



**Security Council**

Distr.  
GENERAL

S/AC.26/Dec.241 (2005)  
10 March 2005

Original: ENGLISH

---

UNITED NATIONS  
COMPENSATION COMMISSION  
GOVERNING COUNCIL

Decision concerning the fourth special report on overlapping claims taken by the Governing Council of the United Nations Compensation Commission at its 144th meeting, on 10 March 2005

The Governing Council,

Having received, in accordance with article 38 of the Provisional Rules for Claims Procedure (the “Rules”), the fourth special report and recommendations made by the merged “E4” panel of Commissioners concerning eight overlapping claims, submitted pursuant to Governing Council decision 123 (S/A.C.26/Dec.123 (2001)),<sup>1</sup>

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 paragraph 1 (a) of decision 123, the merged “E4” panel of Commissioners reviewed in the fourth special report a number of Kuwaiti company claims for which they had already recommended awards of compensation in reports concerning the second, sixth, tenth and eighteenth instalments of category “E4” claims, in order to take into account related claims filed by individuals asserting losses in respect of those Kuwaiti companies,

---

<sup>1</sup> The text of the report appears in document S/AC.26/2005/5.

Noting that the amounts claimed in the related claims filed by individuals, which were considered by the panel of Commissioners in relation to the previously reviewed Kuwaiti company claims, were asserted either in timely filed and duly registered claims submitted by individuals in categories “C” and “D” or in claims submitted by individuals in categories “C” and “D” that have been accepted by the Palestinian Panel of Commissioners to be eligible for inclusion in the Palestinian “late claims” programme,

1. Approves the recommendations made by the panel of Commissioners, and, accordingly,

2. Decides, pursuant to decision 123 and article 40 of the Rules, to approve the revised recommended awards concerning four of the claims covered in the fourth special report. The aggregate revised amounts awarded per instalment, based on the recommendations contained in annexes I to IV of the fourth special report, are as follows:

Table 1. Second instalment category “E4” claims revisions

<u>Country</u>	<u>Number of claims with revised awards</u>	<u>Previous total award (USD)</u>	<u>Revised total award (USD)</u>
Kuwait	3	nil	331,163

Table 2. Eighteenth instalment category “E4” claims revisions

<u>Country</u>	<u>Number of claims with revised awards</u>	<u>Previous total award (USD)</u>	<u>Revised total award (USD)</u>
Kuwait	1	478,529	488,990

3. Notes that as set out in annexes I, II and III of the report, the Panel has also reviewed four other overlap claims included in the second, sixth and tenth instalments of “E4” claims, and concluded that no adjustment to the previous recommendations of the “E4” Panels is required,

4. Decides further that the revised total awards per instalment, based on the recommendations contained in annexes I and IV of the fourth special report, are as follows:

Table 3. Revised awards for category “E4” claims

<u>Instalment</u>	<u>Previous total award (USD)</u>	<u>Revised total award (USD)</u>	<u>Amount of net effect (USD)</u>
Second	125,328,521	125,659,684	331,163
Eighteenth	128,812,104	128,822,565	10,461
<u>Total</u>	254,140,625	254,482,249	341,624

5. Recalls that, in addition to implementing the revised awards set out in paragraph 2 above, pursuant to paragraphs 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,

6. Recalls also that, further to decisions of the bilateral committees referred to in paragraph 5 above, the Executive Secretary will, within the limits of duly registered claims, carry into effect their decisions which, as applied to the revised awards of compensation set out in the fourth special report, increase the awards of compensation to which two category "E4" claimants (claim numbers: 4005638 and 4004964) are entitled, as follows:

Table 4. Distribution of additional 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 the fourth special report

<u>Country</u>	<u>Number of claims</u>	<u>Amount claimed in "E4" claim (USD)</u>	<u>Previous total award (USD)</u>	<u>Revised total award (USD)</u>	<u>Amount of additional compensation (USD)</u>
Kuwait	2	1,112,412	478 529	570,516	69,858

7. Notes that, further to the distribution of amounts to Kuwaiti corporate claimants applying decisions of the bilateral committees to recommended awards in the fourth special report, one other claimant in category "E4" (claim number: 4004041) previously received an award that exceeds by a total amount of USD35,277 the amount to which it is entitled further to this decision,

8. Requests the Government of the State of Kuwait to return to the Commission, within six months, the amount which, as a result of the revision and distribution of awards set out in paragraph 7 above which, according to this decision, was overpaid to the E4 claimant in a previous decision, as shown in table 5 below,

Table 5. Overpayment due to revision and distribution of awards applying bilateral committee determinations made pursuant to article 2 of the guidelines annexed to decision 123 to recommended awards in the fourth special report or due to revisions to recommended awards by the panel of Commissioners

<u>Country</u>	<u>Number of affected claims</u>	<u>Amount of overpayment (USD)</u>
Kuwait	1	35,277

9. 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:<sup>2</sup>

Table 6. 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 the fourth special report

<u>Country or other submitting entity</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>
Jordan	-	1	10,380,623	nil
Palestine	4	3	8,356,190	271,766
UNRWA Gaza	1	-	36,332	35,278
<u>Total</u>	5	4	18,773,145	307,044

10. Reaffirms that, when funds become available payments shall be made in accordance with decision 227 (S/AC.26/Dec.227 (2004)), except for the portions of amounts payable to one successful category “C” claimant (claim number: 1499701) for which one claimant in category “E4” had already received payments, referred to in paragraph 7 above,

11. Recalls that when payments are made in accordance with decision 227, and pursuant to the terms of decision 18 (S/AC.26/Dec.18 (1994)), the Government of the State of Kuwait 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,

12. Recalls also that, with respect to category “D” claimants, the submitting entities 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,

13. Requests the Executive Secretary to provide a copy of the fourth special report to the Secretary-General, to the Government of the Republic of Iraq and to each respective Government and other submitting entity.

---

<sup>2</sup> In conformity with the provisions of article 40, paragraph 5 of the Rules, information concerning the identities of individual claimants and the amount to be paid to each individual claimant will not be made public, but will be provided to each submitting entity separately.