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Decision concerning the eighteenth instalment of “E4” claims taken by the Governing Council of the United Nations Compensation Commission at its 129th meeting, on 26 June 2003, as revised at its 131st meeting, on 18 September 2003

The Governing Council,

Having received, in accordance with article 38 of the Provisional Rules for Claims Procedure (the “Rules”), the report and recommendations made by the “E4” panel of Commissioners concerning the eighteenth instalment of “E4” 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 165 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 decision 123, the “E4” panel of Commissioners reviewed in this report a number of Kuwaiti company claims for which individuals appeared to have filed related claims in categories “C” and/or “D” asserting losses in respect of those Kuwaiti companies,

Noting that, during the course of its review of the claims covered by the report, the panel determined that some of the “E4” claims did not overlap with claims in categories “C” and/or “D”,

¹ The text of the report appears in document S/AC.26/2003/12.

Noting also that the amounts claimed in the related claims filed by individuals, which were considered by the panel in relation to the Kuwaiti company claims, were asserted in timely filed and duly registered claims submitted by individuals in categories “C” and/or “D”,

1. Approves the recommendations made by the panel, and, accordingly,
2. Decides, pursuant to article 40 of the Rules, to approve the recommended awards concerning the claims covered in the report, which the panel determined not to overlap with any claims filed by individuals in categories “C” and/or “D”. The aggregate amounts awarded for non-overlapping claims, based on the recommendations contained in annex I of the report, are as follows:

Table 1. Recommended awards for non-overlapping claims

<u>Country</u>	<u>Number of claims recommended for payment</u>	<u>Number of claims not recommended for payment</u>	<u>Amount of compensation claimed (USD)</u>	<u>Amount of compensation awarded (USD)</u>
Kuwait	58	4	119,218,384	39,492,956

3. Decides also, pursuant to decision 123 and article 40 of the Rules, to approve the recommended awards concerning the claims covered in the report, which the panel determined to overlap with claims filed by individuals in categories “C” and/or “D”. The aggregate amounts awarded for overlapping claims, based on the recommendations contained in annex III of the report, are as follows:

Table 2. Recommended awards for overlapping claims

<u>Country</u>	<u>Number of claims recommended for payment</u>	<u>Number of claims not recommended for payment</u>	<u>Amount of compensation claimed (USD)</u>	<u>Amount of compensation awarded (USD)</u>
Kuwait	103	-	558,509,453	89,319,148

4. Recalls that, in addition to implementing the awards set out in paragraph 3, pursuant to paragraph 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 in respect of the awards for overlapping claims,

5. Recalls also that, further to decisions of the bilateral committees referred to in paragraph 4 above, the Executive Secretary will, within the limits of duly registered claims, carry into effect their decisions which, as applied to the awards of compensation set out in annex III of the report, result in awards of compensation to category “E4” claimants, as follows:

Table 3. Distribution of 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 annex III of the report

<u>Country</u>	<u>Number of claims entitled to receive payment</u>	<u>Number of claims not entitled to receive payment</u>	<u>Amount claimed in "E4" claims (USD)</u>	<u>Amount of compensation (USD)</u>
Kuwait	79	24	216,030,152	45,176,380

6. Notes that the amount of compensation to be distributed to one category "E4" claimant has been reduced in an amount of USD 6,253 to limit its award to an amount no greater than the amount it claimed,

7. Recalls 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:

Table 4. 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 annex III of the report²

<u>Country or international organization</u>	<u>Number of claims entitled to receive payment</u>	<u>Number of claims not entitled to receive payment</u>	<u>Amount claimed for corporate losses in individual claims (USD)</u>	<u>Amount of compensation (USD)</u>
Canada	3	2	14,004,087	3,791,482
Egypt	1	1	352,377	37,962
India	5	7	18,968,588	2,387,871
Jordan	64	28	299,975,765	33,325,835
Lebanon	1	1	877,993	511,133
Syrian Arab Republic	6	1	2,745,585	573,838
United Kingdom	2	-	1,671,661	358,960
United States	2	-	3,465,131	1,315,602
Yemen	2	-	285,865	215,441
UNRWA Gaza	1	-	132,249	64,554
<u>Total</u>	87	40	342,479,301	42,582,678

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 and international organization separately.

8. Notes that amounts of compensation to be distributed to 10 individual claimants have been reduced in a total amount of USD 691,644 to limit their awards to amounts no greater than the amounts asserted in their category “C” and/or “D” claims in respect of the losses reviewed by the category “E4” panel of Commissioners in the report,

9. Notes also that amounts of compensation to be distributed to 19 individual claimants have been reduced in the amount of USD 862,193 to take into account compensation that the individual claimants have already received in category “C” for the losses reviewed by the category “E4” panel of Commissioners in the report,

10. Notes further that 12 individual claimants previously received awards in category “C” that exceed by a total amount of USD 351,556 the amounts to which they are entitled further to this decision,

11. Reaffirms that when funds become available payments shall be made in accordance with decision 197 (S/AC.26/Dec.197 (2003)), except for the portions of amounts payable to successful claimants in relation to those Kuwaiti companies for which 12 individual claimants in category “C” had already received payments, referred to in paragraph 10 above, which relates to a matter currently under consideration by the Council, pending resolution of that issue,

12. Recalls that when payments are made in accordance with decision 197, and pursuant to the terms of decision 18 (S/AC.26/Dec.18 (1994)), Governments and international organizations 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,

13. Recalls also that, with respect to category “C” and/or “D” claimants, the submitting Governments and international organizations 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,

14. 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 and international organization.
