulated by Judge Galeano, Telleldin had sold the van to four men, who were linked to Hizballah terrorists. But the entire web of the prosecution's evidence unraveled when a videotape of an interrogation session between Galeano and Telleldin came to light. In it, the judge was heard uttering statements that could have been construed as offering the suspect a large sum of money in exchange for evidence that would incriminate the police officers. Judge Galeano was sacked, and all of the indicted men were acquitted on September 7, 2004.

Galeano was replaced by the prosecutor general of Buenos Aires, a Jew by the name of Alberto Nisman. He decided to deemphasize local suspects and to concentrate on the complicity of foreigners. After two years of investigation, he submitted his findings in 2006, accusing eight senior officials of Iran and Hizhallah, with Moughniyeh at their head, of responsibility for the atrocity. Nisman proposed trying the eight in absentia, and obtaining international warrants for their arrest. By early 2008, the matter was still under consideration.

Nisman's report was handed to the Mossad in July 2006, during a visit to Israel by the new head of SIDE, Miguel Angel Toma. Described as "courageous and professional" by Mossad officials, it is a highly detailed document that contains thousands of pages of surveillance reports, wire-tap transcripts, and analysis of intelligence data. It suggests an additional motive for the terror attacks in Argentina: Iranian revenge for a broken Argentinean commitment to supply nuclear know-how and equipment for reactors. With Iran's resumption of its nuclear project after Khomeini's death in 1989, several contracts were signed with Argentina for the supply of nuclear equipment; but after the United States applied heavy pressure on Buenos Aires, they were not implemented.

The aftermath of the second bombing was not just devoted to investigations. Three months after the AMIA bombing, in October 1994, the CIA and SIDE launched a joint operation code-named "Centauto," to prevent further attacks and to crush Islamic terror in Argentina and else-

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where in South America. The funding was American, as were the technological equipment and the training. The operation began as a minor project, but expanded so that by the end of the 1990s it was one of the biggest intelligence operations on the continent.

Some idea of what they were up against, with their limited knowledge of the Middle East, was expressed by one of Centauro's Argentinean commanders. "We have good information on what's going on in South America, but who can understand the difference between Hamas and Hizballah? That's very important when it comes to telephones. We can listen in to the calls, but we have no idea what they are talking about in Arabic, or whom they are calling in Gaza, Paris, or Beirut.

"We gave a phone number to the DST, the French [domestic] intelligence agency," he added, "and it turned out to belong to a Hizballah agent that they had been tracking for two years. Elsewhere, we intercepted a call between [Hizballah secretary general Hassan] Nasrallah in Beirut and his cousin in Buenos Aires. There was one especially suspicious line in Ciudad del Este. Its owner, a Hizballah member, called all of the Iranian embassies in South America. The last call on the printout, ten days before the bombing, was to the personal number of Nasrallah himself in Beirut. After that the line was silent, and we never heard the man anymore."

Centauro's biggest success came in 1997, after SIDE managed to recruit a member of a Hizballah cell in Ciudad del Este as an informer. He reported that the cell was collecting explosives and other material in order to blow up the American embassy in Asunción, the capital of Paraguay. According to reports in the Argentine press, the Americans acted immediately, and in force. A special forces American commando unit was flown to Asunción at night, in several giant transport planes, and arrested the perpetrators. The operation was not reported in the American media, and no further reports have been made public about the outcome of the operation. That apparent success is only one of many hidden battles won by the West—no word of the operation reached the public at the time.

Nonetheless, Centauro was soon shut down. Upon Fernando de la Rua's election as president of Argentina in December 1999, he fired Anzorreguy and replaced him with Fernando de Santibanes, who soon can into a head-on collision with the CIA. The agency's Buenos Aires bureau chief was recalled after being outed in the local press. Langley, in

a snit, called a halt to Centauro. This move, SIDE sources say, also led to an end of the work of Mossad agents who were acting under the CIA's wing. Since then, they say, Israeli intelligence has drastically reduced its presence in Argentina. Members of the Jewish community maintain that senior officials of the American and Israeli embassies have warned that Argentina has practically stopped its intelligence efforts against terrorism, and that the community feels exposed.

One of the most complex, and to a certain degree most successful, operations against Iranian-sponsored international terror was aborted before term. The CIA pulled out because of ego struggles with Argentinean intelligence; the Mossad could not operate alone in the vast South American arena, and also felt that the danger had subsided. A vacuum resulted, and Iran entered it, reestablishing its agent networks, using Hizballah and its ties with Lebanese immigrants on the continent, and bolstering its relations with several states, most notably Hugo Chávez's Venezuela.

Despite the termination of Operation Centauro, there was one final break in the Buenos Aires bombing cases—a tantalizing yet ultimately frustrating defeat. In July 1998, the Jordanian General Intelligence Department, after a complex operation, trapped a Hizballah cell which was about to depart for Europe to carry out terrorist attacks. It was commanded by none other than Abu al-Foul, whom the Mossad considers one of the most dangerous terrorists to have sprung from the ranks of Hizballah, together with one of his subordinates, Yousuf Aljouni. In the course of his vigorous interrogation by the Jordanians (which, unlike its Israeli and American counterparts, is not limited in its physical ways of extracting information), al-Foul confessed that he and his cell had played the central part in the two bombings. He also provided a substantial amount of information on their planning and execution.

The Argentine government has not, however, given up its efforts to get convictions in the case of the attacks. With the acquittal of Carlos Telleldin and the police officers, Dr. Alberto Nisman was appointed head of a special task force that was to devote all of its time and energies to probing the events. In 2008, some fifty investigators were working on the team. President Kirschner even issued a special presidential order for the 1,700 pages of the SIDE probe to be handed over to the team. In fact, Nisman has been conducting two parallel investigations—one to discover the perpetrators of the attacks, and the other to determine who was

responsible for the failures and cover-ups of the previous probes. He submitted a number of indictments against all of the heads of the prosecution and the investigators who were involved in the case, including Judge Galeano, SIDE chief Anzorreguy, police officers, prosecutors, and others. In December 2007, in the course of a lengthy interview for this book, he promised that he would also indict the man who had been interior minister at the time of the attacks, Alfredo Corach, and perhaps even former president Carlos Menem.

According to Nisman, the failures in the effort to prosecute Telleldin and the police officers (of whose criminality and corruption he harbors no doubt, but without connection to this case) originated in the wish of the authorities not to confront the Iranian regime. Nisman spoke at length of the evidence that he now has that the motivation for both of the attacks was indeed Iran's desire to wreak vengeance against Israel for its activities against Hizballah and Iran, and that they were carried out in Argentina because of the cancelation of the contracts related to the Iranian nuclear project. The Argentine government had been warned several times that Iran would retaliate, he says, and it was clear the Iranians did not mean only on the level of an international lawsuit.

Nisman was relying on the testimony of a number of witnesses who had held key posts in the Iranian government and intelligence community, including the former president Abolhassan Banisadr, and Farhad Mesbahi, the VEVAK operative who defected to German intelligence in the 1990s. He also has new evidence on the movements of Iranian agents in Buenos Aires and the testimony of their local contacts. In addition, he and his staff have analyzed all the phone calls coming in and going out of Argentina during the relevant period, and have exposed a network of connections between the Iranian intelligence agents and the units operating in the Tri-Border region, as well as Tehran and Lebanon. They have even discovered where the suicide bomber, Ibrahim Berro, resided in Foz do Iguazu, the Brazilian side of the triangle. From this house, calls were made to the Berro family in South Lebanon.

The material in Nisman's hands was sufficient to persuade the heads of Interpol to issue international arrest warrants in December 2007 against top Iranian officials and the field officers involved in the attacks, including Fallahian and Moughniyeh. This is a largely symbolic achievement, but nevertheless significant.

The Jordanians reported on al-Foul's arrest to Israel, and then shared

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these results. Yet despite Abu al-Foul's confession, at the end of the day the Jordanians decided that they didn't want to hold him. They had received menacing threats from people associated with Imad Moughniych, and they knew that putting al-Foul on trial would make them a target for Hizballah terrorism. Nor could they eliminate al-Foul secretly, now that Hizballah knew he was being held. They were even more fearful of handing him to Israel, with all the reverberations that would provoke in the Arab world. Despite all of the Mossad's protests, Abu al-Foul and his gang were freed in December 1998. As far as anyone knows, today they are back in Tehran.

ANNEX 20

GLOBAL

Hezbollah's 1992 Attack in Argentina Is a Warning for Modern-Day Europe

Twenty-one years ago, a van blew up the Israeli embassy in Buenos Aries, and few saw it coming. Here's how the EU can prevent similar tragedies.

MATTHEW LEVITT MAR 19, 2013



Rescue workers scour the rubble of the Israeli embassy in Buenos Aires on March 17, 1992. (Don Rypka/AP Images)

Around 2:45 p.m. on March 17, 1992, a Ford F-100 panel van drove down Arroyo Street in tranquil neighborhood of Buenos Aries. It approached the front of the Israeli embassy in Buenos Aires--then drove up onto the sidewalk and blew up. The explosion wreaked havoc up and down the street, destroying the front of the building, causing the entire consulate building and part of the attached embassy building to collapse. The 220 pounds of high explosives and shrapnel, concentrated in the back right section of the vehicle, left twenty-three people dead and another 242 injured. Most of the people killed and injured were in the embassy but some were pedestrians, including a priest from the Roman Catholic Church across the street and children at a nearby school.

Hezbollah's most recent international terrorist plots targeted Bulgaria and Cyprus, EU member states on the continent's eastern periphery, prompting debate over designating Hezbollah as a terrorist group at the EU. For those European leaders who remain undecided, this week provides a timely reminder of what happens when the international community fails to respond to Hezbollah terrorism.

This week marks the 21st anniversary of the 1992 Israeli embassy bombing. Failure to respond to that attack emboldened Hezbollah, which incurred no cost for the attack. Two years later Hezbollah struck again, this time escalating from a diplomatic to civilian target and blowing up the AMIA Jewish community center in Buenos Aires.

Yaacov Perry, former director of the Israel Security Agency (Shin Bet), visited Argentina just a week before the embassy bombing for liaison meetings with his intelligence counterparts. At a polo match and luncheon, the intelligence chiefs discussed "the menace posed by terrorists," though neither had any idea how close the menace was or how soon it would be realized. Within days, Israeli counterterrorism teams would be back in Buenos Aires investigating the embassy bombing alongside Argentinean and American law enforcement and intelligence experts. An American International Response Team, including U.S. explosives experts, deployed to the site of the bombing and determined the type of explosive used by examining the charred remnants of the car bomb. Within hours of the bombing, investigators found the front section of the vehicle's engine block in a garden below the staircase of an apartment building down the street.

In time, investigators would determine that the Ford van had been parked at a parking lot located just a couple of blocks from the Israeli embassy for the hour and a half immediately preceding the bombing--to be precise, from 1:18 p.m. to 2:42 p.m., according to the stamp on the ticket. Three minutes after the van's departure, the vehicle bomb exploded outside the embassy.

In its claim of responsibility, delivered to a Western news agency in Beirut, Hezbollah's Islamic Jihad Organization declared "with all pride that the operation of the martyr infant Hussein is one of our continuing strikes against the criminal Israeli enemy in an open-ended war, which will not cease until Israel is wiped out of existence." Hussein was the five-year-old son of Hezbollah leader Abbas Moussawi, both of whom were killed in an Israeli air strike on his car on February

16, 1992. Speaking at Moussawi's funeral, Hezbollah leader Sheikh Mohammad Hussein Fadlallah warned that "Israel will not escape vengeance. We have received the message that there is no need to respond in an emotional fashion." Fadlallah assured his listeners in another statement that "there would be much more violence and much more blood would flow."

The CIA noted in a July 1992 intelligence report that Hezbollah held the United States and Israel equally responsible for Moussawi's death and threatened to target American interests in retaliation. According to the CIA, this was no empty threat: "Hezbollah elements began planning a retaliatory operation against U.S. interests in Lebanon shortly after Moussawi's death." Hezbollah, the CIA reminded policymakers in a July 1992 report, had executed two successful attacks targeting U.S. interests in Lebanon the previous year--firing missiles at the U.S. embassy on October 29, 1991, and destroying the administration building at the American University of Beirut in a car bombing on November 8, 1991.

These plans never did materialize, perhaps because Hezbollah was supremely focused on an attack it was planning well beyond Lebanon's borders. Just eight days after the assassination, the vehicle used in the embassy bombing was purchased in Buenos Aires by an individual with a Portuguese accent who signed documents with a last name different from the one on his identification. Three weeks later, the embassy was in ruins. The speed at which the operation was executed is easier to understand, however, in light of evidence that Iran decided to carry out an operation in Argentina well before Moussawi was killed. Mohsen Rabbani--an Iranian operative based in Buenos Aires who would play a key role in the bombing--spent ten months in Iran from January to December 1991. According to Argentine prosecutor Alberto Nisman, Hezbollah used the Moussawi assassination to justify the embassy bombing to its supporters, but the attack was carried out at the behest of Tehran in response to Argentina's suspension of nuclear cooperation with Iran.

Now, as then, the strategic relationship between Hezbollah and Iran is resulting in a campaign of terrorism across the globe. Hezbollah seeks to murder Israeli tourists, often targeting them in places frequented by American and other tourists, while Iran has set its sights on Western diplomats, including American, British, Israeli, Saudi and other officials. Thankfully, the only successful attack to date was in Bulgaria, where a Hezbollah bus bombing killed five Israelis and a Bulgarian.

Two weeks earlier, a Swedish Hezbollah operative was arrested in Cyprus, where he was surveilling Israeli tourists boarding buses at the airport.

Hezbollah is watching Europe closely, much as it watched Argentina 21 years ago this week. Argentina failed to respond to Hezbollah's challenge then, and suffered the repercussions two years later. Europe has an opportunity now to avoid that same mistake and should designate Hezbollah--in whole or in part--a terrorist group for executing terrorist plots in Europe. History suggests that failure to do so could result in still more attacks by an emboldened Hezbollah.

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ANNEX 21



Latin America: Terrorism Issues

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Summary

Compared to other parts of the world, the potential threat emanating from terrorism is low in most countries in Latin America. Most terrorist acts occur in the Andean region of South America, committed by two Colombian guerrilla groups—the Revolutionary Armed Forces of Colombia (FARC) and the National Liberation Army (ELN)—and one Peruvian guerrilla group, the Shining Path (SL). All three of these groups have been designated by the U.S. State Department as Foreign Terrorist Organizations (FTOs). The FARC, however, has been engaged in peace negotiations with the Colombian government since 2012, culminating in a peace accord signed in September 2016. Although the accord was narrowly rejected by a national plebiscite in early October, both sides hammered out a new peace accord in November 2016, which was ratified by Colombia's Congress at the end of that month. Negotiations between the Colombian government and the smaller ELN had several false starts in 2016, although to date formal talks with the government have not started. The Shining Path has been significantly diminished because of Peruvian military operations.

For a number of years, there has also been U.S. concern about Iran's increasing activities in the region as well as those of Hezbollah, the radical Lebanon-based Islamic group with close ties to Iran. Both are reported to be linked to the 1994 bombing of the Argentine-Israeli Mutual Association (AMIA) that killed 85 people in Buenos Aires. More recently, U.S. concerns have included financial and ideological support in South America and the Caribbean for the Islamic State (also known as the Islamic State of Iraq and the Levant, ISIL/ISIS), including the issue of individuals from the region leaving to fight with the Islamic State.

The United States employs various policy tools to counter terrorism in the region, including sanctions, antiterrorism assistance and training, law enforcement cooperation, and multilateral cooperation through the Organization of American States (OAS). In addition to sanctions against U.S.-designated FTOs in the region, the United States has imposed an arms embargo on Venezuela since 2006 because the Department of State has determined that Venezuela is not fully cooperating with U.S. antiterrorism efforts. The United States has also imposed sanctions on several current and former Venezuelan officials for assisting the FARC and on numerous individuals and companies in Latin America for providing support to Hezbollah. Cuba had been on the State Department's so-called list of state sponsors of terrorism since 1982, but in May 2015, the Obama Administration rescinded Cuba's designation as part of its overall policy shift on Cuba.

Legislative Initiatives and Oversight

The 114th Congress continued oversight of terrorism concerns in the Western Hemisphere, with House hearings on the activities of Iran and Hezbollah, the peace agreement in Colombia, border security management and concerns, and terrorist financing in South America.

Several legislative initiatives were introduced in the 114th Congress but ultimately not approved. The House passed H.R. 4482 (McSally) in April 2016, which would have required the Secretary of Homeland Security to prepare a southwest border threat analysis and strategic plan, including efforts to detect and prevent terrorists and instruments of terrorism from entering the United States.

With regard to the AMIA bombing and Iran, two Senate resolutions were introduced: S.Res. 167 (Rubio) would have called for an internationally backed investigation into the January 2015 death of the AMIA special prosecutor in Argentina, Alberto Nisman, and urged the President to continue to monitor Iran's activities in Latin America and the Caribbean, and S.Res. 620 (Coons)

would have, among its provisions, encouraged Argentina to investigate and prosecute those responsible for the AMIA bombing and the death of Nisman.

Several initiatives dealt with Cuba's harboring of U.S.-wanted fugitives, an issue that had been noted for many years in the State Department's annual terrorism report. A provision in the House version of the FY2017 National Defense Authorization Act (NDAA), H.R. 4909, would have prohibited funding for any bilateral military-to-military contact or cooperation pending certification that Cuba had fulfilled numerous conditions, including Cuba's return of U.S. fugitives; ultimately, the language regarding fugitives was not included in the conference report to the FY2017 NDAA. (For more information on these and other bills, see "Legislative Initiatives and Oversight," below.)

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Terrorism in Latin America: An Overview

Over the years, the United States has been concerned about threats to Latin American and Caribbean nations from various terrorist or insurgent groups that have attempted to influence or overthrow elected governments. Although Latin America has not been the focal point in efforts to deter global terrorism, some countries in the region have struggled with domestic terrorism for decades, and international terrorist groups have at times used the region as a battleground to advance their causes.

The State Department's annual Country Reports on Terrorism (hereinafter referred to as the terrorism report) highlights U.S. concerns about terrorist threats around the world, including in Latin America. According to the 2015 terrorism report (issued in June 2016), transnational criminal organizations (such as drug trafficking organizations) continued to pose a more significant threat to the region than terrorism, and most countries made efforts to investigate possible connections with terrorist organizations. In terms of Latin American countries' abilities to combat terrorism, the State Department maintained in the 2015 report that in some countries a lack of significant progress on countering terrorism occurred because of "corruption, weak government institutions, insufficient interagency cooperation, weak or non-existent legislation, and a lack of resources."

As in recent years, the State Department maintained in the 2015 terrorism report that the primary terrorist threats in Latin America stemmed from two Colombian guerrilla groups—the Revolutionary Armed Forces of Colombia (FARC) and the National Liberation Army (ELN) responsible for the majority of terrorist attacks in the region. The Colombian government has been involved in peace talks with the FARC since 2012, and it concluded and signed a peace agreement with the FARC in September 2016. Colombian voters rejected the agreement in a national plebiscite in early October 2016, but the Colombian government and the FARC reached a new agreement on November 12, 2016, which was approved by Colombia's Congress at the end of that month. Although preliminary talks between the Colombian government and the ELN were initiated in 2014, the opening of official talks has stalled. (See "Colombia" section, below.)

For a number of years, U.S. policymakers have expressed concerns about Iran's deepening relations with several Latin American countries, especially Venezuela, and Iran's activities in the region. A June 2013 State Department report to Congress pursuant to the Countering Iran in the Western Hemisphere Act of 2012 (P.L. 112-220) described Iranian influence in Latin America and the Caribbean as "waning." Many analysts contend that Iranian relations with the region have diminished since current Iranian President Hassan Rouhani took office in 2013. In presenting the 2016 posture statement of the U.S. Southern Command (SOUTHCOM) to Congress in March 2016, Admiral Kurt W. Tidd stated that "as a state sponsor of terrorism, Iran's nefarious involvement in the Western Hemisphere is a matter for concern." He noted that although Iranian engagement has waned in recent years, President Rouhani has pledged several times his intent to increase economic, scientific, and culture ties with Latin America.² (See "Iran's Activities in Latin America," below.)

One of the main concerns about Iran's increasing relations with the region has been Iran's ties to Hezbollah, the radical Lebanon-based Islamic group that the Department of State designated a

¹ U.S. Department of State, *Country Reports on Terrorism 2015*, June 2016, at http://www.state.gov/j/ct/rls/crt/2015/ index.htm.

² Posture statement of Admiral Kurt W. Tidd, Commander, U.S. Southern Command, before the 114th Congress, Senate Armed Services Committee, March 10, 2016, at http://www.armed-services.senate.gov/download/tidd_03-10-16.

Foreign Terrorist Organization (FTO) in 1997. The State Department asserted in its 2015 terrorism report that Hezbollah "continued to maintain a presence in the region, with members, facilitators, and supporters engaging in activity in support of the organization," including efforts to build the organization's "infrastructure in South America and fundraising, both through licit and illicit means." It noted Hezbollah fundraising activities in the tri-border area (TBA) of Argentina, Brazil, and Paraguay and the presence of Hezbollah supporters and sympathizers in Venezuela.

Beyond Hezbollah, the report noted that the TBA "remained an important regional nexus of arms, narcotics, pirated goods, human smuggling, counterfeiting, and money laundering—all potential funding sources for terrorist organizations."

The 2015 terrorism report also stated that South America and the Caribbean served as areas of financial and ideological support for the Islamic State of Iraq and the Levant (ISIL) and other terrorist groups in the Middle East and South Asia. It touched on the issue of individuals from South America and the Caribbean leaving the region to fight with the Islamic State. In March 2016, SOUTCHOM Commander Admiral Tidd estimated that some 100-150 foreign fighters had traveled from the region to Syria and Iraq.³ By October 2016, however, Admiral Tidd noted in a press conference that the outflow of foreign fighters from the region had been "significantly curtailed" because of the significant success in Iraq and Syria by the U.S.-led coalition.⁴

From 1982 until May 2015, Cuba was on the State Department's so-called state sponsors of terrorism list pursuant to Section 6(j) of the Export Administration Act (EAA) of 1979 and other provisions of law. As part of President Obama's shift on Cuba policy announced in December 2014, the State Department conducted a review of Cuba's designation on the state sponsors list, and in April 2015, President Obama submitted a report to Congress justifying the rescission of Cuba's designation. The President certified that the Cuban government "has not provided any support for international terrorism during the preceding 6-month period" and "has provided assurances that it will not support acts of international terrorism in the future." This ultimately led to the Secretary of State rescinding Cuba's designation in May 2015. (See "Cuba" section, below.)

Venezuela currently is on the State Department's annual list of countries determined to be not cooperating fully with U.S. antiterrorism efforts pursuant to Section 40A of the Arms Export Control Act. The most recent annual determination was made by the Secretary of State on May 11, 2016.⁵ Venezuela has been on the list since 2006 and, as a result, has been subject to a U.S. arms embargo. (Cuba had been on the Section 40A list since 1997, when the annual determination was first established, but was taken off the list in 2015.) U.S. officials have expressed concerns over the past decade about Venezuela's lack of cooperation on antiterrorism efforts, its relations with Iran, and the involvement of senior Venezuelan officials in supporting the drug and weapons trafficking activities of the FARC. (See "Venezuela" section, below.)

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³ "Department of Defense Press Briefing by Adm. Tidd in the Pentagon Briefing Room," Federal Information & News Dispatch Inc., March 10, 2016.

⁴ "Department of Defense Press Briefing by Adm. Tidd on Joint Task Force-Matthew Relief Efforts in Haiti," Federal Information & News Dispatch Inc., October 18, 2016; and Carla Babb, "U.S. Admiral: Fewer Latin Americans Joining IS Fight in Mideast, Voice of America Press Releases and Documents, Federal Information & News Dispatch Inc., October 18, 2016.

⁵ U.S. Department of State, "Determination and Certification Under Section 40A of the Arms Export Control Act," 81 *Federal Register* 35436, June 2, 2016.

Colombia⁶

Three violent Colombian groups have been designated by the Secretary of State as FTOs. Two of these, the leftist Revolutionary Armed Forces of Colombia (FARC) and the leftist National Liberation Army (ELN), were designated in 1997 and are active guerrilla groups. A third group, the rightist paramilitary United Self-Defense Forces of Colombia (AUC), was designated an FTO in 2001, but the group has been demobilized for nine years. In July 2014, the AUC was de-listed as an FTO by the U.S. Secretary of State.

The FARC, a leftist guerrilla group heavily involved in drug production and trafficking, was established in the mid-1960s. Over the past several years, the FARC has been weakened significantly by the government's military campaign against it. Yet, the FARC is estimated to have about 7,000-8,000 fighters remaining who have operated in various locations throughout Colombia. The group has been responsible for terrorist attacks, including the destruction of infrastructure, kidnapping, and extortion, and, in recent years, it has diversified into illegal mining. In the aftermath of the killing of FARC leader Alfonso Cano by Colombian security forces in November 2011, the FARC chose Rodrigo Londoño, also known as Timoleón Jiménez or Timochenko, as its new leader.

Colombia's President Juan Manuel Santos initiated formal peace talks with the FARC in 2012 concentrating on a six-part agenda, including land and rural development; political participation; illicit drugs; victims' reparations and transitional justice; and the demobilization, disarmament, and reintegration of the FARC. In September 2016, the government and the FARC signed a peace accord that ultimately was rejected by a slim majority in a plebiscite in October. Peace accord critics, led by popular former president and now Senator Álvaro Uribe, had mobilized a campaign to reject the accord. They highlighted many perceived weaknesses of the accord, such as inadequate punishment for FARC violations, lack of an appropriate appeal for forgiveness from FARC fighters, and overly generous guarantees for the FARC's future political role.

A second peace accord, which the government maintained responded to criticisms of the No campaign, was signed and then ratified by Colombia's Congress on November 30, 2016. The U.N. Security Council, which had sent a mission to help with the anticipated FARC demobilization, was redirected to serve as a guarantor of the bilateral cease-fire through the end of 2016. An immediate concern is whether the cease-fire will hold. Some observers maintain that a swiftly enacted peace accord leading to FARC disarmament and reintegration into rural communities will reduce violence and have many benefits, including enhanced economic growth. Critics of the second accord, however, contend that the Santos Administration still gave too many concessions to the FARC, especially in allowing the FARC's top leadership to enter politics and avoid prison.

The State Department's 2015 terrorism report maintained that terrorist incidents in the country—perpetrated largely by the FARC (Colombia's largest active terrorist group) and the ELN—decreased considerably during the year compared to 2014 and that government statistics showed that infrastructure sabotage was down. According to the report, the FARC reportedly focused on low-cost, high-impact attacks, such as launching mortars at police stations or the military, placing explosive devices near roads or paths, and conducting ambushes. The report notes that the Colombian government gradually reduced military operations against the FARC during the year,

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⁶ For additional information, see CRS Report R43813, *Colombia: Background and U.S. Relations*, by June S. Beittel.

 $^{^{7}}$ Historically the FTO has been responsible for numerous kidnappings, but it claimed to end the practice in early 2012 in an overture to open peace talks with the Colombian government.

including suspension of aerial bombardments as a de-escalation measure in response to unilateral cease-fires declared by the FARC. This resulted in less violence, except for an interlude in April and May 2015 after a FARC attack on Colombian soldiers in Cauca. The 2015 report maintained that the number of FARC and ELN guerrilla fighters who were captured, killed, or demobilized decreased slightly during 2015 in comparison to 2014 and that civilian deaths caused by the guerrilla organizations also decreased.

The FARC has continued to use the territory of several of Colombia's neighbors—Ecuador, Panama, and Venezuela—according to the State Department's 2015 terrorism report, although all the governments worked with Colombia and in some cases independently to reduce the presence of Colombian insurgents and drug trafficking groups. Border areas with Venezuela, Panama, and Ecuador reportedly are used for incursions into Colombia, and Venezuelan and Ecuadorian territory reportedly is used for safe haven, according to the report. (See **Figure 1**.)

The ELN, a Marxist-Leninist group formed in 1965, reportedly has a membership of around 2,000 fighters but has continued to undertake attacks and inflict casualties despite diminished resources and reduced offensive capability. In recent years, the ELN has been involved in joint attacks with the FARC. Like the FARC, the group derives its funding from drug trafficking as well as from kidnapping and extorting oil and gas companies. In 2015, the ELN increased its attacks on oil pipelines and equipment and continued to kidnap for ransom, a factor that continues to be at issue with opening a formal peace process with the current Colombian government. The ELN has been located largely in the rural and mountainous areas of northern, northeastern, and southwestern Colombia and in the eastern border region with Venezuela, where the group reportedly has its base. In June 2014, the ELN and the Colombian government confirmed that they were engaged in exploratory peace talks, but official talks slated to begin in Ecuador at the end of March 2016 were delayed. Formal peace talks slated to open in late October 2016 had to be deferred as well because the ELN would not release all kidnap victims that it held, which was a Santos government precondition to start official talks.

The AUC was formed in 1997 as a loose affiliation of right-wing paramilitary groups targeting leftist guerrillas. It carried out numerous political killings and kidnappings and was heavily involved in the drug trade. Although more than 32,000 AUC members demobilized between 2003 and 2006 and the group's paramilitary chiefs stepped down, the organization remained on the FTO list until 2014. Consequently, many former paramilitaries joined criminal groups, called criminal bands or Bacrim, by the Colombian government. The Bacrim are primarily involved in drug trafficking but also participate in extortion and other violent crimes. In 2013, Los Urabeños emerged as the dominant Bacrim (sometimes referred to as the Clan Úsuga), gaining nearly 3,000 members by 2015. A Colombian NGO Indepaz has anticipated that there could be a territorial reorganization of the "narco-paramilitary groups" in the aftermath of a peace accord with the FARC with the Bacrim groups vying to take over FARC drug and illegal mining businesses.

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⁸ The group members sometimes refer to themselves by an old name, Autodefensas Gaitanistas de Colombia (AGC), or their name as part of the umbrella organization of paramilitaries, the AUC, that demobilized formally between 2003 and 2006.

⁹ Indepaz, XI Informe de Presencia de Grupos Narcoparamilitares en 2014," December 8, 2015.



Figure 1. Colombia and Neighboring Countries

Source: CRS.

Notes: The map shows Colombia's departments and the bordering departments, provinces, and states of neighboring Ecuador, Peru, Brazil, Venezuela, and Panama.

Cuba¹⁰

Cuba had a history of supporting revolutionary movements and governments in Latin America and Africa, but, in 1992, then Cuban leader Fidel Castro said that his country's support for insurgents abroad was a thing of the past. Most analysts accept that Cuba's policy generally did change, largely because the breakup of the Soviet Union resulted in the loss of billions in subsidies.

From March 1982 until May 2015, the Department of State, pursuant to Section 6(j) of the Export Administration Act (EAA) of 1979 and other laws, ¹¹ had included Cuba among its list of states sponsoring terrorism. For a number of years, Cuba's retention on the terrorism list had been questioned by some observers. In general, those who supported keeping Cuba on the list pointed to the government's history of supporting terrorist acts and armed insurgencies and continued hosting of members of foreign terrorist organizations and U.S. fugitives from justice. Critics of retaining Cuba on the terrorism list maintained that it was a holdover of the Cold War. They argued that domestic political considerations kept Cuba on the terrorism list and maintained that Cuba's presence on the list diverted U.S. attention from struggles against serious terrorist threats.

In December 2014, President Obama unveiled a new policy approach toward Cuba that would move U.S. policy away from sanctions and toward a policy of engagement. One element of the changed policy was ordering a review of Cuba's designation by the State Department as a state sponsor of international terrorism. President Obama directed Secretary of State Kerry to review Cuba's designation "guided by the facts and the law." The President stated that "at a time when we are focused on threats from al Qaeda to ISIL, a nation that meets our conditions and renounces the use of terrorism should not face this sanction." The State Department review was completed in April 2015, and the President transmitted to Congress a report justifying the rescission of Cuba's designation as a state sponsor of terrorism. No resolutions of disapproval were introduced in Congress to block the rescission, which took place on May 29, 2015, 45 days after the submission of the report to Congress.

In the Administration's report, President Obama, following the process set forth by terrorist-list provisions of law cited above, certified that the Cuban government "has not provided any support for international terrorism during the preceding 6-month period" and "has provided assurances that it will not support acts of international terrorism in the future." The memorandum of justification accompanying the report maintained that Cuba had taken steps in recent years to fully distance itself from international terrorism and to strengthen its counterterrorism laws. The justification stated there was no credible evidence that Cuba had, within the preceding six months, provided specific material support, services, or resources to members of the FARC or ELN, two Colombian guerrilla groups, outside of facilitating the peace process between those organizations and the government of Colombia. It also stated that the Cuban government continued to allow approximately two dozen members of Basque Fatherland and Liberty (ETA), a Spanish terrorist group, to remain in the country, with most of those entering Cuba following an agreement with the government of Spain. The justification also noted the problem of Cuba's harboring of fugitives wanted in the United States and stated that the "strong U.S. interest in the return of these fugitives" would be served by entering into a bilateral law enforcement dialogue

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¹⁰ For additional information, see CRS Report R43926, Cuba: Issues for the 114th Congress, by Mark P. Sullivan.

¹¹ Section 620A of the Foreign Assistance Act of 1961 and Section 40 of the Arms Export Control Act. See CRS Report R43835, *State Sponsors of Acts of International Terrorism—Legislative Parameters: In Brief*, by Dianne E. Rennack.

¹² White House, "Statement by the President on Cuba Policy Changes," December 17, 2014.

with Cuba to resolve these cases. (For additional information, see CRS Report R43926, Cuba: Issues for the 114th Congress.)

In addition to Cuba's removal from the state sponsors of terrorism list, in May 2015, Secretary of State Kerry dropped Cuba from the annual determination (pursuant to Section 40A of the Arms Export Control Act and due by May 15 of each year) identifying countries that are not fully cooperating with United States antiterrorism efforts. ¹³ Cuba had been designated annually since that annual determination was established in 1997.

Peru

The brutal Shining Path (Sendero Luminoso, or SL) Maoist insurgency has operated as a terrorist group in Peru since 1980 and was designated by the Department of State as a foreign terrorist organization in 1997. The group was significantly weakened in the 1990s with the capture of its leader, Abimael Guzman, who, after a new trial in 2006, was sentenced to life in prison.

According to the 2015 State Department terrorism report, although SL remained active, its strength was reduced and its "ability to conduct coordinated attacks and its membership both continued to decline with successful Peruvian military operations." The group reportedly had just one active faction, with its area of operation limited to the Apurimac, Ene, and Mantaro River Valley (VRAEM) in south-central Peru. SL is reported to sustain itself through its involvement in drug production and trafficking and extortion of taxes from others involved in the drug trade. Its strength was reported to number 250-300 combatants, including some 60-100 hardcore fighters, according to the terrorism report. It reportedly committed 13 terrorist acts in 2015 compared to 20 in 2014.

In addition to the SL's designation as an FTO, in June 2015, the Treasury Department's Office of Foreign Assets Control identified SL as a significant foreign narcotics trafficker pursuant to the Foreign Narcotics Kingpin Designation Act, and sanctioned three SL leaders—Victor Quispe Palomino (Comrade José), Jorge Ouispe Palomino (Comrade Raúl), and Florindo Eleuterio Flores Hala (Comrade Artemio, who has been imprisoned in Peru since 2012). 14 All three SL leaders had been indicted by a U.S. federal court in New York in July 2014 on charges including conspiring to provide material support to the SL and conspiracy to commit narco-terrorism. ¹⁵

In November 2016, the State Department designated Victor and Jorge Quispe Palomino and Tarcela Loya Vilchez as Specially Designated Global Terrorists under Executive Order 13224, which authorizes sanctions on foreign persons and groups who commit, threaten to commit, or support terrorism. The sanctions block all property of the individuals subject to U.S. jurisdiction and prohibit U.S. persons from engaging in any transactions with them. ¹⁶

¹³ U.S. Department of State, "Determination and Certification Under Section 40A of the Arms Export Control Act," 80 Federal Register 30319, May 27, 2015.

¹⁴ U.S. Department of the Treasury, "Treasury Sanctions Peruvian Narco-Terrorist Group and Three Key Leaders," June 1, 2015.

¹⁵ U.S. Department of Justice, Offices of the United States Attorneys, Southern District of New York, "Manhattan U.S. Attorney Announces Charges Against Three Leaders of Peruvian Terrorist Organizations Shining Path," July 2, 2014.

¹⁶ U.S. Department of States, "State Department Terrorist Designations of Victor Quispe Palomino, Jorge Quispe Palomino, and Tarcela Loya Vilchez," November 22, 2016.

Venezuela¹⁷

U.S. officials have expressed concerns over the past several years about Venezuela's lack of cooperation on antiterrorism efforts, the involvement of senior Venezuelan government officials in supporting the drug and arms trafficking activities of the FARC, and Venezuela's relations with Iran. Since May 2006, the Secretary of State has made an annual determination that Venezuela has not been "cooperating fully with United States antiterrorism efforts" pursuant to Section 40A of the Arms Export Control Act (AECA). The most recent determination was made in May 2016. As a result, the United States has imposed an arms embargo on Venezuela since 2006, which ended all U.S. commercial arms sales and retransfers to Venezuela. (Other countries currently on the Section 40A list include Eritrea, Iran, North Korea, and Syria, not to be confused with the "state sponsors of terrorism" list under Section 6(j) of the Export Administration Act of 1979 and other provisions of law.) The United States has also imposed various sanctions on Venezuelan individuals and companies for supporting the FARC, Iran, and Hezbollah.

