

**ERITREA ETHIOPIA BOUNDARY COMMISSION**  
**PROFESSOR SIR ELIHU LAUTERPACHT, CBE, QC - PRESIDENT**  
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HE Ban Ki-moon  
Secretary-General  
United Nations  
1<sup>st</sup> Avenue  
New York, NY 10017  
USA

28 September 2007

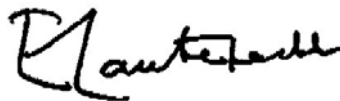
**RE: ERITREA ETHIOPIA BOUNDARY COMMISSION**

Dear Mr Secretary-General,

I now attach the 25<sup>th</sup> Report of the Eritrea-Ethiopia Boundary Commission, covering the period from 10 July to 26 September 2007, for attachment to your own Report to the Security Council.

Please accept, Mr Secretary-General, the assurances of my highest consideration.

Yours sincerely,



Professor Sir Elihu Lauterpacht  
President  
Eritrea Ethiopia Boundary Commission

Enc.

## **Eritrea-Ethiopia Boundary Commission**

### **Report to the Secretary-General of the United Nations**

1. This is the twenty-fifth report of the Eritrea-Ethiopia Boundary Commission, covering the period from 10 July to 26 September 2007. The previous report covered the period from 1 April to 9 July 2007.
2. In its previous report, the Commission noted that it had decided to convene a meeting with the Parties in September 2007 in order to ascertain what progress, if any, could be made towards the resumption of its demarcation activities, and noted the replies of the Parties of 25 and 27 June 2007 indicating that both Parties were willing to attend such a meeting.
3. On 10 July 2007, the President of the Commission wrote to the Parties inviting them to a meeting to be held in New York at the offices of the Secretary of the Commission, who is also the United Nations Cartographer.
4. In order to comply with UN Administrative Rules for holding meetings at UN Headquarters, the Commission requested logistical support from the Government of Norway, as a Member of the UN which both Parties had accepted as a long-standing neutral supporter of the Commission's work, to reserve rooms for it at UN Headquarters. The Government of Norway acceded to this request. The Commission was grateful for this assistance.
5. The President in his letter of invitation stated:

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.

6. Following a reminder from the Registrar of the Commission on 2 August 2007, Eritrea's representative replied on 9 August 2007 confirming Eritrea's participation and that Eritrea's representative would be "prepared and fully authorized to discuss the implementation of the 13 April 2002 Delimitation Award through demarcation". Counsel for Ethiopia also replied on 9 August 2007 indicating that Ethiopia was prepared to attend a meeting convened by the EEBC on 6 September 2007, but requesting that the meeting be convened in The Hague rather than at the premises of the United Nations in New York, in order to

avoid creating the impression that the Commission was “an agency of the United Nations”. Eritrea by letter of its representative dated 18 August 2007, opposed this request and expressed support for the Commission’s “undoubted authority to hold meetings where it thinks best”.

7. After considering the views of the Parties, the Commission decided to hold the meeting at its seat, which is at the Permanent Court of Arbitration in The Hague, and the Registrar informed the Parties of this decision by email dated 18 August 2007.
8. At the meeting held on 6 and 7 September 2007 Eritrea was represented by His Excellency Mr Mohammed Sulieman Ahmed, Ambassador of Eritrea to the Netherlands, Professor Lea Brilmayer, Co-Agent, and Ms Lorraine Charlton. Ethiopia was represented by His Excellency Mr Fisseha Yimer, Co-Agent, Ambassador and Permanent Representative to the United Nations in Geneva, Mr B Donovan Picard, Counsel, and Mr Edward B Rowe, Counsel. Representatives of UNMEE were present. The Commission was assisted by Mr Vince Belgrave, Chief Surveyor, and Mr Bill Robertson, Special Consultant.

