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UNITED NATIONS  
COMPENSATION COMMISSION  
GOVERNING COUNCIL

Decision concerning competing claims for the ownership of the same business or company  
taken by the Governing Council of the United Nations Compensation Commission  
at its 148th meeting, on 29 September 2005

The Governing Council,

Observing that in the course of claims processing, a number of category “C”, “D” and “E” competing claims were identified where two or more claimants claimed for the losses of the same business or company,

Recalling that in some cases a “second-in-time” competing claimant was determined by a panel of Commissioners or a bilateral committee, after a review of all available facts, to be entitled to compensation for losses of a business or company for which compensation had previously been paid to a “first-in-time” competing claimant,

Recalling also that the Governing Council, pursuant to decisions 173 (S/AC.26/Dec.173 (2002)), 175 (S/AC.26/Dec.175 (2002)), 186 (S/AC.26/Dec.186 (2003)), 191 (S/AC.26/Dec.191 (2003)/Rev.1), 198 (S/AC.26/Dec.198 (2003)), 199 (S/AC.26/Dec.199 (2003)), 205 (S/AC.26/Dec.205 (2003)), 220 (S/AC.26/Dec.220 (2004)), 221 (S/AC.26/Dec.221 (2004)), 223 (S/AC.26/Dec.223 (2004)), 231 (S/AC.26/Dec.231 (2004)), 241 (S/AC.26/Dec.241 (2005)), 245 (S/AC.26/Dec.245 (2005)) and 247 (S/AC.26/Dec.247 (2005)), decided to withhold the distribution of the awards to “second-in-time” competing claimants to the extent of the duplication pending the return of funds from

“first-in-time” competing claimants who were found as a result of determinations by a panel of Commissioners or a bilateral committee to have been overpaid,

Noting that the submitting Governments distributed the awards to the “first-in-time” claimants prior to the identification of the competing claims and that despite some successful efforts undertaken to date by the submitting Governments that resulted in the return of overpayments from their nationals, there remain “first-in-time” competing claimants who have yet to return funds despite requests to do so,

Noting also that the failure of these “first-in-time” competing claimants to return the overpayments has resulted in a situation where “second-in-time” competing claimants have ongoing competing claims-related suspensions on payments,

Noting further that the suspension of payment to the “second-in-time” competing claimants was intended to be a temporary measure,

Noting that claims in category “C” are smaller value claims that were prioritized for urgent processing under Governing Council decision 1 (S/AC.26/1991/1) and were reviewed using expedited mass claims processing techniques that did not include the claim development procedures, such as extensive fact-finding and analysis of disputed ownership interests, employed in the review of larger value category “D” and “E” claims,

1. Decides that the payment suspensions imposed on all “second-in-time” claimants should be lifted, and that outstanding payments should be made to these claimants when funds become available in accordance with decision 253 (S/AC.26/Dec.253 (2005));

2. Decides also that if by the time that final payments are made to the affected submitting Governments the overpayments made to “first-in-time” competing claimants have not been returned to the Commission, a deduction shall be made by the secretariat from the final payments to those submitting Governments that is equal to the unreturned amounts paid to “first-in-time” category “D” and “E” claimants, with no deduction to be made with respect to unreturned amounts paid to “first-in-time” category “C” claimants in recognition of the expedited manner in which category “C” claims were processed;

3. Requests that the Executive Secretary inform affected submitting Governments of this decision.

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