



Security Council

Distr.
GENERAL

S/AC.26/2003/25
18 September 2003

Original: ENGLISH

UNITED NATIONS
COMPENSATION COMMISSION
GOVERNING COUNCIL

TWENTY-THIRD REPORT OF THE EXECUTIVE SECRETARY PURSUANT TO
ARTICLE 41 OF THE PROVISIONAL RULES FOR CLAIMS PROCEDURE

Introduction

1. The present report identifies, pursuant to article 41 of the United Nations Compensation Commission's (the "Commission") Provisional Rules for Claims Procedure (S/AC.26/1992/10) (the "Rules"), recommended corrections in the various claims categories since the "Twenty-second report of the Executive Secretary pursuant to article 41 of the Provisional Rules for Claims Procedure" (S/AC.26/2003/16). Chapter I of this report contains recommended corrections concerning claims in categories "A" and "C", where the Panels of Commissioners have concluded their work. Chapter II contains recommended corrections to claims in categories "D" and "E", where the Panels of Commissioners continue their work. Finally, chapter III provides information concerning requests by claimants for corrections to approved awards under article 41 of the Rules, including a report of the secretariat's review to determine whether or not these requests warrant action under article 41. Annexes I to V to this report contain tables showing the aggregate corrected awards, by country and by instalment, based on the recommendations contained herein, while annex VI contains the draft decision concerning the eighteenth instalment of "E4" claims (revised) and annex VII contains a cumulative table of article 41 corrections to claim awards up to the forty-eighth session of the Governing Council.

I. RECOMMENDED CORRECTIONS CONCERNING CLAIMS IN CATEGORIES "A" AND "C"

A. Category "A" corrections

2. Recommendations for corrections to category "A" claims include the following kinds of corrections: duplicate claims, reinstatement of claims previously identified as duplicates, reinstatement of claims previously rejected, individual to family, and higher to lower amounts.

1. Duplicate claims

3. Following the review of information received from the Government of India, two claims from India have been found to be duplicates of other claims that were awarded compensation in category "A". No compensation should have been awarded for these duplicate claims.

4. Accordingly, as set forth in table 1 below, it is recommended that the awards for these claims be corrected. Table 1 identifies the country concerned, the instalments to be adjusted, the number of claims affected, and the net effect of the adjustments.

Table 1. Category "A" corrections: duplicate claims

<u>Country</u>	<u>Instalment</u>	<u>Number of claims affected</u>	<u>Amount of net effect (USD)</u>
India	Third	1	(4,000.00)
	Fifth	1	(4,000.00)
<u>Total</u>		2	(8,000.00)

2. Reinstatement of claim previously identified as duplicates

5. One claim from the Russian Federation, which had been erroneously identified as a duplicate claim, should be reinstated since additional information received from the Government demonstrates that the claim is not in fact a duplicate.

6. Accordingly, as set forth in table 2 below, it is recommended that the awards for this claim be corrected. Table 2 identifies the country concerned, the instalment to be adjusted, the number of claims affected, and the net effect of the adjustment.

Table 2. Category “A” corrections: reinstatement of claim previously identified as duplicates

<u>Country</u>	<u>Instalment</u>	<u>Number of claims affected</u>	<u>Amount of net effect (USD)</u>
Russian Federation	Fourth	1	4,000.00
<u>Total</u>		1	4,000.00

3. Reinstatement of claims previously rejected

7. Two claims from the Russian Federation had been rejected on jurisdictional grounds because of a data entry error in recording the dates that the claimants had departed from Iraq. A review of the paper claim forms revealed the error, and confirmed that the claimants had in fact departed from Iraq within the UNCC’s jurisdictional period (2 August 1990 through 2 March 1991). Consequently, these claims should be reinstated.

8. Accordingly, as set forth in table 3 below, it is recommended that the awards for these claims be corrected. Table 3 identifies the country concerned, the instalment to be adjusted, the number of claims affected, and the amount of net effect of the adjustment.

Table 3. Category “A” corrections: reinstatement of claims previously rejected

<u>Country</u>	<u>Instalment</u>	<u>Number of claims affected</u>	<u>Amount of net effect (USD)</u>
Russian Federation	Sixth	2	16,000.00
<u>Total</u>		2	16,000.00

4. Individual to family

9. Upon individual review of the paper claim forms and supporting materials, ten claims submitted by the Government of the Russian Federation were found to be eligible for processing as family claims. The awards for these claims should, therefore, be increased to the amounts appropriate to the proper status of the claims.

10. Accordingly, as set forth in table 4 below, it is recommended that the award amounts for these claims be corrected. Table 4 identifies the country concerned, the instalments to be adjusted, the number of claims affected, and the net effect of the adjustments.

Table 4. Category “A” corrections: individual to family

<u>Country</u>	<u>Instalment</u>	<u>Number of claims affected</u>	<u>Amount of net effect (USD)</u>
Russian Federation	First	1	4,000.00
	Fifth	7	28,000.00
	Sixth	2	8,000.00
<u>Total</u>		10	40,000.00

5. Higher to lower amounts

11. Decision 21 (S/AC.26/Dec.21 (1994)) of the Governing Council states that “any claimant who has selected a higher amount in category ‘A’ (USD 4,000 or USD 8,000) and has also filed a category ‘B’, ‘C’ or ‘D’ claim will be deemed to have selected the corresponding lower amount under category ‘A’”. Further to additional information received from the Government of the Philippines, five Filipino claims have been identified as having been filed for higher amounts in category “A” by claimants who had also filed claims in category “C”. The awards for the category “A” claims should be reduced to an amount appropriate to the proper status of the claims.

12. Accordingly, as set forth in table 5 below, it is recommended that the award amounts for these claims be corrected. Table 5 identifies the country concerned, the instalment to be adjusted, the number of claims affected, and the net effect of the adjustments.

