

IN THE INTERNATIONAL COURT OF JUSTICE

SOMALIA,  
APPLICANT

V.

REPUBLIC OF KENYA,  
RESPONDENT MEMORIAL OF THE REPUBLIC OF KENYA

COMES NOW the Republic of Kenya and for their Memorial to the Court states the following:

STATEMENT OF LAW:

1. Implemented in 1989, the United Nations Convention on the Law of the Sea (UNCLOS), serves its purpose to “contribute to the strengthening of peace, security, cooperation and friendly relations among all nations in conformity with the principles of justice and equal rights and will promote the economic and social advancement of all peoples of the world.” Article 76 (8) of UNCLOS states that any “limits of the continental shelf beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured shall be submitted by the coastal State to the Commission on the Limits of the Continental Shelf”, which Kenya has submitted to the CLCS.
2. According to Article 83 (1) “The delimitation of the continental shelf between States with opposite or adjacent coasts shall be effected by agreement on the basis of international law, as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution.” Historically, Kenya has possessed the maritime area, and this has been seen as an equitable solution.

STATEMENT OF FACT:

The two coastal states of Kenya and Somalia are in dispute over the status of a large area of real estate in the Indian Ocean. The piece of land is approximately 62,000 square miles and may contain significant gas and oil deposits. Both countries claim that they have jurisdiction over the territory; Somalia argues that the property is an extension

of the land boundary while Kenya argues that the boundary should extend east of the line of latitude where its land meets the coast.

Both countries are willing to work together to protect and safeguard their common interest while maintaining respect for the continental shelf beyond 200 miles. According to Article 76, paragraph 8, of United Nations Convention on the Law of the Sea (UNCLOS), there are three required delimitation areas, the territorial sea, the exclusive economic zone (EEZ), and the continental shelf. In 2009, Kenya submitted its proposal for official borders and Somalia promptly rescinded the suggestion and fell back on the Commission on the Limits of the Continental Shelf (CLCS) to help negotiate the terms of the division of the land.

In 2014, both states submitted to technical meetings to determine the true border and both meetings came to the conclusion that the two states needed to determine one singular border. Kenya stands firm that the area is within its own limits due to the terms set forth by UNCLOS in 1979 and in compliance with the ICJ precedent set in Aegean Sea Continental Shelf

## ARGUMENTS

1. Historically, for longer than 100 years, the maritime border between The Republic of Kenya and Somalia has been a border extended directly east of The Republic of Kenya's border with Somalia.
2. Seeing as The Republic of Kenya has previously made commitments regarding the resources involved in the land's reserves, it would be more difficult financially and socially to go back on previous agreements.
3. Given a drastic maritime border change, this could lead to disputes over the maritime boundaries with Kenya's southern neighbor Tanzania, in turn impacting Mozambique, Madagascar and South Africa's maritime boundaries.

## SUMMARY AND REQUESTS

Reiterating the fact that the Republic of Kenya is operating within the conventions of the UNCLOS, The Republic of Kenya is requesting the CLCS to respect the submitted “Republic of Kenya’s Outer Limit of the Continental Shelf Beyond 200 M.”

Understanding that the ICJ may not respect the decision historically accepted by The Republic of Kenya, we request that the ICJ assists in negotiations towards achieving “an equitable solution.”