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EIGHTEENTH 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 seventeenth article 41 report (S/AC.26/2002/9). Chapter I of this report contains recommended corrections concerning claims in category “A”, where the Panel of Commissioners has concluded its work. Chapter II contains recommended corrections concerning claims in category “E”, where the 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 CATEGORY “A”

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; and lower to higher amounts.

1. Duplicate claims

3. Since the seventeenth article 41 report, one claim from the Philippines has been found to be a duplicate of another claim that was awarded compensation in category “A”. No compensation should have been awarded for this duplicate claim.

4. Accordingly, as set forth in table 1 below, it is recommended that the award for this claim 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>
Philippines	Fifth	1	(4,000.00)
<u>Total</u>		1	(4,000.00)

2. Reinstatement of claims previously identified as duplicates

5. Two claims from Vietnam erroneously found to be duplicates should be reinstated since additional information received from the Government of Vietnam shows that the claims are not in fact duplicates.

6. Accordingly, as set forth in table 2 below, it is recommended that the awards for these claims be corrected. Table 2 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 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>
Vietnam	Sixth	2	8,000.00
<u>Total</u>		2	8,000.00

3. Lower to higher amounts

7. Upon review of the original paper claim forms submitted by the Governments of Hungary, Pakistan, Poland and Vietnam, it was confirmed that 74 claimants had selected the higher amounts of compensation on the claim forms, while lower amounts had erroneously been entered in the computer diskettes submitted to the Commission. The awards for these claims should be increased to amounts appropriate to the proper status of the claims.

8. Accordingly, as set forth in table 3 below, it is recommended that the award amounts for these claims be corrected. Table 3 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 3. 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>
Hungary	1	2	3,000.00
Pakistan	1	14	21,000.00
	2	2	3,000.00
	4	37	58,500.00
	6	17	27,000.00
Poland	5	1	1,500.00
Vietnam	4	1	1,500.00
<u>Total</u>		74	115,500.00

4. Summary

9. The recommended corrections in category "A" concern 77 claims submitted by five Governments resulting in a net increase in the total amount awarded of USD 119,500.00. Of these claims, the total amount awarded for 76 claims was increased by USD 123,500.00, while the total amount awarded for one claim was decreased by USD 4,000.00. The recommendations for the first,

second, fourth, fifth and sixth instalments, by country and instalment, are located in tables 1 to 6 of annex I to this report.

II. RECOMMENDED CORRECTIONS CONCERNING CLAIMS IN CATEGORY “E”

A. Category “E” correction

1. “E2” sixth instalment correction

10. A recommended correction in category “E” concerns a claim that was included in the report and recommendations of the Panel of Commissioners concerning the sixth instalment of category “E2” claims (S/AC.26/2001/1), which recommendations were approved by the Governing Council in its decision 115 (S/AC.26/Dec.115 (2001)).

11. The correction concerns a clerical error resulting in an overstatement in the amount of recommended compensation for the claim filed by Rothmans International Tobacco (UK) Limited (UNCC claim number 4001854). Due to a clerical error in the conversion of Pounds sterling to US dollars in respect of the claim for cancelled operations, annex II of the panel report contains the figure USD 126,610 as the amount recommended in US dollars for cancelled operations instead of the correct figure of USD 121,920 (a difference of USD 4,690). Correspondingly, the total recommended award in US dollars in respect of the claim is overstated in the annex by USD 4,690, and should be USD 1,308,664 instead of USD 1,313,354. The total amount of recommended compensation for all of the sixth instalment claims was correctly stated in United States dollars in paragraph 150 of the report, and the clerical error had no effect on the amounts of compensation awarded by the Governing Council in decision 115. The Commission’s database reflects the correct total award amount of USD 1,308,664, which amount was paid to the claimant in full.

2. “E3” twenty-first instalment corrections

12. Another recommended correction in category “E” concerns a claim that was included in the report and recommendations of the Panel of Commissioners concerning the twenty-first instalment of category “E3” claims (S/AC.26/2001/21), which recommendations were approved by the Governing Council in its decision 137 (S/AC.26/Dec.137 (2001)).

13. The correction concerns clerical errors made in the calculations to determine the recommended award for contract losses for a claim filed by John Laing Limited (UNCC claim number 4002186). With respect to paragraph 277 of the report, in its calculation of the costs incurred by the claimant on the relevant construction project in Iraq, the Panel stated in the report that it had reduced the expenditure submitted by the claimant with respect to salary costs by an amount of GBP 42,835. Due to a clerical error, the Panel, however, did not deduct the amount of GBP 42,835 from the total salary costs in determining the recommended award for contract losses. Accordingly, the amount recommended for contract losses and the total recommended amount should be reduced by the amount of GBP 42,835.

14. With respect to paragraph 278 of the report, the Panel inadvertently deducted the amount of GBP 1,989,200, instead of the correct amount of GBP 1,969,200 (which, due to a typographical error, was incorrectly stated as GBP 1,062,794 in the report), in determining the recommended award for contract losses. The amount deducted by the Panel in making its recommendation (GBP 1,989,200) is overstated because it included GBP 20,000 for the hyperbaric chamber that the claimant had already repaid to the Export Credits Guarantee Department of the United Kingdom (“ECGD”), and which amount had already been accounted for in the Panel’s treatment of the claim made by the claimant on behalf of ECGD. Accordingly, the amount recommended for contract losses and the total recommended amount should be increased by the amount of GBP 20,000.

