



**Security Council**

Distr.  
GENERAL

S/AC.26/2002/20  
20 June 2002

Original: ENGLISH

---

UNITED NATIONS  
COMPENSATION COMMISSION  
GOVERNING COUNCIL

REPORT AND RECOMMENDATIONS MADE BY THE "D1" PANEL OF COMMISSIONERS  
CONCERNING THE THIRTEENTH INSTALMENT OF INDIVIDUAL CLAIMS FOR  
DAMAGES ABOVE USD 100,000 (CATEGORY "D" CLAIMS)

CONTENTS

	<u>Paragraphs</u>	<u>Page</u>
Introduction .....	1 - 6	3
I. BACKGROUND.....	7 - 10	5
A. Background information .....	7 - 8	5
B. General legal framework.....	9	5
C. Applicable evidentiary standard.....	10	5
II. NEW ISSUES ARISING IN THE APPLICATION CLAIMS .....	11 - 27	5
A. D1 (money) issue.....	12	5
B. D2 (personal injury) issues .....	13 - 17	6
C. D3 (death) issues .....	18 - 20	7
D. D4 (personal property) issue .....	21	7
E. D4 (motor vehicle) issue.....	22	7
F. D7 (real property) issue .....	23	8
G. D8/D9 (individual business loss) issue .....	24-25	8
H. Deferred claims .....	26-27	8
III. CROSS CATEGORY ISSUES.....	28	8
IV. OTHER ISSUES.....	29-34	9
A. Exchange rates .....	29-30	9
B. Interest.....	31-32	9
C. Claims preparation costs.....	33-34	9
V. RECOMMENDED AWARDS FOR CATEGORY "D" CLAIMS .....	35	9
VI. PANEL'S REVIEW AND RECOMMENDATIONS ON CATEGORY "A" CLAIMS OF THE GOVERNMENT OF THE FEDERAL REPUBLIC OF YUGOSLAVIA.....	36-41	10
A. Panel's review of the claims .....	36-39	10
B. Recommended awards .....	40-41	10
VII. PANEL'S REVIEW AND RECOMMENDATIONS ON CATEGORY "C" CLAIM OF THE GOVERNMENT OF NIGER .....	42-45	11
A. Panel's review of the claim .....	42-43	11
B. Recommended award .....	44-45	11
VIII. SUBMISSION OF THE REPORT .....	46	12
Notes .....		13
<u>Annex</u>		
Summary recommendations of the thirteenth instalment of category "D" claims .....		15

### Introduction

1. This is the fourteenth report to the Governing Council of the United Nations Compensation Commission (the “Commission”) submitted pursuant to article 38(e) of the Provisional Rules for Claims Procedure (S/AC.26/1992/10) (the “Rules”) by the “D1” Panel of Commissioners (the “Panel”), being one of two Panels appointed to review individual claims for damages above 100,000 United States dollars (USD) (category “D” claims). This report contains the determinations and recommendations of the Panel in respect of the thirteenth instalment claims (the “thirteenth instalment”) submitted to the Panel by the Executive Secretary of the Commission pursuant to article 32 of the Rules on 31 July 2001.
2. At its forty-first session held in September 2001, the Governing Council referred seven category “A” claims filed by the Government of the Federal Republic of Yugoslavia and one category “C” claim filed by the Government of Niger to the Panel for its review. The Panel’s determinations and recommendations on these claims are also contained in this report.
3. Pursuant to Procedural Order No. 15, the thirteenth instalment originally comprised 603 claims. Thirteen claims were added to the instalment as they were related to claims already under review. The Panel obtained further information on two claims deferred from part two of the ninth instalment and one deferred from the eleventh instalment and is making recommendations on these claims in this report. Of the 619 claims, 26 have been deferred out of the instalment because they require further review by the Panel. Therefore, the total number of claims resolved by the Panel is 593, with a total amount claimed of USD 355,235,782.96.<sup>1</sup>
4. The Panel began its review of the thirteenth instalment on 31 July 2001. In addition to regular communications among the Commissioners and the secretariat, the Panel held meetings at the Commission’s headquarters in Geneva on the following dates: 30 July-2 August 2001, 4-5 September 2001, 5-7 November 2001, 12-14 December 2001 and 28-30 January 2002. These meetings included joint meetings with the “D2” Panel in September 2001 and January 2002 to discuss issues of relevance to both Panels.
5. The thirteenth instalment comprises all loss types that can be claimed in category “D”, with a large number of claims containing D2 (personal injury), D3 (death) and D7 (real property) losses.<sup>2</sup> In two of the claims, the situs of the D8/D9 (business) losses was Iraq and these claim files were sent to the Government of the Republic of Iraq (“Iraq”) for its comments.