As it has for several years, the State Department maintained in its 2015 terrorism report that, although Venezuela is not classified as a state sponsor of terrorism, "there were credible reports that Venezuela maintained a permissive environment that allowed for support of activities that benefited known terrorist groups." It further stated that individuals linked to such terrorist groups as the FARC, ELN, and ETA, as well as Hezbollah sympathizers and supporters, were present in Venezuela.

According to the 2015 terrorism report, the FARC often uses Colombia's border areas with Venezuela for incursions into Colombia and also used Venezuelan territory for safe haven. The State Department also stated, however, that the foreign ministers of Venezuela and Colombia met several times to address such issues as the activity of illegally armed groups, the smuggling of illegal goods, and narcotics trafficking. It further noted Venezuela's participation in support of ongoing negotiations between the FARC and the Colombian government.

As in previous reports, the State Department maintained in the 2015 terrorism report that Venezuela's border security at ports of entry is vulnerable and susceptible to corruption. It noted that the Venezuelan government did not perform biographic and biometric screening at ports of entry or exit and that there was no automated system to collect advance passenger name records on commercial flights.

With regard to Venezuela's relations with Iran, there was significant concern among policymakers about the growing relationship between the two countries during the rule of Venezuelan President Hugo Chávez (1999-2013) and Iranian President Mahmoud Ahmadinejad (2005-2013) during which Venezuela arguably served as Iran's entry to the region. In the aftermath of the departure of Ahmadinejad from office and the death of Chávez in 2013, many analysts contend that Iranian relations with the region have diminished since current Iranian President Hassan Rouhani took office in 2013. Nevertheless, Iranian activities in the region remain a concern for U.S. officials. (For more see "Iran's Activities in Latin America," below.)

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¹⁷ For additional background on Venezuela, see CRS Report R43239, *Venezuela: Background and U.S. Relations*, by Mark P. Sullivan.

¹⁸ Federal Register, "Determination and Certification Under Section 40A of the Arms Export Control Act," June 2, 2016, p. 35436.

Iran's Activities in Latin America

For a number of years, there has been concern among policymakers about Iran's activities in Latin America. During the presidency of Mahmoud Ahmadinejad (2005-2013), Iran worked to increase its ties with Latin American countries, centered on Iran's attempts to work with regional governments to circumvent international sanctions. During this period, Venezuela under President Hugo Chávez (1999-2013) arguably served as Iran's gateway to the region. (See "Iran's Latin America Overtures Under Ahmadinejad," below.) Both Iran and Hezbollah, the radical Lebanon-based Islamic group and U.S.-designated FTO with which Iran has strong ties, are reported to be linked to two bombings against Jewish targets in Buenos Aires, Argentina, in the early 1990s: the 1992 bombing of the Israeli Embassy, which killed 30 people, and the 1994 bombing of the Argentine-Israeli Mutual Association (AMIA), which killed 85 people. (See "AMIA Bombing Investigation," below.)

In the aftermath of Ahmadinejad's departure from office and Chavez's death in 2013, many analysts contend that Iranian relations with the region have diminished. Current Iranian President Hassan Rouhani, who took office in August 2013, has not prioritized relations with Latin America. Rouhani undertook his first trip to the region in September 2016, three years after he first took office, stopping in Venezuela for a meeting of the Non-Aligned Movement and then traveling to Cuba for a two-day official visit before heading to the U.N. General Assembly meeting in New York. Iran's Foreign Minister traveled to seven Latin American countries in August and September 2016—Cuba, Nicaragua, Ecuador, Chile, Bolivia, Venezuela, and Mexico—with the goal of strengthening trade and cooperation in the aftermath of international sanctions on the country being lifted.¹⁹

Despite the waning of Iranian engagement in the region, U.S. officials remain vigilant about Iran's activities in Latin America. SOUTHCOM Commander Admiral Kurt Tidd stated in the command's 2016 posture statement that "as a state sponsor of terrorism, Iran's nefarious involvement in the Western Hemisphere is a matter for concern." He noted that President Rouhani has pledged to increase economic, scientific, and culture ties with Latin America.²⁰

Middle East analysts point out that Iran's key foreign policy focus remains its immediate region. It is in the Middle East, and South and Central Asia, where the Iranian regime perceives potential threats to its survival, and in which Iran has, for ideological, religious, and political motives, tried to alter political outcomes in its favor. Whatever efforts Iran has made to engage like-minded leaders in Latin America, these efforts do not approach its level of involvement in countries such as Iraq, Afghanistan, Syria, or Lebanon.²¹

As noted above, another reason for U.S. concern about Iran's relations with Latin America has been its ties to Hezbollah, which, along with Iran, reportedly is linked to two bombings against Jewish targets in Argentina in the early 1990s. In recent years, U.S. concerns regarding Hezbollah in Latin America have focused on its fundraising activities among sympathizers in the region,

¹⁹ Sabina Di Muro, "Spotlight: Emerging Iran Looks to Latin America for Cooperation," Xinhua News Agency, August 29, 2016; "Iranian Official Discusses FM's Visit to Latin American Countries," BBC Monitoring Middle East (text of report from *E'temad*, [Iran]), September 5, 2016; and "Zarif in Mexico, Later to Depart for Venezuela," Mehr News Agency, September 14, 2016.

²⁰ Posture statement of Admiral Kurt W. Tidd, Commander, U.S. Southern Command, before the 114th Congress, Senate Armed Services Committee, March 10, 2016, at http://www.armed-services.senate.gov/download/tidd_03-10-16.

²¹ For additional background on Iran and its foreign policy, see CRS Report R44017, *Iran's Foreign and Defense Policies*, by Kenneth Katzman.

particularly the tri-border area (TBA) of Argentina, Brazil, and Paraguay (see **Figure 2**), but also in other parts of the region.²² (At the same time, U.S. officials point out that Hezbollah's primary funding is from Iran and not from fundraising activities in Latin America.) The Brazilian city of Foz do Iguaçu and the Paraguayan city of Ciudad del Este have large Muslim populations. The TBA has long been used for arms and drug trafficking, contraband smuggling, document and currency fraud, money laundering, and the manufacture and movement of pirated goods.



Figure 2. Tri-Border Area of Argentina, Brazil, and Paraguay

Source: CRS.

The State Department's 2015 terrorism report states that Hezbollah has continued to maintain a presence in the region, "with members, facilitators, and supporters engaging in activity in support of the organization." This activity, according to the report, included "efforts to build Hezbollah's infrastructure in South America and fundraising, both through licit and illicit means." Some observers view Hezbollah's regional involvement in illicit activities as a means to raise money, as opposed to the organization having an ideological agenda in Latin America or pursuing one on behalf of Iran.²³

Iran's Latin America Overtures Under Ahmadinejad

Venezuela's relations with Iran have been long-standing because they were both founding members of OPEC in 1960. In the aftermath of the 1979 Iranian revolution, Iran fostered closer

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²² For additional background, see *Threat Convergence in South America's Tri-Border Area (TBA)*, The Fund for Peace, Center for the Study of Threat Convergence, Factsheet Series, January 11, 2010; and Rensselaer Lee, "Dispatches: The Tri-Border-Terrorism Nexus," *Global Crime*, Vol. 9, No 4, November 2008.

²³ For example, see Steven Dudley, co-director, Insight Crime, "Terrorism and Crime in the Americas – 'It's Business," Remarks before the Inter-American Committee Against Terrorism, Organization of American States, February 26, 2014.

relations with Cuba and with Nicaragua (after the 1979 Sandinista revolution). Under the government of President Mohammed Khatami (1997-2005), Iran made efforts to increase its trade with Latin America, particularly Brazil, and there were also efforts to increase cooperation with Venezuela. Venezuelan President Hugo Chávez visited Iran in 2001 and 2003, which led to a joint venture agreement to produce tractors in Venezuela. ²⁴

Not until President Ahmadinejad's rule began in 2005, however, did Iran aggressively work to increase its diplomatic and economic linkages with Latin American countries. A major rationale for this increased focus on Latin America was Iran's efforts to overcome its international isolation and reduce the effect of increasing sanctions. The personal relationship between Ahmadinejad and Venezuelan President Hugo Chávez also drove the strengthening of bilateral ties. The two nations signed a variety of agreements in agriculture, petrochemicals, oil exploration in the Orinoco region of Venezuela, the manufacturing of automobiles, and housing. Weekly flights between the two countries began in 2007 but were curtailed in 2010.²⁵ The State Department had expressed concern about these flights, maintaining that they were only subject to cursory immigration and customs controls.

Venezuela under Hugo Chávez also played a key role in the development of Iran's expanding relations with other countries in the region. This outreach largely focused on leftist governments that share the goal of reducing U.S. influence in the region. Iran's relations have grown with Bolivia under President Evo Morales, with Ecuador under President Rafael Correa, and with Nicaragua under President Daniel Ortega. While Iran has promised assistance and investment to these countries, observers maintain that there is little evidence that such promises have been fulfilled.²⁶

From 2006-2013, Iranian President Ahmadinejad visited Latin America eight times, most often Venezuela, but he also visited Bolivia, Brazil, Ecuador, Nicaragua, and Cuba. In 2012, Ahmadinejad undertook two trips to the region: a visit in January to Cuba, Ecuador, Nicaragua, and Venezuela and a June trip to Brazil to attend the U.N. Conference on Sustainable Development in Rio de Janeiro (which notably did not include bilateral meetings with the Brazilian government) along with side trips to Bolivia and Venezuela.

While Ahmadinejad's January 2012 trip to Venezuela, Nicaragua, Cuba, and Ecuador increased concerns of some U.S. policymakers about Iran's efforts to deepen ties with Latin America, some policy analysts and U.S. officials contend that the trip was not successful. Analysts point out that leaders' statements during these trips were largely propaganda, with the official Iranian press trumpeting relations with these countries in order to show that Iran is not isolated internationally and that it has good relations with countries geographically close to the United States.²⁷ The

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²⁴ Farideh Farhi "Tehran's Perspective on Iran-Latin American Relations," in *Iran in Latin America: Threat or 'Axis of Annoyance'*?, Woodrow Wilson International Center for Scholars, 2009 (based on July 2008 conference), edited by Cynthia Arnson, Haleh Esfandiari, and Adam Stubits, at http://www.wilsoncenter.org/sites/default/files/Iran_in_LA.pdf.

²⁵ "House Foreign Affairs, Subcommittee on Middle East and South Asia, and Subcommittee on Western Hemisphere, and House Oversight and Government Reform, Subcommittee on National Security, Homeland Defense and Foreign Operations Hold Joint Hearing on Venezuela's Sanctionable Activity," *CQ Congressional Transcripts*, June 24, 2011; and "House Foreign Affairs Committee Holds Hearing on Threats and Security in the Western Hemisphere," *CQ Congressional Transcripts*, October 13, 2011.

²⁶ For example, see Kavon "Hak" Hakimzadeh, "Iran & Venezuela: The Axis of Annoyance," *Military Review*, May 1, 2009; and Anne-Marie O'Connor and Mary Beth Sheridan, "Iran's Invisible Nicaragua Embassy; Feared Stronghold Never Materialized," *Washington Post*, July 13, 2009. Also see "House Foreign Affairs Committee Holds Hearing on Democracy in Nicaragua," *CQ Congressional Transcripts*, December 1, 2011.

²⁷ Comments by Stephen Johnson, Center for Strategic and International Studies, and Afshin Molavi, New America (continued...)

January 2012 trip was restricted to meeting with four leftist governments that have often opposed U.S. policy in the region and have limited regional influence. The fact that the tour notably did not include a trip to Brazil to meet with President Dilma Rousseff detracted from the significance of the visit to the region. A close adviser to Ahmadinejad maintained in an interview in the Brazilian press that President Rousseff had "destroyed years of good relations" between Iran and Brazil. Director of National Intelligence James Clapper testified before Congress in late January 2012 that while the U.S. intelligence community remained concerned about Iran's connection with Venezuela, Ahmadinejad's trip to Latin America "was not all that successful."

On the diplomatic front, Iran under President Ahmadinejad opened six embassies in Latin America by 2009—Bolivia, Chile, Colombia, Ecuador, Nicaragua and Uruguay. These added to existing embassies in Argentina, Brazil, Cuba, Mexico, and Venezuela. In 2012, Iran also launched a Spanish-language satellite TV network as part of its ideological battle to counter what it views as biased reporting—then-President Ahmadinejad said that it would help end the West's "hegemony" of the airwaves. Reports that Iran was building a large embassy in Managua, Nicaragua, turned out to be erroneous. Other reports that Iran's embassy in Venezuela is one of the largest in the world were also inaccurate. State Department officials maintained that there are many embassies in Caracas that have a diplomatic presence far larger than that of Iran, including the U.S. Embassy.

A 2010 unclassified Department of Defense report to Congress on Iran's military power (required by Section 1245 of the National Defense Authorization Act for FY2010, P.L. 111-84) maintained that Iran's Qods Force, which maintains operational capabilities around the world, had increased its presence in Latin America in recent years, particularly in Venezuela.³⁴ At the same time, however, then-commander of the U.S. Southern Command, General Douglas Fraser, maintained that the focus of Iran in the region was diplomatic and commercial and that he had not seen an increase in Iran's military presence in the region.³⁵ In 2012, General Fraser maintained in a press

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Foundation, at a January 19, 2012, event sponsored by the Council of the Americas (Washington, DC) on "Iran in the Americas: A Readout of the Visit."

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²⁸ Simon Romero, "Iranian Adviser Accuses Brazil of Ruining Relations," *New York Times*, January 24, 2012. Subsequently, the Iranian adviser denied part of the interview and stressed that relations between Iran and Brazil are good; see "Iranian Aide Says Foreign Media Distorted His Interview on Ties with Brazil," *BBC Monitoring Newsfile* (text of report by Iranian official government news agency IRNA), January 24, 2012.

²⁹ "Senate Select Intelligence Committee Holds Hearing on Worldwide Threats," *CQ Congressional Transcripts*, January 31, 2012.

³⁰ Anne-Marie O'Connor and Mary Beth Sheridan, "Iran's Invisible Nicaragua Embassy; Feared Stronghold Never Materialized," *Washington Post*, July 13, 2009.

³¹ Jim Wyss, "Iran's HispanTV Aims to Woo Latino Viewers," *Miami Herald*, January 31, 2012.

³² Ibid.; and Sylvie Lanteaume, "Iran's Hand in Latin America Not as U.S. Feared," Agence France Presse, July 14, 2009.

³³ "House Foreign Affairs, Subcommittee on Middle East and South Asia, and Subcommittee on Western Hemisphere, and House Oversight and Government Reform, Subcommittee on National Security, Homeland Defense and Foreign Operations Hold Joint Hearing on Venezuela's Sanctionable Activity," *CQ Congressional Transcripts*, June 24, 2011.

³⁴ Department of Defense, "Unclassified Report on Military Power of Iran," April 2010. For the full text of the report, see http://www.politico.com/static/PPM145_link_042010.html. For background on the Qods Force, see CRS Report RL32048, *Iran: Politics, Human Rights, and U.S. Policy*, by Kenneth Katzman.

³⁵ Anne Flaherty, "Pentagon Says Iran's Reach in Latin America Doesn't Pose Military Threat," AP Newswire, April 27, 2010. General Fraser reiterated that Iran's focus in Latin America has been "primarily diplomatic and commercial," in March 30, 2011, testimony before the House Armed Services Committee. See "Hearing of the House Armed Services Committee; Subject FY2012 National Defense Authorization Budget Requests for the U.S. Southern (continued...)

interview that Iran's relationship with Venezuela was primarily diplomatic and economic and that Iran's ties with Venezuela did not amount to a military alliance.³⁶

In 2011, the Department of Justice filed criminal charges against a dual Iranian-American citizen from Texas, Manssor Arbabsiar, and a member of Iran's Qods Force in Iran, Gholam Shakuri, for their alleged participation in a bizarre plot to kill the Saudi Ambassador in Washington, DC. The indictment alleged that Arbabsiar met several times in Mexico City with an informant of the U.S Drug Enforcement Administration (DEA) posing as a member of one of Mexico's most violent drug trafficking organization, Los Zetas, and had arranged to hire the informant to murder the ambassador with the financial support of Shakuri. Arbabsiar subsequently pled guilty and was sentenced in 2013 to 25 years in prison. The indicates against a dual Iranian-American citizen from Texas, Manssor Arbabsiar, and a member of Iran's Qods Force in Iran, Gholam Shakuri, for their alleged participation in a bizarre plot to kill the Saudi Ambassador in Washington, DC. The indicates a member of one of Mexico's most violent drug trafficking organization, Los Zetas, and had arranged to hire the informant to murder the ambassador with the financial support of Shakuri. Arbabsiar subsequently pled guilty and was sentenced in 2013 to 25 years in prison.

At the time, U.S. officials expressed concern about the implications of the failed Iranian plot on the nexus between terrorist and criminal groups as well as on Iran's intentions. The DEA testified in 2011 that the alleged plot "illustrates the extent to which terrorist organizations will align themselves with other criminals to achieve their goals." Director of National Intelligence (DNI) James Clapper stated before the Senate Select Committee on Intelligence in 2012 that the plot to kill the Saudi Ambassador shows that "some Iranian officials ... are now more willing to conduct an attack in the United States," and he expressed concern "about Iranian plotting against U.S. or allied interests overseas." In 2013, DNI Clapper again testified before the Senate Select Committee on Intelligence that the failed 2011 plot against the Saudi Ambassador in Washington showed that Iran may be willing to attack in the United States in response to perceived offenses against the regime. 41

AMIA Bombing Investigation and Death of Special Prosecutor

Argentine Special Prosecutor Alberto Nisman was appointed to lead the AMIA investigation in 2004. Until then, progress on the investigation and prosecution of those responsible for the 1994 bombing had been stymied because of the government's mishandling of the case. In September 2004, a three-judge panel acquitted all 22 Argentine defendants in the case and faulted the shortcomings of the original investigation. With Nisman's appointment in 2004, however, the government moved forward with a new investigation. As a result, an Argentine judge issued arrest warrants in November 2006 for nine foreign individuals: an internationally wanted Hezbollah militant from Lebanon, Imad Mughniyah (subsequently killed by a car bomb in Damascus, Syria, in 2008), and eight Iranian government officials. INTERPOL, the International Criminal Police

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Command, U.S. Northern Command, and U.S. European Command," Federal News Service, March 30, 2011.

³⁶ Frank Bajak, "Top U.S. General: Venezuela Not a National Security Threat," Associated Press, July 31, 2012.

³⁷ U.S. Department of Justice, "Two Men Charged in Alleged Plot to Assassinate Saudi Arabian Ambassador to the United States," press release, October 11, 2011, at http://www.justice.gov/opa/pr/2011/October/11-ag-1339.html.

³⁸ U.S. Department of Justice, U.S. Attorney's Office, Southern District of New York, "Manssor Arbabsiar Sentenced in Manhattan Federal Court to 25 years in Prison for Conspiring with Iranian Military Officials to Assassinate the Saudi Arabian Ambassador to the United States," May 30, 2013.

³⁹ U.S. Congress, House Committee on Foreign Affairs, Subcommittee on Terrorism, Nonproliferation, and Trade, *Narcoterrorism and the Long Reach of U.S. Law Enforcement, Part II*, 112th Cong., 1st sess., November 17, 2011, Serial No. 112-81 (Washington: GPO, 2011), written testimony of Derek S. Maltz, Special Agent in charge of the Special Operations Division, Drug Enforcement Administration.

⁴⁰ Testimony of Director of National Intelligence James Clapper, January 31, 2012, op. cit.

⁴¹ James R. Clapper, Director of National Intelligence, "Worldwide Threat Assessment of the US Intelligence Community," Statement for the Record, Senate Select Committee on Intelligence, March 12, 2013.

Organization, subsequently posted Red Notices (international wanted persons notices) in 2007 for Mughniyah and five of the Iranian officials: Ali Fallahijan, Mohsen Rabbani, Ahmad Reza Asghari, Ahmad Vahidi (Iran's current defense minister), and Mohsen Rezai. ⁴² In 2009, Argentina also issued an arrest warrant for the capture of Samuel Salman El Reda, a Colombian citizen thought to be living in Lebanon, alleged to have coordinated a Hezbollah cell that carried out the bombing; he was subsequently added to the INTERPOL Red Notice list. Current Argentine President Mauricio Macri in Argentina, inaugurated in December 2015, has maintained these Red Notices.

Under the previous Argentine government of President Cristina Fernández de Kirchner, Argentina had shifted its stance in 2011 with respect to engagement with Iran over the AMIA bombing issue. Then-President Fernández indicated Argentina's willingness to enter into a dialogue with the Iranian government despite its refusal to turn over suspects in the case. Several rounds of talks with Iran were held in 2012, with then-Argentine Foreign Minister Hector Timerman leading the effort. In January 2013, Argentina announced that it had reached an agreement with Iran and signed a memorandum of understanding to establish a joint Truth Commission made up of impartial jurists from third countries to review the bombing case. After extensive debate, Argentina's Congress completed its approval of the agreement in February 2013. Argentina's two main Jewish groups, AMIA and the Delegation of Israeli Associations (DAIA), strongly opposed the agreement because they believe that it could guarantee impunity for the Iranian suspects. Several Members of the U.S. Congress also expressed their strong concerns about the Truth Commission because they believed it could jeopardize Argentina's AMIA investigation and charges against the Iranians.

In May 2014, an Argentine court declared unconstitutional the agreement with Iran to jointly investigate the AMIA bombing. Special Prosecutor Nisman had maintained that the agreement with Iran constituted an "undue interference of the executive branch in the exclusive sphere of the judiciary." The Fernández government maintained that it would appeal the ruling to Argentina's Supreme Court. In a speech before the U.N. General Assembly on September 24, 2014, President Fernández acknowledged the 20th anniversary of the AMIA bombing and expressed support for the memorandum of understanding with Iran, maintaining that it would enable the accused Iranian citizens to make statements before an Argentine judge. Soon after his election in 2015, however, President Macri said that his government would drop the appeal.

Nisman's Report on Iran. In May 2013, Nisman issued a 500-page report alleging that Iran has been working for decades in Latin America, setting up intelligence stations in the region by utilizing embassies, cultural organizations, and even mosques as a source of recruitment. In the report, Nisman highlighted the key role of Mohsen Rabbani (one of eight Iranian officials wanted by Argentina for the AMIA bombing) as Iran's South America "coordinator for the export of revolution," working in the tri-border countries of Argentina, Brazil, and Paraguay as well as in Chile, Colombia, and Uruguay. The report also highlighted the role of Guyanese national Abdul Kadir, who Nisman maintained was an intelligence agent working for Iran and a follower of Rabbani, in establishing an Iranian intelligence network in Guyana. Kadir, a former member of

⁴² INTERPOL, media release, "INTERPOL General Assembly Upholds Executive Committee Decision on AMIA Red Notice Dispute," November 7, 2007. The three other Iranians wanted by Argentina not included on INTERPOL's red notice list are former President Ali Akbar Hashemi-Rafsanjani, former Foreign Minister Ali Akbar Velayati, and former Iranian Ambassador to Argentina Hadi Soleimanpour.

⁴³ "A Perverse Manoeuvre in Argentina," *LatinNews Daily*, February 28, 2013.

^{44 &}quot;Argentine Court Declares Bombing Probe with Iran Unconstitutional," Agence France Presse, May 16, 2014.

⁴⁵ Alberto Nisman, Fiscal General, Ministerio Público de la Nación, Argentina, Dictamina, May 29, 2013.

Guyana's parliament, is serving a life sentence in the United States for his role in a 2007 plot to bomb a jet fuel artery at John F. Kennedy International Airport in New York. The Nisman report contended that the 1994 AMIA bombing was not an isolated act but was part of a regional strategy involving Iran's establishment of intelligence bases in several countries utilizing political, religious, and cultural institutions that could be used to support terrorist acts.

Nisman's Death. On January 14, 2015, Nisman made explosive accusations that President Fernández and other government officials attempted to whitewash the AMIA investigation to secure oil supplies from Iran and restore Argentina's grain exports to Iran. Four days later, and one day before he was to testify before Argentina's Congress, Nisman was found dead in his apartment from a gunshot wound. Although preliminary reports indicated that Nisman committed suicide, a majority of Argentines, including President Fernández, contend that Nisman was murdered. The president maintained that Nisman was misled into making the accusations against her government by elements in Argentina's Intelligence Secretariat (SI) that had conducted illegal wiretaps of government officials. Fernández called for the dissolution of the SI, and in February 2015, Argentina's Congress approved a measure setting up a new intelligence service, the Federal Agency of Investigations (AFI). Nisman's death prompted a massive demonstration in Argentina, with tens of thousands of participants. A federal prosecutor in Argentina pursued Nisman's case against President Fernández related to Iran, but the case was thrown out by several Argentine courts and dismissed by the country's highest appellate court in April 2015.

The investigation into Nisman's death continues, although many observers are skeptical that the truth will be uncovered. In December 2015, a week after President Macri took office, Judge Fabiana Palmaghini took over the investigation of Nisman's death from the prosecutor in the case. ⁴⁷ On the anniversary of Nisman's death in January 2016, President Macri ordered the declassification of all state information related to Nisman since September 2012, when Argentina's talks with Iran over AMIA reportedly began. ⁴⁸ Palmaghini reportedly had been expected by many observers to issue a ruling that Nisman's death was the result of a suicide. In March 2016, however, reportedly just hours after former SI head Antonio Stiuso testified that Nisman had been killed by a group with ties to former President Fernández, Judge Palmaghini ruled that the case should be elevated to the federal courts. ⁴⁹ The case went to Argentina's federal court in April 2016, but in June 2016 was returned to Judge Palmaghini's jurisdiction until September 2016, when the case was once again elevated to the federal courts.

President Macri has said that he will be respectful of the judicial process but stated in a September 2016 press interview that he believes Nisman was murdered. The President said that a "definitive investigation" is needed to find out how Nisman died and that he wants Argentina's justice system to carry out the investigation with total independence.⁵⁰

AMIA Investigation. In the aftermath of Nisman's death, Argentina's attorney general appointed a team of lawyers in February 2015 to continue the work of the AMIA investigation. Court proceedings began in Buenos Aires in August 2015 against 13 former officials alleged to be involved in efforts to cover up the 1994 bombing investigation. The suspects include former

⁴⁶ Jonathan Gilbert, "Federal Prosecutor Drops Kirchner Conspiracy Case," New York Times, April 21, 2015.

⁴⁷ "Judge Takes over Nisman Investigation," *Buenos Aires Herald*, December 18, 2015.

⁴⁸ "Macri Puts CFK in Nisman Spotlight," *Buenos Aires Herald*, January 16, 2016.

⁴⁹ "Nisman Case Sent to Federal Court," *Buenos Aires Herald*, March 2, 2016; and Nick Miroff, "Argentina Still Gripped by Death of Prosecutor Probing Terrorism Case," *Washington Post*, March 20, 2016.

⁵⁰ Andrés Oppenheimer, "Argentine President: Death of Prosecutor in Bombing Case Likely Murder, Not Suicide," *Miami Herald*, September 30, 2016.

President Carlos Menem (1989-1999), former judge Juan José Galeano, two former prosecutors who conducted investigations during the 1990s, three former intelligence officials, two former police officials, a former head of DAIA, and the owner of a van used in the AMIA bombing.⁵¹

In December 2015, President Macri established a special unit within the Justice Ministry to investigate the AMIA bombing. The head of the new unit, former Radical Civic Union leader Mario Cimadevilla, maintained that Macri's election opened up a new route into solving the case and praised President Macri's decision to drop the agreement with Iran to jointly investigate the AMIA bombing.⁵²

U.S. Policy

As in other parts of the world, the United States has assisted Latin American and Caribbean nations over the years in their struggle against terrorist or insurgent groups indigenous to the region. For example, in the 1980s, the United States supported the government of El Salvador with significant economic and military assistance in its struggle against a leftist guerrilla insurgency. In recent years, the United States has employed various policy tools to combat terrorism in the Latin America and Caribbean region, including sanctions, antiterrorism assistance and training, law enforcement cooperation, and multilateral cooperation through the OAS. Moreover, given the nexus between terrorism and drug trafficking, one can argue that assistance and sanctions aimed at combating drug trafficking organizations in the Andean region have also been a means of combating terrorism by cutting off a source of revenue for terrorist organizations. The same argument can be made regarding efforts to combat money laundering in the region.⁵³

U.S. attention to terrorism issues in Latin America increased in the aftermath of the 9/11 terrorist attacks on New York and Washington. Antiterrorism assistance increased along with bilateral and regional cooperation against terrorism. Congress approved the Bush Administration's request in 2002 to expand the scope of U.S. assistance to Colombia beyond a counternarcotics focus to include counterterrorism assistance to the government in its military efforts against drug-financed leftist guerrillas and rightist paramilitaries. Border security with Mexico also became a prominent issue in bilateral relations, with attention focused on the potential transit of terrorists through Mexico to the United States.

Since 2011, some in Congress have focused extensively on concerns regarding the activities of both Iran and Hezbollah in the region. Several House and Senate committee hearings have been held, and most significantly, in December 2012, Congress enacted the Countering Iran in the Western Hemisphere Act of 2012 (P.L. 112-220). As enacted, the measure required the Secretary of State to conduct an assessment within 180 days of the "threats posed to the United States by Iran's growing presence and activity in the Western Hemisphere" and to develop a strategy to address these threats.

Submitted to Congress in June 2013, the State Department report was mostly classified but, as specified in the law, also included an unclassified summary of policy recommendations that

⁵¹ "Trial on Cover-Up of Bombing Set to Begin Next Week," *Buenos Aires Herald*, July 30, 2015; "AMIA Cover-Up Case Reaches Trial Phase," *Buenos Aires Herald*, August 2, 2015.

⁵² "New Head of AMIA Unite Announces 'Paradigm Shift' in Probe," *Buenos Aires Herald*, January 4, 2016.

⁵³ For background on interaction between criminal organizations and terrorist groups, see CRS Report R41004, *Terrorism and Transnational Crime: Foreign Policy Issues for Congress*, by John W. Rollins and Liana W. Rosen.

included border security and enforcement, diplomacy, sanctions, and intelligence sharing.⁵⁴ The State Department maintained in the unclassified portion of the report that "Iranian influence in Latin America and the Caribbean is waning" because of U.S. diplomatic outreach, the strengthening of allies' capacity to disrupt illicit Iranian activity, international nonproliferation efforts, a strong sanctions policy, and Iran's poor management of its foreign relations. The report also stated that current U.S., European Union, and U.N. Security Council sanctions had limited the economic relationship between the region and Iran.

U.S. Sanctions

The United States currently imposes sanctions on two groups in Colombia (ELN and FARC) and one group in Peru (SL) designated by the Department of State as Foreign Terrorist Organizations. Official designation of such groups as FTOs triggers a number of sanctions, including visa restrictions and Treasury Department sanctions blocking any funds of these groups in U.S. financial institutions. The designation also has the effect of increasing public awareness about these terrorist organizations and the concerns that the United States has about them. Numerous groups, individuals, and companies in the region with links to the above and other terrorist groups (such as Hezbollah) have also been sanctioned by the Treasury Department for drug trafficking under the Foreign Narcotics Kingpin Designation Act, Executive Order 13224 (Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), and Executive Order 12978 (Blocking Assets and Prohibiting Transactions with Significant Narcotics Traffickers). As discussed above, the United States included Cuba on its list of state sponsors of terrorism since 1982, pursuant to Section 6(j) of the EAA and other laws, but rescinded Cuba's designation in May 2015. Venezuela currently remains on the annual Section 40A AECA list of countries that are not cooperating fully with U.S. antiterrorism efforts.

With regard to Venezuela, the Treasury Department has imposed financial sanctions against eight current or former Venezuelan government and military officials for providing support to the FARC's weapons and drug trafficking. The State Department also maintains sanctions against the Venezuelan Military Industries Company (CAVIM) pursuant to the Iran, North Korea, and Syria Nonproliferation Act (P.L. 109-353) for allegedly violating a ban on technology that could assist Iran in the development of weapons systems. The sanction, which prohibits any U.S. government procurement or assistance to the company, was last renewed in December 2014 for a period of two years. Sanctions against two other Venezuelan companies because of their support for Iran—the *Banco Internacional de Desarrollo, C.A.*, and the state-run oil company, *Petróleos de Venezuela, S.A.*—were removed in the aftermath of the comprehensive nuclear accord with Iran negotiated in 2015. (For more on sanctions on Venezuela, see CRS Report R43239, *Venezuela: Background and U.S. Relations.*)

With regard to Hezbollah, the Treasury Department also has imposed sanctions on numerous individuals and companies in Latin America for providing support to Hezbollah. These have included sanctions against individuals and entities in the tri-border Area of Argentina, Brazil, and Paraguay as well as in Colombia, Panama, and Venezuela. At times, sanctions have been connected to law enforcement cases, including cases involving the DEA. (For discussion of

⁵⁴ U.S. Department of State, "Annex A, Unclassified Summary of Policy Recommendations," included in report to Congress required by the Countering Iran in the Western Hemisphere Act of 2012 (P.L. 112-220), June 2013.

⁵⁵ U.S. Department of State, "Imposition of Nonproliferation Measures Against Foreign Persons, Including a Ban on U.S. Government Procurement," 79 *Federal Register* 78548, December 30. 2014.

Hezbollah-linked trade-based money laundering, see CRS Report R44541, *Trade-Based Money Laundering: Overview and Policy Issues.*)

U.S. Assistance, Support, and Regional Cooperation

The United States provides assistance to improve Latin American countries' counterterrorism capabilities through several types of programs administered by the Department of State, including an Anti-Terrorism Assistance (ATA) program, an Export Control and Related Border Security (EXBS) program, and a Conventional Weapons Destruction (CWD) program. The programs are funded through the Nonproliferation, Anti-terrorism, Demining, and Related Programs (NADR) foreign aid funding account.

The ATA program has provided training and equipment to Latin American countries to help improve their capabilities in such areas as airport security management, hostage negotiations, bomb detection and deactivation, and countering terrorism financing. Such training was expanded to Argentina in the aftermath of the two bombings in 1992 and 1994. Assistance was also stepped up in 1997 to Argentina, Brazil, and Paraguay in light of increased U.S. concern over illicit activities in the tri-border area of those countries. In recent years, ATA for Western Hemisphere countries amounted to almost \$8 million in FY2014, almost \$5.1 million in FY2015, and \$2.2 million in FY2016. For FY2017, the Administration requested almost \$5.1 million, with \$1.75 million for Mexico, \$0.8 million for Colombia, and \$2.5 million for other Latin American countries through a State Department regional program.

The EXBS program helps countries develop export and border control systems in order to prevent states and terrorist organizations from acquiring weapons of mass destruction, their delivery systems, and destabilizing conventional weapons. Latin American countries received \$3 million in EXBS funding in each of FY2014 and FY2015 and \$2.87 million in FY2016. For FY2017, the Administration requested \$2.87 million, with assistance slated for Argentina, Brazil, Chile, Mexico, Panama, and a regional program.

The sole recipient of CWD funding in Latin America is Colombia, where the program is helping government's demining program become self-sufficient. U.S. assistance increases Colombia's ability to successfully clear mines and improvised explosive devices placed by the FARC and the ELN. Colombia received \$3.5 million in CWD funding for each of FY2014, FY2015, and FY2016, while the Administration's request for FY2017 was for \$21 million.

In addition to these specific types of counterterrorism assistance, other U.S. assistance provided to Latin American countries likely helps countries to improve their capabilities to deter potential threats emanating from terrorist groups. This includes assistance to combat drug trafficking and other transnational crime and advance citizen security through such programs as the Mérida Initiative for Mexico, the Central America Regional Security Initiative, and the Caribbean Basin Security Initiative. It also includes assistance aimed at strengthening democratic governance, including improvements in the capacity of state institutions to address citizens' needs through responsive legislative, judicial, law enforcement, and penal institutions.

A number of Latin American countries participate in U.S.-government port security programs administered by the Department of Homeland Security (DHS). The Container Security Initiative (CSI) operated by the U.S. Customs and Border Protection of DHS uses a security regime to ensure that all containers that pose a potential risk for terrorism are identified and inspected at foreign ports before they are placed on vessels destined for the United States. Ten Latin American

ports in Argentina, the Bahamas, Brazil, Colombia, the Dominican Republic, Honduras, Jamaica, and Panama participate in the CSI program. ⁵⁶

The Department of Homeland Security's Immigration and Customs Enforcement (ICE) has partnered with several Latin American countries to establish Trade Transparency Units (TTUs) that facilitate exchanges of information in order to combat trade-based money laundering. TTUs have been established in Argentina, Brazil, Colombia, the Dominican Republic, Ecuador, Guatemala, Mexico, Panama, Paraguay, Peru, and Uruguay. (Also see CRS Report R44541, *Trade-Based Money Laundering: Overview and Policy Issues.*)

The United States also participates in the multilateral Financial Action Task Force, an intergovernmental body established in 1989 to set standards and promote effective implementation of measures to combat money laundering and terrorist financing. ⁵⁷ Two of FATF's regional bodies in the Americas are the Financial Action Task Force of Latin America (GAFILAT) and the Caribbean Financial Action Task Force (CFATF). The organizations conduct evaluations or assessment of countries' efforts to combat money laundering and terrorist financing.

In addition to its annual *Country Reports on Terrorism*, the State Department also examines countries' efforts worldwide to counter money laundering and terrorist financing in its annual *International Narcotics Control Strategy Report.* In its 2016 report, the State Department identified 20 countries or jurisdictions in Latin America or the Caribbean as "major laundering countries" or "jurisdictions of primary concern," meaning the country has financial institutions engaging in financial transactions involving significant amounts of proceeds from all forms of serious crime. The report includes a discussion of money laundering in each country and its efforts taken to combat money laundering and potential terrorist financing.

