frontiers | Frontiers in Political Science

TYPE Policy Brief
PUBLISHED 10 December 2025
DOI 10.3389/fpos.2025.1679767

OPEN ACCESS

EDITED BY
Stig Jarle Hansen,
Norwegian University of Life Sciences,
Norway

REVIEWED BY
Awaisu Imurana Braimah,
University of Education, Winneba, Ghana
Berkant Akkuş,
Inonu University, Türkiye

*CORRESPONDENCE
Jie Sun
sunjie2026@126.com

RECEIVED 05 August 2025
REVISED 09 November 2025
ACCEPTED 20 November 2025
PUBLISHED 10 December 2025

CITATION
Sun J (2025) Kenya's blue rebalancing after the Somalia v. Kenya maritime delimitation judgment: a strategic toolkit for restoring leverage.
Front. Polit. Sci. 7:1679767.
doi: 10.3389/fpos.2025.1679767

Kenya's blue rebalancing after the Somalia v. Kenya maritime delimitation judgment: a strategic toolkit for restoring leverage

Jie Sun*

Law School, Hunan University of Technology and Business, Changsha, China

The October 2021 ruling by the International Court of Justice (ICJ) on the Kenya-Somalia maritime boundary dispute significantly undermined Kenya's strategic and economic interests. This policy brief proposes a non-militarized toolkit to help Kenya regain leverage. The toolkit combines legal innovation through the exploitation of ambiguities in the United Nations Convention on the Law of the Sea (UNCLOS), economic statecraft via the issuance of blue sovereign bonds, and narrative reframing that consistently highlights Somalia's governance failures. By leveraging regional alliances and multilateral partnerships, Kenya can mitigate the adverse impacts of the ruling, safeguard its maritime interests, and assert its leadership in regional maritime governance without escalating tensions. This approach offers a replicable model for smaller states navigating territorial disputes in the wake of unfavorable legal rulings.

KEYWORDS

maritime boundary dispute, non-military leverage, UNCLOS, strategic countermeasures, Kenya-Somalia relations

1 Introduction

In October 2021, the ICJ ruled in the case of Somalia v. Kenya on maritime delimitation, supporting Somalia's claim for the equidistance method of delimitation by a vote of 13 to 4. As a result, the ICJ assigned the disputed maritime area of 92,389 square kilometers to Somalia, thereby generating multiple detrimental effects for Kenya. Strategically, the new boundary reduced the Kenyan Navy's operational depth in the Kiunga-Lamu offshore zone, forcing the "security corridor" for international shipping lanes northward. This also contracted the hinterland coverage of Mombasa and Lamu ports, directly undermining Kenya's competitiveness as an Indian Ocean logistics hub. In terms of regional influence, Somalia launched new oil and gas bidding rounds following the ruling and partnered with external actors, such as Ethiopia and Qatar, to reshape maritime governance in the northwestern Indian Ocean. These actions have eroded Kenya's leverage in multilateral frameworks, including the East African Community (EAC) and the Intergovernmental Authority on Development (IGAD).

Confronted with an unfavorable ruling, Kenya can implement policy tools to reclaim strategic leverage without escalating regional conflicts. Beyond pursuing alternative avenues for international legal remedies, Kenya can leverage its position as the EAC's rotating chair. Specifically, Kenya can utilize its rotating EAC presidency and "Blue Economy" financing initiatives to reverse its passive position. Through such political hedging, Kenya may effectively counterbalance the disadvantages stemming from the adverse legal ruling.

This article is divided into five sections. The first section outlines the basic facts of the Somalia v. Kenya case and the key issues arising from the ruling in Kenya's favor. The second section analyzes the policies and principles Kenya should uphold in response to an unfavorable ruling and how to use political hedging to achieve a "blue rebalancing" between Kenya and Somalia in the Western Indian Ocean. The third section comprehensively examines the problems of the ICJ ruling and its adverse impacts on Kenya. The fourth section proposes specific countermeasures from Kenya's perspective, followed by a conclusion.

