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ID # 354466 CU

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WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

- O - OUTGOING
- H - INTERNAL
- I - INCOMING

Date Correspondence Received (YY/MM/DD) _____



Name of Correspondent: James Jones

MI Mail Report

User Codes: (A) _____ (B) _____ (C) _____

Subject: State draft bill: Iraqi Claims Act of 1992

ROUTE TO:

ACTION

DISPOSITION

| Office/Agency (Staff Name) | Action Code | Tracking Date YY/MM/DD | Type of Response | Code | Completion Date YY/MM/DD |
|----------------------------|--|------------------------|------------------|----------|--------------------------|
| <u>cuore</u> | ORIGINATOR | <u>92,10,07</u> | | <u>C</u> | <u>92,10,06</u> |
| <u>cuat14</u> | Referral Note: <u>A</u> | <u>92,10,02</u> | | <u>C</u> | <u>92,10,06</u> |
| | Referral Note: <u>10/06/92 JGR Memo to Jones</u> | <u>1 1</u> | | | <u>1 1</u> |
| | Referral Note: _____ | <u>1 1</u> | | | <u>1 1</u> |
| | Referral Note: _____ | <u>1 1</u> | | | <u>1 1</u> |
| | Referral Note: _____ | <u>1 1</u> | | | <u>1 1</u> |

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ACTION CODES:

- A - Appropriate Action
- C - Comment/Recommendation
- D - Draft Response
- F - Furnish Fact Sheet to be used as Enclosure

- I - Info Copy Only/No Action Necessary
- R - Direct Reply w/Copy
- S - For Signature
- X - Interim Reply

DISPOSITION CODES:

- A - Answered
- B - Non-Special Referral
- C - Completed
- S - Suspended

FOR OUTGOING CORRESPONDENCE:

- Type of Response = Initials of Signer
- Code = "A"
- Completion Date = Date of Outgoing

Comments: _____

Keep this worksheet attached to the original incoming letter.
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 Always return completed correspondence record to Central Files.
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RECORDS MANAGEMENT ONLY

CLASSIFICATION SECTION

No. of Additional Correspondents: _____ Media: _____ Individual Codes: _____

Prime Subject Code: _____ Secondary Subject Codes: _____

PRESIDENTIAL REPLY

| | | | |
|------|-------------|-------------|--------------|
| Code | Date | Comment | Form |
| C | _____ | _____ | P. |
| DSP | _____ | _____ | Media: _____ |
| | Time: _____ | Time: _____ | |

SIGNATURE CODES:

- Cpn - Presidential Correspondence
- n - 0 - Unknown
- n - 1 - George Herbert Walker Bush
- n - 2 - George Bush
- n - 3 - George
- Cln - First Lady's Correspondence
- n - 1 - Barbara Bush
- n - 2 - Barbara
- n - 3 - Bar
- n - 4 - Mrs. Barbara Bush
- Cbn - Presidential & First Lady's Correspondence
- n - 1 - Barbara & George Bush
- n - 2 - Barbara & George

MEDIA CODES:

- B - Box/package
- C - Copy
- D - Official document
- G - Message
- H - Handcarried
- L - Letter
- M - Mailgram
- O - Memo
- P - Photo
- R - Report
- S - Sealed
- T - Telegram
- V - Telephone
- X - Miscellaneous
- Y - Study

THE WHITE HOUSE

WASHINGTON

October 6, 1992

MEMORANDUM FOR JAMES J. JUKES

FROM: STEPHEN G. RADEMAKER *SR*
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: State Draft Bill Iraqi Claims Act of 1992

Pursuant to your request, Counsel's Office has reviewed the above-referenced matter and has no objection, subject to concurrence by the Department of Justice.

Thank you for bringing this matter to our attention.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET

October 2, 1992

LEGISLATIVE REFERRAL MEMORANDUM

LRM #D-978
DRAFT #167

S. P. P. P. P.
total

TO: Legislative Liaison Officer:

AGRICULTURE - Marvin Shapiro - 720-1516 - 312
COMMERCE - Michael A. Levitt - 482-3086 - 324
JUSTICE - W. Lee Rawls - 514-2141 - 217
TREASURY - Richard S. Carro - 622-1146 - 228
NSC - William Sittmann - 456-6534 - 249
ENERGY - Bob Rabben - 586-6718 - 209
DEFENSE - Samuel T. Brick, Jr. - 697-1305 - 325
EX-IM - Frederick Ruth - 566-8806 - 236

FROM: JAMES J. JUKES (for) *Ji*
Assistant Director for Legislative Reference

OMB CONTACT: Douglas STEIGER (Direct Line: 395-3386)
Secretary's line (for simple responses): 395-3454

SUBJECT: STATE Draft Bill Iraqi Claims Act of 1992

DEADLINE: COB TODAY October 2, 1992

COMMENTS: State has requested expedited clearance so that this bill may be transmitted before Congress adjourns.

OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

CC:
Peggy Young
Boyden Gray
Betsy Anderson
Tracy Davis
Cora Beebe
Adrien Silas
Bruce Sasser
Phil DuSault
Ken Schwartz
Bernie Martin
Bob Damus
Ed Rea
Art Stigile

THE WHITE HOUSE

WASHINGTON

ORM OPTICAL DISK NETWORK

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Statement not scanned.

Duplicate letters attached - not scanned.

Only table of contents scanned.

No incoming letter attached.

Only tracking sheet scanned.

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Bill not scanned.

Comments:

Dear Mr. Speaker:

There is transmitted herewith proposed legislation concerning claims of the United States and U.S. nationals against Iraq. Its purpose is to provide a fair and orderly system for adjudicating these claims and for utilizing blocked Iraqi assets in the United States for their satisfaction.

The proposed legislation would authorize the vesting of blocked Iraqi assets in the United States for the satisfaction of claims by the U.S. Government and U.S. nationals that are not within the jurisdiction of the newly created UN Compensation Commission. These claims would be adjudicated by the U.S. Foreign Claims Settlement Commission (FCSC), and paid from any vested Iraqi assets. (The UN Commission has jurisdiction only over claims resulting from the Iraqi invasion and occupation of Kuwait, and not claims arising from pre-existing obligations.)

The bill would also provide the authorization necessary to enable the FCSC to allocate to U.S. claimants the lump-sum awards which we expect to receive in due course from the UN Compensation Commission. These claimants would not have access to the assets vested by the United States, on the assumption that they will instead have a fair opportunity for compensation through the UN mechanism from Iraqi oil export revenues. The FCSC will give priority to non-commercial claims of members of the armed forces and other individuals arising out of Iraq's invasion and occupation of Kuwait.

There is, of course, no guarantee that full compensation will be available for either class of claimants. In fact, our best estimate is that the volume of pre-war U.S. claims will substantially exceed the value of the Iraqi assets blocked in the United States, and that the volume of worldwide war claims will substantially exceed the value of Iraqi oil export revenues that are likely to be collected by the UN Commission. Nonetheless, we believe these mechanisms will provide substantial compensation, and are in any event the best remedies available under the circumstances.

The Honorable
Thomas S. Foley,
Speaker of the
House of Representatives.

The vesting of assets is not the approach generally favored for the resolution of claims against a foreign government. Normally, we strongly prefer to hold such assets until it is possible to negotiate a settlement with the government involved, which as a general matter is more conducive to the protection of foreign investment and the peaceful resolution of disputes. However, the UN Security Council has already decided that Iraq is responsible under international law both for claims arising from the war and for pre-existing obligations; it has directed Iraq to honor these obligations and Iraq has not done so. The war with Iraq, and Iraq's continuing refusal to comply with the terms of the ceasefire and the decisions of the Security Council, have removed any practical prospect of resolving these claims through negotiation with Iraq.

The UN Security Council is in the process of adopting a resolution providing for the temporary use of certain frozen Iraqi assets for UN purposes. Under this resolution, the United States will transfer as much as \$200 million from frozen Iraqi oil revenues received in the United States after the imposition of UN sanctions in August 1990; these assets will be used for urgent UN operations concerning Iraq, and will be reimbursed in full (with applicable interest) from the proceeds of Iraqi oil exports as soon as such exports resume. 30% of blocked assets contributed under this resolution will go immediately to the UN Compensation Commission, whose processing of claims has been put on hold for lack of financial resources; accordingly, the resolution should have an immediate and positive effect on the prospects of U.S. claimants before the Commission. The resolution does not affect the terms of the proposed legislation.

The Office of Management and Budget advises that there is no objection, from the standpoint of the Administration's program, to the submission of this proposed legislation to the Congress.

Sincerely,

Steven K. Berry
Acting Assistant Secretary
Legislative Affairs

Enclosure: Proposed Legislation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Iraq Claims Act of 1992".

Sec. 2. ADJUDICATION OF CLAIMS.

(a) The Foreign Claims Settlement Commission of the United States ("the Commission") is authorized to receive and determine the validity and amounts of any claims referred to it by the Secretary of State with respect to which the United States has received payments from the United Nations Compensation Commission ("the UNCC").

(b) The Commission is further authorized to receive and determine the validity and amounts of any claims by nationals of the United States against Iraq referred by the Secretary of State that are determined by the Secretary of State to be outside the jurisdiction of the UNCC.

(c) In deciding such claims, the Commission shall apply, in the following order --

(1) relevant decisions of the United Nations Security Council and the UNCC (in the case of claims under subsection (a));

(2) applicable substantive law, including international law; and

(3) applicable principles of justice and equity.

(d) In deciding such claims, the Commission shall give priority to non-commercial claims of members of the armed forces and other individuals arising out of Iraq's invasion and occupation of Kuwait.