In the aftermath of the September 2001 terrorist attacks on the United States, the United States joined with Latin American and Caribbean nations and took action through the Organization of American States (OAS) and the Rio Treaty to strengthen hemispheric cooperation against terrorism. The OAS, which happened to be meeting in Peru at the time, swiftly condemned the attacks, reiterated the need to strengthen hemispheric cooperation to combat terrorism, and expressed full solidarity with the United States. At a special session on September 19, 2001, OAS members invoked the 1947 Inter-American Treaty of Reciprocal Assistance, also known as the Rio Treaty, which obligates signatories to the treaty to come to one another's defense in case of outside attack. Another resolution approved on September 21, 2001, called on Rio Treaty signatories to "use all legally available measures to pursue, capture, extradite, and punish those individuals" involved in the attacks and to "render additional assistance and support to the United States, as appropriate, to address the September 11 attacks, and also to prevent future terrorist acts," In June 2002, OAS members signed the Inter-American Convention Against Terrorism, which had the objective of improving regional cooperation against terrorism. Among its provisions, the treaty committed parties to sign and ratify U.N. antiterrorism instruments, take actions against the financing of terrorism, and deny safe haven to suspected terrorists.⁵⁹

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⁵⁶ U.S. Customs and Border Protection, "CSI: Container Security Initiative," June 2014, at https://www.cbp.gov/border-security/ports-entry/cargo-security/csi/csi-brief.

⁵⁷ Financial Action Task Force, website, at http://www.fatf-gafi.org/home/.

⁵⁸ U.S. Department of State, *International Narcotics Control Strategy Report*, Volume II, Money Laundering and Financial Crimes, March 2016, at http://www.state.gov/j/inl/rls/nrcrpt/2016/vol2/index.htm.

⁵⁹ President Bush submitted the Convention to the Senate on November 12, 2002, for its advice and consent, and the treaty was referred to the Senate Foreign Relations Committee (Treaty Doc. 107-18). In the 109th Congress, the (continued...)

In the aftermath of 9/11, OAS members also reinvigorated efforts of the Inter-American Committee on Terrorism (CICTE), first established in 1999, to combat terrorism in the hemisphere. CICTE has cooperated on border security mechanisms, controls to prevent terrorist funding, and law enforcement and counterterrorism intelligence and information. ⁶⁰ It has worked on a wide range of capacity building and training programs, including border controls (covering maritime and aviation security, customs, and immigration), critical infrastructure protection (covering cybersecurity, major events security, and tourism security), counter-terrorism legislative assistance and combating terrorism financing, and strengthening strategies on emerging terrorist threats. At its 16th regular session held in February 2016, CICTE focused on the use of the Internet for terrorist and criminal purposes and the issue of cybersecurity. ⁶¹

Legislative Initiatives and Oversight

Over the past several years, Congress has introduced legislative initiatives and held oversight hearings pertaining to terrorism issues in the Western Hemisphere.

Iran, Hezbollah, and the AMIA Bombing. With regard to Iran, the 111th Congress enacted the Comprehensive Iran Sanctions, Accountability, and Disinvestment Act of 2010 (P.L. 111-195), which included a provision making gasoline sales to Iran subject to U.S. sanctions. The measure led to the sanctioning of Venezuela's state oil company in 2011 for sales to Iran. (As noted above, the sanctions were lifted in the aftermath of the 2015 comprehensive nuclear accord negotiated with Iran.) The 112th Congress enacted the Countering Iran in the Western Hemisphere Act of 2012 (H.R. 3783, P.L. 112-220), which required the Administration to conduct an assessment and present "a strategy to address Iran's growing hostile presence and activity in the Western Hemisphere." The law also stated that

it shall be the policy of the United States to use a comprehensive government-wide strategy to counter Iran's growing hostile presence and activity in the Western Hemisphere by working together with United States allies and partners in the region to mutually deter threats to United States interests by the Government of Iran, the Iranian Islamic Revolutionary Guards Corps (IRGC), the IRGC's Qods Force, and Hezbollah.

For many years, Congress expressed concern about progress in Argentina's investigation of the 1994 AMIA bombing, with the House often passing resolutions on the issue around the time of the anniversary of the bombing in July. In the 111th Congress, the House approved H.Con.Res. 156 (Ros-Lehtinen), which condemned the AMIA bombing and urged Western Hemisphere governments to take actions to curb the activities that support Hezbollah and other such extremist groups.

In the 114th Congress, two Senate resolutions were introduced related to the AMIA bombing. S.Res. 167 (Rubio), introduced in May 2015, would have called for a swift, transparent, and internationally backed investigation into the tragic death of Alberto Nisman (the special prosecutor in the AMIA investigation); expressed concern about Iran's activities in Argentina and

^{(...}continued)

committee formally reported the treaty on July 28, 2005 (Senate Exec. Rept. 109-3), and on October 7, 2005, the Senate agreed to the resolution of advice and consent. The United States deposited its instruments of ratification for the Convention on November 15, 2005.

⁶⁰ See the website of the CICTE at http://www.cicte.oas.org/Rev/en/.

⁶¹ U.S. Department of State, Inter-American Committee Against Terrorism (CICTE): Sixteenth Regular Session, Remarks by Christopher Painter, Coordinator for Cyber Issues, February 26, 2016, at https://www.state.gov/s/cyberissues/releasesandremarks/253727.htm.

all of the Western Hemisphere; and urged the President to continue to monitor Iran's activities in Latin America and the Caribbean. S.Res. 620 (Coons), introduced November 29, 2016, would have, among its provisions, encouraged the government of Argentina to investigate and prosecute those responsible for the 1994 AMIA bombing as well as the death of Nisman.

Cuba. With regard to Cuba, H.R. 274 (Rush), introduced in January 2015, would, among its provisions, have rescinded any determination of the Secretary of State in that Cuba has repeatedly provided support for acts of international terrorism. As noted above, in May 2015, President Obama rescinded Cuba's designation as a state sponsor of terrorism and Congress did not take any legislative action to block the Administration's action.

As discussed above, for a number of years, the State Department had noted in its annual terrorism report Cuba's harboring of fugitives wanted in the United States. The House-passed version of the FY2017 National Defense Authorization Act (NDAA), H.R. 4909, had a provision that would have prohibited funds in the act for any bilateral military-to-military contact or cooperation pending certification from the Secretaries of State and Defense that Cuba has fulfilled numerous conditions, including Cuba's return of U.S. fugitives wanted by the Department of Justice; ultimately the language regarding fugitives was not included in the conference report to the FY2017 NDAA (H.Rept. 114-840 to S. 2943). Among other initiatives: H.Res. 181 (King), introduced in March 2015, would have called for the immediate extradition or rendering to the United States of all fugitives from justice who are receiving safe harbor in Cuba to escape prosecution or confinement for criminal offenses in the United States; H.R. 2937 (Nunes)/S. 1489 (Rubio), introduced in June 2015, included a provision that would have called for the Attorney General, in coordination with the Secretary of State, to work with INTERPOL to pursue the location and arrest of U.S. fugitives from justice in Cuba; and H.R. 4772 (Pearce), introduced in March 2016, would have prohibited funding to accept commercial flight plans between the United States and Cuba until Cuba extradited U.S. fugitives from justice. Another bill, H.R. 2189 (Smith, NJ), would have required a report from the President regarding information on U.S. fugitives from justice abroad (not just Cuba) and U.S. efforts to secure the return of such fugitives.

Mexico. In April 2016, the House approved H.R. 4482 (McSally), which would have required the Secretary of Homeland Security to prepare a southwest border threat analysis and strategic plan, including efforts to detect and prevent terrorists and instruments of terrorism from entering the United States.

Oversight Hearings. The 114th Congress continued its oversight of terrorism concerns in Latin America and the Caribbean. In March 2015, two subcommittees of the House Committee on Foreign Affairs—the Subcommittee on the Middle East and North Africa and the Subcommittee on the Western Hemisphere—held an oversight hearing on Iran and Hezbollah in the Western Hemisphere with private witnesses. ⁶² In June 2015, the House Western Hemisphere Subcommittee held a hearing on prospects for a peace accord between the Colombian government and the FARC. ⁶³ In March 2016, the House Western Hemisphere Subcommittee held a hearing on border security challenges in Latin America and the Caribbean. ⁶⁴ In June 2016, the

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⁶² U.S. Congress, House Committee on Foreign Affairs, Subcommittee on the Western Hemisphere and Subcommittee on the Middle East and North Africa, *Iran and Hezbollah in the Western Hemisphere*, Joint Hearing, 114th Cong., 1st sess., March 18, 2015, Serial No. 114-34 (Washington: GPO, 2015).

⁶³ U.S. Congress, House Committee on Foreign Affairs, Subcommittee on the Western Hemisphere, *Colombia: Peace with the FARC?* Hearing, 114th Cong., 1st sess., June 24, 2015, Serial No. 114-58 (Washington: GPO, 2015).

⁶⁴ U.S. Congress, House Committee on Foreign Affairs, Subcommittee on the Western Hemisphere, *Potential Terrorist Threats: Border Security Challenges in Latin America and the Caribbean*, Hearing, 114th Cong., 2nd sess., March 22, (continued...)

House Financial Service Committee's Task Force to Investigate Terrorism Financing held a hearing on terrorist funding in South America. 65

The SOUTHCOM Commander usually testifies before the Armed Services Committees annually. In presenting the command's 2016 posture statement to Congress in March 2016, Admiral Kurt Tidd testified that "as a state sponsor of terrorism, Iran's nefarious involvement in the Western Hemisphere is a matter for concern." He also noted a number of individuals and families leaving the region to join the Islamic State in Syria or Iraq. 66

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^{(...}continued)

^{2016,} Serial No. 114-155 (Washington: GPO, 2016).

⁶⁵ U.S. Congress, House Committee on Financial Services, Task Force to Investigate Terrorism Financing, Hearing entitled "The Enemy in Our Backyard: Examining Terror Funding Streams from South America," June 8, 2016, testimony at http://financialservices.house.gov/calendar/eventsingle.aspx?EventID=400715.

⁶⁶ Posture statement of Admiral Kurt W. Tidd, Commander, U.S. Southern Command, before the 114th Congress, Senate Armed Services Committee, March 10, 2016, at http://www.armed-services.senate.gov/download/tidd_03-10-16.

ANNEX 22



Report: Hizbullah and Iran behind Buenos Aires bombings

26 Oct 2006

Hundreds were killed and wounded in an attack on the Israeli Embassy in 1992 and the Buenos Aires Jewish community center in 1994.

(Communicated by the Foreign Ministry Spokesman's Bureau)

The government yesterday (Wednesday, 25 October) welcomed the publication of the results of the special investigation into the terrorist attack on the Buenos Aires Jewish Community Building (AMIA) in Argentina on July 18, 1994. The investigation determined unequivocally that the attack was carried out by Hizbullah, with the support of the leaders of Iranian government. Eighty-five persons were murdered and hundreds wounded in the bombing.

Israel had claimed for years that Hizbullah and Iran, both of which continue to perpetrate terrorism today, were responsible for both the AMIA attack and a deadly assault on the Israeli Embassy in Buenos Aires on March 17, 1992, in which 29 were murdered and some 300 wounded.

With the release of the report, Israel expects the Argentinian government to take the necessary steps to bring those responsible for these atrocities to justice.

Close

ANNEX 23

REPORT: REQUEST FOR ARRESTS

Your Honor:

ALBERTO NISMAN and MARCELO MARTÍNEZ BURGOS, prosecutors in charge of the *Unidad Fiscal de Investigación del atentado a la AMIA* [Office of the Attorney General, unit in charge of the investigation of the AMIA attack] in case no. 8566 of the register of the *Juzgado Nacional en lo Criminal and Correccional Federal n*° 6 [National Federal Criminal and Correctional Court No. 6] of Buenos Aires, Secretariat 11 – AMIA Annex. Case name: "Coppe, Juan Carlos y otros s/asociación ilícita, homicidio, lesiones, daños y otros"[Coppe, Juan Carlos et al. Conspiracy, homicide, battery, property damage and others]. The investigation involves the attack against AMIA on 18 July 1994, in regard to which we respectfully submit the following report:

I. INTRODUCTION

a) Subject matter and relevance of the report

Pursuant to the decree (pp. 115.336/115.3411)¹ issued on February 8, 2005, the judge hearing the matter, His Honor Rodolfo Canicoba Corral, assigned to the undersigned the case mentioned above. Our assignment was to investigate the July 18, 1994 bombing of the building at calle Pasteur n° 633 in Buenos Aires. This building housed the offices of, among other organizations, the Asociación [translated excerpt ends here]

¹ In the present report, unless otherwise indicated, page references (p.) indicate material from the main body of the proceedings.

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Annex 23

[translated excerpt resumes here] Thus, we have now described, in general terms, the reasons for preparing this report. The main goal was to set forth in minute detail the conclusions we in the Investigations Unit have reached after more than a year and a half spent on the preliminary investigation of the supposed international connections that were involved in the attack.

We want to emphasize that the report is more than just a restatement of the requests for the capture of the individuals issued by Judge Galeano previously; if this were the case we could simply submit those same requests with a few stylistic changes. Of course, this does not mean that the two requests have nothing in common, since one cannot seriously expect them to be totally different, considering the large amount of information accumulated in the case through so many years of investigation. However, and particularly in view of the work that has been done since Judge Galeano was recused from the case, there are many other ways in which the conclusions of the previous and current analyses differ substantially. This difference is reflected by the fact that our report specifically names some of the suspects whose capture we feel should be demanded, although Judge Galeano did not so order at the time. And the reverse holds true as well, i.e. we feel that some of the requests for capture issued by Judge Galeano were not justified by the evidence.

We also disagree about the entity charged with the offenses, namely the highest authorities in the Iranian government at the time, as well as Hezbollah.

Indeed, whereas Judge Galeano confined himself to declaring that the attack was the work of "radicalized elements of the Iranian regime," in our view it has been proven that the decision to carry out the attack was made not by a small, isolated group of extremist Islamic officials, but was instead a decision that was extensively discussed and was ultimately adopted by a consensus of the highest representatives of the Iranian government at the time within the context of a foreign policy that did not rule out resorting to terrorist violence in order to achieve the goals are inherent to the Islamic

republic that was established by the revolution of February 1979.

By the same token, the contrast between the view of Hezbollah that is expressed in our report and the view expressed by Judge Galeano is noteworthy. Apart from the fact that in Judge Galeano's ruling the nature and scope of the relationship between Hezbollah and Iran remain obscure (we can state categorically that Hezbollah is completely subordinate to the political and strategic objectives of the Islamic nation), one thing is clear: whereas Judge Galeano made a point of stating that there was no need to determine whether Hezbollah is a "terrorist movement, or a movement that is resisting Israel's illegal occupation of Lebanon," it is obvious to us that the "terrorist movement" characterization is the correct one. Thus, our report tries to elucidate this matter not just as a matter of preference, but because it is precisely this characterization that explains the large number of elements that make up the case.

But apart from these circumstances, which could be regarded as questions of nuance, also relevant in this regard is that unlike us, Judge Galeano failed to find that Hezbollah was responsible for the attack, despite the fact that some passages in his ruling clearly show that he had doubts about the validity of this view. For example, in referring to the group Ansar Allah that claimed responsibility for the attack, Judge Galeano states that "it was a fictitious name that served as a shield for an Islamic fundamentalist group that *presumably had ties to Hezbollah*." These doubts also surface a bit further on. In discussing the strong public statements made by Hezbollah leaders shortly before the AMIA attack, Judge Galeano says that "although these statements were a manifestation of political rhetoric that was indicative of a political agenda, they did not necessarily define a specific action (...), in no way did these statements mean that Hezbollah as a political party was involved to the extent of initiating actions that made it culpable." Judge Galeano concludes by saying this: "No evidence has come to light as yet indicating that Hezbollah could have known of the

plans, and subsequent to that, could have participated in the consequences..." (pp. 106.280, 106.380 and 106.380 [reverse], respectively, emphasis added).

In any case – and at least from our standpoint – perhaps the observations made above will throw more light on the importance of the decision by the Interpol General Assembly. The decision is a key factor in our report, which is not just a more elaborate version of the previous ineffectual requests for capture. Instead, it has provided an ideal opportunity to completely reexamine the evidence in the case, which may or may not be consistent with the results of previous work that has been carried out.

It should also be expressly stated that the conclusions presented here do not mean that the investigation of the attack is over and done with. Many procedures ordered in the various related cases have not yet been completed. To cite just one example, an extensive cross-check of phone records is currently in progress in collaboration with the Secretariat of Intelligence, including an analysis of domestic and international phone call records from 1991 forward. Consequently, we cannot reach any conclusions concerning these aspects of the investigation, since this would run the risk of improperly fragmenting the analysis and perhaps lead to erroneous interpretations.

When it comes to matters such as these, we feel that it is best to proceed cautiously until the pending procedures are completed, at which time we will determine, on the basis of a comprehensive analysis of the evidence, whether a new report should be issued (and we expect this to occur in the near future) to supplement the present one with a view to completing the historical reconstruction of the AMIA attack.

In concluding this rather lengthy introduction, we would like to make one other (perhaps unnecessary) comment.

We show in the present report that the decision to carry out the attack on the AMIA/DAIA headquarters was made, and the attack was orchestrated, by the highest officials of the Islamic Republic of Iran at the time, and that these officials instructed Lebanese terrorist group Hezbollah (Party of God) – a group that has historically been subordinated to the economic and political interests of the Teheran regime – to carry out the attack.

We also believe that in investigating the attack in Buenos Aires on July 18, 1994, it is important to take into consideration the geopolitical situation that prevailed in the Middle East at the time of the attack, and at the same time carry out a more detailed historical analysis of the conflict that has traditionally plagued, and continues to plague, Arab-Israeli relations.

In fact – and in keeping with the testimony of experts in this field – we believe that the most salient characteristics of the event place it squarely in the category of religious terrorism or terrorism that is rooted in religion (as opposed to secular terrorism), that the event has clear international implications, and that any assessment of the attack that omits these factors will run the risk of being erroneous, or at best will be incomplete.

Hence, throughout this report we have found it necessary to at least touch upon, if not address directly, issues that relate to religion, specifically Islam, or to put it more concretely, a radicalized interpretation of Islam.

These are without a doubt highly complex and sensitive matters which we actually would have preferred to avoid completely. But for the reasons stated above, we felt that addressing these issues was not only necessary but in fact inevitable.

This viewpoint is more readily understandable when viewed in light of the specific features that characterize theocracies such as the one governing the Islamic Republic of Iran at the time of the

events examined here. In such regimes, politics and religion are inextricably bound up with each other, to the point where the former is regarded as a function of the latter.

In the case under consideration here, and notwithstanding the fact that specific individuals were in charge of and responsible for the decision to carry out the attack, its planning and its execution, we should bear in mind that many of these persons were high officials in a government whose legitimacy rests on principles of a religious nature. This completely objective real-world fact, which is perfectly verifiable (it suffices to simply consider Iran's formal name, or look at certain principles laid down in its constitution), perhaps reveals better than anything else the confluence of politics and religion in Iran that we are trying to shed light on in the present report.

On the other hand, one must also avoid the pitfall of oversimplification, i.e. the assumption that any theocracy, just by virtue of being one, will support the use of terrorism in pursuit of its political objectives, or that practicing a specific religion, whichever one it happens to be, invariably means that its adherents will automatically believe violence is a legitimate way to propagate the religion. It is most decidedly not our intention to put forward any generalization of this nature, which would also be extremely unfair to the millions of Muslims in the world today who practice their religion in a peaceful and well-intentioned manner.

Let us state this categorically. It should be obvious from the outset that we fully support the principle of freedom of religion laid down in Articles 14, 19 and 20 of the Argentine Constitution, as well as the international treaties that were incorporated pursuant to Clause 22 of the Constitution's Article 75. We also want to make it clear that addressing the subject of religion itself in the sense of a manifestation of the spiritual dimension of the individual is, as we have stated, an extremely complex and delicate matter, and not at all the purpose of the present report. And finally, we also wish to state

our unequivocal belief that Islam promotes peace and harmony among all human beings, and does not seek to provoke hatred and barbarism – far from it.

Unfortunately, since time immemorial this has not prevented fanatical and unscrupulous individuals from using religion as a pretext for carrying out their alleged religious duty to promote the annihilation of their fellow human beings. In such cases, religion becomes a mere facade and pretext that serves to mask facts that, examined closely, can only be described as criminal atrocities.

b) Issues regarding the use of classified documentation

The necessary use, for the present report, of evidence provided by the Secretariat of Intelligence that has been classified as "secret and confidential" (and was incorporated into the files based on the initial request made by Judge Galeano the very day of the attack) merits a separate section.

At this time the Argentine intelligence organization was carrying out the tasks that it felt were necessary in order to comply with the law. These tasks involved operational activities, background investigations using technological and human resources, requests for cooperation concerning information and exchanges of information with the international community, observations, reviews and analyses – all of which are legitimate instruments of intelligence gathering.

Against this backdrop, it is necessary to address certain issues concerning the use of this information, insofar as it was part of the investigation. [translated excerpt ends here]

[translated excerpt resumes here]

IX. CONCLUSIONS

Throughout this report, we have expressed the view – which is substantiated by the abundant evidence compiled in the case and examined according to the principles of rational criticism – that the AMIA attack perpetrated on July 18, 1994 was carried out by the Lebanese terrorist organization Hezbollah at the behest of the highest authorities in the Iranian government at the time, and with local assistance from Iranian diplomats who were accredited in Argentina. This fact does not rule out the possibility that other persons were involved in this criminal attack.

However, we wish to reiterate that the request that we are submitting to the Court today should not be taken to mean that all avenues of investigation have been exhausted in this case. Far from it. As was pointed out in the introductory section of this report, there are numerous aspects of the investigation that we are working on tirelessly in collaboration with other Argentine government agencies, and significant progress has been made in some of these areas. But these additional findings cannot be disclosed until certain ongoing procedures have been completed, and any conclusion reached prematurely might well be erroneous or at best incomplete.

Of course, this is not to say that it would be inappropriate at this point to make public other findings in this case, which are substantiated by a multitude of circumstances. And this is exactly what we have endeavored to accomplish in this lengthy report, given the necessity of seeking the capture of a group of individuals who are strongly suspected of having played a role in the AMIA attack, and the fact that it has been clearly established that Hezbollah and officials of the Iranian government of the time were bore some responsibility for the attack.

In this regard, and in light of the unusual length of the present report, we feel it would be useful to conclude the report with a brief recapitulation of the most relevant circumstances that we have taken into account in reaching our conclusions.

Let us first examine the evidence indicating that Iran was involved in the AMIA attack.

* The decision to carry out the attack

One of the most important elements indicating that the highest authorities in the Iranian government of the time were responsible for the AMIA attack is the statements of various persons (albeit with differing ideological affiliations) that have direct ties in one way or another with the Teheran regime, and whose testimony has enabled us to establish that the decision to carry out the attack was adopted on August 14, 1993 in Mashad, Iran at a meeting of the so-called Committee for Special Affairs, which at the time was composed of the regime's highest religious and political authorities.

* The Iranian government's use of terrorism as an instrument of foreign policy

Based on the substantial evidence that has been amassed in the case, including judicial rulings from various countries, reports from both Argentine and foreign governmental and non-governmental organizations, and testimony from qualified former officials of the Iranian government, as well as from a number of terrorism experts, we have established convincingly that during the period leading up to the AMIA attack, the use of Iran's governmental structures and state resources to commit crimes that can be characterized as acts of international terrorism was not an uncommon practice

within the context of Iranian foreign policy. The ultimate objective was to export Iran's radicalized view of Islam, and consequently to eliminate the regime's enemies.

* The existence of a reason or motive

We have also clearly established the existence of a direct antecedent which, according to perverse fundamentalist logic, provided Iranian government officials with a reason that "justified" an action of the magnitude of the AMIA bombing: the unexpected decision by Argentina to cancel the nuclear technology transfer contracts that had been signed by the Islamic Republic of Iran and the Republic of Argentina. As we previously pointed out, this decision was an impediment to Iran's strategy of developing its nuclear program.

* The intelligence station

We have also proven that long before the AMIA attack, and within the framework of the aforementioned policy of exporting the Iranian revolution, the Iranian government had established in Argentina a clandestine intelligence and espionage infrastructure which, as the date of the attack grew nearer, was gradually strengthened to meet the needs of the operation. It should be emphasized that for all of the reasons indicated previously with respect to this specific point, without the logistical and operational benefits afforded by the presence of said infrastructure, a terrorist action on the scale of the incident in question never could have been brought off successfully.

The foregoing is important, because among the evidence indicating that the Iranian government was ultimately responsible for the AMIA attack, the intelligence station it established in Argentina constitutes the strongest substantiation of this contention, inasmuch as it provided the

conditions for the operation's success. Thus, it clearly constituted what Francois Gorphe has termed "evidence of opportunity" for the offense, defined as "the conditions in which the agent found himself and that facilitated" his perpetration of the act (*Apreciación Judicial de las Pruebas*, Bogotá: Editorial Temis, 1989, p. 239).

* The unusual movement of diplomatic couriers

We have also shown that on dates that are very suggestive owing to their proximity to the date of the attack, the amount of mail and the numbers of diplomatic functionaries being sent by the Iranian government to Argentina from various parts of the world such as Germany, Iran, Brazil, Chile and Uruguay rose dramatically and out of all proportion to previous practice, according to records that were examined during the investigation.

Our investigation also revealed that, according to documentation from the Argentine Foreign Ministry, at this period there was no reason, circumstance or official event that could have justified such a flood of diplomatic mail. All of this, when analyzed in light of the other evidence in the files, led us to conclude that the operations that were detected, whether they were meant to be a smokescreen or they served to transport sensitive information and/or materials, or perhaps both, were directly related to the preparations that were being made for the AMIA attack.

* The opportune change in the handling of diplomatic mail

Clearly related to what was described in the preceding paragraph, it is impossible to ignore the sudden change in the manner in which diplomatic mail was handled at the Iranian Embassy in Argentina: after the arrival of Ambassador Soleimanpour and Third Secretary Asghari in Argentina in June 1991 (i.e. prior to the two terrorist attacks in Buenos Aires), diplomatic mail was carried not by diplomatic pouch but by actual persons.

* The suspicious increase in funds that Rabbani was handling in the months leading up to the attack

Among the elements in the case that raise the most suspicions, a not insignificant one is the substantial sums of money that had been deposited in the various accounts held in Argentina by the Iranian Embassy's cultural attaché, Mohsen Rabbani, in the period leading up to the attack. Deposits in these accounts increased substantially during the first six months of 1994, compared to the same periods in 1992 and 1993. Added to this is the circumstance that on returning to Argentina from Iran (where he had been summoned to attend the meeting at which the decision was made to carry out the AMIA attack), Rabbani opened an account at Deutsche Bank to which approximately 150,000 U.S. dollars was transferred from abroad in March and April of 1994.

* The fact that Rabbani shopped around for a truck similar to that used in the attack

Another element of proof that seriously implicates the individual that all witnesses in the case concurred in designating as the main point man of the Iranian government in Argentina is photographs that were submitted by the Secretariat of Intelligence, as well as the testimony of various witnesses, proving that prior to the AMIA attack Rabbani (who was then sheik of the At-Tauhid mosque) made inquiries at various Buenos Aires car dealers concerning the purchase of a utility vehicle that was identical or similar to the one that blew up at the AMIA headquarters several months later.

* The call made by Rabbani from the environs of the Jet Parking lot

It has also been established that a few minutes after the car bomb was successfully parked in a parking lot near AMIA, a call was made to the At-Tauhid mosque from Mohsen Rabbani's cell phone. Based on the antenna that was activated when this call was made, it originated from a spot that near the aforementioned parking lot.

Moreover, an analysis of the phone records in the case files shows that one hour after the call was placed, another call was made from a pay phone near the At-Tauhid mosque to a cell phone that belonged to the person who, from the city of Foz de Iguazu in the so-called Tri-Border area, had coordinated the activities of the operational group in Buenos Aires.

All of these circumstances make it reasonable to infer that Mohsen Rabbani was present during one of the key phases of the criminal operation, and that he monitored the operation's progress and reported on its success to other participating members of the group.

* The opportune granting of diplomatic status to Rabbani

Another circumstance that dispels any doubts that might exist concerning the participation of Rabbani and Iran's top officials in the incident under investigation is that Rabbani was granted diplomatic status by being designated cultural attaché of the Iranian Embassy in Argentina only four months prior to the AMIA attack. This circumstance is all the more telling in light of the fact that Rabbani had been stationed in Argentina since 1983, which in conjunction with the other factors mentioned in this regard, clearly reveals that Rabbani was given this job in order to protect him against any charges that might be filed against him owing to his participation in the attack.

* Ahmad Asghari's abrupt departure from Argentina

A no less suggestive circumstance is the abrupt departure from Argentina of the influential Third Secretary of the Iranian Embassy and former member of Iran's PASDARAN, Ahmad Reza Asghari, who according to the evidence in the case also attended the August 14, 1993 meeting in Mashad of the Committee for Special Affairs.

Indeed, in light of the constellation of circumstances that we have just enumerated, in our view there is no other more plausible explanation than the one we have indicated for the fact that

Asghari – who was originally scheduled to leave Argentina in October 1994 – left totally unexpectedly on July 8 of that year, i.e. exactly ten days prior to the bombing.

* The opportune departure of Iranian ambassadors from neighboring countries

In view of the circumstances described above, it is not in the least surprising that 18 days prior to the AMIA attack, at which time the operation had entered its final phase, the Islamic Republic of Iran's ambassador to the Republic of Argentina, Hadi Soleimanpour, left Argentina for Miami, returning to Argentina shortly after the incident. In other words, when the bomb exploded at AMIA, the highest-ranking Iranian official in Argentina was out of the country, as were the Iranian ambassadors to Chile and Uruguay, who both took the same flight to Frankfurt, Germany on the day before the attack, July 17.

When one considers these developments in the light of all of the other factors mentioned herein, it is in our view plain to see that we are in the presence of yet another maneuver on the part of the Iranian government to prevent its officials – and by extension the Iranian government itself – from being linked to the attack.

* Iran's attitude following the attack

Finally, the attitude of the Iranian government following the attack likewise comes as no surprise in light of the circumstances that have been described thus far. We are not referring to a mere uncooperativeness on the part of the Iranian government, or a lack of interest in responding to the various letters rogatory that were submitted by Argentina, notwithstanding the loud official

pronouncements of the Iranian government's willingness to cooperate with this investigation. Not only were these statements not backed up with concrete actions, but the Iranian government (with which Argentina has not signed a treaty of international judicial cooperation for criminal cases) has refused to receive various requests for judicial assistance via letters rogatory that were sent in connection with this case. But on other occasions Iranian authorities were far more proactive, for example when they tried to discredit witnesses whose testimony implicated the Iranian government in one way or another.

This attitude was brought to new heights by the singular proposal recently made by Iranian officials via a diplomatic non-paper that was submitted to the Argentine Foreign Ministry in which Iran offered to cooperate in any way necessary – but with one extremely peculiar proviso, namely that in exchange, Argentina must promise not to bring any legal action of any kind against any Iranian national.

This proposal, which was stated in shockingly clear terms, requires no further comment.

As has been pointed out a number of times in the present document, the heads of the Iranian Special Affairs Committee used Hezbollah – a Shiite Lebanese organization that has historically been subordinated to the interests of Teheran – to carry out the terrorist bombing of AMIA, which was given the go-ahead on August 14, 1993.

We shall now recapitulate the evidence in the case demonstrating that this terrorist organization participated in the AMIA attack.

* The modus operandi

Carrying out attacks using a car bomb loaded with explosives that are triggered by the vehicle's suicidal driver is the first factor that suggests that Hezbollah was responsible for the attack. In fact, and as one of the experts on international terrorism who testified during the court proceedings put it, this spectacular method is a veritable Hezbollah "trademark," a fact demonstrated by the large number of similar operations (enumerated elsewhere in our report) that Hezbollah carried out in Lebanon in the 1980s and the early 1990s.

* The attack on the Israeli Embassy in Buenos Aires

In a decision handed down on December 23, 1999, the Argentine Supreme Court, the highest court in the land, stated that the March 17, 1992 attack on the Israeli Embassy in Buenos Aires was the work of Islamic Jihad, which the Court accused of being the "armed wing" of Hezbollah.

Hence, the striking parallels between the two attacks (although one could justifiably characterize the two events as genuinely having identical elements: the same location, the same type of target, and the same modus operandi), in conjunction with the relatively brief time between the attacks (all of which was described in detail above), are additional elements that clearly support our contention that both attacks were orchestrated by the same terrorist organization.

* Claiming responsibility

Five days after the AMIA attack, a group calling itself Ansar Allah published a communiqué in the Lebanese daily *An Nahar* claiming responsibility for the AMIA attack, as well as for the bombing of an Alas Chiricanas airliner over Panama one day later.

This was the same procedure that Islamic Jihad had used two years previously to claim responsibility for the attack on the Israeli Embassy in Buenos Aires (identical method, including publication of a communiqué in the same newspaper). The documents and testimony obtained from the files (including statements to the press by the deputy secretary general of Hezbollah and number-two man in the organization, Nahim Kaseem) would later demonstrate that Ansar Allah does not exist and that it is merely one of the fictitious names used by the Shiite organization to claim responsibility for this type of attack in a manner that at the same time enables the organization to avoid being directly implicated in its crimes.

* The suicide bomber

It has been conclusively established that on July 18, 1994 the Lebanese national and Hezbollah member Ibrahim Berro was driving the Renault Trafic van that exploded in front of AMIA, killing Mr. Berro. We will not describe here, one by one, the elements in the chain of evidence that proves the aforementioned facts, since this has already been done in a dedicated section of our report. However, it is important to stress once again that Ibrahim Berro's militancy as an active member of Hezbollah is a fact that was acknowledged by his brothers, and by Hezbollah itself.

This is as undeniable as Israeli government reports stating that no Lebanese soldier died in the purported skirmish in which that Hezbollah claims Berro lost his life; as undeniable as the fact that Berro's body was never found, despite his having allegedly died in a conventional military clash; as undeniable as the presence of none other than the secretary general of the movement, Hassan Nasrallah, at a funeral without a corpse; and finally, as undeniable as the words of Nasrallah himself (according to what Hassan Berro, one of Ibrahim's brothers, told the authors of this report) at the burial of the Berros' father, when he thanked the father for sacrificing two sons (obviously referring to Assad and Ibrahim) who committed suicide for Hezbollah's cause.

* Moughnieh:

As has already been mentioned, testimony from various witnesses proves that Imad Fayez Moughnieh, a known terrorist and former head of Hezbollah's Foreign Service, was in charge of the planning and coordination of the operational phase of the AMIA attack. Needless to say, this fact is yet another clear indication that Hezbollah was responsible for the bombing.

* The kidnapping of Moustapha Dirani and the bombardment of a Hezbollah training camp in the Bekaa Valley

Both of these events were undoubtedly severe blows for the fundamentalist organization, and in our view should not be marginalized in the overall analysis of the circumstances surrounding the AMIA attack, lest we unduly fragment a situation that, in any case, was complex and dynamic during the period when the incident took place.

Indeed, as we saw in the relevant section of the report, the main motive for the AMIA attack

stemmed from issues that directly affected the interests of the government of the Islamic Republic of Iran, but it is also indubitably true that from the standpoint of the group that carried out the attack – i.e. Hezbollah – the kidnapping of one of its most important leaders and the bombardment several days later of one of its main military training facilities in the Kawkaba district provided a perfect pretext within the organization for an action such as the one that was perpetrated against AMIA.

* Public threats issued by Hezbollah leaders

Similarly, it would make no sense to refrain from examining the public statements made by Hezbollah leaders prior to the attack as possible indicators of the organization's responsibility for it; in any case, these statements to some extent foreshadowed the operation and the specific manner in which it was carried out.

Along these lines, in what Francois Gorphe terms "evidence of statements prior to the crime" (op. cit. p. 239), two pronouncements are particularly noteworthy, coming as they did from the highest levels of the Hezbollah hierarchy and considering their macabre nature and in particular the explicitness of the second one.

The first statement, which is attributed to Hezbollah's spiritual leader Mohamed Hussein Fadlallah, was made after the aforementioned kidnapping of Dirani. "The resistance," said the Shiite clergyman, "has a lot of oxygen. The enemy have said that they have a long reach, but when Abbas Moussawi was assassinated, the Islamic fighters proved that they can reach all the way to Argentina. The battlefront has spread throughout the world, and it will be a long battle."

Hezbollah Secretary General Hassan Nasrallah made the following less elliptical, but similarly prophetic threat only one month before the attack: "A thousand suicide commandos are preparing to

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confront Israel all over the world."

In view of the scope of the tragedy that befell AMIA a mere 32 days later, as well as the remainder of the evidence in this case, it would be absurd to suppose that the materialization of this terrible threat was pure happenstance.

* Phone calls

The aforementioned evidence is bolstered by records of phone calls that were made by members of the operational group that carried out the AMIA attack between 10:53 a.m. on July 1 and 7:41 on July 18, 1994 to phone customers in Lebanon that the Argentine Secretariat of Intelligence suspected of having ties with Hezbollah, and to numbers in the so called Tri-Border area (which, according to testimony by experts, at the time of the AMIA attack was a Shiite stronghold in the region) belonging to the person in charge of coordinating the group. Additional calls were made during that time frame to other persons who, according to the Secretariat of Intelligence, were also linked to the terrorist organization.

All of these facts and circumstances provide further confirmation, based on concrete evidence, of the numerous statements made in the case by expert witnesses and analysts with knowledge of international terrorism, all of whom agreed, from the outset of the investigation, that Hezbollah was the perpetrator of the AMIA attack.

