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REPORT AND RECOMMENDATIONS MADE BY THE PANEL OF COMMISSIONERS CONCERNING THE TWENTY-FIRST INSTALMENT OF “E4” CLAIMS

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Introduction

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

2. A twenty-first instalment consisting of 18 "E4" claims was submitted to the Panel on 31 January 2002, in accordance with article 32 of the Provisional Rules for Claims Procedure (S/AC.26/1992/10) (the "Rules").

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

I. OVERVIEW OF THE TWENTY-FIRST INSTALMENT CLAIMS

4. The twenty-first instalment claims were selected from the population of approximately 2,750 "E4" claims on the basis of criteria that include, inter alia, the size, volume and complexity of the claims, the legal, factual, and valuation issues raised by the claims, and the date of filing of the claims with the Commission.

5. The twenty-first instalment claimants filed losses aggregating 122,894,599 Kuwaiti dinars (KWD)(approximately 425,240,827 United States dollars (USD)). These claimants also filed claims for interest totalling KWD 5,734,727 (approximately USD 19,843,346) and claims preparation costs aggregating KWD 193,481 (approximately USD 669,484).[1]

6. The claims range between KWD 2,934,217 and KWD 15,216,733 (i.e. between approximately USD 10,153,000 and USD 52,653,055) in value. In view of the complexity of the issues raised, the volume of the documentation underlying the claims and the amount of compensation sought by the claimants, all of the claims in the twenty-first instalment are classified as "unusually large or complex" within the meaning of article 38(d) of the Rules.

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

8. All of the claimants in the twenty-first instalment operated in Kuwait prior to Iraq's invasion and occupation of Kuwait. Most claimants carried on business operations in the construction industry or in real estate.

9. The two most common loss types asserted by claimants in this instalment are loss of tangible property (mainly stock, plant equipment and machinery) and loss of earnings or profits. Claimants

have also sought compensation for real property, uncollectible receivables, restart costs, interest and claims preparation costs as "other losses".

II. THE PROCEEDINGS

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

11. Originally, four claims presented formal deficiencies and the secretariat issued notifications to the relevant claimants pursuant to article 15 of the Rules. These claimants corrected all formal deficiencies.

12. A substantive review of the claims was undertaken to identify significant legal, factual and valuation issues. The results of the review, including the significant issues identified, were recorded in the Claims Database.

13. The Executive Secretary of the Commission submitted report Nos. 33, 34, 36 and 37, dated 6 October 2000, 10 January 2001, 10 July 2001 and 18 October 2001, respectively, to the Governing Council in accordance with article 16 of the Rules ("article 16 reports"). These reports covered, inter alia, the twenty-first instalment of "E4" claims and presented the significant legal and factual issues identified in these claims. A number of Governments, including the Government of Iraq, submitted additional information and views in response to the Executive Secretary's article 16 reports.

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

15. At the conclusion of the (a) preliminary assessment; (b) substantive review; and (c) article 16 reporting, the following documents were made available to, and were taken into account by, the Panel:

(a) The claim documents submitted by the claimants;

(b) The preliminary assessment reports prepared under article 14 of the Rules;

(c) Narrative claim summaries and reports;

(d) Further information and documentation provided by the claimants pursuant to specific requests made pursuant to article 34 of the Rules;

(e) Information and views of Governments, including the Government of Iraq, received in response to the article 16 reports; and

(f) Other information deemed, under article 32 of the Rules, to be useful to the Panel for its work.

16. For the reasons stated in paragraph 17 of the First "E4" Report, the Panel retained the services of an accounting firm and a loss adjusting firm as expert consultants. The Panel directed the expert consultants to review each claim in the twenty-first instalment in accordance with the verification and valuation methodology developed by the Panel. The Panel directed the expert consultants to submit to the Panel a detailed report for each claim summarizing the expert consultants' findings.

17. During the period from 6 to 13 May 2002, at the direction of the Panel, members of the secretariat and expert accounting and loss adjusting consultants travelled to Kuwait to obtain information for the Panel's assessment of the claims and to carry out an on-site inspection.

18. By its procedural order dated 31 January 2002, the Panel gave notice of its intention to complete its review of the twenty-first instalment claims and submit its report and recommendations to the Governing Council within 12 months of 31 January 2002. This procedural order was transmitted to the Government of Iraq and the Government of Kuwait.

19. By its second procedural order dated 31 January 2002, the Panel instructed the secretariat to transmit a copy of the original claim files (consisting of the claim form, the statement of claim and all supporting documents) filed by three twenty-first instalment claimants whose claims involved elements relating to dealings with Iraqi entities. These claimants were Al Ghanim & Assad Trading & Contracting, Hamed Al Ghanim & His Son & Partner, International Contractors Group C.K.S.C., and Al Balhan Intl. Co. for Trading & General Contracting W.L.L. The Panel invited the Government of Iraq to submit its comments within 180 days of the date of the procedural order. The Government of Iraq submitted written comments on these claims, which raised some specific issues, mainly in relation to losses for work performed pursuant to contracts with various ministries of the Government of Iraq prior to Iraq's invasion and occupation of Kuwait. These comments were taken into consideration by the Panel when making its recommendations on compensation for these claims.

20. Pursuant to article 34 of the Rules, additional information and evidence was requested from the claimants in order to assist the Panel in its review of the claims. Claimants that were unable to submit the evidence requested were asked to provide reasons for their inability to comply with such requests. All requests for additional information and evidence were directed through the Government of Kuwait's Public Authority for Assessment of Compensation for Damages Resulting from Iraqi Aggression ("PAAC"). These requests were made in relation to the entire "E4" claims population and not just the twenty-first instalment claims. Pursuant to article 34 of the Rules, the secretariat also sought specific clarifications from all claimants in the twenty-first instalment. The Panel has considered the responses submitted by these claimants.

21. The requests for additional information and evidence are described in prior "E4" reports, e.g., paragraphs 21 to 26 of the "Report and recommendations made by the Panel of Commissioners concerning the second instalment of 'E4' claims" (S/AC.26/1999/17) (the "Second 'E4' Report") and

paragraph 18 of the "Report and recommendations made by the Panel of Commissioners concerning the sixth instalment of 'E4' claims" (S/AC.26/2000/8). These requests are not restated in this report.

22. An additional level of verification was performed to determine if related claimants filed duplicate claims with the Commission. This review is described in paragraph 18 of the "Report and recommendations made by the Panel of Commissioners concerning the fourth instalment of 'E4' claims" (S/AC.26/1999/18).

III. LEGAL FRAMEWORK AND VERIFICATION AND VALUATION METHODOLOGY

23. The legal framework and the verification and valuation methodology applied to the evaluation of the claims in this instalment are the same as that used in earlier "E4" instalments. This framework and methodology are discussed in paragraphs 25-62 of the First "E4" Report. Subsequent "E4" reports discuss additional legal and verification and valuation issues that were encountered in later instalments of "E4" claims. These various elements of the Panel's review are not restated in this report. Instead this report refers to sections in the previous "E4" reports where such issues have been addressed.

24. Where the Panel encountered new issues not addressed in prior "E4" reports, the Panel developed methodologies for verifying and valuing the losses. These new issues are discussed in the text of this report. The Panel's specific recommendations on the losses asserted in this instalment and the reasons therefore are set out in the annexes to this report.

25. Before discussing the Panel's specific recommendations for compensating the twenty-first instalment claims, it is important to restate that the Panel's approach to the verification and valuation of these claims balances the claimant's inability always to provide best evidence against the risk of overstatement introduced by shortcomings in evidence. In this context, the term risk of overstatement, defined in paragraph 34 of the First "E4" Report, is used to refer to cases in which claims contain evidentiary shortcomings that prevent their precise quantification and therefore present a risk that they might be overstated.

IV. THE CLAIMS

26. The Panel reviewed the claims according to the nature and type of loss identified. Therefore, the Panel's recommendations are set out by loss type. Reclassified losses have been dealt with in the section pertaining to the loss types into which the Panel reclassified the losses.

27. A number of instalment 21 claimants seek compensation for losses in relation to their own businesses, as well as for losses in relation to businesses in which they owned an interest as a joint venture partner. These claimants include National Real Estate Company K.S.C., Associated Construction Company W.L.L., United Realty Company S.A.K., and Al-Hani Construction & Trading Bureau, Khalid Yousef Al Mutawa & Partners W.L.L.

28. National Real Estate Company K.S.C. submitted a claim for loss of real property and loss of rental income incurred by a joint venture relating to the ownership and operation of the Dasman

Commercial Complex. At the time of Iraq's invasion and occupation of Kuwait, the claimant held a 60 per cent ownership interest in the joint venture. The claimant does not claim for the joint venture losses on the basis of its proportionate share in the joint venture, but for 100 per cent of the joint venture losses.

29. In support of its claim for 100 per cent of the joint venture losses, the claimant submitted a copy of the joint venture agreement between itself and its joint venture partners. The joint venture agreement provided that the claimant was to manage the joint venture and deal with third parties in its name. The claimant stated that by virtue of this provision, it is the sole entity that has the authority to bring a claim before the Commission in respect of the joint venture losses. The claimant further stated that any award of compensation will be recorded in the books and records of the joint venture as an extraordinary gain, and will be distributed to the joint venture partners in the form of dividends. The claimant did not provide a list setting out the joint venture partners at the date of Iraq's invasion and occupation of Kuwait.

30. The Panel notes that, since it did not have a list of the joint venture partners as of the date of Iraq's invasion and occupation of Kuwait, it is not possible for the secretariat to review the Claims Database and confirm to the Panel that no other claim was submitted to the Commission for the same losses. As a result, the Panel finds that the claim presents a risk of duplication since other joint venture partners may have also submitted claims for the same losses. In order to eliminate the risk of duplication, the Panel decides that the claim for loss of rental income should be compensated on the basis of the claimant's proportionate share in the joint venture. With respect to the claim for loss of real property, referred to in paragraph 28 above, the Panel is satisfied that there is no risk of duplication as the claimant submitted payment evidence showing that it incurred 100 per cent of the repair costs in relation to the Dasman Complex, in its capacity as the manager of the joint venture. The Panel therefore recommends that the claimant be compensated on the basis of the full amount of the award for loss of real property.

31. United Realty Company S.A.K. submitted a claim for losses incurred by a joint venture relating to the Souk-Al-Mutahida, a commercial and parking complex. These losses included loss of real property and loss of profits. The joint venture was established in 1976 and included 16 unit holders, including the claimant. Prior to Iraq's invasion and occupation of Kuwait, the claimant held an 88 per cent ownership interest in the joint venture. Following the liberation of Kuwait, the claimant's share in the joint venture increased to 91 per cent and the number of unit holders in the joint venture increased to 566. The claimant was not able to provide the Commission with its percentage interest in the joint venture at the date of Iraq's invasion and occupation of Kuwait. The claimant does not claim for the joint venture losses on the basis of its proportionate share in the joint venture, but for 100 per cent of the joint venture losses.

32. In support of its claim for the entire amount of the joint venture losses, the claimant submitted a copy of the 1976 joint venture agreement between itself and its joint venture partners. The agreement provided that the claimant was authorized to manage the joint venture and deal with third parties in its name. While the claimant provided a current list of the joint venture unit holders, as well as a list of

the joint venture unit holders who sold their shares between 1992 and 2002, it was not able to provide a list setting out the joint venture unit holders as of the date of Iraq's invasion and occupation of Kuwait.

33. The claimant stated that by virtue of the provision in the joint venture agreement, it is the sole entity that has the authority to bring a claim before the Commission in respect of the joint venture losses. The claimant further stated that any award of compensation will be recorded in the books of the joint venture and will be distributed to the joint venture partners or unit holders.

34. The Panel notes that the facts presented by this claimant are substantially similar to those presented in National Real Estate Company K.S.C., as set out in paragraphs 28 and 29 above. The Panel therefore applies the same approach and recommends that the claim for loss of profits be compensated on the basis of the claimant's proportionate share in the joint venture. The Panel also recommends that the claim for loss of real property be compensated on the basis of the full amount of the award, since the claimant has provided evidence that it incurred 100 per cent of the repair costs in its capacity as manager of the joint venture and the risk of duplication has, therefore, been eliminated.

