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FOURTEENTH REPORT OF THE EXECUTIVE SECRETARY PURSUANT TO  
ARTICLE 41 OF THE PROVISIONAL RULES FOR CLAIMS PROCEDURE

GE.01-62639

## Introduction

1. The present report identifies, pursuant to article 41 of the Provisional Rules for Claims Procedure (S/AC.26/1992/10) (the "Rules"), recommended corrections in the various claims categories since the thirteenth article 41 report (S/AC.26/2001/8). Chapter I of this report contains recommended corrections concerning claims in categories "A" and "C", where the panels of Commissioners have concluded their work. Chapter II contains recommended corrections concerning claims in categories "D" and "E", where panels of Commissioners continue their work. Finally, Chapter III of this report provides information concerning requests by claimants for corrections to approved awards under article 41 of the Rules, including a report of the secretariat's review to determine whether or not these requests warrant action under article 41.

### I. RECOMMENDED CORRECTIONS CONCERNING CLAIMS IN CATEGORIES "A" AND "C"

#### A. Category "A" corrections

2. Recommendations for corrections to category "A" claims include the following kinds of corrections: duplicate claims; family to individual claims; individual to family claims; reinstatement of claims previously identified as duplicates; higher to lower amounts; lower to higher amounts; and change of submitting/responsible entity.

##### 1. Duplicate claims

3. Since the thirteenth article 41 report, a total of two claims have been found to be duplicates of other claims awarded compensation in category "A". No compensation should have been awarded for these duplicate claims.

4. Accordingly, as set forth in table 1 below, it is recommended that the awards for these claims be corrected. Table 1 identifies the countries concerned, the instalments to be adjusted, the number of claims affected, and the amount of net effect of the adjustment on each instalment.

Table 1. Category "A" corrections: duplicate claims

<u>Country</u>	<u>Instalment</u>	<u>Number of claims affected</u>	<u>Amount of net effect (USD)</u>
Jordan	Fifth	1	(5,000.00)
Pakistan	Special	1	(4,000.00)
<u>Total</u>		2	(9,000.00)

2. Family to individual claims

5. Two claims, one filed by Pakistan and one filed by the Russian Federation, originally filed as family claims have been found to be claims submitted by individuals. The awards for these claims should be reduced to awards appropriate to the proper status of the claims.

6. Accordingly, as set forth in table 2 below, it is recommended that the awards for these claims be corrected. Table 2 identifies the countries concerned, the instalments to be adjusted, the number of claims affected, and the amount of net effect of the adjustment on each instalment.

Table 2. Category "A" corrections: family to individual claims

<u>Country</u>	<u>Instalment</u>	<u>Number of claims affected</u>	<u>Amount of net effect (USD)</u>
Pakistan	Fourth	1	(2,500.00)
Russian Federation	Fourth	1	(4,000.00)
<u>Total</u>		2	(6,500.00)

3. Individual to family claims

7. Seven claims submitted by the Russian Federation, originally identified as individual claims, have been found to be claims submitted on behalf of families. The awards for these claims should be increased to awards appropriate to the proper status of the claims.

8. Accordingly, as set forth in table 3 below, it is recommended that the awards to these claims be corrected. Table 3 identifies the country concerned, the instalments to be adjusted, the number of claims affected, and the amount of net effect of the adjustment on each instalment.

Table 3. Category "A" corrections: individual to family claims

<u>Country</u>	<u>Instalment</u>	<u>Number of claims affected</u>	<u>Amount of net effect (USD)</u>
Russian Federation	First	1	4,000.00
Russian Federation	Sixth	6	24,000.00
<u>Total</u>		7	28,000.00

4. Reinstatement of claims previously identified as duplicates

9. One claim from the Philippines and one claim from Sri Lanka originally found to be duplicates should be reinstated since additional information received from these Governments shows that the claims were submitted by different individuals.

10. Accordingly, as set forth in table 4 below, it is recommended that the awards for these claims be adjusted to reflect the correct nature of the claims. Table 4 identifies the countries concerned, the instalments to be adjusted, the number of claims affected, and the amount of net effect of the adjustment on each instalment.