2 Kenya's "blue rebalancing" strategy

When the new target weights are calculated based on the strategy, the resulting weight trajectories are stored on-chain (Willetts and Harrington, 2024). Similarly, Kenya's "Blue Rebalancing" is not a singular, reactive diplomatic statement or military posture, but a medium- to long-term policy toolkit designed to systematically reshape Kenya's maritime strategic position. Its essence lies in shifting from an overreliance on direct, exclusive control over disputed maritime areas to a focus on strengthening national capabilities, expanding diverse partnerships, and shaping regional maritime governance agendas in non-confrontational ways. This approach seeks to rebalance the strategic leverage diminished by the ICJ ruling and, in the long run, to achieve substantial growth in the blue economy while consolidating national security. The implementation of the "Blue Rebalancing" strategy will enable Kenya to reclaim strategic leverage without escalating regional conflicts for two principal reasons:

First, the "Blue Rebalancing" strategy aims to lower tensions through strategic substitution. It skillfully shifts the nation's strategic focus from zero-sum disputed maritime areas to positive-sum domestic development and diversified cooperation. By mobilizing endogenous potential and fostering external collaborations, Kenya is forging newer, more sustainable foundations of strategic value. When a state's intrinsic capabilities and international partnerships are significantly enhanced, there is a corresponding decrease in its reliance on any singular contested space.

Second, the "Blue Rebalancing" strategy allows Kenya to reclaim its strategic initiative through leverage restructuring. While the ICJ ruling deprived Kenya of the direct leverage of "maritime rights claims," this strategy focuses on building a new and more sophisticated leverage system comprising economic attractiveness, partnership networks, and influence in international normative discourse. These new forms of leverage are designed not for military confrontation but for diplomatic negotiations, economic cooperation, and rulemaking.

Finally, the "Blue Rebalancing" strategy constitutes a thoughtfully crafted, non-confrontational roadmap for proactive adaptation. It acknowledges the new reality imposed by the international ruling while refusing to passively accept the strategic disadvantage. Instead, through a set of meticulously designed policy tools, it steers Kenya away from high-risk confrontation and toward high-reward capacity building and strategic network construction. This approach facilitates the progressive rebalancing and the ultimate recovery of strategic leverage diminished by the court's ruling, thereby ensuring and expanding the nation's long-term maritime interests.

Accordingly, this briefing proposes a phased implementation roadmap. First, consolidate sovereignty claims through legal rebuttals and the reinforcement of evidentiary foundations. Second, safeguard Kenya's existing oil and gas contracts through contractual upgrades and risk hedging. Finally, activate regional diplomatic and security coordination mechanisms to deter Somalia's unilateral development of offshore hydrocarbon resources and prevent potential conflict escalation.

3 Deficiencies in the ICJ ruling and their adverse effects on Kenya

3.1 Deficiencies in the ICJ ruling

UNCLOS endorses the application of the equitable principle in maritime delimitation. Articles 74 and 83 of UNCLOS stipulate that the delimitation of the exclusive economic zone (EEZ) or the continental shelf between states with opposite or adjacent coasts "shall be effected by agreement based on international law… to achieve an equitable solution." Both provisions require that coastal states apply the equitable principle, rather than the equidistance method, in delimiting the EEZ or the continental shelf.

In fact, the equidistance method is specified in Article 15 of UNCLOS as applicable to territorial sea delimitation, a provision not extended to the EEZ or the continental shelf. The three-stage approach,[1] which has evolved through international judicial practice, does employ the drawing of a provisional equidistance line in the first stage. However, this is merely a starting point; it must subsequently be adjusted in the second stage to account for relevant circumstances and is ultimately subject to a disproportionality test in the third stage. In the Somalia v. Kenya case, however, the ICJ largely delimited the maritime boundary along the equidistance line. It did so by disregarding the necessary adjustments to the provisional equidistance line in the second stage and forgoing a meaningful disproportionality test in the third. Kenya invoked five distinct circumstances that, it contended, necessitated a modification of the provisional equidistance line. Nevertheless, the Court dismissed four of these claimed adjustments (Bekker et al., 2022).

