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Report of the Working Group on the Universal Periodic Review*

Eritrea

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

* The present document was not edited before being sent to the United Nations translation services.

Responses of the State of Eritrea to the recommendations made during the presentation of its UPR report, Geneva, 30 November 2009

1. The Working Group on the Universal Periodic Review presented Eritrea with 137 Recommendations during the Sixth session, Geneva, 30 November 2009. In its response, The State of Eritrea (SoE) grouped the Recommendations into 28 clusters. After careful consideration, Eritrea accepted close to 50 per cent of the recommendations while rejecting around 15 per cent of them. Explanation was provided for accepting or rejecting some recommendations while none was given for others. About 40 per cent of the recommendations were not labeled accepted or rejected. Nevertheless, the SoE made as clear a statement as it could on its position on those recommendations.

2. **ACCESSION TO THE CONVENTION AGAINST TORTURE (CAT Recommendations 1-6; 9, 10; 14, 15):** Accepted. The recommendations are consistent with Eritrea's laws. Article 417 of the Transitional Penal Code treats torture as a criminal offence.

3. **ACCESSION TO THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (Recommendations 1, 9):** Accepted. As a war-ravaged country, ensuring the welfare of persons with disability is a priority for Eritrea.

4. **RATIFICATION OR ACCESSION TO OPTIONAL PROTOCOLS TO ICCPR, ICESR, CEDAW, CAT; AND ACCEPT THE JURISDICTION OF THE COMMITTEE OF ENFORCED DISAPPEARANCE (Recommendations 7, 9, 10; 14-16):** Rejected. These recommendations do not enjoy the support of the SoE.

5. **RATIFICATION OF THE INTERNATIONAL CONVENTION FOR THE PROTECTION OF ALL PERSONS FROM ENFORCED DISAPPEARANCE (CED) AND COOPERATE ACTIVELY WITH THE WORKING GROUP ON ENFORCED OR INVOLUNTARY DISAPPEARANCES (Recommendations 7 and 13):** The Transitional Civil Procedure Code of Eritrea of 1991 provides for Habeas corpus. Furthermore, political abduction is a criminal act under the Transitional Penal Code of Eritrea. With respect to the Convention, the Government will take the necessary measures to study the provisions of the Convention in light of Eritrean reality and legality before taking action in regard to ratification.

6. The SoE has been cooperating actively with the Working Group on Enforced and Involuntary Disappearances, and it will continue to do so.

7. **RATIFICATION OF THE ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT, INCLUDING THE ACCESSION TO THE PRIVILEGES AND IMMUNITIES (Recommendation 8, 15):** Rejected. The Rome Statute raises various unanswered questions as to its content, scope and practical implementation, especially as it relates to Africa. As such, this recommendation does not enjoy the support of the SoE.

8. **ABOLISHMENT OF THE DEATH PENALTY (Recommendation 11):** The death penalty can act as a deterrent in extreme cases of crime. In Eritrea, the death penalty has been applied only in extreme and limited cases. Taking into account our national particularities and historical and cultural background, abolishment of the death penalty is not warranted at the present time.

9. **ACCESSION TO THE INTERNATIONAL CONVENTION ON THE PROTECTION OF THE RIGHTS OF MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES (Recommendation 16):** Accepted. Our legal authorities will take the

necessary steps to study the provisions of the Convention with the aim of fully understanding the implications of accession to the Convention.

10. RATIFICATION OF ILO CONVENTION 182 ON THE WORST FORMS OF CHILD LABOR (Recommendation 12): Accepted.

11. IMPLEMENTATION OF THE ERITREAN CONSTITUTION (Recommendations 17-21): The Constitution is the supreme law of the land and the Government is implementing it, including the holding of democratic elections at the local, sub-regional and regional levels. However, some institutions provided for in the Constitution have yet to be constituted. National elections will be held once the threat to national security and the country's sovereignty is irrevocably removed.

12. ESTABLISHMENT OF AN INDEPENDENT HUMAN RIGHTS INSTITUTION (Recommendations 22-24): Eritrea accepts the principle of establishing a national institution to promote and protect human rights. Article 32, Sub-article 11 of the Eritrean Constitution provides for the National Assembly to establish a standing committee in order to promote and protect the rights of Eritrean citizens through, inter alia, the establishment of forums where the complaints and petitions of citizens are heard and addressed.

13. CHILDREN'S RIGHTS (Recommendations 25; 42; 73-78): Accepted. As signatory to the CRC, the SoE seriously takes the welfare of children, especially the vulnerable. IDPs no more exist in Eritrea. Neither is child labor practiced in the country. There are activities where children might be engaged such as cattle rearing, firewood gathering and water fetching. These are activities that will fade away as schooling opportunities expand and the country's economy experiences rapid and sustainable development. In line with its policy of providing education for all, the Government is currently establishing 78 mobile schools for children of nomadic families, and plans to establish 200 such schools by the end of this year.

