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COMPENSATION COMMISSION
GOVERNING COUNCIL

THIRTY-SEVENTH 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 Provisional Rules for Claims Procedure (S/AC.26/1992/10) of the United Nations Compensation Commission, recommended corrections in the individual claims categories since the Thirty-sixth report of the Executive Secretary pursuant to article 41 of the Provisional rules for claims procedure (S/AC.26/2006/4) (thirty-sixth article 41 report).
- 2. The present report contains further proposed corrections to claims arising from the Governing Council's direction to the secretariat at its fifty-ninth session held on 7 to 9 March 2006 to prepare article 41 corrections with respect to claims identified through electronic (including "fuzzy") searches and manual follow-up as having confirmed overpayments, the direction of the Council at its sixtieth session held on 27 to 29 June 2006 to include family member matches, and the further direction of the Council at its meeting on 20 December 2006 with respect to additional electronic searches. The present report also contains residual corrections to repayable claims that were the subject of timely requests for repayment by submitting entities as a result of the location of claimants, together with corrections resulting from the Government of Sri Lanka's review and confirmation of matches in the unrequested repayables population. In preparing these corrections, the secretariat applied its final proposed guidelines for match confirmation procedures and for determining and allocating overpayments, as approved by the Governing Council at its fifty-ninth session. These corrections, which involve claims in categories A, C and D, are contained in chapter I of the present report. Chapter II contains one other correction. Chapter III and annex I contain a summary of the proposed corrections contained in the present report. Annex II contains a cumulative table of article 41 corrections to claim awards up to the thirty-sixth article 41 report.

I. RECOMMENDED CORRECTIONS ARISING FROM ELECTRONIC SEARCHES AND MANUAL FOLLOW-UP

3. These corrections are broken down by the way in which the confirmed overpayment arose. In a small number of cases, more than one type of overpayment arose; such claims are included under the heading most appropriate to the correction being proposed.

A. Same claimant

1. Duplicate claims

4. Duplicate claims arise where a claimant filed more than one claim in the same category for the same losses. The secretariat confirms that the claims set out in table 1 below are duplicates and should not have been awarded compensation. The secretariat notes that most of the corrections to the Sri Lankan cliams set out in table 1 relate to unrequested repayable claims for which the Government of Sri Lanka has previously returned the award payments to the Compensation Commission.

5. Accordingly, it is recommended that the awards for these claims be corrected. Table 1 identifies the submitting entities concerned, the number of claims affected by category and the net effect of the adjustments.

Table 1. <u>Duplicate claims</u>

Submitting entity	Claim category	Number of claims affected	Amount of net effect (US\$)
Bangladesh	A	5	20,000.00
India	A	3	(12,000.00)
	C	1	4,186.85
Iran (Islamic Republic of)	A	1,325	(5,418,500.00)
Jordan	A	11	(46,500.00)
	C	11	(98,326.79)
Philippines	A	1	(4,000.00)
	C	1	3,389.31
Sri Lanka	A	1,889	(7,508,500.00)
	C	1	(10,705.84)
Total		3,248	(13,070,956.47)

2. <u>Decision 21 claims (higher to lower amounts)</u>

- 6. Decision 21 (S/AC.26/Dec.21 (1994)) of the Governing Council provides that "any claimant who has selected a higher amount in category A (\$4,000 or \$8,000) and has also filed a claim in category B, C or D will be deemed to have selected the corresponding lower amount under category A." The secretariat confirms that the majority of the claims set out in table 2 below involve corrections to category A claims filed by claimants who had also filed claims in another claim category. For the remaining claims in table 2, the difference between the higher to lower amount in category A is greater than the amount awarded in the other claim category. Under the guidelines approved by the Governing Council, the award in that other claim category should be reduced to zero. The secretariat confirms that the claims set out in table 2 below should be reduced pursuant to decision 21 to the amounts appropriate to the proper status of the claims.
- 7. Accordingly, it is recommended that the awards for these claims be corrected. Table 2 identifies the submitting entities concerned, the number of claims affected by category and the net effect of the adjustments.

