

INTERNATIONAL COURT OF JUSTICE

PLEADINGS, ORAL ARGUMENTS, DOCUMENTS

**CASE CONCERNING UNITED STATES
DIPLOMATIC AND CONSULAR STAFF
IN TEHRAN**

(UNITED STATES OF AMERICA v. IRAN)



COUR INTERNATIONALE DE JUSTICE

MÉMOIRES, PLAIDOIRIES ET DOCUMENTS

**AFFAIRE RELATIVE AU PERSONNEL
DIPLOMATIQUE ET CONSULAIRE
DES ÉTATS-UNIS À TÉHÉRAN**

(ÉTATS-UNIS D'AMÉRIQUE c. IRAN)



Abbreviated reference:

*I.C.J. Pleadings, United States Diplomatic and
Consular Staff in Tehran*

Référence abrégée:

*C.I.J. Mémoires, Personnel diplomatique et consulaire
des Etats-Unis à Téhéran*

Sales number
N° de vente:

483

CASE CONCERNING UNITED STATES DIPLOMATIC
AND CONSULAR STAFF IN TEHRAN



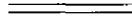
AFFAIRE RELATIVE AU PERSONNEL DIPLOMATIQUE
ET CONSULAIRE DES ÉTATS-UNIS À TÉHÉRAN

INTERNATIONAL COURT OF JUSTICE

PLEADINGS, ORAL ARGUMENTS, DOCUMENTS

**CASE CONCERNING UNITED STATES
DIPLOMATIC AND CONSULAR STAFF
IN TEHRAN**

(UNITED STATES OF AMERICA v. IRAN)

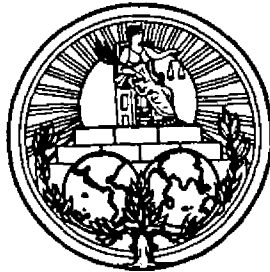


COUR INTERNATIONALE DE JUSTICE

MÉMOIRES, PLAIDOIRIES ET DOCUMENTS

**AFFAIRE RELATIVE AU PERSONNEL
DIPLOMATIQUE ET CONSULAIRE
DES ÉTATS-UNIS À TÉHÉRAN**

(ÉTATS-UNIS D'AMÉRIQUE c. IRAN)



The present volume contains the record filed in the case concerning *United States Diplomatic and Consular Staff in Tehran*.

This case, entered on the Court's General List on 29 November 1979 under number 64, was the subject of an Order on Indication of Provisional Measures (*United States Diplomatic and Consular Staff in Tehran, Provisional Measures, Order of 15 December 1979, I.C.J. Reports 1979, p. 7*) and of a Judgment delivered on 24 May 1980 (*United States Diplomatic and Consular Staff in Tehran, I.C.J. Reports 1980, p. 3*) and was discontinued by an Order of 12 May 1981 (*United States Diplomatic and Consular Staff in Tehran, I.C.J. Reports 1981, p. 45*).

The Application, Request for the Indication of Provisional Measures, Memorial and Oral Arguments appear in this volume in chronological order.

The page references originally appearing in the statements have been altered to correspond with the pagination of the present edition.

The Hague, 1982.

Le présent volume reproduit le dossier de l'affaire relative au *Personnel diplomatique et consulaire des Etats-Unis à Téhéran*.

Cette affaire, inscrite au rôle général sous le numéro 64, a fait l'objet d'une ordonnance portant indication de mesures conservatoires (*Personnel diplomatique et consulaire des Etats-Unis à Téhéran, mesures conservatoires, ordonnance du 15 décembre 1979, C.I.J. Recueil 1979, p. 7*) et d'un arrêt rendu le 24 mai 1980 (*Personnel diplomatique et consulaire des Etats-Unis à Téhéran, arrêt, C.I.J. Recueil 1980, p. 3*) et elle a été rayée du rôle par une ordonnance du 12 mai 1981 (*Personnel diplomatique et consulaire des Etats-Unis à Téhéran, C.I.J. Recueil 1981, p. 45*).

La requête, la demande en indication de mesures conservatoires, le mémoire et les plaidoiries sont reproduits dans le présent volume suivant leur ordre chronologique.

Les renvois d'un exposé à l'autre ont été modifiés pour tenir compte de la pagination de la présente édition.

La Haye, 1982.

CONTENTS

| | <i>Page</i> |
|---|-------------|
| Application Instituting Proceedings submitted by the Government of the United States of America | |
| I. Statement of facts | 3 |
| II. The jurisdiction of the Court | 4 |
| III. The claims of the United States | 6 |
| IV. Judgment requested | 7 |
| Request for the Indication of Provisional Measures of Protection submitted by the Government of the United States of America | 9 |
| Oral Arguments on the Request for the Indication of Provisional Measures | |
| OPENING OF THE ORAL PROCEEDINGS | 16 |
| Preliminary questions by the President | 17 |
| Communication from the Government of Iran | 18 |
| Question by the President | 19 |
| STATEMENT BY MR. OWEN (UNITED STATES OF AMERICA) | 20 |
| ARGUMENT OF MR. CIVILETTI (UNITED STATES OF AMERICA) | 21 |
| Opening remarks | 21 |
| The applicable international legal standards | 22 |
| The 1961 Vienna Convention on Diplomatic Relations | 22 |
| The 1963 Vienna Convention on Consular Relations | 23 |
| The New York Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents | 23 |
| The 1955 Treaty of Amity, Economic Relations and Consular Rights between the United States of America and Iran | 24 |
| ARGUMENT OF MR. OWEN (UNITED STATES OF AMERICA) | 25 |
| The legal principles are simple and unambiguous | 25 |
| The facts are equally simple | 25 |
| Recital of the facts | 25 |
| The facts amount to a continuing violation of plainly established rights | 26 |
| The Court has undoubted jurisdiction under the first three treaties relied upon and prima facie jurisdiction under the fourth | 27 |
| Action by the Security Council does not exclude action by the Court | 28 |
| The request for provisional measures is based on the irreparable injury being inflicted on the American hostages | 29 |
| The request is also intended to preserve the <i>status quo pendente lite</i> | 30 |
| The communication to the Court from the Iranian Government does not constitute a legal obstacle to the United States request | 32 |
| The <i>Aegean Sea Continental Shelf</i> case distinguished | 33 |
| The different responsibilities of the Security Council and of the Court are recognized in Security Council resolution 457 | 33 |

