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## التقرير الخاص للأمين العام عن إثيوبيا وإريتريا

### أولا - مقدمة

١ - هذا التقرير مقدم عملا بالفقرة ٨ من قرار مجلس الأمن ١٧١٠ (٢٠٠٦) المؤرخ ٢٩ أيلول/سبتمبر ٢٠٠٦، الذي أعرب فيه المجلس عن اعتزاه استعراض التقدم المحرز تجاه ترسيم الحدود بين إثيوبيا وإريتريا وطلب مني أن أقدم الخيارات المعدلة للتغييرات الممكنة إجراؤها في ولاية بعثة الأمم المتحدة في إثيوبيا وإريتريا.

### ثانيا - التطورات الحديثة في المنطقة الأمنية المؤقتة والمناطق المتاخمة لها

٢ - منذ تقرير المؤرخ ١٩ أيلول/سبتمبر ٢٠٠٦ (S/2006/749)، زاد تدهور الحالة الأمنية في المنطقة الأمنية المؤقتة وما حولها. ففي ١٦ تشرين الأول/أكتوبر، وفي أخطر انتهاك لسلامة المنطقة الأمنية المؤقتة، دخل حوالي ٤٠٠ جندي مسلح من قوات الدفاع الإريترية، مع مركبات عسكرية وست دبابات قتال رئيسية محمولة على ناقلات دبابات ومدفع واحد مضاد للطائرات، إلى كركيشا في القطاع الغربي، داخل المنطقة الأمنية المؤقتة. وفي ذات الوقت، مر حوالي ١٠٠٠ فرد من القوات الإريترية المسلحة مع أسلحة مدفعية وقنابل تطلق بالصواريخ و١٠ دبابات قتال رئيسية محمولة على ناقلات دبابات، بالقوة عبر نقطة تفتيش تابعة للبعثة في مايليبا، متجهين نحو أم هاجر التي تقع في القطاع الغربي، داخل المنطقة الأمنية المؤقتة. وخلال ذلك التوغل، استولت ميليشيات إريترية مسلحة على نقطة التفتيش في مايليبا، التي كانت بها قوات من الكتيبة الأردنية تابعة للبعثة. وتبعا للمعلومات المتوفرة للبعثة، أرسلت إريتريا حوالي ٧٤٥ من القوات الإضافية إلى القطاع الغربي، داخل المنطقة الأمنية المؤقتة، في الأسبوعين التاليين لذلك. ومنذ تلك التوغلات، أوقف الأفراد المسلحون الإريثريون جميع تحركات دوريات البعثة في المناطق المتأثرة، مما زاد من تقييد قدرة البعثة على الرصد، التي كانت مقيدة بالفعل.



٣ - وفي ١٦ تشرين الأول/أكتوبر، أصدرتُ بيانا مفاده أن التوغل يمثل حرقا جسيما لوقف إطلاق النار وسلامة المنطقة الأمنية المؤقتة، وحذرت من أنه يمكن أن يعرّض عملية السلام للخطر ويقوّض اتفاق وقف الأعمال العدائية بين إريتريا وإثيوبيا المؤرخ ١٨ حزيران/يونيه ٢٠٠٠، مما ستكون له عواقب وخيمة بالنسبة للمنطقة كلها. وحثت أيضا حكومة إريتريا على أن تسحب قواتها من المنطقة الأمنية المؤقتة فوراً، وأن تتعاون مع الأمم المتحدة في استعادة ترتيبات وقف إطلاق النار. وسعت البعثة أيضا إلى عقد اجتماع عاجل مع السلطات الإريترية للاحتجاج على الانتهاك الخطير لاتفاقات الجزائر بين إثيوبيا وإريتريا.

٤ - وبينما شوهدت بعض القوات والميليشيا الإريترية تنسحب أو تتحرك مؤقتا إلى خارج المنطقة الأمنية المؤقتة في القطاع الغربي، تُقدّر بعثة الأمم المتحدة في إثيوبيا وإريتريا أن ما لا يقل عن ٢٠٠٠ من القوات الإريترية، ومعها أسلحة ثقيلة، ما زالت داخل المنطقة، وهي تتألف من نحو خمس كتائب مشاة وسرية من دبابات القتال الرئيسية وبطارية مدافع مضادة للطائرات من طراز ZSU 23 وقوة من مدافع مضادة للطائرات من نوع ٦٣ وقوة من المنصات المتعددة الفوهات لإطلاق الصواريخ.

٥ - وأبلغ وزير الإعلام الإريترى والقائم بعمل مفوض التنسيق مع البعثة، هذه الأخيرة بأن القوات نقلت إلى المنطقة الأمنية المؤقتة "للمساعدة في جني المحاصيل" من المزارع التي تملكها الدولة في المنطقة. وذكر القائم بعمل مفوض التنسيق مع البعثة أيضا أن تحركات القوات كانت "قرارا طبيعيا"، مشيرا إلى وجود مشروعات إنمائية في المنطقة.

٦ - وأدانت إثيوبيا من جانبها، التوغل باعتباره استفزازا وانتهاكا صارخا لاتفاقات الجزائر لعام ٢٠٠٠. ولم تبلغ البعثة حتى الآن عن أي تحرك غير عادي للقوات على الجانب الإثيوبي من المنطقة الأمنية المؤقتة، باستثناء إعادة نشر حوالي ٢٠ من أسلحة المدفعية من طراز D-30 في المنطقة المتاخمة، بالقرب من حميرة، في القطاع الغربي.

٧ - وفي ٢١ تشرين الأول/أكتوبر، جد حادث إطلاق نار مؤسف، أطلق فيه أحد حراس البعثة النار على مجموعة من المدنيين الإريترين المجهولين الهوية الذين دخلوا بالقوة إلى معسكر البعثة في بارنتو، في القطاع الغربي. وتوفي أحد المقتحمين فيما بعد بمسشفى محلي. وأقامت البعثة على الفور مجلسا للتحقيق لتقصي هذا الحادث المأساوي. ومن المتوقع أن ينتهي المجلس من تحقيقه عند استلام الوثائق المناسبة من السلطات المحلية الإريترية.

٨ - وفي ١٤ تشرين الثاني/نوفمبر، وقع انفجاران منخفضا الشدة في فندقين في حميرة، بالقطاع الغربي في إثيوبيا. وبأوي أحد الفندقين مكتب فريق البعثة في موقع حميرة، والعاملين

به. ولم يصب أحد من أفراد البعثة، ولم تلحق أضرار بممتلكات البعثة. وبناء على المعلومات التي جُمعت حتى الآن، ليس هناك ما يشير إلى أن البعثة كان مستهدفة بالتحديد.

### القيود الإريتيرية وأثرها على البعثة

٩ - بالرغم من احتجاجات مجلس الأمن وبعثة الأمم المتحدة في إثيوبيا وإريتريا، ما زالت القيود التي تفرضها إريتريا على البعثة قائمة، وقد أوردتها في تقاريري السابقة. وما زال الحظر، المفروض منذ تشرين الأول/أكتوبر ٢٠٠٥، على رحلات الطائرات العمودية التابعة للأمم المتحدة مثار قلق خاص للبعثة والبلدان التي تساهم بقوات فيها، حيث أنه يحرم البعثة من قدرة حاسمة على القيام بعمليات إخلاء طبي جوي حيوية. وقد حسنت البعثة كجزء من الجهود المستمرة للتعامل مع تلك المسألة، مستشفيات المستوى الأول التابعة لها في بارنتو بإريتريا، وأديغرات بإثيوبيا، فصار بكل منهما الآن قدرات جراحية.

١٠ - وأقامت إريتريا أيضا مزيدا من التدابير التي تعرقل قدرة البعثة على تأدية المهام الموكلة لها. ففي ١٤ أيلول/سبتمبر، أبلغت السلطات الإريتيرية البعثة بأنها لن تسمح لها بشراء أكثر من ٢٠٠.٠٠٠ لتر من وقود الديزل كل شهر، مع أن البعثة تستهلك حوالي ٣٤٠.٠٠٠ لتر شهريا. ولم تتلق البعثة، منذ فرض ذلك الحد، سوى ١٥١.٠٠٠ لتر من الوقود في تشرين الأول/أكتوبر و ١٥٤.٠٠٠ لتر في تشرين الثاني/نوفمبر. وبالإضافة إلى ذلك، رفضت السلطات الإثيوبية طلب البعثة باستيراد وقود الديزل مباشرة. وقد قيدت محدودية وقود الديزل المتاح عمليات البعثة بشدة، بما في ذلك توفير الطاقة لأفراد الأمم المتحدة في الميدان. ونتيجة لذلك، أتبعَت البعثة تدابير تفشيفية لتوفير الوقود والمحافظة على حد أدنى من العمليات.

١١ - في ١ تشرين الثاني/نوفمبر، أبلغت السلطات الإريتيرية الأمم المتحدة بأن إريتريا لا تعترف بتعيين السيد عزوز النيفر ممثلا خاصا بالنيابة، مع أن السيد النيفر كان قد عُين بتلك الصفة منذ ١١ آب/أغسطس ٢٠٠٦. ورغم التوضيحات التي قدمتها الأمانة العامة، أصرت حكومة إريتريا على أن السيد النيفر لم يعد بإمكانه البقاء في البلد أو دخولها كمسؤول في البعثة. ونتيجة لذلك، انتقل السيد النيفر في ١١ تشرين الثاني/نوفمبر إلى أديس أبابا. وفي ذات الوقت، يعمل نائب ممثلي الشخصي، السيد ليوهانغ موليكو، باعتباره منسق العلاقات مع السلطات الإريتيرية في أسمرة. إلا أن المسؤولين الإريتيريين أبلغوا مسؤولين كبارا في البعثة بأنه بالنظر إلى أن إريتريا لا تعترف بالسيد النيفر، فإن قيادات البعثة معرضة لإلغاء تأشيراتها إذا حضرت اجتماعات في أديس أبابا يعقدها السيد النيفر. وبالإضافة إلى ذلك،

أشارت السلطات الإريترية على البعثة بأن السيد النيفر يجب ألا يبقى رئيسا للبعثة وألا يتخذ قرارات بشأن المسائل العملية المتعلقة بقضية الحدود، بغض النظر عن موقعه.

١٢ - وفي ٦ تشرين الثاني/نوفمبر، أخطرت حكومة إريتريا البعثة بأنه، نظرا "لخطر إنفلونزا الطيور"، فقد حظرت استيراد الدواجن أو منتجات الدواجن الموجهة لاستهلاك بعثة حفظ السلام في إريتريا، ومنعت أي إمدادات من هذا النوع. وبالرغم من توضيح البعثة أن ما يستهلكه أفرادها من دواجن مستورد من بلدان لم تتأثر بإنفلونزا الطيور، لم ترجع حكومة إريتريا عن ذلك القرار. ويسبب ذلك قلقا بالغاً لدى البلدان التي تساهم بقوات في البعثة، حيث أن منتجات الدواجن تمثل صنفا رئيسيا من الطعام لأفرادها.