Table 2. <u>Decision 21 claims (higher to lower amounts)</u>

Submitting entity	Claim category	Number of claims affected	Amount of net effect (US\$)
Bangladesh	A	1	(1,500.00)
India	A	2	(3,000.00)
Iran (Islamic Republic of)	A	59	(174,000.00)
Jordan	A	50	(111,000.00)
Pakistan	A	2	(3,000.00)
Sri Lanka	A	43	(64,500.00)
	C	31	(34,920.52)
Sudan	A	3	(4,500.00)
Yemen	A	1	(1,500.00)
Total		192	(397,920.52)

3. Decision 24 claims

- 8. Decision 24 (S/AC.26/Dec.24 (1994)) of the Governing Council provides that where a claimant filed a claim in category A and also filed for departure losses in category C or D, a further award for departure losses could be made in category C or D only where the amount recommended for departure losses exceeds the amount already awarded in category A. This required the category C or D panel of Commissioners to deduct the amount awarded in category A from any proposed award for departure losses in category C or D. The secretariat confirms that the category C and D claims set out in table 3 below were not subject to the required deductions. Therefore the awards for these claims should be adjusted to the amounts appropriate to the proper status of these claims, having regard to the guidelines approved by the Governing Council.
- 9. Accordingly, it is recommended that the awards for these claims be corrected. Table 3 identifies the submitting entities concerned, the number of claims affected by category and the net effect of the adjustments.

Table 3. Decision 24 claims

Submitting entity	Claim category	Number of claims affected	Amount of net effect (US\$)
India	C	7	(5,829.21)
Jordan	C	457	(988,852.80)
	D	3	(6,186.33)
Pakistan	С	2	(4,254.58)
Sri Lanka	C	7	(12,914.73)

Submitting entity	Claim category	Number of claims affected	Amount of net effect (US\$)
United States	С	1	2,500.00
Total		477	(1,015,537.65)

4. Duplicate loss claims

- 10. Duplicate loss claims arise where a claimant filed for the same losses that require deductions in addition to those required under decision 24 or other adjustments. The secretariat confirms that the claims set out in table 4 contain duplicate loss elements for which appropriate deductions or adjustments were not made.
- 11. Accordingly, as set forth in table 4, it is recommended that the awards for these claims be corrected. Table 4 identifies the submitting entities concerned, the number of claims affected by category and the net effect of the adjustments.

Table 4. <u>Duplicate loss claims</u>

Submitting entity	Claim category	Number of claims affected	Amount of net effect (US\$)
Iran (Islamic Republic of)	C	6	(67,889.13)
Jordan	С	8	(104,993.00)
	D	4	(54,366.78)
Total		18	(227,248.91)

B. Family member matches

1. Family duplicates

- 12. The category A claim form instructed family members to file jointly on the same claim form and indicated the ceilings for family awards: \$8,000 (if no claims were filed by family members in other categories) or \$5,000 (if any family members intended to file a claim in another category). Separate category A claims filed by family members with aggregate awards in excess of the maximum family amount are considered family duplicates. The secretariat confirms that the claims set out in table 5 below are family duplicates.
- 13. Accordingly it is recommended that the awards for these claims be corrected. Table 5 identifies the submitting entities concerned, the number of claims affected by category and the net effect of the adjustments.

Table 5. Family duplicate claims

Submitting entity	Claim category	Number of claims affected	Amount of net effect (US\$)
Iran (Islamic Republic of)	A	11	(35,000.00)
Jordan	A	32	(80,500.00)
Syrian Arab Republic	A	2	(5,000.00)
Total		45	(120,500.00)

2. Family decision 21 claims (higher to lower amounts)

- 14. Family decision 21 claims arise where a claimant filed for the higher family amount in category A and members of his or her family also filed one or more claims in other individual claims categories, contrary to the instructions on the category A claim form and decision 21 of the Governing Council. The secretariat confirms that the claims set out in table 6 should be reduced pursuant to decision 21 to the amounts appropriate to the proper status of the claims. For the remaining claims in table 6, corrections should be made to the category C claim as the difference between the higher to lower amount in category A is greater than the amount awarded in the category C claim. Under the guidelines approved by the Governing Council, the award in the category C claim should be reduced to zero. The secretariat confirms that the claims set out in table 6 should be reduced pursuant to decision 21 to the amounts appropriate to the proper status of the claims.
- 15. Accordingly, it is recommended that the awards for these claims be corrected. Table 6 identifies the submitting entities concerned, the number of claims affected by category and the net effect of the adjustments.