Table 4. Category "A" corrections: reinstatement of claims previously identified as duplicates

<u>Country</u>	<u>Instalment</u>	<u>Number of claims affected</u>	<u>Amount of net effect (USD)</u>
Philippines	Sixth	1	4,000.00
Sri Lanka	Sixth	1	4,000.00
<u>Total</u>		2	8,000.00

5. Higher to lower amount

11. Decision 21 (S/AC.26/Dec.21 (1994)) of the Governing Council states that "any claimant who has selected a higher amount under category 'A' (US\$4,000 or US\$8,000) and has also filed a category 'B', 'C' or 'D' claim will be deemed to have selected the corresponding lower amount under category 'A'". Sixteen claims have been identified by the Government of Pakistan as having been filed for higher amounts in category "A" by claimants who also have claims in category "C".

12. Accordingly, as set forth in table 4 below, it is recommended that the award amounts for the sixteen claims be adjusted downward in accordance with decision 21. Table 5 identifies the country concerned, the instalments to be adjusted, the number of claims affected, and the amount of net effect of the adjustment on each instalment.

Table 5. Category "A" corrections: higher to lower amount

<u>Country</u>	<u>Instalment</u>	<u>Number of claims affected</u>	<u>Amount of net effect (USD)</u>
Pakistan	Fourth	16	30,000.00
<u>Total</u>		16	30,000.00

6. Lower to higher amount

13. One claim from the Netherlands, which appeared to be filed for the lower amount, was manually amended to the higher amount by the claimant within the permitted time period; however, this amendment was not detected during data entry. Additional information submitted by the Government of the Netherlands has shown that the amendment was properly made and inadvertently excluded. The award should be revised to reflect the higher amount to which the claimant is entitled.

14. Accordingly, as set forth in table 6 below, it is recommended that the award amount for this claim be adjusted upward to the higher amount. Table 6 identifies the country concerned, the instalments to be adjusted, the number of claims affected, and the amount of net effect of the adjustment on each instalment.

Table 6. Category "A" corrections: lower to higher amount

<u>Country</u>	<u>Instalment</u>	<u>Number of claims affected</u>	<u>Amount of net effect (USD)</u>
Netherlands	First	1	1,500.00
<u>Total</u>		1	1,500.00

7. Change of submitting/responsible entity

15. At the request of the claimant and with the agreement of the countries concerned, one claim, submitted by the Russian Federation and approved in the fourth instalment, should be transferred to Israel.

16. Accordingly, as set forth in table 7 below, it is recommended that this claim be transferred from the Russian Federation to Israel. Table 7 identifies, for each of the countries and for each of the instalments affected, the number of claims previously reported, the previous total award, the corrected number of claims, and the corrected total award.

Table 7. Category "A" corrections: change of submitting/responsible entity

<u>Country</u>	<u>Instalment</u>	<u>Number of claims reported</u>	<u>Previous total award (USD)</u>	<u>Corrected number of claims</u>	<u>Corrected total award (USD)</u>
Russian Federation	Fourth	2,022	9,004,000.00	2,021	8,996,000.00
Israel	Fourth	0	0.00	1	8,000.00

8. Summary

17. The recommended corrections concerning claims in category "A" for the first, fourth, fifth, sixth and special (Pakistan) instalments by country, and by instalment, are located in tables 1 to 6 of annex I to this report.

B. Category "C" corrections

18. Recommendations for corrections to category "C" claims include the following kinds of corrections: corrections arising from discrepancy between electronic and paper formats; and corrections arising from reinstatement of erroneously deducted amounts.

1. Corrections arising from discrepancy between electronic and paper formats

19. Miscellaneous recommendations for corrections to category "C" claims arise primarily from requests submitted by the Governments of Kuwait and Jordan for global reviews of approximately 2,700 category "C" claims. The reviews were requested because of concerns expressed by individual claimants in respect of specific loss elements where potentially inaccurate entries of data in the electronic claims may have adversely affected their award outcomes during the application of the "C" Panel's mass processing methodologies.

20. To assist the secretariat with these high-volume reviews, both Governments performed preliminary screening of requests by individuals, developed comprehensive lists of claim numbers in electronic format and provided the electronic lists to the Commission. Together with the Commission-assigned category "C" claim numbers, the lists included claimant identification and loss information taken from the paper claims submitted by the claimants.