### لجنة التنسيق العسكرية

١٣ - لم يمكن عقد الاجتماع الثامن والثلاثين للجنة التنسيق العسكرية، الذي كان من المقرر عقده في منتصف أيلول/سبتمبر، بسبب تعارض الجداول الزمنية لمختلف الأطراف. ولم ينعقد اجتماع مقترح في أوائل تشرين الثاني/نوفمبر، إذ طلبت إثيوبيا تأجيله، بسبب التوغل الإريترية في المنطقة الأمنية المؤقتة. وفي ٨ تشرين الثاني/نوفمبر، أبلغت إريتريا البعثة بأنها أوقفت مشاركتها في لجنة التنسيق العسكرية إلى أن تقدم إثيوبيا تفسيراً لطلبها تأجيل الاجتماع، حيث أنها تعتبر ذلك الطلب انسحاباً من اتفاق وقف الأعمال العدائية. وتجري البعثة حالياً اتصالات مع الطرفين بغرض تأمين اتفاق على تاريخ ومكان جديدين للاجتماع التالي.

### لجنة الحدود بين إثيوبيا وإريتريا

١٤ - في رسالة مؤرخة ٩ تشرين الثاني/نوفمبر، أبلغني رئيس لجنة الحدود بين إثيوبيا وإريتريا بأنه يعتزم عقد اجتماع مع كل من الحكومتين في ٢٠ تشرين الثاني/نوفمبر في لاهاي لمناقشة مقترح لترسيم الحدود بين إثيوبيا وإريتريا حسب الإحداثيات، مما يجنب الحاجة إلى نصب أعمدة حدودية على الأرض. ودعت لجنة الحدود أيضاً إلى الاجتماع شهوذاً على اتفاق الجزائر. وأشارت لجنة الحدود إلى أنها شعرت بأنها مضطرة إلى العمل بهذه الطريقة بسبب استمرار عدم تعاون الطرفين اللذين لم يمنح كل منهما لجنة الحدود إمكانية الوصول إلى منطقة الحدود لوضع أعمدة حدودية على الأرض مما كان يتم عملية الترسيم. ويتضمن مقترح لجنة الحدود معالجة الصور وتشكيل نماذج تضاريس الأرض "لتحديد مسار الحدود بالتعرف على موقع نقاط التحول (أو نقاط الحدود) بكل من الإحداثيات الشبكية

والجغرافية بدرجة من الدقة لا تختلف بدرجة هامة عن تقدير مواقع الأعمدة ونصبها في الميدان“.

١٥ - واعترضت إثيوبيا بشدة على مقترحات لجنة الحدود ودعت إلى إلغاء الاجتماع، بحجة أن الترسيم حسب الإحداثيات سيكون باطلا من الناحية القانونية. واحتجت إريتريا أيضا على مفهوم لجنة الحدود بعدم التقيد بالترسيم المادي للطرفين. ولم يرسل أي من الطرفين ممثلين للاجتماع في لاهاي.

١٦ - ومع ذلك اجتمعت لجنة الحدود في ٢٠ تشرين الثاني/نوفمبر في لاهاي، بحضور الشهود، ومن بينهم وفد من الأمم المتحدة برئاسة الأمين العام المساعد لعمليات حفظ السلام، السيد هادي العنابي. وشرحت لجنة الحدود كيف توصلت إلى القرار بترسيم الحدود حسب الإحداثيات، ودعت الشهود إلى الإدلاء بأرائهم حول المقترح. وفي ختام الاجتماع، أبلغت اللجنة المشاركين بأنها ستصدر بيانا رسميا بشأن المسألة.

١٧ - وفي ٢٧ تشرين الثاني/نوفمبر، أعلنت لجنة الحدود (انظر الضميمة) أن أفضل الطرق العملية التي يمكن أن تحقق بها تقدما في أداء ولايتها هي أن تقدم إلى الطرفين قائمة بنقاط الحدود التي تحددها اللجنة باستخدام الأساليب الفنية المشار إليها سابقا في الفقرة ١٤.

١٨ - وفي هذا الصدد، ذكرت اللجنة ما يلي:

”في هذه الظروف، ترى اللجنة أن أفضل الطرق العملية التي يمكن أن تحقق بها تقدما في أداء ولايتها هي أن تقدم إلى الطرفين قائمة بنقاط الحدود التي تحددها اللجنة باستخدام الأساليب الفنية المشار إليها للتو على امتداد المنطقة الحدودية“.

وتمثل هذه القائمة المواقع التي سوف تضع فيها اللجنة أعمدة دائمة، إذا مكنتها الطرفان من ذلك. وترد القائمة وبعض التعليقات التوضيحية في مرفق لهذا البيان الذي ترد معه أيضا خمس وأربعون خريطة تبين نقاط الحدود. وتجدر الإشارة إلى أن الحدود المبينة على هذا النحو لا تختلف بدرجة هامة عن الحدود التي جرى تحديدها في قرار ترسيم الحدود. وجرى توضيح منطقتي تسيرونا وزلامبيسا، على النحو المتوخى في قرار ترسيم الحدود، بتحديد ضواحي هذين المكانين وأخذ الحالات التي تنسم بشكل ظاهر بانعدام الطابع العملي، في الاعتبار بقدر ما يكون ذلك ملائما. وحيث أن من الواضح أن اللجنة لا يمكنها البقاء لأجل غير مسمى، فإنها تقترح أن يقوم الطرفان على مدى الشهور الاثني عشر القادمة، التي تنتهي في نهاية تشرين الثاني/نوفمبر ٢٠٠٧، بالنظر في موقفهما والسعي إلى التوصل إلى اتفاق بشأن نصب الأعمدة. وإذا لم يتوصل الطرفان من تلقاء ذاتهما في نهاية تلك الفترة، إلى الاتفاق

المطلوب، ولم يمضيا في تنفيذه بصورة ملحوظة، أو لم يطلبها من اللجنة أن تستأنف نشاطها، وبمكناها من ذلك، فإن اللجنة تقرر بموجب هذا أن الحدود ستعتبر تلقائيا أنها رسمت بنقاط الحدود المذكورة في مرفق هذا البيان وأنه يمكن آنذاك اعتبار أن ولاية اللجنة قد تمت. ولكن، وحتى ذلك الحين، يجب التأكيد على أن اللجنة ما زالت قائمة وأن ولايتها بترسيم الحدود لم تتم. وإلى أن يتم ترسيم الحدود بصورة نهائية، يظل قرار ترسيم الحدود المؤرخ ١٣ نيسان/أبريل ٢٠٠٢ الوصف القانوني الوحيد الساري للحدود“.

١٩ - وإنني أحث الطرفين على الاستفادة من هذه الفترة والتعاون مع اللجنة للتعجيل بتنفيذ عملية ترسيم الحدود.

### الأعمال المتعلقة بالألغام

٢٠ - في ٨ تشرين الثاني/نوفمبر ٢٠٠٦، اصطدمت عربة لإزالة الألغام تابعة للبعثة، على متنها اثنان من أفراد البعثة، بما يشبه بأنه لغم مضاد للدبابات على الطريق بين تسورينا وسينافي، في القطاع الأوسط. وأصيب موظفا البعثة بجروح خطيرة، وعولجا في مستشفى الأمم المتحدة، وجرى إخلاؤهما فيما بعد إلى بلديهما الأصليين لمواصلة المعالجة الطبية. وقد أفيد أنهما في حالة مستقرة. وتشير التحقيقات الأولية إلى أن ذلك الحادث قد وقع بسبب لغم وُضِع حديثا.

٢١ - وأجرى مركز تنسيق الأعمال المتعلقة بالألغام التابع للبعثة تقييما تفصيليا عقب التغلغل، وخلص إلى أن، من الممكن ما دامت الحالة الأمنية في المنطقة الأمنية المؤقتة في المرحلة الرابعة، القيام بتطهير الطرق وبمهام أخرى لإزالة الألغام، طبقا لاتفاق وقف الأعمال العدائية، وقرارات مجلس الأمن ذات الصلة بالموضوع.

### ثالثا - خيارات للتغييرات الممكن إجراؤها في ولاية البعثة

٢٢ - يعزى الوضع غير المستقر المتوتر والمتفجر السائد في المنطقة الأمنية المؤقتة إلى تراكم قضايا لم تحسم، لا سيما الجمود في عملية ترسيم الحدود. وهذا الجمود ناشئ عن رفض إثيوبيا أن تقبل، دون شروط مسبقة، قرار تعيين الحدود الذي اتخذته لجنة الحدود بين إثيوبيا وإريتريا عام ٢٠٠٢. وقد عرضت الإجراءات الأخيرة التي اتخذتها الحكومة الإريترية، لا سيما حشد القوات بصورة مكثفة داخل المنطقة الأمنية المؤقتة، للخطر الشديد اتفاق الجزائر، وقوضت قدرة البعثة على تنفيذ ولاية الرصد التي تضطلع بها، بناء على طلب طرفي

الاتفاق. وفي الوقت نفسه، ليس هناك ما يدل على توجه إريتريا لرفع القيود العديدة غير المقبولة التي فرضتها على عمليات البعثة خلال الأعوام القليلة الماضية.

٢٣ - وفي ظل الظروف الراهنة، ليس من الوارد الإبقاء على البعثة بتشكيلها الحالي ومن ثم اقترح أن ينظر مجلس الأمن في الخيارات المبنية أدناه بالنسبة للتغيرات الممكن إجراؤها في ولاية البعثة، بناء على الطلب الوارد في القرار ١٧١٠ (٢٠٠٦).

### الخيار الأول

٢٤ - ينطوي الخيار الأول على خفض قوام البعثة العسكري، الحالي من ٢ ٣٠٠ إلى ١ ٧٠٠ من الأفراد العسكريين، مما يشمل ٤٣٠ من الأفراد وعناصر الدعم و ٢٣٠ مراقبا عسكريا. ويتيح هذا الخيار الحفاظ على القدرة الحالية على الملاحظة بينما يخفض القوام الكلي. ويقلص تواجد الوحدات في جميع نقاط التفتيش الثابتة عند نقاط الدخول والخروج المهمة والحساسة في المنطقة الأمنية المؤقتة، بينما يضطلع مراقبو الأمم المتحدة العسكريون بمهام الدوريات. وسيتم أيضا الحد من دوريات المراقبة وعمليات التفتيش المبالغت بما يتناسب مع قدرة البعثة التي انخفضت كثيرا على أداء مهامها.

٢٥ - وسوف تحافظ البعثة على وجودها في المواقع التالية بالمنطقة الأمنية المؤقتة والمناطق المتاخمة: بارينتو وبادمي وشياللو وشيرارو وإندا سيلاسي وهوميرا ومايلبا/أم هاجر (في القطاع الغربي)؛ وسينا في وماي آيني وأديغرات ومنديفيرا وأدي أبون (في القطاع الأوسط)؛ وأصاب وبوري (في القطاع الفرعي الشرقي). ومن شأن هذا الخيار أن يسمح للبعثة بالاحتفاظ بوجودها داخل المنطقة الأمنية المؤقتة.

### الخيار الثاني

٢٦ - بموجب الخيار الثاني، ستحتفظ البعثة بقوام عسكري يبلغ ١ ٧٠٠ فرد، بينهم ٢٣٠ مراقبا، وستتبنى مفهوم العمليات المبين في الخيار السابق. بيد أنه سيجري نقل كامل مقر قوات البعثة والوحدات التي تشكل جزءا لا يتجزأ منه (وتشمل الشرطة العسكرية وأفراد الحراسة والسرية الإدارية من أسمرة إلى الجانب الإثيوبي دون أن يخلف وراءه سوى مكتب اتصال صغير في أسمرة. وعلاوة على ذلك، تنقل بعض الوحدات العسكرية، بما في ذلك مستشفى المستوى الثاني، إلى جنوب المنطقة الأمنية المؤقتة. وتبقى قوات الأمم المتحدة الرابضة في المنطقة في مكاتها، إذا سمحت لها السلطات الإثيوبية بالعمل. لكن هذا الخيار يتطلب زيادة الأنشطة عبر الحدودية للبعثة، الأمر الذي يعتمد على تعاون إثيوبيا وإريتريا

الكامل، والذي قد يواجه تحديات لوجستية وعملياتية كبيرة نتيجة للقيود التعسفية الإضافية التي يمكن أن تفرضها أسمره.

