

INTERNATIONAL COURT OF JUSTICE

**CASE CONCERNING
MARITIME DELIMITATION IN THE INDIAN OCEAN**

**SOMALIA
v.
KENYA**

REPLY OF SOMALIA

VOLUME II

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18 JUNE 2018

VOLUME II

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- Annex 2 Republic of Kenya, *Coast Development Authority Act* (18 Jan. 1990), *reprinted in LAWS OF KENYA*, Chapter 449 (rev. ed. 2012)
- Annex 3 Republic of Kenya, *Environmental Management and Co-ordination Act* (14 Jan. 2000), *reprinted in LAWS OF KENYA*, Chapter 387 (rev. ed. 2012)
- Annex 4 Republic of Kenya, *Energy Act* (2006)
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KENYAN GOVERNMENT DOCUMENTS

- Annex 6 Republic of Kenya, Ministry of Agriculture, *Exploratory Soil Map of Kenya* (1980)
- Annex 7 Republic of Kenya, Survey of Kenya, *NATIONAL ATLAS OF KENYA* (5th ed., 2003).
- Annex 8 Republic of Kenya, National Environment Management Authority, *State of the Coast Report: Towards Integrated Management of Coastal and Marine Resources in Kenya* (2009)
- Annex 9 Martin M. Heya, Ministry of Energy, Republic of Kenya, *Overview of Petroleum Exploration in Kenya: Presentation to the 5th East African Petroleum Conference and Exhibition 2011* (25 Feb. 2011)

- Annex 10 Republic of Kenya, Ministry of Mining, *Sector Plan for Oil and Other Minerals 2013-2017* (2013)
- Annex 11 Republic of Kenya, National Assembly, Departmental Committee on Defence and Foreign Relations, *Report of the Workshop on Somalia and International Boundaries* (Oct. 2014)
- Annex 12 Republic of Kenya, Ministry of Energy and Petroleum, *Strategic Environmental and Social Assessment of the Petroleum Sector in Kenya: Final Report* (Dec. 2016)
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- Annex 14 Kenya Marine and Fisheries Research Institute, Kenya Coastal Development Project, *Integrated Coastal Biodiversity Management System: Fish Landing Sites* (4 Oct. 2017), available at <http://icbims.kmfri.co.ke/maps/231/view>
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- Annex 16 *Letter* from Amb. (Dr.) Amina Mohamed, Cabinet Secretary of Foreign Affairs of the Republic of Kenya, to H.E. Abdusalam H. Omer, Minister of Foreign Affairs and Investment Promotion of the Federal Republic of Somalia, No. MFA.INT.8/15A (18 May 2016)

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- Annex 17 U.N. Educational, Scientific & Cultural Organization, Intergovernmental Oceanographic Commission, *Training Course Report No. 89: ODINAFRICA: Marine Biodiversity Data Mobilisation Workshop on Sponges*, U.N. Doc. IOC/2006/TCR/89 (4-18 Nov. 2006)
- Annex 18 U.N. Educational, Scientific & Cultural Organization, Intergovernmental Oceanographic Commission, *Nineteenth Session of the IOC Committee on International Oceanographic Data and Information Exchange (IODE-XIX): Ocean Data and Information Network for Africa (ODINAFRICA)*, U.N. Doc. IOC/IODE-XIX/35 (22 Feb. 2007)
- Annex 19 U.N. Security Council, *Report of the Secretary-General on the protection of Somali natural resources and waters*, U.N. Doc. S/2011/661 (25 Oct. 2011)
- Annex 20 U.N. Security Council, *Resolution 2036 (2012)*, U.N. Doc. S/RES/2036 (22 Feb. 2012)
- Annex 21 U.N. Monitoring Group on Somalia and Eritrea, *Report of the Monitoring Group on Somalia and Eritrea pursuant to Security Council resolution 2002 (2011)*, U.N. Doc. S/2012/544 (13 July 2012)
- Annex 22 U.N. Office of Legal Affairs, Division for Ocean Affairs and the Law of the Sea, “Kenya”, *available at* <http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/STATEFILES/KEN.htm> (last updated 14 Oct. 2014)
- Annex 23 U.N. Monitoring Group on Somalia and Eritrea, *Report of the Monitoring Group on Somalia and Eritrea pursuant to Security Council resolution 2182 (2014): Somalia*, U.N. Doc. S/2015/801 (19 Oct. 2015)
- Annex 24 U.N. Monitoring Group on Somalia and Eritrea, *Report of the Monitoring Group on Somalia and Eritrea pursuant to Security Council resolution 2244: Somalia*, U.N. Doc. S/2016/919 (31 Oct. 2016)

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- Annex 25 Total Fina Elf, *Meeting with Authorities of Somalia* (3 Feb. 2001)
- Annex 26 Memorandum of Understanding between National Oil Corporation of Kenya and Eastern Echo DMCC (26 July 2013)
- Annex 27 Draft Agreement between National Oil Corporation of Kenya and Eastern Echo DMCC (Aug. 2013), *available at* <http://cofek.co.ke/Western%20Geco%20and%20National%20Oil%20-%20New%20Acquisition%20Agreement%202013.docx>
- Annex 28 Soma Oil & Gas Exploration, Ltd., *Unlocking Somalia's Potential: 1st International Forum on Somalia Oil, Gas & Mining* (27-28 Apr. 2015)
- Annex 29 Spectrum Geo, "Spectrum signs Seismic Data Agreement to Kick-Start Oil Exploration Offshore Somalia" (7 Sept. 2015)
- Annex 30 Soma Oil & Gas Exploration, Ltd., *Unlocking Somalia's Potential: Company Presentation Q2 2016* (2016)
- Annex 31 Schlumberger, Ltd., "Multiclient Latest Projects: Kenya Deepwater 2D 2013 Multiclient Seismic Survey", *available at* http://www.multiclient.slb.com/latest-projects/africa/kenya_2d.aspx (last accessed 11 May 2018)

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- Annex 32 Vivian Louis Forbes, *THE MARITIME BOUNDARIES OF THE INDIAN OCEAN REGION* (1995)
- Annex 33 International Law Commission, *Guiding Principles applicable to unilateral declarations of States capable of creating legal obligations, with commentaries thereto in Report of the International Law Commission on the work of its fifty-eighth session (1 May-9 June and 3 July-11 August 2006)*, U.N. Doc. A/61/10 (2006)
- Annex 34 Caitlyn Antrim, "International Law and Order: The Indian Ocean and South China Sea" in *INDIAN OCEAN RISING: MARITIME SECURITY AND POLICY CHALLENGES* (D. Michel & R. Sticklor eds., 2012)
- Annex 35 Dominik Balthasar, The Heritage Institute for Policy Studies, *Oil in Somalia: Adding Fuel to the Fire?* (2014)

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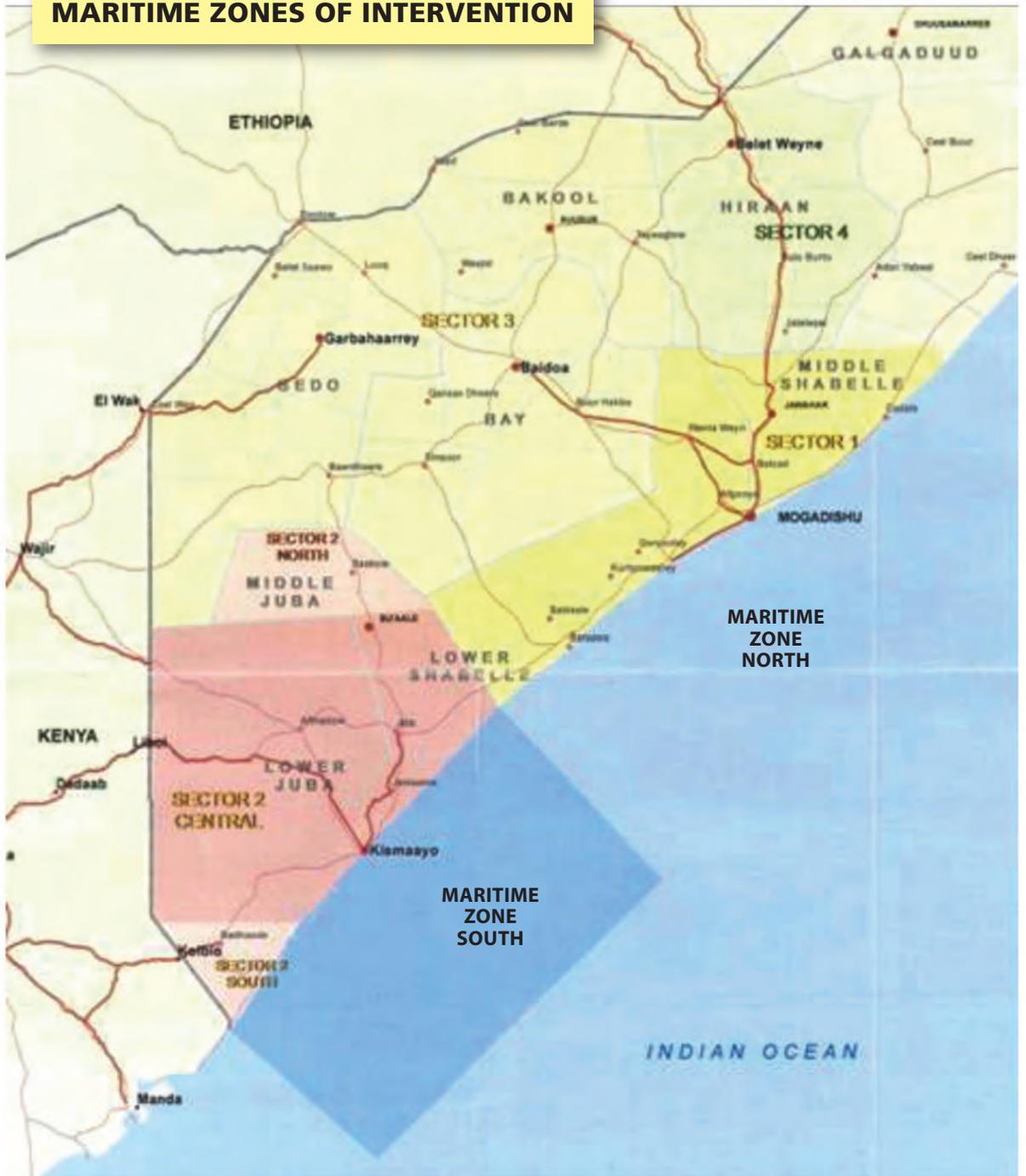
- Annex 36 F. Oluoch & M. Kimani, “War hits Kenya’s bid to expand waters”, *The East African* (29 Jan. 2012)
- Annex 37 Fred Oluoch, “UN unveils new look Amisom as Kenya joins up”, *The East African* (11 Feb. 2012)
- Annex 38 Samuel Kamau Mbote, “COFEK question National Oil Western Geco contract to store Kenya Oil Data”, *Oil News Kenya* (22 Mar. 2014)
- Annex 39 “Spectrum ASA completes the acquisition of 2D seismic data offshore Somalia”, *Oil News Kenya* (5 May 2016)

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- Annex 40 United Republic of Tanzania, Government Notice No. 209 (24 Aug. 1973), *published in* GAZETTE OF THE UNITED REPUBLIC OF TANZANIA, No. 36, Vol. LIV, Supplement No. 48 (7 Sept. 1973)
- Annex 41 International Hydrographic Organization, *Hydrographic Dictionary* (5th ed., 1994)
- Annex 42 United States National Geospatial-Intelligence Agency, *Chart 61220: Manda Island to Kismaayo* (20 Jan. 2014)
- Annex 43 Consumers Federation of Kenya, “How the latest string of National Oil Corporation of Kenya (NOCK) contracts will affect you the consumer” (20 Mar. 2014), *available at* <http://www.cofek.co.ke/index.php/news-and-media/399-how-the-latest-string-of-national-oil-corporation-of-kenya-nock-will-affect-you-the-consumer>

FIGURES

**AMISOM:
MARITIME ZONES OF INTERVENTION**

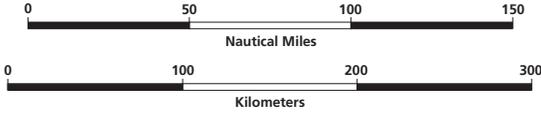


Source: Security Council document S/2012/544, p. 225 (2012).

Figure R2.1

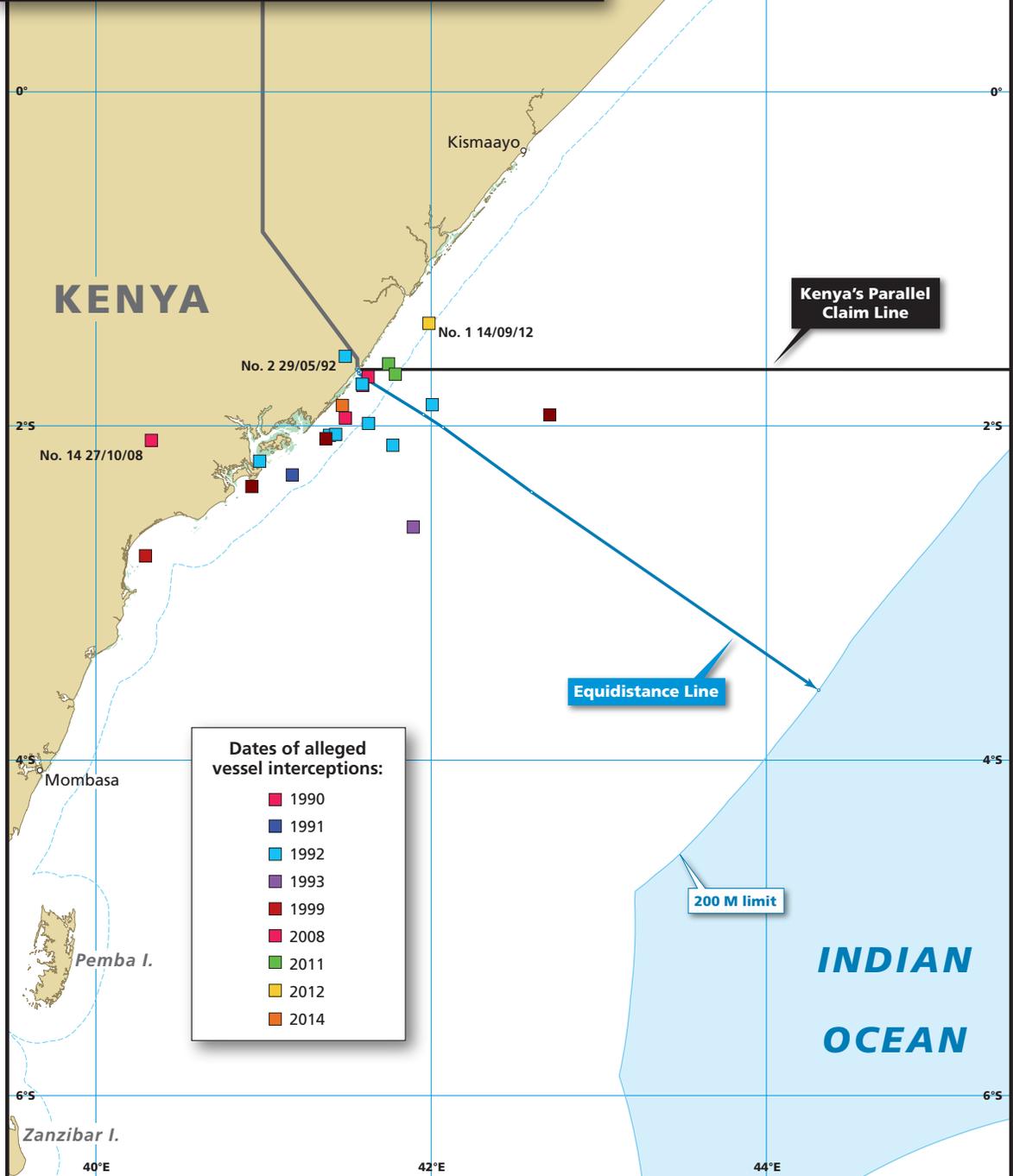
INTERCEPTIONS BY THE KENYAN NAVY: 1990-2014

Mercator Projection
WGS-84 Datum
(Scale accurate at 2°S)



High tide coastlines are based on the NGA Prototype Global Shoreline Data Base. Supplemental shoreline information was digitized from NGA charts 61210, 61220, 61230, 61240, 61250, 61260, 61270, 61280, 62050, 62070, 62080 and 62090.

Prepared by: *International Mapping*

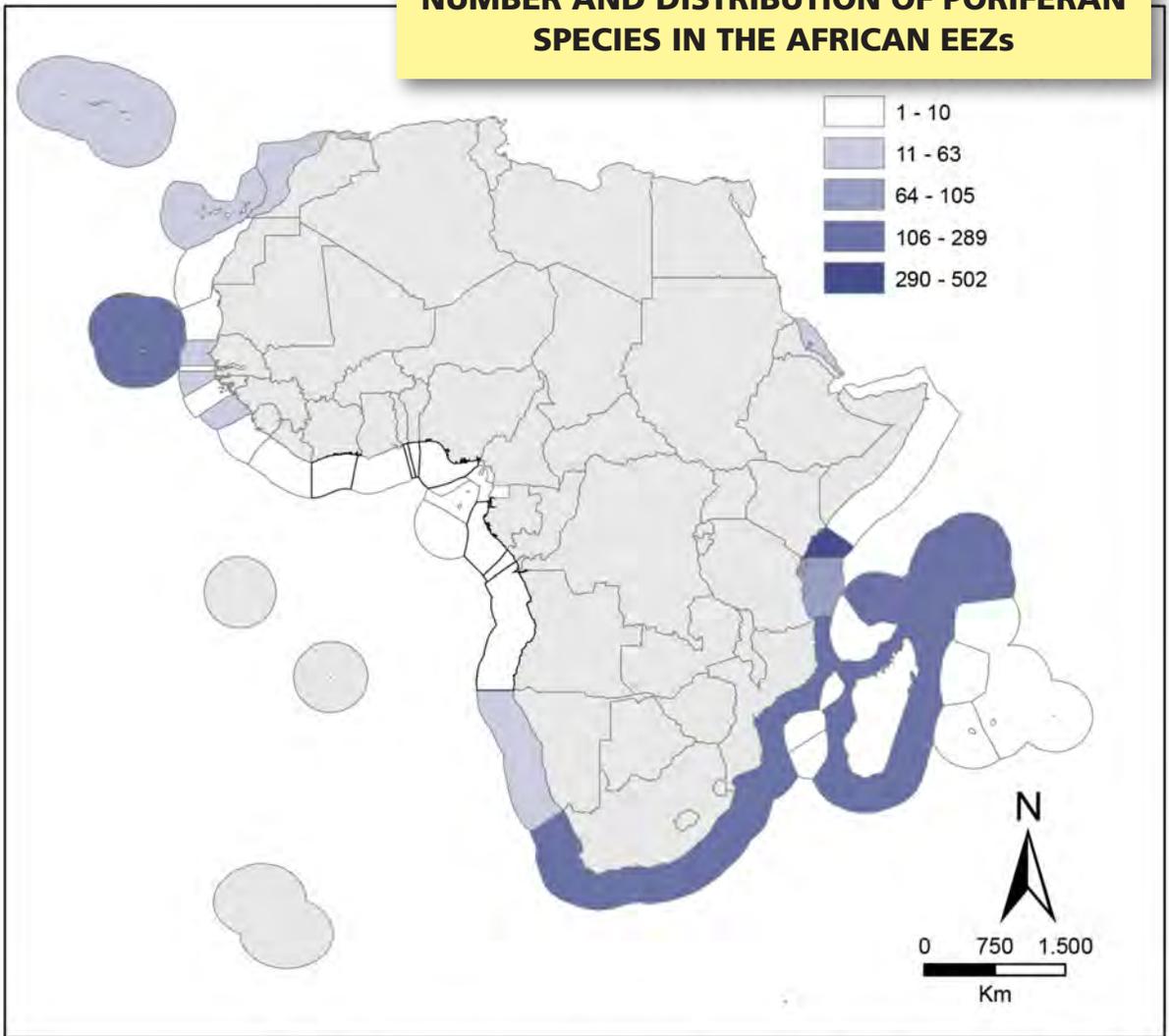


Dates of alleged vessel interceptions:

- 1990
- 1991
- 1992
- 1993
- 1999
- 2008
- 2011
- 2012
- 2014

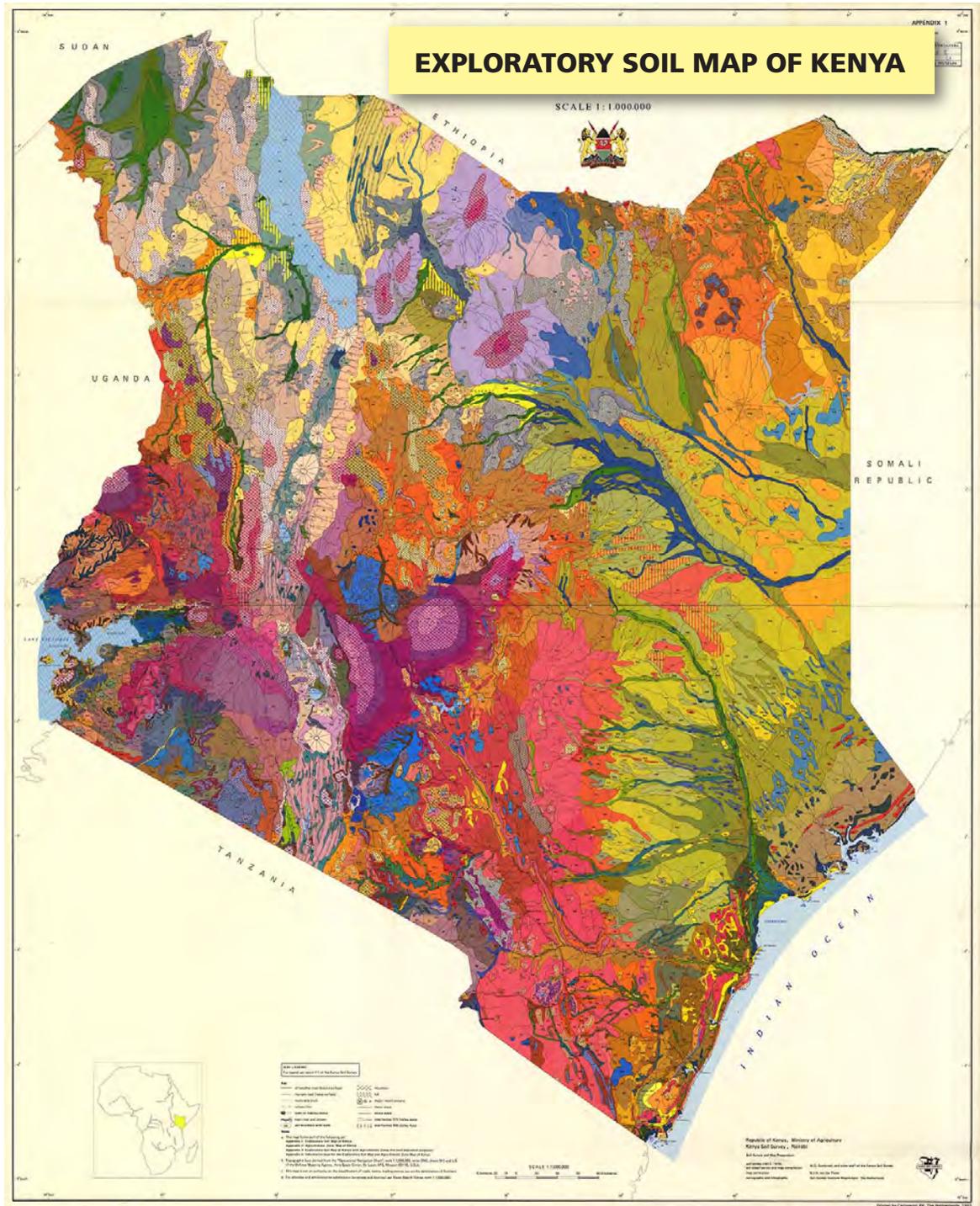
Figure R2.2

NUMBER AND DISTRIBUTION OF PORIFERAN SPECIES IN THE AFRICAN EEZs



Source: Map published by UNESCO-IOC (1998).

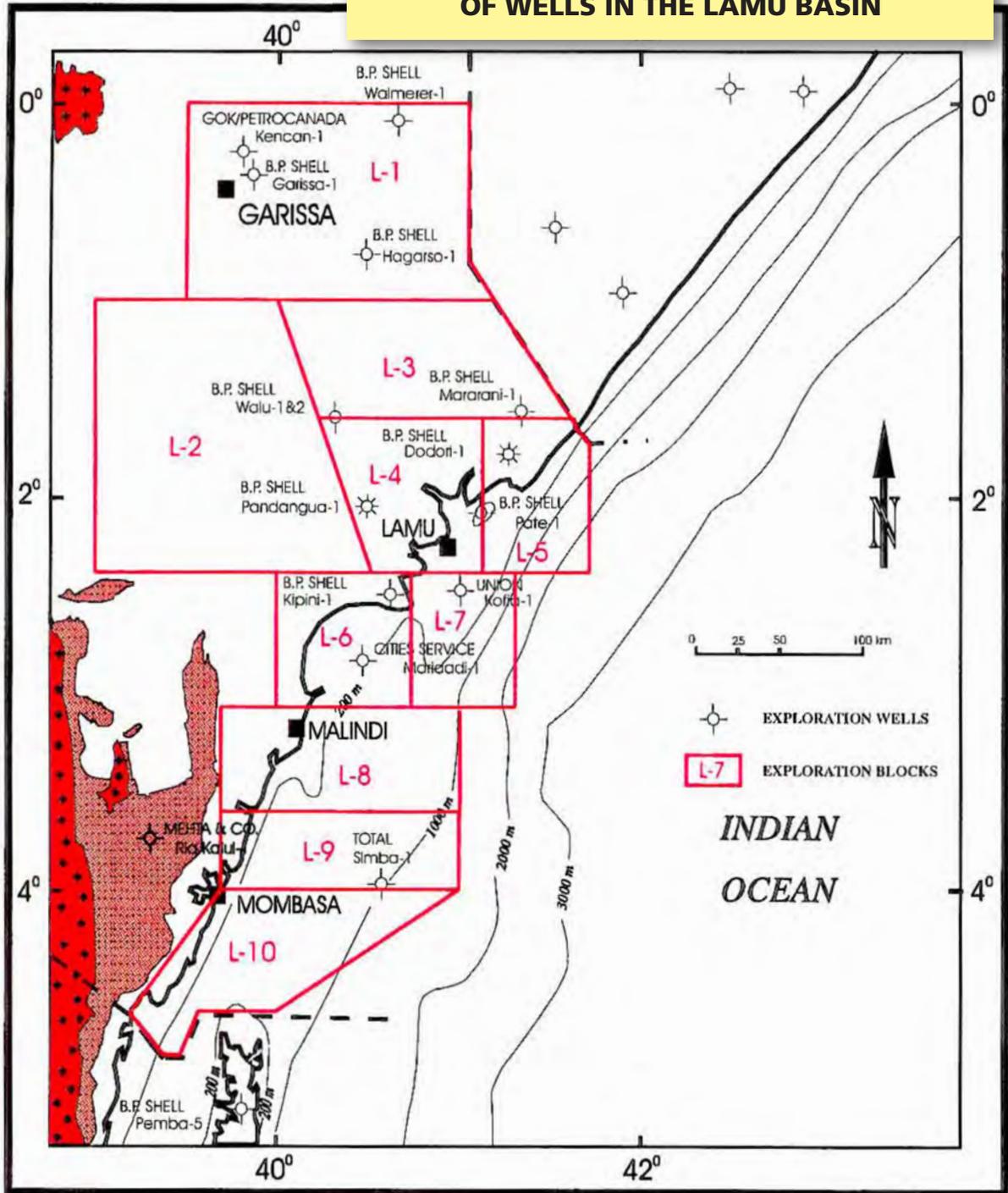
Figure R2.3



Source: Map published by the Kenyan Ministry of Agriculture (1980).

Figure R2.4

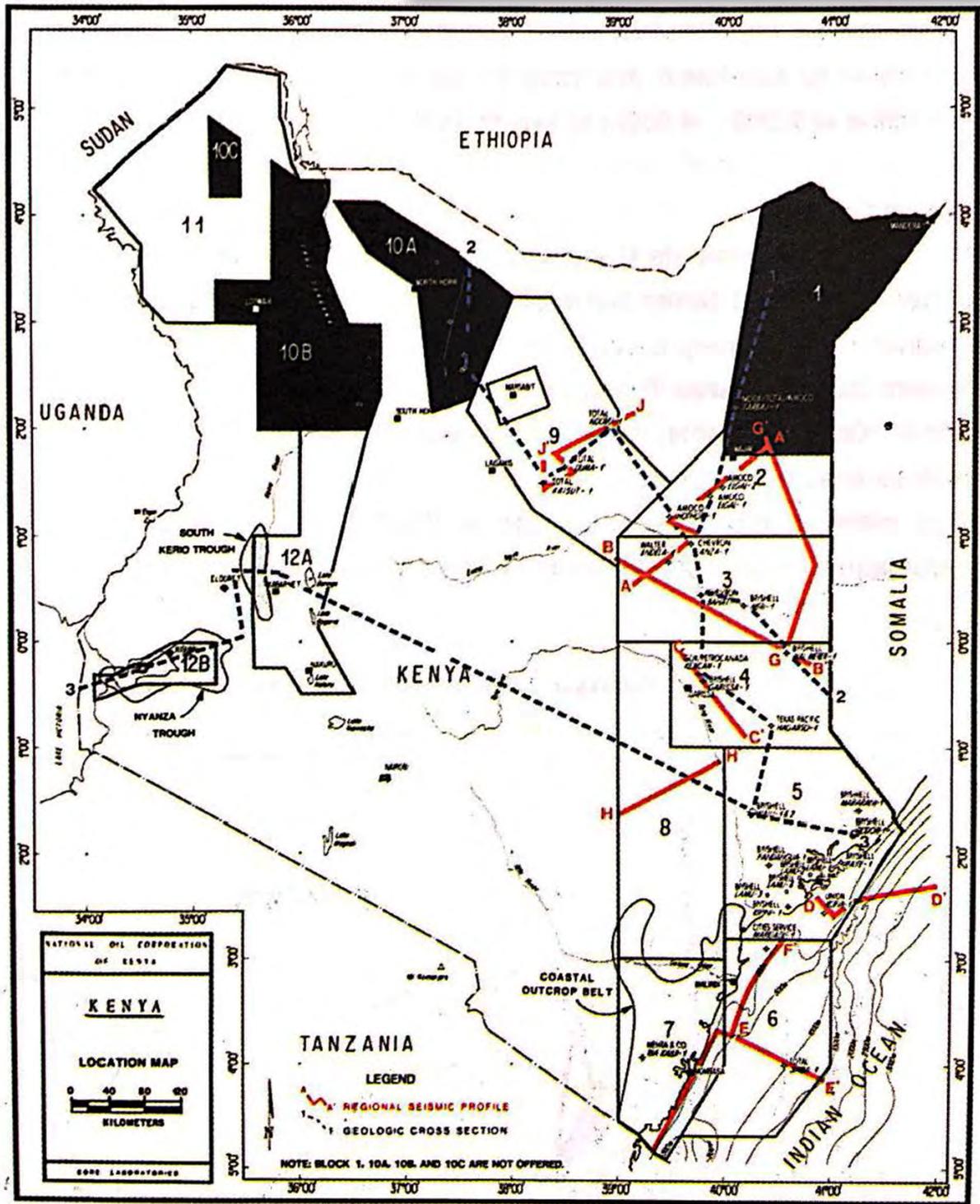
NEW EXPLORATION BLOCKS AND LOCATION OF WELLS IN THE LAMU BASIN



Source: Map published by the National Oil Corporation of Kenya (1995).

Figure R2.5

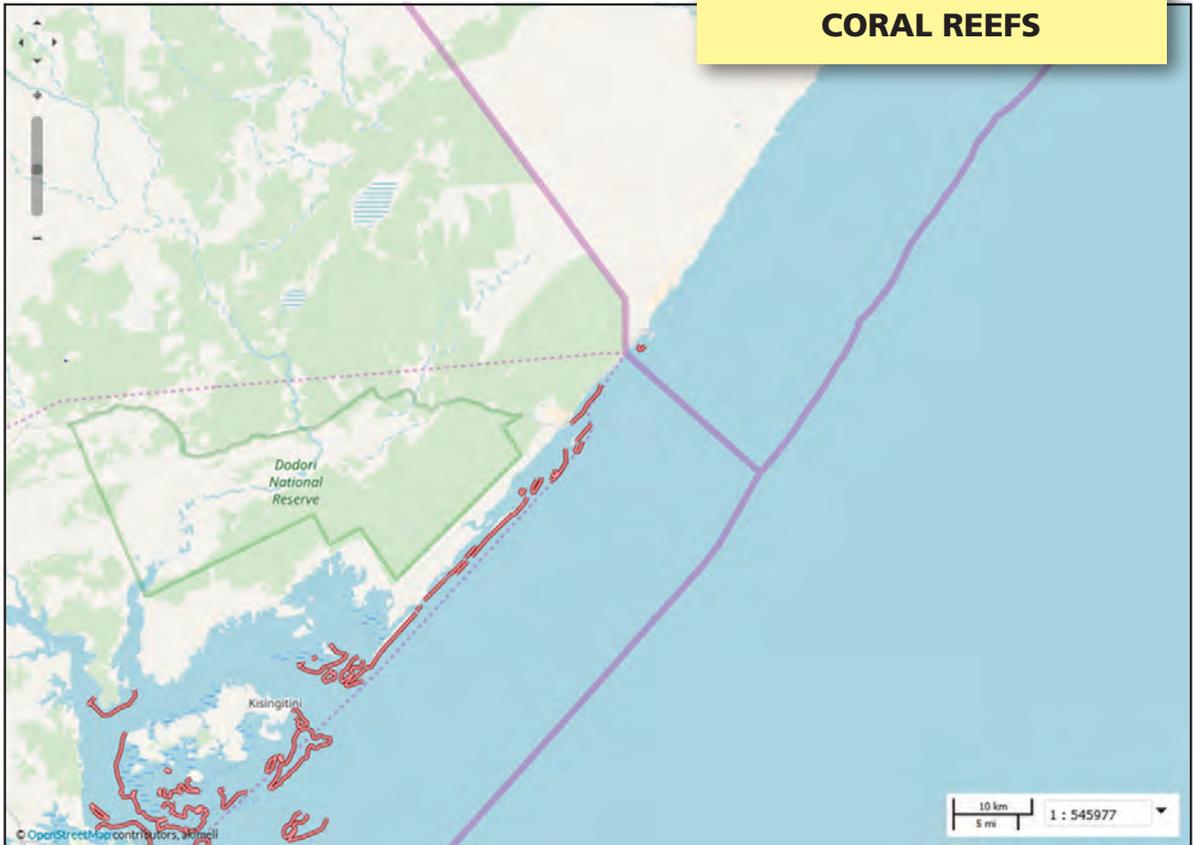
NATIONAL OIL CORPORATION OF KENYA LOCATION MAP



Source: Survey of Kenya National Atlas, pg. 69 (2003).

Figure R2.6

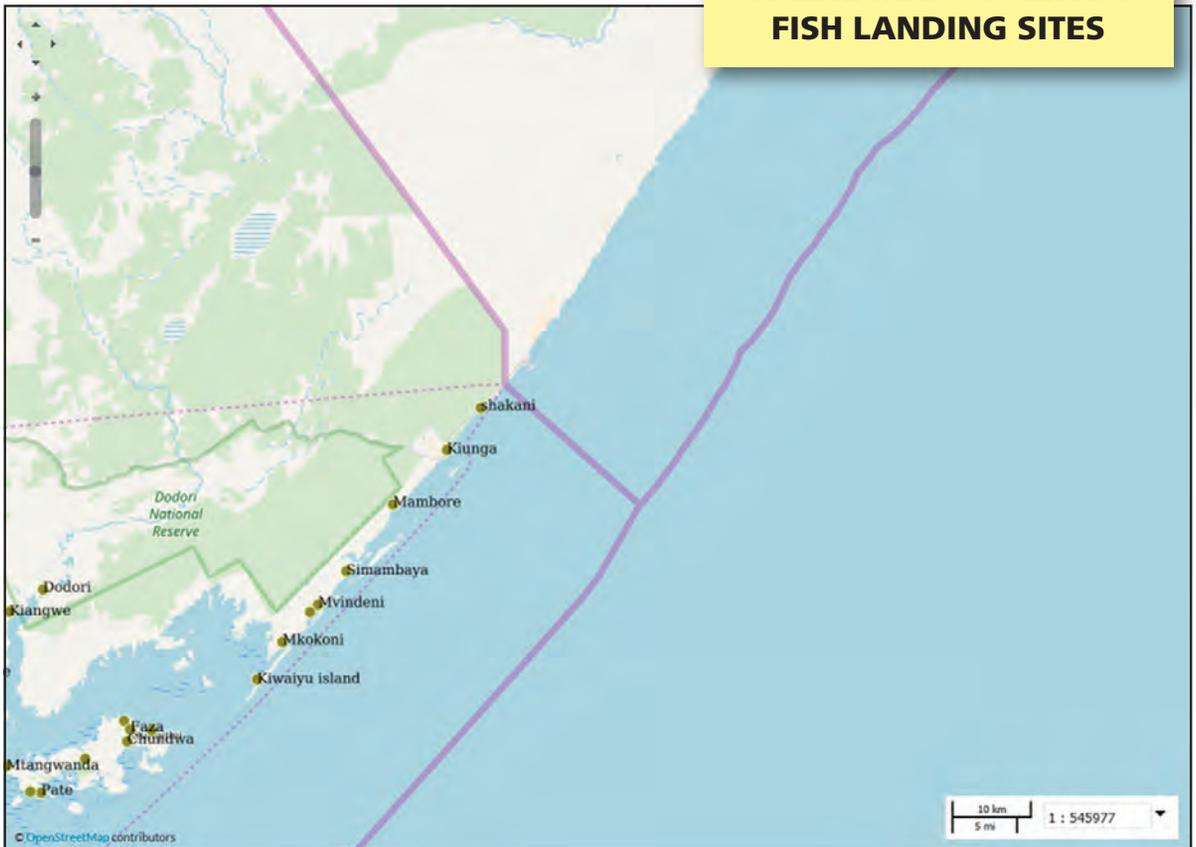
ON-LINE MAP OF KENYAN CORAL REEFS



Source: Kenyan Marine & Fisheries Research Institute website (2018).
(<http://icbims.kmfri.co.ke/maps/221/view>)

Figure R2.7

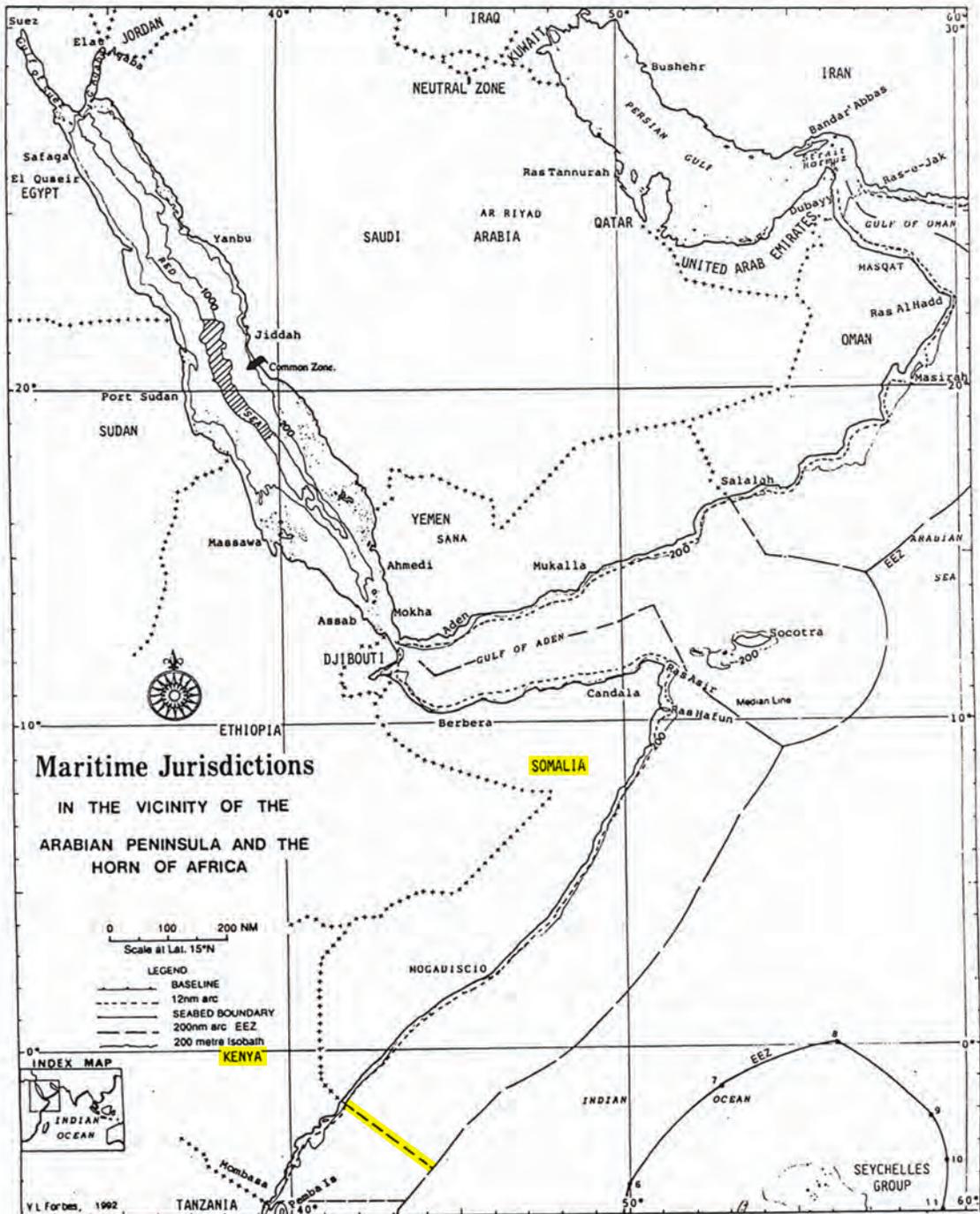
**ON-LINE MAP OF KENYAN
FISH LANDING SITES**



Source: Kenyan Marine & Fisheries Research Institute website (2018).
(<http://icbims.kmfri.co.ke/maps/231/view>)

Figure R2.8

**MARITIME JURISDICTIONS
IN THE VICINITY OF THE ARABIAN PENINSULA
AND THE HORN OF AFRICA**

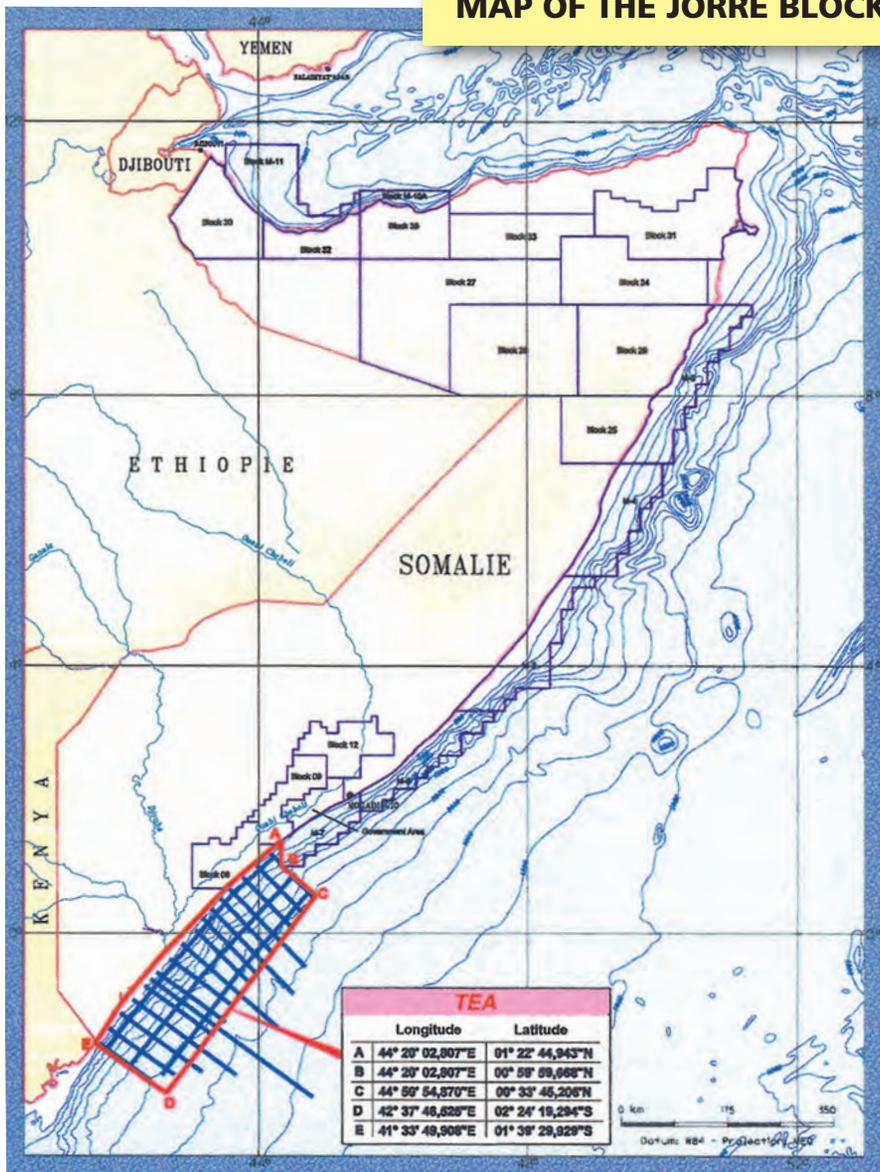


Note: Highlighting added for legibility

Source: The Maritime Boundaries of the Indian Ocean Region, pg. 159 (1992).

Figure R2.9

MAP OF THE JORRE BLOCK



Source: Map from presentation delivered by TotalFinaElf to the Government of Somalia (2001).

Figure R2.10

**THE PARTIES' PROPOSED LOCATION OF
BP29 PLOTTED ON GOOGLE EARTH IMAGERY:
2010**

Kenya's location of BP 29

Somalia's location of BP 29

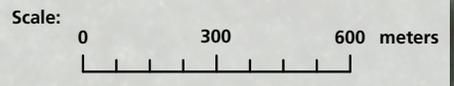


Figure R3.1A

**UNANNOTATED VERSION OF
GOOGLE EARTH IMAGERY:
2010**



Figure R3.1B

**THE PARTIES' PROPOSED LOCATION OF
BP29 PLOTTED ON DIGITAL GLOBE IMAGERY
(Date Unknown)**

Kenya's location of BP 29

Somalia's location of BP 29

Scale: 0 300 600 meters

Figure R3.2A

**UNANNOTATED VERSION OF
DIGITAL GLOBE IMAGERY
(Date Unknown)**

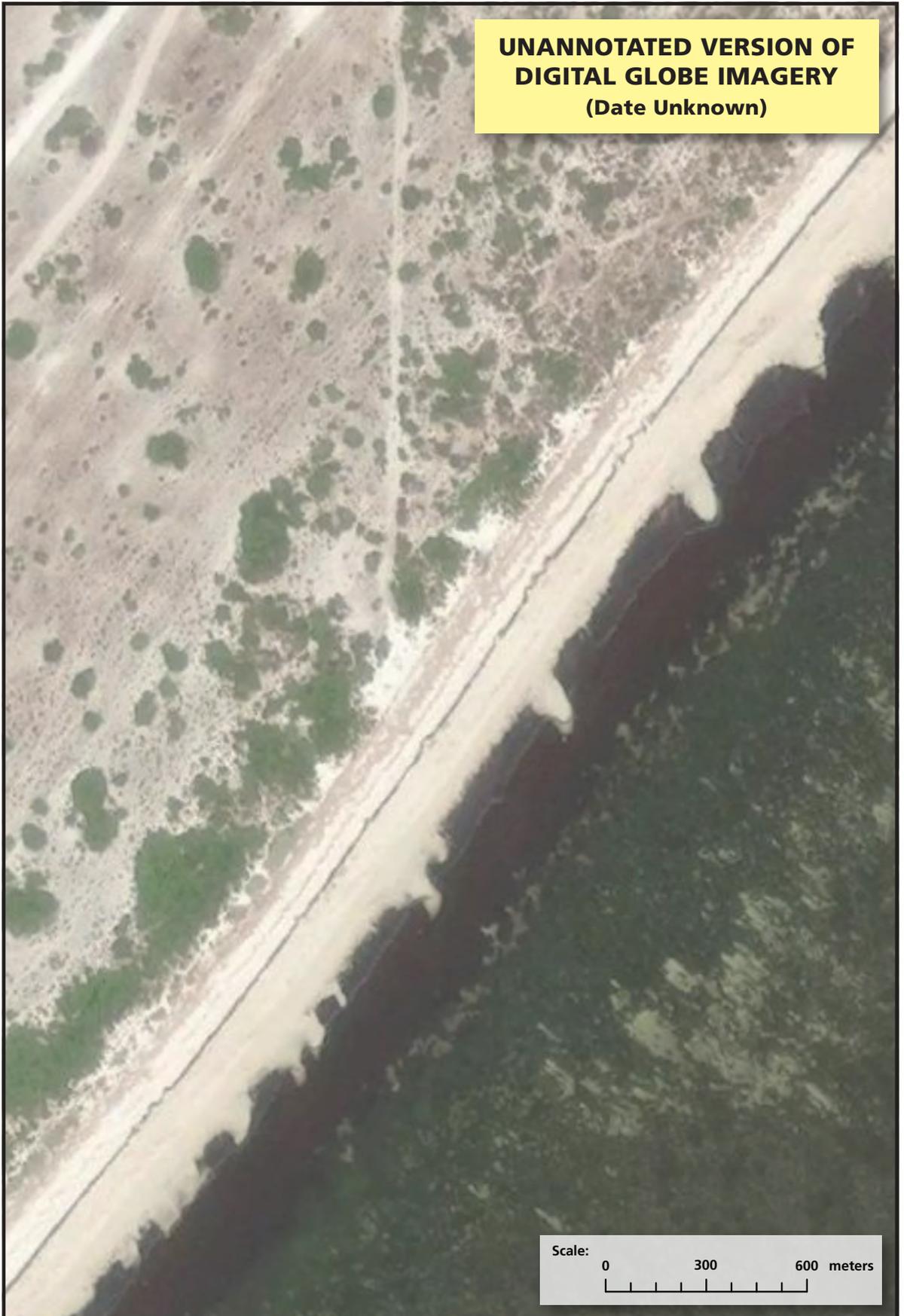
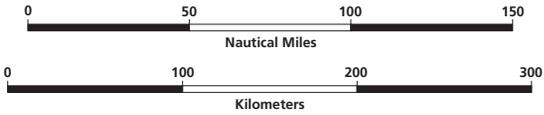


Figure R3.2B

THE EQUIDISTANCE LINE

Mercator Projection
WGS-84 Datum
(Scale accurate at 2°S)



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Prepared by: International Mapping

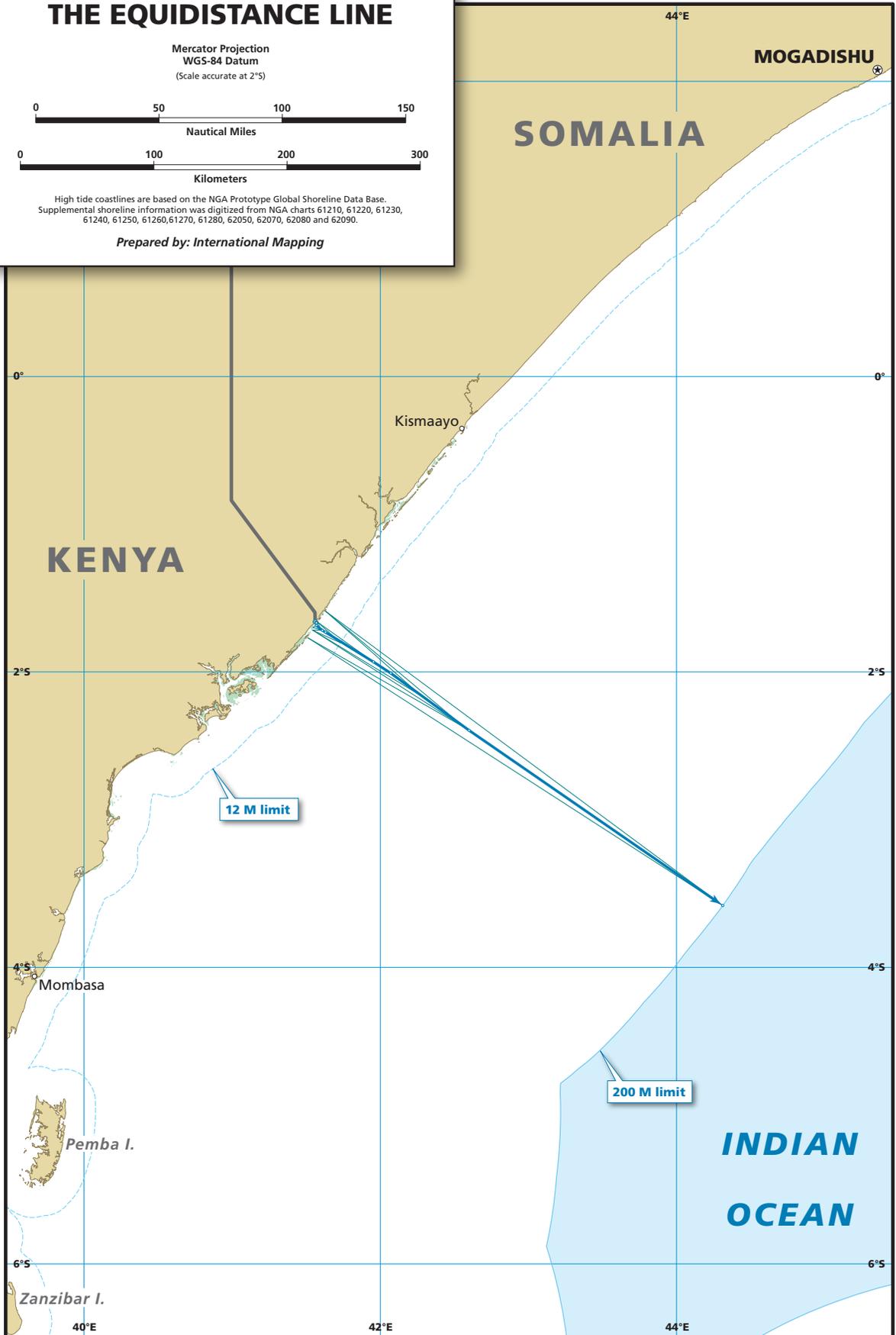
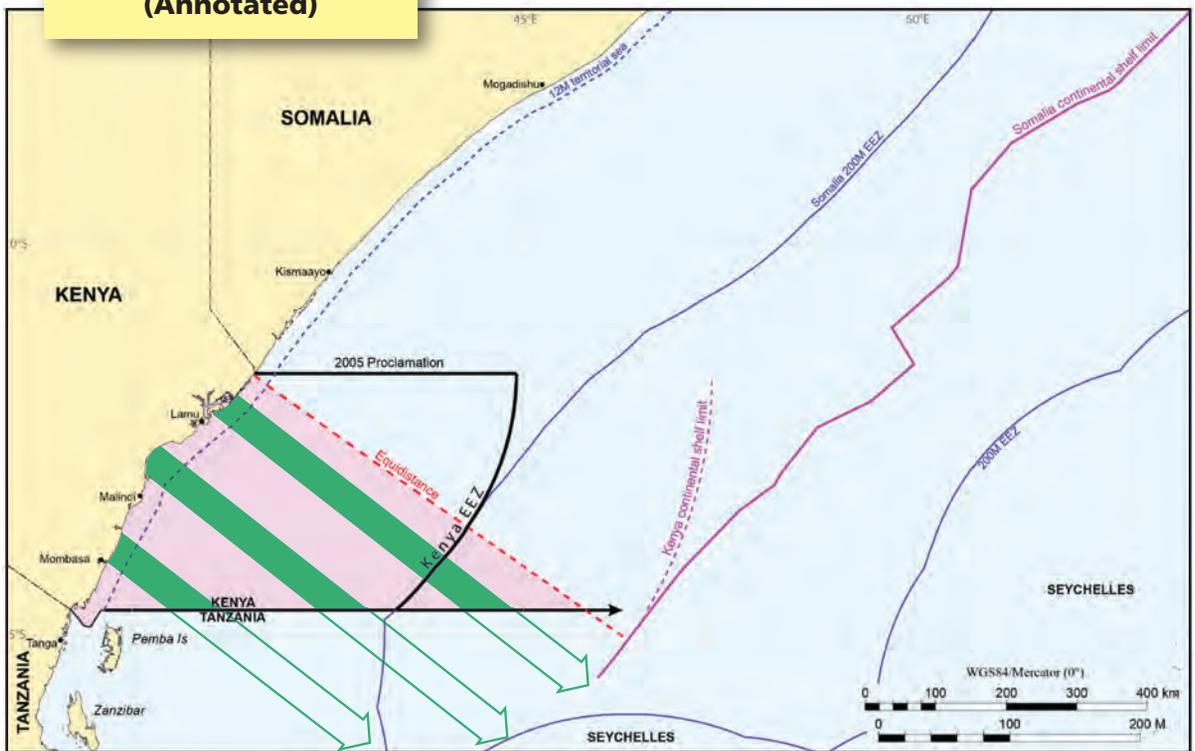


Figure R3.3

**KENYA'S FIGURE 3.1
(Annotated)**



Source: Kenya Counter-Memorial, pg. 147.

Figure R3.4

**MAP 12 FROM THE AWARD IN
BANGLADESH / INDIA
(Annotated)**

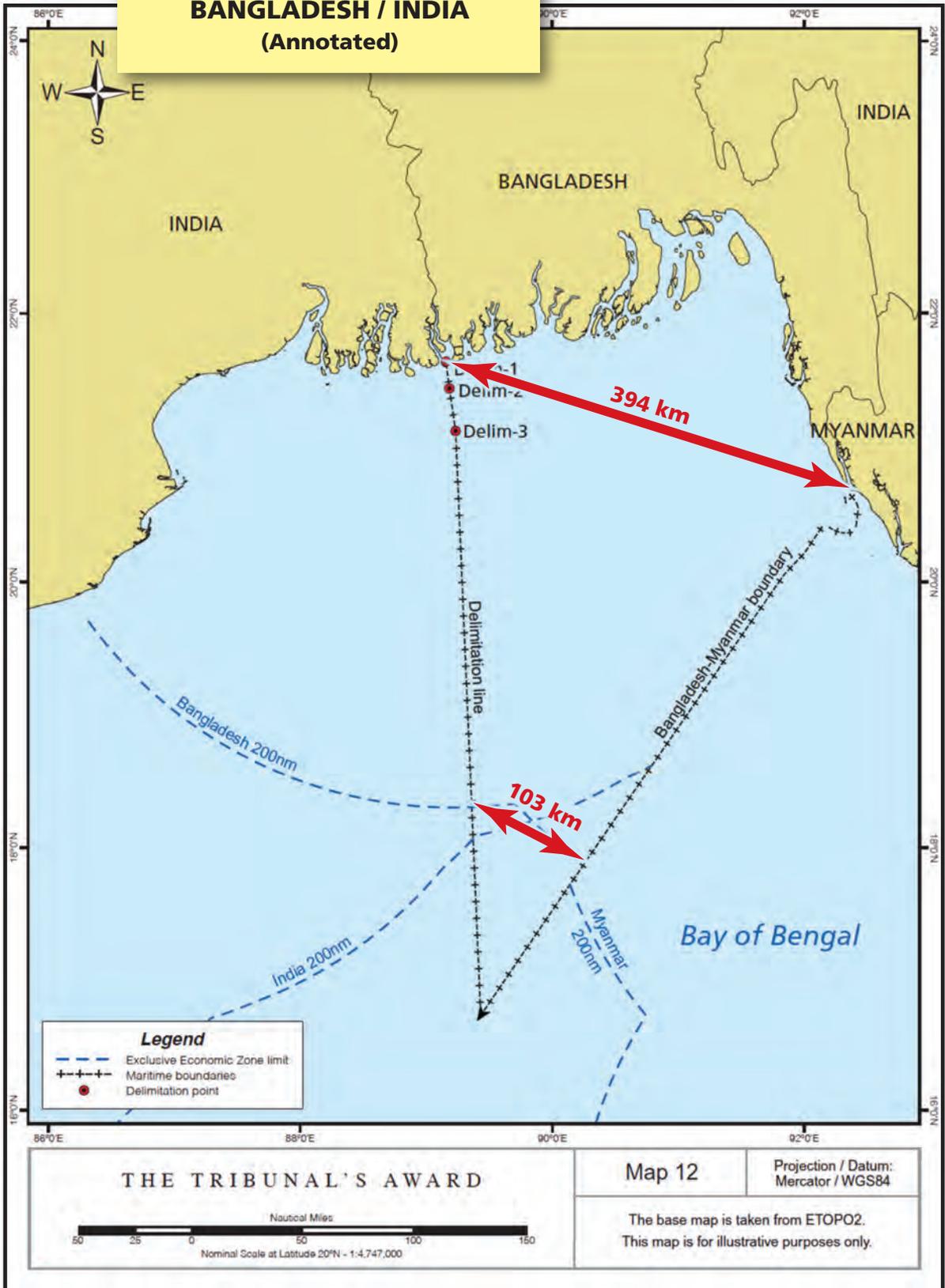
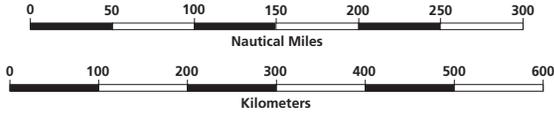


Figure R3.5

ANY CUTOFF KENYA SUFFERS IS THE RESULT OF ITS AGREEMENT WITH TANZANIA

Mercator Projection
WGS-84 Datum
(Scale accurate at 2°S)



High tide coastlines are based on the NGA Prototype Global Shoreline Data Base. Supplemental shoreline information was digitized from NGA charts 61210, 61220, 61230, 61240, 61250, 61260, 61270, 61280, 62050, 62070, 62080 and 62090.

Prepared by: International Mapping

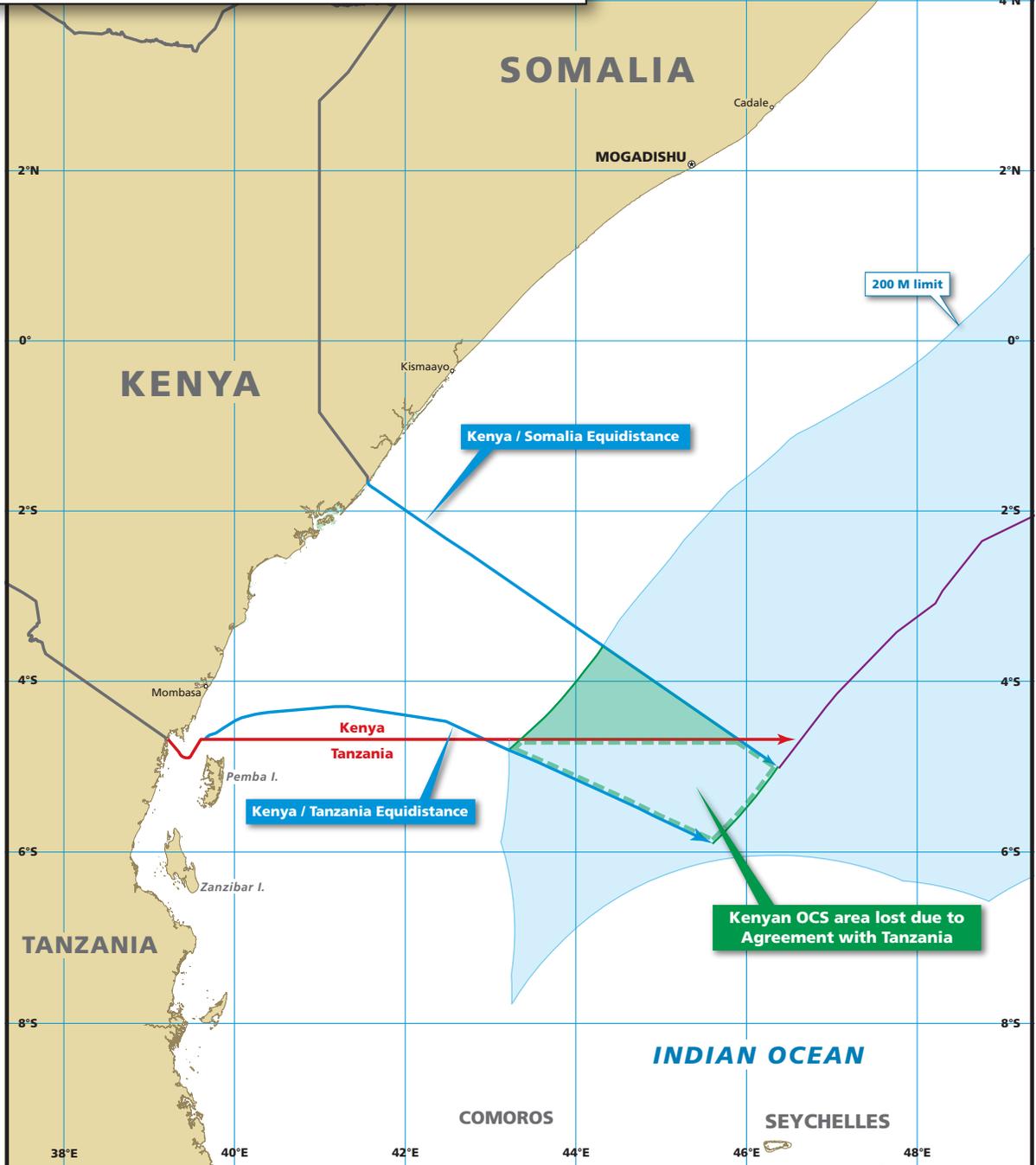
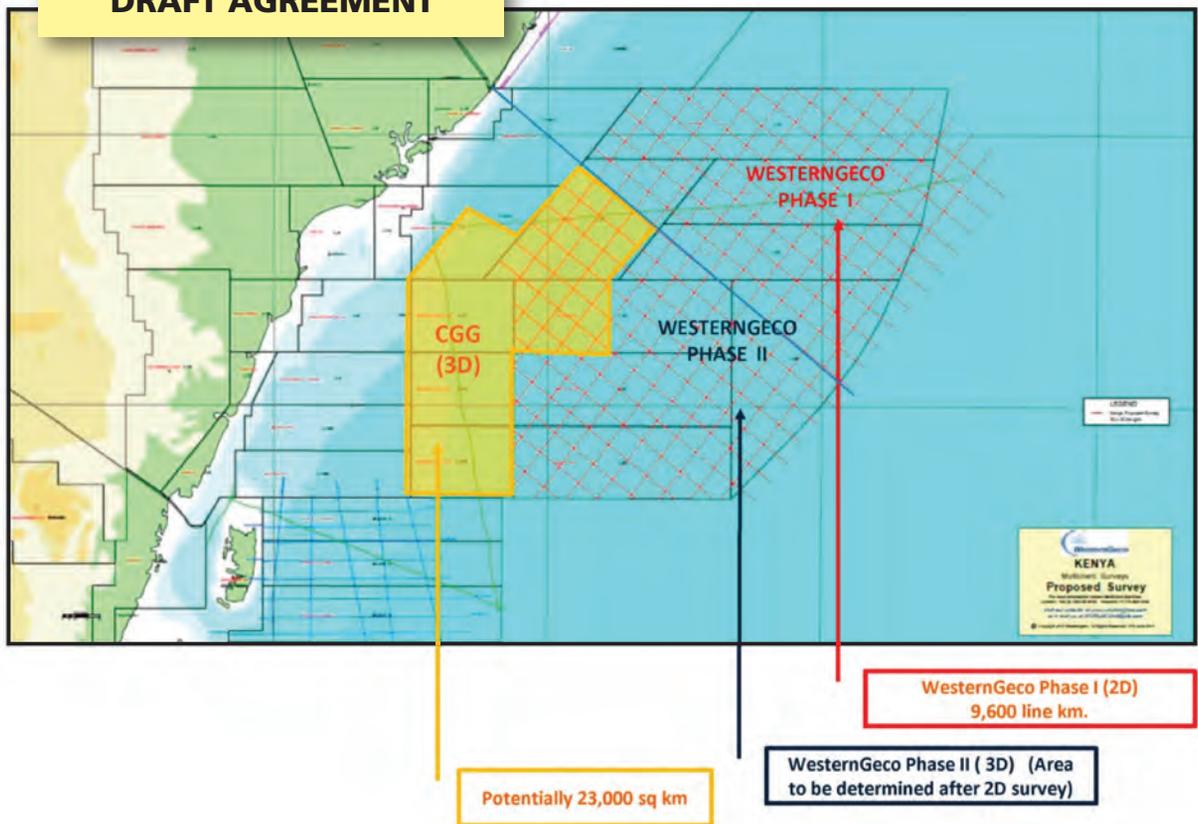


Figure R3.6

NOCK / WESTERN GECO DRAFT AGREEMENT



Source: Map from Appendix 1 of the 2013 Draft Agreement between NOCK and Western Geco (2013).

Figure R4.1

ANNEXES

Annex 1

Republic of Kenya, *Fisheries Act* (25 Aug. 1989), *reprinted in* LAWS OF KENYA, Chapter 378
(rev. ed. 2012)



LAWS OF KENYA

FISHERIES ACT

CHAPTER 378

Revised Edition 2012 [1991]

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www.kenyalaw.org

CHAPTER 378**FISHERIES ACT**

ARRANGEMENT OF SECTIONS

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2. Interpretation.

PART II – ADMINISTRATION

3. Director.
4. Fisheries development measures.
5. Fisheries management measures.
6. Limitation of fishing.

PART III – REGISTRATION OF FISHING VESSELS

7. Registration of fishing vessels.

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8. General licensing provisions.

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9. Local fishing vessel licence.
10. Validity of local fishing vessel licence.

Licensing of Foreign Fishing Vessels

11. Fishing and entry into Kenya fishery waters by foreign fishing vessels.
12. Issue of foreign fishing vessel licence.
13. Validity of foreign fishing vessel licence.

Other Licences

14. Other Licences.

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17. Obstruction of officers.
18. Powers of officers.
19. Forfeiture.
20. Compounding of offences.

PART VI – GENERAL PROVISIONS

21. Power to act as public prosecutor.
22. Marine mammals.

Section

23. Minister's power to make regulations.
 24. Schemes of loans to fishermen.
 25. Repeal of Cap. 378, Cap. 379, Cap. 380 and revocation of Groups 20 and 21 of United Kingdom Orders-in-Council applied to Kenya.
 26. Replacement of section 278B of Cap 63.
-

CHAPTER 378

FISHERIES ACT

[Date of assent: 23rd August, 1989.]

[Date of commencement: 25th August, 1989.]

An Act of Parliament to provide for the development, management, exploitation, utilization and conservation of fisheries and for connected purposes

[Act No. 5 of 1989.]

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Fisheries Act.

2. Interpretation

In this Act, unless the context otherwise requires—

“**authorized officer**” means a fisheries officer, a police officer of or above the rank of inspector, an officer of the Kenya Navy or other armed force or a person appointed by the Minister, by notice in the *Gazette*, to be an authorized officer for the purposes of this Act;

“**dealing in fish**” means collecting, transporting, storing, trans-shipping, exposing or offering fish or fish products for purposes of trade;

“**Director**” means person appointed to the office in the public service of Director of Fisheries;

“**fish**” means any aquatic animal, whether alive or dead, and includes any part, and the spat, brood, fry, spawn, ova and young thereof;

“**Fisheries Officer**” means the Director and any person in the public service of or above the rank of Assistant Fisheries Officer;

“**fishing**” means fishing for, catching, taking or killing fish, by any method;

“**fishing gear**” means any instrument, equipment, net, cork, buoy or other article including part thereof used for purposes of fish finding, congregating fish or fishing;

“**fishing operations**” includes fishing, supply of provisions to the fishing vessels and the handling and processing of fish up to the time it is first landed;

“**fishing port**” means a place on a lake shore or sea front where fishing vessels may resort for shelter, servicing, loading and off-loading of fish and fishing equipment;

“**fish processing**” means any action (including icing, freezing and canning) taken to alter the shape, appearance or form of fish from that in which the fish is when first taken from its natural habitat;

“**fish product**” means any product or part thereof (including oil) obtained by fish processing and intended for use as human food, animal feed or raw material ingredient in the manufacture of other commodities of commercial or ornamental value;

“**fishing vessel**” means any vessel or craft used in fishing operations including sport fishing;

“**foreign fishing vessel**” means any fishing vessel other than a local fishing vessel;

“**Kenya fishery waters**” means the inland waters and the waters of the maritime zones described in the Maritime Zones Act (Cap. 371) and for the purposes of this Act excludes Government fish ponds and fish farms and any private fish ponds or fish farms not established for commercial purposes;

“**local fishing vessel**” means a fishing vessel which is—

- (a) wholly owned by a person or persons who are citizens of Kenya;
- (b) wholly owned by the Government of Kenya;
- (c) wholly owned by any company, society or other association of persons established under the laws of Kenya and of which at least fifty-one percent of the voting shares are owned by the Government or citizens of Kenya; or
- (d) wholly owned and crewed by residents of Kenya or by other persons recognized by the Director by notice in the *Gazette* as persons who traditionally fish in Kenya fishery waters and which meets such other conditions as the Minister may by regulations prescribe.

PART II – ADMINISTRATION

3. Director

(1) The Director shall, subject to the directions of the Minister, be responsible for the administration of this Act.

(2) The Director may, in writing, delegate the exercise of any of the powers and functions conferred upon him by this Act to such authorized officers as he may think fit.

4. Fisheries development measures

The Director shall, in co-operation with other appropriate agencies and other departments of Government, promote the development of traditional and industrial fisheries, fish culture and related industries through such measures as—

- (a) providing extension and training services;
- (b) conducting research and surveys;
- (c) promoting co-operation among fishermen;
- (d) promoting arrangements for the orderly marketing of fish;
- (e) providing infrastructure facilities; and
- (f) stocking waters with fish and supplying fish for stocking.

5. Fisheries management measures

(1) The Director may with the approval of the Minister, by notice in the *Gazette*, impose any of the following measures that are necessary for the proper management of any fishery—

- (a) closed seasons for designated areas, species of fish or methods of fishing;
- (b) prohibited fishing areas for all or designated species of fish or methods of fishing;
- (c) limitations on the methods of gear, including mesh sizes of nets, that may be used for fishing;
- (d) limitations on the amount, size, age and other characteristics and species or composition of species, of fish that may be caught, landed or traded;
- (e) regulate the landing of fish and provide for the management of fish landing areas; and
- (f) control of the introduction into, or harvesting or removal from, any Kenya fishery waters of any aquatic plant.

(2) Where the use of any gear is prohibited in any area, the Director may also, by notice in the *Gazette*, prohibit the possession of the gear in that area.

(3) Any person who contravenes the provisions of a notice issued under this section shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

6. Limitation of fishing

(1) Where proper management of fisheries requires limitation of the number of persons or of vessels, nets or areas or other means employed in a fishery, the Director may by notice in the *Gazette* limit such means and the limitation may include—

- (a) refusal to issue or renew licences;
- (b) imposition of special licence and catch fees;
- (c) preferential licensing in other fisheries.

(2) A party aggrieved by the action taken by the Director under subsection (1) may in writing appeal to the Minister whose decision shall be final.

PART III – REGISTRATION OF FISHING VESSELS**7. Registration of fishing vessels**

(1) No person shall use any vessel for fishing in Kenya's fishery waters unless there is in force in relation to the vessel a valid certificate of registration.

(2) A certificate of registration in the prescribed form may on application and on payment of the prescribed fee be issued by an authorized officer to the owner of the vessel.

(3) Every vessel in respect of which a certificate of registration is issued under this Act shall be marked in such manner as the Director may require.

(4) The Director shall cause to be kept a register of all vessels registered under this Act.

(5) Any person who uses any vessel for fishing in Kenya fishery waters without a valid certificate of registration for that vessel shall be guilty of an offence.

(6) Any person who is guilty of an offence under this section shall be liable—

- (a) in the case of a first conviction, to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding six months or to both; and
- (b) in the case of a second conviction, to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

PART IV – LICENSING PROVISIONS

General Licensing Provisions

8. General licensing provisions

(1) Without prejudice to any regulations made under this Act, no person other than persons fishing for their own consumption, shall catch or assist in catching fish in Kenya fishery waters otherwise than under and in accordance with the terms and conditions of a valid licence issued to him under this Act:

Provided that the Minister may by order published in the *Gazette* determine the quantity of fish which may be deemed to be fish for own consumption under this section, and different orders may be made for different areas of Kenya.

(2) Subsection (1) shall not apply to a person employed by a licensee, or, subject to section 23 of the Penal Code (Cap. 63), to a company which is a licensee, in respect of any act done by the person or company as licensee.

(3) Each licence issued under this Act shall be valid for such species of fish, type of fishing gear, method of fishing and area as may be specified in the licence.

(4) It shall be a general condition of any licence issued under this Act or regulations made thereunder that the licensee shall comply with such requirements as the Director may establish concerning the making of statistical returns and the collection of information.

(5) Any person who catches fish in Kenya fishery waters without a licence, or in contravention of the conditions imposed on a licence, issued under this Act shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding two years or to both.

Licensing of Local Fishing Vessels

9. Local fishing vessel licence

(1) An application for a licence for a local fishing vessel shall be made in the prescribed form to the fisheries officer designated by the Director to receive that application or applications of that description, or, if no such officer has been designated, the Director.

(2) Upon receipt of an application under subsection (1) and on payment of the prescribed fee, a fisheries officer shall, subject to any licensing instructions of the Director, issue a licence for the local fishing vessel.

(3) A licence issued under this section shall be subject to such conditions as may be prescribed by or under this Act or as may be endorsed upon the licence by the issuing officer.

(4) The master and owner of a local fishing vessel which any person uses or attempts to use in fishing or any fishing operation without a licence issued under this section, shall each be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

(5) The master and owner of a local fishing vessel whose licence conditions under this section are contravened shall each be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

10. Validity of local fishing vessel licence

(1) A local fishing vessel licence shall, unless earlier revoked or suspended, expire on the 31st December of the year in which it is issued and shall cease to be valid at any time that the vessel ceases to be a local fishing vessel.

(2) The Director may revoke or suspend a licence in respect of a local fishing vessel at any time before it expires if the holder of the licence is convicted of any offence under this Act or if in the judgement of the Director the action is necessary for the proper management of fisheries.

Licensing of Foreign Fishing Vessels

11. Fishing and entry into Kenya fishery waters by foreign fishing vessels

(1) No foreign fishing vessel shall fish, attempt to fish or participate in fishing operations in Kenya fishery waters without a licence issued under section 12.

(2) Where any foreign fishing vessel enters Kenya fishery waters without a licence issued under section 12, the fishing gear or the vessel shall, at all times while it is in such waters, be kept stowed in the prescribed manner.

(3) Where any foreign fishing vessel is used in Kenya fishery waters contrary to this section, the master and owner of the vessel shall each be guilty of an offence and liable to a fine of not less than fifty thousand shillings and not exceeding five hundred thousand shillings or to imprisonment for a period of not less than six months and not more than two years or to both.

12. Issue of foreign fishing vessel licence

(1) An application for a licence for a foreign fishing vessel shall be submitted to the Director in the prescribed form.

(2) The Director may issue a foreign fishing vessel licence if—

- (a) he has determined that there are fishery resources surplus to the Kenya fishing industry which may be harvested under the licence; and

- (b) he has determined the quantity of the surplus that may be harvested and indicates that quantity as a condition of the licence.

(3) A foreign fishing vessel licence shall be subject to a condition requiring it to comply with any management measures that may be in force from time to time under sections 4 and 5 and to the payment of prescribed fees, royalties or charges.

13. Validity of foreign fishing vessel licence

(1) A foreign fishing vessel licence shall, unless earlier revoked or suspended, be valid for such period as the Director may specify.

(2) The Director may revoke or suspend a foreign fishing vessel licence at any time—

- (a) for failure to comply with the provisions of this Act, regulations or management measures thereunder, or any condition of the licence; or
(b) where he is satisfied that such action is necessary for the proper management of fisheries.

(3) If a licence is revoked or suspended under this section for the proper management of fisheries, the proportion of any fees paid for the unexpired term of the licence shall be refunded to the licensee.

(4) A party aggrieved by the suspension of a licence under subsection (2) may appeal in writing to the Minister whose decision shall be final.

Other Licences

14. Other Licences

(1) The Minister may, in addition to licences for fishing vessels, make regulations requiring a licence for any fishery activities including sport fishing or the use of any gear or method of fishing with or without the use of a vessel, or fish processing or dealing in fish.

(2) Any person who engages in any activity for which a licence is required by section (1) otherwise than under the authority of such a licence, shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

PART V – OFFENCES AND ENFORCEMENT

15. Prohibited methods of fishing

Any person who uses any explosives, poisonous or noxious substances or electric shock device for the purpose of killing, stunning, or disabling fish so as to render them more easily caught shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

16. Receiving fish in respect of which offence has been committed

Any person who for purposes of trade and commerce receives or retains any fish knowing or having reason to believe that an offence under this Act has been

committed in respect of that fish shall be guilty of an offence and liable to a fine of not less than five thousand shillings and not exceeding five hundred thousand shillings or to imprisonment for a term of not less than six months and not more than two years or to both.

17. Obstruction of officers

Any person who—

- (a) wilfully obstructs any authorized officer in the exercise of any of the powers conferred on him by this Act; or
- (b) fails to comply with any lawful enquiry or requirement made by any authorized officer under section 18,

shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

18. Powers of officers

(1) For the purpose of enforcing this Act and any regulations made thereunder, any authorized officer may, without a warrant—

- (a) stop and board any fishing vessel in Kenya fishery waters, and any local vessel outside such waters, and he may inspect such vessel, its cargo, supplies, fishing gear and equipment;
- (b) stop and inspect any vehicle or vessel transporting fish;
- (c) require to be produced, examine and take copies of any licence, log or other document required under this Act or regulations made thereunder;
- (d) require to be produced and examine any fish, net or any other fishing gear; or
- (e) impound any fish to be taken as samples and issue a receipt in the prescribed form.

(2) An authorized officer may, if he believes that an offence has been committed under this Act or regulations made thereunder, without a warrant—

- (a) enter any premises which he has reason to believe have been used in the commission of the offence, or in respect of which the offence has been committed;
- (b) arrest any person whom he has reason to believe has committed the offence; or
- (c) seize any fish, fishing gear, vessel, vehicle or other article which he has reason to believe has been used in the commission of the offence, or in respect of which the offence has been committed.

(3) Any person arrested under this section shall be brought before a court as soon as reasonably practicable.

(4) A fisheries officer who seizes anything under this section shall, at the time of the seizure, issue to the person in whose custody or possession it then is a written receipt for the thing seized.

(5) Anything seized under this section where practicable, be brought before a court, and except where otherwise provided by this Act, shall be dealt with according to the Criminal Procedure Code (Cap. 75).

(6) Where any fish or other article seized under this section is of a perishable nature, an authorized officer may dispose of it by sale or otherwise and any proceeds shall be held in place of the article disposed of.

(7) Any local fishing vessel or vehicle or fishing gear seized under this section may upon application to the court and subject to the deposit in court of adequate bond or other security for the reasonable value thereof, be released to the person entitled thereto.

19. Forfeiture

A court which convicts any person of an offence under this Act may, in addition to any penalty otherwise imposed—

- (a) order anything other than immovable assets used in connection with the offence, including any vessel so used together with its fishing gear, stores and cargo, as well as anything in respect of which the offence has been committed to be forfeited; or
- (b) order all fish found on board any vessel or vehicle used in connection with the offence to be forfeited, except that any fish that are proved not to have been caught in the commission of an offence shall not be forfeited.

20. Compounding of offences

(1) The Director may, with the approval of the Minister, if he is satisfied that a person has committed an offence under this Act and if the person admits the commission of the offence and agrees in writing to its being dealt with under this section—

- (a) compound the offence by accepting a sum of money not exceeding the maximum fine specified for the offence; and
- (b) order the release of any vessel or any other thing seized in connection with the offence on payment of a sum of money not exceeding the value of the vessel or other thing.

(2) Any sum of money received under this section shall be dealt with as if it were a fine imposed by the court.

(3) If proceedings are brought against any person for an offence under this Act, it shall be a good defence if the person proves that he has compounded the offence under this section.

PART VI – GENERAL PROVISIONS

21. Power to act as public prosecutor

Any authorised officer may, subject to the direction of the Attorney-General, conduct any prosecution for any offence under this Act or the regulations made thereunder and shall for that purpose have all the powers conferred upon a public prosecutor by the Criminal Procedure Code (Cap. 75).

22. Marine mammals

(1) No person or vessel in Kenya fishery waters shall, without the prior written authority of the Minister, fish for marine mammals or use a port in Kenya for the purpose of equipping or supplying a vessel intended to be used for fishing for marine mammals.

(2) Where any vessel is used in contravention of subsection (1), the master and owner thereof shall each be guilty of an offence and liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.

23. Minister's power to make regulations

(1) The Minister may make regulations for the better carrying into effect of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations for any or all of the following purposes—

- (a) presenting the conditions to be fulfilled by foreign participation in fisheries, including conditions of licensing foreign fishing vessels;
- (b) establishing the conditions of issue of, and procedures of application for, any licence or other authority under this Act or regulations thereunder, the form and the fees payable therefor;
- (c) prescribing the conditions of issue of, and procedures of application for, any licence or other authority under this Act or regulations thereunder, the form and the fees payable therefor;
- (d) regulating the handling, storage and processing of fish by prescribed methods of handling, storage and processing of fish;
- (e) providing for inspection of fish trading and processing establishments and fish products in accordance with established standards;
- (f) management and control of fishing ports and waters;
- (g) for licensing of any person to engage in any form of fishing, or of handling, transporting, processing or selling of fish products;
- (h) organizing and regulating the marketing and distribution of fish;
- (i) providing for the registration of private marks to be used to distinguish the ownership of fishing gear;
- (j) prohibiting or control the importation, exportation and introduction into Kenya of live fish of any kind or species;
- (k) promoting and regulate or control the cultivation of live fish of any kind or species;
- (l) exempting any type of fishing gear or vessel or any person from any provision of this Act.

(3) Regulations made under this section may provide that the contravention of any provision shall constitute an offence and may prescribe penalties for any offence of a fine not exceeding five hundred thousand shillings or imprisonment for a term not exceeding two years or to both.

24. Schemes of loans to fishermen

(1) For the purpose of promoting modern fishing methods, the Minister may prepare a scheme, with approval of the Treasury, providing for financial assistance by way of loans to fishermen and fish farmers in respect of expenditure incurred in the acquisition of fishing vessels or their gear, fishing nets and other equipment, development of fish farms or purchase of inputs, and may provide financial assistance in accordance with the scheme upon the conditions contained in the scheme.

(2) An approved scheme shall be published in such manner as the Minister thinks fit, and may be varied or revoked by him at any time.

(3) For the purpose of administering an approved scheme, the Minister may appoint one or more loans committees, and confer upon them such functions as he thinks necessary or expedient for that purpose.

(4) The Minister may give to a loans committee directions of a general or special character as to the exercise and performance of its functions (including its procedure), and the loans committee shall give effect to any such directions.

(5) Where the Minister has, with the approval of the Treasury, prepared a scheme of the kind described in subsection (1) which is in force immediately before the commencement of this Act and has appointed a committee to administer it, that scheme shall upon such commencement, be deemed to be an approved scheme, and the committee shall be deemed to be a loans committee.