In maritime delimitation jurisprudence, international tribunals, while predominantly relying on geographical

1 The three-stage approach in maritime delimitation was formally introduced by the ICJ in the Romania v. Ukraine case in 2009. However, it had already shown clear signs of emergence in the Qatar v. Bahrain case in 2001. Furthermore, this methodology was subsequently applied by the ICJ in Nicaragua v. Colombia (2012) and by the Permanent Court of Arbitration in Bangladesh v. India (2014). In the second stage of delimitation in the aforementioned cases, it was determined that Snake Island, the Fasht ad Dibal low-tide elevation, Quitasueño Island and the marked concavity of Bangladesh's coastline, respectively, constituted "relevant circumstances" for adjusting the provisional equidistance line.

considerations, have consistently acknowledged the importance of non-geographical factors. Indeed, they have expressly maintained that there is no closed list of considerations,[2] the relative weight to be accorded to different considerations in each case,[3] and the cumulative effect of non-geographical factors may constitute a material consideration in maritime delimitation (Chuanxiang, 2022).

Based on the ICJ's ruling, the Court rejected Kenya's four key arguments. Kenya's first argument centered on naval patrols and law enforcement activities as evidence of effective jurisdiction. The Court, however, found that Kenya's own submissions undermined this claim: patrol maps and logs revealed inconsistent enforcement, with operations occasionally conducted even north of Kenya's claimed latitude line, and one crucial map was classified as "secret," precluding Somalia's knowledge.[4]

The second argument regarding fisheries and marine scientific research proved similarly flawed. Kenya cited a French fishing license issued in June 2011 and referenced Somalia's 1987–1988 fisheries report, but the Court determined that the 2011 license occurred after the dispute crystallized in 2009 and was therefore inadmissible.[5]

Kenya's third argument concerns oil concessions. The Court acknowledged that Kenya, as well as Somalia, had occasionally used the parallel of latitude to delimit concession blocks before 2009. However, it characterized this as likely being "a manifestation of caution" rather than legal recognition of a boundary. The Court cited precedent stating that "proof of the existence of a maritime boundary requires more than the demonstration of longstanding oil practice."[6] This directly refuted Kenya's fourth and final argument—that Somalia's overall conduct from 1979 to 2014 confirmed acceptance of a boundary at the parallel of latitude. Reaffirming that acts after the 2009 dispute crystallization are "in principle irrelevant,"[7] the Court found no "clear and consistent" evidence of Somalia's acquiescence, ultimately rejecting Kenya's claim of an agreed maritime boundary.

3.2 The adverse effects of the ICJ ruling on Kenya

The ICJ ruling presents multiple challenges to Kenya's national security, economic interests, and regional strategic position. The following analysis will focus on two dimensions—the risk of sovereignty deficit and the spillover effects on security—to examine the deeper predicaments Kenya faces in the aftermath of the ruling.

On the one hand, the immediate threat of a "sovereignty deficit" involves a dual erosion of hydrocarbon rights and the national strategic buffer.

Firstly, the ruling has profound implications for Kenya's existing Production Sharing Contracts (PSCs).[8] According to Business Daily, the profit of TotalEnergies Marketing Kenya Plc, a petroleum marketing company, plummeted by 50.8% in the financial year ending December 31, 2024, from 3 billion shillings to 1.4 billion shillings, with the ICJ ruling identified as a primary contributing factor (Mwenda, 2025). Particularly, should Somalia relabel the relevant blocks and offer them for international bidding, Kenya's existing official licenses would face the risk of being accused of "illegal exploitation."

Second, Kenya's sovereign depth has been truncated. Following the ICJ's ruling on the Kenya-Somalia maritime boundary, Kenya's jurisdictional waters have been pushed northward. This shift has compressed the traditional patrol range of the Kenyan Navy off the coast of Lamu. Consequently, a maritime security "gray zone" has emerged near the newly demarcated boundary, where surveillance and enforcement capabilities may be weakened.

This legal and geographical shift could create an operational vacuum that Somali pirates might exploit to increase their activities in the area. If left unaddressed, the heightened pirate presence may pose a more direct and immediate threat to Kenya's maritime security, endangering vital shipping lanes and coastal stability.

Conversely, the security spillover is strengthening Somalia's new alliances and driving its strategic encirclement.

First, there is an imbalance in regional alliances. Given that the US-Kenya relationship is profoundly complex overall, the United States, as Kenya's traditional ally, has adopted a nuanced stance following the Court's ruling. While U.S. Africa Command (AFRICOM) continues to rely on Kenya's Manda Bay base for counterterrorism operations against al-Shabaab,[9] it announced in early 2024 a plan to establish five new military bases in Somalia to bolster Mogadishu's capacity to combat the militant group (Sun and Gao, 2024).

