

## CHAPTER IV – THE SECTOR COVERED BY THE 1900 TREATY (CENTRAL SECTOR)

### A. THE INTERPRETATION OF THE 1900 TREATY

4.1 The Commission will begin its consideration of the sector of the border covered by the 1900 Treaty by interpreting the Treaty itself and the annexed Treaty map. The outcome of this interpretation will determine the border in this sector, subject only to two important qualifications flowing from the subsequent conduct of the Parties and an admission made by one Party during the proceedings.

4.2 Article I of the Treaty (in English translation) provides:

The line Tomat-Todluc-Mareb-Belesa-Muna, traced on the map annexed, is recognized by the two Contracting Parties as the boundary between Eritrea and Ethiopia.<sup>19</sup>

Tomat and Todluc are the names of towns; Mareb, Belesa and Muna are references to rivers.

4.3 The line described in Article I delimits the boundary from the frontier with Sudan in the west to a point in the east the exact location of which is a matter of dispute but which, in general terms, is where the Muna in its Treaty sense may be held to end.

4.4 By the 1902 Treaty (as to which see Chapter V, below), the Parties altered the western part of the boundary. The line from Tomat to Todluc and its continuation along the Mareb to its confluence with the Mai Ambessa (Point 9) was replaced by a line which, coming from the Setit, reached the Mareb at its junction with the Mai Ambessa. Effectively, therefore, after the 1902 Treaty, the boundary defined by the 1900 Treaty dealt only with the central sector, represented by “the line Mareb [effectively from its junction with Mai Ambessa]-Belesa-Muna, traced on the map annexed.” It is this line which the Commission is now called upon to interpret and apply.

4.5 In adopting the Mareb-Belesa-Muna line in the 1900 Treaty, the Parties were evidently confirming, in a legally definitive manner, a line that – though not specifically delimited – had been accepted in practice for several years on a *de facto* or provisional basis, and which was identified as a dividing line between

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<sup>19</sup> The English translation is that given in Sir E. Hertslet, *The Map of Africa by Treaty*, Vol. 2, p. 460 (3d ed., 1967). The Amharic text is similar. No difference between the texts is alleged by the Parties to be material to the course of the boundary in this sector. The Treaty itself provides that it is written “in the Italian and Amharic languages, both to be considered official save that in case of error in writing the Emperor Menelik will rely on the Amharic version.”

## Map 5

the two regions of Acchele Guzai (falling within Eritrea) and Agame (falling within Ethiopia).

- 4.6 Thus the 1896 armistice arrangement was followed by the Italy-Abyssinia Peace Treaty of 26 October 1896.<sup>20</sup> Article IV of that Treaty provided that the Parties would by agreement fix the definitive frontiers between them within one year, and that

[u]ntil these frontiers have been thus fixed, the two Contracting Parties agree to observe the *status quo ante*, strictly prohibiting either of them from crossing the provisional frontier, determined by the courses of the Mareb, Belesa, and Mouna Rivers.<sup>21</sup>

- 4.7 Ethiopia and Italy soon began their negotiations for a definitive frontier. Emperor Menelik of Ethiopia at first sought a frontier considerably to the north of the Mareb-Belesa-Muna line, but eventually agreed in 1900 to keep to that line (in exchange for a payment of 5,000,000 lire, apparently for forgoing a more extensive claim). Although the Parties failed to conclude the definitive frontier agreement within the one year envisaged by Article IV, they did conclude the necessary agreement on 10 July 1900.

- 4.8 The 1900 Treaty described the boundary in economical language, referring only to three river names, “Mareb-Belesa-Muna.” As a delimitation which could form the basis for a demarcation of the boundary on the ground, it fell short of a desirably detailed description, particularly in the light of the uncertain knowledge at the time concerning the topography of the area and the names to be given to geographical features. Rivers, in particular, were frequently given different names along different stretches of their courses. The Parties, however, clarified their agreement by adding to the brief verbal description of the boundary the words “as traced on the map annexed.” That map, which will be referred to as the “Treaty map,” is accordingly of critical importance for the determination of the course of the boundary. A copy of that map appears as Map 5, on page 32. It cannot be regarded as just offering a general indication of the course to be followed by the boundary. By virtue of the words the “line . . . traced on the annexed map,” the map contained the Parties’ agreed delineation of the boundary that they intended to adopt. Although the Treaty map consists primarily of the depiction of a line, with a very few names identifying some locations near that line, the Commission considers that the same rules and principles of interpretation must be applied to the map as apply to the words used in the Treaty.

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<sup>20</sup> Treaty between Italy and Abyssinia, signed at Addis Ababa, 26 October 1896, Hertslet, note 19, above, at p. 458.

<sup>21</sup> The Commission’s translation.

- 4.9 In order to understand and properly assess the Treaty map, it is necessary to say something about its background. At the end of the nineteenth century, there were not many published maps of the relevant area of sufficient detail or reliability. The principal map was prepared by an Italian geographer, Captain Enrico de Chaurand, and published in 1894. It was not the result of personal exploration and recording by de Chaurand, but was rather a compilation of information from many sources. In some areas the map provided detailed information, but if the sources available to de Chaurand did not cover a particular area, then that deficiency was perforce reflected in a corresponding thinness of relevant detail in his map. Despite its early date and certain inaccuracies which are now apparent, de Chaurand's map can be regarded overall as providing reasonable coverage on a consistent scale. The Treaty map states that it was based on de Chaurand's map of the Tomat-Todluc-Mareb-Belesa-Muna area, and it is apparent that the Treaty map was in fact a tracing or other direct copy of the relevant part of the de Chaurand map, omitting certain features so as to give prominence to the features most relevant to the 1900 Treaty line. Depictions on de Chaurand's map are therefore directly relevant to an understanding of the Treaty map.
- 4.10 The Treaty map depicts the boundary by a single dotted red line across the overland stretch from Tomat to Todluc, and then by a double dotted red line along each bank of the rivers called Mareb, Belesa and Muna (including the overland stretch between the headwaters of the Belesa and Muna), until at its eastern extremity the boundary reaches the Salt Lake. After that it continues as a single dotted red line in a southeasterly direction for a short distance along the northeastern shores of that lake.
- 1) The Mareb River
- 4.11 Starting at the junction of the Mareb and Mai Ambessa (Point 9), the boundary following the course of the Mareb eastwards and upstream to its junction with the Belesa (Point 11) is not in dispute. The identity and course of the Mareb, the location of its confluence with the Mai Ambessa, and the location of its confluence with the Belesa, are all agreed by the Parties. The only matter of uncertainty in this stretch of the river, as with all rivers, may be the precise location of the boundary within the river. The boundary within rivers is dealt with in Chapter VII, below.
- 2) The Belesa River
- 4.12 Before considering the depiction of the Belesa on the Treaty map, it is necessary to make three observations. First, the description of the boundary is complicated by the fact that the boundary is defined in terms that take it from west to east, while the waterways which form the boundary in the western part of this sector flow from east to west.