Moreover, the aforementioned testimony also clearly indicates that this terrorist group – an organization that was created and is supported militarily and economically by the government of the Islamic Republic of Iran – does not carry out foreign terrorist acts (or at any rate was not doing so

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during the period in which the attack occurred) on its own initiative, but instead acts beyond Lebanon's borders on direct orders from the Teheran regime.

And this is in fact exactly what happened in the AMIA attack, as has been proven by the evidence in the case that we have just summarized: Both parties were involved in the incident, acting in perfect coordination within the framework of this relationship of subordination described by the analysts and experts.

And thus we have come to end of this report. We would like to reiterate that the conclusions presented here to the Court are the logical outgrowth of a thorough and detailed analysis of all of the evidence that has been amassed in the case. As can be seen just in the recapitulation in this final section, in some cases the conclusions we have reached result from direct evidence requiring no logical deduction, whereas in other cases these conclusions stem from a long series of presumptions and circumstantial evidence whose seriousness, precision and concurrence with the remainder of the evidence in the case make a valid contribution to strengthening the hypothesis that we have submitted for the Court's consideration, which is that those who at the time occupied the upper echelons of the government of the Islamic Republic of Iran, as well as the Lebanese terrorist group Hezbollah, are responsible for the AMIA/DAIA bombing of the eighteenth July, nineteen ninety-four in Buenos Aires, which took the lives of eighty-eight persons and injured at least one hundred fifty. [translated excerpt ends here]

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[translated excerpt resumes here]

11) SEND A CUSTOMARY OFFICIAL LETTER TO THE MINISTER OF FOREIGN AFFAIRS, INTERNATIONAL TRADE AND WORSHIP with a view to informing him of the aforementioned requests so that the appropriate action may be taken.

12) SEND OFFICIAL LETTERS TO THE OFFICE OF THE CHIEF OF THE ARGENTINE FEDERAL POLICE, THE NATIONAL POLICE FORCE, THE ARGENTINE NAVAL PREFECTURE, AND THE AIRPORT SECURITY POLICE for the same purpose as that indicated in item 10.

Investigations Unit of the Office of the Attorney General, October ___ 2006.

ANNEX 24



Rosada in mourning for those killed in 1994.

The Argentine flag flew at half mast before the Casa

Argentine President Mauricio Macri Thursday pledged to continue to seek that the people involved in the 1994 bombing of the Israeli Social Service Associacion (AMIA) "be tried in Argentine territory" to bring impunity to an end, once "the weight of the law has reached those responsible."

Macri made these statements upon presenting at the Casa Rosada Museum the book "Justicia Perseguirás" (Justice Thou Shalt Seek), a collection of reflections from world leaders about the deadliest terrorist attack in the country, which left 85 people dead.

"We will continue to look for those accused of these acts to be tried in Argentine territory and we will keep the red alerts (from Interpol) on them, and we ask the Islamic Republic of Iran to collaborate in the investigation," Macri said.

During the ceremony, the president also wondered "what happened to [prosecutor] Alberto Nisman," who was in charge of the AMIA case unit and was found dead in his

apartment in 2015 with a gunshot to his head in what the administration of then President Cristina Fernández de Kirchner tried to portait as a suicide.

As per a decree signed by Macri earlier this week, Thursday the Argentine flag flew at half mast in mourning for those killed in the AMIA attack on July 18, 1994. At 9:53 am, the exact time of the explosion, hundreds of sirens sounded throughout the city of Buenos Aires, particularly at the site of the AMIA building and at police stations and cars as well as at fire brigade baracks while bells tolled at schools and churches.

At the site on Pasteur street, survivors and relatives of the victims gathered in the now usual yearly ritual to pray.

The Grandmothers of Plaza de Mayo and other organisations held a separate event on Plaza Lavalle just in front of the main federal courthouse to outline the lack of justice in the AMIA bombing case.

Diana Wassner, whose husband Andrés Malamud died in the attack, delivered the closing speech: "I've been standing in the same place for 25 years, [still] detained on the same page."
That lack of justice should be less surprising in a country where as rescuers did a humanitarian work in the ruins of the building, all valuable items seeemed to have been

vanished under the expansive wave.

Diana Malamud recovered her dead husband's watch, his wedding ring and his wallet, but it only contained six pesos. "My husband always had a lot of money with him, someone took the money and left only his credit cards and personal papers," she said in a newspaper interview. According to survivors, Andrés Malamud, who was the architect in charge of the repair works of the building - had six thousand dollars in his pocket.

In a separate event, AMIA President Ariel Eichbaum stressed that "we must take dimension of the passage of time and what it means not to have justice."

Eichbaum has taken part in several tributes abroad this year and spoke before a special session of the United Nations in New York.

In Tel Aviv, Ilan Sztulman, who has just returned from a three-year term as Israel's ambassador in Buenos Aires, noted approvingly that Argentinian lawmakers are now considering legislation to enable the trial in absentia of suspects in the bombing, in reference to a decision to advance legislation providing for such trials.

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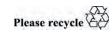
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Third report of the Secretary-General on the implementation of Security Council resolution 2231 (2015)

I. Introduction

- 1. On 20 July 2015, the Security Council, in its resolution 2231 (2015), endorsed the Joint Comprehensive Plan of Action concluded by China, France, Germany, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland, the United States of America, the European Union and the Islamic Republic of Iran.
- 2. At the start of my tenure as Secretary-General, I am encouraged by the continued implementation of the Joint Comprehensive Plan of Action. I hope that ongoing commitments to the Plan can provide an example of the benefits of diplomacy, which leads to the reduction of tensions among States. I encourage all States to act in accordance with and support this historic agreement, and avoid provocative actions and speech.
- 3. The International Atomic Energy Agency (IAEA) continues to verify and monitor the implementation by the Islamic Republic of Iran of its nuclear-related commitments under the Joint Comprehensive Plan of Action. On 15 January 2017, IAEA announced that it had verified that the Islamic Republic of Iran had removed, within one year from Implementation Day, as required by the Plan, all excess centrifuges and infrastructure from the Fordow Fuel Enrichment Plant and transferred them to storage at the Natanz Fuel Enrichment Plant under IAEA continuous monitoring.
- 4. In March and June 2017, the Agency issued quarterly reports on its verification and monitoring in the Islamic Republic of Iran in the light of resolution 2231 (2015) (S/2017/234 and S/2017/502). The Agency reported that it has been verifying and monitoring the implementation by the Islamic Republic of Iran of its nuclear-related commitments since Implementation Day and that the Islamic Republic of Iran continues to provisionally apply the Additional Protocol to its Safeguards Agreement, pending its entry into force, and the transparency measures contained in the Joint Comprehensive Plan of Action. The Agency also reported that it continues to verify the non-diversion of declared nuclear material and that its evaluation regarding the absence of undeclared nuclear material and activities for the Islamic Republic of Iran remained ongoing.
- 5. I welcome the recent recommitment by the participants in the Joint Comprehensive Plan of Action, in Vienna on 25 April 2017, to the full and effective implementation of the Plan. I call upon them to continue to work together in good faith and reciprocity to ensure that all participants benefit from the Plan. In







- resolution 2231 (2015), the Security Council called upon all Member States, regional organizations and international organizations to take such actions as may be appropriate to support the implementation of the Plan. It is in the interest of the international community, writ large, that this achievement of multilateral diplomacy endures transitions and implementation challenges, cementing our collective commitment to diplomacy and dialogue.
- 6. The present report, the third on the implementation of resolution 2231 (2015), provides an assessment of the implementation of the resolution, including findings and recommendations, since the second report of the Secretary-General, issued on 30 December 2016 (S/2016/1136). Consistent with the first and second reports, the focus of the present report is on the provisions set forth in annex B to resolution 2231 (2015), which include restrictions applicable to nuclear-related transfers, ballistic missile-related transfers and arms-related transfers to or from the Islamic Republic of Iran, as well as asset freeze and travel ban provisions.

II. Key findings and recommendations

- 7. Since 16 January 2016, my predecessor and I have not received any report on the supply, sale, transfer or export to the Islamic Republic of Iran of nuclear or dualuse items, materials, equipment, goods or technology undertaken contrary to paragraph 2 of annex B to resolution 2231 (2015).
- 8. Since 30 December 2016, 10 additional proposals to participate in or permit activities with the Islamic Republic of Iran for nuclear or non-nuclear civilian end uses were submitted to the Security Council for approval through the procurement channel. Five of the proposals have been approved by the Council.
- 9. On 29 January 2017, the Islamic Republic of Iran launched a Khorramshahr medium-range ballistic missile. As in the case of the ballistic missile launches by the Islamic Republic of Iran in March 2016 (see \$\frac{5}{2016}/649\$, paras. 17-22), there was no consensus in the Security Council on how this particular launch related to resolution 2231 (2015). I call upon the Islamic Republic of Iran to avoid such ballistic missile launches, which have the potential to increase tensions. I appeal to all Member States to redouble their efforts to promote peace and stability in the region.
- 10. The Secretariat has examined the weapons and analysed the information related to the arms shipment seized by the French frigate *Provence* in the northern Indian Ocean in March 2016 (see S/2016/1136, para. 27). On the basis of the information analysed, the Secretariat is confident that the weapons seized are of Iranian origin and were shipped from the Islamic Republic of Iran.
- 11. Iranian entities, including the Defence Industries Organisation, which is on the list maintained pursuant to resolution 2231 (2015), once again participated in the International Defence Exhibition in Iraq. The present report also provides information on additional travel by Major General Qasem Soleimani. I reiterate my call upon all Member States to fully implement their obligations in relation to resolution 2231 (2015), including those regarding the travel ban and asset freeze of individuals and entities on the list maintained pursuant to resolution 2231 (2015).

III. Implementation of nuclear-related provisions

12. In resolution 2231 (2015), the Security Council endorsed the establishment of a dedicated procurement channel, under the Joint Comprehensive Plan of Action, to review proposals by States seeking to engage in certain transfers of nuclear or dual-

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use goods, technology and/or related services to the Islamic Republic of Iran. Through this channel, the Council reviews and decides on recommendations from the Joint Commission established under the Plan regarding proposals by States to participate in or permit activities set out in paragraph 2 of annex B to resolution 2231 (2015).

- 13. Since 30 December 2016, 10 new proposals to participate in or permit the activities set forth in paragraph 2 of annex B to resolution 2231 (2015) were submitted to the Security Council, bringing to 16 the total number of proposals submitted since Implementation Day for approval through the procurement channel. At the time of reporting, 10 proposals were approved by the Council, two were withdrawn by the proposing States and four are currently under review by the Joint Commission.
- 14. In addition, the Security Council received six new notifications pursuant to paragraph 2 of annex B to resolution 2231 (2015) for certain nuclear-related activities that do not require approval but do require a notification to the Security Council or to both the Security Council and the Joint Commission.

IV. Implementation of ballistic missile-related provisions

A. Restrictions on ballistic missile-related activities by the Islamic Republic of Iran

- 15. In paragraph 3 of annex B to resolution 2231 (2015), the Security Council called upon the Islamic Republic of Iran not to undertake any activity related to ballistic missiles designed to be capable of delivering nuclear weapons, including launches using such ballistic missile technology.
- 16. On 1 February 2017, the Minister of Defence of the Islamic Republic of Iran confirmed that the Islamic Republic of Iran had flight-tested a ballistic missile, while stressing that the launch did not contradict the Joint Comprehensive Plan of Action or resolution 2231 (2015). In the same period, the Minister for Foreign Affairs of the Islamic Republic of Iran reiterated that the Islamic Republic of Iran's ballistic missiles "have not been designed to be capable of carrying a nuclear weapons" and therefore were not in violation of resolution 2231 (2015).
- 17. On 7 February 2017, I received a joint letter from France, Germany, the United Kingdom and the United States on the launch by the Islamic Republic of Iran of a Khorramshahr medium-range ballistic missile on 29 January 2017. Those States underscored that the phrase "ballistic missiles designed to be capable of delivering nuclear weapons" in paragraph 3 of annex B to resolution 2231 (2015) included all Missile Technology Control Regime Category I systems, defined as those capable of delivering at least a 500 kg payload to a range of at least 300 km, which are inherently capable of delivering nuclear weapons and other weapons of mass destruction. Those States considered that since the Khorramshahr is designed to be capable of delivering a 500 kg payload to a range of at least 300 km, the launch of the missile constituted an "activity related to ballistic missiles designed to be capable of delivering nuclear weapons" and "[a] launch using such ballistic missile technology", which the Islamic Republic of Iran has been called upon not to undertake pursuant to paragraph 3 of annex B to resolution 2231 (2015). In the letter it was also stated that the launch was destabilizing and provocative and that it had been conducted in defiance of resolution 2231 (2015).

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¹ Fars News Agency, "Iran Confirms Missile Test", 1 February 2017.

² Mehr News Agency, "Iran not to hesitate in reinforcing defense capabilities", 31 January 2017.

- 18. In identical letters dated 10 February 2017 addressed to me and the President of the Security Council (S/2017/123), the Permanent Representative of Israel to the United Nations expressed Israel's strong condemnation of the ballistic missile test conducted by the Islamic Republic of Iran on 29 January 2017. He indicated that the Khorramshahr medium-range missile had travelled a distance of 1,000 km. He also stated that the Khorramshahr is a Missile Technology Control Regime Category I missile "capable of delivering a nuclear payload of 500 kilograms for a range of over 300 kilometres". He concluded that the test constituted "yet another flagrant violation" of resolution 2231 (2015) and that "the development of surface-to-surface missiles with nuclear warhead capability reveals the true intentions of Iran not to comply with resolution 2231 (2015)".
- 19. In a letter dated 9 March 2017 addressed to the President of the Security Council (S/2017/205), the Permanent Representative of the Islamic Republic of Iran to the United Nations stated that the above-mentioned letter from the Permanent Representative of Israel was "replete with baseless speculations about the name, range, performance and technical characteristics of a missile". He also stated that "Iran's indigenous missiles are an indivisible part of its conventional deterrence and defensive capabilities" and underlined that "no universal norm, treaty or agreement bans or limits the development and testing of missiles equipped with conventional capabilities for self-defence requirements". He further stated that "nothing in Security Council resolution 2231 (2015) prohibits Iran's conventional missile activities" and concluded that "in this context, any demand for the cessation of Iran's legitimate and conventional defence activities is groundless and unwarranted".
- 20. The Security Council discussed the Iranian ballistic missile launch on 31 January and 2 March 2017. There was no consensus among Council members on how that particular launch related to resolution 2231 (2015). The third six-month report of the Facilitator on the implementation of Security Council resolution 2231 (2015) provides the details of Council deliberations on this issue.³

B. Restrictions on ballistic missile-related transfers or activities with the Islamic Republic of Iran

- 21. Pursuant to paragraph 4 of annex B to resolution 2231 (2015), provided that they have obtained prior approval from the Security Council, on a case-by-case basis, all States may participate in and permit the supply, sale or transfer to or from the Islamic Republic of Iran of certain ballistic missile-related items, materials, equipment, goods and technology, the provision of various services or assistance, and the acquisition by the Islamic Republic of Iran of an interest in certain commercial ballistic missile-related activities. At the time of reporting, no proposal had been submitted to the Council pursuant to that paragraph.
- 22. In his identical letters dated 10 February 2017, the Permanent Representative of Israel stated that the Khorramshahr missile originated from the Democratic People's Republic of Korea, which had also conducted several tests of the same kind of missile in 2016. He added that "this serves as additional proof of the cooperation between Iran and DPRK on the development and transfer of surface-to-surface missile technologies". In his letter dated 9 March 2017, the Permanent

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³ Document symbol not yet assigned.

⁴ The items, materials, equipment, goods and technology concerned are those set out in the Missile Technology Control Regime list (S/2015/546, annex) and any items, materials, equipment, goods and technology that the State determines could contribute to the development of nuclear weapon delivery systems.

Representative of the Islamic Republic of Iran stated that the aforementioned letter from the Permanent Representative of Israel contained "misleading information, lies and allegations".

- 23. In a letter dated 7 June 2017, the United States brought to the attention of the Secretariat information on a shipment of ballistic missile-related items that, in its assessment, was undertaken contrary to resolution 2231 (2015). The letter stated that "in October 2016, an Iranian firm that supports the ballistic missile program received a consignment of controlled carbon fiber". The letter concluded that "because this shipment did not receive advance, case-by-case approval as specified in Annex B of UN Security Council resolution 2231 (2015), this export to Iran's ballistic missile program was a violation of that resolution".
- 24. The Secretariat has not been able to independently corroborate these reports. I will provide a further update on these issues should additional information become available to the Secretariat.

V. Implementation of arms-related provisions

A. Restrictions on arms-related transfers to the Islamic Republic of Iran

- 25. As stipulated in paragraph 5 of annex B to resolution 2231 (2015), all States, provided that they have obtained prior approval from the Security Council on a case-by-case basis, may participate in and permit the supply, sale or transfer to the Islamic Republic of Iran of any battle tanks, armoured combat vehicles, large-calibre artillery systems, combat aircraft, attack helicopters, warships, missiles or missile systems, as defined for the purpose of the United Nations Register of Conventional Arms, or related materiel, including spare parts. Prior approval from the Council is also required for the provision to the Islamic Republic of Iran of technical training, financial resources or services, advice, other services or assistance related to the supply, sale, transfer, manufacture, maintenance or use of those arms and related materiel.
- 26. On 20 January 2017, the State Border Guard Service of Ukraine announced the discovery of 17 boxes containing missile system components and aircraft parts without accompanying documents in a cargo plane in Kyiv bound for the Islamic Republic of Iran. In its interactions with the Secretariat, the Permanent Mission of Ukraine to the United Nations confirmed that competent Ukrainian authorities had prevented an unauthorized shipment of suspected military items on 19 January 2017, including possible component parts of the "Fagot" anti-tank missile system, had initiated criminal proceedings on 30 January 2017 and were in the process of determining whether the confiscated items were covered by paragraph 5 of annex B to resolution 2231 (2015). On 13 June 2017, during consultations in Kyiv, Ukrainian authorities shared additional information on the unauthorized shipment with the Secretariat, including on the status of the judicial proceedings and classification process of the confiscated items. I intend to report to the Security Council in due course as additional information becomes available.
- 27. In a letter dated 1 June 2017, the Permanent Representative of Turkey to the United Nations confirmed to the Secretariat that on 27 April 2017, in the port of Zonguldak, Turkish authorities confiscated component parts of 9K111 Fagot and 9K113 Konkurs anti-tank guided missiles concealed in a truck that was transiting from Ukraine to the Islamic Republic of Iran on board a vessel named *CENK Y*. According to Turkish authorities, the Iranian truck driver stated that he had obtained the items from another Iranian citizen in Kyiv, to be transported to the Islamic

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Republic of Iran. A criminal investigation has been launched by the Office of the Prosecutor of Zonguldak Province. On 9 June 2017, during consultations in Ankara, Turkish authorities confirmed to the Secretariat that judicial proceedings were ongoing. I will report to the Security Council accordingly as additional information becomes available, including on whether the confiscated items are covered by paragraph 5 of annex B to resolution 2231 (2015).

28. With regard to the provision of services or assistance related to the maintenance of arms and related materiel specified in paragraph 5 of annex B to resolution 2231 (2015), open-source information indicated that services had been provided to a warship⁵ of the Navy of the Islamic Republic of Iran in the port of Durban, South Africa, in late 2016.6 In a letter dated 16 May 2017, the Permanent Representative of South Africa to the United Nations confirmed to the Secretariat that "following a distress call from the Iranian vessel Bushehr, the vessel was allowed to enter Durban port on 15 November 2016" and "departed on 22 January 2017 following emergency repairs on its hull". He also indicated that "its accompanying vessel, the Alvand, requested access to the Durban Port on 19 November 2016 to support the Bushehr and departed on 10 January 2017". The Permanent Representative stressed that "the assistance provided to the Bushehr related to emergency repairs undertaken in accordance with South Africa's international obligations to assist a vessel in distress and was not related to 'the supply, sale, transfer, manufacture, maintenance, or use of arms and related materiel' as provided for in paragraph 5 of Annex B of UN Security Council resolution 2231 (2015)".

B. Restrictions on arms-related transfers from the Islamic Republic of Iran

29. In paragraph 6 (b) of annex B to resolution 2231 (2015), the Security Council decided that all States were to take the necessary measures to prevent, except as decided otherwise by the Council in advance on a case-by-case basis, the supply, sale or transfer of arms or related materiel from the Islamic Republic of Iran. At the time of reporting, no proposal had been submitted to the Council pursuant to that paragraph.

30. In July 2016, France brought to the attention of my predecessor information on the seizure of an arms shipment on board a stateless dhow on 20 March 2016 in the northern Indian Ocean. In its assessment, the arms shipment had originated in the Islamic Republic of Iran and was likely bound for Somalia or Yemen. In January 2017, France provided to the Secretariat additional information regarding the dhow, including its course prior to its interception, documents found on board and the identity of some of the crew members. The Secretariat notes that the dhow was stopped by the frigate *Provence* at a point on the most direct and economical route between its home port, Konarak, Islamic Republic of Iran, and its destination off the coast of Somalia, as declared by the crew master, an Iranian individual.

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⁵ Warships are defined in the Register of Conventional Arms as "vessels or submarines armed and equipped for military use with a standard displacement of 500 metric tons or above, and those with a standard displacement of less than 500 metric tons, equipped for launching missiles with a range of at least 25 kilometres or torpedoes with similar range". It is the understanding of the Secretariat that the Iranian vessel involved had a displacement of more than 500 metric tons and was armed and equipped for military use.

⁶ Jeremy Binnie, "Iranian navy flotilla stuck in South Africa", Jane's Defence Weekly, 19 January 2017.

- 31. In March 2017, French authorities granted full access to the Secretariat to examine the assault rifles, sniper rifles, light machine guns and anti-tank missiles seized. The Secretariat was able to independently ascertain that the 2,000 assault rifles and 64 sniper rifles were in new condition. Although lacking country or factory marking, the weapons corresponded to known features of Iranian-manufactured weapons. The 2,000 assault rifles have characteristics identical to Iranian-produced KLS-7.62 mm,⁷ an assault rifle type AK-47. The 64 sniper rifles have characteristics identical to those of the Iranian-produced SVD sniper rifle. Furthermore, the Secretariat confirmed with the foreign manufacturer of the optical sights fitting the sniper rifles that they were produced as recently as 2015 and were sold to an Iranian company.
- 32. My predecessor and I received several letters regarding the arms shipments seized by Australia and the United States in early 2016, information that was already provided to the Security Council in the first and second reports on the implementation of resolution 2231 (2015). They include identical letters dated 15 May 2017 addressed to me and the President of the Security Council from the Permanent Representative of Saudi Arabia to the United Nations (S/2017/427), as well as a note verbale dated 27 October 2016 from the Permanent Mission of the United Arab Emirates to the United Nations (A/71/581). The latter brought to the attention of my predecessor a letter dated 18 October 2016 addressed to the President of the General Assembly from the Permanent Representatives of Bahrain, Egypt, Jordan, Kuwait, Morocco, Oman, Qatar, Saudi Arabia, the Sudan, the United Arab Emirates and Yemen (ibid., annex).
- 33. In a letter dated 18 February 2017 addressed to me, the Permanent Representative of Yemen to the United Nations stated that "multiple reports of similar interceptions documented the seizure of considerable quantities of weapons and ammunition" that, in the assessment of Yemen, included "Iranian-made anti-tank missiles, assault rifles, Dragunov sniper rifles, AK-47s, spare barrels, mortar tubes, and hundreds of rocket-propelled grenades, and RBG launchers". He also stated that three disassembled spy drones found concealed in a truck at the Yemen-Oman border on 12 December 2016 by Yemeni armed forces and a spy drone belonging to the Houthis intercepted in-flight by coalition forces in the Al-Mokha area on 28 January 2017 were a "clear manifestation of the involvement of Iranians in providing the Houthis with weapons and expertise". The Government of Yemen was invited to provide detailed information, documents and images. I will report thereon to the Council accordingly as additional information becomes available.
- 34. In a letter dated 18 May 2017, the Permanent Representative of the United Arab Emirates to the United Nations brought to the attention of the Secretariat information regarding arms and related materiel seized or recovered by the armed forces of the United Arab Emirates in Yemen since 16 January 2016 that, in the assessment of the United Arab Emirates, were Iranian-made or sourced. This included detailed information and images of anti-tank missiles and unmanned aerial vehicles reportedly seized or recovered by the Presidential Guard forces of the United Arab Emirates. The Secretariat is examining the information and will provide an update to the Council, as appropriate, in due course.
- 35. In the second report of the Secretary-General, information was provided that arms and related materiel are shipped by the Islamic Revolutionary Guard Corps to Hizbullah using commercial flights from the Islamic Republic of Iran, either directly to Beirut or via Damascus (see S/2016/1136, para. 32). In a statement dated 24 November 2016, the Chair of Rafic Hariri International Airport strongly refuted

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 $^{^{7}}$ The KLS is the fixed stock version of the Iranian-produced KL-7.62 mm assault rifle.

those allegations. In identical letters dated 25 January 2017 addressed to me and the President of the Security Council (A/71/770-S/2017/80), the Permanent Representative of Lebanon to the United Nations stated that the letter of the Permanent Representative of Israel dated 21 November 2016 (S/2016/987) contained fabrications and false claims and reiterated that his Government respects its obligations pursuant to international resolutions.

36. Information released by the organizers of the sixth International Defence Exhibition in Iraq, held in Baghdad from 5 to 7 March 2017, indicates that several Iranian entities participated in the exhibition for the second year in a row. According to press coverage of the event, items displayed by those entities appear to have included small arms, artillery ammunition, rockets, anti-tank guided missiles and man-portable air defence systems. The Secretariat again raised the issue with the Permanent Mission of Iraq to the United Nations. The Permanent Mission of the Islamic Republic of Iran to the United Nations had previously stated that it believed that no prior approval was required from the Security Council for that activity since the Islamic Republic of Iran retained ownership of the items exhibited. I intend to report thereon to the Council in due course as additional information becomes available.

VI. Implementation of the asset freeze provisions

37. Pursuant to paragraphs 6 (c) and (d) of annex B to resolution 2231 (2015), all States shall freeze the funds, other financial assets and economic resources of the individuals and entities on the list maintained pursuant to resolution 2231 (2015)⁸ and ensure that no funds, financial assets or economic resources are made available to those individuals and entities.

38. It appears that an entity presently on the list maintained pursuant to resolution 2231 (2015), the Defence Industries Organisation, may have participated again in the International Defence Exhibition in Iraq, which was held in March 2017 (see para. 36 above). Its name is on the exhibitors list released by the organizers of the exhibition and, according to images released by the Iraqi and Iranian media, its official company logo appears on several visual displays next to exhibited items. All of the entity's funds, other financial assets and economic resources on Iraqi territory on the date of adoption of the Joint Comprehensive Plan of Action or at any time thereafter should have been frozen by the Iraqi authorities. The issue was raised again with the Permanent Mission of Iraq to the United Nations. I intend to report thereon to the Council in due course.

VII. Implementation of the travel ban provision

39. Pursuant to paragraph 6 (e) of annex B to resolution 2231 (2015), all States are to take the measures necessary to prevent the entry into or transit through their territories of the individuals on the list maintained pursuant to resolution 2231

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Available from www.un.org/en/sc/2231/list.shtml. The list maintained pursuant to resolution 2231 (2015) includes the individuals and entities specified on the list established under Security Council resolution 1737 (2006) and maintained by the Security Council Committee established pursuant to resolution 1737 (2006), as at the date of adoption of resolution 2231 (2015), with the exception of 36 individuals and entities specified in the attachment to annex B to resolution 2231 (2015), who were delisted on Implementation Day. The Council can delist individuals or entities, and list additional individuals and entities found to meet certain designation criteria defined in resolution 2231 (2015). There are currently 23 individuals and 61 entities on the list maintained pursuant to resolution 2231 (2015).

(2015). At the time of reporting, no travel exemption requests had been received or granted by the Security Council in relation to individuals presently on the list.

- 40. Since the issuance of the second report of the Secretary-General, additional information has surfaced regarding travel by Major General Qasem Soleimani. New pictures and video showing the General in the vicinity of Aleppo, Syrian Arab Republic, in late December 2016 were reproduced in early January 2017. In February 2017, in an interview with an Iranian media outlet (Tasnim News Agency), the President of Iraq, in response to a question about the presence of the General in Iraq, reportedly stated that "the presence of General Qasem Soleimani is in the context of the presence of foreign military advisors in Iraq". He stressed that Iranian military advisers, including the General, had a right to be present in Iraq, as did advisers from other countries, to provide military advice in the fight against terrorism.
- 41. Furthermore, in early April 2017, Iranian and Arab media outlets (Fars News Agency, Al-Masdar News) reproduced a picture allegedly showing Major General Soleimani in the central province of Hama in the Syrian Arab Republic for a meeting with officers of the Syrian Arab Army. A few days later, media from the Kurdish region of Iraq (Rudaw Media Network) reported that Major General Soleimani had visited Sulaymaniyah, in Iraqi Kurdistan. Several Iranian and Arab media outlets (Fars News Agency, Al-Masdar News) also reported that the General had been photographed with Iraqi popular mobilization forces in north-western Iraq on 29 May 2017. According to those reports, Major General Soleimani was present in the area as part of an Islamic Revolutionary Guard Corps advisory mission during an operation of the popular mobilization forces along the Iraq-Syrian Arab Republic border crossing.

VIII. Secretariat support provided to the Security Council and its facilitator for implementation of resolution 2231 (2015)

- 42. The Security Council Affairs Division of the Department of Political Affairs has continued to support the work of the Security Council and of its facilitator for the implementation of resolution 2231 (2015). The Division has also continued to liaise with the Procurement Working Group of the Joint Commission on all matters related to the procurement channel.
- 43. The Division continued to promote publicly available information on the restrictions imposed by resolution 2231 (2015) through the Security Council website. Relevant documents were regularly added in all official languages to the website. The Division also continued to use outreach opportunities to promote information on the resolution, in particular the procurement channel, in line with paragraph 6 (e) of the note by the President of the Security Council dated 16 January 2016 (S/2016/44). On 18 January 2017, the Division participated in an export control seminar organized by the Awa Aussenwirtschafts-Akademie (Foreign Trade Academy) in Frankfurt, Germany. On 12 June 2017, the Division also participated in a public awareness-raising seminar related to the procurement channel organized by the Vienna Centre for Disarmament and Non-Proliferation, held in Vienna.
- 44. During the reporting period, the Division continued to respond to queries from Member States and to provide relevant support to Member States regarding the provisions of resolution 2231 (2015), in particular on the procedures for the submission of nuclear-related proposals and the review process.

9 www.un.org/en/sc/2231/.

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Annex 25

ANNEX 26

United Nations S/2017/1030



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Fourth report of the Secretary-General on the implementation of Security Council resolution 2231 (2015)

I. Introduction

- 1. Almost two years after Implementation Day (16 January 2016), I continue to believe that the Joint Comprehensive Plan of Action is the best way to ensure the exclusively peaceful nature of the nuclear programme of the Islamic Republic of Iran and to realize the aspirations of the Iranian people. The Plan constitutes a major achievement in nuclear non-proliferation and diplomacy in addressing issues that could have an impact on regional and international peace and security, and it is my hope that it will be preserved.
- 2. Since 16 January 2016, the International Atomic Energy Agency has reported nine times to the Security Council that the Islamic Republic of Iran is implementing its nuclear-related commitments under the Joint Comprehensive Plan of Action. In its most recent quarterly reports (S/2017/777 and S/2017/994), the Agency again reported that it continued to verify the non-diversion of declared nuclear material and that its evaluations regarding the absence of undeclared nuclear material and activities for the Islamic Republic of Iran remained ongoing. The Agency also reported that the Islamic Republic of Iran continued to provisionally apply the Additional Protocol to its Safeguards Agreement, pending its entry into force, and to apply the transparency measures contained in the Plan. In its latest report, the Agency further indicated that it had conducted complementary accesses under the Additional Protocol to all the sites and locations in the Islamic Republic of Iran that it needed to visit.
- 3. Against this backdrop of diplomatic achievement, compliance and robust verification, the decision of 13 October by the President of the United States of America not to certify that the suspension of its national sanctions pursuant to the agreement is "appropriate and proportionate to the specific and verifiable measures taken by Iran with respect to terminating its illicit nuclear programme", and the potential legislative actions that the Congress of the United States may take to reimpose those national sanctions, have regrettably created considerable uncertainty regarding the future of the Joint Comprehensive Plan of Action. At present, these national executive actions do not affect the validity of the Plan or the respective commitments of the participants contained therein. I am reassured that the United States has expressed its commitment to stay in the Joint Comprehensive Plan of Action for now.
- 4. I call upon all participants to remain steadfast in their commitment to the full implementation of the agreement and to work through differences and challenges in







a spirit of cooperation and compromise, good faith and reciprocity. It is important that the Plan continue to work for all its participants, including by delivering benefits to the Iranian people.

- 5. I encourage all Member States and regional and international organizations to act in accordance with and support the implementation of this historic agreement, which is in the interest of the international community at large. I welcome the commitment of the European Union to the continued full and effective implementation of all parts of the Joint Comprehensive Plan of Action. I also welcome the affirmative statements by China, the Russian Federation and numerous other Member States in support of the Plan. I encourage the United States to maintain its commitments to the Plan and to consider the broader implications for the region and beyond before taking any further steps. Similarly, I encourage the Islamic Republic of Iran to carefully consider the concerns raised by other participants in the Plan.
- 6. The present report, the fourth on the implementation of resolution 2231 (2015), provides an assessment of the implementation of the resolution, including findings and recommendations, since the issuance of the third report of the Secretary-General (S/2017/515), on 20 June 2017. Consistent with previous reports, the focus of the present report is on the provisions set forth in annex B to resolution 2231 (2015), which include restrictions applicable to nuclear-related transfers, ballistic missile-related transfers and arms-related transfers to or from the Islamic Republic of Iran, as well as asset freeze and travel ban provisions.

II. Key findings and recommendations

- 7. Since 16 January 2016, the Secretariat has not received any reports on the supply, sale, transfer or export to the Islamic Republic of Iran of nuclear or dual-use items, materials, equipment, goods or technology undertaken contrary to paragraph 2 of annex B to resolution 2231 (2015). In relation to alleged inconsistent Iranian procurement activities in Germany, the Government of Germany confirmed to the Secretariat in November 2017 that it had no indications of any activities inconsistent with paragraph 2 of annex B and had no evidence of any transfers or activities inconsistent with paragraph 4 of annex B.
- 8. Since 20 June 2017, eight additional proposals to participate in or permit activities with the Islamic Republic of Iran for nuclear or non-nuclear civilian end uses have been submitted to the Security Council for approval through the Procurement Channel.¹
- 9. On the basis of interactions that took place during outreach activities carried out by the Secretariat, it appears that there remains a general lack of understanding of resolution 2231 (2015), especially in the private sector. This lack of understanding, coupled with a sense of political uncertainty, appears to have adversely affected the decisions of some Member States and private sector entities to engage in activities requiring prior approval from the Security Council. Member States should undertake greater efforts to promote awareness and understanding of the specific restrictions, in particular the Procurement Channel, the procedures for the submission of proposals and the process for review. The Secretariat stands ready to assist Member States in such efforts, in line with the arrangements and procedures outlined in the note by the President of the Council dated 16 January 2016 (S/2016/44).
- 10. Regarding the emerging information on the possible transfer by the Islamic Republic of Iran of ballistic missiles, parts thereof or related technology to the

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All nuclear-related proposals and other documents related to the Procurement Channel are treated as confidential.

Houthis in Yemen that may have been used in the ballistic missile launches aimed at the territory of Saudi Arabia on 22 July and 4 November 2017, the Secretariat has examined the debris of the missiles launched at Yanbu' and Riyadh and is carefully reviewing all the information and material available. The Security Council should consider a joint meeting of the Security Council Committee established pursuant to resolution 2140 (2014) and the Council in the "2231 format", to be jointly briefed by the Panel of Experts on Yemen and the Secretariat on their respective findings at the appropriate time.

- 11. The Secretariat was provided with an opportunity to examine the arms and related materiel seized by the United States aboard a dhow in the vicinity of the Gulf of Oman in March 2016 (see S/2016/589, paras. 29–31). The Secretariat is confident that close to 900 of the assault rifles seized by the United States are identical to those seized by France, also in March 2016, which the Secretariat had assessed to be of Iranian origin and to have been shipped from the Islamic Republic of Iran (see S/2017/515, para. 10).
- 12. The Defence Industries Organisation, an entity on the list maintained pursuant to resolution 2231 (2015),² participated in a foreign exhibition, the International Aviation and Space Salon, held in Zhukovsky, Russian Federation, in July 2017. In November, the Permanent Mission of the Russian Federation to the United Nations informed the Secretariat that an investigation into the issue had found no action inconsistent with resolution 2231 (2015).
- 13. Since the issuance of my previous report, Major General Qasem Soleimani has continued to travel to Iraq and the Syrian Arab Republic, despite the travel ban provision of resolution 2231 (2015) and previous reporting to the Security Council on this issue. The Council should call upon the Government of the relevant Member States in the region, including the Islamic Republic of Iran, to take the steps necessary to ensure proper implementation of the travel ban and other provisions of annex B to resolution 2231 (2015).
- 14. The list maintained pursuant to resolution 2231 (2015) has not been reviewed or updated by the Security Council since 17 January 2016. To ensure proper implementation of the asset freeze and travel ban provisions, I recommend that the Council review and update the list as appropriate and consider appropriate options for delisting processes.
- 15. In a letter dated 28 August 2017 addressed to me (S/2017/739), the Permanent Representative of the Islamic Republic of Iran to the United Nations stated that the Countering America's Adversaries through Sanctions Act, signed into law on 2 August 2017, violated the terms of paragraphs 3, 4 and 5 of annex B to resolution 2231 (2015). While the allegations raised in the letter have been duly considered, it is my assessment that this information does not fall within the scope of the present report, unless guidance to the contrary is provided by the Security Council.

