



Security Council

Distr.: General
10 July 2002

Original: English

Report of the Secretary-General on Ethiopia and Eritrea

Introduction

1. The present report is submitted pursuant to Security Council resolution 1398 (2002) of 15 March 2002, by which the Council extended the mandate of the United Nations Mission in Ethiopia and Eritrea (UNMEE) until 15 September 2002. In accordance with paragraphs 7 and 9 of that resolution, the report proposes, subject to the agreement of the two parties, ways in which UNMEE can contribute to the orderly and expeditious implementation of the 13 April 2002 delimitation decision of the Eritrea-Ethiopia Boundary Commission.

Engaging the parties on the way forward

2. From March to early April 2002 my Special Representative, Legwaila Joseph Legwaila, continued to engage the parties in consultations on a mechanism for the implementation of the then forthcoming delimitation decision. In the discussions it became clear that coordination in the next phase would be carried out primarily on the basis of ready and effective access of my Special Representative to senior officials of the two parties. My Special Representative was also in close contact with the Guarantors and Facilitators, as well as members of the Group of Friends of UNMEE, who have been very helpful in moving the peace process forward. I have also had useful discussions with the President of Eritrea, Isaias Afwerki, and the Prime Minister of Ethiopia, Meles Zenawi, on several occasions during this period, in addition to helpful exchanges with the Secretary-General of the Organization of African Unity, the Facilitators of the peace process and the Friends of UNMEE.

3. The Boundary Commission issued its delimitation decision on 13 April. Members of the Security Council welcomed this decision in a statement to the press that same day, and both parties were quick to embrace it. In my statement of 16 April, I emphasized that the parties, in reaffirming their acceptance of the decision, had reached an important milestone in the peace process. On the same day, Council members commended the parties' commitment to accept the decision as final and binding.

4. On 26 April, Ethiopia notified the United Nations that it would prohibit personnel of UNMEE as well as the Secretary and Field Office of the Boundary Commission from crossing from Eritrea into Ethiopia. These measures were put into effect on 27 April. Ethiopia stated that it had not been properly consulted regarding UNMEE logistical support for and transport of personnel of the Boundary Commission's Secretary and Field Office; that UNMEE had not kept its personnel lists properly updated; that the Mission had improperly transported international journalists from Asmara to Badme; and that the Boundary Commission had failed to open a field office on the Ethiopian side of the border.

5. My Special Representative immediately flew to Addis Ababa to seek clarification of Ethiopia's concerns and to resolve the problem as soon as possible. The Government of Ethiopia subsequently focused criticism on the Force Commander of UNMEE, saying they had lost confidence in him. At the same time, they agreed to suspend the closure of the border.

6. I instructed UNMEE to review its procedures and to make any adjustments that might be necessary to ensure that it maintained strict impartiality. I assured

the Government of Ethiopia accordingly and expressed my continued confidence in and support for the Force Commander.

7. On 13 May Ethiopia submitted to the Boundary Commission a request for interpretation, correction and consultation. The Commission issued its decision on that request on 24 June.

8. In accordance with the Agreement on Cessation of Hostilities and with resolution 1398 (2002), UNMEE continues to carry out its mandate, including by ensuring that security arrangements remain in effect until demarcation is completed by the Boundary Commission. UNMEE has thus continued to monitor the situation in the Mission area, which has remained calm and stable.

9. The continuing fulfilment of the UNMEE mandate in the essential area of security will require careful planning and coordination, with the parties, of the steps required to implement the Boundary Commission's delimitation decision. As discussed in more detail below, the timely completion of the Mission's mandate, linked in the Agreement on Cessation of Hostilities and in resolution 1320 (2000) to the demarcation of the boundary, will also require mine clearance in support of demarcation.

10. To follow up these issues and to give additional momentum to the peace process, I dispatched the Under-Secretary-General for Peacekeeping Operations on a mission to the region from 17 to 21 June. During that visit he met in Ethiopia with the Prime Minister, Meles Zenawi, the Minister for Foreign Affairs, Seyoum Mesfin, and the Commissioner for Coordination with UNMEE, Brigadier General Yohannes Gebremeskel. In Eritrea he met with the President, Isaias Afwerki, the Minister for Foreign Affairs, Ali Said Abdella, and the Commissioner for Coordination with UNMEE, Brigadier General Abrahaley Kifle.

11. The Under-Secretary-General for Peacekeeping Operations discussed with the parties the next steps in the peace process and the role of UNMEE in supporting their efforts. On the basis of that mission, and the ongoing discussions between my Special Representative and the parties, it would be useful at this time to make recommendations to the Security Council as to the roles that UNMEE could play to help ensure the expeditious and orderly implementation of the Boundary Commission's delimitation decision.

