



Security Council

Distr.
GENERALS/25811
21 May 1993

ORIGINAL: ENGLISH

LETTER DATED 21 MAY 1993 FROM THE SECRETARY-GENERAL ADDRESSED TO
THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to transmit to you and through you to the members of the Security Council the "Final Report on the Demarcation of the International Boundary between the Republic of Iraq and the State of Kuwait by the United Nations Iraq-Kuwait Boundary Demarcation Commission" dated 20 May 1993 containing the list of geographic coordinates demarcating the boundary and the map of the area, which forms an enclosure to the report. I also submit a transmittal letter of the same date from the Chairman of the Commission addressed to me.

As indicated in the above-mentioned letter, in addition to the Final Report, the Chairman of the Commission submitted to me three certified copies of the list of geographic coordinates demarcating the international boundary between Iraq and Kuwait. On 20 May 1993, I forwarded two of these certified copies to the Governments of Iraq and Kuwait respectively, in order to be lodged in their archives. I also brought to the attention of both Governments the Final Report of the Commission together with the map. The third certified copy of the list of geographic coordinates demarcating the international boundary between Iraq and Kuwait will be retained for safe-keeping in the archives of the United Nations.

As you know, the Iraq-Kuwait Boundary Demarcation Commission was established pursuant to paragraph 3 of Security Council resolution 687 (1991), which called upon the Secretary-General to lend assistance to make arrangements with Iraq and Kuwait to demarcate the international boundary between the two countries. The Commission was entrusted with the task to demarcate in geographic coordinates of latitude and longitude as well as by a physical representation the international boundary as 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 at Baghdad on 4 October 1963. The Commission was also asked to provide for arrangements for maintenance on a continuing basis of the physical representation of the boundary.

In accordance with its mandate and terms of reference, the Commission was called to perform a technical and not a political task and as it is stressed in the Final Report, the Commission has made every effort to strictly confine itself to this objective. In the statement of the President of the Security

Council dated 17 June 1992 (S/24113), issued on behalf of its members and in Security Council resolution 773 (1992) of 26 August 1992, related to the work of the Commission, it was pointed out that through the demarcation process the Commission was not reallocating territory between Kuwait and Iraq, but it was simply carrying out the technical task necessary to demarcate for the first time the precise coordinates of the boundary set out in the Agreed Minutes referred to above.

As stated in the Final Report the Commission has fulfilled its mandate. It demarcated in geographic coordinates of latitude and longitude the international boundary between Iraq and Kuwait set out in the Agreed Minutes, made arrangements for the physical representation of the boundary through the emplacement of an appropriate number of boundary pillars or monuments and provided for arrangements for continuing maintenance and location accuracy of the surficial boundary representation.

The coordinates established by the Commission thus constitute the final demarcation of the international boundary between Iraq and Kuwait set out in the Agreed Minutes of 4 October 1963. In accordance with paragraphs 2 and 4 of Security Council resolution 687 (1991), both Iraq and Kuwait shall respect the inviolability of this international boundary and its inviolability will be also guaranteed by the Security Council.

Fulfilment by the Commission of its mandate to demarcate the international boundary between Iraq and Kuwait has direct implications for the implementation of paragraph 5 of Security Council resolution 687 (1991) relating to the establishment of a demilitarized zone along that boundary. In January 1993 UNIKOM completed the realignment of the demilitarized zone with the demarcated land section of the boundary and I am now instructing UNIKOM to finalize such realignment with the entire international boundary between Iraq and Kuwait demarcated by the Commission.

With regard to Section X (c) of the Final Report, concerning boundary maintenance, I will make the necessary arrangements, as recommended by the Commission, for maintenance of the physical representation of the boundary. The United Nations personnel and personnel of the survey or similar organizations that will be involved in the implementation of the arrangements for maintenance of the surficial representation of the boundary are to enjoy unimpeded freedom of movement in the area of the demarcated boundary as well as all necessary privileges and immunities for the fulfilment of their task.

As stated above, the decisions of the Commission concerning the demarcation of the international boundary between Iraq and Kuwait are final. I believe that the work performed by the Commission will have a beneficial effect on the restoration of international peace and security in the area concerned, in conformity with the purposes of Security Council resolution 687 (1991). The certainty and stability of the boundary are in the best interest of Iraq and Kuwait and I expect the Governments of both countries to respect the objective and impartial results achieved by the Iraq-Kuwait Boundary Demarcation Commission.

(Signed) Boutros BOUTROS-GHALI

/...

Annex

Letter dated 20 May 1993 from the Chairman of the Iraq-Kuwait
Boundary Demarcation Commission addressed to the
Secretary-General

In accordance with paragraph 3 of Security Council resolution 687 (1991) of 3 April 1991, on behalf of the Iraq-Kuwait Boundary Demarcation Commission, I have the honour to submit herewith the report conveying the final results of its work, together with a certified copy of the list of geographic coordinates demarcating the international boundary between Iraq and Kuwait and a map at the scale of 1:250,000 depicting that demarcation. The report and the coordinates are submitted in three copies, two of which are for communication to the Governments concerned.

As indicated in the report, the Commission will communicate to you in due course authenticated copies of the large-scale maps of the boundary along with technical documentation comprised of certified records of survey stations and boundary pillars.

(Signed) Nicolas VALTICOS
Chairman

Appendix

FINAL REPORT ON THE DEMARCATION OF THE INTERNATIONAL BOUNDARY
BETWEEN THE REPUBLIC OF IRAQ AND THE STATE OF KUWAIT BY THE
UNITED NATIONS IRAQ-KUWAIT BOUNDARY DEMARCATION COMMISSION

/...

CONTENTS

	<u>Paragraphs</u>	<u>Page</u>
I. INTRODUCTION	1 - 7	8
II. MANDATE AND TERMS OF REFERENCE	8 - 13	9
III. COMPOSITION AND RULES OF PROCEDURE	14 - 17	10
IV. MEETINGS AND FIELD SESSIONS	18 - 19	11
V. PARTICIPATION	20 - 21	11
VI. ORGANIZATION OF WORK	22 - 26	12
VII. PRELIMINARY CONSIDERATIONS	27 - 43	13
A. Historical background and boundary definition	27 - 40	13
B. General discussion	41 - 43	15
VIII. MAPPING	44 - 57	15
A. Necessity for new mapping	44 - 46	15
B. Field work preparation	47 - 51	16
1. Control surveys	49	16
2. Aerial photography	50 - 51	17
C. Mapping of the border area	52 - 54	17
D. Charting of the Khowr Zhobeir, the Khowr Shetana and the Khowr Abd Allah	55 - 57	18
IX. DECISIONS ON DEMARCATION	58 - 97	18
A. Western section	59 - 67	18
B. Northern section	68 - 87	20
1. From the Wadi Al Batin to the point south of Safwan	69 - 75	20
2. Safwan to the intersection of the Khowrs	76 - 87	21
C. Khowr Abd Allah section	88 - 97	24
1. Boundary line	88 - 95	24
2. Navigational access	96 - 97	27

/...

