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REPORT AND RECOMMENDATIONS MADE BY THE "D1" PANEL OF COMMISSIONERS
CONCERNING PART ONE OF THE FIFTEENTH INSTALMENT OF INDIVIDUAL CLAIMS
FOR DAMAGES ABOVE USD 100,000 (CATEGORY "D" CLAIMS)

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Introduction

1. This is the fifteenth report to the Governing Council of the United Nations Compensation Commission (the “Commission”) submitted pursuant to article 38(e) of the Provisional Rules for Claims Procedure (S/AC.26/1992/10) (the “Rules”) by the “D1” Panel of Commissioners (the “Panel”), being one of two Panels appointed to review individual claims for damages above 100,000 United States dollars (USD) (category “D” claims). This report contains the determinations and recommendations of the Panel in respect of part one of the fifteenth instalment submitted to the Panel by the Executive Secretary of the Commission pursuant to article 32 of the Rules on 30 January 2002.
2. The fifteenth instalment initially comprised 694 claims. Thirty-nine claims have subsequently been added to the fifteenth instalment as they are either related to claims included in the instalment or were deferred from previous instalments pending the receipt of additional information from the claimants.¹
3. The Panel divided the fifteenth instalment into two parts. The total number of claims resolved by the Panel in part one is 500. Part two of the fifteenth instalment includes a number of claims for asserted amounts over USD 10 million, which have been designated as “unusually large or complex” claims within the meaning of article 38(d) of the Rules. The Panel will complete its review of part two of the fifteenth instalment within 12 months of 30 January 2002.
4. The Panel began its review of the fifteenth instalment on 30 January 2002. In addition to communications among the Commissioners and the secretariat, the Panel held meetings at the Commission’s headquarters in Geneva on the following dates: 28-30 January 2002, 18-20 March 2002, 15-17 April 2002, 15-17 May 2002, 8-10 July 2002 and 5-7 August 2002. These meetings included joint meetings with the “D2” Panel of Commissioners in January 2002 and May 2002 to discuss issues of relevance to both Panels.
5. The fifteenth instalment comprises all loss types that can be claimed in category “D”, with a large number of claims containing D7 (real property) losses and D8/D9 (individual business) losses.² In 12 of the claims in the fifteenth instalment, the situs of the alleged losses, including the D8/D9 (individual business) losses, was Iraq. These claim files were sent to the Government of the Republic of Iraq (“Iraq”) for its comments. In addition to these 12 claims, the Panel has also sent a number of claims that were deferred from previous instalments to Iraq for its comments on the basis that the claimed amounts exceeded USD 10 million or the situs of the alleged losses was Iraq. The Panel will make recommendations in respect of these claims in part two of the fifteenth instalment after considering Iraq’s responses.
6. The following table sets out the number of claims by submitting entity resolved in part one of the fifteenth instalment.

Table 1. Summary of claims by submitting entity

<u>Submitting entity</u>	<u>Number of claims as originally submitted to the Panel</u>	<u>Number of claims subsequently added to the fifteenth instalment</u>	<u>Number of claims resolved by the Panel in part one of the fifteenth instalment</u>
Australia	1	0	0
Austria	1	0	1
Canada	4	0	2
Egypt	10	0	0
France	3	0	0
Germany	2	0	1
India	87	1	47
Israel	4	0	1
Italy	3	0	1
Jordan	107	13	70
Kuwait	301	19	246
Lebanon	2	2	3
Netherlands	1	0	0
Pakistan	5	0	2
Sudan	11	0	7
Switzerland	1	0	1
Syrian Arab Republic	2	1	1
Turkey	2	0	1
United Kingdom	26	0	14
United States	11	0	4
Yemen	102	2	92
UNRWA Gaza	8	1	6
<u>Total</u>	694	39	500

I. BACKGROUND

A. Background information

7. In reviewing the claims in part one of the fifteenth instalment, the Panel has taken into account the factual background relating to Iraq's invasion and occupation of Kuwait, as set out in detail in its reports on part one and part two of the first instalment of category "D" claims.³

8. The Panel has also taken into consideration other relevant material, including information accompanying the submission of these claims provided by the Executive Secretary pursuant to article 32 of the Rules. In addition, the Panel has considered information and views presented by Iraq and other Governments in response to the reports submitted to the Governing Council by the Executive Secretary in accordance with article 16 of the Rules.

