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



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Introduction

1. At its twenty-fourth session, held on 23-24 June 1997, the Governing Council of the United Nations Compensation Commission (the "Commission") appointed Messrs. Robert R. Briner (Chairman), Alan J. Cleary and Lim Tian Huat as the first Panel of Commissioners (the "Panel") charged with reviewing "E4" claims. The "E4" population consists of claims submitted by Kuwaiti private sector corporations and entities, other than oil sector and environmental claimants, eligible to file claims under the Commission's "Claim Forms for Corporations and Other Entities" ("Form E").

2. A ninth instalment consisting of 21 "E4" claims was submitted to the Panel on 29 February 2000, in accordance with article 32 of the Provisional Rules for Claims Procedure (S/AC.26/1992/10) (the "Rules").

3. Pursuant to article 38 of the Rules, this report contains the Panel's recommendations to the Governing Council concerning the ninth instalment claims.

I. OVERVIEW OF THE NINTH INSTALMENT CLAIMS

4. The ninth 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 ninth instalment claimants filed losses aggregating Kuwaiti dinars ("KWD") 141,736,561 (approximately United States dollars ("USD") 490,437,927). The claimants also filed claims for interest totalling KWD 9,924,295 (approximately USD 34,340,121) and claim preparation costs aggregating KWD 171,422 (approximately USD 593,156).

6. The claims range between KWD 2,366,482 and KWD 32,527,398 (i.e., between approximately USD 8,188,519 and USD 112,551,550) in value. In view of the complexity of the issues raised, the volume of the documentation underlying the claims and the amount of compensation sought by the claimants, all of the claims in the ninth instalment are classified as "unusually large or complex" within the meaning of article 38(d) of the Rules.

7. The nature of the legal and factual issues raised in each claim and the amount of documentation provided in support of each claim has allowed the Panel to complete its verification of the claims within 12 months of the date on which the ninth instalment claims were submitted to the Panel.

8. All of the claimants in the ninth instalment operated in Kuwait prior to Iraq's invasion and occupation of Kuwait. Most claimants carried on business operations in the food, agricultural and fisheries industries.

9. The two most common loss types asserted by claimants in this instalment are loss of tangible property (mainly stock, plant equipment and machinery) and loss of earnings or profits. Claimants have also sought compensation for real property, uncollectible receivables, restart costs, interest and claim preparation costs as "other losses".

II. THE PROCEEDINGS

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

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

12. 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.

13. The Executive Secretary of the Commission submitted report nos. 28 and 29 dated 23 July 1999 and 28 October 1999, respectively, to the Governing Council in accordance with article 16 of the Rules. These reports covered, inter alia, the ninth instalment of "E4" claims and presented the significant legal and factual issues identified in these 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.

14. In addition to having access to narrative claim summaries for each claim in the ninth instalment, the Panel also directed the secretariat to request specific information and documents from the claimants pursuant to article 34 of the Rules.

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

- (a) The claim documents submitted by the claimants;
- (b) The preliminary assessment reports prepared under article 14 of the Rules;
- (c) Narrative claim summaries and reports;
- (d) Further information and documentation provided by the claimants pursuant to specific requests made pursuant to article 34 of the Rules;
- (e) Information and views of Governments, including the Government of Iraq, received in response to the article 16 reports; and
- (f) Other information deemed, under article 32 of the Rules, to be useful to the Panel for its work.

16. 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 ninth 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.

17. During the period from 6 to 15 April 2000, at the direction of the Panel, members of the secretariat and expert accounting and loss adjusting consultants travelled to Kuwait to obtain information for the Panel's assessment of the claimants and to carry out an on-site inspection. This delegation met with all ninth instalment claimants and representatives of the Government of Kuwait's Public Authority for Assessment of Compensation for Damages Resulting from Iraqi Aggression ("PAAC").

18. By its procedural order dated 29 February 2000, the Panel gave notice of its intention to complete its review of the ninth instalment claims and submit its report and recommendations to the Governing Council within 12 months of 29 February 2000. This procedural order was transmitted to the Government of Iraq and the Government of Kuwait.

19. By its second procedural order dated 29 February 2000, the Panel instructed the secretariat to transmit a copy of the original claim files (consisting of the claim form, the statement of claim and all supporting documents) filed by all ninth instalment claimants with claims greater than KWD 30,000,000 (approximately USD 100,000,000) to the Government of Iraq. Only one ninth instalment claim, filed by Kuwait Danish Dairy Company W.L.L., met this criterion. The Panel invited the Government of Iraq to submit its comments within 180 days of the date of the procedural order. Iraq submitted

written comments on this claim, which raised some specific issues, particularly in connection with the claimant's claim for loss of tangible assets. These comments were taken into consideration by the Panel when making its recommendations on compensation for this claim.

20. Pursuant to article 34 of the Rules, additional information and evidence was requested from the claimants in order to assist the Panel in its review of the claims. Claimants who were unable to submit the evidence requested were asked to provide reasons for their inability to comply with such requests. All requests for additional information and evidence were directed through PAAC. These requests were made in relation to the entire "E4" claims population and not just the ninth instalment claims.

21. The requests for additional information and evidence are described in prior "E4" reports, e.g., paragraphs 21-26 of the "Report and recommendations made by the Panel of Commissioners concerning the second instalment of 'E4' claims" (S/AC.26/1999/17) (the "Second '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) (the "Sixth 'E4' Report"). These requests are not restated in this report.

22. Pursuant to article 34 of the Rules, the secretariat also sought specific clarifications from all claimants in the ninth instalment. The Panel has considered the responses submitted by these claimants.

23. 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 "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").

24. Based on its review of the documents submitted and the additional information obtained, the Panel concluded that the issues presented by the ninth 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

25. The legal framework and the verification and valuation methodology applied to the evaluation of the 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.

26. 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 therefor are set out in the annexes to this report.

27. Before discussing the Panel's specific recommendations for compensating the ninth 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", 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

28. 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. With the exception of income-producing property, reclassified losses have been dealt with in the section pertaining to the loss types into which the Panel reclassified the losses.

A. Contract

29. One claimant in this instalment asserted a claim aggregating KWD 273,014 (approximately USD 944,685) for loss of contract. The claim did not raise any new legal or verification and valuation issues. The Panel's approach to the compensability of contract losses is stated in prior "E4" reports and the verification and valuation methodology adopted by the Panel for the loss of contract claims is discussed in paragraphs 77-84 of the First "E4" Report.

30. The Panel's recommendation with respect to the contract loss is set out in annex II.

B. Real property

31. Fifteen claimants in this instalment filed claims aggregating KWD 19,097,804 (approximately USD 66,082,367) for loss of real property. These claims sought compensation for damage to a number of owned and rented premises in Kuwait, including several agricultural buildings and constructions.

32. 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.

33. 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. In particular, many of the ninth instalment claimants carried out farming operations that were located in areas close to the Kuwaiti borders with Iraq and Saudi Arabia. The extent of the damage to farming operations in these areas is well documented in the report to the Secretary-General by a United Nations Mission, led by former Under-Secretary-General Mr. Abdulrahim A. Farah (the "Farah Report"). Claims were either based on the actual costs incurred in repairing the properties or on estimates of such costs.

