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Identical letters dated 26 September 2023 from the Permanent Representative of Kuwait to the United Nation addressed to the Secretary-General and the President of the Security Council

The Permanent Mission of the State of Kuwait would like to inform you that the Federal Supreme Court of the Republic of Iraq has issued a judgment dated 4 September 2023, published on Thursday, 14 September 2023, regarding the agreement between the Government of the State of Kuwait and the Government of Iraq on the regulation of maritime navigation in Khor Abdullah, which was ratified by the Parliament of Iraq in Act No. 42 of 2013 and by the National Assembly of Kuwait in Act No. 4 of 2013 and deposited jointly by the Kuwaiti and Iraqi sides with the United Nations on 18 December 2013 (United Nations *Treaty Series*, volume 2968, No. I-51594).

In that connection, the State of Kuwait wishes to emphasize the following points:

1. The above-mentioned agreement is not a source of legal or political controversy or tension, because it is purely technical in nature and intended to regulate navigation in Khor Abdullah rather than to define or demarcate maritime borders between the two countries.
2. The land and maritime boundaries between the State of Kuwait and Iraq up to marker 162 were demarcated in accordance with Security Council resolution [833 \(1993\)](#), adopted pursuant to Chapter VII of the Charter of the United Nations, which is binding on all Member States.
3. In the judgment, the Federal Court addresses many questions that fall outside its jurisdiction, in particular its version of the historical narrative since 1546. The Court thus appoints itself custodian and judge of the historical existence of the State of Kuwait, with all that that entails in terms of falsifying historical facts and challenging the legitimacy of the State of Kuwait.
4. The State of Kuwait will not tolerate any violation whatsoever of its sovereign and territorial rights, which were established in accordance with the rules and principles of international law.



5. The legal grounds put forward by the Court to challenge the constitutionality and legality of the agreement violate the principles of international law, specifically the Vienna Convention on the Law of Treaties of 1969, article 27 of which states that “a party may not invoke the provisions of its internal law as justification for its failure to perform a treaty”.

The State of Kuwait fully respects Iraqi sovereignty and is deeply committed to the principles of good-neighbourliness and non-interference in other States’ internal affairs. Nevertheless, it expresses its astonishment and strong condemnation of the Federal Court’s judgment, which in certain respects exceeds its jurisdiction and does not comply with the most basic principles of international relations, particularly good-neighbourliness.

The State of Kuwait calls for decisive action by the Government of Iraq to address the situation in keeping with the good-neighbourly relations between the two countries. It reserves its full right to take any steps that it deems appropriate to protect its legitimate and legal rights under United Nations resolutions and the rules of international law, with which it has always made every effort to comply in its relations with all States.

I should be grateful if the present letter could be circulated as a document of the General Assembly, under agenda item 34, and of the Security Council.

(Signed) Tareq M. A. M. **Albanai**
Permanent Representative of the State of Kuwait to the United Nations
