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REPORT AND RECOMMENDATIONS MADE BY THE PANEL OF COMMISSIONERS CONCERNING THE THIRTIETH 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 charged with reviewing "E4" claims (the "'E4' Panel"). At its thirtieth session, held on 14-16 December 1998, the Governing Council of the Commission appointed Messrs. Luiz Olavo Baptista (Chairman), Jean Naudet and Jianxi Wang as the second Panel of Commissioners charged with reviewing "E4" claims (the "'E4A' Panel").

2. As previously reported to the Governing Council of the Commission, with the completion of the work associated with the resolution of the regular "E4" Kuwaiti private sector corporate claims in 2003, the Executive Secretary decided in January 2004 to merge the "E4" and "E4A" Panels (the "'E4' Panels") into one Panel composed of three of the six Commissioners. This is the second report of the merged "E4" Panel composed of Messrs. Robert R. Briner (Chairman), Alan J. Cleary and Jianxi Wang (the "Panel").

3. The "E4" population consists of claims submitted by, or on behalf of, 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". The claims comprising this instalment are set out more fully in section I below. The thirtieth instalment of claims was submitted to the Panel on 11 August 2004, in accordance with article 32 of the Provisional Rules for Claims Procedure (S/AC.26/1992/10) (the "Rules"). Pursuant to article 38 of the Rules, this report contains the Panel's recommendations to the Governing Council concerning the claims in the thirtieth instalment of "E4" claims.

I. OVERVIEW OF THE THIRTIETH INSTALMENT CLAIMS

4. The thirtieth instalment predominantly comprises "stand alone" claims. The term "stand alone" claims is defined in decision 123 of the Governing Council (S/AC.26/Dec.123(2001)) and refers to claims filed by individuals in categories "C" and "D" for direct losses sustained by Kuwaiti companies, where the Kuwaiti company has not filed a claim in category "E" for such losses (the "stand alone claims").[1] The application of decision 123 to stand alone claims and the manner of their review is set out in the "E4A" Panel's "Report and recommendations made by the Panel of Commissioners concerning instalment twenty-three (A) of 'E4' claims" (S/AC.26/2003/14) (the "Instalment Twenty-Three (A) Report").

5. The individual category "C" and "D" claims in the thirtieth instalment are claims filed through a "late claims" programme established by the Governing Council for Palestinians who can demonstrate that they did not have a full and effective opportunity to file claims with the Commission during its filing period for individual claims from 1 January 1992 to 1 January 1996 (the "regular filing period for individual claims"). The background to this group of claims is set out in the "Report and recommendations made by the Panel of Commissioners concerning the first instalment of Palestinian 'late claims' for damages up to USD 100,000 (category 'C' claims)" (S/AC.26/2003/26) (the "First

Palestinian 'C' Report"). All of the individual Palestinian claims in this instalment have been determined by the Palestinian Panel of Commissioners to be eligible for inclusion in the "late claims" programme, since those claimants have established that they did not have a full and effective opportunity to file claims with the Commission within its regular filing period for individual claims.

6. The thirtieth instalment also includes four non-stand alone "E4" claims, which were submitted for filing by the Government of Kuwait pursuant to decision 12 of the Governing Council (S/AC.26/1992/12), as the majority or managing shareholder of the Kuwaiti company was detained in Iraq (the "corporate detainee claims"). Further discussion of these claims and whether they have been validly filed is set out in section VI of this report.

7. Also included in this report is one "E2" claim,[2] that is a claim submitted by a non-Kuwaiti corporation, public sector enterprise or other private legal entity (excluding oil sector, construction/engineering, export guarantee/insurance and environmental claimants) (the "'E2' claim"). The Panel has made recommendations in respect of the "E2" claim pursuant to the applicable legal framework that has been set out in the "Report and recommendations made by the Panel of Commissioners concerning the first instalment of 'E2' claims (S/AC.26/1998/7) (the "First 'E2' Report"),[3] because the claim, which had been filed within the regular filing period for this category of claims, remained to be reviewed and neither the "E2" nor the "E2A" Panels of Commissioners (the "'E2' Panels") is in existence. A more detailed explanation for the inclusion of the "E2" claim in the thirtieth instalment and the Panel's assessment of the claim is provided below in section X.

8. Originally, 23 stand alone claims, one "E2" claim and four corporate detainee claims were included in the thirtieth instalment and were submitted to the Panel by Procedural Order No. 1 dated 11 August 2004, in accordance with article 32 of the Rules. Of the 23 stand alone claims, two claims were found after claim development[4] to relate to the losses of unincorporated businesses and were therefore transferred by the Executive Secretary, to be reviewed by one of the category "D" Panels of Commissioners (the "'D' Panels"). An additional three claims were returned to the "D" Panels for technical reasons. This was recorded in Procedural Order No. 2 dated 31 December 2004. Four additional stand alone claims were added to the thirtieth instalment in Procedural Order No. 2, having been identified as stand alone claims after the Panel signed its Procedural Order No. 1. Two of the claims originally included in Procedural Order No. 1 were identified as being for the losses of companies that had been reviewed by the "E4A" Panel in the "Report and recommendations made by the Panel of Commissioners concerning the twenty-ninth instalment of 'E4' claims" (S/AC.26/2004/8) (the "Twenty-Ninth Instalment Report"). Accordingly, the Panel has considered these two individual claims in re-examining the recommendations of the "E4A" Panel in respect of the two company claims.[5] After these transfers and additions, the claims remaining in the thirtieth instalment therefore relate to 25 claims for the losses of 24 companies and are hereinafter referred to as the "claims in this instalment". They are set out in table 1 below.

Table 1. Summary of claims in the thirtieth instalment

	Number originally submitted to the Panel	Number added to the instalment	Number withdrawn	Total submitted to the Panel	Total returned to category "D"	Total revision of twenty-ninth instalment claims	Total resolved by the Panel
Individual claims	28	4	-	32	5	2	25
Company claims	27	4	-	31	5	2	24

9. Of the 24 company claims in this instalment, 19 are stand alone claims; four are corporate detainee claims; and one is an "E2" claim.

10. With respect to the stand alone claims in this instalment, there is one occasion where more than one claim has been filed for the losses of the same company by the same individual claimant. On transfer to "E4" for processing in accordance with decision 123, these multiple claims for the losses of the same company are treated as a single company claim. In such an instance, the Panel has valued the company losses as a whole and, in this respect, confirms the application to the stand alone claims of paragraphs 39, 41 and 42 of the Special Overlap Report relating to the consolidation of losses from several claims for the loss of one company. Accordingly, while there are 20 individual stand alone claims included in the thirtieth instalment, they relate to the losses of only 19 Kuwaiti companies.

11. As decision 123 directed the Commission to process stand alone claims in "E4" as Kuwaiti company claims, the stand alone claims in this instalment have been added to the centralized database maintained by the secretariat (the "database") and new "E4" claim numbers have been assigned to each stand alone company claim. Annexes I and II to this report refer to the stand alone claims by their new claim numbers.

12. During the review of the stand alone claims in this instalment, one instance of a related category "C" claim was identified where a category "D" claimant had already received an award for the company's losses. In this case, the Panel has valued the consolidated losses of the company, including the category "C" losses. In respect of this claim, the Panel instructs the secretariat to deduct the amount already awarded in category "C" from the amount to be paid to the same individual claimant through the process described in paragraphs 20 to 22 below.[6]

13. Thirteen of the individual claimants in the thirtieth instalment also claimed for personal losses, including the losses of unincorporated businesses that were separate and distinct from the losses sustained by the Kuwaiti company. These personal losses were not transferred to the Panel for review but remained in category "D" for processing as category "D" claims.[7] The Panel notes that the amount claimed initially identified in Procedural Order No. 1 for the thirtieth instalment may have included some losses that were subsequently identified as personal losses.

14. The stand alone claims in this instalment allege company losses aggregating 7,016,498 Kuwaiti dinars (KWD) (approximately 24,278,540 United States dollars (USD)). These claims assert losses that range from KWD 10,000 (approximately USD 34,602) to KWD 2,462,000 (approximately USD 8,519,031).[8] The "E2" claim alleges company losses totalling USD 629,149. The corporate detainee claims allege company losses aggregating KWD 3,197,757 (approximately USD 11,064,903). The total losses alleged in the instalment therefore are USD 35,972,592.

II. BACKGROUND TO STAND ALONE CLAIMS

15. During the period from 1993 to 1994, the Commission received several hundred category "E" claim forms, filed by non-Kuwaiti individuals asserting losses in respect of Kuwaiti companies that had been owned, in whole or in part, by those individuals. Following informal discussions with the Governing Council in late 1994, the Commission informed those individual claimants that they were not eligible to file claims on behalf of the companies in question because category "E" claim forms could only be submitted by corporate claimants through the Government under whose law the company was incorporated or organized.[9] The Commission then advised these individual claimants to resubmit their claims for business losses on category "D" claim forms.