#### The Agenda of the Meeting on 6 and 7 September 2007

9. An Agenda was circulated to the Parties on 27 August 2007 specifying the conditions required to be satisfied by each Party in order for the Commission to be enabled to resume its activities. Those conditions were:

##### for Eritrea

- to lift restrictions on UNMEE in so far as they affect the EEBC;
- to withdraw from the TSZ in so far as the present position impinges on EEBC operations;
- to provide security assurances;
- to allow free access to pillar locations; and,

##### for Ethiopia

- to indicate its unqualified acceptance of the 2002 Delimitation Decision without requiring broader ranging negotiations between the Parties;
  - to lift restrictions on movement of EEBC personnel;
  - to provide security assurances;
  - to meet payment arrears;
  - to allow free access to pillar locations.
10. The Agenda also indicated that if sufficient progress were to be made on the above points, the Meeting would proceed to consideration of the schedule of work to be undertaken with regard to demarcation on the ground. The proposed schedule was annexed to the Agenda.

## The Commission's Meeting with the Parties of 6 and 7 September 2007

11. The President of the Commission opened the meeting with a statement setting out the purpose of the meeting and recalling the Commission's Statement of 27 November 2006. The President recalled the list of locations identified by the Commission for boundary pillars using coordinates accurate to within one metre, which took into account the observations of the Parties. The President stated that "If the Commission had been able to go on the ground in the way originally planned, this is where the pillars would have been fixed, subject to the processes outlined in the Demarcation Directions. We hope that this indication of the adjusted line would enable the Parties to take a more positive approach to demarcation on the ground as they would see what [we] had in mind."<sup>1</sup>
  
12. The President also recalled the terms of paragraph 22 of the Commission's Statement of 27 November 2006, which gave the Parties twelve months to consider their positions and seek to reach agreement on the emplacement of pillars. The President noted that less than three months now remained for the Parties to take such action and that, if the Parties did not agree to conclude the demarcation themselves or allow the Commission to do so by the end of November, the boundary would automatically stand as demarcated, along the line specified in the Annex to the Statement of 27 November 2006, and the Commission's mandate would thus be fulfilled.
  
13. The President stated,

By the end of today, or if our meeting should continue by the end of tomorrow, the Commission would like to know whether the Parties have difficulty with the November 2006 line, or with the fact that it is not marked on the ground. In other words, is the concern with the substance of the line or with the procedure? If the former, that is the substance of the line, what are the difficulties? If the latter, why not agree to let the Commission place the pillars at the indicated locations.<sup>2</sup>

The President also emphasized that there was no room for delaying tactics by either of the Parties.
  
14. The President acknowledged the letters received that day from the Co-Agent for Eritrea and from the President of Eritrea, both dated 5 September 2007, which "contain significant indications of willingness to see the process of demarcation resumed", and invited Professor Brilmayer to make submissions based on the positions set out in her letter. Copies of the above mentioned letters are annexed to this report.

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<sup>1</sup> Transcript, 6 September, p. 4

<sup>2</sup> Transcript, 6 September, p. 6

## **Eritrea's Position**

15. Professor Brilmayer's letter of 5 September 2007 responded to each of the Agenda items in turn.

- On lifting restrictions on UNMEE in so far as they affect the EEBC:

Eritrea recognizes UNMEE's essential and positive contribution to the process of demarcating the 13 April 2002 delimitation line, and pledges to assist UNMEE accordingly. I have been instructed to assure the Commission that as the planned demarcation process gets underway the Government of Eritrea is committed to supporting UNMEE's operations as they bear on the demarcation, as provided in the Algiers Agreements.

- On withdrawal from the TSZ in so far as the present position impinges on EEBC operations:

The Government of Eritrea's position is that as soon as all of the arrangements for demarcation are in place, Eritrea will remove any Eritrean forces that might meet this description.

- On providing security assurances:

Eritrea has previously provided security assurances in response to Commission instructions, and intends that these assurances should remain in effect unless the Commission determines that they are somehow insufficient or no longer relevant.

