



Security Council

Distr.
GENERAL

S/AC.26/2002/17
20 June 2002

Original: ENGLISH

UNITED NATIONS
COMPENSATION COMMISSION
GOVERNING COUNCIL

REPORT AND RECOMMENDATIONS MADE BY THE PANEL OF COMMISSIONERS
CONCERNING THE SEVENTEENTH INSTALMENT OF "E4" CLAIMS

CONTENTS

	<u>Paragraphs</u>	<u>Page</u>
Introduction	1 - 3	3
I. OVERVIEW OF THE SEVENTEENTH INSTALMENT CLAIMS	4 - 8	3
II. THE PROCEEDINGS	9 - 22	4
III. LEGAL FRAMEWORK AND VERIFICATION AND VALUATION METHODOLOGY.....	23 - 25	6
IV. THE CLAIMS.....	26 - 112	6
A. Contracts	27 - 51	6
B. Real property	52 - 59	12
C. Tangible property, stock, cash and vehicles.....	60 - 65	14
D. Payment or relief to others	66 - 73	14
E. Loss of profits.....	74 - 82	16
F. Receivables	83 - 96	17
G. Restart costs	97 - 100	21
H. Other losses.....	101 - 112	22
V. OTHER ISSUES	113 - 114	25
A. Applicable dates for currency exchange rate and interest.....	113	25
B. Claim preparation costs	114	25
VI. RECOMMENDED AWARDS.....	115	26

Annexes

I. Recommended awards for the seventeenth instalment of “E4” claims – reported by UNSEQ and UNCC claim number and claimant name.	27
II. Recommended awards for the seventeenth instalment of “E4” claims – reported by claimant name and category of loss.....	28

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 seventeenth instalment consisting of 20 "E4" claims was submitted to the Panel on 7 February 2001, 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 seventeenth instalment claims.

I. OVERVIEW OF THE SEVENTEENTH INSTALMENT CLAIMS

4. The seventeenth 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 seventeenth instalment claimants filed losses aggregating 163,666,002 Kuwaiti dinars (KWD) (approximately 566,318,346 United States dollars (USD)). The claimants have also asserted claims for interest totalling KWD 15,896,450 (approximately USD 55,005,017) and claim preparation costs aggregating KWD 354,373 (approximately USD 1,226,204).
6. The seventeenth 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 12 months of the date that the claims were submitted to the Panel.
7. All of the claimants in the seventeenth instalment operated in Kuwait prior to Iraq's invasion and occupation of Kuwait. Most claimants were engaged in the manufacturing and construction industries. Others 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 contract losses, real property losses, payment or relief to others, uncollectible receivables, restart costs, interest, claim preparation costs and "other losses".

II. THE PROCEEDINGS

9. Before the seventeenth 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 of the Commission (the "Claims Database").

10. Originally, two claims presented formal deficiencies and the secretariat issued notifications to the relevant 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 report Nos. 32 and 33 dated 6 July 2000 and 6 October 2000, respectively, to the Governing Council in accordance with article 16 of the Rules ("article 16 reports"). These reports covered, *inter alia*, the seventeenth 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 seventeenth 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 (a) preliminary assessment; (b) substantive review; and (c) 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 seventeenth 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 7 February 2001, the Panel gave notice of its intention to complete its review of the seventeenth instalment claims and submit its report and recommendations to the Governing Council within 12 months of 7 February 2001. This procedural order was transmitted to the Government of Iraq and the Government of Kuwait.

17. By its second procedural order dated 8 February 2001, 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 nine claimants whose claims 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 27 August 2001 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 that 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 seventeenth 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 8-17 March 2001, at the direction of the Panel, seven members of the secretariat and two expert accounting and loss adjusting consultants travelled to Kuwait for the purpose of conducting an on-site inspection to obtain information for the Panel’s review (the “Mission”). The delegation also carried out inspections of some of the claimants’ premises, offices, showrooms and warehouses.

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 seventeenth 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 seventeenth 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. Three claimants in this instalment asserted loss of contract in the amount of KWD 731,426 (approximately USD 2,530,886). 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 contract loss claims is discussed in paragraphs 77-84 of the First "E4" Report.

28. Combined Group Company for Trading and Contracting (W.L.L.) seeks compensation for preparatory costs and pre-contract expenses relating to six construction contracts for public works entered into with the Government of Kuwait. The claimant alleges that all six contracts were effectively recognized by the respective parties as being cancelled upon Iraq's invasion of Kuwait by virtue of Order No. 148 of the Council of Ministers of the Government of Kuwait issued on 27 January 1991. Only two of the six contracts were re-awarded to the claimant, post-liberation.

29. Of the six construction contracts, three had been awarded to the claimant but work had not yet commenced at the date of Iraq's invasion and occupation of Kuwait. The contracts for these three projects were all entered into at various dates in July 1990. The claimant asserts that prior to the award of the contracts, it incurred certain pre-contract expenses such as consultancy fees, and that it also incurred costs to prepare the project sites. These costs included, *inter alia*, expenses for land boring and soil testing, land surveying, excavations and setting up of pre-fabricated offices.

30. The claimant states that, as a matter of accounting practice, it would usually amortize these types of costs over the lifetime of the contract. In this particular instance, the claimant was unable to amortize any of the preparatory costs or invoice the Government of Kuwait for such costs due to two of the contracts being cancelled and not resumed following the liberation of Kuwait. In respect of these two contracts, the claimant seeks compensation for the entirety of the costs incurred.

31. Of the three contracts in respect of which the main construction works had not yet commenced, only one contract was re-awarded to the claimant post-liberation for the original contract value. However, in order to resume this contract, the claimant states that it had to re-incur the site establishment costs to recommence work at the project site. These rehabilitation costs included the resetting-up of prefabricated offices and additional consultancy services. As the contract was re-awarded to the claimant at the original contract price, these additional preparatory costs could not be amortized over the lifetime of the resumed contract. Therefore, the claimant seeks compensation for the additional preparatory costs incurred.

32. The remaining three contracts entered into with the Government of Kuwait were already underway and at various stages of completion when Iraq invaded and occupied Kuwait on 2 August 1990. The claimant states that it had likewise incurred similar preparatory costs for these three projects, including expenses for land surveys, consultancy services and setting-up of prefabricated offices. These costs had been partially amortized by the claimant to the extent of the percentage of completion of the individual projects prior to 2 August 1990. The claimant seeks compensation for the portion of the site establishment costs which it was unable to amortize due to the cancellation of two of the contracts, which were not resumed following the liberation of Kuwait.

33. Of these remaining three contracts, one contract, which was already substantially completed at the time of Iraq's invasion and occupation of Kuwait, was re-awarded to the claimant, post-liberation, for the original contract value. With respect to this re-awarded contract, the claimant states that it had

to re-incur some of the preparatory costs which had already been incurred prior to Iraq's invasion and occupation of Kuwait. The claimant seeks compensation for these costs.

34. The Panel considered the effect of the invasion and occupation of Kuwait on the contracts between the claimant and the Government of Kuwait. In particular, the Panel considered Order No. 148 dated 27 January 1991 of the Council of Ministers of the Government of Kuwait, which states that such contracts were governed by the rules applicable to contractual obligations generally and hence such contracts were terminated by reason of force majeure. The Panel therefore concludes that the termination of the six contracts was a direct result of Iraq's invasion and occupation of Kuwait.

35. The Panel also considered the "Report and recommendations made by the Panel of Commissioners concerning the sixteenth instalment of 'E3' claims" (the "Sixteenth 'E3' Report") (S.AC.26/2001/28) wherein the "E3" Panel considered a claim by a joint venture company ("TJV") in connection with a contract between TJV and the Ministry of Electricity and Water of Kuwait ("MEW"). TJV claimed for certain pre-contract expenses which it alleged it was unable to recover as a result of Iraq's invasion and occupation of Kuwait. In finding that the claimant had spent a significant amount of its resources in bidding for the contract that was subsequently awarded to it, the "E3" Panel stated that:

"This Panel, in its previous decisions, has concluded that bid costs are generally recovered through the payments under the contract for work done. The Panel finds that the contract was primarily in the mobilization phase at the time of Iraq's invasion and occupation of Kuwait on 2 August 1990. If the contract had proceeded as anticipated, TJV would have expected to recover its bid costs over the duration of the contract. The Panel finds that Iraq's invasion and occupation of Kuwait was the direct cause of the project collapsing and the consequent failure of TJV to recover its bid costs." (Paragraph 519.)

36. The Panel adopts the "E3" Panel's finding that costs such as pre-bid expenses that a claimant would expect to recover over the duration of a contract, are compensable in principle. The Panel therefore finds that for the two contracts on which work had not commenced and were not re-awarded to the claimant post-liberation, the claimant is entitled to compensation for the pre-bid expenses and preparatory costs which it incurred and was unable to recover as a direct result of Iraq's invasion and occupation of Kuwait. The Panel also finds that for the two contracts on which work had commenced and were not re-awarded to the claimant post-liberation that the claimant is entitled to compensation for that portion of its pre-bid expenses and preparatory costs which it could not recover as at the date of Iraq's invasion and occupation of Kuwait.

37. As regards the two contracts which were re-awarded to the claimant at the original contract price, the Panel finds that in the instance where the work had not commenced, the claimant had to re-incur additional preparatory costs which it was unable to recover over the duration of the resumed contract. Hence, the Panel awards compensation for this claim. For the final contract which was re-awarded and where work was already substantially completed, the Panel finds that the claimant can

continue to amortize its preparatory costs over the duration of the resumed contract and that the claimant has not established that it had incurred additional preparatory costs as a direct result of Iraq's invasion and occupation of Kuwait. Hence, the Panel recommends no compensation for this claim.

38. A claim is made by Kuwait Real Estate Investment & Management Company for looted building materials and increased construction and supervision costs relating to a contract for the construction of a 10-storey building that would house several office units and the headquarters of the claimant ("the Office Project"). The contract for the Office Project was entered into in June 1989 and around 20 per cent of the work had been completed at the time of Iraq's invasion of Kuwait. The works completed consisted of the concrete structures up to the eighth floor as well as the initial works for plumbing, firefighting and electrical connections in the building. The claimant states that as a result of Iraq's invasion and occupation of Kuwait, work stopped at the site, construction materials were looted and damage was sustained by the building structure.

39. After the liberation of Kuwait, the claimant commissioned an assessment of the damages sustained by its Office Project that became the basis for the claimant's renegotiation of a new contract with the original contractor. According to the claimant, it was able to renegotiate the contract on favourable pricing terms and states that under the renegotiated contract, the increase in the construction costs, including the repair of the damage in the structure, was lower than the estimate made in the damage assessment report. The claimant also states that it was able to reduce the price of the looted materials that it contractually owed the contractor, as initially estimated in the damage assessment report. The claimant seeks compensation for looted materials, the increase in construction costs (approximately 16 per cent of the original contract value) including the repair of the damage sustained by the structure, the costs of which are incorporated in the renegotiated contract, and the increase in supervision costs.

