

INTERNATIONAL COURT OF JUSTICE

REPORTS OF JUDGMENTS,
ADVISORY OPINIONS AND ORDERS

CASE CONCERNING UNITED STATES
DIPLOMATIC AND CONSULAR STAFF
IN TEHRAN

(UNITED STATES OF AMERICA v. IRAN)

REQUEST FOR THE INDICATION OF PROVISIONAL
MEASURES

ORDER OF 15 DECEMBER 1979

1979

COUR INTERNATIONALE DE JUSTICE

RECUEIL DES ARRÊTS,
AVIS CONSULTATIFS ET ORDONNANCES

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

(ÉTATS-UNIS D'AMÉRIQUE c. IRAN)

DEMANDE EN INDICATION DE MESURES
CONSERVATOIRES

ORDONNANCE DU 15 DÉCEMBRE 1979

INTERNATIONAL COURT OF JUSTICE

YEAR 1979

15 December 1979

CASE CONCERNING UNITED STATES
DIPLOMATIC AND CONSULAR STAFF
IN TEHRAN

(UNITED STATES OF AMERICA v. IRAN)

REQUEST FOR THE INDICATION OF PROVISIONAL
MEASURES

ORDER

*Present : President Sir Humphrey WALDOCK ; Vice-President ELIAS ;
Judges FORSTER, GROS, LACHS, MOROZOV, NAGENDRA SINGH,
RUDA, MOSLER, TARAZI, ODA, AGO, EL-ERIAN, SETTE-CAMARA,
BAXTER ; Registrar AQUARONE.*

The International Court of Justice,

Composed as above,

After deliberation,

Having regard to Articles 41 and 48 of the Statute of the Court,

Having regard to Articles 73 and 74 of the Rules of Court,

Having regard to the Application by the United States of America filed in the Registry of the Court on 29 November 1979, instituting proceedings against the Islamic Republic of Iran in respect of a dispute concerning the situation in the United States Embassy in Tehran and the seizure and holding as hostages of members of the United States diplomatic and consular staff in Iran ;

Makes the following Order :

1. Whereas in the above-mentioned Application the United States Government invokes jurisdictional provisions in certain treaties as bases

for the Court's jurisdiction in the present case ; whereas it further recounts a sequence of events, beginning on 4 November 1979 in and around the United States Embassy in Tehran and involving the invasion of the Embassy premises, the seizure of United States diplomatic and consular staff and their continued detention ; and whereas, on the basis of the facts there alleged, it requests the Court to adjudge and declare :

- “(a) That the Government of Iran, in tolerating, encouraging, and failing to prevent and punish the conduct described in the preceding Statement of Facts [in the Application], violated its international legal obligations to the United States as provided by
- Articles 22, 24, 25, 27, 29, 31, 37 and 47 of the Vienna Convention on Diplomatic Relations,
 - Articles 28, 31, 33, 34, 36 and 40 of the Vienna Convention on Consular Relations,
 - Articles 4 and 7 of the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, and
 - Articles II (4), XIII, XVIII and XIX of the Treaty of Amity, Economic Relations, and Consular Rights between the United States and Iran, and
 - Articles 2 (3), 2 (4) and 33 of the Charter of the United Nations ;
- (b) That pursuant to the foregoing international legal obligations, the Government of Iran is under a particular obligation immediately to secure the release of all United States nationals currently being detained within the premises of the United States Embassy in Tehran and to assure that all such persons and all other United States nationals in Tehran are allowed to leave Iran safely ;
- (c) That the Government of Iran shall pay to the United States, in its own right and in the exercise of its right of diplomatic protection of its nationals, reparation for the foregoing violations of Iran's international legal obligations to the United States, in a sum to be determined by the Court ; and
- (d) That the Government of Iran submit to its competent authorities for the purpose of prosecution those persons responsible for the crimes committed against the premises and staff of the United States Embassy and against the premises of its Consulates” ;

2. Having regard to the request dated 29 November 1979 and filed in the Registry the same day, whereby the Government of the United States of

America, relying on Article 41 of the Statute and Articles 73, 74 and 75 of the Rules of Court, asks the Court urgently to indicate, pending the final decision in the case brought before it by the above-mentioned Application of the same date, the following provisional measures :

