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UNITED NATIONS  
COMPENSATION COMMISSION  
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REPORT AND RECOMMENDATIONS MADE BY THE PANEL OF COMMISSIONERS  
CONCERNING THE ELEVENTH INSTALMENT OF "E4" CLAIMS

GE.01-62583

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### Introduction

1. At its thirtieth session, held on 14-16 December 1998, the Governing Council of the United Nations Compensation Commission (the "Commission") appointed Messrs. Luiz Olavo Baptista ("Chairman"), Jean Naudet, and Jianxi Wang as the second Panel of Commissioners (the "Panel") charged with reviewing category "E4" claims. The category "E4" population consists of claims, other than oil sector and environmental claims, submitted by Kuwaiti private-sector corporations and other entities eligible to file claims under the Commission's "Claim Forms for Corporations and Other Entities" ("Form E").
2. The eleventh instalment consisting of 19 "E4" claims was submitted to the Panel on 21 February 2000, in accordance with article 32 of the Provisional Rules for Claims Procedure (S/AC.26/1992/10) (the "Rules").
3. Pursuant to article 38 of the Rules, this report contains the Panel's recommendations to the Governing Council concerning the eleventh instalment claims.

#### I. OVERVIEW OF THE ELEVENTH INSTALMENT CLAIMS

4. The eleventh instalment claims were selected from the population of approximately 2,750 "E4" claims on the basis of criteria that include, inter alia, the size, volume and complexity of the claims, the legal, factual, and valuation issues raised by the claims, and the date of filing of the claims with the Commission.
5. The eleventh instalment claimants filed losses aggregating Kuwaiti dinars ("KWD") 104,416,886 (approximately United States dollars ("USD") 361,304,104). The claimants have also asserted claims for interest totalling KWD 6,451,968 (approximately USD 22,325,149) and claim preparation costs aggregating KWD 158,000 (approximately USD 546,713).
6. The eleventh instalment claims are classified as "unusually large or complex" within the meaning of article 38(d) of the Rules. In other words, the amount claimed by each claimant is more than USD 10 million (approximately KWD 3 million), and, due to the nature of the legal and factual issues raised in the claims and the amount of documentation provided in support of the claimed loss, the Panel's verification and valuation of the claims have been completed within twelve months of the date the claims were submitted to the Panel.

7. All of the claimants in the eleventh instalment operated in Kuwait prior to Iraq's invasion and occupation of Kuwait. Most claimants conducted trading operations dealing in a variety of goods.

8. The claimants in this instalment have sought compensation for all but two of the loss types identified on Form E. The two loss types for which no losses have been claimed relate to business transactions or course of dealing and loss of income-producing properties. The two most common losses asserted are loss of tangible property (mainly stock, furniture, fixtures, equipment and vehicles) and loss of earnings or profits. The claimants have also sought compensation for payment or relief to others, uncollectible receivables, restart costs, interest and claim preparation costs and "other losses".

## II. THE PROCEEDINGS

9. Before the eleventh instalment claims were submitted to the Panel, the secretariat undertook a preliminary assessment of the claims in accordance with the Rules. This review is described in paragraph 11 of the "Report and recommendations made by the Panel of Commissioners concerning the first instalment of 'E4' claims" (S/AC.26/1999/4) (the "First 'E4' Report"). The results of the review were entered into a centralized database maintained by the secretariat (the "Claims Database").

10. Originally, three claims presented formal deficiencies and the secretariat issued notifications to the claimants pursuant to article 15 of the Rules. The claimants corrected all formal deficiencies.

11. A substantive review of the claims was undertaken to identify significant legal, factual and valuation issues. The results of the review, including the significant issues identified, were recorded in the Claims Database.

12. The Executive Secretary of the Commission submitted reports Nos. 27, 28 and 29 dated 26 April 1999, 23 July 1999 and 28 October 1999, respectively, to the Governing Council in accordance with article 16 of the Rules ("article 16 reports"). These reports covered, inter alia, the eleventh instalment of "E4" claims. A number of Governments, including the Government of Iraq, submitted additional information and views in response to the Executive Secretary's article 16 reports.

13. In addition to having access to narrative claim summaries for each claim in the eleventh instalment, the Panel also requested specific information and documents from the claimants pursuant to article 34 of the Rules. All such letters were directed through the Government of Kuwait's Public Authority for

Assessment of Compensation for Damages Resulting from Iraqi Aggression ("PAAC").

14. At the conclusion of the (i) preliminary assessment; (ii) substantive review; and (iii) article 16 reporting, the following documents were made available to the Panel:

(a) The claim documents submitted by the claimants;

(b) The preliminary assessment reports prepared under article 14 of the Rules;

(c) Information and views of Governments, including the Government of Iraq, received in response to the article 16 reports; and

(d) Other information deemed, under article 32 of the Rules, to be useful to the Panel for its work.

15. For the reasons stated in paragraph 17 of the First "E4" Report, the Panel retained the services of an accounting firm and a loss adjusting firm as expert consultants. The Panel directed the expert consultants to review each claim in the eleventh instalment in accordance with the verification and valuation methodology developed by the Panel. The Panel directed the expert consultants to submit to the Panel a detailed report for each claim summarizing the expert consultants' findings.

16. By its first procedural order dated 21 February 2000, the Panel gave notice of its intention to complete its review of the eleventh instalment claims and submit its report and recommendations to the Governing Council within twelve months of 21 February 2000. This procedural order was transmitted to the Government of Iraq and the Government of Kuwait.

17. By its second procedural order dated 22 February 2000, the Panel directed the transmittal to the Government of Iraq of a copy of the original claim file consisting of the claim form, the statement of claim and all supporting documents filed by one claimant whose claim involved elements relating to dealings with Iraqi entities. The Panel invited the Government of Iraq to submit its comments to this claim within 180 days of the date of the procedural order. Iraq's comments were received on 14 August 2000 and were reviewed and considered by the Panel.

18. Pursuant to article 34 of the Rules, specific interrogatories were transmitted to each claimant requesting additional information in order to assist the Panel in its review of the claims. All such letters were directed

through PAAC. Claimants who were unable to submit the evidence requested were asked to provide reasons for their inability to comply with such requests. The type of information required varied depending on the evidentiary shortcomings encountered for each claimant. These requests were made in relation to the entire "E4" claims population and not just the eleventh instalment claims.

19. These requests for additional information have been described in paragraphs 19-24 of the "Report and recommendations made by the Panel of Commissioners concerning the fourth instalment of 'E4' claims" (S/AC.26/1999/18) (the "Fourth 'E4' Report") and paragraph 18 of the "Report and recommendations made by the Panel of Commissioners concerning the sixth instalment of 'E4' claims" (S/AC.26/2000/8). These requests for information are not restated in this report.

20. During the period 2-9 March 2000, at the direction of the Panel, six members of the secretariat and two expert accounting and loss adjusting consultants travelled to Kuwait for the purpose of conducting an on-site inspection during which the delegation met with all eleventh instalment claimants to obtain information for the Panel's review (the "Mission"). The delegation also carried out inspections of some of the claimant's premises, offices, showrooms, and warehouses. During meetings with the claimants, the delegation received some of the documents that had been requested through PAAC.

21. An additional level of verification was performed to determine if related claimants filed duplicate claims with the Commission. This review is described in paragraph 18 of the Fourth "E4" Report.

22. Based on its review of the documents submitted and the additional information obtained, the Panel concluded that the issues presented by the eleventh instalment claims had been adequately developed and that oral proceedings were not required to explore such issues further.

### III. LEGAL FRAMEWORK AND VERIFICATION AND VALUATION METHODOLOGY

23. The legal framework and the verification and valuation methodology applied to the evaluation of claims in this instalment are the same as that used in earlier "E4" instalments. This framework and methodology are discussed in paragraphs 25-62 of the First "E4" Report. Subsequent "E4" reports discuss additional legal and verification and valuation issues that were encountered in later instalments of "E4" claims. These various elements of the Panel's review are not restated in this report. Instead this report

refers to sections in the previous "E4" reports where such issues have been addressed.

