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Attached is an advance copy of the Report of the Secretary-General on Eritrea for the information of the members of the Security Council.

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**I. Introduction**

1. In paragraph 19 of its resolution 2023 (2011), adopted on 5 December 2011, the Security Council requested me to report within 180 days on Eritrea's compliance with the provisions of the resolution and resolutions 1844 (2008), 1862 (2009) and 1907 (2009).

2. A Note Verbale was subsequently transmitted to the Permanent Mission of the State of Eritrea to the United Nations on 18 April 2012 requesting information from the Government by 2 May 2012, on the fulfillment of the provisions contained therein.

3. On 2 May 2012, the Government of Eritrea submitted a report on its compliance with resolution 2023 (2011) to the Secretariat.

**II. Background and key developments since my last report on Eritrea(S/2010/327)**

4. In adopting resolution 2023 (2011), the Security Council reinforced the existing sanctions regime on Eritrea as established by resolution 1907 (2009) for its destabilizing role in the Somalia conflict and for its failure to comply with resolution 1862 (2009) on its border dispute with Djibouti. The resolution imposed a two-way arms embargo (import and export), a travel ban and an assets freeze. Resolution 2023 (2011) expanded the sanctions to include the 'diaspora tax', a two percent income tax levied on Eritrean nationals living abroad, and the mining sector. The Security Council called on Eritrea to stop the use of the 'diaspora tax' to support, directly or indirectly, armed opposition groups in violation of resolutions 1844 (2008) and 1862 (2009). In this regard, the resolution required Eritrea to 'cease using extortion, threats of violence, fraud

and other illicit means to collect taxes outside of Eritrea from its national or other individuals of Eritrean descent'. The resolution also requested Member States to hold accountable individuals in their territory who are engaged in these activities on behalf of the Eritrean Government or the ruling People's Front for Democracy and Justice (PFDJ).

5. In the mining sector, the resolution called on Eritrea to show transparency in its public finances in order to demonstrate that the proceeds of the mining activities were not being used to destabilize the region, in violation of resolutions 1844 (2008), 1862 (2009) and 1907(2009). Member States were required to exercise vigilance to ensure that funds derived from the mining sector did not contribute to violations of the sanctions regime. In this regard, the Security Council Committee pursuant to resolutions 751 (1992) and 1907 (2009) concerning Somalia and Eritrea (subsequently referred to as "the Committee"), with the assistance of the Somalia and Eritrea Monitoring Group (SEMG), was requested to draft due diligence guidelines for use by Member States.

6. Finally, the resolution called for the release of Djiboutian prisoners of war and implementation of resolution 1862 (2009) on the Djibouti-Eritrea border conflict. The SEMG mandate was expanded to include monitoring and reporting on the implementation of these new measures. Furthermore, Member States were required to report to the Security Council within 120 days on steps taken to implement the provisions of resolution 2023 (2011).

7. Prior to the adoption of the resolution, in a letter dated 25 October 2011 to the President of the Security Council, the Government of Eritrea informed Member States of President Isaias Afwerki's request to address the Security Council on 'issues related to Ethiopia's occupation of

sovereign Eritrean territory and Eritrea's constructive regional policies and its broad and positive engagements'. On 30 November 2011, the President of the Security Council extended an invitation to Eritrea and its neighboring countries to brief the Council. In a subsequent letter, dated 3 December 2011 to the Council President, the Minister of Foreign Affairs of Eritrea expressed his Government's strong objections to the United States' efforts to 'prevent the intervention of President Isaias Afwerki from having any influence on the Council's deliberations.....[by making] it logistically impossible and rendering it a mere formality and utterly meaningless'. On 5 December 2011, the Security Council heard interventions by the President of Djibouti, Ismaël Omar Guelleh, the President of Somalia, Sheikh Sharif Sheikh Ahmed, the Prime Minister of Ethiopia, Meles Zenawi, the Foreign Minister of Kenya, Moses Wetangula, and the Permanent Representative of Uganda to the AU, Mull Katende, speaking via video conference from Addis Ababa. All of them urged the Security Council to adopt the draft resolution on Eritrea.

8. In January 2012, the AU Peace and Security Council called for the full implementation of Security Council resolutions 2023 (2011) and 1907 (2009). This was reiterated in the decision of the 18th Ordinary Session of the Assembly of Heads of State and Government of the African Union. In the lead up to these events, the Inter-Governmental Authority on Development (IGAD) issued two communiqués on 28 June and 4 July 2011 calling on the African Union and the United Nations Security Council to fully implement existing sanctions on Eritrea and impose additional measures targeting the diaspora tax and the mining sector.