- “(a) That the Government of Iran immediately release all hostages of United States nationality and facilitate the prompt and safe departure from Iran of these persons and all other United States officials in dignified and humane circumstances.
- (b) That the Government of Iran immediately clear the premises of the United States Embassy, Chancery and Consulate of all persons whose presence is not authorized by the United States Chargé d’Affaires in Iran, and restore the premises to United States control.
- (c) That the Government of Iran ensure that all persons attached to the United States Embassy and Consulate should be accorded, and protected in, full freedom within the Embassy and Chancery premises, and the freedom of movement within Iran necessary to carry out their diplomatic and consular functions.
- (d) That the Government of Iran not place on trial any person attached to the Embassy and Consulate of the United States and refrain from any action to implement any such trial.
- (e) That the Government of Iran ensure that no action is taken which might prejudice the rights of the United States in respect of the carrying out of any decision which the Court may render on the merits, and in particular neither take nor permit action that would threaten the lives, safety, or well-being of the hostages” ;

3. Whereas, on the day on which the Application and request for indication of provisional measures were received in the Registry, the Government of Iran was notified by telegram of the filing of the Application and request, and of the particular measures requested, and copies of both documents were transmitted by express airmail to the Minister for Foreign Affairs of Iran ;

4. Whereas, pursuant to Article 40, paragraph 3, of the Statute and Article 42 of the Rules of Court, copies of the Application were transmitted to Members of the United Nations and to other States entitled to appear before the Court ;

5. Whereas on 6 December 1979 the Registrar addressed the notification provided for in Article 63 of the Statute of the Court to the States, other than the parties to the case, which were listed in the relevant documents of the United Nations Secretariat as parties to the following conventions, invoked in the Application :

- (i) the Vienna Convention on Diplomatic Relations of 1961, and the accompanying Optional Protocol concerning the Compulsory Settlement of Disputes ;
- (ii) the Vienna Convention on Consular Relations of 1963, and the accompanying Optional Protocol concerning the Compulsory Settlement of Disputes ;
- (iii) the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, of 1973 ;

6. Whereas on 30 November 1979, pending the meeting of the Court, the President, in exercise of the power conferred on him by Article 74, paragraph 4, of the Rules of Court, addressed a telegram to each of the two Governments concerned calling attention to the fact that the matter was now *sub judice* before the Court and to the need to act in such a way as would enable any Order the Court might make in the present proceedings to have its appropriate effects ; and whereas by those telegrams the two governments were, in addition, informed that the Court would hold public hearings at an early date at which they might present their observations on the request for provisional measures, and that the projected date for such hearings was 10 December 1979, this date being later confirmed by further telegrams of 3 December 1979 ;

7. Whereas, in preparation for the hearings, the President put certain preliminary questions to the Agent of the United States Government by a telegram of 4 December 1979, a copy of which was communicated on the same date to the Government of Iran ; whereas, in response to those questions the United States Agent on 7 December 1979 submitted to the Court a declaration by Mr. David D. Newsom, Under-Secretary of State for Political Affairs, together with certain documents appended thereto ; and whereas copies of that letter and the declaration and documents accompanying it were immediately transmitted to the Government of Iran ;

8. Whereas on 9 December 1979 a letter, dated the same day and transmitted by telegram, was received from the Minister for Foreign Affairs of Iran, which reads as follows :

[Translation from French]

I have the honour to acknowledge receipt of the telegrams concerning the meeting of the International Court of Justice on 10 December 1979, at the request of the Government of the United States of America, and to submit to you below the position of the Government of the Islamic Republic of Iran in this respect.

1. First of all, the Government of the Islamic Republic of Iran wishes to express its respect for the International Court of Justice, and for its distinguished members, for what they have achieved in the quest for just and equitable solutions to legal conflicts between States.

However, the Government of the Islamic Republic of Iran considers that the Court cannot and should not take cognizance of the case which the Government of the United States of America has submitted to it, and in a most significant fashion, a case confined to what is called the question of the "hostages of the American Embassy in Tehran".