CONTENTS (continued)

	<u>Paragraphs</u>	<u>Page</u>
X. PHYSICAL REPRESENTATION OF THE BOUNDARY	98 - 105	27
A. Physical demarcation of the land boundary	98 - 100	27
B. Physical demarcation of the Khowr Zhobeir and the Khowr Abd Allah	101 - 102	28
C. Recommendations for boundary maintenance	103 - 105	28
XI. DOCUMENTATION OF DEMARCATION	106 - 110	29
XII. CONCLUSION	111 - 114	29
XIII. LIST OF COORDINATES DEMARCATING THE INTERNATIONAL BOUNDARY	115 - 123	30
A. Boundary coordinates in the Wadi Al Batin	119	31
B. Boundary coordinates along the line of latitude of the point south of Safwan	120	33
C. Boundary coordinates along the geodesic between the point south of Safwan and the point south of Umm Qasr	121	34
D. Boundary coordinates along the low-water line between Umm Qasr and the junction of the Khowrs ..	122	35
E. Boundary coordinates from the junction of the Khowrs and along the median line of the Khowr Abd Allah	123	36

Annex

List of documents and reports of the Commission	38
---	----

Enclosure*

Demarcation of the international boundary between the Republic of Iraq and the State of Kuwait (map at the scale of 1:250,000)	44
---	----

* To be issued separately as an addendum.

I. INTRODUCTION

1. The Security Council, by its resolution 687 (1991) of 3 April 1991, affirmed the commitment of all Member States to the sovereignty, territorial integrity and political independence of Kuwait and Iraq. In that regard, the Council noted that Iraq and Kuwait, as independent sovereign States, had signed at Baghdad on 4 October 1963 the "Agreed Minutes Between the State of Kuwait and the Republic of Iraq Regarding the Restoration of Friendly Relations, Recognition and Related Matters", thereby formally recognizing the international boundary between Iraq and Kuwait and the allocation of islands. The Agreed Minutes were registered with the United Nations in accordance with Article 102 of the Charter of the United Nations (United Nations Treaty Series, vol. 485, No. 7063).
2. Bearing in mind its objective of restoring international peace and security in the area, the Security Council, by paragraph 2 of its resolution 687 (1991), demanded that Iraq and Kuwait respect the inviolability of the international boundary and the allocation of islands set out in the aforementioned Agreed Minutes. By paragraph 4 of that resolution, the Council decided to guarantee the inviolability of the international boundary between Iraq and Kuwait.
3. Conscious of the need for demarcation of the said boundary, the Security Council, by paragraph 3 of its resolution 687 (1991), called upon the Secretary-General to lend his assistance to make arrangements with Iraq and Kuwait to demarcate the boundary between them, drawing on appropriate material, including the map transmitted by Security Council document S/22412.
4. In a letter dated 4 April 1991 addressed to the Secretary-General by the Deputy Prime Minister and Minister for Foreign Affairs of Kuwait (S/22457), Kuwait expressed its intention to comply scrupulously with all the provisions of resolution 687 (1991) and to cooperate with the Secretary-General with a view to ensuring its implementation. In accordance with paragraph 33 of resolution 687 (1991), the Minister for Foreign Affairs of Iraq, in the penultimate paragraph of a letter dated 6 April 1991 (S/22456), notified the Security Council and the Secretary-General of Iraq's acceptance of the provisions of that resolution.
5. In letters dated 19 and 23 April 1991 respectively, Kuwait and Iraq agreed to cooperate with the Commission and to nominate representatives of their Governments to participate in its deliberations (see S/22558, annexes I and II).
6. After consultations with the Governments of Iraq and Kuwait, the Secretary-General, pursuant to paragraph 3 of resolution 687 (1991), on 2 May 1991 established the United Nations Iraq-Kuwait Boundary Demarcation Commission, composed of five members - three independent experts to be appointed by the Secretary-General, one of whom would

/...

serve as Chairman, and one representative of each Iraq and Kuwait - to carry out the technical tasks necessary to demarcate the boundary between the two countries (S/22558). Iraq nominated Ambassador Riyadh Al-Qaysi and Kuwait nominated Ambassador Tarek A. Razzouki as their representatives on the Commission (see S/22620).

7. In connection with the report conveying the decisions taken by the Commission on the demarcation of the land boundary, the Security Council, by its resolution 773 (1992), expressed appreciation to the Commission for its work and welcomed those decisions. It also welcomed the Commission's decision to consider the eastern section of the boundary and urged the Commission to demarcate that part as soon as possible.

II. MANDATE AND TERMS OF REFERENCE

8. The mandate of the Commission and its terms of reference are laid down in Security Council resolution 687 (1991) and in the report of the Secretary-General on the establishment of the Commission pursuant to paragraph 3 of that resolution (S/22558).

9. The report of the Secretary-General provides that the terms of reference of the Commission are to demarcate in geographical coordinates of latitude and longitude as well as by a physical representation the international boundary between Iraq and Kuwait as set out in the Agreed Minutes. This was to be accomplished by drawing upon appropriate material, including the maps transmitted by Security Council document S/22412 (a set of 10 topographic maps at the scale of 1:50,000 by the United Kingdom Director General of Military Survey) and by utilizing appropriate technology. The physical representation will be carried out by the emplacement of an appropriate number and type of boundary pillars and arrangements made for maintenance on a continuing basis.

10. With reference to the boundary, the 1963 Agreed Minutes provide that:

"The Republic of Iraq recognized the independence and complete sovereignty of the State of Kuwait with its boundaries as specified in the letter of the Prime Minister of Iraq dated 21.7.1932 and which was accepted by the Ruler of Kuwait in his letter dated 10.8.1932."

11. The 1932 Exchange of Letters referred to in the Agreed Minutes contains the following description of "the existing frontier between the two countries", which constitutes the delimitation formula for the demarcation of the Iraq-Kuwait boundary by the Commission:

"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 Zobeir with the

/...