34. 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. Similar adjustments were made by the Panel in cases of unforced "betterment", as explained in paragraph 97 of the First "E4" Report.

35. 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.

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

C. Tangible property, stock, cash and vehicles

37. Tangible property losses are claimed by a majority of the ninth instalment claimants. The claimed losses, relating to industrial plant and machinery, stock, furniture and fixtures, equipment, vehicles and cash, aggregate KWD 79,449,119 (approximately USD 274,910,446). One claimant, United Fisheries, has claimed for loss and damage to its fleet of 15 fishing vessels.

38. When determining 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. For claims for the repair or replacement costs of tangible assets, the Panel reviewed the claims to verify whether adjustments were made by the claimant to reflect, inter alia, applicable depreciation (see paragraph 113 of the First "E4" Report). In the case of Kuwait Danish Dairy Co. W.L.L., the Panel determined that the

applicable depreciation was not applied by the claimant and the tangible asset claim was adjusted accordingly.

39. With regard to claims for loss of stock, a number of claimants have raised claims for livestock that was lost as a direct result of Iraq's invasion and occupation of Kuwait. Such claims for loss of livestock commonly have two elements, those for productive livestock and those for livestock held for slaughter. The former consists of livestock held by the claimant to produce goods such as other livestock (lambs, calves etc.), or products such as milk or eggs. Livestock held for slaughter represents the product itself.

40. It is the Panel's view that the verification and valuation of these two types of stock cannot be carried out in the same manner. A similar view was also taken by the D2 Panel in the Report and Recommendations made by the Panel of Commissioners Concerning the Sixth Instalment of Individual Claims for Damages Above USD 100,000 (S/AC.26/2000/24). (See paragraph 107, p. 24.)

41. For the verification and valuation of livestock held for slaughter, the Panel treats this as a current asset and reviews the basis of valuation of such livestock for reasonableness (i.e., valuation at the lower of the original cost or net realisable value). (See paragraphs 117-126 of the First "E4" Report.)

42. For the verification and valuation of productive livestock such as egg-laying poultry, the Panel considers that this livestock is more in the nature of a fixed asset and therefore the cost of the asset should be amortized over its useful life.

43. The Panel considered information provided by claimants during the on-site inspection as to the productive life of such poultry and values it based on the cost of raising the poultry to the age at which it commences production, such costs to be amortized over its useful productive life. The Panel then sought to confirm that the valuation policy of the claimant as stated in the claimant's audited accounts complied with this approach. In view of the nature of the evidence provided by the claimants, (most claimants provided audited accounts for the three years immediately prior to Iraq's invasion and occupation of Kuwait), the Panel was able to make such a confirmation for the majority of claimants. However, where the evidence submitted by the claimant did not allow the Panel to confirm that the claimant's valuation policy for productive poultry complied with this approach, this shortcoming was regarded as creating a "risk of overstatement", and the Panel adjusted the claim to offset such risk of overstatement.

44. 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. (See the Second "E4" Report, paragraphs 55-56.)

45. For most claimants the existence, ownership and value of stocks lost were supported by copies of their audited accounts, original inventory purchase invoices and "roll-forward" calculations, as defined in paragraph 119 of the First "E4" Report. A few claimants sought to rely mainly on employee or related party witness statements to establish the fact of loss of stock. Where the fact of loss of stock was not supported by sufficient evidence, such as extraordinary losses in the claimant's audited post-liberation accounts, the Panel has recommended no compensation for such losses.

46. As was the case in prior instalments of "E4" claims, claims for loss of goods in transit related to goods that were in Kuwait on the day of Iraq's invasion and that were subsequently lost. Successful claimants were able to submit sufficient proof of payment for the goods and establish the ownership, existence and loss of the goods from certificates issued by the Kuwaiti port authorities or shipping agents.

47. A majority of the claimants seeking compensation for cash losses sought to rely on witness statements from related parties without providing further evidence to substantiate their claims. Where claims for cash losses were not supported by sufficient contemporaneous evidence, establishing the possession and amount of cash held on 2 August 1990, the Panel has recommended no compensation.

48. 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. Two ninth instalment claimants claimed for loss of vehicles that were used in their farming operations. These claimants were unable to provide deregistration certificates, as the farm vehicles were not required to be registered by the Kuwait Traffic Department. The Panel held that where the claimants could establish their ownership of the lost vehicles and the fact of loss with alternative evidence, such as the existence of an extraordinary loss in respect of the vehicles being recorded in the claimant's post-liberation accounts, compensation would be awarded for such losses.

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

D. Income-producing property

50. One ninth instalment claimant, Kuwait Pharmaceutical Industries Company S.A.K, seeks compensation for loss of income-producing property consisting of

the estimated value of its business that allegedly had to be liquidated as a result of Iraq's invasion and occupation of Kuwait. Upon reviewing the nature of the claim, and for the reasons set out below, the Panel determined that the loss should be reclassified into other categories, including loss of profits, loss of real property and loss of tangible property.

51. The claim was valued by the claimant using the discounted cash flow (DCF) method, allegedly in accordance with Governing Council decision 9 (S/AC.26/1992/9). Except for liquidation and claim preparation costs, no other losses are being claimed, although the claimant's audited accounts for the two-year period ending December 1992 show extraordinary losses due to Iraq's invasion and occupation of Kuwait of KWD 8,511,439.

52. The DCF method of valuation is described at paragraph 18 of Governing Council decision 9:

"For the valuation of income-producing properties there are several alternative concepts. One is to measure by reference to costs, which leads to the determination of book value. Another is to determine the value of the property as a going concern. This is often done by reference to the market value of similar properties. Where such market value cannot be ascertained, the economic or current value of that asset can be ascertained by the discounted cash flow (DCF) method or by the price/earnings (P/E) method. The DCF method calculates the value at one specified time of cash flows that are to be received at a different time by discounting the yearly net cash flows to present value, with the discount rate including cost of capital and risk components . . ."

53. In considering whether the valuation method used by the claimant in computing the loss is the correct method, in accordance with the valuation methods prescribed under Governing Council decision 9, the Panel has considered the "Report and Recommendations Made by the Panel of Commissioners Concerning the Second Instalment of 'E1' Claims", (S/AC.26/1999/10) ("the Second 'E1' Report").

54. At paragraph 435 of the Second "E1" Report, the "E1" Panel found that the DCF method of valuing business losses, as described at paragraph 52 above, was mentioned only as one of several methods that the Panel may employ in valuing business losses and that it was ultimately the Panel's choice as to which method most accurately values a claimant's loss. The "E1" Panel also found that the Governing Council has placed a limitation on the scope of compensable losses. The "E1" Panel stated that:

"At the outset, the Panel finds that the Governing Council has placed a limitation on the scope of compensable losses. The Governing Council states, in paragraph 17 of decision 9, that

"In the event that the business has been rebuilt and resumed, ... compensation may only be claimed for the loss suffered during the relevant period."