2. For this question only represents a marginal and secondary aspect of an overall problem, one such that it cannot be studied separately, and which involves, *inter alia*, more than 25 years of continual interference by the United States in the internal affairs of Iran, the shameless exploitation of our country, and numerous crimes perpetrated against the Iranian people, contrary to and in conflict with all international and humanitarian norms.

3. The problem involved in the conflict between Iran and the United States is thus not one of the interpretation and the application of the treaties upon which the American Application is based, but results from an overall situation containing much more fundamental and more complex elements. Consequently, the Court cannot examine the American Application divorced from its proper context, namely the whole political dossier of the relations between Iran and the United States over the last 25 years. This dossier includes, *inter alia*, all the crimes perpetrated in Iran by the American Government, in particular the *coup d'état* of 1953 stirred up and carried out by the CIA, the overthrow of the lawful national government of Dr. Mossadegh, the restoration of the Shah and of his régime which was under the control of American interests, and all the social, economic, cultural, and political consequences of the direct interventions in our internal affairs, as well as grave, flagrant and continuous violations of all international norms, committed by the United States in Iran.

4. With regard to the request for provisional measures, as formulated by the United States, it in fact implies that the Court should have passed judgment on the actual substance of the case submitted to it, which the Court cannot do without breach of the norms governing its jurisdiction. Furthermore, since provisional measures are by definition intended to protect the interests of the parties, they cannot be unilateral, as they are in the request submitted by the American Government.

In conclusion, the Government of the Islamic Republic of Iran respectfully draws the attention of the Court to the deep-rootedness and the essential character of the Islamic revolution of Iran, a revolution of a whole oppressed nation against its oppressors and their masters ; any examination of the numerous repercussions thereof is a matter essentially and directly within the national sovereignty of Iran ;

9. Whereas both the Government of the United States of America and

the Government of Iran have been afforded an opportunity of presenting their observations on the request for the indication of provisional measures ;

10. Whereas at the public hearing held on 10 December 1979 there were present in Court the Agent, counsel and adviser of the United States of America ;

11. Having heard the oral observations on the request for provisional measures on behalf of the United States of America presented by the Honorable Roberts B. Owen, Agent, and the Honorable Benjamin R. Civiletti, Attorney-General of the United States, as counsel, and taking note of the replies given on behalf of that Government to further questions put at the conclusion of the hearing by the President of the Court and by two Members of the Court ;

12. Having taken note that the final submissions of the United States of America filed in the Registry on 12 December 1979, following the hearing of 10 December 1979, were to the effect that the Government of the United States requests that the Court, pending final judgment in this case, indicate forthwith the following measures :

“First, that the Government of Iran immediately release all hostages of United States nationality and facilitate the prompt and safe departure from Iran of these persons and all other United States officials in dignified and humane circumstances.

Second, that the Government of Iran immediately clear the premises of the United States Embassy, Chancery and Consulate in Tehran of all persons whose presence is not authorized by the United States Chargé d’Affaires in Iran, and restore the premises to United States control.

Third, that the Government of Iran ensure that, to the extent that the United States should choose, and Iran should agree, to the continued presence of United States diplomatic and consular personnel in Iran, all persons attached to the United States Embassy and Consulates should be accorded, and protected in, full freedom of movement, as well as the privileges and immunities to which they are entitled, necessary to carry out their diplomatic and consular functions.

Fourth, that the Government of Iran not place on trial any person attached to the Embassy and Consulates of the United States and refrain from any action to implement any such trial ; and that the Government of Iran not detain or permit the detention of any such person in connection with any proceedings, whether of an ‘international commission’ or otherwise, and that any such person not be required to participate in any such proceeding.

