

A Dispute Concerning Maritime Delimitation in the Indian Ocean

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On 28 August 2014, the Federal Republic of Somalia initiated a legal proceeding against the Republic of Kenya before the International Court of Justice (ICJ) concerning maritime delimitation in the Indian Ocean. Somalia requested the Court “to determine, on the basis of international law, the complete course of the single maritime boundary diving all the maritime areas appertaining to Somalia and to Kenya in the Indian Ocean, including the continental shelf beyond 200 nautical miles.”

Furthermore, Somalia asked the Court to precisely determine the geographical co-ordinates of the single maritime boundary between the parties. Somalia raised Articles 15, 74, and 83 of the United Nations Convention on the Law of the Sea (UNCLOS) for supporting its claims in the territorial sea, exclusive economic zone, and continental shelf respectively. On the other hand, as ascertained by Somalia, Kenya’s position on the maritime boundary is a straight line from the parties’ land boundary terminus, and extending due east along the parallel of latitude on which the land boundary terminus sits, through the full extent of the territorial sea and other maritime zones.

By its order of 16 October 2014, the ICJ fixed time limits for both parties to submit their written memorials to 13 July 2015 and 27 May 2016 as respective time limits for memorial of Somalia and counter-memorial of Kenya. After Somalia had submitted their written pleading, Kenya had ascertained preliminary objection to the ICJ’s jurisdiction and to the admissibility of the application. As a result, the Court, by its order of 9 October 2015, decided to have 5 February 2016 as a time limit for Somalia to present a written statement of its observations and submission on the relevant issues raised by Kenya.

As to the matter of preliminary objection and admissibility of the application, Kenya argued that the Court has no jurisdiction over the case since it is “contrary to Somalia’s international obligation under the Memorandum of Understanding (MoU) signed on 7 April 2009, under the good offices of the Norwegian government.” Kenya emphasized that the MoU provided that the parties should negotiate their dispute amicably rather than litigating before the Court. If Kenya’s claim is prevailed, the Court will render the inadmissibility of the case and end the proceeding.

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Figure 1: The Claimed Lines by Somalia and Kenya

Source: Koome Kimonye, *Citizen Digital*,. “Kenya challenges Somalia’s case on Indian Ocean boundary”, 7 October 2015. Available at: <https://citizentv.co.ke/news/kenya-challenges-somalias-case-on-indian-ocean-boundaries-102623/>