The Governing Council does not explicitly define the term 'relevant period', but in the context in which it is used, it appears to the Panel that the Governing Council intended that the relevant period be defined as the period between the date of impairment of the business and the date on which the business was or could have been rebuilt and resumed operations at pre-invasion levels. In so doing, the Governing Council has placed an implicit limit on the scope of consequential losses that are compensable before the Commission, and the Panel must pay due regard to this limitation.

Based on this interpretation, the Panel concludes that where an income-producing property, i.e., an asset or a group of assets, such as a business, has been completely destroyed or irreparably damaged, the DCF method can be used to estimate the cash flows through the end of the property's expected economic life in order to value that property. Where the asset or business can be repaired or resumed, however, the DCF method will not be an appropriate measure of loss to the extent that it takes into account estimated losses beyond the restoration date of the asset or business." (paragraphs 437-439)

55. The Panel also notes that a liquidator was appointed over the claimant in May 1992, following an extraordinary general meeting of the claimant's shareholders, at which a majority voted in favour of the claimant's liquidation. The claimant alleges in its statement of claim to have sustained extensive damage as a result of Iraq's invasion and occupation of Kuwait, which left it with the difficult choice of liquidating the company or restarting operations. The claimant states that 54 per cent of the shareholders of the claimant who were present at the extraordinary general meeting in May 1992 voted in favour of the liquidation of the company. Specific reasons as to why this decision was taken and why the claimant was unable to restart operations were not given. However, no evidence was submitted by the claimant to show that the business was completely destroyed or irreparably damaged.

56. The Panel agrees with the conclusions reached by the "E1" Panel at paragraphs 437-439 of the Second "E1" Report, and in the circumstances, finds that the DCF method is not the appropriate measure for calculating the claimant's losses in this instance. The Panel finds that the amounts recorded in the provision in the claimant's post-liberation accounts for extraordinary losses arising as a result of Iraq's invasion and occupation of Kuwait forms a more appropriate basis for accurately measuring the claimant's losses. The Panel has therefore reclassified the amount claimed as loss of income-producing property into other loss categories in accordance with the amounts recorded in the claimant's post-liberation accounts and has dealt

with such reclassified losses in the section pertaining to the loss category into which the Panel reclassified the losses.

E. Payment or relief to others

57. Five claimants in this instalment submitted claims in the amount of KWD 712,662 (approximately USD 2,465,958) for payment or relief to others.

58. The claims did not raise any new legal or verification and valuation issues. When reviewing the claims for payment or relief to others, the Panel applied the approach and verification and valuation methodology described in earlier "E4" reports. (See, for example, the Second "E4" Report, paragraphs 70-74.)

59. The Panel's recommendation on the payment or relief to others claim is summarized in annex II.

F. Loss of profits

60. Seventeen claimants in this instalment submitted claims for loss of profits aggregating KWD 38,842,668 (approximately USD 134,403,696).

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

62. One claimant, United Fisheries of Kuwait, claimed for loss of profits in connection with its fishing operations. The claimant stated that it was unable to recommence its fishing operations until it had replaced its fishing vessels, all of which were damaged or destroyed during Iraq's invasion and occupation of Kuwait. The claimant also stated that whilst it recommenced its fishing operations in October 1992, its profitability declined generally after the liberation of Kuwait, and on this basis it sought to extend the period of the compensability of its loss of profits claim to 31 December 1993.

63. The standard applied by the Panel in determining the appropriate period of time for which a claim for loss of profits is a direct loss resulting from Iraq's invasion and occupation of Kuwait, is to allow compensation for the

period until the claimant could have recommenced operations at pre-invasion capacity (and not necessarily the period within which the claimant could have achieved pre-invasion levels of profitability). (See paragraphs 182-187 of the First "E4" Report".)

64. The Panel finds that the earliest time that the claimant could have resumed trading at pre-invasion capacity was at the start of the 1992 fishing season, which was in September 1992. The Panel therefore awards compensation to the claimant for loss of profits for a period of 25 months.

65. Despite several requests, some claimants in the ninth instalment did not provide annual accounts for the three financial years preceding and following the period of Iraq's invasion and occupation of Kuwait. The Panel noted that in some cases the failure to submit some accounts was sufficiently explained; for example, where the claimant had commenced trading in the period between 1987 and 1990 or where the claimant had ceased trading following Iraq's invasion and occupation of Kuwait.

66. Loss of profits claims by businesses that failed to provide a full set of annual audited accounts for the relevant periods were regarded as presenting a "risk of overstatement", unless the failure to submit the accounts was sufficiently explained.

67. 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.

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

G. Receivables

69. Seven claimants in this instalment asserted claims for uncollectible receivables or "bad debts" aggregating KWD 1,290,633 (approximately USD 4,465,858). All of these claims were for amounts owed by businesses or individuals located in Kuwait prior to Iraq's invasion.

70. 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 Panel reiterates its determination on this matter as set out in paragraphs 209-210 of the First "E4" Report. Claims for debts that have become uncollectible as a result of Iraq's invasion and occupation of Kuwait must demonstrate, by documentary or other appropriate evidence, the nature and amount of debt in question and the circumstances that caused the debt to become uncollectible.

71. The ninth instalment claims for uncollectible receivables were verified and valued in the manner described in paragraphs 211-215 of the First "E4" Report.

72. As discussed above, the Panel has recommended no compensation for claims that relied on the mere assertion that uncollected debts were ipso facto uncollectible because the debtors did not return to Kuwait. Most of the claimants failed to provide evidence to demonstrate that their 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 paragraph 14 above). While a number of responses were received from claimants, six claimants did not satisfy the above criteria.

73. The Panel's recommendations on claims for receivables are summarized in annex II.

H. Restart costs

74. Nine claimants in this instalment asserted claims aggregating KWD 1,285,467 (approximately USD 4,447,983) for restart costs. The amounts claimed as restart costs have been reviewed using the methodology described in paragraphs 221-223 of the First "E4" Report and paragraphs 93-96 of the Second "E4" Report.

75. One claimant, Kuwait Supply Company, seeks compensation for incremental costs incurred in connection with the shipment of goods that arrived in Kuwait on 31 July 1990. Discharge of the goods commenced on 31 July 1990, but was subsequently halted on 2 August 1990. Discharge of the goods recommenced on 11 August 1990 and was completed on 1 September 1990. The claimant claimed in respect of demurrage charges and other costs incurred in connection with the delay in discharging the cargo, which it was ordered to pay to the shipping company following arbitration proceedings.

76. The claimant was ordered to pay the shipping company for sums in respect of demurrage on loading, demurrage on discharge and the balance of freight charges of 10 per cent due to the shipping company. The balance of freight charges represent the retention of 10 per cent by the claimant of the cost of shipping the goods. The claimant was also awarded damages in respect of a counterclaim brought by it against the shipping company in respect of short loading and the claimant gives credit for this amount in its claim.

