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The International, Regional and Legal Aspects of Iraq's Invasion
of Kuwait 1990-1991

Presented

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Abstract

The resolution of the Iraq-Kuwait crisis depended on the leading role played by the US in managing the crisis and eliciting the international and regional support needed to uphold international law and restore the legitimacy and sovereignty of the Kuwaiti state. In that Saudi Arabia and the UN immensely aided the US. The focus of the study will be on this particular contribution of the Security Council and Riyadh to the resolution of the crisis.

Saudi Arabia's leading regional role in support of Kuwait and its willingness to participate in the war waged against Iraq from its territory shows the extent of its concern over the strengthening of Iraq as a dominant force in the Gulf area as well as over Iraqi violation of the Charters of the UN and the Arab League. The international response was also motivated by similar concerns, in addition to Iraq threatening the strategic interests of the US. It was this direct threat to the US that motivated Washington to use the Security Council as the most appropriate vehicle to manage the crisis by emphasising adherence to international law and UN Charter.

There was no doubt that Iraq violated international law, but the domination of the international coalition and the Security Council by the US tainted the role of the UN and emphasised the fact that Desert Storm was not merely about restoring Kuwaiti sovereignty but also about the destruction of Iraqi power. The severity of the sanctions and their continuation for more than a decade is further evidence that Washington's objectives go beyond the needs of upholding international law and maintaining peace and stability. The Gulf war restored Kuwaiti sovereignty but did very little to restore stability and peace in the region. Divisions among Arab states have been accentuated, the Arab league is totally marginalised and the GCC lacks the ability to create a viable order to safeguard the sovereignty and stability of the Gulf area. Thus the consequences of the war on the region and on Saudi Arabia, Kuwait and Iraq have been extensive and devastating.

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Dedication

To my parents, who have always wanted
the best for us.

Copyright Statement

The copyright to this thesis rests with the author. No quotation from it should be published without his prior written consent and information derived from it should be acknowledged.

Declaration

The material contained in this thesis is the author's own work has not been previously submitted for any degree or diploma in this or any other University.

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The completion of this study would not have been possible without the assistance I have received from many dedicated people throughout the various stages of my work.

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Finally, I would like especially to express my sincere thanks and deep gratitude to my wife and my children for their patience, sacrifices, emotional support and continuous encouragement throughout the course of this long journey.

English Transliteration

Note:

In transliterating Arabic, I have used on the system preferred by the Centre for Middle Eastern and Islamic Studies at the University of Durham.

Consonants

| | | | | | |
|---|-----------|---|-----------|---|---|
| ء | ' | ز | z | ق | q |
| ب | b | س | s | ك | k |
| ت | t | ش | <u>sh</u> | ل | l |
| ث | <u>th</u> | ص | <u>s</u> | م | m |
| ج | j | ض | <u>d</u> | ن | n |
| ح | <u>h</u> | ط | <u>t</u> | ه | h |
| خ | <u>kh</u> | ظ | <u>z</u> | و | w |
| د | d | ع | c | ي | y |
| ذ | <u>dh</u> | غ | <u>gh</u> | | |
| ر | r | ف | f | | |

Vowels (Long)

| | | | |
|--|---|---------|----|
| | a | ا، آ، آ | aa |
| | i | ي | ii |
| | u | و | uu |

| | |
|----|----------------------------|
| ة | a (at in Construct State) |
| ال | al - (article) |

C= superscript

Examples:

حرية (hurriya)

عرب ('arab)

الفقراء (al-fuqaraa')

List of Abbreviations

| | |
|---------|---|
| ACC | Arab Cooperation Council. |
| B/d | Barrels per day. |
| BBC | British Broadcasting Corporation. |
| CIA | Central Intelligence Agency (United States). |
| DU | Deputed Uranium. |
| EC | European Community. |
| FAO | The Food and Agriculture Organization. |
| GCC | Gulf Cooperation Council. |
| GDP | Gross Domestic Product. |
| GNP | Gross National Product. |
| IAEA | The International Atomic Energy Agency. |
| IR | Iraqi Dinar. |
| KD | Kuwaiti Dinar. |
| KDP | The Kurdish Democratic Party. |
| LAS | League of Arab States. |
| NOCs | National Opportunity Organization. |
| NS.C | National Security Council. |
| OPEC | Organization of Petroleum Exporting Countries. |
| PLO | Palestine Liberation Organization. |
| PUK | Patriotic Kurdistan Union. |
| RCC | Revolutionary Command Council (Iraq). |
| UAE | United Arab Emirates. |
| UN | United Nations. |
| UNCC | The United Nations Compensation Commission. |
| UNICEF | United Nations Children's Fund. |
| UNIKBDC | United Nations Iraq-Kuwait Boundary Demarcation Commission. |
| UNIKOM | United Nations Iraq-Kuwait Observation Mission. |

UNSCOM The United Nations Special Commission.
US United States.

Glossary

- Fatwa*: Religious edict (in Islamic Law, an answer to a question put by a lay person to a scholar).
- Jafari Shi'i*: *Shi'i* Islamic legal school, this Islamic legal code is named after Imam Jafar AL-sadiq (699-756 AD), the Sixth Imam of Twelver *Shi'i*.
- Mufti*: Official expounder of religious law.
- Quran*: The Holy Book.
- Shari'a*: Islamic Law consisting of divine revelation in the form of the *Quran*, And prophetic practice, *Sunna* (as recorded in the Hadith).
- Shi'i*: Islamic sect *Shi'i* is a derivative of *Shi'i* Ali, partisans of Ali, cousin and Son-in-Law of the Prophet Muhammad (570-632AD).
- Sunna*: The ensemble of Prophet Muhammad's *hadith* (speeches and words) Attitudes, equivalent to the *Tischreden* of the Lutheran tradition.
- Ulama*: Learned men of religion (*'ilm* is literally "science" and, by extrapolation, " science of things legal". This makes it in context equivalent to *fiqh*, and *'alim* (pl. *'ulama*) equivalent to *fiqh* or *mujtahid*).

Chapter One

Introduction

The Iraqi invasion of Kuwait 2 August 1990 presented the Arab regional system and the international system with a serious challenge as to how to respond to such an act of aggression against a sovereign state. This challenge was taken up successfully by the international community led by the US and was able within a very short time to restore the legitimacy of the Kuwaiti state and end its occupation. The Arab regional system, on the other hand failed miserably in its efforts to manage the crisis on its own, hence making international intervention necessary and leading to further inter-Arab divisions and tensions as well as intensifying the presence of the Americans in the area. This came at a time where inter-regional relations were already suffering from divisions and lack of any coherent Arab strategy on the economic and political levels. The Iraqi misadventure in Kuwait can be seen, in fact, as a reflection of this disarray in the Arab regional system.

Iraq after its eight years war with Iran ended up with huge debts exceeding \$80 billion, a total cost of the war estimated at \$160 billion and a reconstruction bill of \$220 billion. This internal financial and economic crisis that was threatening the stability of the Iraqi regime was foremost responsible for the dramatic decision by the Iraqi government to invade Kuwait. The Gulf states and particularly Kuwait were aware of the immense pressures on the Iraqi government. The public campaign waged by Iraq against Kuwait accusing it of overproducing oil and pumping from the Rumaila oil field without the prior knowledge of the Iraqi government, in addition to demands to forgive its debt to Saudi Arabia and Kuwait and Emirates were clear indications of the desperation of Iraq. However, neither the GCC nor the Arab League were



capable of acting in time to diffuse the situation and prevent the catastrophe that befell the region.

Iraq's action, thus, did not come as a total shock, rather it was the scale of the aggression that took the region and the international community by surprise. Most predictions thought that Iraq would move to take Rumaila oil field or occupy Warbah and Bubiyan and not to occupy the whole of Kuwait and annex it to Iraq. On the Iraqi side, they did not expect the international community led by the US to react in such a determined and quick manner in support of Kuwait. They also did not expect Saudi Arabia to take the decision to invite foreign troops onto its territory. This situation of misperceptions led to disastrous consequences for the whole region. On the Iraqi part it led to the destruction of Iraq and the loss of thousands of lives during the war while the sanctions regime have undermined the socio-economic structure of Iraq for years to come. For the Gulf states the crisis highlighted their security problem and dependence on the West for defence of their sovereignty and independence, and the limited capability of the GCC to act during times of crisis.

The uniqueness of the circumstances of the Gulf crisis is not limited only to the extent of the aggression of Iraq and the inability of the Arab system to deal with a serious inter-Arab dispute, but also in the international reaction to the invasion. This international response is partly attributed to Iraq's clear violation of international law and customs in that a member of the UN attacked and occupied another member of the organisation. In addition, both Iraq and Kuwait are members of the Arab League whose charter has been violated too. The other reason relates to the end of the Cold War. That helped immensely the Security Council to function with out any major power using its veto power. It explains the successful passing of resolutions that ranged from condemning the invasion to taking military action to restore the Kuwait's sovereignty.

The absence of Cold War politics, also, helped the US to dominate the anti-Saddam coalition, highlighting the significance of the Gulf area to Western powers. Gulf oil was once used as a weapon against the West, during the

1973 October War with Israel, threatening the industries and the livelihood of the West, and was followed by a massive increase in oil prices. The Iranian Revolution and the Iran-Iraq war, also, caused interruption in oil supplies and increases in oil prices. In 1990, the West was determined to fight off any such consequences by the coalition that quickly gathered in support of Kuwait and the rest of the Gulf states. In addition, the international response was in recognition of the sovereignty of Kuwait and was intended to prevent the strengthening of Iraq as a regional power.

I. Objectives of the Research

The US from the onset of the crisis led and organised the manner in which the international community responded to the Iraqi invasion of Kuwait and its violation of international law and the Charters of the UN and Arab League. In that it needed the support and co-operation of Saudi Arabia as well as the involvement of the UN. The first aim of the research is to analyse the crucial role played by Saudi Arabia in restoring the legitimacy and sovereignty of Kuwait. Saudi Arabia's traditional foreign policy approach of keeping a low profile and balancing between the various regional actors was overnight transformed into a more public one, that took a firm position against a brotherly Arab country. Moreover, the government quickly abandoned its cautious policy of no open US presence in the country and invited Western troops onto its territory. A sense of betrayal and fear of Iraq can only explain such major departures in policy. Iraq's action was perceived as threatening to the balance of power in the Gulf. A dominant and aggressive Iraq was not a welcomed development for either Saudi Arabia or the rest of the Gulf states. In addition, a challenge to the territorial boundary of a Gulf state sets a dangerous precedent in an area plagued with territorial disputes.

The second aim relates to examining the role played by the UN, especially the Security Council in light of the end of the Cold war. The UN over its fifty years of existence has faced many regional conflicts and territorial disputes that threatened international peace and security. However, on very few occasions

was the UN able to intervene quickly and successfully. That begs the question of the circumstances and factors that allowed the UN to play such a determining role in the case of the Iraq-Kuwait conflict, and a very successful one in terms of restoring the sovereignty of Kuwait. To some this was welcomed as a sign of ushering a new era for the international organisation to play the role designated to it by its Charter. Others were sceptical and saw the success of the UN as a consequence of the willingness of the US to play a leading role in order to protect its strategic interests in the Gulf region.

The third and last objective relates to analysing the consequences of the military action on the region. The manner in which the crisis was resolved in the end depended on using force and initiating military action against Iraq. This, on the one hand, succeeded in liberating Kuwait and restoring its legitimate government, but on the other it had many repercussions. It caused massive damage to Iraq, increased the divisions and differences among the Arab states, and more importantly expanded the military presence of the Americans in the Gulf. In addition, it exposed the weak defence of the Gulf Arab states and their high dependence on Western technology and manpower. Attention will be given, also, to the overall environmental consequences of the war on the area. Much emphasis was put on the damage done by the burning of oil fields, while ignoring the much wider and extensive environmental damage of the war itself.

II. Hypothesis of the Research

The main argument of the study is that the successful resolution of the Iraq-Kuwait crisis depended on the leading role played by the US in managing the crisis. That management depended on a strategy of escalation to the point of war in order for the international coalition to achieve its objective of a total win over the Iraqi regime. A combination of fortuitous circumstances aided the US and its allies in adopting the escalation approach rather than a negotiation approach and in not showing any serious inclination for compromise or appeasement.

Firstly is the clarity of the Iraqi violation of international laws and the Charter of the UN made it relatively easy to gather international support for the anti-Saddam coalition. It helped, also, in contextualising the crisis in a legal frame of reference and made the military action of the coalition appear more in support of upholding the rule of law, rather than a severe punishment of Iraq for daring to challenge the existing balance of power in the region. Thus, upholding international law was only part of the overall picture that helped in the successful resolution of the crisis. The political interests of Saudi Arabia and the strategic interests of the US in the area were determining factors in the execution of the war. The containment and the punishment of the Iraqi regime were as important as adherence to international law.

Secondly, the absence of Cold War politics helped the US to elicit the support and co-operation of the Russians and made the functioning of the Security Council more efficient. The case showed the extent of which the international system being dominated with one superpower can function to the advantage of one group against another. In this case it was Iraq against the majority of Western countries. Hence, those that talked about New World order and a new role for the UN were too optimistic and ignored in their analysis the political interests that brought together such a strong coalition against Saddam. The convergence of such political of the key players in this crisis, namely the US, Kuwait and Saudi Arabia as well as other western countries was a key element in the management of this crisis.

The co-operation of Saudi Arabia with the US and its commitment to the Kuwaiti cause were paramount for the success of the American approach of escalating the crisis to the point of leaving no option open except war. In this Riyadh was primarily motivated by its fear of Saddam's regime, its political interests in maintaining the status quo in the Gulf area, in addition to support of international law and the Charters of the UN, Arab League, and the GCC. For Saudi Arabia such overt co-operation with the US against an Arab country was a departure of the manner in which it conducts its regional and international affairs, necessitated by the special circumstances that Saddam's

invasion imposed on the region. Thus we see Riyadh after the end of the crisis has reverted back to its traditional policy of low profile and behind the scene activities to conduct its foreign affairs. Being in the public eye is something that the Saudis prefer to avert.

III. The Methodology of the Study

The study utilises the concept of crisis management as its tool of analysis for understanding the manner in which the crisis was controlled with a special focus on the role played by Saudi Arabia and the UN. This concept has gained grounds in the literature of international relations since the Cuban missile crisis of 1962. Robert McNamara, Secretary of state of the US during the crisis made his renowned statement "there is no longer any such thing as strategy, only crisis management".¹ This crisis generated a great deal of academic interest in crisis management since the two superpowers, the US and the Soviet Union, came very close to a nuclear confrontation and caused the birth of a new field of research in international relations focusing on crisis management. The objectives of crisis management can be summed as follows:

1. to find satisfactory solution to the parties involved;
2. to understand the causes of war and hence attempt to control the forces driving towards escalation of conflicts;
3. to diffuse the crisis by attempting to resolve the underlying conflict and
4. to create and develop institutions that are capable of dealing with future crises.²

However, crisis management acknowledges that there are some conflicts that will not be avoided by resorting to crisis management and that is why some crises lead to war while others are defused and resolved.³ Such crises are

considered inherently unmanageable because of the presence of a variety of variables such as irreconcilable objectives, unwillingness to compromise or accept defeat, the personality of the adversaries and more importantly if one side wants to have a total win; in other words wants war.

There are many definitions for international crisis, however these can be divided under two major approaches; the systematic approach and the decision-making approach.

The systematic approach: This approach takes a global view of state interaction and describes how a crisis taking place between two or more states within a given international system and how it fits into that system and is affected by it.⁴ A useful definition of the crisis is used by Kintner: a crisis is any confrontation of national wills during which one or more powers act in such a manner that a significant departure from normal relationships is reached. This departure is usually marked by a greater emphasis on the use or suggested use of force than on negotiation and diplomacy.⁵ This approach focuses on two elements change and conflict since a crisis is seen as a point of transformation in the system and that a crisis increases the probability of war and the use of military force. Some of the criticisms levelled at this definition concern the following;

1. It ignores the variables in decision making process and its effects on the development of the crisis;
2. Not all crises cause system change while others might increase the possibility of change;
3. It exaggerates the relation between international crises and war.⁶

The decision-maker approach: This approach depends on the perception of a single state as to the existence of a crisis. This perception of a situation as constituting a crisis requires three necessary conditions:

1. a surprise situation: events creating the crisis takes the decision-maker by surprise;
2. a threat situation: usually it is a threat to the core-values and high priority values held by the decision-making group and
3. a situation that restricts the amount of time available to the decision-maker in order to respond before the situation is transformed rendering the decision useless.⁷

Thus in this approach it is perception and not the objective reality, as in the systematic approach, that is at the core of decision-making and behaviour during a crisis. Some consider the surprise element, taken into account the intelligence systems that operate nowadays especially in developed countries as too exaggerated in importance. According to a study conducted by Howard Inter in the US concerning the concept of crisis, 92 percent of those surveyed said that international crisis that involve the US may be the result of the behaviour of the US government itself. One wonders if Gulf crisis is among that percentage?⁸

The tension that exists in crisis management between taking risks to gain objectives while also trying to avoid the outbreak of war or the escalation of hostilities led to the development of two schools of thought on the matter. The first sees crisis management as an exercise in winning. The main objective here is to get the opponent / enemy to capitulate and grant the concessions demanded. Thus it is seen as an opportunity to enhance ones interests and status in the international system and the focus is on the opponent / enemy rather than on the crisis itself. High risks are taken in order to achieve the objectives. Winning is the most important factor during the crisis.⁹

The other school adopts the contrary. It sees the importance of crisis management in avoiding war through the peaceful resolution of the conflict. Thus success is measured by the avoidance of war. The parties to the conflict see the danger of the probability of war and hence share a mutual desire to avoid it and a commitment to find a peaceful alternative.¹⁰ As to which school of thought prevails during a crisis that depends on circumstances and will exist in different proportions in any one crisis.¹¹

Crisis management has at its disposal two different instruments for resolving a crisis; coercive means that escalate the crisis such as embargo, attacking civilian or military targets, the taking of hostages civilian or military or by taking steps that closes all opportunity of peaceful solutions, hence forcing the adversary to initiate force or to capitulate.¹² Also coercive means include threats that aim to influence the choices and alternatives of the adversary and which escalates the crisis to a great extent verging into war as happened with UN resolution 678. The use of these instruments shows a propensity for the national interests to prevail over any common interests that may link the adversaries.¹³

The other instruments are primary conciliatory aiming at reducing the level of the crisis and preparing the grounds for a settlement. By choosing to use these instruments the focus is on the common interests between the adversaries, which encourages them to pursue ways to avoid a catastrophe. This includes either major conciliatory moves such as a clear indication by one party of its readiness to compromise or sending messages indicating willingness to compromise and suggesting ways of settling the crisis. A reduction in the level of the crisis involves a variety of moves, responses and exchanges, all aiming and indicating in essence a willingness and a commitment to bring the crisis to a peaceful end.¹⁴

In a real situation the tendency is towards utilising a combination of both instruments in order to diffuse a crisis. There are factors that influence which of the two instruments will prevail and/or what combination of the two will be used. These include the balance of power between the two sides, the

legitimacy of the demands of the adversary as well as the significance of the national interest that each side aims to achieve.¹⁵

IV. Applying the Concept of Crisis Management to the Gulf Crisis

First we must start by illuminating the special elements of the Gulf crisis that sets apart from any other international crisis. To some degree this is true of all international crises; they are never similar either in causes or consequences. But in this particular crisis the absence of cold war politics and the dominance of the system with one superpower make it particularly unique. These elements include;

The actors in the crisis: although the conflict lies between Iraq and Kuwait, the major actors have been Iraq and the US. From the moment of the invasion the US and Iraq were set as the two adversaries fighting and competing with each other to achieve their own set of objectives. The US was very successful in legitimising its interference and leadership by involving the Security Council from the onset of the crisis and by eliciting the co-operation of Saudi Arabia. Without the commitment of Saudi Arabia the US could not have maintained the coalition against Saddam and could not have launched war.

The issue of the crisis: UN resolutions and the public statements of the US and its allies indicate that the issue is the invasion and occupation of Kuwait by Iraq. Hence the aim of the coalition was to restore the legitimacy of the Kuwaiti government and end the occupation. However the real issue was in fact the balance of power in the region and the elimination of Iraq as a regional power in order to safeguard the interests of the West in the area, namely oil and to safeguard the security of the other Gulf Arab states. Iraq's violation of international law and its non-compliance of UN resolutions gave the coalition legitimacy and validity and focused attention on the overt objectives rather than the covert ones.

The costs of the crisis: This involves a variety of costs: political, economic financial, human lives and the environment. The highest price was paid by Iraq, followed by the Gulf states particularly Saudi Arabia and Kuwait, whose financial commitment to the coalition was huge. Also the effects of the invasion and the war was detrimental to the environment of the whole region. As for the coalition, since the brunt of the cost of Desert Shield and Desert Storm was carried by Saudi Arabia and Kuwait, and because of the escalation of armament build up in the Gulf, they were in effect better off financially, especially the US. Loss of life for the coalition was insignificant if compared with Iraq or Kuwait and the war took place far away from their own countries that their environment was not affected. Thus in terms of total costs of the crisis the regional system suffered most on all fronts; politically, the economically, financially and environmentally.

The management of the crisis: Measuring the management of this crisis against the aforementioned concept of crisis management it is clear that the crisis has been mismanagement. War was not avoided and the use of force was necessary to end the crisis. However if one is to take into account the manner in which the US led coalition escalated the crisis and closed all windows of negotiation in the face of Iraq's resolve not to back down, war perhaps was a desired objective. At no point in the crisis did the US show any serious interest in co-operating with Iraq to find a way out that would save face for Iraq. Statements such as "Iraq must be stopped" and the "US has crossed the no return point", affirmed such a lack of willingness.¹⁶ Iraq needed a face saving formula but the US was intent on denying it that. Thus one of the major conventions of crisis management was denied to Iraq. The essence of this convention is that the concerned parties to a conflict are in the same boat and must resist teaching each other a lesson. The crisis must be settled in a way acceptable to all without a humiliating loss of face for those involved. Moreover both sides must be able to demonstrate that the solution is a partial victory for it.¹⁷ That is exactly what was needed and was denied. The US led coalition was intent on teaching Iraq a lesson and offered nothing

in terms of face saving to allow Iraq to de-escalate and to comply with all UN resolutions.

If these considerations are to be taken into account then one is inclined to say the crisis was managed successfully and succeeded in achieving what seems to be the real reason for the war; the destruction of Iraq's military power, the prevention of its strengthening as a regional power and the maintenance of the status quo in the region in favour of Western interests. It gave the US the total win it aspired for.

One must add that the perception of threat played a significant part in the decision making group in Saudi Arabia to invite foreign troops to the country, without which the US could not have executed its plans and achieved its objectives. Whether this threat was real, imagined or exaggerated is of an academic interest only. The reality is that Saudi Arabia's approach of the crisis was based on that factor. The time factor also played a role in that Saudi Arabia needed to pre-empt action on the part of Iraq since it was fearful of the consequences of what may follow the massing of Iraqi troops on its borders.

As for Iraq the management of the crisis proved to be disastrous. It took huge risks without having the power to face up to such an extensive build up of military power, unseen before in the region. The build up was rapid and enormous yet the Iraqi regime believed till the very end that the US will not initiate war and that it will offer some sort of compromise. Perhaps Saddam was trapped. On the one hand the coalition was unwilling to offer any face saving formulas and he could not be seen to back down or perhaps he actually did believe that he can inflict heavy losses of life to force the coalition to retreat. He took huge a risk in not complying with the UN resolution 678 before the dead line expired. In contrast to the total win of the coalition his loss was total. His escalation of the crisis in the hope that he can force the international community to accept the fait accompli backfired on him. All this could have been avoided if only the Iraqi regime could have seen how serious and intent was the coalition on executing their threats. The perceptions held

by the Iraqi till the very end that the US will back off and will not initiate war proved to be detrimental to Iraq. Personalities and perceptions of the adversaries were of great significance in this crisis.

One last remark on the way the crisis was resolved. It failed to take account of the new emphasis in the literature of conflict resolution on the concept of conflict transformation. That entails a focus on the idea that a resolution had to encompass a long-term process of reconciliation and healing and in many cases a radical change in the relationship between adversaries. Thus conflict resolution should aim at something better than a cold peace and tries to deal with the question "after the agreement, what?"¹⁸ That is precisely what has been lacking in the resolution of this crisis. The continuous isolation of Iraq and the persistence of sanctions for over a decade has intensified the tension and frustration of the Iraqi regime and has put a wedge between Kuwait and Iraq and the rest of the Gulf states that will take years to heal. Also the stability of the boundary demarcation is doubtful because Iraq has accepted it under severe pressure and not out of free will. This situation in effect creates the seeds for further conflict in the area.

V. Sources of the Research

This research benefited from both primary and secondary sources of information and data. One must note that there is an abundant literature on the Iraq-Kuwait crisis and Desert Storm. The uniqueness of the situation created such academic interest on a wide range of issues cutting across many fields, economics, politics, international law, military and environmental studies. Thus in terms of finding secondary sources of information and data the researcher did not face any difficulty.

As for primary sources, the researcher faced some difficulty in getting some data, such as economic data, and information about the environmental damage to Kuwait, Iraq and Saudi Arabia. Thus, the researcher depended on secondary sources when primary sources were preferred. On the other hand

the UN documents pertaining to the crisis were extremely useful as well as some Saudi documents. Another valuable source of original data was collected through the method of the interview of officials that were directly involved in the decision making process during the crisis and other interested parties such as academics. The interviews with high level officials in Saudi Arabia, Kuwait, and Egypt were also meant to enrich the research from the face to face interpersonal situation of the interview. These were not structured interviews but more an open discussion on a variety of issues related to the crisis. However the researcher faced some constraints concerning carrying out the interviews as follows:

1. The sensitivity of the subject made many of the interviewees hesitant to make definite comments or refused to answer some questions.
2. The problem of time manifested itself in two ways. Some of the interviews were cancelled in the last minute after much time had been spent in arranging for them, or were frequently rescheduled.
3. Some of the respondents refused to consent to a tape recording, preferring note-taking. Taping is a much better method because it gives a permanent record and does not leave any room for the interviewer's bias or misinterpretation. However, the researcher found himself during many of the interviews taking notes due to the preference of the interviewee.

The field trips to carry out the interviews were made in two stages. Stage one included the following;

1. A trip to Saudi Arabia, in January 1997, during which contact was made with the ministry of foreign affairs, consultative council, the diplomatic institute in the ministry of foreign affairs, the secretariat of the GCC, the Kuwaiti ambassador in Riyadh, department of political science at King Saud University, also the office of Prince Khalid bin Sultan, chief of the military staff during the crisis. The exchange of information with the Saudi

officials was beneficial in understanding the extent of the pressure that the Saudis were under to take a firm action against Saddam because of their fear of his ascendancy as a dominant force in the region. In addition, they had a responsibility to come to the defence of Kuwait as a member of the GCC and as presenting a strategic depth to Saudi Arabia. The political national self-interest of Saudi Arabia overrode any other brotherly or Arab consideration especially in light of Saddam's uncompromising position from the very start of the crisis. Yet, the Saudis were unwilling, as the abrupt end of the war showed, to see a divided Iraq and a collapse of its internal unity. That too is not in the national self-interest of Saudi Arabia and the Gulf region.

2. A trip to Egypt, in May 1997, during which interviews were held with some Egyptian officials such as the minister of education, the director of Cairo University, some ambassadors at the ministry of foreign affairs and members of the Wafd Party. Egypt played a crucial role in the Arab anti-Saddam coalition and assessing the Egyptian point of view was essential. The opinions expressed by these interviewees reflected opposition to the use of force in solving Arab problems and disputes, and the need to uphold the Charters of the Arab League and UN by punishing those who violate them. Some expressed concern over the impact of the UN sanctions regime and the need to reassess its futility in light of the suffering of the Iraqi people.

During the second stage, I undertook a trip to Kuwait, in May 1998. I met with some of the staff at Kuwait University and members of the National Assembly. My interviewees came from both Sunni and Shi'ite Muslim sects and a variety of political affiliations. The views expressed by the interviewees showed that the Kuwaitis were still in shock of the Iraqi action and believe they were unjustly treated by the Iraqi regime, especially considering the immense support Kuwait provided Iraq during its war with Iran. Another striking feature of the response of the interviewees is the lack of any willingness for conciliation with Iraq as long as Saddam remains in power. A change of regime is a prerequisite for any kind of normalisation or reintegration of Iraq

into the regional system. There appear to be a deep-seated mistrust and fear of Saddam, and an acute awareness of Kuwait's vulnerability and hence its need to depend on Western support. It is seen as more secure and dependable than any other regional arrangement.

VI. Scope of the Research

The study is divided into five chapters in addition to this introductory chapter and the conclusion. The focus of chapter two is on the historical development of the Iraq-Kuwait border dispute up until the end of the 1980s. It highlights the persistence of the dispute between the two countries and the inability to reach any sort of peaceful settlement over the past years. Chapter three follows the events preceding the invasion and occupation of Kuwait and focuses on analysing the motives of Iraq for invading Kuwait. It also discusses the important Jeddah meeting and the escalation of tension between the two countries, which led eventually to the invasion.

Chapter four investigates the role played by Saudi Arabia through out the crisis. It emphasises how significant that was for maintaining the legitimacy of the coalition, and the successful waging of the war to liberate Kuwait. It touches also on the role played by the Saudi ulama in thwarting opposition inside Saudi Arabia and maintaining internal unity in support of Al Saud. In addition, the chapter discusses the failure of the GCC to respond to Kuwait's occupation without outside assistance as well as the failure of the Arab League to contain the crisis and to find an Arab solution.

Chapter five moves on to analyse the role played by the UN and the many resolutions passed by the Security Council since the start of the crisis. Among these, resolution 660, resolution 661, resolution 662, resolution 678 and resolution 687 are discussed in some length. Followed by the debate over the legality of some of these resolutions especially resolution 678. The regulations and articles of international law and the UN Charter that pertain to

the crisis are, also, discussed to highlight the legal frame of reference of the crisis and the international response.

Chapter six is devoted to analysing the consequences of the invasion and the Gulf war on Iraq, Kuwait and Saudi Arabia. In addition, it touches upon the whole issue of the security of the Gulf that has been highlighted by this crisis. The chapter analyses in some detail the political economic, military and environmental repercussions of the war on these three countries and highlights the heavy cost of the crisis to the region as a whole.

Chapter Two

The Historical Background of the Iraq-Kuwait Border Dispute

The legacy of colonialism and the haphazard way in which the Gulf area was divided into states is the source of present day territorial disputes. These contemporary border disputes are arguably not exclusive to Iraq and Kuwait, they include the unresolved border disputes between Iraq and Iran over Shatt Al-Arab, and between Iran and United Arab Emirates over the island of Abu Musa. Saudi Arabia has its share of border disputes with its neighbours. These include firstly its maritime border dispute with Kuwait, which has been agreed to only recently. The two countries signed an agreement demarcating their maritime border on 2 July 2000.¹ Secondly it has a border dispute with Oman which has been resolved also recently. A treaty was signed by King Fahd and Sultan Qaboos in May 1990, which formalised an agreement, defining their common border that was reached in March 1990.² The border dispute between Saudi Arabia and Qatar has been addressed in 1993 in an accord ratified by both parties, with Egypt as a guarantor. However the border is still in doubt because of the secrecy surrounding the boundary agreement; the details of the agreement remains unpublished.³ In other Gulf states there is the renowned border dispute between Bahrain and Qatar. Both sides claim the Hawar group of islands lying off the West Coast of Qatar and which sits on top of a large gas reserve.⁴

However, the Iraq-Kuwait border dispute stands out because of its long history and lack of progress over the years to find a satisfactory solution to both parties. In order to assess the significance of this border dispute and provide the background to the decision by Iraq to invade Kuwait in 1990 it is important to understand its historical development. This will be done by discussing the policies of the colonial powers towards Iraq and Kuwait and the evolution of the territorial problem between the two countries in its various stages and up to the

1980's. A number of maps are enclosed to demonstrate the historical development of this border dispute.

I. Colonial Powers and the Boundaries of Iraq and Kuwait

The modern political history of the Arab region has been to a certain extent defined by the great powers of the day: the British, the Ottoman and Russian empires. This was the case, especially, from the beginning of the nineteenth century up to the Second World War. Also, Germany and France had a powerful influence, though not as pervasive in so far as Arabia was concerned. The British and the Ottomans had played the major role in defining the limits of their spheres of influence in the Arabian Peninsula up to 1920. From this point on, Britain played the dominant role in delimiting the boundaries within its colonial domains, particularly in the Arabian Peninsula and surrounding areas. At the San Remo conference in April 1920 Britain received the mandates of Iraq, Palestine and Transjordan, while France received the mandates of Syria and Lebanon. The Peace Treaty of Sevres, which was renegotiated in 1923 at Lausanne gave the principle allied powers the right to all former Ottoman non-Turkish territories. The British Colonial Office became the major power controlling the delimitation of boundaries in the Arab littoral in the Persian Gulf.⁵

Several local factors also contributed to border problems, such as the migratory trends of indigenous tribes in search of resources for survival (water, pasture and agriculture and sea foods), the lack of conspicuous physical features in the desert which blurred border delineation, trade routes which were important on coastal and inland regions, and the feudal system of the tribes and its hierarchical system perpetuating the rivalry between the dominant tribes and their sheikhdoms. Moreover, the power, influence and ambition of Arab states, after their independence, compounded with super powers' influence and interests, especially during the Cold War era have complicated settlements of boundaries.

In so far as the Iraqi-Kuwaiti border dispute is concerned, overlapping authorities of the British empire, the rivalry and disagreements between the

Foreign Office and the Government of India, and lack of a singular British department with exclusive jurisdiction over the territories also played an important role in further complicating the territorial issue. The territorial claims on the part of Iraq were initially based on the need for an outlet to the Gulf. The country has access only to shallow waters of nearly 36 miles, while Kuwait had far greater and deeper waters of nearly 310 miles. For Kuwait the border issue was a matter of territorial sovereignty as well as economic well being, national identity and prestige. When oil was discovered, the importance of Kuwait as a distinct country increased significantly for both the Kuwaiti ruling family and for the West, whose interests in the region has expanded.

II The Kuwaiti Boundary Issue Before World War I

It is very important to appreciate that the origin of the conflicts between the various tribes in the Arabian Peninsula stemmed mainly from ethnic, religious and personal rivalries. However, later with the advent of increased commerce and trade, and especially with the discovery of oil, they turned sometimes into border issues, with economic underpinnings. The British Political Resident, Sir Rupert Hay, in describing the Arabian boundaries in the late 1950s, noted that:-

Before the advent of oil, the desert was in many ways similar to high seas. Nomads and their camels roamed across it at will, and though there were vague tribal limits, there were few signs of the authority of any established government outside the ports and oases. Now every state concerned is anxious to claim as large a slice of the desert as possible in the hope that it may cover vast quantities of the precious liquid. Historical proof of the exercise of sovereignty in the past over an uninhabited waste is, however, difficult to produce.⁶

In the case of Kuwait its borders became a source of concern to the British government in 1902, in particular, following the occupation by Ottoman troops of

three areas: the Safwan, Umm Qasr and the eastern tip of Bubiyan island.⁷ The initial response of the Foreign Office to this came from Foreign Secretary, Lord Lansdowne, dated 21 March 1902 when stating that:-

We have saddled ourselves with an impossible client in the person of the Sheikh... no one knows where his possessions begin and end, and our obligations towards him are as ill defined as the boundaries of his Principality.⁸

The Sheikh of Kuwait responded to the Ottoman occupation by claiming his jurisdiction over these three localities. He based his claim to Safwan on the allegiance of certain bedouin tribes and that up to ten settled Safwan families had paid him tribute for the last forty years. As to Umm Qasr he claimed that Kuwaiti tribes occupied it in the nineteenth century during the reign of Jabir, who also erected a fort there. The Foreign Office considered Mubarak's claims too shadowy for them to protest against the Ottoman occupation. This lack of action on the part of Britain encouraged the Ottomans to go ahead and establish a garrison of twenty men at Ras - al - Gait on the eastern tip of the Bubiyan Island. Mubarak, subsequently, tried to claim Bubiyan on the basis that fishermen from the Awazim tribe, who paid him allegiance, kept their nets there. That too was considered by Britain as insufficient evidence to act upon.⁹

The Baghdad Railway Project played a major role in motivating the Porte to put its hands on these localities in order to "Keep an outlet for the railway under their own protection, since difficulties had been raised about Kuwait".¹⁰ The lack of a desire on the part of Britain for a show down with the Porte was also due to a difference in British opinion about the railway. Lansdowne was in favour of a full British role in the railway project while Curzon, the viceroy of India, opposed it completely. In the end this opposition forced Lansdowne to reject participation in the project.

Following that, Curzon himself showed interest in the future of Kuwait by his visit to the area. It was the first time that India's Viceroy had come to the area.

Curzon suggested that the Kuwaiti Sheikh's claim to Bubiyan, which formed the south-western shore of the Khawr Abdullah, should be actively supported, thus pre-empting any possible development of Umm Qasr/Warbah as a railhead by the Germans and the Porte.¹¹ Subsequently, Sheikh Mubarak concluded a secret agreement with Major Knox, the British Political Agent in Kuwait, on 15 October 1907. The deal called for a perpetual lease of Bandar Shuwaikh and British rights of pre-emption over Kazima Bay, Warbah and any other territory over which the Sheikh of Kuwait might exercise jurisdiction.¹²

Mubarak, also, repeated his pledge of the 1899 secret agreement not to "grant, sell, or lease to a foreign government, and in this is included the Ottoman government" any land without Britain's consent. On the other hand Britain acknowledged that Kuwait and its future boundaries belong to Sheikh Mubarak and his heirs.¹³ The 1899 agreement was prompted by British desire to block any Russian or German extension of influence in the Persian Gulf. The agreement was kept a secret because a formal assertion of a British Protectorate over Kuwait would have produced diplomatic complications in its dealings with other powers.¹⁴ In addition it would have complicated issues closer to home where Ottoman cooperation was needed.

After drawn-out discussions and meetings between the Sheikh, Ottoman and British representatives regarding the political status of Kuwait and its borders with Basra, the Gulf Agreement (Anglo-Turkish Convention) was signed on 29 July 1913. On the Ottoman side was the Foreign Minister, Ibrahim Haqqi Pasha, and on the British side was Foreign Secretary Sir Edward Grey. Accordingly, the Porte and Britain agreed on the one hand that Kuwait would be an autonomous qadha (district) of the Ottoman Empire, and the Ottoman Empire would on the other hand recognise the validity of the 1899 agreement. It also agreed to refrain from any political, military, and administrative interference in the affairs of Kuwait, and the Kuwaiti flag should be of the Ottomans, but also includes the emblem of Kuwait on one of the flag's corners.

The borderlines of Kuwait were stipulated as beginning from the coast at the mouth of Khawr al-Zubair on the north-west which crosses exactly south of

Umm Qasr, Safwan and Jabal Sanam and continues on to al-Batin, al-Hiba, Warbah and Anta, until it reaches the sea near Jabal Manifa (see map 1). As for Kuwait's land border with Iraq, it was the outer "green line" which was subsequently adopted as the frontiers (see also map 1). One should note that the islands of Warbah and Bubiyan-later to become the subject of contention-fell within the "inner zone" where "complete autonomy" of the Kuwait Sheikh was recognised. ¹⁵ The Anglo-Ottoman Agreement reflected the success of the British policy in denying to the Ottoman empire and its German ally deep water access to the Gulf. The inclusion of Warbah and Bubiyan within the Kuwaiti Sheikh's sphere of influence prevented the extension of the Berlin-Baghdad Railway to the northern Gulf littoral. ¹⁶

When the First World War (1914-1918) eventually broke out, Sheikh Mubarak's alliance with Great Britain proved very important and helpful for the continuation of Kuwait's independence. Britain was concerned about protecting Kuwait's northern boundaries with Iraq, and in accordance with the 1899 agreement, it kept the Ottoman Empire away from these borders by denying any foreign interest the use of Kuwait's coast as the terminal point of the Berlin-Baghdad railway. ¹⁷

III Kuwait's Border Issue after World War I

After the end of the Great War, Britain received the mandate for Iraq on 25 of April 1920 at the San Remo Conference, while Kuwait, continued to be recognised as a principality under British protection, as set out in the declaration of 1914 between British and Sheikh Mubarak. ¹⁸

During this time of heavy British involvement in the politics of the area the borders between Najd and Kuwait, and Najd and Iraq were settled by the Uqair Conference on 2 December 1922. In this conference Sir Percy Cox, the British High Commissioner in Baghdad gave Ibn-Saud, the Kuwaiti representatives and Iraqi representatives five days to propose boundary lines. When the time lapsed and they could not reach an accord, Cox took out his famous red pencil

and unilaterally drew the map of the region. Thus, Cox had a free hand in drawing the frontiers, giving Iraq a large part of territory claimed by Najd, and to pacify Ibn-Saud, gave him a great part of the territory claimed by Kuwait. In addition, he outlined the two neutral zones, one between Najd and Kuwait, and the other between Najd and Iraq.¹⁹

Accordingly, the frontiers between Iraq and Kuwait remained in 1923 as they had been initially derived in the 1913 Anglo-Ottoman Convention. An exchange of correspondence between the British Political Agent, Major, J. C. More, in Kuwait, and Sir Percy Cox, during 1923, defined the boundary between the protectorate of Kuwait and the British mandated territory of Iraq, as running along the zone of the Green Line of the 1913 Anglo-Ottoman Convention.²⁰

Before Iraq gained its admission to the League of Nations as an independent state on 3 October 1932, Kuwait's boundaries with Iraq were reconfirmed through an exchange of memoranda between Nuri al-Sa'id, Iraq's Prime Minister and the British High Commissioner, Sir F. Humphrys, on 21 July 1932. The acceptance of these boundaries were reaffirmed by the ruler of Kuwait, Sheikh Ahmmad al-Jaber, in a letter written to the British Political Agent in Kuwait dated 10 August 1932. Nuri Al-Sa'id described in his letter the existing frontier between the two countries as follows:

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, Jebal Sanam and Umm Qasr, leaving them to Iraq and so on to the junction of Khor Zobeir with Khor Abdullah. The islands of Warbah, Bubiyan, Maskan (or Mashjan), Failakah, Auhah, Kubbar, Qaru and Umm-el- Maradim appertain to Kuwait.²¹

As for the letter from Sheikh Ahmad it said:

His Majesty's Government approves of the frontier proposed by the Iraq Prime Minister. And, therefore, we beg to inform you that we agree to reaffirm the existing frontier between Iraq and Kuwait as described in the Iraq Prime Minister's letter.²²

Through this agreement Britain was trying to show that Iraq possessed settled boundaries before its admission to the League of Nations. However, many claims and complaints were raised regarding these boundaries, including a historical claim to the whole of Iraq. Taufiq al-Suwaidi, Iraqi Foreign Minister indicated to Sir Maurice Peterson, the British Ambassador in Baghdad, in April 1938, that by right Kuwait should belong to Iraq to reflect its former position as part of the Ottoman Wilayat (province) of Basra.²³ He further expanded on this in his aide memoire of 28 September 1938 by stating:

Just before the War of 1914-1918, Kuwait was an autonomous qadha of the Wilayat of Basra. The Iraqi Government as the successor to the Ottoman government in the Wilayats of Mosul, Baghdad and Basra, considers that Kuwait should properly be incorporated in Iraq. If incorporation should take place, Iraq would agree to maintain the local autonomy of Kuwait with a guarantee in the form of a special statute, but of course without prejudice to sovereignty.²⁴

Al-Suwaidi's historical claim was rejected outright by Britain, and he was told on 6 October 1938 by the British Embassy that "Kuwait finally became completely independent of Turkey and Kuwaiti nationality finally came into existence on the same date as Iraq and Iraqi nationality".²⁵

However, the British Government was willing to discuss the possibility of granting Iraq port facilities, after al-Suwaidi indicated in March 1938 that Iraq would like to possess an alternative outlet to the Gulf other than the Shatt al-

Arab, preferably an Iraqi-controlled port on Kuwait Bay, or along the Khawr al-Zubair.²⁶

During that year various departments of the British government were involved in discussing such a possibility. For that end a survey was undertaken in 1939 by Colonel Sir John Ward of Khawr Zubair which established that the most suitable site for a port was at a point two and a half miles south east of Umm Qasr. Iraq for the effective protection of the port needed Kuwait to cede the islands of Warbah and Bubiyan. The letter dispatched on 16 December 1939 from Lacy Baggallay of the Foreign Office to the India Office in CO 723/16/17 supported an Iraqi control of the Khawr Abdullah. He stated that

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.²⁷

The Government of India and their staff in the Persian Gulf argued against an Iraqi control from the point of view that such an eventuality would threaten the economic well being of Kuwait which might itself want to develop port facilities on the inlet. Also Sheikh Ahmad expressed no intention of ceding these islands to Iraq. According to Lieutenant Colonel Charles Prior, the Political Resident, the Kuwaiti ruler stated that he would give Iraq "nothing at all" and that "all he wanted...was that they should keep out of Kuwait".²⁸

Subsequently the lack of progress on this issue turned British attention to demarcating the land boundary. In July 1939 the British Ambassador in Baghdad Sir Basil Newton prepared a draft exchange of notes arranging for the demarcation of the Kuwait-Iraq boundary. By Feb 1940 all relevant British departments had given their approval to Newton's interpretation of the

boundary. As a result the British Ambassador to Baghdad recommended in his letter dated 7 October 1940 to the Iraqi Minister of Foreign Affairs the following scheme for demarcation:

1. "Along the Batin" the frontier line shall follow the *thalweg*, i.e. the line of the deepest depression.
2. The "point just south of the latitude of Safwan" shall be the point on the *thalweg* of the Batin due West of the point a little to the south of Safwan at which the post and notice board marking the frontier stood until March 1939.
3. From the Batin in the neighbourhood of Safwan the frontier shall be a line along the parallel of latitude on which stands the above-mentioned point at which the post and notice board formerly stood.
4. The "junction of Khawr Zubair with the Khawr Abdullah" shall mean the junction of the *thalweg* of Khawr Zubair with the *thalweg* of the north watery arm of the Khawr Abdullah known as the Khawr Shetana.
5. From the neighbourhood of Safwan to the junction of the Khawr Zubair with the Khawr Abdullah the frontier shall be the shortest line between the point defined in sub-paragraph (2) above and the point defined in sub-paragraph (4) above. But if this line shall be found, when followed on the ground, to strike the right bank of Khawr Zubair before it reaches the point defined in sub-paragraph (4), it shall be modified in such a manner as to follow the low water line on the right bank of the Khawr Zubair until a point on the bank immediately opposite the point defined in sub-paragraph (4) is reached, thus leaving the whole of the Khawr Zubair to Iraq.
6. From the point defined in sub-paragraph (4) to the open sea, the boundary shall follow the *thalweg* of the Khawr Abdullah.²⁹

Kuwait has officially approved this scheme while Iraq officially communicated its answer to Sir Newton in March 1941 indicating that any demarcation before the islands of Warbah and Bubiyan are ceded by Kuwait is not possible.

Following the independence of India, the famous Foreign Office - Government of India rivalries and disagreements were gone and that helped in creating a more conducive atmosphere for a concerted policy towards the demarcation of the boundary between Kuwait and Iraq. Thus during the mid-1950s there was a great deal of effort to sort out the boundary issue between the two countries. For example, in order to obtain solid foundations for the future expansion of the town and port of Umm Qasr, the Iraqi government announced in May 1955 its desire to advance its frontier to a depth of some four kilometres covering a desert strip besides the island of Warbah and the waters of Khawr Abdullah (see map 1).³⁰

Sir Michael Wright, the British Ambassador in Baghdad, linked this proposal with the project to pipe fresh water from the Shatt al-Arab across the Fao peninsula to Kuwait. He also suggested that both the Umm Qasr scheme and Shatt al-Arab water carrier scheme should be arranged on long-lease of 99 years terms. Although, Sheikh Abdullah al-Salem gave his provisional approval in June 1955, he retreated, and the boundary remained undemarcated at the end of 1957.³¹

After Kuwait rejected joining the 1955 Baghdad Pact, Nuri al-Sa'id attempted, in February 1958, an Arab Federation between the Hashemite monarchs of Baghdad and Amman. He hoped to draw Kuwait into this federation. Waldemar J. Gallman, the US Ambassador in Baghdad, perceived that al-Sa'id was desperate, willing to concede almost anything to win Kuwait's participation, including demarcation of the frontier on Kuwaiti terms and a guarantee of the Sheikh's sovereignty. Any such proposal disappeared when the Hashemite monarchy was overthrown by the revolution of 14 July 1958 and a republican regime was installed in Baghdad.³²

IV Iraq's Claim over Kuwait during the Qassem Era 1958-1963

General Abdul Karim Qassem and the Free Officers took over the Government of Iraq and of course the Kuwait-Iraq boundary dispute now had new faces involved in the negotiations. The relationship between Iraq and Kuwait became warm and friendly. In fact, Iraq encouraged Kuwait to pursue its independence from Britain. Accordingly, the Sheikh took up Iraq's advice, and asked Britain to allow it to pursue direct relationship with other Arab states and conduct its own international affairs. General Qassem received the Kuwaiti Amir, Sheikh Abdullah al-Salem, in October 1958 to discuss bilateral relations but once again little progress was made over the critical border question.³³

During late 1960 Sheikh Abdullah began discreet negotiations with Britain concerning the full independence of Kuwait. At the end of these negotiations the state of Kuwait gained its independence on 19 June 1961 by an exchange of notes between Sir William Luce, the Political Resident in the Persian Gulf, and Emir Abdullah. The following conclusions were reached in the course of these negotiations:

1. The 1899 Agreement shall be terminated as being inconsistent with the sovereignty and independence of Kuwait.
2. The relations between the two countries shall continue to be governed by a spirit of close friendship.
3. When appropriate the two governments shall consult together on matters, which concern them both.
4. 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.³⁴

Provisions 3 and 4 particularly incensed the Iraqis and they accused Britain of having merely pretended to grant Kuwait independence. On 25 June 1961, General Qassem announced in a press conference that Kuwait was part of Iraq and declared his intention to issue a decree appointing Sheikh Abdullah al-Salem a *Qa'im Maqam* of al-Kuwait *qadha*. He also said:

We will liberate this section of the Iraqi territory...We are capable of obtaining all our rights. But we always resort to peaceful mean...I assure you that peaceful methods are useless with imperialism.³⁵

On 26 June 1961, the Iraqi government issued a memorandum to Arab and foreign embassies in Baghdad, in which it explained the historical and legal basis of its claim to Kuwait. It also stated that British imperialism had been penetrating the Arab World for its military and economic interests since the 14th century. For these reasons, the British government gradually took over Kuwait and separated it from Iraq.³⁶ Because of the Iraqi perception that foreign powers were both exploiting and oppressing the Arab nation, the government began to take action to reinforce its claims. The British Ambassador in Baghdad, Humphery Trevelyan, in his book, *The Middle East in Revolution*, stated that shortly after Qassem's territorial and sovereignty claims over Kuwait, evidence suggested that Iraqi troops were being mobilised towards the Kuwaiti border.³⁷ However, the key question remains whether Iraq was ever intending to invade or whether its troops' mobilisation was merely a show of force.

Sheikh Abdullah, as a result of Iraqi mobilisation called on Kuwait's allies to assist in its defence. On June 30 1961 he dispatched a note to the British Consul General in Kuwait, John Richmond, saying:

In view of the military movements which have been undertaken by the Iraqi Government on the borders of Kuwait and which are such as to threaten the security of Kuwait, I have decided to

submit a request to Her Majesty's Government in accordance with the notes which I exchanged with Sir William Luce, the political resident on June 19, 1961.³⁸

In addition, he sent an urgent telegram to King Saud Ibn Abdul-Aziz pleading Kuwait's case as follows:

Broadcasting stations yesterday announced reports regarding the press conference which was held by General Abdul Karim Qassem, in which he demanded to annex the independent Arab country Kuwait to Iraq. We therefore, condemn this announcement which contradicts with the principles of International Law. We are very sure, that your Majesty appreciates the Kuwait's Government resolute stand for the defence of Kuwait's independence, and which is hopeful to find in your government support in facilitating its legitimate rights for defence of its independence.³⁹

Although, most of the Arab states hesitated at the beginning of the crisis to show their support for Kuwait, King Saud duly replied to the Kuwaiti Amir in the following telegram:

Your telegram has outlined what General Qassem declared, and in actual fact, this stand is astonishing and sorrowful, but we are with you in happiness and sadness, and we would be faithful to whatever we had agreed upon. We are fully ready to confront any threat which Kuwait may face.⁴⁰

In addition, King Saud declared later in a press conference that " if General Qassem puts himself the bequeather of the Ottoman empire, then his power ought to extend from Middle Europe to the limits of Asia and Africa".³⁹

From this perspective, it seems that Saudi Arabia was the first country to support Kuwait morally and materially. The Saudi gesture was due to its 1942 friendship treaty with Kuwait that developed in 1947 into the Saudi-Kuwaiti mutual defence treaty. This treaty was in reality a pledge from Saudi Arabia to secure and defend Kuwait politically and/or militarily from the threat of any outside power.⁴² Saudi Arabia offered Kuwait strong support because Iraq indirectly threatened not only Kuwait but also the small Arab sheikhdoms as well. To the extent that Iraq was aspiring to be the dominant power in the Gulf region, this represented a perceived threat to the national security of Saudi Arabia. Consequently, the Saudi ambassador to Iraq was instructed to officially inform the Iraqi government that any military aggression against Kuwait would be considered a direct aggression against Saudi Arabia.⁴³

In order to bolster Kuwait's security, Britain announced on 1 July 1961 that the ruler of Kuwait had asked for assistance and subsequently a detachment of British troops arrived by air from Kenya the very same day. Already, Britain on 29 June 1961 had ordered its aircraft carrier, *Victorious*, and other warships in different locations in the Middle East and Africa to head to Kuwait. By the end of June 7,000 British troops were entrenched in defensive positions along Kuwait's northern and western borders supported by air and naval forces. Another 150 Saudi Arabian troops were employed in the defence of the Iraqi-Kuwaiti- Saudi boundary at the junction of batin with Wadi al Aujah.⁴⁴

Between 2-7 July 1961 the Security Council met at the request of the United Kingdom (on behalf of Kuwait) to discuss the threat to peace and security created by hostile Iraqi movements against Kuwait. After four meetings the Security Council voted on two resolutions. The first was presented by Great Britain calling for full recognition of the independence and territorial integrity of Kuwait. The Soviet Union vetoed this resolution because it did not call for the withdrawal of British troops from Kuwait. The second was submitted by the United Arab Republic (Egypt and Syria) calling for the withdrawal of British forces from Kuwait. This resolution also failed because it did not get the required votes of the members of the Security Council.

During the deliberations of the Security Council Iraq gave assurances that it will not use military force to solve its problem with Kuwait, and announced its desire for a peaceful settlement. It also criticised the military intervention by Britain and accordingly asked for the withdrawal of such forces. Iraqi diplomacy succeeded, thus, in turning the situation from being about Iraq's aggression to one about foreign interference in the region and British imperialism versus Arab nationalism.

A strong British military presence in Kuwait inflamed the anti-imperialist sentiment of the general Arab populace and some Arab governments, especially Egypt. In order to diffuse the tension, the Moroccans and Saudis came up with a formula for Kuwait's admission to the Arab League at the Council meeting on 20 July 1961.⁴⁵ Accordingly, the Council issued resolution 1777-35 containing three parts. The first part included the undertaking of the Kuwaiti government to request the withdrawal of British forces from Kuwaiti territory as soon as possible while the Iraqi government undertakes not to use force in the annexation of Kuwait to Iraq.⁴⁶ As for the Council, it undertook on its part to support every wish Kuwait may express for a union or a federation with other Arab countries in accordance with the League's pact. The second part included the Council's decision to welcome the state of Kuwait as a member of the Arab League and to assist it in joining the United Nations. While the third part included the pledge of Arab states to provide effective assistance for the preservation of Kuwait's independence upon its request.⁴⁷

The Arab League's peacekeeping force was sent to Kuwait during the period September-October 1961 after it became a full member of the organisation. The contingent comprised about 3,300 men divided among Arab states as follows: 1,200 from Saudi Arabia; 1,200 from U.A.R; 400 from Sudan; 300 from Jordan; and 200 from Tunisia, under the command of the Saudi Major-General Abdullah al-'Isa.⁴⁸ No military clashes were reported between the Arab peacekeeping troops and Iraqi forces along the border. Moreover, Iraq had withdrawn its regular customs police to Basra city in order to minimise the probability and risk of such clashes. In response to the initiative of the Arab

League, British military forces left Kuwait between 10-11 October 1961 except for some advisors.

On 30 November 1961, Qassem's regime scored a diplomatic victory when Kuwait's application for membership to the United Nations was vetoed by the Soviet Union in the Security Council. The Iraqi Foreign Minister Hashim Jawad declared on 26 December 1961 that "Iraq would have to reconsider her attitude regarding her diplomatic relations with countries who established such relations with Kuwait".⁴⁹ Iraqi ambassadors, subsequently, were recalled from all countries that had received Kuwait's ambassadors. During 1962 the list was extended to include some friendly countries such as Jordan, Lebanon and Tunisia in the Arab world, and Japan, India and the United States outside the Arab region.⁵⁰ It should be noted that by the end of 1961 the total number of countries that recognised Kuwait was 62.

V. The Iraqi-Kuwaiti Border Dispute in the 1960s

On 8 February 1963, President Qassem was overthrown and summarily executed the following day. His deputy, Abdul Salam Muhammad Aref, was nominated as president. Aref refused Qassem's plea for clemency despite the fact that Qassem had pardoned him in 1961 after he had been sentenced to death for trying to kill Qassem. The Amir of Kuwait was relieved by the change, and a new warm relationship seemed to develop between the two rulers. The Arab League troops were withdrawn from Kuwaiti territory and the Soviet Union, which had previously opposed the admission of Kuwait to the United Nations, dropped its objections. Kuwait was admitted on 7 May 1963 to the United Nations as its 111th full member.

In order to express its brotherly attitude towards Kuwait as an internationally recognised state in the region, senior Iraqi governmental officials, including the defence and foreign ministers, visited Kuwait on 13 May 1963 with the view to negotiate a new bilateral agreement concerning relations between the two

countries. However, as a precondition to the agreement, Iraq attempted to persuade Kuwait to abrogate the Anglo-Kuwaiti treaty of 19 June 1961.⁵¹ Although the Kuwaiti government declined Iraq's suggestion, the negotiations which were hosted in Baghdad finally ended on 4 October 1963 with the intended Kuwaiti-Iraqi agreement.