40. The Panel finds that the loss of materials and the damage to the building structure directly results from Iraq's invasion and occupation of Kuwait. The costs incurred with respect to these losses are therefore compensable. The Panel also notes the claimant's efforts, consistent with its duty to mitigate its losses, to reduce the amounts owed to the contractor with respect to these losses, from that which was initially assessed. In the light of the foregoing and the level of evidence provided by the claimant, the Panel recommends compensation for the loss of materials and the increase in construction costs that is attributable to repair of structural damage.

41. As regards the claim for the remaining increase in construction costs and for supervision costs, the Panel referred to paragraphs 67-76 of the First "E4" Report wherein the first "E4" Panel found that some portion of the increased construction costs incurred by a claimant upon resumption of a contract, post-liberation, were a direct result of Iraq's invasion and occupation of Kuwait. The first "E4" Panel concluded that the extent to which such increases were a direct result of Iraq's invasion and occupation of Kuwait depends on the facts and circumstances of each case. The Panel also considered the findings made by the "F3" Panel concerning claims for losses sustained due to interruption of construction contracts. Specifically, the Panel considered the "F3" Panel's finding of a direct causal link between Iraq's invasion and occupation of Kuwait and the price increases in construction projects

following the liberation of Kuwait, where those increases were attributable to site restoration costs, additional transportation costs and additional insurance costs. The “F3” Panel concluded that increased construction costs that include these three types of costs are compensable as direct losses resulting from Iraq’s invasion and occupation of Kuwait. (See “Report and recommendations made by the Panel of Commissioners concerning the first instalment of ‘F3’ claims” (the “First ‘F3’ Report”) (S/AC.26/1999/24), paragraphs 59-64.) The Panel finds that the above findings of the “F3” Panel are consistent with paragraphs 67-76 of the First “E4” Report. In resolving this claim, the Panel therefore adopts the above findings of the “F3” Panel.

42. The Panel notes that under the renegotiated contract for the Office Project, the pricing was broken down into three general categories of cost items, namely materials, labour and equipment. No further information was provided by the claimant that would allow a determination of exactly what type of costs the price increases relate to in the renegotiated contract, and hence, whether they were the type of costs that the “F3” Panel has found to be compensable. The Panel finds it reasonable to assume, however, that a portion of the increased construction costs in respect of materials and equipment is accounted for by either additional transportation costs or additional insurance costs. In this regard, the Panel considered the findings of the “D1” Panel in connection with a claim for losses relating to increase in costs of construction after the liberation of Kuwait. The Panel notes that the “D1” Panel recommended compensation to that claim and applied a discount factor for the claimed amount since the claimant had not “clearly distinguished the precise portion of the increased costs attributable to [the] three factors” identified by the “F3” Panel. (See “Report and recommendations made by the ‘D1’ Panel of Commissioners concerning the seventh instalment of individual claims for damages above USD 100,000 (category ‘D’ claims)” (S/AC.26/2000/25), paragraphs 14-16.)

43. The Panel finds that the claimant has established an increase in the construction costs, but has not clearly distinguished the portion of the increased costs which are attributable to the three types of costs identified by the “F3” Panel as stated above. The Panel therefore recommends compensation for this claim subject to adjustment for “risk of overstatement”, in accordance with the approach of the “D1” Panel referred to above. Insofar as the claim for increased supervision costs is concerned, the Panel recommends no compensation for this claim.

44. A claim is also made by Kuwait Real Estate Investment & Management Company for losses relating to another contract for the construction of a six-storey apartment building (“Apartment Project”). The Apartment Project was cancelled by the claimant and was not resumed post-liberation. The contract for the Apartment Project was entered into in March 1990 and work had only recently commenced when the project came to a halt immediately after Iraq’s invasion and occupation of Kuwait. The claimant decided to abandon the Apartment Project completely, post-liberation, stating that, after the invasion, it had become an “unwise investment” due to increased costs and a slump in the demand for residential units. The claimant seeks compensation for the value of the works completed prior to Iraq’s invasion and occupation of Kuwait and payments made for construction supervision and costs of architectural design. The claimant also seeks reimbursement for amounts

paid to the contractor for the cancellation of the contract to cover the costs of equipment, materials and work supplied by the latter for the Apartment Project.

45. The Panel finds that the claimant has failed to establish that the losses incurred with respect to the completed works and the costs of supervision and architectural design directly resulted from Iraq's invasion and occupation of Kuwait. The claimant's admission that the Apartment Project had become an unprofitable venture and was therefore cancelled demonstrates that the cancellation of the contract was an independent business decision by the claimant based on considerations of profitability. With respect to the claim for reimbursement of the contract cancellation fee paid by the claimant to the contractor, the Panel notes that a portion of the payment covered equipment and materials lost or damaged during Iraq's invasion and occupation of Kuwait. Under the contract for the Apartment Project, the claimant was obliged to reimburse the contractor for such losses. The Panel finds that the claimant has provided satisfactory evidence to establish the loss of the materials and equipment and provided evidence of payment to the contractor. The Panel notes, however, that a "risk of overstatement" exists in the light of a claim submitted by the contractor for materials lost related to the Apartment Project. The Panel therefore recommends an adjustment to the claim to offset such "risk of overstatement".

46. A claim for contract losses was submitted by Abdul Aziz Al Saleh Al Mutawa Sons & Co W.L.L. relating to two construction projects entered into with the National Housing Authority of the Government of Kuwait ("NHA"). The first contract dated 3 July 1990 involved the construction of a government building in Al Jahra. The claimant states that it had already incurred site establishment and preparatory costs at the time of Iraq's invasion and occupation of Kuwait, in preparation for the commencement of the construction works. The costs include the setting-up of temporary offices, stores, fences and the connection of water and electricity lines to enable work to begin. The claimant states that the temporary buildings were either destroyed or looted and the materials stored in the project site were stolen during Iraq's invasion and occupation of Kuwait. The contract was subsequently cancelled by the NHA citing the Council of Ministers Resolution No. 148, recognizing the termination of all public works contracts entered into by the Government of Kuwait as a result of force majeure. (See paragraph 34 above.) The claimant asserts that after the liberation of Kuwait, it tried to renegotiate the contract with the NHA and sought an increase in the contract value to cover increases in the price of equipment, materials and labour but was unsuccessful in doing so. The contract was not re-awarded to the claimant post-liberation. On account of the cancellation of the contract, the claimant was not able to invoice the NHA for the expenses already incurred and hence, seeks compensation for such losses.

47. The Panel finds that preparatory works, similar to costs incurred in the preparation of a bid, are contract-related expenses, which would have been recovered by the claimant over the duration of the contract had the same proceeded as anticipated. (See paragraphs 35-36 above.) The Panel finds that the failure of the claimant to recover the costs incurred was due to the cancellation of the contract, which in turn directly resulted from Iraq's invasion and occupation of Kuwait. As regards the claim for loss of materials on site and the damage sustained by the temporary buildings of the claimant, the

Panel finds that the claimant has provided adequate evidence to establish such losses. The Panel therefore recommends compensation for this claim.

48. The claim for losses relating to the second contract involved repair works on 599 houses in Al Dahar ("Al Dahar Project"). The Al Dahar Project was started in September 1988. A total of 266 houses had been handed over by the claimant to the NHA with a further 299 ready for hand over at the date of Iraq's invasion and occupation of Kuwait. Thereafter, the contract was cancelled by the NHA on the basis of the Council of Ministers Resolution No. 148. The claimant states that after the liberation of Kuwait, it had to abandon the contract with the NHA for lack of the necessary resources to continue the Al Dahar Project.

49. As a result of Iraq's invasion and occupation of Kuwait, the claimant asserts that part of the construction work completed as of 31 July 1990 in the Al Dahar Project was damaged. The claimant adds that notwithstanding the non-resumption of the contract, the claimant was obliged by the NHA to reinstate the damaged works so as to collect the balance due from the NHA for works completed as of 31 July 1990, and to allow it to recover the remaining retention money from NHA and to secure the release of a bank guarantee which the claimant put up to enable the release of part of the retention money from the NHA prior to the invasion. In addition, the claimant states that materials stored in the project site were lost during Iraq's invasion and occupation of Kuwait including drawings for the housing units. According to the claimant, it was obliged to re-execute the lost drawings since these were necessary for the final inspection of the completed houses. Thus, the claimant seeks compensation for the costs incurred to reinstate the damaged works, the looted materials and the costs of re-executing the lost drawings.

50. The Panel finds that the claimant has failed to establish that it had a contractual obligation to reinstate the completed works in the project site, nor has it provided an explanation as to why the NHA, the owner of the project site, would not be liable to reinstate the damaged works. The claimant stated that the reinstatement works were undertaken in order to collect the amounts previously invoiced to the NHA and to recover its retention money with the NHA. The collection and recovery of these amounts, however, are contractual matters between the claimant and the NHA. Any undertaking on the part of the claimant to address the issue of the recovery of such amounts was an independent business decision on its part to mitigate a potential loss vis-à-vis the NHA. Hence, the loss is not a direct result of Iraq's invasion and occupation of Kuwait and the Panel recommends no compensation for this claim.

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

B. Real property

52. Sixteen claimants in this instalment asserted claims aggregating KWD 15,228,166 (approximately USD 52,692,616) for loss of real property. These claims relate to damage to a number of owned and rented premises in Kuwait.

53. 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.

54. 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.

55. 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. One claimant incurred costs of reconstruction that included betterment of its property. However, the costs relating to betterment had already been deducted by the claimant from its claim, hence no further adjustment was applied by the Panel. Adjustment on account of betterment is explained in paragraph 97 of the First "E4" Report.

56. 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.

57. One claimant, Abdul Aziz Al Saleh Al Mutawa Sons & Co. W.L.L., seeks compensation in relation to its villa located in Basra, Iraq, that became inaccessible to the claimant after Iraq's invasion and occupation of Kuwait. Since the claimant cannot travel to Iraq due to the lack of diplomatic relations between the Governments of Kuwait and Iraq, the claimant has not been able to determine the damage, if any, to the villa and to the contents therein. According to the claimant, because it no longer has the "freedom of use" over the property, it considers the villa to be a total loss. The claimant seeks compensation for the "loss" of the villa in an amount derived from what the claimant states were verbal offers made for purchase of the property prior to Iraq's invasion and occupation of Kuwait.

58. The Panel considered the determination made by the "C" Panel that a claim by the non-Iraqi spouses of Iraqi nationals for the loss of use of property in Iraq because of their inability to return to Iraq without alleging or showing that damage had been sustained by the property, is not compensable. (See, "Report and recommendations made by the Panel of Commissioners concerning the seventh instalment of individual claims for damages up to US\$100,000 (category 'C' claims)" (S/AC.26/1999/11), paragraph 320.) The Panel reviewed evidence submitted by the claimant and concluded that the claimant has not proved that damage was sustained by its property in Iraq. In the light of the foregoing, the Panel finds that the claim for loss of use of the claimant's villa in Iraq is not compensable as a direct result of Iraq's invasion and occupation of Kuwait and therefore recommends no compensation for this claim.

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

C. Tangible property, stock, cash and vehicles

60. Tangible property losses are claimed by all of the seventeenth instalment claimants. The asserted losses, relating to stock, furniture and fixtures, equipment, vehicles and cash, aggregate KWD 45,637,178 (approximately USD 157,914,111).

