

Union Calendar No. 236

103^D CONGRESS
2^D SESSION

H. R. 3221

[Report No. 103-396]

A BILL

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

FEBRUARY 28, 1994

The Committee on the Judiciary discharged, committed
to the Committee of the Whole House on the State of
the Union, and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

OCTOBER 6, 1993

Mr. HAMILTON introduced the following bill; which was referred to the
Committee on Foreign Affairs

NOVEMBER 20, 1993

Reported with an amendment, committed to the Committee of the Whole
House on the State of the Union, and ordered to be printed

JANUARY 25, 1994

The Committee of the Whole House on the State of the Union discharged and
referred to the Committee on the Judiciary for a period ending not later
than February 28, 1994, for consideration of such provisions of the bill
and amendment as fall within the jurisdiction of that committee pursuant
to clause 1(l), rule X

FEBRUARY 28, 1994

The Committee on the Judiciary discharged, committed to the Committee of
the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on October 6, 1993]

A BILL

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 *1993”.*

6 **SEC. 2. ADJUDICATION OF CLAIMS.**

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

13 *(b) OTHER CLAIMS AGAINST IRAQ.—The United*
14 *States Commission is authorized to receive and determine*
15 *the validity and amounts of any claims by nationals of the*
16 *United States against the Government of Iraq that are de-*
17 *termined by the Secretary of State to be outside the jurisdic-*
18 *tion of the United Nations Commission.*

19 *(c) DECISION RULES.—In deciding claims under sub-*
20 *section (a) or (b), the United States Commission shall*
21 *apply, in the following order—*

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

4 (2) applicable substantive law, including inter-
5 national law; and

6 (3) applicable principles of justice and equity.

7 (d) *PRIORITY CLAIMS.*—Before deciding any other
8 claim against the Government of Iraq, the United States
9 Commission shall, to the extent practical, decide all pending
10 non-commercial claims of members of the United States
11 Armed Forces and other individuals arising out of Iraq's
12 invasion and occupation of Kuwait or out of the 1987 at-
13 tack on the USS Stark.

14 (e) *APPLICABILITY OF INTERNATIONAL CLAIMS SET-*
15 *TLEMENT ACT.*—To the extent they are not inconsistent
16 with the provisions of this Act, the provisions of title I
17 (other than section 2(c)) and title VII of the International
18 Claims Settlement Act of 1949 (22 U.S.C. 1621–1627 and
19 1645–1645o) shall apply with respect to claims under this
20 Act and the funds established pursuant to sections 3(a) and
21 3(c).

22 **SEC. 3. CLAIMS FUNDS.**

23 (a) *UN COMMISSION CLAIMS FUNDS.*—The Secretary
24 of the Treasury is authorized to establish in the Treasury
25 of the United States one or more funds (hereinafter in this

1 Act referred to as the “UN Commission Claims Funds”)
2 for payment of claims under section 2(a). The Secretary
3 of the Treasury shall cover into the UN Commission Claims
4 Funds such amounts as are allocated to such funds pursu-
5 ant to subsection (b)(1).

6 (b) ALLOCATION OF FUNDS RECEIVED FROM UN COM-
7 MISSION.—The Secretary of State shall allocate funds re-
8 ceived by the United States from the United Nations Com-
9 mission, in the manner the Secretary determines appro-
10 priate, between—

11 (1) the UN Commission Claims Funds; and
12 (2) funds established under the authority of the
13 paragraphs under the heading “TRUST FUNDS” in
14 the Act entitled “An Act making appropriations for
15 the diplomatic and consular service for the fiscal year
16 ending June thirtieth, eighteen hundred and ninety-
17 seven”, approved February 26, 1896 (22 U.S.C.
18 2668a).

19 (c) IRAQ CLAIMS FUND.—The Secretary of the Treas-
20 ury is authorized to establish in the Treasury of the United
21 States a fund (hereinafter in this Act referred to as the
22 “Iraq Claims Fund”) for payment of claims under section
23 2(b). The Secretary of the Treasury shall cover into the Iraq
24 Claims Fund such amounts as are allocated to such fund
25 pursuant to subsection (d).