B. General legal framework

9. The general legal framework for the resolution of category "D" claims is set out in chapter V of the Panel's First "D" Report.⁴

C. Applicable evidentiary standard

10. The evidentiary standard to be applied in reviewing category "D" claims has been addressed by the Panel in its previous reports.⁵ As with earlier instalments, the Panel has reviewed the claims in part one of the fifteenth instalment in accordance with article 35 of the Rules, and made its recommendations by assessing documentary and other appropriate evidence, as well as by balancing the interests of claimants who had to flee a war zone with the interests of Iraq, which is liable only for any direct loss, damage or injury as a result of its invasion and occupation of Kuwait.

II. NEW ISSUES ARISING IN THE APPLICATION CLAIMS

11. Some of the claims in part one of the fifteenth instalment raise new issues that were not dealt with in the Panel's previous reports. These new issues and the Panel's findings and recommendations are set out below.

A. D2 (personal injury) issue

12. In one case, a claimant who had a pre-existing medical condition is being recommended for compensation. The claimant seeks compensation for multiple brain thromboses that he suffered during the period of Iraq's invasion and occupation of Kuwait and for associated mental pain and anguish. The claimant had a history of heart-related health problems. Before Iraq's invasion and occupation of Kuwait, the claimant had been employed by both the Kuwaiti Department of Defence and the Military Intelligence Office. In October 1990, the claimant was interrogated by Iraqi military forces over a number of days because of his former employment. On 13 October 1990, the claimant was shot at during a period of interrogation and while he was not hit, he lost consciousness. The claimant suffered multiple brain thromboses that resulted in partial paralysis of his left side.

13. The claimant submitted a medical report confirming that he had suffered multiple brain thromboses in October 1990. The claimant also submitted a personal statement describing the interrogation and subsequent injury together with three witness statements from individuals who

escorted the claimant to hospital on 13 October 1990. The Panel finds that considering the totality of the evidence, the claimant's brain thromboses were the direct result of the actions of the Iraqi military during the period of interrogation. The Panel therefore recommends compensation for the claimant's injury and subsequent mental pain and anguish in accordance with Governing Council decision 8 (S/AC.26/1992/8).

B. D4 (motor vehicle) issue

14. A claimant seeks compensation for the estimated cost of repairs to a 1982 Porsche 928 motor vehicle that was damaged during the period of Iraq's invasion and occupation of Kuwait. The claimant submitted an estimate from a Porsche dealer in Kuwait for the cost of repairs to the vehicle in the sum of 7,000 Kuwaiti dinars (KWD). At the time that the Panel reviewed the claim, the repairs to the vehicle had not been undertaken by the claimant. The claimant stated that he has not had the funds available to undertake the necessary repairs to the vehicle. The Panel finds that the damage to the vehicle was the direct result of Iraq's invasion and occupation of Kuwait and although the repairs to the vehicle, which is in the claimant's possession, have not been undertaken, the claimant has in fact suffered the loss. In the circumstances, the Panel recommends compensation for the damage based on the estimated cost of repairs to the vehicle.

C. D7 (real property) issue

15. Two brothers seek compensation for rental costs that they each incurred for a period of 12 months between 1 May 1991 and 30 April 1992 after they returned to Kuwait while their adjoining villas were repaired. The villas were in a late stage of construction at the time of Iraq's invasion and occupation of Kuwait and the claimants had expected to move into the villas within a short time. From the evidence provided, the Panel is satisfied that the villas also sustained extensive damage during the period of Iraq's invasion and occupation of Kuwait.

