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AN ANALYSIS OF
**US ENGAGEMENT
WITH IRAN**

(1977-2007)



EVERYTHING MATTERS

Foreword

We are often reminded that one who forgets the lessons of history is often condemned to repeat history's mistakes. The analysis that follows assesses the historical record of more than twenty-five years of U.S. constructive engagement with Iran, spanning the period from the onset of the Islamic revolution of 1979 until the present.

The study traverses the U.S. Presidential terms of our modern chief executives – from President Jimmy Carter to President George W. Bush. The paper concludes that there has been a consistent pattern of failed diplomatic engagement with the Islamic Republic to assure the fulfillment of vital U.S. security objectives. If the historical record serves as a guide, the outlook for constructive diplomatic engagement with Iran in the future does not look promising.

The failure of engagement does not suggest that a military intervention is the only useful option available to policymakers when approaching Iran. Rather, the issue is whether diplomatic engagement with Tehran alone can bring about the reduction of tensions and encourage Iran to join the Community of Nations as a non-belligerent state contributing to world peace and harmony.

As our analysis reveals, U.S. engagement policies have been ambivalent, disjointed, often contradictory, and primarily in response to the aggressive moves by Tehran as it pursues nuclear weapons, sponsors global terrorism, violates human rights, and takes hostages. All too often, the regime has utilized a variety of negotiating strategies, including deception, guile, and calculated confusion, and therefore thwarted even the most energetic diplomatic initiatives to curtail Iran's overt hostility towards Western ideals and values. As a consequence, tension levels continue to escalate, especially with the fiery rhetoric of the current Iranian President, Mahmoud Ahmadenijad, and Iran's ongoing defiance of the United Nations Security Council's demands to curtail its nuclear enrichment program.

Over the years, as this report illustrates, the Western approach to Iran has run the gamut of rapprochement; then, upon the failure of that policy, sanctions, containment and isolation have been implemented as alternative policy approaches. As events unfold, Western countries predictably respond to illusory perceptions of Iranian moderation, and open their doors to trade and arms sales with Iran. Inevitably, these countries shut their doors again because Tehran's radical clerics, who wield tremendous power over the Iranian government, refuse to negotiate with the West; thus, further promoting and fostering the instability and chaos in both Iran and the Middle East. This cycle repeats itself throughout history, while the regime both capitalizes on the West's unwillingness to change its policy, and also continues to spread its extremist fundamentalist ideology in the region. In recent history, the Islamic Republic has reached new levels of intervention in Iraq and accelerated its nuclear weapons program.

While constructive engagement has its advocates, it is important to remember that for the past twenty-five years such a course has not produced meaningful results and Iran's threat to the world has only grown. As such, new approaches that are designed to support the Democratic opposition groups in Iran and reach out to freedom-loving Iranians need greater attention if the

West is to overcome the regime's historic and steadfast resistance to diplomatic overtures and economic pressures.

There are a number of these Democratic opposition organizations, but one of the groups particularly targeted by the Iranian regime is the *Mujahedin-e Khalq* ("MEK"). The MEK is currently listed by the United States, European Union, and other countries as a Foreign Terrorist Organization ("FTO"), and is primarily located at Camp Ashraf, Iraq. Our prior report, entitled *Iran: Foreign Policy Challenges and Choices: Empowering the Democratic Opposition* (DLA Piper U.S. LLP & GlobalOptions, November 2006), concludes that there are ample grounds to remove the MEK and a broader coalition of organizations of which the MEK is a member, the National Council of Resistance of Iran ("NCRI"), from the list of FTOs.

Our analysis reaffirms the findings of our prior report and emphasizes the need for new and creative approaches to address the threat that Iran poses to the world.

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Executive Summary

Western foreign policy towards Iran, as illustrated by the strategies of the United States since the Islamic Revolution in 1979, is distinguished by a consistent lack of success in achieving stated foreign policy objectives. Iranian policies and actions, coupled with the strategic importance of the region with regard to natural resources and hostile actors, have forced the international community to respond to a series of challenges with implications for regional and global security. In forming policy towards Iran, the United States has generally considered engagement and containment as its two primary options, though active support of Iranian democratic opposition has received some limited support.

For more than 25 years, the United States has alternatively championed a course of engagement and limited containment with Iran. Time and again, however, the engagement tactics utilized by the United States and its international allies have largely failed to achieve any given Administration's policy objectives, including the return of hostages or the geopolitical stabilization of the oil-rich region. Limited military intervention to achieve a narrow foreign policy goal has only been attempted twice, and the threat of Iranian conventional and emerging nuclear capabilities has effectively removed military action from the list of viable Western options.

President Jimmy Carter's long-term aim of securing a democratic, modern regime in Iran was stalled while he negotiated with the Islamic Republic for the return of the American hostages. His Administration moved from the soft version of engagement involving diplomacy to limited containment, which included the imposition of sanctions. President Carter even briefly, though unsuccessfully, attempted a targeted military intervention to rescue the hostages.

President Ronald Reagan abandoned his promise of pursuing a policy of containment and isolation towards Iran, and his policy deteriorated until the United States was trading arms in exchange for U.S. hostages in Lebanon. In addition, President Reagan violated his own policy of neutrality in the Iran-Iraq war by actively funding Saddam Hussein and imposing trade embargoes on Iran when the possibility of Iran breaking through Iraq's defenses and threatening its neighboring countries became very real.

Due to the collapse of the Soviet Union early in his Presidency, the death of Ayatollah Khomeini and the political uncertainties afterward, and the invasion of Kuwait by Iraq, President George H. W. Bush assumed a more inconsistent approach to Iran. This policy weakened the Administration's capacity to respond firmly to the resurgence of Iran's rogue behavior after a short-lived lull following Khomeini's death. Further, Iran presented a greater challenge to the incoming President Clinton because Iraq, the historical counterweight to Iran, had just suffered a huge defeat in Operation Desert Storm and was significantly weakened.

President Bill Clinton's shifting foreign policy towards Iran failed to achieve its goal of achieving a favorable balance of power in the Middle East. The policy of dual containment failed to isolate Iran's terrorist activities, and the subsequent sanctions may have achieved some success, but for the allure of engagement with a new, allegedly moderate President in Iran. As Presidents Reagan, Bush, and Clinton ultimately realized, any "moderate" leaders in Iran are

actually just a little less hard-line, and ultimately they will always have a secondary role to the radical clerics in power. Each of these Presidents were deceived into believing that soft engagement would encourage these moderate trends, and none has been successful in achieving that end.

The foreign policy approach to Iran of the current President, George W. Bush, has been “disjointed and sometimes contradictory” since late 2001, due to the events of September 11th, the initiation of Operation Iraqi Freedom and its aftermath, and the revelation of Iran’s mature nuclear program by the National Council of Resistance of Iran. Each of these events has caused the Bush Administration, as well as the international community, to re-evaluate its policy approach towards Iran. As a consequence, Iran has been able to manipulate U.S. policy towards the Islamic Republic in order to achieve its own objectives and thwart the objectives of the United States.

History has proven that Western foreign policy towards Iran as illustrated by the various strategies pursued by the United States for over 25 years has largely been ineffective in producing the results generally sought by those governments. Therefore, the international community must chart a new path forward when dealing with Iran, and focus its energy on containing the influence of the Islamic Republic. At the same time, the international community should act to strengthen the democratic opposition groups within the country and in the Iranian Diaspora, including the MEK and NCRI, which have the best chance of transforming the country.

I. Introduction: Options for Responding to Iran

Western foreign policy towards Iran, as illustrated by the strategy of the United States since the Islamic Revolution in 1979, is distinguished by a consistent lack of success in achieving stated foreign policy objectives. Iranian policies and actions, coupled with the strategic importance of the region with regard to natural resources and hostile actors, have forced the international community to respond to a series of challenges with implications for regional and global security. In forming policy towards Iran, the United States has generally considered engagement and containment as its two primary options, though active support of Iranian democratic opposition has received some limited support.¹

For more than 25 years, the United States has alternatively championed a course of engagement and limited containment with Iran. Time and again, however, the engagement tactics utilized by the United States and its international allies have largely failed to achieve any Administration's policy objectives, including the return of hostages or the geopolitical stabilization of the oil-rich region.² Very limited military intervention to achieve specific foreign policy goals has only been attempted twice³, and the threat of Iranian conventional and emerging nuclear capabilities has effectively removed military action from the list of viable Western options, although there has been considered judgment to not removing any option from the table.⁴

The fundamentalist, terror-sponsoring, and theocratic nature of Iran's ruling regime – along with its oil-derived wealth – differentiates it from other countries the United States views as threats to international peace. The task of crafting foreign policy towards Iran is made more difficult because the foreign policy interests of Iran's ruling regime are qualitatively different than those of a typical western nation.⁵ Instead of seeking economic growth and social stability, Iran's foreign policy objectives include expanding its influence, exporting its brand of Islamic fundamentalism, sponsoring terrorism, destabilizing Israel, and providing a counterweight to U.S. efforts to promote freedom, democracy, and human rights around the world.

¹ The current Administration has indicated its support for Democratic opposition groups, but few actions have been taken to support this position. See Ilan Berman, *TEHRAN RISING: IRAN'S CHALLENGE TO THE UNITED STATES* 106 (Rowman & Littlefield Publishers, Inc. 2005).

² *Iran: Time for a New Approach* 4, Council on Foreign Relations, Co-Chaired by Robert M. Gates and Zbigniew Brzezinski, Jul. 14, 2004 [hereinafter "CFR Report"].

³ The two prior attacks included the failed Operation Eagle Claw to rescue the hostages at the U.S. Embassy in 1979 and the attacks on Iranian oil platforms after U.S. ships were attacked by Iran in the Persian Gulf in 1987 and 1988. See CFR Report *supra* note 2, at p. 38; Peter H.F. Bekker, *The World Court Finds that U.S. Attacks on Iranian Oil Platforms in 1987-1988 Were Not Justifiable as Self-Defense, but the United States Did Not Violate the Applicable Treaty with Iran*, ASIL INSIGHTS, November 2003.

⁴ See, e.g., Lieberman: Iran Strike Should Be Considered, THE HILL, June 10, 2007 ("I think we've got to be prepared to take aggressive military action against the Iranians to stop them from killing Americans in Iraq," said Senator Joe Lieberman (I-CT). "And to me, that would include a strike . . . over the border into Iran, where we have good evidence that they have a base at which they are training these people coming back into Iraq to kill our soldiers.")

⁵ Berman, *supra* note 1, at p. 4-5; see also Daniel Pipes and Patrick Clawson, *Ambitious Iran, Troubled Neighbors*, 72 FOREIGN AFF. 126-127.

This report traces U.S. foreign policy towards Iran from President Carter's Administration to the current Bush Administration, beginning with a brief conceptual discussion of the three policy options considered during this period: military intervention, engagement, and support of a democratic opposition. The report concludes that none of these approaches have been successful due to the zeal, daring, and resourcefulness of the Islamic Republic and its steadfast refusal to deviate from its objectives in favor of living in peace with its neighbors and the rest of the world. Even worse, many of the attempts to engage the Iranian regime were carried out at the expense of what Tehran views as their leading democratic opposition, the MEK and NCRI. Therefore, the international community should focus its strategy on containing the influence of Iran and supporting democratic opposition groups within the country and in the Iranian Diaspora that have the best chance of transforming the country.

A. *Military Intervention*

Although "we don't want American armies marching on Tehran,"⁶ U.S. military intervention is one of the options available to respond to Iran. Realistically, however, a full-scale invasion aimed at regime change would prove mostly ineffectual and exceptionally challenging, and therefore is not a viable option. Iran, in spite of its military inferiority, would very likely employ many unconventional tactics aimed at escalation, bringing about numerous unforeseen consequences.⁷ Furthermore, such an attack against Iran, aided by Iran's propaganda, is likely to help foster Islamic unity in the Arab world, thereby eliciting a larger than anticipated response against the United States. Finally, Iran controls the Strait of Hormuz, a waterway that all oil tankers must pass through on their way out of the Middle East. Iran could quite easily place a chokehold on the movement of oil, thereby severely restricting access by U.S. forces to the area.⁸ Moreover, this chokehold would have vast consequences for oil consumption by Europe and the United States.

Perhaps the greatest of Iran's strategic advantages is its ability to ramp up its propaganda machine within the region to incite further hatred for the United States, while bolstering unity among Muslims.⁹ The war would quickly move to a much larger playing field, one which Iran would largely control. An escalation would not only entangle the entire region in war, it would spread throughout the world – anywhere terrorist networks already exist.¹⁰ The Iranian regime, facing fear of destruction "would have no reason to hold back on any tool of retaliation it could find."¹¹ Although American forces are far superior to those of Iran, its army is large by regional standards and its technology far more advanced than that of Iraq and Afghanistan.¹² In light of

⁶ Interview with Colin Powell by CNN's Christiane Amanpour, Nov. 23, 2004, available at <http://www.state.gov/secretary/former/powell/remarks/38667.htm>, quoting former Secretary of State Colin Powell.