9. Tensions between Eritrea and Ethiopia had perceptibly escalated in March 2011 when the Ethiopian Government issued a series of public statements announcing a tougher policy on

Eritrea that entailed the use of both its diplomatic and military capacity to bring about regime change in that country. These statements followed the arrest of 'terrorists' who were allegedly under orders from Eritrean Government to attack Ethiopian targets. Ethiopia proclaimed that it had also uncovered evidence of Eritrea's complicity in fomenting a North-Africa type revolution in Ethiopia. It also explained that its new stance was due to its frustration with the lack of enforcement of the sanctions regime on Eritrea under resolution 1907 (2009) and the latter's unrelenting capacity to incite instability. Ethiopia clarified that its initial response would focus on mobilizing the international community to apply increased pressure on Eritrea.

10. In a letter dated 25 March 2011 to the President of the Security Council, Eritrea expressed concern about Ethiopia's belligerent statements and threats of the use of force, stating that during the past 10 years, Ethiopia had been actively pursuing a hostile policy against it, including support to Eritrean armed groups, leading to regional instability. Eritrea referred to the 'unbalanced' sanctions imposed by resolution 1907 (2009), particularly the arms embargo, stating that these measures 'could potentially encourage Ethiopia to contemplate reckless acts of further aggression and subversion against Eritrea'. It accused Ethiopia of violating the UN Charter and international law by threatening military action and by continuing to occupy land awarded to it by the Eritrea and Ethiopia Border Commission (EEBC).

11. Eritrea restated its long-held position that it was 'prepared for full normalization as soon as Ethiopia accepts its international treaty obligations and withdraws from sovereign Eritrean territory'. Eritrea called on the Security Council to uphold the EEBC demarcation decision as obligated by the Algiers Agreement and the UN Charter, and to ensure the withdrawal of Ethiopia from occupied Eritrean territories. Referring to the same issue, Prime Minister Meles

Zenawi said in his statement to the Security Council on 5 December 2011 that while Ethiopia 'may or may not like the delimitation decision, we have made it abundantly clear that we accept it unconditionally.... what we have, therefore, asked the Eritreans to do is to engage us in dialogue so that we can move towards demarcation. That is what Nigeria and Cameroon did; they engaged in dialogue to implement a delimitation decision'.

12. On 18 July 2011, the final report of the SEMG containing its findings and recommendations was issued as a document of the Security Council (S/2011/433). The report provided a detailed account, with supporting evidence, of Eritrea's violations of resolutions 1844 (2008) and 1907 (2009), including allegations of its continuing support to Al-Shabaab in Somalia and other armed groups in the region, as well as its involvement in a plot to disrupt the African Union Summit in Addis Ababa in January 2011. On 19 July 2011, the Council held an informal interactive dialogue with Eritrea, Ethiopia, Kenya, Djibouti, Somalia, Uganda and the IGAD facilitator for Somalia.

13. Prior to adopting the recommendations in the SEMG report, the Committee provided both the Governments of Eritrea and Ethiopia with the opportunity to present their respective views on the report of the SEMG. On 22 July 2011, the Political Advisor to the President of Eritrea denied the allegations contained in the report and informed the Committee of his Government's intention to submit a comprehensive response to it. On 27 July 2011, the Minister of State for Foreign Affairs of Ethiopia briefed the Committee and presented evidence of Eritrea's alleged complicity in the plan to disrupt the AU Summit in January 2011.

14. On 24 July 2011, I met with Eritrean Foreign Minister and the Political Advisor to the

President of Eritrea who assured me that Eritrea had a contribution to make towards regional peace and security, particularly with respect to Somalia, Sudan and South Sudan's outstanding Comprehensive Peace Agreement (CPA) issues and Darfur. The Foreign Minister underlined the Government's intention to strengthen its relationship with the UN family. On 31 July 2011, I received a letter from President Afwerki in which he expressed concern about Ethiopia's efforts to mobilize the Security Council to impose additional sanctions on Eritrea and urged me to play a role in preventing this from materializing. In my response, I underscored that the application of sanctions was under the remit of the Security Council and encouraged his Government to continue its dialogue with it. This was followed by a series of letters from the Eritrean Government to the Security Council and to me in which it protested the draft resolution on Eritrea and asked Council members to reject it.