16. The claimants submitted evidence to show that they incurred rental expenses from 1 May 1991 until late 1993 but they limited their respective claims to a period of 12 months. The claimants state that the delay in the restoration of their villas was caused by an inability to effect the repair works in the immediate post-liberation period. In accordance with principles applied by the Panel in the valuation of similar claims in the seventh instalment of category "D" claims,⁶ the Panel finds that the claimants are entitled to compensation for rental expenses incurred while repairs were undertaken to their villas. Under the circumstances and in applying the principles set out in the Seventh Instalment Report, the Panel recommends that the compensation awarded to these claimants be limited to a period of six months.

D. D8/D9 (individual business loss) issues

1. Competing claims for business losses

17. The D8/D9 methodology in respect of individual business losses (the "D8/D9 methodology") was developed by the "D2" Panel of Commissioners and is set out in the report and recommendations concerning the sixth instalment of category "D" claims.⁷ The D8/D9 methodology requires that to

sustain a claim for compensation, a claimant must establish the existence and ownership of an unincorporated business.⁸ Claimants must provide documentary evidence to establish that the business existed at the date of Iraq's invasion and occupation of Kuwait and that the claimant was either the sole owner of the business or had an ownership interest in the business as at the date of Iraq's invasion and occupation of Kuwait.

18. During the course of its review of category "D" claims in the eleventh instalment,⁹ the Panel identified a number of instances where two or more claimants had filed claims for business losses in which they had each asserted ownership of the same unincorporated business. Background information concerning the issue of competing claims for business losses was included in the Panel's Eleventh Instalment Report.¹⁰ These "competing claims" are to be distinguished from the "overlapping claims" which the category "E4" Panels of Commissioners are reviewing in accordance with Governing Council decision 123 (S/AC.26/Dec.123 (2001)) as the business in respect of which the competing claims have been made is not incorporated and all of the claims concerned have been filed by individuals. While the majority of the claims identified by the Panel as competing claims for business losses have been filed in category "D", the Panel has also identified some instances where a category "C" claimant and a category "D" claimant have filed claims for the losses of the same business. The recommendations of the category "C" Panel of Commissioners in respect of such claims have already been approved by the Governing Council.

19. While a few of these competing claims for business losses were resolved during the course of the eleventh instalment,¹¹ most of these claims were deferred out of the eleventh instalment to enable the Panel to seek further information from the claimants in an effort to identify the true owner of the business.

20. The general fact pattern encountered by the Panel in relation to most of these competing claims for business losses involves a claim filed by a Kuwaiti claimant and a claim filed by a non-Kuwaiti claimant. Before Iraq's invasion and occupation of Kuwait, Kuwaiti business licences could only be registered in the name of a Kuwaiti national. In many cases, the Kuwaiti claimant rented the licence to the non-Kuwaiti claimant for a fee and had no further interest in the business. In some cases, both the Kuwaiti claimant and the non-Kuwaiti claimant invested capital in the business and managed the business as partners. In a number of cases, the Kuwaiti claimant, being the registered owner of the business licence, asserts sole ownership of the business where the non-Kuwaiti claimant was unable to return to Kuwait or otherwise left Kuwait permanently following Iraq's invasion and occupation of Kuwait or where there has been no contact between the parties to determine who should file a claim with the Commission for the losses of the business. At the same time, the non-Kuwaiti claimant has filed a separate claim for the same business on the basis that the Kuwaiti claimant had rented the business licence to the non-Kuwaiti claimant for a monthly or annual fee and the non-Kuwaiti claimant was in fact the sole owner of the business.

