

An Empirical Investigation Of Reparation Accounting : With Special Reference To Kuwait Airways	:العنوان
مجلة البحوث التجارية	:المصدر:
جامعة الزقازيق - كلية التجارة	:الناشر:
الراشد، وائل إبراهيم	:المؤلف الرئيسي:
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المحاسبة عن التعويضات الناجمة عن الغزو العراقي دراسة تطبيقية على مؤسسة الخطوط الجوية الكويتية*

اعداد

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(ملخص البحث)

ان الآثار الناجمة عن ازمة الخليج لغاية في التعقيد مما يصعب معها معالجتها من جانب دولة واحدة بذاتها، ويتطلب الأمر تضافر العديد من الجهود في مختلف المجالات وتضافر جهود المهن المختلفة على نطاق العالم لوضع قواعد واجراءات للتعويضات عن الخسائر والأضرار الناجمة عن الغزو العراقي لدولة الكويت ، كما قد يستلزم الأمر من النواحي المحاسبية استخدام حساب وسيط يمول من عوائد النفط العراقية لسداد مطالب التعويضات .

وبالاضافة الى ذلك فإن الضرورة تقتضى تبني نظام محاسبى متكامل لتقدير قيمة الخسائر الناجمة عن الازمة ولتوفير الأسس المحاسبية اللازمة لضمان دفع التعويضات الى ذلك الحساب الوسيط المشار اليه. كما يجب أن تقدر التعويضات على اساس قوائم مالية وبيانات محاسبية معدة خصيصا لهذا الغرض ، مما قد يثير العديد من المشاكل المحاسبية بالغة الأهمية لتقييم الأصول وتقدير الخسائر. الخ .

ومن ثم كان اختيار موضوع هذا البحث لدراسة كيفية المحاسبة عن الخسائر ومن ثم امكانية تقدير التعويضات المناسبة تمهيدا للمطالبة بها .

ومن المسلم به أنه لا يوجد قطاع واحد أو أى نشاط على ارض الكويت لم يسلم من الدمر او السرقة او التخريب . ومؤسسة الخطوط الجوية الكويتية تعتبر من أكبر المؤسسات التى اضررت من الغزو العراقي، ولقد واجهت العديد من الصعاب والمشاكل المعقدة المرتبطة بألية مطالبات التعويضات والمحاسبة عليها، ولهذا تم اختيار هذه

المؤسسه كمجال للتطبيق العملي.

كما أنه من الجدير بالذكر بأن الباحثان قد قاما باجراء دراسة مقارنة لتجارب بعض الدول المتقدمة في هذا المجال حيث اجريت المقابلات الشخصية للمعنيين في كل من شركة الخطوط الجوية الألمانية Lufthansa وشركة الخطوط الجوية البريطانية British Airways وكذلك المعهد البريطاني لتقدير الخسائر Institute of Loss adjustor وذلك بغرض الاستفادة من تجارب هذه الدول في ذلك المجال.

وتتلخص اهداف هذه الدراسة فيما يلي :

- ١- تحديد المشاكل المحاسبية المرتبطة بتقدير الخسائر الناجمة عن الغزو .
 - ٢- تقييم الاجراءات المطبقة في اعداد القوائم الماليه المعدة لأغراض المطالبة بالتعويضات .
 - ٣- وضع اطار عام لكيفية معالجة التعويضات .
- ولقد استخدم الباحثان وسائل متعددة في جمع البيانات اللازمة لموضوع البحث كالمقابلات الشخصية بالاضافة الى البيانات التي امكن الحصول عليها من التقارير والقوائم المالية التي تم الحصول عليها من مختلف الجهات المعنية .
- ولقد تم تقسيم هذا البحث الى أربعة أقسام رئيسية هي : الجوانب القانونية ، الجوانب المحاسبية، ثم الاطار المقترح لمعالجة التعويضات ، ذلك بالاضافة الى جزء يشتمل على مقدمة البحث (المشكلة ، الأهمية ، الأهداف ، وطريقة البحث).

القسم الثاني: الجوانب القانونية لموضوع التعويضات

جدير بالذكر ان موضوع التعويضات الناجمة عن الغزو العراقي قد تأسست له هيئة تابعة للأمم المتحدة (United Nation Compensation Commission) UNCC بناء على قرار مجلس الأمن رقم ٦٨٧، ومنوط بهذه الهيئة عملية تلقي مطالبات التعويضات من المتضررين من خلال حكوماتهم المعنية، فعلى سبيل المثال انشأت دولة الكويت هيئة

اقليمية تسمى " الهيئة العامة للتعويضات عن خسائر الغزو العراقي " لتلقى طلبات التعويضات ومن ثم فحصها وتقييمها في ضوء المعايير المحددة بواسطة هيئة التعويضات التابعة للأمم المتحدة . والطلبات المقدمة لاتخضع لقواعد القانون الدولي واجراءاته من تداول الجلسات واثبات الضرر... الخ ، ولكن طبقا لقرارات الامم المتحدة فان الضرر يفترض وقوعه وما على المتضرر الاتقديم تقديرات بقيمة الضرر . و جدير بالذكر بأن جميع انواع الأضرار قد قبلتها الأمم المتحدة وحتى الضرر غير المباشر بالرغم من عدم وروده في قرارات الأمم المتحدة .

وطبقا للدراسة التي اجريت فان تقدير الخسائر الناجمة عن الغزو العراقي يوجب اعادة تقدير عناصر قائمتي الدخل والمركز المالي ، ففيما يتعلق بالمصروفات غير العادية على سبيل المثال فيجب ان تكون مرتبطة بعملية الغزو ومن ثم هناك قواعد معينة تطبق في تقدير خسائر الأرباح Lost Profit ، وحتى بنود الميزانية كتقييم النقدية والمدينون ومخزون البضاعة ، الأصول الثابته ... الخ تخضع لقواعد قانونيه معينة ، ولقد تناول الباحثان ذلك بالشرح والتحليل في البحث في ضوء تجارب كل من شركة الطيران الالمانية Lufthanse وشركة الخطوط الجوية البريطانية British Airways وكذلك استطلاع آراء المحكمين والقانونيين الدوليين في هذا الصدد .

القسم الثالث: الجوانب المحاسبية لموضوع التعويضات:

في هذا القسم تمت مناقشة المشاكل المحاسبية لمعالجة التعويضات من خلال تحليل بنود كل من قائمة الدخل Income Statement وقائمة المركز المالي Balance Sheet ، وبالتحديد الاجراءات المحاسبية المناسبة لاعداد القوائم بهدف تحديد خسائر الغزو ومن ثم تقدير قيمة التعويضات . هذا واتساقا مع خطة الدراسة فقد تمت مناقشة هذه الموضوعات من خلال تجارب شركات الطيران الاوربية المشار اليها ، كذلك من خلال استشارة المختصين في تقدير الخسائر والتأمينات في المعهد البريطاني لتقدير الخسائر Institute of Loss Adjustor .

فالمعالجة المحاسبية فى شركة الخطوط الجوية الالمانية تتلخص فى تقدير الأضرار والخسائر مع استحداث حسابات مناسبة مع ضرورة اتساقها مع المعايير المحاسبية الالمانية. هذا بالاضافة الى تطبيق طريقة اقفال الحسابات المعنية (الغائها) Write-off فى بعض الحالات ، وتستخدم كذلك القيمة المعدلة Adjusted Value لتقدير بعض بنود قائمة الدخل والميزانية .

أما فى شركة الخطوط الجوية البريطانية فلقد تأثرت كثيرا بأزمة الخليج مثلها مثل كافة شركات الطيران التجارية فلقد طبقت أيضا فى نفس العام - عام الأزمه ١٩٩٠ - واعتبرت المصروفات الطارئة مصروفات غير عادية Extraordinary ولم تستخدم حسابات المقابلة Contra Accounts فى القوائم المالية ، وجدير بالذكر أن هذه الشركة دمرت لها طائرة واحدة وحصلت على قيمتها بالكامل وتلك هى الحالة الوحيدة .

وبالتطبيق على مؤسسة الخطوط الجوية الكويتية فيما يتعلق باعداد قائمة الدخل والمركز المالى لفترة الأزمة بغرض تقدير الخسائر ومن ثم المطالبة بالتعويضات فنجد أن الشركة قد طبقت بعض المعايير فى تقدير خسائرها ، ولقد بلغت اجمالى المطالبات حوالى ١٢٢٨٣٧٣ الف دولار وهى فى نفس الوقت تعادل قيمة الخسائر فى الأرباح والاصول منها ١٥ طائرة ، هذا بالاضافة الى حصول الشركة على مبلغ ٩٧٥ مليون دولار كتعويض من شركات التأمين . ويلاحظ أن المؤسسه قد استعانت بأقسام متخصصة من القوات المسلحة الأمريكية فى تقدير بعض بنود الخسائر.

