

103^D CONGRESS
2^D SESSION

H. R. 3221

IN THE SENATE OF THE UNITED STATES

MAY 2, 1994

Received; read twice and referred to the Committee on Foreign Relations

AN ACT

To provide for the adjudication of certain claims against
the Government of Iraq.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Iraq Claims Act of
5 1994”.

1 **SEC. 2. ADJUDICATION OF CLAIMS.**

2 (a) CERTAIN CLAIMS WITHIN THE JURISDICTION OF
3 UN COMMISSION.—The United States Commission is au-
4 thorized to receive and determine the validity and amounts
5 of any claims referred to it by the Secretary of State with
6 respect to which the United States has received lump-sum
7 payments from the United Nations Commission.

8 (b) OTHER CLAIMS AGAINST IRAQ.—The United
9 States Commission is authorized to receive and determine
10 the validity and amounts of any claims by nationals of the
11 United States against the Government of Iraq that are
12 determined by the Secretary of State to be outside the ju-
13 risdiction of the United Nations Commission.

14 (c) DECISION RULES.—In deciding claims under sub-
15 section (a) or (b), the United States Commission shall
16 apply, in the following order—

17 (1) in the case of claims under subsection (a),
18 relevant decisions of the United Nations Security
19 Council and the United Nations Commission;

20 (2) applicable substantive law, including inter-
21 national law; and

22 (3) applicable principles of justice and equity.

23 (d) PRIORITY CLAIMS.—Before deciding any other
24 claim against the Government of Iraq, the United States
25 Commission shall, to the extent practical, decide all pend-
26 ing non-commercial claims of members of the United

1 States Armed Forces and other individuals arising out of
2 Iraq's invasion and occupation of Kuwait or out of the
3 1987 attack on the USS Stark.

4 (e) APPLICABILITY OF INTERNATIONAL CLAIMS SET-
5 TLEMENT ACT.—To the extent they are not inconsistent
6 with the provisions of this Act, the provisions of title I
7 (other than section 2(c)) and title VII of the International
8 Claims Settlement Act of 1949 (22 U.S.C. 1621–1627 and
9 1645–1645o) shall apply with respect to claims under this
10 Act and the funds established pursuant to sections 3(a)
11 and 3(c).

12 **SEC. 3. CLAIMS FUNDS.**

13 (a) UN COMMISSION CLAIMS FUNDS.—The Sec-
14 retary of the Treasury is authorized to establish in the
15 Treasury of the United States one or more funds (herein-
16 after in this Act referred to as the “UN Commission
17 Claims Funds”) for payment of claims under section 2(a).
18 The Secretary of the Treasury shall cover into the UN
19 Commission Claims Funds such amounts as are allocated
20 to such funds pursuant to subsection (b)(1).

21 (b) ALLOCATION OF FUNDS RECEIVED FROM UN
22 COMMISSION.—The Secretary of State shall allocate funds
23 received by the United States from the United Nations
24 Commission, in the manner the Secretary determines ap-
25 propriate, between—

1 (1) the UN Commission Claims Funds; and
2 (2) funds established under the authority of the
3 paragraphs under the heading “TRUST FUNDS”
4 in the Act entitled “An Act making appropriations
5 for the diplomatic and consular service for the fiscal
6 year ending June thirtieth, eighteen hundred and
7 ninety-seven”, approved February 26, 1896 (22
8 U.S.C. 2668a).

9 (c) IRAQ CLAIMS FUND.—The Secretary of the
10 Treasury is authorized to establish in the Treasury of the
11 United States a fund (hereinafter in this Act referred to
12 as the “Iraq Claims Fund”) for payment of claims under
13 section 2(b). The Secretary of the Treasury shall cover
14 into the Iraq Claims Fund such amounts as are allocated
15 to such fund pursuant to subsection (d).

16 (d) ALLOCATION OF PROCEEDS FROM IRAQI ASSET
17 LIQUIDATION.—

18 (1) IN GENERAL.—The President shall allocate
19 funds resulting from the liquidation of assets pursu-
20 ant to section 4 in the manner the President deter-
21 mines appropriate between the Iraq Claims Fund
22 and such other accounts as are appropriate for the
23 payment of claims of the United States Government,
24 subject to the limitation in paragraph (2).

