

CLAIMS AGAINST IRAQ

During the period of 1992 to the end of 1994, the Government of Canada forwarded over 1,300 compensation claims to the United Nations Compensation Commission (UNCC) in Geneva, for losses resulting from Iraq's invasion and occupation of Kuwait between the period of August 2, 1990 to March 2, 1991.

The UNCC, a subsidiary organ of the United Nations Security Council, was established to give effect to Security Council Resolution 687 which affirmed that Iraq was "liable under international law for any direct loss, [or] damage,...to foreign Governments, nationals and corporations" resulting from Iraq's actions.

The creation of the UNCC introduced a unique system for dealing with international claims. Traditionally, under certain conditions, governments can espouse claims for losses or injuries on behalf of their nationals. Government espousal effectively renders the claim a state claim. Under the UNCC system, states are required to submit claims on behalf of their nationals. However, the claim remains that of the individual or corporation, with governments providing more of a coordinating function. For the Government of Canada, this involved a program to review claims to ensure they met UNCC requirements and to prepare consolidated claim submissions for onward transmission to the UNCC.

The UNCC system also permitted governments to determine their own definition of the term "resident". Under traditional international law, states only espouse claims on behalf of their nationals. The UNCC wanted all individuals who had suffered a loss or injury as a result of the invasion of Kuwait to have recourse to a remedy, regardless of nationality (except for Iraqi citizens, who were required to have bona fide nationality of another state). Accordingly, the Government of Canada submitted claims not only on behalf of Canadian citizens, but also Canadian permanent residents, who had obtained residency status in Canada by March 31, 1993.

The UNCC has received over 2.6 million claims from 95 countries and 15 international organizations with a total asserted value of approximately US\$180 billion. To date, three Panels of Commissioners have reviewed and made recommendations on over 350,000 individual claims in Categories A (Departure), B (Serious Personal Injury and Death) and C (Losses under US\$100,000). Claims in these categories are considered to be the most urgent claims, to be processed using expedited procedures. These first instalments of claims have allowed the UNCC to formulate general criteria related to issues of causation,