

LEBANESE AMERICAN UNIVERSITY

**THE BOUNDARY DISPUTE BETWEEN KUWAIT AND
IRAQ
HAS IT SUBSIDED?**

By

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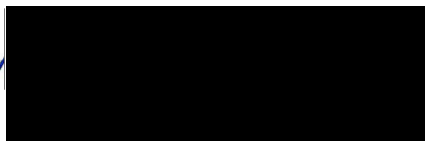
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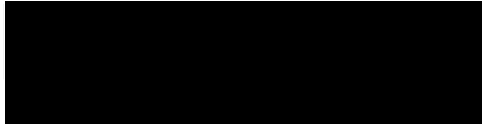
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To my loving family

THE BOUNDARY DISPUTE BETWEEN KUWAIT AND IRAQ HAS IT SUBSIDED?

Maha Kenaee

Abstract

This thesis attempts three related tasks. First, it surveys the historic record which provides uncontested evidence that Kuwait was never part of the Ottoman Empire and thus never formed a single administrative or political unit with Iraq or part of it. Second, it traces the turbulent history of Kuwait's relationship with Iraq ever since the latter achieved independence in 1932; arguing that this turbulent relationship invited the intervention of regional and international players due to the strategic importance of Kuwait, especially since the discovery of oil. Third, it speculates on the prospects for overhauling this relationship, in light of: 1) the major transformations that Iraq has undergone since the downfall of Saddam Hussein and the Baath regime in 2003; and 2) the growing power of Iran in the Arabian (Persian) Gulf.

Keywords: Boundary Disputes, Kuwait, Iraq, UNIKBDC, Port Mubarak the Great

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CHAPTER ONE

INTRODUCTION

What follows is a study of Kuwait's troubled relationship with its far larger and stronger neighbor Iraq. Since Iraq's historic claims on Kuwait have emanated mainly from the notion that Kuwait was part of the Basra region in ottoman times, the first part of the study provides a chronological historic examination of Kuwait's political status where historic records (including frequently ignored sources in Arabic and travelers' accounts) as well as historical facts were used to demonstrate the frailness of this claim. Subsequent parts trace the evolution of Iraqi-Kuwaiti relations since Iraq's independence, highlighting the respective roles of Kuwaiti diplomacy and the interests of regional and international players (primarily Britain and later the United States) in safeguarding Kuwait's independence vis-à-vis Iraqi onslaughts which took the form of an outright invasion and short-lived occupation in 1990. Most importantly, the last part documents the changes that have been taking place since the downfall of Saddam Hussein in 2003 and speculates on the prospects for a far more amicable relationship between the two neighboring countries. To a large extent, this thesis is about transcending the past in order to establish a better future for both parties. But in order to transcend the past, it must first be fully understood.

Two decades ago, the world witnessed Iraq's invasion of the small State of Kuwait. On 2 August 1990, Kuwait woke up finding itself under siege. Under Saddam Hussein, Iraq had unilaterally launched a war against its neighbor. In addition to being the first war of the post-cold war period, this was also the first conflict of its kind to be televised on a global scale. Kuwait's occupation at the hands of Saddam's forces soon became an international crisis.

The mounting international opprobrium was not without its geopolitical considerations. This study tackles geopolitics through illustrating the stem of tension towards Kuwait. Kuwait is a small state with a geostrategic location on the far northwestern corner of the Arabian (Persian) Gulf. Spanning a total of 17,818 km.², its territory includes nine islands, among them Warbah and Bubiyan. It is surrounded by much larger states, with the Kingdom of Saudi Arabia bordering it from the west and south, the Arabian Gulf from the east (within a short distance from Iran), and Iraq from the north. Accordingly, Kuwait is situated in a vital spot in the Gulf region with an abundant oil wealth, making it a major oil exporter into the global market. These ecumenical conditions have naturally made Kuwait into a vulnerable state and the focus of external territorial ambitions.

Having Iraq as a neighbor proved at times to be a difficult situation for Kuwait whereby its northern neighbor had continuously threatened the oil-rich sheikhdom's security. Nevertheless, there were intermittent periods where the relations between the two countries were normal, to say the least. The nature of the Iraqi regimes who have previously governed Iraq were the source of turbulent

relations with Kuwait, starting with Iraq's independence in 1932; then again in 1963 under the unstable and Soviet-leaning regime of Abdulkareem Qasim (1958-1963); during the nationalist period of Abdulsalam Arif (1963-1968); and most notably during the Ba'athist regime (1968-2003) led by Saddam Hussein. Though Iraq had at times claimed Kuwaiti territory as their rightful inheritance from the Ottoman Empire, historical facts prove otherwise and show that Kuwait's sovereignty was granted *de facto* recognition long before the modern Iraq came into existence as a united and independent political entity.

In 1923, Kuwait was the first state to have fixed international borders¹ in the Arabian Peninsula. As Iraq wanted more access to the Gulf waters, its ambitions naturally oriented themselves towards Kuwaiti waters, particularly vis-à-vis Kuwait's ownership of the islands of Warbah and Bubiyan situated in the north of the Arabian (Persian) Gulf. The border demarcation issue was a lingering source of tension throughout their relations. Iraq had neither bound itself to respect the boundary demarcation that had been agreed upon with Kuwait in the exchange of correspondences in 1932, nor to the Kuwaiti-Iraqi Agreed Minutes of 4 October 1963. Kuwait thus faced growing threats from Iraq in 1990 which marked the climax of hostility by Iraq towards Kuwait. Under Saddam, Iraq invaded and occupied the whole of Kuwait. The international community

¹ For literature with a specific interest in theories of international relations regarding borders, see: "Of Systems, Boundaries and Territoriality: An Inquiry into the Formation of the State System" by Friedrich Kratochwil; *Identities, borders, orders: rethinking international relations theory* by Mathias Albert, David Jacobson, Yosef Lapid; *Border Theory: The Limits of Cultural Politics* by Scott Michaelsen, David E. Johnson.

condemned Iraq's aggression and the United Nations placed Iraq under many sanctions with respect to Chapter VII of the United Nations Charter whereby it issued many resolutions concerning Kuwait's territorial integrity, asking Iraq to withdraw from Kuwaiti land. The United States formed a multinational coalition and under U.N. patronage initiated military action to restore Kuwait's sovereignty. Many resolutions were issued regarding the Iraq-Kuwait situation, some which mentioned the border demarcation between the two countries, such as U.N. Security Council Resolution 687 (1991), 773 (1992) and 833 (1993). In 1994, Iraq formally accepted the United Nations' demarcated border with Kuwait.

This study consists of six chapters including this introduction and a conclusion. Chapters Two and Three briefly provide further historical background. Chapter Two traces and provides main historical facts in the eighteenth and nineteenth centuries about Kuwait's international status, proving Iraq's historical territorial claims of Kuwait false. Chapter Three highlights incidents and political actuality in the periods following Iraq's admission to the League of Nations; it also discusses Iraqi concerns over Kuwaiti territory under the different regimes that have come to rule Iraq while defining their various motives and agendas.

Chapter Four focuses on the United Nations' reaction against Saddam Hussein's deed through the drawn resolutions in the Security Council relating to the border issues, especially with regards to Resolutions 686 (1991), 687 (1991), 773 (1992) and 833 (1993). These particular resolutions will be given due focus in that they contain articles concerning border treaties between Kuwait and Iraq vis-

à-vis border demarcation. The chapter will also describe the final borders between Kuwait and Iraq as set by the United Nations Iraqi Kuwait Border Demarcation Commission (UNIKBDC).

Chapter Five discusses whether Iraq's territorial claims to Kuwait have ended with the United Nations settlement of Kuwait's crisis and, more recently, with the fall of Saddam's regime. It also discusses unresolved issues between the two countries and Iraq's international status under Chapter VII of the U.N. Charter. Chapter five also provides a current measure of enhancing cooperative ties within the Iraqi-Kuwaiti relations via projects with mutual economic interests.

This study raises the question of whether building amicable relations and setting a foundation of integrated interests between two countries enhances cooperation and coordination and if it virtually diminishes the prospect of any unstable circumstances between two countries. With a dictator absent from the newly-democratic Iraq's calculus, and with a few residual issues still unsettled, would reaching mutual coordinated, cooperative relations between Kuwait and Iraq ridicule the prospect of provoking the sovereignty and territorial integrity of Kuwait?

CHAPTER TWO

HISTORICAL BACKGROUND: KUWAIT IN THE EIGHTEENTH & NINETEENTH CENTURIES

Historically, Kuwait has faced many challenges throughout its development. Kuwait's early political and economic development was much affected by its location on the northwest coast of the Arabian (Persian) Gulf. During the eighteenth and nineteenth centuries, Kuwait became the focus of competition between the main international players at that time: the Ottoman Empire, Russia, Germany and Great Britain. Regionally, Kuwait also found itself in an environment of intense rivalry where it faced threats from neighboring Arab tribes. Kuwait has thus been witness to many external threats while on the path of survival and existence as an independent state. Historically, the security and sovereignty of this oil-rich sheikhdom has faced many pitfalls; however, Kuwait has adopted many successful decisions enabling it to maneuver and escape hegemony over its territory by signing strategic treaties with Great Britain since the nineteenth century.

2.1 - Evidence of Kuwait's Independence

Though there is no specific date to the founding of Kuwait, history dates Kuwait's modern establishment to 1716, when the Al-Sabah, Al-Jalahimah and the Al-Khalifah tribes, who belong to the greater Enaiza tribe, first settled in the

northern parts of Kuwait's bay. Historical records depicting maps of Kazima (a populous settlement in the western outskirts of Kuwait), dating back to the period between 1652 and 1737, establish Kuwait's existence well before the eighteenth century. Moreover, the first documentation of Kuwait was in 1709 by an Arab Voyager named Murtada bin Ulwan who produced a manuscript (now stored in the Berlin State Library in Germany under the reference 6127) documenting his journey starting from Damascus until reaching Meccca. He mentions Kuwait as having a well-developed economic structure with buildings and marketplaces. He also makes reference to Kuwait as "Grane". Furthermore, Kuwait's governance has been under the still-governing family of Al-Sabah. Before the migration of the Al-Sabah, Al-Jalahinah and the Al-Khalifah tribes, the Bani Khalid tribe had, while under the leadership of Mohamed Bani Urai'er, built a fortress called al-Kout.² With the passing of Mohamed Bani Urai'er, the Al-Sabah tribe became the rulers of Kuwait where merchant families of Kuwait selected Sheikh Sabah bin Jaber as Kuwait's leader.³

Another mention proving Kuwait's presence well before the eighteenth century is one that states that the Portuguese had control over Muscat until their expulsion by Omani Imam Sultan bin Saif in 1650 as an extension of the

² Alrushaid, A. (1926). *Tareekh Al-Kuwait – Al-juza' Al-Awwal [Kuwait History – Part One]*. Kuwait: Al-Matba'ah Al-Asreyya [The Modern Press House]. p. 12

³ Abu Hakima, A. (1970). *Tareekh Al-Kuwait: Al-Juz' Al-Awwal/Al-Qesm Al-Thani [History of Kuwait: Volume One/Part Two]*. Kuwait: Kuwait History Committee. pp. 106-109.

revolution started by Imam Nasser bin Murshid in 1624.⁴ Imam Nasser bin Murshid had sent messengers to the Gulf countries to raise funds and materials in preparation to revolt and he had received money and a ship from the people of Grane – the archaic name of Kuwait.⁵ With all this said, modern history for Kuwait had started.

Objective impartial historic accounts along the history of Kuwait prove that Kuwait, under all circumstances and development in the Gulf region, had enjoyed an independent entity untouched by Ottoman suzerainty and that the Ottoman Empire had no nominal authority or legal bearing on Kuwait's sovereignty. Many facts substantiate that there was no Ottoman presence on Kuwaiti land and that the Ottoman Empire never protected the territory of Kuwait against any outside attacks. Kuwaitis themselves were ensuring the protection of their homeland and, without the help of any outside forces, built a fortified wall around their city in 1760.⁶ Kuwait had offered asylum for rebel movements in Basra against the Ottoman Empire in 1789 and had challenged the Ottoman Pasha's demands to return them.⁷ Furthermore, Kuwait served as an asylum for Ottoman officials such as the governor of Basra who escaped to Kuwait to evade

⁴ Miles, S. (1919). *The countries and tribes of the persian gulf*. London: Harrison. Retrieved from <<http://ia600302.us.archive.org/15/items/countriestribeso02mileuoft/countriestribeso02mileuoft.pdf>>. p. 463.

⁵ Mohammed, K. (2000). *Al-Kuwait Fi Al-Qarnayn Al-Thamen'ashar Wa Al-Tase'ashar*. Kuwait City: Dar Al-Urooba.

⁶ *Kuwait-Iraq Boundary Demarcation: Historical Rights and International Will*. (1994) Kuwait: Center for Research and Studies on Kuwait. p. 9

⁷ Ibid., p. 9 and Schofield, R. (1993). *Kuwait and Iraq: Historical Claims and Territorial Disputes*. London: Royal Institute of International Affairs. p.4

punishment of the Pasha of Baghdad.⁸ In Colonal James Capper's *A Journal across the Great Desert, from Aleppo to Bussora*, the Ottoman Pasha was quoted, after his restless attempts to convince Kuwait's Sheikh to give up his guest, saying, "After all, I regard it as a great happiness to have, in case of a rainy day, a person of the temper of the Shaikh of Grain, so near to me."⁹

As such, historical incidents show that Kuwait has never been part of or under Ottoman supremacy. The historian Abu Hakima wrote about Kuwait's history, saying: "There was no Ottoman ruler in Eastern Arabia. In fact, Ottoman rule was not even nominally acknowledged."¹⁰ The historical narratives are thus quite lucid in contending that there was never any Turkish authority representing Ottoman governance, nor was there a Turkish garrison in Kuwait. Additionally, Ottoman taxes were not enforced on Kuwait and Kuwaiti men were not conscripted into the Ottoman army.¹¹

Furthermore, in the period between 1793 until 1795, the British Agency, which was connected to the British East India Company, moved from Basra to Kuwait in order to avoid disturbances from the Ottoman Authority in Basra.¹² Additionally, in 1982, the center of Arabian Gulf Studies in Basra University published a book about the records of the jurisprudential court in Basra. This book

⁸ Finnie, D. (1992) *Shifting Lines in the Sand*. London: I.B.Tauris & Co Ltd. p. 5

⁹ Abu Hakima. op.cit, pp. 10, 14-15.

¹⁰ Ibid., p. 5

¹¹ Ibid., p. 7

¹² Schofield. *Kuwait and Iraq* op.cit, pp. 4, 10

talked about, among other matters, the Islamic court judge who had intended to escape to Kuwait in an attempt to avoid being forced to be a judge and a teacher in Baghdad. The publication also illustrates that the judicial system in Basra, along with its various statutes, were much different than those in Kuwait.

Kuwait has long been adamant about its independence, viewing this crucial tenet of statehood with the utmost importance. In 1816, during the rule of Jaber Al-Sabah (1814–1859), an English adventurer named James Silk Buckingham observed that Kuwait always preserved its independence however disorderly affairs might be in the Arabian (Persian) Gulf, particularly as most other Gulf entities were falling under Portuguese or Ottoman rule. He also emphasized that the people of Kuwait were known for their love of freedom and courage.¹³

In a letter dating 18 April 1866,¹⁴ Kuwait's relationship with the Ottoman Empire was described by ex-Political Resident Kemball as “contractual,” whereby Kuwait protected the shores of Shatt al-Arab from attacks by sea in return for not paying taxes or tribute to the Ottoman treasury and for the nominal subordination of the Al-Sabah sheikhdom.¹⁵

With the rise of Sheikh Mubarak who won the struggle for power in 1896, Kuwait severed its links with the Ottoman Empire. Mubarak never favored Ottoman influence and when the Ottomans supported his rivals he became even

¹³ Ibid., pp. 4 – 5 and *Kuwait-Iraq Boundary Demarcation* op. cit, pp. 11 - 12.

¹⁴ Schofield. *Kuwait and Iraq* op.cit, p. 11

¹⁵ Ibid., p. 11

closer to the British. At the time when there was concern about the growth of Ottoman cooperation with the Germans as well as with the Russians, there were attempts to construct a Berlin-to-Baghdad railway which would be linked to Kuwait's harbor. Additionally, reports were received that the Ottomans were stationing troops near Basra.¹⁶

In 1897, Sheikh Mubarak asked for British protection and his request was supported by the political resident in the Gulf at that time, Lieutenant-Colonel Malcolm Meade. Mubarak highlighted the potential British gains of such support, contending that Kuwait has fine anchorage; that its territories would be convenient for a British trans-Arabian railway; and that through Kuwait, piracy and slave trade in the Northern Gulf could be controlled.¹⁷ As a result, Britain and Kuwait signed an agreement on 23 January 1899 which was ratified by Lord Curzon, Viceroy and Governor-General of India, on 16 February 1899 in Fort William in India.¹⁸ This Anglo-Kuwaiti Agreement, Kuwait's first legal bond with the British, has had a profound effect on Kuwait's history. Through this agreement, Kuwait was able to maintain its independent character and its people's independent identity. The agreement, though secretly conducted, had protected Kuwait's international status especially since it was in a region where powerful

¹⁶ Ibid., pp. 16 – 17 and Cordesman, A. (1997). *Kuwait : recovery and security after the Gulf War*. Colorado: Westview Press. pp. 3 - 4.

¹⁷ Schofield. *Kuwait and Iraq* op.cit, pp. 15-17.

¹⁸ Facey, W. & Grant, G. (1999) *Kuwait by the First Photographers*. London: I.B. Tauris. p. 36 and *Kuwait and Britain: A Historical Friendship*. (2007). Kuwait: Center for Research and Studies on Kuwait. pp. 17-19.

rivals were competing for leverage in the Arabian (Persian) Gulf. Kuwait was thus able to escape Ottoman efforts at suzerainty.

The Anglo-Kuwaiti agreement contained promises by Sheikh Mubarak that neither he nor his successors would ever yield, sell, lease or mortgage any part of Kuwait's territory or receive the agents or representatives of any foreign country without prior permission from the British government.¹⁹ The agreement had given the British implicit control over Kuwait's foreign policy, but it was never a mandate. In return, the British promised Kuwait the support and protection of its security. Additionally, the British sent Sheikh Mubarak 15,000 rupees and guaranteed the Sheikh their good offices as well as their legal and political commitment, which also covered the protection of Mubarak's property near Basra.²⁰ Lt. Col. Malcom John Meade, the political resident in the Gulf in 1897, predicted that the agreement will "stand in the way of attempts by other powers, or their subjects, to obtain foothold in this important place."²¹

Suspicious about the relations between the British and Kuwait, the Ottomans in 1901 exchanged diplomatic notes with the British. This resulted in setting official confirmation that set the basis for British-Ottoman relations concerning Kuwait. This is known as the "status quo" whereby the British government would maintain its ties with Kuwait but would not establish a

¹⁹ *Resalat Al-Kuwait [Kuwait's Letter]*. (2011). Center for Research and Studies on Kuwait, 33 (1) . p. 7.

²⁰ Finnie. op. cit, pp.16-17.

²¹ Ibid., p. 17.

“protectorate” in Kuwait²² and the Ottomans would keep a distance from interfering in Kuwait especially by not sending military forces to Kuwait.²³ On many occasions after this understanding, the Ottoman Empire tried unsuccessfully to destabilize the sheikhdom either by backing up and supporting Kuwait’s rivals or by threatening Kuwait through removing Mubarak by force. Nevertheless, Kuwait has always successfully resisted efforts aimed at bringing them into the Ottoman orbit.²⁴

However, in a bid to reduce the dominion of the Sheikh of Kuwait, the Ottomans sent troops to Safwan, Umm Qasr, Warbah, and the eastern tip of Bubiyan Island, which is also called Ras al-Gait. The island was probably named by Kuwaiti tribesmen, as Al-Gait is an old Kuwaiti word meaning summer. Sheikh Mubarak objected to the Ottoman aggression on his territory and asserted jurisdiction over these areas, stating that permanent settlers in the Safwan area had paid a sort of tribute to the Sheikh and that certain loyal Safwan tribes often visit the oasis.²⁵ Moreover, the Al-Sabah’s ancestral home was in Umm Qasr, where, in the early nineteenth century, certain Kuwaiti tribesmen also settled there.²⁶ It is believed that during the reign of Jabir, a fort was built there as well. Furthermore, Sheikh Mubarak mentioned that in the 1860s the Al-Sabah subjects resided there

²² Ibid., p. 20 and Schofield. *Kuwait and Iraq* op.cit, p. 22.

²³ Ibid.,

²⁴ Schofield. *Kuwait and Iraq* op.cit, p. 22.

²⁵ Here, ‘oasis’ refers to the center of Kuwait.

²⁶ Schofield. *Kuwait and Iraq* op.cit, p. 24

and that the sheikhdom sometimes used to transit through Khor al-Zubair while on their way to Basra.²⁷

The map below was excerpted from William Gifford Palgrave's book "A Year's Journey Through Central and Eastern Arabia (1862 – 1863)" published in 1864 in England, denoting Kuwait's boundary and its surroundings.