1 (2) LIMITATION.—The amount allocated pursu-
2 ant to this subsection for payment of claims of the
3 United States Government may not exceed the
4 amount which bears the same relation to the amount
5 allocated to the Iraq Claims Fund pursuant to this
6 subsection as the sum of all certified claims of the
7 United States Government bears to the sum of all
8 claims certified under section 2(b). As used in this
9 paragraph, the term “certified claims of the United
10 States Government” means those claims of the
11 United States Government which are determined by
12 the Secretary of State to be outside the jurisdiction
13 of the United Nations Commission and which are
14 determined to be valid, and whose amount has been
15 certified, under such procedures as the President
16 may establish.

17 **SEC. 4. AUTHORITY TO VEST IRAQI ASSETS.**

18 The President is authorized to vest and liquidate as
19 much of the assets of the Government of Iraq in the
20 United States that have been blocked pursuant to the
21 International Emergency Economic Powers Act (50
22 U.S.C. 1701 et seq.) as may be necessary to satisfy claims
23 under section 2(b), as well as claims of the United States
24 Government against Iraq which are determined by the

1 Secretary of State to be outside the jurisdiction of the
2 United Nations Commission.

3 **SEC. 5. REIMBURSEMENT FOR EXPENSES OF PROGRAM AD-**
4 **MINISTRATION.**

5 (a) DEDUCTION.—In order to reimburse the United
6 States Government for its expenses in administering the
7 Iraq claims program and this Act, the Secretary of the
8 Treasury shall deduct—

9 (1) 1.5 percent of any amount covered into the
10 UN Commission Claims Funds or the Iraq Claims
11 Fund; and

12 (2) 1.5 percent of any amount the Secretary of
13 State receives from the United Nations Commission
14 that is not covered into the UN Commission Claims
15 Funds and that is not in payment of a claim of the
16 United States Government.

17 (b) DEDUCTIONS TREATED AS MISCELLANEOUS RE-
18 CEIPTS.—Amounts deducted pursuant to subsection (a)
19 shall be deposited in the Treasury of the United States
20 as miscellaneous receipts.

21 **SEC. 6. PAYMENTS.**

22 (a) IN GENERAL.—The United States Commission
23 shall certify to the Secretary of the Treasury each award
24 made pursuant to section 2. The Secretary of the Treas-
25 ury shall make payment, out of the appropriate fund es-

1 tablished pursuant to section 3(a) or 3(c), in the following
2 order of priority to the extent funds are available in such
3 fund:

4 (1) Payment of \$10,000 or the principal
5 amount of the award, whichever is less.

6 (2) For each claim that has priority under sec-
7 tion 2(d), payment of a further \$90,000 toward the
8 unpaid balance of the principal amount of the
9 award.

10 (3) Payments from time to time in ratable pro-
11 portions on account of the unpaid balance of the
12 principal amounts of all awards according to the
13 proportions which the unpaid balance of such
14 awards bear to the total amount in the appropriate
15 claims fund that is available for distribution at the
16 time such payments are made.

17 (4) After payment has been made of the prin-
18 cipal amounts of all such awards, pro rata payments
19 on account of accrued interest on such awards as
20 bear interest.

21 (5) After payment has been made in full of all
22 the awards payable out of a fund established pursu-
23 ant to section 3(a) or 3(c), any funds remaining in
24 that fund shall be transferred to the other claims
25 fund established pursuant to section 3(a) or 3(c), ex-

1 cept that any funds received by the United States
2 from the United Nations Commission shall be so
3 transferred only to the extent not inconsistent with
4 requirements of the United Nations Commission.

5 (b) UNSATISFIED CLAIMS.—Payment of any award
6 made pursuant to this Act shall not extinguish any
7 unsatisfied claim, or be construed to have divested any
8 claimant, or the United States on his or her behalf, of
9 any rights against the Government of Iraq with respect
10 to any unsatisfied claim.