24. Where the Panel encountered new issues not addressed in prior "E4" reports, the Panel developed methodologies for verifying and valuing the losses. These new issues are discussed in the text of this report. The Panel's specific recommendations on the losses asserted in this instalment and the reasons therefore are set out in the annexes to this report.

25. Before discussing the Panel's specific recommendations for compensating the eleventh instalment claims, it is important to restate that the Panel's approach to the verification and valuation of these claims balances the claimant's inability always to provide best evidence against the "risk of overstatement" introduced by shortcomings in evidence. In this context, the term "risk of overstatement", as defined in paragraph 34 of the First "E4" Report, is used to refer to cases in which claims contain evidentiary shortcomings that prevent their precise quantification and therefore present a risk that they might be overstated.

#### IV. THE CLAIMS

26. The Panel reviewed the claims according to the nature and type of loss identified. Therefore, the Panel's recommendations are set out by loss type. Reclassified losses have been dealt with in the section pertaining to the loss category into which the Panel reclassified the losses.

##### A. Contracts

27. One claimant in this instalment asserted a loss of contract in the amount of KD 1,997,106 (approximately USD 6,910,401). The Panel's approach to the compensability of contract losses is stated in prior "E4" reports and the verification and valuation methodology adopted by the Panel for the loss of contract claims is discussed in paragraphs 77-84 of the First "E4" Report.

28. Soir General Trading & Contracting Co. W.L.L. sought compensation for losses related to a stock of jewelry held on consignment (the "Consigned Goods") from Dianoor International Ltd. ("Dianoor") based in Hong Kong, which appears to be a related company. Under an agreement entered into between the claimant and Dianoor dated 2 February 1987 (the "Consignment Agreement"), title to the Consigned Goods remained with Dianoor until full payment or return thereof had been effected. The Consignment Agreement likewise provided that the claimant became liable to Dianoor for the full price of the goods in case of loss, damage or theft while in the claimant's possession. The claim

is for the value of the Consigned Goods that the claimant alleged were lost as a result of Iraq's invasion and occupation of Kuwait.

29. The Consigned Goods were not reflected as stock in the claimant's pre-invasion audited accounts from 31 August 1987 to 31 August 1989. Likewise, the sales generated therefrom were not reflected as such. The claimant explained that it was only Dianoor that recorded the sales from the Consigned Goods and that the value of the Consigned Goods was included as part of its "long-term liability" as indicated in the notes to the same pre-invasion audited accounts. As evidence in support of the transactions under the Consignment Agreement, the claimant submitted copies of internal "consignment notes" that gave details of the jewelry stated to have been received from Dianoor and the value thereof. The claimant also provided copies of internal "return notes", which the claimant sent to Dianoor whenever a sale was made. The claimant stated that this practice was carried out to maintain trade secrecy in its business.

30. The Panel determines that the claimant has not satisfactorily shown that it sustained a loss in relation to the Consigned Goods. In particular, the claimant has failed to submit sufficient evidence to establish the existence and value of the Consigned Goods. For example, there is no third-party evidence submitted in support of the consignment deliveries such as airway bills or other shipping documents. While it has submitted documents showing application for payments to be effected to Dianoor, the intended payments could not be directly related to the individual consignments appearing in an internally-generated list prepared by the claimant. Moreover, the Panel notes that the claimant has in fact not yet settled its long-term liability to Dianoor, ten years after the alleged loss occurred. Specifically, in a letter dated 13 April 2000 to the claimant, Dianoor confirmed that the value of the unreturned Consigned Goods was still outstanding. There is therefore no evidence that liability to Dianoor under the Consignment Agreement was incurred and settled. In the light of the foregoing, the Panel recommends no compensation for the claim.

31. The Panel's recommendations on loss of contract claims are summarized in annex II.

#### B. Real property

32. Ten claimants in this instalment asserted claims aggregating KWD 3,156,373 (approximately USD 10,921,706) for loss of real property. These claims relate to damage to a number of owned and rented premises in Kuwait.

33. The claims for loss of real property in this instalment did not raise any new legal or verification and valuation issues. The compensability standards and the verification and valuation methodology adopted by the Panel for loss of real property claims are stated in paragraphs 89-101 of the First "E4" Report.

34. The nature of damage to the properties and the location of the affected properties in Kuwait established that the losses were a direct result of Iraq's invasion and occupation of Kuwait. Claims were either based on the actual costs incurred in repairing the properties or on estimates of such costs.

35. Most claimants submitted sufficient evidence to establish their interest in the affected properties and the loss claimed. However, as was the case in earlier "E4" instalments, claimants generally did not exclude regular maintenance or depreciation costs from their claims. The Panel adjusted the claims to account for these costs, which would have been incurred in the normal course of business and were not a direct result of Iraq's invasion and occupation of Kuwait. A similar adjustment was made by the Panel in two cases of unforced "betterment", as explained in paragraph 97 of the First "E4" Report.

36. In claims based on estimated repair costs, the Panel sought a reasonable explanation for the claimant's failure to repair or replace the affected property. Where such explanation was absent, the Panel adjusted the claim to offset the "risk of overstatement" created by this shortcoming.

37. The Panel's recommendations on real property losses are summarized in annex II.

#### C. Tangible property, stock, cash and vehicles

38. Tangible property losses are claimed by all of the eleventh instalment claimants. The asserted losses, relating to stock, furniture and fixtures, equipment, vehicles and cash, aggregate KWD 69,177,212 (approximately USD 239,367,516).

39. With regard to the compensability and the verification and valuation of these tangible property claims, the Panel applied the approach set out in paragraphs 108-135 of the First "E4" Report.

40. The claimants in this instalment generally submitted the same type of evidence encountered by the Panel in earlier "E4" instalments in relation to claims for loss of tangible property and stock. (See "Report and

recommendation made by the Panel of Commissioners concerning the fifth instalment of 'E4' claims" (S/AC.26/2000/7) (the "Fifth 'E4' Report") at paragraphs 48-49, 56, and 61.)

41. Cash losses are claimed by three claimants in this instalment. Where claims for cash losses were not supported by contemporaneous evidence establishing the possession and amount of cash held on 2 August 1990, such as previous month-end cash balances, copies of daily bank deposit statements, cash-flow registers and monthly sales ledgers, the Panel recommended no compensation. Only one claimant in the eleventh instalment was successful in substantiating its claim for cash losses.

42. Most claimants with loss of vehicle claims were able to establish their losses by submitting copies of deregistration certificates and additional documents such as post-liberation audited accounts and witness statements that substantiated the fact and circumstances of their losses. The asserted values of the vehicles lost were separately verified by the Panel against vehicle values contained in the Motor Vehicle Valuation Table ("M.V.V. Table"), as defined at paragraph 135 of the First "E4" Report, or, for vehicles not listed in the M.V.V. Table, against other third-party estimates.

43. The Panel's recommendations on tangible property, stock, cash and vehicle losses are summarized in annex II.

D. Payment or relief to others

44. Three claimants in this instalment submitted claims aggregating KWD 441,783 (approximately USD 1,528,661) for payment or relief to others.

45. When reviewing claims for payment or relief to others the Panel applied the approach and verification and valuation methodology described at paragraphs 155-157 of the First "E4" Report and other earlier "E4" reports. (See, for example, Fourth "E4" Report at paragraphs 61-63.)