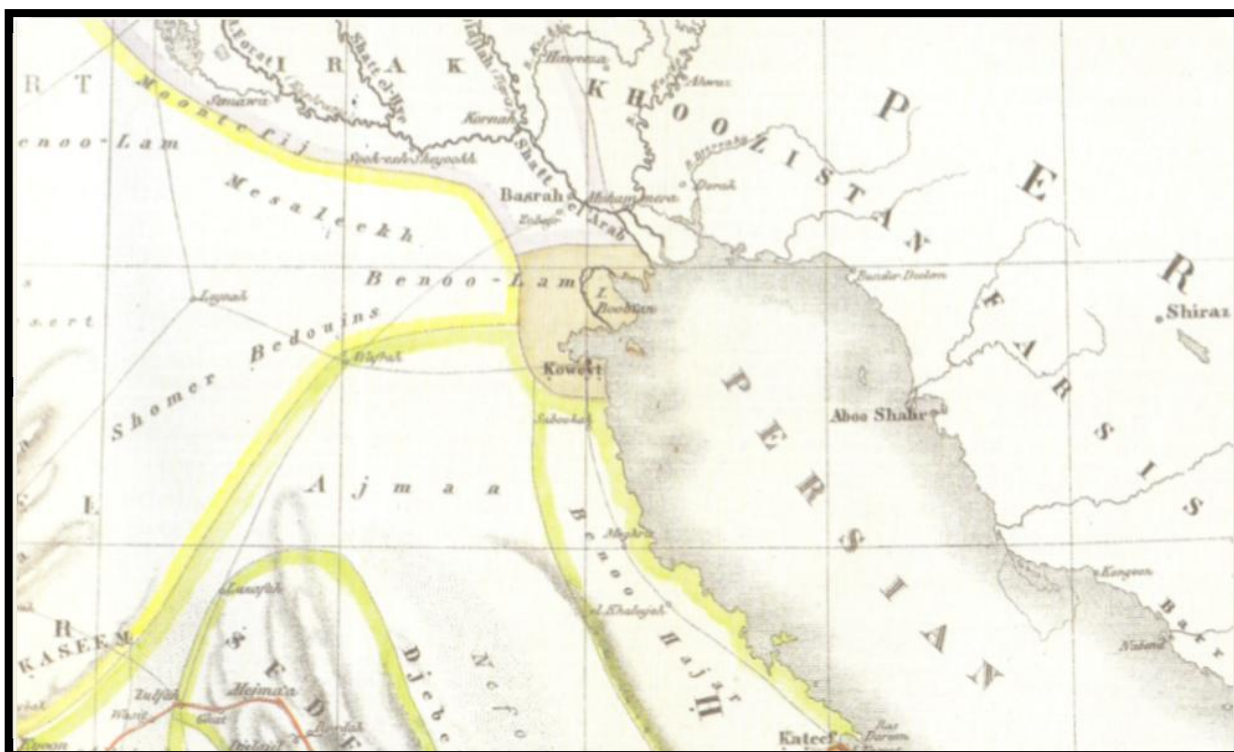


Figure 1: Map of Kuwait in the mid 1800's²⁸

Palgrave identified each country's boundaries by a distinct color. The upper region included in Kuwait's territory includes Khor al-Zubair, where there was also specific mention that Bubiyan Island pertains to Kuwait.²⁹

²⁷ Ibid., p. 25

²⁸ Al-Sadoon, A. (2010) *Kuwait in old maps*. Kuwait: Center for Research and Studies on Kuwait. p. 135

Additionally, Knox, Political Agent at Kuwait, had interviewed a number of Awazim fishermen who provided him with reliable evidence for the Awazim tribe's long-established contact with the islands, where a number of fishermen had their nets placed and where they practiced pearl diving on the coasts of Bubiyan.³⁰ A fisherman from the Awazim tribe, whose loyalty was for Sheikh Mubarak and who paid allegiance to the Shiekh, periodically used Bubiyan, which is the stem of Kuwait's rights to the island as well as for Warba Island, which is an offshoot of Bubiyan and is geographically contingent to it.^{31,32} Warba Island is only separated by a very narrow channel from Bubiyan. This proves strong evidence for the Awazim's historical presence in the area.

By the beginning of the twentieth century, other nations also claimed Kuwait's ownership of Warbah. This was done firstly through the Government of India's memorandum in 1910, which stated that the ownership of Warbah follows that of Bubiyan because of its location north of Bubiyan and because of its close proximity,³³ and secondly by the map annexed to the July 1913 settlement where a red line marked the borders of Kuwait, encompassing both the islands of Warbah and Bubiyan.

²⁹ Ibid., p. 134

³⁰ Schofield. *Kuwait and Iraq* op.cit, p. 35

³¹ Ibid., p.25 and *Kuwait-Iraq Boundary Demarcation* op. cit, p.20

³² Finnie. op. cit, pp. 22 - 23

³³ Ibid., pp. 35-36

However by this aggression of the Ottomans in the northern areas of Kuwait, the region witnessed its first conflict between Kuwait and the Ottoman Empire. Britain protested to the Ottoman Porte and considered the occupation a disturbance of the *status quo* understanding.³⁴

2.2 - The Anglo-Ottoman Convention of 1913

In 1911 when there were still talks about the Baghdad railway involving the Ottomans, Great Britain and the Germans, and with Kuwait's bay being the possible terminus in the Gulf, Britain felt the need to restate the 1901 *status quo* agreed upon with the Ottoman Porte.³⁵ Britain wanted to strengthen its position in Kuwait and to prevent any pretext from the Ottomans to intervene in Kuwait's position, specifically by the Ottoman Porte's constant meddling in Kuwait which sought to get rid of Sheikh Mubarak.

Britain entered into negotiations with the Turks in 1911 with the intended goal of adding clarifications to the *status quo* agreement regarding Kuwait's boundaries.³⁶ Finally on 29 July 1913, the treaty was signed but not ratified due to the outbreak of World War I. However, the importance of this treaty was that it depicted the subsequent affairs involving Kuwait, Britain and Iraq.³⁷ This treaty is

³⁴ Finnie. op. cit, p.21

³⁵ Schofield. *Kuwait and Iraq* op.cit, p. 37

³⁶ Ibid., p. 37-38

³⁷ Finnie. op. cit, pp. 34-35

composed of five sections with the first section involving Kuwait [Ref. Appendix 1].

***“Article 1:** The district of Kuwait as defined in Articles 5 and 7 of this agreement shall constitute an independent territory in the Ottoman Empire.*

***Article 2:** The Sheikh of Kuwait can, as he used to in the past, hoist the Ottoman flag in addition to the word [Kuwait] to be inscribed in one of the flag’s corners, if he so desires. He may also exercise an independent administration in the regional area as defined by Article [5] of the agreement. The Imperial Ottoman State shall refrain from any intervention in the affairs of Kuwait, including the inheritance [of rulership], and any other administrative act as well as any occupation or military action in the provinces belonging to Kuwait.*

***Article 3:** The Imperial Ottoman Government recognizes the validity of the agreements formerly concluded by the Sheikh of Kuwait with the Government of His Majesty the King of Britain dated January 23, 1899; May 24, 1900, and February 28, 1904. It also recognizes the validity of the land concessions granted from the said Sheikh to the Government of His Majesty the King and to the British nationals, and recognizes the validity of the demands enclosed with the memorandum sent on Oct. 24, 1911 from His Majesty’s First Secretary for Foreign Affairs to the Ambassador of His Imperial Majesty the Sultan in London.*

...

Article 5: The independence of the Sheikh of Kuwait can be exercised in the defined districts forming a semi-circle with the City of Kuwait in the Centre and Khor al-Zubair in the northern border and the Grane in the southern border, and this line drawn in red on the map attached to this agreement, and the island of Warba, Bubiyan, Meskan, Failaka, Auha, Kubbar, Garoa and Um al-Maradem in addition to the neighboring islands and the waters in this region.

Article 6: The tribes inside the borders agreed upon in the next article shall be recognized as subordinate to the Shaikh of Kuwait who levies the Zakat as he used to do formerly. He shall exercise the administrative rights invested in him as an Ottoman Qu'immaqam. The Imperial Ottoman Government shall not exercise in these regions any administrative act independent of the Shaikh of Kuwait and shall refrain from establishing garrisons or undertaking any military action of any type without prior understanding with the Government of His Majesty...”³⁸

It is in studying these articles that we may glean certain contradictory features in some of the contents of the agreement. In Article 1, Kuwait was recognized as an independent district in the Ottoman Empire, but not subordinate to Vilayet al-Basra.³⁹ Therefore, Iraq's claims of Kuwaiti territory, which contend that Kuwait was part of Vilayet al-Basra under the Ottoman Empire, are not valid.

³⁸ For the full excerpt, see Appendix 1. *Kuwait-Iraq Boundary Demarcation* op. cit, pp. 25 - 27

³⁹ Ibid., p. 27

Also, Article 1 did not recognize Turkish suzerainty over Kuwait. What came in Article 2 and Article 6 contradicted any subordination to the Ottomans which was stated in Article 1. The articles stopped the Ottomans from intervening in Kuwait's affairs either administratively or militarily. Even in regards to raising the Ottoman flag, which contained Islamic symbols,⁴⁰ Kuwait distinguished its flag by writing the word *Kuwait* on one of the flag's corners.⁴¹

In Article 3 of the treaty, the Ottomans recognized the validity of the agreements concluded by the Sheikh of Kuwait and the government of Britain⁴² which entailed recognition of Kuwait's sovereignty. Furthermore, it granted Kuwait the legal right to conclude agreements with other states, as well as recognizing the validity of said agreements, a notion which holds profound legal significance.⁴³ Articles 5 and 6 discuss Kuwait's territory as two different regions: the inner zone and the outer zone, as depicted below (red and green, respectively).

⁴⁰ The crescent and stars are considered Islamic symbols

⁴¹ *Kuwait-Iraq Boundary Demarcation* op. cit, pp. 22-23, 28

⁴² Such as 1899, 1900 's commitment of arms control, 1904's post office agreement, and 1907's continuous lease agreement of Bandar Shuwaikh providing the British Government's assurance regarding the Sheikh's sovereignty over Kuwait and its boundaries (inclusive of the leased land.)

⁴³ *Kuwait-Iraq Boundary Demarcation* op. cit, p. 28

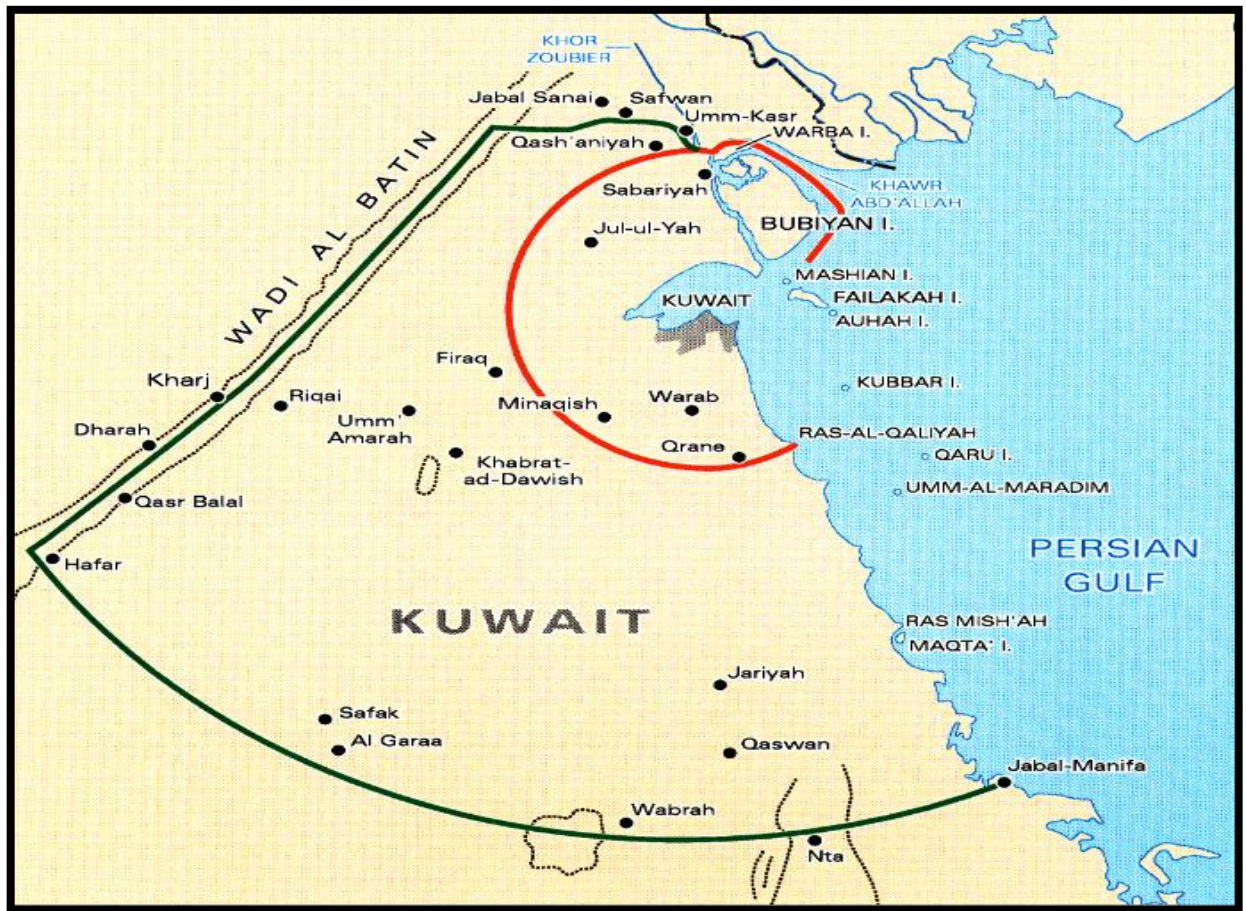


Figure 2: Map showing the Red (inner) and Green (outer) lines of Kuwaiti territorial authority as defined in the 1913 Anglo-Ottoman Convention⁴⁴

The inner-zone is depicted by a semi-circle containing the City of Kuwait in the center with Khor al-Zubair and al-Qurayyin as the northern and southern limits, respectively.⁴⁵ This region included all of Kuwait's islands (Warba, Bubiyan, Meskan, Failaka, Auha, Kubbar, Garoa and Um al-Maradem) as they are listed in the geographical and statistical section of J.G. Lorimer's *Gazetteer of the Persian*

⁴⁴ Brown H. (1994). The Iraq-Kuwait Boundary Dispute: Historical Background and The U. N. Decisions of 1992 and 1993. *IBRU Boundary and Security Bulletin*, 2 (3). p.68

⁴⁵ Finnie. op.cit, p. 35

*Gulf, Oman and Central Arabia*⁴⁶ as being part of Kuwait.⁴⁷ Nevertheless, Sheikh Mubarak was displeased because of the loss of the northern part of Kuwait and Kuwait's historical rights to Umm Qasr and Safwan. Kuwait's ownership to this northern territory was depicted in Lorimer's map of 1908 as a portion of Kuwaiti land, as depicted below.

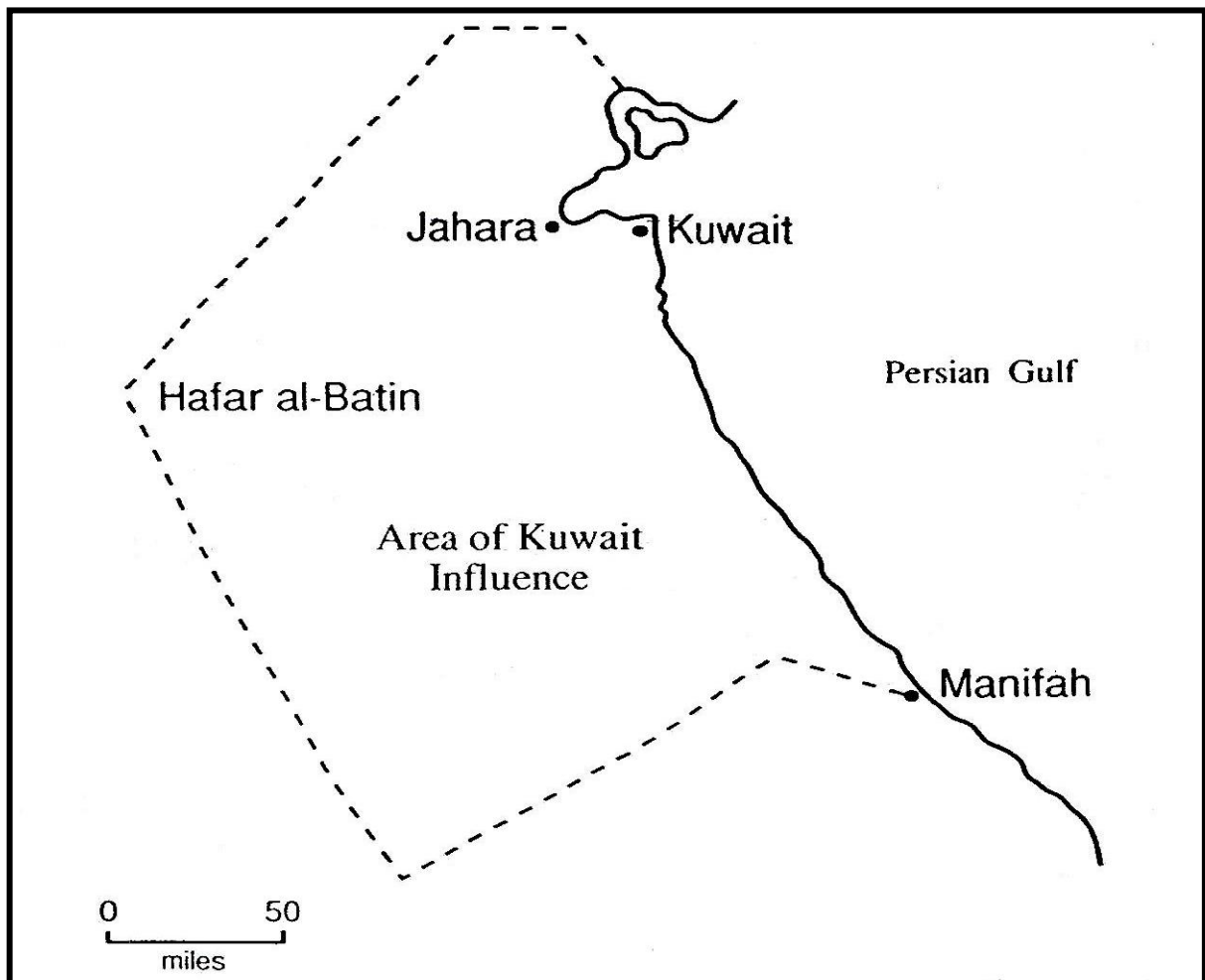


Figure 3: Map showing Kuwait's territorial limits as stated by Lorimer⁴⁸

⁴⁶ Ibid., p. 23

⁴⁷ Ibid., p. 35 and Schofield. *Kuwait and Iraq* op.cit, pp. 40-41

⁴⁸ Ibid. p. 41

The outer-zone, which was mentioned in different articles within the treaty, is acknowledged by the subordination of tribes situated in a much larger area to the Sheikhdome.

Sheikh Mubarak also passed on his dissatisfaction to Captain William Shakespeare, Political Agent in Kuwait, regarding an agreement permitting the stationing of a permanent Ottoman agent to look after the interests of his subjects. As stipulated by prior agreements, the Ottomans were to refrain from any interference in Kuwait; Sheikh Mubarak was thus naturally opposed to the proposal of appointing an Ottoman agent on Kuwaiti territory. In response to Mubarak's concerns, the British government "requested the Ottoman state to issue a statement agreeing to withdraw all its civil servants from Kuwait."⁴⁹ Through this request, the Ottoman Porte would not be able to appoint an agent in Kuwait.⁵⁰

The agreement between Britain and the Ottoman Empire had the Ottomans admit Kuwait's territorial rights over the Warbah and Bubiyan islands. The Ottomans therefore withdrew their garrison from Ras al-Gait, located southeast of Bubiyan Island. Furthermore, the articles that set the demarcation of the border between Kuwait and Vilayet al-Basra were the basics of the demarcation boundary between Kuwait and the newly-conceived State of Iraq. Its provisions were used in 1922 and in 1923 to set the territorial extent of the State of Kuwait with its neighbors.

⁴⁹ *Kuwait-Iraq Boundary Demarcation* op. cit, p. 29

⁵⁰ Ibid.,

2.3 - The Uqair Protocol of 1922

The Uqair Protocol negotiation was held on the Hasa coast at Uqair in Saudi Arabia, opposite to the Sheikhdom of Bahrain.⁵¹ The negotiation was held between Ibn Saud and British High Commissioner Sir Percy Cox, on behalf of Iraq, to settle the borders of Ibn Saud with both Iraq and Kuwait. Present also were the Iraqi delegate, Sabih Beg; and the Political Agent in Kuwait, Major James More, representing Sheikh Ahmad.⁵² The Uqair Protocol had brought up for the first time the notion of a neutral zone in Arabia. On 2 December 1922, the Ibn Saud-Iraqi boundary was set, agreeing on a neutral zone which guarantees that wells and oases close to each side of the border shall not be used for military causes. The protocol assured that Najdi tribes could have safe access to watering places in Iraq's section within the neutral zone.⁵³

Sir Cox had provided Iraq with noteworthy territory claimed by Ibn Saud⁵⁴ and southern territorial limits of the newly created Kingdom of Iraq⁵⁵ were defined. The Uqair Protocol also defined the Najd-Kuwait boundary and placed the frontiers of the south of Kuwait between the Al-Sabah sheikhdom of Kuwait and Ibn Saud's Najdi state. Boundaries were marked along the inner zone of the red line defined in the 1913 Anglo-Ottoman settlement. The protocol also set the

⁵¹ Finnie. op.cit, p. 57

⁵² Joyce, M. (1998) *Kuwait, 1945-1996*. London: Frank Cass. p. xiv

⁵³ Schofield. *Kuwait and Iraq* op.cit, p. 56

⁵⁴ Joyce. op.cit, p. xiv

⁵⁵ Schofield. *Kuwait and Iraq* op.cit, p. 57

boundary tripoint demarcation between Saudi Arabia, Kuwait and Iraq. Furthermore, a neutral zone between Kuwait and Najd extended southward from the red line along the Arabian (Persian) Gulf littoral. Nomadic tribes of both states enjoyed equal rights of access to this zone.

With the outbreak of World War I in 1914, the Government of India stressed its role in Kuwait; accordingly, the sheikhdom received a letter from the Political Agent in the Gulf recognizing the Sheikhdom of Kuwait as an independent government under the protection of Britain. With the defeat of the Ottoman Empire in 1918, Kuwait's relationship with the Porte was completely dissolved. In 1920, the Porte gave up all its rights in the districts which were under its control through the Treaty of Sèvres. Its contents were reaffirmed in the Treaty of Lausanne, signed on 24 July 1923.⁵⁶

In September 1920, the Sheikh of Kuwait Salem Mubarak Al-Sabah had reaffirmed Kuwait's territory stated in the 1913 green line delimitation for Kuwait's northern borders. It was again stated on 4 April 1923 by Sheikh Ahmad Al-Jaber to the Political Agent in Kuwait, Major James More, regarding Kuwait's northern boundaries:

“It is the same as that claimed by the late Shaikh Salim in the Appendix to his letter to you dated 3rd Muharram 1339 [17 September 1920]; namely: From the junction of the Wadi al-Aujah with the Batin; eastwards to the

⁵⁶ *Kuwait-Iraq Boundary Demarcation* op. cit, p. 30

*south of the wells of Safwan, Jabal Sanam and Umm Qasr, to the shore of the islands of Bubiyan and Warbah, and along the coast to the present Najd—Kuwait frontier. Included in this are the following islands of the sea: Maskan, Failakah, Auhah, Kubbar, Karu and Umm al-Maradim. These are the boundaries of Kuwait which I claim”*⁵⁷

Political Agent More informed Cox, the British High Commissioner in Iraq, about the Sheikh’s specification of Kuwait’s northern territory. Cox replied on 19 April 1923 that the Sheikh could be notified that his “claim to the frontier and Islands indicated is recognized in so far as his Majesty’s government are concerned.”⁵⁸ This letter exchange among British officials is considered by Britain to have defined the Kuwait-Iraqi border.⁵⁹

2.4 - Concluding Remarks

Kuwait’s first proof of existence dates back well before the eighteenth century. Throughout its history, Kuwait has been in a position of geostrategic significance, where attractive harbors and littoral coasts place Kuwait in the center of the eyes of regional powers. Nevertheless, Sheikh Mubarak’s insight had secured Kuwait’s autonomy and set the regional balance through initiating the

⁵⁷ Schofield. *Kuwait and Iraq* op.cit, p. 59

⁵⁸ Ibid.,

⁵⁹ Ibid.,

secret agreement with Britain in 1899. Furthermore, the Anglo-Ottoman Convention of 1913 supported Kuwait in minimizing any chance the Ottomans saw in establishing suzerainty over Kuwait. Through the boundary delimitation of 1923, the distinct boundaries between Kuwait and Iraq had not only been set but also gained unquestionable confirmation. It is interesting to note, however, that many maps since the early Ottoman era depict Kuwait and its territory as a portion extending further northward than its borderline as defined by the 1932 correspondence.