| | <i>Page</i> |
|---|-------------|
| The provisional measures requested specified | 34 |
| The Court urged to act with expedition | 35 |
| QUESTIONS BY JUDGE MOSLER AND BY THE COURT | 37 |
| CLOSING OF THE ORAL PROCEEDINGS | 38 |
| READING OF THE ORDER | 39 |
| Documents submitted to the Court after the filing of the request for the indication of provisional measures | |
| Selected document I | 43 |
| Declaration of David D. Newsom, Under Secretary of State, of 6 December 1979, with Appendices | 43 |
| <i>Appendix A.</i> | 46 |
| Letter dated 9 November 1979 from the Permanent Representative of the United States of America to the United Nations addressed to the President of the Security Council | 46 |
| Statement by Ambassador Donald F. McHenry, United States Permanent Representative to the United Nations, in the Security Council, on the situation in Iran, 1 December 1979 | 46 |
| Statement by Ambassador Donald F. McHenry, United States Permanent Representative to the United Nations, in the Security Council, on the situation in Iran, 4 December 1979 | 48 |
| <i>Appendix B.</i> | 50 |
| The White House, Statement on Iran, 6 November 1979 | 50 |
| Statement at Special Briefing—Wednesday, 7 November 1979—5.02 p.m. | 50 |
| Statement by Secretary of State Cyrus R. Vance—Thursday, 7 November 1979, 3.29 p.m. | 50 |
| Statement by the Honorable Cyrus R. Vance, Secretary of State, concerning the situation in Iran, 8 November 1979 | 51 |
| The White House, 9 November 1979 | 51 |
| The White House, 10 November 1979 | 51 |
| The White House, announcement by the President, the Briefing Room, 12 November 1979 | 52 |
| The White House, 12 November 1979. Imports of Petroleum and Petroleum Products. By the President of the United States of America: A Proclamation | 52 |
| The White House, 14 November 1979 | 53 |
| The Secretary of the Treasury, Washington, 14 November 1979 | 53 |
| Iran and Energy | 54 |
| The White House, Statement by the President, 17 November 1979 | 57 |
| The White House, 19 November 1979 | 58 |
| Statement by the Vice President at Press Conference in Bloomington, Minnesota, at Minnesota Farmers' Union Convention: 19 November 1979 | 58 |
| The White House, 20 November 1979 | 58 |
| Statement by Secretary of State Cyrus Vance, 21 November 1979 | 59 |
| Department of Justice, 27 November 1979 | 59 |
| News Conference on Iran | 60 |
| The White House, Statement by the Vice-President, 5 December 1979, the Briefing Room | 66 |

| | <i>Page</i> |
|---|-------------|
| <i>Appendix C</i> | 67 |
| 1. Khomeini telephone call | 67 |
| 2. Council of experts president's speech | 67 |
| 3. Qom Seminary statement | 68 |
| 4. Revolution Council assumes Government functions | 69 |
| 5. Khomeini's son arrives | 69 |
| 6. Student interviewed | 70 |
| 7. Guards Commander on takeover | 72 |
| 8. Public Prosecutor statement | 72 |
| 9. Praise for Embassy seizure | 72 |
| 10. Khomeini representative's remarks | 73 |
| 11. Yazdi comments | 73 |
| 12. Khomeini on occupation | 74 |
| 13. Letter of resignation | 75 |
| 14. Khomeini accepts Bazargan resignation, delegates power | 75 |
| 15. Students threaten to kill US Embassy hostages | 76 |
| 16. Clergy support for takeover | 76 |
| 17. "Announcement" from Shiraz | 77 |
| 18. Khomeini tells youths to leave Iraqi Consulate | 77 |
| 19. Beheshti interviewed on new tasks of Revolution Council | 77 |
| 20. Khomeini forbids officials to meet US representatives | 78 |
| 21. Students reaffirm demand | 78 |
| 22. Khomeini's refusal to deal with US commended | 79 |
| 23. Ayatollah Beheshti interview | 80 |
| 24. Bani-Sadr letter to Waldheim | 80 |
| 25. Gotbzadeh Press Conference | 83 |
| 26. Student leader says hostages will die if troops sent | 84 |
| 27. Military personnel march | 85 |
| 28. Bani-Sadr on demands | 86 |
| 29. Revolution Council addresses people | 87 |
| 30. Student statement No. 37 | 88 |
| 31. Khomeini interview on hostages | 88 |
| 32. CBS interview with Khomeini | 90 |
| 33. Gotbzadeh interview | 94 |
| 34. Ahmad Khomeini interview | 97 |
| 35. Khomeini speech | 99 |
| 36. 21 November developments concerning US Embassy | 102 |
| 37. Khomeini addresses Pakistani officers | 102 |
| 38. Bani-Sadr address | 103 |
| 39. Bani-Sadr Press Conference | 105 |
| 40. Gotbzadeh on trials | 105 |
| 41. 27 November developments concerning US Embassy | 105 |
| 42. Khomeini denounces Carter | 107 |
| 43. Students repeat trial threat | 108 |
| 44. No UN representative | 108 |
| 45. Gotbzadeh Press Conference | 108 |
| 46. Students on Shah's departure | 112 |
| 47. Gotbzadeh Paris radio interview | 112 |
| 48. Careful guarding of Laingen | 114 |
| 49. Students threaten to begin trials | 114 |
| Selected document 2 | 116 |
| Response by the United States, 11 December 1979, to questions presented by the Court on 10 December 1979 | 116 |

| | <i>Page</i> |
|--|-------------|
| Selected document 3 | 118 |
| Response by the United States, 12 December 1979, to a question presented by Judge Gros on 11 December 1979 | 118 |
| Memorial of the Government of the United States of America | |
| Part I. Introduction | 123 |
| Part II. Statement of the Facts | 125 |
| A. The attack | 125 |
| B. The role of the Iranian authorities | 127 |
| C. The status of the hostages | 130 |
| D. Violations of the Embassy's archives and documents | 132 |
| E. Lack of access to the hostages | 133 |
| F. The status of the United States Chargé d'Affaires | 133 |
| G. The Iranian Government's stated justification of the seizure of the Embassy and the hostages | 134 |
| H. Efforts of the United States to negotiate the dispute | 136 |
| I. Protests by the Government of the United States | 137 |
| J. Resort to the United Nations and to the Court | 137 |
| K. Other responsive measures of the United States | 140 |
| Part III. The Jurisdiction of the Court | 141 |
| A. The Optional Protocols to the Vienna Conventions on Diplomatic and Consular Relations afford the Court jurisdiction | 141 |
| 1. Prerequisites to the Court's jurisdiction | 142 |
| 2. The natural and ordinary meaning of the Optional Protocols | 144 |
| 3. Possible arguments against the Court's jurisdiction under the Optional Protocols | 144 |
| 4. Optional character of resort to arbitration or conciliation | 145 |
| 5. The <i>travaux préparatoires</i> | 146 |
| 6. The failure of Iran to seek arbitration or conciliation | 149 |
| 7. Jurisdiction through lapse of time | 151 |
| B. The Treaty of Amity, Economic Relations, and Consular Rights affords the Court jurisdiction | 152 |
| C. The Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, affords the Court jurisdiction | 154 |
| D. The Court has jurisdiction to grant the relief sought by the United States | 155 |
| Part IV. The Claims of the United States | 156 |
| A. The responsibility of Iran for the acts of omission and commission of which the United States complains | 156 |
| B. The Government of Iran has violated, and continues to violate, its international legal obligation to ensure the inviolability of United States diplomatic agents and members of the administrative and technical staff of the United States Embassy | 158 |
| 1. The obligation | 158 |
| 2. The breach | 161 |
| C. The Government of Iran has violated, continues to violate and threatens further imminent violation of its international legal obligation to ensure immunity from prosecution for United States diplomatic agents and members of the administrative and technical staff on the United States Embassy | 161 |