(6) The Minister may, with the consent of the Treasury—

- (a) make to a loans committee such grants as may be necessary to enable it to discharge its functions under this Act;
- (b) pay to the members of a loans committee (other than a member who is a public officer in receipt of a salary) such remuneration and travelling and other allowances as he may, with the approval of the Treasury, determine;
- (c) make such other payment as may be necessary to give effect to the provisions of this section.

25. Repeal of Cap. 378, Cap. 379, Cap. 380 and revocation of Groups 20 and 21 of United Kingdom Orders-in-Council applied to Kenya

The Fish Industry Act, the Government Fisheries Protection Act and the Trout Act are repealed, and the Seal Fisheries (Crown Colonies and Protectorates) Orders in Council, 1913 and Whaling Industry (Regulation) Act (Newfoundland, Colonies, Protectorates and Mandated Territories) Order, 1936 and the Whaling Industry (Regulation) Act (Newfoundland, Colonies, Protectorates and Mandated Territories) Order, 1941 are revoked in so far as they apply to Kenya.

26. Replacement of section 278B of Cap 63

Section 278B of the Penal Code is repealed and replaced by the following new section—

278B. Stealing fishing gear

[Rev. 2012]**CAP. 378***Fisheries*

If the thing stolen is fishing gear within the meaning of the Fisheries Act, 1988, the offender is liable to imprisonment for five years together with corporal punishment.

Annex 2

Republic of Kenya, *Coast Development Authority Act* (18 Jan. 1990), *reprinted in* LAWS OF KENYA, Chapter 449 (rev. ed. 2012)



THE REPUBLIC OF KENYA

LAWS OF KENYA

COAST DEVELOPMENT AUTHORITY ACT

CHAPTER 449

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CHAPTER 449

COAST DEVELOPMENT AUTHORITY ACT

ARRANGEMENT OF SECTIONS

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 16. Acquisition of land for the purposes of the Authority.
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CHAPTER 449**COAST DEVELOPMENT AUTHORITY ACT***[Date of assent: 14th January, 1991.]**[Date of commencement: 18th January, 1990.]*

An Act of Parliament to provide for the establishment of an Authority to plan and co-ordinate the implementation of development projects in whole of the Coast Province and the exclusive economic zone and for connected purposes

*[Act No. 20 of 1990.]***PART I – PRELIMINARY****1. Short title**

This Act may be cited as the Coast Development Authority Act, 1990.

2. Interpretation

In this Act, unless the context otherwise requires—

“**Area**” means the whole of the Coast Province;

“**Authority**” means the Coast Development Authority;

“**chairman**” means the person appointed as chairman of the Authority under paragraph (a) of subsection (1) of section 4;

“**development area**” means that part of the Coast Province within Lamu, Mombasa, Kilifi, Tana River, Kwale and Taita Taveta districts including the southern half of Garissa District and the exclusive economic zone;

“**exclusive economic zone**” means the exclusive economic zone of Kenya established and delimited by section 4 of the Maritime Zones Act 1989 (No. 6 of 1989);

“**managing director**” means the managing director appointed under section 10;

“**non-official members**” means the chairman and the members of the Authority appointed under paragraph (h) of section 4.

PART II – ESTABLISHMENT AND POWERS OF THE AUTHORITY**3. Establishment of the Authority**

There is hereby established an Authority which shall be a body corporate by the name of Coast Development Authority, with perpetual succession and a common seal, and which shall be capable in its corporate name of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging and disposing of movable and immovable property;
- (c) borrowing and lending money;
- (d) entering into contracts.

- (e) doing or performing all such other things or acts necessary for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate.

4. Membership of the Authority

- (1) The Authority shall consist of the following members—
 - (a) a chairman appointed by the President;
 - (b) the Permanent Secretary to the Ministry for the time being responsible for regional development or an officer of that Ministry designated by the Permanent Secretary in writing;
 - (c) the Permanent Secretary to the Ministry for the time being responsible for finance or an officer of that Ministry designated by The Permanent Secretary in writing;
 - (d) the Permanent Secretary to the Ministry for the time being responsible for agriculture or an officer of that Ministry designated by the Permanent Secretary in writing;
 - (e) the Permanent Secretary to the Ministry for the time being responsible for health or an officer of that Ministry designated by the Permanent Secretary in writing;
 - (f) the Permanent Secretary to the Ministry for the time being responsible for water development or an officer of that Ministry designated by the Permanent Secretary in writing;
 - (g) the Permanent Secretary to the Ministry for the time being responsible for tourism or an officer of that Ministry designated by the Permanent Secretary in writing;
 - (h) the Provincial Commissioner for the Coast Province;
 - (i) eight other members appointed by the Minister, in consultation with the President, all of whom shall be appointed from the area affected by the operations of the Authority; and
 - (j) The managing director appointed under section 10.
- (2) Subject to this section, the non-official members shall hold office for a period of three years from the dates of their respective appointments.
- (3) A retiring member shall be eligible for re-appointment.
- (4) If the Minister is satisfied that any of the non-official members—
 - (a) has been guilty of improper conduct considered to be inconsistent with his membership of the Authority; or
 - (b) is incapacitated by prolonged physical or mental illness from performing his duties as a member of the Authority; or
 - (c) is unable or unfit, for any other reason, to discharge the duties of his office,

and that it would be in the interest of the Authority so to do he may terminate the appointment of that member or in the case of the chairman recommend to the President that the appointment be terminated.

- (5) The office of a non-official member shall become vacant—
- (a) upon the expiry of his term of appointment; or
 - (b) upon the termination of his appointment under sub-section (4); or
 - (c) upon the expiry of one month, or such shorter period as may be mutually agreed, after the date upon which the Minister receives a written notice signed by the member of his intention to resign; or
 - (d) if he is absent without the permission of the Authority from three consecutive meetings of the Authority of which he had reasonable notice.

(6) The non-official members shall be paid by the Authority such remuneration and allowances as the Minister may from time to time determine in consultation with the State Corporation Advisory Committee.

5. Meetings and procedure of the Authority

(1) The Authority shall be convened by the chairman at least four times in every year.

(2) The Authority shall elect a vice-chairman from among its members.

(3) The chairman or in his absence the vice-chairman, may at any time convene a special meeting of the Authority, and shall do so within fourteen days of receipt by him of a written requisition signed by at least three members.

(4) The quorum necessary for the transaction of any business at a meeting of the Authority shall be two-thirds of the members inclusive of the person presiding, and all acts, matters or things authorized or required to be done by the Authority shall be effected by a resolution passed by a majority of the members present and voting at a meeting at which a quorum is present.

(5) The chairman, or in his absence the vice-chairman, shall preside at all meetings of the Authority, except that in the case of the absence of both the chairman and the vice-chairman the members present shall elect one of their number to preside at that particular meeting.

(6) At every meeting of the Authority the member presiding shall have a casting as well as a deliberative vote.

(7) Subject to subsection (4), no act, decision or proceedings of the Authority shall be questioned on account of any vacancy in the membership thereof or on account of any defect in the appointment of any of its members.

(8) Subject to this Act, and to any general or specific directions of the Minister, the Authority shall regulate its own procedure.

6. Seal and execution of documents

(1) The common seal of the Authority shall be authenticated by the signature of the managing director and such other person as may be generally or specifically authorized by the Authority.

(2) All documents, other than those required by law to be under seal, made by, and all decisions of, the Authority may be signed under the hand of the managing director.

7. Committees

The Authority may from time to time appoint such committees, whether of its own members or otherwise, as it may think necessary but no decision of any committee shall be effective unless it has been confirmed by the Authority.

8. Functions of the Authority

The functions of the Authority shall be—

- (a) to plan for the development of the Area and initiate project activities identified from such planning in the development and through the Government generally;
- (b) to develop an up-to-date long range development plan for the Area;
- (c) to initiate such studies, and carry out such surveys of the Area as may be considered necessary by the Government or the Authority, and to assess alternative demands within the Area on the natural resources thereof, and initiate, operate, or implement such projects as may be necessary to exploit those natural resources including agriculture (both irrigated and rainfed), forestry, wildlife and tourism industries, electric power generation, mining, and fishing, and to recommend economic priorities;
- (d) to co-ordinate the various studies of schemes within the Area such that human, water, animal, land and other resources are utilized to the best advantage and to monitor the design and execution of planned projects within the Area;
- (e) to effect a programme of both monitoring and evaluating the performance of projects within the Area so as to improve such performance and establish responsibility thereof, and to improve future planning;
- (f) to co-ordinate the present abstraction and use of natural resources, especially water, within the Area and to set up effective monitoring of abstraction and usage;
- (g) to cause and effect the construction of any works deemed necessary for the protection and utilization, of the water and soils of the Area including hydro-power development for multipurpose utilization of water resources;
- (h) to ensure that landowners in the Area undertake all the measures specified by the Authority to protect the water and soils of the Area;
- (i) to identify, collect, collate and correlate all such data related to the use of water and other resources and also economic and related activities within the Area as may be necessary for the efficient forward planning of the Area;
- (j) to maintain a liaison between the Government, the private sector and other interested agencies in the matter of the development of the Area with a view to limiting the duplication of effort and ensuring the best use of the available technical resources;
- (k) to examine the hydrological effects and the subsequent ecological changes on the development programmes and evaluate how they affect the economic activities of the persons dependent on river environment;

Coast Development Authority

- (l) to implement development projects and programmes whose primary objective is to promote socio-economic development of the Coast Province in particular and Kenya in general;
- (m) to plan and liaise with the relevant authorities as necessary in the exploration and development of the extensive fishing and marine activities an Kenya especially an the exclusive economic zone.

PART III – ADMINISTRATION

9. Appointment and remuneration of staff

(1) The Authority may appoint, upon such terms and conditions as it thinks proper, such officers and servants as it considers necessary or desirable for the effective conduct and operation of the Authority.

(2) Every member of staff shall, subject to this Act, exercise such powers and functions and perform the duties assigned to him from time to time by the managing director.

(3) The member of staff appointed under subsection (1) shall be paid out of the funds of the Authority such salaries as the managing director, with the approval of the Authority may from time to time determine and such travelling and other expenses as they may incur in the performance of their duties.

10. Managing director

(1) There shall be an officer of the Authority, to be known as the managing director, who shall be appointed by the Minister and who shall be responsible for the execution of the policy of the Authority and for the control and management of its day to day business.

(2) The Authority shall delegate to the managing director such of its functions under this Act as are necessary for the effective transaction of the day to day business of the Authority, and, in particular the Authority shall delegate to the managing director the power, subject to any instructions of a general nature as may be given by the Authority—

- (a) to control and supervise the acts of all officers and servants of the Authority in the matters of executive administration and in all matters concerning the accounts and records of the Authority; and
- (b) to dispose of all questions relating to the service of the officers and servants of the Authority and their pay and privileges.

PART IV – FINANCIAL RESOURCES AND CONTROL

11. Funds of the Authority

- (1) The funds of the Authority shall consist of—
 - (a) such moneys as may from time to time be provided by Parliament;
 - (b) moneys borrowed by the Authority on such terms and for such purposes as the Minister, in consultation with the Minister for the time being responsible for finance, may approve;
 - (c) any moneys accruing to the Authority from any other source.

(2) Subject to the written approval of the Minister and the Treasury, funds of the Authority shall be invested in such a manner as the Authority may deem proper.

12. Accounts and audit

(1) The Authority shall cause to be kept all proper books and records of account of the income, expenditure, assets and liabilities of the Authority and shall prepare such other accounts as the Minister may require and, in addition, shall prepare yearly balance sheets made up to the end of each financial year.

(2) At the end of each financial year the accounts of the Authority shall be audited by the Auditor-General (Corporations) in accordance with section 30A of the Exchequer and Audit Act (Cap. 412).

(3) The Authority shall produce and lay before the Auditor-General (Corporations) all records and accounts of the Authority with all vouchers in support thereof, and all books, papers and writings in its possession or control relating thereto and the Auditor-General (Corporations) shall be entitled to require from all members, officers and servants of the Authority such information and explanations as may be necessary for the proper performance of his duties.

(4) At the completion of the audit under this section, the Auditor-General (Corporations) shall make a report thereon to the Authority and shall at the same time send a copy of the report to the Minister.

13. Annual reports

(1) The Authority shall within a period of six months after the end of each financial year or within such longer period as the Minister may approve, submit to the Minister a report of its operations and activities during that year, together with the yearly balance sheet and such other statements of accounts as the Minister shall require, and the Authority shall publish the annual report and the yearly balance sheet in such manner as the Minister may specify.

(2) The Minister shall lay both the Authority's report and the report of the Auditor-General (Corporations), together with the yearly balance sheet and such other statements of account as the Minister may deem appropriate, before the National Assembly as soon as reasonably practicable.

PART V – MISCELLANEOUS PROVISIONS

14. Protection of members and staff

No act or thing done by any member of the Authority or by any officer or servant of the Authority shall, if the Act or thing was done *bona fide* for the purpose of carrying this Act into effect, subject him personally to any liability, action, claim or demand whatsoever.

15. Exemption from Stamp Duty

No duty shall be chargeable under the Stamp Duty Act, (Cap. 480) in respect of any instrument executed by or on behalf of or in favour of the Authority in cases where, but for this section, the Authority would be liable to pay such duty.

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16. Acquisition of land for the purposes of the Authority

(1) Where land is required by the Authority for purposes of the Authority it may either—

- (a) if the land is not public land, acquire the land through negotiation and agreement with the registered owner thereof, provided that notwithstanding the provisions of section 6 of the Land Control Act (Cap. 302) the ensuing transaction shall not require the consent of the land control board if the land to be acquired is agricultural land; or
- (b) if the land is public land, or if the Authority is unable to acquire the land through negotiation and agreement in accordance with paragraph (a) notify the Minister responsible for public lands and the land specified in the notice is required for the purpose of the Authority.

(2) Where notice has been given under subsection (1)(b) the Minister responsible for matters relating the land may, in his discretion and upon such terms and conditions as he may think fit, place such land at the disposal of the Authority to be used for the purposes of the Authority.

17. Regulations

The Minister may make regulations generally for the better carrying out the provisions of this Act.

Annex 3

Republic of Kenya, *Environmental Management and Co-ordination Act* (14 Jan. 2000), *reprinted*
in LAWS OF KENYA, Chapter 387 (rev. ed. 2012)



LAWS OF KENYA

ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT

CHAPTER 387

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CHAPTER 387**ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT**

[Date of assent: 6th January, 2000.]

[Date of commencement: 14th January, 2000.]

An Act of Parliament to provide for the establishment of an appropriate legal and institutional framework for the management of the environment and for matters connected therewith and incidental thereto

[Act No. 8 of 1999, Act No. 6 of 2006, Act No. 17 of 2006, Act No. 5 of 2007, Act No. 6 of 2009.]

WHEREAS it is desirable that a framework environmental legislation be promulgated so as to establish an appropriate legal and institutional framework for the management of the environment;

AND WHEREAS it is recognised that improved legal and administrative co-ordination of the diverse sectoral initiatives is necessary in order to improve the national capacity for the management of the environment;

AND WHEREAS the environment constitutes the foundation of national economic, social, cultural and spiritual advancement;

NOW THEREFORE BE IT ENACTED by the Parliament of Kenya, as follows

—

PART I – PRELIMINARY**1. Short title**

This Act may be cited as the Environmental Management and Co-ordination Act, 1999.

2. Interpretation

In this Act, unless the context otherwise requires—

“**air quality**” means the concentration prescribed under or pursuant to this Act of a pollutant in the atmosphere at the point of measurement;

“**ambient air**” means the atmosphere surrounding the earth but does not include the atmosphere within a structure or within any underground space;

“**analysis**” means the testing or examination of any matter, substance or process for the purpose of determining its composition or qualities or its effect (whether physical, chemical or biological) on any segment of the environment or examination of emissions or recording of noise or sub-sonic vibrations to determine the level or other characteristics of the noise or sub-sonic vibration or its effect on any segments of the environment;

“**Analyst**” means an analyst appointed or designated under section 119;

“**annual report on the state of the environment**” means the report prepared and issued under section 9;

“**Authority**” means the National Environment Management Authority established under section 7;

“beneficial use” means a use of the environment or any element or segment of the environment that is conducive to public health, welfare or safety and which requires protection from the effects of wastes, discharges, emissions and deposits;

“benefited environment” means that environment which has benefited through the imposition of one or more obligations on the burdened land;

“biological diversity” means the variability among living organisms from all sources including, terrestrial ecosystems, aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, among species and of ecosystems;

“biological resources” include genetic resources organisms or parts thereof, populations, or any other biotic component or ecosystems with actual or potential use or value for humanity;

“burdened land” means any land upon which an environmental easement has been imposed;

“chemical” means a chemical substance in any form whether by itself or in a mixture or preparation, whether manufactured or derived from nature and for the purposes of this Act includes industrial chemicals, pesticides, fertilizers and drugs;

“coastal zone” means any area declared to be a protected coastal zone under section 55;

“Continental Shelf” means the exclusive economic zone established under section 4 of the Maritime Zones Act (Cap. 171);

“controlled area” means any area designated as such by the Minister under this Act;

“Deposit Bond” means a deposit bond paid under section 28;

“developer” means a person who is developing a project which is subject to an environmental impact assessment process under this Act;

“Director” means a Director appointed under section 10;

“Director-General” means the Director-General of the Authority appointed under section 10;

“District Environment Action Plan” means the District Environment Action Plan prepared under section 40;

“District Environment Committee” means the District Environment Committee appointed under section 29;

“ecosystem” means a dynamic complex of plant, animal, micro-organism communities and their non-living environment interacting as a functional unit;

“effluent” means gaseous waste, water or liquid or other fluid of domestic, agricultural, trade or industrial origin treated or untreated and discharged directly or indirectly into the aquatic environment;

“element” in relation to the environment mean any of the principal constituent parts of the environment including water, atmosphere, soil, vegetation, climate, sound, odour, aesthetics, fish and wildlife;

“environment” includes the physical factors of the surroundings of human beings including land, water, atmosphere, climate, sound, odour, taste, the biological factors of animals and plants and the social factor of aesthetics and includes both the natural and the built environment;

“environmental audit” means the systematic, documented, periodic and objective evaluation of how well environmental organisation, management and equipment are performing in conserving or preserving the environment;

“environmental easement” means an easement imposed under section 112;

“environmental education” includes the process of recognising values and clarifying concepts in order to develop skills and attitudes necessary to understand and appreciate the inter-relatedness among man, his culture and his biophysical surroundings;

“environmental impact assessment” means a systematic examination conducted to determine whether or not a programme, activity or project will have any adverse impacts on the environment;

“Environmental Inspector” means any environmental inspector appointed or designated under section 117;

“environmental management” includes the protection, conservation and sustainable use of the various elements or components of the environment;

“environmental monitoring” means the continuous or periodic determination of actual and potential effects of any activity or phenomenon on the environment whether short-term or long term;

“environmental planning” means both long-term and short-term planning that takes into account environmental exigencies;

“environmental resources” includes the resources of the air, land, flora, fauna and water together with their aesthetical qualities;

“environmental restoration order” means an order issued under section 108;

“environmentally friendly” includes any phenomenon or activity that does not cause harm or degradation to the environment;

“ex-situ conservation” means conservation outside the natural ecosystem and habitat of the biological organism;

“exclusive economic zone” means the exclusive economic zone established and delimited under section 4 of the Maritime Zones Act (Cap. 371);

“financial year” means the period of twelve months ending on the thirtieth June in every year;

“General Fund” means the General Fund established under section 20;

“genetic resources” means genetic material of actual or potential value;

“**soil**” includes earth, sand, rock, shales, minerals, vegetation, and the flora and fauna in the soil and derivatives thereof such as dust;

“**standard**” means the limits of discharge or emissions established under this Act or under regulations made pursuant to this Act or any other written law;

“**sustainable development**” means development that meets the needs of the present generation without compromising the ability of future generations to meet their needs by maintaining the carrying capacity of the supporting ecosystems;

“**sustainable use**” means present use of the environment or natural resources which does not compromise the ability to use the same by future generations or degrade the carrying capacity of supporting ecosystems;

“**territorial waters**” means territorial waters provided for under section 3 of the Maritime Zones Act (Cap. 371);

“**trade**” means any trade, business or undertaking whether originally carried on at fixed premises or at varying places which may result in the discharge of substances and energy and includes any activity prescribed to be a trade, business or undertaking for the purposes of this Act;

“**Tribunal**” means the National Environment Tribunal established under section 125;

“**Trust Fund**” means the National Environment Trust Fund established under section 24;

“**waste**” includes any matter prescribed to be waste and any matter whether liquid, solid, gaseous or radioactive, which is discharged, emitted or deposited in the environment in such volume, composition or manner likely to cause an alteration of the environment;

“**water**” includes drinking water, river, stream, water-course, reservoir, well, dam, canal, channel, lake swamp, open drain, or underground water;

“**wetland**” means areas permanently or seasonally flooded by water where plants and animals have become adapted.

PART II – GENERAL PRINCIPLES

3. Entitlement to a clean and healthy environment

(1) Every person in Kenya is entitled to a clean and healthy environment and has the duty to safeguard and enhance the environment.

(2) The entitlement to a clean and healthy environment under subsection (1) includes the access by any person in Kenya to the various public elements or segments of the environment for recreational, educational, health, spiritual and cultural purposes.

(3) If a person alleges that the entitlement conferred under subsection (1) has been, is being or is likely to be contravened in relation to him, then without prejudice to any other action with respect to the same matter which is lawfully

Annex 4

Republic of Kenya, *Energy Act* (2006)

THE ENERGY ACT, 2006**ARRANGEMENT OF SECTIONS***Section***PART I — PRELIMINARY**

- 1—Short title and commencement.
- 2—Interpretation.
- 3— Application.

PART II — ENERGY REGULATORY COMMISSION

- 4— Establishment of the Commission.
- 5— Objects and functions of the Commission.
- 6—Powers of the Commission.
- 7—Protection from personal liability.
- 8—Liability of Commission for damages.
- 9—The common seal of the Commission.
- 10—Commissioners.
- 11—Termination of appointment of Commissioners.
- 12—Appointment of the Director General.
- 13—Appointment of a Commission Secretary.
- 14—Headquarters.
- 15—Appointment of directors, inspectors and other employees.
- 16—Remuneration of Commissioners.
- 17—Delegation by the Commission.
- 18—Conduct of business and affairs of the Commission.
- 19—Funds of the Commission.
- 20—Financial Year.
- 21—Annual estimates.
- 22—Books of accounts, records, audit and reports.
- 23—Appointment of committees or agents.
- 24—Powers of committees or agents.
- 25—Decisions of the Commission.
- 26—Appeal against a decision of the Commission.

AN ACT of Parliament to amend and consolidate the law relating to energy, to provide for the establishment, powers and functions of the Energy Regulatory Commission and the Rural Electrification Authority, and for connected purposes

ENACTED by the Parliament of Kenya, as follows–

PART I ? PRELIMINARY

Short title and commencement.

1. This Act may be cited as the Energy Act, and shall come into operation on such date as the Minister may, by notice in the Gazette, appoint.

Interpretation.

2. In this Act, unless the context otherwise requires–

"adulterated petroleum" means any mixture of refined petroleum products that alters product specifications detailed in the Kenya Standards;

"agent" means a person appointed in writing by the Commission to perform any of its functions;

"apparatus" means mechanical or electrical apparatus, and includes all vehicles, aircraft and vessels;

"area of supply" means the area within which the licensee is for the time being authorised to supply electrical energy;

"ancillary services" means services that are essential to the management of power system security, facilitate orderly trading in electricity and ensure that electricity supplies are of acceptable quality and, without limitation, may include

The Energy Act, 2006

“electrical energy” means energy involving the use of electric current which may be produced either by mechanical, chemical, photovoltaic or any other means;

“electrical installation licence”, means a licence authorizing a person to carry out electrical installation work either individually or as a body corporate or incorporate for voluntary, business, training, or teaching purposes in the electrical installation works either for gain or reward or for no charge at all;

“electrical installation work” means the installation, alteration, or repair, wholly or partially, of any conductor or apparatus or system of wiring in or upon premises of an electricity consumer connected or intended to be connected to a supply of electricity where the voltage in any part exceeds 110 volts;

“energy” means any source of electrical, mechanical, hydraulic, pneumatic, chemical, nuclear, or thermal power for any use; and includes electricity, petroleum and other fossil fuels, geothermal steam, biomass and all its derivatives, municipal waste, solar, wind and tidal wave power;

“energy conservation” means the efficient, economic and cost effective production and use of energy;

Cap. 371. "exclusive economic zone" has the meaning assigned to it in section 2 of the Maritime Zones Act;

Cap 514. “factory” has the meaning assigned to it under the Factories Act.

“factory owner” includes a person responsible for the management of the factory.

“fossil fuels” means combustible or explosive

specifications do not conform to the relevant Kenya standards;

"oil spill" means spillage of petroleum of at least five hundred litres;

No. 3 of 2005.

“open tendering system” means a system of competitive bidding as provided for in Part V of the Public Procurement and Disposal Act, 2005;

“outer continental shelf” means the outer continental shelf as defined in Article 76 Paragraph 1 of the United Nations Convention on the Law of the Sea or all submerged lands seaward and outside the area of lands beneath navigable waters;

“permit” means an authorisation granted to a person to enable the carrying out of any activity in the energy business, where a licence is considered onerous;

“person” means any public or local authority, company, person or body of persons;

"petroleum" includes petroleum crude natural gas and any liquid or gas made from petroleum crude, natural gas, coal, schist, shale, peat or any other bituminous substance or from any product of petroleum crude, natural gas and includes condensate;

“petroleum business” means a concern carrying on the importation, refining, storage, transportation or sale of petroleum;

"pipeline" means a pipe or system of pipes that is used or to be used for the transportation of petroleum and any apparatus and works associated therewith, including –

(a) apparatus for inducing or facilitating the flow of

Annex 5

Republic of Kenya, *Mining Act*, Act No. 12 of 2016 (27 May 2016)



THE REPUBLIC OF KENYA

LAWS OF KENYA

MINING ACT

NO. 12 OF 2016

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NO. 12 OF 2016**MINING ACT***[Date of assent: 6th May, 2016.]**[Date of commencement: 27th May, 2016.]*

AN ACT of Parliament to give effect to Articles 60, 62 (1)(f), 66 (2), 69 and 71 of the Constitution in so far as they apply to minerals; provide for prospecting, mining, processing, refining, treatment, transport and any dealings in minerals and for related purposes

*[Act No. 12 of 2016.]***PART I — PRELIMINARY PROVISIONS****1. Short title**

This Act may be cited as the Mining Act, 2016.

2. Scope of the Act

(1) This Act shall apply to the minerals specified in the First Schedule.

(2) The Cabinet Secretary may from time to time, by notice in the Gazette, amend the First Schedule to this Act.

3. Act not to apply to petroleum and hydrocarbon gases

Save to the extent provided for in this Act, this Act shall not apply to matters relating to petroleum and hydrocarbon gases.

4. Interpretation

In this Act, unless the context otherwise requires—

“application” includes—

- (a) an application for the grant, renewal, transfer, assignment or surrender of a mineral right; or
- (b) an application for the grant or renewal of a mineral dealer's licence or a diamond dealer's licence;

“arm's-length value” means the purchase price under an immediate sale transaction in an open market where the purchase price for the sale—

- (a) is not influenced by any special relationship or other arrangement between the parties to the transaction, other than the immediate sale itself; and
- (b) is not affected by any non-commercial or other considerations; and specifically excludes any barter, swap, exchange, or transfer price arrangements or any restricted transaction that is associated with special financial, commercial or other considerations;

“artisanal mining” means traditional and customary mining operations using traditional or customary ways and means;

“artisanal mining permit” means a permit issued under section 95;

“banker” includes a manager, cashier or any other officer acting in that capacity of a company engaged in the business of banking within Kenya and in compliance with the provisions of the Banking Act (Cap. 488);

“first-come, first-served” means the policy, of considering and approving applications based on the order of receiving the applications;

“geologist” means a person who is registered as geologist in accordance with the Geologists' Registration Act, 1993 (No. 10 of 1993);

“geology” means the scientific and research aspects of the solid earth and its processes;

“geological report” means a report made by a geologist;

“gross value” means the arm's-length value of minerals or mineral products at the point of sale within Kenya, without any discounts, commissions or deductions;

“groundwater” has the meaning assigned to it under the Water Act (No. 8 of 2002);

“holder”, in respect of a mineral right, a licence or permit under this Act, means—

- (a) a person to whom a mineral right is granted; or
- (b) the person to whom a mineral right is transferred or assigned;

“inspector of mines” means a public officer who has been appointed in accordance with section 196;

“land” has the meaning assigned to it in Article 260 of the Constitution;

“large scale operation” means a prospecting or mining operation that is a large scale operation in accordance with this Act;

“licence area” means the area or areas of land covered by a prospecting licence, a retention licence or a mining licence under this Act;

“liquidator” has the meaning assigned to it under the Companies Act (No. 17 of 2015);

“maritime zones” has the meaning assigned to it under the Maritime Zones Act (Cap. 371);

“member” means a member of the Board appointed under section 25;

“mine” —

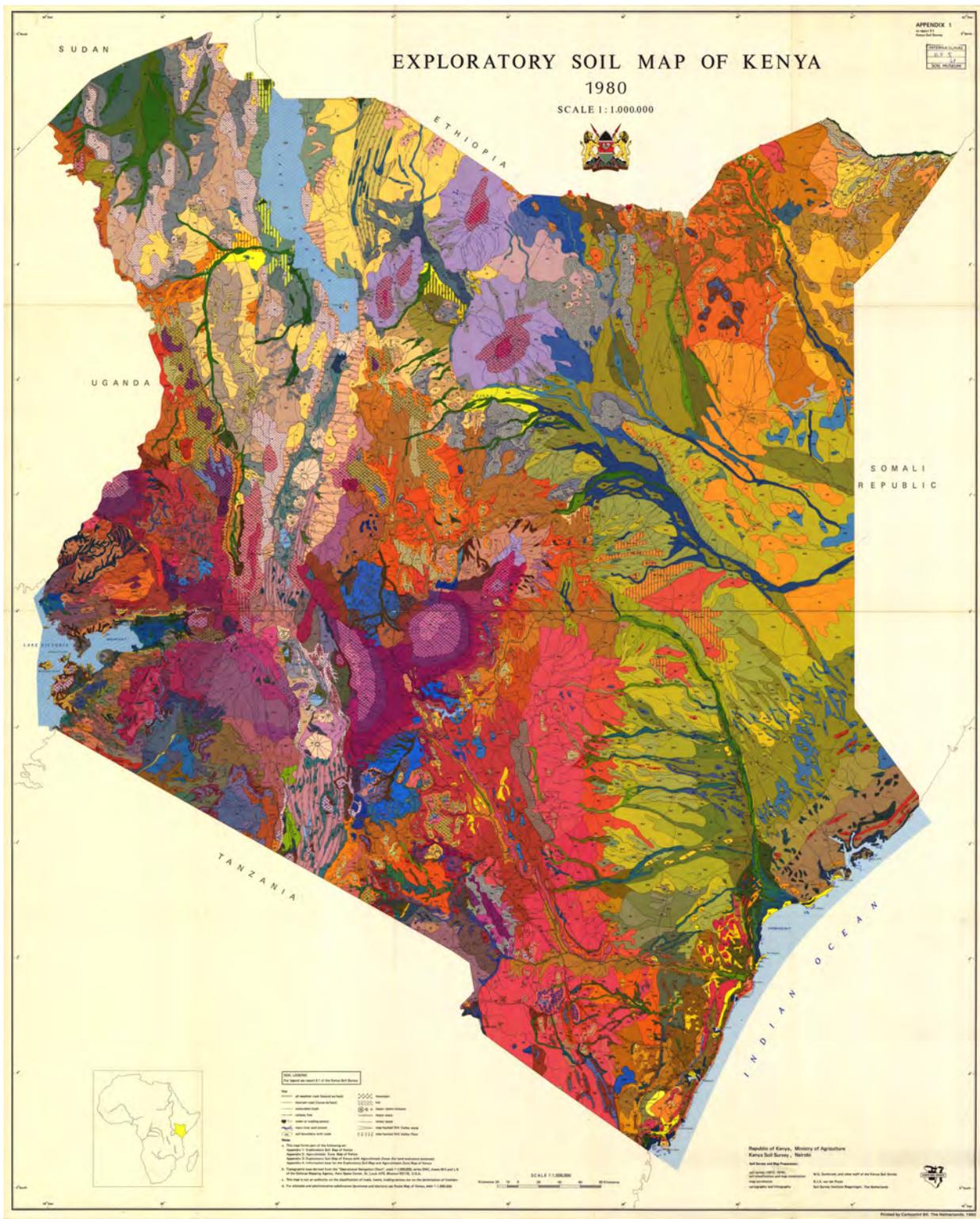
- (a) when used as a noun, includes an excavation or system of excavations made for the purpose of, or in connection with, the extraction of minerals or mineral products, and includes an open-cast pit, quarry and any area where a mineral is won by dredging brine pumping, evaporation or other means; and
- (b) when used as a verb, means the carrying out of a mining operation and includes tailing;

“mines support” means —

- (a) contract mining services which include top soil and waste removal, drilling and blasting, excavating and haulage of ore to plant on turnkey basis;
- (b) assay laboratory services;
- (c) drilling and blasting services;
- (d) mineral exploration services for a holder of a mineral right;

Annex 6

Republic of Kenya, Ministry of Agriculture, *Exploratory Soil Map of Kenya* (1980)



Annex 7

Republic of Kenya, Survey of Kenya, NATIONAL ATLAS OF KENYA (5th ed., 2003).

National Atlas of Kenya

FIFTH EDITION, 2003

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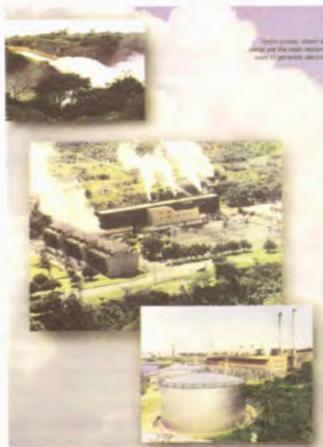
CHAPTET 8: ENERGY

ENERGY

Introduction

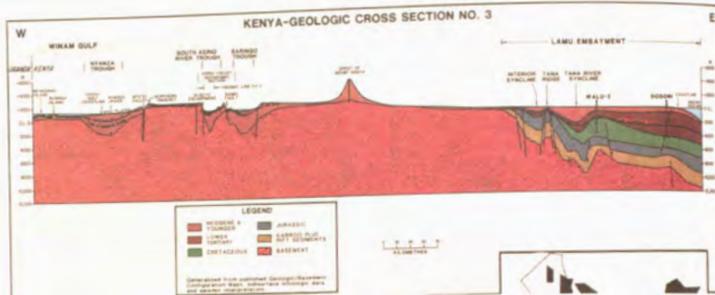
Kenya is dependent on three major sources of energy: wood-fuel, petroleum and hydro-electricity. The main source of energy, particularly for household cooking and heating in the rural areas and among the low-income urban population, is wood-fuel (used in the form of firewood and charcoal). This accounts for nearly 70 per cent of the total energy used in the country, but over 90 per cent of the household energy used in the rural areas. Petroleum fuels account for 26 per cent (but meet 86 per cent of the modern sector's development needs), while electricity accounts for only 3 per cent. The demand for wood-fuel is expected to increase from 27.8 million tonnes of oil equivalent (TOE) in 1988 to 35.3 million TOE in 1993. Only 70 per cent of the energy from wood is being satisfied from yields while the remaining 30 percent is met through depletion of the country's natural Woodstock.

Petroleum contributes more than 80 per cent of the total commercial energy used in Kenya. It plays a crucial role in the country's economic and social development. All of the oil used is imported, since Kenya has no known commercially exploitable deposits, and it is the largest single drain on the country's foreign exchange earnings. So crucial is it to the nation that it became imperative for the Government to become directly involved as an active participant in the oil industry, which has been previously left to private, mainly multinational, oil marketing companies. The National Oil Corporation of Kenya (NOCK) was therefore formed to act as an instrument for implanting government policy in the oil industry and it was initially charged with the procurement and supply of crude oil and products, and also with exploration. The overall petroleum policy objective is to ensure a secure, adequate and least-cost supply of petroleum products to the country, while reducing the growth in demand for these products by way of conservation programmes and fiscal



Hydro-Power, Steam and Diesel are the main Resources used to Generate Electricity

Petroleum



instruments, without jeopardizing development. To achieve these objectives will mean ensuring that the country gets an adequate supply of petroleum products at all times through the importation of sufficient crude oil from different sources for processing at the Kenya Petroleum Refineries as well as the importation of finished products in case of short-falls.

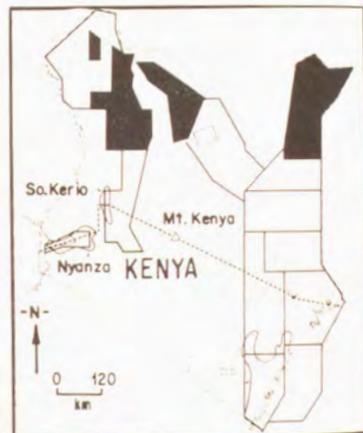
National Oil Corporation of Kenya (NOCK)

National Oil Corporation of Kenya is directly involved in the importation of crude oil and products as well as in retailing; modernizing the oil refineries with a view to increasing the production of more middle distillates; using price policy to dampen demand from time to time whenever necessary; exporting petroleum products to neighbouring countries as a source of foreign exchange where it does not jeopardize domestic supply; intensifying exploration for hydro-carbons and improving the oil pipeline distribution network to cover major regions of the country.

Pipeline Construction and background information

The Mombasa-Nairobi pipeline was funded by the World Bank through the Government of Kenya and constructed by Zakhem International between 1974 and 1977. It was commissioned in 1978 and the first batch was received in Nairobi during the same year. Following the success in the operations of the Mombasa-Nairobi pipeline, in 1992 the Government allowed the Company to undertake an expansion programme to extend the pipeline from Nairobi to Western Kenya towns of Nakuru, Eldoret and Kisumu. The Export Development Corporation of Canada, Export Import Bank of Japan, a consortium of French banks led by Banque Francaise Du commerce Exterior (BFCE) and the Kenya Pipeline Company savings funded the extension.

Extensive feasibility studies were undertaken prior to the establishment of the Company to determine the most economical and modern way of storing and transporting refined petroleum products from Mombasa to the hinterland. This was deemed necessary and to meet the increasing customer's demand as a result of steady growth in both agriculture and industry. It was envisaged that a pipeline system would be the most suitable mode of transporting petroleum products. Therefore, after completion of the phase one, the company was charged with the responsibility of operating and maintaining the pipeline system. Kenya does not have its



own crude oil at present as it imports the bulk of it from the Middle East. Crude oils are brought to Mombasa by sea in tankers ranging in capacity between 30,000 to 80,000 metric tons. At Mombasa the crude oil is received and stored.

Kenya Pipeline Company's core business is transportation of refined petroleum products from the port of Mombasa to the hinterland and to neighboring countries. The Pipeline accounts for about 90% of all oil movement in the country while other modes of transportation (road and rail) accounts for about 10%.

Pipeline Operations

Apart from transportation of the products, Kenya Pipeline Company stores products on behalf of its clients (the oil marketers). The Company has

not only impermeable, but also post-mature for oil generation. Although the results from these wells appear to negate interest in this region, potential for reservoir development within the Karoo remains elsewhere in the Manderia Basin. Recently, a group led by TOTAL-CFP was awarded 32,040 square km Block 1 of the Manderia Basin Area.

Beginning in 1967, TOTAL, Amoco, and Walter International drilled eight wells within the North Anza Basin, the North Anza Basin Extension, and the South Anza Basin. The objectives were Late Jurassic through Paleogene fluvial and lacustrine sediments deposited within the rift basin environment. Analogous rift valley sequences in the Abu Gabra Rift Basin of Sudan have yielded substantial quantities of oil from Lower Cretaceous sandstones within the Unity and Heglig fields (250–300 million bbl of oil estimated recoverable reserves). While none of these wells have encountered commercial reserves, fluorescence and gas shows were reported within the Tertiary and Cretaceous sections of the Amoco Hothori, Walter Endela, and TOTAL, Ndovu wells. In addition, several independent biostratigraphic studies suggest that these wells may not have penetrated deeply enough to test Neocomian-Lower Albian sediments which comprise the source, reservoir, and seal within the Sudan rift basin. Therefore untested potential reservoirs persist in the Lower Cretaceous sections of the North Anza Basin Extension. The other basins are Tertiary Rift Basin and Lamu Basin.

Anza Basin

Anza basin has a surface area of 94 220 km². It trends northwest southeast and extends across much of eastern and northern Kenya. Sediment thicknesses are variable from 2000–8000m. The deepest

well drilled in this basin is 4392m and it encountered Cretaceous to Tertiary sediments of fluvial-deltaic and lacustrine deposit.

Seismic data

Seismic lines and their trend in Anza Basin are as shown in figure A. In total, they are 14,362 line kilometres long. In addition to this, Western Atlas International (WAI) published "Kenya Seismic Investigation, (1987)" in which it dealt broadly on regional Seismic Investigation and Seismic Inversion Processing and Stratigraphic Investigation. This volume may be purchased from National Oil Corporation of Kenya (NOCK) for more details.

Aeromagnetics

Much of the country has been covered by aeromagnetic surveys. There are four integrated gravity-magnetic profiles in the Nyanza and South Kerio troughs, as well as one regional profile crossing the entire country from west to east.

In Anza Basin, a total of 64,041 line kilometres have been covered and many are concentrated to the south and northern parts. From aeromagnetics a number of depocentres have been interpreted in Anza Basin. They include Boloi sub-basin, Gala sub-basin, Chalbi sub-basin, Yamicha sub-basin and Kaisut sub-basin.

Gravity

Like aeromagnetics, the surveyed gravity in Anza Basin was on a regional scale from west to east. It covered a total area of 15,096 km². A number of areas with anomalous gravity low corresponds to Kaisut, Yamicha, Chalbi, Gala and Boloi sub-basins were identified. In addition major faults or flexure lines were also inferred.

Manderia Basin

Manderia Basin is a broad basin striding Kenya, in the northeast. The basin covers an area of 51,920 km² and is separated from Lamu Embayment by the Lugh bogal fault. The basin is divided into three blocks.

Seismic data

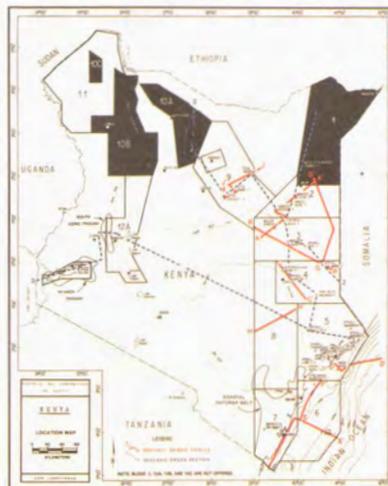
2,233 km lines of seismic profiles have been shot with the additional gathered after 1990 by Total Petroleum Company. They generally run NW–SE with their largely spaced tie lines running NE–SE see Figure A. Majority of these profiles are concentrated in blocks 2 and 3 in the south although the most recent surveys boosted the north. It has revealed a stratigraphy that is divided into megasequences, which are bounded by major erosional surfaces. New interpreted data should provide good subsurface details that will reveal better prospects in the northern part of the basin.

Aeromagnetics

Extensive magnetic data have gathered in Manderia basin. In total, 4,895 line kilometres have been acquired. This geophysical tool has revealed a NE–SW trending basin that deepens to the southeast.

Gravity

Completed gravity surveys in Manderia Basin totals 3,968 kilometres of line profiles. The resultant identifiable structural features include EI



Wak high, Tarbaj high, Bogal high and Manasa Guda low. The Bogal high corresponds to the northwest-southeast trending Lugh-Boghal faultline.

Tertiary Rift Basin

The East African Rift System forms a narrow (50–150 km wide) elongated system of normal faults that stretches for almost 3300 km. In Kenya the Tertiary basin comprises of at least nine sub basins of mainly half graben units of varying sizes. They are Baringo-Bogoria, Lotikipi, Gatome, Turkana, Lodwar South (Leportot), Suguta, South Kerio, Nyanza and Magadi. In all, they cover a total surface area of 38,904 km².

Seismics

A total of 7,652 line kilometres of seismic profiles have been shot in the Tertiary Rift Valley. They generally run east west and north south. They include additional seismic data that were shot after 1990 by Duke University over lake Turkana, and BP Shell Company in Lokichar sub-basin and onshore south of lake Turkana in Turkana sub-basin. Seismic profiles can be found in figure A and figure B maps. Most profiles are concentrated in Turkana and Lokichar Basins. Few are located in Suguta and Nyanza troughs, and almost insignificant in Magadi trough. Volume III of WAI report on Kenya Rift Valley Investigation (which can be purchased from NOCK) has a few sections on integrated seismic profiles of data acquired in the Nyanza and South Kerio Troughs. Similarly a 1:1,000,000 scale index map for all Rift Valley Seismic and Gravity-Magnetic Profiles can also be acquired.



Annex 8

Republic of Kenya, National Environment Management Authority, *State of the Coast Report: Towards Integrated Management of Coastal and Marine Resources in Kenya* (2009)

State of the Coast Report

**Towards Integrated Management
of Coastal and Marine Resources in Kenya**



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Main Sponsor: United Nations Environment Program UNEP / Nairobi Convention Secretariat

Co-sponsors

- National Environment Management Authority (NEMA)
- New Partnership for Africa's Development—Coastal and Marine (NEPAD-COSMAR)
- Regional Programme for the Sustainable Management of the Coastal Zone of the Countries of the Indian Ocean (ReCoMaP)

Institutions and sources of information

- National Environment Management Authority, P. O. Box 67839-00200, Nairobi, Kenya
- Kenya Marine and Fisheries Research Institute (KMFRI), P. O. Box 81651-80100 Mombasa, Kenya
- Coral Reef Degradation in the Indian Ocean programme (CORDIO) East Africa, 9 Kibaki Flats, Kenyatta Public Beach, P.O. Box 10135-80101 Mombasa, Kenya
- Department of Resource Surveys and Remote Sensing, P.O. Box 47146-00100, Nairobi, Kenya
- New Partnership for Africa's Development—Coastal Marine Division (NEPAD-COSMAR) Secretariat, P. O. Box 46270-00100, Nairobi, Kenya
- Kenya Wildlife Service, P.O. Box 86797, Mombasa, Kenya
- University of Nairobi, P.O. Box 30197-00100, Nairobi, Kenya

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Another relevant legislation for mangroves is the Wildlife (Conservation and Management) Act (Cap 376), in as much as the protection of wildlife is tied to that of their natural habitats and ecosystems, and the conservation and protection of wild fauna and flora is often concurrent and mutually beneficial.

7.1.4.4 Fisheries

The Fisheries Act vests authority in the Director of Fisheries and accords a minimal role to communities. The limited reference made to fisherfolk in the Act relates especially to regulations associated with harvesting and trading fish, with no mention for the role of the fisherfolk in resource management. However, some informal arrangements carried over from past traditional practices, although weakened over time, still persist and are promoted by the Fisheries Department. For example, community leaders have in many instances retained traditional authority over the use of landing sites by fishermen. A draft Fisheries Policy is awaiting cabinet approval (see Section 7.3.1).

7.1.4.5 Ports and harbours

The Kenya Ports Authority Act (Cap. 391) vests the responsibility of operation and management of Kenya's ports in the Kenya Ports Authority (KPA), a statutory corporation. The Authority has powers to (a) construct any wharf, pier, landing areas or any other work deemed necessary; (b) control the erection and use of wharves in any port or approaches to such ports; and (c) construct new ports. This is an important mandate, considering that Mombasa Port is one of the biggest and busiest in the eastern coast of the Indian Ocean, with a very large hinterland reach.

Maritime-zone legislations include the Maritime Zones Act No. 6 of 1989 (Cap 371), which designates Kenya's maritime boundaries and vests ownership and control in the Republic of Kenya in accordance with relevant international law; and the new Water Act, 2002 (Cap 371).

Recently, additional new legislations and institutions for the regulation of the maritime sector have been drafted and proposed. The new legislative proposals include a revised Merchant Shipping Bill (2004); a Marine Pollution Control Bill (2004); and the recently enacted Kenya Maritime Authority Act. The latter replaced the Executive Order of June 2004, through which the Kenya Maritime Authority (KMA) was established.

7.1.4.6 Lakes and rivers

The Water Act of 2002 deals with the conservation and controlled use of water resources (mainly inland waters), while the Lakes and Rivers Act (Cap 409) regulates dredging and the use of steam vessels on certain lakes and the rivers (including Tana and Athi) that drain into the Indian Ocean along Kenya's coast. The Tana and Athi Rivers Development Authority Act (Cap 443) is also relevant to river and river-basin management. It provided for the establishment of the Tana and Athi Rivers Development Authority (TARDA) to advise on the institution and co-ordination of development projects in the Tana and Athi River basins and related matters. This includes the planning and development of the two rivers' basins and resources.

The legal status of estuaries and deltas, however, remains controversial, as they cut across several jurisdictions (riparian, forest, marine, and coastal zone) and harbor abundant resources. There is little effective legal protection of these biotopes, except under protected-area or forest-reserve regulations. The 1971 Ramsar Convention could be a primary instrument for the conservation of these ecosystems at the national level. An application for appropriate Ramsar designation of the Tana Delta is under preparation.

Annex 9

Martin M. Heya, Ministry of Energy, Republic of Kenya, *Overview of Petroleum Exploration in Kenya: Presentation to the 5th East African Petroleum Conference and Exhibition 2011*
(25 Feb. 2011)



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Overview of Petroleum Exploration in Kenya

**PRESENTATION TO THE 5TH EAST AFRICAN PETROLEUM CONFERENCE AND
EXHIBITION 2011**

HELD AT

**KAMPALA SERENA HOTEL
KAMPALA, UGANDA**

By

**MARTIN M. HEYA
COMMISSIONER FOR PETROLEUM ENERGY,
MINISTRY OF ENERGY, KENYA**

February 25, 2011

Energizing Kenya

[1]



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OUTLINE

- **Kenya at a Glance**
- **Components of the Kenya Petroleum Industry**
- **Oil Exploration History in Kenya**
- **Upstream Institutional Framework**
- **Kenya Sedimentary Basins**
- **Kenya Fiscal Regime**
- **Oil & Gas Exploration Opportunities**
- **Why Invest in Kenya**



MINISTRY OF ENERGY



KENYA AT A GLANCE



- Location :** East Coast of Africa
- Capital :** Nairobi
- Government type:** Democratic Republic (Coalition)
- Area:** 582,646 sq. km
- Population:** 40million
- GDP growth rate:** 5% (2010)
- Contributors to GDP:** Tourism
Agriculture/Forestry/Fishing
Manufacturing
Transport/Communication



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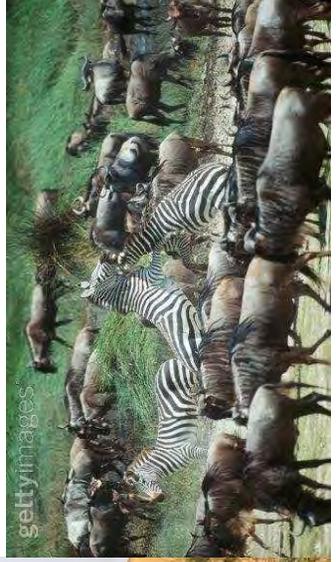


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KENYA AT A GLANCE...cont

Capital City: Nairobi
 Main Seaport: Mombasa
 Main Airport: Jomo Kenyatta International
 Other Airports: Wilson, Mombasa, Eldoret, Kisumu
 Official Languages: English, Kiswahili
 Sed. Basins: Four (4) covering 317,000 sq km
 Wells drilled: 32





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COMPONENTS OF THE KENYA PETROLEUM INDUSTRY

- Upstream Sector
 - No proven reserves of hydrocarbons yet
 - Four (4) sedimentary basins
 - Thirty Six(36) blocks (21 Licensed)
 - Thirty one (32)exploration wells and >80000 KM Seismic
 - Contract is Production Sharing Contract
 - Previous and Existing contractors include CNOOC, TOTAL, SHELL, AMOCO, BP, LUNDIN, ANARDAKO e.t.c.
- Midstream Sector
 - **Pipeline** network of approx. **900km** operated by Kenya Pipeline Corporation for refined products
 - Refining capacity of four(**4**) **million metric tonnes per annum** (mmtpa) operated run by Kenya Petroleum Refinery Limited. (Due for upgrade)
 - Over 1,000,000M³ Storage
- Downstream Sector
 - Countrywide retail network of 1052 stations operated by Multi-nationals (Total, Shell, Oil Libya etc) & smaller Kenyan OMCs
 - Ownership of Retail network - Multinational (73%) National Oil(8%) Independents (19%)





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OIL EXPLORATION HISTORY IN KENYA

- 1950'S - Oil exploration commenced
- 1960 to 1984 - 16 wells drilled mainly in the Lamu and Anza basins
- 1981- National Oil was incorporated in 1981
- 1984 GOK enacted new Petroleum (Exploration and Production) Act.
- 1986 Petroleum (E & P) Act revised. Royalties replaced by PSC's
- 1985 to 1992 - Further 14 wells drilled
- 1995 - Lamu Basin Study completed.
- 2001 - Tertiary Rift Study complete
- 2000+ - Award of offshore PSC's and reinvigorated exploration
- 2006 – Deepest offshore well drilled by Woodside
- 2009 – Deepest onshore well being drilled by CNOOC



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THE PETROLEUM (EXPLORATION & PRODUCTION) ACT, CAP 308, 1986

The Petroleum Act provides legal framework and regulates the negotiation and conclusion of **Production Sharing Contracts (PSC)** with potential investors.

The PSC's are subject to negotiations and are governed by

- The Petroleum Act, Cap 308, 1986
- The Petroleum (E & P) Regulations
- The Income Tax (Amendments) Act
- Environmental Management & Coordination Act 2000 - NEMA

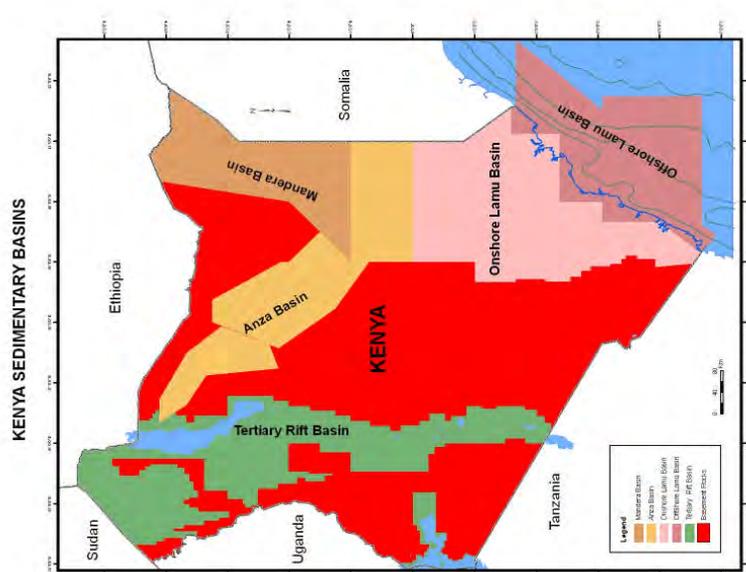


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KENYA SEDIMENTARY BASINS

Basin	Area km ²	Wells drilled	Average Sediment thickness
Lamu	132,770	16	12,000 m
Mandera	51,920	3	10,000 m
Anza	94,220	11	10,000 m
Tertiary Rift	38,904	2	4,000 m



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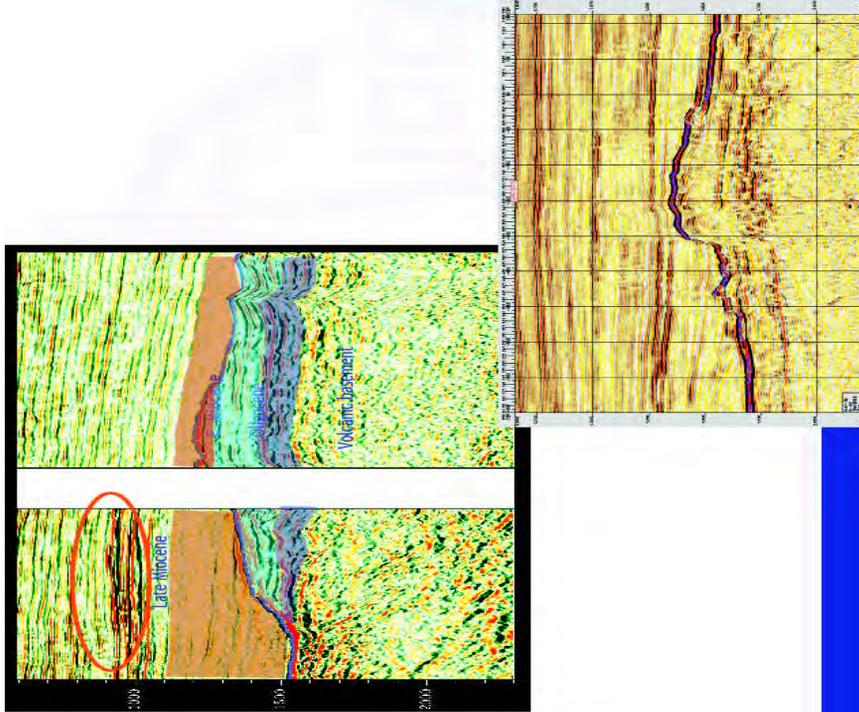
National Oil Corporation of Kenya
Enginerizing Kenya



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ANZA BASIN



- The basin lies **Onshore**
- Reef structures have been mapped **lower cretaceous**
- Reservoir rock: **Bioclastic limestones**
- Potential reservoir thickness: 300m-500m
- Source rock: Lower Cretaceous
- Divided into **four(4)** blocks
- **ELEVEN(11)** wells drilled in Anza Basin
- **Oil** shows encountered between 970m - 1020m
- **Gas** shows encountered between 2150m – 4290m



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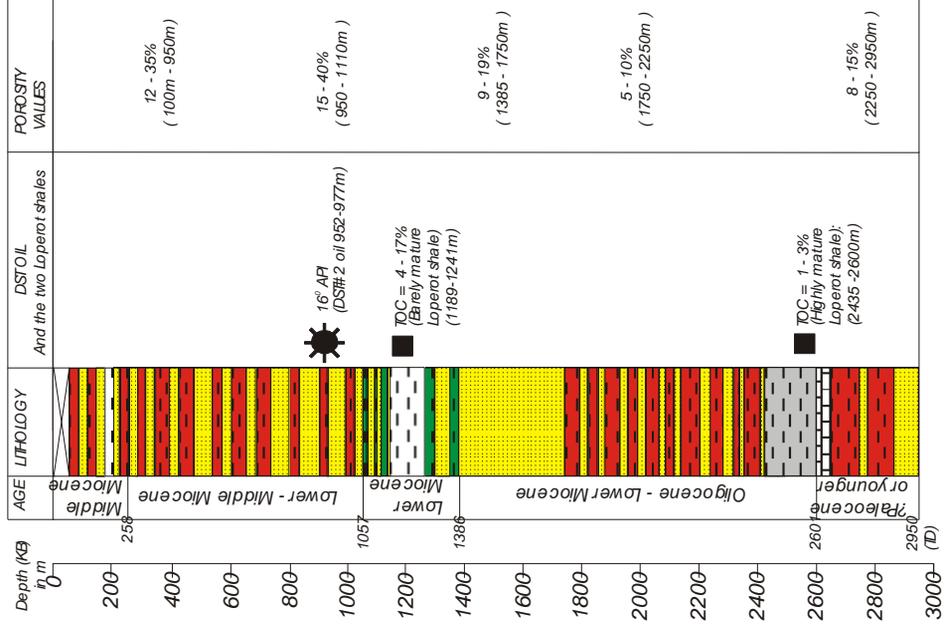


TERTIARY RIFT BASIN

- The basin lies **Onshore**
- Is the **youngest** geologically
- The basin is **Oligocene to Pliocene** in age
- Sediment **thickness** ranges up to **3 km**
- Potential reservoirs: up to 40% porosity in sands (**Loperot-1 well**)
- Divided into **seven(7)** blocks
- **Two(2)** wells drilled in Tertiary

Stratigraphy of Loperot-1 Well

- Loperot-1 Well
 - Drilled in 1992 by Shell
 - Source Rocks – **Shale**
 - Low Sulphur content (**0.5%**)
 - Tested oil ~ **29° API** gravity
 - **Recovered 9.5 liters** of Oil at depth of **1110m**



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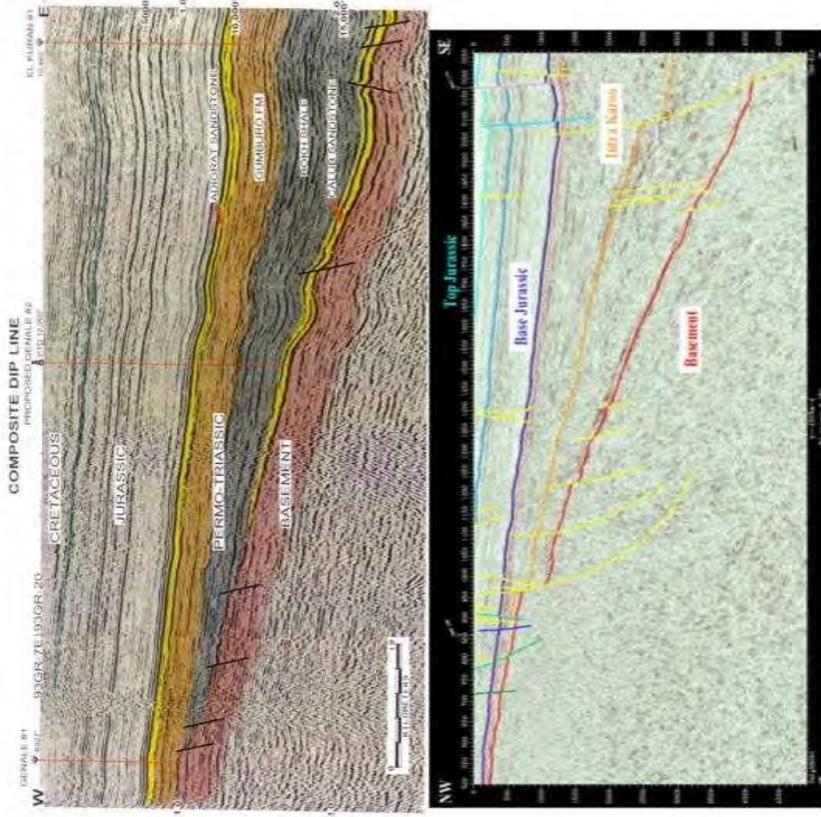


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MANDERA BASIN

- The basin lies **Onshore**
- The basin is **Permo-Triassic** to **Tertiary** in age
- Sediment **thickness** ranges up to **10km**
- Divided into **three(3)** blocks
- **Four(4)** wells drilled
- Potential source rock interval in **Mid Jurassic-Lower Cretaceous**
- **Oil** shows encountered at 40–44m in the Tarbaj stratigraphic well drilled by TOTAL
- Source rock potential is comparable with the larger **Mandera-Lugh** basin in **Ethiopia** and **Somalia**

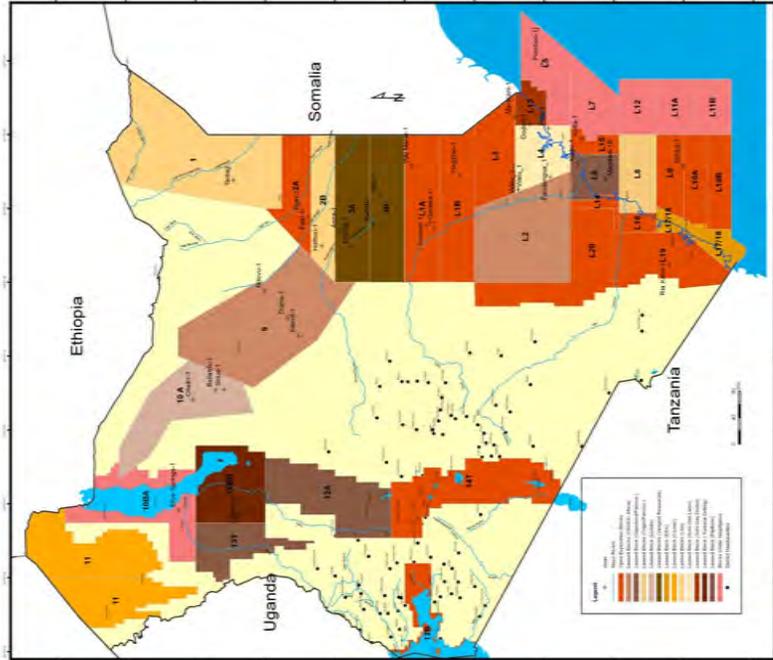




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CURRENT EXPLORATION BLOCKS



Lease Status:	5 Blocks
Tullow:	1 Block
Origin Energy:	1 Block
Flow Energy:	1 Block
Camec	1 Block
Africa Oil Corp	1 Blocks
Vanoil Resources	2 Blocks
AFREN (EAX)	2 Block
Lion Petroleum	1 Blocks
Sohi Gas Lamu	1 Block
Sohi Gas Dodori	1 Block
Anadarko Petroleum	5 Blocks
NOCK	1 Block

Total leased 21 out of 36 Blocks

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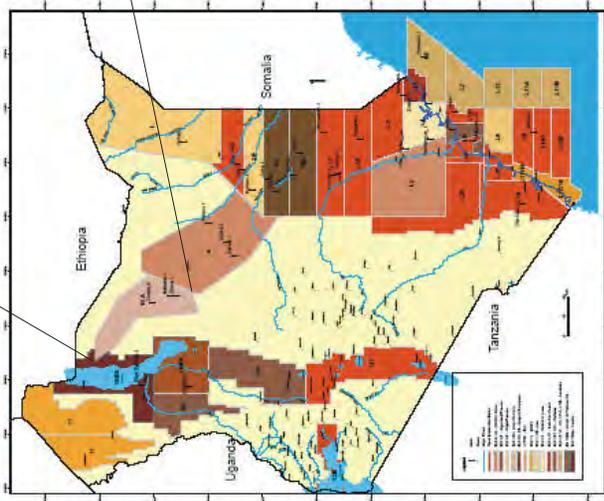
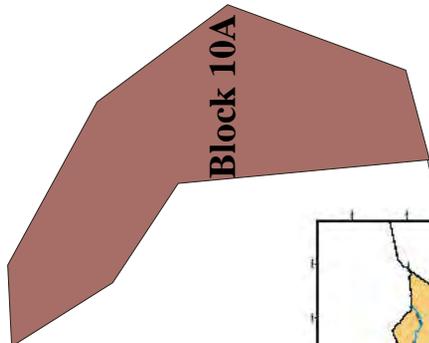
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Tullow Oil- ONSHORE



- Part of the Anza Basin, continuation of the CARS, very good oil shows in wells drilled
- BGP crew has mobilized to acquire 750 km of onshore 2D seismic data
- Drilling in 2011

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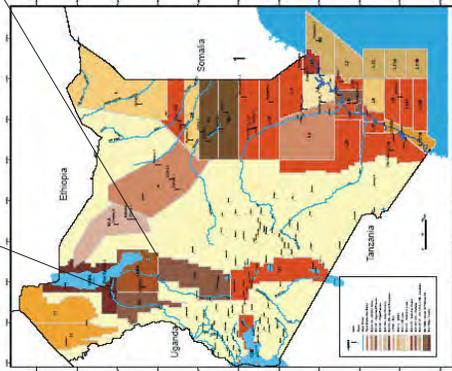


MINISTRY OF ENERGY



Tullow Oil - ONSHORE

Block 10BB



- Part of the East African Tertiary Rift System (EARS), analogous to Albertine Basin in Uganda
- Block has the most significant oil show in Loperot well
- BGP crew completed acquisition of 615 km onshore 2D Seismic in October 2010
- Drilling in 2011

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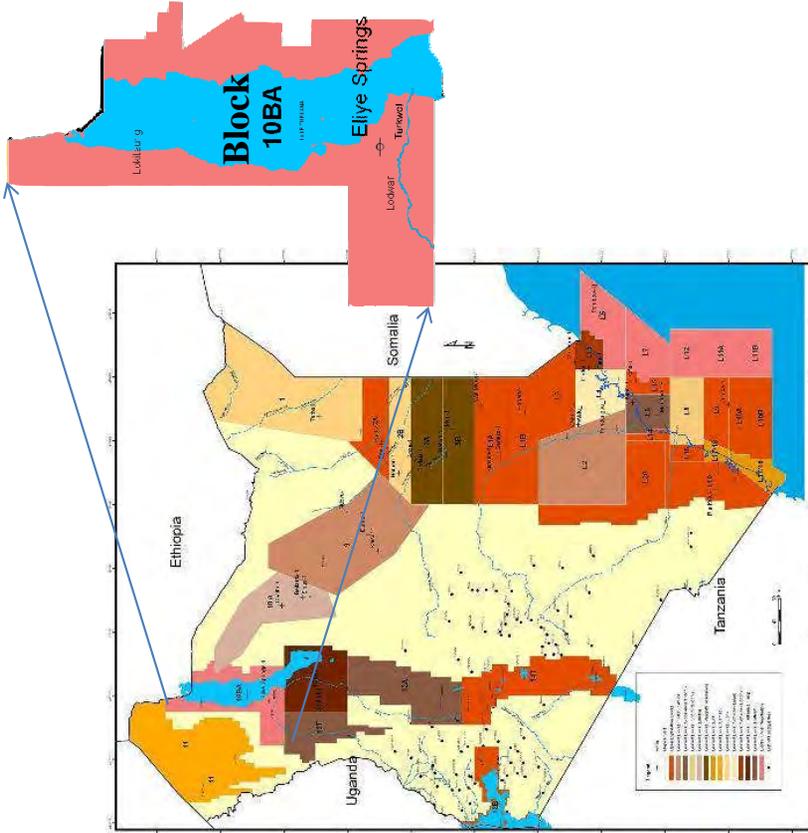


MINISTRY OF ENERGY



Tullow Oil - ONSHORE

- Block 10BA lies in the Tertiary Basin
- Reservoir rocks are present with **porosities** ranging from 25%-30%
- Oil seeps on margin of Lake Turkana
- Surface slicks on Lake Turkana possibly related to seeps
- **Good mature** Source Rocks proven to have reached the **Oil Window**
- The structures similar to Loperot-1 in Block 10BB which recovered **9.5 ltrs - Oil**

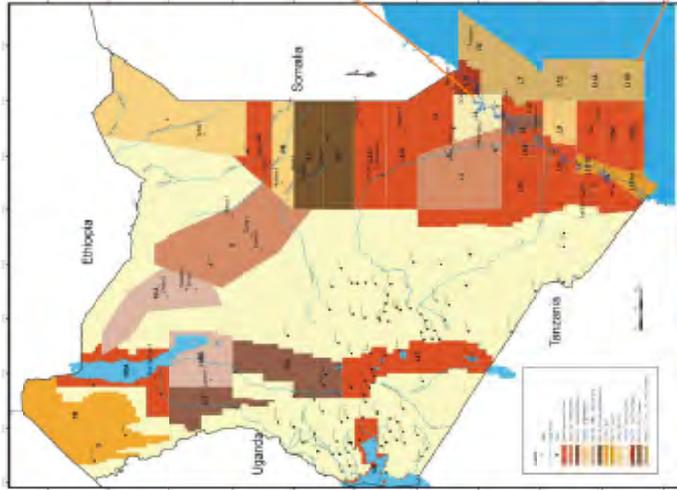




MINISTRY OF ENERGY



ANARDARKO Petroleum - OFFSHORE



- Acquisition of 5000 km of 2D seismic data completed
- Interpretation currently ongoing
- 3D seismic acquisition planned for 2011
- Drilling planned for 2012
- Anadarko hoping to replicate their success story from further south in Mozambique

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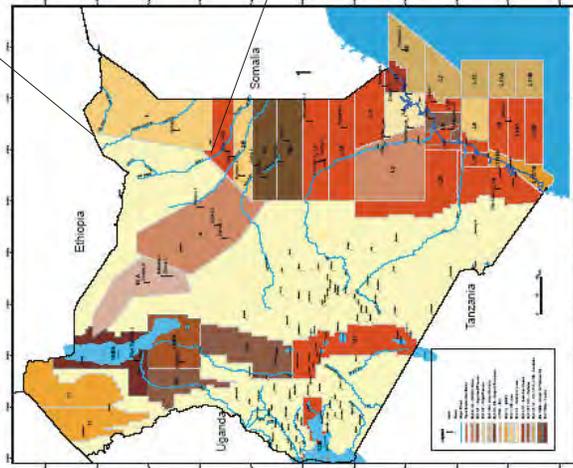
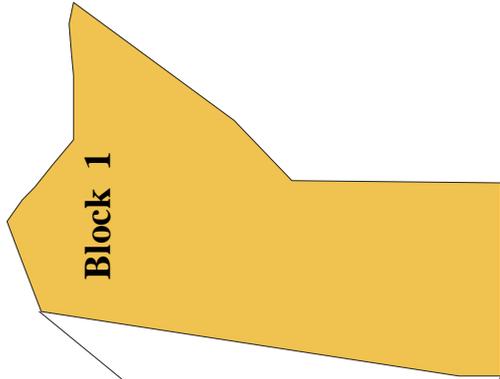
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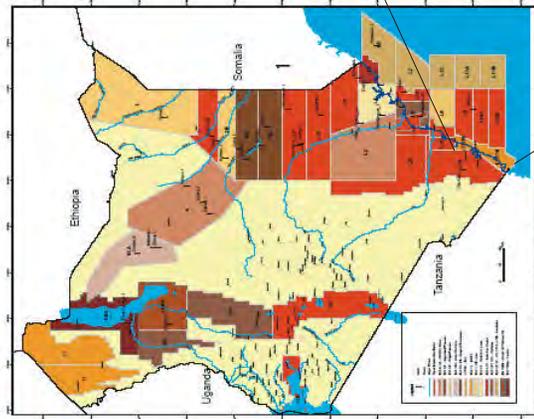
AFREN (EAX)-Onshore



- 1276 km of 2D seismic planned to commence in Q2 2011
- UPSL Crew mobilizing from Ethiopia



AFREN (EAX)-Offshore/Onshore



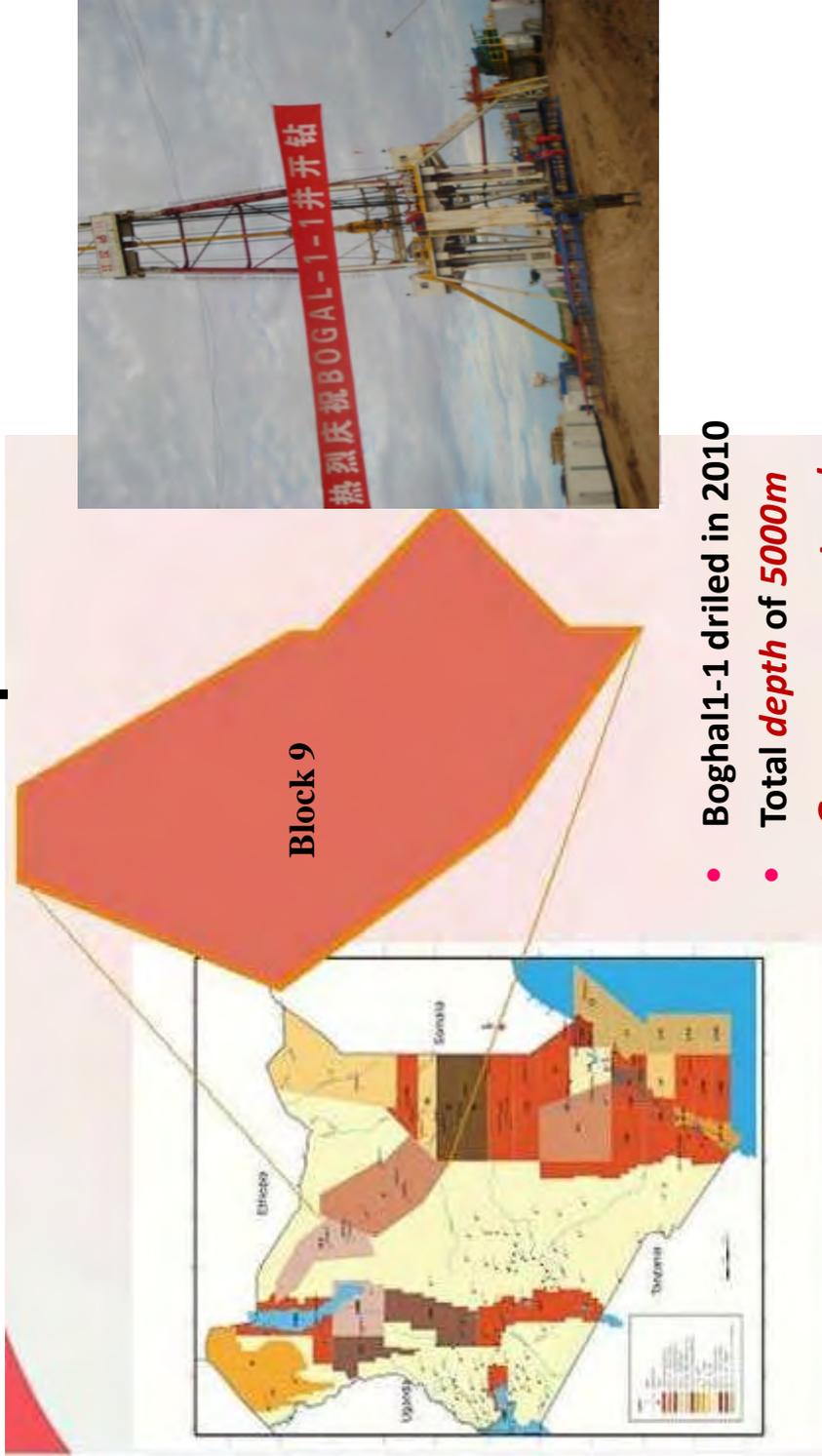
- Acquisition of 460 km shallow water - transition zone 2D seismics completed in October 2010
- Company plans to acquire onshore 2D



MINISTRY OF ENERGY



African Oil Corp- ONSHORE



- Boghal1-1 drilled in 2010
- Total *depth* of 5000m
- *Gas* was encountered

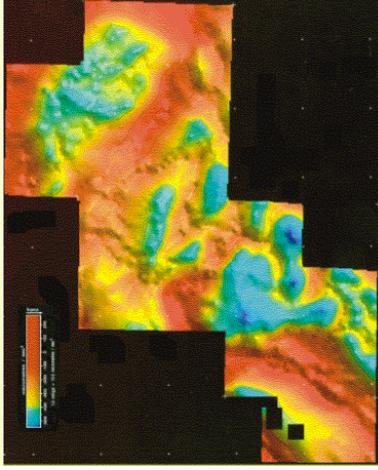
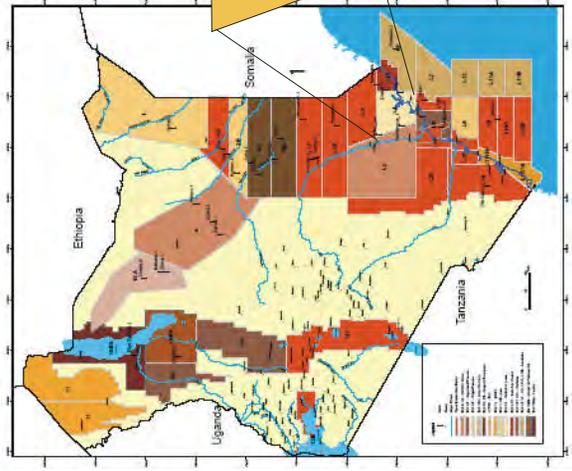
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SOHI – Onshore/Offshore



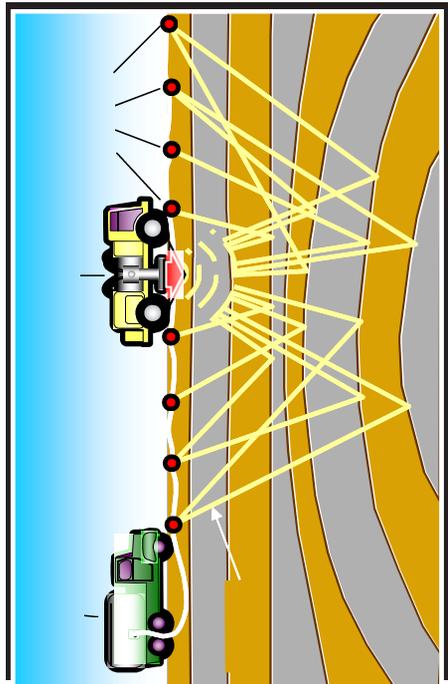
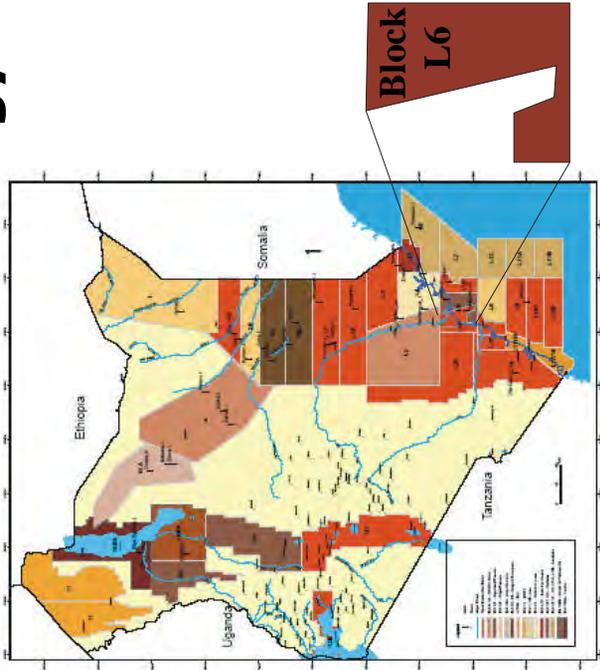
• Acquisition of 3D and 2D Seismic planned for early part of 2011.



MINISTRY OF ENERGY



FLOW Energy – Offshore/Onshore



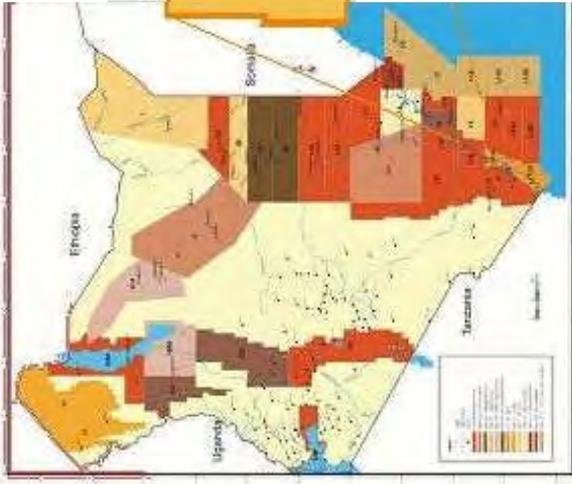
- 3D offshore seismics planned for 2011
- Acquisition of 100 km of onshore 2D seismic acquisition to commence in early 2011.

