

A user's guide to decision 258

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This guide provides a user-friendly overview of the most relevant components for decision 258 for the Kuwait IRs. It maintains the order of topics in the decision, but covers only the text most relevant to the work of the IRs. Where possible the information is presented in bullet point lists for easier reading and referencing.

Sections A and B focus on the Kuwait NFP and sections E focuses on the UNCC. The remaining sections focus on the IRs with occasional references to the roles and responsibilities of the Kuwait NFP and the UNCC.

When in doubt about a particular issue, please refer to the original decisions. Also, suggestions for improving this guide are most welcome.

Key sections of decision 258

- A. Kuwait NFP activities
- B. Kuwait NFP activities

- C. IR activities
- D. IR reports

- E. UNCC activities & reports

- F. Technical guidelines: general principles
- G. Technical guidelines: monitoring indicators
- H. Technical guidelines: Environmental performance indicators
- I. Technical guidelines: Changes to and phasing of projects

- J. Financial guidelines

- K. Review and reporting of the M&A projects

A. Kuwait NFP activities (paragraphs 7-11)

The Kuwait NFP is responsible for reporting and responding to requests for information about:

- ongoing monitoring and assessment projects
- remediation and restoration projects

This includes:

- reporting at least every six months to the IRs
- providing access to the IRs and to the UNCC to:
 - documents
 - project sites
 - personnel

The Kuwait NFP will:

- provide information to the IRs, to support their production of semi-annual progress reports to the UNCC on each project, on a schedule to be agreed with the IR
- ensure that the contractors and other personnel engaged in implementation of the projects cooperate with the IRs and the UNCC

B. Kuwait NFP reports (paragraphs 12-14)

The Kuwait NFP will report to the UNCC, through the IRs, on its ongoing M&A projects, according to the procedures set out in the last section of this guide.

Critical stages in the implementation of the F4 projects on which information should be reported are:

- **Initial planning phase** – the Kuwait NFP should ensure that the UNCC is kept informed, through the IRs, in a timely manner, of:
 - work plans defined (including long-term environmental monitoring plans)
 - draft agreements developed with public or private contractors
 - contracts established
 - environmental assessments prepared
 - financial assessments prepared
 - necessary field tests of restoration approaches completed
 - any changes that have been made to the approach recommended by the F4 panel

- **Project implementation** – the Kuwait NFP will report regularly to the UNCC, through the IRs, on the projects regarding:
 - work progress
 - financial performance
 - environmental performance
- **Project modifications or problems** – the Kuwait NFP has a continuing responsibility to provide timely reports to the IRs whenever it:
 - proposes to make modifications to the projects:
 - material
 - technical
 - financial
 - identifies a significant problem with a project

When the Kuwait NFP modifies a project, the IRs should be:

- notified
- provided with a summary of the modification
- provided with the reasons for the proposed modification
- provide with an anticipated implications
 - environmental
 - financial/economic
 - scheduling

The Kuwait NFP will notify and consult with the IRs regarding any financial or technical problems, as soon as it becomes aware of the problem.

The Kuwait NFP will submit documents and information as requested by the IRs for their technical and financial evaluation of projects. Such documents and information will include, but are not limited to, those relating to:

- a) Procurement standards
- b) Terms of reference for implementation of the projects
- c) Details of consultants and contractors and all contracts including those with:
 - principal contractors
 - subcontractors
 - consultants
- d) For each project:
 - Contract value
 - scope of work
 - contract duration
- e) Project work plans and detailed project budgets
- f) QA/QC protocols for technical and financial monitoring
- g) Criteria for the evaluation of remediation or restoration programmes
- h) Research reports and field studies documenting the rationale for the selection of approaches that are different from those recommended by the F4 panel

- i) Periodic technical monitoring reports, as requested by the IRs
- j) Periodic financial monitoring and audit reports, as requested by the IRs, including audited statements on expenditures related to the level of implementation

The UNCC will rely primarily on progress reports provided by the IRs, based on information submitted to them by the Kuwait NFP.

The UNCC may directly request that Kuwait NFP provide any documents or information that the UNCC considers to be necessary for its verification tasks.

C. IR activities (paragraphs 15-17)

IRs are responsible for evaluating projects according to the technical and financial guidelines and reporting their findings to the UNCC.

The IRs are to be assisted by necessary support or management staff.