القسم الرابع: الاطار المقترح للمعالجة المحاسبية عن التعويضات:

من الواضح من التحليلات التى قام بها الباحثان أن موضوع المحاسبة عن التعويضات يعتمد بدرجة كبيرة على الجوانب القانونية بالاضافة الى القواعد المحاسبية والاجرائية التى حددتها الأمم المتحدة فى قراراتها المنظمة لموضوع المطالبة بالتعويضات ، وفيما يلى بعض الاقتراحات لمعالجة هذا الموضوع :

١- تقدير الأضرار :

بالرغم من أن تقديرات الخسائر تتم الى حد كبير على الاجراءات التي تم تحديدها من قبل الأمم المتحدة، الا أن المحاسبة هنا يمكن استخدامها كأداة رئيسية لتقييم الاضرار الناجمة عن الغزو العراقي ، وتطبق في هذا المجال طرق التقييم والقياس المحاسبية ليس فقط بالنسبة للأصول الثابتة بل أيضا بالنسبة بالأصول المتداولة .

٢- يتعين على مؤسسة الخطوط الجوية الكويتية إعادة النظر في قائمة التعويضات وذلك في ضوء المبادئ والمعايير المقترحة مع الأخذ في الاعتبار ما أمكن الحصول عليه من شركات التأمين كتعويض عن بعض الأصول المؤمن عليها، وأيضا ما أمكن استرداده من طائرات وبصفة خاصة الطائرات الست المستردة من ايران عام ١٩٩٣ .

٣- البنود غير العادية :

من المفترض أن هذه البنود سواء اكانت تتعلق بقائمة الدخل أو قائمة حقوق الملكية - قد حدثت بسبب الغزو العراقي، وفي جميع الحالات يتعين اثبات العلاقة بين البند المدرج بالقوائم وعملية الغزو مع تقديم المستندات الدالة على ذلك .

٤- الأرباح الضائعة :

لقد اقترح الباحثان معادلة لكيفية حساب الربح الضائع والفرصة البديلة وذلك بسبب توقف النشاط نتيجة لعملية الغزو.

هذا بالإضافة الى بعض الاقتراحات الأخرى والخاصة - على سبيل المثال - بالأصول الثابتة والأصول غير الملموسة وكذلك الخصوم والتي تم ايضاحها في متن البحث.

(4) INVESTMENTS:

In respect of the internal investment, in Kuwait, how could we evaluate the loss in the investments (short & long term) ?

(5) INSURANCE:

How could you justify the amount received from the insurance firms concerning the lost assets and the claimed amount which is supposed to be obtained from the UNCC ?

(6) FIXED ASSETS (The fleet and other assets):

(a) Regarding the damaged or stolen assets; what is the relevant method for devaluation of these assets for the purpose of preparing such claiming list?

(b) What is the most appropriate accounting treatment for that loss?

(7) INTANGIBLE ASSETS?

(a) Do you think the KAC goodwill could be estimated and justified in terms of a compensation claim ?

(b) If so, how could it be done?

British Airways

As far as we know, you have experience concerning claim for compensation against the loss of an aircraft of your fleet. How did you work out the claiming amount and also how did you treat this in your accounting books?

Section (2): Topics Related to the Balance Sheet Items:

The main purpose of this section is to investigate the accounting rules regarding determination and justification of the balance sheet items; assets, liabilities and owner's equity in relation to the war damages and loss.

(1) CASH:

The exchange rates have fluctuated since the Gulf crisis, KAC has balances of different foreign currencies, How do you think of the way of devaluating those balances should be reached?

(2) INVENTORY:

(a) Concerning the loss of inventory such as spare parts. how would you assess the loss of damaged or stolen inventory in the absence of documents or any other evidence?

(b) What is the relevant accounting rule for the devaluation of the loss in the inventory balances?

(3) ACCOUNTS RECEIVABLE:

(a) Regarding the debts which could not be collected because of the war (the Iraqi invasion of Kuwait, in which everybody suffered from such kind of loss), are they ordinary bad debts?

(b) Do you think these debts should be included on the compensation claiming list?

(4) What is the relevant accounting treatment for this loss?

(5) Have you ever dealt with assessment of lost opportunity?

What do you think is the most suitable accounting policy for justification of this loss?

(6) Regarding compensation claims, how could you work out such a claiming list? How do you treat that claim in respect of such accounting techniques?

Section (1): Topics Related to the Income Statement Items:

This section aims to examine the accounting rules regarding the determination of the income statement. Expenses and revenues in relation to war damages are specifically examined.

(A) EXPENSES:

(1) As a result of the war, abnormal expenses occurred, for instance: repairing costs, cost of leasing place(s) for running the business, additional staff costs etc.

Do you have such experience in this regard?

(2) Do you call this kind of expenses "Extraordinary"?

(3) What is the most relevant accounting treatment for this type of expenses?

(B) REVENUES:

(1) Regarding the business loss caused by the events, have you ever dealt with such items like those related to revenues which have considerable effect on the income statement?

Would you please explain?

(2) How did (do) you treat them in terms of accounting techniques?

(3) Concerning the loss of profit: How did (do) you assess this loss?

Introduction:

The main purpose of this interview guide is to highlight certain issues concerning reparation accounting for the purpose of the preparation of the financial statement, particularly income statement and balance sheet after the Gulf war.

In this respect, consideration is given either to the international accounting standards (IAS) or a uniform accounting system to be applied in this case. Also, more attention is paid to relevant United Nations' resolution No: 689, par, (16) which states that; Iraq is liable under the international law for any damage and loss resulting from its invasion and occupation to Kuwait, with particular reference to the airline industry where Kuwait Airways Corporation (KAC) is chosen as a case study.

Appendix 2: Interview Guide

Section (1): Topics Related to the Income Statement.

Section (2): Topics related to the Balance Sheet.

2) Germany

- 1) *Mr. Luschen , Mr. Berhert - Senior Project - Lufthansa Consulting Co.*
- 2) *Representatives of Comtec Agency - Frankfurt Universtat.*
- 3) *Mr. Wolfgang, Mr. Jehle, Mr. Pass, Mr. Schmidt - Lufthansa Financial Dept.*
- 4) *Dr. Lacher - Thyssen Co.*
- 5) *Prof. Borner - Dr. Borner A. - Legal Attorney.*
- 6) *Hans Micheal & Pott - Triebel D. - of the BAR Association.*
- 7) *Gager R. - Representative of Coopers & Lybrand.*

3) England

- 1) *C. T. Preston - Group Controller Analysis & Reporting - British Airways.*
- 2) *S. R. Diacon - School of Management & Finance - University of Nottingham.*
- 3) *Prof. R. J. Briston - Dean of the School of Management - University of Hull.*
- 4) *A. J. Lund - Deputy Chief Executive - Robins Davis Ltd.*
- 5) *A. F. Clack - The Chartered Institute of Loss Adjusters.*
- 6) *Mike Reeves - Thomas Howell Group .*
- 7) *K. Baker - Director of Brocklehursts International loss Adjusters.*
- 8) *J. McMahon - Brocklehursts International loss Adjusters.*
- 9) *L. Smallman- Brocklehursts International loss Adjusters.*

Appendix 1: List of the Interviewees

Representatives of the different management levels at each of KAC, Lufthansa, BA, Professionals , PAAC and others were interviewed in order to discuss the issues relevant to the undertaken project. The following is a list of interviewees:

1) Kuwait

- 1) *Dr. Adel Asem - General Director - PAAC.*
- 2) *Abdul-allah Al-Ayoub - Legal Attorney .*
- 3) *Dr. Bader Mallah - Director of the Finance Dept. - KAC.*
- 4) *Rashed Al-Mosabihi - Finance Dept. - KAC.*
- 5) *Jim Loue - Senior Accountant - Advisor - PAAC.*
- 6) *Aidan Broderick - Cultural Attaché - British Council in Kuwait.*
- 7) *Peter Murts - Commercial Attaché - German Embassy in Kuwait.*
- 8) *The French commercial mission to Kuwait.*
- 9) *Members of the trade and industry committee - PAAC.*

Appendices

Appendix 1: List Of Interviewees

Appendix 2: Interview Guide

- 10) *KAC's Internal Report , February 1992 .*
- 11) *Note 20, KAC financial report, p. 11, June, 1993.*
- 12) *Note 20, KAC financial report, p. 12, June, 1992.*
- 13) *Note 17, KAC financial report, p. 11, June, 1992.*
- 14) *Hickmott G. J. R., " Principles and Practices of Interruption Insurance", Whithery & Co. Ltd., London, Clause No. 6 of Standard Policy Forms, p. 604.*
- 15) *Ibid, p. 604.*
- 16) *Ibid, p. 614.*
- 17) *The UNCC instructions for corporations' claims, 1991, p. 3.*
- 18) *" Accounting practices in the GCC", D eloitte Haskins Sells, MEED Ltd. Publications, London 1984, p. 42*

NOTES

- 1) *This issue has also been taken up by the government, resulting in further supervision of accounting firms. See Accounting Practice in The GCC., Deloitte Haskins + Sells, Middle East Economic Digest Ltd., 1984, p. 43..*
- 2) *Malallah B., "The Development of Accounting & Financial Reporting Practices in a Developing Country: Kuwait"; Un-published Ph.D. thesis, University of South Wales, Cardiff, 1984, P. 89.*
- 3) *Some writers have gone so far as to state that it was the accountants' dissatisfaction with the government role that led to the establishment of the Kuwait Society of Accountants and Auditors (KSAA) in 1973. Op cit. P.90.*
- 4) *Ministerial resolution No. 75/1981, the formation of the permanent committee for the establishment of accounting rules, Ministry of Commerce & Industry, 10/6/1981.*
- 5) *Ibid., P. 306.*
- 6) *Frank, B. and Others; "Litigation Services Handbook", John Wiley & Sons, Inc., New York, 1990.*
- 7) *UN Compensation Guidance Booklet 1991, p. 28, par. 6.15.*
- 8) *BA Report & Accounts 1990-91, P. 2.*
- 9) *Op. Cit.*

upon the commitment of the bodies concerned and their compliance with its rules and guidelines.