٢٧ - وإذا أريد أن تحتفظ البعثة بمكتب في أسمره وأن تتواجد داخل المنطقة الأمنية المؤقتة فإنه لا غنى عن تعاون إريتريا. وستحتاج البعثة أيضا أن تمنح حرية الحركة للقيام بالدوريات من مواقع الأفرقة ومراكز الوحدات التسعة الواقعة في إريتريا. وعلاوة على ذلك، يتطلب هذا الخيار موافقة إثيوبيا على نشر معظم موارد البعثة جنوب المنطقة المذكورة.

### الخيار الثالث

٢٨ - يتمثل الخيار الثالث في تحويل البعثة إلى بعثة مراقبة تدعمها قوة حماية عسكرية أصغر. ويعني هذا خفض قوام القوة من ٣٠٠ ٢ فرد حاليا إلى ٨٠٠ فرد (١٦٠ مراقبا عسكريا و ٦٤٠ جنديا، بما في ذلك العناصر المساندة). ويستتبع هذا الخيار إزالة جميع مواقع أفرقة المراقبة ومراكز الوحدات الدائمة من داخل المنطقة الأمنية المؤقتة. وتكون المهمة الرئيسية للمراقبين العسكريين التركيز على المراقبة الدائمة المحدودة للمنطقة الأمنية المؤقتة من مواقع الانتشار الواقعة خارج المنطقة. ويضطلع المراقبون العسكريون، رهنا بتعاون الطرفين، بدوريات منتظمة وعمليات تفتيش مباغتة داخل المنطقة الأمنية المؤقتة. ويظل التركيز على الطرق الموصلة الرئيسية.

٢٩ - وعموجب هذا الخيار سيتولى دعم مواقع أفرقة المراقبين ستة مراكز للوحدات توفر للمراقبين العسكريين الحماية والدعم الإداري واللوجستي. وتشمل المواقع الستة المقترحة ثلاثة مراكز في بارينتو ومايلبا وهوميرا بالقطاع الغربي؛ ومركزين في أديغرات وأسمره بالقطاع الأوسط؛ ومركزا واحدا في أصاب بالقطاع الفرعي الشرقي. ويقلص نطاق دوريات المراقبة وعمليات التفتيش المباغتة لكفالة عدم تعرض موظفي الأمم المتحدة لمخاطر غير ضرورية تتجاوز قدرة عناصر الاستجابة بالبعثة. وستعتمد فعالية هذا الترتيب على التعاون التام للطرفين. بيد أنه إذا ما، رفض أحد الطرفين التعاون مع الأمم المتحدة أو فرض قيودا على أنشطتها، في إطار هذا الترتيب، ستباشر بعثة المراقبة عملها من جانب واحد فقط.

### الخيار الرابع

٣٠ - تتحول البعثة.عموجب الخيار الرابع إلى بعثة اتصال صغيرة تحتفظ بمكتبين في أديس أبابا وأسمره. وتكون مهمتها الأساسية الحفاظ على سبل الاتصال مع القيادات السياسية والعسكرية من الطرفين.



٣١ - ويستتبع هذا الخيار نشر ما بين ٣٠ و ٤٠ ضابط اتصال عسكري مع دعم كاف من الطيران متعاقد عليه مع جهات مدنية. وينشر هؤلاء الضباط العسكريون، مع ضباط الاتصال السياسي، في كل عاصمة. ويمكن أيضا إنشاء مراكز اتصال متقدمة في كل من البلدين. وكما هو الحال في أي خيار ينطوي على انتشار الأمم المتحدة في إريتريا، يمكن أن تستمر حتى بعثة صغيرة في مواجهة قيود عملياتية صارمة تقوض فعالية البعثة. وعلاوة على ذلك، لن يوفر هذا إلا تقييما محدودا جدا للوضع على أرض الواقع.

## رابعاً - ملاحظات

٣٢ - مر أكثر من ست سنوات منذ أن أنشأ مجلس الأمن البعثة بموجب قراره ١٣٢٠ (٢٠٠٠) المؤرخ ١٥ أيلول/سبتمبر ٢٠٠٠، وأكثر من خمس سنوات على إنشاء المنطقة الأمنية المؤقتة رسمياً في نيسان/أبريل ٢٠٠١. واتخذت لجنة الحدود بين إثيوبيا وإريتريا قرار تعيين الحدود في ١٣ نيسان/أبريل ٢٠٠٢، واقتضت ولايتها أن تبدأ اللجنة ترسيم الحدود بشكل سريع وكامل. وفي ذلك الوقت، كان الالتزام بعملية السلام التي أبداه الطرفان يبعث على الأمل في حل تام لتزاعهما الحدودي خلال فترة زمنية قصيرة نسبياً. ولم يكن تعاون الطرفين مع لجنة الحدود أمراً مفترضا منه فحسب بل ضروريا في الواقع لتنفيذ قرار تعيين الحدود. بيد أن التعاون تضائل تدريجياً منذ عام ٢٠٠٣ عندما أكدت إثيوبيا، رداً على قرار اللجنة، "ضرورة إجراء الترسيم بطريقة تراعى فيها الجغرافية البشرية والجغرافية الطبيعية من خلال دراسة الحقائق على أرض الواقع". وبالنسبة لإريتريا، بدأ التعاون يتدهور عندما وضعت عراقيل شديدة ومذلة أمام عمل البعثة وموظفيها. وقد أثر ذلك أيضاً على عمل لجنة الحدود على الأرض.

٣٣ - ورغم التزام المجتمع الدولي وجهوده، لم يبد الطرفان أي إرادة سياسية للتوصل إلى حل وسط. ولم يقد البلدان أيضاً بالتنفيذ الكامل لقرار مجلس الأمن ١٦٤٠ (٢٠٠٥) الذي أتاح لهما فرصة أخرى لكسر الجمود الخطير الذي أصاب عملية السلام.

٣٤ - ويلزم التشديد على أن رفض إثيوبيا تنفيذ قرار لجنة الحدود بالكامل دون أي شروط مسبقة يتنافى مع مبادئ القانون الدولي المقبولة على نطاق واسع. كما أنه نتيجة لغياب الحوار بين الطرفين، وعدم تعاونهما مع لجنة الحدود، ورفض إريتريا الاستفادة من المبادرات الدبلوماسية الأخيرة، والتوغّل الكبير للقوات الإريتيرية في المنطقة الأمنية المؤقتة، ظل التوتر على الأرض شديداً. وأثار فرض إريتريا لقائمة طويلة من القيود المذلة بشكل متعمد على عمليات البعثة التساؤل حول جدوى استمرار البعثة، وأدى إلى زيادة حدة التوتر في منطقة الحدود.

٣٥ - وفي الوقت نفسه، يشكل الأثر الكلي للقيود الإريتيرية المعيقة تحديا خطيرا لعدة مبادئ جوهرية لحفظ السلام الذي تضطلع به الأمم المتحدة، لا سيما سلامة موظفيها، والحاجة إلى حرية الحركة، والطابع الدولي الخالص للأفراد العاملين تحت راية المنظمة، والصلاحيحة المخولة للأمين العام في تعيين الموظفين اللازمين. وقد اضطرت البعثة للعمل في ظروف غير مقبولة لفترة طويلة للغاية، وأخشى أنه إذا ما سمح لذلك بالاستمرار فستكون له بالفعل عواقب وخيمة جدا على المفهوم الأوسع لحفظ السلام.

٣٦ - وفي ظل الظروف الراهنة الهشة جدا، لا يسع البعثة للأسف أن تكفل إلا مراقبة محدودة جدا للترتيبات الأمنية في المنطقة الأمنية المؤقتة، والالتزامات الأخرى التي تعهد بها الطرفان في اتفاق الجزائر. وبإمكان البعثة أن تراقب ما لا يزيد عن ٤٠ في المائة من المنطقة الأمنية المؤقتة، ولم يعد بمقدورها مراقبة القوات الإريتيرية في المواقع التي أعيد نشرها بها. وعلاوة على ذلك، وبالنظر إلى عدم تعاون الطرفين مع اللجنة، فإن احتمالات أن تستطيع البعثة مساعدة لجنة الحدود في تنفيذ قرار تعيين الحدود الذي اتخذته اللجنة تظل مخوفة بالمشاكل.

٣٧ - وفي الوقت ذاته، ورغم عن الموقف السلبي المتعمد حيال عملية الأمم المتحدة وفرادى حفظة السلام، يظل وجود هؤلاء الرجال والنساء الشجعان وعزمهم على خدمة قضية السلام يشكل عقبة سياسية وعملية ونفسية أمام أي عمل متهور قد يسفر عنه الوضع الراهن الذي يواجهه فيه الجيشان بالفعل بعضهما البعض، بدون منطقة فاصلة. ويظل هذا العامل عائقا أمام من يرغب في زيادة تصعيد الحالة مع عواقب محتملة بالنسبة للبلدين والأمن العام في المنطقة. وما زال بوسع البعثة أن تساعد بقدر ما، على الرغم من تقلص حدود وجودها، في الحد من خطر اندلاع الصراع من جديد أو منعه. وأنا على ثقة من أن مجلس الأمن سيضع هذا الاعتبار الحيوي نصب عينيه عند اتخاذ قراره بشأن مستقبل البعثة.

٣٨ - وأرحب في هذا السياق بالقرار الذي اتخذته لجنة الحدود في ٢٧ تشرين الثاني/نوفمبر، والذي يمنح الطرفين فترة ١٢ شهرا أخرى، تنتهي في نهاية تشرين الثاني/نوفمبر ٢٠٠٧، كي يراجعا مواقفهما ويحاولا التوصل إلى الاتفاق اللازم حول نصب الأعمدة الحدودية. وهذا القرار المهم الذي اتخذته لجنة الحدود يجب أن يوضع في الاعتبار أيضا عند النظر في الخيارات الممكنة فيما يتعلق بمستقبل البعثة. وبالنظر إلى ما تقدم قد يود مجلس الأمن أن يأذن بتنفيذ الخيار الأول. إلا أنه إذا لم يتحقق أي تقدم خلال الأشهر القادمة نحو تنفيذ توصية لجنة الحدود يمكن للمجلس عندئذ أن ينظر في تحويل عملية الأمم المتحدة إلى بعثة مراقبة أو اتصال.

٣٩ - وختاماً، أود أن أعرب عن امتناني لممثلي الشخصي بالنيابة عزوز النيفر، والموظفي البعثة المدنيين والعسكريين لما يبدونه من التزام وجد دائمين في ظل ظروف صعبة جداً، وغير مواتية بصورة متزايدة، بل وخطيرة. وأود أيضاً أن أوجه شكري إلى جميع الجهات الشريكة للبعثة، بما فيها أفرقة الأمم المتحدة القطرية والوكالات الإنسانية والدول الأعضاء المعنية والاتحاد الأفريقي والمنظمات الدولية الأخرى على الدعم الذي تواصل تقديمه لعملية السلام هذه.

