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

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 sixteenth article 41 report (S/AC.26/2001/29). 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 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; reinstatement of claims previously identified as duplicates; higher to lower amounts; lower to higher amounts and individual to family.

1. Duplicate claims

3. Since the sixteenth article 41 report, two claims from India 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 country concerned, the instalment to be adjusted, the number of claims affected, and the amount of the net effect of the adjustment.

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>
India	Fifth	2	(6,500.00)
<u>Total</u>		2	(6,500.00)

2. Reinstatement of claims previously identified as duplicates

5. Two claims from Pakistan erroneously found to be duplicates should be reinstated since additional information received from the Government of Pakistan shows that the claims are not in fact duplicates. One claim from the Philippines, which was originally identified as a duplicate, should also be reinstated for the same reason.

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 instalment to be adjusted, the number of claims affected, and the amounts of the net effect of the adjustment.

Table 2. 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>
Pakistan	Sixth	2	8,000.00
Philippines	Sixth	1	4,000.00
<u>Total</u>		3	12,000.00

3. Higher to lower amounts

7. 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’ (USD 4,000 or USD 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’”. One claim from Sri Lanka has been identified as having been filed for a higher amount in category “A” by a claimant who also has a claim in category “C”. The award for this claim should be reduced to an amount appropriate to the proper status of the claim.

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

Table 3. Category “A” corrections: higher to lower amounts

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

4. Lower to higher amounts

9. Upon review of the original paper claim forms submitted by the Government of Sudan, it was confirmed that 434 claimants had selected the higher amounts of compensation on the claim forms, but for which lower amounts had erroneously been entered in the computer disks submitted to the Commission. The awards for these claims should be increased to amounts appropriate to the proper status of the claims.

10. Accordingly, as set forth in table 4 below, it is recommended that the award amounts for these claims be corrected. Table 4 identifies the country concerned, the instalments to be adjusted, the number of claims affected, and the amounts of the net effect of the adjustments.

Table 4. Category “A” corrections: lower to higher amounts

<u>Country</u>	<u>Instalment</u>	<u>Number of claims affected</u>	<u>Amount of net effect (USD)</u>
Sudan	First	13	25,500.00

<u>Country</u>	<u>Instalment</u>	<u>Number of claims affected</u>	<u>Amount of net effect (USD)</u>
	Second	11	18,000.00
	Third	10	16,500.00
	Fourth	228	348,000.00
	Fifth	171	271,500.00
	Sixth	1	1,500.00
	<u>Total</u>	434	681,000.00

5. Individual to family

11. The awards for six claims from Sudan, where the information relating to family members had mistakenly not been entered on the computer disks submitted to the Commission, resulted in a reduction of the awards. The awards for these claims should be increased to amounts appropriate to the proper status of the claims.

12. Accordingly, as set forth in table 5 below, it is recommended that the award amounts for these claims be corrected. Table 5 identifies the country concerned, the instalments to be adjusted, the number of claims affected, and the amounts of the net effect of the adjustments.

Table 5. Category "A" corrections: individual to family

<u>Country</u>	<u>Instalment</u>	<u>Number of claims affected</u>	<u>Amount of net effect (USD)</u>
Sudan	First	1	4,000.00
	Second	2	8,000.00
	Fifth	3	10,500.00
	<u>Total</u>	6	22,500.00

6. Summary

13. The recommended corrections in category "A" concern 446 claims submitted by five Governments resulting in a net increase in the total amount awarded of USD 707,500. Of these claims, the total amount awarded for 443 claims was increased by USD 715,500, and the total amount awarded for three claims was decreased by USD 8,000. The recommendations for the first, second, third, fourth, fifth and sixth instalments, by country and instalment, are located in tables 1 to 7 of annex I to this report.

B. Category "C" corrections

14. Recommendations for corrections to category "C" claims are those arising from discrepancies between the electronic and paper claims.

1. Corrections arising from discrepancies between the electronic and paper claims

15. The secretariat continued to review substantive queries and requests for corrections submitted by Governments. During the period under review, the Commission reviewed 12 claims pursuant to requests for corrections. From those reviews, corrections are recommended in respect of six category “C” claims. All recommendations apply the “C” Panel’s methodologies relative to the respective losses and consider only the timely filed information in the Commission’s paper claim files.