35. Associated Construction Company W.L.L. entered into a joint venture arrangement with a Lebanese national in 1977 for the production and trading of aggregate and sand. The joint venture carried on business as "ASCO Aggregate Division". At the time of Iraq's invasion and occupation of Kuwait, the claimant held a 66.7 per cent interest in the joint venture. In October 1992, the joint venture arrangement was terminated and the claimant became the sole owner of the joint venture assets. The claimant claims for 100 per cent of the losses relating to the joint venture.

36. In support of its claim for the entire amount of the joint venture losses, the claimant submitted a copy of the joint venture termination agreement. This agreement contained a clause whereby the joint venture partner "absolutely and irrevocably" assigned to the claimant all financial compensation awarded in relation to losses incurred by the joint venture as a result of Iraq's invasion and occupation of Kuwait.

37. As directed by the Panel, the secretariat reviewed the Claims Database and confirmed to the Panel that no claim had been submitted to the Commission by the claimant's joint venture partner or by the joint venture itself in respect of the joint venture losses.

38. The Panel finds that, since the claimant provided proof that it acquired the joint venture assets following the liberation of Kuwait, including the right to any compensation awarded in relation to the joint venture assets, and that no other entity claimed in respect of the joint venture assets, the claimant is entitled to be compensated on the basis of a 100 per cent interest in the joint venture assets.

39. Al-Hani Construction & Trading Bureau, Khalid Yousef Al Mutawa & Partners W.L.L. entered into a joint venture arrangement in 1989 with a company incorporated pursuant to the laws of the Netherlands, Van Oord International B.V. ("Van Oord"). The purpose of the joint venture was to undertake construction on the marine work for the Amiri Diwan Project with the Government of Kuwait's Ministry of Public Works. Pursuant to the terms of the joint venture agreement, Van Oord held a 71 per cent ownership interest while the claimant held a 29 per cent ownership interest. The

claimant acknowledged that it seeks compensation on the basis of its 29 per cent interest in the joint venture.

40. As directed by the Panel, the secretariat reviewed the Claims Database and found that Van Oord submitted a claim to the Commission in relation to the joint venture losses. Van Oord's claim was considered by the "E3" Panel in the "Report and recommendations of the 'E3' Panel of Commissioners concerning the sixteenth instalment of 'E3' claims" (S/AC.26/2001/28) (paragraphs 438 to 491). The "E3" Panel found that Van Oord was entitled to compensation for certain of its tangible property losses but recommended no award of compensation for its other claims.

41. The Panel recommends that the claimant's joint venture claim be compensated on the basis of its 29 per cent interest in the joint venture and adopts the findings and approach taken by the "E3" Panel in its consideration of Van Oord's joint venture claim.

A. Contract

42. Three claimants in the present instalment asserted loss of contract claims aggregating KWD 1,215,158 (approximately USD 4,204,699).

43. The claims for loss of contract in this instalment did not raise any new legal or verification and valuation issues. The Panel's approach to the compensability of loss of contract claims is stated in prior "E4" reports and the verification and valuation methodology adopted by the Panel for the loss of contract claims is discussed in paragraphs 77 to 84 of the First "E4" Report.

44. One claimant, Al-Hani Construction & Trading Bureau, Khalid Yousef Al Mutawa & Partners W.L.L., advanced a claim for unbilled contract costs in the amount of KWD 167, 618 incurred from 1 January to 2 August 1990. These contract costs were recorded in the claimant's audited financial statements for the financial period ending 1 August 1990, in the "excess of costs over billings on uncompleted contracts" account (the "unbilled costs account"). The claimant stated that the unbilled contract costs were incurred in relation to four construction or maintenance contracts with the Government of Kuwait that were ongoing as of 2 August 1990 and that it could not recover the unbilled costs as the contracts were repudiated or terminated following the liberation of Kuwait. The claimant further stated that a provision was made for this loss in the unbilled costs account in its audited financial statements for the financial period ending 31 December 1991.

45. In support of its claim, the claimant provided copies of the four contracts that form the basis of its claim and relies on its audited financial statements for the financial periods ending 1 August 1990 and 31 December 1991. The claimant did not provide any payment invoices in respect of its unbilled costs, nor did it provide a breakdown or explanation of the unbilled costs. The claimant stated that the majority of its documents were "misplaced" as a result of Iraq's invasion and occupation of Kuwait.

46. In considering the claim, the Panel notes that the claimant's unbilled costs account in its financial statements for the financial period ending 2 August 1990 includes unbilled costs relating to all of its contracts that were ongoing from 1 January to 2 August 1990, and that, with the exception of the four contracts that form the basis of this claim, the rest of the contracts were resumed following the

liberation of Kuwait. Therefore, the Panel finds that, inasmuch as the unbilled costs account includes an unspecified amount of unbilled costs relating to contracts that were not apparently affected by Iraq's invasion and occupation of Kuwait, the claim presents a risk of overstatement. In addition, the Panel notes that for contract losses, the claimant must establish, inter alia, that the asserted loss flows from, or can be reconciled with, the specific terms of a contract that was terminated or repudiated as a direct result of Iraq's invasion and occupation of Kuwait (see the First "E4" Report, paragraph 79). The Panel finds that, since the claimant did not provide any evidence respecting what the unbilled costs comprised or any reconciliation of the costs with the specific terms of their respective contracts, it cannot verify whether the unbilled costs arose as a direct result of Iraq's invasion and occupation of Kuwait. The Panel, therefore, recommends no award of compensation in respect of this claim.

47. Another claimant, National Real Estate Company K.S.C., advanced a claim for increased contract costs following the liberation of Kuwait. The claimant stated that prior to Iraq's invasion and occupation of Kuwait, it contracted Al-Roumy Company ("Al-Roumy") to perform certain construction works in relation to a project on its "Fentas" buildings. By 2 August 1990, Al-Roumy had completed 48 per cent of the contract. The work on this contract was scheduled to take place from May to December 1990. Following the liberation of Kuwait, the claimant stated that it was obliged to enter into a new contract with Al-Roumy to complete the work, that it had no choice but to accept an increase in the cost of the new contract in the amount of KWD 37,849 and that the work performed on the new contract was "in no way different" from the work contemplated under the contract concluded prior to Iraq's invasion and occupation of Kuwait. The claimant stated that the increase in cost was due to the scarcity of goods and supplies, increased insurance costs, and increased costs of manpower following the liberation of Kuwait. The claimant advised that the work on the new contract was performed from July 1992 to December 1993 and that work commenced in July 1992 due to an independent management decision. In support of its claim, the claimant submitted the original contract, the renewed contract, and payment documentation in relation to both contracts.

48. Following its approach set out in the First "E4" Report (see paragraphs 67 to 76), and the approach of the "F3" Panel set out in the "Report and recommendations made by the Panel of Commissioners concerning the first instalment of 'F3' claims" (S/AC.26/1999/24) (the "First 'F3' Report") (paragraphs 59 to 64) as considered and adopted by the "E4A" Panel in the "Report and recommendations made by the Panel of Commissioners concerning the seventeenth instalment of 'E4' claims" (S/AC.26/2002/17) (the "Seventeenth 'E4' Report") (paragraphs 41 to 43), the Panel finds that the portion of the cost increase in the new contract that is attributable to the increase in insurance costs following the liberation of Kuwait is compensable.

49. The Panel finds, however, that since the claimant did not provide a breakdown showing the portion of the cost increase that was attributable to the increase in insurance costs following the liberation of Kuwait, the claim presents a risk of overstatement. Following the approach of the "D1" Panel in the "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) (paragraphs 14 to 16), the Panel recommends that the claim be adjusted to offset this risk of overstatement. In addition, the Panel finds that the claimant's failure to provide any explanation as to why the renewed contract took 18 months to complete when the original contract

provided that the work would be complete in eight months, also presents a risk of overstatement. The Panel notes, for example, that the renewed contract could include additional work over and above the original contract. The Panel therefore recommends that the claim be subject to a further adjustment to offset this risk of overstatement.

50. Another claimant, Al Ghanim & Assad Trading & Contracting, Hamed Al Ghanim & His Son & Partner, claimed for contract losses including amounts for loss of profits, stock, accounts receivable and retention money. The amounts relating to loss of profits, stock and accounts receivable have been reclassified and considered accordingly. In relation to its claim for retention money, the claimant stated that it entered into a contract on 15 November 1979 with the Government of Iraq's Ministry of Defence for the construction of phase two of the Arabian Gulf Academy at Basrah. It signed an annex to the contract on 16 December 1982 and work on the project commenced on 16 July 1983. Work on the project was interrupted in 1986 and 1987 due to damage sustained during the war between Iran and Iraq. At the date of Iraq's invasion and occupation of Kuwait, the work on the project was 87 per cent complete. Pursuant to the terms of the contract, the claimant was to be paid for completed work, less "deposits" amounting to 5 per cent of the value of the contract. Fifty per cent of the amounts deducted as "deposits" were payable when the project was taken over by the owner, and the balance was payable upon completion of the contract.

51. In support of its claim, the claimant submitted the original contract, along with the annex. It also submitted its audited financial statements for the financial period ending 31 December 1989, which recorded the retention amounts in the "debtors and other debit balances" account, unaudited management accounts for the financial period ending 1 August 1990, together with a supporting trial balance, which included an entry of KWD 604,235 for the retention amount. Finally, the claimant submitted documentation and correspondence dated from July 1983 to April 1990 that evidenced the progress the claimant made in relation to the project.

52. In considering the claim, the Panel notes that both the "E2" and the "E3" Panels have considered the issue of retention money. In the "Report and recommendations made by the Panel of Commissioners concerning the first instalment of 'E3' claims" (S/AC.26/1998/13) (paragraphs 136 to 138) the "E3" Panel defined retention money as "a form of security held by an employer to ensure fulfilment by a contractor of its obligations to complete the project and to remedy defects after take over of the completed project by the employer". The "E3" Panel further characterized the loss of retention money as a loss of contract, inasmuch as a claimant has a "contingent entitlement" for payment that is already earned, but not yet owed (paragraph 137).

53. The "E2" Panel, in the "Report and recommendations made by the Panel of Commissioners concerning the first instalment of 'E2' claims"(S/AC.26/1998/7) (paragraph 103) described retention money as "amounts withheld from the periodic payments made by the owner to the contractor for work performed". With respect to construction contracts in Iraq, the "E2" Panel found that they "typically contained provisions for the partial withholding of payments as retention money" and that "by way of example only, one half of the accumulated retention money would be repaid on the issuance of a 'take-over' certificate for the project, and the other half upon the expiration of a 'defects

period' specified in the contract." The "E2" Panel went on to find that where the conditions precedent to the release of the retention money were satisfied on or after 2 May 1990, the Commission has jurisdiction over a claim for compensation for retention money.

54. In the "Report and recommendations made by the Panel of Commissioners concerning the fourth instalment of 'E3' claims" (S/AC.26/1999/14) (paragraphs 92 to 98) the "E3" Panel also found that it had jurisdiction over a claim for compensation for retention money. It further set out three general guidelines in recommending awards for retention money. First, it found that where the project in question was in such trouble that it would never have reached a satisfactory conclusion, no positive recommendation could be made in relation to a claim for retention money. Second, it found that where the project was concluded, but there were outstanding problems that could require expenditures from the retention fund to resolve, the recommended award of compensation should be subject to an adjustment to reflect this possibility. Finally, the "E3" Panel found that where there is no reason to believe or conclude that the project would have gone other than satisfactorily, the claim for retention is compensable (see paragraph 98).

55. Following the approach established by the "E2" and "E3" Panels, the Panel finds that claims for retention money fall within its jurisdiction and that they are compensable in principle where the conditions precedent to the release of the retention money were satisfied on or after 2 May 1990. In relation to the claim advanced by Al Ghanim & Assad Trading & Contracting, Hamed Al Ghanim & His Son & Partner, the Panel finds that the claimant provided sufficient evidence to establish that the retention amount claimed was retained pursuant to the contract, and that no payment of the withheld retention money was made to the claimant. With respect to the status of the project as of the date of Iraq's invasion and occupation of Kuwait, the Panel notes while the claimant stated that its work was 87 per cent concluded on the project as of 2 August 1990, it did not provide any evidence in relation to its work on the project after 24 April 1990. The Panel further notes that in its response to Procedural Order No. 2, the Government of Iraq stated that "the work was not accomplished in full and no certificate of work accomplishment is available". However, it also stated that "the contract was concluded prior to 2/8/1990 and consequently it is beyond the scope of the work of the UN compensation commission ".