- 4.13 Second, although the actual shape of the Belesa river system can be seen on modern mapping not to be exactly the same as depicted on the Treaty map (and on de Chaurand’s map), the general similarity of the Treaty map’s depiction with what is known today of the Belesa’s course is evident.
- 4.14 Third, the Parties are in dispute about the appropriate river nomenclature for various stretches of relevant waterways, and in particular the Belesa and the Muna. Both Parties acknowledge that names given to rivers in this region vary. This is particularly the case with older maps and documentary references issued at a time when geographical knowledge of the area was relatively limited. The Commission will note such problems of nomenclature as and when it comes to particular rivers which give rise to them, and will adopt the nomenclature which seems appropriate in the context and which designates its subject with maximum clarity. What matters most is the identification of what the Parties intended in referring to a watercourse as a feature in the landscape, rather than its name. If the name used is incorrect, then it is the Parties’ intentions with respect to the reality on the ground rather than the name which is decisive. The Parties agree on the relevant verbal description, the “Belesa-Muna” line, but do not agree where the line which those words are intended to describe actually runs. Moreover, while they appear to agree that the Mareb-Belesa-Muna line laid down in the 1900 Treaty was supposed to represent a *de facto* line which had been observed for a number of years, they do not agree where that *de facto* line ran.
- 4.15 At the confluence of the Mareb and the Belesa (Point 11), about which point there is no dispute between the Parties, the Treaty map shows the boundary as turning eastwards and following the course of the Belesa upstream. Just to the east of the confluence, the river is clearly marked “T. Belesa,” followed by its Amharic equivalent.
- 4.16 Close to this confluence, the Treaty map shows a small unnamed tributary flowing into the Belesa from the south. Otherwise the map shows the Belesa as continuing in a generally easterly direction until, at Point 12 just below the space between the first two letters of the Amharic version of “T. Belesa,” the Belesa appears to unite two upstream rivers: one flows in from the south, while the other flows in from a generally easterly direction. Modern mapping shows two rivers in those places. The Commission will refer to these two rivers, each put forward by one of the Parties as its “Belesa” as, respectively, “Belesa A” (flowing in from the south) and “Belesa B” (flowing in from the east).<sup>22</sup>
- 4.17 It is noteworthy that the Treaty map does not show any tributary flowing into the Belesa from the north in the stretch between its confluence with the Mareb (Point

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<sup>22</sup> The Parties have expressed differing views as to which of these tributaries was the smaller or larger. No detailed evidence on this point was put to the Commission. However, the Commission does not regard the question as material. The Treaty map depicts a particular watercourse as the boundary, without reference to whether it was the smaller or larger tributary.

## Map 6

- 11) and the point at which the Belesa A and Belesa B merge (Point 12). In fact, there is a substantial tributary in this sector that flows into the Belesa from the northeast: it is clearly shown and named “T. Tserona” on the de Chaurand map, joining the Belesa at a point about one-third of the way between Points 11 and 12.
- 4.18 Eritrea argues that the tributary shown on the Treaty map as flowing into the Belesa from the east (which the Commission has designated the Belesa B) was intended to represent the Tserona. This would leave Belesa A as the Belesa named in the 1900 Treaty. Eritrea has drawn attention to a number of maps that have adopted this nomenclature, and which Eritrea characterises as the “standard nomenclature.” Ethiopia considers the Tserona to be irrelevant to the boundary (for which reason it contends it was omitted from the Treaty map), leaving Belesa B and Belesa A as the two Belesa tributaries shown on the Treaty map, and considers Belesa B to represent the course of the boundary as shown on that map.
- 4.19 The Parties’ contentions place in dispute sovereignty over a considerable tract of territory comprising roughly two sections: one is the area between Belesa A and Belesa B (shaded yellow on Map 6, p. 36); the other, adjoining it, extends eastward from Belesa B and is bounded, on the north, by the tributary that joins Belesa B from the east at Point 13 (which for convenience will be called “Belesa C”) and, on the south, by the link in the Eritrean claim line, partly land and partly river, between Belesa A and one of the headwaters of the Muna (shaded pink on Map 6, p. 36). This tract will, for convenience, be referred to as “the Belesa projection.”
- 4.20 Eritrea’s contention that the boundary follows what the Commission is referring to as the Belesa A cannot be reconciled with the indication of the course of the boundary as marked on the Treaty map. On that map itself, the name “T. Belesa” (and its Amharic equivalent) are written as covering both the main stretch of the Belesa and its extension along Belesa B; and, being so written, it must be taken as showing what the Parties intended when using the word “Belesa” in the 1900 Treaty.
- 4.21 Furthermore, the Eritrean choice of Belesa A as the intended boundary line would not attribute a role to Belesa C, which the Treaty map clearly utilizes as part of the boundary. Nor can Belesa C be confused with any other tributary flowing into Belesa A at about the latitude shown on the Treaty map.
- 4.22 The Commission concludes that the omission from the Treaty map of the Tserona as shown on the de Chaurand map was deliberate, and that the depiction of the boundary as following the Belesa eastwards to Belesa B was deliberate and is so shown on the Treaty map.
- 4.23 Following Belesa B upstream (eastwards) from Point 12, the Treaty map shows this branch of the Belesa as following a course describing a rough quarter circle.

Just at the southeastern end of that quarter circle, the Treaty map shows a small tributary flowing into Belesa B from the east. Though this small tributary is not named on the Treaty map (or on the underlying de Chaurand map), the location of its confluence with the Belesa B is shown on the Treaty map to be (as measured on the underlying de Chaurand map) about 20 km southwest of Senafe, and about 15 km WSW of Barachit. Modern mapping confirms that the tributary corresponding to these requirements, which Ethiopia identifies as the Sur, is Belesa C. The Commission concludes that, as a matter of treaty interpretation, this unnamed tributary marked on the Treaty map is the continuation of the boundary line as it runs towards one of the headwaters of the Belesa.

4.24 The Treaty map depicts the Belesa C as a short single blue line of about 8 km in length. On modern mapping, the network of small headwater streams feeding the Belesa C is complex. These various smaller tributaries and streams are not depicted on the Treaty map, which instead marks the boundary with a double row of red dots going overland until it meets one of the headwaters of the Muna. For this overland stretch, the boundary is depicted as running in an ESE direction. The Commission finds that the Treaty boundary follows the line of the most southerly of the small tributaries of the Belesa C. That tributary, on modern mapping, has its source close to the modern town of Zalambessa.