21. The Panel's review of these competing claims for business losses has continued since the completion of the eleventh instalment. The Panel has since had the benefit of the views presented by a number of governments in response to report no. 38 submitted to the Governing Council by the Executive Secretary in accordance with article 16 of the Rules. The Panel has also considered further

information and documents that the claimants have submitted in response to notifications sent to them. At the direction of the Panel, some of the claimants with competing claims for business losses were interviewed during the course of a technical mission by the secretariat to Kuwait and Jordan in March 2002 so as to obtain more information, explanations and any additional documentary evidence about the nature of their business relationships and in support of their respective competing claims. The Panel was assisted by the information, explanations and documentation obtained during and following these claimant interviews and in the course of claim development.

22. As a result, where there is sufficient documentary and other evidence that enables the Panel to make a finding that one claimant has established his/her asserted ownership of the business while another has not, the Panel proceeds with the valuation of the claim in respect of which asserted ownership of the business has been proven and makes a recommendation that no compensation be awarded to the claimant who fails to establish that he/she had an ownership interest in the business as at the date of Iraq's invasion and occupation of Kuwait.

23. During the course of the Panel's review of a few of these claims, one or more of the competing claimants withdrew the part of or all of his/her claim for the losses of the business in question, thereby effectively removing the issue of the competing claims and enabling the Panel to proceed with its valuation of the remaining claim(s) for the losses of the business filed by the competing claimant(s).

24. As discussed by the Panel in the Eleventh Instalment Report,¹² where competing claimants reach an agreement between themselves about their respective interests in the business, the Panel recommends that the claimants submit either a written agreement signed by all claimants setting out the terms of the arrangement or individual letters or statements prepared by each claimant confirming their consent to the agreement as proposed so that the Panel can give effect to that agreement.

2. Some specific cases reviewed

25. Some specific cases illustrating the facts and the nature of the evidence on which the Panel is basing its recommendations on competing claims are set out below.

26. In one case, a Kuwaiti claimant and a non-Kuwaiti claimant filed separate claims in category "D" seeking compensation for the losses of the same stationery and office supplies business that operated in Kuwait prior to Iraq's invasion and occupation of Kuwait. The Kuwaiti claimant had also filed a claim in category "C" in respect of some of the losses of this business. The category "C" Panel of Commissioners recommended an award of compensation for the losses of the business in category "C" and the Governing Council subsequently approved that recommendation. The category "C" award in respect of the losses sustained by the business has been paid to the Kuwaiti claimant in full. Each claimant asserted that he/she was the sole owner of the business as at the date of Iraq's invasion and occupation of Kuwait. In accordance with Kuwaiti law, the licence in respect of the business was registered in the name of the Kuwaiti claimant. The non-Kuwaiti claimant asserted that he established the business, invested the capital in the business and managed the business until the date of Iraq's invasion and occupation of Kuwait.

27. The documentary evidence submitted by the Kuwaiti claimant in support of her assertion that she was the sole owner of the business is limited to the business licence that was registered in her name. By contrast, the non-Kuwaiti claimant submitted significant evidence to support his assertion that he rented the business licence from the Kuwaiti claimant in 1986 for an annual fee and that from 1986 until Iraq's invasion and occupation of Kuwait in 1990, he operated the business on his own. This documentation includes a "rent-a-permit" agreement by which the non-Kuwaiti claimant rented the business licence from the Kuwaiti claimant for an annual fee, an authorization from the Kuwaiti claimant by which the non-Kuwaiti claimant was permitted to execute documents on behalf of the business, leases for the two business premises and a warehouse that indicated that the non-Kuwaiti claimant was the lessee of the premises, receipts for rental payments made by the non-Kuwaiti claimant in respect of the various business premises, statements from former employees of the business attesting to the non-Kuwaiti claimant's ownership of the business and statements from suppliers of the business confirming that transactions were concluded on behalf of the business by the non-Kuwaiti claimant.