CHAPTER THREE

HISTORICAL BACKGROUND: DEVELOPMENTS AFTER IRAQ'S INDEPENDENCE

In April of 1923, Kuwait had become the first state in the region to have designated international borders. This was not objected by Iraq at the time, and it was accepted again in 1932. In 1923, the Political Agent at Kuwait Major John More had located Kuwait's frontier by pacing out steps from the southern-most palm tree in Safwan and had marked it by putting a large signboard as a clear indicator for the borders between Kuwait and Iraq.⁶⁰ During the 1930s, however, it was removed several times by the Iraqis. The British Agent in Kuwait had replaced the signboard by the same technique used by Agent More. It was later discovered that the Iraqis had planted palm trees southward from the initial palm tree and into Kuwaiti territory.⁶¹

3.1 - The Development of the Territorial Dispute

Shortly after its independence, Iraq intended to request admission to the League of Nations. Among the most basic requirements for state acceptance into the League were a stable government and a well-defined frontier. The reaffirming of the Iraq-Kuwait borders, as they were initially delineated by the Anglo-Ottoman Convention of 1913 and by the 1923 exchange of correspondence, occurred via the securing of letters signed by the Iraqi

⁶⁰ Ibid., p. 59 and Finnie. op.cit, p. 73

⁶¹ Schofield. *Kuwait and Iraq* op.cit, p. 59

Prime Minister Nuri al-Said on 21 July 1932. The letter, which was addressed to the British High Commissioner for Iraq, requested the reaffirming of the existing frontier between Iraq and Kuwait, as illustrated below:

“My dear Sir Francis,

I think your Excellency will agree that the time has now come when it is desirable to reaffirm the existing frontier between Iraq and Koweit.

I therefore request that the necessary action may be taken to obtain the agreement of the competent authority or authorities in Koweit to the following description of the existing frontier between the two countries:

*From the intersection of the Wadi-el-Audja with the Batim and thence northwards along the Batim to a point just south of the latitude of Safwan; thence eastwards passing south of Safwan Wells, Jebel Sanam and Um Qasr leaving them to Iraq and so on to the junction of the Khor Zubeir with the Khor Abdullah. The islands of Warbah, Bubiyan, Maskan (or Mashjan), Failakah, Auhah, Kubbar, Qaru and Umm-el-Maradim appertain to Koweit.”*⁶²

The Sheikh of Kuwait Ahmad Al-Jaber Al-Sabah respectively agreed to confirm the existing boundary between Kuwait and Iraq through a letter which he addressed to the British agent in Kuwait on 10 August 1932. He wrote that “the frontier proposed by the Iraqi Prime Minister is approved by his Majesty’s Government” and agreed to “reaffirm the

⁶² Finnie. op.cit, p. 78; Taken from *Great Britain, Public Records Office, London, Foreign Office London 371/16006*

existing frontier between Iraq and Koweit as described in the Iraq Prime Minister's letter;"⁶³ for it was through this letter that the boundary delimitation between Kuwait and Iraq was unquestionably reconfirmed by Iraq. Iraq had thus met the criteria enabling it to be a member of the League of Nations, and on 3 October 1932, Iraq's Hashemite Monarchy was officially admitted into the League.

Nevertheless, the boundary demarcation between Kuwait and Iraq did not take place as it was expected. Drawing the line of the agreed frontier continued to be the core issue of all problematic relations between the two countries. History later unveiled Iraq's aspiration in regards to the Gulf States, proving these aspirations go beyond domestic politics.⁶⁴

Although no tragic events unfolded under the Hashemite Dynasty regarding the boundaries between Kuwait and Iraq (as there later was under different regimes), many violations occurred against Kuwait's borders. With the 1923 exchange of letters and the boundary delimitation in 1932, the Hashemite monarchy knew they had no legal rights in Kuwait's territory. Iraq's issue was that it was not satisfied with its territory and the boundary it had agreed upon with its neighbors, regarding Kuwait in particular⁶⁵ and other neighbors in general.

For Iraq, Kuwait was and has always been a small state with major geopolitical importance. Kuwait's territory includes two strategic islands in the north, Warbah and

⁶³ Schofield. *Kuwait and Iraq* op.cit, p. 64

⁶⁴ Finnie. op.cit, p. 113

⁶⁵ Schofield. *Kuwait and Iraq* op.cit, p. 66

Bubiyan. Kuwait's wealth also stems from the discovery of oil in substantial quantities under its land in 1936. Realizing the increased potential of the border issue exploding into a larger conflict, the British (being responsible for Kuwait's foreign relations) actively engaged in efforts with Kuwait's rulers to get Iraq's government to bilaterally demarcate the boundary between the two countries. Many committees were formed in a bid to demarcate the border; however during these negotiations, obstructions had a habit of rising and interfering with any such final agreement.⁶⁶ Time and again, Iraq had brought up various obstacles, hindering the demarcating process with the intention of pressuring Kuwait to cede its vital northern territory.

Under Hashemite rule, Iraq brought forward an assortment of issues concerning its neighbor. It would change its demands of Kuwait every few years, making it clear that Iraq wanted to be the beneficiary of the wealth found within Kuwait's territory.

3.2 - The Issue of Smuggling

During negotiations, Iraq prominently raised the issue of smuggling, describing it as the main difficulty concerning its relations with Kuwait.⁶⁷ Iraq claimed that Kuwait's relatively low customs charges led to initiating the trade of smuggling which was threatening Iraq's economy.⁶⁸ Iraq's first violation of Kuwait's borders occurred in May of 1934 when an armed Iraqi government car drove into the borders of Kuwait and clashed

⁶⁶ *Kuwait-Iraq Boundary Demarcation* op. cit, p. 31

⁶⁷ Schofield. *Kuwait and Iraq* op.cit, p. 66

⁶⁸ *Kuwait-Iraq Boundary Demarcation* op. cit, p. 31

with resident tribes who were Kuwaiti subjects. Sheikh Ahmad Al-Jaber Al-Sabah, in his letter to Colonel H.R.P. Dickson, the British Political Agent in Kuwait, protested the Iraqi violations of Kuwait's borders:

“We have heard that there is an armed Iraqi government car that drove inside Kuwaiti borders and intercepted the resident tribes who are Kuwaiti subjects. Therefore, it has been necessary to dispatch one of our cars to ascertain this. In fact we have sent a car with (civil) servants headed by a guide. We ordered them to wander within the borders of Kuwait and carry out the necessary investigations. They reached around al-Rawdah and headed to Um al-Madafi. There they found some of the Kuwaiti Arabs and inquired of them about the cars and informed them that they came to them every day. Radi al-Sumair's son, a Kuwaiti Arab residing in Um al-Madafi said that the car came to us on Friday 27 instant corresponding to 11 May, 1937 and searched our homes and when we objected to their wrongdoing in searching the homes, they beat one of us with a stick. Among the Arabs who are residing in al-Labbah are the sons of Bara'at who say that the cars go to them every day and then proceed southward.

On the basis of this it has been assured that the cars drove in the borders of Kuwait and they clash with our tribes. This is a matter which we do not accept because we do not like anything to occur between us and our neighbors which may disturb the love and upset the rights of neighborhood. I have ordered our (civil) servant, the guide, to appear before Your

Excellency and inform you of the investigations he carried out. We ask you to inform your security posts about the ways to prevent the driving of these cars inside the borders for fear that a misunderstanding counter to neighborly rights may take place. May God preserve you.

30 Muharram, 1353 corresponding to 14 May 1934.

Yours sincerely,

Ruler of Kuwait”⁶⁹

Other serious border incidents also started happening frequently and increasingly with Iraq’s attempt to control and reduce any smuggling occurrences. The increase in these border violations mainly occurred within the channels around the islands of Warbah and Bubiyan.⁷⁰ Furthermore, Dickson indicates that the majority of tribesmen who were involved in smuggling acts were natives of Persia, Iraq or Saudi Arabia.⁷¹ The Sheikh of Kuwait had also taken all measures in his capability and capacity to put a halt to smuggling.⁷² Dickson also stated that if the Iraqi government seriously desired to decrease smuggling, they should either decrease their own customs taxes to be more within the range of nearby states or they should adopt Ibn Saud’s strategy of recruiting reinforcement from tribes residing near the border-zone by presenting them with 75% of the tax proceeds of

⁶⁹ Ibid., p. 31, 129

⁷⁰ Schofield. *Kuwait and Iraq* op.cit, p. 69

⁷¹ Ibid., p. 68

⁷² Ibid.,

any illegal imports they manage to prevent, adding that the Customs Department does not necessarily have to be a money-making government operation.⁷³

Dickson also suggests that Iraq's exaggeration of this issue stems from Iraq's desire to have power over Kuwait. The smuggling issue had impact on the necessity of the boundary demarcation between Kuwait and Iraq. Sound delineation of the boundaries have to be made in order to firstly make boundaries more secure against contraband trafficking, to also know where Kuwait's territorial authority ends and where Iraq's begins, and also to end Iraq's violation of Kuwaiti sovereignty. In spite of the fact that the 1923 exchange of letters had defined the Kuwait-Iraq border, which was also reaffirmed in the 1932 correspondence, there was a need to activate and implement the border demarcation

3.3 - Iraqi Ambitions on Kuwaiti Territory under Hashemite Rule

In 1938, 15 years after the Ottomans had signed the Lausanne Treaty and given up any territory that they had previously controlled, Iraqi Foreign Minister Taufiq al-Suwaidi conveyed to the British Ambassador in Baghdad at the time, Sir Maurice Peterson, that he believed that Kuwait belongs to Iraq since it had been a part of the Vilayet of Basra during the Ottoman era. He then reiterated this claim in his letter to the Foreign Office officials prior to his visit to London later that year. He claimed the Iraqi government as a successor to the Ottoman Porte and claimed that the land on which Kuwait stands should actually be

⁷³ Ibid.,

added to Iraq.⁷⁴ Nevertheless, these claims were not taken seriously by the Foreign Office. The British Embassy also replied to Al-Suwaidi stating that Anglo-Kuwaiti relations date back as far as the 1840s and that both the Kuwaiti nationality and the Iraqi nationality came into existence on the same day.⁷⁵

It comes as no shock, however, that these Iraqi claims over Kuwaiti territory arose only a few months after the discovery of abundant oil reserves in Kuwait,⁷⁶ especially the Burgan oil well, which is one of the largest oil wells in the world to date.

During the 1930s, Iraq had a dispute with Iran over its international status. Iraq had focused on Kuwait as the object of its territorial desire. After the Iraq-Iran agreement of 1937, where Iraq had made concessions to Iran in half of Shatt Al-Arab,⁷⁷ Iraq's Foreign Minister said in 1938 that Iraq wanted to possess an alternate channel to the Gulf through having a port on Kuwait's bay. Iraq aimed to increase its access to the Gulf waters as well as extend its railway beyond Basra to the coast of Kuwait on the Gulf. Iraq also wanted to shift its southern latitude from 30°N to 29°N 35'⁽⁷⁸⁾ such that the northern half of Kuwait would be under Iraqi control. This would have virtually deprived Kuwait of all territory north of its bay.

⁷⁴ Ibid., p. 75

⁷⁵ Ibid., p. 76

⁷⁶ Finnie. op.cit, p. 119

⁷⁷ Abdulghani, A. & Abdulghani, J. (1984). *Iraq & Iran: The Years of Crisis*. Baltimore: Johns Hopkins University Press. p. 153

⁷⁸ Finnie. op.cit, p. 116

In return, Britain stated that it would allow neither the compromise of Kuwait's sovereignty nor its status under British protection and that the option of Iraq's railway terminus and port on Kuwait's bay must be disregarded.⁷⁹ Thereafter, the British head of the Basra Port Directorate Sir John Ward suggested a similar project at Umm Qasr in October 1938 where the British government suggested to Iraq the possibility of building a port near Umm Qasr on the Khor Zubair. The British government was left in confusion as to whether the proposed port's location lay within Kuwaiti or Iraqi territory.⁸⁰ In 1939 and 1940, Iraq was requesting British support for its efforts at gaining territorial concessions from the Sheikh of Kuwait in order for them to protect the port's approaches to Khor Zubair. However, the Government of India reasoned that this was not desirable and the political resident doubted whether Iraq really needed a port there⁸¹ – this was in accordance with Sheikh Ahmad Al-Jaber's stand in refusing to concede any portion of his territory.⁸²

Other attempts were presented to the Hashemite Iraqi government at demarcating the frontier with Kuwait, but these attempts were always met by Iraqi obstacles in order to prevent their progress. Iraq's aim was to get a large chunk of Kuwaiti territory in order to be the beneficiary of Kuwait's newly-discovered oil wealth. However despite all of this, the two countries witnessed times of cordial relations where they were able to ease certain intra-governmental procedures.

⁷⁹ Ibid.,

⁸⁰ Schofield, R. (1994). *Territorial Foundations of the Gulf states*. New York: St. Martin's Press. p. 163

⁸¹ Ibid., p. 164

⁸² Ibid.,

In the early 1950s, Sheikh Abdullah Al-Salem Al-Sabah sought to conduct a friendly foundation for the relations between Iraq and Kuwait. The ruler of Kuwait sought to strengthen the ties between the two countries and showed interest on many occasions to visit Baghdad. In 1952, after the Kuwaiti Amir's visit to Hashemite Iraq, the Iraqi government was prepared to reduce entry visa fees for Kuwaitis wishing to visit Iraq. Furthermore, there was agreement that Kuwaitis, who travel to Iraq for a short period of time by car, be granted entry without paying customs duties on their vehicles. There was also agreement that certain agricultural goods may freely move across the borders between Kuwait and Iraq. In an attempt to further build friendly ties between the two countries, Sheikh Abdullah Al-Salem, during another visit to Iraq, gave generous contributions to Iraqi charities.⁸³

In 1955, Iraq publicized its aspiration "to advance its frontier to a depth of some four kilometers, covering a desert strip, the uninhabited island of Warbah and the waters of Khawr Abdallah which surround it."⁸⁴ Accordingly, the British Ambassador in Baghdad Sir Michael Wright presented the proposal of leasing the islands instead of the cession of Warbah and Bubiyan, linking it with the Shatt Al-Arab scheme to pipe fresh water to Kuwait. Wright also suggested that both proposals, the Umm Qasr proposal and the Shatt Al-Arab water proposal, be arranged on equivalent long-lease terms equal to 99 years.⁸⁵ It was therefore that the new idea of leasing the Kuwaiti islands emerged in place of their cession.

⁸³ Joyce. op.cit, pp. 99-100

⁸⁴ Ibid., p. 166; British Ambassador, Baghdad, to Foreign Office, 24 May 1955, PRO FO 371/114644

⁸⁵ Schofield. *Territorial Foundations of the Gulf states* op.cit, p. 166

The provisional approvals were soon retracted when the Iraqi prime minister introduced more demands before going on with the project settlement. He demanded that the Iraq Petroleum Company run an oil pipeline from its Zubair field to Mina al-Ahmadi – through Kuwait – on the Gulf coast of southern Kuwait. These proposals worried Kuwait and Kuwait sought to invest in distillation plants.⁸⁶ Therefore, the Iraqi government said that the time was not right for a demarcation of the Kuwait-Iraq boundary.⁸⁷

These wanton demands coincided with an accumulation of incidents and statements which made Kuwait concerned about the intentions of the Iraqi government. Kuwait doubted Iraq's sincere will to go on with the demarcation process. Therefore, in 1957, the British revived their proposal but the Iraqi government insisted on their position that they would not demarcate the boundary with Kuwait unless their neighbor ceded or leased a four kilometer-wide territorial strip south of Umm Qasr and the Island of Warbah. Kuwait insinuated that the ceding or leasing of Warbah Island would be taken into consideration given that the Kuwait-Iraq boundary line becomes fully demarcated.⁸⁸

In 1958, Iraq formed a union with Jordan called the Arab Hashemite Union. Iraqi Prime Minister Nuri al-Said had asked the British government to provide Kuwait with its independence so that Kuwait would join the Arab Hashemite Union. This provided solid acknowledgement from the Iraqi regime in recognition of Kuwait as an independent state. Al-Said stated that if Kuwait would join the Union, Iraq would recognize the existing

⁸⁶ Ibid., p. 167

⁸⁷ Ibid.,

⁸⁸ Ibid., p. 169

borders between the two states.⁸⁹ Nevertheless, the demarcation of the borderline remained in a state of deadlock.

3.4 - The Boundary Dispute under Abdulkareem Qasim

On 14 July 1958, a group of devoted Iraqi army officers dethroned the monarchy in a bloody coup. King Faisal the Second and Prime Minister Nuri al-Said were both killed. With the new ruling regime in Iraq, Kuwait was facing a different ideological prospect through the nationalist group that ruled Iraq as well as the new situation where British influence had faded in Iraq. The new nationalist revolutionists promised “a people’s republic”⁹⁰ and a sole leader had emerged by the name of Abdulkareem Qasim.

The Kuwaiti ruler wanted to avoid any possible danger and aimed to avoid any confrontation with the new government of Iraq in order to preserve the peace and security of Kuwait. On 25 July 1958, Sheikh Abdullah Al-Salem of Kuwait took the initiative of visiting Qasim and congratulating him on his presidency.⁹¹ On 29 October 1960, Kuwait sent a letter asking the new ruler of Iraq to demarcate the border and to hold a discussion about going on with demarcating the boundary between Kuwait and Iraq as well as forming a joint committee to supervise the boundary demarcation according to the 1932 correspondence.⁹² Another reminding memo was sent a couple of months later to Iraq to

⁸⁹ Schofield. *Kuwait and Iraq* op.cit, p. 99

⁹⁰ Finnie. op.cit, p. 126

⁹¹ Alabduljader, M. (2000). *Al-Hudood Al-Kuwaitiya Al-Iraqiya – Derasa fi al-jughrafya asseyaseya [Kuwait Iraq Borders – a study of political geography]*. Kuwait: Center for Research and Studies on Kuwait. p. 46

⁹² Ibid.,

hold the demarcation talks about the maritime and land boundaries.⁹³ The Iraqi government replied in an apology letter to Kuwait stating that Qasim was otherwise occupied and referring that the Amir of Kuwait's suggestions were still under study.

On 29 December 1958, Qasim's Foreign Minister Hashem Jawad had sent a message to Sheikh Abdallah Al-Salim requesting the permission to open an Iraqi consulate to watch after their nationals in Kuwait and to have a contact link between the two brotherly states, saying that "the Iraqi Republic views that its top responsibility is to cooperate with its dear neighbor Kuwait and to establish relations with it on the bases of pure friendship and equal fraternal relations."⁹⁴ This request is a clear acknowledgment of Kuwait's independent status. Along with the previous letter, other documents signed by Qasim also contained implicit recognition of Kuwait's independence.⁹⁵ Kuwait published documents containing correspondences between the two countries which also expressed Iraq's desire to expand the cooperation between the two countries in cultural and economic scopes. Iraq had supported Kuwait, even before independence, to enter into several Arab and international organizations.⁹⁶

Furthermore, Iraq's revolutionary government had expressed acceptance of a map depicting Iraq's water boundary. In 1959, Captain Coucheron-Aamot of the Royal Norwegian Navy made a report and a map that nominates the delineation of a median line

⁹³ Ibid.,

⁹⁴ *Kuwait-Iraq Boundary Demarcation* op. cit, p. 38-39

⁹⁵ Alabduljader. op.cit, p. 46

⁹⁶ Schofield. *Kuwait and Iraq* op.cit, p. 101; During 1960, Britain supported Kuwait in becoming a full member of the International Telecommunication Union, the Intergovernmental Maritime Consultative Organization, the Universal Postal Union, the International Civil Aviation Union, the World Health Organization, and UNESCO; Kuwait Iraq boundary demarcation pg. 39

boundary for Khor Abdullah.⁹⁷ The map was then passed from the Iraqi Foreign Minister to the Danish ambassador in Baghdad, which shows the Iraqi government's acceptance, up until 1960, of the set boundary line.

It can be said that during the first three years of Qasim's revolutionary Iraq, the relations between Iraq and Kuwait were calm and cordial. In March of 1961, Iraq had extended Sheikh Abdullah Al-Salem an invitation to attend the planned inauguration ceremonies for the Port of Umm Qasr. Though Iraq had not asked for the use of Kuwaiti territory in this instance, the Kuwaiti Amir, in the name of being a good neighbor, had expressed willingness to allow Baghdad to build the port's necessary navigation facilities within Kuwaiti territory.

Unfortunately, the Iraqi relations towards Kuwait had changed when Kuwait progressed towards independence. In 19 June 1961, Kuwait got its full independence by an exchange of notes between the Political Resident in the Persian Gulf, Sir William Luce,⁹⁸ and the Amir of Kuwait Sheikh Abdullah Al-Salem. The correspondence embodied the following provisions:

- (a) *"The agreement of the 23rd of January 1899 shall be terminated as being inconsistent with the sovereignty and independence of Kuwait.*
- (b) *The relations between the two countries shall continue to be governed by a spirit of close friendship.*

⁹⁷ Schofield. *Kuwait and Iraq* op.cit, p. 101

⁹⁸ Ibid., p. 104

(c) When appropriate the two Governments shall consult together on matters which concern them both.

(d) Nothing in these conclusions shall affect the readiness of Her Majesty's Government to assist the Government of Kuwait if the latter request such assistance.”⁹⁹

Although this correspondence ended the 1899 protective agreement between Sheikh Mubarak and the British, the latter nevertheless realized that without including guarantees for the security of Kuwait in the agreement of 1961, Kuwait's sovereignty may be threatened – not to mention the vital economic interests of Britain and the West. Britain had, up until then, been able to contain the tensions between the two states, but with the end of Britain's protective rights in both countries, could now come to the forefront. The inclusion of provision (d) within the agreement aimed to deter any Iraqi subversive doings. The implicit protective essence within the agreement, in tandem with the achievements of Kuwait's independence, strengthened Kuwait and reduced its vulnerability as a small state.