Table 6. Family decision 21 claims (higher to lower amounts)

Submitting entity	Claim category	Number of claims affected	Amount of net effect (US\$)
Iran (Islamic Republic of)	A	1	(3,000.00)
Jordan	A	1	(3,000.00)
	C	3	(4,278.41)
Kuwait	A	1	(3,000.00)
Total		6	(13,278.41)

3. Family decision 24 claims

16. Family decision 24 claims arise where a claimant filed a family claim in category A and members of his or her family also filed for departure losses in category C or D and received an award that was not subject to a deduction for the amount previously awarded to the family in category A.

The secretariat confirms that the category C claims set out in table 7 were not subject to the required deductions. The awards for these claims should be adjusted to the amounts appropriate to the proper status of the claims, having regard to the guidelines approved by the Governing Council.

17. Accordingly, it is recommended that the awards for these claims be corrected. Table 7 identifies the submitting entities concerned, the number of claims affected by category, and the net effect of the adjustments.

Table 7. Family decision 24 claims

Submitting entity	Claim category	Number of claims affected	Amount of net effect (US\$)
Egypt	С	1	153.91
Jordan	С	8	(15,961.27)
Palestine	С	4	(11,246.52)
Syrian Arab Republic	С	1	(2,211.94)
Total		14	(29,265.82)

4. Family to individual claims

- 18. Family to individual claims arise where a claimant receives a family award in category A but has no qualifying family members listed on the claim form or listed a family member who filed his or her own claim. The secretariat confirms that the claims set out in table 8 were awarded as family claims when they should have been awarded as individual claims. The awards for these claims should be corrected to awards appropriate to the proper status of the claims.
- 19. Accordingly, it is recommended that the awards for these claims be corrected. Table 8 identifies the submitting entities concerned, the number of claims affected by category and the net effect of the adjustments.

Table 8. Family to individual claims

Submitting entity	Claim category	Number of claims affected	Amount of net effect (US\$)
Bangladesh	A	2	(8,000.00)
India	A	1	(4,000.00)
Iran (Islamic Republic of)	A	1	(4,000.00)
Jordan	A	11	(29,000.00)
Total		15	(45,000.00)

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5. <u>Individual to family claims</u>

- 20. Individual to family claims arise when claims are identified that were awarded an individual award in category A but have been determined, in accordance with the guidelines approved by the Governing Council, to have qualifying family members. The secretariat confirms that the individual awards should be adjusted to awards appropriate to the proper status of the claims.
- 21. Accordingly, it is recommended that the awards for these claims be corrected. Table 9 identifies the submitting entities concerned, the number of claims affected by category and the net effect of the adjustments.

Table 9. <u>Individual to family claims</u>

Submitting entity	Claim category	Number of claims affected	Amount of net effect (US\$)
Bosnia and Herzegovina	A	2	8,000.00
India	A	1	2,500.00
Iran (Islamic Republic of)	A	8	32,000.00
Jordan	A	1	2,500.00
Kuwait	A	1	2,500.00
Pakistan	A	1	1,000.00
Total		14	48,500.00

6. Lower to higher amount claims

- 22. Lower to higher amount claims arise when duplicate claims are identified that were awarded the lower individual or family amount in category A but electronic searches confirmed that the claimants did not file claims in another claim category. In accordance with the guidelines approved by the Governing Council, one of the claims in each claim pair was declared a duplicate claim and the other should be adjusted to the appropriate higher individual or family amount.
- 23. Accordingly, it is recommended that the awards for these claims be corrected. Table 10 identifies the submitting entities concerned, the number of claims affected by category and the net effect of the adjustments.