77. The Panel finds that the amounts claimed for demurrage on loading and the payment of balance of freight charges were liabilities accruing to the claimant at the time the goods were loaded on the vessel on 23 July 1990, and hence these costs did not arise as a direct result of Iraq's invasion and occupation of Kuwait. The Panel finds that the costs for demurrage on

discharge arose as a direct result of Iraq's invasion and occupation of Kuwait, which caused the delay in discharging the cargo upon its arrival in Kuwait. The Panel notes that the claimant filed evidence showing that it was given leave to appeal from two parts of the arbitration award made against it, namely the demurrage on discharge and balance of freight charges. However, the claimant has failed to provide evidence as to whether such an appeal was pursued and this shortcoming is regarded as creating a "risk of overstatement". As a result, the Panel adjusted the claim to offset such "risk of overstatement".

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

I. Other losses

79. Five claimants in this instalment asserted claims aggregating KWD 785,194 (approximately USD 2,716,934) for other losses.

80. Claims for "other losses" that have been dealt with in prior "E4" instalments were reviewed in the manner stated in earlier "E4" reports. (See, for example, paragraph 108 of the Second "E4" Report, dealing with the treatment of prepaid expenses.)

81. One claimant, Kuwait Pharmaceuticals Industries Company S.A.K., raised a claim for the costs incurred in connection with the liquidation of the company. The background to the appointment of a liquidator is discussed at paragraph 52 above. The Panel considered whether the costs associated with the liquidation are losses directly caused by Iraq's invasion and occupation of Kuwait. In reaching its decision, the Panel took into account the fact that the liquidator was appointed by a majority of the shareholders of the claimant company (54 per cent of those present at the extraordinary general meeting at which the appointment of the liquidator was approved voted in favour of liquidation), and therefore the liquidation was in the nature of a voluntary liquidation as opposed to a compulsory liquidation by creditors of the claimant company. The Panel also reiterates its findings at paragraph 55 above that the claimant did not produce any evidence to show that the business was completely destroyed or irreparably damaged as a result of Iraq's invasion and occupation of Kuwait.

82. In the circumstances, the Panel does not find the requisite causal link to exist between Iraq's invasion and occupation of Kuwait and the liquidation of the claimant company. The Panel finds that while Iraq's invasion and occupation of Kuwait may have been a factor in the shareholders' majority decision to appoint a liquidator, it was ultimately an independent business decision by the claimant company shareholders to proceed with a liquidation. The Panel therefore recommends that no compensation be awarded.

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

V. OTHER ISSUES

A. Applicable dates for currency exchange rate and interest

84. 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

85. 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

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

Geneva, 21 December 2000

(Signed) Robert R. Briner
Chairman

(Signed) Alan J. Cleary
Commissioner

(Signed) Lim Tian Huat
Commissioner

Annex I

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

UNSEQ claim No. a/	UNCC claim No.	Claimant's name	Amount claimed (KWD)	Net amount claimed (KWD) b/	Amount recommended (KWD)	Amount recommended (USD)
E-00346	4003467	Kuwait Flour Mills & Bakeries Company S.A.K.	15,953,876	15,943,876	8,401,966	29,064,613
E-00898	4004016	Gulf Paper Manufacturing Company K.S.C.	3,110,235	2,525,437	1,599,373	5,534,163
E-00919	4004035	Kuwait Supply Company	10,332,203	10,328,077	5,509,101	19,061,945
E-01087	4004182	United Fisheries of Kuwait K.S.C.	12,714,861	12,700,558	5,232,960	18,068,351
E-01113	4004220	Gulf Supply Co. Ltd.	3,232,710	2,907,400	2,036,913	7,048,142
E-01142	4004250	Kuwait Food Company (Americana) S.A.K.	9,272,768	8,222,436	4,697,440	16,254,118
E-01149	4004257	Agricultural Food Products Co. K.S.C.	4,174,911	3,322,619	1,068,914	3,698,664
E-01287	4004416	Kuwait United Poultry Co. K.S.C.	4,722,208	4,716,208	3,768,000	13,027,893
E-01321	4004400	Kuwait Pharmaceuticals Industries Company S.A.K.	7,634,523	7,629,523	4,293,979	14,853,109
E-01325	4004404	Mubarakiah Poultry and Feed Company (K.S.C.) Closed	11,839,430	10,579,889	5,708,952	19,754,159
E-01339	4004446	Meat and Foodstuffs/Abdalatif Abdulla Al Mehri and Partners Co. W.L.L.	3,114,698	2,600,552	1,274,943	4,411,567
E-01451	4004572	Kuwait Dairy Company K.S.C. (Closed)	4,573,382	4,556,882	2,288,423	7,913,274
E-01553	4004651	Refreshment Trading Co. W.L.L.	3,009,293	3,002,670	1,767,035	6,114,308
E-01673	4004766	Salhiya Poultry Company	3,550,193	3,538,193	2,306,521	7,981,042
E-01735	4004843	The Kuwaiti Danish Dairy Company W.L.L.	32,527,398	28,622,494	8,332,659	28,832,730
E-01744	4004852	Green Gardens Company, W.L.L.	4,994,924	4,334,125	160,356	554,865
E-01759	4004867	Live Stock Transport & Trading Co.	3,781,580	3,353,198	1,719,437	5,949,609
E-01768	4004876	Naif Poultry Co. W.L.L.	3,328,369	3,061,445	1,506,804	5,212,287
E-01829	4004902	Kuwait Catering Company	3,364,437	3,198,700	732,405	2,534,273
E-02042	4005182	International Meat and Foodstuff Company	4,233,797	4,230,797	2,248,409	7,776,233
E-02283	4005391	Al-Gharabally International Group Co. W.L.L.	2,366,482	2,361,482	1,491,411	5,159,630
TOTAL			151,832,278	141,736,561	66,146,001	228,804,975

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

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

Annex II

Recommended awards for ninth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Kuwait Flour Mills & Bakeries Company S.A.K.

UNCC claim number: 4003467

UNSEQ number: E-00346

<u>Category of loss</u>	<u>Amount asserted (KD)</u>	<u>Amount recommended (KD)</u>	<u>Comments</u>
Loss of tangible property	5,929,959	3,956,981	Original tangible property claim reclassified as loss of tangible property, loss of stock and loss of vehicles. Claim adjusted for failure to repair/replace, depreciation and maintenance. See paragraphs 37-49 of the report.
Loss of stock	6,937,243	3,672,209	Claim adjusted for obsolescence and evidentiary shortcomings. See paragraphs 39-45 of the report.
Loss of vehicles	47,627	47,627	Claim awarded in full. See paragraph 48 of the report.
Loss of profits	3,029,047	725,149	Claim adjusted to reflect historical results. See paragraphs 60-68 of the report.
TOTAL	15,943,876	8,401,966	
Claim preparation costs	10,000	n.a.	Governing Council's determination pending. See paragraph 85 of the report.

Annex II

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

Claimant's name: Gulf Paper Manufacturing Company K.S.C.

