Annex II

Twenty-fourth report on the work of the Eritrea-Ethiopia Boundary Commission

1. This is the twenty-fourth report of the Eritrea-Ethiopia Boundary Commission, covering the period from 1 April to 9 July 2007. The previous report covered the period from 21 December 2006 to 31 March 2007.

2. In its previous report dated 30 April 2007 (S/2007/250), the Commission noted that the Parties had not yet proceeded as contemplated in paragraph 22 of the Commission's Statement of 27 November 2006 and that, in particular, they had not by themselves reached the necessary agreement on the emplacement of pillars, nor had they proceeded significantly to implement the Statement or enabled the Commission to resume its activity. The Commission also reiterated its firm commitment, expressed in paragraph 28 of the Statement, that during the 12 months from the issuance of the Statement it will remain willing to provide assistance if the Parties jointly so request and provide assurances of cooperation and security.

3. On 18 April 2007 the Commission sought from the Parties an indication of the progress they had made towards the conclusion of the necessary arrangements either for pillar emplacement by themselves or for requesting the Commission to resume its activity in the manner set out in the Statement.

4. In its reply of 17 May 2007, Eritrea stated that it "stands ready to resume the demarcation of the 13 April 2002 delimitation line as soon as circumstances permit" and stressed its support for the Commission's efforts to identify boundary pillar locations. Eritrea's letter further stated that "the necessary prerequisite for demarcation is Ethiopia's unequivocal acceptance of the Commission's Award and its complete cooperation with the Commission's technical staff". No reply was received from Ethiopia.

5. On 31 May 2007 the Commission wrote to the Parties recalling that six months remained for them to implement the Statement and advising them that at least six months' lead time would be required to enable surveyors and contractors to begin work on the boundary if the Commission were asked to resume its activity. Ethiopia replied by letter on 4 June 2007 indicating that it "has accepted the Commission's delimitation decision of 13 April 2002 without precondition".

6. Encouraged by the replies from the Parties, the Commission decided that it could be constructive to hold a meeting with the Parties to ascertain how, having regard to the various qualifications indicated by each Party, the demarcation process might continue. On 13 June 2007 the Commission wrote to the Parties seeking their views on holding such a meeting. Eritrea, in its reply of 25 June 2007, stated that it was "ready to attend a Commission meeting in a spirit of cooperation". Ethiopia, in its reply of 27 June 2007, stated: "Ethiopia does not believe that the minimum conditions exist for demarcating the border between Ethiopia and Eritrea. However, Ethiopia is prepared, in the hope that such conditions might be created, to attend if you should decide to convene a meeting."

7. The Commission has accordingly decided to hold a meeting with the Parties in September this year, and a letter of invitation to the Parties, together with the

Commission's letter of 13 June 2007 and the Parties' subsequent replies of 25 and 27 June 2007, are attached to this report.

8. Ethiopia continues to default on its obligation to pay its contributions to the Commission's work as required by article 4 (17) of the Algiers Agreement; this refusal was noted in paragraph 5 of the Commission's previous report. In October 2006 the Commission applied to the United Nations Trust Fund for Eritrea and Ethiopia for assistance. In May 2007 the Trust Fund was able to make a contribution which met most, but not all, of the Commission's indebtedness. The expenses of holding the meeting planned for September will once again put the Commission in the red. The Commission wishes to thank once again the donors and Trust Fund administrators for their support in the face of the Commission's financial difficulties. The Commission wishes to reiterate that the fact that it has received such support does not relieve the Parties of their continuing duty to meet the costs of the Commission.

(*Signed*) Sir Elihu **Lauterpacht**
President of the Eritrea-Ethiopia Boundary Commission
9 July 2007

ERITREA ETHIOPIA BOUNDARY COMMISSION

PROFESSOR SIR ELIHU LAUTERPACHT, CBE, QC - PRESIDENT
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BY E-MAIL

ER/ETH BC 50,194 13 June 2007

Dear Professor Brilmayer,
Dear Mr. Picard,

RE: ERITREA ETHIOPIA BOUNDARY COMMISSION

The Commission has now received from the Representatives of both Parties letters indicating their respective attitudes towards the resumption of the demarcation process.

