



Security Council

Distr.
GENERAL

S/AC.26/2001/11
22 June 2001

Original: ENGLISH

UNITED NATIONS
COMPENSATION COMMISSION
GOVERNING COUNCIL

REPORT AND RECOMMENDATIONS MADE BY THE PANEL OF COMMISSIONERS
CONCERNING THE SEVENTH INSTALMENT OF "E2" CLAIMS

CONTENTS

| | <u>Paragraph</u> | <u>Page</u> |
|--|------------------|-------------|
| Introduction | 1 - 3 | 8 |
| I. PROCESSING OF THE CLAIMS / PROCEDURAL MATTERS | 4 - 15 | 10 |
| II. REVIEW OF CLAIMS SUBMITTED BY STATE TELECOMMUNICATIONS AGENCIES | 16 - 40 | 14 |
| A. Factual background | 18 - 19 | 14 |
| B. Decline in revenue from telecommunications exchanges | 20 - 32 | 15 |
| 1. Claims description | 20 | 15 |
| 2. Compensability | 21 - 28 | 15 |
| 3. Verification and valuation | 29 - 32 | 18 |
| C. Re-routing of telecommunications services | 33 - 34 | 19 |
| 1. Claims description | 33 | 19 |
| 2. Compensability | 34 | 19 |
| D. Provision of telephone facilities to refugees ... | 35 - 36 | 19 |
| 1. Claims description | 35 | 19 |
| 2. Compensability | 36 | 20 |
| E. Unpaid receivables | 37 - 40 | 20 |
| 1. Claims description | 37 | 20 |
| 2. Compensability | 38 - 40 | 20 |
| III. REVIEW OF OTHER CLAIMS | 41 - 124 | 22 |
| A. Contracts involving Iraqi parties | 45 - 64 | 23 |
| 1. Provision of goods and services for which payment was not received | 45 - 50 | 23 |
| 2. Interrupted contracts | 51 - 59 | 24 |
| 3. Amounts due to paying banks under letters of credit | 60 - 64 | 27 |
| B. Contracts involving Kuwaiti parties | 65 - 79 | 28 |
| 1. Provision of goods and services for which payment was not received | 65 - 66 | 28 |
| 2. Interrupted contracts | 67 - 77 | 29 |
| 3. Goods lost or destroyed in transit | 78 - 79 | 31 |
| C. Contracts involving parties from other States ... | 80 - 86 | 32 |
| 1. Provision of goods and services for which payment was not received | 80 - 82 | 32 |
| 2. Interrupted contracts | 82 - 83 | 32 |
| 3. Continued performance of a contract | 84 - 86 | 33 |
| D. Business loss or course of dealing | 87 - 98 | 34 |
| 1. Decline in business or course of dealing | 87 - 92 | 34 |
| 2. Increased costs | 93 - 98 | 35 |

| | <u>Paragraph</u> | <u>Page</u> |
|--|------------------|-------------|
| E. Payment or relief provided to others | 99 - 113 | 36 |
| 1. Evacuation, relocation and repatriation costs | 99 - 103 | 36 |
| 2. Provision of support to employees and their dependants | 104 - 109 | 37 |
| 3. Protective measures | 110 - 111 | 38 |
| 4. Personal property reimbursement | 112 - 113 | 39 |
| F. Loss of tangible property | 114 - 118 | 39 |
| G. Loss of funds in bank accounts | 119 - 120 | 40 |
| H. Loss of use of real property | 121 - 122 | 40 |
| I. Loss of income-producing property | 123 - 124 | 40 |
| IV. INCIDENTAL ISSUES | 125 - 142 | 42 |
| A. Date of loss | 125 - 130 | 42 |
| B. Currency exchange rate | 131 - 139 | 43 |
| C. Interest | 140 - 141 | 45 |
| D. Claims preparation costs | 142 | 45 |
| V. RECOMMENDATIONS | 143 | 46 |
| Notes | | 47 |

List of tables

| | <u>Page</u> |
|--|-------------|
| 1. Governing Council decisions referred to in the present report | 5 |
| 2. List of Panel reports and recommendations referred to in the present report | 6 |

Annexes

| | |
|--|-----|
| I. List of reasons stated in Annex II for denial in whole or in part of the claimed amount | 53 |
| II. Recommended awards for the seventh instalment of "E2" claims | 56 |
| Notes to table of recommendations | 107 |

Table 1. Governing Council decisions referred to in the present report

| <u>Decision No.</u> | <u>Title</u> | <u>Document No.</u> |
|---------------------|--|----------------------|
| 7 | Criteria for additional categories of claims | S/AC.26/1991/7/Rev.1 |
| 9 | Propositions and conclusions on compensation for business losses: Types of damages and their valuation | S/AC.26/1992/9 |
| 10 | Provisional rules for claims procedure | S/AC.26/1992/10 |
| 13 | Further measures to avoid multiple recovery of compensation by claimants | S/AC.26/1992/13 |
| 15 | Compensation for business losses resulting from Iraq's unlawful invasion and occupation of Kuwait where the trade embargo and related measures were also a cause | S/AC.26/1992/15 |
| 16 | Awards of interest | S/AC.26/1992/16 |

Table 2. List of Panel reports and recommendations referred to in the present report

| <u>Short name</u> | <u>Title</u> | <u>Document No.</u> |
|----------------------------------|--|--------------------------|
| A(1) report | Report and recommendations made by the Panel of Commissioners concerning the first instalment of claims for departure from Iraq or Kuwait (category "A" claims) | S/AC.26/1994/2 |
| C(1) report | Report and recommendations made by the Panel of Commissioners concerning the first instalment of individual claims for damages up to US\$100,000 (category "C" claims) | S/AC.26/1994/3 |
| Egyptians Workers' Claims Report | Report and recommendations of the Panel of Commissioners concerning the Egyptian Workers' Claims (Jurisdictional phase) | S/AC.26/1995/R.20 rev. 1 |
| D1(3) report | Report and recommendations made by the Panel of Commissioners concerning the third instalment of individual claims for damages above USD 100,000 (category "D" claims) | S/AC.26/1999/9 |
| E2(1) report | Report and recommendations made by the Panel of Commissioners concerning the first instalment of "E2" claims | S/AC.26/1998/7 |
| E2(2) report | Report and recommendations made by the Panel of Commissioners concerning the second instalment of "E2" claims. | S/AC.26/1999/6 |
| E2(3) report | Report and recommendations made by the Panel of Commissioners concerning the third instalment of "E2" claims | S/AC.26/1999/22 |
| E2(4) report | Report and recommendations made by the Panel of Commissioners concerning the fourth instalment of "E2" claims | S/AC.26/2000/2 |
| E2(5) report | Report and recommendations made by the Panel of Commissioners concerning the fifth instalment of "E2" claims | S/AC.26/2000/17 |
| E2(6) report | Report and recommendations made by the Panel of Commissioners concerning the sixth instalment of "E2" claims | S/AC.26/2000/R.48 |
| E3(1) report | Report and recommendations made by the Panel of Commissioners concerning the first instalment of "E3" claims | S/AC.26/1998/13 |
| E3(4) report | Report and recommendations made by the Panel of Commissioners concerning the fourth instalment of "E3" claims | S/AC.26/1999/14 |
| E4(1) report | Report and recommendations made by the Panel of Commissioners concerning the first instalment of "E4" claims | S/AC.26/1999/4 |

| <u>Short name</u> | <u>Title</u> | <u>Document No.</u> |
|-------------------|--|---------------------|
| F1(1.1) report | Report and recommendations made by the Panel of Commissioners concerning part one of the first instalment of claims by Governments and International Organizations (category "F" claims) | S/AC.26/1997/6 |
| F2(2) report | Report and recommendations made by the Panel of Commissioners concerning the second instalment of "F2" claims | S/AC.26/2000/26 |
| F3(2) report | Report and recommendations made by the Panel of Commissions concerning the second instalment of "F3" claims | S/AC.26/2000/R.40 |

Introduction

1. The Governing Council of the United Nations Compensation Commission (the "Commission"), at its twenty-first session in 1996, appointed the present Panel of Commissioners, composed of Messrs. Bernard Audit (Chairman), José María Abascal and David D. Caron (the "Panel" or "E2 Panel") to review "E2" claims. These claims were submitted by non-Kuwaiti corporations, public sector enterprises and other private legal entities (excluding oil sector, construction/engineering, export guarantee/insurance and environmental claimants). This report contains the Panel's recommendations to the Governing Council, pursuant to article 38(e) of the Provisional Rules for Claims Procedure (the "Rules"), concerning the seventh instalment of "E2" claims.

2. The present instalment consists of 64 claims submitted by corporations primarily operating in the fields of telecommunications, publishing, advertising and military supply. 1/ These claims were selected by the secretariat of the Commission ("the secretariat") from the "E2" claims on the basis of criteria that include (a) the date of filing with the Commission, (b) the claimant's type of business activity, and (c) the type of loss claimed. The instalment also includes claims from corporations engaged in the import-export trade, manufacturing, banking and insurance services; seven of these claims were transferred from the fifth instalment of "E2" claims to the present instalment in order to allow the Panel to consider responses from the claimants and the Government of the Republic of Iraq ("Iraq") to the Panel's requests for comments and further information. 2/ The procedure used by the Panel in processing the claims is described in section I below.

3. The role and tasks of a panel of Commissioners, the applicable law and criteria, the liability of Iraq and a description of the applicable evidentiary requirements have been stated in detail in this Panel's report and recommendations concerning the first instalment of "E2" claims. 3/ Within this framework, three tasks have been entrusted to the Panel in the present proceedings. First, the Panel must determine whether the various types of losses alleged by claimants are, in principle, compensable before the Commission and, if so, the appropriate criteria for the valuation of compensation. Second, it must verify whether the losses that are in principle compensable have in fact been incurred by a given claimant. Third, the Panel must value those losses found to be compensable and

actually incurred and recommend awards thereon. These tasks are addressed in sections II to III. Certain incidental issues are discussed in section IV, followed by the Panel's recommendations in section V.

I. PROCESSING OF THE CLAIMS/PROCEDURAL MATTERS

4. Pursuant to article 16 of the Rules, the Executive Secretary of the Commission reported the significant new legal and factual issues raised by the claims in his thirtieth report dated 17 February 2000 ("article 16 report"). Pursuant to paragraph 3 of article 16, a number of Governments, including the Government of the Republic of Iraq, submitted their information and views on the Executive Secretary's report. These responses were transmitted to the Panel pursuant to paragraph 1 of article 32 of the Rules and were considered by the Panel in the course of its deliberations.

5. The secretariat made a preliminary assessment of the claims in order to determine whether each claim met the formal requirements established by the Governing Council in article 14 of the Rules. As provided by article 15 of the Rules, deficiencies identified were communicated to the claimants in order to give them the opportunity to remedy those deficiencies.

6. The Panel was presented with the claims by the Executive Secretary pursuant to article 32 of the Rules on 14 January 2000, and was briefed upon them by the secretariat. In a procedural order of the same date, the Panel classified the claims as "unusually large or complex" within the meaning of article 38(d) of the Rules, in view of the variety and complexity of the issues raised, and the volume of documentation submitted with the claims.

7. Given the large number of claims under review, the volume of supporting documentation submitted with the claims, and the complexity of the verification and valuation issues, the Panel requested expert advice pursuant to article 36 of the Rules. This advice was provided by accounting and loss adjusting consultants (the "expert consultants") retained to assist the Panel.

8. A preliminary review of the claims was undertaken by the secretariat and the expert consultants in order to identify any additional information and documentation that would assist the Panel in properly verifying and valuing the claims. After consultation with the Panel, and pursuant to article 34 of the Rules, notifications were dispatched to the claimants ("article 34 notifications"), in which claimants were asked to respond to a series of questions concerning the claims and to provide additional documentation. Where the claimants provided information in response to the article 34 notifications, this was also considered by the Panel in its determination of the claims.

9. In addition, in connection with the claims submitted by State telecommunications agencies, the Panel undertook its own research into the functioning of the international telecommunications industry. To this end, the Panel requested the secretariat to gather information on a number of issues relevant to the claims and also obtained expert assistance from a specialist of the International Telecommunications Union.

10. In a second procedural order dated 14 January 2000, the Panel instructed the secretariat to transmit to Iraq the documents filed by the claimants for 21 claims: (1) based on letters of credit issued by Iraqi banks; (2) involving bilateral agreements with the Government of Iraq; (3) or relating to transactions with an Iraqi party in respect of which, the Panel considered Iraq's comments would facilitate its review of the claim. Iraq was invited to submit its comments on these claims and such documentation, as well as to respond to questions posed by the Panel by 17 July 2000. Iraq did so on 22 August 2000. The comments and responses of Iraq were nonetheless considered by the Panel as part of its review of the claims, since such consideration did not delay the Panel's completion of its review and evaluation of the claims within the time period provided for under the Rules.

11. In verifying the claims, valuing the alleged losses, and determining the appropriate amount of compensation, if any, the Panel considered the claim files and also claim-specific reports prepared by the expert consultants under the Panel's supervision and guidance. These reports were based upon documents submitted by each claimant, including their responses to the article 34 notifications, as well as Iraq's comments and documents filed in response to the Panel's second procedural order. The Panel applied the procedures and methods described in its previous reports in verifying and valuing the losses alleged. 4/ Where necessary, the Panel adapted these procedures and methods to take into account the nature of the particular claims in this instalment.

12. The Panel, consistent with its previous practice, has been mindful that, as expressed in Governing Council decisions 7 and 13, compensation may only be awarded once in respect of a particular loss. 5/ Accordingly, the Panel has, among other things, requested the secretariat to ascertain whether other claims have been submitted to the Commission with respect to the projects, transactions or property that are the subject-matter of the claims under review. Where a claim has been found to be compensable in this instalment and compensation for the same loss has been awarded in

another claim, the amount of compensation awarded in the other claim has been deducted from the compensation calculated for the claim in this instalment. Where another claim for the same loss is pending before the Commission, the relevant information shall be provided to the Panel reviewing the other claim so that multiple compensation is avoided. 6/

13. Moreover, decision 7 requires the deduction of compensation from any other source in respect of the loss claimed before the Commission. In the fourth "E2" report, the "E2A" Panel determined that claims submitted in respect of losses for which indemnities had been received from insurers "are not admissible unless the claimant produces a mandate from the insurance company confirming that the claimant is authorized to seek in its own name compensation on behalf of the insurer". 7/ Claimants have submitted claims on behalf of insurers, including governmental export credit guarantee agencies, in the present instalment. The Panel adopts and applies the findings of the E2(4) report to such claims. 8/

14. The present instalment includes a number of claims by parent companies on behalf of their subsidiaries. Such claims are identified in the table of recommended awards in annex II. In such circumstances, the Panel has normally looked for an assignment of the claim from the subsidiary to the parent company, and has instructed the secretariat to verify that the subsidiary has not presented another claim before the Commission in respect of the same loss.

15. Paragraph 3 of article 35 of the Rules provides that corporate claims "must be supported by documentary and other appropriate evidence sufficient to demonstrate the circumstances and amount of the claimed loss". The Panel found that several claims, or portions thereof, were defective in this respect. In some instances, claimants failed to submit documents other than a claim form and a brief statement of claim. In others, claimants submitted reports prepared by in-house or consultant accountants or loss adjusters but failed to file the financial records forming the basis of such reports. In addition, some claimants, although they submitted documentation, failed to organise their submission in a coherent fashion or did not supply explanations sufficient to allow the Panel to link the evidence to the particular elements of damage alleged. Where the lack of supporting evidence or explanation was only partial, the Panel has made deductions to any recommended awards to reflect these evidentiary deficiencies. Where the lack of supporting evidence or its defective presentation was so extensive as to prevent the Panel from understanding the circumstances or the amount of the losses claimed or from ascertaining

whether such losses are compensable, the Panel recommended that no compensation be awarded for the claims, or the relevant portions thereof.

II. REVIEW OF CLAIMS SUBMITTED BY STATE TELECOMMUNICATIONS AGENCIES

16. Five claims in this instalment are submitted by the telecommunications Ministries or State agencies of Egypt, Jordan, Syria, Tunisia and Turkey, which are responsible for domestic and international telecommunications exchanges. These claims are for losses stated to have resulted from the disruption of telecommunications traffic with either, or both, Iraq and Kuwait during the period of Iraq's invasion and occupation of Kuwait and thereafter. The claimants variously allege that Iraq's invasion and occupation of Kuwait directly resulted in (1) a loss of revenue normally received by such entities for the handling of international calls between their respective countries and Kuwait or Iraq ("international exchange revenue"); (2) increased expenditures necessitated by the re-routing of international calls; (3) increased expenditures associated with refugee populations; and (4) unpaid receivables.

17. As these claims are of a type that the Commission has not previously addressed, the Panel considers in this section the compensability of such claims, following a description of the factual background.

A. Factual background

18. At the time of Iraq's invasion of Kuwait and particularly for the five claimant States involved in this instalment, international telecommunications were routed through national telecommunication agencies. The system operates within the framework of multilateral agreements under the auspices of the International Telecommunications Union ("ITU"). Such general agreements are supplemented by bilateral agreements setting forth a number of details and, in particular, the respective charges for services.

19. The bilateral agreements applicable to the five claims in this instalment share the same characteristics: they are brief; they set forth basic obligations to handle in good faith such international traffic as there is; and, they lay down the basic tariffs and charges applicable to such handling of exchanges. The billing practice for international exchange services was uniform among the claimants in their respective bilateral relations with either Kuwait or Iraq. Monthly statements were exchanged detailing the traffic between the two countries for the previous month. Accounts were then exchanged each quarter (the "settlement statement"), stating the net amount owing between the two countries and payable "as soon as possible". There was no undertaking to guarantee a

certain volume of traffic, but the arrangements between the claimants and either Iraq or Kuwait were well-established and long-standing, and in some of the cases before the Panel generated substantial and consistent quarterly revenues for the claimant.

B. Decline in revenue from telecommunications exchanges

1. Claims description

20. All five of the State telecommunications claimants seek compensation for a decrease in revenue caused by the cessation or decline in telecommunications traffic with either, or both, Kuwait and Iraq during and, in some cases, after the end of Iraq's occupation of Kuwait. The claims relate to telephone, telex and telegraph traffic. One of the claimants also claims for the loss of income from television broadcasting traffic to Iraq.

2. Compensability

21. The Panel's analysis of the compensability of such claims for lost revenue from telecommunications exchanges begins with the requirement in Security Council resolution 687 (1991) that there be a direct loss resulting from Iraq's invasion and occupation of Kuwait.

22. In its second report, the Panel determined that "profits which, in the ordinary course of events [the claimant] would have been expected to earn and which were lost as a result of a decline in business" may represent direct losses resulting from Iraq's invasion and occupation of Kuwait within the meaning of Security Council resolution 687 (1991) and thus may be compensable. 9/

23. In its third report, the Panel concluded that a claimant may be eligible for compensation for a decline in revenue even though the claimant did not maintain a presence within the area previously delineated by the Panel as having been subject to actual military operations or the threat of military action for defined periods ("the compensable area", as summarised in paragraph 43 below). In particular, the Panel concluded that a claimant without a presence in the compensable area may have a compensable decline in revenue loss if the evidentiary standards of paragraph 11 of Governing Council decision 9 are met. 10/ These evidentiary standards call upon a claimant to demonstrate that:

"there was a regular course of dealing with another party, demonstrating that the claimant had a well-founded expectation of further business dealings of the same character with the same party under readily ascertainable terms and, in addition, that a consistent level of income and profitability had been realized from such dealings." 11/

24. With respect to the telecommunications business between each of the claimants on the one hand, and either Kuwait or Iraq on the other hand, the Panel finds that a sharp decline in the exchanges of traffic followed Iraq's invasion and occupation of Kuwait. In the case of Kuwait, this decline was due to the departure of persons and the general civil disorder in that country, as well as the destruction of communications facilities by military operations. 12/ The dismantling of telecommunications facilities in Kuwait commenced shortly after Iraq's invasion of Kuwait on 2 August 1990, and continued throughout the period of occupation. Reports indicate that the damage done to Kuwait's telecommunications infrastructure was extensive. 13/

25. In the case of Iraq, the departure of persons and the civil disorder following Iraq's invasion of Kuwait caused a decline in the volume of telecommunications exchanges. As observed in the first report by the category "A" Panel of Commissioners, "[t]he pre-invasion expatriate population in Iraq was in the vicinity of 1,162,000 persons" and, "the total number of expatriates [in Iraq] is reported to have fallen to approximately 887,000 within two months of the invasion". 14/ Expatriate workers, particularly nationals of States that had condemned Iraq's invasion of Kuwait, departed Iraq because of "their fear of being confined in a belligerent state with which their home states could soon be engaged in armed conflict". 15/ The decline in telecommunications exchanges in Iraq resulting from these departures was later compounded by the massive destruction of the communications infrastructure of Iraq by military operations. The Allied Coalition Forces' military operations, commencing after 15 January 1991, specifically targeted communications facilities in Iraq, including the dual-use civilian network. 16/

26. The Panel further finds, based upon records of telecommunications exchanges covering several years preceding 1990 provided by claimants, and from its own investigations and consultations with the ITU, that the telecommunications agencies so providing such records have satisfied the evidentiary criteria for a compensable course of dealing claim under paragraph 11 of decision 9, as summarised at paragraph 23 above. Each such

claimant has demonstrated that it had a "regular course of dealing with" Iraq or Kuwait, that it had a well-founded expectation of further business dealings of the same character with the same party under readily ascertainable terms, and that a consistent level of income and profitability had been realized from such dealings. The Panel therefore concludes that the claims for decline in revenue from international telecommunications exchanges are direct losses resulting from Iraq's invasion and occupation of Kuwait within the meaning of Security Council resolution 687 (1991), and are compensable in principle.

27. Given the extended period of time over which some of the claimants allege losses, the Panel must also consider if such claims for decline in revenue remain compensable for a period of time following the liberation of Kuwait and, if so, the extent of such period of time ("a recovery period" or "secondary compensation period"). The Panel has previously interpreted the Governing Council's decisions to mean that compensation for lost profits may be awarded for the period between the cessation of military operations and the time when the claimant reasonably could have resumed business activities at pre-invasion levels so long as the business was affected by a destruction of assets or a disruption of activities, which itself was the direct result of Iraq's unlawful invasion and occupation of Kuwait. 17/

28. The Panel notes that after the liberation of Kuwait and the cease-fire with Iraq, the telecommunications networks in both Kuwait and Iraq required considerable reconstruction before traffic could reach pre-invasion levels. In the case of Kuwait, it is reported that only limited "basic services" were restored within three months of the liberation. 18/ Wider services became available gradually during the two months that followed. In the case of Iraq, recovery appears to have taken significantly longer. 19/ The Panel finds that the predominant reason for the extended delay in the recovery of telecommunications networks in Iraq - that is, a recovery that took longer than the five months necessary in the case of Kuwait - to be the effect of the trade embargo or factors other than Iraq's invasion and occupation of Kuwait. Given the recovery work made necessary by Iraq's invasion and occupation of Kuwait, the Panel finds it appropriate to establish recovery periods for claims for lost revenue based on a decline in international telecommunications traffic with both Iraq and Kuwait as running from 2 March 1991 to 2 August 1991.