46. All three claimants seek reimbursement for redundancy payments or termination indemnities that were paid to their non-Kuwaiti employees in respect of the termination of those employees' employment contracts. The claimants provided schedules naming the employees to whom payments were made. Generally, the claimants also provided payroll lists and the employees' civil identification numbers or passport numbers. In two claims, namely, Ali Abdul Wahab Sons & Company W.L.L. and Al Andalus Trading Establishment Co. W.L.L., the Panel applied adjustments to reflect the extent to which insufficient proof of payment was provided for some of the named employees and for failure to provide adequate employment documentation. Photo & Cine Equipment failed

to provide any payment receipt or other document establishing the actual payment of amounts to its employees, nor was sufficient evidence submitted to substantiate that the individuals named were the employees of the claimant prior to Iraq's invasion and occupation of Kuwait. In view of the lack of evidence, the Panel recommends no compensation for this claim.

47. The Panel's recommendations on the payment or relief to others claims are summarized in annex II.

#### E. Loss of profits

48. Sixteen of the claimants in this instalment submitted claims for loss of profits aggregating KWD 15,293,423 (approximately USD 52,918,419).

49. Four significant legal and factual issues raised in the first instalment claims are all raised in the eleventh instalment claims. These issues relate to the impact and assessment of (i) benefits received under the Government of Kuwait's post-liberation debt settlement programme, (ii) windfall or exceptional profits earned by claimants in the period immediately following the liberation of Kuwait, (iii) the indemnity period for loss of profits claims, and (iv) claims for loss of profits selectively based on profitable lines of business. The conclusions reached by the Panel in relation to these issues are set forth in paragraphs 161-193 of the First "E4" Report. The Panel has applied these conclusions in its considerations and recommendations for the loss of profits claims in this instalment.

50. The verification and valuation methodology adopted by the Panel for loss of profits claims is stated in paragraphs 194-202 of the First "E4" Report.

51. Two claimants recorded historical losses in their annual audited accounts during the three-year period prior to Iraq's invasion of Kuwait. Supplying Store Co. W.L.L., whose claim for rental income has been reclassified from contract losses, and Americana International Company, operated at net losses for each of the three years of business prior to the invasion. Based on the claimants' historical averages, the Panel recommends no compensation for these claims.

52. The Panel's recommendations on loss of profits claims are summarized in annex II.

#### F. Receivables

53. Six claimants in this instalment asserted claims for uncollectible receivables or "bad debts" aggregating KWD 9,771,808 (approximately USD

33,812,484). The majority of these claims were for amounts owed by businesses or individuals located in Kuwait prior to Iraq's invasion.

54. As was the case in previous instalments of "E4" claims, most claimants sought compensation for debts that remained uncollected because debtors had not returned to Kuwait after liberation. The issue raised is whether the uncollected debts had become uncollectible as a direct result of Iraq's invasion and occupation of Kuwait.

55. The Panel reiterates the first "E4" Panel's determination on this issue as set out in paragraphs 208-210 of the First "E4" Report. Claims for debts that have become uncollectible as a result of Iraq's invasion and occupation of Kuwait must demonstrate, by documentary or other appropriate evidence, the nature and amount of debt in question and the circumstances that caused the debt to become uncollectible.

56. The claims for uncollectible receivables were verified and valued in the same manner described in paragraphs 211-215 of the First "E4" Report. As discussed in that Report, the Panel recommends no award for claims that rely on the mere assertion that uncollected debts are ipso facto uncollectible because the debtors did not return to Kuwait, and where there is a failure to provide evidence demonstrating that the debtors' inability to pay was a direct result of Iraq's invasion and occupation of Kuwait. This shortcoming was brought to the attention of the claimants, in the context of the additional information requested from claimants (see paragraphs 13, 18 and 19 above). In addition, during the Mission, the claimants were also requested to provide documentary evidence confirming that the debtors of the claimants were no longer in business as a result of Iraq's invasion and occupation of Kuwait.

57. Supplying Store Co. W.L.L. submitted a sample of copies of court judgments it had obtained against its debtors in support of its claim for bad debts. Only some of the court judgments specifically stated the amount of the debt due to the claimant and the date or period when the debts were incurred. In those instances where the court judgments indicated the period of the transactions giving rise to the debts, all of the transactions took place before 1990, in some cases as early as 1983. More importantly, none of the factual circumstances which resulted in the debtors' inability to pay the claimant were related to Iraq's invasion and occupation of Kuwait. Paragraph 212 of the First "E4" Report provides: "The Panel then reviews the period for which the claimant recognized the debt as outstanding prior to Iraq's invasion and occupation of Kuwait. To the extent the loss claimed relates to debt that would have been written off under international accounting practices prior to Iraq's invasion, the claim is disallowed. For all other receivables, the Panel seeks evidence that the invasion is a 'separate and distinct' direct

cause rendering such debt uncollectible. In cases where the claimant has not provided such evidence the Panel disallows the claim." In view of the foregoing, the Panel recommends no compensation for this claim.

58. Another claimant, Kahil International Group for Trade and General Contracting, submitted a claim for bad debts representing an amount owed by an individual of Iraqi nationality. The claimant presented a copy of a court judgment awarded on 31 October 1989 against the Iraqi debtor for a debt that resulted from business transactions made between 27 January 1984 and 29 April 1985. Since the debt was incurred in 1984 and 1985, it is clearly a debt of Iraq arising prior to 2 August 1990. With regard to debts owed by Iraqi entities, the Panel notes that the Governing Council has previously approved reports by other category "E" Panels where it was determined that the Commission does not have jurisdiction over a debt or obligation that is based on work performed or services rendered prior to 2 May 1990. (See, for example, "Report and recommendations made by the Panel of Commissioners concerning the first instalment of 'E2' claims" (S/AC.26/1998/7) at paragraph 90; and "Report and recommendations made by the Panel of Commissioners concerning the fourth instalment of 'E3' claims" (S/AC.26/1999/14), at paragraphs 21-23.) The Panel therefore recommends no compensation for this claim.

59. One claimant was able to satisfy the criteria established in the First "E4" Report for a portion of the amount claimed. Supply and Building Company W.L.L. submitted a claim for accounts receivables due from Iraq's Ministry of Planning, the Embassy of Iraq in Kuwait, Iraqi Airways and five other corporate entities which, as stated by the claimant, were under Iraqi management during Iraq's invasion and occupation of Kuwait. The claimant failed to provide documentary evidence identifying the managing authority for the five companies or the country of incorporation of these entities. However, it did provide evidence of unpaid credit invoices dated between February and July 1990 due from the three Iraqi entities mentioned. Hence, the Panel only recommends the unpaid portion of the amount owed by Iraq's Ministry of Planning, the Embassy of Iraq in Kuwait and Iraqi Airways that relates to stock, machinery and furniture obtained from the claimant on or after 2 May 1990.

60. In response to letters issued pursuant to article 34 of the Rules (see paragraph 17., supra), two claimants reduced their claims for bad debts to reflect amounts recovered from their debtors after their claims were submitted. Al Alamiah Electronics Company reduced its original claim from KWD 4,822,740 (approximately USD 16,687,682) to KWD 4,619,740 (approximately USD 15,985,260) and Supplying Store Co. W.L.L. reduced its original claim from KWD 3,025,671 (approximately USD 10,469,450) to KWD 2,522,288 (approximately

USD 8,727,640). Although the Panel considered this information when it recommended the awards, the reductions in the amounts asserted are not reflected in the amounts claimed, as shown in annexes I and II to this report.

61. The Panel's recommendations with respect to "bad debt" claims are summarized in annex II.

G. Restart costs

62. Five claimants in this instalment asserted claims aggregating KWD 269,916 (approximately USD 933,965) for restart costs. The claims have been reviewed using the methodology discussed in paragraphs 221-223 of the First "E4" Report and paragraphs 93-96 of the Second "E4" Report. (See also, Fourth "E4" Report, paragraphs 87-89.)

63. Soir General Trading & Contracting Co. W.L.L. submitted a claim for salaries of an employee and a manager from August 1991 to December 1991 which were asserted to have been incurred pending normalization of business. The claimant also submitted a claim for rent paid for the period from July 1991 to December 1991 to allow refurbishment and redecoration of the claimant's showroom. The claimant provided payment vouchers and employment contracts in relation to the salary claim, and copies of checks issued to its lessor for the rental payment. The Panel found that these expenses were not extraordinary expenses directly related to Iraq's invasion and occupation of Kuwait since they would have been incurred by the claimant regardless of the invasion and occupation. Therefore, the Panel recommends no compensation for this claim.