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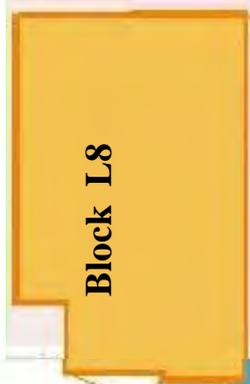
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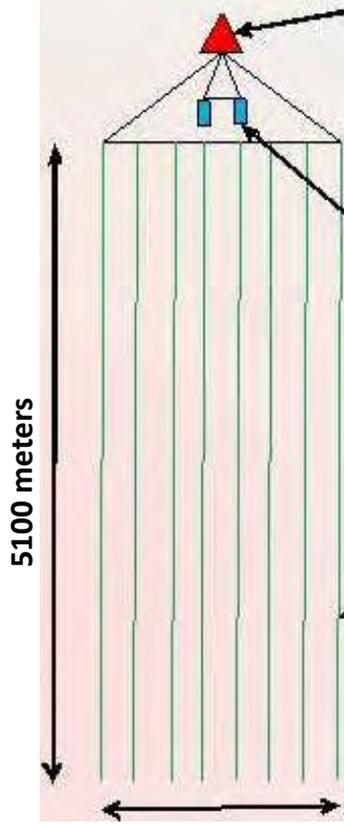
MINISTRY OF ENERGY



Acquisition of **900 sq km** of **3D** by **Origin Energy** completed December 2009



Block L8



Hydrophone
Streamer
Cables (8)

Air gun
Arrays

M/V
Seisquest



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[23]

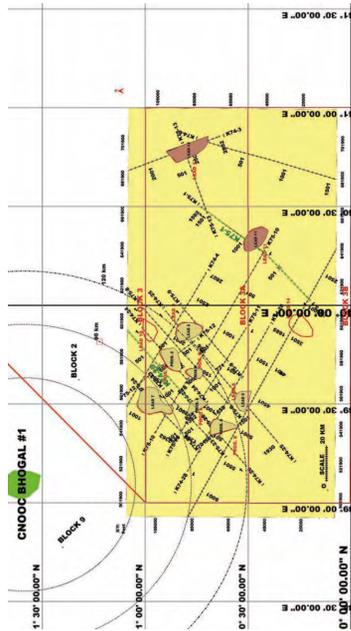
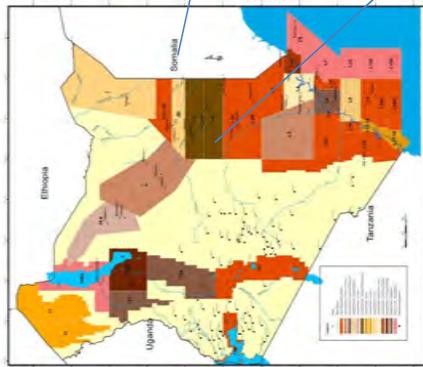


MINISTRY OF ENERGY



VANOIL – Onshore

- 1,500 km 2D seismic data reprocessed
- 447 line km of new 2D acquisition completed in 2010
- 3D seismic planned for 2011
- Well planned for 2012





MINISTRY OF ENERGY



Wells drilled in Kenya

Well Name	Operator	Latitude	Longitude	TD (m)	TD Age	Completed	Status	Year
Walu-1	BP/Shell	01°38'04"S	40°15'09"E	1768	Late Cret.	1960	P&A	
Pandangua-1	BP/Shell	02°05'51"S	40°25'15"E	1982	Early Tertiary	1960	P&A with gas shows in Tertiary	
Meri-1	BP/Shell	0°20'36"N	40°11' 00"E	1941	Early Tertiary	1961	P&A	
Mararani-1	BP/Shell	01°34'57"S	41°14'10"E	1991	Early Tertiary	1962	P&A with oil shows in the Tertiary	
Ria Kalui-1	Mehta & Co.			1538	Permo-Trias.	1962	P&A with oil staining in Karroo	
Walu-2	BP/Shell	01° 38'02"S	40°15'10"E	3729	Early Cret.	1963	P&A with oil shows in Cretaceous	
Dodori-1	BP/Shell	01°48'53.7"S	44°11'04"E	4311	Late Cret.	1964	P&A with oil and gas shows in	
Walmerer-1	BP/Shell	0°05'35"S	45°35'05"E	3794	Early Cret.	1967	P&A with gas shows in Cretaceous	
Garissa-1	BP/Shell	0°22'04"S	39°48'43"E	1240	Mid. Jurassic	1968	P&A	
Pate-1	BP/Shell	02°03'53.98"S	41°04'52"E	4188	Early Tertiary	1971	P&A with gas shows in the Eocene	
Kipini-1	BP/Shell	02°29'23.57"S	40°35'51"E	3663	Late Cret.	1971	P&A with oil and gas shows in	
Hegaro-1	Texas Pacific	0°47'43.5"S	40°26'40.5"E	3092	Early Cret.	1975	P&A with gas shows in Cretaceous	
Anza-1	Chevron	0°55'10.864"N	39°41'42.761"E	3662	Late Cret.	1976	P&A with oil stain in Cretaceous	
Bahati-1	Chevron	0°26'32.913"N	39°47'5.077"E	3421	Late Cret.	1976	P&A with oil stain in Cretaceous	
Simba-1	Total	04°00'06.60"S	40°34'03.68"E	3604	Late Cret.	1978	P&A with gas shows in Tertiary and	
Maridadi-1B	Cities Services	2°53'8.795"S	40°24'7.856"E	4198	Mid. Tertiary	1982	P&A with gas shows in the Tertiary	
Kofia-1	Union	02°32'31.90"S	40°56'18.30"E	3629	Late Cret.	1985	P&A with oil and gas shows in	
KenCan-1	PetroCanada	0°18'57.384"S	39°46'16.572"E	3863	Permo-Trias.	1986	P&A	
Elgal-1	Amoco	01°22'47"N	39°53'09"E	1280	Permian	1987	P&A	
Elgal-2	Amoco	01°27'32.708N	39°58'40.063"E	1908	Triassic	1987	P&A	
Ndovu-1	Total	01°59'58"N	38°52'57"E	4269	Early Cret.	1988	P&A with oil and gas shows in	
Sirius-1	Amoco	2°35'00.14"N	37°32'48.98E	2638	Lower Cret.	1988	P&A with good oil shows	
Bellatrix-1	Amoco	2°42'12.98"N	37°32'22.34"E	3480	Lower Cret.	1988	P&A	
Duma-1	Total	1°39'35.66"N	39°30'19.77"E	3333	Early Cret.	1989	P&A with gas shows in Cretaceous	
Hothori-1	Amoco	01°11'16.8"N	39°29'37.8"E	4392	Late Cret.	1989	P&A with oil and Gas shows	
Chalbi-3	Amoco	3°01'50.81"N	37°24'43.09"E	3644	Lower Cret?	1989	P&A	
Endela-1	Walter	0°45'20"N	39°28'52"E	2779	Early Tertiary	1989	P&A with gas shows in Paleogene	
Kaisut-1	Total	1°31'03.82"N	38°16'28.89"E	1450	Early Tertiary	1989	P&A	
Loperot-1	Shell	02°21'46.229"N	35°52'24.132"E	2950	Paleocene	1992	P&A with oil shows	
Eliye Springs-1	Shell	03°13'50.62"N	35°54'40.19"E	2964	Upper Miocene	1992	P&A	
Pomboo-1	Woodside	01°57'16.15"S	41°56'28.02E	4887	Late Cret.	2007	P&A	

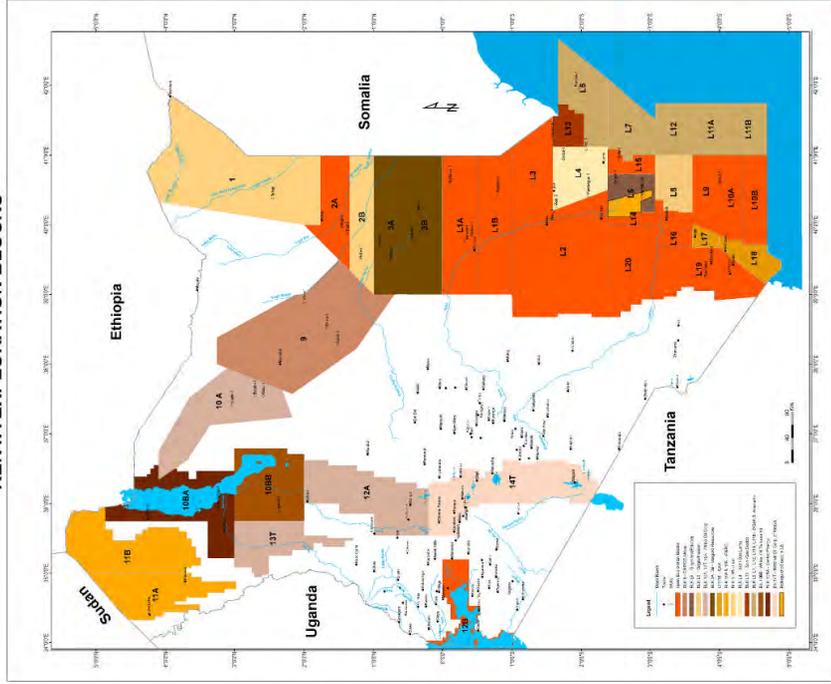


MINISTRY OF ENERGY



Available acreage

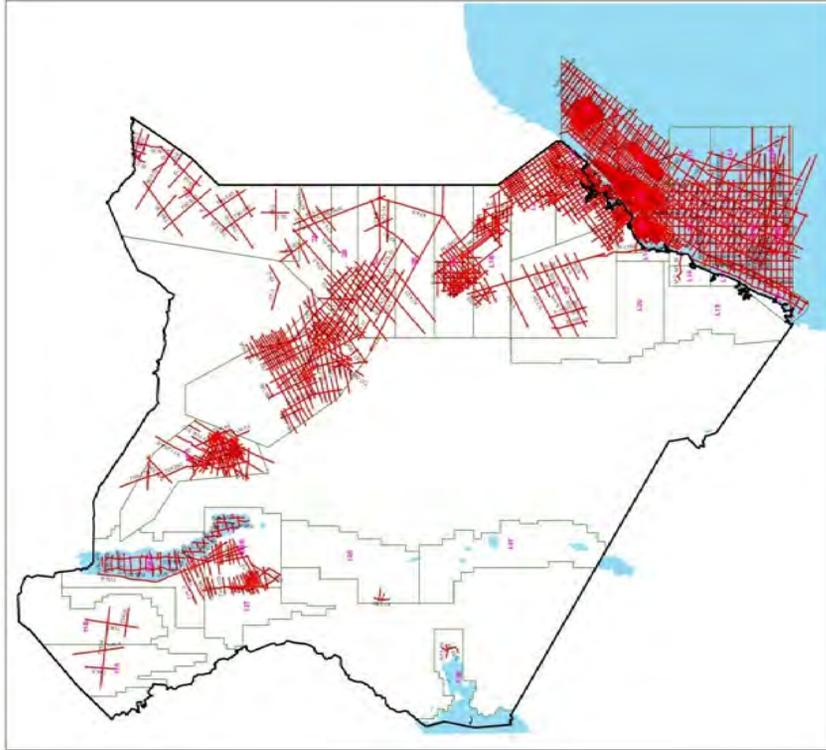
KENYA EXPLORATION BLOCKS



- Offshore Lamu Basin
 - 4 Blocks L9, L10A, L10B & L15
 - Large amounts of 2D data available
 - 4 wells drilled in offshore Lamu Basin
- Onshore Lamu Basin
 - 8 Blocks available,
 - 12 wells drilled within onshore Lamu Basin, oil and gas shows in the wells
 - Only vintage 2D seismic data available
- Mandera Basin
 - Only one block 2B available
 - 2 shallow stratigraphic wells drilled
 - Tarbaj oil seep in adjacent block
- Nyanza Trough
 - One block, little data available



Seismic Coverage



- 80,000 km of 2D seismics
- 900 sq km of 3D seismics



MINISTRY OF ENERGY



FISCAL STRUCTURE

Area	Specified Block size is provided with its coordinates.
Duration	Exploration: 3 Phases – Initial Exploration – 3 yrs , First Additional – 3 yrs; Second Additional 2yrs; Total 8 years Production: 20 to 30 years, (typically at least 25 years)
Relinquishment	Exploration: 25% after 1 st Phase, 25% of “original” area after 2 nd Phase (Negotiable)
Exploration Obligations	- Includes seismic data acquisition and drilling obligation with minimum expenditure (Negotiable)
Profit Oil Split	- Based upon a <i>production-based</i> sliding scale system . Tranches are Negotiable
Cost Recovery Limit	- It is based on gross revenues and its well within the World Average - 65% (Negotiable)
Training Fees	- It is based lump sum amount payable annually during exploration, development and production
Surface Fees Rental	- It is based on per block size basis and divided into exploration, development and production (Negotiable)
Taxation	- Under the Kenya Model taxes are paid “in lieu” – “for and on behalf of the Contractor” out of the GoK share of profit. Corporate Income Tax in Kenya – 30% . World average is between 30-35%.
Depreciation	It uses a 5 year Straight Line Depreciation method for capital costs. The depreciation begins “when production starts”
Ring fencing	It does not allow costs from one block to be recovered from another
Gvt. Part	- The Kenya Model PSC minimum participation of Min 10% . The GoK is carried through exploration. (Negotiable)

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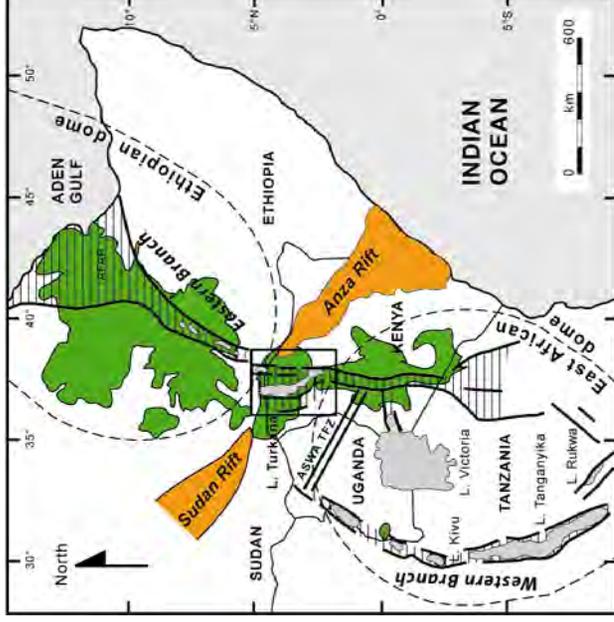
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[28]



SO IS THERE OIL IN KENYA?

- Positive indications in several of the 31 wells drilled to date e.g. Loperot-1, Sirius-1, Pate-1
- Discoveries in basins adjacent or similar to ours in the region
 - Uganda Western arm of Rift equivalent to our Tertiary Rift
 - Ethiopia Ogaden Basin which is part of our Mandera basin (Tarbaji oil seep)
 - Sudan southern rifts extensions of our Anza Basin
 - Tanzania coastal basins extend into our Lamu basin



Only Time and Continued Intensified Exploration Effort Will Tell



MINISTRY OF ENERGY



WHY INVEST IN KENYA ?

- Large exploration . Blocks (Onshore/Offshore)
- Competitive commercial terms
- Consider Licensing round especially for vacant offshore blocks as well as new blocks from new spec data
- Acceptable balance of risk/reward.
- Previous exploration data readily available
- Low entry cost, no signature bonuses
- Award focuses on work programme
- Provides investor with growth opportunities
- Access to Ready Market for Oil & Gas in East Africa Region
- Attractive legal & fiscal regime
- Most clauses are open for negotiation
- Kenya is the hub to Eastern Africa & Gateway to most of Africa
- Friendly People, Great & Beautiful Country



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Annex 10

Republic of Kenya, Ministry of Mining, *Sector Plan for Oil and Other Minerals 2013-2017*
(2013)



REPUBLIC OF KENYA

**SECTOR PLAN
FOR
OIL AND OTHER MINERALS 2013-2017
2013-2017**

The Principal Secretary
Ministry of Mining

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STATEMENT BY THE CABINET SECRETARY FOR MINISTRY OF DEVOLUTION AND PLANNING

FOREWARD

The oil/gas and other minerals resources sector has been given prominence in the Second Medium Term Plan (2013-2018) as key contributor to the envisaged and sustained Gross Domestic Product growth of ten (10) per cent per annum to the end of 2030. Their management and development, from exploration to distribution and use, which up to now has suffered serious underfunding among other issues is therefore crucial.

This sector plan outlines the key priority areas that need to be addressed in order to realize the potentials of the sector. Already successes are seen in the form of increase in the oil/gas sector. The number of active exploration licenses has been on the increase following the discovery of oil in the Turkana area and gas in Lamu County. In a similar breath, a lot of effort has been made by the Government to clean up operations in the other minerals sector to make it more transparent and attract more investment. Following this, the first batch of titanium ore from the Kwale sand deposits was exported in the month of February 2014. An agreement has also been reached with cement manufacturing companies and Fluorspar Company of Kenya (Ltd) on payment of royalties on use of limestone and fluorspar.

As the country embarks to reap benefits from its oil/gas and other minerals, this momentum needs to be sustained. Several policy and bills will be reviewed or be formulated to govern the sector. In addition, scientific work in the industry needs to be intensified to increase the database of knowledge about the country's natural wealth. Only in this way is the country going to achieve industrialization built upon utilization of its natural resources.

Mr. Davis Chirchir,

Ministry of Mining

Hon. Najib M. Balala, EGH
Cabinet Secretary
Cabinet Secretary
Ministry of Energy and Petroleum

3 CHALLENGES AND EMERGING ISSUES

There are numerous challenges and emerging issues affecting realization of full potential in the Oil/Gas and Other Mineral Resources Sector. Outlined below are the major challenges and emerging issues:

3.1 Legal, Regulatory and Institutional reform

The policies, laws and institutions that presently govern the mineral sector in the country need significant reform if the sector is to grow sustainably and contribute to economic development and poverty reduction in the counties. The highest priority must be given to finalizing the Mining Bill (2013) and Energy Bill (2013). Kenya needs a shared vision of how development of oil/gas and minerals will take place at the counties, building on experiences from across the world.

The bills must define the role and mandate of the state and its public institutions in the sector, and make very clear what public institutions at the county level will exercise; what regulatory roles are and the relationships between them; how, if at all, decentralization might apply to governance of the mineral sector; specify the environmental obligations of operators consistent with internationally recognized safeguard standards; define arrangement governing provision for community development and benefits sharing, including roles to be played by different stakeholders; address the rights of vulnerable groups that might be impacted adversely by mineral sector development and measures for their protection.

3.2 Government Revenue Collection

The development of a productive and profitable mineral sector can provide a new source of government tax revenues that could be substantial relative to non-mineral revenue sources. It will be important to ensure that the government obtains a fair share of mineral rents but, in doing so, it must strike the right balance between inducing investment at the counties and generating tax revenue. This calls for a fiscal regime for the Oil/Gas and other Minerals sector that takes account of the uncertainty, risks and rewards inherent in Oil and other minerals operations and recognizes that the country, particularly in this early phase of oil and gas sector development, competes for investment with countries that may offer equal or better investment opportunities within the region.

It is well known that natural resource exploitation of oil and gas requires extensive investment before it becomes valuable and beneficial to the society. It requires investment in infrastructure, physical capital and knowledge. Thus, investing in knowledge is a legitimate component of a forward-looking economy that will be an ultimate objective of the government.

3.3 Politics, dispute management and environmental issues

Oil and gas development faces political and environmental issues. Political issues stem from the overlapping and disputed claims of economic sovereignty. Environmental issues pertain to the preservation of Fauna and Flora species unique to the areas where oil, gas or other minerals have been discovered, particularly Turkana and Kwale. The environmental impact of oil exploration is a dominant driver for most technology development in the industry today. Although much of this effort is focused on waste treatment and disposal, a significant amount of waste prevention will be crucial. Development of technologies to displace less material during mining will result in reduced environmental impact. A long-term vision for the industry would find constructive use for all material removed in the oil drilling area.

Kenya has a maritime boundary dispute with Somalia, in the Indian Ocean Waters. There is also gazetted oil and gas exploration blocks that are located in the disputed area offshore the Lamu basin, and resolution of the dispute will be required to avoid resource-fuelled disputes, which are even harder

to mediate than others. The disputed Ilemi triangle between South-Sudan and Kenya also lies in the Tertiary basin stretching over three exploration blocks in that region. Although it takes time to resolve sovereign boundary disputes, it is important that faster solutions are sought to foster confidence with international companies. There has not been disagreement between exploring companies in the country, but the scenario in other countries should be a strong lesson for us, in formulation laws that govern such partnerships.

3.4 Managing Expectations

Like most mineral resources, oil exploration and exploitation takes place in the location of the resource and, subsequently, transformations (physical and socio-economic) are bound to occur in the area of discovery as it accommodates this new activity. With such transformations, especially in remote areas where oil and other minerals are, sensitive issues will arise which, if not addressed beforehand, may cause unnecessary tension and civil strife in future. Specifically, different stakeholders have different expectations regarding the economy of the country and especially those in the location where the resource is located. Turkana County has the highest poverty level of about 94 per cent, and is the sixth least densely populated county in Kenya. The county is among the five least developed in terms of infrastructure and other supporting socio-economic facilities. The burning question in the mind of the locals is what the national government will do to ensure citizens (especially those domiciled next to resource sites) have correct information, capacity and expectations to avoid unwarranted anxiety and excitement.

Although development of the oil resource will take a few years to commence, there has not been any systematic attempt to establish opinions and expectations of the public, who will be largely affected by the projects. There exist a lot of expectations at different levels of society with respect to the resource, and there has not been any identification of these expectations and ways to manage them. This has the potential of breeding negative sentiments in future, if the unidentified expectations of different groups are not met, and are not managed early enough.

Imperatively, the government must take cognizance of the fact that , like any other non-renewable resource, Oil (in general hydrocarbons) could be compared to a capital asset granted to a country for a limited period of time , and it must, therefore be used for the greatest and sustainable benefit of a country. This brings into focus the relevant issue of the government's general objectives with respect to the hydrocarbon sector. The statement of such objectives by the government would help in drafting laws, regulations and setting up institutions geared towards achieving the stated objectives. Since exploration and development of oil resources are long-term activities, the state should have clear objectives of how to handle both stages before signing any contracts with investors. In most cases a government's objective regarding exploration and development of natural resources revolve around the issues of sovereignty, economic growth and environmental protection.

3.5 Transparency, Rents Transfer and Rent Seeking

Transparency is key to achieving public acceptance of a contract. It is a necessary condition to all civil society and the public to provide an informal mechanism of checks and balances, where formal mechanisms are not adequate. Transparency is the only way to dispel the constant concerns of greed and corruption often associated with mineral contracts, and it prevents government officials from agreeing to the terms that the citizenry may deem unacceptable and subject to constant criticism and attack. Public and private sectors have different interests, which overlap with social welfare. Political stability is fundamental to government, while the private sector is concerned with stable property rights. Thus, the government has two competing objectives that is to maintain stability and to promote

Annex 11

Republic of Kenya, National Assembly, Departmental Committee on Defence and Foreign Relations, *Report of the Workshop on Somalia and International Boundaries* (Oct. 2014)

REPUBLIC OF KENYA



NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT – SECOND SESSION 2014

THE DEPARTMENTAL COMMITTEE ON DEFENCE AND FOREIGN
RELATIONS

REPORT OF THE WORKSHOP ON SOMALIA AND INTERNATIONAL
BOUNDARIES.

CLERK'S CHAMBERS
NATIONAL ASSEMBLY
PARLIAMENT BUILDINGS
NAIROBI

OCTOBER 2014

1.0 INTRODUCTION

The Departmental Committee on Defence and Foreign Relations is established pursuant to the provisions of Standing Order No. 216(5) of the Kenya National Assembly and in line with Article 124 of the Constitution (2010) which provides for the establishment of the Committees by Parliament. The functions of the Committee are, inter alia, to study the programme and policy objectives of Ministries and Departments and the effectiveness of their implementation; study, assess and analyze the relative success of the Ministries and Departments as measured by the results obtained as compared with their stated objectives as well as make reports and recommendations to the House as often as possible, including recommendations of proposed legislation.

Part one of the Fourth Schedule of the Constitution provides that Foreign affairs, foreign policy and international trade as well as the use of international waters and water resources are functions of the National government.

The Committee is mandated to consider the following issues; Defence, Intelligence, Foreign Relations, Diplomatic and Consular Services, International Boundaries, International Relations, Agreements, Treaties and Conventions.

In executing its mandate, the Committee oversees the operations of the following Ministries/State Departments and or Service:

- I. Ministry of Defence
- II. Ministry of Foreign Affairs and International Trade
- III. National Intelligence Service
- IV. State Department for East African Affairs in the Ministry of East African Affairs, Commerce and Tourism

2.0 COMMITTEE MEMBERSHIP

The Departmental Committee on Defence and Foreign Relations comprises the following Members: -

- i) Hon. Ndungu Gethenji, M.P. - Chairperson
- ii) Hon. Elias Bare Shill, M.P. - Vice-Chairperson
- iii) Hon. Jakoyo Midiwo, MGH, M.P.
- iv) Hon. Kato Ole Metito, EGH, MGH, MP
- v) Hon. Adan Keynan, CBS, M.P.
- vi) Hon. Chrisantus Wamwalwa, M.P.
- vii) Hon. Nyiva Mwendwa, EGH, M.P.
- viii) Hon. Maj-Gen (Rtd) Joseph Nkaiserry, CBS, MGH, M.P.
- ix) Hon. Gonzi Rai, MGH, M.P.
- x) Hon. Joel Onyancha, MGH, M.P.
- xi) Hon. Richard Onyonka, M.P.
- xii) Hon. Wafula Wamunyinyi, M.P.
- xiii) Hon. Joseph Kiuna, M.P.
- xiv) Hon. Joseph Lekuton, M.P.

- xv) Hon. Yusuf Hassan, M.P.
- xvi) Hon. Col (Rtd.) Ali Dido Rasso, MBS, M.P
- xvii) Hon. John L. Nakara, M.P.
- xviii) Hon. Roselinda Soipan, M.P.
- xix) Hon. Anna N. Gathecha, M.P.
- xx) Hon. David Wafula, M.P.
- xxi) Hon. Elisha Busienei, M.P.
- xxii) Hon. Abass S. Mohamed, M.P.
- xxiii) Hon. Joyce Wanjalah Lay, M.P.
- xxiv) Hon. Joseph Gitari, M.P
- xxv) Hon. David Pkosing, M.P.
- xxvi) Hon. Ibrahim Sane, M.P.
- xxvii) Hon. Dennitah Ghati, M.P.
- xxviii) Hon. Beatrice Nyaga, HSC, M.P.
- xxix) Hon. Ken Obura, M.P.

3.0. PRELIMINARIES

Honourable Speaker,

The Departmental Committee on Defence and Foreign Relations held a joint workshop with various government agencies to deliberate on Somalia and Kenya's International Boundaries on 9th to 12th October 2014 in Mombasa. Kenya's relations with Somalia have been very cordial for a long time yet of recent past, both Kenya and Somalia have faced a range of challenges and difficulties. Somalia is a major factor in Kenya's economic development and its relation to Kenya needs to be addressed if the benefits are to be maximized. The decision to hold the joint workshop on Somalia and International boundaries was the result of a series of concerns by the committee.

Honourable Speaker,

The Committee was concerned about the various incidences of insecurity in the country, which are allegedly attributed to the presence of the Kenya Defence Forces in Somalia. The Committee set out to carry out an audit of Kenya's forces in Somalia to establish whether the country has achieved its objectives and if not, how much longer Kenya's presence is needed. The Committee was also concerned with the various boundary disputes between

Kenya and her neighbours. For example, the dispute over the Ilemi Triangle between Kenya and South Sudan, the dispute over Migingo Island between Kenya and Uganda and the dispute between Somalia and Kenya currently before the International Court of Justice.

Honorable Speaker,

Article 21(4) of the Constitution of Kenya spells out that the State shall enact and implement legislation to fulfill its international obligations in respect of human rights and fundamental freedoms. The Committee received a correspondence dated 12th April, 2014 from the Federal Republic of Somalia, the House of the People, on a resolution of a motion urging the Kenya National Assembly to take urgent and concerted action in the wake of terrorist attacks and the aftermath on the Somali Community. In addition, the Committee on Defence and Foreign Relations received a correspondence from the Ministry of Foreign Affairs and International Trade dated 17th June 2014 advising the Committee to engage with a number of congressmen to discuss matters of alleged torture and detention of certain communities in Kenya. This was informed by a petition to the US congress on Kenya by Somali citizens in State of Minnesota, USA.

Honourable Speaker,

Experts and practitioners see all these challenges as contributing factors to Kenya's relations with Somalia. Although various measures have been taken by the Government of Kenya to ensure that the bilateral relations between the two nations make a greater impact in national development, major issues and externalities are still at large. The disarmament and reintegration of clan militias remains a challenge to security; the vast undefended Somali coastline and the absence of maritime capability present a major challenge to security.

6.0 DELIBERATIONS OF THE WORKSHOP ON SOMALIA AND INTERNATIONAL BOUNDARIES.

Below is a summary of the workshop presentations:-

OFFICIAL OPENING

Official Opening Remarks by the Hon. Bare Shill, MP - Vice Chair, Committee on Defence and Foreign Relations

The Vice Chairperson called the workshop to order at 8:00am. Thereafter, he welcomed and recognized the presence of the Members of the Committee, resource persons and the Secretariat. He pointed out that the efficient partnership between the Committee, the line Ministries and Departments was crucial to the effective execution of their respective mandates.

He emphasized the importance of the event and urged the Committee members to take full advantage of the wealth of expertise present at the workshop, and to exhaustively interrogate the matters before them. He also gave a highlight of key events outlined in the programme.

Remarks by Ms. Florence Atenyo-Abonyo - Director, Committee Services

In her welcome remarks, the Director of Committee services registered apologies from the Clerk of the National Assembly who was unable to attend the meeting; she emphasized the importance of the Members appreciating the mandate and operations of the Committee in fulfillment of their Constitutional obligations.

She reiterated that Kenya is a principle stakeholder in the subject of Somalia and with a very great interest for a stronger, more stable and democratic governance in Somalia. Kenya, like all nations, has political, economic, and security interests, and thus should greater focus, its attention, and resources towards how to further those national interests. Kenya's strategic, economic, and security interests should thus be the guiding factor in

discussing the subject of Somalia. She urged the committee not to forget what may be unknown so far, Somalia's own national interest.

Further, she pointed out that the matter regarding disputes over international terrestrial and maritime boundaries had been with us for a long time with situations that range from traditional bilateral boundary disputes to unilateral claims of one sort or another. In deed she was hopeful that by the end of the workshop, the stakeholders present would come up with a way forward regarding some of the issues and hopefully, as a country these matters could be resolved once and for all.

The participants were also informed that the Office of the Clerk took cognizance of the role played by the technical departments in Parliament in providing Members with relevant information to ensure evidence informed recommendations by the Committee on various issues of national development.

She informed the participants that the Committees of Parliament are created by the Constitution, the Standing Orders and other statues and by the resolutions of the two Houses. The principal purpose of Parliamentary Committees being to perform functions, which the House is not capable of performing at its plenary sittings such as: - summoning of witnesses, sitting as frequently as desirable, applying an environment that can facilitate presentation of details/analysis of evidence, undertaking inspection tours, and forming sub-Committees to conduct in-depth inquiry.

SESSION ONE: KENYA'S POLICY ON SOMALIA

Session Chair the Hon. Bare Shill, MP, *Vice -Chairperson, Departmental Committee on Defence and Foreign Relations.*

This session focused majorly on the Kenya-Somalia relations with regard to the recent move by the Kenyan Government to deploy KDF troops in Somalia to wage war on Al-Shabaab and advance her security interests and the consequences of that initiative.

He stated that, the situation in Somalia presents a security challenge in the region especially in Kenya like terrorism, radicalization, refugees and trafficking of drugs, arms and humans and the involvement of Somali clan militia in inter-clan conflicts in North Eastern Kenya and piracy among others.

He was greatly concerned that the continued inflow of refugees (who have been displaced by the ongoing operations against Al-Shabaab and drought in Somalia) has greatly hindered the planned voluntary repatriation of refugees. Further, Al-Shabaab operatives have also been known to use refugee camps as safe havens and centres for their operations in Kenya.

The challenges have been escalated because of AMISOM's lack of military hardware like attack helicopters, the lack of cohesion within the Somali National Army (SNA) and allied militia and the persistent inter-clan conflicts.

He was optimistic that the resolution of the conflict in Somalia will in turn aid the process towards the solution of the consequent challenges in Kenya. This was already underway as the Government of Kenya has put measures in place to improve relations with leaders in Somalia, signing a tri-partite agreement with UNHCR on the voluntary repatriation of Somali refugees, the activation of the Joint Cooperation Commission to promote diplomatic ties and the continued support of the ongoing International effort to stabilize Somalia.

SESSION TWO: KENYA'S INTERNATIONAL BOUNDARIES

Session Chair: The Hon. Col (Rtd.) Ali Dido Rasso, MBS, M.P. *Member, Departmental Committee on Defence and Foreign Relations.*

This session focused Kenya's international boundaries and the importance of defining boundaries with particular emphasis on the following topics; Physical demarcations and markings, legal challenges and maritime boundary negotiations with Somalia. The presenters shared that Article 5 of the Constitution states "Kenya consists of the territory

and territorial waters comprising Kenya on the effective date, and any additional territory and territorial waters as defined by the Act of Parliament”. This then follows that the Government should know the extent of its own area of jurisdiction for purposes of administering laws, collecting taxes, providing defense, ensuring peaceful co-existence and good neighborliness and for exploration and exploitation of resources.

In concluding, the presenters emphasized that there is need:

- i. To correct the current anomalies in the current laws touching on international boundaries e.g. the Districts and Provinces Act, Cap 105A;
- ii. For relevant Ministries and Government institutions to participate in the Joint Boundary deliberations/meetings with neighboring countries at various levels where necessary; and
- iii. To finalise the process of defining her territorial boundaries to avoid conflicts with neighbors.

Topic 5: Kenya’s International Boundaries - *Physical Demarcations and Markings* by Mr. Cesare N. Mbaria- *Director of Surveys, Land, Housing and Urban Development.*

In his opening remarks, he thanked the Members for inviting him to share his views on the topic regarding Kenya’s International Boundaries with particular emphasis on the physical demarcations and markings.

In his presentation, he stated that it was important for all Governments to know the extent of their jurisdiction in terms of the International Boundaries for administration purposes, peaceful co-existence with neighbors and exploitation of resources. He gave an example of the Cairo Resolution of 1964, which required that all signatory states of Africa respect the existing colonial borders, while the Ordinary Session of the AU Assembly of the Union of 2011 resolved to extend the deadline for the completion of the delimitation of all African

borders from 2012 to 2015. Kenya is yet to complete the delimitation of her boundaries with neighboring countries and depositing of the Boundary Instruments (the jointly prepared and agreed boundary documents and maps) with the United Nations (UN) and the African Union (AU). Additionally, Kenya is yet to comply with the resolution of the 17th Ordinary Session of the AU Assembly of the Union held on June/July 2011 at Malabo in Equatorial Guinea, which extended from 2012 to 2017 from the completion of the delimitation/demarcation of all African borders.

He however concluded by stating that there have been ongoing inspections of boundaries and maintenance of the physical demarcations between Kenya and her neighbors. Further, he called on the relevant Ministries and Government institutions to prepare to participate in the Joint Boundary deliberations or meetings with neighboring countries at various levels to actualize the same. He pointed out that there was need to correct the current anomalies in the laws touching on international boundaries for instance the Districts and Provinces Act, Cap 105A.

Topic 6: Kenya's International Boundaries - *Legal Challenges/Issues by the Ms. Juster Nkoroi, EBS, Chairperson, Taskforce on Delineation of Kenya's Outer Continental Shelf.*

In her presentations, Ms. Juster Nkoroi, Chairperson of the Taskforce on Delineation of Kenya's Outer Continental Shelf, gave a highlight of the four essential attributes of a State which include the population, territory, Government and sovereignty. Of importance in this workshop was the territory aspect.

She started by explaining that each country needs to confirm the boundaries (as inherited) and to regulate matters pertaining to it. Further, Kenya's decision in the establishment of her maritime zones is guided by the principles of International Law: Law of the Sea Convention, State practice and International judgments, and; the bilateral history of Kenya with her neighbors.

She further explained that, four out of five of Kenya's international land boundaries are described by Colonial Treaties. The Kenya – Ethiopia boundary was described in a post-colonial treaty signed in 1970 and registered by Kenya on 25 April 1989. This shows a need to confirm the inherited boundaries and to regulate any matters that would arise in the process. Kenya and all the neighboring States, except Somalia, recognize the Cairo declaration of 1964 that sought to recognize the colonial boundaries.

However, to-date, Kenya's maritime space had not yet been finalized because of claims of it overlapping Somalia's maritime zone yet Kenya and all her other neighbouring states recognize the non violability of the colonial boundaries as contained in the Cairo Declaration of 1964.. Somalia's insistence on the use of a median line to delimit the maritime zone in Indian Ocean would result in Kenya losing a considerable amount of area in the outer continental shelf (OCS). This is to be avoided as an immense amount of wealth potential is to be found in the seas.

The applicable laws in Kenya include the Territorial Waters Act of 16th May 1972 that adopted median lines as the bases of determining the boundary line with neighboring states for purposes of determining the breadth of the territorial sea, and the Maritime Zones Act of 5th August 1989 which consolidated the law relating to Territorial Waters and Continental Shelf and further provides for the establishment and delimitation of the Exclusive Economic Zone (EEZ) and other uses of the ocean. The maritime zone between Kenya and Tanzania as regards Pemba Island is delimited using multiple lines to allow the Island an EEZ.

On the legal challenges, she informed the meeting of the need to urgently complete the process of defining Kenya's boundaries. Currently Kenya has three boundary disputes. These are the dispute over Ilemi Triangle between Kenya and South Sudan, the dispute over Misingo Island between Kenya and Uganda and boundary dispute between Kenya and Somalia. These issues should be addressed urgently. Lastly, there was need to update the Districts and Provinces Act (Cap 105A) to conform to the Constitution.

In her concluding remarks, she assured the Committee that the Government was fully engaged on the case filed against Kenya by Somalia at the International Court of Justice. However, she was of the opinion that the case was better settled out of court, allowing negotiations to factor in the history between Kenya and Somalia and maintain amity between the two States. The best solution was the equitable principle in maritime delimitation that allows for the proportionate sharing of “relevant maritime area” based on ratio “of relevant length of the coasts”.

SESSION III: OUTPUTS & CLOSURE

Session Chair: The Hon. Col. (Rtd.) Ali Dido Rasso, MP - Member, Departmental Committee on Defence and Foreign Relations

This session was very instrumental as it epitomized the gist of the meeting, being the need for Kenya to urgently complete the process of defining its boundaries, the need to aggressively support the ongoing inspections of boundaries and maintenance of the physical demarcations between Kenya and her neighbors, the need to urgently tackle insecurity threats posed by Al-Shabaab operatives in Kenya and other terror groups, the need to support KDF presence in Somalia and last but not least the need to establish stronger bi-lateral relations and negotiate strategic agreements with the Somali Federal Government in the bid to broaden diplomatic engagements in Somalia which has direct influence on the content and direction of Somalia policy.

Drawing from the comprehensive presentations and discussions that had been facilitated by the resource persons, strategic way forward including action plan on matters of great significance emerged.

Summary of Action Points by the Hon. Annah N. Gathecha, MP- Member, Departmental Committee on Defence and Foreign Relations

The Hon. Annah Gathecha thanked the Chair, Resource Persons and all participants for actively participating in the workshop. She took participants through this session where she gave a summary of action points that emerged from the meeting. She however emphasized

the need for various Actors to look into the issues raised with a view to seeking practicable solutions that will take Kenya forward.

Recommendations of the Workshop

The Committee decided that specific recommendations were to be made to the various agencies for easier implementation. The following way forward was the result of informative presentations from the distinguished participants and the resulting discussions with the Committee:

The National Assembly should:

1. Enhance Parliamentary diplomacy by engaging with the Parliament of Somalia through constituting a Kenya-Somalia Parliamentary Friendship Group. Therefore, the National Assembly should nominate Members to constitute the Friendship Group.
2. Revive the Amani forum that provides interactive sessions between Parliament and other relevant ministries to discuss issues of national importance.

The Ministry of Foreign Affairs and International Trade should:

1. Establish stronger bi-lateral relations and negotiate strategic agreements with the Somali Federal Government.
2. Activate its Somali Embassy in Mogadishu and open consular offices in Hargeisa, Garowe and Kismayu as earlier planned.
3. Identify low cost high value adding sectors to support the Somali Federal Government as a donor and international investor.
4. Broaden diplomatic engagements in Somalia to embrace Gulf States and the Islamic political space; the same have considerable direct influence on the content and direction of Somalia policy.

5. Seek the activation of the Joint Cooperation Commission to promote closer diplomatic ties between the two Countries.

The Office of the President should:

1. Take the necessary action against the Somali citizens in Kenya who have been using the media to issue statements that are contrary to Kenya's policy on Somalia.
2. Establish a multi-sectoral institutional framework with own resource kitty to drive broad-based strategic engagements in Somalia; focusing KDF rear operations, refugee repatriation and resettlement and post conflict diplomatic, economic and technical cooperation engagements.
3. Enhance cooperation and coordination of all security agents by constituting a permanent team coordinated from a central point in order to defeat the Al-Shabaab threats in the country.
4. Allow for the profiling, segregation and removal of Al-Shabaab operatives already in the refugee camps and their support networks.
5. Put in place measures to stop radicalization of the youth through a multi-pronged approach for instance involving scholars, clerics and policy leaders in civic education for the youth. Further, measures should be put in place to rehabilitate and reabsorb these youth back into the society.
6. Keep the public informed of the achievements made in the ongoing operations in Somalia to counter the negative perceptions in the media.
7. Enhance security operations in notorious border points, sustain and intensify surveillance by ensuring effective control of the entire length of the Kenya-Somalia Border. Further, measures should be put in place to curb corruption among border security agents.

8. Enhance civic awareness on the threat of terrorism, emphasizing the need for Kenya to remain vigilant and report terror suspects as a way of managing the threats posed by instability in Somalia.
9. Continue supporting international efforts to stabilize Somalia.
10. Cultivate clear ties with Somali leaders with a view to secure their support and cooperation with regard to issues such as repatriation of refugees as well as reaching an amicable settlement in the maritime dispute.
11. Form a team to audit the multi-lateral institutions Kenya is a member of and treaties she is party to ensure her strategic objectives are being met for example IGAD and the Rome Statute.
12. As part of AMISOM, re-negotiate sector allocation and redefinition to incorporate Gedo region as part of Sector 2 dependant on a UN Security Council resolution to increase troops.
13. Coordinate a consultative meeting between the relevant Ministries to set the timeline for the Mapping of Kenya's borders. The National Assembly should allocate funds for the mapping exercise.
14. Propose amendments to the District and Provinces Act (Cap 105A), National Government Coordination Act, No. 1 of 2013 and the Maritime Zones Act (Cap 371) to conform to the Constitution and current practices of International Maritime Law.

Closing Remarks

By the Hon. Ndung'u Gethenji, MP - Chairperson, Departmental Committee on Defence and Foreign Relations.

In his closing remarks, Chairperson, Departmental Committee on Defence and Foreign Relations, thanked the Members, resource persons, the secretariat and other participants for

Annex 12

Republic of Kenya, Ministry of Energy and Petroleum, *Strategic Environmental and Social Assessment of the Petroleum Sector in Kenya: Final Report* (Dec. 2016)

EPUBLIC OF KENYA



MINISTRY OF ENERGY AND PETROLEUM
KENYA PETROLEUM TECHNICAL ASSISTANCE PROJECT
(KEPTAP)

FINAL REPORT

STRATEGIC ENVIRONMENTAL AND SOCIAL ASSESSMENT
OF THE PETROLEUM SECTOR IN KENYA

DECEMBER, 2016

SUBMITTED TO:

NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY (NEMA)

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Through

MINISTRY OF ENERGY AND PETROLEUM

ATTENTION: PRINCIPAL SECRETARY, STATE DEPARTMENT OF PETROLEUM

24TH FLOOR, NYAYO HOUSE, SOUTH WING

POSTA STREET/KENYATTA AVENUE

NAIROBI, KENYA

Credit No.: 5526-KE

Contract No: KEPTAP/NEMA/CS-6

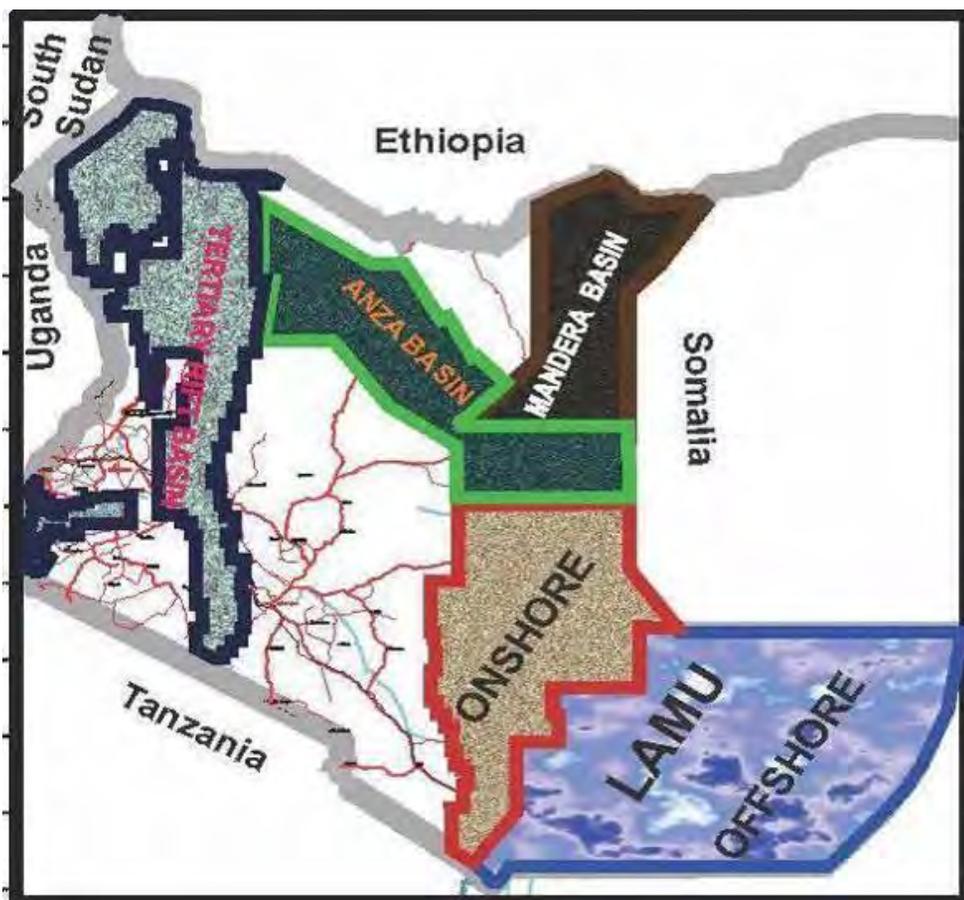


Figure 3: Kenya Oil and Gas Sedimentary Basins

1.9.2 Petroleum Exploration Blocks

In the Kenya Gazette Notice No. 3344 dated 13th May 2016, issued under the Petroleum (Exploration and Production) Act, 1986 (*Cap. 308*), the Cabinet Secretary for Energy and Petroleum constituted sixty-three (63) Petroleum Exploration Blocks of which thirty seven (37) are located in the Lamu Basin, seven (7) in the Anza Basin, five (5) in the Mandera Basin, and fourteen (14) in the Tertiary Rift Basin (MOEP, 2016). The public notice shows all the blocks defined by their longitudes and latitude, their sizes and block maps. The Gazette Notice No. 3974 of 2012 was revoked. Figure 4 and Table 3 below shows details of these oil blocks.

Table 3: Kenya Oil Blocks and their Sizes

No.	OIL BLOCK	AREA (KM²)
MANDERA BASIN BLOCKS		
1.	BLOCK 1	23,797.79
2.	BLOCK 1A	12,083.66
3.	BLOCK 2A	7,801.72
4.	BLOCK 2B	5,461.31
5.	BLOCK 2BA	2,297.50
Sub-total for Mandera Basin		51,441.98
ANZA BASIN BLOCKS		
6.	BLOCK 3A	8,903.58
7.	BLOCK 3AA	3,287.69
8.	BLOCK 3B	9,081.83
9.	Block 3BA	3,338.47
10.	Block 9	15,781.95
11.	Block 9A	15,848.82
12.	BLOCK 10A	19,865.29
Sub-total for Anza Basin		76,107.63
TERTIARY RIFT BASIN BLOCKS		
13.	BLOCK 10BA	15,986.33
14.	BLOCK 10BAA	5,527.48
15.	BLOCK 10BB	6,172
16.	BLOCK 10BC	6,794.3
17.	BLOCK 11A	8248.29
18.	BLOCK 11AA	3,751.23
19.	BLOCK 11B	14,317
20.	BLOCK 12A	15,390
21.	Block 12AA	5,130
22.	Block 12B	6,200
23.	Block 12 BA	1,278.00
24.	Block 13T	4,719
25.	Block 14T	17,209.50
26.	Block 15T	5,896
Sub-total for Tertiary Rift Basin		116,619.13
LAMU BASIN BLOCKS		
27.	BLOCK L1A	12,569.67
28.	BLOCK L1B	12,197.99
29.	BLOCK L2	11,680.88
30.	BLOCK L3	8,960.84
31.	BLOCK L4	5,664.50
32.	BLOCK 4A	1,818.82
33.	BLOCK L5	2,352.43
34.	BLOCK L6	4,986.07
35.	BLOCK L7	5,520.70
36.	BLOCK L8	5,128.83
37.	BLOCK L9	5,110.06
38.	BLOCK L10	4,962.03
39.	BLOCK L10B	5,585.35

No.	OIL BLOCK	AREA (KM²)
40.	BLOCK L11A	5,008.72
41.	BLOCK L11B	4,962.58
42.	BLOCK L12	4,981.78
43.	BLOCK L13	2,178.45
44.	BLOCK L14	11,010.76
45.	BLOCK L14A	3,672.63
46.	BLOCK L15	2,331.03
47.	BLOCK L16	3,619.79
48.	BLOCK L17	1,274.69
49.	BLOCK L18	3,532.56
50.	BLOCK L19	8,802.31
51.	BLOCK L19A	3,040.59
52.	BLOCK L20	10,786.05
53.	BLOCK L21	15,669.53
54.	BLOCK L22	10,425.38
55.	BLOCK L23	10,311.59
56.	BLOCK L24	9,930.80
57.	BLOCK L25	10,569.13
58.	BLOCK L26	13,952.65
59.	BLOCK L27	10,585.88
60.	BLOCK L28	10,448.47
61.	BLOCK L29	3,224.57
62.	BLOCK L30	3,146.66
63.	BLOCK L31	2,292.88
Sub-total for Lamu Basin		252,297.65

Source: Republic of Kenya, Ministry of Energy and Petroleum, 2016

Annex 13

Letter from H.E. Githu Muigai, Attorney-General and the Agent of the Republic of Kenya, to H.E. Mr. Philippe Couvreur, Registrar of the International Court of Justice, No. AG/CONF/19/153/2VOL.IV (26 Sept. 2016)



REPUBLIC OF KENYA
OFFICE OF THE ATTORNEY-GENERAL
&
DEPARTMENT OF JUSTICE

AG/CONF/19/153/2VOL.IV

26th September 2016

H.E. Mr Philippe Couvreur
Registrar
International Court of Justice

Dear Registrar,

In regard to *Maritime Delimitation in the Indian Ocean (Somalia v Kenya)*, the Republic of Kenya has the honour herewith to submit its response to the two questions posed by Judge Crawford to the Parties upon the conclusion of the second round of oral pleadings on 23 September 2016 in the hearing on Kenya's Preliminary Objections.

Preliminary Clarifications

In respect of the introductory statement in Judge Crawford's question that the Parties "conducted negotiations" over maritime delimitation "without making any express reservation as to the timeliness of such negotiations in terms of the penultimate paragraph of the Memorandum of Understanding", it is necessary to make two preliminary clarifications.

First, as set out in Kenya's written and oral pleadings,¹ the penultimate paragraph of the MOU requires *finalization* of a negotiated agreement after CLCS review.² It

¹ POK, paras. 31, 46, 69, 73, 116 and 146; CR 2016/10 (Agent, p. 15, para. 10; Akhavan, pp. 20-21, para. 18; Lowe, p. 64, para. 17).

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obviously does not prohibit the Parties from concluding one or more interim agreements that are subsequently finalized after the recommendation of the CLCS on the terminus point of the outer continental shelf beyond 200 nautical miles. Accordingly, negotiations between the Parties prior to the recommendation of the CLCS, even if it resulted in one or more interim agreements on delimitation covering some or all maritime areas in dispute, would still be subject to finalization under the MOU's agreed procedure.

Second, as set out in Kenya's written and oral pleadings, the two technical meetings in 2014 were in fact held immediately after and directly because of Somalia's objection to Kenya's CLCS submission and repudiation of the MOU as "null and void" in its letter to the UN Secretary-General on 4 February 2014.³ Prior to that, following the Somali Parliament's 1 August 2009 vote purporting to reject the MOU, Somalia had submitted a Note Verbale on 2 March 2010 to the UN Secretary-General, asserting that the MOU was "non-actionable", but without specifically objecting to Kenya's CLCS submission.⁴ On 17 August 2011, Norway had submitted a letter to the UN Secretariat noting that Somalia's Note Verbale of 2 March 2010 was "without legal effects" but had "created a new political situation casting doubt on the commitment of [Somalia to the MOU] and creating doubts as to the capability of [Somalia] to enter into legally binding international commitments."⁵ On 31 May 2013, following diplomatic efforts, the Parties agreed in a Joint Statement to "work on a framework of modalities for embarking on maritime demarcation" consistent with implementation of the MOU, indicating Somalia's willingness to respect its commitments.⁶ On 6 June 2013, however, Somalia reversed its position and declared that it "does not consider it appropriate to open new

² POK, Annex 1: Memorandum of Understanding Kenya–Somalia, 2599 *UNTS* 35 (2009), p. 38: 'The delimitation of the maritime boundaries in the areas under dispute, including the delimitation of the continental shelf beyond 200 nautical miles, shall be agreed between the two coastal States on the basis of international law after the Commission has concluded its examination of the separate submissions made by each of the two coastal States and made its recommendations to two coastal States concerning the establishment of the outer limits of the continental shelf beyond 200 nautical miles.'

³ POK, para. 98–102 and 109; CR 2016/10 (Muchiri, pp. 46-7, paras. 2, 7). See also letter dated 12 February 2014 from the Head of the Legal and Host Country Affairs Directorate of the Kenyan Ministry for Foreign Affairs to the Cabinet Secretary, Kenya's Judges' Folder First Round, Tab 11.

⁴ POK, para. 77; referred to at paras. 3.40–3.41 of MS.

⁵ POK, para 81 and Annex 4.

⁶ POK, para. 88 and Annex 31.

discussions on maritime demarcation or limitations on the continental shelf with any parties”.⁷ It was in this context that the agenda of the first meeting, initiated by Kenya, included discussion of the MOU as the first agenda item.⁸ Somalia, however, immediately objected to any discussion of the MOU and demanded that it be removed from the agenda because in its view the MOU was “void and of no effect”.⁹

Owing to Somalia’s categorical rejection of the MOU, therefore, it cannot be said that the two meetings in 2014 were held in order to implement the agreed procedures under the MOU. The absence of an express reservation as to the timeliness in terms of the penultimate paragraph of the MOU was thus irrelevant and cannot be construed as subsequent conduct in interpreting the terms of the MOU. In fact, Kenya was focused on a confidence-building process to persuade Somalia to withdraw its objection to Kenya’s CLCS submission and to gradually agree on a structure and guiding principles for negotiations consistent with the MOU’s agreed procedure.¹⁰ Even if there had been a deviation from that procedure because of Somalia’s unwillingness to implement its commitments, it would have been subject to the consent of Kenya, and would not have nullified or modified existing obligations under the MOU.

In any event, on 4 August 2014, Kenya made clear that it was expecting Somalia to eventually reverse its position on the MOU; Kenya underlined that, even though “Somalia did not discuss the MOU during the first meeting”, Kenya had “witnessed friendlier attitude towards the MOU during the second meeting” held in July 2014.¹¹ In October 2014, Kenya also stressed that “it would be in the best interests of both States as well as good international order that the Commission proceeds to consider Kenya’s submission at the earliest opportunity; precisely *to allow the two States to carry on with their delimitation of the continental shelf beyond 200 NM in the*

⁷ POK, paras. 89-90.

⁸ POK para. 99; MS, Annex 31, p. 1.

⁹ POK para. 100; MS, Annex 24.

¹⁰ CR 2016/10 (Muchiri, p. 47, para. 8); CR 2016/12 (Lowe, p. 33, para. 20).

¹¹ POK, Annex 41. Dr. Karanja Kibicho, Confidential Note to the Director General of the National Intelligence Service Regarding “Proposal for the Cabinet Secretary MFA and Other Senior Government Official to Visit Mogadishu to Discuss Maritime Boundary Including Lifting of Objection by Somalia on MOU Granting No Objection to Consideration of Kenya’s Submission”, MFA.INT.8/15A (4 Aug. 2014).

;
;
*manner originally envisioned in the 7 April 2009 MOU and the 19 August 2009 communication”.*¹²

Questions of Judge Crawford

Bearing this context in mind, Kenya provides the following response to the two questions in regard to the two preliminary technical meetings:

- (1) The discussions covered all maritime zones, including the territorial sea, the EEZ, and the continental shelf within and beyond 200 nautical miles, as Somalia acknowledged in its Application.¹³ This is apparent from the discussion of Kenya’s 1972 Territorial Waters Act, the 1989 Maritime Zones Act, the 1979 and 2005 Presidential Proclamations on the EEZ, and the range of the slides in the PowerPoint presentation covering all maritime areas in dispute.¹⁴ It is apparent from those slides that the discussions were carried out at a high level of generality and Kenya observed that it required further time for a proper presentation of its views.¹⁵ In this regard, it should also be noted that, at the first meeting, the Parties considered “several options and methods for equitable delimitation, including bisector, perpendicular, median and parallel of latitude” as potential maritime boundaries, and that these methods were considered in regard to all maritime areas in dispute.¹⁶

¹² MS, Annex 50, p. 3 (emphasis added). Note Verbale from the Permanent Mission of the Republic of Kenya to the United Nations to H.E. Ban Ki-Moon, Secretary-General of the United Nations, No. 586/14.

¹³ See Application, para. 30; see also MS, Annex 41, paras 2-3.

¹⁴ MS Annex 31, Joint report of the Government of the Republic of Kenya and the Federal Republic of Somali on the Kenya–Somali maritime boundary meeting held on the 26th–27th March, 2014 at the Ministry of Foreign Affairs and International Trade Nairobi, Kenya; WSS, para 2.49; Somalia’s Judges’ Folder First Round.

¹⁵ Kenya’s Judges’ Folder First Round, Tab 12, Brief on a Meeting between the Governments of the Republic of Kenya and the Federal Republic of Somalia on the Maritime Boundary held on the 28th-29th July, 2014, Nairobi, Kenya, dated 8 August 2014, page 2, first paragraph (provided to the Court on 14 June 2016).

¹⁶ MS, Annex 31, p. 6.

The Parties made progress at the first meeting and agreed on the “starting point” for maritime delimitation,¹⁷ and at the second meeting agreed to reconvene with a view to agreement on a structure and guiding principles for further discussions.¹⁸ There was no commitment or expectation that negotiations would result in an agreed boundary for all maritime areas at once. Given the complex circumstances prevailing between the Parties, it was entirely possible that agreements, whether conceived as temporary or permanent components of the boundary regime between Kenya and Somalia, may have initially covered one or more maritime areas (such as the territorial sea, or waters within, say, 50 nautical miles off the coast) and with one or more purposes (such as law enforcement, anti-piracy patrols, enforcement of fisheries regulations, scope of hydro-carbon exploration licenses, joint development zones, etc.) before the conclusion of a comprehensive, final agreement. There was, and is, no pressing need to settle the entire maritime boundary immediately, whereas there was, and is, a pressing need to agree upon practical arrangements of a provisional nature for maritime enforcement in the waters close to the land boundary between Kenya and Somalia.¹⁹ Negotiations and agreements allow for such flexibility and pragmatism.

Had the two technical meetings in 2014 been held pursuant to the MOU’s agreed procedure, such partial delimitation or practical arrangements would have been entirely consistent with the penultimate paragraph of the MOU. After the recommendation of the CLCS made a final agreement possible, the Parties could either reaffirm the earlier partial agreements or decide to modify them in favour of a new agreement, depending on the circumstances prevailing at that time. In contrast, a final and binding judicial decision would pre-empt an agreed delimitation; it would tie the hands of the Parties and not allow for any measure of flexibility in arriving

¹⁷ MS, para 3.50 and MS, Annex 31, pp. 3–4.

¹⁸ Kenya’s Judges’ Folder First Round, Tab 12, Brief on a Meeting between the Governments of the Republic of Kenya and the Federal Republic of Somalia on the Maritime Boundary held on the 28th-29th July, 2014, Nairobi, Kenya, dated 8 August 2014, page 2, first paragraph (provided to the Court on 14 June 2016).

¹⁹ CR 2016/10 (Muigai, p. 15, para. 8; Akhavan, p. 23, para 25; Lowe, p. 63, para. 16); CR 2016/12 (Akhavan, p. 14, para 10; Muigai, p. 38, para. 3).

at a mutually acceptable solution that takes into consideration a complex and multidimensional situation. This was how Kenya envisaged the implementation of the penultimate paragraph of the MOU and helps to explain why Kenya regards litigation as an inappropriate and unhelpful means of deciding on the maritime boundary in this case.

- (2) As set out in Kenya's written and oral pleadings, it cannot be said that Somalia negotiated in good faith during the two technical meetings in 2014 or that there were "meaningful negotiations" on delimitation of the maritime boundary consistent with the jurisprudence of the Court.²⁰ Furthermore, as noted above, Somalia had clearly rejected its commitments under the MOU such that the two technical meetings in 2014 cannot be construed as subsequent conduct or any form of waiver among the Parties in regard to their rights and obligations under the penultimate paragraph of the MOU. Nor would any interim agreement on the maritime boundary subject to finalization after the recommendation of the CLCS be inconsistent with the agreed procedure under the MOU as explained above. It is further noted that even if the parties agreed by mutual consent to conclude a final agreement prior to CLCS recommendation, that would constitute a subsequent agreement replacing the agreed procedure under the MOU.²¹ To date there has been no such agreement and thus the MOU procedures remain in force.

In regard to a possible waiver of rights under the MOU, Kenya has consistently held the view, whether before or after Somali Parliament's rejection of the MOU in 2009,²² or during the 2014 technical meetings despite Somalia's unwillingness even to discuss the MOU,²³ as well as prior

²⁰ *North Sea Continental Shelf (Germany v. Denmark/Netherlands)*, Judgment, I.C.J. Reports 1969, p. 47, para. 85 (a); CR 2016/10 (Akhavan, p. 20, para. 17; Muchiri, pp. 46-51); POK, paras 98-102, 109.

²¹ CR 2016/12 (Akhavan, p. 13, para. 7).

²² POK para. 72; MS, Annex 61, para. 95.

²³ POK paras. 99-100 and 109.

to and immediately after Somalia's initiation of proceedings before the Court,²⁴ that:

- (a) The MOU remains legally binding upon the Parties; and
- (b) The MOU requires a negotiated agreement, to be finalized after CLCS recommendations.²⁵

Kenya therefore categorically rejects any suggestion that by initiating and participating in the two technical meetings in 2014, it was waiving its rights under the MOU to a recommendation of the Commission prior to a final agreement with Somalia on maritime delimitation.

Finally, Kenya underscores that irrespective of any purported waiver of a right to a prior recommendation of the CLCS, there has manifestly been no waiver of a right to a negotiated *agreement* as the method of settlement under the MOU. In view of Kenya's reservation relating to agreed procedures other than recourse to the Court under its Optional Clause Declaration, the penultimate paragraph of the MOU by requiring a negotiated agreement excludes the Court's jurisdiction irrespective of the additional requirement of CLCS review.

As set out in its written and oral pleadings, Kenya's position in regard to Part XV procedures is that CLCS recommendations prior to a final agreement on maritime boundary delimitation constitutes a "time limit" within the meaning of Article 281 of UNCLOS.²⁶ Nonetheless, that is not a matter that is properly before the Court given that it has no bearing whatsoever on whether either the MOU or the Part XV procedures, separately or in combination, constitute an agreed method of settlement in regard to the maritime boundary dispute within the meaning of Kenya's reservation. Furthermore, Kenya maintains its position that the MOU operates to exclude the Court's jurisdiction, such that it is not necessary to

²⁴ POK, para. 104 and Annex 37; POK, para. 116 and Annex 43; paras. 119-22 and MS, Annex 50; POK, paras. 124-5 and Annex 44.

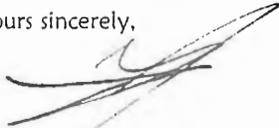
²⁵ See, eg, CR 2016/10 (Akhavan, pp. 20-1, para. 18; Lowe, p. 63, para. 13).

²⁶ CR 2016/10 (Akhavan, p. 24, para. 31; Boyle, pp. 57-8, para. 20).

make a decision of wider application on the legal effect of Part XV procedures in regard to States with similar reservations in regard to other methods of settlement.

Please accept, Excellency, the assurances of my highest consideration.

Yours sincerely,



Githu Muigai, EGH, SC
Attorney-General and the Agent of the Republic of Kenya



Annex 14

Kenya Marine and Fisheries Research Institute, Kenya Coastal Development Project, *Integrated Coastal Biodiversity Management System: Fish Landing Sites* (4 Oct. 2017), available at <http://icbims.kmfri.co.ke/maps/231/view>

http://icbims.kmfri.co.ke/maps/231/view

GeoExplorer - GeoNode

Layers Maps Documents People Graphs

Search

Sign In

Maps / Fish Landing Sites

Layers

- FishLandingSite
- Base Maps
- MapQuest Imagery
- MapQuest OpenStreetMap
- Open StreetMap
- No background

Map

Print Identify Query Measure Edit

Scale: 1 : 545977

10 km / 5 mi

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Annex 15

Kenya Marine and Fisheries Research Institute, Kenya Coastal Development Project, *Integrated Coastal Biodiversity Management System: Kenyan Coral Reefs* (4 Oct. 2017), available at <http://icbims.kmfri.co.ke/maps/221/view>

The screenshot displays a web-based GIS application interface. At the top, a browser address bar shows the URL: <http://icbims.kmfri.co.ke/maps/221/view>. The page title is "GeoExplorer - GeoNode". Navigation icons for home, star, and settings are visible. A search bar is present with the text "Search".

The main interface features a "LAYERS" panel on the left with the following options:

- Kenyan Coral Reefs
- Base Maps
- MapQuest Imagery
- MapQuest OpenStreetMap
- OpenStreetMap
- No background

The map area shows a coastal region with a green area labeled "Dodori National Reserve" and a red area labeled "Kisingiri". A purple line indicates the boundary of the Kenyan Coral Reefs. A scale bar in the bottom right corner shows 10 km and 5 miles, with a scale of 1 : 545977. The map is credited to "© OpenStreetMap contributors, skymali".

Annex 16

Letter from Amb. (Dr.) Amina Mohamed, Cabinet Secretary of Foreign Affairs of the Republic of Kenya, to H.E. Abdusalam H. Omer, Minister of Foreign Affairs and Investment Promotion of the Federal Republic of Somalia, No. MFA.INT.8/15A (18 May 2016)

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 Website: www.mfa.go.ke
 When replying please quote Ref. No. and date.



HARAMBEE AVENUE
 P.O. BOX 30551-00100
 NAIROBI, KENYA

MINISTRY OF FOREIGN AFFAIRS

Ref. **MFA. INT.8/15A**

The Ministry of Foreign Affairs of the Republic of Kenya presents its compliments to the Embassy of the Federal Republic of Somalia in Nairobi and has the honour to forward herewith, a letter addressed to H.E. Abdusalam H. Omer, the Minister of Foreign Affairs and Investment Promotion of the Federal Republic of Somalia. The said letter is from Amb. (Dr.) Amina Mohamed, the Cabinet Secretary for Foreign Affairs of the Republic of Kenya.

The Ministry requests the esteemed Embassy to convey the said letter to the intended recipient.

The Ministry of Foreign Affairs of the Republic of Kenya avails itself of this opportunity to renew to the Embassy of the Federal Republic of Somalia the assurances of its highest consideration.

Nairobi, May 25, 2016



**Embassy of the Federal Republic of Somalia
 NAIROBI**



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MINISTRY OF FOREIGN AFFAIRS AND
INTERNATIONAL TRADE
P.O. Box 30551-00100
NAIROBI, KENYA

Ref. No. **MFA.INT/8/15A**

18th May, 2016

Excellency,

I have the honour to convey warm greetings and best wishes to you from the Republic of Kenya.

The Republic of Kenya and the Federal Republic of Somalia have a long history of cordial relations characterized by various commonalities including land and maritime boundaries. It is for this reason that I write to you regarding the exploration of the maritime area that is currently under contention by the two countries.

As we both pursue an amicable solution to the outstanding dispute on the maritime boundary, the two countries should continue to co-exist peacefully and cooperate in areas of mutual interest, including exploration of the maritime resources. Article 83(3) of the United Nations Convention on the Law of the Sea (UNCLOS) provides that pending agreement on delimitation of continental shelf between states of opposite or adjacent coasts;

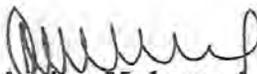
... the states concerned, in a spirit of understanding and cooperation, shall make every effort to enter into provisional arrangements of a special nature and, during the transitional period, not to jeopardize or hamper the reaching of the final agreement. Such arrangements shall be without prejudice to the final determination.

The Republic of Kenya, in respecting the above obligation, has acted with restraint and the activities she has undertaken in the area under contention have been solely of a transitory character in order not to cause irreparable prejudice to Somalia, or to otherwise jeopardize or hamper the conclusion of a final agreement.

In view of the above provision, the Republic of Kenya wishes to reaffirm her willingness to discuss provisional arrangements of a practical nature in relation to the area under contention, for the benefit of both countries and without prejudice to the future delimitation of the maritime boundary by agreement.

The Government of the Republic of Kenya therefore invites the Government of the Federal Republic of Somalia for negotiations of provisional arrangements contemplated by Article 83(3) of UNCLOS, on a date and venue to be mutually agreed.

Please accept, Excellency, the assurances of my highest consideration.



Amb. (Dr.) Amina Mohamed, EGH, CAV
CABINET SECRETARY

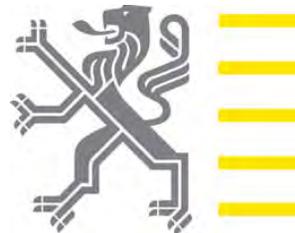
H.E. Abdusalam H. Omer
Minister of Foreign Affairs and
Investment Promotion
Federal Republic of Somalia
Mogadishu

Annex 17

U.N. Educational, Scientific & Cultural Organization, Intergovernmental Oceanographic Commission, *Training Course Report No. 89: ODINAFRICA: Marine Biodiversity Data Mobilisation Workshop on Sponges*, U.N. Doc. IOC/2006/TCR/89 (4-18 Nov. 2006)

Intergovernmental Oceanographic Commission

Training Course Report N° 89

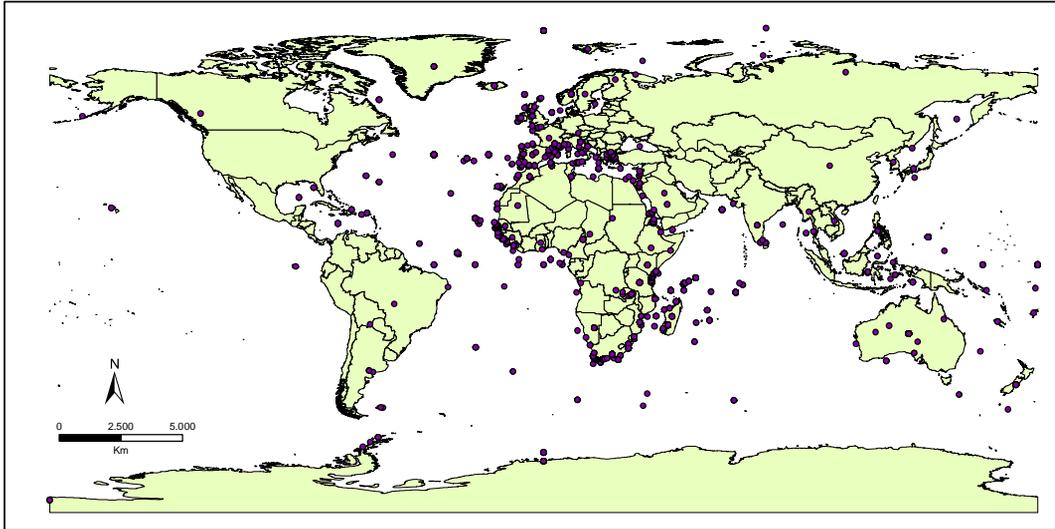


**ODINAFRICA:
Marine Biodiversity Data Mobilisation
Workshop on Sponges**

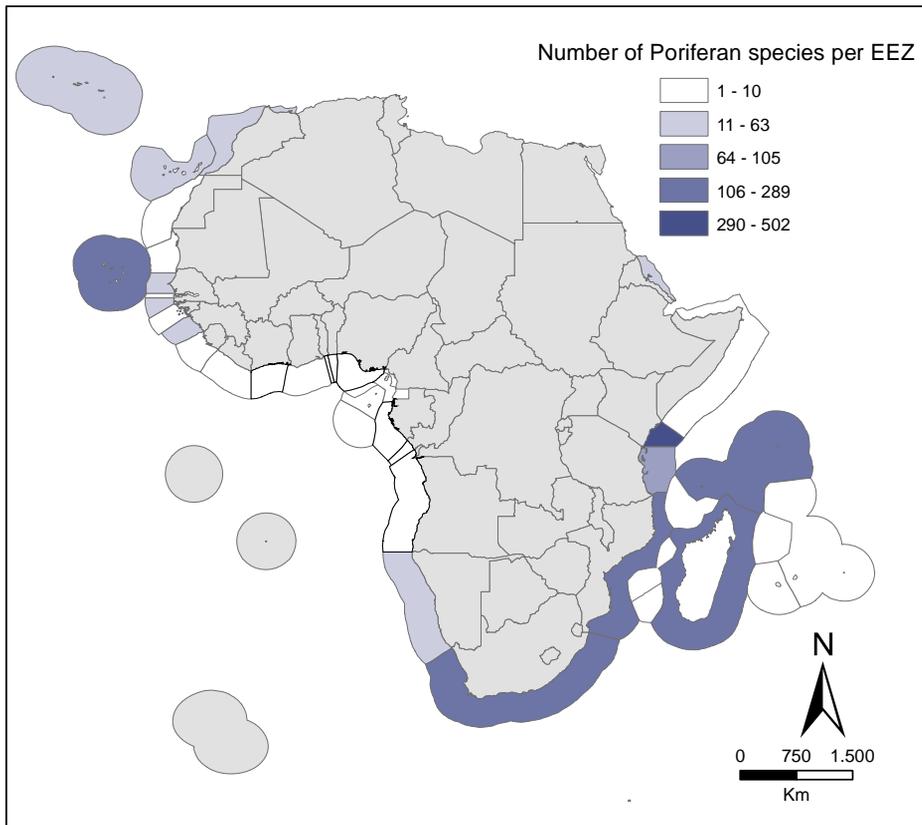
Supported by the IOC and the Government of Flanders

Oostende, Belgium
November 4-18, 2006

UNESCO



General map, representing the distribution of all poriferan species with a Masdea-context (dots on map)



Number and distribution of poriferan species in the African EEZs

Annex 18

U.N. Educational, Scientific & Cultural Organization, Intergovernmental Oceanographic Commission, *Nineteenth Session of the IOC Committee on International Oceanographic Data and Information Exchange (IODE-XIX): Ocean Data and Information Network for Africa (ODINAFRICA)*, U.N. Doc. IOC/IODE-XIX/35 (22 Feb. 2007)

Limited distribution

IOC/IODE-XIX/35
22 February 2007.
Original: English

INTERGOVERNMENTAL OCEANOGRAPHIC COMMISSION
(of UNESCO)

Nineteenth Session of the IOC Committee on International Oceanographic Data
and Information Exchange (IODE-XIX)
Trieste, Italy, 12-16 March 2007

Ocean Data and Information Network for Africa
(ODINAFRICA)

EXECUTIVE SUMMARY

The Ocean Data and Information Network for Africa (ODINAFRICA) brings together marine related institutions from twenty five (25) Member States of the Intergovernmental Oceanographic Commission of UNESCO from Africa. The earlier phases of development of ODINAFRICA aimed at enabling member states from Africa to get access to data available in other data centres, develop skills for manipulation of data and preparation of data and information products, and develop infrastructure for archival, analysis and dissemination of the data and information products. The goal of the current phase of ODINAFRICA is to improve data flows into the national oceanographic data and information centres in the participating countries, develop data and information products required for integrated management of the coastal areas of Africa, and increase the delivery of services to end users.

The network has assisted the Member States to establish and operate National Oceanographic Data and Information centres, and in particular: to get access to data available in other data centres, develop skills for manipulation of data and preparation of data and information products, and develop infrastructure for archival, analysis and dissemination of the data and information products. Each of the participating institutions has developed a suite of data and information products that have been quality controlled, merged and availed through project website (www.odinafrica.org). These include: Directories of marine and freshwater professionals, Catalogues of marine related data sets, Marine Species data bases, library catalogues, catalogue of marine related publications from/about Africa.

The three thematic work packages being implemented in the current phase of ODINAFRICA are: (i) **Coastal Ocean Observing System**, focusing on upgrading and expanding African network of sealevel stations, provision of near real-time observations of ocean variables, and building adequate capacity for analysis and management of sea-state variables, (ii) **Data and Information Management**, focusing on further development and strengthening of National Oceanographic Data Centres (NODC) to manage data streams from the coastal ocean observing network, and Integrating biogeographic and hydrological data streams into NODC systems, and (iii) **Product Development and end user communication and information delivery**, focusing on identification of end users of marine/coastal data/information products and their requirements, identification and development of set of core products to be prepared by each NODC, development of the African Marine Atlases, improvement of atmospheric and oceanic monitoring databases, promotion and dissemination of outputs of the project, and assessment of the impacts of products on the end-user.

IOC/IODE-XIX/35

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limited number of products and services, and develop capacity that will be required to prepare and disseminate them, rather than stretching the limited resources available.

The ODINAFRICA Project Steering Committee decided that the focus for the current phase would be on:

- (i) development of marine biodiversity databases for the five taxa identified (mollusks, polychaetes, echinoderms, sponges, stony corals). ODINAFRICA will organise data compilation workshops to cover three taxa, while collaboration with other partners will be sought for the other two.
- (ii) Development of the Marine Atlas
- (iii) Development of national NODC websites and the ODINAFRICA websites
- (iv) Quality control and availing of databases, directories, catalogues and other products through the websites.

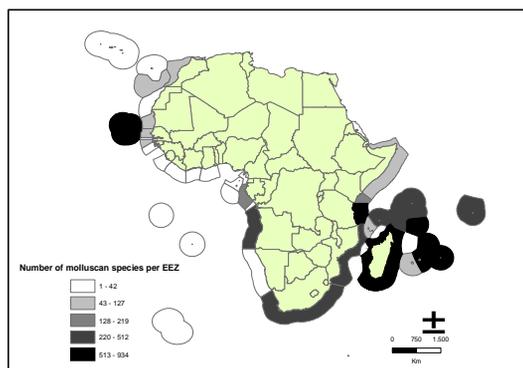
Development of Marine Biodiversity Databases

Participants in the Marine Biodiversity Data management courses held in Ostend, Belgium (April 2005), and Mauritius (August 2005) emphasised the need to immediately commence preparation of inventories of experts, datasets, institutions, and species lists. Five workshops, each lasting 2-weeks will be organized to compile input for the OBIS system on taxonomic groups of particular importance [data entry]. Data sources (databases, publications) should be identified on beforehand, and made available during the workshop.

Marine Molluscs Database: The first ODINAFRICA Marine Biodiversity Data Mobilization workshop was held at the IODE Project Office from 13-22 March 2006 and focussed on molluscs. A total of 6,460 records on Mollusca were entered into the aphia-database. The majority of these species belong to the class of the Gastropoda (3,505 species or 73%), followed by 1,105 species (or 23%) belonging to the class of the Bivalvia. Up till now, only 224 of all these records are considered to be invalid taxon names. For 82% or 3,955 species, the authority is already known to the database.

When further analyzing the species distributions within Africa, the highest number of molluscan species are found in the EEZs of Madagascar (934), Mauritius (932), Tanzania (720) and Cape Verde (704). A number of species were described to be found in e.g. the Atlantic and Indian Ocean. These species were not coupled to a specific EEZ and were thus not comprised in this analysis.

A comparison was then made between South-, East- and West-Africa. The following conclusions could be made:



- Most molluscan species are found in East-Africa (3184), followed by 1382 species in West-Africa and 407 species in South-Africa
- 165 species are shared between South- and East-Africa, 104 between West- and East-Africa and 29 between South- and West-Africa

Annex 19

U.N. Security Council, *Report of the Secretary-General on the protection of Somali natural resources and waters*, U.N. Doc. S/2011/661 (25 Oct. 2011)

United Nations

S/2011/661

**Security Council**Distr.: General
25 October 2011

Original: English

Report of the Secretary-General on the protection of Somali natural resources and waters

I. Introduction

1. The present report is submitted pursuant to paragraph 7 of Security Council resolution 1976 (2011), in which the Council requested me to report on the protection of Somali natural resources and waters and on alleged illegal fishing and illegal dumping, including of toxic substances, off the coast of Somalia. The Council noted its concern that allegations of illegal fishing and dumping of toxic waste have been used by pirates to justify their criminal activities.

2. The present report reviews information currently available relating to illegal fishing and illegal dumping off the coast of Somalia and assesses the potential environmental and economic costs for the country. It also examines the status of Somalia's natural resources and the corresponding legal framework on their protection and exploitation. The report is based on existing research and on contributions by United Nations departments, funds and programmes, as well as field and expert interviews and inputs provided by Member States, regional organizations and regional fisheries management organizations. Based on this collated information, the report puts forward observations and recommendations for policy, legal and programmatic action.

II. Somali natural resources and waters

A. Overview

3. Somalia is an arid to semi-arid country where 80 per cent of livelihoods are directly dependent on the natural resources base. Livestock has traditionally been the most important sector, while agriculture has provided staple and cash crops. These livelihoods are supported further by the exploitation of the natural resource base, such as charcoal production and trees for fodder. Despite strong environmental awareness, especially by pastoralists who are the dominant land users, the country suffers from critical levels of ecological degradation that may be difficult to reverse. Some 30 per cent of the land (catchments, range areas and agricultural lands) is considered degraded.



4. Somalia possesses important biodiversity and a large number of species exclusive to the Horn of Africa, which includes numerous varieties of flora and fauna that have adapted to the arid conditions. Owing to the current environmental situation and overexploitation, many of these species are endangered and their habitats threatened.¹ Much of the country's once abundant and significant diversity of wildlife is now endangered.

5. One of the conclusions of a global policy report released by the United Nations Environment Programme (UNEP) in 2009 stated that "... the way that natural resources and the environment are governed has a determining influence on peace and security".² This conclusion holds especially true for Somalia given the scarcity of natural resources and the level of resource-dependent livelihoods. Environmental issues and the poor governance of natural resources are multisectoral and impact all aspects of life. The lack of State control or governance results in widespread misuse of Somalia's natural resources, as well as restricted access and elite capture. Degradation of natural resources is compounded by the effects of climate change, increased population pressures, conflicts and rapid urbanization.

B. Livestock and agriculture

6. For centuries, pastoralism has been the dominant livelihood and source of income for Somalia's predominantly rural population; this includes both nomadic and sedentary herding of cattle, sheep, goats and camels. Some 55 per cent of households are based on pastoralism or agro-pastoralism,³ with livestock contributing over 40 per cent of gross domestic product (GDP).⁴ More than 70 per cent of the land area is dedicated to agriculture through rain-fed and irrigated farming systems, and 24 per cent of households are based on agriculture.⁵

7. The prolonged civil war has seriously impacted livestock and agriculture. This includes loss of productive assets, including livestock and irrigation equipment to militias, as well as expulsion from farms, especially in the south. Knowledge of fruit tree management and harvesting systems has largely gone with the displaced. Agricultural production has also been affected by frequent droughts in 1987, 2000, 2004, 2008 and 2010-2011. Disputes over property and land rights have increased owing to the growing scarcity of land. Land speculation and illegal enclosures in common pasturelands are also on the rise, resulting in an increase in local conflicts.⁶

¹ Omuto, C. T. and others, "Land degradation assessment and a monitoring framework in Somalia", Technical Project Report L-14 (Nairobi, Food and Agriculture Organization of the United Nations-Somalia Water and Land Information Management, 2009).

² Available from http://www.unep.org/pdf/pcdmb_policy_01.pdf.

³ United Nations and World Bank Coordination Secretariat, *Somali Joint Needs Assessment: Productive Sectors and Environmental Cluster Report* (2007). Available from http://www.somali-jna.org/downloads/vol5_V.pdf.

⁴ International Union for Conservation of Nature, "Country Environmental Profile for Somalia" (2006).

⁵ World Bank Country Profile. Available from <http://data.worldbank.org/country/somalia> (accessed July 2011).

⁶ Independent Scholars Group, "Need to Address Pastoral Land Degradation and Increasing Rural Conflicts in Somaliland", *Somaliland Times*, Issue 473, February 2011. Available from <http://www.somalilandtimes.net/sl/2011/473/30.shtml>.

2010 they only covered about 10.7 per cent.¹⁷ Similarly, a recent study records an average rate of 27 per cent tree loss between 2001 and 2006 in north-eastern Somalia.¹⁸ Old-growth acacia forests are cut down for charcoal and subsequently replaced by thorn bushes, rendering the land unusable for grazing.

16. Increasing domestic demand for charcoal coupled with an increase in charcoal exports in the 1970s resulted in alarming deforestation rates and led to a strictly enforced export ban under the Siad Barre regime. The ban remained in place until 1996, when charcoal exports soared, providing hard currency for competing faction leaders. The export ban was reimposed in 2000 and has been in effect albeit poorly enforced, under changing transitional administrations. In December 2010, the Transitional Federal Government reissued the ban. In response to government efforts, traders have stopped shipping charcoal out of Mogadishu and Marka almost entirely. However, the trade is booming in areas controlled by Al-Shabaab, mainly out of Kismaayo port. Most of the charcoal is imported by neighbouring countries.¹⁹ It is estimated that Al-Shabaab currently generates between \$70 million to \$100 million per year in revenue from taxation and extortion in areas under its control, including from the export of charcoal and cross-border contraband into Kenya,²⁰ and between \$35 million and \$50 million per year from port revenues, of which at least \$15 million is based on the export of charcoal.²¹

17. The charcoal industry has significant implications on livelihood security, exacerbating community conflicts and increasing vulnerability to drought. The industry is a source of tension, particularly with clans who dominate the trade at the expense of others. It is also a source of funding for militias. Most charcoal is made between Baraawe and Kismaayo, an area where conflict over the charcoal trade has turned violent.²² It is also one of the first areas where famine was declared in 2011. This area's extreme vulnerability stems in part from poor environmental management, leading to desertification and water scarcity.

E. Marine resources

18. Stretching over 3,330 kilometres, Somalia has the longest coastline of continental Africa and is part of one of the most important large marine ecosystems in the Indian Ocean. The presence of a narrow continental shelf in this region along the western Indian Ocean coupled with an upwelling, makes this area one of the most productive in the Indian Ocean and an important breeding ground for many migratory fish species. These factors, paired with a weak legal and institutional framework and the inability of the Transitional Federal Government to enforce laws

¹⁷ World Bank Country Profile, *op. cit.*

¹⁸ Oduori, S. M., and others, "Detection of tree cutting in the rangelands of north-eastern Somalia using remote sensing", Technical Project Report L-15 (Nairobi, FAO-SWALIM, 2009).

¹⁹ Oduori, S. M., and others, "Detection of tree cutting", *op. cit.*

²⁰ Letter dated 18 July 2011 from the Chairman of the Security Council Committee pursuant to resolutions 751 (1992) and 1907 (2009) concerning Somalia and Eritrea addressed to the President of the Security Council (S/2011/433).

²¹ *Ibid.*

²² Baxter, Z., "Somalia Coal Production, Deforestation and the Recent Conflict", Inventory of Conflict and Environment — American University Case Study No. 201 (2007). Available from <http://www1.american.edu/iced/somalia-coal.htm>.

within Somali waters, makes the area attractive for illegal, unreported and unregulated fishing.

19. The marine fishery sector of Somalia is underdeveloped, though there is the potential for longer-term growth. The sector is comprised of an artisanal component, which operates in inshore areas and accounts for the largest share of the landings, roughly 60 per cent. The inshore fishery is widely reported to be overexploited in some areas. While accurate statistics are difficult to attain,²³ recent data shows total landings of approximately 18,000 tons annually.²⁴

20. An industrial portion, of mostly foreign-flagged vessels, accounts for approximately 40 per cent of total fishery production of Somalia.²⁵ The offshore pelagic fisheries have significant potential for development. Fisheries resources within 200 nautical miles off the coast of Somalia have been conservatively estimated to be capable of providing sustainable annual catches of 200,000 tons.²⁶ Because of the known substantial pelagic fish resources, including tuna and mackerel species which have high unit values, the long-term development of these resources could be of vast importance to the economy and food security in the region.

F. Legal and institutional framework for environmental and natural resource management

21. There are a number of global and regional instruments that are relevant to illegal fishing and illegal dumping off the coast of Somalia, described below. While Somalia has signed various multilateral environment agreements, they are not enforced.²⁷ These instruments serve to affirm a country's commitment to protecting natural resources, and provide governments with a framework for domestic implementation of more stringent environmental oversight.

22. Since the overthrow of the Siad Barre regime in 1991, there has been little or no national framework for environmental and natural resource governance in Somalia due to the absence of an effective central government. Environmental affairs and the management of natural resources have been the remit of various ministries over the years. Generally speaking, policy and legislation related to the environment and natural resources is weak and outdated,²⁸ with some national sector policies and legislation dating back to the pre-war period. Furthermore, without adequate support from enabling institutions, laws have not been enforced.

²³ It is important to note that all statistics dealing with Somali fisheries and related activities have very restricted utility as some limited data were gathered before the civil war of 1991, but, since that time, it is not possible to provide statistics with confidence.

²⁴ FAO Fishery Country Profile for Somalia (2005). Available from ftp://ftp.fao.org/FI/DOCUMENT/fcp/en/FI_CP_SO.pdf.

²⁵ FAO summary of fisheries and resource information for Somalia. Available from <http://www.fao.org/docrep/field/303859/3038590b.htm>.

²⁶ This information is based on several fish surveys conducted in the 1970s and 1980s.

²⁷ United Nations and World Bank Coordination Secretariat, Somali Joint Needs Assessment, *op. cit.*

²⁸ International Union for Conservation of Nature, "Country Environmental Profile for Somalia", *op. cit.*

study by the University of British Columbia, fish catches in Somali waters in 2002 were about 60,000 tons, of which half were taken by foreign-flagged vessels.³⁹ Conclusive information about the legality of those catches is unavailable.

39. The fisheries situation in Somalia is aggravated by a number of factors: inadequate national fisheries management,⁴⁰ poor governance,⁴¹ lack of dedicated government resources and underdeveloped regional cooperation. Many of the underlying conditions that enable illegal, unreported and unregulated fishing in Somalia and elsewhere are further fuelled by lack of transparency and financial incentives that allow illegal activities to go undetected or unaddressed. These conditions must be addressed if governance is to be enhanced, outcomes improved and inroads made to prevent, deter and eliminate illegal, unreported and unregulated fishing.

