

CLAIMS SETTLEMENT AGREEMENT BETWEEN
THE GOVERNMENT OF THE UNITED STATES
OF AMERICA AND THE GOVERNMENT
OF THE REPUBLIC OF IRAQ

The Government of the United States of America and the Government of the Republic of Iraq (“the Parties”), as friendly and co-equal sovereigns, firmly desire to seek their mutual interest by settling certain claims of United States nationals arising from actions of the former Iraqi regime. Accordingly, the Parties have agreed as follows:

ARTICLE I

For purposes of this Agreement:

1. Except as otherwise indicated by use of a specific term, reference to “Iraq” shall mean the Republic of Iraq, the Government of the Republic of Iraq, any agency or instrumentality of the Republic of Iraq, and any official, employee or agent of the Republic of Iraq acting within the scope of his or her office, employment, or agency.
2. Reference to “U.S. nationals” shall mean natural and juridical persons who were U.S. nationals at the time their claim arose and through the date of entry into force of this Agreement.

ARTICLE II

1. It is the purpose of the Parties, within the framework of and pursuant to the provisions of this Agreement, to terminate all litigation in any U.S. federal or state court, and to settle and extinguish all U.S. national claims wherever asserted, against Iraq, that relate in whole or in part to any private right of action asserted under U.S. federal, state, foreign, or international law, as described in Article III of this Agreement.
2. As set out in Article V of this Agreement, the Government of the United States agrees to terminate all legal proceedings in U.S. federal or state courts involving claims, suits or actions that come within this Agreement against Iraq, to nullify all attachments and judgments obtained in such claims, suits or actions, to preclude all further U.S. litigation based on such claims, suits or actions, and to settle and extinguish all such claims of U.S. nationals.

ARTICLE III

1. Claims, suits or actions that come within this Agreement are claims, suits or actions that:
 - (a)(i) Are against Iraq; and
 - (ii) Arise from alleged personal injury (whether physical or non-physical, including emotional distress) or death caused by any act of torture, extrajudicial killing, aircraft sabotage, hostage-taking, or the provision of material support or resources for such an act; and

(iii) Are based on an act that occurred prior to October 7, 2004, excluding all claims, suits, or actions filed in U.S. federal or state courts prior to the date on which this Agreement is signed and relating to the events that gave rise to the actions listed in the Annex attached to this Agreement; or

(b) Were the subject of an exchange of diplomatic notes, dated January 13, 1990 and May 2, 1990, between the United States and Iraq, which provided for payment of certain physical injury claims.

2. The objectives of this Agreement with respect to claims, suits or actions that come within this Agreement are:

(a) To reach a final settlement of claims of the Government of the United States and, through espousal, claims of U.S. nationals ("U.S. national claims");

(b) Regardless of nationality,

(i) to terminate permanently all suits and actions in U.S. federal or state courts (including suits or actions in which judgments are still subject to appeal or other direct judicial review); terminate all proceedings in U.S. federal or state courts to secure and enforce non-final or final judgments; and vacate all final judgments rendered by U.S. federal or state courts; and

(ii) to preclude any future suits and actions in U.S. federal or state courts.

ARTICLE IV

1. The Government of the United States shall accept from the Government of the Republic of Iraq the sum of four hundred million United States dollars (U.S.\$400,000,000) (the “settlement amount”) in full and final settlement of the U.S. national claims that come within this Agreement.

2. The Government of the United States shall be exclusively responsible for the distribution of the settlement amount. Funds held for distribution may be invested by the Government of the United States but are not required to earn interest.

3. Payment of the settlement amount shall be effected by the Government of the Republic of Iraq within ninety (90) days from the date of entry into force of this Agreement.

ARTICLE V

Upon payment of the settlement amount, the Government of the United States shall:

1. With respect to any claim, suit, or action that comes within this Agreement, secure, with the assistance of the Government of the Republic of Iraq if necessary, the termination of any claim, suit or action, regardless of claimants’ nationality, in U.S. federal or state court (including proceedings to secure and enforce court judgments); seek the vacatur of any judgment rendered by a U.S. federal or state court; and preclude any new claim, suit or action in any U.S. federal or state court.

2. Release and finally discharge Iraq from all U.S. national claims that come within this Agreement and refrain from presenting any such claim to Iraq in the future. Consistent with this release and final discharge, if any U.S. national claim that comes within this

Agreement is presented directly to Iraq, Iraq will have no responsibility for the claim and should direct the claim back to the Government of the United States for appropriate treatment by the Government of the United States alone.

ARTICLE VI

The Government of the United States shall confirm its recognition of the same sovereign, diplomatic and official immunity of Iraq and its property, and for its agencies, instrumentalities, officials, employees and agents and their property, as is normally recognized within the U.S. legal system for other states and their property, and for their agencies, instrumentalities, officials, employees and agents and their property.

ARTICLE VII

1. This agreement is without prejudice to claims that do not come within Article III of this Agreement.
2. The Government of the Republic of Iraq retains the right to present to the Government of the United States any claims not addressed by this or any other agreement between the Parties.
3. For this purpose, the Parties shall establish a joint commission to study the claims.

ARTICLE VIII

If a dispute arises between the Parties as to the interpretation or performance of any provision of this Agreement, either party may refer the dispute to a joint commission to be established by the Parties to seek an amicable settlement.

ARTICLE IX

This Agreement shall enter into force following an exchange of diplomatic notes confirming that the actions by the Parties necessary to bring the Agreement into force in accordance with the respective constitutional procedures in effect in both countries have been completed. The Parties recognize that, upon entry into force, this Agreement imposes binding international obligations.

DONE in duplicate at Baghdad this _____ day of _____ 2010, corresponding to _____ day of _____ month of 14 ____ A.H. in the English and Arabic languages, both texts being equally authentic.

FOR THE GOVERNMENT
OF THE UNITED STATES
OF AMERICA:

FOR THE GOVERNMENT
OF THE REPUBLIC
OF IRAQ:

ANNEX

1. *Smith v. Islamic Emirate of Afghanistan et al.* (S.D.N.Y.),
01-CIV-10132
2. *In re Terrorist Attacks on September 11, 2001* (S.D.N.Y.),
03-md-01570