This agreement entitled *The Agreed Minutes Regarding the Restoration of Friendly Relations, Recognition and Related Matters* has three main features. The first is the recognition by Iraq of the independence and complete sovereignty of the state of Kuwait with its boundaries as specified in the 1932 correspondence. The second is the emphasis of the two governments to work towards reinforcing the fraternal relations between the two countries, inspired by their national duty, common interests and aspiration to complete Arab Unity. The third is the reference to the two governments' intention to work towards establishing cultural, commercial and economic co-operation and the exchange of technical information.⁵²

Iraq's recognition of Kuwaiti sovereignty costed Kuwait 30 million Kuwaiti Dinars in the form of a loan. This loan was interest-free to be repaid in 19 instalments over twenty five years. As a result of this arrangement, diplomatic relations were established and ambassadors were exchanged shortly, thereafter. Also, the two countries entered into several different agreements, the most comprehensive of these was the Iraqi-Kuwaiti Agreement on Economic Co-operation and Protocol on Investment that was signed on 25 October 1964.⁵³

Although the 1963 agreement terminated Iraq's claim to sovereignty over Kuwaiti territory, land claims by Iraq over Kuwait took a different form. It surfaced as a border dispute instead. Consequently, the period between 1963 and 1972 was marked by several incidents on the Kuwaiti-Iraqi border. Iraq had three major motives in its pursuit of control over part of the Kuwaiti territory. First, this dispute as mentioned before was based on Iraq's need to build a deeper water tanker terminal. By extending its borders deep into Kuwaiti territory, Iraq would have been more disposed to greater access to the Gulf. Second, the rise of Iran as a regional power, especially after Britain's withdrawal

from the Gulf, accentuated Iraq's need for more territory, particularly on the Persian Gulf, in order to challenge Iran and to strengthen its strategic location. Third, economic interest played a major role in Iraq's territorial designs on its neighbour, given Kuwait's oil revenues and deposits.

Given the persistence of the Kuwaiti border disputes, the government started to look for lasting border solutions with its neighbours. Accordingly, in 1965 Kuwait succeeded in reaching an agreement with Saudi Arabia over the boundary line between them. In a similar way Kuwait sought to arrive at an acceptable agreement with Iraq. In fact, the Amir of Kuwait, Sheikh Subah Salim al-Sabah, initiated a visit to Iraq in June 1966 precisely for this purpose. The two governments reached an agreement and finally issued a joint communiqué proposing to establish a committee to delineate the boundaries between the two countries in the very near future.⁵⁴ However, it was not until February 1967 that the committee actually met.

The committee held its first meeting in Baghdad during the period 26 February-3 March 1967. These sessions were not positive. The Kuwaiti delegation hoped to delineate the boundaries as described in the 1932 agreement while the Iraqi delegation sought to present new proposals instead of dealing with the mandated agreement. For instance Baghdad raised the issue of its territorial claim for an outlet to the Gulf through the Khawr Abdullah, which is almost entirely blocked by Kuwait's Bubiyan and Warbah islands. Consequently, the negotiations failed as no movement was made on the border issues.

On 18 April 1967, an Iraqi border force violated Kuwaiti territorial sovereignty and tore down tents belonging to some Kuwaiti citizens inside the country. This incident prompted a swift reaction from the government of Kuwait who condemned the attack and moved additional troops to the frontier. In addition, Kuwait recalled its ambassador to Iraq for briefing. Baghdad followed suit by ordering troops build-up in the conflict area. It also summoned its ambassador to Kuwait for consultations. However, Iraq later considered the incident a mistake and the crisis was diffused, but the border dispute remained unresolved.

VI. The Iraqi-Kuwaiti Border Dispute during the 1970s

On 30 July 1968, Ahmad Hasan al-Bakr took over as the new Baathist president of Iraq. It had been al-Bakr who signed the 1963 agreement that recognised Kuwait's independence and territorial sovereignty. However, the behaviour of successive Iraqi leadership clearly indicated that Baghdad had not really taken its recognition of Kuwait seriously and tensions over the border persisted.

The first encroachment of Kuwaiti sovereignty by Iraq during the 1970s occurred in December 1972. A road-building crew, under the protection of an Iraqi military brigade, crossed the Kuwaiti border and started building a road leading to the Gulf. This was followed by Iraq massing its troops along the border.⁵⁵ Some believed that this sudden move against Kuwait was an attempt by Baghdad to force Kuwait to provide it with financial assistance because of its huge foreign exchange shortages.⁵⁶ However, Iraq justified its action on the grounds of national defence because of a perceived military threat from Iran.⁵⁷

The second, more serious, incident took place at the beginning of March 1973, after Kuwait rejected a draft treaty that would accord extensive rights to Iraq, including oil export facilities.⁵⁸ The Iraqis reacted to this by erecting an installation at al-Samitah-, which is a strategic spot, located two kilometres inside Kuwait, south west of the important Iraqi port of Umm Qasr. The Kuwaitis tried to stop the work of the Iraqis and as a result, on 20 March 1973, the Iraqi army penetrated the Kuwaiti border and occupied a police post at al-Samitah.⁵⁹ This incident resulted in the death of two Kuwaiti policemen, one Iraqi, and several were injured.

Immediately following the Iraqi action, the Amir of Kuwait sought a diplomatic and political solution to the crisis. He sent an urgent message to the leaders of the Arab world explaining the situation between the two countries. He further suggested that rapid Arab mediation to block the possibility of any further military escalation in the border conflict between the two countries should occur

as soon as possible. Moreover, the Kuwaiti government protested directly to the Iraqi government and requested the immediate withdrawal of its troops from al-Samitah border post and urged it to solve the crisis through negotiation.

Considerable diplomatic efforts, subsequently, ensued in the region in order to diffuse the crisis. Saudi Arabia appealed to both countries to exercise "patience and self restraint" and to settle the dispute peacefully. Although it was rumoured that Saudi troops have entered Kuwait, these reports were denied by the Kuwaiti Foreign Minister. The movement of Saudi troops on their northern borders appeared to be limited to defensive position against any possible Iraqi attempt to solve its border dispute with Saudi Arabia.⁶⁰

Arab reaction to the Iraqi attack was disapproving and the Arab League, the Palestine Liberation Organisation (PLO) and the Front line states, of Egypt, Syria and Jordan, were actively involved in containing the dispute in light of the difficult period the Arab world was passing through and the prospect of an imminent war with Israel.⁶¹ The two Western powers with interests in the area the US and UK adopted a hands-off policy. Britain did not feel the security of Kuwait was seriously threatened while the US had no leverage in Iraq.⁶² It was the Soviet Union that showed at the time much interest in the crisis by supporting Iraq morally through announcing a visit by Gorshkov and Soviet navy to Iraq during the period 3-11 April. The Soviet Union was showing support for a border adjustment, which would lessen Iraq's dependence on its neighbours for the protection of its maritime and petroleum operations.⁶³ However they were at the same time pressuring the Iraqis to cool down the crisis. After the visit of Iraq's Vice President to the Soviet Union Iraq agreed to resume talks with Kuwait and to withdraw from the border post.⁶⁴

Thus Soviet pressure and Arab mediation played a major role in dampening the crisis. Most of the Iraqi troops started to withdraw from Kuwait on 5 April 1973 and talks were held between Iraq and Kuwait between 6-8 April 1973. However, no terms of agreement were reached to settle the dispute.

Saddam Hussein, the Vice President at that time, stated in August 1973 that the Iraqi penetration of Kuwait in March was a mistake by the Iraq police.⁶⁵ He further offered his country's co-operation with all the Gulf Arab states regarding conflicts in the region. During a meeting held in August 1973 between the Kuwaiti Crown Prince and Prime Minister, and Vice President of Iraq the same disagreements prevailed. The Kuwaitis refused to cede or rent the two disputed islands in exchange for the delineation of the boundary. However they maintained that all kinds of cooperation is possible once the boundary is delineated according to the previous treaties of 1932 and 1963.⁶⁶

The Kuwaiti Minister of Defence, in an interview with Abdul Latif al-Rumaihi, pointed out that the Kuwaiti government firmly believed that the Iraqi government had never been serious in seeking a solution to the problem. He added that the Iraqis had been keen to prolong the problem so that they can always put pressure on Kuwait in order to achieve financial and political gains.⁶⁷ There were a few proposals during the period 1975-1977 for a resolution of the border dispute and the islands in question. But these proposals were not entirely new and contributed very little to resolving the dispute.

VII. The Iraqi-Kuwaiti Dispute during the 1980s

During the Iran-Iraq war a mutual dependency developed between the Iraqi regime and the Gulf states. Saddam was seen as the only regional power capable of containing the Iranian threat to the security and stability of the area, while the Gulf states had the financial resources to support the Iraqi regime in its war effort.⁶⁸ The Gulf states from the onset of the war provided substantial financial and logistics support to Iraq. During the period between Nov 1980 – September 1981 Saudi Arabia provided transshipment of military and civilian supplies as well as \$ 10 billion in financial assistance. Estimates put the total assistance offered to Iraq by Saudi Arabia at around \$27 billion.⁶⁹

Kuwait's support to Iraq was also substantial. It provided Baghdad with interest free loans and grants totalling \$10 billion. This facility had been extended in two

major phases. By the end of 1981, \$6 billion had been loaned to Iraq on interest free terms, to be repaid within ten years. As a result of the Iranian capture of al-Faw peninsula in early 1986 - which considerably increased Kuwait's sense of vulnerability - support for the Iraqi war effort was expressed in a much more overt manner than had hitherto been the case. Consequently, there was another surge in financial aid to Baghdad. From 1983 until the cease-fire in 1988, Kuwait provided Iraq with the revenue derived from a daily production of up to 125 thousand barrels from fields in the northern sector of the former Kuwaiti-Saudi neutral zone. The trans-shipment facilities from Mina Shuwikh, granted to Iraq in late 1979, remained open to Baghdad's government throughout the war.⁷⁰

Also economic co-operation throughout the war increased substantially. An important aspect of this co-operation was the May 1986 agreement between Kuwait and Iraq, whereby Kuwait received on average 200 million cubic feet per day of associated gas from the southern Iraqi Rumaila field. This agreement provided Iraq with a \$250 million annually. The invasion of Kuwait put a stop to this mutually beneficial deal.⁷¹

Despite the warming of relations between Iraq and Kuwait and the invaluable support, financial and other wise, the two countries remained strained by the issue of Warbah and Bubiyan. In fact the war highlighted the importance of these two islands to Iraq. The first discussion, during the 1980s between the Kuwaiti government and Baghdad took place in Feb 1981. Iraq was ready to demarcate the land boundary according to the 1932 and 1963 agreements on the condition that Kuwait leased Warbah and Bubiyan. The Kuwaitis on top of their usual reservations about this were fearful of Iran, since it had threatened to drag them into the war if they lease the islands to Iraq. Another discussion took place in Nov 1984 between the Iraqi Foreign Minister and the Crown Prince and Prime Minister of Kuwait. That meeting raised hopes that an acceptable proposal between the two parties was imminent. Unfortunately no progress was made on the issue.

During the Iran-Iraq war Kuwait had the opportunity to assert its sovereignty over the islands and the northern zone. It established a military presence, an agricultural settlement, a new town was planned for Sabiya and a bridge built across the Khawr Sabiya to Bubiyan island. The regime in Iraq in the face of Kuwait's reluctance to compromise over the issue and its need for Kuwaiti help and support put the issue on the back burner in the last two years of the war. Well after the cease-fire with Iran, Iraq in late 1989 renewed its proposal to exchange demarcation of the land border for Bubiyan and Warbah islands. In addition, it promised to offer Kuwait relatively well-watered inland strips of Iraqi territory.⁷² The Kuwaiti government was still unwilling to accept this compromise and the situation was left to deteriorate until the invasion occurred.

VIII Conclusion

The seeds of the Iraqi-Kuwaiti border dispute were planted during the colonial period. By the end of 1957, Britain had failed to reconcile Iraq to the boundary it had earlier agreed to in the official correspondence of 1932. Iraq consistently demanded the cession or the lease of the islands as the basis for the demarcation of boundary, while Kuwait refused to entertain any Iraqi objectives before boundaries were secure. Britain had by 1951 finally decided on what was the boundary line that was fixed in 1932. However, that demarcation was hardly satisfactory and a poor attempt at improving the patchy definition of 1932. Thus by the end of 1957 the boundary remained untriangulated and undemarcated.

Attempts by successive governments in Baghdad to reach a satisfactory solution on the issue failed. Kuwait was unwilling to neither relinquish Warbah and Bubiyan, nor exchange the demarcation of borders with their lease. The Iraqi regime twice asserted a historical claim to Iraq. The first was in 1938 and the second, the more serious one was during the Qassem era, when the Iraqi regime mobilised its troops on the border. The crisis was quickly diffused by the readiness of Saudi Arabia and Britain to engage their troops in the defence of

Kuwait. Such a claim and a readiness to act upon it were not to be repeated until the 1990 Iraqi invasion of Kuwait.

Yet incursions and encroachments on the sovereignty of Kuwait were common culminating in the major al-Samitah incident in 1973. That incident was extremely important in raising the territorial consciousness of the Kuwaitis; ships, businesses and shops began to be named after the northern border region. It was also the second time Saudi Arabia demonstrated solidarity with Kuwait in dealing with Iraq's territorial ambitions. It is interesting to note that Iraqi Vice President, Saddam Hussein, at the time of the incident denounced the Iraqi action as a mistake and offered to co-operate with Kuwait.

The war with Iran and the dispute over the Shatt al-Arab took priority and relegated the border dispute with Kuwait to the background. Also, the help and support needed from Kuwait and other Gulf states was a much more pressing and crucial element for Baghdad than the border issue with Kuwait. Still some attempts were made during the war to reach a solution but without any success. The last attempt by Iraq occurred in 1989 as President Saddam Hussein sought the lease the Warbah and Bubiyan Islands for a period of 22 years or 99 years in exchange with relinquishing Iraq's claim to all of Kuwait. This proposal was rejected by Kuwait and the problem lingered until the Iraqi invasion and occupation of Kuwait.

During the entire period of the Kuwait - Iraq territorial and border dispute, three features stand out. Firstly, the Saudis were the foremost regional state that supported fully the sovereignty of Kuwait. Secondly, foreign support for Kuwait was always assured as the British ensured that Kuwaiti territorial integrity was never permanently violated. Events following the Gulf Crisis in 1990 pointed to history repeating itself: the Saudis and Western powers swiftly assured the defence of Kuwait. Lastly is the intransigence of both parties, reflected in the longevity of this dispute and the inability to find any grounds for compromise.

Chapter Three

Prelude to the 1990-1991 Gulf Crisis

The previous chapter showed that the border dispute between Iraq and Kuwait has been of long standing, and had its origins in a mixture of territorial, economic and political issues, most paramount among them is the issue of access to the Gulf. The end of the Iran-Iraq war, in August 1988, increased the pressure on Iraq to improve access to the Gulf, since the war ended without the point of contention about the delineation of the Shatt al-Arab being resolved. Under the Algiers Agreement in 1975, Iraq accepted *thalweg* (deepest navigational channel or line of continuous deepest soundings) as the frontier.¹ It was this agreement that Iraq repudiated as a prelude to the Iran-Iraq war, only to return to it after invading Kuwait. The insecure status of the Shatt al-Arab made the resolution of the border dispute with Kuwait, especially the issue of access to the islands of Warbah and Bubiyan more acute.

The capacity of Basra, Iraq's principal port at the mouth of the Shatt al-Arab has been saturated since the seventies. The alternative for Iraq was the development of its second port, Umm Qasr, situated on the Khawr Zubair inlet. Kuwait's ownership of Bubiyan and Warbah limits Iraq's control over this inlet and the Khawr Abdullah link. Thus Iraq has been forced to utilise the Khawr Shetana channel which needs constant dredging to remain navigable. The blocking of the Shatt al-Arab with debris of war and accumulated silt, the need to improve access to the Gulf, the protracted never ending negotiations with the Kuwaitis, and the deteriorating economic situation, were some of the factors pushing the Iraqis towards a military venture to capture these two islands and the resources of Kuwait.

When Iraqi forces invaded Kuwait on 2 August 1990 the surprise was not all due to lack of intelligence information about the movements of the Iraqi army or the intentions of the Iraqi regime. Such information was available to intelligence agencies regionally and internationally, and Saddam had made several announcements declaring his intention to act if negotiations with the Kuwaitis failed. The surprise was in the scale of the invasion. The expectation of both Arabs and Americans was that any action on the part of Iraq would be of a limited nature and not a full invasion of Kuwait.

This chapter will concentrate on the developments that directly preceded the invasion, and analyse the conditions and factors that prompted the Iraqis to take such a course of action.

I Escalation of Tensions in the Gulf

One can discern in the political climate of the Gulf area over the months directly preceding the invasion two major visible Iraqi orientations. The first is the intensification of the propaganda campaign against Israel and the second is the escalation of tension with Kuwait. The following is a discussion of each separately.

A. The Propaganda Campaign against Israel

By heightening the propaganda campaign against Israel, the Iraqi regime was aiming at exploiting the anti-Israeli Arab feelings in order to cultivate Arab sympathy and a public image of Iraq as a powerful Arab country capable of challenging Israel.² When Arab support for Iraq was at its peak, Iraq played on its differences with Kuwait escalating them into a crisis in the hope that Arabs would accept its takeover of Kuwait as a first step towards the liberation of Palestine. The linkage between the Palestinian question and the Iraqi invasion of Kuwait was, therefore, not an outcome of the crisis, but was part of the regime's strategy. And Saddam "was no more sincere about Palestine than

Bush was sincere about upholding international law and Justice over Kuwait".³ It was simply an extremely potent issue to rally Arab support around the Iraqi regime.

Iraq since the end of its war with Iran, and contrary to expectations that it would focus its efforts and its resources on the socio-economic development of Iraq, choose instead to focus on re-building its military capabilities and its air defence systems while doubling its production of chemical and biological weapons beyond the defence needs of Iraq. Hence the Iraqi army was considered one of the biggest armies in the region and the fourth largest growing army in the world. Its total regular armed forces stood at 1,000,000 in comparison to 20,300 for Kuwait and 67,800 for Saudi Arabia. Its battle tanks were 5,500 and armoured combat vehicles were 7,500 while its air force included 40,000 regulars and 689 combat aircraft. Saudi Arabia on the other hand had 550 battle tanks and 1,600 armoured vehicles and Kuwait had 245 battle tanks and 445 armoured vehicles. Kuwaiti air force had 2,200 regulars and 35 combat aircraft while Saudi Arabia had 22,000 regulars and 189 combat aircrafts (all these figures are for the year 1990).⁴

On 2 April 1990 Saddam made his statement that "he would set half Israel on fire, if it ever attempted to strike at Iraq". Saddam uttered these words as a warning to Israel not to blast the missile launching platforms reportedly built in Iraq, and indicating that Iraqi missiles are capable of reaching Tel-Aviv.⁵ The threats to burn Israel with chemical weapons succeeded in arousing counter reactions in the United States and Israel. American President Bush suggested the withdrawal of these declarations. He called upon Iraq to renounce the use of chemical weapons saying "these declarations neither help Middle East peace nor secure Iraqi interests".⁶

Nevertheless, the Iraqi leadership persisted in escalating its threatening declarations against Israel. On April 12, Saddam said to a delegation of US congressmen that "orders have been given to commanders of airbases and missile formations that the minute they hear of an Israeli atomic attack on Iraq, they should mobilise all chemical weapons towards Israel".⁷ Thus, the Iraqi

regime succeeded in creating a general Arab impression that Iraq's pivotal cause, now that the war with Iran has come to an end, was the Palestinian issue, and that the main reason for developing arms is to deter Israel and to counter Israel's nuclear and other weapons of mass destruction. One must admit that Iraq despite its military power, prior to its invasion to Kuwait, was neither capable of burning half of Israel nor destroying it as claimed by the Iraqi leadership. But the psychological advantages of such a propaganda campaign against Israel paid off in terms of gaining the support and sympathy of the Arab masses.

Saddam tried to exploit the Baghdad summit, May 1990, to gain the backing of Arab states for the Iraqi stance against Israel, the United States, and indeed all powers seeking to marginalise the Arabs. A number of resolutions were passed mainly concerned with the Palestinian question. However Iraq managed to rally the support of the summit for its own causes. Thus the summit stressed its right to take whatever measures it deemed necessary to ensure its national security.⁸ The summit, also, supported the peace negotiations between Iraq and Iran based on Security Council resolution 598 and the agreement of 8 August 1988 between the two countries. Paradoxically it supported at the same time Iraq's "historical right and sovereignty over the Shatt al-Arab".⁹

Despite the strong and threatening rhetoric of the Iraqi regime, Saddam during a meeting with Bandar bin Sultan, the Saudi Ambassador to the US, asked the assistance of the Saudis to mediate with Israel so as not to threaten Iraq by air raids.¹⁰ Such a request indicates the wariness of the Iraqis of the military power of Israel and more significantly it exposes the true intention of Saddam's open threats to Israel as only means to gain the support of the Arab masses. There is a view that suggests if Saddam's objective was to restore the rights of the Palestinians and the Arabs he would not have used speeches to threaten Israel. Instead he could have either insisted on its compliance with UN resolutions within a certain time limit and threatened to attack if it does not comply, or to attack Israel without prior notification as Israel has done, in July 1981, when it attacked the Iraqi nuclear facility without prior warning.¹¹

The campaign against Israel and the linkage between the Gulf crisis and the Palestinian problem succeeded in helping the regime gain immense support and sympathy across the Arab world, especially that most Arabs believed the American and Iraqi propaganda about the might of the Iraqi forces. There was, subsequently, a widespread conviction in the Arab world that Saddam would confront and deliver a serious blow to both the US and Israel. But in the end, the true nature of the strength of the Iraqi forces and the true intentions of Saddam were exposed. In practical terms, all Arab support and sympathy did not stop the attack of Western powers on Iraq and the destruction of Iraqi military and economic base.

B. Heightening of Tension with Kuwait

The period between the cease-fire with Iran August 1988 and the Jeddah meeting in July 1990 saw an escalation of hostility and tension in the Gulf especially between Iraq and Kuwait. The geographical proximity, memory of past conflicts and territorial claims, the still unresolved question of border demarcation and the stark military imbalance in the relative strength of the two states made Kuwait an obvious pressure point for the Iraqi regime.¹² It was also relatively easy to single out Kuwait, as well as the United Arab Emirates (UAE) for very substantial pressure because of their over production of oil.

The Organisation of Petroleum Exporting Countries (OPEC), responding to a glut in the world market, had laid down quotas for each member and set the price of oil at \$18 a barrel. Saddam accused Kuwait and the UAE of deliberately exceeding their quotas, forcing the price down as they flooded the market. In the closed session of the Arab heads of states during the Baghdad summit Saddam claimed that "for every single dollar drop in the price of a barrel of oil, our loss amounts to \$1 billion a year".¹³ This led him to demand an end to quota violations, an increase of Iraqi production and a price rise to at least \$25 a barrel. Furthermore, he specifically accused Kuwait of "stealing" Iraqi oil by slant drilling beneath the border in Rumaila oilfield, and demanded compensation of \$2.5 billion.¹⁴ The Kuwaitis angrily denied the accusation and

refused to negotiate, maintaining oil-production levels and refusing to forgive any wartime loans to Iraq. To Saddam this was tantamount to a Kuwaiti declaration of "economic war". In reference to that he said:

War is fought with soldiers, and much harm is done by explosions, killings and coup attempts - but it is also done by economic means. Therefore we would ask our Arab brothers who do not mean to wage war - I am now speaking only as far as Iraqi sovereignty is concerned - I say to those who do not mean to wage a war on Iraq: This is in fact a kind of war against Iraq...We have reached a point where we can no longer withstand pressure.¹⁵

According to al-Bazzaz (an ex-Iraqi official and a member of the opposition at present) the war with Kuwait was inevitable, had Iraq continued to let Kuwait flood the oil market, Iraqi oil revenues would have not covered half its internal domestic economic needs, let alone service its debt. Thus economic considerations were primary in motivating Iraq's sustained propaganda against Kuwait, which centred around Kuwait's disregard for OPEC quotas and the financial damage that Kuwait's policies were inflicting on Iraq. Al-Bazzaz argues further that:-

After eight years of attrition, Iraq could not build on its previous economy. It became necessary, therefore, to find a permanent solution to its economic predicament and debt burden. It needed a solution - which can only be geo-political - that would provide new sources for the Iraqi economy.¹⁶

Responding to the Iraqi accusation that Kuwait was flooding the oil market and breaking the policy of OPEC, Deputy Secretary-General for Military Affairs of the GCC, Faleh al-Shatti, says:

Iraq's accusation of Kuwait that it has been exploiting the Rumaila - Ratga oilfield and that it has been overproducing is an excuse used by the Iraqi regime in order to invade Kuwait. I believe oil matters were just an excuse used by the Iraqi regime to justify its invasion while other reasons including Iraqi ambitions in the area constituted a strong motive. Iraq believed that it could get away with its aggression considering the vast gap in military power between the two countries. It also aimed at engaging its citizens with a new external crisis so as to take their attention away from the deteriorating internal situation.¹⁷

Saddam's opening speech to the Baghdad summit bound all the themes of Iraq's political campaign together namely that the Arabs had reached a historic juncture and a basic improvement in the Arab condition was now possible, a scenario of war with Israel and how it should be fought as well as a focus on the liberation of the Palestinian people. This increased the pressure on the Gulf states especially with the strong language used by the Iraqi leader as he urged:-

As twenty one states, one must present a solid front against whoever deviates from pan-Arab security within our ranks so that we can contain his aims and policies...The Arab masses believe that pan-Arab security is an integral whole and that for pan-Arab security to become a reality, we can not afford to regard it half heartedly - it must be practised in every aspect of life.¹⁸

The Iraqi president went on to talk about pan-Arab coordination, and later claimed that Kuwait and the UAE had been directly informed that their deviant oil policies were regarded as deliberately harmful to Iraqi interests. In support of that the summit as mentioned before affirmed Iraqi right "to reply to

aggression by all means they deem fit to guarantee their security and sovereignty".¹⁹

In an attempt to solve the intensifying dispute over oil production, Iraq dispatched Sa'dun Hamadi, 23 June 1990, on a mission to the GCC states to follow up Saddam's appeal to resolve, through negotiation, the issues raised over oil prices and overproduction. The four Gulf Arab states, Saudi Arabia, Kuwait, United Arab Emirates and Qatar, seemed to be agreeable to holding a smaller Arab summit provided that it was preceded by a preparatory meeting of the Arab oil ministers. Sa'dun Hamadi met with several Arab heads of states and their oil ministers, the majority of whom seemed to have been sympathetic to Iraq's position.²⁰

The Gulf states, with the exception of one or two, appreciated the difficult financial situation of Iraq after its war with Iran and the huge debts it accumulated, as well as its need to rebuild and reconstruct the economy. But by invading Kuwait Iraq accelerated the crisis to a level where it became impossible for any Gulf state to show any sympathy to the Iraqi cause. Ironically Iraq's main objective of the invasion was to improve its economic conditions, but its action resulted in a worsening of its domestic situation.

During the month of June 1990, Saddam held several joint meetings of the Revolutionary Command Council (RCC), in which, among other things, Iraq's differences with Kuwait were discussed. As Kuwait had shown no sign that it was ready to settle those differences, it was decided to bring them before the Arab League for consideration in its forthcoming meeting in July. On 16 July 1990, Saddam publicly raised Iraq's differences with Kuwait in his speech on the occasion of the twenty second anniversary of the Ba'th revolution. In that speech he accused the Gulf Arab rulers of consciously lowering the price of oil which had the consequence of reducing Iraq's income from the sale of its oil and adversely influencing its programme for economic development.²¹

Commenting on the economic situation in Iraq and responding to Iraqi claim that Gulf states especially Kuwait are responsible for the deterioration of the economic situation of Iraq, Ismail al-Shatti (an ex-member of parliament) says:

Arab countries that are considered poor are not so in effect. They have rushed into political and economic experiences that impoverished them and killed productivity in their people. The solution thus does not lie in the redistribution of the wealth of the Gulf, since that will be temporary, rather in the appropriate planning and management of wealth. We ask ourselves who impoverished Sudan, one of the most fertile among Arab countries, also who caused the huge indebtedness of Iraq. Why should the wealthy Arab countries be responsible for the mismanagement and the waste of resources in these countries? Why should they redistribute their wealth to pay for the mistakes of others? ²²

On 15 April 1990 the Iraqi Foreign Minister, Tariq Aziz, sent a memorandum to al-Chadli al-Qulaibi, the Secretary-General of the Arab League reiterating Iraqi list of grievances against Kuwait. Foremost among them was the accusation that Kuwait took advantage of Iraq's entanglement in the war with Iran and embarked on establishing military and oil installations, police installations and farms on the Iraqi territories. He argued that Kuwait showed hesitance in accepting the Iraqi offer during the 1988 Algiers summit to start negotiations on the border issue and instead proceeded with its encroachments establishing more oil and military installations, farms and police stations.

Secondly was Iraq's accusation of Kuwait of carrying out a deliberate policy to undermine Iraq in co-operation by United Arab Emirates by glutting the oil market and exceeding their OPEC's oil production quotas. He further argued that this over production caused a reduction in the price of a barrel of oil from \$18 to \$11-13. Consequently Iraq had lost in the period 1981-1990, around \$89 billion. ²³ Aziz made another major point concerning the assistance received by

Iraq from Kuwait during the war with Iran. He explained that the larger part of that assistance was recorded as debt. Considering the huge losses and sacrifices that Iraq has made in defending Arab security and the wealth of Gulf states it was more appropriate to write off that debt.

Kuwait responded to the Iraqi memorandum with its own memorandum to the Secretary - General of the Arab League attempting to lessen the level of tension and the unjustified acceleration of the problem with Iraq. It also denied Iraqi accusations and requested the Arab League to investigate the border dispute. Although the memorandum asked for the formation within the framework of the Arab League of a committee to decide on the question of demarcation of the boundaries between the two countries, the Kuwaitis continued to assert that Rumaila field falls within Kuwait territory.²⁴ As mentioned in the memorandum:

Iraqi claims concerning the border dispute with Kuwait and including Kuwait acceleration of infringements on Iraqi lands by constructing military installations, petroleum installation and farms are distortions of reality and facts. Kuwait has continuously sought the delineation of borders with Iraq and an end to unresolved issues. Those who followed the issue of oil prices understand that the determination of prices has an international dimension to it and include producers and consumers from OPEC and outside it. As to the Iraqi claim about petroleum installations on the southern part of the Rumaila oil field, the truth is that Kuwait started explorations inside its territory since 1963 and it stopped the operations for reasons well known to the Iraqis. Kuwait restarted its operations again in 1976 and production began at the end of the seventies. It must be emphasised that Kuwaiti operations take place on the part of the oil field that is within its territory.²⁵

As mentioned in the previous chapter Kuwait had provided Iraq with massive financial and logistical support, and thus felt it had done enough to support Iraq and was not willing to concede more.

Three months later, on 16 July 1990, the Iraqi Foreign Minister restated Iraqi demands for an end to oil-quota violations and to Kuwaiti activities in the Rumaila oilfield. Saddam, twenty-four hours later, openly accused Kuwait and the UAE of conspiring with "world imperialism and Zionism" to destroy the economic livelihood of Iraq. He even went so far as to say that, if a peaceful solution was not forthcoming, he would "have no choice but to resort to effective action to put things right".²⁶ Saddam's threat to use force to achieve his goals were meant to frighten the Gulf states to concede to his demands.

In another attempt to solve the dispute over oil prices, a meeting of five oil ministers from the Gulf region was held in Jeddah on 12 July 1990. Saudi Arabia convinced both Kuwait and UAE to pledge to hold their own output to the quota of 1.5 million barrels. Kuwait was producing about 1.7 million barrels a day and the UAE, about two million a day. On 20 July 1990 Kuwait and the UAE agreed to adhere to OPEC quotas, under intense pressure from Saudi Arabia, Iran and Iraq, but would go no further in their concessions. To Saddam this was merely reinforcement of their arrogance and intransigence; it may well have been at this point that he finalised his plans for invasion, since Iraqi forces from the 21 July started massing close to the border with Kuwait.²⁷

II Motives for the Iraqi Invasion of Kuwait

This section will focus on analysing the motives that lie behind the historical and unprecedented decision for an Arab country to invade another. These motives can be divided into two major ones the economic and the political. We shall discuss each of these separately.

A. Economic Motives

The discussion above indicated how significant the economic factor was in heightening the tension in the Gulf. Iraq's economic situation after its long war with Iran was deteriorating rapidly and the expectations of the Iraqi people, after the end of a long war, of prosperity, development and progress exacerbated the situation further. Iraq presumed its war with Iran to be short, and that it would come out of it with a quick victory especially that Iran was suffering from internal problems and instability. But these calculations of the Iraqi leadership proved to be wrong.²⁸ The gruelling eight year war destroyed the Iraqi economy and made it even more dependent on oil production despite its enormous agricultural and industrial potential, and made the Iraqi people less self-reliant than ever before.²⁹ Moreover, Iraqi huge debts created a deficit in its balance of payments, increased unemployment and food prices.

The Iraqi leadership had limited options in order to overcome this economic situation. One possible option was the reduction of the size and burden of its military and security apparatus to a level suitable to its real economic capabilities. But that would have threatened Saddam's regime and might have caused its demise or internal disturbances. Also this requires long-term vision and the gradual erosion of the military basis of the Iraqi society. The political changes that swept away with totalitarian and military political systems in Eastern Europe isolated the Iraqi regime further, especially with the end of US-Soviet superpower rivalry and the domination of the international scene by the US. Such a situation exerted further pressure on Iraq to transform its totalitarian system towards a more pluralistic one. Hence Iraq attempted to appease its people by promising democratic reforms, political pluralism and public freedoms.³⁰ It is difficult to assess whether the regime was at any point seriously contemplating taking this liberal option.

The second option was to direct the people to an external venture and by using the military apparatus to gain access to much needed economic resources. By annexing Kuwait, the Iraqi regime would have been able to pay off its debt within seven years.³¹ This debt is variously estimated between \$80-200 billion,

the Iraqi regime itself admits to \$40 billion.³² It would have also gained access to substantial oil wealth. As indicated by 1989 figures, Kuwait's production of 1.8 million barrels a day created a Gross National Product (GNP) of \$22.1 billion. Saddam certainly needed it, for although Iraq was itself producing 2.8 million barrels a day, creating a GNP of \$67 billion a year, the country was effectively bankrupt.

In August 1988, when Iraq celebrated its self-proclaimed victory in the eight-year war with Iran, it was estimated that rebuilding the state to its pre-1980 condition would cost a staggering \$230 billion, the equivalent of devoting every dollar of oil revenue for nearly 20 years to reconstruction. That this was impossible was shown by the fact that, in 1989, Saddam could not even balance the book. Oil revenues were around \$13 billion, imports totalled \$17 billion, with debt repayments of \$5 billion on top of that.³³ Annexing Kuwait would have meant also that Iraq would control 20 per cent of the world's oil reserves. This gives Iraq a substantial influence in OPEC and would be able to compete with Saudi Arabia, which effectively controls the organisation.³⁴

The difficulty of the economic situation of Iraq after the war caused some concern within the quarters of international creditors about Iraq's ability to pay its debts, especially that estimates suggested that Iraq would have needed \$220 billion to implement its reconstruction plans. Iraq's income in 1990 was around \$13 billion, of that \$ 5 billion were spent on the military, while \$11 billion were spent on food and civilian expenditure. In the same year Iraq had liquidity to cover only three months of imports.³⁵ Half of Iraq's debt was owed to other Arab countries, mainly Saudi Arabia and Kuwait. The cancellation of this debt and the restoration of financial assistance would have allowed Iraq to fund its reconstruction and rearmament plans without having to resort to borrowing from non-Arab creditors, especially that non-Arab creditors were unwilling to lend Iraq. This unwillingness undermined the government's attempts to purchase the needed civil and military technology of the West.³⁶

Iraq, therefore, saw its invasion of Kuwait as an end to all its economic problems and at the same time its chance to preserve the regime. Saddam's

ultimate solution to Iraq's economic problems was outlined as early as February 1990, at an Arab Co-operation Council (ACC) meeting in Amman. He asked King Hussein of Jordan and President Mubarak of Egypt to put pressure on the Gulf states not only to declare a moratorium on all wartime debts to Iraq, but also to make an immediate additional grant of \$30 billion. Saddam's justification was that Iraq had fought for eight years against Iranian fundamentalism on behalf of the Gulf states, so they owed him reparations. This demand was accompanied by a direct threat to Gulf states as expressed clearly in these words:

Let the Gulf states know that if they do not give this money to me, I would know how to get it.³⁷

The significant role played by the economic factor has been visible in the specific issues that were raised by the Iraqi regime throughout the period of escalation of tension between the two countries. It started with the issue of overproduction of oil, the cancellation of Iraqi debt to Kuwait accumulated during the Iran war, the compensation over the oil allegedly taken from the Rumaila oilfield, and ended with the request for an Arab "Marshal plan" for Iraq to support its recovery from the war. Thus, by late July, convinced that Kuwait was following a deliberate policy of economic sabotage against Iraq, coupled with the lack of progress on the border issue, Saddam decided to act.

B. Political Motives

The rivalry among the major Arab actors to lead the Arab world has been endemic to Arab politics. Iraqi leaders like their Egyptian and Syrian counterparts strived for this leadership. Saddam's regime hoped to replace Egypt as the pivotal Arab country following its isolation in the wake of its peace treaty with Israel in 1979. Yet the Iraqi regime was indebted to the Egyptians for human and military assistance during its war with Iran. In 1987 Iraq restored diplomatic relations with Egypt and supported the return of the Arab League

headquarters to Cairo. It also invested in a formal alliance, the Arab Cooperation Council (ACC), which consisted of Iraq, Egypt, Jordan and North Yemen. The council was formally established on 16 February 1989 and was a response to the creation of the GCC whereby Iraq was excluded. Saddam hoped the alliance would limit opposition to the Iraqi regime in its future plans and contain these countries especially Egypt. It also aimed to isolate Iraq's traditional rivalry, Syria from the main regional coalitions: the GCC and the ACC. Iraq went as far as signing a non-aggression treaty with Saudi Arabia, hoping to guarantee its neutrality in future conflicts in the region. Strictly speaking this treaty is not necessary since the charter of the Arab League prohibits aggression among member states.³⁸

An Iraqi official was quoted in the Washington Post indicating that Iraq's Gulf policy would take shape in the wake of the end of the war with Iran as follows: "Iraq would do everything in its power to block any quick restoration of diplomatic relations between Saudi Arabia and Iran, it would seek to establish a new Arab axis with Saudi Arabia, Egypt and Jordan, it would compete with Iran's regional influence, economic development would be one of its main foci, and Iraq was unlikely to join the GCC".³⁹ Seeking a dominant role for Iraq in the region has been the hallmark of Saddam's rule, and as the war with Iran has shown, he is willing to use any means to attain such a goal. To establish a powerful position for Iraq after the war he needed both to curtail Iran's influence and to rebuild Iraq economically and militarily, hence his emphasis on inter-Arab relations, especially his relation with Gulf states.

Despite the improvement in relations between Iraq and Egypt, they continued to compete for the loyalties of other Arabs, especially the Palestinians and the Jordanians. They both sought closer relations with Gulf states which Iraq considered its sphere of influence.⁴⁰ Moreover the Iraqi regime sponsored an approach to peace in the region opposed to the Egyptian's approach, based on improving Arab standing militarily and economically. Saddam believed that Israel and the world would not take the Arabs seriously unless they enhanced their pan-Arab strategic strength. To do that oil revenues must be used to underpin such a project. Saddam's tough talk and stress on inter-Arab

obligations worried Arab rulers, but had tremendous appeal among the Arab people because it touched a chord with the Palestinians and touched the chord of widespread resentment towards the oil-rich Arab states.⁴¹ Also, "by seizing Kuwait's oil wealth and ports, he must have calculated that he could ensure his strategic hegemony as well as his grassroots support".⁴² Access to Kuwaiti oil would solve the regime's economic crisis, help in the reconstruction of Iraq, and maintain its powerful and dominant place in the region. Such an enhanced economic position would dispel the widespread dissatisfaction of the Iraqis and improve their living standards, and re-ignite public support for the regime. It would also enhance Iraq's popularity among Arab masses.

The regime, after its war with Iran, emphasised its historical role in protecting "the Eastern Gateway" and the dreadful cost it paid in Iraqi lives and material assets. Saddam saw this achievement as a confirmation of Iraq's leading and historical role in the Gulf and the region as a whole.⁴³ In his view it gave the Iraqi regime the right to seek the leadership of the Arab world as opposed to Syria and Egypt in particular. It also imposed on Iraq two major responsibilities: the duty to deter Israel and to counter Western attempts to undermine the pre-eminence of Iraq after the Iran war.⁴⁴ This explains the escalation of the propaganda campaign against Israel in the months preceding the invasion and the references to American and Western dominance in the region. During the summit of the ACC in Amman, Saddam in his speech said:

The United States, which have the most influence in the Gulf region, will maintain its super power position without any rival. The people of the Gulf and the Arabs in general are not alert to this danger and their future will be governed by US wishes and interests.⁴⁵

Despite this rhetoric Saddam in a meeting with John Kelly, Assistant Secretary of State for Middle Eastern Affairs, in February 1990, expressed his views about the international situation following the declining position of the Soviet Union and its impact on American relations with Iraq. He said that the Soviet Union as

a world power was finished, and the United States could have a "free hand" in the Middle East. Saddam was obviously sending a message that he was ready to co-operate with the United States in the maintenance of peace and security in the Middle East.⁴⁶ That shows that Saddam wanted to carve for himself a leading role in the region from a position of power and strength, and was not seeking confrontation with the Americans.

Saddam saw the possibility of achieving this leading regional position erode because of mounting internal political and economic pressures, after his exhausting war with Iran. The regime's fear of the eclipse of the effectiveness of its repressive system in general, and the loyalty of the military in particular played a major role in contemplating the take-over of Kuwait. Saddam succeeded in creating a docile and highly politicised military leadership resting on the principles of personal loyalty and kinship and counter balanced by the expansion in the party's militia, the Popular Army.⁴⁷ The military's unquestioned support has been essential for the survival of Saddam's rule, thus, the increase in the number of coup attempts put Saddam on the alert and he "experienced deep anxiety over the future of his personal rule".⁴⁸ In all probability Saddam believed that a foreign venture would protect the regime against the growing dissent and dissatisfaction prevalent among the Iraqis. Kuwait with its long history of dispute with Iraq, its wealth and its location was the most suitable target for such a venture. Saddam hoped he would emerge after the invasion of Kuwait as an Arab leader as well as a more powerful leader at home.

Some suggested that Iraq also needed the invasion of Kuwait to cover its concession to Iran over Shatt al-Arab. Iran refused categorically to change the 1975 agreement - which Saddam spent eight years of war trying to reverse, killing in the process more than a quarter of a million Iraqis and half a million Iranians - and insisted on its acceptance by Iraq as Iran's price for formally ending all hostilities and finalising exchange of prisoners.⁴⁹ Although the announcement of the Iraqi concession came on the 15 August 1990, under what Saddam termed as a "good will" initiative towards Iran, the Americans were informed of it as early as 25 July during the meeting between Saddam and April Galspie, the American Ambassador to Iraq. This initiative was the

culmination of the direct correspondence between Saddam Hussein and the president of Iran Ali Akbar Hashemi-Rafsanaji which covered the period 21 April - 8 August.⁵⁰ In the last letter of Rafsanaji to Hussein the Iranian position was reiterated by saying

Peace talks should be based on the 1975 Algiers accord because in the absence of any commitment to the previous agreements, especially the agreement which bears your own signature, one can not be expected to trust on what is being said today.⁵¹

He went on to say "it would not be necessary to search for anything else than the 1975 treaty to delimit frontiers both on land and in the river". Another condition the Iranian insisted on is the time scale of the withdrawal from Iranian territories and the release of prisoners of war. Rafsanaji indicated that a two month period as initially suggested by Saddam can not be justified and instead proposed a shorter period of two weeks, and a three months period for the release of POWs.⁵² Saddam's initiative did respond to these conditions positively as seen in its three main items:-

1. Iraq's ratification of the 1975 agreement of Algiers regarding the demarcation of the boundaries in Shatt al-Arab between the two countries.
2. Withdrawal of the Iraqi forces from the Iranian territories, effective as of 17 August.
3. Immediate embarkation on the complete exchange of prisoners of war, effective as of the same date.⁵³

A multitude of economic and political factors, therefore, played a role in the Iraqi decision to take over Kuwait, in order ultimately to maintain Saddam's regime and to protect the repressive political-military system he so painstakingly

developed over the years. The problem for the Iraqi regime was in the fact that it based its historic decision on some erroneous considerations. These can be summarised as follows:

1. Iraq presumed that the American administration was not in a position to intervene militarily directly against Iraq.
2. Saddam misunderstood the nature of change that had taken place in the international arena including the decline of Soviet role in international affairs.
3. Saddam misunderstood the importance of the Gulf area within the international economic system as well as within the international strategic arrangements following the end of the Cold War. In particular the fact that Europe and the US were unlikely to allow any party to disturb the existing political equation in the Gulf area and would not accept any disturbance to this equation.
4. Saddam believed that Saudi Arabia would accept the invasion of Kuwait and that it would not call upon foreign forces to protect it and to protect the Gulf area, as well as help in liberating Kuwait.
5. Saddam thought the entry of Israel as a regional party in any war against Iraq will push Arab states to prevent them from supporting any military action against Iraq.

Iraq, therefore, miscalculated on many fronts especially on account of the reaction of Western powers. The international system was passing through drastic changes with the demise of the Soviet Union and the end of the Cold War, yet changes in the political map of the Gulf region was not open for renegotiations. The stability of the oil region and the maintenance of the balance of power in favour of Western powers were essential. Iraq believed that chances for a military confrontation was very limited if non-existing, considering the international mood, present at that moment, which has been

geared towards calming international tensions.⁵⁴ Desert Storm proved how wrong Iraq had been.

III The Failure of Jedda Meeting and the Invasion of Kuwait

The Iraqi-Kuwaiti dispute had proved over several decades to be intractable, and the ability to find an acceptable solution to both parties seemed virtually impossible, despite all the attempts at negotiation and conciliation. This trend continued in the months prior to the invasion. Commenting on the method the Arabs use in their dialogue and negotiations over various issues al-Shazli al-Gulaibi, Secretary-General of the Arab League from 1979-1990, has noted:

In the political sphere it appears that our states have not had sufficient experience in the method of mediation and conciliation to bring opinions closer especially when differences appear concerning critical issues. They have a tendency to use the method of oration without trying to use argumentative methods, which helps to avoid escalating matters at hand...and in the case that no solution is found or conciliation is not possible, states tend to resort to comments and language that is beyond diplomacy and appropriateness in conducting state affairs.⁵⁵

This might partly explain the difficulties associated with conciliation and negotiation among Arab states. But the Iraqi-Kuwaiti dispute has been of such long standing that failure at negotiations must lie somewhere else, in more objective factors relating to notions of sovereignty, economics and territorial integrity. Both parties naturally have continuously accused the other of stubbornness, protraction and unwillingness to negotiate. The particular conditions that pushed Iraq towards military action were, as discussed before, a combination of acute economic and internal political problems as well as the

regime's vision of itself as the most deserving among Arab states to lead the Arab region. The clearest indication of the regime's thinking of a take over of Kuwait or some sort of a military action was demonstrated by Saddam during his meeting with the US Ambassador in Iraq.

On 25 July 1990, President Saddam summoned the United States Ambassador, April Glaspie, in the last high-level contact between the two governments. From this meeting Saddam wanted to convey to the Americans Iraqi requests that he considered rightful and just, and to make it clear that Iraq was suffering from a very distressing economic situation. He indicated to Glaspie that:-

Iraq is facing another war. Military war kills people after spilling their blood and economic war kills the humanity of people...We as you are aware gave rivers of blood in a war that lasted eight years...Kuwait and UAE reduced oil prices in a planned and purposeful manner and without any commercial or economic reason. Their aim is the humiliation and subjugation of Iraq. The Kuwaiti state, while we were engaged in war, was expanding on the expense of our territory. ⁵⁶

Turning to the question of oil prices, Glaspie pointed out that the US did not want the price of oil to go too high. The Iraqi government proposed a rise to \$25 a barrel, since the drop in the price to \$12 a barrel had resulted in a reduction in the income from oil of some six to seven billion US\$. ⁵⁷ Glaspie's answer to that was "we have many Americans who would like the price to rise above \$25, since they are from oil producing states". ⁵⁸ That appeared to be a frank and open discussion about the need of Iraq for higher oil prices and American backing of it as long as the price suited American interests. On the tension in the region and the Kuwaiti-Iraqi dispute, the Ambassador said:

We do not have an opinion on Arab-Arab differences such as your border dispute with Kuwait...We hope you will be able to solve this problem in a suitable manner through Kulaibi or President Mubarak.⁵⁹

Iraq understood that to mean that the US administration would not interfere in Arab disputes and that it would see the solution of such a dispute being discussed within the framework of the Arab League, or by mediation from Arab rulers such as King Hussein, King Fahd or the Egyptian president.⁶⁰ Glaspie was undoubtedly reflecting the opinion of the State Department which was convinced that Saddam was doing no more than "sabre-rattling" to force Kuwait to negotiate, but Saddam understood the American position as giving him the green light.⁶¹ This perception was reinforced, on 31 July, when the BBC World Service carried reports of a meeting of a US House of Representatives Middle East subcommittee at which the Assistant Secretary of State for the Middle East, John Kelly, admitted that the USA had no defence treaties with the Gulf states - a clear indication to Saddam that no military response was likely or, indeed, possible.⁶² Glaspie herself admitted indirectly that she was aware of Saddam's intention of attacking Kuwait but not all of it. She said "obviously, I did not think - and nobody else did - that the Iraqis were going to take all of Kuwait".⁶³

The understanding of the Iraqi leadership of the position of the West was, therefore, distorted by these initial American signals as well as President Bush's initial mild reaction to the invasion. It gave the Iraqis encouragement in their undertaking. However the entrenchment of the Iraqi regime in the face of international condemnation and the quick steps it took to consolidate its take-over of Kuwait made the American and its western allies very wary of the regime's regional ambitions. Neither the Americans nor their Western allies were willing to accept a change in the balance of power in the Gulf region and Saddam's apparent defiance to their demands strengthened their resolve to stand up against his undertaking. The protection of Western interests in the area according to M. Mubarak, an academic at Kuwait University, is a legitimate endeavour.

Of course there is an active superpower in the Gulf region, especially after the collapse of the Soviet Union and the dominance of the international system with one superpower. The US has vital interests in the region and we can not deny the presence of these interests as well as Western interests. US presence in the region will continue in order to protect these interests. The area is rich with oil and the US will be the centre that the West depends on to protect their interests in the area.⁶⁴

On the eve of the Jeddah meeting there was hope that the dispute would be solved peacefully. According to Jordanian sources, Kuwait was ready to cancel all of Iraq's debt in return "for security arrangements in the form of agreement on the *de facto* Iraqi-Kuwaiti border".⁶⁵ Iraq had encroached on the *de jure* border, since 1961, in the areas south of the Umm Qasr and south of the legal border of the Rumaila area. However, Kuwait was still unwilling to accept the demands of the Iraqis to hand over the Ratga field (the southern tip of the Rumaila oilfield), while the lease of Warbah seemed open to discussion. Indicating this position, Sheikh Sabah speaking after the invasion said that:-

Iraq asked us to drop the debt and we did not object. Iraq asked for Bubiyan island, we agreed to give them Warbah island instead.⁶⁶

From the Iraqi perspective debt relief and Warbah alone were not incentive enough to agree to a permanent demarcation of borders, especially taking into account Iraq's worsening economic situation and its dire need for huge amounts of capital, and the absence of a definite solution for the Shatt al-Arab. Hence the Jeddah meeting ended in failure. The statements of both sides indicated that clearly. Sa'dun Hammadi noted that:-

No agreement has been reached on anything because we have not felt that the Kuwaitis are serious about redressing the grave damage inflicted on Iraq as a result of their recent behaviour and positions against Iraq's basic interests.⁶⁷

On the other hand Kuwaiti officials indicated that the talks "collapsed because Kuwait did not give in to Iraqi demands to write off debts and to relinquish some of its territories".⁶⁸

Despite the failure of Jeddah no one expected a full scale invasion of Kuwait. Most scenarios expected a limited action such as the annexation of Ratqa, or an attack on Warbah and Bubiyan. Even the Americans believed any action on the part of Iraq would be of a limited nature and there was a sort of tolerance at the beginning of the invasion from the Americans towards Iraq's need for improved access to the Gulf. Thomas Pickering, the United States Ambassador to the UN, through a message relayed to the Iraqis by Jordanian officials said that:

We acknowledge your need for an opening on the Gulf, and the issue of access to the islands is one that we could look on favourably.⁶⁹

Yet Iraq's action entailed a full invasion of Kuwait and prompted fears of its territorial ambitions in the Gulf area. In the early hours of 2 August, 100,000 Iraqi troops swept across Kuwaiti territory and captured the Royal Palace and other important buildings in a blitz attack. Initially Iraq claimed that its troops marched into Kuwait in response to calls of the Kuwaiti people that had toppled the ruling family, and announced the formation of "The Interim Government of Kuwait ". By this act it alleged the dethroning of the Emir and dissolved the Kuwaiti National Council. On the 4 August Iraq announced that this Interim Government was presided over by Colonel Alaa' Hussein Aly - believed to be

Saddam Hussein Son-in-law and included majors and Lt.Generals - later they were confirmed to be Iraqis.⁷⁰

The Iraqi news agency on the 5 August claimed the start of a pull-out of Iraqi invasion troops from Kuwait in agreement with the so called Kuwait Interim Government. However, the following day the Iraqi government equated the Kuwaiti Dinar to the Iraqi Dinar as a first step towards economic integration between the two countries. It also moved thousands of Iraqi families to settle in Kuwait. Kuwaiti sources put the number of people moved at around 4 million.⁷¹ This was seen as part of a scheme contemplated to change the demographic structure of Kuwait.⁷² These steps pushed around 40,000 Kuwaities to flee Kuwait and head for Saudi Arabia on the 7 August. On the same day the Interim Government claimed the return to normal of work in government circles, banks and services in Kuwait and according to radio Baghdad it also declared a Republic in Kuwait. The official declaration of the annexation of Kuwait came on 8 August. This annexation aimed to obliterate Kuwait's internationally recognised independent identity.

Thus, events in the first week of the invasion moved very quickly and decisively and the Iraqi regime, while reinforcing itself in Kuwait continued to come out with pretexts and allegations to justify the invasion and occupation of Kuwait. This might have stemmed from the fact that the precise nature of the future of Kuwait was not contemplated at the moment of invasion. In other words, Saddam did not have a determined strategy but a series of improvised moves.⁷³ The Iraqi regime vacillated from claiming that Iraq came to the support of a revolutionary coup in Kuwait to invoking the principle of historical right to justify Kuwait's occupation. This principle has been unanimously renounced by all developed and developing countries, because if this principle is ever adopted it would open the door to an overwhelming chaos in international relations (a detailed discussion of international law and Iraq's violation of international law is included in chapter four). This is why Europe recognised the post-world war II boundaries, despite the unfairness of many of them. And also the reason why Africa pledges to respect post-independence boundaries. It follows that any admission of the colonial nature of most of Arab political boundaries does not at

all justify any attempt to re-demarcate these boundaries. This would just give rise to further disputes and conflicts.⁷⁴

Yet in Saddam's eyes the dispute represented on one level all that was wrong with territorial arrangements in the region. The issue to him was clear. Kuwait existed as a separate state only because of boundaries imposed by the British in the aftermath of the First World War and the collapse of the Ottoman Empire and, in reality, the area known as Kuwait was part of Iraq, having originally existed as a *qadha* (lesser district) in the *vilayet* (province) of Basra.⁷⁵ Thus any military action on behalf of the Iraqi regime is therefore a correction of a historical injustice especially in light of the continuous lack of progress in solving the dispute by peaceful means.

On another occasion, the Iraqi regime claimed that the essence of what Iraq had done was to materialise Arab unity and to eliminate the artificial boundaries drawn between parts of the Arab nation by colonialism.⁷⁶ The rationale behind such a claim is to justify the armed subjugation and arbitrary annexation of a sovereign country by another. It should be noted here that the democratic and voluntary work towards unity was not an overlooked value in modern Arab politics. For example Gamal Adul Naser, on the 29 September 1961, ordered the dispatch of some Egyptian army units to Latakia when Syria defected from the United Arab Republic. Realising that there was a possibility of armed confrontation between Egyptian forces and the pro-defectionist movement in the Syrian army, Naser immediately cancelled these measures, and in an address to the nation on 30 September stated that:-

Unity is a popular will. On my part, I do not accept - under any circumstances - to transform unity into a military operation. This is why yesterday I issued orders to cancel the military action.⁷⁷

Moreover, Iraq reiterated that the occupation and annexation of Kuwait was based on the principle of fair distribution of Arab wealth between the rich Arabs

of the Gulf and the poor Arab countries.⁷⁸ As regards this particular argument one must point out to the fact that Kuwait and other Gulf Arab states had given Iraq massive material and political support in its war with Iran. Also Iraq, like the other Gulf states, was a potentially rich oil producing state, but its war venture with Iran debilitated it financially and economically.⁷⁹

IV Conclusion

The prelude to the Iraqi invasion of Kuwait shows an Iraqi regime under massive political and economic pressures, attempting to find a solution to its predicament and using all means at its disposal for that purpose. The eight-year war with Iran ended with a hollow victory and more importantly totally debilitated the Iraqi economy and created massive debt. Rumbles of discontent among the military and civilian population indicated to Saddam that his meticulously built repressive political system is under threat and his personal rule might not survive for long.

The drop in oil prices further aggravated the Iraqi situation and directly influenced the country's income levels. In that context targeting Kuwait for its oil price policy seemed the best possible option for the regime to squeeze out a deal on the border dispute and access to more funds. Saddam, therefore escalated the tension and the threatening rhetoric against Kuwait in the hope that it would fright Kuwait into accepting his demands on mainly: the cancellation of debt, compensation of lost oil revenues and an agreement on the two disputed islands, Bubiyan and Warbah. When that strategy failed and the last hope for reaching an agreement was dashed at the Jeddah meeting, Saddam decided to take military action. He believed that he had reached an understanding with the Americans during his meeting with Glaspié and was not

expecting the kind of reaction the invasion produced in both the West and the Gulf states.

Chapter Four

Saudi Arabia During the Gulf Crisis

The involvement of Saudi Arabia has been pivotal to the American direction of the crisis. Saudi Arabia is the major power in the Gulf Cooperation Council and has a leading role in the protection and maintenance of the security and stability of region. The aim of this chapter is to explore Riyadh's involvement in the management of the crisis and show its importance in deterring further Iraqi aggression and liberating Kuwait and restoring its legitimate government.

This role has two major aspects to it, a political and a military one. The political aspect manifests itself in the Saudi government stance against the Iraqi regime and its active participation in gaining regional and international support for the Kuwaiti cause, and in maintaining the Western coalition against Iraq. As for the military aspect it is mostly visible in the historic decision to invite US and foreign troops to assist in its defence as well as the stationing of the coalition forces on Saudi territory. These two aspects of Saudi role were decisive in the successful resolution of the crisis.