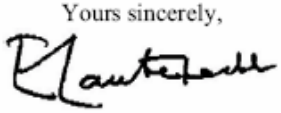
In her letter to me of 17 May 2007, the Co-Agent for Eritrea has said "The necessary prerequisite for demarcation is Ethiopia's unequivocal acceptance of the Commission's Award and its complete cooperation with the Commission's technical staff."

In his letter to me of 4 June 2007, the Co-Agent for Ethiopia has repeated Ethiopia's acceptance of the Delimitation Decision "without precondition".

Each of these statements stands out as against the various other disagreements expressed in the respective letters. The statements encourage the Commission to ask whether the Parties share the Commission's view that it would be worthwhile to convene a further meeting with the Parties to ascertain how, having regard to the various qualifications that each Party has included in its letters, the Commission may proceed, with the active cooperation of the Parties, to implement the demarcation process.

I would be glad to hear from you at your earliest convenience.

Yours sincerely,



Professor Sir Elihu Lauterpacht
President
Eritrea Ethiopia Boundary Commission

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دولة إرتيريا
المستشار القانوني
لمكتب الرئيس

THE STATE OF ERITREA
LEGAL ADVISOR TO THE
OFFICE OF THE PRESIDENT

President Sir Elihu Lauterpacht
Eritrea Ethiopia Boundary Commission
Permanent Court of Arbitration
The Hague, The Netherlands

25 June 2007

Dear President Lauterpacht:

Thank you for your letter of 13 June 2007 regarding the Boundary Commission's desire to recommence demarcation of the 13 April 2002 delimitation line, and for the Commission's inquiry concerning the Parties' readiness to attend a meeting in support of that objective.

I must note that the Government of Eritrea is not confident that Ethiopia plans to cooperate with demarcation in accordance with the Commission's Delimitation Award. Eritrea's skepticism is based on both Ethiopia's five-year history of noncompliance with the Boundary Commission's orders and its recent public statements indicating that it is not prepared to demarcate the 13 April 2002 boundary. Counsel for Ethiopia's letter to the Commission of 4 June 2007 falls far short of acceptance without preconditions of the boundary recognized on 13 April 2002, as does Ethiopian Foreign Minister Seyoum Mesfin's letter of 8 June 2007 to the President of the United Nations Security Council.

Eritrea is nonetheless ready to attend a Commission meeting in a spirit of cooperation. We fully support the Commission's objective of definitive demarcation on the ground in accordance with the two Algiers Agreements and the Commission's "final and binding" Delimitation Award.

Sincerely yours,

Legal Advisor to the Office of the President of Eritrea
Asmara, Eritrea

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June 27, 2007

Professor Sir Elihu Lauterpacht
President Eritrea/Ethiopia Boundary Commission
Permanent Court of Arbitration
Peace Palace Carnegieplein 2
2517 KJ The Hague
Netherlands

Dear President Lauterpacht:

I have transmitted your letter of 13 June 2007 to the Government and would like to convey the Government's observations.

As these communications are being exchanged, the reality on the ground is that the Temporary Security Zone (TSZ) has been completely violated by Eritrea. For all intents and purposes, there is no TSZ to speak of.

One of the cornerstones of the Algiers Agreements is the mandate given to UNMEE by the Agreement on Cessation of Hostilities to monitor the TSZ and to create conducive security conditions for both the demarcation of the boundary and a comprehensive settlement of the conflict between the two countries. Paragraphs 9, 12, 13, 14 of the Agreement on Cessation of Hostilities are particularly pertinent in this regard. Paragraph 12 says in part that in order "to contribute to the reduction of tension and to the establishment of a climate of calm and confidence, as well as to create conditions conducive to a comprehensive and lasting settlement of the conflict through delimitation and demarcation of the border, the Eritrean forces shall remain at a distance of 25 km (artillery range) from positions to which Ethiopian forces shall redeploy in accordance with paragraph 4 of this document. This zone of separation shall be referred to in this document as the "Temporary Security Zone."[1]

Paragraph 14 (C) of the Agreement mandates UNMEE to ensure security within the TSZ by means of "deployment to and continuous monitoring by military units of the peacekeeping mission at posts in key and sensitive positions within the temporary security zone in order to monitor the implementation of the commitments made by both parties in paragraphs 9 and 12..."