6. The following table sets out the number of claims by submitting entity in the thirteenth instalment.

Summary of claims by submitting entity

<u>Submitting Entity</u>	<u>Number of claims as submitted to the Panel<sup>a</sup></u>	<u>Number of claims resolved by the Panel</u>
Australia	1	1
Canada	9	9
Egypt	7	7
France	3	3
Germany	2	2
Iceland	(1)	1
India	76 (2)	76 <sup>b</sup>
Israel	14	12
Italy	2	2
Jordan	48 (2)	38
Kuwait	380 (10)	383
Lebanon	3	3
Pakistan	4	4
Philippines	1	1
Portugal	1	1
Sudan	1	1
Syrian Arab Republic	8	7
Thailand	1	1
Turkey	1 (1)	2
United Kingdom	18	17
United States	17	16
Yemen	2	2
UNDP Egypt	1	1
UNDP Washington	1	1
UNRWA Gaza	2	2
<u>Total</u>	603 (16)	593

<sup>a</sup> Numbers in parentheses represent claims that were added to the instalment.

<sup>b</sup> Includes one claim that was withdrawn.

## I. BACKGROUND

### A. Background information

7. In reviewing the claims in the thirteenth instalment, the Panel has taken into account the factual background relating to Iraq's invasion and occupation of Kuwait, as set out in detail in its reports on part one and part two of the first instalment of category "D" claims.<sup>3</sup>

8. The Panel has also taken into consideration other relevant material, including information accompanying the submission of these claims provided by the Executive Secretary pursuant to article 32 of the Rules. In addition, the Panel has considered information and views presented by Iraq and other Governments in response to the reports submitted to the Governing Council by the Executive Secretary in accordance with article 16 of the Rules, as well as responses by Iraq to claims sent to the Government for comment.

### B. General legal framework

9. The general legal framework for the resolution of category "D" claims is set out in chapter V of the Panel's First "D" Report.<sup>4</sup>

### C. Applicable evidentiary standard

10. The evidentiary standard to be applied in reviewing category "D" claims has been addressed by the Panel in its previous reports.<sup>5</sup> As with earlier instalments, the Panel has reviewed the claims in the thirteenth instalment in accordance with article 35 of the Rules, and made its recommendations by assessing documentary and other appropriate evidence, as well as by balancing the interests of claimants who had to flee a war zone with the interests of Iraq, which is liable only for any direct loss, damage or injury as a result of its invasion and occupation of Kuwait.

## II. NEW ISSUES ARISING IN THE APPLICATION CLAIMS

11. Some of the claims in the thirteenth instalment raise new issues that were not dealt with in the Panel's previous reports. These new issues and the Panel's findings and recommendations with regard thereto are set out below.

### A. D1 (money) issue

12. A claimant submitted a claim for reimbursement of customs duties that he was required to pay to the Jordanian authorities with respect to three personal motor vehicles imported from Kuwait. The claimant left Kuwait in November 1990 for Jordan with the motor vehicles. The Panel has previously found that compensation may be recommended for customs duties incurred by individuals who were living in Kuwait and who had a reasonable expectation of remaining there but were forced to move to another country as a direct result of Iraq's invasion and occupation of Kuwait.<sup>6</sup> In this case, the Panel finds that these conditions were established and therefore recommends compensation for the claim for customs duties incurred in Jordan.

B. D2 (personal injury) issues

13. A number of claimants in the thirteenth instalment seek compensation for physical and psychological injuries in connection with Iraq's invasion and occupation of Kuwait.

14. A claimant who lived in Kuwait claims for D2 losses pertaining to the refusal by Iraqi authorities of medical treatment for a pre-existing liver disorder as well as for a foot injury that occurred on 2 August 1990. The claimant asserted that the refusal of medical treatment exacerbated her medical condition and sought compensation for the injuries. The Panel finds that the D2 loss pertaining to the pre-existing liver condition is not compensable as the claimant failed to provide evidence that the liver condition was exacerbated by the refusal of medical care. However, the Panel finds that the foot injury resulted in a temporary significant loss of use of a body organ and recommends compensation for that temporary injury in accordance with the Panel's established claims review procedure for serious personal injury.<sup>7</sup> The claimant also claimed for illegal detention and forced hiding under D1 (mental pain and anguish) ("MPA") resulting from the confiscation of her passport by the Iraqi military. The Panel finds that the confiscation of the claimant's passport restricted her movements and freedom and thus resulted in illegal detention rather than forced hiding. The Panel therefore recommends compensation for the illegal detention.