15. On 20 October 2011, the Eritrean government submitted its comprehensive response to the SEMG report to the Committee and the Security Council (S/2011/652). It stated that the report lacked credible and conclusive evidence to support the allegations that Eritrea violated resolution 1907 (2009). On Eritrea's involvement in a plan to disrupt the AU summit, which in its view underpinned the drive to impose additional sanctions, Eritrea explained that it would have been counterproductive to carry out such an attack, particularly following its recent re-engagement with the AU after a long absence and its participation in the summit. Eritrea accused Ethiopia of fabricating this plot to justify its push for the expansion of the sanctions regime.

16. In a letter dated 18 October 2011 to me, the Foreign Minister of Eritrea informed that Ethiopia had 'illegally obstructed Eritrea from attending IGAD's 40<sup>th</sup> Extraordinary Session that convened on 24 August 2011 in Addis Ababa'. He stressed that Ethiopia needed to be urged to

respect Eritrea's right to participate in any IGAD sponsored meetings effective 25 July 2011 when Eritrea requested to be re-admitted to IGAD.

17. In September 2011, I met with President Afwerki in New York during the sixty-sixth General Assembly Session. The President stated that the border issue with Ethiopia was a 'closed chapter' and that there was 'nothing to negotiate'. He added, however, that the Security Council's credibility was on the line and that it needed to make a decision. He also stated that Eritrea aspired to work with all the parties to promote peace and stability in Somalia, Sudan and South Sudan.

18. In a letter dated 8 November 2011, the Permanent Representative of Kenya to the United Nations informed the Committee on Somalia and Eritrea of credible intelligence reports indicating that 'Eritrea continues to carry out actions that aim to destabilize the already fragile situation in Somalia and the Horn of Africa in general'. The letter stated that in early November 2011, three planes carrying weapons and other supplies to Al-Shabaab landed in the Somalia town of Baidoa which was under the extremist group's control at the time. The letter alleged that 'available information indicates that the arms emanated from Eritrea'. Highlighting that Eritrea's actions were consistent with the findings of the SEMG's report (S/2011/433), the letter called on the Committee and the Council to take appropriate action.

19. On 18 January, the Government of Ethiopia informed the Security Council of an attack that was carried out two days beforehand by gunmen, targeting a group of 22 tourists travelling in the Afar Regional State in the north-eastern part of the country. Five people were killed (two Germans, two Hungarians and an Austrian national), four were injured (an Italian, a Hungarian



and two German nationals) and three Ethiopians were kidnapped. The Ethiopian Government accused Eritrea of direct involvement in the incident, declaring that it would take any necessary action to stop Eritrea's overt support to terrorist activity.

20. In a subsequent letter to the Security Council, dated 14 March 2012, the Ethiopian Government expressed frustration about the international community's unsuccessful efforts to coerce Eritrea to comply with relevant Council resolutions, stating that the recent terrorist act against the tourists was a clear indication of the Eritrea regime's determination to pursue its 'destructive' role in disregard of international law and norms. Ethiopia called on the Security Council to ensure the implementation of the resolutions and stated that it reserved the right of self-defense in accordance with the Charter of the United Nations.

21. On 15 March 2012, the Ethiopian army attacked three alleged rebel bases inside Eritrea in retaliation for the killing and kidnapping of tourists. Eritrea initially dismissed the attack as an attempt by Ethiopia to divert attention from the tenth anniversary of the Ethiopia-Eritrea Border Commission ruling. Subsequently, the Eritrean Government requested the Security Council to conduct an investigation into the incident (S/2012/181).

22. In its mid-term briefing to the Somalia/Eritrea Committee in February 2012, the SEMG reported that it had obtained sufficient information and evidence of Eritrea's recent violations of resolutions 1844 (2008) and 1907 (2009), including support to the Ogaden National Liberation Front (ONLF) and Orómo Liberation Front (OLF). On resolution 1862 (2009) regarding the Djibouti-Eritrea border conflict, the SEMG referred to the letter I received from the Government of Djibouti on 4 October 2011 informing of the escape of two Djiboutian military personnel

(captured at Ras Doumeira in June 2008) from Eritrean custody on 5 September 2011. Although Eritrea has consistently denied the existence of Djiboutian prisoners of war, the SEMG had the opportunity to interview the former detainees and establish the credibility of their accounts.

23. The SEMG also stated that, upon investigation of the Government of Kenya's statement, its preliminary findings indicated that the alleged flights to Baidoa did not in fact take place. On 24 April 2012, the SEMG requested the Government of Kenya to share any evidence that would support the allegations it made against Eritrea. To date, no reply has been received from the Government of Kenya.