(e) Except as otherwise provided in this act, the provisions of title I of the International Claims Settlement Act of 1949 (22 U.S.C. 1621 et seq.) shall apply with respect to claims under this act. Any reference in such provision to "this title" shall be deemed to refer to those provisions and to this act.

(f) In determining the amount of any claim adjudicated under this act, the Commission shall deduct all amounts the claimant has received from any source on account of the same loss or losses.

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Sec. 3. CLAIMS FUNDS.

(a) The Secretary of the Treasury is authorized to establish in the Treasury of the United States one or more funds ("the UNCC Claims Funds") for payment of claims under section 2(a). The Secretary of the Treasury shall cover into the UNCC Claims Funds such amounts as are transferred by the Secretary of State from payments to the United States by the UNCC.

(b) The Secretary of the Treasury is further authorized to establish in the Treasury of the United States a fund ("the Iraq Claims Fund") for payment of claims under section 2(b). The Secretary of the Treasury shall cover into the Iraq Claims Fund such amounts as are allocated by the President from assets of the Government of Iraq liquidated pursuant to subsection (c).

(c) The President is authorized to vest and liquidate as much of the assets of the Government of Iraq in the United States that have been blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) as may be necessary to satisfy claims under section 2(b), and in addition such claims of the United States Government against Iraq as are determined by the Secretary of State to be outside the jurisdiction of the UNCC. The President shall allocate these funds in the manner he determines appropriate between the Iraq Claims Fund and such other accounts as are appropriate for the payment of claims of the United States Government.

Sec. 4. DEDUCTIONS.

(a). The Secretary of the Treasury shall deduct from any amounts covered into the claims funds established pursuant to section 3 an amount equal to 5 per centum thereof as reimbursement to the Government of the United States for the expenses incurred by it in the administration of the Iraq claims program and this act. With respect to funds received by the United States from the UNCC, that are not covered into a claims fund under section 3 but are distributed directly by the Secretary of State under the authority in section 2655a of title 22 of the United States Code, the Secretary of State shall deduct an amount equal to 5 per centum thereof as reimbursement to the Government of the United States for the expenses incurred by it in the administration of the Iraq claims program and this act.

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(b) The amounts deducted pursuant to subsection (a) shall be deposited into the Treasury of the United States to the credit of miscellaneous receipts, except that the portion of the amounts deducted by the Secretary of State that are determined by him to be required to reimburse extraordinary expenses within the terms of section 142(b) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, shall be credited to the currently applicable appropriation account from which the expenditure was made, as provided in that section.

Sec. 5. PAYMENTS.

(a) The Commission shall certify to the Secretary of the Treasury each award made pursuant to section 2. The Secretary of the Treasury shall thereupon make payment in the following order of priority out of the appropriate fund provided for in section 3:

(1) payment in full of the principal amount of each award of \$10,000 or less;

(2) payment of a further \$90,000 of the principal of the claims that have priority under section 2(d);

(3) payments from time to time in ratable proportions on account of the unpaid balance of the principal amounts of all awards according to the proportions which the unpaid balance of such awards bear to the total amount in the appropriate claims fund that is available for distribution at the time such payments are made;

(4) payments from time to time in ratable proportions on account of the interests on such awards according to the proportions which the unpaid interest of such awards bear to the total amount in the appropriate claims fund that is available for distribution at the time such payments are made;

(5) after payment has been made in full of all the awards payable out of any of the claims funds established by section 3, any funds remaining in that claims fund shall be transferred to the other claims fund created by that section.

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(b) Payment of any award made pursuant to this act shall not extinguish any unsatisfied claim, or be construed to have divested any claimant, or the United States on his or her behalf, of any rights against the Government of Iraq with respect to any unsatisfied claim.

Sec. 6. RECORDS.

(a) The Secretary of State shall transfer or otherwise make available to the Commission such records and documents relating to claims authorized by this act as may be required by the Commission in carrying out its functions under this act.

(b) Notwithstanding section 552 of title 5 of the United States Code (commonly referred to as the Freedom of Information Act), records pertaining to claims before the Commission and the UNCC may not be disclosed to the general public, except that --

(1) decisions of the UNCC and filings of the United States on its own behalf at the UNCC shall be made available to the public, unless the Secretary of State determines that public disclosure would be prejudicial to the interests of the United States or United States claimants, or that public disclosure would be inconsistent with the procedures of the UNCC;

(2) with respect to records of the Department of State, the Secretary of State may determine on a case-by-case basis to make such information available when in the judgment of the Secretary the interests of justice so require; and

(3) with respect to records of the Commission, the Chairman of the Commission may determine on a case-by-case basis to make such information available when in the judgment of the Chairman the interests of justice so require.

Sec. 7. SEVERABILITY.

If any provision of this act or the application thereof to any person or circumstance shall be held invalid, the remainder of the act or the application of such provision to other persons or circumstances shall not be affected.