15. Another claimant seeks compensation for loss of earnings and MPA with respect to a head injury he suffered as a result of an assault by an Iraqi soldier. The assault left a permanent scar. The claimant established the fact of injury through medical reports and photographs, but failed to provide evidence that the injury had left him incapacitated leading to a reduction in earnings. The Panel therefore recommends no award of compensation for the loss of earnings. However, the Panel recommends compensation for MPA for the claimant's permanent scar in accordance with Governing Council decision 8 (S/AC.26/1992/8).

16. A number of claimants seek compensation for injuries arising from Iraqi scud missile attacks on Israel. One claimant submitted a claim for loss and damages resulting from a scud missile attack that damaged her home. According to medical reports submitted, the claimant went into shock, resulting in a significant increase in her blood sugar level causing diabetes and eventually, the partial loss of her vision. The Panel finds that the claimant's partial loss of vision was a direct result of the scud missile attacks and recommends compensation in accordance with Governing Council decision 8 and the Panel's established claims review procedure for serious personal injury.

17. Two claimants suffered post-traumatic stress disorder as a result of scud missile attacks in 1991 in which their homes were destroyed, and claimed compensation for employment-related losses that occurred in 1993. The claimants each sought treatment for post-traumatic stress disorder while trying to maintain their employment. The claimants retired prematurely as their illnesses persisted and sought compensation for the loss of income associated with their early retirement. The Panel finds that the medical reports provided by the claimants establish that they suffered post-traumatic stress disorder and that it was caused by the scud missile attacks. Accordingly, the Panel finds that the employment-related losses result directly from the 1991 scud missile attacks and recommends compensation for both claims.

C. D3 (death) issues

18. A number of claims were filed relating to deaths due to stress allegedly caused as a direct result of Iraq's invasion and occupation of Kuwait. A claimant filed a claim for loss of support as a result of the death of her husband who was illegally detained by Iraqi police in Iraq. The deceased had no known history of heart disease but died suddenly while in custody. Although the post-mortem indicated that the deceased had heart disease, the Panel finds credible the medical evidence provided by the claimant that the stress induced by the detention exacerbated the pre-existing condition. The Panel therefore finds that the death was a direct result of Iraq's invasion and occupation of Kuwait and recommends compensation for the loss of support.

19. One claimant alleged that his father died from a heart attack on the same day that he was pushed to the ground while trying to prevent the Iraqi military from seizing the claimant's vehicles in Kuwait. The deceased had no known history of heart disease. Based on the medical reports provided by the claimant, the Panel finds that the physical and psychological stress caused by the altercation with the Iraqi military was likely to have caused the deceased's heart attack. Therefore, the Panel recommends compensation for the MPA caused by the death.

20. Another claimant seeks compensation for the loss of support as a result of the death of her husband, who died from a heart attack 48 days after his release from 103 days of detention by Iraqi forces. Based on the medical evidence provided by the claimant indicating that the stress and harsh conditions of the detention directly led to the heart attack, the Panel finds that the death was a direct result of Iraq's invasion and occupation of Kuwait. Therefore, the Panel recommends compensation for the loss of support.

D. D4 (personal property) issue

21. A claimant filed a claim for compensation for the loss of personal property and professional standing resulting from destruction of his architectural portfolio that occurred when his house in Kuwait was ransacked during Iraq's invasion and occupation of Kuwait. The claimant asserted that he required the portfolio when he applied for jobs in the engineering field. The Panel considered the claim as one for D4 (personal property) loss and a loss of professional standing as the claimant asserted that the loss of the portfolio adversely affected his career.<sup>8</sup> As the claimant provided proof of the loss of the portfolio, the Panel recommends compensation for the loss of the personal property. However, the Panel finds that the claimant failed to prove a loss of professional standing since he returned to work at a higher position and salary than he held prior to 2 August 1990. The Panel therefore recommends no compensation for that loss.