61. 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.

62. 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 recommendations 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.)

63. Cash losses are claimed by 10 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, audited accounts, copies of daily bank deposit statements, cash-flow registers and monthly sales ledgers, the Panel recommended no compensation. Two claimants in the seventeenth instalment were successful in substantiating their claim for cash losses.

64. 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 lost vehicles 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.

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

D. Payment or relief to others

66. Seven claimants in this instalment submitted claims aggregating KWD 788,900 (approximately USD 2,729,758) for payment or relief to others.

67. 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, the Fourth "E4" Report at paragraphs 61-63.)

68. Four claimants seek reimbursement for termination indemnities that were paid to their non-Kuwaiti employees in respect of the termination of those employees' employment contracts. The claimants provided schedules listing the employees to whom payments were made. Generally, payroll lists were also submitted together with some proof of employment and some identification data showing that the person so-named was in Kuwait prior to Iraq's invasion and occupation of Kuwait. To the extent that there was inadequate documentation concerning the employment or identification of the employees, the Panel made adjustments to offset the "risk of overstatement" caused by this particular evidentiary shortcoming. With respect to proof of payment, the claimants provided voucher payments and signed receipts from employees as well as auditor's certifications stating that a sample of such payment documentation had been verified by them. Adjustments were made by the Panel in instances where there was insufficient proof of payment.

69. One claimant, Kuwait Aluminum Extrusion Co. W.L.L., seeks compensation for leave and indemnity expenses and subsistence allowances asserted to have been paid to its employees who remained in Kuwait during Iraq's invasion and occupation of Kuwait. It submitted bank correspondence and bank debit advice to support some of the payments made. However, these documents show that the payments were made between 1992 and 1999. The claimant did not provide an explanation as to how such post-liberation payments were made as a direct result of Iraq's invasion and occupation of Kuwait. The Panel therefore recommends no compensation for this claim.

70. Three claimants, Wara Real Estate Co. K.S.C. (Closed), W.J. Towell Agencies Co. and Kuwait Chemical Manufacturing Company K.S.C., seek reimbursement for evacuation expenses including airline tickets, food and other travel expenses relating to the departure of their staff from Kuwait during Iraq's invasion and occupation of Kuwait and the payment of subsistence allowances to key employees during the same period. The claim was for actual costs incurred. Two claimants, however, failed to provide satisfactory proof of payment, as described below.

71. In the claim of Wara Real Estate Co. K.S.C. (Closed), an internally generated schedule of payments was submitted without any supporting contemporaneous documents such as receipts or invoices. In the circumstances, the Panel recommends no compensation for this claim. Likewise, in the claim of W.J. Towell Agencies Co., "debit notes" which were internally produced and copies of cheques (which could not be cross-referenced to the debit notes) were provided in support of payment of the subsistence allowances. In addition, the claimant states that the payments for food and travel costs were made by the claimant's partners from their personal funds and not from the claimant's funds. The claimant also states that these amounts have not been repaid to these individuals. The Panel therefore finds that the claimant has not suffered an actual loss in relation to the subsistence allowances and recommends no compensation for this claim.

72. Kuwait Chemical Manufacturing Company K.S.C., seeks compensation for payments made to the families of three employees who were illegally detained in Iraq during Iraq's invasion and occupation of Kuwait. The claimant states that these payments were made in recognition of the services of the employees and the difficulties attending their families due to their illegal detention.

The claimant provided bank statements showing that such relief payments were made in November and December 1990. The Panel finds that such relief payments were temporary and extraordinary expenditures directly resulting from Iraq's invasion and occupation of Kuwait and therefore recommends compensation for the claim. However, the Panel finds that there may be a risk that such payments were regular salary payments for which the claimant's employees have been awarded compensation by the Commission in respect of their individual claims. The Panel has therefore adjusted the claim to offset such risk of overstatement.

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

E. Loss of profits

74. Ninety-five percent of the claimants in this instalment submitted claims for loss of profits aggregating KWD 77,140,150 (approximately USD 266,920,934).

75. Four significant legal and factual issues raised in the first instalment claims are all raised in the seventeenth instalment claims. These issues relate to the impact and assessment of (a) benefits received under the Government of Kuwait's post-liberation debt settlement programme, (b) windfall or exceptional profits earned by claimants in the period immediately following the liberation of Kuwait, (c) the indemnity period for loss of profits claims, and (d) 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.

76. 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.

77. Wara Real Estate Co., K.S.C. (Closed) claims compensation for loss of profits in connection with its hotel operations and loss of rental income from its various villas, apartments and other buildings that were damaged during Iraq's invasion and occupation of Kuwait. The claimant was engaged in the hotel and real estate business. Its operations also included several restaurants and the manufacture and trade of building, sanitary and construction materials. In support of its claim, the claimant provided a set of financial statements for its SAS Kuwait Hotel and Oasis Hotel divisions. It also provided a set of audited financial statements in which, inter alia, the results of these divisions were consolidated with all the claimant's various business divisions and subsidiaries.

78. In resolving this claim, the Panel considered the principles set out in the First "E4" Report in paragraphs 188-193 concerning loss of profits claim by claimants who were engaged in more than one line of business, and whether the loss of profits of the claimant could be computed selectively on the basis of only some lines of business (i.e. its hotel and rental operations). In accordance with the above

principles, the Panel found that the affected lines of business of the claimant were only with respect to its hotel and rental operations.

79. With respect to the claim for loss of profits from the SAS Kuwait Hotel and Oasis Hotel, the Panel considers that the most appropriate basis on which to value the claimant's loss of profits claim was the individual historical results of these specific lines of business. The Panel finds that the individual accounts best reflect the operating revenues and expenses of the SAS Kuwait Hotel and Oasis Hotel and satisfy the criteria laid down in the First "E4" Report in respect of the measure of profit losses in claims with multiple lines of business. Based on the historical results of the SAS Kuwait Hotel and the Oasis Hotel, the Panel recommends compensation for this claim. The Panel finds, however, that the claimant had continued to earn investment income during the invasion period, which was not reflected in the financial statements for SAS Kuwait Hotel and Oasis Hotel. In addition, the two hotel's post-liberation accounts show that the two hotels earned windfall profits following the liberation of Kuwait. The Panel therefore adjusted the claim to offset the risk of overstatement arising from the continued receipt of such income during the invasion period and the windfall profits earned thereafter.

80. As regards the claim for loss of rental income from the claimant's various real properties, the Panel finds that the claimant has failed to provide adequate evidence to establish the historical results for this line of business. While the claimant provided receipts and rental agreements in relation to its rental properties, the Panel notes that the claimant has not provided an explanation for the lack of accounts in respect of its rental properties, similar to the individual accounts which were submitted for its hotel operations. The Panel therefore recommends no compensation for this claim.

81. Ahmadiyah Contracting & Trading Co. seeks compensation for loss of profit in connection with four construction contracts that were interrupted as a result of Iraq's invasion and occupation of Kuwait. The claimant was primarily engaged in general contracting and construction and also traded in various building and construction equipment. The loss of profits claim, however, only included a claim in relation to the four contracts. As in the case of Wara Real Estate Co. K.S.C. (Closed), at paragraph 78 above the Panel again considered the principles set out in paragraphs 188-193 of the First "E4" Report. The Panel finds in this instance, however, that the claimant's loss of profits claim must be measured in relation to its business as a whole, and that to do otherwise would result in a risk of overstatement of the claim. The Panel therefore recommends compensation for the claim based on the claimant's historical results as set out in its pre-invasion audited accounts.

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

F. Receivables

83. Fourteen claimants in this instalment asserted claims for uncollectible receivables or "bad debts" aggregating KWD 13,791,496 (approximately USD 47,721,439). The majority of these claims

were for amounts owed by businesses or individuals located in Kuwait prior to Iraq's invasion and occupation of Kuwait.

84. 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.

85. The Panel reiterates the "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 way of documentary or other appropriate evidence, the nature and amount of debt in question and the circumstances that caused the debt to become uncollectible.

86. 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.

87. Dar El Bina Engineering & Contracting Co. Ltd., seeks compensation for outstanding receivables due from the Government of Iraq. The claimant was a party in two joint ventures that were contracted by the Government of Iraq to undertake public works projects. The first joint venture related to the construction of a Medical Center in Tikrit, and the other joint venture related to a Hilla Sewerage Scheme, both located in Iraq. The contracts for the two projects were signed in 1981 and both were completed in 1989. The claimant seeks compensation for its share in the balance of the retention moneys due to the two joint ventures and the claimant's share of the final payment that remain unpaid for the Sewerage Project. The claimant asserts that these amounts became due and owing upon completion of the projects in accordance with the contracts.

88. The Panel notes that the Governing Council has approved numerous reports by this Panel and other category "E" Panels in which it was determined that the Commission does not have jurisdiction over a debt or obligation of Iraq that is based on work performed or services rendered more than three months prior to 2 August 1990, i.e. prior to 2 May 1990. (See, e.g., the Fifth 'E4' Report, paragraph 84; "Report and recommendations made by the Panel of Commissioners concerning the first instalment of 'E2' claims" (S/AC.26/1998/7), paragraph 90; and "Report and recommendations made by the Panel of Commissioners concerning the fourth instalment of 'E3' claims" (S/AC.26/1999/14),

paragraphs 21-23.) In accordance with those decisions, the Panel finds that the amounts claimed by the claimant constitute debts and obligations of Iraq arising prior to 2 August 1990 inasmuch as the amounts arose from contractual services performed and completed by the claimant prior to 2 May 1990. The Panel therefore has no jurisdiction in respect of this claim and accordingly, recommends no compensation.

89. Shoreline Maintenance Works & Contracting Company Ahmed Abdullah Alqattan & Partner seeks compensation for accounts receivable relating to a contract entered into on 1 February 1990 with the Ministry of Transport and Communications of the Government of Iraq. The contract involved the overland transportation of grain, bagged cargo and packaged goods from various ports in Kuwait to Iraq and was established for a period of one year initially, with the possibility to extend the contract for a further two months. The contract provided that “all transport costs shall be settled after 45 days” from the date of notification by the claimant. The claimant states that the contract was interrupted by Iraq’s invasion and occupation of Kuwait, as a result of which amounts already debited to the Ministry of Transport and Communications remained outstanding. In support of its claim, the claimant provided a copy of the contract and copies of its accounts receivable ledger and revenue general ledger for June and July 1990 that reflect entries of deliveries of cargoes and the amounts thereof.

90. The Panel notes that the claimant’s ledgers show that the amount claimed covers deliveries made to Iraq in June and July 1990. As such, the receivables due from Iraq for deliveries made during these months do not constitute a debt or obligation arising prior to 2 August 1990, within the rules established and adopted by various “E” Panels (see paragraph 88 above). The Panel finds the claimant’s assertion of payments that are still outstanding for deliveries of cargoes that took place in June and July 1990 to be reasonable in the light of the contract provision that allows settlement of accounts 45 days after notification. The Panel therefore recommends compensation for this claim subject to adjustments to reflect the amount of the debts that are adequately proven from the claimant’s accounting records and contemporaneous documents.