The chapter will begin by analysing the manner in which the Gulf Cooperation Council acted during the crisis, which was a test to its ability to react to such a direct threat to the stability and security of the Gulf. It will be followed by an analysis of the manner in which the collective Arab system reacted through looking at the Arab League during the crisis and the limited and ineffective role it played. The third section will deal with the management of Saudi Arabia of the crisis showing the influence of the Americans in the shift in Saudi approach from the initial mild reaction to the aggressive and more risky approach involving the willingness and commitment to go to war in order to force Saddam to comply to UN resolutions. The fourth section will discuss the contribution and participation of Saudi Arabia to the military preparation and execution of

Desert Storm. The fifth section deals with the role of Saudi *ulama* (religious elite) in supporting and giving legitimacy to the Saudi government during the crisis, which was pivotal in maintaining internal unity and security. Lastly the chapter will discuss the legal basis upon which King Fahd based his decision to invite Western troops into the country.

I. The Gulf Cooperation Council and the Invasion of Kuwait

The GCC was founded in 1981 and is made up of six Gulf Arab countries- Saudi Arabia, Kuwait, Oman, Qatar, Bahrain and the United Arab Emirates. The total size of these countries is 2,653,000 square kilometres and their total population is around 30 million.¹ The aim of the GCC is to coordinate cooperation between member states and protect them from external threats, and maintain the security and stability of the Gulf area. The member states have been particularly concerned with their security since the Iranian revolution because of the Shi'ite population in these countries. Bahrain has 60 percent of its population Shi'ite, a third in Kuwait and Oman and most of eastern Saudi Arabia is Shi'ite. By creating the GCC the member states were attempting to create a regional coalition in response to the Islamic revolution in Iran, to the Soviet invasion of Afghanistan and the Iran-Iraq war.²

The Secretary-General of the Arab League, al -Shazli al-Qulaibi, described the creation of the GCC as a pioneering step for Arab cooperation, while Habeeb al Shatti, the Secretary-General of the Organisation Of Islamic Conference saw it as a strong pillar for the Arab nation. On an international level the US and Britain welcomed the creation of the GCC in the hope that it would provide the opportunity for achieving regional cooperation with the West for maintaining the security of the Gulf area.³ The Council has not been very successful in increasing cooperation in the economic, political and other fields, but has proved a useful conduit through which to meet regularly, discuss issues and exchange views. During the Iran-Iraq war the positions of member states varied. Kuwait and Saudi Arabia supported and funded Iraq while United Arab Emirates and Oman were criticised for maintaining high level visits between

them and Iran. ⁴ Thus, even in terms of coordinating security matters the Council was facing difficulties in reaching a common foreign policy.

The Iraqi invasion of Kuwait came in the wake of the end of the Iraqi-Iranian war to represent another major security challenge for the Gulf states. This was primarily due to the fact that GCC members do not have the military capability to defend themselves against a military machine as the one Iraq had at the time. The charter of the Council states that any attack on a member state would be considered an attack on the rest of the members. Despite that the first official reaction to the invasion came in a statement issued by the GCC, after its ministerial meeting in Cairo, on 3 August. In comparison states such as Algeria, Lebanon and Morocco declared their position in the first day of the attack. ⁵ The statement that came forth from the Council emphasised the necessity of an immediate unconditional withdrawal of Iraqi forces from Kuwait and the need for the Arab League to take a common Arab stand. ⁶

The Deputy Prime Minister of Iraq, Sa'doun Hammadi, announced after the foreign ministers' meeting of the Arab League in Cairo that the situation in Kuwait after the invasion is not for negotiation. He reiterated Iraqi claims that Kuwait had been causing economic problems to Iraq due to its petroleum policy and that Iraq had borne the grunt of protecting Arab security from the adverse effects of the Iranian revolution. He also made it clear that the Iraqi delegation was not seeking a peaceful solution of the crisis. The UN Security Council by that time has already met and issued its resolution 660 which condemned Iraqi invasion, demanded immediate withdrawal of Iraqi forces and the return of legitimacy of the Kuwaiti state.

The GCC gradually began to view the crisis as too complicated to be solved within the framework of the Arab League, and asserted their intention to pursue an international framework for the resolution of the crisis if necessary. As one Kuwaiti academic puts it:-

The security of the Gulf is very complex. GCC members are small, except for Saudi Arabia, with very small populations in comparison

with Iran and Iraq, which makes it difficult to compete militarily with such giants. The 1990 crisis proved that Iraq can mobilise a million soldier in comparison to Saudi Arabia's eighty thousand. The same is true for Iran. It has huge human, military and economic resources. Thus the whole issue of the security of the Gulf must be reconsidered.⁷

The statement made by the foreign ministers of the GCC indicated an understanding of the Arab League resolution which rejected foreign interference in Arab affairs. However, they claimed that the procedures and resolutions of the UN Security Council would not be included because the UN was an international body that was legally bound to maintain peace and security in the world and hence its resolutions and procedures would not be interpreted as foreign interference.⁸

The GCC succeeded, also, in amending the statement issued by the Arab League following an emergency meeting in Cairo on 30 August. A dispute had risen over the paragraph that stated "achieve a partial withdrawal of Iraqi forces and a partial retreat of US forces in the Gulf to prepare the atmosphere for a unified Arab stand". The GCC saw the paragraph as equating the presence of US forces with an occupational force which contradicts with their legitimate presence in the country as it was requested by Saudi Arabia.⁹

The 11th session of the GCC was convened on 22 December 1990 in Qatar and was attended by Kuwait's Amir Sheikh Jaber al-Ahmad. The Gulf states reaffirmed their right to seek all means to guarantee the return of legitimate sovereignty to Kuwait and demanded the withdrawal of Iraqi forces. They also confirmed that the GCC will complete the security and defence arrangements to safeguard their security and increase coordination among themselves in all fields internal, Arab, regional and international.¹⁰ The main conclusions of the meeting centred around the rejection of aggression as a means of solving disputes and conflicts among member states and emphasised the principle of negotiation to solve disputes among themselves. The Council saw the need,

due to Iraqi aggression, to focus on defence and on developing defence strategies with friendly countries that appreciate the strategic importance of the area.¹¹

The Secretary-General of the GCC, Abdullah Bisharah, following a meeting with US Secretary of State, indicated that the US and Gulf position was identical on the following matters:

1. The necessity to implement the resolution of Security Council in totality. There is no such thing as a partial or gradual solution.
2. No negotiation over the unconditional withdrawal of Iraq from Kuwait and the return to international legitimacy.
3. The adoption of the necessary measures that guarantee economic and psychological pressure as well as international and regional isolation of Iraq.¹²

The foreign ministers of the GCC intensified their political activities and held talks with their counterparts from Europe, Russia, Iran, Japan as well as South East Asia as part of their world wide campaign to guarantee the isolation of Iraq and to force it to implement international resolutions.¹³

The GCC performance during the crisis can be summarised as effective in gaining international support through the total convergence of interests with the US. It also "remained intact and it did formulate a military response; but it singularly failed to deter aggression without outside assistance".¹⁴ Also, in the post-war period the issue of the security of the Gulf remained a point of contention, some member states wanted Egyptian and Syrian participation, others wanted Iran included, while others wanted to depend solely on the US and Britain. These issues will be discussed further in chapter five.

II. The Arab League and the Iraqi Invasion of Kuwait

The Arab League has 21 member states with a population of more than 260 million people. On the eve of Saddam's invasion of Kuwait the Arab world would be described as fragmented as ever with a widening gap between the haves and have-nots, severe economic problems in most Arab countries, the unresolved Arab-Israeli conflict and lack of democracy. Unexpected new alignments emerged during the crisis: the anti-Saddam group which included the GCC, Syria, Egypt, Lebanon and Morocco and those outside that group which included Jordan, Yemen, Sudan, Libya, Tunisia, Algeria, Mauritania and the PLO.

The disarray of the Arab world, divisions and rivalry was at work from the first meeting of the League. Its inability to act on behalf of Arab interest is even further highlighted when the international response led by the US produced very swiftly Security Council Resolution 660, on 2 August, condemning the Iraqi invasion. The resolution was passed by 14 out of the 15 members (Yemen abstained). It was followed on 6 August by UN resolution 661 which imposed economic sanctions on Iraq that were to be enforced by an international naval blockade.

The Arab League Charter defines its purposes as follows:

1. To harness relations between member states and coordinate political action in order to achieve cooperation and protect sovereignty and independence, and
2. To oversee in general Arab affairs and interests.¹⁵

Thus the Arab League is mainly concerned with coordination and cooperation among member states. The Arab League, after the failure of the bilateral talks between King Hussein and President Saddam and the failure of the discussion among the Arab foreign ministers, issued a resolution that:-

1. Condemned the Iraqi invasion of Kuwait and rejected all its consequences.
2. Deplored bloodshed and the destruction of buildings and facilities.
3. Demanded the immediate and unconditional withdrawal of the Iraqi forces to its positions prior to 1 August 1990.
4. Referred the matter to the kings and presidents of the Arab countries to seek the convening of an emergency meeting to discuss a settlement acceptable to both sides based on the present Arab legal system, Arab heritage and the spirit of brethren and solidarity.
5. Emphasised the Arab League's adherence to the sovereignty and regional safety of its member states and renewed its adherence to the principles of the Arab League pact, which stipulated that force will not be used to settle disputes among member states, and respect to the internal regulations of the Arab League.
6. The Council rejected utterly any foreign interference in Arab affairs. ¹⁶

This resolution passed with a majority vote of 14 out of 21 votes. It represented a modest attempt by the members to maintain the unity of the Arab League and its charter, despite the fact that the League had no power to force Iraq to accept the resolution. A second attempt for a peaceful negotiated solution to the crisis came from Mubarak, President of Egypt, who called for the convening of the Cairo Summit based on four major principles:

1. Complete withdrawal of Iraqi forces from Kuwait.
2. The return of the legitimate government of Kuwait.
3. The formation of an Arab peace keeping force between the two sides.

4. Immediate start of Iraqi-Kuwaiti negotiations to discuss the roots of the dispute represented in three main issues:
 - a. A final delineation of borders between the two sides.
 - b. Compensation to Iraq for the oil withdrawn from its oil field if that proved to be the case.
 - c. Cancellation or reduction of the Iraqi debt to Kuwait due to the Iraq-Iran war.¹⁷

This appeared to be a sound and good starting point for a peaceful settlement but many factors were already at play that in the end pushed for a military solution without giving enough time for the peaceful solution to materialise. The summit was convened and from its resolution one can see how the ground was shifting slowly towards a military confrontation and further polarisation in the region. This polarisation led to the resignation of Arab League Secretary General, Chedli Klibi. The summit decided on 10 August upon a tough resolution voted by twelve of the twenty governments attending the summit. The resolution states the following :

1. Condemns the aggression against Kuwait and declares the annexation of Kuwait by Iraq to be null and void and calls for the immediate withdrawal of Iraqi forces to their positions prior to the invasion of Kuwait.
2. Reaffirms the sovereignty, independence and security of Kuwait and demands the restoration of the legitimate government of Kuwait.
3. Deplores the numerous Iraqi threats against Gulf states and denounces the massing of Iraqi troops along the Saudi border and supports the Kingdom and Gulf states in their determination to defend their territories according to the provisions of the Arab League and the United Nations Charters.

4. Responding to the request by Saudi Arabia and other Gulf states to send Arab military forces to join US and coalition forces for the defence of the Kingdom.¹⁸

Subsequently a crucial difference emerged between the resolution of the Arab League passed on 3 August and the above mentioned one. Quite a shift from rejecting utterly the interference of foreign forces in Arab affairs and the use of force in settling Arab disputes to allowing Arab troops to join the US and coalition forces in defending Saudi Arabia from what was thought to be an imminent Iraqi invasion. The differences in the perceived national interests of each country has always exerted immense limitations on the workings of the Arab League and that proved to be the case during the Gulf crisis.

The role of the Arab League has traditionally been as a mediator between disputing sides. Militarily it has only interfered twice, to police the Kuwait-Iraq border in 1961 and during the Lebanese civil war. On both occasions it was unable to stop aggression and only aimed to maintain peace. The Arab League has passed many political, economic, legal and cultural resolutions, but very few were implemented. Cooperation among member states has been selective and member states do not abide except by those resolutions that they accept. Also the League does not have the mechanism to follow its resolutions and does not have the mechanism to punish those that do not adhere to its resolutions.¹⁹ Inter-Arab regime rivalry and ideological differences played a major role in side lining the Arab League, making it an ineffective organisation when it comes to major Arab disputes.

During the 1980s and 1990s the role of the Arab League had become even more marginalised. It had no role in attempts to find a peaceful solution to the Arab-Israeli conflict and no role in solving the Lebanese civil war. In the meantime three distinct regional groupings were emerging: the GCC, ACC and the Arab Maghreb Union. These three groups appeared to be replacing the Arab regional system as represented by the Arab League and its charter. They

included among them fifteen Arab countries, two-thirds of the population of the Arab world and 90 percent of the sources of energy and 75 percent of agricultural resources and water.²⁰ Thus they represented quite a counter force to the Arab League.

The Arab League tried during the Gulf crisis to use diplomacy, but positions crystallised within days that were difficult to change and the League appeared totally incompetent and ineffective. According to Clauvise Maqsoud, the Arab League Ambassador to the United Nations:

An unprecedented schism occurred in the Arab situation as a result of the Gulf crisis. Arab nationalism was hit hard and it had become impossible to re-prioritise Arab cooperation concerning major national matters. The Arab League proved totally incapable of dealing with the Iraqi invasion and the crisis nearly destroyed it as a symbol of the Arab regional system. Its role was restricted to passing resolutions that condemned the Iraqi aggression, since from a practical point of view the Arab League does not have the military power to execute its resolutions.²¹

Thus the Iraqi invasion exposed the weakness of the Arab regional system furthermore and increased tensions in inter-Arab relations. The results of the crisis, on the political, economic and social fronts have made it very difficult to rearrange Arab priorities and control Arab disputes and disagreements.²² Arab relations, even at best, are full of contradictions and difficulties. One of the main reasons for that is the fact that Arab regimes are not built on institutions that carry stability and continuity but around a ruler who holds all the power. The Iraqi invasion epitomised the dysfunction of Arab relations and Arab regional system represented by the Arab League.²³

Yet, despite the obvious shortcomings of the Arab League it has been important in terms of being a symbol of the Arab system, even if a nominal one.

Arab countries showed great concern to pass resolutions that were in accordance with the main elements of the Arab system. Also, despite its proven record of being unable to deal effectively with the challenges of the Arab region it has been an important constitutional institution that delineated the Arab regional system, provided an important channel to discuss, negotiate, pressure and balance the various issues and states, as well as being a meeting place to express opinions and a place to find compromises and avoid confrontation.²⁴ The Gulf crisis has definitely changed all this and a serious reshaping of the Arab League is badly needed. But that requires agreement among member states, which at present seems to be most unlikely.

III. The Development of Saudi Political Stance During the Crisis

The surprise that the Iraqi invasion of Kuwait caused in the Arab region and the world at large was particularly felt in Saudi Arabia since a day earlier delegates from Iraq had started negotiating with the Kuwaitis in Jeddah, and as Saddam had given his word to King Fahd as well as King Hussein and President Mubarak that he would not resort to aggression against Kuwait. Saudi Arabia's traditional and timid foreign policy showed itself in Riyadh's initial response. King Fahd gave a directive to all organs of the government to observe a strict atmosphere of silence regarding the aggression. This initial silence has been attributed to the Saudi fear of antagonising Saddam and encouraging him to move to the eastern region of the Kingdom with its oil wealth. Saudi silence was meant to leave Saddam with the false impression that Saudi Arabia accepted the *fait accompli* of Iraqi occupation of Kuwait and would do anything to avoid Saddam's antagonism.²⁵

The House of Saud, besides their fears from Saddam, lacked at the start of the crisis the political consensus among the ruling family on whether to turn to the US for assistance. The conservative segment of the Saudi leadership led by Prince Abdullah was in favour of an Arab solution to the crisis and was opposed to having American troops on Saudi soil. The nationalists led by Prince Talal were against fighting a brotherly Arab country. It was the Sudayri

brothers who were convinced of the inevitability of requesting the assistance of the US in order to be able to act firmly against Saddam.²⁶ Hence the first public reaction from Saudi Arabia came in the statement issued during the emergency meeting of the GCC in Cairo on 3 August. On the same day the Saudi cabinet met the Iraqi deputy prime minister, Izzat Ibrahim, who after a long session expressed his satisfaction with Saudi efforts to contain the crisis.

But by the 6 of August, and after the arrival of the American Secretary of Defence, Richard Cheney, in Jeddah, to discuss the crisis, events accelerated in favour of involving the Americans. Cheney's trip was initiated by the Americans to acquaint King Fahd with the threats that his country faced. Fahd was shown CIA satellite photographs documenting that Iraqi divisions were moving towards the Saudi border. After that Fahd invited the Americans to the Kingdom, and many concerns and details were hammered out between the two sides. President Bush, on 8 August, announced in a national address American goals as such:

- The unconditional withdrawal of all Iraqi forces from Kuwait;
- The restoration of Kuwait's legitimate government in place of the puppet regime put in place by Iraq;
- The protection of the security and stability of the region, and
- The protection of the lives of Americans abroad.²⁷

The protection of the security and stability of the region stemmed from US basic policy in the Gulf that is stated in National Security Directive 26 October 1989. The directive reaffirmed the 1980 Carter Doctrine by asserting that "access to the Persian Gulf and key friendly states in the area is vital to US national security" and the US is committed to defend these interests "against the Soviet Union or any other regional power with interests inimical to our own".²⁸ The Iraqi regime by invading Kuwait threatened directly American interests in the

Gulf through Saddam's bid for regional dominance. Subsequently it became imperative for the Americans to punish his aggression and to punish the regime too.

The Americans succeeded in convincing the Saudis that an Iraqi invasion of the Kingdom was imminent, which coincided with the failure of Arab and diplomatic efforts to contain the crisis and produce a peaceful solution. The massing of Iraqi troops on the northern borders of the Kingdom, made Riyadh's decision to call upon Arabs and Western governments to send troops to support it in its struggle against a possible Iraqi attack much easier. King Fahd in his speech on the eve of requesting the American military assistance said:

In the aftermath [of Iraqi invasion of Kuwait], Iraq massed large forces on the borders of the Kingdom of Saudi Arabia. In view of these bitter realities and out of the eagerness of the Kingdom to safeguard its vital and economic interests, and its wish to bolster its defensive capabilities and to rise the level of training of Saudi Arabian armed forces...the Kingdom of Saudi Arabia expressed its desire for the participation of fraternal Arab forces and other friendly forces...the governments of the United States, Britain, and other nations took the initiative to dispatch air and land forces to sustain the Saudi armed forces...Allied forces, which will participate in the joint training exercises with the Saudi armed forces are of a temporary nature. They will leave Saudi territory immediately at the request of the Kingdom. ²⁹

King Fahd also emphasised that the Saudi government had exhausted all possible avenues with the governments of Iraq and Kuwait to resolve the dispute. He made reference to the Jeddah meeting that was held in Saudi Arabia by Iraqi and Kuwaiti delegations. He indicated that the meeting was convened in response to a desire by the two countries and it had been understood by the Saudis that the two sides had agreed to continue their meeting in Baghdad. ³⁰ King Fahd emphasised that the role played by Saudi

Arabia during the meeting had been confined to bringing together officials of the two countries to the negotiating table for settlement of their dispute through cordial dialogue. Hence its role had been limited to the creation of a conducive atmosphere, since no one had asked the Saudis to do more than that because the two sides were capable of solving their problems, once good will prevails and the use of force is ruled out.³¹ Also, the Kingdom had not been mandated by the Arab League to solve outstanding issues between Kuwait and Iraq.³²

The massing of troops on the Saudi border was interpreted by the Gulf Arab states as an extension of the Iraqi aggression on Kuwait to the rest of the Gulf states. A statement by the foreign ministers of the GCC in Jeddah on 17 August portrayed such a sentiment by stating that "it had become clear to Saudi Arabia and the GCC that the occupation of Kuwait was a mere ploy to launch an aggression on all Arab Gulf countries".³³

Following the historic decision to invite foreign troops onto its territory, Saudi Arabia intensified its efforts in the Arab world to increase Arab military cooperation and coordination, particularly with Syria and Egypt. The most important expression of this new cooperation was the joint memorandum that was agreed upon on 30 October 1990 in Jeddah, which emphasised the importance of Gulf security. The new axis of Saudi Arabia-Egypt-Syria became the heart of Arab opposition to Iraq. The mutual interests of these three major players were crucial to the coalition against Saddam, as an Iraqi hegemony in the region would have threatened Saudi security and its dominant role in the Gulf, marginalised Egypt's role in the Arab world and destabilised the Syrian regime.³⁴ The Gulf crisis offered both Syria and Egypt an opportunity to write off their debt and gain access to fresh funds. Egypt's debt of \$13 billion owed to the US and Gulf creditors was written-off, while Syria received \$2 billion in direct aid from the Gulf states. The Gulf crisis gave Syria the opportunity to bring most of Lebanon under its control by removing General Michael Aoun, the last remnant of Maronite resistance - who was backed by Saddam. The historically fierce rivalry that exists between the two countries over political, military and ideological power in the Fertile Crescent was another motive for Syria to take a position against Saddam. Syria's special relations with Iran

placed her in a unique position to act as a broker between the Gulf states and Iran and its siding with the Gulf states added political legitimacy to the coalition against Iraq.³⁵

Two weeks into the crisis, Saudi Arabia's initially cautious position shifted towards more public disapproval of Saddam, and under the guidance of Saud al-Faysal became more assertive and abandoned all pan-Arab motifs. Thus on 14 August the Saudis closed the Iraqi oil pipeline that passes through Saudi territory to the Red sea. King Fahd announced that Saudi Arabia would not permit any aggression against its territory and the Saudi cabinet expressed displeasure from the stand of some Arab countries which opposed or had reservations concerning the Cairo summit resolution and increased its activities towards further collaboration with Syria and Egypt.³⁶ It expurgated Jordan, the PLO, Yemen and to some extent Sudan, Algeria and Libya for their support or sympathy for Saddam's case. The Saudi policy became increasingly in line with Washington's uncompromising position concerning Iraq.³⁷

The Saudi Ambassador to Washington, Bandar bin Sultan, in defence of the hardening of Saudi policy mentioned on 15 August that the Kingdom of Saudi Arabia was neither seeking confrontation nor approbating aggression. Moreover the measures undertaken by the Kingdom would not have come about if Iraq had not invaded Kuwait. He confirmed that Saudi Arabia had a treaty of non-aggression with Iraq but added that "when we see Iraq invades its closest brother neighbour and masses its forces on the Kingdom's border, will not this be time to question the true intentions of the Iraqi president ?".³⁸

The interior minister of Saudi Arabia, Prince Naif said furthermore that:

I would like to emphasise that the supporting forces whether from brotherly country or friendly country...have come only at the request of the Kingdom and not forced upon us. However, as long as the Kingdom is the requesting party it can decide on this issue on its sole discretion...Concerning the question of force and weakness, if we are equal in force with Iraq we would not have asked support even from

our Arab brothers, but unfortunately the force of Iraq which was built by Arab money was put against an Arab...Saddam has turned this force against the Arabs and this is a crime which needs immediate correction.³⁹

To gain international support and legitimacy Saudi Arabia restored its diplomatic relations with the Soviet Union, which had been cut for more than half a century. The Saudi Ambassador to Washington visited Moscow on 24 August at the request of Russia. During the visit Saudi Foreign Minister, Saud al-Faisal, declared that "it is the most appropriate time for an effective relation to develop between the two countries that encourages peace, security and justice as well as the vital interests of the two sides".⁴⁰ Within the same frame of widening international support Saudi Arabia activated its relations with China - diplomatic relations with China had been restored a month before Iraq invaded Kuwait. The aim was to maintain Chinese opposition to Iraq in the Security Council.

With America, there was coordination to maintain the military pressure on Iraq and an agreement considering the command of military forces in the event of war breaking out. Saudi and American diplomacy was able to gather the utmost international support to pass Security Council resolution 678 which permitted the use of force against Iraq if it failed to comply with the resolution by the set deadline of 15 January 1991. Following the passing of the resolution President Bush announced his initiative to open a dialogue with Iraq and arrange for a meeting between the US Secretary of State and Iraqi Foreign Minister- a move supported by Saudi Arabia.⁴¹

In summary Saudi Arabia was the most important political-strategic player among the Gulf Arab states and the essential partner to the Americans in their effort to maintain the cover of international legitimacy to their actions in the Gulf area. The Saudi position hardened after the Americans provided guarantees that they would assist the government against any Iraqi aggression.

Nevertheless, its position during the crisis had been from the start based on three main principles:

1. The necessity of the total withdrawal of Iraqi forces from Kuwait and the return of the legitimate government and the condemnation of Iraqi aggression.
2. To give peaceful solution a chance and to resort to military action only when all peaceful means had been exhausted.
3. Withdrawal of the Iraqi troops massing on the borders of Saudi Arabia and guarantees that Iraqi aggression would not be repeated against any other Gulf Arab state.⁴²

This position was presented as consistent with the Charters of the Arab League and the GCC as well as the resolutions of the United Nations. By its reliance on international law as well as regional rules and regulations Riyadh hoped to help the region to avoid military confrontation and contain the crisis through regional and international coordination. But the intransigence of the Iraqi regime and the fear of being attacked moved Saudi policy quickly from political condemnation and active pursuit of a regional peaceful solution to requesting military help from Western and Arab countries, and from a defensive posture to an offensive one.

IV. Saudi Arabia and the Shift from Desert Shield to Desert Storm

The Iraqi invasion was the first major international crisis in the post Cold War era. The American deputy Secretary of State, Lawrence Eagleburger stated that the US had to take firm action against Iraq in order to avoid setting "all the wrong standards" for the post Cold War world by implying that aggression by Third World dictators rewards.⁴³ More importantly, the invasion directly threatened US interests in the Gulf and threatened the security of the Gulf for

three main reasons. Firstly, Iraq if not punished could use its power to threaten the region's oil producing states and could be a source of intimidation for these regimes. Secondly, the Iraqi threat made the prospect of higher oil prices significant. Thirdly, Iraq could possibly have invaded Saudi Arabia and occupied its strategic oil region.⁴⁴ The Americans were convinced of this and convinced Saudi Arabia as well. Whether these were plausible or just a ploy on the part of the Americans to push Saudi Arabia towards taking a firmer stand against Iraq is a matter for speculation.

Consequently, American objectives went beyond what was mandated by the UN and included the elimination of Iraq as a threatening player in regional politics. On 16 January, President Bush stated some objectives that were clearly not part of the UN mandate. He emphasised that "we are determined to destroy Saddam Hussein's nuclear bomb potential [and] we will also destroy his chemical weapons facilities". Secretary Cheney expressed similar views by saying "our objective is to get Saddam Hussein out of Kuwait and to destroy that military capability that he has used to invade Kuwait and to threaten the other nations in the Middle East".⁴⁵ Congressman Les Aspin aptly summarised American objectives by stating that "Iraqi's military leverage in the region must be neutralised if security and stability are to be achieved in the Persian Gulf".⁴⁶

These objectives opened a national debate in the US involving the Congress over the direction the crisis was heading. The House of Representatives voted 250 to 183 against the Mitchel-Nunn antiwar resolution and in favour of the resolution authorising the President to use armed forces, subject to the UN Security Council Resolution 678, and so long as he exhausted all diplomatic means. The attempt by the US on 9 January 1991 to make one last final visible step towards a negotiated settlement by arranging a meeting between James Baker, and Tariq Aziz, as mentioned before, must be seen as a gesture to appease those in the US and abroad that were in favour of negotiating a peaceful settlement to the conflict and giving sanctions more time.⁴⁷

To conduct the war for the liberation of Kuwait, the Americans needed the full cooperation of the Saudis. The importance of Saudi support was clear to the

American administration from the start of the crisis. During the first meeting of the American National Security Council in the aftermath of the invasion, General Schawzkopf made it clear to the President that the deployment of American troops is possible only by Saudi participation and their permission to use a number of military bases in the Gulf states to accommodate American forces.⁴⁸

The alternative to using Saudi territory was using Turkish territory. But that option had many constraints. The most important among them were Turkey's lack of the facilities to support air, land and naval forces especially in terms of supplies due to its difficult economic situation. Secondly was the shortness of the borders between Turkey and Iraq in comparison to the 808 km of border between Iraq and Saudi Arabia, which helped the coalition in their initial manoeuvres of land forces against Iraq and the subsequent conduct of the war.⁴⁹ Consequently, the most important aspect of Saudi cooperation had been the permission to station coalition military forces on Saudi land and the conduct of war primarily from Saudi territory. The eastern and northern parts of the Kingdom were the centre for conducting the military operations. This gave the coalition air, sea and land supremacy vis a vis the Iraqi regime, but at the same time putting these sensitive and important areas of the Kingdom at risk as potential military targets for the Iraqi forces.

In accordance with the agreement between Saudi Arabia and the US, the Kingdom was obliged to facilitate the task of the coalition forces by providing all that is within its means, including administrative matters concerning living quarters, food, medical services and transport. As for the matters that the Kingdom could not provide, it was obliged to provide the American treasury with the financial means to cover the costs of what the Americans provide themselves.⁵⁰ The Saudi government shouldered this heavy burden out of its commitment to Kuwait and to international law as indicated by Mufaid Shahab:

Saudi Arabia played a pivotal role in restoring the sovereignty of Kuwait out of total commitment to the principle of opposing aggression against a member of the Arab League and the UN.⁵¹

He went further to enumerate the many aspects of Saudi support for Kuwait as follows:

Saudi Arabia provided the Kuwaiti government with support in international quarters, welcomed the Kuwaiti government and a large number of Kuwaiti citizens as guests in the Kingdom as well as defended Kuwaiti rights on regional and international levels. It provided also financial support and the participation of its military force and the use of its territory to launch the military operation for the liberation of Kuwait.⁵²

It is worth mentioning that the humanitarian role played by Saudi Arabia extended also to welcoming at the start of the invasion Iraqi refugees and allowing them to stay until conditions were appropriate for their return to their country. According to international agencies the services provided by the Saudi government were considered among the best in the world. The government spent around \$2 billion to accommodate these refugees.⁵³

The preparations for the military action passed through two main stages. The first was dated from the start of the invasion until 29 November. The aim of this stage was to enhance the defences of Saudi Arabia and to deter Iraq from further aggression, in addition to implementing the economic sanctions imposed on Iraq by the Security Council. Elements of the US 82nd Airborne Division arrived in Saudi Arabia on 8 August and President Bush announced a purely defensive deployment called Operation Desert Shield which became one of the largest contemporary military deployments.⁵⁴

Washington's alliance included 28 member nations which had grown to 37 by the war's end and included more than a million soldier with a ten thousand soldier brigade from the GCC, in addition to Kuwait soldiers and Syrian soldiers. By January half of all combat forces world-wide of the US had been deployed in the Gulf. On 8 November, after consultation with King Fahd, the Bush administration announced plans for the further deployment of 200,000 additional troops to ensure an adequate offensive option without congressional advice or approval.⁵⁵ This decision marked the move from a defensive posture to an offensive one, from Desert Shield to Desert Storm.

The second stage started with Security Council resolution 678 of 29 Nov authorising the use of "all necessary means" to secure Iraq's departure from Kuwait by 15 January 1991. During that time preparations took place for Desert Storm which entailed the transport of massive numbers of soldiers and equipment. A plane every five to ten minutes landed in the Gulf area from American military bases and other friendly countries.

To accommodate such a massive deployment of soldiers and weapons Saudi Arabia put at the service of the coalition all the necessary infrastructure available in the Kingdom, including Saudi ports, airports and military bases. In total the Kingdom and the Gulf states provided the coalition with 27 military bases and land areas for the landing of thousands of jet fighters. Of these bases 16 were provided by Saudi Arabia alone.⁵⁶ Also considering the huge size of the military presence, the Kingdom carried out construction of areas for the landing of coalition forces. The strong infrastructure that the Kingdom possessed helped in its ability to cater for the American airlift that exceeded 550 thousand tons of equipment.

It also facilitated the air transport within the areas of military operations. That involved 9500 flights for the American air force alone to transport forces and ammunition from the main supply areas in Saudi Arabia.⁵⁷ In addition, Saudi Arabia provided the fuel for this massive operation. The huge production capacity of Saudi Arabia made it relatively easy to respond to the needs of the military forces. Even concerning water; a resource that is scarce in Saudi

Arabia, the government was able to meet the challenge of providing the necessary and adequate amounts for the coalition forces. As expressed by Ahmad Al Baghdady-an academic at Kuwait University:

There was one very serious obstacle to the deployment of American forces in Saudi Arabia, namely water. America would have been unable to provide directly the needed amounts. That was the weakest point in the plans that were set for a rapid deployment of American forces during the Carter Administration. Without the Saudis providing the necessary logistic support on land, including water, American forces would not have survived the desert for one day. This is a very important issue that must be taken into account when considering the role played by Saudi Arabia in support of the coalition forces.⁵⁸

The military participation of Saudi forces involved the movement of forces from their various military areas in the country to the areas of deployment, setting up a comprehensive system of supplies for the coalition forces, and an extensive involvement of the Saudi air force in missions of defence, early warning and strategic reconnaissance. During Desert Shield the Saudi air force participated in more than 26000 flights.⁵⁹ The modern network of Saudi command and control and Saudi air facilities contributed significantly to the success of the air campaign. As for the Saudi naval forces, they were involved in implementing the economic sanctions on Iraq within the Gulf area and securing the oil facilities and Saudi regional waters from any sea attack. Moreover Saudi infrastructure facilitated the efficient unloading of ships, storage and transport.

The Saudi land forces were the first to enter Kuwait and regain control of some parts in the first day of the land attack. In the second day they liberated some ports and in the third day entered the city of Kuwait without facing any resistance from Iraqi forces.⁶⁰ The Kingdom participated also with the coalition forces in restoring civil life to Kuwait, transferring power to the Kuwaiti

government, helping the Kuwaiti government to control its international borders and maintain internal security, and removing weapons and dangerous materials.

In sum, without the massive support provided by the Saudi government, the liberation of Kuwait would have been very hard to undertake. As indicated by William Gus Pagonis, the head of American Supplies, "we would have faced a very difficult situation if the guest country was poor, foe or both".⁶¹ This is further emphasised by Schwarkopf who indicated at the end of the war that:

From the moment the first American soldier landed in the Kingdom we got 100 percent support from the Saudis. We were provided with food, water, fuel, means of transport and all our requirements. It must be known that what we achieved together is considered a great military victory that was not possible without total cooperation from Saudi Arabia. The ports that our equipment landed were Saudi ports, the airports that our first air raids started from were mostly Saudi. The support of the guest country was not possible to attain anywhere else. Without that support any military attack would have taken months if not years to prepare for...I believe it is the appropriate time to acknowledge the contribution of Saudi Arabia in this victory.⁶²

It is important to mention, also, the massive financial costs incurred by Saudi Arabia during the crisis. These costs were estimated at 60-70 billion dollars. They included grants to countries that sent forces to defend the Kingdom (the share of the US of that was 25 billion dollars), the cost of maintaining the coalition forces in the Kingdom and grants to friendly countries such as Egypt, Turkey and Syria.⁶³ Of a lesser significance were the costs of mobilising Saudi Arabia's own defence forces - no estimate is available for that.

V. The Role of the *Ulama* in Supporting the Saudi Political and Military Stance

The political system of Saudi Arabia rests on a complex mix of religious power and political authority. The former is exercised by *al ulama* and the latter by al-Saud. This has been in existence since 1744 following the alliance between Muhammad ibn Abd al Wahabb and Muhammad ibn Saud. It resulted in the creation of the system of issuing legal opinion on the Islamic sources of law, *fatwa*, which reinforces this relationship by interpreting the law and promoting the welfare of the Islamic state. Despite the tensions between the religious and established state authorities, al Saud continue to rely on the advice and support of *ulama* in times of peace as well as crisis. This relationship has survived and still functions to this date.⁶⁴

The *ulama* study the Quran and the Sunna as well as the life of the Prophet and draw their interpretations and resolutions of legal matters subsequently. In Sunni Islam the *ulama* and the *fuqaha* have traditionally supported the political institutions in power, and in Saudi Arabia this is given to al-Saud. This has been maintained despite the massive changes that took place in the country since the discovery of oil and the accumulation of huge wealth by al-Saud. The *ulama* accept the legitimacy of the government because al-Saud rule according to Shari'a and consult regularly with the recognised interpreters of the Shari'a, namely the *ulama*. It is this source of religion that gives the government legitimacy within the Kingdom and the Muslim world.

The King is the head of the state and has absolute power, even the high standing of the Saudi *ulama* in the Muslim world, because of their responsibility for the Muslim holy places in the Hijaz, does not give them power equal to that of the King.⁶⁵ He is the supreme ruler and the head of both legislative and

executive powers and has the full responsibility to administer state affairs. However, his power is restricted and tied to Shari'a laws and rules as well as the Quran and Sunna.

Among the many responsibilities that he shoulders is the responsibility of the defence of the country in the face of external aggression and the maintenance of internal public security and public order.⁶⁶ The King's decision to invite American and foreign forces into the kingdom was taken in accordance with this obligation with the aim of protecting the Kingdom from a possible Iraqi aggression. The decision, consequently, fulfilled two obligations: the first is the obligation of the King towards protecting the Kingdom and its citizens and the second is the obligation of the country to support a neighbouring state that is a member of the GCC, Arab League and the UN. The Deputy of the Egyptian Wafd party explains the motives of the Kingdom for calling upon foreign forces as follows:

The main reason for the Kingdom to call upon friendly and neighbouring countries is to defend itself since the occupation of Kuwait threatened its the security. When we mention the military confrontation, one must remember that it was used only when all other peaceful means were exhausted by the Security Council and Arab League. It is the refusal of Iraq to abide by the requirements of the international community to withdraw from Kuwait which forced a military confrontation. That in turn necessitated the Kingdom's request for military support from international quarters.⁶⁷

The Kingdom requested the help of foreign troops only out of necessity especially that the difference in the military strength between Saudi Arabia and Iraq was huge. As indicated by a Saudi academic:

The kingdom felt threatened and its existence and survival were endangered. It saw what took place in Kuwait as a first step towards more Iraqi aggression in the region. In my opinion when matters reach this level the choice is clear, and the Kingdom has the right to defend itself. I do not believe there is anyone who can dispute the Kingdom's right. We must not, also, forget the strength of the Iraqi army and its combat experience, especially in relation to Saudi forces. The international community responded to the Kingdom's request and international efforts were successful under the auspices of the UN. Kuwait was liberated, and all foreign forces returned to their respective countries. ⁶⁸

However, this decision created sensitivities and negative resonances in the Arab and Muslim worlds because Saudi Arabia has some of the most important Islamic holy places. Opinions split between those who were against the Kingdoms' decision to call upon foreign troops and those who supported the decision as an act of defence. As has been the case during the decisive crisis of the Mecca incident in 1979, the government turned to its *ulama* for consultation and advice. In their turn the *ulama* supported the government's decision. According to Sheikh Abd al Aziz bin Baz, the Grand Mufti and the head of the Committee of Senior *Ulama*:

The decision by the government to call upon a variety of supporters, Muslims and others to ward off the aggression of the Iraqi regime and to defend the Kingdom is appropriate and is governed by necessity. The defence of Islam, Muslims and the honour of people and country is obligatory to the ruler. The government is excused in its initiative, since it is primarily concerned with the protection of the country and its people, and its defence against an expected offensive from Iraq. Necessity imposes on the government the need to take precautional measures and seek the assistance of others to safeguard the Kingdom and its people. ⁶⁹

Thus, the *ulama* supported the government's decision based on their belief that it is the duty of the ruler as indicated by Shari'a to be vigilant and cautious when it comes to the defence and security of the people and the state. The Committee of Senior *Ulama* agreed unanimously on that and said in a statement:

The council of senior *ulama* supports the ruler in his decision to invite forces fully equipped and capable to frighten those who are planning acts of aggression against the Kingdom. It is the duty of the ruler imposed on him by necessity and circumstances and the painful reality of the situation and rules of Shari'a, to seek help from those who are capable of giving it.⁷⁰

The council of the higher court made a statement explaining the necessity of the decision taken by the ruler as follows:

Because the ruler has to do all that is in his powers to avoid the nation and country dangers, and must provide security and stability for the holy cities and the wealth and honour of the people, and that he has to resort to what he sees most effective to shun danger, hence we declare our support to everything done by the ruler to ward off aggression.⁷¹

Moreover, there is evidence from the Shari'a and the life of the Prophet in support of asking the assistance of non-believers. An example of that is Hanin battle, in the year 8 (H), where non-believers participated in the fight, such as Safwan bin Umayya and Suhail bin Amro.⁷² Safwan bin Umayya possessed arms and shields and the Prophet requested its usage in the battle. Many other

ulama assert that Muslim law allows the request of assistance from non-believers and provide evidence from the life of the prophet.⁷³ Thus seeking assistance from non-Muslims falls within the Shari'a and the Saudi *ulama* based their *fatwa* on such evidence. They acted in support of the government and also as religious interpreters of Islamic law by permitting the presence of the coalition forces on Saudi soil.

The support provided by the *ulama* and their public statements to that effect had greatly influenced people's acceptance of the presence of foreign troops on Saudi soil. This stance taken by the *ulama* was vital at a critical moment for the Kingdom and helped in maintaining internal unity. It showed how close are the *ulama* to regional events and their understanding of the significance and consequences of the Iraqi aggression and the occupation of Kuwait for Arab and Islamic issues. In some countries the *ulama* are often accused of being unaware of political events and that they are only experts on religious matters. But this is not the case with Saudi *ulama*. Saudi *ulama* showed an ability to understand the consequences and implications of the Iraqi aggression and lend support to the state's decision based both on its not contradicting Islamic rules and on political necessity. Sheikh Mohammed bin Otheimeen points to this understanding by stating that "this catastrophe will take the Arabs economically, politically and socially many years back because it destroyed and will destroy many of their achievements that they worked hard for."⁷⁴

Although the great majority of the *ulama* supported the government, significant opposition came from dissident Muslim preachers circulating and popularising their speeches and messages through cassette tapes and to a lesser degree by sermons in Mosques. The cassette tapes of two preachers, in particular, Sheikh Safar al-Hawali and Salman al-'Auda "changed the Saudi political language [and] galvanised the public by harnessing Saudi anger over the war and disillusionment over Saudi Arabia's dependence on foreign protection".⁷⁵ They focused the attention of Saudis on government weaknesses in the areas of defence, government spending and political participation. Al-Hawali in particular highlighted, also, the danger of foreign domination, especially American domination of Saudi Arabia and the region in general. He saw

Western military and economic hegemony over the Islamic world and Saudi Arabia as extremely threatening and needs to be counteracted by building the military strength of the Muslim world and Saudi Arabia. Consequently he saw the Gulf crisis as instigated by the West in accordance with its strategic interest in the region:

I'm of the opinion that what took place [in the Gulf] was not a random event, but part of the larger Western design, a position I stated publicly in front of many Sheikhs and *ulama*.⁷⁶

Most notable about al-Hawali's opposition to the Saudi stance was the fact that it did not stem from support for the Iraqi regime but rather from opposition to American domination of both Saudi Arabia and the Muslim world. He was very critical of Saddam regime and the alliance that was built between him and Saudi Arabia during the Gulf war with Iran.⁷⁷ Al-Hawali contends that it is unIslamic to allow foreign non-Muslim troops to occupy the holy land of Saudi Arabia, a presence that he considers harmful to Saudi Arabia's culture and value system. Yet, he sees the issue of the legality of the decision to invite foreign troops, which consumed Saudi sheikhs, as obscuring the gravity of the situation in terms of Saudi dependence on the West and Western superiority and domination of the area. Thus he called for :

1. "The creation of a panel of competent men to study the question of Saudi Arabia's military capabilities, its strengths and its weaknesses;
2. The creation of a panel to study how Saudi Arabia can and should defend itself and its independence ;
3. The formulation of a defence strategy against Western troops in the event they should turn against Saudi Arabia;

4. The creation of a panel to study the economic impact of the war on Saudi Arabia's economy and society and
5. The formulation of a peace initiative that would save Kuwait and allow Saddam a face-saving mechanism".⁷⁸

Despite the popularity of these preachers and their messages their influence was insignificant in terms of changing state policy or instigating political activism on the part of those who supported them. Also the great majority of the *ulama* continued to support the Saudi government and its policy despite their concern about foreign influences on the Saudi society as indicated by Sheikh Muhammad bin Salih (second ranking *'alim* in the Kingdom) who announced the presence of the American soldiers in the Kingdom "was the lesser of two evils" and thus was sufficient justification for the invitation extended by the government to the American forces.⁷⁹ In the opinion of Fandy figures such as al-Auda and al-Hawali because of their extreme political and religious positions function to maximise the interests of the establishment *ulama* and the conservative trend who appear more compromising on their positions and hence the government is more accommodating to them.⁸⁰

VI The Legal Basis of King Fahd's Historical Decision

The duties of the ruler as the head of the state and the rules of international law played a role in justifying and encouraging King Fahd to take the unprecedented decision of inviting foreign troops to assist in the defence of the Kingdom. The King is the central figure in the Saudi government and his word is supreme. In his person the executive, legislative and judicial functions are combined and he is fully responsible for the maintenance of internal order and defence of the country and people against external danger.⁸¹ He executes his responsibilities and power through a variety of royal mandates. These include the royal order, which is written and signed by the King without having to refer it to the cabinet; the royal decree which is written and signed by the King after it

has been referred to the cabinet, the royal directive which is issued by the King as head of state or head of the executive and can be written or verbal, and lastly is the high order that can be verbal or written and is issued by the King as head of the cabinet.⁸²

King Fahd's decision to call upon Western forces was announced by a royal directive, i.e. what is undertaken in his capacity as the head of state. He also founded his decision on international law and regional resolutions. He took into account the resolutions of the Arab League, in particular the resolutions of the Cairo summit which emphasised the following legal aspects:

1. The maintenance of the legitimacy of the state of Kuwait in international law and its right to independence and regional security.
2. The emphasis on the principle of non-aggression in international relations especially among Arab countries.
3. The support of all UN resolutions concerning the Kuwaiti crisis.
4. The affirmation of the right of nations to defend themselves against aggression.⁸³

The resolutions of the Arab League were themselves based on international law in particular on the:

1. Rules of international legitimacy that makes it obligatory to respect the independence and sovereignty of each state and prohibits the use of force to solve disputes and emphasises the use of peaceful means.
2. UN charter especially article (2) paragraph (4) which prohibits the use of force in international relations.



3. Security Council resolutions concerning the Kuwait-Iraq crisis, since member nations are obliged to respect these resolutions. Article (25) stipulates that "members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter".
4. Inherent right of individual or collective self-defence as affirmed by article (51) of the UN charter and article (2) of the Common Arab defence Agreement.⁸⁴

Thus the Kingdom's request for foreign assistance was based on its right that is guaranteed in international law to defend itself against any aggression. Article 51 stipulates clearly that "nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security..." The response of the Arab League to the Kingdom's request for Arab troops to support its defence was also directly based on article 2 of the Arab Defence Treaty which affirms the right of states to seek military support if it is attacked or under the threat of an attack.⁸⁵

The Kingdom's legal right to defend itself is further emphasised by Fuad Badrawi, Secretary-General of the Wafd party, as follows:

The legitimate right of the Kingdom to defend itself and its use of that right in protecting its political system has been clearly based on rules of international law and the UN Charter, in particular article (51). Regionally its legal right has been founded on the Common Defence Treaty which stipulates that if any Arab country is attacked by another, Arab countries must come to the rescue.⁸⁶

In sum the king based his decision on his legal responsibility as the head of the state to act in a manner that maintains the security of the country and the people as well as on the regional and international binding Charters of the Arab League and UN. These charters forbid the use of force among states and oblige states to uphold such a rule. In addition the decision took into account the right of states, stipulated in international law, to take appropriate action to defend themselves against aggression.

VII Conclusion

Saudi policy during the Gulf crisis stemmed primarily from fear of Iraqi aggression spilling over into its territory and from a need to reduce the regional power of the Iraqi regime. Hence Saudi and American objectives in the region were identical, namely to safeguard the security of Gulf states and to dramatically reduce the political and military power of Saddam's regime. For that reason the military option became increasingly more warranted especially in the face of Iraqi intransigence and uncompromising position.

Although the Saudi government's call upon foreign troops to come to its assistance was initially aimed at the defence of the Kingdom, it quickly changed into an offensive position. The readiness of the Saudis to lend all possible assistance to the deployment of the coalition troops and the presence of an excellent infrastructure in the Kingdom made that task possible and very efficient. The opposition to the presence of foreign troops on Saudi soil was quickly dealt with through the support of Saudi *ulama*. They declared that according to Islamic law it is actually obligatory for the ruler to take the necessary measures to maintain the safety of Muslims and the honour of the country and its people. This support was essential to legitimise the government's action and to maintain internal unity and security.

As for the rest of the region this drastic measure had its consequences in terms of further Arab division and disunity as well as the marginalisation of the Arab League and setting a precedent for American troops to be deployed by an Arab country against another. The Arab League found itself totally ineffective due to the crystallisation of positions and the division into an anti-Iraqi camp led by the GCC, Syria and Egypt, and the pro-Iraqi camp that was hoping for a peaceful and negotiated settlement within an Arab framework. The international support gained by the Americans and the Saudis for the Kuwaiti case tipped the balance against Iraq and made the restoration of the legitimate government of Kuwait possible through waging a war against Saddam's military machine.

Chapter Five

The United Nations and the Iraq-Kuwait Crisis

The analysis of the previous chapter showed the importance of the Saudi involvement in the management of the crisis. In order to complete the analysis concerning the major players that influenced and shaped the events following the Iraqi invasion of Kuwait, the role played by the UN must be explored. Its active involvement has had a direct impact on how the crisis was resolved and is important as a future reference to other international crises.

For the first time since the inception of the UN, in 1945, its machinery operated swiftly and effectively. Within a very short span of time, it was able to bring about a total defeat of the Iraqi regime and restore the legitimacy of the state of Kuwait. There have been many instances of violation of international law by member states of the UN, but the Iraqi invasion stands out as the conflict where the UN was most active and effective. This poses the question of why this happened? Or what made it possible for the UN to act effectively?

There are two main reasons for that. The first is the clarity of the aggression in violating international law. International law prohibits the use of force among states and stipulates the illegitimacy of occupation. Iraq's attack and occupation of a sovereign independent state, left no doubt that it was an act of aggression in breach of international rules. In addition, by annexing Kuwait it further breached international law and defied the UN and the international community by such an action. More importantly, it represented an independent action by a regional power against the wishes of the major powers, hence challenging and restricting their ability to manage the global system.¹

The second reason relates to the end of the Cold War. The Cold War years, 1945-1990, inhibited the UN from applying the procedures of Chapter VII of the

Charter to violations of peace and acts of aggression especially in cases where the parties involved were affiliated with one side or another of the Cold War. The UN became more reliant on using mediation, conciliation and peace making.² One of the instruments useful for such peaceful resolutions of disputes is the International Court of Justice. Although it is a semi-independent entity headquartered at the Hague in the Netherlands, the Charter of the UN recognises it as one of the six principle organs of the UN.³ However, its contribution to peaceful resolutions of conflicts has been limited primarily due to the unwillingness of all affected parties to place a dispute before it.⁴

Iraqi aggression provided the international community with the first major challenge of the post Cold-War era. That explains the strong international response against the invasion, the imposition of economic, military and financial sanctions, and the formation of an international coalition, which aimed at restoring peace and upholding international law. This international response represented a unique stance in international relations where international efforts were united in facing Iraq and restoring international legitimacy facilitated by the absence of the dynamics of Cold War politics.⁵

In this chapter I shall examine this significant role of the UN and analyse the resolutions that helped end the crisis, in addition to a discussion of the international laws that Iraq violated by invading Kuwait. This is of a particular importance in this conflict since international law was used as the frame of reference from the start of the crisis, and the international response against Iraq was justified in the name of respecting and adhering to the rules of international law. I shall also touch upon the controversy surrounding some of the UN resolutions concerning their lawfulness, especially resolution 678 (1990); authorising the use of force against Iraq.

I International Law and the Prohibition of the Use of Force

The Iraqi invasion of Kuwait was an attack on the independence and sovereignty of Kuwait and also a violation of the rules and laws of international law and

international relation. Thus, Iraq “struck at the cornerstone of the post-1945 international legal order, the prohibition of the use of force against the territorial integrity of another state”.⁶

International legitimacy is considered one of the key principles of international law that governs relations among states in peacetime and wartime. It attaches great importance to protecting and guaranteeing the internal and external independence of each state. Accordingly, military aggression and the use of force are illegitimate and are violations of international legitimacy. States are obliged to respect the independence and sovereignty of each other and not to interfere directly or indirectly in the internal affairs of each other. Just as law governs the relation between ruler and ruled, in democratic states, international legitimacy governs the relations among states, and these states are obliged to adhere to the rules of international law. Violating these rules is a breach of international legitimacy.⁷

The prohibition of the threat or use of force has become a given in international law and is explicitly adopted in the UN Charter. Article 2 (4) stipulates that:

All members shall refrain in their international relations from the threat of or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations. (See Annex 1)

This position is emphasised in the Vienna Convention (1969), which specified in Article 53 the presence of obligatory laws in international law that protect the common interests of the international community, such as the rules that prohibit the use of force in international relations.⁸ Furthermore, numerous UN resolutions have confirmed this prohibition. One example is General Assembly resolution 2625, known as the “Declaration of International Law Principles” pertaining to friendly relations between states under the UN Charter. This resolution, adopted on 24 October 1970, reaffirmed that any violation of the

principle prohibiting the use of force constitutes a violation of international law and the provisions of the Charter. The same resolution stressed that states are committed to refrain from any propaganda promoting wars of aggression and threats or use of force, in order to encroach upon the international boundaries of any state, or as means of settling international disputes.⁹

A further confirmation of this principle is adopted in resolution 2734 by the General Assembly, 16 December 1970, known as the "Declaration of the Reinforcement of International Security". It calls upon all states to show respect to the purposes and principles of the UN in their international relations, such as the principle of refraining from use of force and the settling of international disputes by peaceful means.

In defining "aggression" the UN General Assembly stated in resolution 3314 adopted 18 December 1974, that aggression means "use of armed force by a state or use of any other means incompatible with the UN Charter against the sovereignty, integrity or political independence of another state".¹⁰ Accordingly, the use of force by a state is proof of committing an act of aggression, incompatible with the UN Charter. The same definition purports that if the armed forces of a given state invade the territory of another state or occupy a part by force, and, also, if the armed forces of a state shall target another state whether through bombs or any other means, this is considered an aggressive act.¹¹ The Iraqi aggression against Kuwait was, therefore, clearly a violation of the provisions of international law and an infringement of the principles of the UN Charter.

The UN in Article 5 of resolution 3314 of the General Assembly identified three major principles restricting aggression:

1. No matter what the issue is, whether it is political, economic, or military it should not be used as a justification for war.
2. War of aggression is a crime against peace and world security, thus it brings about international response.

3. Any gains of the war of aggression are not legitimate.¹²

It is clear that the international community has defined and restricted acts of aggression in order to maintain peace and stability in the world. Although the prohibition of the threat or use of force is universal and absolute, there are two instances where that use is permissible, namely, individual and collective self-defence, and collective security, adopted by the Security Council, pursuant to chapter VII of the UN Charter. Apart from these two instances, no excuse may be given to justify aggression. In the next section I shall elaborate on these two instances and the powers and authority given to the Security Council in order to enable it to fight aggression and maintain international peace and security.

II The UN Charter and the Legitimate Use of Force

The maintenance of international peace and security is among the foremost purposes and principles of the UN, and that must be pursued through peaceful means and in accordance with international law. As stipulated in Article 1(1), the role of the UN is to;

Maintain international peace and security, and to that end; to take effective collective measures for the prevention and removal of threats to the peace, and for the suspension of acts of aggression and other breaches of the peace, and to bring about by peaceful, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace. (See Annex 1)

Member states of the UN delegate the Security Council to carry out this task in accordance with Article 24 (1);

In order to ensure prompt and effective action by the UN, its members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf. (See Annex 1)

This paragraph confirms that the members rely on the Security Council for implementing that objective, and in accordance with Article 25 they agree to accept and carry out the decisions of the Security Council in accordance with the present Charter. The Charter of the UN, in line with its fundamental function as an international peace organisation, emphasises, first, the peaceful settlement of disputes, in accordance with the provisions of chapter VI. Article 33 (1) specifies the peaceful measures for solving international disputes as follows:

The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice. (See Annex 1)

The initial position of the Charter is that the disputing parties must seek a solution through peaceful means. Only in the case of their failure, which might threaten international peace and security, the UN has the right to interfere. Article 37(1) stipulates that "should the parties to a dispute of the nature referred to in Article 33 fail to settle it by the means indicated in that Article, they shall refer it to the Security Council".¹³ These two duties are obligatory to the UN members. Bringing a dispute to the attention of the UN can be done by the Security Council, a UN member or a non-UN member, which is a party to a dispute.

Although, the UN Charter emphasises, first, the pacific settlement of disputes, it has provided for a special system stipulated in chapter VII, permitting the use of force against those that violate Article 2 (4) for the purpose of maintaining international peace and security. The Charter in this manner affirms that international crimes have a special punishment and that states are obliged to comply by the prohibition rule. Moreover, the law makes no distinction among those that violate international law. The prohibition of the use of force is a principle applicable to all member states including the five permanent members of the Security Council, although these states have special privileges such as the right of veto.¹⁴ The only legitimate use of force is, therefore, the one that corresponds to the aims and functions of the UN and applies only in two specific instances; individual and collective self-defence and collective security.

A. Individual and Collective Self-Defence

The Legitimacy of individual and collective self-defence is present and acknowledged in all legal systems and represents a natural right for the state under attack in order to stop an act of aggression. Nevertheless, this right as granted in the UN Charter is of a temporary nature, until the Security Council takes necessary measures to maintain world peace and security and can not be practised when the Security Council is capable of stopping the aggression. It is only when the Security Council is unable to act that this right is applicable. According to Article 51;

Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the UN, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time action as it deems necessary

in order to maintain or restore international peace and security. (See Annex 1)

In addition, the Article specifies the terms under which states can resort to force for self-defence as follows:

The right of self-defence can only be exercised when a state or states have actually been attacked by another state or states. The principle of self-defence differs from the principle of self-protection. There has to be a violation of a legal commitment towards the state that is exercising the right of self-defence. It is a way of protecting the basic rights of states against a harm that can not be fought except by force.¹⁵

This right by no means represents a punishment on the part of the state exercising it, but rather a means of stopping an aggression. The force used should equal the original aggression, not excessive, such as total occupation of the aggressor's territory or use of nuclear weapons to deter conventional weapons etc. At the same time the state engaged in self-defence can partially occupy and can destroy the aggressor's military force. Temporary occupation is permitted on the condition that withdrawal takes place the minute the threat is removed. Thus the action taken by the coalition forces in 1991 in following the Iraqi forces into southern Iraq, after fleeing Kuwait, can be said to be legal under international law, since the military force left the Iraqi territory within two weeks.¹⁶ Ultimately this defence remains temporary, until the Security Council fulfils its duties according to the Charter.