The Committee needs to address a new structure of accounting standards setting as well as guidelines for reporting, or what is popularly known as a conceptual framework. The Committee should investigate not only the soundness and reasoning of the reports, but also whether they point in the appropriate direction for practical development. Standards could, for example, be based on a description of a problem to be investigated, a logical discussion of possible solutions, and a prescribed solution.

The current period of change and reconstruction in the country, and indeed in the region as a whole, offers a golden opportunity for accountants to work for and secure the desired regulation. With the support of the government and the encouragement of the profession, one would hope that an accounting authoritative body, as well as standards and codes of ethics, would soon emerge.

5.2 Accounting Prospects:

Although Kuwait has adopted the IAS as the recognized accounting rules, their application by a firm depends on its size and its affiliation with an international accounting firm.

The number of accounting firms operating in Kuwait has increased dramatically within a period 15 years (from 6 in 1972 to 30 in 1989). All the Big 8 accounting firms have representatives in Kuwait, of which Earnest & Whinny is the oldest. (18)

Even though most financial statements prepared in Kuwait make disclosures of their accounting policies applied, unfortunately, quality and quantity are not uniform and the standard is generally poor.

The need for accounting, as a financial reporting function, has become more acute especially for compensation purposes and in view of the need for claims to be verified by professional public accountants.

UNCC has not specified special accounting rules applicable to reparation. However, a financial position restated for compensation declaration has first to be audited by a public accountant who has to follow set accounting rules. Most of the accounting firms in Kuwait have applied IAS since the Ministry of Commerce issued a ministerial resolution for their application.

As far as PTC is concerned, despite all the problems it has encountered, the committee itself was considered a step in the right direction. Its effectiveness will, however, depend

(B) Balance Sheet:

Assets

<i>Items</i>	<i>Accounting Treatment</i>
1. Cash Losses	<i>Written Off</i>
2. Accounts Receivables Devaluation or Losses.	<i>Written Off</i>
3. Inventory Losses.	<i>Written Off</i>
4. Fixed Assets Losses.	<i>Written Off</i>
5. Insurance.	<i>KAC can not claim twice (insurance repayments and compensation claims). Insurance firms should share any funds received by KAC from the UNCC.</i>
6. Intangible Assets.	<i>KAC has to provide solid proof of damages to its intangibles. Claims in this respect are governed by the law of disputes. No intangibles are disclosed within the financial statements of KAC.</i>
7. Investments.	<i>Same principle as described in (6) above.</i>

Liabilities

Creating a new position by decreasing the liabilities through contra accounts (UN compensation claims or government subsidies).

***Summary of the
Suggested Framework
for Reparation
Accounting***

(A) Income Statement:

<i>Item</i>	<i>Accounting treatment</i>
<i>Extraordinary:</i>	
<i>a. Expenses</i>	<i>Write off</i>
<i>b. Revenues</i>	<i>Abnormal</i>
<i>c. Lost Profit</i>	<i>Contra A/C</i>

Notes:

- 1. The extraordinary expenses are those which occurred as a result of the Iraqi invasion of Kuwait.***
- 2. Revenues are all cash received from either the insurance firms or the UNCC in equating for compensation claims.***
- 3. The lost profit here is the loss of opportunity.***

- 1. to decrease the liabilities in a special entry through reserves;***
- 2. or to consider the compensation claim as an extraordinary event, although a major one, - and consequently put it as a contra account on the assets side. Then, a reversing entry is recorded to re-enter the devalued sums of the liabilities. The researchers recommend the second accounting treatment as most applicable to the case of KAC.***

In general, intangibles are to be put into the position of a new company. Such treatment would assist in overcoming the considerable problem of valuation of intangibles.

In the case of valuation, the standard of the airline industry e.g. IATA Guides, should be taken into consideration, especially as they are applicable in the Gulf area.

5.1.5.3 Liabilities:

Generally, the liability side of the balance sheet of most (if not all) establishments has not been damaged. It could be the only item of the balance sheet for which the invasion is not directly liable.

The basic treatment of the liability side is:

- a. *The liabilities as of March 1991 should be decreased to the same level as the other side of the balance sheet (assets).*
- b. *A special title entry should be recorded to reflect the decrease in the amount of liabilities.*
- c. *The value of these liabilities could be allowed for by one of the following:*
 1. *Disposable reserves;*
 2. *Contra accounts on the liabilities;*
 3. *A substation entry on the assets side (by the same amount as the compensation);*
 4. *Free reserves, in the case of devalued assets;*

This treatment is actually a middle point between the two accounting approaches worldwide, which are either:

assets for claiming purposes. This problem is exacerbated by the fact that there are many values that could be attached to the tangible assets. Some prefer market value, regardless of the book value, for building up a claiming list. Others consider the value most favorable to the claimants. While some values can be determined easily by some sort of computation, there are cases where the compensation claim has to be based on an expert opinion for justification of reparation. Moreover, if no replacement price (i.e. for inventory items) can be determined, then a decision has to be taken to compare these items with other items of a similar nature.

As far as KAC is concerned, the following guidelines are most appropriate for assessment and evaluation, in compiling a claiming list:

- 1. Claim for damaged assets should be based on market values. All efforts should be taken to avoid book values.*
- 2. Assessment of failing assets should be adopted only if value can be attributed to the lost or damaged assets.*
- 3. Old assets should be written off and their values extinguished in the income statement.*

5.1.5.2 Intangibles:

Although some of the assessment values applied to tangible assets could be used here, further guidelines are needed to deal with intangibles. One of these is the method of assessment, which must be different, due to the different nature of each type of assets.

Compensation which can be obtained through either the international or the national law should be omitted from the claim. Lost profits could be computed as follows:

<i>Revenues from normal operation</i>	<i>XX</i>
<i>Expenses:</i>	
<i>Normal</i>	<i>X</i>
<i>Abnormal</i>	<i>X</i>
	<i>— XX</i>
	<i>—</i>
	<i>XX</i>
	<i>—</i>
THE TOTAL LOSS	XX
	==

For the profit and loss statement, the depreciation of assets would be offset again on the liability side. Therefore, the assets bias would automatically be restored in the profit & loss statement. The profit & loss for East German companies still shows their operating revenue and surplus and does not reflect the fact that they have had to acquire new assets and restore their assets bias.

5.1.5. Valuation Of Assets:

5.1.5.1 Tangible Assets:

KAC must become acquainted with Kuwait accounting rules and standards, especially those standards which are related to the valuation of assets .

It is noted that one of the vital problems which has arisen in this respect is the method of evaluation of the damaged

PAAC is quite vital, especially in the early stage. This would eventually provide KAC with an international claim on a national basis, rather than on an entity basis. This remark is supported by the latest development in KAC's case against Iraq Airline in London, which has ended with failure. Therefore, KAC's claims must be made through the State of Kuwait.

5.1.3 Extraordinary Items:

This is a description of all items, whether balance sheet or income statement items, that occurred because of the invasion or its aftermath, either directly or indirectly. For example, all expenses incurred by KAC during the period of invasion are claimable for compensation, both in the claim documentation and the related accounting treatment.

Repairs resulting from the usage of assets by Iraqis are also counted. Yet, such figure ought to be separated from sums resulting from normal accepted wear & tear. Also, most running expenses are to be included in the claiming list, as they are associated with the invasion aftermath. Extraordinary capital losses as well as operating losses, are claimable as long as they are attributed to the unlawful invasion. In other words, all extraordinary items resulting from the invasion should be counted and claimed.

5.1.4 Lost Profit:

The following formula may help in the calculation of the lost profit:

$$\text{Lost profit} = \text{Profit from normal operation} - (\text{Abnormal cost} + \text{Repairing cost} + \text{Normal Expenses}).$$

example, are accordingly claimable, as it was the responsibility of Iraq to protect while under occupation.

However, there are many damage issues to be resolved, such as:

- 1. Is each damage negotiable in terms of valuation or justification of the value ?*
- 2. How can we differentiate between direct and indirect damage?*
- 3. Are there scales of damage according to which compensation can be set ?*
- 4. How should worth of assets at the time of theft or damage be stated; for instance, is it restated at current prices or according to a specific price index?*
- 5. Is the purchasing power of damaged assets to be counted or not? If so, what indicator might be considered (e.g. inflation rate, general index, etc.)*

Obviously, the assessment of damages is associated with the interpretation of damage and the resolution governing the valuation of damage. Accounting, in this respect, serves as a tool of valuation, rather than a major component of damage ratification. Therefore, what is applied in the case of fixed assets should also be applied in the process of damage assessment, as described in section 5.1.5.1.

5.1.2 Legislation:

KAC must develop its compensation claims on the basis of recognized reparation legislation. Close liaison with the

5. Conclusion & Recommendations:

Throughout the preceding sections, compensation issues related to Kuwait in general and KAC in particular were investigated. The discussion was focused on the legal as well as the accounting aspects of the subject.

