

The Iraq-Kuwait Boundary Dispute: Historical Background and the UN Decisions of 1992 and 1993

Harry Brown

Introduction

Following the victory of UN-sponsored forces over Iraq in the Gulf War of 1991 it was decided by the UN to settle the issue of the poorly defined Iraq-Kuwait boundary. This was recognition of the fact that the boundary dispute between the two countries was an important, if intermittent, cause of regional instability. Defining the boundary further served as a potent symbol of Kuwait's independent status within recognised borders. The issue of the boundary's position should not, however, be confused with Iraq's purely territorial claim to the whole of Kuwait - a claim which contradicts its demand for an adjustment to the existing boundary. Iraq's claim to Kuwait, pursued periodically since 1938, is not detailed in this paper, which is confined to factors affecting the position of the boundary.

The United Nations Iraq-Kuwait Boundary Demarcation Commission has recently completed its work. This study places its decisions in a historical perspective and considers ramifications and possible future developments.

Terminology

To understand the evolution of any boundary, it is essential to understand the two most important processes involved. *Allocation* is defined as the initial understanding between states as to their territorial claims; lines may be crudely drawn on maps, but no accurate or precise description or field survey has been attempted. *Delimitation* denotes description of the alignment in a treaty or other written document, or by means of a line marked on a map. *Demarcation* is the means by which the described alignment is marked or evidenced on the ground, by means of cairns of stones, concrete pillars etc. In cases where the above processes are incomplete, but where territory has been roughly allocated, *de facto* boundaries often exist and function in the absence of any internationally recognised border treaty.

Some geographers refer to allocation as a separate stage in boundary evolution, preceding delimitation.

Historical Setting

From the time Britain signed its secret treaty with the Shaikh of Kuwait in 1899 until its independence in 1961, Kuwait fell firmly within Britain's sphere of influence. Kuwait's foreign policy was largely shaped by the requirements of the Government of India, which exerted a major influence over Britain's policy in the Persian-Arabian Gulf until 1947. The major requirement was to secure the overland route from India to the UK via the Gulf, which in turn necessitated the exclusion of potentially hostile rival powers such as the Ottomans, Russians and Germans. The Government of India pressed for formalised dependency relations with Kuwait, but the Foreign Secretary in London did not wish to raise the ire of rival powers, especially the Ottomans who were nominally in control of Kuwait until 1914. Indirect control, exercised through the ruling family in Kuwait was in any case a cheaper option. Kuwait's request in 1897 for Protectorate status was therefore rejected, although following the collapse of the Ottoman Empire the Shaikhdom was officially acknowledged as being "*under British Protection*".

History of the Iraq-Kuwait Boundary

One of the earliest descriptions of Kuwait's boundaries came from the British official, Lorimer, who in 1908 wrote an article for internal use by Government of India employees noting,

"that the boundaries of the Kuwait principality are for the most part fluctuating and undefined; they are at any time, the limits of the tribes which then, either voluntarily or under compulsion, owe allegiance to the shaikh of Kuwait."

This view was reflected when the Shaikhdom's territory was initially allocated by the 1913 *Anglo-Ottoman Convention* (see Map 1). The green line denotes the outer sphere of influence of the Shaikhdom, rather than territory under direct control and, following military successes by tribes loyal to Ibn Saud, much of the territory circumscribed by the southern green line was transferred under the 1922

Uqair Protocol to the Najid confederation, from which emerged the Kingdom of Saudi Arabia in 1932.

In the case of Kuwait's land border with Iraq, it was the outer "green line" which was subsequently adopted as the frontier. One should note that the island mud-flats of Warbah and Bubiyan - later to become the subject of much contention - fell within the "inner zone" where "complete autonomy" of the Kuwaiti Shaikh was recognised. The British and Ottomans had, in fact, already quarrelled over Warbah and Bubiyan, with the Ottomans maintaining garrisons on Bubiyan until their removal in 1914 following British military action.

The 1913 Convention reflected the success of British policy in denying to the Ottoman Empire and its German ally deep water access to the Persian Gulf. Of particular concern at that time was the planned extension of the Berlin-Baghdad railway to the northern Gulf littoral. This was prevented by the inclusion of Warbah and Bubiyan within the Kuwaiti Shaikh's sphere of influence and by the signing of the 1899 secret treaty with Kuwait in which the its ruler undertook not to:

"..cede, sell, lease, mortgage, or give for occupation or for any other purpose any portion of his territory or subjects of any other Power without the previous consent of Her Majesty's Government."

Initial secrecy was considered expedient as Kuwait was still nominally part of the Ottoman Empire. Iraq was to inherit this poor strategic position, and, like the Ottomans and Germans, was effectively 'squeezed' out of the Gulf. This situation led to Iraqi demands for an adjustment to the 'colonial' boundary; a key factor in the subsequent dispute.

Due to the collapse of the Ottoman Empire following World War One, the 1913 Anglo-Ottoman Convention was never ratified and this resulted in the legality of many Middle Eastern boundaries agreed at that Convention being open to question; the Iraq-Kuwait boundary was no exception. In 1920, following the international conference at San Remo, Britain was awarded a mandate for Iraq which it was to maintain until 1932 and it was during this period (when British officials controlled the foreign policies of both Iraq and Kuwait) that diplomatic correspondence confirmed the rough delimitation of the boundary outlined by the 1913 Convention. The most relevant paragraph in the 1932 correspondence describes the boundary thus:

"...from the intersection of the Wadi-el-Audja with the (Wadi al) 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 Umm Qasr leaving them to Iraq and so on to the junction of the Khor Zobeir with the Khor Abdulla. The islands of Warbah, Bubiyan, Maskan (or Mashjan) Failakah, Auhah, Kubbar, Qaru and Umm-el-Maradim appertain to Kuwait."

The problem with the definition of the northern sector of the boundary was that this was determined by the "point just south of the latitude of Safwan" and the history of the boundary from 1932-92 was dominated by attempts to locate this point.