⁷ Kaveh L. Afrasiabi, *How Iran Will Fight Back*, ASIA TIMES, Dec. 16, 2004.

⁸ Borzou Daragahi, *Iran Readies Military, Fearing a US Attack*, SAN FRANCISCO CHRONICLE, Feb. 21, 2005; see also *Iran's Developing Military Capabilities*, Center for Strategic and International Studies, Dec. 2004 [hereinafter CSIS Report].

⁹ Jim Lobe, *Neocons Exploiting Domestic Unrest in Iran*, ANTIWAR.COM, May 11, 2005.

¹⁰ James Fallows, *Will Iran be Next?*, ATLANTIC MONTHLY, Dec. 2004.

¹¹ Fallows, *supra* note 10; see also *EU/Iran Relations*, U.K. PARL, Westminster Hall, Column 177WH, Oct. 19, 2004 [hereinafter Westminster], stating that Iran was willing to accept up to one million human losses during its war with Iraq in the 1980s.

¹² See CSIS Report, *supra* note 8. Iran's military actually numbers less than one million. Also, its equipment is aged and is of questionable quality.

all of these factors, military analysts have consistently concluded that the option of engaging in military conflict against Iran poses unacceptable risks and should be avoided.

B. Engagement

The primary option employed by the United States for responding to Iran has been engagement with the regime. The contours of this policy, which ranges from diplomatic dialogue to limited containment, were well described in a Task Force Report by the Council on Foreign Relations, co-chaired by former CIA Director and current Secretary of Defense William Gates and former National Security Advisor Zbigniew Brzezinski.¹³ The Task Force asserted that the U.S. government should selectively engage with the Government of Iran.¹⁴ Additionally, the report recommends that all potential incentives for extracting compliance from Iran should be pursued.¹⁵ This report served as an affirmation of the United States' historical approach to Iran. The approach of further dialogue with Iran was also supported in the report of the Iraq Study Group, chaired by former Secretary of State James Baker and former Chairman of the then House International Relations Committee Lee Hamilton.¹⁶ Nevertheless, as documented in this report, history demonstrates that dialogue has bought more time for the Iranian regime to achieve its own political objectives and has failed to result in substantial changes in its unacceptable behavior as declared by the West.

C. Supporting the Democratic Opposition

Many believe that the most effective means to respond to Iran would be to actively seek regime change by supporting the strong framework of dissent that already flourishes both inside and outside of Iran. Such a policy should be designed to destabilize and further weaken the regime's control until the regime eventually crumbles.¹⁷ From this perspective, when it is seen that America is supporting the aspirations of the Iranian people for democracy and liberty, an even greater number of dedicated supporters will become willing to take up the cause, knowing they are not facing this task alone. At a minimum, demonstrating support for such a position will strengthen the hand of those trying to continue engaging with Tehran by making clear that the opportunity for meaningful discussion may be entering its last stages. At the same time, of course, the United States would have to support these opposition groups from some distance so as to not engender resentment from the Iranian people about external interference in their country.

The level of internal dissent against the Iranian regime has intensified. Arguably, the most effective method to contribute to bringing about democratic change in Iran, with minimal risk to the U.S., is to support the opposition already in place that is struggling against the regime in Iran.¹⁸ In 2004, the government allocated \$1 million for organizations to document human

¹³ See CFR Report, *supra* note 2.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Recommendation 9 of the report says the U.S. "should engage directly with Iran . . . to try to obtain their commitment to constructive policies toward Iraq and other regional issues." See Iraq Study Group Report 37, U.S. Institute of Peace (2006).

¹⁷ *Policy Options for Iran*, Iran Policy Committee, Feb. 10, 2005 [hereinafter IPC Report].

¹⁸ IPC Report, *supra* note 17.

rights abuses inside Iran and \$500,000 to the National Endowment for Democracy for programming.¹⁹ Similarly, the U.S. has already committed \$3 million in Congressional appropriations and earmarked a portion of another \$6.5 million toward advancing education and human rights in Iran.²⁰ Still, as long as the right overall policy toward Tehran is not in place, appropriating funds for democracy promotion will not help achieve the goal of bringing about a democracy in Iran. It could even complicate credible opposition activities by making the funding an issue. Additionally, Congress recently passed the Iran Freedom Support Act which authorizes funds specifically for Iranian opposition groups and has allocated \$75 million for this purpose²¹, though the Act has not been fully implemented.

Internal change will not occur overnight – but assisting dissident groups, or at least enabling them to operate unhindered, is a pragmatic approach to lay a foundation in generating continual momentum for peaceful regime change in Iran. Two such resistance organizations are MEK²² and NCRI. Both of these organizations have been consistent in their dedication to the establishment of democracy in Iran.²³ Unfortunately, both of these organizations were placed on the U.S. list of FTOs in 1997 and 1999 respectively and they remain on the FTO list despite growing and substantial evidence that they likely never belonged there in the first place.²⁴ As a result, they are sanctioned by the United States, which is also prohibited from cooperating with them, let alone supporting their efforts.

II. History of United States' Engagement with Iran

In response to the U.S. Embassy takeover in Tehran, Iran on November 4, 1979, President Carter's Administration launched a narrowly circumscribed military effort against Iran to try and free the hostages. The initiative was unsuccessful, and the United States has been reluctant to attempt another military intervention in Iran since 1980.²⁵ Instead, the United States has undertaken varying forms of engagement (and containment) to address the growing threat of Iran in the region and in the world.

A. President Jimmy Carter's Administration (1977-1981)

When President Carter came to office, he purposefully distinguished himself from his predecessors' antagonistic view of the world and sought a more diplomatic agenda with a goal of modernization.²⁶ With respect to Iran, President Carter's goal was to prevent Iran from allying itself with the Soviet Union. By supporting the Shah of Iran, Mohammad Reza Shah Pahlavi –

¹⁹ R. Nicholas Burns, *US Policy Toward Iran*, US Department of State, Nov. 30, 2005.

²⁰ Burns, *supra* note 19.

²¹ Elaine Monaghan, *Senate Measure Clears Iran Freedom Support Act*, CQ TODAY, Sept. 30, 2006.

²² The official Farsi name is Sazeman Mojahedin-e-Khalq-e Iran and the English translation is People's Mojahedin Organization of Iran ("PMOI").

²³ *Future of Iran: Oppression or Democracy*, Friends of a Free Iran, Meeting on Iran, E.U. Parl., Dec. 15, 2004.

²⁴ For a lengthy and detailed report on the listing of the MEK and NCRI as FTOs, see *Iran: Foreign Policy Challenges and Choices: Empowering the Democratic Opposition*, DLA Piper & Global Options, November 2006.

²⁵ The only other instance of U.S. military intervention came during the Iran-Iraq war when the U.S. attacked Iranian oil platform complexes that the U.S. claimed were being used by Iran to attack neutral vessels. See Sean D. Murphy, ed., *U.S. Reaction to ICJ Judgment in Iranian Oil Platforms Case*, 98 AM. J. INT'L 597 (2004)

²⁶ Dr. Lawrence E. Grinter *Avoiding the Burden: the Carter Doctrine in Perspective*, Jan-Feb. AIR UNIVERSITY REVIEW 2, (1983).

who the United States reinstalled in power by a CIA-backed coup of Dr. Mohammed Mossadeq in 1953²⁷ – President Carter sought to maintain an independent and stable, though autocratic and repressive, regime in Iran to ensure stability in the Middle East.²⁸ Prior to the fall of the Shah and the Embassy takeover, President Carter followed the traditional U.S. policy of aligning himself with the Shah; for example, in a state visit to Tehran at the end of 1977, President Carter said “I am proud and pleased to be able to visit at the end of my first year in office and begin another year with our close friends and allies.”²⁹ This statement had the unintended consequence of infuriating the Iranian people and weakening the Shah because President Carter was viewed as unwilling to act to curb the Shah’s repression. However, due to subsequent events, President Carter vacillated between this appeasement of the Government of Iran and complete diplomatic isolation of the regime.³⁰

1. The Islamic Revolution

By 1979, the people of Iran and others around the world opposed the Shah and actively sought his removal.³¹ The Shah’s active repression of dissent through his domestic security and intelligence service, the SAVAK, and the poor human rights record of his regime made it difficult for many in Washington to support Iran. At one point, President Carter’s Ambassador to the United Nations, Andrew Young, referred to Ayatollah Khomeini, the leader of the opposition to the Shah, as a “saint.”³² Thousands of Iranians began to riot in Tehran, protesting the Shah’s regime and ultimately forced the Shah to flee Iran on January 16, 1979.³³ Khomeini returned from exile on February 1, 1979, welcomed by huge crowds, and appointed the new regime’s prime minister on February 10, 1979.³⁴ The first stage of the Islamic Revolution was complete.

The Islamic Revolution, combined with the Soviet presence in Asia, Africa, and the Middle East, prompted President Carter to launch what has become known as the “Carter Doctrine” in his 1980 State of the Union Address.³⁵ Unlike President Carter’s earlier policy of appeasing the Shah, the Carter Doctrine stated that the United States was prepared to use military force to defend its national interests in the Persian Gulf.³⁶ However, even after this declaration, President Carter was reluctant to address the threat of Ayatollah Khomeini’s government in Tehran. Ultimately, any engagement with the regime collapsed after the hostage crisis. Instead, President Carter deployed varying degrees of pressure, including sanctions and trade barriers. Nevertheless, in his 1980 State of the Union, President Carter called for containment in the Middle East with its purpose to put pressure on Iran and limit Soviet expansion, with the threat of military force.³⁷

²⁷ John Prados, *SAFE FOR DEMOCRACY: THE SECRET WARS OF THE CIA 107*, (Ivan R. Dee 2006).

²⁸ Grinter, *supra* note 26, at p. 3.

²⁹ *Id.* at p. 5.

³⁰ Berman, *supra* note 1, at p. xviii.

³¹ Paul Kennedy, *The Real Culture Wars*, *NEW YORK TIMES*, January 27, 2002.

³² Grinter, *supra* note 1, at p. 5.

³³ CFR Report, *supra* note 2, at p. 63.

³⁴ Massoumeh Ebtekar, *TAKEOVER IN TEHRAN: THE INSIDE STORY OF THE 1979 U.S. EMBASSY CAPTURE 12* (Talonbooks 2000).

³⁵ Grinter, *supra* note 26, at p. 1.

³⁶ *Id.*

³⁷ *Id.* at p. 4.

Throughout President Carter's presidency, members of his Administration spoke publicly against the Shah, while the White House continued to express support.³⁸ Consequently, on the eve of the Islamic Revolution, the Carter Administration was split between supporting the Shah, removing the Shah, or supporting the Shah while pressing for reform.³⁹ According to Dr. Lawrence Grinter, Professor of National Security Affairs at the Air Command and Staff College "events, not policy, now determined American responses in Southwest Asia."⁴⁰ This reality would drive American policy towards Iran for the next 25 plus years: each Administration would declare its policy for addressing Iran, and yet as events unfolded during each Administration, each President would alter his strategy to appease Iran and avoid a large-scale confrontation. Only after the Shah had left Iran, Ayatollah Khomeini returned, the Iranians imprisoned Americans in Tehran, and Soviet tanks had overrun Kabul did President Carter acknowledge a complete failure in his policy towards Iran, and finally announce his containment doctrine.⁴¹

2. The Iranian Takeover of the U.S. Embassy, November 4, 1979

President Carter's fracturing foreign policy was further strained when on November 4, 1979, student revolutionaries loyal to Ayatollah Khomeini seized 66 employees at the U.S. Embassy in Tehran, and held 52 Americans hostage for 444 days to protest American involvement with the Shah's regime.⁴²

Subsequent to the takeover, President Carter suspended diplomatic relations with Iran⁴³, and declared a policy of containment in the Persian Gulf.⁴⁴ This policy included the imposition of heavy economic sanctions and the freezing of all assets of the government of Iran in the United States and under the control of the U.S. banks, businesses, and individuals outside the United States.⁴⁵ Together, President Carter's economic actions against Iran totaled more than \$12 billion in bank deposits, gold, and other property.⁴⁶ On April 24, President Carter authorized Operation Eagle Claw, or Desert One, a top-secret mission to rescue the hostages.⁴⁷ This instance of limited U.S. military intervention was doomed from the beginning when one helicopter developed engine trouble in a staging area of the Iranian desert due to a sand storm.⁴⁸ The operation failed, and eight Americans were killed when two planes collided during the subsequent withdrawal of U.S. forces.⁴⁹ For the next nine months, President Carter continued the economic sanctions despite the American public's demands for stronger action.⁵⁰ Finally, in September 1979, Khomeini's government began negotiating with President Carter, but his failure

³⁸ *Id.* at p. 5.

³⁹ *Id.* at p. 6.

⁴⁰ Grinter, *supra* note 26, at p. 7.

⁴¹ *Id.* at p. 8.

⁴² *Iran Hostage Anniversary*, CBS NEWS, January 18, 2001

⁴³ Jahangir Amuzegar, *Iran's Crumbling Revolution*, 82 FOREIGN AFF. 45 (2003).