| | <i>Page</i> |
|---|-------------|
| 1. The obligation | 161 |
| 2. The breach | 163 |
| D. The Government of Iran has violated, and continues to violate, its international legal obligation to ensure the inviolability of United States diplomatic premises | 163 |
| 1. The obligation | 163 |
| 2. The breach | 164 |
| E. The Government of Iran has violated, and continues to violate, its international legal obligations to ensure inviolability of diplomatic archives, to accord full diplomatic facilities, to accord freedom of movement, to permit free communication, to preclude discrimination, and to facilitate departure | 165 |
| 1. Inviolability of archives and documents | 165 |
| (a) The obligation | 165 |
| (b) The breach | 165 |
| 2. Accordance of full facilities, | 166 |
| (a) The obligation | 166 |
| (b) The breach | 166 |
| 3. Freedom of movement | 166 |
| (a) The obligation | 166 |
| (b) The breach | 167 |
| 4. Freedom of communication | 167 |
| (a) The obligation | 167 |
| (b) The breach | 168 |
| 5. Non-discrimination | 168 |
| (a) The obligation | 168 |
| (b) The breach | 168 |
| 6. Facilitation of departure | 169 |
| (a) The obligation | 169 |
| (b) The breach | 169 |
| F. The Government of Iran has violated, and continues to violate, its international legal obligations to respect and protect consular premises, to accord full facilities, to accord freedom of movement, to permit free communication, to permit contact with United States nationals and to preclude discrimination | 169 |
| 1. Protection of premises | 170 |
| (a) The obligation | 170 |
| (b) The breach | 171 |
| 2. Accordance of full facilities | 171 |
| (a) The obligation | 171 |
| (b) The breach | 172 |
| 3. Freedom of movement | 172 |
| (a) The obligation | 172 |
| (b) The breach | 172 |
| 4. Freedom of communication | 173 |
| (a) The obligation | 173 |
| (b) The breach | 173 |

| | <i>Page</i> |
|--|-------------|
| 5. Contact with nationals | 173 |
| (a) The obligation | 173 |
| (b) The breach | 174 |
| 6. Non-discrimination | 174 |
| (a) The obligation | 174 |
| (b) The breach | 175 |
| G. The Government of Iran has violated, and continues to violate, its international legal obligations regarding the prevention and punishment of crimes against internationally protected persons, including diplomatic agents | 175 |
| 1. Co-operation | 176 |
| (a) The obligation | 176 |
| (b) The breach | 178 |
| 2. Prosecution | 178 |
| (a) The obligation | 178 |
| (b) The breach | 178 |
| H. The Government of Iran has violated, and continues to violate, its obligations under the 1955 Treaty of Amity, Economic Relations, and Consular Rights to provide the most constant protection and security to United States nationals, and to provide reasonable and humane treatment to United States nationals in custody, in Iran | 179 |
| 1. Iran's obligation to provide constant protection and security to United States nationals in Iran | 180 |
| (a) The plain meaning of the provision | 180 |
| (b) Provision for constant protection and security imports the minimum standard of treatment due to all aliens | 181 |
| (c) Provision for constant protection and security imports fundamental standards of human rights | 182 |
| 2. Iran's obligation to treat those United States nationals in custody in a humane and reasonable manner and provide them with access to consular services | 183 |
| Part V. If Iran were to allege that the United States itself has violated the treaties upon which the United States relies in this case, such allegations would not detract from the claims asserted by the United States | 184 |
| Part VI. The relief sought by the Government of the United States | 187 |
| A. The proposed declaration by the Court of Iran's violations of the legal obligations it owes to the United States | 187 |
| B. The proposed determination by the Court that Iran shall perform its specific legal obligations towards the United States | 187 |
| C. The proposed determination by the Court that the United States is entitled to the payment of reparations by Iran for violations of the international legal obligations which Iran owes to the United States | 188 |
| D. Final conclusions | 190 |
| Statement of verification. Declaration of David D. Newsom, Under Secretary of State, 11 January 1980 | 191 |
| <i>Annexes to the Memorial</i> | |
| Annex 1. <i>Washington Star</i> , Excerpt, 10 November 1979, p. A7 | 192 |
| Annex 2. Excerpt from telephone interview with Sadeq Tabataba'i | 194 |
| Annex 3. Excerpt from interview with Abu Sharif | 194 |

| | <i>Page</i> |
|--|-------------|
| <i>Annex 4.</i> Excerpt from speech by Ayatollah Khomeini | 194 |
| <i>Annex 5.</i> Statement by Ayatollah Khomeini | 195 |
| <i>Annex 6.</i> Message from Muslim student followers of the Imam's policy | 196 |
| <i>Annex 7.</i> Excerpt from interview with Sayyed Ahmad Khomeini | 196 |
| <i>Annex 8.</i> Interview with Bani Asadi | 197 |
| <i>Annex 9.</i> Excerpt from interview with Sadeq Gotbzadeh | 197 |
| <i>Annex 10.</i> Message from Imam Khomeini's Office in Qom and Statement No. 28 of the Muslim student followers of the Imam's policy | 198 |
| <i>Annex 11.</i> Excerpt from Statement No. 32 of the Muslim student followers of the Imam's policy | 199 |
| <i>Annex 12.</i> Decree of Ayatollah Khomeini | 199 |
| <i>Annex 13.</i> Statement No. 37 of the Muslim student followers of the Imam's policy | 200 |
| <i>Annex 14.</i> Resolution of the Muslim student followers of the Imam's policy | 200 |
| <i>Annex 15.</i> Interview with "student leaders" | 201 |
| <i>Annex 16.</i> Excerpts from interview with Ayatollah Khalkhali | 202 |
| <i>Annex 17.</i> Views of Ayatollah Khalkhali | 204 |
| <i>Annex 18.</i> Excerpts from interview with Ayatollah Khalkhali | 205 |
| <i>Annex 19.</i> Ayatollah Khalkhali's views | 206 |
| <i>Annex 20.</i> Discussion with Shar' magistrates | 206 |
| <i>Annex 21.</i> Speech by former Foreign Minister Yazdi | 207 |
| <i>Annex 22.</i> Excerpts from interview with Sadeq Gotbzadeh | 208 |
| <i>Annex 23.</i> Instruction issued by Ayatollah Khomeini | 210 |
| <i>Annex 24.</i> Excerpt from announcement by Foreign Minister Gotbzadeh | 210 |
| <i>Annex 25.</i> Excerpt from interview with "students" | 210 |
| <i>Annex 26.</i> Excerpts from interview with Ahmad Khomeini | 211 |
| <i>Annex 27.</i> Excerpts from interview with Ahmad Khomeini | 212 |
| <i>Annex 28.</i> Excerpts from "student" interview | 212 |
| <i>Annex 29.</i> Interview with Sadeq Tabataba'i | 213 |
| <i>Annex 30.</i> Excerpt from interview with Foreign Minister Gotbzadeh | 213 |
| <i>Annex 31.</i> "Student" Statement No. 13 | 213 |
| <i>Annex 32.</i> Foreign Ministry announcement | 214 |
| <i>Annex 33.</i> "Student" Statement No. 20 | 214 |
| <i>Annex 34.</i> Statements of Foreign Minister Gotbzadeh | 215 |
| <i>Annex 35.</i> Excerpts from interview with Foreign Minister Gotbzadeh | 215 |
| <i>Annex 36.</i> Excerpts from interview with Foreign Minister Gotbzadeh | 215 |
| <i>Annex 37.</i> "Student" Statement, unnumbered | 216 |
| <i>Annex 38.</i> Excerpt from message from Foreign Ministry Supervisor Bani-Sadr | 217 |
| <i>Annex 39.</i> Interview with Ayatollah Behesti | 217 |
| <i>Annex 40.</i> Interview with Seyyed Hoseyn | 218 |
| <i>Annex 41.</i> Excerpt from interview with Ayatollah Khomeini | 219 |
| <i>Annex 42.</i> Letter dated 9 November 1979 from the Permanent Representative of the United States of America to the United Nations addressed to the President of the Security Council | 221 |
| <i>Annex 43.</i> Statement by the President of the United Nations Security Council, 9 November 1979 | 221 |
| <i>Annex 44.</i> Statements by the President of the United Nations General Assembly, 9 November and 20 November 1979 | 221 |
| <i>Annex 45.</i> Provisional Verbatim Record of the Two Thousand One Hundred and Seventy-Second Meeting of the United Nations Security Council | 222 |
| <i>Annex 46.</i> Security Council resolution 457 (1979) | 225 |