91. Arabian Light Metals K.S.C. submits a claim for receivables due from five Iraqi companies pursuant to agreements between them and the claimant for the delivery of aluminium profiles to Iraq. The receivable amounts due from two of the five Iraqi companies arose from deliveries made in September and November 1989, respectively. The Panel finds that these receivables constitute debts or obligations of Iraq arising prior to 2 August 1990 over which the Panel has no jurisdiction and for the reasons stated in paragraph 88 above recommends no compensation for this claim.

92. Two other deliveries to a third Iraqi company were made in October 1989 and were covered by an irrevocable letter of credit (“ILC”) issued by Rasheed Bank in Baghdad in favour of the claimant. The ILC was dated 9 August 1989 and expired on 31 October 1989. A set of supplementary conditions was appended to the ILC which provided that payment of the value of the documents was due 24 months from the transaction date. The claimant presented the stipulated documents with respect to one delivery to Rasheed Bank under cover of a letter dated 10 October 1989. As regards the other delivery, the evidence shows that the claimant informed Rasheed Bank, by telex, of the details of

this delivery on 26 October 1989. The claimant asserts that the payments against the ILC fell due on 8 October 1991 and 26 October 1992, respectively, and seeks compensation for the unpaid value of the two deliveries.

93. The Panel notes that the “E2A” Panel has previously dealt with claims for goods delivered but not paid in relation to sales contracts with Iraqi entities financed by letters of credit. In determining whether or not such claims are debts and obligations of Iraq arising prior to 2 August 1990 over which the Commission has no jurisdiction, the “E2A” Panel looked to the date of performance by the seller under the terms of the contract, i.e. the delivery of the goods, and the performance by the seller under the terms of the letter of credit, i.e. the presentation of the stipulated documents to the issuing bank. The “E2A” Panel concluded that jurisdiction is vested in the Panel with respect to a claim for bad debts arising from a sales contract covered by a letter of credit, either on the basis of a sales contract pursuant to which shipment of goods took place on or after 2 May 1990, or on the basis of the letter of credit, if presentation of the requisite documents to the issuing bank was made on or after 2 May 1990 and if the shipment covered by the letter of credit was effected no more than 21 days before the presentation of documents. (See “Report and recommendations made by the Panel of Commissioners concerning the fourth instalment of ‘E2’ claims” (the “Fourth ‘E2’ Report”) (S/AC.26/2000/2), paragraphs 86-98.) The Panel adopts the findings of the “E2A” Panel in the Fourth “E2” Report and finds that the claim for receivables arising from the shipments made in October 1989 and subsequent presentation of documents soon thereafter pursuant to the ILC, are debts or obligations of Iraq arising prior to 2 August 1990, both under the terms of the sales contract and the terms of the letter of credit. The Panel therefore does not have jurisdiction in respect of this claim and recommends no compensation be awarded.

94. Finally, deliveries to the remaining two Iraqi companies were made by the claimant in June 1990. Both deliveries were covered by ILCs issued by Rafaidan Bank in Baghdad, which provided that payment shall be due 24 months after the shipment date. The claimant presented the relevant documents in connection with one delivery effected on 21 June 1990, to Rafaidan Bank under cover of a letter also dated 21 June 1990. As regards the other delivery, the claimant informed Rafaidan Bank by telex dated 25 June 1990 that this delivery had been made. The claimant seeks compensation for the two unpaid deliveries for which payments fell due in June 1992. The Panel notes that it had previously reviewed, in the Fifth “E4” Report, a similar claim for debts owed by Iraqi parties for which payments fell due after the liberation of Kuwait. The Panel reiterates its findings in the Fifth “E4” Report that while such debts are “compensable in principle ... as they can still constitute a direct consequence of Iraq’s unlawful invasion and occupation of Kuwait”, the economic consequences of Iraq’s invasion and occupation of Kuwait is considered to run for not more than five months beyond the cessation of hostilities. (See the Fifth “E4” Report, paragraph 85 and the Fourth “E2” Report, paragraphs 117-119.) In other words, non-payment of amounts that fell due after 2 August 1991 does not directly result from Iraq’s invasion and occupation of Kuwait and is therefore not compensable. The Panel therefore recommends no compensation for this claim.

95. In response to letters issued pursuant to article 34 of the Rules (see paragraph 18 above), three claimants reduced their claims for bad debts to reflect amounts recovered from their debtors after their claims were submitted. Kuwait Insulating Material Manufacturing Co. reduced its original claim from KWD 3,899,888 (approximately USD 13,494,422) to KWD 3,889,155 (approximately USD 13,457,284) and Kirby Building Systems Kuwait S.A.K. (Closed) reduced its original claim from KWD 10,803,768 (approximately USD 37,383,280) to KWD 10,793,768 (approximately USD 37,348,678). Another claimant, Boodai Construction Company W.L.L., reported a collection of the entire amount of the claimed bad debts and hence withdrew its entire bad debts claim in the amount of KWD 101,763 (approximately USD 352,121). The Panel considered this information when it recommended the awards and reflected the reductions in the amounts claimed, as shown in annexes I and II to this report.

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

G. Restart costs

97. Seven claimants in this instalment asserted claims aggregating KWD 407,032 (approximately USD 1,408,415) 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 the Fourth "E4" Report, paragraphs 87-89.)

98. Shoreline Maintenance Works & Contracting Company Ahmed Abdulah Alqattan & Partner submits a claim for various expenses incurred between May 1991 and June 1993 to restart its business operations. These expenses include salaries and wages, office rent, postage and telephone costs, travel costs and other expenses. The Panel determines that the claimant has not shown these expenses to be extraordinary or incremental costs. The nature of the expenses indicates that these costs form part of the normal operating expenses of the claimant that it would have incurred regardless of Iraq's invasion and occupation of Kuwait. In addition, the claimant has not provided proof that the amounts claimed have actually been incurred. Thus the Panel awards no compensation for this claim.

99. Kuwait Chemical Manufacturing Company K.S.C. seeks compensation for costs incurred to restart its business post-liberation relating to accommodation, travel expenses and salaries of its employees. The claim also includes the estimated costs to repatriate labour as and when the claimant would resume its manufacturing business. According to the claimant, it resumed limited trade in certain goods following Iraq's invasion and occupation of Kuwait but could not resume its manufacturing activities right away pending major repairs to its manufacturing facility. In support of its claim for repatriation costs, the claimant submitted a quotation from a travel agent which was the basis for its calculation of the claim amount. Inasmuch as this portion of the claim represents expenses not actually incurred, the Panel awards no compensation. With respect to the claim for accommodation expenses, the claimant has only submitted internally produced documents in support of the amounts claimed. No third-party evidence (e.g. hotel receipts) or other documentary proof that

is capable of being independently verified was provided. In the light of the lack of evidence of the accommodation expenses, the Panel recommends no compensation for this part of the claim. As regards the claim for travel expenses, the claimant provided internal vouchers together with receipts and invoices from a travel agent showing payments made for airline tickets. The Panel recommends compensation for this portion of the claim. Finally, with respect to the claim for salaries, the claimant has failed to show that such expenses were incremental and not part of its normal operating expenses. For this reason, the Panel recommends no compensation for this claim.

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

H. Other losses

101. Eleven claimants in this instalment asserted claims aggregating KWD 9,941,654 (approximately USD 34,400,187) for "other losses".

102. 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.)

103. W.J. Towell Agencies Co. seeks compensation for a stock of gold that was kept in its safe for investment purposes and which it claims was stolen during Iraq's invasion and occupation of Kuwait. The claimant explained that the gold was not held for trading purposes, hence, there was no movement of the stock, and accordingly, it could not provide a roll-forward calculation to support the holding of this particular stock. The claimant, however, stated that it had included the gold in its stock balance in its 1988 and 1989 audited accounts. As additional evidence, the claimant submitted a copy of its internal ledger and a witness statement in support of the claim.

104. Upon a review of the evidence, the Panel finds that the claimant has failed to establish the existence of the gold, or the circumstances of its loss. The Panel therefore recommends no compensation for this claim.

105. Kuwait Chemical Manufacturing Company K.S.C. seeks compensation for the loss of "know-how" contained in operating manuals that were lost or destroyed during Iraq's invasion and occupation of Kuwait. The claimant states that prior to Iraq's invasion and occupation of Kuwait, it had entered into an agreement with an international supplier pursuant to which the claimant was authorized to use the know-how and technology of the supplier in the manufacture and sale of resins and other chemical products identified in the contract. The claimant states that following the liberation of Kuwait, the supplier refused to renew the contract and to re-license the technology to the claimant. The claim value is based on a quotation obtained by the claimant from another international supplier with which it entered into a new licensing agreement, post-liberation. The Panel finds that the claimant has failed

to establish that the asserted loss of “know-how” arose as a direct result of Iraq’s invasion and occupation of Kuwait, and that the decision not to re-license the know-how to the claimant was an independent business decision on the part of the licensor not to renew its contract with the claimant. The Panel therefore recommends no compensation for this claim.

106. Boodai Construction Company W.L.L. claims compensation for losses relating to a construction contract entered into with the NHA. The contract was entered into in 1980 for the construction of a residential housing complex. According to the claimant, the project was substantially completed in 1990. Subsequently, a dispute arose between the claimant and the NHA concerning the payments due to the claimant pursuant to the contract. The claimant states that it was in the process of preparing documentation in support of its claim for moneys owed to it by the NHA when Iraq’s invasion and occupation of Kuwait took place. As a result thereof, the claimant lost most of the documentation that was kept at the project site, consisting of thousands of original design drawings and “as-built” plans bearing the initials of the NHA representatives. After the liberation of Kuwait, the claimant retained the services of lawyers, engineers and other consultants to reconstruct and re-prepare its claim against the NHA. After several proceedings in various forums, the claimant recovered an amount from the NHA although that amount was much less than the amount claimed as payments due. The claimant asserts before the Commission, three types of losses relating to the contract with the NHA. These are additional costs incurred post-liberation to submit its claim to the NHA, interest arising from the delay in settlement of the NHA dispute and the amount estimated to be uncollectible from the NHA.

107. In resolving this claim, the Panel considered the determinations made by the “F3” Panel in relation to a claim by the Government of Kuwait for the loss of research and information contained in files and records which were lost during Iraq’s invasion and occupation of Kuwait. In considering the issue of how best to value lost information which does not have an ascertainable market value, the “F3” Panel determined that “it is appropriate to value such losses of information by reference to labour and material costs” to recreate the lost information. (See “Report and recommendations made by the Panel of Commissioners concerning the second instalment of ‘F3’ claims” (the “Second ‘F3’ Report”) (S/AC.26/2001/7), paragraphs 23-28.) The Panel adopts such criteria established by the “F3” Panel and finds that the additional costs for legal, engineering and consultancy services which were incurred by the claimant to reconstruct and re-prepare the documentation in support of its claim against the NHA and which had been destroyed, are compensable as a direct loss arising from Iraq’s invasion and occupation of Kuwait. The Panel finds, however, that the amount claimed might also include amounts paid by the claimant in respect of regular legal fees that it would have incurred in any event in addition to the amounts incurred in reconstructing the documentation. The Panel therefore finds a “risk of overstatement” to exist and the claim was adjusted to offset such “risk of overstatement”. As regards the two other items for which the claimant seeks compensation from the Commission, the Panel finds that the amounts asserted arose from a dispute between the claimant and the NHA in relation to amounts owed under the contract and were therefore incurred not as a direct result of Iraq’s invasion and occupation of Kuwait. The Panel recommends no compensation for these portions of the claim.