3) The upper reaches of the Muna and the overland link between the Belesa and the Muna

4.25 Both Parties accept that the Treaty boundary follows the line “Belesa-Muna” and that those names refer to rivers flowing in opposite directions from a watershed divide lying between their headwaters. Consequently, the Parties acknowledge, as they must, that the Treaty reference to the boundary in this sector as following two rivers cannot be literally correct. There must be a short overland stretch of boundary between and joining the headwaters of the two relevant rivers. The Commission has already identified in paragraphs 4.22-4.24, above, the Belesa selected by the Parties in the Treaty. It is now necessary to consider the overland Belesa-Muna sector.

4.26 This overland sector cannot be established without first locating the Muna to which the Treaty intended the link to run. The Parties disagree as to the identity of the Muna.

4.27 Ethiopia has identified a discrepancy between, on the one hand, the Treaty map and the underlying de Chaurand map and, on the other hand, what is shown on modern mapping. The Treaty map (and the de Chaurand map) shows the river designated as the Mai Muna (“Maj Mena” on de Chaurand’s map) flowing in a relatively straight line in a generally ESE direction from its headwaters south of Barachit until it reaches what the de Chaurand map names as the Endeli and Ragali. But neither the Treaty map nor the de Chaurand map shows any tributary flowing from the north or northwest into the central part of the Mai Muna. There is, however, an additional and substantial river, with its headwaters near the town



of Senafe, that flows eastwards and is called the Endeli. The lower reaches of this river are already depicted on de Chaurand’s map. This much larger Endeli is the major river into which the Muna flows at a point (if the Upper Endeli were on the Treaty map) just beneath the hyphen below the first symbol of the Amharic texts of the name “T. Mai Muna” (Point 27). Nonetheless, both on this map and de Chaurand’s map, the river that is, in fact, the Endeli, still carries the name Muna. In that eastern portion, the river, whether called Endeli or Muna, continues to flow in a generally ESE direction until, as it approaches and eventually dries up in the Salt Lake, it is denominated the Ragali.

- 4.28 The Parties propose very different ways of dealing with the omission of the upper reaches of the Endeli from the Treaty map (and from the underlying de Chaurand map). Ethiopia notes that the Treaty map contains inconsistent indications: on the one hand, that the river constituting the boundary is the northernmost branch of the river system depicted on the map but, on the other, that that northernmost branch is depicted as having its source south of Barachit. Ethiopia contends that the northernmost branch, although named “Muna” on the Treaty map, is the stream which is in fact the northernmost and is now known to be the upper reaches of the Endeli. Thus, Ethiopia maintains, in effect, that the Treaty map, despite naming the boundary river the Mai Muna, must be taken to be referring to the real Endeli further north, while the river depicted in the position of what is named the Mai Muna is in fact another river, called the Berbero Gado. Given this disagreement on nomenclature, the Commission will refer to this last river as the Muna/Berbero Gado.
- 4.29 Ethiopia also draws attention to persistent confusion after 1900 over the location of the river designated “Muna.” Thus Ethiopia notes that: (i) Ciccodicola, the principal Italian negotiator, recorded in 1903 that “the Endeli, a tributary of the Muna, [had been] designated to him [i.e., Emperor Menelik] as waters of the Muna,” and that it was on that basis that the Emperor had signed the 1900 Treaty; (ii) in January 1904 the Italian Governor of Eritrea noted in his diary that “[o]ur mistake is to have confused it [the Muna] with the Endeli,” a confusion which Ethiopia suggests shows that the Parties intended the boundary to follow the northernmost branch of the Endeli system, thereby leaving the Irob district to Ethiopia; (iii) the Italian Boundary Commission of 1904 (the “1904 Commission”)<sup>23</sup> was unable to find a river clearly identified as the “Muna,” observing that it was referred to by many other names – but not including “Muna” – in various stretches along its course, and expressed considerable uncertainty in its attempt to identify the Berbero Gado as the river corresponding to the “Muna”; and (iv) an Italian writer, Captain Mulazzini, in “Geography of the Colony of Eritrea,” in 1904 described the boundary (going westwards) as following the upper Endeli to just short of Senafe and then turning sharply southeast down to “the Mai Muna, also known as the Ruba Enda Dascin,”<sup>24</sup>

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<sup>23</sup> See Appendix A to this Decision, beginning at p. 107.

<sup>24</sup> Spelling as in the original.

which it crosses and then continues towards the Belesa and the Mareb – thus identifying a line broadly consistent with this part of Ethiopia’s claim line. Indeed, Ethiopia even argues that at the time of the Treaty, there was no river in the area known as the Muna.

- 4.30 By reference to these considerations, Ethiopia maintains that the land link between the Belesa and the Muna follows a line markedly different from that depicted on the Treaty map. The boundary having followed the course of the Sur (Belesa C) to within about 2 km of Zalambessa would, in the Ethiopian contention, then turn north eastwards to pass overland in a straight line across the Zalambessa-Barachit road. About one kilometre beyond the road, it would rejoin a waterway (unnamed) leading into the Enda Dashim. It would then turn northwards and pass, partly by waterways, partly overland, to the upper waters of the Endeli<sup>25</sup> and would then follow the course of that river southeastwards to Rendacoma, being joined some 44 km east of Zalambessa by the waters of the Muna (Berbero Gado).
- 4.31 Eritrea has maintained, in effect, that: the Treaty map identifies the “T. Mai Muna,” with its headwaters south of Barachit, as the boundary; there is a river of that name in that place (as shown on the underlying de Chaurand map as well as on other maps); and therefore that river constitutes the boundary in accordance with the 1900 Treaty.
- 4.32 These different submissions relate to an area within the district of Irob, a roughly triangular area bounded to the west by the generally north-south link between the upper waters of the Endeli and the upper waters of the Enda Dashim, to the north by the Endeli upstream from its confluence with the Muna and, to the south, by the Muna/Berbero Gado. For convenience, the Commission will refer to this area as the “Endeli projection” (shaded blue on Map 6, p. 36). Ethiopia regards the Irob Wereda (i.e., administrative subdivision) as part of Agame, which is a political subdivision of the Ethiopian province of Tigray; Eritrea denies that Irob is part of Agame.
- 4.33 The Commission has already noted that the naming of rivers in this general region is not without its problems (para. 4.14, above). What matters is what the Parties intended, of which the principal evidence is what they said in the Treaty and, more particularly, illustrated in the Treaty map. It is clear that the Parties agreed to a Treaty which referred to the Muna and that the Treaty map depicted a boundary line following a river (designated as the Muna) flowing from south of Barachit and running generally ESE towards the Salt Lake and the Danakil

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<sup>25</sup> There is no clear explanation of why the depiction of the upper reaches of the Endeli was omitted from the de Chaurand map, and thus from the Treaty map based on it. The Commission would, however, observe that in this general area the de Chaurand map contains much less detail than it does in other areas. This may indicate that the sources upon which de Chaurand relied in compiling his map provided only incomplete, or little, information for that area.