E. D4 (motor vehicle) issue

22. A claimant seeks compensation for motor vehicle repairs undertaken between December 1991 and May 1993. The claimant asserted that his vehicle incurred damage during his travel through the desert from Kuwait to Oman during Iraq's invasion and occupation of Kuwait. However, the Panel finds that the claimant failed to establish that the damage to his vehicle occurred during his departure

from Kuwait. Accordingly, the Panel concludes that the loss was not a direct result of Iraq's invasion and occupation of Kuwait and therefore recommends no award of compensation.

F. D7 (real property) issue

23. A claimant who purchased a plot of land in the United Arab Emirates ("UAE") prior to Iraq's invasion and occupation of Kuwait seeks compensation for the increased cost of construction of an apartment block that was planned prior to Iraq's invasion and occupation of Kuwait, but which was constructed after the liberation of Kuwait. The claimant asserted that he was unable to transfer funds to the UAE from Kuwait and had to postpone the construction, resulting in the loss of the financing that he had arranged for the project. The evidence indicates to the Panel that the claimant constructed a building that was of a larger size than he had originally planned and for which he had received estimates. The Panel finds that while the claimant has shown that he was unable to transfer funds, he failed to prove that the increase in costs resulted from Iraq's invasion and occupation of Kuwait and not from the costs associated with constructing a larger building than originally planned. Therefore, the Panel recommends no compensation.

G. D8/D9 (individual business loss) issue

24. A claimant sought compensation for individual business losses pertaining to stock and receivables. The claimant operated two businesses in Kuwait prior to and during part of the period of Iraq's invasion and occupation of Kuwait. The claimant alleged that he departed Kuwait on 13 December 1990 and was barred from returning to Kuwait after its liberation due to his nationality. The claimant asserted that his business associates confiscated the businesses after the liberation of Kuwait. The Panel finds that the confiscation of the businesses was not a direct result of Iraq's invasion and occupation of Kuwait and therefore recommends no compensation for the losses.

25. The Panel transmitted two claim files to Iraq as the situs of the loss was Iraq. Both claims were rejected after a review of all the evidence including the comments provided by Iraq.

H. Deferred claims

26. The Panel considered three claims for compensation for loss of employment. Under each employment contract, remuneration was calculated as a percentage of the company's profits. As the employer has a claim for loss of profits before the Commission that has not yet been determined, the Panel defers these category "D" claims pending the determination of the employer's loss of profits claim.

27. Seven claims were deferred for the Panel to obtain further information from the claimants, who appear to be claiming for losses relating to the same business.

III. CROSS CATEGORY ISSUES

28. Recommended awards in respect of claims in the thirteenth instalment are reported net of category "A", "B" and "C" approved awards made to the same claimants.<sup>9</sup>

#### IV. OTHER ISSUES

##### A. Exchange rates

29. For purposes of calculating recommended amounts, the Panel has converted currencies into United States dollars in accordance with the rates set out in paragraphs 61-63 of the First "D" Report.

30. In its third instalment report,<sup>10</sup> the Panel noted that where losses are claimed for money in currencies other than United States dollars and it is established that the application of the exchange rate approved by the Panel in its First "D" Report "would result in either under-compensation or over-compensation of the claimant, the Panel determined that it will select a conversion rate based on the evidence that most closely compensates the claimant for the value of the losses suffered. In particular, this would be applied in situations where the claimant has submitted evidence that he or she purchased the money at a rate different from the rate adopted by the Panel."<sup>11</sup>

##### B. Interest

31. A number of claimants in the thirteenth instalment claim for interest on their category "D" claims. For category "D" losses other than loss of business income and incremental costs, the "D1" and "D2" Panels have previously determined that the phrase "the date the loss occurred" in Governing Council decision 16 (S/AC.26/1992/16)<sup>12</sup> should be a single fixed date. The Panels determined that 2 August 1990 (the date of Iraq's invasion and occupation of Kuwait), should serve as the fixed date.<sup>13</sup>

32. Claims for loss of business income are claims for income that would have been earned over a period of time. As such, an interest start date of 2 August 1990 for such losses would result in over-compensation for claimants. The "D1" and "D2" Panels have therefore adopted the midpoint of the period for which loss of business income claims have been recommended for compensation as the date of loss for the purpose of calculating interest.<sup>14</sup> The Panel also adopted a fixed date of 1 May 1991 as the date of loss for the purpose of calculating interest on awards for claims for incremental costs.