At a press conference held on 25 June 1961, Qasim claimed Kuwait as an integral part of Iraq. He stated the procedures he intended to take in order to cancel what he considered “wrongs introduced in the Kuwaiti independence of 19 June 1961,” contending that:

“The Republic of Iraq has decided to protect the Iraqi people in Kuwait and to demand the land, arbitrarily held by imperialism, which belongs [to Iraq as part]

⁹⁹ Ibid., pp. 104 - 105

of the province of Basra...We shall, accordingly, issue a decree appointing the Sheikh of Kuwait as qaimmaqam of Kuwait, who will come under the authority of the Basra province."¹⁰⁰

Qasim's intentions became obvious in that he sought domination instead of cooperation. Furthermore, reports showed that Qasim's troops in the south were getting ready to invade their southern neighbor.¹⁰¹

The people of Kuwait and their Amir felt disappointment for three years due to Baghdad's government having given no reason to Kuwaitis to believe that their relation was anything less than cooperative. Accordingly, Sheikh Abdullah Al-Salem submitted a request¹⁰² for military assistance to her Majesty's Government in accordance to the correspondence of 19 June 1961.¹⁰³ Britain responded immediately and sent 7,000 British troops who were placed in defensive locations along Kuwait's border with Iraq, where they were supported by both air and naval forces.¹⁰⁴

Arab countries reacted fast as well, dismissing the Iraqi claims over Kuwait and assuring their support of Kuwait's independence. The Kingdom of Saudi Arabia issued a statement saying that anything affecting Kuwait also affects Saudi Arabia.¹⁰⁵ The Saudi King also mentioned that the Iraqi ruler's behavior was that of a maniac and that most of

¹⁰⁰ Ibid., p. 105-106

¹⁰¹ Joyce. op.cit, p. 106

¹⁰² Through a note delivered to the Political Agent in Kuwait

¹⁰³ Schofield. *Kuwait and Iraq* op.cit, p. 107

¹⁰⁴ Ibid., p. 108

¹⁰⁵ *Kuwait-Iraq Boundary Demarcation* op. cit, p. 40

the Iraqi people did not support his acts. Approximately 150 Saudi Arabian troops were sent to protect the junction of Batin with Wadi al-Aujah, the intersection of the Saudi-Kuwaiti-Iraqi boundary tripoint.¹⁰⁶

Furthermore, Jamal Abdel Nasser refused the annexation and refused the dissipation of energy on fraternal struggles. Accordingly, the United Arab Republic (UAR) held a position of refusal towards the annexation but welcomed “the logic of comprehensive unity.”¹⁰⁷ The Arab League was facing a difficult situation where British troops had been called onto “Arab soil by an Arab Government...to prevent an inter-Arab conflict.”¹⁰⁸ In order to face this dilemma, the League agreed to interfere and replace the British troops to safeguard the independence of Kuwait, who had been welcomed as a member. During the Arab League’s council meeting on 20 July 1961, the agreed methodology for Kuwait’s admission was as follows:

- “1 (a) The Kuwaiti Government undertakes to ask for the withdrawal of the British forces from her territory as soon as possible.
 - (b) The Iraqi government pledges not to use force in annexing Kuwait to Iraq.
 - (c) Every desire expressed by Kuwait for unity or federation with Arab League member states in accordance with the League Charter should be supported.
- 2 (a) Kuwait should be welcomed as a member of the Arab League.
- (b) Kuwait should be supported in its application for United Nations membership.

¹⁰⁶ Schofield. *Kuwait and Iraq* op.cit, p. 108

¹⁰⁷ Joyce. op.cit, pp. 104-105

¹⁰⁸ Schofield. *Kuwait and Iraq* op.cit, p. 108

3 (a) The Arab countries undertake to render practical assistance for the safeguarding of the independence of Kuwait at her request. The council entrusts the Secretary-General of the Arab League to take the necessary measures for the carrying out of this decision immediately.”¹⁰⁹

The solution of replacing the British troops by forces from the Arab League countries was tied with Kuwait’s admission to the league on that same date as well as the guarantee of the future independence of Kuwait.

The Arab League’s Military Committee arrived to Kuwait on 8 August 1961 and commenced discussions regarding League troops. Kuwait agreed to conform to the Arab League Mutual Defense Pact and to assume all costs associated with the troops, except for their salaries which would be the duty of each soldier’s respective country of citizenship.¹¹⁰ The troops arrived on 16 September 1961 and were placed along the Kuwaiti side of the border due to Iraq’s refusal of the mission.¹¹¹ The Arab League therefore made a road inside Kuwaiti territory which was set within a range of 350 meters to 2 kilometers from Kuwait’s northern borders with Iraq. As a reference from which they moved 350 meters to 2 kilometers into Kuwaiti territory, the Arab League presumed that the Kuwait-Iraq border line was as stated and agreed upon in the exchange of correspondence in 1932.¹¹²

¹⁰⁹ Ibid.,

¹¹⁰ Joyce op.cit, p. 108

¹¹¹ Ibid., pp. 108-109; The British were concerned; the replacement of the British troops with Arab troops was complete anarchy.

¹¹² Schofield. *Kuwait and Iraq* op.cit, p. 109

3.5 - The Capable Role of British Deterrence

Britain's protective assistance and strong ties with Kuwait's Sheikdom played an important deterring factor against Iraqi ambitions to annex Kuwait. Kuwait's protection from any external threats was Britain's responsibility. Due to the ties between Kuwait and Britain based on the agreement both sides had signed on 19 June 1961, and though Kuwait now had control over its own foreign relations, Britain had pledged to support and assist Kuwait. It is sufficient here to say that the military aid provided by the British, in line with the abovementioned agreement, prevented Qasim from attacking Kuwait.

Another factor that played a role in preventing Iraqi domination over Kuwait was the Kingdom of Saudi Arabia's defensive position – due to its close ties and proximity to Kuwait, Riyadh naturally pegged its security in tandem with Kuwait's. Saudi Arabia considered that any hostility directed towards Kuwait would also affect Saudi Arabia. This natural alliance highlighted Kuwait's strategic security position in the Gulf.

Last but not least, Jamal Abdel Nasser, one of the most influential and charismatic leaders at that time, rejected the annexation concept to unite the Arab world and stood against the Iraqi regime's act. He considered this act wasteful of the Arab energies within a fraternal struggle. His position gave momentum to the Arab world's position in supporting this cause.

Internally, Qasim's attitude faced opposition by the Kuwaiti people. Kuwait had become more self-reliant of its regional and international standing. Kuwait took the liability of developing its relations with Arab states and its larger neighbors. In 1960, Kuwait and

Saudi Arabia agreed to appoint a joint boundary demarcation commission, where there was readiness to undertake a similar agreement with Iran in regards to their shared maritime boundaries.¹¹³ Furthermore, Kuwait was investing in promoting its relations both economically and politically with its regional Arab sphere as well as with the international community. This served to bolster Kuwait's importance in the global arena.

3.6 - Qasim's Attempt to Annex Kuwait: Underlying Causes

Many drives fed Qasim's attempt at annexing Kuwait, which will be discussed below. Fortunately for Kuwait, Qasim's objective did not crystallize as Qasim's troops ultimately did not advance onto Kuwaiti territory.

Firstly, Qasim sought to achieve economic gains with his planned annexation of Kuwaiti territory. Kuwait's abundance of oil wealth made the sheikhdom an attractive target for Qasim and his military regime. By 1960, Kuwait was the world's third-largest exporter of oil.

Secondly, it can be said that Qasim was attempting to ease his problem with maintaining Iraq's internal stability through rallying domestic support for a foreign adventure. Although Qasim had a supportive military force capable of launching an attack on Kuwait, issues such as unstable border relations with Turkey, Syria and Iran also stood

¹¹³ Alabduljader. op.cit, p. 46

in the way of such an adventure.¹¹⁴ Nevertheless, had such an event been realized, it would have undoubtedly provoked hostility towards Iraq by its neighbors.

Lastly, Iraq wanted an extra outlet into Gulf waters in order to improve its access to the sea so as to gain control over the navigational passageways leading to Khor al-Zubair. Under Qasim, Iraq strove to construct a port at Umm Qasr where, in 1961, the initial foundation stone was placed, giving rise to the modern Iraqi port.

3.7 - Kuwait-Iraq Relations under Abdulsalam Arif's Rule

The Arab League's peace-keeping forces withdrew from Kuwait on 20 February 1963 a few days after the Iraqi revolution of 8 February 1963 which saw the overthrow of General Qasim. Abdulsalam Arif came to power leading the new government of Iraq. Subsequently, the relationship between Kuwait and Iraq became more stable. Although Kuwait welcomed the overthrow of Qasim, there was no immediate sign that Kuwait's boundary problem with Iraq had subsided.

The Kuwaiti Amir Sheikh Abdullah Al-Salem Al-Sabah had promptly sent a congratulatory telegram to the new president of Iraq. In return, President Abdulsalam Arif courteously acknowledged the Amir's telegram in a friendly manner.

In the same year, Kuwait was admitted to the United Nations. The U.N. Security Council (UNSC) unanimously accepted Kuwait's application on 7 May 1963, making Kuwait the 111th member of the United Nations General Assembly.¹¹⁵

¹¹⁴ Schofield. *Kuwait and Iraq* op.cit, pp. 101, 107

On 4 October 1963, a treaty between Kuwait and Iraq was signed in Baghdad whereby Iraq recognized the independence and complete sovereignty of Kuwait. The Agreed Minutes Regarding the Restoration of Friendly Relations, Recognition and Related Matters (hereafter the 1963 Agreed Minutes) confirmed the boundary delimitation as specified in the 1932 exchange of letters between the Prime Minister of Iraq and the ruler of Kuwait. This document was signed by Kuwait's crown prince at the time Sheikh Sabah Al-Salem Al-Sabah and the Prime Minister of Iraq Major-General Ahmad Hasan Al-Bakr. The agreed minutes stated the following:

- “(1) The Republic of Iraq recognized the independence and complete sovereignty of the State of Kuwait and its boundaries as specified in the letter of the Prime Minister of Iraq dated 21.07.1932 and which was accepted by the ruler of Kuwait in his letter dated 10.8.1932*
- (2) The two Governments shall work towards reinforcing the fraternal relations subsisting between the two sister countries, inspired by their national duty, common interest and aspiration to a complete Arab Unity*
- (3) The two Governments shall work towards establishing cultural, commercial and economic co-operation between the two countries and the exchange of technical information*
- (4) In order to realize all the foregoing objectives, they shall immediately establish diplomatic relations between them at the level of ambassadors.”¹¹⁶*

¹¹⁵ Ibid., p. 110

¹¹⁶ *Kuwait- Statehood and Boundaries: objective facts and Iraqi claims.* (1999) Kuwait: Center for Research and Studies on Kuwait. pp.111 - 112

Accordingly, diplomatic relations were established, ambassadors of the two countries were exchanged, and the agreement was registered in the United Nations as well as with the Arab League.¹¹⁷

Within the same month in 1963, Kuwait had extended a 25-year interest-free loan to Iraq. The actual figure of this loan is 30 million Iraqi Dinars, which was equal to approximately \$85 million.¹¹⁸ Today, the inflation-adjusted value of the \$85 million is \$612.84 million.¹¹⁹

With the departure of the Arab League peace-keeping forces and after Abdulsalam's revolution, the sandy road within relative proximity to the border was left behind and was utilized for two decades afterwards. Consequently, a *de facto* boundary had come into existence a short distance from the accepted interpretation of the 1932 correspondence.

In the following years, the relations between the two countries blossomed, particularly on the economic front. Many economic agreements were concluded between the two nations. During this time, Iraq had greatly benefited from loans and money grants offered by Kuwait.

Additionally, talks between the two countries took place in order to officially demarcate the border line. Iraq tended to procrastinate on the boundary demarcation process with excuses being made to delay the process and to pressure Kuwait into

¹¹⁷ On January 1964, the agreement was deposited by the government of Kuwait within the Treaty Series of the United Nations.

¹¹⁸ Schofield. *Kuwait and Iraq* op.cit, p. 111

¹¹⁹ *Inflation Calculator - The Changing Value of a Dollar*. (2007) Retrieved from: <http://www.dollartimes.com/calculators/inflation.htm>

extending additional loans and grants. The talks spanned between 1964 and 1967 where Iraq showed reluctance in regards to completing the demarcation task under the pretext of not having an available technical committee and in addition to the unavailability of a reliable survey map.

In 1966, Sheikh Sabah Al-Sabah, the Amir of Kuwait, visited Baghdad to ease the processing for the demarcation of the boundaries. A joint technical committee was set up for this purpose. Nevertheless, the committee floundered. Another effort to jumpstart the process was to permit Iraqi surveying teams to enter Kuwait; however Iraq once again refused to conduct a joint survey. They had based their refusal on the grounds that the Iraqi Prime Minister's letter approved by the ruler of Kuwait was ambiguous.

Several subsequent meetings and discussions took place between Kuwait and Iraq. It became apparent to the Kuwaiti delegation that Iraq did not want to follow the demarcation line as it was stated in the 1932 correspondence. They wanted to cross the border line in two areas: Safwan and al-Batin.¹²⁰ It was clear to Kuwait's delegates that any demarcation approvals done without matching the region specified in the 1932 correspondence would amount to backing down from a crucial international agreement.

A cursory glance at the historical narrative reveals that whenever Iraq was in need of extra loans, it would once again raise the border issue.¹²¹ In 1967, Kuwait had presented Iraq with a sizeable loan towards financing the electrification of the Samaraa Dam project.

¹²⁰ Alabduljader. op.cit, p. 47

¹²¹ Ibid., p. 46

Only then did Iraq resume the boundary talks but the follow-ups of that stage were marked by wanton delays.

Iraq was not satisfied with just impeding the border demarcation process; it had also performed a series of infringements against the process.¹²² Near the end of 1971 when Kuwait refused to provide Iraq with a loan, a new Iraqi aggression followed in March of 1973, sparking the al-Samita border post crisis.

3.8 - The al-Samita Crisis of 1973

In March of 1973, Iraq attacked border posts in the northern corner of Kuwait, one of which was located in the al-Samita area just south of the Arab League line.¹²³ During the time of the al-Samita attack, it was reported that some 3,000 troops from Iraq were placed within Kuwaiti territory to the south of Umm Qasr.¹²⁴ Iraq's justification of launching an attack on its neighbor was that their port at Umm Qasr required a transit point within Kuwaiti territory. This territory was at al-Samita.¹²⁵ The attack resulted in the deaths of two Kuwaiti frontier guards.

Iraq's hostile act resulted in a Kuwaiti angry public reaction together with a similar reaction within the greater Arabian Peninsula. Additionally, Iran and Saudi Arabia had pledged that should Iraq further intrude into Kuwaiti territory, they would deliver military

¹²² Ibid., p. 47

¹²³ *Kuwait- Statehood and Boundaries*. op.cit, p. 114

¹²⁴ Schofield. *Kuwait and Iraq* op.cit, p. 116

¹²⁵ *Kuwait- Statehood and Boundaries*. op.cit, p. 114

support to Kuwait.¹²⁶ The Soviet Union also advised Iraq to amicably resolve its border issue with Kuwait.¹²⁷ With the mediation of the Arab League, Iraq promised to withdraw from the locations in al-Samita; however, Iraq only satisfied this promise after receiving a hefty loan from Kuwait.

This incident affected the territorial consciousness of both the Kuwaiti government and its people. Kuwait thus became more keen and cautious of protecting the sovereignty of its northern territorial marks along with the islands of Warbah and Bubiyan. Kuwaitis alike actively took part in this by naming their businesses and ships names which include the terms ‘Warbah’ and ‘Bubiyan.’ More movements within Kuwait occurred, reinforcing its sovereignty over all of its territory. It became increasingly difficult for Kuwait to cede or even lease its islands.

In July 1975, Kuwait’s National Assembly adopted a resolution affirming “Kuwait’s sovereignty over all the islands within her borders as specified in international agreements.”¹²⁸ At the same time, Kuwaiti officials were willing to engage in cooperation with Iraq while providing them with economic assistance towards developing the frontier regions on both sides of the border.¹²⁹

3.9 - Motives for Iraq’s Actions

¹²⁶ Schofield. *Kuwait and Iraq* op.cit, p. 116

¹²⁷ Ibid.,

¹²⁸ Finnie. op.cit. p. 159

¹²⁹ Ibid.,

Iraq wanted extra access to the Gulf, a motive which entailed controlling the Kuwaiti islands of Warbah and Bubiyan. This stratagem would effectively triple Iraq's shoreline along the Arabian (Persian) Gulf. Iraq presumed that, as a result of such gains, it could improve the Umm Qasr port and increase its facilities in the Gulf exponentially.

Due to the Shatt al-Arab dispute between Iraq and Iran and the tense relations between the two states, especially with Iran challenging its power, Iraq knew it could face a problem. So instead, Iraq kept its territorial encroachments aimed mainly at Kuwaiti territory.

In order for Iraq to assert its authority, it desired to build military bases to be able to exercise operational military access in the northern zones of Kuwaiti territory, including the islands of Warbah and Bubiyan. This Iraqi appetite increased especially after the official end of British protection in the Arabian (Persian) Gulf littoral in 1968.

Iraq seemed envious of its neighbor's capital reserves, especially since Kuwait had been investing these reserves. It is noteworthy, however, that as of January 2010, Iraq's oil reserves rank fourth, just after Iran, Canada, and Saudi Arabia. It holds oil reserves exceeding those of Kuwait by more than 10%.¹³⁰

3.10 - The Rise of Saddam and the Outbreak of the Iraq-Iran War

¹³⁰ *Country Comparison:: Oil - Proved Reserves*. (2010). Central Intelligence Agency – The World Factbook. Retrieved from: <<https://www.cia.gov/library/publications/the-world-factbook/rankorder/2178rank.html>>.

Despite Iraq's troublesome relations with Kuwait since Iraq's independence, and despite the accelerating hostility towards Kuwait, particularly under Abdulkareem Qasim's regime and the crisis of 1961, Kuwait hoped that Qasim's fall would entail a fresh start for relations between the two countries. Kuwait had hoped to start cooperative relations both economically and culturally, aimed at bettering the neighborhood. This was not to be the case under Arif's regime, however, particularly with Saddam Hussein in the position of deputy Prime Minister who, "according to documents, was [the] mastermind" behind the al-Samita incident.¹³¹

After the al-Samita aggression, numerous peacemaking statements from Baghdad soothed the Kuwait-Iraq relations to a state of *détente*. Also, the Iraqi forces that had been stationed on Kuwaiti land since 1969¹³² had finally withdrawn in 1977, yet only to the Arab League Line,¹³³ which was still well within Kuwaiti territory¹³⁴ – that is, except for the troops positioned in the zone south of Umm Qasr, who not only remained within the expanded Iraqi settlement, but also were increasingly eating into Kuwaiti land.¹³⁵ The series of infiltrations by Iraqi troops into Kuwaiti territory thus persisted, along with their attempts to station within the Kuwaiti boundary.

¹³¹ *Kuwait-Iraq Boundary Demarcation* op. cit, p. 47

¹³² These forces had been placed in April 1969 when the Iraqi government asked Kuwait's permission to station their forces on both sides of the undemarcated border, in order to be better able to defend itself against expected Iranian threats.

¹³³ A de facto boundary was present with southward vicinity to the international boundary's accepted interpretation of the 1932 correspondence.

¹³⁴ Schofield. *Kuwait and Iraq* op.cit, pp. 111, 114, 119

¹³⁵ *Ibid.*, p. 119

The Ba'athist regime and Saddam Hussein ultimately came to be the dominant force in Iraq, and in July of 1979, Saddam became Iraq's president through an intra-party coup. The demarcation of the boundary line now seemed hopeless, particularly with the Iraqi government's insistence on control over Kuwait's northern zone and its islands of Warbah and Bubiyan. Kuwait was not going to accept these Iraqi demands and in no way planned to cede any part of its territory to Iraq. Nevertheless, Kuwait held agreements with Iraq in November of 1979 which culminated in the securing of Iraq's access to the deep water facilities at Mina Shuwaikh for transshipment reasons in May of 1980.¹³⁶

Soon after, the outbreak of the Iraq-Iran war took place and Kuwait supported Iraq through the eight years of war that ensued, during which the border issue subsided. Kuwaiti assistance to its northern neighbor was largely in the form of logistical and financial support, providing zero-interest loans and grants adding up to \$10 billion.¹³⁷ This was obtained through the sale and production of 125,000 barrels of Kuwaiti oil, daily.¹³⁸ Furthermore, transshipment facilities through Kuwaiti Mina Shuwaikh were kept open throughout the war for the Iraqi government.¹³⁹ Additionally, Kuwait and Saudi Arabia together were providing Iraq with 330,000 barrels of crude oil per day for sale to Iraqi customers.¹⁴⁰

¹³⁶ Ibid., p. 119-120

¹³⁷ Ibid., p. 120

¹³⁸ Ibid.,

¹³⁹ Ibid.,

¹⁴⁰ Ehteshami, A., Nonneman, G. & Tripp, C. (1991). *War and Peace in the Gulf*. Reading: Ithaca. p. 46

By 1987, Kuwait, along with Saudi Arabia, had given Iraq approximately \$50 billion. In addition to granting Iraq free access to Kuwaiti ports, Kuwait allowed Iraqi supply trucks to go from Kuwait's southern ports northward and across its desert.¹⁴¹ Through these actions, Kuwait had unequivocally expressed its support to Iraq as a fraternal neighbor state.

As the conflict began to wind down, Iraq persisted in its calls for Kuwait to lease the islands of Warbah and Bubiyan in order for it to build a military base. Kuwait received threats from Iran warning it not to do so. Hence, Kuwait refused the Iraqi demand and took strategic steps to reinforce the physical existence of Kuwait's own forces. It aimed at establishing infrastructure to connect the islands to the Kuwaiti mainland in Sabiyah. This action was taken after the Iranian Foreign Minister had announced that Kuwait would be dragged into the war if it were to agree to "granting Iraq Naval facilities on the islands."¹⁴²

Kuwait greatly helped Iraq but it could not compromise its sovereignty and existence. Still, the Iraqi government was seeking more of Kuwait.

3.11 - The Iraqi Invasion of Kuwait

For all Kuwaitis, the day of 2 August 1990 was a day not to be soon forgotten as their northern neighbor embarked upon an unprecedented invasion into Kuwaiti territory. Kuwait had previously helped Iraq and had stood beside Iraq on many occasions. Iraq's

¹⁴¹ Finnie. op.cit, p. 160

¹⁴² Ibid., pp. 160-161; Schofield. *Territorial Foundations of the Gulf states* op.cit, p. 120

ingratitude was evident in its blatant violation of Kuwaiti sovereignty, aiming to annex the country and incorporate it into Iraqi territory.

Kuwait had hoped that the relations between the two countries would start a new fraternal phase initiated by the prospective settlement of the border issue. Unfortunately, the Iraqi government refused to demarcate the border, stonewalling the issue by placing untenable demands and conditions in addition to heavy accusations and threats. Saddam Hussein had accused Kuwait and the United Arab Emirates of depressing oil prices via the overproduction of oil.¹⁴³ He made explicit accusations at the extraordinary Baghdad Summit of the Arab League in May 1990, castigating Kuwait for depressing oil prices by overproducing oil and exceeding the oil production quotas set by OPEC.