64. For the same reason, the claim of Al Alamiah Electronics Co. for salaries paid to recruit and retain employees and rental payments for the claimant's showrooms for the period from June 1990 through September 1990 and the claim of Kuwait Furniture Manufacturing & Trading Co. for salaries and other expenses for 1991 and 1992, are recommended no compensation by the Panel upon a finding that these expenses were not shown to be incremental in nature, i.e., over and above the normal operating expenses of the claimants. In addition, Al Alamiah Electronics Co. also seeks reimbursement for costs incurred to relocate thirty-five of its employees to a new office in Egypt during Iraq's occupation of Kuwait. The claimant, however, failed to provide any proof that such expenses were incurred, stating that it could not locate the records of the asserted payments. Hence, the Panel recommends no compensation for this claim.

65. Al Ahlia Spare Parts Company seeks compensation for the cost of airline tickets purchased by the claimant to return employees to Kuwait following its

liberation. The Panel finds that, in principle, such a loss is a direct result of Iraq's invasion and occupation of Kuwait as it was reasonable that evacuated employees would need to be returned to Kuwait for the claimant to mitigate its losses. When reviewing this claim, the Panel applied the criteria described in paragraph 88 of the Fourth "E4" Report. The claimant supported its claim for the return of employees to Kuwait by an invoice from the travel agency that facilitated the purchase of the tickets, a copy of its payroll list for the month of July 1990, a list of the employees with their re-entry date into Kuwait and a sample of signed declarations from eight employees stating that the tickets were not given to them by the claimant in the form of a loan. In the light of the fact that the claimant was able to meet the Panel's criteria on the evidence required, the Panel recommends compensation for the claim, making also adjustments for risk of overstatement. The adjustments were made to the extent that one individual did not appear in the payroll list and an employee's date of return into Kuwait is prior to the invasion.

66. The Panel's recommendations on restart costs are summarized in annex II.

#### H. Other losses

67. Six claimants in this instalment asserted claims aggregating KWD 4,309,265 (approximately USD 14,910,952) for "other losses."

68. Claims for "other losses" have been reviewed in the same manner as stated in earlier "E4" reports. (See, for example, the Second "E4" Report at paragraph 108, the Fourth "E4" Report at paragraph 103 and the Fifth "E4" Report at paragraph 105 with respect to the treatment of prepaid expenses; and the Fourth "E4" Report at paragraph 99 and the Fifth "E4" Report at paragraph 104 with respect to the claims for reimbursement of bribes.)

69. One claimant, Kahil International Group for Trade and General Contracting, claimed for late payment penalties and interest charges imposed by its bank as a result of the claimant's failure to pay documentary bills on their due date during Iraq's occupation of Kuwait. The penalties and interest were debited from the claimant's bank account post-liberation. The claimant provided summaries of the amounts debited. Subsequent to the filing of its claim, the claimant informed the Commission that the bank had cancelled the late penalties and interest charges on account of partial payment made by the claimant of the amounts due to the bank as part of the Difficult Debt Settlement Program of Law No. 41. The Panel found that the claimant has suffered no loss for which compensation can be sought.

70. Al Ahlia Auto Spare Parts Company sought compensation for additional shipping expenses and interest charges incurred to ship goods from Dubai to Kuwait post-liberation. The claimant stated that the shipment was diverted to Dubai from its original port of delivery in Kuwait as a result of Iraq's invasion and occupation of Kuwait. The claimant provided a schedule of expenses, together with invoices and evidence of payment. However, the claimant failed to submit shipping and port authority documents to show that the goods were originally off-loaded in Dubai and thereafter re-shipped to Kuwait. In addition, the claimant has not demonstrated the incremental nature of the interest charges imposed on the letters of credit which were opened to pay for the goods. The Panel recommends no compensation for the claim.

71. A claim for software development costs is asserted by Al Alamiah Electronics Co. The claim covers losses in the claimant's medium and short term software projects. The claimant stated that Iraq's invasion and occupation of Kuwait disrupted its operations and resulted in losses to its software projects. The losses were attributed by the claimant to one or a combination of the following causes: (a) The uncertain situation in Kuwait during Iraq's occupation resulted in the departure of many employees from the company thus leaving the projects incomplete; (b) The chaotic situation in the country disrupted the work such that many parts of the software programs were not documented. This meant that the software products had to be completely or partially redone afterwards; and (c) The claimant decided to resume its operations in Egypt during Iraq's occupation of Kuwait. During the move, some of the materials (tapes, disks, documentation and design materials) were lost in transit.

72. In valuing its loss per project, the claimant calculated its loss as a percentage of the cost of the work on the project, admitting that the link between the identified "loss-causing" factors and the assessed percentage loss could not be determined by a standard formula. No specific explanation or detailed computation was provided by the claimant in support of the percentage applied to the individual software projects.

73. The Panel recognizes that, in general, a claim for losses related to software development is not easily valued, as the impact of "external factors" such as market demand, competition and trends in technology are difficult to quantify. For example, the claimant indicated that part of its claim was caused by the departure of employees as a result of Iraq's invasion and occupation of Kuwait and the subsequent relocation of the software division to Egypt. One of the "key" employees who resigned was reported by the claimant to be presently employed by Microsoft Corporation. As employees may leave a company for many reasons including a higher salary or better opportunities with a competitor, the burden of proof lies on the claimant to establish that

the departure of its employees was directly related to Iraq's invasion and occupation of Kuwait. No such evidence was provided by the claimant in support of this assertion.

74. Therefore, to enable an objective evaluation of the claimed losses, the Panel adopted criteria using the risk assessment categories in a loss of profits claim as guideline. The claim was reviewed and evaluated based on the claimant's ability to satisfy the following criteria: (a) Details of pre-invasion costs incurred on a project basis as of 1 August 1990 (including evidence of the percentage of completed work, employee timesheets, detailed project summaries) should be provided and reconciled to the audited accounts; (b) The items of loss should be quantified in detail and the reasons for the loss should be clearly identified (e.g., loss of materials, loss of records, departure of employee); (c) It must be demonstrated that post-liberation sales equal or exceed the claim value for each project claimed (i.e., sales invoices may be submitted); and (d) It must be demonstrated that post-liberation replacement for at least 80 per cent of the project materials lost has been undertaken. The claimant failed to satisfy any of these identified criteria.

75. In the light of the foregoing, the Panel determined that the claimant failed to provide sufficient evidence to establish the amount of loss, the circumstances in which the loss occurred and the cause of the loss. Hence, the Panel recommends no compensation for the claim.

76. Sulaiman Al Abdul Karim & Bros. Co. seeks compensation for the difference between the book value of its stock sold for Iraqi dinars during Iraq's occupation of Kuwait, and the money refunded to the claimant by the Government of Kuwait in exchange for the Iraqi dinars. The Government's payment was made at a 1:6 rate of exchange. The claimant provided receipts confirming the hand over of the Iraqi dinars to the Government of Kuwait and copies of a bank advice showing the amount paid by the Government of Kuwait in exchange for the occupational currency. The claimant failed, however, to provide contemporaneous evidence to support the alleged book value of the stock sold during the occupation, nor did it report an extraordinary loss post-liberation in its audited accounts specifically reflecting the sale of stock in Iraqi dinars during the occupation. Moreover, the Panel notes that the claimant has already been compensated by the Government of Kuwait at a rate of 6 Iraqi dinars to 1 Kuwaiti dinar, which is the rate approved by the Panel for the purpose of verifying and valuing claims for this type of currency loss (see paragraph 97 of the Fourth "E4" Report). In the light of the foregoing, the Panel recommends no compensation for the claim.

