

108TH CONGRESS
2^D SESSION

H. R. 2760

IN THE SENATE OF THE UNITED STATES

OCTOBER 9, 2004

Received

AN ACT

To limit United States assistance for Ethiopia and Eritrea if those countries are not in compliance with the terms and conditions of agreements entered into by the two countries to end hostilities and provide for a demarcation of the border between the two countries, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Resolution of the Ethi-
5 opia–Eritrea Border Dispute Act of 2004”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) ALGIERS AGREEMENTS.—The term “Algiers
9 Agreements” means the Cessation of Hostilities
10 Agreement and the Comprehensive Peace Agree-
11 ment.

12 (2) APPROPRIATE CONGRESSIONAL COMMIT-
13 TEES.—The term “appropriate congressional com-
14 mittees” means the Committee on International Re-
15 lations of the House of Representatives and the
16 Committee on Foreign Relations of the Senate.

17 (3) CESSATION OF HOSTILITIES AGREEMENT.—
18 The term “Cessation of Hostilities Agreement”
19 means the Agreement on the Cessation of Hostilities
20 signed on June 18, 2000, in Algiers, Algeria, by the
21 Government of Ethiopia and the Government of Eri-
22 trea that established a temporary demilitarized secu-
23 rity zone within Eritrea to be enforced by the United
24 Nations Peacekeeping Mission in Ethiopia and Eri-
25 trea (UNMEE).

1 (4) COMPREHENSIVE PEACE AGREEMENT.—The
2 term “Comprehensive Peace Agreement” means the
3 agreement signed on December 12, 2000, in Algiers,
4 Algeria, by the Government of Ethiopia and the
5 Government of Eritrea, under the auspices of the
6 Organization of African Unity (OAU), that provided
7 for an end to military hostilities between the two
8 countries, assurances by the countries to refrain
9 from the threat or use of force against each other,
10 and established a neutral Boundary Commission to
11 delimit and demarcate the border between the two
12 countries.

13 (5) ECONOMIC ASSISTANCE.—The term “eco-
14 nomic assistance” means—

15 (A) assistance under chapter 1 of part I of
16 the Foreign Assistance Act of 1961 (relating to
17 development assistance); and

18 (B) assistance under chapter 4 of part II
19 of the Foreign Assistance Act of 1961 (relating
20 to economic support fund assistance).

21 (6) MILITARY ASSISTANCE AND ARMS TRANS-
22 FERS.—The term “military assistance and arms
23 transfers” means—

24 (A) assistance under chapter 2 of part II
25 of the Foreign Assistance Act of 1961 (relating

1 to military assistance), including the transfer of
2 excess defense articles under section 516 of that
3 Act;

4 (B) assistance under chapter 5 of part II
5 of the Foreign Assistance Act of 1961 (relating
6 to international military education and training
7 or “IMET”), including military education and
8 training for civilian personnel under section 541
9 of that Act (commonly referred to as “Ex-
10 panded IMET”); and

11 (C) assistance under the “Foreign Military
12 Financing” Program under section 23 of the
13 Arms Export Control Act and the transfer of
14 defense articles, defense services, design and
15 construction services, or any other defense-re-
16 lated training under that Act.

17 **SEC. 3. FINDINGS.**

18 Congress makes the following findings:

19 (1) On May 6, 1998, a conflict erupted between
20 Ethiopia and Eritrea, two of the world’s poorest
21 countries.

22 (2) The two-year war claimed 100,000 lives,
23 displaced more than 1,000,000 people, cost Ethiopia
24 more than \$2,900,000,000, and caused a 62 percent
25 decline in food production in Eritrea.

1 (3) Millions of dollars were diverted from much
2 needed development projects into military activities
3 and weapons procurements at a time when severe
4 drought threatened a famine in both Ethiopia and
5 Eritrea, as bad as the famine in 1984 in those coun-
6 tries, putting more than 13,000,000 lives at risk.