Khor Abdullah. The islands of Warbah, Bubiyan, Maskan (or Mashjan), Failakah, Auhah, Kubbar, Qaru and Umm-el-Maradim appertain to Koweit."

12. The report of the Secretary-General states that the Commission will take its decisions by majority and that its decisions regarding demarcation will be final. It further states that the coordinates established by the Commission will constitute the final demarcation of the international boundary. They will be lodged in the archives of the Governments of Iraq and Kuwait and a certified copy will be submitted to the Secretary-General for transmittal to the Security Council and for safe-keeping in the archives of the United Nations.

13. The Security Council took note of the Secretary-General's report and its provisions for the establishment and terms of reference of the Commission and expressed support for all his efforts in respect of the demarcation of the boundary (S/22593).

III. COMPOSITION AND RULES OF PROCEDURE

14. Pursuant to paragraph 3 of resolution 687 (1991), the Secretary-General appointed Mr. Mochtar Kusuma-Atmadja, former Minister for Foreign Affairs of Indonesia as Chairman; Mr. Ian Brook, then Technical Director, Swedsurvey, National Land Survey of Sweden; and Mr. William Robertson, Surveyor General/Director General of the Department of Survey and Land Information of New Zealand, as independent experts. Iraq is represented by Ambassador Riyadh Al-Qaysi and Kuwait is represented by Ambassador Tarek A. Razzouki (see S/22620). The views of the parties on the constitution of the Commission and the Secretary-General's response thereto are contained in annexes I, II and III to the report of the Secretary-General (see S/22558). Mr. Miklos Pinther, Chief Cartographer of the United Nations Secretariat, was appointed Secretary to the Commission.

15. With effect from 20 November 1992, Mr. Kusuma-Atmadja resigned as Chairman of the Commission for personal reasons. Consequent upon the resignation of Mr. Kusuma-Atmadja, the Secretary-General appointed as his successor Mr. Nicolas Valticos, former Assistant Director-General of the International Labour Office, and member of the Institute of International Law, who assumed his functions on the same date.

16. The Commission established its own rules of procedure (IKBDC/Doc.2). Rule 1 covered the composition of the Commission. Rule 2 provided that the relevant provisions of the report of the Secretary-General (S/22558) would constitute the terms of reference of the Commission. According to these rules, the decisions of the Commission regarding the demarcation of the boundary are final. The rules of procedure further stipulated that the quorum would be met by the presence of at least three members, including the Chairman and at least one representative (rule 3), and that decisions would be taken by majority (rule 5). The Commission carried out its work in closed meetings (rule 4), by

/...

visits to the border area and through field work. The Secretary of the Commission was entrusted with making all arrangements connected with the work of the Commission (rule 8).

17. In his report of 2 May 1991, the Secretary-General proposed that all costs should be shared between the interested parties. The Commission prepared and approved a cost estimate for the totality of its work, which was submitted to the Secretary-General.

IV. MEETINGS AND FIELD SESSIONS

18. The Commission held 11 sessions encompassing 82 meetings; these meetings were held either at the United Nations Office at Geneva or at United Nations Headquarters in New York. The Commission was provided with, and approved, minutes of all its meetings and it approved and issued press releases at the conclusion of each session.

19. The Commission conducted an initial inspection tour of the border area between 15 and 19 June 1991, at which time the two independent experts and the Secretary also visited the national survey offices of Kuwait and Iraq. Following a decision by the Commission to undertake new surveying and mapping of the border area, a survey team was formed from the staff of the national survey departments of New Zealand and Sweden. To execute its task, the survey team undertook four sessions of field work, which also included the final emplacement of the boundary pillars, during the autumn of 1991, the spring and autumn of 1992 and the spring of 1993. At the end of each field session, the two independent experts inspected and verified the work of the survey team. The Secretary made eight visits to the border area to participate in site inspections, to make arrangements for the field work and to establish a field office for the Commission. At the conclusion of each major phase of its work, the Commission prepared and submitted a report to the Secretary-General.

V. PARTICIPATION

20. From the beginning of its work, the Commission requested the representatives of Iraq and Kuwait to submit all relevant documents and other materials for its consideration. This was a regular feature of the subsequent work of the Commission, and full opportunity was provided to both parties to submit all relevant materials and express their positions and views throughout the work of the Commission.

21. At the first five sessions, held between 23 May 1991 and 16 April 1992, at which the Commission adopted its rules of procedure, considered the Khowr Abd Allah section and considered and took decisions on the land boundary, all members participated. The representative of Iraq did not attend the subsequent sessions, held between 15 July 1992

and 20 May 1993. However, copies of all documents and of the authenticated minutes were transmitted to the representative of Iraq.

VI. ORGANIZATION OF WORK

22. At its first session, held in New York on 23 and 24 May 1991, the Commission discussed the organization of its work and requested the secretariat to prepare rules of procedure, which the Commission adopted at its second session. It held an exchange of views relating to the schedule of work, the nature of the task, what constituted appropriate material, on-site visits and the possibility of participation by experts from both countries.

23. It was affirmed by the Commission at its first session that its work was technical, not political, and that the nature of its task was demarcation. This was later noted by the Security Council in its resolution 773 (1992) of 26 August 1992, which recalled that "through the demarcation process the Commission is not reallocating territory between Kuwait and Iraq, but it is simply carrying out the technical task necessary to demarcate for the first time the precise coordinates of the boundary set out in the [1963] Agreed Minutes ...".

24. The Commission asked the independent experts to prepare a plan of action for the demarcation. Subsequently, the independent experts presented a discussion paper, the two parts of which dealt with boundary definition issues and with the technical aspects of surveying, mapping and physical representation.

25. Following a discussion on definition issues, the Commission decided to examine the boundary in three sections. The first was labelled the western section, and corresponded to the initial phrase of the delimitation formula, "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;". The second was labelled the northern section, corresponding to the phrase "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 Zobeir with the Khor Abdullah". The third section was called the eastern section, later termed the offshore section and finally called the Khowr Abd Allah section. This part corresponds to reference to the junction, together with the final sentence of the delimitation formula: "the islands of Warbah, Bubiyan, Maskan (or Mashjan), Failakah, Auhah, Kubbar, Qaru and Umm-el-Maradim appertain to Koweit".