In the second place, there is also a geopolitical imbalance. Turkey's comprehensive backing of Somalia has left Kenya facing a dual squeeze: equipment disparity and diplomatic isolation. In February 2024, Turkey and Somalia signed a Memorandum of Understanding (MOU), designating the Turkish Armed Forces as Somalia's partner in maritime security and law enforcement for the next decade. Under the terms of the MOU, Turkey will rebuild, equip, and train the Somali

2 Case Concerning the Continental Shelf (Libyan Arab Jamahiriya v. Malta), Judgment, I.C.J. Reports 1985, para.48.

3 Maritime Delimitation in the Area between Greenland and Jan Mayen(Denmark v. Norway), Judgment, I.C.J. Reports 1993, para.58.

4 Maritime Delimitation in the Indian Ocean (Somalia v. Kenya), Judgment, I.C.J. Reports 2021, p.206, para.84.

5 Maritime Delimitation in the Indian Ocean (Somalia v. Kenya), Judgment, I.C.J. Reports 2021, p.206, para.85.

6 Maritime Delimitation in the Indian Ocean (Somalia v. Kenya), Judgment, I.C.J. Reports 2021, p.206, para.87.

7 Maritime Delimitation in the Indian Ocean (Somalia v. Kenya), Judgment, I.C.J. Reports 2021, p.206, para.82.

8 The conclusions presented in this paper regarding economic impacts, fishing communities, and piracy risks are primarily based on multi-source data from the period 2020–2024, including government reports, international organization datasets, and academic research. The data collection methodology encompassed literature reviews, case studies, and comparative analysis to ensure the reliability and scientific validity of the research findings.

9 DAILY NATION, Hosting Africom in Africa is a good idea, May 17, 2021, https://nation.africa/kenya/blogs-opinion/letters/hosting-africom-in-africa-is-a-good-idea-3404002, accessed on July 30, 2025.

Navy in exchange for 30% of the revenue from Somalia's EEZ.[10] Furthermore, Turkey runs its largest overseas military training facility at the Anatolia Barracks in Mogadishu. Beyond security cooperation, Ankara supports development projects through the Turkish Cooperation and Coordination Agency (TIKA) and provides humanitarian assistance via the Turkish Red Crescent.[11]

4 Kenya's strategic countermeasures

To safeguard its maritime interests without escalating regional tensions, Kenya should adopt a systematic countermeasure strategy. This section proposes an actionable policy toolkit structured around three pillars: legal-diplomatic pathways, security-economic instruments, and narrative-warfare construction.

4.1 Legal-diplomatic pathways: entrenching sovereignty claims and counterbalancing through regional alliances

Initially, the legislative breakthrough aims to create a joint sovereignty patrol zone. The Kenya Coast Guard Service Act (Kenya Coast Guard Service Act Cap. 200, 2025), Section 8, stipulates that the Coast Guard's mandate includes enforcing maritime safety and security, safeguarding ports and coastal zones, protecting marine resources (including fisheries), and preserving archaeological and historical artifacts or sites.[12] Building upon this legal framework, Kenya may introduce a "Maritime Security Special Zone" clause to designate disputed areas as a "Counter-Piracy Collaborative Area under Kenyan Jurisdiction." This would underpin the establishment of a Kenya-led Joint Maritime Patrol Zone (JMPZ).

Building on this legislative innovation, Kenya could strategically develop the JMPZ into a Multinational Maritime Security Partnership by inviting selected regional partners to conduct coordinated patrols. This phased approach would do the following: (1) establish a persistent naval presence beyond the contested maritime boundary through routine joint operations; (2) systematically document enforcement activities as evidence of effective control; and (3) create a transitional mechanism from bilateral to multilateral cooperation while safeguarding Kenya's jurisdictional claims under international law. The normalized patrol regime would serve dual purposes—maintaining operational visibility in disputed waters while building legal capital for future dispute resolution proceedings.

In the second instance, the parallel diplomacy seeks to forge an Indian Ocean coastal interests community.

