



Statement of

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on

**The Approval of International Agreements and Treaties
Under Iraqi Law**

before the

**U.S. House of Representatives
Committee on Foreign Affairs,
Subcommittee on International Organizations,
Human Rights, and Oversight**

at a hearing on

**RENEWING THE UNITED NATIONS MANDATE FOR IRAQ:
PLANS AND PROSPECTS**

November 19, 2008

THE APPROVAL OF INTERNATIONAL AGREEMENTS AND TREATIES UNDER IRAQI LAW

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Chairman Delahunt, Ranking Member Rohrabacher, and distinguished members of the Committee:

It is an honor and a privilege to be asked to provide your Committee with my testimony on how international agreements and treaties are to be approved under Iraqi law and what parliamentary majority is needed for the ratification of such treaties and agreements.

Based on my review of the applicable law, it is my opinion that unless there is a law providing otherwise, international agreements and treaties negotiated by the Iraqi Government need a two-thirds majority of all members of Parliament for ratification.

The 2005 Constitution presently in force in Iraq contains three articles relevant to the process of negotiating, signing, and ratifying international agreements and treaties.

Under Article 80, Section 6, the Council of Ministers or its designee has the authority to negotiate and sign international agreements and treaties.¹

Article 73, Section 2, requires international treaties and agreements to be ratified by the Council of Representatives or Parliament and confirmed by the President of the Republic.²

Article 61, Section 4, gives a majority, consisting of two-thirds of all members of Parliament, the authority to enact a law regulating the approval process of international agreements and treaties.

This law might, for example, provide that, for the ratification of certain types of agreements, such as those executed for a term of one year or less, a simple majority vote of Parliament will be sufficient for their ratification.

¹ Art. 80 of the 2005 Constitution, as published in the Iraqi official gazette, Issue No. 4012 of December 28, 2005 (Constitution), reads in part as follows: "The Council of Ministers exercises the following authorities ... sixth: negotiation and signing of international agreements and treaties directly or through a designee." (Translation by the author.)

² Art. 70 of the Constitution reads in part as follows: "The President of the Republic assumes the following authorities: ...second: confirmation of international agreements and treaties after ratification by Parliament, and they are considered confirmed after the passage of fifteen days from the date they were received." (Translation by the author.)

In the absence of an approval law so providing, there is no legal basis for a simple majority vote of Parliament to ratify any international agreements or treaties.

But how would an agreement negotiated by the Government be ratified if no approval law was enacted pursuant to Article 61, Section 4 of the Constitution?

In this situation the two-thirds majority of all members of Parliament that has the authority to enact the approval law certainly has also the authority to ratify a specific treaty or agreement.

The Iraqi Parliament has not yet, as far as can be determined, enacted the approval law provided for in Article 61, Section 4, of the Constitution. Therefore, it is logical to conclude that the ratification of an agreement negotiated by the Iraqi government needs a two-thirds majority of all members of Parliament for its ratification.