56. The Panel finds that, although there is a possibility that all work on the project was performed prior to 2 August 1990, the evidence submitted by the claimant and by the Government of Iraq supports the conclusion that the work was not completed and therefore it was not likely that the conditions precedent to the release of the retention amounts had been fulfilled prior to that time. The Panel notes that the Government of Iraq did not make any representation that the work performed by the claimant was defective, or of poor quality, as it did in relation to another claim respecting a different project advanced by this claimant. In these circumstances, the Panel adopts the approach of the "E3" Panel that where there is no reason to believe or conclude that the project would have gone other than satisfactorily, the claim for retention is compensable. It therefore recommends that an award of compensation be made in respect of this claim. However, the Panel also finds that as the project was not 100 per cent complete, it is conceivable that there could have been outstanding problems requiring recourse to the retention fund, and therefore, the claim presents a risk of

overstatement. In these circumstances, the Panel recommends that the claim be adjusted to offset the risk of overstatement.

57. The Panel's recommendations on loss of contract claims are summarized in annex II below.

B. Real property

58. Thirteen claimants in this instalment filed claims aggregating KWD 16,277,660 (approximately USD 56,324,083) for loss of real property. Most of these claims sought compensation for damage to a number of owned and rented premises in Kuwait.

59. The claims for loss of real property in this instalment did not raise any new legal or verification and valuation issues. The compensability standards and the verification and valuation methodology adopted by the Panel for loss of real property claims are stated in paragraphs 89 to 101 of the First "E4" Report.

60. The nature of damage to the properties and the location of the affected properties in Kuwait established that the losses were a direct result of Iraq's invasion and occupation of Kuwait. Claims were either based on the actual costs incurred in repairing the properties or on estimates of such costs.

61. Most claimants submitted sufficient evidence to establish their interest in the affected properties and the loss claimed. However, as was the case in earlier "E4" instalments, claimants generally did not exclude regular maintenance or depreciation costs from their claims. The Panel adjusted the claims to account for these costs, which would have been incurred in the normal course of business and were not a direct result of Iraq's invasion and occupation of Kuwait. Similar adjustments were made by the Panel in cases of unforced "betterment", as explained in paragraph 97 of the First "E4" Report.

62. In claims based on estimated repair costs, the Panel sought a reasonable explanation for the claimant's failure to repair or replace the affected property. Where such explanation was absent, the Panel adjusted the claim to offset the risk of overstatement created by this shortcoming.

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

C. Tangible property, stock, cash and vehicles

64. Tangible property losses are claimed by a majority of the twenty-first instalment claimants. The claimed losses, relating to industrial plant and machinery, stock, furniture and fixtures, equipment, vehicles and cash, aggregate KWD 24,359,697 (approximately USD 84,289,609).

65. When determining the compensability and the verification and valuation of these tangible property claims, the Panel applied the approach set out in paragraphs 108 to 135 of the First "E4" Report. In respect of claims for the repair or replacement costs of tangible assets, the Panel reviewed the claims to verify whether adjustments were made by the claimant to reflect, inter alia, applicable depreciation (see the First "E4" Report, paragraph 113).

66. The claimants in this instalment generally submitted the same type of evidence encountered by the Panel in earlier “E4” instalments in relation to claims for loss of tangible property (see the Second “E4” Report, paragraphs 55 to 56).

67. For most claimants, the existence, ownership and value of stocks lost were supported by copies of their audited accounts, original inventory purchase invoices and “roll-forward” calculations, as defined in paragraph 119 of the First “E4” Report.

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

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

70. Most claimants with loss of vehicle claims were able to establish their losses by submitting copies of deregistration certificates and additional documents such as post-liberation audited accounts and witness statements that substantiated the fact and circumstances of their losses.

71. The Panel’s recommendations on tangible property, stock, cash and vehicle losses are summarized in annex II below.

D. Payment or relief to others

72. Five claimants in this instalment submitted claims in the amount of KWD 606,495 (approximately USD 2,098,599) for losses due to payment or relief to others.

73. The claims did not raise any new legal or verification and valuation issues. When reviewing the claims for payment or relief to others, the Panel applied the approach and verification and valuation methodology described in earlier “E4” reports (see, for example, the Second “E4” Report, paragraphs 70 to 75).

74. The Panel’s recommendations on claims for payment or relief to others are summarized in annex II below.

E. Loss of profits

75. Sixteen claimants in this instalment submitted claims for loss of profits aggregating KWD 42,013,931 (approximately USD 145,376,924).

76. Four significant legal and factual issues raised in the first instalment claims were all raised in the claims in this instalment. These relate to the impact and assessment of (a) benefits received under

the Government of Kuwait's post-liberation debt settlement programme, (b) windfall or exceptional profits earned by claimants in the period immediately following the liberation of Kuwait, (c) the indemnity period for loss of profits claims, and (d) claims for loss of profits selectively based on profitable lines of business. The conclusions reached by the Panel in relation to these issues are set forth in paragraphs 161 to 193 of the First "E4" Report. The Panel has applied these conclusions in its considerations and recommendations for the loss of profits claims in this instalment.

77. Most claimants in the twenty-first instalment provided annual accounts for the three financial years preceding and following the period of Iraq's invasion and occupation of Kuwait. The Panel noted that all claimants who did not submit such annual accounts provided sufficient explanations; for example, where the claimant had commenced trading in the period from 1987 to 1990 or where the claimant had ceased trading following Iraq's invasion and occupation of Kuwait.

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

79. The verification and valuation methodology adopted by the Panel for loss of profits claims is stated in paragraphs 194 to 202 of the First "E4" Report.

80. Salhia Real Estate Company advanced a claim for loss of rental income in relation to its rental property, the Salhia Complex. The claim was based on the Salhia Complex's historical results for the three financial periods ending from 31 December 1987 through to 31 December 1989. The claimant stated that, in addition to its rental activity, it also operated the Meridian Hotel and held investments in certain land and securities. The claimant stated the rental activity, the operation of the Meridian Hotel and the investments in land and securities constituted three separate and distinct lines of business. The claimant made no claim for loss of profits in relation to the operation of the Meridian Hotel, asserting that its investments in land and securities constituted a line of business that was not affected by Iraq's invasion and occupation of Kuwait. It therefore argued that its loss of profits claim should not be computed on the basis of its business activities, taken as a whole, but rather solely on the basis of the results of the Salhia Complex. The claimant's audited consolidated financial statements for the three financial periods ending from 31 December 1987 to 31 December 1989 show that the claimant's investment activities resulted in significant losses.

81. The claimant asserted, in the alternative, that if the Panel were to find that its business activities did not constitute three separate lines of business, certain loss items or loss provisions that were recorded in its audited financial statements for the three financial years ending prior to Iraq's invasion and occupation of Kuwait should be excluded from computing its net profits during that time on the basis that such loss items or provisions were "extraordinary" and "non-recurring". In particular, the claimant argued that certain of its investment losses were due to the Souk al-Manakh (stock market) crash in Kuwait, and that certain provisions in land were due to a change in management policy respecting the use of the land. The claimant argued that both of these events were "extraordinary" and "non-recurring" and therefore, related losses should be selectively excluded in computing the loss of profits award.

82. In considering the claim, the Panel confirms the approach to loss of profit claims as set out in the First "E4" Report. In particular, the Panel confirms that, in determining a loss of profit award, the claim is adjusted on the basis of the claimant's historical profit results, taken as a whole. Where the claimant can demonstrate that it operated more than one line of business, the loss of profit award should be made in relation to all affected lines of business. In determining the existence of a separate and distinct line of business, the Panel has regard to the particular facts of the claim including whether each line of business is run by a separate management team, has separate audited accounts and whether each line of business is financially independent from the others. The Panel further confirms that where a particular line of business is demonstrably not affected by Iraq's invasion and occupation of Kuwait, the claim will be adjusted accordingly.

83. In determining whether the claimant had three separate lines of business, the Panel first notes that the claimant maintained audited consolidated financial statements for all its business activities and separate audited financial statements for the Meridien Hotel only. The Panel further notes that the Meridien accounts do not include depreciation charges in relation to its fixed assets and other finance charges, and that such charges were included in the claimant's consolidated accounts. Secondly, the Panel notes that, although the claimant alleged that it had separate management teams for each of its "divisions", it did not provide sufficient evidence demonstrating the existence of separate management teams. Thirdly, and most significantly, the Panel notes that the claimant took out loans in the pre-invasion period to finance certain renovations to the Meridian Hotel and certain investment activities. Payments in respect of the loan were made from revenues generated by both the Salhia Complex and the Meridian Hotel. As a result of these arrangements, the Panel finds that the business activities were not financially independent from one another. In view of the foregoing findings, the Panel concludes that the claimant's business activities do not amount to three separate lines of business, and recommends that the claim for loss of profits be computed on the basis of the financial results of the claimant's various business activities, taken as a whole.

84. In relation to the claimant's argument that its investment activities were not affected by Iraq's invasion and occupation of Kuwait, the Panel notes that the claimant's financial statements show that the claimant regularly traded in securities and in land, and that this type of activity appeared annually in the claimant's accounts. The Panel also notes that the claimant's audited accounts contain policies in relation to valuing the land and securities held for trading, and that both the land and securities are recorded in the accounts as current assets. Significantly, the securities and land in question were not held as long-term investments. The Panel therefore finds that the claimant actively traded in land and in securities prior to Iraq's invasion and occupation of Kuwait. The Panel further finds that, since the claimant was not able to engage in these trading activities during Iraq's invasion and occupation of Kuwait, such activities were in fact affected by Iraq's invasion and occupation of Kuwait. Therefore, any losses or gains arising in relation to this investment activity must be considered in computing the loss of profits claim.

85. In making a determination in relation to the claimant's alternative argument, that certain of its losses and expenses in the pre-invasion period were non-recurring and extraordinary and that they should therefore be excluded from the computation of its loss of profits claim, the Panel again confirms its approach set out in the First "E4" Report that extraordinary and non-recurring loss items

are to be adjusted in computing the loss of profits claim. In making a determination as to whether a particular item constitutes an extraordinary and non-recurring item, the Panel has regard to the industry in which the claimant operates, the nature and timing of the items claimed as extraordinary or non-recurring, and the frequency in which these items appear in the claimant's accounts. The Panel notes extraordinary items are invariably the result of certain activities that fall outside a claimant's regular business activities, and are therefore not expected to recur at all. The Panel finds that the onus is on the claimant to provide adequate evidence that any given item is extraordinary and non-recurring.

86. The Panel finds that the claimant's investment losses arising from the stock market crash between 1981 and 1983 form part of the normal business risk associated with such investments. Furthermore, the Panel notes that fluctuations in the stock market are not infrequent and that, while a stock market crash itself may be considered to be infrequent, it cannot be said to be non-recurring. As a result, the Panel finds that the claimant has not shown that its investment losses were extraordinary and non-recurring, and therefore recommends that its investment losses be included in computing its loss of profits claim. The Panel does find, however, that the claimant has demonstrated that its provision in its audited accounts for the financial period ending 31 December 1989 for the decline in value of certain lands was non-recurring and extraordinary and recommends that provision be excluded from the computation of the loss of profits claim. The Panel notes, however, that even with the exclusion of this provision from the computation of its loss of profits claim, the claimant still has not established that it was profitable in the financial period preceding Iraq's invasion and occupation of Kuwait. It therefore recommends no award of compensation in respect of this claim.

87. Another claimant, National Real Estate Company K.S.C., also advanced a claim for loss of rental income in relation to rental properties. The claimant stated that, in addition to its rental activities, it also traded in land and held investments in certain securities. The claimant argued that its rental activities, its trade in land and its investments in securities constituted three separate and distinct lines of business. The claimant did not make a claim for loss of profits in respect of its trade in land, and argued that its securities investments were not affected by Iraq's invasion and occupation of Kuwait. It therefore argued that its loss of profits claim should not be computed on the basis of its business activities, taken as a whole, but rather solely on the basis of the loss of its rental income. The claimant based its claim on the historical results of its rental properties that it extracted from its audited financial statements for the three financial periods ending on 31 December 1987 to 31 December 1989. In presenting the historical results of its rental properties, the claimant re-allocated certain costs and expenses between the three lines of business on a prorata basis. The claimant's audited consolidated financial statements for the three financial periods ending prior to Iraq's invasion and occupation of Kuwait show that the claimant's investment activities resulted in significant losses.

