

**Security Council**

Distr.: General
28 July 2006

Original: English

Letter dated 30 June 2006 from the President of the Governing Council of the United Nations Compensation Commission addressed to the President of the Security Council

The Governing Council of the United Nations Compensation Commission has concluded its sixtieth session, which was held at Geneva from 27 to 29 June 2006.

During the opening plenary meeting, representatives of Kuwait, Iraq and India addressed the Council. Their respective statements are being sent by mail with the original of this letter.

During the session, the Council discussed the following issues and decided:

To take note of the report of the Executive Secretary: summary of activities, covering the period from 15 February to 31 May 2006.

With respect to the issue of the shortfall to the Compensation Fund of approximately US\$ 37.2 million, to request that the Executive Secretary continue to follow up with the Controller; and to request that the secretariat keep the Council advised of any new developments.

To approve corrections to certain category A and C claims contained in the thirty-fourth report of the Executive Secretary pursuant to article 41 of the Provisional Rules for Claims Procedure (S/AC.26/Dec.260 (2006)).

With respect to Kuwait's request for the return of confidential documents, to take note of the secretariat's intention to enter into a memorandum of understanding with Kuwait that will provide that the confidential documents which are the subject of Kuwait's request be kept under lock and key within the United Nations facilities with a dual key access system, the Permanent Mission of Kuwait and the Commission secretariat each holding a key; and to request that the secretariat continue its negotiations with Kuwait and inform the Governing Council following the completion of the arrangements.

With respect to the follow-up programme on environmental awards, to take note of the update provided by the secretariat on the status of the follow-up programme and the preparations that are being made by concerned Governments; to note that the two staff members recruited to assist in the follow-up programme recently joined the secretariat and that the costs of the follow-up programme for the biennium 2006-2007, as agreed to by the secretariat and the claimant Governments at the November 2005 meeting at Geneva, had been deducted from the payments



made in January and April 2006; and to request that the secretariat provide updates on the programme at future sessions of the Governing Council.

With respect to the request of the delegation of Iraq for proposed amendments to the guidelines for the follow-up programme on environmental awards, to note that the secretariat met with the representatives of Iraq on 15 March 2006 to discuss and obtain clarification from Iraq on the proposed amendments and that, at the end of the meeting, there was an indication from the delegation that, subject to formal confirmation from Baghdad, the amendments would not be further pursued; to note that the secretariat has not yet received written confirmation from Iraq as to whether it intends to pursue the proposed amendments and that, in the absence of any further follow-up from Iraq, there is no need for the Governing Council to continue to consider this issue; and to request that the secretariat advise the Governing Council should there be any further developments regarding this request.

To note that, as referred to by Iraq and Kuwait at the opening plenary meeting and as set out in the executive summary of the fourth regional meeting of claimant Governments and Iraq on environmental rehabilitation, further progress was made at the meeting and the participants agreed on the text of a draft memorandum of understanding for the establishment of a regional environmental rehabilitation advisory group, which has been submitted to the respective Governments for approval; to welcome these efforts and encourage the continued cooperation among the claimant Governments and Iraq.

With respect to the issue of some public availability of the environmental monitoring and assessment databank, to take note of the executive summary of the fourth regional meeting on regional cooperation of claimant Governments and Iraq held on 2 May 2006 at Geneva, with the presence of the United Nations Compensation Commission, as an observer, at which the Commission was requested to provide claimant Governments with their respective data found in the UNEP databank so that they could individually screen and transfer the data to the regional environmental database that is being established in Kuwait; to note that the secretariat is in the process of transmitting the information in the databank to each of the claimant Governments; and to request that the secretariat provide further updates on this issue at the next session of the Governing Council.

To take note of the report of the Executive Secretary on the distribution of payments and transparency and the return of undistributed funds, and to request the secretariat to continue to inform the Governing Council of the reports of Governments and international organizations on the distribution of payments and the return of undistributed funds.

With respect to the request by the Government of Pakistan for an extension regarding its report on the distribution of late claims owing to the October 2005 earthquake which resulted in the displacement of many claimants, to note that Pakistan has reported distribution to over half of the claimants and grant the extension.

To take note of the second annual update on fees for processing costs deducted from payments and request that the secretariat continue to provide annual updates; and to request that future reports show a clear distinction between processing fees and bank charges.

To take note of the update provided by the secretariat on the Bangladesh exchange rate issue and note that the Government of Bangladesh has indicated that it is taking action to remedy the situation with respect to the shortfall to its claimants; and to note that the secretariat has requested that the Government of Bangladesh provide progress reports on distribution.

To note that the former Yugoslav Republic of Macedonia has now complied with decision 18 concerning the Pelagonija claim.

