

IN THE INTERNATIONAL COURT OF JUSTICE

**FEDERAL REPUBLIC OF SOMALIA,
APPLICANT**

V.

**REPUBLIC OF KENYA,
RESPONDENT**

MEMORIAL OF SOMALIA

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

STATEMENT OF LAW:

1. The President of Somalia approved the 1988 Somali Maritime Law, which set the boundaries of Somalia's sea territory. A year after the establishment of Somali sea boundaries, Somalia officially ratified the United Nations Convention on the Law of the Sea (UNCLOS). The Respondent also adopted UNCLOS in the same year. Thus, UNCLOS the binding international law that covers this issue.
2. The Respondent makes its territorial claims as outlined in its 1972 Territorial Waters Acts, and under its 1989 Maritime Zones Act. However, Articles 15, 74, and 83 of the Convention stipulate that the maritime boundaries should be delimited on the basis of the "equidistance principle". The equidistance principle is supported by UNCLOS and customary international law.

STATEMENT OF FACT:

On August 28, 2014, Somalia filed a lawsuit against Kenya to the International Court of Justice. The lawsuit disputes Kenya's claims to maritime border in the Indian Ocean extending due East of the point of terminus. In fact, they have begun to engage in commercial operations in the disputed area. Somalia's application is predominantly concerned with the establishment of a single maritime boundary between Somalia and Kenya in the Indian Ocean. Both parties are signatories of the United Nations Convention in 1982 on the Law of the Sea, which provides the legal framework for the dispute.

STATEMENT OF JURISDICTION

1. Somalia submitted a declaration, based on the jurisdiction of the Court on April 11th, 1963. Kenya did the same on April 19th 1965. No condition or reservation to either declaration applies. The Court therefore has jurisdiction over this dispute by Article 36, paragraph 2, of its Statute.
2. The jurisdiction of the Court under Article 36, paragraph 2, of its Statute is underscored by Article 282 of UNCLOS, which provides: If the State parties which are parties to a dispute concerning the interpretation or application of this Convention have agreed,

through a general regional or bilateral agreement or otherwise, that such dispute shall, at the request of any party to the dispute, be submitted to a procedure that entails a binding decision, that procedure shall apply in lieu of the procedures provided for in this Part, unless the parties to the dispute agree otherwise.

ARGUMENTS:

1. The equidistance principle is supported by both UNCLOS and customary international law. There is no other international law that Kenya can cite to defend their claim to a boundary along a line of parallel.
2. There Court has set precedent with a judgement on the *Maritime Delimitation in the Black Sea (Romania v. Ukraine)*. The judgement establishes that in cases where a boundary needs to be determined, the principle of equidistance should be applied.
3. Without a visibly marked geographical feature to determine boundaries, there is no reason to depart from the equidistance principle.
4. Somalia and Kenya have finalized an agreement regarding maritime boundaries, The law laid out in UNCLOS should be used as a guide in determining the boundary.
5. Any other boundary agreements that Kenya may have with other States, such as Tanzania, have no standing in this case. Any negotiated and diplomatic agreement between Kenya and Tanzania should not impact the rights UNCLO has given Somalia.

SUMMARY AND REQUESTS

Somalia wants the boundary defined as United Nations Convention Law of the Sea and other international sea laws have defined. Somalia wants our sovereign rights in the Indian Ocean laid out. Somalia would like a determination of whether the boundary line is grossly disproportionate or not. Somalia is also asking the Kenya be recognized as violated Somalia's sovereign rights. Kenya's unilateral activities in the disputed area must be recognized as unlawful. Somalia would also like to receive the commercial oil concessions in our territorial sea.