24. The SEMG informed the Committee that it had begun to investigate, as mandated by resolution 2023 (2011), the extent of Eritrea's use of extortion, threats of violence and other means to collect taxes outside of Eritrea from its nationals or other individuals of Eritrean descent. The SEMG also reported on its continuing efforts to revise and update the information it had already gathered on those individuals and entities that meet the criteria for listing as stipulated in resolutions 1844 (2008) and 1907 (2009). The Monitoring Group also pointed out that it continued to monitor the implementation of the sanctions against the ten individuals and one entity on the Committee's list. The SEMG expressed the view that additional designations were required for the targeted measures to remain credible and have a positive, deterrent effect on potential violators of the sanctions regime on Somalia and Eritrea.

25. In a letter to me dated 3 May 2012, the Foreign Minister of Eritrea highlighted that 13 April 2012 marked the 10<sup>th</sup> Anniversary of the Eritrea-Ethiopia Border Commission (EEBC) decision. As Ethiopia continued to illegally occupy sovereign Eritrean territory, 'silence and

inaction by the United Nations remains an abdication of responsibility'. He underscored that Ethiopia's demand for dialogue had always been aimed at revising the EEBC decision and requested that I exercise my moral authority to end Ethiopia's occupation.

### **III: Eritrea's compliance with Security Council Resolution 2023 (2011)**

26. On 2 May 2012, the Government of Eritrea submitted a letter in response to the Note Verbale on resolution 2023 (2011). Eritrea registered its serious concern about the sanctions regime which, it believed, had 'targeted the State of Eritrea unfairly on the basis of politically motivated, unfounded and unsubstantiated allegations'. The letter appealed for the lifting of sanctions.

27. The letter further noted that the measures imposed on Eritrea had emboldened Ethiopia to publicly express its intentions to support regime change in Eritrea through military means and to purchase arms with the aim of using them against Eritrea. The letter underscored that Eritrea's sovereignty and territorial integrity continued to be violated by Ethiopia's continuing occupation of the Eritrean town of Badme and other areas in breach of the Algiers Peace Agreement and the UN Charter.

28. The letter then proceeded to outline Eritrea's regional policy and actions in support of that policy in Sudan, Somalia and Djibouti along the same lines as in its comprehensive response to the SEMG report. Eritrea claimed that its portrayal as a destabilizing force in the region did not reflect the reality on the ground, stating that it had diplomatic relations with all the countries in the region with the exception of Ethiopia. It recently appointed a new resident Ambassador in Uganda and maintained its representation to the African Union since late 2010. Eritrea referred

to its efforts to re-activate its membership in IGAD which, it said, was initially welcomed by the IGAD Secretariat and subsequently blocked by Ethiopia.

29. Eritrea referred to its constructive engagement on Sudan starting with its contribution to the Declaration of Principles that was adopted by IGAD in 1994 and its role in facilitating negotiations on the 2005 Comprehensive Peace Agreement (CPA). Eritrea said it had welcomed the referendum in South Sudan and had demonstrated its solidarity and support for the new State. Eritrea also mentioned its catalytic role in the Asmara Peace Accord between the Government of Sudan and the eastern opposition movements in 2006, as well as its joint efforts with Chad, Libya and Qatar in finding a lasting solution to the Darfur conflict.

30. On Somalia, the letter referred to Eritrea's support to the efforts of the Alliance for the Re-liberation of Somalia (ARS) to convene a conference in Asmara in 2007 to help stabilize the country, noting that Al-Shabaab had, at the time, denounced it as a 'conference with a secular agenda'. Eritrea reiterated that as a matter of principle, it did not support Al-Shabaab or any form of extremism, referring to its past endeavors at combating the spread of terrorism in the region in the early 1990s. Eritrea stated that its attempts to engage the TFG following the Istanbul Conference of April 2010 had not been successful.

31. Eritrea also lamented Ethiopia's efforts to demonise it as the main culprit in Somalia's crisis, thus mobilizing other IGAD countries to oppose its participation in the UN High-Level Summit of 23 September 2010 and the London Conference on Somalia held in March 2012.

32. In his briefing to the Council on 5 December 2011, President Sharif of Somalia said that he sought the support of Libya's former President Qadhafi in 2009 to persuade Eritrea to not intervene in his country. President Sharif indicated that his effort had been rebuffed by President Afwerki who informed Qadhafi that 'reconciliation with my country was impossible'.

33. Eritrea stated that it remains committed to the mediation process initiated by the Emir of the State of Qatar to resolve its border dispute with Djibouti, including the question of missing persons and prisoners of war as governed by the Peace Agreement of 6 June 2010. Eritrea referred to its withdrawal from the border area and the deployment of Qatari troops to monitor the border between the two countries, claiming that it had restrained itself on this subject in an effort to avoid compromising the Qatari mediation process.

