



**PERMANENT MISSION OF THE REPUBLIC OF KENYA
TO THE UNITED NATIONS**

No. 141/15

The Permanent Mission of the Republic of Kenya to the United Nations presents its compliments to the Secretary General of the United Nations and has the honor to refer to the Continental Shelf notification, reference CLCS.74.2014.LOS dated 21st July 2014 by the Federal Republic of Somalia ("Somalia") - pursuant to Article 76, paragraph 8 of the United Nations Convention on the Law of the Sea. The submission is to the Commission on the Limits of the Continental Shelf ("Commission") and contains information on Somalia's continental shelf limits beyond 200 nautical miles. The Permanent Mission of Kenya to the United Nations has the honour to state the following in regard to this submission;

The delimitation of the maritime boundary between the Republic of Kenya and the Federal Republic of Somalia has not been settled. In a spirit of understanding and cooperation and in accordance with paragraph 3 of article 83 of the Convention, this unresolved delimitation issue was the subject of a Memorandum of Understanding (MOU) dated 7 April 2009, between Kenya and Somalia, granting each other no objection to consideration of the submissions by the two respective States, by the Commission. In reiterating and confirming the rationale, intent and legitimacy of the MOU, Somalia filed a further communication dated 19th August 2009 (Ref XRW/00506/08/09) to the United Nations Secretary General.

However, without further consultations with or information to Kenya, Somalia unilaterally attempted to reverse this common understanding and agreement as exemplified by a communication to the same office dated 10th October, 2009 (OPM/IC/00./016/11/09), where Somalia requests that the MOU be treated as non-actionable. Further, Somalia in a communication dated 4th February 2014 (MOFA/SFR/ MO/1258/2014), purported to nullify the previous MOU and proceeded to object to the consideration of Kenya's submission.

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The Federal Republic of Somalia by a note dated 21st July 2014, submitted a continental shelf beyond 200M claim, an area that severely overlaps and includes, into her territory, a continental shelf beyond 200M area that she is aware projects directly from Territorial Sea and Exclusive Economic Zone ("EEZ") areas that has been under the jurisdiction of the Government of Kenya since independence in 1963 and have been the subject to a number of proclamations, including the 1979 as amended in 2005 EEZ proclamation. In so doing the Federal Government of Somalia is aware that despite wide publicity, including with the United Nations, she has never objected or protested to the exercise of sovereignty and jurisdiction by Kenya over the said areas.

Consequently a significant part of the continental shelf beyond 200m in Somalia's submission is appurtenant to an EEZ that is under Kenya's jurisdiction. Considering the foregoing, Kenya takes great exception to the submission that has the actual or notional effect of annexing an area that is under Kenya's jurisdiction.

In the circumstances, and in the absence of an action of a practical nature (paragraph 3 of Article 83, UNCLOS), Kenya, in accordance with rule 46 and Annex II of the rules of procedure of the Commission, objects to the consideration of the Submission by Somalia and further urges the Commission not to take any action on it.

However, Kenya remains committed and continues to pursue more legitimate avenues to have the delimitation of the maritime boundary amicably resolved, most preferably through bilateral agreement with the Federal Republic of Somalia. The objection to consideration of Somalia's submission, therefore, is without prejudice to such endeavours.

The Permanent Mission of Kenya to the United Nations requests for publicity of this communication and circulation to all relevant bodies of the United Nations including publication on the websites of the Commission on the Limits of the Continental Shelf and the Division of Ocean Affairs and the Law of the Sea (DOALOS) of the Secretariat of the United Nations.

The Permanent Mission of the Republic of Kenya to the United Nations avails itself of this opportunity to renew to the Secretary General of the United Nations the assurances of its highest consideration.

**H.E. Mr. Ban Ki-moon,
Secretary General
United Nations
New York**

New York – Monday May 4, 2015