16. Although the category "D" Panel (the "'D' Panel") began its review of claims in 1996, the first five instalments of category "D" claims did not include any claims for business losses. The "D2" Panel, appointed by the Governing Council in late 1998, began examining a pilot group of "D8/D9" individual business loss claims in 1999 in its sixth instalment. During the course of its review of the responses submitted by the category "D" claimants pursuant to article 34 of the Rules, the "D2" Panel became aware of the existence of a group of category "D" claimants who asserted company losses in their capacity as shareholders in Kuwaiti companies. In many instances, the claimant asserted a 100 per cent beneficial interest in the company. In particular, the "D2" Panel noted that these claimants were non-Kuwaiti nationals and typically asserted a complete breakdown of the business relationship with their Kuwaiti partner. As a consequence, they asserted that a portion of the company loss ought to be paid directly to them.[10] A preliminary examination of these claims also revealed that in some instances the Kuwaiti companies in question had filed separate claims with the Commission, which were being processed as "E4" claims. However, there were a number of instances where the Kuwaiti company had not filed a separate claim with the Commission.

17. As category "C" and category "D" claim forms do not envisage the filing of claims by individuals for losses suffered by a company, and, pursuant to the Rules, individuals are not entitled to claim in their own right for such losses, the "D" and "E4" Panels had sought guidance from the Governing Council with regard to the treatment of stand alone and overlapping claims.

III. GOVERNING COUNCIL DECISION 123

18. Decision 123 provides the Governing Council's guidance concerning the treatment of stand alone claims. In particular, the Governing Council in the preamble to decision 123 expressly

considered that "due regard should be given to the claims submitted by non-Kuwaiti individuals in relation to losses sustained by Kuwaiti corporate entities".

19. Paragraph 1(b) of decision 123 directs the Executive Secretary to transfer and process in "E4" as Kuwaiti company claims those stand alone claims for which the individual claimant has been found by the "D" Panels to have authority to file a claim on behalf of the company ("authority to act").

20. As described in the preamble to decision 123, the Governing Council considered that, while the Commission is charged with determining the amount of compensation to which claimants are entitled for direct losses resulting from Iraq's invasion and occupation of Kuwait, it is not within the mandate of the Commission to determine the respective entitlements of category "C" and/or category "D" claimants to receive all or part of an award of compensation made in the name of the Kuwaiti company.

21. Accordingly, taking into consideration the views expressed by several States Members of the Governing Council, the Council concluded that bilateral committees should be established, involving in each case the Government of Kuwait ("Kuwait") and a Government or other submitting entity filing any stand alone claims, to determine the entitlements of the category "C" and/or "D" claimants to all or part of an award.

22. Decision 123 adopts the guidelines governing the composition and work of the bilateral committees, and annexes the text thereof as annex I. Decision 123 further directs the Executive Secretary to implement the determinations made by the bilateral committees and to make payments on Kuwait's behalf, to Governments and other submitting entities on behalf of individual claimants, of the portions of the awards of compensation to which such individual claimants are entitled, as determined by the bilateral committees.[11]

IV. AUTHORITY TO ACT TEST

23. Pursuant to decision 123, only those claims for which the individual claimant has been found by the "D" Panels to have authority to act on behalf of the Kuwaiti company are transferred to the Panel for consideration.[12] The Panel notes that one of the claims originally included in the Panel's Procedural Order No. 1 was subsequently found by the "D" Panels to have not been able to prove that the individual had the authority to file a claim on the company's behalf. Accordingly, this claim was removed from the thirtieth instalment in Procedural Order No. 2 and returned to the "D" Panels. The Panel notes that the "D" Panels have found that all of the remaining individuals who have filed the stand alone claims in this instalment have shown authority to file the claim on behalf of the relevant company.

V. THE PROCEEDINGS

24. The Executive Secretary of the Commission submitted report No. 30, dated 17 February 2000, to the Governing Council in accordance with article 16 of the Rules ("article 16 report"). This report presented the significant legal and factual issues raised by, inter alia, the filing in category "D" of

stand alone claims for the losses of an incorporated Kuwaiti entity. A number of Governments, including the Government of the Republic of Iraq ("Iraq"), submitted additional information and views in response to the article 16 report.

25. The Executive Secretary of the Commission also submitted report Nos. 38, 41, 43 and 45 to the Governing Council in accordance with article 16 of the Rules. These reports covered, inter alia, the claims in this instalment and presented the significant legal and factual issues identified therein. A number of Governments, including Iraq, submitted additional information and views in response to the article 16 reports.

26. Before the claims in this instalment were submitted to the Panel, the secretariat undertook a complete review of these claims in accordance with the Rules.[13] The results of the review were entered into the database.

27. Pursuant to article 34 of the Rules, notifications were transmitted to each individual claimant requesting additional information in order to assist the Panel in its review of the claims (the "claim development" process). All such notifications were directed through the appropriate submitting entity. Individual claimants who were unable to submit the evidence requested were asked to provide reasons for their inability to comply with the requests. The type of information requested varied depending on the evidentiary shortcomings encountered for each claimant. A substantive review of the claims in this instalment was then undertaken to identify significant legal, factual and valuation issues.

28. In respect of the stand alone claims, for the reasons stated in paragraph 17 of the First "E4" Report, as well as the reasons stated in paragraph 27 of the Instalment Twenty-Three (A) 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 the company losses alleged in respect of each stand alone claim in the thirtieth instalment in accordance with the verification and valuation methodology set out in previous reports of the "E4" Panels, including the Instalment Twenty-Three (A) Report. The Panel directed the expert consultants to submit to the Panel a detailed report for each claim summarizing the expert consultants' findings.

29. By Procedural Order No. 1 dated 11 August 2004, the Panel gave notice of its intention to complete its review of the claims in this instalment and submit its report and recommendations to the Governing Council within six months of 11 August 2004. This procedural order was transmitted to Iraq, Kuwait and the submitting entities of each of the claims in this instalment. None of the claims in this instalment fell within the criteria set out in Governing Council decision 114 (S/AC.26/Dec.114(2000)) for the transmission of claim files to the Government of Iraq.

30. At the conclusion of the: (a) preliminary assessment; (b) substantive review; and (c) article 16 reporting, the Panel considered the following documents:

(a) The claim documents submitted by the claimants;

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

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

(d) Claim summaries and reports;

(e) The reports of the expert consultants; and

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

31. Based on its review of the documents submitted, including documents and clarifications received in response to procedural orders, the Panel concluded that the issues presented by the claims in this instalment had been adequately developed and that oral proceedings were not required.

VI. CORPORATE DETAINEE CLAIMS

32. At the fiftieth session of the Governing Council held on 16-18 December 2003, the Governing Council considered a request of the Government of Kuwait ("Kuwait") to file with the Commission claims concerning 605 individuals who were detained by Iraqi forces during the period of Iraq's invasion and occupation of Kuwait, and who were subsequently executed by the Iraqi regime. Kuwait proposed to file such claims pursuant to Governing Council decision 12. The Governing Council accepted Kuwait's request to file these claims, and directed Kuwait to file one claim in respect of each of the 605 detainees, for all losses personally suffered by them, and for the mental pain and anguish ("MPA") suffered by their families. The Governing Council determined that all of the claims were to be filed with the Commission by 31 March 2004. These claims have been reviewed by the "D1" Panel in a special instalment at the same time that the Panel has reviewed the thirtieth instalment.[14]

33. Three of the 605 detainee claims include "D8/D9" (individual business) loss claims for losses sustained by Kuwaiti companies, of which the deceased detainees were shareholders.[15] As the "D1" Panel is not mandated to review claims of corporate entities, these losses were severed from the category "D" claims, and transferred to category "E4".[16]

34. At the fifty-fourth session of the Governing Council held on 7-9 December 2004, the Governing Council determined that it was not appropriate that decision 12 be used to extend the filing deadlines for claims for company losses. The Governing Council considered that decision 12 is stated to apply only to "claims of individuals" and does not allow for the extension of the filing period for company claims. As the corporate detainee claims have not been accepted for filing under decision 12, the Panel makes no recommendation of an award for compensation for these claims.

VII. LEGAL FRAMEWORK AND VERIFICATION AND VALUATION OF THE STAND ALONE CLAIMS

35. The legal framework applied to the evaluation of the stand alone claims in this instalment is the same as that used in earlier "E4" instalments. This framework is discussed in paragraphs 25 to 31 of the First "E4" Report. Subsequent "E4" reports discuss additional legal 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, where relevant, this report refers to sections in the previous "E4" reports where such issues have been addressed. To the extent that the process of reviewing, verifying and valuing stand alone claims as Kuwaiti company claims raises additional legal or verification and valuation issues, these are discussed in paragraphs 34 to 81 of the Instalment Twenty-Three (A) Report and in the text of this report.

36. Before discussing the Panel's specific recommendations for compensating the thirtieth instalment claims, it is important to restate the Panel's approach to the verification and valuation of these claims. Pursuant to the "E4" claims review procedure, and as noted in paragraph 40 of the First "E4" Report, it is necessary to assess the reasonableness of the claimant's inability to provide primary documentation and determine appropriate methods for evaluating the amount of loss based upon the evidence provided. That procedure balances the claimant's inability always to provide the "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.