In 1923 the original noticeboard marking the border had been positioned in the desert by the Political Agent at Kuwait with the apparent consent of the Iraqi authorities. The distance south of Safwan does not appear to have been recorded, although Edmonds, Chief British Adviser to the Iraqi Government, later suggested that the boundary lay "one mile south of the southernmost tree south of Safwan." In 1932, however, the Iraqis removed the border post for cleaning, believing incorrectly that it was their property. Although it was later returned, following another removal in 1939 no-one could be sure of its original position, not least because of the planting during the 1940s of new palm groves south of Safwan!

In 1935 the Political Agent at Kuwait stated 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 point one mile south of Safwan Wells, where a large noticeboard exists on the side of the road which today marks the boundary."

During the 1940s British officials gave up using date palms or wells as features from which to determine the point south of Safwan, which was instead defined as falling 1,000 metres (m) south of "the SW extremity of the compound wall of the old customs post along the old road from Safwan to Kuwait." When a new board had been placed at this location in 1940, Iraqi officials protested that the distance should have been 1,250m south of the old customs post at Safwan.

Map 1



In 1951 HMG presented a *Note Verbale* to the Iraqi Government formally offering an interpretation of the point south of Safwan as the point "1,000 metres south of the customs post at Safwan." The Iraqi Government made their agreement to the proposed boundary contingent upon Kuwait ceding the mud-flat of Warbah so that Iraq might exercise sole control over the approaches of the port it intended to develop at Umm Qasr. This set the pattern for future developments: agreement between the two countries on the land boundary was close, but Iraq refused to ratify any agreement unless Kuwait agreed to cede or lease all, or part of, Warbah and Bubiyan islands. Iraq further sought to buy or lease land adjacent to Umm Qasr to facilitate expansion of its port facilities southwards, as is shown on the sketch (Map 2).

In 1963 the Iraqi Prime Minister and the Kuwaiti heir apparent signed *The Agreed Minutes regarding the Restoration of Friendly relations, Recognition and Related Matters*, which, as well as recognising Kuwait's independence, recognised its boundaries as specified in the 1932 correspondence. This document was important as it signified Iraq's recognition of Kuwaiti sovereignty over Warbah and Bubiyan. In August 1990 Iraq was to argue, as part of its justification for its invasion of Kuwait that the 1963 agreement was invalid as it had not been ratified by the Iraqi government. This retrospective argument is weak as the 1963 agreement carried no provision for ratification. Kuwait registered the agreement with the United Nations in 1964.

The problem remained that the 1932 definition of the northern sector of the boundary was hopelessly vague. The situation on the ground, meanwhile, had been complicated by the building of a road on the Kuwaiti side of the border by the Arab League in 1961. Arab League troops had been called in to replace British forces, which in 1961 had been requested by the Kuwaiti rulers to deter a feared Iraqi invasion. In the absence of any demarcated boundary, Arab League troops used as a de facto boundary the sand road, which was only a little way south of, and parallel to, the boundary. The 'Arab League line' as it became known, was apparently never accurately mapped, though one estimate put it 350m south of the boundary. Following the departure of the Arab League in 1963 the Iraqis encroached up to, and in some areas beyond, the Arab League road. Such encroachments were evidenced by the construction of military and economic infrastructure, for example, the naval facilities south of Umm Qasr and agricultural developments south of Safwan.

Iraq's Strategic Quandary and the History of the Maritime Boundary

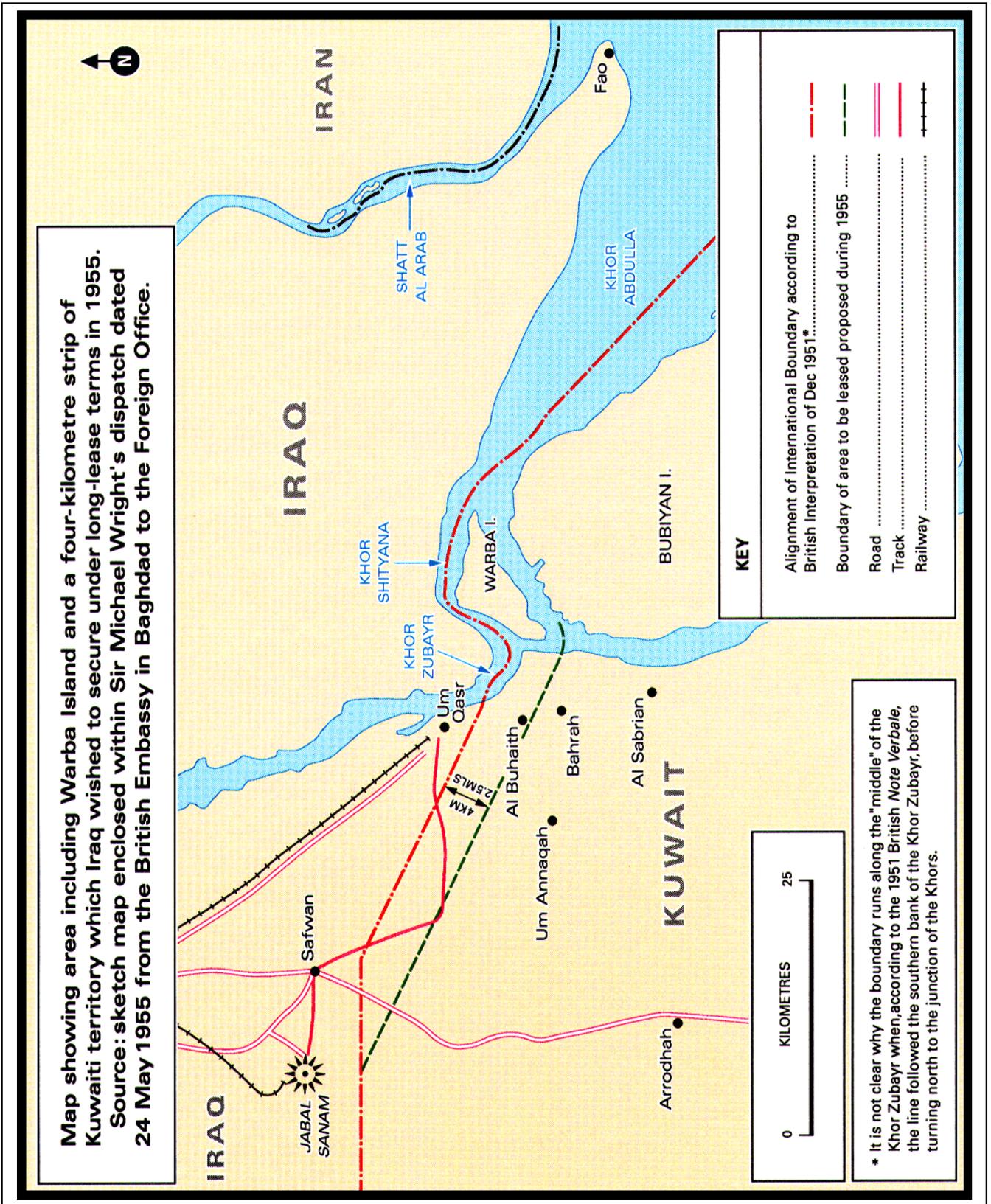
"..it is understandable that the State which controls the Mesopotamian plain should desire to have undivided control of at least one good means of access to the sea, and Lord Halifax thinks that on a long view it is likely that, if Iraq were given this access, it would make for steadier conditions in that part of the world in years to come."
despatch dated 16 Dec 1939 from Lacy Baggallay, Foreign Office, to the India Office in CO 732/16/17