1 (d) *ALLOCATION OF PROCEEDS FROM IRAQI ASSET*
2 *LIQUIDATION.*—

3 (1) *IN GENERAL.*—*The President shall allocate*
4 *funds resulting from the liquidation of assets pursu-*
5 *ant to section 4 in the manner the President deter-*
6 *mines appropriate between the Iraq Claims Fund and*
7 *such other accounts as are appropriate for the pay-*
8 *ment of claims of the United States Government, sub-*
9 *ject to the limitation in paragraph (2).*

10 (2) *LIMITATION.*—*The amount allocated pursu-*
11 *ant to this subsection for payment of claims of the*
12 *United States Government may not exceed the*
13 *amount which bears the same relation to the amount*
14 *allocated to the Iraq Claims Fund pursuant to this*
15 *subsection as the sum of all certified claims of the*
16 *United States Government bears to the sum of all*
17 *claims certified under section 2(b). As used in this*
18 *paragraph, the term “certified claims of the United*
19 *States Government” means those claims of the United*
20 *States Government which are determined by the Sec-*
21 *retary of State to be outside the jurisdiction of the*
22 *United Nations Commission and which are deter-*
23 *mined to be valid, and whose amount has been cer-*
24 *tified, under such procedures as the President may es-*
25 *tablish.*

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

2 *The President is authorized to vest and liquidate as*
3 *much of the assets of the Government of Iraq in the United*
4 *States that have been blocked pursuant to the International*
5 *Emergency Economic Powers Act (50 U.S.C. 1701 et seq.)*
6 *as may be necessary to satisfy claims under section 2(b),*
7 *as well as claims of the United States Government against*
8 *Iraq which are determined by the Secretary of State to be*
9 *outside the jurisdiction of the United Nations Commission.*

10 **SEC. 5. REIMBURSEMENT FOR EXPENSES OF PROGRAM AD-**
11 **MINISTRATION.**

12 (a) *DEDUCTION.*—*In order to reimburse the United*
13 *States Government for its expenses in administering the*
14 *Iraq claims program and this Act, the Secretary of the*
15 *Treasury shall deduct—*

16 (1) *1.5 percent of any amount covered into the*
17 *UN Commission Claims Funds or the Iraq Claims*
18 *Fund; and*

19 (2) *1.5 percent of any amount the Secretary of*
20 *State receives from the United Nations Commission*
21 *that is not covered into the UN Commission Claims*
22 *Funds and that is not in payment of a claim of the*
23 *United States Government.*

24 (b) *DEDUCTIONS TREATED AS MISCELLANEOUS RE-*
25 *CEIPTS.*—*Amounts deducted pursuant to subsection (a)*

1 *shall be deposited in the Treasury of the United States as*
2 *miscellaneous receipts.*

3 **SEC. 6. PAYMENTS.**

4 (a) *IN GENERAL.*—The United States Commission
5 shall certify to the Secretary of the Treasury each award
6 made pursuant to section 2. The Secretary of the Treasury
7 shall make payment, out of the appropriate fund established
8 pursuant to section 3(a) or 3(c), in the following order of
9 priority to the extent funds are available in such fund:

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

12 (2) *For each claim that has priority under sec-*
13 *tion 2(d), payment of a further \$90,000 toward the*
14 *unpaid balance of the principal amount of the award.*

15 (3) *Payments from time to time in ratable pro-*
16 *portions on account of the unpaid balance of the*
17 *principal amounts of all awards according to the pro-*
18 *portions which the unpaid balance of such awards*
19 *bear to the total amount in the appropriate claims*
20 *fund that is available for distribution at the time*
21 *such payments are made.*

22 (4) *After payment has been made of the prin-*
23 *icipal amounts of all such awards, pro rata payments*
24 *on account of accrued interest on such awards as bear*
25 *interest.*

1 (5) After payment has been made in full of all
2 the awards payable out of a fund established pursu-
3 ant to section 3(a) or 3(c), any funds remaining in
4 that fund shall be transferred to the other claims fund
5 established pursuant to section 3(a) or 3(c), except
6 that any funds received by the United States from the
7 United Nations Commission shall be so transferred
8 only to the extent not inconsistent with requirements
9 of the United Nations Commission.

