

Ethiopian Foreign Minister's “not more than 15%” Fraud

Ghidewon Abay-Asmerom

October 12, 2004

It has been thirty months since the neutral and independent Eritrea-Ethiopia Boundary Commission (EEBC) rendered its final and binding delimitation ruling. Twenty-four months since it said it is ready for demarcation with its maps in hand. Twenty-nine months since Ethiopia hinted it had no intention of honoring the Decision or the Algiers Agreement. And it has been 12 months since Ethiopia officially declared the April 2002 Decision “illegal, unjust, and irresponsible.” Furthermore Ethiopia is now engaged in an all out war against the Boundary Commission, defaming it and calling it all sorts of names. Never mind the Ethiopian Prime Minister, Foreign Minister, Parliament and lawyers were all praising these very same Commissioners and calling their Decision “fair and just” the day the Decision was rendered on April 13, 2002. However, what is more disturbing is the fact that the Security Council and the International Community led by the United States are doing nothing to shoulder their obligations and responsibilities. The responsibility they signed as guarantors/witnesses to fully implement the Algiers agreement and to see an expeditious demarcation of the Eritrea-Ethiopia border that came after a horrific border conflict that claimed 120,000 Ethiopian and 19, 000 Eritrean lives.

These days Ethiopia, true to its now predictable behavior, is once more trying to deceive the International community. One of its often repeated lies in this instance is that it only has a problem with some aspects of the EEBC ruling not all of it. Here is how Seyoum Mesfin, Ethiopia's Minister for Foreign Affairs, put it to the General Assembly on 28 September, 2004:

*“I say some aspects of the decision of the EEBC because when the chips are down the obstacles to a breakthrough in the peace process between Ethiopia and Eritrea involve controversy surrounding the demarcation of **no more than 15%** of a common boundary which is altogether more than 1,000 kilometer long.”*

Not only is the above statement false, it is also purposely ambiguous. If Ethiopia has rejected 100% of the ruling of the EEBC, the sole authority that is mandated to delimit and demarcate the border, what does it mean it only has a problem with “not more than 15% of the common boundary?” If Ethiopia has dismissed the Decision of the Commission on the disputed part of the border as “illegal, unjust and irresponsible” what sense does it make to say the controversy is only on “the demarcation of no more than 15% of a common boundary?” The fact of the matter is the two countries couldn't agree on where the border is and it was why they went to war. After a loss of about 140,000 lives, they agreed for a neutral and an independent Commission to determine where the common border is. It is the disputed part of the border, no matter how long or how short, that caused the death and destruction of thousands of innocent young people and the suffering, through displacement and deportation, of nearly 2 million people. If the two countries couldn't solve their dispute through dialogue when they were on friendly terms, they cannot be expected to solve it now after all the blood shed that happened. The Decision of the Commission is the only way out. That is why the international community in consultation with the parties created the EEBC in the first place.

For a moment let's accept Ethiopia's assertion, that Ethiopia's problem is only over a 15% of the more than 1000 kilometer border. This amounts to about 150 km. But this doesn't tell the

extent of the area of territory Ethiopia has a problem with. Mathematically it does not make sense. To begin with how large is the area Ethiopia is having problem with? Is it 50 square km, 500 square km, or is it 5000 square km? See how deceptive the Ethiopian Foreign Minister's statement is. This kind of deliberate, misleading and confusing talk has been the hallmark of Ethiopian officials since the beginning of this conflict May of 1998. What Ethiopia is attempting under the 15% argument is now trying to revisit a legally settled claim.

The facts are as follows: Ethiopia has not accepted a disputed 140 km border along the Setit. This runs from the junction of the Mai Teb with the Setit (a junction where Ethiopia claimed the southern point of the Mareb-Setit line is located) to the junction of the Tomsa with the Setit (the junction the EEBC ruled is the southern point of the Mareb-Setit line). There is another 90 km from the confluence of the Tomsa and Setit to the confluence of Mareb and Mai Ambessa. The only portion of the border the two countries didn't dispute in this sector is the border along the Setit from the Eritrea-Ethiopia-Sudan tri-point to where the Mai Teb meets the Setit, a few kilometers east of the town of Um Hajer on the southwest corner of Eritrea. This is a mere 50 km. In other words, Ethiopia has rejected a 230 km border out of a total of 230 km disputed border in Western Sector alone. Is this only "not more than 15%"? No, it is a 100%.