Collective self-defence means that more than one state carries it out in order to respond to an attack that took place on one state. The same rules of individual self-defence applies to collective self-defence. An aggression must take place first and these states must prove that such an attack affects them too. In the

case that a mutual self-defence treaty exists among these states the matter is clear, since according to common defence treaties an aggression on one is an aggression on all the signatories of the treaty. However, if no common self-defence treaty exists it falls on the state that wants to exercise the right of collective self-defence to prove that the aggression affects her too. It can use arguments based on geographical proximity, common economic, political and cultural interests etc.¹⁷

B. Collective Security

The second exception to the rule is allowing the Security Council to use force and military measures in order to punish aggression and to restore world peace and security. The Security Council has the authority to decide when an action, a situation, or a position threatens international peace and security. According to 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. (See Annex 1)

Deciding the presence of a threat, the violation of peace, or the presence of an act of aggression accordingly is a pre-condition for the exercise of the rules of chapter VII of the Charter. The Security Council can not exercise its authority unless that condition is established, which requires the unanimous agreement of the five permanent members of the Security Council. In the instance that no agreement can be reached the Council orders measures according to Article 40.¹⁸ There are also objective and political considerations that the Council must take into account before making such a decision. In specific terms, the Council needs to consider three issues:

1. To what extent that decision will help in maintaining world peace and security;
2. The ability of the Security Council to carry out coercive measures; and
3. The agreement among the five permanent member states and their support for the decision.¹⁹

The Council, after deciding whether an event or action threatens world peace and security, has to decide between two choices. The first is to implement the rules of Article 40 of the Charter and call upon the disputed parties to comply with the provisional measures deemed suitable by the Council in order to stop the escalation of the conflict. The second is to implement Article 39 and take measures in accordance with Articles 41 and 42.²⁰

According to Articles 41 and 42 the Council has at its disposal two types of coercive collective measures in order to fulfil its role in the maintenance of international peace and security. These are non-military measures and military measures. The purpose of using coercive non-military measures is the exercise of pressure and the graduation in the action against states that violate international law and the UN Charter in order to force them to comply with international rules.²¹ As stipulated in Article 41 the non-military coercive measures are enumerated as follows:

The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the UN to apply such measures. These may include complete or partial interruption of economic relations and of rail, air, sea, postal, telegraphic, radio and other means of communication and severance of diplomatic relations. (See Annex 1)

Article 42 outlines coercive military measures as follows;

Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea or land forces of members of the UN. (See Annex 1)

The coercive measures stated in these two articles give the Security Council great leverage in order to carry out its responsibilities according to the Charter. These measures are, thus, details of the collective measures mentioned in Article 1 of the Charter, which emphasise the right of the UN to take effective collective measures to maintain peace and security. The resolutions endorsed by the Security Council on the basis of Articles 41 and 42 are legally binding in accordance with Articles 25, 48 and 49. In addition, member states undertake to make available to the Council armed forces, assistance and facilities for the purpose of maintaining peace and security in accordance with Article 43. This article makes it clear that the Security Council is to have at its disposal troops supplied by prior agreement with members and awaiting the Council's call for action.²² The text of the article reads;

All member states of the UN, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security. (See Annex 1)

Thus, the capacity of the Security Council to take military action is dependent on negotiating special agreements with member states to make a UN security force available to the Council. These agreements need ratification by the states concerned according to their respective constitutional processes. Due to differences among the five permanent members, the Charter's commitment to collective security was never translated into a specific commitment to supply troops and material, and collective military action relied upon voluntary contributions of member states instead.²³ Also, the Military Staff Committee that was established in accordance with Article 47, in order to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of peace and security, never operated as envisioned in the Charter. It became a token body with little influence.

The Charter gave the Security Council the power to intervene in disputes or situations that have implications for international peace and security in accordance with Article 33 (2) and Article 34. Thus, the Council can on its own initiative investigate any dispute or any situation, which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security. Also, the Council may intervene at any stage in a dispute that might threaten world peace in accordance with Article 36 (1), which stipulates that:-

The Security Council may, at any stage of a dispute of the nature referred to in Article 33 or of a situation like nature, recommend appropriate procedures or methods of adjustments. (See Annex 1)

In summary, the Charter has given the Council rights and responsibilities to act without any party requiring that from it, in order to maintain peace and stability in the world. Hence, when an act of aggression is committed, especially if it threatens international stability, it is the duty of the Security Council to find the

ways to secure world peace, in accordance with the UN Charter. The Charter on the other hand specified in chapter VI and VII the conditions, procedures and measures that the Security Council is legally bound to follow whether in pacific settlement of disputes or through the use of force.

III UN Resolutions during the Crisis

The Security Council was heavily involved during the Gulf crisis. It adopted numerous resolutions concerning the crisis, which graduated in their forcefulness, severity and comprehensiveness in dealing with the Iraqi aggression. They began with a simple condemnation and affirmation of the illegitimacy of the Iraqi aggression against Kuwait and ended up authorising the use of force in order to reverse this aggression and restore the legitimacy of the Kuwaiti state. In the following section, I shall discuss some of the most important of these resolutions, namely resolutions 660, 661, 662, 678 and 687.

Resolution 660

Resolution 660, 2 August 1990, represented the first reaction of the UN towards the Iraqi occupation of Kuwait, in accordance with Articles 39 and 40 of the UN Charter, which entitled the Council to take provisional measures to face the situation. The Council condemned the Iraqi invasion and demanded that "Iraq withdraw immediately and unconditionally all its forces to the positions in which they were located on 1 August 1990". The resolution also called upon Iraq and Kuwait "to begin immediately intensive negotiations for the resolution of their differences and supports all efforts in this regard, and especially those of the League of Arab States".²⁴

The resolution was passed by fourteen out of fifteen member states voting in its favour. The Yemeni representative abstained because no instructions were received from his government. In its initial dealings with the crisis, the Security Council handled the matter fairly and there were expectations that the dispute

might be resolved peacefully.²⁵ This quickly changed with the formation of an anti-Iraq coalition led by the US, determined to punish Iraq for its aggression.

Resolution 661

The failure of Iraq's immediate compliance with resolution 660, resulted in the passing of resolution 661 by the Security Council on 6 August 1990, in which it used its powers under article 41 of the Charter to impose comprehensive economic sanctions on Iraq in order to force it out of Kuwait. A majority of thirteen members voted in favour of the resolution with only Cuba and Yemen abstaining.

It must be noted that the US, Japan, the EC, Canada and the Soviet Union had already, before the adoption of the resolution, announced measures such as the freezing of Iraqi bank accounts, a ban on oil supplies, the stoppage of exports of arms etc. In doing that these countries were "asserting either a right to take economic measures as first steps of collective self-defence with Kuwait or a right to take economic counter measures in response to an unlawful attack upon a friendly state".²⁶

The resolution called upon all states, including non-member states of the UN to act strictly in accordance with its provisions. It required all states to prevent:

1. "the import into their territories of all commodities and products originating in Iraq or Kuwait;
2. any activities by their nationals or in their territories which would promote or are calculated to promote the export or trans-shipment of any commodities or products from Iraq or Kuwait and any dealings by their nationals or their flag vessels or in their territories in any commodities or products originating in Iraq or Kuwait, including in particular any transfer of funds to Iraq or Kuwait for the purpose of such activities or dealings;

3. the sale or supply by their nationals or from their territories or using their flag vessels of any commodities or products, including weapons or any other military equipment, whether or not originating in their territories but not including supplies intended strictly for medical purposes and, in humanitarian circumstances, foodstuffs, to any person or body in Iraq or Kuwait or to any person or body for the purpose of any business carried on in or operated from Iraq or Kuwait, and any activities by their nationals or in their territories which promote or are calculated to promote such sale or supply of such commodities or products".²⁷

In the same resolution, the Council established a special committee consisting of all the members of the Council to follow up the implementation of the resolution. As a response to some countries not enforcing the embargo, the US and the United Kingdom warned Iraq immediately after the adoption of the resolution, that they will use both naval and aerial interdiction to enforce the sanctions. In fact, a week after the adoption of the resolution both countries decided to institute a naval interdiction campaign, which was taken after the Emir of Kuwait made a request from his exile in Saudi Arabia to the US, Britain and other states as follows:

Kuwait is grateful to all those Governments that have taken a principled stand in support of Kuwait's position against aggression and occupation by Iraq. It is considered essential that these efforts be strengthened so that the provisions of the relevant Security Council resolutions be fully and effectively implemented. In the exercise of its inherent right of individual and collective self-defence and pursuant of Article 51 of the Charter of the United Nations, Kuwait would like to notify you that it has requested some nations to take such military or other steps as are necessary to ensure the effective and prompt implementation of Security Council resolution 661.²⁸

The response by the US and Britain to this request has been considered by some as a violation of the UN Charter, since there was no indication in the resolution that the Council had intended to confer upon states the power to use or threaten force against ships flying the flags of other states in order to enforce the sanctions.²⁹ Both the US and Britain insisted that their naval interdiction was carried out in the exercise of the right of self-defence. Many delegates in the Council such as Canada made it clear that it was for the Council only to authorise the enforcement of its sanctions by military force and that the sanctions were imposed under Article 41 which relates to measures not involving the use of armed force, while the blockade or interdiction is clearly within the limits of Article 42.³⁰ Because of the dubious legal basis of the interdiction, Douglas Hurd, the British Foreign Secretary announced that his government was "working very hard to get a fresh resolution in order to provide the legality of enforcing the blockade".³¹

In order to possess the authorisation of the Council a meeting was subsequently called for and resolution 665 was, adopted on 25 August 1990, after some ten days of intense negotiations by thirteen votes, Yemen and Cuba abstaining. The resolution called on:

Those member states co-operating with the government of Kuwait which are deploying maritime forces to the area, to use such measures commensurate to the specific circumstances as may be necessary under the authority of the Security Council to halt all inward and outward maritime shipping in order to inspect and verify their cargoes and destinations and to ensure strict implementation of the provisions related to such shipping laid down in resolution 661.
(See Annex 1)

The wording of the resolution is of some importance. The "use of minimum force" a formula preferred by the Americans and the British was abandoned for the milder one "the use of such measures commensurate to the specific circumstances".³² The use of force was consequently implied rather than directly referred to. This avoided at the time giving the US and Britain a direct UN mandate to use force. Although the resolution went beyond Article 41 of the Charter, it stopped short of Article 42. A most pertinent joke made by some observers was that the resolution was based on Article 41 and a half.³³

This resolution was followed by another resolution, 670, adopted by the Council on 25 September 1990, by fourteen votes, with only Cuba objecting. It further tightened the sanctions on Iraq by imposing an air embargo, and requiring states to deny permission of aircraft destined to Iraq or Kuwait to over fly their territory except where the UN had given prior approval.³⁴

Despite this stiffening of the sanctions against Iraq, some UN members such as Jordan and Bulgaria found it difficult to comply fully with the sanctions in light of their strong economic ties to Iraq. They asked the Council to be allowed some exceptions and/or be compensated for the hardships confronting them as a result of the application of the economic sanctions, in accordance with Article 50 of the Charter. The article provides that states confronted with special economic or social problems arising from enforcement measures taken by the Council, may consult with the Council to resolve these problems. Jordan was the first state to apply to the UN for relief under that Article. It was followed by another twenty countries, but Jordan remained the most vocal among them because of its close economic ties to Iraq, its virtual dependence on Iraqi oil and the influx of huge numbers of third state nationals fleeing Iraq and Kuwait.³⁵

In response to that the Security Council decided to refer the case of Jordan to a committee in order to prepare a special report on the matter, that would function as a guide to other countries hurt by the embargo. The report was approved by the Council and its recommendations were referred to the Secretary-General to "develop methods for the purpose of receiving information from states about the contribution which they have or are preparing to make to alleviate the longer-

term hardships confronting Jordan as a result of application of economic sanctions".³⁶ Despite the efforts of the sanction committee, the assistance received by Jordan and other claimants fell far short of their expectations.

It is useful to look at previous occasions upon which economic sanctions have been used as a coercive measure against a UN member state in order to compare them with the Iraqi case. In 1966, the first ever UN mandatory sanctions under chapter VII of the Charter were applied to the white minority regime in Rhodesia. It started with an embargo of oil, arms and motor vehicles and a boycott of Rhodesian exports, followed in subsequent years by far-reaching economic sanctions. They were maintained until 1980 when power was transferred to the black majority, and Rhodesia was renamed Zimbabwe.³⁷ The effectiveness of sanctions against Rhodesia was curtailed because through the use of friendly South Africa it was able to route its trade and ensure that its goods bypassed the British blockade at Beira in Mozambique. Hence, it was able to continue trading relatively normally throughout the period of sanctions.³⁸

In 1977, the arms embargo against South Africa (that was endorsed as a voluntary measure by the Security Council in 1963) was made mandatory. The UN sanctions were not well observed and had little effect on the country's racial and colonial policies. Nevertheless, the combination of internal troubles and increased economic pressures did eventually induce a change towards the dismantling of the apartheid regime. On both these occasions great patience was shown by the US and the international community in stark contrast to the little time given to sanctions in the case of Iraq. Also, neither country experienced the same level of severity and comprehensiveness of the sanctions regime.

A more recent application of sanctions includes those applied against Libya and the Federal Republic of Yugoslavia (FRY). The Security Council in April 1992 imposed mandatory sanctions on Libya, consisting of bans on airline traffic and arms sales and a reduction in the size of Libyan diplomatic missions abroad. This was taken due to Libya's refusal to surrender for trial the two Libyan

suspects in the bomb explosion of the pan American flight 103 over Lockerbie in Scotland.³⁹

Sanctions on the FRY were imposed during 1992 because of its role in helping Serbs in Croatia and Bosnia-Herzegovina following the outbreak of fighting in Croatia and Bosnia. The Security Council found it in violation of Article 2(4) of the UN charter, which says "all UN members shall refrain in their international relations from the threat or use of force against the territorial or political independence of any state, or in any manner inconsistent with the purposes of the UN".⁴⁰ Subsequently it adopted a series of resolutions to impose sanctions against Serbia. Resolution 713 was adopted September 1991 and imposed a complete embargo on all deliveries of weapons and military equipment to all parts of the former Yugoslavia. It was followed by resolution 757 of May 1993, which imposed a wide range of economic sanctions on Serbia; a ban on imports and exports except the sale of food and medical supplies, a ban on funds as well as a ban on scientific and technical co-operation and flights to or from Serbia. Resolution 787 of November 1992 prohibited the shipment of energy supplies and various commodities unless authorised by the Sanctions Committee. Further restrictions were imposed in resolution 820 of April 1993 whereby the Security Council prohibited imports to, export from and transshipment of goods through the UN Protected Areas in Croatia, and those parts of Bosnia-Herzegovina under the control of Serb forces. Also assets of Yugoslav entities were frozen, and the provision of services both financial and non-financial for the purposes of business carried on Yugoslav was prohibited. The Security Council in resolution 942 aimed to prevent the economic activities and links with Bosnian-Serb entities in areas under the control of the Bosnian-Serb military, in addition to freezing the assets of these entities and the supply of goods and services.⁴¹

It is apparent the sanctions on Serbia were wide ranging and had devastating effects on the economy. However, the sanctions were ineffectual at stopping Serbian expansionism and Slobadon Milosevic, the then leader of the Federal Republic of Yugoslav, who used the sanctions as a glue for defiant nationalist sentiment and to strengthen his hold on power. In addition sanction busters

used to smuggle goods and oil and foreign currencies into country hence rendering the sanctions ineffective.⁴²

These two recent occasions do not compare to the Iraqi case in terms of severity and strict adherence to the regime of sanctions. The past experience of the UN with sanctions reveals that their success depend to a large degree on the willingness of the international community to comply and the existence of opportunities to bypass them, in addition to time.⁴³ Sanctions, therefore, in the case of Iraq had a good chance of working because firstly of the cooperation of the international community. Iraq's aggression was rejected by the whole international community even those who did not support the use of force. Secondly, no large, friendly states were willing to facilitate the evasion of sanctions; Syria and Turkey were part of the coalition against Iraq and Iran was interested in improving its relations with the Gulf Arab states as well as the West, and Jordan despite its political support of Iraq was in no position either to evade sanctions. Lastly, the US and Britain were more than willing to implement the sanctions, by force, if necessary and the UN gave them such an authority.⁴⁴

The problem was that the coalition against Iraq was not sure that the sanctions, even if they were working in isolating Iraq economically, commercially, diplomatically, politically, and morally, would bring about the objective of withdrawal from Kuwait. In addition, the time needed would threaten the unity and resolve of the coalition.⁴⁵ However early signs showed that the embargo was effective, especially in stopping oil exports and imports of a technical and military nature. It cut down Iraqi exports by 97 percent and imports by 90 percent.⁴⁶ The devastating effects of the sanctions were seriously felt by the Iraqi population at large, but a much longer time would have been needed to influence the policies of the regime.

Concerning the effectiveness of the economic sanctions Faleh al-Shatti (the Assistance Secretary of the GCC Military Council) commented:

No one can deny the effects of the economic sanctions on Iraq. However the destiny of Iraq is in the hands of one man, Saddam Hussein. He and his regime control resources and decisions and they have not been effected as the Iraqi people. One can say that the delaying tactics that Saddam has been using in implementing some of the resolutions of the Security Council, has lengthened the period of economic sanctions and hence the suffering of the Iraqi people.⁴⁷

On 25 August 1995, the Security Council adopted resolution 665, which tightened the control over vessels that might be engaged in inward and outward shipping to Iraqi ports, in order to ensure effective implementation of resolution 661. The sanctions imposed on Iraq were severe and comprehensive and the possibility of circumventing them was extremely limited. This was due to the strict adherence of most states and the willingness of the US and Britain to use force if necessary to ensure their implementation. The severity of the sanctions should have signalled to the Iraqi regime the serious intent of the coalition and their determination to restore the legitimacy of Kuwait. It should have, also, made the Iraqi government more appreciative of the possibility of a military confrontation.

Resolution 662

Instead, Iraq responded to the economic boycott by annexing Kuwait 8 August 1990 and claiming it as the nineteenth province of Iraq. In return the Council issued resolution 662 on 9 August 1990, which reiterated the determination of the Council to bring the occupation of Kuwait by Iraq to an end and to restore the sovereignty, independence and territorial integrity of Kuwait. More importantly, the resolution

1. Decides that annexation of Kuwait by Iraq under any form and whatever pretext has no legal validity, and is considered null and void;

2. Calls upon all States, international organisations and specialised agencies not to recognise that annexation, and to refrain from any action or dealing that might be interpreted as an indirect recognition of the annexation;
3. Further demands that Iraq rescind its actions purporting to annex Kuwait.

The resolution, henceforth, declared the invalidity of the Iraqi measure and its violation of international law. It called upon the entire international community with all its states and various international organisations not to recognise that illegitimate annexation. The Security Council needed to act swiftly and firmly concerning this action since it had serious implications for the UN.⁴⁸ The annexation carried with it the possibility of turning the conflict into an internal affair, thus, eliminating the role of the UN in settling a dispute between two member states. Also, accepting the annexation was contrary to the main principle of the sovereign independence of each member state of the UN.⁴⁹

From the start of the crisis, international law and its violation had been at the centre of concern of UN members and the international community. The annexation of Kuwait was yet another action by the Iraqi regime totally disregarding international law. Baghdad's politics increasingly isolated Iraq and consolidated the coalition against it and strengthened the determination of the US led coalition to force Iraq to comply by the rules that govern, restrict and constrain the behaviour of states.⁵⁰ Consequently, resolution 662 was passed unanimously.

The build up of military presence in the Gulf area, and Saudi Arabia in particular, and the subsequent increased pressure on the Iraqi regime, pushed it further to take measures in violation of international law especially concerning foreign nationals in Iraq and Kuwait, and the immunities of diplomatic personnel. Incensed by such measures, the Council adopted resolution 664 on 18 August 1990. The resolution demanded that the Iraqi regime allow third-state nationals to depart from Iraq and Kuwait and confirmed Iraq's obligation to protect the rights of civilians and the necessity to provide them with care and security as

well as food and medical supplies in compliance with the Fourth Geneva Convention. Also, the resolution demanded that Iraq rescind its closure of diplomatic and consular missions in Kuwait and the withdrawal of immunity of their personnel.⁵¹

This was followed by yet another resolution. The Council on 17 September passed resolution 667 which further condemned Iraq's violation of diplomatic premises and reiterated its demand for the release of all foreign nationals. The Iraqi regime was trying to use foreign and diplomatic nationals as a bargaining chip. Thus, Saddam offered to release all foreign detainees if President Bush would agree to give written guarantees that US forces will withdraw from Saudi Arabia and the economic sanctions revoked.⁵² But the US and its allies wanted to punish Saddam severely for his arrogance and obstinance in not complying with the UN resolutions and his continuous violation of international rules, and hence was not in a position to offer any deals or appear to be compromising on its strong stance against Iraq.

The uncompromising stand-off between Iraq and the anti-Iraqi coalition led to further condemnation of Iraq's violation and defiance of international rules. Resolution 674 was adopted on 29 October 1990 which re-affirmed the concern of the Council over the safety of nationals of third-states in Kuwait and Iraq, including personnel of the diplomatic and consular missions of such states. It also reminded Iraq of its responsibility under international law to damages relating to the invasion of Kuwait, including human rights violations.

Iraq was aiming at changing the demographic structure of Kuwait by moving Kuwaitis out of Kuwait and bringing Iraqis into the territory, and was trying to destroy the civil records of the population of Kuwait. As a response to these activities the Council 28 December 1990 adopted resolution 677 which

1. Condemns the attempts by Iraq to alter the demographic composition of the population of Kuwait and to destroy the civil records maintained by the legitimate government of Kuwait;

2. Mandates the Secretary-General to take custody of a copy of the population register of Kuwait, the authenticity of which has been certified by the legitimate Government of Kuwait and which covers the registration of population up to 1 August 1990.

One finds it hard to see how despite this significant and constant pressure on Iraq to comply with international resolutions the regime opted to ignore these clear signals of the seriousness of the US and its allies to force Iraq to comply and to punish it for its aggression. It showed, also, an incredible resolute determination on the part of the Western alliance not to falter in its will to restore the legitimacy of Kuwait and protect its strategic interests in the region.

Resolution 678

In the face of Iraq's challenge to international will and insistence on perpetuating the aggression against the state of Kuwait and the legitimacy of its government, the Security Council adopted, one of its most controversial resolutions, resolution 678 of 28 Nov 1990. The Council in operation of its powers vested under chapter VII of the Charter authorised the use of force to deter Iraqi aggression and force its withdrawal from Kuwait. The resolution henceforth

1. Demands that Iraq comply fully with resolution 660 (1990) and all subsequent relevant resolutions, and decides, while maintaining all its decisions, to allow Iraq one final opportunity, as a pause of goodwill to do so;
2. Authorises member states co-operating with the Government of Kuwait, unless Iraq on or before 15 January 1991 fully implements, as set forth in paragraph 1 above, the foregoing resolutions, 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.

The UN passed resolution 678 by noting that Iraq had refused to comply with its obligation to implement resolution 660 and all subsequent relevant resolutions of the Security Council. It also noted that the UN was determined to secure Iraq's full compliance with its decisions. Hence, acting under chapter VII of the Charter, it permitted the use of all necessary means to uphold and implement resolution 660 and all subsequent resolutions and to restore international peace and security in the area. Iraq was given an ultimatum to withdraw its troops from Kuwait by the 15 of January. Otherwise the allied forces were ready to use force to make Iraq comply with UN resolutions.

By not heeding the ultimatum of the resolution, to withdraw willingly from Kuwait, Iraq missed a great chance to save its economy and people massive damage and suffering. It was obvious that the coalition would not let Iraq off the hook easily, especially when their interests had been so directly threatened by its action, and by its lack of responsiveness to UN resolutions in spite of the massive military build up in the region. The hostilities broke just as the deadline set by the resolution lapsed. The military coalition succeeded in ending the Iraqi occupation and restored the legitimate Kuwaiti government. However, the cost of the military action has been huge in human, financial and economic terms.

A debate has ensued following resolution 687 concerning the legitimacy of the military action. Some saw the resolution as a straightforward application of the UN Charter and international law, while others were very critical. Regardless of the position one takes concerning the legality of the resolution, the controversy over it has implications for the UN and its role in solving future conflicts and disputes. In addition, many developing countries became acutely aware of their lack of influence over the Security Council and its dominance by the US. This debate and the many questions it raised about the legality of the resolution shall be discussed in some detail in section IV.

Resolution 687

Resolution 687 (1991) represents one of the most complex and far-reaching set of decisions ever taken by the Council, and the longest text ever adopted by the Council. It was dubbed the "mother of all resolutions". The resolution sets out in detail the terms of a formal cease-fire and the obligations of Iraq relating to a variety of issues such as its borders with Kuwait, its military capability and war reparations. These terms and obligations indicate that the intention was to severely punish Iraq not only as an aggressor and violator of international law, but as a criminal state, uniquely dangerous.⁵³ These terms and obligations were primarily discussed among the five permanent members, and Kuwait and Saudi Arabia; who were in agreement about imposing harsh conditions on Iraq.

The severity and comprehensiveness of the obligations imposed on Iraq created differences among UN member states about the ultimate objective of the resolution, although its broad objective has been consistent with the previous resolutions relating to the restoration of international peace and security.⁵⁴ The US and Britain, for instance, saw the terms as maintaining pressure on Iraq in order to bring about the overthrow of Saddam's regime. Such an objective was incompatible with the purposes and principles of the UN. Regardless of what is the real objective behind the resolution, the fact remains that the obligations imposed on Iraq were extremely harsh and intrusive. The most important of these relate to the following;

A. Boundary Settlement

The resolution established a demilitarised zone along the boundary between Iraq and Kuwait and requested the Secretary -General to submit a plan for the deployment of a UN observer unit. Subsequently the United Nations Iraq-Kuwait Observation Mission (UNIKOM) was established. The terms of reference of the mission were outlined as follows:

1. To monitor the Khawr Abdullah and a militarised zone extending 10 kilometres into Iraq and 5 kilometres into Kuwait from the boundary referred to in the Agreed Minutes between Iraq and Kuwait of 4 October 1963;
2. To deter violations of the boundary through its presence in and surveillance of the demilitarised zone;
3. To observe any hostile or potentially hostile action mounted from the territory of one State to the other.⁵⁵

These terms of reference have limited the role of UNIKOM to monitor and observe and it was not authorised to take physical action to prevent the entry of military personnel or equipment into the demilitarised zone and that no military fortifications and installations were maintained in it. In addition it can only monitor the activities that can be observed in and from the Khawr Abdullah and the demilitarised zone. This zone is about 200 km long and the area of Khawr Abdullah about 40 km; it is barren and almost uninhabited, except for the oilfields and two towns, Umm Qasr and Safwan.⁵⁶ The contingents of UNIKOM were fully deployed by 6 May 1991 and monitored the withdrawal of the armed forces still deployed in the demilitarised zone. On May 9 with the withdrawal complete the demilitarised zone established by the Security Council came into effect and UNIKOM assumed its observation responsibilities. The Mission's headquarters were located at Umm Qasr and it maintained liaison offices in Baghdad and Kuwait City. A logistic base first located in Doha, Qatar was later moved to Kuwait City.⁵⁷

On the 5 February 1993, as a result of some Iraqi violations in the demilitarised zone the, Security Council in its resolution 806 gave UNIKOM a new extended mandate in order to allow for an adequate response to such violations. UNIKOM was permitted to use physical action to prevent or redress the following;

1. Small-scale violations of the demilitarised zone;

2. Violations of the boundary between Iraq and Kuwait, for example by civilians or police; and
3. Problems that might arise from the presence of Iraqi installations and Iraqi citizens and their assets in the demilitarised zone on the Kuwaiti side of the newly demarcated boundary. ⁵⁸

In order to perform these tasks UNIKOM's unarmed military observers were replaced by armed military observers with appropriate support elements. They would use weapons in self-defence, but were not authorised to initiate enforcement action. ⁵⁹ However the overall strength of UNIKOM remained relatively small and would not be able to prevent a significant military incursion. Its presence and vigilance have kept the DMZ relatively calm and it enjoyed the co-operation of the Iraqi and Kuwaiti authorities. ⁶⁰ (See Map 3)

In order for the UN to carry out the demarcation of the border as specified in the resolution a special commission was created on 13 May 1991: the United Nations Iraq-Kuwait Boundary Demarcation Commission (UNIKBDC). The Commission had one representative each from Iraq and Kuwait and three independent experts appointed by the Secretary-General, one of whom served as the Chairman. The terms of reference of the commission were specified as follows:

1. To demarcate geographical coordinates of latitude and longitude the international boundary set out in the Agreed Minutes between Kuwait and Iraq of 4 October 1963; and
2. To 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. The physical representation of the boundary will be carried out through the erection of an appropriate number and type of boundary pillars and monuments. The commission

will also provide for maintenance on a continuing basis and locational accuracy, including if necessary the repositioning of the surficial boundary representation.⁶¹

The Commission had eleven meetings between May 1991-May 1993. In the first five sessions, on which the land boundary and the Khawr Abdullah offshore section were considered, Iraq attended all the sessions, while it did not attend the subsequent six sessions. Iraq's decision to end its participation in the work of the commission was based on two considerations the first is its believe that the commission's work is of a political nature aimed at depriving Iraq of its rights and justifying the American bases and armed forces in the region. Secondly its believe that the Security Council lacked the legal competence to act on border questions. The Security Council in response reaffirmed its support to the commission's work and stressed "that through the demarcation process the Boundary Demarcation Commission is not reallocating territory between Kuwait and Iraq, but is simply carrying out the technical task necessary to demarcate the precise coordinates of the boundary between Kuwait and Iraq for the first time."⁶² It also stressed the inviolability of the international boundary being demarcated by the Commission and guaranteed by the Council, and the grave consequences that would ensue from any breach thereof.

The final settlement of the boundary by the commission was affirmed in Security Council resolution 833 on 27 May 1993. The resolution;

1. Reaffirmed that the decisions of the commission regarding the demarcation of the boundary are final;
2. Called upon Iraq and Kuwait , in accordance with international law and relevant Security Council resolutions, to respect the inviolability of the international, as demarcated by the Commission, and the right to navigational access;

3. Reaffirmed its decision to guarantee the inviolability of the boundary as finally demarcated by the commission and to take as appropriate all necessary measures to that end in accordance with the Charter of the United Nations.⁶³

Iraq in response to the resolution reiterated its position on the work of the commission being political and challenged the competence of the Council to work on border questions. It also opposed the Commission's decision to demarcate the Khawr Abdullah (offshore) boundary, which Iraq considered beyond the Commission's terms of reference or mandate.⁶⁴ Despite these reservations Iraq had no choice but to accept the commission's work. On 10 November 1994 Iraq declared the following;

1. The Republic of Iraq recognises the sovereignty of the State of Kuwait, its territorial integrity and political independence.
2. The republic of Iraq in compliance with the United Nations Security Council resolution 833 (1993), recognises the international boundary between the Republic of Iraq and the State of Kuwait as demarcated by the United Nations Iraq-Kuwait Boundary Demarcation Commission and respects the inviolability of the said boundary.⁶⁵ (See Map 4)

B. Disarmament and Weapons Control

The demands of the UN on Iraq concerning its present and future military capabilities are unprecedented in the history of the organisation and reveal the extent of the intention of the US and its allies to punish Iraq and to limit its future role in the region. The programme for the destruction of weapons and the permanent system of verifications were and are intended to be highly intrusive and a challenge to the sovereignty of Iraq.⁶⁶ To carry out this complex and unprecedented task the Council established a subsidiary body, the United Nations Special Commission (UNSCOM), for the exclusive purpose of

implementing the resolution with the assistance of the Director of the International Atomic Energy Agency (IAEA).

The mandate of UNSCOM has been extensive and elaborate. The details of which are as follows:

- To “carry out immediate onsite inspection of Iraq’s biological, chemical and missile capabilities”;
- To take possession for their destruction, removal or rendering harmless of “ all chemical and biological weapons and all stocks of agents and all related subsystems and components and all research, development, support and manufacturing facilities”;
- To supervise the destruction by Iraq of all its “ballistic missiles with a range greater than one hundred and fifty kilometres and related major parts and repairs and production facilities”;
- To assist and cooperate with the Director General of the International Atomic Energy Agency in the elimination of Iraq’s nuclear-weapon capabilities and in the subsequent monitoring of non-proscribed nuclear activities; and
- To designate for inspection “any additional locations” as deemed necessary by UNSCOM to ensure the elimination of all Iraq’s banned capabilities-nuclear as well as non-nuclear.⁶⁷

Similar comprehensiveness has been employed in relation to Iraq’s nuclear disarmament. The Director General of IAEA was mandated to:

- “To carry out immediate on-site inspections of Iraq’s nuclear capabilities” and additional sites as designated by UNSCOM;

- To destroy, remove or render harmless Iraq's nuclear weapons, any subsystems or components or any research, development, support or manufacturing facilities related to such items and nuclear-weapons-usable materials;
- To take exclusive control of all of Iraq's nuclear-weapons-usable materials for custody and removal, with the assistance and cooperation of the Special Commission;
- To monitor and verify Iraq's compliance with its undertaking "not to use, develop, construct or acquire any of the items specified"; and
- To inventory "all nuclear material in Iraq subject to the Agency's verification and inspections to confirm that Agency safeguards cover all relevant nuclear activities in Iraq".⁶⁸

The resolution also accorded many privileges to UNSCOM while carrying out its work in Iraq. These privileges are extensive and elaborate as follows:

- "Unrestricted freedom of entry and exist without delay or hindrance of its personnel, property, supplies, equipment, spare parts and other items as well as of means of transport, including expeditious issuance of entry and exist visas";
- "Unrestricted freedom of movement without advance notice within Iraq of the personnel of the Special Commission and its equipment and means of transport";
- "The right to unimpeded access to any site or facility for the purpose of the on-site inspection whether a site be above or below ground. Any number of sites, facilities or locations may be subject to inspection simultaneously";

- “The right to request, receive, examine and copy any record, data or information or examine, retain, move or photograph, including videotape, any item relevant to the Special Commission’s activities and to conduct interviews”;
- “The right to designate any site whatsoever for observation, inspection or other monitoring activity and for storage, destruction or rendering harmless” of items described above;
- “The right to install equipment or construct facilities for observation, inspection, testing, or other monitoring activity and for storage, destruction or rendering harmless” of those items;
- “The right to take photographs, whether from the ground or from the air, relevant to the Special Commission’s activities”
- “The right to take and analyse samples of any kind as well as to remove and export samples for off-site analysis”; and
- “The right to unrestricted communication by radio satellite or other forms of communication”.⁶⁹

The work related to control of Iraq’s military capability was further reinforced by three more resolutions. Resolution 669 (1991) determined that Iraq pay the full cost of the destruction of its weaponry while resolution 700 (1991) approved the guidelines for the full implementation of the arms embargo. Resolution 715 (1991) required from Iraq to give UN and IAEA inspectors access to all its civil and military installations which are suspected of an arms capacity, all laboratories and research projects and the scientists and technicians working there. It also instituted controls over imports and exports.

It is no wonder, therefore, that the relations between Iraq and UNSCOM and IAEA have been extremely difficult and Iraq’s reaction to these extremely

intrusive measures was to deliberately obstruct the work of the Special Commission and to manoeuvre, intimidate and evade the UN inspectors. In addition, several serious stand-offs occurred, the latest ending up in a total collapse of the relationship between the Iraqi government and UNSCOM.⁷⁰

Resolution 687, coupled with the subsequent resolution 688 of 5 April 1991, has been perceived as a functional occupation of Iraq, meaning "that in certain domains and geographical areas Iraq was to be prevented from exercising its sovereignty under threat of fierce sanctions if it challenged UN resolutions".⁷¹ Resolution 688 was prompted by the concern of the Security Council over the treatment of civilian population in many parts of Iraq and the flow of refugees. The resolution subsequently

1. Condemns the repression of the Iraqi civilian population in many parts of Iraq, including most recently in Kurdish-populated areas, the consequences of which threaten international peace and security in the region;
2. Demands that Iraq, as a contribution to removing the threat to international peace and security in the region, immediately end this repression;
2. Insists that Iraq allow immediate access by international humanitarian organisations to all those in need of assistance in all parts of Iraq and to make available all necessary facilities for their operations.⁷²

The breadth of the role given to the UN has been undoubtedly unique for the provision of humanitarian assistance and does infringe on the sovereignty of Iraq. However, the same resolution reaffirms the commitment of all member states to respect the sovereignty, territorial integrity and political independence of Iraq and of all states in the region. In other words there appears to be a conflict in the UN role. This is a reflection of the tension that exists in the charter of the UN. On the one hand the charter in Article 1 (1) states that one of the main purposes of UN is the maintenance of peace and security while it goes

on and emphasises in article 2(4) the territorial integrity and the political independence of states. Thus the need to act for maintaining peace and security and for humanitarian reasons infringes on the sovereignty of states and has made the work of the UN highly complicated and in many instances very difficult to carry out.

The UN humanitarian centre that was opened in Zakho and the other sub-offices that were set up in Mosul, Basra, Erbil, Sulaimanaih and Dohuk were crucial in providing essential humanitarian relief measures, but were seen by the Iraqi government as an attack on its sovereignty.⁷³ As stated in the letter from the permanent representative of Iraq to the Secretary-General dated 18 April 1991 that the Iraqi government is opposed to the measure of creating the humanitarian centres and is especially opposed to the united states assuming responsibility for them. He added that the measures "constitute a flagrant violation of Iraq's sovereignty and territorial integrity" and requested the United Nations to assume responsibility for them.⁷⁴

This tension between the need of the UN to interfere and the possible infringement on the sovereignty of states has also been manifested in the Memorandum of Understanding between Iraq and UN signed of April 1991 points to it. The memorandum emphasises in paragraph 20 that the implementation of the programme of humanitarian assistance and the principles enclosed in the memorandum "shall be without prejudice to the sovereignty, territorial integrity, political independence, security and non-interference in the internal affairs of the Republic of Iraq".⁷⁵

Another striking example of the contradictory role of the UN is that in order to punish Iraq for its violation of UN charter and international law sever sanctions were imposed on the country. These sanctions are themselves causing severe distress to the civilian population and are a source of instability in the country and the region. In addition abuse of human rights and repression of civilian population is not exclusive to Iraq in the region. An example is Israeli practices in the West Bank and Gaza and its continuous violation of Palestinian civil and political rights. This has been a source of instability and threatens international

peace as much as the Iraqi practices. One could say that perhaps the only reason that Iraq is signalled out is because of the threat it has posed to Western interests in the region, more so than its treatment of its civilian population and its violation of international law.

C. Compensation Fund

The Security Council affirmed first in resolution 674, 29 October 1990, and repeated it in resolution 687, 2 April 1991 that Iraq "is liable, under international law, for any direct loss, damage including environmental damage and the depletion of natural resources, or injury to foreign governments, nationals and corporations, as a result of Iraq's unlawful invasion and occupation to Kuwait".⁷⁶ It called upon states to "collect relevant information regarding their claims, and those of their nationals and corporations, for restitution or financial compensation by Iraq, with a view to such arrangements as may be established in accordance with international law"⁵⁷

To carry out the compensation scheme the Council established the United Nations Compensation Commission (UNCC), for the processing, determination and payment of claims, and the United Nations Compensation Fund for the processing and payments of these claims as stipulated in resolution 692 (1991). The Compensation Commission will consider consolidated claims submitted by governments on their own or on behalf of their nationals. It established the categories of claims and guidelines regarding which claims are compensable while each government adopts its own procedures in respect to the consolidation of the claim. Priority is given to individual claims, then corporate and government claims, including compensation for environmental damages.⁵⁸

The UNCC had become responsible for the largest compensation claims programme in history. By 1 October 1995, it had received 2.6 million claims with an asserted value exceeding \$160 billion. These claims have been divided into six categories as follows;

- Category A : departure from Kuwait or Iraq
- Category B: serious personal injury.
- Category C: individual claims for personal damages up to \$100,000.
- Category D: individual claims for damages above \$ 100,000.
- Category E: claims of corporations and other legal entities.
- Category F: claims of governments and international corporations. ⁷⁸

Iraq is to pay for these claims from a percentage of its oil revenues. This percentage was determined by the Secretary-General in consultation with international financial institutions. Resolution 702 (1991) determined this proportion at a maximum of 30 percent and gave the Compensation Commission the discretion to decide on the precise amount for any given year.⁷⁹ The 30 percent was a compromise between the 50 percent that the US was pushing for and the 28 percent that the British favoured.⁸⁰

Due to the continuation of sanctions, the funds available to the Commission have been limited. To overcome this the Council adopted Resolution 778 (1992) which allows the Commission to finance its operation from 30 percent of Iraqi frozen oil assets overseas. These funds will be repaid once the sanctions are lifted or the food-for-oil scheme accepted.⁸¹ Comparing the total value of claims submitted till 1 October 1995 of \$160 billion with the estimated \$4-8 billion available from frozen assets reveals the difficulty of finding the funds to pay the claims. It will take two to three decades to pay the full reparations based on a 30 percent of oil revenues.⁸² The Governing Council of the Compensation Commission decided upon two basic principles in order to prioritise these claims and balance between the available funding and the payment of claimants;

1. The commission should ensure that similarly situated claimants within each category of claims are treated equally, to the extent feasible regardless of the chronological order in which their claims are decided:
2. Claimants with claims in the three categories of urgent claims (category A, B and C,) shall receive priority of treatment, including at both the processing and the payment stages, in accordance with the prior decisions and statements of the government Council.⁸³

The principle of the liability of Iraq to pay for damage was accepted by Iraq and is not by itself objectionable. However some serious legal objections have risen about the work of the compensation fund. For instance it is unusual in international law that Iraq pays every penny of the costs of a procedure in which it has no say; it pays for the entire UNCC proceedings; it pays for the costs of entertaining the secretariat of the UNCC; it pays for the panels which investigate the claims; it pays for the consultants which assist the panels and pays for the investigations of the Secretariat and the experts that it commissions. And while Iraq pays for all this it does not even have access to the results produced by these experts.⁸⁴ The claimants some of whom are very wealthy such as the Kuwait Oil Company, were under no restrictions with respect to the funds they spent on the preparation of their claims.⁸⁵

The work of the UNCC lacks also the scrutiny of the reasonableness of the costs claimed. A major part of an examination of any claim is looking at the aspect of reasonability of the claim. For instance in the case of awarding compensation for the damage of the Well Blow-Out Control Claim (WBC), no scrutiny has been made to ensure that Kuwait Government, the Kuwait Oil Company and all other involved in the process of extinguishing the fires proceeded with reasonable care. The claim was for 950 million US\$. Out of this amount barely 3 million US \$ have been dismissed. All the rest has either been admitted immediately or

transferred to another claim. There are few, if any international cases where a claimant has been so successful.⁸⁶

Another important comment on the substantive rules of the UNCC concerns the scope of the liability of Iraq provided for by international law in case of unlawful invasion. In other words which acts can be admitted for liability and what type of damage and/or which damage must be considered that caused by Iraq and other damage such as damage caused by the allies. No matter who caused the damage Iraq pays.⁸⁷ Schneider claims that the resolutions and decisions of the UNCC Governing Council and the Security Council "have created a system of substantive rules and procedural mechanisms which have no basis in international law and have not been accepted by Iraq".⁸⁸ Thus it appears that the need to punish and contain Iraq is permitting the UN with the blessing of the US to go beyond the accepted rules of international law and practice.

D. The Sanctions Regime

The maintenance of the three categories of sanctions; the oil embargo, the arms embargo and trade embargo, has been used in order to maintain the pressure on Iraq, and to force her to implement the required conditions of resolution 687. The criteria of lifting of these three categories of sanctions are complicated. According to paragraph 22 of the resolution, the lifting of the oil embargo is conditional upon Iraq's full compliance with its weapons-related obligations without specifying what constitutes full compliance. Also, some members of the Council believe that Iraq must also comply with other obligations such as those in resolution 688 before the oil embargo is lifted.⁸⁹

The second category of sanctions, the arms embargo, is subject to even less precise terms. According to the resolution, it will be reviewed regularly "taking into account Iraq's compliance with this resolution and general progress towards the control of armaments in the region". To include the objective of

controlling armaments in the region as one of the conditions for lifting sanctions on Iraq is a bit bewildering. First this is beyond Iraq's control and depends on agreement applicable to the region as a whole.⁹⁰ Secondly this is being emphasised at a time where the US and other Western powers have been very busy making huge arms deals with Gulf states.

The third category of sanction, exports to Iraq, is subject to the most unqualified, unrestricted provisions. It leaves ample room for different interpretations as to when sanctions could be lifted and links the sanctions to the policies and practices of the Iraqi regime without specifying whether these are internal or external. According to paragraph 21 the Council shall review the trade sanctions every sixty days and shall

in light of the policies and practices of the government of Iraq, including the implementation of all relevant resolutions of the Security Council for the purpose of determining whether to reduce or lift the prohibitions. (See Annex 1)

The ambiguity surrounding the conditions for lifting the sanctions gives considerable discretion to the Security Council, in particular, the permanent five to decide when and if the sanctions can be lifted.⁹¹ At the same time the resolution provides for a tight implementation of the sanction regime by specifying that all states must continue to prevent the sale or supply, or promotion or facilitation of such sale or supply of a number of items, which were detailed in the resolution. It, also, requests in paragraph 26 the Secretary-General to develop guidelines to facilitate the full implementation of the arms and related sanctions on Iraq and to make them available to all states. The guidelines were approved by the Council in Resolution 700 (1991).⁹² They provided for stringent controls and measures to prevent Iraq from circumventing the sanctions.

One must point out that the objectives of the UN as indicated in the many relevant resolutions during the crisis were clear and unambiguous. They were

first, to bring the invasion and occupation of Kuwait to an end; second, to restore the sovereignty, independence, and territorial integrity of Kuwait; and third to restore the authority of the legitimate Government of Kuwait. But clearly Britain and the US had other objectives than those laid out in UN resolutions.⁹³ These objectives include the destruction of Iraq's military power and economic base, and with it destroying any possibility of her reappearing as a powerful regional actor. The severity of the military action and the breadth of resolution 687 was meant to achieve such undeclared objectives. So there was more at play than the act of aggression itself and Iraq's defiance of international rules and resolutions. The political strategic interests of the US in the region played a determining role in the severity of Iraq's punishment and in the pursuance of objectives not directly sanctioned by the UN.

IV The Debate over the UN Resolutions

As mentioned before, a debate has emerged among analysts and law experts about the lawfulness of some of the resolutions adopted by the UN, in particular resolution 678. According to Saraj al-Din (head of the Egyptian Wafad party) the manner in which the Security Council has acted during the crisis was a straightforward application of the UN Charter and international law. He comments that :

There is no question about Iraq's violation of the UN Charter and international laws and customs in its occupation of Kuwait, its decision to force diplomatic and international missions to move to Baghdad and its unwillingness to comply with international resolutions. Hence, the international community saw the need to force Iraq to accept international will and to comply with the UN Charter to resolve its dispute with Kuwait.⁹⁴

This position of the lawfulness of UN resolutions and the legitimacy of the use of force to liberate Kuwait is further affirmed by Foud Badrawi, the Secretary of the Egyptian Wafd Party, who states that:

From an international legitimacy point of view, all states that defended Kuwait did that according to the stipulations of international law. The measures adopted by the UN were to support international legitimacy and the rules of international law.⁹⁵

Others, however, found serious flaws in these positions. To start with, the naval blockade of Iraq ordered by President Bush following resolution 661 was described by the UN Secretary-General, Javier Perez De Cuellar as "a breach of the UN Charter".⁹⁶ Under Article 41 of the Charter, any blockade has to be under Security Council approval. American ships had not been ordered to stop and search all ships carrying cargo to and from Iraq and Kuwait in the Gulf, the northern part of the Red Sea and the Gulf of Oman.⁹⁷ Resolution 665 which was intended to provide legitimacy for the US action also departed from Chapter VII in asking states with maritime forces in the Persian Gulf area to monitor shipping. Articles 46 and 47 clearly state that enforcement measures would be under the control of the Security Council and its Military Staff Committee. In addition, the resolution stipulates that measures can be taken to ensure the embargo without specifically stating the body that is permitted to take action.⁹⁸

As to resolution 678 it has been questioned on many grounds. First, some doubt that the resolution had in fact given the mandate to use force especially in light of previous UN resolutions. When the UN intended to allow the use of force, it made it clear in the text of the resolution. An example is resolution 83 adopted on 27 June 1950 concerning the invasion by North Korea of South Korea. It determined the necessity of the use of force as follows

Having noted...the urgent military measures are required to restore international peace and security, the Security Council recommended that the members of the United Nations furnish such assistance to the Republic of Korea as may be necessary to repel the armed attack and to restore international peace and security in the area.⁹⁹

This was followed by resolution 84 on 7 July 1950, in which it nominated a commander of forces. Accordingly the Council

Recommends that all members providing military force and other assistance pursuant to the aforesaid Security Council resolution make such forces and other assistance available to a unified command under the United States of America...Authorises the unified command at its discretion to use the United Nations' flag in the course of operation against North Korean forces concurrently with the flags of the various nations participating.¹⁰⁰

It is interesting to note that on the occasions that the Security Council has acted firmly, particular circumstances were present. Thus, in the Korean case the above mentioned resolutions were taken swiftly and effectively notably because of the absence of the Soviet delegate in protest against the Formosa (Taiwan) government occupying the seat for China at the UN. The return of the Soviet delegate ended the capacity of the Council to act and the matter was referred to the General Assembly, which was too large and divided to lead a military operation competently.¹⁰¹ It exposed, therefore, the limitation of the principle of collective security where action is possible only with consensus among the five permanent members. Also, the US provided more than half the ground troops, 85 percent of the naval forces and nearly 95 percent of the air force contingents. Less than ten percent came from other contributors.¹⁰²

During the Gulf crisis, the military weight of the US also dominated the military operation. Thus collective response whenever used has been heavily

dependent on a single great power and closely tied to its national interests. This makes collective response - that is so heavily dependent on a single great power, and so closely tied to its national interests - a questionable kind of collective security.¹⁰³ Although over twenty countries participated in the war for the liberation of Kuwait, the US was the primary actor and its national interests were a crucial factor in determining the response of the coalition to Iraqi aggression.

Another occasion where the UN was involved, in a military conflict, is the Congo (now Zaire) 1960. In the aftermath of its independence from Belgium 30 June 1960, the Congo experienced widespread disorder and rioting as well as mutiny in the army. Subsequently the government appealed to the UN Secretary-General, Dag Hammarskjold, for military assistance to thwart the breakdown in internal order and to prevent outside intervention and secession. The leadership and initiative of the Secretary-General played a crucial role in securing authority for action from the Security Council. The operation eventually reached a strength of twenty thousand troops from twenty-nine countries with a cost of \$400 million in its four-year existence.¹⁰⁴

The operation had its shortcomings in that it was seen as interfering in the internal affairs of a sovereign country and taking sides in an internal power struggle. The US-Soviet consensus that permitted the authorisation of the operation disappeared with the loss of political neutrality of the UN because the internal factions were not treated impartially. The Soviet Union and other members of the UN became unhappy and prominent critics of the role played by the Secretary-General. Consequently, the financial burden coupled with the political crisis of the UN brought an early withdrawal of the UN operation before internal stability had been fully achieved. Despite these shortcomings and the controversy over the leading role played by Hammarskjold, the UN operation succeeded in reducing the threat of foreign intervention, maintained essential public services in operation and supplied emergency relief throughout the country, and forestalled the secession of the Katanga region.¹⁰⁵

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The history of the military involvement of the UN in international conflicts has been very limited and shows the difficulties of action under the provisions of collective security. In addition, controversy over the UN has been an inherent feature of its history because of the particular composition of the Security Council and the disproportionate power it gives to certain members in relation to the rest of the UN membership.

Some might argue in reference to the Kuwaiti case that although resolution 678 made no explicit reference to the use of force, it may be implied among "all necessary means". This omission helped to prevent a veto on the part of the Chinese and an acceptance of the resolution by the Soviet Union, while giving the Americans and the British the flexibility of interpreting it as meaning the use of force. Possibly the strict legality of the text does not matter, since the US and Britain were willing to go to war with or without Security Council authorisation as would later be the case over Kosovo. This determination is also manifested in their consistent reference to the right of collective self-defence according to the UN Charter.¹⁰⁶

The procedural validity of the resolution has also been questioned because China, a permanent member of the Council, abstained from the vote. A strict reading of the rules of the Charter support this position. However, in practice many resolutions have been adopted with at least one permanent member abstaining and yet they have been accepted as valid. No resolution has ever been declared invalid merely based on one permanent member abstaining. Nevertheless, if the explanation of China for abstaining is considered, the validity of the resolution is definitely in question. China said it abstained because it interpreted the resolution as authorising the use of force, which it opposed, yet it supported the resolution's call on Iraq to comply with previous resolutions.¹⁰⁷

Another legal question raised relates to the specific provision that the Council based its resolution upon. It is unsatisfactory to refer to chapter VII of the UN Charter, which includes Articles 39-51, without referring to any specific one. In contrast, resolution 660 on 2 August 1990 stated clearly that it was based on

Articles 29 and 40 of the UN Charter. It is also argued that the Council can only resort to force whence a determination has been made that measures taken under Article 41, namely, economic sanctions have failed. The failure to undertake such a determination is a violation of the procedures of chapter VII.¹⁰⁸

Moreover, according to the provisions of Article 42 the Council is authorised to use force when necessary and not individual member states. This has been the main difference between the UN Charter and the Covenant of the League of Nations. The prerogative of using force is in the hands of the Council and not member states and breaching this "violates the Charter of the UN by authorising some States to use military force in total disregard of the procedures established by the Charter".¹⁰⁹ Others, such as Schachter, Goodrich and Simons go as far as suggesting that Article 42 is in fact inoperative because the Council lacks the standing forces necessary to carry out Article 42-enforcement action. However, in the two occasions that the Council authorised the use of force it called upon member states to contribute for the particular operation.

As already mentioned, the Cold War years prevented the creation of standby forces to implement the resolutions of the Security Council. The only means, subsequently, available to the Council became the indirect ones. Hence, the formula of authorising or mandating one or more states. Although the Gulf War has transformed the permanent members into actively running the Council on a consensual basis they were unable to activate the Military Staff Committee or more accurately unwilling to do so. The coalition did not even consider the possibility of the Security Council working out arrangements for the command forces in the Gulf area as suggested in Article 47(3) of the Charter.¹¹⁰

Consequently the same method of mandating member states was applied during the Gulf operation as in the Korean and the Congo cases. The Gulf war became an operation authorised by the UN and conducted by a military coalition. The absence of the Council during the military action raised the question as to whether the use of force was to be exercised under the authority or control of the Security Council. Once hostilities began the UN was not

involved at all, and was barely referred to in the military briefings or US presidential press conferences. Taking into account the magnitude of the crisis and the massive attack waged on Iraq, one would have expected more intensive involvement of the Council during the war. The Security Council became involved again after the end of the military action, on the subject of the cease-fire, in order to consider the US draft for resolution 686.¹¹¹ This made many sceptical about the way in which a superpower was able to manipulate the Council for its own political interests and about the role of the UN in future conflicts.

The scope and ultimate purpose of the military campaign were also unclear and no member of the UN was able or willing to challenge the US-led coalition. This brought to the forefront the issue about the antiquated composition of the Security Council and the need to include more members from the Third World as well as to include the economically powerful Germany and Japan in order to lessen the leading role played by the US.¹¹² In the end, the legitimacy of the Council's decisions depends on part on the participatory nature of the decision making, as indicated by the Charter of the UN. The Council acts on behalf of member states and its decisions are binding to all members. Hence soliciting the views of all members increase the effectiveness of the UN and the long-term viability of the organisation. It is damaging to the UN if the national interests of the few powerful members are constantly seen to be dominating the Council's resolutions.¹¹³

Criticism is also levelled at resolution 687. This is the case partly because of the elaborate and intrusive obligations and requirements imposed on Iraq and also because the resolution left it to the Council to determine that peace and security have been restored to the region without specifying what constitutes a return to peace and security. Restoration of peace and security is a very broad objective giving the Council indefinite authorisation to pressure, control and punish Iraq. Another issue raised in connection with the resolution relates to whether the Council acted lawfully in ordering the demarcation of the border in accordance with the Agreed Minutes of 1963. The UN Charter provides that legal disputes should be referred to its own International Court of Justice,

without making a distinction between those disputes that threaten international peace and those that do not. Iraq challenged the competence of the Council to order the demarcation, but its opposition did not stop the Council from confirming the inviolability of the border as has been demarcated by the UN.¹¹⁴

The inevitable question is, then, what have been the real objectives of the resolution? Adherence to international law and the maintenance of world peace and security, or to drive Saddam out of power as some members of the Security Council hoped? Such an objective is incompatible with the purposes and principles of the Charter.

The debate over the lawfulness of some of the UN resolutions reveals the difficulties attached to the functioning of an international organisation where five powerful members can run and dictate the way in which its Charter is interpreted and applied. The unwillingness and acquiescence of other members is a reminder of the danger inherent in such a system, where the interests of few can dominate. Demands for a change in the composition of the Council have increased since the Gulf crisis.¹¹⁵

V. Conclusion

There is no doubt that the Iraqi invasion and annexation of Kuwait violated international rules and the UN Charter. This was not the first time that the UN faced a breach of international law and the UN Charter by a member state, but it was the first time that the UN proved to be so effective in resolving the crisis. This was due primarily to the end of the Cold War and the domination of the international system by one superpower; the clarity of Iraq's aggression and its breach of UN Charter and international rules, and the willingness of the US to take a leading role in managing the crisis.

The Security Council was subsequently very effective in carrying out the will of the international community as interpreted and dictated by the US-led coalition.

One can argue that the success of the UN in this instance depended largely on the ability of the US to manipulate and dominate the discussion and the drafting of the various relevant resolutions as well as on its military strength. As a result of that some saw the war in the Gulf, and resolution 687 in particular, as exceeding the clearly identified objectives of the UN, namely, to end the occupation of Kuwait; to restore the sovereignty, independence, and territorial integrity of Kuwait; and to restore the authority of the legitimate Government of Kuwait. Other objectives, the destruction of Iraq as a regional power and the control over oil resources seem to have played a major role in determining the manner and extent of the punishment of Iraq by the Security Council.

The involvement of the Security Council in solving international disputes and in stopping acts of aggression is extremely important for the security and stability of the international system. The danger is, as seen in the Iraqi case, is when one member state is capable of dominating the organisation and its national interests become synonymous with the interests of the international community. There is a need to reconsider the membership of the Council and to activate the Military Staff Committee of the UN as the executive arm of the Security Council. Also this was the first time in which the Security Council was directly involved in resolving an international boundary dispute.