11 **SEC. 7. RECORDS.**

12 (a) TRANSFER TO COMMISSION.—The head of any
13 Executive agency may transfer or otherwise make avail-
14 able to the United States Commission such records and
15 documents relating to claims authorized to be adjudicated
16 by this Act as may be required by the United States Com-
17 mission in carrying out its functions under this Act.

18 (b) PUBLIC DISCLOSURE.—Section 552 of title 5 of
19 the United States Code (commonly referred to as the
20 “Freedom of Information Act”) shall not apply with re-
21 spect to records that, as determined by the Secretary of
22 State, are required under the rules and decisions of the
23 United Nations Commission to be withheld from public
24 disclosure.

1 **SEC. 8. STATUTE OF LIMITATIONS; DISPOSITION OF UN-**
2 **USED FUNDS.**

3 (a) STATUTE OF LIMITATIONS.—Any demand or
4 claim for payment on account of an award that is certified
5 under the Iraq claims program shall be barred one year
6 after the publication date of the notice required by sub-
7 section (b).

8 (b) PUBLICATION OF NOTICE.—

9 (1) IN GENERAL.—At the end of the 9-year pe-
10 riod specified in paragraph (2), the Secretary of the
11 Treasury shall publish a notice in the Federal Reg-
12 ister detailing the statute of limitations provided for
13 in subsection (a) and identifying the claim numbers
14 and awardee names of unpaid certified claims.

15 (2) PUBLICATION DATE.—The notice required
16 by paragraph (1) shall be published 9 years after the
17 latter of—

18 (A) the last date on which the Secretary of
19 the Treasury covers into any of the UN Com-
20 mission Claims Funds, or into any fund de-
21 scribed in section 3(b)(2), amounts allocated to
22 that fund pursuant to section 3(b); or

23 (B) the last date on which the Secretary of
24 the Treasury covers into the Iraq Claims Fund
25 amounts allocated to that fund pursuant to sec-
26 tion 3(d).

1 (c) DISPOSITION OF UNUSED FUNDS.—

2 (1) DISPOSITION.—At the end of the 2-year pe-
3 riod beginning on the publication date of the notice
4 required by subsection (b), the Secretary of the
5 Treasury shall dispose of all unused funds described
6 in paragraph (2) as follows:

7 (A) By making additional payments pursu-
8 ant to the Iraq claims program.

9 (B) By depositing in the Treasury of the
10 United States as miscellaneous receipts any
11 such funds that are not used for such addi-
12 tional payments.

13 (2) UNUSED FUNDS.—The unused funds re-
14 ferred to in paragraph (1) are—

15 (A) any remaining balance in the UN
16 Commission Claims Funds or in the Iraq
17 Claims Fund, including the amount of any un-
18 paid certified claim under the Iraq claims pro-
19 gram; and

20 (B) any remaining balance in any fund re-
21 ferred to in section 3(b)(2) to the extent such
22 balance reflects amounts deposited pursuant to
23 that section.

24 **SEC. 9. DEFINITIONS.**

25 As used in this Act—

1 (1) the term “Government of Iraq” includes
2 agencies, instrumentalities, and controlled entities
3 (including public sector enterprises) of that govern-
4 ment;

5 (2) the term “Executive agency” has the mean-
6 ing given that term by section 105 of title 5, United
7 States Code;

8 (3) the term “Iraq claims program” means the
9 claims whose adjudication is provided for in this Act
10 and any other claims that are within the jurisdiction
11 of the United Nations Commission;

12 (4) the term “United Nations Commission”
13 means the United Nations Compensation Commis-
14 sion established pursuant to United Nations Secu-
15 rity Council Resolution 687 (1991); and

16 (5) the term “United States Commission”
17 means the Foreign Claims Settlement Commission
18 of the United States.