37. The Panel notes that most of the individual stand alone claimants in this instalment remained in, or returned to, Kuwait following its liberation. However, as set out in paragraphs 35 to 38 of the Instalment Twenty-Three (A) Report, the Panel is aware that some of the stand alone claimants in this instalment did not return to Kuwait after liberation or resume their businesses. Since some of these individual claimants either lost their documents or left their documents behind when they left Kuwait, they could not provide the same level of documentary evidence to support their claimed losses as could be expected of a typical "E4" claimant. Accordingly, in these instances, the Panel applies the approach it established in the Instalment Twenty-Three (A) Report when undertaking the process set out in paragraph 36 above.

38. The Panel notes the Palestinian Panel of Commissioners, in reviewing the eligibility of claims filed through the Palestinian "late claims" programme, raised concerns about irregularities in documents provided by some individual claimants.[17] Mindful of these problems, the Panel has taken care to identify any potentially irregular documents and, where possible, to verify the authenticity of these documents, either through an examination of the original document as provided by the individual claimant, or by verification by the third party responsible for the production of the document. Where the Panel has not been able to verify a document which it considers may be irregular, the Panel has adjusted the claim accordingly. For example, in the claim of Al Ghoson Contracting Company, the Panel became aware of irregularities in the audited accounts provided by the claimant to support its claim. In particular, the Panel noted that the audit report in the accounts provided for the period ended 2 August 1990 was dated 19 March 1991. The Panel notes that Kuwait was not liberated until 2 March 1991 and that the audit firm who purportedly prepared these accounts did not restart trading until some period after this date. The auditor has also told the Commission that he does not believe that his firm prepared these accounts. In view of these irregularities, and in the absence of an acceptable explanation from the claimant for the audit date on the 1990 accounts, the Panel considers

that there is a fundamental risk that the evidence provided to support this claim is unreliable. Accordingly the Panel recommends that no compensation be awarded for this claim.

A. Audited accounts

39. In deciding what is best evidence, the Panel may be asked to decide between conflicting pieces of evidence. In making such a decision, the Panel considers all of the evidence before it, as well as indications of the source and probity of that evidence. For example, in the claim of Gharnata Cinema Production Co., the individual claimant had provided audited financial statements for the years ended 1987, 1988 and 1989. The family of the Kuwaiti shareholder separately provided to the secretariat audited financial statements for the company for the years ended 1988 and 1989, which had been audited by a different auditing firm and were materially different to those provided by the individual claimant. The family of the Kuwaiti shareholder also submitted a letter dated 11 June 2004 from the auditor who had prepared the audited statements provided by the individual claimant, which stated that these accounts had been prepared on the basis of documents given to them by the individual claimant. The auditor then referred to a disputed issue of ownership and concluded with the statement, "I hereby state that the issued generality balance sheets were included in error and I recommend ignore them" (sic). In the light of this statement from the auditor of the accounts provided by the individual claimant, the Panel has placed no reliance on those audited financial statements and has instead valued the corporate losses with reference to the audited financial statements provided by the family of the Kuwaiti shareholder. The Panel notes that the issue of the disputed ownership interest and the apparent irregularities in documents provided to support an interest in the company is a matter for the consideration of the appropriate bilateral committee when it decides the entitlement of the individual claimant to receive all or any part of an award for compensation made in the name of the company. The Panel's view on the unreliability of the accounts provided by the individual claimant and the other apparent irregularities has been forwarded by the Panel to the bilateral committee, through the secretariat.

B. Evidence of business

40. With respect to the stand alone claims, the Panel affirms the approach set out in paragraph 49 of the Instalment Twenty-Three (A) Report, which enables claimants to establish the existence of the business as at 2 August 1990 by producing contemporaneous evidence other than the audited accounts or the company's memorandum of association. In this instalment, one stand alone claim failed to satisfy this requirement and the Panel recommends no compensation in respect of this claim.

41. In the case of Al Jil Al Jadid Dairy and Foodstuff Co., the Panel was required to consider whether a partnership between the company and two individuals was in existence at the date of Iraq's invasion and occupation of Kuwait, in the light of a claim for a share of this partnership by one of the individuals. This individual provided a copy of a partnership agreement dated 11 May 1988, allegedly between the company and the two individuals, pursuant to which the parties agreed to conduct a business under the name of the company from premises rented by the company. This individual also stated that the partnership was in existence as at 2 August 1990. In response to these assertions, the company denied that the partnership was in existence as at 2 August 1990. The company also stated

that the partnership had been created on 1 August 1985 but had been dissolved by 12 July 1990 through a series of transfers of partnership interests between the individuals and the individual claimant and his son, such that the individual claimant held all of the partnership shares from that date. The Panel then asked the company to clarify the date of the commencement of the partnership and to explain whether, during the period that it accepted that the partnership had existed, the company's audited financial statements included all of the assets and liabilities of the partnership, or just the share that the company owned under the partnership agreement. The Panel considers that the company's response to these questions was not adequate.

42. On the basis of the totality of the evidence, the Panel concludes that the company has not adequately shown that the partnership did not exist at the date of the invasion. The Panel recommends that the company's award be adjusted accordingly.

VIII. REVISIONS

43. Two of the individual claims in this instalment are for the losses of two companies that were reviewed by the "E4A" Panel in the twenty-ninth instalment. The recommendations of the "E4A" Panel in respect of that instalment have been approved by the Governing Council.[18] The Panel has re-examined the claims for the losses of the companies in the light of the two individual claims identified as stand alone claims after the "E4A" Panel's conclusion of its work on the twenty-ninth instalment. The Panel's re-examination of the two claims was conducted pursuant to the direction in decision 123 that those stand alone claims for which the individual claimant has been found to have authority to file on behalf of the company be processed in category "E4". In re-examining these claims, the Panel notes the approach to the reconsideration of overlapping claims set out in paragraph 16 of the Special Overlap Report. In particular, the Panel considered that it was appropriate to propose, as needed, adjustments to such awards in the light of new information and evidence presented.

IX. THE STAND ALONE CLAIMS

44. Applying the procedures described above, the Panel has reviewed the stand alone claims according to the nature and type of loss identified. Reclassified losses have been dealt with in the section pertaining to the loss type into which the Panel has reclassified the losses.

A. Contract

45. None of the claims in this instalment seek compensation for a loss of contracts.

B. Real property

46. None of the claims in this instalment seek compensation for a loss of real property.

C. Tangible property

47. Sixteen of the stand alone claims seek compensation for tangible property losses for a total asserted value of KWD 4,545,213 (approximately USD 15,727,381). The claims for loss of tangible

property relate mainly to loss of stock, furniture, fixtures, equipment and vehicles. Other claims with this loss type relate to loss of cash.

48. With regard to the compensability and the verification and valuation of these tangible property claims, the Panel has applied the approach set out in paragraphs 108 to 135 of the First "E4" Report, but, where necessary, has modified this approach to take into consideration the particular circumstances of the stand alone claimants. This modification is set out in paragraphs 58 to 66 of the Instalment Twenty-Three (A) Report.

1. Tangible property - general

49. The claims for loss of tangible property in this instalment did not raise any new legal or verification and valuation issues. Claimants in this instalment submitted the same type of evidence encountered by the Panel when reviewing loss of tangible property claims in the previous "E4" instalments, particularly instalment twenty-three (A), which relates to stand alone claims.

2. Stock

50. The claims for loss of stock in this instalment mainly concern the loss of inventory as a result of theft or destruction of stock. Most of the claimants provided evidence of the existence, ownership and value of the stock losses by providing copies of the company's audited accounts, original inventory purchase invoices and other documents, such as insurance policies. Where the Panel is of the view that insufficient evidence was given to support either the fact of loss or the value of loss, the Panel has adjusted the claim to account for this risk of overstatement.

51. As was the case in prior "E4" instalments, the claims for loss of goods in transit mainly concern goods that were in Kuwait on the day of Iraq's invasion and that were subsequently lost. Successful claimants were able to sufficiently establish ownership, existence and loss of the goods as well as payment for the goods. The type of evidence provided included Kuwaiti port authority certificates, letters of credit and other banking documents, invoices and witness statements from shipping agents or other third parties.

3. Cash

52. The claims for loss of cash in this instalment did not raise any new legal or verification and valuation issues. Where claims for loss of cash 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.

4. Vehicles

53. As set out in paragraphs 65 and 66 of the Instalment Twenty-Three (A) Report, where an individual claimant did not return to Kuwait following its liberation, the Panel will accept documentary evidence other than "deregistration certificates" to establish that the claimant owned the vehicles prior to Iraqi's invasion and occupation of Kuwait, and to establish proof of loss where the

individual claimant is unable to gain access to better evidence because of his or her absence from Kuwait. However, where an individual claimant remained in, or returned to, Kuwait following its liberation, the Panel applies the approach set out in paragraphs 143 to 145 of the First "E4" Report and requires that the claimant produce "deregistration certificates" for each vehicle claimed.

