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UNITED NATIONS
COMPENSATION COMMISSION
GOVERNING COUNCIL

Decision concerning withholdings and the administration of funds under decision 258 (2005)
taken by the Governing Council of the United Nations Compensation Commission
at its 168th meeting, on 29 April 2009

The Governing Council,

Recalling decision 258 (S/AC.26/Dec.258 (2005)) of the Governing Council that established the Follow-up Programme for Environmental Awards for the purpose of monitoring the financial and technical implementation of environmental projects being undertaken with funds awarded by the UNCC under the “F4” category of claims;

Recalling also paragraphs 3 and 4 of decision 258 that established two withholding mechanisms: a mandatory withholding of fifteen per cent of total value of awards subject to the Follow-up Programme for Environmental Awards; and a further withholding at the discretion of the Governing Council from those awards subject to the Follow-up Programme for Environmental Awards that are greater than USD \$50 million and subject to the phasing plans (the “Phased Projects”);

Having considered a request made by the Government of the State of Kuwait at the sixty-fifth session of the Governing Council in April 2008 for the creation of a special account to administer funds that may be withheld under decision 258 (S/AC.26/Dec. 258 (2005));

Noting that the views of the Governments participating in the Follow-up Programme for Environmental Awards have been canvassed and discussed, and information sought and received from the Office of the UN Controller;

1. Decides that an additional amount equivalent to 10 per cent of the value of each of the Phased Project awards will be withheld in the Compensation Fund for release in accordance with phasing plans submitted and approved in accordance with decision 258, and subject to further decisions of the Governing Council;
2. Directs the UNCC Secretariat to withhold 10 per cent from each of the five Phased Project awards for release in accordance with approved phasing plans and further direction of the Governing Council;
3. Directs also that where a participating claimant Government is in receipt of the full 85 per cent of funds for a Phased Project award, it shall promptly return the sum equivalent to 10 per cent of the value of its Phased Project award to the Compensation Fund;
4. Reaffirms that the mandatory withholding of fifteen per cent of the total value of the awards subject to decision 258(2005) shall be retained in the Compensation Fund pending further decisions of the Governing Council as to the disposition of those funds;
5. Directs each participating claimant Government with a Phased Project to establish a special account within its Central Bank or a similar Governmental institution, subject to Council approval, through which the Phased Project awards, less the amounts withheld in the Compensation Fund pursuant to this decision, will be administered;
6. Further directs each participating claimant Government with a Phased Project to develop an agreement with its Central Bank or a similar Governmental institution to govern the special account, and to ensure that the agreement provides specifically for the release of funds only in accordance with the approval of the UNCC Governing Council;
7. Notes that while interest should accrue on the special accounts to be established by the participating claimant Governments, its use shall be subject to a further decision of the Governing Council, in consultation with the participating claimant Governments, expected to be taken at its sixty-eighth session;
8. Directs the Secretariat to report to the Governing Council on the implementation of this decision by the participating claimant Governments, and on any related issues that may arise.