88. In deciding whether the claimant had three separate lines of business, the Panel finds that the claimant did not provide any evidence that it had separate management teams in charge of its respective lines of business. The Panel further finds that the claimant did not maintain separate audited accounts in respect of each of its lines of business, nor did it maintain individual ledgers for each of the different activities. Moreover, the Panel finds that the claimant did not establish that its lines of business were financially independent from one another. In view of the foregoing findings,

the Panel concludes that the claimant's business activities do not amount to three separate lines of business, and recommends that the claim for loss of profits be computed on the basis of the financial results of the claimant's various business activities, taken as a whole.

89. In reviewing the claim, the Panel also noted that one of the claimant's tenants, Kuwait News Agency ("KUNA"), submitted a claim for the rent that it paid to the claimant for the period from 2 August 1990 to 30 June 1991. The "F3" Panel considered the KUNA claim, and recommended an award of compensation with respect to the payment of such rent (see the First "F3" Report, paragraphs 390 to 392). As a result of this award of compensation, the Panel finds that there is a risk of overstatement in respect of the claimant's loss of profits claim, and recommends that the claim be adjusted to offset this risk of overstatement.

90. Another claimant, United Real Estate Company, also argued that certain loss items or provisions that were recorded in its audited financial statements for the three consecutive financial years ending prior to Iraq's invasion and occupation of Kuwait should be excluded from computing its loss of profits claim on the basis that such loss items or provisions were extraordinary and non-recurring. Such items included the permanent decline in the value of property, projects under construction, the amortization of good will, the capital cost expenditure on a building, and the loss on the sale of that building.

91. The claimant based its loss of profits claim on its historical results that it extracted from its audited financial statements for the three financial periods ending on 31 December 1987 to 31 December 1989. The claimant figures contained adjustments for the claimant's foreign subsidiaries that were not affected by Iraq's invasion and occupation of Kuwait, as well as for subsidiaries that made separate claims before the Commission. The claimant also re-allocated certain costs and expenses between itself and its subsidiaries. The Panel notes that the claimant's re-allocation of the costs and expenses is confirmed neither by its consolidated audited accounts nor by the consolidation schedules that reconcile with these accounts. The Panel therefore recommends that the loss of profits claim be adjusted on the basis of the results set out in the claimant's audited consolidated accounts and the consolidation tables.

92. In deciding whether to exclude the loss items from the loss of profit computation on the basis that they were non-recurring and extraordinary, the Panel notes that the projects under construction and loss on the sale of a building were not evident in the claimant's audited consolidated accounts or the consolidation schedules that reconcile with the consolidated accounts. As a result, the Panel finds that there is insufficient evidence to substantiate these adjustments. With respect to the provisions made for the permanent decline in the value of the land, the Panel finds that the portion of this provision that relates to land held for development is non-recurring and extraordinary. The Panel also finds that the provisions for the amortization of good will and the capital cost expenditure for the building are non-recurring and extraordinary. The Panel therefore recommends that these provisions be excluded from the computation of the claimant's loss of profits claim.

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

F. Receivables

94. Seven claimants in this instalment asserted claims for uncollectible receivables or "bad debts" aggregating KWD 30,671,327 (approximately USD 106,129,159). The majority of these claims were for amounts owed by businesses or individuals located in Kuwait prior to Iraq's invasion and occupation.

95. As was the case in previous instalments of "E4" claims, most claimants sought compensation for debts that remained uncollected because debtors had not returned to Kuwait after liberation. The Panel reiterates its determination on this matter as set out in paragraphs 209 to 210 of the First "E4" Report. Claims for debts that have become uncollectible as a result of Iraq's invasion and occupation of Kuwait must demonstrate, by documentary or other appropriate evidence, the nature and amount of the debt in question and the circumstances that caused the debt to become uncollectible.

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

97. As discussed above, the Panel has recommended no compensation for claims that relied on the mere assertion that uncollected debts were ipso facto uncollectible because the debtors did not return to Kuwait. Most of the claimants failed to provide evidence to demonstrate that their debtors' inability to pay was a direct result of Iraq's invasion and occupation of Kuwait. This shortcoming was brought to the attention of the claimants in the context of the additional information requested from claimants (see paragraphs 17 and 20 above). While a number of responses were received from claimants, four claimants did not satisfy the above criteria.

98. One claimant, Al Ghanim & Assad Trading & Contracting, Hamed Al Ghanim & His Son & Partner, claimed in relation to a number of debts that were outstanding for work that it performed in Iraq on various construction projects prior to Iraq's invasion and occupation of Kuwait. The Panel notes that the claimant was unable to provide sufficient documents to support its claim due to the loss or destruction of its documents resulting from Iraq's invasion and occupation of Kuwait. It finds, however, that, with the exception of the outstanding amount claimed in relation to its project for the Arabian Gulf Academy at Basrah, the documents that were provided clearly establish that the debts were in relation to work that the claimant performed and completed prior to 1990.

99. In deciding the claim in relation to debts for work performed and completed prior to 1990, the Panel follows its decision set out in paragraph 88 of the Seventeenth "E4" Report. There, the Panel specifically noted that the Governing Council approved numerous reports by this Panel and other category "E" Panels in which it was determined that the Commission does not have jurisdiction over a debt or obligation of Iraq that is based on work performed or services rendered more than three months prior to 2 August 1990, i.e. prior to 2 May 1990. In accordance with that decision, the Panel finds that the amounts claimed by the claimant constitute debts and obligations of Iraq arising prior to 2 August 1990 as they arose from contractual services performed and completed by the claimant prior to 2 May 1990. The Panel therefore concludes that it has no jurisdiction in respect of this claim and recommends no award of compensation.

100. In relation to the outstanding amount for the Arabian Gulf Academy of Basrah, the Panel finds that, although the project was ongoing at the date of Iraq's invasion and occupation of Kuwait, it is not possible to ascertain when the debt arose from the documentation provided. In view of the fact that the contract was entered into in 1979, and the work was performed over an extended period of time, the Panel finds that it is likely that some or all of the debt was for work performed prior to 2 May 1990. As a result, the Panel recommends no award of compensation for this claim.

101. Another claimant, Saud & Ebrahim Al-Abdulrazak Trading & Contracting Est. Co., claimed KWD 10,400,000 for outstanding amounts for work it performed pursuant to two construction contracts it entered into with the Government of Kuwait's Ministry for Public Housing prior to Iraq's invasion and occupation of Kuwait (the "Sabah Al Salem" project, and the "Jahra" project). The claimant relies on its "claims on project owners account", as recorded in its audited financial statements for the financial period ending 31 December 1989, in support of its claim. The claimant also relies on a report drafted by engineers that it hired following the liberation of Kuwait. The claimant stated that its original engineers did not return following the liberation of Kuwait, but were consulted in drafting the report. The claimant also stated that it was not able to provide further documentation in support of its claim, since such documentation was lost or destroyed during Iraq's invasion and occupation of Kuwait.

102. The Panel finds that, in relation to the claims for both projects, the claimant did not establish whether they relate to projects that were completed and billed (or were in the process of being billed) prior to 2 August 1990, or whether they relate to unbilled amounts for projects that were ongoing as of 2 August 1990. To the extent that the projects were ongoing as of 2 August 1990, the claim is more properly a loss of contract claim than a claim for loss of accounts receivable. The Panel finds, however, that, since the claimant was not able to provide evidence in support of its claim, such as copies of the relevant contracts, a breakdown of the costs incurred under the contracts, payment evidence showing that the costs were in fact incurred, and evidence that the costs were recoverable pursuant to the contract, it has no basis for evaluating the claim as a loss of contracts claim.

103. To the extent that the projects were complete prior to Iraq's invasion and occupation of Kuwait and the claim relates to billed amounts or amounts that were in the process of being billed, the Panel finds that the claimant did not provide sufficient evidence establishing the final amount of the debt owed to it by the Government of Kuwait's Ministry of Public Housing. In this regard, the Panel notes that the claimant's evidence appears to indicate that the amounts recorded in its "claims on project owners account" in its financial statements for the financial period ending 31 December 1989 were subject to further negotiation. The Panel further finds that, since the claim is based on work performed and services rendered prior to 31 December 1989, there is a risk that the claim relates to debt that was outstanding prior to Iraq's invasion and occupation of Kuwait. Moreover, the Panel finds that the claimant did not provide any evidence showing that it attempted to recover the outstanding amounts following the liberation of Kuwait. Although the claimant advised that it could not recover the outstanding amounts because its supporting documents were lost or destroyed during Iraq's invasion and occupation of Kuwait, the Panel notes that the claimant was able to provide a letter dated 5 May 2001 from the Government of Kuwait's Ministry of Public Housing, which acknowledged the claimant's status in relation to the Sabah Al Salem project as a "debtor". The Panel

therefore finds that the claimant did not establish that its inability to recover the outstanding amounts was a direct result of Iraq's invasion and occupation of Kuwait. In view of the foregoing findings, the Panel recommends no award of compensation for this claim.

104. Another claimant, International Contractors Group C.K.S.C., also made a claim for loss of retention money and other accounts receivable for work performed on various construction projects in Iraq. The claimant subsequently withdrew a portion of the claim for an account receivable in relation to a roadwork project, the "Halab Al-Nissour" project, on the basis that it received payment from the Government of Iraq. This was confirmed by the Government of Iraq in its submission to the Commission pursuant to the Panel's second procedural order (see paragraph 19 above). The claimant submitted evidence that the balance of the claim comprised debts or obligations of Iraq for work performed or services rendered more than three months prior to 2 August 1990, i.e. prior to 2 May 1990. As a result, the Panel recommends no award of compensation for this claim.

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

G. Restart costs

106. Six claimants in this instalment asserted claims aggregating KWD 922,190 (approximately USD 3,190,969) for restart costs. The amounts claimed as restart costs have been reviewed using the methodology described in paragraphs 221 to 223 of the First "E4" Report and paragraphs 93 to 96 of the Second "E4" Report.

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

H. Other losses

108. Seven claimants in this instalment asserted claims aggregating KWD 6,828,141 (approximately USD 23,626,785) for "other losses".

109. Claims for other losses that have been dealt with in prior "E4" instalments were reviewed in the manner stated in earlier "E4" reports (see, for example, paragraph 108 of the Second "E4" Report, dealing with the treatment of prepaid expenses; and paragraphs 106 to 107 of the "Report and recommendations made by the Panel of Commissioners concerning the fifth instalment 'E4' claims" (S/AC.26/2000/7) dealing with refundable deposits).

110. One claimant, Al Fawares for Construction & Development Co., originally claimed for the loss of a sanitary wares factory in the amount of KWD 1,424,000. It alleged that the factory was completely destroyed during Iraq's invasion and occupation of Kuwait. In support of its claim, the claimant submitted a settlement agreement signed on 14 February 1990. The settlement agreement confirmed that the claimant provided a down payment for the factory on 15 June 1988 in the amount of KWD 427,200, and that a dispute subsequently arose when the sellers failed to transfer the title to the factory to the claimant. The settlement agreement further confirmed that a court hearing was convened on the matter and that a settlement was reached where the claimant agreed to pay the

balance of the purchase price in instalment payments over a four-year period, commencing on 1 March 1990 and ending on 2 January 1994.

111. In its response to the article 34 notification requesting additional information in respect of the sanitary wares factory, the claimant alleged that it did not "know how the name of sanitary factory came about" as it "does not have a sanitary wares factory". Instead, it alleged that it owned three factories prior to Iraq's invasion and occupation of Kuwait, including a steel factory, an aluminium factory and a carpentry factory that produced mobile homes and mobile bathrooms. The steel factory was purchased in December 1988 for KWD 427,200, and the aluminium and carpentry factories were purchased in March 1990 for KWD 1,171,612. The total combined purchase price of the three factories amounted to KWD 1,598,812. The claimant asserted that, as a result of damage to these premises during Iraq's invasion and occupation of Kuwait, the value of these factories fell to KWD 174,812. The claimant seeks compensation for the difference between the purchase price of the factories and their value following the liberation of Kuwait. In support of the revised claim, the claimant submitted purchase agreements, showing the purchaser to be the Modern Trading & Contracting Company W.L.L., as well as two cheques in the amounts of KWD 427,200 and KWD 1,171,612 respectively.