- On allowing free access to pillar locations:

Eritrea has on no occasion interfered with any Commission attempt to access pillar locations, and pledges that in the future it will continue this policy.

16. Professor Brilmayer's letter of 5 September 2007 stated, further, that "the undertakings described above are predicated on the assumption that Ethiopia will fully meet its legal obligations."

17. In his letter of 5 September 2007 President Isaias Afwerki of Eritrea summarized Eritrea's position as follows:

Eritrea has consistently held the position that any talks between the Parties, secret or otherwise, on any matter regarding the demarcation of the boundary outside the framework of the EEBC, do not have any legal basis, nor are they helpful. It has not and will not countenance any alternative or parallel mechanism. The only forum for any discussion on the demarcation of the boundary is the EEBC.

In regard to the normalization of relations between Eritrea and Ethiopia and any discussion of such normalization, Eritrea's repeatedly stated position also remains consistent. Eritrea is prepared to consider normalizing its relations with Ethiopia and engage in any necessary discussions pertaining to normalization as soon as the demarcation of the boundary is completed and when a conducive environment for normalization is established. It must indeed be clear that dialogue on normalization would not be acceptable as a precondition for demarcation.

18. Professor Brilmayer submitted that her letter was an attempt to address the Commission's questions "as carefully, precisely and responsibly as possible".<sup>3</sup> She stated a general agreement with what she understood as the Commission's point of view "that this is a meeting at which we ought to set up a practical, workable process and one that will allow us to work through the details as we go along."<sup>4</sup> Professor Brilmayer also emphasized "the difficulty of ensuring reciprocity", stating that "Eritrea is convinced that we cannot simply take reciprocity for granted" and that "our suggestions about what we can bring to the process are importantly dependent on progress made from Ethiopia."<sup>5</sup>
19. Eritrea explained its commitment to mean that, as soon as all the arrangements for demarcation were in place, it would remove any Eritrean forces that might fit the description of impinging on EEBC operations, possibly including the total departure of Eritrean forces from the TSZ if EEBC operations were so to require.<sup>6</sup> Ethiopia's response was that it would accept nothing less than "fully unconditional withdrawal of the forces of Eritrea now in the TSZ – occupying the TSZ – in clear violation of the cessation of the hostilities agreement".<sup>7</sup>
20. A Commissioner invited comments from both Parties based on the following summary of Eritrea's position:

As the planned demarcation process gets underway, the Government of Eritrea is committed to supporting UNMEE's operations as they bear on the demarcation as provided in the Algiers Agreement, it being understood by Ethiopia that those operations require the restoration of UNMEE's freedom of operations to what it was three years ago and by Eritrea that this is not excluded if those operations so require ... What we are left with are three questions of fact. First, what UNMEE operations do bear on the demarcation? Secondly, what Eritrean forces in the TSZ do impinge upon EEBC operations? Those two questions give rise to a third: and how are those questions of fact to be determined?"<sup>8</sup>

Professor Brilmayer's response was that "Ethiopia says that it is unqualified in its acceptance of the delimitation decision and what that means is that they are prepared to discuss demarcation. That really is not the kind of reciprocity that Eritrea feels like it needs".<sup>9</sup>

### **Ethiopia's Position**

21. Mr Picard, Counsel for Ethiopia, made a series of observations which did not respond directly to the Agenda, and some of which related to matters outside the scope of the Commission's mandate.