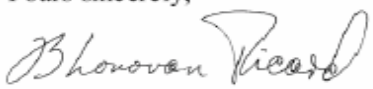
[1] Paragraph 9 reads as follow: "Ethiopia shall submit redeployment plans for its troops from positions taken after 6 February 1999, and which were not under Ethiopian administration before 6 May 1998, to the Peacekeeping Mission. This redeployment shall be completed within two weeks after the deployment of the Peacekeeping Mission and verified by it."

Obviously, UNMEE is today not in a position to do anything in terms of providing security in the TSZ and along the common border, all the more because now Eritrea has in fact began to carry out infiltration inside Ethiopia with the express aim of destabilizing Ethiopia. Inside the TSZ the roles of UNMEE and Eritrean troops have been reversed -- now Eritrean troops are monitoring UNMEE.

Under these circumstances, it is impossible to imagine that one would be able to carry out demarcation. In Ethiopia's view, even the bare minimum security conditions for demarcation are absent both within the TSZ and along the common border where, in the absence of a buffer zone, the two armies are eyeball to eyeball. The infiltration by Eritrean troops inside Ethiopia and the acts of destabilization by Eritrea have exacerbated the security situation. That is precisely why Ethiopia has asked the Security Council to discharge its obligation under paragraph 14 (a) of the Agreement on Cessation of Hostilities by taking measures against Eritrea under Chapter VII of the United Nations Charters for its violation of its commitment under paragraph 12 of that Agreement.

To reiterate, Ethiopia does not believe that the minimum conditions exist for demarcating the border between Ethiopia and Eritrea. However, Ethiopia is prepared, in the hope that such conditions might be created, to attend if you should decide to convene a meeting.

Yours sincerely,



B. Donovan Picard
Legal Counsel for the
Federal Democratic Republic of Ethiopia

ERITREA ETHIOPIA BOUNDARY COMMISSION

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BY E-MAIL

10 July 2007

Dear Professor Brilmayer,
Dear Mr. Picard,

RE: ERITREA ETHIOPIA BOUNDARY COMMISSION

I wish to acknowledge both Eritrea's letter to me of 17 May 2007 declaring that Eritrea "stands ready to resume the demarcation of the 13 April 2002 delimitation line as soon as circumstances permit" and its letter of 25 June 2007 stating that Eritrea is "ready to attend a Commission meeting in a spirit of cooperation", as well as Ethiopia's letter to me of 27 June 2007 declaring that "Ethiopia does not believe that the minimum conditions exist for demarcating the border between Ethiopia and Eritrea. However, Ethiopia is prepared, in the hope that such conditions might be created, to attend if you should decide to convene a meeting."

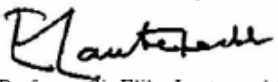
In view of these responses, the Commission has decided to convene a meeting in New York with the Parties beginning at 10:00 am on 6 September 2007. The meeting will be held at the offices of the Secretary of the Commission.

The purpose of the meeting will be to consider how pillars may be erected along the line set out in the Annex to the Commission's Statement of 27 November 2006 taking into account the need to overcome the problems referred to in paragraphs 10 and 11 of the Commission's Statement of 27 November 2006.

The Commission looks forward to this meeting with the representatives of the Parties. It hopes that they will come with sufficient authority to be able to agree upon the measures necessary to fulfill the purpose of the meeting, in particular that both Parties fully co-operate without conditions with the Commission, and take all necessary action to enable its demarcation teams to perform their functions.

Please confirm at your earliest convenience that your appropriately authorised representatives will attend the meeting.

Yours sincerely,



Professor Sir Elihu Lauterpacht
President
Eritrea Ethiopia Boundary Commission

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