Depression. That Treaty line must be taken to represent what the Parties intended, particularly since a river of the name (Muna) and in the place shown on the Treaty map was also identified on maps, including the de Chaurand map, known at the time. Moreover, an Endeli was also known at the time, with its upper course more or less correctly depicted on some earlier maps. Had the Parties intended that the boundary should follow the course of that river, they could have said so; alternatively, if they did not know of that river's upper reaches, then they could not have intended the boundary to follow them.

- 4.34 The fact that the waterway later depicted as the boundary on the Treaty map is shown on the de Chaurand map as “Maj. Mena” and “Endeli” and “Ragali” does not mean that any one of those terms is a synonym for the others. As is common practice, the different names reflect different stretches of the single watercourse. That the Treaty map designated all three stretches as “T. Mai Muna” appears to the Commission merely to have been a matter of simplification and convenience acceptable to the Parties.
- 4.35 In relation to the “Muna,” the Commission notes that the existence of a river of that name was known to the Parties for several years before the conclusion of the 1900 Treaty, as shown by the references to such a river in the armistice arrangement of March 1896 and the Peace Treaty concluded in October that year. Moreover, a river “Muna” was depicted, in the same general area south and southeast of Barachit and flowing generally ESE so as to join the Endeli, on maps in existence when the 1900 Treaty was concluded.<sup>26</sup> These depictions are consistent with the depiction of the “T. Mai Muna” on the Treaty map. The Commission is satisfied that the Parties, in concluding the Treaty and annexing the Treaty map, intended to refer to that river.
- 4.36 The map may be followed so long as it is not shown to be so at variance with modern knowledge as to render it valueless as an indicator of what the Parties could have intended on the ground. Nor should the Commission be overzealous in attributing far-reaching consequences to relatively minor discrepancies. Overall, despite some inaccuracies and simplifications, the Treaty map is an acceptable indicator of key features, including the location of Barachit, Senafe, Debra Damo and Adigrat, and the flow of rivers in the area between them.
- 4.37 The Commission can now return to the question of the overland link between the Belesa and the Muna.
- 4.38 The Commission has already identified the course of the upper part of the Muna. In its upper reaches, the Muna/Berbero Gado is shown on the Treaty map as comprising several small headwater tributaries. The Treaty map, while not

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<sup>26</sup> Examples are the de Chaurand map (1894), and the British War Office map of 1884, revised in 1895 (which shows the “Muna” flowing east from the area south of Barachit and joining the Endeli, itself shown as a distinct river flowing southeast from near Senafe).

depicting the several tributaries flowing into the river further downstream, seems carefully to distinguish these headwater tributaries. Indeed it is somewhat more detailed in this respect than the underlying de Chaurand map, suggesting that particular care was taken with this part of the Treaty map. It shows the boundary river as flowing in this headwater area generally from the west. As it goes downstream, it is shown passing a substantial tributary system flowing in from the northwest, then after a short stretch passing another tributary system flowing in from the southwest, while the boundary river itself follows a tributary in between these other tributary systems.

- 4.39 The tributary depicted on the Treaty map as flowing into the boundary river from the northwest is shown as having headwaters consisting of two small forked tributaries due south of Barachit. It is also shown as flowing into the boundary river some 16 km southeast of Barachit. The only river meeting this description, with its headwaters close to and due south of Barachit, is the river now known as the Enda Dashim. It flows into the Muna/Berbero Gado at about the same position in relation to Barachit, as shown on the Treaty map, as does the tributary of the Muna just mentioned. This identification of the Enda Dashim as a river other than the one which is depicted as the boundary can only mean that the boundary river is the one into which the Enda Dashim flows.
- 4.40 The upper reaches of the Muna/Berbero Gado are, in reality, more complicated than the single short blue line depicted on the Treaty map sandwiched between the two pecked red lines as marking the boundary. However, the map depicts a boundary which, from the west-east line of the relevant Belesa C headwater slopes in an ESE direction overland to the relevant headwaters of the river designated as the Mai Muna.
- 4.41 With respect to the Ethiopian contention set out in paragraph 4.28, above, the Commission is unable to read the Treaty as establishing a boundary so at variance with the Treaty map as to involve a longer and less direct overland sector than that which the map shows. The Treaty map does not support any such marked northwards deviation from the generally ESE direction of the Treaty boundary in this area, nor does it support the kind of overland sector which would be needed to link the headwaters of the Belesa C with those of the Endeli. It is also noteworthy that the de Chaurand map depicts Mounts Auda and Silah to the north of the river which it depicts as the “Muna” and which the Treaty map adopted as the boundary line. Those two mountains lie to the north of the Muna/Berbero Gado, but would not lie to the north of a boundary following the upper Endeli.
- 4.42 The Commission accordingly concludes that as a matter of the interpretation of the Treaty and the Treaty map, the overland link between the Belesa and the Muna proceeds from the headwater of the Belesa C just to the northwest of present-day Zalambessa (Point 19) to one of the headwaters of the Muna/Berbero Gado (Point 20). It then proceeds in a SSE-trending line following the divide between, to the north, the headwaters of the Enda Dashim and, to the south, the

headwaters of the streams flowing southward and then eastward to join the Muna/Berbero Gado at the point where it is also joined by the Enda Dashim (Point 21).

- 4.43 Below that point, the “Mai Muna” of the Treaty map may be identified with the “Maj Mena” of the de Chaurand map (the river that the Commission is referring to as the Muna/Berbero Gado). This continues in an identifiable course until it joins the Endeli at Massolae at Point 27.
- 4.44 From Massolae, the Treaty map shows the river, which it still designates the Muna, continuing downstream in a generally ESE direction, its course providing the boundary line. Although the Treaty map identifies the whole length of the watercourse as the “T. Mai Muna” and its Amharic equivalent, it is apparent, from a comparison with the underlying de Chaurand map, that that was a cartographic simplification for the purposes of the boundary Treaty. The de Chaurand map indicates that the “Maj Mena” flows into the Endeli, which in turn flows into a watercourse identified as the Ragali. It is this series of differently named stretches of rivers – from west to east, Muna, Endeli and Ragali – which the Treaty map refers to by the single name “T. Mai Muna.”