| | <i>Page</i> |
|---|-------------|
| <i>Annex 47.</i> Excerpt from an interview with Foreign Minister Gotbza- deh | 226 |
| <i>Annex 48.</i> Statement of Secretary of State Vance before the Security Council, 29 December 1979 | 227 |
| <i>Annex 49.</i> Official French, Spanish, Russian and Chinese texts of the Optional Protocols concerning the Compulsory Settlement of Dis- putes | 229 |
| <i>Annex 50.</i> United States response to Iranian drafting suggestion regarding the 1955 Treaty of Amity, Economic Relations and Consular Rights | 232 |
| <i>Annex 51.</i> List of Treaties of Friendship, Commerce and Naviga- tion | 233 |
| <i>Annex 52.</i> Memorandum on Dispute Settlement Clause in Treaty of Friendship, Commerce and Navigation with China | 234 |
| <i>Annex 53.</i> Department of State Memorandum on Provisions in Com- mercial Treaties relating to the International Court of Justice | 236 |
| <i>Annex 54.</i> Correspondence relating to the Dispute Settlement Provi- sion in Commercial Treaty with the Netherlands | 237 |
| <i>Annex 55.</i> The United Nations Convention against the Taking of Hostages | 241 |
| Oral arguments | |
| OPENING OF THE ORAL PROCEEDINGS | 252 |
| Communication from the Government of Iran | 253 |
| Questions by the President | 254 |
| ARGUMENT OF MR. OWEN (UNITED STATES OF AMERICA) | 255 |
| Order of presentation | 256 |
| Sources of information | 256 |
| Political structure in Iran | 257 |
| The attack on the Embassy and the Iranian Government's responsi- bility | 258 |
| The United States reactions to the seizure | 260 |
| Iran's use of the hostages for political coercion | 262 |
| The United States restraint | 263 |
| The Iranian Government's control | 263 |
| The United States efforts in the United Nations | 264 |
| The United States efforts in this Court | 266 |
| QUESTIONS DE MM. GROS ET TARAZI | 268 |
| ARGUMENT OF MR. OWEN (<i>cont.</i>) | 269 |
| The Security Council's resolution | 269 |
| The United Nations Commission of Inquiry—response to Question No. 1 by the President | 269 |
| Summary of substantive legal principles | 272 |
| ARGUMENT OF MR. SCHWEBEL (UNITED STATES OF AMERICA) | 274 |
| Summary of argument on jurisdiction | 274 |
| Jurisdiction under the Vienna Conventions | 274 |
| The existence of a dispute | 275 |
| The dispute arises from the interpretation or application of the conventions | 278 |
| Articles II and III of the Protocols are not surplusage | 282 |

| | <i>Page</i> |
|--|-------------|
| Jurisdiction under the Treaty of Amity, Economic Relations and Consular Rights | 284 |
| Jurisdiction under the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons | 285 |
| Possible questions of admissibility | 286 |
| The case is not moot | 286 |
| The standing of the United States | 289 |
| Inapplicability of local remedies rule | 289 |
| Response to Question No. 3 by Judge Gros | 291 |
| ARGUMENT OF MR. OWEN (UNITED STATES OF AMERICA) | 292 |
| The claims of the United States | 292 |
| Lack of relevant exceptions to diplomatic immunity—response to Question No. 2 by the President | 294 |
| Categories of United States claims | 295 |
| Immunity of Embassy personnel from seizure | 295 |
| Direct responsibility of Iranian Government | 296 |
| QUESTIONS BY JUDGES MOROZOV AND ODA | 298 |
| ARGUMENT OF MR. OWEN (<i>cont.</i>) | 301 |
| Conditions of hostages' captivity | 301 |
| Responses to questions | 303 |
| Judge Gros' Questions Nos. 1B and 2 | 303 |
| The President's Question No. 3 | 307 |
| Judge Gros' Question No. 1A | 309 |
| Judge Tarazi's Question | 309 |
| Relief sought by the United States | 310 |
| QUESTIONS BY THE PRESIDENT AND JUDGE GROS | 312 |
| ARGUMENT OF MR. OWEN (<i>cont.</i>) | 313 |
| Responses to questions | 315 |
| Judge Morozov's Question No. 1 | 315 |
| Judge Morozov's Question No. 2 | 315 |
| Judge Morozov's Question No. 3 | 317 |
| Judge Morozov's Question No. 4 | 317 |
| Judge Morozov's Question No. 5 | 317 |
| Judge Morozov's Question No. 6 | 318 |
| Judge Morozov's Question No. 7 | 318 |
| Judge Oda's Question No. 1 | 319 |
| Judge Oda's Question No. 2 | 319 |
| Judge Oda's Question No. 3 | 319 |
| The President's Question | 320 |
| Judge Gros' Question | 320 |
| Conclusions | 321 |
| CLOSING OF THE ORAL PROCEEDINGS | 323 |
| READING OF THE JUDGMENT | 324 |
| Documents submitted to the Court after the filing of the Memorial | |
| I. Letter from the Director of the United States Foreign Broadcast Information Service to the Agent of the United States of America, Washington, 14 March 1980 | 329 |