26. The Commission adopted a modus operandi whereby, for each of the above sections, it deliberated on the interpretation of the applicable parts of the delimitation formula, took account of the 1940 and 1951 clarifications (see para. 36 below) and other relevant evidence, discussed the relevant demarcation issues, heard statements of position, took decisions where necessary and instructed its survey team to carry out the requisite technical tasks in the field.

/...

VII. PRELIMINARY CONSIDERATIONS

A. Historical background and boundary definition

27. In its work, the Commission considered the various delimitation agreements dealing with the boundary between 1913 and 1963 as they related to the international boundary in the 1963 Agreed Minutes.

28. The Anglo-Ottoman Convention of 1913 defined a Green Line running from the coast at the mouth of the Khowr Zhobeir in a north-westerly direction, passing immediately south of Umm Qasr (the old fort), Safwan and Jebel Sanam to the Batin, and then south-west down the Batin. It also showed a Red Line down the Khowr Abd Allah. Both lines depicted the limits of Kuwaiti authority.

29. In September 1920, the Ruler of Kuwait claimed the northern territories allocated to him under the Convention. In the following year, he was told by the British High Commissioner for Iraq, Sir Percy Cox, that the territory allocated to him by the Red Line was beyond dispute.

30. In December 1922, Cox suggested that the Green Line be confirmed as the boundary. This was done in 1923 in an exchange of letters between the Ruler of Kuwait, the British Political Agent in Kuwait and the British High Commissioner for Iraq on a description of the territory deemed identical with the Green Line.

31. In 1923 the British Political Agent in Kuwait, More, erected a noticeboard marked "Iraq-Kuwait boundary" south of Safwan. A decade later, the noticeboard was considered to be the only accurate indication of where the boundary ran in the region. In the summer of 1932 it was removed, and subsequently replaced, by the Iraqi authorities.

32. In July 1932, it being considered desirable to reaffirm the existing frontier between Iraq and Kuwait before Iraq's admission to the League of Nations, the Prime Minister of Iraq wrote a letter on 21 July 1932, and the Ruler of Kuwait responded on 10 August 1932. This Exchange of Letters reaffirming the boundary was reconfirmed by the 1963 Agreed Minutes.

33. In August 1935, Dickson, then British Political Agent in Kuwait, giving advice on the depiction of the boundary on a new map, said that those in Kuwait had always understood the northern boundary to run in a due east-west straight line from the Batin centre line to the noticeboard, and thence, also in a straight line, to the junction of the Khowr Zhobeir and the Khowr Abd Allah. The following year the map, containing several errors, of which the underestimated distance between Umm Qasr and the junction of the Khowrs was probably the most important, was published. It was the basis for much of the consideration of the boundary by the British and Iraqis up to 1963.

34. In April 1937, Edmonds, British Adviser to the Iraqi Minister of the Interior, advised his Minister, and the British authorities, that the boundary should follow the thalweg of the Batin, thence run due east to a point one mile south of Safwan palms and onwards, in a straight line, to the junction of the thalwegs of the Khowr Zhobeir and the Khowr Abd Allah. From the junction of the Khowrs, the boundary followed the thalweg of the Khowr Abd Allah to the open sea.

35. In March 1939, the noticeboard was removed; on 9 June 1940 the British Political Agent in Kuwait, Galloway, assisted by a Kuwaiti expert, replaced it; on 25 June the Iraqi Foreign Ministry protested that the noticeboard had been placed 1,000 metres south of the Iraqi customs post, 250 metres north of the Iraqi boundary.

36. Dickson's and Edmonds' descriptions of the boundary formed the basis of two communications, dated 7 October 1940 and 18 December 1951, from the British Ambassador in Baghdad addressed to the Iraqi Foreign Ministry and Foreign Minister respectively, clarifying the 1932 Exchange of Letters. Those, which specify the low-water line on the southern shore of the Khowr Zhobeir as the boundary in that Khowr, differ only in describing the site of the old noticeboard (in the first) and a point 1,000 metres south of the old Iraqi customs post (in the second) as the point south of Safwan.

37. In March 1942, surveyors from the Indian Army reported that they had erected two concrete pillars: one in Safwan Village amid palm trees and the second pillar half a mile south from the first. Coordinates were determined by astronomical observations for the two pillars and for a point on the north-west corner of the wall of the customs post. The first pillar was not specifically stated to be located at the southernmost palm as was reported in the telegram from Hickinbotham, Political Agent in Kuwait, on 19 March 1942.

38. In 1951 the Iraqi Government indicated that it could accept the 1951 delimitation under the condition that Kuwait would agree to cede the island of Warbah. This proposal was unacceptable to Kuwait and was withdrawn by the Iraqi Government in 1953.

39. In May 1955, the Iraqi Prime Minister proposed that the boundary depicted in a sketch map which he gave to the Ambassador be advanced 4 kilometres southwards between Safwan and the entrance of the Khowr Abd Allah. A draft agreement, indicating that the boundary depicted on the 1936 map was that agreed in 1932, was then negotiated between the British authorities and Iraqi Foreign Minister. The Iraqi Prime Minister thereafter pressed the Kuwaitis to agree to its conclusion, but they declined.

40. In 1959, Coucheron-Aamot, a Norwegian hydrographer, produced a report and a chart, officially authenticated by the Iraqi Ministry of Petroleum, which defined a median line as the boundary in the Khowr Abd Allah. This official chart, taken from an annex to the Coucheron-Aamot report, was transmitted to the Danish Embassy in Baghdad by the Iraqi Foreign Minister on 22 August 1960 and subsequently published in the Pleadings of

the International Court of Justice (see I.C.J. Pleadings, 1968, vol. I, North Sea Continental Shelf Cases, figure D).

B. General discussion

41. The Commission held a general discussion on the three sections of the boundary as a whole on the basis of the discussion paper presented by the independent experts.

42. Considerable time was devoted to the investigation and discussion of the definition of the point south of Safwan, the general course of the boundary in the Batin, the position of the boundary south of Umm Qasr and the possible position of the boundary at the junction of Khowr Zhobeir and Khowr Abd Allah in the epoch of 1932. The principles to be applied in the demarcation of the boundary beyond the junction of the Khowrs were also considered at length. The language of the delimitation formula was debated extensively. Of particular concern were whether it was technically possible to demarcate the boundary without a turning-point at Safwan, whether the thalweg or the median line concept should be applied in the northern part of the Batin to divide the grazing areas equitably and whether there had been a shift in the junction of the Khowrs over the past decades. With regard to the Khowr Abd Allah section, the principle of the median line, tempered by equity, was considered.