4) The eastern terminal point of the 1900 Treaty boundary

- 4.45 The Parties disagree as to where, to the east, the 1900 Treaty boundary line ends. Eritrea has argued that the Muna ends at the confluence with the Endeli (located at the village of Massolae, Point 27) and that therefore that must be the eastern terminal point of the 1900 Treaty line. From this point, Eritrea contends that, to take account of the local geography, the boundary follows the Endeli for a short distance southeast to Rendacoma (where the Endeli turns northeast and becomes the Ragali), and there leaves the river to continue overland southeast to Djibouti. For its part, Ethiopia has argued that the river depicted as the Muna continues as far as the town of Ragali, and that it is therefore there that the terminal point lies.
- 4.46 The matter is important not only because of the need to know where the boundary established by the 1900 Treaty ends, but also because Article I of the 1908 Treaty makes “the most easterly point of the frontier established by [the 1900 Treaty]” the starting point for the boundary described in that Treaty. The matter can only be resolved in the first place by a careful consideration of the 1900 Treaty map and the topography of the area.
- 4.47 The Commission finds no support in the 1900 Treaty and its annexed map for a terminus of the 1900 Treaty boundary at Massolae. The designation on the Treaty map of the river named “Muna,” and the depiction of the boundary line itself, extend well beyond the location of Massolae. The fact that Massolae may be about 60 km from the coast, and that the 1908 Treaty subsequently required the boundary to follow a line that distance from the coast, does not of itself require that Massolae be regarded as the terminal point of the 1900 Treaty and the starting point of the 1908 Treaty. “Distance from the coast” was not a

consideration relevant to the boundary laid down by the 1900 Treaty. So its use in the 1908 Treaty cannot be related back to the earlier Treaty.

- 4.48 The 1904 Commission charged with following the border settled by the 1900 Treaty concluded that its own mission terminated at Massolae. There is, however, no basis in the text of Article I of the Treaty or in the Treaty map for the conclusion that the 1900 boundary terminated at Massolae. Moreover, as the Commission notes below (Appendix A, para. A.1), the 1904 Commission was essentially an Italian commission, though with an Ethiopian observer who did not sign the final report, which therefore did not express the shared views of the Parties. While the Commission does not exclude the possible evidential value of the findings of the 1904 Commission insofar as they illuminate the intentions of the Parties with regard to Article I of the 1900 Treaty, it cannot assign decisive weight to those of its observations which are not supported by the provisions of the Treaty. The Commission cannot, therefore, accept Eritrea's contention that the boundary established by the 1900 Treaty terminated at Massolae.
- 4.49 The designation "Muna" therefore extends beyond Massolae, even though the contemporary and current names distinguished the Muna from the Endeli and, nearer the Salt Lake, the Ragali. The Treaty map clearly identifies as the river which the Parties were calling the Muna the one which continued eastwards and flowed into and terminated in a body of water, designated as the Salt Lake. This lake still exists in the approximate area in which it is depicted on the Treaty map.
- 4.50 As already stated (para. 4.10, above), the parallel dotted red lines on the Treaty map are clearly intended to mark the boundary and, proceeding, as they do, along each bank, are consistent with the conception of a boundary river. At the eastern end of the Muna, however, the parallel character of the dotted red lines ends. The line along the southern bank of the Muna follows the Muna to the Salt Lake and terminates at the northern apex of the lake. However, the dotted red line on the northern bank of the Muna continues past the apex and the northeast shore of the Salt Lake in a southeasterly direction virtually until the margin of the map.
- 4.51 The usage adopted in the Treaty map for the overland sector between Tomat and Todluc was also a single dotted line. Despite the use of the double red dotted line in the short overland section joining the Belesa and the Muna, this single red dotted line alongside the Salt Lake may have been intended to indicate the course of an overland boundary continuing generally southeast beyond the point at which the river terminates in the lake. This would have been consistent with the terms of the 1897 *modus vivendi* indicating a *de facto* line which the Parties negotiating the 1900 Treaty could have been expected to have had in mind. Yet the terms of the 1900 Treaty refer only to the Muna watercourse; the depiction of a line in the Treaty map extending alongside the Salt Lake evidently goes beyond the depicted course of the Muna.
- 4.52 The depiction on the Treaty map shows the final, curved, part of the Muna river system not as a continuous blue line but as a dotted blue line. This is not

explained on the Treaty map, but on the underlying de Chaurand map (which also uses a dotted blue line in this area) the legend explains that for rivers a continuous blue line signifies “di tracciato conosciuto” (i.e., known river course) while a dotted blue line signifies “di tracciato dubbio” (i.e., uncertain river courses). Modern mapping also shows that immediately to the north of the Salt Lake the river system breaks into a filigree network of small channels and streams, with no readily identifiable single and regular river bed.

- 4.53 In these circumstances, delimiting the boundary in this delta area as the line taken by the Ragali would not be helpful, for there is no single stable watercourse in this network of small and changing streams and channels. The Ragali does indeed flow, on a permanent and stable basis, to a location near the northern limit of the curved stretch of the lower reaches of that river system before flowing through what may be called the Ragali delta on its way to the Salt Lake.
- 4.54 Accordingly, the Commission has decided that, based on the 1900 Treaty and its map, the eastern end of the 1900 Treaty boundary follows the line of the Ragali as far as Point 29. Beyond that point, the boundary would ordinarily continue to follow the Ragali until it reaches its terminus at the Salt Lake. However, having regard to the delta-like extension of the riverbed and the difficulty of identifying with sufficient certainty the line of the Ragali therein, the Commission determines that the boundary in the delta is constituted by straight lines connecting Points 29, 30 and 31.

#### 5) Object and purpose of the Treaty

- 4.55 The only express indication given in the Treaty of its object and purpose is contained in its short preamble. This states that the two Heads of State had agreed on the Treaty

in the desire to regulate the question of the frontier between the Colony of Eritrea and Ethiopia which has remained open since the conclusion of the Treaty of Peace of Addis Ababa of the 26th October 1896.

Although the Parties placed considerable emphasis on the Mareb-Belesa-Muna line as being intended to give effect to a division between the regions of Acchele Guzai (to stay with Eritrea) and Agame (to stay with Ethiopia), the Commission observes that nothing to that effect is said directly in the 1900 Treaty or in the Peace Treaty to which reference is made.<sup>27</sup>

- 4.56 The Commission is, however, aware that the 1896 armistice between Ethiopia and Italy following the Battle of Adwa provided *inter alia* that there would be a peace treaty, and that until that time the border between Ethiopia and Eritrea “will be maintained at the Mareb, Belesa and Muna, which is the border of the

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<sup>27</sup> Indeed, that Treaty is referred to only as the starting point for the period since which “the question of the frontier . . . has remained open.”

Agame and Okologezay,<sup>28</sup> the former being attributed to Ethiopia and the latter to Eritrea. The fact that, in Article IV of the 1896 Peace Treaty, the Parties agreed provisionally to observe the *status quo ante* does not in the Commission's view import into the terms of the subsequent 1900 Treaty a requirement that that Treaty must itself be interpreted as having as its object and purpose the maintenance of the division between Acchele Guzai and Agame. The Commission is of the view that such considerations are too remote from the 1900 Treaty to affect the conclusions to be drawn from the terms of the Treaty read together with its annexed map.