The main responsibilities of the IRs:

- a) follow each project closely in cooperation with the Kuwait NFP and provide regular monitoring and evaluation reports to the UNCC
- b) identify any material modifications in the projects
- c) identify significant problems that may arise in the implementation of the remediation/restoration projects
- d) notify the UNCC of any such modifications and problems in a timely manner

The reports of the IRs, as they determine to be necessary, will be based on:

- documents provided by claimant Governments
- site inspections
- discussion with project personnel

IRs will report to the UNCC on the M&A projects as described below.

D. IR reports (paragraphs 18-21)

The IRs will submit to the UNCC a detailed report reviewing and evaluating each remediation/restoration project.

Each report will:

- identify the sources of information on which the evaluation is based
- explain the reasoning in detail
- be submitted on a schedule mutually agreed with the UNCC to meet the requirement of a secretariat report to the Governing Council every six months.

The report should include:

- a) A concise summary of project plans
- b) A concise statement of project status
- c) A concise summary of the results of any environmental assessments
- d) A summary of periodic and total expenditure reported by claim number and claim element
- e) A detailed evaluation of whether the technical and financial aspects of the projects remain reasonable
- f) Any other information, which in the opinion of the IRs will assist the UNCC to determine whether the project continues to be a reasonable remediation/restoration project

Key documents that the IRs determine to be necessary for the UNCC to understand their report should be attached to the report.

The IRs will provide a list of documents and other information that were considered in the preparation of the report, with brief descriptions.

As soon as they become aware, the IRs will inform the UNCC and provide an evaluation on an expedited basis of:

- any material modification to a project
- significant problems in its implementation

Each semi-annual report to the UNCC will include an appendix giving a brief description of matters that arose during the review period, but which were not referred to the UNCC because the IRs determined that they were not material or significant.

Every six months (or whenever requested by the UNCC), the IRs will also submit to the UNCC a report on the M&A projects as described below.

E. UNCC activities & reports (paragraphs 26-28)

The UNCC secretariat will work with the IRs to establish a schedule for the submission of semi-annual reports.

Every six months, the UNCC secretariat will submit to the Governing Council an assessment based on the reports of the IRs.

F. Technical guidelines: general principles

(paragraphs 33-36)

The F4 panel has outlined seven general principles for guidance in the development and implementation of the projects:

- a. "Remediation approaches or techniques that pose unacceptable risks of ecological harm should be avoided.
- b. Remediation activities should be undertaken only if they are likely to result in more positive than negative effects.
- c. Remediation techniques that facilitate natural recovery processes should be preferred, and active remediation should build on and enhance natural recovery that has already occurred.
- d. Remediation should rely on proven and well-established technologies and techniques in preference to experimental or untested approaches.
- e. The effectiveness of remediation activities should be monitored to ensure that remediation targets are met. Remediation programmes should be designed to be sufficiently flexible and responsive to new information obtained from such monitoring.
- f. Where more than one remediation approach or technique is appropriate to achieve a desired remediation goal, the most cost-effective option should be selected.
- g. Remediation decisions should consider both the short-term and long-term effects of remediation activities on neighbouring ecosystems, including transboundary effects."

"Primary emphasis must be placed on restoring the environment to pre-invasion conditions, in terms of its overall ecological functioning rather than removal of specific contaminants or restoration of the environment to a particular condition."

A long-term monitoring plan that collects relevant data before, during and after remediation or restoration activities should be carefully integrated into the remediation project.

The criteria for the evaluation of the remediation or restoration project should be specified before the monitoring programme is implemented.

G. Technical guidelines: monitoring indicators

(paragraphs 37-39)

With respect to **engineering components** of the projects, this will include:

- summary information on the technical specifications and rationale for the selection of remediation and restoration technologies and approaches
- information summarizing the results from further field tests
- the implications of such tests for the final selection of approaches

The UNCC's technical assessment of the reasonableness of projects will include:

- consideration of information on progress in achieving the schedules proposed by the Kuwait NFP
- information on the physical progress achieved with specific projects
- other indicators of progress, such as drafts of contracts

The UNCC expects the Kuwait NFP to develop and report information on environmental indicators and related performance criteria that can be used to track the progress and effectiveness of restoration measures as compared to well-functioning reference ecosystems.

H. Technical guidelines: Environmental performance indicators

(paragraphs 40-42)

Environmental performance indicators should be those that can assist in evaluating whether the damaged resource is making adequate progress towards recovery as a result of the measures taken.