77. Ahmed Al Saleh & Sons Co. submitted a claim for lost cash, gold, antiques and Persian and Turkish rugs which were kept in the home of Mr. Ahmed

Al Saleh, who is represented as the owner of the family business (but is not a named stockholder of the claimant). The claimant submitted a statement from Mr. Ahmed Al Saleh wherein Mr. Ahmed Al Saleh enumerates the items of "personal property" stolen from his house. The Panel found that the stolen items were clearly shown to be part of the household contents of Mr. Ahmed Al Saleh and were not properties of the claimant. In addition, the claimant failed to demonstrate any business interest in these properties or the business purpose thereof. For these reasons, the Panel recommends no compensation for this claim.

78. The Panel's recommendations on other losses are summarized in annex II.

#### V. OTHER ISSUES

##### A. Applicable dates for currency exchange rate and interest

79. In relation to the applicable dates for currency exchange rate and interest, the Panel has adopted the approach discussed in paragraphs 226-233 of the First "E4" Report.

##### B. Claim preparation costs

80. The Panel has been informed by the Executive Secretary of the Commission that the Governing Council intends to resolve the issue of claim preparation costs in the future. Accordingly, the Panel has made no recommendation with respect to compensation for claim preparation costs.

#### VI. RECOMMENDED AWARDS

81. Based on the foregoing, the awards recommended by the Panel for the claimants in the eleventh instalment of "E4" claims are set out in annex I to this report. The underlying principles behind the Panel's recommendations on claims in this instalment are summarized in annex II to this report. All sums have been rounded to the nearest KWD and therefore the amounts may vary from the amount stated on Form E by 1 KWD.

Geneva, 18 December 2000

(Signed) Luiz Olavo Baptista  
Chairman

(Signed) Jean Naudet  
Commissioner

(Signed) Jianxi Wang  
Commissioner

Annex I  
Recommended awards for the eleventh instalment of "E4" claims  
Reported by UNSEQ and UNCC claim number and claimant name

<u>UNSEQ Claim No. a/</u>	<u>UNCC Claim No.</u>	<u>Claimant's name</u>	<u>Amount claimed (KWD)</u>	<u>Net amount claimed (KWD) b/</u>	<u>Amount recommended (KWD)</u>	<u>Amount recommended (USD)</u>
E-00106	4003153	Sportsman Company - Khalid Al Rodhan & Partners	4,543,872	4,539,872	3,378,558	11,688,585
E-00159	4003275	Sahoo Modern Exhibition Company, Sahoo Ali & Partner W.L.L.	2,937,762	2,930,302	1,604,943	5,553,436
E-00257	4003394	Soir General Trading & Contracting Co. W.L.L.	3,078,589	3,073,589	431,874	1,494,374
E-00460	4003569	International Center for Foodstuff Co.	3,658,179	3,655,829	2,243,239	7,762,073
E-00516	4003629	Kahil International Group Company for Trade and General Contracting W.L.L.	6,786,905	6,764,905	4,401,003	15,221,149
E-00830	4003962	Americana International Company (Safeway) K.S.C.	5,071,405	4,496,942	2,367,904	8,193,439
E-00903	4004021	Ali Abdul Wahab Sons & Company W.L.L.	6,647,966	5,936,104	3,357,557	11,604,512
E-00946	4004008	Al Andalus Trading Establishment Co.	4,499,462	3,871,965	2,796,701	9,677,166
E-01159	4004267	Supply and Building Company W.L.L.	4,018,022	4,018,022	2,934,415	10,146,699
E-01207	4004315	Al Alamia Electronics Co.	17,374,541	17,331,041	3,682,813	12,741,077
E-01348	4004455	Photo & Cine Equipment Company	2,890,109	2,603,084	1,827,326	6,322,927
E-01413	4004515	Electronic Appliances Corporation W.L.L.	4,459,868	3,686,755	1,791,219	6,197,990
E-01453	4004574	Supplying Store Co. W.L.L.	7,342,761	6,410,861	2,351,386	8,136,284
E-01559	4004657	Al Ahlia Auto Spare Parts Company	4,784,915	4,428,274	3,179,664	10,999,133
E-01646	4004781	Sulaiman Al-Abdul Karim & Bros. Limited Co. W.L.L.	3,551,286	3,094,416	1,496,129	5,175,332
E-01748	4004856	Ahmed Al Saleh & Sons Co.	16,979,498	15,181,711	3,693,147	12,763,121
E-01776	4004884	Kuwait Furniture Manufacturing & Trading Co.	3,394,430	3,385,930	2,440,303	8,443,846
E-01989	4005097	Sport House Company	3,365,637	3,365,637	2,444,548	8,458,644
E-02195	4005304	Al Ola General Trading & Cont. Co.	5,641,647	5,641,647	3,177,270	10,987,872
TOTAL			111,026,854	104,416,886	49,599,999	171,567,659

a/ The UNSEQ number is the provisional claim number assigned to each claim by PAAC.

b/ The "Net amount claimed" is the original amount claimed less the amounts claimed for claim preparation costs and interest. As set forth in paragraphs 74 and 75 of the report, the Panel has made no recommendation with regard to these items.

Annex II  
Recommended awards for the eleventh instalment of "E4" claims  
Reported by claimant name and category of loss

Claimant's name: Sportsman Company - Khalid Al Rodhan & Partners  
UNCC claim number: 4003153  
UNSEQ number: E-00106

<u>Category of loss</u>	<u>Amount asserted</u> <u>(KD)</u>	<u>Amount recommended</u> <u>(KD)</u>	<u>Comments</u>
Loss of tangible property	63,113	51,843	Original tangible property claim reclassified as loss of tangible property, loss of stock and loss of vehicles. Claim adjusted for failure to repair/replace. See paragraphs 38-43 of the report.
Loss of stock	4,003,048	3,143,215	Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings. See paragraphs 38-43 of the report.
Loss of cash	4,778	0	Original payment or relief to others claim reclassified as loss of cash. Insufficient evidence to substantiate claim. See paragraphs 38-43 of the report.
Loss of vehicles	10,346	7,316	Claim adjusted to reflect M.V.V. Table values and for evidentiary shortcomings. See paragraphs 38-43 of the report.
Loss of profits	458,587	176,184	Claim adjusted to reflect historical results. See paragraphs 48-52 of the report.
TOTAL	4,539,872	3,378,558	
Claim preparation costs	4,000	n.a.	Governing Council's determination pending. See paragraph 80 of the report.

Annex II

Recommended awards for the eleventh instalment of "E4" claims  
Reported by claimant name and category of loss

Claimant's name: Sahoo Modern Exhibition Company, Sahoo Ali Al Sahoo & Partner W.L.L.  
UNCC claim number: 4003275  
UNSEQ number: E-00159

<u>Category of loss</u>	<u>Amount asserted</u> <u>(KD)</u>	<u>Amount recommended</u> <u>(KD)</u>	<u>Comments</u>
Loss of stock	2,081,972	1,451,160	Original loss of tangible property claim reclassified as loss of stock and loss of vehicles. Claim adjusted to reflect historical results, for stock build-up and obsolescence. See paragraphs 38-43 of the report.
Loss of vehicles	4,546	1,029	Claim adjusted to reflect M.V.V. Table values. See paragraphs 38-43 of the report.
Loss of profits	843,784	152,754	Claim adjusted for evidentiary shortcomings and to restrict period of loss to 7 months. See paragraphs 48-52 of the report.
TOTAL	2,930,302	1,604,943	
Claim preparation costs	7,460	n.a.	Governing Council's determination pending. See paragraph 80 of the report.

