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**United Nations
and
Iraq**

Agreement between the United Nations and the Government of the Republic of Iraq on the transfer of funds for compensation of the Iraqi private citizens whose assets remained on Kuwaiti territory following the demarcation of the international boundary between Iraq and Kuwait. Baghdad, 26 May 2013

Entry into force: 26 May 2013 by signature, in accordance with article 7

Authentic text: *English*

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**Organisation des Nations Unies
et
Iraq**

Accord entre l'Organisation des Nations Unies et le Gouvernement de la République d'Iraq sur le transfert de fonds d'indemnisation des citoyens privés irakiens dont les biens sont restés sur le territoire koweïtien après la démarcation de la frontière internationale entre l'Iraq et le Koweït. Bagdad, 26 mai 2013

Entrée en vigueur : 26 mai 2013 par signature, conformément à l'article 7

Texte authentique : *anglais*

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[ENGLISH TEXT – TEXTE ANGLAIS]

**AGREEMENT
BETWEEN THE UNITED NATIONS AND THE GOVERNMENT OF THE REPUBLIC OF
IRAQ
ON THE TRANSFER OF FUNDS FOR COMPENSATION OF THE IRAQI PRIVATE
CITIZENS WHOSE ASSETS REMAINED ON KUWAITI TERRITORY FOLLOWING
THE DEMARCATION OF THE INTERNATIONAL BOUNDARY BETWEEN IRAQ AND
KUWAIT**

Whereas the Security Council has indicated its concurrence with the Secretary-General's approach in resolving the issue of compensation to Iraqi nationals for the loss of their assets located in Kuwait as a result of the demarcation of the international boundary between Iraq and Kuwait (S/25085 Annex II, S/1994/240 and S/RES/899 (1994));

Whereas on 22 September 1993 the United Nations entered into an arrangement with the Government of Kuwait under which the United Nations was to provide assistance in resolving the issue of compensation to those Iraqi nationals who lost their assets located in Kuwait as a result of the demarcation of the international boundary between Iraq and Kuwait (hereinafter the "Iraqi Beneficiaries");

Whereas pursuant to the arrangement with the United Nations, the Government of the State of Kuwait deposited an amount of compensation into a trust fund established by the United Nations from which the United Nations was to pay compensation to the Iraqi Beneficiaries identified by the United Nations (hereinafter the "UN Trust Fund");

Whereas on 28 March 2007 the Government of the Republic of Iraq informed the Secretary-General that the Council of Ministers of Iraq had decided to establish a team from the relevant Ministries headed by a representative of the Council of Ministers with a view to distributing compensation to the Iraqi Beneficiaries;

Whereas on 2 May 2013 the Government of Iraq requested the Secretary-General to transfer the total amount of compensation in the UN Trust Fund to the Ministry of Foreign Affairs' account number 2 in United States dollars at the Rasheed Bank;

Whereas on 19 May 2013 the Government of Iraq instead requested the Secretary-General to transfer the total amount of compensation in the UN Trust Fund to the Central Bank of Iraq's account in United States dollars at the Federal Reserve Bank of New York (hereinafter the "account");

Whereas the Security Council has concurred with the Secretary-General's proposal for the Government of the Republic of Iraq to assume full responsibility for identifying and making appropriate payment to the Iraqi Beneficiaries and for this purpose to transfer the funds currently held in the UN Trust Fund to the Government of Iraq [S/2013/295; S/2013/296];

Now Therefore, the United Nations and the Government of the Republic of Iraq (hereinafter the "Parties") agree as follows:

Article 1

Purpose

This Agreement sets out the arrangements under which the Government of the Republic of Iraq (hereinafter the "Government") will assume from the United Nations the task of identifying and paying compensation to the Iraqi Beneficiaries and, for this purpose, the modalities for the transfer by the United Nations to the Government the funds held in the UN Trust Fund.

Article 2

Responsibility of the United Nations

The United Nations shall transfer as soon as possible after entry into force of this Agreement and the receipt of written notification by the Government on the necessary banking details, the funds contained in the UN Trust Fund, less applicable administrative costs, to the account thus notified to the United Nations by the Government, to pay compensation to the Iraqi Beneficiaries

Article 3

Responsibility of the Government

1. Upon deposit of funds by the United Nations into the account pursuant to Article 2 of this Agreement, the Government shall assume all responsibility for identifying the Iraqi Beneficiaries, determining the amount of compensation to be paid to each beneficiary, and the disbursement of such compensation to such beneficiaries.
2. The Government shall routinely inform the Secretary-General on the progress achieved in identifying and paying compensation to the Iraqi Beneficiaries and on completion of the process.

Article 4

Liability and Indemnity

1. The Government hereby assumes full responsibility and liability for the identification of the Iraqi Beneficiaries and for the disbursement of compensation to such beneficiaries, including any claims related thereto.
2. In addition, and without limitation to the foregoing, the United Nations shall not be liable to the Government of Iraq, or to any third party, for (i) the United Nations administration and management of the UN Trust Fund pursuant to the arrangements set forth in the letter dated 22 February 1994 from the Secretary-General addressed to the President of the Security Council (S/1994/240), as approved by Security Council resolution 899 (1994); or (ii) the transfer of the remaining funds in the UN Trust Fund to the account.

3. In furtherance of Paragraphs 1 and 2 of this Article, the Government of Iraq shall indemnify, hold and save harmless, and defend, at its own expense, the United Nations, its officials, agents and employees, from and against any suits, proceedings, claims, demands, losses and liability of any nature or kind, including, without limitation, their costs and expenses, arising out of, related to, or in connection with (i) the United Nations' administration and management of the UN Trust Fund pursuant to the arrangements set forth in the letter dated 22 February 1994 from the Secretary-General addressed to the President of the Security Council (S/1994/240), as approved by Security Council resolution 899 (1994), (ii) the transfer of the remaining funds in the UN Trust Fund to the account; and (iii) the identification of the Iraqi Beneficiaries, determination of the amount of compensation to be paid to each beneficiary, and the disbursement of compensation to such beneficiaries, by the Government.

Article 5 Privileges and Immunities

Nothing in or relating to this Agreement shall be deemed a waiver, express or implied, of any of the privileges and immunities of the United Nations, including its subsidiary organs.

Article 6 Dispute Settlement

Any disputes between the United Nations and the Government arising out of or relating to this Agreement which is not settled by negotiation or other agreed mode of settlement shall be submitted to arbitration at the request of either Party. Each Party shall appoint one arbitrator, and the two arbitrators so appointed should appoint a third, who shall be the chairperson. If within thirty days of the request for arbitration either Party has not appointed an arbitrator or if within fifteen days of the appointment of two arbitrators the third arbitrator has not been appointed, either Party may request the President of the International Court of Justice to appoint an arbitrator. The procedure of the arbitration shall be fixed by the arbitrators, and the expenses of the arbitration shall be borne by the Parties as assessed by the arbitrators. The arbitral award shall contain a statement of the reasons on which it is based and shall be final and binding upon the Parties.

Article 7 Final Clauses

1. This Agreement shall enter into force upon the signature of both Parties and shall remain in force until complete fulfillment of all obligations entered into by virtue of this Agreement.
2. This Agreement may be modified by written agreement between the Parties.
3. The obligations assumed by the Government under Article 4 of this Agreement shall survive the termination of this Agreement.