Following Iraq's independence in 1932 Britain remained concerned with political stability in the northern Gulf and until the republican *coup d'etat* of 1958, British administrators remained to assist the Iraqi government and administered the Shatt al Arab through the Basra Port Authority. The RAF maintained their bases in Iraq, with Iraqi consent, until 1956. To solve the problem of secure access to the Gulf a Foreign Office official suggested, in 1938, that Iraq might acquire Warbah by making other territorial concessions to the Kuwaitis. Iraq's encroachments southwards, however, and its intermittently bellicose rhetoric against Kuwait (for instance in 1961 when Iraq refused to recognise Kuwait's independence), resulted in the latter country being understandably reluctant to cede Warbah and Bubiyan.

Iraq's insistence on obtaining an adjustment to the 1932 boundary in the Khawr 'Abd Allah can be explained by its wish to expand its short, low-lying coastline, consisting of mud-flats subject to frequent and extensive inundation. Both Iraq's sea outlets, as transportation routes, are shared with other countries; the Shatt al Arab with Iran and the Khawr Shityanah/Khawr 'Abd Allah with Kuwait. Both routes could be vulnerable to hostile interdiction and, due to siltation processes, require dredging. In addition, by the mid-1970s, the Shatt al Arab had become so congested with traffic that Iraq planned with urgency the expansion of its port at Umm Qasr (opened in 1967) on the Khawr az Zubayr.

Iraq's waterways are also prone to blockage, for example, by wrecks. This was graphically illustrated during the Iraq/Iran War (1980-88) when sunken ships blocked the Shatt al Arab and Khawr 'Abd Allah, and the ports of Basra and Umm Qasr were rendered inoperable by Iranian military action. Iraq at that time desperately sought the assistance of its ally, Kuwait, to prevent interdiction of the Khawr 'Abd Allah by Iran, and, following high level

Map 2



Iraqi/Kuwaiti diplomatic meetings in Baghdad in 1984 there was Kuwaiti media speculation that Kuwait might lease Warbah and Bubiyan to Iraq.

The Kuwaitis issued an instant denial, and announced that these islands were protected by Kuwaiti military forces. An *Observer* report (in December 1984) erroneously reported that newly installed military defences belonged to the Iraqis. The Iranians, sceptical of Kuwait's denials on the matter, threatened that if Kuwait were to lease the islands to Iraq, then Iran might invade and possibly annex Warbah and Bubiyan. Whatever the truth of speculation regarding a leasing agreement, the strategic importance accorded to Warbah and Bubiyan was highlighted.

The Iraq-Kuwait maritime boundary was not specifically described by the 1932 correspondence, which merely noted that the islands of Warbah and Bubiyan "*appertain to Kuwait*". In 1937 and 1940 British officials advocated the use of a *thalweg* boundary, that is, one which would have followed the deepest depth of the khawrs. The situation regarding the section of the boundary from Umm Qasr to the junction of the Khawrs, was particularly confusing, with several differing interpretations. Some official sketches apparently showed a *thalweg* boundary, or at least the line which ran down the 'middle of the Khawr (see Map 2).

It is illustrative, however, to quote HMG's offer to Iraq in its *Note Verbale* of 1951. From the point south of Umm Qasr, it was suggested that the line should follow "*...the spring tide low water mark on the right bank of the Khor Zubair*." Then from the point nearest to the junction of the Khawrs, the proposed boundary ran (as a straight line) to the junction of the khawrs. This description closely resembles that of the UN delimitation in the first sector of the maritime boundary (see Map 6). According to the *Note Verbale* the proposed line would then have run from the junction of the khawrs "*to the open sea*" following "*firstly the thalweg of the north west arm of the Khawr Abd Allah known as the Khor Shityanah and then the thalweg of the Khor Abd Allah proper*."

In 1959 an Iraq official publication depicted the maritime boundary as following a median line, as did a variety of modern maps and charts, and by the late twentieth century median lines were the preferred solution.

