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UNITED NATIONS  
COMPENSATION COMMISSION  
GOVERNING COUNCIL

Decision concerning the second special report on overlapping claims taken by the  
Governing Council of the United Nations Compensation Commission  
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 second 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 adjustments to 13 claims,<sup>1</sup>

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 second special report a number of Kuwaiti company claims for which they had already recommended awards of compensation in reports concerning the second, sixth, eighth, thirteenth, sixteenth and twentieth instalments of category “E4” claims, in order to take into account related claims filed by individuals asserting losses in respect of those Kuwaiti companies,

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<sup>1</sup> The text of the report appears in document S/AC.26/2003/24.

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 second special report. The aggregate revised amounts awarded per instalment, based on the recommendations contained in annexes I and III of the second special report, are as follows:

Table 1. 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	9	nil	3,448,004

Table 2. Sixteenth 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	173,519	301,062

3. Notes that as referred to in paragraphs 38 to 41 of the report, the Panel has also reviewed four other overlap claims, three of which were included in the second instalment of “E4” claims and one of which was included in the sixth instalment of “E4” claims, and concluded that no adjustment to the previous recommendations of the “E4” Panels is required,

4. Decides to approve the corrected recommended awards concerning three claims referred to in paragraphs 47 to 51 of the second special report, which leads to a total amount of recommended compensation that is USD 79,918 less than the amount of compensation that was previously approved for such claims. The aggregate corrected amounts per instalment, based on the recommendations contained in annex IV of the second special report, are as follows:

Table 3. Eighth 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	65,853	41,804

Table 4. Thirteenth 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	1,654,762	1,632,445

Table 5. Twentieth 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	509,923	476,371

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

Table 6. 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>
Second instalment	121,312,925	124,760,929	3,448,004
Eighth instalment	88,799,956	88,775,907	(24,049)
Thirteenth instalment	85,458,541	85,436,224	(22,317)
Sixteenth instalment	78,625,458	78,753,001	127,543
Twentieth instalment	99,577,512	99,543,960	(33,552)
<u>Total</u>	473,774,392	477,270,021	3,495,629

6. Recalls that, in addition to implementing the revised and corrected awards set out in paragraphs 2 and 4 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,

7. Recalls also that, further to decisions of the bilateral committees referred to in paragraph 6 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 second special report, increase the awards of compensation to which certain category "E4" claimants are entitled, as follows:

Table 7. 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 second 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	6,409,727	nil	1,649,291	1,649,291

8. Notes that, further to the distribution of amounts to Kuwaiti corporate claimants applying decisions of the bilateral committees to recommended awards in the second special report, three claimants in category “E4” previously received awards that exceed by a total amount of USD 253,960 the amounts to which they are entitled further to this decision,

9. 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 4 and 8 above which, according to this decision, were overpaid to the E4 claimants in previous decisions, as shown in table 8 below,

Table 8. 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 second special report

<u>Country</u>	<u>Number of affected claims</u>	<u>Amount of overpayment (USD)</u>
Kuwait	6	333,878

10. 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: <sup>2</sup>

Table 9. 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 second special 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 for corporate losses in individual claims (USD)</u>	<u>Amount of compensation (USD)</u>
Canada	1	0	245,675	47,321
India	1	0	178,433	97,909
Jordan	8	6	22,895,516	1,781,750
Pakistan	1	0	351,087	186,662
<u>Total</u>	11	6	23,670,711	2,113,642

<sup>2</sup> 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.

11. Notes that the amount of compensation to be distributed to one individual category “D” claimant has been reduced in the amount of USD 66,574 to take into account compensation that the individual claimant had already received in category “C” for the losses reviewed by the category “E4” panels of Commissioners in the second special report,

12. 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 category “D” claimants for which three claimants in category “E4” had already received payments, referred to in paragraph 8 above,

13. Decides that payments shall also be made to claimants entitled to distribution of awards pursuant to decision 173 with respect to whom payments were withheld, except for the portion of amounts payable to successful “C” and “D” claimants for which claimants in category E4 have settled directly with such “C” and “D” claimants or have not yet returned amounts of overpayments,

14. 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)), the Government of the State of Kuwait 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,

15. Recalls also that, with respect to category “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,

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

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