112. In a subsequent submission to the Commission, the claimant acknowledged that it purchased the sanitary wares factory in February 1990, but stated that it sold the factory three weeks later. The claimant submitted a sale agreement dated 28 February 1990, in which it purportedly sold the factory to Gulf Coast Sanitary Wares and Building Materials Company for the purchase price of KWD 1,598,812. The claimant stated that its steel factory purchase was recorded in its audited accounts for the financial period ending 31 December 1988 under the fixed asset entry for "sanitary wares" and that the sanitary wares factory purchase was entered as an accounts receivable in the same accounts. It further stated that the carpentry and aluminium factories were recorded under the fixed asset entry for a "sanitary factory" in the amount of KWD 1,598,812 in its audited accounts for the financial period ending 1 August 1990.

113. In considering the claim, the Panel finds that the claimant did not adequately explain why the steel factory was recorded as a "sanitary wares factory" in its audited accounts for the financial period ending 31 December 1988, nor did it adequately explain why the sanitary wares factory was recorded as an account receivable in the same accounts. The Panel further finds that the claimant did not adequately explain why the carpentry, aluminium and steel factories were recorded in its audited financial accounts for the financial period ending 1 August 1990 as a "sanitary factory", nor did it adequately explain how it treated the sale of the sanitary wares factory in its audited accounts for the financial period ending 1 August 1990. In this regard, the Panel specifically notes that the claimant's accounts for the financial periods following the liberation of Kuwait contain notes respecting the contested ownership of the sanitary wares factory. The Panel therefore finds that the claimant's audited financial statements, on their face, do not support the purchase of the three factories as set out in the claimant's revised claim. In the absence of any independent evidence confirming the claimant's interpretation of how its revised claim is supported by its accounts, including an auditor's confirmation, the Panel concludes that the claimant's accounts do not support its revised claim.

114. In respect of the payment documentation provided by the claimant evidencing the purchase of the three factories, the Panel notes that the cheques submitted by the claimant do not appear on their face to have been presented to a bank for payment. Furthermore, no bank statements were submitted showing the flow of the cheques through the claimant's accounts. In view of these findings, the Panel concludes that the claimant did not provide adequate payment documentation in support of the purchase of the three factories.

115. In conclusion, in view of the evidentiary shortcomings presented by the claim as well as the factual discrepancies between the original and revised claim, the Panel finds that it cannot determine the nature of the loss suffered by the claimant. As a result, the Panel recommends no award of compensation for this claim.

116. Another claimant, Al-Hani Construction & Trading Bureau, Khalid Yousef Al Mutawa & Partners W.L.L., claimed compensation for interest at a rate of 7.5 per cent per annum that it alleged it would have earned on profits it would have invested had the receipt of such profits not been delayed as a result of Iraq's invasion and occupation of Kuwait. The profits were to be realized in relation to construction work it performed on the Al-Othman Center pursuant to a contract that it entered into with the Government of Kuwait's Public Authority for Minor Affairs ("PAMA") prior to Iraq's invasion and occupation of Kuwait.

117. The claimant alleged that its work on the Al-Othman Center project was 44.75 per cent complete by 2 August 1990 and that its scheduled completion date was 16 May 1991. The claimant further alleged that it would have received payment on all outstanding amounts on or around 16 May 1991 had Iraq not invaded and occupied Kuwait. Following the liberation of Kuwait, the claimant entered into another contract with PAMA to continue work on the project, and work resumed on the project in December 1992. The claimant stated that the delay in the resumption of the work following the liberation of Kuwait was due to the lack of available labour at the time. The claimant alleged that its work on the project was still incomplete in December 1993.

118. The claimant advised that the value of the outstanding work from 2 August 1990 to 16 May 1991 was KWD 4,088,853.008, and that it would have realized 15 per cent of this amount, or KWD 613,328, as net profit. It claimed that it would have invested this net profit amount, and further, that it would have earned interest at a rate of 7.5 per cent per annum on such an investment. The claimant therefore claims compensation for the loss of interest in the amount of KWD 72,832 for the 19-month period commencing on 16 May 1991, the original completion date of the contract, and ending on 31 December 1992. The claimant did not provide any explanation as to why it chose this later end date.

119. In deciding the claim, the Panel finds that the claimant did not provide sufficient evidence to establish that, had Iraq not invaded Kuwait, it would have completed its work under the original contract on the expected completion date, and that it would have been paid by PAMA on that date. The Panel further finds that the claimant did not provide sufficient evidence to establish that the original contract was in fact profitable, that it would have realized 15 per cent of the value of the project as net income, or that it would have invested the profits. Finally, the Panel finds that the claimant did not establish that the 19-month delay in payment of the principal amount was a direct

result of Iraq's invasion and occupation of Kuwait. In fact, the Panel notes that the claimant acknowledged that the delay in the resumption of the project was due to the shortage of labour following the invasion and occupation of Kuwait. In view of these findings, the Panel concludes that the claim is overly speculative and poses a fundamental risk of overstatement. It therefore recommends no award of compensation for this claim.

120. The claimant made a second claim for interest in the amount of KWD 233,297 in relation to construction work it performed on the Souk Al Amir project pursuant to a contract that it entered into with the Government of Kuwait's Ministry for Public Works ("MPW") in October 1988. The claimant claimed that although the contract was fully complete as of 2 August 1990, it had not yet billed MPW for the work it performed because it was still in the process of negotiating the final outstanding amount in relation to work it performed under a large variation order. These negotiations were interrupted as a result of Iraq's invasion and occupation of Kuwait. The parties subsequently resumed negotiations and in February 1993, MPW agreed to pay the claimant KWD 1,287,159.785 for outstanding amounts it owed on the project. This amount included payment for retention money in the amount of KWD 299,216. The claimant confirmed that it was paid all outstanding amounts on 13 May 1993.

121. The claimant claims for interest at a rate of 7.5 per cent per annum on the principal amount of KWD 1,287,159.785 for a 29-month period commencing on 2 August 1990 and ending on 31 December 1992. The claimant advised that it did not claim for interest between 31 December 1992 and the date of payment (13 May 1993), since that amount forms part of its general claim for interest.

122. In deciding the claim, the Panel finds that the claimant did not provide any evidence as to when it would have concluded negotiations with MPW on the amount of the variation order, or when it would have rendered a bill and received payment for the work performed had Iraq not invaded Kuwait. The Panel notes that since the claimant did not render a bill for work it performed on or before 2 August 1990, it could not have expected to receive any payment as of that date. The Panel therefore finds that the claimant did not establish when it would have been entitled to start charging interest, if at all. Furthermore, the Panel finds that the claimant did not establish that the 29-month delay in payment of the principal amount was a direct result of Iraq's invasion and occupation of Kuwait. In particular, the claimant did not explain why it took 22 months following the liberation of Kuwait to reach a settlement on the outstanding amounts. In view of these findings, the Panel recommends no award of compensation for this claim.

123. Another claimant, International Contractors Group C.K.S.C., advanced a claim in the amount of KWD 525,064 for the increased cost it incurred to replace stock that was lost or destroyed as a result of Iraq's invasion and occupation of Kuwait. The claimant stated that its only project that was ongoing at the date of Iraq's invasion and occupation of Kuwait was with MPW, and that its entire stock was being used for that project. Following the liberation of Kuwait, the claimant entered into another contract to complete the project with MPW, but the contract did not make any provision for the increase in the cost of materials. The claimant claimed that it was therefore forced to repurchase its stock following the liberation of Kuwait at higher rates, and it could not pass the price increase on to MPW. The claimant seeks compensation for the difference between the net value of its stock at the

date of Iraq's invasion and occupation of Kuwait and the cost it incurred to replace its stock following the liberation of Kuwait. The claimant submitted a separate claim for the stock that it lost during Iraq's invasion and occupation of Kuwait, which is set out in annex II below.

124. In support of its claim, the claimant provided evidence relating to the value of its stock at the date of Iraq's invasion and occupation of Kuwait. The claimant also provided a list showing the cost of certain goods prior to Iraq's invasion and occupation of Kuwait, and the cost of the same goods following the liberation of Kuwait. The claimant provided some supplier's quotations in support of that listing. It also provided the new contract it negotiated with MPW following the liberation of Kuwait.

125. In assessing the claim, the Panel notes that, although the claimant submitted the new contract it negotiated with MPW following the liberation of Kuwait, it did not submit the contract that was in place prior to Iraq's invasion and occupation of Kuwait. The Panel also notes that the claimant's audited accounts for the financial periods following Iraq's invasion and occupation of Kuwait do not record any new stock purchases. The Panel therefore finds that the claimant did not submit sufficient evidence to establish that it incurred the increased cost in materials as it alleged. In addition, the Panel notes that, although the claimant submitted some evidence of an increase in certain prices following the liberation of Kuwait, it did not demonstrate that such increases were the direct result of Iraq's invasion and occupation of Kuwait. In view of the foregoing findings, the Panel recommends that no award of compensation be made in relation to this claim.

126. Another claimant, Al Balhan Intl. Co. for Trading & General Contracting W.L.L., made a claim in the amount of KWD 4,522,322 in relation to the loss of its branch office in Iraq. At the time of Iraq's invasion and occupation of Kuwait, the claimant had its head office in Kuwait and a branch office in Iraq. Prior to Iraq's invasion and occupation of Kuwait, the claimant decided to wind-up its operations. On 2 August 1991, the winding up was underway and the claimant was in the process of completing the three projects that it had in Iraq pursuant to construction contracts it entered into with the General Co-operative Union. The claimant funded these projects in Iraq by transferring funds from its office in Kuwait to its branch in Iraq. It also purchased and transferred materials, equipment and vehicles required for the projects in Iraq from its office in Kuwait. The claimant kept account of all amounts remitted to Iraq and all assets transferred to Iraq in a "projects in process" account that was recorded in its annual audited financial statements. Following the liberation of Kuwait, the claimant was unable to return to Iraq, and lost its entire operation there, including all of its financial and other documents. The claimant's office in Kuwait was ransacked and the financial documents that it kept in relation to both the Kuwait office and the branch in Iraq were also destroyed.

127. In computing its loss in relation to its branch office in Iraq, the claimant relies on the "projects in progress" account recorded in its audited financial accounts for the financial period ending 31 December 1989. These accounts confirm that the balance in the projects in progress account relates to the costs incurred for projects in progress in Iraq only, and that it contains no accounts receivable component. The claimant's audited accounts for the financial year ending 31 December 1989 are unqualified, and there is no provision respecting the amounts transmitted by the claimant to finance

the projects in Iraq. The claimant also submitted a report written by the manager of the branch in Iraq dated 30 June 1990 which confirms that the claimant's projects in Iraq were ongoing at that time.

128. The Panel notes that the claimant did not provide any accounts for its branch in Iraq for the financial periods ending prior to Iraq's invasion and occupation of Kuwait. The Panel further notes that the claimant did not provide any accounts for the financial period ending 2 August 1990 confirming the account balance at the date of Iraq's invasion and occupation of Kuwait, nor did it provide a breakdown of the items in the account. Finally, the Panel notes that the claimant did not provide sufficient evidence demonstrating that it would have been able to recover the expenditures recorded in its projects in progress accounts from the proceeds from its ongoing projects. As a result of these evidentiary shortcomings, the Panel finds that the claim presents a fundamental risk of overstatement and it therefore recommends no award of compensation for this claim.

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

V. OTHER ISSUES

A. Applicable dates for currency exchange rate and interest

130. In relation to the applicable dates for currency exchange rate and interest, the Panel has adopted the approach discussed in paragraphs 226 to 233 of the First "E4" Report.

B. Claim preparation costs

131. The Panel has been informed by the Executive Secretary of the Commission that the Governing Council intends to resolve the issue of claim preparation costs in the future. Accordingly, the Panel has made no recommendation with respect to compensation for claim preparation costs.

VI. RECOMMENDED AWARDS

132. Based on the foregoing, the awards recommended by the Panel for claimants in the twenty-first instalment of "E4" claims are set out in annex I to this report. The underlying principles behind the Panel's recommendations on claims in this instalment are summarized in annex II to this report. All sums have been rounded to the nearest Kuwaiti dinar and therefore the amounts may vary from the amount stated on Form E by KWD 1.