⁴⁴ Grinter, *supra* note 26, at p. 4.

⁴⁵ Robert Carswell, *Economic Sanctions and the Iran Experience*, 60 FOREIGN AFF. 247 (1981-1982).

⁴⁶ Carswell, *supra* note 45, at p. 247.

⁴⁷ *Iran Hostage Anniversary*, *supra* note 42; *see also American Experience: Jimmy Carter*, PUBLIC BROADCASTING STATION [hereinafter PBS-Carter].

⁴⁸ *Iran Hostage Anniversary*, *supra* note 42.

⁴⁹ *Id.*

⁵⁰ PBS-Carter, *supra* note 47.

to resolve the hostage crisis contributed to his electoral defeat that November.⁵¹ Half an hour after Ronald Reagan became President, Iran released all of the American hostages in exchange for \$8 billion in frozen assets and a promise by the United States to lift trade sanctions in the Declarations of Algiers.⁵²

3. Conclusion

President Carter's long-term aim of securing a democratic, modern regime in Iran was put on hold as he negotiated with the Islamic Republic for the return of the American hostages. The Administration moved from the soft version of engagement involving diplomacy to limited containment, which involved imposing sanctions. President Carter even briefly, though unsuccessfully, attempted a targeted military intervention to rescue the hostages. Ultimately, President Carter was able to secure the release of the hostages, but the crisis in Iran contributed to his losing his bid for reelection.

It is unclear precisely why Iran decided to release the hostages and agree to the Declarations of Algiers.⁵³ President Carter's sanctions had imposed severe economic hardship on the country and "the abortive rescue attempt . . . and the presence of U.S. carrier task forces in the Indian Ocean may have heightened Iran's sense of vulnerability," and this may have been aggravated by the pending Iran-Iraq war; or it might have been President-elect Reagan's pledge that negotiations would stop when he took office.⁵⁴ Whatever the reason, it is clear that President Carter's initial policy of appeasement and diplomatic engagement with Iran was not successful. The subsequent hard-line approach that was adopted also failed to achieve U.S. policy objectives. Ultimately, the hostages were released, but the theocratic, destabilizing regime remained in power at the end of President Carter's one term in office.

B. President Ronald Reagan's Administration (1981-1989)

During his Presidential campaign, Ronald Reagan pledged not to engage with Iran if he should be elected.⁵⁵ He made this declaration in the context of President Carter's diplomatic attempts to engage Iran to secure the release of the hostages. Eventually, however, President Reagan acknowledged the realities of the U.S.-Iranian relationship. Two tangentially connected series of events dominated U.S. foreign policy towards Iran under the Reagan Administration: first, the Iran-Iraq war, and second, the Iran-Contra affair. While President Reagan sought to isolate Iran⁵⁶, particularly through the active backing of Iraq's Saddam Hussein during the Iran-Iraq war⁵⁷, such policies were clearly secondary and sometimes in opposition to President Reagan's broader foreign policy goal of weakening and defeating global communism.⁵⁸

⁵¹ *Id.*

⁵² *Iran Hostage Anniversary, supra note 42; See also* EO 12282, January 19, 1981 (revoking sanctions against transactions involving Iran), EO 12283, January 19, 1981 (prohibition of prosecution of claims of hostages against Iran)

⁵³ Robert Carswell, *Economic Sanctions and the Iran Experience*, 60 FOREIGN AFF. 247 (1981-1982).

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ Berman, *supra note 1*, at p. xviii.

⁵⁷ *Id.* at p. xix.

⁵⁸ *Id.*

1. The Iran – Iraq War (1980-1988)

Iraq invaded Iran in September 1980. Saddam Hussein, President of Iraq, sought to “bring an end to subversive intervention in Iraq by [the] revolutionary Shi’a regime of Iran”, and to alter the boundaries between Iraq and Iran to establish Iraqi control over the Shatt-al-Arab waterway.⁵⁹ If he succeeded, Hussein would improve Iraq’s ability to export its oil without having to cross foreign territory, and improve security along the Iraq and Iran border.⁶⁰ Due to the United States’ direct interests in the Middle East, this war would further complicate the U.S.-Iranian relationship.

Throughout the Iran-Iraq war, the United States remained “formally neutral”⁶¹, but on many occasions the United States intervened on behalf of Iraq. During Congressional testimony, Assistant Secretary for Near Eastern and South Asian Affairs Richard Murphy candidly stated that the United States “regards the Gulf as an area of major interest to the United States and is committed to maintaining the free flow of oil through the Strait of Hormuz.”⁶² Murphy also stated that “the Administration is firmly committed as a matter of national policy to support the individual and collective self-defense of the Arab Gulf States.”⁶³ The United States offered this open support to the Arab Gulf States because they were supporting Iraq to “frustrate Iranian hegemonic aspirations.”⁶⁴ Further, the United States actively sought to reduce the flow of weapons to Iran, thus materially affecting Iran’s defense capabilities⁶⁵, which had overwhelming superiority in manpower and resources of a country four times larger than Iraq. In another candid moment, the Administration admitted during Congressional testimony that the United States did “not wish to see an Iranian victory in that terrible conflict. Nevertheless, the United States remain[ed] formally neutral in the war.”⁶⁶

On June 11, 1982, Iraq ceased all its military activities and “began to observe a [unilateral] ceasefire in its war with Iran.”⁶⁷ However, in response, Iran continued to shell Iraqi military positions, and “rejected Iraq’s offer to halt hostilities because the offer did not include [the] removal of Iraq’s President, General Saddam Hussein.”⁶⁸ Iran further demanded that Iraq pay \$150 billion in reparations for the “immeasurable damage” caused by the war.⁶⁹ Ayatollah Khomeini was the main spokesman for Tehran during these “negotiations”, and stubbornly refused to accept both Iraq’s ceasefire, as well as the plea for a ceasefire voted for by the UN Security Council.⁷⁰ Instead, Khomeini declared that “Iraq will join Iran, for the oppressed Iraqi

⁵⁹ S. H. Amin, *The Iran-Iraq Conflict: Legal Implications*, 31 INT’L & COMP. L.Q. 168 (1982).

⁶⁰ Claudia Wright, *Implications of the Iraq-Iran War*, 59 FOREIGN AFF. 276 (1980-1981).

⁶¹ Assistant Secretary Murphy’s Statement, *Iran-Iraq War and Navigation in the Gulf*, 26 INT’L LEGAL MATERIALS 1430 (1987).

⁶² *Id.*

⁶³ *Id.*

⁶⁴ Michael H. Armacost, Under Secretary for Political Affairs, Statement before Senate Foreign Relations Committee, June 16, 1987, *supra* note 61, at p. 1429.

⁶⁵ *Id.* at p. 1423.

⁶⁶ *Id.* at p. 1430.

⁶⁷ *Iraq Says it Holds Fire in Iran; Teheran [sic] Bars Truce*, NEW YORK TIMES, June 11, 1982 (brackets inserted for purposes of clarity).

⁶⁸ *Id.*

⁶⁹ *Khomeini Insists Iraq Must Meet Iran’s Other Demands for Peace*, WASHINGTON POST, June 22, 1982.

⁷⁰ *Iran Renews Drive Against the Iraqis in Border Region*, NEW YORK TIMES, July 14, 1982.

people will join the Iranian people in installing an Islamic state, in accordance with its wishes. If our two nations unite, the smaller nations of the regions will then join us.”⁷¹ In July 1982, Iran invaded Iraq as its “first step on the road to the liberation of Jerusalem.”⁷² *The Washington Post* editorial page noted at the time: “To Ayatollah Khomeini, Baghdad is but a step on the road to Jerusalem.”⁷³ Khomeini demonstrated to the West that the Islamic Republic presented a serious threat to the stability of the region; and the hostilities continued for six more years as a consequence of Khomeini’s refusal to negotiate an end to the Iran-Iraq war.⁷⁴

As the war progressed, Iran and Iraq began targeting neutral shipping in the Strait of Hormuz in order to deprive the other country of trade. In 1986, a total of almost 100 neutral vessels passing through the Strait of Hormuz were attacked by Iran and Iraq as part of this escalating violence, and 30 ships had been attacked by May 1987 during the so-called “the tanker war.”⁷⁵ On May 17, 1987, Iraqi missiles hit the U.S. Navy frigate, U.S.S. Stark.⁷⁶ Iraq issued an immediate apology for the U.S.S. Stark incident, which the United States accepted with no further direct action.⁷⁷ Yet, two days after the incident, Assistant Secretary Murphy issued a statement about U.S. policies toward the Gulf War, and all initiatives undertaken by the Administration in response to the attack on U.S.S. Stark were either directly or indirectly aimed at Iran. These initiatives indicated lingering U.S. concern with the destabilizing consequences of a military victory by Iran, despite the fact that it was Iraq who hit the Navy frigate and initiated the tanker war to make up for its losses on the ground.⁷⁸ In the same statement, Murphy announced President Reagan’s approval of “Operation Staunch,” an effort by the United States “to reduce the flow of weapons from others to Iran.”⁷⁹ This U.S. initiative further inhibited Iran’s ability to defend itself in the war.⁸⁰ Under Secretary Armacost justified targeting Iran because Iran, unlike Iraq, had refused to negotiate an end to the war.⁸¹

Finally, on July 20, 1987, the UN Security Council adopted Resolution 598, which demanded that Iran and Iraq observe an immediate cease-fire and a cessation of military actions on land, by sea, and in the air.⁸² Iraq “welcome[ed] the resolution and [was] ready to cooperate with . . . the Security Council so as to implement it in good faith with a view to finding a comprehensive, just, lasting, and honorable settlement of the conflict with Iran.”⁸³ Iran, on the other hand, rejected Resolution 598, claiming it had been “formulated and adopted by the United

⁷¹ *Khomeini Insists Iraq Must Meet Iran’s Other Demands for Peace*, WASHINGTON POST, June 22, 1982.

⁷² *Khomeini Tests His Strength*, FINANCIAL TIMES, July 14, 1982.

⁷³ *Iran’s Invasion*, WASHINGTON POST, July 16, 1982.

⁷⁴ *Khomeini Tests His Strength*, *supra* note 72.

⁷⁵ *Id.* at p. 1423.

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ Assistant Secretary Murphy’s Statement, *supra* note 61, at p. 1423-1424. *See also* Michael H. Armacost, Under Secretary for Political Affairs, Statement before Senate Foreign Relations Committee, June 16, 1987, *supra* note 61, at p. 1429.

⁷⁹ Assistant Secretary Murphy’s Statement, *supra* note 61, at p. 1423.

⁸⁰ *Id.*

⁸¹ Michael H. Armacost, Under Secretary for Political Affairs, Statement before Senate Foreign Relations Committee, June 16, 1987, *supra* note 61, at p. 1431.

⁸² UN Security Council Resolution 598, adopted July 20, 1987, *supra* note 61, at p. 1479.

⁸³ Letter dated 14 August 1987 from the Charge d’affaires A.I. of the Permanent Mission of Iraq to the United Nations Addressed to the Secretary-General, *supra* note 61, at p. 1485.

States with the explicit intention of intervention in the Persian Gulf and the region, mustering support for Iraq and its supporters in the war . . . None of these objectives correspond[ed] to the legitimate objective of seeking a just resolution to the conflict.”⁸⁴ Iran further asserted that the Resolution had been adopted without its being consulted, and that “it reflect[ed] the Iraqi formulae for the resolution of the conflict.”⁸⁵ Iran continued its strong rhetorical warning that the adoption of the resolution was “a prelude to the expansion of tension and further exacerbation of the situation.”⁸⁶ Iran was willing to continue the devastating war, rather than agree to the UN ceasefire; thus demonstrating that U.S. efforts to secure Iran’s defeat would not deter Iran in its quest for hegemony in the region.

Though the United States recognized the authority of the Islamic Republic⁸⁷, the Reagan Administration actively sought to undermine the regime’s success in the Iran-Iraq war. The international community successfully ended the war, but only after Iran had prolonged the war for six unnecessary years, leading to hundreds of thousands of casualties and massive economic damage, ranging from \$300 billion to \$1 trillion.⁸⁸ Iran had also suffered “a major ideological crisis.”⁸⁹ Khomeini had defined the Iran-Iraq war in the context of the regime’s objective to spread Islam throughout the world. Not only did Khomeini fail to deliver Jerusalem, he died of a heart attack in June 1989.⁹⁰ Iran had lost the central figure of the Islamic Revolution, and had suffered a devastating loss in the Iran-Iraq war, which lead some to conclude that “Iran’s revolutionary fires would dim, if not go out, over the following decade.”⁹¹ These hopeful critics of the regime underestimated the Islamic Republic’s resilience and zealous desire to preserve power. Khomeini’s successor moved quickly to centralize authority in the ruling clerics⁹², and over the next decade, Iran would exploit the opportunity to expand its reach and appeal in the Muslim world with the collapse of the Soviet Union and the defeat of Saddam Hussein in the Persian Gulf War.⁹³

2. The Iran – Iran Contra Affair

Two “interwoven operations” created the situation that became known as the “Iran-Contra Affair.”⁹⁴ The first grew from President Reagan’s efforts to weaken and defeat Communism around the world, which included supporting Nicaragua’s Contras against their enemies, the Marxist Sandinistas.⁹⁵ The President’s objectives were complicated by a

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ Michael H. Armacost, Under Secretary for Political Affairs, Statement before Senate Foreign Relations Committee, June 16, 1987, *supra* note 61, at p. 1430.