##### C. Claims preparation costs

33. A number of claimants in the thirteenth instalment seek claims preparation costs incurred by them, either for a specific or an unspecified amount.

34. 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.

#### V. RECOMMENDED AWARDS FOR CATEGORY "D" CLAIMS

35. The annex hereto lists the awards recommended by the Panel for each Government and international organization for the claims resolved in the thirteenth instalment. Each Government and international organization will be provided with a confidential list containing the individual recommendations made in respect of its claimants. As will be seen from the annex, the Panel recommends a total of USD 147,732,224.63 against a total amount claimed of USD 351,885,502.68.<sup>15</sup>

Of this total amount claimed, USD 5,847,830.21 is for business losses suffered by Kuwaiti companies that will be severed from the category "D" claims and transferred to the category "E4" Panels of Commissioners for their review pursuant to Governing Council decision 123 (S/AC.26/Dec.123(2001)).

## VI. PANEL'S REVIEW AND RECOMMENDATIONS ON CATEGORY "A" CLAIMS OF THE GOVERNMENT OF THE FEDERAL REPUBLIC OF YUGOSLAVIA

### A. Panel's review of the claims

36. At its forty-first session held in September 2001, the Governing Council referred to the Panel for its review and consideration seven category "A" claims from the Government of the Federal Republic of Yugoslavia. In reviewing the claims, the Panel has taken into account the fact that category "A" claims are claims for departure from Iraq or Kuwait during the period of 2 August 1990 to 2 March 1991. These claims are among the "most urgent claims" for which Governing Council decision 1 (S/AC.26/1991/1) set forth "simple and expedited procedures" in order to provide "prompt compensation in full" or "substantial interim relief". The Panel has also noted the evidentiary standard applicable to category "A" claims, as stated in decision 1 and, more specifically, in article 35(2.a) of the Rules, namely that category "A" claimants "... are required to provide simple documentation of the fact and date of departure from Iraq or Kuwait. Documentation of the actual amount of loss is not required."

37. In order to determine whether the appropriate evidentiary documentation had been provided by the claimants, the Panel examined each of the seven paper claim forms and attached documentation. The Panel's review showed that the evidentiary documentation attached to these claim files matched the evidentiary profile established by the category "A" Panel of Commissioners for the entire category "A" claims population.

38. In particular, the Panel noted that all seven claimants had provided relevant proof of presence in Iraq as of 2 August 1990, Iraqi Residence Permits, passport photocopies with exit stamps showing their departure from Iraq between 2 August 1990 and 2 March 1991, and claimants' personal statements indicating the claimants' last residences and places of work in Iraq as well as a description of how they had travelled from Iraq back to Belgrade.

39. Having satisfied itself that the category "A" evidentiary standard had been met, the Panel concludes that the seven Yugoslav category "A" claimants are entitled to the same recommendation as to compensation made by the category "A" Panel of Commissioners with regard to the overall population of successful category "A" claims.

### B. Recommended awards

40. The Panel recommends awards of compensation for the seven claims in the total amount of USD 28,000, based on an award of compensation of USD 4,000 for each of the seven claimants.

41. On the basis of the considerations formulated in part IV.C.3. of the first report of the category “A” Panel of Commissioners,<sup>16</sup> the Panel recommends that interest should be paid on the awarded amounts in category “A” claims in accordance with Governing Council decision 16. The Panel also adopts the view expressed by the category “A” Panel of Commissioners in its first report that the phrase “the date the loss occurred” in decision 16 should be interpreted to be a single date for all category “A” claims and that the date of Iraq’s invasion and occupation of Kuwait, 2 August 1990, should serve as the fixed date.

## VII. PANEL’S REVIEW AND RECOMMENDATIONS ON CATEGORY “C” CLAIM OF THE GOVERNMENT OF NIGER

### A. Panel’s review of the claim

42. The Panel reviewed the category “C” claim of the Government of Niger referred to it by the Governing Council. To assist the Panel in its review of the claim, the secretariat prepared a report for the Panel’s consideration that included the results of its detailed review of the claimant’s category “C” claim. The Panel’s examination of the report showed that the losses claimed by the claimant, i.e. personal property (C4-CPHO) and C6-Salary, have been subjected to the same relevant mass processing verification criteria and valuation methodologies of the category “C” Panel of Commissioners that were applied to the same loss types for all similarly-situated claimants. The Panel found that, as required by the category “C” claims resolution methodology, the information and data provided by the claimant in his claim file sufficed to verify, in the circumstances, that his C4-CPHO and C6-Salary losses would have been considered compensable, in principle, by the category “C” Panel of Commissioners.