These recommendations fall into three categories: mine clearance in support of demarcation; modalities for the transfer of territorial control; and practical support to the Boundary Commission's Field Office.

Mine clearance in support of demarcation

12. In its fourth report, the Boundary Commission expressed the hope that the Council would be able to adjust the scope of the mandate of UNMEE to allow it to assist the Commission in the demarcation stage, including the crucial task of mine clearance. In resolution 1398 (2002), the Council then invited me to submit recommendations on the role of UNMEE in the demarcation process, with particular regard to demining. My Special Representative has consulted closely with the President of the Boundary Commission so as to ensure that my recommendations are in accordance with the general thinking guiding the Commission.

13. As part of its operational demining, UNMEE has continued to clear access routes to the border area which may also be helpful in reaching pillar sites during the demarcation process. Subject to the Council's concurrence and in consultation with the parties, UNMEE is also prepared, within its existing authorized strength, to clear the pillar sites themselves, once these are determined, in addition to any other sites required for surveying purposes by the Commission's Field Office. This work would be carried out by the Mission's military component in coordination with the Mine Action Coordination Centre and national authorities. Since there is no other international entity in a position to initiate operational demining for demarcation in a timely and effective manner, I believe UNMEE is best suited to undertake these tasks.

14. In addition, civilian contractors would provide quality assurance and verification, a standard practice in such circumstances. Such contractors would be managed by the UNMEE Mine Action Coordination Centre and funded from the United Nations Trust Fund for the Delimitation and Demarcation of the Border. The parties would continue to carry out humanitarian demining in the border area, in accordance with well-established practice, so that their respective peoples could inhabit and productively utilize the land. In this connection, I would appeal to the donor community to

continue supporting the important work of humanitarian mine clearance in Eritrea and Ethiopia.

Modalities for territorial transfers

15. In accordance with resolution 1398 (2002), it is essential for the parties and UNMEE to agree on technical modalities for the orderly transfer of territorial control. Until additional information on demarcation becomes available, it is difficult to discuss with the parties such modalities except in a generic fashion. My recommendation below, therefore, constitutes a sequence of broad steps that, if accepted by the parties, would help to ensure an orderly process. This sequence of steps can be considered without prejudice to the timing of the transfers of territorial control. For example, these steps could begin in each segment as soon as it is demarcated or could be carried out in rather rapid succession after all segments have been demarcated. In the latter case, a slight adjustment of the mandate of UNMEE may eventually be required, since its termination is linked, in the Agreement on Cessation of Hostilities and in resolution 1320 (2000), to the completion of demarcation. The steps set out below would not proceed in any given segment until after it has been demarcated.

- First, UNMEE would adjust its own deployment within the area(s) to be transferred in order to provide better monitoring and help to enhance confidence.
- In the second step, the withdrawing party would redeploy its civilian administration, local militia and police, and armed forces. UNMEE would coordinate with them to ensure that they redeploy in accordance with the new boundary.
- In the third step, UNMEE would verify that the withdrawing party had redeployed correctly.
- In the fourth step, the incoming party would establish its civil administration, including local militia and police, in anticipation of the return of civilians. The precise timing of the redeployment of the incoming party's armed forces would depend on the timing of territorial transfers.
- Fifth, the incoming civilian population would return. The UNMEE Mine Action Coordination Centre, the United Nations humanitarian agencies

and non-governmental organizations would play a significant rehabilitation and reconstruction role.

16. These steps are intended as a broad framework for the consideration of the parties. With the support of the Security Council, UNMEE would work with them on the detailed arrangements of implementation.

Administrative and logistical support for demarcation

17. Finally, in accordance with resolution 1344 (2001), UNMEE has responded favourably to the Boundary Commission's explicit request for administrative and logistical support to its Field Office. This includes such assistance as the provision of office space, communications, transport, medical evacuation services and liaison functions. Costs related to the provision of such assistance are defrayed from the United Nations Trust Fund for the Delimitation and Demarcation of the Border. It should be emphasized that the Mission's assistance is limited to practical support; UNMEE has no involvement in, or influence upon, the decisions of the Boundary Commission and its Field Office.

18. Ethiopia initially objected to UNMEE support to the Field Office on the grounds that it had not been fully consulted. The meeting of the Boundary Commission on 21 May provided an excellent opportunity for ensuring complete transparency on this question, and I hope that these discussions will allow the Commission's Field Office to carry out its work in a timely manner. In the meantime, however, the Field Office personnel of the Boundary Commission have been unable to operate in Ethiopia, as noted in the fifth report of the Boundary Commission (see the annex to the present report). This and other reasons for delay are a source of serious concern, since the completion of demarcation is a prerequisite to the early withdrawal of UNMEE.

