



MARITIME ACCESS AND SOVEREIGNTY:

A Legal Analysis of the Ankara Declaration Between Ethiopia and Somalia

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Policy Analysis

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Introduction

The Ankara Declaration, signed on December 12, 2024, by Ethiopian Prime Minister Abiy Ahmed and Somali President Hassan Sheikh Mohamud under the mediation of Turkish President Recep Tayyip Erdoğan, marks a significant diplomatic milestone in addressing geopolitical tensions in the Horn of Africa. Emerging from months of heightened regional instability, the agreement seeks to resolve a longstanding maritime access dispute that threatened to destabilize bilateral relations between Somalia and Ethiopia and undermine regional security. This development represents a major diplomatic breakthrough following the two failed rounds of discussion since July 2024. The crisis that necessitated the agreement began in January 2024, when Ethiopia entered a controversial Memorandum of Understanding (MoU) with Somaliland, a self-declared breakaway region of Somalia.

The MoU proposed recognizing Somaliland's independence in exchange for Ethiopian access to port facilities and a potential military base. Somalia, which views Somaliland as an integral part of its territory, responded by expelling Ethiopia's ambassador and blocking its participation in regional peacekeeping efforts, escalating tensions to critical points.

The Ankara Declaration addressed three critical issues.

First, it reaffirms Somalia's territorial integrity and implicitly rejects the validity of Ethiopia's earlier MoU with Somaliland. Second, it grants Ethiopia maritime access via Somali ports but emphasizes that this access remains under Somali authority and oversight. Third, it establishes a framework for technical negotiations aimed at finalizing commercial arrangements by February 2025 with a strict four-month deadline. While these measures signal progress toward fostering regional cooperation, they also underscore the challenges of balancing Ethiopia's strategic interests with Somalia's sovereignty.

The Declaration's endorsement by international actors, including the African Union (AU), the United States, and the United Kingdom, further emphasizes its significance as a potential model for conflict resolution in the region.

This policy analysis examines the legal implications of the Ankara Declaration with a particular focus on its impact on Somalia's sovereignty, territorial integrity, and Ethiopia's maritime access. By analyzing the Declaration's provisions, this paper explores their alignment with international law and their potential to shape future maritime cooperation between Ethiopia and Somalia.

Legal status of the agreement

The Ankara Declaration serves as a political framework agreement, characterized by an aspirational language aimed at fostering dialogue and cooperation rather than imposing binding legal obligations. Phrases such as "agreed to closely work together" and "pledged to resolve differences" reflect political commitments rather than enforceable legal terms. The absence of definitive language such as "shall" or "must" reinforces its non-binding nature, positioning the Declaration as a precursor to future legally binding agreements. Although such a language facilitates flexibility and initial collaboration, it leaves the agreement vulnerable to shifts in political will and unequal power dynamics.

Non-binding agreements, including declarations and MoUs, are frequently employed to manage sensitive international issues. Aust (2013) explained that these frameworks are designed to foster trust and adaptability without the rigidity of formal treaties. However, their reliance on mutual goodwill makes them susceptible to divergent interpretations and unenforceable in the absence of legal mechanisms. As McNair (1961) noted, the efficacy of such agreements hinges on the political will of the parties, leaving weaker states exposed to potential exploitation.

The Ankara Declaration exemplifies these vulnerabilities by,

deferring substantive matters to technical negotiations that were expected to be concluded by February 2025. The absence of formal dispute-resolution mechanisms further underscores its reliance on voluntary compliance. Hathaway and Shapiro (2017) highlight that agreements lacking enforcement mechanisms often disadvantage weaker parties, as power asymmetries allow dominant states to reinterpret or exploit provisions for their benefit.

Implicit Invalidation of the Ethiopian-Somaliland MoU

A central feature of the Ankara Agreement is its explicit reaffirmation of Somalia's territorial integrity and sovereignty. By committing to "one another's sovereignty, unity, independence, and territorial integrity," the agreement serves as a de facto repudiation of the contentious Memorandum of Understanding (MoU) between Ethiopia and Somaliland, the self-declared breakaway region. This commitment aligns with the foundational principles of international law, including the African Union's principle of *uti possidetis juris*, which protects the sanctity of colonial-era borders to maintain territorial stability, as well as the Montevideo Convention's criteria for statehood, emphasizing sovereignty and territorial integrity as indispensable elements of nationhood.