UNCC claim number: 4004016

UNSEQ number: E-00898

<u>Category of loss</u>	<u>Amount asserted (KD)</u>	<u>Amount recommended (KD)</u>	<u>Comments</u>
Loss of real property	234,938	168,924	Claim adjusted for maintenance, failure to repair/replace and to reflect incremental cost. See paragraphs 31-36 of the report.
Loss of tangible property	477,968	286,865	Original loss of tangible property claim reclassified as loss of tangible property, loss of stock, loss of cash and loss of bad debts. Claim adjusted for depreciation, maintenance and to reflect incremental cost. See paragraphs 37-49 of the report.
Loss of stock	1,616,182	1,121,909	Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings. See paragraphs 39-45 of the report.
Loss of cash	18,563	0	Insufficient evidence to substantiate claim. See paragraph 47 of the report.
Loss of vehicles	7,823	5,051	Claim adjusted to reflect M.V.V. Table values and for maintenance. See paragraph 48 of the report.
Bad debts	169,963	16,624	Claim adjusted for evidentiary shortcomings. See paragraphs 69-73 of the report.
TOTAL	2,525,437	1,599,373	
Claim preparation costs	5,000	n.a.	Governing Council's determination pending. See paragraph 85 of the report.
Interest	579,798	n.a.	Governing Council's determination pending. See paragraph 84 of the report.

Annex II

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

Claimant's name: Kuwait Supply Company

UNCC claim number: 4004035

UNSEQ number: E-00919

<u>Category of loss</u>	<u>Amount asserted (KD)</u>	<u>Amount recommended (KD)</u>	<u>Comments</u>
Loss of tangible property	4,680	4,680	Original tangible property claim reclassified as loss of tangible property, loss of stock and loss of vehicles. Claim awarded in full. See paragraphs 37-49 of the report.
Loss of stock	9,512,054	5,196,943	Claim adjusted for stock build-up, obsolescence and for evidentiary shortcomings. See paragraphs 39-45 of the report.
Loss of vehicles	18,191	15,587	Claim adjusted to reflect M.V.V. Table values. See paragraph 48 of the report.
Loss of profits	704,747	258,900	Claim adjusted to reflect historical results. See paragraphs 60-68 of the report.
Restart costs	88,405	32,991	Claim adjusted for maintenance. Claim for demurrage costs adjusted. See paragraphs 74-78 of the report.
TOTAL	10,328,077	5,509,101	

Claim preparation costs	4,126	n.a.	Governing Council's determination pending. See paragraph 85 of the report.
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Annex II

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

Claimant's name: United Fisheries of Kuwait K.S.C.
UNCC claim number: 4004182
UNSEQ number: E-01087

<u>Category of loss</u>	<u>Amount asserted (KD)</u>	<u>Amount recommended (KD)</u>	<u>Comments</u>
Loss of real property	114,062	61,825	Claim adjusted for depreciation and to reflect incremental amount. See paragraphs 31-36 of the report.
Loss of tangible property	2,091,591	1,531,529	Original tangible property claim reclassified as loss of tangible property, loss of stock and loss of vehicles. Claim adjusted for depreciation, failure to repair/replace, maintenance and evidentiary shortcomings. See paragraphs 37-49 of the report.
Loss of stock	1,242,793	680,696	Claim adjusted for obsolescence and evidentiary shortcomings. See paragraphs 39-45 of the report.
Loss of vehicles	27,150	26,774	Claim adjusted to reflect M.V.V. Table values. See paragraph 48 of the report.
Loss of profits	9,098,246	2,902,871	Original loss of contracts claim reclassified as loss of profits, other loss not categorised, restart costs and loss of stock. Claim adjusted to reflect historical results. See paragraphs 62-64 of the report.
Restart costs	92,677	24,165	Claim adjusted to reflect incremental amount. See paragraphs 74-78 of the report.
Other loss not categorised	34,039	5,100	Original other loss not categorised claim reclassified as restart costs, loss of profits, loss of tangible property and claim preparation costs. Claim adjusted to reflect incremental amount. See paragraphs 79-83 of the report.
TOTAL	12,700,558	5,232,960	
Claim preparation costs	14,303	n.a.	Governing Council's determination pending. See paragraph 85 of the report.

Annex II

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

Claimant's name: Gulf Supply Co. Ltd.
UNCC claim number: 4004220
UNSEQ number: E-01113

<u>Category of loss</u>	<u>Amount asserted</u> (KD)	<u>Amount recommended</u> (KD)	<u>Comments</u>
Loss of tangible property	17,387	17,387	Original loss of tangible property claim reclassified as loss of tangible property, loss of stock and loss of vehicles. Claim awarded in full. See paragraphs 37-49 of the report.
Loss of stock	2,815,921	1,968,014	Claim adjusted for obsolescence and evidentiary shortcomings. See paragraphs 39-45 of the report.
Loss of vehicles	39,150	36,356	Claim adjusted to reflect M.V.V. Table values. See paragraph 48 of the report.
Payment or relief to others	34,942	15,156	Claim adjusted for evidentiary shortcomings. See paragraphs 57-59 of the report.
TOTAL	2,907,400	2,036,913	
Claim preparation costs	4,500	n.a.	Governing Council's determination pending. See paragraph 85 of the report.
Interest	320,810	n.a.	Governing Council's determination pending. See paragraph 84 of the report.

Annex II

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

Claimant's name: Kuwait Food Company (Americana) S.A.K.
UNCC claim number: 4004250
UNSEQ number: E-01142

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of contract	273,014	131,000	Claim adjusted for evidentiary shortcomings. See paragraphs 29-30 of the report.
Loss of tangible property	2,107,343	1,323,714	Original loss of tangible property claim reclassified as loss of tangible property, loss of stock and loss of vehicles. Claim adjusted for depreciation and evidentiary shortcomings. See paragraphs 37-49 of the report.
Loss of stock	3,170,030	1,818,290	Claim adjusted for obsolescence and evidentiary shortcomings. See paragraphs 39-45 of the report.
Loss of vehicles	157,615	150,365	Claim adjusted to reflect M.V.V. Table values. See paragraph 48 of the report.
Loss of profits	2,329,516	1,237,755	Claim adjusted to reflect historical results. See paragraphs 60-68 of the report.
Restart costs	45,395	36,316	Claim adjusted for maintenance. See paragraphs 74-78 of the report.
Other loss not categorised	139,523	0	Claim for pre-paid rent adjusted per paragraph 80 of the report. Insufficient evidence to substantiate claim for key money. See paragraphs 79-83 of the report.
TOTAL	8,222,436	4,697,440	

Claim preparation costs	9,100	n.a.	Governing Council's determination pending. See paragraph 85 of the report.
Interest	1,041,232	n.a.	Governing Council's determination pending. See paragraph 84 of the report.

Annex II

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

Claimant's name: Agricultural Food Products Co. K.S.C.