Fifth, that the Government of Iran ensure that no action is taken which might prejudice the rights of the United States in respect of carrying out of any decision which the Court may render on the

merits, and, in particular neither take, nor permit, action that would threaten the lives, safety, or well-being of the hostages” ;

13. Noting that the Government of Iran was not represented at the hearing ; and whereas the non-appearance of one of the States concerned cannot by itself constitute an obstacle to the indication of provisional measures ;

*

14. Whereas the treaty provisions on which, in its Application and oral observations, the United States Government claims to found the jurisdiction of the Court to entertain the present case are the following :

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

15. Whereas on the request for provisional measures in the present case the Court ought to indicate such measures only if the provisions invoked by the Applicant appear, *prima facie*, to afford a basis on which the jurisdiction of the Court might be founded ;

16. Whereas, so far as concerns the rights claimed by the United States of America with regard to the personnel and premises of its Embassy and Consulates in Iran, Article I of each of the two Protocols which accompany the Vienna Conventions of 1961 and 1963 on, respectively, Diplomatic and Consular Relations provides expressly that :

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

whereas the United Nations publication *Multilateral Treaties in respect of which the Secretary-General Performs Depositary Functions* lists both Iran

and the United States as parties to each of the two Conventions, as also to each of their Protocols concerning the compulsory settlement of disputes, and in all cases without any reservation to the instrument in question ;

17. Whereas, while it is true that Articles II and III of the above-mentioned Protocols provide for the possibility for the parties to agree, under certain conditions, to resort not to the International Court of Justice but to an arbitral tribunal or to a conciliation procedure, no such agreement was reached by the parties ; and whereas the terms of Article I of the Optional Protocols provide in the clearest manner for the compulsory jurisdiction of the International Court of Justice in respect of any dispute arising out of the interpretation or application of the above-mentioned Vienna Conventions ;

18. Whereas, accordingly, it is manifest from the information before the Court and from the terms of Article I of each of the two Protocols that the provisions of these Articles furnish a basis on which the jurisdiction of the Court might be founded with regard to the claims of the United States under the Vienna Conventions of 1961 and 1963 ;

19. Whereas, so far as concerns the rights claimed by the United States with regard to two of its nationals who, according to the declaration by Mr. David D. Newsom referred to in paragraph 7 above, are not personnel either of its diplomatic or of its consular mission, it appears from the statements of the United States Government that these two private individuals were seized and are detained as hostages within the premises of the United States Embassy or Consulate in Tehran ; whereas it follows that the seizure and detention of these individuals also fall within the scope of the applicable provisions of the Vienna Conventions of 1961 and 1963 relating to the inviolability of the premises of Embassies and Consulates ; whereas, furthermore, the seizure and detention of these individuals in the circumstances alleged by the United States clearly fall also within the scope of the provisions of Article 5 of the Vienna Convention of 1963 expressly providing that consular functions include the functions of protecting, assisting and safeguarding the interests of nationals ; and whereas the purpose of these functions is precisely to enable the sending State, through its consulates, to ensure that its nationals are accorded the treatment due to them under the general rules of international law as aliens within the territory of the foreign State ;

20. Whereas, accordingly, it is likewise manifest that Article I of the Protocols concerning the compulsory settlement of disputes which accompany the Vienna Conventions of 1961 and 1963 furnishes a basis on which the jurisdiction of the Court might be founded with regard to the claims of the United States in respect of the two private individuals in question ;

21. Whereas, therefore, the Court does not find it necessary for present purposes to enter into the question whether a basis for the exercise of its

powers under Article 41 of the Statute might also be found under Article XXI, paragraph 2, of the Treaty of Amity, Economic Relations, and Consular Rights of 1955, and Article 13, paragraph 1, of the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, of 1973.

*

22. Whereas, on the other hand, in the above-mentioned letter of 9 December 1979 the Government of Iran maintains that the Court cannot and should not take cognizance of the present case, for the reason that the question of the hostages forms only "a marginal and secondary aspect of an overall problem" involving the activities of the United States in Iran over a period of more than 25 years ; and whereas it further maintains that any examination of the numerous repercussions of the Islamic revolution of Iran is essentially and directly a matter within the national sovereignty of Iran ;

23. Whereas, however important, and however connected with the present case, the iniquities attributed to the United States Government by the Government of Iran in that letter may appear to be to the latter Government, the seizure of the United States Embassy and Consulates and the detention of internationally protected persons as hostages cannot, in the view of the Court, be regarded as something "secondary" or "marginal", having regard to the importance of the legal principles involved ; whereas the Court notes in this regard that the Secretary-General of the United Nations has indeed referred to these occurrences as "a grave situation" posing "a serious threat to international peace and security" and that the Security Council in resolution 457 (1979) expressed itself as deeply concerned at the dangerous level of tension between the two States, which could have grave consequences for international peace and security ;