Annex II  
Recommended awards for the eleventh instalment of "E4" claims  
Reported by claimant name and category of loss

Claimant's name: Soir General Trading & Contracting Co. W.L.L.  
UNCC claim number: 4003394  
UNSEQ number: E-00257

<u>Category of loss</u>	<u>Amount asserted</u> <u>(KD)</u>	<u>Amount recommended</u> <u>(KD)</u>	<u>Comments</u>
Loss of contract	1,997,106	0	Insufficient evidence to substantiate claim. See paragraphs 27-31 of the report.
Loss of tangible property	35,934	35,934	Original loss of tangible property claim reclassified as loss of tangible property and loss of stock. Recommend awarding claim in full. See paragraphs 38-43 of the report.
Loss of stock	1,024,170	395,940	Original loss of stock claim reclassified as loss of stock and loss of contract. Claim adjusted to reflect historical results and for evidentiary shortcomings. See paragraphs 38-43 of the report.
Restart costs	16,379	0	Insufficient evidence to substantiate claim. See paragraph 63 of the report. See paragraphs 62-66 of the report.
TOTAL	3,073,589	431,874	
Claim preparation costs	5,000	n.a.	Governing Council's determination pending. See paragraph 80 of the report.

Annex II  
Recommended awards for the eleventh instalment of "E4" claims  
Reported by claimant name and category of loss

Claimant's name: International Center for Foodstuff Co.  
UNCC claim number: 4003569  
UNSEQ number: E-00460

<u>Category of loss</u>	<u>Amount asserted</u> <u>(KD)</u>	<u>Amount recommended</u> <u>(KD)</u>	<u>Comments</u>
Loss of stock	3,167,089	1,760,130	Original loss of tangible property claim reclassified as loss of stock and loss of vehicles. Claim adjusted to reflect historical results, for stock build-up, obsolescence and evidentiary shortcomings. See paragraphs 38-43 of the report.
Loss of vehicles	39,431	33,800	Claim adjusted per paragraph 42 of the report. See paragraphs 38-43 of the report.
Loss of profits	449,309	449,309	Recommend awarding claim in full. See paragraphs 48-52 of the report.
TOTAL	3,655,829	2,243,239	
Claim preparation costs	2,350	n.a.	Governing Council's determination pending. See paragraph 80 of the report.

Annex II  
Recommended awards for the eleventh instalment of "E4" claims  
Reported by claimant name and category of loss

Claimant's name: Kahil International Group Company for Trade and General Contracting W.L.L.  
UNCC claim number: 4003629  
UNSEQ number: E-00516

<u>Category of loss</u>	<u>Amount asserted</u> <u>(KD)</u>	<u>Amount</u> <u>recommended</u> <u>(KD)</u>	<u>Comments</u>
Loss of real property	729,603	639,869	Original loss of tangible property claim reclassified as loss of real property and loss of stock. Claim adjusted for maintenance and depreciation. See paragraphs 32-37 of the report.
Loss of stock	4,756,170	3,099,862	Claim adjusted to reflect historical results, for stock build-up, obsolescence and evidentiary shortcomings. See paragraphs 38-43 of the report.
Loss of profits	936,450	661,272	Claim adjusted to reflect historical results and to restrict period of loss to 12 months. See paragraphs 48-52 of the report.
Bad debts	111,019	0	Insufficient evidence to substantiate claim. See paragraphs 53-61 of the report.
Other loss not categorised	231,663	0	Insufficient evidence to substantiate claim. See paragraphs 67-78 of the report.
TOTAL	6,764,905	4,401,003	
Claim preparation costs	22,000	n.a.	Governing Council's determination pending. See paragraph 80 of the report.

Annex II  
Recommended awards for the eleventh instalment of "E4" claims  
Reported by claimant name and category of loss

Claimant's name: Americana International Company (Safeway) K.S.C.  
UNCC claim number: 4003962  
UNSEQ number: E-00830

<u>Category of loss</u>	<u>Amount asserted</u> <u>(KD)</u>	<u>Amount</u> <u>recommended</u> <u>(KD)</u>	<u>Comments</u>
Loss of real property	806,548	624,656	Original loss of contracts claim reclassified as loss of real property. Claim adjusted for depreciation and evidentiary shortcomings. See paragraphs 32-37 of the report.
Loss of tangible property	1,284,728	976,911	Original loss of tangible property reclassified as loss of tangible property, loss of stock and loss of vehicles. Claim adjusted for depreciation and evidentiary shortcomings. See paragraphs 38-43 of the report.
Loss of stock	1,775,067	745,804	Claim adjusted to reflect historical results, for stock build-up, obsolescence and evidentiary shortcomings. See paragraphs 38-43 of the report.
Loss of vehicles	25,439	20,533	Claim adjusted to reflect M.V.V. Table values and per paragraph 42 of the report. See paragraphs 38-43 of the report.
Loss of profits	605,160	0	Insufficient evidence to substantiate claim. See paragraphs 48-52 of the report.
TOTAL	4,496,942	2,367,904	
Claim preparation costs	4,850	n.a.	Governing Council's determination pending. See paragraph 80 of the report.
Interest	569,613	n.a.	Governing Council's determination pending. See paragraph 79 of the report.

Annex II  
Recommended awards for the eleventh instalment of "E4" claims  
Reported by claimant name and category of loss

Claimant's name: Ali Abdul Wahab Sons & Company W.L.L.  
UNCC claim number: 4004021  
UNSEQ number: E-00903

<u>Category of loss</u>	<u>Amount asserted</u> <u>(KD)</u>	<u>Amount recommended</u> <u>(KD)</u>	<u>Comments</u>
Loss of real property	44,348	32,048	Claim adjusted for depreciation and maintenance. See paragraphs 32-37 of the report.
Loss of stock	3,306,566	1,711,840	Original loss of tangible property claim reclassified as loss of stock and loss of vehicles. Claim adjusted for evidentiary shortcomings and obsolescence. See paragraphs 38-43 of the report.
Loss of vehicles	25,415	25,400	Claim adjusted to reflect M.V.V. Table values. See paragraphs 38-43 of the report.
Payment or relief to others	145,808	53,294	Claim adjusted for evidentiary shortcomings. See paragraphs 44-47 of the report.
Loss of profits	2,413,967	1,534,975	Original other loss not categorised claim reclassified as loss of profits. Claim adjusted to reflect historical results and for windfall profits. See paragraphs 48-52 of the report.
TOTAL	5,936,104	3,357,557	
Claim preparation costs	5,250	n.a.	Governing Council's determination pending. See paragraph 80 of the report.
Interest	706,612	n.a.	Governing Council's determination pending. See paragraph 79 of the report.

Annex II  
Recommended awards for the eleventh instalment of "E4" claims  
Reported by claimant name and category of loss

Claimant's name: Al Andalus Trading Establishment Co. W.L.L.  
UNCC claim number: 4004008  
UNSEQ number: E-00946

<u>Category of loss</u>	<u>Amount asserted (KD)</u>	<u>Amount recommended (KD)</u>	<u>Comments</u>
Loss of real property	37,273	25,761	Original loss of real property claim reclassified as loss of real property and loss of tangible property. Claim adjusted for maintenance and evidentiary shortcomings. See paragraphs 32-37 of the report.
Loss of tangible property	51,332	25,257	Original loss of tangible property claim reclassified as loss of tangible property, loss of stock, loss of cash and loss of vehicles. Claim adjusted for depreciation, maintenance, failure to repair/replace and evidentiary shortcomings. See paragraphs 38-43 of the report.
Loss of stock	3,422,432	2,617,957	Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings. See paragraphs 38-43 of the report.
Loss of cash	14,310	0	Insufficient evidence to substantiate claim. See paragraphs 38-43 of the report.
Loss of vehicles	5,771	5,771	Recommend awarding claim in full. See paragraphs 38-43 of the report.
Payment or relief to others	137,201	34,367	Claim adjusted for evidentiary shortcomings. See paragraphs 44-47 of the report.
Loss of profits	203,456	87,588	Claim adjusted to reflect historical results and for windfall profits. See paragraphs 48-52 of the report.
Restart costs	190	0	Original loss due to restart costs claim reclassified as loss due to restart costs and loss of tangible property. Insufficient evidence to substantiate claim. See paragraphs 62-66 of the report.
TOTAL	3,871,965	2,796,701	
Claim preparation costs	4,060	n.a.	Governing Council's determination pending. See paragraph 80 of the report.
Interest	623,437	n.a.	Governing Council's determination pending. See paragraph 79 of the report.