Within existing platforms, the EAC's institutional framework emphasizes regional cooperation and development. Kenya can enhance the alliance's cohesion by strengthening economic cooperation and promoting a common stance among member states on maritime rights issues. However, political divisions and geopolitical competition among member states of the Intergovernmental Authority on Development (IGAD) may undermine unified action on maritime delimitation. Kenya could undertake diplomatic efforts to foster dialogue and consultation among member states, thereby developing favorable countermeasures against Somalia's maritime claims. Meanwhile, the African Union (AU) possesses broad influence and institutional authority. Kenya could leverage the AU platform and its mediation and arbitration mechanisms to pursue peaceful pathways to resolve disputes.

To offset international support for Somalia, Kenya could form a coalition of interests with regional states such as Tanzania, Mozambique (whose northern Cabo Delgado province faces extremist threats), and Comoros (which relies on fisheries in the Indian Ocean). This coalition could seek consensus on securing oil and gas resources and jointly oppose Somalia's "unilateral maritime claims."

Such a maritime security collective would institutionalize joint positions on protecting hydrocarbon resources while coordinating naval patrols to deter unilateral activities.

4.2 Security-economic instruments: diluting the ruling's legitimacy through market and capital leverage

To begin with, a key financial strategy involves issuing Blue Sovereign Bonds. Kenya could strategically issue Blue Sovereign Bonds with a maritime thematic focus, specifically designed to attract Nordic sovereign wealth funds and global impact investors through compelling ESG (Environmental, Social, and Governance) frameworks. By framing the ICJ's ruling as a destabilizing threat to regional public goods such as maritime security, sustainable fisheries, and anti-piracy efforts, the bond issuance would undermine the verdict's legitimacy in economic terms. It would also secure international capital as a tacit endorsement of Kenya's maritime presence. This approach transforms financial instruments into geopolitical tools, leveraging investor confidence to reinforce Kenya's jurisdictional claims without direct confrontation.

Furthermore, a core legal tactic is to embed the ICJ's ruling enforcement clauses into all future PSCs.

Kenya could strategically incorporate "ICJ Ruling Enforcement Clauses" into its PSCs with foreign investors. These clauses would stipulate that any forced implementation of the maritime ruling would entitle investors to seek compensation through arbitration at the International Centre for Settlement of Investment Disputes (ICSID). This contractual innovation achieves three strategic objectives: (1) stabilizing energy investments by providing legal recourse against jurisdictional disruptions, (2) creating a direct financial linkage

10 Kiran Baez, Turkey signed two major deals with Somalia. Will it be able to implement them? June 18, 2024, https://www.atlanticcouncil.org/blogs/turkeysource/turkey-signed-two-major-deals-with-somalia-will-it-be-able-to-implement-them/.

11 Nordic Monitor, Ankara likens Somalia to Syria, using military power to enhance its economic influence, July 22, 2025, https://nordicmonitor.com/2025/07/ankara-likens-somalia-to-syria-using-military-power-for-economic-control/.

12 The Kenya coast guard service act cap. 200, Legislation as at 31 December 2022, https://new.kenyalaw.org/akn/ke/act/2018/11/eng@2022-12-31.

between Somalia's legal victory and Kenya's potential fiscal liabilities to deter aggressive enforcement, and (3) leveraging international capital's risk aversion to pressure Mogadishu toward negotiated resource-sharing solutions. It is encouraging to observe that, in order to attract foreign investment, Kenya's new policy, promulgated in 2025, has optimized the terms of PSCs.

4.3 Narrative-warfare construction: globalizing Somalia's "governance failure"

Kenya can publicly highlight the Somali government's systemic "governance failure" on the international stage. First, Somalia has long been in a state of anarchy, with its central government lacking sufficient authority to establish effective maritime governance institutions and regulatory systems. As a result, its EEZ remains poorly monitored, leaving marine resources vulnerable to unsustainable exploitation and inadequate protection. This governance vacuum has resulted in severe overfishing and rampant illegal, unreported, and unregulated (IUU) fishing by foreign vessels.[13] Second, although pirate attacks off Somalia's coast have declined in recent years, the underlying drivers—lawlessness, poverty, and a feeble state presence—remain intact. These gaps prevent Somalia from both safeguarding its own resources and responding to external maritime security threats.

Thus, through a "twin-track legal-diplomatic approach," the "combined use of security and economic levers," and narrative-warfare construction, Kenya can convert the post-ICJ judgment predicament into an opportunity to redefine maritime governance leadership without provoking regional militarization.