24. Whereas, moreover, if the Iranian Government considers the alleged activities of the United States in Iran legally to have a close connection with the subject-matter of the United States Application, it remains open to that Government under the Court's Statute and Rules to present its own arguments to the Court regarding those activities either by way of defence in a Counter-Memorial or by way of a counter-claim filed under Article 80 of the Rules of Court ; whereas, therefore, by not appearing in the present proceedings, the Government of Iran, by its own choice, deprives itself of the opportunity of developing its own arguments before the Court and of itself filing a request for the indication of provisional measures ; and whereas no provision of the Statute or Rules contemplates that the Court should decline to take cognizance of one aspect of a dispute merely because that dispute has other aspects, however important ;

25. Whereas it is no doubt true that the Islamic revolution of Iran is a

matter “essentially and directly within the national sovereignty of Iran” ; whereas however a dispute which concerns diplomatic and consular premises and the detention of internationally protected persons, and involves the interpretation or application of multilateral conventions codifying the international law governing diplomatic and consular relations, is one which by its very nature falls within international jurisdiction ;

26. Whereas accordingly the two considerations advanced by the Government of Iran in its letter of 9 December 1979 cannot, in the view of the Court, be accepted as constituting any obstacle to the Court’s taking cognizance of the case brought before it by the United States Application of 29 November 1979 ;

*

27. Whereas in that same letter of 9 December 1979 the Government of Iran also puts forward two considerations on the basis of which it contends that the Court ought not, in any event, to accede to the United States request for provisional measures in the present case ;

28. Whereas, in the first place, it maintains that the request for provisional measures, as formulated by the United States, “in fact implies that the Court should have passed judgment on the actual substance of the case submitted to it” ; whereas it is true that in the *Factory at Chorzów* case the Permanent Court of International Justice declined to indicate interim measures of protection on the ground that the request in that case was “designed to obtain an interim judgment in favour of a part of the claim” (*Order of 21 November 1927, P.C.I.J., Series A, No. 12*, at p. 10) ; whereas, however, the circumstances of that case were entirely different from those of the present one, and the request there sought to obtain from the Court a final judgment on part of a claim for a sum of money ; whereas, moreover, a request for provisional measures must by its very nature relate to the substance of the case since, as Article 41 expressly states, their object is to preserve the respective rights of either party ; and whereas in the present case the purpose of the United States request appears to be not to obtain a judgment, interim or final, on the merits of its claims but to preserve the substance of the rights which it claims *pendente lite* ;

29. Whereas, in the second place, the Government of Iran takes the position that “since provisional measures are by definition intended to protect the interests of the parties they cannot be unilateral” ; whereas, however, the hypothesis on which this proposition is based does not accord with the terms of Article 41 of the Statute which refer explicitly to “any provisional measures which ought to be taken to preserve the respective rights of *either* party” ; whereas the whole concept of an indication of provisional measures, as Article 73 of the Rules recognizes, implies a

request from one of the parties for measures to preserve its own rights against action by the other party calculated to prejudice those rights *pendente lite* ; whereas it follows that a request for provisional measures is by its nature unilateral ; and whereas the Government of Iran has not appeared before the Court in order to request the indication of provisional measures ; whereas, however, the Court, as it has recognized in Article 75 of its Rules, must at all times be alert to protect the rights of both the parties in proceedings before it and, in indicating provisional measures, has not infrequently done so with reference to both the parties ; and whereas this does not, and cannot, mean that the Court is precluded from entertaining a request from a party merely by reason of the fact that measures which it requests are unilateral ;

30. Whereas, accordingly, neither of the considerations put forward in the Iranian Government's letter of 9 December 1979 can be regarded as constituting grounds which should lead the Court to decline to entertain the United States request in the present case ;

*

31. Whereas it follows that the Court has not found in the Iranian Government's letter of 9 December 1979 legal grounds which should lead it to conclude that it ought not to entertain the United States request ;