43. The general deliberations were followed by discussions on the various sections of the boundary, which were continued as the work of the Commission progressed. Each question and each section of the boundary received careful consideration from the legal, historical, technical and practical points of view. The deliberations, statements of position and the work of the Commission are given in considerable detail in its reports to the Secretary-General (IKBDC/Rep.2, Rep.6 and Rep.7).

VIII. MAPPING

A. Necessity for new mapping

44. In the technical sections of the discussion paper, the independent experts proposed methods for new mapping of the border area to provide a proper basis for demarcation. The maps and the related spatial data were, in the opinion of the experts, a necessary supplement to the existing maps and documents and would be required before demarcation on the ground could be carried out, as there were no adequate maps of the boundary area for the purpose of demarcation.

45. It was pointed out that the boundaries shown on the maps transmitted by Security Council document S/22412 could be considered reliable. Those maps, as well as all other recent maps of the area, indicated the general configuration of the boundary and the

/...

existence of a turning-point south of Safwan. But, in depicting the boundary, they were not supported by any detailed rationale. The comparison of older maps with the 1991 revised edition of British Admiralty Chart No. 1235 and the Commission's new orthophoto mapping revealed significant discrepancies in absolute positions on the older maps, in particular for the junction of the Khowrs.

46. To assist the Commission in its deliberations and to enable it to achieve a precise demarcation, the independent experts therefore proposed a new survey and mapping of the entire border area. The proposal included the establishment of a geodetic control network and ground control points for mapping, using satellite-based (Global Positioning System (GPS) and Doppler) methods, combined with conventional survey techniques, aerial photography and the production of a set of large-scale orthophoto maps at the scale of 1:25,000. Included also were special maps to enable the Commission to study specific areas such as the Batin and the border areas at Safwan and Umm Qasr.

B. Field work preparation

47. The field work of the Commission was undertaken in three stages during four field sessions by a survey team composed of geodesists, surveyors and photogrammetrists from the national survey departments of New Zealand and Sweden. During the first stage, the Commission established its own geodetic datum called "IKBD-92", based on World Geodetic System (WGS 84 ellipsoid), and established geodetic network control. Aerial photography and preliminary mapping were carried out. During the second stage the decisions of the Commission were implemented through the emplacement of preliminary boundary markers and final boundary pillars. The third stage involved the demarcation of the Khowr Abd Allah section of the boundary as well as additional work on the land boundary sections.

48. In all stages of the field work, the United Nations Iraq-Kuwait Observation Mission (UNIKOM) provided essential support on an at-cost basis. Assistance was extended to the surveyors for the preparation of photo control points and for the establishment of the preliminary positions for the boundary pillars. In this regard, UNIKOM also cleared work areas of unexploded ordnance. UNIKOM facilitated transportation and provided procurement, logistic and operational support for the emplacement of pillars.

1. Control surveys

49. Four datum stations, 25 primary control stations and 137 photo control points were established between September and December 1991. The positions were determined by GPS and Doppler observations. The first function of this work was to facilitate the production of the orthophoto maps and accurate transverse height profiles of the Batin to assist the Commission in its deliberations. The second function was to leave a primary

/...

control network in place that could be used to set out the boundary pillars once the final location of the boundary had been determined by the Commission. To provide tidal data, the Commission installed two tide gauges at Umm Qasr.

2. Aerial photography

50. The main aerial photography programme was carried out during the first field session by an air photo team and a specially outfitted aircraft from the National Land Survey of Sweden. Photographs at various scales were produced to facilitate the production of orthophoto maps for the entire length of the land boundary, for the preparation of transverse height profiles of the Batin and for large-scale orthophoto maps of the Safwan and Umm Qasr areas (see IKBDC/Rep.6).

51. Additional aerial photographs were taken in February 1993. The purpose of these photographs was to provide false-colour infrared imagery for the determination of the boundary along the low-water-springs line in the Khowr Zhobeir, to evaluate the quality of the 1991 edition of British Admiralty Chart No. 1235 and to assist with the definition of the median line in the Khowr Abd Allah. Additional photographs were also taken for the production of a series of maps at a scale of 1:2,500 of the Rumailah/Ratqa boundary area and the settled areas along the boundary at Safwan and at Umm Qasr. The purpose of these maps was to provide additional detail on the location of the boundary and to assist in resolving any boundary-related issues.

C. Mapping of the border area

52. Initially, a series of 31 orthophoto maps (in English and Arabic) was produced at a scale of 1:25,000. In addition, separate orthophoto maps were produced at the scale of 1:7,500 for the Safwan and Umm Qasr areas.

53. For the Batin, 1,420 transverse photogrammetric height profiles were produced. From these the lowest-point line in the Wadi was determined by examining the elevation contours, by measuring along the profiles and by generating three-dimensional digital terrain models.

54. At a later stage, the aerial photography was extended eastwards to the outer reaches of the Khowr Abd Allah, from which additional orthophoto maps were produced at the scale of 1:25,000. In order to reduce the final number of map sheets and to provide better coverage of the boundary, the size of the sheets was changed. The boundary from the trijunction to the eastern end of the Khowr Abd Allah is thus covered by 18 map sheets.

/...

D. Charting of the Khowr Zhobeir, the Khowr Shetana and the Khowr Abd Allah

55. At the sixth session, the Commission requested the independent experts to investigate further the Khowr Zhobeir and the Khowr Abd Allah and present appropriate material for consideration. Assisted by hydrographers from the Swedish National Maritime Administration and the Royal New Zealand Navy, the independent experts undertook two separate studies of the earliest detailed hydrographic surveys available for the Khowrs.

56. Following an analysis of the charts, both manual and computer interpretations were made to produce maps for the Commission's consideration at the scale of 1:50,000 and 1:100,000 showing the thalweg line and the median line in the Khowr Abd Allah. Bathymetric contour maps and transverse profiles on the same scale were also prepared. In addition, baseline coordinates were identified and listed for the plotting of a median line.

57. During the third field session, two tide gauges were installed at Umm Qasr to assist with the determination of the low-water line in the Khowr Zhobeir, from its intersection with the land boundary to a point opposite the junction of the Khowr Zhobeir and the Khowr Abd Allah.