Table 10. Lower to higher amount claims

Submitting entity	Claim category	Number of claims affected	Amount of net effect (US\$)
India	A	1	1,500.00
Iran (Islamic Republic of)	A	1	1,500.00

Submitting entity	Claim category	Number of claims affected	Amount of net effect (US\$)
Jordan	A	1	3,000.00
Philippines	A	1	1,500.00
Sri Lanka	A	6	9,000.00
Total		10	16,500.00

C. Palestinian "late claims"

- 24. As a result of the electronic searches conducted as part of the investigation into duplicates and other claims raising potential overpayment issues, the secretariat identified familial links between some claims filed in the Palestinian "late claims" programme and claims filed in the regular claims programme. These links would have rendered the Palestinian "late" claimant ineligible to participate in the Palestinian "late claims" programme, had they been identified at the time the claim was processed. The most common fact pattern is as follows: the husband filed a claim in category A and/or category C in the regular claims programme, and typically listed his wife on the claim form as having departed Iraq or Kuwait with him. The wife subsequently filed a category C claim in the Palestinian "late claims" programme and in her reasons statement made no mention of her husband having filed a claim in the regular claims programme and did not provide a sufficient explanation of her own attempts to file a claim in the regular claims programme. Under the "reasons review" guidelines developed by the panel of Commissioners, generally in such circumstances the wife would not have been eligible to participate in the Palestinian "late claims" programme.
- 25. The secretariat notes that the Governing Council has previously determined that the failure of the secretariat to identify such familial links is a clerical error that should result in the correction of the claim. Following a review of these claims, the secretariat confirms that such claims filed in the Palestinian "late claims" programme should have been marked as ineligible for inclusion in the programme.
- 26. Accordingly, as set forth in table 11, it is recommended that the awards for these claims be corrected.

Table 11. Palestinian "late claims"

Submitting entity	Claim category	Number of claims affected	Amount of net effect (US\$)
Palestine	С	4	(54,480.47)
Total		4	(54,480.47)

II. OTHER CORRECTIONS

27. Paragraph 11 of decision 7 (S/AC.26/1998/1) provides that "Claims will not be considered on behalf of Iraqi nationals who do not have bona fide nationality of any other State". In the course of

reviewing repayable claims that were the subject of timely requests for repayment by submitting entities as a result of the location of claimants, the secretariat identified a category A claim filed by a claimant whose category C and category D claims had been rejected by the category C and category D panels of Commissioners respectively, on the basis that the claimant was an Iraqi national who had not established that he possessed bona fide nationality of another State. Accordingly, it is recommended that the award for this category A claim be corrected.

Table 12. Other corrections

Submitting entity	Claim category	Number of claims affected	Amount of net effect (US\$)
United Kingdom	A	1	(5,000)
Total		1	(5,000)

III. SUMMARY

28. Annex I summarizes the recommended corrections by claim category and submitting entity, and indicates the net decrease in the total amount awarded. Upon Governing Council approval of the recommended corrections, each affected submitting entity will receive a confidential report setting out the corrections made to the claims that it submitted to the Compensation Commission.

Annex I
SUMMARY OF RECOMMENDED CORRECTIONS

Submitting entity	Claim category	Number of claims affected	Amount of net effect (US\$)
Bangladesh	A	8	10,500.00
Bosnia and Herzegovina	A	2	8,000.00
Egypt	С	1	153.91
India	A	8	(15,000.00)
	C	8	(1,642.36)
Iran (Islamic Republic of)	A	1,406	(5,601,000.00)
	C	6	(67,889.13)
Jordan	A	107	(264,500.00)
	C	487	(1,212,412.27)
	D	7	(60,553.11)
Kuwait	A	2	(500.00)
Pakistan	A	3	(2,000.00)
	C	2	(4,254.58)
Palestine	С	8	(65,726.99)
Philippines	A	2	(2,500.00)
	C	1	3,389.31
Sri Lanka	A	1,938	(7,564,000.00)
	C	39	(58,541.09)
Sudan	A	3	(4,500.00)
Syrian Arab Republic	A	2	(5,000.00)
	C	1	(2,211.94)
United Kingdom	A	1	(5,000.00)
United States	С	1	2,500.00
Yemen	A	1	(1,500.00)
Total		4,044	(14,914,188.25)

 $\underline{\text{Annex II}}$ ARTICLE 41 CORRECTIONS TO CLAIMS AWARDS (UP TO THE THIRTY-SIXTH ARTICLE 41 REPORT)