108. Kuwait Aluminum Extrusion Co. W.L.L. seeks compensation for losses relating to “matrices and molds” used for moulding aluminium profiles. The claimant states that these matrices and moulds which were specially designed for certain customers, have become worthless allegedly as a result of Iraq’s invasion and occupation of Kuwait. According to the claimant, it entered into agreements with these customers, prior to 1990, according to which, if a customer agreed to purchase three tons of aluminium profiles, the claimant would reserve the exclusive use of the extrusion design of the moulds to the benefit of that customer. The claimant states that these customers have either stopped operating due to Iraq’s invasion and occupation of Kuwait or transferred their orders to foreign suppliers when the claimant ceased operations during Iraq’s invasion and occupation of Kuwait. Thus, the claimant asserts that it suffered losses because it can no longer use the moulds or dispose of them as scrap as this would be a violation of the agreements with the customers for whom the moulds were created.

109. The claimant seeks compensation based on the deferred costs of the moulds estimated as a percentage of their net book value. The Panel notes, however, that there is no evidence that the claimant ever depreciated, amortized or otherwise reduced the value of the moulds in its audited accounts. The Panel finds it unreasonable to conclude, as reflected by the claimant in its pre-invasion audited accounts, that approximately 3,000 extrusion moulds continued to maintain value over the years that they were in use. In addition, the Panel notes that the claimant began amortizing the moulds by 20 per cent in 1992. The Panel considers that, if the claimant had amortized the value of the moulds prior to 1990, the deferred costs which are the basis of its claim would have been properly reflected either, for unusable moulds, against related revenues generated, or for usable moulds, capitalized as an asset in the claimant’s pre-invasion accounts. The Panel therefore finds that the claimant’s own accounting treatment of the moulds, prior to 1990, resulted in a deferment in the recording of their amortization and that these deferred costs do not directly result from Iraq’s invasion and occupation of Kuwait. The Panel therefore recommends no compensation for this claim.

110. Three claimants seek reimbursement for estimated charges incidental to the transportation of stock or replacement of lost assets to Kuwait, post liberation. Mass Equipment & Trading Company K.S.C. (Closed) and Kuwait Building Industries K.S.C. (Closed) claim compensation for shipping charges, transit insurance and import duty expenses while Abdul Aziz Al Saleh Al Mutawa Sons & Co. W.L.L. submits a claim for freight charges associated with its inventory loss. The various amounts claimed are all estimates and have not been incurred by the claimants. In addition, the claimants have also failed to show that such costs are extraordinary expenses and do not form part of their ordinary operating expenses. For these reasons, the Panel determines that the claimants have not shown that they suffered a loss and therefore recommends no compensation for these claims.

111. Wara Real Estate Co. K.S.C. (Closed) seeks compensation for bribes paid to Iraqi troops by a related company on behalf of the claimant to try to protect the claimant’s premises during Iraq’s invasion and occupation of Kuwait. The Panel reiterates the determinations made in previous “E4” instalments that such voluntary payments are not direct losses resulting from Iraq’s invasion and occupation of Kuwait and hence, are not compensable. (See the Fourth “E4” Report, paragraph 99

and “Report and recommendations made by the Panel of Commissioners concerning the fourteenth instalment of ‘E4’ claims” (S/AC.26/2001/22), at paragraph 71.)

112. The Panel’s recommendations on other losses are summarized in annex II below.

V. OTHER ISSUES

A. Applicable dates for currency exchange rate and interest

113. 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

114. 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

115. Based on the foregoing, the awards recommended by the Panel for the claimants in the seventeenth 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 Kuwaiti dinar and therefore the amounts may vary from the amount stated on Form E by KWD 1.

Geneva, 18 December 2001

(Signed) Luiz Olavo Baptista
Chairman

(Signed) Jean Naudet
Commissioner

(Signed) Jianxi Wang
Commissioner

RECOMMENDED AWARDS FOR THE SEVENTEENTH INSTALMENT OF “E4” CLAIMS
REPORTED BY UNSEQ AND UNCC CLAIM NUMBER AND CLAIMANT NAME

<u>UNSEQ</u> claim No. ^a	<u>UNCC</u> claim No.	<u>Claimant's name</u>	<u>Amount claimed</u> (KWD)	<u>Net amount</u> <u>claimed</u> (KWD) ^b	<u>Amount</u> <u>recommended</u> (KWD)	<u>Amount</u> <u>recommended</u> (USD)
E-00080	4003201	Kuwait Building Industries K.S.C. (Closed)	8,231,005	6,582,422	86,235	298,391
E-00164	4003278	Kuwait Chemical Manufacturing Company K.S.C.	5,369,550	5,348,975	1,994,610	6,900,046
E-00124	4003284	Mass Equipment & Trading Company K.S.C. (Closed)	15,488,564	11,766,197	276,513	956,792
E-00187	4003313	Dar El Bina Engineering & Contracting Co. Ltd.	8,023,099	6,695,010	500,401	1,731,491
E-00188	4003314	The National Industries Company S.A.K.	45,726,747	40,445,003	10,063,829	34,814,106
E-00132	4003361	Kuwait Cement Co.	8,709,559	8,063,881	3,075,228	10,631,249
E-00434	4003587	Arabian Light Metals K.S.C.	4,442,892	4,053,786	2,074,760	7,178,080
E-00546	4003613	Combined Group Company for Trading and Contracting (W.L.L.)	3,343,911	3,160,479	887,838	3,072,104
E-00494	4003661	Boodai Construction Company W.L.L.	12,008,556	11,833,708	446,068	1,543,488
E-00686	4003806	Kuwait Real Estate Investment & Management Company	2,926,262	2,655,583	511,395	1,769,228
E-00885	4003995	Ali Abdulatif Hassan Ali Al Sarraf Co.	3,266,668	2,940,920	1,579,062	5,462,088
E-00909	4004027	Kuwait Aluminum Extrusion Co. W.L.L.	3,515,598	3,037,207	717,344	2,481,742
E-01249	4004357	Abdul Aziz Al Saleh Al Mutawa Sons & Co. W.L.L.	4,291,604	4,278,626	900,319	3,115,291
E-01387	4004522	Ahmadiyah Contracting & Trading Co.	3,686,362	3,130,831	724,093	2,505,512
E-01482	4004548	Kuwait Insulating Material Manufacturing Co.	3,889,155	3,889,155	671,056	2,321,793
E-01483	4004549	Kirby Building Systems Kuwait S.A.K. (Closed)	10,793,768	10,793,768	3,156,877	10,923,228
E-01541	4004659	W. J. Towell Agencies Co.	4,762,881	4,747,881	2,023,896	7,003,100
E-01641	4004776	Wara Real Estate Co. K.S.C. (Closed)	11,369,622	11,076,946	6,456,426	22,336,503
E-01810	4004914	Shoreline Maintenance Works & Contracting Company Ahmed Abdullah Alqattan & Partner	10,713,817	10,708,817	4,514,619	15,621,519
E-01820	4004938	Sultan Center Trading & General Contracting Co. W.L.L.	9,357,205	8,456,807	4,061,497	14,052,320
TOTAL			179,916,825	163,666,002	44,722,066	154,718,071

^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 amount claimed for claim preparation costs and interest. As set forth in paragraphs 113 and 114 of the report, the Panel has made no recommendation with regard to these items.

RECOMMENDED AWARDS FOR THE SEVENTEENTH INSTALMENT OF "E4" CLAIMS
REPORTED BY CLAIMANT NAME AND CATEGORY OF LOSS

Claimant's name: Kuwait Building Industries Company K.S.C. (Closed)
UNCC claim number: 4003201
UNSEQ number: E-00080

<u>Category of loss</u>	<u>Amount asserted (KWD)</u>	<u>Amount recommended (KWD)</u>	<u>Comments</u>
Loss of tangible property	65,520	39,311	Original loss of tangible property claim reclassified to loss of tangible property, stock, cash, vehicles and other losses. Claim adjusted for exchange rate differences and evidentiary shortcomings. See paragraphs 60 to 65 of the report.
Loss of stock	268,554	0	Claim adjusted to nil for stock build-up and evidentiary shortcomings. See paragraphs 60 to 65 of the report.
Loss of cash	3,144	0	Insufficient evidence to substantiate claim. See paragraphs 60 to 65 of the report.
Loss of vehicles	143,262	46,924	Claim adjusted for evidentiary shortcomings and per paragraph 64 of the report. See paragraphs 60 to 65 of the report.
Loss of profits	3,535,279	0	Claim adjusted to nil to reflect historical results. See paragraphs 74 to 82 of the report.
Bad debts	2,481,288	0	Insufficient evidence to substantiate claim. See paragraphs 83 to 96 of the report.
Other loss not categorised	85,375	0	Insufficient evidence to substantiate claim. See paragraphs 101 to 112 of the report.
TOTAL	6,582,422	86,235	
Claim preparation costs	19,293	n.a.	Governing Council's determination pending. See paragraph 114 of the report.
Interest	1,629,290	n.a.	Governing Council's determination pending. See paragraph 113 of the report.

RECOMMENDED AWARDS FOR THE SEVENTEENTH INSTALMENT OF "E4" CLAIMS
REPORTED BY CLAIMANT NAME AND CATEGORY OF LOSS

Claimant's name: Kuwait Chemical Manufacturing Company K.S.C.
UNCC claim number: 4003278
UNSEO number: E-00164

<u>Category of loss</u>	<u>Amount asserted (KWD)</u>	<u>Amount recommended (KWD)</u>	<u>Comments</u>
Loss of real property	1,334,871	882,137	Claim adjusted for exchange rate differences, maintenance and insufficient evidence of reinstatement. See paragraphs 52 to 59 of the report.
Loss of tangible property	402,609	298,922	Original loss of tangible property claim reclassified to loss of real property, tangible property, stock and cash. Claim adjusted for exchange rate differences, depreciation, insufficient evidence of reinstatement and evidentiary shortcomings. See paragraphs 60 to 65 of the report.
Loss of stock	1,072,293	648,583	Claim adjusted for obsolescence and evidentiary shortcomings. See paragraphs 60 to 65 of the report.
Loss of cash	1,762	1,700	Claim adjusted for evidentiary shortcomings. See paragraphs 60 to 65 of the report.
Payment or relief to others	2,532	2,152	Claim adjusted for evidentiary shortcomings. See paragraphs 66 to 73 of the report.
Loss of profits	1,856,604	157,078	Claim adjusted to reflect historical results for a 12 month indemnity period. See paragraphs 74 to 82 of the report.
Bad debts	438,782	0	Original bad debts claim reclassified to claim for bad debts, loss of profits and other losses. Insufficient evidence to substantiate claim. See paragraphs 83 to 96 of the report.
Restart costs	63,704	4,038	Original claim for restart costs reclassified to claim for restart costs and to loss of profits. Claim adjusted for evidentiary shortcomings. See paragraphs 97 to 100 of the report.
Other loss not categorised	175,818	0	Insufficient evidence to substantiate claim. See paragraphs 101 to 112 of the report.
TOTAL	5,348,975	1,994,610	
Claim preparation costs	20,575	n.a.	Governing Council's determination pending. See paragraph 114 of the report.