| | <i>Page</i> |
|--|-------------|
| II. Supplemental documents | 331 |
| 1. Student statement No. 91 | 331 |
| 2. Excerpts: Gotbzadeh message to the United Nations | 331 |
| 3. Gotbzadeh on hostages' release | 332 |
| 4. Excerpts: Gotbzadeh press conference | 332 |
| 5. Foreign Ministry statement: unacceptability of United Nations decisions | 333 |
| 6. Excerpts: Revolution Council, Ministers meeting | 333 |
| 7. Ministry of National Guidance announcement: deadline for <i>media departure</i> | 333 |
| 8. Dispatch: possible movement of hostages | 334 |
| 9. Foreign Ministry statement: denial of Waldheim mediation role | 334 |
| 10. Excerpts: Gotbzadeh on hostages, Shah | 335 |
| 11. Excerpts: Gotbzadeh on hostages, Soviets | 335 |
| 12. Excerpts: Gotbzadeh interview | 336 |
| 13. Student on hostages' condition | 336 |
| 14. Revelation statement No. 26 | 337 |
| 15. Excerpts: Gotbzadeh interview | 337 |
| 16. Militants issue statement on Khomeini's hospitalization | 338 |
| 17. Foreign Ministry statement: US making "big mistake" on Shah | 339 |
| 18. Excerpts: Gotbzadeh interview | 340 |
| 19. Spanish Deputy recounts visit to US Embassy | 342 |
| 20. Carter "agents" charged with forging letters from captives | 342 |
| 21. Excerpts: Ayatollah Beheshti interview | 343 |
| 22. Excerpts: Bani-Sadr Reuter interview | 344 |
| 23. Excerpts: Bani-Sadr <i>Le Matin</i> interview | 344 |
| 24. Excerpts: Bani-Sadr discusses policies, cabinet makeup | 345 |
| 25. Excerpts: Bani-Sadr policy toward West | 346 |
| 26. "Student" statement No. 98 calls for marches against US | 347 |
| 27. Excerpts: Bani-Sadr press conference | 348 |
| 28. Islamabad conference resolution's impact on hostages | 349 |
| 29. Excerpts: <i>Le Monde</i> interviews President-Elect Bani-Sadr | 349 |
| 30. Militants on hostages' fate | 350 |
| 31. Beheshti on hostages' fate | 351 |
| 32. Gotbzadeh on diplomats' escape | 351 |
| 33. Excerpts: Envoy to Canada comments | 352 |
| 34. Students issue "lamentation" addressed to Khomeini | 354 |
| 35. Excerpts: Bani-Sadr interview | 355 |
| 36. Bani-Sadr calls for return of Shah's wealth | 355 |
| 37. Militants interviewed on hostages, Shah | 356 |
| 38. Message from Urumiyeh guards | 362 |
| 39. Khuzestan guards corps' support | 362 |
| 40. Students on hostages' release | 363 |
| 41. <i>Ettela'At</i> publishes interview with students on hostages | 363 |
| 42. Revelation statement No. 30 | 364 |
| 43. Bani-Sadr <i>Keyhan</i> interview | 365 |
| 44. Bazargan criticizes "students" in Minatchi affair | 366 |
| 45. Bani-Sadr's spokesman denies reports on release of hostages | 367 |
| 46. "Students" denial of involvement | 367 |
| 47. Excerpts: Beheshti on hostages | 367 |
| 48. Bani-Sadr on power centres | 368 |
| 49. Students reject hostages' release unless Shah is returned | 369 |
| 50. Tape of hostages' telephone calls | 369 |
| 51. Ahmad Khomeini's visit to Embassy | 370 |
| 52. "Students" meeting | 371 |

| | <i>Page</i> |
|---|-------------|
| 53. Khomeini confirms Bani-Sadr as Revolution Council Head . . . | 371 |
| 54. BBC: Bani-Sadr wants council to "stand up" to "students" . . . | 372 |
| 55. Gotbzadeh reportedly wants hostages released soon | 372 |
| 56. Bani-Sadr <i>Al-Ittihad</i> interview | 372 |
| 57. Foreign Ministry on Gotbzadeh statement | 372 |
| 58. Excerpt: "students" interview | 373 |
| 59. Minatchi on "students" charges | 377 |
| 60. Gotbzadeh denial | 378 |
| 61. Excerpts: Bani-Sadr interview | 379 |
| 62. Further reportage on military parade, "students" position . . . | 380 |
| 63. BBC on Gotbzadeh remarks | 380 |
| 64. Fars Guards chief on US | 381 |
| 65. Excerpts: Beheshti interviewed on demand for Shah's return . . . | 382 |
| 66. Bani-Sadr gives interview to French radio | 383 |
| 67. Excerpts: Bani-Sadr on Revolution Council session | 383 |
| 68. Excerpts: Bani-Sadr <i>Le Monde</i> interview | 384 |
| 69. Gotbzadeh on hostages' release | 385 |
| 70. AFP interview with Gotbzadeh | 386 |
| 71. Ayatollah Beheshti on hostages | 387 |
| 72. Excerpts: Bani-Sadr, 'Arafat interview | 387 |
| 73. Excerpts: Bani-Sadr decries multiplicity of decision centres . . . | 389 |
| 74. Excerpts: Gotbzadeh discusses hostages, other issues | 390 |
| 75. Excerpts: further Gotbzadeh comments in Greece | 390 |
| 76. AFP report | 390 |
| 77. Excerpts: Gotbzadeh on commission's investigation | 391 |
| 78. Possible questioning of hostages | 391 |
| 79. Excerpts: Bani-Sadr Athens television interview | 392 |
| 80. Bani-Sadr on students | 393 |
| 81. Protest lodged over Canadian Embassy activities | 394 |
| 82. Bani-Sadr on students' ouster | 395 |
| 83. Bani-Sadr on United Nations Commission | 395 |
| 84. Gotbzadeh postpones return trip | 395 |
| 85. AFP on Gotbzadeh remarks | 396 |
| 86. AFP on composition of commission | 396 |
| 87. Khomeini names Bani-Sadr Commander in Chief | 397 |
| 88. Bani-Sadr announcement on approval | 397 |
| 89. More on Gotbzadeh remarks | 397 |
| 90. Bani-Sadr message to Waldheim | 398 |
| 91. Muslim students read US "documents" | 398 |
| 92. AFP on revelations | 399 |
| 93. Khomeini address to nation | 400 |
| 94. Bani-Sadr: Commission's work not related to release | 401 |
| 95. Beheshti on hostages | 401 |
| 96. Rafsanjani on hostage situation | 401 |
| 97. Late report: students issue statement No. 102 | 403 |
| 98. Bani-Sadr discusses return of Shah, hostages | 404 |
| 99. AFP: United Nations Envoy discusses investigating Commission . . . | 404 |
| 100. Khomeini says Majles must decide hostages' fate | 405 |
| 101. Students' reaction | 406 |
| 102. Student statement No. 104 | 406 |
| 103. Meeting with Gotbzadeh | 407 |
| 104. Student interview | 407 |
| 105. Mobilization headquarters issues 9-point resolution | 412 |
| 106. Bani-Sadr gives interview on hostages, foreign relations | 413 |