Annex II  
Recommended awards for the eleventh instalment of "E4" claims  
Reported by claimant name and category of loss

Claimant's name: Supply & Building Company W.L.L.  
UNCC claim number: 4004267  
UNSEQ number: E-01159

<u>Category of loss</u>	<u>Amount asserted</u> <u>(KD)</u>	<u>Amount recommended</u> <u>(KD)</u>	<u>Comments</u>
Loss of tangible property	222,135	135,596	Original loss of tangible property claim reclassified as loss of tangible property, loss of stock, loss of cash and loss of vehicles. Claim adjusted for evidentiary shortcomings and failure to repair/replace. See paragraphs 38-43 of the report.
Loss of stock	2,684,148	2,104,437	Claim adjusted for obsolescence, evidentiary shortcomings and to reflect historical results. See paragraphs 38-43 of the report.
Loss of cash	7,213	5,091	Claim adjusted for evidentiary shortcomings. See paragraphs 38-43 of the report.
Loss of vehicles	39,716	20,948	Claim adjusted for evidentiary shortcomings and to reflect M.V.V. Table values. See paragraphs 38-43 of the report.
Loss of profits	841,313	638,541	Claim adjusted to reflect historical results and to restrict period of loss to 12 months. See paragraphs 48-52 of the report.
Bad debts	223,497	29,802	Claim adjusted for evidentiary shortcomings. See paragraphs 53-61 of the report.
TOTAL	4,018,022	2,934,415	

Annex II

Recommended awards for the eleventh instalment of "E4" claims  
Reported by claimant name and category of loss

Claimant's name: Al Alamiah Electronics Co.  
UNCC claim number: 4004315  
UNSEQ number: E-01207

<u>Category of loss</u>	<u>Amount asserted</u> <u>(KD)</u>	<u>Amount recommended</u> <u>(KD)</u>	<u>Comments</u>
Loss of tangible property	235,791	166,357	Original loss of tangible property claim reclassified as loss of tangible property, loss of stock and loss of vehicles. Claim adjusted for evidentiary shortcomings. See paragraphs 38-43 of the report.
Loss of stock	5,417,705	2,896,091	Claim adjusted to reflect historical results, for stock build-up, obsolescence and evidentiary shortcomings. See paragraphs 38-43 of the report.
Loss of vehicles	1,532	1,532	Recommend awarding claim in full. See paragraphs 38-43 of the report.
Loss of profits	4,159,393	618,833	Original loss of income producing claim reclassified as loss of profits. Claim adjusted to reflect historical results and for windfall profits. See paragraphs 48-52 of the report.
Bad debts	4,822,740	0	Insufficient evidence to substantiate claim. See paragraphs 53-61 of the report.
Restart costs	192,660	0	Original loss due to restart costs claim reclassified as loss due to restart costs, loss of profits and other loss not categorised. Insufficient evidence to substantiate claim. See paragraphs 62-66 of the report.
Other loss not categorised	2,501,220	0	Original other loss not categorised claim reclassified as other loss not categorised, loss of profits and loss due to restart costs. Insufficient evidence to substantiate claim. See paragraphs 67-78 of the report.
TOTAL	17,331,041	3,682,813	
Claim preparation costs	43,500	n.a.	Governing Council's determination pending. See paragraph 80 of the report.

Annex II  
Recommended awards for the eleventh instalment of "E4" claims  
Reported by claimant name and category of loss

Claimant's name: Photo & Cine Equipment Company  
UNCC claim number: 4004455  
UNSEQ number: E-01348

<u>Category of loss</u>	<u>Amount asserted</u> <u>(KD)</u>	<u>Amount recommended</u> <u>(KD)</u>	<u>Comments</u>
Loss of tangible property	251,720	168,174	Original loss of tangible property claim reclassified as loss of tangible property, loss of stock and loss of vehicles. Claim adjusted for depreciation and failure to repair/replace. See paragraphs 38-43 of the report.
Loss of stock	2,175,790	1,642,602	Claim adjusted to reflect historical results, for obsolescence and evidentiary shortcomings. See paragraphs 38-43 of the report.
Loss of vehicles	16,800	16,550	Claim adjusted to reflect M.V.V. Table values. See paragraphs 38-43 of the report.
Payment or relief to others	158,774	0	Insufficient evidence to substantiate claim. See paragraphs 44-47 of the report.
TOTAL	2,603,084	1,827,326	
Claim preparation costs	5,000	n.a.	Governing Council's determination pending. See paragraph 80 of the report.
Interest	282,025	n.a.	Governing Council's determination pending. See paragraph 79 of the report.

Annex II  
Recommended awards for the eleventh instalment of "E4" claims  
Reported by claimant name and category of loss

Claimant's name: Electronic Appliances Corporation W.L.L.  
UNCC claim number: 4004515  
UNSEQ number: E-01413

<u>Category of loss</u>	<u>Amount asserted</u> <u>(KD)</u>	<u>Amount</u> <u>recommended</u> <u>(KD)</u>	<u>Comments</u>
Loss of real property	16,992	6,481	Claim adjusted for depreciation, maintenance and evidentiary shortcomings. See paragraphs 32-37 of the report.
Loss of stock	2,198,850	1,784,738	Original tangible property claim reclassified as loss of stock. Claim adjusted for obsolescence and evidentiary shortcomings. See paragraphs 38-43 of the report.
Bad debts	1,376,956	0	Insufficient evidence to substantiate claim. See paragraphs 53-61 of the report.
Other loss not categorised	93,957	0	Insufficient evidence to substantiate claim. See paragraphs 67-78 of the report.
TOTAL	3,686,755	1,791,219	
Claim preparation costs	7,100	n.a.	Governing Council's determination pending. See paragraph 80 of the report.
Interest	766,013	n.a.	Governing Council's determination pending. See paragraph 79 of the report.

Annex II  
Recommended awards for the eleventh instalment of "E4" claims  
Reported by claimant name and category of loss

Claimant's name:           Supplying Store Co. W.L.L.  
UNCC claim number:       4004574  
UNSEQ number:            E-01453

<u>Category of loss</u>	<u>Amount asserted</u> <u>(KD)</u>	<u>Amount</u> <u>recommended</u> <u>(KD)</u>	<u>Comments</u>
Loss of real property	128,515	98,927	Claim adjusted for depreciation and maintenance. See paragraphs 32-37 of the report.
Loss of stock	3,193,202	2,245,942	Original loss of tangible property claim reclassified as loss of stock and loss of vehicles. Claim adjusted for obsolescence and evidentiary shortcomings. See paragraphs 38-43 of the report.
Loss of vehicles	6,600	6,517	Claim adjusted to reflect M.V.V. Table values. See paragraphs 38-43 of the report.
Loss of profits	56,873	0	Original loss of contracts claim reclassified as loss of profits. Insufficient evidence to substantiate claim. See paragraphs 48-52 of the report.
Bad debts	3,025,671	0	Insufficient evidence to substantiate claim. See paragraphs 53-61 of the report.
TOTAL	6,410,861	2,351,386	
Claim preparation costs	4,000	n.a.	Governing Council's determination pending. See paragraph 80 of the report.
Interest	927,900	n.a.	Governing Council's determination pending. See paragraph 79 of the report.