## ERITREA-ETHIOPIA BOUNDARY COMMISSION

### STATEMENT BY THE COMMISSION

1. This Statement is issued by the Eritrea-Ethiopia Boundary Commission (“the Commission”) following its meeting in private session in The Hague on 20 November 2006 to consider the further procedures to be followed in connection with the demarcation of the boundary between Eritrea and Ethiopia. Invitations to the Parties were issued by e-mail on 8 November 2006. Both Parties declined the Commission’s invitation. Part of the meeting was attended by representatives of the following Witnesses to the Algiers Agreement of 12 December 2000: the Secretary-General of the United Nations, the European Union, the United States of America and the People’s Democratic Republic of Algeria.
2. By the Algiers Agreement, the Parties established the Commission to delimit and demarcate the border between them on the basis of the pertinent colonial treaties and applicable international law. The Parties stipulated that “the delimitation and demarcation determinations of the Commission shall be final and binding” and agreed that “each Party shall respect the border so determined, as well as the territorial integrity and sovereignty of the other Party”.
3. The Parties evidently considered the completion of the task of delimitation as urgent, because they provided in Article 4(12) of the Agreement that the delimitation should be completed within six months of the first meeting of the Commission. The Commission recognised that a similar sense of urgency attached to the demarcation process; Article 4(13) of the Algiers Agreement called upon the Commission to arrange for “expeditious demarcation”. The terms of the Algiers Agreement, and its object and purpose, preclude leaving the boundary undemarcated for a prolonged period or indefinitely.<sup>1</sup>
4. The constitution of the Commission was completed on 20 February 2001 and the Commission immediately entered upon its task. After the receipt and study of substantial written pleadings, and having heard the oral arguments of the Parties, the Commission delivered the Delimitation Decision of 13 April 2002. This identified the principal features of the boundary line, accompanied by a list of coordinates identifying the points through which the boundary runs. When the Delimitation Decision was rendered, both Parties promptly announced their acceptance of it. Thereupon, the Commission undertook the steps necessary to initiate the process of demarcation.

<sup>1</sup> The Commission recalls the observation of the Court of Arbitration in the *Beagle Channel* case – albeit in a somewhat different context: “It is not admissible that, because of the total non-cooperation of one of the Parties, contrary to its obligation under a valid Award, the Court should be compelled to remain indefinitely in existence in a state of suspended animation”. (See 52 *International Law Reports* 284.) The present case is not one involving the total non-cooperation of one Party, but rather the non-cooperation of both Parties, though in differing ways and degrees. Thus, the observation of the *Beagle Channel* tribunal applies *a fortiori*.

5. On 8 July 2002, in accordance with Article 30(1) of its Rules of Procedure, the Commission promulgated the Demarcation Directions. These were revised in November 2002 and in March and July 2003. In implementation of their obligations under these Directions, the Parties appointed Liaison Representatives and Field Liaison Officers to facilitate the participation by each Party in identifying sites for the emplacement of boundary pillars. The Commission established its Field Offices in Asmara and Addis Ababa in November 2001 and in Adigrat in July 2002. It also appointed a Chief Surveyor in October 2001 and a Special Consultant in May 2002 to provide technical advice and assistance to the Commission. The Chief Surveyor took up residence in Asmara on 15 November 2001. Surveying staff were recruited to assist him.
6. Initially, it was envisaged by the Commission, as reflected in the Demarcation Directions of 8 July 2002, that the task of demarcation would entail the emplacement of pillars as markers of the line of the boundary specified in the Delimitation Decision. On this basis, the Demarcation Instructions were issued on 21 March and 22 August 2003. Steps were taken towards the negotiation of contracts for the construction and emplacement of pillars.
7. On 24 January 2003, in response to a request by the Commission for comments on the draft 1:25,000 maps, Ethiopia filed a memorandum setting out at length its views on the process of demarcation. It emphasised the necessity of conducting the demarcation in a manner that takes into consideration the human and physical geography through the study of the facts on the ground.<sup>2</sup> It contended that, in the process of demarcation, alterations or adjustments of the delimited boundary should be made so as principally to eliminate those situations in which villages were divided or roads were cut by the boundary. The Commission later ruled that most of these contentions were inadmissible. Eritrea, for its part, insisted that the line described in the Delimitation Decision should be applied without any change. In paragraph 20 of the “Observations” which the Commission conveyed to the Parties on 21 March 2003, the Commission stated its view that, in the absence of express authorisation by the Parties, it lacked the authority to vary the delimited boundary line except in cases of “manifest impracticability”. It also indicated that the description of certain parts of the boundary in the Dispositif of the Delimitation Decision would need to be completed when, as foreseen in that Decision, the Commission had received necessary information from the Special Consultant and the Chief Surveyor, in particular in relation to Tserona, Zalambessa and Bure.
8. On the basis of the colonial treaties, the application of which was prescribed in the Algiers Agreement, the demarcation of the boundary was approached in three sectors (Western, Central and Eastern), as had been the delimitation. Demarcation began in the Eastern Sector in March 2003 and the location of pillars was established through field assessment with the co-

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<sup>2</sup> Submission by the Federal Democratic Republic of Ethiopia, 24 January 2003, Comments Pursuant to the December 2000 Agreement, the Commission’s Rules of Procedure, the Commission’s Demarcation Directions and Instructions provided at the Boundary Commission’s Meeting on 6 and 7 November 2002, p. 61-74.

operation of both Parties by August 2003. A set of marked maps showing proposed boundary pillar sites in this Sector was sent to the Parties for comment. Eritrea accepted these marked maps of the Eastern Sector but Ethiopia did not respond. As the failure of a Party to participate could not prevent the Commission from performing its function, after the expiry of the period which the Commission gave to the Parties for comment on these maps the Commission adopted specific boundary points that could serve as locations for the emplacement of pillars in that Sector. These locations extended from the Djibouti border in the east to the Salt Lake in the north-west. Some of these locations departed from the boundary line as prescribed in the Delimitation Decision. The possibility of such variation was foreseen in the 1908 Treaty relating to the Eastern Sector (alone among the three treaties with such a permissive provision) and was necessary in view of the exceptional nature of the terrain. Despite these variations, each Party still ended up in effect with the same amount of territory as had been awarded to it by the Delimitation Decision.

9. The Commission encountered difficulties that were posed by the Parties when it was about to commence demarcation in the Central and Western Sectors. Although Ethiopia agreed that the Commission could continue with pillar emplacement in the Eastern Sector, it was not prepared to allow demarcation to begin in the Central and Western Sectors. Eritrea would not agree to pillar emplacement in the Eastern Sector unless demarcation work was begun simultaneously in the Central and Western Sectors.
10. More particularly, the obstacles from the Ethiopian side took various forms: prohibiting field-work within the territory under its control, thus impeding the survey of ground control points for the aerial photography and the secondary datum survey (April to July 2002); filing extensive comments on the Delimitation Decision, amounting to an attempt to reopen elements of the substance of that Decision, instead of limiting itself to the requested comments on the draft 1:25,000 maps (January 2003); alleging that the Field Liaison Officers appointed by Eritrea were intelligence officers and refusing to allow field work to continue in Ethiopian territory, then failing to appoint ad hoc Field Liaison Officers within the prescribed time limit following the Commission's Order of 9 February 2003 so as to allow field work to resume without further delay (January to February 2003); failing to appoint new Field Liaison Officers for the remaining demarcation activities following the Commission's Decision pursuant to Article 15B of the Demarcation Directions (July 2003 to March 2006); failing to provide assurances for the security of all demarcation personnel (August 2003 to the present); failing to comment on maps which indicated the pillar locations in the Eastern Sector (September 2003); repeatedly refusing to authorise necessary flight requests lodged by the Chief Surveyor; eventually limiting the Commission's field work to the Eastern Sector by statements that the ad hoc Field Liaison Officers would only be permitted to operate in the Eastern Sector; complaining to the Secretary-General of the United Nations of what Ethiopia termed "illegal, unjust and irresponsible decisions" of the Commission in respect of Badme and parts of the Central Sector, and proposing that the Security Council set up an alternative mechanism to demarcate the parts of the boundary it contested (September 2003); denouncing in that same letter the Commission's Delimitation Decision by stating that it would only recognise the southern boundary of the Temporary Security Zone ("TSZ") as the international boundary; failing to provide assurances

for the security of the contractors selected for the emplacement and as-built survey of the boundary pillars (September to October 2003); rejecting the Commission's invitation to attend a meeting on 5 November 2003, claiming that the notice was too short and that there was no likelihood of anything being achieved (October 2003); refusing to permit any work to be carried out by the Commission's field staff in the Western and Central Sectors until the boundary in the Eastern Sector had been demarcated and subject to Ethiopia's approval of the Commission's method of demarcation (November 2003); failing to make prompt payment of its share of the Commission's expenses (February 2004 to February 2005); rejecting the Commission's invitation to a meeting to be held on 22 February 2005 on the ground that the meeting was premature, would be unproductive and could have an adverse impact on the demarcation process, as a result of which the Commission was obliged to cancel the meeting (February 2005); failing again to meet its financial obligations (May 2006 to the present); introducing qualifications to its previously unqualified acceptance of the final and binding quality of the Delimitation Decision (17 May 2006); failing to respond to the Commission's request for assurances of freedom of movement and security for its staff travelling to the region to reopen the Commission's Field Offices (July to August 2006); and failing to respond to the Commission's invitation to a rescheduled meeting on 24 August 2006.

11. After initial cooperation, Eritrea also began to raise obstacles. In October 2003, it informed the Chief Surveyor that it would withdraw its arrangements for the provision of security in the Eastern Sector if the contract then under negotiation for the emplacement of pillars did not cover the entire boundary as determined in the Delimitation Decision; it repeated its position at the meeting of the Commission on 19 November 2003, objecting to the continuance of demarcation in the Eastern Sector unless at the same time the work foreseen in the Western and Central Sector would continue concurrently; it impeded in a number of ways the ability of the United Nations Mission in Ethiopia and Eritrea ("UNMEE") to provide necessary assistance to the Commission's staff in the field; its conduct in October 2005 occasioned a reference in Security Council resolution 1640 to Eritrea's restriction of "all types of UNMEE helicopter flights within Eritrean airspace or coming to Eritrea, effective as of 5 October 2005, and the additional restrictions on UNMEE's freedom of movement imposed since then, which have serious implications for UNMEE's ability to carry out its mandate. . ."; on 6 December 2005, Eritrea sent a letter to UNMEE requesting members of UNMEE who were nationals of the United States of America, Canada and Europe, as well as the Russian Federation, to leave the country within ten days, a measure which occasioned a condemnatory statement by the President of the Security Council. In December 2005, the Security Council was led to relocate military and civilian staff of UNMEE from Eritrea to Ethiopia "solely in the interests of the safety and security of UNMEE staff. The lack of cooperation with UNMEE by the Eritrean authorities has produced conditions on the ground which prevent UNMEE implementing its mandate satisfactorily". (Statement by the President of the Security Council, 14 December 2005). This mandate included the provision of necessary assistance to the Commission's staff on the ground; in the Spring of 2006, Eritrea imposed far-reaching restrictions on UNMEE that had the effect of seriously impeding the resumption of operations by the Commission's field staff; it rejected the Commission's invitation to attend a meeting on 15 June 2006; instead, it sent a letter to the Commission stating that it was not prepared to continue its en-

gagement, implying that the demarcation process was biased in favour of Ethiopia; in July 2006, it refused visas to the Commission's field staff who had been instructed to return to Eritrea to reopen the Field Office there. Like Ethiopia, Eritrea did not respond to the Commission's request for it to attend a meeting on 24 August 2006. The foregoing course of conduct has, regrettably, also contributed significantly to the present impasse.

