

The ECSS Director Dr.Ahmed Dehli

Dialogue is Precluded by the EEBC Ruling

It would only be a misconception to think that the UNSC can actually fulfill its mandate.

The Director of the Eritrean Center for Strategic Studies (ECSS) Dr.Ahmed Dehli gave an interview in the occasion of the 13th anniversary of the ruling (April 2002- April 2015) by the Eritrea-Ethiopia Boundary Commission (EEBC).

The interview's summary which follows was published by **Eritrea Profile** in April 11 and 15 issues.

On the grounds for legality and integrity of the EEBC ruling...

1. The agreements signed on 18 June and 20 December of 2000.
2. The President of Eritrea and the Ethiopian Prime Minister signed on the Comprehensive Peace Agreement accepting the final and binding ruling with no conditions for change or dialogue.
3. The Peace Agreement that outlined the final and binding nature of the EEBC ruling was signed in the presence of the UN Secretary General, the Chairperson of the Organization for African Unity (African Union), the USA Secretary of State, as well as the envoy of EU Chairperson.

4. The agreements signed between Eritrea and Ethiopia clearly state that any party that fails to conform to any or all terms of agreements would be subjected to political, diplomatic, economic and military measures by the United Nations Security Council (UNSC). This indicates that the UNSC is the international charged with guaranteeing and enforcing the Boundary Commission ruling.

In spite of all this, the Ethiopian government not only disregarded the Algiers Agreements but also impeded the border demarcation, ignoring calls by UN Security Council to do otherwise. Ethiopia also occupying sovereign Eritrean territory causing thousands of Eritreans to be estranged from their homeland.

The reason why Ethiopia is defying the UNSC or the international community is only because it's protected by the US, which itself paradoxically is one of the guarantors of the Comprehensive Peace Agreement. Therefore, if Ethiopia complied with EEBC ruling agreements it signed and the UN assumed its responsibilities and enforced the ruling, the border demarcation would have been completed by November 2003 and the relations between Eritrea and Ethiopia normalized.

On the Tigray People's Liberation Front (TPLF) repeated calls for dialogue and obstruction of the demarcation process

From the beginning the Ethiopian government has been inconstant and irresponsible in nature. These examples can attest to this fact:

1 – When the EEBC gave its verdict on 13 April 2002, the Ethiopian Council of Ministers issued a statement along these points:

. Ethiopia won all her claims in the central sector in accordance with the 1900 treaty.

. Also in the western sector, the court has ascertained that Badme is sovereign Ethiopian territory.

2 - Upon realization that the EEBC ruling in fact affirmed Badme as Eritrean territory, Ethiopia reversed its position. It however insisted that the UN Cartography Unit start its task of demarcating the border in the eastern sector, claiming there were technical problems if it started with western sector as intended Eritrea didn't object as long as the demarcation was underway in accordance with the EEBC ruling.

3 – Three months after the verdict, Ethiopia started building settlements inside Eritrean sovereign territory in a bid to exploit the situation and argue that the areas belong to the Ethiopian settlers. The Boundary Commission dismissed the settlement policy and the ensuing contentions as inadmissible.

4 – The Ethiopian government officially notified the UNSC on the 7th of November 2002 that it wouldn't comply with the EEBC's request that Ethiopia withdraw its troops and relocate the settlements from Eritrean territory.

5- Ethiopia's former Prime Minister Meles Zenawi on his part wrote on the 19th of September 2003 to then UN Secretary general Kofi Anan saying that the EEBC ruling was "unjust, illegal and irresponsible" and proposed the Security Council should set up "an alternative mechanism to demarcate the contested parts of the boundary in a just and legal manner so as to ensure lasting peace in the region."

6 – In his statement to 59th session of the UN General Assembly on 28 September 2004, the then Foreign Minister Seyoum Mesfun said " the obstacles to a breakthrough in the peace process between Ethiopia and Eritrea involve controversy surrounding the demarcation of no more than 15% of a common boundary ."He continued saying " Dialogue and normalization of relations between the two countries is an obligation that both countries have."