At the end of the project, problems of compensation as they are related to KAC and the accounting profession are highlighted for further build up of an appropriate framework.

Reparation Framework

5.1 The Basis of Reparation:

It is obvious from the analysis that a large portion of the sought reparation system depends largely on the legal system adopted. Such system is governed by the main stem of the UN resolution and interpretation of the UNCC on one hand, while on the other hand it is to be consistent with international law.

For a reparation system applicable to KAC, the following guidelines are recommended.

5.1.1 Assessment of Damages:

According to the UN resolution 687, it is clear that the state of Iraq is responsible for all damages attributable to the invasion, including direct or indirect damages. Lost items, for

Section (5) ... Conclusion & Recommendations

The following are some recommendations derived from the findings of the project. These findings represent proposed solutions to the problems related to compensation, which were investigated during the course of the project.

- a. The date, type and basis of the commission's jurisdiction for each element of loss;*
- b. The facts supporting the claim;*
- c. The legal basis for each element of the claim;*
- d. The amount of compensation sought, and an explanation of how amount was arrived at." (17)*

On the other hand, no clear instructions are to be found throughout the UN guidelines concerning the assessment of damages or the reflection of these damages within the financial statements. Disputes about the technical assessment of damages, as well as the proper manner to account for these losses, are still widespread. For example, lost profit and the extraordinary items are still debated by claimants.

On the other hand, the Ministry of Commerce have issued multiple resolutions and ministerial orders regulating accounting practice for the preparation of financial statements after liberation. Resolution No. 32, for instance, was issued to in 1991 mainly to resolve the difficulty of the fiscal period and the financial statements of 1990 - 1991. According to this resolution all establishments have to consolidate their accounts on the basis of two successive fiscal years. Financial statements, therefore, have to be published for 1990-91 simultaneously.

Moreover, more importance has been given to the accounting profession following the issuance of State Law No. 1/1993 with respect to the protection of state funds. The government, the parliament, and all concerned entities have turned to the accounting profession to play a great role in the enforcement of this law.

4.5. UN Compensation Claims Requirements:

The UNCC instructions for corporations' claims (p. 3 ,1991) indicate:

"Your corporation or entity should submit with these claim forms a separate statement explaining its claim supported by documentary and other appropriate evidence sufficient to demonstrate the circumstances and the amount of the claimed loss. Include within the statement of claim the following particular:

4.4. Compensation & Accounting Pronouncement:

Examination of the International Accounting Standards (IAS) indicates that there is no specified treatment for war damage and loss. Also, the method of preparing financial statements in this respect is not indicated. The only standard that might be applicable to the accounting treatment in this respect is standard No. 10 which - in conjunction with the events subsequent to the preparation of the financial statements - provides a basic ground for such adjustment.

a. The unexpected loss should be counted and posted to profit & loss account if it can be estimated in a reasonable way taking into account any expected compensation.

b. It is necessary to disclose the loss accompanied by an explanation of its nature.

On the national level, compensation claiming requirements have promoted the need for public accountants services by both the public and the private sector. The number of accounting firms that provide such services in the country has increased over a period of 3 years by 15%. KSAA, itself, has been used as one of the pool centers for compensation, to assist the public in filling all required forms.

PAAC has formed close ties with most of the accountants in the country, especially those with international affiliation. The need for technical assistance and support in resolving matters related to claim requirements, has also encouraged certified accountants in Kuwait to provide auditing services, as well as financial consultation that was entirely disregarded by the public. In its turn, PAAC has issued guidelines regarding the recognition of accounting firms for compensation claim fulfillment.

(Figure 3)
KAC Fleet Devaluation

	(\$ million)
<i>The market value of the 6 aircraft returned from Iran</i>	250
<i>Value of spare parts & equipment in Iraq</i>	50
<i>Insurance for the destroyed Spare parts & equipment</i>	150
<i>The market value of the 8 aircraft in operation after the crisis</i>	305
<i>Insurance compensations</i>	300
<i>Financial Investments</i>	400
TOTAL	1455
<u><i>The company's liquidity availability for financing the renewal of the fleet:</i></u>	
	(in million \$)
<i>Revenues from its investments</i>	1291
<i>Surplus from normal operations</i>	1665
<i>Liquidity from selling of old fleet</i>	555
TOTAL	3511
<u><i>The required liquidity for the new fleet:</i></u>	
<i>Cost of buying new aircraft</i>	1574
<i>Cost of loans (Compound interest 6.5 %)</i>	732
TOTAL	2306

data bases KAC might have. Loss profit, for instance, can only be reconstructed on the basis of KAC's estimated revenues in past fiscal years, while giving suitable weight to all other items, such as the airline industry trend and the magnitude of loss.

Actual revenues, on the other side, would be constructed in the light of the projected earning trend KAC had within the indemnity period. The justification of this method is quite debatable, as it is all based on estimation. The onus here is on both parties, KAC and its loss adjusters, to justify the ground of the estimation.

There have been several cases world wide similar to the case of KAC in terms of reconstruction of the actual revenue the claimant might have earned. The PAN AM crisis in Scotland in 1988 is a base case in the world of adjusting losses and damages within the airline industry. The principle here is the same. In all cases regardless of the type of industry, the legal case is under dispute.

4.3.4 Buying New Aircraft:

Comparison of the annual leasing cost of an aircraft A310 (\$7.5 million) with the annual acquisition cost of a similar one (\$3.5m.) revealed it was worthwhile to the company to acquire new fleet rather than the to lease, particularly if one takes into account the additional leasing costs, such as maintenance and insurance costs. KAC decided to go ahead with the renewal of its fleet, including the 6 aircraft returned from Iran.

Figure (3) shows KAC fleet devaluation for the purpose of the renewal of the fleet.

would hold to all types of assets, regardless of their nature. Brand names, as well as KAC's goodwill, could be compensated for provided that documentation and proofs can be presented to the UNCC.

A third party claim could also be similarly considered for compensation purposes such as bad debts and the inability of KAC accounts receivable to honor their debt obligations to KAC because of the invasion. On the other hand, the eligibility of insurance companies to claiming compensation as a third party on the same basis is still an issue to be resolved by the UNCC.

Insurance Claiming Plan

Generally, the first step in building up a plan for compensation is to identify all reasonable justified items of expenses and losses, preferably by professional loss adjusters. The principle objective of this adjusting plan is to count the physical damages and losses that can be easily proven. A comparison can also be established between the tangible assets of KAC before and after the invasion for the same goal. All sources of information can be utilized in this respect to recall balances of tangible assets, such as all suppliers of spare parts and aircraft inventories, as well as other stock items. 100% accurate estimation is not expected, but one should concentrate always on documents and sound proofs.

Eventually, the next step is to rebuild a list of damages after liberation, on the basis of the aforementioned comparison. Some items have to be projected as of a series of

UNCC is to judge the dispute over the claim validity of the damages and the type of losses KAC has the right to be compensated for. All direct losses that can be reasonably attributed to the invasion are claimable, since the proof of liability is soundly based. On the other hand, all indirect losses or damages that can not be connected to the invasion and the later events can be settled on the account of the Iraqi government by arbitration channels.

For example, all abnormal expenses that KAC incurred because of the invasion are claimable, as the link between the cause and the result is proven. Other extraordinary expenses that are of a variable nature and depend to a large extent on the operation of KAC are not claimable. The better type of expenses are those which KAC would have incurred, regardless of events. Thus, rents, staff reimbursement and all staff accommodation during the invasion are all claimable, whereas, fuel consumption and research and development costs are variable costs and therefore not valid for compensation.

Consequential damages, on the other hand, are usually disputable and of remote connection with the cause. These are damages that can not be directly attributed to the event - here the invasion - but happened as a distant outcome of the event. All principles of insurance, especially BI, would apply here to determine the liability and the claim validity, as discussed earlier. An obvious example in this matter would be the financial losses KAC incurred because of the invasion, such as the urgent need for cash that forced KAC to liquidate some of its growing investment and the effect all the events had on the reputation and market share of KAC. As for intangible assets, the same rule would be applied as the estimation process

Most insurance policies do not cover war damages; thus, reparation of such damages would not - most likely - be liable for insurance repayment. In any event, the cause of the invasion is the ultimate cause for which Iraq is liable, and for which it cannot deny liability. Therefore, irrespective of the insurance claims, Iraq has to settle the matter, provided that KAC can document and support its claim.

Insurance could be claimed for the cost of hiring new assets, including repair costs incurred after liberation, as well as the depreciation of assets. Where abnormal usage is a damage to the assets, this item could also be claimed for. It is worth noting, however, that market value is to be considered, regardless of the book value of the asset.

Based on the UN resolution No. 687, paragraph 16 the insurance firms could share with KAC in the sums obtained from the UN as a result of the claim.

KAC insurance claim is based on the following calculation (figure 2):

Figure (2)

	(million \$)
<i>Claims for compensations for 15 stolen aircraft against "Risk of One Airport Policy"</i>	692
<i>Claims for stolen spare parts</i>	250
<i>(-) Insurance cover paid to the company</i>	(300)
<i>Amount due</i>	<u>642</u>

that. Yet, the problem arises as to how the worth of the loss to the holder is calculated.

