

THE UNITED NATIONS CLAIMS COMMISSION: INSTITUTIONALIZING CLAIMS

Following the Allied victory in the Gulf war, the United Nations Security Council (S.C.) established the United Nations Compensation Commission ("the Commission") to deal with the overflow of claims arising from Iraq's unlawful invasion and occupation of Kuwait. A subsidiary organ of the Security Council, the Commission was intended to breathe life into S.C. Resolution 687's affirmation that Iraq was "liable under international law for any direct loss, [or] damage, ... to foreign governments, nationals and corporations" resulting from Iraq's actions.

Based in Geneva, the Commission consists of an Executive Secretary overseeing the work of a Secretariat, a Governing Council, comprising the 15 members of the Security Council at any given time, and an indeterminate number of commissioners. The Governing Council gives policy direction to the Commission; the Secretariat services the Commission; and, the commissioners serve as the principal claims evaluators, sitting in panels of three and working in a personal capacity.

In addition, S.C. Resolution 687 established a Compensation Fund, under the auspices of the Commission, as the financial vehicle through which Iraqi funds would be channelled to the eventual claimants. A 30 per cent levy on future Iraqi oil revenues should ensure that the Fund will be continually replenished.

One of the first major tasks tackled by the Commission was to categorize claims and establish an expedited process for urgent cases. Specific amounts were fixed for costs arising from forced departure from Kuwait or for the loss of a family member. As well, the Commission served notice that it will give priority to the processing of claims for losses up to U.S. \$100,000.

All claims must be presented to the Commission, collectively, by the governments responsible for individual claimants. The Canadian Government is tasked with reviewing more than 800 Canadian individual and corporate claims and submitting a "consolidated claim" to the Commission by July 1, 1993.

The Secretariat will perform a preliminary assessment before claims are submitted to a panel of commissioners. Working under strict time deadlines, the commissioners must verify and evaluate the claims and make recommendations regarding awards to the Governing Council. The Governing Council approves all final awards. As the last step, the national governments are responsible for the distribution of the funds awarded to individual claimants.

Given the difficult circumstances under which losses occurred, the