16. The individual loss elements that most commonly receive recommendations for correction to award amounts in this report include claims for mental pain and anguish arising from forced hiding (C1-MPA for forced hiding) that had previously been rejected, personal property losses (“C4-CPHO”), real property losses (“C7-Real property”) and individual business losses (“C8-Business”). Discrepancies between the electronic and paper claims include omission of losses from the electronic claim or inaccurate entry of amounts that adversely affected the outcomes for the claimants. Summaries of the “C” Panel’s approved recommendations relevant to losses for which correction is recommended are found in the seventh instalment report, (S/AC.26/1999/11), as follows: (a) paragraphs 105 to 112 for C1-MPA for forced hiding; (b) paragraphs 178 to 199 for C4-CPHO for personal property losses; (c) paragraphs 300 to 326 for C7-Real property losses; and (d) paragraphs 327 to 368 for C8-Business losses.

17. Accordingly, as set forth in table 6 below, it is recommended that the award amounts for 6 claims be corrected. Table 6 identifies the countries concerned, the instalments to be adjusted, the number of claims affected, and the amounts of the net effect of the adjustments.

Table 6. Category “C” corrections arising from discrepancy between electronic and paper formats

<u>Country</u>	<u>Instalment</u>	<u>Number of claims affected</u>	<u>Amount of net effect (USD)</u>
Kuwait	Seventh	2	18,667.13
Morocco	Seventh	1	24,970.60
Pakistan	Sixth	2	32,574.34
Philippines	Seventh	1	1,249.00
<u>Total</u>		6	77,461.07

2. Summary

18. The recommended corrections in category “C” concern six claims submitted by four Governments resulting in a net increase of the total amount awarded of USD 77,461.07. The recommended corrections concerning claims in category “C” for the sixth and seventh instalments, by country and by instalment, are located in tables 1 to 3 of annex II to this report.

II. REQUESTS BY CLAIMANTS FOR ARTICLE 41 CORRECTIONS

19. During the period under review, the secretariat has continued its review of requests for corrections submitted under article 41 of the Rules. The requests are outlined below:

(a) In the fifteenth article 41 report (S/AC.26/2001/24), considered by the Governing Council at its forty-first session, mention was made of a request received directly from a claimant and which was subsequently transmitted to the Commission from the Permanent Mission of the United Kingdom for reconsideration of Governing Council decision 115 (S/AC.26/Dec.115 (2001)) and the associated report and recommendations of the panel of Commissioners concerning the sixth instalment of "E2" claims (S/AC.26/2001/1) with regard to the British company. Having carefully reviewed all aspects of this request, the Executive Secretary has concluded that no correction of Governing Council decision 115 is necessary and that no action pursuant to article 41 of the Rules is warranted with regard to the claim in question;

(b) In the fifteenth article 41 report (S/AC.26/2001/24), considered by the Governing Council at its forty-first session, mention was made of a request from the Permanent Mission of the State of Bahrain for reconsideration of Governing Council decision 115 (S/AC.26/Dec.115 (2001)) and the associated report and recommendations of the panel of Commissioners concerning the sixth instalment of "E2" claims (S/AC.26/2001/1) with regard to a Bahraini company. Having carefully reviewed all aspects of this request, the Executive Secretary has concluded that no correction of Governing Council decision 115 is necessary and that no action pursuant to article 41 of the Rules is warranted with regard to the claim in question;

(c) In the sixteenth article 41 report (S/AC.26/2001/29), considered by the Governing Council at its forty-second session, mention was made of a request from the Permanent Mission of India for reconsideration of Governing Council decision 128 (S/AC.26/Dec.128 (2001)) and the associated report and recommendations of the Panel of Commissioners concerning the thirteenth instalment of "E3" claims (S/AC.26/2001/12) with regard to an Indian company. Having carefully reviewed all aspects of this request, the Executive Secretary has concluded that no correction of Governing Council decision 128 is necessary and that no action pursuant to article 41 of the Rules is warranted with regard to the claim in question;