⁸⁸ Berman, *supra* note 1, at p. 9.

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ *Id.* (citing Robin Wright, journalist and author).

⁹² Discussed below under President George H. W. Bush.

⁹³ *Id.* at p. 10-11.

⁹⁴ *American Experience: Ronald Reagan*, PUBLIC BROADCASTING STATION [hereinafter PBS-Reagan]; *see also* Lee H. Hamilton and Daniel K. Inouye, *Report of the Congressional Committees Investigating the Iran-Contra Affair*, H.R. REP. NO. 100-433 and S. REP. NO. 100-216 (1987) [hereinafter Congressional Committees Report].

⁹⁵ *Id.*

Democratic U.S. Congress that had explicitly restricted CIA and Department of Defense operations in Nicaragua by passing the Boland Amendment.⁹⁶ The second operation involved an attempt to free American hostages in Lebanon via the sale of arms to Iran, despite an embargo issued by the President.⁹⁷ The terrorist organization, Hezbollah, had captured seven Americans in separate incidents and had been holding them hostage over an extended period in Lebanon.⁹⁸ Due to the direct ties between Hezbollah and Iran, the United States sought Iran's influence in securing the hostages' release. Both operations went forward, despite the fact that they contravened and undermined Congressional policy toward Nicaragua, as well as President Reagan's policy of containment and isolation towards Iran.

In 1985, Iran "made a secret request to buy weapons from the United States" during the Iran-Iraq war.⁹⁹ The United States believed that the "sale of arms would not only improve U.S. relations with Iran, but might in turn lead to improved relations with Lebanon."¹⁰⁰ President Reagan "convinced himself that he was not negotiating with terrorists," because to do so would violate his campaign promise never to do so.¹⁰¹ By secretly supplying arms to Iran, the United States not only enabled Iran to launch new offensives against Iraq, but also violated its own arms embargo against Iran. Furthermore, this led to a situation in which the United States actually funded *both* parties to the war.¹⁰²

The proposal for opening a secret dialogue with Iran divided the Reagan Administration, and Secretary of Defense Caspar Weinberger and Secretary of State George Shultz opposed the initiative.¹⁰³ Nevertheless, with the support of CIA Director William Casey, National Security Advisor Robert McFarlane, and with the blessing of the President, both operations proceeded, and eventually Lieutenant Colonel Oliver North of the National Security Council began to divert some of the proceeds from the arms sales to finance support for Nicaraguan Contras.¹⁰⁴ Until his death, President Reagan denied that he had authorized such a use of funds, but he assumed the responsibility for his Administration's actions and suffered the political consequences.¹⁰⁵ President Reagan, senior Administration officials, and their aides "committed themselves, however reluctantly, to two programs contrary to Congressional policy and contrary to national policy."¹⁰⁶

Around the same time, the State Department made its first public statement denouncing the MEK, the main political opposition to the Islamic Republic, during testimony before the

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ THE TOWER COMMISSION REPORT, New York Times Company, February 1987, p. B-132 [hereinafter Tower Commission Report].

⁹⁹ PBS-Reagan, *supra* note 94.

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² F. Gregory Gause III, *The Illogic of Dual Containment*, 73 FOREIGN AFF. 59 (1994). *see also* Anthony Lake, *Confronting Backlash States*, 73 Foreign Aff. 48 (1994). (Anthony Lake was Assistant to President Clinton for National Security Affairs); *see also* Congressional Committees Report, *supra* note 94.

¹⁰³ PBS-Reagan, *supra* note 94.

¹⁰⁴ *Id.*

¹⁰⁵ David Johnston, *Walsh Criticizes Reagan and Bush Over Iran-Contra*, NEW YORK TIMES, January 19, 1994.

¹⁰⁶ *Id.*

House Subcommittee on Europe and the Middle East.¹⁰⁷ It was later revealed by the Tower Commission, as discussed below, that this public statement was one of the principle actions taken by the Reagan Administration as a “good will gesture” towards Iran as part of its engagement with Iran, in the hope that it would help secure the release of U.S. hostages.¹⁰⁸ The subcommittee held the hearing to discuss “recent developments in the Middle East,” and Assistant Secretary Murphy testified about the ongoing peace process, the aftermath of the TWA hijacking, and the efforts to reform the Israeli economy.¹⁰⁹ At the end of his testimony, Murphy verbally attacked the MEK, declaring that the MEK “had advocated the use of violence since their inception, and have worked for a re-emphasis in Iranian society of Shia Islam reformed in the light of Marxist principals.”¹¹⁰ The Subcommittee Chairman, Lee Hamilton (D-IN), asked Murphy why he chose this forum to criticize the MEK, since it was not a topic of the hearing.¹¹¹ Murphy responded that the State Department thought it necessary to call Congress’ attention to the nature of the MEK, since the organization had launched a “fairly active public relations campaign . . . to gain American support.”¹¹² Murphy was motivated to lash out at the MEK by CIA Deputy Director of Operations’ belief that the MEK was “well organized, influenced by the Soviets, and likely to succeed Khomeini.”¹¹³ The NCRI, of which MEK is a member, issued a detailed response to Murphy’s allegations, but the United States had already gone on record as opposing the MEK and denouncing the organization.¹¹⁴

After the Lebanese newspaper *Al-Shira* disclosed the Reagan’s Administration’s secret activities in November 1986, President Reagan “went on television and vehemently denied that any such operation had occurred.”¹¹⁵ One week later, President Reagan retracted this statement, but denied the connection between arms sales and ongoing efforts to secure the release of the hostages.¹¹⁶ On March 4, 1987, President Reagan addressed the country from the Oval Office, and accepted responsibility for the affair in its entirety.¹¹⁷ According to President Reagan, “what began as a strategic opening to Iran deteriorated, in its implementation, into trading arms for hostages. This runs counter to my own beliefs, to administration policy, and to the original strategy we had in mind.”¹¹⁸ President Reagan’s initial strategy towards Iran centered on isolation and containment; yet, in his statement, he acknowledged that he had hoped to diplomatically engage with Iran by entertaining Iran’s request to purchase arms. Such a level of engagement contradicted President Reagan’s original policy, as well as the United States’ stated “neutral” position during the Iran-Iraq war. President Reagan justified his actions by stating his goal to “develop relations with those who might assume leadership in a post-Khomeini

¹⁰⁷ Richard Murphy, *Developments in the Middle East, July 1985*, House Foreign Affairs Subcommittee on Europe and the Middle East, July 24, 1985 (Murphy was the Assistant Secretary of State for Near East and South Asia Affairs) [hereinafter Murphy]; see also TOWER COMMISSION REPORT, *supra* note 98, at p. B-132.

¹⁰⁸ Murphy, *supra* note 107.

¹⁰⁹ *Id.* at p. 4.

¹¹⁰ *Id.* at p. 11.

¹¹¹ *Id.* at p. 42.

¹¹² Murphy, *supra* note 107.

¹¹³ TOWER COMMISSION REPORT, *supra* note 98, at p. B-105.

¹¹⁴ Murphy, *supra* note 107.

¹¹⁵ PBS-Reagan, *supra* note 94.

¹¹⁶ *Id.*

¹¹⁷ President Ronald Reagan, *Iran Arms and Contra Aid Controversy*, March 4, 1987. Available at: <http://www.presidentialrhetoric.com/historicspeeches/reagan/irancontra.html>.

¹¹⁸ *Id.*

government”, but acknowledged that his Administration’s actions thwarted the United States’ geo-political strategy in the Middle East.¹¹⁹

Upon the revelation that the United States was secretly trading arms with Iran, allegedly in exchange for the hostages held in Lebanon, President Reagan appointed the Tower Commission to investigate the Administration’s actions.¹²⁰ In addition, Congress established two select committees to investigate the Iran-Contra affair, the House and Senate Select Committees.¹²¹ Finally, Congress appointed a special independent prosecutor, Lawrence Walsh, to conduct its own investigation into the Administration’s actions.¹²²

Beyond its findings of the culpability of the Reagan Administration in the Iran-Contra affair, the Tower Commission also uncovered evidence of the Administration’s efforts to appease the mullahs by labeling its most potent political opposition as a “terrorist and Marxist” group.¹²³ In a letter purportedly written by Manuchehr Ghorbanifar, the Iranian ‘international dealmaker’,¹²⁴ to his Iranian government contact on July 8, 1986, Ghorbanifar outlines the “constructive steps” that the United States had taken “as a sign of good will and utmost respect toward the Islamic Republic.”¹²⁵ The letter asserts that the United States had “issued . . . an official announcement terming the Mojahedin-e Khalq Organization terrorist and Marxist; . . . a circular to the Congress and to all American firms and institutions, . . . banning of [sic] any and all types of assistance to the opponents of the regime of the Islamic Republic of Iran.”¹²⁶ Thus, not only did the Reagan Administration try to “placate Khomeini . . . with missiles and battlefield-intelligence data, but also by taking measures against Khomeini’s principal domestic opponent, the resistance organization known as the People’s Mujahedeen.”¹²⁷ A *Boston Globe* editorial at the time analogized President Reagan’s actions to those of the French Prime Minister, Jacques Chirac, who expelled the MEK leader, Massoud Rajavi, from Paris in exchange for the release of French hostages being held in Lebanon.¹²⁸ The MEK itself says the organization “emphasizes complete freedom of thought and speech, press, political parties and organizations, syndicates and associations; guarantees complete equal rights between men and women and stresses the restitution of the rights of religious and ethnic minorities.”¹²⁹ The *Boston Globe* editorial went on to note “no wonder that Khomeini’s intolerant theocracy . . . wants the Mujahedeen branded as ‘terrorist and Marxist.’”¹³⁰

¹¹⁹ Reagan, *supra* note 117.

¹²⁰ *Id.*

¹²¹ Congressional Committees Report, *supra* note 94.

¹²² Johnston, *supra* note 105.

¹²³ TOWER COMMISSION REPORT, *supra* note 98, at p. B-132.

¹²⁴ *Id.* at p. B-106.

¹²⁵ *Id.* at p. B-132.

¹²⁶ *Id.*

¹²⁷ Editorial, *Paying Khomeini’s Price*, BOSTON GLOBE, April 25, 1987 [hereinafter Boston Globe Editorial]; see also Constance Hilliard, *Irangate: A troubling footnote*, DALLAS MORNING NEWS, April 21, 1987; see also Editorial, *Our Diplomats ‘Discover’ Possible Iranian Moderates*, TAMPA TRIBUNE, June 9, 1987.

¹²⁸ *Id.*; see also Jack Anderson and Dale Van Atta, *Kowtowing to Khomeini*, WASHINGTON POST, June 29, 1986. “Kowtowing to Khomeini has become the new diplomatic game in Washington and Paris.”

¹²⁹ Boston Globe Editorial, *supra* note 127.

¹³⁰ *Id.*

The House and Senate Select Congressional Committees' unprecedented joint investigation into the Iran-Contra affair concluded that "in light of the destruction of material by [National Security Advisor] Poindexter¹³¹ and [Lieutenant Colonel] North, and the death of [CIA Director] Casey, all facts may never be known. The Committees cannot even be sure whether they heard the whole truth . . . But enough is clear to demonstrate beyond doubt that fundamental processes of governance were disregarded and the rule of law subverted."¹³² The Committees found that the United States "simultaneously pursued two contradictory foreign policies – a public one and a secret one."¹³³ One public policy was to not make any concessions for the release of hostages lest such concessions encourage more hostage taking, and the secret policy was to trade sophisticated weapons to Iran in exchange for the release of the hostages.¹³⁴ Another public policy was to ban arms shipments to Iran, while the secret policy was to sell arms directly to Iran.¹³⁵ These contradictory policies sent a mixed message to Tehran. While the United States armed Iran, it "attained neither a new relationship with that hostile regime nor a reduction in the number of American hostages."¹³⁶ Nor did these arms sales lead to any moderation of Iranian policies.¹³⁷

The Iran-Contra affair revealed the Reagan Administration's persistent efforts to secure the release of the American hostages in Lebanon. The Islamic Republic's intransigence forced the United States to continually make concessions to Iran, from selling arms in violation of the U.S. ban on such sales to labeling the democratic opposition group, MEK, a "terrorist and Marxist" group. Singling out the MEK marked the beginning of a twenty-year trend of Tehran and Washington treating the MEK and the NCRI as pawns in its negotiations. All of the United States' efforts at securing goodwill were in vain because the Iranian government officials that the United States worked with during this period "were far from a position of sufficient strength to act on their views."¹³⁸ National Security Advisor Robert McFarlane commented that his conversation with Hadi Najafabadi, the foreign affairs advisor to the future Iranian President, Rafsanjani, "approached a fairly normal diplomatic exchange."¹³⁹ However, McFarlane realized that officials like Najafabadi "were part of a fractious circle around Rafsanjani that was still dominated by radicals," and were unable to deliver the hostages.¹⁴⁰

3. Conclusion

President Reagan failed to keep his promise to the American public that he would not engage Iran. Instead of pursuing his policy of containment and isolation, President Reagan went even farther than President Carter dared to go in engaging Iran to secure the release of the American hostages. Further, President Reagan violated his own policy of neutrality in the Iran-Iraq war by actively funding Saddam Hussein, and imposing trade embargoes on Iran. Yet, even

¹³¹ Admiral Poindexter became National Security Advisor after McFarlane resigned in 1985.