3. Verification and valuation

29. With regard to verification of claims for decline in revenue losses, the Panel looks both to the detail and duration of the historical record of revenues provided by the claimant in support of its claim. Where the record establishes with reasonable certainty that a loss was sustained, but is either not as detailed or does not cover an adequately long period to establish the exact quantum of the loss, the Panel applies an appropriate evidentiary discount. Where the record supplied is not sufficient to establish with reasonable certainty that a loss was sustained, the Panel recommends no compensation for the claim. In one case, no historical records were supplied by the claimant and, consequently, no compensation is recommended for the claim. In another case, the documentation submitted by the claimant failed to meet the formal requirements of the Commission and no compensation is recommended for the claim.

30. With respect to the valuation of the claims, the Panel recalls its previous holdings that such claims should be measured on the basis of the difference between projected and actual revenue during the compensable period, less the costs saved by the claimant as a consequence of the reduction or cessation of telecommunications exchanges. 20/ The alleged losses were presented by the claimants as projections from historical records showing monthly charges or units of telecommunications traffic, such units being the basis for calculating charges. In both cases, the Panel examines the net balance after deducting the charges due from the claimant.

31. As regards the savings potentially realized by claimants as a result of the reduction in telecommunications traffic, the Panel, after consultation with the ITU experts on the technical characteristics of the industry, concludes that in the case of telecommunications they were minimal. 21/ Accordingly, the Panel applies only a small discount in its valuation of these decline in revenue claims to reflect the savings in operating costs.

32. The Panel's recommendations with respect to the claims under review are set forth in annex II.

C. Re-routing of telecommunications services

1. Claims description

33. One claimant State telecommunication agency seeks compensation for the increased costs and reduced revenue arising from the re-routing of telecommunications traffic from May 1991 to December 1995. The claimant states that such losses were incurred because the transmission of telecommunications traffic to and from Kuwait, which had formerly been direct, had to take place through third countries because the entity formerly transmitting traffic between these two countries ceased to do so upon the invasion.

2. Compensability

34. The Panel views this claim as one for increased costs in operations and concludes that the claim is compensable in principle if the claimant demonstrates that the increased costs are direct losses resulting from Iraq's invasion and occupation of Kuwait. The Panel finds, however, that the claimant has failed to demonstrate that it incurred incremental costs and sustained reduced revenue as a direct result of Iraq's invasion and occupation of Kuwait. Accordingly, no compensation is recommended for this claim.

D. Provision of telephone facilities to refugees

1. Claims description

35. The claimant mentioned in paragraph 33 above also seeks the additional costs incurred in providing telephone facilities to its nationals who had returned from Kuwait or Iraq ("returnees"). The claimant asserts that such facilities were provided to returnees ahead of those on the existing waiting list for telephone services because governmental entities were instructed to do all that they could to ease their resettlement. Although the returnees paid installation fees for the facilities, the claimant states that, in order to provide the telephone facilities, the national telephone network required expansion and improvement, resulting in additional costs.

2. Compensability

36. The Panel finds that the costs of expanding and improving a national telecommunications network, undertaken over a period extending long after the cessation of hostilities and because of a Government's decision to provide telephone facilities to returnees on a priority basis, do not result directly from Iraq's invasion and occupation of Kuwait. Accordingly, no compensation is recommended for this claim.

E. Unpaid receivables

1. Claims description

37. Two State telecommunications agencies seek compensation for amounts stated to be due for telecommunications services rendered to Iraq prior to Iraq's invasion and occupation of Kuwait. One claimant seeks compensation for amounts due from Iraq for telecommunications exchanges from 1984 to 1992. The claimant states that, following an agreement with Iraq to reschedule the debt, Iraq made payments from November 1989 to reduce the arrears but ceased paying after June 1990. Another claimant seeks compensation for television broadcasting services provided to Iraq from 1986 to 1990 and telephone services provided in 1990, for which no payment was received.

2. Compensability

38. The Panel views these claims as being for amounts due in connection with services already provided and adopts the findings in its previous reports relating to claims for unpaid receivables due from Iraqi entities. Accordingly, the Panel finds the claims to be compensable if the "arising prior to" rule does not place the claim outside the Commission's jurisdiction and if the requirement of directness as described in its previous reports is satisfied. 22/

39. The Panel finds that, as in the case of amounts owed but unpaid under contracts with Iraqi parties as described in paragraph 49 below, Iraq's invasion and occupation of Kuwait continued as a cause of Iraq's non-payment for telecommunications services for a period after the cessation of hostilities on 2 March 1991. Accordingly, the Panel finds it appropriate to establish a compensation period running to 2 August 1991 for such claims that are determined to be compensable, as is the case generally for

contractual unpaid receivables. 23/ The Panel notes, however, that such claims must be reconciled with any claims for decline in revenue submitted by the same claimant covering the same period.

40. The documentation submitted by one of the claimants failed to meet the formal requirements of the Commission and no compensation is recommended for the claim. As to the remaining claim, the Panel adopts the above findings and applies them to that claim. Its recommendations are set forth in annex II.

III. REVIEW OF OTHER CLAIMS

41. In this section, the Panel reviews claims raising issues previously considered in the Commission. The Panel is guided by its previous findings and the findings of other Panels. First, the Panel recalls the principles generally applicable to the claims under review, and then proceeds to examine the claims by their loss type.

42. Paragraph 16 of Security Council resolution 687 (1991) provides that Iraq is liable "for any direct loss, damage ... or injury to foreign Governments, nationals and corporations, as a result of Iraq's unlawful invasion and occupation of Kuwait". Compensation will not, however, be provided for losses suffered as a result of the trade embargo and related measures except to "the extent that Iraq's unlawful invasion and occupation of Kuwait constituted a cause of direct loss ... which is separate and distinct from the trade embargo and related measures". 24/ The Panel, in its review of each claim must, therefore, determine whether the claimant has demonstrated that its alleged loss or damage resulted directly from Iraq's invasion and occupation of Kuwait.

43. Paragraph 21(a) of Governing Council decision 7 provides that loss or damage resulting from "military operations or the threat of military action by either side during the period 2 August 1990 to 2 March 1991" is directly caused by Iraq's invasion and occupation of Kuwait and may, thus, be compensable pursuant to Security Council resolution 687 (1991). In its E2(3) report, the Panel delineated locations that were subject to military operations and the threat of military action for the purposes of paragraph 21(a) of decision 7, as well as the periods during which they were affected (collectively referred to as "compensable locations" or "compensable areas"). The definitions of compensable locations that are relevant to the claims in the present instalment are set out below:

| <u>Area</u> | <u>Period</u> |
|--|------------------------------|
| Iraq <u>25/</u> | 2 August 1990 - 2 March 1991 |
| Kuwait <u>26/</u> | 2 August 1990 - 2 March 1991 |
| Saudi Arabia (within the range of Iraq's scud missiles) <u>27/</u> | 2 August 1990 - 2 March 1991 |
| Israel <u>27/</u> | 15 January - 2 March 1991 |

44. Even where a loss or damage has been sustained in a compensable location, the Panel examines whether the particular loss is a direct one.

A. Contracts involving Iraqi parties

1. Provision of goods and services for which payment was not received

45. Several claimants seek compensation for sums due under contracts involving Iraqi entities for the supply of goods and equipment, as well as for maintenance and other services. Also forming the subject-matter of some claims are turn-key contracts for the construction of telecommunications facilities and factories for the production of military equipment. The claimants assert that they had fully or partially performed their obligations under such contracts prior to Iraq's invasion and occupation of Kuwait but did not receive payments due.

46. In most instances, the claim is based on the agreed contract price. In many cases, the contracts included unusually long payment terms and provided for the payment of interest on outstanding credit amounts. In a few instances, the original terms of payment had been re-scheduled. In respect of these long term payment arrangements, claimants typically seek to recover the principal amounts due and related contractual interest.

47. The Panel recalls its E2(1) report where it concluded that, with reference to construction and supply claims involving Iraqi parties, when the performance giving rise to the debt had been rendered by a claimant more than three months before Iraq's invasion and occupation of Kuwait, that is, prior to 2 May 1990, a claim based on payment owed for such performance is to be considered as a debt or obligation of Iraq arising prior to Iraq's invasion and occupation of Kuwait and is therefore outside the jurisdiction of the Commission pursuant to paragraph 16 of Security Council resolution 687 (1991) ("the arising prior to" clause). 28/ The Panel refers also to the findings in the same report regarding deferred payment arrangements and unusually long payment terms which, the Panel determined, did not create new obligations for the purposes of Security Council resolution 687 (1991). 29/

48. With respect to claims brought by exporters of goods where the contract provided for payment by a letter of credit, the Panel adopts the findings of the "E2A" Panel regarding claims where losses are stated to arise from the failure of the Iraqi bank to honour a letter of credit that

it had issued to finance the purchase of goods shipped by the beneficiary-exporter to an Iraqi importer. For the purposes of the "arising prior to" clause, the "E2A" Panel found that it is the exporter-claimant's presentation of documents, as specified in the letter of credit, that completes its performance and triggers the issuing bank's obligation to honour the letter of credit. Accordingly, the "E2A" Panel determined that an exporter's claim is within the Commission's jurisdiction only where the documents were properly presented on or after 2 May 1990. Further, to ensure that Iraq's old debt would not be masked by unusually long or deferred payment terms, the "E2A" Panel added the condition that the period between the shipment of goods and the presentation of documents must not have exceeded 21 days (that being considered the normal period for the presentation of documents after shipment). 30/

49. Certain claims relate to goods supplied or services provided to Iraqi parties after 2 May 1990 for which payment did not become due until after the liberation of Kuwait on 2 March 1991. In the E2(4) and E2(6) reports, the "E2A" Panel considered the compensability of such losses in connection with claims of manufacturers and suppliers. The "E2A" Panel recognised that the effects of Iraq's invasion and occupation of Kuwait did not necessarily cease immediately upon the cease-fire on 2 March 1991 but subsisted for some period as a parallel cause of loss to the trade embargo. 31/ The "E2A" Panel concluded that, where a payment fell due between 2 March 1991 and 2 August 1991 but was not made by an Iraqi debtor, the ensuing loss might still constitute a direct loss resulting from Iraq's invasion and occupation of Kuwait and could, thus, be compensable. 32/ However, where payment became due only after 2 August 1991, the "E2A" Panel considered that such non-payment could no longer be deemed to have been directly caused by Iraq's invasion and occupation of Kuwait. 33/

50. The Panel adopts the above findings and applies them to the claims under review. Its recommendations are set forth in annex II.

2. Interrupted contracts

51. Several of the claims under review arise in connection with the inability to perform contracts for the provision of goods and services concluded with Iraqi parties. The claimants assert that the interruption of these contracts was caused by Iraq's invasion and occupation of Kuwait. Some of the claimants allege that they had commenced, or even completed,

manufacture of products for Iraqi entities, but were unable to deliver and install such products because of Iraq's invasion and occupation of Kuwait.

52. Such claims are, generally, for the costs incurred prior to the suspension of performance and the profit that would have been earned under the contract; some also involve increased costs, for example, of storage and transportation incurred as a consequence of the interruption of the contract. Under some contracts, payment was not due from the Iraqi debtor until a considerable time after delivery or other completion of performance by the claimant, in particular after 2 August 1991.

53. The Panel refers to the interpretation of the "arising prior to" clause set forth in paragraph 47 above, which applies equally to the claims relating to contracts that were interrupted.

54. The Panel also recalls and adopts its interpretation of Governing Council decision 9 in its E2(1) report that:

"Paragraph 9 provides that if a contract with Iraq became impossible to perform after 2 August 1990, Iraq is liable for 'any direct loss the other party suffered as a result, including lost profits'. The Panel interprets 'direct loss' in this context to mean only those losses that would, as of the date of the impossibility, reasonably be expected by both parties to the contract to occur given the nature of the work, the terms of the underlying contract and the cause of the impossibility to perform" 34/

55. In the case of claims relating to contracts under which payments became due after the liberation of Kuwait, the Panel recalls the findings of the "E2A" Panel in the E2(4) report, that:

"...[I]n many of the contracts where performance was interrupted between 2 August 1990 and 2 March 1991, payment by the Iraqi party was not due until after 2 August 1991. The Panel finds that Iraq is liable for any direct loss arising from the interruption of such contracts. This includes the costs reasonably incurred prior to the interruption of performance and, where appropriate, subject to the duty of mitigation, the expected profits under the contract apportioned over the period during which they would have been earned. Only amounts accrued within the compensable period may be awarded."35/

This Panel observes that, in the case of interrupted contracts, the more distant the date of payment, the greater the burden upon the claimant to demonstrate that it had a real expectation of generating income from the relevant transaction.

56. The Panel adopts the above findings and applies them to the claims under review. Its recommendations are set forth in annex II.

57. Governing Council decisions 9 and 15 require claimants to mitigate their losses. 36/ The "E2A" Panel, in the E2(4) report, interpreted the duty to mitigate in the context of interrupted supply contracts as generally requiring "that the claimant sell the undelivered goods to a third party in a reasonable time and in a reasonable manner". 37/ The "E2A" Panel also observed that, "in discharging its duty to mitigate, the claimant must take reasonable steps to preserve the goods or commodities, in conditions appropriate to their nature, pending re-sale to a third party or resumption of performance of the original sales contract". 38/ In addition, the "E2A" Panel noted that "the duty to mitigate does not require that the resale efforts of the claimant be successful. Rather, it requires that the seller make reasonable efforts to reduce its loss". 39/ This Panel concurs with these determinations and finds that the same principles apply to losses arising in connection with interrupted contracts for the provision of services. Consequently, for such contracts, the claimant must demonstrate that it made reasonable attempts to reallocate its resources in order to mitigate its loss. Where a claimant has not discharged this duty, any award of compensation is reduced commensurately. 40/

58. With respect to one claim brought by a sub-contractor, the response of Iraq to the Panel's second procedural order states that the main contractor reached a settlement with the Iraqi owner. Iraq was requested to supply the text of the settlement agreement but did not do so. The Panel finds no indication in the evidence available that the settlement agreement involves the amounts claimed by the sub-contractor. This settlement agreement does not, therefore, preclude a claim for the remaining balance. 41/

59. One claimant seeks to recover for lost profits in connection with equipment supplied under a lease agreement, as well as the value of the lost equipment that was the subject of the lease. The Panel determines that the tangible property in question was taken on 2 August 1990. 42/ A simple claim for the loss of tangible property, when compensable, would lead to the valuation of the property as at that date. When compensation

is sought for a portion of the remaining lease period, however, the Panel finds that the property itself is to be valued as at the end of that portion of the period. The compensable portion of the remaining period of lease is determined with reference to the contractual period of notice for the lessee's termination of the lease, as representing the minimum basis for revenue that the claimant was entitled to expect. The Panel consequently finds the appropriate compensation for combined lease and loss of property claims to be the total of (1) the expected net revenue for the compensable lease period and (2) the residual value of the property as of the end of the compensable lease period.

3. Amounts due to paying banks under letters of credit

60. Five claimants are banks that paid exporters, between 1988 and July 1990, pursuant to a number of letters of credit issued by the Central Bank of Iraq and two Iraqi banks, Rafidain Bank and Al Rasheed Bank. As described at paragraph 2 above, these claims originally were presented in the fifth instalment of category "E2" claims and were transferred to the present instalment. The credits were issued to finance the purchase of goods by Iraqi importers. The goods were shipped between 1988 and July 1990 under payment terms ranging from payment upon delivery to payment two years from the date of shipment.

61. The claimant banks allege that they paid the exporters upon presentation by the exporters of documents in conformity with the requirements of the letters of credit but that the issuing Iraqi banks failed to reimburse them.

62. The Panel considered the compensability of similar claims in its E2(5) report. 43/ The Panel concluded that, in order to determine whether the claims by paying banks are within the Commission's jurisdiction under the "arising prior to" clause, the Panel should look to the date on which the claimant presented the documents to the issuing bank, as well as to the date of performance of the underlying transaction, that is, the date of shipment of the goods. 44/

63. Accordingly, for a paying bank's claim to be within the Commission's jurisdiction, the claimant bank must have presented the documents to the issuing bank after 2 May 1990, and the period between the exporter's shipment of the goods and the presentation of documents must not have

exceeded 21 days (that being considered the normal period for the presentation of documents after shipment). 45/

64. With respect to the five letter of credit claims deferred to the present instalment, the Panel has considered the information provided by the claimants together with the comments and responses submitted by Iraq, in the light of the criteria described in the preceding paragraphs. The Panel's recommendations with respect to each claim are set forth in annex II.

B. Contracts involving Kuwaiti parties

1. Provision of goods and services for which payment was not received

65. A number of claimants seek compensation in respect of amounts due but unpaid by Kuwaiti debtors for goods and services (such as installation of equipment, maintenance or advertising) provided prior to Iraq's invasion and occupation of Kuwait. Claimants cite many reasons for such non-payments. Some assert that the Kuwaiti party ceased operating during Iraq's invasion and occupation of Kuwait and did not resume business, or could not be traced, after the liberation of that country. Others state that the Kuwaiti parties declined to make payments because the goods that had been supplied had been lost or damaged during Iraq's invasion and occupation of Kuwait. The sums claimed became due for payment either prior to or during Iraq's invasion and occupation of Kuwait. In addition, in two claims under review, the claimants are insurers seeking compensation for unpaid premiums from persons and businesses in Kuwait. As described at paragraph 2 above, these two claims originally were presented in the fifth instalment of category "E2" claims and were transferred to the present instalment.

66. The Panel recalls the determination in its E2(1) report that claimants seeking compensation for the non-payment of amounts owed by Kuwaiti parties must "provide specific proof that the failure to perform was the direct result of Iraq's invasion and occupation of Kuwait". 46/ The Panel has observed that the failure of a Kuwaiti party to pay amounts owed "should not, for example, stem from a debtor's economic decision to use its available resources to ends other than discharging its contractual obligation, for such an independent decision would be the direct cause of the non-payment" rather than Iraq's invasion and occupation of Kuwait. 47/ The Panel adopts the above findings and applies them to the claims under review. Its recommendations are set forth in annex II.

2. Interrupted contracts

67. Several of the claims under review arise in connection with the inability to perform contracts for the provision of goods and services concluded with Kuwaiti parties. The claimants assert that the interruption of contracts was caused by Iraq's invasion and occupation of Kuwait. In some cases, the contracts were formally cancelled or suspended; in others, the performance simply ceased upon Iraq's invasion of Kuwait and did not resume after the liberation of that country.

68. With regard to claims relating to supply contracts, some of the claimants had completed manufacture of goods destined for a Kuwaiti buyer and either did not ship the goods or, if the goods had already been shipped, had to arrange for their resale to a third party or their return. In other cases, the claimants had begun, but had not completed, manufacture of products. The majority of claimants seek compensation for the expected contract price.

69. With respect to interrupted service contracts, claimants typically seek to recover the costs incurred in performing the contracts prior to the interruption, as well as lost profits allegedly sustained because of their inability to provide services as a result of Iraq's invasion and occupation of Kuwait.

70. Several claimants also seek compensation for extraordinary costs associated with the interruption of the contracts. Such costs include redundancy and termination payments made to staff based in Kuwait and other parts of the world who were performing tasks in connection with the interrupted contracts, salaries paid to staff who could not perform any productive work during the period of Iraq's invasion and occupation of Kuwait, as well as additional transportation, maintenance and storage charges.

71. The Panel refers to the findings in its E2(3) report and determines that losses relating to the interruption of a contract with a Kuwaiti party that should have been performed during the period 2 August 1990 to 2 March 1991 may constitute direct losses resulting from Iraq's invasion and occupation of Kuwait within the meaning of Security Council resolution 687 (1991). ^{48/} With regard to such losses, the Panel undertakes a further inquiry, in accordance with the principles set forth in the following paragraphs, to ascertain whether the individual losses asserted are, in

fact, direct losses resulting from Iraq's invasion and occupation of Kuwait.

72. With regard to claims for the loss of expected profits from interrupted contracts, the Panel considers that the claimant may recover those amounts that the claimant expected to earn under the terms of the contract during the compensable period, subject to deductions for any cost savings brought about by the interruption of the contract and, where applicable, for any mitigation that the claimant could reasonably have been expected to undertake. 49/ In its assessment of claims relating to interrupted contracts, the Panel is also mindful that a "relevant consideration may be whether the contracting parties could resume the contract after the lifting of the embargo against Kuwait, and whether they have in fact resumed the contract". 50/ Thus, where the claimant has concluded new contracts with the same parties after the liberation of Kuwait which involve in whole or part the same work that the claimant would have undertaken under the original contract, the claimant will normally not have suffered an actual loss.

73. With respect to the extraordinary costs described in paragraph 70 above, the Panel has previously determined that such costs can be direct consequences of Iraq's invasion and occupation of Kuwait and may, thus, be compensable. 51/ Similarly, the "E2A" Panel, considering losses arising in connection with interrupted contracts, concluded that compensation may also be awarded for "reasonable incidental costs" and interpreted such costs to include "expenses incurred in stopping delivery; transportation and other costs to return the goods or dispatch them to another buyer; and storage fees and maintenance costs pending resale" to the extent in each case that such costs are "appropriate in nature and reasonable in duration". 52/

74. Claimants also seek increased staff costs. With regard to increased costs of salary payments made to unproductive staff, the Panel recalls its findings in the E2(5) report, that such costs are compensable "to the extent that the lack of productivity was a direct result of Iraq's invasion and occupation of Kuwait... and the employee could not be reassigned to other productive tasks". 53/ In addition, as determined in its E2(3) report, the Panel finds that contractually or legally required expenses incurred in terminating employment rather than incurring unproductive staff expenses are compensable in principle. 54/ In this context, the Panel observes that, where the staff were located outside a compensable area, the Panel will require a stronger showing, based on the facts of the claim, that, firstly, the costs of termination payments or unproductive salaries

were caused directly by Iraq's invasion and occupation of Kuwait and, secondly, that the claimant has discharged its duty to mitigate losses. Relevant considerations include whether the employees had been specifically appointed to work on the interrupted contract or were otherwise closely connected to it and the opportunities open to the claimant to redeploy staff to other tasks. The Panel also recalls the finding in its E2(3) report that additional payments made to staff as incentives to enable claimants to continue operations in the compensable area during the hostilities are compensable to the extent that they were reasonable in amount. 55/

75. One of the claims under review is in respect of an interrupted lease concluded with a Kuwaiti party. In addition to claiming for lost profits, the claimant seeks compensation for the loss of the tangible property forming the subject-matter of the lease. The Panel applies to this claim its findings set forth at paragraph 59 above regarding a similar loss arising in connection with a lease agreement concluded with an Iraqi party.

