



Security Council

Distr.
GENERAL

S/AC.26/Dec.231 (2004)
23 September 2004

Original: ENGLISH

UNITED NATIONS
COMPENSATION COMMISSION
GOVERNING COUNCIL

Decision concerning the third special report on overlapping claims taken by the Governing Council
of the United Nations Compensation Commission at its 139th meeting, on 23 September 2004

The Governing Council,

Having received, in accordance with article 38 of the Provisional Rules for Claims Procedure (the “Rules”), the third special report and recommendations made by the merged “E4” panel of Commissioners concerning overlapping claims, submitted pursuant to Governing Council decision 123 (S/A.C.26/Dec.123 (2001)) concerning adjustments to 11 “E4” 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 merged “E4” panel of Commissioners reviewed in the third special report a number of Kuwaiti company claims for which they had already recommended awards of compensation in reports concerning the second, fourth, sixth, eighth, thirteenth, fourteenth, sixteenth, nineteenth and twenty-second 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.26/2004/13.

Noting that the amounts claimed in the related claims filed by individuals, which were considered by the merged “E4” panel 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 panel 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 third special report. The aggregate revised amounts awarded per instalment, based on the recommendations contained in annexes I, II, IV, V and VI of the third 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	4	nil	567,592

Table 2. 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 total award (USD)</u>
Kuwait	1	1,018,834	1,031,124

Table 3. Thirteenth 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	2,067,575	2,607,435

Table 4. Fourteenth 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	267,291	407,862

Table 5. Nineteenth 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	112,886	146,093

3. Notes that as referred to in paragraphs 35 to 39 of the report, the Panel has also reviewed four other overlap claims included in the sixth, eighth, fourteenth and twenty-second instalments of “E4” claims, and concluded that no adjustment to the previous recommendations of the “E4” Panels is required,

4. Decides also to approve the corrected recommended awards concerning two claims referred to in paragraphs 40 to 42 of the third special report, which leads to a total amount of recommended compensation that is USD 193,348 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 VIII of the third special report, are as follows:

Table 6. Fourth 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	311,889	186,713

Table 7. Sixteenth 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	253,589	185,417

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

Table 8. Revised and corrected awards for category "E4" claims

<u>Instalment</u>	<u>Previous total award (USD)</u>	<u>Revised or corrected total award (USD)</u>	<u>Amount of net effect (USD)</u>
Second	124,760,929	125,328,521	567,592
Fourth	70,436,226	70,311,050	(125,176)
Sixth	97,700,714	97,713,004	12,290
Thirteenth	85,436,224	85,976,084	539,860
Fourteenth	95,521,456	95,662,027	140,571
Sixteenth	78,753,001	78,684,829	(68,172)
Nineteenth	80,250,015	80,283,222	33,207
<u>Total</u>	632,858,565	633,958,737	1,100,172

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 third special report,

increase the awards of compensation to which four category "E4" claimants (claim numbers: 4005390, 4005631, 4004367 and 4004865) are entitled, as follows:

Table 9. 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 third 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	4	2,319,481	209,863	408,747	198,884

8. Notes that, further to the distribution of amounts to Kuwaiti corporate claimants applying decisions of the bilateral committees to recommended awards in the third special report, six other claimants in category "E4" (claim numbers: 4003517, 4003606, 4004265, 4004422, 4004490 and 4005261) previously received awards that exceed by a total amount of USD 985,628 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 10 below,

Table 10. 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 third special report or due to correction of recommended awards by the panel of Commissioners

<u>Country</u>	<u>Number of affected claims</u>	<u>Amount of overpayment (USD)</u>
Kuwait	8	1,178,976

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: 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 11. 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 third special report

<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>
Austria	1	-	688,370	94,337
Egypt	1	-	1,334,256	66,509
India	1	-	1,038,062	67,400
Jordan	7	2	7,009,661	1,225,514
UNDP Washington	-	2	175,000	nil
UNHCR Canada	1	-	3,907,422	488,358
<u>Total</u>	11	4	14,152,771	1,942,118

11. Notes that the amount of compensation to be distributed to one individual claimant (claim number: 3010722) has been reduced in a total amount of USD 138,146 to limit his award to an amount no greater than the amount asserted in his category “D” claim in respect of the losses reviewed by the merged “E4” panel of Commissioners in the report,

12. Notes further that one individual claimant (claim number: 3002065) previously received an award in category “C” that exceeds by a total of USD 59,455.25 the amount to which he is entitled further to this decision,

13. Instructs the secretariat to notify the responsible submitting entity to consider appropriate action to recover the amount of USD 59,455.25 from the individual claimant referred to in paragraph 12 above and return it to the Compensation Fund,

14. Reaffirms that, when funds become available payments shall be made in accordance with decision 227 (S/AC.26/Dec.227 (2004)), except for the portions of amounts payable to seven successful category “D” claimants (claim numbers: 3003382, 3003778, 3003755, 3010722, 3004961, 3004725 and 3000190) for which six claimants in category “E4” had already received payments, referred to in paragraph 8 above,

15. 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)), 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,

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

17. Requests the Executive Secretary to provide a copy of the third special report to the Secretary-General, to the Government of the Republic of Iraq and to each respective Government and international organization.
