



## Non-paper

- recalling that the Government of the State of Eritrea and the Government of the Federal Democratic Republic of Ethiopia, hereinafter referred to as “the Parties”, have accepted the OAU Framework Agreement and the Modalities for its implementation;
- Underlining that the OAU Framework Agreement and the Modalities have been endorsed by the 35<sup>th</sup> Ordinary Session of the Assembly of Heads of State and Government, held in Algiers, Algeria, from 12 to 14 July 1999, as well as strongly supported by the United Nations Security Council and accepted as they are by the Parties;
- Having carefully examined the views submitted by the Parties;
- Recalling the acceptance by the Parties that any interpretation of the OAU Framework Agreement and the Modalities is the sole responsibility of the OAU and its Current Chairman;
- Noting that the present Technical Arrangements have been elaborated on the basis of the letter and spirit of the principles contained in the OAU Framework Agreement and the Modalities, in particular;
- Resolution of the present crisis and any other dispute between them through peaceful and legal means in accordance with the principles enshrined in the Charters of the Organization of African Unity and the United Nations:
- Rejection of the use of force as a means of imposing solutions to disputes;
- Respect for the borders existing at independence as stated in Resolution AHG/Res.16(1) adopted by the OAU summit in Cairo in 1964 and, in this regard, determine them on the basis of pertinent colonial Treaties and applicable international law,

making use, to that end, of technical means to demarcate the borders and, in the case of controversy, resort to the appropriate mechanism of arbitration;

- Further recalling that the present Technical Arrangements are the result of the collective work of the OAU, the United Nations, the United States and other interested partners;
- Stressing that the ultimate goal of the process is to find a peaceful and lasting solution to the conflict:

1. In order to facilitate the process of redeployment of Eritrean forces as referred to in paragraph 1 of the Modalities and, thereafter, of Ethiopian forces as referred to in paragraph 2 of the Modalities, and to facilitate the full implementation of paragraph 5 of those Modalities, with a view to returning to positions held prior to 6 May 1998, a Neutral Commission shall be established by the Current Chairman of the OAU, in consultation with the Secretary-General of the OAU and with the agreement and acceptance of the two Parties. The Neutral Commission shall verify through factual determination what those positions were. The work of the Neutral commission shall be based on written and oral evidence provided by the Parties and on such additional evidence, as may be necessary, derived by interviews and site visits.

2. Bearing in mind their acceptance of the Framework Agreement and the Modalities and in particular their reaffirmed political will to implement the redeployment process according to paragraphs 1 and 2 of the Modalities, the Parties agree to cooperate fully with the Neutral Commission.

3. The two Parties commit themselves to facilitate the work of the Neutral commission so that it can discharge effectively its mandate during the entire period of its intervention in all security and serenity.

4. The two Parties commit themselves to facilitate the movements of the Neutral Commission on the ground for the accomplishment of its mission.

5. To this end, it is understood that the Neutral Commission shall notify in advance the Party concerned about each of its movements on the ground.

6. It is also understood that each of the two Parties shall take the necessary measures, as far as it is concerned, to guarantee the security of the members of the Neutral Commission during the visit on the ground.

7. The Neutral Commission shall work in as transparent a fashion as possible and shall consult continuously with the Parties throughout the verification process, in order to obtain additional information as needed and to contribute to ensuring the evident fairness of the process.

8. The Neutral Commission shall endeavor to complete its work within three weeks.

9. The findings of the Neutral Commission shall be communicated to the Parties, which shall review them and may, within four days, submit comments to the Neutral Commission on these findings, for its consideration. After communication of the results of this consideration, each of the two Parties shall be given a three-day period to notify the Neutral Commission of its formal response to the findings.

10. When the positive response of each of the two Parties has been received by the Neutral Commission, the latter shall then submit its findings to the Current Chairman and the Secretary-General of the OAU. Upon confirmation, by the OAU, of the fairness of the process, there shall be provided a three-day period for the Parties to confirm, to the OAU, their formal written acceptance of the Neutral Commission's findings.

11. Once the OAU has been notified about the formal written acceptance by each of the two Parties, the two lists of territories from which each of the two Parties shall redeploy its forces (in conformity with paragraph 1 and 2 of the Modalities) shall be attached to the Technical Arrangements (Annexes V and VI).

12. The acceptance of the determination of the Neutral Commission is binding on the Parties once the redeployment has begun and throughout the entire process.

13. The determination of the Neutral Commission shall not prejudice the final status of the territories concerned, it being understood that this status shall be determined at the end of the delimitation and demarcation process.