12. These difficulties have persisted, notwithstanding that the Commission has held meetings with the Parties on several occasions with a view to securing their agreement to the renewal of the field work in the demarcation process. The most recent meetings of the Commission with the Parties were held on 10 March 2006 and 17 May 2006. The 15 June 2006 meeting was cancelled due to Eritrea's refusal to attend. The Parties were invited to a meeting to have been held on 24 August 2006 and the Parties' replies to the invitation were requested by 10 August. No replies were forthcoming and attempts to contact the Parties by the Registrar of the Commission elicited no responses. In the meantime, the Commission had decided to reopen the Field Offices after obtaining the Parties' agreement at the 10 March 2006 meeting. These offices had been operating with a reduced staff since January 2004 and were eventually closed on 31 March 2005. However, when the Deputy Secretary of the Commission was dispatched to Addis Ababa in early August 2006 with a view to introducing the newly recruited Field Office staff to the local officials, she was unable to gain access to any relevant Ethiopian officials. The Commission had also instructed her to proceed to Eritrea, but she was advised by the Eritrean authorities not to attempt to enter Eritrea. It thus proved impossible to implement the Commission's decision to reopen all the Field Offices or reactivate the demarcation process as originally contemplated.
13. These developments, including the problems confronting the Commission as a result of the attitudes of the Parties, have all been reported to the Secretary-General of the United Nations at three-monthly intervals and have been passed on by him to the Security Council. The Security Council has on no less than fourteen occasions called upon the Parties to meet their obligations but has achieved no more success than the Commission.<sup>3</sup>
14. The frustration of the demarcation process as originally conceived has continued for nearly four years. There is no present sign that the Parties will change their positions in the reasonably proximate future. The United Nations Security Council by resolution 1710 called on the Parties to "cooperate fully with the EEBC" and "to implement completely and without further delay or preconditions the decision of the EEBC and to take concrete steps to resume the demarcation process". The Security Council specifically demanded that "Eritrea reverse, without further delay or preconditions, all restrictions on UNMEE's movement and operations" and that Ethiopia "accept fully and without delay the final and binding decision of the Eritrea-

<sup>3</sup> S/RES/1398 (15 March 2002), S/RES/1430 (14 August 2002), S/RES/1466 (14 March 2003), S/RES/1507 (12 September 2003), S/RES/1531 (12 March 2004), S/RES/1560 (14 September 2004), S/RES/1586 (14 March 2005), S/RES/1622 (13 September 2005), S/RES/1640 (23 November 2005), S/RES/1661 (14 March 2006), S/RES/1670 (13 April 2006), S/RES/1678 (15 May 2006), S/RES/1681 (31 May 2006 and S/RES/1710 (29 September 2006).



Ethiopia Boundary Commission and take immediately concrete steps to enable, without pre-conditions, the Commission to demarcate the border completely and promptly.” The Commission, on 6 October 2006, wrote to the Parties asking them what steps they intended to take to implement the foregoing requests of the Security Council. The Commission asked for replies by 22 October 2006. Eritrea replied on 22 October reiterating the position that it had previously taken to the effect that no progress could be made until Ethiopia stated without qualification that it accepted the boundary as determined by the Commission in its Decision of 13 April 2002. As yet, Ethiopia has not replied to that request. Both Parties declined to attend the meeting of the Commission called for 20 November 2006.

15. The present situation is, therefore, that, in the Eastern Sector, the boundary points for the pillar emplacements have been established but no pillars have been emplaced; in the Central and Western Sectors no pillar site assessment has been conducted and the Parties have not enabled the Commission to meet the deadlines set out in the various schedules of work it has promulgated for those sectors.
16. Up to the time of, and immediately following, the delimitation of the border in April 2002, the Commission approached its mandate to demarcate the boundary as requiring it actually to emplace pillars at the turning points of the boundary. This assumed that the necessary cooperation of the Parties would be forthcoming and that UNMEE would not be prevented from providing essential assistance.
17. The Algiers Agreement, in establishing the Commission, is a constitutional instrument creating an international institution and conferring on it functions and powers. As such, its interpretation must be approached in the same way as international organisations have regularly approached the interpretation of their constituent instruments, that is, by way of the concept of institutional “effectiveness”. Even though the governing text may not explicitly empower the organisation to act in a particular manner, international law authorises, indeed requires, the organisation, should it find it necessary, if it is to discharge all its functions effectively, to interpret its procedures in a constructive manner directed towards achieving the objective the Parties are deemed to have had in mind. The same is true of international judicial organs. (*Territorial Dispute (Libyan Arab Jamahiriya/Chad)* Judgment, *ICJ Reports* 1994, pp. 6, 25 and the cases there cited in support of “one of the fundamental principles of the interpretation of treaties, consistently upheld by international jurisprudence, namely, that of effectiveness. . . .”)
18. In the present case, the manifest objective was to bring the border dispute to an end at the earliest possible date by means of the identification of a boundary established by the prescribed colonial treaties and applicable international law with as much precision as could be achieved in the circumstances and without deciding *ex aequo et bono*.
19. Having carefully surveyed the alternatives now available to the Commission and having studied anew the written and oral presentations made to it by the Parties, the Commission feels obliged to adopt another approach to effect the demarcation of the boundary.

20. Modern techniques of image processing and terrain modelling make it possible, in conjunction with the use of high resolution aerial photography, to demarcate the course of the boundary by identifying the location of turning points (hereinafter called “boundary points”) by both grid and geographical coordinates with a degree of accuracy that does not differ significantly from pillar site assessment and emplacement undertaken in the field. The Commission has therefore identified by these means the location of points for the emplacement of pillars as a physical manifestation of the boundary on the ground.<sup>4</sup> Although these techniques have been available for some time, the Commission has not resorted to them because the actual fixing of boundary pillars, if at all possible, was the demarcation method of first choice. However, it is only possible to demarcate a boundary by the fixing of boundary pillars with the full cooperation of both the States concerned. This has been completely lacking in the Central and Western Sectors and to some extent in the Eastern Sector.
21. In these circumstances, the Commission considers that the most practical way in which it can advance performance of its mandate is to provide the Parties with the list of boundary points that the Commission has identified by the techniques just mentioned along the whole length of the boundary. This list represents the locations at which, if the Commission were so enabled by the Parties, it would construct permanent pillars. This list and some explanatory comments are annexed to this Statement which is also accompanied by forty-five maps illustrating the boundary points. It may be noted that the boundary so illustrated does not differ significantly from the boundary identified in the Delimitation Decision. The areas of Tserona and Zalam-bessa have been clarified, as contemplated in the Delimitation Decision, by determining the environs of those two places and taking into account, insofar as relevant, manifest impracticalities.
22. As the Commission evidently cannot remain in existence indefinitely, it proposes that the Parties should, over the next twelve 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 emphasised 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.

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<sup>4</sup> A comparable, though not identical, situation arose in the *Argentina-Chile Frontier Case* (1966) (38 *International Law Reports* 10), where aerial photography was used to identify points on the boundary. In the Dispositif of the Report of the Tribunal, the boundary was described in part as following the thalweg “of the Encuentro to Point A at the Confluence”. The following is attached to the text at this point: “The location of Point A and subsequent Points is shown on the diagram and air photographs incorporated in this Report. The diagram is not intended as an authoritative map. It is only an index to the air photographs. These photographs are the sole authority for the exact location of the points.” (p. 98).

23. In adopting this approach, the Commission has been guided by significant authority in State practice, following the use of the word “demarcation” by the United Nations Secretary-General and United Nations Security Council when the Iraq-Kuwait border was “demarcated” in 1993.
24. Following Security Council resolution 687 (1991), the United Nations Secretary-General established the Iraq-Kuwait Boundary Demarcation Commission (“the IKBDC”). The terms of reference of the IKBDC were “to demarcate in geographical coordinates of latitude and longitude” the international boundary:

*“The coordinates established by the [IKBDC] Commission will constitute the final demarcation of the international boundary . . . . The demarcation of the boundary between Iraq and Kuwait will be accomplished by drawing upon appropriate material, including the map transmitted by Security Council document S/22412, and by utilizing appropriate technology.”* (Emphasis supplied.)<sup>5</sup>

25. The Security Council expressed support for the Secretary-General’s report.<sup>6</sup> No doubt was expressed as to the legal acceptability of a “demarcation” by means of a list of coordinates. Although arrangements for the physical representation of the boundary were also made, this physical representation did not replace the demarcation in the form of geographic coordinates but simply represented it on the ground. In its Final Report, the IKBDC stated:

*“. . . [It] has simply carried out the technical task necessary to demarcate for the first time the precise coordinates of the international boundary reaffirmed in the 1963 Agreed Minutes. To this end, the coordinates established by the Commission, as reproduced in Section XIII below, constitute the final demarcation of the international boundary between Iraq and Kuwait.”*<sup>7</sup>

26. Moreover, the feasibility and acceptability of the use of coordinates alone as a means of identifying international boundaries is clearly affirmed by the manner in which the United Nations Convention on the Law of the Sea deals with the limits of maritime claims by States.
27. The fact that the present Commission began its demarcation activity in terms of the location and construction of fixed pillars does not mean that it is precluded from following another course when confronted by the lack of necessary cooperation by the Parties, nor, in the cir-

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<sup>5</sup> U.N. doc. S/22558, Report of the Secretary-General regarding paragraph 3 of Security Council resolution 687 (1991), paras. 3-4, 2 May 1991.

<sup>6</sup> Final Report on the Demarcation of the International Boundary between the Republic of Iraq and the State of Kuwait by the United Nations Iraq-Kuwait Boundary Demarcation Commission, S/25811, para. 13; also reproduced in 94 *International Law Reports* 1.

<sup>7</sup> *Ibid.*, para. 112.

cumstances described, do the Commission's Rules of Procedure, Demarcation Directions and Demarcation Instructions, originally adopted on the assumption of full cooperation of both Parties, remain controlling. To the extent of any incompatibility between those procedural texts and the approach now to be adopted, the latter will prevail.

28. During the coming twelve 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.

(Signed) Sir Elihu **Lauterpacht** CBE QC  
President of the Commission  
27 November 2006

**ERITREA-ETHIOPIA BOUNDARY COMMISSION**

**ANNEX TO THE COMMISSION'S STATEMENT OF 27 NOVEMBER 2006**

**LIST OF BOUNDARY POINTS AND COORDINATES**

1. The boundary points listed below, and as illustrated on the accompanying 1:25,000 maps, fall into two categories: fixed points and movable points.<sup>8</sup>
2. The fixed boundary points are located on land. Each is identified by its grid and geographical coordinates accurate to one metre and is illustrated on the maps by the conventional sign of a small square enclosing a dot. Fixed points adjacent to rivers are located a short distance from the river bank so as to avoid the effects of flooding or river movements.
3. The movable boundary points represent the turning points of the boundary which fall within rivers. As the boundary in rivers follows the middle of the main channel and may move from time to time, these turning points cannot be fixed permanently. They are marked on the illustrative maps by small circles which indicate the location of these points at the time of the aerial photography.
4. These movable points are to be found at the confluence of two rivers, or at the intersection between the middle of the main channel of the river and the extension riverwards of the straight line between the nearest fixed boundary point and the next or preceding fixed boundary point.
5. The list of coordinates is presented in eight columns.

Column 1 contains the numbers of the boundary points which are covered by each set of coordinates or are otherwise described.