The actions of the Security Council succeeded on the one hand in restoring the legitimacy of Kuwait and ended its illegitimate occupation within a very short period of time. On the other hand, one can argue that the cost of UN action has been huge to Iraq, Kuwait, Saudi Arabia and the region in general as shall be discussed in the next chapter. In addition, the Gulf war left many very sceptical about the future role of the UN as a peacemaking and peacekeeping organisation.

Chapter Six

The Aftermath of Desert Storm

The escalation of the crisis by both parties; Saddam on the one hand by not abiding by the UN deadline, and the coalition on the other by their willingness and ability to execute their threat of using military power to force him to comply led to war in the Gulf. Desert Storm conducted between 15 January and 28 February 1991 by the American led coalition succeeded in ending the Iraqi occupation of Kuwait and restoring the legitimate government of Kuwait. The massive military power that the coalition used achieved its crucial objective of preventing the breakdown of the balance of power in the Gulf region; or more accurately the strengthening of Iraq in the Gulf region and the Middle East in general. ¹ However, this resolution of the crisis came at a very heavy price for Iraq, Kuwait and Saudi Arabia as well as the whole region in terms of economic, financial, political and environmental repercussions.

Not only Iraq's infrastructure and military power has been dealt a serious blow; the sanctions regime has had grave consequences on its economy and people. Kuwait's fragile security and sovereignty, on the other hand, has been highlighted, and is, at the present, bolstered by military dependence on Western powers, particularly the US. The whole issue of the security of the Gulf and the necessity to maintain a balance of power in favour of the West has become a main concern for the Gulf states and their Western allies. The financial burden of war and the military expenditures that followed has been enormous for Gulf states. In addition, the war has exacerbated the already existing problems in the Arab region of political disunity, growing US influence, regional economic disparities and ideological uncertainty.²

The chapter will focus on some of these repercussions of the war especially for Iraq, Kuwait, and Saudi Arabia. In addition a discussion of the environmental damage to the region as a result of both the Iraqi invasion of Kuwait and the

subsequent war is included. This has been one of the issues that have had the least attention despite the enormous devastation of the environment in these three countries.

I. Consequences for Iraq

The focus of this section will be on three main aspects of the aftermath of the war for Iraq: the sanctions regime and economic instability, the political instability and disintegration of Iraq and the border demarcation between Iraq and Kuwait.

A. Sanctions and Economic Instability

The irony of the Iraqi situation is that the regime intended by invading Kuwait to solve its severe economic crisis as well as its access to the Gulf. Instead its action aggravated the economic situation; Iraq is facing a growing economic crisis that "threatens the social fabric of the country".³ In addition, the UN succeeded in imposing a border demarcation with Kuwait which Iraq had to accept.

More than a decade of UN sanctions is having disastrous effects on Iraq and its population, let alone the damage done to its infrastructure and economy during the war itself. The coalition forces considered the Iraqi infrastructure a justifiable strategic military target that must be destroyed in order to weaken Iraq, hence the massive attack that was conducted against vital Iraqi facilities and productive sectors. Estimates of Iraqi losses since it invaded Kuwait ranges between \$200-\$400 billion.⁴

According to Iraqi sources, Iraq lost \$85 billion in export revenues alone as a result of the imposition of the UN blockade which stopped most exports between August 1990 to Dec 1996.⁵ Before the sanctions, oil accounted for 60 percent of the country's GDP and 95 percent of export earnings. In 1991 the

total value of trade was only 4 percent of its 1989 level of \$22 billion. With the food for oil agreement the value had risen to 15 percent of the pre-war level and in 1998 rose to \$5.9 billion.⁶ The financial situation is further aggravated by the freezing of Iraqi assets in Western banking institutions worth about \$4 billion. Access to these funds may continue to be restricted even after an easing of sanctions.

A look at some other socio-economic indicators for Iraq can give a clear picture of the deterioration of the economic situation and the effects that the war and sanctions have had on Iraq. Prior to the war, Iraq in accordance with the World Bank classification was placed among the upper middle income countries and the caloric intake of Iraqis was above average for an upper middle income country. This since the war has changed dramatically and its per capita income and caloric intake are approaching the ranks of countries such as Somalia, Rwanda and Zaire.⁷ Iraq's per capita income has dropped from \$2,108 in 1989 to \$189.6 in 1991. In mid 1990's it fell further to \$135.8. It increased to \$192.7 in 1999 but is way under the pre-invasion level.⁸

The country has suffered, also, from one of the highest inflation rates in the world. Annual inflation which was running at 45 percent before the invasion in 1990 jumped to an average of 500 percent in 1991. According to the Food and Agriculture Organisation (FAO) from the time the sanctions were imposed to the end of 1995 food prices rose 4,000 fold. The food for oil agreement helped in reducing this inflationary spiral. Thus in 1998 inflation fell to 140 percent.⁹ The Iraqi Dinar, officially worth a little over three dollars before the Gulf war, was selling between ID 1500-2000 to \$1 by the end of 1995. After Iraq began negotiating the oil for food deal, the Dinar recovered quickly. In the spring of 1996, it fluctuated from around ID 300 to \$1, but by the end of the year had dropped again to ID 1000 to \$1. In 1999 the exchange rate was ID 1200 to \$1. Consequently food and ordinary household goods has been put beyond the reach of all but the very wealthy and those favoured and protected by the regime.¹⁰

Health services deserve special mention as the sector hardest hit by sanctions. While the import of medical supplies has been permitted under the sanctions regime, funds are scarce and are made scarcer for the general population by the disproportionate share of these imports going to regime supporters and other favoured elements of the population. Recent reports indicate acute shortages of medicine and deteriorating hospital equipment and services, as well as a serious rise in malnutrition among vulnerable elements of the population, resulting in increased infant mortality rates and stunted growth among children.¹¹

A 1995 report of the FAO indicates that Iraq's lack of essential food needs \$2.7 billion to cover it.¹² In 1999, FAO mentioned, also, the presence of a variety of the animal diseases that threatens the food security of Iraq because of the deterioration of the system of animals' disease control. A recent UNICEF report estimated that between 1991-1998 some 500,000 children under the age of five had died because of hunger and disease.¹³ Thus, Iraq is suffering from the spread of diseases, malnutrition and deterioration of the health of its population. This is both the responsibility of the international community and Western policies and the policies of the Iraqi regime in its total disregard for the suffering of its people and its focus on maintaining power at any price.¹⁴

This health crisis was expected to improve after 1996. In May of that year Iraq accepted UN resolution 986 which permits the sale of \$2 billion in oil every 90 days for food, medical and other life-sustaining imports. The oil for food deal was at first rejected by Baghdad on the basis that the strict terms of the purchase and distribution of humanitarian goods is an infringement on Iraq's sovereignty. Secondly, it was perceived as a way to deflect humanitarian pressures to lift the embargo. By January 1996, the decline of the Dinar and pressure from France and Russia reversed the Iraqi position and it announced a willingness to negotiate implementation of the deal. The deal went into effect in December 1996 but the \$1 billion (after deductions) the government received fell short of the amount international organisations estimated Iraq needed to meet its humanitarian requirements. The FAO puts the estimated costs of the imported food requirements at around \$3 billion per year.¹⁵

Thus, by 1998, it had become obvious that an expanded formula was needed and the UN more than doubled the value of oil that Iraq could export and allowed for a wider range of humanitarian imports. Still the bureaucratic procedures for operating the scheme are very difficult and awkward, and the humanitarian situation has not improved.¹⁶ According to Denis Halliday (the former head of the UN's Humanitarian Programme) children are dying at a rate of five to six thousand a month due to lack of medicine. Around 25-30 percent of children, under the age of five, suffer malnutrition and the production of electricity is only 40 per cent of its level before the Gulf war. Iraq needs an instant injection of \$50 to \$60 billion for water and electricity supply and health services as well as to start rebuilding its industry and agriculture.¹⁷

Halliday's successor, Hans Von Sponeck, expressed similar concerns and has argued that the system does not even come close to answering the desperate need for medicine and for spare parts for Iraq's crumbling infrastructure. He has said "this experience of sanctions with Iraq has not worked...why must we prolong the pretence that it does".¹⁸ It is worth noting that both have resigned from the post because their outspokenness made the main advocates of sanctions extremely unhappy with them.

Agriculture and industry have been damaged by the war, but more so by the sanctions regime. There is a severe shortage of spare parts, seeds and fertilisers, an absence of pest control and poor maintenance of irrigation system. Heavy industry (steel, iron, and aluminium) has been badly restricted by sanctions, while smaller light industries are producing consumer goods, although with considerable difficulty. According to the Iraqi government, industrial production in 1994 was about 60 percent of pre-Gulf war capacity.¹⁹ More realistic estimates put it at 30 to 40 percent of previous output, with a significantly reduced quality of finished products due to the embargo and its influence on reducing the imports of foreign components.²⁰

The only industrial sectors that have received steady funding are the oil production industry, refineries and cement factories. The regime is

concentrating on rebuilding the most lucrative sector of the economy in the hope that its pre-war levels of production and export of oil will resume once sanctions are lifted. Iraq claims that within 14 months of a full lift of the sanctions it could pump 3.2 million barrels a day (b/d) and within five to eight years could reach a goal of 6 million b/d. Western oil analysts are less hopeful about this goal. Many facilities, such as gas-oil separator plants, storage facilities and the off shore oil terminals of Khawr al-Amaya and Mina al-Bakr need considerable rebuilding. Neither the Saudi nor Syrian pipelines are likely to be put back into service while Saddam is in power. Most important, the 6 million b/d figure is based on \$25 billion of foreign investment. This level of investment will not be realised without a complete removal of the oil embargo and a more open investment climate in Iraq; both of which are unlikely without a change of regime or of regime behaviour.²¹

In the meantime the Iraqi society is disintegrating due to "the impoverishment of Iraq's middle classes, the increasing inability of the state to provide basic nutrition and health, and the climate of political fear and repression".²² This disintegration process will continue until the sanctions are lifted. Even after that, the cost of rebuilding Iraq and reintegrating it into the regional and international system will be very costly. The reconstruction of Iraq is very difficult and needs billions while Iraq is obliged to give 30 percent of its oil revenues to the UN for its compensation fund.

The success of the sanctions regime in terms of achieving its objectives has proved limited. First, sanctions have failed to force Iraq to cooperate as illustrated by the crises in relation with the Security Council since late 1997 over weapons inspection and UNSCOM. The broader objective hoped for by the US of bringing down Saddam seems at best unreachable even after a decade of sanctions. Secretary of State Madeleine Albright indicated, in 1997, that Washington's support for the embargo would be sustained while Saddam Hussein's regime remained in power.²³ This insistence of the Americans is causing severe suffering to the Iraqi people and making Iraq's reintegration into the region increasingly more difficult.

The power of the Iraqi regime seems to be well entrenched. It has gradually extended its authority throughout much of the country since the low point of February 1991 during the simultaneous uprising in the north and south. In effect the assertion of the regime's authority in the south and central Iraq has been greatly assisted by the embargo, in three main ways: -

- The collapse of the economy has increased the dependence of the population on the rationing system. The system provides the government with a powerful tool to control people and their access to essential foods.
- The economic distress of people means that they are all consumed by mere survival, which leaves no room for political debate and discussion. The economic situation has led to the destruction of the middle class, preventing further the possibility of a more stable and democratic political system.
- Iraq's isolation has increased the government's control over information and confirmed to the population the regime's claim that it is fallen victim to foreign conspiracy. Challenges to the regime have been contained through elimination of opponents, or through repression or the threat of violence and elimination.²⁴

Others share this view such as, Ismail al-Shatti, a member of the Kuwaiti National Assembly. He believes that the "economic sanctions have strengthened the Iraqi regime while the Iraqi population are suffering immensely, hence the Gulf states do not believe in the effectiveness of the sanctions regime anymore".²⁵ His view is supported by the Secretary-General for Military Affairs of the GCC: "no doubt sanctions had its impact in forcing the Iraqi regime to accept international resolutions, but its effects are felt mostly by the population".²⁶

The human and social impact has been devastating and there is an obvious imbalance between the political objectives and the human cost of the sanctions regime. This in many ways has put the Gulf states in general and the US in

particular under international scrutiny.²⁷ Arab voices have become more sensitive about military strikes and the continued sanctions regime. The president of the UAE, Sheikh Zayed bin Sultan al-Nahayan, has publicly lamented the continued suffering of the Iraqi people and has signalled a growing willingness to accept Iraq's political and economic rehabilitation. Egypt had called on the UN Security Council to clarify the precise terms which Baghdad is required to fulfil for sanctions to be lifted.²⁸

France and Russia have been the most consistent of the coalition members to repeatedly express concern over the humanitarian effect of the sanctions regime and the rigid stance of the US. They also opposed the continued use of force against Iraq and were critical of US military strikes against targets in southern Iraq in September 1996. Neither was willing, also, to support a US led military action to resolve the weapons inspection crisis when it came to a head in February 1998.

As the Muellers have aptly put it: "sanctions are causing great human damage in Iraq, and yet the prospects for the external or internal removal of Saddam are unpromising, another policy might be in order".²⁹ They suggest that one way out of the impasse is to relax the current confrontational approach that has inflicted maximum damage on the people and to concentrate sanctions on strictly military issues while relaxing some of the economic sanctions to reduce the hardship of the Iraqi people.

B. Political Instability and Disintegration of Iraq

Iraq at the end of Desert Storm faced a spontaneous Kurdish uprising in the north and a Shi'ite uprising in the south, posing a serious threat to its political cohesion and unity. The Kurdish uprising received the most attention in the West although it was less bloody and threatening to the regime. The loss of the Shi'ite Arab south would have undermined the authority of the government and threatened its territorial integrity and independence. The rebels in the south raised slogans that were extremist such as "there is no authority except Ali" and

“no ruler except Ja’fari” (Shi’i). The violence and bloodshed associated with the uprising prompted Shi’ite religious leaders in Najaf to issue two *fatwas* calling for the protection of private property, public institutions and civilian life.³⁰

The Iraqi regime brutally put down the rebellion by mobilising forces from the north and centre especially the Republican Guard and by using helicopter gunships. In less than three weeks every major rebel city and town was recaptured.³¹ The majority of Shi’ites in the south have no separatist aspirations like the Kurds in the north, they rather identify with the state, if not the system, and desire a change of regime and a more equal share of political power. However, for the moment, the brutality of the regime’s suppression of the insurgency has alienated them, and the slums of Shi’ites in Baghdad and the two holy cities of Najaf and Karbala remain a potential source of opposition and potential target of Shi’i activists.³¹

As a result of this brutal treatment of the Shi’ites, the US, France and Britain imposed a no-fly zone on the Iraqi regime south of the 32nd parallel and restricted its military troops from moving south of this limit on the ground. This seriously limited Saddam’s control over nearly a third of Iraq.³³ Yet, the Iraqi army since 1991 has been able with tribal and party support to maintain a firm grip on the security situation. Also, the government’s draining of the marshes by diverting the water to rivers and canals is forcing residents to relocate, hence denying the opposition viable bases of resistance and enhancing Baghdad’s control of the security situation.³⁴

In the case of the Kurds, they have been struggling for years to achieve autonomous or semi-autonomous status in Iraq. The end of Desert Storm and the perception that Saddam’s regime was finished, as well as the urging of the Americans, encouraged them to revolt. Bush on 15 February 1991 called upon the Iraqi people to overthrow Saddam by saying that they should take “matters into their own hands to force Saddam Hussein the dictator to step aside”.³⁵

The Kurdish uprising began at the town of Raniya and spread to other cities, including the important oil city of Kirkuk. The defection of the Kurdish auxiliary

forces known as the national defence brigades strengthened the rebels. These forces played a crucial role in suppressing Kurdish nationalism throughout the seventies and eighties and were recruited from among some of the Kurdish tribes loyal to Baghdad. The perception that Saddam's regime was finished prompted their defection. Within weeks most of northern Iraq was in the hands of Kurdish insurgents.

However, in the face of Iraqi military forces, the Kurds could not hold onto their gains and panic and fear spread among the Kurdish population driving them to flee into neighbouring Iran and Turkey. Over a million and a half amassed on the borders of Iran and Turkey. Turkey refused to allow them entry for fear of exacerbating its own problem with the Kurdish separatist movement. The Kurds were pinning their hopes on the Americans to come to their rescue. Instead, the White House spokesperson, Marlin Fitzwater, said "we do not intend to involve ourselves in the internal affairs of Iraq".³⁶ Saddam was left to capture town after town. By 6 April the Iraqi regime was able to announce that it "has totally crushed all acts of sedition and sabotage in all cities of Iraq".³⁷

The swelling of the number of Kurdish refugees and the repression of the uprising by the Iraqi military increased the pressure on the West to act. On 16 April Bush announced that America, France and Britain were committed to providing relief aid to these refugees. This operation became known as "Operation Provide Comfort" of international relief and the creation of safe havens. A no-fly zone above the 36th parallel in northern Iraq was established barring Iraqi military aircraft from attacking the Kurds.

Negotiations between the Iraqi government and the two main Kurdish political parties, the Kurdish Democratic Party (KDP) of Masoud Barazani and Patriotic Kurdistan Union (PUK) of Jalal Talabani followed the regime's quelling of the uprising, but it ended in failure. Iraq withdrew its troops and officials from the area and imposed its own economic blockade. Barazani and Talabani organised their own election for a parliament under Western protection. Their parties received relatively equal share of votes and a power sharing arrangement was reached. The Kurds were able to establish an autonomous

entity and reduce significantly the power of central government. Yet, by 1996 the differences between the two parties have reached a crisis point.

The infighting between Talabani and Barazani gave Saddam in 1996 the pretext to re-enter the zone at the request of Barazani. This resulted in hundreds of thousands being driven from their homes and an "air bridge" evacuation of several thousand of Kurds and Arab collaborators with the CIA.³⁸ Saddam, consequently, increased his influence in the north and checked Iran's influence, which had been supporting the PUK against the KDP. In addition, he decreased the power of his opponents who were co-operating with the Kurds undermined CIA efforts to oust him. Another consequence was that in 1996 when "Operation Provide Comfort" expired, it was replaced by a new mission dictated by the Americans while the French refused to participate.³⁹

The lack of unity between the two main Kurdish political groups and the fact that a third of Iraq's Kurdish population lives in Baghdad, and subsequently is under the control of the government, makes the emergence of a stable counter balance to central government limited. At the same time, the Kurdish reintegration into the Iraqi state is made more difficult with the continuous absence of central government control over the north.⁴⁰ The no fly zones in the north and south of the country and the safe havens for the Kurds are designed to curtail the power of Saddam's regime. Yet, it has been acknowledged, if not by words then by action, that the disintegration of Iraq into a Kurd, Sunni and Shi'ite separate entities is in no one's interest.⁴¹

As stated by Hamed al-Abdullah, of Kuwait University: "the division of Iraq does not serve the interests of the West nor the Gulf states, since a weakened Iraq will disturb the balance of power with Iran and Syria".⁴² He added that countries such as Syria, Turkey and Iran that have a Kurdish minority see the division of Iraq as threatening to their stability and creating internal pressures.⁴³ Arab states see the necessity to maintain the unity of Iraq and support its sovereignty. According to Abdullah al-Shaiji, of Kuwait University, all states reject the idea of a divided Iraq, especially the GCC states, which sees Iraq's unity as a counter balance to Iran in the region. Maintaining the unity of Iraq is

considered the main reason why the war ended so abruptly after the liberation of Kuwait, since its division would undermine the stability and security of the region.⁴⁴ This to a certain extent explains the regime's short term objective of trying to remain in power and retain as much centralised control over the Iraqi territory as possible. The regime still believes that sanctions and international isolation will end due to the following specific factors:

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1. Local and Western fears of Iran.
2. Concern about the ramifications of a break up of Iraq into Kurdish and Shi'ite national entities.
3. The non-credibility of other alternatives, including the various opposition groups.
4. The pressure of international trade and interest in the Iraqi market.
5. Popular Arab pressure for normalisation.
6. The role and influence of the Shi'ites in regional policies and alignments.”⁴⁵

The lifting of the sanctions is essential, but that alone will not solve Iraq's problems. There is a paramount need for political restructuring of the Iraqi system of government. The war and sanctions have exacerbated all the weaknesses of the current regime and highlighted the fact that democracy is the only way forward for a united Iraq. The grievances of the various ethnic and religious social groups must be addressed and Iraq must be able to reintegrate into the Gulf subregion as a partner rather than a hegemonic force. Under Saddam this is not a possibility, especially that his power rests on playing on these differences to his advantage and depends heavily on Sunni elements for

the security of the regime. This issue is of a great importance to succeeding governments in Iraq and to the whole issue of the security of the Gulf.

C. Border Demarcation

As mentioned in the previous chapter the work of the Iraq-Kuwait demarcation commission has been accepted by the Security Council as final. The Council in resolution 833 (1993) affirmed this and announced the inviolability of the international borders which the committee had demarcated between the two states. The commission held eleven meetings over a two-year period. Iraq attended only the first five sessions and ceased to participate on the grounds that the work of the commission has been political and objected to the fact that the UN lacked the legal competence to act on border issues.⁴⁶ This involvement of the UN in demarcating border issues has been unique in the history of the UN and objectionable voices have been raised not only from Iraq but from the European Commission, some UN member states and Arab countries.

Moreover, the commission in carrying out its work dependent on some historical and geographical factors but ignored some crucial ones such as the political and economic including access to the Gulf and oil fields. In other words, it ignored the roots of the dispute between the two states. The final decisions on the delimitation and demarcation of the three sections of the boundary, the western, northern and khawrs sections are as follows: -

Western section: The delimitation of this section was based on the delimitation set in the 1932 agreement and in the Edmonds memorandum of 1940. Wadi al Batin is well defined as a natural feature, except in its most northern part where its *thalweg* divides into two. The commission decided that the eastern *thalweg* would form the boundary- a decision favouring Iraq.⁴⁷

Northern section: the commission divided this section into three subsections: from the Wadi al Batin to the point south of Safwan, from the Safwan to the intersection of the khawrs and lastly khawr Abdullah. For the first subsection, the commission found all maps agree that the boundary line follows latitude to a point south of Safwan. However, the noticeboard that indicates that point had been removed and its location has been disputed by the Iraqis since 1940, when the British attempted to re-establish the noticeboard. The commission subsequently decided that the point should be on the basis of a mean figure and the location was determined to be the line of demarcation between the end of the boundary in the Batin and the beginning of the northern boundary.⁴⁸ (See Maps 5& 6)

In the second subsection the commission first identified the *thalweg* of the channel in order to determine the location of the junction of the two khawrs. It decided that the *thalweg* had not changed its location and the junction accordingly demarcated. By adopting the principle of the mean position, the commission demarcated the line south of the Safwan in a way that left only Umm Qasr port complex and Umm Qasr village to Iraq. Thus, eleven oil fields at the southern tip of Rumaila oil field and an agricultural area south of Safwan lay within Kuwait. The commercial port of Umm Qasr remains within Iraq but it lost effective control over naval jetties just south of Umm Qasr.⁴⁹ (See map 7)

Naturally, Kuwait accepted the demarcation with great satisfaction since it confirmed its claim to the rich south Rumaila oil field and the two islands of Warbah and Bubiyan. It also divided Umm Qasr, the only maritime area that Iraq has used other than Basra between the two countries. The land boundary had been demarcated by 106 pillars and twenty-eight intermediate boundary markers.⁵⁰

The third subsection consists of the maritime boundary from the junction of Khawr Zubayr and Khawr Abdullah to the eastern end of the Khawr. The commission demarcated the border based on the principle of the median line. However, the UN stressed that Iraq has navigational access through the Khawrs; a right upheld by the 1982 Convention on the Law of the Sea.

Regarding the offshore islands, the commission reaffirmed Kuwait's sovereignty over Warbah and Bubiyan, although a future deal whereby Kuwait can lease the islands to Iraq is not precluded. Moreover, Iraq must have the permission of Kuwait to maintain the deep-water channel it had dredged in 1989-90, which enables vessels of up to 11.5m, in draught, to use the ports of Umm Qasr and Zubayr.⁵¹ Maritime boundaries are usually not demarcated physically, but plaques were installed on jetties and on some other marks indicating demarcating lines.⁵² (See map 8)

Some has seen this demarcation as unfair to Iraq and in favour of Kuwait as expressed in these words;

The new border offered Kuwait considerable advantages at the expense of Iraq. It gave Kuwait greater control over the Ratga and Rumalia oil fields in its northern border area, and reduced Iraqi access to the port facilities at Umm Qasr.⁵³

There is a necessity of allowing some Iraqi presence on Warbah Island in the interest of being able to defend its access to the Gulf if Iraq is to resume a legitimate role in the Gulf security structure.⁵⁴ This becomes imperative if one is to consider the position of the Iraqi opposition, especially in light of the US efforts to persuade them to accept the commission verdict on the boundary, which they strongly resisted. The following summarises their position;

1. The Iraqi opposition leaders, aware that Saddam has committed many unforgiving wrongs, were opposed to the invasion of Kuwait because it is contrary to Arab and Islamic traditions as well as to the norms of international law.
2. The Iraqi opposition leaders were just as much concerned about the maintenance of peace and security in the Gulf as Kuwait. For this reason, they were anxious to settle the border question directly between Iraq and Kuwait.

3. The Iraqi opposition leaders were not opposed to the demarcation of frontier in principle. In fact they "welcome a permanent demarcated boundary capable of survival in order to avoid falling in the same tragic situation as that of the Algiers Agreement which Saddam had concluded and later denounced, leading to war resulting in the loss of over a million men".
4. Because the present regime in Iraq has denied the people a voice in the governance of the country, the Iraqi opposition leaders maintain that the postponement of demarcation to more auspicious circumstances would be in the interests of both countries until the people could elect their own rulers to maintain peace and security.⁵⁵

The Iraqi opposition insists that the best guarantee for Kuwait is an agreement reached with a government elected by the people of Iraq rather by dependence on a foreign power. Thus, a fundamental procedural difference with political implication underlined the positions of the Kuwaitis and Iraqi opposition; should the agreement on the boundary between the two countries be dependent on the support of foreign powers or on an agreement reached between regimes elected by the people? To some the support of foreign powers is no guarantee, especially that Iraq recognised the demarcated boundaries under pressure and future government might be reluctant to accept it as enduring and valid.⁵⁶

The issue of the border will continue to linger as exemplified by the continued escalation of tension between the two countries through war of words. Iraq continues to question the legitimacy of the border as Tariq Aziz describes Kuwaiti borders as a "bombshell that may explode in the future". He points to the fact that Iraq accepted the border in 1994 as part of a UN resolution, but added that the resolution was tailored "to expand Kuwait's coasts at the expense of Iraq". In other words, it is a forced acceptance, Iraq really had no choice in the matter. Kuwait complained to the Arab League about Aziz's comments saying, "they are full of lies and deliberate fabrications of history".⁵⁷ It is obvious that this long-standing dispute reflecting the disadvantageous position of Iraq in the Gulf can not be foreclosed by a UN resolution and the

Security Council guaranteeing the inviolability of the border.⁵⁸ In addition, in light of the above-mentioned stance of the Iraqi opposition a change of the regime in Iraq is not a guarantee for abiding to the UN resolution concerning the borders.

II Consequences for Kuwait

The invasion of Kuwait and the subsequent war waged to liberate the country from Iraqi aggression have had far reaching consequences for Kuwait. Although the most obvious one is the exposure of the fragility of its security and sovereignty, other domestic issues also surfaced. These include increasing pressure on the ruling family for political change and political liberalisation of the system of governance. Substantial economic pressure emerged due to the massive cost of the war and the subsequent military purchases, hence, putting pressure on the government for economic restructuring and for curtailing public expenditure. In addition, the environmental costs of the invasion and the war were substantial. This issue will be dealt with in Section V.

A. Security and Sovereignty

The ruling family has been most concerned about the security and viability of Kuwait as an independent state. The war restored Kuwaiti sovereignty, but it did nothing to alter its viability as a state; indeed, it drew attention to its fragility. Its territory and population are so small that it can not be self-reliant in defence terms.⁵⁹ This need for external support to maintain its independence will constitute a constant source of worry and tension in Kuwait especially that its dependence on Western powers has increased significantly.

The GCC proved to be not a very viable and effective vehicle for maintaining and enhancing Kuwaiti security. In fact its security is undermined by the

ineffectiveness of the GCC to emerge as a capable military alliance and the slow progress in developing integrated defence capabilities with Saudi Arabia. Kuwait has, thus, chosen to rely heavily on the West especially the US. However, this choice represents serious problems, that must be dealt with. These include the following:

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1. Such ties create the risk that Kuwait will become so dependent on states outside the region that it will not properly develop its own defense capabilities, will become over-reliant on outside support for low-level security contingencies that require a constant Kuwaiti effort and immediate reaction, and will fail to assert its own sovereignty.
2. Dependence on the West will lead Kuwait to under-emphasise the importance of collective security with Bahrain and Saudi Arabia, and the need to at least try to expand the capabilities of the Gulf Cooperation Council.
3. Ties to so many countries will encourage buying arms from every possible source and politicising arms purchases at the expense of standardisation, interoperability, effectiveness, and waste.
4. Kuwaiti's growing dependence on the US will lead the US to abuse its burden-sharing negotiations with Kuwait, and to seek more support than is really merited.”⁶⁰

These issues can not be put on the backburner if Kuwait's security is to be enhanced. Kuwait on the other hand is attempting to enhance its own military strength by expanding its military purchases and forces, and to correct many of the military weaknesses that existed at the time of the Iraqi invasion. During 1990-1993 Kuwait ranked third in world arms agreements, while it did not number in the top ten nations during 1986-1989. In 1992, the government's plan of spending \$11.8 billion on arms over a period of twelve years met with objections from the National Assembly. Kuwait did not wait for the approval of

the assembly because it had already spent billions by the time the assembly approved a \$11.7 billion expenditure. However, this raises the question of its continued ability to fund its ambitious plans for expanding its military force.⁶¹

Kuwait's military forces had a paper strength of around 20,000 men at the time of the Iraqi invasion, with large numbers of Bedouins who were not full citizens and large numbers of foreign personnel for technical, service and logistic support, and maintenance and training. They included Jordanians, Egyptians and Pakistanis. For the more advanced Western-supplied military equipment, there were British, American and French technical teams. The officer corps and NCOs were recruited from the royal family and loyal tribes.⁶² However, most of the Kuwaitis in the military forces in 1990 were from tribal groups that were not really citizens.⁶³

Manpower, subsequently, is the most serious challenge facing Kuwait in its effort to rebuild its military. The limited manpower pool that Kuwait can draw from has been further constrained by the government's policy of not recruiting the members of the Kuwaiti resistance into the armed forces after liberation, by purging the army of its 10,000 Bedouins and by not making any attempt to enlist its Shi'ite citizen.⁶⁴ In 1996, Kuwait had a total force of only 16,000.⁶⁵ It is still heavily dependent on foreign personnel for its technical services, logistic support, and maintenance and training, and on American, British and French military for contractor support missions. This puts considerable limitations on its plans to expand and enhance its military capabilities.

Another limitation is the lack of substantive progress in co-ordinating and standardising the forces of the GCC, which means there is no overall standardisation of Kuwait's forces and those of other Gulf states. Kuwait buys from too many countries and buys too many specialised items of military equipment that are not fully standardised and interoperable with other forces. Thus Kuwaiti purchases are not part of any major mission system whether air defence, mine warfare, maritime surveillance or air attack. There is only partial standardisation with the US land and air forces, the only major Western country that would support Kuwait militarily. Kuwait is making political purchases from

every important trading partner and supplier state. This is the kind of arms' sale policy that is costly and ineffective in terms of defending the sovereignty of Kuwait.⁶⁶ The defence of Kuwait is a very serious issue that will test the ability of the ruling family to manage the military effectively and to control corruption.

The Iraqi-Kuwaiti border is still a source of worry to the Kuwaiti government despite the fact that the UN has pledged to guarantee its inviolability and despite the presence of UNIKOM. Kuwait has established a new security with a three-meter deep trench and a five-meter sand berm along the entire length of the boundary. Kuwait is also thinking of building a defence system that includes three fences along the border, one of which is to be electrified or equipped with electronic sensors, and mines and machine gun nests.⁶⁷

B. Political Liberalisation

Kuwait's ruling family has faced increasing demands from its citizens to share political power. These demands reflect a desire for political liberalisation and criticism of al-Sabah for their failure to thwart the Iraqi invasion. The resumption of oil production to pre-war levels has helped in increasing stability and lessening the pressure for change. Nevertheless, the wealth and richness that have been enjoyed by Kuwaiti citizens and the generous benefits that the state provides are under pressure due to the fluctuation of oil revenues and the massive cost of the war and military purchases. In addition, the difficult economic and political situation has focused the attention of the citizens and opposition groups on the widespread problems in the society of corruption, waste and inefficiency as well as the weakness of the traditional system of governing and the absolute power of the ruler and the ruling family.⁶⁸

Many of the promises of the Kuwaiti ruling family during their exile period were not kept or were fulfilled half-heartedly. Kuwait has held three elections for the National Assembly since the war, in 1992, in 1996 and in 1999. Opposition groups felt the date that was set by the ruling family for the 1992 election took key decisions about the future of the country out of the jurisdiction of the

assembly - such as the signing in September 1991 of a ten-year defence agreement with the United States, followed by similar agreements with Britain and France. Other grievances included the continued exclusion of women voters and the inclusion of only males above 21 from families living in Kuwait since 1920. That is roughly 81,000 of the 600,000 citizens.⁶⁹

However, despite these limitations and the ruling family's resort to the old methods of boosting the government support through cash handouts (bad debts worth \$20 billion were bought from banks by the government) and raising civil servants salaries by a quarter, the 1992 election proved to be a victory for factions considered to be in opposition and for independents. They gained 35 of the assembly's 50 seats. The candidates of the Islamic movement won 19 seats, more than doubling their representation since the last national assembly, elected in 1985.⁷⁰

This assembly succeeded in broadening the base of the electorate by passing in 1994 a legislation that extends voting rights to the sons of naturalised Kuwaitis citizens - about 110,000 males. Extending the vote for women, though favoured by the assembly, did not materialise.⁷¹ Subsequently, this became an issue during the 1996 election and women showed opposition during and before election day against their exclusion, and vocalised their right to be full participants in the political system. Kuwaiti women hold many senior positions in the public sector, universities, commerce and industry, so there is no reason for them to be excluded from political life.

Eventually Kuwaiti women were given the right to vote and nominate by a royal decree from Sheikh Jaber al-Ahmad al-Sabah 16 May 1999. A statement by the cabinet, following a meeting with the Emir, confirmed that his highness has decreed giving women the right to nominate and vote as an appreciation of their vital role in building and developing the Kuwaiti society, their sacrifices and their capabilities in facing the many challenges that confronted the country over the years.⁷² The news was greeted with great enthusiasm and appreciation in Kuwait and internationally. It elicited positive responses from President Clinton, The European Union, Iran, Egypt, and Russia as an important step towards

augmenting democracy in Kuwait by giving women equality and full political rights. Some Islamist voices in Kuwait saw the decision as violating Islamic Shari'a and as part of a Western agenda that is invading the Gulf with its Western ideas and ideals in an attempt to replace Muslim culture with a foreign Western culture.⁷³

The legal battle appeared for a while as if it has been won and that women have won at least access to a channel in which to voice their agenda especially concerning changes in civil laws affecting marriage and family. As pointed out by Khaldoun Al Naqueep -: "the decree giving women its rights opens the way for women and their supporters to struggle for a wider social reforms focusing on the antiquated and backward civil rights laws".⁷⁴

However, this euphoria was short-lived and the legal battle for Kuwaiti women continues. The assembly, elected in 1999, rejected the Emir's decree and voted 32 to 30 against giving women their political rights. It must be noted that that came within the wider frame of opposing all the Emir's decrees on a variety of matters that had been announced since he dissolved the 1996 elected assembly. According to the constitution royal decrees are issued when the national assembly is not in session and only if it is absolutely necessary. To many in the assembly, the sixty decrees that the Emir issued were of no pressing nature, thus issuing them undermines the legislative function of the Kuwaiti parliament.⁷⁵

Despite these shortcomings, Kuwait has been the only GCC state that has a parliamentary tradition, organised opposition groups and a relatively free press. However, the weakness and division of opposition groups make real democratic changes seem to be implausible in the short term. In addition, political parties are still officially banned and public gatherings need to receive prior approval by the government. The assembly seems to be more than able to debate many sensitive issues such as power sharing, the fiscal accountability of al-Sabah family and corruption and waste, yet it has failed to take decisive decisions on any of these vital issues.⁷⁶ Political liberalisation is fraught with tensions, also,

among the ruling family itself where some elements oppose the level of freedom and call for its curtailment.

C. Economic Recovery

Contrary to expectations, Kuwait's post war recovery has been relatively rapid. It restored most of its urban services by mid 1991 and extinguished all the oilwell fires set by Iraq by the end of October 1991. Kuwait was able to resume its oil exports and was exporting around 1.4 million b/d by 1993. Current oil production capacity is around 3m b/d although production agreements restrict output to around 2m b/d. Income from oil exports remains the major source of revenue of the state and that fluctuates depending on the price of oil.⁷⁷ This makes state revenue difficult to predict and budgetary planning harder to achieve at a time when its expenditures are huge and its budget deficit is persisting.

During the Gulf War Kuwait drew heavily from its Fund for Future Generation, estimated at \$100 billion before the war. In the three years following the invasion Kuwait's deficit totalled \$48 billion. Kuwait spent \$20 billion for repairs and modernisation of oil facilities and made massive arms purchases, in addition to \$20 billion to repay bad loans.⁷⁸ Much of Kuwait deficit spending goes into subsidies and welfare. Kuwait has no taxation, and has utility subsidies and free health care and free housing. These subsidies do not make economic sense in a wealthy country, especially considering the new economic situation. Austerity measures were being considered by the government such as cuts in government subsidies and welfare benefits, raising taxes, privatising of state owned enterprises and selling electricity, water and telecommunication etc.⁷⁹ Due to serious political problems and severe opposition to such cuts most austerity measures in recent years have targeted items less politically sensitive such as equipment procurement and development projects.⁸⁰

Kuwait continues to use the capital it obtains from selling foreign investments and borrowing to pay for recovery from war and support social benefits. Its debt

ceiling was raised in 1991 from \$10 billion to \$34 billion. The government only drew \$5.5 billion. Instead, it used the liquidation of its global assets to meet its financing needs. Kuwait's cautious external borrowing meant that by 1994 its debt was only \$9.9 billion and down to \$9.3 billion in 1998.⁸¹ Its oil revenues and global assets have helped Kuwait in meeting its needs but economic reforms are paramount. The development plan 1995-2000 calls for a revision of tax policies, for a reduction in budget deficit by cutting state spending, the elimination of subsidies and the imposition of higher custom duties.⁸² Yet very little of that has been achieved mainly due to the political difficulty of such a programme.

Another area that needs serious attention is the country's high dependence on foreign workers which, contrary to the discussion during the Gulf crisis, has increased. The difference has been a de-Arabisation of foreign workers and an increase in importing more Asian workers. Foreign workers make up 83 percent of the total work force and 99 percent of the work force in the private sector, while most Kuwaitis are employed in the public sector.⁸³ This dependence needs to be addressed in Kuwait just as in the rest of the GCC countries. The plan to "Kuwaitise" the private sector by replacing 10 percent of expatriate workers with Kuwaitis each year is difficult because foreigners hold jobs that Kuwaitis do not want or do not have the skills and the expertise to fill them.⁸⁴

III Consequences for Saudi Arabia

The pivotal role played by Riyadh during the crisis have had major consequences for the country. Saudi Arabia took centre stage by playing host to the thousands of coalition forces and incurred huge financial and political costs. In the aftermath of the war, the threat of Iraq to Saudi Arabia and other states in the region has been diminished, but other sources of insecurities have emerged. These include domestic pressures for political change from both sides of the ideological spectrum, the liberals and the fundamentalists,

pressures to enhance its military position, and economic pressures due to the declining revenues of oil while expenditure remains very high.

Being the leading economic and military power among the Gulf states, Saudi Arabia's stability is essential for promoting stability throughout the Gulf. This stability can only be achieved if the pressures that have mounted since the war are dealt with, in addition to the crucial issue of creating a viable structure for the security of the Gulf. That needs the reintegration of Iraq into the system and cooperation with Iran. The security concern of the Gulf shall be dealt with in section VI. The attention here will focus on internal pressures within Saudi Arabia.

A. Military Expenditure

Military development and the creation of an indigenous armed force has been among the top priorities of Saudi Arabia, hence it devoted a large portion of state expenditure to the military. As shown in the Saudi budget military outlays, rose from \$1 billion in 1974 to \$11 billion in 1978 to \$17 billion by 1979. They peaked at \$20 billion in 1984. In 1988 outlays were set at \$14 billion.⁸⁵ The Iraq-Iran war and the insecurity felt in the Gulf as a result helped to maintain such high levels of expenditure in the eighties. The nineties has seen a substantial increase in the procurement policy as a result of the Iraqi invasion of Kuwait, involving tens of billions of US dollars worth of equipment.⁸⁶ Saudi Arabia is the world's largest single arms importer acquiring equipment worth \$10,400 million in 1998 and its defence spending is the largest in the region at around 16 per cent of GDP, while the share of defence outlays of public expenditure stands at 40 percent.⁸⁷

It is clear that Saudi Arabia has been spending massively on its military. Thus, it came as a surprise to many in Saudi Arabia of how unprepared was the Kingdom to defend itself against Iraq and its need for Western help, particularly the Americans. In terms of Gulf standards, Saudi Arabia is a major military power and its forces make up a great deal of the total military strength of the

GCC. Yet, it does not match to either Iraq or Iran. As a result of that weakness the government has committed itself in the wake of Desert Storm to boost its military purchases and double the size of its armed forces and provide them with the latest technology. Before, there was an apprehension on the part of the ruling family of a large strong army that might become a base for military take-over. In the wake of the Gulf War, this perception has changed. In 1991 King Fahd announced "his firm decision...to expand and re-equip all sectors of our armed forces...with the world's most powerful and modern equipment and technology".⁸⁸

The Saudi armed forces consist of the armed forces reporting to the Defence Minister and the National Guard reporting to Crown Prince Abdullah. Although the armed forces have grown from the pre-war level of 40,000 to 60,000 it still would require around 100,000 to be fully manned.⁸⁹ Reaching that desired level is proving hard to achieve since the government is finding it difficult to recruit the necessary personnel, especially in technical roles. The National Guard totals 77,000 men of which 57,000 are active regulars and 20,000 part-time.⁹⁰ It is a tribal force made of those tribal elements loyal to the Saudi family in order to offset any threat from the army, and to counter balance within the royal family the Sudairi control over the regular armed forces. Crown Prince Abdullah descends from another wife of Abdull Aziz. The National Guard is also extremely useful in balancing tribal frictions to reduce the risk of feuding and provide means through which the royal family can allocate funds to tribal and Bedouin leaders. In addition, it secures key facilities in the Kingdom against an army coup. The effectiveness of the National Guard had been demonstrated when they were used during the siege of the Grand Mosque in Mecca in 1979, in the Shi'ite uprising in the Eastern province and in putting down the Iranian riots in Mecca in 1987. During Desert storm, they helped in securing the Eastern Province.⁹¹

The US since the 1950s has been the main arms supplier to the Saudi government. However, the fear of the impact of some arms transfers on Washington's strategic relationship with Israel and the maintenance of Israel's superior military position in the region has blocked some arms deals from going

through. This encouraged Saudi Arabia to diversify its arms supply and procure arms from other Western powers such as Britain and France. But since the Gulf crisis the military dependence of Saudi Arabia on the US has been reinforced as well as its position as the major arms supplier.⁹² It is estimated that Saudi Arabia has made orders of weapons from the US for \$50 billion for F-15 planes, Awacs planes, Apache anti-tank missiles, patriot missiles, M1-A1 tanks, Bradley armoured fighting vehicles and others.⁹³ This at a time of fluctuating oil revenues and a very difficult financial situation. The dependence on the West and the US extends also to many service support, maintenance, and logistics functions.

The development of an indigenous military force capable of defending Saudi Arabia against external attack remains a long term objective. Problems of recruitment, training and maintenance of weapons, efficient logistics, and reluctance to address deficiencies and make reforms remain major hindrances towards achieving such a goal. Consequently, the dependence on the West will remain the major source of security for Saudi Arabia.

B. Economic Pressures

The UN oil embargo on Iraq removed 4.4 million b/d of supply from the international oil market. The Saudis and others were more than happy to fill the void. Saudi output rose from 5.6 million b/d in the first half of 1990 to 8.2 million b/d in the third quarter of 1990. It compensated for 60 percent of the gap created by the embargo. Price of oil reached a level of \$30-40 a barrel and descended after the panic period but remained higher than pre-invasion levels. On average the price hovered around \$22 per barrel, almost \$5 dollars above 1989 prices, while the average price in 1991 was \$18.⁹⁴ This raised the Kingdom's revenues substantially from \$24 billion in 1989 to \$40.1 billion in 1990 and \$43.7 billion in 1991, to \$44.7 in 1992. However in 1993 it declined to \$38.6 billion and in 1994 remained around \$38.1 billion. Between 1995-1996 it increased substantially to reach \$43.5 in 1995, \$54.2 in 1996 and \$52.1 in 1997. But by 1998 it had dropped to \$33.4 billion.⁹⁵ The beginning of the year

2000 showed an impressive improvement with the price of oil reaching \$30 per barrel, which will be reflected in the revenues generated during the year.

Despite the windfall in oil revenues at the beginning of the Gulf crisis, the fluctuation in oil revenues, the high military expenditures and the cost of the war have aggravated financial difficulties for Saudi Arabia. Its budget deficit and debt increased massively. In the early years of deficit, the government covered itself by drawing on foreign assets in the central bank, but in 1988 these assets fell so sharply that the treasury began to borrow internally. Internal debt had risen from \$ 4 billion in 1989 to \$20 billion in 1993 while foreign borrowing also has increased. In 1991, the government was forced to borrow from Western commercial banks \$4.5 billion, and \$1.8 billion in 1992 from a British bank to cover part of a payment to an arms supplier. In total the public debt of Saudi Arabia is estimated for the year 2000 between \$150-\$170 billion, which amounts to 115 per cent of the GDP.⁹⁶

A major burden on the Saudi budget is government subsidies, which are pervasive and embedded in the society. These come in a variety of forms and ways. Some are direct cash subsidies such as payments to farmers, who also get subsidised irrigation, machinery, equipment, fertilisers, seeds and feed, and other inputs at 30-50 per cent below their cost. Other cash payments include those to utilities (water, gas, and electricity) to cover their operational losses because they sell at a fraction of production cost. Adding to this health care, education and other services are provided free to all nationals. Generous grants are provided for those who pursue higher education abroad or require health treatment. Telecommunication, national airline, and other consumer services are subsidised too.⁹⁷

The Saudi government has been aware of the need for economic reforms and by 1995 it was forced to make a major departure from its past policy. It took measures to generate more domestic revenues by raising the domestic price of gasoline, the rates for electricity and water, the fares of domestic travel on the national airline, limiting the free local calls, the installation chargers for telephone lines, fees for visas, and work and residence permits. These

measures are meant to boost revenues and to discourage wasteful consumption of water, electricity and fuels. The government also axed capital expenditure both to encourage the private sector to take a leading role and to reduce its budget deficit.⁹⁸

Moreover the privatisation process has been given a boost by the formation in 1997 of a Ministerial Committee on privatisation under the Council of Ministers. The task of the committee is to co-ordinate and follow up implementation of the privatisation programme. Already the Saudi telecommunications sector was transferred to private sector management in 1997 and its sale is expected in the year 2000 while the restructuring and the regulation of the administrative and financial status of the electricity sector has been approved by the Council of Ministers in 1998. Before the end of the year 2000 the General Port Authority will complete the first stage of privatisation programme, while preliminary steps has been taken for the gradual privatisation of the postal services.⁹⁹

Another major outlay is the extensive hiring in the public sector, which can be considered also a kind of subsidy. The importance of government hiring is evident in light of the fact that only 10 percent of nationals are employed in the private sector. However, budgetary constraints have started to reflect a reduction of the numbers hired by the state. Consequently, unemployment increased in the 1990s. According to a senior figure in the Saudi Chamber of Commerce and industry "nobody has accurate figures" about the level of unemployment, although a figure ranging between 10 -25 have been widely floated.¹⁰⁰ The government has taken steps to upgrade the quality of education and training to ensure that Saudis can take jobs held at present by foreign workers combined with an effort to increase the participation of the private sector in the economy.¹⁰¹

The success of Saudi Arabia in reforming its expenditure policy and its financial situation depends on the persistence of the government in reducing its debt and in encouraging a bigger role for the private sector as well as reducing the burden of the welfare state by transferring some of the costs of services to the citizens.

C. Political Pressures

The Gulf crisis and the presence of coalition forces on Saudi soil created a polarised and heated debate between Islamic conservatives and modernising liberals. This was clearly manifested in the two petitions circulated by the two groups. The Liberals circulated a petition, at the end of 1990 and in early 1991, which was signed by 43 public figures, among them businessmen, academics, writers and technocrats. The petition listed ten demands: -

1. A flexible approach to the interpretation of the Shari'a.
2. The issuing of a "basic law" of government.
3. The formation of a consultative council "representing all regions of the Kingdom".
4. The revival of municipal councils.
5. Steps to modernise the judicial system and ensure its independence.
6. Equality of all citizens " without distinction based on ethnic, tribal, sectarian, or social origins".
7. Greater freedom for the media.
8. Reform of the mutawa (religious police).
9. A greater role for women in public life.
10. "Comprehensive and fundamental reform" of the education system.¹⁰²

This petition was followed by a rival petition from a group of religious figures and was presented to the King, few months after the war. It listed 12 demands:

1. The formation of a consultative council comprising "honest" and "totally independent" individuals.
2. The conformity of all laws and regulations with the Shari'a.
3. The need for government officials to be "unswervingly moral".
4. "Full equality among citizens, not favouring the nobles or begrudging the weak".
5. A purge of government officials of proven "corruption or dereliction".
6. Fair distribution of public wealth, and the need for banks to be "cleansed of usury".
7. The creation of a strong and fully integrated army.
8. The reform of the media so that they "serve Islam".
9. The need for foreign alliances to be "sanctioned by the Shari'a".
10. The development and strengthening of religious institutions.
11. The "full and effective independence" of the judicial institutions.
12. Guarantees - "within acceptable religious safeguards" - of the rights of individuals and of society. ¹⁰³

As can be seen there was an overlap between the demands of the two petitions but from a different ideological orientation. The liberals wanted to have a more

flexible modern system of government while the Islamists want to increase the grip of Islam on society. The debate throughout 1991 intensified and by the end of the year the ruling family was pressurised into action. King Fahd announced the introduction of three laws on 1 March 1992.

The basic law of government contains 83 articles emphasising the Islamic character of the state, the sanctity of family values, the powers of the King and the Council of Ministers, the rights and duties of the citizens, the economic principles of the Kingdom and the mechanisms of government accountability.

The second law created a 60-member *majlis al-shura* (consultative council). As the name suggests this council has an advisory/consultative function. It can propose laws but does not pass them and advises on domestic and international issues. The King chooses all its members.

As for the third law, it attempts to give the various regions of the country some sort of autonomy. It makes each region the responsibility of an Emir who is accountable to the Minister of Interior and an advisory council chaired by the same Emir. The council must have at least ten members suitably qualified from the public.

These three laws have been acknowledged by the opposition in Saudi Arabia and by the King himself as formalising the *status quo* rather than introducing new changes. In the words of King Fahd, these laws "are to strengthen something that exists and formulate something, which is already in operation".¹⁰⁴ The King emphasised in an interview with the *Associated Press* published on 28 March 1992 that: -

The prevailing democratic system in the world is not suitable for us in this region; our people's composition and traits are different from the traits in the world. We can not import the way other peoples deal [with their own affairs] in order to apply it to our people; we have our own Muslim faith which is a complete system and a complete

religion. Elections do not fall within the sphere of the Muslim religion, which believes in the consultative system and the openness between the ruler and his subjects and makes whoever is in charge fully answerable to his people...Free elections are not suitable for our country.¹⁰⁵

Despite the modesty and limited content of the reforms, they signified the extent of internal pressures on the ruling family and the necessity of making adjustments to the new realities of Saudi society. The use of *al-ulema* and Islamic institutions as the basis of the legitimacy of Saudi rule is coming under pressure from a new generation of Islamic militants, some of whom are extremely critical of the ruling family. On the other hand, liberal voices are becoming more vocal in demanding a more modern style of government. This makes the balancing act that the ruling family needs to play between these two opposing groups harder and the consequences less predictable. For the meantime "domestic discontent may be containable; coupled with wider regional problems, it could pose a more formidable challenge".¹⁰⁶

As pointed out by Hardy, "it is more realistic to argue for greater accountability, participation and respect for the law. These things are not synonymous with democracy, but they are steps towards it".¹⁰⁷ There is a need to broaden the decision-making process and hence participation is the key for political change. The creation of the *majlis* is very important for that purpose, despite the fact that the circle of consultation is limited and is determined by the King.

IV Security of the Gulf

Desert Storm led to two major security developments in the region. The first was the strengthening of the US as the dominant power in the region with its policy of "dual containment" of both Iraq and Iran.¹⁰⁸ This policy is based on achieving security and stability in the region by the military containment of these two major players in the region through two means. Firstly by strengthening the

American presence in the region, by way of military bases and military facilities, defence and security agreements with the Gulf states and the increase of the sale of American weaponry to the region. Secondly, the containment of Iraq is carried out principally through the severe sanctions regime and efforts to oust Saddam from power, while the Americans continue by ostracising Iran diplomatically and internationally and by imposing further economic restrictions. A new law imposed punishments on companies that invested more than \$40 million in the Iranian oil and gas sector.¹⁰⁹

This American policy is short sighted, and tensions and conflicts will continue to rise to the surface because without Iran and Iraq any discussion of security or security pacts is of limited value. Even some Saudi establishment figures are unhappy about the policy, as indicated by Prince Sultan bin Khaled, "American policy in the Gulf is based on the dual containment of Iraq and Iran as well as maintaining the Iraqi regime as a symbol of threat to Gulf states to keep the need for protection under the American umbrella".¹¹⁰

The policy of "dual containment" did manage to limit the flow of conventional arms and technology and of dual use equipment to both Iraq and Iran. Iraq has enjoyed no arms imports since its invasion of Kuwait and it faces massive problems in terms of modernisation and capitalisation of its military. It is estimated that Iraq needs \$26 billion in arms imports to deal with the impact of the Gulf war, while Saudi Arabia and Kuwait have imported some \$32 billion worth of arms since 1991.¹¹¹ Iranian arms purchases have been limited too. During 1991-1994 it totalled \$4.8 billion and in the period 1993-1996 its arms agreements were worth only \$1.3 billion. Yet, Iran managed to buy enough arms to rebuild its army to the point of being effective in combating a weakened Iraq. It is also making real progress in military production and is using its limited military imports more effectively than the Gulf states use their massive arms' purchases.¹¹²

The second development pertaining to the aftermath of Desert Storm is that the war highlighted the inept attempts to establish an effective and inclusive regional security system in its wake. Two main ideas were being considered

after the liberation of Kuwait. The first was the idea of developing a serious GCC military force. However, GCC members regarded it as overly ambitious and allowed discussions of the proposal to lapse. As indicated by Abdullah al-Shaiji, "Gulf states failed to create a regional security arrangement that reduces its dependence on imported security from the West especially the US. The 1990 experience provided little room for optimism about the ability of these states to form a strategic military defence force".¹¹³

The second idea came in the form of the Damascus Declaration signed by Egypt, Syria, and the GCC members in March 1991. Egypt and Syria were to provide the bulk of a 100,000-man defence force in exchange for financial aid from the Gulf states. That too seems to be no longer considered after the Gulf states changed their minds for fear of an enhanced role for these two Arab countries in the region. Instead, several Gulf states opted to sign bilateral defence agreements with Western nations and Saudi Arabia and Kuwait preferred American protection arrangements.¹¹⁴

As mentioned before, Kuwait signed defence accords with Britain, France and Russia in order to deter further aggression through defence co-operation, training and exercises and arms sales.¹¹⁵ In addition, total military expenditures escalated rapidly. The Gulf states have signed contracts for \$36 billion of US arms since Desert Storm, almost a third of US arms exports world wide during the same period. According to the 1994 report of US Arms Control and Disarmament, the Middle East spent more on arms than any other region: 20.1 percent of the GDP and 54.8 percent of overall expenditures. Most of the money was paid to the US, which has become the principal supplier of the Gulf marginalizing its competitors, France and Britain.¹¹⁶ Moreover, American protection is paid for in full by local governments. For instance, each joint military exercise with Kuwait costs \$10 million, entirely covered by the Kuwaiti government.¹¹⁷

These very high expenditures, especially at a time of fluctuating oil revenues and problems of rising debt and budget deficits, do not help in enhancing the defence of the Gulf states. The lack of manpower in most of the Gulf states and

dependence on foreign personnel puts a great constraint on building a viable military and defence capability, leaving the real leverage for the protection of GCC members in the hands of the West. Moreover the GCC needs to take action on several fronts if these military purchases are to make any difference. These include the need

1. To develop collective or integrated defence capabilities .
2. To procure interoperable or standardised equipment.
3. To develop co-ordinated procurement plans to eliminate the waste of defence.
4. Kuwait and Saudi Arabia need to co-ordinate tightly on land defence, while Kuwait, Saudi Arabia and Bahrain need to co-ordinate their air and missile defences, air strike-attack capabilities, maritime surveillance, and surface defence capabilities. The co-operation between these three states will shape the most important elements of their deterrent and defence capabilities and ability to support enforcement from the West. ¹¹⁸

The security and stability of the Gulf is seen by some as achievable not by a Western presence, increased military purchases and military defence treaties but "in regional cooperation that prevents the exacerbation of crises among states and such a cooperation must be based foremost on respecting states' borders, non-interference in each others' internal affairs, respect of minority rights as well as achieving social justice to the people of the region". ¹¹⁹ The continued American presence in the region is a rallying point for opposition movements. The attack on the US base at Dhahran on 25 June 1996 confirms that opposition is becoming more radical and strongly anti American. ¹²⁰ This resentment of the population of the Gulf states of the US is forcing the GCC states to try sometimes to distance themselves sometimes from American policy. For instance, the September 1996 bombing of Iraq was not endorsed by these states and Saudi Arabia banned the use of its airfields. ¹²¹

Thus, long-term stability in the region cannot be achieved except with a lower presence of the US, more cooperation with Iran and the reintegration of Iraq into the regional and international system. The establishment of a workable relationship between the three major powers, Iraq, Iran, and Saudi Arabia is essential for any such long-term stability and security. Last, but not least political liberalisation in the Gulf region is a key issue. Although at present internal pressures for political change are evident in most of the GCC states, the possibility of democratic restructuring is slight. However, that is exactly what the Gulf states need. Their traditional domestic and foreign policies for political stability and security must be reassessed with a view to focus on building more democratic systems of government and lessening dependence on external support.