Saddam also accused Kuwait of extracting oil from the Rumaila oil field, which is located in the southern Iraqi territory.¹⁴⁴ The massive Rumaila oil field is located approximately 32 kilometers north of the Kuwait-Iraq border and was discovered with the assistance of British Petroleum (BP) in 1953.¹⁴⁵ Iraq was demanding that Kuwait return all the portions of Rumaila oil field, accusing Kuwait of slant-drilling through its Ratga oil field. Ratga is a small oil field located within the northern Kuwaiti boundary. Though many opinions arose regarding the relation between the Rumaila oil field and Ratga oil field, respectable geological analysis done by a Lebanese geologist states that the two fields, though of close proximity to one another, are not connected, and that the Rumaila oil field

¹⁴³ Schofield. *Kuwait and Iraq* op.cit, p. 129

¹⁴⁴ Ibid., p. 132

¹⁴⁵ Daly, M. (2010) Head of exploration. *Proceedings of International Petroleum Week, London*, <<http://www.bp.com/genericarticle.do?categoryId=98&contentId=7059849>>.

does not “straddle the international boundary.”¹⁴⁶ It was also proven that the enormous Rumaila oil field consisted of two sections – North Rumaila and Rumaila – where both portions lie completely within the Iraqi border. Ratga oil field, on the other hand, was discovered 25 years after the discovery of the Rumaila oil field and lies completely within Kuwaiti territory.

In September of 1990, the Kuwaiti Minister of Oil Sheikh Ali Khalifah Al-Sabah commented to the *Sharq al-Awsat* newspaper that the State of Kuwait had been producing oil from the Ratga oil field since the 1970s. Since the Ratga oil field had been in production for over a decade, Kuwait was naturally blindsided by Iraq’s claims.

Kuwait had suggested that in order to solve the problem of the oil field and the accusations surrounding its territorial limits, the border issue should be placed before an impartial Arab arbitration tribunal who would “decide on the question of demarcation on the basis of standing agreements and documents between Kuwait and Iraq.”¹⁴⁷ Saddam’s government did not respond regarding the suggestion. Instead, they set their demands in a government statement on 27 July 1990 demanding the ‘remittance’ of \$2.4 billion for oil which Iraq presumed Kuwait had taken from the Rumaila oil field. The statement also demanded the handing over of the Ratga oil field to Iraq and the writing-off of all Iraqi debt

¹⁴⁶ Schofield. *Kuwait and Iraq* op.cit, p. 134

¹⁴⁷ Ibid., p. 137; Sheikh Sabah al-Ahmad al-Jabir Al-Sabah, Deputy Prime Minister and Minister of Foreign Affairs, Kuwait to Chadli al-Klibi, Secretary-General of the League of Arab States, memorandum dated 19 July 1990.

taken during its war with Iran.¹⁴⁸ Bundled in with all of these demands was also an implicit mention of a desire to control the islands of Warbah and Bubiyan.¹⁴⁹

Since Kuwait had always granted Iraq financial support, Kuwait could reconcile itself with the financial demands of Iraq. However, Kuwait could not compromise its territorial integrity by relinquishing any part of its soil.

The intentions of Iraq were clear as 100,000 Iraqi troops were mobilized along Kuwait's frontier. In the early hours of 2 August 1990, Iraq invaded Kuwait with the aim of taking over the whole of Kuwait and integrating it into Iraq. The Iraqi army aimed at inflicting chaos and destruction everywhere in Kuwait. They subjected Kuwaitis and third-country nationals to torture, humiliation and even murder.

The world sided with Kuwait and refused to accept the barbaric invasion of the small peaceful State of Kuwait. The armies of 32 countries got together, forming a joint coalition force led by the United States.¹⁵⁰ This notion was supported by the "international legality" of UN Security Council resolutions.¹⁵¹ Since Iraq's actions were threatening the peace and security of Kuwait and its surrounding nations, the U.N. Security Council resolutions were, from the start, filed under Chapter VII of the United Nations Charter.

3.12 - Remarks Regarding Saddam's Invasion of Kuwait

¹⁴⁸ Schofield. *Kuwait and Iraq* op.cit, p. 138

¹⁴⁹ Ibid., p. 138-139

¹⁵⁰ *Kuwait-Iraq Boundary Demarcation* op. cit, p. 54

¹⁵¹ Ibid.,

With the long eight-year war, Saddam was still not able to make any progress on the Shatt Al-Arab issue. Saddam wanted to build a charismatic invulnerable image for himself in the eyes of his people. It can be inferred, then, that in order to prove that he is not subject to loss, he turned his attention towards annexing Kuwait.

The Iraq-Iran war had ended with no real winners. During those eight years of war, Saddam had developed a large army that was heavily trained and modernized. However, Iraq's economy was in shambles and Saddam feared the prospect of internal strife. Saddam felt it appropriate to rally nationalist sentiment around the army in another military venture – this time in Kuwait.

Iraq exhibited its greediness by initially claiming that the billions of dollars' worth of loans received from Kuwait during the 1980's were 'nonrefundable war premiums' and that they should be written off. With Iraq's additional demand that Kuwait cede its Ratga oil field, it was evident that Iraq had its sights set on Kuwait's economic wealth and abundance of oil fields.

Since Qasim's time, Iraq had expressed its eagerness to gain more access to Gulf waters and to improve its ports. It was clear that Kuwait would serve as a strategic location for facilitating Iraq's maritime clout by increasing its shoreline on the Arabian (Persian) Gulf.

Situated atop the Arabian (Persian) Gulf, Kuwait sits in a geopolitically strategic location. Iraq evidently saw that it could benefit from Kuwait's physical territory, both economically and militarily. In its relations with Kuwait prior to the invasion, Iraq had

always pressed that military bases be placed along the northern Kuwaiti territory as well as on the Kuwaiti island of Bubiyan.

CHAPTER FOUR

U.N. SECURITY COUNCIL RESOLUTIONS DURING AND AFTER GULF WAR I: IMPLICATIONS FOR THE BOUNDARY DISPUTE

In the dark hours of 2 August 1990, Saddam Hussein took the international community by surprise by launching a war against an otherwise pacific Kuwait. Kuwait was especially caught off guard, as evidenced by the final broadcast from Radio Kuwait on 2 August 1990 which called for help from the Arab community, pleading for them to “rush to [their] help.”¹⁵² Furthermore, Washington’s Kuwaiti ambassador Sheikh Saud Nassir Al-Sabah appealed to the international community to come to the aid of Kuwait militarily.¹⁵³ The international community promptly reacted.

President George Bush Sr. demanded the unconditional and immediate withdrawal of all Iraqi forces from Kuwait. The United Nations Security Council met in an emergency session within hours of the invasion and issued Resolution 660 (1990), demanding that Iraq withdraw its forces from Kuwait. The Security Council approved the resolution by a vote of 14-0, with Yemen abstaining. The Security Council determined the breach of international peace and security and, acting under Articles 39 and 40 of Chapter VII of the Charter of the United Nations,¹⁵⁴ expressed their condemnation of the Iraqi invasion of Kuwait and

¹⁵² *BBC News Flashback: Invasion of Kuwait*. August 1, 2000.
<news.bbc.co.uk/2/hi/middle_east/8560009.stm>.

¹⁵³ *Ibid.*,

¹⁵⁴ UNSC Resolution 660 was the first resolution to be issued about the matter. Thus, there are no Chapter VI resolutions before the UNSC’s Resolution 660 regarding the situation in Iraq.

demanded that Iraq immediately withdraw from its advance. Articles 39 and 40 of the Charter of the United Nations state the following:

“Article 39: The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.

Article 40: In order to prevent an aggravation of the situation, the Security Council may, before making the recommendations or deciding upon the measures provided for in Article 39, call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable. Such provisional measures shall be without prejudice to the rights, claims, or position of the parties concerned. The Security Council shall duly take account of failure to comply with such provisional measures.”¹⁵⁵

During the course of the seven-month invasion, the United Nations Security Council had issued 13 resolutions on the matter (Resolution 662, 664, 665, 667, 669, 670, 674, and 677)¹⁵⁶ while Saddam’s regime carried on with its bellicose intransigence. Furthermore, Resolution 661 (1990) imposed economic sanctions on Iraq; and Resolution 678 (1990) authorized Member States supporting Kuwait to use force against Iraq to

¹⁵⁵ United Nations, *Charter of the United Nations*, 24 October 1945, 1 UNTS XVI, available at: <http://www.unhcr.org/refworld/docid/3ae6b3930.html>

¹⁵⁶ These resolutions supported UNSC Resolution 660, mainly asking Iraq to comply with its articles. Acting under Chapter VII

“uphold and implement resolution 660 (1990) and all subsequent resolutions and to restore international peace and security in the area”¹⁵⁷ unless Iraq fully implements the above-mentioned resolutions on or before 15 January 1991.

Iraq’s intransigence to the Security Council’s demands and requests led to greater action on the part of the international community. On 16 January 1991, aerial bombardment was launched as the beginning efforts to expel Iraqi troops from Kuwaiti territory. What was called Operation Desert Storm was conducted in accordance with UNSC Resolution 678, which gave the coalition forces the authority to use “all necessary means to uphold and implement Resolution 660 (1990) and all subsequent relevant resolutions and to restore international peace and security in the area.”¹⁵⁸ These aerial attacks were followed by a ground offensive on 24 February 1991. By 28 February 1991, all Iraqi forces had vacated Kuwaiti territory and Kuwait City had been liberated.¹⁵⁹

The next resolutions issued by the Security Council concerning the Iraqi invasion of Kuwait were Resolutions 686 (1991) and 687 (1991) subsequent to the coalition’s military action. Although Kuwait had been liberated, the resolutions adopted by the Security Council prior to that in response to the Iraqi invasion were not implemented by the Iraqi government. As a consequence, Resolution 687 (1991) was issued and adopted on 3 April 1991 by the Security Council.

¹⁵⁷ U. N. Security Council, 2963rd Meeting. *Resolution 678*. (1990). (S/Res/678). 29 November 1990. Retrieved from: <<http://www.un.org/Docs/scres/1990/scres90.htm>>. This resolution was adopted by 12 votes to 2 (Yemen and Cuba), where China abstained from voting.

¹⁵⁸ Ibid.,

¹⁵⁹ *UNIKOM: United Nations Iraq-Kuwait Observation Mission – Background*. United Nations. Retrieved from: <<http://www.un.org/en/peacekeeping/missions/past/unikom/background.html>>.

4.1 - UNSC Resolution 686 (1991)

On 2 March 1991, U.N. Security Council Resolution 686 was adopted by the Security Council. It was the first resolution issued by the UNSC after the Iraqi troops' withdrawal from Kuwait. UNSC Resolution 686 takes note of the letters addressed to the president of the Security Council and to the secretary general from both the deputy prime minister and the minister of foreign affairs of Iraq on 27 February 1991 which confirmed Iraq's agreement to fully comply with the resolutions issued during the invasion.¹⁶⁰ The resolution underlines "the importance of Iraq taking the necessary measures which would permit a definitive end to the hostility" and affirms all Member States' commitments to the independence, sovereignty and territorial integrity of Kuwait and Iraq.¹⁶¹

Resolution 686 confirms the necessity of taking measures that would put an end to the Iraqi aggression towards its neighbor. It also confirms Iraq's need to cease violating Kuwait's rights, whether territorial, humanitarian, environmental or economical, and that it would abide by and acknowledge the definitive territorial integrity of the State of Kuwait.

4.2 - UNSC Resolution 687 (1991)

¹⁶⁰ U.N. Security Council Resolutions 660 (1990), 661 (1990), 662 (1990), 664 (1990), 665 (1990), 666 (1990), 667 (1990), 669 (1990), 670 (1990), 674 (1990), 677 (1990), and 678 (1990)

¹⁶¹ U. N. Security Council, 2978th Meeting. *Resolution 686*. (1991). (S/Res/686). 2 March 1991. Retrieved from: <<http://www.un.org/Docs/scres/1991/scres91.htm>>.

The ceasefire conditions had been set by the U.N. Security Council on 3 April 1991 and were adopted by Resolution 687. Dubbed the “mother of all resolutions”¹⁶² due to its length and thoroughness, Resolution 687 contained 34 operative paragraphs divided into nine subsections. It addressed issues concerning the demarcation and boundary settlement between Iraq and Kuwait, including: the demilitarization of a zone set five kilometers within Kuwaiti territory and ten kilometers within Iraqi territory; the destruction and restriction of owning and developing any weapons of mass destruction (whether biological, nuclear or chemical); returning all Kuwaiti property seized by Iraq; Iraq’s liability under international law to the losses (including environmental damage and the depletion of natural resources) incurred during Iraq’s occupation of Kuwait and the creation of a compensation fund; the oil and arms embargoes and sanctions against exports to Iraq; repatriation for all Kuwaitis and third-state nationals; the requirement placed on Iraq that it will not commit or support any acts of international terrorism; and lastly, tying the official ceasefire to Iraq’s acceptance of the abovementioned provisions.

Concerning the demarcation clause stipulated in Resolution 687, the resolution robustly welcomed “the restoration to Kuwait of its sovereignty, independence and territorial integrity and the return of its legitimate Government.”¹⁶³ It then affirmed “the commitment of all Member States to the sovereignty, territorial integrity and political independence of Kuwait and Iraq...” and noted that:

¹⁶² Schofield. *Kuwait and Iraq* op.cit, p. 150

¹⁶³ U. N. Security Council, 2981th Meeting. *Resolution 687*. (1991). (S/Res/687). 3 April 1991. Retrieved from: <<http://www.un.org/Docs/scres/1991/scres91.htm>>.

“...Iraq and Kuwait, as independent sovereign States, signed at Baghdad on 4 October 1963 ‘Agreed Minutes Between the State of Kuwait and the Republic of Iraq Regarding the Restoration of Friendly Relations, Recognition and Related Matters’, thereby recognizing formally the boundary between Iraq and Kuwait and the allocation of islands, which were registered with the United Nations in accordance with Article 102 of the Charter of the United Nations and in which Iraq recognized the independence and complete sovereignty of the State of Kuwait within its borders as specified and accepted in the letter of the Prime Minister of Iraq dated 21 July 1932, and as accepted by the Ruler of Kuwait in his letter dated 10 August 1932.”

Finally, the resolution was conscious “of the need for demarcation of the said boundary.”¹⁶⁴

Like all previous resolutions concerning the situation between Iraq and Kuwait since 2 August 1990, the Security Council acted under Chapter VII of the United Nations Charter to bolster Resolution 687. It set out various measures in response to threats to peace, breaches of peace and acts of aggression such as the imposition of sanctions and the use of military force. In its first subsection, Resolution 687 addressed the boundary issue within three operative paragraphs. It first demanded that:

“Iraq and Kuwait respect the inviolability of the international boundary and the allocation of islands set out in the ‘Agreed Minutes Between the State of Kuwait and the Republic of Iraq regarding the restoration of friendly relations, recognition and related Matters’, signed by them in the exercise of their

¹⁶⁴ Ibid.,

sovereignty at Baghdad on 4 October 1963 and registered with the United Nations.”

Secondly, it called upon:

“The Secretary-General to lend his assistance to make arrangements with Iraq and Kuwait to demarcate the boundary between Iraq and Kuwait, drawing on appropriate material, including the maps transmitted with the letter dated 28 March 1991 addressed to the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations, and to report back to the Council within one month,”

And thirdly, it decided to:

*“guarantee the inviolability of the above-mentioned international boundary and to take, as appropriate, all necessary measures to that end in accordance with the Charter of the United Nations.”*¹⁶⁵

On 4 April 1991, Sheikh Sabah Al-Ahmad Al-Jaber Al-Sabah, Kuwait’s Deputy Prime Minister and Foreign Minister at the time, promptly made clear Kuwait’s acceptance to the adoption of Resolution 687. Al-Sabah also stated in his letter addressed to U.N. Secretary General Javier Perez de Cuellar that Kuwait was thoroughly taking on the resolution’s provisions and was cooperating with the secretary general to ensure the resolution’s successful implementation.¹⁶⁶

¹⁶⁵ Ibid.,

¹⁶⁶ Schofield. *Kuwait and Iraq* op.cit, pp. 151-152

Furthermore, in a letter addressed to both the U.N. Secretary-General and the Security Council President sent by Iraq's Foreign Minister Ahmad Husain on 6 April 1991, Iraq accepted the terms stated in Resolution 687. Nevertheless, Security Council President Paul Norderdaeme sent a letter to Iraq's Permanent Representative to the U.N. that Iraq's acceptance of the resolution was "irrevocable and unqualified."¹⁶⁷ This meant that Iraq had formally bound itself for the third time to recognize the border line between Kuwait and itself as stated in the Agreed Minutes of 1963.¹⁶⁸

Following Resolution 687's mandates, the Security Council established many subsequent missions and commissions. On 18 April 1991, the United Nations Special Commission (UNSCOM) was established for the purpose of implementing Resolution 687's provisions relating to nuclear weapons, conducting inspections on the presence of biological and chemical weapons, and destroying any weapons of mass destruction.¹⁶⁹ On 9 April 1991, the Security Council established the United Nations Iraq-Kuwait Observation Mission (UNIKOM) with the expressed purpose of monitoring a demilitarized zone along with the Khor 'Abd Allah waterway. UNIKOM's objective was in deterring boundary violations and observing any potential hostile activities from one country's territory to

¹⁶⁷ Ibid. p. 152

¹⁶⁸ Finnie. op.cit, p. 163

¹⁶⁹ *Repertoire of the Practice of the Security Council – Subsidiary Organs – Commissions and Investigative Bodies*. United Nations. Retrieved from: <http://www.un.org/en/sc/repertoire/subsidiary_organs/commissions_and_investigations.shtml>; On 17 December 1999, UNSCOM was replaced by the United Nations Monitoring, Verification, and Inspection Commission (UNMOVIC) to verify Iraq's compliance with the disarmament obligations enforced on Iraq. This commission was established following UNSC Resolution 1284 (1999).

another.¹⁷⁰ Also pursuant to Resolution 687's mandates, a United Nations Compensation Commission was established on 20 May 1991¹⁷¹ with the task of administering a fund to compensate for the damages, losses and injuries caused by the Iraqi invasion and occupation of Kuwait to Kuwaiti nationals, corporations and foreign governments.¹⁷² On 2 May 1991, the United Nations Iraq-Kuwait Boundary Demarcation Commission (UNIKBDC) was established for the purpose of demarcating the international boundary between Kuwait and Iraq and setting the exact geographic coordinates as stated in the Agreed Minutes of 1963.¹⁷³ These minutes state the boundary delimitation as mentioned in the 1932 correspondence¹⁷⁴ as being:

*“From the intersection of the Wadi-el-Audja with the Batin and thence northwards along the Batin to a point just south of the latitude of Safwan; thence eastwards passing south of Safwan Wells, Jebel Sanam and Um Qasr leaving them to Iraq and so on to the junction of the Khor Zubeir with the Khor Abdullah. The islands of Warbah, Bubiyan, Maskan (or Mashjan), Failakah, Auhah, Kubbar, Qaru and Umm-el-Maradim appertain to Kuwait.”*¹⁷⁵

¹⁷⁰ UNIKOM: United Nations Iraq-Kuwait Observation Mission. op.cit

¹⁷¹ U. N. Security Council. 2987th Meeting. *Resolution 692*. (1991). (S/Res/692). 20 May 1991. Retrieved from: <<http://www.un.org/Docs/scres/1991/scres91.htm>>; And also pursuant to UNSC Resolution 692 which decided on the establishment of the fund, the location of its governing council, and Iraq's obligation to contribute to the fund from its petroleum revenues effective 3 April 1991.

¹⁷² *Repertoire of the Practice of the Security Council*. op.cit

¹⁷³ Ibid

¹⁷⁴ Finnie. op.cit, p. 163

¹⁷⁵ Schofield. *Kuwait and Iraq* op.cit, p. 152

Since April of 1991, this definition of the border had been referred to by the United Nations as the “delimitation formula.”¹⁷⁶

4.3 - The United Nations Iraq-Kuwait Boundary Demarcation Commission

The formation of the United Nations Iraq-Kuwait Boundary Demarcation Commission (UNIKBDC) occurred on 2 May 1991 where Secretary General Perez de Cuellar presented a report relating to the establishment of the Commission. He mentions the following, *inter alia*:

“I will now establish an Iraq-Kuwait Boundary Demarcation Commission, to be composed of one representative each of Iraq and Kuwait and three independent experts who will be appointed by me, one of whom will serve as Chairman...

The terms of reference of the Commission will be to demarcate in geographical coordinates of latitude and longitude the international boundary set out in the (1963) Agreed Minutes between Kuwait and Iraq...

[T]he Commission will also make arrangements for the physical representation of the boundary.

The coordinates established by the Commission will constitute the final demarcation of the international boundary between Iraq and Kuwait in accordance with the Agreed Minutes of 4 October 1963.

¹⁷⁶ Ibid.,

The demarcation of the boundary will be accomplished by drawing upon appropriate material...and by utilizing appropriate technology.

[A]ll costs...should be shared between the two interested parties.

*The Commission will take its decisions by majority. Its decisions regarding the demarcation of the boundary will be final.*¹⁷⁷

The members of the Commission were named by the U.N. secretary general. Mochtar Kusuma-Atmadja, who was formerly the Indonesian Foreign Minister, was named Chairman of the Commission.¹⁷⁸ Two other Swedish and New Zealand experts were chosen as members of the Commission – Ian Brook and William Robertson, respectively.¹⁷⁹ The governments of both Kuwait and Iraq were asked to nominate representatives of their states to be members of the commission, whereby Ambassador Tarek A. Razzouki was nominated by Kuwait and Ambassador Riyadh Al-Qaysi was nominated by Iraq.¹⁸⁰ However on 20 November 1992, Chairman Mochtar Kusuma-Atmadja resigned and the U.N. secretary general appointed Nicolas Valticos, former Assistant Director-General of the International Labor Office and member of the Institute of International Law, as the new Chairman on the same day.¹⁸¹

¹⁷⁷ Ibid., pp.154-155

¹⁷⁸ Ibid., p. 155

¹⁷⁹ Ibid.,

¹⁸⁰ *Letter Dated 21 May 1993 From the Secretary-General Addressed to the President of the Security Council.* (1993). Security Council Report. United Nations.
<<http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C8CD3-CF6E4FF96FF9%7D/Iraq%20S25811.pdf>>. p. 9

¹⁸¹ Ibid., p. 10

The Commission's initial meeting was held on 23 May 1991 in New York where the members first decided on the procedural aspects of the demarcation process and discussed issues such as the nature of their work, its schedule, the required materials to undertake the demarcation process, the requirement of conducting on-site visits, and also the possibility of seeking expert participation from both countries.¹⁸² Subsequently, between 15-19 June 1991, the Commission took an inspection tour of the border zone and also sought assistance from a surveying team which was assigned the task of remapping and surveying the border area.¹⁸³

Throughout the course of their work, the Commission members held 82 meetings during 11 sessions.¹⁸⁴ At the end of their fifth session, UNIKBDC issued a press release announcing the decisions it had reached regarding the land boundary between Kuwait and Iraq.¹⁸⁵ The main points stated in the report, dated 16 April 1992, were as follows:

“...adhering to the delimitation formula, and based on the findings of the independent experts and the deliberations of the Commission, the Commission has reached the following decisions on the boundary by voting, with Iraq not participating in the vote:

¹⁸² Ibid., p. 12 and Schofield. *Kuwait and Iraq* op.cit, p. 155

¹⁸³ *Letter Dated 21 May 1993 From the Secretary-General Addressed to the President of the Security Council.* op.cit, p. 11

¹⁸⁴ Ibid.,

¹⁸⁵ Schofield. *Kuwait and Iraq* op.cit, p. 163

1. *That the boundary monument on the Iraq-Saudi Arabian border, Pillar No.1, shall be the starting point for the boundary along the thalweg of Wadi Al Batin, and therefore, the tripoint of Iraq, Kuwait and Saudi Arabia;*
2. *That the boundary south of Safwan shall be located at the distance of 1430 metres from the south-west of the compound wall of the old customs post along the old road from Safwan to Kuwait;*
3. *That the boundary at the northern end of Wadi Al Batin shall be the intersection of the thwaleg of the Wadi and the latitude of the point south of Safwan;*
4. *That the boundary south of Umm Qasr shall coincide with the location at which the boundary line on map sheet 5549-I of series K7611, edition 2 (1990), produced by the Military Survey of the United Kingdom, crosses the western shore of Khowr Zhobeir; and*
5. *That the junction of Khowr Zhobeir and Khowr Abd Allah shall be the one best identified for the Epoch 1932 and transposed onto modern orthophoto maps produced by the Commission.”*

The Commission has further decided that:

”(A) The boundary line in the Wadi Al Batin shall be a series of straight line segments of about two kilometres length best approximating to the lowest point line with the Wadi;

(B) The boundary line from the point of the northern end of Wadi Al Batin to the point south of Safwan shall be a line running along the common latitude of the points;

(C) The boundary line from the point south of Safwan to the point south of Umm Qasr shall be the shortest line between the points; and that

(D) The boundary line from the point south of Umm Qasr on the shore shall follow the low water line up to the location of directly opposite the junction of Khowr Zhobeir and Khowr Abd Allah.

