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UNITED NATIONS  
COMPENSATION COMMISSION  
GOVERNING COUNCIL

Decision concerning the twenty-ninth 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-ninth 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 123 Kuwaiti companies,<sup>1</sup>

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 “E4A” panel of Commissioners reviewed in this report 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,

Noting that, where more than one category “C” or category “D” claim was submitted for the losses of the same Kuwaiti company, the “E4A” 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 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>
114	9	170,535,885	58,703,291

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,

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<sup>2</sup>:

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<sup>1</sup> The text of the report appears in document S/AC.26/2004/8.

<sup>2</sup> In conformity with the provisions on confidentiality in the Rules (article 30, paragraph 1, and article 40, paragraphs 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.

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 twenty-ninth instalment report

<u>Country or international organization</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	7	2,107,696	417,339
Egypt	1	892,952	238,963
India	1	615,000	163,212
Iran	1	543,990	195,965
Jordan	110	145,807,774	51,822,303
Lebanon	1	134,948	85,799
Pakistan	1	135,426	931
Syrian Arab Republic	8	16,572,062	3,248,061
United States	4	1,256,595	149,421
Yemen	1	1,697,775	437,927
UNHCR Canada	1	660,599	5,804
UNDP Yemen	1	111,068	46,932
<u>Total</u>	137	170,535,885	56,812,657

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 13 individual claimants (claim numbers: 1811621, 1811665, 3003813, 3000313, 3002685, 3003526, 3004508, 3005042, 3013256, 3013289, 3013267, 3013266 and 1811642) have been reduced by a total amount of USD 1,434,869,

6. Notes also that the amounts of compensation to be paid to 13 individual claimants (claim numbers: 3003793, 3003821, 3004981, 3013191, 3003673, 3004423, 3004508, 3005042, 3005094, 3013192, 3013203, 3013268 and 4005974), for the losses reviewed by the "E4A" panel of Commissioners in the report, have been reduced by a total amount of USD 455,765 to take into account compensation that the individual claimants have already received in categories "C" or "D" or from other sources such as compensation received from a Kuwaiti partner or the individual claimant's respective Governments,

7. Notes also, further to the distribution of amounts to individual claimants applying decisions of the bilateral committees to recommended awards in the twenty-ninth instalment report, one individual claimant (claim number 3013268 filed through the Government of Jordan) previously

received an award in category “C” that exceeds by a total amount of USD 40,890 the amounts to which he is entitled further to this decision,

8. Notes also, further to the distribution of amounts to individual claimants applying decisions of the bilateral committees to recommended awards in the twenty-ninth instalment report, two corporate claims (company claim numbers: 4006127 and 4006258) involve individual category “C” claims (claim numbers: 1560682 and 1551881 respectively, both filed through the Government of Jordan) for the losses of Kuwaiti companies which had been processed in that category and for which the awards received in category “C” exceeded the amount to which the category “C” individual claimant was entitled, and for which payment of USD 35,790 and USD 39,735 respectively is suspended from the amount to be paid to the associated three individual claimants (claim numbers: 1811642, 3013267 and 3013266),

9. Notes further that the “E4A” panel of Commissioners brought one corporate claim (claim number 4006218) to its attention in paragraphs 45 to 50 of its report and recommendations which relates to a previously paid category “D” claimant (claim number 3008009 filed through the Government of Kuwait) and for which payment of USD 189,491 is suspended from the associated individual claimant (claim number 3003673),

10. Instructs the secretariat to notify the responsible Governments to consider appropriate action to recover the total amount of USD 305,906 from the category “C” and “D” claimants referred to in paragraphs 7, 8 and 9 above and return it to the Compensation Fund,

11. Approves also the recommendations by the panel of Commissioners, with respect to two stand alone claims for losses sustained by Kuwaiti companies for which compensation was recommended in the report and recommendations concerning the twenty-third (A) instalment of “E4” claims 3/, and approved in decision 193 (S/AC.26/Dec.193 (2003)), which were re-examined by the panel of Commissioners in order to take into account related claims filed by individuals asserting losses in respect of those stand alone Kuwaiti companies, as referred to in paragraph 36 of the report and recommendations, and accordingly,

12. Decides, pursuant to decision 123, to approve the revised recommended awards concerning the two claims included in the report. The aggregate revised amounts awarded, based on the recommendations contained in annexes III and IV to the report, are as follows:

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<sup>3</sup> The text of this report appears in document S/AC.26/2003/14.

Table 3. Instalment twenty-three (A) 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	673,642	771,262

13. Decides further that the revised total awards per instalment, based on the recommendations contained in annexes III and IV of the report and recommendations, are as follows:

Table 4. Revised awards for category "E4" claims

<u>Instalment</u>	<u>Previous total award (USD)</u>	<u>Revised total award (USD)</u>	<u>Amount of net effect (USD)</u>
Twenty-three (A)	38,891,974	38,989,594	97,620

14. Recalls that, in addition to implementing the revised awards set out in paragraph 11 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,

15. 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:

Table 5. Distribution of awards to individual claimants applying bilateral committee determinations made pursuant to article 2 of the guidelines annexed to decision 123 to recommended revisions to awards

<u>Country</u>	<u>Number of individual claims</u>	<u>Amount claimed for corporate losses in individual claims (USD)</u>	<u>Previous total award (USD)</u>	<u>Revised total of amount of compensation (USD)</u>	<u>Amount of additional compensation/ amount of overpayment (USD)</u>
India	1	957,500	241,792	220,308	(21,484)
Jordan	3	1,263,858	431,850	550,954	119,104

16. Notes that, further to the revision of the two stand alone Kuwaiti company claims and the distribution of amounts to individual claimants applying decisions of the bilateral committees to the recommended revised awards, one individual claimant (claim no. 3013165) previously received an

award that exceeds by a total amount of USD 21,484 the amount to which he is entitled further to this decision,

17. Reaffirms that when funds become available payments shall be made in accordance with decision 227 (S/AC.26/Dec.227 (2004)), except for portions of the amounts payable to individual claimants for which category "C" and "D" claimants had already received payments, referred to in paragraphs 8 and 9 above,

18. 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,

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

20. 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.

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