14. The Parties agree on the principles and other provisions contained in the Framework Agreement and the Modalities and accept the Technical Arrangements (which includes its six Annexes) as binding. In that regard, the Parties agree to use the Framework Agreement, the Modalities and the Technical Arrangements as the sole basis for resolving the dispute.

15. The Parties shall initiate separate requests to the Secretaries-General of the OAU and the United Nations, as necessary for assistance to implement the Framework Agreement, the Modalities and the Technical arrangements.

16. In order to facilitate the process of implementing the Framework Agreement, the Modalities and the Technical Arrangements, the Parties agree to put an end to all military activities and all forms of expression likely to sustain and exacerbate the climate of hostility.

In particular, the Parties agree to the following:

- i) cessation of all armed air and land attacks;
- ii) cessation of any other action that may impede the implementation of the Framework Agreement, the Modalities and the Technical Arrangements;
- iii) guarantee of the free movement of the military observer mission and its supplies as required through and between the territories of the Parties.
- iv) respect and protection of the members of the military observer mission, its installations and equipment;
- v) respect for International Humanitarian Law.

17. In order to facilitate the implementation of the Framework Agreement, the Modalities and the Technical Arrangements, it is understood that a group of Military Observers will be deployed by the OAU, with the support of the United Nations, in accordance with Article 4 of the Framework Agreement.

18. In conformity with paragraphs 4 and 5(b) of the Framework Agreement and paragraph 6 of the Modalities, the mandate of the military observer mission shall be to:

- i) monitor the cessation of hostilities;
- ii) supervise the redeployment process, in conformity with paragraphs 1 and 2 of the Modalities and paragraph 29 of the Technical Arrangements;
- iii) supervise any demilitarization, in accordance with paragraph 5(b) of the Framework Agreement and paragraphs 49, 50 and 51 of the Technical Arrangements;
- iv) assist, when requested by one or the other Party, the restored civilian administration in maintenance of law and order.

19. The scope and the composition of the Military Observer Mission and the duration of its mandate will be determined through consultations and with the acceptance of the two Parties. It is anticipated that the mission will consist of three to five hundred military observers and additional support staff. The mission will not be composed of formed operational units.

20. The mandate of the military observer mission shall terminate when the delimitation/demarcation process of the border has been completed. In accordance with paragraph 6(a) of the Framework Agreement, the delimitation/demarcation process is expected to be completed within a period of 6 months, unless extended at the request of the UN Cartographic Unit and with the acceptance of the two Parties. Consistent with the internationally accepted principle of consensual deployment of military observers, the deployment of the military observers shall continue only so long as the consent of the two Parties pertains.

21. In accordance with Article 9(a) of the Framework Agreement and in order to facilitate the implementation of the Framework Agreement, Modalities and Technical Arrangements, a Military Coordination Commission will be established in consultation and with full participation of the Parties.

22. The mandate of the Military Coordination commission shall be to coordinate and resolve issues relating to the mandate of the military observer mission as defined in paragraphs 4 and 5 (b) of the Framework Agreement and paragraph 6 of the Modalities and paragraph 18 of the Technical Arrangements.

23. Upon the signing of the Framework Agreement, the Modalities and the technical Arrangements, both Parties will conduct demining activities with a view to creating the conditions necessary for the deployment of the military observer mission, the return of civilian administration and the return of population as well as the delimitation and demarcation of their common border (see Annex I).

24. The military observer mission, in conjunction with the United Nations Mine Action Service, will assist the Parties demining efforts by providing technical advice and coordination.

25. The Parties shall, as necessary, seek additional demining assistance from the military observer mission.

26. The Parties shall submit detailed redeployment plans to the military observer mission (see Annex II).

27. The process of redeployment and restoration of civilian administration will then begin, it being understood that this process shall not prejudice the final status of the territories concerned, which will be determined at the end of the delimitation and demarcation process.

28. Following approval of the redeployment plans of the Parties by the military observer mission, the sequence will be as follows:

- i) Eritrea re-deploys its troops within 2 weeks. This redeployment is verified by the military observer mission;
- ii) Upon verification of Eritrean redeployment by the military observer mission, the military observer mission observes the restoration by Ethiopia of the civilian administration, including police and local militia, within 7 days, to enable the restored civilian administration to prepare for the return of the population.

The restored civilian administration, including police and local militia, shall carry out its traditional functions, including maintaining law and order, administration and development. This implies no change in the traditional functions, lines of authority, and organizational structure of the restored civilian administration and its law enforcement bodies, including local militia. In the process of carrying out their day to day law enforcement functions, the local militia and other law enforcement bodies may bear arms. However, they shall not brandish their arms in a manner that could intimidate the populations.