- 4.57 The Commission observes that, as a general matter, the southern borders of Acchele Guzai extended south towards the Belesa and Endeli river systems. Its southernmost sub-district was Shimezana, with its capital at Senafe. Agame (in Tigray, the northern part of Ethiopia) extended northwards to the Belesa river system, and had its capital at Adigrat. To the east of the Belesa river system, Agame is said by Ethiopia (but denied by Eritrea) to include the region of Irob, lying within the Endeli river system.
- 4.58 However, those regions seem only to have been areas generally identified by their respective names, but without specific delimitation of their territorial limits. The Parties have produced conflicting evidence as to the geographical limits of Acchele Guzai and Agame as understood in 1900, in particular as regards the district of Irob, in the area north of the Muna/Berbero Gado and south of the upper reaches of the Endeli, i.e., in the Endeli projection. Ethiopia has contended that in 1890 and thereafter Italian officials were seeking to use the Aghir (which flows into the upper reaches of the Endeli) as the line of division between Acchele Guzai and Agame, and that in referring to a "Belesa-Muna" line Italy's reference to the "Muna" as the division between Acchele Guzai and Agame was based on ignorance of local geography and was really intended as a reference for what is now known to be a "Belesa-Endeli" line. However, the Commission observes that the diplomatic exchanges of a decade before the conclusion of the 1900 Treaty were not part of the negotiations for it; moreover, they show that the rivers in question were known at least to Italy in 1890, which suggests that this omission in 1900 was no mere mistake or oversight.

6) Conclusions as to the boundary identified by the 1900 Treaty

- 4.59 For the reasons set out above, the Commission therefore concludes that the boundary line identified by the 1900 Treaty (as amended by the 1902 Treaty) and subject to the variations that will presently be described, may be defined as a line that, from west to east:

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<sup>28</sup> Eritrean translation. The translation provided by Ethiopia is that until the peace treaty is concluded "the boundary between the Ethiopian Empire and the Eritrean colony will remain to be the Mareb, Belessa and Muna, which will be the boundary between Agamie and Akologuzay." This difference in translation is, in the Commission's view, of no substance.



## Map 7

- (1) starts at the confluence of the Mareb and the Mai Ambessa (Point 9);
- (2) then follows the Mareb to its confluence with the Belesa (Point 11);
- (3) then follows the Belesa to the confluence of Belesa A and Belesa B (Point 12);
- (4) then follows Belesa B to its confluence with Belesa C (Point 13);
- (5) then follows Belesa C to the source of one of its headwater streams at Point 19;
- (6) then goes overland for a short distance to the source of a headwater stream of the Muna/Berbero Gado at Point 20;
- (7) then follows the Muna/Berbero Gado, passing the confluence with the Enda Dashim (at Point 21) until it joins the Endeli at Massolae (Point 27);
- (8) then follows the Endeli downstream until it merges with the Ragali at Rendacoma (Point 28);
- (9) then follows the Ragali downstream to Point 29; and
- (10) then follows the straight lines joining Points 29, 30 and 31.

#### **B. SUBSEQUENT CONDUCT**

- 4.60 The Commission will now examine the subsequent conduct of the Parties with a view to determining whether any such conduct requires it to vary or adjust in any way the boundary based on the interpretation of the Treaty as set out above. In view of the Commission's conclusion that only two aspects of such conduct lead to any modification of the Treaty boundary, the Commission has placed in Appendix A to this Decision its examination of much of the material that it has determined does not affect the situation.
- 4.61 The question of sovereignty over the Endeli projection and the Belesa projection was much discussed by the Parties. Both contended that their conduct after the conclusion of the Treaty showed that their sovereignty over the relevant areas had been established and had been accepted by the other.
- 4.62 The Parties presented the Commission with voluminous material detailing the conduct which they regard as supporting their respective positions. This practice consists largely of a variety of administrative acts tending to show the exercise of sovereign authority by the Party performing those acts, a range of diplomatic and other similar exchanges and records as evidence of assertions of sovereignty, or of acquiescence in such assertions by the other Party, and maps. The Commission does not find it necessary to set out in detail its review of this

evidence, and will only examine it in general terms. Some items, though presented at length by the Parties, have been found by the Commission not to affect the delimitation established by the Commission. Those items, some of which also affect the boundary in the western and eastern sectors, are examined in Appendix A.

- 4.63 The Commission will first consider the evidence of conduct that demonstrates the exercise of sovereignty in a practical way on the ground. At the outset, the Commission must, however, note that in a number of respects it has been hampered by the inability of the Parties to identify with sufficient particularity the location of the places to which they refer. There is no generally agreed map of the area depicting place names with any degree of reliability. The difficulty is exacerbated by the fact that the spelling of place names is often inconsistent, that some places seem to bear different names in different contexts, that some names of places are shared by the names of regions in which those places are located, and that, at times there has been considerable dispute as to the precise location, or even very existence, of named places. In determining the significance of particular incidents it is of course essential that the Commission be aware of precisely where the incidents are said to have occurred, failing which the Commission will be unable to attribute to them any significant weight. In order to review the material presented by the Parties in a manageable way, it will be convenient to consider it by reference to four relevant regions which are the subject of dispute. From west to east these are: the western part of the Belesa projection; the eastern part of the Belesa projection; the Endeli projection; and the area around the eastern terminus of the 1900 Treaty boundary, known to both Parties as the Bada region.

1) The western part of the Belesa projection

- 4.64 The area now addressed lies between the Belesa A and Belesa B, forming the western part of the Belesa projection (the area shaded yellow on Map 6, p. 36, above).

(a) *Conduct relevant to the exercise of sovereign authority (effectivités)*

- 4.65 In this area the Parties have submitted evidence of activities which, they claim, establish or confirm their sovereignty over the localities in question. These activities comprise such matters as the establishment of telephone and telegraph facilities, the holding of elections and the conduct of the independence referendum, the maintenance of local records of such matters as births and deaths, the payment of taxes and financial tribute, the structure of local administration, the regulation of religious and social institutions, the stationing of military and police posts and the conduct of military and police patrols, the regulation of land use, provincial administration, the administration of educational facilities, public health administration, steps for the eradication of malaria, the grant of a mineral concession, and various local acts carried out by the British Military Administration during the period from 1941 to 1952.

(b) *Diplomatic and other similar exchanges and records*

- 4.66 The Commission has also taken into consideration a number of items from what may be termed the diplomatic or official record. These include the letter of June 1901 from Martini to Ciccodicola, a memorandum written in 1915 by Checchi, Ethiopian protests at alleged Italian encroachments between 1927-1935, the report of April 1933 by the Italian Regional Commissioner, the reports of April and May 1933 by Governor Astuto, an Italian protest at alleged Ethiopian cross-border incursions in 1933, and the incident which occurred in 1934 involving a burial at Chenneto.