Column 2 contains the numbers of the points identified in Maps 10, 11 and 12 that illustrate the Delimitation Decision of 13 April 2002. These are referred to below simply as "Points".

Columns 3 and 4 contain the Universal Transverse Mercator ("UTM") grid coordinates of each boundary point, not otherwise described, in the following projection:

Projection:	UTM Zone 37 extended eastward
Geodetic Datum:	Eritrea Ethiopia Boundary Datum 2002 (EEBD2002)
Longitude of Origin:	39° E

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<sup>8</sup> A simplified map only for convenience of reference appears at the end of this Annex.

Latitude of Origin: 0° N  
 False Easting: 500,000m E  
 False Northing: 0m N  
 Unit of Measurement: Metre

Columns 5 and 6 contain the geographical coordinates in degrees of latitude and longitude in terms of the Commission's geodetic datum, EEED2002.

Column 7 contains occasional descriptions of the location of the particular boundary point and an indication of the course of the boundary to the next boundary point.

Column 8 contains the number of the 1:25,000 map sheet on which the boundary point is located.

### LIST OF BOUNDARY POINTS AND COORDINATES

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7	Col 8
Boundary Point	Point	UTM Grid		Latitude/Longitude		Onward Course of Boundary	1:25,000 Sheet
		East	North	North	East		
1	1	Setit opposite Western Tripoint				Boundary continues along middle of main channel of Setit to BP2.	1
2	6	Confluence of Setit and Tomsa				Middle of main channel of Setit is connected to BP3 by straight-line extension of the line from BP4 to BP3.	8
3		341211	156870 6	14°11'06.6 "	37°31'42.8 "	Short distance from north bank of Setit at its confluence with Tomsa. Boundary continues in a straight line to BP4.	8

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7	Col 8
Boundary Point	Point	UTM Grid		Latitude/Longitude		Onward Course of Boundary	1:25,000 Sheet
		East	North	North	East		
4		382976	164677 1	14°53'34.6 "	37°54'43.5 "	Short distance from south bank of Mareb at its confluence with Mai Ambessa. Boundary continues to middle of main channel of Mareb by straight-line extension of the line from BP3 to BP4.	13
5	9	Confluence of Mareb and Mai Ambessa				Boundary continues along middle of main channel of Mareb to BP6.	13
6	11	Confluence of Mareb and Belesa				Boundary continues along middle of main channel of Belesa to BP7.	20
7	12	Confluence of Belesa A and Belesa B				Boundary continues along middle of main channel of Belesa B to BP8.	20
8		Intersection of Belesa B and straight-line extension from BP9				Boundary turns inland to BP9.	21
9		518200	161952 5	14°38'56.9 "	39°10'08.4 "	Boundary continues in a straight line to BP10.	21
10		518084	161935 4	14°38'51.3 "	39°10'04.6 "	Boundary continues in a straight line to BP11.	21

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7	Col 8
Bound- ary Point	Point	UTM Grid		Latitude/Longitude		Onward Course of Bound- ary	1:25,000 Sheet
		East	North	North	East		
11		517846	161900 0	14°38'39.8 "	39°09'56.6 "	Boundary continues in a straight line to BP12.	21
12		517527	161858 7	14°38'26.3 "	39°09'45.9 "	Boundary continues in a straight line to BP13.	21
13		517015	161790 1	14°38'04.0 "	39°09'28.8 "	Boundary continues in a straight line to BP14.	21
14		516908	161705 5	14°37'36.5 "	39°09'25.2 "	Boundary continues in a straight line to BP15.	21
15		516975	161604 0	14°37'03.4 "	39°09'27.4 "	Boundary continues in a straight line to BP16.	21
16		517108	161560 4	14°36'49.2 "	39°09'31.9 "	Boundary continues in a straight line to BP17.	21
17		516951	161501 4	14°36'30.0 "	39°09'26.6 "	Boundary continues in a straight line to BP18.	21
18		518552	161359 2	14°35'43.7 "	39°10'20.1 "	Boundary continues in a straight line to BP19.	21
19		518987	161320 2	14°35'31.0 "	39°10'34.6 "	Boundary continues in a straight line to BP20.	21
20		519192	161239 2	14°35'04.6 "	39°10'41.4 "	Boundary continues in a straight line to BP21.	21
21		520493	161148 9	14°34'35.2 "	39°11'24.9 "	Boundary continues in a straight line to BP22.	21



Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7	Col 8
Bound- ary Point	Point	UTM Grid		Latitude/Longitude		Onward Course of Bound- ary	1:25,000 Sheet
		East	North	North	East		
22		521013	161102 3	14°34'20.0 "	39°11'42.3 "	Boundary continues in a straight line to BP23.	21
23		522112	161026 2	14°33'55.2 "	39°12'19.0 "	Boundary continues in a straight line to BP24.	21
24		523922	161033 2	14°33'57.5 "	39°13'19.5 "	Boundary continues in a straight line to BP25.	21
25		525826	161005 3	14°33'48.3 "	39°14'23.1 "	Boundary continues to middle of main channel of Belesa B by straight-line extension of the line from BP24 to BP25.	21
26		Intersection of Belesa B and straight-line extension from BP25				Boundary continues along middle of main channel of Belesa B to BP27.	21
27	14	Confluence of Belesa B and the tributary flowing from BP28				Boundary continues along middle of main channel of the tributary to BP28.	22
28	15	526864	159991 4	14°28'18.3 "	39°14'57.4 "	Source of the tributary mentioned in BP27. Boundary continues in a straight line to BP29.	22
29	16	526401	159920 6	14°27'55.2 "	39°14'41.9 "	Source of a tributary of Belesa A. Boundary contin-	22

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7	Col 8
Bound- ary Point	Point	UTM Grid		Latitude/Longitude		Onward Course of Bound- ary	1:25,000 Sheet
		East	North	North	East		
						ues along middle of main channel of the tributary to BP30.	
30	17	Confluence of Belesa A and the tributary flowing from BP29				Boundary continues along middle of main channel of Belesa A to BP31.	22
31		Confluence of Belesa A and the tributary flowing from BP32				Boundary continues along middle of main channel of the tributary to BP32.	22
32		529176	159481 5	14°25'32.2 "	39°16'14.4 "	Source of the tributary mentioned in BP31. Boundary continues in a straight line to BP33.	22
33		529308	159525 6	14°25'46.6 "	39°16'18.9 "	Source of a tributary of Belesa B. Boundary continues along middle of main channel of the tributary to BP34.	22
34		530761	159762 7	14°27'03.7 "	39°17'07.5 "	On edge of east bank of Belesa B opposite the tributary mentioned in BP33. Boundary continues in a straight line to BP35.	22
35		531658	159841	14°27'29.2	39°17'37.5	Boundary continues in a	22

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7	Col 8
Bound- ary Point	Point	UTM Grid		Latitude/Longitude		Onward Course of Bound- ary	1:25,000 Sheet
		East	North	North	East		
			2	"	"	straight line to BP36.	
36		531846	159927 4	14°27'57.2 "	39°17'43.8 "	Boundary continues in a straight line to BP37.	22
37		532474	159971 8	14°28'11.7 "	39°18'04.8 "	Boundary continues in a straight line to BP38.	22
38		533846	159980 2	14°28'14.3 "	39°18'50.6 "	Boundary continues in a straight line to BP39.	22
39		535023	159981 4	14°28'14.7 "	39°19'29.9 "	Boundary continues in a straight line to BP40.	23
40		536051	159953 7	14°28'05.6 "	39°20'04.3 "	Boundary continues in a straight line to BP41.	23
41		537336	159932 0	14°27'58.5 "	39°20'47.2 "	Boundary continues in a straight line to BP42.	23
42		536950	159980 6	14°28'14.3 "	39°20'34.3 "	Boundary continues in a straight line to BP43.	23
43		536902	160039 9	14°28'33.6 "	39°20'32.7 "	Boundary continues in a straight line to BP44.	23
44		536398	160117 6	14°28'58.9 "	39°20'15.9 "	Boundary continues in a straight line to BP45.	23
45		535430	160218 5	14°29'31.8 "	39°19'43.7 "	Boundary continues in a straight line to BP46.	23
46		535413	160238	14°29'38.2	39°19'43.1	Boundary continues in a straight line to BP47.	23

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7	Col 8
Bound- ary Point	Point	UTM Grid		Latitude/Longitude		Onward Course of Bound- ary	1:25,000 Sheet
		East	North	North	East		
			2	"	"		
47		535942	160220 0	14°29'32.3 "	39°20'00.8 "	Boundary continues in a straight line to BP48.	23
48		537041	160181 7	14°29'19.8 "	39°20'37.5 "	Boundary continues in a straight line to BP49.	23
49		537273	160166 1	14°29'14.7 "	39°20'45.2 "	Boundary continues in a straight line to BP50.	23
50		537455	160154 6	14°29'10.9 "	39°20'51.3 "	Boundary continues in a straight line to BP51.	23
51		537983	160119 9	14°28'59.6 "	39°21'08.9 "	Boundary continues in a straight line to BP52.	23
52		538798	160120 8	14°28'59.9 "	39°21'36.1 "	Boundary continues in a straight line to BP53.	23
53		538528	160266 2	14°29'47.2 "	39°21'27.2 "	Boundary continues in a straight line to BP54.	23
54		539482	160252 6	14°29'42.7 "	39°21'59.0 "	Boundary continues in a straight line to BP55.	23
55		538493	160377 8	14°30'23.5 "	39°21'26.1 "	Boundary continues in a straight line to BP56.	23
56		538352	160403 1	14°30'31.8 "	39°21'21.4 "	Boundary continues in a straight line to BP57.	23
57		538843	160475	14°30'55.4	39°21'37.8	Boundary continues in a	23

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7	Col 8
Bound- ary Point	Point	UTM Grid		Latitude/Longitude		Onward Course of Bound- ary	1:25,000 Sheet
		East	North	North	East		
			9	"	"	straight line to BP58.	
58		538562	160610 1	14°31'39.1 "	39°21'28.5 "	Boundary continues in a straight line to BP59.	23
59		538888	160672 8	14°31'59.5 "	39°21'39.4 "	Boundary continues in a straight line to BP60.	23
60		539045	160657 4	14°31'54.5 "	39°21'44.7 "	Boundary continues in a straight line to BP61.	23
61		539279	160637 0	14°31'47.8 "	39°21'52.5 "	Boundary continues in a straight line to BP62.	23
62		539719	160599 6	14°31'35.7 "	39°22'07.1 "	Boundary continues in a straight line to BP63.	23
63		540025	160677 0	14°32'00.8 "	39°22'17.4 "	Boundary continues in a straight line to BP64.	23
64		539924	160717 4	14°32'14.0 "	39°22'14.1 "	Boundary continues in a straight line to BP65.	23
65		540196	160742 5	14°32'22.2 "	39°22'23.2 "	Boundary continues in a straight line to BP66.	23
66		540494	160724 9	14°32'16.4 "	39°22'33.1 "	Boundary continues in a straight line to BP67.	23
67		541100	160752 7	14°32'25.4 "	39°22'53.4 "	Boundary continues in a straight line to BP68.	23
68		541268	160756	14°32'26.8	39°22'59.0	Boundary continues in a	23