RECOMMENDED AWARDS FOR THE SEVENTEENTH INSTALMENT OF "E4" CLAIMS
REPORTED BY CLAIMANT NAME AND CATEGORY OF LOSS

Claimant's name: Mass Equipment & Trading Company K.S.C. (Closed)
UNCC claim number: 4003284
UNSEQ number: E-00124

<u>Category of loss</u>	<u>Amount asserted (KWD)</u>	<u>Amount recommended (KWD)</u>	<u>Comments</u>
Loss of tangible property	113,133	50,874	Original loss of tangible property claim reclassified to loss of tangible property, stock, cash, vehicles and other losses. Claim adjusted for mathematical errors, depreciation and evidentiary shortcomings. See paragraphs 60 to 65 of the report.
Loss of stock	729,294	126,236	Claim adjusted for obsolescence and evidentiary shortcomings. See paragraphs 60 to 65 of the report.
Loss of cash	6,976	0	Insufficient evidence to substantiate claim. See paragraphs 60 to 65 of the report.
Loss of vehicles	447,132	35,332	Claim adjusted for evidentiary shortcomings and per paragraph 64 of report. See paragraphs 60 to 65 of the report.
Loss of profits	9,432,385	64,071	Original claim for loss of business transaction reclassified to loss of profits. Claim adjusted to reflect historical results for a 7 month indemnity period. See paragraphs 74 to 82 of the report.
Bad debts	897,096	0	Insufficient evidence to substantiate claim. See paragraphs 83 to 96 of the report.
Other loss not categorised	140,181	0	Insufficient evidence to substantiate claim. See paragraphs 101 to 112 of the report.
TOTAL	11,766,197	276,513	
Claim preparation costs	19,293	n.a.	Governing Council's determination pending. See paragraph 114 of the report.
Interest	3,703,074	n.a.	Governing Council's determination pending. See paragraph 113 of the report.

RECOMMENDED AWARDS FOR THE SEVENTEENTH INSTALMENT OF "E4" CLAIMS
REPORTED BY CLAIMANT NAME AND CATEGORY OF LOSS

Claimant's name: Dar El Bina Engineering & Contracting Co. Ltd.
UNCC claim number: 4003313
UNSEQ number: E-00187

<u>Category of loss</u>	<u>Amount asserted (KWD)</u>	<u>Amount recommended (KWD)</u>	<u>Comments</u>
Loss of real property	3,100	1,316	Claim adjusted for maintenance and evidentiary shortcomings. See paragraphs 52 to 59 of the report.
Loss of tangible property	294,259	229,421	Original loss of tangible property claim reclassified to loss of tangible property, stock, cash and vehicles. Claim adjusted for maintenance, depreciation and evidentiary shortcomings. See paragraphs 60 to 65 of the report.
Loss of stock	275,413	157,692	Claim adjusted for obsolescence and evidentiary shortcomings. See paragraphs 60 to 65 of the report.
Loss of cash	50	0	Insufficient evidence to substantiate claim. See paragraphs 60 to 65 of the report.
Loss of vehicles	42,730	39,053	Claim adjusted to reflect M.V.V. Table values and per paragraph 64 of the report. See paragraphs 60 to 65 of the report.
Loss of profits	4,579,076	72,919	Claim adjusted to reflect historical results for a 7 month indemnity period. See paragraphs 74 to 82 of the report.
Bad debts	1,500,382	0	Original loss of contracts claim reclassified to bad debts. Insufficient evidence to substantiate claim. See paragraphs 83 to 96 of the report.
TOTAL	6,695,010	500,401	
Claim preparation costs	18,795	n.a.	Governing Council's determination pending. See paragraph 114 of the report.
Interest	1,309,294	n.a.	Governing Council's determination pending. See paragraph 113 of the report.

RECOMMENDED AWARDS FOR THE SEVENTEENTH INSTALMENT OF "E4" CLAIMS
REPORTED BY CLAIMANT NAME AND CATEGORY OF LOSS

Claimant's name: The National Industries Company S.A.K.
UNCC claim number: 4003314
UNSEO number: E-00188

<u>Category of loss</u>	<u>Amount asserted (KWD)</u>	<u>Amount recommended (KWD)</u>	<u>Comments</u>
Loss of real property	860,413	206,942	Original claim for restart costs reclassified to loss of real property. Claim adjusted for depreciation, maintenance and evidentiary shortcomings. See paragraphs 52 to 59 of the report.
Loss of tangible property	4,157,190	1,219,634	Original loss of tangible property claim reclassified to loss of tangible property, stock, cash and vehicles. Claim adjusted for depreciation, maintenance, insufficient evidence of reinstatement and evidentiary shortcomings. See paragraphs 60 to 65 of the report.
Loss of stock	2,614,487	1,002,119	Claim adjusted for evidentiary shortcomings. See paragraphs 60 to 65 of the report.
Loss of cash	5,000	3,750	Claim adjusted for evidentiary shortcomings. See paragraphs 60 to 65 of the report.
Loss of vehicles	2,301,913	886,430	Claim adjusted for evidentiary shortcomings, to reflect M.V.V. Table values and per paragraph 64 of the report. See paragraphs 60 to 65 of the report.
Loss of profits	29,608,000	6,641,460	Claim adjusted to reflect historical results for an 18 month indemnity period. See paragraphs 74 to 82 of the report.
Bad debts	898,000	103,494	Bad debts claim adjusted for evidentiary shortcomings. See paragraphs 83 to 96 of the report.
TOTAL	40,445,003	10,063,829	
Claim preparation costs	48,250	n.a.	Governing Council's determination pending. See paragraph 114 of the report.
Interest	5,233,494	n.a.	Governing Council's determination pending. See paragraph 113 of the report.

RECOMMENDED AWARDS FOR THE SEVENTEENTH INSTALMENT OF "E4" CLAIMS
REPORTED BY CLAIMANT NAME AND CATEGORY OF LOSS

Claimant's name: Kuwait Cement Co.
UNCC claim number: 4003361
UNSEQ number: E-00132

<u>Category of loss</u>	<u>Amount asserted (KWD)</u>	<u>Amount recommended (KWD)</u>	<u>Comments</u>
Loss of real property	52,150	33,376	Claim adjusted for maintenance and insufficient evidence of reinstatement. See paragraphs 52 to 59 of the report.
Loss of tangible property	920,531	424,261	Original loss of tangible property claim reclassified to loss of real property, tangible property, stock and vehicles. Tangible property claim adjusted for depreciation, maintenance, insufficient evidence of reinstatement and evidentiary shortcomings. See paragraphs 60 to 65 of the report.
Loss of stock	2,898,702	1,689,754	Claim adjusted for obsolescence and evidentiary shortcomings. See paragraphs 60 to 65 of the report.
Loss of vehicles	99,575	42,282	Original loss of vehicles claim reclassified to loss of vehicles and tangible property. Claim adjusted to reflect M.V.V. Table values, for evidentiary shortcomings and per paragraph 64 of the report. See paragraphs 60 to 65 of the report.
Payment or relief to others	1,102	937	Original claim for payment or relief to others reclassified to payment or relief to others and to loss of profits. Claim adjusted for evidentiary shortcomings. See paragraphs 66 to 73 of the report.
Loss of profits	4,091,821	884,618	Claim adjusted to reflect historical results for a 12 month indemnity period and for windfall profits. See paragraphs 74 to 82 of the report.
TOTAL	8,063,881	3,075,228	
Claim preparation costs	12,755	n.a.	Governing Council's determination pending. See paragraph 114 of the report.
Interest	632,923	n.a.	Governing Council's determination pending. See paragraph 113 of the report.

RECOMMENDED AWARDS FOR THE SEVENTEENTH INSTALMENT OF "E4" CLAIMS
REPORTED BY CLAIMANT NAME AND CATEGORY OF LOSS

Claimant's name: Arabian Light Metals K.S.C.
UNCC claim number: 4003587
UNSEO number: E-00434

<u>Category of loss</u>	<u>Amount asserted (KWD)</u>	<u>Amount recommended (KWD)</u>	<u>Comments</u>
Loss of real property	722,200	468,046	Claim adjusted for depreciation, maintenance and evidentiary shortcomings. See paragraphs 52 to 59 of the report.
Loss of tangible property	1,211,380	847,824	Original loss of tangible property claim reclassified to loss of tangible property, stock and vehicles. Claim adjusted for depreciation, maintenance and evidentiary shortcomings. See paragraphs 60 to 65 of the report.
Loss of stock	701,137	647,293	Claim adjusted for obsolescence. See paragraphs 60 to 65 of the report.
Loss of vehicles	2,500	2,500	Recommend awarding vehicles claim in full. See paragraphs 60 to 65 of the report.
Loss of profits	1,116,643	93,253	Original claim for other losses reclassified to loss of profits, bad debts and restart costs. Claim adjusted to reflect historical results for a 12 month indemnity period and for windfall profits. See paragraphs 74 to 82 of the report.
Bad debts	281,286	0	Insufficient evidence to substantiate claim. See paragraphs 83 to 96 of the report.
Restart costs	18,640	15,844	Claim adjusted for evidentiary shortcomings. See paragraphs 97 to 100 of the report.
TOTAL	4,053,786	2,074,760	
Claim preparation costs	15,000	n.a.	Governing Council's determination pending. See paragraph 114 of the report.
Interest	374,106	n.a.	Governing Council's determination pending. See paragraph 113 of the report.

RECOMMENDED AWARDS FOR THE SEVENTEENTH INSTALMENT OF "E4" CLAIMS
REPORTED BY CLAIMANT NAME AND CATEGORY OF LOSS

Claimant's name: Combined Group Company for Trading and Contracting (W.L.L)
UNCC claim number: 4003613
UNSEO number: E-00546

<u>Category of loss</u>	<u>Amount asserted (KWD)</u>	<u>Amount recommended (KWD)</u>	<u>Comments</u>
Loss of contract	276,317	260,675	Original other losses claim reclassified to contract losses and payment or relief to others. Claim adjusted for evidentiary shortcomings. See paragraphs 27 to 51 of the report.
Loss of tangible property	523,454	335,430	Original loss of tangible property claim reclassified to loss of tangible property, stock and vehicles. Claim adjusted for depreciation, maintenance and evidentiary shortcomings. See paragraphs 60 to 65 of the report.
Loss of stock	336,901	140,751	Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings. See paragraphs 60 to 65 of the report.
Loss of vehicles	155,870	92,664	Claim adjusted per paragraph 64 of the report. See paragraphs 60 to 65 of the report.
Payment or relief to others	257,822	58,318	Claim adjusted for evidentiary shortcomings. See paragraphs 66 to 73 of the report.
Loss of profits	1,610,115	0	Original contract losses claim reclassified to loss of profits. Claim adjusted to nil to reflect historical results. See paragraphs 74 to 82 of the report.
TOTAL	3,160,479	887,838	
Claim preparation costs	24,000	n.a.	Governing Council's determination pending. See paragraph 114 of the report.
Interest	159,432	n.a.	Governing Council's determination pending. See paragraph 113 of the report.