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<sup>3</sup> Transcript, 6 September, p. 7

<sup>4</sup> Transcript, 6 September, p. 8

<sup>5</sup> Transcript, 6 September, p. 8

<sup>6</sup> Transcript, 6 September, p. 17

<sup>7</sup> Transcript, 6 September, p. 18

<sup>8</sup> Transcript, 6 September, pp. 23-24

<sup>9</sup> Transcript, 6 September, p. 28

22. Mr. Picard expressed Ethiopia's "disappointment" at the Commission's Agenda for failing to "reflect the reality on the ground" or to "reflect the treaty obligations of the Parties".<sup>10</sup> He stated that "implementation cannot take place in the face of Eritrea's grave violations and clear and continued aggression and threats of force. These have nullified the minimum security conditions necessary for the resumption of demarcation. These actions on the ground have made demarcation practically physically impossible."<sup>11</sup> Mr Picard stated further:

[Ethiopia] rejects as a practical matter the notion set forth in the agenda and in Professor Brilmayer's letter to the Commission which we received this morning: the notion that all Eritrea must do is to declare that it is ready to lift restrictions on UNMEE "in so far as they affect the Commission" and "to withdraw from the TSZ in so far as the present position impinges on Commission operations". The notion that this would allow demarcation to go forward is simply not in touch with reality.<sup>12</sup>

23. Ethiopia's substantive response to the conditions set out by the Commission in its Agenda was as follows:

Ethiopia cannot accept what appear to be indications by the Commission that Eritrea would not be required to withdraw fully from the TSZ.<sup>13</sup>

According to the Co-Agent for Ethiopia, it was for the purposes of demarcation that the Parties agreed to withdraw from the TSZ, which was a fundamental condition of the Cessation of Hostilities Agreement, compliance with which was additionally an obligation under Article 1 of the Algiers Agreement. For this reason, no discussion could take place on the demarcation issue "as long as full compliance with the Cessation of Hostilities Agreement on TSZ and UNMEE is [not] restored; not in so far as, not as long as it does not affect the work of EEBC. That is totally unacceptable to us."<sup>14</sup>

24. A Commissioner asked of Ethiopia: "if Eritrea were to withdraw all of its forces from the TSZ, would the Government of Ethiopia be in a position to commit itself unconditionally to cooperate in the process of demarcation?"<sup>15</sup> The Co-Agent for Ethiopia responded that "assuming Eritrea withdraws fully troops and equipment from the TSZ ... then we will be back and we will engage in the discussion of demarcation. Now, we are saying that we will not engage in the discussion on demarcation because the situation on the ground has changed. We are not going back now, but, if the situation changes, then we will sit down and discuss the issue of demarcation, which is the second part of your mandate."<sup>16</sup>

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<sup>10</sup> Transcript, 6 September, p. 9

<sup>11</sup> Transcript, 6 September, p. 12

<sup>12</sup> Transcript, 6 September, pp. 12-13

<sup>13</sup> Transcript, 6 September, p. 13

<sup>14</sup> Transcript, 6 September, p. 17

<sup>15</sup> Transcript, 6 September, p. 19

<sup>16</sup> Transcript, 6 September, pp. 19-20

25. A Commissioner then referred to the five conditions specified in the Agenda and asked if Ethiopia, supposing Eritrea were willing to move out of the whole of the TSZ, were willing to comply with those conditions and implement all of them.<sup>17</sup> Mr Picard responded that “once this serious problem of return of the temporary security zone to its proper state, as required by the Algiers Agreements, and once UNMEE is allowed to fulfil its obligations by no longer being hindered in its operations throughout the zone, once those problems are dealt with, the other points that the Commission has raised are certainly not going to provide a problem”<sup>18</sup> and “The problem really is Eritrea’s violations of the Algiers Agreements are so fundamental and so material and so direct a threat to Ethiopia that this conduct simply has to change in fundamental ways before there will be any confidence that we can have productive discussions on demarcation.”<sup>19</sup>
26. In response to a question by a Commissioner, Mr Picard confirmed that in effect Ethiopia was requiring three conditions to be met, namely the concept of demarcation originally adopted by the Commission; ceasing of activities alleged to be conducted by or on behalf of Eritrea in other parts of Ethiopia; and activities alleged to be conducted by or on behalf of Eritrea against Ethiopia in Somalia. Ambassador Yimer objected to the demanding of “some concession” from Ethiopia in return for Eritrean compliance with existing obligations, and stated that Ethiopia’s demand was for the *status quo ante* to be restored.<sup>20</sup>
27. As to the summary of the position of Eritrea set out above in paragraph 20, Ambassador Yimer responded that “The Government position is that before we enter into any discussion of anything regarding demarcation, anything, before anything is underway on demarcation, the situation on the ground has to change.”<sup>21</sup>
28. Regarding the other question by a Commissioner, that, “If the Eritrean Government were prepared to commit itself to total withdrawal from the TSZ and restoration of the *status quo ante* of UNMEE, would your Government be in a position to commit itself to accept the demarcation of the border pursuant to the coordinates set out in the November 2006 Statement of the Commission?”<sup>22</sup>, Ambassador Yimer replied:
- once this is done, the *status quo ante* of UNMEE is restored, the Ethiopian Government is prepared to sit down and discuss with you a demarcation process, which is the second phase of your mandate ... We will embark upon the discussion of the demarcation process, because it has stopped now.<sup>23</sup>