The principle of indemnity itself is a matter of considerable debate as to the extent to which this principle can be applied. The basic assumption here, is that the claimant should get more than he lost. A third party could also claim on behalf of the claimant if the connection can be proved of the event relationship with the third party.

The principle of subrogation, here determines the extent of liability on the account of Iraq and the eligibility of KAC to claim as a third party. Condition No. 8 of standard policy insurance as it is related to the BI principle states that"

" Any claimant under this policy shall at the request of the expense of the company do and concur in doing and permit to be done all such acts and things as may be necessary or reasonably required by the company for the purpose of enforcing any rights and remedies, or of obtaining relief or indemnity from other parties to which the company shall be or would be entitled or subrogated upon its paying for or making good any loss under this policy.." (16)

As far as KAC is concerned, the eligibility of KAC to claim insurance compensation for damages or indirect losses judged on a contractual basis, according to the terms insurance policy KAC holds. This matter is usually determined by the normal court of justice on the basis of the policy clauses.

4.3.3 Insurance Claims:

It is generally agreed that insurance claims in the invasion aftermath and the claiming procedures are guided by the applied law of justice. Here, one would emphasize two important rules; the principle of indemnity and the common law of Business Interruption (BI). In the case of the Iraq invasion, all businesses were interrupted by the event for which Iraq is liable. Thus, all abnormal expenses incurred within this scope are to be placed on the account of Iraq.

It is widely recognized that standard policy forms do not cover losses resulting from damages occasioned by or through or in consequence, directly or indirectly, of any of the following occurrences, namely:

- 1) Convulsion of nature;*
- 2) Atmospheric disturbance;*
- 3) War, invasion, act of foreign enemy, hostilities or warlike operations, and civil war;*
- 4) Mutiny, riot, and military or popular rising. (14)*

As far as KAC is concerned, any losses resulting from damage happening during the existence of abnormal conditions (whether physical or otherwise) which are occasioned by or through or in consequence directly or indirectly, of any of the said occurrences shall be deemed to be loss which is not covered by the standard insurance policy unless otherwise clearly stated within the policy clauses. KAC, unless stated otherwise within the terms of policy, must prove that damage happened independently of the existence of such abnormal conditions. (15)

According to the English law, the holder of the assets should receive compensation equal in value to the lost assets, provided that he declare the right of damage no more than

Figure (1)
The Claiming List

	<i>KD</i> <i>(in thousands)</i>
<i>The value of 15 aircraft</i>	203,448
<i>The value of aircraft equipment & spare parts</i>	88,099
<i>The value of loading equipment & aircraft hangars</i>	9,613
<i>Damage Value of other assets</i>	38,036
<i>The damage value of buildings including repair costs</i>	26,760
<i>The damage value of the furniture</i>	1,117
<i>The value of equipment & machine repair costs</i>	1,912
<i>The loss resulting from non-operation</i>	8,976
TOTAL	377,961

Source: KAC's Internal Report, 1992.

amounting KD20.1 million received in 1992 which treated as an extraordinary gains. (13)

4.3.2 Analysis of the Balance Sheet:

KAC has followed certain principles in the preparation of its claims to be submitted to the UN compensation Board. The basis for the assessment of damage may be summarized as follows:

- 1 . The claim for damaged fleet was the same as the amount claimed from the insurance companies.*
- 2 . The value of fleet maintenance tools & equipment was estimated according to the inventory situation on 2/7/ 1990.*
- 3 . The damage to buildings was valued according to an estimation by the US Army Corps of Engineers and Kuwait Ministry of Public Works, as well as the repair costs.*
- 4 . Furniture was valued by the purchasing department*
- 5 . The replacement cost was used as a basis for evaluating simulation and other training equipment.*
- 6 . The losses of Kuwait Aviation Service Company (KASCO) and the frozen cash in the Iraqi banks and also in the KAC's sales office in Baghdad were included in the claiming list.*

As a result, the following claiming list (Figure 1) was prepared regarding KAC's loss and damage:

4.3.1 Analysis of Income Statements:

Kuwait Airways issued a report concerning the available alternatives for renewing its fleet after the Gulf crisis and the huge damage of its assets caused by the Iraqi aggression, amounting to \$203448 for the 15 aircraft. It is worth mentioning, however, that Kuwait Airways brought legal action regarding these stolen aircraft against the Iraqi Airlines Company and the Iraqi Government in London, but unfortunately KAC lost the case and its claims in summer, 1993. (10)

The report indicated that KAC had to run its operations by using some leased aircraft, for example A310. It depended upon the Kuwait Investment Office to finance the lease of these aircraft.

KAC has written off all losses resulting from the crisis which covered the period from August 1990 to June 1991. The amount of these losses was KD127,692 million. KAC recovered spare parts estimated at KD16.5 million which had been stolen from Kuwait during the Iraqi invasion. This amount has been considered as an extraordinary gain and included in the profit & loss account of the company. (11)

It is worth noting that the financial statement of 1990 was published for only 11 months (August 1990 - June 1991). In this respect, KAC did not comply with the ministerial resolutions Nos. 29, 32, 37 of 1991, which considered two periods (1990 & 1991) as one fiscal period for financial reporting purposes. (12)

Moreover, KAC had received compensation from its insurers amounting KD88.200 million. This amount was considered as an extraordinary revenue. Also, spare part

4.3 Kuwait Airways Experience (KAC):

The aforementioned experiences are not comparable with that of Kuwait airways, as the situation here is rather complicated and driven by the act of colony. Kuwait was under occupation by the Iraqi government, which made it fully responsible for the well-being and continuity of Kuwait airways. Such recognized responsibility determines the interpretation of the act most appropriate to this case, and hence eventually determines the liability on the part of Iraq to compensate. Therefore, the matter of compensation is beyond question, but the valuation of the amount of compensation is still to be settled.

There is no case world-wide similar to that of KAC, which suffered total destruction. Its assets were either destroyed or looted. In fact, KAC is one of the most damaged Kuwaiti establishments in all respects, including all types of assets, the interruption of business, and the incurring of abnormal expenses.

Most interviewees, in Germany and Britain, considered the Kuwait case as a distinguished legal form rather an accounting issue. Therefore, they instantaneously recommended the adoption of a compensation system of war damages, despite the fact that all concerned could argue as plaintiffs, as long as evidence of damage can be furnished.

Therefore, from the point of view of international law, KAC should claim for the market value of lost or damaged assets in their used conditions. In other words, the condition of the asset determines the amount of compensation.

BA consolidated all these expenses in one account and consequently wrote them off within the fiscal year accounts. In other words these extraordinary expenses were considered as extraordinary losses. BA's approach was based on the notion that carrying such expenses forward to unlimited fiscal years would subdue the prudence of the financial position of BA as it would show artificial profit & loss. No contra accounts were made to handle any unresolved amount related to the compensation claim.

Similarly, when a CV-10 owned by BA had an accident in Barbados 10 years ago, all incurred expenses were aggregated and presented in a separate account. Then all these expenses were written off within the same fiscal year as abnormal expenses. Insurance claims were issued based on the terms of the insurance policies BA had at that time. Insurance compensation was based upon the market value of the aircraft .

Element factors were applied in the process of establishing justified adjustment of the damages. Only recognized earning were considered in building up the compensation claim in order to avoid counting wind fall profits instead of real profits.

BA officials expressed agreement with the accounting procedures adopted by KAC, particularly the write-off of all invasion costs as extraordinary items within the 1990-91 financial figures, as well as the dropping of August 1990 transactions from the 1990-91 financial position. They argue that such treatment is much better than illogical counting of deceptive revenues and costs. The same procedure should be followed regarding future receipt of funds from UNCC, as they will be considered extraordinary revenues. No support was shown for the contra account technique.

4.2 British Airways Experience:

In his 1990-91 opening statement, the chairman of BA clearly expressed the effect of the Gulf crisis on the airline market:

"But the dramatic effect of the Gulf crisis, eventually leading to war, was unforeseen and unprecedented. Not only did this depress the travel market further, but it increased the volatility of fuel prices, particularly for aviation kerosene.....

When the war started, our passenger numbers plummeted virtually overnight by 30%, leading to an overall fall in the fourth quarter of 17%. It is little solace that we fared better than some other airlines.

Fortunately, the war was brief. But its damage to our industry, coupled with recession, was extensive". (8)

In an action to contain the side effect the crisis had on BA, decisions were made to reduce its staff as well as to reduce the amount of full time recruitment. Savings on capital expenditure were also made, along with cutbacks in capacity and routes. (9)

British Airways had one of its fleet at Kuwait Airport at the time of the Iraqi invasion of Kuwait, which was later damaged by the Iraqi forces. The aircraft was insured and thus BA claimed for the capital value of that aircraft. Yet BA had incurred other expenses such as staff accommodation and some relief to BA employees who lost property due to the event.

a rule of fictitious settlement". It is a matter of judgment that has been accepted by the legal profession as well as the accountants. No rules or standards within the German territories allow for lost revenue claims. However, it is possible to claim for lost profits. A question is raised here regarding the possibility of claiming for increased costs and, accordingly, lost profits.

The German government, after the second world war, imposed special taxes to compensate all enable persons and entities for the damages caused by the German revolution. A similar system has been set up since the unification of the eastern and western parts of Germany. Tax laws have contributed to the compensation system in terms of remuneration as well as assessing losses and damages.

