



# General Assembly

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## Oceans and the law of the sea

### **Note verbale dated 15 July 2019 from the Permanent Mission of Iraq to the United Nations addressed to the Secretary-General**

The Permanent Mission of Iraq to the United Nations has the honour to enclose herewith a letter from the Permanent Representative of Iraq to the United Nations, Mohammed Hussein Bahr Aluloom, addressed to the Secretary-General regarding the position of Iraq with respect to Decree No. 317 (2014) concerning the delimitation of marine areas pertaining to Kuwait and its amendments (see annex).



## **Annex to the note verbale dated 15 July 2019 from the Permanent Mission of Iraq to the United Nations addressed to the Secretary-General**

[Original: Arabic]

The Iraqi Government, in keeping with its desire to ensure that the rules of international law are applied, would be grateful if the United Nations would document its official protest against the geographical changes that Kuwait has made in the maritime area that lies beyond marker 162 in Khor Abdullah by upraising a shoal, which is designated as Fisht al-Aych on maps, and building a port facility there. Kuwait took this action unilaterally and without informing the Government of Iraq, in violation of paragraph 3 (a) of the agreement that Iraq and Kuwait concluded on 28 December 2014 (known as the Joint Agreement to Ensure the Safety of Navigation in Khor Abdullah) and under which the towers at the Port of Umm Qasr and the Port of Shuwaykh are considered to be the only observation towers that are to be used to regulate navigation in the Khor. It should be noted that the aforementioned work began in 2017, without the knowledge or approval of the Government of Iraq and despite the fact that Iraq had rejected the idea when it was put forward that same year by Kuwait at the sixth meeting of the technical committee on regulating navigation in Khor Abdullah.

The unilateral demarcation of borders and the construction of facilities, as set out in Kuwaiti Amiri Decree No. 317/2014, in areas where the two parties have not yet reached agreement on the delimitation and demarcation thereof are actions that are void under international law and without legal effect. Under International law, no such facilities can be established until the boundaries between the two States concerned have been delimited and demarcated, so as not to change the geographical status of those areas and to avoid having to delimit again the baseline, the territorial sea and other maritime boundaries of the two States.

In view of the above, and in keeping with the desire of the Government of Iraq to resolve this matter bilaterally with our brothers in Kuwait, the Ministry of Foreign Affairs of Iraq sent three memorandums of protest, dated 9 May 2017, 12 September 2018 and 25 October 2018, respectively, regarding these facilities to the Ministry of Foreign Affairs of Kuwait in which it asks the Government of Kuwait to postpone construction until such time as the two parties have reached an understanding regarding the demarcation of the maritime area that has not yet been demarcated.

The Government of Kuwait continues to pursue a policy of *fait accompli* by creating a new situation that changes the geography of the region, in contravention of the United Nations Convention on the Law of the Sea of 1982. Doing so will not give impetus to the two States' efforts to definitively demarcate all their maritime boundaries, and it adversely affects the interests of Iraq. This has compelled the Government of Iraq to ask that this letter be sent, in order to document with the United Nations its official protest regarding the building of this facility. We must emphasize that this facility, or any facility that Kuwait has built or will build without the approval of the Government of Iraq, will be considered as being the imposition of a physical *fait accompli* that must not be taken into consideration when demarcating the boundaries between the two States.

The Permanent Mission of Iraq would be grateful if its note verbal and the annex thereto could be circulated as a document of the General Assembly, under agenda item 78 (a), and published in the forthcoming issue of the Law of the Sea Bulletin.

(Signed) Mohammed Hussein **Bahr Aluloom**  
Ambassador  
Permanent Representative of Iraq