V. Environmental Costs of the War

It is a well-established fact that "militaries are the most destructive institutions to the environment in the modern world; they have the technology and the global reach to destroy and to poison entire regions and vast ecosystems".¹²² This has been seen repeatedly in militarised conflicts, the most striking among them has been Vietnam. Some of the damage that occurred has been permanent affecting forest cover, soil quality and human health. Large regions of Afghanistan are uninhabitable because of Soviet military operations there. The same story repeated itself in the Gulf and damage to the environment occurred on a large scale. Yet the effects of the war on the environment have received little public attention when compared with the oil spills and the burning of oil wells. The oil spills are disastrous to marine life and the entire coastal ecology of the Gulf, and the oil fires have had massive impact on air pollution, but that does not represent the whole picture of the environmental degradation of the region. The preparations for the Gulf War and the subsequent military action have had massive impact on the environment of Saudi Arabia, Kuwait, and Iraq.

The presence of a half million strong army, setting base in the fragile arid land environment of Saudi Arabia resulted in a serious disturbance to the desert surface as well as generating in the few months that its stay lasted huge amounts of waste, sewage, and solid. A conservative estimate calculates that a minimum of 15-20 million gallons of sewage a day was produced, in addition to the huge garbage that piled up of heavy-duty packaging materials, plastics etc. According to the Pentagon "disposal of solid and sewage waste is, by agreement, the responsibility of the host country".¹²³ Saudi Arabia does not possess the facilities to dispose of this waste in the most environmentally safe manner since the desert region lacks such facilities. Garbage and human waste takes a long time to degrade in a desert because of lack of moisture, and liquid sewage migrates through sandy soil with the possibility of contaminating underground aquifers. In addition, the water system and ecology in Saudi Arabia has been exposed to incredible amounts of toxic substances that accompany all military manoeuvres. The Saudis have been trying to assess the levels of chemical pollution, but their efforts have been hampered by a lack of information. The US military did not release the needed information to assist them in their effort since it is considered classified information.¹²⁴

Another source of degradation of the environment has been the infrastructure that was built during the military build-up of roads, runways, semi-permanent housing and support buildings well as the cutting of holes in the desert surface and the presence of thousands of tanks, heavy equipment and track vehicles. This breached the desert shield cover, destroyed vegetation, damaged wild life and disturbed surface water patterns.

Iraq on the other hand has suffered most damage due to the intensive coalition bombing over a short period. The bombing destroyed water supplies, fuel supplies, food stocks, sewage systems, transportation systems, garbage disposal systems and public health systems in every major settlements in the country. All this happened under the famous American slogan that "America has no argument with the Iraqi people, only with Saddam Hussein".¹²⁵ As it has been pointed out by many it is the Iraqi people that have paid a high price for what America believes is inflicted on Saddam regime.

The coalition dropped an explosive tonnage equivalent to seven Hiroshima-size bombs on Iraq. This bombardment included Depleted Uranium (DU); a heavy metal two and a half times heavier than metal. The problem is that DU is radioactive and chemically toxic. The Iraqi regime and environmentalists claim that Iraq's environment is contaminated by it and its population exposed to catastrophic health risks. They believe the increase in congenital deformities and cancers is due to DU. This claim might be bolstered by similar incidents appearing in other Gulf states, particularly Saudi Arabia and Kuwait. Yet, neither the Saudis nor the Kuwaitis have reported any such increases. In an official report by the Atomic Energy Authority it estimates that 300 tons of DU, in the form of shell fragments, litter wide areas of Iraq and Kuwait. The authorities in the US and Britain, however, downplay the risks of DU and claim it does not present a hazard to people.¹²⁶

The coalition also bombed Iraqi nuclear facilities and chemical weapons' production facilities. Chemical, radioactive and biological releases are immediately life-threatening, in addition to threatening riverine and underground water supplies, agricultural lands and food stocks with long term consequences. It is not known if radiation was released from these facilities and the exact damage to these facilities is unknown and consequently their environmental impact. Information that can help in realistically assessing the damage of military related activities is withheld on the basis that it is a military secret and classified. Without the cooperation of the military, the true extent can not be assessed.¹²⁷

In Kuwait, the Iraqi military and the coalition have inflicted enormous damage to the desert topography and ecology. The breaching of the desert surface in Kuwait, Saudi Arabia and Iraq has destabilised the desert topography, leading to increase in sand and dust storms, increased soil erosion and instability in sand surfaces that might engulf agricultural land, settlements, roads and water systems. The war left large areas of Kuwait, Saudi Arabia and Iraq littered with such military related wastes.¹²⁸

It is estimated that 11 million barrels of oil were intentionally released into the waters of the Gulf. Most of the oil was released at or near Mina al-Ahmadi in southern Kuwait on the north-western coast of the Gulf. Oil was released from three export terminals and a number of tankers. Two other Kuwaiti facilities at Mina al-Bakr and Mina Abdullah released minor amounts of oil.¹²⁹ Oil flowed unchecked over land and sea, producing an oilspill estimated to be thirty times greater in extent than that of the Exxon Valdez in Alaska. It damaged the marine environment, ecology and wildlife habitats along the Gulf coast.

Despite this major environmental disaster, no major clean up effort has been implemented. Only a few sites have received the necessary approval for cleanup from the Saudi government, funded by the International Maritime Organisation. Only about 500 workers were devoted to the cleanup of the oilspill which was financed at about \$60 million. In comparison the Alaska spill utilised 11,000 workers to cleanup the Exxon Valdez spill, a spill that is very small in comparison to the Gulf spill with a cost of \$2 billion.¹³⁰ Apparently the delay in the clean up of the shoreline was due to lack of funding. The cost for Saudi Arabia is \$450 million, an insignificant amount in comparison to the size of the military purchases that followed Desert Storm and the overall cost of the war.¹³¹ The Saudi government concentrated its efforts on the protection of its desalination plants, which were carried out promptly by mid 1991 with international cooperation, while the rest of the clean up is obviously being left to natural cleaning processes.¹³² The recovery time for the marine communities (mangroves, seagrasses, algae, coral reefs, seagrass infauna) will be slow and will take decades.

According to the Kuwaiti Oil Company a total of 788 Kuwaiti wells sustained damage as a result of Iraqi sabotage, of which 613 oil wells had been set alight. The oilwell fires emitted tons of pollutants into the atmosphere and polluted air for hundreds of miles. The Kuwait Oil Company claims that 3 percent of its pre-war oil reserves of 100 billion barrels were lost in the fires. Thus, large quantities of air pollutants were produced. These pollutants (sulphur dioxide, inhalable particles, nitrogen oxides, carbon monoxide, ozone, hydrogen sulphide) are known to have acute health complications if humans are exposed

to high concentrations for prolonged periods. For example, sulphur dioxide causes airway resistance and impairment of the lung functions, while carbon dioxide (a major component of smoke) is a main contributor to global warming.¹³³ The management of this massive pollution incidence showed several weaknesses in national and international co-ordination. Local organisations were not prepared for the task and international teams came on their own initiatives such as Green Peace, Harvard University or on instructions from their governments. The UN failed to co-ordinate international activities and its Environmental Programme failed to provide funds and expertise to deal with the incidence.¹³⁴

The ground military operation was also a major contributor to air pollution. It is estimated that 7 billion gallons of fuel were consumed during the Gulf crisis while air operations used more than 600 million gallons. Major pollutants were emitted in the Gulf, subsequently, the majority of which emitted in Feb 1991 within a short period of 2-3 weeks. The amounts of carbon dioxide, carbon monoxide, and nitrogen oxide produced were 53 percent, 5 percent and 133 percent of that emitted by the Kuwaiti oil fires, respectively. The emission from Kuwait was produced over a much longer period of eight months. Thus, the effect on air pollution from the war is more adverse than the pollution from the oil fires.¹³⁵

The marine environment in the Gulf, which is already stressed due to the oil industry, was also influenced by the sizeable naval force that gathered in the Gulf. It created a range of hazardous wastes, including sewage and solid waste while landing exercises influenced coastal ecology, and ordnance and mines littered the beaches and coastal waters.¹³⁶

It is clear that the damage to the environment of the Gulf is very serious and extends to encompass more than the damage caused by the oil spills and oil fires. Several international teams in collaboration with local agencies and scientists conducted studies of the environmental aftermath of the war. An example is the mission in 1991 of the Third World Academy of Sciences in Trieste, Italy. Its work was followed by a "Workshop on the Environmental

Dimension of the Gulf Policy and Institutional Perspectives” hosted in the United Arab Emirates in 1992. Also oceanography has been conducted in the Gulf through various voyages including the Mount Mitchell voyage in 1992, which was followed by a workshop to discuss its findings in Kuwait in 1993. The Japanese government followed up that work with several other voyages by the Yomataka-Marō ship.¹³⁷ There is a pressing need to continue studying the effects of the war on the Gulf environment, as well as efforts must concentrate on limiting or reversing some of the adverse impact on the Gulf environment.

VI Conclusion

The previous discussion has shown the variety of problems that emerged and the intensification of existing ones in the wake of Desert Storm. A serious reassessment of the policies of Gulf states is needed on domestic, regional and international levels. On the domestic level, the issue of democracy and a wider share in political power by the various social groups in these states is imperative. While the economic situation can not be left without serious consideration of economic restructuring and liberalisation.

Regionally, the isolation and containment of Iraq is proving to be very costly to the Iraqi people and making its reintegration into the region the more difficult. Hence, a more accommodating policy is needed. Such a policy might be more successful in producing a change in the regime in Baghdad, giving people the chance to think of their political plight rather than just mere survival. Cooperation with Iran is also essential for the long term stability and security of the region. The overtures by the Iranian reformist government towards the Gulf states, especially Saudi Arabia is encouraging. Gulf states need to offset the increased cooperation between Turkey and Israel by helping to reintegrate Iraq into the region and enhance cooperation with Iran.

Last but not least, the increased dependence of the Gulf states on Western military protection and strengthening the US as the dominant power in the region is not in the long term interests of the region. A reduction in the level of

the presence and power of the US in the region is necessary for enhancing Arab cooperation and cooperation among the states of the region. In that lies the real security and stability of the region.

Conclusion

The management of the Iraq - Kuwait crisis raises two interesting issues for those studying international relations and crisis management. The first concerns the dangers inherent in a unipolar international system dominated by the US. The US from the onset of the crisis led and organised the manner in which the international community as well as key regional states responded to Iraqi aggression. Iraq by its military action against Kuwait directly threatened American strategic interests in the area and challenged the existing balance of power. Securing a flow of oil at reasonable prices as well as maintaining the stability and security of the existing pro-Western regimes primarily motivates American policy in the region. Saddam's military strength and capability was built through reliance on Western technology and facilities, and was supported by the American administration and Western governments. Yet, the moment that power was used in a manner that challenged the status quo, the West was more than willing to take decisive action to destroy Iraq as a regional power.

Iraqi aggression in effect gave the US the opportunity to flaunt its domination and leadership of the international order in the wake of the end of the Cold War. President Bush used terminology such as establishing a New World Order, but what in effect he was promoting was the dominance of the US in conducting international affairs in the absence of any rivalry from its previous adversary, the Soviet Union. Much was made about this New World Order during the crisis, but the minute the war was over, the West was competing for the sale of weapons to the region, and talk about limiting the arms build up disappeared totally. A new surge in military expenditure dominated the 1990s and plans for the expansion of the military of most of the Gulf states dictated the political agenda of these countries. The region appears to be building its security on a belief in armament rather than concentrating on building security through promoting better political and economic conditions, and reducing income gaps and poverty.

The clarity of Iraqi aggression and its outright violation of international law and the Charters of the UN and Arab League made it much easier for the US and its allies to rally international support for the anti-Saddam coalition, and to present the international response and the fight for the liberation of Kuwait in the name of principles such as peace and stability and upholding international law and punishing aggression and criminality. These principles are morally superior to the principle of protecting American strategic interests and made the UN the ideal channel for mobilising international response and action.

They also validate the escalation/confrontation approach adopted by the US especially that Saddam continued to be defiant of UN resolutions. There was no sign on the part of the US that it will negotiate or accept any sort of compromise with the Iraqi regime, hence denying Saddam the much needed face saving formula. Saddam's action in retrospect was a golden opportunity for the US to enhance its influence and presence in the region especially in Saudi Arabia. The involvement of a third party in this crisis instead of acting as a neutral mediator between the two disputing sides became part and parcel of the crisis itself and inflicted huge damages on one side in order to uphold the rights of the other. The US could not divest itself from its national and strategic interests and acted in a manner consistent with its interests.

The second issue concerns the role of the UN in conflict resolution and the use of military force to keep the peace. The Cold War and the bipolar international order prevented the use of collective security as envisioned in Chapter VII of the UN Charter, while the different political circumstances of the Gulf crisis allowed for consensus among the permanent five members and better cooperation making military action possible. The Security Council responded to the Iraqi aggression with a series of resolutions that graduated in their severity. Resolution 660 demanding Iraqi withdrawal was approved by a vote of 14-0, (Yemen not participating). Resolution 661, imposing comprehensive economic sanctions, was approved 13-0 (Cuba and Yemen abstaining). Resolution 662, declaring the annexation of Kuwait null and void, was approved by 15-0, while resolution 665, which permitted the use of naval force to uphold the economic sanctions, was approved 13-0 with Yemen and

Cuba abstaining. This clear consensus has been elusive in the history of the UN during other conflicts and explains the initial optimism that greeted such a change in the functioning of the UN and hope of an enhanced effectiveness in dealing with international disputes and problems.

But the obvious domination of the US of the Security Council and the dubious legal grounds of some of the resolutions made the UN appear more as a tool and ally to the US and dashed hopes about the emergence of a more effective UN. Strong criticism has been levelled, particularly, on resolution 687 as exceeding the clearly identified objectives of the UN of ending the occupation of Kuwait, restoring the sovereignty, independence and territorial integrity of Kuwait and restoring the authority of the legitimate government of Kuwait. Also, the decision to launch war, supposedly under the auspices of the Council was taken outside the Council. This was compounded with the inactivity of the Council during the conduct of the war. It showed that the UN gave its approval to a war, which it had no control over.

In addition, the functioning of the UN during the crisis exposed the imbalance in power between the General Assembly and the Security Council. The General Assembly's participation in the crisis was limited to the adoption on the 18 December of resolution 45/170 on the Situation of Human Rights in Kuwait. The concentration of deliberations in the Security Council gave the US the clout and control over the course of events and sanctioned its actions through the UN. The US was willing to go to war with or without the authorisation of the UN, since it claimed that no Security Council resolution was needed to legitimise the use of force to liberate Kuwait, by referring to the right of individual and collective self defence to defend a member state of the UN. However, the waging of the war under the banner of the UN made it harder for the voices of those opposing the war and opposing US intervention in the region to be heard. The auspices of the UN was also necessary to maintain the cohesion of the coalition and the support of public opinion in the US and the West.

The extent of the influence of the US on the Security Council during the crisis generated many concerns about the future role of the UN and voices in support of reform of the organisation have increased. As aptly and accurately enumerated, the UN needs to improve its performance in the following broad areas:

1. a constitutional framework of the UN where enforcement actions are kept within the scope of Chapter VII;
2. the UN must not seek recourse to military action unless all peaceful means have been exhausted;
3. the necessity to conduct military operations under UN auspices in strict conformity with the laws of war;
4. the overriding duty to take diplomatic initiatives to moderate war threatening situations;
5. the autonomous negotiating and diplomatic role for the secretary-general inline with the primary objective of the office to resolve all disputes by peaceful methods.¹

In addition, a more democratic decision making process must be adopted where a balance is struck between the General Assembly and the Security Council either by expanding the participation in the Security Council to include other countries or through wider involvement and consultation with the General Assembly especially in times of crisis. Such improvements will prevent the emergence of scepticism and doubt about who controls the UN and who is able to manipulate the Council to promote their own national interests and agendas, especially in times of crises.

One wonders what would have been the response if Iraq - as was expected by the Americans and the Saudis - limited its aggression to the disputed islands of Warbah and Bubiyan. However, the scale of the aggression

followed by the annexation of Kuwait made their position stringent and firm stance, and increased the anxiety and fear of Saudi Arabia of the regional ambition of the Iraqi regime.

The outright Iraqi takeover of Kuwait showed the extent of the regime's desperation and frustration with the situation in the aftermath of the end of the war with Iran. Its quest for the leadership of the region - which Iraq believes it deserves and has earned after its war with Iran in defence of the Gulf states - had been undermined by its economic situation, reconstruction bill and military costs. The creation of the ACC came both as a counter balance to GCC and also as a mechanism for promoting and establishing Iraqi leadership. But it lacked the resources of the GCC, and Saddam was in need of a massive injection of aid. He used the platform of the ACC summit in Amman in Feb 1990 to ask for a moratorium on all wartime loan repayment plans to the Gulf states as well as an urgent grant of \$30 billion. Saudi Arabia and Kuwait, since the end of the Iraq-Iran war had supplied limited aid to Iraq, while Saddam wanted previous aid levels to continue in view of Iraqi financial needs. He reiterated his demands during the Arab summit in Baghdad at the end of May 1990 for the Gulf states to waive Iraq's war debts and to provide more aid. In addition he began a campaign against Kuwait and the Emirates blaming them for the fall in the price of oil, due to their over pumping.

In response to the escalation in the campaign against Kuwait and the Emirates, Saudi Arabia exerted pressure on each to abide by their OPEC quotas of 1.5 million b/d, and prepared the grounds for the Jeddah summit of the 31 July 1990 between Iraqi and Kuwaiti officials. Expectations were high that the meeting would be successful, but when the Kuwaitis did not respond to the three basic demands of the Iraqis (waiving of Iraqi debts incurred during the Iran-Iraq war, \$10 billion in compensation for the use of the Rumaila oil field, and the possession of the disputed islands) Iraq opted to take military action and invaded Kuwait. The objective was not only to solve the territorial dispute by force but also to put Iraq in a better economic position to pursue its reconstruction plans and quest for regional power and leadership.

The traditional stance of Saudi Arabia in maintaining a certain level of Arab unity explains the initially mild response of the Kingdom to the news of the invasion. But that quickly changed into a more aggressive and firm position reflecting the anxiety of Riyadh over its own security and stability and prompted by assurances of the US that it will provide it with protection. This shift was also helped by the US convincing the Saudis of the presence of a threat from Saddam and presenting satellite photographs of Iraqi troops amassing on the borders of Saudi Arabia. Whether the Iraqis intended to invade Saudi Arabia or not is open to question. Critics believe that the US either overstated or even faked the evidence to convince Saudi Arabia that there was an imminent and real threat from Iraq. US military involvement was not possible without the use of Saudi territory, thus, the support and cooperation of Al-Saud was essential for the deployment of the US military and for implementing US objective of containing the Iraqi regime and undermining its power. On the other hand, the prospect of a military defeat of Saddam would achieve three benefits for Saudi Arabia: the liberation of Kuwait, the elimination of Iraqi military power and a change in the military imbalance between Saudi Arabia and Iraq as well as increasing the regional influence of Saudi Arabia. King Fahd made his historic decision of inviting foreign forces onto the country, which indicated an intensification and further escalation of the crisis.

The risks Saudi Arabia and the Western coalition took in escalating the crisis and opting for confrontation were incomparable to the risks that Saddam took. Saddam from the start seemed to build his strategy of managing the situation on erroneous assumptions and /or misperceptions. First he depended on the non - aggression pact signed by King Fahd with Iraq at the end of March 1989 to act to his benefit. The pact spelled out the principles of non-interference in the domestic affairs of the two countries and the non-use of force between them. Second he did not expect the Saudis to allow the US to use Saudi bases as they had always rejected an American military presence in the country. These initial miscalculations were further aggravated by his intransigence in the face of the massive build up of American military in the region and the clear intent of the Western coalition and Saudi Arabia to

liberate Kuwait and restore its sovereignty. He gave the West the chance to destroy the Iraqi military and civilian infrastructure and Iraqi lives, and to increase their influence and presence in the region. By not abiding to the UN deadline of the 15 January he played into the hands of the Americans and over estimated his military power vis a vis the US and its allies. The belief which he held till the very end - that the US will not execute its threat of using force and will back off - stands in total contrast to all the evidence around him. The price the Iraqi regime paid for its mismanagement of the crisis was extremely high. The total win of the coalition is contrasted with its total loss.

From a regional point of view the crisis has had devastating consequences, also. First there are the political costs of the crisis in terms of the further marginalisation of the Arab League. The League was never effective in meeting the challenges of the region or solving its problems. But, it was a symbol of an Arab order that has been struggling to maintain a minimum level of unity and cooperation as well as a semblance of pan Arabism. Regional sub groupings such as the GCC, ACC and the Maghreb Union were already bypassing the League by setting their own agendas of cooperation and economic and political strategies. The need for Arab cooperation is so acute, considering the economic and political problems facing the region and the challenges of increasing economic globalisation, yet the Arab League has been made more than ever less capable of creating new approaches to cooperation and conciliation in the region.

As for the GCC, it proved to be totally ineffective in dealing with the crisis and was unable to defend a member state. Desert Storm thus left the region with no other alternative for establishing an Arab order except by relying on the West. The Gulf states, after the initial approach to create an Arab order based on the Damascus Declaration, changed their minds and resorted to bilateral agreements with the West for maintaining their security and defence. The decline of the Arab League and Arab order is being faced, on the one hand, by an increase in the domination and presence of the US in the region and the loss of Arab autonomy and ability to create its own viable regional order, on the other.

The economic costs of the crisis have been massive, whether in terms of the costs of Desert Storm, the military purchases that followed the war, or the reconstruction bill of Iraq and Kuwait. The continuation of the sanctions regime has debilitated Iraq and is making its rehabilitation and reconstruction much harder. Many voices internationally and regionally have been calling for a reassessment of the sanctions regime, in light of its effect on the Iraqi people and the future of Iraq. However, the US appears to be intent on continuing with this policy although it had failed to produce the anticipated objective of ousting Saddam from power. What it is actually doing is destroying the Iraqi people and their livelihood, increasing the spread of diseases, increasing malnutrition and mortality rate among children, and increasing substantially the costs of reintegrating Iraq into the region.

The other major consequence of the crisis has been to highlight of the need for a better security arrangement for the Gulf, especially in light of the total failure of the GCC in either preventing Iraqi aggression or reversing it without foreign assistance. Despite the seriousness and the urgency of this matter, the GCC member states have been unable to agree on how to remedy the situation. The GCC is undermined by widespread personal conflicts among the different ruling families, border disputes and the cautious attitude of the smaller members towards designs of Saudi domination. Thus, despite their sharing similar vested interests in the stability and security of the region their cooperation is constrained and that is shown clearly in the security arrangements that they adopted post Desert Storm. Kuwait, Bahrain, and Qatar opted to sign bilateral defence accords with the US, while the Saudis opted to continue their informal understanding with the Americans. Riyadh is still pressurised to downplay its close military relation with the US in order not to antagonise Iran, fundamentalist forces in the country and anti-American forces in the region.

In sum, there is no doubt that Iraq violated the Charters of the UN and Arab League and violated international law. The international coalition against Saddam with the cooperation of Saudi Arabia and the UN helped reverse this aggression within a short span of time and restored the sovereignty of Kuwait.

However, the costs to the region have been massive in terms of further divisions, increased presence of the US in the region, intensification of domestic economic and political pressures in the Gulf states, while the continuation of the sanctions regime is crippling Iraq and its people and is making its reintegration of Iraq into the region extremely difficult and its reconstruction bill massive. Thus, in terms of creating security and stability in the region the coalition has been less successful. The long term security of the Gulf states necessitates the lifting of sanctions on Iraq and the consideration of including both Iran and Iraq in any regional security arrangement. Also less emphasis should be put on defence and armaments and more attention paid to the underlying factors of tension in the region; unequal distribution of wealth, lack of democracy and absence of strategies for better coordination and cooperation in the region. In addition the recent trend of solving border disputes - such as the Saudi- Qatari dispute, the Omani-Emirates dispute, the Omani-Saudi dispute, the Saudi-Emirates dispute, the Saudi-Yemeni dispute and the Yemeni-Omani dispute- through negotiation and diplomacy must be emphasised.

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Appendices

Appendices

Appendix 1: Charter of the United Nations.

Chapter I: Purposes and Principles.

Article 1

The Purposes of the United Nations are:

1. To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace;
2. To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace;
3. To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion;
4. To be a centre for harmonizing the actions of nations in the attainment of these common ends.

Article 2

The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles:

1. The Organization is based on the principle of the sovereign equality of all its Members.
2. All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfil in good faith the obligations assumed by them in accordance with the present Charter.
3. All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.
4. All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with Purposes of the United Nations.
5. All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any State against which the United Nations is taking preventive or enforcement action.

6. The Organization shall ensure that States which are not Members of the United Nations act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security.

7. Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any State or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

Chapter V: The Security Council.

Article 24

1. In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf.

2. In discharging these duties the Security Council shall act in accordance with the Purposes and Principles of the United Nations. The specific powers granted to the Security Council for the discharge of these duties are laid down in Chapters VI, VII, VIII, and XII.

3. The Security Council shall submit annual and, when necessary, special reports to the General Assembly for its consideration.

Article 25

The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.

Chapter VI: Pacific Settlement of Disputes.

Article 33

1. The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.

2. The Security Council shall, when it deems necessary, call upon the parties to settle their dispute by such means.

Article 34

The Security Council may investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security.

Article 36

1. The Security Council may, at any stage of a dispute of the nature referred to in Article 33 or of a situation of like nature, recommend appropriate procedures or methods of adjustment.
2. The Security Council should take into consideration any procedures for the settlement of the dispute which have already been adopted by the parties.
3. In making recommendations under this Article the Security Council should also take into consideration that legal disputes should as a general rule be referred by the parties to the International Court of Justice in accordance with the provisions of the Statute of the Court.

Article 37

1. Should the parties to a dispute of the nature referred to in Article 33 fail to settle it by the means indicated in that Article, they shall refer it to the Security Council.
2. If the Security Council deems that the continuance of the dispute is in fact likely to endanger the maintenance of international peace and security, it shall decide whether to take action under Article 36 or to recommend such terms of settlement as it may consider appropriate.

Chapter VII: Action with Respect to threats to the peace, breaches of the peace, and acts of aggression.

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.

Article 41

The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication and the severance of diplomatic relations.

Article 42

Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.

Article 43

1 – All Members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security.

2 – Such agreement or agreements shall govern the numbers and types of forces, their degree of readiness and general location, and the nature of the facilities and assistance to be provided.

3 – The agreement or agreements shall be negotiated as soon as possible on the initiative of the Security Council. They shall be concluded between the Security Council and Members or between the Security Council and groups of Members and shall be subject to ratification by the signatory states in accordance with their respective constitutional processes.

Article 47

1 – There shall be established a Military Staff Committee to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of international peace and security, the employment and command of forces placed at its disposal, the regulation of armaments, and possible disarmament .

2 – The Military Staff Committee shall consist of chiefs of Staff of the permanent members of the Security Council or their representatives. Any Member of the United Nations not permanently represented on the Committee shall be invited by the Committee to be associated with it when the efficient discharge of the Committee's responsibilities requires the participation of that Member in its work .

3 – The Military Staff Committee shall be responsible under the Security Council for the strategic direction of any armed forces placed at the disposal of the Security Council. Questions relating to the command of such forces shall be worked out subsequently.

4 – The Military Staff Committee, with the authorization of the Security Council and after consultation with appropriate regional agencies, may establish regional subcommittees.

Article 48

1 – The action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by all the Members of the United Nations or by some of them, as the Security Council may determine.

2 – Such decisions shall be carried out by the Members of the United Nations directly and through their action in the appropriate international agencies of which they are members.

Article 49

The Members of the United Nations shall join in affording mutual assistance in carrying out the measures decided upon by the Security Council.

Article 51

Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security

Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such actions as it deems necessary in order to maintain or restore international peace and security.

Appendix 2:

Resolutions of the United Nations Security Council Regarding the Situation Between Iraq and Kuwait, August 1990.

On August 2, 1990 Iraqi forces invaded and occupied sovereign Kuwait. Starting with its condemnation of the invasion in Resolution 660, the United Nations Security Council adopted of 30 resolutions directly relating to the situation between the two countries. Fifteen resolutions were adopted prior to or during the crisis, with a further 15 adopted in direct relation to the implementation of the cease-fire accords (Resolution 687).

Resolution 660

S/RES/660(1990), 2 August 1990

Security Council resolution condemning Iraq's invasion of Kuwait, demanding the immediate and unconditional withdrawal of all Iraqi forces and calling for negotiations for a peaceful resolution of their differences.

The Security Council,

Alarmed by the invasion of Kuwait on August 1990 by the military forces of Iraq,

Determining that there exists a breach of international peace and security as regards the Iraqi invasion of Kuwait,

Acting under Articles 39 and 40 of the Charter of the United Nations,

- 1- Condemns the Iraqi invasion of Kuwait;
- 2- Demands that Iraq withdraw immediately and unconditionally all its forces to the positions in which they were located on 1 August 1990;
- 3- Calls upon Iraq and Kuwait to begin immediately intensive negotiations for the resolution of their differences and supports all efforts in this regard, and especially those of the League of Arab States;
- 4- Decides to meet again as necessary to consider further steps to ensure

compliance with the present resolution.

Resolution 662

S/RES/662(1990), 9 August 1990

Security Council resolution deciding that the annexation of Kuwait by Iraq under any form is considered null and void.

The Security Council,

Recalling its resolutions 660(1990) and 661(1990),

Gravely alarmed by the declaration by Iraq of a "comprehensive and eternal merger" with Kuwait,

Demanding, once again, that Iraq withdraw immediately and unconditionally all its forces to the positions in which they were located on 1 August 1990,

Determined to bring the occupation of Kuwait by Iraq to an end and to restore the sovereignty, independence and territorial integrity of Kuwait,

Determined also to restore the authority of the legitimate Government of Kuwait,

1- Decides that annexation of Kuwait by Iraq under any form and whatever pretext has no legal validity, and is considered null and void;

2- Calls upon all States, international organizations and specialized agencies not to recognize that annexation, and to refrain from any action or dealing that might be interpreted as an indirect recognition of the annexation;

3- Further demands that Iraq rescind its actions purporting to annex Kuwait;

4- Decides to keep this item on its agenda and to continue its efforts to put an early end to the occupation.

Resolution 664

S/RES/664(1990), 18 August 1990

Security Council resolution demanding that permit the departure of third-state nationals from Kuwait and Iraq.

The Security Council,

Recalling the Iraqi invasion and purported annexation of Kuwait and resolutions 660, 661, and 662,

Deeply concerned for the safety and well being of third State nationals in Iraq and Kuwait,

Recalling the obligations of Iraq in this regard under international law,

Welcoming the efforts of the Secretary-General to pursue urgent consultations with the Government of Iraq following the concern and anxiety expressed by the members of the Council on 17 August 1990,

Acting under Chapter VII of the United Nations Charter,

1 - Demands that Iraq permit and facilitate the immediate departure from Kuwait and Iraq of the nationals of third countries and grant immediate and continuing access of consular officials to such nationals;

2 - Further demands that Iraq take no action to jeopardize the safety, security or health of such nationals;

3 - Reaffirms its decision in resolution 662 (1990) that annexation of Kuwait by Iraq is null and void, and therefore demands that the government of Iraq rescind its orders for the closure of diplomatic and consular missions in Kuwait and the withdrawal of the immunity of their personnel, and refrain from any such actions in the future;

4 - Requests the Secretary-General to report to the Council on compliance with this resolution at the earliest possible time.

Resolution 665

S/RES/665(1990), 25 August 1990

Security Council resolution expanding the sanctions against Iraq and authorizing maritime forces to take "commensurate" measures to ensure strict compliance.

The Security Council,

Recalling its resolutions 660 (1990), 661 (1990), 662 (1990), and 664 (1990) and demanding their full and immediate implementation,

Having decided in resolution 661 (1990) to impose economic sanctions under Chapter VII of the Charter of the United Nations,

Determined to bring an end to the occupation of Kuwait by Iraq which imperils the existence of a Member State and to restore the legitimate authority, and the sovereignty, independence and territorial integrity of Kuwait which requires the speedy implementation of the above resolutions,

Deploring the loss of innocent life stemming from the Iraqi invasion of Kuwait and determined to prevent further such losses,

Gravely alarmed that Iraq continues to refuse to comply with resolutions 660(1990), 661 (1990), 662 (1990) and 664 (1990) and in particular at the conduct of the Government of Iraq in using Iraqi flag vessels to export oil,

1 - Calls upon those Member States cooperating with the Government of Kuwait which are deploying maritime forces to the area to use such measures commensurate to the specific

circumstances as may be necessary under the authority of the Security Council to halt all inward and outward maritime shipping in order to inspect and to verify their cargoes and destinations and to ensure strict implementation of the provisions related to such shipping laid

down in resolution 661(1990);

2- Invites Member States accordingly to cooperate as may be necessary to ensure compliance with the provisions of resolution 661(1990) with maximum use of political and diplomatic measures, in accordance with paragraph 1 above;

3- Requests all States to provide in accordance with the Charter such assistance as may be required by the States referred to in paragraph 1 of this resolution ;

4 - Further requests the States concerned to coordinate their actions in pursuit of the above paragraphs of this resolution using as appropriate mechanisms of the Military Staff Committee and after consultation with the Secretary-General to submit reports to the Security Council and its committee established under resolution 661(1990) to facilitate the monitoring of the implementation of this resolution;

5 - Decides to remain actively seized of the matter.

Resolution 667

S/RES/667(1990), 16 September 1990

Security Council resolution demanding that Iraq immediately release foreign nationals abducted from diplomatic premises in Kuwait or Iraq.

The Security Council,

Reaffirming its resolutions 660(1990), 661(1990), 662(1990), 664(1990), 665(1990) and 666(1990).

Recalling the Vienna Conventions of 18 April 1961 on diplomatic relations and 24 April 1963 on consular relation, to both of which Iraq is a party.

Considering that the decision of Iraq to order the closure of diplomatic and consular missions in Kuwait and to withdraw the immunity and privileges of these missions and their personnel is contrary to the decisions of the Security Council, the international Conventions mentioned above and international law.

Deeply concerned that Iraq, notwithstanding the decisions of the Security Council and the provisions of the conventions mentioned above, has committed acts of violence against diplomatic missions and their personnel in Kuwait.

Outraged at recent violations by Iraq of diplomatic premises in Kuwait and at the abduction of personnel enjoying diplomatic immunity and foreign nationals who were present in these premises.

Considering that the above actions by Iraq constitute aggressive acts and a flagrant violation of its international obligations which strike at the root of the conduct of international relations in accordance with the Charter of the United Nations.

Recalling that Iraq is fully responsible for any use of violence against any diplomatic or consular mission in Kuwait or its personnel.

Determined to ensure respect for its decisions and for Article 25 of the Charter of the United Nations.

Further considering that the grave nature of Iraq's actions, which constitute a new escalation of its violations of international law, obliges the Council not only to express its immediate reaction but also to consult urgently to take further concrete measures to ensure Iraq's compliance with the Council's resolutions.

Acting under Chapter VII of the Charter of the United Nations.

1- strongly condemns aggressive acts perpetrated by Iraq against diplomatic premises and personnel in Kuwait, including taking hostage foreign nationals in these places.

2- Demands the immediate release of those foreign nationals as well as all nationals mentioned in resolutions 664(1990).

3- Further demands that Iraq immediately and fully comply with its international obligations under resolutions 660(1990), 662(1990) and 664(1990) of the Security Council, the Vienna Conventions on Diplomatic and Consular Relations and International Law.

4- Further demands that Iraq immediately protect the safety and well-being of diplomatic and consular personnel and premises in Kuwait and in Iraq and take on action to hinder the diplomatic and consular missions in the performance of their functions, including access to their functions, including access to their nationals and the protection of their person and interests.

5- Remands all States that they are obliged to observe strictly resolutions 661(1990), 662(1990), 664(1990), 665(1990), 666(1990).

6- Decides to consult urgently to take further concrete measures as soon as possible, under Chapter VII of the Charter, in response to Iraq's continued violation of the Charter, of resolutions of the Security Council and international law.

1/ United Nations, *Treaty Series*, vol.500, No.7310.

2/ *Ibid.*, vol.596, No.8638.

Resolution 669

S/RES/669(1990), 24 September 1990

Security Council resolution asking the Sanctions Committee to recommend a response to States requesting assistance with economic problems arising from the implementation of those sanctions.

The Security Council,

Recalling its resolutions 661(1990) of 6 August 1990,

Recalling also Article 50 of the Charter of the United Nations,

Conscious of the fact that an increasing number of requests for assistance have been received under the provisions of Article 50 of the Charter of the United Nations,

Entrusts the Committee established under resolution 661 (1990) concerning the situation between Iraq and Kuwait with the task of examining requests for assistance under the provisions of Article 50 of the Charter of the United Nations and making recommendations to the president of the Security Council for appropriate action.

Resolution 670

S/RES/670(1990), 25 September 1990

Security Council resolution calling for strict compliance with the sanctions against Iraq and confirming that these sanctions apply to all means of transport, including aircraft.

The Security Council,

Reaffirming its resolutions 660(1990), 661(1990), 662(1990), 664(1990), 665(1990), 666(1990), and 667(1990),

Condemning Iraq's continued occupation of Kuwait, its failure to rescind its actions and end its purported annexation and its holding of third State nationals against their will, in flagrant violation of resolutions 661(1990), 662(1990), 664(1990), and 667(1990) and of international humanitarian law,

Condemning further the treatment by Iraqi forces of Kuwaiti nationals, including measures to force them to leave their own country and mistreatment of persons and property in Kuwait in violation of international law,

Noting with grave concern the persistent attempts to evade the measures laid down in resolution 661 (1990),

Further noting that a number of States have limited the number of Iraqi diplomatic and consular officials in their countries and that others are planning to do so,

Determined to ensure by all necessary means the strict and complete application of the measures laid down in resolution 661(1990),

Determined to ensure respect for its decisions and the provisions of Articles 25 and 48 of the Charter of the United Nations,

Affirming that any acts of the Government of Iraq which are contrary to the above-mentioned resolutions or to Articles 25 or 48 of the Charter of the United Nations, such as Decree No.377 of the Revolution Command Council

of Iraq of 16 September 1990, are null and void,

Reaffirming its determination to ensure compliance with Security Council resolutions by maximum use of political and diplomatic means,

Welcoming the Secretary-General's use of his good offices to advance a peaceful solution based on the relevant Security Council resolutions and noting with appreciation his continuing efforts to this end,

Underlining to the government of Iraq that its continued failure to comply with the terms of resolutions 661(1990), 661(1990), 662(1990), 664(1990), 666(1990) and 667(1990) could lead to further serious action by the Council under the Charter of the United Nations, including under Chapter VII,

Recalling the provisions of Article 103 of the Charter of the United Nations,

Acting under Chapter VII of the Charter of the United Nations,

- 1 - Calls upon all States to carry out their obligations to ensure strict and complete compliance with resolutions 661 (1990) and in particular paragraphs 3, 5 and 5 thereof;
- 2 - Confirms that resolution 661(1990) applies to all means of transport, including aircraft;
- 3 - Decides that all States, notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or any contract entered into or any licence or permit granted before the date of the present resolution, shall deny permission to any aircraft to take off from their territory if the aircraft would carry any cargo to or from Iraq or Kuwait other than food in humanitarian circumstances, subject to authorization by the Council or the Committee established by resolution 661 (1990) and in accordance with resolution 666 (1990), or supplies intended strictly for medical purposes or solely for UNIIMOG;
- 4- Decides further that all States shall deny permission to any aircraft destined to land in Iraq or Kuwait, whatever its State of registration, to over fly its territory unless:
 - a) The aircraft lands at an airfield designated by that State outside Iraq or Kuwait in order to permit its inspection to ensure this there is no cargo on board in violation of resolution 661(1990) or the present resolution, and for this purpose the aircraft may be detained for as long as necessary; or
 - b) The particular flight has been approved by the Committee established by resolution 661(1990); or
 - c) The flight is certified by the United Nations as solely for the purposes of UNIIMOG;
- 5 - Decides that each States shall take all necessary measures to ensure that any aircraft registered in its territory or operated by an operator who has his principal place of business or permanent residence in its territory complies with the provisions of resolution 661(1990) and the present resolution;

- 6 - Decides further that all States shall notify in a timely fashion the Committee established by resolution 661(1990) of any flight between its territory and Iraq or Kuwait to which the requirement to land in paragraph 4 above does not apply, and the purpose for such a flight;
- 7 - Calls upon all States to co-operate in taking such measures as may be necessary, consistent with international law, including the Chicago Convention, to ensure the effective implementation of the provisions of resolution 661(1990) or the present resolution;
- 8 - Calls upon all States to detain any ships of Iraqi registry which enter their ports and which are being or have been used in violation of resolution 661 (1990), or to deny such ships entrance to their ports except in circumstances recognized under international law as necessary to safeguard human life;
- 9 - Reminds all States of their obligations under resolution 661(1990) with regard to the freezing of Iraqi assets, and the protection of the assets of the legitimate Government of Kuwait and its agencies, located within their territory and to report to the Committee established under resolution 661(1990) regarding those assets;
- 10 - Call upon all States to provide to the Committee established by resolution 661(1990) information regarding the action taken by them to implement the provisions laid down in the present resolution;
- 11- Affirms that the United Nations Organization, the specialized agencies and other international organizations in the United Nations system are required to take such measures as may be necessary to give effect to the terms of resolution 661(1990) and this resolution;
- 12 - Decides to consider, in the event evasion of the provisions of resolution 661 (1990) or of the present resolution by a State or its nationals or through its territory, measures directed at the State in question to prevent such evasion;
- 13 - Reaffirms that the Fourth Geneva Convention applies to Kuwait and that as a High Contracting Party to the Convention Iraq is bound to comply fully with all its terms and in particular is liable under the Convention in respect of the grave breaches committed by it, as are individuals who commit or order the commission of grave breaches.

1/ United Nations, *Treaty Series*, vol. 15, No. 102.

2/ *Ibid.*, vol. 75, No.973.

Resolution 674

S/RES/674(1990), 29 October 1990

Security Council resolution demanding that Iraq release third-State nationals being held in Iraq or Kuwait.

Recalling its resolutions 660(1990), 661(1990), 662(1990), 664(1990), 665(1990), 666(1990), 667(1990) and 670(1990),

Stressing the urgent need for the immediate and unconditional withdrawal of Iraqi forces from Kuwait, for the resolution of Kuwait's sovereignty, independence and territorial integrity and of the authority of its legitimate government,

Condemning the actions by the Iraqi authorities and occupying forces to taking third-State nationals hostage, mistreating and oppressing Kuwaiti and third-State nationals, and the other actions reported to the Security Council, such as the destruction of Kuwaiti demographic records, the forced departure of Kuwaitis, the relocation of population in Kuwait and the unlawful destruction and seizure of public and private property in Kuwait, including hospital supplies and equipment, in violation of the decisions of the Council, the Charter of the United Nations, the Fourth Geneva Convention, the Vienna Conventions on Diplomatic and Consular Relations and International Law ,

Expressing grave alarm over the situation of nationals of third States in Kuwait and Iraq, including the personnel of the diplomatic and consular missions of such States,

Reaffirming that the Fourth Geneva Convention applies to Kuwait and that as a High Contracting Party to the Convention Iraq is bound to comply fully with all its terms and in particular is liable under the Convention in respect of the grave breaches committed by it, as are individuals who commit or order the commission of grave breaches,

Recalling the efforts of the Secretary-General concerning the safety and well-being of third-State nationals in Iraq and Kuwait,

Deeply concerned about the economic cost and about the loss and suffering caused to individuals in Kuwait and Iraq as a result of the invasion and occupation of Kuwait by Iraq, Acting under Chapter VII of the Charter of the United Nations,

Reaffirming the goal of the international community, of maintaining international peace and security by seeking to resolve international disputes and conflicts through peaceful means,

Recalling the important role that the United Nations and its Secretary-General have played in the peaceful solution of disputes and conflicts in conformity with the provisions of the Charter,

Alarmed by the dangers of the present crisis caused by the Iraqi invasion and occupation of Kuwait, which directly threaten international peace and security, and seeking to avoid any further worsening of the situation,

Calling upon Iraq to comply with the relevant resolutions of the Security Council, in particular its resolutions 660(1990), 662(1990), and 664(1990),

Reaffirming its determination to ensure compliance by Iraq with the Security Council resolutions by maximum use of political and diplomatic means,

1 - Demands that the Iraqi authorities and occupying forces immediately cease and desist from taking third-State nationals hostage, mistreating and oppressing Kuwaiti and third-State nationals and any other actions, such as those reported to the Security Council and described

- above, that violate the decisions of this Council, the Charter of the United Nations, the Fourth Geneva Convention, the Vienna Conventions on Diplomatic and Consular Relations and International Law;
- 2 - Invites states to collate substantiated information in their possession or submitted to them on the grave breaches by Iraq as per paragraph 1 above and to make this information available to the Security Council;
- 3 - Reaffirms its demand that Iraq immediately fulfil its obligations to third-State nationals in Kuwait and Iraq, including the personnel of diplomatic and personal missions, under the Charter, the Fourth Geneva Convention, the Vienna Conventions on Diplomatic and consular Relations, general principles of international law and the relevant resolutions of the Council;
- 4 - Also reaffirms its demand that Iraq permits and facilitates the immediate departure from Kuwait and Iraq of those third-State subjects, including diplomatic and consular personnel, who wish to leave.
- 5 - Demands that Iraq ensure the immediate access to food, water and basic services necessary for the protection and well-being of Kuwaiti nationals and of nationals of third-States in Kuwait and Iraq, including the personnel of diplomatic and consular missions in Kuwait ;
- 6 - Reaffirms its demand that Iraq immediately protect the safety and well-being of diplomatic and consular personnel and premises in Kuwait and Iraq, take no action to hinder these diplomatic and consular missions in the performance of their functions, including access to their nationals and the protection of their person and interests and rescind its orders, for the closure of diplomatic and consular missions in Kuwait and the withdrawal of the immunity of their personnel;
- 7 - Request the Secretary-General, in the context of the continued exercise of his good offices concerning the safety and well-being of third-State nationals in Iraq and Kuwait to seek to achieve the objectives of paragraphs 4, 5 and 6 above and in particular the provision of food, water and basic services to Kuwaiti nationals and to the diplomatic and consular missions in Kuwait and the evacuation of third-State nationals;
- 8- Reminds Iraq that under international law it is liable for any loss, damage or injury arising in regard to Kuwait and third states and their nationals and corporations, as a result of the invasion and illegal occupation of Kuwait by Iraq;
- 9 - Invites states to collect relevant information regarding their claims and those of their nationals and corporations, for restitution's or financial compensation by Iraq with a view to such arrangement as may be established in accordance with international law;
- 10 - Requires that Iraq comply with the provisions of the present resolution and its previous resolutions. And in case of non-compliance the Security Council will need to take further measures under the Charter;
- 11- Decides to remain actively and permanently seized of the matter until Kuwait has regained its independence and peace has been restored in conformity with the relevant resolutions of the Security Council;

12 - Reposes its trust in the Secretary-General to make available his good offices and, as he considers appropriate, to pursue them and to exert diplomatic efforts in order to reach a peaceful solution to the crisis caused by the Iraqi invasion and occupation of Kuwait on the bases of the Security Council resolutions 660(1990), 662(1990), and 664(1990), and call upon all states, both those in the region and others, to pursue on this basis their efforts to this end, in conformity with the Charter, in order to improve the situation and restore peace, security and stability ;

13 - Requests the Secretary-General to report to the Security Council on the results of this good offices and diplomatic efforts.

1/ United Nations, *Treaty Series*, vol. 75, No. 973.

2/ Ibid., vol. 500, No. 7310.

3/ Ibid., vol.596, No. 8638.

Resolution 677

S/RES/677(1990), 28 November 1990

Security Council resolution condemning Iraqi attempts to alter the demographic composition of the population of Kuwait.

The Security Council,

Recalling its resolutions 660(1990) of August 1990, 662(1990) of 9 August 1990 and 674 (1990) of 29 October 1990,

Reiterating its concern for suffering caused to individuals in Kuwait as a result of the invasion and occupation of Kuwait by Iraq,

Gravely concerned at the ongoing attempt by Iraq to alter the demographic composition of the population of Kuwait and to destroy the civil records maintained by the legitimate government of Kuwait,

Acting under Chapter VII of the Charter of the United Nations,

1 - Condemns the attempts by Iraq to alter the demographic composition of the population of Kuwait and to destroy the civil records maintained by the legitimate government of Kuwait;

2 - Mandates the Secretary-General to take custody of a copy of the population register of Kuwait, the authenticity of which has been certified by the legitimate government of Kuwait and which covers the registration of the population up to 1 August 1990;

3 - Requests the Secretary-General to establish, in co-operation with the legitimate government of Kuwait, an order of rules and regulations governing access to and use of the said copy of the population register.

Resolution 678

S/RES/678(1990), 29 November 1990

Security Council resolution authorizing member States cooperating with the Government of Kuwait to use "all necessary means to uphold and implement" the Council's resolutions on the situation unless Iraq fully complies with those resolutions on or before 15 January 1991.

The Security Council,

Recalling and reaffirming its resolutions 660 (1990) of 2 August 1990, 661 (1990) of 6 August 1990, 662 (1990) of 9 August 1990, 664 (1990) of 18 August 1990, 666 (1990) of 13 September 1990, 667 (1990) of 16 September 1990, 669 (1990) of 24 September 1990, 670 (1990) of 25 September 1990, 674 (1990) of 29 October 1990, and 677 (1990) of 28 November 1990,

Noting that, despite all efforts by the United Nations, Iraq refuses to comply with its obligation to implement resolution 660 (1990) and the above-mentioned subsequent relevant resolutions, in flagrant contempt of the Security Council,

Mindful of its duties and responsibilities under the Charter of the United Nations for the maintenance and preservation of international peace and Security,

Determined to secure full compliance with its decisions,

Acting under Chapter VII of Charter,

- 1 - Demands that Iraq comply fully with resolution 660 (1990) and all subsequent relevant resolutions, and decides, while maintaining all its decisions, to allow Iraq one final opportunity, as a pause of goodwill, to do so;
 - 2 - Authorizes Member States co-operating with the government of Kuwait, unless Iraq on or before 15 January 1991 fully implements, as set forth in paragraph 1 above, the foregoing resolutions, 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;
 - 3 - Requests all States to provide appropriate support for the actions undertaken in pursuance of paragraph 2 of the present resolution;
 - 4 - Requests the States concerned to keep the Security Council regularly informed on the progress of actions undertaken pursuant to paragraphs 2 and 3 of the present resolution;
 - 5 - Decides to remain seized of the matter.
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Resolution 687

S/RES/687(1991), 3 April 1991

Security Council resolution establishing detailed measures for a cease-fire, including deployment of a United Nations observer unit; arrangements for demarcating the Iraq-Kuwait

border; the removal or destruction of Iraq weapons of mass destruction measures to prevent their reconstitution, under the supervision of a special commission and the Director General of the IAEA; and creation of a compensation fund to cover direct loss and damage resulting from Iraq's invasion of Kuwait.

