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Decision concerning Palestinian individual claims for damages above USD 100,000
(category “D” claims) taken by the Governing Council of the United Nations
Compensation Commission at its 146th meeting, on 30 June 2005

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 “D2” panel of Commissioners concerning Palestinian individual claims for damages above USD 100,000 (category “D” claims), covering 404 category “D” Palestinian claims, 19 category “C” Palestinian claims, and one overlapping claim,¹

1. Approves the recommendations made by the panel of Commissioners,
2. Decides, pursuant to article 40 of the Rules, to approve the amounts of the recommended awards with respect to the category “D” claims covered in the report. The aggregate amount awarded, based on the recommendations contained in paragraphs 176 to 178 of the report, is as follows:

¹ The text of the report appears in document S/AC.26/2005/9. In conformity with the provisions of article 40, paragraph 5 of the Rules, information concerning the identities of individual claimants and the amount to be paid to each individual claimant will not be made public, but will be provided to the Palestinian Authority separately.

Table 1. Recommended awards for the category “D” Palestinian claims

| <u>Submitting entity</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> |
|--------------------------|---|---|---|---|
| Palestine | 296 | 106 | 836,915,789.40 | 25,872,466.70 |

3. Notes that, as referred to in paragraph 4 of the report, two category “D” claims were withdrawn in the course of the Panel’s review of this instalment,

4. Notes also that 19 category “C” claims covered in the report, which claimed a total amount of compensation of USD 3,109,352.93, were deferred from the reports of the Palestinian panel of Commissioners due to pending issues, and that the Palestinian Panel determined that 17 claims satisfied the threshold eligibility requirement, namely whether the claimants had a full and effective opportunity to file their claims, as set out by the Governing Council, and that two claims did not satisfy that requirement,

5. Decides also, pursuant to article 40 of the Rules, to approve the amounts of the recommended awards concerning the 17 eligible category “C” claims covered in the report. The aggregate amount awarded, based on the recommendations contained in paragraph 169 of the report, is as follows:

Table 2. Recommended awards for the category “C” Palestinian claims

| <u>Submitting entity</u> | <u>Number of claims recommended for payment</u> | <u>Number of claims not recommended for payment</u> | <u>Total amount of compensation claimed (USD)</u> | <u>Total amount of compensation recommended</u> |
|--------------------------|---|---|---|---|
| Palestine | 14 | 3 | 2,922,847.74 | 568,296.05 |

6. Notes further, that the “D2” panel of Commissioners reviewed one category “C” Palestinian claim (UNCC no. 1810440) which was found to be overlapping with a previously reported category “E4” claim (UNCC claim no. 4005007) from the twenty-fourth instalment of “E4” claims, as set out in paragraph 164 of the report, and recommended that no adjustment be made to the previous award,

7. Recalls that, pursuant to paragraphs 1 (e) of decision 123, the Executive Secretary will, within the limits of duly registered claims, carry into effect the decision of the bilateral committee constituted pursuant to the guidelines annexed to decision 123 when payment is made with respect to the claim referred to in paragraph 6 above, by which the category “C” Palestinian claimant is entitled to receive an amount of USD 173,010,

8. Notes that the amount to be distributed to this individual category “C” claimant has been reduced by a total of USD 47,369 to limit his award to an amount no greater than the amount asserted in his category “C” claim in respect of the losses reviewed by the “D2” Panel of Commissioners in the report,

9. Requests the Government of the State of Kuwait to return to the Commission, within six months, the amount of USD 220,379 which, as a result of the distribution of the award set out in paragraph 7 above which, according to this decision, was overpaid to the “E4” claimant in a previous decision,

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 Palestinian Authority of the portion of the award of compensation in the amount of USD 173,010 to which the category “C” claimant is entitled, as determined by the bilateral committee under the guidelines,

11. Reaffirms that when funds become available payments shall be made in accordance with decision 227 (S/AC.26/Dec.227 (2004)), except for the following: the amount payable to the one successful category “C” Palestinian overlap claimant for which one claimant in category “E4” had already received payments, referred to in paragraph 10 above; and the portion of four claims (claim numbers: PS 3012104 (USD 50,501.34), PS 3011345 (USD 96,250.00), PS 3012936 (USD 338,406.40), PS 3012945 (USD 338,406.40)) for which payment is suspended in the total amount of USD 823,564.14. These four latter claims were brought to the attention of the Governing Council by the “D2” panel of Commissioners in paragraphs 137 to 158 of its report and recommendations and relate to previously paid category “C” and “D” claims. The Governing Council instructs the secretariat to notify the Government of the State of Kuwait to consider appropriate action to recover the total amount of USD 872,215.69 from the category “C” and “D” claimants (claim numbers: KW 1130574 (USD 50,501.34), KW 3006479 (USD 98,865.51), KW 3007214 (USD 722,848.84)) and return it to the Compensation Fund,

12. 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 Palestinian Authority shall distribute amounts received to the designated claimants, including the category “C” Palestinian overlap claimant, 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. 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 the Palestinian Authority.