IX. DECISIONS ON DEMARCATION

58. At an early stage in its work the Commission reached several decisions which provided the broad parameters for demarcation. These decisions also authorized the new surveying and mapping and the gathering of additional material, which subsequently enabled the Commission to reach conclusions regarding the demarcation of the frontier between Iraq and Kuwait. The Commission reached its decisions after gathering and carefully considering all available material, including the historical record, maps and aerial photography, after surveying and mapping and after conducting the necessary inspections in the field. Each section of the boundary received thorough scrutiny. Final decisions were reached only after extensive deliberations and after the Commission was satisfied that all the evidence had been properly weighed.

A. Western section

59. The western section of the boundary is that part of the existing frontier which leads from the intersection of Wadi El Audja and Wadi Al Batin northwards along the Batin to a point just south of the latitude of Safwan.

60. The basis for the demarcation of this section was the wording of the delimitation formula in the 1932 Exchange of Letters.

/...

"From the intersection of the Wadi-el-Audja with the Batin and thence northwards along the Batin ...".

61. In October 1940 the British Ambassador in Baghdad presented the Iraqi Foreign Minister with a proposal for the demarcation of the boundary as accepted by Kuwait, which clarified the above wording as follows:

"Along the Batin the frontier shall follow the thalweg, i.e. the line of the deepest depression ...".

62. This was repeated word for word in a note verbale of December 1951 in which reference is made to contacts between the Foreign Minister of Iraq and the British Ambassador regarding the reopening of the boundary issue. In 1940, Iraq requested a delay until its border with Saudi Arabia had been fixed and, in 1952, it announced that it wanted the issue of the cession of Warbah Island settled before proceeding with demarcation.

63. The Commission decided to demarcate the boundary along the Wadi Al Batin in terms of the line of the lowest points (the thalweg). It also took a decision that the boundary would be marked by a series of straight lines, approximately 2 kilometres in length, such that the areal extent by which the thalweg departs from the boundary on the Kuwait side was equally balanced by the departure on the Iraq side.

64. For this exercise, the Commission undertook large-scale orthophoto mapping of the Batin based on specially flown aerial photography. Terrain models and transverse height profiles were generated to permit computer simulation of the lines of lowest points along the Batin.

65. The Commission decided that the point of intersection of the Wadi El Audja with the Wadi Al Batin was to be determined as pillar No. 1 of the Iraq-Saudi Arabia boundary and it then became boundary pillar No. 1 for the western boundary section.

66. The Commission further took a decision that the northern end of the boundary in the Batin be located at the intersection of the thalweg of the Wadi and the latitude of the point south of Safwan.

67. The line the Commission decided upon to demarcate the western section compares well with the general location of the boundary line as drawn by cartographers on earlier maps, including the map transmitted by Security Council document S/22412, and is very similar to the line depicted on other recent maps.

/...

B. Northern section

68. The northern section is that part of the boundary which, from the intersection of the thalweg of the Wadi Al Batin with the parallel of latitude that runs through the point just south of Safwan, eastwards along that parallel south of Jebel Sanam to the point just south of Safwan and thereafter along the shortest (geodesic) line to the port town of Umm Qasr, and from there to the junction of the Khowr Zhobeir with the Khowr Abd Allah.

1. From the Wadi Al Batin to the point south of Safwan

69. In the 1932 Exchange of Letters the boundary between the northern end of the Batin and Safwan is described as running from a point in the Batin to:

"... a point just south of the latitude of Safwan; thence eastwards passing south of Safwan Wells, Jebel Sanam ...".

70. All descriptions and representations of the boundary on maps after 1935 have depicted the boundary in this section as following a parallel of latitude to a point south of Safwan. For some 16 years, this point was marked by a noticeboard, the position of which also determined the latitude of the line between the western boundary in the Batin and Safwan. This is a point which is fundamental to the definition of the northern boundary and which has never been accurately depicted on any map prior to the maps produced for the Commission.

71. From 1923 to 1939 a noticeboard, which marked the boundary between Iraq and Kuwait, stood at a point on the old road just south of Safwan. This noticeboard was erected at the time of the 1923 agreement which was reiterated in the 1932 Exchange of Letters. Its position was known to both countries at the time of the 1932 Exchange of Letters and was recognized by both over the subsequent seven years as the international boundary. The position of the noticeboard appears not to have been measured. However, Dickson, who was present at Oqair at the time of the 1923 agreement and was the British Political Agent in Kuwait between 1929 and 1936, stated in 1935 that:

"We have always understood the northern boundary of the frontier to run in a due east and west line from the Batin (centre line) to a point one mile south of Safwan Wells, where a large noticeboard exists on the side of the road which today marks the boundary".

72. Attempts to locate the former position of the noticeboard, after its removal in 1939, resulted in several differing estimations of the distance from reference points in and around Safwan, including the old customs post, the wells and the southernmost date palm. When related to each other there was a degree of congruence around the distance of one mile (1,609 metres) from the customs post. However, the re-establishment of the noticeboard

/...

in 1940 resulted in an Iraqi protest note which stated that its re-established position was 250 metres north of the boundary at a distance of 1,000 metres from the customs post.

73. The Commission considered that the two most probable positions for the noticeboard were nearly 1,609 metres (1 mile) and 1,250 metres south of the south-west extremity of the customs post. In the absence of other reliable evidence, the Commission gave equal weight to both measurements and decided on the mean distance of 1,430 metres from the south-west extremity of the old customs post along the old road as the most probable location of the noticeboard. The location of the point thus determined by the Commission is 180 metres farther south than the distance specified in the 1940 Iraqi protest note and 430 metres south of the claim made then and later for Kuwait (see map).

74. The general location of the customs post was established, on site, using GPS equipment and coordinates determined in 1942 from astronomical observations. Image interpretation using several aerial photographs, dating from 1945 to the present day, enabled the Commission to determine the south-west extremity of the old customs post with good accuracy as well as the alignment of the old road south of Safwan beside which the noticeboard had been located.

75. The parallel of $30^{\circ} 06' 13.3181''$, running westward from the re-established position of the old noticeboard, defines the line of this boundary. At the northern end of the Batin the line of deepest depression is less well-defined than farther south. To determine its position on the ground, the Commission used a combination of orthophoto mapping, height measurements and interpretation of vegetation patterns in the bottom of the Batin. The Commission decided that the intersection of this line with the parallel of latitude $30^{\circ} 06' 13.3181''$ determined the end of the boundary in the Batin and the start of the northern boundary.