*

32. Whereas the Court will accordingly now proceed to examine the request of the United States Government for the indication of provisional measures in the present case ;

33. Whereas by the terms of Article 41 of the Statute the Court may indicate such measures only when it considers that circumstances so require in order to preserve the rights of either party ;

34. Whereas the circumstances alleged by the United States Government which, in the submission of that Government, require the indication of provisional measures in the present case may be summarized as follows :

- (i) On 4 November 1979, in the course of a demonstration outside the United States Embassy compound in Tehran, demonstrators attacked the Embassy premises ; no Iranian security forces intervened or were sent to relieve the situation, despite repeated calls for help from the Embassy to the Iranian authorities. Ultimately the whole of the Embassy premises was invaded. The Embassy personnel, including consular and non-American staff, and visitors who were present in the Embassy at the time were seized. Shortly afterwards, according to the United States Government, its consulates in Tabriz and Shiraz, which

had been attacked earlier in 1979, were also seized, without any action being taken to prevent it.

- (ii) Since that time, the premises of the United States Embassy in Tehran, and of the consulates in Tabriz and Shiraz, have remained in the hands of the persons who seized them. These persons have ransacked the archives and documents both of the diplomatic mission and of its consular section. The Embassy personnel and other persons seized at the time of the attack have been held hostage with the exception of 13 persons released on 18 and 20 November 1979. Those holding the hostages have refused to release them, save on condition of the fulfilment by the United States of various demands regarded by it as unacceptable. The hostages are stated to have frequently been bound, blindfolded, and subjected to severe discomfort, complete isolation and threats that they would be put on trial or even put to death. The United States Government affirms that it has reason to believe that some of them may have been transferred to other places of confinement.
- (iii) The Government of the United States considers that not merely has the Iranian Government failed to prevent the events described above, but also that there is clear evidence of its complicity in, and approval of, those events.
- (iv) The persons held hostage in the premises of the United States Embassy in Tehran include, according to the information furnished to the Court by the Agent of the United States, at least 28 persons having the status, duly recognized by the Government of Iran, of "member of the diplomatic staff" within the meaning of the Vienna Convention on Diplomatic Relations of 1961 ; at least 20 persons having the status, similarly recognized, of "member of the administrative and technical staff" within the meaning of that Convention ; and two other persons of United States nationality not possessing either diplomatic or consular status. Of the persons with the status of member of the diplomatic staff, four are members of the Consular Section of the Embassy.
- (v) In addition to the persons held hostage in the premises of the Tehran Embassy, the United States Chargé d'Affaires in Iran and two other United States diplomatic agents are detained in the premises of the Iranian Ministry of Foreign Affairs, in circumstances which the Government of the United States has not been able to make entirely clear, but which apparently involve restriction of their freedom of movement, and a threat to their inviolability as diplomats ;

35. Whereas on the basis of the above circumstances alleged by the United States Government it claims in the Application that the Government of Iran has violated and is violating a number of the legal obligations imposed upon it by the Vienna Convention on Diplomatic Relations of

1961, the Vienna Convention on Consular Relations of 1963, the Treaty of Amity, Economic Relations, and Consular Rights between Iran and the United States of 1955, the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, of 1973, the Charter of the United Nations, and customary international law ;

36. Whereas the power of the Court to indicate provisional measures under Article 41 of the Statute of the Court has as its object to preserve the respective rights of the parties pending the decision of the Court, and presupposes that irreparable prejudice should not be caused to rights which are the subject of dispute in judicial proceedings ;

37. Whereas the rights which the United States of America submits as entitled to protection by the indication of provisional measures were specified in the request of 29 November 1979 as :

“the rights of its nationals to life, liberty, protection and security ; the rights of inviolability, immunity and protection for its diplomatic and consular officials ; and the rights of inviolability and protection for its diplomatic and consular premises” ;

and at the hearing of 10 December 1979 as :

“the right [of the United States] to maintain a working and effective embassy in Tehran, the right to have its diplomatic and consular personnel protected in their lives and persons from every form of interference and abuse, and the right to have its nationals protected and secure” ;

and whereas the measures requested by the United States for the protection of these rights are as set out in paragraphs 2 and 12 above ;