40. According to a number of Somali and international observers, with the fall of the Siad Barre regime, foreign-flagged industrial fishing trawlers began encroaching on the resource-rich Somali waters. Local accounts purport that these vessels frequently engaged in intentional collisions with local fishermen in Somali waters, leading to the destruction of fishing gear, injuries and even deaths of local subsistence fishers. According to a 2005 FAO estimate, approximately 700 foreign-flagged trawlers were engaged in illegal, unreported and unregulated fishing in and around Somali waters.⁴² However, in the absence of monitoring and sanctions mechanisms, these accounts remain unverified. The socio-economic and ecological damage caused by the alleged illegal exploitation of Somalia's marine resources over the past two decades could be considerable. By some estimates, 50 per cent of annual overall catch in the western Indian Ocean is fished illegally,⁴³ a figure potentially higher in the largely unmonitored waters off Somalia.

41. Guidance promulgated by IMO advises governments to ensure that fishing vessels entitled to fly their flag do not engage in fishing activities within 200 miles off the coast of Somalia and calls upon Member States operating naval forces in the area to identify publicly any fishing vessels found to be doing so.

42. Somalia is one of the 18 signatory States to the Djibouti Code of Conduct,⁴⁴ the IMO-led counter-piracy initiative for the Gulf of Aden and western Indian Ocean. As part of the Djibouti Code implementation programme, IMO is planning to assist Somalia in developing its maritime law enforcement capabilities and, ultimately, to develop its ability to perform a range of coast guard functions, including protection of fisheries.

43. There are reports that local warlords and officials from various Somali entities have sold false fishing licences to foreign-flagged vessels. Somalis also report observing foreign trawlers fishing in Somalia's coastal waters. It is not clear whether

³⁹ Available from <http://www.seaaroundus.org/project.htm>.

⁴⁰ Broad guidance is contained in the Code of Conduct for Responsible Fisheries, article 7, fisheries management, FAO (Rome, 1995).

⁴¹ Fishery governance has international, national and local dimensions. It includes legally binding rules, such as national policies and legislation or international treaties, as well as customary social arrangements. It is multiscale, covering long-term strategic planning and short-term operational management and local fisheries as well as whole ecosystems.

⁴² Available from <http://www.fao.org/fi/oldsite/FCP/en/SOM/profile.htm>.

⁴³ Agnew, DJ, and others, "Extent of Illegal Fishing", *op. cit.*

⁴⁴ See IMO, document C 102/14, annex, attachment 1.

C. Somali framework and national context

61. Although Somalia has signed a number of applicable international and regional agreements, the Government and regional administrations lack implementation and enforcement capacity. The challenges are enormous: political instability; inadequate baseline data; absence of research and monitoring capabilities; weak technical capacity; and lack of funding. Somalia's lack of monitoring and law enforcement capabilities makes it vulnerable to criminal activities, including the illegal dumping of toxic waste.

62. The Kampala Process, an intra-Somali forum for the exchange of information on counter-piracy and policy development, facilitated by the United Nations Political Office for Somalia (UNPOS), in partnership with IMO and the United Nations Office on Drugs and Crime, has been an effective mechanism to enhance information sharing on measures to combat piracy in Somalia. The mechanism was also used by UNPOS as a platform to discuss the present report with Somali interlocutors.

V. Observations

63. The overall evidence of illegal fishing and dumping of toxic waste remains to be fully examined. Prevailing security and resource constraints have limited a thorough examination of the evidence. In recent years, piracy off the coast of Somalia has spread across large parts of the western Indian Ocean, far beyond Somali fishing waters.⁶² Piracy and armed robbery at sea off the coast of Somalia appear to have strong links to organized crime, employing increased levels of violence and using transnational financing channels.⁶³ More robust investigations need to be carried out by the Transitional Federal Government in collaboration with INTERPOL, EUROPOL and other crime-fighting agencies.

64. In addition to investigating past violations, it would be prudent to focus on protecting Somalia's natural resources and preventing their illegal exploitation. If Somalia's natural resource base continues to decline, it would pose a further challenge to political stability as well as much needed development initiatives.

65. The recently agreed transitional road map contains important measures that would help to address potential illegal, unreported and unregulated fishing. I call on the Transitional Federal Government, working in tandem with the Transitional Federal Parliament, to declare an exclusive economic zone off the Somali coast in accordance with the United Nations Convention on the Law of the Sea, and as agreed in the road map. Such a proclamation, together with the adoption of enabling legislation, would clarify the legal basis for the protection of the sovereign rights of Somalia with respect to natural resources and its jurisdiction over the marine environment.

66. The United Nations, together with the African Union and the African Union Mission in Somalia, is working hard to support the Government of Somalia to reform its security sector and build up an adequate police force. Discussions are

⁶² According to the Indian Ocean Tuna Commission, between 2008 and 2009, of all reports of piracy off the coast of Somalia, only 13 attacks and four successful hijackings were carried out against fishing vessels.

⁶³ Interviews of convicted pirates carried out by the United Nations Office on Drugs and Crime.

Annex 20

U.N. Security Council, *Resolution 2036 (2012)*, U.N. Doc. S/RES/2036 (22 Feb. 2012)

United Nations

S/RES/2036 (2012)

**Security Council**Distr.: General
22 February 2012

Resolution 2036 (2012)**Adopted by the Security Council at its 6718th meeting, on
22 February 2012***The Security Council,*

Recalling all previous resolutions on the situation in Somalia, in particular resolution 2010 (2011), as well as other relevant Presidential Statements and resolutions on protection of civilians in armed conflict, women and peace and security, and children and armed conflict,

Reaffirming its respect for the sovereignty, territorial integrity, political independence and unity of Somalia, and *reiterating* its commitment to a comprehensive and lasting settlement of the situation in Somalia,

Reiterating its full support for the Djibouti Peace Process and the Transitional Federal Charter which provide the framework for reaching a lasting political solution in Somalia, *reiterating* its support for the Kampala Accord and the Roadmap to End the Transition (the "Roadmap"), and *stressing* the need for reconciliation, dialogue and broad-based, inclusive and representative Somali institutions,

Stressing the primary responsibility of the Transitional Federal Institutions to implement the Roadmap, *welcoming* the progress to date, including the commitment shown by the Garowe Principles, but *expressing concern* that many of the deadlines for the completion of the tasks in the Roadmap have been missed which may delay the full implementation of the Roadmap,

Urging the Transitional Federal Institutions and all Roadmap signatories to redouble their efforts to fully implement the Roadmap with the support of United Nations Political Office for Somalia (UNPOS) and the international community, and *noting* that future support to the Transitional Federal Institutions for the remainder of the transitional period, would be contingent upon progress in completing the tasks in the Roadmap,

Stressing the need for the Transitional Federal Government, with the support of the African Union Mission to Somalia (AMISOM), and as a matter of urgency, to build an enhanced level of security in areas secured by AMISOM and the Somali security forces, and to build sustainable administrative structures in these areas,

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Noting that the transitional period in Somalia will end on 20 August 2012, *emphasising* that any further extension of the transitional period would be untenable and *calling upon* Somali parties to agree inclusive and representative post-transitional arrangements, in line with the Djibouti Agreement,

Stressing the need for further efforts to fight corruption, promote transparency and increase mutual accountability in Somalia, and in this regard *welcoming* initiatives aimed at the more transparent and accountable management of Somali assets and internal and external financial resources to maximise public revenues for the benefit of the Somali people,

Stressing the need for a comprehensive strategy in Somalia to address the political, economic, humanitarian and security problems in Somalia and the problem of piracy, including hostage taking, off the coast of Somalia through the collaborative efforts of all stakeholders, *reiterating* their full support to the Secretary-General and his Special Representative, Augustine P. Mahiga in this regard, and for their work with the African Union and international and regional partners,

Recognising that peace and stability in Somalia depend on reconciliation and effective governance across the whole of Somalia and *urging* all Somali parties to renounce violence and to work together to build peace and stability,

Welcoming the London Conference on Somalia, to be held on 23 February 2012, where coordinated international action to address the political, security, justice, stability, and piracy problems in Somalia, as well as humanitarian issues, will be further enhanced, and *welcoming* the upcoming Istanbul Conference on Somalia,

Expressing grave concern at the dire humanitarian situation in Somalia, and its impact on the people of Somalia, in particular on women and children, and *calling on* all parties to ensure full and unhindered access for the timely delivery of humanitarian aid to persons in need of assistance across Somalia, consistent with humanitarian, human rights and refugee law,

Reiterating its condemnation of all attacks on the Transitional Federal Government, the African Union Mission in Somalia (AMISOM), United Nations personnel and facilities, and the civilian population by armed opposition groups, and foreign fighters, particularly Al Shabaab, and *stressing* that Somali armed opposition groups and foreign fighters, particularly Al Shabaab, constitute a terrorist threat to Somalia, and the international community,

Noting the announcement that Al Shabaab has joined Al Qaeda, *stressing* that there should be no place for terrorism or violent extremism in Somalia and *reiterating* its call upon all opposition groups to lay down their arms,

Commending the contribution of AMISOM to lasting peace and stability in Somalia and efforts to bring stability and security to Mogadishu, *expressing* its appreciation for the continued commitment of troops and equipment to AMISOM by the Governments of Burundi and Uganda, and for the newly deployed troops from the Government of Djibouti and *recognising* the significant sacrifices made by AMISOM forces,

Welcoming the willingness of the Government of Kenya for Kenyan forces to be incorporated into AMISOM and so to contribute to the implementation of

AMISOM's mandate as set out in paragraph 9 of resolution 1772 (2007) and this resolution, *stressing* the importance of the prompt deployment of new AMISOM forces to reach its mandated level, and *calling* on other African Union Member States to consider contributing troops and provide support to AMISOM,

Welcoming the work of the joint African Union and United Nations Technical Assessment Mission on AMISOM, *noting* the agreement by the African Union Peace and Security Council on a AMISOM Strategic Concept of 5 January 2012, and *welcoming* the Secretary-General's Special Report on Somalia (S/2012/74),

Recalling its authorisation in paragraph 1 of resolution 2010 (2011) that the Member States of the African Union maintain the deployment of AMISOM until 31 October 2012, and that AMISOM is authorised to take all necessary measures to carry out its existing mandate as set out in paragraph 9 of resolution 1772 (2007),

Recalling paragraph 5 of resolution 2010 (2011) and noting its intention to review the force level of AMISOM when the mission reaches its mandated level of 12,000,

Expressing concern that charcoal exports from Somalia are a significant revenue source for Al Shabaab and also exacerbate the humanitarian crisis,

Recalling its resolutions 1950 (2010), 1976 (2011), and 2020 (2011) *expressing* its grave concern at the threat posed by piracy and armed robbery off the coast of Somalia, *recognising* that the ongoing instability in Somalia contributes to the problem of piracy and armed robbery at sea off the coast of Somalia, *stressing* the need for a comprehensive response to tackle piracy, and hostage taking, and its underlying causes by the international community and the Transitional Federal Institutions and *welcoming* the efforts of the Contact Group for Piracy off the Coast of Somalia, States and international and regional organisations,

Stressing the need to investigate, prosecute, and to imprison when duly convicted pirates and those who illicitly finance, plan, organise, or unlawfully profit from pirate attacks,

Welcoming the relocation of the Secretary-General's Special Representative to Somalia and an UNPOS office to Mogadishu and *encouraging* the United Nations to take further steps to achieve a more permanent and full relocation to Somalia, in particular Mogadishu, consistent with the security conditions, as outlined in the Secretary-General's reports (S/2010/447) and (S/2009/210),

Determining that the situation in Somalia continues to constitute a threat to international peace and security in the region,

Acting under Chapter VII of the Charter of the United Nations,

1. *Decides* that in addition to the tasks set out in paragraph 9 of resolution 1772 (2007) AMISOM shall include establishing a presence in the four sectors set out in the AMISOM strategic Concept of 5 January, and AMISOM shall be authorised to take all necessary measures as appropriate in those sectors in coordination with the Somali security forces to reduce the threat posed by Al Shabaab and other armed opposition groups in order to establish conditions for effective and legitimate governance across Somalia, *further decides* that AMISOM shall act in compliance with applicable international humanitarian and human rights

law, in performance of this mandate and in full respect of the sovereignty, territorial integrity, political independence and unity of Somalia;

2. *Requests* the African Union to increase AMISOM's force strength from 12,000 to a maximum of 17,731 uniformed personnel, comprised of troops and personnel of formed police units;

3. *Reiterates* that regional organisations have the responsibility to secure human, financial, logistical and other resources for the work of their organisations, including through contributions by their members and support from partners, *welcomes* the valuable financial support provided by the African Union's partners to AMISOM, including through bilateral support programmes and the African Peace Facility of the European Union, and calls upon all partners, in particular new donors, to support AMISOM through the provision of equipment, technical assistance, funding for troop stipends, and uncaveated funding to AMISOM to the United Nations Trust Fund for AMISOM;

4. *Decides* to expand the logistical support package for AMISOM, referred to in paragraphs 10 and 11 of resolution 2010 (2011), and as described in the Secretary-General's letters (S/2009/60 and S/2011/591) to the President of the Security Council, from a maximum of 12,000 uniformed personnel to a maximum of 17,731 uniformed personnel, until 31 October 2012, ensuring the accountability and transparency of expenditure of United Nations funds as set out in paragraph 4 of resolution 1910 (2010);

5. *Recalls* its request to the Secretary-General in paragraphs 10 and 12 of resolution 1863 (2009) related to transparency and proper accountability for resources provided to AMISOM, and *requests* that equal attention to resource transparency, accountability, and internal controls be applied to the additional UN support measures authorised to be provided to AMISOM and its troop contributing countries in this resolution and the annex of this resolution;

6. *Decides* on an exceptional basis and owing to the unique character of the mission, to expand the logistical support package for AMISOM to include the reimbursement of contingent owned equipment including force enablers and multipliers as described in paragraphs 28 through 36 and 43 of the Secretary-General's Special Report on Somalia (S/2012/74) and as set out in the annex to this resolution;

7. *Stresses* the importance of stabilising areas secured by AMISOM and the Somali security forces, *calls upon* all Somali stakeholders, with the support of the UN, the African Union and the international community, to promote reconciliation, law and order, the delivery of basic services and strengthen governance at district, regional, state and federal levels, including by supporting the delivery of Stabilisation Plans developed by Intergovernmental Authority on Development (IGAD) and the Transitional Federal Government;

8. *Requests* the Secretary-General to continue to provide technical and expert advice to the African Union in the planning, deployment and management of AMISOM, through the United Nations Office to the African Union, including on the implementation of the AMISOM Strategic Concept and the AMISOM Concept of Operations;

9. *Reiterates* its request to the United Nations to work with the African Union to develop a guard force of an appropriate size, within AMISOM's mandated troop levels, to provide security, escort and protection services to personnel from the international community, including the United Nations, as appropriate and without further delay;

10. *Welcomes* the intention of new troop contributing countries to contribute to AMISOM and *stresses* that all new troops shall be integrated fully into the AMISOM command and control structures, and shall operate in accordance with AMISOM's mandate as set out in paragraph 9 of resolution 1772 (2007) and this resolution;

11. *Stresses* that coordinated action by all contributors is critical for the peace, security and stability of Somalia and the region, and calls on other African Union Member States to consider contributing troops to AMISOM in order to help create the conditions when Somalia can be responsible for its own security;

12. *Recognizes* the importance of strengthening the capacity of regional and sub-regional organizations in conflict prevention, crisis management and post-conflict stabilization, and *calls upon* the African Union and donors to continue to work together to further enhance the effectiveness of African peacekeeping;

13. *Recalls* paragraph 13 of resolution 2010 (2011);

14. *Emphasises* that the development of the Somali security forces is vital to ensure Somalia's long term security and stability, *requests* AMISOM to continue to expand its efforts to help develop the capacity and effectiveness of the Somali security forces, *urges* Member States, regional, and international organisations to work with in coordination with AMISOM to provide coordinated assistance, training and support and *welcomes* in this regard the training of Somalia security forces through the bilateral support programmes of Member States and the European Union Training Mission for Somalia (EUTM);

15. *Notes* the important role an effective police presence can play in the stabilisation of Mogadishu, *stresses* the need to continue to develop an effective Somali police force and *welcomes* the desire of the African Union to develop an operational police component within AMISOM;

16. *Demands* that all parties and armed groups take appropriate steps to ensure the safety and security of humanitarian personnel and supplies, and further *demands* that all parties ensure full and unhindered access for the timely delivery of humanitarian aid to persons in need of assistance across Somalia, consistent with humanitarian, human rights and refugee law;

17. *Recalling* its resolutions 1674 (2006), 1738 (2006) and 1894 (2009) on the protection of civilians in armed conflict, *welcomes* the progress made by AMISOM in reducing civilian casualties during its operations, *urges* AMISOM to continue to undertake enhanced efforts in this regard, *commends* AMISOM's commitment to establish a Civilian Casualty Tracking, Analysis and Response Cell (CCTARC), as referenced in the Secretary-General's Report on Somalia (S/2011/759) of 9 December 2011, and *calls on* international donors and partners to further support the establishment of a CCTARC;

18. *Welcomes* the endorsement by AMISOM of the 2011 indirect fire policy and *encourages* AMISOM to adapt and implement this policy for all new troops and assets;

19. *Recalls* the Council's decision in resolution 1844 (2008) and *welcomes* the determination by the international community, including the African Union, to take measures against both internal and external actors engaged in actions aimed at undermining the peace and reconciliation process in Somalia, including the Roadmap, as well as the efforts of AMISOM and the Somali security forces;

20. *Underlines* its intention to keep the situation on the ground under review and to take into account in its future decisions progress by AMISOM in meeting the following objectives:

(a) Consolidation of security and stability throughout south central Somalia, including key towns, by the Somali security forces and AMISOM, on the basis of clear military objectives integrated into a political strategy;

(b) Effective regional coordination and cooperation on security issues by AMISOM;

(c) Assistance in the development of effective Somali security forces, with integrated units under a clear command and control structure and in coordination with the international community;

21. *Requests* the African Union to keep the Security Council regularly informed, through the Secretary-General, on the implementation of AMISOM's mandate, including on the implementation of paragraphs 1 and 2 in this resolution and on the new command and control structure and integration of forces under this structure and report to the Council, through the provision of written reports, no later than 30 days after the adoption of this resolution and every 60 days thereafter;

22. *Decides* that Somali authorities shall take the necessary measures to prevent the export of charcoal from Somalia and that all Member States shall take the necessary measures to prevent the direct or indirect import of charcoal from Somalia, whether or not such charcoal originated in Somalia; further *decides* that all Member States shall report to the Security Council Committee established pursuant to resolutions 751 (1992) and 1907 (2009) concerning Somalia and Eritrea ("the Committee") within 120 days of the adoption of this resolution on the steps they have taken towards effective implementation of this paragraph; and *requests* the Monitoring Group re-established pursuant to resolution 2002 (2011) to assess the impact of the charcoal ban in its Final Report;

23. *Decides* that the mandate of the Committee shall apply to the measures in paragraph 22 above; *decides* that the Monitoring Group's mandate shall likewise be expanded; and *considers* that such commerce may pose a threat to the peace, security, or stability of Somalia, and therefore that the Committee may designate individuals and entities engaged in such commerce as subject to the targeted measures established by resolution 1844 (2008);

24. *Decides* to remain actively seized of the matter.

Annex

In accordance with paragraph 6 of this resolution, on an exceptional basis and due to the unique character of AMISOM, the UN logistical support package for AMISOM shall be extended for a maximum of 17,731 uniformed personnel and 20 AMISOM civilian personnel based in AMISOM headquarters until 31 October 2012, in line with the recommendation in paragraphs 29 and 43 of the Secretary-General's Special Report on Somalia (S/2012/74), which includes the provision of explosive threat management capacity, level II medical facilities and the reimbursement of contingent owned equipment (COE).

Eligible COE will include standard enablers and multipliers within the land component, and an aviation component of up to a maximum of 9 utility helicopters and 3 attack helicopters.

COE reimbursement should conform to UN rates and practices, including the direct transfer of funds to troop contributing countries (TCCs) as appropriate, and periodic reviews to ensure full operational capability. Letters of Assist (LOAs) should be negotiated with TCCs for equipment not covered under the UN COE framework including the aviation specified above.

As noted in paragraph 29 of the Secretary-General's Special Report on Somalia (S/2012/74), only equipment deployed by the TCCs and considered owned by TCCs should be reimbursed. Equipment gifted or donated to TCCs, AMISOM, the African Union or where the ownership still remains with the donor are not eligible for reimbursement.

Annex 21

U.N. Monitoring Group on Somalia and Eritrea, *Report of the Monitoring Group on Somalia and Eritrea pursuant to Security Council resolution 2002 (2011)*, U.N. Doc. S/2012/544 (13 July 2012)

United Nations

S/2012/544

**Security Council**Distr.: General
13 July 2012

Original: English

Letter dated 11 July 2012 from the Chair of the Security Council Committee pursuant to resolutions 751 (1992) and 1907 (2009) concerning Somalia and Eritrea addressed to the President of the Security Council

On behalf of the Security Council Committee pursuant to resolutions 751 (1992) and 1907 (2009) concerning Somalia and Eritrea, and in accordance with paragraph 6 (m) of Security Council resolution 2002 (2011), I have the honour to transmit herewith the report on Somalia of the Monitoring Group on Somalia and Eritrea (see annex).

In this connection, the Committee would appreciate it if the present letter, together with its enclosure were brought to the attention of the members of the Security Council and issued as a document of the Council.

(Signed) H. S. Puri
Chairman

Security Council Committee pursuant to
resolutions 751 (1992) and 1907 (2009)
concerning Somalia and Eritrea

12-37640 (E) 180712



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Annex 5.2.: Foreign Military Operations in Somalia

1. During the course of the mandate Ethiopia, Kenya and Djibouti have all conducted bilateral large-scale military deployments to Somalia and operations on Somali territory. These operations have generally been undertaken with the consent – whether explicit or tacit – of the TFG, but without prior authorization from the Committee. The Monitoring Group considers any such deployment, involving armed personnel, vehicles, aircraft operations and military supplies, to constitute a potential violation of the general and complete arms embargo on Somalia.

2. Similarly, Unmanned Aerial Vehicles (UAVs) routinely operate in Somali airspace. Although the United States Government has officially informed the Monitoring Group that it provided “a small number of Unmanned Aerial Systems to AMISOM”,¹ AMISOM has expressed its concern about unidentified UAV operations in Mogadishu in an official letter sent to its main partners in February 2012.²

AMISOM’s updated strategic concept of operations

3. On 5 January 2012, the Peace and Security Council of the African Union held its 306th meeting in Addis Ababa, Ethiopia and adopted AMISOM’s new strategic concept of operations, which includes the following:³

- (a) Increase of UN-supported armed personnel from 12,000 to 17,731;
- (b) Deployment of Djiboutian troops and “re-hatted Kenyan troops”;
- (c) Extension of AMISOM’s area of operations to four sectors, including the areas “liberated” by the Ethiopian army “in view of the urgency of the stated intent of Ethiopia to withdraw from those areas”.

4. AMISOM’s strategic concept of operations was endorsed on 22 February by Security Council resolution 2036 (2012). The resolution expresses “its appreciation for the newly deployed troops from the Government of Djibouti” and welcomes “the willingness of the Government of Kenya for Kenyan forces to be incorporated into AMISOM”. It also authorizes AMISOM to establish a presence “in the four sectors set out in the AMISOM strategic Concept of 5 January”, and approves an increase of the force’s strength to 17,731, as proposed by the African Union.

5. However, resolution 2036 (2012) also stresses that “all new troops shall be integrated fully into the AMISOM command and control structures”, and requests the African Union to keep the Security Council informed with respect to the implementation of AMISOM’s mandate “and on the new command and control structure and integration of forces under this structure.”

¹ Letter to the Monitoring Group, 7 May 2012.

² Letter from AMISOM Force Commander, 21 February 2012.

³ PSC/PR/COMM.(CCCVI), 5 January 2012.

AMISOM Sectors**Kenyan military operations in Somalia: Operation ‘Linda Nchi’**

6. Kenya’s current military intervention in Somalia was preceded by a secret operation named “Operation Linda Mpaka” in early 2010.⁴ According to the Kenyan Defence Forces (KDF), the operation was aimed at preventing “Al-Shabaab, pirates and contraband from entering the country [Kenya].”⁵ Although not stated as an objective, the operation also acted to curb the movement of Somali refugees into Kenya.

7. “Operation Linda Nchi”⁶ was launched on 16 October 2011 as a “joint Kenyan-Somali operation”, ostensibly in response to a spate of cross-border kidnappings from Somalia, although

⁴ See Attachment 5.2.a. for “Operation Linda Mpaka” operations map.

⁵ Restricted Directorate of Military Intelligence document obtained by the Monitoring Group.

⁶ Kiswahili for “Protect the Nation”.

evidence suggests that KDF may have been planning this operation as far back June 2011.⁷ Invoking the nation's right to self-defence under Article 51 of the UN Charter, the Kenyan Government deployed an infantry battalion with air, armour and artillery support, across the Somali border from Liboi, entering the town of Doobley in Lower Jubba region.⁸ The operation's objectives include the establishment of a secure, temporary buffer zone approximately 100km deep inside Somalia; the removal of Al-Shabaab from the southern Somali ports, including Kismaayo, from which the group generates much of its revenue; and the establishment of inclusive "political and administrative arrangements in the liberated areas at the district and regional levels" in the Jubba Valley.⁹

8. On 20 October 2011, the KDF reportedly conducted airstrikes against alleged Al-Shabaab's positions around the town of Raas Kaambooni in Lower Jubba region, and subsequently entered the town with a force of approximately 300 soldiers, forcing Al-Shabaab to flee.¹⁰ On 21 October, Kenyan military spokesman Major Emmanuel Chirchir reported that Kenyan forces had secured Oddo and Kolbio towns along the border. A company of Kenyan troops advanced from Oddo to Burgaabo and another from Kolbio to Badhaadhe. A third company advanced on Hayo town.¹¹ On 27 October, Busaar in Gedo region was under Kenyan control while KDF troops continued to advance on Buurahache.¹² On 31 October 2011, Al-Shabaab militants evacuated areas surrounding the airstrip in Baidoa, the capital of Bay region. By the end October 2011, in the face of the KDF's advance and Ethiopian incursions further to the north (see below), Al-Shabaab had withdrawn from parts of Gedo, Bay, Middle Jubba, and Lower Jubba regions.

9. In early November 2011, due to heavy seasonal rains, the KDF's progress into southern Somalia slowed and then stalled. Unable to advance, the force instead concentrated on consolidating its control of areas already occupied, launching a door-to-door search for Al-Shabaab militants in Raas Kaambooni, Munarani, Burgaabo, Taabta, Qoqaani, Dhoobley and Busaar.¹³

⁷ Restricted Directorate of Military Intelligence document obtained by the Monitoring Group that cites a reference to an "Annex A to C Brief, June 2011".

⁸<http://newsone.com/world/associatedpress3/kenyan-army-invades-somalia>.

⁹ "Communique of the 20th Extra-Ordinary Session of the IGAD Assembly of Heads of State and Government on the Situation in Somalia, the Republic of South Sudan, IGAD Minimum Integration Plan and Piracy off the Coast of Somalia", Addis Ababa, Ethiopia, 27 January 2012.

¹⁰ <http://www.raxanreeb.com/?p=115892> <http://www.shabelle.net/article.php?id=11743> "Kenya Reportedly Didn't Warn U.S. of Somalia Incursion," New York Times, October 20, 2011; <http://www.nytimes.com/2011/10/21/world/africa/americans-given-no-warning-of-kenyas-march-into-somalia-officials-say.html>.

¹¹ "US Planes Join Kenyan Battle," Daily Nation, October 22, 2011. Available:

<http://www.nation.co.ke/News/US+planes+join+Kenyan+battle/-/1056/1260028/-/159de5/-/>

"Kenya Sends More Troops to Somalia, 10 AU Soldiers Killed," Reuters, October 21, 2011. Available:

<http://www.reuters.com/article/2011/10/21/us-kenya-somalia-idUSTRE79K5TQ20111021>.

¹² "9 Shabaab Men Killed in Battle with Kenyan Army," Daily Nation, October 27, 2011. Available:

<http://www.nation.co.ke/News/9+Shabaab+men+killed+in+battle+with+Kenya+army+/-/1056/1262996/-/uwq2vc/-/index.html>.

¹³ <http://www.nation.co.ke/News/Allies+hunt+Shabaab+fighters+door+to+door+/-/1056/1269650/-/4kcnfh/-/index.html>.

10. On 20 November 2011, Al-Shabaab militants ambushed a joint Kenyan-Somali convoy near Dhoobley. A senior Somali military officer, Abdikarim Ali Yusuf, reported that four Al-Shabaab militants were killed and one was captured; Al-Shabaab, however, claimed that it had destroyed two of six military vehicles and killed eight Kenyan troops.¹⁴ On 22 November 2011, Al-Shabaab militants ambushed ‘Somalia National Army’ troops (probably members of the Azania militia group) between Hayo and Qoqaani.¹⁵ The increasing tempo of attacks by Al-Shabaab during the month November may have also contributed to the slow ground progress of Kenyan and allied Somali forces, by keeping them engaged behind their own frontlines.

11. In December 2011, Kenya continued to conduct airstrikes targeting Al-Shabaab positions. On 2 December 2011, Kenyan aircraft targeted an Al-Shabaab base in Eel Adde village near Baardheere in Gedo region. According to Al-Shabaab’s military spokesman, Sheikh Abdul Aziz Abu Mus’ab, jets dropped six bombs, killing four civilians and injuring 35 others. However, the TFG-appointed governor of Gedo region, Mohamed Abdi Khalil, rejected Al-Shabaab’s claim and stated that nine Al-Shabaab militants had been seriously injured in the airstrikes.¹⁶

12. On 6 December 2011, the Kenyan Cabinet approved a request from the African Union that Kenyan forces be deployed under AMISOM auspices. A Kenyan statement read: “The Cabinet that met under the Chairmanship of President Mwai Kibaki at State House Nairobi also approved the re-hatting of the Kenya Defence Forces in Somalia to AMISOM, subject to approval by Parliament.”¹⁷ In principle, this decision paved the way for Kenya to bring its military operations into compliance with the arms embargo on Somalia. However, the process of ‘rehatting’ would take many more months to complete.

13. Meanwhile, Al-Shabaab continued to launch hit-and-run attacks against Kenyan and Somali positions, particularly in the areas between Dhoobley and Qoqaani. On 7 December 2011, following fighting with KDF two senior Al-Shabaab commanders, Dahir Abu Ayman and Mohamed Khadar Kafi, were reported killed on the outskirts of Qoqaani. Other reports suggested that 14 other Al-Shabaab combatants had been killed.¹⁸ On 9 December 2011, a Somali military vehicle traveling between Taabta and Dhoobley hit a roadside bomb. Eight Somali soldiers were reported killed in the blast, which Al-Shabaab initially claimed had killed five TFG militia forces and a Kenyan soldier.¹⁹

14. In mid-December 2011, KDF resumed offensive operations. On 17 December 2011, Kenyan forces announced that it was preparing to push forward in Burgaabo, a strategic port town approximately 60 miles from Kismaayo. Kenyan forces remained in Burgaabo for two months,

¹⁴<http://www.reuters.com/article/2011/11/20/us-somalia-islamists-idUSTRE7AJ0IN20111120>.

¹⁵ <http://af.reuters.com/article/topNews/idAFJ0E7AL08P20111122>.

¹⁶<http://af.reuters.com/article/topNews/idAFJ0E7B10AP20111202>.

¹⁷<http://www.nation.co.ke/News/politics/Cabinet+approves+AU+request+on+Kenyan+troops/-/1064/1285104/-/m7w94a/-/index.html>.

¹⁸http://somalireport.com/index.php/post/2264/Two_Senior_Al-Shabaab_Leaders_Killed.

¹⁹<http://www.shabelle.net/article.php?id=13303>.

forcing Al Shabaab to withdraw into heavily wooded terrain across the Burgaabo creek.²⁰ During the last week of December 2011, clashes between the KDF and Al-Shabaab became a daily occurrence and, Kenyan aircraft continued to carry out airstrikes in the vicinity of Hosingow and Badhaadhe.²¹

15. In January 2012, Kenyan forces, together with allied Somali militias, seized Faafahdun a town south of Baardheere in Gedo region, while other Somali forces began to advance close towards Baardheere, an Al-Shabaab stronghold. January also saw the increasing influence of Kenyan Al-Shabaab members and leaders in the conflict of Somalia. On 9 January 2012, Sheikh Ahmed Iman Ali, Al-Shabaab's newly appointed leader for Kenya, was featured in a video released by Al-Shabaab's media wing, Al-Kata'ib Foundation. In the video, Ahmed Iman urged Kenyans to participate in jihad either locally (in Kenya) or in Somalia.

16. The month of February 2012 highlighted Kenya's continued struggle in capturing Al-Shabaab's strongholds.²² On 2 February 2012, KDF troops, along with Raas Kaambooni militia, seized the al Shabaab stronghold Badhaadhe in Lower Jubba region²³. While on 4 February 2012, heavy clashes were also reported in Qoqaani between al Shabaab militants and TFG troops backed by the KDF and Raas Kaambooni brigades²⁴. By the end of February, slow progress was made in securing some areas of Gedo region that KDF had reportedly secured already. This resulted in KDF airstrikes on Burdhuubo in Gedo region on 29 February 2012 reportedly injuring 30 al Shabaab militants.²⁵

17. On 31 May 2012, Kenyan Forces and their Somali militia allies achieved their first major strategic success in several months, capturing the town of Afmadow and paving the way for an advance on the port town of Kismaayo, which the Kenyan Chief of Defence Staff indicated the KDF intended to capture by August 2012.

Status of Kenyan forces vis-à-vis the arms embargo

18. Notwithstanding Kenya's invocation of Article 51 of the UN Charter, it is the assessment of Monitoring Group that the intervention of KDF armed forces in Somalia constituted, for a finite period, a violation of the general and complete arms embargo. Kenyan forces not only introduced arms, ammunition, vehicles and military equipment into Somali territory without prior authorization from the Committee, but also provided direct support to allied Somali militia forces.

19. The signature of Memorandum of Understanding between the Government of Kenya and the African Union on 2 June 2012, formalizing "Kenya's contribution of troops and resources to the AU Mission in Somalia" and integrating Kenya Defence Forces into AMISOM's command and control

²⁰<http://www.newsday.com/news/nation/kenya-marches-into-somalia-but-can-t-see-the-enemy-1.3395904>.

²¹<http://www.capitalfm.co.ke/news/2011/12/kenyan-jets-kill-10-in-south-somalia-air-raid/>.

²² See attachment 5.2.b.for KDF projected Ops Achievement.

²³ <http://shabelle.net/article.php?id=14995>.

²⁴ <http://www.somaliareport.com/index.php/post/2708>.

²⁵ <http://www.shabelle.net/article.php?id=15792>.

Annex 22

U.N. Office of Legal Affairs, Division for Ocean Affairs and the Law of the Sea, “Kenya”,
available at [http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/STATEFILES/
KEN.htm](http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/STATEFILES/KEN.htm) (last updated 14 Oct. 2014)



KENYA

Updated 14 October 2014

**SUBMISSION IN COMPLIANCE WITH THE DEPOSIT OBLIGATIONS
PURSUANT TO THE UNITED NATIONS CONVENTION ON THE LAW
OF THE SEA (UNCLOS)**

- [M.Z.N. 58. 2006. LOS of 25 April 2006](#): Deposit of two lists of geographical coordinates of points, specifying the straight baselines from which the breadth of the territorial sea is measured and the outer limits of the exclusive economic zone of Kenya, together with illustrative map number SK 90 (edition 4), as contained in the Proclamation by the President of the Republic of Kenya of 9 June 2005, in respect of Kenya's territorial sea and exclusive economic zone (Legal Notice No. 82 (Legislative Supplement No. 34) published in Kenya Gazette No. 55 of 22 July 2005).

Originals of deposited geographical coordinates of points

Relevant articles of [UNCLOS](#): 16(2); 75(2)
[LOSIC](#) No. 23
 Proclamation of 9 June 2005, including the lists of geographical coordinates of points and the illustrative map, reproduced in [Law of the Sea Bulletin](#) No. 61

Communications received by the Secretary-General in connection with the deposit of charts and/or lists of geographical coordinates of points

- N/A

**CONTINENTAL SHELF BEYOND 200 NAUTICAL MILES FROM THE
BASELINES FROM WHICH THE BREADTH OF THE TERRITORIAL
SEA IS MEASURED**

- [Submission to the Commission on the Limits of the Continental Shelf made on 6 May 2009](#)

OTHER INFORMATION

Legislation

- [Territorial Waters Act of 16 May 1972, revised in 1977](#)
- [Presidential Proclamation of 28 February 1979](#)--replaced by Presidential Proclamation of 9 June 2005
- [Approximate Co-ordinates of Baseline Points on Map Sheet SK/74, 28 February 1979](#)
- [Chapter 371--The Maritime Zones Act, 1989](#)
- Presidential Proclamation of 9 June 2005, pursuant to article 16, paragraph 2, and article 75, paragraph 2, of UNCLOS ([Law of the Sea Bulletin](#) No. 61)

Piracy.

- [Merchant Shipping Act 2009](#)

Maritime boundary delimitation agreements

and other material

with [United Republic of Tanzania](#)

- [Exchange of Notes constituting an agreement on the territorial sea boundary](#), 17 December 1975 - 9 July 1976 (entry into force: 9 July 1976; registration #: 15603; registration date: 18 April 1977; [link to UNTS](#))
- [Agreement between the United Republic of Tanzania and the Republic of Kenya on the delimitation of the maritime boundary of the exclusive economic zone and the continental shelf](#), 23 June 2009 (see [Law of the Sea Bulletin](#) No. 70)

with [Somalia](#)

- [Memorandum of Understanding between the Government of the Republic of Kenya and the Transitional Federal Government of the Somali Republic to Grant to Each Other No-Objection in Respect of Submissions on the Outer Limits of the Continental Shelf beyond 200 Nautical Miles to the Commission on the Limits of the Continental Shelf](#) (entry into force: 7 April 2009, registration #: I-46230; registration date: 11 June 2009; [link to UNTS](#)) (see also [Law of the Sea Bulletin](#) No. 70)*

Other communications

- Kenya: [Note verbale dated 9 January 2014](#)
- Somalia: [Somalia Note verbale dated 7 October 2014](#)

* By a note verbale dated 2 March 2010, the Permanent Mission of the Somali Republic to the United Nations informed the Secretariat that the MOU had been rejected by the Parliament of the Transitional Federal Government of Somalia, and "is to hence treated as non-actionable."

Additional information: ► [The repertory of the Law of the Sea Bulletins](#) | ► [Declarations and statements](#) | ► [FAO Fishlex](#) | ► [ITLOS](#) | ► [ICJ](#) | ► [PCA - Cases](#) |

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Annex 23

U.N. Monitoring Group on Somalia and Eritrea, *Report of the Monitoring Group on Somalia and Eritrea pursuant to Security Council resolution 2182 (2014): Somalia*, U.N. Doc. S/2015/801 (19 Oct. 2015)

United Nations

S/2015/801

**Security Council**Distr.: General
19 October 2015

Original: English

Letter dated 9 October 2015 from the Chair of the Security Council Committee pursuant to resolutions 751 (1992) and 1907 (2009) concerning Somalia and Eritrea addressed to the President of the Security Council

On behalf of the Security Council Committee pursuant to resolutions 751 (1992) and 1907 (2009) concerning Somalia and Eritrea, and in accordance with paragraph 47 of Security Council resolution 2182 (2014), I have the honour to transmit herewith the report on Somalia of the Monitoring Group on Somalia and Eritrea.

In this connection, the Committee would appreciate it if the present letter, together with the enclosed report, were brought to the attention of the members of the Security Council and issued as a document of the Council.

(Signed) Rafael Darío Ramírez **Carreño**
Chair

Security Council Committee pursuant
to resolutions 751 (1992) and 1907 (2009)
concerning Somalia and Eritrea

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previous report (S/2014/726) intercommunal conflict in Lower Shabelle Region, now nominally part of the Interim South-West Administration, has continued and shows few signs of abating despite various reconciliation efforts. In Hiran, Hawadle militia, supported by the Somali National Army, have launched fierce attacks on the villages of Kabxanley and Defow outside Belet Weyne in an attempt to permanently displace the Surre farming community from their lands along the fertile banks of the Shabelle River (see annex 6.3.a and strictly confidential annex 6.3.b).

32. In Middle Juba — mostly still held by Al-Shabaab — inter-clan conflict between Dhulbahante (Harti/Darod), Awliahan (Ogaden/Darod) and Sheikhal (Hawiye) clans over pasturelands broke out early in 2015. Al-Shabaab attempts to reconcile the competing groups in Bu'ale were ultimately unsuccessful, suggesting its weakening grip on intercommunal relations in the area ahead of the “Juba Corridor” offensive led by AMISOM and allied anti-Al-Shabaab forces. The Juba Valley, like the lower reaches of the Shabelle River, has been the scene of fierce contestation over land rights since before collapse of the Somali State in 1991.⁸ The Monitoring Group is concerned that, following the removal of Al-Shabaab from the region, historically marginalized communities will suffer at the hand of militarily stronger communities vying for fertile agricultural land for commercial exploitation along the lower reaches of the Juba River.

The re-emergence of illegal, unreported and unregulated fishing

33. The Monitoring Group is indebted to Jorge Torrens of the Food and Agriculture Organization of the United Nations — who died near Hargeisa, Somaliland, on 29 April 2015 while carrying out his duty — for first bringing the renewed problem of illegal, unreported and unregulated fishing in Somalia to its attention.

34. At 3,300 km, the coastline of Somalia is the longest in continental Africa. The country's 200 nautical mile exclusive economic zone hosts productive and largely unexploited fishing grounds, containing both migratory fish species, such as tuna, and several demersal fish and crustacean species. Taking advantage of the limited maritime surveillance capability of the Federal Government of Somalia, many foreign vessels fish in Somali waters in contravention of international law and the Federal Government of Somalia Fisheries Law, either without licences or with forged documents, and without reporting data to any Somali authority.⁹

35. Illegal, unreported and unregulated fishing represents a significant threat to peace and security in Somalia. Illegal fishing is frequently cited as a contributing factor in the emergence of piracy in Somalia as early as the mid-1990s, as foreign vessels came into conflict with local fishermen, who in turn began to resort to hijackings at sea.¹⁰ The drastic surge in Somali piracy in 2007 led to a corresponding decrease in foreign fishing vessels operating within Somalia's

⁸ Catherine Besteman and Lee V. Cassanelli, eds., *The Struggle for Land in Southern Somalia: The War Behind the War* (London, Haan Publishing, 1996).

⁹ Federal Ministry of Fisheries and Marine Resources and others, “Report on presumed illegal, unreported and unregulated fishing activities in the exclusive economic zone of Somalia”, paper presented at the 19th session of the Indian Ocean Tuna Commission, held in Busan, Republic of Korea, from 27 April to 1 May 2015, and drafted by the Food and Agriculture Organization of the United Nations (FAO) on behalf of the Federal Government of Somalia.

¹⁰ See, for example, Jay Bahadur, *The Pirates of Somalia: Inside Their Hidden World* (New York, Pantheon Books, 2011).

exclusive economic zone.¹¹ However, the sharp drop in pirate activity along the coast of Somalia since 2012 has resulted in foreign fleets resuming fishing in the Somali basin.¹² The previous dynamic of conflict between illegal, unreported and unregulated fishing vessels and local fishermen and militias has consequently re-emerged, particularly in central Somalia.

36. In the case of the fishing dhow *Aresh*, the Galmudug Coast Guard arrested it 120 km north of Hobyo on 1 April 2015.¹³ After their arrest, the crewmembers and a captain acknowledged that they had been fishing illegally. Galmudug authorities assessed the vessel a \$100,000 fine which was paid and the vessel released by 16 April 2015.¹⁴ On 23 April 2015 the Iranian-flagged dhow *Al Momen* was seized off Qandala, Puntland, possibly by its own Somali security detachment, and subsequently released without incident. On 13 May 2015, the Iranian dhow *Sudis* experienced mechanical failure and ran aground near Mareg in central Somalia. The dhow's 14 crewmembers were reportedly captured by Al-Shabaab; their fate remains unknown at the time of writing.¹⁵

37. The Monitoring Group is concerned that the return of foreign fleets to Somali waters, fishing close to the shoreline and equipped with armed security detachments, represents a threat to the peace, security and stability of Somalia. Such practices threaten to lead not only to conflict with local fishermen and concomitant loss of life, but may also provoke a vigilante response from local communities similar to that which contributed to the rise of Somali piracy more than a decade ago.

Continuing privatization of Somalia's maritime space

38. The Monitoring Group is concerned about the continuing prevalence of private maritime security firms in Somalia entering partnerships with local authorities to provide Coast Guard and/or policing services. In a number of cases, such private security companies have also been tasked by local authorities with selling fishing licences and managing Somalia's marine resources, which constitutes, at a minimum, a conflict of interest. One such company, Somalia Fishguard Ltd., was highlighted in the Monitoring Group's previous report (S/2014/726, annex 5.1). The Monitoring Group notes with concern that Somalia's past practice of entrusting private companies with the dual role of selling fishing licences and managing maritime security posed a threat to peace and stability. Such companies have privileged foreign clients, even to the point of providing foreign fishing vessels with armed guards, again leading to potential conflict with local fishermen and coastal communities.

39. During the mandate, two private companies — Somali Security Services Ltd. and Anglo Somaliland Resources Ltd. — have entered into agreements in Puntland and Somaliland, respectively, to provide services relating to the fisheries sector. These two contracts are discussed in annex 2.3.

¹¹ Federal Ministry of Fisheries and Marine Resources and others, "Report on presumed illegal, unreported and unregulated fishing activities in the exclusive economic zone of Somalia" (see footnote 10).

¹² Ibid.

¹³ Ibid.

¹⁴ Monitoring Group interview with a FAO official in Nairobi, 21 May 2015.

¹⁵ Information from the European Union Naval Force, received by e-mail by the Monitoring Group, 28 May 2015.

Annex 24

U.N. Monitoring Group on Somalia and Eritrea, *Report of the Monitoring Group on Somalia and Eritrea pursuant to Security Council resolution 2244: Somalia*, U.N. Doc. S/2016/919
(31 Oct. 2016)

United Nations

S/2016/919

**Security Council**Distr.: General
31 October 2016

Original: English

Letter dated 7 October 2016 from the Chair of the Security Council Committee pursuant to resolutions [751 \(1992\)](#) and [1907 \(2009\)](#) concerning Somalia and Eritrea addressed to the President of the Security Council

On behalf of the Security Council Committee pursuant to resolutions [751 \(1992\)](#) and [1907 \(2009\)](#) concerning Somalia and Eritrea, and in accordance with paragraph 32 of Security Council resolution [2244 \(2015\)](#), I have the honour to transmit herewith the report on Somalia of the Monitoring Group on Somalia and Eritrea.

In this connection, the Committee would appreciate it if the present letter and the report were brought to the attention of the members of the Security Council and issued as a document of the Council.

(Signed) Rafael Darío **Ramírez Carreño**

Chair

Security Council Committee pursuant to resolutions [751 \(1992\)](#)
and [1907 \(2009\)](#) concerning Somalia and Eritrea

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widely reported to have profited directly from the reallocation of public land to private status during his tenure at the Administration.⁴⁸

80. On 28 July 2016, the Prime Minister, Omar Abdirashid Ali Sharmarke, issued a decree to establish the Protection of Public Properties Committee, mandated to collect data on property currently owned by Cabinet ministries and subordinate agencies and on public land that had been unlawfully appropriated. In the decree, sent to all Cabinet ministers, the Attorney General, the Speaker and the Office of the President, all Cabinet ministries and subordinate agencies were ordered to cease authorizing the sale or lease of public land unless the terms had been reviewed by the Office of the Prime Minister and approved by the Cabinet.⁴⁹

81. See annex 4.6 for further information and evidence collected on public land appropriation in Mogadishu.

E. Natural resources

82. The exploitation of natural resources continues to pose risks to peace and security in Somalia. In its previous report, the Monitoring Group expressed concern at an increase in intercommunal conflict over access to land and water across regions (S/2015/801, paras. 30-32). This remains a risk, especially in southern Somalia because refugee repatriation following the decision by the Kenyan authorities to close the Dadaab refugee camp could increase the pressure on scarce resources. With regard to conflict financing, Al-Shabaab has become increasingly reliant on income from taxing the illicit sugar trade, agriculture and livestock, especially when factoring in reduced income from charcoal. In terms of natural resource governance, while there has been progress in the oil and gas sector, an adequate regulatory framework and implementing institutions have yet to be established. Lastly, there is a continuing dispute between Kenya and Somalia over their maritime border, where the rights to considerable oil and gas reserves could be at stake. How the dispute is resolved could have significant implications for relations between Kenya and Somalia, thus also affecting peace and security in the region.

Al-Shabaab financing

83. Reliance by Al-Shabaab on revenue from taxing the illicit sugar trade, agricultural production and livestock has increased during the current mandate, in particular as revenue from charcoal has declined. Previously, the Monitoring Group estimated that Al-Shabaab derived income from checkpoints in southern Somalia, taxing the illicit sugar trade from the port of Kismayo into Kenya at the rate of \$1,000 per truck, while new information suggests that Al-Shabaab has since increased its tax on large civilian trucks in Lower Juba to \$1,500 per truck (see

⁴⁸ Interviews with former staff of the Banadir Regional Administration, current and past officials of the Federal Government and international agency staff, Mogadishu and Nairobi, between December 2015 and August 2016. On 11 August 2016, “Mungaab” was formally appointed as Minister of Justice.

⁴⁹ The Federal Government sent a copy of the decree to the Monitoring Group, which is on file with the Secretariat.

S/2015/801, paras. 93-94).⁵⁰ One estimate claims that the volume of illicit sugar trade may be as much as 230 trucks per week.⁵¹ This could equal as much as \$12 million-\$18 million in revenue per year for Al-Shabaab. In its previous report, the Group cited an estimate by the National Intelligence and Security Agency that Al-Shabaab earned \$9.5 million from taxing agricultural production in the Juba Valley (see S/2015/801, footnote 56). Meanwhile, livestock accounted for 40 per cent of the Somali gross domestic product and \$384 million in exports in 2015, thus representing a probable source of substantial revenue generation for Al-Shabaab.⁵² Nevertheless, there have been numerous incidents in which local resistance to the increasingly aggressive collection of taxes on livestock by Al-Shabaab in Middle Shabelle, Galgadud and Mudug has led to armed conflict with civilians and clan militias, which also suggests that the group's ability to coerce revenue from local people has its limits.⁵³

Natural resource governance: oil

84. In a meeting with the Monitoring Group on 2 February 2016, the Ministry of Petroleum and Mineral Resources identified three core priorities for 2016: reaching a natural resource revenue-sharing agreement between the Federal Government and the regions, developing a model production-sharing agreement and compiling a central registry of concessions in Somalia dating to the pre-1991 force majeure claims. With the assistance of the World Bank and the African Legal Support Facility of the African Development Bank, a new model production-sharing agreement has been completed and sent for confidential review by the Financial Governance Committee, which was continuing at the time of writing. While a comprehensive revenue-sharing agreement has not been established, the Federal Government has reached bilateral revenue-sharing agreements on oil with the Galmudug Interim Administration and the Interim South-West Administration, but not the Interim Jubba Administration or Puntland.⁵⁴ There has been little progress in establishing a central registry of oil concessions.

Federal Government-regional relations

85. One potential source of contention within the Somali oil industry concerns a lack of clarity between the Federal Government and the regions on revenue sharing

⁵⁰ E-mail communication from a United Nations staff member, 1 June 2016.

⁵¹ See Journalists for Justice, "Black and white: Kenya's criminal racket in Somalia" (Nairobi, 2015). Available from www.jfjustice.net/downloads/1457660562.pdf.

⁵² See Food and Agriculture Organization of the United Nations, "Somalia exports 5.3 million animals, 6 per cent growth in 2015", 14 April 2016. Available from www.fao.org/somalia/news/detail-events/en/c/410266/.

⁵³ See Cedric Barnes, "Somalia's Al-Shabaab down but far from out", 27 June 2016, available from <http://blog.crisisgroup.org/africa/somalia/2016/06/27/somalias-al-shabaab-down-but-far-from-out/>; "Minister: 22 killed as residents, Al-Shabaab clash over Zakah", Shabelle News, 22 February 2016, available from www.shabellnews.com; and "Locals clash with Al-Shabaab over alms collection, 4 people killed", Goobjoog News, 11 May 2016, available from <http://goobjoog.com>.

⁵⁴ In a reply to a letter from the Monitoring Group dated 22 August 2016 (S/AC.29/2016/SEMG/OC.82), the Ministry of Petroleum and Mineral Resources shared with the Group the texts of the revenue-sharing agreements on oil with the Galmudug Interim Administration and the Interim South-West Administration.

and development rights. A contract for offshore seismic surveying between the Federal Government and Spectrum ASA was signed on 5 September 2015 (see annex 5.1).⁵⁵ Both the Interim Jubba Administration and Puntland, which have not reached a revenue-sharing agreement on oil with the Federal Government, strongly objected to the agreement. In a letter to the Executive Vice-President of Spectrum, Graham Mayhew, dated 24 December 2015, the Acting Director General of the Jubbaland Petroleum Agency, Abdi A. Raghe, states that seismic operations in the absence of Interim Jubba Administration authorization would be “met with severe consequences, which include seizure of seismic vessels and detention of personnel”.⁵⁶ Similarly, the Director General of the Puntland Petroleum and Mineral Agency, Issa Mohamud Farah, warned in a press statement of 18 February 2016 that “Puntland security forces would board any vessel from these companies that illegally enter Puntland waters and will subsequently arrest the crew on-board these vessels”. In part, these disputes stem from ambiguity regarding the allocation of rights and obligations for natural resource development, including unreconciled contradictions between the Petroleum Law (2008) and the Provisional Constitution of 2012.

Soma Oil & Gas Holdings Limited

86. During its previous mandate, the Monitoring Group undertook an extensive investigation of Soma Oil & Gas Holdings Limited (Soma) with regard to corruption and undermining State institutions through pay-offs channelled through a capacity-building programme for the Ministry of Petroleum and Mineral Resources (see S/2015/801, paras. 48-51 and annex 2.5). Initially based on evidence provided by the Group, the Serious Fraud Office in the United Kingdom opened a case against Soma regarding allegations of corruption in Somalia on 31 July 2015. On 17 August 2016, Soma lost an expedited judicial review of the investigation that it had requested. Soma had sought to have the investigation terminated on the basis of an “existential threat to its existence” owing to the risk of insolvency before the investigation concluded. During the judicial review, the Office revealed that since December 2015 it had also been investigating Soma for “serious criminality” beyond the capacity-building programme.⁵⁷

87. Meanwhile, from 25 to 28 July 2016, Soma and the Ministry of Petroleum and Mineral Resources held initial negotiations in Nairobi regarding a contract covering production-sharing agreements for the exploration and development of at least eight blocks. On 22 August, the Monitoring Group wrote to the Ministry to express concern that the regulatory framework and implementing institutions necessary for oil exploration and development had not been established. There remained a need to finalize the model production-sharing agreement, reconcile the Petroleum Law and the Provisional Federal Constitution, reach a comprehensive revenue-sharing

⁵⁵ See also Spectrum, “Spectrum signs seismic data agreement to kick-start oil exploration offshore Somalia”, 7 September 2015. Available from www.spectrumgeo.com/press-release/ground-breaking-seismic-data-agreement-to-kick-start-oil-exploration-offshore-somalia.

⁵⁶ A copy of the letter is available from <http://jubalandtv.com/wp-content/uploads/2015/12/Protest-Letter-to-Spectrum-.pdf%20> (accessed 16 September 2016).

⁵⁷ See Suzi Ring, “Soma loses U.K. court bid to force SFO to end bribery probe”, Bloomberg, 17 August 2016. Available from www.bloomberg.com/news/articles/2016-08-17/soma-loses-u-k-court-bid-to-force-sfo-to-end-corruption-probe.

agreement and create functional institutions, in particular a petroleum authority, that would be responsible for implementing production-sharing agreements. The Group also expressed concern that Soma remained the subject of an ongoing criminal investigation (see [S/AC.29/2016/SEMG/OC.82](#)). In a response received on 26 August, the Ministry acknowledged that it currently lacked the technical capacity, such as a petroleum economist and a contract negotiator, to negotiate oil exploration and development contracts and stated that it had requested further assistance from the World Bank. On 5 September, the President issued a presidential decree in which he stipulated that no new contracts would be agreed upon by the Federal Government until after the upcoming elections, effectively postponing further negotiation with Soma.

Kenya-Somalia maritime dispute

88. As previously noted by the Monitoring Group in its report for 2013, a disputed maritime border between Kenya and Somalia could have significant implications for regional peace and security. The disputed area covers a triangle-shaped territory in the Indian Ocean of about 100,000 km² with considerable potential for commercial quantities of oil and gas reserves. Kenya contends that the maritime border should extend parallel to the line of latitude (located between 1 and 2 degrees south), while Somalia contends that it should extend from the coast in a south-easterly direction as a continuation of the land border. Kenya cites a memorandum of understanding between the two countries supporting its position, which was signed in April 2009 by the Transitional Federal Government. However, the Somali Parliament failed to ratify it and it was termed “non-actionable” by the United Nations in March 2010. In 2012, Kenya licensed offshore exploration in the contested territory to international oil companies such as the Anadarko Petroleum Corporation, Total and Eni (see [S/2013/413](#), annex 5.5, paras. 27-30, and annex 5.5.k).

89. Following an apparent failure of diplomatic negotiations to resolve the maritime dispute, including objections on the part of the Federal Government to the issuance by Kenya of exploration licences within the disputed territory, Somalia brought a case to the International Court of Justice on 28 August 2014. Preliminary objections were raised by Kenya on 7 October 2015. In a statement, the Attorney General explicitly linked the case regarding the maritime dispute to other bilateral issues. He stated: “Kenya’s soldiers have fought Al-Shabaab. Kenyan citizens have been victims of terrorist attacks. Kenya has also been hosting over half a million Somali refugees for almost 25 years. The least Kenya can expect from Somalia is that it will honour its bilateral agreements.”⁵⁸ A public hearing has been scheduled at the Court from 19 to 23 September 2016.

⁵⁸ See Koome Kimonye, “Kenya challenges Somalia’s case on Indian Ocean boundary”, 7 October 2015, available from <https://citizentv.co.ke/news/kenya-challenges-somalias-case-on-indian-ocean-boundaries-102623/>; and Olive Burrows, “Somalia thankless, AG says over maritime boundary row”, 8 October 2015, available from www.capitalfm.co.ke/news/2015/10/somalia-thankless-ag-says-over-maritime-boundary-row/.

Annex 25

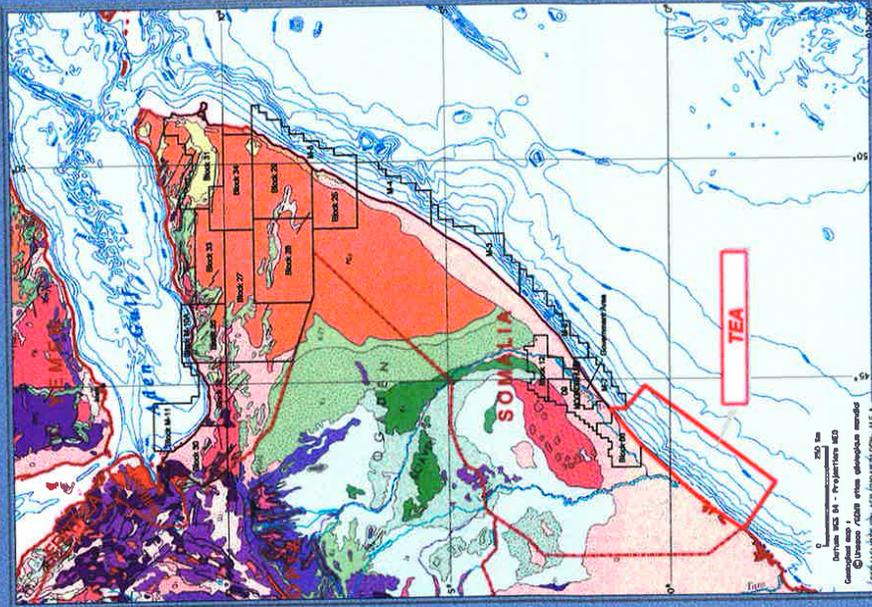
Total Fina Elf, *Meeting with Authorities of Somalia* (3 Feb. 2001)

TOTAL FINA ELF

MEETING WITH AUTHORITIES OF SOMALIA

03/02/2001 - Mogadishu

Somalia - T.E.A. offshore Lamu embayment



Source : DGP/ASI/TC/PN/ATRN/0104/IS01/DCIN
DGP/ASI/SGIM/PN/AFR/0104/AFR4A01

Agenda

- **1 - What are the main phases in the petroleum exploration process**
- **2 - TotalFinaElf 's expertise in deep offshore**
- **3 - T.E.A. - work programme and budget - offshore Lamu embayment**

TOTAL FINA ELF

**1 - WHAT ARE THE MAIN PHASES IN
THE PETROLEUM EXPLORATION
PROCESS**

Who are the oilmen ?

Oil Companies



National Company

Operator

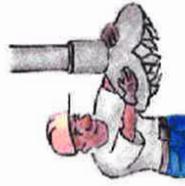
Partners



Services Companies



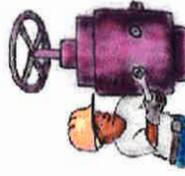
Geophysics



Drilling



Engineering

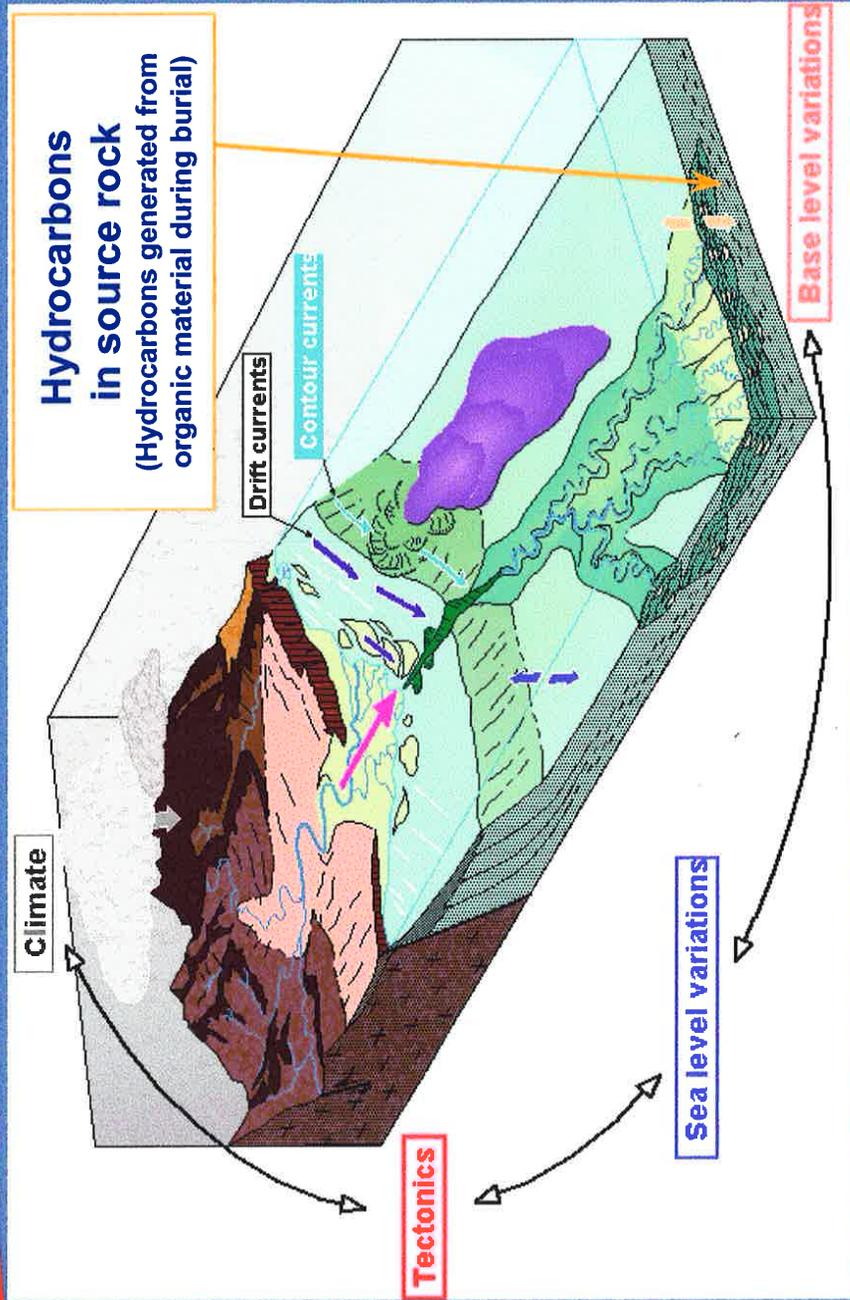


Construction



Maintenance

Where do hydrocarbons come from ?

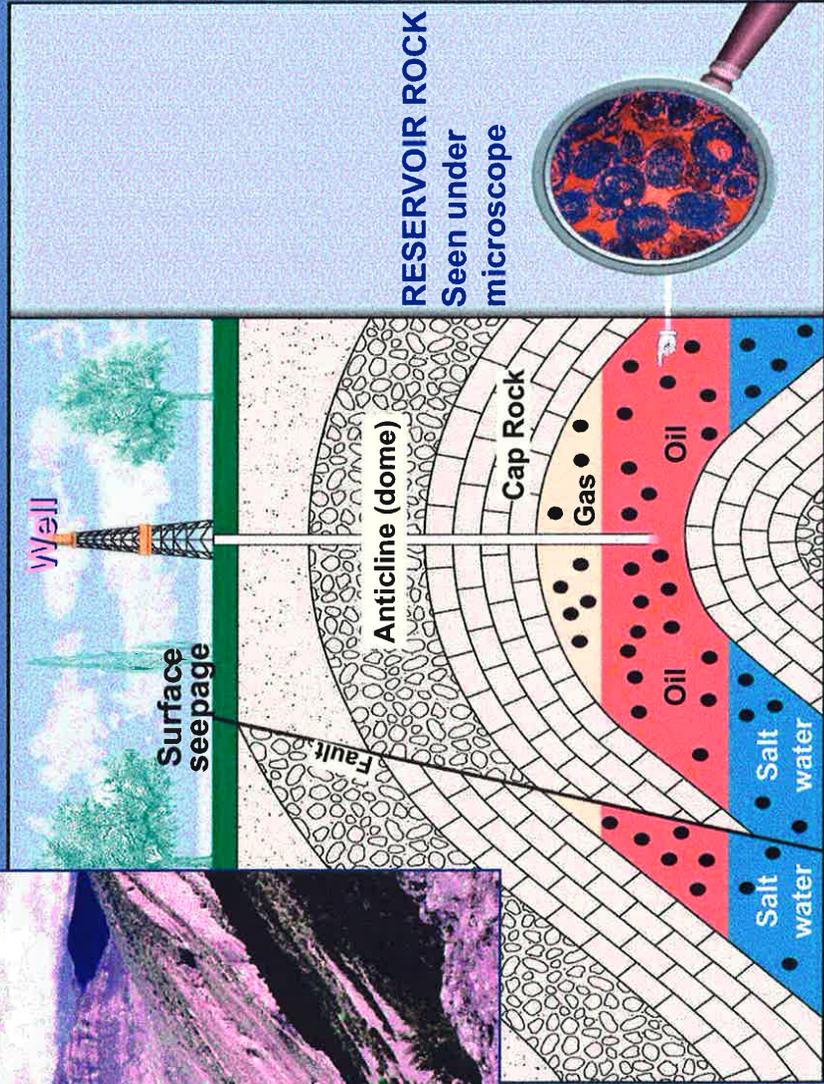


Hydrocarbon trap



The reality

The model

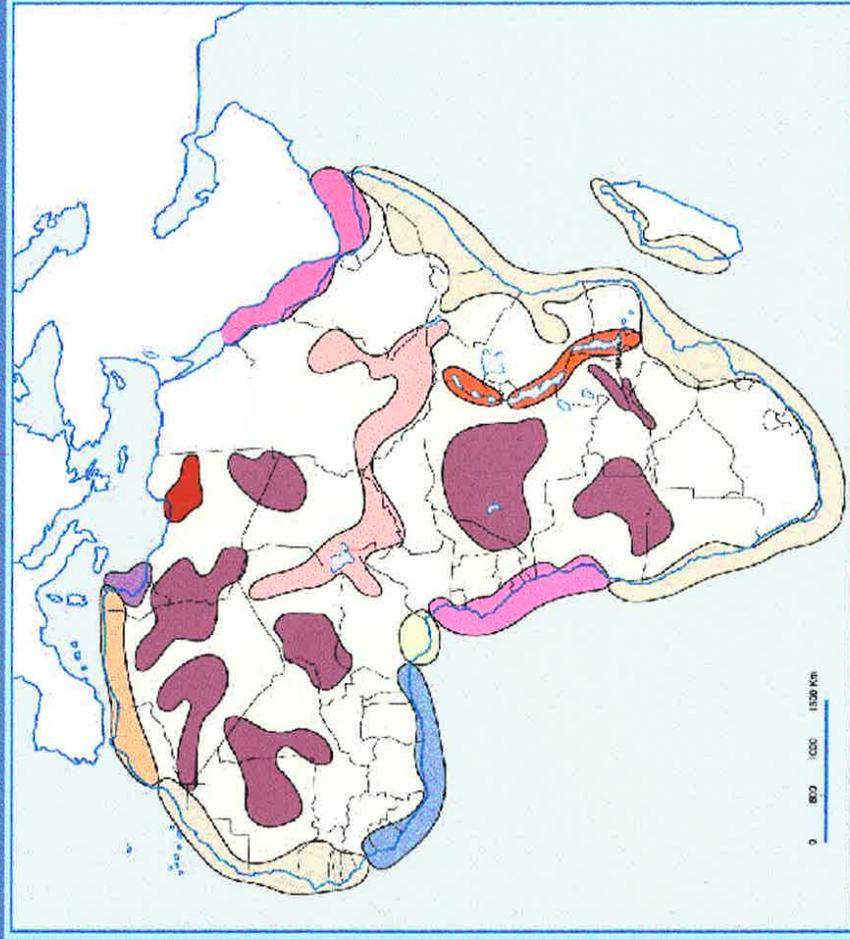


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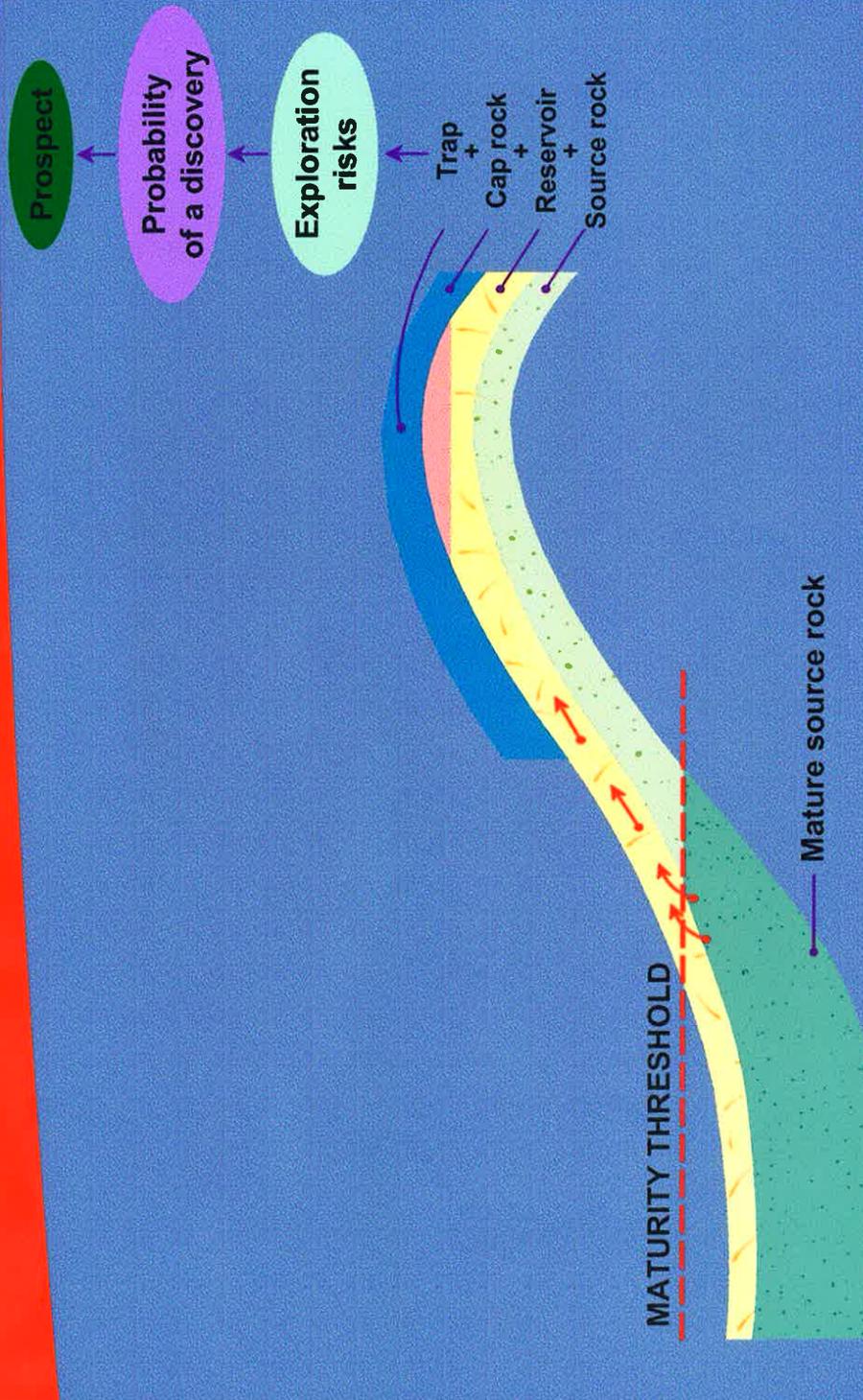
TOTALFINAELF

Location of potential petroleum basins

An example : Africa



Choosing a good petroleum basin

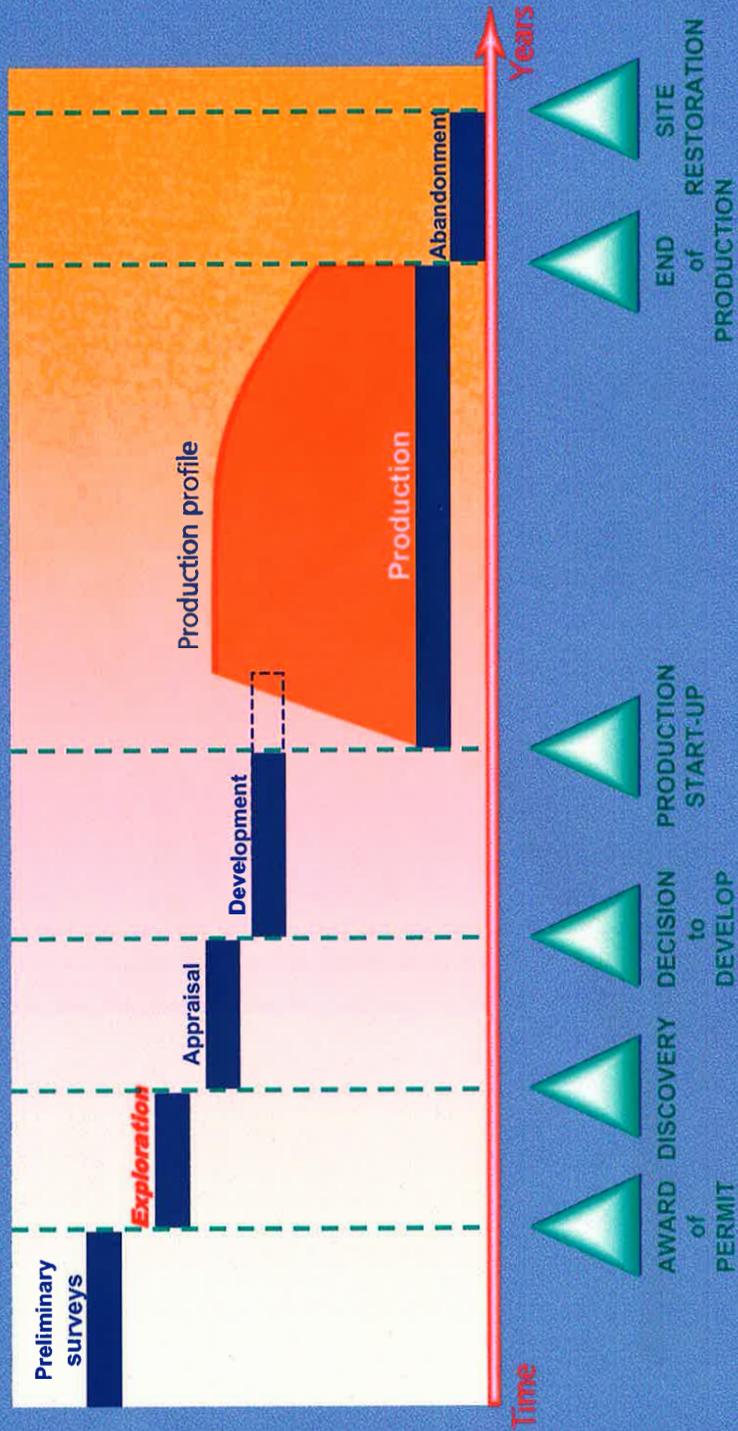


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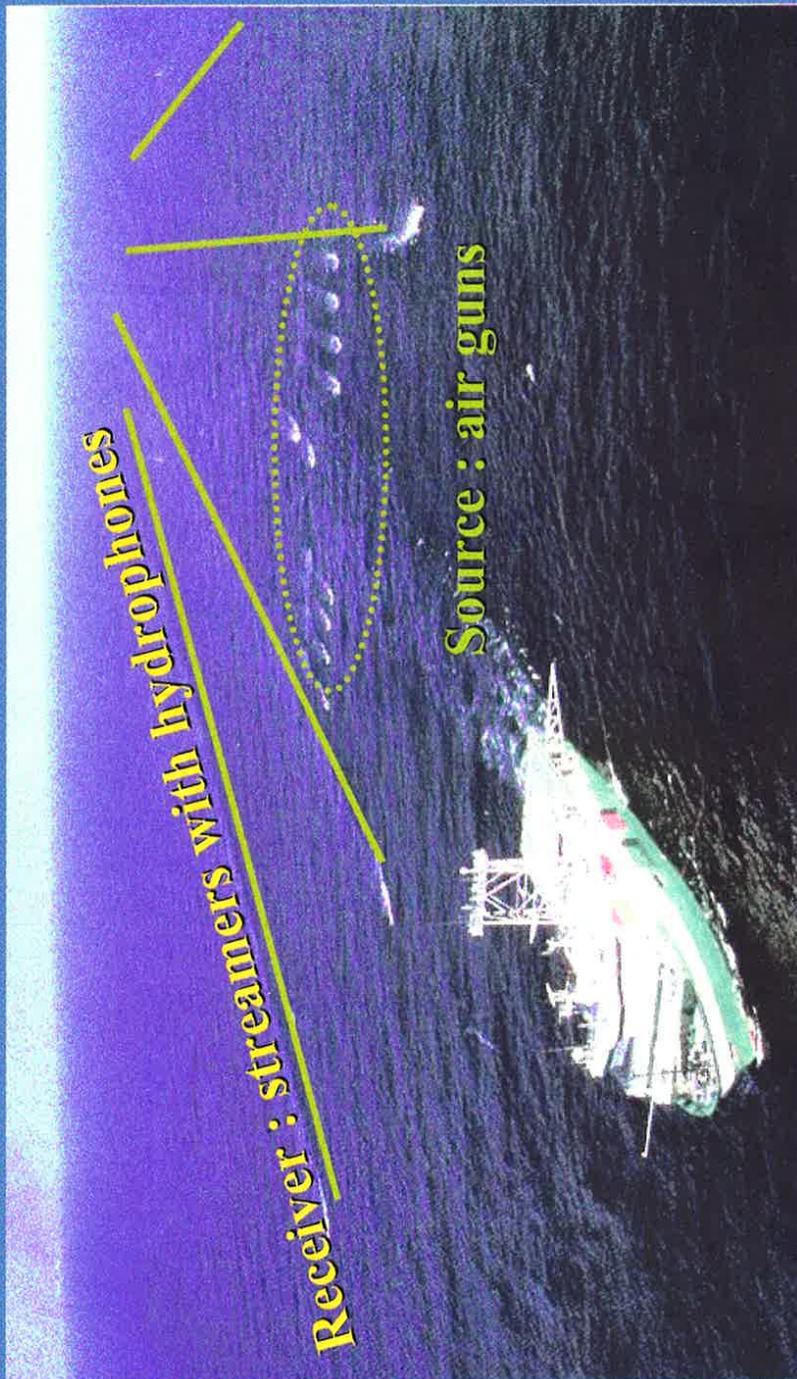
9

TOTAL FINA ELF

Main phases in the life of an hydrocarbon field



Seismic acquisition

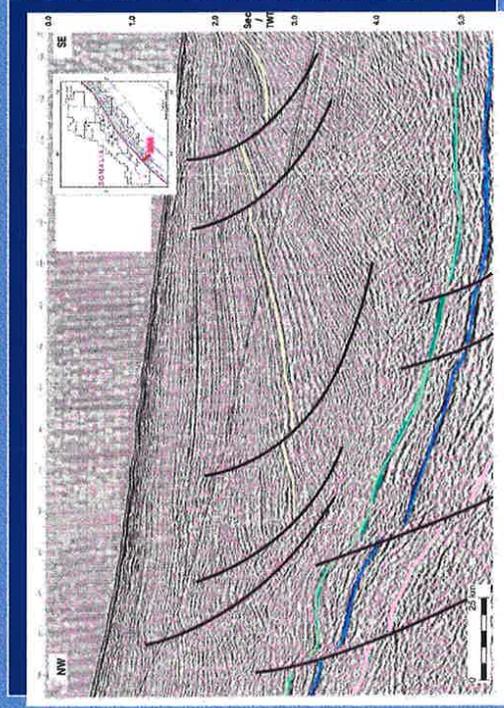
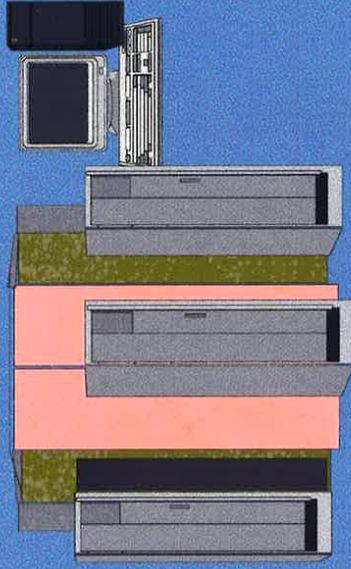
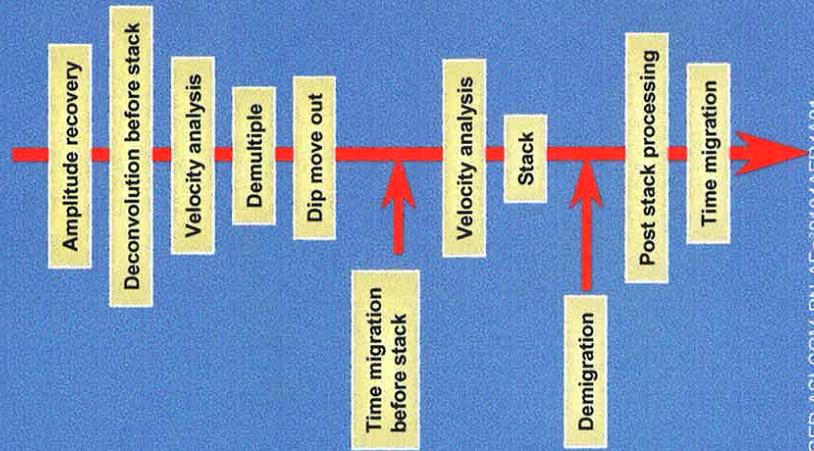


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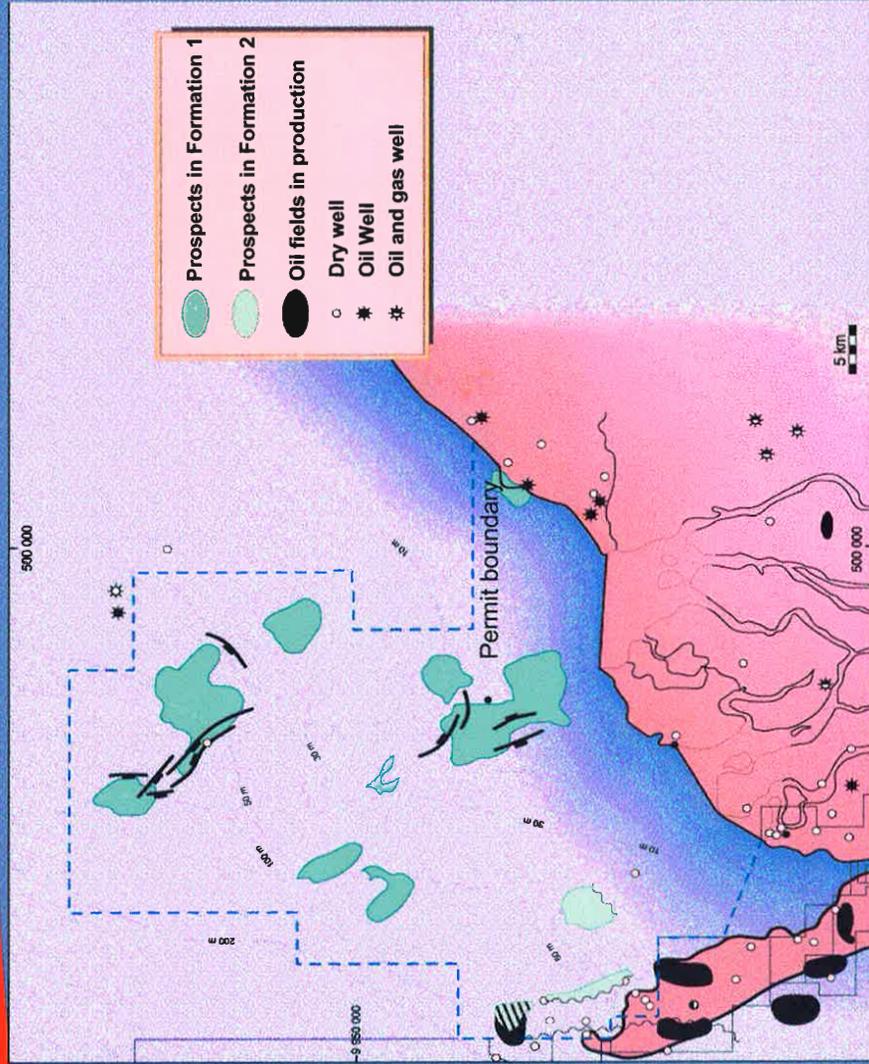
TOTAL FINA ELF