54. In the case of Khalifa and Hanafi Transport Trading Company, the claimant seeks compensation for the loss of 33 motor vehicles, which it alleges were lost as a direct result of Iraq's invasion and occupation of Kuwait. In its original claim, the claimant produced photocopies of 35 "deregistration certificates", which purported to show its ownership of these vehicles as at 2 August 1990 and their loss as a direct result of Iraq's invasion and occupation of Kuwait. In reviewing these copies of the "deregistration certificates", the Panel noted that a number of them appeared to have been tampered with. The claimant was asked to produce the original certificates, but failed to do so. As the Panel is unable to determine whether these certificates are authentic or whether they have been tampered with, it is not prepared to rely on these certificates in valuing the claim. Accordingly, the Panel recommends that no compensation be awarded for this loss.

D. Income-producing property

55. None of the claims in this instalment seek compensation for a loss of income-producing property.

E. Payment or relief to others

56. None of the claims in this instalment seek compensation for payment or relief to others.

F. Loss of profits

57. Fourteen of the claims in this instalment seek compensation for loss of profits for a total asserted value of KWD 1,278,108 (approximately USD 4,422,519). The Panel notes that none of these claims raise any new verification or valuation issues and accordingly has applied the approach and the verification and valuation procedure as set out at paragraphs 160 to 206 of the First "E4" Report and subsequent "E4" reports, in particular paragraph 70 of the Instalment Twenty-Three (A) Report.

G. Receivables

58. Seven of the claims in this instalment seek compensation for receivables for a total asserted value of KWD 852,471 (approximately USD 2,949,727). In the verification and valuation of these claims, the Panel has applied paragraphs 207 to 219 of the First "E4" Report, as adapted in paragraphs 71 to 72 of the Instalment Twenty-Three (A) Report for the stand alone claims.

H. Restart costs

59. None of the claims in this instalment seek compensation for restart costs.

I. Other losses

60. Twelve of the claims in this instalment seek compensation for "other" losses for a total asserted value of KWD 409,306 (approximately USD 1,416,284). As was the case in instalment twenty-three (A), the largest category of "other" losses claimed is for key money and goodwill. Following its approach in paragraphs 75 to 78 of the Instalment Twenty-Three (A) Report, the Panel recommends compensation only where a claimant has been able to document the claim by reference to historical expenditure or other verifiable evidence of value.

61. In the case of Al Carmel International Company, to support a claim for goodwill and key money, the claimant provided a third-party witness statement from an individual who asserted that he had made an offer prior to Iraq's invasion of Kuwait of KWD 100,000 for the value of the company and its branches. The statement also asserts that the process to buy the company did not go ahead because of Iraqi's invasion and occupation of Kuwait. The Panel does not consider such a third-party witness statement of a pre-invasion offer to buy the company, in the absence of other evidence, to be adequate evidence to support a claim for goodwill and has accordingly recommends no compensation in respect of this loss.

62. Three of the claims in this instalment include a claim for what the Panel considers to be the individual claimant's equity interest in a company. Examples of the equity interests claimed include the individual claimant's contribution to the company's share capital, the undistributed profits of the company and the individual claimant's current accounts on the books of the company.

63. The "E4" Panels have previously considered this type of loss in the context of stand alone claims in paragraph 80 of the Instalment Twenty-Three (A) Report, and in the context of overlapping claims in paragraph 40 of the Special Overlap Report. As elaborated in those reports, the Panel considers that an equity claim represents the underlying assets of the company. Hence, a claim for equity interests is generally duplicative of other asset losses already claimed. During the claim development process, the claimant is asked to explain whether the equity interest is in fact a claim for other assets. If the claimant responds by giving an explanation as to which assets the equity loss relates, the Panel values the losses alleged by the claimant in relation to those assets. However, where a claimant confirms that the claim is only for his or her equity interest in the company, and does not tie the equity claim to any specific asset lost as a result of Iraq's invasion and occupation of Kuwait, the Panel considers that generally such a claim is not compensable. This is because the Panel cannot determine whether the loss was a direct result of Iraq's invasion and occupation of Kuwait, since an equity claim may relate to assets that were not lost as a result of the invasion. Further, the Panel cannot establish whether the capital, as originally invested by the claimant, was equal to the assets held by the company, since the assets of the company may be less than the original investment in the company for reasons other than Iraq's invasion and occupation of Kuwait. Even if it was assumed that the equity of a company represents its underlying assets, the Panel cannot value those assets in the absence of specific information about the quantum of the claim for each asset allegedly lost by the claimant.[19]

64. In some cases, claimants failed to provide sufficient explanation as to the nature, purpose or amount of their claims for other losses, or evidence to substantiate that they had sustained such losses as a direct result of Iraq's invasion and occupation of Kuwait. In such cases, the Panel recommends no compensation.

X. THE "E2" CLAIM

A. Background to the "E2" claim

65. The "E2" claim in this instalment was initially filed in category "D". Further review of this claim confirmed that the claim pertained to the losses of a non-Kuwaiti corporate entity and thus should be reviewed in category "E", rather than category "D".

66. Since both "E2" Panels had concluded their work programmes and were no longer in existence when this determination was made, it was determined that the claim should be reviewed by a panel of Commissioners with experience in reviewing corporate claims. Pursuant to article 32(3) of the Rules, the Executive Secretary of the Commission transferred the "E2" claim to category "E4". While this claim had originally been filed during the regular claims filing period, it was identified as being a claim pertaining to the losses of a non-Kuwaiti corporate entity at a time when it was too late to be included in an "E2" Panel report within the regular claims programme. In Procedural Order No. 1, dated 11 August 2004, the Panel formally adopted the "E2" claim for inclusion in the thirtieth instalment.

67. The legal framework applied to the evaluation of the "E2" claim in the thirtieth instalment is the same as that used in earlier "E2" instalments. This framework is discussed at paragraphs 38 to 48 of the First "E2" Report. Subsequent "E2" reports discuss additional legal issues that were encountered in later instalments of "E2" claims. These various elements of the Panel's review are not restated in this report. Instead, where relevant, this report refers to sections in the previous "E2" reports where such issues have been addressed.

B. Review of the "E2" claim

68. Applying the procedures described in paragraph 67, the Panel reviewed the "E2" claim in this instalment according to the loss types identified below. The claim did not raise any new legal or valuation and verification issues. A description of the claim and this Panel's determinations thereon are set out below.

1. Sales contract interrupted before shipment

69. The claimant seeks compensation in connection with several contracts for the supply of goods to buyers in Kuwait. The claimant alleges that the contracts were in each case interrupted as a direct result of Iraq's invasion and occupation of Kuwait and seeks compensation for the loss of profit it expected to earn under the contracts.

70. The legal and evidentiary requirements applicable to losses for interrupted contracts are described in previous reports of the "E2" Panels.[20] In particular, the "E2" Panels found that compensation can be awarded for loss of future earnings and profits that the claimant expected to earn under a contract to the extent that they can be ascertained with reasonable certainty, less any cost savings resulting from the interruption of the contract. In the claim under review, the Panel finds that the claimant has not provided sufficient evidence in support of the alleged contracts and recommends no compensation for the loss.

2. Decline in business or course of dealing

71. The claimant also seeks compensation for the loss of revenue allegedly suffered as a result of a decline in business during Iraq's invasion and occupation of Kuwait and the period of time thereafter. The losses are based on the claimant's business relationships with specific customers located throughout the Middle East region.

72. The legal principles and evidentiary requirements applicable to claims for losses resulting from the decline in business during Iraq's invasion and occupation of Kuwait and the period of time thereafter are described in previous reports of the "E2" Panels.[21] In determining the eligibility to receive compensation for business losses, the "E2" Panels have defined what is considered to be a "compensable area" in the Middle East that was directly affected by Iraq's invasion and occupation of Kuwait.[22] In particular, the "E2" Panels found that where a claimant was not located in the compensable area and did not have a presence in the compensable area, a decline in business could still be considered as having resulted directly from Iraq's invasion and occupation of Kuwait if the losses relate to a transaction that was part of a previous business practice or course of dealing with another party located in the compensable area. In the claim under review, where the claimant was not located in the compensable area and did not have a presence in the compensable area, the Panel finds that the claimant has not provided sufficient evidence to demonstrate a previous business practice or course of dealing with parties located within the compensable area and, therefore, no compensation is recommended.

XI. OTHER ISSUES

A. Applicable dates for currency exchange rate and interest

73. 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. Where a claimant claims in a currency other than Kuwaiti dinars, the Panel values the claim in Kuwaiti dinars using the appropriate exchange rate.

B. Claims preparation costs

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

XII. RECOMMENDED AWARDS

75. Based on the foregoing, the awards recommended by the Panel in respect of the stand alone claims in this instalment are set out in annex I to this report. The underlying principles behind the Panel's recommendations on the stand alone claims in this instalment are summarized in annex II.

76. Based on the foregoing, the award recommended by the Panel in respect of the "E2" claim in this instalment is set out in annex III to this report. Annex III includes a summary of the underlying principles behind the Panel's recommendations on the "E2" claim.

77. Consistent with the approach in previous "E4" instalments, all sums relating to stand alone claims in this instalment have been converted to Kuwaiti dinars (where necessary) for the purpose of valuation and then rounded to the nearest Kuwaiti dinar. As such, the claimed amounts may vary in currency or by 1 KWD from the amount stated on the claim form. However, as the Commission issues its awards in United States dollars, the recommended amounts in annexes I and II are shown in both Kuwaiti dinars and United States dollars. The recommended amounts in annex III, relating to the "E2" claim in this instalment, are shown in United States dollars only.