Table 5. Category “A” corrections: higher to lower amounts

<u>Country</u>	<u>Instalment</u>	<u>Number of claims affected</u>	<u>Amount of net effect (USD)</u>
Philippines	Fifth	5	(7,500.00)
<u>Total</u>		5	(7,500.00)

6. Summary

13. The recommended corrections related to award amounts in category “A” concern 20 claims submitted by three Governments resulting in a net increase in the total amount awarded of USD 44,500. Of these, the total amount awarded for 13 claims was increased by USD 60,000, while the total amount awarded for seven claims was decreased by USD 15,500. The recommendations with respect to the first, third, fourth, fifth and sixth instalments of category “A” claims, by country and by instalment, are provided in tables 1 to 6 of annex I to this report.

B. Category “C” corrections

14. Recommendations for corrections to category “C” claims are those arising from discrepancies between the electronic and paper claim formats.

1. Corrections arising from discrepancies arising between the electronic and paper claim formats

15. The secretariat continued to review requests for corrections submitted by Governments within the final deadline of 31 December 2002 that was set by the Governing Council for category “C” claims. For these claims, the electronic information existing in the database was compared to the paper claim forms submitted by the claimants. This comparison and review determined that, for 15 claims submitted by four Governments, relevant data had either been erroneously entered into the database or had not been entered at all. Consequently, as a result of data entry errors, incorrect recommendations were made in respect of these claims. It is therefore recommended that these 15 claims be corrected as set forth below.

16. Of the recommendations for corrections concerning these 15 claims, 12 relate to awards of compensation for loss of income (“C6-Salary”). In 10 of these 12 cases, the prior monthly salary data was incorrectly entered resulting in a lower than appropriate award for these claimants, while in the two remaining cases, the prior monthly salary data was incorrectly entered resulting in higher than appropriate awards.

17. Two other claims concern recommendations for correction of awards for personal property (“C4-CPHO”) claims. In one of these cases, a discrepancy between the electronic and paper claim formats revealed the inaccurate entry of amounts that adversely affected the outcome for the claimant. In the other case, the electronic claim indicated a C4 motor vehicle loss, while a review of the paper claim clearly indicated a business loss brought about by the loss of the claimant’s construction crane. It is therefore recommended that this loss be reclassified as a “C8-Business loss,” and the recommended correction reflects the proper valuation for such a loss.

18. The final claim concerns a recommendation for an individual business (“C8-Business”) loss. In this case, a discrepancy between the electronic and paper claim formats revealed the inaccurate entry of the amount of the claimant’s business related income that adversely affected the outcome for the claimant.

19. Summaries of the category “C” Panel’s approved methodologies relevant to losses for which correction is recommended are found in the “Report and recommendations of the Panel of Commissioners concerning the seventh instalment of individual claims for damages up to US\$100,000 (category ‘C’ claims)” (S/AC.26/1999/11) as follows: (a) paragraphs 249 to 282 for C6-Salary losses; (b) paragraphs 178 to 199 for C4-CPHO personal property losses; and (c) paragraphs 327 to 368 for C8-Business losses.

20. Accordingly, as set forth in table 6 below, it is recommended that the awards for 15 claims be corrected. Table 6 identifies the countries concerned, the instalments to be adjusted, the number of claims affected, and the amount of net effect of the adjustments.

Table 6. Category “C” corrections: corrections arising from discrepancies between electronic and paper formats

<u>Country</u>	<u>Instalment</u>	<u>Number of claims affected</u>	<u>Amount of net effect (USD)</u>
Egypt	Fourth	1	17,766.93
India	Seventh	1	17,681.66
Jordan	Fifth	3	2,908.58
	Sixth	4	51,103.66
	Seventh	4	27,473.01
Pakistan	Seventh	2	44,397.30
<u>Total</u>		15	161,331.14

2. Summary

21. The recommended corrections related to award amounts in category “C” concern 15 claims submitted by four Governments with a net increase of the total amount awarded of USD 161,331.14. Of these, the total amount awarded for 13 claims was increased by USD 170,422.72, and the total amount awarded for two claims was decreased by USD 9,091.58. The recommendations with respect to the fourth, fifth, sixth and seventh instalments of category “C” claims, by country and by instalment, are located in tables 1 to 5 of annex II to this report.

II. RECOMMENDED CORRECTIONS CONCERNING CLAIMS IN CATEGORIES “D” AND “E”

A. Category “D” corrections

22. Following an inquiry by the Permanent Mission of the United Kingdom, the “D1” Panel of Commissioners reviewed a claim that was included in the “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 ‘D’ report”), which recommendations were approved by the Governing Council in decision 68 (S/AC.26/Dec.68 (1999)).

23. As a result of its review, the Panel has concluded that, due to a clerical error, a multiplier of nine was erroneously applied in the calculation of the recommended award of the claimant’s “D6” loss of income claim, resulting in a recommended award of USD 13,576.80, as reflected in the third instalment “D” report. The Panel further concluded that a multiplier of 12 should have been applied, which would result in a corrected recommended award of USD 25,988.40. The additional amount of USD 12,411.60 should therefore be awarded to the claimant.

24. Accordingly, as set forth in table 7 below, it is recommended that the award amount for this claim be corrected. Table 7 identifies the country concerned, the instalment to be adjusted, the number of claims affected, and the net effect of the adjustment.

Table 7. Category “D” corrections

<u>Country</u>	<u>Instalment</u>	<u>Number of claims affected</u>	<u>Amount of net effect (USD)</u>
United Kingdom	Third	1	12,411.60
<u>Total</u>		1	12,411.60

25. In summary, the recommended correction in category “D” concerns one claim submitted by one Government resulting in a net increase in the total amount awarded of USD 12,411.60. The recommendation with respect to the third instalment of “D” claims, by country and by instalment, is provided in tables 1 to 2 of annex III to this report.

B. “E3” corrections

26. Following an inquiry by the Permanent Mission of Poland, the “E3A” Panel of Commissioners reviewed a claim that was included in the “Report and recommendations of the Panel of Commissioners concerning the twenty-second instalment of ‘E3’ claims” (S/AC.26/2002/32), which recommendations were approved by the Governing Council in decision 177 (S/AC.26/Dec.177 (2002)).