76. In some instances, the record shows both that the interruption of the contract was caused by Iraq's invasion and occupation of Kuwait and that the contract could have been resumed but was not for the lack of agreement between the parties. In those instances, the Panel reduces the award to take into account the non-compensable part of the claim.

77. The Panel adopts the above findings and applies them to the claims under review. Its recommendations are set forth in annex II.

3. Goods lost or destroyed in transit

78. Five claimants seek compensation in respect of goods that are said to have been shipped to Kuwait but were lost prior to receipt by the Kuwaiti buyer. In all cases, the goods are stated to have been shipped to Kuwait, by air or sea, in June or July 1990. The claimants seek the loss of profits in connection therewith, or the invoice price of the goods.

79. Dealing with similar claims, the "E2A" Panel has found that the breakdown of civil order and the military operations that took place in Kuwait had a particular impact upon the sea and air ports of Kuwait, and further noted the difficulty faced by claimants in providing specific proof of the circumstances in which goods were lost. In the light of such circumstances, the "E2A" Panel determined that, "in the absence of evidence

to the contrary, where non-perishable goods arrived at a Kuwaiti sea port on or after 2 July 1990 or at a Kuwaiti airport on or after 17 July 1990 and could not thereafter be located by the claimant, an inference can be made that the goods were lost or destroyed as a direct result of Iraq's invasion and occupation of Kuwait". 56/ The "E2A" Panel also determined that, for shipments made prior to these dates, specific evidence is required to demonstrate that the losses resulted directly from Iraq's invasion and occupation of Kuwait. 57/ The Panel adopts the above findings and applies them to the claims under review. Its recommendations are set forth in annex II.

C. Contracts involving parties from other States

1. Provision of goods and services for which payment was not received

80. One claimant seeks compensation for non-payment in respect of technical services that it had provided under a contract with a Saudi Arabian party. Following Iraq's invasion of Kuwait, the claimant withdrew its employees from Saudi Arabia and ceased to perform the contract.

81. The Panel notes the existence of disputes between the parties to the contract both as to work performed before the invasion and as to the claimant's later withdrawal of personnel from Saudi Arabia after Iraq's invasion of Kuwait. The Panel concludes that the claimant has failed to demonstrate that the non-payment resulted directly from Iraq's invasion and occupation of Kuwait, rather than from the contract dispute and the claimant's own decision not to pursue the contractually provided avenues for redress.

2. Interrupted contracts

82. Three claims under review relate to the inability to complete performance of contracts in Israel and at various sites in Saudi Arabia. The claimants typically seek compensation for lost profits and for additional costs incurred in the form of termination payments made to staff when performance of a contract ceased, and salaries paid to staff that could not perform other productive work for the claimant.

83. The Panel finds that losses sustained in a compensable area during the periods stated at paragraph 43 above are compensable in principle. The Panel undertakes a further inquiry to determine whether the specific loss asserted is direct. Where these criteria have been met, the Panel

recommends awards for lost profits or increased costs in accordance with the principles set forth at paragraphs 71 to 74 above. The Panel's recommendations with respect to each claim are set forth at annex II.

3. Continued performance of a contract

84. One claimant asserts that it incurred increased costs in order to continue performing contracts to maintain telecommunications networks in Saudi Arabia during Iraq's invasion and occupation of Kuwait, and suffered losses as a result. The claimant seeks compensation for, inter alia, the costs of hazard allowances paid to staff, overtime payments and staff recruitment costs. These costs are stated to have been incurred for several reasons, including the need to maintain the telecommunications networks to support the Allied Coalition Forces' military operations, to repair facilities damaged by Iraqi forces (particularly in the vicinity of Al Khafji), and to facilitate the management of the flow of refugees from Iraq or Kuwait into Saudi Arabia. In addition, the claimant seeks compensation for a loss of profit under the same contracts.

85. The Panel finds that losses sustained in a compensable area during the periods stated at paragraph 43 above are compensable in principle. The Panel undertakes a further inquiry to determine whether the specific loss asserted is direct. Where these criteria have been met, the Panel recommends awards for lost profits or increased costs in accordance with the principles set forth at paragraphs 71 to 74 above.

86. With regard to costs incurred in connection with the Allied Coalition Forces' military operations, the "F2" Panel has interpreted Governing Council decision 19 as precluding compensation for costs incurred in connection with "preparation for, participation in, or provision of support in relation to, the activities of the Allied Coalition Forces and their military response to Iraq's invasion and occupation of Kuwait". 58/ The Panel concurs with this interpretation and applies it to the claim under review. Where a loss results that is only in part in connection with the Allied Coalition Forces' military operations, the Panel makes an appropriate adjustment to any award of compensation recommended to take into account the non-compensable portion of the claim. The Panel's recommendations with respect to this claim are reflected in annex II.

D. Business loss or course of dealing

1. Decline in business or course of dealing

87. Two claimants, respectively based in Europe and North America, maintained branches, offices or other establishments in Kuwait, Iraq or Saudi Arabia, to facilitate the provision of maintenance services in connection with equipment that they supplied to buyers in these locations. The claimants assert that they sustained a loss of profits resulting from a decline in business because they had to temporarily cease or reduce their business operations in Kuwait, Iraq or Saudi Arabia.

88. Another claimant, based in Europe and engaged in the advertising industry, while not maintaining a presence within the compensable area, conducted business with entities located in the Middle East on behalf of its European clients. The claimant seeks compensation for, inter alia, the loss of revenue sustained during the period of Iraq's invasion and occupation of Kuwait and thereafter.

89. In its previous reports, the Panel has held, with regard to claimants based outside the compensable area but which maintained a presence in a compensable area by way of a branch, agency or other establishment, that claims for a decline in business are compensable in principle "for profits which, in the ordinary course of events, [the claimant] would have been expected to earn and which were lost as a result of a decline in business directly caused by Iraq's invasion and occupation of Kuwait". 59/

90. The Panel adopts the above findings and applies them to the claims described in paragraph 87 above. Its recommendations are set forth in annex II.

91. With regard to claimants based outside the compensable area and not maintaining a presence there, the Panel has concluded that each claim is to be evaluated under the evidentiary standards of paragraph 11 of Governing Council decision 9 as summarised at paragraph 23 above.

92. Where a claimant conducted business activities related to the compensable area, but does not have a presence there and its payment for such activities comes solely from clients based outside the compensable area, the sufficiency of the connection with the compensable area requires particular scrutiny by the Panel. The Panel finds that the claim described at paragraph 88 above does not meet the standards set forth at paragraph 23 above.

2. Increased costs

93. Several claimants seek compensation for additional costs incurred as a result of the disruption or cessation of their business operations in Iraq, Kuwait and Saudi Arabia. Some of the claimants had a presence within the compensable area; others did not. The most frequently claimed losses are termination payments and other indemnities provided to employees whose employment was terminated and the cost of salaries paid to staff during periods that such staff could not undertake any productive work.

94. One claim is submitted for the additional costs incurred in resuming business operations after the liberation of Kuwait. The claimant states that its office and workshop in Kuwait were destroyed during the occupation and seeks, inter alia, compensation for increased costs incurred in setting up a temporary workshop in Kuwait, including freight costs, in order to resume operations.

95. Other costs claimed relate to humanitarian payments and other assistance provided to employees, for example, in connection with the evacuation of personnel. Such claims are considered under the rubric "Payment or relief provided to others" in section E below.

96. With respect to claims for payments made to staff, the Panel applies the findings in its earlier reports, summarised at paragraph 74 above.

97. With regard to claims for additional costs incurred in resuming business operations in Kuwait after the liberation of that country, the Panel applies the principle enunciated in its E2(1) and E2(5) reports that post-liberation start-up costs are compensable where they represent "extraordinary expenses that were incurred as a direct result of Iraq's invasion and occupation of Kuwait", but not where the claimant has failed to demonstrate that the costs are not merely "ordinary expenses incurred as part of an on-going business enterprise". 60/

98. The Panel adopts the above findings and applies them to the claims under review. Its recommendations are set forth in annex II.

E. Payment or relief provided to others

1. Evacuation, relocation and repatriation costs

99. Many of the claimants seek to recover costs incurred in evacuating, relocating or repatriating employees and their dependants. The employees were located in, variously, Kuwait, Iraq, Saudi Arabia and Israel. The costs involved are for transportation out of the "war zone", exit visa fees, as well as lodging and food provided during such journeys.

100. The Panel recalls the findings in its E2(3) report that evacuation costs are compensable if actual military operations took place in, or a threat of military action was directed at, the location from which persons were evacuated. 61/ The Panel refers to its delineation of the areas subject to military operations and the threat of military action set forth at paragraph 43 above, and finds that costs incurred in evacuating employees and their dependants from such locations are compensable in principle.

101. In some instances, evacuations were undertaken from compensable areas immediately prior to the period during which the Panel has determined that military operations existed in, or a threat of military action was directed against, such areas. The Panel finds that, in the claims under review, such prudent evacuations which took place shortly before the compensable period are eligible for compensation, particularly since the costs of such evacuations were no greater than those that would have been incurred during the compensable period.

102. The Panel further considers the compensable types of evacuation costs. The Panel has previously determined that compensable evacuation costs are "temporary and extraordinary" expenses related to the repatriation of employees, including expenses incurred for transport, accommodation, food and urgent medical treatment. The Panel also determined that "stop-over costs incurred at locations outside the home country of the evacuee, which are part of the on-going evacuation journey from [the compensable area] and which are not a significant interruption in that journey, are compensable on the same basis as costs incurred to evacuate individuals directly from these locations", 62/ and that expenses related to repatriation that would have been incurred by a claimant in any event are not compensable. 63/

103. The Panel adopts the above findings and applies them to the claims under review. Its recommendations are set forth in annex II.

2. Provision of support to employees and their dependants

104. In addition to the costs incurred in effecting evacuations, claimants seek compensation for expenses incurred in providing support to employees and their dependants during the period that they were evacuated or otherwise unable to return to the "war zone". The expenses claimed include the costs of accommodation, food, communications, transportation, medical treatment and education for the employees' dependants. In most cases, such support costs were incurred in the home countries of the employees or the home base of the claimant. One claimant, however, relocated its employees from Saudi Arabia to a third country, closer to the Middle East, which, it is alleged, was less costly than repatriation to the claimant's home base.

105. In addition, some claimants seek compensation for support costs with respect to staff who were detained or were otherwise unable to leave Iraq or Kuwait. Claimants state that they provided financial and other support to the employees and to their families. With respect to staff unable to leave Iraq or Kuwait, the claimants typically seek the costs of accommodation, food and communications. With respect to their dependants, the costs claimed relate to assistance in meeting day-to-day living expenses, the provision of counselling and other humanitarian assistance. Also claimed are expenses incurred in the establishment of "crisis teams" to monitor the conditions of detained employees and seek their release, to maintain contact with dependants and to provide medical and psychiatric treatment to dependants and to detained employees upon their release. In a few instances, the costs of holidays provided to released employees and their dependants are claimed.

106. With regard to the claims for support costs incurred in respect of employees and their dependants who were relocated, the Panel determines that, where such costs were incurred in connection with employees and dependants formerly located in the compensable area, as defined in paragraph 43 above, such costs are compensable in principle. The criteria for compensable evacuation costs set forth at paragraph 102 above apply. Thus, to the extent that such costs are "temporary and extraordinary" and would not have been incurred by a claimant in any event, such costs are compensable in principle. The Panel further finds that, to be compensable, the costs incurred must be reasonable in amount, given the prevailing circumstances.

107. With regard to support provided to detainees, the Panel concludes that, pursuant to Governing Council decision 7, costs incurred in providing accommodation, food and other assistance to detainees during their detention are compensable in principle, to the extent that such costs were reasonable in the circumstances. 64/ The Panel also refers to the finding in its E2(3) report that "a claim for costs incurred in facilitating communication between detainees and members of their family" is compensable in principle. 65/

108. As to the provision of support to family members of detainees, the Panel applies its earlier finding that "such costs are compensable to the extent that they would not have been incurred in any event, were prompted by humanitarian considerations and were reasonable in amount". 66/ The Panel recalls also its earlier determination that "[e]xpenses such as [those] relating to the establishment and operation of crisis centres or psychologists' fees" for detainees and their families are compensable in principle. 67/ Where, however, the costs are "discretionary expenses, such as payments for family holidays following the release of detainees", or otherwise do not appear to be reasonable, these are not compensable in accordance with the Panel's earlier determinations. 68/

109. The Panel adopts the above findings and applies them to the claims under review. Its recommendations are set forth in annex II.

3. Protective measures

110. Two claimants which were operating in Saudi Arabia seek to recover the costs incurred in respect of security and protective measures. The claimants seek compensation for the costs of providing, inter alia, gas masks, medical kits, drinking water and food supplies to their employees.

111. The Panel has previously determined that the costs of reasonable protective measures designed to protect the lives of employees located in a compensable area (for example, the purchase of gas masks) are compensable in principle. 69/ The Panel notes that certain equipment will have retained a residual value after the cessation of hostilities. Accordingly, the Panel makes an adjustment to a recommended award, where appropriate, to reflect such residual value. The Panel reiterates this finding and applies it to the claims under review. Its recommendations are set forth in annex II.

4. Personal property reimbursement

112. Certain claimants seek compensation in respect of payments made to employees to reimburse them for the loss of personal property that was left behind due to their sudden departure from Iraq and Kuwait. In some cases, payments were made pursuant to contractual obligations; in most, they were not contractually required.

113. The Panel refers to the finding in its E2(3) report that payments made as reimbursement to employees for loss of personal property are compensable in principle, "where [they] were made pursuant to legal obligations or otherwise appear justified and reasonable under the circumstances". 70/ The Panel adopts this finding and applies it to the claims under review. Its recommendations are set forth in annex II.

F. Loss of tangible property

114. Claims are submitted for the loss of or damage to a wide variety of tangible assets, ranging from household and office furniture to armoured vehicles and telecommunications equipment.

115. In most cases, the tangible property in question was located in Iraq or Kuwait and was under the control of the claimant immediately prior to Iraq's invasion and occupation of Kuwait. However, two claimants assert the loss of equipment leased to Kuwaiti and Iraqi entities. These two claimants also seek compensation for the loss of profit arising from the non-payment of rental for the leased equipment. 71/

116. The Panel recalls its earlier determination that claims for lost tangible property are compensable in principle if the record shows that the claimant's assets were in Kuwait or Iraq as of 2 August 1990 and such assets were lost or destroyed during Iraq's invasion and occupation of Kuwait. 72/ The Panel also recalls that, with respect to claims for the loss of cash, a high level of scrutiny is applied because of the greater potential for fraudulent claims. 73/

117. Where the claim for loss of tangible property also includes a claim for loss of profit based on a lease of such property, the Panel values these claims together, in the manner set forth at paragraph 59 above.

118. The Panel adopts these findings and applies them to the claims under review. Its recommendations are set forth in annex II.

G. Loss of funds in bank accounts

119. Two claimants seek compensation for funds held in bank accounts in Iraq. In both cases, the funds were to be applied to meet the claimant's business expenses in Iraq.

120. The Panel applies the findings in its previous reports that claims for funds held in Iraqi bank accounts are compensable if the claimant had a reasonable expectation that it could transfer the funds outside Iraq, but such claims are not compensable if the funds were not exchangeable for foreign currency. 74/ As the claims under review relate to funds that were to be applied to local expenses and, therefore, there was no reasonable expectation that they would be transferred outside Iraq, no compensation is recommended.

H. Loss of use of real property

121. Claimants seek compensation for the loss of advance rental payments made in respect of premises in Kuwait and Saudi Arabia that could not be occupied because of Iraq's invasion and occupation of Kuwait.

122. As determined by the Panel in its previous reports, advance rental payments in the case of businesses are best considered within a loss of profits claim. 75/ In some instances, however, as is the case with the claims presently under review, it is not possible to value a claim for advance rental payments as an element of a loss of profits claim because of the manner in which the claims are presented (for example, the claimant has not also submitted a claim for lost profit). The Panel, in such cases, considers that the advance payment of rent created an entitlement to the use of an asset and, to the extent that the claimant's inability to receive the "benefit of the amounts paid in rent during the relevant period was the direct result of Iraq's invasion and occupation" the claims for advance rental payments are compensable in principle. 76/ The Panel's recommendations with respect to such claims are set forth in annex II.

I. Loss of income-producing property

123. Two claimants seek compensation for the cessation of their entire business operations as a result, they state, of Iraq's invasion and occupation of Kuwait. One claim relates to a business in Kuwait which, the claimant asserts, could not be resumed after the liberation of that

country. The claimant seeks the profits that it allegedly would have earned had not Iraq's invasion and occupation of Kuwait interrupted its business operations. The other claim is in respect of a branch office in Baghdad that was closed after Iraq's invasion and occupation of Kuwait.

124. The Panel finds that each claimant failed to present sufficient evidence, in particular underlying documents such as financial statements and accounts that it maintained contemporaneously, in support of its claim. Consequently, the Panel does not recommend compensation in respect of these claims.

IV. INCIDENTAL ISSUES

A. Date of loss

125. The Panel must determine "the date the loss occurred" for the purpose of determining the appropriate exchange rate to be applied to losses stated in currencies other than in United States dollars, and with respect to the awarding of interest at a later date in accordance with Governing Council decision 16. The Panel is guided by its findings in its previous four reports, as well as the findings of other Panels. The date when the loss occurred depends most significantly on the character of the loss, and the following paragraphs address each loss type in turn.

126. With respect to the claims based on contract losses in this instalment, the Panel notes that the date of loss for each contract normally would depend on the facts and circumstances surrounding the non-performance of the contract. 77/ However, given the large number of contracts before the Commission and the significance of one event (i.e., Iraq's invasion of Kuwait) on contractual relations, the Panel finds, as it did in its E2(3) report, that 2 August 1990 represents an appropriate and administrable date of loss for the contract claims now under consideration.78/

127. With respect to claims for a decline in business or course of dealing leading to loss of profits or claims for increased costs, the Panel notes that such losses in this instalment were suffered over extended periods of time rather than at a particular moment or at particular moments. Given these circumstances, the Panel selects the mid-point of the relevant compensable period (including potential relevant primary or secondary periods, as the case may be) during which the particular loss occurred as the date of loss. 79/ For the same reasons, the Panel selects the mid-point of the relevant compensable period (including relevant primary and secondary compensable periods) for the decline in revenue claims submitted by ministries of telecommunications and State telecommunications corporations.

128. With respect to claims for payment or relief to others, including evacuation costs, the Panel notes that such losses likewise have been incurred throughout the compensable period applicable to the geographic area for which the costs were incurred and, therefore, the Panel selects

the mid-point of the compensable period as the date of loss for costs of this nature. 80/

129. With respect to claims for loss of tangible assets, the Panel selects 2 August 1990 as the date of loss as that date generally coincides with the claimant's loss of control over the assets in question in this instalment.81/

130. Similarly, with respect to claims for loss of use of real property, in the present instalment, claimants have normally lost the ability to use property for which they had contracted and paid rent at 2 August 1990 and, accordingly, the Panel adopts this as the date of loss for such claims.

B. Currency exchange rate

131. Many of the claimants have advanced claims in currencies other than United States dollars. The Panel assesses all such claims and performs all claim calculations in the original currencies of the claims. Since the Commission issues its awards in United States dollars, the Panel must determine the appropriate rate of exchange to be applied to claims where the losses are alleged in other currencies. The Panel is guided by its previous findings, and by the views of other Panels. Particular rules are established for Kuwaiti dinars, set forth in paragraph 138 below, and for the conversion of Gold francs ("XFO") and Special Drawing Rights ("SDRs"), set forth at paragraph 139 below.

132. Noting that all prior Commission compensation awards have looked to the United Nations Monthly Bulletin of Statistics (the "UN Monthly Bulletin") for determining commercial exchange rates into United States dollars, the Panel adopts that source for the data to be utilized in exchange rate calculations. The Panel notes that the UN Monthly Bulletin provides a monthly figure for each currency which reflects the average exchange rate for that currency for the last day of the month in question.

133. For claims based on contract losses in this instalment, the Panel, noting that the date of loss set forth in paragraph 126 above for such claims is 2 August 1990, adopts the last available exchange rate unaffected by Iraq's invasion and occupation of Kuwait, as reported in the UN Monthly Bulletin.

134. For claims for decline in business or course of dealing leading to loss of profits and claims for increased costs (excluding those claims for

decline in revenue submitted by Ministries of telecommunications and State telecommunications agencies, which are addressed in paragraph 139 below), the Panel finds that the appropriate rate will be the average of the rates reported in the UN Monthly Bulletin for the months over which the particular claimant is compensated. 82/

135. For claims for payment or relief to others within this instalment, including evacuation costs and security measures, the Panel, noting that the date of loss set forth in paragraph 128 above for such claims is the mid-point of the compensable period, finds, determines that the appropriate rate will be the rate reported in the UN Monthly Bulletin for the month in which that mid-point falls. 83/

136. For claims for the loss of tangible assets, the Panel, noting that the date of loss set forth in paragraph 129 above for such claims is 2 August 1990, adopts the last available exchange rate unaffected by Iraq's invasion and occupation of Kuwait, as reported in the UN Monthly Bulletin.

137. For claims for the loss of real property, the Panel, noting that the date of loss set forth at paragraph 130 above is 2 August 1990, adopts the last available exchange rate unaffected by Iraq's invasion and occupation of Kuwait, as reported in the UN Monthly Bulletin.