28. During the course of the technical mission to Kuwait and Jordan in March 2002, interviews were conducted with the non-Kuwaiti claimant and the husband of the Kuwaiti claimant, who was authorized to attend the interview on behalf of the Kuwaiti claimant. The non-Kuwaiti claimant continued to assert his sole ownership of the business as evidenced by the documents submitted by him. The Kuwaiti claimant's husband confirmed that the business licence was rented to the non-Kuwaiti claimant in 1986 as evidenced by the "rent-a-permit" agreement, but he alleged that the nature of the business relationship between the claimants changed in 1987 when the claimants became equal partners in the business. He further alleged that the relationship changed a second time in 1988 when the non-Kuwaiti claimant became an ordinary employee of the business without any ownership interest in the business. No documentary evidence was provided on behalf of the Kuwaiti claimant to substantiate the alleged revocation of the "rent-a-permit" agreement, the commencement of the partnership, the dissolution of the partnership or the commencement of the claimant's employment with the business.

29. On the basis of the evidence submitted by the claimants, the Panel finds that the non-Kuwaiti claimant was the sole owner of the business at the date of Iraq's invasion and occupation of Kuwait. The Panel therefore recommends that the non-Kuwaiti claimant be compensated for the losses sustained by the business on the basis that he was the sole owner of the business. The Panel finds that while the business licence was registered in the name of the Kuwaiti claimant, she has not proven her alleged ownership interest in the business. Accordingly, the Panel recommends that no compensation be awarded to the Kuwaiti claimant in respect of her category "D" claim for the losses of the business.

30. This last finding of the Panel raises an additional issue concerning the Kuwaiti claimant's category "C" claim. The category "C" Panel of Commissioners, on the basis of the evidentiary standard applicable to category "C" claims, made a recommendation of an award of compensation to the Kuwaiti claimant in respect of her category "C" claim which was subsequently approved by the Governing Council. However, in support of their category "D" competing claims, both the Kuwaiti claimant and the non-Kuwaiti claimant were required to produce evidence in accordance with the

higher standard prescribed in Governing Council decision 7 and article 35(3) of the Rules.¹³ In view of the fact that on the basis of the evidence considered in relation to their category “D” claims, the Panel has found that the Kuwaiti claimant had no ownership interest in the business in question and was therefore not entitled to be compensated for the losses of the business, the award to the Kuwaiti claimant in respect of her category “C” claim would amount to duplication in respect of the claimed losses. Accordingly, the Panel recommends that this issue be brought to the attention of the Governing Council for appropriate action.

31. In another case, a Kuwaiti claimant and a non-Kuwaiti claimant filed separate claims in category “D” seeking compensation for the losses of the same book store business that operated in Kuwait prior to Iraq’s invasion and occupation of Kuwait. Each claimant initially asserted that he was the sole owner of the business. In accordance with Kuwaiti law, the licence in respect of the business was registered in the name of the Kuwaiti claimant. The non-Kuwaiti claimant asserted that he established the business, invested the capital in the business and managed the business himself under the business licence. The non-Kuwaiti claimant stated that after the liberation of Kuwait, he resumed this same business in Kuwait.

32. The Kuwaiti claimant was interviewed during the course of the technical mission to Kuwait and Jordan in March 2002. The Kuwaiti claimant attended the interview together with the non-Kuwaiti claimant’s son who now manages the business for the non-Kuwaiti claimant. The Kuwaiti claimant confirmed that the non-Kuwaiti claimant was the sole owner of the business as at the time of Iraq’s invasion and occupation of Kuwait and he withdrew his D8/D9 (individual business loss) claim in respect of the business. The Kuwaiti claimant submitted a written statement confirming the withdrawal of that aspect of his claim that related to the losses of the business. The Panel therefore recommends that the non-Kuwaiti claimant be compensated for the losses sustained by the business on the basis that he was the sole owner of the business as at the date of Iraq’s invasion and occupation of Kuwait.

33. In deciding a number of competing claims for business losses included in part one of the fifteenth instalment, the Panel has similarly assessed the strength of the documentary and other appropriate evidence as well as the explanations obtained from claimants. In relation to these claims, the Panel recommends that compensation be awarded in cases where it has been found that the claimant in question has established an exclusive or part ownership interest in the business according to the extent of such interest. Similarly, the Panel recommends that no compensation be awarded to those claimants who have not proven that they had an ownership interest in the business concerned as at the date of Iraq’s invasion and occupation of Kuwait as required by the D8/D9 methodology.