(d) In the sixteenth article 41 report (S/AC.26/2001/29), considered by the Governing Council at its forty-second session, mention was made of a request from the Permanent Mission of Turkey for reconsideration of Governing Council decision 116 (S/AC.26/Dec.116 (2001)) and the associated report and recommendations of the panel of Commissioners concerning the seventeenth instalment of "E3" claims (S/AC.26/2001/2) with regard to a Turkish company. Having carefully reviewed all aspects of this request, the Executive Secretary has concluded that no correction of Governing Council decision 116 is necessary and that no action pursuant to article 41 of the Rules is warranted with regard to the claim in question;

(e) On 6 November 2001, the Permanent Mission of the United Kingdom requested reconsideration of Governing Council decision 105 (S/AC.26/Dec.105 (2000)) and the associated

report and recommendations of the panel of Commissioners concerning the fourteenth instalment of “E3” claims (S/AC.26/2000/19) with regard to a British company. Having carefully reviewed all aspects of this request, the Executive Secretary has concluded that no correction of Governing Council decision 105 is necessary and that no action pursuant to article 41 of the Rules is warranted with regard to the claim in question;

(f) The Kuwaiti Public Authority for the Assessment of Compensation for Damages Resulting from Iraqi Aggression (“PAAC”) requested reconsideration of Governing Council decisions 91 (S/AC.26/Dec.91 (2000)), 93 (S/AC.26/Dec.93 (2000)), 94 (S/AC.26/Dec.94 (2000)), 108 (S/AC.26/Dec.108 (2000)), 118 (S/AC.26/Dec.118 (2001)) and 119 (S/AC.26/Dec.119 (2001)) and the associated reports and recommendations of the panel of Commissioners concerning the third instalment of “E4” claims (S/AC.26/2000/6), sixth instalment of “E4” claims (S/AC.26/2000/8), seventh instalment of “E4” claims (S/AC.26/2000/9), tenth instalment of “E4” claims (S/AC.26/2000/22), twelfth instalment of “E4” claims (S/AC.26/2001/4) and the thirteenth instalment of “E4” claims (S/AC.26/2001/5), respectively, with regard to eight Kuwaiti corporate claimants. Having carefully reviewed all aspects of these requests, the Executive Secretary has concluded that no correction of the respective Governing Council decisions is necessary, and that no action pursuant to article 41 of the Rules is warranted with regard to the claims in question;

(g) On 12 November 2001, the Permanent Mission of France requested reconsideration of Governing Council decision 127 (S/AC.26/Dec.127 (2001)) and the associated report and recommendations of the Panel of Commissioners concerning the seventh instalment of “E2” claims (S/AC.26/2001/11) with regard to a French company. The response of the Executive Secretary to the request filed by the Government of France has not yet been conveyed to the claimant country due to the fact that the secretariat’s review of the specific claim in question and, where appropriate, consultations with the respective panel of Commissioners, remain ongoing. Details concerning this request, and the Executive Secretary’s recommendations to the Governing Council with respect thereto, will be contained in the Executive Secretary’s upcoming article 41 reports to the Governing Council;

(h) On 14 November 2001, the Permanent Mission of the United Kingdom requested reconsideration of Governing Council decision 87 (S/AC.26/Dec.87 (2000)) and the associated report and recommendations of the Panel of Commissioners concerning the fourth instalment of “E2” claims (S/AC.26/2000/2) with regard to a British company. The response of the Executive Secretary to the request filed by the Government of the United Kingdom has not yet been conveyed to the claimant country due to the fact that the secretariat’s review of the specific claim in question and, where appropriate, consultations with the respective panel of Commissioners, remain ongoing. Details concerning this request, and the Executive Secretary’s recommendations to the Governing Council with respect thereto, will be contained in the Executive Secretary’s upcoming article 41 reports to the Governing Council;

(i) On 14 January 2002, a Turkish company wrote directly to the secretariat requesting reconsideration of Governing Council decision 128 (S/AC.26/Dec.128 (2001)) and the associated

report and recommendations of the Panel of Commissioners concerning the thirteenth instalment of “E3” claims (S/AC.26/2001/12). As the claimant submitted this request directly to the secretariat, the request was sent to the Permanent Mission of Turkey in Geneva with a note explaining that the request should be submitted, in accordance with the Rules, through the Permanent Mission.