10 (b) *UNSATISFIED CLAIMS.*—Payment of any award
11 made pursuant to this Act shall not extinguish any
12 unsatisfied claim, or be construed to have divested any
13 claimant, or the United States on his or her behalf, of any
14 rights against the Government of Iraq with respect to any
15 unsatisfied claim.

16 **SEC. 7. RECORDS.**

17 (a) *TRANSFER TO COMMISSION.*—The head of any Ex-
18 ecutive agency may transfer or otherwise make available
19 to the United States Commission such records and docu-
20 ments relating to claims authorized to be adjudicated by
21 this Act as may be required by the United States Commis-
22 sion in carrying out its functions under this Act.

23 (b) *PUBLIC DISCLOSURE.*—Section 552 of title 5 of the
24 United States Code (commonly referred to as the “Freedom
25 of Information Act”) shall not apply with respect to records

1 *that, as determined by the Secretary of State, are required*
 2 *under the rules and decisions of the United Nations Com-*
 3 *mission to be withheld from public disclosure.*

4 **SEC. 8. STATUTE OF LIMITATIONS; DISPOSITION OF UN-**
 5 **USED FUNDS.**

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

10 *(b) PUBLICATION OF NOTICE.—*

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

17 *(2) PUBLICATION DATE.—The notice required by*
 18 *paragraph (1) shall be published 9 years after the lat-*
 19 *ter of—*

20 *(A) the last date on which the Secretary of*
 21 *the Treasury covers into any of the UN Commis-*
 22 *sion Claims Funds, or into any fund described*
 23 *in section 3(b)(2), amounts allocated to that*
 24 *fund pursuant to section 3(b); or*

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

5 (c) *DISPOSITION OF UNUSED FUNDS.*—

6 (1) *DISPOSITION.*—At the end of the 2-year pe-
7 riod beginning on the publication date of the notice
8 required by subsection (b), the Secretary of the Treas-
9 ury shall dispose of all unused funds described in
10 paragraph (2) as follows:

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

13 (B) By depositing in the Treasury of the
14 United States as miscellaneous receipts any such
15 funds that are not used for such additional pay-
16 ments.

17 (2) *UNUSED FUNDS.*—The unused funds referred
18 to in paragraph (1) are—

19 (A) any remaining balance in the UN Com-
20 mission Claims Funds or in the Iraq Claims
21 Fund, including the amount of any unpaid cer-
22 tified claim under the Iraq claims program; and

23 (B) any remaining balance in any fund re-
24 ferred to in section 3(b)(2) to the extent such bal-

1 *ance reflects amounts deposited pursuant to that*
2 *section.*

3 **SEC. 9. DEFINITIONS.**

4 *As used in this Act—*

5 (1) *the term “Government of Iraq” includes*
6 *agencies, instrumentalities, and controlled entities*
7 *(including public sector enterprises) of that govern-*
8 *ment;*

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

12 (3) *the term “Iraq claims program” means the*
13 *claims whose adjudication is provided for in this Act*
14 *and any other claims that are within the jurisdiction*
15 *of the United Nations Commission;*

16 (4) *the term “United Nations Commission”*
17 *means the United Nations Compensation Commission*
18 *established pursuant to United Nations Security*
19 *Council Resolution 687 (1991); and*

20 (5) *the term “United States Commission” means*
21 *the Foreign Claims Settlement Commission of the*
22 *United States.*

1 **SEC. 10. ADMISSION TO THE UNITED STATES AS REFUGEES**
2 **OF INDIVIDUALS WHO SERVED IN THE ARMED**
3 **FORCES OF IRAQ DURING THE PERSIAN GULF**
4 **CONFLICT.**

5 (a) *STATEMENT OF POLICY.*—It is the sense of the Con-
6 gress that individuals who have served in the armed forces
7 of Iraq during the Persian Gulf conflict should not be ad-
8 mitted to the United States as refugees under the Immigra-
9 tion and Nationality Act except in exceptional cir-
10 cumstances until all claims certified under section 2(b) of
11 this Act have been paid in full.

12 (b) *PERSIAN GULF CONFLICT DEFINED.*—For pur-
13 poses of this section, the term “Persian Gulf conflict” means
14 the period beginning on August 2, 1990, and ending on Feb-
15 ruary 27, 1991.