This reaffirmation significantly reinforces Somalia's legal and diplomatic posture by bolstering its territorial claims and delegitimizing Somaliland's unilateral declarations of independence. It also marks a strategic shift in Ethiopia's position, signaling a move away from engagements that could have emboldened Somaliland's secessionist ambitions. The declaration's statement that both parties agreed "within a spirit of friendship and mutual respect, to forgo and leave behind differences and contentious issues and forge ahead in a cooperative manner to pursue shared prosperity" further supports this view. Although the MoU is not explicitly invalidated in the text, the language strongly suggests that past disputes, including the MoU, have been set aside, paving the way for future arrangements under Somalia's sovereign authority.

However, Ethiopia's subsequent conduct raises concerns about the intention and sincerity of its commitment to the agreement. Hours after the declaration was released, Ethiopia's official news agency tweeted—and then deleted—a message stating, "With Ankara mediated deal with Somalia, Ethiopia walked its talks in resolving any disputes peacefully. The declaration secures Ethiopia's right to sea outlets while upholding MoU with Somaliland and debunking baseless claims of invasion against Somalia." This deleted tweet reveals Ethiopia's attempt to mischaracterize the agreement, portraying it as simultaneously securing access to Somali ports while preserving the disputed MoU with Somaliland.

This immediate misrepresentation underscores the need for Somalia to prioritize transparency, consistency in public communications, and strong legal frameworks in future agreements to mitigate these risks.

Ethiopia's Maritime Access

The Ankara Declaration guarantees Ethiopia's access to the Somali ports under the principle of Somali sovereignty. They further agreed to closely work together to finalize mutually advantageous commercial arrangements through bilateral agreements, including contract, lease, and similar modalities, which will allow the Federal Democratic Republic of Ethiopia to enjoy reliable, secure, and sustainable access to and from the sea, under the sovereign authority of the Federal Republic of Somalia." This phrasing underscores Somalia's ultimate control over its maritime territory but leaves room for ambiguity. Without a precise language, Ethiopia could potentially interpret these terms to expand its influence over Somali ports. To mitigate this risk, Somali negotiators must ensure that subsequent agreements restrict Ethiopia's access to commercial purposes, explicitly prohibiting military or strategic activities.

Ethiopia's legal position under international law further complicates its claim of assured maritime access. As a non-signatory to the United Nations Convention on the Law of the Sea (UNCLOS), Ethiopia lacks a legal basis to demand guaranteed access through Somali territory.

UNCLOS establishes the rights and obligations of landlocked and transit states, emphasizing that coastal states retain sovereign discretion in granting transit rights. This principle makes Ethiopia's maritime access entirely dependent on negotiated bilateral agreements, limiting its ability to assert its inherent legal rights. By not acceding to UNCLOS, Ethiopia has significantly weakened its position, a factor that Somali negotiators should strategically leverage.

The principle of sovereign discretion under the UNCLOS has been upheld in key international legal contexts. For example, the International Court of Justice (ICJ) in *Bolivia v. Chile* (2018) ruled that landlocked states do not possess the inherent right to access the sea beyond what is explicitly granted through treaties or bilateral negotiations. This decision affirmed the coastal states' absolute control over their maritime territories, reinforcing that access must be negotiated and cannot be imposed unilaterally.

Adding to Ethiopia's legal vulnerabilities is its history with Group 77 during the drafting of UNCLOS. As articulated in UN doc. A/5587: "No State can claim that the rights established by the Convention apply to that State if it is not a party." Ethiopia's non-signatory status excludes it from invoking UNCLOS provisions to assert transit rights, making bilateral agreements such as the Ankara Declaration critical for advancing its maritime objectives.

Faced with these legal limitations, Ethiopia sought to strengthen its

negotiating position by leveraging the controversial MoU with Somaliland. Recognizing its tenuous position under international law, Ethiopia used the Somaliland MoU as a political tool to circumvent its lack of inherent maritime rights. By engaging with Somaliland, Ethiopia exploited the ambiguity surrounding its legal status to secure strategic maritime access. This tactic created a dual challenge for Somalia, preserving its territorial sovereignty while countering Ethiopia's growing influence. Using the MoU, Ethiopia effectively created a legal and diplomatic gray zone that not only undermined Somalia's sovereignty but also placed Ethiopia in a stronger bargaining position by presenting an alternative route for maritime access.