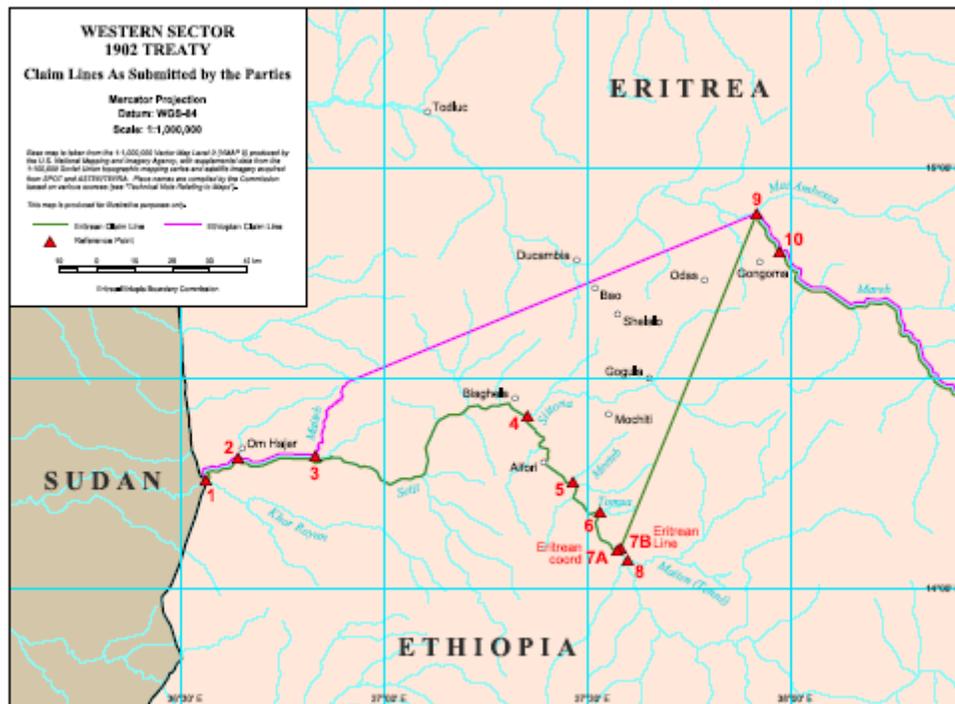
On the Central Sector, the only portion Ethiopia and Eritrea didn't dispute was the section of the border that runs along the Mareb river. This is the segment of the border that runs from the Mareb-Mai Ambessa junction to the Mareb-Belessa junction. For sure it is about 200 km, but as it was undisputed there was no change the Commission made on it. On the other hand Ethiopia has rejected, in its entirety, the Commission's ruling in the Central Sector, the stretch of border along the Belessa and Muna rivers. This border is more than 230 km long. Again Ethiopia has rejected not 15% but 100% of the Decision along this disputed sector.

Going further on to the Eastern Sector, since Ethiopia had disputed the entire border governed by the 1908 treaty and had objected to where the Commission was going to put the demarcation pillars, it means it had also rejected another 450 km out of a total of 450 km. This is another 100%.

Contrary to what the Foreign is trying to insinuate, out of the nearly 1160 km common border, the part of the border Ethiopia and Eritrea didn't dispute before the Decision is only 250 km. The remaining 910 km border was disputed and legally settled on April 2002. It was over this piece of the border the war was fought. It was on this portion of the border the Commission gave its final and binding ruling. By rejecting the EEBC Decision calling it "illegal, unjust, irresponsible and a blatant miscarriage of justice" it means Ethiopia has rejected the ruling on the entire disputed part of the border. In short, since Ethiopia has rejected the entire ruling when it said "nothing worthwhile can be expected from the Commission" it has rejected a 100% not 15% as it wants the world to think. Now Ethiopia is not only rejecting the final and binding verdict, it in fact is requesting the Commission to revise its Decision and award sovereign Eritrean territory to Ethiopia.

