

Annex II

Eritrea-Ethiopia Boundary Commission: twenty-second report on the work of the Commission

1. This is the twenty-second report of the Eritrea-Ethiopia Boundary Commission, covering the period from 1 September to 20 December 2006. The previous report covered the period from 21 May to 31 August 2006.

2. On 29 September 2006, the Security Council adopted resolution 1710 (2006), which called upon:

- Eritrea to reverse its restrictions on UNMEE
- Ethiopia to “accept fully and without delay the final and binding decision of the Eritrea-Ethiopia Boundary Commission (EEBC) and take immediately concrete steps to enable, without preconditions, the Commission to demarcate the border completely and promptly”
- Both Parties to cooperate fully with the EEBC, stressing that the “primary responsibility for the implementation of the Algiers Agreements” lay with the Parties
- Both Parties to “implement completely and without further delay or preconditions the decision of the EEBC and to take concrete steps to resume the demarcation process”
- Both Parties to provide UNMEE with necessary assistance in the performance of its duties, including assisting the EEBC

3. The Commission, taking note of that resolution, wrote to the Parties on 6 October asking them to inform the Commission “of the actions which each proposes to take to comply with the Council’s specific requests”. To date, neither Party has replied to this request, although the Commission has received a letter from Eritrea, dated 22 October 2006, reiterating that “the way forward lies in the full and unequivocal acceptance of the EEBC Award by Ethiopia, and in the expeditious implementation of the Award on the basis of the Algiers Agreement and the Commission’s 8 July 2002 Demarcation Directions”.

4. The Commission also took note of the “Press Statement on Ethiopia-Eritrea” delivered by the President of the Security Council on 17 October 2006, especially the expression of the Council’s “unwavering commitment to the peace process, including the full and expeditious implementation of the Algiers Agreements and implementation of the final and binding decision of the EEBC”.

5. The Commission, in paragraph 9 of its twenty-first report, indicated that it would schedule a further meeting in November 2006 “to examine the situation as it then stands and, in particular, how in the circumstances it may best carry forward the demarcation of the boundary”.

6. On 8 November 2006, the Commission sent a letter of invitation to the Parties to attend a meeting on 20 November 2006 at the Permanent Court of Arbitration in The Hague “to consider the further procedures to be followed in connection with the demarcation of the boundary between Eritrea and Ethiopia”. Both Parties declined the Commission’s invitation: Ethiopia by letter dated 13 November 2006; and

Eritrea by letter dated 16 November 2006. In its letter, Ethiopia made a number of criticisms of the Commission which the Commission felt ought not to be left unanswered. Accordingly, on 27 November 2006, it sent a detailed response which it has asked the United Nations Secretary-General to publish as a Security Council document, so that it may receive the same circulation as the Ethiopian letter. As that has not yet appeared, a copy is attached hereto (see enclosure).

7. Notwithstanding the absence of the Parties, the Commission met at the Permanent Court of Arbitration in The Hague on 20 November 2006 in order to consider how best to advance the demarcation. At this meeting, the Commission received the views of a number of the Witnesses to the Algiers Agreement.

8. Following the meeting, the Commission issued a Statement dated 27 November 2006. In this Statement, the Commission set out its approach to demarcation in light of the obstacles the Parties had placed in its way. It identified “the location of points for the emplacement of pillars as a physical manifestation of the boundary on the ground”^a by means of precise coordinates determined with the assistance of high resolution aerial photography and modern techniques of image processing and terrain modelling in the Central and Western Sectors and field assessment in the Eastern Sector. These locations have been marked on 1:25,000 scale maps prepared in the Cartographic Section of the United Nations Secretariat.

9. In paragraph 22 of its Statement, the Commission said:

“As the Commission evidently cannot remain in existence indefinitely, it proposes that the Parties should, over the next 12 months, terminating at the end of November 2007, consider their positions and seek to reach agreement on the emplacement of pillars. If, by the end of that period, the Parties have not by themselves reached the necessary agreement and proceeded significantly to implement it, or have not requested and enabled the Commission to resume its activity, the Commission hereby determines that the boundary will automatically stand as demarcated by the boundary points listed in the Annex hereto and that the mandate of the Commission can then be regarded as fulfilled. Until that time, however, it must be emphasized that the Commission remains in existence and its mandate to demarcate has not been discharged. Until such time as the boundary is finally demarcated, the Delimitation Decision of 13 April 2002 continues as the only valid legal description of the boundary.”

10. In paragraph 28 of its Statement, the Commission further stated that “During the coming 12 months, the Commission will remain willing to provide assistance in emplacing the boundary pillars if the Parties jointly so request and provide assurances of cooperation and security”.

11. Neither Party has as yet responded to the Statement. Until the Parties request the Commission to provide assistance, the Commission is closing its Field Office in Addis Ababa and reducing its activities in the Cartographic Section of the United Nations Secretariat.

12. Finally, the Commission regrets that Ethiopia, despite repeated reminders since 21 May 2006, has still not paid the contribution to the work of the Commission presently due from it, as required by Article 4 (17) of the Algiers Agreement. The

^a Statement of the Eritrea-Ethiopia Boundary Commission, para. 20. Available at www.pca-cpa.org.

Commission has, therefore, been obliged to request access to the United Nations Trust Fund for Eritrea and Ethiopia in order to meet its commitments.

(Signed) Sir Elihu **Lauterpacht**
President of the Eritrea-Ethiopia Boundary Commission
21 December 2006