(c) *Maps*

- 4.67 The map evidence is not uniform and consistent. Much of it supports the existence of a Belesa projection and attributes the territory within it to Eritrea. There are, however, significant maps which do not do so, or do so only in part. Moreover, much of the map evidence is on so small a scale, or so devoid of detail, that it can only be treated as ambiguous in this respect.

(d) *Conclusion regarding the western part of the Belesa projection*

- 4.68 The Commission has carefully weighed the evidence with which it has been presented. For the most part, it finds the evidence to be of mixed quality and to some extent conflicting as regards its significance for territorial sovereignty. In general, therefore, but subject to two important qualifications, which relate to, respectively, the northern and southern sections of this part of the projection, the Commission does not find that the evidence justifies any departure from the boundary line as found by the Commission to result from the 1900 Treaty.
- 4.69 The qualification as to the northern section relates to Tserona. In its Reply, Ethiopia stated that a number of specific places mentioned by Eritrea as the location of incidents on which Eritrea was relying were irrelevant, since they were in any event mostly in Eritrea. The words used by Ethiopia were that “Fort Cadorna, Monoxeito, Guna Guna and Tserona” were “mostly . . . undisputed Eritrean places.” While Monoxeito and Guna Guna are on the Eritrean side of the Treaty line as determined by the Commission, the Commission finds that, on the basis of the evidence before it, Tserona and Fort Cadorna are not.
- 4.70 As to Tserona, the Commission cannot fail to give effect to Ethiopia’s statement, made formally in a written pleading submitted to the Commission. It is an admission of which the Commission must take full account. It is necessary, therefore, to adjust the Treaty line so as to ensure that it is placed in Eritrean territory.
- 4.71 The qualification as to the southern section relates to the Acran region and to Fort Cadorna. The Commission is satisfied that the evidence of Eritrean activity is sufficient, in terms of administrative range, quantity, area and period, to justify

treating the Acran region as part of Eritrea. As regards Fort Cardorna, the Commission is bound to apply to that place, in the same way as it does to Tserona, the Ethiopian admission.

- 4.72 The Commission therefore decides that the boundary line which it has found to result from the 1900 Treaty must be adjusted in the manner set out in Chapter VIII, paragraph 8.1, sub-paragraph B.

2) The eastern part of the Belesa projection

- 4.73 This area lies to the east of the Belesa B and between the Ethiopian claim line passing to the north of Zalambessa and the Eritrean claim line passing along the Muna/Berbero Gado. It thus forms the central portion of the disputed territory along the Belesa-Muna line (the area shaded pink on Map 6, p. 36, above). Its principal town is Zalambessa, which did not exist in 1900.

(a) *Conduct relevant to the exercise of sovereign authority (effectivités)*

- 4.74 In this area the Parties have submitted evidence of activities which, they claim, establish or confirm their sovereignty over a number of localities. These activities comprise such matters as the administration of polling stations and the holding of elections and the independence referendum, the appointment and payment of local officials, the conduct of a national census, the structure of local administration, the issue of trading and business licences, the establishment of a customs office at Zalambessa, land distribution and management, the payment of taxes and financial tribute, the administration of justice, law enforcement, the provision of educational facilities, the administration of fuel supplies, the grant of a mineral concession, patrolling by the British Military Administration, the establishment of police posts, the maintenance of a rainfall measuring position and the conduct of border surveys.

(b) *Diplomatic and other similar exchanges and records*

- 4.75 As far as concerns the diplomatic or official record, the Commission has been presented with little in the way of evidence relating specifically to this part of the Belesa projection, apart from certain exchanges relating to Zalambessa, which has been the location for a considerable number of significant administrative activities by Ethiopian authorities. On a number of occasions, Eritrean officials appear to have acknowledged that Zalambessa is part of Ethiopia. Zalambessa appears to be the seat of Gulomakheda Wereda, a part of Tigray province. Both Parties agree that there is a customs post some 2 km north of Zalambessa – in fact, probably two customs posts, one belonging to each Party, located close to each other. The location of such a post on one side of the town strongly suggests that the boundary is on the same side of the town, since to have a population centre *between* a boundary and a border customs post would be unusual. Ethiopia has, moreover, submitted evidence showing that the customs authorities of Eritrea regularly had dealings with the nearby Ethiopian customs post in such a

way as to accept Zalambessa as part of Ethiopia. An additional exchange in 1996 leads to the same conclusion. In that year, the Ethiopian Ministry of Foreign Affairs requested Eritrea to allow a survey team to enter Eritrean territory. The Eritrean Ministry of Foreign Affairs, in responding positively to this request, referred to it as being incidental to the task of “rechecking border delineating points in Zalambessa [sic] area (Tigray region).”

(c) *Maps*

- 4.76 The Commission has already addressed in general terms the significance of the map evidence for the western part of the Belesa projection. Similar comments are called for in relation to the eastern part. The ambiguity of the map evidence is the greater in this area, because the eastern part of the Belesa projection does not have the distinctive southward pocket which is so characteristic of the western part.

(d) *Conclusion regarding the eastern part of the Belesa projection*

- 4.77 The Commission has carefully weighed the evidence with which it has been presented by both Parties. Except to the extent corresponding to paragraphs 4.68-4.72, above, the Commission does not find that the evidence of the Parties’ conduct establishes any departure from the boundary line as found by the Commission to result from the 1900 Treaty, save in respect of Zalambessa. There the evidence supports the conclusion that that town is Ethiopian.
- 4.78 The Commission has already decided that the boundary line resulting from the 1900 Treaty must be adjusted so as to ensure that Tserona, the Acran region and Fort Cadorna are placed in Eritrean territory (see paras. 4.70- 4.72, above). The manner of that adjustment is set out in Chapter VIII, paragraph 8.1, sub-paragraph B, below. The Commission now accordingly decides that the boundary resulting from the 1900 Treaty must be further adjusted, in the manner also set out in Chapter VIII, paragraph 8.1, sub-paragraph B, so as to place Zalambessa in Ethiopian territory.

3) The Endeli projection (Irob)

- 4.79 The Endeli projection consists of the roughly triangular piece of territory bounded on the south by the Muna/Berbero Gado, on the northeast by the upper reaches of the Endeli going upstream towards Senafe, and on the west by the north-south line of the Ethiopian claim line running down from near Senafe (this area is shaded blue on Map 6, p. 36, above). The principal population centre is Alitena. Although a substantial part of Irob lies to the north of the Muna/Berbero Gado, and thus within the Endeli projection, part of the region also lies to the south of that river and thus within Ethiopian territory. Geographical specificity is therefore particularly important in relation to incidents or activities occurring in the Irob area.