Observations

19. The parties accepted the delimitation decision of the Boundary Commission as "final and binding" promptly after its announcement on 13 April. This was a clear manifestation of their desire for a final settlement and yearning for a lasting peace. During the visit of the Under-Secretary-General for Peacekeeping

Operations, both parties emphasized to him their interest in the expeditious demarcation of the border by the Boundary Commission. The reasons cited included the need to put the border issue definitively behind them, as well as to enable displaced persons to return home.

20. I cannot emphasize enough the importance of this matter. The Boundary Commission's handling of demarcation will no doubt be thorough, objective, and exceptionally professional, as was the case with delimitation; all parties concerned must do their part to allow the Commission's work to move forward quickly. The lives of the affected populations have been plagued by uncertainty for far too long.

21. Both countries, moreover, would benefit from the reorientation of resources to reconstruction and development, which will be facilitated by the disposition of the border issue. It is my hope that, upon completion of the transfer of territorial control, substantial additional international and national resources will be directed towards peoples in need in both countries.

22. In the meantime, it is important for the donor community to be generous to the parties and to the United Nations agencies, funds and programmes providing assistance for immediate humanitarian needs as well as longer-term development. I am appreciative of the support provided to the Trust Funds for Mine Action, for Quick-Impact Projects, and for the Delimitation and Demarcation of the Border, and count on the continuing support of Member States. These funds are key tools in preventing loss of life, alleviating suffering, consolidating peace at every phase, and moving the peace process forward.

23. Until the completion of demarcation and the transfers of territorial control, the security arrangements maintained by UNMEE will remain essential. In connection with the maintenance of stability in areas adjacent to the Temporary Security Zone, I am concerned by recent press reports regarding new settlements in the border area. I understand that Eritrea has in this regard requested from the Boundary Commission an order for interim measures of protection. Without in any way intervening in the Boundary Commission's responsibilities, and irrespective of where any such settlements might fall in relation to the delimitation line defined by the Boundary Commission, it is clear that the risk of

misperception on either side could be high. I therefore appeal to the parties, in the interest of maintaining stability, to refrain from establishing any new settlements in areas near the border until they have been demarcated and the orderly transfer of territorial control has been accomplished.

24. The sooner these tasks can be completed, the sooner any risks of potential conflict between the parties can be eliminated and the positive benefits of peace can be fully realized. I therefore count on all concerned to move forward responsibly and expeditiously, in order to complete the work before us in a timely and orderly manner.

25. As outlined in paragraphs 13, 14 and 17 of the present report, it is recommended that the Security Council make an adjustment to the mandate of UNMEE, so that the Mission would carry out the tasks requested by the Boundary Commission. The practical capabilities available to UNMEE on the ground make it particularly suitable to assist the Boundary Commission promptly and effectively.

26. I would appeal especially to the parties to exercise restraint at this crucial juncture between delimitation and the completion of demarcation, and to cooperate fully with UNMEE in the discharge of its mandate. The successful conclusion of this process, in which the parties have invested heavily, is within sight. The continuing exercise of statesmanship on both sides will ensure that it is reached.

27. In conclusion, I wish to express my appreciation to my Special Representative, Legwaila Joseph Legwaila, and to all military and civilian personnel of UNMEE, as well as humanitarian workers and representatives of non-governmental organizations operating on the ground, for their tireless efforts towards peace between Ethiopia and Eritrea. I would also like to express my particular gratitude for the very professional and hard work of the Boundary Commission, as well as for the invaluable support UNMEE has received from the Organization of African Unity and the Member States assisting in this process.

Annex

Fifth report of the Eritrea-Ethiopia Boundary Commission to the Secretary-General of the United Nations

1. This is the fifth report of the Eritrea-Ethiopia Boundary Commission, covering the period 1 March to 31 May 2002.

2. The principal development during this period has been the delivery on 13 April of the Decision of the Commission delimiting the boundary. The text of the Decision has been transmitted to you and to the Secretary-General of the Organization of African Unity, as required by the Agreement of December 2000. You have circulated it as document S/2002/423. The Decision covers the whole of the boundary. Both Parties have made statements accepting the Decision.

3. On the same afternoon as the delivery of the Decision, the Commission held a meeting with the Parties to discuss the procedure for demarcation. However, neither Party was at that stage prepared to enter into this discussion. A further meeting was arranged for 8 May but was postponed until, and was held on, 21 May. Representatives of the United Nations Mission in Ethiopia and Eritrea (UNMEE) (in particular, the Special Representative of the Secretary-General, H.E. Mr. Legwaila J. Legwaila) and of the Department of Peacekeeping Operations of the United Nations Secretariat were present as observers.