UNCC claim number: 4004257

UNSEQ number: E-01149

<u>Category of loss</u>	<u>Amount asserted</u> (KD)	<u>Amount recommended</u> (KD)	<u>Comments</u>
Loss of real property	723,986	256,599	Claim adjusted for depreciation and failure to repair/replace. See paragraphs 31-36 of the report.
Loss of tangible property	831,134	207,967	Original loss of tangible property claim reclassified as loss of tangible property, loss of stock, loss of cash, loss of vehicles and loss of profits. Claim adjusted for depreciation, failure to repair/replace, maintenance, evidentiary shortcomings and to reflect the net book value. See paragraphs 37-49 of the report.
Loss of stock	560,499	256,912	Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings. See paragraphs 39-45 of the report.
Loss of cash	12,217	12,217	Claim awarded in full. See paragraph 47 of the report.
Loss of vehicles	302,420	48,526	Claim adjusted for maintenance and evidentiary shortcomings. See paragraph 48 of the report.
Loss of profits	379,924	0	Claim adjusted to reflect historical results. See paragraphs 60-68 of the report.
Bad debts	138,080	0	Original claim for loss of business transaction claim reclassified as loss of bad debts. Insufficient evidence to substantiate claim. See paragraphs 69-73 of the report.
Restart costs	28,377	0	Original other loss not categorised claim reclassified as other loss not categorised and restart costs. Claim adjusted to incremental amount. See paragraphs 74-78 of the report.
Other loss not categorised	345,982	286,693	Claim for pre-paid rent adjusted per paragraph 80 of the Report. Claim for cancelled Kuwaiti Dinar recommended in full. See paragraphs 79-83 of the report.
TOTAL	3,322,619	1,068,914	
Claim preparation costs	23,000	n.a.	Governing Council's determination pending. See paragraph 85 of the report.
Interest	829,292	n.a.	Governing Council's determination pending. See paragraph 84 of the report.

Annex II

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

Claimant's name: Kuwait United Poultry Co. K.S.C.

UNCC claim number: 4004416

UNSEQ number: E-01287

<u>Category of loss</u>	<u>Amount asserted</u> (KD)	<u>Amount recommended</u> (KD)	<u>Comments</u>
Loss of real property	819,024	819,024	Claim awarded in full. See paragraphs 31-36 of the report.
Loss of tangible property	573,802	573,802	Original loss of tangible property claim reclassified as loss of tangible property, loss of stock and loss of vehicles. Claim awarded in full. See paragraphs 37-49 of the report.
Loss of stock	1,750,335	1,353,584	Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings. See paragraphs 39-45 of the report.
Loss of vehicles	167,358	92,070	Claim adjusted to reflect M.V.V. Table values, for evidentiary shortcomings and to reflect the net book value. See paragraph 48 of the report.
Loss of profits	1,405,689	929,520	Claim adjusted to reflect historical results and to restrict the period of loss to 10 months. See paragraphs 60-68 of the report.
TOTAL	4,716,208	3,768,000	
Claim preparation costs	6,000	n.a.	Governing Council's determination pending. See paragraph 85 of the report.

Annex II

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

Claimant's name: Kuwait Pharmaceuticals Industries Company S.A.K.
UNCC claim number: 4004400
UNSEQ number: E-01321

<u>Category of loss</u>	<u>Amount asserted</u> (KD)	<u>Amount recommended</u> (KD)	<u>Comments</u>
Loss of real property	1,535,093	860,000	Original loss of income producing property claim reclassified as loss of real property, loss of tangible property, loss of stock, loss of vehicles, loss of profits and restart costs. Claim adjusted for depreciation. See paragraphs 31-36 of the report.
Loss of tangible property	2,304,622	1,152,311	Claim adjusted for depreciation. See paragraphs 37-49 of the report.
Loss of stock	2,458,374	1,829,209	Claim adjusted for stock build-up and obsolescence. See paragraphs 39-45 of the report.
Loss of vehicles	6,466	0	Insufficient evidence to substantiate claim. See paragraph 48 of the report.
Loss of profits	1,118,512	452,459	Claim adjusted to reflect historical results. See paragraphs 60-68 of the report.
Restart costs	149,456	0	Insufficient evidence to substantiate claim. See paragraphs 74-78 of the report.
Other loss not categorised	57,000	0	Insufficient evidence to substantiate claim. Claim for liquidation costs adjusted per paragraphs 79-83 of the report.
TOTAL	7,629,523	4,293,979	
Claim preparation costs	5,000	n.a.	Governing Council's determination pending. See paragraph 85 of the report.

Annex II

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

Claimant's name: Mubarakiah Poultry and Feed Company (K.S.C.) Closed
 UNCC claim number: 4004404
 UNSEQ number: E-01325

<u>Category of loss</u>	<u>Amount asserted</u> (KD)	<u>Amount recommended</u> (KD)	<u>Comments</u>
Loss of real property	7,283,309	4,659,259	Claim adjusted for depreciation and evidentiary shortcomings. See paragraphs 31-36 of the report.
Loss of tangible property	60,492	27,069	Original loss of tangible property claim reclassified as loss of tangible property, loss of stock, loss of cash and loss of vehicles. Claim adjusted for depreciation and evidentiary shortcomings. See paragraphs 37-49 of the report.
Loss of stock	2,142,754	869,095	Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings. Insufficient evidence to substantiate claim for loss of stock at third party premises. See paragraphs 39-45 of the report.
Loss of cash	9,802	9,102	Claim adjusted for evidentiary shortcomings. See paragraph 47 of the report.
Loss of vehicles	95,757	80,572	Claim adjusted for evidentiary shortcomings and maintenance. See paragraph 48 of the report.
Payment or relief to others	96,755	30,873	Claim adjusted for evidentiary shortcomings. See paragraphs 57-59 of the report.
Loss of profits	503,510	0	Claim adjusted to reflect historical results. See paragraphs 60-68 of the report.
Bad debts	178,860	0	Insufficient evidence to substantiate claim. See paragraphs 69-73 of the report.
Other loss not categorised	208,650	32,982	Original loss not categorised claim reclassified as loss of profits, loss of bad debts and payment or relief to others. Claim for Iraqi Dinars adjusted to reflect approved exchange rate. Claim for Kuwaiti Dinars awarded in full. Insufficient evidence to substantiate claim for loss of rent. Insufficient evidence to substantiate claim for loss of key money. See paragraphs 79-83 of the report.
TOTAL	10,579,889	5,708,952	
Claim preparation costs	10,000	n.a.	Governing Council's determination pending. See paragraph 85 of the report.
Interest	1,249,541	n.a.	Governing Council's determination pending. See paragraph 84 of the report.

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

Claimant's name: Meat and Foodstuffs/Abdalatif Abdulla Al Mehri and Partners Co. W.L.L.
 UNCC claim number: 4004446
 UNSEQ number: E-01339

<u>Category of loss</u>	<u>Amount asserted</u> <u>(KD)</u>	<u>Amount</u> <u>recommended (KD)</u>	<u>Comments</u>
Loss of real property	2,199,702	1,079,690	Original loss of real property claim reclassified as loss of tangible property. Claim adjusted for depreciation, failure to repair/replace and evidentiary shortcomings. See paragraphs 31-36 of the report.
Loss of tangible property	149,210	83,640	Claim for vehicles adjusted for evidentiary shortcomings and maintenance. Claim for tanning and cutting machines adjusted for depreciation and failure to repair/replace. See paragraphs 37-49 of the report.
Loss of stock	134,628	111,613	Claim adjusted for obsolescence. See paragraphs 39-45 of the report.
Loss of cash	4,151	0	Insufficient evidence to substantiate claim. See paragraph 47 of the report.
Bad debts	112,861	0	Insufficient evidence to substantiate claim. See paragraphs 69-73 of the report.
TOTAL	2,600,552	1,274,943	
Claim preparation costs	1,500	n.a.	Governing Council's determination pending. See paragraph 85 of the report.
Interest	512,646	n.a.	Governing Council's determination pending. See paragraph 84 of the report.

