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Decision concerning the twenty-eighth instalment of “E4” claims taken by the Governing Council of the United Nations Compensation Commission at its 137th meeting, on 2 July 2004

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 panel of Commissioners concerning the twenty-eighth instalment “E4” claims, submitted pursuant to Governing Council decision 123 (S/A.C.26/Dec.123 (2001)) concerning the treatment of stand alone claims filed by individuals seeking compensation for direct losses sustained by 57 Kuwaiti companies,¹

Recalling that, pursuant to paragraph 1 (b) of decision 123, stand alone claims for which the individual claimant has been found by the category “D” panels of Commissioners to have authority to file a claim on behalf of the company in respect of losses sustained by Kuwaiti companies are to be identified and processed in category “E4” as Kuwaiti corporate claims,

Recalling also that, pursuant to decision 123, the “E4” panel of Commissioners reviewed in this report stand alone claims submitted in category “C” and “D” by non-Kuwaiti individuals, in relation to losses sustained by a Kuwaiti corporate entity where the Kuwaiti company has not filed a claim in category “E” for such losses,

¹ The text of the report appears in document S/AC.26/2004/7.

Noting that, where more than one category “C” or category “D” claim was submitted for the losses of the same Kuwaiti company, the “E4” panel of Commissioners has considered the claims together in order to review the consolidated losses of the company,

Noting also that the category “D” panels of Commissioners found that all of the individual claimants who have filed category “C” or “D” claims included in this instalment have shown authority to file the claim on behalf of the Kuwaiti company,

1. Approves the recommendations made by the panel of Commissioners, and, accordingly,
2. Decides, pursuant to decision 123 and article 40 of the Rules, to approve the amounts of the recommended awards concerning the stand alone Kuwaiti corporate claims covered in the report. The aggregate amount awarded, based on the recommendations contained in annex I of the report, is as follows:

Table 1. Recommended awards for stand alone claims

<u>Number of Kuwaiti corporate claims recommended for payment</u>	<u>Number of Kuwaiti corporate claims not recommended for payment</u>	<u>Amount of compensation claimed (USD)</u>	<u>Amount of compensation recommended (USD)</u>
50	7	108,386,747	26,511,063

3. Recalls that, in addition to implementing the awards set out in paragraph 2 above, 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 stand alone claims,

4. 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:

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 2. 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 report

<u>Country</u>	<u>Number of individual claims</u>	<u>Amount claimed for corporate losses in individual claims (USD)</u>	<u>Amount of compensation (USD)</u>
Canada	2	429,585	34,508
Egypt	3	4,501,498	62,919
India	1	667,173	44,558
Jordan	53	87,352,352	23,913,633
Pakistan	1	17,301	nil
Palestine	2	6,906,014	1,446,090
United States	1	2,400,003	nil
Yemen	5	6,112,821	59,040
<u>Total</u>	68	108,386,747	25,560,748

5. Notes that, pursuant to the determinations of the bilateral committees as to the entitlement of individual claimants to the losses of Kuwaiti companies, the amounts of compensation recommended by the Panel to be paid to five claimants (claim numbers: 3013139, 3003511, 1811618, 3004010 and 3004258) have been reduced by a total amount of USD 336,054,

6. Notes also that the amounts of compensation to be paid to 14 individual claimants (claim numbers: 3003774, 3003803, 3003839, 3004422, 3013139, 3013257, 3013263, 3003862, 3003868, 3013295, 3013177, 3013180, 3013202 and 3013204), for the losses reviewed by the “E4” panel of Commissioners in the report, have been reduced by a total amount of USD 614,261 to take into account compensation that the individual claimants have already received in category “C”,

7. Approves also the recommendations made by the panel of Commissioners, with respect to the three “E4” Kuwaiti corporate claims and the two non-Kuwaiti “E2” corporate claims covered by the report and, accordingly,

8. Decides, pursuant to article 40 of the Rules, to approve the amounts of the recommended awards concerning these claims. The aggregate amounts awarded per country, based on the recommendations contained in annexes III and V to the report respectively, are as follows:

Table 3. Recommended awards for “E4” Kuwaiti corporate 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 recommended (USD)</u>
Kuwait	3	-	1,501,570.93	618,879

Table 4. Recommended awards for “E2” corporate 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 recommended (USD)</u>
France	1	-	26,402	1,650
Jordan	-	1	40,700	nil
<u>Total</u>	1	1	67,102	1,650

9. Reaffirms that when funds become available payments shall be made in accordance with decision 227 (S/AC.26/Dec.227 (2004)),

10. Recalls that when payments are made in accordance with decision 227, and pursuant to the terms of decision 18 (S/AC.26/Dec.18 (1994)), Governments shall distribute amounts received to the designated individual 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,

11. Recalls also that, with respect to the stand alone claims, 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,

12. 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.