21. The information provided electronically was compared to the information existing both in the corresponding paper and electronic versions of the claims submitted to the Commission. Corrections to awards are recommended for 613 category "C" claims as a result. The recommendations apply the "C" Panel's decisions, practice and methodologies relative to the respective losses and consider only the timely filed information in the Commission's versions of the claims.

22. The individual loss elements that most commonly prompted claimant concerns comprised income-related losses arising principally from employment ("C6-Salary") losses, but also from individual business ("C8-Business") losses, along with mental pain and anguish arising from the death of a spouse, child or parent ("C3-MPA"). Summaries of the "C" Panel's decisions relevant to these losses are found in the seventh instalment report (S/AC.26/1999/11) as follows: (a) paragraphs 249 to 282 for C6-Salary losses; (b) paragraphs 327 to 368 for C8-Business losses; and (c) paragraphs 174 to 177 for C3-MPA.

23. In addition to the high-volume claim reviews described above, several other Governments and international organizations requested reviews of category "C" claim awards on behalf of approximately 150 individuals. As a result, corrections are recommended to awards in 11 additional claims. As with the high-volume reviews, the majority of the correction recommendations for these claims also comprised income-related, i.e., C6-Salary and C8-Business, losses.

24. Accordingly, as set forth in table 8 below, it is recommended that the award amount for these claims be corrected. Table 6 identifies the countries and international organizations concerned, the instalments to be

adjusted, the number of claims affected, and the amount of net effect of the adjustment on each instalment.

Table 8. Category "C" corrections arising from discrepancy between electronic and paper formats

<u>Country or international organization</u>	<u>Instalment</u>	<u>Number of claims affected</u>	<u>Amount of net effect (USD)</u>
Canada	Sixth	1	15,818.00
Egypt	Fifth	2	20,574.77
	Seventh	1	111.89
Jordan	Second	34	201,056.28
	Fourth	19	209,676.67
	Fifth	71	641,370.14
	Sixth	185	2,584,212.35
	Seventh	91	983,927.21
Kuwait	Seventh	214	728,889.71
Lebanon	Second	1	35,244.02
Pakistan	Seventh	2	100,000
Sudan	Sixth	1	21,539.70
UNDP Kuwait	Sixth	1	12,413.98
UNRWA Gaza	Sixth	1	22,020.76
<u>Total</u>		624	5,576,855.48

2. Corrections arising from reinstatement of erroneously deducted amounts

25. One correction has been recommended to remedy a situation where compensation received from other sources was erroneously deducted from a claimant's award. The situation was discovered during the secretariat's transfer and verification of all category "C" claims data from the former database to the Commission's integrated database. The "C" Panel's decisions relating to the treatment of compensation received from other sources are set forth at paragraphs 84 to 88 of its sixth instalment report (S/AC.26//1998/6) and paragraphs 78 to 83 of its seventh instalment report (S/AC.26/1999/11).

26. Accordingly, as set forth in table 9 below, it is recommended that the award amount for this claim be increased to accord with the "C" Panel's decisions. Table 9 identifies the country concerned, the instalment to be

adjusted, the number of claims affected, and the amount of net effect of the adjustment on the instalment.

Table 9. Category "C" corrections arising from reinstatement of erroneously deducted amounts

<u>Country</u>	<u>Instalment</u>	<u>Number of claims affected</u>	<u>Amount of net effect (USD)</u>
United Kingdom	Seventh	1	3,500.00
<u>Total</u>		1	3,500.00

### 3. Summary

27. The recommended corrections concerning claims in category "C" for the second, fourth, fifth, sixth and seventh instalments by country or international organization, and by instalment, are located in tables 1 to 6 of annex II to this report.

## II. RECOMMENDED CORRECTIONS CONCERNING CLAIMS IN CATEGORIES "D" AND "E"

### A. Category "D" corrections

28. Recommended corrections to category "D" claims are included in the report and recommendations of the "D1" panel of Commissioners concerning part one of the ninth instalment of category "D" claims (S/AC.26/2001/R.8), which is scheduled to be considered by the Governing Council during its fortieth session. The corrections proposed by the "D1" panel of Commissioners are as follows.

#### 1. Third instalment correction

29. One claim that was approved in the third instalment requires correction, as an award for claimant's D4 (motor vehicle) losses was inadvertently excluded.