Geneva, 17 December 2002

(Signed) Robert R. Briner
Chairman

(Signed) Alan J. Cleary
Commissioner

(Signed) Lim Tian Huat
Commissioner

Notes

[1] During the course of its review of the twenty-first instalment of claims, the Panel noted a non-material discrepancy in the amount claimed by one claimant, Al Ghanim & Assad Trading & Contracting, Hamed Al Ghanim & His Son & Partner, and the amount listed as the total amount claimed for that claimant in its Procedural Order No.1. The Panel corrected the total amount claimed for the twenty-first instalment in view of this discrepancy.

[ENGLISH ONLY]

Annex I

RECOMMENDED AWARDS FOR TWENTY-FIRST INSTALMENT OF "E4" CLAIMS
REPORTED BY UNSEQ AND UNCC CLAIM NUMBER AND CLAIMANT NAME

UNSEQ Claim no.	UNCC Claim no.	Claimant's name	Amount claimed (KWD)	Net amount claimed (KWD)	Amount recommended (KWD)	Amount recommended (USD)
E-0098	4003124	Salhia Real Estate Company	7,041,639	6,326,510	2,529,747	8,753,450
E-0181	4003308	Khorafi Business Machines - Abdul Mohsin Bader Ahmed Al-Khorafi and Partners W.L.L.	3,490,503	3,274,421	1,275,716	4,413,871
E-0171	4003316	National Real Estate Company K.S.C.	8,635,372	8,284,519	2,396,190	8,277,349
E-0429	4003582	United Gulf Construction Co.	10,565,789	9,932,557	3,110,992	10,761,682
E-0663	4003786	Associated Construction Company W.L.L.	3,750,010	3,612,317	1,432,973	4,958,140
E-0904	4004022	Kuwait Real Estate Company K.S.C.	10,757,064	10,747,064	1,496,828	5,179,336
E-0923	4004039	Hamad Abdullah Al-Essa & Sons Co.	4,013,894	4,000,849	1,669,436	5,776,541
E-1018	4004137	Moh'd Ali Hussain Al-Arbash & Brothers General Trading Company	3,852,313	3,489,857	2,664,625	9,215,543
E-1598	4004706	Al Ghanim & Assad Trading & Contracting Hamed Al Ghanim & His Son & Partner	15,216,733	13,664,901	749,946	2,594,969
E-1729	4004837	Sayed Hashim Behbehani	5,743,786	5,725,198	776,996	2,688,567
E-1731	4004839	International Contractors Group C.K.S.C.	15,101,897	15,085,759	4,179,973	14,463,574
E-1923	4005021	Saud & Ebrahim Al-Abdulrazak Trading & Contracting Est. Co.	10,732,162	10,729,162	167,731	580,384
E-1883	4005047	Kuwait Real Estate Investment Consortium (K.S.C.) Closed	5,409,584	4,774,953	1,640,896	5,677,841
E-1980	4005088	United Realty Company S.A.K.	3,796,544	3,793,544	348,078	1,202,039
E-1991	4005099	Al-Hani Construction & Trading Bureau Khalid Yousef Al Mutawa & Partners W.L.L.	9,895,577	8,890,407	1,001,156	3,459,349
E-2082	4005191	Al Fawares for Construction & Development Co.	3,324,742	3,079,883	1,045,477	3,617,567
E-2090	4005199	Kuwait Prairie Investment Co., Closely Held Corporation	2,934,217	2,931,717	867,686	3,002,374
E-2218	4005326	Al Balhan Intl' Co. For Trading & General Contracting W.L.L.	4,560,981	4,550,981	22,919	79,305
		Total	128,822,807	122,894,599	27,377,365	94,701,881

[ENGLISH ONLY]

Annex II

RECOMMENDED AWARDS FOR TWENTY-FIRST INSTALMENT OF "E4" CLAIMS
REPORTED BY CLAIMANT NAME AND CATEGORY OF LOSS

Claimant's name: Salhia Real Estate Company
UNCC claim number: 4003124
UNSEQ number: E-0098

Category of loss	Amount asserted (KWD)	Amount recommended (KWD)	Comments
Loss of real property	3,656,315	2,346,522	Real property claim adjusted for depreciation and evidentiary shortcomings. See paragraphs 58-63 of the report.
Loss of tangible property	204,599	106,302	Original loss of tangible property claim reclassified to loss of tangible property, stock and vehicles; Portion of original loss due to restart of business claim reclassified to loss of tangible property. Tangible property claim adjusted for depreciation, maintenance and evidentiary shortcomings. See paragraphs 64-66 of the report.
Loss of stock	44,722	nil	Insufficient evidence to substantiate claim. See paragraphs 67-68 of the report.
Loss of vehicles	3,290	2,500	Vehicles claim adjusted to reflect M.V.V. Table values. See paragraph 70 of the report.
Payment or relief to others	107,569	74,423	Payment or relief to others claim adjusted for evidentiary shortcomings. See paragraphs 72-74 of the report.
Loss of profits	2,239,381	nil	Portion of original payment or relief to others claim reclassified and added to loss of profit. Profits claim adjusted to nil to reflect historical results. See paragraphs 75-86 of the report.
Restart costs	70,634	nil	Insufficient evidence to substantiate claim. See paragraphs 106-107 of the report.
TOTAL	6,326,510	2,529,747	

Claim preparation costs	31,290	n.a.	Governing Council's determination pending. See paragraph 131 of the report.
Interest	683,839	n.a.	Governing Council's determination pending. See paragraph 132 of the report.

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Annex II

RECOMMENDED AWARDS FOR TWENTY-FIRST INSTALMENT OF "E4" CLAIMS
REPORTED BY CLAIMANT NAME AND CATEGORY OF LOSS

Claimant's name: Khorafi Business Machines - Abdul Mohsin Bader Ahmed Al-Khorafi and Partners W.L.L.
UNCC claim number: 4003308
UNSEQ number: E-0181

Category of loss	Amount asserted (KWD)	Amount recommended (KWD)	Comments
Loss of real property	22,211	14,539	Portion of original tangible property claim reclassified to real property. Real property claim adjusted for maintenance and evidentiary shortcomings. See paragraphs 58-63 of the report.
Loss of tangible property	97,860	85,780	Original loss of tangible property claim reclassified to loss of real property, tangible property, stock and cash. Tangible property claim adjusted for insufficient evidence of reinstatement and evidentiary shortcomings. See paragraphs 64-66 of the report.
Loss of stock	1,553,601	820,564	Stock claim adjusted for obsolescence and evidentiary shortcomings. See paragraphs 67-68 of the report.
Loss of cash	684	nil	Insufficient evidence to substantiate claim. See paragraph 69 of the report.
Payment or relief to others	68,676	46,912	Portion of the original payment or relief to others claim reclassified to loss of profits and loss of bad debts. Payment or relief to others claim adjusted for evidentiary shortcomings. See paragraphs 72-74 of the report.
Loss of profits	1,249,097	139,510	Portion of payment or relief to others claim has been reclassified to profits. Profits claim adjusted to reflect historical results for a nine month indemnity period and for evidentiary shortcomings. See paragraphs 75-79 of the report.
Bad debts	106,472	nil	Original loss of contracts claim reclassified to loss of bad debts. Portion of original payment or relief to others claim reclassified to loss of bad debts. Insufficient evidence to substantiate claim. See paragraphs 94-97 of the report.
Restart costs	175,820	168,411	Restart costs claimed adjusted for evidentiary shortcomings. See paragraphs 106-107 of the report.
TOTAL	3,274,421	1,275,716	

Interest	216,082	n.a.	Governing Council's determination pending. See paragraph 132 of the report.

[ENGLISH ONLY] Annex II

RECOMMENDED AWARDS FOR TWENTY-FIRST INSTALMENT OF “E4” CLAIMS
REPORTED BY CLAIMANT NAME AND CATEGORY OF LOSS

Claimant's name: National Real Estate Company K.S.C.
UNCC claim number: 4003316
UNSEQ number: E-0171

Category of loss	Amount asserted (KWD)	Amount recommended (KWD)	Comments
Loss of contract	37,849	20,817	Original other loss not categorised claim reclassified as loss of contract claim. Loss of contract claim adjusted for evidentiary shortcomings. See paragraphs 47-49 of the report.
Loss of real property	2,225,030	974,085	Real property claim adjusted for depreciation, maintenance and evidentiary shortcomings. See paragraphs 58-63 of the report.
Loss of tangible property	45,723	40,763	Original loss of tangible property claim reclassified to loss of tangible property, stock, cash and vehicles. Tangible property claim adjusted for evidentiary shortcomings. See paragraphs 64-66 of the report.
Loss of stock	17,586	13,453	Stock claim adjusted for obsolescence and evidentiary shortcomings. See paragraphs 67-68 of the report.
Loss of cash	3,038	nil	Insufficient evidence to substantiate claim. See paragraph 69 of the report.
Loss of vehicles	15,933	15,333	Loss of vehicles claim adjusted to reflect the MVV table values. See paragraph 70 of the report.
Payment or relief to others	70,495	40,733	Portion of original payment or relief to others claim reclassified as loss of profits. Payment or relief to others claim adjusted for evidentiary shortcomings. See paragraphs 72-74 of the report.
Loss of profits	5,305,545	1,152,322	Profits claim adjusted to reflect historical results and evidentiary shortcomings. See paragraphs 87-89 of the report.
TOTAL	7,721,199	2,257,506	

Claim preparation costs	10,500	n.a.	Governing Council's determination pending. See paragraph 131of the report.
Interest	340,353	n.a.	Governing Council's determination pending. See paragraph 132 of the report.

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Annex II

RECOMMENDED AWARDS FOR TWENTY-FIRST INSTALMENT OF "E4" CLAIMS
REPORTED BY CLAIMANT NAME AND CATEGORY OF LOSS

Claimant's name: National Real Estate Company K.S.C. (Dasman Commercial Complex Joint Venture)
UNCC claim number: 4003316
UNSEQ number: E-0171

Category of loss	Amount asserted (KWD)	Amount recommended (KWD)	Comments
Loss of real property	61,716	14,461	Real property claim adjusted for maintenance and evidentiary shortcomings. See paragraphs 27-30 and 58-63 of the report.
Loss of profits	501,604	124,223	Profits claim adjusted to reflect historical results for a 12-month indemnity period, and for windfall profits. See paragraphs 27-30 and 87-89 of the report.
TOTAL	563,320	138,684	

[ENGLISH ONLY] Annex II

RECOMMENDED AWARDS FOR TWENTY-FIRST INSTALMENT OF “E4” CLAIMS
REPORTED BY CLAIMANT NAME AND CATEGORY OF LOSS

Claimant's name: United Gulf Construction Co.
UNCC claim number: 4003582
UNSEQ number: E-0429

Category of loss	Amount asserted (KWD)	Amount recommended (KWD)	Comments
Loss of tangible property	2,190,070	1,551,809	Original loss of tangible property claim reclassified to loss of tangible property, stock, cash and vehicles. Tangible property claim adjusted for depreciation and insufficient evidence of reinstatement. See paragraphs 64-66 of the report.
Loss of stock	1,055,590	815,022	Stock claim adjusted for stock build-up and obsolescence. See paragraphs 67-68 of the report.
Loss of cash	7,519	7,519	Loss of cash claim recommended in full. See paragraph 69 of the report.
Loss of vehicles	271,243	259,846	Vehicles claim recommended in full. Vehicle repair claim adjusted for maintenance and evidentiary shortcomings. See paragraph 70 of the report.
Payment or relief to others	319,935	202,911	Payment or relief to others claim adjusted for evidentiary shortcomings. See paragraphs 72-74 of the report.
Loss of profits	6,088,200	273,885	Original loss of contracts claim and loss due to restart of business claim reclassified to loss of profits. Profits claim adjusted to reflect historical results for a 12-month indemnity period and for windfall profits. See paragraphs 75-79 of the report.
TOTAL	9,932,557	3,110,992	

Claim preparation costs	37,170	n.a.	Governing Council's determination pending. See paragraph 131 of the report.
Interest	596,062	n.a.	Governing Council's determination pending. See paragraph 132 of the report.