	Category	A	Categor	y <i>B</i>	Category C		Category	VD	Categor	y E	Category F		Total		
-														Number of claims	
	Net correction	Number	Net correction	Number	Net correction	Number	Net correction	Number of	Net correction	Number	Net correction	Number	Net corrections for	corrected in	
	for category	of claims	for category	of claims	for category	of claims	for category	claims	for category	of claims	for category	of claims	categories A, B, C,	categories A, B, C,	
Report	(US\$)	corrected	(US\$)	corrected	(US\$)	corrected	(US\$)	corrected	(US\$)	corrected	(US\$)	corrected	D, E and F (US\$)	D, E and F	
A (6) panel	(6,439,500.00)	2,575	-	-	-	-	-	-	-	-	-	-	(6,439,500.00)	2,575	
B (2.2) panel	-	-	(12,500.00)	3 a	-	-	-	-	-	-	-	-	(12,500.00)	3 8	
B (3) panel	-	-	110,000.00	10 ^b	-	-	-	-	-	-	-	-	110,000.00	10 ^t	
C (4) panel	-	-	-	-	(1,922.00)	49	-	-	-	-	-	-	(1,922.00)	49	
C (5) panel	-	-	-	-	(77,190.00)	6	-	-	-	-	-	-	(77,190.00)	6	
C (6) panel	-	-	-	-	72,685.00	15	-	-	-	-	-	-	72,685.00	15	
D (5) panel	-	-	-	-	-	-	(2,646.81)	7	-	-	-	-	(2,646.81)	7	
D (7) panel	-	-	-	-	-	-	(38,836.21)	13	-	-	-	-	(38,836.21)	13	
D1 (9.1) panel	-	-	-	-	-	-	103,532.16	4	-	-	-	-	103,532.16	4	
Special D panel	-	-	-	-	-	-	(13,283,441.51)	426	-	-	-	-	(13,283,441.51)	426	
E3 (10) panel	-	-	-	-	-	-	-	-	325,850.00	1	-	-	325,850.00	1	
E4 (3) panel	-	-	-	-	-	-	-	-	536,513.00	3	-	-	536,513.00	3	
Article 41(1)	(5,500.00)	10	-	-	-	-	-	-	-	-	-	-	(5,500.00)	10	
Article 41(2)	(49,000.00)	16	-	-	-	-	-	-	-	-	-	-	(49,000.00)	16	
Article 41(3)	1,500.00	4	-	-	-	-	-	-	-	-	-	-	1,500.00	2	
Article 41(4)	(83,000.00)	19	-	-	-	-	-	-	-	-	-	-	(83,000.00)	19	
Article 41(5)	(18,500.00)	5	-	-	-	-	-	-	-	-	-	-	(18,500.00)	5	
Article 41(6)	15,867,500.00	10,757	-	-	-	-	-	-	_	-	-	-	15,867,500.00	10,757	