<u>Country</u>	<u>Instalment</u>	<u>Number of claims affected</u>	<u>Amount of net effect (USD)</u>
Canada	Third	1	82,354.67
<u>Total</u>		1	82,354.67

#### 2. Part one of the fourth instalment correction

30. One claim approved in part one of the fourth instalment requires correction as the claimant made claims for separate and distinct employment losses in category "C" and in category "D", but due to a computational error the claimant's C6 (loss of salary) award was deducted from his D6 (loss of salary) award.



<u>Country</u>	<u>Instalment</u>	<u>Number of claims affected</u>	<u>Amount of net effect (USD)</u>
Jordan	Fourth (part one)	1	6,264.72
<u>Total</u>		1	6,264.72

### 3. Fifth instalment corrections

31. One claim approved in the fifth instalment requires correction as a consequence of an article 41 correction applied to the related category "C" award. The original category "C" award was deducted from the award for a related loss in category "D". The article 41 correction to the category "C" claim requires that a revision be made to the award for the related loss in category "D".

<u>Country</u>	<u>Instalment</u>	<u>Number of claims affected</u>	<u>Amount of net effect (USD)</u>
India	Fifth	1	16,903.83
<u>Total</u>		1	16,903.83

32. Another claim approved in the same instalment requires correction due to a typographical error whereby the amount claimed was inserted instead of the amount recommended.

<u>Country</u>	<u>Instalment</u>	<u>Number of claims affected</u>	<u>Amount of net effect (USD)</u>
India	Fifth	1	(1,991.06)
<u>Total</u>		1	(1,991.06)

### 4. Changes to submitting entity reports by instalment

33. Pursuant to the corrections noted above in paragraphs 28-32, the changes to the submitting entity awards by instalment are as follows:

<u>Submitting Entity</u>	<u>Instalment</u>	<u>Previous recommended award (USD)</u>	<u>Corrected recommended award (USD)</u>
Canada	Third	252,031.36	334,386.03
Jordan	Fourth (part one)	1,857,575.62	1,863,840.34
India	Fifth	5,101,591.40	5,116,504.17

5. Summary

34. The recommended corrections concerning claims in category "D" for the third, fourth (part one) and fifth instalments by country, and by instalment, are located in tables 1 to 4 of annex III to this report.

B. Category "E" correction

35. A recommended correction in category "E" concerns a claim that was included in the report and recommendations of the panel of Commissioners concerning the twelfth instalment of category "E4" claims (S/AC.26/2001/4), which recommendations were approved by the Governing Council at its thirty-ninth session in decision 118 (S/AC.26/Dec.118 (2001)).

36. The correction concerns a typographical error in annex I of the report. The amount of recommended compensation for a claim filed by Jassim Abdulwahab and Partner Co. W.L.L. (UNCC claim number 4004201) was correctly reported in Kuwaiti dinars, but was incorrectly stated in United States dollars. The United States dollar amount for that claim should be corrected from USD 795,726.00 to USD 495,726.00. The total amount of recommended compensation for all of the twelfth instalment claims was correctly stated in United States dollars, such that the typographical error had no effect on the total amount of compensation awarded by the Governing Council in decision 118.

III. REQUESTS BY CLAIMANTS FOR ARTICLE 41 CORRECTIONS

37. During the period under review, the secretariat has received requests for corrections under article 41 of the Rules. The requests are as follows:

(a) On 14 March 2001, the Permanent Mission of the Republic of Poland in Geneva requested reconsideration of Governing Council decision 104 (S/AC.26/Dec.104 (2000)) and the associated report and recommendations of the "E3A" panel of Commissioners concerning the tenth instalment of "E3" claims (S/AC.26/2000/18) with regard to one Polish company;

(b) On 3 April 2001, the Permanent Mission of Luxembourg in Geneva wrote to the secretariat requesting reconsideration of Governing Council decision 82 (S/AC.26/Dec.82 (1999)) and the corresponding report and recommendations of the "E2" Panel of Commissioners concerning the third instalment of "E2" claims (S/AC.26/1999/22) with regard to one company of Luxembourg; and

(c) On 3 April 2001, the Permanent Mission of the Kingdom of Morocco in Geneva wrote to the secretariat requesting reconsideration of Governing Council decision 105 (S/AC.26/Dec.105 (2000)) and the corresponding report and recommendations of the "E3" panel of Commissioners concerning the fourteenth instalment of "E3" claims (S/AC.26/2000/19) with regard to one Moroccan company.