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² Available from www.un.org/en/sc/2231/list.shtml. The list maintained pursuant to resolution 2231 (2015) includes the individuals and entities specified on the list established under resolution 1737 (2006) and maintained by the Security Council Committee established pursuant to resolution 1737 (2006), as at the date of adoption of resolution 2231 (2015), with the exception of 36 individuals and entities specified in the attachment to annex B to resolution 2231 (2015), who were delisted on Implementation Day. The Council can delist individuals or entities and list additional individuals and entities found to meet certain designation criteria defined by resolution 2231 (2015). There are currently 23 individuals and 61 entities on the list maintained pursuant to resolution 2231 (2015).

III. Implementation of nuclear-related provisions

- 16. In resolution 2231 (2015), the Security Council endorsed the establishment of a dedicated Procurement Channel, under the Joint Comprehensive Plan of Action, to review proposals by States seeking to engage in certain transfers of nuclear or dual-use goods, technology and/or related services to the Islamic Republic of Iran. Through this Channel, the Council reviews and decides on recommendations from the Joint Commission established under the Plan regarding proposals by States to participate in or permit activities set out in paragraph 2 of annex B to resolution 2231 (2015).
- 17. Since 20 June 2017, 8 new proposals to participate in or permit the activities set forth in paragraph 2 of annex B to resolution 2231 (2015) have been submitted to the Security Council, bringing to 24 the total number of proposals submitted since Implementation Day for approval through the Procurement Channel. At the time of reporting, 16 proposals had been approved by the Council, 3 had not been approved, and 5 had been withdrawn by the proposing States.
- 18. In addition, the Security Council received four new notifications pursuant to paragraph 2 of annex B to resolution 2231 (2015) for certain nuclear-related activities that do not require approval but require a notification to the Council or to both the Council and the Joint Commission.
- 19. During the reporting period, following the publication of German domestic intelligence reports, various media outlets alleged that Iranian entities might have attempted to procure nuclear or dual-use items, materiel, goods and technology in Germany outside the Procurement Channel. In its interactions with the Secretariat, including during meetings in Berlin in early November 2017, the Government of Germany recalled the 2016 report of the Federal Office for the Protection of the Constitution according to which, as far as the Federal Office was able to verify such evidence, it did not reveal any violation of the Joint Comprehensive Plan of Action. On 27 November 2017, the Government of Germany informed the Secretariat that it had no indications of any activities inconsistent with paragraph 2 of annex B to resolution 2231 (2015) conducted in Germany by the Islamic Republic of Iran. It was also reiterated that German authorities would continue to rigorously explore and assess any possible activities inconsistent with paragraph 2 of annex B to resolution 2231 (2015).

IV. Implementation of ballistic missile-related provisions

A. Restrictions on ballistic missile-related activities by the Islamic Republic of Iran

- 20. In paragraph 3 of annex B to resolution 2231 (2015), the Security Council called upon the Islamic Republic of Iran not to undertake any activity related to ballistic missiles designed to be capable of delivering nuclear weapons, including launches using such ballistic missile technology.
- 21. On 2 August 2017, I received a joint letter from France, Germany, the United Kingdom of Great Britain and Northern Ireland and the United States on the launch by the Islamic Republic of Iran of a Simorgh space launch vehicle on 27 July 2017. Those States underscored that the phrase "ballistic missile designed to be capable of delivering nuclear weapons" in paragraph 3 of annex B to resolution 2231 (2015) included all Missile Technology Control Regime Category I systems defined as those capable of delivering at least a 500 kg payload to a range of at least 300 km that are inherently capable of delivering nuclear weapons and other weapons of mass

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- destruction. They noted that space launch vehicles such as the Simorgh were "inherently capable of delivering a 500 kg payload to a range of at least 300 km if configured as a ballistic missile" and "inherently capable of delivering nuclear weapons". Therefore, those States considered that the launch was inconsistent with paragraph 3 of annex B to resolution 2231 (2015).
- 22. Through a letter dated 16 August 2017 addressed to me (S/2017/720), the Permanent Representative of the Russian Federation to the United Nations transmitted a position paper in which it was underscored that there was "no legal prohibition on the development by the Islamic Republic of Iran of missile and space programmes", as resolution 2231 (2015) contained only a call, which was "by all means not a prohibition", to refrain from activities related to ballistic missiles that were designed to be capable of carrying nuclear weapons. It was also stated in the paper that there was no information that Iranian ballistic missiles were specifically designed to carry nuclear weapons and that, as verified by the International Atomic Energy Agency, "Tehran does not possess nuclear weapons, and it does not carry out work on the development thereof". The Russian Federation also noted that "no prohibition on cooperation with the Islamic Republic of Iran on missile-related items" was in existence, but that there was the requirement for Member States to seek prior approval of the Security Council for the activities set forth in paragraph 4 of annex B to resolution 2231 (2015).
- 23. In a letter dated 23 August 2017 addressed to me (\$\sigma_2\$\text{017/731}\$), the Permanent Representative of the Islamic Republic of Iran underscored that the launch of a Simorgh space launch vehicle on 27 July 2017 was "part of a scientific and technological activity related to the use of space technology" and that the Islamic Republic of Iran was "determined to continue to exercise this right for its socioeconomic interests". He also stated that the definition of the Missile Technology Control Regime was not an internationally agreed definition and that the "technical characteristics and operational requirements of the satellite launch vehicles clearly make them distinct from ballistic missile systems". The Permanent Representative concluded that the test launch could not be regarded as inconsistent with the resolution.
- 24. The Security Council discussed the launch of the Simorgh space launch vehicle on 8 September 2017. There was no consensus among Council members on how that launch related to resolution 2231 (2015). The fourth six-month report of the facilitator for the implementation of Security Council resolution 2231 (2015) will provide the details of Council deliberations on this issue.
- 25. In addition to the above, several launches of ballistic missiles by the Islamic Republic of Iran were brought to my attention. In identical letters dated 28 June 2017 addressed to me and the President of the Security Council (\$/2017/555), the Permanent Representative of Israel to the United Nations brought to my attention information that had reportedly recently come to light regarding the flight test of a Qiam ballistic missile on 15 November 2016 that used a Star of David as the intended target. In the same letter, the Permanent Representative referred to the ballistic missiles reportedly launched by the Islamic Republic of Iran at targets in the Syrian Arab Republic on 18 and 19 June 2017. He considered that the test-firing of those ballistic missiles, all of which were Missile Technology Control Regime Category I systems, was in violation of resolution 2231 (2015). A joint statement by France, Germany, the United Kingdom and the United States, issued on 28 July 2017, referred to the same launches at targets in the Syrian Arab Republic, as well as to an alleged flight test of a medium-range ballistic missile on 4 July 2017.
- 26. In identical letters dated 17 August 2017 addressed to me and the President of the Security Council (S/2017/719), the Permanent Representative of the Islamic Republic

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of Iran stated that the claim made "regarding the test launch of a ballistic missile on 15 November 2016 and the use of a specific marking as target practice is a sheer falsehood". He also underscored that "Iranian military capabilities, including ballistic missiles, have not been designed to be capable of delivering nuclear weapons" and were thus "outside the purview of the Security Council resolution". In addition, he referred to the terrorist attacks by Islamic State in Iraq and the Levant (ISIL, also known as Da'esh) in Tehran on 7 June 2017 and to the determination of the Islamic Republic of Iran to fight terrorism and violent extremism.

B. Restrictions on ballistic missile related-transfers or activities with the Islamic Republic of Iran

27. Pursuant to paragraph 4 of annex B to resolution 2231 (2015), all States, provided that they have obtained prior approval from the Security Council on a case-by-case basis, may participate in and permit the supply, sale or transfer to or from the Islamic Republic of Iran of certain ballistic missile-related items, materials, equipment, goods and technology,³ the provision of various services or assistance, and the acquisition by the Islamic Republic of Iran of an interest in certain commercial ballistic missile activities. At the time of reporting, no proposal had been submitted to the Council pursuant to that paragraph.

28. In identical letters dated 7 November 2017 addressed to me and the President of the Security Council (S/2017/937), the Permanent Representative of Saudi Arabia to the United Nations stated that the authorities of Saudi Arabia had confirmed, through the examination of the debris of the missiles launched from within Yemeni territory on 22 July and 4 November 2017 at Yanbu' and at Riyadh, respectively, "the role of the Iranian regime in manufacturing the missiles". He also stated that this was "a flagrant violation of Security Council resolutions 2216 (2015) and 2231 (2015)". In a letter also dated 7 November 2017 addressed to me and the President of the Security Council (S/2017/936), the Permanent Representative of the Islamic Republic of Iran stated that "the Islamic Republic of Iran categorically rejects such baseless and unfounded accusations".

29. In October and November 2017, the authorities of Saudi Arabia invited the Secretariat to examine the debris of the ballistic missiles launched at its territory on 22 July and 4 November 2017. During those visits, the authorities of Saudi Arabia indicated that, according to their assessment, those missiles were Iranian Qiam-1 ballistic missiles (a variant of the Scud missile). The Secretariat observed that the diameter of both missiles was consistent with that of the Scud family and that the missiles had similar structural and manufacturing features, which suggested a common origin. The Secretariat noted that markings found on the missiles indicated that the oxidizer tank was situated above the fuel tank. The Secretariat also observed that, under the blue overpaint, the missile launched on 4 November had paint and markings resembling those of the one launched on 22 July. The Secretariat was informed that no tail fins had been recovered in either instance. The Secretariat observed remnants of mounting plates on the tail unit of the missile of 22 July, which suggest that the missile was finless. The Secretariat also observed three actuators that bore the castings of a logo similar to that of the Shahid Bagheri Industrial Group, an entity on the list maintained pursuant to resolution 2231 (2015) and a subordinate to the Aerospace Industries Organization of the Islamic Republic of Iran. According to

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³ The items, materials, equipment, goods and technology concerned are those set out in the Missile Technology Control Regime list (see S/2015/546, annex) and any items, materials, equipment, goods and technology that the State determines could contribute to the development of nuclear-weapon delivery systems.

Saudi authorities, the actuators belonged to the missile of 4 November. The Secretariat is still analysing the information collected and will report back to the Security Council, as appropriate, in due course.

30. During the reporting period, following the publication of German domestic intelligence reports, various media outlets alleged that Iranian entities might also have attempted to procure ballistic missile-related items, materials, equipment, goods or technology in Germany. On 27 November 2017, the Government of Germany informed the Secretariat that it had no evidence of any transfers or activities inconsistent with paragraph 4 of annex B to resolution 2231 (2015) conducted by the Islamic Republic of Iran in Germany. It was also reiterated that German authorities would continue to rigorously explore and assess any possible transfers or activities inconsistent with paragraph 4 of annex B to resolution 2231 (2015).

V. Implementation of arms-related provisions

- 31. As stipulated in paragraph 5 of annex B to resolution 2231 (2015), all States, provided that they have obtained prior approval from the Security Council on a caseby-case basis, may participate in and permit the supply, sale or transfer to the Islamic Republic of Iran of any battle tanks, armoured combat vehicles, large-calibre artillery systems, combat aircraft, attack helicopters, warships, missiles or missile systems, as defined for the purpose of the Register of Conventional Arms, or related materiel, including spare parts. Prior approval from the Council is also required for the provision to the Islamic Republic of Iran of technical training, financial resources or services, advice, other services or assistance related to the supply, sale, transfer, manufacture, maintenance or use of those arms and related materiel. At the time of reporting, no proposal had been approved by the Council pursuant to that paragraph.
- 32. In paragraph 6 (b) of annex B to resolution 2231 (2015), the Security Council decided that all States were to take the necessary measures to prevent, except as decided otherwise by the Council in advance on a case-by-case basis, the supply, sale or transfer of arms or related material from the Islamic Republic of Iran. At the time of reporting, no proposal had been submitted to the Council pursuant to that paragraph.
- 33. In June 2016, the United States brought to the attention of my predecessor information on the seizure, on 28 March 2016, of an arms shipment on board a dhow, the Adris, transiting international waters in the vicinity of the Gulf of Oman (see S/2016/589, paras. 29–31). According to the assessment of the United States, the arms shipment had originated in the Islamic Republic of Iran. In October 2017, United States authorities invited the Secretariat to examine the arms and related materiel seized, consisting of 1,500 AKM type assault rifles, 200 rocket propelled grenade launchers, 21 heavy machine guns and miscellaneous other items. The Secretariat could independently ascertain that close to 900 of the assault rifles and the 21 machine guns were in new condition. The 900 assault rifles were identical to those seized by France in March 2016, which had characteristics of the Iranian-produced KLS 7.62 x 39 mm (furnishing made of dark brown synthetic material, fire selector and rear sight markings, slanted screw-on compensator and dot-peen marking style), which the Secretariat has assessed were of Iranian origin and shipped from the Islamic Republic of Iran (see S/2017/515, paras. 10 and 31). In addition, the serial numbers of the assault rifles seized by France and the United States fall within the same production batch and include sequential numbers. More than 100 of the grenade launchers appeared to have characteristics similar to Iranian-produced launchers (for example, paint markings and heat shields). Among the miscellaneous items examined by the Secretariat, which included gun covers, tools and cleaning kits, were two foreignmade neodymium sirens that appeared to have been modified after sale by the addition

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- of a cable, bearing markings indicating Iranian manufacture, with a military-type electrical connector. An identical siren was also observed by the Secretariat in a separate incident (see para. 34 below), as well as a fuse plate and a detonation device booster identical to those seen in photographs taken on board the *Adris* and provided to the Secretariat by United States authorities. The Secretariat is still analysing the remaining information, and I will report back to the Council accordingly as additional information becomes available.
- 34. During its visits to Saudi Arabia in October and November 2017, the Secretariat received information on unmanned surface vessels laden with explosives allegedly used against the Saudi-led coalition. Saudi authorities indicated that one such vessel had been recovered by the armed forces of the United Arab Emirates in Yemeni waters. Reportedly, the vessel itself and the explosives were from Yemen, but parts of the guidance and detonation systems had been supplied by the Islamic Republic of Iran. In November 2017, the Secretariat examined parts of the detonation and guidance systems. It observed that the computer terminal (part of the guidance system) had a dual English/Farsi keyboard and characteristics (design and construction features, graphical user interface and programme icon) similar to those of terminals produced by an Iranian company. The Secretariat also observed that some of the electrical cables bore markings indicating Iranian manufacture and that the detonation system included a neodymium siren, a fuse plate and a detonation device booster identical to those seized on board the dhow Adris (see para. 33 above). The Secretariat was also presented with a selection of photographs and geographical coordinates reportedly extracted from the guidance system computer. At the time of reporting, the Secretariat had not been able to independently confirm the authenticity of the photographs and geographical coordinates. The Secretariat is still analysing the available information and will provide an update to the Council in due course.
- 35. Also during its visits to Saudi Arabia, the Secretariat was given the opportunity to examine two unmanned aerial vehicles reportedly recovered in Yemen after Implementation Day. Saudi authorities determined that one was an Iranian-made unmanned aerial vehicle of the Ababil-II family. The Secretariat observed that the vehicle appeared to have characteristics (for example, design and construction features, serial number prefixes and engine) identical to those of others reportedly seized or recovered in Yemen after Implementation Day that had been brought to its attention by the Permanent Representative of the United Arab Emirates to the United Nations in letters dated 18 May 2017 (see S/2017/515, para. 34) and 8 November 2017. The Secretariat is still analysing the information provided by the Government of Saudi Arabia and looks forward to the opportunity to examine the other unmanned aerial vehicles reportedly seized or recovered by the Presidential Guard forces of the United Arab Emirates, in order to independently ascertain their origin.

VI. Implementation of the asset freeze provisions

- 36. Pursuant to paragraph 6 (c) and (d) of annex B to resolution 2231 (2015), all States shall freeze the funds, other financial assets and economic resources of the individuals and entities on the list maintained pursuant to resolution 2231 (2015) and ensure that no funds, financial assets or economic resources are made available to those individuals and entities.
- 37. It appears that the Defence Industries Organisation, an entity presently on the list maintained pursuant to resolution 2231 (2015), once again participated in a foreign exhibition, the International Aviation and Space Salon held in Zhukovsky, Russian Federation, in July 2017. Its name is on the list of exhibitors released by the organizers and, according to images released by Iranian and Russian media outlets, its official company logo appears on several visual displays next to exhibited items.

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38. The Secretariat raised this issue with the Permanent Mission of the Russian Federation. In November, the Permanent Mission informed the Secretariat that an investigation into the issue had found no action inconsistent with resolution 2231 (2015). The Permanent Mission indicated that no financial transactions had been carried out with the Defence Industries Organisation because no fee had been charged to Iranian participants by the hosts. The Permanent Mission also indicated that all samples of Iranian-made military equipment exhibited were mock-ups that had been returned to the Islamic Republic of Iran after the exhibition.

VII. Implementation of the travel ban provision

- 39. Pursuant to paragraph 6 (e) of annex B to resolution 2231 (2015), all States are to take the measures necessary to prevent the entry into or transit through their territories of the individuals on the list maintained pursuant to resolution 2231 (2015). At the time of reporting, no travel exemption requests had been received or granted by the Security Council in relation to individuals presently on the list.
- 40. Since the issuance of my previous report, additional information has surfaced regarding travel by Major General Qasem Soleimani. In mid-June, pictures of the General on a pilgrimage to the holy shrine of Imam Husayn in the city of Karbala', Iraq, were published by Iraqi media outlets. In October, pictures of him visiting the tomb of the former President of Iraq, Jalal Talabani, in Sulaymaniyah, Iraq, were also published by Iraqi media outlets. In addition, according to media from the Kurdish region of Iraq, the General reportedly visited Iraqi Kurdistan several times in September and October.
- 41. Furthermore, in mid-June, pictures showing Major General Soleimani in the Syrian Arab Republic, allegedly with members of the Afghan militia known as the Fatemiyoun Division along the border with Iraq, were published by Iranian media outlets. In early November, pictures of the General, allegedly with members of the Syrian militia known as the Baqir Brigade, in Dayr al-Zawr, Syrian Arab Republic, were reproduced by Arab media outlets. In mid-November, the Iraqi militia known as Harakat Hizbullah al-Nujaba published pictures of the General posing with militia members in the vicinity of Albu Kamal, Syrian Arab Republic. In late November, video footage of him in Albu Kamal after its liberation from ISIL (Da'esh) was reproduced by Arab media outlets.
- 42. The Secretariat raised the topic of travel by Major General Soleimani with the Permanent Missions of Iraq and the Syrian Arab Republic to the United Nations. In November 2017, the Permanent Representative of the Syrian Arab Republic informed the Secretariat that his Government had not granted the General any visas to enter the territory of the Syrian Arab Republic.

VIII. List maintained pursuant to resolution 2231 (2015)

43. During the reporting period, the Secretariat was provided with information on an individual who may be acting in support of a designated entity on the list maintained pursuant to resolution 2231 (2015). The Secretariat was also provided with information indicating that another designated entity on the list had used subsidiaries to circumvent the asset freeze provision of annex B to the resolution. The Secretariat is seeking further information and will report to the Security Council in due course. An updated list would facilitate the implementation of the restrictive measures.

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IX. Secretariat support provided to the Security Council and its facilitator for implementation of resolution 2231 (2015)

- 44. The Security Council Affairs Division of the Department of Political Affairs continued to support the work of the Security Council, in close cooperation with the facilitator for the implementation of resolution 2231 (2015). The Division also continued to liaise with the Procurement Working Group of the Joint Commission on all matters related to the Procurement Channel. In addition, the Division provided induction briefings for the incoming facilitator and members of the Security Council, to assist them in their work on the implementation of resolution 2231 (2015).
- 45. The Division continued to promote publicly available information on the restrictions imposed by resolution 2231 (2015) through the Security Council website.⁴ Relevant documents were regularly added to the website and updated in all official languages. The Division also continued to use outreach opportunities to promote information on the resolution, in particular the Procurement Channel, in line with paragraph 6 (e) of the note by the President of the Council dated 16 January 2016. In October 2017, the Division participated in two forums organized by the World Export Controls Review, held in London and Washington, D.C. Also in October 2017, the Secretariat participated in a public awareness-raising workshop on resolution 2231 (2015) and the Procurement Channel, held in Seoul and organized by the International Institute for Strategic Studies. The interactions of the Division with representatives of Member States and private sector entities at these events showed that there remains a general lack of understanding of resolution 2231 (2015), of the restrictive measures that came into force on 16 January 2016, in particular the Procurement Channel process, and of the respective roles of the Joint Commission, the Security Council and its facilitator and the Secretariat. This lack of understanding, as well as a sense of political uncertainty, appears to have adversely affected the decisions of some Member States and private entities to re-engage with the Islamic Republic of Iran in trade activities relating to items, materials, equipment, goods and technology requiring the prior approval of the Security Council.
- 46. During the reporting period, the Division continued to respond to queries from Member States and to provide relevant support to Member States regarding the provisions of resolution 2231 (2015), in particular on the procedures for the submission of nuclear-related proposals and the review process.

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Annex 26

⁴ See www.un.org/en/sc/2231.

ANNEX 27

United Nations S/2018/602



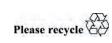
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Implementation of Security Council resolution 2231 (2015)

Fifth report of the Secretary-General

I. Introduction

- 1. Almost three years ago, China, France, Germany, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland, the United States of America, the European Union and the Islamic Republic of Iran concluded the Joint Comprehensive Plan of Action, marking the culmination of 12 years of intense diplomatic efforts to reach a comprehensive, long-term and proper solution to the Iranian nuclear issue. The Plan, which was unanimously endorsed by the Security Council in its resolution 2231 (2015), laid out reciprocal commitments.
- 2. Since 16 January 2016, the International Atomic Energy Agency has reported 11 times to the Security Council that the Islamic Republic of Iran has been implementing its nuclear-related commitments under the Joint Comprehensive Plan of Action. In its most recent quarterly reports (see S/2018/205 and S/2018/540), the Agency again reported that it continued to verify the non-diversion of declared nuclear material and that its evaluations regarding the absence of undeclared nuclear material and activities for the Islamic Republic of Iran remained ongoing. The Agency also reported that the Islamic Republic of Iran continued to provisionally apply the Additional Protocol to its Safeguards Agreement, pending its entry into force, and to apply the transparency measures set out in the Plan. In its latest report, the Agency further indicated that it had conducted complementary accesses under the Additional Protocol to all the sites and locations in the Islamic Republic of Iran that it needed to visit.
- 3. Notwithstanding the continued adherence by the Islamic Republic of Iran to its nuclear-related commitments, the agreement is unfortunately at a crossroads. On 8 May 2018, the United States of America announced its withdrawal from the Joint Comprehensive Plan of Action and the re-imposition of all national sanctions that had been lifted or waived pursuant to the Plan. I deeply regret this setback to the Joint Comprehensive Plan of Action, a major achievement in nuclear non-proliferation that has contributed to regional and international peace and security. I believe that issues not directly related to the Plan should be addressed without prejudice to preserving the agreement and its accomplishments.
- 4. I take note of the letter dated 11 May 2018 addressed to me by the Minister for Foreign Affairs of the Islamic Republic of Iran (see A/72/869-S/2018/453), in which he indicated that the Islamic Republic of Iran would continue to abide by the





agreement as long as the full benefits that the Iranian people were entitled to were guaranteed. I welcome the reaffirmation by the remaining participants, on 25 May 2018 in Vienna, of their commitment to the continued, full and effective implementation of the Plan.

- 5. It is important to recall that the Security Council, in its resolution 2231 (2015), urged the full implementation of the Joint Comprehensive Plan of Action on the timetable established in the Plan. The Council further called upon all Members States, regional organizations and international organizations to support its implementation and to refrain from actions that undermine the implementation of commitments under the Plan. In this regard, it is important that the withdrawal of one country not impede the ability of others to fully implement their commitments under the Plan or to engage in activities consistent with resolution 2231 (2015) and the provisions and objectives of the Plan.
- 6. The Joint Comprehensive Plan of Action is only one part of resolution 2231 (2015). A number of Member States that support the Plan have expressed concerns about Iranian activities allegedly undertaken contrary to the restrictive measures set out in annex B to the resolution. Therefore, I again encourage the Islamic Republic of Iran to carefully consider those concerns.
- 7. The present report, the fifth on the implementation of resolution 2231 (2015), provides an assessment of the implementation of the resolution, including findings and recommendations, since the issuance of the fourth report of the Secretary-General (S/2017/1030), on 8 December 2017. Consistent with previous reports, the focus of the present report is on the provisions set forth in annex B to resolution 2231 (2015), which include restrictions applicable to nuclear-related transfers, ballistic missile-related transfers and arms-related transfers to or from the Islamic Republic of Iran, as well as asset freeze and travel ban provisions.

II. Key findings and recommendations

- 8. Since 8 December 2017, 13 additional proposals to participate in or permit activities with the Islamic Republic of Iran for nuclear or non-nuclear civilian enduses have been submitted to the Security Council for approval through the procurement channel. Meanwhile, the Secretariat received information from two Member States on the supply, sale, transfer or export to the Islamic Republic of Iran of dual-use items, materials, equipment, goods and technology allegedly undertaken contrary to the provisions of paragraph 2 of annex B to resolution 2231 (2015). The Secretariat has sought clarification on that information from all relevant Member States, and I intend to report back to the Security Council accordingly.
- 9. In relation to the above, and on the basis of feedback received by the Secretariat during its outreach activities, I call upon all Member States to continue their efforts to promote awareness and understanding of the procurement channel, the procedures for submission of proposals and the process for their review. The Secretariat stands ready to further assist Member States in such efforts, in line with the arrangements and procedures outlined in the note by the President of the Security Council dated 16 January 2016 (\$\sqrt{S}/2016/44\$).
- 10. The Secretariat has carefully reviewed all information and material available regarding the allegations of the transfer of ballistic missiles, parts thereof or related technology by the Islamic Republic of Iran to the Houthis in Yemen that may have been used in ballistic missile launches aimed at the territory of Saudi Arabia. On the basis of the information and material analysed, it is the assessment of the Secretariat that the debris of five missiles launched at Yanbu and Riyadh since July 2017 share

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key design features with a known type of missile manufactured by the Islamic Republic of Iran. It is also the assessment of the Secretariat that some component parts of the debris were manufactured in the Islamic Republic of Iran. However, the Secretariat has not yet been able to determine when such missiles, parts thereof or related technology may have been transferred from the Islamic Republic of Iran, and in particular whether the transfer(s) occurred after 16 January 2016, the day the restrictions set out in annex B to resolution 2231 (2015) came into force.¹

- 11. In February 2018, Israel brought to my attention information regarding the possible presence of an Iranian unmanned aerial vehicle (UAV) in the Syrian Arab Republic, which Israel stated had been intercepted and shot down after entering Israeli airspace. While the Secretariat has not yet had the opportunity to examine the debris, Iranian media outlets have reported that various Iranian UAVs have been deployed in the Syrian Arab Republic. The Secretariat has no information regarding the owner or operator of that UAV.
- 12. The Secretariat was invited to examine arms and related materiel seized by Bahrain after 16 January 2016. The Secretariat also concluded its review of the unmanned surface vessel laden with explosives recovered by the armed forces of the United Arab Emirates. In both instances, the Secretariat is confident that some of the arms and related materiel it examined are of Iranian manufacture. However, it has found no indications of whether those items were transferred from the Islamic Republic of Iran after 16 January 2016.²
- 13. On 21 May 2018, the political leader of Hamas in the Gaza Strip, Yahya Sinwar, stated in a televised interview that the Islamic Republic of Iran had provided the Izz al-Din al-Qassam Brigades and other armed groups in Gaza with "money, [military] equipment and expertise", including after the 2014 Israel-Gaza conflict. Any Iranian arms transfers after 16 January 2016 would have been undertaken contrary to the provisions of annex B to resolution 2231 (2015).
- 14. Iranian entities continue to participate in foreign arms exhibitions, including the Defence Industries Organization, an entity on the list maintained pursuant to resolution 2231 (2015). Since the issuance of my previous report, Major General Qasem Soleimani appears to have continued to travel to Iraq despite the travel ban provisions of the resolution and previous reporting on this issue. I reiterate my call upon all Member States in the region to take the steps necessary to fully implement their obligations in relation to resolution 2231 (2015), including those regarding the travel ban and asset freeze with respect to individuals and entities on the list maintained pursuant to resolution 2231 (2015).

III. Implementation of nuclear-related provisions

15. In its resolution 2231 (2015), the Security Council endorsed the establishment of a dedicated procurement channel, under the Joint Comprehensive Plan of Action, to review proposals by States seeking to engage in certain transfers of nuclear or dualuse goods, technology and/or related services to the Islamic Republic of Iran. Through that channel, the Council reviews and decides on recommendations from the Joint

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¹ Any such transfer from the Islamic Republic of Iran between the adoption of Security Council resolution 1737 (2006) and 16 January 2016 would have been subject to paragraph 7 of that resolution. The provisions of resolution 1737 (2006) and those of other previous Security Council resolutions on the Iranian nuclear issue were terminated on 16 January 2016.

² Any such transfer from the Islamic Republic of Iran between the adoption of Security Council resolution 1747 (2007) and 16 January 2016 would have been subject to paragraph 5 of that resolution.

Commission established under the Plan, regarding proposals by States to participate in or permit activities set forth in paragraph 2 of annex B to resolution 2231 (2015).

- 16. Since 8 December 2017, 13 new proposals to participate in or permit the activities set forth in paragraph 2 of annex B to resolution 2231 (2015) have been submitted to the Security Council, bringing to 37 the total number of proposals submitted since Implementation Day (16 January 2016) for approval through the procurement channel. At the time of reporting, 24 proposals had been approved by the Council, 3 had been disapproved, 7 had been withdrawn by the proposing States and 3 were currently under review.
- 17. In addition, the Security Council received 13 new notifications pursuant to paragraph 2 of annex B to resolution 2231 (2015) for certain nuclear-related activities that do not require approval, but do require a notification to the Council or to both the Council and the Joint Commission.
- 18. Since my previous report, the Secretariat received information on the supply, sale, transfer or export to the Islamic Republic of Iran of dual-use items, materials, equipment, goods and technology that may have been undertaken contrary to the provisions of paragraph 2 of annex B to resolution 2231 (2015). In a letter dated 19 April 2018, the Permanent Representative of the United Arab Emirates brought to the attention of the Secretariat information and documents related to four shipments of dual-use items. Those shipments were seized by the authorities of the United Arab Emirates while in transit to the Islamic Republic of Iran in May 2016 and in April, July and December 2017. The authorities of the United Arab Emirates assessed, on the basis of the declared technical specifications or specialized tests, that the items involved (40 cylindrical segments of tungsten, 1 inductively coupled plasma mass spectrometer, 10 capacitors, and 1 titanium rod) met the criteria set out in INFCIRC/254/Rev.10/Part 2 and that their transfer to the Islamic Republic of Iran would have required prior approval from the Security Council.
- 19. In addition, on 27 April 2018, the authorities of the United States informed the Secretariat that, in their assessment, two commodities (carbon fibre and aluminium alloys) that had been transferred to the Islamic Republic of Iran over the past year without prior approval from the Security Council met the criteria set out in the abovementioned information circular.
- 20. In response to requests for clarification on the above-mentioned information, several Member States informed the Secretariat that they had initiated internal reviews and would provide additional information as soon as those reviews were concluded. In a letter dated 1 June 2018, the Permanent Representative of the Islamic Republic of Iran stated, inter alia, that it was "the responsibility of the exporting State to seek approval through the procurement channel" and encouraged the Secretariat to undertake more outreach activities to address the lack of awareness among some Member States. I intend to report thereon to the Council in due course as more information becomes available.

IV. Implementation of ballistic missile-related provisions

A. Restrictions on ballistic missile-related activities by the Islamic Republic of Iran

21. In paragraph 3 of annex B to resolution 2231 (2015), the Security Council called upon the Islamic Republic of Iran not to undertake any activity related to ballistic missiles designed to be capable of delivering nuclear weapons, including launches using such ballistic missile technology.

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22. In identical letters dated 23 May 2018 addressed to me and the President of the Security Council (S/2018/495), the Permanent Representative of Israel brought to my attention information regarding two flight tests of ballistic missiles by the Islamic Republic of Iran. According to the information provided, a Shahab-3 variant and a Scud variant were flight tested on 2 and 5 January 2018, respectively. The Permanent Representative of Israel considered that those two ballistic missiles were both category I systems under the Missile Technology Control Regime "capable of delivering a nuclear payload of 500 kg with a range of over 300 km," and that their test-firing was in violation of resolution 2231 (2015). In a letter dated 29 May 2018 addressed to me and the President of the Security Council (S/2018/511), the Permanent Representative of the Islamic Republic of Iran stressed that there was no reference to the criteria of the Missile Technology Control Regime in paragraph 3 of annex B to resolution 2231 (2015) and underscored that "none of the ballistic missiles of the Islamic Republic of Iran have been designed to be capable of delivering nuclear weapons".

B. Restrictions on ballistic missile related-transfers or activities with the Islamic Republic of Iran

- 23. Pursuant to paragraph 4 of annex B to resolution 2231 (2015), all States, provided that they have obtained prior approval from the Security Council, on a case-by-case basis, may participate in and permit the supply, sale or transfer to or from the Islamic Republic of Iran of all items, materials, equipment, goods and technology set out in S/2015/546,³ the provision of various services or assistance, and the acquisition by the Islamic Republic of Iran of an interest in certain commercial ballistic missile activities. At the time of reporting, no proposal had been submitted to the Council pursuant to that paragraph.
- 24. In my previous report, I informed the Council of the possible transfer of ballistic missiles, parts thereof or related technology by the Islamic Republic of Iran to the Houthis in Yemen that may have been used in the ballistic missile launches aimed at the territory of Saudi Arabia on 22 July and 4 November 2017 (see S/2017/1030, paras. 28 and 29). Since then, Saudi authorities have brought to the attention of the Secretariat nine additional launches of ballistic missiles by the Houthis, which, in their assessment, were Iranian Qiam-1 ballistic missiles (see S/2017/1133, S/2018/266, S/2018/337 and S/2018/448).⁴
- 25. In letters addressed to me and the Security Council (see S/2018/123, S/2018/145, S/2018/278, S/2018/424 and S/2018/533), the Permanent Representative of the Islamic Republic of Iran stressed that, inter alia, the Islamic Republic of Iran "neither has a policy nor seeks to transfer arms or military equipment in Yemen or manufacture them therein". In addition, he noted that the Yemeni Government had "notable stockpiles of short-range ballistic missiles that could have been utilized by its local expertise as technical bases for further upgrades". In this regard, the Secretariat notes that, in an interview with France 24 on 31 March 2018, the head of the Houthi revolutionary committee, Mohammed Ali Al-Houthi, stated that the Houthis were developing and manufacturing their own missiles based on missiles provided by the former Soviet Union and the Democratic People's Republic of Korea prior to the outbreak of the current conflict.

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³ The items, materials, equipment, goods and technology concerned are those set out in the Missile Technology Control Regime list (S/2015/546, annex) and any items, materials, equipment, goods and technology that the State determines could contribute to the development of nuclear weapon delivery systems.

⁴ The nine additional launches reportedly occurred on 19 December 2017 (1), and on 5 January (1), 30 January (1), 25 March (3), 11 April (1) and 9 May 2018 (2).

- 26. During the reporting period, Saudi authorities invited the Secretariat to examine the debris which they stated were of three ballistic missiles launched at its territory on 19 December 2017 and on 5 and 30 January 2018. The Secretariat also had the opportunity to re-examine the debris of the two missiles launched at the territory of Saudi Arabia on 22 July and 4 November 2017. It is the assessment of the Secretariat that the debris of the five missiles share key design features with a known type of missile manufactured in the Islamic Republic of Iran. It is also the assessment of the Secretariat that some component parts in the debris had been manufactured in the Islamic Republic of Iran. However, the Secretariat has not yet been able to determine when such missiles, parts thereof or related technology may have been transferred from the Islamic Republic of Iran, in particular whether the transfer(s) occurred after 16 January 2016.
- 27. The Secretariat conducted first-hand and in-depth examinations of debris recovered by Saudi authorities and collected all other information and material available, including photographs and videos of the debris in situ. The Secretariat visited several locations in and around Riyadh to confirm impact sites and that the debris seen in images and videos provided by the Saudi authorities or available on social media corresponded to the debris presented to the Secretariat. Whenever possible, the Secretariat carried out a visual comparison to determine whether the features of the debris of the missiles examined were consistent with those of the missiles seen in the videos of the launches released by the Houthis.
- 28. The Secretariat observed that the debris of the missiles airframes were made of aluminium, painted a tan colour and bore similar markings in English script and in white lettering. Other than the debris of the missile launched on 22 July 2017, the Secretariat observed that the airframes had been painted over in blue. The Secretariat further observed that the debris of the five missiles examined had identical internal and external design characteristics, with the following features that are consistent with those of the Scud-B missile and all its variants:
 - (a) They were all single stage and liquid-fuelled missiles;
 - (b) They had a diameter of 880 mm;
 - (c) They were powered by a single-chamber rocket engine fed by a turbopump;
- (d) The steering mechanism consisted of four graphite vanes in the motor exhaust section.
- 29. The Secretariat also determined from its observations of the debris that the missiles had the following specific features:
- (a) The fuel and oxidizer tanks were longer than those of the Scud-B missile, while the guidance section was shorter;
 - (b) The oxidizer tank was split in two sections and located above the fuel tank;
- (c) The fuel tanks had three external valves, while the oxidizer tanks had six (due to the split sections), bringing the total number of external valves per missile to nine (the positioning pattern was consistent across all five missiles);
- (d) They were finless and had no observable features suggesting that the fins had been removed post-factory production;⁵

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On four of the missiles examined, small stabilizers had been affixed to the jet vane housings. Paint and markings observed underneath the stabilizers indicate that they had been added after the tan paint and white markings were applied.