Seismic processing

Typical processing sequence



Defining prospect and choosing where to drill

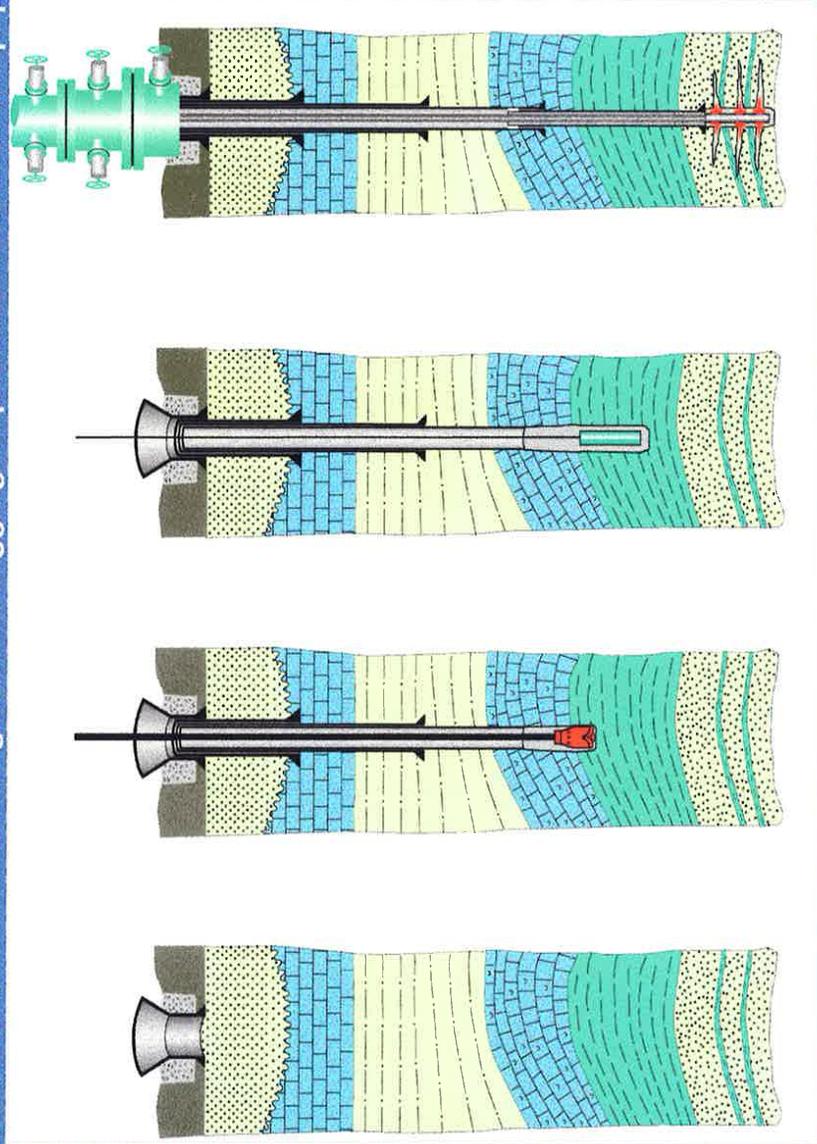


TOTAL FINA ELF

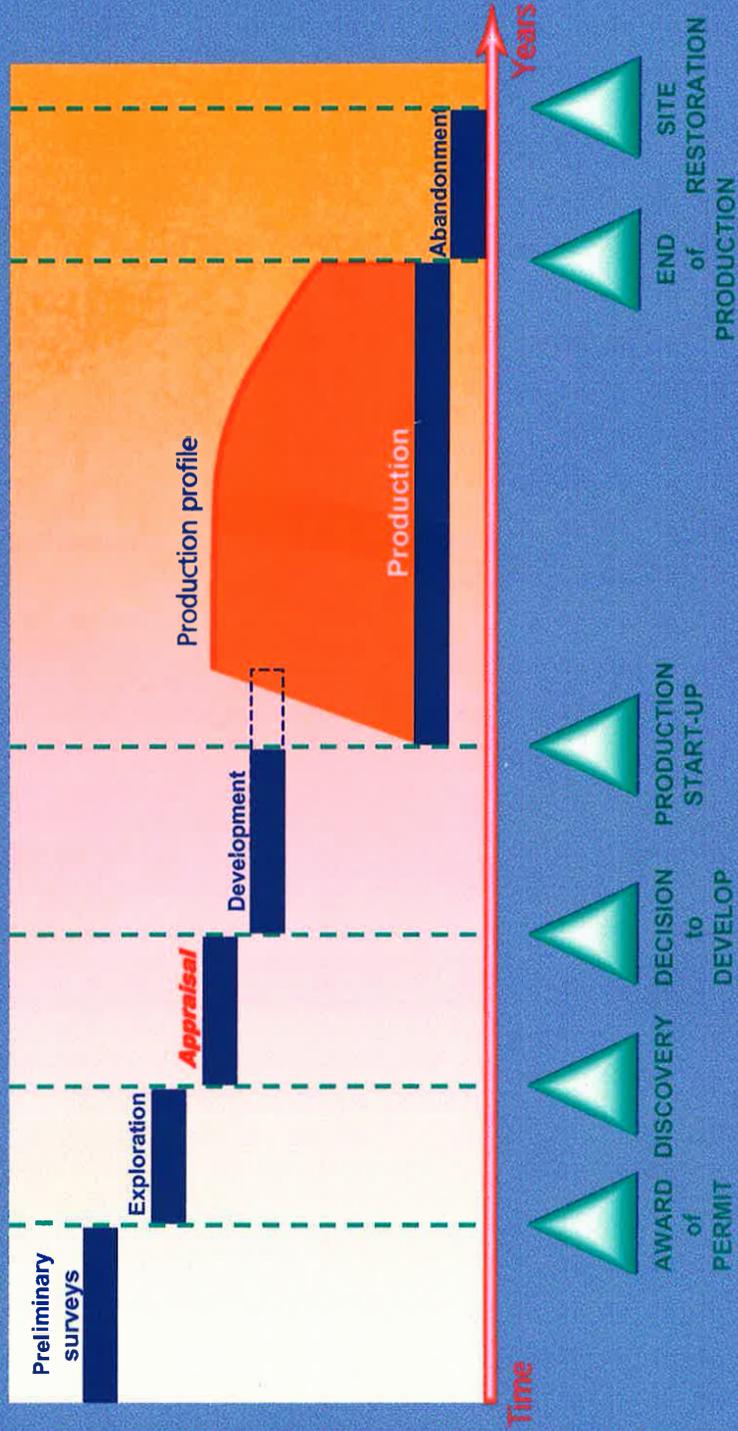
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The well : our judge

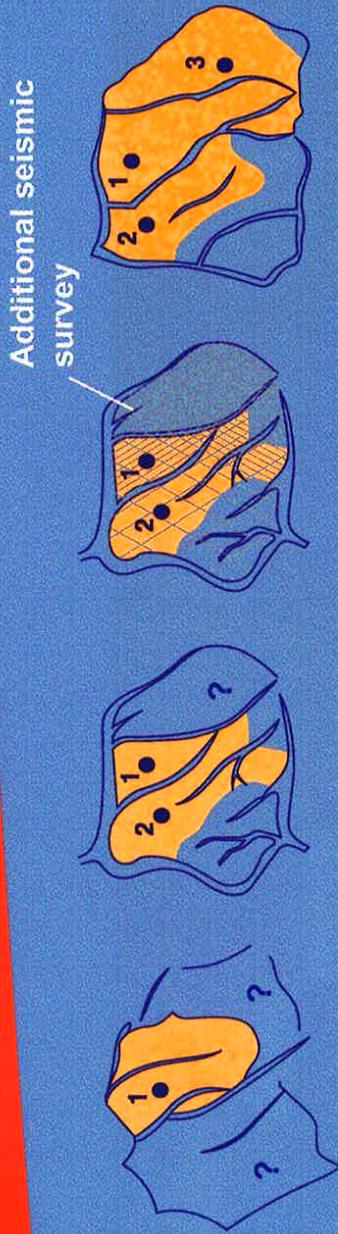
Pilot hole Drilling well Logging acquisition Production equipment



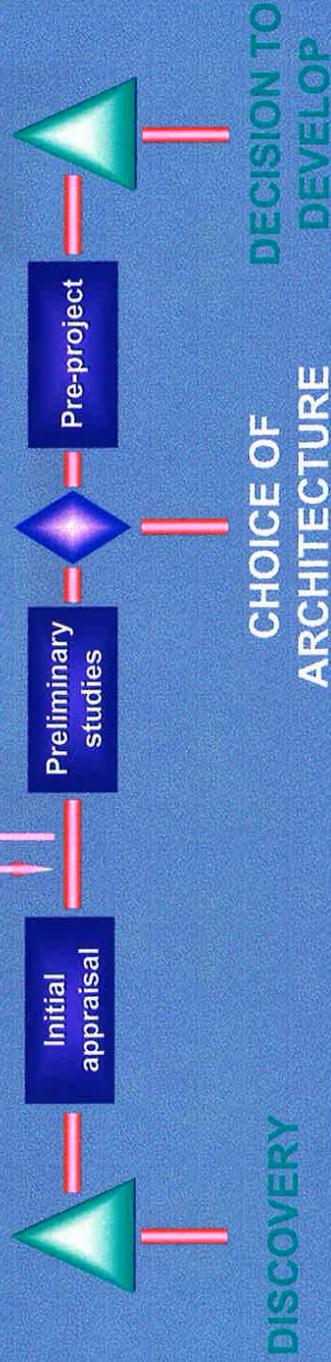
Main phases in the life of an hydrocarbon field



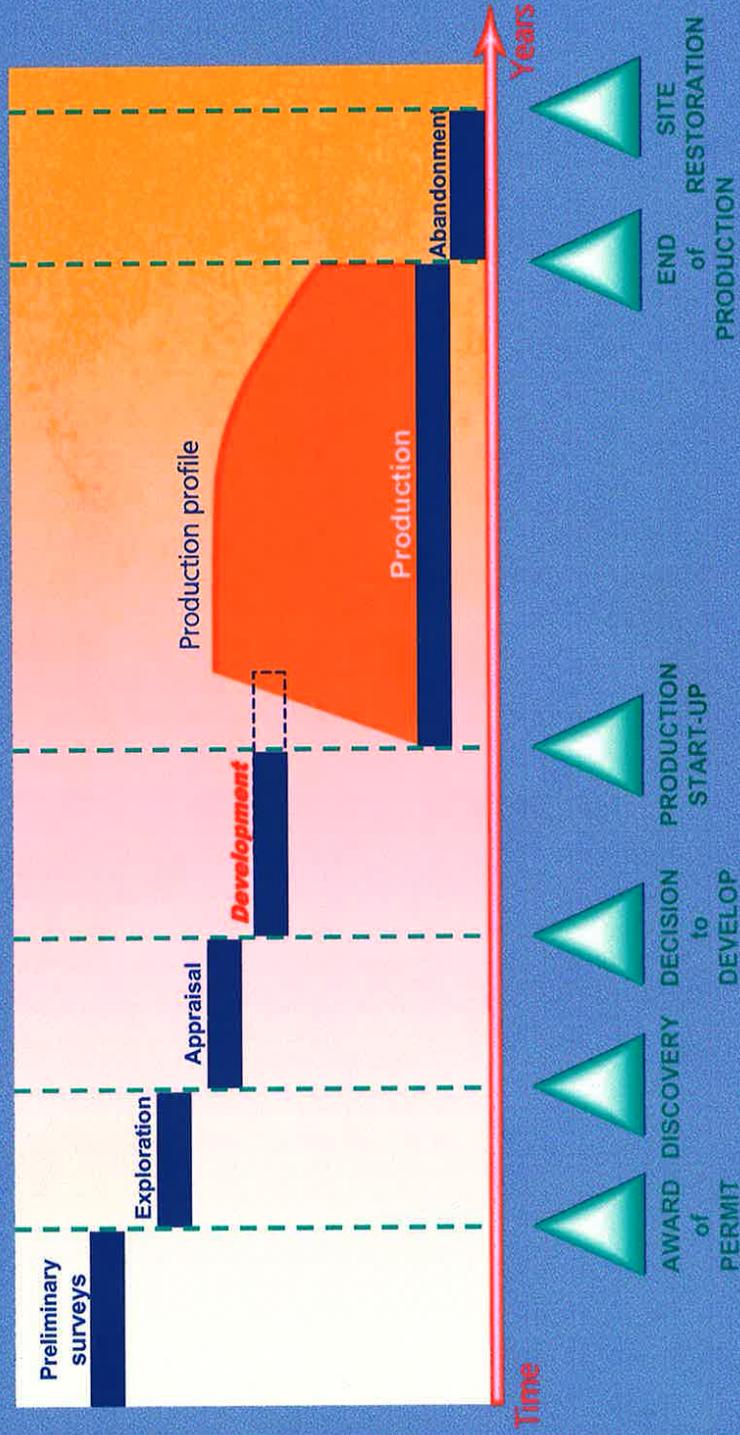
Appraisal : reducing uncertainty



APPRAISAL



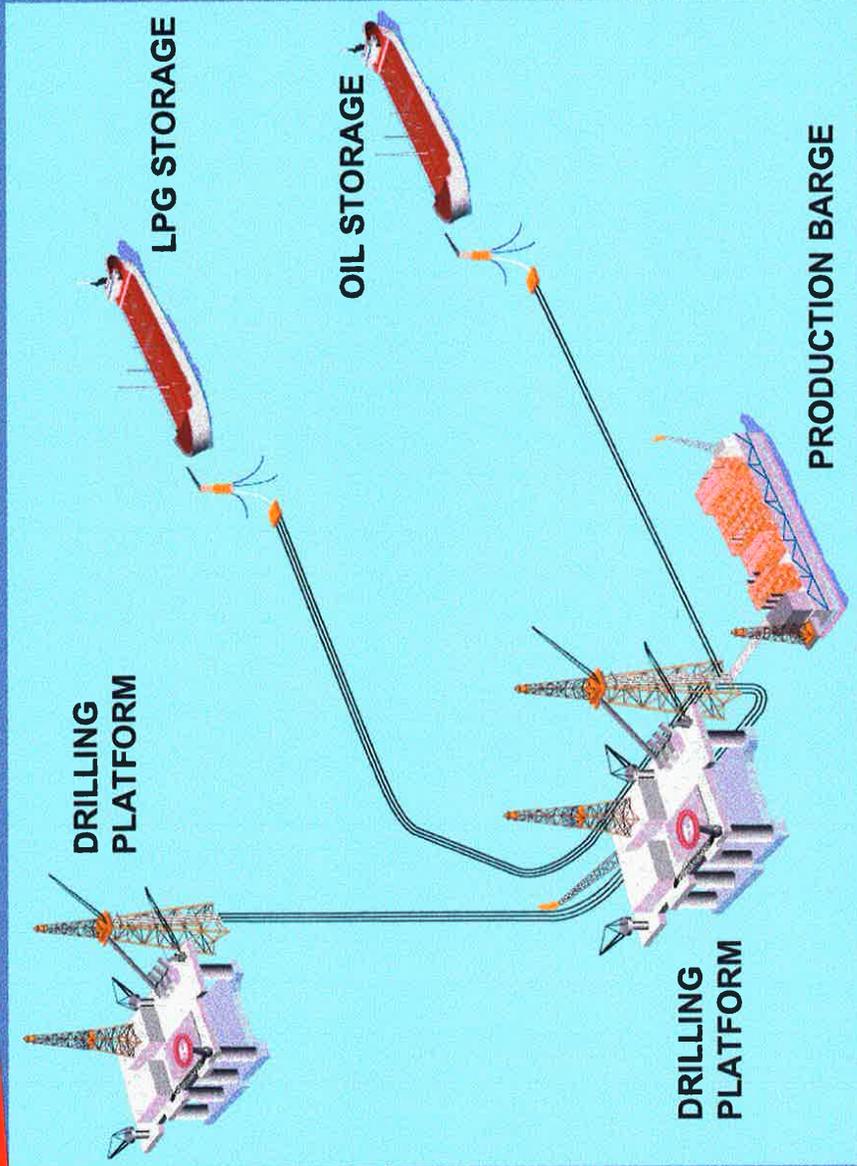
Main phases in the life of an hydrocarbon field



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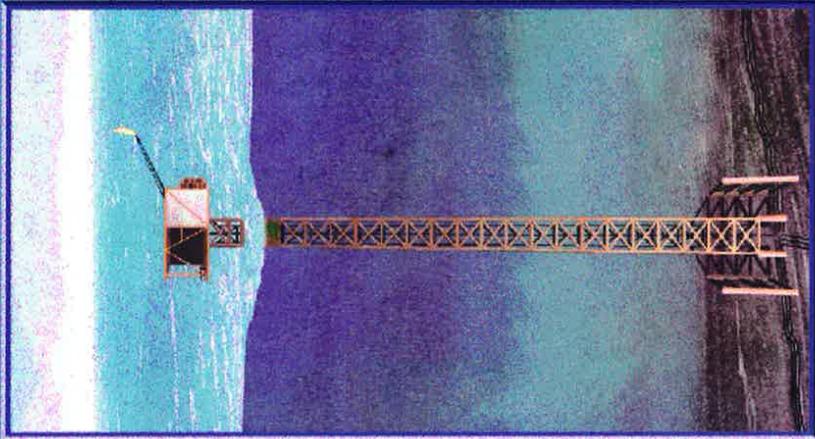
TOTAL FINA ELF

Development scheme

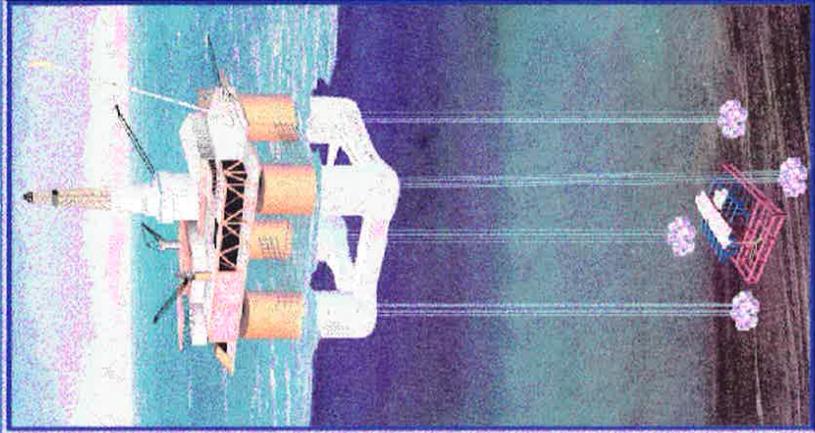


Choosing the production support

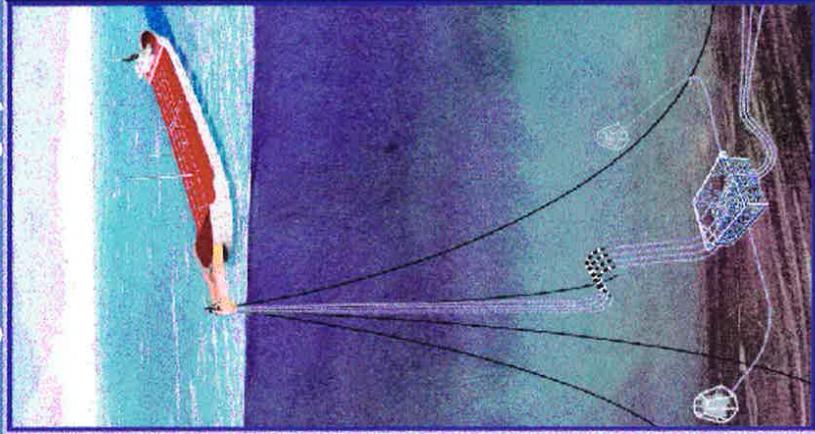
Fixed tower



Tension leg platform



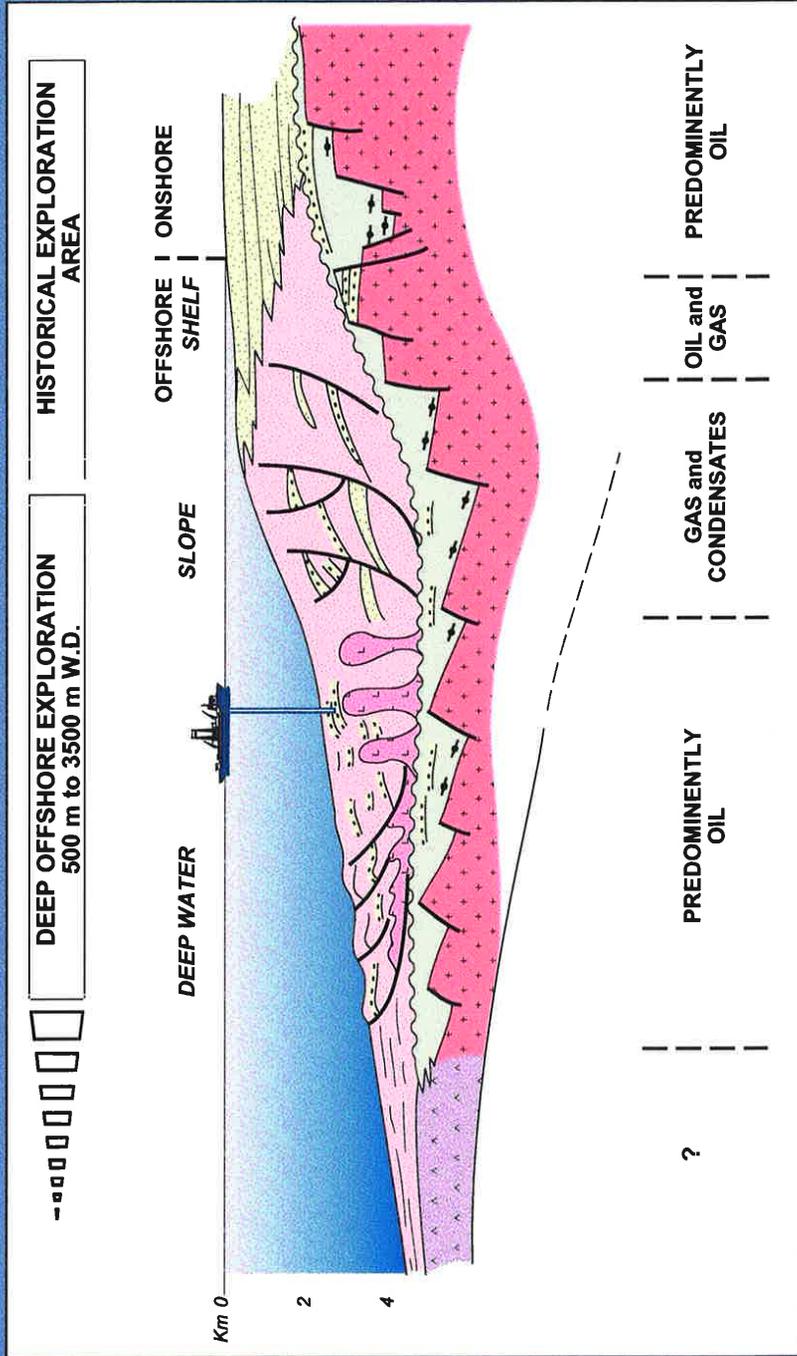
Floating production, storage offloading system



TOTALFINAELF

2 - TOTALFINAELF 'S EXPERTISE IN DEEP OFFSHORE

Play types and fluids distribution in deep offshore exploration

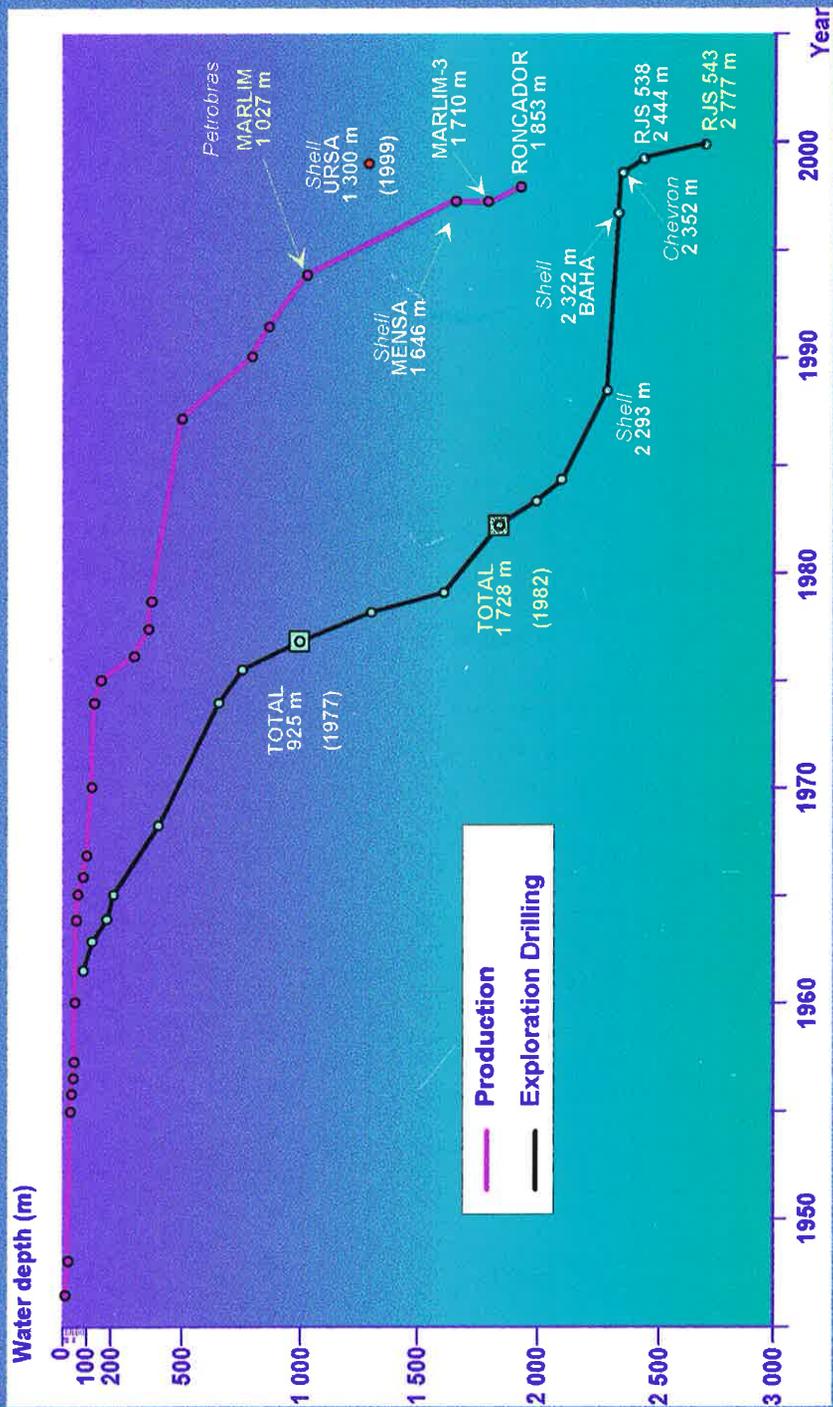


Deep offshore

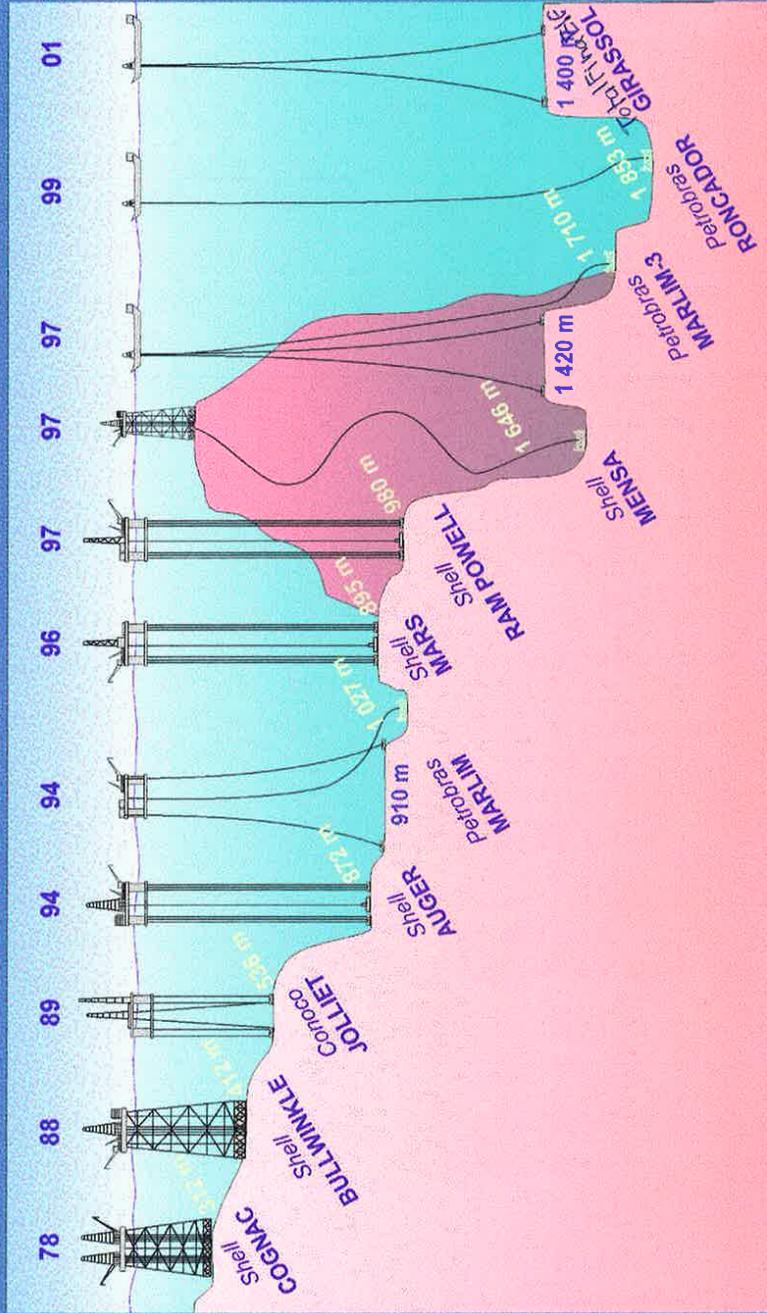
WHAT DOES IT CONSIST IN ?



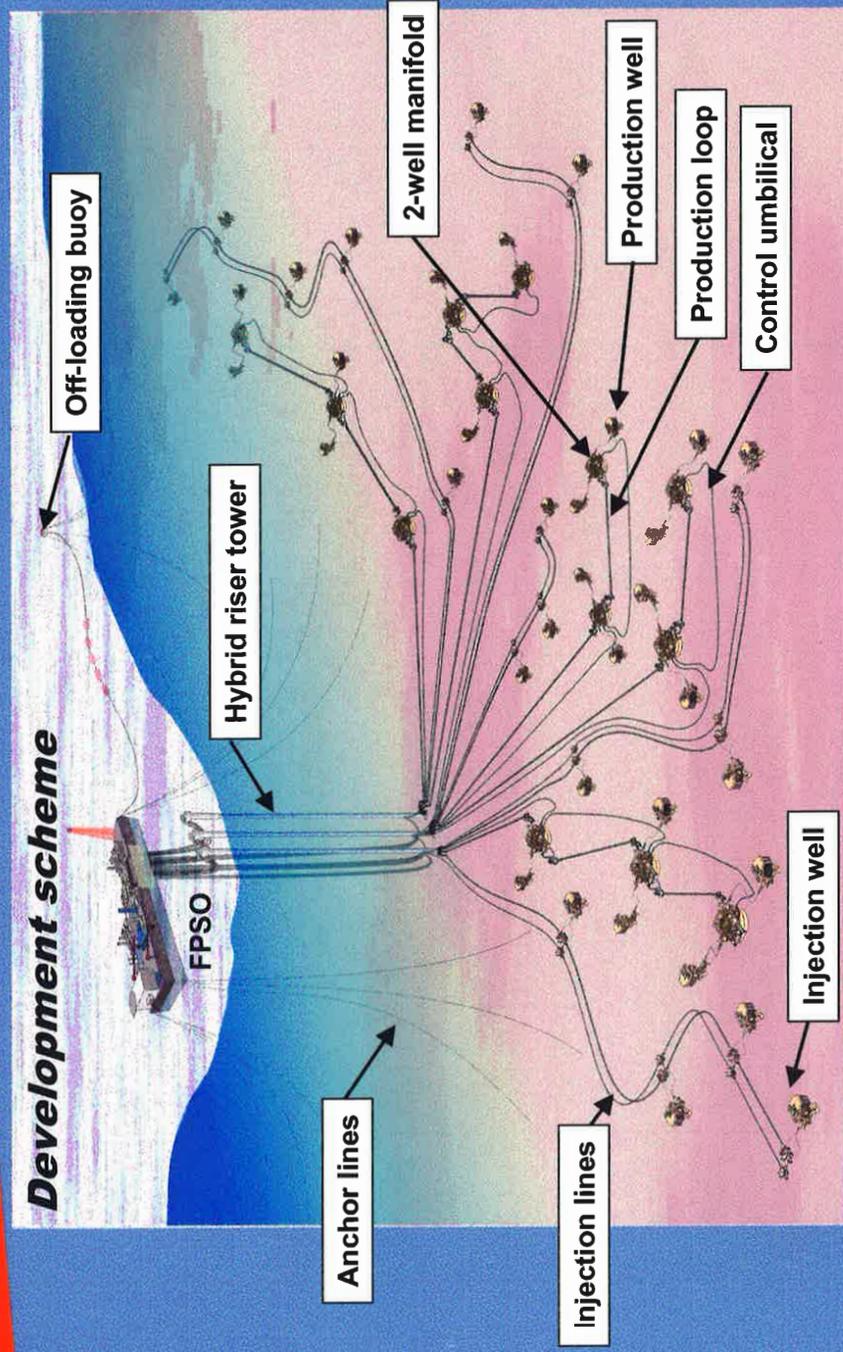
Deep offshore : Industry achievements



Deep offshore : Significant milestones



Deep offshore : Girassol TotalFinaElf field



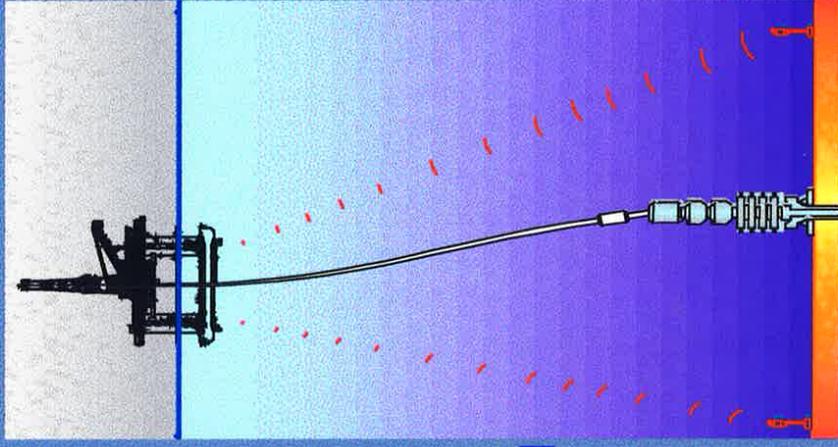
You need a good exploration team : Why ?



You need a skillful well team : why ?

➔ **The deepwater drilling challenges**

- ➔ huge water column
- ➔ poor soil strength
- ➔ high drilling unit rates
- ➔ high productivity requirement per well



You need a top-notch development team : why ?

→ **The high and even cutting-edge technology requirement**

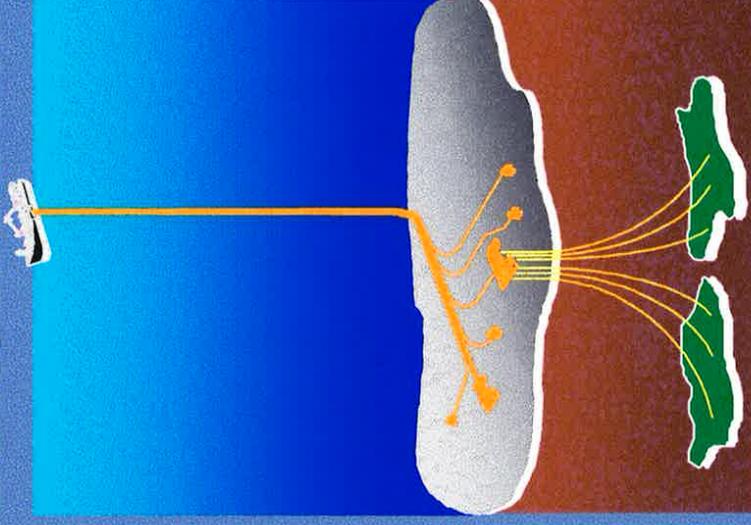
- ↳ production risers and umbilicals
- ↳ mudline equipment

→ **The specific risks**

- ↳ technological risk
- ↳ project cost and planning risk

→ **The flow assurance challenge**

- ↳ flowing a high-tech well
- ↳ crossing the water slice



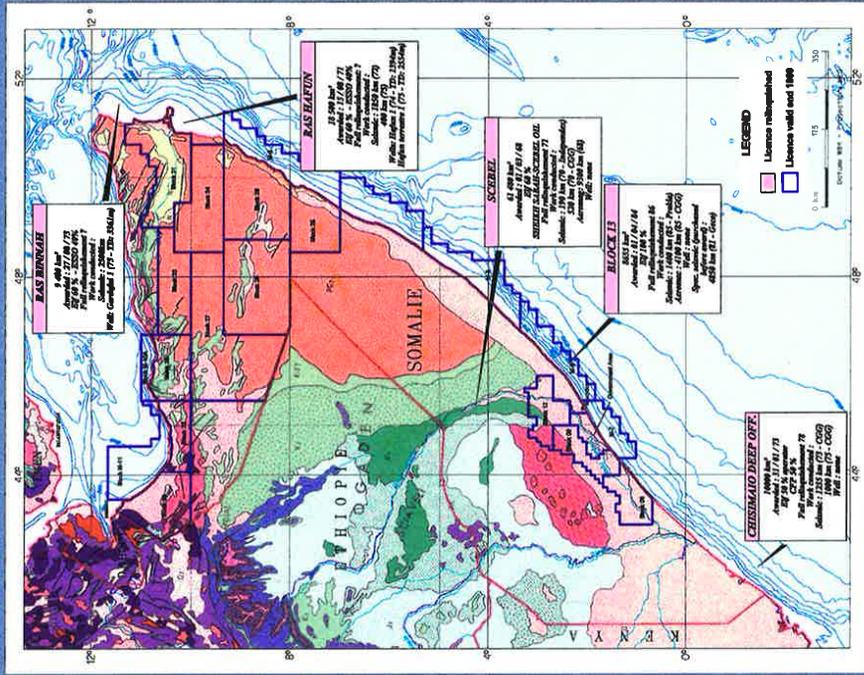
TotalFinaElf : a consistent policy

- **Deep-offshore represents for TotalFinaElf :**
 - ➔ **2/3 of its exploration effort in the next 5 years**
 - ➔ **2/3 of its development effort as early as 2005**
 - ➔ **1/3 of its production as early as 2008**
 - ➔ **1/2 of its R&D investigation**

TOTAL FINA ELF

**3 - T.E.A. OFFSHORE LAMU EMBAYMENT
WORK PROGRAMME AND BUDGET**

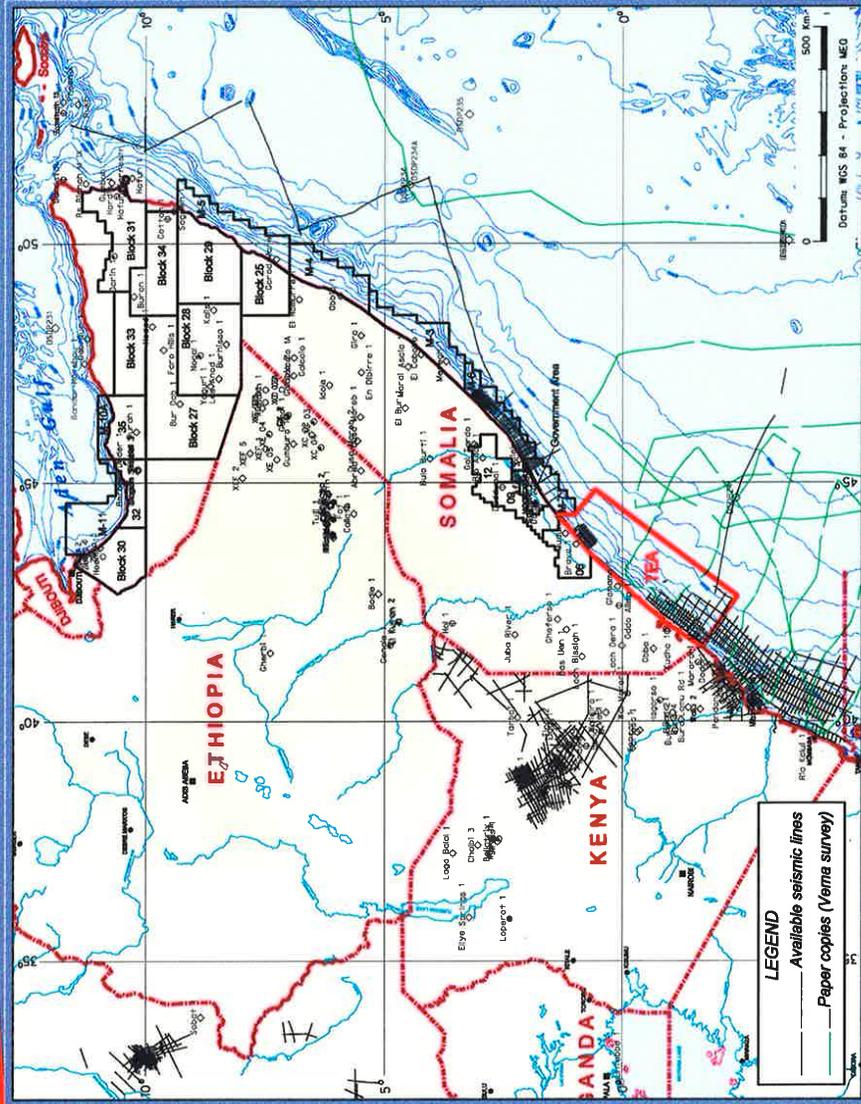
Relinquished licences with TotalFinaElf interest and present day licences



Source : DGEP/AS/RTIC/PN/AFR/jr/04/9/2S01

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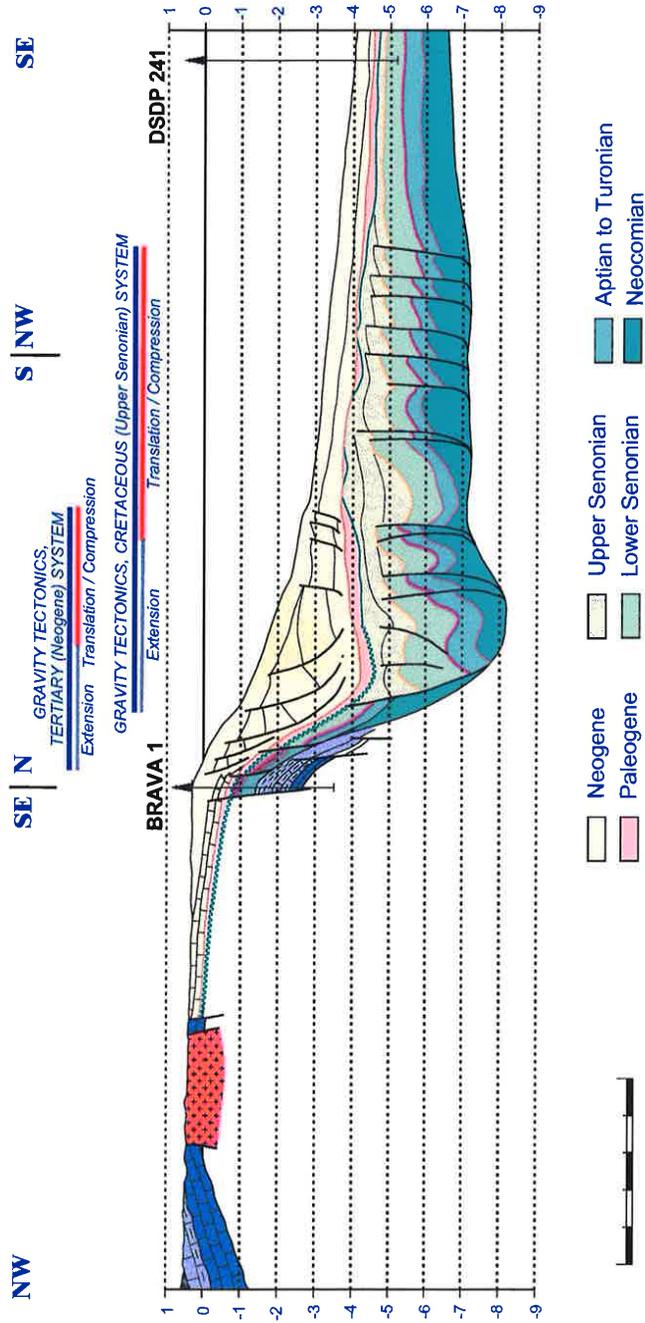
Offshore Lamu embayment : available data



Source: DGEP/AS/RT/CPN-AFR/01041S/03

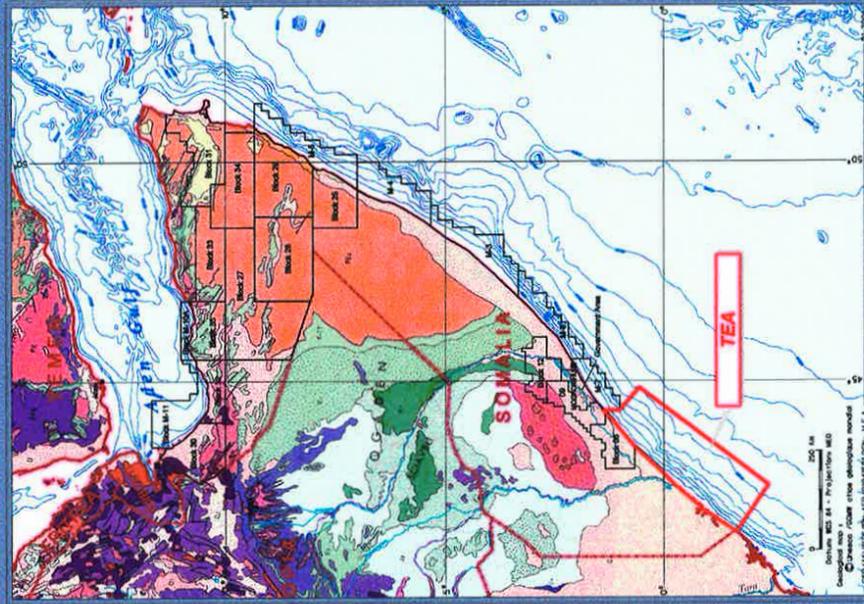
DGEP-ASI-SCM-PN-AFR-0104AFR4A01

Cross section through the south somalian offshore



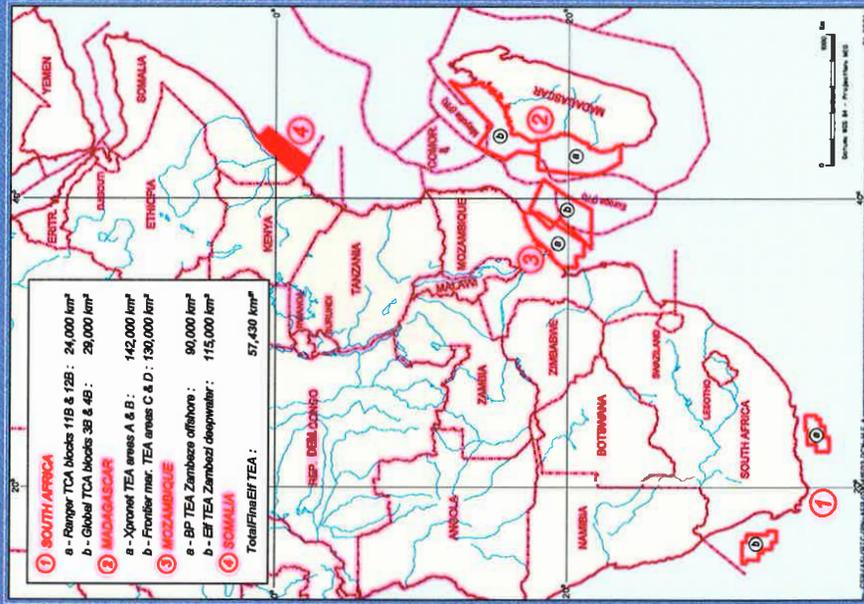
PRESENCE OF GRAVITY FOLDING DOWN DIP - POORLY KNOWN POTENTIAL : PETROLEUM SYSTEM TO BE EVALUATED

Offshore Lamu embayment : T.E.A. location



Source : DGE/ASI/RTC/PN/AFR/01041S01.DGN
DGE/ASI-SGM-PN-AF/0104AFR4A01

Former and present day Technical Evaluation Agreement



Source : DGEF/ASIRTC/PN-AFRa/01041S02

DGEF-ASI-SGM-PN-AFn°0104AFR4A01

T.E.A. - Lamu embayment - work programme and budget

• WORK PROGRAMME

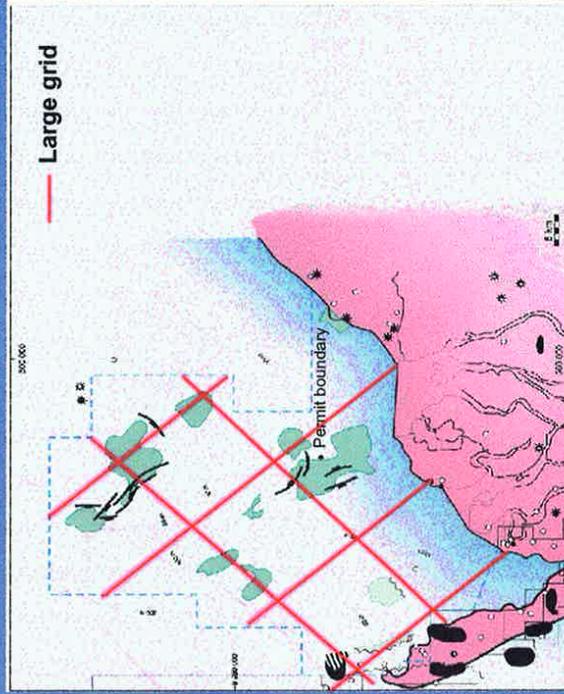
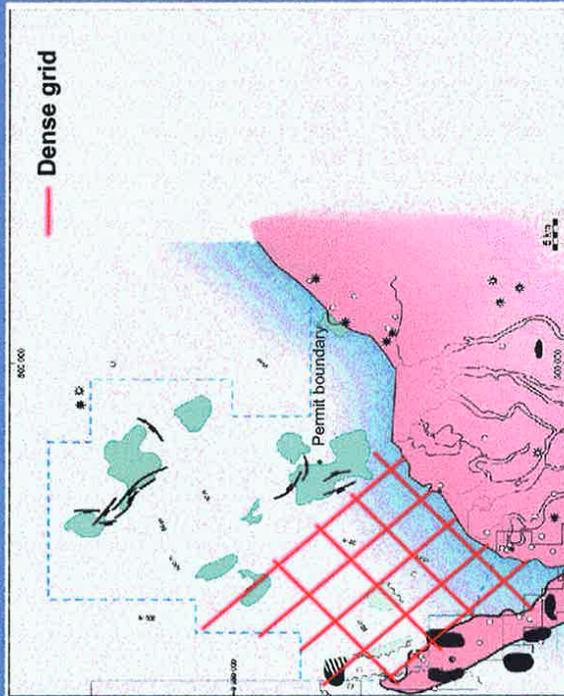
- 3500 km of 2D seismic profiles (survey preparation, acquisition*, processing)
- Interpretation of geophysical data, satellite study, regional synthesis

• BUDGET

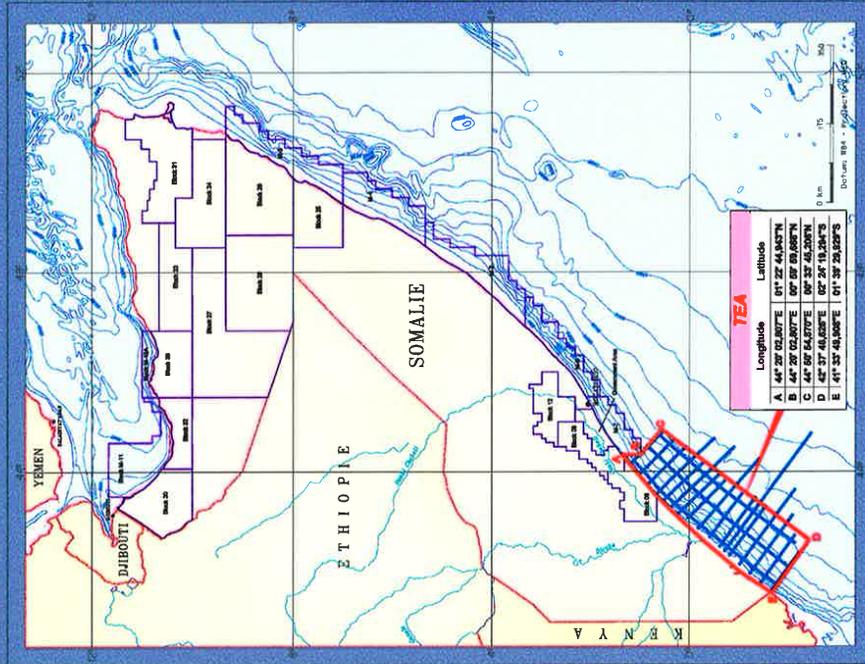
- Seismic = 3500 K\$
- Studies = 600 K\$
- * Commencement of seismic acquisition depending on vessel availability and weather window

Preparation of a seismic programme

2D seismic survey



T.E.A. acreage (57 430 km²) and seismic programme



Source : DCEP/ASIR/IC/PN-AFR/n°00492S02

DGEP-ASI-SGM-PN-AFR/n°0104AFR4A01

Annex 26

Memorandum of Understanding between National Oil Corporation of Kenya and Eastern Echo
DMCC (26 July 2013)



MEMORANDUM OF UNDERSTANDING

between

NATIONAL OIL CORPORATION OF KENYA

and

EASTERN ECHO DMCC

FOR A PROPOSED JOINT COLLABORATION

Dated 26 July **2013**



Memorandum of Understanding between Eastern Echo DMCC and National Oil Corporation of Kenya

THIS MEMORANDUM OF UNDERSTANDING IS NOT INTENDED TO BE LEGALLY BINDING EXCEPT AS SPECIFICALLY SET OUT BELOW.

This Memorandum of Understanding (hereinafter "MOU") is effective on the 26th day of July 2013 (hereinafter the "Effective Date") between

Eastern Echo DMCC incorporated and registered in the United Arab Emirates with Company Number 0936 whose registered office is at PO Box 214826, Dubai, UAE, Mailing Address: Saba 1, Office 2401, Jumeirah Lakes Tower, Dubai, UAE, acting on its behalf and on behalf of its affiliates (hereinafter "**WesternGeco**");

and,

NATIONAL OIL CORPORATION OF KENYA, a State Corporation incorporated under the Companies Act, Cap 486 of the laws of Kenya and of Post Office Box Number 58567-00200, Nairobi in the Republic of Kenya (hereinafter "**NATIONAL OIL**");

(hereinafter collectively the "**Parties**" and individually the "**Party**")

WHEREAS, the Republic of Kenya wishes to promote the petroleum acreage onshore and offshore areas to prospective oil and gas companies and investors;

WHEREAS, NATIONAL OIL as the authorized and competent authority to acquire and manage geological and geophysical data for and on behalf of the Republic of Kenya, a right which NATIONAL OIL may contract to a qualified entity, in this particular instance to WesternGeco;

WHEREAS, WesternGeco is a geophysical contractor that is experienced (*inter alia*) in the acquisition, processing, reprocessing, interpretation, brokering, marketing, and licensing of geological and geophysical information, obtained offshore and has the financial ability, technical competence and professional skills necessary;

WHEREAS, the Parties have held deliberations regarding the possibility of collaborating on the acquisition, processing, reprocessing, interpreting, brokering, marketing and licensing of geological and geophysical data onshore and offshore, as well as the installation of a National Data Centre and Data Processing capability, (hereinafter the "Collaboration"),

WHEREAS, the Parties are interested in participating in a joint collaboration project subject to the terms set out in this MOU and a mutually agreed definitive written agreement (hereinafter "The Agreement");

NOW THEREFORE, in consideration of mutual undertakings contained herein, NATIONAL OIL and WesternGeco hereby agree as follows:



Memorandum of Understanding between Eastern Echo DMCC and National Oil Corporation of Kenya

1. PURPOSE

- 1.1. The purpose of this MOU is to provide a legal framework under which the Parties can define their roles, rights and responsibilities and the mechanism for engagement and commitment for the execution of the Collaboration.
- 1.2. This MOU shall constitute a statement of the mutual intention of the Parties with respect to proceeding with the Collaboration and associated agreements and does not necessarily contain all matters upon which agreement must be reached.

2. THE COLLABORATION

- 2.1. WesternGeco will act on behalf of NATIONAL OIL to acquire, process, reprocess, interpret, market, broker and license, geological and geophysical data from-offshore the Republic of Kenya to international oil and gas companies for a period to be agreed between the parties.
- 2.2. This Collaboration will include, but is not limited to:
 - a) exclusively acquire, process, reprocess, interpret market, broker and license a new regional 2D survey and any associated geological and geophysical data set out in Map 1 of Appendix A;
 - b) undertake a Geology and Interpretation Collaboration within Kenya and build a regional understanding of Kenya offshore including Petroleum Systems modelling which may be conducted outside Kenya and to identify specific areas for a new 3D acquisition survey;
 - c) subsequently acquire, process, reprocess, interpret market, broker and license a new regional 3D survey and any associated geological and geophysical data set out in Map 1 of Appendix A;
 - d) exclusively store, process, reprocess, interpret market, broker and license any existing geological and geophysical data if required and if mutually agreed;
 - e) set up a new National Data Centre with associated support;
 - f) provide a new Data Processing Centre initially comprised of WesternGeco's proprietary Omega seismic processing system and conduct initial training;
 - g) provide a Collaboration and Visualisation Centre the cost of which may be met by WesternGeco and recovered from NATIONAL OIL's share of future revenues generated from licensing of geological and geophysical data to third parties subject to the availability of sufficient funding;
 - h) Carry out any other ancillary projects to the Collaboration, subject to the capabilities and agreement of both Parties.

Submission for Proposed Collaboration - Confidential



Memorandum of Understanding between Eastern Echo DMCC and National Oil Corporation of Kenya

- 2.3. The costs associated with the Collaboration shall be dealt with in the Agreement, or any other supplemental agreements. Each Party shall be entitled to receive a revenue share out of the revenues generated from the licensing of geological and geophysical data to third parties, such share shall be dealt with in the Agreement.

3. CONDITIONS AND APPROVALS

The proposed Collaboration will be conditional on:

- a) WesternGeco obtaining the necessary permits, consents, licenses, governmental consents, and authorisations, required to perform the Collaboration;
- b) the execution of the Agreement by the Parties.
- c) adequate industry pre-funding

4. GOVERNING PRINCIPLES

The Parties agree the following principles:

- 4.1. Any relationship between the Parties will be based upon the following legal principles generally accepted within the international oil and gas industry:
 - a) Risk allocation scheme in line with international acquisition and processing industry standards and practices;
 - b) Mutual and reciprocal waiver of consequential damages; and
- 4.2. NATIONAL OIL will allow WesternGeco to negotiate directly with oil and gas companies concerning reprocessing or interpretation projects or commitment to new non-exclusive surveys.
- 4.3. The terms and conditions of the Agreement by the Parties shall prevail over those of this MOU.
- 4.4. The Parties hereby undertake to share all information which will aid the brokering, marketing and licensing of geological and geophysical data, in particular NOCK will provide to WesternGeco details of all current or future license agreements or blocks granted to oil and gas companies, if applicable.
This clause 4 is legally binding.

5. DURATION AND TERMINATION OF MOU

- 5.1. This MOU shall commence on the Effective Date and shall remain in force until the 31 December 2013 or until the Parties have executed the Agreement for the Collaboration, whichever is earlier, subject to any mutually agreed extension.
This clause 5 is legally binding.

6. EXCLUSIVITY

- 6.1. NATIONAL OIL will, from the Effective Date of this MOU, deal exclusively with WesternGeco with regards to this Collaboration, and will not solicit or negotiate with _____ or enter into any contract or understanding with any third party concerning this or



Memorandum of Understanding between Eastern Echo DMCC and National Oil Corporation of Kenya

any other similar collaboration project over the area set out in Map 1 of Appendix A while this MOU remains in force.

- 6.2. For sake of clarity, WesternGeco shall have exclusive rights of acquiring MC3D seismic data over the area underlying the 2D grid set out in Map 1 of Appendix A.

WesternGeco understands and agrees that CGG may be awarded a MC3D seismic acquisition contract by Anadarko and Total over the area set out in Map 2 of Appendix A. Subject to the award of such contract to CGG and notwithstanding clauses 2.2(c) and 6.1, and unless agreed otherwise with NATIONAL OIL, WesternGeco agrees not to carry out any 3D seismic acquisition in the western portion of Block L25 set out in Map 1 of Appendix A until the 1st of September 2014.

If CGG is not awarded a MC3D seismic acquisition contract by Anadarko and Total or if CGG has not completed the seismic acquisition over the area of Block L25 set out in Map 2 by the 1st of September 2014 WesternGeco exclusive rights shall extend to the remaining area of Block L 25.

WesternGeco's exclusive right of acquiring a 2D seismic acquisition over the area set out in Map 1 shall not be affected by the award of a 3D seismic acquisition contract to CGG.

This clause 6 is legally binding.

7. CONFIDENTIALITY

- 7.1. Any and all information furnished by WesternGeco to NATIONAL OIL, whether in writing or orally, including but not limited to geophysical data, geological data, maps, charts, business plans, financial information, know-how and trade secrets, costing or pricing policies and marketing plans (hereinafter "WesternGeco Evaluation Material") shall be deemed confidential and shall be kept and maintained by the NATIONAL OIL under appropriate safeguards.
- 7.2. NATIONAL OIL agrees that all WesternGeco Evaluation Material will remain WesternGeco's sole property and will not be disclosed to others or used by NATIONAL OIL for any purpose other than for the evaluation of the Collaboration and shall not be used in any manner that is adverse or detrimental to WesternGeco. NATIONAL OIL further agrees that all WesternGeco Evaluation Material in tangible and electronic form (including but not limited to reports, drawings, plans and specifications) shall be returned to WesternGeco upon request.
- 7.3. WesternGeco agrees that all confidential information received from NATIONAL OIL (hereinafter "NATIONAL OIL Confidential Information") shall remain NATIONAL OIL's sole property and will not be disclosed to others or used by WesternGeco for any purpose other than for NATIONAL OIL's benefit. WesternGeco further agrees that all NATIONAL OIL Confidential Information in tangible and electronic form (including but not limited to reports, drawings, plans and specifications) shall be returned to NATIONAL OIL upon request.



Memorandum of Understanding between Eastern Echo DMCC and National Oil Corporation of Kenya

7.4. The Parties agree that all discussions between the Parties and information disclosed to each other shall remain confidential between the Parties.

7.5. Notwithstanding anything to the contrary, this Clause shall remain in full force and effect for a period of five (5) years. Notwithstanding the expiration or termination of this MOU, all terms and conditions hereof regarding confidentiality and restrictions on the use of Evaluation Material delivered to NATIONAL OIL shall survive and continue in full force and effect.

This clause 7 is legally binding.

8. INDEPENDENT CONTRACTOR

8.1 Nothing in this MOU shall be construed as creating an employer-employee, agency, partnership, joint venture, trust, or other relationship between the Parties. Neither Party shall have any authority, express or implied, to enter into any contracts, obligations, or commitments on behalf of or binding on the other Party.

This Clause 8 is legally binding.

9. ENTIRE CONTRACT

9.1. This MOU comprises the full and complete understanding between the Parties in relation to their intention regarding the Collaboration and does not necessarily contain all matters upon which the Agreement will be based.

9.2. Nothing in this MOU is intended to modify or supersede any existing contracts between the Parties and shall not form a part of any subsequent contracts finalised between the Parties.

9.3. No amendments, changes or modifications to this MOU shall be valid except if the same are in writing and signed by a duly authorised representative of each of the Parties hereto.

This Clause 9 is legally binding.

10. GOVERNING LAW

10.1. This MOU is, and all negotiations and any legal agreements prepared in connection with the Collaboration proposed herein, and any dispute or claim arising out of or in connection with them or their formation shall be, governed by, and construed in accordance with, the Laws of Kenya.

10.2. The Parties irrevocably agree that any dispute or claim that arises out of or in connection with this MOU and negotiations relating to the proposed Collaboration or their subject matter or formation shall be settled through mediation or arbitration.

This clause 10 is legally binding.



Memorandum of Understanding between Eastern Echo DMCC and National Oil Corporation of Kenya

In witness whereof, the Parties have executed this MOU on the date first herein before mentioned (the Effective Date)

For and on behalf of
National Oil Corporation of Kenya

Signature: [Handwritten Signature]
Print Name: S. Hassan - Athmani
Title: CEO
Date: 26/7/13

For and on behalf of
Eastern Echo DMCC:

Signature: [Handwritten Signature]
Print Name: William Derek Gibson
Title: Director
Date: 31-July-2013





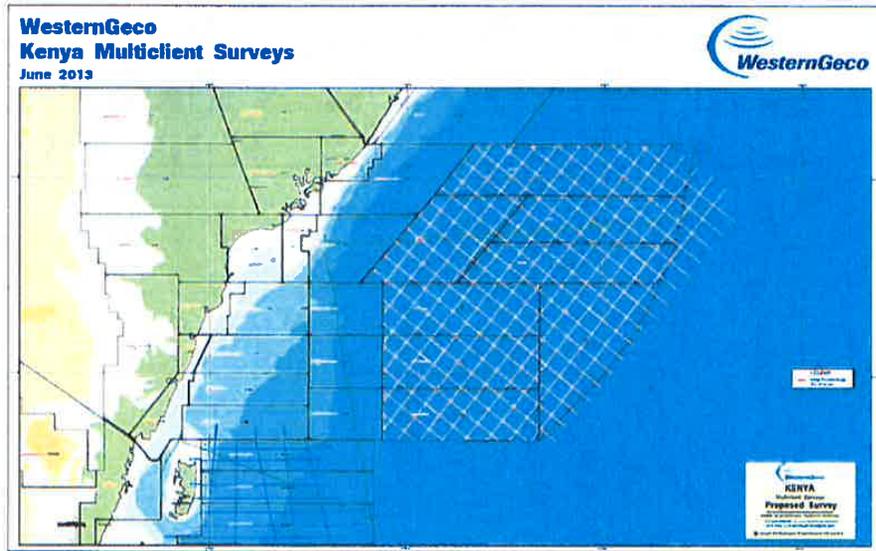
Memorandum of Understanding between Eastern Echo DMCC and National Oil Corporation of Kenya

APPENDIX A

MAP 1.

Proposed (20km x 20km) 2D survey grid ~ 9,600 line kilometers 2D acquisition and underlying 3D exclusivity area

*** Survey Grid is subject to amendment by pre-committing companies**



Memorandum of Understanding between Eastern Echo DMCC and National Oil Corporation of Kenya

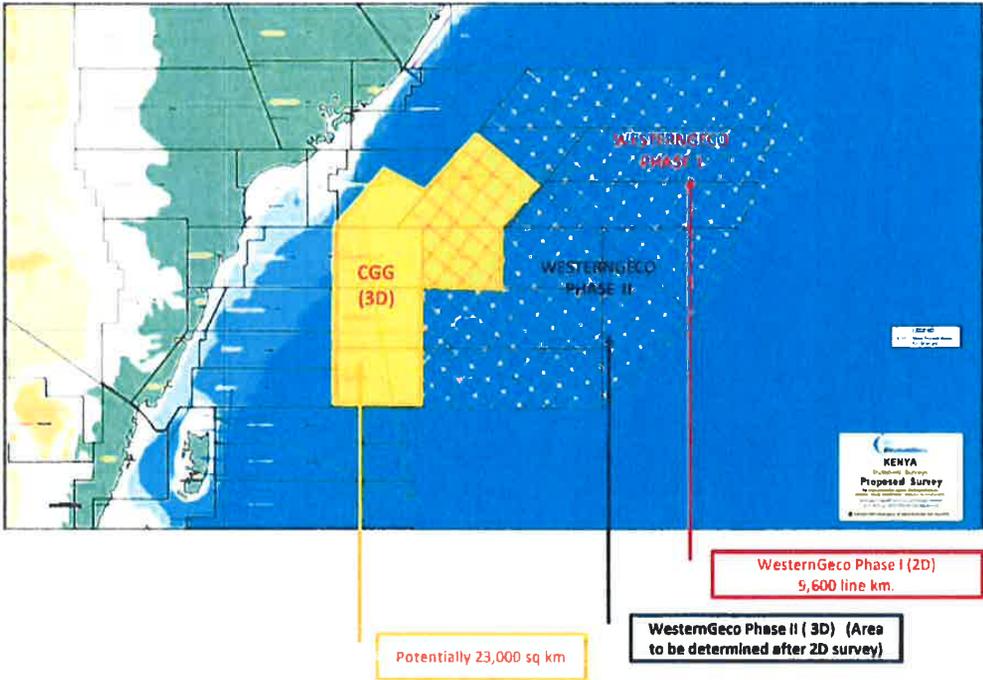


Memorandum of Understanding between Eastern Echo DMCC and National Oil Corporation of Kenya

MAP 2

Proposed (20km x 20km) 2D survey grid ~ 9,600 line kilometers 2D acquisition and underlying 3D exclusivity area, showing 3D that may be acquired by CGG for Anadarko and Total

* Survey Grid is subject to amendment by pre-committing companies



Annex 27

Draft Agreement between National Oil Corporation of Kenya and Eastern Echo DMCC (Aug. 2013), *available at* <http://cofek.co.ke/Western%20Geco%20and%20National%20Oil%20-%20New%20Acquisition%20Agreement%202013.docx>



AGREEMENT

Between

NATIONAL OIL CORPORATION OF KENYA

And

EASTERN ECHO DMCC

August 2013

For **Speculative** Geophysical Survey and other Services
over an area Offshore Kenya

AGREEMENT FOR SPECULATIVE GEOPHYSICAL SURVEY OFFSHORE KENYA
AND OTHER SERVICES

This Agreement (the "Agreement") is entered into as of this ____ day of August 2013 (hereinafter "**Effective Date**"), between:

EASTERN ECHO DMCC, a company incorporated and registered in the United Arab Emirates with Company Number 0936 whose registered office is at PO Box 214826, Dubai, UAE, Mailing Address: Saba 1, Office 2401, Jumeirah Lakes Tower, Dubai, UAE, acting on its behalf and on behalf of its affiliates (hereinafter "**WesternGeco**");

and

NATIONAL OIL CORPORATION OF KENYA, a State Corporation incorporated under the Companies Act, Cap 486 of the laws of Kenya and of Post Office Box Number 58567-00200, Nairobi in the Republic of Kenya (hereinafter "**NATIONAL OIL**");

(hereinafter collectively the "**Parties**" and individually the "**Party**");

WHEREAS, the Republic of Kenya wishes to promote the petroleum acreage onshore and offshore areas to prospective oil and gas companies and investors;

WHEREAS, pursuant to applicable petroleum law, the Republic of Kenya has authorised National Oil as the competent authority by virtue of decree Section 4 of the Petroleum (Exploration and Production) Act, Cap 308, to administer all relevant petroleum operations, including but not limited to management of geological and geophysical data for and on behalf of the Republic of Kenya, a right which National Oil may contract to a qualified entity, in this particular instance to WesternGeco;

WHEREAS, WesternGeco is a geophysical contractor that is experienced (*inter alia*) in the acquisition, processing, reprocessing, interpretation, brokering, marketing, and licensing of geological and geophysical information, both onshore and offshore and has the financial ability, technical competence and professional skills necessary;

WHEREAS, recent discussions have taken place between the Parties regarding the possibility of collaborating on the acquisition, processing, reprocessing, interpreting, brokering, marketing and licensing of geological and geophysical data onshore and offshore, as well as the installation of a National Data Centre and Data Processing capability;

WHEREAS, WesternGeco, together with its Affiliates, is willing and able to conduct the Survey as well as the associated data (re)processing, interpretation, marketing and licensing of the Survey Data in accordance with terms hereunder; and

WHEREAS, the Parties have signed a Memorandum of Understanding for a proposed Joint Collaboration project on the 26th of July 2013;

WHEREAS, the Parties now wish to finalise their discussions;

THEREFORE, IN CONSIDERATION of the mutual promises and agreements set forth in this Agreement, the Parties agree as follows:

Definitions:

“Acquisition Work” means the seismic acquisition work described in Appendix 1 in accordance with the provisions of this Agreement.

“Agreement” means the present agreement including articles 1 to 16 and Appendices 1-8.

“Affiliates” means any entity that, directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with that party, “control” being at least fifty percent (50%) ownership.

“Applicable Law” means all laws, regulations, and requirements and orders of any maritime classification societies and public authorities in Kenya which apply with respect to the fulfilment of this Agreement and/ or the Acquisition Work performed hereunder.

“Area of Operation” means the area described in the Appendix 1 and any other location where the Acquisition Work is carried out.

“Blocks” means an area within the territory of the Republic of Kenya delineated by geographical coordinates and designated by the Government of Kenya as an area for licensing to third parties for the purposes of exploration or production.

“Data” means the geological or geophysical data resulting from the processing of the Survey Data and for which WesternGeco has the right to grant use licenses in accordance with Appendix 2 (“Master License Agreement”).

“Derivative Products” means the Data that has been either interpreted or reprocessed with a technology different from the one used to obtain the Data. Derivative Products are proprietary to WesternGeco, unless stated otherwise.

“Licensee” means a third party, to whom the Data is licensed in accordance with Appendix 2 (“Master License Agreement”).

“Master License Agreement”: means the license Agreement issued by WesternGeco on behalf of National Oil that defines the terms and conditions governing the Licensee’s right of use of the Data, also referred to as “MLA”, as per Appendix 7.

“Pre-Commitment” means the offer from a third party to commit to pay wholly or partially the costs of the Survey prior to its commencement.

“Q Surveys” means Surveys conducted by WesternGeco using WesternGeco’s proprietary “Q” technology.

“Raw Sensor Measurements” For the purpose of Q Surveys, shall mean acoustic measurements acquired from individual sensors, prior to any type of adaptive (or functionally similar) digital filtration, rotation to primary axes, conversion to industry standard SEG measurements or digital group forming; this term refers both to the physical article as well as the intangible property that resides in it.

“Survey” means the conduct by WesternGeco of a geological and/or geophysical data acquisition services and ancillary services in accordance with Appendix 1 of this Agreement.

“Survey Data”: means the geological and geophysical data acquired by WesternGeco during the Survey, including tapes and records containing industry standard format geophysical information in the form and at the spatial and temporal sampling density and any reports as agreed by the Parties in this Agreement. Survey Data may include navigation, positioning and field data but shall under no circumstances ever include Raw Sensor Measurements or Contractor Developed Technology in case of Q Survey.

“WesternGeco Developed Technology” means i) all designs, drawings, specifications, manuals, procedures, reports, calculations, discs, software (including Omega software), computer models, know-how, equations, formulae, procedures or other information which WesternGeco has or develops entirely or incrementally during or subsequent to performance of the Survey and that WesternGeco considers to be proprietary to it; ii) all technical documents including plans, sketches and intermediate data gathered by WesternGeco including but not limited to Raw Sensor Measurements which are associated with the performance of the Survey but not agreed to be delivered to National Oil as part of the Survey. WesternGeco shall retain all right title and ownership in WesternGeco Developed Technology and WesternGeco may use such in the research and development of its own technologies.

ARTICLE 1 - GRANT OF RIGHTS

- 1.1 The Government of Kenya has by virtue of Decree Number Section 4 of the Petroleum (Exploration and Production) Act, Cap 308 authorised National Oil to represent the Government of Kenya in all aspects relating to the Acquisition Work, including without limitation, the right to contract the rights contained herein to Third Parties.
- 1.2 National Oil hereby grants exclusive rights to WesternGeco to:
 - a) undertake the design, evaluation, acquisition, processing, reprocessing and where appropriate, interpretation, and all other activities related to the acquisition, processing, and interpretation of the Survey Data in the territory offshore Kenya, as described in Appendix 1 of this Agreement.
 - b) Broker, market and license the Survey Data and/ or Data to Third Parties.

ARTICLE 2 – TERM AND SCOPE OF SERVICES

- 2.1 Subject to 2.2, this Agreement shall be valid for an initial period of Twelve (12) years from the Effective Date. **At the end of the initial period, this Agreement will be automatically renewed for an additional period of three (3) years** unless a Party serves a notice of termination of the Agreement to the other Party:
 - a) in accordance with clause 2.2.
 - b) Not less than two (2) months before the end of the term of the Agreement. The notice shall formally confirm such Party’s intention not to extend the Agreement.
- 2.2 Notwithstanding the above, WesternGeco shall have the right to terminate this Agreement immediately should:
 - a) National Oil’s mandate to act in the same capacity it had at the Effective Date be changed or impaired, including but not limited to any change in the scope of rights granted by the Government of Kenya to the extent affecting this Agreement; or

- b) National Oil commits a material breach of this Agreement;
- c) A dispute arises in accordance with 8.3 hereunder.

In case of termination in accordance with 2.2 a), National Oil shall release, defend, indemnify and hold WesternGeco harmless from any claims resulting from 2.2 a)

In case of termination in accordance with 2.2 c), National Oil shall pay WesternGeco the totality of the Survey Costs amounting to 100% of it as detailed in Appendix 2 for the disputed Survey.

ARTICLE 3 –ACQUISITION AND PROCESSING OBLIGATIONS OF WESTERNGECO

- 3.1 The Parties agree that WesternGeco, in addition to its obligations under clause 5, will:
- a) exclusively acquire, process, reprocess, interpret market, broker and license a new regional 2D Survey and any associated geological and geophysical data set out in Map 1 of Appendix 1;
 - b) subsequently exclusively acquire, process, reprocess, interpret market, broker and license a new regional 3D Survey and any associated geological and geophysical data set out in Map 2 of Appendix 1.
- 3.2 WesternGeco assumes that it will be exempt from customs and import duties by importing its equipment on a temporary basis, under the umbrella of National Oil or through any other exemption schemes available to National Oil. Where such customs duty exemptions are not available to the WesternGeco, National Oil shall assume full and exclusive liability for all customs duties, charges, levies, costs of licenses, taxes, tariffs and other similar costs imposed in the Area of Operations and related to the importation or exportation of WesternGeco's equipment, consumables and spare parts required by WesternGeco for the performance of the Survey. Where WesternGeco is required to pay any such import/export taxes, duties or license fees, WesternGeco shall send written notification to National Oil in advance of paying such costs. After receiving agreement from National Oil, WesternGeco shall pay such costs and National Oil will reimburse WesternGeco in full within 30 days of receiving adequate proof of payment.
- 3.3 The Parties agree that the decision to conduct the Survey shall be taken at the sole discretion of WesternGeco and shall depend in part on whether WesternGeco has secured sufficient industry Pre-Commitment for the Survey. WesternGeco reserves the sole right to reduce, extend or terminate any Survey depending on the level of industry interest in relevant Area of Operations.
- 3.4 The Parties agree that WesternGeco shall select the Survey Data to be processed and where appropriate reprocess; conduct the processing and reprocessing and interpretation and market and License the Survey Data and/or Data. This activity shall remain under the full control of WesternGeco and all Survey Data and/or Data licensed shall be licensed on a non-exclusive basis under terms and conditions of the MLA and in accordance with WesternGeco's then-current licensing rates.
- 3.5 All practices and processes used by WesternGeco shall meet generally accepted seismic industry standards. All Survey Data will be processed by WesternGeco at its

facilities or at facilities designated by WesternGeco, including, but not limited to, onboard the seismic vessels and at other WesternGeco processing centers as appropriate.

- 3.6 WesternGeco, as an independent contractor, shall be solely responsible for the manner and conduct of all operations in connection with the Survey including the processing and reprocessing of any data pursuant to this Agreement. WesternGeco shall have complete and exclusive supervision, direction and control of WesternGeco's equipment, personnel and labour.
- 3.7 Subject to clause 4.3 below, WesternGeco shall obtain at its own cost from the appropriate authorities all necessary permits, authorisations and licences required to be obtained by WesternGeco under Applicable Law for the performance of the Acquisition Work, including where applicable:
- (a) those import and export approvals and other permits required to use the WesternGeco's equipment, including but not limited to seismic vessel, acquisition equipment in the Area of Operations; and
 - (b) all visas, passport, working permits, exit and re-entry permits and all other governmental authorisations or documentation required in connection with the entry, presence, employment and/or exit of WesternGeco Group personnel in the Area of Operations.

National Oil shall provide all necessary assistance to enable WesternGeco to obtain any such permit or licence.

National Oil undertakes, subject to termination of this Agreement, that they shall not use the environmental permit obtained by WesternGeco for the Acquisition Work in conjunction with or for the benefit of Third Parties, including but not limited to competitors of WesternGeco.

- 3.8 To the extent Acquisition Work is rendered in an area requiring access, ingress or egress across waters subject to the claimed exclusive jurisdiction of a state other than Kenya, National Oil shall assist WesternGeco in their efforts to obtain the required rights of access, ingress and egress to the Area of Operations. If the right of access, ingress or egress into such waters is denied by the state claiming jurisdiction, the Parties shall without undue delay meet in good faith to agree a course of action mitigating such denial, including the potential release of relevant seismic data to such state. National Oil shall advise WesternGeco of any limitations or restrictions affecting access, ingress and egress to the Area of Operations that they are aware of and WesternGeco shall abide by such limitations or restrictions. WesternGeco shall not be obliged to enter into disputed territorial waters or the waters of another state during the performance of this Agreement.
- 3.9 WesternGeco shall not commence Acquisition Work in the Area of Operations without obtaining specific written approval to do so from National Oil, such approval shall not be unreasonably delayed or withheld.

ARTICLE 4 – OBLIGATIONS OF NATIONAL OIL

- 4.1 National Oil shall use its best endeavours to influence the organisation, conduct, and promotion of competitive licensing rounds for each Survey prior to issuing licenses to explore for and produce oil and gas in the areas of interest within twelve (XX) months

after completion of WesternGeco's acquisition of the Survey Data under this Agreement.

- 4.2 In the event a Block, in which the Survey Data has been acquired by WesternGeco, is awarded by direct award by the Government of Kenya, rather than as the result of a licensing round, National Oil shall use its best endeavours to include as a mandatory condition of award, the requirement that the awarded Third Party entity pay WesternGeco 100% of the Survey Costs for the Survey, plus a thirty percent (30%) escalation fee before the award is finalised prior to the allocation of the Block.
- 4.3 National Oil shall be responsible for, obtain or deliver in a timely manner and maintain in effect, at its cost, all governmental consents, authorisations, licenses and permits required to be obtained or delivered in the name of National Oil, from any authority or company to enable the Acquisition Work to be performed. For the avoidance of doubt, this shall include any license being in the nature of a mineral exploration or prospecting license.

ARTICLE 5 - PROVISION OF OTHER SERVICES BY WESTERNGECO

- 5.1 In addition to the obligations set out in Clause 3 of this Agreement, WesternGeco shall provide the following services to National Oil:
- a) undertake a Geology and Interpretation Collaboration within Kenya and build a regional understanding of Kenya offshore including Petroleum Systems modelling which may be conducted outside Kenya and to identify specific areas for a new 3D acquisition survey as set out in Appendix 3 of this Agreement;
 - b) set up a new National Data Centre with associated support, as set out in Appendix 4;
 - c) provide a new Data Processing Centre initially comprised of WesternGeco's proprietary Omega seismic processing system and conduct initial training, as set out in Appendix 5;
 - d) provide a Collaboration and Visualisation Centre, as set out in Appendix 6.
- 5.2 WesternGeco's contributions to the projects listed above shall be limited to the amounts set out in the respective Appendices. Should National Oil wish to increase the investment for a project, such increase may be met by WesternGeco, at its sole discretion, but shall always be recovered from National Oil's share of future revenues generated from licensing of geological and geophysical data to third parties subject to the availability of sufficient funding.

ARTICLE 6 - DATA OWNERSHIP

- 6.1 National Oil, in its capacity as authority managing the petroleum activities in Kenya, is duly mandated by the Government of Kenya by virtue of Section 4 of the Petroleum (Exploration and Production) Act, Cap 308, to grant WesternGeco the exclusive rights to act as an exclusive agent and facilitator with view to acquire, process, reprocess, interpret, market, promote and sell licenses for use of the Survey Data. National Oil further warrants that such right have not been granted, is not held, nor shall it be granted to any Third Party throughout the duration of this Agreement and any extension thereof. National Oil acting on behalf of the Government of Kenya

warrants and guarantees that it has the sole right of ownership to the Survey Data to be acquired under this Agreement. Should National Oil's mandate as more fully described in this clause change during the term of the Agreement in a manner that affects WesternGeco's performance of this Agreement, National Oil shall notify WesternGeco in writing of such a change in advance and shall (in addition to other remedies available to WesternGeco as described in clause 2.2 a) compensate WesternGeco by paying a termination fee that shall in no event be less than

- 6.2 Once the processing of the Survey Data is completed by WesternGeco or its Affiliates and, if applicable, after licensing round covering the area of interest is concluded, WesternGeco will deliver to National Oil one copy of the stack and final migrated sections of the Survey Data, along with navigation information and base maps for National Oil's exclusive and internal use. National Oil, hereby expressly agrees and accepts that any material provided by WesternGeco under this clause 6.2 shall not be copied, shown, distributed or provided by National Oil to any Third Party and shall be treated as strictly confidential for the term of this Agreement and any extension thereof.

After the expiry of the term of the Agreement as defined in Article 2.1, WesternGeco shall deliver to National Oil all outstanding records of the Survey Data, excluding therefrom any of WesternGeco Developed Technology or Raw Sensor Measurements.

- 6.3 National Oil and WesternGeco agree that all Survey Data acquired and obtained under the terms of this Agreement is intended for their sole and exclusive use, shall be kept and remain confidential at all times and shall not be divulged, transferred, sold or otherwise disposed of without the prior written consent of the other Party, except as specifically provided for in this Agreement.
- 6.4 WesternGeco will be the exclusive custodian of all Survey Data and Data obtained pursuant to this Agreement during the full term of this Agreement and any extension thereto. After the expiry of this Agreement, WesternGeco will retain a non-exclusive license to use the Survey Data for its own internal purposes in the event WesternGeco undertakes future Survey planning offshore Kenya.
- 6.5 National Oil hereby grants an exclusive license to WesternGeco to use, license and market the Survey Data and/ or Data in accordance with this Agreement.
- 6.6 All sales of licenses for use of Survey Data and/ or Data to Licensees will state that the information is confidential and, WesternGeco has the exclusive rights to market the Survey Data and/ or Data.

All Survey Data and/or Data shall be marked " Confidential - Owned by the Republic of Kenya, Produced by WesternGeco - All use subject to the joint authorisation of the Republic of Kenya and WesternGeco. " or equivalent language

- 6.7 For avoidance of doubt, should WesternGeco or the Licensee elect to create Derivative Products, these Derivative Products shall be owned by either WesternGeco or Licensee as the case may be, but shall be subject to all terms of confidentiality and restrictions upon use, disclosure and transfer as is provided herein for the original Survey Data.

- 6.8 While performing the Survey, WesternGeco may utilise expertise, know-how and other intellectual capital (including intellectual property) and develop additional expertise, know-how and other intellectual capital (including intellectual property) which are WesternGeco's exclusive property and which WesternGeco may freely utilize in providing services for its other customers. Except where expressly and specifically indicated in writing, and in exchange for appropriate agreed payment, WesternGeco does not develop any intellectual property for ownership by National Oil, WesternGeco retains sole ownership of any such intellectual capital (including intellectual property) created by WesternGeco during the course of acquiring the Survey Data. WesternGeco grants no title or license or right to National Oil or the Republic of Kenya to use WesternGeco's intellectual capital (including intellectual property and WesternGeco Developed Technology).