RECOMMENDED AWARDS FOR THE SEVENTEENTH INSTALMENT OF "E4" CLAIMS
REPORTED BY CLAIMANT NAME AND CATEGORY OF LOSS

Claimant's name: Boodai Construction Company W.L.L.
UNCC claim number: 4003661
UNSEO number: E-00494

<u>Category of loss</u>	<u>Amount asserted (KWD)</u>	<u>Amount recommended (KWD)</u>	<u>Comments</u>
Loss of tangible property	393,472	310,264	Original loss of tangible property claim reclassified to loss of tangible property, stock and vehicles. Claim adjusted for depreciation and insufficient evidence of reinstatement. See paragraphs 60 to 65 of the report.
Loss of stock	39,781	9,182	Claim adjusted for obsolescence and evidentiary shortcomings. See paragraphs 60 to 65 of the report.
Loss of vehicles	17,198	14,122	Claim adjusted to reflect M.V.V. Table values and per paragraph 64 of the report. See paragraphs 60 to 65 of the report.
Bad debts	3,204,163	0	Original claim for contract loss reclassified to bad debts and other losses. Insufficient evidence to substantiate claim. See paragraphs 83 to 96 of the report.
Other loss not categorised	8,179,094	112,500	Claim adjusted for evidentiary shortcomings. See paragraphs 101 to 112 of the report.
TOTAL	11,833,708	446,068	
Claim preparation costs	61,414	n.a.	Governing Council's determination pending. See paragraph 114 of the report.
Interest	113,434	n.a.	Governing Council's determination pending. See paragraph 113 of the report.

RECOMMENDED AWARDS FOR THE SEVENTEENTH INSTALMENT OF "E4" CLAIMS
REPORTED BY CLAIMANT NAME AND CATEGORY OF LOSS

Claimant's name: Kuwait Real Estate Investment & Management Company
UNCC claim number: 4003806
UNSEO number: E-00686

<u>Category of loss</u>	<u>Amount asserted (KWD)</u>	<u>Amount recommended (KWD)</u>	<u>Comments</u>
Loss of contract	365,760	239,857	Original contract losses claim reclassified to contract losses and loss of profits. Claim adjusted for evidentiary shortcomings. See paragraphs 27 to 51 of the report.
Loss of real property	272,657	173,658	Claim adjusted for maintenance and evidentiary shortcomings. See paragraphs 52 to 59 of the report.
Loss of vehicles	13,550	13,030	Original loss of tangible property claim reclassified to loss of vehicles. Claim adjusted to reflect M.V.V. Table values and per paragraph 64 of the report. See paragraphs 60 to 65 of the report.
Loss of profits	2,003,616	84,850	Original payment or relief to others and other losses claims reclassified to loss of profits. Claim adjusted to reflect historical results for a 10 month indemnity period. See paragraphs 74 to 82 of the report.
TOTAL	2,655,583	511,395	
Claim preparation costs	6,340	n.a.	Governing Council's determination pending. See paragraph 114 of the report.
Interest	264,339	n.a.	Governing Council's determination pending. See paragraph 113 of the report.

RECOMMENDED AWARDS FOR THE SEVENTEENTH INSTALMENT OF "E4" CLAIMS
REPORTED BY CLAIMANT NAME AND CATEGORY OF LOSS

Claimant's name: Ali Abdulatif Hassen Ali Al Sarraf Co.
UNCC claim number: 4003995
UNSEQ number: E-00885

<u>Category of loss</u>	<u>Amount asserted (KWD)</u>	<u>Amount recommended (KWD)</u>	<u>Comments</u>
Loss of real property	210,000	131,093	Claim adjusted for depreciation and maintenance. See paragraphs 52 to 59 of the report.
Loss of stock	1,724,279	926,879	Original loss of tangible property claim reclassified to loss of stock and vehicles. Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings. See paragraphs 60 to 65 of the report.
Loss of vehicles	76,750	20,983	Claim adjusted to reflect M.V.V. Table values and per paragraph 64 of the report. See paragraphs 60 to 65 of the report.
Loss of profits	909,057	500,107	Original claim for other losses reclassified to loss of profits. Claim adjusted to reflect historical results for a 10 month indemnity period and for windfall profits. See paragraphs 74 to 82 of the report.
Bad debts	20,834	0	Insufficient evidence to substantiate claim. See paragraphs 83 to 96 of the report.
TOTAL	2,940,920	1,579,062	
Claim preparation costs	12,000	n.a.	Governing Council's determination pending. See paragraph 114 of the report.
Interest	313,748	n.a.	Governing Council's determination pending. See paragraph 113 of the report.

RECOMMENDED AWARDS FOR THE SEVENTEENTH INSTALMENT OF "E4" CLAIMS
REPORTED BY CLAIMANT NAME AND CATEGORY OF LOSS

Claimant's name: Kuwait Aluminum Extrusion Co. W.L.L.
UNCC claim number: 4004027
UNSEQ number: E-00909

<u>Category of loss</u>	<u>Amount asserted (KWD)</u>	<u>Amount recommended (KWD)</u>	<u>Comments</u>
Loss of real property	161,217	105,966	Claim adjusted for depreciation and maintenance. See paragraphs 52 to 59 of the report.
Loss of tangible property	231,632	65,693	Original loss of tangible property claim reclassified to loss of real property, tangible property, stock, vehicles, bad debts and other losses. Claim adjusted for depreciation, maintenance and evidentiary shortcomings. See paragraphs 60 to 65 of the report.
Loss of stock	938,849	486,667	Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings. See paragraphs 60 to 65 of the report.
Loss of vehicles	1,800	1,800	Recommend vehicles claim be awarded in full. See paragraphs 60 to 65 of the report.
Payment or relief to others	9,827	0	Claim adjusted to nil for evidentiary shortcomings. See paragraphs 66 to 73 of the report.
Loss of profits	552,267	38,097	Claim adjusted to reflect historical results for a 12 month indemnity period, and for windfall profits and evidentiary shortcomings. See paragraphs 74 to 82 of the report.
Bad debts	298,506	0	Insufficient evidence to substantiate claim. See paragraphs 83 to 96 of the report.
Restart costs	21,192	19,121	Claim adjusted for evidentiary shortcomings. See paragraphs 97 to 100 of the report.
Other loss not categorised	821,917	0	Original other losses claim reclassified to other losses, loss of profits, payment or relief to others, restart costs, loss of tangible property and stock. Insufficient evidence to substantiate claim. See paragraphs 101 to 112 of the report.
TOTAL	3,037,207	717,344	
Claim preparation costs	11,000	n.a.	Governing Council's determination pending. See paragraph 114 of the report.
Interest	467,391	n.a.	Governing Council's determination pending. See paragraph 113 of the report.

RECOMMENDED AWARDS FOR THE SEVENTEENTH INSTALMENT OF "E4" CLAIMS
REPORTED BY CLAIMANT NAME AND CATEGORY OF LOSS

Claimant's name: Abdul Aziz Al Saleh Al Mutawa Sons & Co. W.L.L.
UNCC claim number: 4004357
UNSEQ number: E-01249

<u>Category of loss</u>	<u>Amount asserted (KWD)</u>	<u>Amount recommended (KWD)</u>	<u>Comments</u>
Loss of contract	89,349	22,033	Original claim for loss of business transaction reclassified to loss of contract and loss of profits. Claim adjusted for evidentiary shortcomings. See paragraphs 27 to 51 of the report.
Loss of real property	808,207	317,828	Claim adjusted for mathematical error, depreciation, maintenance, insufficient evidence of reinstatement and evidentiary shortcomings. See paragraphs 52 to 59 of the report.
Loss of tangible property	668,173	189,005	Original loss of tangible property claim reclassified to loss of real property, tangible property, stock, cash, vehicles and other losses. Claim adjusted for depreciation, maintenance, insufficient evidence of reinstatement and evidentiary shortcomings. See paragraphs 60 to 65 of the report.
Loss of stock	751,356	334,934	Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings. See paragraphs 60 to 65 of the report.
Loss of cash	117,884	0	Insufficient evidence to substantiate claim. See paragraphs 60 to 65 of the report.
Loss of vehicles	92,661	36,519	Claim adjusted for evidentiary shortcomings, to reflect M.V.V. Table values and per paragraph 64 of the First report. See paragraphs 60 to 65 of the report.
Loss of profits	1,666,632	0	Claim adjusted to nil to reflect historical results. See paragraphs 74 to 82 of the report.
Bad debts	74,095	0	Insufficient evidence to substantiate claim. See paragraphs 83 to 96 of the report.
Other loss not categorised	10,269	0	Insufficient evidence to substantiate claim. See paragraphs 101 to 112 of the report.
TOTAL	4,278,626	900,319	
Claim preparation costs	12,978	n.a.	Governing Council's determination pending. See paragraph 114 of the report.

RECOMMENDED AWARDS FOR THE SEVENTEENTH INSTALMENT OF "E4" CLAIMS
REPORTED BY CLAIMANT NAME AND CATEGORY OF LOSS

Claimant's name: Ahmadiyah Contracting & Trading Co.
UNCC claim number: 4004522
UNSEO number: E-01387

<u>Category of loss</u>	<u>Amount asserted (KWD)</u>	<u>Amount recommended (KWD)</u>	<u>Comments</u>
Loss of real property	37,020	22,095	Claim adjusted for depreciation, maintenance and evidentiary shortcomings. See paragraphs 52 to 59 of the report.
Loss of tangible property	272,601	74,203	Original loss of tangible property claim reclassified to loss of tangible property, stock and vehicles. Claim adjusted for depreciation, maintenance and evidentiary shortcomings. See paragraphs 60 to 65 of the report.
Loss of stock	137,015	52,468	Claim adjusted for obsolescence and evidentiary shortcomings. See paragraphs 60 to 65 of the report.
Loss of vehicles	295,000	174,143	Claim adjusted to reflect M.V.V. Table values and per paragraph 64 of the report. See paragraphs 60 to 65 of the report.
Loss of profits	2,389,195	401,184	Original claim for contract loss reclassified to loss of profits and interest. Claim adjusted to reflect historical results for an 8 month indemnity period and for windfall profits. See paragraphs 74 to 82 of the report.
TOTAL	3,130,831	724,093	
Claim preparation costs	26,080	n.a.	Governing Council's determination pending. See paragraph 114 of the report.
Interest	529,451	n.a.	Governing Council's determination pending. See paragraph 113 of the report.