138. The above rules apply to claims stated in currencies other than the Kuwaiti dinar. For claims denominated in Kuwaiti dinars, the Panel, noting the extreme fluctuation in the value of that currency during the period of occupation of Kuwait and the earlier findings of this and other Panels, adopts the rate of exchange for 2 August 1990, namely the last available exchange rate unaffected by Iraq's invasion and occupation of Kuwait, as reported in the UN Monthly Bulletin. 84/

139. The Panel observes that it is the established practice of the international telecommunications industry for States to conclude bilateral agreements on the rates that shall apply between them for the provision of telecommunications services. As provided in the International Telecommunications Regulations ("the Regulations"), such rates are typically stated in Gold francs and SDRs. 85/ The Panel assesses the claims for decline in revenue submitted by State telecommunications administrations in the currency applicable to the individual claim; either the Gold franc or SDR. Where the Gold franc is applicable, the Gold franc is converted to the SDR by application of the standard exchange rate provided in the Regulations, that is, 3.061 XFO : 1 SDR. 86/ To convert

SDRs into United States dollars, the Panel applies the rates reported in the International Financial Statistics of the International Monetary Fund.

C. Interest

140. Governing Council decision 16 states that "[i]nterest will be awarded from the date the loss occurred until the date of payment, at a rate sufficient to compensate successful claimants for the loss of use of the principal amount of the award". The Governing Council further specified that it would consider the method of calculation and of payment of interest at a later date and that "[i]nterest will be paid after the principal amount of awards".

141. With respect to the awarding of interest in accordance with Governing Council decision 16, the Panel notes that the dates of loss defined in paragraphs 126 to 130 above may be relevant to the later choice of the dates from which interest will accrue for all compensable claims.

D. Claims preparation costs

142. In a letter dated 6 May 1998, the Executive Secretary of the Commission advised the Panel that the Governing Council intends to resolve the issue of claims preparation costs at a future date. Accordingly, the Panel takes no action with respect to claims for such costs.

V. RECOMMENDATIONS

143. Based on the foregoing, the Panel recommends that the amounts set out in annex II below, totalling USD 56,992,808, be paid in compensation for direct losses suffered by the claimants as a result of Iraq's unlawful invasion and occupation of Kuwait.

Geneva, 12 January 2001

(Signed) Mr. Bernard Audit
Chairman

(Signed) Mr. José María Abascal
Commissioner

(Signed) Mr. David D. Caron
Commissioner

Notes

1/ The claims reviewed have been filed by 27 Governments on behalf of claimant companies, and one claim was submitted directly by the claimant. The total claimed amount, excluding the value of three claims that were withdrawn by claimants after the commencement of the Panel's review, is USD 927,759,721. This figure includes amounts claimed for interest and claim preparation costs. As explained in paragraphs 140 to 142 of this report, the Governing Council will consider claims for these types of losses at a future date.

2/ See E2(5) report, paras. 12 and 59.

3/ E2(1) report, paras. 38-48.

4/ See, for example, E2(3) report, paras. 175-179 (verification procedures); 180-182 (general methodology); 198-199 (contract losses); 200-201 (evacuation costs); 202 (payment or relief to others); 203-207 (tangible property and cash). See also E2(2) report, paras. 146-152 (decline in business).

5/ See decision 7, para. 25 and decision 13 generally.

6/ E2(3) report, para. 181. See also E2(4) report, paras. 204-210; E2(6) report, paras. 14-15.

7/ E2(4) report, para. 207.

8/ Several claims are brought on behalf of governmental export credit guarantee agencies. If the claimant has demonstrated that it is under a legal obligation to pursue recovery on behalf of the agency, and this obligation has been acknowledged in a statement to the Commission by the relevant national authority, the Panel finds that the requirement of a mandate, as described in paragraph 13, is met. Such information was passed to the category "E/F" Panel to avoid duplicate compensation to export credit guarantee agencies with claims pending before that Panel.

9/ E2(2) report, para. 78.

10/ E2(3) report, para. 103.

11/ E2(3) report, para. 105. The Panel also concluded that "[a] mere showing of past earnings from operations to locations in the compensable area will be insufficient to establish a course of dealing giving rise to compensable losses".

12/ In addition, most expatriate workers, including those who had used the telecommunications facilities and those who had maintained them, departed Kuwait during the period of the occupation. In the months following the invasion, Kuwait's population is estimated to have decreased

to nearly 492,000 persons (from a pre-invasion population of approximately 2,142,6000), with at least 50% of Kuwaiti nationals and over 90% of the expatriate population leaving the country. Available statistics indicate that 500,000 Egyptians and 350,000 Jordanians departed Iraq and Kuwait after 2 August 1990. Reports further indicate that approximately 50,000 Syrian and 5,000 Turkish nationals left Iraq. See C(1) report, S/AC.26/1994/3, pp. 59-65 (describing, inter alia, the departure of people from Iraq and Kuwait after 2 August 1990).

13/ An inspection of telecommunication facilities after the liberation of Kuwait "indicated widespread disruption in the system and considerable harm to its physical infrastructure". Report to the Secretary-General by a United Nations mission, led by Mr. Abdulrahim A. Farah, former Under-Secretary General, assessing the scope and nature of damage inflicted on Kuwait's infrastructure during the Iraqi occupation of the country from 2 August 1990 to 27 February 1991, S/22535, 26 April 1991, at para. 350.

14/ A(1) report, page 10.

15/ E3(1) report, para. 65, 121, with reference to the departure of Turkish workers from Iraq. See also Egyptian Workers' Claims report, para. 102. Egypt was notably at the forefront of condemnation of Iraq's unlawful invasion of Kuwait, voting for a resolution condemning Iraq's invasion of Kuwait at an Extraordinary Session of the Council of the Arab League held in Cairo on 2 August 1990, and for a resolution adopted at an Extraordinary Arab Summit convened on 10 August 1990, which provided for the establishment of a multinational Arab force to confront Iraq. See, generally, Lawrence Freedman & Efraim Karsh, The Gulf Conflict (1994), p. 99.

16/ It is reported that the Allied Coalition Forces believed that up to 60% of Iraq's military communications passed through the civilian network. See also Lawrence Freedman & Efraim Karsh, The Gulf Conflict (1994), p. 324. A United Nations mission to Iraq in March 1991 confirmed that "all internal and external telephone systems had been destroyed, with the exception of a limited local exchange in one town. ... Communication in Iraq is now on a person-to-person basis, as mail services have also disintegrated." Report to the Secretary-General on humanitarian needs in Kuwait and Iraq in the immediate post-crisis environment by a mission to the area led by Mr. Martti Ahtisaari, Under-Secretary General for Administration and Management, S/22366, 20 March 1991, at para. 34.

17/ See E2(1) report, para. 247 and E2(2) report, para. 79.

18/ "Transport & Communications", Economist Intelligence Unit, EIU Country Profiles, Kuwait, 1 November 1993. Cf. "Privatisation of some Kuwaiti communication services authorised", Moneyclips, 6 July 1992.

19/ See, for example, Mideast Mirror, 27 September 1993, stating "the Arab press reports Wednesday that Iraq has announced the completion of

work to rebuild a civilian satellite telecommunications facility north of Baghdad that was destroyed by allied bombing during the war".

20/ The Panel has previously applied such an approach, as appropriate, to claims for decline in revenue by claimants engaged in tourism, air transportation and a variety of other businesses. See E2(2) report, paras. 146-152 and E2(3) report, paras. 183-191.

21/ Although a portion of constant investment in infrastructure made by any telecommunications provider could be attributed to a particular stream of income, there is no indication that any of the claimants reduced such infrastructure investment as a result of this decline in traffic.

22/ See paragraphs 47 and 49. Awards for unpaid receivables are taken into consideration when decline in revenue awards are also made to avoid multiple compensation for the same loss, as noted in paragraph 39.

23/ E2(4) report, paras. 117-119; E2(6) report, para. 42. See para. 49 below.

24/ Governing Council decision 9, para. 6. See also decision 7, para. 9 and decision 15.

25/ In respect of claims by State telecommunications agencies for decline in revenue, a recovery period from 2 March to 2 August 1991 applies (see paragraph 28 above). In respect of unpaid receivables due from Iraqi parties, including those owed to State telecommunications agencies, the Panel has applied a compensation period running to 2 August 1991 (see paragraphs 39 and 49 above).

26/ In respect of claims by State telecommunications agencies for decline in revenue, a recovery period from 2 March to 2 August 1991 applies (see paragraph 28 above).

27/ The Panel notes that losses that are specifically demonstrated to result from other circumstances and events identified as giving rise to direct losses under paragraph 21 of Governing Council decision 7 may also be compensable in principle.

28/ E2(1) report, para. 90. Paragraph 16 of Security Council resolution 687 (1991) excludes from the jurisdiction of the Commission the "debts and obligations of Iraq arising prior to 2 August 1990".

29/ E2(1) report, paras. 81-96.

30/ E2(4) report, paras. 92-96, 98. For the compensability of claims by paying banks relating to unpaid letters of credit, see E2(5) report, paras. 57-58.

31/ E2(4) report, paras. 117-118; E2(6) report, para. 42. Governing Council decision 9, paragraph 6, provides that "[c]ompensation will be provided to the extent that Iraq's unlawful invasion and occupation

of Kuwait constituted a cause of direct loss ... which is separate and distinct from the trade embargo and related measures". See also E2(4) report, paras. 110-111.

32/ E2(4) report, para. 118; E2(6) report, para. 42.

33/ E2(4) report, para. 119; E2(6) report, para. 42.

34/ E2(1) report, para. 118.

35/ E2(4) report, para. 125.

36/ Decision 9, para. 6; Decision 15, para. 9(IV).

37/ E2(4) report, para. 202(a).

38/ E2(4) report, para. 202(a).

39/ E2(4) report, para. 203(b).

40/ See also E2(1) report, para. 124; E2(3) report, para. 114.

41/ E2(1) report, para. 145, note 56. See also E2(6) report, para. 85.

42/ See para. 129.

43/ E2(5) report, paras. 29-30; 55-59.

44/ See paragraph 48. Similar principles, applicable to claims submitted by exporters based upon unpaid letters of credit, are set forth at paragraphs 91-96 of the E2(4) report.

45/ E2(5) report, para. 29. As a result, goods financed by a letter of credit in respect of which the presentation of shipping documents took place on 2 May 1990 must have been shipped after 11 April 1990 in order for the claim to be within the Commission's jurisdiction.

46/ E2(1) report, para. 145. The Panel also observed:

"Adequate proof that a contracting party's inability to perform resulted from Iraq's invasion and occupation of Kuwait would include a showing that performance was no longer possible, for example because the contracting party, in the case of an individual, was killed, or in the case of a business, ceased to exist or was rendered bankrupt or insolvent, as a result of Iraq's invasion and occupation of Kuwait."

In its E2(5) report, the Panel determined that:

"it is not sufficient for a claimant merely to allege that the Kuwaiti party was adversely affected by Iraq's invasion and occupation. The claimant must provide specific evidence to demonstrate that the Kuwaiti party's inability to pay the debt was a direct result of Iraq's invasion and occupation of Kuwait" (E2(5) report, para. 75).

See also E2(2) report, para. 89; E2(3) report, para. 154.

47/ E2(1) report, para. 145.

48/ See paragraph 43.

49/ See E2(3) report, para. 199.

50/ See decision 9, para. 10.

51/ E2(3) report, para. 87.

52/ E2(4) report, paras. 161-162.

53/ E2(5) report, para. 128. See also E2(1) report, paras. 213-215, 237-238.

54/ E2(5) report, para. 128, referring to E2(3) report, para. 161.

55/ E2(3) report, para. 100.

56/ E2(6) report, para. 60.

57/ E2(4) report, paras. 145-147; E2(6) report, para. 60.

58/ F2(2) report, para. 40. See also F3(2) report, para. 15.

Decision 19 provides that "the costs of the Allied Coalition Forces, including those of military operations against Iraq, are not eligible for compensation".

59/ E2(2) report, para. 78; E2(3) report, para. 101; E2(5) report, para. 114.

60/ See E2(5) report, para. 140 and E2(1) report, para. 239.

61/ E2(3) report, para. 82, citing E2(2) report, para. 60 and F1(1.1) report, paras. 94-96. See also E2(5) report, para. 147-148.

62/ E2(3) report, para. 83.

63/ See E2(3) report, para. 79, citing E3(1) report, paras. 177-178.

64/ Paragraph 21(e) of decision 7 provides that any loss suffered as a result of "[h]ostage-taking or other illegal detention" is a direct result of Iraq's invasion and occupation of Kuwait. See also E3(4) report, paras. 772 and 775-776, in which the "E3A" Panel recommended an award of compensation for the "costs of sustaining" hostages.

65/ E2(3) report, para. 145.

66/ E2(3) report, para. 146.

67/ E2(3) report, para. 145.

68/ E2(3) report, para. 146.

69/ E2(3) report, para. 147; E2(5) report, para. 145.

70/ E2(3) report, para. 162; E2(5) report, para. 143. In addition, the Panel has instructed the secretariat to ascertain whether claims have been submitted before the Commission by employees in respect of the same losses. Where duplicate claims have been identified, these have been dealt with in accordance with the procedure described at paragraph 12.

71/ See paragraphs 59 and 75.

72/ E2(1) report, paras. 119-123; E2(3) report, para. 167; E2(5) report, para. 152. As stated by the "E2A" Panel, "[t]he claimant's ownership or interest in the property and the presence of the property in the compensable location at the time of Iraq's invasion and occupation of Kuwait must be verified". (E2(6) report, para. 130.)

73/ A high level of scrutiny is similarly applied with respect to valuation of such claims. See E2(3) report, para. 206; E4(1) report, para. 127.

74/ E2(1) report, paras. 136-140; E2(3) report, para. 169; E2(5) report, para. 103.

75/ E2(3) report, para. 158; E2(5) report, para. 136.

76/ E2(3) report, paras. 157-158; see also E2(1) report, para. 234.

77/ E2(3) report, para. 211.

78/ E2(3) report, para. 211.

79/ E2(3) report, paras. 209-210.

80/ E2(3) report, para. 212.

81/ E2(3) report, para. 213.

82/ E2(3) report, para. 216.

83/ E2(3) report, para. 218; F1(1.1) report, para. 101.

84/ E2(3) report, para. 220.

85/ ITU, Final Acts of the World Administrative Telegraph and Telephone Conference, Melbourne, 1988 (WATTC-88), International Telecommunications Regulations (Geneva, 1989), article 6.3.

86/ International Telecommunications Regulations, article 6.3.1.

Annex I

LIST OF REASONS STATED IN ANNEX II FOR DENIAL IN WHOLE OR IN PART OF THE CLAIMED AMOUNT

| <u>No.</u> | <u>REASON STATED IN ANNEX II</u> | <u>EXPLANATION</u> |
|------------|--|--|
| | COMPENSABILITY | |
| 1. | "Arising prior to" exclusion. | All or part of the claim is based on a debt or obligation of Iraq that arose prior to 2 August 1990 and is outside the jurisdiction of the Commission pursuant to resolution 687 (1991). |
| 2. | Part or all of loss is not direct. | The type of loss in whole or part, is in principle not a direct loss within the meaning of Security Council resolution 687 (1991). |
| 3. | Part or all of loss is outside compensable period. | All or part of the loss occurred outside the period of time during which the Panel has determined that a loss may be directly related to Iraq's invasion and occupation of Kuwait. |
| 4. | Part or all of loss is outside compensable area. | All or part of the loss occurred outside the geographical area within which the Panel has determined that a loss may be directly related to Iraq's invasion and occupation of Kuwait. |
| 5. | Part or all of claim is unsubstantiated. | The claimant has failed to file documentation substantiating its claim; or, where documents have been provided, these do not demonstrate the circumstances or amount of part or all of the claimed loss as required under article 35 of the Rules. |
| 6. | No proof of direct loss. | The claimant has failed to submit sufficient evidence to demonstrate that the loss was a direct result of the invasion and occupation of Kuwait. |
| 7. | No proof of actual loss. | The claimant has not established that any loss was suffered. |

| <u>No.</u> | <u>REASON STATED IN ANNEX II</u> | <u>EXPLANATION</u> |
|----------------------------|--|--|
| 8. | Failure to comply with formal filing requirements. | The claimant has failed to meet the formal requirements for the filing of claims as specified under article 14 of the UNCC Provisional Rules for Claims Procedure. |
| 9. | Non-compensable bank balance held in Iraq. | The claimant has not established that the funds were exchangeable for foreign currency and, accordingly, that it had a reasonable expectation that it could transfer the funds out of Iraq. |
| 10. | Trade embargo is sole cause. | The loss claimed was caused exclusively by the application of the trade embargo or related measures imposed by or in implementation of resolution 661 (1990) and other relevant resolutions. |
| 11. | Loss is not compensable under Governing Council decision 19. | The claim relates to costs in connection with operations of the Allied Coalition Forces. |
| VERIFICATION AND VALUATION | | |
| 12. | Part or all of loss is unsupported. | The claimant has failed to file documentation supporting the amount of the claimed loss; or, where documents have been provided, these do not support the amount of part or all of the claimed loss. |
| 13. | Calculated loss is less than loss alleged. | Applying the Panel's valuation methodology, the value of the claim was assessed to be less than that asserted by the claimant. |
| 14. | Insufficient evidence of value. | The claimant has produced insufficient evidence to prove all or part of the value of its losses, as required under article 35 of the Rules. |
| 15. | Failure to establish appropriate efforts to mitigate. | The claimant has not taken such measures as were reasonable in the circumstances to minimise the loss as required under paragraph 23 of Governing Council decision 9 and paragraph 9(IV) of decision 15. |

| <u>No.</u> | <u>REASON STATED IN ANNEX II</u> | <u>EXPLANATION</u> |
|---------------|---------------------------------------|---|
| 16. | Reduction to avoid multiple recovery. | Although the claim is found to be eligible, the Panel concludes that an award has already been made for the same loss in this or another claim before the Commission. Accordingly, the amount of compensation already awarded for this loss has been deducted from the compensation calculated for the present claim, in keeping with Governing Council decision 13, para. 3. |
| OTHER GROUNDS | | |
| 17. | Interest. | The issue of methods of calculation and of payment of interest will be considered by the Governing Council at the appropriate time pursuant to Governing Council decision 16. Moreover, where the Panel has recommended that no compensation be paid for the principal amounts claimed, a nil award is recommended for interest claimed on such principal amounts. |
| 18. | Principal sum not compensable. | Where the Panel has recommended that no compensation be paid for the principal amounts claimed, a nil award is recommended for interest claimed on such principal amounts. |
| 19. | Claim preparation costs. | The issue of claim preparation costs is to be resolved by the Governing Council at a future date. |