27. As a result of its review, the Panel concluded that clerical and computational errors were made in the processing of the claim that warrant correction under article 41 of the Rules. The proposed corrections concern the portion of the claim for contract losses, relating to multiple unpaid invoices for 32 different contracts in Iraq. Specifically, due to a clerical error, the secretariat failed to identify for the Panel evidence that had been submitted by the claimant to demonstrate Iraq’s acknowledgment of the debt owing in relation to four series of invoices for which payment had not been received as a direct result of Iraq’s invasion and occupation of Kuwait. Upon further review of the evidence in the claim, the Panel concluded that appropriate evidence demonstrating acknowledgment of the debt had been provided by the claimant, that the work for which compensation was claimed had been performed to the satisfaction of the Iraqi owners, and that the claimant should have been compensated for the failure to pay the amounts owed under the invoices.

28. The Panel concluded that the claimant should have been awarded USD 8,439 in relation to work performed as reflected in invoice No. 78/90/462; USD 61,071 in relation to work performed as reflected in invoices Nos. 26/90/421, 27/90/461 and 28/90/495; USD 10,207 in relation to work performed as reflected in invoices Nos. 15/90/243 and 16/90/282; and USD 9,072 in relation to work performed as reflected in invoices Nos. 2/90/283, 3/90/284, 4/90/479, 5/90/480, 6/90/481 and 7/90/482. In the case of invoices Nos. 21/90/341, 22/90/346 and 25/90/388 found in volume 13 of the

claimant's claim, the Panel further concluded that the amount recommended for award should be reduced by USD 200 due to the application of an incorrect currency exchange rate.

29. With respect to a fifth series of invoices of the same claimant, the Panel found that a computational error had been made in calculating the amount of the advance payment that had been recovered by the Iraqi owner as of 2 August 1990. Advance payments are typically made by owners of large construction projects to the contractor to help finance the up-front costs associated with initiating such projects. These advances are recovered by the owner during the course of the project works, often by way of deductions from invoices submitted by the contractor for work performed. In accordance with the "E3A" Panel's methodology, advance payments that have not been recovered by the owner as of the date of conclusion of the contract works are deducted from any award of compensation for contract losses. As a result of a computational error, the amount of USD 32,559 was erroneously deducted from the recommended award by the Panel for contract losses even though this amount had already been recovered by the Iraqi owner. The Panel therefore concluded that the claimant should be awarded compensation in this amount.

30. Accordingly, as set forth in table 8 below, it is recommended that the award amount for this claim be corrected. Table 8 identifies the country concerned, the instalment to be adjusted, the number of claims affected, and the net effect of the adjustment.

Table 8. "E3" correction

<u>Country</u>	<u>Instalment</u>	<u>Number of claims affected</u>	<u>Amount of net effect (USD)</u>
Poland	Twenty-second	1	121,148
<u>Total</u>		1	121,148

31. In summary, the recommended correction in category "E3" concerns one claim submitted by one Government resulting in a net increase of the total amount awarded of USD 121,148. The recommendation with respect to the twenty-second instalment of "E3" claims, by country and by instalment, is provided in tables 1 to 2 of annex IV to this report.

C. "E4" corrections

32. Following adoption by the Governing Council of decision 191 concerning the eighteenth instalment of "E4" claims (S/AC.26/Dec.191 (2003)), the secretariat detected the following computational and clerical errors in the decision requiring corrections.

33. Table 4 of decision 191, concerning the distribution of awards to individual claimants applying the bilateral committees' determinations, and paragraphs 9 to 11 require correction due to computational errors resulting from the failure to deduct amounts previously awarded to category "C" claims from the payment entitlements of those category "C" and related category "D" claims included in the "Report and recommendations made by the panel of Commissioners concerning the eighteenth instalment of "E4" claims" (S/AC.26/2003/12) ("Eighteenth 'E4' report").

34. Specifically, the recommended amount of compensation, as approved by decision 191, for one claim submitted through the Government of Egypt should have been stated as nil instead of USD 26,275 because the claimant had previously received USD 53,343 for the same business loss in category “C”. The recommended awards for two claims submitted through the Government of Jordan should also have been stated as nil instead of USD 39,946 and USD 33,156, respectively, because both of these claimants had previously received USD 66,574 and USD 48,713, respectively, for the same business losses in category “C”. Finally, the recommended award for one claim submitted through the Government of Yemen should have been stated as USD 11,981 instead of USD 82,405 because the claimant had previously received USD 70,424 for the same loss in category “C”.

35. In addition, table 4 of decision 191 should have stated that both claims, rather than one, submitted through the Government of the Republic of Yemen, are entitled to receive payment.

36. Further, table 4 of decision 191 does not reflect the change of submitting entity for one individual claim filed by UNRWA Gaza to Canada that had been effected with the agreement of UNRWA Gaza and the Government of Canada.

37. Accordingly, as set forth in table 9 below, it is recommended that these claims be corrected. Table 9 identifies the countries or international organization concerned, the instalment to be adjusted, the number of claims affected, and the net effect of the adjustments.

Table 9. “E4” corrections

<u>Country or international organization</u>	<u>Instalment</u>	<u>Number of claims affected</u>	<u>Amount of net effect (USD)</u>
Canada	Eighteenth	1	147,465.00
Egypt		1	(26,275.00)
Jordan		2	(73,102.00)
Yemen		1	(70,424.00)
UNRWA Gaza		1	(147,465.00)
<u>Total</u>		6	(169,801)

38. In summary, the recommended corrections with respect to “E4” claims concern four claims submitted by three Governments, resulting in a net decrease in the total amount of compensation of USD 169,801. For the other two claims, the correction involves a change in submitting entity and has no effect on the amount of compensation. The recommended corrections with respect to the eighteenth instalment of “E4” claims, by country and by instalment, are provided in tables 1 to 2 of annex V to this report. It is recommended that decision 191 be revised to reflect the above-mentioned corrections: a draft revised decision 191 is provided in annex VI to the report.