7 (4) On June 18, 2000, Prime Minister Meles
8 Zenawi of the Federal Democratic Republic of Ethi-
9 opia and President Isaias Afewerki of the State of
10 Eritrea signed the Cessation of Hostilities Agree-
11 ment in Algiers, Algeria. On December 12, 2000,
12 the two countries also signed the Comprehensive
13 Peace Agreement in Algiers under the auspices of
14 the Organization of African Unity (OAU) and in the
15 presence of United Nations Secretary General Kofi
16 Annan and President Abdel-Aziz Boutheflika of Al-
17 geria.

18 (5) Article 4.2 of the Comprehensive Peace
19 Agreement states the following: “The parties agree
20 that a neutral Boundary Commission composed of
21 five members shall be established with a mandate to
22 delimit and demarcate the colonial treaty border [be-
23 tween the two countries] based on pertinent colonial
24 treaties (1900, 1902 and 1908) and applicable inter-
25 national law.”.

1 (6) Article 4.15 of the Comprehensive Peace
2 Agreement states the following: “The parties agree
3 that the delimitation and demarcation determina-
4 tions of the Commission shall be final and binding.
5 Each party shall respect the border so determined,
6 as well as territorial integrity and sovereignty of the
7 other party.”.

8 (7)(A) The President of the United Nations Se-
9 curity Council, on behalf of the Security Council,
10 confirmed the Security Council’s endorsement of the
11 terms and conditions of the Algiers Agreements,
12 with special reference to the neutral Boundary Com-
13 mission described in Article 4.2 of the Comprehen-
14 sive Peace Agreement and its mandate.

15 (B) In addition, the Security Council reaffirmed
16 its support for the Algiers Agreements in United
17 Nations Security Council Resolutions 1312 (July 31,
18 2000), 1320 (September 15, 2000), 1344 (March
19 15, 2001), 1369 (September 14, 2001), 1398
20 (March 15, 2002), 1430 (August 14, 2002), 1434
21 (September 6, 2002), 1466 (March 14, 2003), 1507
22 (September 12, 2003), 1531 (March 12, 2004), and
23 1560 (September 14, 2004).

24 (8) On April 13, 2002, the neutral Boundary
25 Commission announced its “Delimitation Decision”,

1 reiterating that both parties had agreed that it
2 would be “final and binding”.

3 (9) Following the decision of the Boundary
4 Commission that the heavily disputed town of
5 Badme would be zoned to the Eritrean side of the
6 new border, Foreign Minister Seyoum Mesfin of
7 Ethiopia announced on April 15, 2003, that “[n]o-
8 one expects the [G]overnment of Ethiopia to accept
9 these mistakes committed by the Commission”. Fur-
10 ther, the Ethiopian Ministry of Information released
11 a statement accusing the Boundary Commission of
12 an “unfair tendency” in implementing the border
13 ruling and “misinterpreting” the Algiers Agree-
14 ments.

15 (10) In his March 6, 2003, “Progress Report”
16 to the United Nations Security Council, Secretary
17 General Kofi Annan reported that Prime Minister
18 Zenawi of Ethiopia had expressed to his Special
19 Representative, Legwaila Joseph Legwaila, that “if
20 its concerns were not properly addressed Ethiopia
21 might eventually reject the demarcation-related deci-
22 sions of the Commission”.

23 (11) On September 19, 2003, Prime Minister
24 Zenawi wrote to United Nations Secretary General
25 Kofi Annan and stated: “As the Commission’s deci-

1 sions could inevitably lead the two countries into an-
2 other round of fratricidal war, the Security Council
3 has an obligation, arising out of the UN Charter, to
4 avert such a threat to regional peace and stability.”.