The Security Council,

Recalling its resolutions 660 (1990), 661 (1990), 662 (1990), 664 (1990), 665 (1990), 666 (1990), 667 (1990), 669 (1990), 670 (1990), 674 (1990), 677 (1990), 678 (1990), and 686 (1991),

Welcoming the resolution to Kuwait of its sovereignty, independence, and territorial integrity and the return of its legitimate government,

Affirming the commitment of all Member States to the sovereignty, territorial integrity and political independence of Kuwait and Iraq, and noting the intention expressed by the Member States cooperating with Kuwait under paragraph 2 of resolution 678 (1990) to bring their military presence in Iraq to an end as soon as possible consistent with paragraph 8 of resolution 686 (1991),

Reaffirming the need to be assured of Iraq's peaceful intentions in light of its unlawful invasion and occupation of Kuwait,

Taking note of the letter sent by the Foreign Minister of Iraq on 27 February 1990 (S/22275) and those sent pursuant to resolution 686 (1991) (S/22273, S/22276, S/22320, S/22321 and S/22330),

Baghdad on 4 Noting that Iraq and Kuwait, as independent sovereign States, signed at October 1963 " Agreed Minutes Regarding the Resolution 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 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,

Conscious of the need for demarcation of the said boundary,

violation of its Conscious also of the statements by Iraq threatening to use weapons in obligations under the Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on 17 June 1925, and of its prior use of chemical weapons and affirming that grave consequences would follow any further use by Iraq of such weapons,

Recalling that Iraq has subscribed to the Declaration adopted by all States participating in the Conference of States Parties to the 1925 Geneva Protocol and Other Interested States, held at Paris from 7 to 11 January 1989, establishing the objective of universal elimination of chemical and biological weapons,

Recalling further that Iraq has signed the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, of 10 April 1972,

Noting the importance of Iraq ratifying this Convention,

Noting moreover the importance of all States adhering to this Convention and encouraging its forthcoming Review Conference to reinforce the authority, efficiency and universal scope of the Convention,

Stressing the importance of an early conclusion by the Convention on Disarmament of its work on a Convention on the Universal Prohibition of Chemical Weapons and of universal adherence thereto,

Aware of the use by Iraq of ballistic missiles in unprovoked attacks and therefore of the need to take specific measures in regard to such missiles located in Iraq,

Concerned by the reports in the hands of Member States that Iraq has attempted to acquire materials for a nuclear-weapons program contrary to its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons of 1 July 1968,

Recalling the objective of the establishment of a nuclear-weapons-free zone in the region of the Middle East,

Conscious of the threat which all weapons of mass destruction pose to peace and security in the area and of the need to work towards the establishment in the Middle East of a zone free of such weapons,

Conscious also of the objective of achieving balanced and comprehensive control of armaments in the region,

Conscious further of the importance of achieving the objectives noted above using all available means, including a dialogue among the States of the region,

Noting that resolution 686 (1990) marked the lifting of the measures imposed by resolution 661 (1990) in so far they applied to Kuwait,

Noting that despite the progress being made in fulfilling the obligations of resolution 686 (1990), many Kuwaiti and third country nationals are still not accounted for and property remains unreturned,

Recalling the International Convention against the Taking of Hostages, opened for signature at New York on 18 December 1979, which categorizes all acts of taking hostages as manifestations of international terrorism,

Deploring threats made by Iraq during the recent conflict to make use of terrorism against targets outside Iraq and the taking of hostages by Iraq,

Taking note with grave concern of the reports of the Secretary-General of 20 March 1991 (S/22366) and 28 March 1991 (S/22409), and conscious of the necessity to meet urgently the humanitarian needs in Kuwait and Iraq,

Bearing in mind its objective of restoring international peace and security in the area as set out in recent Council resolutions,

Conscious of the need to take the following measures acting under Chapter VII of the Charter,

1- Affirms all thirteen resolutions noted above, except as expressly changed below to achieve the goals of this resolution, including a formal cease-fire;

A

2 - Demands 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 sovereignty at Baghdad on 4 October 1963 and registered with the United Nations and published by the United Nations in document 7063, United Nations Treaty Series, 1964;

3 - Calls on 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 map transmitted by Security Council document S/22412 and to report back to the Security Council within one month ;

4 - Decides 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;

B

5 - Requests the Secretary-General, after consulting with Iraq and Kuwait, to submit within three days to the Security Council for its approval a plan for the immediate deployment of a United Nations observer unit to monitor the Khor Abdullah and a demilitarized zone, which is hereby established, extending 10 Kilometers into Iraq and 5 Kilometers into Kuwait from the boundary referred to in the " Agreed Minutes Between the State of Kuwait and Republic of Iraq Regarding the Restoration of Friendly Relations, Recognition and Related Matters" of 4 October 1963; to deter violations of the boundary through its presence in and surveillance of the demilitarized zone; to observe any hostile or potentially hostile action mounted from the territory of one State to the other; and for the Secretary-General to report regularly to the Council on the operations of the unit, and immediately if there are serious violations of the zone or potential threats to peace;

6 - Notes that as soon as the Secretary-General notifies the Council of the completion of the deployment of the United Nations observer unit, the conditions will be established for the Member States cooperating with Kuwait in accordance with resolution 678 (1990) to bring their military presence in Iraq to an consistent with resolution 686 (1991);

C

7 - Invites Iraq to reaffirm unconditionally its obligations under the Geneva Protocol for the Prohibition of use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on 17 June 1925, and to ratify the Convention on

Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, of 10 April 1972;

8 - Decides that Iraq shall unconditionally accept the destruction, removal, or rendering harmless, under international supervision, of:

- a) all chemical and biological weapons and all stocks of agents and all related subsystems and components and all research, development, support and manufacturing facilities;
- b) all ballistic missiles with a range greater than 150 Kilometers and related major parts, and repair and production facilities;

9- decides, for the implementation of paragraph 8 above, the following:

a) Iraq shall submit to the Secretary-General, within fifteen days of the adoption of this resolution, a declaration of the locations, amounts and types of all items specified in paragraph 8 and agree to urgent, on-site inspection as specified below;

b) the Secretary-General, in consultation with the appropriate Government and, where appropriate, with the Director-General of the World Health Organization (WHO), within 45 days of the passage of this resolution, shall develop, and submit to the Council for approval, a plan calling for the completion of the following acts within 45 days of such approval:

I) the forming of a Special Commission, which shall carry out immediate on-site inspection of Iraq's biological, chemical and missile capabilities, based on Iraq's declarations and the designation of any additional locations by the Special Commission itself;

II) the yielding by Iraq of possession to the Special Commission for destruction, removal or rendering harmless, taking into account the requirements of public safety, of all items specified under paragraph 8 (a) above including items at the additional locations designated by the Special Commission under paragraph 9 (b) (I) above and the destruction by Iraq, under supervision of the Special Commission, of all its missile capabilities including launchers as specified under paragraph 8 (b) above;

III) the provision by the Special Commission of the assistance and cooperation to the Director-General of the International Atomic Energy Agency (IAEA) required in paragraphs 12 and 13 below;

10 - Decides that Iraq shall unconditionally undertake not to use, develop, construct or acquire any of the items specified in paragraphs 8 and 9 above and requests the Secretary-General, in consultation with Special Commission, to develop a plan for the further ongoing monitoring and verification of Iraq's compliance with this paragraph, to be submitted to the Council for approval within 120 days of the passage of this resolution;

11 - Invites Iraq to reaffirm unconditionally its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons, of 1 July 1968;

12 - Decides that Iraq shall unconditionally agree not to acquire or develop nuclear weapons or nuclear-weapons usable material or any subsystems or components or any research, development, support or manufacturing facilities related to the above; to submit to the Secretary-General and the Director-General of the International Atomic Energy Agency (IAEA) within 15 days of the adoption of this resolution a declaration of the locations,

amounts, and types of all items specified above; to place all of its nuclear-weapons-usable material under the exclusive control, for custody and removal, of the IAEA, with the assistance and cooperation of the Special Commission as provided for in the plan of the Secretary-General discussed in paragraph 9 (b) above; to accept, in accordance with the arrangements provided for in paragraph 13 below, urgent on-site inspection and the destruction, removal, or rendering harmless as appropriate of all items specified above; and to accept the plan discussed in paragraph 13 below for the further ongoing monitoring and verification of its compliance with these undertakings;

13 - Requests the Director-General of the International Atomic Energy Agency (IAEA) through the Secretary-General, with the assistance and cooperation of the Special Commission as provided for in the plan of the Secretary-General in paragraph 9 (b) above, to carry out immediate on-site inspection of Iraq's nuclear capabilities based on Iraq's declarations and the designation of any additional locations by the Special Commission; to develop a plan for submission to the Security Council within 45 days calling for the destruction, removal, or rendering harmless as appropriate of all items listed in paragraph 12 above; to carry out the plan within 45 days following approval by the Security Council; and to develop a plan, taking into account the rights and obligations of Iraq under the Treaty on the Non-Proliferation of Nuclear Weapons, of 1 July 1968, for the further ongoing monitoring and verification of Iraq's compliance with paragraph 12 above, including an inventory of all nuclear material in Iraq subject to the Agency's verification and inspections to confirm that IAEA safeguards cover all relevant nuclear activities in Iraq, to be submitted to the Council for approval within 120 days of the passage of this resolution;

14 - Takes note that the actions to be taken by Iraq in paragraphs 8, 9, 10, 11, 12, and 13 of this resolution represent steps towards the goal of establishing in the Middle East a zone free from weapons of mass destruction and all missiles for their delivery and the objective of a global ban on chemical weapons;

D

15 - Requests the Secretary-General to report to the Security Council on the steps taken to facilitate the return of all Kuwaiti property seized by Iraq, including a list of property which Kuwait claims has not been returned or which has not been returned intact;

E

16 - Reaffirms that Iraq, without prejudice to the debts and obligations of Iraq arising prior to 2 August 1990, which will be addressed through the normal mechanisms, is liable under international law for any direct loss, damage, depletion of natural resources, or injury to foreign Governments, nationals and corporations, as a result of Iraq's unlawful invasion and occupation of Kuwait;

17- Decide that all Iraqi statements made since 2 August 1990, repudiating its foreign debt, are null and void, and demands that Iraq scrupulously adhere to all of its obligations concerning servicing and repayment of its foreign debt;

18- Decides to create a Fund to pay compensation for claims that fall within paragraph 16 above and to establish a Commission that will administer the Fund;

19 - Directs the Secretary-General to develop and present to the Council for decision, on later than 30 days following the adoption of this resolution, recommendations for the Fund to meet the requirement for the payment of claims established in accordance with paragraph 18 above and for a program to implement the decisions in paragraph 16, 17 and 18 above, including: administration of the Fund; mechanisms for determining the appropriate level of Iraq's contribution to the Fund based on a percentage of the value of the exports of petroleum and petroleum products from Iraq not to exceed a figure to be suggested to the Council by the Secretary-General, taking into account the requirements of the people of Iraq's payment capacity as assessed in conjunction with the international financial institutions taking into consideration external debt service, and the needs of the Iraqi economy; arrangements for ensuring that payments are made to the Fund; the process by which funds will be allocated and claims paid; appropriate procedures for evaluating losses, listing claims and verifying their validity and resolving disputed claims in respect of Iraq's liability as specified in paragraph 16 above; and the composition of the Commission designated above;

F

20 - Decides, effective immediately, that the prohibitions against the sale or supply to Iraq of commodities or products other than medicine and health supplies, and prohibitions against financial transactions related thereto, contained in resolution 661 (1990) shall not apply to foodstuffs notified to the Committee established by resolution 661 (1990) or, with the approval of the Committee, under the simplified and accelerated "no-objection" procedure, to materials and supplies for essential civilian needs as identified in the report of the Secretary-General dated 20 March 1991 (S/22366), and in any further findings of humanitarian need by the Committee;

21 - Decides that the Council shall review the provisions of paragraph 20 above every sixty days in light of the policies and practices of the Government of Iraq, including the implementation of all relevant resolutions of the Security Council, for the purpose of determining whether to reduce or lift the prohibitions referred to therein;

22 - Decides that upon the approval by the Council of the program called for in paragraph 19 above and upon Council agreement that Iraq has completed all actions contemplated in paragraphs 8, 9, 10, 11, 12, and 13 above, the prohibitions against the import of commodities and products originating in Iraq and the prohibitions against financial transactions related thereto contained in resolution 661 (1990) shall have no further force or effect; 23- Decides that, pending action by the Council under paragraph 22 above, the Committee established under resolution 661 (1990) shall be empowered to approve, when required to assure

adequate financial resources on the part of Iraq to carry out the activities under paragraph 20 above, exceptions to the prohibition against the import of commodities and products originating in Iraq;

24 - Decides that, in accordance with resolution 661 (1990) and subsequent related resolutions and until a further decision is taken by the Council, all States shall continue to prevent the sale or supply, or promotion or facilitation of such sale or supply, to Iraq by their nationals, or from their territories or using their flag vessels or aircraft, of:

- a) arms and related materiel of all types, specifically including the sale or transfer through other means of all forms of conventional military equipment, including for paramilitary forces, and spare parts and components and their means of production, for such equipment;
- b) items specified and defined in paragraph 8 and paragraph 12 above not otherwise covered above;
- c) technology under licensing or other transfer arrangement used in the production, utilization or stockpiling of items specified in subparagraph (a) and (b) above;
- d) personnel or materials for training or technical support services relating to the design, development, manufacture, use, maintenance or support of items specified in subparagraphs (a) and (b) above;

25 - Calls upon all States and international organizations to act strictly in accordance with paragraph 24 above, notwithstanding the existence of any contracts, agreements, licences, or any other arrangements;

26 - Requests the Secretary-General, in consultation with appropriate Governments, to develop within 60 days, for approval by the Council, guidelines to facilitate full international implementation of paragraph 24 and 25 above and paragraph 27 below, and to make them available to all States and to establish a procedure for updating these guidelines periodically ;

27- Calls upon all States to maintain such national controls and procedures and to take such other actions consistent with the guidelines to be established by the Security Council under paragraph 26 above as may be necessary to ensure compliance with the terms of paragraph 24 above, and calls upon international organizations to take all appropriate steps to assist in ensuring such full compliance;

28 - Agrees to review its decisions in paragraph 22, 23, 24, and 25 above, except for the items specified and defined in paragraphs 8 and 12 above, on a regular basis and in any case 120 days following passage of this resolution, taking into account Iraq's compliance with this resolution and general progress towards the control of armaments in the region;

29 – Decides that all States, including Iraq, shall take the necessary measures to ensure that no claim shall lie at the instance of the Government of Iraq, or of any person claiming through or for the benefit of any such person or body, in connection with any contract or other transaction where its performance was affected by reason of the measures taken by the Security Council in resolution 661 (1990) and related resolution;

G

30 - Decides that, in furtherance of its commitment to facilitate the repatriation of all Kuwaiti and third country nationals, Iraq shall extend all necessary cooperation to the International Committee of the Red Cross, providing lists of such persons, facilitating the access of the International Committee of the Red Cross to all such persons wherever located or detained and facilitating the search by the International Committee of the Red Cross for those Kuwaiti and third country nationals still unaccounted for;

31- Invites the International Committee of the Red Cross to keep the Secretary-General apprised as appropriate of all activities undertaken in connection with facilitating the repatriation or return of all Kuwaiti and third country nationals or their remains present in Iraq on or after 2 August 1990;

H

32 - Requires Iraq to inform the Council that it will not commit or support any act of international terrorism or allow any organization directed towards commission of such acts to operate within its territory and to condemn unequivocally and renounce all acts, methods, and practices of terrorism;

I

33 - Declares that, upon official notification by Iraq to the Secretary-General and to the Security Council of its acceptance of the provisions above, a formal cease-fire is effective between Iraq and Kuwait and the Member States cooperating with Kuwait in accordance with resolution 678 (1990);

34 - Decides to remain seized of the matter and to take such further steps as may be required for the implementation of this resolution and to secure peace and security in the area.

1 / *Official Records of the Security Council, Forty-sixth year, Supplement for January, February and March 1991*, document S/22273.

2 / *Ibid.*, documents S/22275 and S/ 22276.

3 / *Ibid.*, documents S/22320 and S/22321.

4 / *Ibid.*, document S/ 22330.

5 / United Nations, *Treaty Series*, vol. 485, No.7063.

6 / League of Nations, *Treaty Series*, vol. XCIV (1929), No. 2138.

7 / A/44/88, annex.

8 / General Assembly resolution 2826 (XXVI), annex.

9 / United Nations, *Treaty Series*, vol. 729, No. 10485.

10 / General Assembly resolution 34/146, annex.

11 / *Official Records of the Security Council, Forty-sixth year, Supplement for April, May and June 1991*, document S/22366, annex.

12 / *Official Records of the Security Council, Forty-sixth year, Supplement for January, February and March 1991*, document S/22409, annex.

13 / *Ibid.*, document S/22412.

Resolution 688

S/RES/688(1991), 5 April 1991

Security Council resolution demanding that Iraq end repression of the civilian population in many parts of Iraq and insisting that it allow immediate access by international humanitarian organizations to all those in need of assistance.

The Security Council,

Mindful of its duties and its responsibilities under the Charter of the United Nations for the maintenance of international peace and security,

Recalling Article 2, paragraph 7, of the Charter of the United Nations,

Gravely concerned by the repression of the Iraqi civilian population in many parts of Iraq, including most recently in Kurdish populated areas which led to a massive flow of refugees towards and to cross border incursions, which threaten international peace and security in the region,

Deeply disturbed by the magnitude of the human suffering involved,

Taking note also of the letters sent by the permanent Representative of the Islamic Republic of Iran to the United Nations dated 3 and 4 April 1991, respectively (S/22436 and S/22447),

Reaffirming the commitment of all Member States to the sovereignty, territorial integrity and political independence of Iraq and of all States in the area,

Bearing in mind the Secretary-Generals report of 20 March 1991 (S/22366),

1- Condemns the repression of the Iraqi civilian population in many parts of Iraq, including most recently in Kurdish populated areas, the consequences of which threaten international peace and security in the region;

2 - Demands that Iraq, as a contribution to removing the threat to international peace and security in the region, immediately end this repression and expresses the hope in the same context that an open dialogue will take place take place to ensure that the human and political rights of all Iraqi citizens are respected;

3 - Insists that Iraq allow immediate access by international organizations to all those in need of assistance in all parts of Iraq and to make available all necessary facilities for their operations;

4 - Requests the Secretary General to pursue his humanitarian efforts in Iraq and to report forthwith, if appropriate on the basis of a further mission to the region, on the plight of the Iraqi civilian population, and particular the Kurdish population, suffering from the repression in all its from inflicted by the Iraqi authorities;

- 5 - Requests further the Secretary-General to use all the resources at his disposal, including those of the relevant United Nations agencies, to address urgently the critical needs of the refugees and displaced Iraqi population;
- 6 - Appeals to all Member States and to all humanitarian organizations to contribute to these humanitarian relief efforts;
- 7 - Demands that Iraq cooperate with the Secretary-General to these ends;
- 8 - Decides to remain seized of the matter.

1 / *Official Records of the Security Council, Forty-sixth year, Supplement for April, May and June 1991*, document S/23300.

2 / *Ibid.*, documents S/22436 and S/22447.

3 / *Ibid.*, document S/22366, annex.

Resolution 692

S/RES/692(1991), 20 May 1991

Security Council resolution establishing the United Nations Compensation Fund and the United Nations Compensation Commission.

The Security Council,

Recalling its resolutions 674 (1990) of 29 October 1990, 686 (1991) of March 1991 and 687 (1991) of 3 April 1991, concerning the liability of Iraq, without prejudice to its debts and obligations arising prior to 2 August 1990, for any direct loss, damage, including environmental damage and the depletion of natural resources, or injury to foreign Governments, nationals and corporations as a result of Iraq's unlawful invasion and occupation of Kuwait,

Taking note of the Secretary-General's report of 2 May 1991 (S/22559), submitted in accordance with paragraph 19 of resolution 687 (1991),

Acting under Chapter VII of the Charter of the United Nations,

1 - Expresses its appreciation to the Secretary-General for his report of 2 May 1991 (S/22559);

2 - Welcomes the fact that the Secretary-General will now undertake the appropriate consultations requested by paragraph 19 of resolution 687 (1991) so that he will be in a position to recommend to the Security Council for decision as soon as possible the figure which the level of Iraq's contribution to the Fund will not exceed;

3 - Decides to establish the Fund and the Commission referred to in paragraph 18 of resolution 687 (1991) in accordance with section I of the Secretary-General's report, and that

the Governing Council will be located at the United Nations Office at Geneva and that the Governing Council may decide whether some of the activities of the Commission should be carried out elsewhere;

4 - Requests the Secretary-General to take the actions necessary to implement paragraphs 2 and above in consultation with the members of the Governing Council;

5 - Directs the Governing Council to proceed in an expeditious manner to implement the provisions of section E of resolution 687 (1991), taking into account the recommendations in section II of the Secretary-Generals report;

6 - Declares that the requirement for Iraqi contributions will apply in the manner to be prescribed by the Governing Council with respect to all Iraqi petroleum and petroleum products exported from Iraq after 8 April 1991 as well as such petroleum products exported earlier are not delivered or not paid for as a specific result of the prohibition contained in resolution 661 (1990);

7 - Requests the Governing Council to report as soon as possible on the actions it has taken with regard to the mechanisms for determining the appropriate level of Iraq's contribution to the Fund and the arrangements for ensuring that payments are made to the Fund, so that the Security Council can give its approval in accordance with paragraph 22 of resolution 687 (1991);

8 - Requests that all States and International organizations cooperate with the decisions of the Governing Council taken pursuant to paragraph 5 of this resolution and further requests that the Governing Council keep the Security Council informed on this matter;

9 - Decides that if the Governing Council notifies the Security Council that Iraq has failed to carry out decisions of the Governing Council taken pursuant to paragraph 5 of this resolution, the Security Council intends to retain or to take action to reimpose the prohibition against the import of petroleum and petroleum products originating in Iraq and financial transactions related hereto;

10 - Decides to remain seized of this matter and that the Governing Council will submit periodic reports to the Secretary-General and the Security Council.

1 / *Official Records of the Security Council, Forty-sixth year, Supplement for April, May and June 1991*, document S/22559.

Resolution 700

S/RES/700(1991), 17 June 1991

Security Council resolution approving guidelines for monitoring the arms embargo against Iraq.

The Security Council,

Recalling its resolutions 661 (1990), of 6 August 1990, 665 (1990) of 25 August 1990, 670(1990) of September 1990 and 687 (1991) of 3 April 1991,
Taking note of the Secretary-General's report of 2 June 1991 (S/22660) submitted pursuant to paragraph 26 of resolution 687 (1991),
Acting under Chapter VII of the Charter of the United Nations,
1 - Expresses its appreciation to the Secretary-General for his report 2 June 1991 (S/22660),
2 - Approves its Guidelines to Facilitate Full International Implementation of paragraphs 24, 25 and 27 of Security Council resolution 687 (1991), annexed to the report of the Secretary-General (S/22660),
3 - Reiterates its call upon all States and international organizations to act in a manner consistent with the Guidelines;
4 - Requests all States, in accordance with paragraph 8 of the Guidelines, to report to the Secretary-General within 45 days on the measures they have instituted for meeting the obligations set out in paragraph 24 of resolution 687 (1991);
5 - Entrusts the Committee established under resolution 661 (1990) concerning the situation between Iraq and Kuwait with the responsibility, under the Guidelines, for monitoring the prohibitions against the sale or supply of Iraq and related sanctions established in paragraph 24 of resolution 687 (1991);
6 - Decides to remain seized of the matter and to review the Guidelines at the same time as it reviews paragraphs 22, 23, 24 and 25 of resolution 687 (1991) as set out in paragraph 28 thereof.

1 / *Official Records of the Security Council, Forty-sixth year, Supplement for April, May and June 1991*, document S/22660.

2 / *Ibid.*, document S/22660, annex.

Resolution 705

S/RES/705(1991), 15 August 1991

Security Council resolution endorsing the Secretary-General's suggestion that compensation to be paid by Iraq should not exceed 30 per cent of the annual value of its oil exports.

The Security Council,

Having considered the note of 30 May 1991 of the Secretary-General submitted pursuant to paragraph 13 of his report of 2 May 1991 (S/22559) which was also annexed to his letter (S/22661), of 30 May 1991 addressed to the President of the Security Council,

Acting under Chapter VII of the Charter,

- 1 - Expresses its appreciation to the Secretary-General for his note of 30 May 1991 which was annexed to his letter to the President of the Security Council of the same date (S/22661);
- 2 - Decides that in accordance with the suggestion made by the Secretary-General in paragraph 7 of his note of 30 May 1991, compensation to be paid by Iraq (as in arising from section E of resolution 687) shall exceed 30 percent of the annual value of the exports of petroleum and petroleum products from Iraq;
- 3 - Decides further, in accordance with paragraph 8 of the Secretary-General's note of 30 May 1991, to review the figure established in paragraph 2 above from time to time in light of data and assumptions contained in the letter of the Secretary-General (S/22661) and other relevant developments.

1 / *Official Records of the Security Council, Forty-sixth Year, Supplement for April, May and June 1991*, document S/22559.

2 / *Ibid*, document S/22661.

Resolution 712

S/RES/712(1991), 19 September 1991

Security Council resolution confirming the \$1.6 billion ceiling for Iraqi oil sales and authorizing the release of funds to meet Iraq's essential civilian needs.

The Security Council,

Recalling its previous relevant resolutions, and in particular resolution 661 (1990) of 6 August 1990, 686 (1991) of 2 March 1991, 687 (1991) of 3 April 1991, 688 (1991) of 5 April 1991, 692 (1991) of 20 May 1991, 699 (1991) of 17 June 1991, and 705 (1991) and 706 (1991) of 15 August 1991,

Expressing its appreciation for the report submitted by the Secretary-General on 4 September 1991 pursuant to paragraph 5 of resolution 706 (1991), 1/

Reaffirming its concern about the nutritional and health situation of the Iraqi civilian population and the risk of a further deterioration of this situation, and underlining the need in this context for fully up-to-date assessments of the situation in all parts of Iraq as a basis for the equitable distribution of humanitarian relief to all segments of the Iraqi civilian population,

Recalling that the activities to be carried out by or on behalf of the Secretary-General to meet the purposes referred to in resolution 706 (1991) and the present resolution enjoy the privileges and immunities of the United Nations,

Acting under the Chapter VII of the Charter of the United Nations,

1 – Confirms the figure mentioned in paragraph 1 of resolution 706 (1991) as the sum authorized for the purpose of that paragraph, and reaffirms its intention to review this sum on

the basis of its ongoing assessment of the needs and requirements, in accordance with paragraph 1 (d) of that resolution;

2 – Invites the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait to authorize immediately, pursuant to paragraph 1 (d) of resolution 706 (1991), the release by the Secretary-General from the escrow account of the first one-third portion of the sum referred to in paragraph 1 above, such release to take place as required subject to the availability of funds in the account and, in the case of payments to finance the purchase of foodstuffs, medicines and materials and supplies for essential civilian needs that have been notified or approved in accordance with existing procedures, subject to compliance with the procedures laid down in the report of the Secretary-General 1/ as approved in paragraph 3 below;

3 – Approves the recommendations contained in paragraphs 57 (d) and 58 of the Secretary-General's report;

4 – Encourages the Secretary-General and the Committee to cooperate, in close consultation with the Government of Iraq, on a continuing basis to ensure the most effective implementation of the scheme approved in the present resolution;

5 – Decides that petroleum and petroleum products subject to resolution 706 (1991) shall, while under Iraqi title, be immune from legal proceedings and not be subject to any form of attachment, garnishment or execution, and that all States shall take any steps that may be necessary under their respective domestic legal systems to assure this protection and to ensure laid down in resolution 706 (1991);

6 – Reaffirms that the escrow account to be established by the United Nations and administered by the Secretary-General to meet the purposes of resolution 706 (1991) and the present resolution, like the United Nations Compensation Fund established by resolution 692 (1991), enjoys the privileges and immunities of the United Nations;

7 – Reaffirms also that the inspectors and other experts on mission for the United Nations, appointed for the present resolution, enjoy privileges and immunities in accordance with the Convention on the Privileges and Immunities of the United Nations, 2/ and demands that Iraq allow them full freedom of movement and all necessary facilities;

8 – Confirms that funds contributed from other sources may, if desired, in accordance with paragraph 1 (c) of resolution 706 (1991), be deposited into the escrow account as a sub-account and be immediately available to meet Iraq's humanitarian needs as referred to in paragraph 20 of resolution 687 (1991) without any of the obligatory deductions and administrative costs specified in paragraph 2 and 3 of resolution 706 (1991);

9 – Urges that any provision to Iraq of foodstuffs, medicines or other items of a humanitarian character, in addition to those purchased with the funds referred to in paragraph 1 above, be undertaken through arrangements that assure their equitable distribution to meet humanitarian needs;

10 – Requests the Secretary-General to take the actions necessary to implement the above decisions, and authorizes him to enter into any arrangements or agreements necessary to accomplish this;

11 – Calls upon States to cooperate fully in the implementation of resolution 706 (1991) and the present resolution, in particular with respect to any measures regarding the import of petroleum and petroleum products and the export of foodstuffs, medicines and materials and supplies for essential civilian needs as referred to in paragraph 20 of resolution 687 (1991), and also with respect to the privileges and immunities of the United Nations and its personnel implementing the present resolution, and to ensure that there are no diversions from the purposes laid down in these resolution;

12 – Decides to remain seized of the matter.

1/ Official Records of the Security Council, Forty-sixth Year, Supplement for July, August and September 1991, S/23006 and Corr.2 .

Resolution 715

S/RES/715 (1991), 11 October 1991

Security Council resolution approving the plans submitted by the Secretary-General (S/ 22871 Rev.1, 2 October 1991) and the Director General of IAEA (S/22872 Rev.1, 20 September 1991)

The Security Council,

Recalling its resolutions 687 (1991) of 3 April 1991 and 707 (1991) of 15 August 1991, and its other resolution on this matter,

Recalling in particular that under resolution 687 (1991) the Secretary-General and the Director General of the International Atomic Energy Agency were requested to develop plans future ongoing monitoring and verification, and to submit them to the Security Council for approval,

Taking note of the report and note of the Secretary-General, 1/ transmitting the plans submitted by the Secretary-General and Director General of the International Atomic Energy Agency ,

Acting under Chapter VII of the Charter of the United Nations,

1 – Approves, in accordance with the provisions of resolution 687 (1991), 707 (1991) and the present resolution, the plans submitted by the Secretary-General and the Director General of International Atomic Energy Agency; 1/

2 – Decides that the Special Commission shall carry out the plan submitted by the Secretary-General, 2/ as well as continuing to discharge its other responsibilities under resolutions 687

(1991), 699 (1991), and 707 (1991) and performing such other functions as are conferred upon it under the present resolution;

3 – Requests the Director General of the International Atomic Energy Agency to carry out, with the assistance and cooperation of the Special Commission, the plan submitted by him 3/ and to continue to discharge his other responsibilities under resolution 687 (1991), 699 (1991) and 707 (1991);

4 – Decides that the Special Commission, in the exercise of its responsibilities as a subsidiary organ of the Security Council, shall:

a) Continue to have the responsibility for designating additional locations for inspection and over flights;

b) Continue to render assistance and cooperation to the Director General of the International Atomic Energy Agency, by providing him by mutual agreement with the necessary special expertise and logistical, informational and other operational support for the carrying out of the plan submitted by him;

c) Perform such other functions, in cooperation in the nuclear field with the Director General of the International Atomic Energy Agency, as may be necessary to coordinate activities under the plans approved by the present resolution, including making use of commonly available services and information to the fullest extent possible, in order to achieve maximum

efficiency and optimum use of resources;

5 – Demands that Iraq meet unconditionally all its obligations under the plans approved by the present resolution and cooperate fully with the Special Commission and the Director General of the International Atomic Energy Agency in carrying out the plans;

6 – Decides to encourage the maximum assistance, in cash and in kind, from all Member States to support the Special Commission and the Director General of the International Atomic Energy Agency in carrying out their activities under the plans approved by the present resolution, without prejudice to Iraq's liability for the full costs of such activities;

7 – Requests the Committee established under resolution 661 (1990), the Special Commission and the Director General of the International Atomic Energy Agency to develop in cooperation a mechanism for monitoring any future sales or supplies by other countries to Iraq of items relevant to the implementation of section C of resolution 687 (1991) and other relevant resolution, including the present resolution and the plans approved hereunder; 8 – Requests the Secretary-General and the Director General of the International Atomic Energy Agency to submit to the Security Council reports on the implementation of the plans approved by the present resolution, when requested by the Security Council and in any event at least every six months after the adoption of this resolution ;

9 – Decides to remain seized of the matter.

1/ *Official Records of the Security Council, Forty-sixth year, Supplement for October, November and December 1991, document S/2871/Rev. 1.*

Resolution 778

S/RES/778 (1992), 2 October 1992

Security Council resolution concerning Iraq's assets frozen outside Iraq.

The Security Council,

Recalling its previous relevant resolution and in particular resolutions 706 (1991) of 15 August 1991 and 712 (1991) of 19 September 1991,

Taking note of the Letter of 15 July 1992 from the Secretary-General to the President of the Security Council on Iraq's compliance with the obligations placed on it by resolution 687 (1991) of 3 April subsequent resolution,

Condemning Iraq's continued failure to comply with its obligations under relevant resolution, Reaffirming its concern about the nutritional and health situation of the Iraqi civilian population, and the risk of a further deterioration of this situation, and recalling in this regard that resolutions 706 (1991) and 712 (1991) provide a mechanism for providing humanitarian relief to the Iraq population, and that resolution 688 (1991) of 5 April 1991 provides a basis for humanitarian relief efforts in Iraq,

Having regard to the fact that period of six months referred to in resolutions 706 (1991) and 712 (1991) expired on 18 March 1992,

Deploring Iraq's refusal to cooperate in the implementation of resolutions 706 (1991) and 712 (1991), which puts its civilian population at risk and which results in the failure by Iraq to meet its obligations under relevant Council resolutions,

Recalling that the escrow account provided for in resolution 706 (1991) and 712 (1991) will consist of Iraqi funds administered by the Secretary-General which will be used to pay contributions to the United Nations Compensation Fund, the full costs of carrying out the tasks authorized in section C of resolution 687 (1991), the full costs incurred by the United Nations in facilitating the return of all Kuwaiti property seized by Iraq, half the costs of the United Nations Iraq-Kuwait Boundary Demarcation Commission and the cost to the United Nations of implementing resolution 706 (1991) and of other necessary humanitarian activities in Iraq,

Recalling that Iraq, as stated in paragraph 16 of the resolution 687 (1991), is liable for all direct damages resulting from its invasion and occupation of Kuwait, without prejudice to its debts and obligations arising prior to 2 August 1990, which will be addressed through the normal mechanisms,

Recalling its decision in resolution 692 (1991) of 20 May 1991 that the requirement for Iraqi contributions to the Compensation Fund applies certain Iraqi petroleum and petroleum products exported from Iraq before 3 April 1991,

Acting under Chapter VII of the Charter of the United Nations,

1 – Decides that all States in which there are funds of the government of Iraq, or its State bodies, corporations, or agencies, that represent the proceeds of sale of Iraqi petroleum or petroleum products, paid for, by or on behalf of the purchaser on or after 6 August 1990, shall cause the transfer of those funds (or equivalent amounts) as soon as possible to the escrow account provided for in resolutions 706 (1991) and 712 (1991) provided that this paragraph shall not require any State to cause the transfer of such funds in excess of 200 million United States dollars or to cause the transfer of more than 50 per cent of the total funds transferred or contributed pursuant to paragraphs 1 to 3 of the present resolution and further provided that States may exclude from the operation of this paragraph any funds which have already been released to a claimant or supplier prior to the adoption of the present resolution, or any other funds subject to or required to satisfy the rights of third parties, at the time of the adoption of the present resolution;

2 - Also decides that all States in which there are petroleum or petroleum products owned by the government of Iraq, or its State bodies, corporations, or agencies, shall take all feasible steps to purchase or arrange for the sale of such petroleum or petroleum products at fair market value, and thereupon to transfer the proceeds as soon as possible to the escrow account provided for in resolutions 706 (1991) and 712 (1991);

3 – Urges all States to contribute funds from other sources to the escrow account as soon as possible;

4 – Decides further that all States shall provide the Secretary-General with any information needed for the effective implementation of the present resolution and that they shall take the necessary measures to ensure that banks and other bodies and persons provide all relevant information necessary to identify the funds referred to in paragraphs 1 and 2 above and details of any transactions relating thereto, or the said petroleum or petroleum products, with a view to such information being utilized by all States and by the Secretary-General in the effective implementation of the present resolution;

5 – Requests the Secretary-General;

a) To ascertain the whereabouts and amounts of the said petroleum and petroleum products and the proceeds of sale referred to in paragraphs 1 and 2 above, drawing on the work already done under the auspices of the United Nations Compensation Commission, and report the results to the Council as soon as possible;

b) To ascertain the of United Nations activities concerning the elimination of weapons of mass destruction, the provision of humanitarian relief in Iraq, and the other United Nations operations specified in paragraphs 2 and 3 of resolution 706 (1991);

c) To take the following actions:

l) To transfer to the United Nations Compensation Fund, from the funds referred to in paragraphs 1 and 2 above, the percentage referred to in paragraph 10 below; and

ii) To use the remainder of funds referred to in paragraphs 1 to 3 for the costs of United Nations activities concerning the elimination of weapons of destruction, the provision of humanitarian relief in Iraq, and the other United Nations operations specified in paragraphs 2 and 3 of resolution 706 (1991), taking into account any preference expressed by States transferring or contributing funds as to the allocation of such funds among these purposes;

6 – Decides that for so long as oil exports take place pursuant to the system provide in resolution 706 (1991) and 712 (1991) or to the eventual lifting of sanctions pursuant to paragraph 22 of resolution 687 (1991) implementation of paragraphs 1 to 5 above shall be suspended and all proceeds of those oil exports shall immediately be transferred by the Secretary-General in the currency in which the transfer to the escrow account was made, to the accounts or States from which funds had been provided under paragraphs 1 to 3 above, to the extent required to replace in full the amounts so provided (together with applicable interest), and that, if necessary for this purpose, any other funds remaining in the escrow account shall similarly be transferred to those accounts or States, provided, however, that the Secretary-General may retain and use any funds urgently needed for the purposes specified in paragraph 5 (c) (ii) above;

7 – Decides that the operation of the present resolution shall have no effect on rights, debts and claims existing with respect to funds prior to their transfer to the escrow account; and that the accounts from which such funds were transferred shall be kept open for retransfer of the funds in question;

8 – Reaffirms that the escrow account referred to in the present resolution, like the Compensation Fund, enjoys the privileges and immunity from legal proceedings, or any forms of attachment, garnishment or execution; and that no claim shall lie at the instance of any person or body in connection with any action taken in compliance with or implementation of the present resolution;

9 – Requests the Secretary-General to repay, from any available funds in the escrow account, any sum transferred under the present resolution to the account or State from which it was transferred, if the transfer is found at any time by him not to have been of funds subject to the present resolution; a request for such a finding could be made by State from which the funds were transferred;

10 – Confirms that the percentage of the value of exports of petroleum and petroleum products from Iraq for payment to the Compensation Fund shall, for the purpose of the present resolution and exports of petroleum or petroleum products subject to paragraph 6 of resolution 692 (1991), be the same as the percentage decided by the Security Council in paragraph 2 of resolution 705 (1991) of 15 August 1991, until such time as the Governing Council of the Compensation Fund may decide otherwise;

11 – Decides that no further Iraqi assets shall be released for purposes set forth in paragraph 20 of resolution 687 (1991) except to the sub-account of the escrow account established pursuant to paragraph 8 of resolution 712 (1991), or directly to the United Nations for humanitarian activities in Iraq;

- 12 – Decides that, for the purposes of the present resolution and other relevant resolution, the term “petroleum products” does not include petrochemical derivatives;
 - 13 – Calls upon all States to cooperate fully in the implementation of the present resolution;
 - 14 – Decides to remain seized of this matter.
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Resolution 806

S/RES/806(1993), 5 February 1993

Security Council resolution concerning UNIKOM.

The Security Council,

Reaffirming its resolution 687 (1991) of 3 April 1991, in particular paragraphs 2 to 5 thereof, and its resolution 689 (1991) of 9 April 1991 and 773 (1992) of 26 August 1992, and its other resolutions on this matter,

Having considered the report of the Secretary-General of 18 and 19 January 1993, 1/

Noting with approval that work is being completed on the realignment of the demilitarized zone referred to in paragraph 5 of resolution 687 (1991) to correspond to the international boundary demarcated by the United Nations Iraq-Kuwait Boundary Demarcation Commission, Deeply concerned at recent actions by Iraq in violation of relevant Security Council resolution, including the series of border incidents involving the United Nations Iraq-Kuwait Observation Mission,

Recalling the statements made by the President on behalf of the Council on 8 /2 and 11 January 3/ 1993,

Acting under Chapter VII of the Charter of the United Nations,

1 – underlines once again its guarantee of the inviolability of the international boundary between the State of Kuwait and the Republic of Iraq and its decision to take as appropriate all necessary measures to that end in accordance with the Charter of the United Nations, as provided for in paragraph 4 of resolution 687 (1991);

2 – Approves the report of the Secretary-General, and decides to extend the terms of reference of the United Nations Iraq-Kuwait Observation Mission to include the functions contained in paragraph 5 of the report;

3 – Requests the Secretary-General to plan and execute a phased deployment of the strengthening of the Mission, taking into account the need for economy and other relevant factors and to report to the Council on any step he intends to take following an initial deployment;

4 - Reaffirms that the question of termination or continuation of the Mission and the modalities of the Mission will continue to be reviewed every six months pursuant to paragraphs 2 and 3 of resolution 689 (1991), the next review to take place in April 1993;

5 – Decides to remain seized of the matter.

1 / *Official Records of the Security Council, Forth-eighth Year, Supplement for January, February and March 1993*, documents S/25123 and Add.1.

2 / S/25081.

3 / S/25091.

Resolution 833

S/RES/833(1993), 27 May 1993

Security Council resolution concerning the Iraq-Kuwait Boundary Demarcation Commission.

The Security Council,

Reaffirming its resolution 687 (1991) of 3 April 1991, in particular paragraphs 2 to 4 thereof, and its resolutions 689 (1991) of 9 April 1991, 773 (1992) of 26 August 1992, and 806 (1993) of February 1993,

Recalling the report of the Secretary-General of 2 May 1991 concerning the establishment of the United Nations Iraq- Kuwait Boundary Demarcation Commission, 1/ the subsequent exchange of Letters between the Secretary-General and the President of the Security Council dated 6 and 13 May 1991, 2/ and the acceptance of the report by Iraq and Kuwait,

Having considered the Letter dated 21 May 1993 from the Secretary-General to the President of the Security Council 3/ transmitting the final report of the Commission,

Recalling in this connection that through demarcation process the Commission was not reallocating territory between Kuwait and Iraq, but 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 between the State of Kuwait and the Republic of Iraq regarding the resolution of friendly relations, recognition and related matters" 4/ signed by them on 4 October 1963, and that this task was carried out in the special circumstances following Iraq's invasion of Kuwait and pursuant to resolution 687 (1991) and the report of the Secretary-General regarding implementation of paragraph 3 of that resolution, 1/

Reminding Iraq of its obligations under resolution 687(1991). In particular paragraph 2 thereof, and under other relevant resolutions of the Council, and of its acceptance of the Council resolutions adopted pursuant to Chapter VII of the United Nations, which acceptance forms the basis for the cease-fire,

Noting with approval the Secretary-General's instruction to the United Nations Iraq-Kuwait Observation Mission to finalize the realignment of the demilitarized zone with the entire international boundary between Iraq and Kuwait demarcated by the Commission,

Welcoming the Secretary-General's decision to make the necessary arrangements for the maintenance of the physical representation of the boundary, as recommended by the

Commission in section X.C of its report, until other technical arrangements are established between Iraq and Kuwait for this purpose,

Acting under Chapter VII of the Charter,

1 – Welcomes the Letter dated 21 May 1993 from the Secretary-General to the President of the Security Council 3/ and the 20 May 1993 report of the United Nations Iraq-Kuwait Boundary Demarcation Commission transmitted therewith;

2 – Welcomes also the successful conclusion of the work of the Commission; 3 – Expresses its appreciation to the Commission for its work on the land part of the boundary as well as the Khawr'AbdAllah or offshore section of the boundary, and welcomes its demarcation decisions;

4 – Reaffirms that the decisions of the Commission regarding the demarcation of the boundary are final;

5 – Demands 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;

6 – Underlines and reaffirms 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 of the United Nations, as provided for in paragraph 4 of resolution 687 (1991) and paragraph 4 of resolution 773 (1992);

7 – Decides to remain seized of the matter.

1/ See *Official Records of the Security Council, Forty-sixth Year, Supplement for April, May and June 1991*, document S/22558.

2/ S/22592 and S/22593 respectively. See *Official Records of the Security Council, Forty-sixth Year, Resolutions and Decisions of the Security Council, 1991*, p. 17.

3/ *Official Records of the Security Council, Forty-eighth Year, Supplement for April, May and June 1993*, documents S/25811 and Add.1.

4/ United Nations, *Treaty Series*, vol. 485, No. 7063.

Appendix 3: Correspondence of State Officials Pain to the Crisis

A

The Letter of Tarek Aziz, the Iraqi Foreign Minister, dated 15 April, 1990 to the Arab League Secretary General

Brother Al Chadhli Al Qulaibi, Secretary General of the Arab League.

At the beginning I have the bring up the principles in which Iraq believes and which it has honestly and painstakingly applied in its Arab relations. Iraq believes that the Arabs throughout their respective countries are one nation. The well being of one country must extend and be accessible to them all, and the infliction or grief that befalls any one country must also be suffered by them all. Iraq sees the wealth's of the nation in the light of these principles and has been using its own wealth accordingly.

Iraq also believes that despite the various sorts of partition. Humiliation, persecution and attempts to metamorphose the national character of the Arab Nation at the hands of the Ottoman rulers and later under western colonization, the mainstays of Arab Unity are still viable and strong. Iraq believes that the Arab Homeland, though divided into countries, is one homeland and that any inch of it here or there in this or that country must be seen first of all in the light of national considerations, particularly the common Arab national security;

The pitfalls of narrow perspective and selfishness must be avoided in dealing with the interests and rights of this or that country. Moreover, the higher interests of the Arab Nation and the higher strategic calculations of Arab National Security must always be borne in mind as the first criterion in dealing with such matters between the Arab countries. Basing itself on these national, brotherly, sincere and honest principles, Iraq has been dealing with Kuwait despite the well known facts of the past and present of both countries.

We were prompted to write this letter by the fact that most regrettably, we came to be faced by a Kuwaiti attitude that deviates from the framework of the stated national concepts; it even contradicts and threatens these very concepts and runs against the simplest constituents of Arab relations. Officials in the Kuwaiti government, despite our sincere brotherly positions towards them in all issues and our keenness to maintain a brotherly dialogue with them at all times, have constantly, premeditated and deliberately sought to scourge and encroach on Iraq. They even made a point of enfeebling Iraq after the internecine 8 – year war in which Iraq was defending the Arab Nation, especially the Gulf states and even more particularly Kuwait, as affirmed by all honest Arab leaders, thinkers and citizens including Gulf States' leaders. The government of Kuwait also adopted this emasculating policy at a time when Iraq was confronting a frantic Zionist imperialist campaign because of its national attitudes in defending the Arab right; sadly, the Kuwaiti policy was invoked by selfish motives, a narrow perspective and ends that can no longer be regarded as anything but suspicious and alarming. There are two major points in this respect;

First : It is well known that since the days of colonization and partitions imposed on the Arab Nation there has been a pending issue between Iraq and Kuwait concerning the borders. Contacts in the sixties and seventies failed to carve out a solution to this issue until the outbreak of the Iraq-Iran war. During the long war years in particular while the valiant sons of Iraq were sacrificing their precious blood on the fronts in defense of the Arab lands including

the land of Kuwait – and Arab sovereignty and dignity – incorporating the dignity of Kuwait- the Kuwaiti government took advantage of Iraq's entanglement as well as Iraq's genuine national principles and noble Approach in dealing with the brothers and national issues to carry out a plot with the aim of raising the note of piecemeal calculated advance on the territory of Iraq. It embarked on establishing military and oil installations, police stations and farms on the Iraqi territories. We actually closed our eyes and only dropped a few hints and passing remarks that we considered sufficient within the framework of brotherly concepts which we believed to be adopted by all. However, procedures continued so schemingly and persistently asserting deliberateness and stratagem.

After the liberation of Al Faw we were quick to inform the Kuwaiti side at the 1988 Algeria summit of our true desire to solve this issue within brotherly relations and the higher national interests, but found ourselves before a most surprising case. Although logic dictates that Kuwaiti officials should be delighted at this kind of brotherly initiative on our part and should endeavor to bring the issue to a speedy conclusion, we noted that they were intentionally hesitant and reluctant to hold further negotiations and contacts, and even aroused affected complications while proceeding with their encroachments establishing more oil and military installations, police stations and farms on Iraqi territories. Out of wisdom and forbearance, we reconciled ourselves to patience at such outrageous acts .

We were markedly ready for more forbearance, but matters worsened to a perilous stage that silence could no longer be feasible, as will be shown in the second point which is the most serious.

In fact, Iraq keeps a complete record of the issue pointing out with documents and details all deviations by the Kuwaiti government.

Second : A few months ago, more specifically since Iraq has clamored forcefully for restoring the Arab rights to Palestine and alerted the Arabs to the hazards of the American presence in the Gulf, the Kuwaiti government began to adopt an unfair policy aimed at undermining the Arab Nation, particularly Iraq.

In this respect the U.A.E government cooperated with Kuwait. They both carried out a planned dumping of the oil market with more production than their OPEC quota under flimsy excuses supported by neither logic nor justice or equity and pretexts advocated by none of the sisterly producing countries. This carefully designed policy caused a serious steep slump in oil prices. After the fall years before from highs of \$ 34,29 and 28 per barrel, the acts of Kuwait and the Emirates conduced to a collapse in the modest minimum price finally approved by OPEC as \$ 18 per barrel to \$ 11-13. With a simple calculation we can figure out the huge losses inflicted on the Arab oil producing countries.

(A) The Arab oil production rate is 14 million barrel/ day and the price slump in the period between 1981-1991 caused losses to the Arab countries of about \$500 billion, \$89 billion of which suffered by Iraq. If all the Arabs had not lost these huge sums and saved half of them for national development and assistance for poorer Arab countries we would have achieved

significant progress in national development, gratified the poor of our nation and secured for the nation a more powerful, affluent and advanced situation.

According to the minimum price set by OPEC in 1987-\$ 18/barrel –the losses of the Arab countries from 1987 to 1990 due to this price slump are estimated at \$25 billion approximately.

(B) Any dollar less in the price of oil leads to an annual loss of \$1 billion for Iraq. Noticeably, the oil price fell this year to several dollars below 18 because of the policy adopted by the governments of Kuwait and the Emirates, which means a loss for Iraq estimated at several billions of its income this year at a time when Iraq is suffering from a financial plight caused by the costs of legitimate defense of Iraqi territory, security and sanctities as well as the territories, security and sanctities of the Arabs all along the 8-year fierce fight. The grave losses caused by the slump in oil prices did not only plague the Arab producing countries but also other sisterly countries that received assistance from oil producers. Assistance potentialities diminished and even vanished in some cases, and institution of common Arab action faced deteriorating conditions and went through the hardest of times either for this reason or for taking it as a pretext to reduce or stop the assistance and support extended to such institutions.

Moreover, the government of Kuwait added another deliberate offence aimed at injuring Iraq in particular when it started to establish since 1980 under the hard conditions of war-oil installations on the southern part of Iraqi Rumeila oil field and drew oil from it, making clear that part of the oil with which it dumped the world market was the oil stolen from the Iraqi Rumeila oil field. This way Kuwait inflicted heavy damage twice on Iraq: first by impairing its economy at a time of dire need and second by stealing its wealth.

The value of the oil drawn by the government of Kuwait from Al Rumeila oil field in this unbrotherly manner is estimated at \$2400 million according to the prices of 1980 – 1990. And we are recording before the Arab League and all the Arab countries the right of Iraq to restore the amounts stolen from its wealth, as well as the right of Iraq to demand from the concerned party to redress the aggression and injury inflicted on the country.

We have frequently explained the dangers involved in the policy of the U.A.E and Kuwait governments on our brothers in the Arab oil – producing countries, including Kuwait and U.A.E. We have complained and warned. And at the Baghdad Summit President Saddam Hussein spoke about the issue before Kings, Presidents and Princes in the presence of the parties concerned frankly and in a spirit of fraternity (the text of his Excellency's at the summit is enclosed). We thought that the governments of U.A.E. and Kuwait would rectify their approach, especially after the positive fraternal atmosphere of the Baghdad Summit. The painful truth, however, is that despite all our endeavors and contacts with sisterly countries in order to urge for a positive role in dissuading the U.A.E. and Kuwaiti governments, as well as the address of President Saddam Hussein at the Baghdad Summit, both governments deliberately and persistently proceeded with their policy; some of their officials even made brazen statements when we hinted at these facts and complained . Therefore, there is no way

now to exclude the conclusion that all the acts of the governments of Kuwait and the U.A.E. in this regard are merely a planned policy with cloudy objectives. And though we realize that this policy which caused a collapse in oil prices would ultimately impair the economy of Kuwait and U.A.E. themselves, we can only conclude that whoever adopted, supported or urged to this policy purposefully, directly and overtly is merely carrying out part of the imperialist Zionist plot against Iraq and the Arab Nation, particularly at such critical time when the Nation in general and Iraq in particular are alarmingly threatened by Israel and imperialism, for how would we face this dangerous threat and keep the balance of power achieved by Iraq at a dear cost: heavy losses during the war with the collapse of the main resource of Iraq and the other Arab oil exporting countries – Saudi Arabia, Qatar, Oman, Yemen, Egypt, Syria, Algeria and Libia This suspicious policy would also undermine the capability of these Arab countries to face their thorny fate-determining economic and social problems. So, where are the governments of the U.A.E. and Kuwait dragging the Arab Nation at this critical, delicate juncture whose policies and objectives do they wish to fulfil. We have explained the whole matter to all the brothers. We also asked both governments directly to desist from this oppressive devastating policy and put forth the precarious detriments involved before, during and after the Baghdad Summit. We sent envoys and dispatched letters. All this done to no avail, we can only condemn the acts of the governments of the Emirates and Kuwait for their aggression on Iraq as well as the Arab Nation.

As for the government of Kuwait, it has made a two-fold aggression. It has transgressed the rights of Iraq by encroaching on our territories and oil fields and looted our national wealth, acts which represent military aggression; by the same token, the government of Kuwait is intentionally seeking a collapse in Iraqi economy at a time when Iraq is subject to a brutal Zionist imperialist threat, an act equally disruptive as military aggression.

We are exposing these painful facts before the Arab brothers hoping that they will raise their voices to put an end to this premeditated deliberate aggression and advise the deviants to go back to the right conduct that takes into consideration the common national interest and the requirements of common national security.

(c) Talking about the higher national interests and how the Arab wealth is linked to the destiny of the Arab Nation, we would like to present the following proposal:

If all oil producing and non-producing Arab countries establish strong political collaboration and agree to raise the oil price to over \$25, then set up an Arab fund for assistance and development- agreed on at Amman Summit- to be financed by a dollar sold by producer countries for more than \$25, the total accrued to the fund will be \$5 billion annually in addition to simultaneous increase in the incomes of oil exporting countries. The Arab solidarity created by this fair price would definitely increase their incomes and protect them from any hostile attempt aimed at debilitating the Arab power through oil wealth resources.

We can envisage how such a fixed amount could enhance Arab national security and provide growth potentialities for all countries that would help them face the suffocating economic straits from which most of our countries suffer.

Iraq is putting forth this proposal for serious consideration, and perhaps the next Arab Summit in Cairo will be a good opportunity to discuss and adopt it.

(d) Talking about these painful facts, we find it necessary to clear the muddle that might be felt by some brothers about the (assistance) given by Kuwait and the Emirates to Iraq during the war.

1 – All the honest Arabs in the Arab homeland unanimously agreed that the war to which Iraq was driven was not only to defend Iraqi sovereignty but also to protect the eastern gate to the Arab homeland as well as the Arab homeland itself, especially the Gulf region, as emphasized by the Gulf leaders themselves in very expressive terms. The war, therefore, a “national battle” in which Iraq undertook the task of defending national security and the security of the Gulf region in particular.

2 – During the war, Iraq received diverse assistance from the brothers in some Gulf States, prominently interest- free (loans). Such (assistance) characterized the early stages of the war and has been withdrawn since 1982. At that time Iraq did not discuss the formula of the assistance with its Arab brothers because it hoped that war would not drag on as it actually did and that after the war it would restore its full economic power.

However, war dragged on and costs tremendously increased. To mention only an example, the value of the military installations bought by Iraq in hard currency was as high as \$102 billion, apart from the other exorbitant military and civilian costs of an 8-year war on a 1200 Kilometer long front.

And although all the (assistance) received by Iraq from its brothers only represented a modest percentage as compared to the huge costs borne by the Iraqi economy and the Iraqi people who sacrificed rivers of blood in defense of national sovereignty and dignity, the leadership of Iraq has expressed deep gratitude to all the brothers who extended assistance. President Saddam Hussein has publicly voiced his thankfulness during the visits of a number of Gulf Heads of State to Iraq. However, the bitter truth that must be learned by every Arab is that the larger part of this assistance, including the assistance of Kuwait and the Emirates, is still recorded as a “debt” on Iraq. More than a year ago, we talked in a spirit of brotherhood with the creditors about writing off the “debt”, but they just dodged the issue.

Also recorded as a debt on Iraq are the amounts of oil sold by Kuwait for Iraq from the Khafji area after closing the Iraqi pipeline passing across Syria though these amounts were sold outside its OPEC quota. For full details about this subject, an important point should be clarified concerning the happenings in the oil market during the war. Iraq had been a major producer before the war with a production of about 3.6 million barrels daily. When war broke out production came to a halt for several months and was later resumed with meager quantities exported across Turkey then Syria until the pipeline was put out of commission in 1982. In September 1980, Iraqi oil exports were suspended in the south until the pipeline passing across Saudi Arabia was operated in September 1985. This large decrease in exports cost Iraq huge sums amounting to \$106 billion which were practically transferred to the treasuries of the other producer countries in the region whose exports increased to make

up for the fall in Iraq oil exports for a period of eight years. By a simple calculation we can figure out that the (debts) due to the Emirates and Kuwait were not totally from the aggregate increases in their earnings caused by low Iraqi exports in wartime.

We are wondering : in the light of the fact that Iraq has shouldered the responsibility of defending Arab national security, sovereignty and dignity as well as the wealth of the Gulf states which would have come to nothing had Iraq lost the war, can the assistance given to Iraq be considered a (debt)

The United States presented huge sums derived from the taxes paid by American citizens as assistance to the Soviet Union and its western allies during World War II, though they are not sons of the same nation. Even after the war it spent other huge sums on the Marshall Plan to rebuild Europe and acted with a comprehensive strategic view taking into account its own security as well as that of international groups to which it belonged and with which it participated in a war against a mutual enemy then, how can these sums still be considered a (debt) on Iraq to its brothers in the Arab Nation though Iraq has sacrificed many times as much as this (debt) throughout the years of the fierce war, as well as rivers of blood shed by the flower of its youth while defending the land, dignity, honor and wealth of the nation given the American precedent, do not nationalist logic of regional security dictate on these countries not only cancel the Iraqi (debt) but also to draw an Arab plan along the lines of the (Marshall Plan) to compensate Iraq for some of its war losses this is how the nationalist logic would be if there is a sense of Arabism and Arab belonging as well as a serious attitude towards national security. Regrettably, however, instead of this logical responsible approach, the two Gulf governments whose wealth's, have been preserved through the blood sacrificed by the sons of Iraq, and even increased because of the fall in Iraqi oil production, are both attempting to ruin the economy of Iraq and reduce Iraqi resources. One of them- the government of Kuwait- is deliberately encroaching on the territory and wealth of those who have protected the territory, honor and wealth of Kuwait.

We are putting these painful facts before the conscience of every honest Arab, prominently the brotherly people of Kuwait, to realize the agony, detriment and injury that have been and still are inflicted on us.

For this purpose, I am requesting of the Secretary General to distribute this letter to the Arab countries.

Best wishes and regards.

Tarek Aziz

Foreign Minister of Iraq
Baghdad on Thoulhejja 23, 1410 H
July 15th, 1990.

B

The Letter of Sheikh Sabah Al Ahmad, Deputy Prime Minister and Foreign Minister, dated 18 July, 1990 to Al Chadhli Al Qulaibi, Secretary General of the Arab League, in reply to the Iraqi letter:

Your Excellency, Mr. Al Chadhli Al Qulaibi, Secretary General of the Arab League,
We received with much surprise and amazement the memorandum directed to your Excellency by the Iraqi government dated Thoulhejja 23 rd, 1410 H – July 15th, 1990- which was distributed to the sisterly Arab countries in the Arab League. It included groundless claims and accusations against Kuwait as well as words that disagree with the spirit of brotherhood existing between Kuwait and Iraq and contradict the simplest rules that we are all keen to base our Arab relations upon. More surprisingly still, the memo comes at an important and delicate juncture for the Arab Nation which calls for concentrating all Arab efforts on fate-determining issues after a bloody atrocious war in the region.

It really is painful that the Arab League held an emergency meeting to consider the Zionist and imperialist threats to the Arab world only to wind up with such a memo that involves threats to member states.

Expressing dissatisfaction at this memo, Kuwait would like to assure that it has dealt with the sisterly Arab countries and still does on the basis of a commitment to the principles and values stipulated in the Arab League Pact, particularly those calling for enchanting bonds of fraternal relations, good neighborhood, non-interference in internal affairs and respect for the sovereignty of all countries, not to mention the Arab values and ethics that govern relations between brothers. Moreover, Kuwait has always been and still is the first to provide every opportunity for coherence in Arab relations and exclusion of any impurity that might disturb their cleanness.

Kuwait is even more surprised that this memo by the sisterly Iraq is sent at a time when bilateral coordination is in process on all fronts of mutual interest to maintain the normal ever-developing relations between both countries.

Kuwait had no intention to raise pending issues for discussion, in an atmosphere of fevered propaganda. So, it left the task of following up these issues to bilateral specialized committees to concentrate on developing the present fields of cooperation and creating new more advanced domains with the aim of giving more prominence to cooperation over points of disagreement.

On the other hand, the memo comes at a time when Kuwait is exerting well-meant efforts on all levels to promote security and stability in a region thirsty for a just peace.

Your Excellency,

It is striking that the memo which includes disparaging remarks against our relations with the sisterly Iraq would come from Iraq itself that was the first caller for entente in Arab relations away from any disturbing taints to create a balance that would serve collective Arab action.

Out of faith in the importance of collective Arab action, Kuwait has made every endeavor to boost it and provide the favorable opportunity to support the process of development in the Arab homeland. The effective and impressive role played by Kuwaiti finance institutions ever since the independence of Kuwait is, perhaps, the best evidence of Kuwait's keenness to push the development process towards horizons that would meet the legitimate aspirations and interests of the sons of the Arab Nation. It is also widely known in this respect that Kuwait is the vanguard of world countries income is for the most part devoted to assistance given mainly to the sisterly Arab countries.

Your Excellency,

It is really painful that the memo involves the claim that Kuwait has sought to weaken Iraq, though it is publicly known that Kuwait has maintained a pro-Iraq attitude since the very start in fulfillment of her national principles and adherence to the dictates of her national duties within the Arab League framework. Also publicly known is massive suffering borne by Kuwait because of this national attitude, culminating in direct aggressions against her territories, oil installations, oil tankers and commercial interests. But Kuwait kept her commitment to her principles and goals with her head up high amid the flames of internecine war. Kuwait would not make public her support for sisterly Iraq, believing that it is all up to Iraq itself whether to declare it or not. The shed Arab blood can by no means be equated with any material benefit, however large in figures and multifarious in sources.

It is truly shameful that twisted ends find a way to obliterate truths, thrusting lies upon a living history whose events are still vivid in minds.

Surpassingly enough, such accusation against Kuwait is concomitant with reverberating praise for the Kuwaiti attitude to Iraq through the statements of Iraqi officials or the various Iraqi mass media.

Your Excellency,

The allegations included in the memo concerning the boundary line issue and the claim that Kuwait has escalated a piecemeal calculated advance on the territories of Iraq by establishing military and oil installations, police stations and farms on the Iraqi territories are all considered a falsification of reality and a presentation of reversed facts- Iraq having a long record of encroachments on the Kuwaiti territories supported by concrete evidences and kept by the parties concerned.

Kuwait has constantly sought to demarcate the boundary between the two states and resolve the relevant pending problems. But Iraq used reject any attempt to put an end to the issue, though during the war it attempted to settle finally the question of boundary demarcation with other neighboring sisterly Arab countries. Affirming her keenness to settle this vital issue with Iraq and expressing conviction of her sound position and dictates of her national belonging, Kuwait leaves it to the discretion of the Nation to choose an Arab commission whose members are to be agreed upon in order to pass a judgement on the issue of boundary demarcation in accordance with the documents and treaties concluded between Kuwait and Iraq.

But would the sisterly Iraq accept the Arab judgement in compliance with her principles and the spirit of the national pact proposed by His Excellency President Saddam Hussien.

Your Excellency,

A follow-up of the oil prices would obviously reveal that the fall of prices was the effect of a world-wide problem involving several parties- producers and consumers- in and outside the OPEC. The government of Kuwait suffered just like Iraq from the production cut-back of the eighties, although it could produce at large capacity in view of the huge oil reserve it has. However, Kuwait committed itself to low production, despite the sacrifice involved, to preserve natural wealth and get to a better price level.

As for the claim that Kuwait has been constructing oil installations since 1980 on the southern part of the Iraqi AlRumeila oil field, the simple truth is that Kuwait started exploration and prospection within its territories in 1963, but operations were discontinued for reasons that Iraq knows very well. Drilling operations were later resumed in 1976 and were completed to start production in the late seventies.

Concerning the claim that Kuwait used to draw oil from the southern part of AlRumeila oil field, it has to be pointed out that this part of the field is within the Kuwaiti territories.

Therefore, Kuwait drew oil from wells within its territories south of the Arab League line and at a sufficient distance from international boundaries and according to international measurements.

Contrary to the Iraqi claims, production operations are conducted within the Kuwaiti territories and Iraq has repeatedly attempted and still is to dig wells in Kuwaiti territories, causing massive detriment to the reserve of the Kuwaiti part of the oil field despite repeated Kuwaiti objections. And in spite of the Iraqi encroachments inside the Kuwaiti territories, Kuwait did not wish to raise the question in the Arab arena, confining itself to bilateral contacts which it deemed sufficient.