34. The letter stressed that the sanctions regime had created an imbalance in the region 'allowing Ethiopia and the armed groups it supports to openly engage in naked aggression against the territorial integrity of Eritrea. In this connection, Eritrea awaited the response of the Security Council to its request for a full investigation into the armed incursion into Eritrean territory by Ethiopia on 15 March 2012. Eritrea viewed Ethiopia's claim that it was pursuing Afari terrorist elements as not credible. Eritrea stressed that ending Ethiopia's occupation of its territory would lead to the normalization of bilateral ties and pave the way to lasting peace. The lack of serious and credible action against Ethiopia would continue to impede regional peace and security.

35. On the question of the diaspora tax, Eritrea drew attention to its sovereign right to levy taxes on its citizens, highlighting that the revenue collected from this tax is aimed at providing a

'social cushion for the dependents of martyrs of war, disabled war veterans and national reconstruction and development' projects. Eritrea insisted that the domestic law that created the tax was not extra-judicial and that the tax was levied on Eritrean citizens living abroad, not on individuals of Eritrean descent. As all governments pursue 'legally-specified enforcement measures to regulate tax evasion', in the case of Eritrea, services related to the acquisition of property or land and to obtaining business licenses were withheld from members of the Eritrean diaspora who failed to meet their fiscal obligations. In Eritrea's view, this cannot be characterized as using 'threat, violence or extortion' as indicated in the resolution. Eritrea reported that nationals residing abroad have now started to send their payments directly to Asmara while the Government finalized a new administrative procedure for the collection of taxes.

36. With respect to the mining sector, Eritrea reported that foreign and local investments followed established standards of transparency and accountability, highlighting that this sector began production only last year.

37. Finally, Eritrea drew attention to the numerous appeals it made to the Council to replace the current SEMG with one that is 'independent, impartial and credible'.

#### **IV. Observations**

38. The present report outlined key events leading to the adoption of resolution 2023 (2011) on Eritrea and major developments since then. Although the Council had requested me to report on Eritrea's compliance with the resolution, the Secretariat has no independent means of verifying this and has, therefore, relied on information provided by the Government of Eritrea,

official UN documents, Somalia and Eritrea Monitoring Group (SEMG) reports and formal and informal exchanges with Member States.

39. Since my last report on Eritrea to the Security Council in June 2010 (S/2010/327), tensions in the Horn of Africa have steadily increased. The period in question was marked by Ethiopia's allegations of Eritrea's involvement in a plot to disrupt the AU Summit in Addis Ababa in early 2011. This was subsequently corroborated in the SEMG report of 18 July 2011 (S/2011/433), which also provided evidence of Eritrea's continuing support to various armed groups in the region.

40. The situation further deteriorated in March 2012 when Ethiopia carried out a military attack on alleged Afar training bases inside Eritrea in response to the killing and kidnapping of Western tourists in Ethiopia. These developments combined with the lack of progress in implementation of the Qatar-mediated peace agreement of June 2010 between Djibouti and Eritrea has increased the already fragile regional dynamics in the Horn of Africa.

41. On the latter, it should be recalled that in a letter to the Permanent Representative of Qatar to the United Nations dated 23 December 2010, the Under Secretary-General for Political Affairs outlined the range of services the United Nations could provide with regard to the demarcation of the boundary between Djibouti and Eritrea. I wish to underline that the United Nations stands ready to assist the Parties and the State of Qatar in this regard.

42. Eritrea has consistently denied all allegations that it has violated Security Council resolutions and has called on the Council to lift the targeted sanctions imposed on it. In this

regard, I welcome Eritrea's stated efforts to re-engage with the region and the international community, including through interactions with the Security Council and its Committee on Somalia and Eritrea, and by taking steps to restore its membership in IGAD. The application of sanctions is not an end in itself, but a means to an end.

43. I strongly urge the Eritrean government to engage and maintain an open dialogue not only with the Committee but also with the SEMG as a way to address its grievances and present its views. I also urge Eritrea to do more to establish evidence of its compliance with resolutions 1907 (2009) and 2023 (2011).

44. The lack of progress in the implementation of the decision of the Eritrea-Ethiopia boundary commission continue to negatively affect the multi-faceted and complex regional dynamics in the Horn of Africa and the normalization of relations between the two countries. A comprehensive approach should be adopted by States in the region, IGAD, the African Union and the United Nations to address the broader aspects of the conflict in the region, including this long-standing border stalemate.

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