E. D (other losses) issue

34. A claimant seeks compensation for the expenses that she incurred to secure the transportation of her jewellery and valuables out of Kuwait during the period of Iraq’s invasion and occupation of Kuwait to avoid these items being stolen by Iraqi forces. The items were deposited in a bank safety deposit box before the invasion and the claimant provided a valuation certificate that stated that the items were valued at USD 1,074,382.13 at the time of the invasion. On the basis of the evidence submitted by the claimant, the Panel finds that the claimant owned the jewellery and valuables and has

proven that she took reasonable steps to prevent a loss from occurring during the period of Iraq's invasion and occupation of Kuwait. Therefore, the Panel recommends that the claimant be compensated accordingly subject to an adjustment to reflect evidentiary deficiencies.

III. CROSS CATEGORY ISSUE

35. Recommended awards in respect of claims in part one of the fifteenth instalment are reported net of category "A", "B" and "C" approved awards made to the same claimants.¹⁴

IV. OTHER ISSUES

A. Exchange rates

36. For purposes of calculating recommended amounts, the Panel has converted currencies into United States dollars in accordance with the rates set out in paragraphs 61-63 of the First "D" Report.

37. In its report and recommendations concerning the third instalment of category "D" claims,¹⁵ the Panel noted that where losses are claimed for money in currencies other than United States dollars and it is established that the application of the exchange rate approved by the Panel in its First "D" Report "would result in either under-compensation or over-compensation of the claimant, the Panel determined that it will select a conversion rate based on the evidence that most closely compensates the claimant for the value of the losses suffered. In particular, this would be applied in situations where the claimant has submitted evidence that he or she purchased the money at a rate different from the rate adopted by the Panel."¹⁶

B. Interest

38. A number of claimants in part one of the fifteenth instalment claim for interest on losses contained in their category "D" claims. For category "D" losses other than loss of business income and incremental costs, the "D1" and "D2" Panels have previously determined that the phrase "the date the loss occurred" in Governing Council decision 16 (S/AC.26/1992/16)¹⁷ should be a single fixed date. The Panels determined that 2 August 1990 (the date of Iraq's invasion and occupation of Kuwait) should serve as the fixed date.¹⁸

39. Claims for loss of business income are claims for income that would have been earned over a period of time. As such, a date of loss of 2 August 1990 for such losses would result in over-compensation for claimants. The "D1" and "D2" Panels have therefore adopted the midpoint of the period for which loss of business income claims have been recommended for compensation as the date of loss for the purpose of calculating interest.¹⁹ The Panel also adopted a fixed date of 1 May 1991 as the date of loss for the purpose of calculating interest on awards for claims for incremental costs.²⁰

C. Claims preparation costs

40. A number of claimants in part one of the fifteenth instalment seek claims preparation costs incurred by them, either for a specific or an unspecified amount.

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

V. RECOMMENDED AWARDS FOR CATEGORY "D" CLAIMS

42. The annex hereto lists the awards recommended by the Panel for each Government and international organization for the claims resolved in part one of the fifteenth instalment. Each Government and international organization will be provided with a confidential list containing the individual recommendations made in respect of its claimants. As will be seen from the annex, the total amount claimed is USD 288,447,201.05. Of this total amount claimed, USD 14,942,220.97 is for business losses suffered by Kuwaiti companies that will be severed from the category "D" claims and transferred to the category "E4" Panels of Commissioners for their review pursuant to Governing Council decision 123. As against the net balance of USD 273,504,980.08 claimed, the Panel recommends a total compensation of USD 129,121,634.76.

VI. SUBMISSION OF THE REPORT

43. The Panel respectfully submits this report through the Executive Secretary to the Governing Council pursuant to article 38(e) of the Rules.