| | <i>Page</i> |
|---|-------------|
| 107. Beheshti: ten weeks before release of hostages can be discussed | 414 |
| 108. Vacating of embassy | 415 |
| 109. Excerpts: Gotbzadeh interview on Commission | 415 |
| 110. Gotbzadeh discusses Commission's meeting with hostages | 416 |
| 111. Students' <i>Keyhan</i> interview | 419 |
| 112. Khomeini allows Italian to act as hostages' "postman" | 419 |
| 113. BBC reports consent for Commission meeting with hostages | 419 |
| 114. Prosecutor asks Foreign Ministry to hand over hostage | 420 |
| 115. Excerpts: Bani-Sadr <i>Der Spiegel</i> interview | 420 |
| 116. Commission's announcement on visit | 421 |
| 117. Student interview | 422 |
| 118. Gotbzadeh: Commission's meeting with hostages "a certainty" | 423 |
| 119. Excerpts: Gotbzadeh <i>Mesimvrini</i> interview | 424 |
| 120. AFP: Students agree to visit | 425 |
| 121. Gotbzadeh leaves decision on "refugee" up to Imam, Council | 426 |
| 122. Late Report: students say United Nations Panel can meet hostages | 426 |
| 123. Revolutionary Council's approval | 428 |
| 124. Prosecutor General on Tomseth summons | 428 |
| 125. Students say Council can "take delivery" of hostages | 429 |
| 126. AFP on Council meeting | 429 |
| 127. Tehran on AFP interview | 430 |
| 128. Students' statement on handover | 430 |
| 129. Gotbzadeh interview | 430 |
| 130. Khomeini silent on hostages | 431 |
| 131. Further report | 431 |
| 132. Foreign Ministry statement | 432 |
| 133. Student statement on hostages | 432 |
| 134. Revolution Council statement on transfer | 433 |
| 135. Guards backing of Khomeini | 434 |
| 136. Gotbzadeh communiqué on negotiations | 434 |
| 137. Students on Commission meeting, handover | 435 |
| 138. Students demand Shah's return | 435 |
| 139. Mahdavi Kani interviewed on handover of hostages | 436 |
| 140. Students interview | 436 |
| 141. Gotbzadeh statement on situation | 439 |
| 142. Khomeini message on Commission's meeting | 445 |
| 143. More on Khomeini message | 446 |
| 144. Students' appeal for marches | 447 |
| 145. Revolution Council on hand over | 448 |
| 146. Students' release of documents | 449 |
| 147. Commission's departure, meeting with students | 449 |
| 148. Gotbzadeh on Commission's departure | 450 |
| 149. INA on Commission's departure | 450 |
| 150. Broadcasting official on departure | 450 |
| 151. Commission's communiqué on departure | 451 |
| 152. 11 March developments concerning US relations, hostages | 451 |
| 153. Students' statement on documents | 452 |
| 154. Gotbzadeh on Commission's role | 453 |
| 155. Bani-Sadr on Commission, students | 453 |
| 156. Statement by Secretary-General of the United Nations on Inquiry Commission to Iran | 455 |
| 157. White House statement on Commission | 455 |
| 158. Department of State, special press briefing, 23 February 1980 (excerpts) | 456 |

| | <i>Page</i> |
|--|-------------|
| 159 Department of State, daily press briefing, Tuesday, 26 February 1980 (excerpts) | 456 |
| 160. Press conference held by Foreign Minister Andrew Peacock, Deputy Prime Minister Brian Talboys, and Secretary of State Cyrus R. Vance at the conclusion of the 29th ANZUS Council Meeting, Washington, DC, 27 February 1980 (excerpts) | 457 |
| 161. Inquiry Commission decides to suspend activities in Tehran to confer with Secretary-General in New York | 457 |
| 162. Transcript of press conference by Secretary-General Kurt Waldheim held at headquarters on 11 March 1980 | 458 |
| 163. Secretary of State Vance's remarks to the press after the meeting at the United Nations, 12 March 1980, with the Secretary-General and the United Nations Commission relating to Iran, 8.15 p.m. | 461 |
| III. Letter dated 28 March 1980 from the Deputy Agent of the United States of America to the Registrar (response to questions presented by the President of the Court on 20 March 1980 and by Judge Gros on 21 March 1980) | 463 |
| Appendix A | 464 |
| Appendix B | 465 |
| Appendix C | 467 |
| Appendix D | 469 |
| Appendix E | 470 |
| Appendix F | 471 |
| IV. Letter dated 15 April 1980 from the Deputy Agent of the United States of America to the Registrar (response to a question presented by the President of the Court on 10 April 1980) | 475 |
| Documents enclosed | 476 |
| V. Response by the United States, 22 April 1980, to a question presented by Judge Gros on 17 April 1980 | 483 |
| VI. Response by the United States, 1 May 1980, to a question presented by the President of the Court on 25 April 1980 | 484 |
| Documents enclosed | 484 |
| Correspondence | |
| Nos. 1-97 | 493 |

**APPLICATION INSTITUTING
PROCEEDINGS SUBMITTED BY THE
GOVERNMENT OF THE UNITED STATES
OF AMERICA**

**REQUÊTE INTRODUCTIVE D'INSTANCE
PRÉSENTÉE PAR LE GOUVERNEMENT
DES ÉTATS-UNIS D'AMÉRIQUE**

I have the honor to refer to the following:

- (1) the Vienna Convention on Diplomatic Relations of 1961, and Article I of the Optional Protocol concerning the Compulsory Settlement of Disputes of that Convention;
- (2) the Vienna Convention on Consular Relations of 1963, and Article I of the Optional Protocol concerning the Compulsory Settlement of Disputes of that Convention;
- (3) Article XXI (2) of the Treaty of Amity, Economic Relations, and Consular Rights between the United States of America and Iran of 1955, and
- (4) Article 13 (1) of the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, of 1973.

Under the jurisdiction thereby conferred upon the Court, I hereby submit, in accordance with Article 40 (1) of the Statute and Article 38 of the Rules of Court, this Application instituting proceedings in the name of the Government of the United States of America against the Government of Iran in the following case:

I. STATEMENT OF FACTS

At about 10.30 a.m., Tehran time, on 4 November 1979, during the course of a demonstration of approximately 3,000 persons, the United States Embassy compound in Tehran was overrun by several hundred of the demonstrators. The Iranian Government's security personnel on duty at the Embassy compound apparently made no effort to deter or discourage the demonstrators from the takeover. Access to the compound and Chancery building was gained by cutting chains and removing bars from a Chancery basement window, and control of the first floor of the Chancery was rapidly seized. In the process the invaders took hostage the Embassy security officer, who had come out of the Chancery to negotiate with them, and four of the Embassy's Marine guards. A large group of Embassy personnel, including consular and non-American staff and visitors, took refuge on an upper floor of the Chancery.

About two hours after the beginning of the attack, and after the invaders had attempted to set fire to the Chancery building and to cut through the upstairs steel doors with a torch, the demonstrators gained entry to the upper floor and seized the remaining personnel.