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<sup>17</sup> Transcript, 6 September, p. 20

<sup>18</sup> Transcript, 6 September, p. 20

<sup>19</sup> Transcript, 6 September, p. 21

<sup>20</sup> Transcript, 6 September, p. 22

<sup>21</sup> Transcript, 6 September, p. 25

<sup>22</sup> Transcript, 6 September, p. 25

<sup>23</sup> Transcript, 6 September, p. 26

29. Asked further by a Commissioner whether Ethiopia was prepared to apply the Delimitation Decision through demarcation without broader negotiations and without discussion, the Ambassador stated: "I am not saying we would not engage in a discussion and there will not be any demarcation. There will be and we have to sit down and discuss and be prepared to discuss demarcation without any condition to be engaged with you ... but there is a very serious situation which has to be removed now."<sup>24</sup> The Commission observes that, even if all of Ethiopia's conditions were met by Eritrea, Ethiopia would not commit itself to anything more than discussion on demarcation.

#### Conclusion of the Meeting of 7 September 2007

30. In closing the meeting, the President reminded the Parties that the effect of the Commission's Statement of 27 November 2006 is that the demarcation by coordinates identifying with precision the locations where pillars should be in place will become effective at the end of November unless in the interval the Parties act so as to produce a new situation.<sup>25</sup> The President reminded the Parties that the line prescribed by joining the coordinates specified in the Annex to the Statement of November 2006 had been drawn taking into consideration the observations of the Parties, and differs only to a limited extent from the line in the Delimitation Decision of April 2002.<sup>26</sup> The President stated:

Needless to say we greatly regret that we could not take our work through to its full conclusion, but at least we leave you with a line that is operable. It is up to you to work out how to implement it. It is up to you to consider such devices as open boundaries so that some of what you identify as manifest absurdities because a line cuts a village or a road several times can be overcome by allowing the boundary to be open and nationals to pass freely from one side to the other or even to cultivate their fields on the other side.<sup>27</sup>

31. The Commission expressed its appreciation of the work done by UNMEE during the period when it was able to provide assistance and of the work of the UN Cartographic Section and the Permanent Court of Arbitration.<sup>28</sup>

#### Next Steps

32. Following the exchange of views at the meeting with the Parties of 6 and 7 September 2007, if the positions of the Parties have not changed by the end of November 2007, the boundary will automatically stand as demarcated by the boundary points listed in the Annex to the Statement of 27 November 2006. The Commission will then remain in existence only for the purpose of administrative matters connected with the termination of its mandate.