Geneva, 6 August 2002

(Signed) R.K.P. Shankardass
Chairman

(Signed) H.M. Joko-Smart
Commissioner

(Signed) M.C. Pryles
Commissioner

Notes

¹ The UNCC claim numbers of the 39 claims that have been added to the fifteenth instalment since the Panel commenced its review of the fifteenth instalment follow: 3000128, 3000631, 3000635, 3002865, 3002921, 3002938, 3003633, 3003850, 3003882, 3004182, 3004249, 3004274, 3004346, 3004369, 3004381, 3004734, 3004735, 3004898, 3004914, 3005083, 3005940, 3007005, 3007065, 3007275, 3007775, 3007962, 3008136, 3008350, 3008376, 3008654, 3009166, 3009457, 3009470, 3009715, 3009797, 3009961, 3010291, 3010471 and 3010759.

² In part one of the first instalment of category “D” claims, the Panel developed methodologies for the following loss types: D1 (money); D1 (mental pain and anguish) (“MPA”); D3 (death); D4 (motor vehicles); D6 (loss of income); D10 (payments or relief to others); and D10 (other). A full description of the methodologies is set out at paragraphs 103-380 of the “Report and recommendations made by the Panel of Commissioners concerning part one of the first instalment of individual claims for damages above US\$100,000 (category ‘D’ claims)” (S/AC.26/1998/1) (the “First ‘D’ Report”). The Panel developed methodologies for the following loss types in part one of the second instalment: D2 (personal injury) and D5 (loss of bank accounts, stocks and other securities). These methodologies are described in the “Report and recommendations made by the Panel of Commissioners concerning part one of the second instalment of individual claims for damages above US\$100,000 (category ‘D’ claims)” (S/AC.26/1998/11) (“Part One, Second Instalment Report”), at paragraphs 30-57. The Panel developed the methodology for D4 (personal property) losses in part two of the second instalment. This methodology is described in the “Report and recommendations made by the Panel of Commissioners concerning part two of the second instalment of individual claims for damages above US\$100,000 (category ‘D’ claims)” (S/AC.26/1998/15) (“Part Two, Second Instalment Report”) at paragraphs 30-68. The Panel developed the methodology for D7 (real property) losses in part two of the fourth instalment. This methodology is described in the “Report and recommendations made by the Panel of Commissioners concerning part two of the fourth instalment of individual claims for damages above US\$100,000 (category ‘D’ claims)” (S/AC.26/2000/11), at paragraphs 30-68. The “D2” Panel of Commissioners developed the methodology for D8/D9 (business loss) claims, which is described in the “Report and recommendations made by the Panel of Commissioners concerning the sixth instalment of individual claims for damages above USD 100,000 (category ‘D’ claims)” (S/AC.26/2000/24) (the “Sixth Instalment Report”). The methodologies for resolving all of the loss types in category “D” have now been developed.

³ See in particular chapter II of the First “D” Report and chapter IV of the “Report and recommendations made by the Panel of Commissioners concerning part two of the first instalment of individual claims for damages above US\$100,000 (category ‘D’ claims)” (S/AC.26/1998/3).

⁴ See note 2 above.

⁵ See chapter VI of the First “D” Report and chapter II of Part Two, Second Instalment Report. See also paragraph 8 of Governing Council decision 7 (S/AC.26/1991/7/Rev.1), which provides that “[S]ince...[category ‘D’] claims may be for substantial amounts, they must be supported by documentary and other appropriate evidence sufficient to demonstrate the circumstances and the amount of the claimed loss”. See also articles 35(1) and 35(3) of the Rules.

⁶ See paragraph 17 of the “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) (the “Seventh Instalment Report”).

⁷ “Report and recommendations made by the Panel of Commissioners concerning the sixth instalment of individual claims for damages above USD 100,000 (category ‘D’ claims)” (S/AC.26/2000/24) (the “Sixth Instalment Report”).

⁸ Paragraphs 61-64 of the Sixth Instalment Report.