38. With regard to the requests filed by the Governments of Poland and Luxembourg, the secretariat's review of the specific claims in question and consultations with the respective panels of Commissioners remain ongoing.

39. With regard to the request filed by the Government of Morocco, the secretariat has requested that the document enclosed with the request, prepared by the claimant company and containing the substance of the article 41 contentions, be submitted in English as required under the Rules.

Annex I

## RECOMMENDED CORRECTIONS CONCERNING CATEGORY "A" CLAIMS

1. Based on the recommended corrections reported in paragraphs 2 to 17 of this report, supra, the category "A" claims aggregate corrected awards by instalment, per country, are as follows:

Table 1. First instalment category "A" claims corrections

<u>Country or international organization</u>	<u>Previous total award (USD)</u>	<u>Corrected total award (USD)</u>
Netherlands	497,000.00	498,500.00
Russian Federation	2,880,000.00	2,884,000.00

Table 2. Fourth instalment category "A" claims corrections

<u>Country or international organization</u>	<u>Previous total award (USD)</u>	<u>Corrected total award (USD)</u>
Israel	0.00	8,000.00
Pakistan	22,613,500.00	22,581,000.00
Russian Federation	9,004,000.00	8,992,000.00

Table 3. Fifth instalment category "A" claims corrections

<u>Country or international organization</u>	<u>Previous total award (USD)</u>	<u>Corrected total award (USD)</u>
Jordan	17,213,500.00	17,208,500.00

Table 4. Sixth instalment category "A" claims corrections

<u>Country or international organization</u>	<u>Previous total award (USD)</u>	<u>Corrected total award (USD)</u>
Philippines	60,714,500.00	60,718,500.00
Russian Federation	3,392,000.00	3,416,000.00
Sri Lanka	35,555,000	35,559,000

Table 5. Special instalment of category "A" claims corrections

<u>Country or international organization</u>	<u>Previous total award (USD)</u>	<u>Corrected total award (USD)</u>
Pakistan	2,554,500.00	2,550,500.00

2. Based on the above corrections, the revised category "A" claim total recommended awards by instalment are as follows:

Table 6. Recommended corrected total awards for category "A" claims

<u>Instalment</u>	<u>Previous total award (USD) a/</u>	<u>Corrected total award (USD)</u>
First	189,579,000.00	189,584,500.00
Fourth	732,605,000.00	732,568,500.00
Fifth	782,628,000.00	782,623,000.00
Sixth	315,376,000.00	315,408,000.00
Special (Pakistan)	2,554,500.00	2,550,500.00

a/ The previous total award amounts in this column include the initial awards approved by the Governing Council in its decisions 22, 28, 29, 31, 33, 38, 67 and 101 (S/AC.26/Dec.22 (1994), S/AC.26/Dec.28 (1995), S/AC.26/Dec.29 (1995), S/AC.26/Dec.31 (1995), S/AC.26/Dec.33 (1995), S/AC.26/Dec.38 (1996), S/AC.26/Dec.67 (1999) and S/AC.26/Dec.101 (2000)), and subsequent corrections approved by the Governing Council in its decisions 42, 44, 51, 54, 57, 71, 79, 85, 95, 99, 109, 113 and 122 (S/AC.26/Dec.42 (1997), S/AC.26/Dec.44 (1997), S/AC.26/Dec.51 (1998), S/AC.26/Dec.54 (1998), S/AC.26/Dec.57 (1998), S/AC.26/Dec.71 (1999), S/AC.26/Dec.79 (1999), S/AC.26/Dec.85 (1999), S/AC.26/Dec.95 (2000), S/AC.26/Dec.99 (2000), S/AC.26/Dec.109 (2000), S/AC.26/Dec.113 (2000) and S/AC.26/Dec.122 (2001).