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

Claimant's name: Kuwait Dairy Company K.S.C. (Closed)

UNCC claim number: 4004572

UNSEQ number: E-01451

<u>Category of loss</u>	<u>Amount asserted</u> (KD)	<u>Amount recommended</u> (KD)	<u>Comments</u>
Loss of real property	141,101	108,172	Claim for destroyed buildings adjusted for depreciation and failure to repair/replace. Claim for repair expenses for building adjusted for maintenance. See paragraphs 31-36 of the report.
Loss of tangible property	237,690	233,531	Original loss of tangible property claim reclassified as loss of tangible property, loss of stock and loss of vehicles. Claim adjusted for depreciation. See paragraphs 37-49 of the report.
Loss of stock	2,023,704	1,068,197	Claim adjusted for evidentiary shortcomings and obsolescence. See paragraphs 39-45 of the report.
Loss of vehicles	439,639	308,002	Claim adjusted to reflect M.V.V. Table values. See paragraph 48 of the report.
Loss of profits	1,361,173	470,200	Claim adjusted to reflect historical results. See paragraphs 60-68 of the report.
Bad debts	102,773	0	Insufficient evidence to substantiate claim. See paragraphs 69-73 of the report.
Restart costs	250,802	100,321	Claim adjusted for evidentiary shortcomings and to reflect incremental amount. See paragraphs 74-78 of the report.
TOTAL	4,556,882	2,288,423	
Claim preparation costs	16,500	n.a.	Governing Council's determination pending. See paragraph 85 of the report.

Annex II

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

Claimant's name: Refreshment Trading Co. W.L.L.
 UNCC claim number: 4004651
 UNSEQ number: E-01553

<u>Category of loss</u>	<u>Amount asserted</u> (KD)	<u>Amount</u> <u>recommended (KD)</u>	<u>Comments</u>
Loss of tangible property	2,178,659	1,410,362	Original tangible property claim reclassified as loss of tangible property, loss of stock and loss of vehicles. Claim adjusted for depreciation and failure to repair/replace. See paragraphs 37-49 of the report.
Loss of stock	744,026	335,811	Claim adjusted for evidentiary shortcomings and obsolescence. See paragraphs 39-45 of the report.
Loss of vehicles	27,600	20,862	Claim adjusted for evidentiary shortcomings and to reflect M.V.V. Table values. See paragraph 48 of the report.
Bad debts	52,385	0	Insufficient evidence to substantiate claim. See paragraphs 69-73 of the report.
TOTAL	3,002,670	1,767,035	
Claim preparation costs	6,623	n.a.	Governing Council's determination pending. See paragraph 85 of the report.

Annex II

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

Claimant's name: Salhiya Poultry Company

UNCC claim number: 4004766

UNSEQ number: E-01673

<u>Category of loss</u>	<u>Amount asserted (KD)</u>	<u>Amount recommended (KD)</u>	<u>Comments</u>
Loss of real property	1,064,542	794,915	Claim adjusted for depreciation and evidentiary shortcomings. See paragraphs 31-36 of the report.
Loss of tangible property	927,553	815,461	Original tangible property claim reclassified as loss of tangible property, loss of stock and loss of vehicles. Claim adjusted for depreciation. See paragraphs 37-49 of the report.
Loss of stock	1,288,646	569,697	Claim for adjusted for stock build-up, obsolescence and evidentiary shortcomings. See paragraphs 39-45 of the report.
Loss of vehicles	80,500	45,834	Claim adjusted to reflect M.V.V. Table values. See paragraph 48 of the report.
Loss of profits	176,952	80,614	Claim adjusted to reflect historical results and for evidentiary shortcomings. See paragraphs 60-68 of the report.
TOTAL	3,538,193	2,306,521	
Claim preparation costs	12,000	n.a.	Governing Council's determination pending. See paragraph 85 of the report.

Annex II

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

Claimant's name: The Kuwaiti Danish Dairy Company W.L.L.
 UNCC claim number: 4004843
 UNSEQ number: E-01735

<u>Category of loss</u>	<u>Amount asserted (KD)</u>	<u>Amount recommended (KD)</u>	<u>Comments</u>
Loss of real property	1,644,079	1,162,244	Claim adjusted for maintenance and depreciation. See paragraphs 31-36 of the report.
Loss of tangible property	11,332,397	2,702,193	Original tangible property claim reclassified as loss of tangible property, loss of stock, loss of vehicles, restart costs and claim preparation costs. Claim adjusted for maintenance, depreciation, failure to repair/replace and evidentiary shortcomings. See paragraphs 37-49 of the report.
Loss of stock	3,167,217	758,482	Claim adjusted for obsolescence and evidentiary shortcomings. See paragraphs 39-45 of the report.
Loss of vehicles	876,822	118,880	Claim adjusted to reflect M.V.V. Table values. See paragraph 48 of the report.
Loss of profits	10,844,783	3,438,603	Original loss due to restart costs and other loss not categorised claims reclassified as loss of profits. Claim adjusted to reflect historical results. See paragraphs 60-68 of the report.
Bad debts	535,711	0	Insufficient evidence to substantiate claim. See paragraphs 69-73 of the report.
Restart costs	221,485	152,257	Original claim preparation costs claim reclassified as claim preparation costs and restart costs. Claim adjusted for evidentiary shortcomings and to reflect incremental amount. See paragraphs 74-78 of the report.
TOTAL	28,622,494	8,332,659	
Claim preparation costs	7,000	n.a.	Governing Council's determination pending. See paragraph 85 of the report.
Interest	3,897,904	n.a.	Governing Council's determination pending. See paragraph 84 of the report.

Annex II

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

Claimant's name: Green Gardens Company, W.L.L.

UNCC claim number: 4004852

UNSEQ number: E-01744

<u>Category of loss</u>	<u>Amount asserted (KD)</u>	<u>Amount recommended (KD)</u>	<u>Comments</u>
Loss of real property	482,260	111,536	Claim for property destroyed adjusted for evidentiary shortcomings and failure to repair/replace. Claim for repairs to property adjusted for depreciation. See paragraphs 31-36 of the report.
Loss of tangible property	143,709	34,194	Original loss of tangible property claim reclassified as loss of tangible property, loss of stock, loss of vehicles and loss of profits. Claim adjusted for failure to repair/replace, depreciation and maintenance. See paragraphs 37-49 of the report.
Loss of stock	162,457	14,133	Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings. See paragraphs 39-45 of the report.
Loss of vehicles	1,485	493	Claim adjusted to reflect M.V.V. Table values. See paragraph 48 of the report.
Loss of profits	3,544,214	0	Claim adjusted to reflect historical results. See paragraphs 60-68 of the report.
TOTAL	4,334,125	160,356	
Claim preparation costs	3,500	n.a.	Governing Council's determination pending. See paragraph 85 of the report.
Interest	657,299	n.a.	Governing Council's determination pending. See paragraph 84 of the report.