XIII. RECOMMENDED REVISIONS

78. In respect of the two revisions required to claims previously reviewed by the "E4A" Panel in the twenty-ninth instalment,[23] the adjusted awards recommended by the Panel (where appropriate) are set out in annexes IV and V to this report.

Geneva, 31 December 2004

(Signed) Robert R. Briner
Chairman

(Signed) Alan J. Cleary
Commissioner

(Signed) Jianxi Wang
Commissioner

Notes

[1] In this regard, stand alone claims differ from "overlapping" claims, which are also defined in decision 123, wherein the Kuwaiti company has also filed a claim for its company losses. The "E4" Panels' interpretation of decision 123 in its application to "overlapping" claims is set out in the "Special report and recommendations made by the 'E4' and the 'E4A' Panels of Commissioners concerning overlapping claims" (S/AC.26/2002/28) (the "Special Overlap Report") and by the "E4" Panel in the "Report and recommendations made by the Panel of Commissioners concerning the eighteenth instalment of 'E4' claims" (S/AC.26/2003/12).

[2] The following "E2" claim is included within the thirtieth instalment: UNCC claim No. 3002166.

[3] Paragraphs 38 to 48.

[4] See paragraph 27 of this report.

[5] See paragraph 43 of this report.

[6] Details regarding the deduction recommended by the Panel in relation to this claim can be found in the footnotes to annex II of this report.

[7] As these claims included the losses of both a company and personal losses, which are to be considered by two different Panels, the corporate portion of the claim has been severed for transfer to the Panel, creating a separate claim.

[8] The total asserted losses listed in section IX, in relation to loss categories, include the amounts claimed in related category "C" claims (see paragraph 12 of this report).

[9] See paragraph 26 of Governing Council decision 7 (S/AC.26/1991/7).

[10] At the date of Iraq's invasion and occupation of Kuwait, Kuwaiti law required a person who wished to start a business to obtain a licence (permit) from the Ministry of Commerce and Industry. In principle, only Kuwaiti nationals qualified for such a licence. A similar restriction existed with regard to the various registration requirements in force. A commercial registration was made upon application by a Kuwaiti citizen or a company with 51 per cent of its capital stock Kuwaiti owned. Under Kuwaiti law, a non-Kuwaiti could not be a majority shareholder in a Kuwaiti corporation. See paragraphs 330 and 331 of the "Report and recommendations made by the Panel of Commissioners concerning the seventh instalment of individual claims for damages up to US$100,000 (category 'C' claims)" (S/AC.26/1999/11) (the "Seventh 'C' Report") and paragraphs 207 to 213 of the "Report and recommendations made by the Panel of Commissioners concerning the sixth instalment of individual claims for damages above USD 100,000 (category 'D' claims)" (S/AC.26/2000/24).

[11] For the purposes of the claims in this instalment, the following bilateral committees were convened to make the requisite decisions in accordance with decision 123: Kuwait-Palestine and Kuwait-Jordan.

[12] The test by reference to which the "D" Panels consider a claimant to show authority to file a claim on behalf of the company is set out in the "Report and recommendations made by the 'D2' Panel of Commissioners concerning part two of the fourteenth instalment of individual claims above USD 100,000 (category 'D' claims)" (S/AC.26/2003/7) and the "Report and recommendations made by the 'D1' Panel of Commissioners concerning part two of the fifteenth instalment of individual claims above USD 100,000 (category 'D' claims)" (S/AC.26/2003/8).

[13] This review is as 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").

[14] Further background to these claims and the recommendations of the "D1" Panel in respect of the personal losses of the individual detainees can be found in the "Report and recommendations of the 'D1 Panel of Commissioners concerning the special instalment of deceased detainee claims filed pursuant to Governing Council decision 12" (S/AC.26/2005/1).

[15] UNCC claim Nos. 3013784, 3013812 and 3013822.

[16] In severing the corporate portion of the claims, new claim numbers have been provided. As one of the three claims by detainees included a claim for two companies, a new claim has been created for each company. Thus this report refers to four corporate detainee claims (UNCC claim Nos. 3013913, 3013914, 3013915 and 3013916).

[17] See in particular paragraph 72 of the First Palestinian "C" Report, paragraphs 20 to 22 of the "Report and recommendations made by the Panel of Commissioners concerning the second instalment of Palestinian 'late claims' for damages up to USD 100,000 (category 'C' claims)" (S/AC.26/2004/3) and paragraphs 24 and 25 of the "Report and recommendations made by the Panel of Commissioners concerning the third instalment of Palestinian 'late claims' for damages up to USD 100,000 (category 'C' claims)" (S/AC.26/2004/3).

[18] While awards of compensation have been approved for these claims, the secretariat has been able to withhold payment of these awards, pending the resolution of the additional two Palestinian claims.

[19] The Panel also notes the decision of the "C" Panel in paragraph 241 of the Seventh "C" Report and the "D1" Panel's decision in the "Report and recommendations made by the Panel of Commissioners concerning part one of the second instalment of individual claims for damages above US$100,000 (category 'D' claims)" (S/AC.26/1998/11), paragraphs 104 to 107.

[20] See, for example, the "Report and recommendations made by the Panel of Commissioners concerning the ninth instalment of 'E2' claims" (S/AC.26/2001/27) at paragraphs 76 to 80 and also the "Report and recommendations made by the Panel of Commissioners concerning the fifteenth instalment of 'E2' claims" (S/AC.26/2003/29) at paragraphs 142 to 145 and 158.

[21] See for example, the "Report and recommendations made by the Panel of Commissioners concerning the twelfth instalment of 'E2' claims" (S/AC.26/2003/2) at paragraphs 110 to 119 and also the "Report and recommendations made by the Panel of Commissioners concerning the fourteenth instalment of 'E2' claims" (S/AC.26/2003/21) at paragraphs 111 to 120.

[22] The "E2" Panels have indicated that a loss suffered outside Iraq or Kuwait may be regarded as "direct" where it arose in a location that was the subject of actual and specific military operations or a credible and serious threat of military action which was intimately connected to Iraq's invasion and occupation of Kuwait and was within Iraq's actual military capability. See in particular paragraphs 157-163 of the First "E2" Report, paragraphs 62 to 68 of the "Report and recommendations made by the Panel of Commissioners concerning the second instalment of 'E2' claims" (S/AC.26/1999/6) and paragraphs 55 to 77 of the "Report and recommendations made by the Panel of Commissioners concerning the third instalment of 'E2' claims" (S/AC.26/1999/22). The "E2" Panels have agreed on the following table summarising the compensable area and the compensable period for claims to be considered to be "direct":

Location	Date
Iraq	2 August 1990 - 2 March 1991
Kuwait	2 August 1990 - 2 March 1991
Saudi Arabia (within the range of Iraq's scud missiles)	2 August 1990 - 2 March 1991

Persian Gulf north of the 27th parallel	2 August 1990 - 2 March 1991
Israel	15 January 1991 – 2 March 1991
Jordanian airspace	15 January 1991 – 2 March 1991
Qatar	22 February 1991 - 2 March 1991
Bahrain	25 February 1991 - 2 March 1991

[23] See paragraph 43 of this report.

Annex I

RECOMMENDED AWARDS FOR THE THIRTIETH INSTALMENT STAND ALONE CLAIMS BY UNCC CLAIM NUMBER AND CLAIMANT NAME

UNCC claim No.	Company name	Amount claimed (KWD)	Net amount claimed (KWD)[a]	Amount recommended (KWD)	Amount recommended (USD)
4006310	Al Salam Supplies Co	62,000	62,000	3,344	11,571
4006311	Jerusalem (Al Quds) Printing Press	15,000	15,000	13,154	45,388
4006312	Al Hashash and Rasheed Mechanical Garage Co	10,000	10,000	0	0
4006313	Al Namuthjia Co: aka Ideal Company for Upholstery of Vehicle Seats	832,149	832,149	598,195	2,069,265
4006314	Al Nasr Modern Kuwaiti Company	280,000	280,000	0	0
4006315	Delmon Shipping Co./ Emmad Yousef Al Ghanem and his Partner	61,227	61,227	0	0
4006316	Faleh Contracting Company Limited	68,600	68,600	23,916	82,754
4006317	Al Mutahida Co for Transportation (aka United Transportation and Custom Clearing Company)	558,231	558,231	218,972	757,689
4006318	The Development Company for Petroleum Services W.L.L	227,913	227,913	133,267	461,131
4006319	Al Carmel International Co	50,000	50,000	22,096	76,456
4006320	Al Majal for Construction Materials and Contracting Co	28,039	28,039	0	0
4006321	Al Jil Al Jadid Dairy and Foodstuff Co.	189,131	189,131	19,343	66,903
4006322	Al Ghoson Contracting Company	339,677	339,677	0	0
4006323	Abdel Nour Fashion Co. W.L.L	98,435	98,435	443	1,528
4006324	Khalifa and Hanafi Transport Trading Co.	2,462,000	2,462,000	0	0
4006325	Gulf Company for Cars	1,211,566	1,211,566	0	0
4006326	Aghadeer Company for Electronics	225,000	225,000	0	0
4006327	Al Ous Trading & Contracting Company	75,000	75,000	0	0
4006328	Gharnata Cinema Production Co	222,530	222,530	33,342	115,370
	Total	7,016,498	7,016,498	1,066,072	3,688,055

[a] This amount is net of claims preparation costs and interest.