Annex II  
Recommended awards for the eleventh instalment of "E4" claims  
Reported by claimant name and category of loss

Claimant's name: Al Ahlia Auto Spare Parts Company  
UNCC claim number: 4004657  
UNSEQ number: E-01559

<u>Category of loss</u>	<u>Amount asserted</u> (KD)	<u>Amount</u> <u>recommended (KD)</u>	<u>Comments</u>
Loss of real property	24,093	19,096	Claim adjusted for maintenance and evidentiary shortcomings. See paragraphs 32-37 of the report.
Loss of tangible property	24,082	13,244	Original loss of tangible property claim reclassified as loss of real property, loss of tangible property and loss of stock. Claim adjusted for maintenance, depreciation and evidentiary shortcomings. See paragraphs 38-43 of the report.
Loss of stock	3,672,369	2,855,233	Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings. See paragraphs 38-43 of the report.
Loss of profits	314,839	289,254	Claim adjusted to reflect historical results. See paragraphs 48-52 of the report.
Bad debts	211,925	0	Insufficient evidence to substantiate claim. See paragraphs 53-61 of the report.
Restart costs	3,338	2,837	Claim adjusted for evidentiary shortcomings. See paragraphs 62-66 of the report.
Other loss not categorised	177,628	0	Original other loss not categorised reclassified as other loss not categorised, loss of stock, loss of profit and restart costs. Insufficient evidence to substantiate claim. See paragraphs 67-78 of the report.
TOTAL	4,428,274	3,179,664	
Claim preparation costs	10,000	n.a.	Governing Council's determination pending. See paragraph 80 of the report.
Interest	346,641	n.a.	Governing Council's determination pending. See paragraph 79 of the report.

Annex II  
Recommended awards for the eleventh instalment of "E4" claims  
Reported by claimant name and category of loss

Claimant's name: Sulaiman Al-Abdul Karim & Bros. Limited Co. W.L.L.  
UNCC claim number: 4004781  
UNSEQ number: E-01646

<u>Category of loss</u>	<u>Amount asserted</u> <u>(KD)</u>	<u>Amount</u> <u>recommended</u> <u>(KD)</u>	<u>Comments</u>
Loss of real property	159,786	85,148	Claim adjusted for maintenance, depreciation, betterment and evidentiary shortcomings. See paragraphs 32-37 of the report.
Loss of tangible property	4,016	2,934	Original loss of tangible property claim reclassified as loss of real property, loss of tangible property, loss of stock and loss of vehicles. Claim adjusted for maintenance and evidentiary shortcomings. See paragraphs 38-43 of the report.
Loss of stock	1,554,194	1,251,543	Claim adjusted to reflect historical results, for obsolescence and evidentiary shortcomings. See paragraphs 38-43 of the report.
Loss of vehicles	7,400	7,154	Claim adjusted to reflect M.V.V. Table values. See paragraphs 38-43 of the report.
Loss of profits	545,829	149,350	Claim adjusted to reflect historical results, for windfall profits and to restrict period of loss to 9 months. See paragraphs 48-52 of the report.
Other loss not categorised	823,191	0	Insufficient evidence to substantiate claim. See paragraphs 67-78 of the report.
TOTAL	3,094,416	1,496,129	
Claim preparation costs	3,880	n.a.	Governing Council's determination pending. See paragraph 80 of the report.
Interest	452,990	n.a.	Governing Council's determination pending. See paragraph 79 of the report.

Annex II  
Recommended awards for the eleventh instalment of "E4" claims  
Reported by claimant name and category of loss

Claimant's name: Ahmed Al Saleh & Sons Co.  
UNCC claim number: 4004856  
UNSEQ number: E-01748

<u>Category of loss</u>	<u>Amount asserted</u> (KD)	<u>Amount recommended</u> (KD)	<u>Comments</u>
Loss of real property	708,019	189,909	Original loss of real property claim reclassified as loss of real property and loss of profits. Claim adjusted for evidentiary shortcomings, maintenance and betterment. See paragraphs 32-37 of the report.
Loss of tangible property	7,065	7,065	Original loss of tangible property claim reclassified as loss of tangible property, loss of stock, loss of vehicles and other loss not categorised. Recommend awarding claim in full. See paragraphs 38-43 of the report.
Loss of stock	11,800,000	2,023,728	Claim adjusted to reflect historical results, for stock build-up, obsolescence and evidentiary shortcomings. See paragraphs 38-43 of the report.
Loss of vehicles	29,500	16,000	Claim adjusted to reflect M.V.V. Table values and per paragraph 42 of the report. See paragraphs 38-43 of the report.
Loss of profits	2,155,521	1,456,445	Claim adjusted to reflect historical results and for evidentiary shortcomings. See paragraphs 48-52 of the report.
Other loss not categorised	481,606	0	Insufficient evidence to substantiate claim. See paragraphs 67-78 of the report.
TOTAL	15,181,711	3,693,147	
Claim preparation costs	21,050	n.a.	Governing Council's determination pending. See paragraph 80 of the report.
Interest	1,776,737	n.a.	Governing Council's determination pending. See paragraph 79 of the report.

Annex II  
Recommended awards for the eleventh instalment of "E4" claims  
Reported by claimant name and category of loss

Claimant's name: Kuwait Furniture Manufacturing & Trading Co.  
UNCC claim number: 4004884  
UNSEQ number: E-01776

<u>Category of loss</u>	<u>Amount asserted</u> <u>(KD)</u>	<u>Amount</u> <u>recommended</u> <u>(KD)</u>	<u>Comments</u>
Loss of real property	501,196	167,037	Claim adjusted for a mathematical error, depreciation, maintenance, evidentiary shortcomings and failure to repair/replace. See paragraphs 32-37 of the report.
Loss of tangible property	241,398	168,877	Original loss of tangible property claim reclassified as loss of tangible property, loss of stock and loss of vehicles. Claim adjusted for depreciation and failure to repair/replace. See paragraphs 38-43 of the report.
Loss of stock	2,159,489	1,920,144	Claim adjusted for obsolescence and evidentiary shortcomings. See paragraphs 38-43 of the report.
Loss of vehicles	38,800	29,532	Claim adjusted to reflect M.V.V. Table values. See paragraphs 38-43 of the report.
Loss of profits	387,698	154,713	Claim adjusted to reflect historical results, for windfall profits and to restrict period of loss to 17 months. See paragraphs 48-52 of the report.
Restart costs	57,349	0	Insufficient evidence to substantiate claim. See paragraphs 62-66 of the report.
TOTAL	3,385,930	2,440,303	
Claim preparation costs	8,500	n.a.	Governing Council's determination pending. See paragraph 80 of the report.

Annex II

Recommended awards for the eleventh instalment of "E4" claims  
Reported by claimant name and category of loss

Claimant's name: Sport House Company  
UNCC claim number: 4005097  
UNSEQ number: E-01989

<u>Category of loss</u>	<u>Amount asserted</u> <u>(KD)</u>	<u>Amount</u> <u>recommended</u> <u>(KD)</u>	<u>Comments</u>
Loss of stock	3,005,765	2,283,919	Original loss of tangible property claim reclassified as loss of stock. Claim adjusted for stock build-up and evidentiary shortcomings. See paragraphs 38-43 of the report.
Loss of profits	359,872	160,629	Claim adjusted to reflect historical results and to restrict period of loss to 7 months. See paragraphs 48-52 of the report.
TOTAL	3,365,637	2,444,548	

Annex II  
Recommended awards for the eleventh instalment of "E4" claims  
Reported by claimant name and category of loss

Claimant's name: Al Ola General Trading & Cont. Co.  
UNCC claim number: 4005304  
UNSEQ number: E-02195

<u>Category of loss</u>	<u>Amount asserted</u> <u>(KD)</u>	<u>Amount</u> <u>recommended</u> <u>(KD)</u>	<u>Comments</u>
Loss of stock	5,080,275	2,615,898	Original loss of tangible property claim reclassified as loss of stock. Claim adjusted to reflect historical results, for stock build-up, obsolescence and evidentiary shortcomings. See paragraphs 38-43 of the report.
Loss of profits	561,372	561,372	Recommend awarding claim in full. See paragraphs 48-52 of the report.
TOTAL	5,641,647	3,177,270	

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