ARTICLE 7 - REPORTING

- 7.1 WesternGeco shall provide National Oil with monthly acquisition and processing operational status reports for the Survey, as well as a final Survey report within 120 days of completion of the Survey. Once the Survey is completed, WesternGeco shall, at the end of each quarter submit a statement of the marketing and Survey Data and/ or Data licensing activity, if any, to National Oil.

ARTICLE 8 - TERMS OF MARKETING OF SURVEY DATA/ DATA / REVENUE SHARING

- 8.1 All licensing of the Survey Data and/ or Data shall be undertaken in the name of WesternGeco. If an interested Third Party contacts National Oil directly with a request to purchase a license to the Survey Data and/ or Data, National Oil will direct the Third Party to WesternGeco.
- 8.2 WesternGeco shall be responsible for the marketing of the Survey Data and/ or Data and shall decide on the best method to get interest.
- 8.3 In the event that a dispute arises in connection with the geographical boundaries of the Area of Operations, as detailed in Appendix 1, which dispute affects the performance by WesternGeco of its obligations under this Agreement thereto, the Parties shall meet to reach a mutually agreeable resolution of the dispute. **Should the Parties to the dispute fail to reach a mutually agreeable resolution within a reasonable timeframe, provided however WesternGeco is prevented from acquiring, processing and/or reprocessing, or marketing the Survey Data and/ or Data as a result of the dispute, WesternGeco reserves the right to terminate Agreement early without any further liabilities to it. In the event of such early termination by WesternGeco, National Oil shall pay WesternGeco the totality (100%) of the Survey Costs as detailed in Appendix 2.**

ARTICLE 9 - FINANCIAL ARRANGEMENTS

- 9.1 The Parties agree that WesternGeco shall be remunerated in full for the provision of services listed in Appendices 3-6 at the rates mentioned in the relevant appendices. Such remuneration shall be in the form of service credits, which shall be set off

against the revenue share earned by National Oil. For the avoidance of doubt, the National Oil's revenue share shall be only transferred after WesternGeco has been paid in full for all costs set out in Appendices 3-6.

- 9.2 All acquisition, processing, reprocessing and interpretation costs will be paid for by WesternGeco subject to the conditions below, or unless otherwise stated in this Agreement.
- 9.3 All licensing of the Survey Data and/ or Data shall be in US Dollars. No Survey Data and/ or Data will be licensed on credit terms unless otherwise agreed in writing by WesternGeco.
 - 9.3.1 License pricing will be established to maximize sales for the mutual benefit of National Oil and WesternGeco. Nevertheless, the pricing will be the sole responsibility of WesternGeco.
 - 9.3.2 National Oil and WesternGeco shall share the revenue received on sales of licenses to the Survey Data and/ or Data as set out in Appendix 2 of this Agreement.
 - 9.3.3 License sales will be considered completed only when WesternGeco's bank account has been credited by the Licensee(s). WesternGeco shall transfer National Oil revenue share on a quarterly basis, in United States Dollars, less any deductions or withholdings for that quarter required by law, to the account designated by National Oil within 60 days of receipt of the letter "Request of Transfer of Funds" from National Oil, as set out in Appendix 8.

ARTICLE 10 - INDEMNITY

- 10.1 WesternGeco hereby agrees to indemnify and hold National Oil harmless from any loss, expense or liability (including reasonable attorney's fees and related legal expenses), arising out of any claim for damage to WesternGeco's property and/or injuries to or death of WesternGeco's employees, subcontractors and agents under this Agreement, regardless of whether any such loss, liability, injury or death may be caused by negligence, and/or by breach of duty (statutory or otherwise) of National Oil.
- 10.2 National Oil hereby agrees to indemnify and hold WesternGeco harmless from any loss, expense or liability (including reasonable attorney's fees and related legal expenses), arising out of any claim for loss or loss or damage to National Oil's property and/or injuries to or death of National Oil's employees, subcontractors and agents under this Agreement, regardless of whether any such loss, liability, injury or death, may be caused by negligence, and/or by breach of duty (statutory or otherwise) of WesternGeco.
- 10.3 National Oil agrees to indemnify and hold WesternGeco harmless from any loss, expense or liability (including reasonable attorney's fees and related legal expenses), arising out of any claim presented by third parties for personal injuries or death, or property loss or damage irrespective of the negligence, or breach of duty (statutory or otherwise) of the Party causing the injury, death, or property damage upon which the claim is based.
- 10.4 WesternGeco shall release, defend, indemnify and hold harmless National Oil from any and all claims related to surface pollution (including control and removal thereof) emanating from WesternGeco vessels whilst under its sole custody and control and during the time WesternGeco is engaged in acquiring the Survey . Notwithstanding

anything to the contrary, National Oil shall be liable for and shall release, defend, indemnify and hold harmless WesternGeco from and against any and all claims related to or arising from pollution or contamination emanating from any other source during the time that WesternGeco is engaged in acquiring the Survey pursuant to this Agreement, including control and removal thereof, regardless of the negligence in any form, or breach of duty (statutory or otherwise) of WesternGeco.

- 10.5 WesternGeco's sole liability for loss, destruction or damage to the Survey Data or Data while in WesternGeco's possession, shall be limited to, at WesternGeco's election either:
- (i) Re-shooting that portion of the Survey sufficient to reacquire the lost, destroyed or damaged Survey Data (provided WesternGeco has not demobilised from the Area of Operations); or
 - (ii) If the lost, destroyed or damaged Survey Data may be reasonably corrected through reprocessing, recopying, reformatting or reconstituting the Survey Data.

WesternGeco shall have no further liability or obligation to National Oil.

- 10.6 National Oil and WesternGeco shall not be liable for any special, indirect punitive, incidental or consequential damages (whether or not foreseeable at the date of this Agreement), including, without limitation, loss of profits, loss of production or business interruptions which result in any manner, directly or indirectly, from the performance of this Agreement regardless of the negligence in any form or breach of duty (statutory or otherwise) of any of the Parties.
- 10.7 The indemnities given under the provisions of this Agreement shall extend to the Parties' parent, subsidiary and affiliated companies, their subcontractors and their respective owners, shareholders, joint venturers, directors, officers and employees. In the event that this Agreement is subject to indemnity limitations imposed by any applicable laws, and so long as such limitations are in force, then it is agreed that the above obligations to indemnify are limited to the extent allowed by law.

ARTICLE 11 – WARRANTY

- 11.1 WesternGeco warrants that the Survey Data and the Data will comply with the material aspects of the specifications and other technical requirements of this Agreement and in accordance with industry standards, until demobilisation from the Area of Operations for the Survey Data; and for a period of thirty (30) days after completion of the processing of the Survey Data, for the Data. **WESTERNGECO MAKES NO OTHER WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO ANY SURVEY, SURVEY DATA, DATA, SERVICES, TAPES, OR REPORTS, AND DENIES AND NEGATES ANY SUCH WARRANTIES OR REPRESENTATIONS.**
- 11.2 Any interpretation of the Survey Data and/ or Data (whether made directly from geophysical or seismic data provided to or by WesternGeco, or by data processing or otherwise) or interpretation of test or other data, and any recommendations or reservoir description based upon such interpretations, are opinions based upon inferences from measurements and empirical relationships and assumptions, which inferences and assumptions are not infallible, and with respect to which professional

geophysicists or analysts may differ. **ACCORDINGLY, WESTERNGECO CANNOT AND DOES NOT WARRANT THE ACCURACY, CORRECTNESS OR COMPLETENESS OF ANY SUCH INTERPRETATION, RECOMMENDATION OR RESERVOIR DESCRIPTION. UNDER NO CIRCUMSTANCES SHOULD ANY SUCH INTERPRETATION, RECOMMENDATION OR RESERVOIR DESCRIPTION BE RELIED UPON AS THE SOLE BASIS FOR ANY DRILLING, PRODUCTION OR FINANCIAL DECISION OR ANY PROCEDURE TO BE PERFORMED BY NATIONAL OIL OR ANY OF ITS OTHER CONTRACTORS.** National Oil has full responsibility for all such decisions and for all decisions concerning other procedures relating to any of National Oil's operations.

ARTICLE 12 – ANTI-CORRUPTION

- 12.1 No officer, employee or agent of either Party shall request, accept or pay, directly or indirectly, any commissions or fees, or grant any rebates to any officer, employee or agent of the other Party, nor favor, or be favored by, any officer, agent or employee of the other Party with gifts or entertainment of significant or substantial cost or value, nor enter into any business arrangements with employees or officers of the other Party, except as representatives of the Parties respectively.
- 12.2 The Parties shall notify each other promptly of any violation of this Clause 12.
- 12.3 The Parties may audit each other's records relating to this Agreement in the event that such Party reasonably suspects that there has not been compliance with this Clause 12.
- 12.4 Neither Contractor, its Affiliates nor any of their respective personnel will make, directly or indirectly, any offer, payment, gift, promise to pay or authorize any payment of money or anything of value, directly or indirectly, to or for the use or benefit of any official or employee of any Kenyan governmental entity or instrumentality thereof, including any employee of a state-owned company such as National Oil or a national oil and gas company, or to or for the use or benefit of any political party, official or candidate unless such offer, payment, gift, promise or authorisation is lawful under the written laws and regulations of Kenya.

ARTICLE 13 – CONFIDENTIALITY

- 13.1 Any and all information furnished by WesternGeco to National Oil, whether in writing or orally, including but not limited to geophysical data, geological data, maps, charts, business plans, financial information, know-how and trade secrets, costing or pricing policies and marketing plans (hereinafter "WesternGeco Confidential Material") shall be deemed confidential and shall be kept and maintained by the National Oil under appropriate safeguards.
- 13.2 National Oil agrees that all WesternGeco Confidential Material will remain WesternGeco's sole property and will not be disclosed to others or used by National Oil for any purpose other than for the performance of this Agreement by National Oil and shall not be used in any manner that is adverse or detrimental to WesternGeco. National Oil further agrees that all WesternGeco Confidential Material in tangible and electronic form (including but not limited to reports, drawings, plans and specifications) shall be returned to WesternGeco upon request.

- 13.3 WesternGeco agrees that all confidential information received from National Oil (hereinafter "National Oil Confidential Information") shall remain National Oil's sole property and will not be disclosed to others or used by WesternGeco for any purpose other than for National Oil's benefit. WesternGeco further agrees that all National Oil Confidential Information in tangible and electronic form (including but not limited to reports, drawings, plans and specifications) shall be returned to National Oil upon request.
- 13.4 Notwithstanding anything to the contrary, this Clause shall remain in full force and effect for a period of five (5) years. Notwithstanding the expiration or termination of this MO, Agreement terms and conditions hereof regarding confidentiality and restrictions on the use of Evaluation Material delivered to National Oil shall survive and continue in full force and effect.

ARTICLE 14 – REPRESENTATIVES AND NOTICES

- 14.1 In order to provide for the management and organisation of all matters related to the fulfillment of the present Agreement, National Oil will appoint authorised representatives to assist to the fulfillment of this Agreement.
- 14.2 All notices permitted or required under this agreement shall be sent as follows:
- a. **National Oil**
Address
 - b. **Eastern Echo DMCC**
Multiclient New Ventures Team
Postal address:
Schlumberger House, Buckingham Gate
Gatwick Airport, West Sussex, RH6 0NZ
United Kingdom

All notices, with the exception below, shall be deemed duly delivered to the Parties under this Agreement if such notices are delivered in English via registered mail, hand delivery or electronic transmission, including fax transmission, provided that confirmation of such transmission is received.

However, all notices relating to transfer of funds, or any other directive, relating to National Oil's revenue share shall be delivered to WesternGeco in English via registered mail and shall bear National Oil's official stamp and the signature of the authorising officer and in the form set out in Appendix 8.

ARTICLE 15 – GOVERNING LAW AND DISPUTE RESOLUTION

- 15.1 This Agreement is made in English and is governed by and construed in accordance with the laws of the Republic of Kenya.
- 15.2 For any dispute arising out of or in connection with the Agreement, including any question of existence, validity or termination, National Oil and WesternGeco shall first make every effort to reach an amicable settlement by direct negotiation.

- 15.3 In case of failure to reach an amicable settlement, any dispute, controversy or claim arising out of or in any way connected with this Agreement shall be finally resolved by arbitration in London, UK under the Rules of Conciliation and Arbitration of the International Chamber of Commerce (the "ICC Rules") by three arbitrators of whom one shall be appointed by each Party within twenty (20) days of a claimant Party submitting its request for arbitration. The third arbitrator shall be appointed by mutual agreement of the two arbitrators appointed by the Parties within twenty (20) of the date of their appointment. Failing agreement between the Parties within 20 (twenty) days of request by either Party or by the two arbitrator to appoint the third arbitrator, then the President of the Secretariat of the ICC from time to time shall appoint the arbitrator(s) or the third arbitrator, as applicable, who shall serve as chairman of the Arbitration Tribunal. The arbitration proceedings shall be conducted in English. The arbitration award may include costs and legal expenses and may be entered in any court of competent jurisdiction. The arbitrator shall give their decision within three (3) months from the commencement date of the arbitration proceedings and shall provide the Parties with a written decision stating the reasons for their decision. All monetary awards shall be made in US dollars. An award or a decision, including an interim award or decision, in arbitral proceedings pursuant to this Clause 15 shall be binding on the Parties and judgment thereon may be entered in any court having jurisdiction for that purpose. NationalOil hereby irrevocably waives any defences based upon sovereign immunity and waives any claim to immunity:

ARTICLE 16 – GENERAL

- 16.1 The Parties will each keep confidential any and all information furnished to it by the other in connection with this Agreement that is identified as confidential or proprietary, except to the extent any such information may be generally available to the public or other third parties, and each Party will instruct their respective officers, employees and other representatives having access to such information of such obligation of confidentiality. Subject to the above, WesternGeco will have no obligation to disclose to National Oil or any other person or entity the substance of any know-how, equations, formulae, procedures, WesternGeco Developed Technology or other information that WesternGeco considers to be proprietary to it and which WesternGeco has used or may have used in connection with the Survey. In the event such information is disclosed to National Oil, National Oil shall treat the same in the strictest confidence in terms of international procedures for the control of proprietary information, and shall not use nor disclose such information to any third party.
- 16.2 All taxes incurred by WesternGeco in its country of incorporation, including stamp duty, and taxes related to the acquisition, processing and marketing of the Survey Data under this Agreement shall be borne by and be the responsibility of WesternGeco. However, in the event that WesternGeco is required to pay any tax (including but not limited to corporate taxes, property taxes, turnover or sales taxes, withholding taxes, consumption taxes, stamp taxes) in the Republic of Kenya as a result of the services provided pursuant to this Agreement, National Oil agrees to reimburse WesternGeco for such taxes. In certain circumstances, payment of such reimbursable funds may be deducted from National Oil's revenue share (as defined in Appendix 2).

- 16.3 Neither Party shall be deemed to be in default of their obligations whilst performance thereof is prevented or delayed by circumstances beyond their reasonable control, including but not limited to floods, fire, earthquakes, and other acts of Nature, as well as military actions and other acts of government, riot, war, strikes, insurrection, civil disturbance or any other circumstances that are beyond the reasonable control of the Parties. Payment obligations due hereunder shall not be subject to force majeure relief.
- 16.4 The rights and obligations under this Agreement may not be assigned in whole or in part by either Party without the written consent of the other Party. WesternGeco may, however, without the consent of National Oil, assign any receivables due to WesternGeco under this Agreement, and/or assign this Agreement in whole to an Affiliate of WesternGeco.
- 16.5 WesternGeco is an independent contractor, and shall in its sole discretion choose the means and manner of performance. Nothing in this Agreement shall be construed as creating an employer-employee, agency, partnership, joint venture, trust, or other relationship between WesternGeco and National Oil. Neither Party shall have any authority, express or implied, to enter into any contracts, obligations, or commitments in behalf of or binding on the other Party.
- 16.6 This Agreement constitutes the entire agreement between WesternGeco and National Oil, and supersedes all prior communications, representations, and agreements, either oral or written, with respect to the subject matter hereof.
- 16.7 Should any provision of this Agreement, or a portion thereof, be unenforceable or in conflict with governing national, state, province, or local laws, then the validity of the remaining provisions, and portions thereof, shall not be affected by such unenforceability or conflict, and this Agreement shall be construed as if such provisions, or portion thereof, were not contained herein. Failure of National Oil or WesternGeco to enforce any of the terms and conditions of this Agreement shall not prevent a subsequent enforcement of such terms and conditions or be deemed a waiver of any subsequent breach.

IN WITNESS WHEREOF the parties have hereunder caused their seals to be affixed the day and year first above mentioned:

For and on behalf of
National Oil Corporation of Kenya

For and on behalf of
Eastern Echo DMCC:

Signature:

Signature:

Print Name:

PrintName:

Title:

Title:

Date:

Date:

APPENDIX 1 – Acquisition and Processing of Survey Data

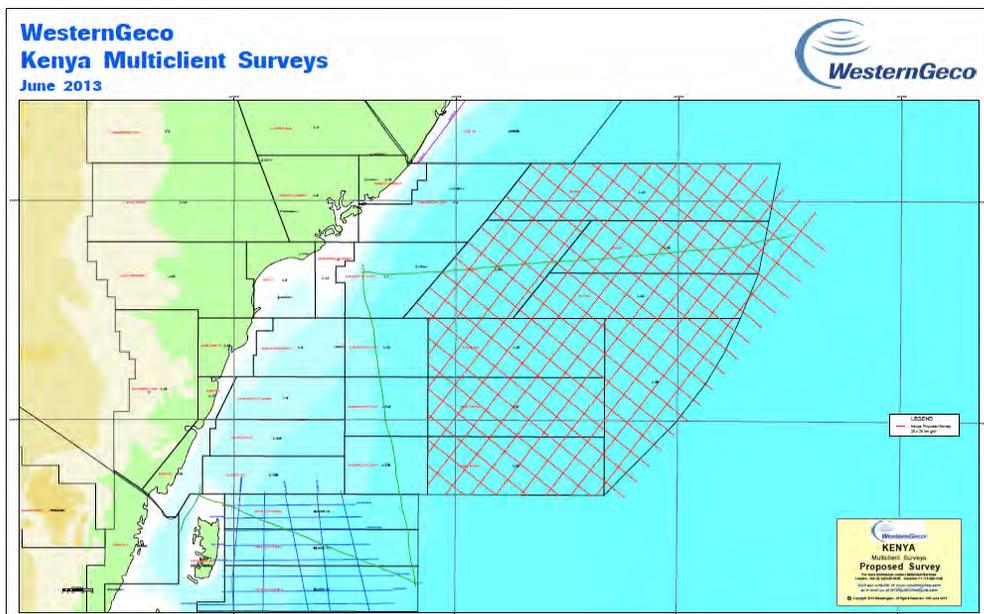
1.1 ACQUISITION AREA

WesternGeco will acquire, process, reprocess and market a non-exclusive Survey in the areas outlined in Map 1 and 2, and using the parameters detailed in this Appendix. Should any part of the Survey be awarded for oil and gas exploration, development or production prior to acquisition of the Survey Data, WesternGeco may choose not to collect new Data over those blocks.

MAP 1.

Proposed (20km x 20km) 2D survey grid ~ 9,600 line kilometers 2D acquisition and underlying 3D exclusivity area

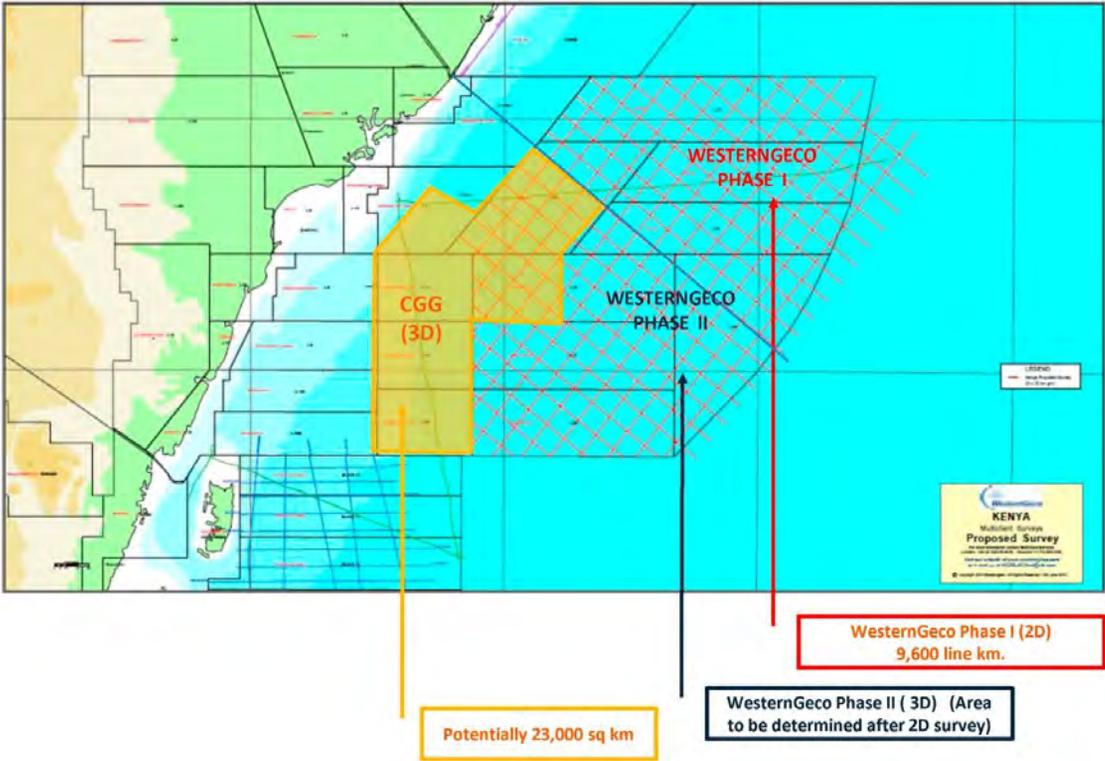
* Survey Grid is subject to amendment by pre-committing companies



Map 2

Proposed (20km x 20km) 2D survey grid ~ 9,600 line kilometers 2D acquisition and underlying 3D exclusivity area, showing 3D that may be acquired by CGG for Anadarko and Total

* Survey Grid is subject to amendment by pre-committing companies



WesternGeco understands and agrees that CGG may be awarded a MC3D seismic acquisition contract by Anadarko and Total over the area set out in Map 2 of Appendix 1. Subject to the award of such contract to CGG and notwithstanding clauses 1.3 and 3.1(b) of the Agreement, and unless agreed otherwise with National Oil, WesternGeco agrees not to carry out any 3D seismic acquisition in the western portion of Block L25 set out in Map 2 until the 1st of September 2014.

In the event CGG is not awarded a MC3D seismic acquisition contract by Anadarko and Total or CGG has not completed the seismic acquisition over the area of Block

L25 set out in Map 2 by the 1st of September 2014, WesternGeco's exclusive rights shall extend to the remaining area of Block L 25.

For sake of clarity, WesternGeco's exclusive right of acquiring a 2D seismic acquisition over the area set out in Map 1 of this Appendix shall not be affected by the award of a 3D seismic acquisition contract to CGG.

2.1 DATA ACQUISITION PARAMETERS:

Streamer	1 x 10,000m Q Solid
Streamer Depth	8m to 35m Linear ObliQ
Trace interval	3.125m single sensor
Record length	12 secs
Near offset	125m
Source	Single 5085 cu.in Delta3
Source Depth	6 – 9 – 6 metres
SP interval	25m
Gravity and Magnetics	

3.1 PROPOSED PROCESSING PARAMETERS:

Read SS raw (3200 channels)
 Nav Merge (P190 including water depths) @ 2ms
 Trace Edit and QC.
 Enhanced DGF
 Trace decimation to 6.25m
 CMS (shape recorded wavelet to average CMS target signature).
 Resample 2ms to 4ms
 Tau P linear noise attenuation IF NEEDED
 Cascaded AAA
 Single Streamer Deghosting
 Receiver Motion Correction (average boat speed per sail line used)
 Trace decimation to 12.5m Group Interval
 Zero phasing (operator derived from average CMS target)
 2D Surface Multiple Prediction (SMP) using GSMP algorithm
 Trace decimation to 25m Group Interval
 Velocity Analysis at 2km interval.
 Inverse Q compensation (Phase Only).
 WLS Radon Demultiple.
 Diffracted Multiple attenuation (PRIMAL)
 Residual bubble pulse attenuation (if required)
 Time variant filter.
 FXY decon on offset planes (if required).
 Isotropic Kirchhoff PreSTM using 2km smooth velocity field.
 Migration Velocity analysis iteration 1 – 2km interval.
 Isotropic Kirchhoff PreSTM with smoothed 2km migration velocity field.
 Migration Velocity analysis iteration 2 – 1km VP and 2km interval eta.
 Full Kirchhoff Anisotropic PreSTM.
 Post Migration WLS Radon Demultiple
 Dense Spatially Continuous Velocity Analysis (SCVA)
 Full offset and AVO angle stack
 Inverse Q compensation (amplitude only)
 Gun and cable static correction
 Time Variant Filter

The processes/algorithms proposed in the above sequence have been chosen in the light of WesternGeco's extensive experience in East Africa. However, the final processes and parameters chosen will be subject to testing and the response of the Survey Data. WesternGeco reserves the right to make the necessary decisions to adjust or modify the sequence for optimal results and fulfill the survey objectives.

APPENDIX 2 – Licensing Fees and Revenue Share

1.0 Service Credit for Provision of Services

- 1.1 The revenue share to be paid to National Oil shall be made after WesternGeco has recovered all costs incurred in the provision of services, as set out in Appendices 3-6.

Any additional services, requested by National Oil and which are not included in this Agreement or any increase in the level of investment made by WesternGeco hereunder, shall be billed to National Oil accordingly. Payment of such services shall be set off from National Oil's revenue share.

For the avoidance of doubt, such additional services shall always be subject to the availability of sufficient funding.

2.0 Licensing Fees

- 2.1 In order to encourage companies into early participation in the Survey, there will be a reduction in the basic license fee for those companies pre-committing before a specified date.
- 2.2 The basic license fees are for a single company licensing the Survey Data, and if a bona fide bidding group licenses the Survey Data, an escalation factor of 50% per additional partner will apply in addition to the basic license fee.
- 2.3 Reproduction of tape datasets or seismic sections will be in addition to the basic licensing fees and will be quoted at WesternGeco's standard rates for the products required.

3.0 Survey Costs

Survey Volume:	9,400 Km approx.
New Acquisition and Processing:	2,000 US\$/Km
Total Survey Costs: (Cost x1)	19,800,000 US Dollars

4.0 Licensing Revenue Share New Survey Revenue Share

Revenue derived from or associated with the purchase by oil companies or groups of oil companies of licenses to the Survey Data shall be divided between National Oil and WesternGeco in accordance with the following revenue sharing schedule and only after the costs incurred by WesternGeco in accordance with Appendices 3-6 are fully recovered:

<u>Tier</u>	<u>US \$</u>	<u>WesternGeco%</u>	<u>National Oil%</u>
First	\$1 - COST x 1	95	5
Second	> COSTx 1- COST x3	80	20
Third	> COST x3	60	40

Where first Tier represents license revenue from; US \$1 up to and including one time the cost of the Survey (COST);

Where second Tier represents license revenue from; greater than one time COST to three times Survey COST; and

Where third Tier represents license revenue from; greater than three times Survey COST.

4.2 Reprocessing Revenue Share

Where WesternGeco has been granted the authorisation by National Oil to reprocess the Survey Data, the costs of reprocessing the Data , Reprocessing Costs ("RC") shall be agreed by the Parties and revenue derived from or associated with the purchase by oil companies or groups of oil companies of licenses to the reprocessed Survey Data shall be divided between National Oil and WesternGeco in accordance with the following revenue sharing schedule:

<u>Tier</u>	<u>US \$</u>	<u>WesternGeco%</u>	<u>National Oil%</u>
Tier 1	1-RC	95	5
Tier 2	>RC – (RC x 3)	80	20
Tier 3	>RC x 3	60	40

4.3 WesternGeco will receive 100% of the revenues from tape copying and reproduction.

4.4 The Survey Cost recovery and revenue share configuration shall strictly relate to the volume of Survey Data and Data actually collected and/or reprocessed. The above income share is based on the approximate number of kilometers proposed for both new acquisition and processing in addition to reprocessed Public Domain Data. Adjustments will be made after completion of the Survey.

APPENDIX 3 – Geology and Interpretation Collaboration

Technical, Commercial specifications and any standard terms and conditions to be provided
by WG

APPENDIX 4 – Provision of National Data Centre

More Technical, Commercial specifications and any standard terms and conditions, if any, to be provided by WG

APPENDIX 5 – Provision of Data Processing Centre

Technical, Commercial specifications and any standard terms and conditions to be provided
by WG

APPENDIX 6 –Collaboration & Visualisation Centre

Technical, Commercial specifications and any standard terms and conditions to be provided
by WG

APPENDIX 7 – Master License Agreement

Master License Agreement as per the IAGC guidelines.

APPENDIX 8 – Request to Transfer funds

Sample letter

On National Oil Letterhead

To:

Eastern Echo

Postal address:

c/o Schlumberger House

Buckingham Gate

Gatwick Airport

West Sussex

RH6 0NZ

UK

Dear Sirs

Subject: Agreement dated _____

National Oil acknowledges receipt of your fax/letter dated _____ relating to the revenue share of funds derived from the licensing of seismic data offshore Kenya as governed by the above agreement (s).

You are kindly requested to transfer the sum of US \$ to National Oil's nominated account as follows:

Bank Name :

Branch:

Branch Code:

Account Name;

Account Number:

Swift Code:

Please advise of the value date when the transfer is complete.

Yours faithfully,

For National Oil Corporation of Kenya

Annex 28

Soma Oil & Gas Exploration, Ltd., *Unlocking Somalia's Potential: 1st International Forum on Somalia Oil, Gas & Mining* (27-28 Apr. 2015)



Unlocking Somalia's Potential

**1st International Forum on
Somalia Oil, Gas & Mining**

27 – 28 April 2015, London, UK



Disclaimer



This presentation may contain forward-looking statements which are made in good faith and are based on current expectations or beliefs, as well as assumptions about future events. By their nature, forward-looking statements are inherently predictive and speculative and involve risk and uncertainty because they relate to events and depend on circumstances that will occur in the future. You should not place undue reliance on these forward-looking statements, which are not a guarantee of future performance and are subject to factors that could cause the actual information to differ materially from those expressed or implied by these statements. The Company undertakes no obligation to update any forward-looking statements contained in this presentation, whether as a result of new information, future events or otherwise.

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Introduction



- ▶ **First mover in last offshore frontier in Africa**
 - Soma Oil & Gas is focused on exploring for hydrocarbons offshore in the Federal Republic of Somalia
 - Led by a Board and Management team with extensive experience in oil and gas, finance and international relations
 - Completed the first major offshore seismic acquisition survey in the Federal Republic of Somalia since 1989
- ▶ **A geopolitical inflection point**
 - Somalia has been on a path to greater stability since the election of President Hassan Sheikh Mohamud in September 2012
 - Federal Government of the Republic of Somalia is first to gain international recognition following two decades of state failure and has particularly strong support from the UK, US, EU, UN and African Union
- ▶ **Signed Seismic Option Agreement in August 2013**
 - Committed Soma Oil & Gas to invest in the gathering and digitisation of all available geological information, the reprocessing of existing seismic data, and
 - Acquisition and processing of new seismic data offshore Somalia across 114,000 km² Evaluation Area
 - In return, Soma Oil & Gas has the right to apply for up to 60,000 km² based on an agreed form template Production Sharing Agreement
- ▶ **Seismic processing complete in April 2015**
 - Ministry Data Rooms will be established in Mogadishu and London
 - PSA applications to follow

Rationale for Hydrocarbon Exploration Offshore Somalia

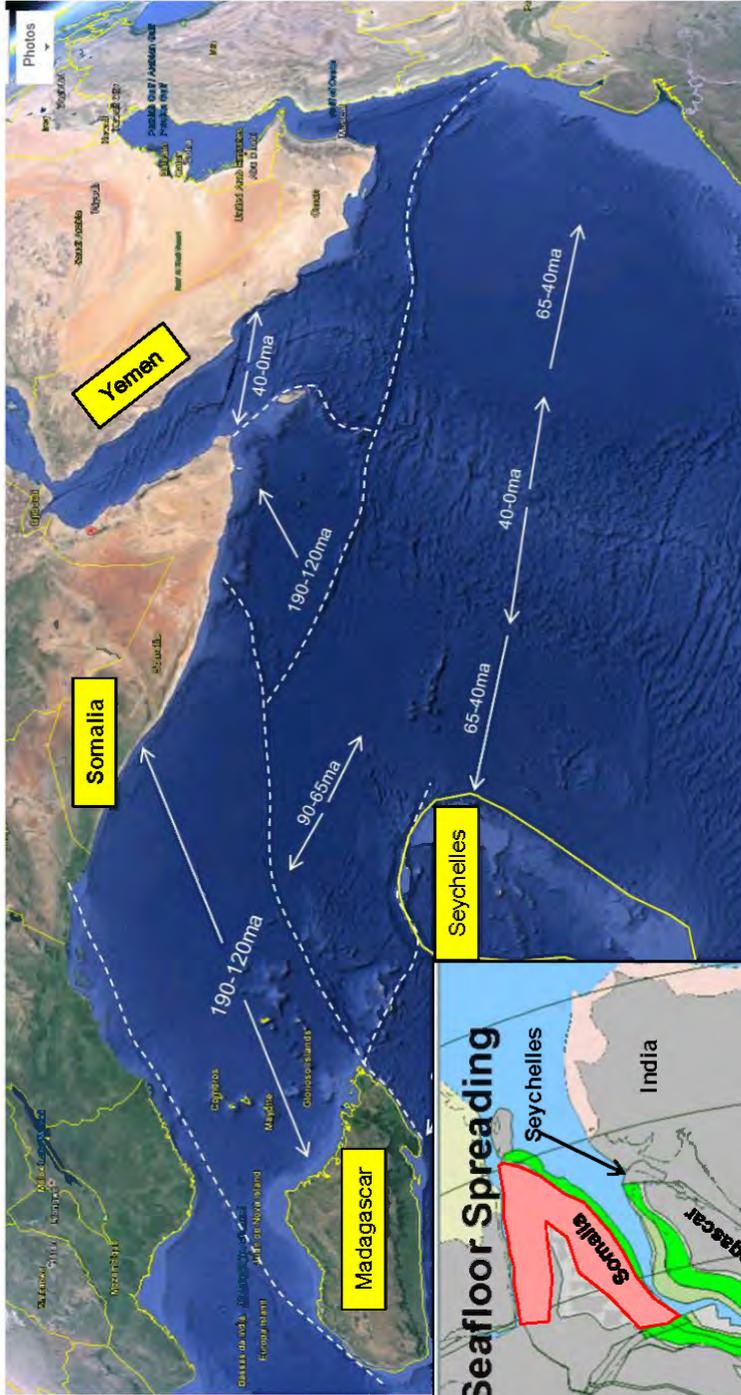


- ▶ **Significantly under-explored due to historic security issues – all PSCs in Force Majeure since 1990-91**
 - Only 6 offshore wells along the entire length of the eastern offshore basin
 - Only 1 offshore well near Soma Oil & Gas Offshore Evaluation Area drilled by Exxon in 1982 in shallow water
 - Deep water entirely unexplored; historic seismic mainly limited to water depths of less than 1,000 m, while Soma Oil & Gas Evaluation Area extends to approximately 3,000 m water depth
- ▶ **Hydrocarbon plays – source and reservoir rocks – proven in adjacent sedimentary basins**
 - Anadarko, BG, Eni, Ophir Energy, Statoil and Tullow Oil have made recent discoveries in East Africa
 - USGS estimate Undiscovered Resources of 16 billion barrels of oil and 260 Tcf gas in three provinces bordering south Somalia offshore – Tanzania/Kenya, Madagascar and Seychelles
 - Early-Mid Jurassic plate reconstruction places offshore Somalia adjacent to Madagascar where Jurassic source rocks are present in well penetrations

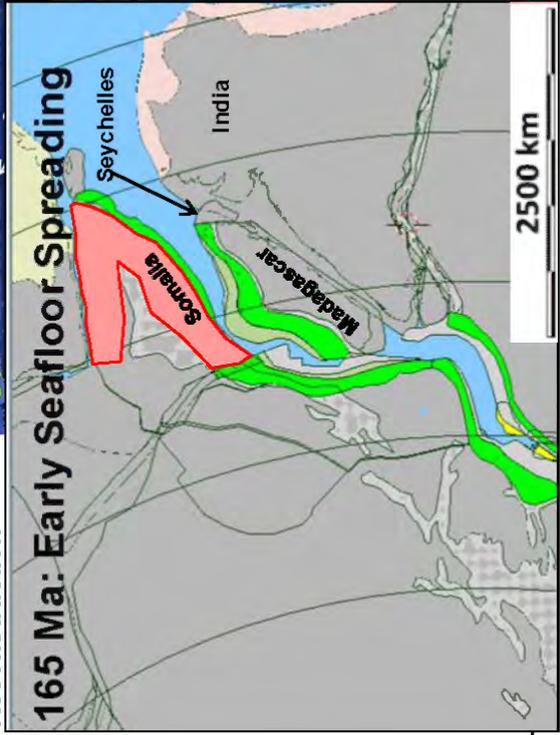
Somalia Plate Reconstruction in Jurassic



- ▶ Present day positioning of continents and age of ocean crust



Mid Jurassic Plate Reconstruction

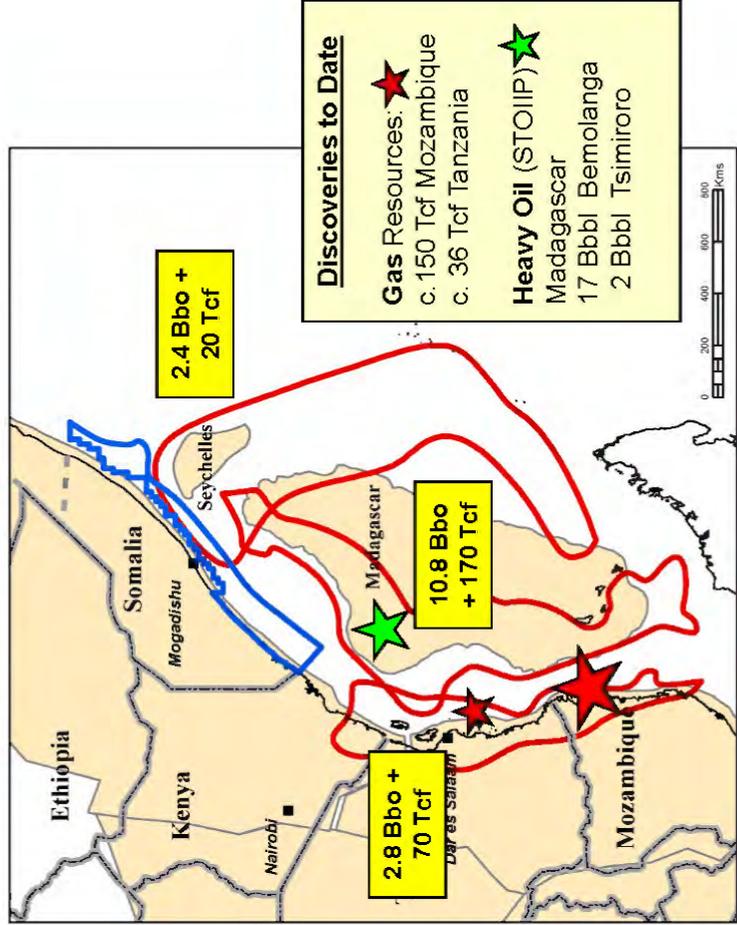
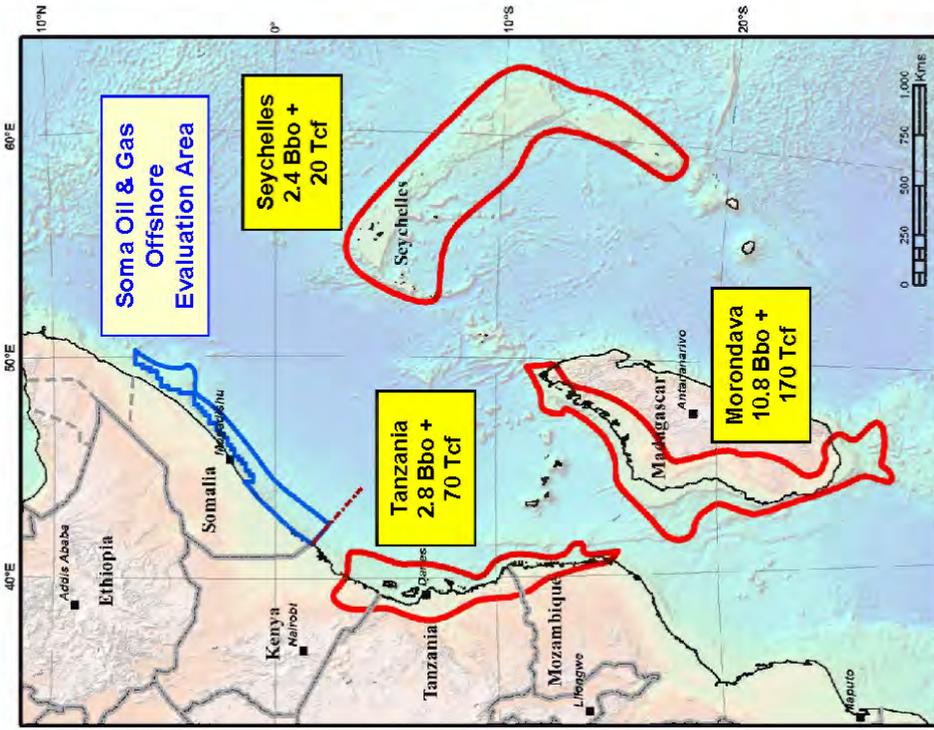


- ▶ Mid Jurassic plate reconstruction places Somalia immediately opposite north-west Madagascar and Seychelles during the critical period of hydrocarbon source rock deposition

USGS Estimated Undiscovered Resources (2012)

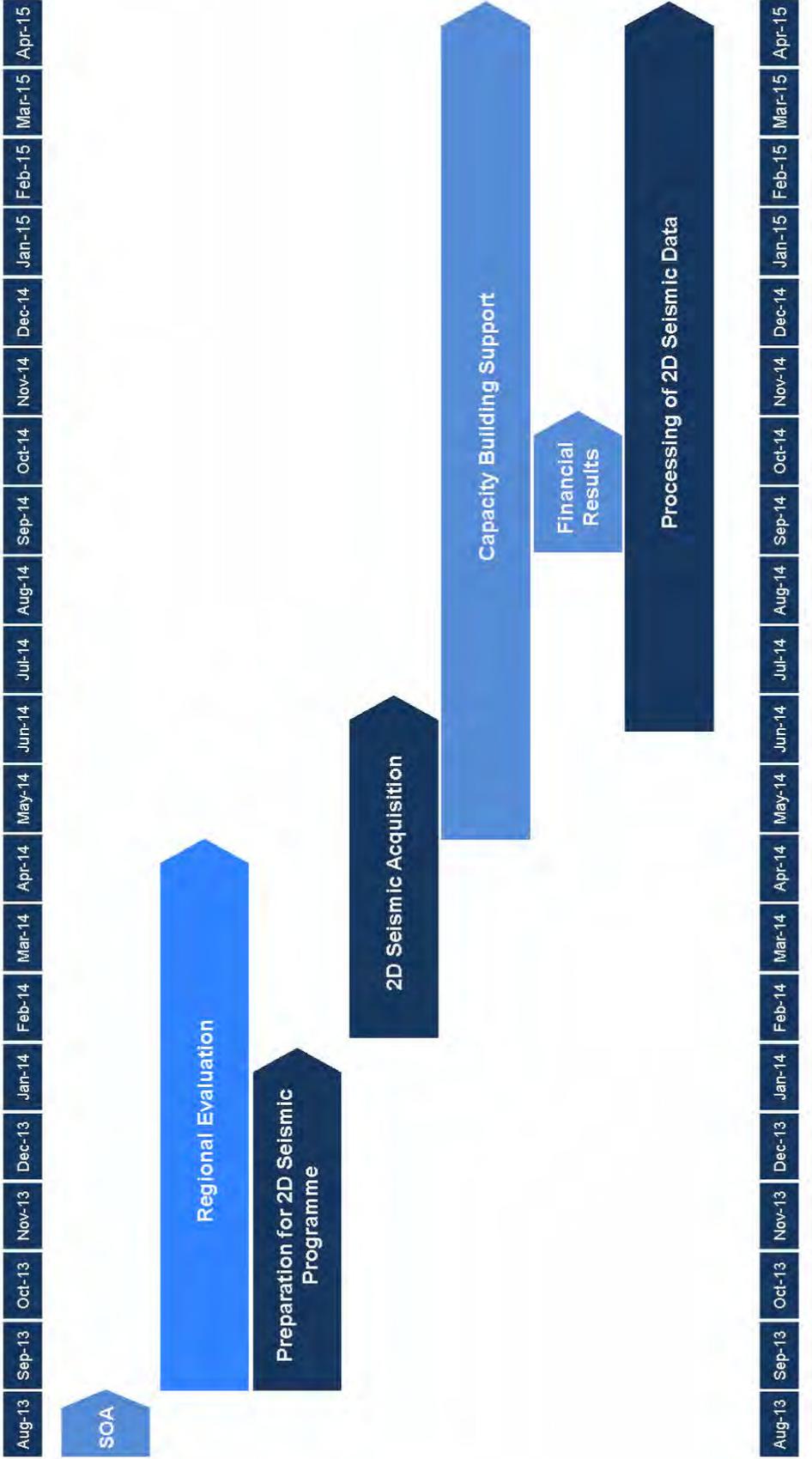


- USGS estimate total Undiscovered Resources of 16 billion barrels of oil and 260 Tcf gas in provinces bordering Soma Oil & Gas Offshore Evaluation Area in Somalia offshore waters
- Plate reconstruction to Lwr. Jurassic – time of deposition of hydrocarbon source rocks – emphasises the relevance of the adjacent data



Source: www.energy.usgs.gov

Key Milestones & Achievements to date

Regional Evaluation Completed – April 2014

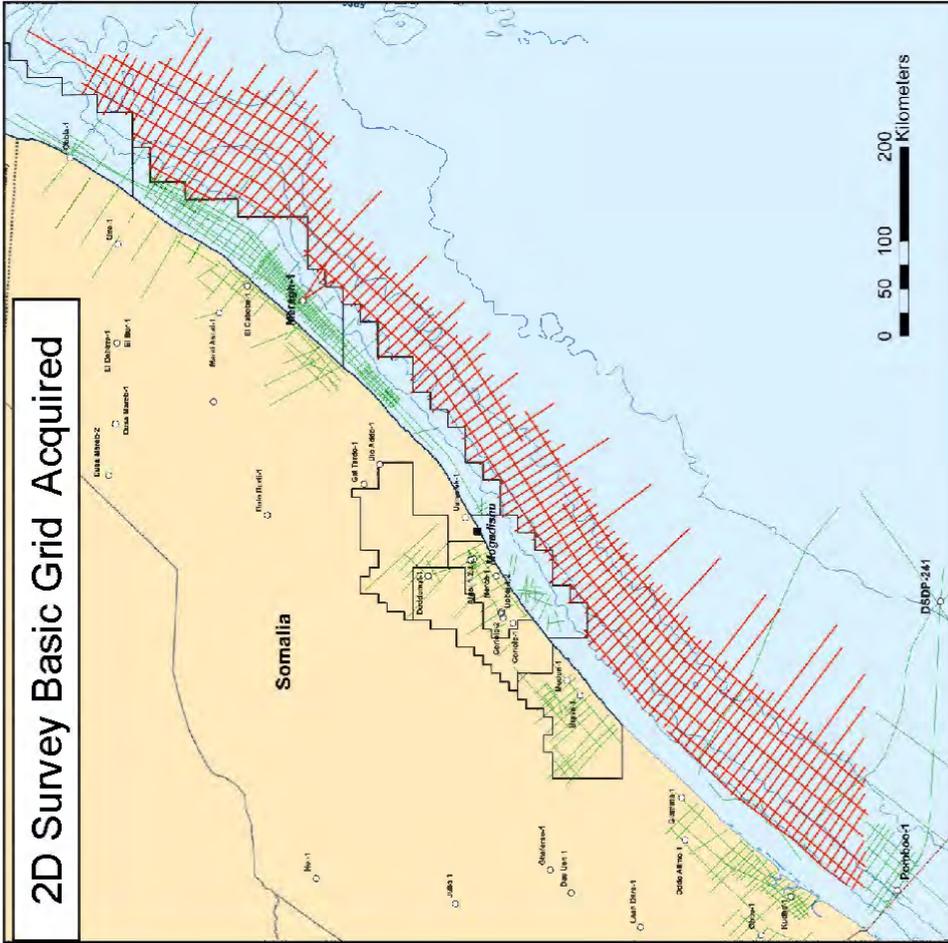


- ▶ **Data Acquisition and Compilation**
 - Purchase of 4,270 km of existing onshore seismic and 7,416 km of existing offshore seismic
 - Purchase of data on 20 onshore wells and 2 offshore wells
 - Purchase of available consultant and oil company reports on oil exploration activities in Somalia
 - Download of data on relevant DSDP wells offshore Somalia
 - Download of Lamont-Doherty 1980-81 academic seismic relevant to offshore Somalia
- ▶ **Studies**
 - Study and interpretation of all of the purchased data listed above
 - Public domain research into regional geology of surrounding East African countries
 - Plate tectonic reconstructions for western Indian Ocean
- ▶ **Report**
 - Report documenting the compiled data and study results was completed in April 2014

Seismic Acquisition Programme – February to June 2014



2D Survey Basic Grid Acquired



Acquisition Strategy

- Interpret on-board processed data
- Infill basic grid to be acquired where good prospectivity is recognised

Survey Acquired

- Time window: Feb-May – shutdown late May as expected due to strong currents generated by SE monsoon
- 10 x 20 km basic grid largely acquired as planned – 16,550 line km, c. 1,150 km less than plan
- Main difference: unable to acquire data within 12 nautical miles of coast

Infill Acquisition

- Successful interpretation of on-board processed data – allowed areas of interest to be identified, and infill lines to be acquired in real time
- Total of c. 4,000 line km of infill lines acquired over prospective areas (not shown on map)

Completion of the 2D Seismic Acquisition – June 2014



- ▶ The seismic acquisition programme was successfully concluded in June 2014, within 10 months of signing the SOA
- ▶ Over 20,500 km lines of 2D seismic data having been acquired across 185,000 km² Offshore Evaluation Area and Reconnaissance Area
 - Two seismic vessels and eight support vessels
 - 110 days to complete
 - 72% operational time; 28% downtime (including crew changes, excluding Mob/Demob)
 - Zero security and HSE incidents



Northern Explorer



Hawk Explorer

Preliminary Structural Leads Mapped

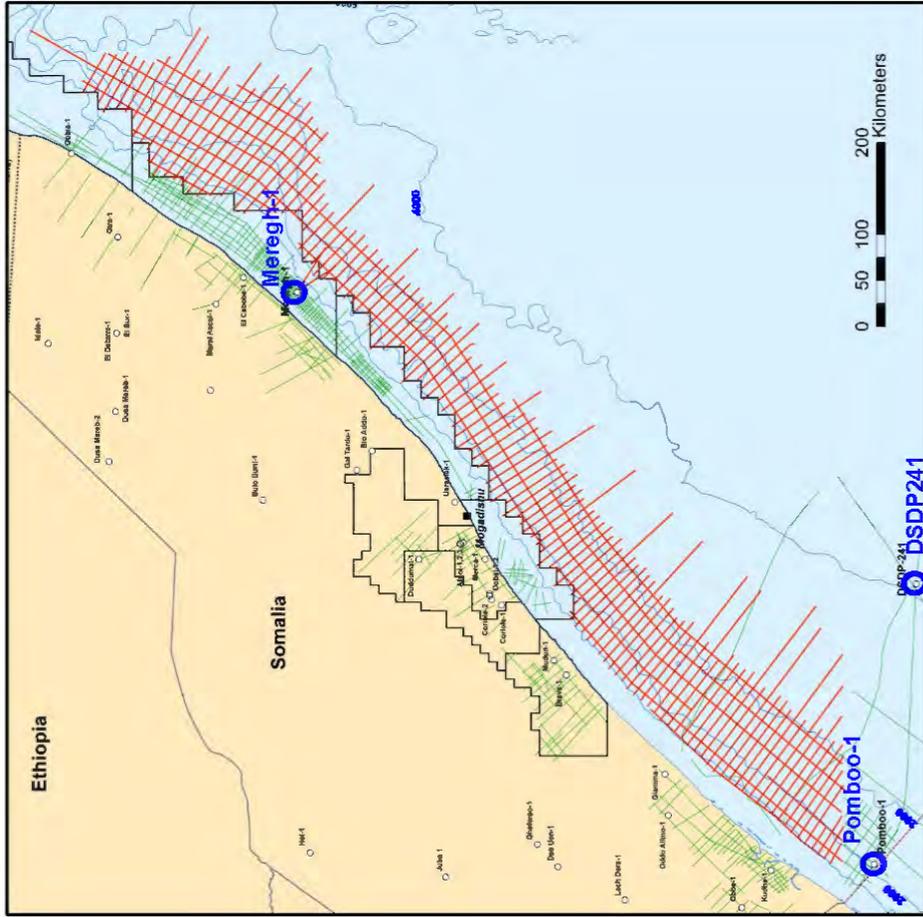


- ▶ **Regional interpretation was carried out during acquisition using on-board processed data**
 - Objective: To identify prospective areas to target for infill data acquisition
- ▶ **Preliminary assessment of Prospectivity completed May-Sept 2014 based on on-board processed data**
 - Regional stratigraphic framework developed – tied to available wells
 - Regional tectonic framework mapping completed
 - Structural leads mapped – some of very large size
 - Preliminary hydrocarbon volumetrics calculated
- ▶ **Ongoing technical work**
 - Re-interpret seismic data using final PSTM processed data
 - Analyse amplitude and AVO data for indications of hydrocarbon presence
 - Use gravity & magnetic data to influence final interpretation
 - Modelling of source rock maturity
 - Play fairway mapping
 - Prospect and Lead mapping and depth conversion using seismic velocities
 - Prospect and Lead hydrocarbon volume assessment
 - Prospect and Lead risking analysis

Well Ties for Stratigraphic Calibration



- Only 1 direct well tie, to Meregh-1 (Esso 1982)
- Indirect ties to Pomboo-1 and DSDP241 of limited use for stratigraphic correlation
- Significant data gap, >50 km, between coastal onshore wells and Soma 2D survey
- Hence the stratigraphic age calibration of horizons interpreted in the new 2D survey poses a significant challenge



Well Tie to Meregh-1



Only direct well tie for 2D survey – to Meregh-1 on shelf

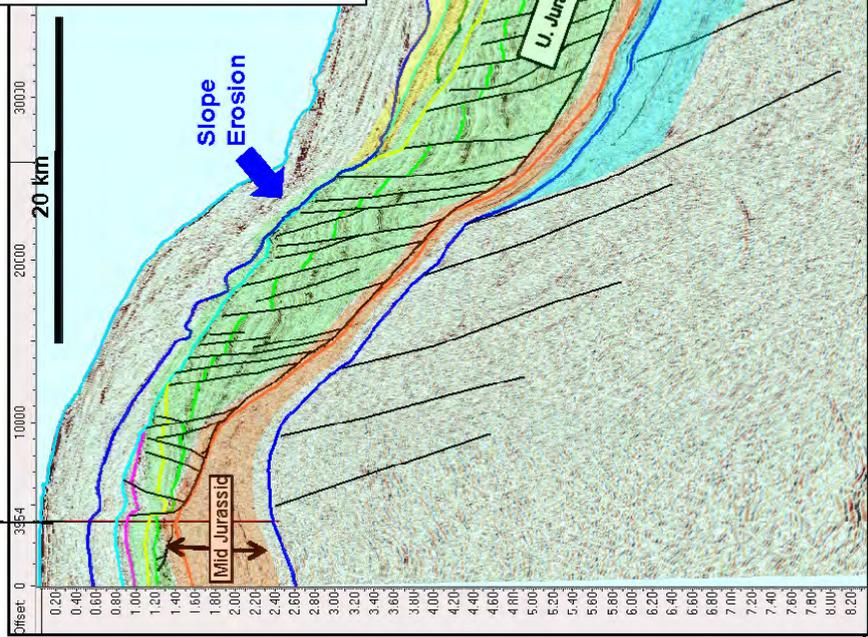
– But correlation into deep water basin is complex

- Lwr Jurassic syn-rift (Blue) absent at well, and poorly imaged in basin due to depth
- Mid Jurassic (Orange) thick on shelf and thins depositionally into basin
- U. Jurassic & Lwr Cretaceous (Green) thickens into basin but deformed by gravity sliding and eroded at Mid Cretaceous unconformity
- Thick wedge of U. Cretaceous (Yellow) onlaps basin slope and not represented in well
- U Cretaceous and Lwr Tertiary absent on basin slope due to localised erosion

Hence:

- Stratigraphic age calibration into basin remains uncertain
- But geology in the basin is quite different to the shelf

Meregh-1
(Esso 1980)



Source and Reservoir Potential



Possible Source Rocks Offshore Somalia

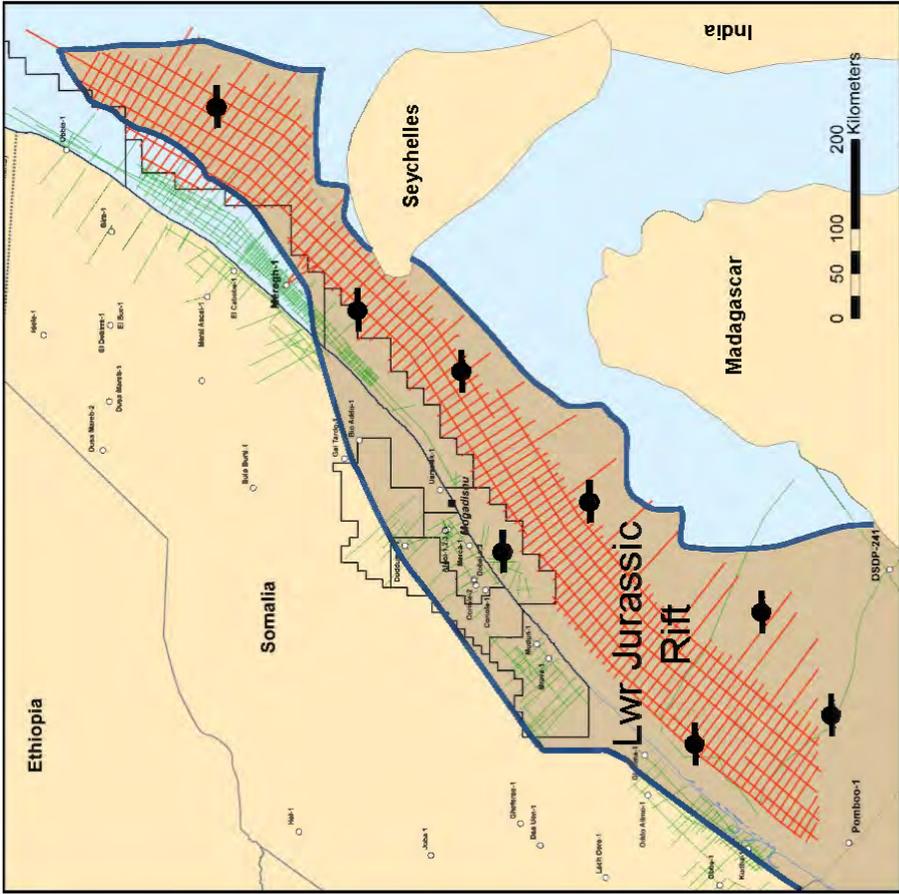
Evidence

Upper Jurassic	Global anoxic event. Known in Ogaden Basin in Ethiopia, and in north Somalia
Mid Jurassic	Beronono outcrop, Madagascar -- Excellent oil prone source, >10% TOC (Hunt Oil, 2007), expected to be present in deep water facies of Mid Jurassic
Lower Jurassic	Lacustrine sources inferred to be present in syn-rift facies observed on seismic
Permo/Triassic	Lacustrine Karoo sources well developed in Madagascar – source of giant heavy oil fields, and present in Ogaden Basin in Ethiopia

Interpreted Reservoir Rocks, Offshore Somalia

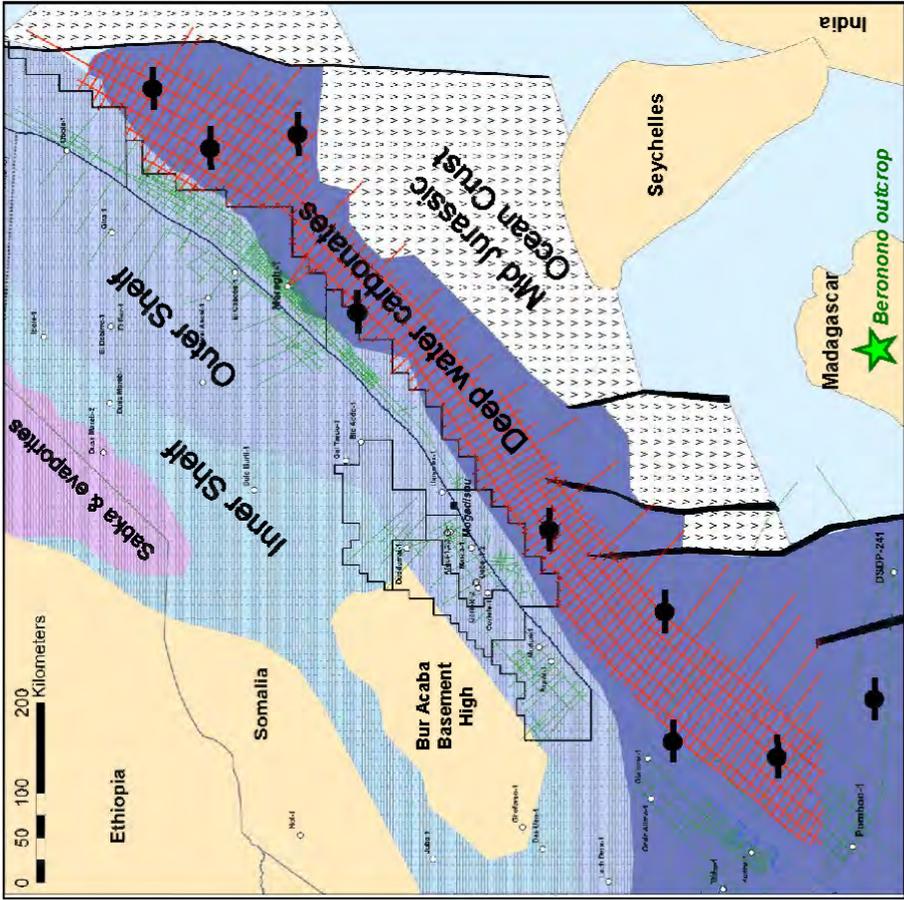
Tertiary sst	Oligocene deep marine sands in mapped fan & channel system
U. Cretaceous sst	Multiple levels of deep marine channel & fan sands interpreted in delta front setting
Lwr Cret/U. Jur Lst	Shallow marine limestone facies interpreted on shelf margins and faulted into basin
Mid Jurassic Lst	Mid Jurassic carbonate reefs and shoals clearly evident on seismic
Triassic sst	Karoo continental alluvial fan sands expected in pre-rift

Lower Jurassic Rift – Source Rock Deposition



- ▲ Map shows the area of the Lower Jurassic rift (200-175 MY) which preceded the sea floor spreading that moved the Madagascar and Seychelles plates to the south
 - Rift was predominantly located in present day offshore Somalia
 - Lower Jurassic source rocks inferred to be present in the rift section
 - Rift area also localises deep water areas in Mid & Upper Jurassic where additional source rocks are likely

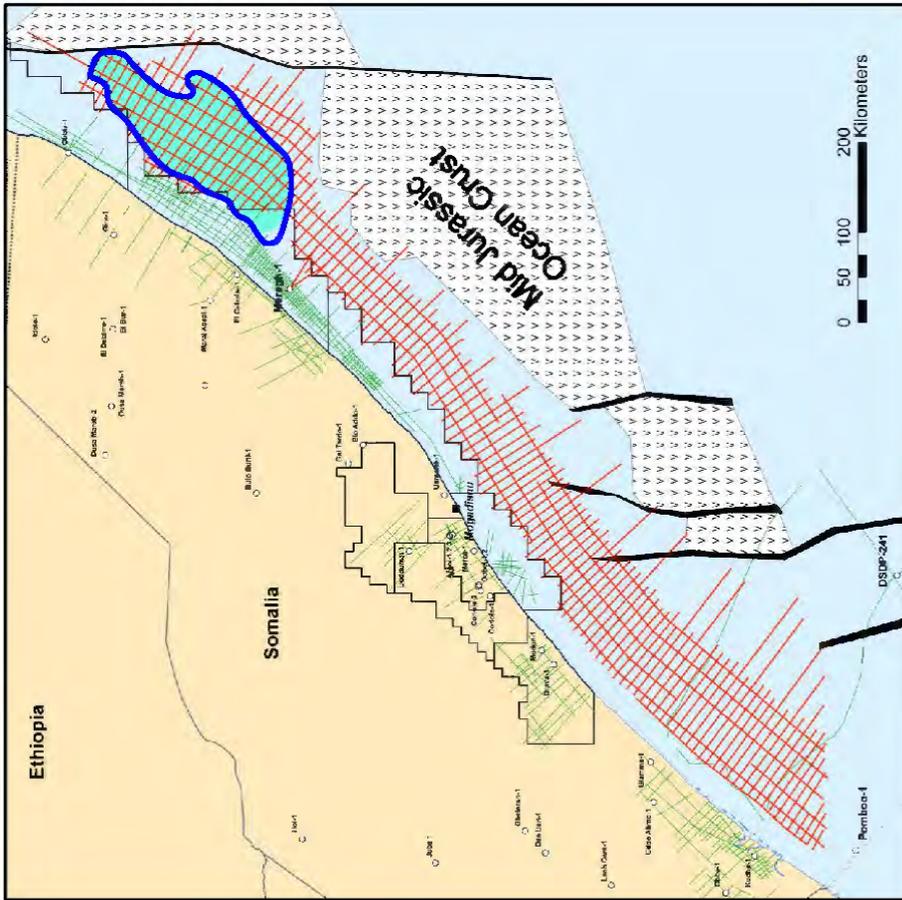
Middle Jurassic Early Drift – Source Rock Deposition



▲ Map shows the depositional facies of the Mid Jurassic just after the start of oceanic spreading between Somalia and the Madagascar/Seychelles plates

- Seismic evidence indicates that deep marine Mid Jurassic facies offshore Somalia are located almost entirely in present day deep water
- Middle Jurassic source rocks likely to concentrate in the deep water facies
- High quality Mid Jurassic source rocks known from Beronono outcrop and well data in Madagascar

Late Middle Jurassic – Carbonate Reservoirs



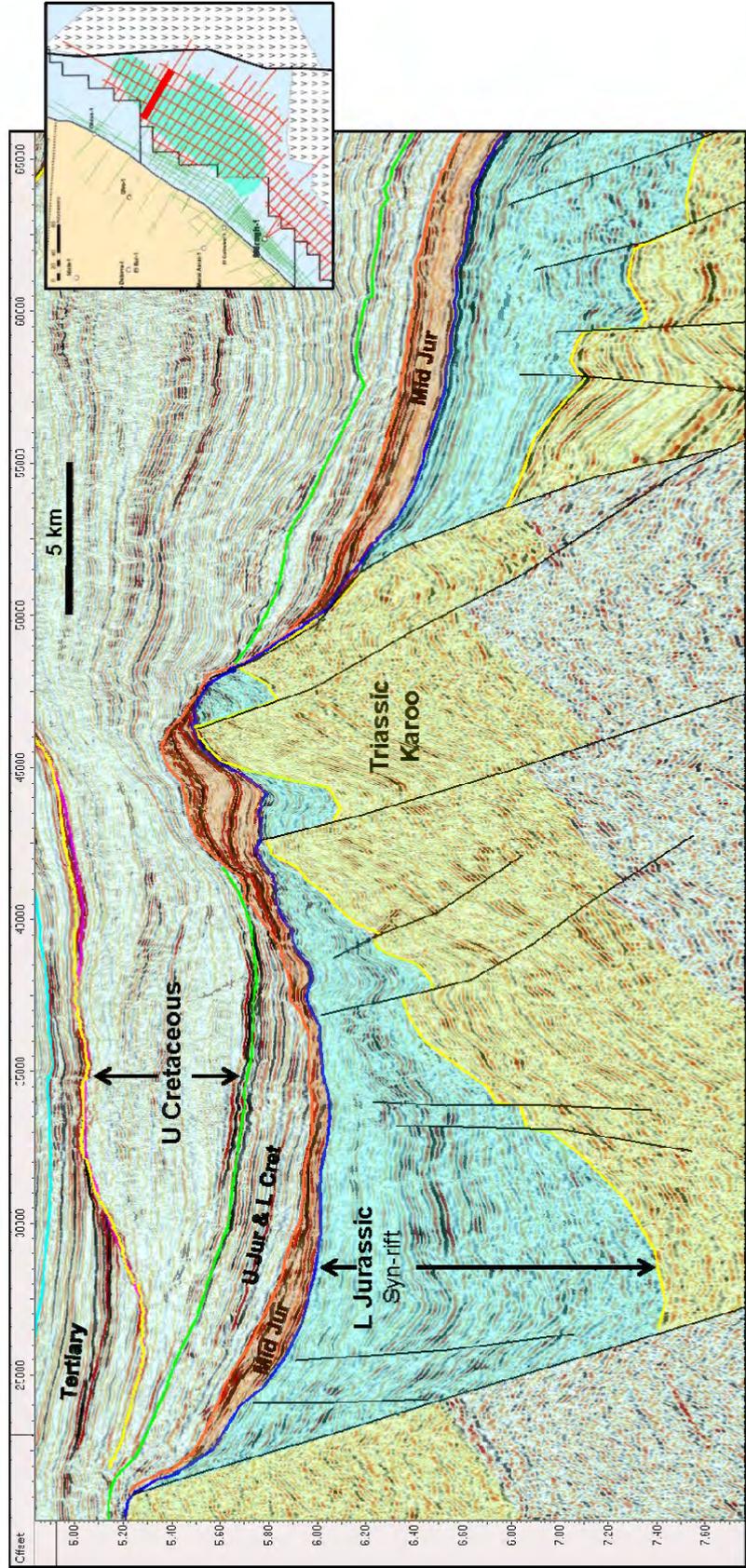
▲ Map shows the area at the north end of the survey where Late Mid Jurassic carbonate reef and shallow water shoal facies are interpreted from seismic evidence.

- These have potential to be high quality reservoir rocks.

Late Middle Jurassic – Carbonate Reservoirs



- Mid Jurassic carbonate buildup localised on crest of large rotated fault block – possible Trap & Reservoir
- Potential for source rocks in off-structure deeper water facies of Mid Jurassic
- Additional source potential in Lower Jurassic syn-rift
- Additional reservoir potential in sandstones of Triassic Karoo fault block



Late Middle Jurassic – Carbonate Reef Example

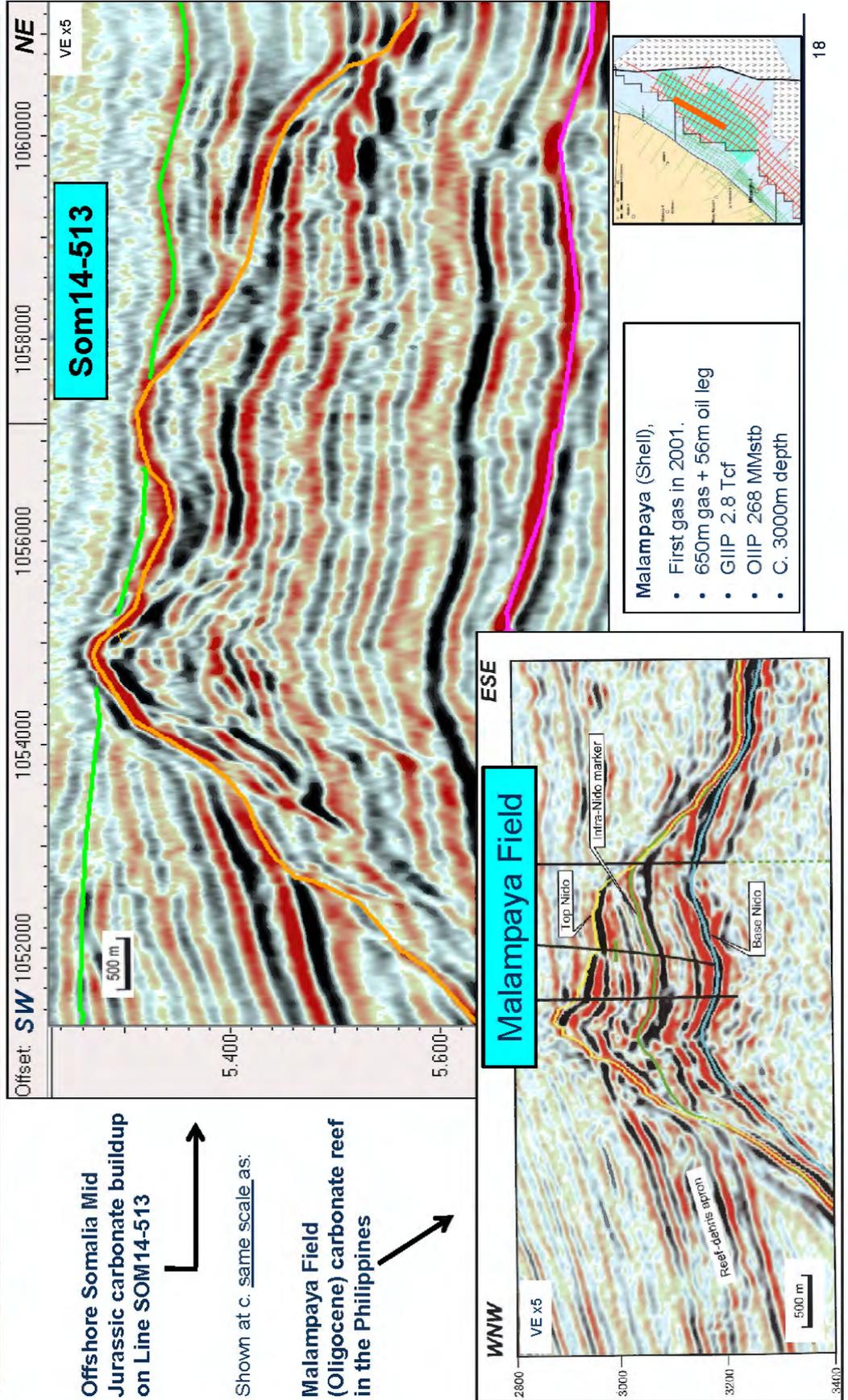


Offshore Somalia Mid Jurassic carbonate buildup on Line SOM14-513

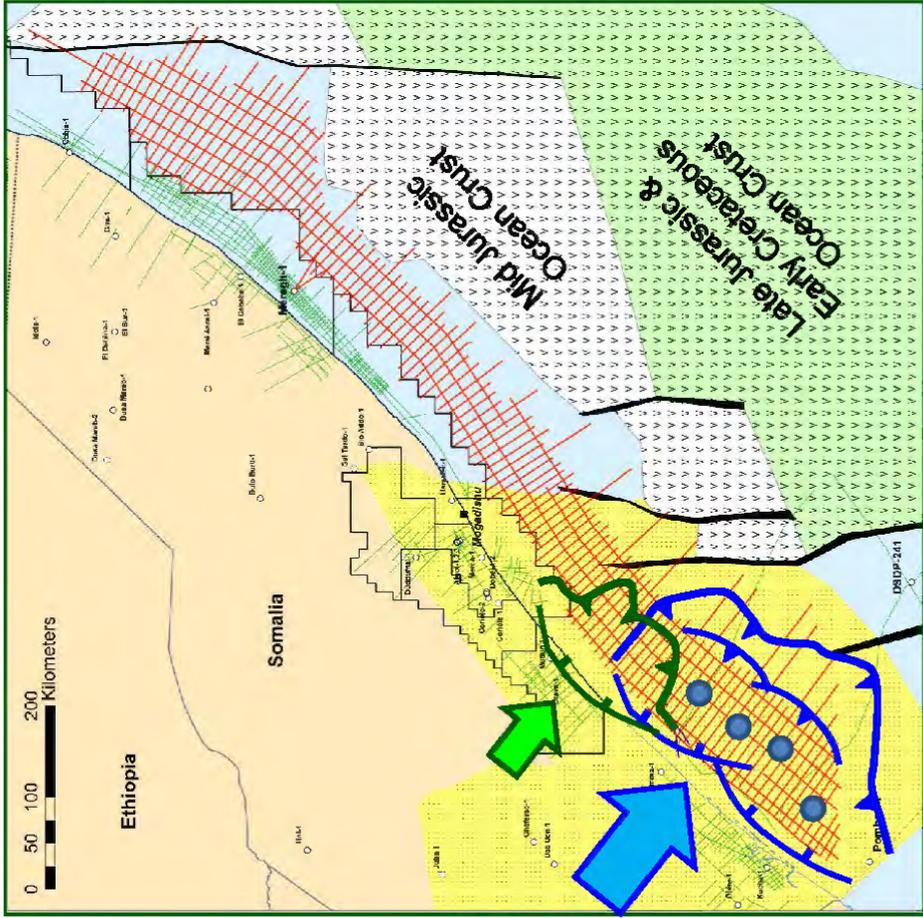


Shown at c. same scale as:

Malampaya Field (Oligocene) carbonate reef in the Philippines



Upper Cretaceous – Clastic Delta Play



▲ Large Clastic delta system dominated deposition in the South of the region during Upper Cretaceous and Tertiary

- Major Upper Cretaceous delta (blue arrow) entered the basin from the NW. Deposition in offshore area was mainly delta slope and pro delta shales plus channel and fan sands expected to form excellent reservoirs.
- Gravitational collapse of the delta in Paleocene, with listric normal faults nearshore and a major toe-thrust zone further offshore.
- Pro-delta muds underlying the delta became mobilised and intruded vertically as diapirs in the centre of the system
- Focus of delta deposition moved to north in Tertiary (green arrow) and this system also underwent gravity collapse in the Late Tertiary

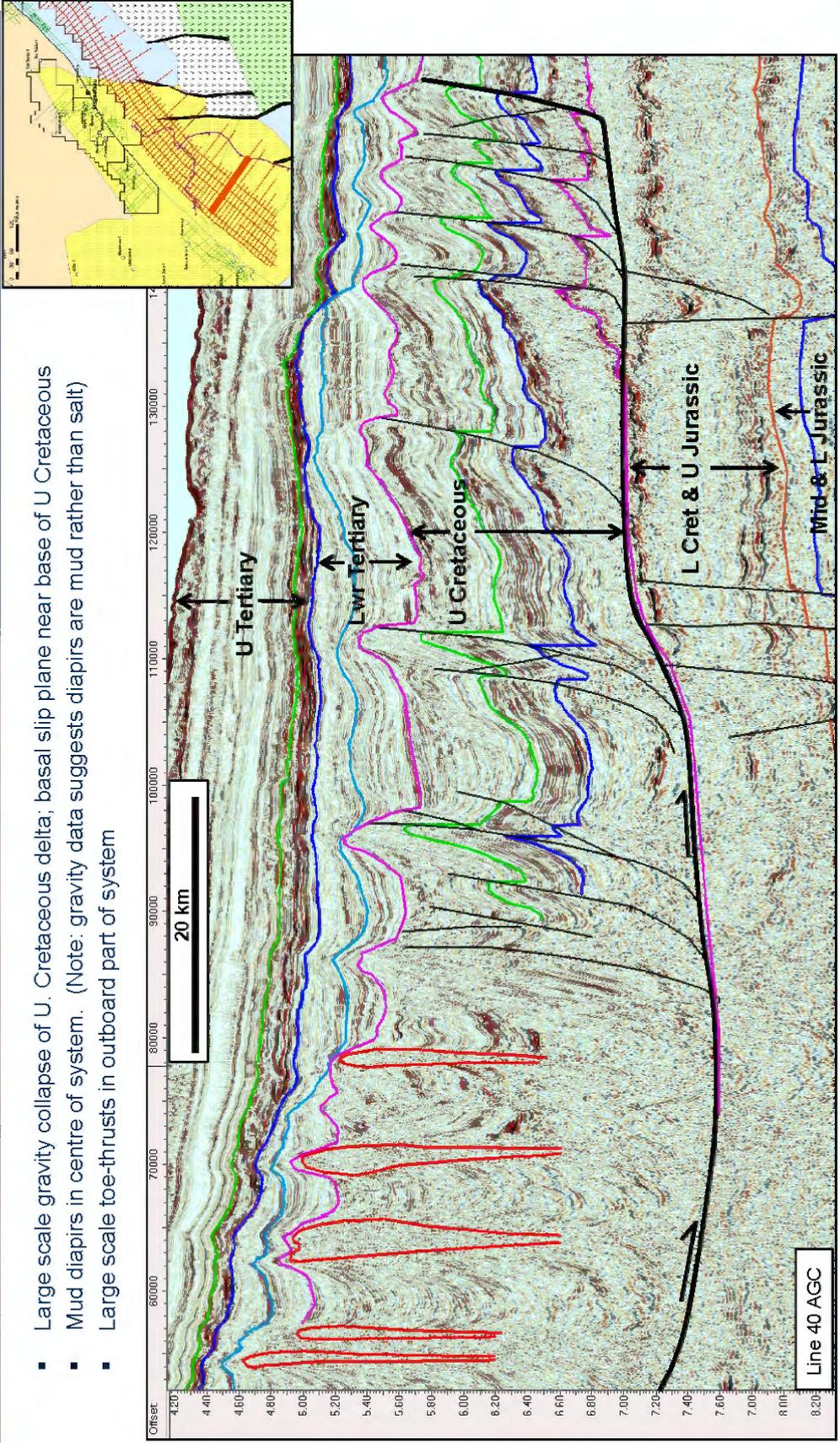
▲ System provides:

- Multiple Reservoir sands
- Large Trapping Structures

Gravity Collapse of Upper Cretaceous Delta



- Large scale gravity collapse of U. Cretaceous delta; basal slip plane near base of U Cretaceous
- Mud diapirs in centre of system. (Note: gravity data suggests diapirs are mud rather than salt)
- Large scale toe-thrusts in outboard part of system

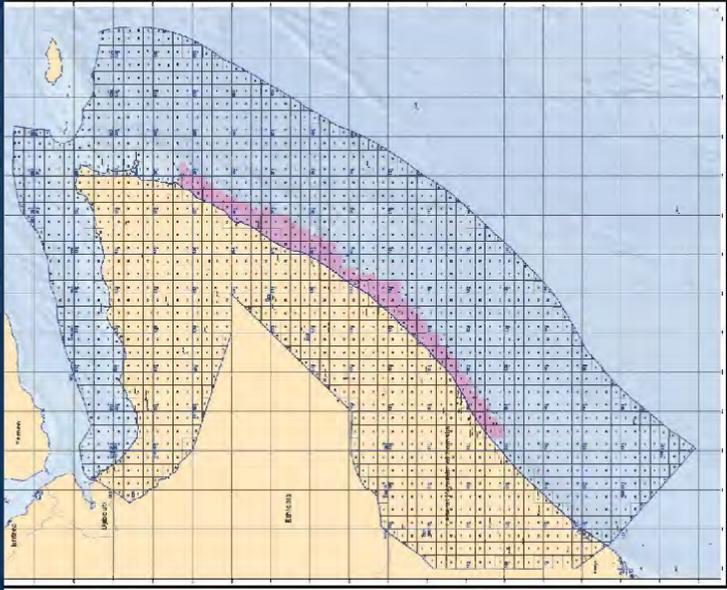


Preparation for PSA Applications



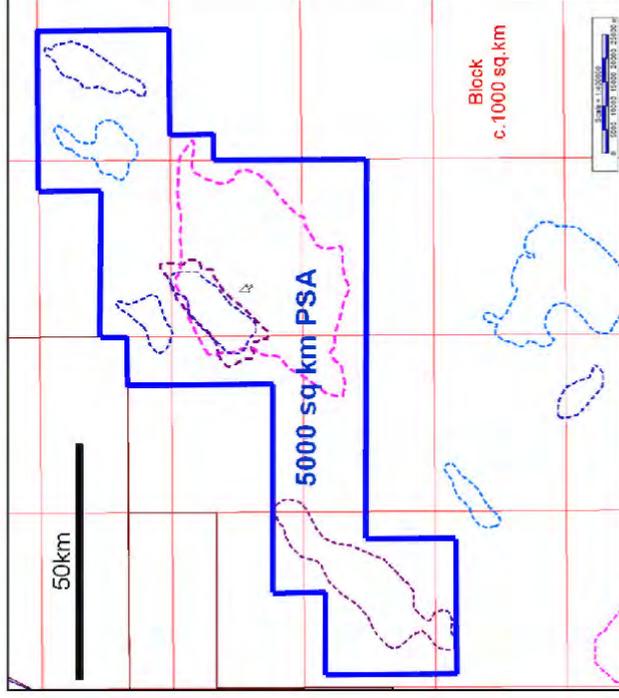
- ▶ **Soma Oil & Gas hopes to be in a position to make PSA applications shortly**
- ▶ **Ministry of Petroleum & Mineral Resources is getting ready to receive PSA applications**
 - Quad & Block Design and PSA Definition rules approved

Quad & Block Design



Schematic Example of PSA Definition

PSA might encompass several Prospects and Leads



Establishment of Data Rooms – April 2014 and Ongoing



- ▶ **Soma Oil & Gas has completed the processing and re-processing of the 20,500 km lines of 2D seismic data**
- ▶ **The processed seismic data is to be transferred to the Ministry of Petroleum & Mineral Resources as per the SOA commitment**
 - Mogadishu – Soma Oil & Gas is working with the Ministry to find and create a secure and suitable location for the physical Data Room in country
 - London – a physical Data Room in the UK is being considered by the Ministry
 - A virtual Data Room is also being considered to allow pre-view of some selected data and for data download as required

Capacity Support & CSR – April 2014 and Ongoing



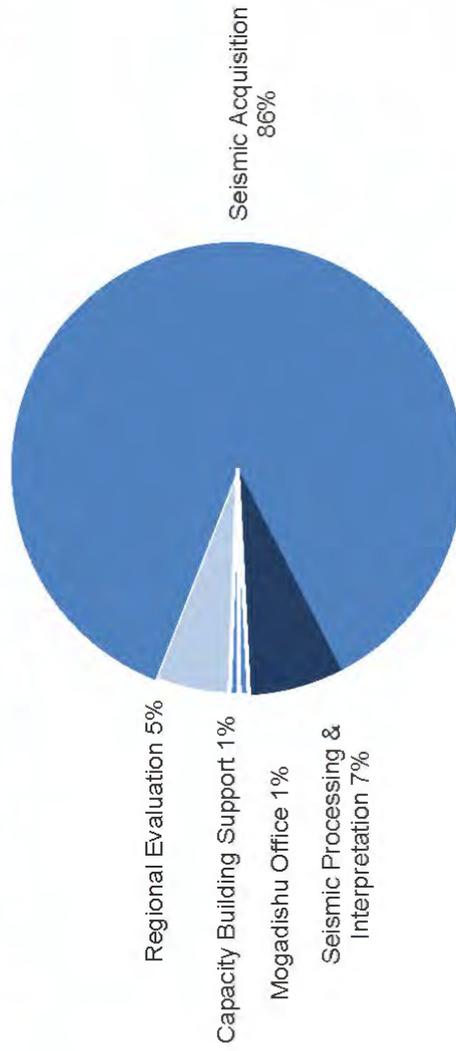
- ▶ **Capacity Building Paper signed 29 April 2014; extended through September 2015**
 - Capacity support salaries for Ministry staff and experts, and
 - Contribution towards office equipment and outfitting
 - In addition, Soma Oil & Gas is contributing towards the rehabilitation and refurbishment of the Ministry building to create the Data Room as per the SOA obligation
- ▶ **Corporate Social Responsibility**
 - Soma Oil & Gas will identify and support projects relating to Health, Education and Environment within the Federal Republic of Somalia
- ▶ **Scholarship programme for young Somalis**
 - Undergraduate and post-graduates courses directly or indirectly linked with the oil and gas sector
- ▶ **Near term positive impact of the Oil & Gas Sector in Somalia**
 - Soma Oil & Gas established a Mogadishu office in April 2014 which will provide employment opportunities
 - Our work with the Ministry will encourage other companies to explore for hydrocarbons in the Somalia
 - Under each PSA there will be explicit annual Training Fees and Local Community Benefit payments

Financial Results and Commitment to date



- ▶ Soma Oil & Gas published its Annual Reports and Financial Statements on 17 September 2014
- ▶ Approximately US\$40 million expenditure on Exploration Programme to date vs US\$15 million commitment under the terms of the SOA

Breakdown of Expenditure on Exploration Programme



Total to date US\$40 million

EITI Support Statement



- ▶ Soma Oil & Gas supports the Extractive Industries Transparency Initiative (EITI) and its aim to increase transparency, accountability and strong corporate governance
- ▶ We became a corporate supporter of EITI in February 2015
- ▶ Soma Oil & Gas is also actively supporting the Government of the Federal Republic of Somalia in its ambition to become an EITI compliant country
- ▶ EITI website www.eiti.org



Conclusions



- ▶ Soma Oil & Gas and the Federal Government of Somalia agreed a Seismic Option Agreement in August 2013 to accelerate development of hydrocarbon regime
- ▶ Soma Oil & Gas completed Phase 1 of the SOA in April 2014, within 8 months of signing the SOA
- ▶ As part of the SOA, Soma Oil & Gas completed over 20,500 km of 2D seismic data across a 185,000 km² Offshore Evaluation Area and Reconnaissance Area
- ▶ Federal Government of the Republic of Somalia and Soma Oil & Gas agreed a capacity building support programme in April 2014; extended through September 2015
- ▶ On track for completion of Phase 2 of the SOA in Q2 2015
 - 2D seismic data now processed and to be delivered to the Federal Government of the Republic of Somalia and placed in Data Rooms in Mogadishu and London
 - PSA applications on prospective areas

Annex 29

Spectrum Geo, "Spectrum signs Seismic Data Agreement to Kick-Start Oil Exploration Offshore Somalia" (7 Sept. 2015)



Press Release

September 7th, 2015**Spectrum signs Seismic Data Agreement to Kick-Start Oil Exploration Offshore Somalia**

OSLO, September 7th 2015 – Spectrum ASA entered into a Multi-client master co-operation agreement with the federal government of Somalia during a signing ceremony on September 5th at the SYL Hotel, Mogadishu.