(a) *Conduct relevant to the exercise of sovereign authority (effectivités)*

- 4.80 In this area the Parties have submitted evidence of activities which, they claim, establish or confirm their sovereignty over the localities in question. These activities comprise such matters as the regulation of religious and social institutions, civil administration, the management of local officials, the administration of elections and the independence referendum, the conduct of a national census, the structure of local administration, questions of land management and title, payment of taxes and payment of tribute, the administration of justice, law enforcement, administration of educational institutions, administration of public health, and the operation of public works projects.

(b) *Diplomatic and other similar exchanges and records*

- 4.81 The diplomatic and official record as put before the Commission includes an Italian military report of 1901, Martini's letters of June and July 1901 to Ciccodicola, Checchi's memorandum of 1915, Governor Zoli's report of July 1930, Italian Ministry of Colonies' report of 1930, Governor Astuto's report of May 1933, and Italian protests at cross-border incursions of 1933.

(c) *Maps*

- 4.82 The map evidence is uneven in relation to the Endeli projection. Very few maps depict an Endeli projection as appertaining to Ethiopia, and there is considerably more map support for a boundary along the Muna/Berbero Gado, at least along its lower reaches. At the same time there are a number of Italian maps spanning several decades after the conclusion of the 1900 Treaty which show no boundary along that part of the Muna/Berbero Gado, even though showing one elsewhere. There are also Italian maps showing, either expressly or implicitly, the upper reaches of the Endeli as the effective limit of Italian occupation.
- 4.83 The extent of Acchele Guzai and Agame has been of some importance in the context of the Endeli projection. The map evidence is unclear. Most maps do not give any indication of the two regions. Of those that do, some indicate only the one but not the other. Of those that do indicate one or both of the regions, by far the majority mark them in areas which do not impinge upon the Endeli projection, placing them respectively well to the north of Senafe or well to the south of the Muna/Berbero Gado. Relatively few mark the regions in such a way as to suggest which region includes all or part of the Endeli projection. It is in any event of the nature of cartographic indications of general geographic regions that they are unspecific, since the regions being indicated are usually themselves not limited by specific borders.

(d) *Conclusion regarding the Endeli projection*

- 4.84 The Commission has given careful consideration to the evidence submitted by the Parties. As in the other sectors, the evidence is not wholly consistent and does

not lead in one direction only. The Commission does, however, conclude that for the most part the stronger evidence of administrative and resultant activity has been presented by Ethiopia. The Commission has also attached weight to the facts that several Italian maps refrained from indicating a boundary along the southern limits of the Endeli projection, and have marked the upper reaches of the Endeli River as the actual limit of Italian occupation. Moreover, the Commission has noted that in several reports senior Italian officials, and also Italy's formal complaint to the League of Nations, acknowledged that significant parts of the area covered by the Endeli projection had always been Ethiopian and that Italy had never been present there.

4.85 Even so, the Commission is unable to draw from this the conclusion that it should vary the 1900 Treaty line so as to include the whole of the Endeli projection within Ethiopia. The Commission has noted that, in general, the impact of Ethiopian administrative activity has been weaker, and the impact of Eritrean activity stronger, in the northern and western fringes of the Endeli projection, and that therefore Ethiopia has not established its effective sovereignty to the required degree over those areas. The Treaty line should therefore be varied so as to place only the more southerly and easterly parts of the Endeli projection in Ethiopia.

4.86 The Commission therefore decides that the Treaty line must be accordingly adjusted in the manner set out in Chapter VIII, paragraph 8.1, sub-paragraph B, below.

4) The Bada region in the central sector

4.87 The Commission notes at the outset the need for caution in recording and responding to incidents said to have occurred "in Bada," since there is both a region of Bada, primarily consisting of the Bada plain, and a village in that region named Bada. Bada village appears to be located to the northeast of Rendacoma and possibly astride the Ragali. The Bada region is a broad area lying generally to the north of the Salt Lake and straddling the Endeli/Ragali rivers, so that it is partly on the Eritrean side of the boundary determined by the Commission to have been laid down in the 1900 Treaty (i.e., north and east of the Endeli/Ragali) and partly on the Ethiopian side (i.e., south and west of the Endeli/Ragali). Both Eritrea and Ethiopia appear to have local administrative sub-districts named "Bada." It is therefore particularly important to know precisely where particular events are said to have occurred before being able to attribute to them significance as regards the limits of territorial authority. Moreover, given that the Bada region is associated with the Endeli and Ragali, and that there may be settlements which, under a single name, spread over both sides of what may be regarded as boundary rivers, it will sometimes be particularly important to know precisely where within a settlement a particular incident or activity is said to have occurred.



(a) *Conduct relevant to the exercise of sovereign authority (effectivités)*

4.88 In this area the Parties have submitted evidence of activities which, they claim, establish or confirm their sovereignty over the localities in question. These activities include such matters as the operation of telegraph and telephone communications facilities, the grant of a mineral concession and licences for associated communications facilities, the promotion of irrigation projects, the organisation of elections and the independence referendum, the holding of a national census, the administration of public health services, the administration of educational institutions, the establishment of military and police posts and the carrying out of military patrols, and the structure of local administration.

(b) *Diplomatic and other similar exchanges and records*

4.89 As far as concerns the diplomatic or official record, the Commission has been presented with little in the way of evidence relating specifically to the Bada area, apart from two incidents in 1901 and 1929 involving Tigrayan raids into the Bada area. The exchanges were, however, unspecific as to location and ambiguous as regards their import for questions of territorial sovereignty.

(c) *Maps*

4.90 The only point of disagreement between the Parties is where along the Endeli or Ragali the 1900 Treaty line ends and therefore the 1908 Treaty line begins. The map evidence overwhelmingly supports the Endeli/Ragali as the boundary. As to this, most maps are unspecific. Apart from the map attached to the report of the 1904 Boundary Commission (see Appendix A, below) which in any event is in this respect ambiguous, very few, if any, of the maps submitted in evidence clearly depict a boundary ending at Massolae. Of the rest, those which do depict an eastern terminus are almost equally divided between those which show it at or near Rendacoma and those which show it further to the east, at or near Ragali or, in a few instances, at the Salt Lake.

(d) *Conclusion regarding the Bada region in the central sector*

4.91 The Commission finds that the evidence is relatively sparse, often geographically unspecific, and of ambiguous significance for questions of territorial sovereignty. In particular, the evidence contains little support for terminating the 1900 Treaty boundary at some point (such as Massolae or Rendacoma) west of the Salt Lake. Accordingly, the Commission does not regard the evidence of the Parties' conduct in this area as a basis for departing from the boundary line as found by the Commission to result from the 1900 Treaty.

**C. THE COMMISSION’S CONCLUSIONS REGARDING THE 1900 TREATY LINE  
AS A WHOLE**

- 4.92 The Commission’s conclusions regarding the 1900 Treaty line as a whole will be found in Chapter VIII, paragraph 8.1, sub-paragraph B.

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