14. The Government is committed to continuously improve existing national plans for children. A national inter-ministerial committee composed of the Ministries of Labor and Human Welfare, Justice, Education and Health has been set up to implement all areas of the CRC in a coordinated manner. Other bodies, including a Technical Committee drawn from the above ministries, regional administrations and civil society organizations, and Child Wellbeing Committees have been organized at the sub-regional level of government established to look after the operational and technical aspects of implementing the CRC across the sectors in an integrated fashion. There is a separate temporary detention center for children in Central Region. Corporal punishment was banned by proclamation No. 4 of 1991, one of the first laws promulgated by the Government of Eritrea.

15. STANDING INVITATION TO UNITED NATIONS HUMAN RIGHTS SPECIAL PROCEDURES AND RAPORTEURS (Recommendations 26-35): The request for invitation by special procedures and rapporteurs is considered on a case by case basis.

16. COOPERATE WITH SPECIAL PROCEDURES AND UN TREATY BODIES (CERD AND CESCR) (Recommendations 36, 37): Accepted.

17. FOLLOW-UP PROCESS ON UPR RECOMMENDATIONS (Recommendation 39): Accepted. Follow-up work on the UPR recommendations is being conducted in a widely participatory process involving key stakeholders in government, civil society and the UN Country Team.

18. SAME SEX ACTIVITY BETWEEN CONSENTING ADULTS (Recommendations 40 & 41): Rejected. These recommendations are in direct conflict with the values and traditions of the Eritrean people and do not, therefore, enjoy the support of the Eritrean Government.

19. RIGHT TO LIFE, PHYSICAL INTEGRITY AND SECURITY (Recommendation 43): Accepted.

20. GENDER EQUALITY AND FEMALE GENITAL MUTILATION (Recommendations 38, 44-54): Accepted. Eritrea prides itself in making gender equality one of the critical pillars of sustainable development and has made significant, all around progress in promoting gender equality, including in the economic, political, marital, health, education and welfare spheres of the national and personal lives of women and girls. FGM is a deeply rooted and widely practiced tradition in many countries, including developed ones. Notwithstanding the cultural justifications that are advanced to maintain the practice, FGM practices violate basic human rights principles by perpetuating acts of violence against girls. Prior to enacting the law banning FGM, the Government conducted an extensive campaign to demystify the concept and persuade citizens and communities about the health risks of FGM and to invoke the rights of women. Realizing the high negative correlation between education of girls and FGM practices, the Government is committed to the continuous expansion of girls' education.

21. Within its human, financial and institutional capacities, the Government is committed to continue streamlining gender issues in its national development programs, enforce its FGM laws and promote and defend women's rights to the full extent of the law.

22. DOMESTIC AND SEXUAL VIOLENCE (Recommendations 55; 58-61): Accepted. Sexual offence, exploitation and violence are criminalized under Eritrea's penal code. Moreover, the public prosecution is always ready to assist rape victims. The police are increasingly becoming more sensitive to the handling of rape victims. They provide service on a 24-hour basis, accompany victims to the hospital during the initial examination of rape and contribute to getting priorities during medical examinations and give them comfort and counseling.

23. The Eritrean Civil Code provides for marriage to be conducted with the expressed free will of the parties. It further stipulates, among other things, that in general marriage shall not be conducted if both or either of the parties have not attained the full age of 18. Through the strengthening of the Prosecutor's Office, the active prosecuting of offenders, the conduct of extensive public education and the handling of rape cases with utmost sensitivity, the Government will intensify its efforts to protect the dignity, liberty and general welfare of women and girls.

24. Severe punishment has been, and will continue to be, meted out to those convicted of violating the dignity and liberty of all women, including of female members of the armed forces.

25. MARITAL RAPE (Recommendations 56 & 57): There are traditions in Eritrea that prohibit marital rape. Taking this into consideration, the Government will make efforts to study the subject with the objective of coming up with a reasonable conclusion on the matter.

26. NATIONAL SERVICE, UNDER-AGE MILITARY CONSCRIPTION, AND TORTURE (Recommendations 62-63; 67-71) Rejected: Members of the Eritrean Defense Forces are highly disciplined and humane. In rare cases of abuse, severe punishment is imposed on offenders. There is no under-age recruitment in Eritrea's Military and no person is tortured or subjected to cruel and degrading or inhuman treatment by the police or the military as a general practice. Nevertheless, the Government spares no effort in prosecuting anyone found guilty of subjecting people to inhuman and degrading treatment, torture, or exacting forced and/or free labor of the youth in the National Service program.