Annex II

## RECOMMENDED CORRECTIONS CONCERNING CATEGORY "C" CLAIMS

1. Based on the recommended corrections reported in paragraphs 18 to 27 of this report, *supra*, the category "C" claims aggregate corrected awards by instalment, per country, are as follows:

Table 1. Second instalment category "C" claims corrections

<u>Country or international organization</u>	<u>Previous total award (USD)</u>	<u>Corrected total award (USD)</u>
Jordan	39,021,196.59	39,222,252.87
Lebanon	26,622,550.73	26,657,794.75

Table 2. Fourth instalment category "C" claims corrections

<u>Country or international organization</u>	<u>Previous total award (USD)</u>	<u>Corrected total award (USD)</u>
Jordan	24,391,714.04	24,601,390.71

Table 3. Fifth instalment category "C" claims corrections

<u>Country or international organization</u>	<u>Previous total award (USD)</u>	<u>Corrected total award (USD)</u>
Egypt	86,189,253.95	86,209,828.72
Jordan	94,656,247.13	95,297,617.27

Table 4. Sixth instalment category "C" claims corrections

<u>Country or international organization</u>	<u>Previous total award (USD)</u>	<u>Corrected total award (USD)</u>
Canada	9,404,478.30	9,420,296.30
Jordan	181,792,145.37	184,376,357.72
Sudan	21,752,650.13	21,774,189.83
UNDP Kuwait	10,435,819.73	10,448,233.71
UNRWA Gaza	2,579,883.53	2,601,904.29

Table 5. Seventh instalment category "C" claims corrections

<u>Country or international organization</u>	<u>Previous total award (USD)</u>	<u>Corrected total award (USD)</u>
Egypt	231,246,647.69	231,246,759.58
Jordan	282,081,956.56	283,065,883.77
Kuwait	788,169,338.64	788,898,228.35
Pakistan	74,516,436.77	74,616,436.77
United Kingdom	28,876,154.87	28,879,654.87

2. Based on the above corrections, the revised category "C" claim total awards by instalment are as follows:

Table 6. Recommended corrected total awards for category "C" claims

<u>Instalment</u>	<u>Previous total award (USD) a/</u>	<u>Corrected total award (USD)</u>
Second	431,744,251.33	431,980,551.63
Fourth	654,598,151.73	654,807,828.40
Fifth	735,451,980.54	736,113,925.45
Sixth	765,713,687.98	768,369,692.77
Seventh	1,932,668,679.87	1,934,485,108.68

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a/ The previous total award amounts in this column include the initial awards approved by the Governing Council in its decisions 25, 36, 37, 39, 41, 52 and 70 (S/AC.26/Dec.25 (1994), S/AC.26/Dec.36 (1996), S/AC.26/Dec.37 (1996), S/AC.26/Dec.39 (1996), S/AC.26/Dec.41 (1997), S/AC.26/Dec.52 (1998) and S/AC.26/Dec.70 (1999)), and subsequent corrections approved by the Governing Council in its decisions 39, 41, 52, 85, 95, 99, 113 and 122 (S/AC.26/Dec.39 (1996), S/AC.26/Dec.41 (1997), S/AC.26/Dec.52 (1998), S/AC.26/Dec.85 (1999), S/AC.26/Dec.95 (2000)), and S/AC.26/Dec.99 (2000), S/AC.26/Dec.113 (2000) and S/AC.26/Dec.122 (2001)).

Annex III

## RECOMMENDED CORRECTIONS CONCERNING CATEGORY "D" CLAIMS

1. Based on the recommended corrections reported in paragraphs 28 to 34 of this report, *supra*, the category "D" claims aggregate corrected awards by instalment, per country, are as follows:

Table 1. Third instalment category "D" claims corrections

<u>Country or international organization</u>	<u>Previous total award (USD)</u>	<u>Corrected total award (USD)</u>
Canada	252,031.36	334,386.03

Table 2. Fourth instalment (part one) category "D" claims corrections

<u>Country or international organization</u>	<u>Previous total award (USD)</u>	<u>Corrected total award (USD)</u>
Jordan	1,857,575.62	1,863,840.34

Table 3. Fifth instalment category "D" claims corrections

<u>Country or international organization</u>	<u>Previous total award (USD)</u>	<u>Corrected total award (USD)</u>
India	5,101,591.40	5,116,504.17

2. Based on the above corrections, the revised category "D" claim total awards by instalment are as follows:

Table 4. Recommended corrected total awards for category "D" claims

<u>Instalment</u>	<u>Previous total award (USD)</u>	<u>Corrected total award (USD)</u>
Third	11,693,746.00	11,776,101.00
Fourth (part one)	76,389,936.00	76,396,200.00
Fifth	45,865,923.00	45,880,836.00

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