III. REQUESTS BY CLAIMANTS FOR ARTICLE 41 CORRECTIONS

39. During the period under review, the secretariat has continued its review of requests from Governments for corrections to claims in categories “D”, “E” and “F”, submitted under article 41 of

the Rules. The requests and the Executive Secretary's conclusions with respect to those requests are outlined below.

40. On 21 January 2001, the Public Authority for Assessment of Compensation for Damages Resulting from Iraq Aggression of the State of Kuwait ("PAAC") requested correction of Governing Council decision 111 (S/AC.26/Dec.111 (2000)) and the associated "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) with regard to an individual claim submitted through the Government of Kuwait. Having carefully reviewed all aspects of this request, the Executive Secretary has concluded that no correction of Governing Council decision 111 is necessary and that no action pursuant to article 41 of the Rules is warranted with regard to the claim in question;

41. On 14 May 2001, the Permanent Mission of Lebanon submitted a second request for correction of Governing Council decision 55 (S/AC.26/Dec.55 (1998)) and the associated "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) with regard to an individual claim submitted through the Government of Lebanon. Having carefully reviewed all aspects of this second request, the Executive Secretary has reconfirmed that no correction of Governing Council decision 55 is necessary and that no action pursuant to article 41 of the Rules is warranted with regard to the claim in question;

42. On 16 August 2001, the Permanent Mission of Jordan requested correction of Governing Council decision 126 (S/AC.26/Dec.126 (2001)) and the associated "Report and recommendations of the 'D1' Panel of Commissioners concerning part one of the ninth instalment of individual claims for damages above USD 100,000 (category 'D' claims)" (S/AC.26/2001/10) with regard to an individual claim submitted through the Government of Jordan. Having carefully reviewed all aspects of this request, the Executive Secretary has concluded that no correction of Governing Council decision 126 is necessary and that no action pursuant to article 41 of the Rules is warranted with regard to the claim in question;

43. On 13 September 2001, the Permanent Mission of India requested correction of Governing Council decision 81 (S/AC.26/Dec.81 (1999)) and the associated "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) with regard to an individual claim submitted through the Government of India. Having carefully reviewed all aspects of this request, the Executive Secretary has concluded that no correction of Governing Council decision 81 is necessary and that no action pursuant to article 41 of the Rules is warranted with regard to the claim in question;

44. On 10 July 2002, 5 December 2002 and 14 January 2003, the Permanent Mission of Egypt requested correction of Governing Council decision 147 (S/AC.26/Dec.147 (2002)) and the associated "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) with regard to an individual claim submitted through the Government of Egypt. Having carefully reviewed all aspects of this request, the Executive Secretary has concluded that no correction of Governing Council decision 147 is necessary and that no action pursuant to article 41 of the Rules is warranted with regard to the claim in question;

45. On 21 October 2002, the Permanent Mission of Pakistan requested correction of Governing Council decision 142 (S/AC.26/Dec.142 (2001)) and the associated "Report and recommendations made by the 'D1' Panel of Commissioners concerning part two of the ninth instalment of individual claims for damages above USD 100,000 (category 'D' claims)" (S/AC.26/2001/26) with regard to an individual claim submitted through the Government of Pakistan. Having carefully reviewed all aspects of this request, the Executive Secretary has concluded that no correction of Governing Council decision 142 is necessary and that no action pursuant to article 41 of the Rules is warranted with regard to the claim in question;

46. On 25 November 2002, the Permanent Mission of Egypt requested correction of Governing Council decision 155 (S/AC.26/Dec.155 (2002)) and the associated "Report and recommendations made by the 'D2' Panel of Commissioners concerning part one of the twelfth instalment of individual claims for damages above USD 100,000 (category 'D' claims)" (S/AC.26/2002/10) with regard to an individual claim submitted through the Government of Egypt. Having carefully reviewed all aspects of this request, the Executive Secretary has concluded that no correction of Governing Council decision 155 is necessary and that no action pursuant to article 41 of the Rules is warranted with regard to the claim in question;

47. On 4 December 2002, the Permanent Mission of Pakistan requested correction of Governing Council decision 141 (S/AC.26/Dec.141 (2001)) and the associated "Report and recommendations made by the 'D1' Panel of Commissioners concerning part two of the eighth instalment of individual claims for damages above USD 100,000 (category 'D' claims)" (S/AC.26/2001/25) with regard to an individual claim submitted through the Government of Pakistan. Having carefully reviewed all aspects of this request, the Executive Secretary has concluded that no correction of Governing Council decision 141 is necessary and that no action pursuant to article 41 of the Rules is warranted with regard to the claim in question;

48. On 14 January 2003, PAAC requested correction of Governing Council decisions 78 (S/AC.26/Dec.78 (1999)), 108 (S/AC.26/Dec.108 (2000)), 118 (S/AC.26/Dec.118 (2001)), 138 (S/AC.26/Dec.138 (2001)), 139 (S/AC.26/Dec.139 (2001)), 150 (S/AC.26/Dec.150 (2002)), 169 (S/AC.26/Dec.169 (2002)) and 170 (S/AC.26/Dec.170 (2002)), and the associated "Report and recommendations made by the panel of Commissioners concerning the fourth instalment of 'E4' claims" (S/AC.26/1999/18), "Report and recommendations made by the panel of Commissioners concerning the tenth instalment of 'E4' claims" (S/AC.26/2000/22), "Report and recommendations made by the Panel of Commissioners concerning the twelfth instalment of 'E4' claims" (S/AC.26/2001/4), "Report and recommendations made by the panel of Commissioners concerning the fourteenth instalment of 'E4' claims" (S/AC.26/2001/22), "Report and recommendations made by the panel of Commissioners concerning the sixteenth instalment of 'E4' claims" (S/AC.26/2001/23),

“Report and recommendations made by the panel of Commissioners concerning the twentieth instalment of ‘E4’ claims” (S/AC.26/2002/5), “Report and recommendations made by the panel of Commissioners concerning the twenty-second instalment of ‘E4’ claims” (S/AC.26/2002/24), and “Report and recommendations made by the panel of Commissioners concerning the twenty-fourth instalment of ‘E4’ claims” (S/AC.26/2002/25), with respect to 15 Kuwaiti companies. Having carefully reviewed all aspects of this request, the Executive Secretary has concluded that no correction of Governing Council decisions 78, 108, 118, 138, 139, 150, 169 and 170 is necessary and that no action pursuant to article 41 of the Rules is warranted with regard to the claims in question;

