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STATEMENT

BY

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AT

THE GENERAL DEBATE
OF THE 62ND SESSION OF THE UNITED NATIONS
GENERAL ASSEMBLY

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Mr. President,

Allow me to extend my congratulations to you, Mr. President, on your election to this high office of the 62nd session of the United Nations General Assembly. I would also like to recognize Her Excellency Sheikha Haya Rashed Al Khalifa of Bahrain for her distinguished service as President of the sixty-first session.

Please allow me also to extend my appreciation to the Secretary-General of our Organization, Mr. Ban Ki-moon, for showing strong commitment and unceasing efforts to address issues of peace and security in many parts of the world where many conflicts and tensions remain unresolved. I would wish to assure him of my Government's constructive support and its wholehearted commitment to peace and security in our region.

Mr. President,

This august session of the General Assembly provides Member States with the opportunity to address the challenges and threats that continue to preoccupy us, including the lack of peace and security, extreme poverty, underdevelopment, environmental degradation and natural disasters.

We have reached the midpoint in our collective endeavor to implement the Millennium Development Goals (MDGs). Many of our countries have put in place the necessary policy frameworks and the required structures with modest funds. Although progress is being made in many areas of the targeted goals across regions, the pace at which we are moving will leave many of our countries behind, in particular cutting poverty by half in 2015 as originally envisaged. Member States will accordingly be required to marshal higher commitment and resources to ensure the implementations of the MDGs, including those spelled out in the Summit Outcome Document of 2005.

Mr. President,

Let me now revert to more pressing problems closer to home. For the past five years, it has sadly become almost a ritual for my Government to urge, from this podium, the international community and especially the Security Council of the United Nations, to shoulder their fundamental responsibilities in the maintenance of peace and security in our part of the world. The legal principles at stake and the looming threat to regional peace and stability have been, and remain, stark indeed. The hard facts are neither controversial nor ambiguous:

- In flagrant breach of international law, the Charter of the United Nations, and the Algiers Peace Agreement, Ethiopia continues to occupy sovereign Eritrean territories through military force;
- Ethiopia continues to reject the final and binding decision of the Eritrea-Ethiopia Boundary Commission (EEBC), and, to obstruct the demarcation of the Boundary to which end the international community has deployed United Nations Mission in Eritrea and Ethiopia (UNMEE) at an annual running cost about \$ 200 million US dollars;
- Ethiopia continues to violate, with impunity, fundamental principles of international law, including: the full respect of the sovereignty and territorial integrity of a fellow UN Member State; the integrity of international treaties; and the norms of settling disputes through binding arbitration.

Mr. President,

The simple truth is that Ethiopia has refused to cooperate with the Boundary Commission's lawful orders almost since the day that the Award was first announced in April 2002:

- In July 2002, Ethiopia began to move Ethiopians from the central highlands of Tigray (North Ethiopia) into territory recognized as Eritrean only months earlier. After factual investigation and full legal consideration, the Commission ordered Ethiopia to remove such settlements, and this order was endorsed by Security Council Resolution 1430 (14 August 2002). Ethiopia never complied with the order, and its unlawful settlements remain to this day.
- In January 2003, when the parties were asked to supply the Commission with technical comments, Ethiopia instead responded with 141 pages demanding that the boundary line be altered. According to the Boundary Commission, “[Ethiopia’s] comments amounted to an attempt to reopen the substance of the April Decision, notwithstanding Ethiopia’s repeated statements, made both before and since, of its acceptance of the Decision.”
- Also in January 2003, Ethiopia halted the Commission’s demarcation work on the pretext that one of Eritrea’s two Field Liaison Officers was a spy. It offered no evidence for this manifestly implausible contention. In February 2003, Ethiopia then failed to appoint new Field Liaison Officers notwithstanding the Commission’s instructions to do so.
- In August 2003, Ethiopia refused to provide a required plan explaining how it would maintain security in territory within its control during demarcation. Without a security plan, the Commission noted, its staff could not conduct demarcation fieldwork. Eritrea supplied such a plan immediately upon the Commission’s request.
- In September 2003, Ethiopia declined to submit required comments on a set of demarcation maps. It then halted demarcation with a letter to the Secretary-General in which it cited “the totally illegal, unjust and irresponsible decision of the Commission in Badme and parts of the Central Sector” and asked the Security Council to bypass the Boundary Commission and set up an “alternative mechanism.” In the same letter, it announced that the only boundary it would recognize was the southern boundary of the TSZ.
- In September and October 2003, Ethiopia again refused to file the plans required for assurance of the security of demarcation personnel.
- In November 2003, Ethiopia refused to allow any demarcation work to take place in the Central or Western Sectors unless demarcation was first completed in the Eastern Sector (where all territory was within Eritrean control). It refused to provide assurances, moreover, that once the Eastern Sector was demarcated, the EEBC would be allowed to proceed to demarcation elsewhere.
- At a Boundary Commission meeting in November 2003, Ethiopia asserted a supposed right not to cooperate with demarcation in accordance with the Commission’s instructions. The Commission noted that “[Ethiopia] is presenting its dissatisfaction with the boundary as substantively laid down in the delimitation decision in the form of procedural impediments to the demarcation process which it is not entitled to interpose.”
- From February 2004 to February 2005, Ethiopia failed to pay its share of the Boundary Commission’s expenses despite repeated requests. The Algiers Agreement specifically states that the parties are obliged to support the Commission financially, in equal proportions.
- In February 2005, Ethiopia refused to attend a meeting of the Boundary Commission because Eritrea would not agree to engage in “dialogue” that would lead to alterations in the delimitation Award.