5 (12) On October 3, 2003, the United Nations
6 Security Council wrote to Prime Minister Zenawi
7 and stated: “The members of the Security Council
8 therefore wish to convey to you their deep regret at
9 the intention of the government of Ethiopia not to
10 accept the entirety of the delimitation and demarca-
11 tion decision as decided by the boundary commis-
12 sion. They note in particular, that Ethiopia has com-
13 mitted itself under the Algiers Agreements to accept
14 the boundary decision as final and binding.”.

15 (13)(A) In an attempt to resolve the continued
16 impasse, United Nations Secretary General Kofi
17 Annan offered his good offices to the two parties
18 and appointed Mr. Lloyd Axworthy, former Minister
19 for Foreign Affairs of Canada, to serve as his Spe-
20 cial Envoy for Ethiopia and Eritrea on January 29,
21 2004.

22 (B) Despite the assurances of the United Na-
23 tions Secretary General, including in his Progress
24 Reports of March 6, 2004, and July 7, 2004, that
25 the appointment of the Special Envoy was “not in-

1 tended to establish an alternative mechanism to the
2 Boundary Commission or to renegotiate its final and
3 binding decision”, President Isaias of Eritrea has re-
4 fused to meet with the Special Envoy or otherwise
5 engage in political dialogue aimed at resolving the
6 current impasse.

7 (14) In his July 7, 2004, “Progress Report” to
8 the United Nations Security Council, Secretary Gen-
9 eral Kofi Annan reported that the Ethiopian Min-
10 istry of Foreign Affairs continues to reiterate its po-
11 sition that “the current demarcation line would dis-
12 rupt the lives of border communities and lead to fu-
13 ture conflict”.

14 (15) In that same report, Secretary General
15 Annan reminded both governments that they them-
16 selves “entrusted the Boundary Commission with
17 the entire demarcation process, drew up its mandate
18 and selected its Commissioners” and called upon the
19 Government of Ethiopia to “unequivocally restate its
20 acceptance of the Boundary Commission’s decision,
21 appoint field liaison officers, and pay its dues to and
22 otherwise cooperate fully and expeditiously with the
23 Commission”.

1 **SEC. 4. SENSE OF CONGRESS.**

2 It is the sense of Congress that Ethiopia and Eri-
3 trea—

4 (1) should take all appropriate actions to imple-
5 ment the Algiers Agreements, including by accepting
6 the “Delimitation Decision” issued by the neutral
7 Boundary Commission on April 13, 2002, with re-
8 spect to the boundary between the two countries;
9 and

10 (2) should fully cooperate with the United Na-
11 tions Special Envoy for Ethiopia-Eritrea, Lloyd
12 Axworthy, whose mandate is the implementation of
13 the Algiers Agreements, the Delimitation Decision of
14 the Boundary Commission, and the relevant resolu-
15 tions and decisions of the United Nations Security
16 Council.

17 **SEC. 5. DECLARATIONS OF POLICY.**

18 Congress makes the following declarations:

19 (1) Congress expresses its support for the
20 Boundary Commission established by the Com-
21 prehensive Peace Agreement and calls on the inter-
22 national community to continue to support the
23 United Nations trust fund established to facilitate
24 the process of demarcation between Ethiopia and
25 Eritrea and the economic and social transition of af-

1 affected communities to new borders determined by
2 the Commission.

3 (2) Congress further declares that it shall be
4 the policy of the United States to limit United
5 States assistance for Ethiopia or Eritrea if either
6 such country is not in compliance with, or is not
7 taking significant steps to comply with, the terms
8 and conditions of the Algiers Agreements.

9 (3) Congress strongly condemns statements by
10 senior Ethiopian officials criticizing the Boundary
11 Commission's decision and calls on the Government
12 of Ethiopia to immediately and unconditionally fulfill
13 its commitments under the Algiers Agreements, pub-
14 licly accept the Boundary Commission's decision,
15 and fully cooperate with the implementation of such
16 decision.