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<sup>24</sup> Transcript, 6 September, p. 26

<sup>25</sup> Transcript, 7 September, p. 3

<sup>26</sup> Transcript, 7 September, p. 4

<sup>27</sup> Transcript, 7 September, p. 4

<sup>28</sup> Transcript, 7 September, p. 5

## Financial Arrears

33. Ethiopia continues to be in default on payment of its share of the Commission's expenses.
34. At the meeting on 7 September 2007 Eritrea raised the issue of Ethiopia's payment of its financial arrears as expressly required by the Algiers Agreement.<sup>29</sup> The President recalled that on 16 March 2006, the Registrar of the Tribunal requested payment of a deposit and this was followed up with an email to the Co-Agents of the Parties on 31 March confirming that the Commission had received the deposit from Eritrea. On 18 May 2006 the Registrar required the immediate payment of the Ethiopian deposit. On 21 May 2006, there was a letter from Counsel for Ethiopia to the President indicating that the Government of Ethiopia had approved payment of the deposit. No payment was made. In November 2006 there was a conversation between the Registrar and Mr Rowe in this connection and between 16 and 27 April 2007 there was a conversation between the Registrar and Mr Picard at the premises of the Permanent Court of Arbitration.<sup>30</sup> Mr Picard responded that he had not received any further instructions on this matter.<sup>31</sup>
35. The Registrar of the Commission clarified that, if the Commission received Ethiopia's \$250,000 deposit in March 2006, it would still have had to require from each Party an additional \$750,000 to meet the obligations of the Commission already incurred. As at 7 September 2007, the Commission had not asked for further deposits from Eritrea, because it had never received the Ethiopian deposit.<sup>32</sup> The President recalled that the Commission had been obliged to turn to the UN Trust Fund, which had disbursed approximately \$500,000.<sup>33</sup> Thus it was drawn to the attention of the Parties that Ethiopia is still in arrears and both sides will have to be asked to make a further contribution towards the expenditure already incurred but not covered.<sup>34</sup>



Sir Elihu Lauterpacht  
President of the Eritrea-Ethiopia Boundary Commission  
28 September 2007

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<sup>29</sup> Prof. Brilmayer, Transcript, 7 September, p. 5

<sup>30</sup> Transcript, 7 September, pp. 5-6

<sup>31</sup> Transcript, 7 September, p. 6

<sup>32</sup> Transcript, 7 September, p. 6

<sup>33</sup> Transcript, 7 September, p. 6

<sup>34</sup> Transcript, 7 September, p. 7

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دولة إرتريا  
المستشار القانوني  
لمكتب الرئيس

THE STATE OF ERITREA  
LEGAL ADVISOR TO THE  
OFFICE OF THE PRESIDENT  
*Lea Brilmayer, Legal Advisor*

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

5 September 2007

Dear President Lauterpacht:

I am writing in regard to the Agenda you circulated in advance of the 6 September 2007 meeting of the Boundary Commission in The Hague. Your Agenda sets out a series of points on which the Commission requests the parties to clarify their commitments for the record. Eritrea's positions on the four points addressed to it are as follows.

First, the Commission has asked whether Eritrea is prepared to facilitate UNMEE's activities in so far as they affect the operations of the EEBC. Eritrea recognizes UNMEE's essential and positive contribution to the process of demarcating the 13 April 2002 delimitation line, and pledges to assist UNMEE accordingly. I have been instructed to assure the Commission that as the planned demarcation process gets underway the Government of Eritrea is committed to supporting UNMEE's operations as they bear on the demarcation, as provided in the Algiers Agreements.

Your second request is for Eritrea's assurances that it will remove any Eritrean military presence in the TSZ "in so far as the present position impinges on EEBC operations". The Government of Eritrea's position is that as soon as all of the arrangements for demarcation are in place, Eritrea will remove any Eritrean forces that might meet this description.

Third, the Commission asks for Eritrea's security assurances. Eritrea has previously provided security assurances in response to Commission instructions,

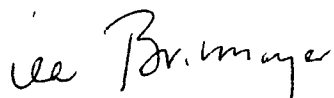
and intends that these assurances should remain in effect unless the Commission determines that they are somehow insufficient or no longer relevant.

Finally, Eritrea is requested to guarantee that it will allow free access to all pillar locations. Eritrea has on no occasion interfered with any Commission attempt to access pillar locations, and pledges that in the future it will continue this policy.