Annex II

RECOMMENDED AWARDS FOR THE SEVENTH INSTALMENT OF "E2" CLAIMS

| | <u>Submitting Entity</u> | <u>Claimant and UNCC claim no.</u> | <u>Total amount claimed, including permissible amendments a/</u> | | | <u>Reclassified amount d/</u> | | | | <u>Decision of the Panel of Commissioners e/</u> | | | | | |
|---|--------------------------|---|--|--|---------------------|-------------------------------|--|---|----------------------------------|--|------------------------|---|--|-----------------|---------|
| | | | <u>Amount claimed in original currency b/</u> | <u>Amount claimed restated in USD c/</u> | <u>Type of loss</u> | <u>Sub-category</u> | <u>Amount claimed in original currency</u> | <u>Amount recommended in original currency or loss f/</u> | <u>Amount recommended in USD</u> | <u>Reasons for denial or reduction of award</u> | <u>Report citation</u> | <u>Total of amount recommended in USD</u> | | | |
| 1 | Australia | Telstra Corporation Limited g/ 4000034 | AUD | 2,238,813 | 1,827,602 | Payment or relief to others | Evacuation and relocation costs: To London & Australia | AUD | 1,498,559 | AUD | 1,084,828 | 840,301 | Part or all of claim is unsubstantiated. Part or all of loss is not direct. No proof of direct loss. | Paras. 15, 102. | 991,161 |
| | | | | | | Payment or relief to others | Evacuation and relocation costs: To Jeddah | AUD | 740,254 | SAR | 564,970 | 150,860 | Part or all of claim is unsubstantiated. Part or all of loss is not direct. No proof of direct loss. | Paras. 15, 102. | |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | | Reclassified amount d/ | | | Decision of the Panel of Commissioners e/ | | | | | | |
|---|-------------------|---|---|------------|-----------------------------------|-----------------------------|--|-------------------------------------|---|--|------------|---------------------------|---|---------------------|------------------------------------|
| | | | Amount claimed in original currency b/ | | Amount claimed restated in USD c/ | Type of loss | Sub-category | Amount claimed in original currency | | Amount recommended in original currency or loss f/ | | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD |
| 2 | Australia | AWA Defence Industries Pty Limited [now known as BAE Systems Australia Ltd.] 4000035 | AUD | 416,509 | 340,007 | Payment or relief to others | Evacuation costs | AUD | 63,530 | AUD | 0 | 0 | Part or all of loss is unsupported. | Paras. 15, 100-102. | 0 |
| | | | | | | Contract | Interrupted service contract: Increased costs (Unproductive salary payments) | AUD | 310,164 | AUD | 0 | 0 | Part or all of loss is unsupported. | Paras. 15, 83. | |
| | | | | | | Payment or relief to others | Support costs: Accommodation and other costs for employees | AUD | 25,696 | AUD | 0 | 0 | Part or all of loss is unsupported. | Paras. 15, 106. | |
| | | | | | | Contract | Interrupted service contract: Increased costs (Increased insurance premiums) | AUD | 17,119 | AUD | 0 | 0 | Part or all of loss is unsupported. | Paras. 15, 83. | |
| 3 | Austria | Steyr-Daimler-Puch Spezialfahrzeug Aktiengesellschaft 4000111 | ATS | 36,488,061 | 3,317,700 | Other tangible property | Demonstration armoured vehicles | ATS | 36,488,061 | ATS | 25,964,508 | 2,307,956 | Calculated loss is less than loss alleged. | Paras. 116, 11. | 2,307,956 |
| 4 | Bahrain | Bahrain Kuwait Insurance Company 4005980 | KWD | 166,803 | 577,173 | Contract | Unpaid accounts receivable | KWD | 166,803 | KWD | 0 | 0 | Part or all of claim is unsubstantiated. Part of all of loss is not direct. | Paras. 15, 66. | 0 |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | | Reclassified amount d/ | | | | Decision of the Panel of Commissioners e/ | | | | | |
|---|-------------------|--|---|-----------------------------------|--------------|-----------------------------|---|--|---------------------------|---|-----------------|------------------------------------|--|---------------------|--------|
| | | | Amount claimed in original currency b/ | Amount claimed restated in USD c/ | Type of loss | Sub-category | Amount claimed in original currency | Amount recommended in original currency or currency of loss f/ | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD | | | |
| 5 | Belgium | Upjohn NV [now known as Pharmacia & Upjohn NV/SA] 4000188 | USD | 7,748,111 | 7,748,111 | Contract | Goods lost or destroyed in transit: Value of goods shipped | USD | 67,155 | USD | 67,155 | 67,155 | N/A | | 67,155 |
| | | | | | | Contract | Goods shipped, received but not paid for: Value of goods shipped | USD | 120,323 | USD | 0 | 0 | No proof of direct loss. | Paras. 15, 66. | |
| | | | | | | Contract | Interrupted contract: Goods manufactured but not delivered (Value of goods) | USD | 572,650 | USD | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 15, 71-72. | |
| | | | | | | Other tangible property | Vehicles | USD | 13,103 | USD | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 15, 116. | |
| | | | | | | Payment or relief to others | Evacuation costs | USD | 148,927 | USD | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 15, 100-102. | |
| | | | | | | Contract | Goods shipped, received but not paid for: Value of goods shipped | USD | 6,785,692 | USD | 0 | 0 | "Arising prior to" exclusion. | Para. 47. | |
| | | | | | | Payment or relief to others | Evacuation costs | USD | 40,261 | USD | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 15, 100-102. | |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | | Reclassified amount d/ | | | Decision of the Panel of Commissioners e/ | | | | | | |
|---|--------------------|---|---|-----------------------------------|-------------|------------------------|---|-------------------------------------|--|---------------------------|--|-----------------|--|----------------|---|
| | | | Amount claimed in original currency b/ | Amount claimed restated in USD c/ | | Type of loss | Sub-category | Amount claimed in original currency | Amount recommended in original currency or currency of loss f/ | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD | | |
| 6 | Bosnia-Herzegovina | Unis-Promex - Shareholding Company in Sarajevo 4000090 | USD | 120,943,233 | 120,943,233 | Contract | Goods and services provided but not paid for: Value of goods and services | USD | 100,505,909 | USD | 0 | 0 | "Arising prior to" exclusion. | Para. 47. | 0 |
| | | | | | | Contract | Goods and services provided but not paid for: Value of goods and services | USD | 520,594 | USD | 0 | 0 | No proof of actual loss. | Paras. 43, 47. | |
| | | | | | | Contract | Goods and services provided but not paid for: Value of goods and services | USD | 7,548 | USD | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 15, 47. | |
| | | | | | | Contract | Contract interest | USD | 19,206,982 | USD | 0 | 0 | "Arising prior to" exclusion. | Para. 47. | |
| | | | | | | Interest | | USD | 703,200 | USD | 0 | 0 | Principal sum not compensable | | |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | Reclassified amount d/ | | | Decision of the Panel of Commissioners e/ | | | | | | | |
|---|--------------------|-----------------------------|---|-----------------------------------|-------------------------|--|--|--|---------------------------|--|-----------------|---|-------------------------------|-----------|---------|
| | | | Amount claimed in original currency b/ | Amount claimed restated in USD c/ | Type of loss | Sub-category | Amount claimed in original currency | Amount recommended in original currency or loss f/ | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD | | | |
| 7 | Bosnia-Herzegovina | Zrak-Holding 4000093 | USD | 19,037,970 | 19,037,970 | Contract | Project contract performed but not paid for: Value of services | USD | 3,354,915 | USD | 0 | 0 | "Arising prior to" exclusion. | Para. 47. | 285,403 |
| | | | | | Contract | Services provided but not paid for: Contract interest | USD | 3,029,325 | USD | 0 | 0 | "Arising prior to" exclusion. | Para. 47. | | |
| | | | | | Contract | Goods shipped, received but not paid for: Value of goods shipped | USD | 9,522,101 | USD | 0 | 0 | "Arising prior to" exclusion. | Para. 47. | | |
| | | | | | Contract | Services provided but not paid for: Value of services | USD | 1,386,796 | USD | 19,894 | 19,894 | "Arising prior to" exclusion. Part or all of loss is not direct. | Paras. 47, 49. | | |
| | | | | | Contract | Services provided but not paid for: Contract interest | USD | 63,591 | USD | 0 | 0 | Part or all of loss is unsupported. | Paras. 15, 47. | | |
| | | | | | Other tangible property | Loss of use of bank balance | USD | 107,486 | USD | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 15, 120. | | |
| | | | | | Contract | Services provided but not paid for: Value of services | USD | 1,451,315 | USD | 265,509 | 265,509 | "Arising prior to" exclusion. Part or all of loss is not direct. Part or all loss is unsupported. | Paras. 47, 15. | | |
| | | | | | Contract | Services provided but not paid for: Contract interest | USD | 122,439 | USD | 0 | 0 | Part or all of loss is unsupported. | Paras. 15, 47. | | |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | | Reclassified amount d/ | | | | Decision of the Panel of Commissioners e/ | | | | | |
|---|-------------------|---|---|-----------------------------------|--------------|------------------------|---|--|---------------------------|---|-----------------|------------------------------------|--|-------------------|---|
| | | | Amount claimed in original currency b/ | Amount claimed restated in USD c/ | Type of loss | Sub-category | Amount claimed in original currency | Amount recommended in original currency or loss f/ | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD | | | |
| 8 | Bulgaria | STN - Systems for Telecommunications & Networks Ltd. 4000032 | USD | 555,300 | 555,300 | Contract | Interrupted project/turnkey contract: Value of services rendered | USD | 24,000 | USD | 0 | 0 | "Arising prior to" exclusion. | Paras. 47, 53. | 0 |
| | | | | | | Contract | Interrupted project/turnkey contract: Value of goods partially manufactured but not delivered | USD | 298,300 | USD | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 15, 54-55. | |
| | | | | | | Contract | Interrupted project/turnkey contract: Actual costs incurred | USD | 21,000 | USD | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 15, 54-55. | |
| | | | | | | Contract | Interrupted project/turnkey contract: Loss of profit | USD | 210,000 | USD | 0 | 0 | Part of all of claim is unsubstantiated. | Paras. 15, 54-55. | |
| 9 | Egypt | General Egyptian Book Organization 4002673 | USD | 31,687 | 31,687 | Contract | Goods shipped, received but not paid for: Value of goods shipped | USD | 13,618 | USD | 0 | 0 | "Arising prior to" exclusion. | Para. 47. | 0 |
| | | | | | | Interest | | USD | 18,069 | USD | 0 | 0 | Principal sum not compensable. | | |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | | Reclassified amount d/ | | | | Decision of the Panel of Commissioners e/ | | | | | |
|----|-------------------|--|---|-----------------------------------|--------------|------------------------------------|--|--|---------------------------|---|-----------------|------------------------------------|--|-----------------|---------|
| | | | Amount claimed in original currency b/ | Amount claimed restated in USD c/ | Type of loss | Sub-category | Amount claimed in original currency | Amount recommended in original currency or currency of loss f/ | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD | | | |
| 10 | Egypt | International Publishing and Distribution House 4002674 | USD | 1,998,352 | 1,998,352 | Contract | Goods shipped, received but not paid for: Contract price | USD | 2,525 | EGP | 0 | 0 | "Arising prior to" exclusion. | Para. 47. | 331,791 |
| | | | | | | Contract | Services provided but not paid for: Copyright | USD | 21,250 | EGP | 0 | 0 | "Arising prior to" exclusion. | Para. 47. | |
| | | | | | | Contract | Goods shipped, received but not paid for: Contract price | USD | 19,186 | USD | 0 | 0 | "Arising prior to" exclusion. | Para. 47. | |
| | | | | | | Contract | Goods shipped, received but not paid for: Contract price | USD | 4,450 | USD | 0 | 0 | "Arising prior to" exclusion. | Para. 47. | |
| | | | | | | Interest | | USD | 28,636 | USD | 0 | 0 | Principal sum not compensable. | | |
| | | | | | | Other tangible property | Furniture | USD | 13,567 | USD | 8,140 | 8,140 | Part or all of loss is unsupported. Calculated loss is less than loss alleged. | Paras. 15, 116. | |
| | | | | | | Business loss or course of dealing | Decline in business: Actual costs incurred | USD | 23,800 | USD | 0 | 0 | Part or all of loss is unsupported. | Para. 15. | |
| | | | | | | Other tangible property | Inventory | USD | 679,410 | USD | 323,651 | 323,651 | Insufficient evidence of value. | Paras. 15, 116. | |
| | | | | | | Contract | Goods shipped, received but not paid for: Contract price | USD | 63,211 | USD | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 15, 66. | |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | Reclassified amount d/ | | | Decision of the Panel of Commissioners e/ | | | | | | |
|----|-------------------|---|---|-----------------------------------|------------------------------------|--|-------------------------------------|--|---------------------------|--|-------------------|--|-----------------|--|
| | | | Amount claimed in original currency b/ | Amount claimed restated in USD c/ | Type of loss | Sub-category | Amount claimed in original currency | Amount recommended in original currency or loss f/ | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD | | |
| 10 | Egypt | International Publishing and Distribution House (continued) 4002674 | | | Business loss or course of dealing | Increased costs: "Insurances and guarantees" | USD | 15,025 | USD | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 15, 73. | |
| | | | | | Other tangible property | Cash | USD | 1,860 | USD | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 15, 116. | |
| | | | | | Real Property | Prepaid rental costs | USD | 1,836 | USD | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 15, 122. | |
| | | | | | Business loss or course of dealing | Increased costs: Salary payments | USD | 5,848 | USD | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 15, 96. | |
| | | | | | Business loss or course of dealing | Decline in business: Loss of profit | USD | 393,784 | USD | 0 | 0 | Part or all of claim is unsubstantiated. Insufficient evidence of value. | Para. 124. | |
| | | | | | Interest | | USD | 723,860 | USD | Awaiting decision | Awaiting decision | To be determined per Governing Council decision 16. | Paras. 140-141. | |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | | Reclassified amount d/ | | | | Decision of the Panel of Commissioners e/ | | | | | |
|----|-------------------|---|---|-----------------------------------|--------------|------------------------|--|--|---------------------------|---|-------------------|------------------------------------|--|-----------------|--------|
| | | | Amount claimed in original currency b/ | Amount claimed restated in USD c/ | Type of loss | Sub-category | Amount claimed in original currency | Amount recommended in original currency or loss f/ | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD | | | |
| 11 | Egypt | Dar El-Hilal Establishment 4002826 | USD | 95,684 | 95,684 | Contract | Goods shipped, received but not paid for: Value of goods shipped | USD | 44,006 | USD | 35,094 | 35,094 | Calculated loss is less than loss alleged. "Arising prior to" exclusion. | Paras. 11, 47. | 35,094 |
| | | | | | | Interest | | USD | 51,678 | USD | Awaiting decision | Awaiting decision | To be determined per Governing Council decision 16. | Paras. 140-141. | |
| 12 | Egypt | General Egyptian Book Organization 4002872 | USD | 6,395 | 6,395 | Contract | Goods shipped, received but not paid for: Value of goods shipped | USD | 3,987 | USD | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 15, 66. | 0 |
| | | | | | | Contract | Goods shipped, received but not paid for: Financing costs | USD | 2,408 | USD | 0 | 0 | Part or all of claim is unsubstantiated. | Para. 15. | |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | | Reclassified amount d/ | | | Decision of the Panel of Commissioners e/ | | | | | | |
|----|-------------------|--|---|-----------------------------------|------------------------------------|---|--|--|---|--|-------------------|---|--|----------------|-----------|
| | | | Amount claimed in original currency b/ | Amount claimed restated in USD c/ | Type of loss | Sub-category | Amount claimed in original currency | Amount recommended in original currency or loss f/ | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD | | | |
| 13 | Egypt | ARENTO: Arab Republic of Egypt National Telecommunications Organization 4002953 | USD | 52,731,473 | 52,731,473 | Business loss or course of dealing | Course of dealing: Unpaid accounts receivable (Telecommunication exchanges with Iraq 1984 to 1992) | USD | 13,956,270 | SDR | 1,127,314 | 1,596,762 | Part or all of loss is outside compensable period. "Arising prior to" exclusion. | Paras. 39, 47. | 9,705,092 |
| | | | | | Business loss or course of dealing | Course of dealing: Loss of revenue (Telecommunication exchanges with Iraq 2 Aug 90 to 1 Mar 91) | USD | 4,748,571 | SDR | 1,430,931 | 2,026,814 | Part or all of loss is unsupported. | Paras. 29-31, 15. | | |
| | | | | | Business loss or course of dealing | Course of dealing: Loss of revenue (Local revenue switching to Iraq 2 Aug 90 to 1 Mar 91) | USD | 294,028 | SDR | 0 | 0 | Part of all of claim is unsubstantiated. | Paras. 29-31, 15. | | |
| | | | | | Business loss or course of dealing | Course of dealing: Loss of revenue (Telecommunication exchanges with Kuwait 2 Aug 90 to 1 Mar 91) | USD | 8,540,815 | SDR | 4,293,550 | 6,081,516 | Part or all of loss is unsupported. | Paras. 29-31, 15. | | |
| | | | | | Business loss or course of dealing | Course of dealing: Loss of revenue (Local revenue switching to Kuwait 2 Aug 90 to 1 Mar 91) | USD | 2,774,561 | EGP | 0 | 0 | Part of all of claim is unsubstantiated. | Paras. 29-31, 15. | | |
| | | | | | Interest | | USD | 22,417,228 | USD | Awaiting decision | Awaiting decision | To be determined per Governing Council decision 16. | Paras. 140-141. | | |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | Reclassified amount d/ | | | | Decision of the Panel of Commissioners e/ | | | | | | |
|----|-------------------|----------------------------------|---|-----------------------------------|------------------------|--|--|--|---|--|-----------------|------------------------------------|---|-------------------|---------|
| | | | Amount claimed in original currency b/ | Amount claimed restated in USD c/ | Type of loss | Sub-category | Amount claimed in original currency | Amount recommended in original currency or currency of loss f/ | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD | | | |
| 14 | Finland | Nokia Cables Ltd. 4000515 | USD | 13,066,493 | 13,066,493 | Contract | Goods shipped, received but not paid for: Contract price | USD | 6,595,286 | USD | 131,706 | 131,706 | "Arising prior to" exclusion. Part or all of loss is not direct. Calculated loss is less than loss alleged. | Paras. 47-49, 11. | 303,405 |
| | | | | | Contract | Interrupted contract: Goods partially manufactured but not delivered (Value of obsolete raw materials) | USD | 171,699 | FIM | 736,503 | 171,699 | No proof of direct loss. | Paras. 54-55. | | |
| | | | | | Contract | Interrupted contract: Goods partially manufactured but not delivered (Loss of profit) | USD | 6,299,508 | USD | 0 | 0 | Part or all of loss is not direct. | Paras. 54-55. | | |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | Reclassified amount d/ | | | | Decision of the Panel of Commissioners e/ | | | | | | |
|----|-------------------|--------------------------------|---|-----------------------------------|------------------------|--------------|---|--|---|--|-----------------|------------------------------------|--|--------------------|---------|
| | | | Amount claimed in original currency b/ | Amount claimed restated in USD c/ | Type of loss | Sub-category | Amount claimed in original currency | Amount recommended in original currency or loss f/ | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD | | | |
| 15 | Finland | Nokia - Mallefer OY 4000790 | CHF | 3,514,637 | 2,720,307 | Contract | Interrupted project/turnkey contract: Goods lost or destroyed in transit (Contract price) | CHF | 447,490 | CHF | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 15, 79. | 112,578 |
| | | | | | | Contract | Interrupted project/turnkey contract: Loss of profit | CHF | 677,320 | CHF | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 71-72. | |
| | | | | | | Contract | Contract delay interest | CHF | 452,612 | CHF | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 15, 71, 73. | |
| | | | | | | Contract | Contract delay interest | CHF | 857,114 | CHF | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 15, 71, 73. | |
| | | | | | | Contract | Interrupted project/turnkey contract: Increased costs (Transportation and storage) | CHF | 167,701 | CHF | 152,431 | 112,578 | Part or all of loss is unsupported. | Paras. 71, 73. | |
| | | | | | | Contract | Interrupted project/turnkey contract: Increased costs (Unproductive salary payments) | CHF | 912,400 | CHF | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 71, 74. | |