43. The Panel also found that the amount of compensation that would have been awarded for the personal property claim is USD 2,959.93, using the information provided by the claimant for his C4-CPHO losses in accordance with the application of the statistical regression model developed by the category “C” Panel of Commissioners for such loss types. Similarly, using the C6-Salary claims resolution methodology developed by the category “C” Panel of Commissioners, the amount that would have been recommended for this portion of the claimant’s claim is USD 11,961.23.

### B. Recommended award

44. Having employed the category “C” Panel of Commissioners’ criteria and methodologies for the processing of category “C” claims, the Panel recommends compensation in the amount of USD 14,921.16.

45. On the basis of the considerations formulated in part II.G. of the first report of the category “C” Panel of Commissioners,<sup>17</sup> the Panel recommends that interest should be paid on the awarded amounts in category “C” claims in accordance with Governing Council decision 16. The Panel also adopts the view expressed by the category “C” Panel of Commissioners in its first Report that the phrase “the date the loss occurred” in Governing Council decision 16 should be interpreted to be a single date for all category “C” claims and that the date of Iraq’s invasion and occupation of Kuwait, 2 August 1990, should serve as the fixed date.

VIII. SUBMISSION OF THE REPORT

46. The Panel respectfully submits this report through the Executive Secretary to the Governing Council pursuant to article 38(e) of the Rules.

Geneva, 18 March 2002

(Signed) R.K.P. Shankardass  
Chairman

(Signed) H.M. Joko-Smart  
Commissioner

(Signed) M.C. Pryles  
Commissioner

Notes

<sup>1</sup> The 593 claims resolved by the Panel include one claim that was withdrawn, with an amount claimed of USD 3,350,280.27. The amount claimed for the remaining 592 claims is USD 351,885,502.68.

<sup>2</sup> In part one of the first instalment of category “D” claims, the Panel developed methodologies for the following loss types: D1 (money); D1 (mental pain and anguish) (“MPA”); D3 (death); D4 (motor vehicles); D6 (loss of income); D10 (payment or relief to others); and D10 (other). A full description of the methodologies is set out at paragraphs 103-380 of the “Report and recommendations made by the Panel of Commissioners concerning part one of the first instalment of individual claims for damages above US\$100,000 (category ‘D’ claims)” (S/AC.26/1998/1) (the “First ‘D’ Report”). The Panel developed methodologies for the following loss types in part one of the second instalment: D2 (personal injury) and D5 (loss of bank accounts, stocks and other securities). These methodologies are described 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) (“Part One, Second Instalment Report”), at paragraphs 30-57. The Panel developed the methodology for D4 (personal property) losses in part two of the second instalment. This methodology is described in the “Report and recommendations made by the Panel of Commissioners concerning part two of the second instalment of individual claims for damages above US\$100,000 (category ‘D’ claims)” (S/AC.26/1998/15) (“Part Two, Second Instalment Report”) at paragraphs 30-68. The Panel developed the methodology for D7 (real property) losses in part two of the fourth instalment. This methodology is described in the “Report and recommendations made by the Panel of Commissioners concerning part two of the fourth instalment of individual claims for damages above US\$100,000 (category ‘D’ claims)” (S/AC.26/2000/11), at paragraphs 30-68. The “D2” Panel of Commissioners developed the methodology for D8/D9 (business loss) claims, which is described in 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) (the “Sixth Instalment Report”). The methodologies for resolving all of the loss types in category “D” have now been developed.

<sup>3</sup> See in particular chapter II of the First “D” Report and chapter IV of the “Report and recommendations made by the Panel of Commissioners concerning part two of the first instalment of individual claims for damages above US\$100,000 (category ‘D’ claims)” (S/AC.26/1998/3).

<sup>4</sup> See note 2 above.

<sup>5</sup> See chapter VI of the First “D” Report and chapter II of Part Two, Second Instalment Report. See also paragraph 8 of Governing Council decision 7 (S/AC.26/1991/7/Rev.1), which provides that “[S]ince ... [category “D”] claims may be for substantial amounts, they must be supported by documentary and other appropriate evidence sufficient to demonstrate the circumstances and the amount of the claimed loss”. See also articles 35(1) and 35(3) of the Rules.

<sup>6</sup> Paragraph 15 of Part One, Second Instalment Report.