49. On 14 January 2003, the Permanent Mission of Egypt requested correction of Governing Council decision 167 (S/AC.26/Dec.167 (2002)) and the associated “Report and recommendations made by the panel of Commissioners concerning the eleventh instalment of ‘E2’ claims” (S/AC.26/2002/22) with regard to an Egyptian company. Having carefully reviewed all aspects of this request, the Executive Secretary has concluded that no correction of Governing Council decision 167 is necessary and that no action pursuant to article 41 of the Rules is warranted with regard to the claim in question;

50. On 27 February 2003, the Permanent Mission of the United Kingdom requested further information concerning Governing Council decision 143 (S/AC.26/Dec.143 (2001)) and the associated “Report and recommendations made by the panel of Commissioners concerning the ninth instalment of ‘E2’ claims” (S/AC.26/2001/27) with regard to a British company. Having carefully reviewed all aspects of this request, the Executive Secretary has provided the further information requested and has concluded that no action pursuant to article 41 of the Rules is warranted with regard to the claim in question;

51. On 22 April 2003, the Permanent Mission of Egypt requested correction of Governing Council decision 159 (S/AC.26/Dec.159 (2002)) and the associated “Report and recommendations made by the panel of Commissioners concerning the tenth instalment of ‘E2’ claims” (S/AC.26/2002/14) with regard to an Egyptian company. Having carefully reviewed all aspects of this request, the Executive Secretary has concluded that no correction of Governing Council decision 159 is necessary and that no action pursuant to article 41 of the Rules is warranted with regard to the claim in question;

52. On 16 May 2003 the Permanent Mission of the United Kingdom requested a review of Governing Council decision 165 (S/AC.26/Dec.165 (2002)) and the associated “Report and recommendations made by the ‘D1’ Panel of Commissioners concerning the thirteenth instalment of individual claims for damages above USD 100,000 (category ‘D’ claims)” (S/AC.26/2002/20) with regard to an individual claim submitted through the Government of United Kingdom. Having carefully reviewed all aspects of this request, the Executive Secretary has concluded that no correction of Governing Council decision 165 is necessary and that no action pursuant to article 41 of the Rules is warranted with regard to the claim in question;

53. In addition, during the period under review, the secretariat has received requests for article 41 corrections with respect to claims in categories “D”, “E”, and “F” from a number of Governments and international organizations. The responses of the Executive Secretary to these requests have not yet been conveyed to the claimant countries due to the fact that the secretariat’s review of the specific

claims in question, and, where appropriate, consultations with the respective panels of Commissioners remain ongoing. Details concerning these requests, and the Executive Secretary's recommendations to the Governing Council with respect thereto will be contained in upcoming article 41 reports to the Governing Council.

Annex I

RECOMMENDED CORRECTIONS CONCERNING CATEGORY “A” CLAIMS

1. Based on the recommended corrections reported in paragraphs 2 to 13 of this report, *supra*, the category “A” claims aggregate corrected awards by instalment, per country, are as follows:

Table 1. First instalment category “A” claims corrections

<u>Country</u>	<u>Previous total award</u> <u>(USD)</u>	<u>Corrected total award</u> <u>(USD)</u>	<u>Amount of net effect</u> <u>(USD)</u>
Russian Federation	2,912,000.00	2,916,000.00	4,000.00

Table 2. Third instalment category “A” claims corrections

<u>Country</u>	<u>Previous total award</u> <u>(USD)</u>	<u>Corrected total award</u> <u>(USD)</u>	<u>Amount of net effect</u> <u>(USD)</u>
India	17,095,000.00	17,091,000.00	(4,000.00)

Table 3. Fourth instalment category “A” claims corrections

<u>Country</u>	<u>Previous total award</u> <u>(USD)</u>	<u>Corrected total award</u> <u>(USD)</u>	<u>Amount of net effect</u> <u>(USD)</u>
Russian Federation	9,016,000.00	9,020,000.00	4,000.00

Table 4. Fifth instalment category “A” claims corrections

<u>Country</u>	<u>Previous total award</u> <u>(USD)</u>	<u>Corrected total award</u> <u>(USD)</u>	<u>Amount of net effect</u> <u>(USD)</u>
India	149,274,000.00	149,270,000.00	(4,000.00)
Philippines	31,046,000.00	31,038,500.00	(7,500.00)
Russian Federation	8,332,000.00	8,360,000.00	28,000.00

Table 5. Sixth instalment category “A” claims corrections

<u>Country</u>	<u>Previous total award</u> <u>(USD)</u>	<u>Corrected total award</u> <u>(USD)</u>	<u>Amount of net effect</u> <u>(USD)</u>
Russian Federation	3,432,000.00	3,456,000.00	24,000.00

2. Based on the above corrections, the revised category “A” claim total recommended awards by instalment are as follows:

Table 6. Recommended corrected total awards for category “A” claims

<u>Instalment</u>	<u>Previous total award (USD)</u>	<u>Corrected total award (USD)</u>	<u>Amount of net effect (USD)</u>
First	189,991,000.00	189,995,000.00	4,000.00
Third	532,154,500.00	532,150,500.00	(4,000.00)
Fourth	735,722,500.00	735,726,500.00	4,000.00
Fifth	786,206,500.00	786,223,000.00	16,500.00
Sixth	317,227,500.00	317,251,500.00	24,000.00

Annex II

RECOMMENDED CORRECTIONS CONCERNING CATEGORY “C” CLAIMS

1. Based on the recommended corrections reported in paragraphs 14 to 21 of this report, *supra*, the category “C” claims aggregate corrected awards by instalment, per country, are as follows:

Table 1. Fourth instalment category “C” claims corrections

<u>Country</u>	<u>Previous total award</u> <u>(USD)</u>	<u>Corrected total award</u> <u>(USD)</u>	<u>Amount of net effect</u> <u>(USD)</u>
Egypt	124,957,426.78	124,975,193.71	17,766.93