RECOMMENDED AWARDS FOR THE SEVENTEENTH INSTALMENT OF "E4" CLAIMS
REPORTED BY CLAIMANT NAME AND CATEGORY OF LOSS

Claimant's name: Kuwait Insulating Material Manufacturing Co.
UNCC claim number: 4004548
UNSEO number: E-01482

<u>Category of loss</u>	<u>Amount asserted (KWD)</u>	<u>Amount recommended (KWD)</u>	<u>Comments</u>
Loss of real property	61,324	46,088	Claim adjusted for depreciation and maintenance. See paragraphs 52 to 59 of the report.
Loss of tangible property	134,817	61,956	Original loss of tangible property claim reclassified to loss of real property, tangible property, stock, cash and loss of profits. Claim adjusted for depreciation and evidentiary shortcomings. See 60 to 65 of the report.
Loss of stock	1,096,782	547,550	Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings. See paragraphs 60 to 65 of the report.
Loss of cash	13,979	0	Insufficient evidence to substantiate claim. See paragraphs 60 to 65 of the report.
Loss of profits	1,751,620	15,462	Claim adjusted to reflect historical results for a 24 month indemnity period and for windfall profits. See paragraphs 74 to 82 of the report.
Bad debts	723,853	0	Original claim for loss of business transaction reclassified to bad debts and other losses. Insufficient evidence to substantiate claim. See paragraphs 83 to 96 of the report.
Other loss not categorised	106,780	0	Insufficient evidence to substantiate claim. See paragraphs 101 to 112 of the report.
TOTAL	3,889,155	671,056	

RECOMMENDED AWARDS FOR THE SEVENTEENTH INSTALMENT OF "E4" CLAIMS
REPORTED BY CLAIMANT NAME AND CATEGORY OF LOSS

Claimant's name: Kirby Building Systems Kuwait S.A.K. (Closed)
UNCC claim number: 4004549
UNSEO number: E-01483

<u>Category of loss</u>	<u>Amount asserted (KWD)</u>	<u>Amount recommended (KWD)</u>	<u>Comments</u>
Loss of real property	192,914	112,137	Claim adjusted for maintenance, insufficient evidence of reinstatement and evidentiary shortcomings. See paragraphs 52 to 59 of the report.
Loss of tangible property	2,600,100	556,650	Original loss of tangible property claim reclassified to loss of tangible property, stock and cash. Claim adjusted for depreciation, maintenance, insufficient evidence of reinstatement and evidentiary shortcomings. See paragraphs 60 to 65 of the report.
Loss of stock	2,889,000	2,173,250	Claim adjusted for obsolescence and evidentiary shortcomings. See paragraphs 60 to 65 of the report.
Loss of cash	85,906	0	Insufficient evidence to substantiate claim. See paragraphs 60 to 65 of the report.
Loss of profits	4,099,000	314,840	Claim adjusted to reflect historical results for a 17 month indemnity period. See paragraphs 74 to 82 of the report.
Bad debts	905,095	0	Original claim for loss of business transaction reclassified to bad debts and other losses. Insufficient evidence to substantiate claim. See paragraphs 83 to 96 of the report.
Other loss not categorised	21,753	0	Insufficient evidence to substantiate claim. See paragraphs 101 to 112 of the report.
TOTAL	10,793,768	3,156,877	

RECOMMENDED AWARDS FOR THE SEVENTEENTH INSTALMENT OF "E4" CLAIMS
REPORTED BY CLAIMANT NAME AND CATEGORY OF LOSS

Claimant's name: W.J. Towell Agencies Co.
UNCC claim number: 4004659
UNSEO number: E-01541

<u>Category of loss</u>	<u>Amount asserted (KWD)</u>	<u>Amount recommended (KWD)</u>	<u>Comments</u>
Loss of real property	44,500	35,600	Claim adjusted for maintenance. See paragraphs 52 to 59 of the report.
Loss of tangible property	1,604,309	1,065,884	Original loss of tangible property claim reclassified to loss of tangible property, stock, cash and vehicles. Claim adjusted for depreciation. See paragraphs 60 to 65 of the report.
Loss of stock	1,406,350	779,841	Claim adjusted for exchange rate differences, stock build-up, obsolescence and evidentiary shortcomings. See paragraphs 60 to 65 of the report.
Loss of cash	110,512	0	Insufficient evidence to substantiate claim. See paragraphs 60 to 65 of the report.
Loss of vehicles	100,800	90,960	Claim adjusted to reflect M.V.V. Table values and per paragraph 64 of the report. See paragraphs 60 to 65 of the report.
Payment or relief to others	189,862	0	Insufficient evidence to substantiate claim. See paragraphs 66 to 73 of the report.
Loss of profits	353,766	0	Claim adjusted to nil to reflect historical results. See paragraphs 74 to 82 of the report.
Bad debts	722,794	0	Original claim for bad debts reclassified to bad debts and other losses. Insufficient evidence to substantiate claim. See paragraphs 83 to 96 of the report.
Restart costs	79,576	51,611	Original claim for restart costs reclassified to restart costs, payment or relief to others and loss of profits. Claim adjusted for evidentiary shortcomings. See paragraphs 97 to 100 of the report.
Other loss not categorised	135,412	0	Insufficient evidence to substantiate claim. See paragraphs 101 to 112 of the report.
TOTAL	4,747,881	2,023,896	
Claim preparation costs	15,000	n.a.	Governing Council's determination pending. See paragraph 114 of the report.

RECOMMENDED AWARDS FOR THE SEVENTEENTH INSTALMENT OF "E4" CLAIMS
REPORTED BY CLAIMANT NAME AND CATEGORY OF LOSS

Claimant's name: Wara Real Estate Co. K.S.C. (Closed)
UNCC claim number: 4004776
UNSEQ number: E-01641

<u>Category of loss</u>	<u>Amount asserted (KWD)</u>	<u>Amount recommended (KWD)</u>	<u>Comments</u>
Loss of real property	8,271,760	5,624,707	Original real property claim reclassified to loss of real property and tangible property. Claim adjusted for depreciation, maintenance and evidentiary shortcomings. See paragraphs 52 to 59 of the report.
Loss of tangible property	116,977	99,879	Original loss of tangible property claim reclassified to loss of real property, tangible property, stock and vehicles. Claim adjusted for insufficient evidence of reinstatement and evidentiary shortcomings. See paragraphs 60 to 65 of the report.
Loss of stock	281,225	104,400	Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings. See paragraphs 60 to 65 of the report.
Loss of vehicles	22,200	12,114	Claim adjusted to reflect M.V.V. Table values and per paragraph 64 of the report. See paragraphs 60 to 65 of the report.
Payment or relief to others	127,036	32,878	Original claim for payment or relief to others reclassified to payment or relief to others and loss of profits. Claim adjusted to nil for evidentiary shortcomings. See paragraphs 66-73 of the report.
Loss of profits	2,191,933	578,625	Claim adjusted to reflect historical results for a 20 month indemnity period, for evidentiary shortcomings and windfall profits. See paragraphs 74 to 82 of the report.
Restart costs	5,815	3,823	Original claim for restart costs reclassified to restart costs and loss of profits. Claim adjusted for evidentiary shortcomings. See paragraphs 97 to 100 of the report.
Other loss not categorised	60,000	0	Insufficient evidence to substantiate claim. See paragraphs 101 to 112 of the report.
TOTAL	11,076,946	6,456,426	
Claim preparation costs	16,600	n.a.	Governing Council's determination pending. See paragraph 114 of the report.
Interest	276,076	n.a.	Governing Council's determination pending. See paragraph 113 of the report.

RECOMMENDED AWARDS FOR THE SEVENTEENTH INSTALMENT OF "E4" CLAIMS
REPORTED BY CLAIMANT NAME AND CATEGORY OF LOSS

Claimant's name: Shoreline Maintenance Works & Contracting Company Ahmed Abdullah Alqattan & Partner
UNCC claim number: 4004914
UNSEO number: E-01810

<u>Category of loss</u>	<u>Amount asserted (KWD)</u>	<u>Amount recommended (KWD)</u>	<u>Comments</u>
Loss of real property	100,000	44,000	Claim adjusted for maintenance, insufficient evidence of reinstatement and evidentiary shortcomings. See paragraphs 52 to 59 of the report.
Loss of tangible property	519,812	152,312	Original loss of tangible property claim reclassified to loss of real property, tangible property, stock and vehicles. Claim adjusted for exchange rate differences, depreciation, insufficient evidence of reinstatement and evidentiary shortcomings. See paragraphs 60 to 65 of the report.
Loss of stock	196,139	29,482	Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings. See paragraphs 60 to 65 of the report.
Loss of vehicles	4,351,150	3,683,430	Claim adjusted for evidentiary shortcomings, to reflect M.V.V. and per paragraph 64 of the report. See paragraphs 60 to 65 of the report.
Loss of profits	4,140,394	0	Original claim for loss of contract reclassified to loss of profits. Claim adjusted to nil to reflect historical results. See paragraphs 74 to 82 of the report.
Bad debts	1,345,322	605,395	Claim adjusted for evidentiary shortcomings. See paragraphs 83 to 96 of the report.
Restart costs	56,000	0	Original claim for restart costs reclassified to restart costs and loss of profits. Insufficient evidence to substantiate claim. See paragraphs 97 to 100 of the report.
TOTAL	10,708,817	4,514,619	
Claim preparation costs	5,000	n.a.	Governing Council's determination pending. See paragraph 114 of the report.

RECOMMENDED AWARDS FOR THE SEVENTEENTH INSTALMENT OF "E4" CLAIMS
REPORTED BY CLAIMANT NAME AND CATEGORY OF LOSS

Claimant's name: Sultan Center Trading & General Contracting Co. W.L.L.
UNCC claim number: 4004938
UNSEO number: E-01820

<u>Category of loss</u>	<u>Amount asserted (KWD)</u>	<u>Amount recommended (KWD)</u>	<u>Comments</u>
Loss of real property	2,095,833	684,529	Claim adjusted for depreciation, maintenance and evidentiary shortcomings. See paragraphs 52 to 59 of the report.
Loss of tangible property	1,737,117	1,162,692	Original loss of tangible property claim reclassified to loss of real property, tangible property, stock, cash and vehicles. Claim adjusted for depreciation, maintenance and evidentiary shortcomings. See paragraphs 60 to 65 of the report.
Loss of stock	2,508,557	1,876,752	Claim adjusted for exchange rate differences, stock build-up, obsolescence and evidentiary shortcomings. See paragraphs 60 to 65 of the report.
Loss of cash	211,115	0	Insufficient evidence to substantiate claim. See paragraphs 60 to 65 of the report.
Loss of vehicles	83,559	27,517	Claim adjusted for evidentiary shortcomings, to reflect M.V.V. Table values and per paragraph 64 of the report. See paragraphs 60 to 65 of the report.
Payment or relief to others	200,719	105,574	Claim adjusted for evidentiary shortcomings. See paragraphs 66 to 73 of the report.
Loss of profits	1,252,747	149,955	Claim adjusted to reflect historical results for an 11 month indemnity period, for windfall profits and evidentiary shortcomings. See paragraphs 74 to 82 of the report.
Restart costs	162,105	54,478	Original claim for restart costs reclassified to restart costs, loss of real property and tangible property. Claim adjusted for evidentiary shortcomings. See paragraphs 97 to 100 of the report.
Other loss not categorised	205,055	0	Insufficient evidence to substantiate claim. See paragraphs 101 to 112 of the report.
TOTAL	8,456,807	4,061,497	
Claim preparation costs	10,000	n.a.	Governing Council's determination pending. See paragraph 114 of the report.
Interest	890,398	n.a.	Governing Council's determination pending. See paragraph 113 of the report.