17 (4) Congress recognizes the acceptance by the
18 Government of Eritrea of the Boundary Commis-
19 sion's decision as final and binding, but condemns
20 the Government of Eritrea's continued refusal to
21 take advantage of the good offices offered by the
22 United Nations Secretary General, to work with
23 Special Envoy Lloyd Axworthy, or to otherwise en-
24 gage in dialogue aimed at resolving the current im-

1 passe, and calls on the President of Eritrea to do so
2 without further delay.

3 **SEC. 6. LIMITATIONS ON UNITED STATES ASSISTANCE.**

4 (a) **LIMITATION ON ECONOMIC ASSISTANCE.**—Eco-
5 nomic assistance may only be provided for Ethiopia or Eri-
6 trea for any period of time for which the President deter-
7 mines that Ethiopia or Eritrea (as the case may be) is
8 in compliance with, or is taking significant steps to comply
9 with, the terms and conditions of the Algiers Agreements.

10 (b) **LIMITATION ON MILITARY ASSISTANCE AND**
11 **ARMS TRANSFERS.**—Military assistance and arms trans-
12 fers may only be provided for Ethiopia or Eritrea for any
13 period of time for which the President determines that
14 Ethiopia or Eritrea (as the case may be) is in compliance
15 with, or is taking significant steps to comply with, the
16 terms and conditions of the Algiers Agreements.

17 (c) **EXCEPTIONS.**—The limitation on assistance
18 under subsections (a) and (b) shall not apply with respect
19 to humanitarian assistance (such as food or medical as-
20 sistance), assistance to protect or promote human rights,
21 and assistance to prevent, treat, and control HIV/AIDS.

22 (d) **WAIVER.**—The President may waive the applica-
23 tion of subsection (a) or (b) with respect to Ethiopia or
24 Eritrea, particularly for the provision of peacekeeping as-
25 sistance or counterterrorism assistance, if the President

1 determines and certifies to the appropriate congressional
2 committees that it is in the national interests of the
3 United States to do so.

4 **SEC. 7. INTEGRATION AND BORDER DEVELOPMENT INITIA-**
5 **TIVE.**

6 (a) ASSISTANCE.—After the date on which the border
7 demarcation between Ethiopia and Eritrea is finalized
8 (consistent with the decision of the Boundary Commission
9 established by the Comprehensive Peace Agreement), the
10 President shall establish and carry out an initiative in con-
11 junction with the Governments of Ethiopia and Eritrea
12 under which assistance is provided to reduce the adverse
13 humanitarian impacts on the populations of the border re-
14 gion, prevent conflict which might result from the demar-
15 cation process, and further social and economic develop-
16 ment projects that are identified and evaluated by local
17 authorities to establish sustainable integration, develop-
18 ment, and trade at the border region.

19 (b) PROJECT EXAMPLES.—Examples of development
20 projects referred to in subsection (a) are—

21 (1) startup initiatives, including farming
22 projects, to promote community economic develop-
23 ment and the free flow of trade across the border be-
24 tween the two countries;

1 (2) generous compensation packages for fami-
2 lies displaced by the border demarcation and support
3 for relocation;

4 (3) effective mechanisms for managing move-
5 ment of persons across the border between the two
6 countries;

7 (4) an increase in the supply of basic services
8 in the border region, including water, sanitation,
9 housing, health care, and education; and

10 (5) support for local efforts to reinforce peace
11 and reconciliation in the border region.

12 **SEC. 8. REPORT.**

13 Until the date on which the border demarcation be-
14 tween Ethiopia and Eritrea is finalized, the President
15 shall prepare and transmit on a regular basis to the appro-
16 priate congressional committees a report that contains a
17 description of progress being made toward such demarca-
18 tion, including the extent to which Ethiopia and Eritrea
19 are in compliance with, or are taking significant steps to
20 comply with, the terms and conditions of the Algiers
21 Agreements, and are otherwise cooperating with inter-

1 nationally-sanctioned efforts to resolve the current im-
2 passe.

Passed the House of Representatives October 8,
2004.

Attest:

JEFF TRANDAHL,

Clerk.