Table 2. Fifth instalment category “C” claims corrections

<u>Country</u>	<u>Previous total award</u> <u>(USD)</u>	<u>Corrected total award</u> <u>(USD)</u>	<u>Amount of net effect</u> <u>(USD)</u>
Jordan	95,297,617.27	95,300,525.85	2,908.58

Table 3. Sixth instalment category “C” claims corrections

<u>Country</u>	<u>Previous total award</u> <u>(USD)</u>	<u>Corrected total award</u> <u>(USD)</u>	<u>Amount of net effect</u> <u>(USD)</u>
Jordan	184,376,357.72	184,427,461.38	51,103.66

Table 4. Seventh instalment category “C” claims corrections

<u>Country</u>	<u>Previous total award</u> <u>(USD)</u>	<u>Corrected total award</u> <u>(USD)</u>	<u>Amount of net effect</u> <u>(USD)</u>
India	186,964,297.88	186,981,979.54	17,681.66
Jordan	283,103,940.87	283,131,413.88	27,473.01
Pakistan	74,663,860.17	74,708,257.47	44,397.30

2. Based on the above corrections, the revised category “C” claim total recommended awards by instalment are as follows:

Table 5. Recommended corrected total awards for category “C” claims

<u>Instalment</u>	<u>Previous total award</u> <u>(USD)</u>	<u>Corrected total award</u> <u>(USD)</u>	<u>Amount of net effect</u> <u>(USD)</u>
Fourth	654,959,925.58	654,977,692.51	17,766.93
Fifth	736,115,900.96	736,118,809.54	2,908.58
Sixth	768,521,404.44	768,572,508.10	51,103.66
Seventh	1,934,724,959.10	1,934,814,511.07	89,551.97

Annex III

RECOMMENDED CORRECTIONS CONCERNING CATEGORY “D” CLAIMS

1. Based on the recommended corrections reported in paragraphs 22 to 25 of this report, supra, the category “D” claims aggregate corrected awards by instalment, per country, are as follows:

Table 1. Third instalment category “D” claims corrections

<u>Country</u>	<u>Previous total award</u> <u>(USD)</u>	<u>Corrected total award</u> <u>(USD)</u>	<u>Amount of net effect</u> <u>(USD)</u>
United Kingdom	2,120,388.58	2,132,800.18	12,411.60

2. Based on the above correction, the revised category “D” claim total recommended awards by instalment are as follows:

Table 2. Recommended corrected total awards for category “D” claims

<u>Instalment</u>	<u>Previous total award</u> <u>(USD)</u>	<u>Corrected total award</u> <u>(USD)</u>	<u>Amount of net effect</u> <u>(USD)</u>
Third	11,776,101.11	11,788,512.71	12,411.60

Annex IV

RECOMMENDED CORRECTIONS CONCERNING “E3” CLAIMS

1. Based on the recommended corrections reported in paragraphs 26 to 31 of this report, *supra*, the twenty-second instalment “E3” claims aggregate corrected awards by instalment, per country, are as follows:

Table 1. Twenty-second instalment of “E3” claims corrections

<u>Country</u>	<u>Previous total award (USD)</u>	<u>Corrected total award (USD)</u>	<u>Amount of net effect (USD)</u>
Poland	4,083,095.00	4,204,243.00	121,148.00

2. Based on the above corrections, the revised twenty-second instalment of “E3” claims total recommended awards by instalment are as follows:

Table 2. Recommended corrected total awards for the twenty-second instalment of “E3” claims

<u>Instalment</u>	<u>Previous total award (USD)</u>	<u>Corrected total award (USD)</u>	<u>Amount of net effect (USD)</u>
Twenty-second	13,692,464.00	13,813,612.00	121,148.00

Annex V

RECOMMENDED CORRECTIONS CONCERNING “E4” CLAIMS

1. Based on the recommended corrections reported in paragraphs 32 to 38 of this report, supra, the eighteenth instalment of “E4” claims aggregate corrected amounts of compensation by instalment, per country, are as follows:

Table 1. Eighteenth instalment of “E4” claims corrections

<u>Country</u>	<u>Previous total award (USD)</u>	<u>Corrected total award (USD)</u>	<u>Amount of net effect (USD)</u>
Canada	3,791,482.00	3,938,947.00	147,465.00
Egypt	64,237.00	37,962.00	(26,275.00)
Jordan	33,398,937.00	33,325,835.00	(73,102.00)
Yemen	285,865.00	215,441.00	(70,424.00)
UNWRA Gaza	64,554.00	(82,911.00)	(147,465.00)

2. Based on the above corrections, the revised eighteenth instalment of “E4” claims total recommended amounts of compensation by instalment are as follows:

Table 2. Recommended corrected total amounts of compensation to successful individual claimants applying the bilateral committees’ determinations made pursuant to decision 123 for the eighteenth instalment of “E4” claims

<u>Instalment</u>	<u>Previous total award (USD)</u>	<u>Corrected total award (USD)</u>	<u>Amount of net effect (USD)</u>
Eighteenth	42,752,479.00	42,582,678.00	(169,801.00)

Annex VI

DRAFT

Decision concerning the eighteenth instalment of “E4” claims (revised)

The Governing Council,

Having received, in accordance with article 38 of the Provisional Rules for Claims Procedure (the “Rules”), the report and recommendations made by the “E4” panel of Commissioners concerning the eighteenth instalment of “E4” claims, submitted pursuant to Governing Council decision 123 (S/A.C.26/Dec.123 (2001)) concerning the treatment of claims filed by individuals seeking compensation for direct losses sustained by Kuwaiti companies, concerning 165 claims,^a

Recalling that, pursuant to paragraph 1 (a) of decision 123, overlapping claims in respect of losses sustained by Kuwaiti companies are to be grouped in order to permit the category “E4” panels of Commissioners to make recommendations on awards of compensation suffered by such companies,