With respect to the issue of potential duplicate awards, to request that the secretariat undertake article 41 corrections with regard to all claims identified as having confirmed overpayments including family member matches, applying the final guidelines for match confirmation procedures and for determining and allocating overpayments approved by the Council at the fifty-ninth session; to request that, following the approval of the thirty-fourth article 41 report at this session and the thirty-fifth article 41 report at the sixty-first session in November 2006, the secretariat issue notes verbales to affected submitting entities informing them of the corrections and enclosing confidential country reports showing each correction and amount of overpayment; to request that the notes verbales indicate that Governments and other submitting entities are to use their best efforts to recover the overpaid amounts from claimants; and to request that the notes verbales set out the following expectations of the Council in connection with “best efforts”:

- (i) The Council expects submitting entities to take all practicable steps to contact each affected claimant to inform him/her of the correction and ask him/her to remit the overpaid amount to the submitting entity for return to the Commission.
- (ii) The Council expects the submitting entities to report back to the Commission on the contacts with claimants and the remittance of overpaid amounts, and to return to the Commission upon receipt all amounts remitted by claimants.
- (iii) No processing fees should be deducted from any amounts remitted by claimants.
- (iv) The Council encourages submitting entities to report back to the Commission on an ongoing basis as claimants are contacted.
- (v) As a deadline for final reports from submitting entities reporting on their best efforts and the recovery of overpaid amounts, the Council has decided that such reports shall be submitted within six months from the date of the secretariat’s notes verbales.
- (vi) If no response has been received from submitting entities by the deadline, the Council will consider further steps to recover the overpaid amounts.

In addition, on the issue of duplicate awards, to consider that general responses on the results of best efforts, rather than individualized tracking reports, would be sufficient; to refer its consideration of the options presented by the secretariat with respect to paid claims for the recovery of confirmed overpayments to the next informal meeting of the Working Group for further consideration; with respect to the current duplication-related suspensions on payments, to continue the current suspensions on payments to the late claims that were the subject of the

report and recommendations of the D1 Panel of Commissioners concerning the late-filed category A and category C claims programme (S/AC.26/2005/2) and the additional suspension on payments to the Islamic Republic of Iran until a global decision has been taken on options for the recovery of confirmed overpayments, which should be adopted at the next Governing Council session; to note that there will likely be financial implications on the budget which the secretariat is in the process of assessing and that they will be included in a future budget revision; and finally to request that the secretariat provide status updates at future informal meetings and that this issue be kept on the agenda of the Governing Council.

To take note of the audit by the Office of Internal Oversight Services of the United Nations Compensation Commission liquidation activities, dated 10 April 2006, the response of the Executive Secretary thereto dated 1 May 2006 and the report by the United States Government Accountability Office on lessons learned from the United Nations oil-for-food programme which was released in April 2006; to request that the Executive Secretary contact the Office of Internal Oversight Services to obtain clarifications regarding the activities that the Office intends to audit in 2007 and report back to the Governing Council at its next session; and to request that the secretariat continue to provide updates on audit issues at future informal meetings of the Working Group and keep this issue on the agenda of the Governing Council.

To note that the Committee on Administrative Matters held its twentieth meeting at Geneva on 27 June 2006 to discuss a consolidated proposal for adjustments to the approved budget of the Executive Secretary for the biennium 2006-2007, and that the Committee approved, by consensus, the adjustments to the approved 2006-2007 budget; and to take note of the details of the discussions that took place during the meeting contained in the report of the Committee on Administrative Matters to the Governing Council, which was made available to Governing Council members.

With respect to the statement made by the delegation from India at the opening plenary meeting, to maintain its position that there should be no extension of the 30 September 2006 deadline for the location and payment to unlocated claimants; however, should there be a sudden large influx of repayment requests as the deadline approaches that could be documented by the Government concerned, to reconsider the request; with respect to India's request that the Governing Council consider accepting additional claims for late filing, to recall decision 219 (S/AC.26/Dec.219 (2004)) in which the Governing Council decided that it would not accept further late-filed claims and decline the request; with respect to India's request for an extension of the deadline imposed by the secretariat regarding confirmation of potential overpayments, to note that the secretariat had agreed to a two-week extension at the request of the Government of India, and decline to grant any further extensions.

With respect to the issue of payment of two invoices for technical assistance provided by the law firm of Lalive & Partners to the Government of Iraq, to request that the secretariat seek clarification from the Permanent Mission of Iraq on the issues raised in the information note by the secretariat dated 22 June 2006 for the Working Group's further consideration at its next informal meeting.

Finally, that the sixty-first session of the Governing Council would be held on 31 October and 2 and 3 November 2006; that the sixty-second session of the

Governing Council would be held from 20 to 22 February 2007; and that informal meetings of the Working Group would be held between regular sessions of the Governing Council as required.

The Council was informed by the secretariat that the next round of payment will be effected on 27 July 2006. On 22 June 2006 the balance of the Fund was approximately \$386 million.

(Signed) Tassos **Kriekoukis**
President of the Governing Council

Annex

Documents before the Governing Council at its sixtieth session

1. Thirty-fourth report of the Executive Secretary pursuant to article 41 of the Provisional Rules for Claims Procedure (S/AC.26/2006/2).
 2. Decision concerning corrections of awards pursuant to article 41 of the Provisional Rules for Claims Procedure (S/AC.26/Dec.260 (2006)).
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