During the two hours of attack on the Embassy, no Iranian security forces were sent to relieve the situation, despite repeated calls for help from the Embassy to the Iranian Foreign Ministry, and despite the efforts of the United States Chargé d'Affaires, who made contact with the Prime Minister's office and Foreign Ministry officials at the time the attack occurred. No attempt was made by the Government of Iran to clear the Embassy premises, to rescue the personnel held hostage, or to persuade the invaders and demonstrators to terminate their action. Nor did the Government of Iran take any action when, shortly after the Embassy seizure, the United States consulates in Tabriz and Shiraz were also seized.

Since the time of the takeover, the Embassy personnel have been held hostage in the compound under threatening and inhumane conditions. Some hostages have been paraded in sight of the crowd outside, blindfolded and hands bound, in full hearing of menacing, chanting crowds. Inside the buildings the hostages have been kept bound, often by hand and foot, forced to remain silent, subjected

to other forms of coercion, and denied communication with their families and United States officials. Embassy records have been ransacked.

During the entire time and with the support and assistance of the Iranian authorities, demonstrations have been occurring outside the compound, often quite vociferous. A crowd of hundreds of thousands of demonstrators converged on the Embassy on 22 November.

Those holding the hostages have refused to release them and have conditioned *their release on various unacceptable demands*. They have threatened on several occasions that, in certain circumstances, the hostages would be put to death. While 13 hostages were released on 18 and 20 November, at least 50 Americans remain in captivity, virtually all of whom are diplomatic agents of the United States or members of the administrative and technical staff of the Embassy. The group holding the Embassy has asserted that the remaining hostages are guilty of espionage and will be tried for their "crimes" if their demands are not met. Non-Iranian outside observers have been permitted only limited access to the hostages. It is not certain that all persons held have been seen, and the conditions during these few visits did not permit free communication with the hostages.

During this continuing ordeal, the Government of Iran is failing and refusing to make any effort to secure the release of the hostages and the return of the Embassy and consular premises to the United States' control. The Government has refused any direct substantive contact with United States Government officials in Tehran or at the United Nations. It refused to admit the special emissaries sent to Iran by the Government of the United States. The United States Chargé d'Affaires, who was at the Foreign Ministry at the time the attack began, has been confined to the Foreign Ministry and denied free access both to his diplomatic colleagues from other Embassies and to senior Iranian officials.

Moreover, the Government of Iran, from an early stage of the crisis, has given direct support and encouragement to the group holding the Embassy. Members of that group have been permitted to come and go freely from the compound. The Government of Iran has refused or ignored the repeated requests of the Government of the United States to free the hostages and to restore the Embassy compound to the possession of the United States. The Government of Iran has supported the demands of those holding the hostages, has endorsed the charges of espionage leveled against Embassy personnel, and has threatened to place the personnel on trial for espionage.

II. THE JURISDICTION OF THE COURT

Under paragraph 1 of Article 36 of the Statute of the Court, the jurisdiction of the Court encompasses "all matters specially provided for . . . in treaties and conventions in force". The United States and Iran are, as Members of the United Nations, parties to the Statute, and are also parties to three international conventions, each of which independently establishes the Court's jurisdiction over the present dispute.

First, the United States and Iran are parties to the Vienna Convention on Diplomatic Relations (done at Vienna, 18 April 1961) and to its Optional Protocol concerning the Compulsory Settlement of Disputes. As set forth separately in the Application, the actions of Iran bearing on this dispute constitute multiple and profound violations of that Convention. Article I of the Protocol provides:

"Disputes arising out of the interpretation or application of the Convention shall lie within the compulsory jurisdiction of the International Court of Justice and may accordingly be brought before the Court by an application made by any party to the dispute being a Party to the present Protocol."

Second, the United States and Iran are parties to the Vienna Convention on Consular Relations (done at Vienna, 24 April 1963) and to its Optional Protocol concerning the Compulsory Settlement of Disputes. Article I of that Protocol is identical in its terms to Article I of the Protocol to the Convention on Diplomatic Relations, *supra*¹. The present dispute involves numerous violations of the Consular Convention.

Finally, the United States and Iran are parties to the Treaty of Amity, Economic Relations, and Consular Rights between the United States and Iran, signed in Tehran on 15 August 1955 (284 *UNTS* 93). As set forth below, numerous and serious violations of this treaty are also involved in the present dispute. Article XXI, paragraph 2, of the treaty provides:

"Any dispute between the High Contracting Parties as to the interpretation or application of the present Treaty, not satisfactorily adjusted by diplomacy, shall be submitted to the International Court of Justice, unless the High Contracting Parties agree to settlement by some other pacific means."

That a dispute exists between the United States and Iran is clear. The present dispute has not been satisfactorily adjusted by diplomacy, Iran is continuing in its violations, and Iran has refused to discuss pacific settlement of the dispute.

In addition to the foregoing, the United States and Iran are parties to the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, included Diplomatic Agents (done at New York, 14 December 1973). Serious violations of this Convention are also involved in the present dispute. Article 13, paragraph 1, of the Convention provides:

"Any dispute between two or more States Parties concerning the interpretation or application of this Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of them may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court."

In light of the urgency of rectifying the present violations of the Convention and Iran's refusal to meet with United States emissaries on the subject, which renders impracticable and infeasible any prior resort to arbitration, it is submitted that the Court is competent to hear the United States' claims under this Convention in connection with its other claims.

¹ Articles II and III of the Protocols to the Vienna Conventions on Diplomatic Relations and Consular Relations both provide that the parties may agree on alternate procedures—arbitration or conciliation—in lieu of proceeding directly to the Court. The parties have not exercised these options in this case; no such agreements have been made. Indeed, the Iranian authorities have refused to discuss the dispute—still less modes of settlement of it—with United States emissaries.

The terms of the Preambles to both Protocols demonstrate the intent of the Protocols to make recourse to the Court unconditional and not dependent upon joint pursuit by the parties of the options of arbitration or conciliation. They provide that:

"Expressing their wish to resort in all matters concerning them in respect of any dispute arising out of the interpretation or application of the Convention to the compulsory jurisdiction of the International Court of Justice, unless some other form of settlement has been agreed upon by the parties within a reasonable period."
(Emphasis supplied.)

III. THE CLAIMS OF THE UNITED STATES

The Government of the United States, in submitting the dispute to the Court, claims as follows:

(a) Pursuant to Article 29 of the Vienna Convention on Diplomatic Relations, the Government of Iran is under an international legal obligation to the United States to ensure that the persons of United States diplomatic agents be kept inviolate from "any form of arrest or detention" and that every such diplomatic agent shall be treated "with due respect" and protected from "any attack on his person, freedom, or dignity". The Government of Iran has violated and is currently violating the foregoing obligations.

(b) Pursuant to Article 37 of the same Convention, the Government of Iran is under an international legal obligation to the United States to ensure that members of the administrative and technical staff of the United States Embassy in Tehran, and members of the families of United States diplomatic agents and of administrative and technical staff, enjoy the relevant privileges and immunities specified in Article 29 of the Convention. The Government of Iran has violated and is currently violating the foregoing obligations.