27. NATIONAL SERVICE (Recommendations 64-66): Rejected. The SoE considers as sacred its constitutional duty and responsibility to defend the country's sovereignty and

independence. National Service, which is enshrined in the Constitution, was established with that sacred duty and responsibility in mind. Today, Eritrea is under a military threat not the least because Ethiopia continues to hold Eritrea's sovereign territory in flagrant violation of international law and the final and binding ruling of the Eritrea-Ethiopia Boundary Commission (EEBC). As long as that threat exists, Eritrea has the sovereign right to protect its sovereignty and independence the way it deems appropriate. The inability or unwillingness of the international community in general and the sponsors of the Algiers Peace Agreement in particular to hold Ethiopia accountable for its refusal to abide by the EEBC ruling and international law, has been one of the serious causes for the deterioration of peace and security in the Horn of Africa. The double standard with which the international community treats Eritrea vis-à-vis Ethiopia is there for the whole world to see.

28. Moreover, Eritrea would like it to be known that it began its demobilization program in 2002. During the last five years, graduates of the Sawa School have been, depending on their academic performance, provided with basically three career opportunities: joining degree program institutions, 1-3 year diploma or certificate schools or the civil service.

29. **ISSUE CLEAR PUBLIC ORDERS TO SECURITY FORCES** (Recommendation 72): There are already laws and standing orders that regulate the conduct of security forces.

30. **DETENTION CENTERS, TORTURE, INVOLUNTARY DISAPPEARANCE, AND DUE PROCESS OF LAW** (Recommendations 79-94): Torture is illegal in Eritrea and there are no secret detention centers in the country. Due process is the law of the land. Any transgressor in these areas is accountable before the law. The Special Court was established by law to implement the Government's zero tolerance policy on corruption, theft and embezzlement and it is carrying out its duties in line with its mandate. Nevertheless, the Special Court is currently under review as to procedure and substance.

31. **FREEDOM OF RELIGION, FREEDOM OF EXPRESSION AND PRESS, AND POLITICAL AND RELIGIOUS PRISONERS** (Recommendations 95-106; 108): There is no state of emergency in Eritrea and the human rights of the Eritrean people are fully respected. Eritrea respects the right to information and freedom of expression and opinion. No one in Eritrea is detained for expressing his/her views. Eritrean citizens have access to the entire spectrum of the media, including the internet, the print and other electronic media. As for the issue of freedom of the press, the Government will continue to work on developing press laws and regulations consistent with the values, traditions, cultural practices and national interest of Eritrea.

32. The religious history of faith communities of Eritrea is one of tolerance and respect for each other's faith. Every Eritrean has the right to religious belief. Eritrea does not detain people for their religious belief. There are those who have been detained for committing crimes, including treason and threatening national security. Their cases have been, and continue to be, under review.

33. **THE RIGHTS OF RETURNEES** (Recommendation 107): Accepted. Eritrea encourages and facilitates the return of its citizens to their country. Upon arrival, returnees go straight to their homes. Eritrea's embassies are under a standing order to provide consular services to all Eritreans regardless of how they exited Eritrea. The Government does not encourage involuntary return to the country.

34. **HUMANITARIAN ASSISTANCE AND NON-GOVERNMENTAL ORGANIZATIONS** (Recommendations 109-115): Local and international NGOs that conduct their programs and activities in accordance with Eritrea's laws and regulations and development policy are welcome to carry out their work. There are several NGOs working in the country today. Likewise, there are in Eritrea today several vibrant civil society organizations with large memberships actively engaged in the promotion and advancement of, inter alia, the human, political and socio-economic rights of their members. Some of the

more significant civil society organizations include women's associations, professional organizations, labor unions, and youth and student groups. Eritrea will continue to engage with civil societies in the spirit of partnership and dialogue aimed at helping them contribute to the welfare of the Eritrean people in a more meaningful and effective manner.

35. SOCIAL SERVICES, POVERTY REDUCTION AND MILLENNEUM DEVELOPMENT GOALS (Recommendation 116-125): Accepted. As indicated in Eritrea's first MDG Report, the nation is one of 16 countries worldwide and one of four countries in Africa forecast to achieve most of the MDGs by the 2015 target year. The Government will intensify its efforts to reduce or eradicate general poverty, continue to care for the vulnerable of society, and redouble its efforts to increase access, affordability, and quality of its social sector services with the aim of achieving all the MDGs by 2015. Eritrea is in the process of preparing its second MDG report.

36. THE UNIVERSAL PERIODIC REVIEW AND TECHNICAL ASSISTANCE (Recommendations 126-137): Accepted. Eritrea welcomes the building of partnerships that enhance its human, developmental and institutional capacity, enabling it to further and deepen its commitment to promote and protect the rights and dignities if its citizens. Ethiopia's refusal to abide by the EEBC ruling is an impediment to Eritrea's efforts in the human rights area. Once again, Eritrea calls upon the international community to prevail upon Ethiopia to end its continued illegal occupation of sovereign Eritrea territory.
