



# INTERNATIONAL COURT OF JUSTICE

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**Communiqué**

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United States Diplomatic and Consular Staff in Tehran  
(United States of America v. Iran)

United States files Memorial

The following information is communicated to the press by the Registry of the International Court of Justice:

Following the delivery on 15 December 1979 of the Order indicating provisional measures, the proceedings have taken the course laid down in the Statute and the Rules of Court.

By an Order of 24 December 1979 the President of the Court fixed 15 January 1980 as the time-limit for the filing of a Memorial by the United States, and 18 February 1980 as that for the filing of a Counter-Memorial by the Islamic Republic of Iran, with liberty for the Islamic Republic, if it appointed an agent for the purpose of appearing before the Court and presenting its observations on the case, to apply for reconsideration of the latter time-limit.

The United States has filed its Memorial within the time-limit appointed.

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The proceedings on the question of provisional measures are summarized below. This summary is given for the convenience of the press and in no way involves the responsibility of the Court.

On 29 November 1979 the Government of the United States of America instituted proceedings against Iran in a case arising out of the situation at its embassy in Tehran and the seizure and detention as hostages of United States diplomatic and consular staff in Iran. It requested the Court to adjudge and declare, *inter alia*, that the Government of Iran had violated its international legal obligations to the United States as provided by various treaties, was under a particular obligation immediately to secure the release of all United States nationals detained at the embassy and to assure that they and all other United States nationals in Iran were allowed to leave the country safely, should pay the United States reparation for the said violations and should submit the persons responsible for the crimes committed to the competent authorities for the purpose of prosecution.

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In its Application the United States founded the Court's jurisdiction on the Vienna Conventions of 1961 and 1963 on, respectively, Diplomatic and Consular Relations, and Article I of their Optional Protocols concerning the compulsory settlement of disputes, Article XXI(2) of the Treaty of Amity, Economic Relations and Consular Rights between the United States of America and Iran of 1955 and Article 13(1) of the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, of 1973.

On the same date the United States filed a request for the indication of provisional measures in accordance with Article 41 of the Statute of the Court.

The Application and request were immediately communicated to the Minister for Foreign Affairs of Iran, and on 30 November and 3 December 1979 the Court informed the United States and Iran by telegram of its readiness to hear their observations concerning the request for the indication of provisional measures.

On 9 December 1979 the Government of Iran, in a letter to the Court, expressed the opinion that the Court could not, and should not, take cognizance of the case. In its view the question of the hostages represented "only a marginal and secondary aspect of an overall problem", examination of the repercussions of the Islamic revolution of Iran was "a matter essentially and directly within the national sovereignty of Iran", the request for the indication of provisional measures implied the Court's passing judgment on the actual substance of the case, and such measures, intended to protect the interests of the parties, could not be unilateral as in the request submitted by the United States.

On 10 December 1979 the Court held a public hearing at which arguments and submissions were put forward on behalf of the United States but at which no representative of the Government of Iran appeared. In the submissions the Court was requested to indicate inter alia that the Government of Iran should immediately release all hostages of United States nationality and facilitate their departure from Iran and that of all other United States officials; immediately clear the premises of the United States embassy, chancery and consulate in Tehran of all persons whose presence was not authorized by the United States chargé d'affaires and restore the premises to United States control; ensure that all persons attached to the United States embassy and consulate were accorded full freedom of movement as well as the privileges and immunities to which they were entitled, necessary to the discharge of their functions; not place on trial any person attached to the embassy or consulates of the United States; neither detain nor permit the detention of any such person in connection with any proceedings; and neither take nor permit action that would threaten the lives, safety or well-being of the hostages.

Before, during and after the hearing, questions were put to, and information requested of the Agent of the United States by the Court and some of its Members, and replies were duly furnished.

On 15 December 1979 the Court made an Order, which was read at a public sitting on that date, stating inter alia that:

- from the information before the Court, and from the terms of Article I of each of the above-mentioned Protocols to the Vienna Conventions of 1961 and 1963 on Diplomatic or Consular Relations, it was manifest that the provisions of those articles furnished a

basis...

basis on which its jurisdiction might be founded with regard to the claims of the United States under those conventions;

- the seizure of the United States embassy and consulates and the detention of internationally protected persons as hostages could not, having regard to the importance of the legal principles involved, be regarded as something "secondary" or "marginal";
- a dispute concerning diplomatic and consular premises and the detention of internationally protected persons fell by its very nature within international jurisdiction;
- the purpose of the United States in its request appeared to be not to obtain a judgment on the merits but to preserve, while the case was pending, the substance of the rights it claimed;
- while the Court must at all times be alert to protect the rights of both parties in proceedings before it, that did not mean it was precluded from entertaining a request from one party simply because the measures sought were unilateral;
- accordingly the Court had found no legal grounds for not entertaining the United States request;
- it considered that there was no more fundamental prerequisite for the conduct of relations between States than the inviolability of diplomatic envoys and embassies, and that respect for the privileges and immunities of consular staff and the inviolability of consular premises were likewise principles deep-rooted in international law;
- taking into account the facts alleged by the United States and the rights it sought to have protected, and noting that the continuance of the situation in question exposed human beings to privation, hardship, anguish and even danger to life and health, the Court found that the circumstances required it to indicate provisional measures, as provided by Article 41 of its Statute, in order to preserve the rights claimed;
- its decision in no way prejudged the question of its jurisdiction to deal with the merits of the case, or any question relating to the merits themselves, and left unaffected Iran's right to submit arguments against its jurisdiction or in respect of the merits.

The Court, unanimously, indicated, pending its final decision in the case, the following provisional measures:

- A. (i) The Government of the Islamic Republic of Iran should immediately ensure that the premises of the United States embassy, chancery and consulates be restored to the possession of the United States authorities under their exclusive control, and should ensure their inviolability and effective protection as provided for by the treaties in force between the two States, and by general international law;
- (ii) The Government of the Islamic Republic of Iran should ensure the immediate release, without any exception, of all persons of United States nationality who are or have been held in the embassy of the United States of America or in the Ministry of Foreign Affairs in Tehran, or have been held as hostages elsewhere,

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and afford full protection to all such persons, in accordance with the treaties in force between the two States, and with general international law;

(iii) The Government of the Islamic Republic of Iran should, as from that moment, afford to all the diplomatic and consular personnel of the United States the full protection, privileges and immunities to which they are entitled under the treaties in force between the two States, and under general international law, including immunity from any form of criminal jurisdiction and freedom and facilities to leave the territory of Iran;

- B. The Government of the United States of America and the Government of the Islamic Republic of Iran should not take any action and should ensure that no action is taken which may aggravate the tension between the two countries or render the existing dispute more difficult of solution.

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The Court in issuing the Order was composed as follows:  
President Sir Humphrey Waldock, Vice-President Elias and Judges Forster, Gros, Lachs, Morozov, Nagendra Singh, Ruda, Mosler, Tarazi, Oda, Ago, El-Erian, Sette-Camara and Baxter.

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