¹³² Congressional Committees Report, *supra* note 94, at p. 11.

¹³³ *Id.* at p. 12.

¹³⁴ *Id.*

¹³⁵ *Id.*

¹³⁶ *Id.*

¹³⁷ Congressional Committees Report, *supra* note 94.

¹³⁸ Robert C. McFarlane and Zofia Smardz, SPECIAL TRUST 59 (Cadell & Davies 1994).

¹³⁹ McFarlane, *supra* note 138, at p. 59.

¹⁴⁰ *Id.*

this policy was inconsistently implemented when the United States sold arms to Iran in exchange for the hostages. Once again, attempts to engage Iran had failed and the United States' long-term foreign-policy objectives had not been achieved. Worse still, the United States had in the pursuit of this failed engagement policy labeled Tehran's most visible democratic opposition a terrorist and Marxist group, a decision that continues to have repercussions to this day.

C. President George H. W. Bush's Administration (1989-1993)

President George H. W. Bush was the first President to lead the United States as the sole superpower in the world after the collapse of the Soviet Union. These events "overshadowed Iran throughout" President Bush's presidency¹⁴¹ as the Bush Administration adjusted to the new world order. Yet, despite the tortuous history of the relationship between Iran and the United States, many officials in Washington continued to believe in the possibility of building a better relationship with Iran.¹⁴² Specifically, two events encouraged this hope of moderation gaining momentum in Iran. First, Ayatollah Khomeini, the leader of the Islamic Revolution, died in June 1989 and Ali Khamenei assumed power as the new supreme leader.¹⁴³ And second, Ali Akbar Hashemi Rafsanjani, "an avowed regime moderate", was elected President.¹⁴⁴ However, "such optimism turned out to be premature" as Supreme Leader Khamenei and President Rafsanjani quickly "reaffirm[ed] the centrality of "exporting the revolution" in the post-Khomeini era."¹⁴⁵

1. Iran After Ayatollah Khomeini

President Bush sought a policy of "internationalism" that "was centered on his revival of the collective security idea: the notion that the United Nations, with the United States at the lead, would guarantee the territorial integrity and political independence of all members of international society."¹⁴⁶ As part of this strategy, President Bush moved cautiously in foreign affairs, preferring "modest public pronouncements and . . . private communications" rather than enacting bold new foreign policy programs.¹⁴⁷ Though Iran did not feature prominently in President Bush's foreign policy agenda, the President employed this strategy in negotiating with the Post-Khomeini Islamic regime.¹⁴⁸

In his inaugural address, President George H. W. Bush sent a signal to Tehran that "goodwill begets goodwill," a message repeated throughout his presidency.¹⁴⁹ This overture to Tehran changed U.S. foreign policy towards Iran by "stepp[ing] carefully back from President Reagan's . . . policy of never negotiating with terrorists."¹⁵⁰ Though President Bush "pointedly refus[ed] to offer any *quid pro quo*", he suggested that if the American hostages being held in

¹⁴¹ Berman, *supra* note 1, at p. xix.

¹⁴² *Id.*

¹⁴³ *Id.* at p. 9 – 10.

¹⁴⁴ *Id.*

¹⁴⁵ *Id.*

¹⁴⁶ David C. Hendrickson, *The Recovery of Internationalism*, 73 FOREIGN AFF. 27 (1994).

¹⁴⁷ Michael Mandelbaum, *The Bush Foreign Policy*, 70 FOREIGN AFF. 5 (1990-1992).

¹⁴⁸ Michael Duffy, *Mr. Consensus* 1, TIME MAGAZINE, August 21, 1989.

¹⁴⁹ Inaugural Address of President George H.W. Bush, Delivered January 20, 1989.

¹⁵⁰ *Id.*

Lebanon came home, the United States would consider releasing Iranian assets that had been frozen since 1979.¹⁵¹

However, the United States' attempts to engage Tehran failed because Khamenei and Rafsanjani were committed to preserving Iran's clerical government as established by Khomeini after the Islamic Revolution.¹⁵² As long as the Islamic Republic endures, any attempt by the United States to engage Tehran will fail – as Ayatollah Khamenei declared “when we speak of the Arrogant West, we address all the oppressors of the world.”¹⁵³ Upon assuming power, Khamenei and Rafsanjani “instituted a series of sweeping constitutional amendments” designed to consolidate “greater power and foreign policy decision making in the post of the *vali-e faqih*, now occupied by Khamenei.”¹⁵⁴ Further, President Rafsanjani's foreign policy advisor articulated Iran's three objectives: “The first is maintaining the Islamic nature of our regime and our status in the Islamic world. The second is defending the Republic's safety, and the third is expansion.”¹⁵⁵ With these stated objectives, Khamenei and Rafsanjani stifled any hope of reform of the Iranian government.

Thus, Ayatollah Khomeini's death did not spark the moderate revolution hoped for by the United States. Instead, the Islamic Republic endured under new leadership, and grew stronger. The collapse of the Soviet Union and the defeat of Iraq in Operation Desert Storm “provided Iran with an unexpected opportunity to expand its reach and appeal in the Muslim world”¹⁵⁶, and therefore further complicate U.S.-Iranian relations.

2. Operation Desert Storm

The United States' historic policy of supporting Iraq to provide a counterweight to Iran backfired when Saddam Hussein used the “massive conventional arsenal” of weapons supplied by the United States, “first, against his own people, and then later Kuwait [on August 2, 1990].”¹⁵⁷ Iraq's economy had suffered dramatically during the eight-year Iran-Iraq war, and Hussein had pressured Kuwait to lower its production of oil, “which would help to raise the price of that commodity on the world market and thus increase” Iraq's oil revenues.¹⁵⁸ When Kuwait refused to lower its production, Iraq used this as a pretext for invasion. Consistent with the Bush Administration's internationalist policies, the United States, with the support of the United Nations, quickly responded to the Iraqi threat to Kuwait and removed Iraqi forces from the small oil-rich country.¹⁵⁹

¹⁵¹ *Id.*

¹⁵² Berman, *supra* note 1, at p. 10.

¹⁵³ *Id.*

¹⁵⁴ *Id.*

¹⁵⁵ *Id.* (quoting Muhammad-Javad Larijani, Rafsanjani's foreign policy advisor)

¹⁵⁶ *Id.* at p. 11.

¹⁵⁷ Lake, *supra* note 102 at p. 48.

¹⁵⁸ Robert J. Pauly, US FOREIGN POLICY AND THE PERSIAN GULF: SAFEGUARDING AMERICAN INTERESTS THROUGH SELECTIVE MULTILATERALISM 39 (Ashgate Publishing Limited 2005).

¹⁵⁹ Andrew Rosenthal, *War in the Gulf: The Overview – U.S. and Allies Open Air War on Iraq; Bomb Baghdad and Kuwaiti Targets; ‘No Choice’ but Force, Bush Declares; No Ground Fighting Yet; Call to Arms by Hussein*, NEW YORK TIMES, January 17, 1991.

During Operation Desert Storm, Iran assured the United States that the country would “remain totally neutral in the conflict,”¹⁶⁰ but nevertheless, Iran took substantial actions to advance its own agenda against Iraq and assert its authority in the Middle East. In March 1991, President Bush issued “statements of concern that Iran [was] ‘grabbing territory’ in Iraq.”¹⁶¹ This announcement followed statements by the MEK that Iranian Revolutionary Guards had crossed over the border into northern Iraq and attacked the MEK’s camps.¹⁶² In addition, the United States reported that “Iran [was] arming and aiding the Shiite Muslims rebelling against Saddam Hussein’s regime in southern Iraq.”¹⁶³ Tehran further violated its alleged neutrality when it confiscated many of Iraq’s airplanes that had been diverted to Iranian airfields.¹⁶⁴ U.S. officials stated that Tehran was in the process of “repainting [the] commercial jets . . . and Iran’s air force [was] expected to integrate Soviet-made Iraqi fighters and bombers into Iran’s air force.”¹⁶⁵ Clearly, Iran was not a neutral party to the conflict, and, instead, actively pursued its own interests in the region.

3. Conclusion

Due to the collapse of the Soviet Union and death of Ayatollah Khomeini early in his Presidency, President Bush pursued a policy of engagement with Iran. However, both incoming Supreme Leader Khamenei and President Rafsanjani had no intention of moderating Iran’s foreign policy objectives. As an indirect consequence of the Bush Administration’s invasion of Iraq, Iran presented a greater challenge to President Clinton. This is because Iraq, the historical counterweight to Iran, had just suffered a huge defeat in Operation Desert Storm and was significantly weakened.

D. *President Bill Clinton’s Administration (1993-2001)*

Upon taking office, President Bill Clinton’s Administration articulated its “dual containment” policy towards Iran and Iraq.¹⁶⁶ Since before the Islamic Revolution, U.S. policy towards Iran and Iraq had consisted of building up one country to counter the other country to maintain a balance of power in the Middle East.¹⁶⁷ However, due to changed circumstances,¹⁶⁸ President Clinton’s Administration argued that “there is no longer a need to depend on either Iraq or Iran to maintain a favorable balance and protect U.S. friends and interests in the gulf.”¹⁶⁹ Instead, the United States would assume a more direct role in maintaining the stability in the

¹⁶⁰ Secretary of State James Baker, U.S. Department of State Dispatch, January 26, 1991.

¹⁶¹ *U.S. Runs Out of Reasons to Ignore Kurds*, INDEPENDENT (UK), March 15, 1991.

¹⁶² *Id.*; see also Jonathan C. Randal, *Army Offensive Repelled, Iraqi Opposition Says*, WASHINGTON POST, March 19, 1991.

¹⁶³ Fred Kaplan, *U.S. Downs Iraqi Plane for Violation*, BOSTON GLOBE, March 21, 1991.

¹⁶⁴ Patrick E. Tyler, *Iran-Iraq Tension is Worrying U.S.*, NEW YORK TIMES, April 26, 1991.

¹⁶⁵ *Id.*

¹⁶⁶ Lake, *supra* 102, at p. 48.

¹⁶⁷ *Id.*

¹⁶⁸ See Lake, *supra* note 102, at p. 48-49 (Lake cites the following as evidence that the dual containment policy is the more appropriate strategy: the end of the Cold War, the regional balance of power between Iran and Iraq being established at a much lower level of military capability, Gulf states willingness to enter into security agreements with Washington after Iraq’s invasion of Kuwait, and Washington’s stronger relationships with other countries in the region).

¹⁶⁹ *Id.* at p. 49.

region. However, in light of Iranian involvement in “a series of terrorist bombings in Israel by pro-Iranian groups, and after Iran’s January 1995 contract for Russia to complete its Bushehr nuclear power reactor”¹⁷⁰ in 1995, the policy of dual containment suffered a set back, along with the commercial relationship that had developed between the United States and Iran.¹⁷¹ This revelation of Iran’s terrorist connections sparked a policy change toward Iran that was more in keeping with an aggressive containment policy.¹⁷² This aggressive stance was short-lived, however, and President Clinton returned to a policy of soft engagement again when President Mohammad Khatami, believed to be a reformer, was elected in 1997.¹⁷³ Like his predecessors, President Clinton’s foreign policy towards Iran was fraught with contradictions, and these policy reversals resulted in a chaotic, ambiguous position towards Iran, which paralyzed the U.S.-Iranian relationship.¹⁷⁴

1. Dual Containment Policy

Throughout Clinton’s Presidency, Congress and the White House differed as to how to approach Iran: Congress sought aggressive containment, while the White House “increasingly gravitat[ed] toward engagement.”¹⁷⁵ On May 18, 1993, the National Security Council’s senior director for the Near East, Martin Indyk, articulated the “dual containment policy” in a speech to the Washington Institute for Near East Policy.¹⁷⁶ Under this policy, the United States would no longer support Iraq to counter Iran, or vice-versa; instead, the United States would actively contain both countries’ sphere of influence and progress towards military armament.¹⁷⁷ This position effectively ended previous Administrations’ efforts to support the moderates in Iran. According to Anthony Lake, President Clinton’s National Security Advisor at the time, “these same ‘moderates’ [supported by previous administrations] are responsible for the very policies we find so objectionable,”¹⁷⁸ including nuclear proliferation and interference in Arab-Israeli peace process.¹⁷⁹ Nevertheless, the Clinton Administration emphasized that dual containment was not designed to “change the Iranian regime per se, but rather its behavior, particularly its quest for nuclear weapons, its support for terrorism and subversion in the region, and its opposition to the Middle East peace process.”¹⁸⁰ In fact, the United States remained “ready for an authoritative dialogue [with Tehran]” and more normal relations . . . [were] conceivable, once [Tehran] demonstrate[d] its willingness to abide by international norms.”¹⁸¹

¹⁷⁰ Kenneth Katzman, U.S.-IRANIAN RELATIONS: AN ANALYTIC COMPENDIUM OF U.S. POLICIES, LAWS, AND REGULATIONS (Washington, DC: Atlantic Council of the United States, 1999).