The agreement allows Spectrum to acquire approximately 28,000 km of long offset 2D seismic data offshore south Somalia. The new acquisition has been specifically designed to complement 20,000 km of existing seismic that was acquired in 2014. Spectrum has also been granted the marketing rights for this data. Together, these seismic surveys will allow the in-depth study of hydrocarbon prospectivity offshore Somalia, which lies in close proximity to major discoveries on the East African margin. Spectrum will use its global reach to market both data sets and raise industry interest.

At the signing ceremony the Ministry of Petroleum and Mineral Resources, His Excellency Mohamed Mukhtar Ibrahim, said “This historic seismic data agreement will be the resumption of the exploration program of the hydrocarbon reserves of our country, which will be a turning point for the economic development of our nation.”

His Excellency Omar Abdirashid A. Sharmarke, Prime Minister of the Federal Republic of Somalia who concluded the event stated “Seismic data can lead to good decision-making and a guided exploration strategy.”

For further information, please contact:

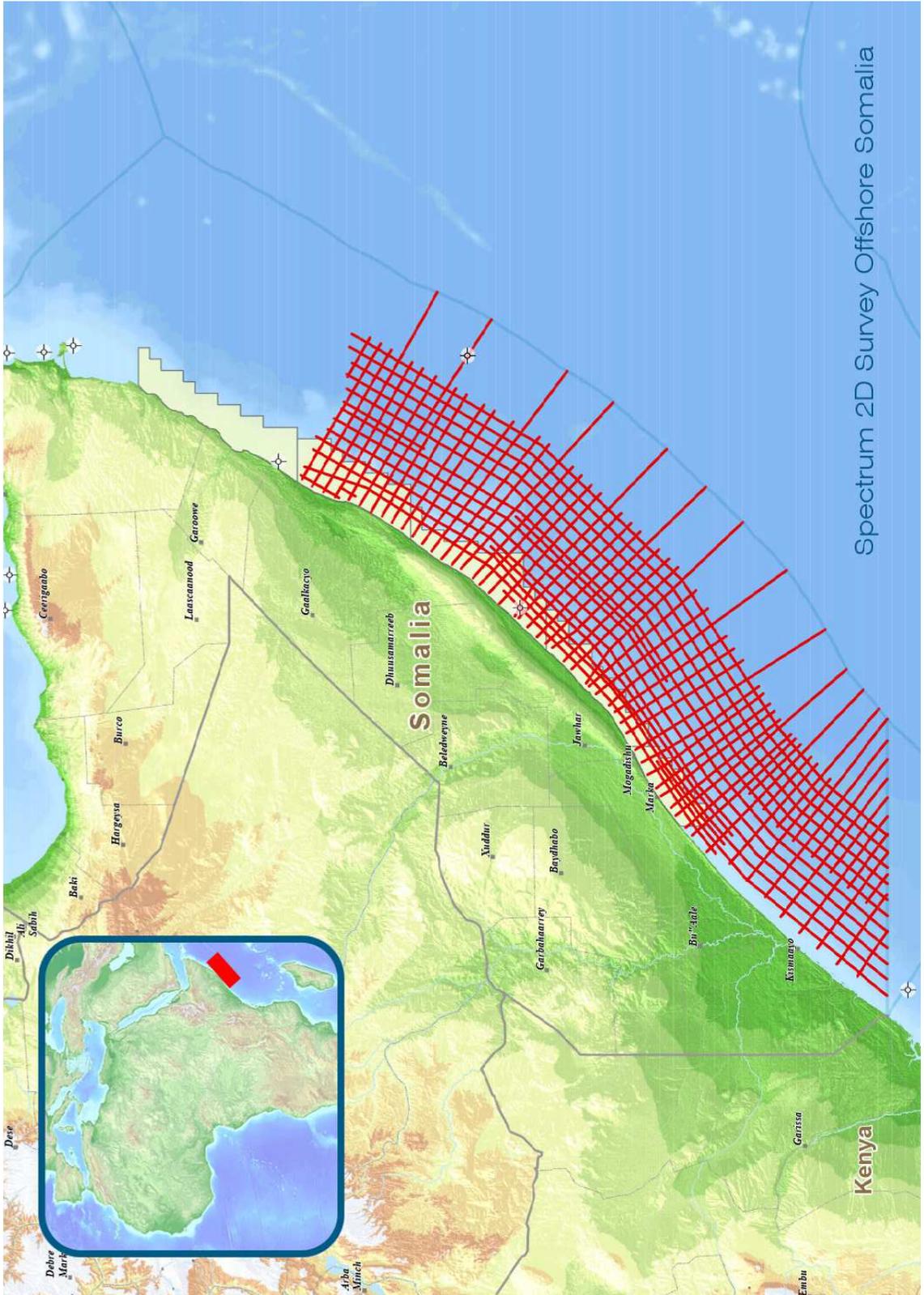
Graham Mayhew, EVP Multi-Client, Africa
Email: graham.mayhew@spectrumgeo.com
Tel: +44 1483 730201

Jan Schoolmeesters, COO
Email: jan.schoolmeesters@spectrumgeo.com
Tel: +47 91 77 79 61

About Spectrum

Spectrum provides innovative Multi-Client seismic surveys and high-quality seismic imaging services to the global oil and gas industry from offices in the Norway, UK, USA, Brazil, Egypt, Australia, Indonesia and Singapore. Spectrum designs, acquires and processes seismic data to deliver high quality solutions through its dedicated and experienced workforce.

Spectrum holds the world's largest library of Multi-Client 2D marine seismic data and a significant amount of 3D seismic. The company's strategy focuses on both the major, established hydrocarbon-producing regions of the world as well as key frontier areas identified by our experienced team of geoscientists. The Spectrum library of Multi-Client data contains projects from many of the foremost oil producing regions of the world. These include new acquisition, reprocessing and interpretation reports.



Annex 30

Soma Oil & Gas Exploration, Ltd., *Unlocking Somalia's Potential: Company Presentation Q2 2016* (2016)



Unlocking Somalia's Potential

Company Presentation

Q2 2016



Disclaimer



This presentation may contain forward-looking statements which are made in good faith and are based on current expectations or beliefs, as well as assumptions about future events. By their nature, forward-looking statements are inherently predictive and speculative and involve risk and uncertainty because they relate to events and depend on circumstances that will occur in the future. You should not place undue reliance on these forward-looking statements, which are not a guarantee of future performance and are subject to factors that could cause the actual information to differ materially from those expressed or implied by these statements. The Company undertakes no obligation to update any forward-looking statements contained in this presentation, whether as a result of new information, future events or otherwise.

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SOMALI OIL & GAS OVERVIEW

Oil & Gas Industry in Somalia



- Prior to 1991, BP (Amoco, Sinclair), Chevron (Texaco), Conoco, Eni, Shell, ExxonMobil, Total and 5 others had signed rights to exploration blocks in Somalia
- By 1991, all operators claimed *force majeure* due to civil war
- All historical regional geological & geophysical data & knowledge lost due to civil war
- Oil & gas sector primary focus for TFG and FGS for rebuilding the economy
- Petroleum Law enacted by the TFG in 2008
- FGS approached 12 licence holders in 2012/13 to end *force majeure* - all declined
- FGS contacted 8 other oil companies – who also declined

TFG: Transitional Federal Government (of Somalia)
FGS: Federal Government of Somalia

Somalia's hydrocarbon exploration status



- ▶ Significantly under-explored (mainly due to historic security issues)
- ▶ Historic seismic primarily limited to shallow waters (<1,000m)
- ▶ Only 6 offshore wells in shallow waters along the 2,300 kms length of the eastern offshore basin
- ▶ Existing concession agreements (Pecten) in *force majeure* since 1990-91
- ▶ Deep water entirely unexplored (no prior seismic nor exploration wells)
- ▶ Proven hydrocarbon plays in adjacent sedimentary basins (Ethiopia, Madagascar, Tanzania & Mozambique)
- ▶ Recent East African discoveries by Anadarko, BG, Eni, Ophir Energy, Statoil & Tullow Oil
- ▶ Jurassic source rocks confirmed in Madagascar & Seychelles wells are also predicted for Somalia
- ▶ Somalia offshore was adjacent to Madagascar & Seychelles basins during Jurassic source rock deposition based on tectonic plate reconstruction
- ▶ Soma acquired 20,500 km of 2D seismic over 114,000 sq. km offshore Somalia (2014)
- ▶ Spectrum under licence to FGS acquired 20,583 km of 2D seismic offshore Somalia (2015-2016)



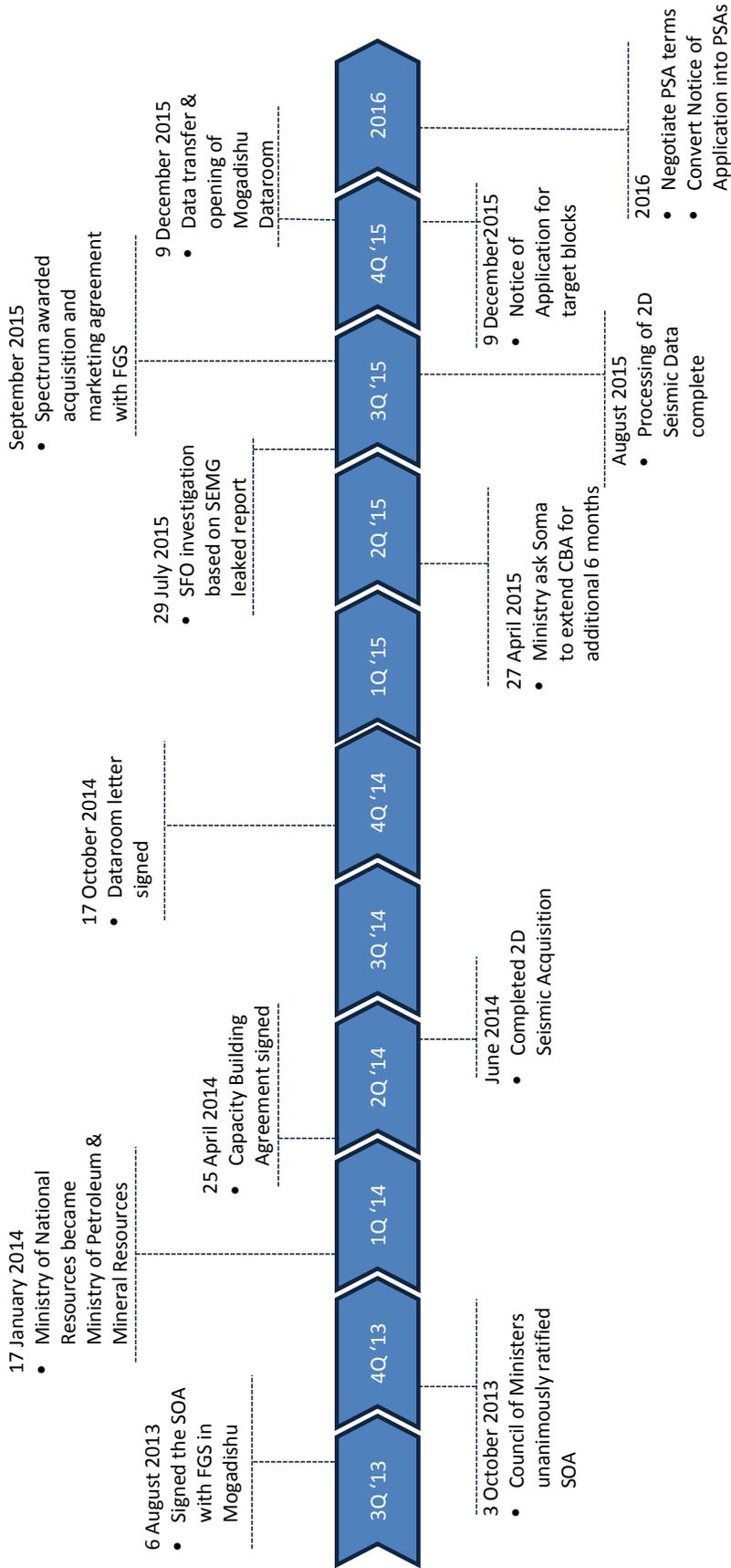
SOMA OIL & GAS

Overview of Soma Oil & Gas



- ▶ **Who we are**
 - Private UK company founded in 2013
 - Focused on exploring for hydrocarbons offshore in the Federal Republic of Somalia
 - Board and Management have extensive experience in oil and gas, finance and international relations
- ▶ **The story so far**
 - Signed Seismic Option Agreement (SOA) with the Republic of Somalia in Aug 2013
 - Gathered & evaluated prior geological data; seismic & wells, studies, USGS, etc. (Sep 2013 to Apr 2014)
 - Acquired 20,500 km of 2D seismic over 114,000 km² offshore Somalia (Feb-May 2014)
 - Process & analysed acquired seismic (Jun 2014 to Apr 2015)
 - Delivered all prior data & newly acquired & processed 2D seismic data to Ministry of FGS (Dec 2015)
 - Submitted Notice of Application for 12 Production Sharing Agreements (PSAs) (Dec 2015)
- ▶ **The geopolitical background**
 - Greater stability since the election of President Hassan Sheikh Mohamud in Sep 2012
 - 1st Federal Government of the Republic of Somalia to gain international recognition for two decades
 - Strong support from the UK, US, EU, UN and African Union
- ▶ **Current strategy**
 - Negotiate terms of Model PSA with FGS Ministry to convert the Notice of Application into PSAs
 - Seeking farm-ins/investment to further explore & develop the most promising prospects

Key Milestones



Board of Directors



Lord Howard of Lympne CH, QC

Non Executive Chairman

- Former leader of Britain's Conservative Party
- Former Home Secretary in Conservative Government
- Previous cabinet positions held include Secretary of State for Employment and Secretary of State for the Environment
- Lord Howard also sits on the Boards of a number of companies

Basil Shiblaq

Executive Deputy Chairman and Founder

- 45 years' experience in finance focussing in Oil & Gas and Mining
- One of the early investors in both Fusion Oil & Gas plc and Ophir Energy plc
- Founder of several private companies in energy trading as well as oil, gas & mineral exploration
- Previously Merrill Lynch, Kidder Peabody & Credit Suisse First Boston in Middle East & London

Mohamad Ajami

Non-Executive Director

- Over 35 years' of investing experience in the oil and gas and mineral resources sectors
- Founder of the Levant Group a firm focussed on investments in oil & gas and minerals
- Previously Morrison Knudsen Corporation, civil engineering/construction company (URS Corp.)

Georgy Djaparidze

Non-Executive Director

- Currently runs a private investment fund and practices law as Of Counsel Attorney, specializing in mergers & acquisitions, finance, international oil & gas transactions
- Educated in Russia and the United States and currently resides in London

The Earl of Clanwilliam

Non-Executive Director

- Chairman of Eurasia Drilling Company since October 2007
- He is a director of NMC Healthcare plc and sits on the Advisory Board of Oracle Capital and Milio International

Robert Sheppard

Non-Executive Director

- CEO of Soma Oil & Gas from 2013 to December 2015
- 40 plus years' oil & gas experience with BP and Amoco
- Currently Senior Adviser to BP; non Executive Director at BlackRock Emerging Europe plc & Director of DTEK (Ukraine)
- Former TNK-BP board member
- Former Chief Executive Officer of Sidanco, President of Amoco Egypt & Argentina

Executive Management Team



W. Richard Anderson
Chief Executive Officer

- Over 37 years' experience in oil and gas industry related finance and management.
- Former CFO and board member of Eurasia Drilling Company 2008 – 2015
- Chairman of the board of Vanguard Natural Resources LLC and he was President and Chief Executive Officer of Prime Natural Resources, Inc. from 2002 until 2007

Philip Wolfe
Chief Financial Officer

- Over 25 years' experience in oil & gas corporate finance
- Advised IOCs, independents & NOCs on strategic transactions, IPOs & other financings
- Previously Head of EMEA Oil & Gas at UBS, Global Head of Oil & Gas at HSBC; Deutsche Bank and Merrill Lynch oil & gas teams

Hassan Khaire
Executive Director, Africa

- Over 14 years' of experience at Norwegian Refugee Council
- Formerly Regional Director Horn of Africa & Yemen and Country Director of Somalia and Kenya
- Somali and Norwegian National
- BA at University of Oslo, MBA at Edinburgh Business School

Tom O'Gallagher
VP Marketing

- Over 36 years' of experience in the oil and gas industry
- Formerly VP Marketing & Investor Relations at Eurasia Drilling Company
- 34 year career with Schlumberger
- BEng at University of Dublin, Chartered Engineer

Peter Damouni
Company Secretary

- Over 14 years' of experience in oil and gas corporate finance
- Advised on private placements, IPOs, structured products and merger & acquisition
- Previously held senior roles at Investment Banks

Soma's Advisers



Legal Advisers



Anti-bribery & Corruption
Adviser

Akin Gump
Strauss Hauer & Feld

Oil & Gas Adviser

Geological & Technical Advisers



Technical &
Geological Advisers



Technical &
Geological Advisers

Other Advisers



Auditors



Professional Services
and Accountants



Public Relations and Strategic
Communications Adviser

Soma Oil & Gas Strategy



- ▶ Evaluate hydrocarbon potential targeting unexplored deepwater
- ▶ Build relationship with new Federal Government of Somalia (FGS)
- ▶ Support capacity build of Somali Ministry of Petroleum and Mineral Resources (as requested)
- ▶ Membership of Extractive Industries Transparency Initiative (EITI)
- ▶ Execute Exploration Programme as per Seismic Option Agreement with FGS
- ▶ Gather and evaluation legacy geological and geophysical data on Somalia
- ▶ Acquire and process 2D seismic offshore Somalia
- ▶ Interpret 2D seismic & target blocks for development
- ▶ Deliver all Exploration Programme data to Somali Ministry of Petroleum & Mineral Resources
- ▶ Apply for PSAs under agreed terms of SOA (up to 60,000 km²)
- ▶ Negotiate terms of PSAs with Somali Ministry of Petroleum & Mineral Resources
- ▶ Seek farm-in and/or investment for further exploration & development



SEISMIC OPTION AGREEMENT

EXPLORATION PROGRAMME

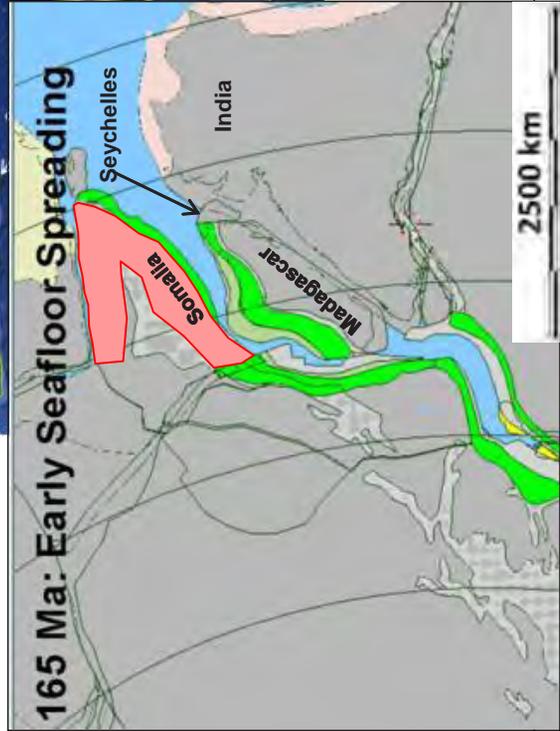
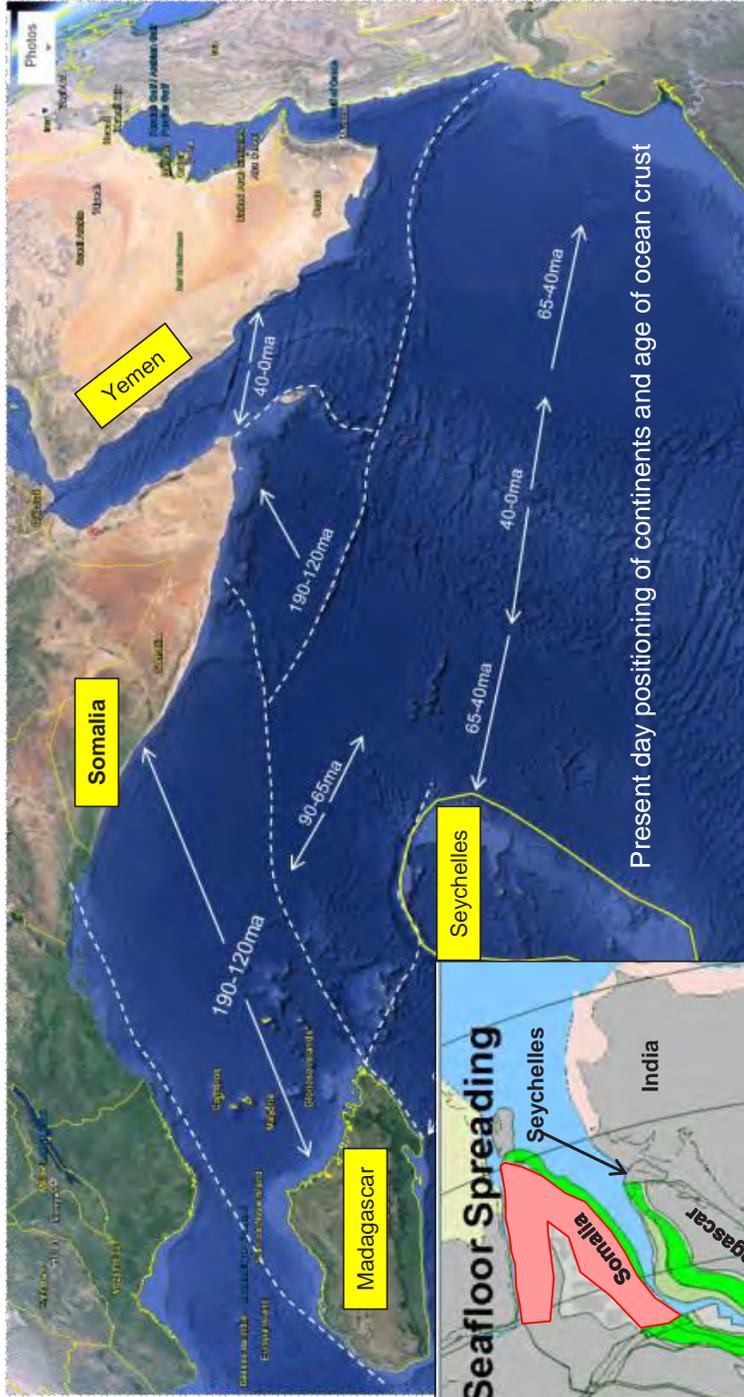
PHASE 1. REGIONAL EVALUATION

Regional Evaluation Completed – April 2014



- ▶ **Data Acquisition and Compilation**
 - Purchase of 4,270 km of existing onshore seismic and 7,416 km of existing offshore seismic
 - Purchase of data on 20 onshore wells and 2 offshore wells
 - Purchase of available consultant and oil company reports on oil exploration activities in Somalia
 - Download of data on relevant Deep Sea Drilling Project (DSDP) wells offshore Somalia
 - Download of Lamont-Doherty 1980-81 academic seismic relevant to offshore Somalia
- ▶ **Studies**
 - Study and interpretation of all of the purchased data listed above
 - Public domain research into regional geology of surrounding East African countries
 - Plate tectonic reconstructions for western Indian Ocean
- ▶ **Report**
 - Report documenting the compiled data and study results was completed in April 2014

Somalia Plate Reconstruction in Jurassic

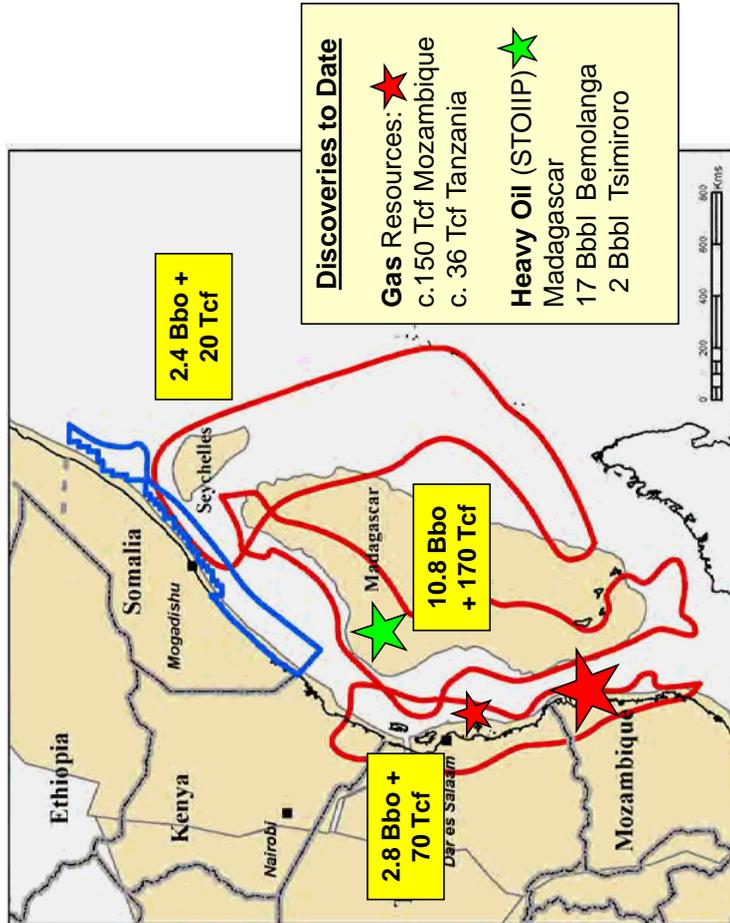
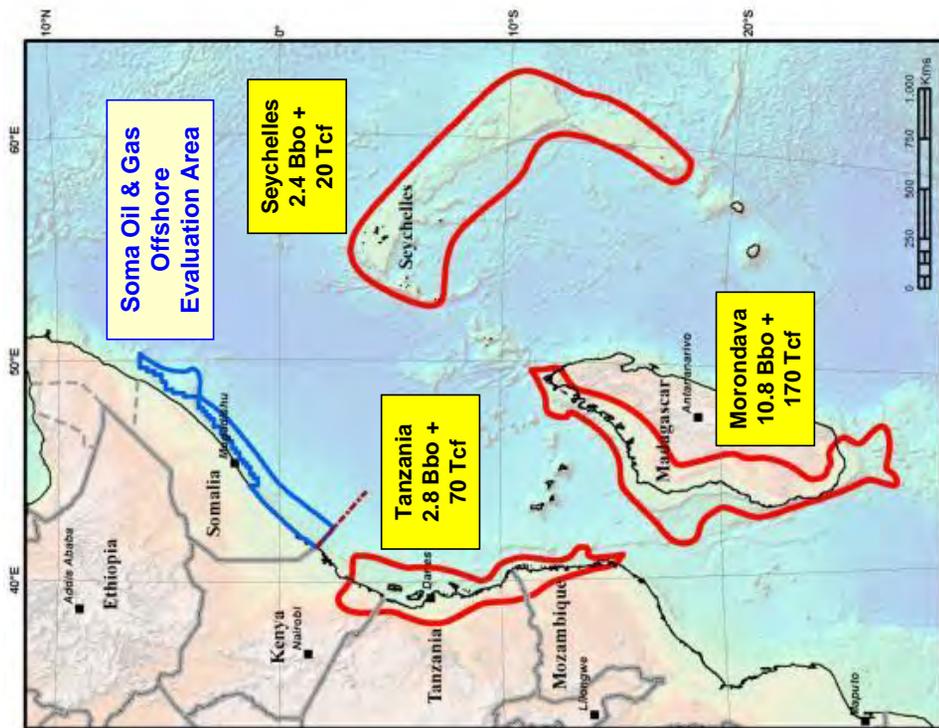


Mid Jurassic plate reconstruction places Somalia immediately opposite north-west Madagascar and Seychelles during the critical period of hydrocarbon source rock deposition

USGS Estimated Undiscovered Resources (2012)



- USGS estimate total Undiscovered Resources of 16 billion barrels of oil and 260 Tcf gas in provinces bordering Soma Oil & Gas Offshore Evaluation Area in Somalia offshore waters
- Plate reconstruction to Lwr. Jurassic – time of deposition of hydrocarbon source rocks – emphasises the relevance of the adjacent data



Discoveries to Date

Gas Resources: ★ c.150 Tcf Mozambique
c. 36 Tcf Tanzania

Heavy Oil (STOIIIP) ★
Madagascar
17 Bbbl Bemolanga
2 Bbbl Tsimiroro



SEISMIC OPTION AGREEMENT

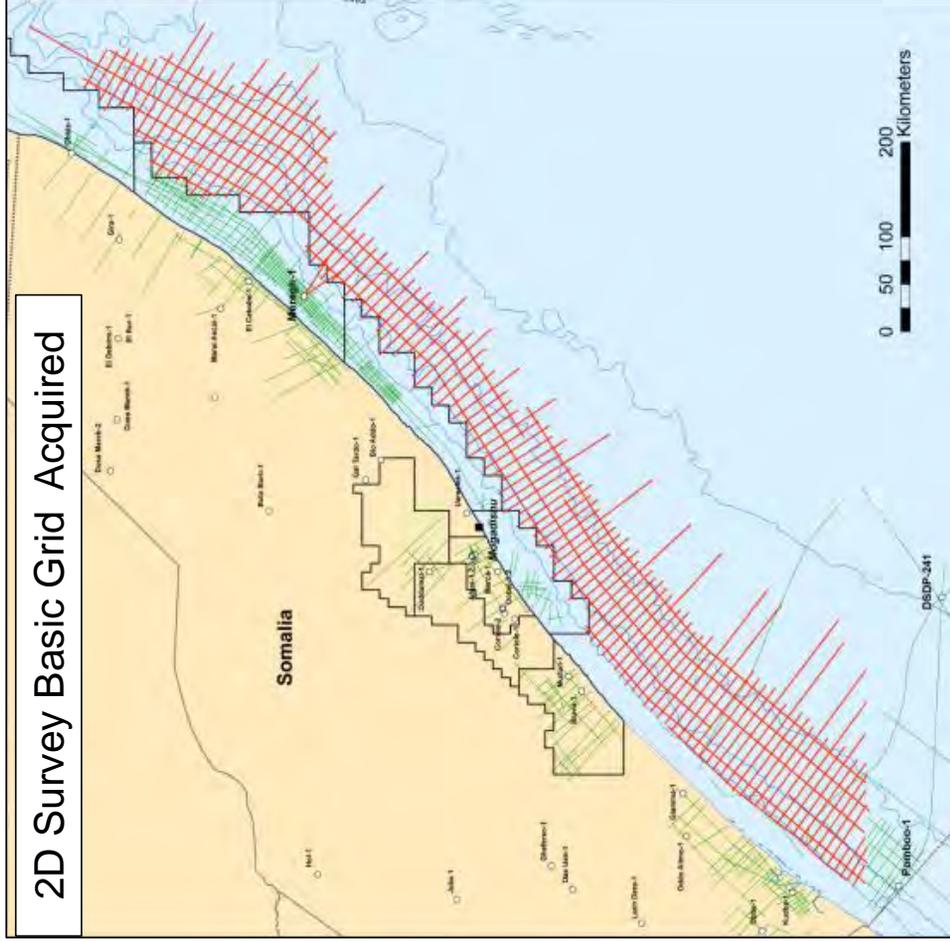
EXPLORATION PROGRAMME

PHASE 2. SEISMIC ACQUISITION & DATA PROCESSING

Seismic Acquisition Programme – February to May 2014



2D Survey Basic Grid Acquired



Acquisition Strategy

- Interpret on-board processed data
- Real time Infill where good prospectivity seen

Seismic Survey

- 16,500 klm of 2D
- 4,000 line klm of infill lines
- Tie-in to Meregh 1 Well (Esso 1982)
- Excluded Legacy Concession & disputed territories

- Legacy Seismic
- 2D seismic acquired by Soma 2014

Completion of the 2D Seismic Acquisition – June 2014



- ▶ Seismic acquisition programme successfully concluded by June 2014, within 10 months of signing the SOA
 - Two seismic vessels and eight support vessels (security)
 - 110 days to complete
 - 72% operational time; 28% downtime (including crew changes, excl. Mob/Demob)
 - Zero security and HSE incidents



Northern Explorer

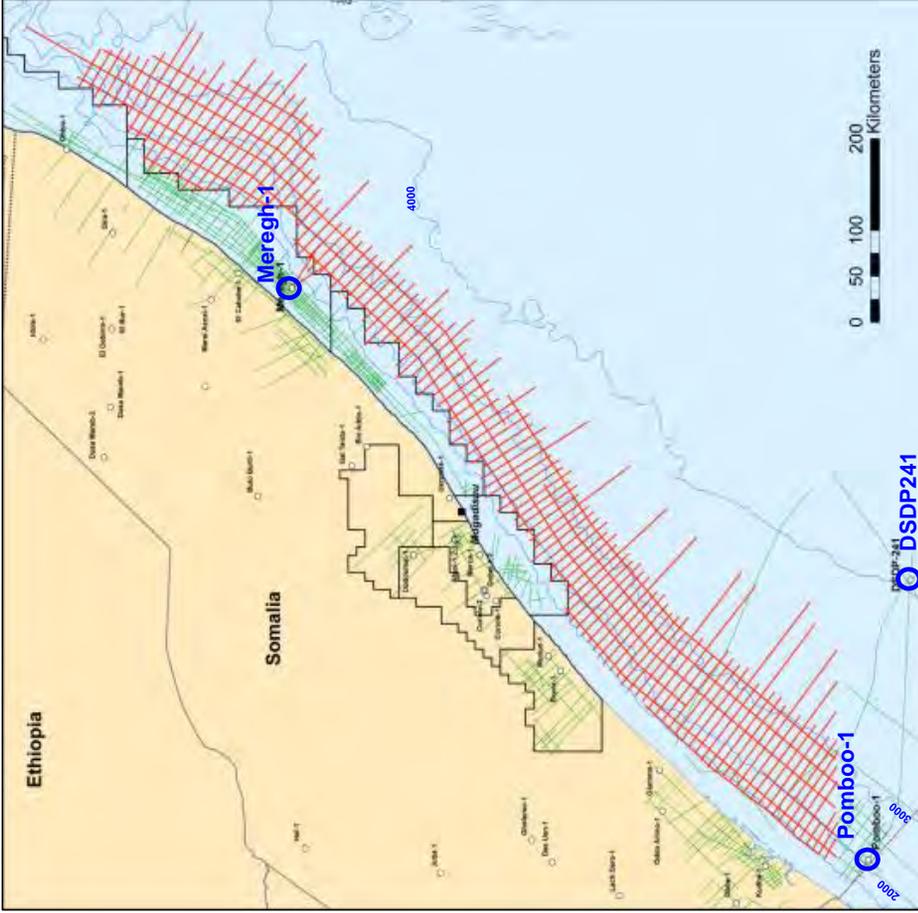


Hawk Explorer

Seismic vessel flanked by security/support vessels



Challenging Stratigraphic Calibration



Note* DSDP = Deep Sea Drilling Project

— Legacy Seismic
— 2D seismic acquired by Soma 2014



EXPLORATION PROGRAMME

SEISMIC DATA PROCESSING & RESERVOIR POTENTIAL

Well Tie to Meregh-1



Only direct well tie for 2D survey – to Meregh-1 on shelf

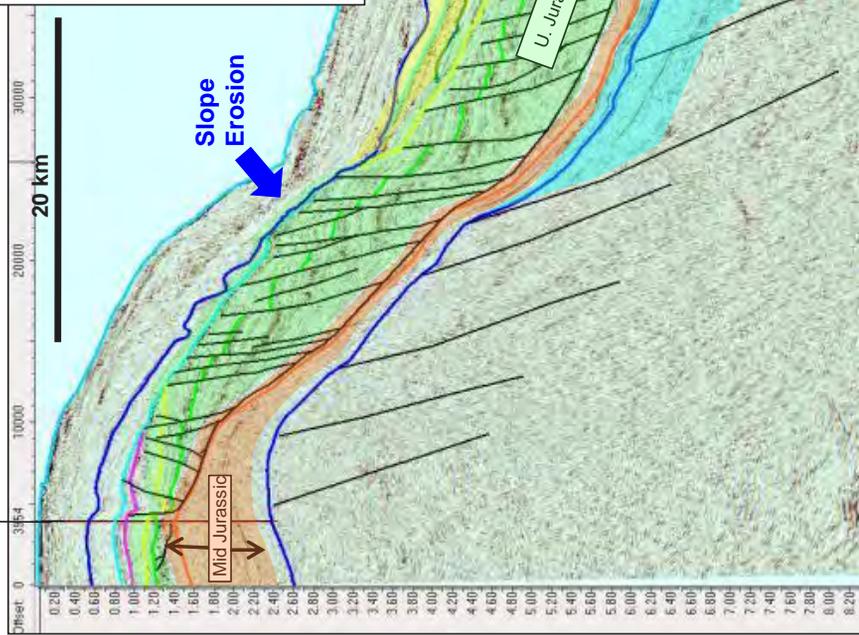
– But correlation into deep water basin is complex

- Lwr Jurassic syn-rift (Blue) absent at well, and poorly imaged in basin due to depth
- Mid Jurassic (Orange) thick on shelf and thins depositionally into basin
- U. Jurassic & Lwr Cretaceous (Green) thickens into basin but deformed by gravity sliding and eroded at Mid Cretaceous unconformity
- Thick wedge of U. Cretaceous (Yellow) onlaps basin slope and not represented in well
- U Cretaceous and Lwr Tertiary absent on basin slope due to localised erosion

Hence:

- Stratigraphic age calibration into basin remains uncertain
- But geology in the basin is quite different to the shelf

Meregh-1
(Esso 1982)



Source and Reservoir Potential



Possible Source Rocks Offshore Somalia

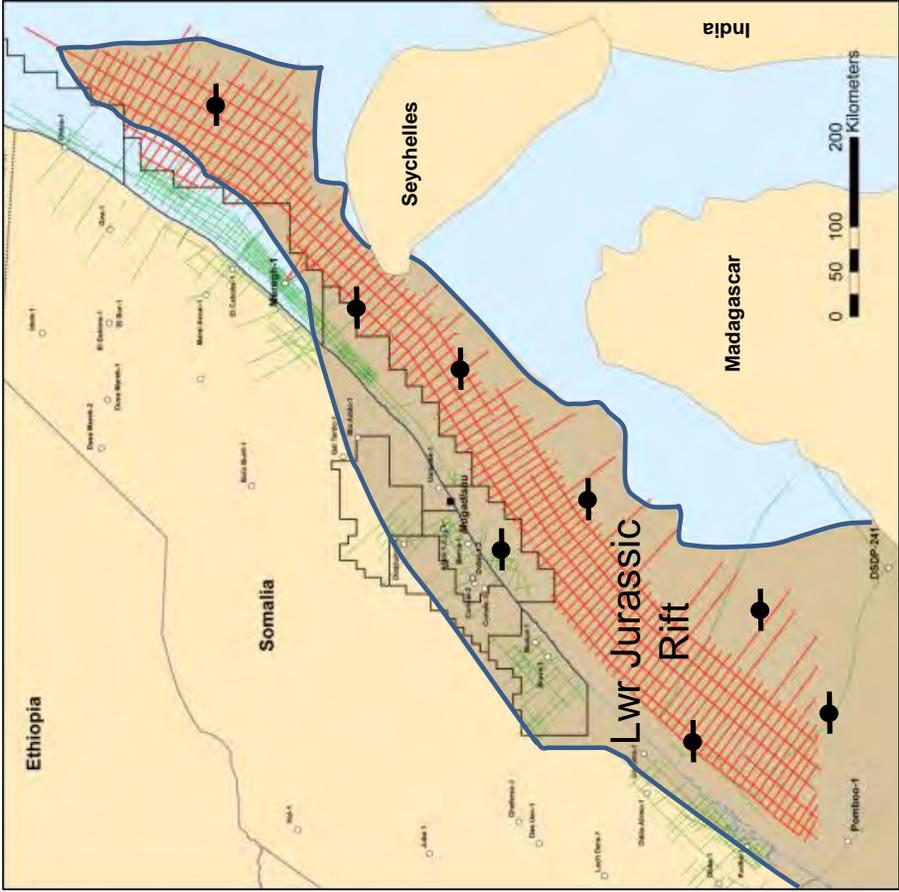
Evidence

- Upper Jurassic
Global anoxic event. Known in Ogaden Basin in Ethiopia, and in north Somalia
- Mid Jurassic
Beronono outcrop, Madagascar -- Excellent oil prone source, >10% TOC (Hunt Oil, 2007), expected to be present in deep water facies of Mid Jurassic
- Lower Jurassic
Lacustrine sources inferred to be present in syn-rift facies observed on seismic
- Permo/Triassic
Lacustrine Karoo sources well developed in Madagascar – source of giant heavy oil fields, and present in Ogaden Basin in Ethiopia

Interpreted Reservoir Rocks, Offshore Somalia

- Tertiary sandstone
Oligocene deep marine sands in mapped fan & channel system
- Upper Cretaceous sandstone
Multiple levels of deep marine channel & fan sands interpreted in delta front setting
- Lower Cretaceous / Upper Jurassic Limestone
Shallow marine limestone facies interpreted on shelf margins and faulted into basin
- Mid Jurassic Limestone
Mid Jurassic carbonate reefs and shoals clearly evident on seismic
- Triassic sandstone
Karoo continental alluvial fan sands expected in pre-rift

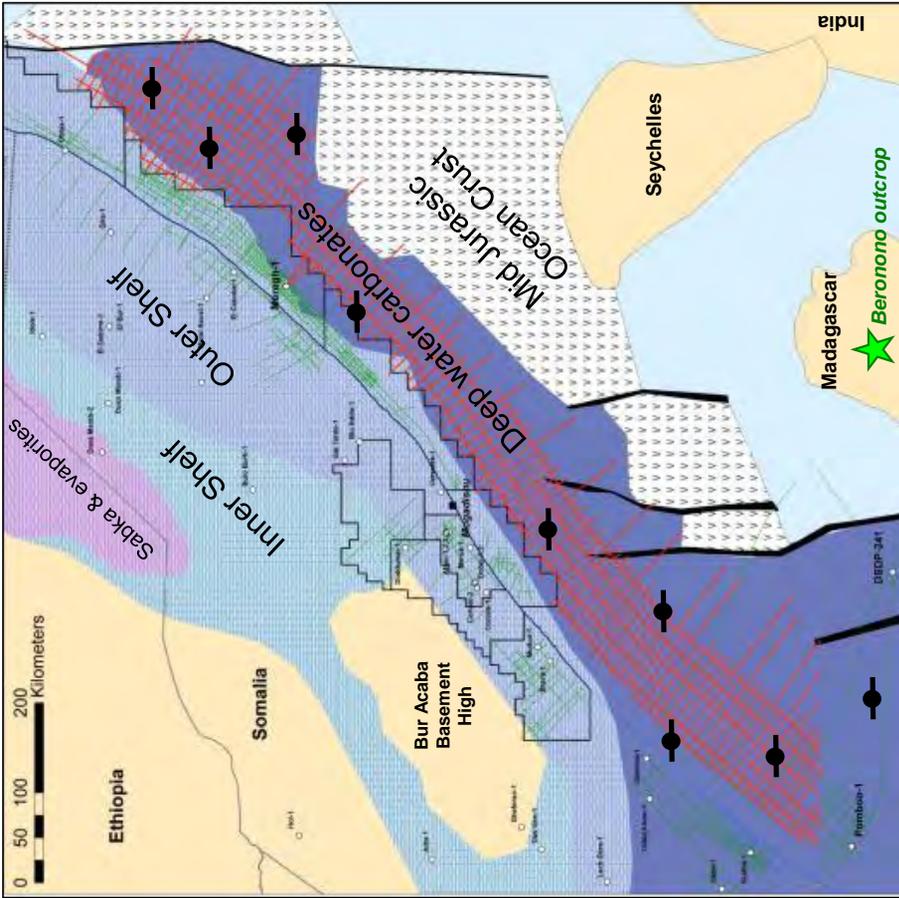
Lower Jurassic Rift – Source Rock Deposition



▲ Map shows the area of the Lower Jurassic rift (200-175 MY) which preceded the sea floor spreading that moved the Madagascar and Seychelles plates to the south

- Rift was predominantly located in present day offshore Somalia
- Lower Jurassic source rocks inferred to be present in the rift section
- Rift area also localises deep water areas in Mid & Upper Jurassic where additional source rocks are likely

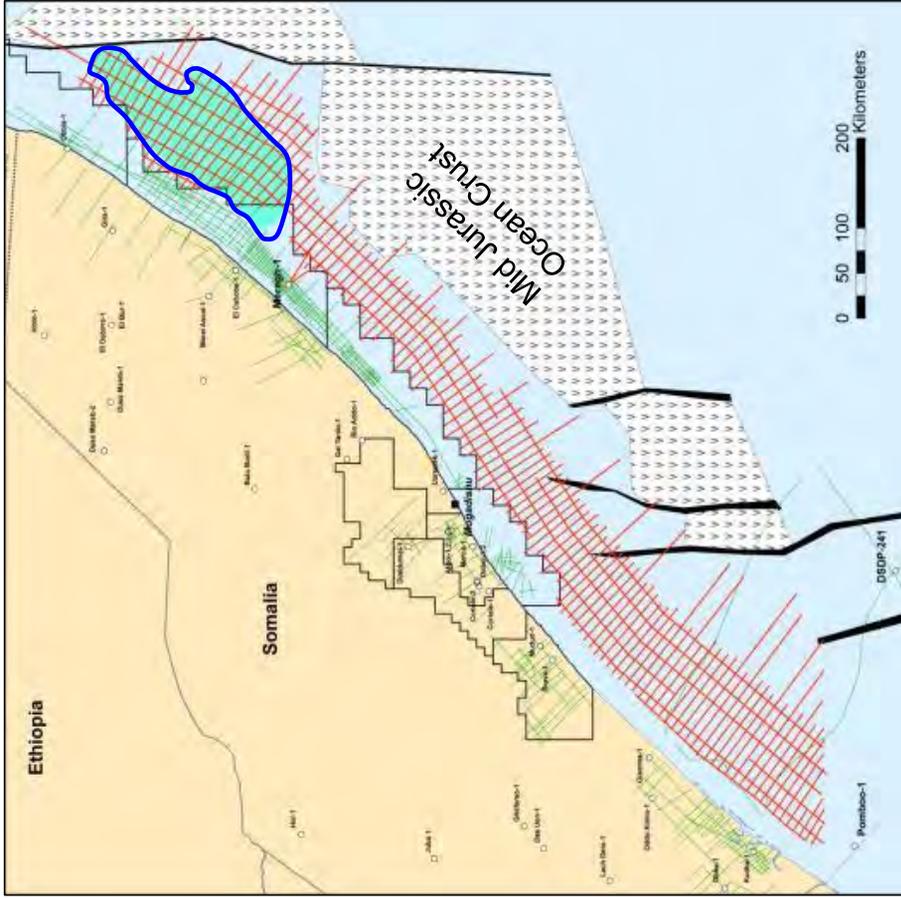
Middle Jurassic Early Drift – Source Rock Deposition



▲ Map shows the depositional facies of the Mid Jurassic just after the start of oceanic spreading between Somalia and the Madagascar/Seychelles plates

- Seismic evidence indicates that deep marine Mid Jurassic facies offshore Somalia are located almost entirely in present day deep water
- Middle Jurassic source rocks likely to concentrate in the deep water facies
- High quality Mid Jurassic source rocks known from Beronono outcrop and well data in Madagascar

Late Middle Jurassic – Carbonate Reservoirs

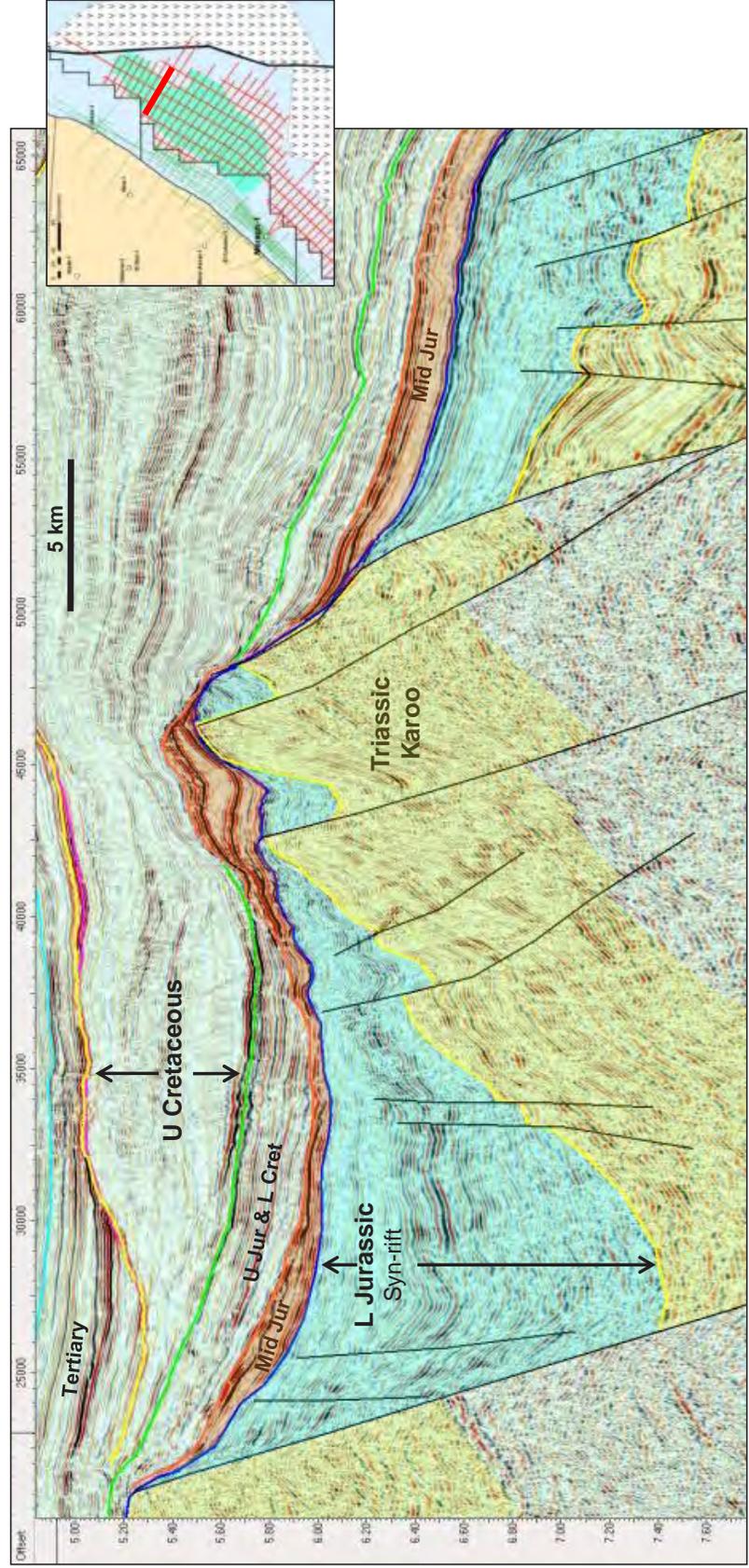


- ▶ Area at the north end of the survey interpreted as Late Mid Jurassic carbonate reef and shallow water shoal facies
- ▶ Potentially high quality reservoir rocks

Late Middle Jurassic – Carbonate Reservoirs



- Mid Jurassic carbonate buildup localised on crest of large rotated fault block – possible Trap & Reservoir
- Potential for source rocks in off-structure deeper water facies of Mid Jurassic
- Additional source potential in Lower Jurassic syn-rift
- Additional reservoir potential in sandstones of Triassic Karoo fault block



Late Middle Jurassic – Carbonate Reef Example

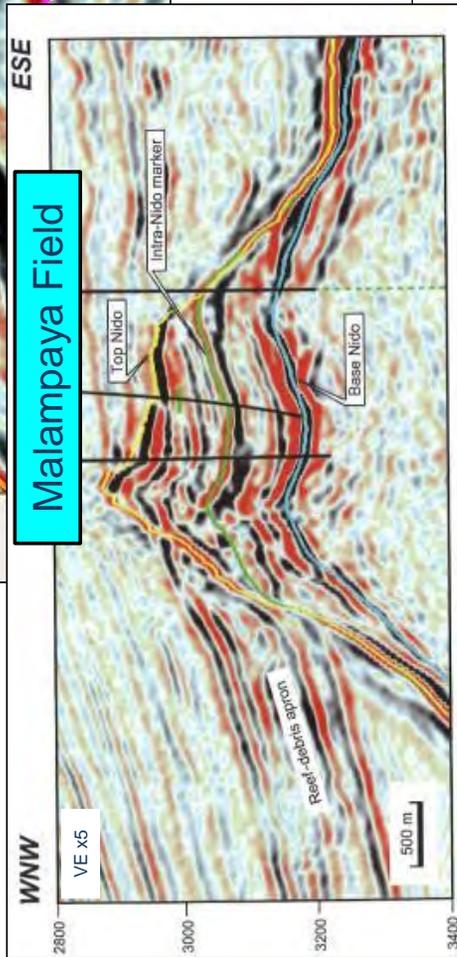
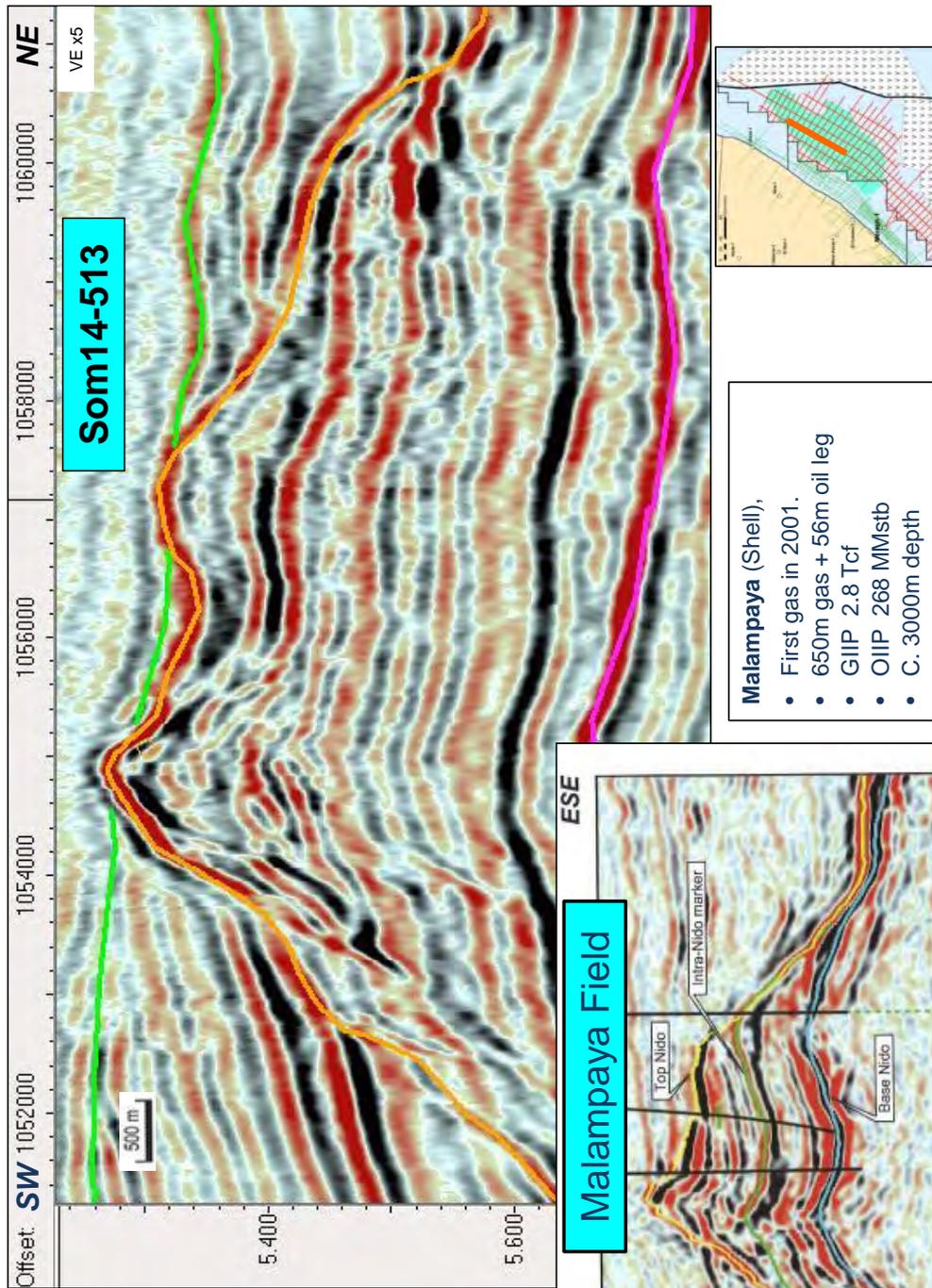


Offshore Somalia Mid Jurassic carbonate buildup on Line SOM14-513



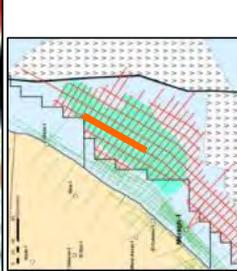
Shown at c. same scale as:

Malampaya Field (Oligocene) carbonate reef in the Philippines

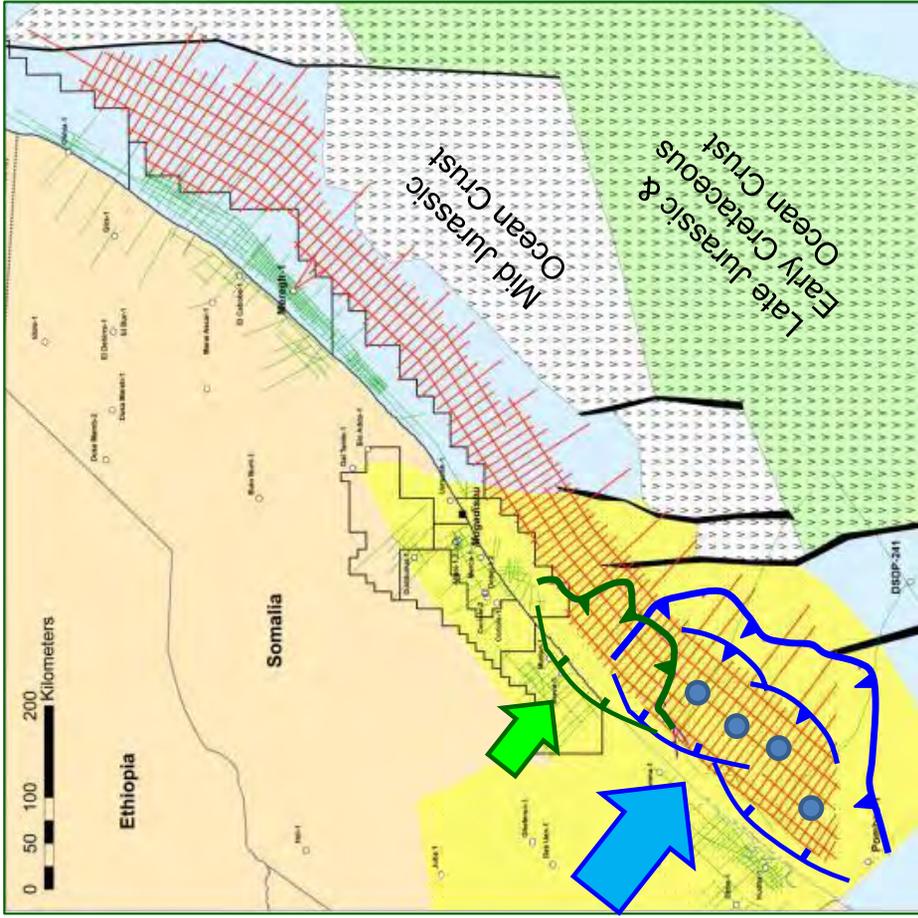


Malampaya (Shell),

- First gas in 2001.
- 650m gas + 56m oil leg
- GIIP 2.8 Tcf
- OIIP 268 MMstb
- C. 3000m depth



Upper Cretaceous – Clastic Delta Play



▲ Large Clastic delta system dominated deposition in the South of the region during Upper Cretaceous and Tertiary

▲ Major Upper Cretaceous delta (blue arrow) entered the basin from the NW. Deposition in offshore area was mainly delta slope and pro delta shales plus channel and fan sands expected to form excellent reservoirs

■ Gravitational collapse of the delta in Paleocene, with listric normal faults nearshore and a major toe-thrust zone further offshore

■ Pro-delta muds underlying the delta became mobilised and intruded vertically as diapirs in the centre of the system

▲ Focus of delta deposition moved to north in Tertiary (green arrow) and this system also underwent gravity collapse in the Late Tertiary

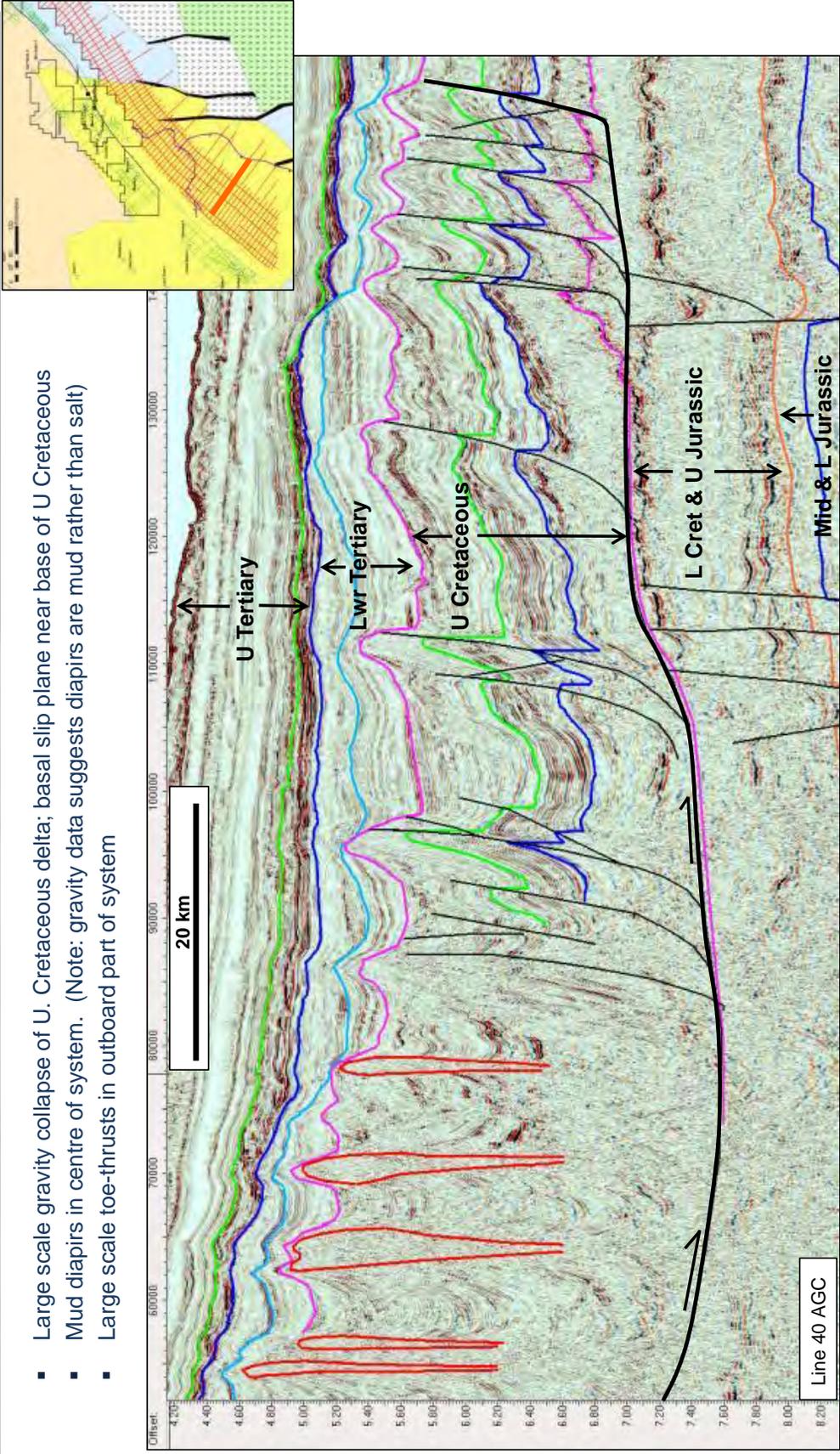
▲ System provides:

- Multiple Reservoir sands
- Large Trapping Structures

Gravity Collapse of Upper Cretaceous Delta



- Large scale gravity collapse of U. Cretaceous delta; basal slip plane near base of U Cretaceous
- Mud diapirs in centre of system. (Note: gravity data suggests diapirs are mud rather than salt)
- Large scale toe-thrusts in outboard part of system





**SEISMIC OPTION AGREEMENT
NOTICE OF COMPLETION
DATA DELIVERY TO SOMALI MINISTRY
NOTICE OF APPLICATION**

Completion of Seismic Option Agreement & Data Delivery



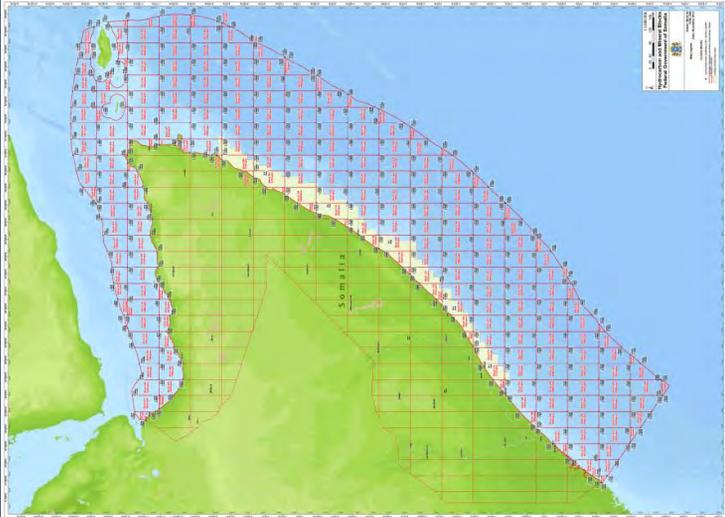
- ▶ Soma has completed all its obligations under the Seismic Option Agreement with the Federal Government of Somalia
- ▶ Soma delivered all legacy data gathered and Soma's acquired & processed 20,500 kilometres of 2D Seismic data at the opening ceremony of the Somali Ministry of Petroleum & Mineral Resources new Office and Data Room in Mogadishu on 9th December 2015
- ▶ The Ministry of Petroleum & Mineral Resources have appointed Spectrum ASA to market this data on their behalf

Notice of Application for PSAs

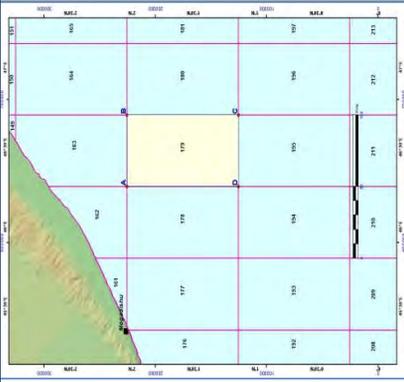


- ▶ Notice of Application for PSAs signed by Minister of Petroleum & Mineral Resources 9 Dec 2015
- ▶ Based on 5,000 sq km Block Grid defined by the Somali Ministry of Petroleum & Mineral Resources

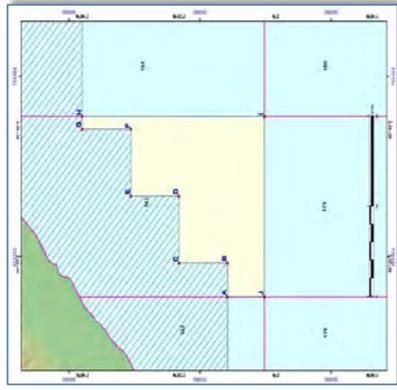
Somali Government Block Design



Examples of PSA Definition

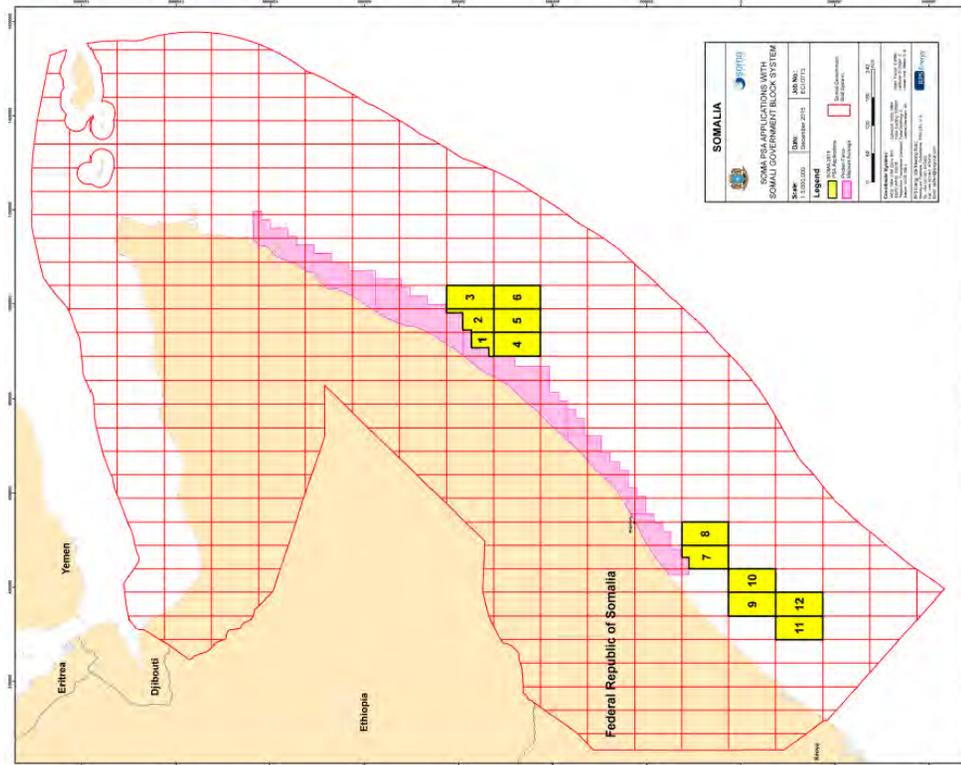


Single Block PSA
(5,000 square
kilometres)



PSA Block abutting
legacy concession

Notice of Application for PSAs



- ▶ Soma signed a Notice of Application for PSAs with the Somali Ministry of Petroleum & Mineral Resources on 9 December 2015.
- ▶ The Notice of Application:
 - ▶ Delineates up to 12 PSAs which target prospects identified for further exploration
 - ▶ Delineates a total acreage of 54,807 square kilometres in aggregate

Legend

- Legacy Concession
- 2D seismic acquired by Soma 2014



INVESTMENT IN SOMALIA

Investments to date in Somalia (~\$53 million)



- \$39.5 million under Seismic Option Agreement:
 - Regional evaluation, historical data purchases, technical analysis: \$5 million
 - Seismic survey: \$20.4 million
 - Seismic processing: \$1.3 million
 - Survey security: \$12.2 million
 - Data Room support: \$0.1 million
 - Legal Fees for government advisors: \$0.5 Million
- Capacity Building Agreement for Ministry: \$0.58 Million
- Mogadishu Office: \$1.4 million
- \$11 million in administration expenses since 2013
- Expenditure plan 2016: \$15 million (fully funded)

Summary and next steps



- ▶ Established relationship with the Federal Government of Somalia
 - Provision of legacy and 2D seismic data to establish Data Room in Mogadishu
 - Support provided under separate Capacity Building Agreement
 - Support for Extractive Industries Transparency Initiative
 - Technical & social responsibility input to PSA framework
- ▶ Re-opened offshore Somalia for hydrocarbon exploration
- ▶ Evaluation of seismic & basin modelling shows deepwater is highly prospective
- ▶ Have applied for up to 12 PSAs (Soma Oil & Gas has rights up to 60,000 km²)
- ▶ Farm out process resumes
- ▶ Convert Notice of Application into PSAs when:
 - ▶ Model PSA is available from Somali Ministry of Petroleum and Mineral Resources
 - ▶ Federal Government agrees revenue sharing with Federal Member States



ADDITIONAL INFORMATION

EITI Support Statement



- ▶ Soma Oil & Gas supports the Extractive Industries Transparency Initiative (EITI) and its aim to increase transparency, accountability and strong corporate governance
- ▶ We became a corporate supporter of EITI in February 2015
- ▶ Soma Oil & Gas is also actively supporting the Government of the Federal Republic of Somalia in its ambition to become an EITI compliant country
- ▶ EITI website www.eiti.org





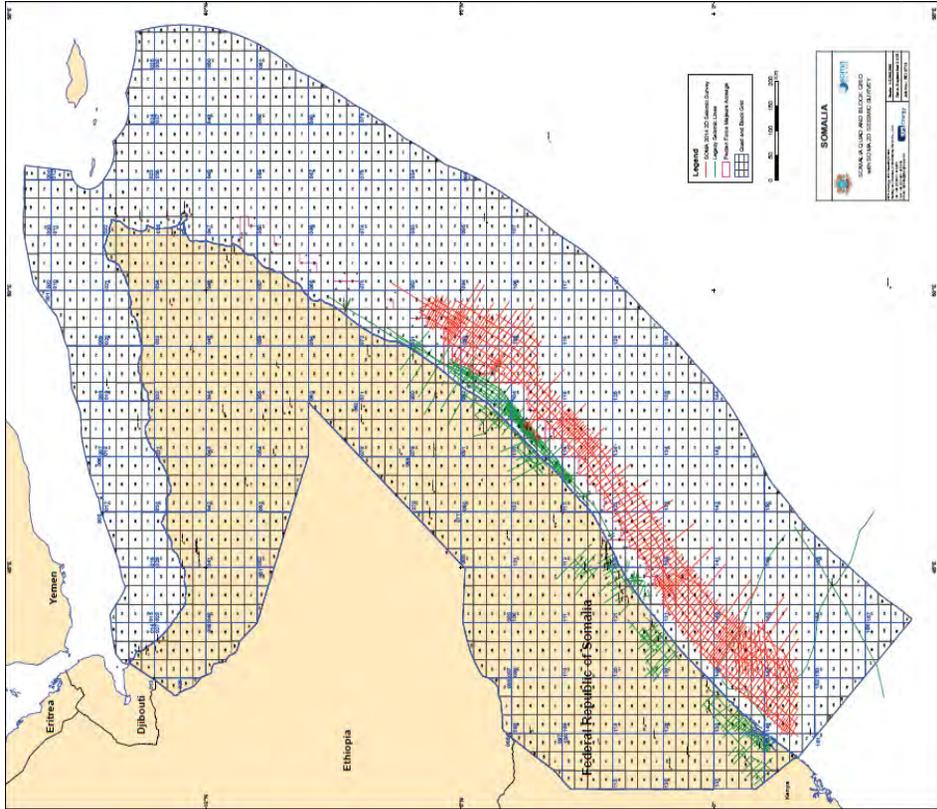
REOPENING OIL & GAS EXPLORATION IN SOMALIA

Chronology of efforts to reopen exploration



- 7 Oct 2013, Soma lead sponsor & keynote speaker at the Premier Somali Oil and Gas Summit
- 6 Jun 2014, Soma announces Completion of the 2D Seismic Acquisition Programme
- 13 Jun 2014, on the back of Soma's success. HE Minister Daud Mohamed Omar, Minister of Petroleum and Mineral Resources visited Shell & ExxonMobil in The Hague
- 20 Oct 2014, Soma lead sponsor and keynote speaker at the 2nd Somalia Oil & Gas Summit
- 27/28 Apr 2015 Soma co-sponsors 1st International Forum on Somalia Oil, Gas & Mining
- 27 Apr 2015, at the conference, Soma announces completion of the Processing of the 2D Seismic Data and anticipates transfer of Exploration Data to FGS by 1 Aug 2015
- 7 Sep 2015, Spectrum signed agreement with FGS to acquire 28,000 km of 2D seismic data
- 7 Sep 2015, Spectrum awarded the rights to sell Exploration Data on behalf of FGS
- 9 Dec 2015, Ministry of Petroleum & Mineral Resources new office with Data Room opened
- 28 Dec 2015, Ministry of Petroleum & Mineral Resources hires a legal advisor to develop a model PSA
- 2 May 2016, Ministry of Petroleum & Mineral Resources announces that Spectrum ASA has completed its seismic survey acquiring 20,583 km of 2D seismic data

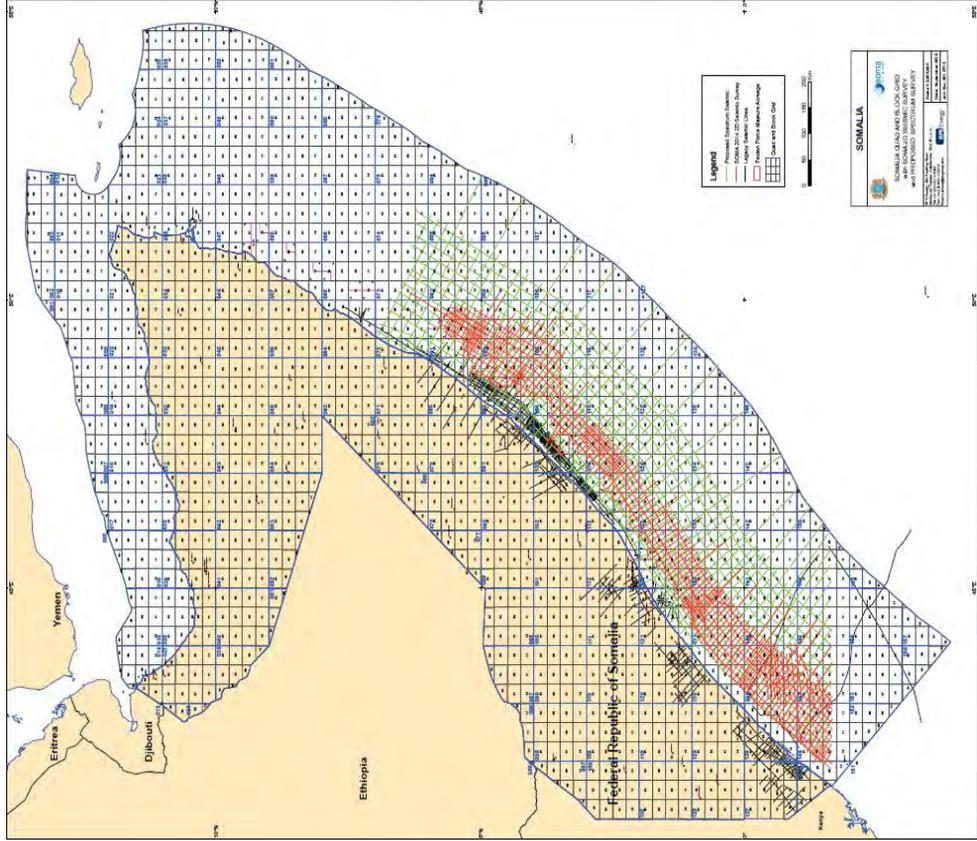
Soma's 2D Seismic Survey in 2014



Legacy 2D seismic lines in Green

- Soma 2D seismic survey in red
- 20,500 2D kms acquired
- March to June 2014 (110 Days)

Spectrum's 2D Seismic Survey in 2015-2016



Spectrum Survey Plan 2015 in **Green**

- Includes Shell & Exxon's *Force Majeure* acreage
- Covers more of shallow water
- Infill of Soma's survey
- Explores to ultra deep ocean
- Excludes Jorra block in south
- Stops at Puntland in North
- 28,000 2D kms planned
- Started 9 December 2015

Completed on 2 May 2016

- BGP Pioneer acquired 2D
- 20,583 2D kms acquired

- Legacy Seismic in **Black**
- Soma 2D Seismic in **Red**
- Spectrum Survey Plan in **Green**

Annex 31

Schlumberger, Ltd., “Multiclient Latest Projects: Kenya Deepwater 2D 2013 Multiclient Seismic Survey”, *available at* http://www.multiclient.slb.com/latest-projects/africa/kenya_2d.aspx (last accessed 11 May 2018)

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Latest Projects

Africa Seismic Surveys

- Angola Blocks 46–48 3D Depth Imaging
- Egypt Red Sea 2018 2D Survey
- Mozambique Angoche 3D Survey
- Mozambique 2D Survey
- Kenya Deepwater 2D Multiclient Seismic Survey
- Guinea 2D 2017 Reprocessing Survey

Multiclient Latest Projects: Kenya Deepwater 2D 2013 Multiclient Seismic Survey

Overview **Data Library**

While major discoveries have been made along the East African margin in recent years, the Lamu basin of Kenya remains underexplored. Covering both onshore and offshore, the Lamu basin forms part of the Kenyan passive continental margin.

Over the past few years, Schlumberger has developed several large acquisition and reprocessing projects in East Africa, including the introduction of 2D multiclient ObliQ sliding-notch broadband acquisition and imaging technique in 2013.

In Kenya, the ObliQ technique is bringing a new understanding of the deepwater offshore Lamu basin, imaging complex geological features and opening new avenues for exploration.

Available Now

Petrel E&P software platform and SEG-Y deliverables available now.

First insights into deepwater offshore geology with data covering open blocks L25, L26, L29, and L30.

Benefits

The benefits of broadband seismic technology can be seen in the clarification of impedance contrasts within the data, enabling easier differentiation of sedimentary packages that is vital in a previously unexplored and largely undrilled area. The additional low frequencies give the signal an envelope that enables lithological variations to be more easily distinguished and improves the correlation of horizons across faults. The improved low-frequency content also enables good imaging of deeper potential reservoirs.

Based on its study of the available data, Schlumberger and its partner, National Oil Corporation of Kenya (NOCK), are building a solid understanding of the basin and producing a new generation of fit-for-purpose products.

This 2D multiclient seismic survey covers the deepwater blocks offshore Kenya and provides new insights into the prospectivity of the Lamu basin. The data will be available for the upcoming licensing round.

Key facts

- Over 9,000 km of 2D broadband data acquired using the ObliQ technique, completed in March 2014.
- Tilted transverse isotropy (TTI) Kirchhoff prestack time migration (PSTM), completed in July 2014

Key highlights

- 2D surface multiple prediction
- 2D anisotropic TTI Kirchhoff prestack time migration
- Spatially continuous velocity analysis
- Angle stacks and inversion-ready gathers
- Available initial geology report based on vintage data interpretation
- Improved resolution of complex geological features like channels, tilted blocks, and basin floor fans

[Request More Information](#)

Kenya High-Res Seismic Offers New Prospectivity Insights



[View image](#)

More than 9,000 km of high-res 2D multiclient seismic from Kenya's Deepwater Lamu basin.

1 of 3

United Kingdom: +44 1293 55 6533

[Seismic Acquisition](#)

[Survey Design & Modeling](#)

[Geophysical Processing & Characterization](#)

Annex 32

Vivian Louis Forbes, THE MARITIME BOUNDARIES OF THE INDIAN OCEAN REGION (1995)

95-948109

THE MARITIME BOUNDARIES OF THE INDIAN OCEAN REGION



Vivian Louis Forbes

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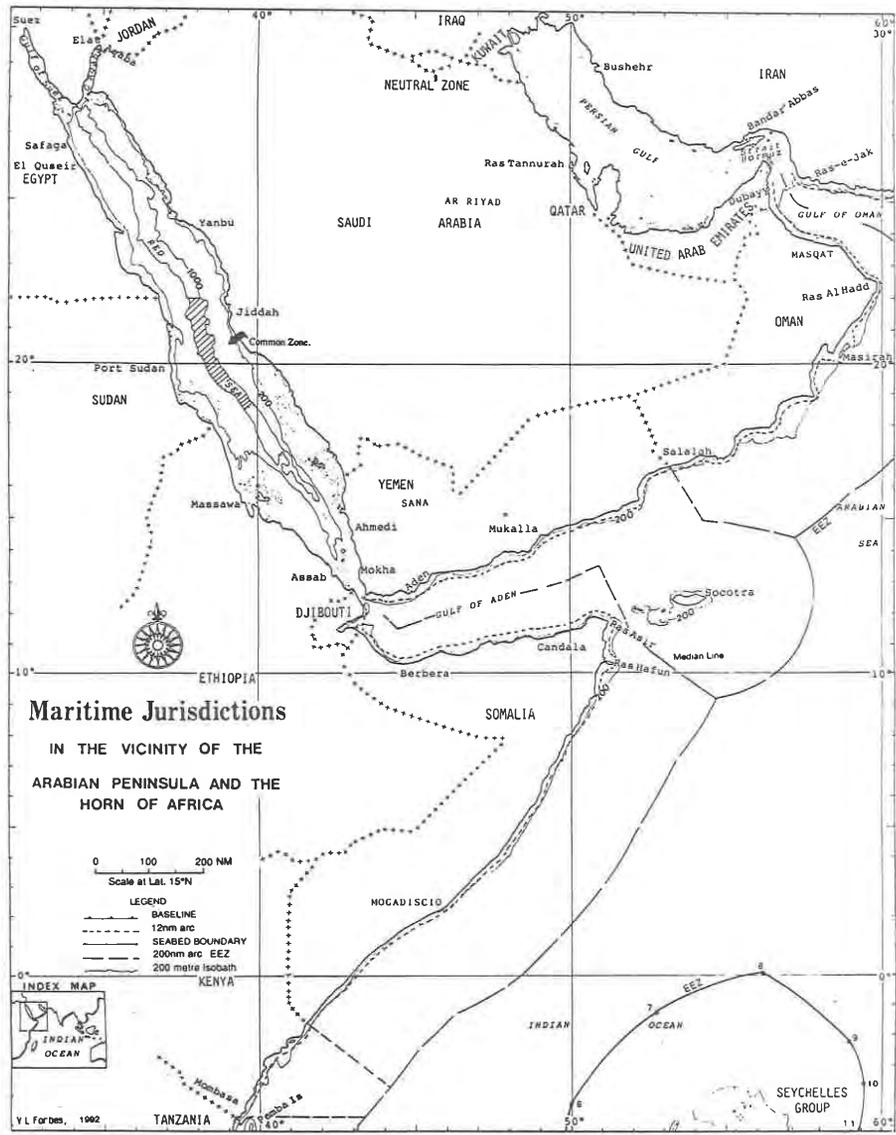
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95-948109

MAP 2
MARITIME JURISDICTIONS IN THE VICINITY OF THE ARABIAN
PENINSULA AND THE HORN OF AFRICA

In the southern portion of the map only one negotiated maritime boundary exists. It is the boundary between Kenya and Tanzania. Further east from this boundary the Seychelles government has defined its EEZ.