In light of the problems that have been experienced over the last five years due to Ethiopia's failure to comply with Commission decisions and instructions, it is unfortunately necessary for Eritrea to inform the Commission that the undertakings described above are predicated on the assumption that Ethiopia will fully meet its legal obligations.

As the Agenda requests, I plan to reiterate Eritrea's positions on these matters for the record after your opening remarks at the forthcoming meeting.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Lea Brilmayer".

Lea Brilmayer  
Legal Advisor to the Office of the President



الرئيس  
*The President*

Asmara, 5 September 2007

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

Dear Mr. President,

Allow me to express my best wishes for the good health of your person.

I am writing this letter to put on record our profound apprehension about plans apparently underway to prevent the forthcoming EEBC meeting from addressing the critical issue on its agenda. Let me emphasize at the outset that I have no desire to compound your heavy burden. Nonetheless, remarks made in a press conference given by a US Assistant Secretary of State, Ms. Jendayi Frazier, on August 17 last month constitute political interference intended to induce negative bearings on the legal process. We have thus no option but to report our views candidly and unequivocally. Let me proceed to quote the relevant parts of her statement:

On the Eritrea-Ethiopia boundary issue, we are pleased that both countries have agreed to meet again under the auspices of the EEBC, under the Boundary Commission. And they are working very closely with Norway. And we would expect the UN role also in this next meeting. So we think that the process perhaps will move forward on there, but both countries, Ethiopia and Eritrea, have violated their own responsibilities to solving the Boundary Commission, the boundary dispute. And it continues to be a source of tension that is undermining not only the two countries, but, again, the region as a whole....



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**The President**

What the Eritrean Government said was that they did not want me to go to the border. My plan was to go to the border through Asmara and then to Ethiopia.... I said, the only purpose of coming is to go to the border. And so I went through Ethiopia instead of Eritrea. We are asked to come in by Kofi Annan before sanctions would be placed on Eritrea and Ethiopia, to try to mediate between them, to try to make, get forward motion on the Boundary Commission. We did get forward motion because we brought Ethiopia back to the table. Ethiopia had refused to go to the Commission before. We brought them back to the table. We got Meles to say he would accept the delimitation decision without conditions. But we lost Eritrea Eritrea then walked away from the Boundary Commission. Now they are coming back together. Those sanctions which were being considered were put on hold to give time for a diplomatic effort. Our diplomatic effort stalled when we suggested that there be technology, satellite technology, to look at how decisions on the demarcation of the border would affect the local communities. Because we felt that it was extremely important for Ethiopia and Eritrea to discuss how they were going to manage the impact on communities on the border, because some territory that was previously Eritrea would go to Ethiopia, some territory that was previously Ethiopia would go to Eritrea. So you had to address those local issues. Some farms would be split from their wells

Mr. President,

You will recall the strong reservations and protests we have made in the past against attempts to interfere with the EEBC's legal proceedings. Such political interference threatens to distract the forthcoming meeting from its legitimate agenda. We are therefore compelled to put on record our views.



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***The President***

1. Assistant Secretary of State Frazier's comments (which are phrased as though she has the authority to dictate the meeting's agenda) refer to a United Nations role without providing specifics. She mentions a role for Norway as well. The responsibilities of the United Nations under the Algiers Agreement are evident, but it is difficult to understand what legal role Norway might have.
2. She asserts that both countries have violated their responsibilities. Such apportionment of blame equally between the two parties, so as to accuse Eritrea, is not new. It is baseless and remains unacceptable.
3. In as far as her visit to the border is concerned, her illegal entrance into occupied Eritrean areas through Ethiopia effectively condones the invasion of the territories of a UN member State. It was both unlawful and ill-advised, and Eritrea objected to it at the time. Her support for alterations to the EEBC Award are indicative of the underlying motivations and purpose of her visit.
4. Ms. Frazier claims that she brought Ethiopia back to the table and induced it to accept the delimitation decision without conditions. Her claims raise many questions and (if true) serve only to reinforce our apprehension on the ultimate object of illegal interference. Moreover, her assertion "[b]ut we lost Eritrea... Eritrea then walked away from the Boundary Commission" is simply untrue.
5. Ms. Frazier alludes to "satellite technology" and to communities that will be affected by the Award. The allegation that "some farms will be split from their wells" is simply another variant of the "dialogue" argument invoked earlier in an attempt to dilute and nullify the Commission's final and binding Award. It has no legal or moral basis and we reject it, as has the Commission.