Which ever way one defined the maritime boundary, it was clear that Iraq possessed only a short (60km) coastline with no natural deep water

harbour. A Kuwaiti politician once likened Iraq to "*a big garage with a very small door*." This situation was, and is, perceived by Iraq as unacceptable given the access to the Gulf enjoyed by Iran and Saudi Arabia - Iraq's rivals as regional powers. If Iraq could have acquired Warbah and Bubiyan it could more easily protect its route to the Gulf. This strategic consideration formed part of Iraqi thinking prior to the invasion of Kuwait in 1990.

UN Delimitation of the Land Boundary

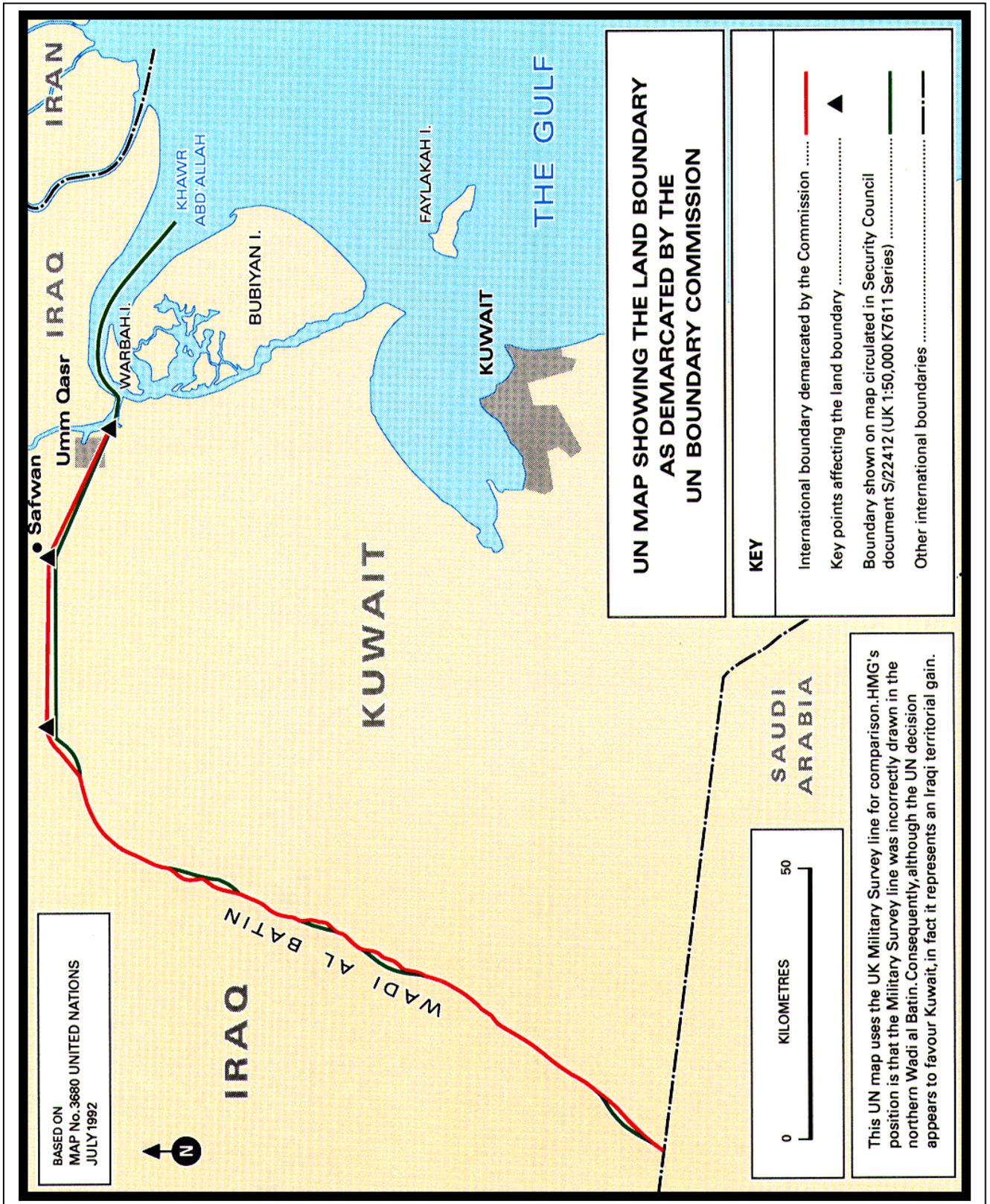
The situation prior to the UN decision of July 1992 was that the boundary was poorly defined, but that agreement was close as to its approximate location. Ratification of a treaty which would have dealt with a more precise delimitation and have made provision for demarcation was stymied by Iraq's demands for concessions over Warbah and Bubiyan. The amount of territory at stake in a final land boundary settlement was relatively small.

It should be emphasised that the task of the UN boundary commission was to clarify the rough delimitation set out by the 1932 diplomatic correspondence with a view to demarcating the boundary. It was in other words a technical exercise based on existing written and cartographic evidence and not, as some commentators portrayed, an attempt to delimit a new boundary. Iraq attended the first five sessions of the UN boundary commission, but thereafter chose to boycott the proceedings, claiming partiality.

Delimitation of the Western Sector of the Boundary (see Map 3)

The western sector of the Iraq-Kuwait boundary was defined by the UN commission as following the *thalweg*, or line of deepest depth, of the Wadi al Batin. This had first been proposed by British officials in 1940. The western boundary was not on the whole contentious. As a natural feature the Wadi al Batin was fairly well defined, except the northernmost part where at one point its *thalweg* divides into two. The UN commission decided that the eastern *thalweg* would form the boundary at this point - a decision favouring Iraq (see footnote to Map 3).

Map 3



*Delimitation of the Northern Sector
(Maps 4 & 5)*

As noted the key point in determining the whole of this sector was the point "just" south of Safwan. The problem faced by the UN experts was that much of their chosen reference point at Safwan (the old customs post) had been destroyed. This obstacle was overcome; to quote para 74 of the UN report:

"The general location of the customs post was established.. using GPS (Global Positioning System) equipment and co-ordinates determined in 1942 from astronomical observations."