- (e) Retrieved guidance components had been built with modern digital subcomponents;
 - (f) They had a separable re-entry vehicle.⁶
- 30. On the basis of all available information and material at its disposal, including information and photographs published by Iranian media outlets, it is the understanding of the Secretariat that the above-mentioned features are consistent with those of the Iranian Qiam-1 short-range ballistic missile. In addition, it is the understanding of the Secretariat that the Qiam-1 is the only known Scud variant with nine external valves and without fins.
- 31. In addition, all examined jet vane actuators bore the casting of a logo and the abbreviation "S.B.I". The logo matches that of an Iranian entity, Shahid Bagheri Industries. The abbreviation is consistent with the name of that entity. The Secretariat also observed partly burned yellow safety labels with the words "quality assurance" in Farsi and the number "6000" on some actuators parts. Burn marks consistent with the dimensions of those safety labels were observed on the other actuators parts. The Secretariat observed similar yellow safety labels with the number "6000" on other retrieved guidance components. The Secretariat further observed that one printed circuit board in another guidance component was marked "SHIG 6081". As indicated in the list maintained pursuant to resolution 2231 (2015), "SHIG" is a known abbreviation for the Shahid Hemmat Industrial Group, which is reportedly responsible for the liquid-fuelled ballistic missiles programme of the Islamic Republic of Iran.
- 32. Moreover, according to the information provided to the Secretariat by foreign manufacturing companies, most of the retrieved guidance subcomponents had been produced between 2002 and 2010.8 This production date range is incompatible with that of the Scud missiles provided by the former Soviet Union and the Democratic People's Republic of Korea to Yemen and that were known to be in Yemeni stockpiles prior to the outbreak of the current conflict in early 2015. The latest delivery of Scud missiles to Yemen by the Democratic People's Republic of Korea reportedly occurred in late 2002.9
- 33. Pursuant to paragraph 4 of annex B to resolution 2231 (2015), since 16 January 2016, prior approval of the Security Council is also required for, inter alia, the supply, sale or transfer from the Islamic Republic of Iran of complete UAV systems (including target drones and reconnaissance drones) capable of a range equal to or greater than 300 km. ¹⁰ In identical letters dated 10 February 2018 addressed to me and the President of the Security Council (S/2018/111), the Permanent Representative of Israel stated that the UAV intercepted and downed that same day after entering Israeli airspace was an Iranian UAV launched from a site in eastern Homs, Syrian Arab Republic. In follow-up identical letters dated 13 April 2018 addressed to me and the President of the Security Council (S/2018/349), the Permanent Representative of Israel indicated that further analysis of its flight path and debris had led Israeli authorities to conclude that the UAV "was armed with explosives and was intended to attack Israeli territory". In letters dated 20 February and 9 May 2018 addressed to me and the President of the Security Council (S/2018/142 and S/2018/445), the

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⁶ According to videos of the launches released by the Houthis, the separable re-entry vehicle had a triconic shape.

As seen on the website www.shahidbagheri.ir/, accessed through the website of Wayback Machine (https://web.archive.org/).

⁸ Some subcomponents had been produced in the 1990s. None appears to have been produced after July 2010.

⁹ See "Yemeni rebels enhance ballistic missile campaign", Jane's Intelligence Review, 10 July 2017.

¹⁰ See S/2015/546, item 19.A.2.

Permanent Representative of the Islamic Republic of Iran stated that the aforementioned letters from the Permanent Representative of Israel contained "misleading information and accusations". The Permanent Representative of the Islamic Republic of Iran further stated that "operational details that were provided to the Government of the Islamic Republic of Iran illustrate that the unmanned aerial vehicle was flying inside Syria near the border with Jordan and the occupied Palestinian territories for the purpose of monitoring and surveillance of ISIL and other terrorist groups there", and that it had been unarmed and not intended to engage in an attack anywhere.

34. Images of the debris of the UAV downed on 10 February 2018 provided to the Secretariat by Israeli authorities showed that its wing configuration appeared to be consistent with that of the Iranian Sae'qeh (Thunder) UAV, which, according to Iranian media outlets, had been unveiled in October 2016. 11 According to information provided by Israeli authorities, the UAV flew at a range that meets the specified criteria before its interception. No information is available to the Secretariat as to the owner or operator of that UAV. The Secretariat notes that, according to Iranian media outlets, other UAVs, including the Shahed-129, had been previously deployed by the Islamic Republic of Iran in the Syrian Arab Republic. 12 It is also the understanding of the Secretariat that the Shahed-129 meets the specified range criteria. One Shahed-129 was reportedly shot down in southern Syrian Arab Republic on 20 June 2017. 13

V. Implementation of arms-related provisions

A. Restrictions on arms-related transfers to the Islamic Republic of Iran

35. As stipulated in paragraph 5 of annex B to resolution 2231 (2015), all States, provided that they have obtained prior approval from the Security Council, on a case-by-case basis, may participate in and permit the supply, sale or transfer to the Islamic Republic of Iran of any battle tanks, armoured combat vehicles, large-calibre artillery systems, combat aircraft, attack helicopters, warships, missiles or missile systems, as defined for the purpose of the United Nations Register of Conventional Arms, or related materiel, including spare parts. Prior approval from the Council is also required for the provision to the Islamic Republic of Iran of technical training, financial resources or services, advice, other services or assistance related to the supply, sale, transfer, manufacture, maintenance or use of those arms and related materiel. At the time of reporting, no proposal had been approved by the Council pursuant to that paragraph.

36. In a letter dated 15 May 2018, the Permanent Representative of Ukraine indicated to the Secretariat that the Security Service of Ukraine had prevented an attempt by two Iranian nationals to procure and transfer to the Islamic Republic of Iran component parts of the "Kh-31" (AS-17 "Krypton") air-to-surface missile and

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¹¹ For example, see Mehr News Agency, "IRGC inaugurates its latest drone 'Thunder'", 1 October 2016. Available from https://en.mehrnews.com/news/120176/IRGC-inaugurates-its-latest-drone-Thunder.

¹² See Fars News Agency, "Iran's Shahed-129 drone in combat operations in Syria", 4 February 2016. Available at http://en.farsnews.com/newstext.aspx?nn=13941115000734; and Mehr News Agency, "Iran's Mohajer-6, Qaem bomb deadly weapons against terrorists", 10 February 2018. Available at https://en.mehrnews.com/news/132045/Iran-s-Mohajer-6-Qaem-bomb-deadly-weapons-against-terrorists.

¹³ See U.S. Central Command, "Coalition shoots down armed UAV in Syria", 20 June 2017. Available at http://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/1219863/coalition-shoots-down-armed-uav-in-syria/.

related technical documents. The Permanent Representative noted in his letter that no Ukrainian individual or entity had engaged in an illegal activity or action inconsistent with resolution 2231 (2015). The letter further noted that that missile type had not been in use in Ukraine since 1991 and that all remaining component parts were stored under the proper control of its armed forces.

B. Restrictions on arms-related transfers from the Islamic Republic of Iran

- 37. In paragraph 6 (b) of annex B to resolution 2231 (2015), the Security Council decided that all States were to take the necessary measures to prevent, except as decided otherwise by the Council in advance on a case-by-case basis, the supply, sale or transfer of arms or related material from the Islamic Republic of Iran. At the time of reporting, no proposal had been submitted to the Council pursuant to that paragraph.
- 38. In a letter dated 24 May 2017, the Permanent Representative of Bahrain brought to the attention of the Secretariat information regarding multiple seizures of arms and related materiel in Bahrain after 16 January 2016 that, in its assessment, had been produced by the Islamic Republic of Iran and transferred in a manner inconsistent with paragraph 6 (b) of annex B to resolution 2231 (2015). The authorities of Bahrain invited the Secretariat to examine those items in May 2018. The Secretariat observed that two assault rifles and ammunition rounds had characteristics of the Iranianproduced KL 7.62 x 39 mm assault rifles (featuring furnishing made of dark brown synthetic material, fire selector and rear sight markings, slanted screw-on compensator and dot-peen marking style) and 7.62 x 39 mm ammunition (featuring brass cartridge case and green primer annulus lacquer, and identifiable by the nature, position and format of the head stamp markings). The Secretariat also observed that three hand grenades, the packaging of C-4 explosive blocks, and electronic and electrical equipment that could be used to manufacture improvised explosive devices, were similar to those found in various arms shipments seized previously and assessed to have been shipped from the Islamic Republic of Iran. While the Secretariat is confident that some of the arms and related materiel it examined in May 2018 were manufactured in the Islamic Republic of Iran, it has found no indication of whether those items were transferred from the Islamic Republic of Iran after 16 January 2016. The Secretariat is still analysing other information collected and will report back to the Security Council, as appropriate, in due course.
- 39. The Secretariat obtained additional information on the unmanned surface vessel laden with explosives recovered by the armed forces of the United Arab Emirates (see S/2017/1030, para. 34). In a letter dated 12 March 2018, the Permanent Representative of the United Arab Emirates confirmed to the Secretariat that the vessel had been recovered on 19 September 2016, six miles east of the port of Assab, Eritrea (and not in Yemeni waters as previously indicated to the Secretariat). The Secretariat was provided with the opportunity to examine the vessel and to re-examine the guidance and detonation systems. In both the computer and the dome camera (both integral parts of the guidance system), the logo and/or name of an Iranian entity that produces terminals with characteristics similar to those found in the vessel were observed. The Secretariat confirmed that some of the previously presented photographs and geographical coordinates, including for locations in Tehran and in Iranian territorial waters, had originated from the recovered hard drive of the computer found in the unmanned surface vessel. However, the Secretariat could not confirm the actual dates on which they had been captured. The Secretariat has also received documentary evidence indicating that identical fuse plates and detonation device boosters seized in a separate incident had been shipped from the Islamic Republic of Iran (see S/2017/1030, para. 33). The Secretariat is confident that at least

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parts of the detonation and guidance systems of the unmanned surface vessel had been manufactured in the Islamic Republic of Iran. However, no indications have been found of whether those items were transferred from the Islamic Republic of Iran after 16 January 2016.

- 40. In March 2018, the Secretariat was invited by the authorities of the United Arab Emirates to examine UAVs reportedly recovered in Yemen after 16 January 2016, which, in their assessment, were Iranian-made and had been transferred from the Islamic Republic of Iran in a manner inconsistent with resolution 2231 (2015). One was a composite assembly of parts from various seizures. The other one had reportedly crashed in Mukha', Yemen, in February 2018. The Secretariat observed that those were identical to the one examined during the previous reporting period (see S/2017/1030, para. 35) and had the same design features as the Iranian-made Ababil-2 UAV (featuring a pusher propeller, high-mounted canards at the front and larger wings at the rear, each fitted with a vertical stabilization fin with a rudder). They had similar serial number prefixes and were built using identical material, component and subcomponent parts. The Secretariat is still analysing the information collected on all three vehicles and will report back to the Security Council, as appropriate, in due course.
- 41. In identical letters dated 10 and 23 May 2018 addressed to me and the President of the Security Council (S/2018/443 and S/2018/495), the Permanent Representative of Israel stated that rockets launched from the Syrian Arab Republic towards Israel on 10 May 2018 had been launched "by the Quds Force of the Iranian Revolutionary Guard" and constituted an "Iranian breach" of resolution 2231 (2015). In a letter dated 14 May 2018 addressed to me and the President of the Security Council (S/2018/459), the Permanent Representative of the Islamic Republic of Iran recalled the identical letters dated 10 May by the Chargé d'affaires a.i. of the Permanent Mission of the Syrian Arab Republic (S/2018/447), in which it had been indicated that the Syrian Army had exercised its right to self-defence, and stated that the claim by Israeli authorities of "military action by Iran from the Syrian territory against their military positions in the occupied Golan Heights is false and unfounded".
- 42. In identical letters dated 28 November 2017 addressed to me and the President of the Security Council (S/2017/1000), the Permanent Representative of Israel expressed concern at what he said was a statement by the Commander of the Iranian Islamic Revolutionary Guard Corps, Major General Mohamed Ali Jafari, which he said expressed "Iran's intentions and actions taken to continue arming Hizbullah" in violation of Security Council resolutions, including resolution 2231 (2015). In response, in a letter dated 5 December 2017 addressed to me (S/2017/1019), the Permanent Representative of the Islamic Republic of Iran accused Israel of making "false and baseless accusations".
- 43. In a televised interview broadcasted on 21 May 2018, the political leader of Hamas in the Gaza Strip, Yahya Sinwar, stated that the Islamic Republic of Iran had provided the Izz al-Din al-Qassam Brigades and other armed groups in Gaza with "money, [military] equipment and expertise" before and after the 2014 Israel-Gaza conflict. ¹⁵ That statement suggests that transfers of arms and related material from the Islamic Republic of Iran may have been undertaken contrary to the provisions of annex B to resolution 2231 (2015).
- 44. It appears that Iranian entities continue to exhibit what appears to be arms and related materiel in foreign exhibitions. Information released by the organizers of the seventh International Defence Exhibition in Iraq, held in Baghdad from 10 to

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¹⁴ Catalogue of the Export Centre of the Ministry of Defence of the Islamic Republic of Iran. Available at http://www.mindexcenter.ir/product/ababil-2-uav-system.

¹⁵ Available at http://www.almayadeen.net/episodes/880421/حركة-رئيس---السنوار يحيى خاص-حوار / 3402121 منزة-في-حماس

13 March 2018, indicates that several Iranian entities participated in the exhibition for the third year in a row. Items displayed by those entities during previous exhibitions appeared to include small arms, artillery ammunition, rockets, anti-tank guided missiles and man-portable air defence systems. Furthermore, information released by the organizers of the Eurasia Airshow 2018, held in Antalya, Turkey, from 25 to 29 April 2018, indicates that several Iranian entities participated in that exhibition. According to Iranian media outlets, the items exhibited included reconnaissance drones. ¹⁶ The Secretariat raised these issue with the Permanent Missions of Iraq and Turkey to the United Nations. The Permanent Mission of the Islamic Republic of Iran had previously stated that it had believed that no prior approval had been required from the Security Council for that activity since the Islamic Republic of Iran retained ownership of the items exhibited. I intend to report thereon to the Council in due course as additional information becomes available.

VI. Implementation of the assets freeze provisions

45. Pursuant to paragraphs 6 (c) and (d) of annex B to resolution 2231 (2015), all States shall freeze the funds, other financial assets and economic resources of the individuals and entities on the list maintained pursuant to resolution 2231 (2015)¹⁷ and ensure that no funds, financial assets or economic resources are made available to those individuals and entities.

46. It appears that an entity presently on the list maintained pursuant to resolution 2231 (2015), the Defence Industries Organization, may have participated again in the International Defence Exhibition in Iraq, which was held in March 2018 (see para. 44 above). Its name is on the exhibitors list released by the organizers of the exhibition. Any of the entity's funds, other financial assets and economic resources on Iraqi territory, on or after the date of adoption of the Joint Comprehensive Plan of Action, should have been frozen by the Iraqi authorities. The issue has been raised again with the Permanent Mission of Iraq to the United Nations, and I will provide an update thereon to the Council in due course.

47. It also appears that another entity on the list maintained pursuant to resolution 2231 (2015), Khatam al-Anbiya Construction Headquarters, signed a memorandum of understanding in 2017 with the Syrian Engineers Syndicate "for joint cooperation in building sector, services and developmental projects, training cadres, conducting researches and holding symposiums". ¹⁸ The Syrian authorities are to ensure that any funds, financial assets or economic resources are prevented from being made available by their nationals or by any individuals or entities within their territories, to or for the benefit of the entity. The Secretariat has sought clarification from the

¹⁶ Fars News Agency, "Iran displays 2 reconnaissance drones in Eurasia 2018 Airshow in Turkey", 25 April 2018. Available at http://en.farsnews.com/newstext.aspx?nn=13970205001259.

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¹⁷ Available at www.un.org/en/sc/2231/list.shtml. The list maintained pursuant to resolution 2231 (2015) includes the individuals and entities specified on the list established under resolution 1737 (2006) and maintained by the Security Council Committee established pursuant to resolution 1737 (2006), as at the date of adoption of resolution 2231 (2015), with the exception of 36 individuals and entities specified in the attachment to annex B to resolution 2231 (2015), who had been delisted on Implementation Day. The Council can delist individuals or entities, and list additional individuals and entities found to meet certain designation criteria defined by resolution 2231 (2015). There are currently 23 individuals and 61 entities on the list maintained pursuant to resolution 2231 (2015).

Syrian Arab News Agency, "Syria, Iran to enhance cooperation on urban development", 26 September 2017. Available at https://sana.sy/en/?p=114661; and Financial Tribune, "Iran seeking role in Syria's power grid reconstruction", 7 November 2017. Available at https://financialtribune.com/articles/energy/75756/iran-seeking-role-in-syrias-power-grid-reconstruction.

Permanent Mission of the Syrian Arab Republic. I intend to report thereon to the Council in due course.

VII. Implementation of the travel ban provision

- 48. Pursuant to paragraph 6 (e) of annex B to resolution 2231 (2015), all States are to take the measures necessary to prevent the entry into or transit through their territories of the individuals on the list maintained pursuant to resolution 2231 (2015). At the time of reporting, no travel exemption requests had been received or granted by the Security Council in relation to individuals presently on the list.
- 49. Since the issuance of my previous report, additional information has surfaced regarding travel by Major General Soleimani. According to Iraqi media outlets, the General reportedly travelled to Baghdad in mid-May 2018. The Secretariat sought clarification from the Permanent Mission of Iraq.

VIII. Secretariat support provided to the Security Council and its Facilitator for implementation of resolution 2231 (2015)

- 50. The Security Council Affairs Division of the Department of Political Affairs has continued to support the work of the Security Council, in close cooperation with the Facilitator for the implementation of resolution 2231 (2015). The Division has also continued to liaise with the Procurement Working Group of the Joint Commission established in the Joint Comprehensive Plan of Action on all matters related to the procurement channel. In addition, the Division has provided induction briefings for the incoming Facilitator and members of the Security Council to assist them in their work on the implementation of resolution 2231 (2015).
- 51. Through the Security Council website, the Division continued to promote the dissemination of publicly available information on the restrictions imposed by resolution 2231 (2015).¹⁹ Relevant documents in all official languages were regularly added to and updated on the website. The Division also continued to use outreach opportunities to promote the dissemination of information on the resolution, in particular the procurement channel, in line with paragraph 6 (e) of the note by the President of the Council dated 16 January 2016 (S/2016/44). In February 2018, the Division participated in the Twenty-fifth Asian Export Control Seminar, held in Tokyo, and jointly organized by the Centre for Information on Security Trade Controls, the Ministry of Economy, Trade and Industry and the Ministry of Foreign Affairs. In April 2018, the Division also participated in an outreach event, organized by the Permanent Mission of the Netherlands to United Nations organizations in Vienna and hosted by the Vienna Centre for Disarmament and Non-Proliferation, on the margins of a meeting of the Nuclear Suppliers Group. The interactions of the Division with representatives of Member States and private sector entities during those events showed that outreach activities remained important to increasing awareness and allaying misunderstandings with respect to provisions set out in annex B to resolution 2231 (2015), including regarding the procurement channel, and the actors involved in the implementation of the resolution and their respective roles.
- 52. During the reporting period, the Division continued to respond to queries from Member States and to provide relevant support to Member States regarding the provisions of resolution 2231 (2015), in particular on the procedures for the submission of nuclear-related proposals and the review process.

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¹⁹ See http://www.un.org/en/sc/2231/.

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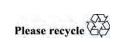


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Sixth report of the Secretary-General on the implementation of Security Council resolution 2231 (2015)

I. Introduction

- 1. The Joint Comprehensive Plan of Action, endorsed by the Security Council in its resolution 2231 (2015), stands out as a demonstration of successful multilateralism. It is a major achievement in nuclear non-proliferation and in dialogue and diplomacy. The Plan and the resolution remain in effect. The participants in the Plan, the Council, all Member States and regional and other international actors must ensure the continuity of this agreement that is fundamental to regional and international peace and security. I remain of the view that issues not directly related to the Plan should be addressed without prejudice to preserving the agreement and its accomplishments.
- 2. I welcome the fact that the Islamic Republic of Iran continues the implementation of its nuclear-related commitments, as verified by the International Atomic Energy Agency, in the face of considerable challenges brought about by the withdrawal of the United States of America from the Join Comprehensive Plan of Action and its subsequent decisions to reimpose all its national sanctions that had been lifted or waived pursuant to the Plan. I regret these actions and firmly believe that they do not advance the goals set out in the Plan and resolution 2231 (2015), in which all Member States, regional organizations and international organizations were called upon to support the implementation of the Plan and to refrain from actions that undermine it. I note the concerns expressed in the letter dated 5 November 2018 addressed to me by the Permanent Representative of the Islamic Republic of Iran (A/73/490-S/2018/988).
- 3. In this regard, I welcome the reaffirmation by participants in the Joint Comprehensive Plan of Action, during the meeting of the Joint Commission held in Vienna on 6 July 2018 and during the ministerial meeting of the E3/EU+2 and the Islamic Republic of Iran held in New York on 24 September 2018, of their commitments to the full and effective implementation of the Plan. I welcome and am encouraged by their initiatives to protect the freedom of their economic operators to pursue legitimate business with the Islamic Republic of Iran, in full accordance with resolution 2231 (2015). It is essential that the Plan continue to work for all its participants, including by delivering tangible economic benefits to the Iranian people. It is critical that these initiatives be given full effect as soon as possible.
- 4. The continued implementation of the Joint Comprehensive Plan of Action and resolution 2231 (2015) also enjoys the full support of the broader international community. Statements in support of the Plan were made by numerous Member





States, including during the general debate of the seventy-third session of the General Assembly. These statements demonstrate the broad and deep support for multilateral and cooperative approaches to addressing threats to international peace and security. I call upon all Member States to work effectively with the participants in the Plan towards its preservation, including in creating the conditions necessary for their economic operators to engage in trade with the Islamic Republic of Iran, in accordance with the resolution.

- I acknowledge the important contribution of the International Atomic Energy Agency in providing the international community with reports on its verification and monitoring in the Islamic Republic of Iran in the light of resolution 2231 (2015). Since January 2016, the Agency has reported 13 times to the Security Council. In its most recent reports (S/2018/835 and S/2018/1048), the Agency again reported that it continued to verify and monitor the implementation by the Islamic Republic of Iran of its nuclear-related commitments under the Joint Comprehensive Plan of Action. The Agency also reported that it continued to verify the non-diversion of declared nuclear material and that its evaluations regarding the absence of undeclared nuclear material and activities for the Islamic Republic of Iran remained ongoing. The Agency further reported that the Islamic Republic of Iran continued to provisionally apply the Additional Protocol to its Safeguards Agreement, pending its entry into force, and to apply the transparency measures contained in the Plan. In its most recent reports, the Agency also indicated that it had conducted complementary accesses under the Additional Protocol to all the sites and locations in the Islamic Republic of Iran that it needed to visit.
- 6. The Joint Comprehensive Plan of Action is only one part of resolution 2231 (2015). Staunch support for the Plan among the participants and Member States continues to be accompanied with concerns about Iranian activities in relation to the restrictive measures contained in annex B to the resolution. Therefore, I again encourage the Islamic Republic of Iran to carefully consider and address these concerns.
- 7. The present report provides an assessment of the implementation of the resolution, including findings and recommendations, since the issuance of my fifth report (S/2018/602), on 12 June 2018. Consistent with previous reports, the focus of the present report is on the provisions set forth in annex B to resolution 2231 (2015), which include restrictions applicable to nuclear-related transfers, ballistic missile-related transfers and arms-related transfers to or from the Islamic Republic of Iran, as well as asset freeze and travel ban provisions.

II. Key findings and recommendations

- 8. The procurement channel continues to be a vital transparency and confidence-building mechanism ensuring that transfers of certain goods, technology and/or related services to the Islamic Republic of Iran are consistent with resolution 2231 (2015) and the provisions and objectives of the Joint Comprehensive Plan of Action. Since 12 June 2018, five additional proposals have been submitted to the Security Council. The channel is operational and effective, and I encourage all States and the private sector to fully utilize and support this channel.
- 9. The Secretariat received further information on two shipments of dual-use items, previously brought to the attention of the Security Council. The authorities of two manufacturing States confirmed that, in their assessment, the items did not meet the criteria set out in INFCIRC/254/Rev.10/Part 2 and therefore did not require prior approval of the Council through the procurement channel.

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- 10. During the reporting period, the Secretariat examined the debris of three additional ballistic missiles launched at the territory of Saudi Arabia on 25 March and 11 April 2018. The Secretariat observed design characteristics and component parts consistent with those of the missiles that it had examined previously. The debris of the three missiles had internal and external features consistent with those of the Scud-B missile and all its variants, as well as specific key design features consistent with those of the Iranian Qiam-1 short-range ballistic missile. However, the Secretariat has not been able to determine whether such missiles, parts thereof or related technology were transferred from the Islamic Republic of Iran after 16 January 2016, the day on which the restrictions set out in annex B to resolution 2231 (2015) came into force.¹
- 11. The Secretariat also examined two container launch units for anti-tank guided missiles recovered by the Saudi-led coalition in Yemen. The Secretariat found that they had characteristics of Iranian manufacture and that their markings indicated production dates in 2016 and 2017. The Secretariat also examined a partly disassembled surface-to-air missile seized by the Saudi-led coalition and observed that its features appeared to be consistent with those of an Iranian missile. The Secretariat is still analysing the information available on this disassembled missile, and I intend to report back to the Security Council accordingly.

III. Implementation of nuclear-related provisions

- 12. Since 12 June 2018, 5 new proposals to participate in or permit the activities set forth in paragraph 2 of annex B to resolution 2231 (2015) have been submitted to the Security Council, bringing to 42 the total number of proposals submitted since Implementation Day (16 January 2016) for approval through the procurement channel. At the time of reporting, 28 proposals had been approved by the Council, 4 had not been approved, 9 had been withdrawn by the proposing States and 1 was currently under review. The Council also received five new notifications pursuant to the same provision for certain nuclear-related activities that only required a notification to the Council or to both the Council and the Joint Commission.
- 13. Since my previous report, the Secretariat received further information related to three of the four shipments of dual-use items seized by the United Arab Emirates in May 2016 and April 2017 while in transit to the Islamic Republic of Iran (see S/2018/602, para. 18). Contrary to the original assessment by the authorities of the United Arab Emirates, the authorities of two of the States of manufacture have confirmed that, in their assessment, the 40 cylindrical segments of tungsten and the 10 capacitors did not meet the criteria set out in INFCIRC/254/Rev.10/Part 2 and that their re-export to the Islamic Republic of Iran did not require prior approval of the Security Council.² The authorities of another State of manufacture informed the Secretariat that, in their assessment, the inductively coupled mass spectrometer met the criteria set out in the above-mentioned information circular, but that their internal review was ongoing. I intend to report thereon to the Council as more information becomes available on this shipment and on the shipment of one titanium rod.

¹ Any such transfer from the Islamic Republic of Iran between the adoption of Security Council resolution 1737 (2006) and 16 January 2016 would have been subject to paragraph 7 of that resolution. The provisions of resolution 1737 (2006) and those of other previous Council resolutions on the Iranian nuclear issue were terminated on 16 January 2016.

² According to one State of manufacture, the 40 cylindrical segments did not contain more than 90 per cent tungsten by weight (see 2.C.14 of INFCIRC/254/Rev.10/Part 2). According to the other States of manufacture, the 10 capacitors do not meet the voltage rating and energy storage criteria of 6.A.4.(a) or the voltage rating criteria of 6.A.4 (b) of INFCIRC/254/Rev.10/Part 2.

14. In addition, on 30 October 2018, the United States provided the Secretariat with additional information on the transfer of two commodities that, in their assessment, would have required prior approval from the Security Council (see S/2018/602, para. 19). According to this information, at least 50 tonnes of aluminium alloys were shipped to the Islamic Republic of Iran in 2016 and 2017, and the carbon fibre was shipped in 2017. The Secretariat has sought clarification on that additional information from relevant Member States and will report to the Council in due course.

IV. Implementation of ballistic missile-related provisions

A. Restrictions on ballistic missile-related activities by the Islamic Republic of Iran

- 15. During the reporting period, I received information regarding ballistic missiles reportedly launched by the Islamic Republic of Iran on 30 September and 1 October 2018 at targets in the Syrian Arab Republic. In identical letters dated 19 October 2018 addressed to me and the President of the Security Council (S/2018/939), the Permanent Representative of Israel noted that, according to Iranian media outlets, at least five ballistic missiles with a range of 700 km were launched. He considered that those missiles "crossed the Annex B threshold" of resolution 2231 (2015) and called upon the Council to condemn the activity of the Islamic Republic of Iran. In a joint letter dated 20 November 2018 addressed to the President of the Security Council (\$\frac{\sqrt{2018}/1062}{\text{n}}\$), the Permanent Representatives of France, Germany and the United Kingdom of Great Britain and Northern Ireland stressed that those ballistic missiles were category I systems under the Missile Technology Control Regime³ and therefore inherently capable of delivering nuclear weapons. They concluded that the launches of those missiles constituted an "activity related to ballistic missiles designed to be capable of delivering nuclear weapons" and "launches using such ballistic missile technology", which the Islamic Republic of Iran has been called upon not to undertake pursuant to paragraph 3 of annex B to the resolution. In the letter, they also stated that those launches were destabilizing and increased regional tensions.
- 16. I also received information regarding flight tests of ballistic missiles by the Islamic Republic of Iran. In identical letters dated 23 November 2018 addressed to me and the President of the Security Council (S/2018/1047), the Permanent Representative of Israel brought to my attention information regarding seven flight tests reportedly conducted in 2018, in addition to those of a Shahab-3 variant and a Scud variant in January 2018 (see S/2018/602, para. 22). According to the information provided, one Khorramshahr, two Shahab-3 variants, one Qiam and three Zolfaghar ballistic missiles were flight-tested between February and August 2018. The Permanent Representative stated that their test-firing was in violation of resolution 2231 (2015) because those ballistic missiles were all category I systems under the Missile Technology Control Regime and therefore inherently capable of carrying nuclear weapons.
- 17. In a letter dated 29 October 2018 addressed to me and the President of the Security Council (S/2018/967), the Permanent Representative of the Islamic Republic of Iran recalled that "the armed forces of the Islamic Republic of Iran, acting in legitimate self-defence recognized by Article 51 of the Charter of the United Nations, took limited and measured military action on 1 October 2018 in Syria, targeting

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³ Category I systems under the Missile Technology Control Regime are defined as "complete rocket systems (including ballistic missiles, space launch vehicles, and sounding rockets) capable of delivering at least a 500 kg 'payload' to a 'range' of at least 300 km" (see 1.A.1 of the Equipment, Software and Technology Annex of the Missile Technology Control Regime).

terrorist elements that are also linked to the terrorist act in Ahvaz". However, in reference to the letter from the Permanent Representative of Israel dated 23 November, the Chargé d'affaires a.i. of the Permanent Mission of the Islamic Republic of Iran, in a letter dated 29 November addressed to me and the President of the Council (S/2018/1073), stated that the Islamic Republic of Iran had "not launched any type of such missiles on any of the dates specified in the letter". The Permanent Representative of the Islamic Republic of Iran, in his letter dated 29 October, also reiterated the view of the Islamic Republic of Iran that none of its missiles were "designed to be capable of delivering nuclear weapons", but rather, as the Chargé d'affaires a.i. had indicated in a letter dated 28 November addressed to the President of the Council (S/2018/1061), "'designed' to be exclusively capable of delivering conventional warheads", and thus fell outside the purview of resolution 2231 (2015). The Chargé d'affaires a.i., in his letter dated 28 November, also stressed that there was no implicit or explicit reference to the Missile Technology Control Regime in paragraph 3 of annex B to the resolution and concluded that none of its criteria were applicable to the paragraph.

18. In a letter dated 30 November 2018 addressed to me and the President of the Security Council, the Chargé d'affaires a.i of the Permanent Mission of the Russian Federation underscored that the Islamic Republic of Iran was not prohibited by resolution 2231 (2015) to develop missile and space programmes and that it had been respecting in good faith the call to refrain from activities related to ballistic missiles designed to be capable of carrying nuclear weapons. He noted that there was no evidence that the Islamic Republic of Iran was developing or producing a nuclear weapon or means of its delivery. He underlined that the category I parameters of the Missile Technology Control Regime were never intended to be used in the context of the resolution to ascertain whether certain missiles are designed to be capable of carrying nuclear weapons. He further stated that missiles designed to be capable of carrying nuclear weapons included certain features and that no "evidence of the existence of such features on Iranian ballistic missiles or space launch vehicles" was presented to the Council.

19. On 4 December 2018, the Security Council discussed the reported test firing of a medium-range ballistic missile by the Islamic Republic of Iran on 1 December 2018.

B. Restrictions on ballistic missile-related transfers or activities with the Islamic Republic of Iran

20. In relation to the possible transfer of ballistic missiles, parts thereof or related technology by the Islamic Republic of Iran to the Houthis in Yemen, Saudi Arabia brought to the attention of the Secretariat two additional launches of ballistic missiles by the Houthis, aimed at the territory of Saudi Arabia, on 24 June 2018 (S/2018/636), which, in their assessment, were Iranian Qiam-1 missiles. The Islamic Republic of Iran had previously stated that it "neither has a policy nor seeks to transfer arms or military equipment in Yemen or manufacture them therein" (S/2018/145). In September 2018, Saudi authorities invited the Secretariat to examine the debris that they stated was of three missiles reportedly launched at Riyadh on 25 March and 11 April 2018. The Secretariat conducted first-hand examinations of the physical debris presented by Saudi authorities and collected all other information and material available, including photographs and video of the debris in situ, to confirm that the debris seen in those images corresponded to the debris presented to the Secretariat.

⁴ The 12 previous launches reportedly occurred on 22 July (1), 4 November (1) and 19 December 2017 (1), and on 5 January (1), 30 January (1), 25 March (3), 11 April (1), 9 May (2) and 5 June 2018 (1).

The Secretariat observed that the debris of the three missiles had design characteristics and component parts consistent with all those that it had previously examined and reported thereon to the Security Council (see S/2018/602, paras. 28 to 30). The Secretariat is still working on establishing the production date range of guidance subcomponents with the assistance of the foreign manufacturers and will report back to the Council in due course.

21. In August 2018, media outlets reported that a shipment to the Islamic Republic of Iran of at least two items with potential missile-related applications had been halted at London Heathrow airport.⁵ In response to a request for clarification, the Permanent Mission of the United Kingdom informed the Secretariat that several goods (seal kits, packing rings, packing sets and O-rings) had been seized by customs after having been presented for export to the Islamic Republic of Iran without a valid licence. However, the Permanent Mission added that the exporter later applied for, and was granted, an export licence.

V. Implementation of arms-related provisions

- 22. In a press conference on 26 March 2018, the Saudi-led coalition publicly displayed a partly disassembled missile that it indicated had been found in a consignment destined to the Houthis and seized earlier in March 2018. Saudi authorities alleged that it was an Iranian-made Sayyad 2C surface-to-air missile. While in Riyadh in September 2018, the Secretariat examined the partly disassembled missile, which was missing its forward guidance nose section and fins. The Secretariat observed that its length and other external features (e.g., mounting for the rear fins, mounting notches and brackets for the long mid-section fins) appeared consistent with those of the Iranian Sayyad-2C visible in video and photographs published by Iranian media outlets. The Secretariat further observed that the paint, serial numbering and other markings also appeared to be consistent with those of the Sayyad-2C. The Secretariat also observed that markings on the missile airframe and quality control labels on internal components were in Farsi. The Secretariat continues to analyse the information available on this missile, and I will report back to the Security Council, as appropriate, in due course.
- 23. In June and August 2018, the authorities of the United Arab Emirates brought to the attention of the Secretariat information about additional unmanned aerial vehicles, reportedly recovered in Yemen, including some fitted with an explosive charge. In their assessment, those unmanned aerial vehicles were Iranian-made and had been transferred in a manner inconsistent with paragraph 6 (b) of resolution 2231 (2015). In September 2018, the Secretariat was invited to examine the remnants of those unmanned aerial vehicles in Abu Dhabi and Riyadh. The Secretariat observed a number of unmanned aerial vehicles with characteristics consistent with those of the unmanned aerial vehicles examined during the previous reporting periods, which had the same design features as the Iranian-made Ababil-2 unmanned aerial vehicles (see S/2018/602, para. 40). Furthermore, the Secretariat examined the remnants of two different unmanned aerial vehicles. The Secretariat is still analysing the information collected on all these unmanned aerial vehicles and on their foreign-made components and will report to the Security Council, as appropriate, in due course.
- 24. While in the United Arab Emirates and Saudi Arabia in September 2018, the Secretariat was presented with two container launch units one in each of the aforementioned countries for anti-tank guided missiles, whose production dates

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⁵ Martin Bentham, "Heathrow Airport border staff 'seize missile parts that were being sent to Iran'", *Evening Standard*, 2 August 2018. Available at www.standard.co.uk/news/london/heathrow-border-staff-seize-missile-parts-that-were-being-sent-to-iran-a3902096.html.

were marked on the units as 2016 and 2017, respectively. According to the United Arab Emirates and Saudi Arabia, both had been recovered in Yemen by forces of the Saudi-led coalition. The Secretariat observed specific characteristics consistent with those of the container launch units for the Iranian-produced Dehlavieh anti-tank guided missile visible in video and photographs published by Iranian media outlets (left-aligned marking without spaces between lines; location of marking in upper third of unit; indication of missile type code, missile type, lot, date, serial number and temperature range; font type indicative of Iranian markings; and pronounced end cap chamfer).