| | <u>Submitting Entity</u> | <u>Claimant and UNCC claim no.</u> | <u>Total amount claimed, including permissible amendments a/</u> | | | <u>Reclassified amount d/</u> | | | | <u>Decision of the Panel of Commissioners e/</u> | | | | | |
|----|--------------------------|------------------------------------|--|--|---------------------|------------------------------------|--|---|----------------------------------|--|------------------------|---|-------------------------------------|-------------------|---|
| | | | <u>Amount claimed in original currency b/</u> | <u>Amount claimed restated in USD c/</u> | <u>Type of loss</u> | <u>Sub-category</u> | <u>Amount claimed in original currency</u> | <u>Amount recommended in original currency or currency of loss f/</u> | <u>Amount recommended in USD</u> | <u>Reasons for denial or reduction of award</u> | <u>Report citation</u> | <u>Total of amount recommended in USD</u> | | | |
| 16 | France | Orient Plus 4001745 | FRF | 3,246,346 | 619,295 | Business loss or course of dealing | Course of dealing: Loss of profit | FRF | 148,247 | FRF | 0 | 0 | Part or all of loss is not direct. | Paras. 91-92. | 0 |
| | | | | | | Business loss or course of dealing | Course of dealing: Loss of profit | FRF | 239,621 | FRF | 0 | 0 | Part or all of loss is not direct. | Paras. 91-92. | |
| | | | | | | Business loss or course of dealing | Course of dealing: Loss of profit | FRF | 334,478 | FRF | 0 | 0 | Part or all of loss is not direct. | Paras. 91-92. | |
| | | | | | | Business loss or course of dealing | Course of dealing: Loss of profit | FRF | 69,000 | FRF | 0 | 0 | Part or all of loss is not direct. | Paras. 91-92. | |
| | | | | | | Business loss or course of dealing | Course of dealing: Loss of profit | FRF | 2,455,000 | FRF | 0 | 0 | Part or all of loss is unsupported. | Paras. 15, 91-92. | |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | | Reclassified amount d/ | | | | Decision of the Panel of Commissioners e/ | | | | | |
|----|-------------------|---|---|-----------|-----------------------------------|-------------------------|---|-------------------------------------|-----------|--|-----------|---------------------------|---|--------------------|------------------------------------|
| | | | Amount claimed in original currency b/ | | Amount claimed restated in USD c/ | Type of loss | Sub-category | Amount claimed in original currency | | Amount recommended in original currency or currency of loss f/ | | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD |
| 17 | France | Pechiney Rhenalu 4001873 | FRF | 5,422,000 | 1,034,338 | Contract | Interrupted contract: Goods manufactured but not delivered (Value of goods) | FRF | 5,046,000 | FRF | 2,523,000 | 472,383 | Failure to establish appropriate efforts to mitigate. | Paras. 54, 57. | 491,388 |
| | | | | | | Contract | Interrupted contract: Goods manufactured but not delivered (Increased costs for storage & transportation) | FRF | 377,000 | FRF | 101,508 | 19,005 | Part or all of claim is unsubstantiated. | Paras. 15, 54, 73. | |
| 18 | Germany | Alcatel SEL AG 4000353 | DEM | 536,400 | 343,406 | Other tangible property | Demonstration radar equipment | DEM | 536,400 | DEM | 229,022 | 143,497 | Calculated loss is less than loss alleged. | Paras. 116, 11. | 143,497 |
| 19 | Germany | Liquidator of F. W. Assman & Söhne GmbH & Co. KG 4000486 | DEM | 25,083 | 16,058 | Contract | Goods shipped, received but not paid for: Value of goods shipped | DEM | 25,083 | DEM | 0 | 0 | "Arising prior to" exclusion. | Para. 47. | 0 |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | Reclassified amount d/ | | | Decision of the Panel of Commissioners e/ | | | | | |
|----|-------------------|---|---|-----------------------------------|-----------------------------|---|--|--|---------------------------|---|---|------------------------------------|---------|
| | | | Amount claimed in original currency b/ | Amount claimed restated in USD c/ | Type of loss | Sub-category | Amount claimed in original currency | Amount recommended in original currency or loss f/ | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD | |
| 20 | Germany | Detecon Al Saudia Co. Ltd. (Detasad) 4000742 | SAR | 5,482,000 | 1,463,818 | Contract | Increased costs: Hazard allowances paid to staff | SAR 1,234,000 | SAR 82,051 | 21,909 | Part or all of claim is unsubstantiated. Loss is not compensable under Governing Council decision 19. | Paras. 85-86. | 433,188 |
| | | | | | Contract | Increased costs: Overtime paid to employees | SAR 1,093,000 | SAR 0 | 0 | Part or all of claim is unsubstantiated. Loss is not compensable under Governing Council decision 19. | Paras. 85-86. | | |
| | | | | | Contract | Increased costs: Staff recruitment costs | SAR 160,000 | USD 2,884 | 2,884 | Part or all of loss is outside compensable period. Part or all of loss is not direct. | Para. 85. | | |
| | | | | | Contract | Loss of profit | SAR 1,440,000 | SAR 1,024,292 | 273,509 | Part or all of loss is unsupported. | Paras. 15, 85. | | |
| | | | | | Real Property | Prepaid rental costs | SAR 840,000 | SAR 0 | 0 | Reduction to avoid multiple recovery. | Para. 122. | | |
| | | | | | Payment or relief to others | Support costs: Security & protective measures | SAR 248,000 | SAR 154,897 | 41,361 | Part or all of claim is unsubstantiated. Calculated loss is less than loss alleged. | Paras. 15, 111. | | |
| | | | | | Payment or relief to others | Evacuation costs | SAR 467,000 | SAR 350,250 | 93,525 | Part or all of claim is unsubstantiated. | Paras. 15, 100-102. | | |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | Reclassified amount d/ | | | Decision of the Panel of Commissioners e/ | | | | | | | |
|----|-------------------|-----------------------------|---|-----------------------------------|-------------------------|---|--|--|---------------------------|--|-----------------|--|-------------------------------|-----------|-----------|
| | | | Amount claimed in original currency b/ | Amount claimed restated in USD c/ | Type of loss | Sub-category | Amount claimed in original currency | Amount recommended in original currency or currency of loss f/ | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD | | | |
| 21 | Germany | Alcatel SEL AG 4000884 | DEM | 7,889,259 | 5,050,742 | Contract | Goods shipped, received but not paid for: Value of goods shipped | DEM | 3,750,270 | DEM | 0 | 0 | "Arising prior to" exclusion. | Para. 47. | 1,289,565 |
| | | | | | Contract | Goods shipped, received but not paid for: Contract interest | DEM | 337,524 | DEM | 0 | 0 | Principal sum not compensable. | | | |
| | | | | | Other tangible property | Test equipment | DEM | 69,048 | IQD | 9,271 | 29,810 | Calculated loss is less than loss alleged. | Paras. 116, 11. | | |
| | | | | | Other tangible property | Leased equipment | DEM | 3,624 | DEM | 0 | 0 | No proof of actual loss. | Paras. 116, 15. | | |
| | | | | | Other tangible property | Inventory | DEM | 3,341,240 | USD | 1,238,224 | 1,238,224 | Calculated loss is less than loss alleged. | Paras. 116, 11. | | |
| | | | | | Other tangible property | Vehicles | DEM | 36,532 | KWD | 5,661 | 19,588 | Calculated loss is less than loss alleged. | Paras. 116, 11. | | |
| | | | | | Other tangible property | Tools and equipment | DEM | 234,496 | IQD | 0 | 0 | No proof of actual loss. | Paras. 15, 116. | | |
| | | | | | Other tangible property | Tools | DEM | 5,000 | DEM | 625 | 392 | Insufficient evidence of value. | Paras. 15, 116. | | |
| | | | | | Other tangible property | Office equipment | DEM | 19,800 | DEM | 2,475 | 1,551 | Insufficient evidence of value. | Paras. 15, 116. | | |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | | Reclassified amount d/ | | | | Decision of the Panel of Commissioners e/ | | | | | |
|----|-------------------|--|---|-----------------------------------|--------------|-------------------------|--|-----|-----------|--|---------------------------|--|---|------------------------------------|---------|
| | | | Amount claimed in original currency b/ | Amount claimed restated in USD c/ | Type of loss | Sub-category | Amount claimed in original currency | DEM | IQD | Amount recommended in original currency or currency of loss f/ | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD | |
| 21 | Germany | Alcatel SEL AG (continued) 4000884 | | | | Other tangible property | Loss of use of bank balance | DEM | 34 | IQD | 0 | 0 | Insufficient evidence of value. Non-compensable bank balance held in Iraq. | Paras. 15, 120. | |
| | | | | | | Other tangible property | Cash | DEM | 82,691 | IQD | 0 | 0 | Insufficient evidence of value. | Paras. 15, 116. | |
| 22 | Hungary | Siemens Telefongyár Kft. 4000284 | ATS | 22,335,930 | 2,030,908 | Contract | Interrupted project/turnkey contract: Repayment of overdraft | ATS | 7,321,275 | ATS | 0 | 0 | Part or all of claim is unsubstantiated. Part or all of loss is not direct. Reduction to avoid multiple recovery. | Paras. 15, 71, 73, 12. | 250,609 |
| | | | | | | Contract | Interrupted project/turnkey contract: Increased costs (Bank charges relating to overdraft) | ATS | 9,152 | ATS | 4,576 | 407 | Part or all of loss is not direct. | Paras. 76, 71, 73. | |
| | | | | | | Contract | Interrupted project/turnkey contract: Actual costs incurred (Pipes) | ATS | 2,142,943 | ATS | 753,378 | 66,967 | Part or all of loss is not direct. Failure to establish appropriate efforts to mitigate. Calculated loss is less than loss alleged. | Paras. 76, 71, 57, 11. | |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | Reclassified amount d/ | | | Decision of the Panel of Commissioners e/ | | | | | | |
|----|-------------------|--|---|-----------------------------------|------------------------|--|-------------------------------------|--|---------------------------|--|-----------------|--|--------------------|--|
| | | | Amount claimed in original currency b/ | Amount claimed restated in USD c/ | Type of loss | Sub-category | Amount claimed in original currency | Amount recommended in original currency or currency of loss f/ | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD | | |
| 22 | Hungary | Siemens Telefongyár Kft. (continued) 4000284 | | | Contract | Interrupted project/turnkey contract: Increased costs (Bank charges relating to payment for pipes) | ATS | 2,679 | ATS | 1,340 | 119 | Part or all of loss is not direct. | Paras. 76, 71, 73. | |
| | | | | | Contract | Interrupted project/turnkey contract: Actual costs incurred (Civil works) | ATS | 1,062,939 | ATS | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 15, 71. | |
| | | | | | Contract | Interrupted project/turnkey contract: Increased costs (Bank charges relating to payment for civil works) | ATS | 1,329 | ATS | 665 | 59 | Part or all of loss is not direct. | Para. 76. | |
| | | | | | Contract | Interrupted project/turnkey contract: Actual costs incurred (Insurance premiums) | ATS | 155,562 | HUF | 356,495 | 5,628 | Part or all of claim is outside the compensable period. Part or all of loss is not direct. | Para. 71. | |
| | | | | | Contract | Interrupted project/turnkey contract: Actual costs incurred (Salaries) | ATS | 747,407 | HUF | 1,786,977 | 28,211 | No proof of actual loss. | Paras. 15, 71. | |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | Reclassified amount d/ | | | | Decision of the Panel of Commissioners e/ | | | | | |
|----|-------------------|--|---|-----------------------------------|-------------------------|--|-------------------------------------|--|---|--|-----------------|---|-----------------|--|
| | | | Amount claimed in original currency b/ | Amount claimed restated in USD c/ | Type of loss | Sub-category | Amount claimed in original currency | Amount recommended in original currency or currency of loss f/ | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD | | |
| 22 | Hungary | Siemens Telefongyár Kft. (continued) 4000284 | | | Contract | Interrupted service contract: Actual costs incurred (Performance guarantee) | ATS | 70,345 | ATS | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 15, 71. | |
| | | | | | Contract | Interrupted service contract: Actual costs incurred (Advance payment guarantee) | ATS | 41,237 | HUF | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 15, 71. | |
| | | | | | Contract | Interrupted project/turnkey contract: Actual costs incurred (Salaries) | ATS | 155,890 | HUF | 519,690 | 8,204 | Part or all of loss is not direct. | Paras. 15, 71. | |
| | | | | | Contract | Interrupted project/turnkey contract: Actual costs incurred (Tools) | ATS | 335,732 | HUF | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 15, 71. | |
| | | | | | Contract | Interrupted project/turnkey contract: Actual costs incurred (Advances used for termination payments) | ATS | 138,945 | KWD | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 15, 71. | |
| | | | | | Other tangible property | Loss of use of bank balance | ATS | 565,809 | KWD | 0 | 0 | Part or all of claim is unsubstantiated. Part or all of loss is not direct. | Paras. 15, 71. | |
| | | | | | Other tangible property | Inability to exchange Kuwaiti dinar | ATS | 6,325 | KWD | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 15, 116. | |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | Reclassified amount d/ | | | | Decision of the Panel of Commissioners e/ | | | | | |
|----|-------------------|--|---|-----------------------------------|------------------------------------|---|-------------------------------------|--|---|--|-------------------|--|-----------------------|--|
| | | | Amount claimed in original currency b/ | Amount claimed restated in USD c/ | Type of loss | Sub-category | Amount claimed in original currency | Amount recommended in original currency or currency of loss f/ | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD | | |
| 22 | Hungary | Siemens Telefongyár Kft. (continued) 4000284 | | | Contract | Interrupted project/turnkey contract: Actual costs incurred (Air fares) | ATS | 340,613 | HUF | 1,440,832 | 22,747 | Part or all of claim is outside the compensable period. Part or all of loss is not direct. Part or all of loss is unsupported. | Paras. 15, 71. | |
| | | | | | Business loss or course of dealing | Increased costs: Winding up costs 1992 | ATS | 149,963 | KWD | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 15, 73. | |
| | | | | | Business loss or course of dealing | Increased costs: Winding up costs 1993 | ATS | 1,155,886 | KWD | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 15, 73. | |
| | | | | | Contract | Interrupted project/turnkey contract: Loss of profit | ATS | 3,236,101 | KWD | 33,152 | 114,713 | Part or all of loss is not direct. Calculated loss is less than loss alleged. | Paras. 76, 71-72, 11. | |
| | | | | | Contract | Interrupted project/turnkey contract: Loss of profit | ATS | 1,280,667 | KWD | 1,027 | 3,554 | Part or all of loss is not direct. Calculated loss is less than loss alleged. | Paras. 76, 71-72, 11. | |
| | | | | | Interest | | ATS | 3,415,131 | ATS | Awaiting decision | Awaiting decision | To be determined per Governing Council decision 16. | Paras. 140-141. | |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | Reclassified amount d/ | | | | Decision of the Panel of Commissioners e/ | | | | | | |
|----|-------------------|---|---|-----------------------------------|------------------------|------------------------------------|--|--|---|--|-----------------|------------------------------------|---|---------------------|---------|
| | | | Amount claimed in original currency b/ | Amount claimed restated in USD c/ | Type of loss | Sub-category | Amount claimed in original currency | Amount recommended in original currency or loss f/ | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD | | | |
| 23 | India | M/S Telecommunications Consultants India Limited 4000478 | USD | 1,804,532 | 1,804,532 | Contract | Interrupted project/turnkey contract: Loss of profit | USD | 419,433 | KWD | 0 | 0 | No proof of actual loss. (Substitute contract covering original work.) | Paras. 71-72. | 655,514 |
| | | | | | | Contract | Interrupted service contract: Loss of profit | USD | 698,251 | KWD | 116,916 | 404,554 | Part or all of loss is outside compensable period. | Paras. 71-72, 43. | |
| | | | | | | Contract | Services provided but not paid for: Unpaid accounts receivable | USD | 110,701 | KWD | 0 | 0 | No proof of direct loss. | Para. 66. | |
| | | | | | | Other tangible property | Office equipment | USD | 31,271 | KWD | 4,234 | 14,651 | Calculated loss is less than loss alleged. Part or all of claim is unsubstantiated. | Paras. 116, 11, 15. | |
| | | | | | | Other tangible property | Plant & machinery | USD | 381,595 | KWD | 58,322 | 201,806 | Calculated loss is less than loss alleged. Part or all of claim is unsubstantiated. | Paras. 116, 11, 15. | |
| | | | | | | Business loss or course of dealing | Increased costs: Unproductive salary payments | USD | 94,275 | KWD | 0 | 0 | Calculated loss is less than loss alleged. Part or all of claim is unsubstantiated. | Paras. 96, 15. | |
| | | | | | | Payment or relief to others | Evacuation costs | USD | 69,006 | USD | 34,503 | 34,503 | Part or all of claim is unsubstantiated. | Paras. 15, 100-102. | |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | | Reclassified amount d/ | | | | Decision of the Panel of Commissioners e/ | | | | | |
|----|-------------------|---|---|-----------------------------------|--------------|------------------------|--|--|---------------------------|---|-------------------|------------------------------------|---|-----------------|-----------|
| | | | Amount claimed in original currency b/ | Amount claimed restated in USD c/ | Type of loss | Sub-category | Amount claimed in original currency | Amount recommended in original currency or currency of loss f/ | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD | | | |
| 24 | India | State Bank of India 4000769 | GBP | 13,172 | 26,121,964 | Contract | Letters of credit issued by Iraqi banks | GBP | 13,172 | GBP | 0 | 0 | "Arising prior to" exclusion. | Paras. 62-63. | 102,125 |
| | | | USD | 26,092,504 | | Contract | Letters of credit issued by Iraqi banks | USD | 26,092,504 | USD | 102,125 | 102,125 | "Arising prior to" exclusion. | Paras. 62-63. | |
| | | | INR | 77,881 | | Contract | Letters of credit issued by Iraqi banks | INR | 77,881 | INR | 0 | 0 | "Arising prior to" exclusion. | Paras. 62-63. | |
| 25 | Ireland | The Concentrate Manufacturing Co. of Ireland 4001345 | USD | 2,450,000 | 2,450,000 | Contract | Goods shipped, received but not paid for: Value of goods shipped | USD | 700,000 | USD | 0 | 0 | "Arising prior to" exclusion. | Para. 47. | 1,225,000 |
| | | | | | | Contract | Goods shipped, received but not paid for: Value of goods shipped | USD | 1,400,000 | USD | 1,050,000 | 1,050,000 | "Arising prior to" exclusion. | Para. 47. | |
| | | | | | | Contract | Goods shipped, received but not paid for: Value of goods shipped | USD | 350,000 | USD | 175,000 | 175,000 | "Arising prior to" exclusion. | Para. 47. | |
| | | | | | | Interest | | | No value stated | | Awaiting decision | Awaiting decision | To be determined per Governing Council decision 16. | Paras. 140-141. | |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | Reclassified amount d/ | | | Decision of the Panel of Commissioners e/ | | | | | | | |
|----|-------------------|--|---|-----------------------------------|------------------------|------------------------------------|---|--|---------------------------|--|-----------------|------------------------------------|--|-----------------------|--------|
| | | | Amount claimed in original currency b/ | Amount claimed restated in USD c/ | Type of loss | Sub-category | Amount claimed in original currency | Amount recommended in original currency or currency of loss f/ | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD | | | |
| 26 | Israel | Rad Network Devices Ltd. 4000413 | USD | 1,420,000 | 1,420,000 | Business loss or course of dealing | Decline in business: Loss of profit | USD | 420,000 | USD | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 15, 89. | 0 |
| | | | | | | Business loss or course of dealing | Course of dealing: Delay in new product development | USD | 1,000,000 | USD | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 15, 89. | |
| 27 | Italy | Contraves Italiana Spa [now known as Oerlikon-Contraves S.p.A.] 4001282 | ITL | 5,819,344,606 | 5,049,886 | Contract | Goods manufactured but not delivered: Increased costs (Financing costs) | ITL | 5,767,909,176 | ITL | 0 | 0 | Part or all of claim is unsubstantiated. Failure to comply with formal filing requirements (lack of translation) | Paras. 15, 5, 71, 73. | 59,610 |
| | | | USD | 30,180 | | Payment or relief to others | Detention: Support costs (Detainee's expenses) | USD | 3,000 | USD | 3,000 | 3,000 | N/A | | |
| | | | | | | Business loss or course of dealing | Increased costs: Unproductive salary payments | ITL | 11,368,290 | ITL | 11,368,290 | 9,971 | N/A | | |
| | | | | | | Payment or relief to others | Personal property reimbursement to employee | ITL | 34,500,000 | ITL | 34,500,000 | 30,534 | N/A | | |
| | | | | | | Real property | Prepaid rental costs | USD | 14,946 | KWD | 3,500 | 12,111 | Part or all of loss is outside compensable period. | Paras. 122, 43. | |
| | | | | | | Payment or relief to others | Personal property reimbursement to employee | USD | 12,234 | KWD | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 15, 113. | |
| | | | | | | Payment or relief to others | Detention: Support costs (Telephone calls between dependants and detainees) | ITL | 5,567,140 | ITL | 4,512,390 | 3,994 | Part or all of claim is unsubstantiated. | Paras. 15, 107. | |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | Reclassified amount d/ | | | | Decision of the Panel of Commissioners e/ | | | | |
|----|-------------------|---------------------------------------|---|-----------------------------------|------------------------|---|--|--|---|--|-------------------------------|------------------------------------|--------|
| | | | Amount claimed in original currency b/ | Amount claimed restated in USD c/ | Type of loss | Sub-category | Amount claimed in original currency | Amount recommended in original currency or currency of loss f/ | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD | |
| 28 | Japan | Fuji Electric Co. Ltd. 4000953 | JPY | 65,786,225 | 450,057 | Contract | Goods shipped, received but not paid for: Unpaid accounts receivable | JPY 20,910,404 | JPY 0 | 0 | "Arising prior to" exclusion. | Para. 47. | 52,217 |
| | | | | | Interest | | JPY 3,447,777 | JPY 0 | 0 | Principal sum not compensable. | | | |
| | | | | | Contract | Goods manufactured but not delivered: Contract price | JPY 16,670,200 | JPY 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 15, 54. | | |
| | | | | | Interest | | JPY 2,519,291 | JPY 0 | 0 | Principal sum not compensable. | | | |
| | | | | | Contract | Goods manufactured but not delivered: Increased costs (Storage) | JPY 295,000 | JPY 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 15, 73. | | |
| | | | | | Contract | Goods manufactured but not delivered: Contract price | JPY 16,840,100 | JPY 5,894,085 | 40,001 | Failure to establish appropriate efforts to mitigate. Part or all of claim is unsubstantiated. | Paras. 57, 15, 54. | | |
| | | | | | Interest | | JPY 2,776,670 | JPY Awaiting decision | Awaiting decision | To be determined per Governing Council decision 16. | Paras. 140-141. | | |
| | | | | | Contract | Goods manufactured but not delivered: Increased costs (Storage) | JPY 230,000 | JPY 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 15, 54, 73. | | |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | | Reclassified amount d/ | | | | Decision of the Panel of Commissioners e/ | | | | | |
|----|-------------------|--|---|-----------------------------------|--------------|------------------------|---|--|---------------------------|---|-------------------|------------------------------------|---|----------------|---|
| | | | Amount claimed in original currency b/ | Amount claimed restated in USD c/ | Type of loss | Sub-category | Amount claimed in original currency | Amount recommended in original currency or currency of loss f/ | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD | | | |
| 28 | Japan | Fuji Electric Co. Ltd. (continued) 4000953 | | | | Contract | Goods lost or destroyed in transit: Value of goods shipped | JPY | 1,800,000 | JPY | 1,800,000 | 12,216 | N/A | | |
| | | | | | | Interest | | JPY | 296,783 | JPY | Awaiting decision | Awaiting decision | To be determined per Governing Council decision 16. | Para. 140-141. | |
| 29 | Japan | Kobe Steel Ltd. 4001086 | JPY | 5,026,060,664 | 34,842,708 | Contract | Project/Turnkey contract performed but not paid for: Value of services rendered | JPY | 4,404,865,196 | JPY | 0 | 0 | "Arising prior to" exclusion. | Para. 47. | 0 |
| | | | | | | Contract | Project/Turnkey contract performed but not paid for: Contract interest | JPY | 621,195,468 | JPY | 0 | 0 | "Arising prior to" exclusion. | Para. 47. | |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | Reclassified amount d/ | | | | Decision of the Panel of Commissioners e/ | | | | | | |
|----|-------------------|--|---|------------|------------------------|------------------------------------|---|-----|--|-----|---------------------------|--|-------------------------------------|------------------------------------|---------|
| | | | Amount claimed in original currency b/ | | Type of loss | Sub-category | Amount claimed in original currency | | Amount recommended in original currency or loss f/ | | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD | |
| | | | | c/ | | | | | | | | | | | |
| 30 | Jordan | The Ministry of Post and Telecommunications 5000273 | USD | 9,102,901 | 41,223,778 | Business loss or course of dealing | Course of dealing: Loss of revenue (Telephone traffic with Kuwait Aug 90 to Dec 90) | JOD | 1,449,041 | SDR | 277,401 | 391,809 | Part or all of loss is unsupported. | Paras. 29, 15. | 631,585 |
| | | | JOD | 21,135,537 | | | | JOD | 1,299,061 | SDR | 154,184 | | | | |
| | | | | | | | | USD | 7,765,776 | SDR | 0 | | | | |
| | | | | | | | | JOD | 42,870 | SDR | 0 | | | | |
| | | | | | | | | USD | 39,750 | USD | 27,401 | | | | |
| | | | | | | | | JOD | 14,620,801 | JOD | 0 | | | | |
| | | | | | | | | | | | | | | | |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | | Reclassified amount d/ | | | | Decision of the Panel of Commissioners e/ | | | | | |
|----|-------------------|---|---|-----------------------------------|--------------|------------------------|--|--|---------------------------|---|-------------------|------------------------------------|---|-----------------|---|
| | | | Amount claimed in original currency b/ | Amount claimed restated in USD c/ | Type of loss | Sub-category | Amount claimed in original currency | Amount recommended in original currency or currency of loss f/ | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD | | | |
| 30 | Jordan | The Ministry of Post and Telecommunications (continued) 5000273 | | | | Interest | | USD | 1,297,375 | USD | Awaiting decision | Awaiting decision | To be determined per Governing Council decision 16. | Paras. 140-141. | |
| | | | | | | Interest | | JOD | 3,723,764 | JOD | Awaiting decision | Awaiting decision | To be determined per Governing Council decision 16. | Paras. 140-141. | |
| 31 | Luxembourg | Goodyear SA 4001125 | USD | 117,093 | 117,093 | Contract | Goods shipped, received but not paid for: Unpaid accounts receivable | USD | 117,093 | USD | 0 | 0 | No proof of direct loss. | Para. 66. | 0 |
| 32 | Saudi Arabia | Golden Pages Co. for Printing, Publishing and Distribution 4002477 | SAR | 3,339,786 | 891,799 | Contract | Interrupted contract: Contract price | SAR | 2,560,000 | SAR | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 15, 83. | 0 |
| | | | | | | Real property | Prepaid rental costs | SAR | 495,390 | SAR | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 15, 122. | |
| | | | | | | Contract | Interrupted contract: Increased costs (Unproductive salary payments) | SAR | 284,396 | SAR | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 15, 83. | |