The commission was further able 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" (in 1939). (see Map 4)

One will recall that the above description is in accordance with the original British diplomatic correspondence.

The UN map shows the old customs hut and the reference points taken into account by the commission in delimiting the point south of Safwan. Point A represents HMG's proposal to Iraq in the 1951 *Note Verbale*. This put the boundary 1,000m south of the old customs post. Point B represents the 1940 Iraqi protest note, which put the boundary 1,250m south of the old customs post. Point C took account of evidence that the boundary ran "one mile south of the southernmost tree south of Safwan", or alternatively "one mile south of Safwan Wells" on the old road. As the commission found "a degree of congruence" regarding the location of "southernmost tree", Safwan Wells and the old customs post, Point C is marked one mile south of the old customs post on the old road (Map 4).

As can be seen from the UN map, the commission decided that the northern sector of the boundary, from the Wadi al Batin to the point south of Safwan, should follow a line of latitude equidistant between points B and C. The point "on the old road" marks the turning point from which the UN boundary runs south east to Umm Qasr. The reasoning was thus:

"The Commission considered that the two most probable positions for the noticeboard (removed in 1939) were nearly 1,609 metres (one 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." (UN report para 73).

Regarding the point south of Umm Qasr, the boundary commission had as a reference a 1936 British map, which once mapping errors had been taken into account, showed agreement with the current UK Military Survey 1: 50,000 series maps. The UN land boundary therefore terminates at almost exactly the same place as that shown on UK Series K7611 (sheet 55491) mapping (see Map 5).

Demarcation

The demarcation of the entire land boundary was then undertaken by the placing of concrete pillars (3m in height and weighing 4 tons) at approximately 2km intervals. UN experts were assisted by a survey team which undertook the necessary field surveys and air photography.

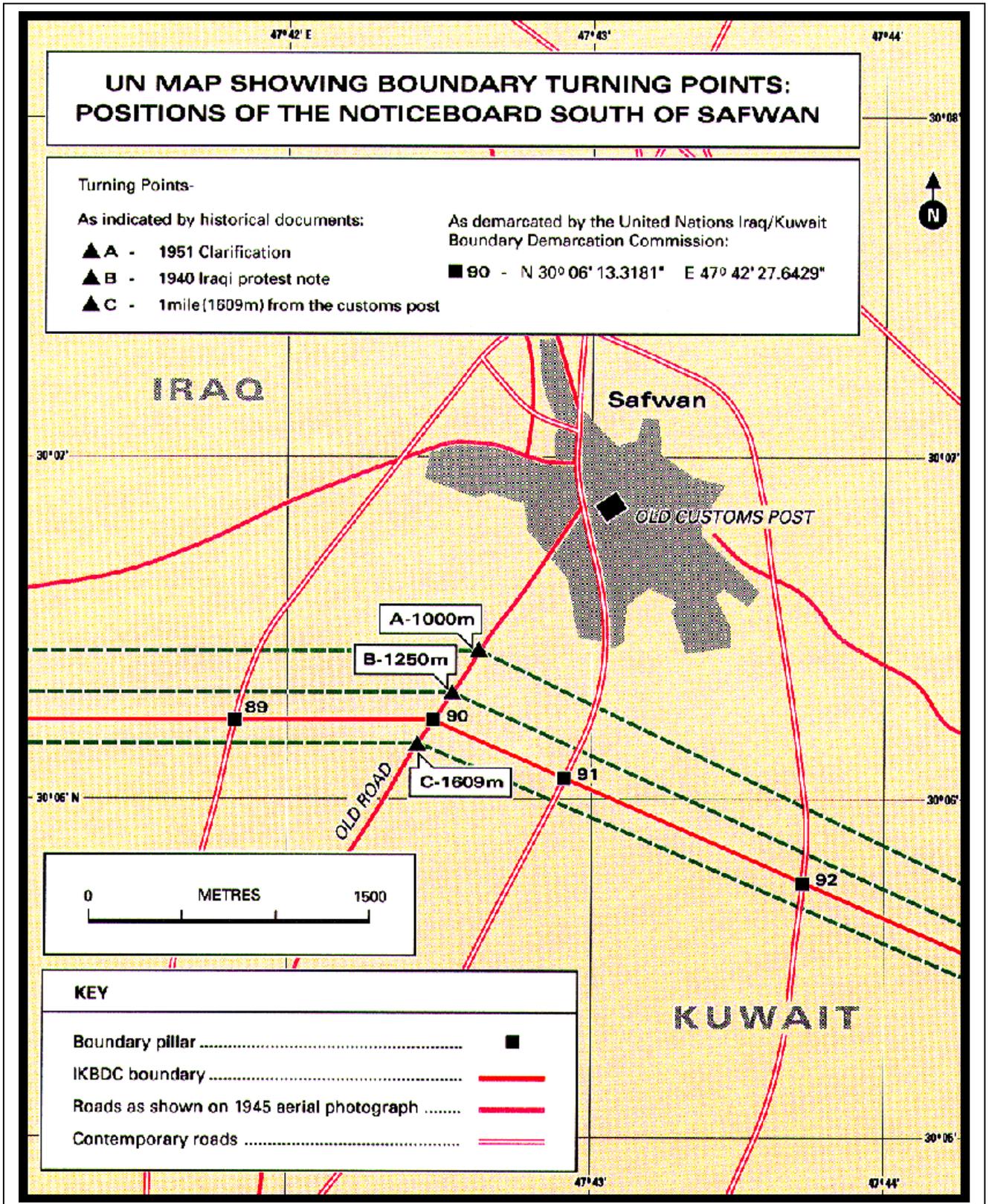
Ramifications of the UN Delimitation

A glance at the UN map reveals that the international boundary is now located 180m south of the point specified in the 1940 Iraqi protest note. Viewed within this context, Iraq was dealt with favourably by the commission (see Map 4). Comparisons of the UN line with previous boundary depictions must be treated with care as prior to 1992 the boundary could only be approximated and interpretations inevitably varied. US mapping, for example, sometimes put the boundary slightly south of that shown on UK mapping.

