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Affidavit of Geoffrey Everts sworn 11 September 2008

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FEDERAL COURT

BETWEEN:

ABOUSFIAN ABDELRAZIK

Applicant

and

MINISTER OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE

Respondent

AFFIDAVIT OF GEOFFREY EVERTS

I, Geoffrey Everts of the City of Ottawa, Province of Ontario SWEAR THAT:

1. I am a Lieutenant Commander and qualified naval Maritime Surface and Sub-Surface Officer in the Canadian Forces and have expertise in Her Majesty's Canadian ships and naval operations. I have been a qualified naval officer for 18 years and hold a Naval vessel Command qualification.

2. In order to travel from Sudan to Canada by sea, it is impossible to avoid the territorial waters of UN member states other than Canada and Sudan. Specifically, depending on which of the two possible routes is chosen, a ship must either pass through the territorial waters of either (a) Egypt, and Spain or Morocco, or (b) Eritrea, Djibouti and Yemen. To make this voyage, these territorial waters cannot be avoided.

3. In my experience, Canadian naval vessels obtain diplomatic clearance from other states before transiting or operating in their territorial waters. However, when exercising transit passage through a strait used for international navigation, diplomatic clearance from the coastal states is not obtained.

4. The most direct route travelling through the Mediterranean to the Atlantic Ocean would require the ship to transit north in the Red Sea through the Suez Canal, which is part of the territorial waters of Egypt. Additionally, it would be necessary to pass through the territorial waters of Spain or Morocco at the Strait of Gibraltar in order to exit the Mediterranean Sea and enter the Atlantic Ocean.

5. The Canadian Forces practise is to treat the Strait of Gibraltar as a strait used for international navigation however, this is not the practise with the Suez Canal. A fee is paid to the Government of Egypt for a Canadian naval vessel to pass through the Suez Canal.

6. The approximate distance of this most direct route from Sudan territorial waters to Canadian territorial waters on the east coast is approximately 5500 nautical miles. This journey would take approximately 15-20 days depending on the type of ship and weather conditions providing that there are no mechanical problems en route.

7. A second option would be to transit south in the Red Sea through the Bab-el-Mandeb (the strait connecting the Red Sea to the Gulf of Aden and Indian Ocean), which would require sailing through Eritrean, Djibouti and Yemen territorial waters. This route would then take the ship around the Horn of Africa and southern tip of Africa and in to the Atlantic Ocean.

8. The Canadian Forces practice is to treat the Bab-el-Mandeb Strait as a strait used for international navigation.

9. The approximate distance of this second route from Sudan territorial waters to Canadian territorial waters on the east coast is approximately 12 500 nautical miles. This journey would take approximately 30 - 40 days depending on the type of ship and weather conditions providing that there are no mechanical problems en route.

10. Canada has two naval replenishment vessels, both of the same class, capable of sailing the routes referred to in paragraphs 4 and 7 without refuelling. One is the HMCS PROTECTEUR on the Canadian west coast and the HMCS PRESERVER, which is based on the Canadian east coast
11. These two ships are Canada's only ships of this class and capability. Their purpose is to replenish (re-supply) and refuel other Canadian naval vessels that are deployed on operations anywhere in the world.
12. Normally these two replenishment vessels operate on a cycle; while one is deployed or operating in support of Canadian naval operations, the other is in a maintenance period. That is to say at any given time, normally only one of these two vessels is operational.
13. Given that only one of the two replenishment ships is generally operational at any one time and given their crucial role in supporting naval operations, to divert such a vessel for a one to two month period solely for a transport task has a significant impact on Canadian Forces naval operations.
14. It would be possible to make a journey as described in paragraphs 4 and 7 with a class of ship other than one of the two replenishment vessels. However the use of any another class of ship, such as the smaller frigate of the Halifax Class, would require stops in foreign ports while en route, or refuelling and replenishment at sea by either HMCS PROTECTEUR and PRESERVER or a similar vessel belonging to another state. The provision of refuelling from vessels other than Canadian is not guaranteed and would place the Canadian ship at risk.
15. None of Canada's naval vessels are designed for the transport of passengers; they are warships and comfort is a secondary concern.
16. With regard to the costs of sending or diverting a vessel to transport the Applicant back to Canada, I have consulted the Departmental Cost Factors Manual. The aim of this