| | <u>Submitting Entity</u> | <u>Claimant and UNCC claim no.</u> | <u>Total amount claimed, including permissible amendments a/</u> | | <u>Reclassified amount d/</u> | | <u>Decision of the Panel of Commissioners e/</u> | | | | | | | | |
|----|--------------------------|------------------------------------|--|--|-------------------------------|-------------------------|--|---|------------|----------------------------------|---|------------------------|---|-----------------|-----------|
| | | | <u>Amount claimed in original currency b/</u> | <u>Amount claimed restated in USD c/</u> | <u>Type of loss</u> | <u>Sub-category</u> | <u>Amount claimed in original currency</u> | <u>Amount recommended in original currency or currency of loss f/</u> | | <u>Amount recommended in USD</u> | <u>Reasons for denial or reduction of award</u> | <u>Report citation</u> | <u>Total of amount recommended in USD</u> | | |
| 33 | Sweden | AB Tetra Pak 4001469 | SEK | 34,509,027 | 13,957,895 | Contract | Goods shipped, received but not paid for: Value of goods shipped | SEK | 19,273,246 | SEK | 5,281,164 | 901,838 | "Arising prior to" exclusion. | Para. 47. | 3,819,596 |
| | | | CHF | 10,289,000 | | Other tangible property | Machines | CHF | 10,289,000 | CHF | 3,920,644 | 2,895,601 | Calculated loss is less than loss alleged. Part or all of claim is unsubstantiated. | Paras. 117, 15. | |
| | | | | | | Contract | Interrupted service contract: Loss of profit | SEK | 15,235,781 | SEK | 129,750 | 22,157 | Calculated loss is less than loss alleged. Part or all of loss is unsupported. | Paras. 59, 15. | |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | | Reclassified amount d/ | | | Decision of the Panel of Commissioners e/ | | | | |
|----|-------------------|-------------------------------------|---|-----------------------------------|------------------------------------|---|-------------------------------------|--|---|--|---|------------------------------------|---------|
| | | | Amount claimed in original currency b/ | Amount claimed restated in USD c/ | Type of loss | Sub-category | Amount claimed in original currency | Amount recommended in original currency or currency of loss f/ | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD | |
| 34 | Sweden | Swedtel AB 4001471 | SEK | 4,183,718 | 726,718 | Other tangible property | Furniture and equipment | SEK 1,295,858 | SEK 120,989 | 20,661 | Part or all of claim is unsubstantiated. | Paras. 15, 116. | 20,661 |
| | | | | | Payment or relief to others | Evacuation costs | SEK 315,635 | SEK 0 | 0 | Part or all of loss is outside compensable period. No proof of direct loss. Part or all of claim is unsubstantiated. | Paras. 43, 15, 102. | | |
| | | | | | Payment or relief to others | Personal property reimbursement to employee | SEK 692,552 | SEK 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 15, 113. | | |
| | | | | | Business loss or course of dealing | Increased costs: Unproductive salary payments | SEK 1,879,673 | SEK 0 | 0 | Part or all of claim is unsubstantiated. Part or all of loss is outside compensable period. | Paras. 15, 96, 43. | | |
| 35 | Sweden | Brodway International AB 4001474 | SEK | 1,872,040 | 325,176 | Other tangible property | Inventory | SEK 1,872,040 | SEK 1,273,757 | 217,513 | Calculated loss is less than loss alleged. Part or all of claim is unsubstantiated. | Paras. 116, 15. | 217,513 |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | Reclassified amount d/ | | | Decision of the Panel of Commissioners e/ | | | | | | | |
|----|-------------------|--|---|-----------------------------------|------------------------|------------------------------------|--|--|---------------------------|--|-----------------|------------------------------------|---|----------------------------|---------|
| | | | Amount claimed in original currency b/ | Amount claimed restated in USD c/ | Type of loss | Sub-category | Amount claimed in original currency | Amount recommended in original currency or loss f/ | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD | | | |
| 36 | Sweden | Telefonaktiebolaget L M Ericsson; Ericsson Radio System Aktiebolag; Telefonaktiebolaget L M Ericsson Technical Office, Saudi Arabia branch office; Telefonaktiebolaget L M Ericsson Technical Office, Kuwait branch office; L M Ericsson, Iraq branch 4001485 | IQD | 81,599 | 34,931,441 | Business loss or course of dealing | Increased costs: Unproductive salary payments & termination payments | SEK | 3,620,631 | SEK | 0 | 0 | Reduction to avoid multiple recovery. h/ Part or all of claim is unsubstantiated. Failure to establish appropriate efforts to mitigate. | Paras. 12-13, 15, 57, 96. | 625,853 |
| | | | KWD | 78,450 | | Payment or relief to others | Personal property reimbursement to employee | SEK | 6,428,174 | SEK | 0 | 0 | Reduction to avoid multiple recovery. h/ Part or all of claim is unsubstantiated. Reduction to avoid multiple recovery. | Paras. 12-13, 15. | |
| | | | USD | 1,699,700 | | Payment or relief to others | Detention: Support costs (Crisis Management Team - Stockholm) | SEK | 2,590,093 | SEK | 0 | 0 | Reduction to avoid multiple recovery. h/ Discretionary expenses. Part or all of claim unsubstantiated. | Paras. 12-13, 107-108, 15. | |
| | | | SEK | 188,241,879 | | Payment or relief to others | Detention: Support costs (Crisis Management Team - Baghdad) | SEK | 2,217,726 | SEK | 0 | 0 | Reduction to avoid multiple recovery. h/ Discretionary expenses. Part or all of claim unsubstantiated. | Paras. 12-13, 107-108, 15. | |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | Reclassified amount d/ | | | Decision of the Panel of Commissioners e/ | | | | | | |
|----|-------------------|---|---|-----------------------------------|-----------------------------|---|-------------------------------------|--|---------------------------|--|-----------------|---|----------------------------|--|
| | | | Amount claimed in original currency b/ | Amount claimed restated in USD c/ | Type of loss | Sub-category | Amount claimed in original currency | Amount recommended in original currency or currency of loss f/ | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD | | |
| 36 | Sweden | Telefonaktiebolaget L M Ericsson et al. (continued) 4001485 | | | Payment or relief to others | Detention: Support costs (Consultants) | SEK | 1,162,252 | SEK | 0 | 0 | Reduction to avoid multiple recovery. h/ Discretionary expenses. Part or all of claim unsubstantiated. | Paras. 12-13, 107-108, 15. | |
| | | | | | Payment or relief to others | Detention: Support costs (Medical costs) | SEK | 546,896 | SEK | 0 | 0 | Discretionary expenses. Part or all of loss is not direct. Part or all of claim unsubstantiated. Reduction to avoid multiple recovery. h/ | Paras. 107-108, 15, 12-13. | |
| | | | | | Payment or relief to others | Detention: Support costs (Gatherings in Sweden) | SEK | 798,811 | SEK | 0 | 0 | Discretionary expenses. Part or all of claim is unsubstantiated. Reduction to avoid multiple recovery. h/ | Paras. 107-108, 15, 12-13. | |
| | | | | | Payment or relief to others | Detention: Support costs (Detainees and dependants' expenses) | SEK | 821,424 | SEK | 0 | 0 | Part or all of claim is unsubstantiated. Reduction to avoid multiple recovery. h/ | Paras. 107-108, 15, 12-13. | |
| | | | | | Payment or relief to others | Evacuation costs: From Iraq | SEK | 499,946 | SEK | 0 | 0 | No proof of direct loss. Reduction to avoid multiple recovery. h/ | Paras. 102, 15, 12-13. | |
| | | | | | Payment or relief to others | Evacuation and relocation costs: From Saudi Arabia | SEK | 7,571,504 | SEK | 1,754,241 | 311,256 | Discretionary expenses. Part or all of claim is unsubstantiated. Reduction to avoid multiple recovery. h/ | Paras. 106, 15, 12-13. | |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | Reclassified amount d/ | | | | Decision of the Panel of Commissioners e/ | | | | | |
|----|-------------------|---|---|-----------------------------------|------------------------------------|--|-------------------------------------|--|---|--|-----------------|--|--------------------|--|
| | | | Amount claimed in original currency b/ | Amount claimed restated in USD c/ | Type of loss | Sub-category | Amount claimed in original currency | Amount recommended in original currency or loss f/ | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD | | |
| 36 | Sweden | Telefonaktiebolaget L M Ericsson et al. (continued) 4001485 | | | Business loss or course of dealing | Increased Costs | SEK | 420,628 | SEK | 257,971 | 45,498 | Part or all of claim is unsubstantiated. | Paras. 15, 74. | |
| | | | | | Other tangible property | Vehicle | IQD | 3,753 | IQD | 0 | 0 | No proof of direct loss. Insufficient evidence of value. | Paras. 116, 15. | |
| | | | | | Business loss or course of dealing | Increased costs: Termination payments | IQD | 75,696 | IQD | 0 | 0 | Trade embargo is sole cause. | Para. 43. | |
| | | | | | Interest | | IQD | 2,150 | IQD | 0 | 0 | Part or all of claim is unsubstantiated. | Para. 15. | |
| | | | | | Interest | | USD | 992 | USD | 0 | 0 | Part or all of claim is unsubstantiated. | Para. 15. | |
| | | | | | Interest | | SEK | 2,731,342 | SEK | 0 | 0 | Part or all of claim is unsubstantiated. | Para. 15. | |
| | | | | | Contract | Project/Turnkey contract performed but not paid for: Increased costs (Bank guarantee fees) | SEK | 19,091 | SEK | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 71, 73, 15. | |
| | | | | | Contract | Project/Turnkey contract performed but not paid for: Value of services rendered | SEK | 46,038,721 | SEK | 0 | 0 | "Arising prior to" exclusion. Part or all of claim is unsubstantiated. | Paras. 47, 15. | |
| | | | | | Contract | Project/Turnkey contract performed but not paid for: Value of services rendered | USD | 12,297 | USD | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 15, 47-49. | |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | Reclassified amount d/ | | | Decision of the Panel of Commissioners e/ | | | | | | |
|----|-------------------|---|---|-----------------------------------|------------------------------------|---|-------------------------------------|--|---------------------------|--|-----------------|---|-----------------------|--|
| | | | Amount claimed in original currency b/ | Amount claimed restated in USD c/ | Type of loss | Sub-category | Amount claimed in original currency | Amount recommended in original currency or currency of loss f/ | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD | | |
| 36 | Sweden | Telefonaktiebolaget L M Ericsson et al. (continued) 4001485 | | | Interest | | SEK | 2,417,033 | SEK | 0 | 0 | Principal sum not compensable. | | |
| | | | | | Other tangible property | Furniture, equipment & stock | USD | 599,700 | USD | 149,925 | 149,925 | Insufficient evidence of value. | Paras. 15, 116. | |
| | | | | | Business loss or course of dealing | Loss of profit stemming from loss of stock | USD | 1,100,000 | USD | 0 | 0 | Insufficient evidence of value. | Para. 15. | |
| | | | | | Business loss or course of dealing | Increased costs: Unproductive salary payments & termination payments | SEK | 4,145,252 | SEK | 675,717 | 119,174 | Part or all of claim is unsubstantiated. | Paras. 15, 96. | |
| | | | | | Interest | | KWD | 78,450 | KWD | 0 | 0 | Part or all of claim is unsubstantiated. | Para. 15. | |
| | | | | | Interest | | SEK | 6,895,080 | SEK | 0 | 0 | Part or all of claim is unsubstantiated. | Para. 15. | |
| | | | | | Contract | Interrupted project/turnkey contract: Increased costs (Bank guarantee fees) | SEK | 9,086 | SEK | 0 | 0 | No proof of actual loss. | Paras. 15, 71, 73. | |
| | | | | | Contract | Interrupted project/turnkey contract: Value of services rendered | SEK | 103,755,978 | SEK | 0 | 0 | Part or all of claim is unsubstantiated. Reduction to avoid multiple recovery. h/ | Paras. 15, 66, 12-13. | |
| | | | | | Interest | | SEK | 5,447,189 | SEK | 0 | 0 | Principal sum not compensable. | | |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | | Reclassified amount d/ | | | Decision of the Panel of Commissioners e/ | | | | | | |
|----|-------------------|-------------------------------------|---|------------|-----------------------------------|------------------------|--|-------------------------------------|---|--|------------|---------------------------|---|-----------------|------------------------------------|
| | | | Amount claimed in original currency b/ | | Amount claimed restated in USD c/ | Type of loss | Sub-category | Amount claimed in original currency | | Amount recommended in original currency or currency of loss f/ | | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD |
| 37 | Sweden | Kabi Pharmacia AB g/ 4001488 | SEK | 24,463,459 | 7,248,697 | Contract | Goods shipped, received but not paid for: Value of goods shipped | SEK | 24,463,459 | SEK | 11,789,805 | 2,013,286 | "Arising prior to" exclusion. Part or all of loss is unsupported. | Paras. 47, 15. | 2,013,286 |
| | | | DEM | 4,684,994 | | Contract | Goods shipped, received but not paid for: Value of goods shipped | DEM | 4,684,994 | DEM | 0 | 0 | Part or all of loss is not direct. "Arising prior to" exclusion. | Paras. 47, 49. | |
| 38 | Switzerland | Mövenpick Produktions AG 4001518 | CHF | 14,380 | 11,130 | Contract | Goods shipped, received but not paid for: Value of goods shipped | CHF | 14,380 | CHF | 0 | 0 | No proof of direct loss. | Para. 66. | 0 |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | | Reclassified amount d/ | | | Decision of the Panel of Commissioners e/ | | | | | | |
|----|-------------------|---|---|-----------------------------------|--------------|------------------------------------|---|--|---|--|-----------------|------------------------------------|--|-------------------|------------|
| | | | Amount claimed in original currency b/ | Amount claimed restated in USD c/ | Type of loss | Sub-category | Amount claimed in original currency | Amount recommended in original currency or loss f/ | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD | | | |
| 39 | Syria | Ministry of Communications 5000125 | USD | 1,091,214 | 1,091,214 | Business loss or course of dealing | Course of dealing: Loss of revenue (Telephone traffic with Kuwait mid-1990 to 1992) | USD | 1,078,424 | SDR | 260,927 | 360,895 | Part or all of claim is unsubstantiated. Part or all of loss is not direct. Part or all of loss is outside compensable period. | Paras. 29-31, 28. | 360,895 |
| | | | | | | Business loss or course of dealing | Course of dealing: Loss of revenue (Telex traffic with Kuwait mid-1990 to 1992) | USD | 2,473 | SDR | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 29-31. | |
| | | | | | | Business loss or course of dealing | Course of dealing: Loss of revenue (Telegraph traffic with Kuwait mid-1990 to 1992) | USD | 10,316 | SDR | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 29-31. | |
| 40 | Thailand | Bangkok Bank Limited 4001595 | USD | 72,540,487 | 72,540,487 | Contract | Letters of credit issued by Iraqi banks | USD | 72,540,487 | USD | 17,556,754 | 17,556,754 | "Arising prior to" exclusion. | Paras. 62-63. | 17,556,754 |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | Reclassified amount d/ | | | Decision of the Panel of Commissioners e/ | | | | | | | |
|----|-------------------|--|---|-----------------------------------|------------------------|------------------------------------|---|--|---------------------------|--|-----------------|------------------------------------|--|-------------------|---------|
| | | | Amount claimed in original currency b/ | Amount claimed restated in USD c/ | Type of loss | Sub-category | Amount claimed in original currency | Amount recommended in original currency or currency of loss f/ | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD | | | |
| 41 | Tunisia | Union Internationale de Banques 4002593 | USD | 848,661 | 1,476,592 | Contract | Letters of credit issued by Iraqi banks | USD | 748,649 | USD | 628,385 | 628,385 | "Arising prior to" exclusion. Part of all of claim is unsubstantiated. | Paras. 62-63, 15. | 628,385 |
| | | | TND | 99,500 | | Contract | Letters of credit issued by Jordanian banks | USD | 100,012 | USD | 0 | 0 | Part or all of loss is not direct. | Para. 43. | |
| | | | DEM | 800,318 | | Contract | Loans | TND | 31,500 | TND | 0 | 0 | Part or all of claim is unsubstantiated. | Para. 15. | |
| | | | | | | Contract | Loans | DEM | 800,318 | DEM | 0 | 0 | Part or all of claim is unsubstantiated. | Para. 15. | |
| | | | | | | Business loss or course of dealing | Decline in business | TND | 68,000 | TND | 0 | 0 | Part or all of claim is unsubstantiated. | Para. 15. | |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | Reclassified amount d/ | | | Decision of the Panel of Commissioners e/ | | | | | | | |
|----|-------------------|--|---|-----------------------------------|------------------------|------------------------------------|--|--|---------------------------|--|-----------------|------------------------------------|---|--------------------------|---|
| | | | Amount claimed in original currency b/ | Amount claimed restated in USD c/ | Type of loss | Sub-category | Amount claimed in original currency | Amount recommended in original currency or loss f/ | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD | | | |
| 42 | Tunisia | Tunisian Ministry of Communications 4002608 | TND | 319,254,540 | 370,795,052 | Business loss or course of dealing | Course of Dealing: Unpaid accounts receivable (Telephone services to Iraq 1990) | TND | 13,931,330 | TND | 0 | 0 | Part or all of claim is unsubstantiated. Failure to comply with formal filing requirements (lack of translation). "Arising prior to" exclusion. | Paras. 38-39, 15, 5, 47. | 0 |
| | | | | | | Business loss or course of dealing | Course of Dealing: Unpaid accounts receivable (Television services to Iraq 1986 to 1990) | TND | 195,323,210 | TND | 0 | 0 | Part or all of claim is unsubstantiated. Failure to comply with formal filing requirements (lack of translation). "Arising prior to" exclusion. | Paras. 38-39, 15, 5, 47. | |
| | | | | | | Business loss or course of dealing | Course of Dealing: Loss of revenue (Telephone & television exchanges with Iraq 1991) | TND | 50,000,000 | TND | 0 | 0 | Part or all of claim is unsubstantiated. Failure to comply with formal filing requirements (lack of translation). | Paras. 29, 15, 5. | |
| | | | | | | Business loss or course of dealing | Course of Dealing: Loss of revenue (Telephone & television exchanges with Iraq 1992) | TND | 60,000,000 | TND | 0 | 0 | Part or all of claim is unsubstantiated. Failure to comply with formal filing requirements (lack of translation). | Paras. 29, 15, 5. | |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | | Reclassified amount d/ | | | Decision of the Panel of Commissioners e/ | | | | | | |
|----|-------------------|---|---|-----------------------------------|------------------------------------|--|--|--|---|--|-----------------|--|--|----------------|-----------|
| | | | Amount claimed in original currency b/ | Amount claimed restated in USD c/ | Type of loss | Sub-category | Amount claimed in original currency | Amount recommended in original currency or loss f/ | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD | | | |
| 43 | Turkey | T. Garanti Bankasi AS 4001629 | USD | 8,628,366 | 8,628,366 | Contract | Letters of credit issued by Iraqi banks | USD | 8,628,366 | USD | 5,689,797 | 5,689,797 | "Arising prior to" exclusion. | Paras. 62-63. | 5,689,797 |
| 44 | Turkey | Directorate General of Posts, Telegraphs and Telephone 5000121 | USD | 14,897,785 | 14,897,785 | Business loss or course of dealing | Course of dealing: Loss of revenue (Telephone traffic with Iraq & Kuwait 2 Aug 90 to 2 Mar 91) | USD | 2,260,100 | USD | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 29, 15. | 0 |
| | | | | | Business loss or course of dealing | Course of dealing: Loss of revenue (Telephone traffic with Iraq & Kuwait 3 Mar 91 to Dec 93) | USD | 11,815,990 | USD | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 29, 15. | | |
| | | | | | Business loss or course of dealing | Course of dealing: Loss of revenue (Telegraph traffic with Iraq & Kuwait 2 Aug 90 to 2 Mar 91) | USD | 5,468 | USD | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 29, 15. | | |
| | | | | | Business loss or course of dealing | Course of dealing: Loss of revenue (Telegraph traffic with Iraq & Kuwait 3 Mar 91 to Dec 93) | USD | 25,124 | USD | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 29, 15. | | |
| | | | | | Business loss or course of dealing | Course of dealing: Loss of revenue (Telex traffic with Iraq & Kuwait 2 Aug 90 to 2 Mar 91) | USD | 186,697 | USD | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 29, 15. | | |
| | | | | | Business loss or course of dealing | Course of dealing: Loss of revenue (Telex traffic with Iraq & Kuwait 3 Mar 91 to Dec 93) | USD | 604,406 | USD | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 29, 15. | | |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | | Reclassified amount d/ | | | | Decision of the Panel of Commissioners e/ | | | | | |
|----|-------------------|--|---|-----------------------------------|--------------|------------------------------------|--|--|---------------------------|---|-----------------|------------------------------------|--|--------------------|---------|
| | | | Amount claimed in original currency b/ | Amount claimed restated in USD c/ | Type of loss | Sub-category | Amount claimed in original currency | Amount recommended in original currency or currency of loss f/ | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD | | | |
| 45 | United Kingdom | Vigilant Communications Ltd. 4001815 | GBP | 36,100 | 68,631 | Other tangible property | Demonstration military communications equipment | GBP | 36,100 | GBP | 32,490 | 60,167 | Calculated loss is less than loss alleged. | Paras. 116, 11. | 60,167 |
| 46 | United Kingdom | Business Magazines International Ltd. 4001910 | GBP | 142,794 | 271,471 | Contract | Interrupted contract: Goods partially manufactured (Actual costs incurred) | GBP | 12,650 | GBP | 0 | 0 | Insufficient evidence of value. | Paras. 71, 15. | 52,891 |
| | | | | | | Contract | Interrupted contract: Increased costs (Termination payments) | GBP | 16,000 | GBP | 0 | 0 | Insufficient evidence of value. | Para. 74, 15. | |
| | | | | | | Contract | Services provided but not paid for: Value of services rendered | GBP | 17,860 | GBP | 0 | 0 | Part or all of loss is not direct. | Para. 66. | |
| | | | | | | Business loss or course of dealing | Course of dealing: Loss of profit | GBP | 96,284 | GBP | 28,191 | 52,891 | Insufficient evidence of value. Part or all of loss is outside compensable period. | Paras. 89, 15, 43. | |
| 47 | United Kingdom | Perkins Engines Group Limited (PEGL) 4001914 | GBP | 176,021 | 334,641 | Contract | Services provided but not paid for: Value of services rendered | GBP | 176,021 | GBP | 66,099 | 122,406 | Part or all of loss is not direct. | Para. 43. | 122,406 |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | | Reclassified amount d/ | | | | Decision of the Panel of Commissioners e/ | | | | | |
|----|-------------------|--|---|-----------------------------------|--------------|------------------------------------|--|--|---------------------------|---|-----------------|------------------------------------|--|----------------------|---------|
| | | | Amount claimed in original currency b/ | Amount claimed restated in USD c/ | Type of loss | Sub-category | Amount claimed in original currency | Amount recommended in original currency or currency of loss f/ | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD | | | |
| 48 | United Kingdom | Alan Dick & Company Limited 4001924 | GBP | 293,419 | 557,831 | Contract | Goods manufactured but not delivered: Contract price | GBP | 274,596 | GBP | 137,298 | 254,256 | Part or all of loss is unsupported. | Paras. 15, 71-72. | 262,882 |
| | | | | | | Business loss or course of dealing | Increased costs: Unproductive salary payments | GBP | 14,062 | GBP | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 15, 96. | |
| | | | | | | Payment or relief to others | Evacuation costs | GBP | 472 | GBP | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 15, 100, 102. | |
| | | | | | | Payment or relief to others | Detention: Support costs (Detainee & dependants' expenses) | GBP | 7,101 | GBP | 4,451 | 8,626 | Part or all of claim is unsubstantiated. | Paras. 15, 107-108. | |
| 49 | United Kingdom | John Crane UK Ltd. 4001959 | GBP | 334,992 | 636,867 | Business loss or course of dealing | Decline in business: Loss of profit | GBP | 93,750 | GBP | 0 | 0 | Part or all of loss is unsupported. | Paras. 15, 89. | 208,760 |
| | | | | | | Business loss or course of dealing | Increased costs: Mobile service centre | GBP | 55,783 | GBP | 6,975 | 13,235 | Calculated loss is less than loss alleged. | Paras. 97, 11. | |
| | | | | | | Business loss or course of dealing | Course of dealing: Interest on unpaid amounts | GBP | 21,798 | GBP | 0 | 0 | Part or all of loss is not direct. | Para. 89. | |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | Reclassified amount d/ | | | Decision of the Panel of Commissioners e/ | | | | | | |
|----|-------------------|--|---|-----------------------------------|------------------------------------|---|-------------------------------------|--|---------------------------|--|-----------------|---|---------------------|--|
| | | | Amount claimed in original currency b/ | Amount claimed restated in USD c/ | Type of loss | Sub-category | Amount claimed in original currency | Amount recommended in original currency or currency of loss f/ | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD | | |
| 49 | United Kingdom | John Crane UK Ltd. (continued) 4001959 | | | Business loss or course of dealing | Increased costs: Termination payments | GBP | 1,020 | GBP | 0 | 0 | No proof of actual loss. | Para. 96. | |
| | | | | | Other tangible property | Office furniture and equipment | GBP | 9,320 | GBP | 5,860 | 10,852 | Calculated loss is less than loss alleged. | Paras. 116, 11. | |
| | | | | | Other tangible property | Workshop furniture and equipment | GBP | 24,605 | GBP | 18,454 | 34,174 | Calculated loss is less than loss alleged. | Paras. 116, 11. | |
| | | | | | Other tangible property | Stock | GBP | 94,782 | GBP | 71,087 | 131,643 | Insufficient evidence of value. | Paras. 116, 11. | |
| | | | | | Other tangible property | Furniture and equipment | GBP | 11,894 | GBP | 1,715 | 3,176 | Insufficient evidence of value. Reduction to avoid multiple recovery. | Paras. 116, 15, 12. | |
| | | | | | Payment or relief to others | Repatriation costs for employee | GBP | 9,448 | GBP | 0 | 0 | No proof of actual loss. | Para. 102. | |
| | | | | | Payment or relief to others | Personal property reimbursement to employee | GBP | 3,086 | GBP | 631 | 1,223 | Reduction to avoid multiple recovery. | Paras. 12, 113. | |
| | | | | | Payment or relief to others | Support costs: Rental payments | GBP | 1,886 | GBP | 0 | 0 | No proof of actual loss. | Para. 106. | |
| | | | | | Business loss or course of dealing | Increased costs: Staff costs | GBP | 7,619 | GBP | 7,619 | 14,457 | N/A | | |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | | Reclassified amount d/ | | | Decision of the Panel of Commissioners e/ | | | | | | |
|----|-------------------|---|---|-----------------------------------|--------------|------------------------|--|--|---|--|-----------------|------------------------------------|--|-------------------|-------|
| | | | Amount claimed in original currency b/ | Amount claimed restated in USD c/ | Type of loss | Sub-category | Amount claimed in original currency | Amount recommended in original currency or loss f/ | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD | | | |
| 50 | United Kingdom | Bank of Credit & Commerce International (Overseas) Limited 4002002 | USD | 16,393,532 | 16,393,532 | Contract | Letters of credit issued by Iraqi banks | USD | 16,393,532 | USD | 0 | 0 | "Arising prior to" exclusion. Trade embargo is sole cause of loss. | Paras. 62-63, 43. | 0 |
| 51 | United Kingdom | McGraw Hill Book Co. Europe 4002051 | USD | 30,597 | 30,597 | Contract | Goods shipped, received but not paid for: Value of goods shipped | USD | 2,159 | USD | 2,149 | 2,149 | Calculated loss is less than loss alleged. | Paras. 11, 66. | 4,761 |
| | | | | | | Contract | Goods shipped, received but not paid for: Value of goods shipped | USD | 4,346 | USD | 2,612 | 2,612 | Calculated loss is less than loss alleged. | Paras. 11, 66. | |
| | | | | | | Contract | Goods shipped, received but not paid for: Value of goods shipped | USD | 24,092 | USD | 0 | 0 | "Arising prior to" exclusion. | Para. 47. | |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | | Reclassified amount d/ | | | | Decision of the Panel of Commissioners e/ | | | | | |
|----|-------------------|--|---|---------|-----------------------------------|-------------------------|---|-------------------------------------|--------|--|-----|---------------------------|---|-------------------|------------------------------------|
| | | | Amount claimed in original currency b/ | | Amount claimed restated in USD c/ | Type of loss | Sub-category | Amount claimed in original currency | | Amount recommended in original currency or loss f/ | | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD |
| | | | | | | | | | | | | | | | |
| 52 | United Kingdom | Philips Telecom - Private Mobile Radio [formerly RCS Ltd. and formerly Pye Telecommunications Ltd.] 4002083 | GBP | 138,602 | 287,898 | Other tangible property | Office equipment | GBP | 5,000 | GBP | 0 | 0 | Part or all of loss is unsupported. | Paras. 15, 116. | 0 |
| | | | IQD | 7,587 | | Other tangible property | Loss of use of bank balance | GBP | 25,210 | IQD | 0 | 0 | Part or all of loss is unsupported. Non-compensable bank balance in Iraq. | Paras. 120, 15. | |
| | | | | | | Other tangible property | Loss of use of bank balance | GBP | 50,000 | GBP | 0 | 0 | Non-compensable bank balance in Iraq. | Para. 120. | |
| | | | | | | Contract | Interrupted service contract: Value of services rendered | IQD | 7,587 | IQD | 0 | 0 | Part or all of loss is unsupported. | Paras. 15, 47. | |
| | | | | | | Contract | Goods shipped, received but not paid for: Value of goods shipped | GBP | 34,582 | GBP | 0 | 0 | "Arising prior to" exclusion. | Para. 47. | |
| | | | | | | Contract | Goods shipped, received but not paid for: Value of goods shipped | GBP | 18,810 | GBP | 0 | 0 | Part or all of loss is unsupported. | Paras. 15, 47. | |
| 53 | United Kingdom | Vosper Thornycroft (UK) Limited 4002091 | GBP | 2,372 | 4,510 | Contract | Interrupted contracts: Goods partially manufactured (Actual costs incurred) | GBP | 2,372 | GBP | 237 | 439 | Failure to establish appropriate efforts to mitigate. | Paras. 57, 71-73. | 439 |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | | Reclassified amount d/ | | | | Decision of the Panel of Commissioners e/ | | | | | |
|----|-------------------|--|---|-----------------------------------|--------------|-----------------------------|--|--|---------------------------|---|-----------------|------------------------------------|---|-----------------|---------|
| | | | Amount claimed in original currency b/ | Amount claimed restated in USD c/ | Type of loss | Sub-category | Amount claimed in original currency | Amount recommended in original currency or loss f/ | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD | | | |
| 54 | United Kingdom | Books for Students Ltd. 4002172 | GBP | 72,309 | 137,470 | Contract | Goods shipped, received but not paid for: Contract price | GBP | 237 | GBP | 0 | 0 | Part or all of loss is not direct. | Para. 66. | 13,115 |
| | | | | | | Contract | Goods lost or destroyed in transit: Contract price | GBP | 7,082 | GBP | 7,082 | 13,115 | N/A | | |
| | | | | | | Contract | Goods lost or destroyed in transit: Contract price | GBP | 9,075 | GBP | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 15, 79. | |
| | | | | | | Contract | Goods shipped, received but not paid for: Contract price | GBP | 55,915 | GBP | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 15, 66. | |
| 55 | United Kingdom | GPT Limited 4002175 | KWD | 85,875 | 310,102 | Other tangible property | Vehicles | KWD | 85,875 | KWD | 85,875 | 297,145 | N/A | | 303,750 |
| | | | GBP | 6,815 | | Payment or relief to others | Personal property reimbursement to employee | GBP | 6,815 | GBP | 3,408 | 6,605 | Insufficient evidence of value. | Paras. 15, 113. | |
| 56 | United Kingdom | Guardian Royal Exchange Assurance Plc 4002220 | USD | 364,913 | 1,262,675 | Contract | Unpaid accounts receivable: Insurance premiums | KWD | 364,913 | KWD | 91,228 | 315,668 | Part or all of claim is unsubstantiated. Part or all of loss is not direct. | Paras. 15, 66. | 315,668 |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | | Reclassified amount d/ | | | | Decision of the Panel of Commissioners e/ | | | | | |
|----|--------------------------|--|---|-----------------------------------|--------------|------------------------------------|---------------------------------------|--|---------------------------|---|-----------------|------------------------------------|---|-----------------|---------|
| | | | Amount claimed in original currency b/ | Amount claimed restated in USD c/ | Type of loss | Sub-category | Amount claimed in original currency | Amount recommended in original currency or currency of loss f/ | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD | | | |
| 57 | United States of America | NCR Corporation [Formerly AT&T Global Information Solutions Company] 4000615 | USD | 10,579,016 | 10,579,016 | Other tangible property | Furniture and equipment | USD | 135,931 | USD | 135,931 | 135,931 | N/A | | 945,421 |
| | | | | | | Other tangible property | Inventory | USD | 58,753 | USD | 49,350 | 49,350 | Calculated loss is less than loss alleged. | Paras. 116, 11. | |
| | | | | | | Business loss or course of dealing | Increased costs: Termination payments | USD | 815,298 | USD | 760,140 | 760,140 | Part or all of claim is unsubstantiated. Part or all of loss is not direct. | Paras. 15, 96. | |
| | | | | | | Business loss or course of dealing | Decline in business: Loss of profit | USD | 3,289,350 | USD | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 15, 89. | |
| | | | | | | Income producing property | Total loss: Closure of branch | USD | 6,279,684 | USD | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 15, 124. | |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | | Reclassified amount d/ | | | | Decision of the Panel of Commissioners e/ | | | | | |
|----|--------------------------|--------------------------------|---|-----------------------------------|--------------|-------------------------|---|--|---------------------------|---|-----------------|------------------------------------|--|----------------|--------|
| | | | Amount claimed in original currency b/ | Amount claimed restated in USD c/ | Type of loss | Sub-category | Amount claimed in original currency | Amount recommended in original currency or currency of loss f/ | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD | | | |
| 58 | United States of America | Sony Trans Com Inc. 4000624 | USD | 905,399 | 905,399 | Contract | Interrupted service contract: Loss of profit | USD | 821,590 | USD | 12,233 | 12,233 | Calculated loss is less than loss alleged. | Para. 59. | 75,979 |
| | | | | | | Contract | Services provided but not paid for: Value of services rendered | USD | 47,109 | USD | 35,332 | 35,332 | "Arising prior to" exclusion. Calculated loss is less than loss alleged. Insufficient evidence of value. | Paras. 47, 15. | |
| | | | | | | Other tangible property | In-flight entertainment equipment | USD | 36,700 | USD | 28,414 | 28,414 | Calculated loss is less than loss alleged. | Para. 117. | |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | Reclassified amount d/ | | Decision of the Panel of Commissioners e/ | | | | | | | | |
|----|--------------------------|----------------------------------|---|-----------------------------------|------------------------|--------------|--|--|---------------------------|--|-----------------|------------------------------------|--|----------------|---------|
| | | | Amount claimed in original currency b/ | Amount claimed restated in USD c/ | Type of loss | Sub-category | Amount claimed in original currency | Amount recommended in original currency or currency of loss f/ | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD | | | |
| 59 | United States of America | Unisys Corporation g/ 4000632 | USD | 3,699,554 | 3,699,554 | Contract | Interrupted service contract: Value of services rendered | USD | 1,210,561 | SAR | 0 | 0 | Part or all of loss is not direct. | Para. 81. | 215,045 |
| | | | | | | Contract | Interrupted service contract: Loss of profit | USD | 317,140 | USD | 0 | 0 | Part or all of loss is not direct. | Paras. 83, 81. | |
| | | | | | | Contract | Interrupted service contract: Loss of profit | USD | 71,279 | USD | 34,934 | 34,934 | Calculated loss is less than loss alleged. | Para. 83. | |
| | | | | | | Contract | Interrupted service contract: Increased costs (Termination payments) | USD | 877,783 | USD/SAR | 0 | 0 | Part or all of loss is not direct. | Paras. 83, 81. | |
| | | | | | | Contract | Interrupted service contract: Consequential costs (Performance bond) | USD | 890,000 | USD | 0 | 0 | Part or all of loss is not direct. | Paras. 83, 81. | |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | Reclassified amount d/ | | | Decision of the Panel of Commissioners e/ | | | | | | | |
|----|--------------------------|--|---|-----------------------------------|------------------------|-----------------------------|---|--|---------------------------|--|-----------------|------------------------------------|--|----------------------|---------|
| | | | Amount claimed in original currency b/ | Amount claimed restated in USD c/ | Type of loss | Sub-category | Amount claimed in original currency | Amount recommended in original currency or loss f/ | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD | | | |
| 59 | United States of America | Unisys Corporation (continued) 4000632 | | | | Payment or relief to others | Evacuation costs: Transportation | USD | 332,791 | USD | 153,857 | 153,857 | Calculated loss is less than loss alleged. Part or all of loss is unsupported. | Paras. 15, 100, 102. | |
| | | | | | | Payment or relief to others | Evacuation costs: Accommodation & other living expenses | | | GBP | 2,193 | 4,250 | Calculated loss is less than loss alleged. Part or all of loss is unsupported. | Paras. 15, 100, 102. | |
| | | | | | | Payment or relief to others | Evacuation costs: Other costs | | | SAR | 82,406 | 22,004 | Calculated loss is less than loss alleged. Part or all of loss is unsupported. | Paras. 15, 100, 102. | |
| 60 | United States of America | American Telephone and Telegraph Corporation g/ 4002228 | USD | 584,787 | 584,787 | Contract | Interrupted service contract: Contract price | USD | 134,011 | USD | 0 | 0 | Insufficient evidence of value. | Paras. 15, 71-72. | 138,461 |
| | | | | | | Contract | Interrupted project/turnkey contract: Actual costs incurred | USD | 256,885 | USD | 0 | 0 | Insufficient evidence of value. | Paras. 15, 71. | |
| | | | | | | Payment or relief to others | Evacuation costs | USD | 193,892 | SAR | 217,973 | 58,204 | Part or all of loss is not direct. Part or all of claim is unsubstantiated. | Paras. 15, 100, 102. | |
| | | | | | | | | | DEM | 60,586 | 40,257 | | | | |
| | | | | | | USD | 40,000 | 40,000 | | | | | | | |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | Reclassified amount d/ | | | Decision of the Panel of Commissioners e/ | | | | | | | |
|----|--------------------------|-----------------------------|---|-----------------------------------|------------------------|-------------------------|---|--|---------------------------|--|-------------------|------------------------------------|--|--------------------|---|
| | | | Amount claimed in original currency b/ | Amount claimed restated in USD c/ | Type of loss | Sub-category | Amount claimed in original currency | Amount recommended in original currency or loss f/ | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD | | | |
| 61 | United States of America | Honeywell Inc. 4002235 | USD | 2,500,650 | 2,500,650 | Contract | Interrupted project/turnkey contract: Unpaid accounts receivable | USD | 1,575,161 | KWD | 0 | 0 | No proof of direct loss. | Para. 66. | 0 |
| | | | | | | Contract | Interrupted project/turnkey contract: Loss of profit | USD | 350,171 | KWD | 0 | 0 | Insufficient evidence of value. | Paras. 15, 71-72. | |
| | | | | | | Contract | Interrupted service contract: Loss of profit | USD | 280,587 | KWD | 0 | 0 | Insufficient evidence of value. | Paras. 15, 71-72. | |
| | | | | | | Contract | Interrupted project/turnkey contract: Increased costs (Financing costs) | USD | 60,300 | USD | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 15, 71, 73. | |
| | | | | | | Claim preparation costs | | USD | 31,272 | USD | Awaiting decision | Awaiting decision | To be resolved by Governing Council. | Para. 142. | |
| | | | | | | Interest | | USD | 203,159 | USD | 0 | 0 | Principal sum not compensable. | | |