[ENGLISH ONLY]

Annex II

RECOMMENDED AWARDS FOR THE THIRTIETH INSTALMENT STAND ALONE CLAIMS BY UNCC
CLAIM NUMBER, CLAIMANT NAME AND CATEGORY OF LOSS

Company name: Al Salam Supplies Co

UNCC claim number: 4006310

Category D claim number: 1854452

Category D submitting entity: Palestine

Category D claim amount: KWD 62,000 (USD 214,533)

Category of loss	Total amount claimed and reclassified (KWD)	Recommended amount (KWD)	Recommended amount (USD)	Comments
Loss of profits	12,000	3,344	11,571	Profits claim adjusted to reflect historical results for a seven-month indemnity period, and for evidentiary shortcomings.
Other loss not categorized	50,000	0	0	Rejected, claim for loss of equity not direct.
TOTAL	62,000	3,344	11,571	

[ENGLISH ONLY]

Annex II

RECOMMENDED AWARDS FOR THE THIRTIETH INSTALMENT STAND ALONE CLAIMS BY UNCC CLAIM NUMBER, CLAIMANT NAME AND CATEGORY OF LOSS

Company name: Jerusalem (Al Quds) Printing Press
UNCC claim number: 4006311

Category D claim number: 1854453
Category D submitting entity: Palestine
Category D claim amount: KWD 15,000 (USD 51,903)

Category of loss	Total amount claimed and reclassified (KWD)	Recommended amount (KWD)	Recommended amount (USD)	Comments
Loss of tangible property	3,000	1,500	5,190	Tangible property claim adjusted for depreciation and evidentiary shortcomings.
Loss of profits	12,000	11,654	40,198	Profits claim adjusted to reflect historical results for a twelve-month indemnity period.
TOTAL	15,000	13,154	45,388	

[ENGLISH ONLY]

Annex II

RECOMMENDED AWARDS FOR THE THIRTIETH INSTALMENT STAND ALONE CLAIMS BY UNCC
CLAIM NUMBER, CLAIMANT NAME AND CATEGORY OF LOSS

Company name: Al Hashash and Rasheed Mechanical Garage Co
UNCC claim number: 4006312

Category D claim number: 1855128
Category D submitting entity: Palestine
Category D claim amount: KWD 10,000 (USD 34,602)

Category of loss	Total amount claimed and reclassified (KWD)	Recommended amount (KWD)	Recommended amount (USD)	Comments
Other loss not categorized	10,000	0	0	Rejected, claim for loss of equity not direct.
TOTAL	10,000	0	0	

[ENGLISH ONLY]

Annex II

RECOMMENDED AWARDS FOR THE THIRTIETH INSTALMENT STAND ALONE CLAIMS BY UNCC
CLAIM NUMBER, CLAIMANT NAME AND CATEGORY OF LOSS

Company name: Al Namuthjia Co: aka Ideal Company for Upholstery of Vehicle Seats
UNCC claim number: 4006313

Category D claim number: 3011404
Category D submitting entity: Palestine
Category D claim amount: KWD 832,149 (USD 2,879,408)

Category of loss	Total amount claimed and reclassified (KWD)	Recommended amount (KWD)	Recommended amount (USD)	Comments
Loss of tangible property	49,855	35,735	123,651	Tangible property claim adjusted for depreciation.
Loss of stock	589,861	391,260	1,353,841	Stock claim adjusted for stock build-up, obsolescence and evidentiary shortcomings.
Loss of vehicles	21,233	0	0	Rejected, loss not direct.
Loss of profits	171,200	171,200	591,773	
TOTAL	832,149	598,195	2,069,265	

[ENGLISH ONLY]

Annex II

RECOMMENDED AWARDS FOR THE THIRTIETH INSTALMENT STAND ALONE CLAIMS BY UNCC
CLAIM NUMBER, CLAIMANT NAME AND CATEGORY OF LOSS

Company name: Al Nasr Modern Kuwaiti Company
UNCC claim number: 4006314

Category D claim number: 3012768
Category D submitting entity: Palestine
Category D claim amount: KWD 280,000 (USD 968,858)

Category of loss	Total amount claimed and reclassified (KWD)	Recommended amount (KWD)	Recommended amount (USD)	Comments
Loss of stock	88,000	0	0	Insufficient documentary evidence to substantiate claim for stock.
Loss of profits	192,000	0	0	Insufficient documentary evidence to substantiate claim for profit.
TOTAL	280,000	0	0	

[ENGLISH ONLY]

Annex II

RECOMMENDED AWARDS FOR THE THIRTIETH INSTALMENT STAND ALONE CLAIMS BY UNCC
CLAIM NUMBER, CLAIMANT NAME AND CATEGORY OF LOSS

Company name: Delmon Shipping Co./ Emmad Yousef Al Ghanem and his Partner
UNCC claim number: 4006315

Category D claim number: 3012432
Category D submitting entity: Palestine
Category D claim amount: KWD 61,227 (USD 211,858)

Category of loss	Total amount claimed and reclassified (KWD)	Recommended amount (KWD)	Recommended amount (USD)	Comments
Loss of tangible property	10,250	0	0	Insufficient documentary evidence to substantiate claim for tangible business property.
Loss of profits	34,974	0	0	Insufficient documentary evidence to substantiate claim for profits.
Bad debts	5,958	0	0	Insufficient documentary evidence to substantiate claim for receivables.
Other loss not categorized	10,045	0	0	Insufficient documentary evidence to substantiate claim for key money.
TOTAL	61,227	0	0	

[ENGLISH ONLY]

Annex II

RECOMMENDED AWARDS FOR THE THIRTIETH INSTALMENT STAND ALONE CLAIMS BY UNCC
CLAIM NUMBER, CLAIMANT NAME AND CATEGORY OF LOSS

Company name: Faleh Contracting Company Limited
UNCC claim number: 4006316

Category D claim number: 3013917
Category D submitting entity: Palestine
Category D claim amount: KWD 68,600 (USD 237,370)

Category of loss	Total amount claimed and reclassified (KWD) [a]	Recommended amount (KWD)	Recommended amount (USD) [b]	Comments
Loss of tangible property	39,686	23,916	82,754	Tangible property claim adjusted for depreciation and evidentiary shortcomings.
Loss of vehicles	17,622	0	0	Insufficient documentary evidence to substantiate claim for vehicles.
Bad debts	63,650	0	0	Insufficient documentary evidence to substantiate claim for receivables.
Other loss not categorized	16,242	0	0	Insufficient documentary evidence to substantiate claim for goodwill.
TOTAL	137,200	23,916	82,754	

[a] Amount claimed does not equal the total amount claimed and reclassified because the Panel valued the entire loss claimed on behalf of the company, which included KWD 68,600 in respect of UNCC claim No. 1507726, filed by the same individual claimant. See paragraph 12 above.

[b] After the decision of the bilateral committee is applied to the recommended award, the Panel recommends the deduction of USD 66,574 from any amount to be paid to the claimant in respect of his previously awarded category "C" claim 1507726 for the same company's losses.

[ENGLISH ONLY]

Annex II

RECOMMENDED AWARDS FOR THE THIRTIETH INSTALMENT STAND ALONE CLAIMS BY UNCC
CLAIM NUMBER, CLAIMANT NAME AND CATEGORY OF LOSS

Company name: Al Mutahida Co for Transportation (aka United Transportation and Custom Clearing Company)
UNCC claim number: 4006317

Category D claim number: 3013921
Category D submitting entity: Palestine
Category D claim amount: KWD 558,231 (USD 1,931,595)

Category of loss	Total amount claimed and reclassified (KWD)	Recommended amount (KWD)	Recommended amount (USD)	Comments
Loss of tangible property	167,600	127,348	440,651	Tangible property claim adjusted for depreciation
Loss of stock	9,000	9,000	31,142	
Loss of vehicles	153,800	69,443	240,287	Vehicles claim adjusted to reflect M.V.V. Table values.
Loss of profits	72,700	13,181	45,609	Profits claim adjusted to reflect historical results for a seven-month indemnity period.
Bad debts	50,131	0	0	Rejected, loss not direct.
Other loss not categorized	105,000	0	0	Insufficient documentary evidence to substantiate claim for key money and goodwill.
TOTAL	558,231	218,972	757,689	

[ENGLISH ONLY]

Annex II

RECOMMENDED AWARDS FOR THE THIRTIETH INSTALMENT STAND ALONE CLAIMS BY UNCC
CLAIM NUMBER, CLAIMANT NAME AND CATEGORY OF LOSS

Company name: The Development Company for Petroleum Services W.L.L
UNCC claim number: 4006318

Category D claim number: 3013922
Category D submitting entity: Palestine
Category D claim amount: KWD 227,913 (USD 788,626)