The UN delimitation, however, established that a 650m strip of land along the northern boundary (controlled by Iraq) lay within Kuwait. This land included eleven oil wells at the southern tip of the Rumaila oilfield and an agricultural area south of Safwan, worked by about 250 Iraqi farmers. (see Map 5).

As noted, the UN line at the naval base of Umm Qasr is almost exactly the same as that shown on current Military Survey maps. Thus, following the demarcation of the land boundary in November 1992 and the enforcement of that boundary on 15 January 1993, Iraq lost effective control of its minor naval jetties just south of Umm Qasr. The

Map 4



commercial port at Umm Qasr remains within Iraqi territory (see Map 6). The question of Iraq's access to the Gulf was not finally settled, however, until some months later when, in March 1993, the UN announced its decision on the maritime boundary.

Although the newly demarcated line represents the best impartial interpretation of existing understandings (with Iraq given the benefit of the doubt in some areas) Iraq perceives it has lost territory, and has accused the UN of punitive motives. Loss of Iraqi infrastructure in the border area, however, is relatively insubstantial, (for instance the oil production loss for Iraq represents just under 1.0% of its pre-war output). The significance for Iraq is therefore largely symbolic.

In strategic terms the most important point is that south of Umm Qasr, where the possibility of long-term Iraqi expansion southwards is now precluded. Enforcement of the land boundary has also undermined Iraq's tactic of refusing to settle the issue of the land boundary in order to gain concessions on the off-shore islands.

Reactions

Iraq informed the UN that it regards its decision as illegitimate, and, contrary to the Gulf War ceasefire terms, has implied a reassertion of its claim to the whole of Kuwait. Kuwait accepted the UN verdict.

Maritime Boundary - The UN Decision

The UN divided the maritime boundary into two sections: from Umm Qasr to the junction of the Khawr az Zubayr, Khawr Shityanah and Khawr as Sabiyah; then from the junction of the khawrs to the mouth of the Khawr Abd Allah.

Umm Qasr to the Junction of the Khawrs

As noted earlier the 1932 correspondence did not specifically describe the maritime boundary and official maps and diplomatic correspondence gave conflicting interpretations, particularly in the sector from Umm Qasr to the junction of the khawrs. Following the UN's decision, the international boundary (starting from the former Iraqi naval facility at Umm Qasr), follows the spring low waterline of the southern bank of the Khawr az Zubayr.¹ It then runs as a straight line northwards to the junction of the Khawrs (see Map 6). This is in accordance with HMG's offer to Iraq in 1951,

which utilizes a similar description. Thus virtually all the Khawr az Zubayr now falls within Iraqi territorial waters. In comparison with current Military Survey mapping (which depicts the boundary as following the 'middle' of the Khawr az Zubayr) Iraq has gained substantially in this sector. (see Map 7).

From the Junction of the Khawrs to the mouth of the Khawr 'Abd Allah

British officials originally proposed a *thalweg* boundary. The approximated boundary on current Military Survey mapping follows the 'middle' of the Khawr Shityanah then, in the Khawr 'Abd Allah, veers towards the dredged channel (see Map 7). Although the principle on which the Military Survey line was drawn is unclear, it is clear that the boundary on current Military Survey maps does not, for the most part, follow the dredged channel in the Khawr 'Abd Allah, although it veers south of the median line in the eastern part of the khawr.

In their consideration of the maritime boundary the UN commission took account of a 1959 Iraqi publication which depicted the maritime boundary as a median line - as did many other maps and charts. The commission also decided to accept the median line principle - a principle which is generally consistent with other maritime boundaries in the Persian Gulf.