38. Whereas there is no more fundamental prerequisite for the conduct of relations between States than the inviolability of diplomatic envoys and embassies, so that throughout history nations of all creeds and cultures have observed reciprocal obligations for that purpose ; and whereas the obligations thus assumed, notably those for assuring the personal safety of diplomats and their freedom from prosecution, are essential, unqualified, and inherent in their representative character and their diplomatic function ;

39. Whereas the institution of diplomacy, with its concomitant privileges and immunities, has withstood the test of centuries and proved to be an instrument essential for effective co-operation in the international community, and for enabling States, irrespective of their differing constitutional and social systems, to achieve mutual understanding and to resolve their differences by peaceful means ;

40. Whereas the unimpeded conduct of consular relations, which have also been established between peoples since ancient times, is no less

important in the context of present-day international law, in promoting the development of friendly relations among nations, and ensuring protection and assistance for aliens resident in the territories of other States ; and whereas therefore the privileges and immunities of consular officers and consular employees, and the inviolability of consular premises and archives, are similarly principles deep-rooted in international law ;

41. Whereas, while no State is under any obligation to maintain diplomatic or consular relations with another, yet it cannot fail to recognize the imperative obligations inherent therein, now codified in the Vienna Conventions of 1961 and 1963, to which both Iran and the United States are parties ;

42. Whereas continuance of the situation the subject of the present request exposes the human beings concerned to privation, hardship, anguish and even danger to life and health and thus to a serious possibility of irreparable harm ;

43. Whereas in connection with the present request the Court cannot fail to take note of the provisions of the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, of 1973, to which both Iran and the United States are parties ;

44. Whereas in the light of the several considerations set out above, the Court finds that the circumstances require it to indicate provisional measures, as provided by Article 41 of the Statute of the Court, in order to preserve the rights claimed ;

*

45. Whereas the decision given in the present proceedings in no way prejudices the question of the jurisdiction of the Court to deal with the merits of the case or any questions relating to the merits themselves, and leaves unaffected the right of the Government of Iran to submit arguments against such jurisdiction or in respect of such merits ;

*

46. Whereas the Court will therefore now proceed to indicate the measures which it considers are required in the present case ;

47. Accordingly,

THE COURT,

unanimously,

1. *Indicates*, pending its final decision in the proceedings instituted on 29 November 1979 by the United States of America against the Islamic Republic of Iran, the following provisional measures :

- A. (i) The Government of the Islamic Republic of Iran should immediately ensure that the premises of the United States Embassy, Chancery and Consulates be restored to the possession of the United States authorities under their exclusive control, and should ensure their inviolability and effective protection as provided for by the treaties in force between the two States, and by general international law ;
- (ii) The Government of the Islamic Republic of Iran should ensure the immediate release, without any exception, of all persons of United States nationality who are or have been held in the Embassy of the United States of America or in the Ministry of Foreign Affairs in Tehran, or have been held as hostages elsewhere, and afford full protection to all such persons, in accordance with the treaties in force between the two States, and with general international law ;
- (iii) The Government of the Islamic Republic of Iran should, as from that moment, afford to all the diplomatic and consular personnel of the United States the full protection, privileges and immunities to which they are entitled under the treaties in force between the two States, and under general international law, including immunity from any form of criminal jurisdiction and freedom and facilities to leave the territory of Iran ;
- B. The Government of the United States of America and the Government of the Islamic Republic of Iran should not take any action and should ensure that no action is taken which may aggravate the tension between the two countries or render the existing dispute more difficult of solution ;

2. *Decides* that, until the Court delivers its final judgment in the present case, it will keep the matters covered by this Order continuously under review.

Done in English and in French, the English text being authoritative, at the Peace Palace, The Hague, this fifteenth day of December, one thousand nine hundred and seventy-nine, in four copies, of which one will be placed in the archives at the Court, and the others transmitted respectively to the Government of the Islamic Republic of Iran, to the Government of the United States of America, and to the Secretary-General of the United Nations for transmission to the Security Council.

(Signed) Humphrey WALDOCK,
President.

(Signed) S. AQUARONE,
Registrar.