In conformity with paragraph 3 of the Framework Agreement and paragraph 4 of the Modalities, the redeployment and the return of the civilian administration, including its law enforcement bodies, shall not prejudice the final status of the territories concerned which shall be determined at the end of the delimitation and demarcation process.

- iii) as soon as paragraph 8 (a) 8 (b) above are completed, Ethiopia re-deploys its troops within 2 weeks. This redeployment is verified by the military observer mission;
- iv) upon verification of Ethiopian redeployment by the military observer mission, the military observer mission observes the restoration by Eritrea of the civilian administration, including police and local militia within 7 days to enable the restored civilian administration to prepare for the return of the population.

The restored civilian administration, including police and local militia, shall carry out its traditional functions, including maintaining law and order, administration and development. This implies no change in the traditional functions, lines of authority, and organizational structure of the restored civilian administration and its law enforcement bodies, including local militia. In the process of carrying out their day to day law enforcement functions, the local militia and other law enforcement bodies may bear arms. However, they shall not brandish their arms in a manner that could intimidate the populations.

In conformity with paragraph 3 of the Framework Agreement and paragraph 4 of the Modalities, the redeployment and the return of the civilian administration, including its law enforcement bodies, shall not prejudice the final status of the territories concerned which shall be determined at the end of the delimitation and demarcation process.

29. In conformity with paragraph 8(c) of the Framework Agreement and in order to contribute to the establishment of a climate of confidence, the OAU in collaboration with the United Nations shall deploy international human rights observers in both countries. These international human rights observers may establish, as necessary, liaison mechanisms with the restored civilian administration.

30. In order to enhance the security of local populations in returning to areas where civilian administration is restored:

**a) The Parties commit themselves to:**

a.1 - full cooperation with the military observer mission;

a.2 - close cooperation between the restored civilian administrations and the international human rights observers, who shall observe compliance by the restored civilian administration:

a.2.1 - with the principles of International Humanitarian Law as well as full respect of the dispositions of paragraph 8(a) of the Framework agreement under which the two Parties commit themselves to put an end to measures directed against the civilian population and refrain from any action which can cause further hardship and suffering to each other's nationals;

a.2.2 - with facilitation of human rights monitoring;

a.2.3 - with ensuring in particular that within its traditional mission of law enforcement, the restored civilian administration, including police and local militia, shall scrupulously refrain from any act that could jeopardize the commitment of each of the two Parties in conformity with paragraph 8(a) of the Framework Agreement, namely that "at

the humanitarian level, the two Parties commit themselves to put an end to measures directed against the civilian population and refrain from any action which can cause further hardship and suffering to each other's nationals".

**b) The Parties agree that:**

b.1 - the military observer mission shall assist, if requested and as appropriate, police in areas where civilian administration is restored;

b.2 -the international human right observers shall establish, as necessary, liaison mechanisms with the restored civilian administration with a view to bringing to its attention any violation of the dispositions of International Humanitarian Law so that these violations are addressed by the restored civilian administration in conformity with the commitment of each of the two Parties within the Framework Agreement, the Modalities and the Technical Arrangements.

31. In order to determine the origins of the conflict, an investigation will be carried out on the incidents of 6 May 1998 and on any other incident prior to that date which could have contributed to a misunderstanding between the Parties regarding their common border, including the incidents of July/August 1997.

32. The investigation will be carried out by independence, impartial body appointed in accordance with the appended time-line (annex IV) by the Current Chairman of the OAU, in consultation with the Secretaries-General of the United Nations and OAU and the two Parties.

33. The independent body will endeavour to submit its report to the Current Chairman of the OAU within 3 to 6 months.

34. The Parties agree to cooperate fully with the independent body.

35. The Current Chairman of the OAU shall communicate a copy of the report to each of the two Parties which shall consider it in accordance with the letter and spirit of the Framework Agreement and the Modalities.

36. The Parties agree that the delimitation work shall be carried out segment by segment. The definition of the segments shall be done in accordance with the pertinent colonial Treaties (1900, 1902, 1908).

37. According to the practice in such matters, the UN Cartographic Unit shall present to the two Parties the conclusions of the delimitation supported by elements on which its decision is based.

38. Upon the acceptance by the Parties of the delimitation of each segment, the binding demarcation of that segment shall be carried out. Such signed acceptance shall be given to the UN Cartographic Unit within one week, unless arbitration is requested by either Party (see paragraph 12 below).