The Commission has thus been able to draw the line of the boundary to the best of its ability and in light of all available information.”¹⁸⁶

In line with these stipulations, the Commission attached the following map to the report:

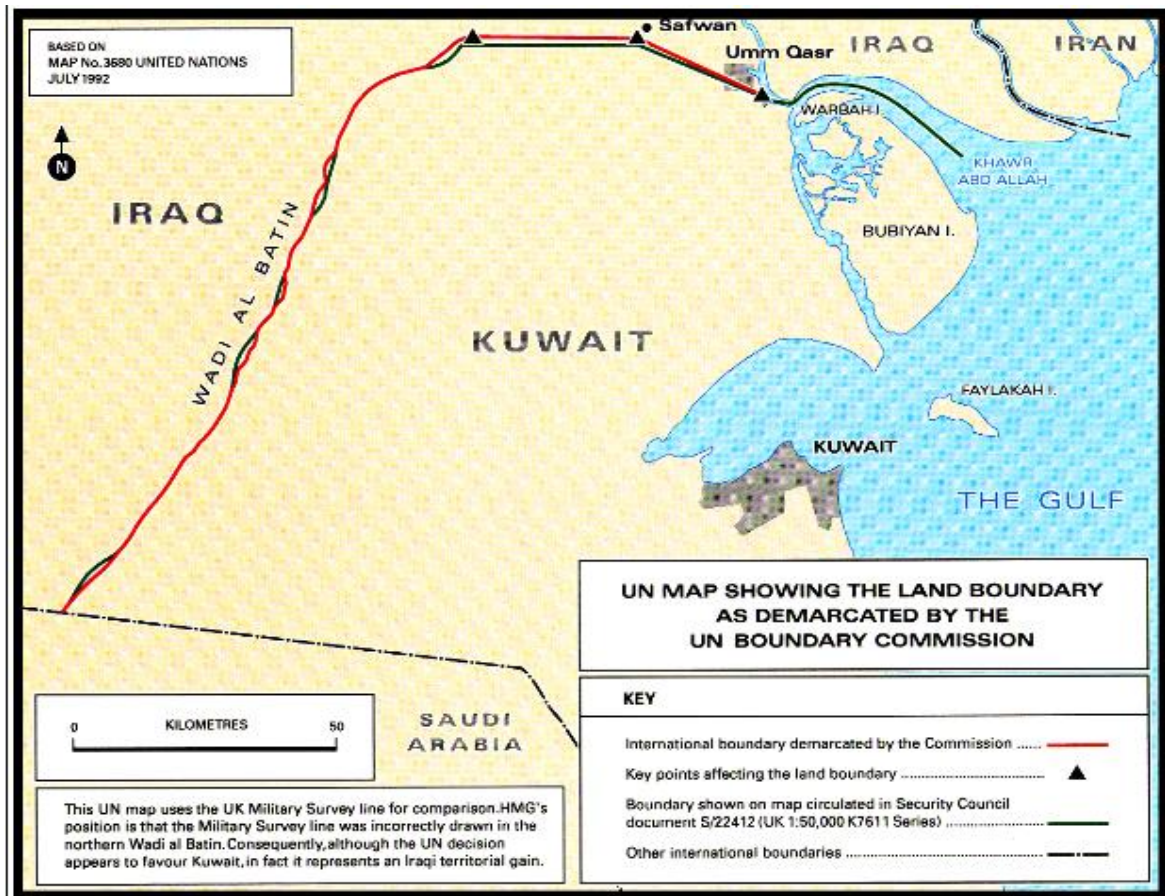


Figure 4: U.N. map showing the land boundary as demarcated by the U.N. boundary Commission¹⁸⁷

¹⁸⁶ Schofield. *Kuwait and Iraq* op.cit, p. 164

In an flimsy attempt to dissociate itself from the process of demarcation, Iraq, as stated within the report, did not partake in the voting process.¹⁸⁸ The Kuwaiti reaction to the steps accomplished thus far by the Commission was positive.¹⁸⁹ Though Kuwait was pleased that it regained its territory with Iraq moving back from the ‘Arab League Line,’¹⁹⁰ it was indeed “less than happy” that all of Khor Zubair’s waters were placed within Iraqi territory as the interpretation to the 1932 letter of correspondence to that region implied that the territory was divided among the two countries.¹⁹¹

Not surprisingly, none of the UNIKBDC sessions subsequent to 16 April 1992 were attended by the Iraqi representative of the Commission, yet copies of all documents issued by UNIKBDC were sent to him.¹⁹² Nevertheless, on 17 June 1992, the President of the U.N. Security Council Paul Noterdaeme issued a note, illustrating that:

“The members of the Council wish to stress to Iraq the inviolability of the international boundary between Iraq and Kuwait being demarcated by the Commission and guaranteed by the Council pursuant to resolution 687 (1991) and the grave consequences that would ensue from any breach thereof.”¹⁹³

¹⁸⁷ Brown. op.cit, p. 72

¹⁸⁸ Schofield. *Kuwait and Iraq* op.cit, p. 170

¹⁸⁹ Ibid.,

¹⁹⁰ The Arab League Line is located within Kuwaiti territory, 600 to 2,000 meters from the actual borders with Iraq

¹⁹¹ Schofield. *Kuwait and Iraq* op.cit, p. 171

¹⁹² *Letter Dated 21 May 1993 From the Secretary-General Addressed to the President of the Security Council.* op.cit, pp. 11-12

¹⁹³ Schofield. *Kuwait and Iraq* op.cit, p. 174

4.4 - UNSC Resolution 773 (1992) and UNIKBDC

After UNIKBDC had issued its report on 24 July 1992 illustrating the final land boundaries adopted by the Commission, the secretary general sent a letter to the president of the Council on 12 August 1992 presenting the Commission's report.¹⁹⁴ Following the letter, the Security Council met on 26 August 1992 and issued Resolution 773 (1992). The Council emphasized that the Commission has been doing its job at setting the coordinates of the boundary between the two states set out in the Agreed Minutes of 1963 and that it was not reallocating shares of land from one side of the boundary to the other.¹⁹⁵ The Security Council then welcomed "the Secretary-General's letter of 12 August to the President of the Council and the further report of the Commission enclosed therewith." It also welcomed:

"...the decision of the Commission to consider the Eastern section of the boundary, which includes the offshore boundary, at its next session and urge[d] the Commission to demarcate this part of the boundary as soon as possible and thus complete its work."

Additionally, the Resolution reaffirmed:

"its guarantee of the inviolability of the above-mentioned international boundary and its decision to take as appropriate all necessary measures to that end in

¹⁹⁴ Ibid., p. 178 and *Letter Dated 21 May 1993 From the Secretary-General Addressed to the President of the Security Council*. op.cit, p. 12 and U. N. Security Council. 3108th meeting. *Resolution 773*. (1992). (S/Res/773). 26 August 1992. Retrieved from: <<http://www.un.org/Docs/scres/1992/scres92.htm>>.

¹⁹⁵ U. N. Security Council. 3180th Meeting. *Resolution 773*. (1992). op.cit

accordance with the Charter, as provided for in paragraph 4 of resolution 687 (1991)”

and further welcomed:

*“the Secretary-General’s intention to carry out at the earliest practicable time the realignment of the demilitarized zone referred to in paragraph 5 of resolution 687 (1991) to correspond to the international boundary demarcated by the Commission, with the consequent removal of the Iraqi police posts.”*¹⁹⁶

The physical demarcation process of the land boundary set within previous UNIKBDC reports¹⁹⁷ was underway by October 1992. By the end of November 1992, 106 pillars were placed along the border with a distance of two kilometers from one another, starting at the intersection of the Saudi-Kuwaiti-Iraqi boundary tripoint at Wadi al-Ajah.¹⁹⁸ During the Commission’s seventh session of meetings from 12-16 October 1992, and especially with Resolution 773 urging the Commission to demarcate the offshore boundary between the two countries, maritime boundary demarcation was at the top of the agenda.¹⁹⁹

¹⁹⁶ Ibid.,

¹⁹⁷ Namely the report issued after their fifth session in April 1992

¹⁹⁸ Schofield. *Kuwait and Iraq* op.cit, p. 180

¹⁹⁹ Ibid. pp. 179-180

Following UNIKBDC's ninth session of meetings held between 15-18 March 1993, a "median line delimitation" was reached for the maritime boundary.²⁰⁰ This final eastern segment between Kuwait and Iraq, previously untackled by the Commission, was the section from the junction of Khor Zubair and Khor Abd Allah to the point where Khor Abd Allah meets the Arabian (Persian) Gulf waters. UNIKBDC had chosen to set "the demarcation of the boundary along the median line in Khor Shetana and Khowr Abd Allah", where their set geographical coordinates define the median line starting "from a point nearest to the junction of Khowr Zhobeir and Khowr Abd Allah..[and reaching] a point at the eastern end of the Khowr Abd Allah where there is a marked change in the general direction of the coast."²⁰¹

The map below was issued accordingly:

²⁰⁰ Ibid. p. 186

²⁰¹ Ibid.,

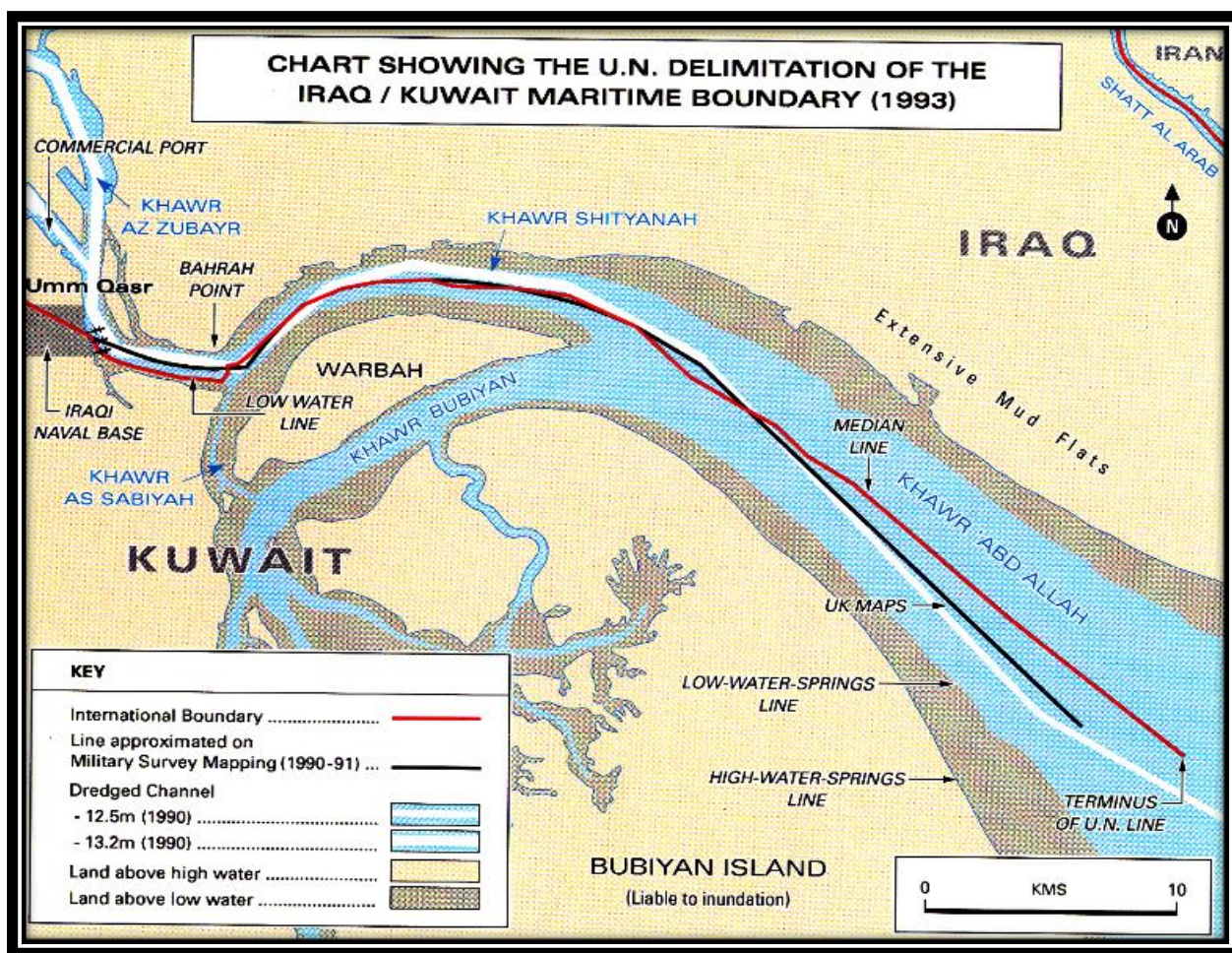


Figure 5: Map showing the U.N. delimitation of the Iraq/Kuwait maritime boundary²⁰²

The Commission based their placement of the median line on two criteria. Firstly, they considered a report done by Coucheron-Aamot, a Norwegian hydrographer, in 1959 delineating a median line within the maritime area between Kuwait and Iraq as a reference, especially since that report, along with a map attached, had been authenticated by Iraq's foreign minister at the time.²⁰³ Secondly, the Commission rationalized that "navigational

²⁰² Brown. op.cit, p. 80

²⁰³ Letter Dated 21 May 1993 From the Secretary-General Addressed to the President of the Security Council. op.cit, pp. 14-15 and Schofield. *Kuwait and Iraq* op.cit, p. 189

access should be possible for both states to the various parts of their respective territory bordering the demarcated boundary.”²⁰⁴ The Commission also saw that this rationale promoted peace, stability and security along the border.²⁰⁵ They also noted that “the right of navigation and access is provided for under the rules of international law as embodied in the 1982 United Nations Convention on the Law of the Sea,” which had previously been ratified by both Kuwait and Iraq.²⁰⁶

Physical representation of the seaway boundary was thought unnecessary by UNIKBDC. Its only representation took place,

*“...during the final field session, [where] a modified pointer pillar was placed on line between pillar No. 106 and the low-water springs line. Plaques were emplaced on the jetties where the low-water springs line continued beneath them. An offset mark was emplaced at the southern end of the stone-faced embankment, south of the southernmost jetty. Two pointer poles, which uniquely define the direction between the last point on the low-water springs line and the junction of the Khowrs, were also emplaced and three witness marks were established nearby.”*²⁰⁷

The map below was issued accordingly:

²⁰⁴ Letter Dated 21 May 1993 From the Secretary-General Addressed to the President of the Security Council. op.cit, p. 24

²⁰⁵ Ibid. pg. 27

²⁰⁶ Ibid. Schofield. *Kuwait and Iraq* op.cit, p. 190

²⁰⁷ Schofield. *Kuwait and Iraq* op.cit, p. 191

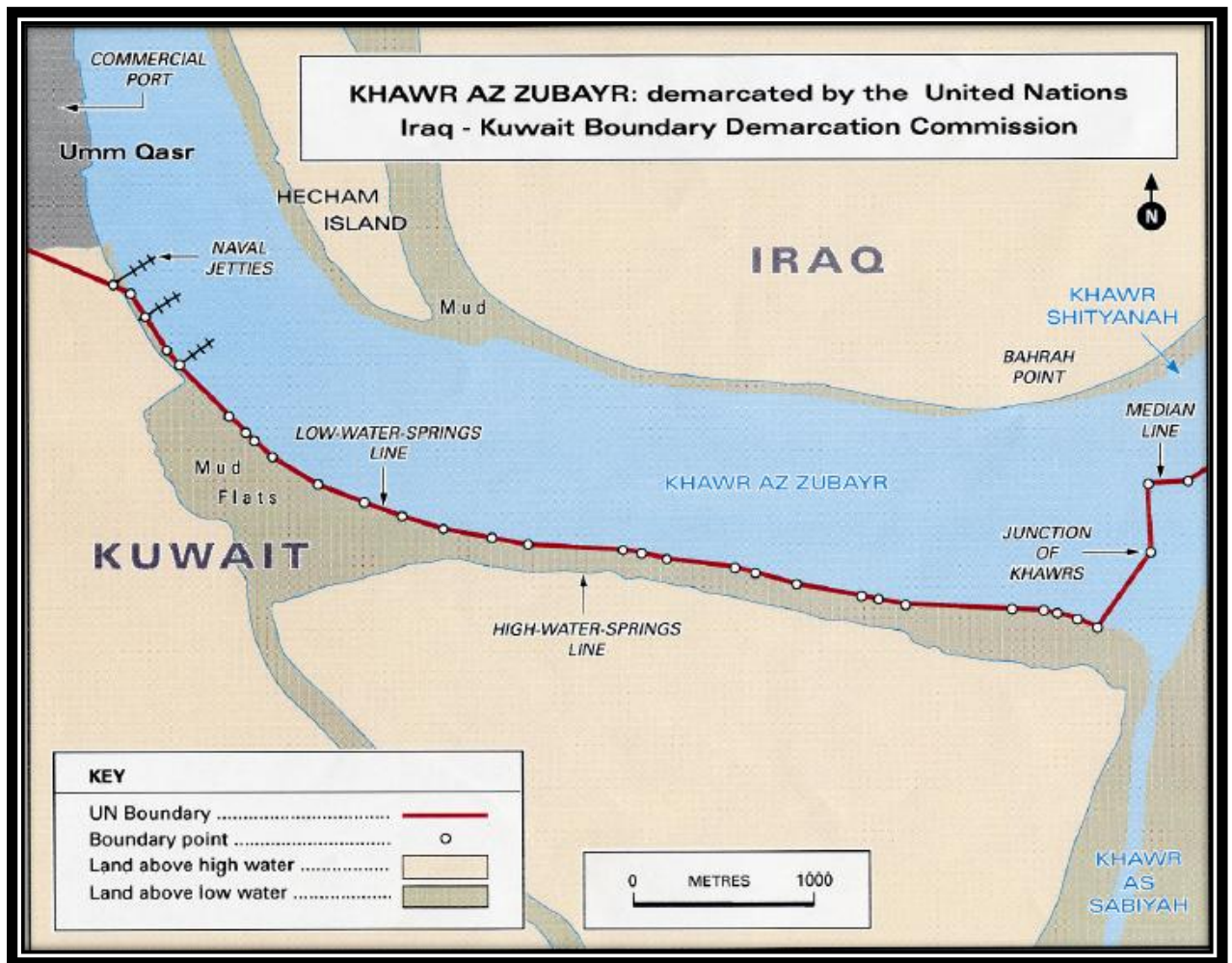


Figure 6: Map Showing U.N. Demarcation of Khor al-Zubair²⁰⁸

Through this, UNIKBDC had finally set the boundary separating Iraq from Kuwait. During their 10th and 11th meeting sessions, the Commission set and approved the final coordinates of the international boundary between the two countries. The final report, which included the set coordinates along with a map depicting the finalized borders, were then submitted to then-Secretary General Boutros Boutros-Ghali on 20 May 1993.

²⁰⁸ Brown. op.cit, p. 78

4.5 - UNSC Resolution 833 (1993) and UNIKBDC

With UNIKBDC having submitted its final report on 20 May 1993, the U.N. Security Council issued Resolution 833 on 27 May 1993. Resolution 833 first reaffirmed the prior resolutions issued regarding the boundary dispute between Iraq and Kuwait, including Resolutions 687 (1991), 689 (1991), 773 (1992) and 806 (1993).²⁰⁹ It then recalled the secretary general's letter dated 2 May 1991 concerning the establishment of UNIKBDC. The Council then considered the secretary general's letter dated 21 May 1993 containing UNIKBDC's final report and recalled that the Commission's duties were, as stated in the letter, technical rather than being political and that the Commission had simply demarcated the boundary between the two states without reallocating territory to either side. The Council then reminded Iraq of its obligations under Resolutions 687 (1991) and under Chapter VII of the Charter of the United Nations. The Council then approved the secretary general's instructions to UNIKOM to "finalize the realignment of the demilitarized zone."²¹⁰ The Council then acted under Chapter VII of the United Nations Charter, where they welcomed the conclusion of and expressed appreciation for the

²⁰⁹ U. N. Security Council. 3171st Meeting. *Resolution 806*. (1993). (S/Res/806). 5 February 1993. Retrieved from: <<http://www.un.org/Docs/scres/1993/scres93.htm>>.

²¹⁰ U. N. Security Council. 3224th Meeting. *Resolution 833*. (1993). (S/Res/833). 27 May 1993. Retrieved from: <<http://www.un.org/Docs/scres/1993/scres93.htm>>.

Commission's work, and also welcomed its final demarcation decisions.²¹¹ The council demanded

that Iraq and Kuwait in accordance with international law and relevant Security Council resolutions respect the inviolability of the international boundary, as demarcated by the Commission, and the right to navigational access;

The Council underlined and reaffirmed

*its decision to guarantee the inviolability of the above-mentioned international boundary which has...been finally demarcated by the Commission and to take as appropriate all necessary measures to that end in accordance with the Charter, as provided for in...resolution 687 (1991) and...resolution 773 (1992). ”*²¹²

UNIKBDC had thus fulfilled its mandate of setting the final internationally-recognized boundary, both land and maritime, between Iraq and Kuwait.