<sup>7</sup> See paragraphs 58-75, Part One, Second Instalment Report.

<sup>8</sup> See paragraph 18 of the “Report and recommendations made by the Panel of Commissioners concerning part two of the ninth instalment of individual claims for damages above USD100,000 (category ‘D’ claims)” (S/AC.26/2001/26), wherein the Panel set out the guidelines for compensating claims for loss of professional standing.

<sup>9</sup> See paragraph 21 of the “Report and recommendations made by the Panel of Commissioners concerning part one of the fourth instalment of individual claims for damages above US\$100,000 (category ‘D’ claims)” (S/AC.26/1999/21).

<sup>10</sup> “Report and recommendations made by the Panel of Commissioners concerning the third instalment of individual claims for damages above US\$100,000 (category ‘D’ claims)” (S/AC.26/1999/9) (the “Third Instalment Report”).

<sup>11</sup> Paragraph 39 of the Third Instalment Report.

<sup>12</sup> Paragraph 1 of Governing Council decision 16 states that “[i]nterest will be awarded from the date the loss occurred until the date of payment, at a rate sufficient to compensate successful claimants for the loss of use of the principal amount of the award.”

<sup>13</sup> See paragraphs 64-65, First “D” Report with respect to category “D” losses other than individual business losses and paragraphs 225 - 226, the Sixth Instalment Report with respect to claims for individual business losses.

<sup>14</sup> See paragraphs 227 - 228 of the Sixth Instalment Report.

<sup>15</sup> These figures exclude the one claim in the instalment that was withdrawn. See note 1, above.

<sup>16</sup> “Report and recommendations made by the Panel of Commissioners concerning the first instalment of claims for departure from Iraq or Kuwait (category ‘A’ claims)” (S/AC.26/1994/2).

<sup>17</sup> “Report and recommendations made by the Panel of Commissioners concerning the first instalment of individual claims for damages up to US\$100,000 (category ‘C’ claims)” (S/AC.26/1994/3).

Annex

SUMMARY RECOMMENDATIONS OF THE THIRTEENTH  
INSTALMENT OF CATEGORY "D" CLAIMS

<u>Submitting Entity</u>	<u>Number of claims not recommended for payment or withdrawn</u> <sup>a</sup>	<u>Number of claims recommended for payment</u>	<u>Amount claimed (USD)</u>	<u>Amount of compensation (USD)</u>
Australia	0	1	375,432.53	51,622.08
Canada	5	4	4,476,805.81	396,275.03
Egypt	5	2	11,993,397.55	50,351.61
France	2	1	1,825,907.12	64,790.33
Germany	0	2	509,907.81	22,153.43
Iceland	0	1	457,523.89	204,474.11
India	24 (1)	51	37,127,486.86 <sup>b</sup>	3,627,594.70
Israel	0	12	5,336,950.71	1,267,545.45
Italy	0	2	59,942.91	23,550.00
Jordan	11	27	42,615,845.14	3,569,233.86
Kuwait	14	370	197,170,800.76	133,816,710.34
Lebanon	1	2	446,483.91	220,032.54
Pakistan	0	4	5,187,667.34	477,387.69
Philippines	0	1	133,597.92	120,910.45
Portugal	0	1	449,162.63	34,597.09
Sudan	0	1	233,090.00	4,008.75
Syrian Arab Republic	2	5	9,336,233.43	737,526.58
Thailand	0	1	400,000.00	46,800.00
Turkey	0	2	16,793,886.60	200,013.30
United Kingdom	2	15	10,883,939.00	1,094,546.16
United States	4	12	4,987,754.63	1,388,544.15
Yemen	0	2	456,314.88	36,388.84
UNDP Egypt	0	1	130,496.54	60,000.00
UNDP Washington	0	1	111,310.70	65,723.67
UNRWA Gaza	0	2	385,564.01	151,444.47
<u>Total</u>	69 (1)	523	351,885,502.68 <sup>b,c</sup>	147,732,224.63

<sup>a</sup> Numbers in parentheses represent claims that were withdrawn and are in addition to the claims that were not recommended for payment.

<sup>b</sup> Excludes the "Amount claimed" with respect to claims that were withdrawn.

<sup>c</sup> This amount claimed includes USD 5,847,830.21 for business losses suffered by Kuwaiti companies that will be transferred to the "E4" Panels for review pursuant to Governing Council decision 123.