

110TH CONGRESS  
2D SESSION

# S. 3433

To ensure that any agreement with Iraq containing a security commitment or arrangement is concluded as a treaty or is approved by Congress.

---

## IN THE SENATE OF THE UNITED STATES

AUGUST 1, 2008

Mr. BIDEN (for himself, Mr. HAGEL, Mr. CASEY, Mr. VOINOVICH, and Mr. WEBB) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

---

## A BILL

To ensure that any agreement with Iraq containing a security commitment or arrangement is concluded as a treaty or is approved by Congress.

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 Security Agree-  
5 ment Act of 2008”.

### 6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) On November 26, 2007, President George  
9 W. Bush and Prime Minister of Iraq Nouri al-Maliki

1 signed the Declaration of Principles for a Long-  
2 Term Relationship of Cooperation and Friendship  
3 Between the Republic of Iraq and the United States  
4 of America (in this Act referred to as the “Declara-  
5 tion of Principles”), with the goal of concluding a  
6 final agreement or agreements between the United  
7 States and Iraq by July 31, 2008, “with respect to  
8 the political, cultural, economic, and security  
9 spheres.”

10 (2) The Declaration of Principles contemplates  
11 the United States “providing security assurances  
12 and commitments to the Republic of Iraq to deter  
13 foreign aggression.”

14 (3) In 1992, pursuant to section 1457 of the  
15 National Defense Authorization Act for Fiscal Year  
16 1991 (50 U.S.C. 404c), the executive branch sub-  
17 mitted a report to Congress on then-existing security  
18 commitments and arrangements.

19 (4) The report described in paragraph (3) de-  
20 fined a “security commitment” as an “obligation,  
21 binding under international law, of the United  
22 States to act in the common defense in the event of  
23 an armed attack on that country.” The report noted  
24 that all current security commitments of the United

1 States are “embodied in treaties which receive the  
2 advice and consent of the Senate.”

3 (5) The report defined a “security arrange-  
4 ment” as a “pledge by the United States to take  
5 some action in the event of a threat to that coun-  
6 try’s security. Security arrangements typically oblige  
7 the United States to consult with a country in the  
8 event of a threat to its security. They may appear  
9 in legally-binding agreements, such as treaties or ex-  
10 ecutive agreements, or in political documents, such  
11 as policy declarations by the President, Secretary of  
12 State or Secretary of Defense.”

13 (6) The United States Ambassador to Iraq,  
14 Ryan Crocker, has stated that the agreements to be  
15 concluded as anticipated by the Declaration of Prin-  
16 ciples will “deal with the status of U.S. and coalition  
17 forces in Iraq past 2008” and “set the broad param-  
18 eters of the overall bilateral relationship in every  
19 field”.

20 (7) On November 26, 2007, Assistant to the  
21 President and Deputy National Security Advisor for  
22 Iraq and Afghanistan, Lieutenant General Douglas  
23 Lute, stated, “We don’t anticipate now that these  
24 negotiations [under the Declaration of Principles]  
25 will lead to . . . formal inputs from Congress.”

1 **SEC. 3. SENSE OF CONGRESS.**

2 It is the sense of Congress that—

3 (1) any agreement that sets forth the “broad  
4 parameters of the overall bilateral relationship [as  
5 between the United States and the Republic of Iraq]  
6 in every field,” particularly one that includes a secu-  
7 rity commitment or arrangement provided to the Re-  
8 public of Iraq by the United States, would result in  
9 serious military, political, and economic obligations  
10 for the United States, and thus, consistent with past  
11 practice, should involve a joint decision by the execu-  
12 tive and legislative branches; and

13 (2) a short-term extension of the mandate of  
14 the Multi-National Force in Iraq (currently provided  
15 by United Nations Security Council Resolution 1790  
16 (2007)), would, in concert with Iraqi law, provide  
17 United States forces with the authorities, privileges,  
18 and immunities necessary for those forces to carry  
19 out their mission in Iraq.

20 **SEC. 4. ANNUAL REPORT ON SECURITY AGREEMENTS.**

21 (a) **REPORTS REQUIRED.**—Not later than 180 days  
22 after date of the enactment of this Act, and every Feb-  
23 ruary 1 thereafter, the President shall submit to the ap-  
24 propriate congressional committees a report (in both clas-  
25 sified and unclassified form) on United States security  
26 commitments to, and arrangements with, other countries.

1 (b) CONTENT.—Each report submitted under sub-  
2 section (a) shall include the following:

3 (1) The text, and a description, of each security  
4 commitment to, or arrangement with, one or more  
5 other countries, whether based upon—

6 (A) a formal document (including a mutual  
7 defense treaty, a status of forces agreement, a  
8 pre-positioning arrangement or agreement, an  
9 access agreement, or a non-binding declaration  
10 or letter); or

11 (B) an expressed policy, whether expressed  
12 orally or in writing.

13 (2) An assessment of the need to continue,  
14 modify, or discontinue each of those commitments  
15 and arrangements in view of the changing inter-  
16 national security situation.

17 **SEC. 5. CONSULTATION WITH CONGRESS.**

18 Not later than 30 days after the date of the enact-  
19 ment of this Act, the Secretary of State and the Secretary  
20 of Defense shall consult with the appropriate congres-  
21 sional committees about the negotiations pursuant to the  
22 Declaration of Principles. After the initial consultation,  
23 the Secretary of State and the Secretary of Defense shall  
24 keep such committees fully and currently informed regard-  
25 ing the status of the negotiations. Prior to finalizing any

1 agreement that includes a security commitment or security  
 2 arrangement with Iraq, the Secretary of State should pro-  
 3 vide the text of the agreement to the appropriate congres-  
 4 sional committees.

5 **SEC. 6. PROHIBITIONS.**

6 (a) PROHIBITION ON ENTRY INTO FORCE OF CER-  
 7 TAIN AGREEMENTS.—No agreement containing a security  
 8 commitment to, or security arrangement with, the Repub-  
 9 lic of Iraq, may enter into force except pursuant to Article  
 10 II, section 2, clause 2 of the Constitution of the United  
 11 States (relating to the making of treaties) or unless au-  
 12 thorized by a law enacted on or after the date of the enact-  
 13 ment of this Act pursuant to Article I, section 7, clause  
 14 2 of the Constitution (relating to the enactment of laws).

15 (b) PROHIBITION ON USE OF FUNDS.—No funds  
 16 may be obligated or expended to implement an agreement  
 17 containing a security commitment to, or security arrange-  
 18 ment with, the Republic of Iraq, unless it enters into force  
 19 pursuant to Article II, section 2, clause 2 of the Constitu-  
 20 tion of the United States or is authorized by a law enacted  
 21 on or after the date of the enactment of this Act pursuant  
 22 to Article I, section 7, clause 2 of the Constitution.

23 (c) POINT OF ORDER.—It shall not be in order for  
 24 either House of Congress to consider any bill, resolution,  
 25 amendment, or conference report that provides budget au-

1 thority for the implementation of an agreement entered  
2 into in contravention of subsection (a).

3 **SEC. 7. APPROPRIATE CONGRESSIONAL COMMITTEES DE-**  
4 **FINED.**

5 In this Act, the term “appropriate congressional com-  
6 mittees” means—

7 (1) the Committee on Armed Services of the  
8 Senate;

9 (2) the Committee on Foreign Relations of the  
10 Senate;

11 (3) the Committee on Armed Services of the  
12 House of Representatives; and

13 (4) the Committee on Foreign Affairs of the  
14 House of Representatives.

○