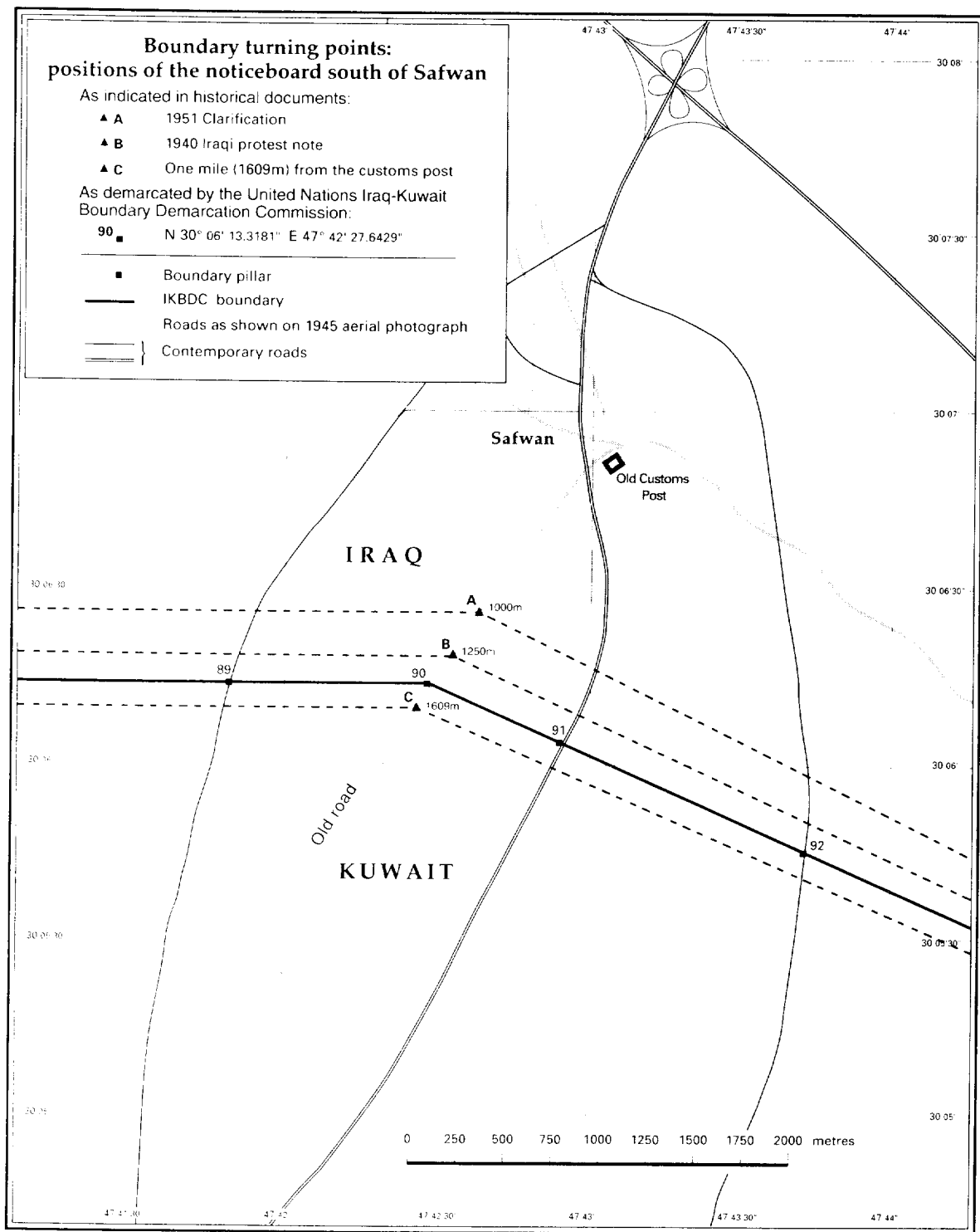
2. Safwan to the intersection of the Khowrs

76. This section of the boundary is covered in the 1932 Exchange of Letters by:

"... south of Safwan Wells ... and Umm Qasr leaving them to Iraq and so on to the junction of the Khor Zobeir with the Khor Abdullah".

77. In order to determine the location of the junction of the Khowr Zhobeir and the Khowr Abd Allah, the Commission first identified the thalweg of the channels using the most reliable chart produced as close to the year 1932 as possible. A comparison of various charts, maps and aerial photographs after 1945 indicated that little accretion had occurred during the past 60 years. The Commission considered that the position of the thalwegs of the channels would most likely have remained the same had dredging not occurred. Having identified the thalwegs, the Commission determined the location of the junction of the Khowrs.

/...



MAP NO. 3786 UNITED NATIONS
MAY 1993

/...

78. Guided by the 1940 and 1951 clarifications of the delimitation formula in drawing a straight line on the new orthophoto maps from the point south of Safwan passing south of Umm Qasr to the junction of the Khowrs, the Commission found that such a line would have sliced into the northern shore of the Khowr Zhobeir, thereby closing off the mouth of the Khowr.

79. A careful analysis of the various charts and maps and comparison with the Commission's new orthophoto maps, revealed that the charts contained distortions of the outline and errors in the absolute positions of the Khowrs and that on the 1936 British map the junction of the Khowrs was plotted some 1,000 metres to the south of its correct position. The reason for this was judged to be a misfit between the newer plane-table mapping of the land areas west of the Khowr Zhobeir and the triangulation surveys east of the Khowr, which dated back to 1917.

80. The 1936 map was used as a basis for graphic descriptions of the boundary for many of the deliberations on the subject over the next decades. As a result, the point where the line between the junction of the Khowrs and Safwan is shown as crossing the shoreline of the Khowr Zhobeir at a point which lies some 800 metres to the south of the point that is obtained when the straight line from the point south of Safwan to the junction is plotted on the Commission's orthophoto maps.

81. The Commission decided that the demarcation of the intersection of the boundary with the shoreline at Umm Qasr should be in terms of the position of the Khowrs as shown on the 1936 map as it was considered that that was the position of the boundary as envisaged and intended from that time. This is also the position shown on the British 1:50,000-scale map transmitted by Security Council document S/22412. This position has now been demarcated as the boundary at Umm Qasr by the Commission, leaving the Umm Qasr port complex and Umm Qasr village within Iraqi territory.

82. The Commission decided that the position of the junction of the Khowrs should be the position as close as possible to that of epoch 1932. Its position was determined following studies of charts produced between 1907 and 1991, aerial photographs covering a period of some 40 years from 1951 and topographic maps. Although absolute positions varied, there was acceptably good agreement between the shore outlines on the maps and the details on the photographs, which led the Commission to rule out any significant effects of erosion or accretion around the junction of the Khowrs during the period covered by the materials studied.