Indicators should be selected to represent a variety of levels of ecosystem organization as appropriate including:

- a) genetic
- b) species/population
- c) ecosystem
- d) community
- e) landscape

Indicators should be selected to:

- track positive restoration progress
- track any unintended adverse consequences of the restoration measures, particularly
 - damage to neighbouring ecosystems
 - damage to previously undamaged ecosystems

Goals specified as performance criteria should be developed for each environmental indicator for:

- determining the rate of environmental progress
- ascertaining when restoration is complete

Environmental indicators and performance criteria should provide empirical evidence of the effectiveness of the restoration measures in returning the damaged resource to a well-functioning condition. A **well-functioning ecosystem** includes:

- a characteristic assemblage of native species
- the presence of key functional groups of organisms necessary for development or stability of the restored ecosystem
- the ability of the system to reproduce and sustain itself over time
- the demonstrated resiliency of the system to stress
- the integration of the restored ecosystem into the larger ecological and social matrix of the landscape

The UNCC expects the IRs to evaluate the actual or potential success of restoration projects by reference to indicators of progress toward well-functioning, comparable ecosystems. Whenever necessary, IRs should verify restoration progress through field visits to the sites.

I. Technical guidelines: Changes to and phasing of projects

(paragraphs 43-44)

The IRs should base their assessment of proposed modifications on environmental indicators that demonstrates that the revised approach is a more effective way of achieving the remediation/restoration objectives, including:

- to the maximum feasible extent, data from field trials comparing the alternative approaches
- consideration of whether a change would have any significant unintended adverse consequences

Phasing would allow a particular restoration approach to be tested and evaluated for a smaller area before decisions are made to implement the approach across the entire area.

J. Financial guidelines

(paragraphs 45-46)

The UNCC's assessment will consider financial monitoring and audit information for all projects.

The Kuwait NFP should develop policies and procedures that ensure full transparency in management of funds awarded by the UNCC. It should:

- a) Establish and maintain full control over the project including the management of the award funds and responsibility for the disbursement of funds to contracted parties.
- b) Ensure transparent, competitive and effective procurement in compliance with applicable national laws and standards of international practice.
- c) Ensure that contracts for remediation and restoration projects are designed to be flexible enough to accommodate changes to work programmes that may be suggested by the IRs or the UNCC.
- d) Assume financial management and accountability for all projects, including the capacity and competence to:
 - i. Record all transactions and balances;
 - ii. Disburse funds to contractors in a transparent and accountable manner;
 - iii. Prepare regular financial statements, by claim number and claim element, that are subject to acceptable auditing arrangements;
 - iv. Have adequate infrastructure and information systems to support project implementation, including the monitoring of the financial performance of subcontractors and out-sourced entities;
 - v. Ensure that funds are used for the intended purposes.
- e) Ensure effective and on-going financial monitoring and evaluation with appropriate reporting and quality control mechanisms.
- f) Assure appropriate internal and external accountability arrangements.
- g) Assist the IRs in their preparation of periodic verifications of financial activity and implementation activity.
- h) Allow access by the UNCC and IRs to all project financial documents and to financial monitoring and evaluation activities.

K. Review and reporting of the M&A projects (paragraphs 47-51)

The tracking mechanism for the continuing monitoring and assessment studies will operate as follows:

- a) The Kuwait NFP will submit periodic progress reports on the monitoring and assessment projects to the IRs;
- b) The Kuwait NFP will certify, with each final monitoring and assessment report submitted to the IRs, that the funds awarded for monitoring and assessment have been audited and will provide appropriate audit certifications;
- c) The IRs will review progress reports submitted by the Kuwait NFP from a financial perspective, and will report on financial and project status information to the UNCC. Before submitting their report on a project to the UNCC, the Independent Reviewers will seek answers to any questions raised by the report, through:
 - written and oral exchanges with the Kuwait NFP
 - as necessary, site inspectionsThe IRs' reports will include:
 - an evaluation of the progress of each project
 - taking into account expenditure on the project
- d) The IRs will review monitoring and assessment information submitted by the Kuwait NFP from a scientific and technical perspective and report to the UNCC indicating whether:
 - the IRs are satisfied that the Kuwait NFP has spent the funds in a manner consistent with the approved plans
 - that interim results suggest continuation of the project is reasonable
 - that no impediments have arisen that would jeopardize the successful completion of the projectAs part of their review, the IRs may use the environmental databank developed by UNEP;
- e) The UNCC may indicate any further issues that should be addressed by the IRs;
- f) The UNCC will report to the Governing Council.