Though Iraq had initially stood against the Commission's work, Iraq formally expressed its acceptance of the border as set out by the U.N. through the UNIKBDC in November of 1994.²¹³ By accepting the Commission's findings, Iraq had effectively relinquished its previous claims over Kuwaiti territory, including its islands.²¹⁴

²¹¹ Ibid.,

²¹² Ibid.,

²¹³ *Middle East:: Iraq*. (2001). Central Intelligence Agency – The World Factbook.
<https://www.cia.gov/library/publications/download/download-2001/factbook_2001.zip>.

²¹⁴ Ibid.,

4.6 - Democratic Iraq and Chapter VII of the U.N. Charter

Starting with UNSC Resolution 661 (1990), in response to Saddam's invasion of Kuwait, economic sanctions were placed on Iraq under Chapter VII of the U.N. Charter. Other sanctions were placed on Iraq under Chapter VII from, including Resolution 687 relating to weapons of mass destruction; the return of Kuwaiti property; Iraq's liability to losses incurred during the invasion (which led to the creation of a compensation fund); oil and arms embargoes and sanctions against exports to Iraq which were aimed at demilitarizing Saddam's regime; the commitment of not supporting or committing any acts of terrorism; and, lastly, relating to the returning of all Kuwaiti and third-state nationals.²¹⁵

Shortly after the fall of Saddam Hussein's regime in 2003, the United Nations Security Council, along with the so-called 'coalition of the willing,' began a gradual easement of Iraq's situation. Under UNSC Resolution 1483 (2003), all trade sanctions except for the arms embargo were lifted from Iraq – additionally, the now-infamous Oil-for-Food Program was also terminated.²¹⁶ Since the removal of Saddam, and contingent upon Iraq's democratic progress, the U.N. had adopted other measures which would enable Iraq to exercise control over its own matters. On 15 December 2010, the Security Council adopted three resolutions – 1956, 1957 and 1958 – aimed at lifting sanctions against Iraq which were imposed through Chapter VII of the U.N. Charter. The Council first decided on

²¹⁵ U. N. Security Council, 2981th Meeting. *Resolution 687*. op.cit

²¹⁶ U. N. Security Council, 4761st Meeting. *Resolution 1483*. (2003). (S/Res/1483). 22 May 2003. Retrieved from: <http://www.un.org/Docs/sc/unsc_resolutions03.html>.

terminating the Development Fund for Iraq (DFI)²¹⁷ effective June 2011 where the 5% deduction in oil revenues would be deposited into the Compensation Fund.²¹⁸ Furthermore, the Council terminated “the weapons of mass destruction, missile, and civil nuclear-related” sanctions imposed on Iraq.²¹⁹

On 27 September 2010, Secretary General Ban Ki-moon stated the following:

*“Kuwaiti officials reaffirmed their desire for good relations with Iraq and emphasized that the new Government of Iraq should make concrete and tangible progress on the ground in finding missing Kuwaiti and third-country nationals and archives.”*²²⁰

He also stated that the issues discussed during a visit by his Special Representative to Kuwait in October 2010 were

*“...related to developments in and the way forward on implementation of relevant Security Council resolutions pertaining to the normalization of relations between Iraq and Kuwait, particularly with respect to border maintenance, compensation and missing persons and property.”*²²¹

²¹⁷ which was arranged to be established in UNSC Resolution 1483 (2003)

²¹⁸ which was arranged to be established in UNSC Resolution 687 (1991); U.N. Security Council. 6450th Meeting. *Resolution 1956*. (2010). (S/Res/1956). 15 December 2010. Retrieved from: <http://www.un.org/Docs/sc/unsc_resolutions10.htm>.

²¹⁹ U.N. Security Council. 6450th Meeting. *Resolution 1957*. (2010). (S/Res/1957). 15 December 2010. Retrieved from: <http://www.un.org/Docs/sc/unsc_resolutions10.htm>.

²²⁰ U.N. Security Council. *Report of the Secretary-General pursuant to paragraph 6 of resolution 1936 (2010)*. (S/2010/606). 26 November 2010. p. 4

²²¹ Ibid. p. 6

American Vice President Joe Biden, who chaired the U.N. Security Council meeting on 15 December 2010, stated that Iraq must quickly meet its remaining obligations taken under Chapter VII in regards to the situation between Iraq and Kuwait.²²² Furthermore, Iraq's Foreign Minister Hoshyar Zebari stated that his "country is committed to fulfill its remaining obligations under relevant Chapter VII Security Council resolutions pertaining to the situation between Iraq and Kuwait."²²³

²²² U.N. Security Council. *Security Council Takes Action to End Iraq Sanctions, Terminate Oil-For-Food Programme as Members Recognize 'Major Changes' Since 1990*. 15 December 2010. (Press Release SC/10118). Retrieved from: <<http://www.un.org/News/Press/docs/2010/sc10118.doc.htm>>.

²²³ Ibid.,

CHAPTER FIVE

KUWAITI-IRAQI RECONCILIATION POST-SADDAM

The boundary dispute between Iraq and Kuwait had ultimately been settled at the international level through the United Nations. Any Iraqi claims to Kuwait as a whole or any part of its territories (land or maritime) had come to an end in 1994 with Iraq's formal acceptance of the international boundary which separated it from Kuwait as set out by UNIKBDC and reflected in Security Council Resolutions 687 (1991), 773 (1992) and 833 (1993). With the United States-led operation²²⁴ to overthrow Saddam Hussein militarily on 20 March 2003, along with Iraq's formal acceptance of the final settlement of the international boundary, a new era had presented itself with the promise of better bilateral relations between Iraq and Kuwait.²²⁵

Kuwait supported the newly-liberated Iraq and has since been more than cooperative with the nascent Republic. Kuwait has made many efforts towards assisting Iraq in reaching peace and stability during this critical juncture. Kuwait extended an olive branch by, *inter alia*, constructing a water line from its territory into Iraq. Kuwait has also organized a humanitarian operation center where it raised \$550 million in assistance to the Iraqi people.²²⁶

²²⁴ Operation Iraqi Freedom

²²⁵ Katzman, K. (2011, April 26). *Kuwait: Security, Reform, and U.S. Policy*. Washington, DC: Congressional Research Service. pp. Summary, 8-9.

²²⁶ Ibid. p. 11

Kuwait showed concern for the stability of its neighbor and had participated in many regional conferences concerning Iraq's stability. Kuwait also hosted such a conference for Iraq on 22 April 2008. Prior to the conference in Kuwait, the Iraqi government said that this conference would be one of the most critical conferences where Iraqi needs would be discussed. Such needs included Iraq's relations with neighboring countries, its energy supplies, and Iraqi refugees in Jordan.²²⁷ The conference invited many participants, including Turkey, Iran, Saudi Arabia, Syria, Jordan, representatives from the five permanent members of the U.N. Security Council, all members of the GCC, the Arab League, the G-8, the Organization of the Islamic Conference, and representatives from the European Union.²²⁸

There is nothing in geopolitics that necessarily dictates inherently conflictual relations between Kuwait and Iraq. International relations is replete with examples of large states living in harmony with their weaker neighbors.²²⁹ It can be postulated that past conflicts between Kuwait and Iraq had stemmed primarily from societal and regime-type variables within Iraq. In its recent history, Iraq had seen the rise and fall of many tyrannical rulers whereby the relationship between the government and its citizenry was, at best, uneasy. Targeting Kuwait was thus a regime strategy aimed at deflecting attention from domestic problems. This flagrant bellicosity also aimed to confiscate Kuwait's immense wealth vis-à-vis its abundant oil fields.

²²⁷ Al-Ghazzi, M. *Al-kharejeya al-Iraqeya : Mu'tamar duwal al-jiwar fi al-Kuwait sayakoon aham min al-mu'tamarat al-sabeqa [Iraqi Foreign Ministry : The neighbors conference in Kuwait to be more significant than previous conferences]*. Kuwait News Agency. 13 April 2008. Retrieved from: <<http://www.kuna.net.kw/NewsAgencyPublicSite/ArticleDetails.aspx?Language=ar&id=1898927>>.

²²⁸ Ibid.,

²²⁹ Such examples are France with Belgium as well as the U.S.A. and Canada

The characteristics of the Iraqi totalitarian regimes that have previously governed Iraq have been the source of turbulent relations with Kuwait. It can be argued that Germany and France had similar turbulent relations in the past. However, after the end of World War II and the fall of the Nazi regime in 1945, the relations between the two countries became cooperative and friendly; this blossoming of relations was initiated by the Franco-German Friendship which led to the end of hostilities between France and Germany. Many treaties were signed during the Cold War whereby Germany protected its national security interests through reintegration into Western Europe; meanwhile France targeted its reestablishment as a *Grande Nation*. In 1963, France and Germany signed the Élysée Treaty which contained agreements between the countries relating to foreign policy, military and economic integration, and academic cooperation. The lesson learned is that by building amicable relations, the prospect of any unstable circumstances between two states virtually diminishes. Could this be the prospect of the Kuwaiti-Iraqi relations where the relation becomes based on cooperation rather than confrontation? The more democratic Iraq will be, the smoother the relations between Kuwait and Iraq will be.

Kuwait has built ties with the Iraqi government and dominant Iraqi factions. On 18 July 2008, Kuwait dispatched its first ambassador to Iraq since the Iraqi invasion of Kuwait in 1990. Many Iraqi officials were also welcomed to visit Kuwait to build up cooperative relations between the two countries. On 12 January 2011, the Kuwaiti Prime Minister Sheikh Nasser Mohammed Al-Sabah took the initiative of becoming the first Kuwaiti prime minister to visit Iraq since the Iraqi invasion of Kuwait, where he was welcomed in

the airport by Iraqi Prime Minister Nuri Al-Maliki,²³⁰ whose first words to him were, “Welcome to the New Iraq.”²³¹ Nuri al-Maliki’s statement a few days before Prime Minister Nasser’s visit to Iraq was appreciated by Kuwaiti leaders where he said that “Iraq’s former ambitions against Kuwait have gone forever and will never return again.”²³² Shortly afterwards, the Iraqi prime minister visited Kuwait on 16 February 2011.²³³

The Kuwaiti prime minister’s visit to Iraq was described by the Kuwaiti undersecretary of foreign affairs as being “successful in all measures.”²³⁴ The Iraqi president, in his meeting with the Kuwaiti Prime Minister, stated that Iraq was very keen on strengthening its relations with Kuwait through increasing the levels of cooperation and organization between the two countries in order to serve the interests of both peoples, adding that the two countries “had suffered under a tyrannical dictatorship and its reckless wars.”²³⁵ The outcomes of this visit were not only cordial and strongly welcoming, but also were aimed at the formation of a higher ministerial committee to discuss outstanding issues between the two countries according to international legitimacy resolutions.

In a press conference with Iraq’s Foreign Minister Hoshyar Zebari, Kuwait’s Foreign Minister Sheikh Mohammed Sabah Al-Salem Al-Sabah had said that the two

²³⁰ Nuri al-Maliki heads the Iraqi Da’wa Party

²³¹ *Al-Muhammed fi Baghdad.. ziyarat kasr al-jaleed [Al-Muhammed in Baghdad.. The ice-breaking visit]*. (2011, January 13). Al-Qabas. pp. 1, 6-7.

²³² Katzman. op.cit, pg.11

²³³ Katzman. op.cit, pg.11

²³⁴ *Al-Muhammed fi Baghdad.. ziyarat kasr al-jaleed [Al-Muhammed in Baghdad.. The ice-breaking visit]*. op.cit, pp. 1, 6-7.

²³⁵ *Lajnah Kuwaitiya –Iraqiya libahth al-malaffat al-aleqa [Kuwaiti-Iraqi Commission to discuss the outstanding issues]*. (2011, January 13). Al-Watan. pp. 1, 5, 60.

countries had agreed to hold regular meetings on the highest of standards to discuss the common issues lying between them. Additionally, U.N. Secretary General Ban Ki-moon expressed his desire of Iraq to translate its friendly press releases towards Kuwait into tangible outcomes and results.²³⁶

5.1 - Unresolved Issues Related to Iraq's 1990 Invasion

Although the relations between the governments of Kuwait and Iraq have seemingly improved, there are still lingering issues at the forefront which should be dealt with. It is required in this stage to prove Iraq's bona-fide intentions towards Kuwait where all the remaining issues should be resolved under the umbrella of the U.N.

Despite the much-heralded progress between the two countries, Kuwait and Iraq still need to tackle previously unresolved issues. Regionally, and domestically, this would serve for greater peace and security of the region. By the end of Saddam's incursion into Kuwait, the fate of 605 Kuwaiti and third-state nationals²³⁷ was unknown and many were presumed dead. Of these 605,²³⁸ 369 Kuwaitis and third-state nationals remain unaccounted for. To this end, Iraq's Ministry of Human Rights, the lead Iraqi agency in charge of

²³⁶ *Ki-moon: Matloub min al-Iraq tarjamat tasreehat-ha al-weddiya tejah al-Kuwait ila nata'ej malmousa [Ki-moon: Iraq is required to translate its friendly remarks towards Kuwait into tangible results]*. (2010, December 18). Al-Watan. p. 3.

²³⁷ Among the third-state nationals missing and presumed dead, there were fourteen Saudi Arabian citizens, five Egyptians, five Iranians, four Syrians, three Lebanese, one Bahraini, one Omani, and one Indian. *Ijtimā' Bil Kuwait Alyom Hawl Almafgoodin fi Harb Al-Khaleej [Meeting in Kuwait today regarding Missing Persons during the Gulf War]*. (2009, November 19). Asharq Al-Awsat. Retrieved from: <<http://aawsat.com/details.asp?section=4&article=544912&issueno=11314>>.

²³⁸ Over 227 missing persons' bodies have been found during searches done after Saddam's overthrow, where the results were confirmed via DNA testing.

determining the fate of these missing persons, received a \$1 million grant from Kuwait.²³⁹ Another unresolved issue between the two countries is the returning of all Kuwaiti property seized by Iraq during the 1990 invasion, namely the Kuwaiti National Archives.

A third lingering issue between Iraq and Kuwait is the issue between Kuwait Airways and Iraq Airways,²⁴⁰ where the theft of 10 Kuwaiti aircrafts and spare parts had occurred during the Iraqi invasion. The value of the losses incurred, which had been recorded with the U.N. Compensation Fund, stands at \$1.2 billion. Through judicial avenues, Kuwait Airways has obtained court rulings in its favor,²⁴¹ enabling it to take hold of Iraq Airways assets with a view towards settling Iraq's debt to the Compensation Fund for Kuwait Airways if Iraq Airways further abstains from paying its obligations.²⁴²

A further issue between the two countries relates to the maintenance of border markings and pillars placed along the U.N.-demarcated international border as well as the share of costs for such maintenance. Though this issue is still outstanding, in July of 2010 Kuwait had granted Iraq initial approval by providing it with a special border crossing that would ease the international oil companies' work within Iraq.²⁴³ Additionally, Iraq still owes \$25 billion to Kuwait through the Compensation Fund.²⁴⁴ Further underlying issues also remain at the forefront, such as talks from the Iraqi side about the regional water

²³⁹ Katzman. op.cit, p.12

²⁴⁰ Both Kuwait Airways and Iraq Airways are government-owned operations.

²⁴¹ Such as Canada and Jordan

²⁴² Though Kuwait Airways has obtained these court orders, it has not actively taken any of Iraq Airways assets.

²⁴³ Katzman. op.cit, p. 12

²⁴⁴ Iraq owed \$52 billion U.S. dollars to the Fund, \$13 billion of which was not owed to Kuwait. Its outstanding balance to Kuwait is \$25 billion U.S. dollars.

outlets and Iraqi demands to expand its outlet to the Gulf waters for the purpose of developing its oil export operations.²⁴⁵ There is also the issue of Iraq's debt to Kuwait, which is estimated at an outstanding \$16 billion.²⁴⁶

Iraqi Foreign Minister Hoshiyar Zebari, during his visit to Kuwait in February of 2011, said that "the talks encompassed Iraq's rights regarding its navigational access according to international law and according to the...positive suggestions of our Brothers in Kuwait to help Iraq in this aspect."²⁴⁷ Additionally, the Iraqi prime minister, at the end of his visit, affirmed that he "will take all the ideas discussed with him back to Baghdad, be them related to the navigation through Khor Abdallah or the debt issue or the maintenance of border marking systems, to be built upon by the specialized persons."²⁴⁸ In all the meetings between the two countries, great emphasis has been placed on the importance of resolving the residual issues since Iraq's invasion of Kuwait in 1990.

The Iraqi prime minister's Media Advisor Ali Al-Mousawi stated during the Kuwaiti Prime Minister's visit to Iraq that "committees will convene very soon to discuss possible solutions for the underlying issues with means of dialogue, and that these committees will work to reach final solutions for each issue within set legal

²⁴⁵ *Al-Muhammed fi Baghdad.. ziyarat kasr al-jaleed [Al-Muhammed in Baghdad.. The ice-breaking visit]*. op.cit, pp. 1, 6-7.

²⁴⁶ *Iraq Still Owes Kuwait 24 Bn.* (2010, April 14). Iraq-Business News. Retrieved from: <<http://www.iraq-businessnews.com/tag/debt/page/2/>>.

²⁴⁷ *Isqat al-duyoun yahtaj ela tashree' min majles al-Umma [Dropping debts requires legislation from the Parliament]*. (2011, February 18). Al-Qabas. pp. 1, 3.

²⁴⁸ *Al-Maliki: Zeyaratna ela al-Kuwait Wada'at al-Khutuwat Lihasm al-Malafat al-'Aleqa [Almaliki: Our Visit to Kuwait Placed Steps for Ending Pending Files]*. (2011, February 18). Al-Watan. p. 3

mechanisms.”²⁴⁹ He further pointed out that “matters which require parliamentary decisions will be transferred to the parliaments of the two countries whereas other issues will be undertaken by the governments of the two countries.”²⁵⁰

Furthermore, there are steps which need to be taken by the Iraqi government towards solving certain issues such as the issue of the Iraqi farmers who, in 2006, were building a 200 kilometer-long pipeline for irrigation purposes within Kuwaiti territory.²⁵¹ The joint Kuwaiti-Iraqi committee met during February 2011 in regards to this issue, where the end result was to establish a wide buffer zone of 500 meters on both sides of the border between the two countries and to transfer the farmers to new homes within the Iraqi territory. Additionally, a Kuwaiti official stated that Kuwait has pledged, under this agreement, to build a maximum of fifty houses for the farmers who have been moved.²⁵² The agreement stipulates that both countries maintain no activity, except for that of the border police, within this 500-meter border strip.²⁵³

With regards to the compensation of Iraqi citizens whose assets were within Kuwaiti territory after the demarcation of the international borders between Iraq and Kuwait, and for whom the UN Security Council issued resolution 899 (1994), Secretary-

²⁴⁹ *Al-Muhammed fi Baghdad.. ziyarat kasr al-jaleed [Al-Muhammed in Baghdad.. The ice-breaking visit]*. op.cit, pp. 1, 6-7.

²⁵⁰ Ibid.,

²⁵¹ Mahmoud, Sh. (2010, November 24). Al-Mubarak: Itfaq Kuwaiti-Iraqi Li-bina'a ma la Yatajawaz 50 Manzilan Lil-Muzari'een Li-Naqlihim Ela Kharej al-Hudood [Al-Mubarak: Kuwaiti-Iraqi Agreement to Build no more than 50 Houses for the Farmers to Move Them out of the Border]. *Al-Seyassah*. Retrieved from: <<http://www.al-seyassah.com/AtricleView/tabid/59/smid/438/ArticleID/115639/reftab/36/Default.aspx>>.

²⁵² Ibid.,

²⁵³ Ibid.,

General Ban Ki-moon reminded Iraq, in his third report concerning the United Nations Assistance Mission for Iraq (UNAMI)²⁵⁴, that the compensation payments to these Iraqi private citizens is still pending. The Iraqi government is still procrastinating the removal of past farms along the international border and in paying this compensation which had been deposited in an account with the United Nations since 1996.²⁵⁵

Also, within the context of arranging for the implementation of U.N. resolutions lies the development of a border post between the two countries.²⁵⁶ Nevertheless, a sincere will is required for Iraq's agreement to go on with the arrangements to complete its implementation and execution.

In regards to the oil fields between the two countries, recent geological evidence shows that there exists a giant oil field stretching across the Iraqi-Kuwaiti northern borders, where the much larger portion of it lies within Iraqi territory and is referred to as Rumaila; the small portion of the oil field which is located within Kuwaiti territory is referred to as Ratga.²⁵⁷ Kuwait and Iraq have reached an agreement, in principle, to regulate the production of the oil fields around the border which have previously been the source of

²⁵⁴ Issued on 7 July 2011

²⁵⁵ U. N. Security Council. *Third Report of the Secretary-General pursuant to paragraph 6 of resolution 1936 (2010)*. (S/2011/435). 7 July 2011. pp. 3, 13; and U. N. Security Council. 3343rd Meeting. *Resolution 899*. (1994). (S/Res/899). 4 March 1994. Retrieved from: <<http://www.un.org/Docs/scres/1994/scres94.htm>>.

²⁵⁶ *Al-Muhammed fi Baghdad.. ziyarat kasr al-jaleed [Al-Muhammed in Baghdad.. The ice-breaking visit]*. op.cit, pp. 1, 6-7.

²⁵⁷ Iraq's oil production from the Rumaila oil field is 1.5 million barrels per day, where Kuwaiti oil production from Ratga oil field does not exceed 50 thousand barrels per day. Two other oil fields straddle this international border: al-Zubair oil field and Safwan oil field. Source: *Kuwait & Iraq reach a deal on border oilfields*. (2010, August 25). Al Arabiya News. Retrieved from: <<http://www.alarabiya.net/articles/2010/08/25/117608.html>>.

disputes between the two countries.²⁵⁸ According to the Kuwaiti minister of oil, this agreement was intended to “prevent any future accusations [from either Kuwait or Iraq] that one of the two countries is taking advantage of these shared fields.”²⁵⁹

Although the border was set by the U.N. in 1993 and although Iraq had formally accepted its international boundaries and coordinates in 1994, the issue still provokes some tensions, particularly as certain Iraqi factions from the Iraqi opposition have released provocative statements with the expressed purpose of stirring up the border issue.²⁶⁰ Such rhetoric could potentially complicate the atmosphere of reconciliation and the cooperative efforts of resolving the outstanding issues in addition to undermining the warm relations between the two countries.²⁶¹ Within this context, Secretary General Ban Ki-moon has often called on Iraq’s government to reaffirm its obligations towards Resolution 833 (1993) relating to the maritime boundary between Iraq and Kuwait; the secretary general stressed that Iraq meet this issue with “urgent attention” if they desire to be removed from Chapter VII of the United Nations Charter.²⁶²

²⁵⁸ Kuwait had signed the agreement and was waiting for Iraq to reciprocate. No news about the matter was brought up in the news. Ibid

²⁵⁹ Ibid.,

²⁶⁰ Karim, N. (2010, August 5). *Al-kharejiya al-kuwaitiya tutaleb nathiratha al-iraqiya biwad'had liltasrihat hol hudood albaladain [kuwaiti foreign ministry asks its iraqi counterpart to put an end to statements about the border between the two countries]*. Al-Watan. p. 2

²⁶¹ Ibid.,

²⁶² Ibid.,

5.2 - Strategic Approaches to Enhancing Bilateral Relations

Philosophical perspectives of international relations often determine the various aspects of a country's chosen policies. The realist approach for dealings between states relies on the building up of military counter-alliances and the balancing of power for the sake of deterring any possible hostilities. The liberal approach, however, relies on cooperative relations and economic ties which build mutual interests between nations. Kuwait has adopted a novel strategy and approach whereby it forms alliances to keep itself protected in order to avoid any possible problems which may arise. Due to Kuwait's positioning in the middle of three comparatively larger states, it had followed a balancing policy with its neighbors in order to better maintain its security. Kuwait always sought to maintain the general stability within the Gulf region.