- 25. In October 2018, United States authorities invited the Secretariat to examine an arms shipment, which they believed was relevant to the implementation of resolution 2231 (2015), consisting of approximately 2,500 AKMS-type assault rifles, seized on 28 August 2018 en route towards Yemen in international waters in the Gulf of Aden. The Secretariat established that the seized assault rifles did not have the characteristics of Iranian production. The Secretariat will continue to analyse new information should it become available, and I will report to the Security Council, as appropriate.
- 26. In identical letters dated 22 November 2018 addressed to me and the President of the Security Council (S/2018/1046), the Permanent Representative of Israel stated that, in April 2018, one Iranian-produced Khordad air defence system was delivered to the "T4 airbase" in the Syrian Arab Republic. According to Israel, the system was delivered using an Iranian transport plane and unloaded in the presence of senior officials of the Islamic Revolutionary Guard Corps. The Permanent Representative concluded that the air defence system had been transferred by the Islamic Republic of Iran in a manner inconsistent with resolution 2231 (2015). In the letter dated 29 November 2018 addressed to me and the President of the Council (S/2018/1073), the Chargé d'affaires a.i. of the Permanent Mission of the Islamic Republic of Iran stated that the allegations in the aforementioned letter from the Permanent Representative of Israel were "entirely false".
- 27. In my previous report, I brought to the attention of the Security Council the participation of Iranian entities in foreign exhibitions, including the Eurasia Airshow 2018, held in Antalya, Turkey, in April 2018. In July 2018, the Permanent Mission of Turkey informed the Secretariat that Iranian participants only exhibited mock-up unmanned aerial vehicles and that no commercial transaction had taken place with regard to those items. Meanwhile, information released by the organizer of the third Azerbaijan International Defence Exhibition, held in Baku in September 2018, indicated that an Iranian entity also participated in the exhibition. According to media coverage of that exhibition, the items displayed by that entity appear to have been tactical and reconnaissance unmanned aerial vehicles. The Secretariat has raised this issue with the Permanent Mission of Azerbaijan. The Permanent Mission of the Islamic Republic of Iran previously stated that it believed that no prior approval was required from the Council for that activity, given that the Islamic Republic of Iran retained ownership of the items exhibited. I intend to report thereon to the Council in due course as additional information becomes available.

VI. Implementation of the travel ban provision

28. Regarding the previously reported travel of Major General Soleimani to Baghdad in mid-May 2018, the Permanent Mission of Iraq informed the Secretariat in July 2018 that he had been denied permission to enter Iraqi territory through

⁶ List of participants at the exhibition available at https://adex.az/en-content/11.html.

Baghdad International Airport and that he left the country without entering Iraqi territory.

VII. Secretariat support provided to the Security Council and its Facilitator for the implementation of resolution 2231 (2015)

29. The Security Council Affairs Division of the Department of Political Affairs continued to support the work of the Security Council, in close cooperation with the Facilitator for the implementation of resolution 2231 (2015). The Division also liaised with the Procurement Working Group of the Joint Commission on all matters related to the procurement channel. In October 2018, the Division participated in the European Union second Dialogue on Export Control Governance, organized by the European Commission, and the 2018 Nuclear Export Control Practices Forum, organized by the United Arab Emirates Federal Authority for Nuclear Regulation. During the reporting period, the Division continued to respond to queries from and provided relevant support to Member States regarding the provisions of the resolution, in particular on the procedures for the submission of nuclear-related proposals and its review process. The Secretariat continues to assist Member States in such efforts, as needed.

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ANNEX 29

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Implementation of Security Council resolution 2231 (2015)

Seventh report of the Secretary-General

I. Introduction

- 1. On 14 July 2015, 12 years of intense diplomatic efforts and detailed technical negotiations by China, France, Germany, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland, the United States of America and the European Union with the Islamic Republic of Iran culminated in the agreement on the Joint Comprehensive Plan of Action, which was subsequently endorsed by the Security Council in its resolution 2231 (2015). On 16 January 2016, upon completion of certain actions by the Islamic Republic of Iran (stipulated in the Plan) as verified by the International Atomic Energy Agency (IAEA), a decade of United Nations sanctions as well as multilateral and national sanctions related to the nuclear programme of the Islamic Republic of Iran were lifted in accordance with the Plan. As resolution 2231 (2015) came into effect, Member States and regional and other international actors mobilized in support of the resolution and the Plan, which are widely regarded as fundamental to regional and international peace and security, a major achievement in nuclear non-proliferation and in dialogue and diplomacy.
- 2. It is essential that these diplomatic efforts and hard-won achievements be preserved and built upon. In this regard, I regret that the United States further to its withdrawal from the Joint Comprehensive Plan of Action on 8 May 2018 has further decided not to extend waivers with regard to the trade in oil with the Islamic Republic of Iran, and not to fully renew waivers for nuclear non-proliferation projects in the framework of the Plan. These actions are contrary to the goals set out in the Plan and resolution 2231 (2015). These actions may also impede the ability of the Islamic Republic of Iran to implement certain provisions of the Plan and of the resolution. I also note the concerns expressed in the letter dated 23 May 2019 (S/2019/429) from the Permanent Representative of the Islamic Republic of Iran addressed to me and in the letter dated 11 June 2019 (S/2019/482) from the Chargé d'affaires a.i. of the Permanent Mission of the Russian Federation addressed to me and the President of the Security Council.
- 3. I regret the 8 May 2019 announcement by the Islamic Republic of Iran to "not commit itself to respecting the limits on the keeping of enriched uranium and heavy water reserves at the current stage" and that it will further "suspend compliance with the uranium enrichment limits and measures to modernise the Arak Heavy Water Reactor" should the other participants not fulfil its demands, especially in areas of



banking and oil, within 60 days. It is my firm belief that such actions are not in the interest of the participants and may not help preserve the Plan nor secure tangible economic benefits for the Iranian people. Thus far, as verified by IAEA, the Islamic Republic of Iran has continued to implement its nuclear-related commitments, albeit in the face of considerable challenges. I encourage it to stay the course.

- 4. I acknowledge again the important contribution of IAEA in supporting the full implementation of the Joint Comprehensive Plan of Action, especially by providing the international community with reports on its verification and monitoring in the Islamic Republic of Iran in the light of resolution 2231 (2015), and commend its impartial, factual and professional work. Since January 2016, the Agency has reported 15 times to the Security Council (most recently in S/2019/212 and S/2019/496) that the Islamic Republic of Iran has been implementing its nuclear-related commitments under the Plan. The Agency also reported that it continued to verify the non-diversion of declared nuclear material and that its evaluations regarding the absence of undeclared nuclear material and activities remained ongoing. The Agency further reported that the Islamic Republic of Iran continued to provisionally apply the Additional Protocol to its Safeguards Agreement and to apply the transparency measures contained in the Plan. The Agency also indicated that it had conducted complementary accesses under the Additional Protocol to all the sites and locations in the Islamic Republic of Iran that it needed to visit.
- 5. I welcome the statement by the Chair of the Joint Commission following its 6 March 2019 meeting, which inter alia acknowledged that, alongside implementation by the Islamic Republic of Iran of its nuclear-related commitments, the lifting of sanctions allowing for the normalization of trade and economic relations constitute an essential part of the Plan. I also appreciate and share the deep sense of urgency and the need for tangible results expressed in the statement by the participants in the Plan regarding trade and economic relations. I am encouraged by their efforts to protect the freedom of their economic operators to pursue legitimate business with the Islamic Republic of Iran in full accordance with resolution 2231 (2015), and their other initiatives in support of trade and economic relations with the Islamic Republic of Iran. They should be given full effect as a matter of priority. It is essential that the Plan continue to work for all its participants, including by delivering tangible economic benefits to the Iranian people.
- 6. The continued implementation of the Joint Comprehensive Plan of Action and resolution 2231 (2015) continues to enjoy the full support of the broader international community. I again call upon all Member States to work effectively with the participants in the Plan towards its preservation, including in creating the conditions necessary for their economic operators to engage in trade with the Islamic Republic of Iran in accordance with the resolution. I also urge all Member States to avoid provocative rhetoric and actions that may have a negative impact on regional stability.
- 7. The Joint Comprehensive Plan of Action is only one part of resolution 2231 (2015). Staunch support for the Plan among the participants and Member States continues to be accompanied with concerns about Iranian activities in relation to the restrictive measures contained in annex B to the resolution. Therefore, I again encourage the Islamic Republic of Iran to carefully consider and urgently address these concerns as well.
- 8. The present report, my seventh on the implementation of resolution 2231 (2015), provides an assessment of the implementation of the resolution, including findings and recommendations, since the issuance of the sixth report of the Secretary-

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¹ Supreme National Security Council of the Islamic Republic of Iran, statement of 8 May 2019, available at www.president.ir/en/109588.

General (S/2018/1089) on 6 December 2018. Consistent with previous reports, the focus of the present report is on the provisions set forth in annex B to resolution 2231 (2015), which include restrictions applicable to nuclear-related transfers, ballistic missile-related transfers and arms-related transfers to or from the Islamic Republic of Iran, as well as assets freeze and travel ban provisions.

II. Key findings and recommendations

- 9. Since 6 December 2018, two new proposals have been submitted to the Security Council for approval through the procurement channel. I welcome the reaffirmation in March 2019 by participants in the Joint Comprehensive Plan of Action of the readiness of the procurement channel to evaluate proposals for transfers of certain goods, technology and/or related services to the Islamic Republic of Iran. The procurement channel is a vital transparency and confidence-building mechanism ensuring that those transfers are consistent with resolution 2231 (2015) and the provisions and objectives of the Plan. I again encourage all States and the private sector to fully utilize and support this channel.
- 10. The United States announced on 3 May 2019 that participation in certain activities set forth in paragraph 2 of annex B to resolution 2231 (2015), such as the transfer of enriched uranium out of the Islamic Republic of Iran in exchange for natural uranium or assistance to expand the Bushehr Nuclear Power Plant beyond the existing reactor unit, may now be exposed to its national sanctions. I wish to note that the exemptions set out in paragraph 2 of annex B to the resolution are designed to provide for the transfer of such items, materials, equipment, goods and technology required for the nuclear activities of the Islamic Republic of Iran under the Plan.
- 11. The Secretariat has not received new reports on the supply, sale or transfer of nuclear or dual-use items, materials, equipment, goods or technology to the Islamic Republic of Iran undertaken contrary to paragraph 2 of annex B. Regarding the transfer of two commodities previously brought to the attention of the Security Council, the authorities of the States of manufacture and of a State of re-export informed the Secretariat that they found no indication of actions inconsistent with resolution 2231 (2015).
- 12. During the reporting period, the Secretariat examined additional arms and related materiel recovered in Yemen, including a second partly disassembled surface-to-air missile, three sets of wings pertaining to a new type of unmanned aerial vehicle, and a new unmanned surface vessel laden with explosives. The Secretariat is confident that these arms and related materiel or parts thereof are of Iranian manufacture. However, it has no indication as to whether those items were transferred from the Islamic Republic of Iran after 16 January 2016.
- 13. A televised speech by the political leader of Hamas in the Gaza Strip, Yahya Sinwar, and a statement by the Al-Quds Brigades spokesperson in the Gaza Strip, both in May 2019, point to ongoing Iranian military support to Hamas and the Palestinian Islamic Jihad in Gaza. Any Iranian arms transfers after 16 January 2016 would have been undertaken contrary to the provisions of annex B to resolution 2231 (2015).
- 14. Since the issuance of my previous report, Major General Soleimani appears to have continued to travel despite the travel ban provisions and previous reporting on this issue. Another individual on the list maintained pursuant to resolution 2231 (2015)² appears to have engaged in foreign travel during the reporting period. In this instance, the lack of relevant identifiers may have hampered implementation of the

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² Available at www.un.org/securitycouncil/content/2231/list. There are currently 23 individuals and 61 entities on the list maintained pursuant to resolution 2231 (2015).

travel ban provision. To ensure its proper implementation, as well as that of the assets freeze provision, I reiterate my recommendation that the Security Council review and update the list as appropriate.

III. Implementation of nuclear-related provisions

- 15. Since 6 December 2018, 2 new proposals to participate in or permit the activities set forth in paragraph 2 of annex B to resolution 2231 (2015) were submitted to the Security Council, bringing to 44 the total number of proposals submitted since Implementation Day for approval through the procurement channel. At the time of reporting, 29 proposals were approved by the Council, 5 were not approved and 9 were withdrawn by the proposing States. In a letter dated 11 June 2019 from the Chargé d'affaires a.i. of the Permanent Mission of the Russian Federation addressed to me and the President of the Security Council (\$\frac{S}{2019}/482}), he conveyed the view of his country that "in order to raise efficiency and ensure the stable work of the 'procurement channel' it is imperative to increase international trust in this mechanism" and "necessary to promptly elaborate, within the Procurement Working Group and the Joint Commission established in the Joint Comprehensive Plan of Action, special security mechanisms in order to negate the effects of unilateral sanctions and thus ensure the continued implementation of resolution 2231 (2015)". Annexed to the letter was a proposal submitted to the Procurement Working Group of the Joint Commission to that end.
- 16. In addition, the Security Council received 7 new notifications pursuant to paragraph 2 of annex B to resolution 2231 (2015) for certain nuclear-related activities consistent with the Joint Comprehensive Plan of Action that do not require approval, but do require a notification to the Council or to both the Council and the Joint Commission. These activities include transfers of certain equipment for light water reactors, as well as certain transfers related to the modification of the two cascades at the Fordow facility for stable isotope production, the export of the Islamic Republic of Iran's enriched uranium in excess of 300 kg in return for natural uranium, and the modernization of the Arak reactor. On 3 May 2019, the United States announced that involvement in some of the above-mentioned activities may now be exposed to its national sanctions, specifically assistance to expand the Bushehr Nuclear Power Plant beyond the existing reactor unit and any involvement in transferring enriched uranium out of the Islamic Republic of Iran in exchange for natural uranium. 3 It also announced that other activities, such as the redesign of the Arak reactor, modification of infrastructure at the Fordow facility, and work at the existing unit of the Bushehr Nuclear Power Plant, would be permitted to continue for a renewable duration of 90 days but that it reserved the right to modify or revoke its policy covering these non-proliferation activities at any time. In a letter dated 23 May 2019 addressed to me (S/2019/429), the Permanent Representative of the Islamic Republic of Iran noted that these "sanctions and policies have prevented the implementation of relevant nuclear-related provisions of Security Council resolution 2231 (2015) by Member States, including the Islamic Republic of Iran".
- 17. Since my most recent update regarding the dual-use items seized by the United Arab Emirates in May 2016 and April 2017 while in transit to the Islamic Republic of Iran (see S/2018/1089, para. 13), the Secretariat has received additional information about one of these items, a titanium rod. The authorities of the State of manufacture confirmed to the Secretariat that it was intended for an Iranian company

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³ United States Department of State, "Advancing the Maximum Pressure Campaign by Restricting Iran's Nuclear Activities", Fact sheet, 3 May 2019, available at www.state.gov/advancing-the-maximum-pressure-campaign-by-restricting-irans-nuclear-activities/.

and that they would need to physically examine the rod to confirm the assessment of the exporting company that it did not meet the criteria set out in INFCIRC/254/Rev.10/Part 2 and thus did not require prior approval from the Security Council. In addition, the authorities of the State of manufacture of the inductively coupled plasma mass spectrometer have recently advised the Secretariat that their investigation is ongoing.

- 18. With regard to the information provided by the United States on the transfer of two commodities (carbon fibre and aluminium alloys) that, in their assessment, would have required prior approval from the Security Council (see S/2018/1089, para. 14), the authorities of the State of manufacture of the carbon fibre indicated to the Secretariat that, in their assessment, it did not meet the criteria set out in INFCIRC/254/Rev.10/Part 2 and therefore that its export to the Islamic Republic of Iran did not require prior approval from the Council.
- 19. The authorities of the State of manufacture of the aluminium alloys informed the Secretariat that they had conducted an investigation and that no actions inconsistent with resolution 2231 (2015) had been identified on the part of their manufacturers or companies, as they did not transfer the aluminium alloys to the Islamic Republic of Iran. Meanwhile, the authorities of the State from which the aluminium alloys were reportedly re-exported informed the Secretariat that while a number of exports of aluminium to the Islamic Republic of Iran had taken place prior to May 2017, they had no indication that these items met the criteria set out in INFCIRC/254/Rev.10/Part 2 and would therefore have required approval from the Security Council prior to their transfer.

IV. Implementation of ballistic missile-related provisions

A. Restrictions on ballistic missile-related activities by the Islamic Republic of Iran

20. In my most recent report, I noted that the Security Council discussed on 4 December 2018 the reported test firing of a medium-range ballistic missile by the Islamic Republic of Iran on 1 December 2018 (see S/2018/1089, para. 19). During the reporting period, I also received a letter dated 18 December 2018 from the Permanent Representatives of France, Germany and the United Kingdom (S/2018/1171) and a letter dated 7 March 2019 from the Chargé d'affaires a.i. of the United States Mission (S/2019/216) regarding this test firing. According to those States, the missile was a category I system under the Missile Technology Control Regime 4 and therefore inherently capable of delivering nuclear weapons. They concluded that this test firing was inconsistent with paragraph 3 of annex B to resolution 2231 (2015). In letters dated 14 January and 12 April 2019 addressed to me and the President of the Security Council (\$\frac{S}{2019}/49\$ and \$\frac{S}{2019}/315\$), the Chargé d'affaires a.i. of the Permanent Mission of the Islamic Republic of Iran reiterated that there is no implicit or explicit reference in paragraph 3 of annex B to the Missile Technology Control Regime or to the criteria contained therein. He also reiterated the view of the Islamic Republic of Iran that its missiles programme "is 'designed' to be exclusively capable of delivering conventional warheads" and thus not inconsistent with paragraph 3 of annex B, but also falls outside the purview of the resolution.

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⁴ Category I systems under the Missile Technology Control Regime are defined as "complete rocket systems (including ballistic missiles, space launch vehicles, and sounding rockets) capable of delivering at least a 500 kg 'payload' to a 'range' of at least 300 km" (see 1.A.1 of the Equipment, Software and Technology Annex of the Missile Technology Control Regime).

- 21. In identical letters dated 2 April and 31 May 2019 addressed to me and the President of the Security Council (S/2019/288 and S/2019/452), the Permanent Representative of Israel brought to my attention information regarding additional flight tests of ballistic missiles reportedly conducted by the Islamic Republic of Iran. According to the information provided, one Khorramshahr variant, one Shahab-3 variant, one Qiam, one Scud variant and three Zolfaghar ballistic missiles were flight-tested between December 2018 and February 2019. The Permanent Representative stated that their test-firing was inconsistent with the resolution because those missiles were all category I system under the Missile Technology Control Regime. In his letters dated 12 April and 3 June 2019 addressed to me and the President of the Security Council (S/2019/315 and S/2019/457), the Chargé d'affaires a.i. of the Permanent Mission of the Islamic Republic of Iran rejected the "fabrications" and "claims" raised in the aforementioned letters from the Permanent Representative of Israel.
- 22. I also received information on the launches by the Islamic Republic of Iran of Simorgh and Safir space launch vehicles on 15 January and 6 February 2019, respectively. In identical letters dated 18 January and 20 February 2019 addressed to me and the President of the Security Council (\$\sigma 2019/62 and \$\sigma 2019/168\$), the Permanent Representative of Israel stated that these were also category I systems under the Missile Technology Control Regime and that their launch constituted "another stage in Iran's development of intercontinental ballistic missiles capable of carrying nuclear weapons". He further stated that the transporter erector launcher used to launch the Safir space launch vehicle was identical to that of the Shahab-3 ballistic missile. In letters dated 20 February and 25 March 2019 addressed to me (S/2019/177, annex, and S/2019/270), the Permanent Representatives of France, Germany and the United Kingdom stressed that the Simorgh and Safir space launch vehicles are based on technologies shared with the Shahab-3 and Khorramshahr medium-range ballistic missiles. They further stated that "the technologies necessary for the conception, fabrication and launch of a space launch vehicle are closely related to those required for the development of long-range and intercontinental ballistic missiles" and that such launches provide the Islamic Republic of Iran "with empirical results that can be used to optimize capabilities related to the development of these missile systems". They concluded that these launches were inconsistent with paragraph 3 of annex B. In his letter dated 7 March 2019 addressed to the President of the Security Council (S/2019/216), the Chargé d'affaires a.i. of the United States Mission also stressed that space launch vehicles use "technologies that are virtually identical and interchangeable with those used in MTCR Category I ballistic missiles", and underscored that these launches constituted "activities using technologies related to ballistic missiles designed to be capable of delivering nuclear weapons", which the Islamic Republic is called upon not to undertake by the resolution.
- 23. In his letter dated 12 April 2019 (S/2019/315), the Chargé d'affaires a.i. of the Permanent Mission of the Islamic Republic of Iran noted that paragraph 3 of annex B does not contain implicit or explicit references to space launch vehicles. He further stated that the technical characteristics and operational requirements of space launch vehicles are distinct from those of ballistic missile systems. He further stressed that the Simorgh is designed and developed exclusively for placing satellites into orbit and therefore does not "fall into the category of ballistic missiles, let alone one 'designed to be capable of delivering nuclear weapons". He concluded that its launch cannot be considered inconsistent with the resolution. He underscored that the use of space launch vehicles by the Islamic Republic of Iran is "part of a scientific and technological activity related to the use of space technology" and that the country is "determined to continue to exercise this inherent right for its socioeconomic interests". He also recalled that, as noted in the fourth six-month report of the Facilitator on the

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implementation of resolution 2231 (2015) (S/2017/1058), there was no consensus in the Security Council on how a previous Simorgh launch related to the resolution.

24. In their letter dated 25 March 2019 (S/2019/270), the Permanent Representatives of France, Germany and the United Kingdom brought to my attention other recent actions that they considered inconsistent with paragraph 3 of annex B. They stated that the Islamic Republic of Iran revealed in early February 2019, in a public display in Tehran during the Ten Days of Dawn celebrations marking the anniversary of the Islamic Revolution, a variant of the Khorramshahr ballistic missile with a manoeuvring re-entry vehicle that is likely to have increased its maximum range "to approximately 3,000 kilometres". They also stated that a newly unveiled Dezful ballistic missile, with a purported range of 1,000 kilometres, is "highly likely to meet the Missile Technology Control Regime category-I criteria". In identical letters dated 22 April 2019 addressed to me and the President of the Security Council (\$/2019/330), the Permanent Representative of Israel stated that the Islamic Republic of Iran, during the same annual celebrations in Tehran in early February 2019, also showcased the Sejil, Emad and Ghadr in addition to the Khorramshahr. He stated that all these ballistic missiles are designed to be capable of delivering nuclear warheads. He further stated that the Islamic Republic of Iran unveiled the production line of the Dezful missile. He considered that these activities "clearly violate" the resolution. In his letter dated 12 April 2019 (S/2019/315), the Chargé d'affaires a.i. of the Permanent Mission of the Islamic Republic of Iran rejected speculations made by the Permanent Representatives of France, Germany and the United Kingdom "regarding Iran's space launch vehicles and ballistic missiles, including their type and range".

25. In a letter dated 18 April 2019 addressed to me and the President of the Security Council (S/2019/339), the Permanent Representative of the Russian Federation reiterated the position of his country regarding the implementation of paragraph 3 of annex B. He underscored that the Islamic Republic of Iran is not prohibited by multilateral non-proliferation mechanisms or resolution 2231 (2015) to develop missile and space programmes. He also noted that IAEA has consistently reported that Iran is in full compliance with its nuclear-related commitments and that there is no evidence that the Islamic Republic of Iran is developing or producing a nuclear weapon or means of its delivery. He concluded that the Islamic Republic of Iran was "respecting in good faith the call addressed to it in paragraph 3 of annex B to resolution 2231 (2015) to refrain from activities related to ballistic missiles designed to be capable of carrying nuclear weapons". He reiterated that the parameters of the Missile Technology Control Regime were never intended to be used in the context of the resolution to ascertain whether certain missiles are designed to be capable of carrying nuclear weapons and that such types of missiles included certain features and that no "evidence of the existence of such features on Iranian ballistic missiles or space launch vehicles" was presented to the Council.

B. Restrictions on ballistic missile related-transfers or activities with the Islamic Republic of Iran

26. As indicated in my previous report, the Secretariat worked on establishing the production date range of guidance system subcomponents retrieved from ballistic missiles launched at the territory of Saudi Arabia by the Houthis between March and June 2018 (see S/2018/1089, para. 20). According to the information provided to the Secretariat by the foreign manufacturing companies, all of the retrieved guidance subcomponents traced by the Secretariat had been produced between 2000 and 2010, and some were sold as recently as 2012. As noted in my fifth report, that production and sale date range is incompatible with that of the Scud missiles provided by the former Soviet Union and the Democratic People's Republic of Korea to Yemen and

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that were known to be in Yemeni stockpiles prior to the outbreak of the current conflict in early 2015 (see S/2018/602, para. 32).

V. Implementation of arms-related provisions

A. Restrictions on arms-related transfers to the Islamic Republic of Iran

27. In November 2018, the Permanent Representative of the United Kingdom informed the Secretariat that three individuals had recently been found guilty in a United Kingdom court of knowingly exporting "prohibited military or dual use goods", namely aircraft parts, to the Islamic Republic of Iran between February 2010 and March 2016. According to additional information since provided to the Secretariat, the three individuals transferred aircraft parts, including for MiG and F4 Phantom jets, from the United States to the Islamic Republic of Iran through several companies located in various countries to conceal the final destination of those transfers. Since 16 January 2016, the transfer of spare parts for combat aircraft as defined for the purpose of the Register of Conventional Arms requires prior authorization of the Security Council.⁵

B. Restrictions on arms-related transfers from the Islamic Republic of Iran

28. In my most recent report (see S/2018/1089, para. 22), I brought to the attention of the Security Council that the Secretariat had examined in Riyadh in September 2018 a partly disassembled surface-to-air missile reportedly found in a consignment, seized in March 2018, destined for the Houthis. The Secretariat had observed that its features were consistent with those of the Iranian Sayyad-2C missiles seen in videos and photographs published by Iranian media outlets. 6 In December 2018, in Washington, D.C., the Secretariat examined a second partly disassembled surfaceto-air missile which was also missing its forward guidance nose section and fins. The Secretariat observed that its dimensions, other external features, paint and markings were consistent with that of the missile examined in Riyadh. The Secretariat observed that markings on that second missile's airframe and quality control labels on internal components were also in Farsi. The Secretariat was also presented with photographs of that second missile's components (flight computer, main relay box, navigation system and self-destruct unit) and subcomponents, which showed production date markings ranging between 2011 and 2015, including in Persian calendar format. According to United States authorities, that missile had been part of the abovementioned consignment seized in March 2018. The serial numbers of the two missiles examined were a few digits apart from each other and from two missiles visible in a video on military exercises published by Iranian media outlets, suggesting that all these missiles came from the same production lot. 7 The Secretariat is confident that the missiles it examined in Riyadh and Washington, D.C., are of Iranian manufacture.

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⁵ Any such transfer to the Islamic Republic of Iran between the adoption of resolution 1929 (2010) and 16 January 2016 would have been subject to paragraph 8 of that resolution.

⁶ See, for example, Press TV, "Iran puts new military equipment on production line", 6 February 2017, available at www.youtube.com/watch?v=WZMTGXU02FI; and Fars News Agency, "Commander: Iran mulling change in Sayyad missiles to mount it on Mowj-class vessels", 27 January 2014, available at http://en.farsnews.com/newstext.aspx?nn=13921107000722.

⁷ See, for example, Press TV, "Iran puts new military equipment on production line", 6 February 2017, available at www.youtube.com/watch?v=WZMTGXU02FI.

However, it has not been able to confirm whether these missiles were transferred from the Islamic Republic of Iran after 16 January 2016.8

- 29. In May 2019, the Secretariat was provided with the opportunity to examine the gyroscope of a new type of unmanned aerial vehicle previously examined in Riyadh in September 2018 (see S/2018/1089, para. 23). The Secretariat observed that this extended-range unmanned aerial vehicle, like other unmanned aerial vehicles reportedly recovered in Yemen it examined thus far, was equipped with a "Model V10" vertical gyroscope (manufacturer unknown). The Secretariat further observed that an Iranian unmanned aerial vehicle reportedly recovered in Afghanistan in 2016 (see para. 30 below) was equipped with a "Model V9" of that same vertical gyroscope. The Secretariat is still analysing the information collected on this and other unmanned aerial vehicles and will report to the Security Council, as appropriate, in due course.
- 30. During its visits to Riyadh in September and December 2018, the Secretariat observed two similar sets of wings belonging to another new type of unmanned aerial vehicle, which, according to Saudi authorities, were part of the above-mentioned consignment seized in March 2018 destined to the Houthis. While in Washington, D.C., in December 2018, the Secretariat observed a third similar set of wings reportedly originating from the same seized consignment. The Secretariat also observed the remnants of an unmanned aerial vehicle which, according to United States authorities, was an Iranian Shahed-123 recovered in Afghanistan in October 2016. The Secretariat observed that all three sets of wings had the same dimensions and design features (anhedral, single-piece, V-shaped high wing; top-mounting configuration; ball and socket mounting system) as the wings of the unmanned aerial vehicle reportedly recovered in Afghanistan. The Secretariat further observed that the paint, numbering and other markings on the three sets of wings were consistent with those of the recovered unmanned aerial vehicle and that the serial numbers on all examined wings were only a few digits apart. The Secretariat also observed that the features of that recovered unmanned aerial vehicle (single round fuselage, high wing, V-shaped tail and pusher propeller) are consistent with those of an Iranian unmanned aerial vehicle visible in video and photographs published by Iranian media outlets.9 The Secretariat also observed markings in Farsi on internal components of that recovered vehicle. The Secretariat is confident that the three sets of wings it examined in Riyadh and Washington, D.C., are of Iranian manufacture. However, it has not been able to confirm whether these wings were transferred from the Islamic Republic of Iran after 16 January 2016. 10
- 31. In April 2019, United Arab Emirates authorities invited the Secretariat to examine samples of an arms shipment which they believed was relevant to the implementation of resolution 2231 (2015). According to the United Arab Emirates, the shipment was seized in Aden in December 2018 and consisted of 178 automatic weapons, 48 rocket-propelled grenade launchers and 45 electro-visual systems for the launchers. The samples shown to the Secretariat, which consisted of assault rifles, rocket-propelled grenade launchers and optical devices for those launchers, were all in new condition. The Secretariat observed that the grenade launchers, like those

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⁸ Any such transfer from the Islamic Republic of Iran between the adoption of Security Council resolution 1747 (2007) and 16 January 2016 would have been subject to paragraph 5 of that resolution.

⁹ See, for example, Press TV, "Iran's IRGC holds massive drone drills in Persian Gulf region", 14 March 2019, available at www.presstv.com/Detail/2019/03/14/591010/Iran-IRGC-combatdrone-drill; and IRIB News Agency, 1 October 2016, available at www.iribnews.ir/fa/news/1317539/تبدیل-قورای-عالی-امنیت-ملی-از -نمایشگاه-تبدیل-تهدید-به-فرصت/

Any such transfer from the Islamic Republic of Iran between the adoption of Security Council resolution 1737 (2006) and 16 January 2016 would have been subject to paragraph 7 of that resolution.

seized by the United States on 28 March 2016 on board a dhow, the *Adris* (see S/2017/1030, para. 33), had characteristics similar to Iranian-produced RPG-7-type launchers (for example, markings and heat shields). The Secretariat established that the assault rifles did not have the characteristics of Iranian production, but were of the same make and manufacture as the AKMS-type assault rifles seized by the United States on 28 August 2018 en route towards Yemen in international waters in the Gulf of Aden (see S/2018/1089, para. 25) and that their serial numbers fell within the same production batch and included sequential numbers, which indicated that they came from the same production lot. The Secretariat continues to analyse the information available on the shipment seized by the United Arab Emirates, and I will report back to the Security Council, as appropriate, in due course.

- 32. During its visit to Saudi Arabia in December 2018, the Secretariat examined the hull and engine of a custom-built unmanned surface vessel laden with explosives. The vessel was recovered in September 2018 by Saudi forces off the coast of Yemen close to the Saudi-Yemeni maritime border. In May 2019, the Secretariat was provided with the opportunity to re-examine the vessel, together with its detonation and guidance systems, as well as its warhead container. The Secretariat observed that the detonation system included a fuse plate identical to that of the unmanned surface vehicle recovered by the United Arab Emirates in 2017 (see S/2017/1030, para. 34), as well as to those seized on board the Adris (see S/2017/1030, para. 33). As I previously reported, documentary evidence provided to the Secretariat indicated that the fuse plates found on board the Adris had been shipped from the Islamic Republic of Iran (see S/2018/602, para. 39). The Secretariat also observed that the guidance system consisted of commercially available components and that some elements of the guidance and detonation systems used electrical cables bearing markings indicating Iranian manufacture. Data retrieved by the Secretariat shows that geographical coordinates were programmed into the guidance system in late August 2018. The Secretariat is confident that at least part of the detonation system of the unmanned surface vessel, recovered by Saudi forces in September 2018, was also manufactured in the Islamic Republic of Iran. However, no indications were found as to whether these items were transferred from the Islamic Republic of Iran after 16 January 2016.
- 33. In identical letters dated 4 April 2019 addressed to me and the President of the Security Council (S/2019/292), the Permanent Representative of Israel stated that on 20 January 2019 "the Quds Force of Iran's Islamic Revolutionary Guard Corps" launched a surface-to-surface missile from the area of Damascus towards the Israelioccupied Golan and that the missile had been transferred from the Islamic Republic of Iran to the Syrian Arab Republic after January 2016, in a manner inconsistent with resolution 2231 (2015). In his letter dated 12 April 2019 (S/2019/315), the Chargé d'affaires a.i. of the Permanent Mission of the Islamic Republic of Iran rejected "the allegations and fabrications" raised in the aforementioned letter from the Permanent Representative of Israel. If additional information becomes available, I will report back to the Council accordingly.
- 34. In a letter dated 28 February 2019 addressed to the Under-Secretary-General for Political and Peacebuilding Affairs, the Deputy Permanent Representative of the Permanent Mission of Israel to the United Nations conveyed, on behalf of her Government, that "the Iranian regime continues to bolster Hezbollah's weapons capabilities in various ways, including through the precision-guided missile conversion programme it has established inside civilian population centres across Lebanon, and the proliferation of mass weapons manufacturing capabilities to Hezbollah in Lebanon and the Syrian Arab Republic". In the letter it was alleged that reports over the past few months had revealed a drastic increase in weapons transfers from Tehran to Rafic Hariri International Airport in Beirut. It was further stated that the "Iranian regime is also providing Hezbollah with technical training and assistance to manufacture, maintain

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and use these weapons and advanced capabilities independently". The Secretariat has not been able at this stage to corroborate this information and will report to the Security Council if new information becomes available.

- 35. On 30 May 2019, in a televised speech, the political leader of Hamas in the Gaza Strip, Yahya Sinwar, stated that rockets launched at Tel Aviv in 2014 were either "provided by Iran" or "locally made, with financial and technical support from Iran". He also stated that, in case of another conflict, "Tel Aviv will be struck with several times the number of [missiles] than in 2014". He further stressed that "if not for the support of Iran for the resistance in Palestine, we would not have obtained these capabilities". In addition, in a video release earlier in May 2019, the spokesman of the Al-Quds Brigades of the Palestinian Islamic Jihad group claimed that a "new missile (Bader 3)" was developed with support of the Islamic Republic of Iran "in all disciplines". Those statements suggest that transfers of arms and related materiel from the Islamic Republic of Iran may have been undertaken after January 2016 contrary to the provisions of annex B to resolution 2231 (2015).
- 36. In my previous report, I brought to the attention of the Security Council the participation of an Iranian entity in the third Azerbaijan International Defence Exhibition, held in Baku in September 2018 (see S/2018/1089, para. 27). In January 2019, the Permanent Mission of Azerbaijan informed the Secretariat that the "Ministry of Defence of the Islamic Republic of Iran" only exhibited mock-up military products and unmanned aerial vehicles, which were exported back to the Islamic Republic of Iran upon completion of the exhibition. Meanwhile, information released by the organizer of the eighth International Defence Exhibition in Iraq, held in Baghdad in March 2019, indicates that at least one Iranian entity participated again in the exhibition. According to media coverage of that exhibition, the items displayed by that entity appear to have been various arms-related materiel, including rifle scopes and other optical devices. The Secretariat has raised this issue with the Permanent Mission of Iraq. The Permanent Mission of the Islamic Republic of Iran previously stated that it believed that no prior approval was required from the Council for that activity, given that the Islamic Republic of Iran retained ownership of the items exhibited. I intend to report thereon to the Council in due course as additional information becomes available.
- 37. In addition, in his above-mentioned identical letters dated 31 May 2019 (S/2019/452), the Permanent Representative of Israel stated that the Islamic Republic of Iran had transferred unmanned aerial vehicle technology to Iraq and that this transfer had been undertaken contrary to the provision of annex B to resolution 2231 (2015). In his letter dated 3 June 2019 addressed to me (S/2019/457), the Chargé d'affaires a.i. of the Permanent Mission of the Islamic Republic of Iran rejected this claim.