⁹ “Report and recommendations made by the ‘D1’ Panel of Commissioners concerning the eleventh instalment of individual claims for damages above USD 100,000 (category ‘D’ claims)” (S/AC.26/2002/2) (the “Eleventh Instalment Report”).

¹⁰ See paragraphs 12-30 of the Eleventh Instalment Report.

¹¹ Ibid.

¹² See paragraphs 15-19 of the Eleventh Instalment Report.

¹³ Paragraph 8 of Governing Council decision 7 states “[s]ince these claims may be for substantial amounts, they must be supported by documentary and other appropriate evidence sufficient to demonstrate the amount of the claimed loss.” See also article 35(3) of the Rules which embodies paragraph 8 of Governing Council decision 7.

¹⁴ See paragraph 21 of the “Report and recommendations made by the Panel of Commissioners concerning part one of the fourth instalment of individual claims for damages above US\$100,000 (category ‘D’ claims)” (S/AC.26/1999/21).

¹⁵ “Report and recommendations made by the Panel of Commissioners concerning the third instalment of individual claims for damages above US\$100,000 (category ‘D’ claims)” (S/AC.26/1999/9) (the “Third Instalment Report”).

¹⁶ Paragraph 39 of the Third Instalment Report.

¹⁷ Paragraph 1 of Governing Council decision 16 states that “[i]nterest will be awarded from the date the loss occurred until the date of payment, at a rate sufficient to compensate successful claimants for the loss of use of the principal amount of the award.”

¹⁸ See paragraphs 64-65 of the First “D” Report with respect to category “D” losses other than individual business losses and paragraphs 225-226 of the Sixth Instalment Report with respect to claims for individual business losses.

¹⁹ See paragraphs 227-228 of the Sixth Instalment Report.

²⁰ See paragraph 228 of the Sixth Instalment Report.

AnnexSUMMARY RECOMMENDATIONS OF PART ONE OF THE
FIFTEENTH INSTALMENT OF CATEGORY "D" CLAIMS

<u>Submitting entity</u>	<u>Number of claims not recommended for payment</u>	<u>Number of claims recommended for payment</u>	<u>Total amount claimed (USD)</u> ^a	<u>Net amount claimed after severance and transfer of claims (USD)</u>	<u>Amount of compensation recommended (USD)</u>
Austria	1	0	370,976.54	370,976.54	0.00
Canada	2	0	1,205,394.12	1,205,394.12	0.00
Germany	1	0	96,030.73	96,030.73	0.00
India	13	34	21,899,858.57	19,904,296.29	2,310,021.13
Israel	1	0	407,000.00	407,000.00	0.00
Italy	0	1	319,377.16	319,377.16	83,063.32
Jordan	4	66	66,676,921.40	58,638,930.52	14,792,918.65
Kuwait	3	243	139,585,250.93	139,585,250.93	99,970,162.15
Lebanon	0	3	1,194,040.31	1,194,040.31	476,474.94
Pakistan	0	2	345,391.62	345,391.62	159,432.11
Sudan	1	6	5,519,520.30	1,795,004.73	198,617.96
Switzerland	0	1	664,436.44	664,436.44	398,262.66
Syrian Arab Republic	0	1	287,000.00	287,000.00	134,336.10
Turkey	0	1	420,010.38	420,010.38	46,027.26
United Kingdom	2	12	5,550,918.21	5,550,918.21	1,074,533.88
United States	1	3	2,662,825.00	2,662,825.00	127,635.40
Yemen	26	66	35,952,795.60	35,952,795.60	8,459,101.08
UNRWA Gaza	0	6	5,289,453.74	4,105,301.50	891,048.12
Total	55	445	288,447,201.05	273,504,980.08	129,121,634.76

^a This total amount claimed includes USD 14,942,220.97 for business losses suffered by Kuwaiti companies that will be severed and transferred to the "E4" Panels of Commissioners for review pursuant to Governing Council decision 123.