Lufthansa officials have indicated that write-off procedures are widespread in such cases. Depreciation, for example, is written-off as well as all extraordinary items that can be reasonably attributed to war damages. Actually, all assets are treated the same, except for a few items that are re-adjusted to reflect the current value. Adjusted values are usually adopted from auction prices or the liquidated value.

4.1 Lufthansa Experience:

Lufthansa airline was selected as a possible similar case to Kuwait airways, assuming that Lufthansa might have undergone a similar situation during the second world war. The German airline industry at that time went into total suspension and its assets were utilized in the support of the war effort.

Lufthansa, although it was not in operation during the second world war, went through a similar case in the "remote operation", where some extraordinary losses occurred. The accounting treatment in such cases was examined to build up reasonable comparison between these cases and the case of Kuwait airways.

The other interesting experience from Germany is the unification of East and West of Germany in 1991. Following unification, a decision had to be made regarding the future of the former East Germany Airline (Aeroflot). Problems arose as to how to assess the financial status of Aeroflot, as well as how to account for it. Compensation issues were also initiated relating to the scheme to reparation to the local and federal states that had control of Aeroflot.

In all these events, the accounting treatments that have been adopted were based on estimation of damages or losses and special allocation accounts were set as a precautionary measure. Such treatment is consistent with German accounting standards, which require the allocation of such damages in the same year. The settlement of damages is based on estimation of proper provisions which is to some analysts "

Section (4) Accounting Aspects

This fourth section is an overview of the field study conducted within the airline sector. Lufthansa, British Airways and Kuwait airways were investigated in terms of their accounting treatment of the crisis and its aftermath. The discussion includes an analysis of financial statements items with respect to compensation and the required disclosure.

In addition, the correlation between the existing accounting pronouncements and compensation is revealed, as well as the United Nations requirements applicable to the subject.

Legislatively, the new financial position worked out is purely hypothetical. After all, intangibles such as brand name and goodwill have a certain market value which ought to be assessed.

2. Any issue that can arise in the normal course of business should be considered, analyzed, accounted for and finally added to the claiming list. This will keep the firm going for a while and also maintain its international credibility, especially important for an enterprise like Kuwait Airways .

It is important to have an international good standing on the subject. Kuwaiti legislated rules should ensure that the company gets back to the normal position.

It would be very difficult to argue and assess the value of KAC's goodwill losses, as, theoretically, there was a continuity of the airline at that time.

It is possible to make some new provisions for the extension of non-existing assets. The value of provisions would be derived from the assets position, the difference between the existing assets and liabilities and their book values .

However, the assets side claim is tenable only if the enterprise is in a position to recover from the non-existing position within a reasonable time. The time allowed for the temporary position which it holds in the meantime is set by the law. A reasonable time should be set, five years for example, providing that there is an expectation that the enterprise, by that time, would be profitable and could get back to normal operation where GAAP could be followed. If, at the end of the prescribed period, such is not the case, then there must be a decision either to liquidate the company or to raise new capital.

Under GAAP it is not allowed to put a value on intangibles which have been created for the purpose of preparation of the profit & loss statement and have not been shown on the balance sheet. However, we can put these values on the assets side. The assumption could be explained as follows:

- 1. In disaster situations like the Kuwait crisis, or the situation of Germany during the second world war, it would be natural to devalue the items on the assets side. The operation of the usual rules in the case of sale would be applied.*

3.3.5 Fixed Assets:

Concerning the estimation of damages to fixed assets, some method of re-evaluation should be adopted. Attention should be given to the legal fact that the actual damage is not equal to the cost of buying a similar asset, nor is does the book value equal the value of compensation. Compensation is based on replacement or market value, whichever is the lower.

Both lost and damaged assets are to be treated on the same basis of evaluation, regardless of the amount of damage to be claimed for. The rule, here, is that damage can be measured in terms of total or partial loss, depending on the actual status of the asset. Accordingly, depreciation should be allocated to the new assets that have been either looted or damaged. The valuation method will determine the value of the claim value, taking into consideration all related deductions or additions to the original value of the asset.

In Germany, after the second world war, people could claim compensation from the Government for damage. There are certain rules in German law which specify how to claim the damages and the valuation method most appropriate to all kind of loss.

3.3.6 Intangible Assets (Non-existing Assets):

This is not an easy element to re-evaluate. It could be argued that the whole company does not exist, because all communications were broken down at that time, and goodwill of KAC was damaged.

3.3.3 Inventory:

The re-evaluation procedures for the assessment of the inventory would be an easy task under normal conditions where a fiscal count of such inventory can be made. However, with regard to the case of KAC, it is quite difficult to assess the different kinds of inventory, because of the huge loss and damages to both inventory and documents. Therefore, many questions remain unanswered, such as what price should be used for re-evaluation: market value, original cost or replacement cost? Also, could KAC claim for the market value of a similar asset? The legal basis for claiming compensation is "You should not get rich by such compensation against damages".

Yet, what is the value of lost inventory to be included on the claim list? And how could this loss be arrived at? These queries remain unanswered as long as no records are available about the value and cycle of KAC inventory before 2nd of August 1990. The project investigators have been informed by KAC officials that such records are being prepared on the basis of all suppliers' records, as well as such KAC records as have been solved and are usable. When these records are available, it will be relatively easy to evaluate the inventory.

3.3.4 Insurance:

The treatment of insurance depends not only on the amount received from the insurance firms but also on the legal terms listed on the insurance contract. Further elaboration of this issue is presented in section 4.3.3.

With respect to the assessment of compensation for damages resulting from Iraqi aggression, the UN stated in its Guidance Booklet (1991, p. 28, par. 6.15) in respect of the DCF that:

" Under this method the valuation of a business is determined by adding together the expected future cash flows of a business, after adjusting these flows for the time value of money (the time value of money simply reflects the fact that, say, KD 100 is worth more to a business today than the same KD 100 is worth to the same business in one year)". (7)

As far as KAC cash balance claim is concerned, it could be argued that it is quite difficult to assess the purchasing power of Kuwaiti currency during the invasion. The value of the Kuwaiti currency (Dinar = \$3.12) was influenced by several factors, in addition to the invasion effects.

Experience suggests that re-evaluation of the cash balance at that time would reveal difficulties as to which rate should be used to restate the balances.

3.3.2 Accounts Receivable:

In case of extraordinary events, according to generally accepted accounting principles, accounts receivable that are considered bad debts should be written off in the same year. Afterwards, any money received is considered as an extraordinary item. KAC should be an exception from this general rule.

1. *The firm is relieved of certain debts by assumption of the state.*
2. *The state will relieve the firm not only of the existing liabilities, but also, of future liabilities, such as any liability for certain environmental damages. This is a very effective method of relieving the company from the burden of excess liability.*

These are ideas for restructuring the balance sheet so that the company can run. All these are possible only where there is no scheme for a direct claim against Iraq. Otherwise such claim must be put into the balance sheet. However, at present, it is very difficult for an individual firm to put a claim against the government.

The advice is to try to manage on the national basis and if this is not possible, the state could take measures at the international level as far as the UN resolution will allow.

Regarding analysis of the balance sheet for reparation purpose a number of items have to be resolved, as follows:

3.3.1 Cash:

Frank and others (1990, p. 17) argue that:

"The time value of money arises when time passes between an economic cost and an economic benefit. The accumulation point may be in the past, the future, or the present. The accumulation point of most court decisions involving the time value of money is the present. Money due in the past must be accumulated to the present or a respective sum due in the future must be discounted to the present". (6)

3.3 Discussion of Balance Sheet Items:

Generally, the assessment of damages in respect of the balance sheet elements requires a system of re-evaluation, governed by certain rules, which should be applied to these elements.

This system would lead to a new financial position for the concerned firm. It is based upon the assessment of both sides of the balance sheet at the time of the compensation claim. Values of some items of the balance sheet can not be known and have to be estimated when making claims for losses which occurred because of the crisis.

The creation of another position status on the liability side would provide a new financial status for claiming purposes. This new position will last for a number of exceptional periods until it can be written off.

During this extension, the liability side would be unchanged but once by the end of the extension period, the complete liability position would be balanced through free reserves and would then be disposable if available.

In addition, the balance sheet should include the claims against the state for losses incurred. Afterwards, any future reparation would be deducted from the estimation on the assets side and would not be disposable. This process would be continued until all compensation has been received.

On the liability side, it could also be argued that it is necessary not only to inflate the assets side but also to decrease the liability. This is done as follows:

Thus, the claim is wholly based on the estimation of loss. The loss of revenue is a result of loss of opportunity, and the loss of revenue itself also results in an abnormal loss of shareholder value because goodwill is eroded. Yet, the question arises, can any industry claim lost profit compensation ?

Dr. E. Borner has said:

"I do not feel comfortable to claim the loss of revenue. However, it would seem reasonable to claim for that loss as long as it can be clearly justified . So, the loss of revenue is a sub-position of the loss of profit . It all depends on the applied Law".

KAC has incurred lost profit as well as damage to physical assets. In this respect; it may be entitled to claim for lost profit, subject to proof of its claim. However, the loss of revenues should not equal the amount of recoverable damage.