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7	Col 8
Bound- ary Point	Point	UTM Grid		Latitude/Longitude		Onward Course of Bound- ary	1:25,000 Sheet
		East	North	North	East		
			8	"	"	straight line to BP69.	
69		541651	160738	14°32'20.9	39°23'11.8	Boundary continues in a	23
			9	"	"	straight line to BP70.	
70		541693	160720	14°32'14.7	39°23'13.2	Boundary continues in a	23
			0	"	"	straight line to BP71.	
71		541790	160715	14°32'13.2	39°23'16.4	Boundary continues in a	23
			3	"	"	straight line to BP72.	
72		541889	160722	14°32'15.5	39°23'19.7	Boundary continues in a	23
			3	"	"	straight line to BP73.	
73		541925	160735	14°32'19.7	39°23'20.9	Boundary continues in a	23
			2	"	"	straight line to BP74.	
74		542174	160736	14°32'20.0	39°23'29.3	Boundary continues in a	23
			3	"	"	straight line to BP75.	
75		542429	160751	14°32'24.9	39°23'37.8	Boundary continues in a	23
			4	"	"	straight line to BP76.	
76		542497	160774	14°32'32.4	39°23'40.1	Boundary continues in a	23
			3	"	"	straight line to BP77.	
77		542848	160786	14°32'36.2	39°23'51.8	Boundary continues in a	23
			2	"	"	straight line to BP78.	
78		543091	160756	14°32'26.5	39°23'59.9	Boundary continues in a	23
			3	"	"	straight line to BP79.	
79		543456	160715	14°32'13.3	39°24'12.1	Boundary continues in a	23

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7	Col 8
Bound- ary Point	Point	UTM Grid		Latitude/Longitude		Onward Course of Bound- ary	1:25,000 Sheet
		East	North	North	East		
			9	"	"	straight line to BP80.	
80		543594	160674 3	14°31'59.8 "	39°24'16.7 "	Boundary continues in a straight line to BP81.	23
81		543567	160639 5	14°31'48.4 "	39°24'15.8 "	Boundary continues in a straight line to BP82.	23
82		543757	160593 1	14°31'33.3 "	39°24'22.1 "	Boundary continues in a straight line to BP83.	23
83		544165	160599 1	14°31'35.3 "	39°24'35.7 "	Boundary continues in a straight line to BP84.	23
84		544782	160603 6	14°31'36.7 "	39°24'56.3 "	Boundary continues in a straight line to BP85.	23
85		544975	160599 8	14°31'35.4 "	39°25'02.8 "	Boundary continues in a straight line to BP86.	23
86		544890	160545 6	14°31'17.8 "	39°24'59.9 "	Boundary continues in a straight line to BP87.	23
87		544881	160518 4	14°31'08.9 "	39°24'59.6 "	Boundary continues in a straight line to BP88.	23
88		544981	160497 9	14°31'02.3 "	39°25'02.9 "	Boundary continues in a straight line to BP89.	23
89		545071	160486 7	14°30'58.6 "	39°25'05.9 "	Boundary continues in a straight line to BP90.	23
90		545163	160457	14°30'49.0	39°25'09.0	Boundary continues in a	23

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7	Col 8
Bound- ary Point	Point	UTM Grid		Latitude/Longitude		Onward Course of Bound- ary	1:25,000 Sheet
		East	North	North	East		
			3	"	"	straight line to BP91.	
91		545599	160471 7	14°30'53.7 "	39°25'23.5 "	Boundary continues in a straight line to BP92.	23
92		546708	160484 8	14°30'57.9 "	39°26'00.6 "	Boundary continues in a straight line to BP93.	23
93		548228	160365 8	14°30'19.1 "	39°26'51.3 "	Boundary continues in a straight line to BP94.	23
94		549224	160381 1	14°30'24.0 "	39°27'24.6 "	Boundary continues in a straight line to BP95.	23
95		550285	160391 3	14°30'27.2 "	39°28'00.0 "	Boundary continues in a straight line to BP96.	23
96		550952	160309 6	14°30'00.6 "	39°28'22.3 "	Boundary continues in a straight line to BP97.	23
97		552040	160334 3	14°30'08.6 "	39°28'58.6 "	Boundary continues in a straight line to BP98.	23
98		552740	160365 6	14°30'18.7 "	39°29'22.0 "	Boundary continues in a straight line to BP99.	23
99		553191	160334 0	14°30'08.4 "	39°29'37.1 "	Boundary continues in a straight line to BP100.	23
100		553273	160276 5	14°29'49.7 "	39°29'39.8 "	Boundary continues in a straight line to BP101.	23
101		553334	160201	14°29'25.1	39°29'41.8	Boundary continues in a	23



Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7	Col 8
Bound- ary Point	Point	UTM Grid		Latitude/Longitude		Onward Course of Bound- ary	1:25,000 Sheet
		East	North	North	East		
			1	"	"	straight line to BP102.	
102		553325	160155 7	14°29'10.4 "	39°29'41.4 "	Boundary continues in a straight line to BP103.	23
103		553435	160132 0	14°29'02.6 "	39°29'45.1 "	Boundary continues to middle of main channel of Muna/Berbero Gado by straight-line extension of the line from BP102 to BP103.	23
104		Intersection of Muna/Berbero Gado and straight-line extension from BP103				Boundary continues along middle of main channel of Muna/Berbero Gado to BP105.	23
105	21	Confluence of Muna/Berbero Gado and Enda Dashim				Boundary continues along middle of main channel of Enda Dashim to BP106.	24
106	22	Confluence of Enda Dashim and the tributary flowing from BP107				Boundary continues upstream along middle of main channel of the tributary to BP107.	24
107	24	557018	161044 8	14°33'59.5 "	39°31'45.5 "	Source of the tributary mentioned in BP106. Boundary continues in a straight line to BP108.	24

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7	Col 8
Bound- ary Point	Point	UTM Grid		Latitude/Longitude		Onward Course of Bound- ary	1:25,000 Sheet
		East	North	North	East		
108	25	557309	161235 1	14°35'01.4 "	39°31'55.4 "	Source of a tributary of Endeli. Boundary continues along middle of main channel of the tributary to BP109.	24
109	26	Confluence of Endeli and the tributary flowing from BP108				Boundary continues along middle of main channel of Endeli/Ragali to BP110.	24
110		Middle of main channel of Ragali nearest BP111				Boundary continues to BP111 by the shortest line.	28
111	30	623635	160767 6	14°32'21.3 "	40°08'51.1 "	Boundary continues in a straight line to BP112.	28
112	31	630815	159083 5	14°23'12.0 "	40°12'48.0 "	Point at which the boundary under the 1900 Treaty reaches the Salt Lake and where the boundary under the 1908 Treaty starts. Boundary continues in a straight line to BP113.	29
113		635777	159360 5	14°24'41.3 "	40°15'34.2 "	Boundary continues in a straight line to BP114.	29
114		648180	158736 3	14°21'15.9 "	40°22'27.0 "	Boundary continues in a straight line to BP115.	30

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7	Col 8
Bound- ary Point	Point	UTM Grid		Latitude/Longitude		Onward Course of Bound- ary	1:25,000 Sheet
		East	North	North	East		
115		656580	158222 0	14°18'26.8 "	40°27'06.3 "	Boundary continues in a straight line to BP116.	30
116		669700	157805 0	14°16'08.4 "	40°34'23.2 "	Boundary continues in a straight line to BP117.	31
117		682070	157324 0	14°13'29.0 "	40°41'14.7 "	Boundary continues in a straight line to BP118.	31
118		695208	156754 9	14°10'20.7 "	40°48'31.4 "	Boundary continues in a straight line to BP119.	32
119		702195	156343 9	14°08'05.2 "	40°52'23.3 "	Boundary continues in a straight line to BP120.	33
120		709697	155762 0	14°04'53.9 "	40°56'31.8 "	Boundary continues in a straight line to BP121.	33
121		715424	155034 3	14°00'55.6 "	40°59'40.6 "	Boundary continues in a straight line to BP122.	33
122		723722	153667 9	13°53'28.8 "	41°04'13.1 "	Boundary continues in a straight line to BP123.	34
123		728700	152969 8	13°49'40.3 "	41°06'56.8 "	Boundary continues in a straight line to BP124.	35
124		734656	151879 8	13°43'44.0 "	41°10'11.8 "	Boundary continues in a straight line to BP125.	35
125		737647	151575 4	13°42'04.1 "	41°11'50.4 "	Boundary continues in a straight line to BP126.	36

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7	Col 8
Bound- ary Point	Point	UTM Grid		Latitude/Longitude		Onward Course of Bound- ary	1:25,000 Sheet
		East	North	North	East		
126		743336	150945 8	13°38'37.6 "	41°14'57.7 "	Boundary continues in a straight line to BP127.	36
127		749681	150240 9	13°34'46.4 "	41°18'26.5 "	Boundary continues in a straight line to BP128.	36
128		759980	149397 6	13°30'08.9 "	41°24'06.2 "	Boundary continues in a straight line to BP129.	37
129		764903	149247 8	13°29'18.6 "	41°26'49.3 "	Boundary continues in a straight line to BP130.	37
130		771157	148794 7	13°26'49.2 "	41°30'15.6 "	Boundary continues in a straight line to BP131.	38
131		786337	148130 1	13°23'07.9 "	41°38'37.6 "	Boundary continues in a straight line to BP132.	38
132		788954	147450 5	13°19'26.0 "	41°40'02.1 "	Boundary continues in a straight line to BP133.	39
133		794837	146920 8	13°16'31.7 "	41°43'15.5 "	Boundary continues in a straight line to BP134.	39
134		796468	146492 6	13°14'11.9 "	41°44'08.1 "	Boundary continues in a straight line to BP135.	39
135		805190	145670 7	13°09'41.5 "	41°48'54.5 "	Boundary continues in a straight line to BP136.	40
136		813540	144704 4	13°04'24.3 "	41°53'27.9 "	Boundary continues in a straight line to BP137.	40

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7	Col 8
Bound- ary Point	Point	UTM Grid		Latitude/Longitude		Onward Course of Bound- ary	1:25,000 Sheet
		East	North	North	East		
137		817638	144000 8	13°00'34.0 "	41°55'41.1 "	Boundary continues in a straight line to BP138.	41
138		821900	143065 8	12°55'28.4 "	41°57'58.8 "	Boundary continues in a straight line to BP139.	41
139		828570	142441 1	12°52'02.8 "	42°01'37.4 "	Boundary continues in a straight line to BP140.	42
140		831844	141711 6	12°48'04.4 "	42°03'23.0 "	Boundary continues in a straight line to BP141.	42
141		840086	141458 8	12°46'39.0 "	42°07'55.0 "	Boundary continues in a straight line to BP142.	43
142		846722	141374 0	12°46'08.8 "	42°11'34.4 "	Boundary continues in a straight line to BP143.	43
143		849493	141331 9	12°45'54.0 "	42°13'06.0 "	Boundary continues in a straight line to BP144.	43
144	40	856238	139903 6	12°38'07.1 "	42°16'43.4 "	Between the two check-points of Eritrea and Ethiopia at Bure. Boundary continues in a straight line to BP145.	44
145		861776	139194 1	12°34'14.2 "	42°19'43.7 "	Boundary continues in a straight line to BP146.	44
146	41	870133	138075 2	12°28'07.1 "	42°24'15.4 "	Summit of Mt. Musa'ali, Primary Monument No. 90	45

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7	Col 8
<b>Bound- ary Point</b>	<b>Point</b>	<b>UTM Grid</b>		<b>Latitude/Longitude</b>		<b>Onward Course of Bound- ary</b>	<b>1:25,000 Sheet</b>
		<b>East</b>	<b>North</b>	<b>North</b>	<b>East</b>		
						of the Ethiopia-Djibouti boundary.	