¹⁷¹ *Id.* at p. 6-7.

¹⁷² Berman, *supra* note 1, at p. xix; *see also* Secretary Warren Christopher *Presidential Executive Order Expands U.S. Sanctions Against Iran*, Opening Statement at a State Department press briefing (May 1, 1995).

¹⁷³ Madeline K. Albright, Speech at the 1998 Asia Society Dinner, New York, June 17, 1998. Available at: <http://www.asiasociety.org/speeches/albright.html>.

¹⁷⁴ Berman, *supra* note 1, at p. xix.

¹⁷⁵ *Id.*

¹⁷⁶ Gause, *supra* note 102, at p. 57.

¹⁷⁷ Lake, *supra* note 102, at p. 49-52.

¹⁷⁸ *Id.* at p. 53.

¹⁷⁹ The Atlantic Council of the United States, THINKING BEYOND THE STALEMATE IN U.S.-IRANIAN RELATIONS: VOLUME I – POLICY REVIEW ix (May 2001).

¹⁸⁰ Zbigniew Brzezinski, Brent Scowcroft, and Richard Murphy, *Differentiated Containment*, 76 FOREIGN AFF. 23 (1997).

¹⁸¹ Lake, *supra* note 102, at p. 50 and 52.

During the period of dual containment, U.S. exports to Iran increased dramatically, exporting more than \$1 billion worth of goods to Iran in 1993.¹⁸² American oil companies purchased and marketed approximately one-third of Iranian oil production.¹⁸³ Under the policy of dual containment, the United States did not sell arms and high-technology products to Iran, and encouraged the international community to refrain from doing so as well.¹⁸⁴ However, the U.S. policy of containing Iran failed to attract international support, and few countries imposed similar restrictions on trade with Iran.¹⁸⁵ Thus, strict U.S. sanctions against Iran might have caused some damage to the Iranian economy, but “produced no major achievements and increasingly isolate[d] America rather than their target.”¹⁸⁶

2. Iranian Ties to Terrorist Activities

The United States’ growing economic relationship with Iran shifted in 1995 due to Washington’s increasing frustration at a perceived lack of progress towards moderation on the part of Iran.¹⁸⁷ The Clinton Administration adopted a more aggressive policy towards Iran in order to avoid “a challenge on Iran policy mounted by an increasingly bellicose Republican Congress”, which sought to increase pressure on rogue states through extreme measures.¹⁸⁸ In March 1995, President Clinton issued an Executive Order banning U.S. investments in Iran’s energy sector.¹⁸⁹ A subsequent Executive Order banned all U.S. investment in Iran and prohibited the export and re-export to Iran of U.S. goods and services.¹⁹⁰ According to Secretary of State Warren Christopher, these Executive Orders “dramatically expand[ed] existing U.S. sanctions against Iran, which [were] already the toughest in the world.”¹⁹¹ The United States sought to use its diplomatic and economic measures, as well as its military deterrent to contain Iran and “to pressure it to cease its unacceptable actions.”¹⁹²

On August 5, 1996, President Clinton signed the Iran and Libya Sanctions Act (“ILSA”) in the face of mounting political pressure to take further action against Iran.¹⁹³ The purpose of ILSA was “to deny Iran the ability to support acts of international terrorism and to fund the development and acquisition of weapons of mass destruction and the means to deliver them by limiting the development of Iran’s ability to explore for, extract, refine, or transport by pipeline

¹⁸² Eric Rouleau, *America’s Unyielding Policy Toward Iraq*, 74 FOREIGN AFF. 61 (1995).

¹⁸³ *Id.*

¹⁸⁴ *Id.*

¹⁸⁵ Lake, *supra* note 102, at p. 53.

¹⁸⁶ Brzezinski, *supra* note 180, at p. 24.

¹⁸⁷ *Id.* at p. 23; *see also* Christopher, *supra* note 172.

¹⁸⁸ Brzezinski, *supra* note 180, at p. 23. Congressional initiatives included sanctioning all parties doing business with Iran (or Libya), including American allies. President Clinton wished to avoid such action because it would further alienate the international community.

¹⁸⁹ Executive Order 12957; *See also* Christopher, *supra* note 172.

¹⁹⁰ Executive Order 12959.

¹⁹¹ Christopher, *supra* note 189.

¹⁹² *Id.*

¹⁹³ Charles Breckinridge, *Sanction First, Ask Questions Later: The Shortsighted Treatment of Iran Under the Iran and Libya Sanctions Act of 1996*, 88 GEO. L. J. 2440 (1999-2000).

petroleum resources of Iran.”¹⁹⁴ Regardless of whether these sanctions were successful, this hard-line containment approach toward Iran was short-lived when Iran elected a perceived moderate Mohammed Khatami.

3. Election of Mohammed Khatami

The United States welcomed the election of Mohammad Khatami as President in May 1997, and indicated that the United States was willing to dramatically change its policy toward Iran.¹⁹⁵ Nearly 70 percent of Iran’s voting population supported the election of Khatami, “providing him with a mandate for change, demanding from the Iranian Government greater freedoms, a more civil society based on the rule of law, and a more moderate foreign policy aimed at ending Iran’s estrangement from the international community.”¹⁹⁶ Khatami “emphasiz[ed] the importance of dialogue among nations and cultures, and . . . [acknowledg[ed] the world’s growing interdependence.”¹⁹⁷ Khatami was heavily supported by Iran’s large population of young people, but his Presidency only disappointed the students.¹⁹⁸ In a speech to university students in December 2004, Khatami defended his Presidency by saying “I have never retreated in the face of anything. I have only retreated in the face of a regime that I believe in.”¹⁹⁹ Khatami’s attempts to reform the Islamic Republic failed completely due to the strength and power of the ruling clerics, and the students in the audience felt betrayed by Khatami.²⁰⁰ Many students yelled “Khatami, shame on you”, “Khatami, we detest you”, and “Khatami, our votes were wasted on you.”²⁰¹ President Khatami offered hope to the young Iranians and Western countries of a more moderate Islamic Republic. Ultimately, however, he was forced to yield to the pressures of the ruling clerics.

In response to Khatami’s election in 1997 and Iran’s perceived move toward moderation, the United States made numerous concessions to the Islamic Republic. Each of these concessions was designed to convince the Islamic Republic to continue down the path of moderation, and to eventually develop “a road map leading to normal relations” with the United States.²⁰² The United States dropped the “Iran” portion of the dual containment policy, and “experimented with the possibility of engaging Tehran through modest unilateral gestures.”²⁰³ In July 1997, President Clinton decided not to sanction a natural gas pipeline across Iran. This action signified “the first easing of United States’ efforts to isolate Iran economically”, and concluded that the pipeline technically would not violate the ILSA provisions.²⁰⁴ In 1996, terrorists bombed the Khobar Towers in Saudi Arabia, killing 19 American servicemen and

¹⁹⁴ Iran and Libya Sanctions Act of 1996 §3, Pub. L. No. 104-172, 110 Stat. 1541; *see also* Breckinridge, *supra* note 193, at p. 2445.

¹⁹⁵ Madeline K. Albright, Speech at the 1998 Asia Society Dinner, New York, June 17, 1998.

¹⁹⁶ *Id.*

¹⁹⁷ *Id.*

¹⁹⁸ *Iran’s Khatami Gets Bitter Reception from Iranian Students*, AGENCE FRANCE PRESSE, December 6, 2004.

¹⁹⁹ *Id.*

²⁰⁰ *Id.*

²⁰¹ *Id.*

²⁰² Albright, *supra* note 195. The notion of a roadmap was first raised by Secretary of State, Madeline Albright, in 1998, and has become regarded as a major element of United States policy towards Iran during this period.

²⁰³ CFR Report, *supra* note 2, at p. 38.

²⁰⁴ Irvin Molotsky, *US Ends its Opposition to Iran Gas Pipeline*, NEW YORK TIMES, July 27, 1997; *see also* CFR Report, *supra* note 2, at p. 65.

wounding hundreds.²⁰⁵ During the subsequent investigation, President Clinton sent a secret offer to Tehran, seeking President Khatami's cooperation in the Khobar Towers case and asking him to cease terrorist-activities.²⁰⁶ Despite the best hopes of the Clinton Administration, Iran's response was clear: Tehran was not interested in working with the United States.²⁰⁷ In October 1997, the State Department designated the MEK as an FTO²⁰⁸, apparently as a goodwill gesture towards Iran. Expert opinion concluded MEK had been designated an FTO for political reasons²⁰⁹, and that the Iranian regime had specifically demanded this designation.²¹⁰ It appears that the Clinton Administration complied with the Iranian demand as a good will gesture in order to end years of hostile diplomatic relations between the two countries and to curry favor with President Khatami.²¹¹

Despite these generous concessions, Iran remained opposed to normalizing relations with the United States so long as the sanctions remained in place.²¹² In 1998, Iran's Foreign Minister Kharrazi skeptically dismissed Secretary of State Madeleine Albright's offer to open a dialogue between the two countries²¹³ despite President Khatami's assurances that he was willing to begin a "dialogue between civilizations."²¹⁴ Undeterred, the United States continued to make concessions.²¹⁵ Finally, in March 2000, Secretary Albright acknowledged errors in the role that the United States played in the 1953 coup that reinstated the Shah in power.²¹⁶ These

²⁰⁵ Jane Perlez and James Risen, *Clinton Seeks an Opening to Iran, but Efforts Have Been Rebuffed*, NEW YORK TIMES, December 3, 1999.

²⁰⁶ *Id.*

²⁰⁷ *Id.*

²⁰⁸ *Foreign Terrorist Organizations*, Press Release, Office of the Coordinator for Counterterrorism, US Department of State, Oct. 8, 1997; *see also* Berman, *supra* note 1, at p. 141.

²⁰⁹ Scott Peterson, *Why the US Granted "Protected" Status to Iranian Terrorists*, CHRISTIAN SCIENCE MONITOR, Jul. 29, 2004, *quoting* Magnus Ranstorp, the head of the Center for the Study of Terrorism and Political Violence at St. Andrews University in Scotland, "the [terrorism] designation process is often hijacked for political purposes, and may shift with the wind." *See also* *The "FTO List" and Congress: Sanctioning Designated Foreign Terrorist Organizations*, Congressional Research Service, Library of Congress, Oct. 21, 2003, stating that there are often competing priorities with respect to designation, such as the desire to use a group "as leverage for another foreign policy aim." As a result of these collateral motives for listing, statements regarding whether an organization is a terrorist organization "may ring hollow."

²¹⁰ Norman Kempster, *US Designates 30 Groups as Terrorists*, LOS ANGELES TIMES, Oct. 9, 1997, citing an unnamed senior Clinton Administration official; *see also* Letter from Mohammed Mohaddessin, Chairman of Foreign Affairs Committee of the National Council of Resistance of Iran (NCRI), to Richard Boucher, Assistant Secretary of State, Feb. 27, 2003, stating that in a speech in 1999, Martin Indyk, then Assistant Secretary of State for Near Eastern Affairs, announced that the terrorist designation had been prompted by the regime.

²¹¹ *Id.*

²¹² Kamal Kharrazi, speech at the Asia Society, New York, September 28, 1998. *Available at*: <http://www.asiasociety.org/speeches/kharrazi.html>.

²¹³ Kharrazi, *supra* note 212; *see also* Elaine Sciolino, *A Top Iranian Aide Rejects U.S. Overture on New Ties*, NEW YORK TIMES, September 29, 1998.

²¹⁴ Albright, *supra* note 195.

²¹⁵ Other examples of U.S. concessions include: efforts to soften economic and trade sanctions against Iran including President Clinton's announcement in April 1998 of an exemption covering commercial sales of agricultural and medical products to Iran; in May 1998, U.S. waived sanctions against oil companies that signed contracts with Iran; in September 2000, the U.S. eased travel restrictions to allow Foreign Minister Kamal Kharrazi to visit American colleges; and Secretary Albright attended the same U.N. meeting as President Khatami as a significant diplomatic gesture. *See* Perlez and Risen, *supra* note 205; *see also* *In U.S., Top Iran Aide Has Travel Rules Eased*, NEW YORK TIMES, September 21, 2000.