83. Six identifiable junction points were plotted on the 1:25,000 scale orthophoto map from charts produced in 1907, 1932, 1939, 1948, 1971 and 1991. The best available chart produced closest in time to epoch 1932 was the chart produced by the Basra Port Directorate in 1939. With the exception of the point derived from the 1932 chart and from the 1991 British Admiralty Chart, these points fall within a relatively small circle.

/...

84. The Commission decided also to take into consideration the 1932 chart, despite its lower quality, in fixing the junction point, as it was produced at the time closest to epoch 1932. The final position was a weighted mean position. This has been considered as the most likely location of the position referred to in the British proposal of October 1940 and the December 1951 note verbale.

85. The boundary from the point south of Umm Qasr on the shoreline to the junction of the Khowrs has been depicted on maps in various positions in the Khowr Zhobeir. Specific descriptions are given in the October 1940 and December 1951 clarifications.

86. The Commission decided that the boundary line from the point south of Umm Qasr on the shore should be fixed and should follow the low-water-springs line up to the point directly opposite and nearest to the junction of the Khowr Zhobeir and the Khowr Abd Allah. The Commission further decided to plot the low-water-springs line from the false-colour infrared photographs.

87. The Commission further decided that the boundary from the above point, opposite and nearest to the junction of the Khowrs, to that junction, should be the shortest possible line (see map).

C. Khowr Abd Allah section

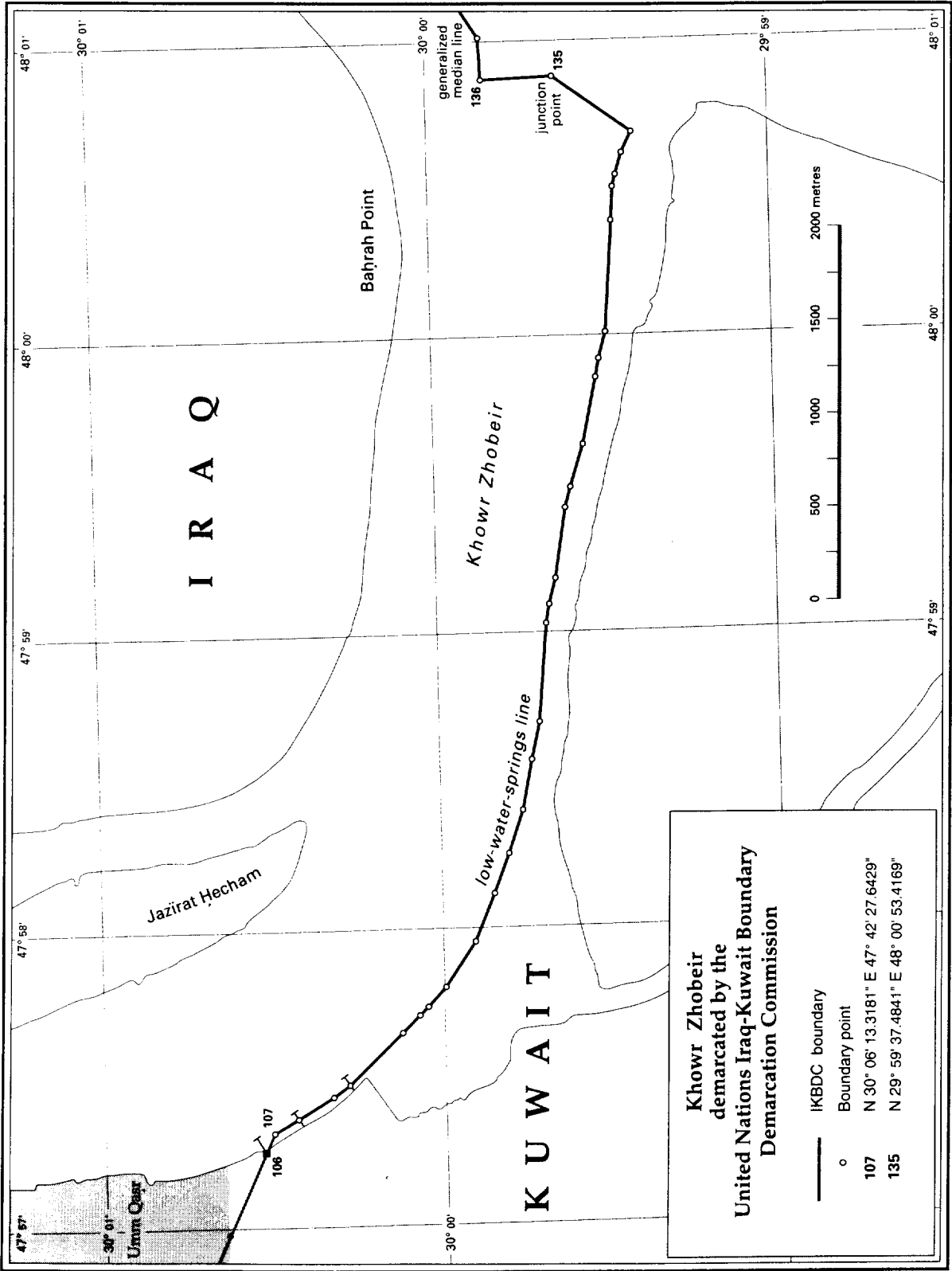
1. Boundary line

88. By the Khowr Abd Allah section, the Commission refers to the maritime, or offshore, boundary from the junction of the Khowr Zhobeir and the Khowr Abd Allah to the eastern end of the Khowr Abd Allah. The Commission felt that the closing statement of the delimitation formula, mentioning the islands of Warbah, Bubiyan, etc. as appertaining to Kuwait, gave an indication that the existing frontier in that section lay in the Khowr Abd Allah.

89. The Commission gave careful consideration to this section of the boundary. Having closely examined the language of the delimitation formula and the historical evidence on this part of the frontier, including earlier proposals for its demarcation, and having taken into account the legal aspects of the matter, the Commission agreed that it had a sufficient basis to proceed with the demarcation of the Khowr Abd Allah section. The Commission noted, moreover, that all the historical evidence pointed to the existence of a general agreement between the two countries on a boundary in the Khowr Abd Allah.

90. The Commission concluded that the existing boundary to be demarcated was the median line, it being understood that navigational access should be possible for both States to the various parts of their respective territory bordering the demarcated boundary.

/...



MAP NO. 3785 UNITED NATIONS
MAY 1993

/...