4. In the meantime, preparatory work for the demarcation had already begun. Aerial photography of the border in connection with the construction of the definitive 1:25,000 scale map of the border region commenced immediately after the Delimitation Decision indicated where the boundary would be, and a certain amount of work on the ground in this connection was done by the Chief Surveyor appointed by the Secretary of the Commission. On 27 April 2002, however, before the necessary ground work was completed, the Government of Ethiopia prohibited further work within the territory under its control. This was followed on 15 May by a letter to me from the Minister for Foreign Affairs of Ethiopia containing certain criticisms of UNMEE regarding logistical assistance given to the Chief Surveyor and expressing doubt about the neutrality of the Boundary Commission's Field Office. That letter also contained a request for an update on the work of the Field Office. This was subsequently provided in the meeting

between the Commissioners and the Parties on 21 May (see below). In the meantime, Ethiopia has continued to prohibit work by the Commission's surveyors on the ground, notwithstanding my request that the prohibition be lifted. At the meeting on 21 May, I again urged the Ethiopian Government to lift the ban so that the Chief Surveyor's work could be completed before the beginning of the rainy season. It was made clear to both Parties that each is obliged to cooperate with the demarcation process, and that neither may raise special conditions for its cooperation. At the time of writing of this report the ban has not been lifted.

5. On 13 May, within the 30-day period allowed for such steps in the rules of procedure of the Commission, the Government of Ethiopia filed a "Request for Interpretation, Correction and Consultation". This has been transmitted to the Government of Eritrea for its comments, to be filed by 14 June. The Commission expects to give its decision on this request by the end of June.

6. On 17 May, the President of Eritrea sent me a letter raising, rather unusually in relation to an arbitral proceeding, a number of questions regarding the Decision, though without giving any details as to why the questions were raised: had the Commission adhered to the provisions of the December 2000 Agreement relating to the law to be applied by the Commission; had the Commission acted in accordance with the appropriate procedural requirements; had the Commission permitted itself to be influenced by any political pressure or similar considerations; and was the Decision final and binding? I replied on 21 May, affirmatively to the first, second and fourth questions and negatively to the third.

7. The meeting between the Commission and the Parties on 21 May was devoted entirely to various aspects of the demarcation process. In particular, information was shared with the Parties about the modalities of demarcation, the concerns of the Parties were heard and discussed and detailed information was given to them regarding the technical aspects of the demarcation. Consideration was given to the role of UNMEE in the process, including the work of its demining component, the UNMEE Mine Action

Coordination Centre (MACC), as well as to the establishment and role of field offices of the Commission within Ethiopia. The Government of Ethiopia was urged to resume without delay its cooperation with the Commission in the demarcation process. I undertook that the Commission would prepare detailed demarcation directions setting out the procedures to be followed during the demarcation, taking into account the concerns expressed by Ethiopia, and that the directions would be circulated in draft to the Parties for their comments. The preparation of this document is presently in hand.

8. The meeting on 21 May was adjourned for an hour and a half to enable a working group consisting of representatives of the Parties and the Secretary and the Chief Surveyor to discuss informally the location of field offices in Ethiopia. Unfortunately, no agreement could be reached.

9. Nonetheless, it is to be hoped that, as a result of the meeting on 21 May and the subsequent provision of the information requested, the Government of Ethiopia will be able to resume its cooperation with the Commission and thus enable the demarcation to proceed as it should. If the completion of the 1:25,000 map, which is essential for the demarcation, is not held up further, the Commission expects that the identification of the places at which boundary markers are to be located can be completed in October/November 2002, that the necessary local demining can then begin, that it can be concluded by the spring of 2003 and that the emplacement of the boundary markers can be begun in parallel with the demining. The work will proceed in stages, on a segment-by-segment basis, in an order to be determined by the Commission. I am, of course, concerned by the fact that the work of demarcation has already suffered delay. The schedule mentioned above can only be fulfilled if the present impediments to the Commission's work are speedily removed.

10. The next meeting between the Commission and the Parties to consider further the demarcation process has been fixed for 16 July in The Hague.

11. A memorandum of understanding governing the relations of UNMEE and the Boundary Commission was signed on 2 April 2002.

12. It bears recalling that, although an extensive degree of consultation about the demarcation process is taking place between the Commission and the Parties,

the responsibility for the demarcation rests with the Commission as mandated by article 4(2) of the Agreement of 12 December 2000. It is for the Commission to decide on how the demarcation will be carried out and for the Parties to cooperate with the Commission as provided in article 4(14) of the same Agreement and article 30(2) of the rules of procedure.

13. The Security Council will no doubt bear in mind that the Commission is now moving into the most costly phase of its work and that this will require substantial additional contributions to the Trust Fund.

14. Finally, may I, on behalf of the Commission, thank the Security Council for its continued support of the work of the Commission — support which is of great importance if we are to be able to continue expeditiously with the demarcation.

(Signed) Sir Elihu **Lauterpacht**
President of the Commission

30 May 2002