Recalling also that, pursuant to decision 123, the “E4” panel of Commissioners reviewed in this report a number of Kuwaiti company claims for which individuals appeared to have filed related claims in categories “C” and/or “D” asserting losses in respect of those Kuwaiti companies,

Noting that, during the course of its review of the claims covered by the report, the panel determined that some of the “E4” claims did not overlap with claims in categories “C” and/or “D”,

Noting also that the amounts claimed in the related claims filed by individuals, which were considered by the panel in relation to the Kuwaiti company claims, were asserted in timely filed and duly registered claims submitted by individuals in categories “C” and/or “D”,

1. Approves the recommendations made by the panel, and, accordingly,
2. Decides, pursuant to article 40 of the Rules, to approve the recommended awards concerning the claims covered in the report, which the panel determined not to overlap with any claims filed by individuals in categories “C” and/or “D”. The aggregate amounts awarded for non-overlapping claims, based on the recommendations contained in annex I of the report, are as follows:

^a The text of the report appears in document S/AC.26/2003/12.

Table 1. Recommended awards for non-overlapping claims

<u>Country</u>	<u>Number of claims recommended for payment</u>	<u>Number of claims not recommended for payment</u>	<u>Amount of compensation claimed (USD)</u>	<u>Amount of compensation awarded (USD)</u>
Kuwait	58	4	119,218,384	39,492,956

3. Decides also, pursuant to decision 123 and article 40 of the Rules, to approve the recommended awards concerning the claims covered in the report, which the panel determined to overlap with claims filed by individuals in categories “C” and/or “D”. The aggregate amounts awarded for overlapping claims, based on the recommendations contained in annex III of the report, are as follows:

Table 2. Recommended awards for overlapping claims

<u>Country</u>	<u>Number of claims recommended for payment</u>	<u>Number of claims not recommended for payment</u>	<u>Amount of compensation claimed (USD)</u>	<u>Amount of compensation awarded (USD)</u>
Kuwait	103	-	558,509,453	89,319,148

4. Recalls that, in addition to implementing the awards set out in paragraph 3, pursuant to paragraph 1 (e) of decision 123, the Executive Secretary will, within the limits of duly registered claims, carry into effect the decisions of the bilateral committees constituted pursuant to the guidelines annexed to decision 123 when payment is made in respect of the awards for overlapping claims,

5. Recalls also that, further to decisions of the bilateral committees referred to in paragraph 4 above, the Executive Secretary will, within the limits of duly registered claims, carry into effect their decisions which, as applied to the awards of compensation set out in annex III of the report, result in awards of compensation to category “E4” claimants, as follows:

Table 3. Distribution of amounts to Kuwaiti corporate claimants applying bilateral committee determinations made pursuant to article 2 of the guidelines annexed to decision 123 to recommended awards in annex III of the report

<u>Country</u>	<u>Number of claims entitled to receive payment</u>	<u>Number of claims not entitled to receive payment</u>	<u>Amount claimed in “E4” claims (USD)</u>	<u>Amount of compensation (USD)</u>
Kuwait	79	24	216,030,152	45,176,380

6. Notes that the amount of compensation to be distributed to one category “E4” claimant has been reduced in an amount of USD 6,253 to limit its award to an amount no greater than the amount it claimed,

7. Recalls that paragraph 1 (g) of decision 123 directs the Executive Secretary to make payments on behalf of the Government of the State of Kuwait, pursuant to the irrevocable delegation of authority annexed to decision 123, to the Governments and other submitting entities of the portions of awards of compensation to which category “C” and/or “D” claimants are entitled, as determined by the bilateral committees under the guidelines, as follows:

Table 4. Distribution of awards to individual claimants applying bilateral committee determinations made pursuant to article 2 of the guidelines annexed to decision 123 to recommended awards in annex III of the report^b

<u>Country or international organization</u>	<u>Number of claims entitled to receive payment</u>	<u>Number of claims not entitled to receive payment</u>	<u>Amount claimed for corporate losses in individual claims (USD)</u>	<u>Amount of compensation (USD)</u>
Canada	3	2	14,004,087	3,791,482
Egypt	1	1	352,377	37,962
India	5	7	18,968,588	2,387,871
Jordan	64	28	299,975,765	33,325,835
Lebanon	1	1	877,993	511,133
Syrian Arab Republic	6	1	2,745,585	573,838
United Kingdom	2	-	1,671,661	358,960
United States	2	-	3,465,131	1,315,602
Yemen	2	0	285,865	215,441
UNRWA Gaza	1	-	132,249	64,554
<u>Total</u>	87	40	342,479,301	42,582,678

8. Notes that amounts of compensation to be distributed to 10 individual claimants have been reduced in a total amount of USD 691,644 to limit their awards to amounts no greater than the amounts asserted in their category “C” and/or “D” claims in respect of the losses reviewed by the category “E4” panel of Commissioners in the report,

9. Notes also that amounts of compensation to be distributed to 19 individual claimants have been reduced in the amount of USD 862,193 to take into account compensation that the individual claimants have already received in category “C” for the losses reviewed by the category “E4” panel of Commissioners in the report,

^b In conformity with the provisions on confidentiality in the Rules (article 30, paragraph 1, and article 40, paragraph 5), information concerning the amount to be paid to each individual claimant will not be made public, but will be provided to each respective Government and international organization separately.

10. Notes further that 12 individual claimants previously received awards in category “C” that exceed by a total amount of USD 351,556 the amounts to which they are entitled further to this decision,

11. Reaffirms that when funds become available payments shall be made in accordance with decision 197 (S/AC.26/Dec.197 (2003)), except for the portions of amounts payable to successful claimants in relation to those Kuwaiti companies for which 12 individual claimants in category “C” had already received payments, referred to in paragraph 10 above, which relates to a matter currently under consideration by the Council, pending resolution of that issue,

12. Recalls that when payments are made in accordance with decision 197, and pursuant to the terms of decision 18 (S/AC.26/Dec.18 (1994)), Governments and international organizations shall distribute amounts received to the designated claimants in respect of approved awards within six months of receiving payment, and shall, not later than three months after the expiration of this time limit, provide information on such distribution,

13. Recalls also that, with respect to category “C” and/or “D” claimants, the submitting Governments and international organizations have accepted the responsibility for fulfilling the payment and reporting requirements set out in decisions 18 and 48 (S/AC.26/Dec.48 (1998)) further to article 18 of the guidelines annexed to decision 123,

14. Requests the Executive Secretary to provide a copy of the report to the Secretary-General, to the Government of the Republic of Iraq and to each respective Government and international organization.