Annex II

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

Claimant's name: Live Stock Transport & Trading Co.

UNCC claim number: 4004867

UNSEQ number: E-01759

<u>Category of loss</u>	<u>Amount asserted (KD)</u>	<u>Amount recommended (KD)</u>	<u>Comments</u>
Loss of real property	212,968	103,962	Repairs to the meat factory and the casing/guts factory adjusted for maintenance. Repairs to the farm buildings adjusted for evidentiary shortcomings and depreciation. See paragraphs 31-36 of the report.
Loss of tangible property	88,419	49,968	Original loss of tangible property claim reclassified as loss of tangible property, loss of stock, loss of cash and loss of vehicles. Recommend awarding claim for equipment and tools, furniture, refrigerators and air conditioners in full. Agriculture equipment, machinery and fixtures adjusted for evidentiary shortcomings and depreciation. See paragraphs 37-49 of the report.
Loss of stock	1,373,271	1,083,511	Claim adjusted for evidentiary shortcomings and obsolescence. See paragraphs 39-45 of the report.
Loss of cash	25,417	20,764	Claim adjusted to reflect historical results. Cash deposited at Kuwait Finance House awarded in full. Claim for cash lost from safe adjusted per paragraph 47 of the report.
Loss of vehicles	55,621	46,048	Claim adjusted to reflect M.V.V. Table values and for maintenance. See paragraph 48 of the report.
Payment or relief to others	246,227	156,706	Claim adjusted for evidentiary shortcomings. See paragraphs 57-59 of the report.
Loss of profits	1,344,685	251,888	A portion of other loss not categorised and payment or relief to others reclassified as loss of profits. Claim adjusted to reflect historical results and for windfall profits. See paragraphs 60-68 of the report.
Restart costs	6,590	6,590	Claim awarded in full. See paragraphs 74-78 of the report.
TOTAL	3,353,198	1,719,437	
Claim preparation costs	10,270	n.a.	Governing Council's determination pending. See paragraph 85 of the report.
Interest	418,112	n.a.	Governing Council's determination pending. See paragraph 84 of the report.

Annex II

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

Claimant's name: Naif Poultry Co. W.L.L.
UNCC claim number: 4004876
UNSEQ number: E-01768

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	1,943,832	566,033	Claim adjusted for depreciation, evidentiary shortcomings and to reflect net book value. See paragraphs 31-36 of the report.
Loss of tangible property	263,549	220,992	Original loss of tangible property claim reclassified as loss of tangible property, loss of stock and loss of vehicles. Claim adjusted for depreciation, evidentiary shortcomings and maintenance. See paragraphs 37-49 of the report.
Loss of stock	582,286	461,527	Claim adjusted for obsolescence, evidentiary shortcomings and depreciation. See paragraphs 39-45 of the report.
Loss of vehicles	63,475	50,209	Claim adjusted for evidentiary shortcomings and to reflect M.V.V. Table values. See paragraph 48 of the report.
Payment or relief to others	64,971	64,711	Claim adjusted for evidentiary shortcomings. See paragraphs 57-59 of the report.
Loss of profits	143,332	143,332	Claim awarded in full. See paragraphs 60-68 of the report.
TOTAL	3,061,445	1,506,804	
Claim preparation costs	5,000	n.a.	Governing Council's determination pending. See paragraph 85 of the report.
Interest	261,924	n.a.	Governing Council's determination pending. See paragraph 84 of the report.

Annex II

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

Kuwait Catering Company

4004902

E-01829

Claimant's name:

UNCC claim number:

UNSEQ number:

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	290,061	234,122	Original tangible property claim reclassified as loss of tangible property, loss of stock and loss of vehicles. Claim adjusted for depreciation. See paragraphs 37-49 of the report.
Loss of stock	322,816	241,733	Claim adjusted for stock build-up and evidentiary shortcomings. See paragraphs 39-45 of the report.
Loss of vehicles	67,752	59,622	Claim adjusted to reflect M.V.V. Table values. See paragraph 48 of the report.
Payment or relief to others	269,767	196,928	Claim adjusted for evidentiary shortcomings. See paragraphs 57-59 of the report.
Loss of profits	2,248,304	0	Claim adjusted to reflect historical results. See paragraphs 60-68 of the report.
TOTAL	3,198,700	732,405	
Claim preparation costs	10,000	n.a.	Governing Council's determination pending. See paragraph 85 of the report.
Interest	155,737	n.a.	Governing Council's determination pending. See paragraph 84 of the report.

Annex II

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

Claimant's name: International Meat and Foodstuff Company
UNCC claim number: 4005182
UNSEQ number: E-02042

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	578,018	462,414	Original loss of tangible property claim reclassified as loss of real property, loss of tangible property, loss of stock, loss of cash and loss of vehicles. Claim adjusted for failure to repair/replace. See paragraphs 31-36 of the report.
Loss of tangible property	351,574	193,125	Claim adjusted for depreciation and failure to repair/replace. See paragraphs 37-49 of the report.
Loss of stock	2,478,380	1,215,108	Claim adjusted for obsolescence, stock build-up and evidentiary shortcomings. See paragraphs 39-45 of the report.
Loss of cash	5,155	0	Insufficient evidence to substantiate claim. See paragraph 47 of the report.
Loss of vehicles	46,112	36,890	Claim adjusted for evidentiary shortcomings. See paragraph 48 of the report.
Loss of profits	369,278	340,872	Claim adjusted to restrict period of loss to 12 months. See paragraphs 60-68 of the report.
Restart costs	402,280	0	Original loss of real property claim reclassified as restart costs. Insufficient evidence to substantiate claim. See paragraphs 74-78 of the report.
TOTAL	4,230,797	2,248,409	

Claim preparation costs	3,000	n.a.	Governing Council's determination pending. See paragraph 85 of the report.
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Annex II

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

Claimant's name: Al-Gharabally International Group Co. W.L.L.

UNCC claim number: 4005391

UNSEQ number: E-02283

<u>Category of loss</u>	<u>Amount asserted</u> (KD)	<u>Amount recommended</u> (KD)	<u>Comments</u>
Loss of real property	120,890	96,712	Claim adjusted for maintenance. See paragraphs 31-36 of the report.
Loss of tangible property	65,893	47,768	Original tangible property claim reclassified as loss of tangible property, loss of stock and loss of vehicles. Claim adjusted for depreciation. See paragraphs 37-49 of the report.
Loss of stock	1,919,693	1,245,514	Claim adjusted for stock build-up and obsolescence. See paragraphs 39-45 of the report.
Loss of vehicles	14,250	13,500	Claim adjusted to reflect M.V.V. Table values. See paragraph 48 of the report.
Loss of profits	240,756	87,917	Claim adjusted to reflect historical results and for windfall profits. See paragraphs 60-68 of the report.
TOTAL	2,361,482	1,491,411	
Claim preparation costs	5,000	n.a.	Governing Council's determination pending. See paragraph 85 of the report.