- In March 2006, both parties attended a meeting of the Boundary Commission. At the conclusion of the meeting, Ethiopia refused to allow the Commission to issue a public statement announcing that the parties were ready to resume demarcation.
- In July and August 2006, Ethiopia again ignored the Commission's requests for assurances regarding the security of personnel conducting demarcation fieldwork.
- In September 2006, the Boundary Commission noted once more that Ethiopia was in arrears with respect to its financial obligations to the Commission.
- In November 2006, the Commission concluded that it had no choice but to publish its official demarcation on paper. It announced that its written demarcation decision would become final in November 2007, absent further progress by the parties in the interim to allow reopening of the demarcation process.
- On the same day in November 2006, the President of the Commission wrote a letter to the Ethiopian Foreign Minister responding to Ethiopia's allegations about "appeasement". President Lauterpacht emphasized that Ethiopia has been in violation of the Algiers Agreements almost since the day that the Boundary Award was announced.

These have been the indelible facts on the ground that have, and are spawning, a climate of permanent and escalating tension in our part of the world.

Mr. President,

Throughout these years, the Boundary Commission has filed no less than 24 reports to the Security Council underlining the gravity of the situation. The EEBC has no independent means and powers of enforcement. The legal authority and powers of enforcement reside, squarely and explicitly, on the UN Security Council, which is the guarantor of the Algiers Peace Agreement. As such, the UN Security Council should have long taken remedial action both in accordance with Article 14 of the Algiers Peace Agreement as well as on the basis of Article 39 of the UN Charter.

But this has not happened to date. Ethiopia has managed to frustrate the EEBC decision and the demarcation of the Boundary, which should have been completed by 2003, because of the unwarranted positions of some United Nations Security Council member States, and especially the United States of America, which has regrettably chosen to placate Ethiopia at the expense of international law and the interests of regional peace and security.

It was against this backdrop of Ethiopia's defiance and violation of international law that the Boundary Commission convened a meeting of the Parties in The Hague early last month. Ethiopia first sought to prevent the meeting from taking place by raising spurious legal objections on the original venue - - New York. And when this bogus pretext was removed and the meeting convened in The Hague, Ethiopia failed to respond to the five conditions that the Commission demanded in order to proceed ahead and embark on the time-bound schedule of operations that were worked out to complete pillar emplacements along the 1000 km border in the coming months. The five conditions that Ethiopia was requested to fulfill were:

1. to indicate its unqualified acceptance of the 2002 Delimitation Decision without requiring broader ranging negotiations between the Parties;
2. to lift restrictions on the movement of EEBC personnel;
3. to provide security assurances;
4. to meet payment arrears; and

5. to allow free access to pillar locations.

At the Commission's meeting, Eritrea committed itself once again to cooperate with demarcation in all of the respects as to which the Commission had expressed concern. Eritrea specifically committed itself to supporting UNMEE's operations once the demarcation process is underway; as soon as the arrangements for demarcation are in place that Eritrea will remove any Eritrean forces; that Eritrea will maintain the security assurances that it has provided; and that Eritrea will maintain free access to the pillar locations. Eritrea's commitments were made both in writing and verbally, in front of the Commission and other participants.

Eritrea asks merely that Ethiopia make the same commitment to support the demarcation in accordance with the Commission's lawful instructions. Ethiopia refused all of the Commission's requests for cooperation or reassurances, and spoke only in vague terms about how – if Eritrea did everything it demanded, no matter how unreasonable – it would then be willing to “discuss” the demarcation process. Ethiopia made clear that it had no intention of complying with the Commission's demarcation instructions.

But allow me to highlight here excerpts from our response to the tangential issues often raised by Ethiopia and other quarters with the sole aim of creating confusion and to preclude *indefinitely* a resolution of the matter.

- On “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.
- On “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 is clearly defined in the demarcation directives of the Boundary Commission. Moreover, this is a misplaced concern and it 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.
- On “Communities that (supposedly) will be divided”: This argument is at variance with the reality of borders and boundaries all over the world.
- On “Normalization of relations”: This 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 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 Boundary Commission's Award.