VI. Implementation of the travel ban and assets freeze provisions

38. In his above-mentioned letter dated 31 May 2019 (S/2019/452), the Permanent Representative of Israel stated that several entities also on the list maintained pursuant to resolution 2231 (2015) "have been violating [...] the assets freeze restrictions". In his letter dated 3 June 2019 addressed to me (S/2019/457), the Chargé d'affaires a.i. of the Permanent Mission of the Islamic Republic of Iran rejected this claim. The Secretariat is still analysing the information received during the reporting period,

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¹¹ Available at www.almayadeen.net/news/politics/955543/-العربية العربية - Available at www.almayadeen.net/news/politics/955543/- يخلت عنا-وإير ان-زو دتنا-ب

¹² Available at http://saraya.ps/play/2033/2019-5-8-2-9-20-قباسم-سر ايا-القدس-أبو-حمز ق-20%-8-3-2019-5-8-2-2-12. بتاريخ

including information that listed entities may have engaged in financial agreements with foreign entities, or changed name in order to thwart implementation of the assets freeze provisions. I intend to report back to the Security Council accordingly.

- 39. Since the issuance of my previous report, information has surfaced regarding additional foreign travel by Major General Soleimani. According to local media outlets, he reportedly travelled to Baghdad in late December 2018 and Lebanon in January 2019. The Secretariat sought clarification from the Permanent Mission of Iraq and Lebanon, and I will report back to the Security Council in due course.
- 40. Information available to the Secretariat suggests that another individual inscribed on the list maintained pursuant to resolution 2231 (2015) may have travelled during the reporting period to several countries. The lack of relevant identifying information for that individual, including date and place of birth and current function, may have hampered proper implementation of the travel ban provision. In this regard, updated and more detailed list entries would facilitate the implementation of the restrictive measures of annex B to resolution 2231 (2015).

VII. Secretariat support provided to the Security Council and its Facilitator for the implementation of resolution 2231 (2015)

- 41. The Security Council Affairs Division of the Department of Political and Peacebuilding Affairs has continued supporting the work of the Security Council, in close cooperation with the Facilitator for the implementation of resolution 2231 (2015). The Division has also continued to liaise with the Procurement Working Group of the Joint Commission on all matters related to the procurement channel. In addition, the Division has provided induction briefings for the incoming Facilitator and members of the Council to assist them in their work on the implementation of resolution 2231 (2015).
- 42. During the reporting period, the Division continued to respond to queries from Member States and to provide relevant support to Member States regarding the provisions of resolution 2231 (2015), in particular on the procedures for the submission of nuclear-related proposals and the review process.

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ANNEX 30



Advertisement

ASIA

Iranian support of Afghan Taliban targeted by new US sanctions

US-Iranian relations have taken a major plunge under President Trump and observers say Tehran has expanded its backing of the Afghan Taliban to stymie US action against the militant group in Afghanistan.



On Tuesday, the US Treasury Department issued a statement announcing new sanctions targeting Taliban members involved in suicide attacks and other lethal offensives in Afghanistan, along with Iranians who have provided material and financial support to the militant group.

Read more: US sanctions Iran networks accused of supporting child soldiers

Two Iranian nationals linked to the Quds Forces of Iran's Revolutionary Guard, two Pakistanis and four Afghans are among the newly sanctioned individuals, meaning the US government can now freeze any of their assets or property under American jurisdiction.



Iranian President Rouhani is coming under pressure at home as US sanctions cut off Iran from global capital

A different perspective on sanctions is that they highlight US frustration with Iran's role in Afghanistan.

Both Kabul and Washington consider Pakistan to be the Taliban's main supporter, and the country is a known sanctuary for militants.

However, in recent years the Taliban have extended links to other countries, including Iran and Russia, in an attempt to expand regional backing.

Read more: UN reports 8,000 Afghan civilian casualties so far in 2018

The group's former leader, Mullah Mansoor, was killed by a US drone strike in May 2016, shortly after returning to Pakistan from Iran.

"The US has enough to worry about with the support the Taliban derives from Pakistan," Michael Kugelman from the Washington-based Woodrow Wilson Center for Scholars said, adding the US does not want the Taliban to have a second external partner.

"But that's what seems to be evolving now as Iran often plays a double game in Afghanistan," Kugelman told DW. "Iran engages heavily with the government in Kabul, but at the same time it provides episodic levels of small arms support to the insurgents," he said.

ANNEX 31

Travelers



The Iranian Regime's Transfer of Arms to Proxy Groups and Ongoing Missile Development

FPC BRIEFING

BRIAN H. HOOK, SPECIAL REPRESENTATIVE FOR IRAN AND SENIOR POLICY ADVISOR TO THE SECRETARY OF STATE
JOINT BASE ANACOSTIA-BOLLING

WASHINGTON, DC

NOVEMBER 29, 2018

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Annex 31

MODERATOR: Good morning, ladies and gentlemen. Thank you for waiting. Your excellencies, members of the diplomatic corps, and members of the press, we're very pleased to welcome Special Representative Hook, who will be briefing today on the Iran Materiel Display. We will have brief remarks followed by questions. This event is on the record for the press. Let me turn it over to Special Representative Hook for his remarks. Thank you.

MR HOOK: Good morning, and thank you all for coming. I want to thank Secretary Mattis and the men and women of our armed forces for their brave service to our nation and for making this display possible. I want to recognize members of the diplomatic corps from several countries, including South Korea, Japan, Israel, the United Kingdom, France, Germany, the Netherlands, Italy, Bahrain, the United Arab Emirates, Yemen, and Afghanistan.

I want to also extend a special welcome to His Excellency Yousef Al Otaiba, the UAE ambassador; to Ambassador Ron Dermer of Israel; and to His Excellency Ambassador Shaikh Abdullah bin Rashed Al Khalifa of Bahrain. The United States deeply values our partnerships with the UAE and Bahrain and Israel, and I thank all of you for coming today.

In December of last year, UN Ambassador Nikki Haley stood here to highlight the dangers posed by Iran's dangerous proliferation of missiles across the Middle East. She highlighted how Iran was illegally providing weapons to Houthi militants in Yemen. It was a clear violation of UN resolutions then, and it remains so today. She also spoke of the threat these weapons pose to peace and security and to the innocent civilians caught in the crossfire.

Today, the United States is unveiling new evidence of Iran's ongoing missile proliferation. The Iranian threat is growing and we are accumulating risk of escalation in the region if we fail to act. In the time since Ambassador Haley's remarks, Iran's support of the Houthi militants has deepened. Its backing of terrorist activities across the world has increased, and its efforts to undermine regional stability have expanded.

The inventory in this display has expanded since December. This is a function of Iran's relentless commitment to put more weapons into the hands of even more of its proxies, regardless of the suffering. Iran has been prohibited by several UN resolutions from exporting arms for a decade. These restrictions were in place starting in 2006 under UN Security Council Resolution 1737 and 1747, which I helped to negotiate. The prohibitions have continued since 2015 under UN Annex 31

Resolution 2231. This display and the items we have added to it reveal an outlaw regime exporting arms as it pleases.

Today we are unveiling Iran's Sayyad 2C surface-to-air missile, which you see behind me. This missile was designed and manufactured in Iran, and the writing in Farsi on its side translates as "the hunter missile." The conspicuous Farsi markings is Iran's way of saying they don't mind being caught violating UN resolutions. The Sayyad 2C is one of two identical systems interdicted by Saudi Arabia in Yemen earlier this year. The Iranians wanted to deliver this to the Houthis, who would have used it to target coalition aircraft up to 46 miles away. Given the Houthis' reckless use of other advanced weapons provided by the Iranians, these missiles pose a clear and present danger to civil aviation in the region.

We are also unveiling anti-tank guided missiles. On display in front of me are two of the three types of anti-tank guided missiles that Iran produces and transfers: the Toophan and the Tosan. One of the Toophan rockets that is newly added was seized in an arms cache aboard a dhow in the Arabian Sea. The other was found by Saudi Arabia during a raid in Yemen.

The Tosan rocket on display is also new, and is one of five that were seized in a stockpile by Saudi forces in Yemen. These missiles enhance the Houthis' capabilities and further intensify the conflict in Yemen.

Fajr rockets have also been added to the display and are located next the anti-tank guided missiles. These weapons were recovered in Helmand, near Kandahar Air Field, by the Afghan National Army from the Taliban. Iran has been providing material support to the Taliban since at least 2007. These same rockets have been used by Hamas in the past.

To my left is a new unmanned aerial system: the Shahed 123. We have debris from a Shahed which was recovered by coalition forces in Afghanistan after it crashed, as well as Shahed components that were interdicted in Yemen in early 2018. This missile system is primarily designed to conduct covert reconnaissance and surveillance missions, potentially putting American and coalition forces at risk. There are several new small arms of Iranian origin included here, such as sniper rifles, RPGs, AK variants, and hand grenades. These have been provided to us by Bahrain. Iran gave these weapons to Shia militant groups to carry out attacks against the government. I would like to thank Foreign Minister Sheikh Khalid bin Hahmed Al Khalifa for his commitment to exposing the Iranian regime's activities.

In 2016, senior Iran Revolutionary Guard commander Saeed Qassimi publicly called Bahrain an Iranian province and said Iran is a base, quote, "for the support of revolution in Bahrain." In a microcosm, this is exactly how Iran destabilizes the Middle East. But the United States stands with Bahrain to protect its sovereignty, and we will continue to work together to identify and intercept arms shipments in the region. This ongoing collaboration with Bahrain, which is home to the U.S. Fifth Fleet, is critical to the safety of the region.

I want to also highlight the recovered pieces of an Iranian Qiam missile fired by the Houthis into Saudi Arabia, which Ambassador Haley unveiled last December. The missile's intended target was the civilian airport in Riyadh, a G20 airport through which tens of thousands of people travel each day. Imagine a missile of this size and power hitting a civilian aircraft or terminal one at the airport.

The new weapons we are disclosing today illustrate the scale of Iran's destructive role across the region. The same kind of rockets here today could tomorrow land in a public market in Kabul or an international airport. As the Bahraini victims of attacks carried out with some of the weapons here could tell you, the Iranian regime uses arms to export revolution, prolong crises, and inflict death and suffering. The tools of Tehran's foreign policy are here before you today. Tehran is intent on increasing the lethality and reach of these weapons to deepen its presence throughout the region.

This is why it is especially important that we get the de-escalation of conflicts in places like Yemen right. Secretaries Pompeo and Mattis have called for a ceasefire in Yemen, and the United States is committed to the efforts led by UN Special Envoy Martin Griffiths. Iran has no legitimate interest in Yemen, other than to expand its sphere of influence and to create a Shia corridor of control. Although Iran's role in Yemen has been underreported by the media, there is no question Iran has intensified the humanitarian catastrophe and prolonged the conflict. Iran has been funding, arming, and training the Houthis, which has allowed them to continue to fight well beyond what would have made any sense at all.

The United States and our coalition partners have provided billions in aid to the Yemenis, while Iran has provided nothing but weapons and fighters. Just today Houthi rebels fired missiles into Saudi Arabia. This strike is an example of the destabilizing agenda the Houthis are pursuing in partnership with Iran. They act in this way even as UN Special Envoy Martin Griffiths is exerting maximum effort with our full support to bring the parties together for talks.

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In the months ahead, we must be careful not to affirm Iran's role as a legitimate political actor in Yemen. The clerics in Tehran will exploit any opening to gain a foothold in Yemen, a place where it has no business being in to begin with. Historically, there has not been a religious connection between Iran's Twelver Shiites and Yemen's Houthis, who are Fiver Shiites. In fact, Iran's religious authorities have long been dismissive of the Fiver Shiites.

Just imagine what Yemen would look like in the future with an entrenched and enduring Iranian presence. We already know how this movie ends, and we cannot watch a new version of Lebanese Hizballah slowly emerge in the Arabian Peninsula. Since the end of 2006, Iran has supplied Hizballah with thousands of precision rockets, missiles, and small arms. It now has more than 100,000 rockets or missiles in its stockpile. If Iran were allowed to operate with similar freedom in Yemen, we can expect the Lebanization of Yemen. The Houthis have launched Iranian-origin missiles at Riyadh, with an estimated range of 560 miles. Iran has funded the Houthis with hundreds of millions of dollars since the conflict broke out. With Iran's ongoing help, the Houthi threat will grow as their capabilities steadily expand.

Iran could use such newfound influence as a power broker and arms dealer to threaten our allies and partners in the region and unravel the stability that we have worked so hard to achieve in the Gulf. It could also create challenges in the Bab al-Mandab Strait in much the same way Tehran leverages its proximity to the Strait of Hormuz. An estimated 4.5 million barrels of oil per day transits through the Bab al-Mandab, while about 17 million barrels a day flow through the Strait of Hormuz. Iran has threatened repeatedly over many years to close the Strait of Hormuz. Give Iran a free hand in Yemen and it can threaten to close both straits and commit acts of maritime aggression with impunity. Just as we must constrain Iranian expansion in Syria, the Golan Heights, and in Iraq, we must also prevent Iran from entrenching itself in Yemen.

I want to now highlight the Iranian regime's investment in missile testing and development. It is increasing. The regime's pace of missile launches did not diminish after implementation of the Iran nuclear deal in January of 2016. Iran has conducted numerous ballistic missile launches and space launches since this time as it continues to prioritize missile development as a tool of revolution. We assess that in January of 2017, Iran launched a medium-range missile, believed to be the Khorramshahr. It can carry a payload of more than 500 kilograms and could be used to carry nuclear warheads. Its suspected range is over 1,200 miles, which is far enough to target some European capitals. Iran's ongoing missile development puts Europe in its range.

Iran has the largest ballistic missile force in the region, with more than 10 ballistic missile systems either in its inventory or under development. Any environment where Iran is able to operate freely can become a forward-deployed missile base for such systems and for many other kinds of weapons that you see here today. This threatens Israel and other partners, especially Saudi Arabia and the UAE.

Just this month, rockets rained down on Israel from territory controlled by Iran's Palestinian partner Hamas. In Lebanon, we have evidence that Iran is helping Hizballah build missile production facilities. In Iraq, credible reports indicate that Iran is transferring ballistic missiles to Shia militia groups. This comes as these militias carried out highly provocative attacks on U.S. diplomatic facilities in Baghdad and Basra in September, which we know that Iran did nothing to stop.

Iran is also dumping cash and forces into conflict zones to support its proxies from the Levant to the Arabian Peninsula. It has extended \$4.6 billion in lines of credit to the Assad regime, provided more than \$100 million to Palestinian groups including Hamas and Palestinian Islamic Jihad, and manages as many as 10,000 Shia fighters in Syria, some of whom are children as young as 12 years old.

As the world strives toward peace and security in the Middle East, we are working to reverse advances made by Iran and its proxies over the last several years. In fact, we are using the full scope of our sanctions authorities to inflict real costs on Iran. In July of 2017, we sanctioned 18 key individuals and entities for supporting Iran's ballistic missile program. In January, the U.S. designated four additional entities. In May, we designated five Iranians for providing missile expertise to the Houthis. These individuals were also responsible for transferring weapons to Yemen on behalf of the Qods Force.

While we are sanctioning Iran's missile activity and weapons transfers, our economic pressure is much broader. Earlier this month, the United States reimposed the remaining sanctions that were lifted by the Iran deal. This is the largest ever single-day action targeting the Iranian regime. Our sanctions went back into place on more than 700 individuals, entities, vessels, and aircraft. This sanctions campaign puts us in a much stronger position to be confronting the same threats that I have described to you today. Our maximum pressure campaign will continue until Iran – the Iranian regime – decides to change its destructive policies. The regime can change its policies, or it can continue to watch its economy crumble.

For 39 years, the Iranian regime has shaped events in the region through illegal weapons transfers, proxies, and terror – a deadly trifecta. President Trump has made it clear that the United States will no longer tolerate the status quo. We seek a new and comprehensive deal with Iran that addresses the full range of Iran's destructive activities in the region. As Secretary Pompeo said in his speech announcing our new strategy in May, Iran must stop testing and proliferating missiles, stop launching and developing nuclear-capable missiles, and stop supporting militias in Lebanon, Syria, Iraq, Bahrain, and Yemen. Iran needs to start behaving like a normal country and surrender its title as the world's number one sponsor of terrorism.

As the special representative for Iran, I have met with partners and allies across the globe to share the concerns that I have shared today and explain the purposes of our pressure campaign. Most of the countries I meet with share our assessment of the Iranian threat, and I invite any who remain on the fence to visit this weapons display to see the evidence for themselves. Delegations from nearly 70 countries have already visited here, and we welcome more.

Despite this clear evidence, not all countries are convinced of the need to take action. Too many remain on the sidelines, arguing that now is not the time to pressure the regime. But this approach has enabled – and will continue to enable – Tehran to expand its presence in the region and become a more destructive force in the Middle East, to say nothing of Europe. The current international environment has created unacceptably low expectations for the regime in Tehran. If, as some people argue, the demands of the United States for the Iranian regime seem too many, it is because Iran's malign activities are too numerous. If our demands seem too unrealistic, it is because the world's expectations are too low. We cannot simply admire the Iranian threat any longer.

The United States has a positive vision for the Middle East, where every state retains the right to defend itself. But no outlaw regime, like the one in Tehran, can freely undermine the sovereignty of other nations. This is not foreign policy; it is state-sponsored, revolutionary terrorism. The Middle East will be best served when an Iranian Government respects the rule of law, abides by fundamental standards and commitments, and rejects terrorism.

It is now up to the supreme leader to do something out of character and act in the interests of the Iranian people. Is it better to remain isolated from the world as an international pariah or to benefit and prosper from inclusion in the international community? It should not be a difficult choice. There is nothing noble about driving a great and proud nation into the ground.

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The Iranian people have a rich legacy and a culture dating back to Cyrus the Great, and they deserve a government that represents their interests and not just the interests of their corrupt leaders. This room could just as easily been used to display the artifacts from Persian history or renowned contemporary artists from Iran, but instead we see only missiles, rockets, and small arms. The clerical regime in Iran has chosen this path, but the Iranian people are not destined to follow it. If Tehran changes its policies, a better future awaits the Iranian people.

History shows us clearly that America has no permanent enemies. Throughout our history, enemies torn apart by conflict often become the best allies united in peace, as Japan and others can attest. We hope for the same future with the Iranian people. The choice is now for their government to make. Thank you.

MODERATOR: Thank you very much. We have time for a few questions. May I ask please that you wait for a microphone, that you state your name and outlet, and please – so that we can get as many questions as possible – limit to one question. And I'll also say that if you have very technical questions about the equipment, we may take those for later. And we'll start with Reuters please.

QUESTION: Idrees Ali from Reuters. One of the missiles that you mentioned here was launched five days after Ambassador Haley gave her presentation last year. What benefit do you think there is of showing these weapons publicly, and how do you respond to critics who say this is simply a political stunt and propaganda that actually increases tensions in the region?

MR HOOK: I haven't heard anybody say this is a political stunt. This is simply putting out in broad daylight Iran's missiles and small arms and rockets and UAVs and drones. That missile right there landed right next to Riyadh's international airport, and it's very important for nations to see with their own eyes that this is a grave and escalating threat. We are one missile attack away from a regional conflict. These missiles – we've been very lucky – for the most part have not hit their intended target. But luck is not a strategy, and the international community needs to do more to get after the proliferation of Iran's missiles.

The Iran nuclear deal has created a climate where so long as Iran is in compliance with a nonproliferation deal of modest gains and temporary benefits, that so long as Iran is in compliance with this deal, somehow they're in compliance with all sorts of international norms and standards.

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The fact of the matter is, is that during the implementation of the Iran nuclear deal, Iran has expanded its threats to peace and security in almost every category: terrorism, terror finance, cyber attacks, maritime aggression, human rights violations. And so we are now out of the deal and it gives us a great deal of freedom and leverage to address the entire range of Iran's threats to peace and security.

And so our pressure campaign that the President and the Secretary have put in place really yield two very, very concrete benefits: One, it will starve the regime of the revenue it needs to destabilize the Middle East and terrorize other nations. We need to starve these militias of funding. The other thing it does is it creates pressure on the regime to come back to the negotiating table so that we can get a new and better deal that doesn't just address the nuclear threat that Iran presents, but also addresses the entire range: the terrorism, the nuclear threat, the cyber aggression, maritime aggression, the entire range. And we are very confident that we have the right strategy with the right diplomacy in place.

MODERATOR: Nadia, please.

QUESTION: Thank you. Nadia Bilbassy with Al Arabiya. Now that you're showing us an expanded evidence of Iran involvement, what mechanism do you have to stop these weapons from reaching proxies, in particular the Houthis in Yemen? And what leverage do you have on allied countries like Iraq, for example? You just said that there's weapons that goes through to the Shiite militias in Iraq, and Iraq is a close ally of the United States.

MR HOOK: Right.

QUESTION: Thank you.

MR HOOK: Now that our sanctions are back in place, the President and the Secretary of State will be resolutely focused on sanctions enforcement, and we are doing everything we can to deter and discover sanctions evasion. All of our diplomatic posts in the region, especially in the Middle East and in Europe, are putting in place strategies to detect and to prevent sanctions evasion, and that includes the missile proliferation, the missile shipments that you described.

It also is very much going after the money. Eighty percent of Iran's revenue comes from oil exports. We have taken over a million barrels of oil off of Iran's export list and many more barrels will be coming off very soon. And so we have – our maximum economic pressure campaign is

focused on the economics. We also need to be restoring deterrents. This display today helps educate people on this clear and present threat that we face. And we urge all nations, especially the European Union, to move missile sanctions through the European Union so that we can start managing the risk of a regional conflict through missile proliferation.

MODERATOR: Let me take VOA, please.

QUESTION: Hi, I'm with the VOA, Farhad Pouladi, Persian Service. Two questions: First of all, are there more actions coming in the way towards the Iranian authorities to stop their malign activities? If you can go briefly over that, whether they are from Treasury or from the Pentagon. And what leverage do you have to convince others to join the campaign of maximum pressure against Iran? Thank you.

MR HOOK: Well, on the first question, we never give advance notice on our sanctions. That's something which is held very closely until they're announced. What I can say is that since we have reimposed our sanctions on November 5th, we have already done two rounds of designations targeting individuals and entities who are trying to evade sanctions, and that we worked very closely with Secretary Mnuchin at Treasury on these efforts. And so yes, there will be more sanctions. We have already done two rounds just since we've restored the sanctions lifted under the Iran nuclear deal.

In terms of leverage, I think we've been very successful so far with putting in place an economic pressure that is going to drive the Iranian economy into a place that's going to really force the regime to decide: Is the cost-benefit of their revolutionary behavior in their favor? Our policy in the Middle East is to reverse the balance of power in favor of our friends and our partners. Iran has had a really good run over many years, partly enabled by the cover that the Iran nuclear deal provided.

And so I think now we are in a much better position with our regional partners, with the United States. We have had enormous cooperation from European companies. Over 100 major firms have announced that they are ending business in Iran and, if given the choice between doing business in the United States and doing business in Iran, it's the fastest decision you'll ever make as an executive. And so we have been very pleased with the progress we've made so far on our sanctions.

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MODERATOR: Let me take AFP, and then I will take one last over here.

QUESTION: Thank you. Tom Watkins, AFP. Can you explain a little bit about the timing of today's presentation? Why now, why today? As you know, there's obviously been a tremendous amount of criticism in the media recently about Saudi Arabia. Is this to try and sort of shift the narrative a bit, or can you just talk about why you're doing this again? Thank you.

MR HOOK: Well, we're doing it again because our inventory has expanded. That's just the nature of this regime. As this regime continues its aggressive and revolutionary foreign policy, we interdict more and more equipment. And so at some point, we hope to have this room no longer build its inventory. We need to reduce the inventory here. And so it's just a function of Iran's campaign to export arms in violation of UN embargoes across the Middle East.

In terms of the timing, it's – there isn't anything tied to what's happening in Saudi Arabia. The Secretary of State and the Secretary of Defense testified yesterday before Congress, had a very fulsome discussion about Saudi Arabia. Secretary Pompeo published an op-ed in The Wall Street Journal yesterday explaining our policy. And so today, of course it's related. Many of the missiles here were interdicted by Saudi Arabia, which illustrates just how much of a threat it's under and how much of a threat UAE and Bahrain and Israel are under because of these kinds of weapons, whether it's in Syria, Lebanon, Iraq, or Yemen. And we need to get serious about going after this stuff.

MODERATOR: So our last question is Al Hurra.

QUESTION: Hisham Bourar, Al Hurra TV. First I have a question, but I want to follow up on the AFP question first. To what extent the vote yesterday in the Senate to sort of stop the support for Saudi Arabia in Yemen hurt your efforts to curb these Iranian activities?

And my question is: You spoke about the risk accumulating if you fail to act. What would that look like? Would it look like a military strike at some point? And given that you have tried the sanctions and the maximum pressure, could anything short of a military strike against Iran stop Iran from continuing its proliferation?

MR HOOK: On the first question about Yemen, abandoning Yemen right now would do immense damage to U.S. national security interests and to those of our partners in the Middle East. Right now in Yemen we are carrying out three vital missions. We are trying to assist the coalition in

fighting Iranian-backed Houthi fighters, we are decapitating al-Qaida in the Arabian Peninsula, and we are promoting Americans – we are protecting Americans who are working in Saudi Arabia or transiting the strategic waterways around Yemen.

We definitely want to bolster the conditions for peace in Yemen. We have a number of goals which I would describe as working in parallel tracks. Secretary Mattis has talked about the need to build capacity of legitimate Yemeni security forces. We need to strengthen the defensive capabilities of our regional partners. We need to support our partners' right to defend themselves against Houthi attacks supported by the Iranian regime. And at the same time, we are calling for an urgent end to the fighting, and we hope that all parties will attend the consultations next month in Sweden under the good offices of UN Special Representative Martin Griffiths.

What was the second part of your question?

QUESTION: The other question, you spoke about, if the risk is actually accumulating if you fail to act...

MODERATOR: Please wait for the mic, sir.

QUESTION: ...would that take the form of a military strike? Is it – is the – going to war with Iran an option given that the sanctions and the maximum pressure policies have failed so far to curb Iran and to stop it from smuggling weapons to these militias?

MR HOOK: After the Shia militia attacks on our diplomatic facilities in Basra and Baghdad, the President put out a statement that promised swift and decisive action if any of our diplomatic facilities or diplomats are attacked or injured. And so we have been very clear with the Iranian regime that we will not hesitate to use military force when our interests are threatened. I think they understand that. I think they understand that very clearly. I think right now, while we have the military option on the table, our preference is to use all of the tools at our disposal diplomatically. And as I said earlier, being out of the Iran deal has given us a great deal of diplomatic freedom to address the full range of Iran's threats.

And so we are working very closely with partners around the world. We have had road show teams from State and Treasury that have visited I think almost 40 countries now, and that's helping to explain our sanctions regime and its purposes. And we've been very pleased with the

progress that we've made so far. There's a lot of work that remains to be done, and one of the messages that we've been consistently delivering is that preserving the Iran nuclear deal cannot come at the expense of regional stability, and just because Iran is in compliance with the deal does not mean that everything else is fine. And as we see here today and the missile here behind me, this is a grave and escalating threat that we must do more to address.

Thank you very much.

MODERATOR: Thank you. That is the conclusion of our press conference. I want to thank Special Representative Hook and also want to thank the Department of Defense and our hosts here at Joint Base Anacostia-Bolling. If I could ask the media please to hold your seats for a moment, we're going to have some instructions for you, and then we can allow the dip corps to depart. Thank you.

ANNEX 32

Treasury and the Terrorist Financing Targeting Center Partners

Sanction Taliban Facilitators and their Iranian Supporters

October 23, 2018

RIYADH – Today, the seven member nations of the Terrorist Financing Targeting Center (TFTC) took significant actions to expose and disrupt Taliban actors and their Iranian sponsors that seek to undermine the security of the Afghan Government. The TFTC Member States designated nine individuals associated with the Taliban, including those facilitating Iranian support to bolster the terrorist group. The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) designated these key Taliban members and their Iranian regime sponsors in partnership with the other TFTC Member States: the Kingdom of Saudi Arabia, the Kingdom of Bahrain, the State of Kuwait, the Sultanate of Oman, the State of Qatar, and the United Arab Emirates (UAE).

"The TFTC has again demonstrated its tremendous value to international security by disrupting and exposing key Taliban members who are involved in suicide attacks, and other lethal activities. We are also targeting key Iranian sponsors providing financial and material support to the Taliban," said Treasury Secretary Steven Mnuchin. "Iran's provision of military training, financing, and weapons to the Taliban is yet another example of Tehran's blatant regional meddling and support for terrorism. The United States and our partners will not tolerate the Iranian regime exploiting Afghanistan to further their destabilizing behavior. Iran's support to the Taliban stands in stark violation of United Nations Security Council Resolutions and epitomizes the regime's utter disregard for fundamental international norms."

Specifically, OFAC, together with TFTC Gulf partners, designated Mohammad Ebrahim Owhadi (also known as Jalal Vahedi), Esma'il Razavi, Abdullah Samad Faroqui, Mohammad Daoud Muzzamil, Abdul Rahim Manan, Abdul Aziz (also known as Aziz Shah Zamani), Sadr Ibrahim, and Hafiz Majid pursuant to Executive Order 13224, which targets terrorists and those providing support to terrorists or acts of terrorism. In addition, TFTC Member States also designated Naim Barich, who is managing the Taliban's relationship with Iran. Naim Barich was previously designated by the United States under the Foreign Narcotics Kingpin Designation Act (Kingpin Act) on November 15, 2012.

This is the third coordinated TFTC designation action since the Center was announced on May 21, 2017. The TFTC is a bold and historic effort to expand and strengthen the seven member states' cooperation to counter the financing of terrorism. The TFTC facilitates coordinated disruptive actions, sharing of financial intelligence information,

and member state capacity-building to target terrorist financing networks and related activities that pose national security threats to TFTC members.

These designations support President Trump's South Asia Strategy by exposing and disrupting actors seeking to undermine the Afghan government, and disrupting terrorist safe havens in South Asia. We will continue to actively target those providing financial support to the Taliban until there is a negotiated peace settlement. The inclusion of Iranian Islamic Revolutionary Guards Corps – Qods Force (IRGC-QF) members supporting Taliban elements in this action highlights the scope of the Iranian regime's malign activities and regionally destabilizing behavior, and furthers the U.S. maximum pressure campaign against Iran.

MOHAMMAD EBRAHIM OWHADI (OWHADI)

Mohammad Ebrahim Owhadi was designated for acting for or on behalf of IRGC-QF and for assisting in, sponsoring, or providing financial, material, or technological support for, or financial or other services to or in support of, the Taliban.

In 2017, Owhadi, an IRGC-QF officer assigned to Birjand, Iran, reached an agreement with the Taliban Deputy Shadow Governor for Herat Province, Abdullah Samad Faroqui (Samad), also designated today, that the IRGC-QF would provide Samad's forces with military and financial assistance in return for Samad's forces attacking the Afghan government in Herat Province, Afghanistan. This agreement was made in Birjand, Iran, and included the IRGC-QF providing training to Samad's militants at IRGC-QF training facilities near Birjand. As of mid-2017, both parties appeared to be honoring their commitments, with the IRGC-QF providing a basic military training program for Samad's forces.

In 2016, Owhadi worked with Samad to discuss Iranian support to the Taliban. This included a compound built in Iran to house Taliban fighters and their families that had been injured or killed. Owhadi also inquired with the Taliban about progress on sending personnel to Iran for training.

As of 2014, Owhadi was the second deputy at the IRGC-QF base in Birjand, Iran, and was in charge of providing weapons and ammunition to opponents of the Afghan Government.

As of 2008, Owhadi was an official at an IRGC base in Nehbandan, Iran, where several youth between the ages of twelve and fifteen years old were being trained in terrorist and suicide attacks. Officials stationed at Nehbandan were subordinate to IRGC officials in Birjand.

ESMA'IL RAZAVI (RAZAVI)

Esma'il Razavi was designated for acting for or on behalf of IRGC-QF and for assisting in, sponsoring, or providing financial, material, or technological support for, or financial or other services to or in support of, the Taliban.

Razavi was in charge of the training center at the IRGC-QF base in Birjand, Iran, which as of 2014, provided training, intelligence, and weapons to Taliban forces in Farah, Ghor, Badhis, and Helmand Provinces, Afghanistan. In 2017, Razavi traveled to Farah Province, Afghanistan, where he encouraged the Taliban to conduct attacks in the border region of Afghanistan. In addition, he ordered a Taliban commander to disrupt the ongoing construction of a dam in western Afghanistan and appointed Mohammad Daoud Muzzamil, also designated today, to find two suicide bombers to assassinate someone working on behalf of the Afghan government in the southwestern provinces of Afghanistan. Razavi also promised to provide Abdul Rahim Manan, the Helmand Shadow Governor also designated today, with anti-aircraft weapons.

In 2008, as the senior IRGC-QF official in Birjand, his base supported anti-coalition militants in Farah and Herat Provinces.

ABDULLAH SAMAD FAROQUI (SAMAD)

Abdullah Samad Faroqui was designated for acting for or on behalf of the Taliban.

As of early 2018, Samad, the Taliban's Deputy Shadow Governor for Herat Province, Afghanistan, was one of several Taliban officials maintaining a relationship with IRGC-QF officials based in Birjand in order to accept weapons and military aid from Iran for the Taliban. As of early 2018, Samad received thousands of kilograms of explosives from the IRGC that he planned to distribute to Taliban commanders throughout Herat Province, Afghanistan. Samad visited a training camp in Birjand, Iran, where the IRGC was training Taliban fighters to attack a proposed pipeline that would run through Afghanistan. Samad promised to distribute Iranian provided funds to the fighters' families.

In early 2006, Samad was part of a group of Taliban leaders that traveled to Zahedan, Iran, to meet with Iranian intelligence officials. Samad was a representative of Mullah Obaidullah, a now deceased Senior Taliban leader. The Iranian officials gave money and equipment to the group of Taliban leaders, who agreed to carry out terrorist attacks targeting reconstruction efforts in western Afghanistan.

Additionally, in mid-2017, Samad received money from the IRGC through a hawala in Herat, City, Herat Province, Afghanistan.

MOHAMMAD DAOUD MUZZAMIL (DAOUD)

Mohammad Daoud Muzzamil was designated for acting for or on behalf of the Taliban.

As of late 2017, Daoud, the former Taliban Deputy Shadow Governor for Helmand Province Afghanistan, had been appointed the Shadow Governor for Farah Province, Afghanistan. In early 2017, Daoud was appointed as leader of the Taliban's Quetta Military Commission.

ABDUL RAHIM MANAN (RAHIM)

Abdul Rahim Manan was designated for acting for or on behalf of the Taliban.

Rahim is the Taliban's Shadow Governor for Helmand Province, Afghanistan, who provided a large number of Taliban fighters to attack Afghan government forces. As of early 2018, Rahim was a Taliban leader responsible for coordinating and organizing Taliban operations in Afghanistan and has ties to the IRGC.

In late 2007, Rahim oversaw the logistics of lethal aid transfers from the IRGC-QF to the Taliban. Rahim, a senior Taliban commander, worked with Iran's primary interlocutor with the Taliban to request supplies and coordinate lethal aid shipments.

NAIM BARICH (BARICH)

Naim Barich was designated by TFTC Member states for action for or on behalf of the Taliban. Barich was designated by OFAC on November 15, 2012, pursuant to the Kingpin Act, for the significant role he plays in international narcotics trafficking. Barich also appears on the United Nations Security Council Resolution 1988 Sanctions List due to his support for the Taliban.

As of late 2017, Barich was the Taliban shadow minister of foreign affairs and managed Taliban relations with Iran.

Since at least 2006, IRGC-QF officers provided weapons to Barich.

ABDUL AZIZ (AZIZ)

Abdul Aziz was designated for assisting in, sponsoring, or providing financial, material, or technological support for, or financial or other services to or in support of the Taliban.

As of early 2017, Abdul Aziz had a business relationship with two Taliban commanders whereby he arranged for these commanders' narcotics to be transported from Afghanistan, through Pakistan and Iran, to Europe and Africa. In exchange, these Taliban commanders provided protection for one of Abdul Aziz's narcotics processing facilities in Helmand Province, Afghanistan. As of late 2016, he provided financial

support to Taliban senior leadership in Pakistan and paid certain travel expenses for Taliban commanders. Aziz has narcotics trafficking partners in Europe, Africa, and East Asia. Previously, Aziz smuggled precious gemstones from Afghanistan for international sale and donated a large portion of these profits to Taliban senior leadership in Pakistan. Aziz provides funds to the Taliban's Quetta Shura every year and travels to the Gulf to collect money from other international narcotics dealers to provide to the Taliban Quetta Shura.

In addition, in late February 2017, Aziz planned to travel to China to establish a company, probably related to a marble quarrying venture in Pakistan. Aziz had traveled recently to review the marble venture. As of late July 2017, Aziz planned to bring a collection of green, white, and pink onyx with him when he traveled to the UAE.

Aziz, a Pakistan-based narcotics trafficker, has served as a middleman for the sale of opium from Afghan farmers to Iranian and Turkish narcotics traffickers.

SADR IBRAHIM (IBRAHIM)

Sadr Ibrahim was designated for acting for or on behalf of the Taliban.

For the past four years, Ibrahim served as the leader of the Taliban's Military Commission. He previously served on the Taliban's Peshawar Military Commission and as a Defense Ministry official during the Taliban's rule in Afghanistan.

In 2018, Iranian officials agreed to provide Ibrahim with monetary support and individualized training in order to prevent a possible tracing back to Iran. Iranian trainers would help build Taliban tactical and combat capabilities.

HAFIZ MAJID (MAJID)

Hafiz Majid was designated for acting for or on behalf of the Taliban.

Majid is a Taliban senior Shura and Military Commission Member, and oversees all suicide attacks in Afghanistan.

Majid was an advisor to now deceased former leader of the Taliban, Mullah Omar. During the Taliban regime era, Majid was the Taliban's security chief (Chief of Police) for Kandahar Province.

<u>Identifying information on the individuals designated today.</u>

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