The only negotiated boundary in the Red Sea is the Common Zone of Exploitation established by Saudi Arabia and Sudan. The boundary of the Common Zone is the 1000 m isobath. The negotiated continental shelf boundaries in the Persian Gulf are analysed in Map 6 and Maps 10 to 17 below. Excluding the undefined boundaries in the Persian Gulf there are 14 potential boundaries to be negotiated in the region. They are the boundaries between: Kenya and Somalia; Somalia and Djibouti; Somalia and Yemen; Yemen and Oman; Djibouti and Yemen; Djibouti and Ethiopia; Ethiopia and Sudan; Ethiopia and Saudi Arabia; Saudi Arabia and Yemen; Egypt and Saudi Arabia; Egypt and Israel; Egypt and Jordan; Jordan and Israel; and, Jordan and Saudi Arabia.



Map 2

Annex 33

International Law Commission, *Guiding Principles applicable to unilateral declarations of States capable of creating legal obligations, with commentaries thereto* in *Report of the International Law Commission on the work of its fifty-eighth session (1 May-9 June and 3 July-11 August 2006)*, U.N. Doc. A/61/10 (2006)

**Guiding Principles applicable to unilateral declarations of States
capable of creating legal obligations,
with commentaries thereto**

2006

Text adopted by the International Law Commission at its Fifty-eighth session, in 2006, and submitted to the General Assembly as a part of the Commission's report covering the work of that session (A/61/10). The report, which also contains commentaries on the draft articles, will appear in *Yearbook of the International Law Commission, 2006*, vol. II, Part Two.



9. No obligation may result for other States from the unilateral declaration of a State. However, the other State or States concerned may incur obligations in relation to such a unilateral declaration to the extent that they clearly accepted such a declaration;

10. A unilateral declaration that has created legal obligations for the State making the declaration cannot be revoked arbitrarily. In assessing whether a revocation would be arbitrary, consideration should be given to:

- (i) Any specific terms of the declaration relating to revocation;
- (ii) The extent to which those to whom the obligations are owed have relied on such obligations;
- (iii) The extent to which there has been a fundamental change in the circumstances.

2. Text of the Guiding Principles with commentaries thereto adopted by the Commission at its fifty-eighth session

177. The text of the Guiding Principles together with commentaries⁹²¹ thereto adopted by the Commission at its fifty-eighth session is reproduced below.

Guiding Principles applicable to unilateral declarations of States capable of creating legal obligations

The International Law Commission,

Noting that States may find themselves bound by their unilateral behaviour on the international plane,

Noting that behaviours capable of legally binding States may take the form of formal declarations or mere informal conduct including, in certain situations, silence, on which other States may reasonably rely,

Noting also that the question whether a unilateral behaviour by the State binds it in a given situation depends on the circumstances of the case,

Noting also that in practice, it is often difficult to establish whether the legal effects stemming from the unilateral behaviour of a State are the consequence of the intent that it has expressed or depend on the expectations that its conduct has raised among other subjects of international law,

⁹²¹ These commentaries are explanatory notes reviewing the jurisprudence of the International Court of Justice and pertinent State practice analysed by several members of the Working Group and the Special Rapporteur and summarized in the eighth report of the Special Rapporteur (A/CN.4/557).

Adopts the following Guiding Principles which relate only to unilateral acts *stricto sensu*, i.e. those taking the form of formal declarations formulated by a State with the intent to produce obligations under international laws.

1. Declarations publicly made and manifesting the will to be bound may have the effect of creating legal obligations. When the conditions for this are met, the binding character of such declarations is based on good faith; States concerned may then take them into consideration and rely on them; such States are entitled to require that such obligations be respected.

Commentary

(1) The wording of Guiding Principle 1, which seeks both to define unilateral acts in the strict sense and to indicate what they are based on, is very directly inspired by the *dicta* in the Judgments handed down by the International Court of Justice on 20 December 1974 in the *Nuclear Tests* case.⁹²² In the case concerning the *Frontier Dispute (Burkina Faso v. Republic of Mali)*, the Court was careful to point out that “it all depends on the intention of the State in question”.⁹²³

(2) Most of the cases studied illustrate this principle. Besides the declarations made by France in 1974 on the cessation of nuclear tests in the atmosphere, the public nature of the declaration made by Egypt on 24 April 1957 on the Suez Canal⁹²⁴ and Jordan’s waiver of claims to the West Bank territories⁹²⁵ represent an important indication of their authors’ intention to commit themselves. The Ihlen Declaration, made during a purely bilateral meeting between the Minister for Foreign Affairs of Denmark and the Norwegian ambassador to Copenhagen,⁹²⁶ and the Colombian diplomatic note addressed solely to the Venezuelan authorities are not counter-examples: they relate only to bilateral relations between the two States concerned.⁹²⁷

⁹²² *Nuclear Tests (Australia v. France; New Zealand v. France)*, Judgments dated 20 December 1974, *I.C.J. Reports 1974*, pp. 267-8, paras. 43 and 46 and pp. 472-3, paras. 46 and 49.

⁹²³ *Case concerning the Frontier Dispute (Burkina Faso v. Republic of Mali)*, Judgment of 22 December 1986, *I.C.J. Reports 1986*, p. 573, para. 39.

⁹²⁴ Document A/CN.4/557, paras. 55-58; see also paras. 62 and 63.

⁹²⁵ *Ibid.*, paras. 44-45.

⁹²⁶ *Ibid.*, paras. 116-126; *Legal Status of Eastern Greenland*, Judgment of 5 April 1933, *P.C.I.J., Series A/B, No. 53*, p. 71. It should, however, be pointed out that whether this declaration constituted a unilateral act is controversial (see A/CN.4/557, para. 122).

⁹²⁷ See Guiding Principle 6 below.

2. Any State possesses capacity to undertake legal obligations through unilateral declarations.

Commentary

Just as “(e)very State possesses capacity to conclude treaties”,⁹²⁸ every State can commit itself through acts whereby it unilaterally undertakes legal obligations under the conditions indicated in these Guiding Principles. This capacity has been acknowledged by the International Court of Justice.⁹²⁹

3. To determine the legal effects of such declarations, it is necessary to take account of their content, of all the factual circumstances in which they were made, and of the reactions to which they gave rise.

Commentary

(1) The wording of Guiding Principle 3 is also inspired by a passage in the ICJ Judgments in the *Nuclear Tests* cases;⁹³⁰ allusion is made to this jurisprudence in the Judgments of 22 December 1986 in the *Frontier Dispute (Burkina Faso v. Republic of Mali)* case⁹³¹ and of 3 February 2006 in the *Armed Activities on the Territory of the Congo* case.⁹³² In the *Military and Paramilitary Activities in and against Nicaragua* and *Frontier Dispute* cases, the Court found nothing in the content of the declarations cited or the circumstances in which they were made “from which it [could] be inferred that any legal undertaking was intended to exist”.⁹³³

(2) Generally speaking, the cases studied by the Commission confirm the relevance of this principle. In the Commission’s view, it is particularly important to take account of the context

⁹²⁸ Vienna Convention on the Law of Treaties, 23 May 1969, article 6.

⁹²⁹ See the jurisprudence cited in support of Guiding Principles 1 and 3.

⁹³⁰ *Nuclear Tests (Australia v. France; New Zealand v. France)*, *I.C.J. Reports 1974*, pp. 269-70, para. 51, and pp. 474-5, para. 53.

⁹³¹ *Case concerning the Frontier Dispute (Burkina Faso v. Republic of Mali)*, *I.C.J. Reports 1986*, pp. 573-4, paras. 39-40.

⁹³² *Case concerning Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Rwanda)*, *Jurisdiction of the Court and Admissibility of the Application*, para. 49.

⁹³³ *Case concerning Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, Judgment of 27 June 1986, *I.C.J. Reports 1986*, p. 132, para. 261, and *Case concerning the Frontier Dispute (Burkina Faso v. Republic of Mali)*, *I.C.J. Reports 1986*, p. 573, para. 39.

and circumstances in which the declarations were made in the case of the Swiss statements concerning the privileges and immunities of United Nations staff,⁹³⁴ the Egyptian declaration of 1957⁹³⁵ and Jordan's waiver of claims to the West Bank territories.⁹³⁶

(3) Several of these examples show the importance of the reactions of other States concerned in evaluating the legal scope of the unilateral acts in question, whether those States take cognizance of commitments undertaken⁹³⁷ (or, in some cases, rights asserted⁹³⁸), or, on the contrary, object to⁹³⁹ or challenge the binding nature of the "commitments" at issue.⁹⁴⁰

4. A unilateral declaration binds the State internationally only if it is made by an authority vested with the power to do so. By virtue of their functions, heads of State, heads of Government and ministers for foreign affairs are competent to formulate such declarations. Other persons representing the State in specified areas may be authorized to bind it, through their declarations, in areas falling within their competence.

Commentary

(1) Guiding Principle 4 is also inspired by the consistent jurisprudence of the P.C.I.J. and I.C.J., on unilateral acts and the capacity of State authorities to represent and commit the State internationally. In its recent Judgment on jurisdiction and admissibility in the case of *Armed Activities on the Territory of the Congo*, the International Court of Justice observed, referring to

⁹³⁴ A/CN.4/557, para. 157.

⁹³⁵ *Ibid.*, paras. 58-60 or 66. See also, by analogy, in the case of conduct other than unilateral statements, the courses of conduct followed by Thailand and Cambodia in the *Temple of Preah Vihear* case (*ibid.*, paras. 160-167 and *Case concerning the Temple of Preah Vihea (Cambodia v. Thailand)* Judgment of 15 June 1962, *I.C.J. Reports 1962*, pp. 32-34).

⁹³⁶ *Ibid.*, paras. 47-48.

⁹³⁷ Cf. the international community's reactions to the Egyptian statement on the Suez Canal (*ibid.*, paras. 63-64); also the reactions to Jordan's statement about the West Bank (*ibid.*, paras. 48 and 50-51).

⁹³⁸ Cf. the reactions of certain States to the Truman Proclamation (*ibid.*, paras. 132-134); also the note dated 22 November 1952 by the Venezuelan Government concerning the Los Monjes archipelago (*ibid.*, para. 17 - yet like the Ihlen Declaration (see footnote 926 above) this note was clearly a matter of bilateral negotiations with Colombia).

⁹³⁹ See in particular Uruguay's refusal of a donation of vaccines from Cuba (*ibid.*, paras. 38-39) or the Russian protest at the law passed by Turkmenistan in 1993 on the delimitation of its internal and territorial waters in the Caspian Sea (*ibid.*, paras. 84-98).

⁹⁴⁰ Cf. the reactions of the non-nuclear-weapon States to the statements made in April 1995 to the Conference on Disarmament by the permanent members of the Security Council (*ibid.*, paras. 113-115); their scepticism is, incidentally, vindicated by the content of those statements.

the similar customary rule in the law of treaties,⁹⁴¹ that “in accordance with its consistent jurisprudence (*Nuclear Tests (Australia v. France)*, Judgment, *I.C.J. Reports* 1974, pp. 269-270, paras. 49-51; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia)*, Preliminary Objections, Judgment, *I.C.J. Reports* 1996 (II), p. 622, para. 44; *Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium)*, Judgment, *I.C.J. Reports* 2002, pp. 21-22, para. 53; see also *Legal Status of Eastern Greenland (Denmark v. Norway)*, Judgment, 1933, *P.C.I.J., Series A/B, No. 53*, p. 71), it is a well-established rule of international law that the Head of State, the Head of Government and the Minister for Foreign Affairs are deemed to represent the State merely by virtue of exercising their functions, including for the performance, on behalf of the said State of unilateral acts having the force of international commitments”.⁹⁴²

(2) State practice shows that unilateral declarations creating legal obligations for States are quite often made by heads of State or Government⁹⁴³ or ministers for foreign affairs⁹⁴⁴ without their capacity to commit the State being called into question. In the two examined cases in which problems relating to the extent of the speaker’s authority arose both related to compliance with the domestic law of the State concerned.⁹⁴⁵ The statement by the King of Jordan relating to the West Bank, which some considered to be *ultra vires* under the Constitution of the Kingdom,

⁹⁴¹ Cf. article 7 of the 1969 Vienna Convention on the Law of Treaties.

⁹⁴² *Case concerning Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Rwanda)*, Judgment of 3 February 2006, *Jurisdiction of the Court and Admissibility of the Application*, para. 46.

⁹⁴³ See the statement made on 31 July 1988 by the King of Jordan waiving Jordan’s claims to the West Bank territories (A/CN.4/557, para. 44), the Egyptian declaration of 24 April 1957 on the Suez Canal, made by the Egyptian Government (*ibid.*, para. 55), the statements of 8 June and 25 July 1974 and the letter of 1 July 1974 by the President of the French Republic (*ibid.*, para. 71) or the statement made on 28 September 1945 by President Truman of the United States concerning the continental shelf (*ibid.*, para. 127).

⁹⁴⁴ See the note dated 22 November 1952 from the Colombian Minister for Foreign Affairs relating to Venezuelan sovereignty over the Los Monjes archipelago (*ibid.*, para. 13), the statement from the Minister for Foreign Affairs of Cuba about the supply of vaccines to Uruguay (*ibid.*, para. 36), the statement by the French Minister for Foreign Affairs to the United Nations General Assembly on 25 September 1974 about the cessation of nuclear tests in the atmosphere (*ibid.*, para. 71), the statements made, as representatives of nuclear-weapon States, by the Minister for Foreign Affairs of the Russian Federation and the United States Secretary of State to the United Nations Security Council (*ibid.*, para. 106), and the statement by Mr. Ihlen, the Minister for Foreign Affairs of Norway (*ibid.*, para. 116).

⁹⁴⁵ See the case of the statement made by the Colombian Minister for Foreign Affairs on 22 November 1952 (*ibid.*, paras. 24-35) and the statement by the King of Jordan about the West Bank (*ibid.*, paras. 53-54).

was confirmed by subsequent domestic acts.⁹⁴⁶ In the case of the declaration by the Colombian Minister for Foreign Affairs about Venezuelan sovereignty over the Los Monjes archipelago, the note itself was set aside in domestic law because its author had no authority to make such a commitment, yet the Colombian authorities did not challenge the validity of the commitment at the international level.⁹⁴⁷

(3) In its Judgment of 3 February 2006,⁹⁴⁸ the I.C.J., did, however, note that “with increasing frequency in modern international relations other persons representing a State in specific fields may be authorized by that State to bind it by their statements in respect of matters falling within their purview. This may be true, for example, of holders of technical ministerial portfolios exercising powers in their field of competence in the area of foreign relations, and even of certain officials”.⁹⁴⁹

5. Unilateral declarations may be formulated orally or in writing.

Commentary

(1) It is generally accepted that the form of a unilateral declaration does not affect its validity or legal effects. The I.C.J. mentioned the relative unimportance of formalities⁹⁵⁰ in its Judgment in the *Temple of Preah Vihear* case in connection with unilateral conduct.⁹⁵¹ In the *Nuclear Tests* cases, the Court emphasized that “[w]ith regard to the question of form, it should be observed that this is not a domain in which international law imposes any special or strict requirements. Whether a statement is made orally or in writing makes no essential difference,

⁹⁴⁶ *Ibid.*, para. 54.

⁹⁴⁷ *Ibid.*, para. 35.

⁹⁴⁸ *Case concerning Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Rwanda)*, *Jurisdiction of the Court and Admissibility of the Application*, para. 46.

⁹⁴⁹ *Ibid.*, para. 47.

⁹⁵⁰ See *The Mavrommatis Palestine Concessions*, Judgment of 30 August 1924, *P.C.I.J., Series A, No. 2*, p. 34; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia-Herzegovina v. Yugoslavia)*, Judgment of 11 July 1996, *I.C.J. Reports 1996*, p. 612, para. 24 and p. 613, para. 26.

⁹⁵¹ *Case concerning the Temple of Preah Vihear (Cambodia v. Thailand), Preliminary Objections*, Judgment of 26 May 1961, *I.C.J. Reports 1961*, p. 31.

for such statements made in particular circumstances may create commitments in international law, which does not require that they should be couched in written form. Thus the question of form is not decisive”.⁹⁵²

(2) State practice also shows the many different forms that unilateral declarations by States may take. The various declarations by France about the cessation of atmospheric nuclear tests took the form of a communiqué from the Office of the President of the Republic, a diplomatic note, a letter from the President of the Republic sent directly to those to whom the declaration was addressed, a statement made during a press conference and a speech to the General Assembly.⁹⁵³ Other examples also go to show that, while written declarations prevail,⁹⁵⁴ it is not unusual for States to commit themselves by simple oral statements.⁹⁵⁵

(3) France’s statements on the suspension of atmospheric nuclear tests also show that a unilateral commitment by a State can come about through a series of declarations with the same general thrust, none of which might, in isolation, have bound the State. In its Judgments of 1974 on the *Nuclear Tests* cases, the I.C.J. did not concentrate on any particular declaration by the French authorities but took them, together, to constitute a whole: “[the] statements [by the President of the French Republic], and those of members of the French Government acting under his authority, up to the last statement made by the Minister of Defence (of 11 October 1974), constitute a whole. Thus, in whatever form the statements were

⁹⁵² *Nuclear Tests (Australia v. France; New Zealand v. France)*, I.C.J. Reports 1974, pp. 267-268, para. 45, and p. 473, para. 48.

⁹⁵³ Cf. Eighth report, A/CN.4/557, paras. 71 and 72.

⁹⁵⁴ Consider the examples of the note dated 22 November 1952 from the Colombian Minister for Foreign Affairs (*ibid.*, para. 13), the Egyptian declaration of 24 April 1957 (*ibid.*, paras. 55 ff.), the protests by the Russian Federation against Turkmenistan and Azerbaijan (*ibid.*, paras. 85 and 99), the statements by the nuclear-weapon States (statements made before an international body, *ibid.*, paras. 106-107), the Truman Proclamation of 28 September 1945 (*ibid.*, para. 127) and the Swiss statements concerning the United Nations and its staff members (tax exemptions and privileges) (*ibid.*, paras. 140-142).

⁹⁵⁵ See, for example, Jordan’s waiver of its claims to the West Bank territories in a public speech, (*ibid.*, para. 44) or the Ihlen Declaration (*ibid.*, para. 117 - see *Legal Status of Eastern Greenland*, Judgment of 5 April 1933, P.C.I.J., Series A/B., No. 53, p. 71.

expressed, they must be held to constitute an engagement of the State, having regard to their intention and to the circumstances in which they were made".⁹⁵⁶

6. Unilateral declarations may be addressed to the international community as a whole, to one or several States or to other entities.

Commentary

(1) Several of the cases examined remain within the scope of strictly bilateral relations between two States; accordingly these unilateral declarations by a State had another State as the sole addressee. Such was the case of the Colombian diplomatic note addressed to Venezuela,⁹⁵⁷ the Cuban declarations concerning the supply of vaccines to Uruguay,⁹⁵⁸ the protests by the Russian Federation against Turkmenistan and Azerbaijan⁹⁵⁹ and the Ihlen Declaration.⁹⁶⁰

(2) Although initially concerning a limited group of States, other declarations were addressed to the international community as a whole, containing *erga omnes* undertakings. Thus, Egypt's declaration regarding the Suez Canal was not addressed only to the States parties to the Constantinople Convention or to the States members of the Suez Canal Users' Association, but to the entire international community.⁹⁶¹ Similarly, the Truman Proclamation,⁹⁶² and also the French declarations regarding suspension of nuclear tests in the atmosphere, although the latter were of more direct concern to Australia and New Zealand, as well as certain neighbouring States⁹⁶³ were also made *erga omnes* and, accordingly, were addressed to the

⁹⁵⁶ *Nuclear Tests (Australia v. France; New Zealand v. France)*, I.C.J. Reports 1974, p. 269, para. 49, and p. 474, para. 51. See also the Swiss statements concerning the United Nations and its staff members (tax exemptions and privileges) A/CN.4/557, paras. 138-156).

⁹⁵⁷ A/CN.4/557, paras. 15 and 16.

⁹⁵⁸ *Ibid.*, para. 36.

⁹⁵⁹ *Ibid.*, paras. 85 and 99.

⁹⁶⁰ *Ibid.*, para. 117.

⁹⁶¹ *Ibid.*, para. 62.

⁹⁶² *Ibid.*, para. 127.

⁹⁶³ Fiji filed an application to intervene in the proceedings. The Government of Argentina, Fiji and Peru requested that the pleadings and annexed documents should be made available to them. See *Nuclear Tests (Australia v. France; New Zealand v. France)*, I.C.J. Reports 1974, p. 6, paras. 7 and 9.

international community in its entirety.⁹⁶⁴ The same holds for the declaration by the King of Jordan of 31 July 1988, waiving Jordan's claims to the West Bank territories, which was addressed simultaneously to the international community, to another State (Israel) and to another entity the Palestine Liberation Organization (PLO).⁹⁶⁵

7. A unilateral declaration entails obligations for the formulating State only if it is stated in clear and specific terms. In the case of doubt as to the scope of the obligations resulting from such a declaration, such obligations must be interpreted in a restrictive manner. In interpreting the content of such obligations, weight shall be given first and foremost to the text of the declaration, together with the context and the circumstances in which it was formulated.

Commentary

(1) In its Judgments in the *Nuclear Tests* cases, the International Court of Justice stressed that a unilateral declaration may have the effect of creating legal obligations for the State making the declaration only if it is stated in clear and specific terms.⁹⁶⁶ This understanding has been adopted without change by the Court in the case concerning *Armed Activities on the Territory of the Congo*.⁹⁶⁷

(2) In case of doubt concerning the legal scope of the unilateral declaration, it must be interpreted in a restrictive manner, as clearly stated by the Court in its Judgments in the *Nuclear Tests* cases when it held that, "when States make statements by which their freedom of action is to be limited, a restrictive interpretation is called for".⁹⁶⁸ The interpreter must therefore proceed with great caution in determining the legal effects of unilateral declarations, in particular when the unilateral declaration has no specific addressee.⁹⁶⁹

⁹⁶⁴ *Ibid.*, p. 269, paras. 50 and 51 and p. 474, paras. 52 and 53.

⁹⁶⁵ A/CN.4/557, para. 45. Other unilateral declarations are addressed to one or more international organizations, as is the case with Switzerland's declarations concerning the United Nations and its staff (tax exemptions and privileges) (*ibid.*, paras. 138 et seq.)

⁹⁶⁶ *Nuclear Tests (Australia v. France; New Zealand v. France)*, I.C.J. Reports 1974, p. 267, para. 43, p. 269, para. 51, and p. 472, para. 46, p. 474, para. 53.

⁹⁶⁷ *Armed Activities on the Territory of the Congo (New application: 2002) (Democratic Republic of the Congo v. Rwanda)*, *Jurisdiction and Admissibility*, paras. 50 and 52.

⁹⁶⁸ *Nuclear Tests (Australia v. France; New Zealand v. France)*, I.C.J. Reports 1974, p. 267, para. 44, and pp. 472 and 473, para. 47.

⁹⁶⁹ *Frontier Dispute (Burkina Faso v. Republic of Mali)*, I.C.J. Reports 1986, p. 574, para. 39.

(3) With regard, in particular, to the method and means of the interpretation, attention is drawn to the observation by the International Court of Justice that “[t]he régime relating to the interpretation of declarations made under Article 36 of the Statute [⁹⁷⁰] is not identical with that established for the interpretation of treaties by the Vienna Convention on the Law of Treaties (...). Spain has suggested in its pleadings that ‘[t]his does not mean that the legal rules and the art of interpreting declarations (and reservations) do not coincide with those governing the interpretation of treaties’. The Court observes that the provisions of that Convention may only apply analogously to the extent compatible with the *sui generis* character of the unilateral acceptance of the Court’s jurisdiction”.⁹⁷¹ Applying the Court’s dictum and by analogy with article 31, paragraph 1, of the 1969 Vienna Convention on the Law of Treaties, priority consideration must be given to the text of the unilateral declaration, which best reflects its author’s intentions. In addition, as acknowledged by the Court in its Judgment in the *Frontier Dispute* case, “to assess the intentions of the author of a unilateral act, account must be taken of all the circumstances in which the act occurred”,⁹⁷² which constitutes an application by analogy of article 31, paragraph 2, of the 1969 Vienna Convention.

8. A unilateral declaration which is in conflict with a peremptory norm of general international law is void.

Commentary

The invalidity of a unilateral act which is contrary to a peremptory norm of international law derives from the analogous rule contained in article 53 of the 1969 Vienna Convention on the Law of Treaties. Most members of the Commission agreed that there was no obstacle to the application of this rule to the case of unilateral declarations.⁹⁷³ In its Judgment in the *Armed*

⁹⁷⁰ Declarations accepting the compulsory jurisdiction of the International Court of Justice made under Article 36 of the Statute of the Court lie outside the scope of the present study (see above, footnote 1). That said, the Court’s reasoning is fully applicable to unilateral acts and declarations *stricto sensu*.

⁹⁷¹ *Fisheries Jurisdiction (Spain v. Canada), Merits*, Judgment of 4 December 1998, *I.C.J. Reports 1998*, p. 453, para. 46. See also *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria), Preliminary Objections*, Judgment of 11 June 1998, *I.C.J. Reports 1998*, p. 293, para. 30.

⁹⁷² *Frontier Dispute (Burkina Faso v. Republic of Mali)*, *I.C.J. Reports 1986*, p. 574, para. 40; see also *Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Rwanda), Jurisdiction and Admissibility*, para. 53, and *Nuclear Tests (Australia v. France; New Zealand v. France)*, *I.C.J. Reports 1974*, p. 269, para. 51, and p. 474, para. 53.

⁹⁷³ *Official Records of the General Assembly, Fifty-fourth Session, Supplement No. 10 (A/54/10)*, p. 332, para. 557; *ibid.*, *Fifty-fifth Session, Supplement No. 10 (A/55/10)*, p. 203, para. 597.

Activities on the Territory of the Congo case, the Court did not exclude the possibility that a unilateral declaration by Rwanda⁹⁷⁴ could be invalid in the event that it was in conflict with a norm of *jus cogens*, which proved, however, not to be the case.⁹⁷⁵

9. No obligation may result for other States from the unilateral declaration of a State. However, the other State or States concerned may incur obligations in relation to such a unilateral declaration to the extent that they clearly accepted such a declaration.

Commentary

(1) It is well established in international law that obligations cannot be imposed by a State upon another State without its consent. For the law of treaties, this principle has been codified in article 34 of the 1969 Vienna Convention.⁹⁷⁶ There is no reason why this principle should not also apply to unilateral declarations; the consequence is that a State cannot impose obligations on other States to which it has addressed a unilateral declaration unless the latter unequivocally accept these obligations resulting from that declaration.⁹⁷⁷ In the circumstances, the State or States concerned are in fact bound by their own acceptance.

(2) The 1945 Truman Proclamation, by which the United States of America aimed to impose obligations on other States or, at least, to limit their rights on the American continental shelf, was not strictly speaking accepted by other States. All the same, as the Court has stressed, “this régime [of the continental shelf] furnishes an example of a legal theory derived from a particular source that has secured a general following”.⁹⁷⁸ In fact, the other States responded to the Truman Proclamation with analogous claims and declarations⁹⁷⁹ and, shortly thereafter, the content of the Proclamation was taken up in article 2 of the 1958 Geneva Convention on the

⁹⁷⁴ The declaration in this case was a reservation, a unilateral act which lies outside the scope of the present Guiding Principles (see paragraph 174 above).

⁹⁷⁵ *Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Rwanda)*, *Jurisdiction and Admissibility*, para. 69.

⁹⁷⁶ This article states: “A treaty does not create either obligations or rights for a third State without its consent.” See also *Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide*, *I.C.J. Reports 1951*, p. 21.

⁹⁷⁷ Or if there was a general norm authorizing States to take such action; but the unilateral acts made pursuant to a norm of this kind lie outside the scope of the present Guiding Principles (see paragraph 174 above).

⁹⁷⁸ *North Sea Continental Shelf (Federal Republic of Germany v. Denmark; Federal Republic of Germany v. Netherlands)*, *I.C.J. Reports 1969*, p. 53, para. 100.

⁹⁷⁹ See the case of Mexico, A/CN.4/557, para. 132.

Continental Shelf. It could therefore be said to have been generally accepted and it marked a point of departure for a customary process leading, in a very short time, to a new norm of international law. The International Court of Justice remarked in that context: “The Truman Proclamation however, soon came to be regarded as a starting point of the positive law on the subject, and the chief doctrine it enunciated ... came to prevail over all others, being now reflected in article 2 of the 1958 Geneva Convention on the Continental Shelf.”⁹⁸⁰

10. A unilateral declaration that has created legal obligations for the State making the declaration cannot be revoked arbitrarily. In assessing whether a revocation would be arbitrary, consideration should be given to:

- (a) Any specific terms of the declaration relating to revocation;
- (b) The extent to which those to whom the obligations are owed have relied on such obligations;
- (c) The extent to which there has been a fundamental change in the circumstances.

Commentary

(1) In its 1974 Judgments in the *Nuclear Tests* cases, the International Court of Justice states that “the unilateral undertaking resulting from [the French] statements cannot be interpreted as having been made in implicit reliance on an arbitrary power of reconsideration”.⁹⁸¹ This does not, however, exclude any power to terminate a unilateral act, only its arbitrary withdrawal (or amendment).

(2) There can be no doubt that unilateral acts may be withdrawn or amended in certain specific circumstances. The Commission has drawn up an open-ended list of criteria to be taken into consideration when determining whether or not a withdrawal is arbitrary.

(3) A similar case obtains where the declaration itself stipulates the circumstances in which its author may terminate it⁹⁸² or when its addressees have relied on it in good faith and have

⁹⁸⁰ *North Sea Continental Shelf (Federal Republic of Germany v. Denmark; Federal Republic of Germany v. Netherlands)*, *I.C.J. Reports 1969*, para. 47.

⁹⁸¹ *Nuclear Tests (Australia v. France; New Zealand v. France)*, *I.C.J. Reports 1974*, p. 270, para. 51, and p. 475, para. 53.

⁹⁸² When the condition of the circumstances do not exist.

accordingly been led “detrimentally to change position or suffer some prejudice”.⁹⁸³ A unilateral declaration may also be rescinded following a fundamental change of circumstances within the meaning and within the strict limits of the customary rule enshrined in article 62 of the 1969 Vienna Convention on the Law of Treaties.⁹⁸⁴

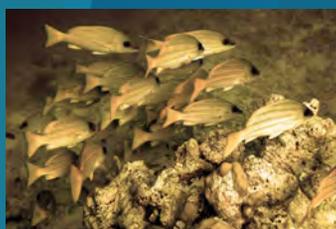
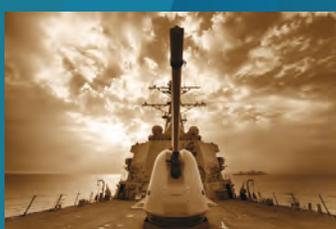
⁹⁸³ *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, *Jurisdiction of the Court and Admissibility of the Application*, *I.C.J. Reports 1984*, p. 415, para. 51.

⁹⁸⁴ *Fisheries jurisdiction (Germany v. Iceland)*, *Jurisdiction of the Court*, *I.C.J. Reports 1973*, p. 63, para. 36, and *Case concerning the Gabčíkovo-Nagymaros Project (Hungary v. Slovakia)*, *I.C.J. Reports 1997*, p. 64, para. 104.

Annex 34

Caitlyn Antrim, “International Law and Order: The Indian Ocean and South China Sea” in
INDIAN OCEAN RISING: MARITIME SECURITY AND POLICY CHALLENGES (D. Michel & R. Sticklor
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STIMSON



Indian Ocean Rising:

Maritime Security and Policy Challenges

Edited by **David Michel**
and **Russell Sticklor**

JULY 2012

CHAPTER FIVE

International Law and Order: The Indian Ocean and South China Sea

Caitlyn Antrim

The Indian Ocean and South China Sea encompass a wide range of geographical, geological, and biological features. The region includes several of the most heavily travelled international straits, major fisheries, and areas with high potential for discovery of energy resources. Meanwhile, the nations bordering the region range from some of the most prosperous and dynamic countries of the developing world to some of the developing world's poorest and most dysfunctional states. The diversity of interests of nations bordering this region can lead to conflict. International law, particularly the 1982 UN Convention on the Law of the Sea, plays a pivotal role in peacefully resolving such conflicts. Yet while legal measures and policy initiatives have helped mitigate international tensions through diplomatic processes, political, economic, and environmental issues can still lead to disputes and conflict.

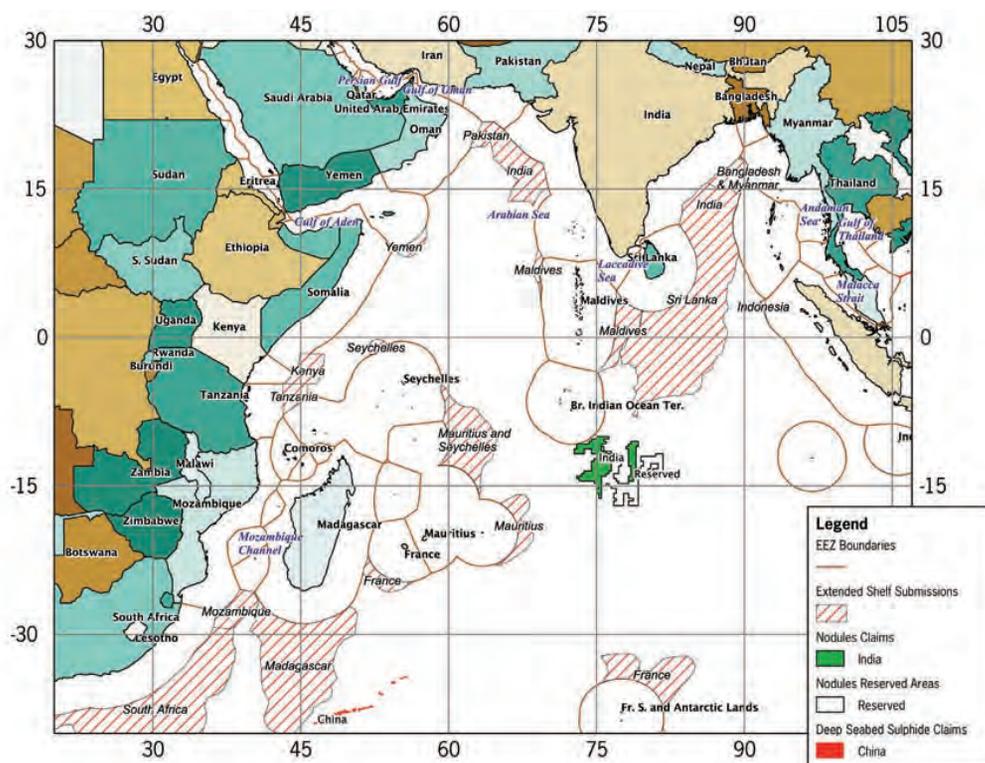
Introduction

In the decades since World War II, advances in maritime technology, increases in maritime trade, and the growing economic value of offshore energy, mineral, and living resources have collectively led to a breakdown of the centuries-old division of the ocean between three-mile territorial seas under coastal state authority and the high seas, where freedom of navigation and exploitation typically reigned. Following a period of expanding coastal state claims over the sea and its resources, the 1982 UN Convention on the Law of the Sea (UNCLOS) established a new order of the oceans that promised the stability needed to protect sovereignty, provide for national security, promote trade and development, and safeguard the marine environment.

UNCLOS defines ocean zones and the rights and obligations of states within those zones (see Figure 5.1). It establishes organizations to carry out collective responsibilities for both defining the boundaries of national jurisdiction and managing mineral resources beyond those limits. It also provides alternative processes for conflict resolution, with some issues subject to mandatory settlement of disputes.

UNCLOS is also a framework agreement upon which more specialized treaties, organizations, and activities are established. These agreements, organizations, and activities include a framework convention governing fish stocks on the high seas; the operation of the International Seabed Authority in managing minerals beyond national jurisdiction; and the implementation of security and environmental pacts negotiated under the International Maritime Organization, as well as security partnerships such as the Proliferation Security Initiative.

Figure 5.2: Jurisdictional Claims in the Indian Ocean Region



Source: Stimson

Seabed Minerals Beyond National Jurisdiction

All parties to UNCLOS are also members of the International Seabed Authority (ISA), the agency that manages the mineral resources of the seabed beyond the limits of national jurisdiction. There are three known classes of hard minerals on the world's deep seabed:

- › Polymetallic nodules of manganese and iron oxides enriched in nickel, copper, cobalt, and rare earth elements are found on the abyssal plains;
- › Cobalt crusts consisting of iron and manganese oxides enriched in cobalt and rare earth elements, and found on the slopes of seamounts; and
- › Polymetallic sulfides of copper and zinc, sometimes enriched with gold, that are found near spreading centers and subduction zones.

Over the past decade, rising demand (particularly in China) for seabed minerals with industrial applications drove metal prices upward, resulting in increased commercial interest in seabed mineral deposits. India and China have each sponsored national applicants for ISA recognition of exclusive rights to explore mineral sites in the Indian Ocean. India's claim is for a deposit of polymetallic nodules, while China's claim is for a deposit of polymetallic sulfides.

Maritime Safety and Security Agreements

All of the coastal states of the Indian Ocean and South China Sea are members of the International Maritime Organization (IMO). The IMO is the source of international rules and guidelines governing shipping operations that flag states, port states, and coastal states apply to international shipping in order to protect against vessel-source marine pollution. The IMO also works with straits and archipelagic states to gain agreement on the designation of sea lanes in international straits.

Several key maritime safety and security conventions have been negotiated under the auspices of the IMO. With regard to shipping, two of the most important are the Convention on Safety of Life at Sea (SOLAS) and the Convention on the Suppression of Unlawful Acts (SUA). Both are evolving agreements that have been supplemented and modified through subsequent protocols. Most recently, protocols to the SUA have been negotiated to address acts of international terrorism.

The IMO also supports regional efforts to promote maritime security. In 2009, the IMO convened a meeting in which East African nations adopted a “Code of Conduct Concerning the Repression of Piracy and Armed Robbery against Ships in the Western Indian Ocean and the Gulf of Aden.” The signatories requested that IMO and other international organizations provide support in implementing the Code of Conduct, particularly in building national maritime and legal capacity to implement it effectively.

In addition to the IMO, the UN Security Council has the authority to intervene in matters affecting peace and security in the oceans. In recent years, the threat of piracy off the coast of Somalia led the Security Council to issue a series of resolutions encouraging a maritime response and authorizing actions that would otherwise exceed national authority as recognized by UNCLOS. For example, UNSC Resolution 1946 provided (for a period of 12 months) explicit authority for foreign ships to enter the territorial sea of Somalia to counter piracy and armed robbery as if they were on the high seas. It also ensured that this authority did not undercut the rights normally accorded by UNCLOS and did not establish new customary international law. This authority, and the conditions placed on it, has been renewed in successive Security Council resolutions.²

Smaller groupings of coastal states have also established specific regional initiatives. In 2004, the states bordering the Strait of Malacca began tripartite cooperation in anti-piracy activities. A Regional Cooperation Agreement on Anti-Piracy—including East, Southeast, and South Asian states—focuses on information sharing, capacity building, and cooperative agreements, including an Information Sharing Center established in Singapore.

Figure 5.6: International Organization Memberships and Jurisdictional Claims in the Indian Ocean Region

	LOS Status	Fish Stocks	IMO	Ext. Shelf Claim Submission Date	Fishery Commissions*	Excessive Navigation Restrictions**	Regional Seas Programme	Disputed Islands Claims & Maritime Boundaries
South Africa	Party	Party	Member	5/5/2009 & 5/6/2009	IOTC (assoc.), SWIOFC		East Africa	
Tanzania	Party	No	Member		IOTC, SWIOFC		East Africa	
Kenya	Party	Party		5/6/2009	IOTC, SIOFA (sign), SWIOFC		East Africa	Unresolved boundary with Somalia
Somalia	Party	No	Member		SWIOFC	TS	East Africa	Unresolved maritime boundary with Kenya
Madagascar	Party	No	Member	4/29/2011	IOTC, SIOFA (sign), SWIOFC		East Africa	Madagascar claims Bassas da India, Europa Island, Glorioso Islands, and Juan de Nova Island (all administered by France); the cays of Banc du Geyser, which were claimed by Madagascar in 1976, also fall within the EEZ claims of the Comoros and France
Comoros	Party	No	Member		SWIOFC, IOTC		East Africa	Comoros claims French-administered Mayotte, and challenges France and Madagascar's claims to Banc du Geyser in the Mozambique Channel
France, Reunion and Southern Lands	Party	Party	Member	5/6/2009 & 5/8/2009	APFIC, IOTC, SIOFA, (sign) SWIOFC		East Africa	
Mauritius	Party	Party	Member	12/1/2008 & 5/6/2009	IOTC, SIOFA SWIOFC	TS, EEZ	East Africa	Mauritius and Seychelles claim the Chagos Islands; Mauritius claims French-administered Tromelin Island
Mozambique	Party	Party	Member	7/7/2010	IOTC (assoc.), SIOFA (sign), SWIOFC		East Africa	
Seychelles	Party	Party	Member	12/1/2008 & 5/7/2009	IOTC, SIOFA, SWIOFC	TS	East Africa	Mauritius and Seychelles claim the Chagos Islands (UK-administered British Indian Ocean Territory)

	LOS Status	Fish Stocks	IMO	Ext. Shelf Claim Submission Date	Fishery Commissions*	Excessive Navigation Restrictions**	Regional Seas Programme	Disputed Islands Claims & Maritime Boundaries
Maldives	Party	Party	Member	7/26/2010	BOBP-IGO, IOTC, SWIOFC	TS, EEZ, ArBL	South Asian	
Yemen	Party	No	Member	3/20/2009	SWIOFC	TS		
Oman	Party	Party	Member		IOTC	TP		
Iran	Signed	Party	Member		IOTC	TS, EEZ, CS		There is no agreed maritime boundary between Iraq and Iran along the Shatt al Arab Waterway, which prompts jurisdiction disputes beyond the mouth of the Shatt al Arab into the Persian Gulf; Iran and UAE continue to dispute the Tumb Islands and Abu Musa Island, which are occupied by Iran
Pakistan	Party	Signed	Member	4/20/2009	APFIC, IOTC	TS, EEZ	South Asian	See India
India	Party	Party	Member	5/11/2009	APFIC, BOBP-IGO, IOTC	TS, EEZ	South Asian	India and Pakistan seek technical resolution of the disputed boundary in Sir Creek estuary at the mouth of the Rann of Kutch in the Arabian Sea; Bangladesh has referred its maritime boundary claims with Burma and India to the International Tribunal on the Law of the Sea Potential EEZ/CS boundary with Bangladesh
Bangladesh	Party	Signed	Member	2/25/2011	APFIC, BOBP-IGO	TS, EEZ	South Asian	Maritime boundary with Myanmar at ITLOS
Sri Lanka	Party	Party	Member	5/8/2009	APFIC, BOBP-IGO, IOTC	TS	South Asian	
Myanmar	Party	No	Member	12/12/2008	APFIC	TS, EEZ		Maritime boundary with Bangladesh at ITLOS
Thailand	Party	No	Member		APFIC, IOTC		East Asia	
Cambodia	Signed	No	Member		APFIC		East Asia	
Malaysia	Party	No	Member	5/6/2009	APFIC, IOTC	TS, EEZ	East Asia	Central SCS with China
Singapore	Party	No	Member				East Asia	
Indonesia	Party	Party		6/16/2008	APFIC, IOTC	TS, ArBL	East Asia	Central SCS with China

	LOS Status	Fish Stocks	IMO	Ext. Shelf Claim Submission Date	Fishery Commissions*	Excessive Navigation Restrictions**	Regional Seas Programme	Disputed Islands Claims & Maritime Boundaries
Brunei	Party	No	Member					Central SCS with China
Vietnam	Party	No		5/6/2009 & 5/7/2009	APFIC	TS	East Asia	Paracel Islands, Central SCS with China
China	Party	Signed	Member		APFIC, IOTC	TS, EEZ	East Asia	Spratley & Paracel Islands, Central SCS
Philippines	Party	Signed	Member	4/8/2009	APFIC, IOTC	ARBL	East Asia	Spratley Islands with China
UK Island Territories	Party	Party	Member		APFIC, IOTC			Dispute with displaced indigenous people over proposed marine protected area

Source: US Defense Department, Excessive Maritime Claims, 2005.

* APFIC Asia Pacific Fishery Commission

BOBP-IGO Bay of Bengal Program-Inter Governmental Organization

IOTC Indian Ocean Tuna Commission

SIOFA Southern Indian Ocean Fisheries Agreement

SWIOFC South West Indian Ocean Fisheries Commission

**TS Territorial Sea

TP Transit Passage

EEZ Exclusive Economic Zone

CS Continental Shelf

ARBL Archipelagic Base Lines

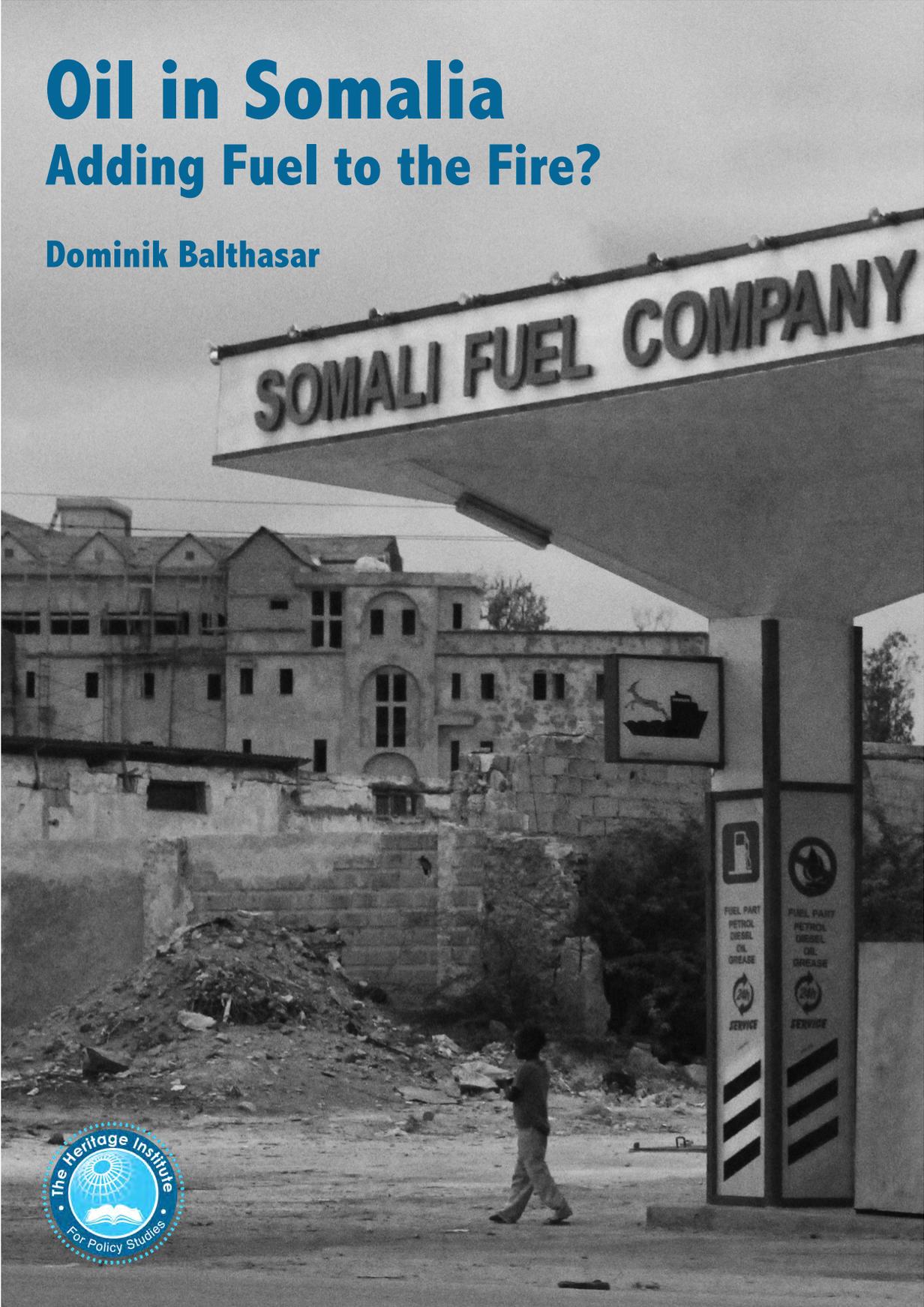
Annex 35

Dominik Balthasar, The Heritage Institute for Policy Studies, *Oil in Somalia: Adding Fuel to the Fire?* (2014)

Oil in Somalia

Adding Fuel to the Fire?

Dominik Balthasar



Published in 2014 by the Heritage Institute for Policy Studies
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About the Author

Dr. Dominik Balthasar is a development policy fellow with the Heritage Institute. He currently holds a position with the Transatlantic Postdoctoral Fellowship for International Relations and Security, working with Chatham House, the United States Institute of Peace, and the European Union Institute for Security Studies. Dominik's work focuses on issues pertaining to conflict and state fragility, as well as international efforts towards state reconstruction and development, particularly in Somalia. Dominik has taught at the London School of Economics and Political Science and the School of Oriental and African Studies, and has consulted with a number of international development organizations in Somalia and other g7+ countries.

The Heritage Institute for Policy Studies

The Heritage Institute for Policy Studies is an independent, nonpartisan, non-profit policy research and analysis institute based in Mogadishu, Somalia.

Cover: Somali Fuel Company 2 fuel station in Mogadishu.
Photograph by the Heritage Institute for Policy Studies

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economy (Bazilian et al., 2013).

Somalia hardly possesses the well-trained cadre of technocrats and administrators necessary to counter the politically and economically detrimental effects of the paradox of plenty (Shepherd, 2013). Moreover, the state not only lacks clear property rights and sufficient capacity to enforce these, but it also exhibits extraordinarily weak bodies of political oversight, while simultaneously featuring entrenched corruption. Although perceptions about the current trajectory of the country's levels of corruption are ambiguous, Somalia remains ranked as the most corrupt country in the world (Transparency International, 2012). For these and other reasons, it seems unlikely that Somalia is in a position to successfully tackle the challenge of countering the adverse economic effects generated by the resource curse. As if that was not enough, the country faces a multitude of additional challenges associated with the early stages of re-defining and re-constructing statehood.

Catalysing regional power play

It is well-established that a country's natural resources can provoke political tensions with neighbouring states (see Billon, 2004). This is the case in Somalia, where neighbouring countries as well as states further afield have been alleged to have interests beyond the humanitarian and political situation. The links in the early 1990s between the international humanitarian intervention and the interest of Western oil companies have been pointed out by a number of analysts, and today's international military engagement is frequently believed to be partially driven by a quest for oil exploration (see, for example, Gibbs, 2000; Assl, 2012). One clear indication of this can be found in the fact that one of the US government's six conditions it put in place prior to recognizing the FGS lay in the Somali government recognizing the rights of US oil companies that had declared force majeure when the regime of Siyad Barre crumbled (Heritage Institute for Policy Studies, 2013).

Similarly, Kenya's interest in Somalia's

hydrocarbon endowments appears to have been a key driver behind Nairobi's 2011 decision to militarily intervene in Somalia, and lend its support to the regional administration of Jubbaland (Jopson, 2007). The circumstances under which Kenya opened a liaison office in Kismaayo without seeking prior permission from the FGS, and the fact that Italy-based Eni "intentionally signed a contract with Kenya over a territory that clearly belongs to Somalia", support this proposition.³ While the FGS is hardly in a position to dispense of international partners like Kenya in its fight against al-Shabaab, it seems that Nairobi's desire for near-term hydrocarbon exploration and exploitation in Somalia not only adds a layer of complexity to the situation, but may actually run counter to re-establishing a stable and functioning state.

Enhancing sub-national divisions

The yet greater hurdle for Somalia's trajectory lies with the likelihood that oil will also catalyse rifts and political tensions at the sub-national level. This risk is particularly likely in an environment in which demands for federal state structures have gained momentum. During the 'roadmap process' designed to end Somalia's transitional era, and since the selection of President Hassan Sheikh Mohamud in September 2012, sub-national fissures have increasingly come to the fore. Puntland has felt increasingly marginalized by President Mohamud's government. Analysts judge that "Mogadishu's relations with Puntland are far from good and could worsen if oil prospects prove fruitful," (Africa Confidential, 2013a). Similarly, tensions with Somaliland also remain significant – as shown not least in the recent dispute between Hargeisa and Mogadishu over the control of Somali airspace – and are likely to harden if commercially viable oil is found in Somaliland.

Even more acute fissures have emerged within south-central Somalia. Recent discussions concerning the envisaged nature and shape of a future Somali state have been strongly marked by demands for federalism by both national and international actors.⁴ Even though the President has shown reservations – due in part to the

Annex 36

F. Oluoch & M. Kimani, “War hits Kenya’s bid to expand waters”, *The East African*
(29 Jan. 2012)

War hits Kenya's bid to expand waters

theeastafrican.co.ke/news/War-hits-Kenyas-bid-to-expand-waters-/2558-1316006-6i73hjz/index.html

Sunday January 29 2012



Kenya is currently listed number 35 in the UN Commission on Limits of the Continental Shelf list. The commission has only looked at applications of only 15 applicants. But sources say Kenya could overtake some earlier applicants who still have border disputes with their neighbours.

By FRED OLUOCH and MWAURA KIMANI

The lack of a boundary agreement between Kenya and Somalia and the continuing instability in the latter country is likely to delay Kenya's quest to add 150 additional nautical miles to its territorial waters in the Indian Ocean.

The Ministry of Foreign Affairs, in a report to Treasury, says the bid is facing a challenge meeting international approval because of the above factors.

Tanzania is also seeking an extension of its territorial waters via an application made on January 18. In June 2008, Tanzania and Norway signed a two-year agreement to provide \$4.6 million in funds for a Delineation of the Continental Shelf project.

Kenya's application to acquire an additional 103,000 square kilometres in what is being billed as the second and last scramble for the world, seeks to delineate the outer limits of the country's continental shelf outside the Exclusive Economic Zone of 200 nautical miles.

This would give Kenya the right to explore and exploit non-living and mineral resources on the seabed and sub-soil of the extended continental shelf adjacent to the EEZ in accordance with the United Nations Convention on the Law of the Sea.

The Task Force on Delineation of Kenya's Outer Continental Shelf now headed by Juster Nkoroi, deposited the application at the United Nations for approval in May 2009; The decision is expected to be made in 2014.

This leaves Kenya with one year to meet the criteria for approval, a task that is now being complicated by the situation in Somalia — a key neighbour with which it must be in agreement with before it can get the extra sea territory.

Currently, Kenya does not have a maritime border agreement with Somalia, whereas one of the UN requirements is that countries that share the ocean must reach an agreement on the border issue.

Kenya has relied on the Statement of Understanding criteria in its submission to the UN.

Kenya and Somalia's Transitional Federal Government signed a memorandum of understanding in April 2009 granting each other, no objection in respect of submissions on the outer limits of the continental shelf to the UN Commission on Limits of the Continental Shelf.

But this MOU was strongly contested by Puntland, which argued that the TFG was selling the country's resources. The TFG parliament also voted against the agreement soon after its signing.

Dr Muhamed Ali, a security expert on the Horn of Africa, argues that the ongoing war in Somalia and the absence of a legitimate government are likely to complicate Kenya's application.

"The question is whether TFG — which is transitional in nature and does not enjoy the people's mandate or have jurisdiction over the entire country — has the right to enter into major agreements with other countries," he said. But, Defence Minister, Yusuf Haji maintained that TFG is a legitimate government with a seat in the UN and the African Union and that the Somalia issue is not likely to affect Kenya's application.

"We are not taking part of Somali territory, even though it is accepted international standards that neighbours sharing the ocean must give consent. All our neighbours have given consent," he said.

According to the roadmap, Somalia is scheduled to hold elections in August this year after writing a new constitution. But, that will depend on whether the African Union Mission in Somalia will have freed the entire country from the grip of Al Shabaab by then.

Application challenges

According to Patrick Wamoto, Political and Diplomatic Secretary at the Ministry of Foreign Affairs, Kenya nevertheless has a strong case.

“We will deal with the issues as they arise. But the application remains a strong one, having been developed with the help of countries like Norway,” he said. Kenya has already secured a maritime agreement with Tanzania, its neighbour to the south.

The submission is estimated to have cost Kenya about \$8.9 million.

Other challenges facing Kenya’s application include the fact that the country is yet to enact comprehensive laws to deal with environmental protection in the exploitation of marine resources. Proper domestication of international and regional treaties that enhance good ocean management and governance is lacking.

Kenya’s existing laws are relics of the colonial era, except for the Environment Management and Co-ordination Act of 1999, which is more comprehensive and responsive to recent environmental challenges facing the country.

Kenya, like any other coastal state, faces a myriad environmental challenges and impacts due to rapid development and socio-economic activity in its coastal and marine areas.

These activities are mostly associated with industry, tourism, agriculture, fishing and more recently oil exploration in the offshore area. There is no comprehensive policy on ocean governance.

Extension of Kenya’s Exclusive Economic Zone could increase the chances of Kenya striking oil offshore.

Annex 37

Fred Oluoch, “UN unveils new look Amisom as Kenya joins up”, *The East African*
(11 Feb. 2012)

UN unveils new look Amisom as Kenya joins up

theeastafrican.co.ke/news/UN-unveils-new-look-Amisom-as-Kenya-joins-up/2558-1324660-12nxtmp/index.html

Saturday February 11 2012



Djibouti soldiers arrive at Mogadishu's Adan Ade international airport on December 20, 2011.
Picture: File

By FRED OLUOCH

Kenya is to send close to 5,000 soldiers to serve under a new look African Union Mission to Somalia. The United Nation Security Council last week released details on the strength and command structure of the expanded Amisom peacekeeping force.

A report by the UN Secretary-General Ban Ki-moon reveals that Kenya will provide 4,700 troops and will be based in Sector 2, covering Middle and Lower Juba regions (Kismayu). Till now, the Kenya Defence Forces, which entered Somalia in October last year, have been secretive on the number of troops on the ground, although it is estimated Nairobi has at least 2,000 soldiers in the neighbouring country.

The UN has authorised Uganda and Burundi to increase their troop levels in Somalia to reach the 12,000 mark, up from their current strength of 9,500 troops.

Kenya, defence officials said, is awaiting a decision by the AU and the UN Security Councils on when the country can formally join the Somalia mission. The cost of deploying 17,731 troops is likely to double Amisom's budget from the 2011 figure of \$247 million to between \$450 million and \$500 million.

Assistant Minister for Defence David Musila said Kenya must complete its self-declared Operation Linda Nchi before joining Amisom. It is understood that the thinking is that this would avoid creating a power vacuum that could see a resurgence of Islamist militants in the lawless Horn of Africa country.

Once Kenya joins, the total number of Amisom troops will be 17,731 uniformed personnel. They will be based in four sectors:

Sector 1 with 9,500 troops from Uganda and Burundi operate from Banadir (Mogadishu) and Middle and Lower Shabelle regions;

Sector 2, covering Middle and Lower Juba regions (Kismayu), where Kenya will provide 4,700 troops;

Sector 3 will cover Gedo, Bay and Bakool (Baidoa) and western part of Hiraaan and will be policed by the 2,500 fresh troops to be generated from Burundi and Uganda; Sector 4 will cover Galgudud, Mudug and part of the Hiraaan regions (Beledweyne) and will be policed by 1,000 troops from Djibouti

Each sector will have a logistical hub, with structures to house headquarters, medical facilities and stores. The remainder of the sector forces will maintain tactical camps to allow them to respond to the changing operational situation. The Force Commander would have two Deputy Force Commanders, one for operations and plans and another for support, as well as a Force Chief of Staff.

Earlier, there were concerns that Kenya would not be willing to place its troops under Ugandan command once it joined Amisom. But Mr Musila said that the command structures have been negotiated and no country will feel inferior to the other because it will be a joint command.

The UN will continue to provide the current support package and limited self-sustainment in accordance with previous Security Council resolutions. In addition, the reimbursement of contingent-owned equipment, including enablers and multipliers, will be covered from assessed contributions under an extended logistical support package.

Only equipment deployed by the troop-contributing countries and considered to be owned by troop-contributing countries will be reimbursed. Equipment donated to Amisom or where the ownership still remains with the donor would not be reimbursed.

Mr Ki-moon however noted that failure to secure enablers (equipment) and force multipliers would have a negative impact on consolidating the gains achieved and expanding operations, requiring higher costs of operations in the long run.

At the moment, the AU and UN planners are working to develop a strategic concept for future Amisom operations in Somalia. The concept aims at joining all the separate ongoing military operations in Somalia into a co-ordinated and coherent effort against Al Shabaab, which will be critical to extending the authority of the Transitional Federal Government beyond the capital and to creating space for the effective implementation of the Somalia peace roadmap.

In Mogadishu, Amisom has continued to consolidate its control over all districts of the city and has begun operations on its outskirts. Outside Mogadishu, the combined operations of Kenyan military and Ethiopian troops working with forces allied with the TFG have continued to gain ground, including taking Beledweyne in December 2011.

Annex 38

Samuel Kamau Mbote, “COFEK question National Oil Western Geco contract to store Kenya Oil Data”, *Oil News Kenya* (22 Mar. 2014)



COFEK question National Oil, Western Geco contract to store Kenya Oil Data

Leave a Comment / Oil Politics / By Samuel Kamau Mbote / March 22, 2014



As posted by the consumer federation of Kenya on their [website](#)

In the MOU between NOCK and Western Geco

Section 2-2.2

NOCK has granted Western Geco exclusive rights to acquire any data over any offshore acreage- *These exclusive permits are usually granted by the Minister for Energy and not NOCK*

NOCK has granted Western Geco the right to store any existing data- *Any existing data belongs to the government of Kenya and if NOCK allows Western Geco to host any such existing data especially where there are active PSCs the confidentiality of the data will be at risk.*

NOCK has awarded the contracts for:

- Setting up a National data centre
- Setting up a seismic data Processing Centre
- and setting up a visualization centre to Western Geco

This will involve a lot of money and single sourcing of the contractor has been done without any competitive bidding process

In clause 4.4 NOCK agrees to provide Western Geco with all current and future licence agreements

All PSCs are signed between the Government of Kenya and the license operators and whereas NOCK has agreed that this clause is binding to it and Western Geco ; NOCK is only a government agency allowed to keep copies of PSC and has no legal right to give such documents to Western Geco as stated in the MOU.

In the signed non-exclusive permit with Western Geco/ Schlumberger

In clause 6.2 of the MOU, NOCK agrees to shut competition from other Multi client survey providers such as PGS and ION Geoventures and reserve the rights to Western Geco.

It is important to note companies such as ION Geoventures had proposed negotiable terms similar to Western Geco's final terms- If negotiations were held between NOCK and ION Geoventures there was a possibility of arriving at better terms. It is also important to note that over the same area NOCK had negotiated better terms with FUGRO than what has been signed with Western Geco. This is shown by comparison of the financial terms of both agreements from the second and third tiers.

In clause 3.2 NOCK agrees to assist Western Geco in Customs exemption for equipment yet Schlumberger has a Kenyan office. *This is an avenue that is likely to be misused with the support of NOCK*

In article 4 NOCK commits to influence promotion of the data packages and Licensing of the blocks. *This is a good avenue to enlist corrupt practices*

Whereas the right to license blocks is vested in the Cabinet Secretary for Energy & Petroleum, NOCK in clause 4 commits that if the Cabinet Secretary so grants a license to another party other than through brokerage by Western Geco, the PSC holder must purchase the data from Western Geco at their price.

There is a danger that if such company is not compelled under any law to purchase the data and NOCK has agreed to this arrangement NOCK will be penalized with Western Geco deducting such amounts from NOCK's revenue share

At appendix 4

Under the NDC project all Kenyan Petroleum Data will be hosted by Schlumberger in UK

–On top of the software license fees not to mention the software is leased to NOCK, there are daily data management rates ranging from USD 1,850 to USD 4,100 (or KShs 159,100.00 to KShs 352,600.00)

For the project implementation phase which the contract does not offer specific details to be included NOCK has agreed to an implementation cost of USD 525,000.00 (or KShs 45,150,000.00)

The amounts involved are huge and no procurement procedures have been followed for this service. NOCK will continue paying the daily data management costs.

Other costs of access to be paid by NOCK per single user per year for the service:

Module	Cost in USD per user per year	Equivalent Cost in KShs per user per year
Archive only	8,1000.00	696,600.00
Archive and logs	13,500.00	1,161,000.00
Archive and Seismic	13,500.00	1,161,000.00

Enterprise Solution (Logs and Seismic)	18,900.00	1,625,400.00
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In Appendix 5

NOCK has contracted the same company to establish a Data Processing Centre at a cost of USD 247,607.00 (or KShs 21,294,202.00) without following any competitive procurement procedure. On top of this NOCK will incur another USD 98,000.00 (KShs 8,428,000.00) to train its staff on the processing of the data. Thus the total for data processing centre including staff training is KShs 29,722,202.00

In appendix 6

NOCK has awarded the establishment of the data visualization centre to the same company at costs which the company says may range from USD 800,000.00 to 1,000,000.00 (or KShs 68,800,000.00 to 86,000,000.00). this was equally not competitively done and the final cost is left to contractor to determine



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Annex 39

“Spectrum ASA completes the acquisition of 2D seismic data offshore Somalia”, *Oil News Kenya* (5 May 2016)



Spectrum ASA completes the acquisition of 2D seismic data offshore Somalia

[Leave a Comment](#) / [Top News](#) / [By OilNews](#) / [May 5, 2016](#)



Spectrum ASA has successfully completed the acquisition of 2D seismic data offshore south Somalia that commenced 5th September, 2015 when Spectrum ASA and the Federal Government of Somalia entered into a Multi-client master cooperation **agreement** with the federal government.

According to Spectrum ASA the total number of sail line Kms acquired equates to 20,582.75 Km and was completed without any major incident.

The new acquisition will complement 20,000 km of existing seismic that was acquired in 2014 by Seabird Exploration under contract from oil explorer Soma Oil and Gas with the data placed in the Ministry's data room in Mogadishu and will allow the in-depth study of hydrocarbon prospectivity offshore Somalia.

In 2014 Seabird acquired over 20,500 km lines of 2D seismic data across a 114,000 sq km offshore evaluation area.

Soon Spectrum says it will start to process and interpret the data and its findings will be announced by the Federal Government.

This effort will reveal the resources, whether oil or gas, hidden beneath the sea-floor of the Indian Ocean. Furthermore, seven Somali geo-scientists participated on the acquisition of the data and trained on the ship executing the seismic shooting. These trainees will go to Cairo, Egypt where they will further learn more on data processing and geologic interpretation at Spectrum's centre there.

The seismic acquired by BGP includes Shell & Exxon's Force Majeure acreage covering more of shallow water to ultra deep ocean and will be an infill of Soma's survey.

The seismic did however exclude Jorra block in the south and stopped at Puntland to the North.

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Annex 40

United Republic of Tanzania, Government Notice No. 209 (24 Aug. 1973), *published in* GAZETTE
OF THE UNITED REPUBLIC OF TANZANIA, No. 36, Vol. LIV, Supplement No. 48 (7 Sept. 1973)

ORDER No. 5566 Y
19 SEP 1973

Supplement No. 48

7th September, 1973

SUBSIDIARY LEGISLATION

to the Gazette of the United Republic of Tanzania, No. 36, Vol. LIV, dated 7th September, 1973

Printed by the Government Printer, Dar es Salaam, by Order of Government.

GOVERNMENT NOTICE No. 209 published on 1973
THE INTERIM CONSTITUTION OF TANZANIA 1965
(CAP. 596) SEP 21 1973

PROCLAMATION COPY

Made under section 2

WHEREAS the Law of Nations recognizes that the sovereign power of a state extends to a belt of sea adjacent to its coasts:

AND WHEREAS, in the absence of uniformity in international practice relating to the extent of the territorial waters of states, it is necessary that a declaration be made of the extent of the territorial waters of the United Republic of Tanzania:

NOW THEREFORE, I, JULIUS KAMBARAGE NYERERE, President of the United Republic of Tanzania, in exercise of the powers vested in me by the Interim Constitution of Tanzania 1965, and other written laws of the United Republic do hereby declare and proclaim that, notwithstanding any rule of law or any practice which may have been observed hitherto in relation to the United Republic of Tanzania or the territorial waters of the United Republic of Tanzania, the territorial waters of the United Republic of Tanzania extend across the sea a distance of fifty nautical miles measured from the appropriate base lines along the coasts and adjacent islands as marked on charts numbered 1 to 4 issued by the Surveys Division of the Ministry of Lands, Settlement and Water Development, Dar es Salaam, on 30th March, 1967 and registered with the Secretary-General of the United Nations:

Provided that in respect of the island of Pemba where the distance between the base line measured on Pemba and the mainland of Kenya is less than one hundred nautical miles, the territorial waters of the United Republic of Tanzania extend up to the median line every point of which is equidistant from the nearest point on the base-line between Pemba and the mainland of Kenya as marked on the aforesaid charts.

The Proclamation made by me on the tenth day of July, 1963 and published as Government Notice numbered 353 of 1963 and the Proclamation made by me on the thirtieth day of March, 1967 and published as Government Notice No. 137 of 1967 are hereby revoked.

L. S.

Signed and sealed with the Public seal at Dar es Salaam
this twenty-fourth day of August, 1973.

JULIUS K. NYERERE,
President

Price Cents 40

Annex 41

International Hydrographic Organization, *Hydrographic Dictionary* (5th ed., 1994)

INTERNATIONAL HYDROGRAPHIC ORGANIZATION



HYDROGRAPHIC DICTIONARY

Part I

Volume I, English

Special Publication No. 32

FIFTH EDITION

**MONACO
1994**

P R E F A C E

The preparation of the Fifth Edition of the Hydrographic Dictionary was undertaken by a Working Group established in accordance with the Bureau's Circular Letter CL 45/1984 of 13 December 1984.

The Working Group was comprised of staff members of the Hydrographic Offices of Argentina, Croatia (associate member), France, and the United States of America (NOS). It carried out its work under the chairmanship of Captain H.-P. Rohde, IHB.

The Hydrographic Dictionary is published in two parts. Part I contains terms and definitions in the two official IHO languages and is published in separate volumes for each language. The definitions are intended to give concise explanations of terms, without necessarily considering specific applications or interpretations as, for example, for legal matters. Definitions of terms in Part I which were taken from publications of other authorities, are given without quoting these authorities. Other IHO publications containing glossaries were consulted to ensure consistency.

Part II will consist of separate supplements that provide a translation of the terms into various languages other than the official IHO languages. In each supplement, the terms will be listed alphabetically in English, with their equivalent in the other language, but without a translation of the definition. Each supplement will also contain an alphabetical listing of the terms in the other language, giving the relevant index number of the term in the English volume of Part I.

The English text in Volume I of this Dictionary has been modified to ensure maximum agreement with the French text and also to take into account certain more recent sources which have become available since the date of the Fourth Edition.

Valuable advice has been received from the Hydrographic Offices of a number of Member States and from other users of the Hydrographic Dictionary which sent the Bureau lists of proposed amendments to the 1990, Fourth Edition.

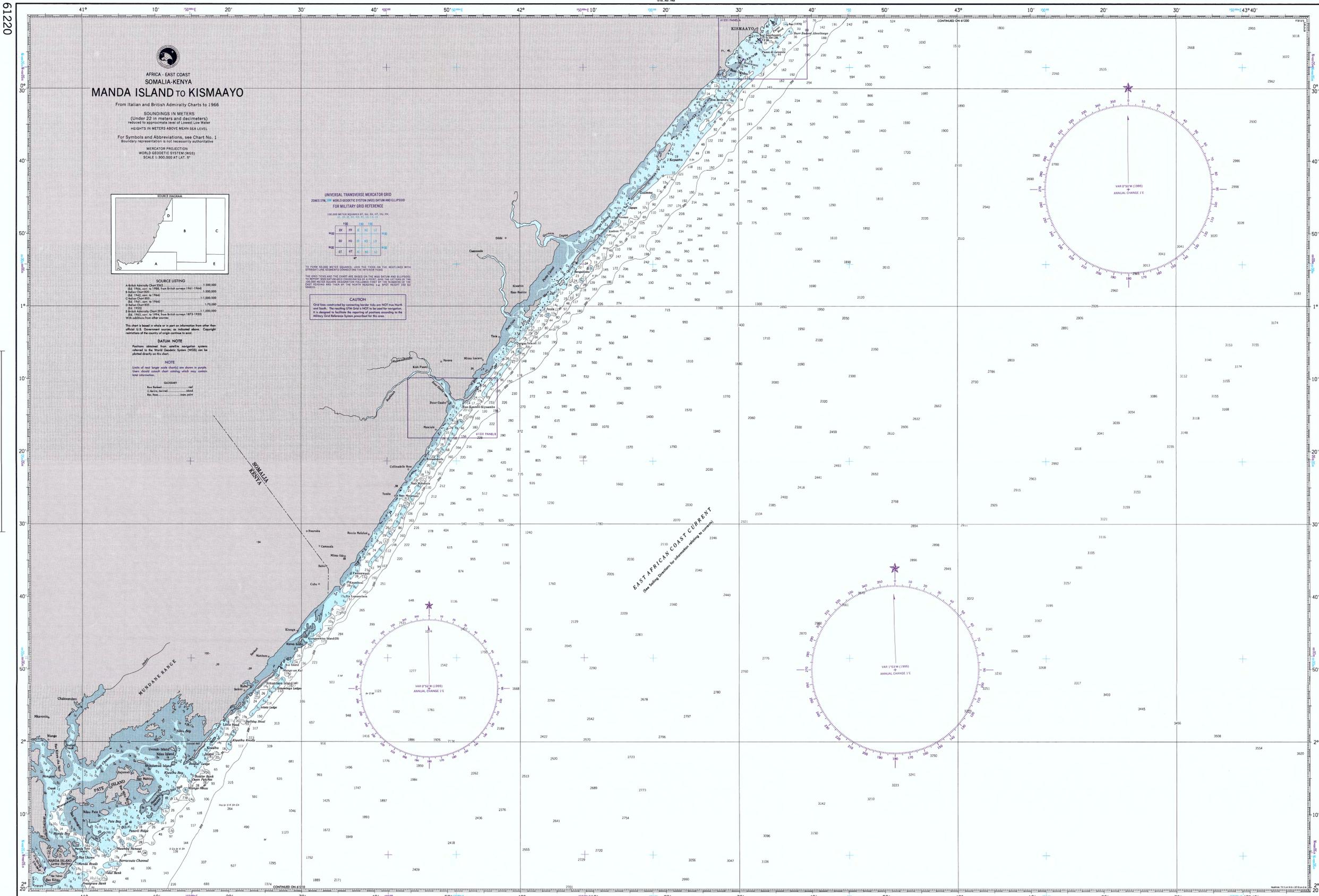
- 2925 **louver shutter.** See SHUTTER.
- 2926 **love wave (or Q-wave).** See WAVE.
- 2927 **low.** See DEPRESSION.
- 2928 **lower branch.** That half of a MERIDIAN or CELESTIAL MERIDIAN from POLE to POLE which passes through the ANTIPODE or NADIR of a place.
- 2929 **lower culmination.** See MERIDIAN TRANSIT.
- 2930 **lower high water (L.H.W.).** The lower of two HIGH WATERS occurring during a TIDAL DAY if the DIURNAL INEQUALITY prevails.
- 2931 **lower high water interval.** See LUNITIDAL INTERVAL.
- 2932 **lower limb.** See LIMB.
- 2933 **lower low water (L.L.W.).** The lower of two LOW WATERS occurring during a TIDAL DAY if the DIURNAL INEQUALITY prevails.
- 2934 **lower low water interval.** See LUNITIDAL INTERVAL.
- 2935 **lower transit.** See MERIDIAN TRANSIT.
- 2936 **lowest astronomical tide.** The lowest tide level which can be predicted to occur under average meteorological conditions and under any combination of astronomical conditions.
- 2937 **lowest low water.** An arbitrary LEVEL conforming to the lowest TIDE observed at a place, or somewhat lower.
- 2938 **low frequency (LF).** See FREQUENCY: RADIO.
- 2939 **lowland.** Low and relatively level LAND at a lower ELEVATION than adjoining districts.
- 2940 **low oblique photograph.** See PHOTOGRAPH.
- 2941 **low tide.** See LOW WATER.
- 2942 **low-tide elevation.** A naturally formed area of land which is surrounded by and above water at low tide, but submerged at high tide.
- 2943 **low velocity layer.** Any LAYER in which the VELOCITY of compressional wave propagation is lower than in the adjacent LAYERS. Such a LAYER can act as an efficient channel for the propagation of elastic WAVES for great distances.
- 2944 **low water (L.W.).** The lowest LEVEL reached at a place by the water surface in one OSCILLATION. Also called *low tide*.
- 2945 **low water: double.** A LOW WATER consisting of two minima separated by a relatively small elevation. See TIDE: DOUBLE.
- 2946 **low water full and change (L.W.F. and C.).** The average interval of time between the TRANSIT (upper or lower) of the full or new MOON and the next LOW WATER.
- 2947 **low water inequality.** See DIURNAL INEQUALITY.
- 2948 **low water interval.** See LUNITIDAL INTERVAL.
- 2949 **low water line.** See LOW WATER MARK.
- 2950 **low water lunitidal interval (L.W.I.).** Low water interval. See LUNITIDAL INTERVAL.
- 2951 **low water mark.** The intersection of the plane of LOW WATER with the SHORE. The line along a COAST, or BEACH, to which the SEA recedes at LOW WATER. Also called *low water line*.

Annex 42

United States National Geospatial-Intelligence Agency, *Chart 61220: Manda Island to Kismaayo*
(20 Jan. 2014)



SOUNDINGS IN METERS

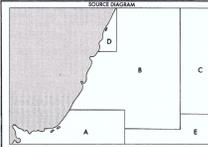


AFRICA - EAST COAST
SOMALIA - KENYA
MANDA ISLAND TO KISMAAYO

From Italian and British Admiralty Charts to 1966
SOUNDINGS IN METERS
(Under 22 in meters and decimeters)
reduced to approximate level of Lowest Low Water
HEIGHTS IN METERS ABOVE MEAN SEA LEVEL

For Symbols and Abbreviations, see Chart No. 1
Boussiniere representation is not necessary by authorities

MERCATOR PROJECTION
WORLD GEODETIC SYSTEM (WGS84)
SCALE 1:300,000 AT LAT. 5°

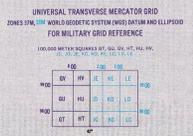


SOURCE LISTING table with columns for chart number, title, and date.

DATUM NOTE
Positions obtained from satellite navigation systems referred to the World Geodetic System (WGS84) can be plotted directly on this chart.

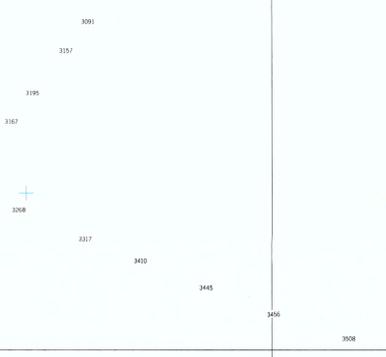
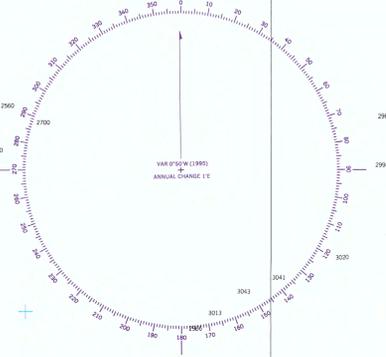
NOTE
Limits of most larger scale charts are shown as purple lines which usually show sailing which may contain local information.

COASTAL SYMBOLS table with columns for symbol, name, and description.



UNIVERSAL TRANSVERSE MERCATOR GRID
ZONES DIV. 10 WORLD GEODETIC SYSTEM (WGS84) DATUM AND ELLIPSOID
FOR MILITARY GRID REFERENCE

CAUTION
Grid lines constructed by computer software and are NOT to be used for navigation. The resulting UTM Grid is NOT to be used for navigation. It is designed to facilitate the reporting of positions according to the Military Grid Reference System prescribed for this area.



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Caution: This chart may not be up-to-date. Mariners are advised to consult the National Oceanic and Atmospheric Administration (NOAA) for the latest information and updates to this chart.

Caution: Some information on this chart may be protected by copyright.

This nautical chart was compiled by the National Oceanic and Atmospheric Administration (NOAA) and published by the National Oceanic and Atmospheric Administration (NOAA) under a Memorandum of Understanding with the National Oceanic and Atmospheric Administration (NOAA). It is not to be used for navigation.

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NSN 7540-01-401-2295
61220
To ensure that this chart was printed at the proper scale, the line above should measure six inches (152 millimeters). If the line does not measure six inches (152 millimeters), this copy is not certified safe for navigation.

Annex 43

Consumers Federation of Kenya, “How the latest string of National Oil Corporation of Kenya (NOCK) contracts will affect you the consumer” (20 Mar. 2014), *available at* <http://www.cofek.co.ke/index.php/news-and-media/399-how-the-latest-string-of-national-oil-corporation-of-kenya-nock-will-affect-you-the-consumer>



How the latest string of National Oil Corporation of Kenya (NOCK) contracts will affect you the consumer

📅 Created: Thursday, March 20, 2014

Page 1 of 3

The National Oil Corporation of Kenya Managing Director Ms Sumayya Hassan-Athmani has signed numerous commitments with far-reaching implications to the consumer.

Even as the Board of Directors meet tomorrow Friday March 21, 2014, the thorny issue of renewal of the current MD's contract is not listed (<http://www.cofek.co.ke/NOCK%20BoD%20Notice%20for%20March%2021-2014.pdf>). Meanwhile the Energy & Petroleum Cabinet Secretary Mr Davis Chirchir (pictured) has maintained his loud silence as the energy sector suffers severe governance challenges.

Let us sample a few such non-competitive contracts and how they are likely to affect you, the taxpayer sooner than later.

In the MOU between NOCK and Western Geco (<http://www.cofek.co.ke/Western%20Geco%20-%20National%20Oil%20Corporation%20of%20Kenya%20-%20July%202013.pdf>)

Section 2-2.2

NOCK has granted Western Geco exclusive rights to acquire any data over any offshore acreage-These exclusive permits are usually granted by the Minister for Energy and not NOCK

NOCK has granted Western Geco the right to store any existing data- Any existing data belongs to the government of Kenya and if NOCK allows Western Geco to host any such existing data especially where there are activePSCs the confidentiality of the data will be at risk.

NOCK has awarded the contracts for:

- Setting up a National data centre
- Setting up a seismic data Processing Centre



-and setting up a visualization centre to Western Geco

This will involve a lot of money and single sourcing of the contractor has been done without any competitive bidding process

In clause 4.4 NOCK agrees to provide Western Geco with all current and future licence agreements

All PSCs are signed between the Government of Kenya and the license operators and whereas NOCK has agreed that this clause is binding to it and Western Geco ; NOCK is only a government agency allowed to keep copies of PSC and has no legal right to give such documents to Western Geco as stated in the MOU.

In the signed non-exclusive permit with Western Geco/ Schlumberger ([National Oil & Fugro Agreement on Non-Exclusive 202D Marine Seismic Data in Kenya.pdf](#))

In clause 6.2 of the MOU, NOCK agrees to shut competition from other Multi client survey providers such as PGS and ION Geoventures and reserve the rights to Western Geco.

It is important to note companies such as ION Geoventures had proposed negotiable terms similar to Western Geco's final terms- If negotiations were held between NOCK and ION Geoventures there was a possibility of arriving at better terms. It is also important to note that over the same area NOCK had negotiated better terms with FUGRO than what has been signed with Western Geco. This is shown by comparison of the financial terms of both agreements from the second and third tiers.



Page 3 of 3

In clause 3.2 NOCK agrees to assist Western Geco in Customs exemption for equipment yet Schlumberger has a Kenyan office. This is an avenue that is likely to be misused with the support of NOCK

In article 4 NOCK commits to influence promotion of the data packages and Licensing of the blocks. This is a good avenue to enlist corrupt practices

Whereas the right to license blocks is vested in the Cabinet Secretary for Energy & Petroleum, NOCK in clause 4 commits that if the Cabinet Secretary so grants a license to another party other than through brokerage by Western Geco, the PSC holder must purchase the data from Western Geco at their price.

There is a danger that if such company is not compelled under any law to purchase the data and NOCK has agreed to this arrangement NOCK will be penalized with Western Geco deducting such amounts from NOCK's revenue share

At appendix 4

Under the NDC project all Kenyan Petroleum Data will be hosted by Schlumberger in UK

-On top of the software license fees not to mention the software is leased to NOCK, there are daily data management rates ranging from USD 1,850 to USD 4,100 (or KShs 159,100.00 to KShs 352,600.00)

For the project implementation phase which the contract does not offer specific details to be included NOCK has agreed to an implementation cost of USD 525,000.00 (or KShs 45,150,000.00)

The amounts involved are huge and no procurement procedures have been followed for this service. NOCK will continue paying the daily data management costs.

Other costs of access to be paid by NOCK per single user per year for the service:

Module	Cost in USD per user per year	Equivalent Cost in KShs per user per year
Archive only	8,1000.00	696,600.00
Archive and logs	13,500.00	1,161,000.00
Archive and Seismic	13,500.00	1,161,000.00
Enterprise Solution (Logs and Seismic)	18,900.00	1,625,400.00

In Appendix 5

NOCK has contracted the same company to establish a Data Processing Centre at a cost of USD 247,607.00 (or KShs 21,294,202.00) without following any competitive procurement procedure. On top of this NOCK will

incur another USD 98,000.00 (KShs 8,428,000.00) to train its staff on the processing of the data. Thus the total for data processing centre including staff training is KShs 29,722,202.00

In appendix 6

NOCK has awarded the establishment of the data visualization centre to the same company at costs which the company says may range from USD 800,000.00 to 1,000,000.00 (or KShs 68,800,000.00 to 86,000,000.00). this was equally not competitively done and the final cost is left to contractor to determine