Category of loss	Total amount claimed and reclassified (KWD)	Recommended amount (KWD)	Recommended amount (USD)	Comments
Loss of tangible property	25,395	23,137	80,059	Tangible property claim adjusted for depreciation.
Loss of stock	163,326	99,110	342,941	Stock claim adjusted for stock build-up, obsolescence and for evidentiary shortcomings.
Loss of profits	39,192	11,020	38,131	Profits claim adjusted to reflect historical results for a seven-month indemnity period, and for evidentiary shortcomings.
TOTAL	227,913	133,267	461,131	

[ENGLISH ONLY]

Annex II

RECOMMENDED AWARDS FOR THE THIRTIETH INSTALMENT STAND ALONE CLAIMS BY UNCC CLAIM NUMBER, CLAIMANT NAME AND CATEGORY OF LOSS

Company name: Al Carmel International Co
UNCC claim number: 4006319

Category D claim number: 3013934
Category D submitting entity: Palestine
Category D claim amount: KWD 50,000 (USD 173,010)

Category of loss	Total amount claimed and reclassified (KWD)	Recommended amount (KWD)	Recommended amount (USD)	Comments
Loss of stock	25,465	16,298	56,394	Stock claim adjusted for obsolescence and evidentiary shortcomings.
Loss of profits	7,730	5,798	20,062	Profits claim adjusted for evidentiary shortcomings.
Bad debts	5,600	0	0	Insufficient documentary evidence to substantiate claim for receivables.
Other loss not categorized	11,205	0	0	Insufficient documentary evidence to substantiate claim for key money and goodwill.
TOTAL	50,000	22,096	76,456	

[ENGLISH ONLY]

Annex II

RECOMMENDED AWARDS FOR THE THIRTIETH INSTALMENT STAND ALONE CLAIMS BY UNCC
CLAIM NUMBER, CLAIMANT NAME AND CATEGORY OF LOSS

Company name: Al Majal for Construction Materials and Contracting Co
UNCC claim number: 4006320

Category D claim number: 3013937
Category D submitting entity: Palestine
Category D claim amount: USD 97,020

Category of loss	Total amount claimed and reclassified (KWD)	Recommended amount (KWD)	Recommended amount (USD)	Comments
Other loss not categorized	28,039	0	0	Rejected, claim for loss of equity not direct.
TOTAL	28,039	0	0	

[ENGLISH ONLY]

Annex II

RECOMMENDED AWARDS FOR THE THIRTIETH INSTALMENT STAND ALONE CLAIMS BY UNCC
CLAIM NUMBER, CLAIMANT NAME AND CATEGORY OF LOSS

Company name: Al Jil Al Jadid Dairy and Foodstuff Co.
UNCC claim number: 4006321

Category D claim number: 3013956
Category D submitting entity: Palestine
Category D claim amount: KWD 189,131 (USD 654,433)

Category of loss	Total amount claimed and reclassified (KWD)	Recommended amount (KWD)	Recommended amount (USD)	Comments
Loss of stock	135,494	11,531	39,900	Stock claim adjusted for stock build-up, obsolescence, evidentiary shortcomings and for the reasons set out in paragraphs 41 and 42 above.
Loss of cash	8,916	0	0	Insufficient evidence to substantiate claim for cash.
Loss of vehicles	13,000	0	0	Insufficient documentary evidence to substantiate claim for vehicles.
Loss of profits	31,721	7,812	27,003	Profits claim adjusted to reflect historical results for a 10-month indemnity period, for windfall profits, and for the reasons set out in paragraphs 41 and 42 above.
TOTAL	189,131	19,343	66,903	

[ENGLISH ONLY]

Annex II

RECOMMENDED AWARDS FOR THE THIRTIETH INSTALMENT STAND ALONE CLAIMS BY UNCC
CLAIM NUMBER, CLAIMANT NAME AND CATEGORY OF LOSS

Company name: Al Ghoson Contracting Company
UNCC claim number: 4006322

Category D claim number: 3013957
Category D submitting entity: Palestine
Category D claim amount: KWD 339,677 (USD 1,175,353)

Category of loss	Total amount claimed and reclassified (KWD)	Recommended amount (KWD)	Recommended amount (USD)	Comments
Loss of tangible property	12,469	0	0	Claim adjusted to nil for the reasons set out in paragraph 38.
Loss of stock	79,112	0	0	Claim adjusted to nil for the reasons set out in paragraph 38.
Loss of cash	4,825	0	0	Insufficient evidence to substantiate claim for cash.
Loss of vehicles	9,852	0	0	Insufficient documentary evidence to substantiate claim for vehicles.
Loss of profits	179,287	0	0	Claim adjusted to nil for the reasons set out in paragraph 38.
Bad debts	54,132	0	0	Insufficient documentary evidence to substantiate claim for receivables, or loss not direct.
TOTAL	339,677	0	0	

[ENGLISH ONLY]

Annex II

RECOMMENDED AWARDS FOR THE THIRTIETH INSTALMENT STAND ALONE CLAIMS BY UNCC
CLAIM NUMBER, CLAIMANT NAME AND CATEGORY OF LOSS

Company name: Abdel Nour Fashion Co. W.L.L
UNCC claim number: 4006323

Category D claim number: 3013958
Category D submitting entity: Palestine
Category D claim amount: KWD 98,435 (USD 340,606)

Category of loss	Total amount claimed and reclassified (KWD)	Recommended amount (KWD)	Recommended amount (USD)	Comments
Loss of stock	12,000	0	0	Insufficient documentary evidence to substantiate claim for stock.
Loss of cash	8,125	0	0	Rejected, loss not direct.
Loss of profits	68,310	443	1,528	Profits claim adjusted to reflect historical results for a twelve-month indemnity period, and for evidentiary shortcomings.
Other loss not categorized	10,000	0	0	Rejected, loss not direct.
TOTAL	98,435	443	1,528	

[ENGLISH ONLY]

Annex II

RECOMMENDED AWARDS FOR THE THIRTIETH INSTALMENT STAND ALONE CLAIMS BY UNCC CLAIM NUMBER, CLAIMANT NAME AND CATEGORY OF LOSS

Company name: Khalifa and Hanafi Transport Trading Co.
UNCC claim number: 4006324

Category D claim number: 3013959
Category D submitting entity: Palestine
Category D claim amount: KWD 2,430,000 (USD 8,408,304)

C Claim number: 1854454
Submitting Entity Palestine
C Claim amount: KWD 32,000 (USD 110,727)

Category of loss	Total amount claimed and reclassified (KWD)	Recommended amount (KWD)	Recommended amount (USD)	Comments
Loss of vehicles	1,650,000	0	0	Claim adjusted to nil for the reasons set out in paragraph 54 above.
Loss of profits	155,000	0	0	Insufficient documentary evidence to substantiate claim for profits.
Bad debts	600,000	0	0	Rejected, loss not direct.
Other loss not categorized	57,000	0	0	Insufficient documentary evidence to substantiate claim for key money and insufficient description to identify loss claimed.
TOTAL	2,462,000	0	0	

[ENGLISH ONLY]

Annex II

RECOMMENDED AWARDS FOR THE THIRTIETH INSTALMENT STAND ALONE CLAIMS BY UNCC
CLAIM NUMBER, CLAIMANT NAME AND CATEGORY OF LOSS

Company name: Gulf Company for Cars
UNCC claim number: 4006325

Category D claim number: 3013960
Category D submitting entity: Palestine
Category D claim amount: KWD 1,211,566 (USD 4,192,270)

Category of loss	Total amount claimed and reclassified (KWD)	Recommended amount (KWD)	Recommended amount (USD)	Comments
Loss of tangible property	51,580	0	0	Insufficient documentary evidence to substantiate claim for tangible business property.
Loss of stock	843,792	0	0	Insufficient documentary evidence to substantiate claim for stock.
Loss of profits	266,994	0	0	Insufficient documentary evidence to substantiate claim for profits.
Other loss not categorized	49,200	0	0	Rejected, loss of rent not direct and insufficient documentary evidence to substantiate claim for key money.
TOTAL	1,211,566	0	0	

[ENGLISH ONLY]

Annex II

RECOMMENDED AWARDS FOR THE THIRTIETH INSTALMENT STAND ALONE CLAIMS BY UNCC
CLAIM NUMBER, CLAIMANT NAME AND CATEGORY OF LOSS

Company name: Aghadeer Company for Electronics
UNCC claim number: 4006326

Category D claim number: 3013961
Category D submitting entity: Palestine
Category D claim amount: KWD 225,000 (USD 778,547)

Category of loss	Total amount claimed and reclassified (KWD)	Recommended amount (KWD)	Recommended amount (USD)	Comments
Loss of stock	140,000	0	0	Existence of business not proven.
Bad debts	73,000	0	0	Existence of business not proven.
Other loss not categorized	12,000	0	0	Existence of business not proven.
TOTAL	225,000	0	0	

[ENGLISH ONLY]

Annex II

RECOMMENDED AWARDS FOR THE THIRTIETH INSTALMENT STAND ALONE CLAIMS BY UNCC
CLAIM NUMBER, CLAIMANT NAME AND CATEGORY OF LOSS