7- On 25 November 2004, Ethiopia tabled a "five point peace proposal" for resolving the border dispute:

. – Resolution of the dispute between Ethiopia and Eritrea only through peaceful means.

.- Resolution of the root cause of the conflict through dialogue with the view to normalizing relations.

. Acceptance by Ethiopia in principle, of the Boundary Commission decision.

. - Agreement by Ethiopia to pay its dues to the Boundary Commission and to appoint field liaison officers.

. – Immediate start of dialogue with the view to implementing the Boundary Commission’s decision in a manner consistent with the promotion of sustainable peace and brotherly ties between the two peoples.

8 – On 16 December 2004 Ethiopia, in contradiction to the Algiers Peace Agreement, deployed seven divisions to within 25 to 45 kilometers from the Eritrean territory. This was confirmed by the UN Secretary General of the United Nations in his march 2005 report to the Security Council.

9 –When the Boundary Commission invited both parties to London to discuss the demarcation process in February 2005, Ethiopia refused to attend saying that a meeting “would be premature, unproductive and it could have an adverse impact on the demarcation process.”

In his detailed report to the UN Secretary general, EEBC President Sir Elihu Lauterpacht expressed increasing frustration with the failure to begin demarcation. The report disclosed that the failure by Ethiopia to begin demarcation. The report disclosed that the failure by Ethiopia to attend the February 2005 meeting was another obstructive actions

taken since the ruling and belied it frequently professed acceptance of the Delimitation Decision.

The report also stated that the deadlock left it no alternative but to take immediate steps to close down the field offices.

The Boundary Commission report ultimately reminded both parties that “the line of the boundary was legally and finally determined by its Delimitation Decision of 13 April 2002.

Though undemarcated this line is binding upon both parties, subject only to minor qualifications expressed in the Delimitation Decision, unless they agree otherwise. Conduct inconsistent with the boundary line is unlawful.”

Given the Ethiopian regime’s obstruction of the pillar emplacement, the Boundary Commission virtually demarcated the border on the basis of the pertinent colonial treaties and applicable international law.

This has been clearly pointed out by the President of the Boundary Commission to the Secretary General in a letter dated 27 November 2006:

“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 and that the mandate of the Commission can then be regarded as fulfilled. Until that time, however, it must be emphasized that the Commission remains in existence and its mandate to demarcate has not been discharged. Until such time, as the boundary is finally demarcated, the delimitation Decision of 13 April 2002 continues as the only valid legal description of the boundary.

On the inconstant and irresponsible nature of the Ethiopian regime and its continued obstruction of the EEBC ruling...

. Eritrea has continued to respect the rule of law and to uphold the integrity of the Algiers Peace Agreement, has accepted the final and binding Award without equivocation...Encouraged by its supporters, however, the Government of Ethiopia has endeavored to force renegotiation of the final and binding Award even while all along pretending to abide by the Algiers Agreement..."

. "...Had the Algiers Agreement been respected, the final and binding Award fully accepted, and the demarcation of the boundary expeditiously completed, the peoples of Eritrea and Ethiopia would long ago have returned to their natural state of neighborliness and cooperation."

. "... We wish it to be noted that responsibility for the unremitting hostility and tension rests squarely on the

shoulders of the Ethiopian Government and those that have encouraged its unlawful conduct...”

2 – In a letter addressed to the President of the EEBC on 27 November 2007, the Minister for Foreign Affairs of Ethiopia stated that “ neither Eritrea nor Ethiopia have accepted the Commission’s demarcation coordinates.”

The Ethiopian Foreign Minister had no authority to speak on behalf of Eritrea, because Eritrea had already affirmed its position in a letter to the Commission by President Isaias Afwerki.

3 – Prof. Lea Brilmayer, the Legal Adviser to the Office of the President of Eritrea, wrote a letter to the Commission President on 29 November 2007 saying that Ethiopia was “wrong to state that neither Eritrea nor Ethiopia have accepted the Commissions demarcation coordinates” and affirmed that Eritrea acknowledged as both final and valid the coordinates that the Commission had specified.

