

Uhuru's diplomatic charm offensive to save Kenya from losing to Somalia

SUNDAY AUGUST 4 2019



Kenya's President Uhuru Kenyatta (right) with his Somalia counterpart Mohamed Abdullahi Farmaajo at State House, Nairobi. Behind Kenya-Somalia dispute, analysts say, are economic and political interests of others.
PHOTO | PSCU

In Summary

- Kenya's options are dwindling as the ICJ prepares to start hearings on September 19 on the Indian Ocean maritime border case filed by Somalia.
- The dispute has simmered over time, with Somalia accusing Kenya of encroaching on its territory with oil and gas deposits.
- Before the case was filed, bilateral negotiations had dragged on for six years without much success.

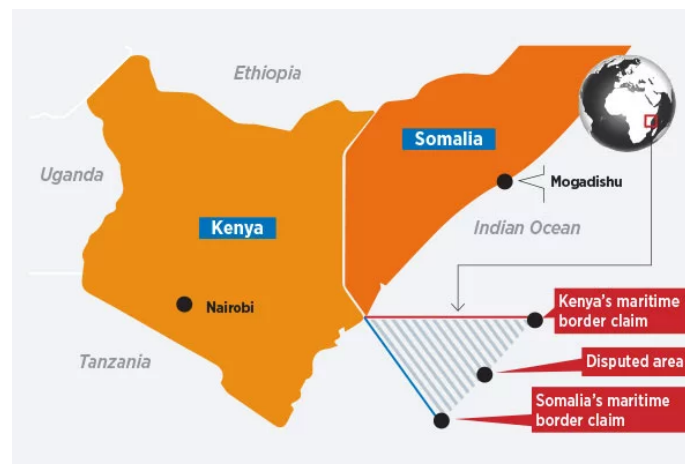
Kenyan President Uhuru Kenyatta has kicked off a diplomatic charm offensive in Africa, Europe and the Middle East as the dispute with Somalia over maritime

resources continues to weigh heavily on his government.

The time is running out and Kenya's options are dwindling as the International Court of Justice at The Hague prepares to start hearings on September 19 on the Indian Ocean maritime border case filed by Somalia in 2014.

The dispute has simmered over time, with Somalia accusing Kenya of encroaching on its 100,000-square-kilometre territory with oil and gas deposits.

Before the case was filed, bilateral negotiations had dragged on for six years without much success.



The area in the Kenya-Somalia maritime border dispute forms a triangle east of the Kenya coast. GRAPHIC | NATION MEDIA GROUP

While Kenya insists that the marine boundary be determined by a parallel line of latitude to the East – as per the standards set by the colonial powers, which were adopted in the marine borders between Kenya and Tanzania, Tanzania and Mozambique and Mozambique and South Africa – Somalia wants it redrawn to a diagonal, an extension of the land border.

Nairobi has been pushing Somalia to withdraw the case, but Mogadishu has been adamant, preferring to wait for determination at the ICJ.

Mediation

With this stance, Kenya early this year sought mediation, drawing in the reformist Ethiopian Prime Minister Abiy Ahmed to lead the effort.

The talks were initiated – Mr Abiy and the Somalia leader Mohamed Abdullahi Farmaajo met with Kenyatta in Nairobi in March – but the effort soon collapsed.

One of the explanations is that President Farmaajo, who is seeking re-election next year, dare not withdraw the case, as it would be seen as giving in to “outside forces” to relinquish what they considers Somalia resources—a sign of weakness. President Farmaajo has since avoided Kenya, even its airspace.

Meanwhile, there is little hope in that Mogadishu will consider a bilateral or regional resolution effort; this leaves Kenya with a few options, one of which is a diplomatic charm offensive in Africa and beyond to convince peers that a decision that affirms Somalia’s claim will have security, diplomatic and economic reverberations.

Nairobi has assembled a team of international lobbyists to reach out to oil and gas investors, who are said to be keen on the outcome of the matter at the ICJ.

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According to insiders, Kenya believes that oil and gas companies are fuelling the dispute, with some already taking strategic positions to join the race for exploration soon after the matter is dispensed with by the court.

Politically, Kenya is reaching out to international allies to get the much-needed support “to protect its territory,” regardless of the outcome of the case at the ICJ.

Warning

Already, the Arab League has sent a warning to Kenya, telling it to stop interfering in Somali waters, but insiders say the visits President Kenyatta has been making to Middle Eastern countries are not mere courtesy calls.