In summary, while Kenya's legal and diplomatic strategies are both necessary and feasible, their implementation requires careful calibration. In innovating domestic law and building communities of shared interests, Kenya should prioritize communication and consultation with Somalia and other relevant states to avoid legal and diplomatic conflicts arising from unilateral actions. Regarding economic measures, a thorough assessment of market and diplomatic risks must be conducted to ensure the legality and rationality of such actions. Meanwhile, by leveraging public diplomacy and alliance balancing, Kenya should avoid excessive escalation of tensions and seek more flexible, constructive solutions. Only through such a balanced approach can Kenya safeguard its maritime rights and interests while achieving a "win-win" outcome with Somalia, thereby contributing to regional peace and stability.

5 Conclusion

The 2021 ICJ ruling on the Kenya-Somalia maritime boundary dispute placed Kenya at a strategic disadvantage. However, by employing a comprehensive set of legal, economic, and public opinion tools, Kenya can still gradually recover its strategic losses and strengthen its de facto control over the disputed waters without provoking regional escalation.

The superiority of the aforementioned strategies lies in their ability to prevent Kenya and Somalia from descending into a debilitating military conflict that could invite external intervention. Meanwhile, these strategies enable Kenya to leverage regional organizations such as the EAC and strategic partnerships to offset the geopolitical disadvantages arising from the ICJ ruling. This Kenyan model offers broader lessons for global maritime disputes by demonstrating how smaller states can employ a non-militarized policy toolkit that combines legal innovation, economic statecraft, and narrative framing to gradually reclaim the strategic initiative in maritime delimitation disputes. Future research should focus on quantifying the strategic gains of non-military means and examining the ethical limits of creatively exploiting ambiguities in international law.

Author contributions

JS: Writing – review & editing, Writing – original draft.

Funding

The author(s) declare that financial support was received for the research and/or publication of this article. This work was supported by 2024 Hunan Provincial Graduate Student Research Innovation Project: "A Study on the Judicial Practice of Maritime Delimitation by African States and Its Practical Implications" (project no.: LXBZZ2024356).

Conflict of interest

The author declares that the research was conducted in the absence of any commercial or financial relationships that could be construed as a potential conflict of interest.

Generative AI statement

The author declares that no Gen AI was used in the creation of this manuscript.

Any alternative text (alt text) provided alongside figures in this article has been generated by Frontiers with the support of artificial intelligence and reasonable efforts have been made to ensure accuracy, including review by the authors wherever possible. If you identify any issues, please contact us.

13 Chondrichthyans of the Western Indian Ocean: Biodiversity, Fisheries and Trade, Management and Conservation, October, 2020, https://www.kimi.com/chat/d24malm4bbjlq2sang90.

References

Bekker, P., Schofield, C., and Poll, v. d. R. (2022). Transparency and predictability in the maritime delimitation process: reverse-engineering the Somalia-Kenya adjudicated boundary. *Int. J. Mar. Coast. Law* 37, 413–457. doi: 10.1163/15718085-BJA10104

Chuanxiang, S. (2022). On the active role of non-geographical factors in the practice of international maritime delimitation. *Wuhan Univ. Int. Law Rev.* 6, 98–119. doi: 10.13871/j.cnki.whuilr.2022.02.006

Kenya Coast Guard Service Act Cap. 200. Published in Kenya Gazette Vol. CXX—No. 121 on 5 October 2018, 24th Annual Supplement (Legal Notice 221 of 2023). (2025). Available online at: https://new.kenyalaw.org/akn/ke/act/2018/11/eng@2022-12-31 (Accessed July 28, 2025)

Mwenda, E. TotalEnergies expands bikes charging stations, Business Daily, (2025). Available online at: https://www.businessdailyafrica.com/bd/corporate/industry/totalenergies-expands-bikes-charging-stations-5070788 (Accessed July 28, 2025)

Sun, H., and Gao, C. B., Triple Crisis Overlapping: Somalia's Arduous Path Forward, June, (2024). Available online at: http://www.cicir.ac.cn/new/opinion.html?id=1de3583f-0ce9-43ee-9572-b1bacfd94a98.

Willetts, M., and Harrington, C. (2024). Rebalancing-versus-rebalancing: improving the fidelity of loss-versus-rebalancing. *arXiv*. [preprint] doi: 10.48550/arXiv.2410.23404