

IV. PERMANENT COURT OF ARBITRATION

(a) List of Current Proceedings: Update

*Compiled by Phyllis Pieper Hamilton**

1. ERITREA/YEMEN: UNANIMOUS AWARD DELIMITING THE INTERNATIONAL MARITIME BOUNDARY

On December 17, 1999 the President of the Eritrea/Yemen Arbitration Tribunal, Sir Robert Jennings, presented the representatives of those Governments with the Tribunal's Unanimous Decision (Award) determining the international maritime boundary between Eritrea and Yemen in the Red Sea. In an Award ceremony hosted by the British Foreign Office, Foreign Minister for Eritrea, Haile Weldensae and the Ambassador to London from Yemen, Dr. Hussein Abdullah El-Amri, were presented with the decision regarding the boundary .

The Award in the second and final stage of the arbitration was rendered pursuant to an arbitration agreement signed by the parties in Paris on October 3, 1996. Under the terms of the Arbitration Agreement, the Tribunal provided rulings in accordance with international law in two separate stages: the first Award, rendered October 9, 1998 concerned the territorial sovereignty of islands in the Red Sea and the scope of the dispute between Eritrea and Yemen, and the second Award delimited the international maritime boundary between the two countries.

In the written pleadings phase of the second stage of the arbitration, the parties submitted their memorials on March 9, 1999, and their counter-memorials on June 9, 1999. By agreement of the Parties, oral hearings were held in the Great Hall of Justice at the Peace Palace in the Hague from July 5 to 16, 1999. Pursuant to the Arbitration Agreement, the oral hearings were closed to the public, and all written pleadings and transcripts of hearings have been kept confidential. The Arbitration Agreement, however, provided for the Award in each stage to be made public immediately after having been rendered by the Tribunal.

Both Parties claimed a form of median international boundary, although their respective claimed lines followed different courses and did not coincide. Eritrea's line was equidistant between the mainland coasts taking into account Eritrea's islands but not the Yemen mid-sea islands. Yemen's median line was measured from the high water line of the Eritrean coast while the Eritrean median line was measured from the low water line. The Yemen line was equidistant between the Eritrean coasts (including certain selected points on the Dahlak is-

* First Secretary, Permanent Court of Arbitration, Secretary, Eritrea/Yemen Tribunal.

lands) and the coasts of all the Yemen islands. Both Parties argued factors pertinent to the determination of the relevant coasts for delimitation of a median line. They further addressed proportionality, dependency of their fishing communities upon Red Sea fishing, national security, historic title, and the entailment upon Yemen's sovereignty over the mid-sea islands (under accepted regional legal concepts) of the preservation of the ages-old traditional fishing regime in the area, as factors relevant to the delimitation.

The Tribunal examined the submissions and arguments of the Parties regarding those factors and with the assistance of an expert, the Head of the Geodesy and Tides Department of the Hydrographic Service of the Royal Netherlands Navy, delimited a line which traced the median between the mainland coasts except where a departure was needed around Yemen's mid-sea islands and their territorial seas.

In its Award, the Tribunal determined that:

The International Maritime Boundary between Eritrea and Yemen is a series of geodetic lines joining, in the order specified, [certain] points. The points are defined in degrees, minutes and seconds of the geographic latitude and longitude, based on the World Geodetic System 1984 (WGS 84). The line and the numbers of the turning points are shown for purpose of illustration only in Charts 3 and 4 in the map section of [the] Award.¹

The Tribunal which decided the delimitation was composed of the following persons:

- Professor Sir Robert Jennings, President
- Dr. Ahmed Sadek El-Kosheri
- Judge Rosalyn Higgins
- Mr. Keith Highetudge
- Stephen Schwebel.

1. The text of both Awards and the charts which illustrate the boundary are available on the website of the PCA at: <http://www.pca-cpa.org>.