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**The President**

Mr. President,

What I have highlighted above constitutes only a small part of what was asserted at the press conference. But the effort underway to derail the 6 September meeting and to preclude indefinitely a resolution of the matter goes beyond mere advocacy for adjustments. I would have wished that this were not true.

The pretexts are, as usual, packaged benignly. Some of the ones typically invoked include:

- “Dialogue between the parties”: As we have repeatedly explained, we are unwilling to become entangled in what are essentially efforts to undermine the Commission’s legal decisions and to embroil ourselves in barren and endless wrangling.
- Preoccupation that villages, churches and mosques might be divided: This earlier version of the argument has now been repackaged as “farms being split from their wells”. Apart from its factual inaccuracies and legal irrelevance, this misplaced concern ignores the suffering of tens of thousands of our citizens who have languished in makeshift camps for years. The churches and mosques that were desecrated during the invasion, and the numerous villages that were razed to the ground, are still fresh in our memories.
- Communities that (supposedly) will be divided: This argument is at variance with the reality of borders and boundaries all over the world.
- “Normalization of relations” is possible only once the boundary has been demarcated. Indeed, it has only been delayed by the efforts in question to disrupt demarcation indefinitely.
- In regard to UNMEE: At a time when Ethiopia has breached the Commission’s instructions on the “evacuation of its troops and the dismantling of illegal settlement” and rejected the Award, the measure we took to safeguard our sovereign rights, alleviate the humanitarian



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suffering of our people and stem the deterioration of our lands have been exaggerated and blown out of proportion and misconstrued – even though it may have entailed minor inconveniences to UNMEE - as a deliberate act of obstruction of demarcation and a violation of the binding Award. This apparent misrepresentation is not justifiable.

- Smear campaigns and allegations on terrorism that are underway through the falsification and fabrication of facts are, likewise, designed to create obstacles to the implementation of the EEBC's Award.

The underlying object of these efforts is not to promote the implementation of the EEBC Award or to expedite demarcation. The overriding objective is to render the EEBC proceedings fruitless and ineffective.

In this vein, we were approached just recently to consider a “proposal” for a “secret meeting” between the parties around the fringes of the UN General Assembly meeting later this month. We were further told, quite bluntly, that the current EEBC meeting will be “inconsequential”. In this connection, we have already reiterated our stance clearly and firmly. And that is:

Eritrea has consistently held the position that any talks between the parties, secret or otherwise, on any matter regarding the demarcation of the boundary outside the framework of the EEBC, do not have any legal basis, nor are they helpful. It has not and will not countenance any alternative or parallel mechanism. The only forum for any discussion on the demarcation of the boundary is the EEBC.

In regard to the normalization of relations between Eritrea and Ethiopia and any discussion of such normalization, Eritrea's repeatedly stated position also remains consistent. Eritrea is prepared to consider normalizing its relations with Ethiopia and engage in any necessary discussions pertaining to normalization as soon as the demarcation of the boundary is completed and when a conducive environment for normalization is established. It must indeed be clear



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that dialogue on normalization would not be acceptable as a precondition for demarcation.

In conclusion, Eritrea's consistent position has been that this process should be managed as a legal one, consistently with international law. Eritrea comes to this meeting with legal answers to the questions proposed by your Agenda, which are outlined in a letter submitted today by our legal counsel.

Yours Sincerely,  
Isaias Afwerki