19 **SEC. 10. ADMISSION TO THE UNITED STATES AS REFUGEES**
20 **OF INDIVIDUALS WHO SERVED IN THE**
21 **ARMED FORCES OF IRAQ DURING THE PER-**
22 **SIAN GULF CONFLICT.**

23 (a) STATEMENT OF POLICY.—It is the sense of the
24 Congress that individuals who have served in the armed
25 forces of Iraq during the Persian Gulf conflict should not

1 be admitted to the United States as refugees under the
2 Immigration and Nationality Act except in exceptional cir-
3 cumstances.

4 (b) PERSIAN GULF CONFLICT DEFINED.—For pur-
5 poses of this section, the term “Persian Gulf conflict”
6 means the period beginning on August 2, 1990, and end-
7 ing on February 27, 1991.

8 **SEC. 11. HUMANITARIAN ASSISTANCE.**

9 (a) FINDINGS.—The Congress finds that—

10 (1) Saddam Hussein has been condemned by
11 the international community for his unwillingness to
12 take the steps necessary to provide for the basic hu-
13 manitarian needs of the Iraqi people;

14 (2) dire shortages of food, medicine, and basic
15 medical supplies (including insulin, anesthetics, and
16 antibiotics) have resulted in a continuing humani-
17 tarian disaster in Iraq, including massive human
18 suffering and the death of hundreds of thousands of
19 innocent Iraqi civilians during the past 4 years;

20 (3) this humanitarian tragedy is occurring
21 throughout Iraq;

22 (4) the United States has a long history of pro-
23 viding humanitarian assistance to alleviate human
24 suffering in many parts of the world; and

1 (5) the United States Agency for International
2 Development has the authority under chapter 9 of
3 part I of the Foreign Assistance Act of 1961 (relat-
4 ing to international disaster assistance) and other
5 provisions of law to provide assistance to address
6 humanitarian needs throughout Iraq.

7 (b) STATEMENT OF CONGRESSIONAL POLICY.—It is
8 the sense of the Congress that—

9 (1) the United States should immediately pro-
10 vide additional humanitarian assistance, particularly
11 medicine and medical supplies, to alleviate the hu-
12 manitarian disaster throughout Iraq;

13 (2) such assistance should be provided through
14 independent nongovernmental organizations and
15 through international organizations so that this des-
16 perately need assistance can reach all areas of need,
17 in particular those outside the United Nations pro-
18 tected areas; and

19 (3) the costs of such assistance should be reim-
20 bursed from any available Iraqi resources, including
21 the Iraqi assets that have been blocked pursuant the
22 International Emergency Economic Powers Act so
23 long as such reimbursement does not reduce the
24 amount paid on those priority claims of members of
25 the United States Armed Forces and others de-

1 scribed in section 2(d) of this Act and does not delay
2 payment on those claims.

3 **SEC. 12. PROSECUTION OF SADDAM HUSSEIN AND OTHER**
4 **MEMBERS OF THE IRAQI GOVERNMENT FOR**
5 **WAR CRIMES.**

6 (a) FINDINGS.—The Congress finds that—

7 (1) as ordered by Saddam Hussein, Iraq en-
8 gaged in unprovoked aggression in its conquest and
9 occupation of Kuwait;

10 (2) the Iraqi occupation force treated Kuwaiti
11 citizens barbarously;

12 (3) Saddam Hussein used American and Euro-
13 pean civilians as “human shields” in an attempt to
14 protect strategic facilities throughout Iraq and di-
15 rected that captured American and allied prisoners
16 of war be used for the same purposes;

17 (4) Saddam Hussein ordered his military to
18 launch missile attacks against innocent civilians in
19 Israel and Saudi Arabia; and

20 (5) former President Bush and President Clin-
21 ton rightly warned Saddam Hussein and Iraqi Gov-
22 ernment officials that they would be held responsible
23 for any abuses they have caused.

24 (b) ESTABLISHMENT OF TRIBUNAL.—The Congress
25 urges the President to request the United Nations to es-

1 tablish a tribunal to charge Saddam Hussein and other
2 responsible Iraqi Government officials for war crimes, acts
3 of aggression, and crimes against humanity they have
4 committed.

Passed the House of Representatives April 28, 1994.

Attest: DONNALD K. ANDERSON,
Clerk.