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Annex II

RECOMMENDED AWARDS FOR TWENTY-FIRST INSTALMENT OF "E4" CLAIMS
REPORTED BY CLAIMANT NAME AND CATEGORY OF LOSS

Claimant's name: Associated Construction Company W.L.L.
UNCC claim number: 4003786
UNSEQ number: E-0663

Category of loss	Amount asserted (KWD)	Amount recommended (KWD)	Comments
Loss of real property	469,100	69,330	Real property claim adjusted for depreciation, maintenance and insufficient evidence of reinstatement. See paragraphs 58-63 of the report.
Loss of tangible property	711,950	293,170	Portion of original loss of real property claim reclassified as loss of tangible property; Original tangible property claim reclassified as loss of tangible property, stock, cash and vehicles. Tangible property claim adjusted for depreciation, maintenance, insufficient evidence of reinstatement, and evidentiary shortcomings. See paragraphs 64-66 of the report.
Loss of stock	402,561	182,165	Stock claim adjusted for stock build-up, obsolescence and evidentiary shortcomings. See paragraphs 67-68 of the report.
Loss of cash	1,238	nil	Insufficient evidence to substantiate claim. See paragraph 69 of the report.
Loss of vehicles	1,556,764	820,258	Vehicles claim adjusted to reflect M.V.V. Table values and for depreciation, insufficient evidence of reinstatement and evidentiary shortcomings. See paragraph 70 of the report.
Loss of profits	328,967	68,050	Original loss of contracts claim reclassified as loss of profits. Profits claim adjusted to reflect historical results for a ten-month indemnity period and for windfall profits. See paragraph 75-79 of the report.
Bad debts	141,737	nil	Insufficient evidence to substantiate claim. See paragraph 94-97 of the report.
TOTAL	3,612,317	1,432,973	

Claim preparation costs	12,850	n.a.	Governing Council's determination pending. See paragraph 131 of the report.
Interest	124,843	n.a.	Governing Council's determination pending. See paragraph 132 of the report.

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RECOMMENDED AWARDS FOR TWENTY-FIRST INSTALMENT OF "E4" CLAIMS
REPORTED BY CLAIMANT NAME AND CATEGORY OF LOSS

Claimant's name: Kuwait Real Estate Company K.S.C.
UNCC claim number: 4004022
UNSEQ number: E-0904

Category of loss	Amount asserted (KWD)	Amount recommended (KWD)	Comments
Loss of real property	3,258,519	1,437,138	Real property claim adjusted for depreciation, maintenance and evidentiary shortcomings. See paragraphs 58-63 of the report.
Loss of stock	75,498	39,653	Original loss of tangible property claim reclassified to loss of stock and vehicles. Stock claim adjusted for stock build-up, obsolescence and evidentiary shortcomings. See paragraph 67-68 of the report.
Loss of vehicles	11,761	11,638	Vehicles claim adjusted to reflect M.V.V. Table values. See paragraph 70 of the report.
Loss of profits	7,366,402	nil	Original payment or relief to others reclassified to profits claim. Profits claim adjusted to nil to reflect historical results. See paragraphs 75-79 of the report.
Restart costs	15,072	8,399	Restart costs claimed adjusted for evidentiary shortcomings. See paragraphs 106-107 of the report.
Other loss not categorised	19,812	nil	Insufficient evidence to substantiate claim. See paragraphs 108-109 of the report.
TOTAL	10,747,064	1,496,828	

Claim preparation costs	10,000	n.a.	Governing Council's determination pending. See paragraph 131 of the report.

[ENGLISH ONLY]

Annex II

RECOMMENDED AWARDS FOR TWENTY-FIRST INSTALMENT OF "E4" CLAIMS
REPORTED BY CLAIMANT NAME AND CATEGORY OF LOSS

Claimant's name: Hamad Abdullah Al-Essa & Sons Co.
UNCC claim number: 4004039
UNSEQ number: E-0923

Category of loss	Amount asserted (KWD)	Amount recommended (KWD)	Comments
Loss of real property	240,032	109,956	Real property claim adjusted for depreciation, maintenance and evidentiary shortcomings. See paragraphs 58-63 of the report.
Loss of tangible property	65,252	59,950	Original loss of tangible property claim reclassified to loss of tangible property, stock, cash, vehicles, bad debts and other losses. Tangible property claim adjusted for insufficient evidence of reinstatement. See paragraphs 64-66 of the report.
Loss of stock	2,064,617	1,185,458	Stock claim adjusted for stock build-up, obsolescence and evidentiary shortcomings. Insufficient evidence to substantiate goods-in-transit claim. See paragraphs 67-68 of the report.
Loss of cash	5,255	4,262	Loss of cash claim for the head office and Hitachi division recommended in full. Insufficient evidence to substantiate loss of cash claim for the textile division. See paragraph 69 of the report.
Loss of vehicles	22,627	17,838	Vehicles claim adjusted to reflect M.V.V. Table values. See paragraph 70 of the report.
Loss of profits	140,326	15,000	Profits claim adjusted to reflect historical results for a 10-month indemnity period and for evidentiary shortcomings. See paragraphs 75-79 of the report.
Bad debts	1,458,625	276,822	Bad debts claim adjusted for evidentiary shortcomings. See paragraphs 94-97 of the report.
Other loss not categorised	4,115	150	Other losses claim adjusted for evidentiary shortcomings. See paragraphs 108-109 of the report.
TOTAL	4,000,849	1,669,436	

Claim preparation costs	13,045	n.a.	Governing Council's determination pending. See paragraph 131 of the report.

[ENGLISH ONLY]

Annex II

RECOMMENDED AWARDS FOR TWENTY-FIRST INSTALMENT OF "E4" CLAIMS
REPORTED BY CLAIMANT NAME AND CATEGORY OF LOSS

Claimant's name: Moh'd Ali Hussain Al-Arbash & Brothers General Trading Company
UNCC claim number: 4004137
UNSEQ number: E-1018

Category of loss	Amount asserted (KWD)	Amount recommended (KWD)	Comments
Loss of stock	2,631,843	2,239,619	Original loss of tangible property claim reclassified to loss of stock and cash. Stock claim adjusted for stock build-up. See paragraphs 67-68 of the report.
Loss of cash	3,364	3,364	Loss of cash claim recommended in full. See paragraph 69 of the report.
Loss of profits	854,650	421,642	Profits claim adjusted to reflect historical results for a 12-month indemnity period and for windfall profits. See paragraphs 75-79 of the report.
TOTAL	3,489,857	2,664,625	

Claim preparation costs	1,000	n.a.	Governing Council's determination pending. See paragraph 131 of the report.
Interest	361,456	n.a.	Governing Council's determination pending. See paragraph 132 of the report.

[ENGLISH ONLY]

Annex II

RECOMMENDED AWARDS FOR TWENTY-FIRST INSTALMENT OF "E4" CLAIMS
REPORTED BY CLAIMANT NAME AND CATEGORY OF LOSS

Claimant's name: Al Ghanim & Assad Trading & Contracting, Hamed Al Ghanim & His Son & Partner
UNCC claim number: 4004706
UNSEQ number: E-1598

Category of loss	Amount asserted (KWD)	Amount recommended (KWD)	Comments
Loss of contracts	602,687	464,650	Portion of original loss of contracts claim reclassified to loss of stock, profits and bad debts. See paragraphs 50-56 of the report.
Loss of real property	55,621	5,933	Real property claim adjusted for depreciation and evidentiary shortcomings. See paragraphs 58-63 of the report.
Loss of tangible property	526,163	255,124	Original loss of tangible property claim reclassified to loss of tangible property, stock, cash and vehicles. Tangible property claim adjusted for depreciation and evidentiary shortcomings. See paragraphs 64-66 of the report.
Loss of stock	155,160	22,791	Portion of original loss of contracts claim reclassified to loss of stock. Stock claim adjusted for obsolescence, exchange rate and evidentiary shortcomings. See paragraphs 67-68 of the report.
Loss of cash	261,033	nil	Insufficient evidence to substantiate claim. See paragraph 69 of the report.
Loss of vehicles	10,493	1,448	Vehicles claim adjusted to reflect M.V.V. Table values. See paragraph 70 of the report.
Loss of profits	1,071,964	nil	Portion of original loss of contracts claim reclassified to loss of profits. Profits claim adjusted to nil to reflect historical results. See paragraphs 75-79 of the report.
Bad debts	10,955,091	nil	Portion of the original loss of contracts claim reclassified to bad debts. Insufficient evidence to substantiate claim. See paragraphs 98-100 of the report.
Other loss not categorised	26,689	nil	See paragraphs 108-109 of the report.
TOTAL	13,664,901	749,946	

Claim preparation costs	3,000	n.a.	Governing Council's determination pending. See paragraph 131 of the report.
Interest	1,548,832	n.a.	Governing Council's determination pending. See paragraph 132 of the report.

[ENGLISH ONLY]

Annex II

RECOMMENDED AWARDS FOR TWENTY-FIRST INSTALMENT OF "E4" CLAIMS
REPORTED BY CLAIMANT NAME AND CATEGORY OF LOSS

Claimant's name: Sayed Hashim Behbehani
UNCC claim number: 4004837
UNSEQ number: E-1729

Category of loss	Amount asserted (KWD)	Amount recommended (KWD)	Comments
Loss of real property	2,535,319	568,039	Real property claim adjusted for depreciation, maintenance and evidentiary shortcomings. See paragraphs 58-63 of the report.
Loss of stock	340,818	208,957	Original loss of tangible property claim reclassified to loss of stock and cash. Stock claim adjusted for evidentiary shortcomings. Insufficient evidence to substantiate goods-in-transit claim. See paragraphs 67-68 of the report.
Loss of cash	25,031	nil	Insufficient evidence to substantiate claim. See paragraph 69 of the report.
Loss of profits	2,824,030	nil	Profits claim adjusted to nil to reflect historical results. See paragraphs 75-79 of the report.
TOTAL	5,725,198	776,996	

Claim preparation costs	18,588	n.a.	Governing Council's determination pending. See paragraph 131 of the report.

[ENGLISH ONLY]

Annex II

RECOMMENDED AWARDS FOR TWENTY-FIRST INSTALMENT OF "E4" CLAIMS
REPORTED BY CLAIMANT NAME AND CATEGORY OF LOSS

Claimant's name: International Contractors Group C.K.S.C.
UNCC claim number: 4004839
UNSEQ number: E-1731

Category of loss	Amount asserted (KWD)	Amount recommended (KWD)	Comments
Loss of real property	185,000	89,771	Real property claim adjusted for depreciation, maintenance, insufficient evidence of reinstatement and evidentiary shortcomings. See paragraphs 58-63 of the report.
Loss of tangible property	2,787,266	1,176,350	Original loss of tangible property claim reclassified to loss of tangible property, stock, cash, vehicles and other loss not categorised. Tangible property claim adjusted for depreciation, maintenance and evidentiary shortcomings. See paragraphs 64-66 of the report.
Loss of stock	2,625,322	2,250,232	Stock claim adjusted for obsolescence and evidentiary shortcomings. See paragraphs 67-68 of the report.
Loss of cash	154,435	34,034	Claim for loss of cash from head office recommended in full. Insufficient evidence to substantiate claims for loss of cash in Iraq. See paragraph 69 of the report.
Loss of vehicles	890,400	624,266	Vehicles claim adjusted to reflect M.V.V. Table values. See paragraph 70 of the report.
Loss of profits	399,934	Nil	Profits claim adjusted to nil to reflect historical results. See paragraphs 75-79 of the report.
Bad debts	7,223,519	Nil	Original loss of contracts claim reclassified and added to bad debts claim. Insufficient evidence to substantiate claim. See paragraph 104 of the report.
Restart costs	294,819	5,320	Restart costs claimed adjusted for evidentiary shortcomings. See paragraphs 106-107 of the report.
Other loss not categorised	525,064	Nil	Original other loss claim reclassified to loss of profit and loss due to restart of business. Portion of original tangible property claim reclassified to other loss not categorised. See paragraphs 123-125 of the report.
TOTAL	15,085,759	4,179,973	

Claim preparation costs	16,138	n.a.	Governing Council's determination pending. See paragraph 131 of the report.

