

PROCEDURE WHEREBY CLAIMS ARE MADE AGAINST IRAQ FOR LOSSES INCURRED AS A RESULT OF THE PERSIAN GULF WAR.

In view of the extent of claims expected to be made against Iraq for losses in terms of human lives, oil revenues and material goods caused in its invasion of Kuwait, the United Nations Organization has decided to create a Compensation Fund and a Compensation Commission as well as a Board of Directors to manage these two UN organs. The States will place their own claims and those of their citizens on file with the Commission and the amounts will ultimately be paid to them.

By operating in this fashion, the UN hopes to protect the interests of all of Iraq's creditors by equitably distributing the funds reimbursed from Iraqi oil revenues. The UN also wishes to avoid having the administration of the claims bogged down because of the number and size of the amounts claimed.

The normal procedure followed by the Commission will be administrative rather than judicial. Thus, the requesting State and Iraq will play a limited part in the investigation in the hearing of claims. However, the Commission must comply with specific rules which should be established by the Council in the coming months. When a claim is disputed, the Commission members will follow a quasi-judicial procedure in reaching a settlement. The Commission's decision will be final, but can be reviewed by the Board if one of the parties feels that the Commission has made an error in fact or in law. Any misunderstanding over a claim will be dealt with by the Board.

Since Iraq has a limited ability to pay, the amounts assessed to the requesting states will probably always exceed the amounts available in the Fund. With this in mind, the Board will establish a list of priorities in the claims, governed by the size of the amount claimed, the type of damages incurred by the claiming country and other relevant factors. Thus the claims of Kuwait may be given special status. The costs of administrating the claims will be borne by the Fund.

Those who have incurred losses as a result of the Gulf War and who wish to make claims have experienced numerous difficulties. For example, documentary or material proof of the ownership of lost goods is not always available. Worse, in many cases the people who fled the Gulf region during the crisis are not yet citizens of the country that they are asking to endorse a claim in their name. In conventional international law, the rule of nationality of claim requires that the person be a citizen of the state endorsing his or her claim throughout the entire period between the loss and the ruling on the claim. Not requiring the claiming states to endorse the claims, but allowing them to register the