Oral Update by Mr. Mike Smith, Chair of the Commission of Inquiry on Human Rights in Eritrea at the 28th session of the Human Rights Council

President,

High Commissioner,

Distinguished members of the Human Rights Council,

Excellencies,

Ladies and gentlemen,

On 27 June 2014, the Human Rights Council (HRC) “deeply concerned at the ongoing reports of grave violations of human rights by the Eritrean authorities against their own population” established the International Commission of Inquiry on Human Rights in Eritrea.

Following our appointment by the President of the HRC in September 2014, Mr. Dankwa, Ms. Keetharuth and I convened in Geneva in November. We decided to conduct our investigations with a view to identify possible patterns of systematic violations of human rights, make recommendations on how to improve the general human rights situation in the country and ensure accountability in the future. Through our work, we also aim to increase public awareness of the situation of human rights in the country and provide a historic record of human rights violations. We agreed to focus our attention on violations committed in Eritrea since independence.

We also adopted our terms of reference and rules of procedures, methodology, and initial programme of work, always guided by the principles of independence, impartiality, objectivity,

transparency, integrity, confidentiality, and the principle of “do no harm”. Conforming to the practice of other commissions of inquiry, we decided to base our findings on a “reasonable grounds to believe” standard of proof.

The Government of Eritrea has so far not cooperated with the Commission and has left unanswered our repeated requests to visit the country and to obtain additional information that would be relevant for its investigation.

In line with the established practices applied by other international commissions of inquiry, the Commission is therefore pursuing alternative avenues to obtain direct and first-hand information in a transparent, independent and impartial manner.

Ladies and gentlemen,

We have had four months so far to delve into the human rights situation in Eritrea and we have done so to an extent never achieved before. We have interviewed approximately 400 people in five different countries and received 140 written submissions. We have consulted experts and spoken with a variety of representatives from inter-governmental and non-governmental bodies.

While we continue to travel, to collect testimonies and to go through information gathered to corroborate individual cases and incidents that will be brought to the attention of the Human Rights Council in our final report in June, we can already report on very clear patterns of human rights violations and on our systemic understanding of them.

The dominant dimension of the situation in Eritrea appears to us to be the so-called state of “no war, no peace” often referred to by the government of Eritrea. This has become the pretext for almost all the State’s actions that generate and perpetuate human rights violations in the country. We are consciously using the word “pretext”: the so called “no war, no peace” situation is indeed not a status recognized under international law. It is an expression abusively used by the Eritrean authorities to disregard international human rights law as if Eritrea was in a legal limbo, while other countries have experienced the uncertainty linked to international conflicts without resorting to such drastic curtailing of freedoms and violations of rights.

Under this pretext, the whole society is militarised, and national service is universal and of an indefinite duration. Most Eritreans have no hope for their future: national service, whether in a military unit or in a civil assignment, is the only thing that from the age of seventeen they can expect to spend their life doing – paid between less than one and a maximum of two dollars a day. On such wages, they struggle to fulfil their basic needs, let alone think about raising a family.

Under this pretext, the Constitution has never been implemented and the National Assembly is not sitting; there is no rule of law in the country; and no one is being held accountable for violating the rights of groups or individuals.

Under this pretext, the Government has curtailed most freedoms, from movement to expression; from religion to association. It has created a condition in which individuals feel that they have hardly any choicewith regard to the main decisions in their lives: where to live, what career to pursue, when to marry or who to worship.

In order to ensure the enforcement and perpetuation of such a system, pervasive State control and ruthless repression of perceived deviant behaviours – particularly within national service – are crucial. Hence, the creation of a network of spies that goes so deep in the fabric of social life that a man employed by national security might not know that his daughter is similarly employed. Hence, the extra-judicial executions, enforced disappearances and incommunicado detentions aiming at silencing all perceived critics and teaching a lesson to them and others – because you are never really told why you are arrested, and once you have been arrested, for how long you will be detained and where.

Eritrea is a country where detention is an ordinary fact of life, experienced by an inordinate number of individuals – men and women, old and young, including children; where detention centres are official and unofficial, above ground and underground, metal containers in forbidding heat or mere fences with no shelter for inmates in punishing cold; where once in one of them, there is a likelihood that you will be subject to torture to extract a confession or to simply punish behaviours.

And what are the behaviours that trigger such punishments? Let me use the words of some of the victims we have interviewed:

“When you look at them with judging eyes, they punish you”

“The [military] doctor did not listen to me. The first time I talked to him, he hit me. I again complained. He said go and take a shower, there is no medicine.”

“The guards used to try to have sexual activity with the women there. When we refused them, we were punished, simply for refusing. We were forced to roll in the hot sand and lie in the sun.”

“If we did not walk quickly enough during military training, they beat us or shackle us in the ‘otto’ position [feet and hands tied behind the back and lying face down] and force us to stay under the direct sun at mid-day for three hours. I was punished like this, because I had drunk water without permission. A peer denounced me to the officers; in return, he was allowed to take a rest.”

Ladies and gentlemen,

Is it surprising that faced with such challenges, Eritreans leave their country in their hundreds every day? They brave death to cross borders, deserts and seas – and many of them never make it to “the other side”.

In recent days the Government of Eritrea, the international community and the United Nations have all sought to address the situation in various ways.

We acknowledge the recent cooperation of the State of Eritrea with some human rights mechanisms. We note that Eritrea recently ratified the UN Convention against Torture. We also take note of the recent announcement made by the Government to bring back National Service to 18 months for new recruits. We reiterate our interest in receiving further information on this new development. We would like to encourage the Eritrean Government to consistently follow up on its engagements with real change on the ground. The Commission remains available to visit and is ready to engage in a dialogue with the State of Eritrea.

The Commission also takes note of the recent visits made by Member States, United Nations entities and cooperation agencies to Eritrea. In view of the emerging findings outlined in this oral update, we would like to recall the centrality of human rights when initiating dialogue and cooperation with the Eritrean Government. In particular, we should all be reminded that the massive exodus of Eritreans should not – and indeed cannot be tackled without addressing the human rights situation in the country.

I thank you for your attention. I am ready to provide more details in response to questions.