[ENGLISH ONLY] Annex II

RECOMMENDED AWARDS FOR TWENTY-FIRST INSTALMENT OF “E4” CLAIMS
REPORTED BY CLAIMANT NAME AND CATEGORY OF LOSS

Claimant's name: Saud & Ebrahim Al-Abdulrazak Trading & Contracting Est. Co.
UNCC claim number: 4005021
UNSEQ number: E-1923

Category of loss	Amount asserted (KWD)	Amount recommended (KWD)	Comments
Loss of tangible property	140,070	140,070	Original loss of tangible property claim reclassified to loss of tangible property and vehicles. Tangible property claim recommended in full. See paragraphs 64-66 of the report.
Loss of vehicles	10,582	1,050	Vehicles claim adjusted to reflect M.V.V. table values and for evidentiary shortcomings. See paragraph 70 of the report.
Loss of profits	178,510	26,611	Profits claim adjusted to reflect historical results for a 7-month indemnity period. See paragraphs 75-79 of the report.
Bad debts	10,400,000	nil	Original loss of contracts claim reclassified to bad debts. See paragraphs 101-103 of the report.
TOTAL	10,729,162	167,731	

Claim preparation costs	3,000	n.a.	Governing Council's determination pending. See paragraph 131 of the report.

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Annex II

RECOMMENDED AWARDS FOR TWENTY-FIRST INSTALMENT OF “E4” CLAIMS
REPORTED BY CLAIMANT NAME AND CATEGORY OF LOSS

Claimant's name: Kuwait Real Estate Investment Consortium (K.S.C.) Closed
UNCC claim number: 4005047
UNSEQ number: E-1883

Category of loss	Amount asserted (KWD)	Amount recommended (KWD)	Comments
Loss of real property	906,225	394,901	Portion of claim preparation costs reclassified to loss of real property. Real property claim adjusted for depreciation, maintenance and evidentiary shortcomings. See paragraphs 58-63 of the report.
Loss of tangible property	13,132	6,551	Original loss of tangible property claim reclassified to loss of tangible property, stock and vehicles. Tangible property claim adjusted for depreciation, insufficient evidence of reinstatement and evidentiary shortcomings. See paragraphs 64-66 of the report.
Loss of vehicles	20,800	14,500	Vehicles claim adjusted to reflect M.V.V. Table values. See paragraph 70 of the report.
Loss of stock	72	61	Stock claim adjusted for evidentiary shortcomings.
Loss of profits	869,854	nil	Original loss of contracts claim and loss of rental income from loss of real property reclassified to loss of profits. Profits claim adjusted to nil to reflect historical results. See paragraphs 75-79 of the report.
TOTAL	1,810,083	416,013	

Claim preparation costs	12,400	n.a.	Governing Council's determination pending. See paragraph 131 of the report.
Interest	622,231	n.a.	Governing Council's determination pending. See paragraph 132 of the report.

[ENGLISH ONLY] Annex II

RECOMMENDED AWARDS FOR TWENTY-FIRST INSTALMENT OF "E4" CLAIMS
REPORTED BY CLAIMANT NAME AND CATEGORY OF LOSS

Claimant's name: Kuwait Real Estate Investment Consortium (K.S.C.) Closed (Safir International Hotel)
UNCC claim number: 4005047
UNSEQ number: E-1883

Category of loss	Amount asserted (KWD)	Amount recommended (KWD)	Comments
Loss of real property	565,195	228,229	Real property claim adjusted for depreciation and evidentiary shortcomings. See paragraphs 58-63 of the report.
Loss of tangible property	237,950	112,512	Original loss of tangible property claim reclassified to loss of tangible property, stock, cash and vehicles. Tangible property claim adjusted for depreciation, maintenance and evidentiary shortcomings. See paragraphs 64-66 of the Report.
Loss of stock	168,077	56,781	Original loss of tangible property claim reclassified to loss of tangible property, stock, cash and vehicles. Stock claim adjusted for stock build-up, obsolescence and evidentiary shortcomings. See paragraphs 67-68 of the report.
Loss of profits	243,548	nil	Profits claim adjusted to nil to include depreciation expenses and to reflect historical results. See paragraphs 75-79 of the report.
Bad debts	385,883	nil	Claim for loss of bad debts withdrawn by claimant.
Restart costs	85,865	40,927	Restart costs claimed adjusted for evidentiary shortcomings. See paragraphs 106-107 of the report.
TOTAL	1,686,518	438,449	

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Annex II

RECOMMENDED AWARDS FOR TWENTY-FIRST INSTALMENT OF “E4” CLAIMS
REPORTED BY CLAIMANT NAME AND CATEGORY OF LOSS

Claimant's name: Kuwait Real Estate Investment Consortium (K.S.C.) Closed (Safir Airport Hotel)

UNCC claim number: 4005047

UNSEQ number: E-1883

Category of loss	Amount asserted (KWD)	Amount recommended (KWD)	Comments
Loss of real property	777,015	684,961	Real property claim adjusted for depreciation and evidentiary shortcomings. See paragraphs 58-63 of the report.
Loss of tangible property	165,064	101,473	Original loss of tangible property claim reclassified to loss of tangible property, stock, cash and vehicles. Tangible property claim adjusted for depreciation and evidentiary shortcomings. See paragraphs 64-66 of the report.
Loss of profits	336,273	nil	Profits claim adjusted to nil to reflect historical results. See paragraphs 75-79 of the report.
TOTAL	1,278,352	786,434	

[ENGLISH ONLY] Annex II

RECOMMENDED AWARDS FOR TWENTY-FIRST INSTALMENT OF "E4" CLAIMS
REPORTED BY CLAIMANT NAME AND CATEGORY OF LOSS

Claimant's name: United Realty Company S.A.K.
UNCC claim number: 4005088
UNSEQ number: E-1980

Category of loss	Amount asserted (KWD)	Amount recommended (KWD)	Comments
Loss of real property	185,597	85,738	Real property claim adjusted for maintenance and evidentiary shortcomings. See paragraphs 58-63 of the report.
Loss of tangible property	24,209	19,367	Tangible property claim adjusted for evidentiary shortcomings. See paragraphs 64-66 of the report.
Loss of profits	3,179,252	nil	See paragraphs 90-92 of the report.
TOTAL	3,389,058	105,105	

Claim preparation costs	3,000	n.a.	Governing Council's determination pending. See paragraph 131 of the report.

[ENGLISH ONLY]

Annex II

RECOMMENDED AWARDS FOR TWENTY-FIRST INSTALMENT OF "E4" CLAIMS
REPORTED BY CLAIMANT NAME AND CATEGORY OF LOSS

Claimant's name: United Realty Company S.A.K. (Souq Al Mutahida Joint Venture)
UNCC claim number: 4005088
UNSEQ number: E-01980

Category of loss	Amount asserted (KWD)	Amount recommended (KWD)	Comments
Loss of real property	92,138	25,183	Real property claim adjusted for maintenance and evidentiary shortcomings. See paragraphs 31-34 and 58-63 of the report.
Loss of profits	312,348	217,790	Profits claim adjusted to reflect historical results for a 12-month indemnity period. See paragraphs 31-34 and 90-92 of the report.
TOTAL	404,486	242,973	

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Annex II

RECOMMENDED AWARDS FOR TWENTY-FIRST INSTALMENT OF "E4" CLAIMS REPORTED BY CLAIMANT NAME AND CATEGORY OF LOSS

Claimant's name: Al-Hani Construction & Trading Bureau Khalid Yousef Al Mutawa & Partners W.L.L.
UNCC claim number: 4005099
UNSEQ number: E-1991

Category of loss	Amount asserted (KWD)	Amount recommended (KWD)	Comments
Loss of contract	574,622	nil	Original loss of contracts claim reclassified to loss of contracts, tangible property, stock, vehicles, payment of relief to others, profit, restart of business and other losses not categorised. See paragraphs 39-40 and 44-46 of the report.
Loss of real property	93,000	19,418	Real property claim adjusted for maintenance and evidentiary shortcomings. See paragraphs 58-63 of the report.
Loss of tangible property	714,500	469,116	Original loss of tangible property claim reclassified to loss of tangible property, stock and vehicles. Tangible property claim adjusted for depreciation, insufficient evidence of reinstatement and evidentiary shortcomings. See paragraphs 64-66 of the report.
Loss of stock	301,600	45,000	Stock claim adjusted for obsolescence and evidentiary shortcomings. See paragraphs 39-40 and 67-68 of the report.
Loss of vehicles	38,800	23,531	Vehicles claim adjusted to reflect M.V.V. Table values, maintenance and evidentiary shortcomings. See paragraph 70 of the report.
Payment or relief to others	39,820	nil	Insufficient evidence to substantiate claim. See paragraphs 72-74 of the report.
Loss of profits	6,541,956	444,091	Profits claim adjusted to reflect historical results for a 12-month indemnity period and for evidentiary shortcomings. See paragraphs 39-40 and 75-79 of the report.
Restart costs	279,980	nil	Insufficient evidence to substantiate claim. See paragraphs 106-107 of the report.
Other loss not categorised	306,129	nil	See paragraphs 116-122 of the report.
TOTAL	8,890,407	1,001,156	

Claim preparation costs	5,000	n.a.	Governing Council's determination pending. See paragraph 131 of the report.
Interest	1,000,170	n.a.	Governing Council's determination pending. See paragraph 132 of the report.

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Annex II

RECOMMENDED AWARDS FOR TWENTY-FIRST INSTALMENT OF "E4" CLAIMS
REPORTED BY CLAIMANT NAME AND CATEGORY OF LOSS

Claimant's name: Al Fawares for Construction & Development Co.
UNCC claim number: 4005191
UNSEQ number: E-2082

Category of loss	Amount asserted (KWD)	Amount recommended (KWD)	Comments
Loss of tangible property	561,250	347,868	Original loss of tangible property claim reclassified to loss of tangible property, stock, vehicles and other loss not categorised. Tangible property claim adjusted for insufficient evidence of reinstatement and evidentiary shortcomings. See paragraphs 64-66 of the report.
Loss of stock	1,046,933	649,909	Stock claim adjusted for stock build-up, obsolescence and evidentiary shortcomings. See paragraphs 67-68 of the report.
Loss of vehicles	47,700	47,700	Vehicles claim recommended in full. See paragraph 70 of the report.
Other loss not categorised	1,424,000	nil	See paragraphs 110-115 of the report.
TOTAL	3,079,883	1,045,477	

Claim preparation costs	4,000	n.a.	Governing Council's determination pending. See paragraph 131 of the report.
Interest	240,859	n.a.	Governing Council's determination pending. See paragraph 132 of the report.

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Annex II

RECOMMENDED AWARDS FOR TWENTY-FIRST INSTALMENT OF “E4” CLAIMS
REPORTED BY CLAIMANT NAME AND CATEGORY OF LOSS

Claimant's name: Kuwait Prairie Investment Co., Closely Held Corporation
UNCC claim number: 4005199
UNSEQ number: E-2090

Category of loss	Amount asserted (KWD)	Amount recommended (KWD)	Comments
Loss of real property	949,627	867,686	Real property claim adjusted for evidentiary shortcomings. See paragraphs 58-63 of the report.
Loss of profits	1,982,090	nil	Profits claim adjusted to nil to reflect historical results. See paragraphs 75-79 of the report.
TOTAL	2,931,717	867,686	

Claim preparation costs	2,500	n.a.	Governing Council's determination pending. See paragraph 131 of the report.

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Annex II

RECOMMENDED AWARDS FOR TWENTY-FIRST INSTALMENT OF “E4” CLAIMS
REPORTED BY CLAIMANT NAME AND CATEGORY OF LOSS

Claimant's name: Al Balhan Intl' Co. For Trading & General Contracting W.L.L.
UNCC claim number: 4005326
UNSEQ number: E-2218

Category of loss	Amount asserted (KWD)	Amount recommended (KWD)	Comments
Loss of tangible property	22,623	18,098	Original loss of tangible property claim reclassified to loss of tangible property and vehicles. Tangible property claim adjusted for evidentiary shortcomings. See paragraphs 64-66 of the report.
Loss of vehicles	6,026	4,821	Vehicles claim adjusted for evidentiary shortcomings. See paragraph 70 of the report.
Other loss not categorised	4,522,332	nil	Original loss of contracts claim reclassified to other losses not categorised. See paragraphs 126-128 of the report.
TOTAL	4,550,981	22,919	

Claim preparation costs	10,000	n.a.	Governing Council's determination pending. See paragraph 131 of the report.