On a recent tour of China, the president is said to have camped for a few days in the Gulf seeking the ears of powerful figures over the matter.

The strategy, according sources, is to consolidate the African voice, which will be key in making collective decisions at the African Union and United Nations once the court has delivered its verdict.

But some advisers have also said Kenya could just withdraw from the ICJ proceedings, a recommendation that is not proving popular.

These options were discussed at a recent symposium in Nairobi organised by the HORN Institute for Strategic Studies.

The consensus, however, was to maintain the diplomatic charm offensive and also forward Kenya’s concerns to the United Nations Security Council and the General Assembly.

Roselyne Omondi, associate director at the HORN Institute, said it is prudent for Kenya to move ahead of the ICJ hearing.

“Kenya may have made a few wrong decisions since the dispute arose, but it remains one of Somalia’s most reliable security, trade and development partners,” said Ms Omondi, adding that there was still a chance for a solution out of court.

False start

Having suffered a defeat during the preliminary proceedings while attempting to show that the court does not have jurisdiction over the matter, after a false start trying to settle the issue through a memorandum in 2009, experts say that Kenya has no alternative but to pursue subtle dispute resolution mechanisms.

Monica Juma, Kenya’s Cabinet Secretary for Foreign Affairs, who has been running a covert campaign for support, says that Nairobi has not exhausted all mechanisms for resolving disputes of this kind. She has refused to be drawn into the details of the plan.

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But Foreign Affairs Permanent Secretary Kamau Macharia said Kenya and Somalia must co-exist and jointly manage resources in the Indian Ocean.

“Ultimately, if Somalia is to enjoy its blue economy resources—oil, gas, marine, fisheries etc—a long its maritime boundary with Kenya, it will have to do so in cooperation with Kenya,” Mr Macharia said in an interview with *Sunday Nation*.

As Kenya seeks this resolution hoping for the best, it is also preparing for the worst. So it has kicked off a campaign for support for a seat in the UN Security Council as a non-permanent member. The UNSC is the only UN body with the authority to issue binding resolutions on member states.

All member states are obligated to comply with its decisions. Kenya hopes that its membership, which would be the third since the body was formed, will help with conflict resolution in the event of a falling out after the ICJ verdict.

If Nairobi loses the case, experts say it will be landlocked, complicating its security and business arrangements. It will need the support of the UNSC and the General Assembly.

Kenya’s bid

Several African countries have committed to supporting Kenya’s bid at the 74th session of the UN General Assembly in September.

Apart from the EAC partner states and neighbours in East Africa, the Mozambican, Zambian, Namibian and Botswana leaders have all promised to throw their weight behind Nairobi.

President Kenyatta is visiting Jamaica this coming week and is expected to seek its support as well.

Africa is entitled to three non-permanent seats in the 15-member UNSC. Kenya is vying for the seat for the East African sub-region, which consists of 11 or more countries, including the six EAC members.

Harold Acemah, a Ugandan diplomat, who has worked at the UN, told *The EastAfrican* that the membership of the Security Council is prestigious and provides a country a place at the high table of the United Nations. If elected, the country will for two years rub shoulders with the world’s high and mighty.

But Mr Acemah said there is no advantage Kenya will enjoy in the dispute with Somalia.

“Unless the dispute seriously threatens regional and international peace, the Security Council cannot force Kenya and Somalia to negotiate. That is a role for the EAC and AU, which I assume and hope they are already playing. The option is for Kenya and Somalia to request the UN Secretary General to mediate,” said Mr Acemah.

But still, Kenya is seeking the support of the European Union, the US and the other permanent members of the UNSC—France, China, Russia and UK.

Diplomatic sources say that while China, Russia and UK are Somalia-leaning, together with the Gulf States, Kenya has received a positive response from France and the US. Norway, whose companies are also angling for the resources, is reportedly “open for consultation.”

While the ICJ decision is final, the court has no mechanism for enforcement and requires the affected countries to still sit down and chart the way forward.

This was the case with resource disputes between China and Philippines and Nigeria and Cameroon. In the case of Nigeria and Cameroon in the dispute over the Bakassi Peninsula, which was awarded to Cameroon in October 2002, the UN secretary-general had to call a meeting of the two countries’ leaders in Geneva where they were persuaded to establish a commission chaired by the special envoy to implement the decision.

Surv Bashir Shettima, a former director of the National Boundary Commission of Nigeria, said implementation of these matters takes along time and, in the case of Nigeria and Cameroon, they had to establish a sub commission on demarcation supported by a technical team.

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