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COMPENSATION COMMISSION
GOVERNING COUNCIL

Decision concerning the special report on overlapping claims taken by the
Governing Council of the United Nations Compensation Commission
at its 122nd meeting, held on 3 October 2002

The Governing Council,

Having received, in accordance with article 38 of the Provisional Rules for Claims Procedure (the “Rules”), the special report and recommendations made by the “E4” and “E4A” panels of Commissioners concerning overlapping claims, submitted pursuant to Governing Council decision 123 (S/A.C.26/Dec.123 (2001)) concerning the treatment of claims filed by individuals seeking compensation for direct losses sustained by Kuwaiti companies, concerning adjustments to 19 claims,¹

Recalling that, pursuant to paragraph 1 (a) of decision 123, overlapping claims in respect of losses sustained by Kuwaiti companies are to be grouped in order to permit the category “E4” panels of Commissioners to make recommendations on awards of compensation suffered by such companies,

Recalling also that, pursuant to paragraph 1 (a) of decision 123, the “E4” and “E4A” panels of Commissioners reviewed in the special report a number of Kuwaiti company claims for which they had already recommended awards of compensation in reports on the first seven instalments of category “E4” claims, in order to take into account related claims filed by individuals asserting losses in respect of those Kuwaiti companies,

¹ The text of the report appears in document S/AC.26/2002/28.

Noting that the amounts claimed in the related claims filed by individuals, which were considered by the “E4” and “E4A” panels of Commissioners in relation to the previously reviewed Kuwaiti company claims, were asserted in timely filed and duly registered claims submitted by individuals in categories “C” and “D”,

1. Approves the recommendations made by the panels of Commissioners, and, accordingly,

2. Decides, pursuant to decision 123 and article 40 of the Rules, to approve the revised recommended awards concerning the claims covered in the special report. The aggregate revised amounts awarded per instalment, based on the recommendations contained in annexes I to VI of the special report, are as follows:

Table 1. First instalment category “E4” claims revisions

<u>Country</u>	<u>Number of claims with revised awards</u>	<u>Previous total award (USD)</u>	<u>Revised total award (USD)</u>
Kuwait	1	506,298	542,680

Table 2. Second instalment category “E4” claims revisions

<u>Country</u>	<u>Number of claims with revised awards</u>	<u>Previous total award (USD)</u>	<u>Revised total award (USD)</u>
Kuwait	7	1,755,774	2,592,474

Table 3. Third instalment category “E4” claims revisions

<u>Country</u>	<u>Number of claims with revised awards</u>	<u>Previous total award (USD)</u>	<u>Revised total award (USD)</u>
Kuwait	1	12,580,927	12,427,993

Table 4. Fourth instalment category “E4” claims revisions

<u>Country</u>	<u>Number of claims with revised awards</u>	<u>Previous total award (USD)</u>	<u>Revised total award (USD)</u>
Kuwait	2	2,157,794	2,595,654

Table 5. Sixth instalment category “E4” claims revisions

<u>Country</u>	<u>Number of claims with revised awards</u>	<u>Previous total award (USD)</u>	<u>Revised and corrected total award (USD)</u>
Kuwait	3	1,687,453	1,854,110

Table 6. Seventh instalment category "E4" claims revisions

<u>Country</u>	<u>Number of claims with revised awards</u>	<u>Previous total award (USD)</u>	<u>Revised total award (USD)</u>
Kuwait	3	969,983	635,266

3. Decides also to approve the corrected recommended awards concerning certain claims referred to in paragraphs 74 to 77 of the special report. The aggregate revised amounts per instalment, based on the recommendations contained in annex VII of the special report, are as follows:

Table 7. Fifth instalment category "E4" claims correction

<u>Country</u>	<u>Number of claims with corrected awards</u>	<u>Previous total award (USD)</u>	<u>Corrected total award (USD)</u>
Kuwait	1	4,894,917	4,866,249

Table 8. Sixth instalment category "E4" claims correction

<u>Country</u>	<u>Number of claims with corrected awards</u>	<u>Previous total award (USD)</u>	<u>Corrected total award (USD)</u>
Kuwait	1	2,987,237	2,954,500

4. Decides further that the revised and corrected total awards per instalment, based on the recommendations contained in annexes I to VII of the special report, are as follows:

Table 9. Revised and corrected awards for category "E4" claims

<u>Instalment</u>	<u>Previous total award (USD)</u>	<u>Revised and /or corrected total award (USD)</u>	<u>Amount of net effect (USD)</u>
First instalment	128,218,619	128,255,001	36,382
Second instalment	120,476,225	121,312,925	836,700
Third instalment	284,219,873	284,066,939	(152,934)
Fourth instalment	69,998,366	70,436,226	437,860
Fifth instalment	411,345,600	411,316,932	(28,668)
Sixth instalment	97,566,794	97,700,714	133,920
Seventh instalment	135,879,257	135,544,540	(334,717)
<u>Total</u>	1,247,704,734	1,248,633,277	928,543

5. Recalls that, in addition to implementing the revised and corrected awards set out in paragraphs 2 and 3 above, pursuant to paragraphs 1 (e) of decision 123, the Executive Secretary will, within the limits of duly registered claims, carry into effect the decisions of the bilateral committees constituted pursuant to the guidelines annexed to decision 123 when payment is made,

6. Recalls also that paragraph 1 (g) of decision 123 directs the Executive Secretary to make payments on behalf of the Government of the State of Kuwait, pursuant to the irrevocable delegation of authority annexed to decision 123, to the Governments and other submitting entities of the portions of awards of compensation to which category “C” and/or “D” claimants are entitled, as determined by the bilateral committees under the guidelines, as follows ²:

Table 10. Distribution of awards to individual claimants applying bilateral committee determinations made pursuant to article 2 of the guidelines annexed to decision 123 to recommended awards in the special report

<u>Country</u>	<u>Number of claims</u>	<u>Amount claimed for corporate losses in individual claims (USD)</u>	<u>Amount of compensation (USD)</u>
Canada	1	245,000	18,699
India	1	291,952	150,432
Jordan	20	43,150,869	6,570,705
<u>Total</u>	22	43,687,821	6,739,836

7. Notes that, further to decisions of the bilateral committees referred to in paragraph 5 above, the Executive Secretary will, within the limits of duly registered claims, carry into effect their decisions which, as applied to the revised awards of compensation set out in the special report, increase the awards of compensation to which certain category “E4” claimants are entitled, as follows:

Table 11. Distribution of additional amounts to Kuwaiti corporate claimants applying bilateral committee determinations made pursuant to article 2 of the guidelines annexed to decision 123 to recommended awards in the special report

<u>Country</u>	<u>Number of claims</u>	<u>Amount claimed in “E4” claims (USD)</u>	<u>Previous total award (USD)</u>	<u>Revised total amount of compensation (USD)</u>	<u>Amount of additional compensation (USD)</u>
Kuwait	7	4,321,706	1,561,819	1,912,289	350,470

8. Requests the Government of the State of Kuwait to return to the Commission, within six months, any amounts which, as a result of the revision, correction and distribution of awards set out in paragraphs 2, 3 and 6 above, constitute overpayments to category “E4” claimants, as shown in table 12 below,

² In conformity with the provisions on confidentiality in the Rules (article 30, paragraph 1, and article 40, paragraph 5), information concerning the amount to be paid to each individual claimant will not be made public, but will be provided to each respective Government separately.

Table 12. Overpayments due to revision, correction and distribution of awards applying bilateral committee determinations made pursuant to article 2 of the guidelines annexed to decision 123 to recommended awards in the special report

<u>Country</u>	<u>Number of affected claims</u>	<u>Amount of overpayment (USD)</u>
Kuwait	22	6,171,212

9. Decides that, in the light of the decision taken at the Council's thirty-first session (S/AC.26/SER.A/1, page 188), if such amounts are not returned in compliance with paragraph 8 above, future payments to the Government of the State of Kuwait will be withheld pending such compliance,

10. Decides that, when those funds are returned to the Commission by the Government of the State of Kuwait, payments shall be made to category "C", "D" and "E4" claimants as referred to in tables 10 and 11, and such returned funds, as well as additional funds, shall be used for such payments,

11. Recalls that when payments are made pursuant to the terms of decision 18 (S/AC.26/Dec.18 (1994)), Governments shall distribute amounts received to the designated claimants in respect of approved awards within six months of receiving payment, and shall, not later than three months after the expiration of this time limit, provide information on such distribution,

12. Recalls also that, with respect to category "C" and/or "D" claimants, the submitting Governments have accepted the responsibility for fulfilling the payment and reporting requirements set out in decisions 18 and 48 (S/AC.26/Dec.48 (1998)) further to article 18 of the guidelines annexed to decision 123,

13. Requests the Executive Secretary to provide a copy of the report to the Secretary-General, to the Government of the Republic of Iraq and to each respective Government.