3.2 Discussion of Income Statement Items:

This section highlights some important issues related to specific items of the income statement in respect of their relevance to reparation. Following is a discussion of these issues as they are raised when claiming for compensation.

3.2.1 Extraordinary Expenses:

When preparing the claim list, extraordinary items are to be included providing that they can be connected to the events of the invasion. For example, abnormal costs which incurred because of the interruption of business may be included, provided they are legally justified. KAC has incurred several extraordinary expenses during the invasion such as the cost of accommodating staff, leasing aircraft and running its operation from Cairo and other places outside Kuwait.

3.2.2 Lost Profit:

Since the 2nd of August 1990 the operation of most industries and businesses have been interrupted. Consequently, these industries and businesses have incurred losses. In other words they lost the opportunity to earn profit. This what meant by "Lost Profit".

Here, the problem arises at the point of assessing and justifying the lost profit. Examination of the financial reports may provide some insights as to the future profit and the ability of the firm to earn such profit. However, it is not as easy as it might look. There are many factors that contribute to the earning power of the firm. Thus, earned profit can not be attributed to any single factor.

5. Indirect damages are excluded according to the UN resolution, although some cases have been recognized .

6. The UNCC was formulated to achieve a specific task within a certain period of time. On achieving this task, the commission will be terminated.

Kuwait as a nation has to consolidate the damages and claims for these damages against the other nation (Iraq). Each claim is, in effect, a claim against the state which has been unable to defend its individuals and companies from destruction, and the state itself will have an international claim against Iraq. Such a claim against the government would not occur in the normal business, anywhere, but it is a last resort under certain circumstances.

Only the state can go to the international court of Justice, because if one had recourse to a certain court, the Iraqis would counter that the act of a state is involved. War is an act of state, a sovereign act. Such acts are not treated under civil law or under common law, but only treated under international law, which is the law between states.

KAC has no legal personality in the international law. It can not file a claim on the basis of international law, but can claim only through the normal judge in civil courts. This would make it much easier to assess the amount of damages, as well as the type of law to be applied.

Therefore, the whole claim system must be developed out of the international rules of law, to clarify who may claim, what he may claim, and who is responsible for what. All this must be put into action, even if the resolution of UN does not necessarily have binding legal force.

3.1 Introduction:

The Kuwait crisis is a unique case. On the international scale, Kuwait's invasion by Iraq is not comparable to any other situation. Also, in terms of compensation claims, this situation is different from other claims as it is necessary to deal with two independent set of claimants: the state and a number of individuals and business firms.

The features of the Kuwait crisis, as Al-Ayoub explained, which distinguished it from other cases in modern history are:

- 1. UN resolution 687 assumed that Iraq is liable for all damages in Kuwait from 2nd. August, 1990 until the beginning of March, 1991.*
- 2. In the normal court, either on the international or national scale, the claimant has to prove to the judges by all means of evidence, that he or his business has gone through certain damages or loss, as in the Iran-USA case. However, in Kuwait, any claimant is only required to prove the claimed amount against the damage incurred. There is no precedent world-wide.*
- 3. The claims are not submitted to a normal court, but to the United Nation Compensation Commission (UNCC).*
- 4. Individual claims need not be submitted directly to the UNCC; instead, such claims can be submitted through the concerned state.*

***Section (3) Assessment of War Losses & Damages -
The Legal Aspect***

It is of great importance to investigate the legal issues related to reparation so as to build up the accounting treatment with respect to compensation on a legitimate ground. Therefore, this part of the paper is designed to reflect the legal justification of the accounting treatment of several items of the financial statements. The discussion is completely based on compensation procedures and their aftermath. Most of the views given in the discussion are those of experts in the field of law, insurance and loss adjusting, as well as airline officials.

"The (PTC) has been charged with responsibilities beyond the capability of its members. The majority of its members lack needed knowledge and experience to achieve the desired goals." (5)

The PTC's guidelines were not based on clear assumptions which would have enhanced their credibility and supported their pronouncement. In addition, PTC issues would have been better received had they confined themselves to specific statements determining the recommended procedure, rather than allocating many pages to describing forms of procedures and classification of types of assets or liabilities. Discussion of this sort should be kept as brief as possible.

All in all, one could summarize the problems of the PTC as follows:

- 1) Lack of authority;***
- 2) Lack of support by concerned bodies and accounting firms;***
- 3) Failure to adopt a clear conceptual framework;***
- 4) Lack of cooperation with concerned parties, as participation was not properly sought by the PTC (e.g. through public hearing or exposure drafts);***
- 5) The relatively short period of time assigned for the PTC to start the standard setting process (the preparation of the first 3 issued guidelines took the PTC only 3 months, including all formal procedures);***
- 6) Lack of action to enforce the guidelines.***

The PTC did not actually become active until 4 years after its establishment, when it issued 3 accounting guides. These guides were:

- 1) Financial data disclosure;*
- 2) Accounting for Investments;*
- 3) Estate Accounting.*

A fourth guide was issued in 1986 regarding corporate accounts. The PTC, however, approved the adoption of international accounting standards, as being most appropriate to Kuwait, thus terminating the work of the PTC.

2.2.1 PTC Framework

The PTC indicated that task-forces should be formed to prepare technical exposure drafts. Such drafts would then be further examined by KSAA and concerned individuals. Comments made on these drafts were to be reviewed by the PTC in conjunction with international as well as regional accounting standards. Finally, guidelines were to be issued by the PTC for application. The PTC would consider a transitional period before implementing guidelines. It would also review these guidelines on a regular basis.

2.2.2 Critique of PTC

Although the PTC had motivation and reasonable government back-up, it suffered from several shortcomings. It was adversely affected by government routine and the ineffective planning measures of its meetings.

to the establishment of the PTC. The resolution contained 8 articles defining the basis of the committee.

The purpose of this committee was to improve accounting practice locally, as well as to set the required accounting rules. Indeed, this development was first and foremost a significant indication of the government's desire to improve the accounting system. (3)

The PTC was formed of 5 members, 3 from the MCI (Department of Companies & Insurance), the chairman of the Kuwait Society of Accountants & Auditors, and the head of the Accounting Department at Kuwait University (Article 1). The committees' term was to be 3 years, renewable (Article 2). Its objectives were (Article 3) : (4)

- 1. to develop a code of ethics;*
- 2. to set standardized financial reporting rules;*
- 3. to establish minimum disclosure requirements;*
- 4. to review periodically existing rules and accounting procedures;*
- 5. to research and study means of improvement.*

It is clear from the resolution that the PTC was a consultative body to the ultimate authority responsible for regulating the accounting profession in the country (Article 5). Yet, some sort of authority delegation is revealed in article 6, whereby the PTC's rulings are to be adhered to by all registered (chartered) public accountants.

Article 12 of decree No. 5/1981 with respect to the practice of the accounting profession states that "Registered public accountants are to adhere to accounting standards issued by the PTC formed by the Minister of Commerce".

2.1 Background of Accounting in Kuwait

Kuwait has known accounting since 1940 as a consequence of the economic expansion in the area. Accounting began as a book-keeping and recording liability, introduced from neighboring and other Arab countries.

The need for accounting as a financial reporting function has become more acute in recent years, particularly since the Al-Manakh market collapse in summer 1982, which prompted private investors to turn to accounting to provide informative, reliable, and timely financial reports to avoid another crisis. However, accounting firms remain largely responsible for auditing standards and for the quality of their work. (1)

2.2 The Establishment of the PTC

The absence of an active accounting body forced the government to bear full responsibility for such regulation. Thus, the task was entirely left to the discretion of the Ministry of Commerce & Industry (MCI). Confidence and trust in the profession's ability to lead the regulatory process was somewhat lacking. (2)

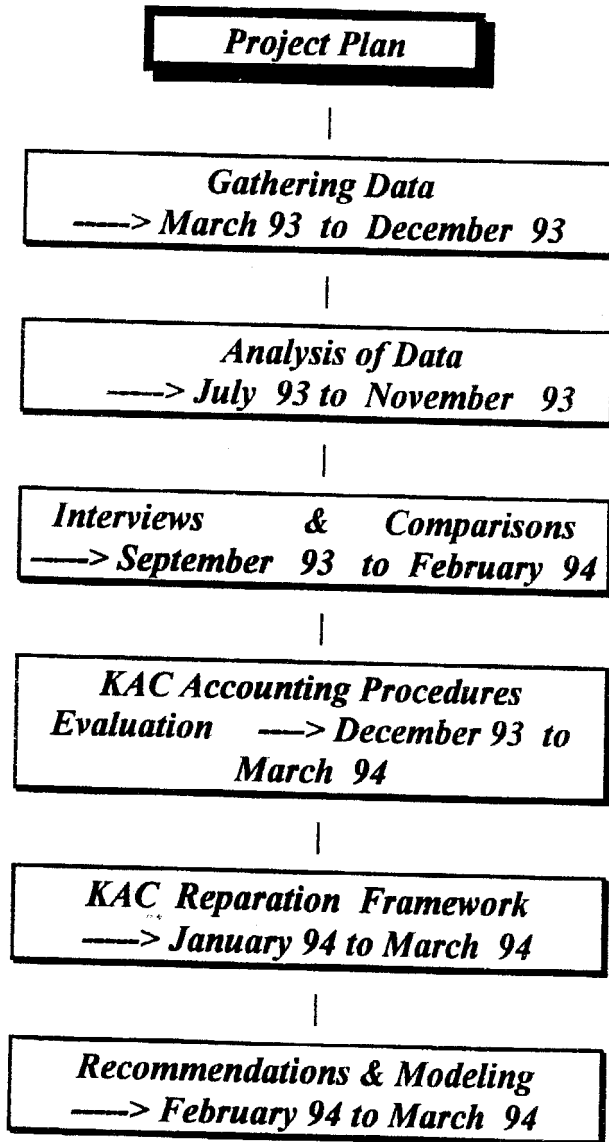
General agreement on the need to improve the structure of accounting led to the establishment of the Permanent Task Committee (PTC) in 1981 by the Ministry of Commerce & Industry. In June 1981, the Minister of Commerce issued ministerial resolution No. 75/1981 pertinent

Section (2) ... Accounting System in Kuwait

This section presents an overview of the status of accounting in Kuwait and the difficulties in setting accounting standards in the country. Emphasis is placed on the work of the Permanent Task Committee (the official committee for the establishment of accounting rules) .