Annex VII

ARTICLE 41 CORRECTIONS TO CLAIMS AWARDS (UP TO THE FORTY-EIGHTH SESSION OF THE GOVERNING COUNCIL)

<u>Report</u>	<u>Category A</u>		<u>Category B</u>		<u>Category C</u>		<u>Category D</u>		<u>Category E</u>		<u>Total</u>	
	<u>Net correction for category (USD)</u>	<u>Number of claims corrected</u>	<u>Net correction for category (USD)</u>	<u>Number of claims corrected</u>	<u>Net correction for category (USD)</u>	<u>Number of claims corrected</u>	<u>Net correction for category (USD)</u>	<u>Number of claims corrected</u>	<u>Net correction for category (USD)</u>	<u>Number of claims corrected</u>	<u>Net corrections for categories A, B, C, D and E (USD)</u>	<u>Number of claims corrected in categories A, B, C, D and E</u>
A(6) panel report	(6,439,500.00)	2,575	-	-	-	-	-	-	-	-	(6,439,500.00)	2,575
B(2.2) panel report	-	-	(12,500.00)	3 ^a	-	-	-	-	-	-	(12,500.00)	3 ^a
B(3) panel report	-	-	110,000.00	10 ^b	-	-	-	-	-	-	110,000.00	10 ^b
C(4) panel report	-	-	-	-	(1,922.00)	49	-	-	-	-	(1,922.00)	49
C(5) panel report	-	-	-	-	(77,190.00)	6	-	-	-	-	(77,190.00)	6
C(6) panel report	-	-	-	-	72,685.00	15	-	-	-	-	72,685.00	15
D(5) panel report	-	-	-	-	-	-	(2,646.81)	7	-	-	(2,646.81)	7
D(7) panel report	-	-	-	-	-	-	(38,836.21)	13	-	-	(38,836.21)	13
D1 (9.1) panel report	-	-	-	-	-	-	103,532.16	4	-	-	103,532.16	4
Special D panel report	-	-	-	-	-	-	(13,283,441.51)	426	-	-	(13,283,441.51)	426
E3(10) panel report	-	-	-	-	-	-	-	-	325,850.00	1	325,850.00	1
E4(3) panel report	-	-	-	-	-	-	-	-	536,513.00	3	536,513.00	3
Article 41(1) report	(5,500.00)	10	-	-	-	-	-	-	-	-	(5,500.00)	10
Article 41(2) report	(49,000.00)	16	-	-	-	-	-	-	-	-	(49,000.00)	16
Article 41(3) report	1,500.00	4	-	-	-	-	-	-	-	-	1,500.00	4
Article 41(4) report	(83,000.00)	19	-	-	-	-	-	-	-	-	(83,000.00)	19
Article 41(5) report	(18,500.00)	5	-	-	-	-	-	-	-	-	(18,500.00)	5
Article 41(6) report	15,867,500.00	10,757	-	-	-	-	-	-	-	-	15,867,500.00	10,757
Article 41(7) report	(6,975,500.00)	3,385	-	-	-	-	-	-	-	-	(6,975,500.00)	3,385

Report	Category A		Category B		Category C		Category D		Category E		Total	
	Net correction for category (USD)	Number of claims corrected	Net correction for category (USD)	Number of claims corrected	Net correction for category (USD)	Number of claims corrected	Net correction for category (USD)	Number of claims corrected	Net correction for category (USD)	Number of claims corrected	Net corrections for categories A, B, C, D and E (USD)	Number of claims corrected in categories A, B, C, D and E
Article 41(8) report	(7,806,000.00)	4,385	-	-	70,613,604.05	23,282	-	-	-	-	62,807,604.05	27,667
Article 41(9) report	(4,136,500.00)	1,062	-	-	5,278,142.15	1,730	-	-	-	-	1,141,642.15	2,792
Article 41(10) report	(1,446,000.00)	364	-	-	3,168,018.90	467	-	-	-	-	1,722,018.90	831
Article 41(11) report	(1,358,500.00)	370	-	-	-	-	-	-	-	-	(1,358,500.00)	370
Article 41(12) report	(112,000.00)	26	-	-	613,498.37	40	-	-	-	-	501,498.37	66
Article 41(13) report	(55,500.00)	40	-	-	(102,863.22)	27	-	-	-	-	(158,363.22)	67
Article 41(14) report	(8,000.00)	31	-	-	5,580,355.48	625	103,532.16	4			5,675,887.64	660
Article 41(15) report	(10,500.00)	19	-	-	-	-	(57.66)	6	(7,264.37)	1	(17,822.03)	26
Article 41(16) report	142,000.00	73	-	-	453,162.71	54	-	-	-	-	595,162.71	127
Article 41(17) report	707,500.00	446	-	-	77,461.07	6	-	-	-	-	784,961.07	452
Article 41(18) report	119,500.00	77	-	-	-	-	-	-	(43,413)	1	76,087	78
Article 41(19) report	154,000.00	55	-	-	46,976.14	6	400,986.95	6	-	-	601,963.09	67
Article 41(20) report	3,739,500.00	1896			53,342.85	1					3,792,842.85	1,897
Article 41(21) report	1,157,500	688									1,157,500.00	688
Article 41(22) report	4,419,000.00	2,730									4,419,000.00	2,730
Total	(2,196,000.00)	29,033	97,500.00	13	85,775,271.50	26,308	(12,716,930.92)	466	811,685.63	6	71,771,526.21	55,826

^a Number of consolidated claim submissions, as conveyed in the panel report.

^b Number of consolidated claim submissions, as conveyed in the panel report.