39. The delimitation and demarcation process shall be done on the basis of pertinent colonial Treaties and applicable international law.

40. The delimitation/demarcation process shall be conducted in conformity with the principles stated in the Framework Agreement, in particular the respect for the borders existing at independence as stated in Resolution AHG/Res.16(I) adopted by the OAU Summit in Cairo in 1964 and, in this regard, determine them on the basis of pertinent colonial Treaties and applicable international law, making use, to that end, of technical means to demarcate the borders and, in the case of controversy, resort to the appropriate mechanism of arbitration.

41. In conformity with paragraph 6(a) of the Framework Agreement, the delimitation and demarcation shall be conducted by the UN Cartographic Unit, supported by other experts the Unit may employ. In case other experts are employed, the OAU Secretariat shall be consulted accordingly by the UN Cartographic Unit, which shall also request the acceptance of the two Parties.

42. In line with paragraph 6(a) of the Framework Agreement, delimitation/demarcation shall be carried out expeditiously and completed within 6 months, unless extended by the Special representative of the UN Secretary General at the request of the UN Cartographic Unit.

43. Bearing in mind the crucial importance of this issue, the UN Cartographic Unit shall be fully committed to the principles of neutrality

and transparency in carrying out its responsibilities for the delimitation/demarcation of the border.

44. Throughout the delimitation and demarcation process, both Parties shall be permitted to forward to the UN Cartographic Unit any documents that they have in their possession and any oral presentation that may contribute to the UN Cartographic Unit's better understanding of the issues. Each Party shall be provided with the documentary evidence and maps supplied to the UN Cartographic Unit by the other, and shall be given the opportunity to comment on these documents and maps, in so far as it feels that this is necessary to support its case.

45. Should the need arise for arbitration over delimitation, a Boundary Commission shall be established by the UN Secretary-General, in consultation with the Current Chairman of the OAU. Each of the two Parties shall nominate an equal number of members who subsequently shall elect their President. Should there be any disagreement, the UN Secretary General shall designate the President.

46. The Commission shall decide on issues submitted for arbitration over delimitation as expeditiously as possible and on the basis of pertinent colonial Treaties and applicable international law.

47. The Parties agree to accept the outcome of the arbitration as binding.

48. The Parties agree to demilitarise in those areas as may be required by the military observer mission in order to defuse tension and facilitate the delimitation and demarcation process (see Annex III).

49. The delimitation shall then be decided by the Military Coordination Commission, in consultation with the two Parties. In deciding on the matter, the Military Coordination Commission shall act in impartial and transparent manner, so as to ensure fairness and equity in the process.

50. The delimitation shall terminate with the end of the delimitation/demarcation process.

51. Consistent with paragraph 8(a), 8(b) and 10 of the Framework Agreement, the Parties commit themselves to addressing all humanitarian

concerns resulting from the conflict, particularly the issues of those persons who have been deported or displaced, as well as the socio-economic consequences of the dispute, including the return of or compensation for properties which might have been confiscated by each of the two Parties.

52. For their part, and in accordance with the pertinent provisions of the Framework Agreement, the OAU and the United Nations, working closely with the International Community, will endeavour to mobilize resources to assist in addressing such concerns.

53. The Parties agree to refer any specific claim on such issues to an appropriate mechanisms of arbitration for binding resolution, should efforts at negotiated settlement or mediation not succeed. In this case, each of the two Parties shall nominate an equal number of members who shall subsequently elect their President.

54. If the Parties are unable to agree on the appropriate mechanism of arbitration within a period of three months starting from the signing, the UN Secretary-General shall determine the appropriate mechanism of arbitration, including its composition, in consultation with the OAU Secretary General and the two Parties. Each of the two Parties shall nominate an equal number of members and the UN Secretary-General shall designate the President of the arbitral body.

55. As the demarcation process is completed in each segment, the legitimate authority will assume full and sovereign jurisdiction over that part of territory which will have been recognised as being within its boundary.

56. The Parties agree to sign and implement in good faith the OAU Framework Agreement for the settlement of the dispute, the Modalities for the Implementation of the Framework Agreement and the Technical Arrangements for the Implementation of the Framework Agreement and its Modalities (including its Annexes).

57. The OAU and the United Nations will be the guarantors for the scrupulous implementation of all the provisions of the OAU Framework Agreement, the Modalities for the Implementation of the Framework Agreement and the Technical Arrangements for the Implementation of the Framework Agreement and its Modalities.

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