1.5 Research Plan Flowchart

The following is a flowchart of the project plan which was followed from the start of the project in May 1993 until its end in March 1994.



1.4 Research Methodology

The research methodology is a combination of literature survey and assessment of practices based upon empirical investigation as follows:

- 1. Literature survey;*
- 2. Interviews conducted to:*
 - a. Investigate the experience of both Lufthansa and British Airways;*
 - b. Examine the case of Kuwait Airways;*
- 3. Examination of KAC's internal and external reports;*
- 4. Formulation and assessment of the accounting Framework.*

It is worth noting that this study is limited to accounting for reparation as it is related to the Gulf crisis. While, KAC is examined as a case study, Lufthansa and British Airways are examined as possible sources of potentially relevant past experience in this respect for the purpose of a comparative outlook. The project is concerned primarily with the financial aspect rather than other implications of the crisis.

In the following sections a brief overview of the status of the accounting system and profession in Kuwait is presented. In the third and fourth sections respectively, legal and accounting aspects of the subject are discussed. The fifth section lays down the foundation of the proposed reparation accounting framework and the wider implications for the future of accounting in Kuwait are considered, and conclusions and recommendations are given.

authority in terms of establishing an explicit system for verifying claims processing and payments remains an area worthy of investigation.

The present project aims to investigate reparation accounting within the aforementioned context, with special focus on the following:

- 1. Identifying the accounting problems associated with the assessment of losses and war damage to construct a claiming list;***
- 2. Examining technical issues related to the preparation of financial statements in the light of the loss estimation;***
- 3. Setting an accounting model for reparation;***
- 4. Investigating the possible impact accounting for compensation might have on the accounting profession in Kuwait.***

1.3 Objectives of the Research

Kuwait has already set up a central committee attached to the council of ministries for listing of losses inflicted due to the Iraqi invasion. Citizens have been asked to fill forms reporting their damages or stolen properties.

In June 1991, the Kuwait government has established another new authority designed to examine reparation claims. This authority is called " The Public Authority For Assessment of Compensation For Damages Resulting From Iraqi Aggression". So far, the pronouncements of the authority are confined to legal and administrative matters. On September 5th 1991, four sub-committees were established to assist the authority in estimating damages and determining the appropriate reparations. These sub-committees were:

- 1 Funds & Trade Committee*
- 2 Housing & Individuals Committee.*
- 3 Industry & Agriculture Committee.*
- 4 Real Estate & Construction Committee.*

It is too early to judge the eligibility and appropriateness of this central authority. What is certain is that close liaison is required with experts and specialists in such fields as finance, accountancy, law and insurance. It will, therefore, be necessary for applications to incorporate expert advice in each of these areas.

Whether the existing accounting methodology and procedures are concomitant with the exact needs of the

Within this scenario, an escrow account to deposit advance payments by Iraq has to be established. Another escrow account with appropriate privileges and immunities would be designated to satisfy claims.

It has been determined that the compensation will be paid according to the following priorities:

- 1) Individuals' injuries and losses or damage to personal properties.*
- 2) Private establishments' losses or looted assets.*
- 3) Property of authorities and public establishments.*

On the micro level, the adopted accounting system has to provide certain guarantees ensuring payments to the fund. However, crucial problems have arisen concerning the preparation of financial statements for the concerned firms. In relation to Kuwait Airways, the pilot study shows that there are some problems concerning the basis of calculating the compensation claim which will be submitted to the UN in respect of the loss of most of its fleet and other assets. Also, the relevant accounting procedures for treatment of the losses and damage of different assets, lost profit and extraordinary expenses, need to be resolved.

An examination of the literature and practices reveals that there is a lack of empirical investigations on accounting for reparation in general, and airline industry war damages in particular.

Thus, it was decided to investigate certain fundamental issues concerning accounting for reparation with special reference to Kuwait Airways Company (KAC) as a result of the Gulf crisis. Financial statements and other accounting policies were investigated in relation to the compensation procedures and justification.

1.2 Statement of the Problem

The economic impact of the Iraqi invasion of Kuwait in August 1990 has been great at all levels. Business activities were interrupted and current assets of both public and private sectors were either stolen or distorted.

United Nations resolution No. 687, Paragraph 16 reaffirms that Iraq is liable under international law for any damage and loss resulting from its unlawful invasion and occupation of Kuwait. In this respect, claims for reparation either within the boundaries of Kuwait or in the international arena are to be funded by Iraq. The two main sources for claims against Iraq are:

1) UN compensation fund (UNCF) financed by a levy on future Iraqi oil, which will be used to compensate claims under international law.

2) Frozen assets that individual countries will have discretion to vest as they choose for settlement of claims under either domestic or international law.

Total Iraqi exports of oil since the lifting of international sanctions have been estimated to be \$21 billion annually, of which 48% would be sustained for civilian imports, and 22% to serve foreign debts. Thus, Iraq would pay 30% of the market value of its exported petroleum product as compensation. One way of achieving this would be for a share of the Iraqi exports to be taken and sold on the open market on behalf of the fund. The fund would be designated as either the sole or co-beneficiary on the bill of lading; the fund would retain its share and remit the remainder to Iraq.

1.1 Introduction

The consequences of the Gulf crisis are, in every respect, too complicated to be under the management of a single country. The cooperation of many professions, world-wide, is required in order to undertake the extraordinary procedures necessary to solve the diverse difficulties related to reparation, which include compensation schemes, estimation of damages, verification of claims and payment arrangement, among other matters.

The role of the accounting profession in simplifying and overcoming such issues is significant and irreplaceable. While the governing council assigned by the United Nations will develop rules that will govern the operation of the reparation commission, each country is responsible for adopting an internal procedure for verifying the validity of claims of its own nationals and corporations, evaluating losses and making payments to claimants. A comprehensive accounting system for such an intricate task has to be established by the accounting body in each country concerned.

This paper aims to investigate the possibility of adopting special accounting procedures to assist in overcoming the unique problems resulting from the Kuwait crisis and the latest developments in the Gulf area.

***Section (1) ... The
Project***

This section provides an introduction to the project in terms of the objectives, the statement of the problem under investigation, and the methodology adopted in conducting the project. An overview is provided of the project, to clarify its goals and the extent of the associated problems.

Abbreviations

- BA:** *British Airways.*
- BI:** *Business Interruption.*
- GAAP:** *Generally Accepted Accounting Principles.*
- KAC:** *Kuwait Airways Corporation.*
- KASCO:** *Kuwait Aviation Service Company.*
- KSAA:** *Kuwait Society Of Accountants & Auditors.*
- KD:** *Kuwaiti Dinar (= \$ 3.12 as of 5/2/1994).*
- LH:** *Lufthansa (German Airlines).*
- MCI:** *Ministry of Commerce & Industry.*
- PAN AM:** *American Airline (Merged with United Lately).*
- PAAC:** *Public Authority for Assessment Compensation for Damages Resulting from Iraqi Aggression.*
- PTC:** *Permanent Task Committee.*
- UN:** *United Nations.*
- UNCC:** *United Nations Compensation Committee.*
- UNCF:** *United Nations Compensation Fund.*

Abstract

The Iraqi invasion to Kuwait in 1990 has multiple effects on individuals as well as establishments that had incurred damages or losses either directly and indirectly. KAC was one of the most noticeable firms in Kuwait that was left with total destruction in terms of tangible as well intangible assets.

This project is a study of loss assessment and claim building up of KAC for compensation purposes. The preparation of financial and reporting statements is examined in its relation to the accounting standards and procedures adopted to bring about the financial position of KAC to the restart point.

Comparative approach was followed to evaluate the status of KAC with respect to the undertaken subject. British and German airlines were investigated to compare their experiences with KAC actions and technical procedures. Loss adjustment and insurance as well as legal matters along side with accounting issues were investigated in this regard.

The findings of this project are furnished to all establishments within different sectors of Kuwait as well the neighboring countries. Recommendations are presented to the concerned authorities to overcome compensation present and future problems.

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**" AN EMPIRICAL INVESTIGATION OF REPARATION
ACCOUNTING : WITH SPECIAL REFERENCE TO
KUWAIT AIRWAYS "**

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