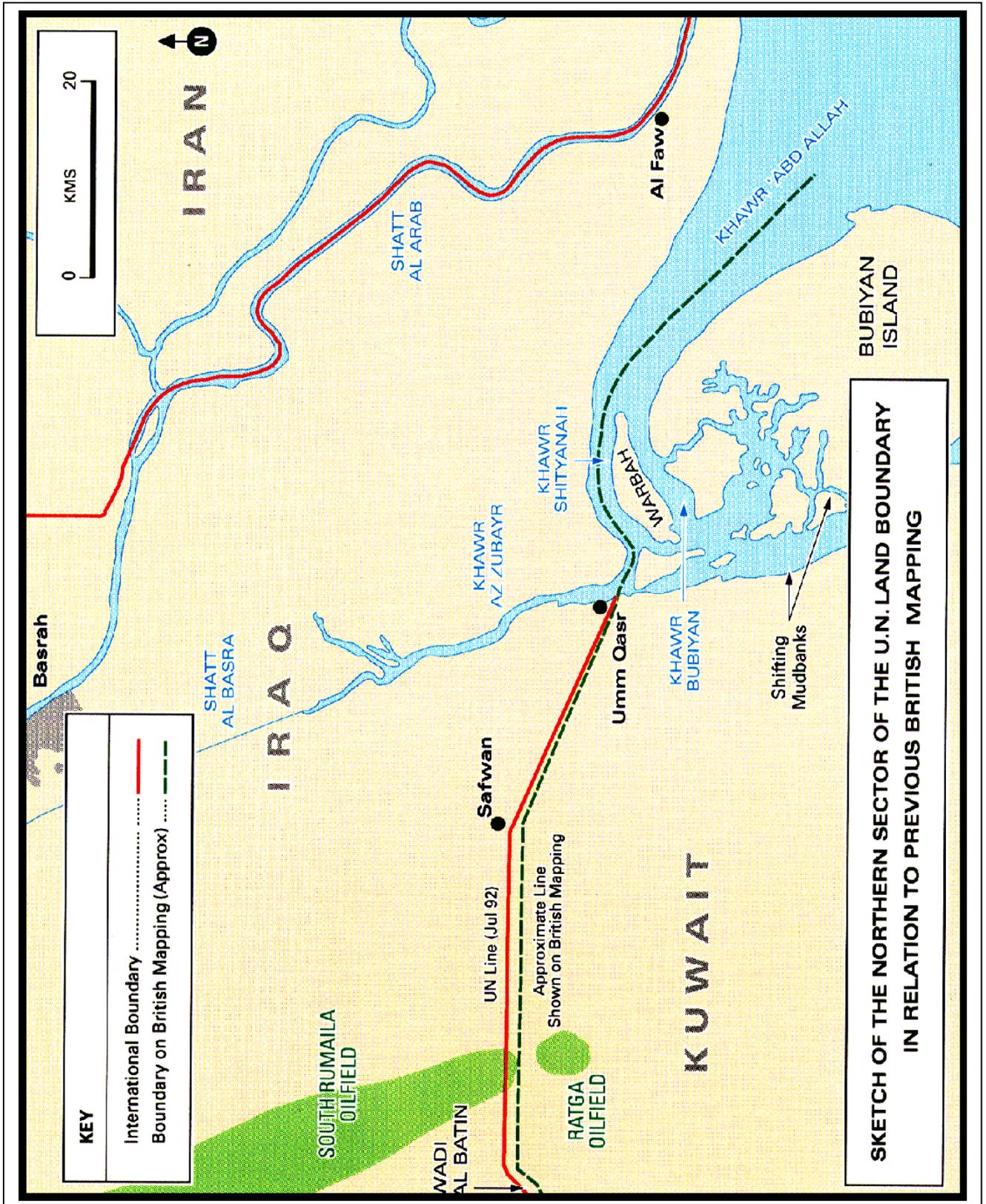
The median line was defined by the commission, using as base lines the spring low water marks of the respective coasts as depicted on Admiralty Chart 1235 (1991) (see Map 7). The general accuracy of this chart was confirmed by reference to specially commissioned (1993) aerial photography. The boundary has been delimited as a 'fixed line' defined by a series of coordinates. In other words, if there are changes in the shape of the coastline caused by erosion or siltation, the boundary will remain unaltered.

The UN line, after following the median line of the khawrs, terminates short of the mouth of the Khawr 'Abd Allah, falling short of forming a three nautical mile (nm) limit. As both countries claim a 12nm limit, bi-lateral negotiations will be required to extend the boundary.

Demarcation

Pointer poles will mark the junction of the Khawr az Zubayr, Khawr as Sabiyah and Khawr Shityanah. It

Map 5



is not usual to physically demarcate a maritime boundary and it was not considered necessary to do so in this case.

Ramifications of the UN Decision

The UN has stressed that Iraq will have navigational access through the khawrs; a right buttressed by the 1982 Convention on the Law of the Sea. Iraq will have no automatic right, however, to maintain the deep water channel it had dredged in 1989-90 by a Belgian-Dutch firm, as much of this falls on the Kuwaiti side of the boundary (see Map 7). This dredged channel enables vessels of up to 11.5m in draught to use the ports of Umm Qasr and Al Zubayr. Even if Iraq could find a foreign company willing to flout sanctions and dredge a channel to the north of the existing one, the high costs involved would be prohibitive and Iraq itself does not possess the technical capability. Technical factors would also make the dredging of a new channel difficult. Any new dredging to the northeast of Bubiyan Island would be hindered by heavier silt deposition in that part of the khawr and material dredged from the existing channel has been dumped in this area.

Furthermore, to facilitate navigation, the course of the existing channel SE of Bahrah Point was located in the deepest part of the Khawr Shityanah. Ships sailing through any newly dredged channel further north, would of necessity proceed at reduced speed, and negotiation of even a 50° change of course close to Bahrah Point could result in their running aground. A solution to the problem of silt accumulation in the dredged channel would have to be found.

Regarding the offshore islands, the UN decision reaffirms Kuwait's sovereignty over Warbah and Bubiyan, although a future deal whereby Kuwait might agree to lease the islands is not precluded. There would remain the problem of any Iranian reaction to such a development, especially if Iraq were to be allowed to establish military facilities on the islands. One recalls Iran's veiled threat to annex Warbah and Bubiyan in 1984 if it found Iraqi military bases on the islands.

An important ramification of the UN decision is that it removes uncertainty regarding the location of the boundary in the khawrs. In the future, however, the boundary will have to be extended to 12nm (both states are entitled to claim a 12nm limit) and bi-lateral negotiations will be required before the boundary issue can be closed. A more immediate difficulty is that Iraq will have to seek Kuwait's

permission to maintain the dredged channel - an unlikely prospect whilst Iraq remains subject to international sanctions.

Reactions to the UN Delimitation

Iraq's reaction to the decision on the maritime boundary has been to claim that the UN acted without a mandate and to criticise the "hasty" decision to apply the median line principle, whilst stopping short of expressly stating outright rejection. Iraq further drew attention to the resignation of the first chairman of the commission, claiming that this was partly because of reservations over the commission's terms of reference. In a letter of protest, sent in June 1993 to the UN General Secretary, the Iraqi Foreign Minister (Muhammad Said al-Sahaf) claimed:

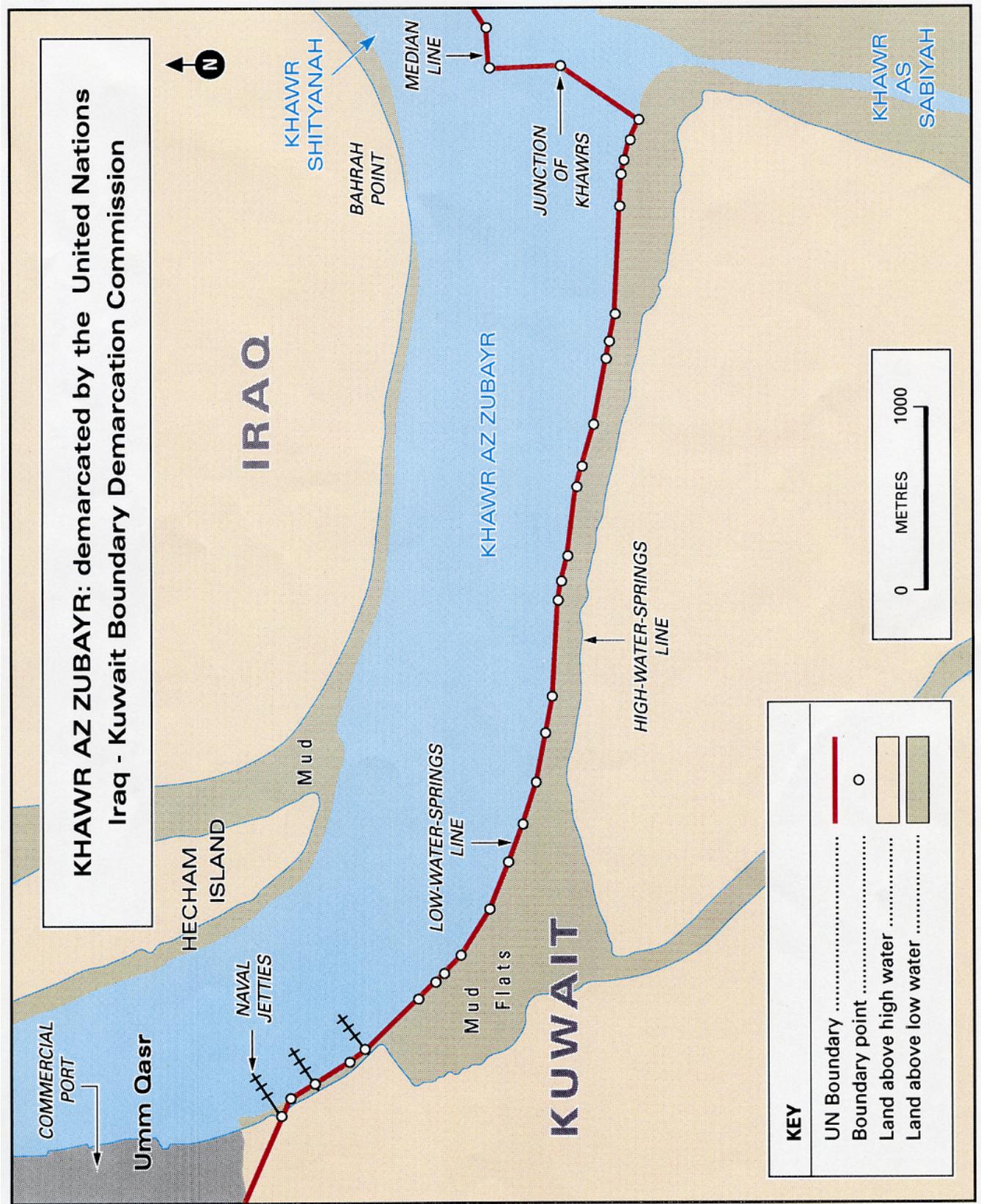
"the imposition of the boundary presents a grave threat to Iraq's right to enjoy access to the sea by exercising its historic right to unrestricted and safe navigation of the area."

He further claimed that the UN's decision was "a purely political decision imposed by the powers dominating the Security Council and the UN, particularly the US and the UK.." This study has shown, however, that contrary to such Iraqi assertions, the UN commission carried out a technical exercise based on historical evidence. The commission was not mandated to re-draw the Iraq/Kuwait boundary to satisfy Iraq's perceived strategic requirements.

The UN response to the above Iraqi statements was to dismiss the protest letter and to link the lifting of economic sanctions to Iraqi acceptance of the international boundary. A statement issued by the Security Council stressed to Iraq the inviolability of the international boundary "...and the serious consequences that would ensue from any breach thereof."

Kuwait has expressed its "satisfaction" with UN Security Council Resolution number 833 which furnished the final ratification of the UN commission's findings according to Chapter 7 of the UN Charter. (Chapter 7 guarantees the sanctity of international borders).

Map 6



Future Developments

For Kuwait the establishment of internationally recognised boundaries has been an important step forward. The boundary, however, continues to represent a source of tension between Iraq and Kuwait. The Kuwaitis have constructed a trench (3m deep and 5m wide) and a sand berm (3.7m high) along the entire length of the boundary. There are also plans to construct three fences along the border, one of which is to be electrified or equipped with electronic sensors. Such obstacles are part of a defence system which may include mine traps and machine gun nests.

Although the Iraq-Kuwait boundary is now well defined, it is of concern that Iraq has been reluctant to accept the boundaries it has agreed to in the past with both Kuwait and Iran, and, at times when it has accepted one of these boundaries it has rejected the other. During the Iran-Iraq War, for example, the dispute with Kuwait was put aside and the 1975 Algiers Accord, which delimited the boundary with Iran, was (literally) torn up prior to Iraq's invasion of Iran. The Accord was rehabilitated during the Iraqi occupation of Kuwait (following Saddam Hussain's letter of 14 August 1990 to President Rafsanjani) at which time, of course, Iraq had achieved its aim of securing access to the Gulf.

In the future, however, if Iraq were again to tear up the Algiers Accord with the aim of gaining a larger slice of the Gulf coastline, the resulting dispute would be about Iraqi dissatisfaction with an agreed boundary and not a boundary dispute caused by the imprecise definition of a line.

Harry Brown is a Research Officer at the Ministry of Defence. He is grateful for advice given by Military Survey, the Territorial Waters Officer of the Hydrographic Office, and other MOD analysts. The views and opinions expressed, however, are the author's and do not reflect government or official policy.

Map 7