Annex I

RECOMMENDED CORRECTIONS CONCERNING CATEGORY "A" CLAIMS

1. Based on the recommended corrections reported in paragraphs 3-13 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</u>	<u>Previous total award</u> <u>(USD)</u>	<u>Corrected total award</u> <u>(USD)</u>	<u>Amount of net effect</u> <u>(USD)</u>
Sudan	5,029,000.00	5,058,500.00	29,500.00

Table 2. Second instalment category "A" claims corrections

<u>Country</u>	<u>Previous total award</u> <u>(USD)</u>	<u>Corrected total award</u> <u>(USD)</u>	<u>Amount of net effect</u> <u>(USD)</u>
Sudan	14,458,500.00	14,484,500.00	26,000.00

Table 3. Third instalment category "A" claims corrections

<u>Country</u>	<u>Previous total award</u> <u>(USD)</u>	<u>Corrected total award</u> <u>(USD)</u>	<u>Amount of net effect</u> <u>(USD)</u>
Sudan	11,945,500.00	11,962,000.00	16,500.00

Table 4. Fourth instalment category "A" claims corrections

<u>Country</u>	<u>Previous total award</u> <u>(USD)</u>	<u>Corrected total award</u> <u>(USD)</u>	<u>Amount of net effect</u> <u>(USD)</u>
Sudan	10,221,000.00	10,569,000.00	348,000.00

Table 5. Fifth instalment category "A" claims corrections

<u>Country</u>	<u>Previous total award</u> <u>(USD)</u>	<u>Corrected total award</u> <u>(USD)</u>	<u>Amount of net effect</u> <u>(USD)</u>
India	147,520,500.00	147,514,000.00	(6,500.00)
Sri Lanka	69,706,500.00	69,705,000.00	(1,500.00)
Sudan	38,636,000.00	38,918,000.00	282,000.00

Table 6. Sixth instalment category "A" claims corrections

<u>Country</u>	<u>Previous total award</u> <u>(USD)</u>	<u>Corrected total award</u> <u>(USD)</u>	<u>Amount of net effect</u> <u>(USD)</u>
Pakistan	46,242,000.00	46,250,000.00	8,000.00
Philippines	60,713,500.00	60,717,500.00	4,000.00

<u>Country</u>	<u>Previous total award (USD)</u>	<u>Corrected total award (USD)</u>	<u>Amount of net effect (USD)</u>
Sudan	512,000.00	513,500.00	1,500.00

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

Table 7. Recommended corrected total awards for category “A” claims

<u>Instalment</u>	<u>Previous total award (USD)</u>	<u>Corrected total award (USD)</u>	<u>Amount of net effect (USD)</u>
First	189,583,000.00	189,612,500.00	29,500.00
Second	641,209,500.00	641,235,500.00	26,000.00
Third	531,496,500.00	531,513,000.00	16,500.00
Fourth	732,562,000.00	732,910,000.00	348,000.00
Fifth	782,588,500.00	782,862,500.00	274,000.00
Sixth	315,622,000.00	315,635,500.00	13,500.00

Annex II

RECOMMENDED CORRECTIONS CONCERNING CATEGORY "C" CLAIMS

1. Based on the recommended corrections reported in paragraphs 15 to 18 of this report, supra, the category "C" claims aggregate corrected awards by instalment, per country, are as follows:

Table 1. Sixth instalment category "C" claims corrections

<u>Country</u>	<u>Previous total award (USD)</u>	<u>Corrected total award (USD)</u>	<u>Amount of net effect (USD)</u>
Pakistan	37,441,705.29	37,474,279.63	32,574.34

Table 2. Seventh instalment category "C" claims corrections

<u>Country</u>	<u>Previous total award (USD)</u>	<u>Corrected total award (USD)</u>	<u>Amount of net effect (USD)</u>
Kuwait	788,906,796.16	788,925,463.29	18,667.13
Morocco	773,786.81	798,757.41	24,970.60
Philippines	10,366,264.31	10,367,513.31	1,249.00

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

Table 3. Recommended corrected total awards for category "C" claims

<u>Instalment</u>	<u>Previous total award (USD)</u>	<u>Corrected total award (USD)</u>	<u>Amount of net effect (USD)</u>
Sixth	768,494,920.07	768,527,494.41	32,574.34
Seventh	1,934,654,281.71	1,934,699,168.44	44,886.73