Mr. President,

After the recent Boundary Commission's meeting in early last month (September) in The Hague, which I mentioned above, it has come to Eritrea's attention by a letter which was circulated to the public and the media without communicating it to the Eritrean Government through appropriate diplomatic or legal channel. In the letter, the Ethiopian Foreign Minister has indicated Ethiopia's intention to attempt to renounce the two Algiers Agreements by which the Eritrea-Ethiopia border war of 1998-2000 was put to an end. What transpired at that meeting held on 6-7 September in The Hague was personally witnessed by the EEBC and is a matter for the Commission itself to report to the United Nations in accordance with its customary procedures. In writing and immediately releasing his letter, Ethiopia's Foreign Minister is self-evidently attempting to pre-empt the Commission's report. Ethiopia's letter was deliberately timed to create the maximum disruption and to distract attention from its uncooperative position at the most recent EEBC meeting.

The substance of Ethiopia's letter and its timing underscore that it is intended simply as another effort to subvert the implementation of the final and binding Award of the Eritrea-Ethiopia Boundary Commission (EEBC). As such, it is clearly unlawful under the Vienna Convention on the Law of Treaties and other principles of international law, as well as highly detrimental to regional peace and security.

Ethiopia's current efforts to avoid the implementation of the Boundary Commission's Award purport to rely on the Vienna Convention on the Law of Treaties. But the Vienna Convention does not support Ethiopia's effort to deny the Commission's Award its legal force. Even if Ethiopia's renunciation attempt were legally effective – which it is not – Article 70 of the Convention states that the boundary established under the Algiers Agreement remains binding on both parties.

Unless the treaty otherwise provides or the parties otherwise agree, the termination of a treaty under its provisions or in accordance with the present Convention:

...(b) does not affect any right, obligation or legal situation of the parties created through the execution of the treaty prior to its termination.

As the Convention also states, Ethiopia's threat to unilateral denunciation of the Algiers Agreement is ineffective as regards all methods of settlement of disputes established under that Agreement. The Vienna Convention cannot simply be interpreted to permit the dissatisfied party in a boundary arbitration to renounce the result retroactively.

Ethiopia's motivation in doing so is clear:

1. Obviously dissatisfied with the conclusions reached by the Eritrea-Ethiopia Boundary Commission – and perhaps with those of the Eritrea-Ethiopia Claims Commission as well – Ethiopia hopes, by these means, either to force Eritrea to renegotiate the “final and binding” boundary Award of 13 April 2002, or to remain in perpetuity in occupation of all of the territory recognized in the Commission's Award as Eritrean.
2. Ethiopia further wishes to create a new forum or mechanism to substitute the EEBC and to set in motion a process of endless wrangling to sow confusion in the international public opinion.
3. Ethiopia wishes, ultimately, to undermine the legal and peaceful processes embedded in the Algiers Agreement.

Indeed, Ethiopia seems to be planning to use its unlawful attempt at renunciation of the Algiers Agreements as a precursor for initiation of renewed hostilities.

The Algiers Agreements were designed to put an end once and for all to the two States' conflicting claims to territory, and thus to leave the two States free to rebuild their relationship for the good of both their peoples. In the five and one half years since the Boundary Commission's delimitation decision, however, Ethiopia has repeatedly obstructed implementation of the decision and threatened to walk out on the process altogether if it was not given everything that it wanted. While tens of thousands of Eritreans indigenous to the Ethiopian-occupied regions wait in IDP camps for the chance to peacefully enjoy the benefits of the "final and binding" Award, Ethiopia moves new settlers onto their land, attempting to make its illegal occupation of Eritrean territory permanent.

Eritrea sincerely hopes that the demarcation process can be restarted, in accordance with international law, and consistent with the final and binding delimitation Award of 13 April 2002. This is the central tenet of the Algiers Agreements, and the key to reinstating regional harmony.

The EEBC is at a crossroads now. The virtual demarcation that the EEBC is proposing is not consistent with its full mandate as stipulated in the Algiers Peace Agreement. The final and binding Delimitation Decision must be marked on the ground with pillar emplacements. Eritrea demands for effective action in the interests of legality and the maintenance of regional peace and security. The United Nations and the Security Council have unequivocal legal and moral responsibilities to ensure that this occurs without further delay. And some powers with major interest in the region need to reassess their policies so that the peoples in the region can live in peace and harmony.

Mr. President,

Ethiopia's invasion of Somalia has become a serious concern to our region where war is being waged in the name of combating terrorism without any condemnation from a UN body that is entrusted by the UN Charter with the maintenance of international peace and security. The daunting problem in Somalia is essentially an internal problem that must be resolved in order to reconstitute Somalia. The portrayal of the developments in Somalia in terms of global war on terrorism is factually untenable and politically imprudent. The Security Council and members of the international community must insist for the unconditional and immediate withdrawal of all Ethiopian troops from Somalia to end the occupation.

Mr. President,

I don't wish to conclude my statement without briefly touching on the progresses and the challenges that lie ahead in the peace process in the Sudan. The Sudan has come a long way in addressing its internal conflicts both by concluding peace agreements and by engaging in the implementation process of the terms and conditions of the peace accords. Eritrea will continue to lend its support to the peace process in Darfur by working closely with all concerned parties and countries, including the United Nations and the African Union in order to achieve a robust peace package that will bring a lasting solution. In this regard, Eritrea looks forward to the October meeting in Tripoli on Darfur.

I thank you for your attention, Mr. President.