	Category	A	Category B Category			C Category D			Categor	Category E		Category F		Total	
Report	Net correction for category (US\$)		Net correction for category (US\$)		Net correction for category (US\$)		Net correction for category (US\$)		for category		for category		Net corrections for categories A, B, C, D, E and F (US\$)		
Article 41(7)	(6,975,500.00)	3,385	-	-	-	-	-	-	-	-	-	-	(6,975,500.00)	3,385	
Article 41(8)	(7,806,000.00)	4,385	-	-	70,613,604.05	23,282	-	-	-	-	-	-	62,807,604.05	27,667	
Article 41(9)	(4,136,500.00)	1,062	-	-	5,278,142.15	1,730	-	-	-	-	-	-	1,141,642.15	2,792	
Article 41(10)	(1,446,000.00)	364	-	-	3,168,018.90	467	-	-	-	-	-	-	1,722,018.90	831	
Article 41(11)	(1,358,500.00)	370	-	-	-	-	-	-	-	-	-	-	(1,358,500.00)	370	
Article 41(12)	(112,000.00)	26	-	-	613,498.37	40	-	-	-	-	-	-	501,498.37	66	
Article 41(13)	(55,500.00)	40	-	-	(102,863.22)	27	-	-	-	-	-	-	(158,363.22)	67	
Article 41(14)	(8,000.00)	31	-	-	5,580,355.48	625	103,532.16	4	-	-	-	-	5,675,887.64	660	
Article 41(15)	(10,500.00)	19	-	-	-	-	(57.66)	6	(7,264.37)	1	-	-	(17,822.03)	26	
Article 41(16)	142,000.00	73	-	-	453,162.71	54	-	-	-	-	-	-	595,162.71	127	
Article 41(17)	707,500.00	446	-	-	77,461.07	6	-	-	-	-	-	-	784,961.07	452	
Article 41(18)	119,500.00	77	-	-	-	-	-	-	(43,413)	1	-	-	76,087	78	
Article 41(19)	154,000.00	55	-	-	46,976.14	6	400,986.95	6	-	-	-	-	601,963.09	67	
Article 41(20)	3,739,500.00	1,896	-	-	53,342.85	1	-	-	-	-	-	-	3,792,842.85	1,897	
Article 41(21)	1,157,500	688	-	-	-	-	-	-	-	-	-	-	1,157,500.00	688	
Article 41(22)	4,419,000.00	2,730	-	-	-	-	-	-	-	-	-	-	4,419,000.00	2,730	
Article 41(23)	44,500.00	20	-	-	161,331.14	15	12,411.60	1	(48,653.00)	7	-	-	169,589.74	43	
Article 41(24)	(3,911,000)	981	-	-	78,646.76	12	93,543.56	3	-	-	-	-	(3,738,809.68)	996 e 3620 d	
Article 41(25)	(11,958,000)	3,002	-	-	1,033,956.47	617	(9,788)	1	-	-	-	-	(10,933,831.53)		
Article 41(26)	(176,500)	47	-	-	(4,625.19)	1	(35,854.67)	1	-	-	-	-	(216,979.86)	49	
Article 41(27)	(21,500)	19	-	-	(4,435.28)	32	-	-	-	-	-	-	(25,935.28)	51	

	Category	Category A		Category B		Category C		Category D		Category E		y F	Total	
														Number of claims
	Net correction		Net correction	Number	Net correction	Number							Net corrections for	corrected in
Report	for category (US\$)	of claims corrected	for category (US\$)	of claims corrected	for category (US\$)	of claims corrected	for category (US\$)	claims corrected	5 6 5	of ciaims corrected	, ,	of claims corrected	categories A, B, C, co D, E and F (US\$)	D, E and F
Article 41(28)	(17,000)	10	-	-	(643,080.71)	40	132,837.45	7	-	-	-	-	(527,243.26)	57
Article 41(29)	(384,500)	104	-	-	2,431,846.73	342	65,197.89	8	-	-	-	-	2,112,544.62	454
Article 41(30)	(106,000)	56	-	-	(135,259.01)	22	2,293,477.06	6	1,227,025.00	1	(2,552,000.00)	2	727,243.05	87
Article 41(31)	(884,500)	225	-	-	293,049.23	70	1,009,224.50	8	-	-	-	-	417,773.73	303
Article 41(32)	(1,379,000)	461	-	-	39,180.66	7	25,159.36	2	-	-	-	-	(1,314,659.98)	470
Article 41(33)	(179,500.00)	69	-	-	(72,225.81)	10	10,515.61	1	-	-	-	-	(241,210.20)	80
Article 41(34)	(8,139,000.00)	2,706	-	-	62,700.69	29	-	-	-	-	-	-	(8,076,299.31)	2,735
Article 41(35)	(38,098,000.02)	12,150	(12,500.00)	5	(16,759,465.85)	10,153	(29,791.02)	11	-	-	-	-	(54,899,756.89)	22,319
Article 41(36)	(851,500.00)	363	-	-	(1,131,236.42)	387	(404,799.11)	18	-	-	-	-	(2,387,535.53)	768
Total	(68,257,500.02)	49,246	(85,000.00)	18	71,125,654.91	38,045	(9,554,796.69)	533	1,990,057.63	14	(2,552,000.00)	2	(7,163,584.17)	87,845

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

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