(c) Pursuant to Article 31 of the same Convention, the Government of Iran is under an international legal obligation to the United States to ensure that its diplomatic agents shall be absolutely immune "from the criminal jurisdiction" of Iran and that, under Articles 31 and 37 of the Convention, such immunity is accorded to members of the administrative and technical staff of the United States Embassy as well as to the families of diplomatic agents of administrative and technical staff. By its threats of prosecution, the Government of Iran has violated and is currently violating the foregoing obligations.

(d) Pursuant to Article 22 of the same Convention, the Government of Iran is under an international legal obligation to the United States to ensure that United States diplomatic premises in Iran "shall be inviolable". The Government of Iran has violated and is currently violating this obligation.

(e) Pursuant to Articles 24, 25, 27 and 47 of the same Convention, the Government of Iran is under an international legal obligation to the United States to ensure the inviolability of the archives and documents of the United States Embassy in Tehran, to accord full facilities for the performance of the functions of the Embassy, to permit and assist Embassy personnel to depart from Iran, and to preclude discrimination between States in the application of the Convention. The Government of Iran has violated and is currently violating the foregoing obligations.

(f) Pursuant to Articles 28, 31, 33, 34, 36 and 40 of the Vienna Convention on Consular Relations, the Government of Iran is under an international legal obligation to the United States to ensure that the United States enjoys full facilities for the performance of consular functions; that United States consular premises, documents, and archives are kept inviolate; that the consular personnel of the United States shall enjoy freedom of movement and travel in Iran; that such personnel shall enjoy the right to communicate and contact other United States nationals; that the consular personnel of the United States be treated with respect and protected from attack on their persons, freedom, and dignity; and that United States consular officers be free from arrest or detention. The Government of Iran has violated and is currently violating the foregoing obligations.

(g) Pursuant to Article 4 of the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, the Government of Iran is under an international legal obligation to the United States to co-operate in the prevention of crimes against the official premises and the staff of the United States Embassy in Tehran, including an obligation to take all practicable measures to prevent preparations in its

territory for the commission of such crimes. The Government of Iran has violated and is currently violating the foregoing obligations.

(h) Pursuant to Article 7 of the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, the Government of Iran is under an international legal obligation to the United States to submit to competent Iranian authorities for the purpose of prosecution all those persons who, since 4 November 1979, have been engaged in committing crimes against the official premises and the staff of the United States Embassy in Tehran. The Government of Iran has violated and is currently violating the foregoing obligation.

(i) Pursuant to Articles II (4) and XIX of the Treaty of Amity, Economic Relations, and Consular Rights between the United States and Iran, the Government of Iran is under an international legal obligation to the United States to ensure that nationals of the United States shall receive "the most constant protection and security" within the territory of Iran; that such nationals shall, if placed in custody, receive reasonable and humane treatment; that the United States shall have the full opportunity to safeguard the interests of such detained nationals; and that such nationals shall, while in custody, have full access to United States consular officials and services. The Government of Iran has violated and is currently violating the foregoing obligations.

(j) Pursuant to Articles XIII and XVIII of the foregoing Treaty of Amity, Economic Relations, and Consular Rights, the Government of Iran is under an international legal obligation to the United States to accord to United States consular officers and employees the privileges and immunities accorded to officers and employees of their rank and status by general international usage and, in particular, immunity from local jurisdiction for acts done in their official capacities and within the scope of their authority; to accord to such consular officers and employees the opportunity to exercise all functions which are in accordance with general international usage; and to ensure that consular offices are not entered by the police or other local authorities except in case of fire or other disaster. The Government of Iran has violated and is currently violating the foregoing obligations.

(k) The Government of Iran, or persons acting with its support and approval, are holding United States citizens as hostages and are threatening the lives of these hostages in order to coerce the United States into taking actions which the United States has no international legal obligation to take. This exercise of coercion is in violation of Iran's obligations under the Charter of the United Nations, particularly Article 2, paragraphs 3 and 4, and Article 33.

(l) The Government of Iran is under an international legal obligation to the United States to respect and observe, and ensure respect for and observance of, the obligations of Iran under customary international law to ensure the immunities of the diplomats and staff of the United States Embassy in Tehran, the inviolability of its Embassy, and the protection of its nationals. The Government of Iran has violated and is currently violating the foregoing obligations.

IV. JUDGMENT REQUESTED

Accordingly, the United States requests the Court to adjudge and declare as follows:

(a) That the Government of Iran in tolerating, encouraging, and failing to prevent and punish the conduct described in the preceding Statement of Facts, violated its international legal obligations to the United States as provided by

- Articles 22, 24, 25, 27, 29, 31, 37 and 47 of the Vienna Convention on Diplomatic Relations.

- Articles 28, 31, 33, 34, 36 and 40 of the Vienna Convention on Consular Relations,
 - Articles 4 and 7 of the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, and
 - Articles II (4), XIII, XVIII and XXI of the Treaty of Amity, Economic Relations and Consular Rights between the United States and Iran, and
 - Articles 2 (3), 2 (4) and 33 of the Charter of the United Nations;
- (b) That pursuant to the foregoing international legal obligations, the Government of Iran is under a particular obligation immediately to secure the release of all United States nationals currently being detained within the premises of the United States Embassy in Tehran and to assure that all such persons and all other United States nationals in Tehran are allowed to leave Iran safely;
- (c) That the Government of Iran shall pay to the United States, in its own right and in the exercise of its right of diplomatic protection of its nationals, reparation for the foregoing violations of Iran's international legal obligations to the United States, in a sum to be determined by the Court; and
- (d) That the Government of Iran submit to its competent authorities for the purpose of prosecution those persons responsible for the crimes committed against the premises and staff of the United States Embassy and against the premises of its Consulates.

The Government of the United States further requests the Court to indicate interim measures of protection as set forth in a separate request filed concurrently with this Application.

The Government of the United States has designated the undersigned as its Agent for the purposes of these proceedings. All communications relating to this case should be sent to the Embassy of the United States, The Hague, Lange Voorhout 102.

Respectfully submitted,
(Signed) Roberts B. OWEN,
The Legal Adviser.

KINGDOM OF THE NETHERLANDS
PROVINCE OF SOUTH-HOLLAND
CITY OF THE HAGUE
EMBASSY OF THE UNITED STATES OF AMERICA

I, Hugh V. Simon, Jr., certify that the above signature is that of Roberts B. Owen, who has been designated by the Secretary of State as Agent of the United States in this case.

(Signed) Hugh V. SIMON, Jr.,
American Consul.
29 November 1979.

I, David D. Newsom, certify and declare the following:

1. I am Under Secretary for Political Affairs of the United States Department of State. I have been vested by the Secretary of State with overall responsibility within the Department for matters relating to the crisis in Iran.

2. In this capacity, I have closely monitored events since the attack on the United States Embassy in Tehran began. The facts stated in the Application of the United States to the Court are, to the best of my knowledge, true.

(Signed) David D. NEWSOM.