Company name: Al Ous Trading & Contracting Company
UNCC claim number: 4006327

Category D claim number: 3013962
Category D submitting entity: Palestine
Category D claim amount: KWD 75,000 (USD 259,516)

Category of loss	Total amount claimed and reclassified (KWD)	Recommended amount (KWD)	Recommended amount (USD)	Comments
Loss of stock	40,000	0	0	Insufficient documentary evidence to substantiate claim for stock.
Loss of profits	35,000	0	0	Insufficient documentary evidence to substantiate claim for profits.
TOTAL	75,000	0	0	

[ENGLISH ONLY]

Annex II

RECOMMENDED AWARDS FOR THE THIRTIETH INSTALMENT STAND ALONE CLAIMS BY UNCC
CLAIM NUMBER, CLAIMANT NAME AND CATEGORY OF LOSS

Company name: Gharnata Cinema Production Co
UNCC claim number: 4006328

Category D claim number: 3013963
Category D submitting entity: Palestine
Category D claim amount: USD 770,000

Category of loss	Total amount claimed and reclassified (KWD)	Recommended amount (KWD)	Recommended amount (USD)	Comments
Loss of tangible property	171,955	33,342	115,370	Tangible property claim adjusted for depreciation and evidentiary shortcomings.
Other loss not categorized	50,575	0	0	Insufficient documentary evidence to substantiate claim for goodwill.
TOTAL	222,530	33,342	115,370	

[ENGLISH ONLY]

Annex III

RECOMMENDED AWARD FOR THIRTIETH INSTALMENT "E2" CLAIM BY UNCC
CLAIM NUMBER, CLAIMANT NAME AND CATEGORY OF LOSS

Table of recommendations

Sub-mitting Entity	UNCC claim No.	Claimant's name	Total amount claimed, including permissible amendments[a]			Reclassified amount[d]				Decision of the Panel of Commissioners					
			Amount claimed in original currency[b]		Amount claimed restated in USD[c]	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in original currency or currency of loss [e]		Amount recom-mended in USD	Reasons for denial or reduction of award[f]	Report citation	Total of amount recom-mended in USD
United Kingdom	3002166	Precision Computers (UK)	GBP	330,932	508,679	Contract	Sales contract interrupted before shipment (Kuwait): Loss of profit	GBP	267,565	GBP	0	0	Part or all of claimed loss is unsubstantiated .	Paras. 68 to 72	0
					78,392	Business transaction	Course of dealing: Loss of profit	GBP	41,234	GBP	0	0	Part or all of claimed loss is unsubstantiated . No proof of direct loss.	Paras. 68 to 72	0
					42,078	Other	Loss of wages	GBP	22,133	GBP	0	0	No proof of direct loss.	Paras. 68 to 72	0
Total					629,149										0

[a] Pursuant to the Governing Council's decision taken at its twenty-seventh session held in March 1998, claimants in category "E" are not permitted to submit new claims or new loss types or elements, or increase the quantum of previously filed claims, after 11 May 1998. Nor may claimants use the claim development process, including the article 34 notifications, to advance new claims or increase the quantum of previously filed claims. However, any additional evidence submitted by claimants in response to article 34 notifications may be used to support claims timely filed. Accordingly, the total claimed amounts stated in this table include only those supplements and amendments to the original claimed amounts submitted prior to 11 May 1998 or submitted after that date where these comply with the requirements of the Commission. The Panel observes that, in a few cases, there were discrepancies between the total amount asserted by the claimant in the claim form and the sum of the individual loss items stated by the claimant in the claim form or in the Statement of Claim. In such circumstances, the Panel adopts the total value asserted in the claim form where that claim form was filed prior to 11 May 1998.

[b] Currency codes: GBP (British pound), USD (United States dollar).

[c] In the column entitled "Total amount claimed restated in USD", for claims originally expressed by the claimant in currencies other than United States dollars, the secretariat has converted the amount claimed to United States dollars based on August 1990 rates of exchange as indicated in the United Nations Monthly Bulletin of Statistics or, in cases where this exchange rate is not available, the latest exchange rate available prior to August 1990. This conversion is made solely to provide an indication of the amount claimed in United States dollars for comparative purposes.

[d] In the columns under the heading entitled "Reclassified claim", the Panel has re-categorized certain of the losses using standard classifications, as appropriate, since many claimants have presented similar losses in different ways (see columns entitled "Type of loss" and "Subcategory"). This procedure is intended to ensure consistency, equality of treatment and fairness in the analysis of the claims and is consistent with the practice of the Commission. In addition, the amount stated in the claim for each element of loss is also reflected.

[e] The secretariat has recalculated the amount claimed in the currency of the original loss which, on occasion, has been different from the amount stated in the claim form.

[f] An explanation of each of the reasons for denial of the whole or part of the claimed amount is provided below:

List of reasons stated in annex III for denial in whole or in part of the claimed amount

Reason	Explanation
COMPENSABILITY	
Part or all of claimed loss is unsubstantiated	The claimant has failed to file documentation substantiating its claim; or, where documents have been provided, these do not demonstrate the circumstances or amount of part or all of the claimed loss as required under article 35 of the Rules.
No proof of direct loss	The claimant has failed to submit sufficient evidence to demonstrate that the loss was a direct result of Iraq's invasion and occupation of Kuwait.

[ENGLISH ONLY]

Annex IV

REVISED AWARDS FOR THE TWENTY-NINTH INSTALMENT[a] CLAIMS BY UNCC CLAIM NUMBER AND CLAIMANT NAME

UNCC claim No.	Company name	Amount originally claimed (KWD)	Net amount originally claimed (KWD)	Additional category D amount claimed (KWD)	Revised new amount claimed (KWD)	Original amount recommended (KWD)	Revised amount recommended (KWD)	Revised amount recommended (USD)
4006136	Al-Fahras Electronics & Electric Co.	23,120	23,120	97,546	120,666	0	0	0
4006214	Amouria Construction & Cont Co.	19,072	19,072	78,376	97,448	1,718	8,931	30,903
TOTAL		42,192	42,192	175,922	218,114	1,718	8,931	30,903

[a] See the Twenty-Ninth Instalment Report.

[b] The "net amount originally claimed" is the original amount claimed, less amounts for claim preparation costs and interest. The Panel has made no recommendations with regard to these items.

[ENGLISH ONLY]

Annex V

REVISED AWARDS FOR THE TWENTY-NINTH INSTALMENT CLAIMS BY UNCC
CLAIM NUMBER, CLAIMANT NAME AND CATEGORY OF LOSS

Company name: Al-Fahras Electronics & Electric Co.
UNCC claim number: 4006136

Category D claim number: 1811672[a]
Category D submitting entity: Jordan
Category D claimed amount: USD 80,000

Category D claim number: 3011295
Category D submitting entity: Palestine
Category D claimed amount: KWD 97,546 (USD 337,529)

Category of loss	Amount originally claimed and reclassified (KWD)	Additional category D amount claimed and reclassified (KWD)	Total amount claimed and reclassified (KWD)	Original amount recommended (KWD)	Recommended amount (KWD)	Recommended amount (USD)[b]
Loss of tangible property	816		816	0	0	0
Loss of stock	20,199	20,000	40,199	0	0	0
Loss of cash		22,000	22,000		0	0
Loss of profits	2,105	15,546	17,651	0	0	0
Bad debts		40,000	40,000		0	0
TOTAL	23,120	97,546	120,666	0	0	0

[a] This claim was previously included in the twenty-ninth instalment.

[b] After the decision of the bilateral committee is applied to the recommended award, the Panel recommends the deduction from any amount to be paid to claimant 1811672 of the amount he has already received pursuant to the twenty-ninth instalment.

[ENGLISH ONLY]

Annex V

REVISED AWARDS FOR THE TWENTY-NINTH INSTALMENT CLAIMS BY UNCC
CLAIM NUMBER, CLAIMANT NAME AND CATEGORY OF LOSS

Company name: Amouria Construction & Cont Co.
UNCC claim number: 4006214

Category D claim number: 1854419 [a]
Category D submitting entity: Jordan
Category D claimed amount: KWD 19,072 (USD 65,993)

Category D claim number: 1854456
Category D submitting entity: Palestine
Category D claimed amount: KWD 78,376 (USD 271,197)

Category of loss	Amount originally claimed and reclassified (KWD)	Additional category D amount claimed and reclassified (KWD)	Total amount claimed and reclassified (KWD)	Original amount recommended (KWD)	Recommended amount (KWD)	Recommended amount (USD)[b]
Loss of tangible property	1,328	27,750	29,078	266	7,631	26,405
Loss of stock	5,866	49,326	55,192	1,452	0	0
Loss of vehicles	303	1,300	1,603	0	1,300	4,498
Loss of profits	9,724		9,724	0	0	0
Bad debts	1,851		1,851	0	0	0
TOTAL	19,072	78,376	97,448	1,718	8,931	30,903

[a] This claim was previously included in the twenty-ninth instalment.

[b] After the decision of the bilateral committee is applied to the recommended award, the Panel recommends the deduction from any amount to be paid to claimant 1854419 of the amount he has already received pursuant to the twenty-ninth instalment.