Your Excellency,

Kuwait, expressing her readiness to study the proposal put forward in the Iraqi memorandum concerning a fund for Arab assistance and development, believes in all sincerity that this proposal can be raised for discussion and consideration within the Arab League. But what Kuwait understands and does not accept is that the proposal be accompanied with defamation of Kuwait, one of the leading callers for bases and rules that would further collective Arab action in a way that meets the higher national interests of the Arab Nation. To conclude with, Kuwait, while relying only on facts to answer the Iraqi memo that represents a negative development in bilateral brotherly relations, would like to warn against the hazards involved in such ways of dealing between brothers which would roll back our nation to the circle of diversion away from the Arab fate-determining issues. To clarify the situation, we are requesting of Your Excellency to distribute this memorandum to the sisterly Arab countries.

Best regards and wishes.

Sabah Al Ahmad Al Jaber

C

The Letter of Tarek Aziz, the Iraqi Foreign Minister, dated 21 July, 1990 to Mr. Al Chadhli Al Qulaibi, the Arab League Secretary General, in reply to the Kuwaiti answer:

Your Excellency, Brother Al Shazli Al Qulaibi, the Arab League Secretary General.

We have read the memo of the Kuwaiti government dated Thoulheijja 26, 1410 H-July 18th, 1990 – and I would like first to comment on the opening expressions of surprise and amazement at my letter dated July 15th, 1990, a matter that reflects painful facts that were behind writing this letter of ours.

The Kuwaiti government officials who have deliberately injured Iraq and carried out a planned plot for years to make a gradual advance on the territories of Iraq and plunder the wealth of its people while Iraq was engrossed in war defending the sovereignty and dignity of the Arab Nation as well as the wealth of the Gulf States, these officials are now surprised because we are exposing their acts before the Arab Nation after the failure of all brotherly attempts on our part to dissuade them. They are surprised because they got used to taking advantage of our silence and patience for years and years. We threw a veil over our wound out of keenness to maintain our brotherly relations which they disregarded and safeguard the higher national interests which they intentionally made of.

In fact, the letter of the Kuwaiti government is full of fallacies that can be easily uncovered in their falsification of the self- evident truths contained in our letter and attempt to divert attention from them using general terms aimed at evading the injury and injustice inflicted by the Kuwaiti government on Iraq. Following are some remarks on the letter of the Kuwaiti government:

1 – According to the letter of the Kuwaiti government "Kuwait is even more surprised that this memo by the sisterly Iraq is sent a time when bilateral coordination is in process on all fronts". And we are asking the Kuwaiti government: what are the steps of coordination it has taken towards Iraq the truth that should be learned by all Arabs is that the Kuwaiti officials have been deliberately procrastinating and shunning any step towards serious coordination between the two countries. A case in point is the delay and procrastination shown in responding to the Iraqi offer to supply Kuwait with water from Shatt Al Arab out of a fraternal feeling for the brotherly people of Kuwait.

There is also the question of the direct air passage between Iraq and Kuwait. During the war Iraq had to stop using the passage. And in November 1989, Iraq approached the Kuwaiti government through a letter from the Iraqi Minister of Transport and Communication to his Kuwaiti counterpart about reopening the passage, but the Kuwaiti government ignored the

request. Again in January 1990 the Iraqi Minister sent another letter to his Kuwaiti counterpart but received no reply. In February, 1990 I personally approached the Kuwaiti Foreign Minister and appealed to him to resolve the matter, but no reply was received, which meant that Al Basra International Airport could operate as an international airport after the war while Kuwait resumed operating air passage between her and Iran. Can this act be considered show of keenness to coordinate with the brothers as claimed by the Kuwaiti government. Events affirm that during the period from September 1980 to date Iraq was the first to take the initiative through visits to Kuwait aimed at effecting coordination in all mutual questions, including the questions mentioned in our letter of July 15th, 1990. If we count the visits paid by Iraqi officials to Kuwait, we would find them more than those paid by Kuwaiti officials to Iraq, another fact which points to the party that is truly keen on coordination.

2 – The Kuwaiti memo was right in saying that “Iraq (was) the first caller for entente in Arab relations away from any disturbing taints to create a balance that would serve collective Arab action”. Iraq was, still is and will always be this way. However, it was the Kuwaiti government officials who violated these principles when they deliberately and premeditatedly inflicted injury on Iraq and encroached on its territories and right throughout the war years. Had they respected and observed these principles in their relations with Iraq who has always cherished affinity for Kuwait and endured injuries from if for several years, we would not have been forced to do what we did unwillingly President Saddam Hussein expressed in his address of July 17th, 1990 considerable distress for having to react to the injury inflicted on us when he said, “ Having to say this, we feel torn deep inside and heavy hearted to the full. We have never wished to talk about rights usurped by some Arabs. We only wished to concentrate as ever on the rights usurped by aliens. But it is the evildoers who will bear alone before God and the Nation the consequences of their monstrous evils of which they have shown some that we did not know or rather wished not to be true”.

3 – The Kuwaiti government refers to the encroachments on its territories, oil installations and tankers and commercial interests inflicted on it during the war, ignoring the political and geographical facts of the conflict that took place sometime before 1980 to 1988. As stated in our memo, all heads of Gulf states together with the whole Arab Nation have reiterated that the battle was not exclusively Iraqi, but was in defense of the Gulf and its security and sovereignty. Kuwait, being the nearest to the battlefield and having been exposed to direct threat from outside and inside, as proved by some facts the Kuwaiti memo, adopted positions for which we have expressed appreciation as mentioned in our memo of July 15th, mainly in self-defense.

It is true that Kuwait suffered material losses, but we shed precious blood in addition to heavy losses. Nevertheless, we have always made a point of attending to national issues and we still do. As for the Kuwaiti memo, it did not provide answers to our questions neither did it touch upon production increases made by certain Gulf countries when Iraqi exports were suspended and the wealth's they accumulated in war days, though we presented definite figures and proofs in this regard.

4 – Concerning the claim that Iraq has “a long record of encroachments on the Kuwaiti territories”, it is all a lie and a turning of truths upside down; Iraq was engrossed in war for eight years and there was no single Iraqi soldier, policeman or border guard in the positions mentioned, as they were all in the battlefield fighting in defense of the honor and sovereignty of the Nation while Kuwaiti government officials were preoccupied plotting for the gradual advance on Iraqi territories, by establishing police stations, farms and military and oil installations. Iraq took no notice of such measures as it was in special well-known view on Arab territories and relations.

5 – According to the memo Iraq used to reject Iraq-Kuwait (boundary demarcation), a sophism refuted by facts, documents and events.

First: as stated in the enclosed letter of Deputy Prime Minister Dr. Sa'adoun Hammadi to the Kuwaiti Foreign Minister dated April 30th, 1990 the question between Iraq and Kuwait is not (boundary demarcation) as claimed in the Kuwaiti memo. The border situation as stated in the letter is in fact a situation of two neighboring countries sharing strong bonds of kinship who have not yet reached an agreement about “demarcating their land water borders”. Obviously, the Kuwaiti memo ignored the initiative proposed in our letter of July 15th, 1990. In May, 1988 during the Algeria Summit I personally informed the Kuwaiti Foreign Minister of President Saddam Hussein's desire to resolve the border question between the two countries. After several relevant contacts, however, the Kuwaiti side evaded the subject saying that his circumstances were not convenient and asked to put it off. Moreover, Kuwaiti officials contacted us expressing their desire to hand over the borders file to another Kuwaiti officials, and it was President Saddam Hussein who proposed for the second time during the visit of HRH the Emir of Kuwait to Iraq in September 1989 that the subject be reconsidered and solved in a brotherly way. As for the Kuwaiti memo's reference to resolution of pending border problems with Saudi Arabia and Jordan, it is true. But in fact were no serious “border problems” between us and Saudi Arabia and Jordan as is the case with Kuwait. They were no more than limited problems that we have dealt with in the light of a national perspective which would raise no disputes between sisterly countries over entailed eventualities. It would have been much appreciated if the Kuwaiti government acted towards this issue the same way as we and the brothers in Jordan and Saudi Arabia did.

6 – As for the Kuwaiti reference to the National pact proposed by President Saddam Hussein in February 1980 and the affected link it has established between the Pact and a proposal included in the memo, we would like to point out that the National Pact is an indivisible whole and no one can just accept what he likes and impugn the very core of the other principles and bases, the Arab relations proposed by the Pact being coherent and all-embracing. And if the government of Kuwait really believes in the National Pact announced ten years ago, why did it not say so before? Why did it evade signing the agreements we put forward and even signed with the Saudi Arabia Kingdom and other countries of the region? Why was it aroused at our proposal- as indicated in the letter of Dr. Sa'adoun Hammadi dated 30 April, 1990- that fall under the principles of the National Pact and the Arab League Pact. The selective approach

cannot be valid in Arab relations. The matter needs a comprehensive approach based on firm national principles and the exigencies and requirements of Arab national security.

7 – The memo of the Kuwaiti government made only a brief mention of its oil policy which made a point of injuring Iraq and ignored the facts known by all the brothers in the region to whom we have complained. On their part, they upheld our complaint and made their own stressing that they were equally injured by this deliberate policy aimed at destabilizing the oil market and inflicting losses on the eight exporting countries, except for Kuwait and the Emirates. All this proves the truth of the facts stated in our letter.

8 – Concerning the allegations of the Kuwaiti government on the Iraqi Remeila oil field, we affirm that it is Iraqi in name and land and that the oil drawn by the government of Kuwait intentionally while Iraq was engrossed in war- one example of the encroachments made by the Kuwaiti government on our oil which is not only confined to Al Remeila- is stolen and must be returned to the struggling Iraqi people.

9 – Strikingly enough, the Kuwaiti government not only replied to our letter in a memorandum to the League Arab States, but also conveyed a relevant message to Security Council President and United Nations Secretary General on Thursday July 19th. Does the Kuwait government mean to international the issue though it swelled its memorandum with high sounding words about the Arab League, its pact and the Arab relations actual conduct reveals facts; and perhaps the issue would come to more light and parts we have quoted from President Saddam Hussein's address on July 16th, and our letter of July 15th, to effect that the policy by the Kuwaiti government is American, would be proved if we consider recent American declarations that the government of Kuwait could resort to the umbrella of American force, quite an encouragement of the Kuwaiti government to proceed with the policy of deliberate aggression on Iraq and the Arab Nation. So, what is the position of Arabs, Arabism and the League amid all this, government of Kuwait.

In this regard we say to the Kuwaiti government that foreigners would not be able protect whoever conspires against the Arab Nation and threatens its very essential interests for the Arab people have previously dealt with similar cases and the consequences are known to all. We are requesting of the Secretary General to distribute this letter to the Arab countries.

Best regards and wishes.

Tarek Aziz,

Deputy Prime Minister & Foreign

Minister of the Republic of Iraq

Baghdad on Thoulheija 29,1410 H

July 21, 1990

D

The Letter of Sheikh Sabah Al Ahmed, Deputy Prime Minister and Foreign Minister, dated 21 July, 1990 to Al chadhli Al Qulaibi, Secretary General of the Arab League, commenting on the Iraqi reply dated 21, July, 1990:

Your Excellency, brother Al Chadhli AlQulabi, Secretary General of the Arab League, I would like to refer to the Iraqi government memorandum dated Thoultejja 29th, 1410H.-July 21 st,1990AD- in reply to our memorandum to your Excellency dated Thoultjja 26th, -Jule18 th,1990 Ad, I affirm here that the reply formualted in our memorandum highlights our keenness to rely only on facts about the statements in the Iraqi memorandum away from any accusations or terms that would disturb the atmosphere of brotherly relations between the two countries.

Your Excellency

Despite the facts in our previous memorandum that were to us a clear categorical reply to the claims and accusations of the Iraqi memo. We find ourselves most regrettably once again faced with new claims and accusations before which we can only bring in some facts in the hope of putting an end to the spate of claims and accusations by the Iraqi government as well as such way of dealing experienced by Kuwait for the first time and with extreme bitterness.

Your Excellency,

It is sorrowful that the Iraqi memo has pointed out once again that Kuwait deliberately injured Iraq, although Kuwait has emphasized in the previous memo that this represents a falsification of reality and disregard for the well-known facts about the pro-Iraq Kuwaiti attitude based on a sense of belonging to the Arab Nation and keenness to full fill Kuwait's obligations within the framework of the Arab League. Obviously, there is no need to add more facts than those recorded in the annals of history about the honorable and genuine attitude of Kuwait towards a war that drawn out for over eight years.

Kuwait, realizing the political and geographical facts related to this dispute, would like to re-emphasize the attitude it has repeatedly declared. Kuwait regards the dispute from a national perspective and has never acted just in self-defense. As affirmed in the previous memo and again here, the shed Arab blood can by no means be equated with any material benefit, however large in figures and multifarious in sources.

Your Excellency,

We preferred in our previous memo to be brief and precise replying to the accusations included in the Iraqi memo about our oil policy. But this turned out to be unconvincing to our Iraqi brothers, driving us to dwell here upon more details supported by figures and incidents. The objectives of Kuwaiti oil policy are clear and declared. They call for a balance price and production policy with a far-sighted realistic perspective aiming at the highest income possible under the circumstances of world oil market and taking into account the interests of all – producing countries. They also take as a guide the experiences and lessons of the past in relation to high prices and the damage that befell all OPEC members, particularly such Arab Gulf States with huge reserves as Iraq, as a result of intransigence and crack down price

policies, causing consumer countries to close ranks and follow energy policies at odds with the interests of the OPEC.

Kuwait has always supported forcefully and sincerely OPEC policies and decisions since its establishment, especially concerning price and production issues. It has always been intent on having these decisions taken within the countries without discrimination between countries or groups and regardless of political differences.

To this end, Kuwait has given much more sacrifices than any of the OPEC member states to boost and back up OPEC decisions. Kuwait's production fell from 2.5 million barrels in 1979 to less than 800 thousand barrels/ day in 1982. Production sustained a much lower level than before the Iraq-Iran war and Kuwait has not yet been able to restore its quota, while Iraq managed through a strong Kuwaiti support in the OPEC to get a much higher quota than before the war. Moreover, relations between Kuwait and the other countries were heavily damaged for its support of Iraqi demands, a fact very well known to the Iraqi brothers.

Accordingly, if we calculate the losses of Kuwait- which are proved in both scientific and accounting terms- we would find them more than tens of billions of dollars. Kuwait's commitment to the principle of supporting OPEC decisions, maintaining the OPEC official price level and ensuring price stability at reasonable levels, have all led to a loss of 55% of Kuwait's production rate before the Iraq-Iran war.

Therefore, it is erroneous to say that Kuwait took advantage of war at the expense of Iraq as evidenced by published figures and events. Kuwait's oil earnings fell from 6 billion dinars in 1986. And despite recent increases, oil earnings are still below the pre-war level.

Kuwait was not responsible for the deterioration of crude oil prices since 1982. On the contrary, Kuwait has been making efforts and has sacrificed much of its production and income to stop price deterioration. It has even lost its market share, including its customers and traditional markets, while other known countries won a large part of the share lost by Kuwait in defense of prices and in preservation of the interests of producing countries. The quota of certain countries increased through price knockdown and direct and indirect discounts by way of back-to-back credits and other means known to oil traders.

It is also a matter of fact to those informed of oil market that oil price deterioration in the mid eighties was linked to the policies adopted by consumer countries with a view to minimizing reliance on oil, especially the oil exported from Arab Gulf countries. Furthermore, high-price policies contributed whether intentionally or unintentionally, to the success of these policies, causing a weakened world oil demand and doubled production of OPEC competitors which lost the OPEC about 50% of world oil market. However, some producing countries suffered heavier loss, some maintained their market quota, while others increased theirs. The claim Kuwait was behind the oil price deterioration is fallacious, particularly as all reports by OPEC itself indicate that the number of countries which exceeded their quotas before the last meeting held in May is not one or two but nine countries having the technical capacity to do so. Moreover, Kuwait committed itself at the last meeting held in Jeddah to its approved quota and we have always full filled our commitments. But we must not look upon the issue of

quotas and commitment through a narrow perspective or just to put all the blame for non-commitment on one or two countries-non-commitment being shown by several countries much more obviously than Kuwait. Violation of production agreements since date of enforcement has been a common practice. Therefore, agreements collapsed a short while after their conclusion because several countries were not convinced of their value and even took them as a pretext for political pressure on other countries or bear alone the burden of defending prices.

However, in spite of its commitment to the quota, Kuwait has always been forthright in its attitude; it has voiced dissatisfaction at its unfair quota, spelt out its position on all production agreements, and declared just demands at every OPEC meeting held to discuss production quotas. But despite repeated promises to Kuwait that its quota would be increased with increasing demand on OPEC oil, Kuwait has not yet got a fair quota.

Kuwait finds it more feasible for the OPEC and its members to discuss the quota's question on scientific bases using the method of convincing dialogue to lay down a system on the firm foundations of justice and balance between interests of all members states.

Your Excellency,

It is quite far from the truth that Kuwait, as claimed in the Iraqi memo, was one of the Gulf countries which increased oil production and accumulated wealths in absence of Iraqi exports during the war. Iraq's absent production quota was distributed to other producing countries in the world, including Kuwait which was not technically capable of increasing its production at that time. About the Iraqi allegation and accusation that Kuwait has stolen oil from Al Rumeila oilfield, it is important to clarify that the geological strata of this oilfield are extended across the Iraqi and Kuwaiti territories, known as Al Rumeila in Iraq and Al Ratka in Kuwait. From this field Kuwait draws oil according to international standards and norms which stipulate a reasonable distance from the boundary line between the two countries.

Your Excellency, Kuwait does by no means deny the sustained efforts it has been exerting with the brothers, including Iraq, for coordination and development of relations on all fronts as evidenced by events and figures and as the sisterly Iraq knows very well. However, the circumstances of war have prevented the fulfillment of this objective for the past decade and drifted coordination to other fields according to the requirements of that stage.

Our keenness to constantly develop the economic relations was shown in bilateral ambitions aspirations to lay down the foundations of cooperation in this field. Our objective has never been focussed on politics or propaganda; it has reflected determination to create a strong basis with economic payoff to the benefit of the sons of both countries.

It is worth mentioning here that the giant projects between the two countries include liquefaction of gases, electric connection and others. At any rate, we would not have referred to such matters had they not been mentioned in the Iraqi memo. Moreover, such great important projects on the way to coordination between the two countries were approved less than a year ago, i.e. since the last visit of HRH the crown Prince and Prime Minister- may God preserve him- when these projects were documented.

Certainly, the memo comprehensive dealing between the official private institutions of both countries requires conditions that are very well known to economists. The Iraqi brothers promised on several occasions to revise many of the regulations and laws which might be hampering the desired cooperation. Naturally, these regulations and laws are only for Iraq to consider and we have nothing to do in this respect. But it is also important to note that private capital is always after the best atmosphere and easiest way of dealing.

Concerning coordination, the Iraqi memo brought up the issue of the Baghdad- Basra- Kuwait air passage saying that Kuwait was behind suspension of civilian flights through this passage. To make things clear, we have to point out that there are several considerations related to interlined issue between technical authorities on both sides which are working for a settlement out of a true desire to re-operate the passage.

It might be useful in this regard to refer to the existence of a Kuwaiti – Iraqi committee for commercial, customs and transit activities comprising members from the ministry of trade and industry on both side who meet regularly and periodically to coordinate as far as these activities are concerned, matters that cannot be explained in detail in this limited space.

Your Excellency,

Boundary demarcation is not a complicated issue and dose not call for such a long time to go back to the starting point which is quite clear to us. The issue is actually governed by agreements and pacts signed by the two countries. What remains is well-intentioned confrontation and courageous resolution.

We would like to seize this opportunity to affirm our keenness and unfailing determination to close with the brothers this file whose suspension would always threaten our relations with such shakes as experienced in the present. And perhaps our continuous follow-up of the subject is the best proof of our keen interest.

Your Excellency,

The Iraqi memo dealt with that it called evasion of signing draft agreements proposed by Iraq. The sisterly Iraq also mentioned that it has signed similar agreements with a number of sisterly countries in the region.

Regrettably, we are forced to say that the so-called agreements proposed by the brothers in Iraq were not- we believe-similar to or identical with the agreements signed with the brothers in the region, not to mention the fact that their content was void of the principle of equal footing cooperation. We would make the drafts public at this stage out of our commitment to the ethics of political work.

Your Excellency,

We have noted that the Iraqi reply ignored the solution proposed in our previous memo within the Arab framework. However, Kuwait was and will always be obviously determined to have Arab solutions to its problems with the Arab brothers, the Arab League being the home that shelters us all. Hence, we were unquestionably clear in considering the Arab League, the natural channel for our issue. While referring to this solution, we are welcoming any

supporting ideas or proposals from the brothers that would ensure a final irrevocable solution to the questions that still cast a shadow on relations between the two sisterly countries. Presenting this memo, Kuwait hopes to receive a favorable response from the brothers in the sisterly Iraq to the well-meant efforts aimed at containing this passing difference to make it possible for us all to achieve the positive, advanced stages of our relations we aspire to in a way that would boost and enhance our Arab role and fulfil our aspirations as well as the hopes and higher interests of our Arab Nation. In the end, I am requesting of your Excellency to kindly distribute this memo to the member states in the Arab League.

May God be our guide to success.
Sabah Al Ahmad
Deputy Prime Minister & Foreign Minister

E

The Letter of Sheikh Sabah Al Ahmad, Deputy Prime Minister and Foreign Minister, to the Secretary General of the United Nations:

Your Excellency, Mr. Javier Perez De Cuellar, the UN Secretary General, I would like to inform Your Excellency that Kuwait received a memo from the Iraqi government dated July 17 th, 1990 with a number of groundless claims and accusations that can be summed up as follows:

First: Kuwait stands behind oil price deterioration by dumping the world market with higher rates of production.

Second: Kuwait has stolen Iraqi oil from the Iraqi oilfield of Al Rumeila.

Third: By so doing, Kuwait has substantially damaged Iraqi economy, an act tantamount to military aggression.

Fourth: All acts by Kuwait are premeditated and agreed upon with foreign entities.

Fifth: Kuwait shows slackness in responding to the good offices made to solve the border question and has deliberately made a gradual calculated advance on the territories of Iraq by establishing installations thereon.

Regarding the first accusation, it contradicts both truth and reality. A follow-up of oil prices would make it quite clear that price deterioration was the result of a world-wide problem involving several parties in and outside the OPEC. As for the claim that Kuwait steals Iraqi oil, we would like to affirm that Kuwait draws oil only from wells within the Kuwait territories south of the Arab League line at a sufficient distance from international borders and according to international measurements.

Concerning the alleged Kuwaiti slackness in responding to the good offices made to solve the border question and the gradual advance on the territories of Iraq by establishing installations thereon, this is all a falsification of reality and a presentation of reversed facts. Kuwait has constantly sought to demarcate the boundary between the two states and resolve the relevant pending problems. But Iraq used to reject any attempt to put an end to the issue, though during the war it attempted to settle finally the question of boundary demarcation with other neighboring sisterly Arab countries.

Wishing to draw your excellency's attention to the seriousness of the claims and accusations included in the Iraqi memo, Kuwait would also like to refer to the threat implied in the statement that Iraq preserves its right to demand the concerned parties to redress the deviation- a deviation that Kuwait affirms to be fictitious.

Kuwait would also like to emphasize that while the world is witnessing a noticeable entente and focuses of tension are diminishing, and though Kuwait has exerted strenuous efforts to put an end to a tragic war that lasted for over eight years during which security and stability were swept away in the region and directly threatened at the international level, the Iraqi memo shows up to brandish tension again in the region, a matter that involves serious dimensions. Regrettably, this memo has been brought forward at an important delicate juncture when lights as well as Arab and world attention are centered on the continuing tragedy of the Palestinian people and attempts find negotiated solution.

Your Excellency,

Although Iraq intends to keep stepping up propaganda campaigns, Kuwait would like to accentuate it's latitudinal commitment in dealing with the neighboring countries based on good neighborhood, peaceful coexistence and dialogue to solve the pending problems. Kuwait would also like to stress in this regard its full commitment to the United Nations Charter, its purposes and its objectives.

Your Excellency,

We have submitted this memo to familiarize you with the claims and accusations leveled at Kuwait, a member in your distinguished Organization. We will also keep Your Excellency informed of any new developments in this respect.

Please accept my special appreciation and respect.

Sabah Al Ahmad Al Jaber Al Sabah,

Deputy Prime Minister & Foreign Minister

Appendix 4: Resolutions by Arab and Islamic States following the Invasion of Kuwait

A

The Communique by the Council of Arab Foreign Ministers dated 3 August 1990

The council of the League of Arab States opening its extraordinary session in Cairo on 11, Moharram 1410H., corresponding to 2 August 1990 A.D.,

According to a request from the State of Kuwait that the league Council hold an extraordinary session to consider the Iraqi aggression on Kuwait; Acting under articles 5, 6 and 7 of the Pact of the League of Arab States; Acting under article 2 of the treaty of Joint defense and Economic Cooperation among the League Member States; Actin under article 2 of the Arab Solidarity Pact approved by the third Arab Summit held in Casablanca;

Decides:

- 1 – To condemn the Iraqi aggression on the State of Kuwait, reject any consequences entailed by it and not to recognize its sequels;
- 2 – To deprecate bloodshed and destruction of buildings;
- 3 – To demand from Iraq to withdraw immediately all its forces to the positions in which they were located before 10 Moharram, 1411 H. 1 August, 1990;
- 4 – To refer the matter to kings, Emirs and presidents of the Arab countries to consider an extraordinary meeting to discuss the aggression and examine the means to reach a lasting negotiated solution to be accepted by the two parties concerned and guided by the heritage of the Arab Nation, the spirit of fraternity and solidarity, as well as the applicable Arab legal system.
- 5 – To affirm its full commitment to safeguarding the territorial sovereignty and integrity of the member states and reiterate its adherence to the principles of the Pact of the League of Arab States which stipulate non-resort to force to settle disputes that might arise between the member states, respect for their ruling regimes and abstention from any act to change them.
- 6 – To reject absolutely any foreign interference or attempt of interference in Arab affairs.
- 7 – To entrust the Secretary General with following-up implementation of this resolution and reporting to the Council any new developments.

B

The Communique by the 19th Conference of the Foreign Ministers of the Islamic States held in Cairo on 5 August, 1990

The conference received with much regret the news of the tragic incidents that have broken out between two member states of the Organization of the Islamic Conference- namely, Iraq and Kuwait- which coincided with the convening of this conference at a time when hopes have been pinned on a forth-coming success for direct contacts arranged through sincere

brotherly Arab efforts to contain the crisis which has erupted between two sisterly countries and reach a peaceful satisfactory settlement for their dispute.

The conference expresses its support to the communique issued by the OIC Secretary General in this respect dated 11 Moharram 1411H. –August2, 1990 A.D.

The conference further condemns the Iraqi aggression on Kuwait, rejects any consequences entailed by it, does not recognize its sequels and demands Iraq to withdraw its forces immediately from the Kuwaiti territories to their positions in which they were located before 10 Moharram, 1410H.-1 August, 1990- and abide by the Pact of the League of Arab States, particularly in as far as it stipulates the necessity of settling disputes between the member states by peaceful and non-interference in the domestic affairs of any state. The conference further demands the two countries to observe the requirements of good neighborhood; not to attempt to change the ruling regime in any of them by force; and to respect the sovereignty demands the member states to desist from the use or threat of use of force against the unity, territorial integrity and political independence of any of the two states.

Having taken note that the Iraqi government has declared its intention to withdraw its armed forces from Kuwait, the conference will follow up compliance with this declaration without conditions on the part of Iraq, while supporting the legitimate regime in Kuwait under the leadership of his highness the Emir of Kuwait and the Chairman of the Fifth Islamic Summit and affirming full solidarity with the Emir, government and people of Kuwait.

C

Resolution of the Arab Summit held in Cairo on 10 August, 1990

The extraordinary Arab Summit held in Cairo on 19 Moharram, 1411 H., corresponding to 10 August, 1990. Having examined the resolution of the Council of the League of Arab States convening in Cairo in an extraordinary session on 2 and 3 August 1990, Having reviewed the communique issued in Cairo on August 2, 3 1990, by the 19th Conference of the Foreign Ministers of the Islamic States, Relying on the provisions of the Pact of the League of Arab States and the Treaty of Joint Defense and Economic Cooperation among member-states, Realizing the grave historic responsibility dictated by the critical circumstances in consequence of the Iraqi invasion of Kuwait and its disastrous repercussions on the Arab homeland, the Arab national security and the higher interests of the Arab Nation.

- 1 – Confirms the resolution issued by the League of Arab States on 3 August, 1990 and the communique of the Organization of the Islamic Conference on 4 August, 1990;
- 2 – Further confirms abidance by Security Council Resolutions 660 issued on 2 August 1990, 661 on 6 August, 1990 and 662 on 9 August, 1990, being expressive of international legitimacy;

- 3 – Condemns the Iraqi aggression on the sisterly Kuwait, declares non-recognition of the Iraqi decision to annex Kuwait as well as any results consequent upon the invasion by Iraqi forces of Kuwaiti territories, and demands Iraq to immediately withdraw its forces to the positions in which they were located before 1 August, 1990.
- 4 – Also affirms the sovereignty, independence and territorial integrity of Kuwait as a member-states in the League of Arab States and the United Nations; expresses insistence on resolution of the legitimate regime; and supports this regime in all measures taken towards liberation of its territories and realization of its sovereignty;
- 5 – Condemns the Iraqi threats to the Arab Gulf States, denounces Iraq's massing of military forces on the Saudi borders, upholds the measures taken by Saudi Arabia and the Arab Gulf States in enforcement of their right to legitimate defense in accordance with Article II of the Treaty of Joint Defense and Economic Cooperation among member states in the League of Arab States, Article 51 of the United Nations Charter and Security Council Resolution 661 of 6 August 1990, with particular emphasis on bringing implementation of these measures to a halt immediately after the total withdrawal of Iraqi forces from Kuwait and restoration of legitimacy to Kuwait.
- 6 – Decides to make a positive response to the request by Saudi Arabia and the Arab Gulf States to send Arab forces to support their military forces in defense of their territories and territorial integrity any external aggression.
- 7 – Authorizes the Secretary General of the League of Arab States to follow up and report on implementation of this resolution within fifteen days to the League Council to take in its discretion the necessary action.

Appendix 5: Historical Agreement concerning the Kuwait Border.

Agreement with the Sheikh of Koweit 23 January 1899

Translation from Arabic Bond

Praise be to God alone (lit. in the name of God Almighty) ('Bissim Allah Ta'alah Shanuho')

The object of writing this lawful and honorable bond is it is hereby covenanted and agreed between Lieutenant-Colonel Malcolm John Meade, I.S.C., Her Britannic Majesty's Political Resident, on behalf of the British Government on the one part, and Sheikh Mubarak-bin-Sheikh Subah, Sheikh of Koweit, on the other part, that the said Sheikh Mubarak-bin-Sheikh Subah of his own free will and desire does hereby pledge and bind himself, his heirs and successors not to receive the Agent or Representative of any Power Government at Koweit, or at any other place within the limits of his territory, without the previous sanction of the British Government; and he further binds himself, his heirs and successors not to cede, sell, lease, mortgage, to give for occupation or for any other purpose any portion of his territory to the Government or subjects of any other Power without the previous consent of Her Majesty's

Government for these purposes. This engagement also to extend to any portion of the territory of the said Sheikh Mubarak, which may now be in the possession of the subjects of any other Government.

In token of the conclusion of this lawful and honorable bond, Lieutenant-Colonel Malcolm John Meade, I.S.C., Her Britannic Majesty's Political Resident in the Persian Gulf, and Sheikh Mubarak-bin-Sheikh Subah, the former on behalf of the British Government and the latter on behalf of himself, his heirs and successors do each, in the presence of witnesses, affix their signatures on this, the tenth day of Ramazan 1316, corresponding with the twenty-third day of January, 1899.

M.J.Meade
Political Resident in the Persian Gulf.

Mubarak-Al-Subah

Witnesses:

E. Wickham Hore, Capt., I.M.S.
T. Calcott Gaskin

Muhammad Rahim bin
Abdul Nebi Saffer

Iraq-Kuwait Border Agreement of 1963:Minutes approved by the Republic of Iraq and the State of Kuwait, Baghdad,4 October 1963.

In response to the desire of the two parties to eliminate all that mars relations between the two countries, the official Kuwaiti delegation now in a visit to the Republic of Iraq according to an invitation from the Iraqi Prime Minister met with the Iraqi delegation in Baghdad on 4 October, 1963. The Iraqi delegation comprised the following members:

- 1 - Major General Ahmed Hassan Al Bakr, Prime Minister.
- 2 - General Saleh Mahdy Ammash, Defense Minister and Acting Foreign Minister.
- 3 - Dr. Mohamoud Mohammed Al Hajji, Minister of Commerce.
- 4 - Mr.Mohamed Kayara, Under-Secretary of the Ministry of Foreign Affairs.

The Kuwaiti delegation comprised the following members:

- 1 - HRH, Sheikh Sabah Al Salem Al Sabah, Crown Prince and Prime Minister.
- 2 - His Excellency Sheikh Saad Al Abdallah Al Salem Al Sabah, Minister of Interior and Acting Foreign Minister.
- 3 - His Excellency, Mr. Khalifa Khaled Al Ghauneim, Minister of Commerce.

Talks were held between the two delegations in an atmosphere of fraternal affinity and commitment to the bonds of Arabism, neighborhood and common interests. In affirmation of the strong desire of the two delegations to strengthen bilateral relations for the good of the two countries in the light of the higher Arab goals, believing in the need to redress the Iraqi-Kuwaiti relations which have suffered some inconveniences as a result of the attitude adopted by the past ruthless regime towards Kuwait before the dawn of the blessed Revolutions of 14 Ramadan.

Having faith in the national duty which dictates turning over a new leaf of relations between the two countries with the original bonds and relations that bear no shade of the gap deliberately created by the previous regime in Iraq.

Out of faith in the identity and inevitable unity of the Arab Nation, the two delegations, after the side had reviewed the Statement of the government of Kuwait read out at the Kuwaiti Ummah Council on 9 April, 1963, to the effect that Kuwait wishes to abrogate in due course the agreement concluded with Britain, have agreed as follows:

First: The Republic of Iraq shall recognize the independence of the State of Kuwait and its full sovereignty on the borders referred to in the letter of the Iraqi Prime Minister dated 21.7.1932 and approved by the ruler of Kuwait in his letter dated 10.8.1932.

Second: The two governments shall work on strengthening brotherly relations between the two sisterly countries motivated by the national duty, common interests and aspirations to a comprehensive Arab Unity.

Third: The two governments shall establish bilateral cultural, commercial and economic cooperation and exchange technical information.

In compliance with these provisions, diplomatic representation at the level of Ambassadors shall be immediately establish. In witness whereof the heads of the two delegations have subscribed hereto.

Maps

Maps

The development of the Iraq-Kuwait border dispute in maps.

- 1- Map no.1
Shows the diminishing Kuwait territorial authority as defined by the 1913 Anglo-Ottoman Convention.
- 2- Map no.2
Demonstrates area including Warbah Island and a four-Kilometre strip of Kuwaiti territory which Iraq wished to secure under long-term lease terms in 1955.
- 3- Map no.3
The United Nations Iraq-Kuwait Observation Mission (UNIKOM) Deployment as of January 1996.
- 4- Map no.4
Shows the land territory boundary as demarcated by the UN Boundary Commission in 1992.
- 5- Map no.5
Shows boundary turning points: positions of the notice board south of Safwan (1992).
- 6- Map no.6
Shows a sketch of the northern sector of the UN land boundary in relation to previous British Mapping (1992).
- 7- Map no.7
Shows Khawr (Khor) Az Zubayer: demarcated by the United Nations Iraq-Kuwait boundary Demarcation Commission, (1993).
- 8- Map no.8
Demonstrates a chart showing the UN delimitation of the Iraq-Kuwait maritime boundary (1993).

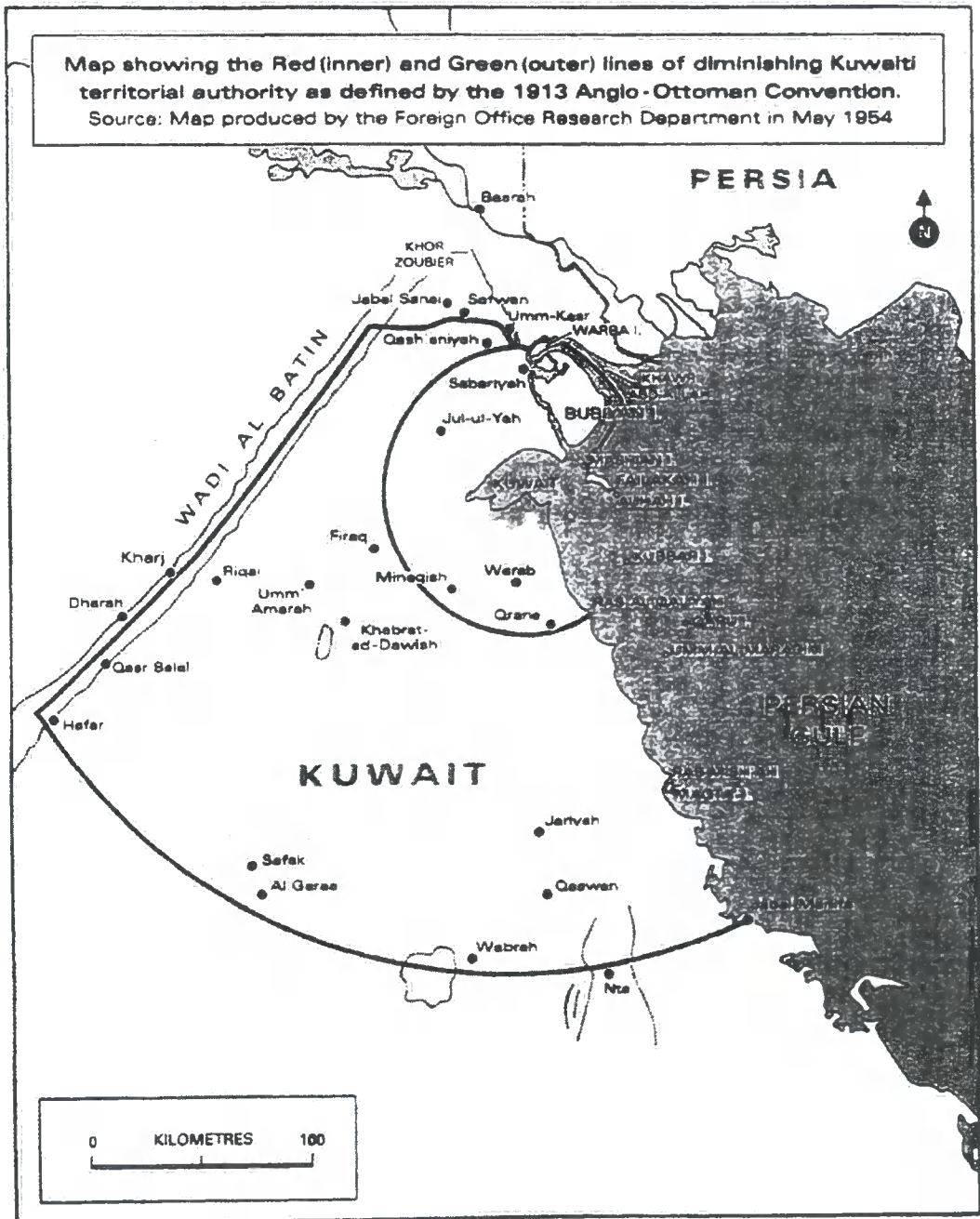
Maps no.1,2,4,5,6,7, 8.

Source: Brown, Harry, "The Iraq-Kuwait Boundary Dispute: Historical Background and the UN decisions of 1992 and 1993" in Schofield, Clive (ed.), Boundary and Security Bulletin, International Boundaries Research Unit (IBRU), Department of Geography, University of Durham, Volume2, Number3, October 1994, pp.68-80.

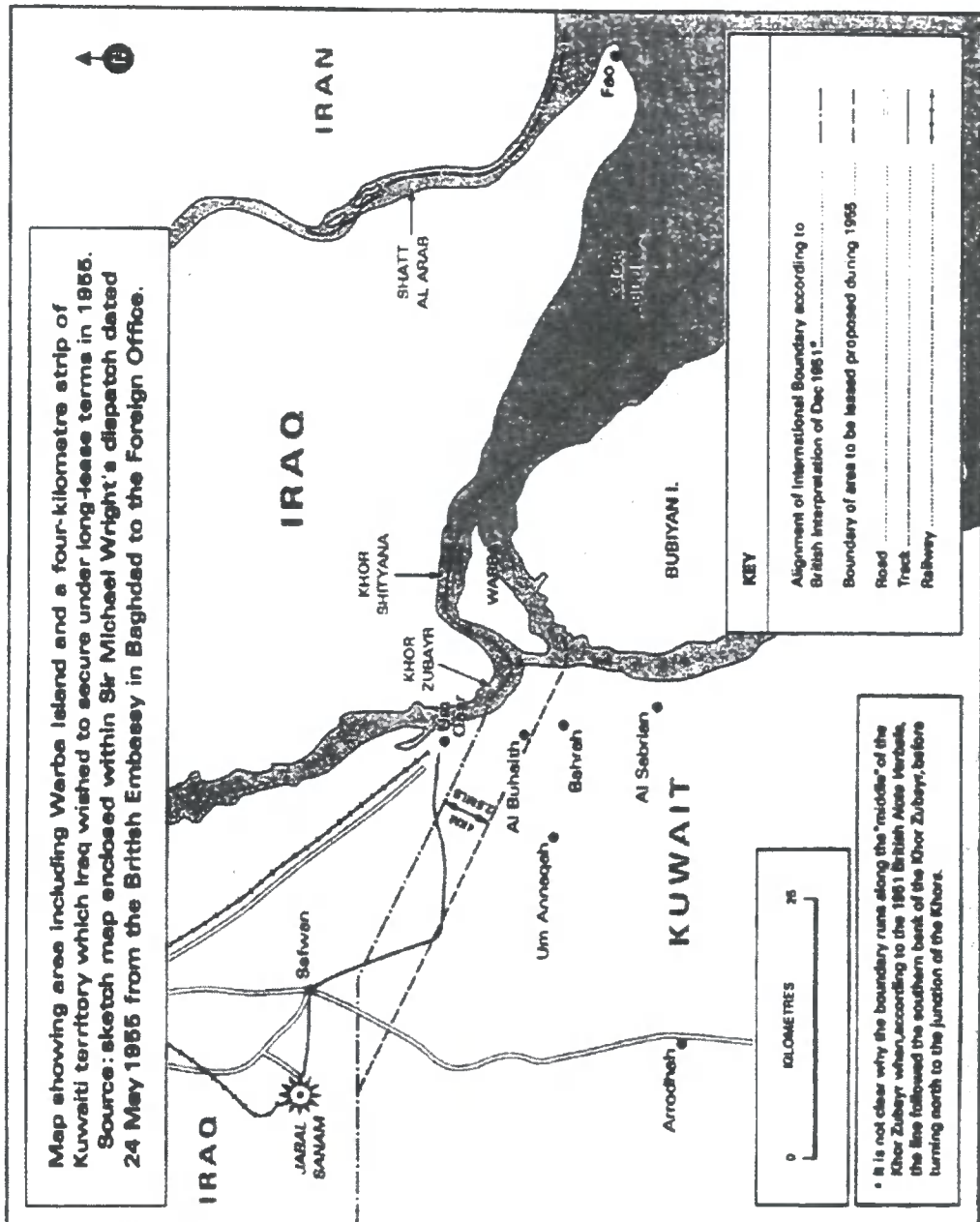
Map no. 3.

Source: The United Nations Blue Books Series, Volume IX, The United Nations and the Iraq-Kuwait Conflict, 1990 -1996, Department of Public Information, United Nations, New York, 1996, pp46053.

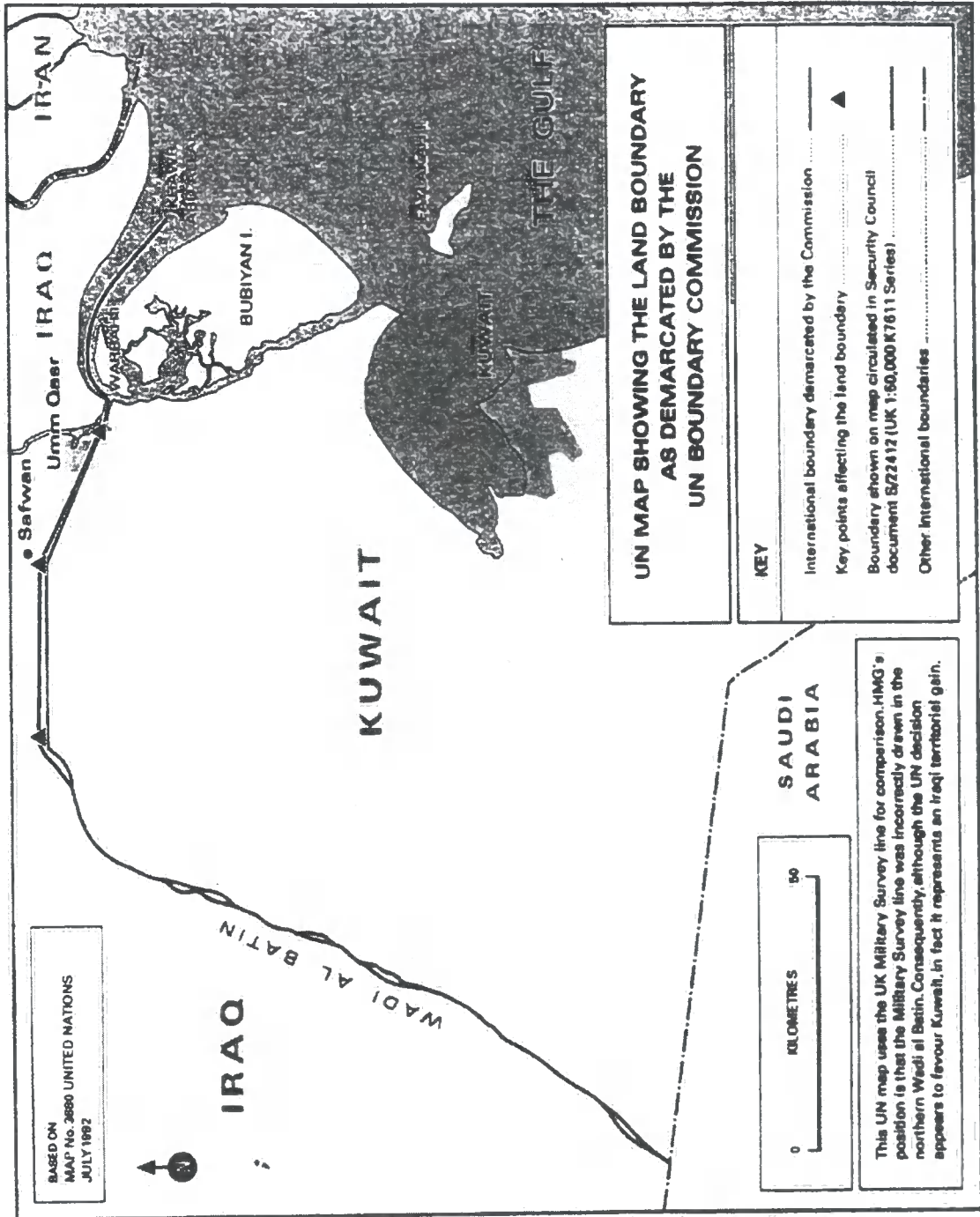
Map 1



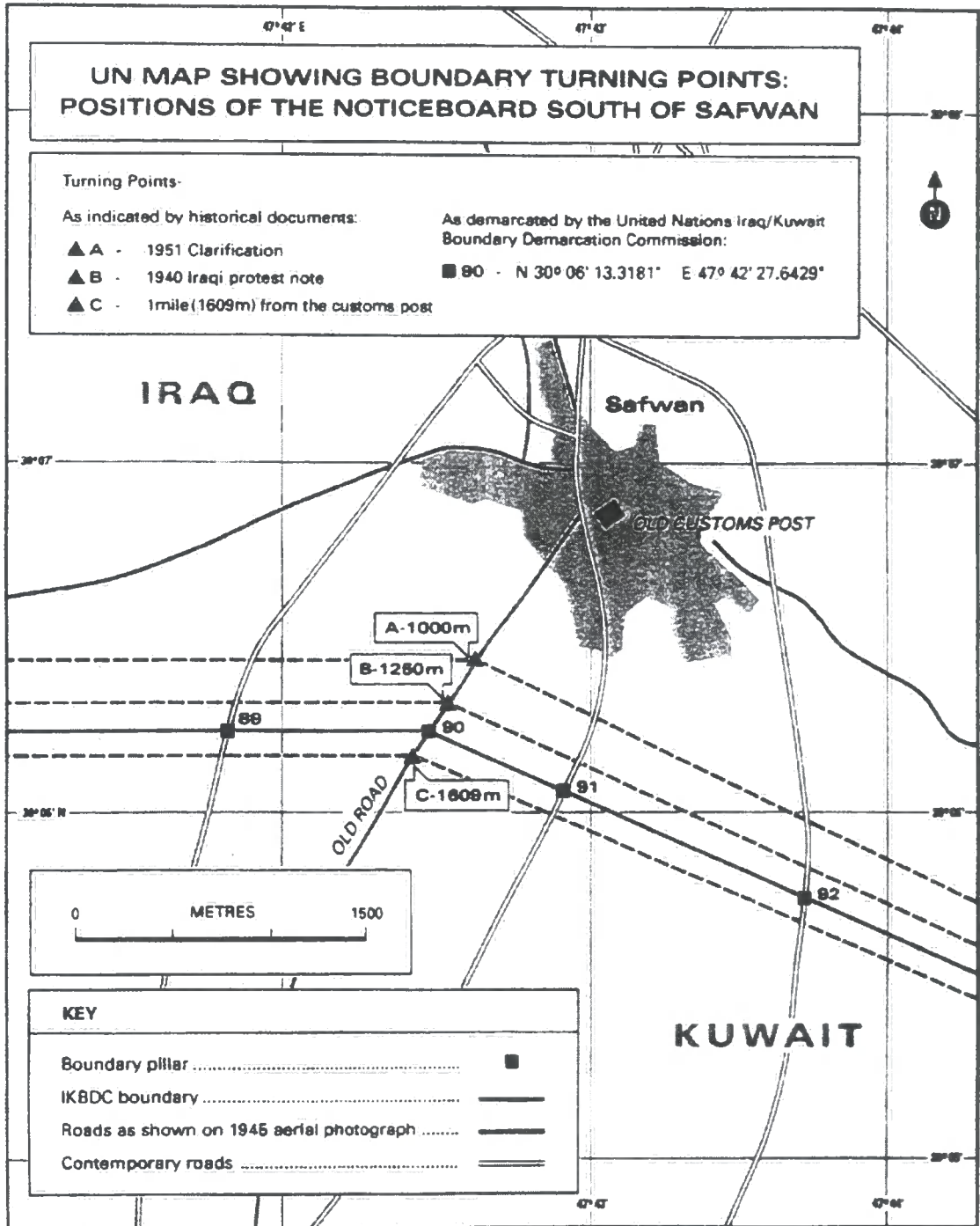
Map 2



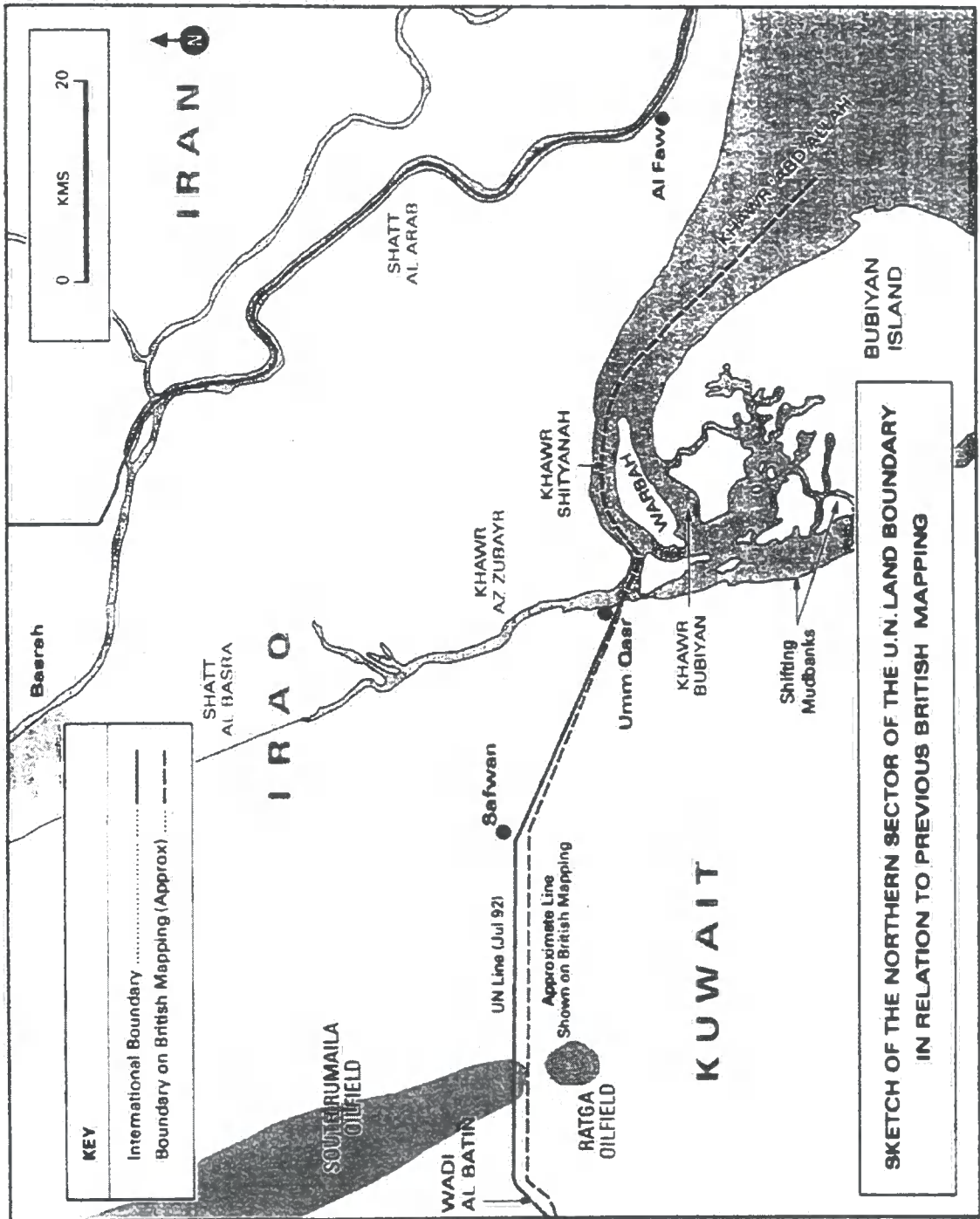
Map 4



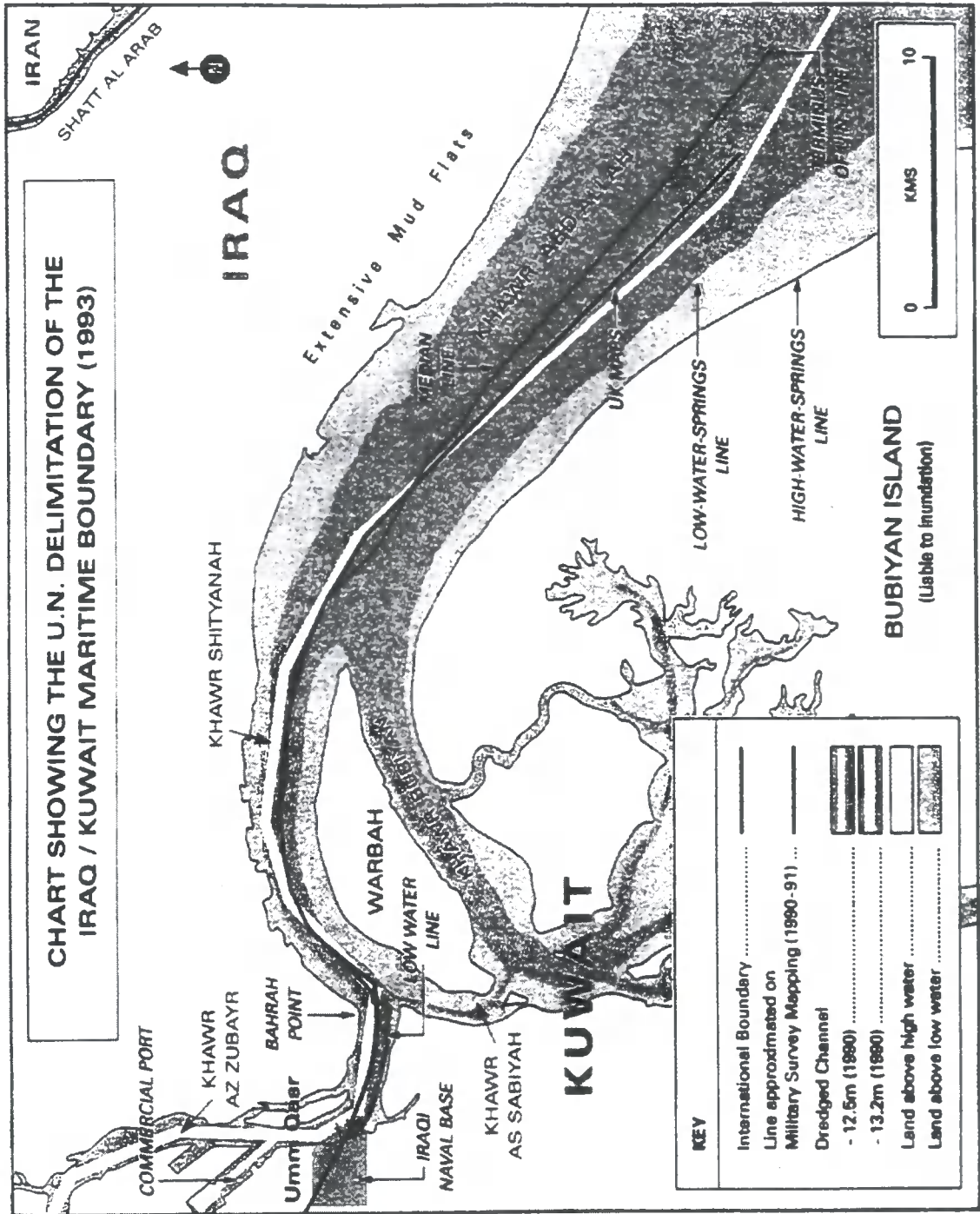
Map 5



Map 6



Map 8



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