Not only this, in some parts of the Western Sector, Ethiopia's claim is 40-60 km deep into what the Commission has ruled to be Eritrean territory. If we just take the 140-90-133 triangle Ethiopia claimed in the west it will amount to an area of more than 5500 square kilometers of territory the Commission has affirmed to be Eritrean for the past 100 years. Ethiopia's claim in the Central Sector is also equally outrageous. In some parts it is more than 20 km deep from where the Commission ruled the common border to be. This claims hundreds of indisputable Eritrean villages. On the other hand, since Eritrea didn't claim a square inch beyond the

colonial treaty border there is not even a single Ethiopian village that was ruled for Eritrea. This is the truth and the Ethiopian (Tigrean) rulers know it more than any body else. These issues and more are what make the Ethiopian statement of “not more than 15%” in front of the UN General Assembly not only fraudulent and deceptive but also an outright lie.



Map 2

In accordance to standard rules of legal procedures neither Ethiopia nor Eritrea have the choice to cherry pick the Decision of the EEBC. In particular after both parties had deployed their legal experts and had argued their claims and counter-claims in submissions that amounted to tens of thousands of pages and in a stretch of time that lasted about a year, when the Decision is “final and binding” and when the Parties do not have the right of appeal. Moreover, the parties have a signed commitment and obligation “to cooperate with the Commission, its experts and other staff in all respects during the process of demarcation.” So far Ethiopia has failed to cooperate and thus is in breach of the Algiers Agreement and International law. Furthermore, as the Commission alone is mandated to demarcate the border, a 100% of it, having a problem with even 0.01% of the ruling is a breach of the rule of law. In other words, the Commission’s final and binding Decision is comprehensive and indivisible. There cannot be shades of rejection; a rejection is a rejection no matter how the guilty party tries to present it.

It is to be remembered that the authors and guarantors/witnesses of the Algiers Agreement (the United States government, the European Union, the United Nations and the African Union) had pledged to make a noncompliant party live to its treaty obligation by invoking Chapter VII of the UN Charter. All five guarantors/witnesses are now shamelessly shirking away from their signed commitment. It looks they are cutting Ethiopia a slack. No wonder Ethiopia’s Foreign Minister is now boasting sanction against Ethiopia “is unlikely to happen” because “the idea is too inappropriate, and too unrealistic.”

Why is the international community lenient with the defiant government of Ethiopia? Why is it,

by its inaction, encouraging the Ethiopian government to continue violating international law and to walk on a path of another war? What could be the reason? Could it be that the death of 140, 000 Africans is too small a number to warrant a decisive and clear action by the International community? Or is it only oil and oil alone that gets the attention of the US and the UN Security Council?

Ethiopia has to be forced to abide by its signed treaty obligation and accept the Decision of the Commission without any preconditions. This border dispute has been legally solved through arbitration thirty months ago. Definitely, the government of Ethiopia has no interest in implementing it in good faith and peacefully. In the first place it was by refusing dialogue that Ethiopia declared war on Eritrea in 1998. Therefore Ethiopia's current calling for dialogue and readiness for normalization of relations with Eritrea is a publicity stunt, a stalling tactic, and a way for buying more time to prepare yet for another war. If the International Community is interested in avoiding another disastrous war in the Horn of Africa, it is time for it to take appropriate action against the party that is defying the rule of law, in this case Ethiopia.

Ethiopia had known and agreed in advance that the boundary as delimited by the Commission would be final and binding. No part of this Decision is divisible and subject to any form of amendment or appeal, not before or during demarcation. The Commission's final and binding Decision is not a 15% or 1% Decision it is a 100% Decision.

The reason the UN Security Council was established and Chapter VII is incorporated in the UN Charter is to maintain regional peace and international security. The only way to do that is to ensure member states respect each other's territorial integrity and live up to their treaty obligations under International law. By failing to take action against Ethiopia which is defying International law and reneging its internationally guaranteed/witnessed and signed commitment the UN Security Council and its members are failing not only Eritrea, a member nation, but also the world in general and the Horn Africa in particular.