| | <u>Submitting Entity</u> | <u>Claimant and UNCC claim no.</u> | <u>Total amount claimed, including permissible amendments a/</u> | | | <u>Reclassified amount d/</u> | | | <u>Decision of the Panel of Commissioners e/</u> | | | | | | |
|----|--------------------------|--|--|--|------------|-------------------------------|---|--|---|----------------------------------|---|------------------------|--|--------------------|-----------|
| | | | <u>Amount claimed in original currency b/</u> | <u>Amount claimed restated in USD c/</u> | | <u>Type of loss</u> | <u>Sub-category</u> | <u>Amount claimed in original currency</u> | <u>Amount recommended in original currency or loss f/</u> | <u>Amount recommended in USD</u> | <u>Reasons for denial or reduction of award</u> | <u>Report citation</u> | <u>Total of amount recommended in USD</u> | | |
| 62 | United States of America | Pepsico Puerto Rico, Inc. (successor to The Pepsi-Cola Manufacturing Co., Inc.) 4002252 | USD | 12,144,000 | 12,144,000 | Contract | Goods shipped, received but not paid for: Value of goods shipped | USD | 5,600,000 | USD | 3,500,000 | 3,500,000 | "Arising prior to" exclusion. | Para. 47. | 3,798,108 |
| | | | | | | Contract | Interrupted contract: Goods manufactured but not delivered (Loss of profit) | USD | 6,088,000 | USD | 298,108 | 298,108 | Insufficient evidence of value. Failure to establish appropriate efforts to mitigate. Part or all of loss is outside compensable period. | Paras. 15, 57, 43. | |
| | | | | | | Contract | Goods shipped, received but not paid for: Contract price | USD | 456,000 | USD | 0 | 0 | "Arising prior to" exclusion. | Para. 47. | |
| | | | | | | Interest | | | No value stated | | Awaiting decision | Awaiting decision | To be determined per Governing Council decision 16. | Paras. 140-141. | |
| | | | | | | Claim preparation costs | | | No value stated | | Awaiting decision | Awaiting decision | To be resolved by Governing Council. | Para. 142. | |

| | Submitting Entity | Claimant and UNCC claim no. | Total amount claimed, including permissible amendments a/ | | | Reclassified amount d/ | | | | Decision of the Panel of Commissioners e/ | | | | | |
|----|-------------------------------------|--|---|-----------------------------------|--------------|-----------------------------|--|--|---------------------------|---|-------------------|------------------------------------|--|-------------------|--------|
| | | | Amount claimed in original currency b/ | Amount claimed restated in USD c/ | Type of loss | Sub-category | Amount claimed in original currency | Amount recommended in original currency or currency of loss f/ | Amount recommended in USD | Reasons for denial or reduction of award | Report citation | Total of amount recommended in USD | | | |
| 63 | United States of America | ITT Corporation, ITT Gilfillan Division 4002511 | USD | 323,746 | 323,746 | Contract | Interrupted service contract: Loss of profit | USD | 240,788 | USD | 0 | 0 | Part or all of claim is unsubstantiated. | Paras. 15, 71-72. | 68,282 |
| | | | | | | Payment or relief to others | Personal property reimbursement to employee | USD | 71,486 | USD | 68,282 | 68,282 | Part or all of loss is not direct. | Para. 113. | |
| | | | | | | Claim preparation costs | | USD | 11,472 | USD | Awaiting decision | Awaiting decision | To be resolved by Governing Council. | Para. 142. | |
| 64 | Corporate claims directly submitted | Neumaticos Goodyear SA 4005781 | USD | 167,922 | 167,922 | Contract | Goods shipped, received but not paid for: Value of goods shipped | USD | 167,922 | USD | 0 | 0 | No proof of direct loss. | Paras. 15, 66. | 0 |

Notes to table of recommendations

a/ In accordance with the Governing Council's decision taken at its twenty-seventh session held in March 1998, the Panel has not considered unsolicited supplements or amendments submitted after 11 May 1998 to previously filed claims. Accordingly, the total claimed amounts stated in this table include only those supplements and amendments to the original claimed amounts submitted prior to 11 May 1998 or submitted after that date where these comply with the requirements of the Commission. The Panel observes that, in a few cases, there were discrepancies between the total amount asserted by the claimant in the claim form and the sum of the individual loss items stated by the claimant in the statement of claim. In such circumstances, the Panel adopts the total value asserted in the claim form.

b/ Currency codes: ATS (Austrian schilling), AUD (Australian dollar), CHF (Swiss franc), DEM (Deutsche mark), FIM (Finnish markka), FRF (French franc), XFO (Gold franc), GBP (Pound sterling), HUF (Hungarian Forint), INR (Indian rupee), IQD (Iraqi dinar), ITL (Italian lire), JOD (Jordanian dinar), JPY (Japanese yen), KWD (Kuwaiti dinar), SAR (Saudi Arabian riyal), SDR (Special drawing rights), SEK (Swedish kroner), TND (Tunisian dinar), USD (United States dollar).

c/ In the column entitled "Total amount claimed restated in USD", for claims originally expressed by the claimant in currencies other than United States dollars, the secretariat has converted the amount claimed to United States dollars based on August 1990 rates of exchange as indicated in the United Nations Monthly Bulletin of Statistics, or in cases where this exchange rate is not available, the latest exchange rate available prior to August 1990. This conversion is made solely to provide an indication of the amount claimed in United States dollars for comparative purposes. In contrast, the date of the exchange rate that was applied to calculate the recommended amount is described in paragraphs 131 to 139.

d/ In the columns under the heading entitled "Reclassified claim", the Panel has re-categorized certain of the losses using standard classifications, as appropriate, since many claimants have presented similar losses in different ways (see columns entitled "Type of loss" and "Sub-category"). This procedure is intended to ensure consistency, equality of treatment and fairness in the analysis of the claims and is consistent with the practice of the Commission. In addition, the amount stated in the claim form for each element of loss is also reflected.

e/ As used in this table, "N/A" means not applicable.

f/ The secretariat has recalculated the amount claimed in the currency of the original loss which, on occasion has been different from the amount stated in the claim form.

g/ Part or all of this claim is brought on behalf of a subsidiary by a parent company. See paragraph 14 above.

h/ The asserted total value of losses forming the subject-matter of this claim is subject to deductions for compensation previously awarded by the Commission or for insurance payments disclosed by the claimant. Such deductions have been taken into account in calculating the compensation recommended.