With the changes in the international political sphere and with the current international legal environment, small states have enjoyed far greater protection from their larger neighbors – in the case of Kuwait, this notion can be exemplified by Saudi Arabia's unwavering support. International norms have undergone major changes in the last few decades. Kuwait is no longer as vulnerable as it used to be; the international community no longer tolerates the concept of large states intimidating their smaller neighbors; and Iraq is no longer as strong as it used to be. Through its pragmatic policies, Kuwait has effectively enhanced stability in the region.

Kuwait had previously faced its challenges by implementing policies as a reaction, though this proved untenable when it came to major crises. Kuwait is trying to build a new

strategic vision within an economic perspective whereby the basic concept consists of integrating its neighbors within intertwined economic interests. These integrated purely economical interests, when merged with Kuwait's basic target of reaching its national security in its broader sense, provides the foundation for building an environment of durable peace for the greater benefit of Kuwait and all of its neighbors within its regional sphere; it then becomes nonsensical for regional neighbors to have precarious relations between one another. The economic benefits of Kuwait's large-scale developmental projects allow it to become a financial, commercial, technological, and services center, as well as a center for transportation and communication for its surrounding countries. This will not only serve Kuwait but also will serve and focus on the regional countries' interests whereby benefiting everyone. The regional countries' convictions that these benefits will serve their respective interests along with their broader national security through their political, economical, social, and environmental spectrums will contribute to achieving Kuwait's aims at creating an environment of peace and regional security.

With Iraq now shifting towards democracy, Kuwait and the Gulf states have been trying to promote better relations with Iraq. Kuwait, in particular, has been a staunch supporter of the newly-emergent Iraq, particularly during its transitional period after the fall of Saddam Hussein. The requirement for an external enemy no longer exists as it did under Iraq's dictatorial regimes; shifting Iraq to a democracy alters this concept and makes relations more cooperative. It is evident that relations tend to be more peaceful when a dictator is absent from the calculus. Nevertheless, in order for Iraq to better integrate itself in the neighborhood, Baghdad needs to reassess its previous behavior towards Kuwait in

order to become more cooperative, especially since borders have now been fully delineated. This should occur not just for the sake of dealing with Kuwait, but so that Kuwait would be the portal for Iraq to join its regional sphere through strengthening relations with member states of the Gulf Cooperation Council (GCC). The current relationship between Iraq and Kuwait could indeed be more cooperative; this relationship can help Iraq in many fields and may even blossom into a friendship, especially in light of current uneasy relations between Iraq and its other neighbors. Kuwait may very possibly be Iraq's best neighbor.

To promote this opportunity positively, Kuwait, through its development plan and the implementation of strategic projects, sought that this relationship would benefit not only Kuwait but also Iraq and the region as a whole. Kuwait has started the development of Bubiyan Island as part of Kuwait's development plan. The project of Port Mubarak the Great is underway and is to be located on the eastern flank of Bubiyan Island. The strategic goal of establishing the port is to create a pivotal port which may support Kuwait's plans at creating a diverse economic center that actively contributes to the economic advancement and development of the region.²⁶³ The port contains two options for transportation: a road for cars and a railway for trains.²⁶⁴ It is planned that the port will contain 60 anchorages, each with a depth of twenty meters for the purpose of the extensive use of the port and for accommodating big ships with large capacities.²⁶⁵ The port will not only serve Kuwait, but it will also serve the whole region (including Iraq) such that it will connect between the east

²⁶³ *Mina' Bubiyan Sayakoon Jahezan Ba'd Thalath Sanawat [Bubiyan Port will be Ready in Three Years]*. (2008, April 19). Al-Qabas. p. 3

²⁶⁴ *Mina' Mubarak 'Ala Aradi Kuwaitiya [The Port is Built on Kuwaiti Land]*. (2011, May 11). Al-Watan. p. 3

²⁶⁵ Ibid.,

and the west through the construction of the proposed railroad.²⁶⁶ The implementation of the railroad will thus connect Kuwait with Iraq, Saudi Arabia, Iran and Turkey,²⁶⁷ with prospects of it reaching Central and Eastern Asia.²⁶⁸ Furthermore, the port aims to be an environmentally-friendly port with respect to its functioning standards.²⁶⁹

The following image describes the works underway on Bubiyan Island:

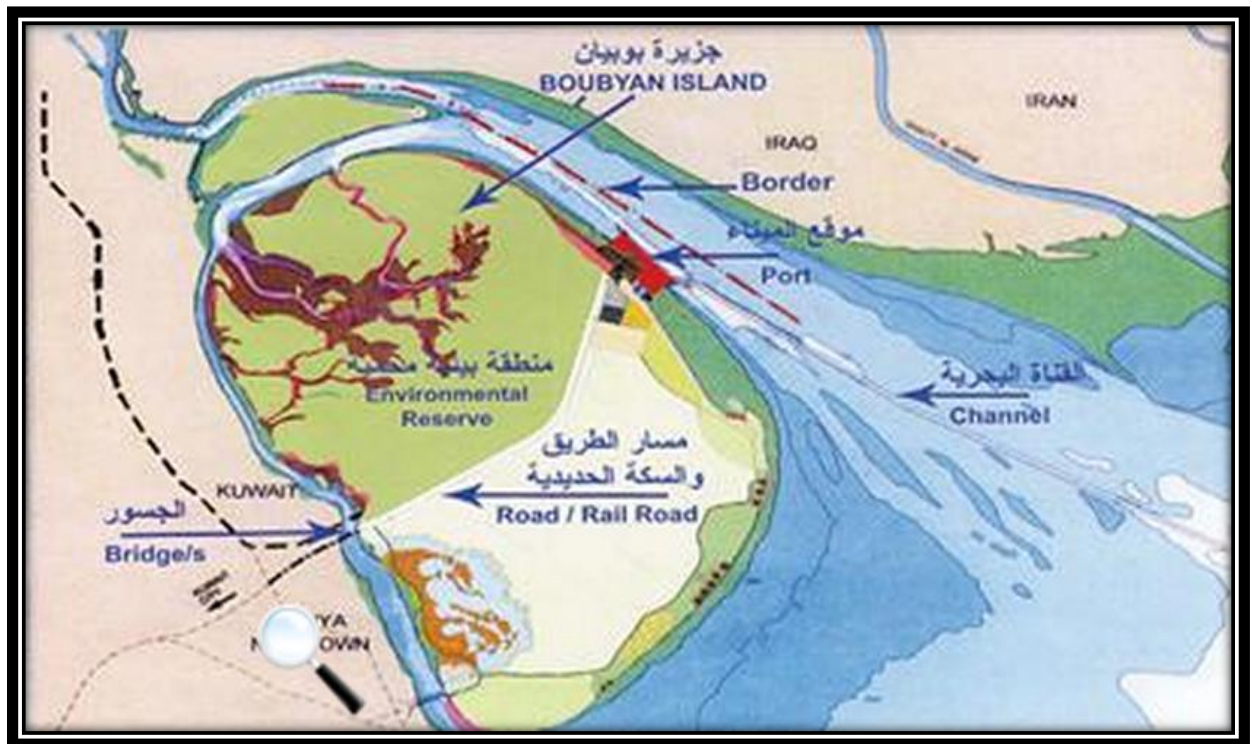


Figure 7: Map of planned construction on Bubiyan Island²⁷⁰

²⁶⁶ Ibid.,

²⁶⁷ Mina' Bubiyan Sayakoon Jahezan Ba'd Thalath Sanawat [Bubiyan Port will be Ready in Three Years]. op.cit, p. 3

²⁶⁸ Mina' Mubarak 'Ala Aradi Kuwaitiya [The Port is Built on Kuwaiti Land]. op.cit, p. 3

²⁶⁹ Ibid.,

²⁷⁰ Al-tas'id wa Al-tahdidat Wajhan Iraqiyan Limu'aradat Mina' Mubarak [Escalation and Pacification are Two Iraqi Facets towards the Opposition of Port Mubarak]. (2011, May 20). Al-Watan. p. 2

During the development of this project, the Iraqi frontier was divided on its opinion. It witnessed a split of opinions where political escalation on one side was evident on the part of writers, the media and businessmen; on the other side, Iraqi political factions and diplomatic requests were calling for pacification and political dialogue such that the matter be clear from propaganda or fallacies and be viewed and addressed within a technical and objective light.²⁷¹ Certain Iraqi media outlets claimed that Port Mubarak the Great affects negatively on Iraqi navigational waterways as well as the Iraqi port al-FAO.²⁷² This is untrue since the distance between the Kuwait port and the maritime navigational passageways is 1.5 kilometers. A media source escalated the matter by incorrectly stating that Iraqi maritime navigational paths fall within the expected Port of Mubarak the Great and also stated that Iraq will resort to the United Nations regarding the matter.

Kuwait was surprised by these words, especially since the project had been underway for a few years. Kuwait viewed the antagonistic position as “an unsuccessful hasty move.”²⁷³ Kuwaiti diplomatic sources also mentioned that such attitudes were false allegations not pertaining to reality and that, with reference to Resolution 833 (1993), Kuwait is committed to secure freedom of navigational access for ships and the Iraqi right for that passage is guaranteed.²⁷⁴ On 16 June 2011, Al-Qabas Newspaper published that the Kuwaiti undersecretary of foreign affairs stated that the Port of Mubarak the Great is of far distance from the navigational passageways leading to the Iraqi port of Umm Qasr. He

²⁷¹ Ibid.,

²⁷² Ibid.,

²⁷³ Al-Sarraf, L. *Al-Kuwait Lil Iraq: Kafa Tajanuban [Kuwait to Iraq: Stop the Avoidance]*. (2011, May 26). Al-Qabas. p. 1

²⁷⁴ Ibid.,

further assured that its anchorages are a kilometer and a half away from the border of the navigational channel, which means that Iraq need not to be concerned. The undersecretary further illustrated that the Kuwaiti port completely falls within Kuwait's territorial sovereignty and that the port does not impede navigation in Khor Abdullah.

Within the same framework, the State of Kuwait welcomed an Iraqi technical team in charge of following up and taking all relevant information related to Port of Mubarak the Great on Bubiyan Island.²⁷⁵ Following from there, the Iraqi ambassador to Kuwait expressed his "satisfaction with the outcome of the meeting which is reassuring and very thorough with respect to the questions posed by the Iraqi team and the answers given from the Kuwaiti side, who were very professional, skilled and accurate."²⁷⁶ The Iraqi technical team was taken on a field visit to the location of the Kuwaiti port and was also provided with a series of maps, documents and satellite images relating to the matter.²⁷⁷

Though Kuwait desires to promote and enhance relations with Iraq, it is unwilling to jeopardize its right towards making its own national and sovereign decisions.

It is incorrect for any side to curtail the other government's role of utilizing its country's resources; Kuwait should not be curtailed in utilizing its natural and industrial lands including Bubiyan Island. Nevertheless, Kuwait sought to further reassure Iraq in expressing its readiness to sign a bilateral agreement, assuring its northern neighbor that the Port of Mubarak the Great neither obstructs the Iraqi project of the al-FAO Port nor

²⁷⁵ Ibid.,

²⁷⁶ Ibid.,

²⁷⁷ *Al-Muhadathat al-Kuwaitiya-al-iraqiya Hol Mina' Mubarak [Kuwaiti-Iraqi Talks about Port Mubarak]*. (2011, May 27). Al-Qabas. p. 2

impinge upon Iraqi territorial waters. The Kuwaiti ambassador in Iraq further affirmed, via satellite images of the region, that the distance between the Kuwaiti project and the Iraqi project is 20 kilometers.²⁷⁸

Kuwait has followed a cooperative and transparent method in dealing with issues between itself and Iraq by eliminating any misunderstandings or misconceptions that may be incorrectly utilized to serve other purposes. Furthermore, Kuwait expressed its willingness through its foreign minister to help Iraq in developing its infrastructure. Kuwait can help Iraq in many aspects, especially since Kuwait has a more developed financial sector and can play the role of the banker with Iraq. Kuwait can also cooperate with Iraq by investing in and participating in the rebuilding of Iraq; it can also cooperate with Iraq in dealing with its environmental and maritime issues. Additionally, Kuwait can also assist Iraq in the warding off of terrorism and terrorist groups, for a stable Iraq is better for Kuwait than an unstable Iraq. The areas in which Kuwait and a democratic Iraq can cooperate are infinite.

Kuwait has also reactivated its foreign policy of establishing close economic, political and military ties with many countries in the region, as well as international players. To start with, Kuwait has built strong supportive relations for itself with larger regional and international entities such as the United States, the European Union (EU) and the GCC, in addition to other influential countries within the international arena.²⁷⁹ Kuwait

²⁷⁸ *Wazir Iraqi: Itifaqiya Kuwaitiya Lidaman Baghdad Bisha'n Mina' Mubarak al-Kabeer [An Iraqi Minister: A Kuwaiti Agreement to Ensure Baghdad regarding Port Mubarak the Great].* (2011, May 28). Al-Watan. p. 2

²⁷⁹ Such as China

has built up strategic relations with the United States and is considered a strategic partner where their relations encompass multiple facets of cooperation. Kuwait is also a full and active member of the GCC. The GCC provides regional depth to Kuwait since there is a commutative arrangement between its countries in all aspects, be they economic, financial, cultural or otherwise. There is also a commutative obligation towards maintaining mutual security.

Clearly, the GCC enjoys significant strategic importance. The Council has established close and institutionalized relations with the EU and many other major powers who are committed to the stability of the countries within the GCC through the building of strategic dialogues and economic cooperation.

CHAPTER SIX

FINAL REMARKS

Despite worldly changes and development throughout the decades, Kuwait's national security has always been attested by its geographical location and historical consequences. The issue of political boundaries between Kuwait and Iraq is considered to be the oldest and most pressing border concern in the Gulf region.

Kuwait has aimed at opening a new page of friendly cooperative relations with the newly-democratic Iraq with aims at collaborating in different aspects of economic, financial, and security coordination, seeking to enhance security and prosperity in its neighbor state. Kuwait's strategic concept of building a foundation of intertwined interests with Iraq will enhance cooperation and coordination between the two countries which would render any possible tension between them unlikely.

The confluence of Kuwait's strategic location, its small size and massive oil wealth have made it vulnerable in a region where rivals have been competing over its geostrategic importance. Since Iraq's independence, and throughout the political history of both Iraq and Kuwait, Iraq had been trying to seize parts of Kuwait's northern territory, including the islands of Warbah and Bubiyan; on other occasions, Iraq had actually claimed the whole of Kuwait's territory based on invalid justifications and fallacies. Iraq had set claims over Kuwait in 1938, in 1961, and again in 1990, spanning over the Hashemite rule, the militant communist regime, and the radical nationalist Ba'athist regime, respectively.

This study has provided a detailed analysis about the territory of Kuwait, documenting the evolution of Kuwait's international boundaries from the Ottoman Empire (and before) until the U.N.'s demarcation efforts. Historical facts illustrate that Kuwait's existence dates back to the 17th century where it was referred to as al-Qurain and was dominated by settlements who had built a fortress named al-Kout there. Starting from the 18th century, the Al-Sabah family had governed Kuwait. Since then, this oil-rich sheikhdom has distinguished itself and maintained its autonomy. In 1899, Sheikh Mubarak the Great had conducted a secret treaty with the British to counterbalance the Ottomans in regards to any attempts to seek influence over Kuwait.

In 1913, and by the Anglo-Ottoman Convention, Kuwait's boundary had been depicted by an inner and outer zone of Al-Sabah influence. The articles of the convention had set the delimitation of Kuwait's northern borders with the Vilayet of Basra, making distinct recognition between the two territories. In 1922, with the setting of the boundaries between Kuwait, Saudi Arabia, and Iraq arose the Uqair Protocol. Furthermore, in 1923, official correspondences between British officials confirmed the green line as defining the Kuwait boundary; this was regarded by Britain to have defined the Kuwait-Iraq border. With the exchange of letters between the Prime Minister of Iraq and the ruler of Kuwait in 1932, Kuwait's border limitations had been specifically set and agreed upon by both Kuwait and Iraq. The 1963 Agreed Minutes confirmed the boundary delimitation as specified in the 1932 exchange of letters. Lastly, after the 1990 Iraqi invasion of Kuwait and the efforts of the international coalition forces, Kuwait was liberated; it felt gratitude towards the coalition forces, especially to the United States with whom it has maintained

strong ties. With the liberation of Kuwait, the U.N. Security Council issued many resolutions concerning the situation between Iraq and Kuwait which ultimately led to the formation of UNIKBDC and the setting of the final international border between Iraq and Kuwait.

The fall of Saddam Hussein and the Baath regime in 2003 has opened a new chapter in Iraqi politics and hopefully in Iraq's turbulent relations with all its neighbors. While far from being a stable polity, post-2003 Iraq is clearly a more pluralistic polity. Iraq's ability to threaten its neighbors has also clearly diminished; while the new regime has been keen on appeasing its Syrian and especially Iranian neighbors. There are also some manifest signs that the Iraqi government wants an improved relationship with Kuwait such as the resumption of diplomatic relations between the two countries as well as the exchange of ambassadors. As for Kuwait, and given its painful past with Iraq, transforming the relationship with its more populous and militarily stronger neighbor to one that is based on collaboration and friendship cannot but be in the national interest. Iraq has never been the only source of external threat to Kuwait. Iran has had its own historic ambitions on the Gulf region; although Kuwait and Iran share neighborly ties and enjoy good bilateral relations, these relations have been strained lately due to some speculated Iranian intervention in Kuwaiti internal affairs. Kuwait, or for the matter any Gulf state, has very little in common with Iran whether in terms of ideology or foreign policy orientation. Indeed. One may argue that Iran today may represent a greater threat possibility to Kuwait's internal stability and regional role than Iraq. In formulating its foreign policy in its immediate region, the Kuwaiti Government cannot but take account of the following factors. First, there is a new

regime in Iraq that has different priorities and follows a different decision-making process than the previous one. Second, Iraq has been weakened and is unlikely to threaten any of its neighbors in the foreseeable future. Third, Iran has been the primary beneficiary of the withering of Iraq and is now acting as the region's main power. This transformed geopolitical map in the Gulf warrants reassessment of Kuwaiti foreign policy.

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APPENDIX 1

Excerpt from the Anglo-Ottoman Convention Agreement of 1913

“Article 1: The district of Kuwait as defined in Articles 5 and 7 of this agreement shall constitute an independent territory in the Ottoman Empire.

Article 2: The Shaikh of Kuwait can, as he used to in the past, hoist the Ottoman flag in addition to the word [Kuwait] to be inscribed in one of the flag’s corners, if he so desires. He may also exercise an independent administration in the regional area as defined by Article [5] of the agreement. The Imperial Ottoman State shall refrain from any intervention in the affairs of Kuwait, including the inheritance [of rulership], and any other administrative act as well as any occupation or military action in the provinces belonging to Kuwait.

Article 3: The Imperial Ottoman Government recognizes the validity of the agreements formerly concluded by the Shaikh of Kuwait with the Government of His Majesty the King of Britain dated January 23, 1899; May 24, 1900, and February 28, 1904 [Annexes 1-3]*. It also recognizes the validity of the land concessions granted from the said Shaikh to the Government of His Majesty the King and to the British nationals, and recognizes the validity of the demands enclosed with the memorandum sent on Oct. 24, 1911 from His Majesty’s First Secretary for Foreign Affairs to the Ambassador of His Imperial Majesty the Sultan in London.

Article 4: In order to reaffirm the mutual understanding between the two governments held before, and pertinent to the exchange of assurances dated Sep.6, 1901 between the Embassy of H. Majesty the King of Britain in Constantinople and the Imperial Foreign Ministry, the Government of H.M. the King declares that as long as the Imperial Ottoman Government does not effect any change in the existing situation in Kuwait as defined in the agreement, it will not change the nature of its relation with the Government of Kuwait and will not endeavor to establish a protectorate. The Imperial Ottoman Government shall acknowledge having taken note of this declaration.

Article 5: The independence of the Shaikh of Kuwait can be exercised in the defined districts forming a semi-circle with the City of Kuwait in the Centre and Khor al-Zubair in the northern border and the Grane in the southern border, and this line drawn in red on the map attached to this agreement, and the island of Warba, Bubiyan, Meskan, Failaka, Auha,

Kubbar, Garoa and Um al-Maradem in addition to the neighboring islands and the waters in this region.

Article 6: The tribes inside the borders agreed upon in the next article shall be recognized as subordinate to the Shaikh of Kuwait who levies the Zakat as he used to do formerly. He shall exercise the administrative rights invested in him as an Ottoman Qu'immaqam. The Imperial Ottoman Government shall not exercise in these regions any administrative act independent of the Shaikh of Kuwait and shall refrain from establishing garrisons or undertaking any military action of any type without prior understanding with the Government of His Majesty.

Article 7: The border of the country in the preceding article shall be defined as follows: [The border line begins at the coast at the mouth of Khor al-Zubair in the North West and extends exactly south of Um Qasr, Safwan and Sanam mountain. In the same way, those locations and their wells shall be left for the province [vilayet] of Basra. Upon reaching al-Batin, they follow till the South West then turn to the South East till the sea nearby Muneifa mountain. This line is marked in green on the map attached to this agreement]..

Article 8: In the event of the agreement of the Ottoman Imperial Government with the Government of His Majesty on extending the Baghdad-Basra railway to the sea and considering Kuwait as the terminal point of that way or any terminal point within the independent country, the two government shall agree on adopting measures for the protection of the railway as well as the establishing of customs and commercial warehouses and any other establishments linked with that line.

Article 9: The Shaikh of Kuwait shall have complete freedom in exercising his rights on his own properties in the Basra province provided such exercise shall be in conformity with the Ottoman law; these [immovable] properties shall be subject to taxation and the rules pertinent to their preservation, financing and legality as decided by Ottoman laws.

Article 10: Criminals of the neighboring provinces shall not be accepted in Kuwait and should be expelled, if inside; it is to be understood that Ottoman authorities shall not construe this condition as a justification for intervention in the neighboring provinces.”²⁸⁰

²⁸⁰ *Kuwait-Iraq Boundary Demarcation* op. cit, pp. 25 - 27