### COMMENTS

#### A. The Western Terminus

6. This Point is described in paragraph 8.1, A(1) of the Dispositif of the Delimitation Decision as follows: “The boundary begins at the tripoint between Eritrea, Ethiopia and the Sudan and then runs into the centre of the Setit opposite that point (Point 1)”. This determination has not been questioned by either Party.
7. In investigating the matter, the Commission’s experts were not able to see any previously established monument marking the tripoint between Eritrea, Ethiopia and the Sudan. In these circumstances, the Commission adheres to the description of Point 1 (designated as Point 1 in the Delimitation Decision) and which it now designates as BP1 (see Map No. 1).

#### B. The Line from the Setit to the Mareb (from Point 6 to Point 9 in the Delimitation Decision)

8. The Delimitation Decision determined that a straight line runs from the Setit starting at Point 6 (the confluence of the Setit and the Tomsa) to Point 9 (the confluence of the Mareb and the Mai Ambessa). These Points are now joined by a straight line drawn between them on land. The only changes that may occur in the future are the minor ones at the northern and southern termini of that line if there are movements in the middle of the main channels of the two rivers. Point 6 is now BP2 and its fixed point on land is BP3 (see Map No. 8). Point 9 is now BP5 and its fixed point on land is BP4 (see Map No. 13).

**C. Tserona and Zalambessa**

9. The Commission directed the demarcation team to take full account of the proposed boundaries in the Parties' comments on Tserona and Zalambessa.<sup>9</sup> As similar considerations affect the demarcation line around both places, these two items are dealt with together.

**1. Tserona**

10. The Dispositif of the Delimitation Decision, paragraph 8.1, B. (iv), provides in part that the boundary should "leave Tserona and its environs to Eritrea. The boundary runs round Tserona at a distance of approximately one kilometre from its current outer edge, in a manner to be determined more precisely during the demarcation".
11. The Commission has considered the submissions of the Parties and has noted in particular the comment by Ethiopia that the "outer edge and environs of Tserona should be determined using precisely the same principles as are used for the determination" of the outer edge and environs of Zalambessa<sup>10</sup> (see paragraph 12 below). Eritrea expressed the same wish.<sup>11</sup> The Commission has identified these environs by a line that leaves the Belesa B at BP8 and proceeds by a series of straight lines to BP26 where it returns to the Belesa B (see Map No. 21). BP8 is located at the intersection of the middle of the main channel of the Belesa B and the straight line extension of the line from BP10 to BP9. BP26 is located at the intersection of the middle of the main channel of the Belesa B and the straight line extension of the line from BP24 to BP25. Thence, the boundary follows the Belesa B southwards to BP27 where it leaves that river to run south-westwards towards BP28 (see Map No. 22).

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<sup>9</sup> Demarcation Instructions, 22 August 2003, p. 1, para. 1.

<sup>10</sup> Submission by the Federal Democratic Republic of Ethiopia, 24 January 2003, Comments Pursuant to the December 2000 Agreement, the Commission's Rules of Procedure, the Commission's Demarcation Directions and Instructions provided at the Boundary Commission's Meeting on 6 and 7 November 2002, p. 65, para. 1.181.

<sup>11</sup> The State of Eritrea's Comments on the Preliminary Orthophoto Maps; Boundaries within Rivers; The Boundary at Tserona, Zalambessa and Bure; and the Eastern Sector, 24 January 2003, p. 14.

## 2. Zalambessa

12. The Commission invited Eritrea to comment on Ethiopia's proposed boundary for the town of Zalambessa and to submit its own proposal. Ethiopia identified a boundary which was influenced by physical obstacles to the use of certain lands around the environs of Zalambessa. Eritrea asked that whatever standard or procedures applied to Zalambessa should also be applied to Tserona.<sup>12</sup> Eritrea also submitted that "Any alterations should, additionally, be balanced so that gains to one party are equalled by gains to the other."<sup>13</sup> There is a close similarity between the Eritrean and Ethiopian proposals for the boundary around Zalambessa except that the Ethiopian proposal also includes the plateau land to the east.
13. In demarcating the boundary around Zalambessa, the Commission has borne in mind the views of the Parties, the nature of its environs and the extent of manifest impracticability in parts of the area. The boundary therefore continues from BP41 through BP42 to BP103 where it meets the Muna/Berbero Gado at BP104 (see Map No. 23).

### **D. The boundary between Points 15 and 16**

14. Paragraph 8.1. B.(v) of the Dispositif provides in part that the boundary continues to the source, at Point 15, of an unnamed tributary: "From that point it crosses the watershed by a straight line to the source of a tributary of the Belesa A at Point 16 . . . ."
15. The Commission has determined that "References to the headwaters or sources of rivers or streams mean the highest point at which the flow of water can be identified or, if the stream bed has become permanently dry, then the highest point at which the stream bed can be identified".<sup>14</sup> Points 15 and 16 are now identified as BP28 and BP29 (see Map No. 22). The boundary runs as a straight line between these two points. If either of these points is found not to lie exactly at the source of the relevant tributary, it shall nonetheless be treated as if it were the source. If necessary, this point shall be linked to the nearest position of the relevant tributary by the shortest line.

### **E. The Eritrean claim line (Points 17 to 18 of the Dispositif)**

16. Paragraph 8.1. B.(v) of the Dispositif provides in part that, from Point 17, the boundary "continues up the Belesa A to follow the Eritrean claim line to Point 18 so as to leave Fort Cadorna and its environs within Eritrea. The Eritrean claim line is more precisely depicted on the

<sup>12</sup> *Id.*

<sup>13</sup> The State of Eritrea's Comments on the Eritrean-Ethiopia Boundary in the Proximity of Tserona and Zalambessa and on the Specific Provisions of Ethiopia's Comments of 24 January 2003, 15 April 2003, p. 5.

<sup>14</sup> Demarcation Directions, 8 July 2002 (as revised in November 2002, March and July 2003), para. 14D.



- 1:100,000 Soviet map referred to by Eritrea in its final submission on 20 December 2001. Point 18 lies 100 metres west of the centre of the road running from Adigrat to Zalambessa.”
17. The Eritrean claim line is now identified as BP30 to BP41. Regarding BPs 32 and 33, if either of these points is found not to lie exactly at the source of the relevant tributary, it shall nonetheless be treated as if it were the source. If necessary, this point shall be linked to the nearest position of the relevant tributary by the shortest line.
  18. In its Demarcation Instructions of 22 August 2003, the Commission instructed that pillar sites should be “located within approximately 200 metres of the coordinates extracted from the Soviet map”.<sup>15</sup> The positions of BPs 35-41 (see Maps Nos. 22 and 23) have been determined on this basis.

**F. Boundary between Points 24 & 25**

19. See paragraph 15 above. Points 24 and 25 are now marked as the highest points at which the streambed can be identified. The boundary runs as a straight line between them. These points are now BPs 107 and 108 (see Map No. 24). If either of these points is found not to lie exactly at the source of the relevant tributary it shall nonetheless be treated as if it were the source. If necessary, this point shall be linked to the nearest position of the relevant tributary by the shortest line.

**G. Points 29, 30 and 31**

20. The Dispositif provides in Paragraph 8.1. B. (xii) that, “From Point 28, the line continues down the Muna/Endeli/Ragali to Point 29, northwest of the Salt Lake, and thence by straight lines to Points 30 and 31, at which last point this sector [i.e. the Central Sector] of the boundary terminates.”
21. The Commission has found that maintenance of Point 29 as a fixed point could lead in the event of a change in the main stream of the river to depriving one or other Party of access to the river’s water. The Commission has therefore decided that Point 29 must be abandoned and that, consistent with the principles enunciated in the Delimitation Decision, the course of the boundary in this area shall follow the middle of the main channel of the Ragali River until it reaches a point nearest to BP111 (Point 30) which is the point at which equal access to the river’s water is no longer significant. The middle of the main channel of the Ragali is linked to BP111 by the shortest line. A straight line is then drawn south-eastwards to BP112 (Point 31).
22. BP112 is where the Ragali River reaches the Salt Lake. Because of ground conditions, it has not been possible to determine the exact location of this Point either from field inspection carried out during pillar site assessment of the Eastern Sector or from the imagery of the aerial

<sup>15</sup> Demarcation Instructions, 22 August 2003, p. 2, para. 11.

photography. It has therefore been necessary to estimate where the Ragali River reaches the Salt Lake and to identify BP112 accordingly.

#### **H. The Eastern Sector**

23. The Delimitation Decision described this boundary as a series of straight lines connecting Point 31 to Point 41 at the boundary with Djibouti. This line was to serve as the basis for the demarcation, leaving open the possibility at that stage of “adapting it to the nature and variation of the terrain” as contemplated in Article II of the 1908 Treaty.<sup>16</sup> Demarcation Instructions for the identification of pillar sites in this Sector included the requirement that maintenance of an area balance between the lines joining the Points finally chosen compared to the original delimitation line of 13 April 2002 should be in the order of three percent. These Instructions also required the determination of the mid-point between the Eritrean and Ethiopian customs posts at Bure and the reinstatement of the original pillar emplacement on Musa’ali at Point 41.
24. The Commission’s field staff was able to undertake the selection of all pillar sites in the Eastern Sector in early 2003. The sites chosen were based, where possible, on the submissions of the Parties in their 24 January 2003 memoranda and were assessed according to the requirements set out by the Commission in the Demarcation Instructions of 21 March 2003. In May 2003, the Commission submitted an initial report of this work to the Parties for comment. The Parties’ comments were received on 11 June 2003 and indicated acceptance of the proposals in principle. The Demarcation Team, after considering these comments, made further adjustments, and presented a final report to the Commission in August 2003. This report set out the coordinates as surveyed of all boundary positions in the Eastern Sector and achieved an almost exact area balance. The position of the mid-point between the Eritrean and Ethiopian customs posts at Bure was identified. At Musa’ali, the remains of the old monument were located and its position was fixed.
25. The boundary in the Eastern Sector is therefore now defined as passing through the boundary points from BP112 to BP146.

#### **I. The boundary in rivers**

26. The Commission has determined in the Demarcation Directions that, “Unless the Commission should decide otherwise after receiving a request from a Party that the boundary in a river requires demarcation, the Commission considers that the identification of a river as a boundary should normally suffice without actual demarcation therein, save as regards the identification of confluences, turning points that may give rise to doubts, and headwaters or sources.”<sup>17</sup> The Demarcation Instructions provide that the river “boundary is in the middle of the main channel

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<sup>16</sup> Delimitation Decision, 13 April 2002, p. 93, para. 6.34.

<sup>17</sup> Demarcation Directions, July 2003 revision, para. 14B.

(the channel of greatest volume) and will move in accordance with any change in position of the middle of the main channel.”<sup>18</sup>

27. The Demarcation Instructions further provide that “islands shall fall within the territory of either Party according to their location in relation to the main channel”.<sup>19</sup> Where islands are identified by the Parties in their comments, “the demarcation team shall determine by appropriate methods the position in relation to the main channel of those islands”.<sup>20</sup> Although there were general comments from the Parties on some islands, these comments did not provide substantial or specific evidence requiring a variation from the Commission’s delimitation formula for boundaries in rivers; accordingly, all islands are distributed in accordance with this formula.

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<sup>18</sup> Demarcation Instructions, 22 August 2003, p. 3, para. 20 (b).

<sup>19</sup> *Ibid.*, para. 20 (d).

<sup>20</sup> *Ibid.*, para. 21.