²¹⁶ David E. Sanger, *U.S. Ending a Few of the Sanctions Imposed on Iran*, NEW YORK TIMES, March 18, 2000.

concessions amounted to a tremendous shift in U.S. policy towards Iran, and yet “[i]n response, Supreme Leader Khamenei denounced rapprochement with the United States as ‘treason.’”²¹⁷ President Khatami may have appeared to be open to closer ties with the United States, but he was restrained by the conservative clerics in Iran who believed “Americans [to be] crooks.”²¹⁸

4. Conclusion

President Clinton’s foreign policy towards Iran failed to achieve its goal of achieving a favorable balance of power in the Middle East. The policy of dual containment did not halt Iran’s terrorist activities, and any gains made by the subsequent sanctions were forfeited when the Clinton Administration was enticed to make further concessions by the allure of engagement with the new, allegedly moderate President. As Presidents Reagan, Bush, and Clinton ultimately learned, professions of moderation by Iran’s leaders are all subject to clerical veto under the Iranian Constitution. These Presidents believed soft engagement would encourage these moderate trends. None were successful in achieving that end. In hindsight, the designation of the MEK/NCRI as terrorist groups disabled and marginalized the regime’s most feared opposition. Further, these decisions have had the unintended consequence of constraining U.S. foreign policy options in Iraq, Iran, and the broader Middle East. Specifically, the legal constraints on the groups, the prohibitions on contact, and the precedent these decisions set for the European Union and others to designate the groups as terrorist entities had far reaching consequences for U.S. foreign policy.

E. President George W. Bush’s Administration (2001-Present)

Upon taking office, President George W. Bush began to outline a “coherent policy toward Iran” that “mobiliz[ed] a belated, and ultimately ineffective, effort to modify the Iran-Libya Sanctions Act.”²¹⁹ With the terrorist attacks of September 11, 2001, President Bush’s was forced to reformulate his policies.²²⁰ These events “transformed” the United States and charted a new path in responding to Islamic fundamentalists, including the Islamic Republic.²²¹ Beginning with his 2002 State of the Union address, President Bush launched an aggressive policy towards Iran by including the regime in an “axis of evil” and promising “new, proactive measures designed to prevent these countries from developing WMD or supplying them to terrorists.”²²² However, “with the initiation of Washington’s war on terrorism, Iran became a key player in that effort,” and President Bush was forced to soften his approach to Iran.²²³ As a consequence of these conflicting initiatives, President Bush’s foreign policy approach to Iran has been “disjointed and sometimes contradictory . . . from late 2001 onward.”²²⁴

²¹⁷ Editorial Board, *Iran and the Clintonistas*, WASHINGTON TIMES, May 4, 2006.

²¹⁸ Douglas Jehl, *The World; New U.S.-Iran Dialogue: Psst. Mumble. Huh?*, NEW YORK TIMES, June 6, 1999.

²¹⁹ CFR Report, *supra* note 2, at p. 39.

²²⁰ THE 9/11 COMMISSION REPORT 2, The National Commission on Terrorist Attacks Upon the United States, Government Printing Office, July 22, 2004.

²²¹ *Id.* at p. 1.

²²² Berman, *supra* note 1, at p. 106.

²²³ CFR Report, *supra* note 2, at p. 39.

²²⁴ *Id.*

1. President Bush's 2002 "Axis of Evil" State of the Union Address and Subsequent Policy Towards Iran

In his first State of the Union address, President Bush declared that "Iran aggressively pursues [missiles and weapons of mass destruction] and exports terror, while an unelected few repress the Iranian people's hope for freedom."²²⁵ Along with Iraq and North Korea, "states like these . . . constitute an axis of evil, arming to threaten the peace of the world."²²⁶ Yet, like his predecessors, the Bush Administration quickly retreated from this hard-line stance against Iran, and softened its rhetoric.²²⁷ For example, in February 2003, Deputy Secretary of State, Richard Armitage, "took pains to differentiate between the members of the "Axis," lumping Iraq and North Korea together while taking a softer line on Iran – all on account of Iran's democracy."²²⁸

Since this declaration, the United States has maintained a policy designed to "isolate Iran, promote a diplomatic solution to Iran's nuclear ambitions, expose and oppose the regime's support for terrorism, and advance the cause of democracy within Iran itself."²²⁹ As part of this ambitious policy, the Bush Administration recognizes every country's "right to nuclear energy for peaceful purposes, provided [the] country's nuclear activities are in conformity with its nuclear Nonproliferation Treaty ("NPT") obligations", but Iran has repeatedly violated its NPT safeguards pledge and continues to advance its nuclear weapon program.²³⁰ Iran has only become increasingly obstinate and dangerous since the 2005 election of President Ahmadinejad, who declared that Iran would continue its nuclear ambitions regardless of international dissent, and called for Israel "to be wiped from the face of the earth."²³¹

Despite the overtly hostile rhetoric from Tehran, the United States continues "to support the Iranian people in their desire for a more democratic future."²³² The Bush Administration recognizes that "Iran's advocates for change, its dissidents and writers are the latest heroes in [Iran's] long struggle for a more responsible and representative government."²³³ In June 2005, President Bush said "[t]he Iranian people are heirs to a great civilization – and they deserve a government that honors their ideals and unleashes their talent and creativity."²³⁴ In pursuit of this agenda, the United States continues to support UN Resolutions deploring Iran's treatment of its own people and sanctioning Iran for its pursuit of nuclear weapons²³⁵, but the war in Iraq complicates U.S. policy towards Iran, and often creates contradictory approaches.²³⁶ On the one

²²⁵ George W. Bush, *State of the Union Address*, January 29, 2002.

²²⁶ *Id.*

²²⁷ Berman, *supra* note 1, at p. 107.

²²⁸ *Id.*; See also Amin Saikal, "Axis of Evil": *The Phrase has Fallout*, INTERNATIONAL HERALD TRIBUNE, January 16, 2003.

²²⁹ R. Nicholas Burns, *U.S. Policy Toward Iran*, Speech at Johns Hopkins University Paul H. Nitze School of Advanced International Studies, Washington, DC, November 30, 2005. Available at <http://www.state.gov/p/us/rm/2005/57473.htm>. Mr. Burns is the current Under Secretary for Political Affairs at the U.S. State Department.

²³⁰ *Id.*

²³¹ *Id.*

²³² *Id.*

²³³ *Id.*

²³⁴ Burns, *supra* note 229.

²³⁵ *Id.*

²³⁶ CFR Report, *supra* note 2, at p. 39.

hand, the United States seeks to promote diplomatic solutions to Iran's nuclear ambitions and advance the cause of democracy and human rights within Iran; but on the other hand, the United States must aggressively respond to Iran's support for terrorism and attempts to destabilize Iraq.²³⁷ Nevertheless, according to Under Secretary Nicholas Burns, "the United States would be prepared to respond if Iran changed its policies fundamentally, but there is little evidence of such inclinations in the new government"²³⁸, nor has there been evidence in the past of Iran responding to such policy approaches.

2. National Council of Resistance of Iran's Revelation about Iran's Nuclear Ambitions

On August 14, 2002, NCRI revealed that Iran had two top-secret nuclear sites in Natanz and Arak. These "stunning revelations jolted the post-9/11 world awake to a new threat: Tehran's all-out quest for nuclear capabilities, and the frightening specter of a nuclear Iran."²³⁹ Subsequent investigations at Natanz uncovered the production of centrifuges, which are used for uranium enrichment.²⁴⁰ Satellite images later confirmed NCRI's information about the facility at Arak, which proved to be a heavy water production plant, intended specifically for plutonium production.²⁴¹

Despite Iran's assurances that the regime was not trying to conceal these facilities, then White House Press Secretary Ari Fleischer stated that these facilities reinforced increasing U.S. concerns about Tehran's "across-the-board pursuit of weapons of mass destruction and missile capabilities."²⁴² In addition to the fact that the existence of these two facilities had not previously been disclosed by the Iranians, the presence of the heavy water production complex at Arak indicated that Iran had a much more mature nuclear weapons program than originally thought. Unlike light water reactors, whose purpose is strictly energy production, heavy water reactors are specifically designed for the production of weapons grade plutonium.²⁴³ It appears that Iran had successfully distracted the international community from its nuclear efforts through the regime's pattern of "negotiating tactics," discussed above. Had it not been for the NCRI's revelations, Iran's nuclear weapons program may have proceeded undetected for several more years.

3. Operation Iraqi Freedom and Attempts to Stabilize Iraq

In March 2003, the United States launched Operation Iraqi Freedom. The military intervention's purpose was to catalyze a regime change in Iraq by removing Saddam Hussein from power. The effort was successful, and Saddam Hussein was tried for crimes against

²³⁷ Burns, *supra* note 229.

²³⁸ Burns, *supra* note 229.

²³⁹ Berman, *supra* note 1, at p. 31.

²⁴⁰ *Covert Nuclear Activities in Iran*, Jane's Intelligence Digest November 3, 2005. Secretary of State Condoleezza Rice has stated "we (the United States) found out about Natanz . . . through reporting of dissidents who had been told things by people inside Iran." *Interview with Editorial Board*, WALL STREET JOURNAL, September 25, 2006.

²⁴¹ *Id.*

²⁴² *Iran Confirms Building New Nuclear Facilities*, IRAN PRESS SERVICE, December 14, 2002.

²⁴³ Nicholas Rufford and Robert Winnett, *Britain Offers Iran Nuclear Plant Aid*, SUNDAY TIMES (UK), November 7, 2004.

humanity, found guilty, and executed on December 30, 2006.²⁴⁴ From the moment the United States entered Iraq, Iran has taken full advantage of the situation. Throughout the war, Iran's declared policy was to remain neutral.²⁴⁵ In fact, "the war in Iraq turned out to be a strategic windfall [for Iran], uprooting Baathism and pacifying a nemesis that had been a thorn in its side."²⁴⁶ More importantly, Iran has taken numerous actions to undermine U.S. efforts in Iraq as the Islamic Republic seeks to establish Iranian hegemony in the region.

The Islamic Republic has been actively supporting the insurgents in Iraq since the fall of Saddam Hussein.²⁴⁷ "Iranian influence quickly spread into southern Iraq" in the form of commercial and military relationships²⁴⁸, and the Iraq war has "turned a large part of Iraq into an Iranian sphere of influence" and "paved the way for Iranian hegemony in the Persian Gulf."²⁴⁹ Recently, U.S. intelligence asserts that the "most lethal weapon directed against American troops in Iraq . . . is being supplied by Iran."²⁵⁰ Further, Iran's Ambassador Kazemi Qumi recently outlined Iran's plan to expand its military and economic endeavors inside Iraq, despite the United States' request that Iran stay out of Iraq's internal affairs.²⁵¹ It appears that the Iraq war has strengthened Iran, but weakened U.S. influence in the region as anti-American sentiment grows in the Arab world and the U.S. military is exhausted in Iraq.²⁵² Once again, the United States relied on Iran's neutrality in the conflict; and once again, Iran ignored its promise of neutrality and pursued its own objectives.

Throughout the war, the United States has engaged in diplomatic discussions with Iran "for strategic position in Iraq as well as post-conflict stabilization of Afghanistan."²⁵³ As part of its efforts to try and secure Iran's neutrality during the war on Iraq, the United States again used the MEK as a pawn by "target[ing] [the MEK] with lethal fire."²⁵⁴ In 2003, the United States conceded to Iran's demand by disarming the MEK, and listing the NCRI (U.S. branch) as an alias of the MEK and therefore an FTO.²⁵⁵ However, notwithstanding the hardship of living in seclusion and being designated as an FTO, the MEK has remained an important force against the current Iranian regime. Today, the MEK has settled in Camp Ashraf in Iraq, where the organization continues the struggle against the Iranian theocracy.²⁵⁶ After Operation Iraqi

²⁴⁴ Mark Santora, James Glanz, and Sabrina Tavernise, *The Struggle for Iraq; Saddam Hussein Hanged in Baghdad; Swift End to Drama; Troops on Alert*, NEW YORK TIMES, December 30, 2006.

²⁴⁵ CFR Report, *supra* note 2, at p. 64.

²⁴⁶ Vali Nasr, *Who Wins in Iraq?* 40, FOREIGN POLICY (March/April 2007).

²⁴⁷ See Kenneth Katzman, *Iran's Influence in Iraq*, CFR Report for Congress, May 22, 2007. In March 2006, Defense Secretary Rumsfeld asserted that Iran was assisting armed factions in Iraq by supplying explosives and weapons. In August 2006, U.S. Brig. Gen. Michael Barbero said that Iran was training, funding, and equipping Shiite militiamen in Iraq. Since 2006, weapons found in Iraq have been traced to Iran.

²⁴⁸ Nasr, *supra* note 246, at p. 40; see also Katzman, *supra* note 247.

²⁴⁹ *Id.*

²⁵⁰ Michael R. Gordon, *Deadliest Bomb in Iraq is Made by Iran, U.S. Says*, NEW YORK TIMES, February 10, 2007.

²⁵¹ James Glanz, Abdul Razzaq Al-Saiedi, and Mark Mazzetti, *The Reach of War; Iranian Reveals Plan to Expand Role Inside Iraq*, NEW YORK TIMES, January 29, 2007.