4 – On 30 November 2007 the Eritrea-Ethiopia Boundary Commission issued its final press release from the Hague, reiterating that the boundary line stood virtually demarcated, accompanied by a list of coordinates identifying the points through which the boundary runs, all in accordance with the Delimitation Decision of 13 April 2002.

5 – In his 26th report to the UN Secretary General, Sir Elihu Lauterpacht, the President of the Eritrea-Ethiopia Boundary Commission, reiterated:

. “In stipulating that the boundary now automatically stands as demarcated by the boundary points listed in the annex to the 27 November 2006 Statement, the Commission considers that it has fulfilled the mandate given to it.”

. “The Delimitation Decision of 13 April 2002 continues as the only valid legal description of the boundary.”

. “Eritrea has accepted the Delimitation Decision of April 2002 and communicated a detailed response to Ethiopia’s contentions claiming otherwise in letters to the Commission from the President Legal Advisor

.” Signed copies of the maps illustrating the coordinates were officially sent to the Parties on 27 November 2007. A copy will presently be deposited with the United Nations and another copy for public reference will be retained in the office of the United Nations Cartographer.”

The Ethiopian Government with the support of third parties continues to engage Eritrea in dialogue, insisting that it’s committed to negotiations “for the implementation of demarcation.”

In his memoir “ Surrender is not an Option ” : Defending America at the United nations and Abroad” (2007), former US Ambassador to the UN John Bolton stated that in February

2006, Jendayi Frazer the then Assistant Secretary of State for African Affairs informed him that she wanted him to “reopen” the 2002 EEBC decision. He further said that he didn’t because he “was at a loss how to explain that to the Security Council...”

The present Ethiopian Prime Minister, just like his predecessor, has been uttering futile game of semantics like “readiness to go to Asmara” and offers for “dialogue” with Eritrean President.

Ethiopian rulers, including the Prime Minister, know very well what they need to do before even considering negotiations with Eritrea:

- . Withdraw from Eritrean territory identified in the Delimitation Decision of 13 April 2002.
- . Respect Eritrean sovereignty.
- . Refrain from interference in Eritrean domestic affairs.
- . Refrain from any military or other provocations.
- . Abide by international, continental and regional laws.
- . Respect and abide by signed treaties.

On the international characteristics of the EEBC ruling...

1 – The verdict came from a Commission established under the registry of an International Court.

2 –The border between Eritrea and Ethiopia was demarcated on the basis of pertinent colonial treaties and applicable international law.

3 – The Agreements that serve as reference for this decision were signed in presence of and guaranteed by the UN Secretary General, the Chairperson of the Organization of the African Unity (African Union), as well as the envoy of the EU Chairperson.

4 – The United Nations Security Council was charged with guaranteeing the EEBC ruling without preconditions and enforcing both parties to accept and implement it.

5 – All the documents of the Commission, including its 13 April 2002 Decision, have been deposited with the United Nations archives in New York and the International Court of Arbitration archives in The Hague.

6 – Like I mentioned earlier, the Commission President communicated his final report to the UN Secretary General pointing out that the border stood demarcated in accordance with the Delimitation Decision of 13 April 2002 and that it remained as the only valid legal description of the boundary.

On the failure of the international community to force the TPLF regime to implement the EEBC verdict...

Every country in the world except Ethiopia, supports the Eritrea-Ethiopia Boundary Commission Ruling and calls, at least at theoretical level, for its implementation. The only

raison why the UNSC has been unable to force Ethiopia is the United States. Despite relentless efforts on part of the Commission President to satisfy the UNSC and the Ethiopian government and begin actual demarcation, it failed to gain positive support, especially from the US government. The US support to Ethiopia emanates from the latter's unconstructive role as a US agent in Horn of Africa and Great Lakes region.

The UNSC, which turned a blind eye, when Ethiopia invaded Somalia in the end of 2006, resorts to passing unjust and illegal resolutions when it comes to the Eritrean context. The resolutions passed in 1950 (to federate Eritrea to Ethiopia) and in 2009 (Sanction resolution evoking Chapter 7 of the UN Charter) are clear examples of the UNSC's passive attributes. And with all its shortcomings, it would only be a misconception to think that the UNSC can actually fulfill its mandate.