15. The net effect of the above corrections is that the recommended amount for contract losses should be reduced by GBP 22,835 (USD 43,413.00). Accordingly, as set forth in table 4 below, it is recommended that the award for this claim be corrected. Table 4 identifies the country concerned, the number of claims affected and the amount of net effect of the adjustment.

Table 4. Category “E” corrections: “E3” twenty-first instalment

<u>Country</u>	<u>Number of claims affected</u>	<u>Amount of net effect (USD)</u>
United Kingdom	1	(43,413.00)
<u>Total</u>	1	(43,413.00)

16. The recommendations for the twenty-first instalment of “E3” claims, by country and instalment, are located in tables 1 to 2 of annex II to this report.

III. REQUESTS BY CLAIMANTS FOR ARTICLE 41 CORRECTIONS

17. 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 from the Permanent Mission of Hungary for correction 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 Hungarian company. Having carefully reviewed all aspects of this request, the Executive Secretary has concluded that no correction of Governing Council decision 87 is necessary and that no action pursuant to article 41 of the Rules is warranted with regard to the claim in question;

(b) On 6 February 2002, the Permanent Mission of Turkey requested correction 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 a Turkish 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;

(c) On 11 February 2002, the Permanent Mission of Croatia requested correction of Governing Council decision 144 (S/AC.26/Dec.144 (2001)) and the associated report and recommendations of the panel of Commissioners concerning the sixteenth instalment of "E3" claims (S/AC.26/2001/28) with regard to a Croatian company. Having carefully reviewed all aspects of this request, the Executive Secretary has concluded that no correction of Governing Council decision 144 is necessary and that no action pursuant to article 41 of the Rules is warranted with regard to the claim in question;

(d) The Kuwait Public Authority for the Assessment of Compensation for Damages Resulting from Iraqi Aggression ("PAAC") requested correction of Governing Council decisions 77 (S/AC.26/Dec.77 (1999)), 107 (S/AC.26/Dec.107 (2000)) and 108 (S/AC.26/Dec.108 (2000)) and the associated reports and recommendations of the Panel of Commissioners concerning the second instalment of "E4" claims (S/AC.26/1999/17), the eighth instalment of "E4" claims (S/AC.26/2000/21) and the tenth instalment of "E4" claims (S/AC.26/2000/22), respectively, with regard to four 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;

(e) On 21 February 2002, the Permanent Mission of the United Kingdom requested correction 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 British company. The response of the Executive Secretary to this request 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 next article 41 report to the Governing Council.

Annex I

RECOMMENDED CORRECTIONS CONCERNING CATEGORY "A" CLAIMS

1. Based on the recommended corrections reported under paragraphs 2 to 9 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 (USD)</u>	<u>Corrected total award (USD)</u>	<u>Amount of net effect (USD)</u>
Hungary	294,500.00	297,500.00	3,000.00
Pakistan	12,081,500.00	12,102,500.00	21,000.00

Table 2. Second instalment category "A" 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	19,498,000.00	19,501,000.00	3,000.00

Table 3. Fourth instalment category "A" 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	22,585,000.00	22,643,500.00	58,500.00
Vietnam	24,838,500.00	24,840,000.00	1,500.00

Table 4. Fifth instalment category "A" claims corrections

<u>Country</u>	<u>Previous total award (USD)</u>	<u>Corrected total award (USD)</u>	<u>Amount of net effect (USD)</u>
Philippines	31,108,000.00	31,104,000.00	(4,000.00)
Poland	3,742,500.00	3,744,000.00	1,500.00

Table 5. Sixth instalment category "A" 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	46,250,000.00	46,277,000.00	27,000.00
Vietnam	3,496,000.00	3,504,000.00	8,000.00

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)</u>	<u>Corrected total award (USD)</u>	<u>Amount of net effect (USD)</u>
First	189,612,500.00	189,636,500.00	24,000.00
Second	641,235,500.00	641,238,500.00	3,000.00
Fourth	732,910,000.00	732,970,000.00	60,000.00
Fifth	782,862,500.00	782,860,000.00	(2,500.00)
Sixth	315,635,500.00	315,670,500.00	35,000.00

Annex II

RECOMMENDED CORRECTIONS CONCERNING CATEGORY "E" CLAIMS

1. Based on the recommended corrections reported under paragraphs 12 to 16 of this report, supra, the category "E" claims corrected award by instalment, per country is as follows:

Table 1. Twenty-first instalment category "E3" claims correction

<u>Country</u>	<u>Previous total award (USD)</u>	<u>Corrected total award (USD)</u>	<u>Amount of net effect (USD)</u>
United Kingdom	2,743,520.00	2,700,107.00	(43,413.00)

2. Based on the above correction, the revised category "E" claim total awards by instalment is as follows:

Table 2. Recommended corrected total awards for category "E3" claims

<u>Instalment</u>	<u>Previous total award (USD)</u>	<u>Corrected total award (USD)</u>	<u>Amount of net effect (USD)</u>
Twenty-first	3,798,384.00	3,754,971.00	(43,413.00)