²⁵² Nasr, *supra* note 246, at p. 40.

²⁵³ CFR Report, *supra* note 2, at p. 39.

²⁵⁴ CNN, *Coalition Negotiates Cease-Fire with Armed Group*, available at <http://www.cnn.com/2003/WORLD/meast/04/22/sprj.iq. ceasefire/>

²⁵⁵ *Determination Pursuant to Section 1(b) of Executive Order 13224 Relating to the Mujahedin-e Khalq (MEK)*, US Department of State, Public Notice 4447, 68 Fed. Reg., No. 158, Aug. 15, 2003.

²⁵⁶ Mohammed Mohaddessin, *ENEMIES OF THE AYATOLLAH* (Zed Books Limited 2004).

Freedom began in March 2003, coalition forces took control of Camp Ashraf following several unprovoked mortar attacks on the camp.²⁵⁷ Ashraf residents, following the orders of their leaders²⁵⁸, did not fire a single shot at coalition forces, nor did they resist in any way.²⁵⁹ News reports indicate that coalition attacks had been planned well in advance as part of a purported agreement whereby Iran agreed to support U.S. efforts as long as the United States supported Iran's desire to destroy Camp Ashraf and all MEK members.²⁶⁰ Once again, Tehran and Washington used the MEK as a bargaining chip in the negotiations between the two countries.

In a change of plans, however, the coalition forces agreed to a ceasefire with the MEK in which the organization renounced violence and terrorism.²⁶¹ Although U.S. military attorneys on behalf of the coalition were prepared to offer MEK a non-negotiable agreement, they were surprised to find that the MEK representatives were highly educated and wanted to carefully negotiate all the terms of the agreement.²⁶² Subsequently, various American security agencies have investigated the Camp Ashraf residents, and based on these investigations, coalition forces granted residents at Camp Ashraf protected status as civilians under the Fourth Geneva Convention.²⁶³ In a letter by the U.S. Deputy Commander in Iraq to the people of Ashraf, Maj. Gen. Geoffrey Miller stated that the decision to recognize Camp Ashraf residents as protected persons "sends a strong signal and is a powerful step on the road [to their] final individual disposition."²⁶⁴ To this day, MEK members, unarmed, continue to reside at Camp Ashraf, going about their daily life alongside coalition forces stationed there.²⁶⁵ The MEK and the NCRI are hardly the "terrorist[s] and Marxist[s]" that United States has condemned since 1986; in fact, the MEK and NCRI have played a critical role in deterring Iran's nuclear program and providing other useful intelligence information to the allied forces.

Despite the failed history of prior attempts to negotiate with Iran and due to the deteriorating situation in Iraq, the United States appears willing to continue to try rapprochement with Iran. On May 28, 2007, the United States and Iran "held their most high-profile, bilateral talks in nearly three decades" to discuss how the two countries could work to improve conditions in Iraq.²⁶⁶ The meeting did not produce any agreements or firm promises of future meetings, but both sides said that the talks "proceeded positively" and represented a "positive step" toward resolving the situation in Iraq.²⁶⁷ It is surprising that the Bush Administration has not learned from the mistakes of prior Administrations. Repeatedly, over the past 25 years, the United States has attempted to engage with Iran when the regime showed signs of moderation, and each time this policy has failed because as Tehran "negotiates," it continues to pursue its virulent anti-U.S.

²⁵⁷ Karl Vick, *In a Delicate Balancing Act, US Woos Iranian Group in Iraq*, WASHINGTON POST, November 9, 2003.

²⁵⁸ Patterns of Global Terrorism 2004, U.S. Department of State, April 2005.

²⁵⁹ Vick, *supra* note 257.

²⁶⁰ *Id.* "Iran agreed to passively support the U.S. campaign against Hussein – a sworn enemy of Iran – but asked that the Mujahedin [MEK] be disposed of."

²⁶¹ *Proclamation by the Commander, Multi-National Forces – Iraq, on the signing of the "Agreement for the individuals of the People's Mujahedin Organization of Iran (MEK)" at Ashraf, Iraq*, (July 2, 2004) (on file with author). [hereinafter *Proclamation*]

²⁶² Interview with Captain Vivian Gembara, May 11, 2005, conducted by DLA Piper.

²⁶³ *Proclamation, supra* note 261.

²⁶⁴ Letter from Geoffrey D. Miller, Major General, U.S. Army, to People of Ashraf, July 21, 2003.

²⁶⁵ *Camp Ashraf, Iraq*, LOS ANGELES TIMES, March 19, 2005.

²⁶⁶ Kirk Semple, *In Rare Talks, U.S. and Iran Discuss Iraq*, NEW YORK TIMES, May 28, 2007.

²⁶⁷ Semple, *supra* note 266.

policies unabated. On the basis of this history, it is doubtful that any future negotiations between Iran and the U.S. will result in the achievement of U.S. foreign policy objectives.

4. The United States' Role with the UN and EU-3 Engagement with Iran

While initially skeptical, the United States has in the past two years fully supported the nuclear dialogue between Germany, France, and the United Kingdom, collectively the EU-3, and Iran.²⁶⁸ The EU-3 has implemented a softer version of the engagement policy²⁶⁹, which has been the only diplomatic method employed, despite evidence that Iran has embarked on a nuclear weapons program, sponsors terrorism, and continues to commit serious abuses of human rights.²⁷⁰ Although the EU-3 has expressed serious concern since the election of President Ahmadinejad in 2005, the group has maintained in the past that talking to Iran and offering it the appropriate incentives, would persuade Tehran to adjust its policies and fall in line with the West's expectations.²⁷¹

One example of these incentives was the offering of a light-water reactor, best suited to a power program, in exchange for Iran's dismantling and abandonment of its heavy-water facility.²⁷² The EU-3 also offered technical expertise to aid Iran's nuclear energy program.²⁷³ All of these concessions were offered in exchange for Iran's expected promise to cease all enrichment-related nuclear activities.²⁷⁴ No such promise was forthcoming. As a result, in late 2004, the EU-3 was forced to demand that Iran suspend all its nuclear enrichment efforts or risk being referred to the UN Security Council.²⁷⁵ Two months later, Iran acquiesced and agreed to a full suspension.²⁷⁶ This suspension, however, was short-lived. Following the election of President Ahmadinejad in August 2005, Iran's leaders categorically rejected proposals made by the triumvirate and demonstrably resumed its nuclear program in Isfahan.²⁷⁷ In January 2006, the IAEA confirmed that Iran had broken the U.N. seals put in place during the suspension at the Natanz uranium enrichment plant so that it can renew enrichment.²⁷⁸ Most recently, Iran completed a second cascade of centrifuges allowing it to increase its production of enriched uranium.²⁷⁹ Despite public statements issued by Tehran, there was no evidence as to a real cessation of enrichment activities.²⁸⁰ Iran's nuclear program appears to have remained relatively undisturbed throughout the talks and the regime has succeeded again in buying more time to pursue its ambition of developing nuclear weapons.

²⁶⁸ Condoleezza Rice, *U.S. Support for the EU-3*, U.S. Department of State Press Release, March 15, 2005.

²⁶⁹ Westminster, *supra* note 11.

²⁷⁰ Struan Stevenson, *Risks of Appeasing Iran's Mullahs*, WASHINGTON TIMES, Jan. 5, 2005. Stevenson is a Scottish member of the European Parliament.

²⁷¹ *Id.*

²⁷² *Id.*

²⁷³ *Id.*

²⁷⁴ *Id.*

²⁷⁵ Matthew Clark, *Britain Sets Nuclear Deadline for Iran*, CHRISTIAN SCIENCE MONITOR, Sept. 9, 2004; *see also Preparatory Text for Europeans Proposal on Iranian Nuclear Program*, AGENCE FRANCE PRESSE, Oct. 21, 2004.

²⁷⁶ Iran-EU Agreement on Nuclear Programme, IAEA, Nov. 14, 2004.

²⁷⁷ *Iran Restarts Nuclear Programme*, BBC News, Aug. 8, 2005; *see also Iran Turns Down EU Nuclear Offer*, BBC News, Aug. 6, 2005.

²⁷⁸ *IAEA Confirms Iran Broke UN Seals at Nuclear Plant*, REUTERS, Jan. 10, 2006.

²⁷⁹ *IAEA Head: Iran Close to Enriching Uranium*, WASHINGTON POST, Oct. 24, 2006.

²⁸⁰ *See generally* Iran Profile: Nuclear Chronology, NTI.ORG.

In frustration at the abject failure of dialogue, on December 27, 2006, the United Nations Security Council, led by the United States, unanimously imposed limited sanctions on Iran for its failure to halt uranium enrichment.²⁸¹ These sanctions did not achieve the desired effect, so the UN Security Council unanimously strengthened these sanctions on March 24, 2007²⁸², and also established a deadline of May 23, 2007 by which Iran must cease uranium enrichment.²⁸³ The deadline has passed and yet the international community has not responded to Iran's failure to cease its uranium enrichment. Such inaction will strengthen Iran's resolve to defy the UN Security Council and continue to gain time in order to complete the development of a nuclear weapon by appearing to cooperate with the international community. Overall, the dialogue with Iran through the Security Council has yielded no real demonstrable results so far, and it would appear that prospects for future discussions with the regime are equally dim.

5. Most Recent Developments

The United States again appears to be at a crossroads in terms of how it chooses to engage with Iran. In the context of current discussions, Iran is demanding, both in public and through private channels, that the Bush Administration break up the MEK base occupied by U.S. forces in Iraq near the Iran border.²⁸⁴ According to a senior U.S. official working on Iran, "[t]he MEK has been a constant irritant to the Iranians, and they have brought [the group] up repeatedly, both directly and indirectly."²⁸⁵ Thus, Iran is making the U.S. treatment of the MEK a litmus test in Tehran's eyes of the Bush Administration's overall posture towards the country. Meanwhile, a radio reporter detained in Iran conveyed a message from her prison that the United States' \$66 million effort to promote democracy in Iran through radio broadcasting has spurred President Ahmadinejad to launch a campaign to eliminate Iran's pro-democracy movement.²⁸⁶

Iran's escalation of the rhetoric with the United States may be designed, as it has been in the past, to see if the United States can be persuaded to take a more conciliatory approach. Nevertheless, while acceding to Tehran's demands may appear tempting given the substantial challenges facing the United States, history suggests that any such actions would actually make the achievement of U.S. policy objectives less likely rather than more likely.

6. Conclusion

President Bush's foreign policy approach to Iran has been "disjointed and sometimes contradictory" since late 2001 due to the events of September 11th, the initiation of Operation Iraqi Freedom and its aftermath, and the revelation of Iran's mature nuclear program.²⁸⁷ Each of these events has prompted the Bush Administration, as well as the international community, to re-evaluate its policy approach towards Iran. As a consequence, Iran has been able to manipulate

²⁸¹ United Nations Security Council Resolution 1737, December 27, 2006.

²⁸² Tom Shanker, *Security Council Votes to Tighten Iran Sanctions*, NEW YORK TIMES, March 25, 2007.

²⁸³ United Nations Security Council Resolution 1747, March 24, 2007.

²⁸⁴ *See* Two Agendas: Why Iran and the U.S. Stand Far Apart, WALL STREET JOURNAL, June 25, 2007.

²⁸⁵ *Id.*

²⁸⁶ Iran Detainee Urges U.S. to End Democracy Effort, WASHINGTON POST, June 27, 2007.

²⁸⁷ Shanker, *supra* note 282.

U.S. policy towards the Islamic Republic in order to achieve its own objectives and thwart the objectives of the United States.

III. Conclusion

Since the Islamic Revolution, the United States has alternatively championed a course of engagement and limited containment of Iran. Time and again, however, these tactics have largely failed to achieve any given Administration's policy objectives, including the return of hostages or the geopolitical stabilization of the oil-rich region. Limited military intervention has only been attempted twice, and the threat of Iranian conventional and imminent nuclear capabilities has effectively removed military action from the list of viable U.S. policy options. A dramatic shift in policy is necessary in order to effectively contain the Islamic Republic's influence in the region, and ultimately support and promote a regime change in Iran.

Given the history, it is difficult to be optimistic that Western foreign policy's current methods will achieve success. Only a consistent and unrelenting policy of containment combined with efforts to strengthen the democratic opposition groups within the country and in the Iranian Diaspora will send a clear signal to the Iranian regime that its policies are not acceptable. Not only could this yield some progress in addressing the West's foreign policy objectives, but ultimately this is the best hope for regime change in Iran.



DLA Piper LLP is a global law firm with over 3,400 lawyers in 63 offices and 24 countries around the world. We provide legal assistance to our clients in an extensive range of practice areas including corporate and finance, legislative and regulatory, general business litigation, and strategic counseling on international matters. The Firm was retained by an American citizen to examine the threat that Iran poses to the United States and to evaluate various policy alternatives for a prospective response.

For more information about *An Analysis of the Failure of Engagement With Iran* or our prior report *A New Approach to U.S. Iran Policy: A Response to the Failure of Engagement*, please contact:

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