For Somalia, this underlines the importance of framing Ethiopia's maritime access as a conditional privilege, rather than an inherent right. Future agreements must include explicit provisions that limit Ethiopia's access to commercial purposes and prohibit any military or strategic use of the Somali ports. Robust mechanisms that ensure transparency, regulatory oversight, and strict adherence to Somali laws should be incorporated into these agreements. Furthermore, Somalia should leverage its sovereign discretion under international law to reaffirm its maritime resources and mitigate the risk of potential overreach by Ethiopia. These measures will not only reinforce Somalia's legal and diplomatic position but also contribute to regional stability by preventing further escalation of tensions.

Lease model risks

The leasing model represents a specific mechanism within the broader framework of transit state obligations, where Somalia must balance the economic benefits of granting access to Ethiopia against risks to its sovereignty. Although leasing agreements can facilitate transit arrangements and foster regional cooperation, they also pose significant risks if not carefully negotiated and regulated. The leasing model outlined in the Ankara Declaration offers both opportunities and significant risks to Somalia. Leasing arrangements provide Ethiopia with much-needed access to Somali ports, fostering economic collaboration and regional integration. However, if not carefully structured, such agreements may inadvertently undermine Somalia's sovereignty and territorial integrity by granting Ethiopia de facto control over strategic maritime resources.

As Crawford (2019) observes, while leases do not transfer sovereignty, ambiguous, or poorly defined terms can lead to quasi-sovereign control by the lessee. Historical examples highlight the risks inherent to such arrangements. For instance, the lease of Guantanamo Bay to the United States in 1903, ostensibly for naval purposes, has become a protracted point of contention over sovereignty and control. Similarly, the Hambantota Port leased to China under a debt-restructuring agreement raised concerns about potential military utilization and strategic dominance. Both cases reveal the importance of precisely delineating the scope and limits of leasing agreements to prevent encroachment on sovereignty.

For Somalia, the risks are particularly evident, given the power asymmetry with Ethiopia and the strategic importance of its maritime assets. Without explicit safeguards, Ethiopia could justify a naval presence or other strategic activities under the guise of commercial operations, effectively challenging the Somali authority over its sea. Such developments would not only compromise Somalia's territorial integrity, but also destabilize the region by inviting further militarization or competition over the Somali coastal zones.

To avoid lease model risks in maritime access agreements, Somalia must explicitly affirm its ultimate authority over leased territories and restrict Ethiopia's use of port facilities for commercial purposes, excluding establishing a naval base or militarizing its leased facility. Ensuring the explicit reaffirmation of Somali sovereignty and clearly defined terms of use is essential in upcoming negotiations to prevent potential overreach and protect national interests.

Conclusion Remarks and Policy Considerations

The Ankara Declaration, signed on December 12, 2024, under Turkey's mediation, constitutes a significant diplomatic initiative aimed at resolving protracted geopolitical tensions between Ethiopia and Somalia. The agreement seeks to balance Ethiopia's pursuit of maritime access with Somalia's reaffirmation of its territorial sovereignty. While the Declaration reflects progress in fostering regional cooperation, its non-binding framework

and ambiguities in specific provisions create potential vulnerabilities, particularly by affording Ethiopia latitude to interpret its terms in a manner inconsistent with the agreement's intended objectives.

As a non-signatory to the United Nations Convention on the Law of the Sea (UNCLOS), Ethiopia lacks a legal basis to claim an inherent right to maritime access. This legal context enables Somalia to frame Ethiopia's access as a conditional and revocable privilege rather than a right under international law. Moreover, under established principles of state sovereignty, Ethiopia lacks the authority to compel Somalia to enter negotiations over maritime access, given Somalia's internationally recognized sovereign control over its territory and resources.

Nevertheless, Ethiopia sought to mitigate its legal disadvantage by strategically leveraging the contentious Memorandum of Understanding (MoU) with Somaliland. This MoU, while lacking legal weight in the context of Somalia's territorial integrity, was utilized as a bargaining mechanism to pressure Somalia into negotiations, thereby undermining Somalia's sovereign prerogatives and potentially setting a precedent for similar exploitative tactics.

Furthermore, the leasing model proposed for granting Ethiopia access to Somali ports introduces significant risks if inadequately regulated.

While such arrangements could foster mutual economic benefits, poorly defined leasing terms may result in unintended consequences, including compromises to Somalia's sovereignty and territorial integrity.

Somalia must adopt a strategic, forward-looking approach to protect its sovereignty and achieve equitable outcomes. The following measures were proposed.

1. Strengthen Legal and Institutional Capacities:

Somalia must enhance its ability to negotiate from a position of strength. This includes:

- Investing in specialized legal expertise to address complex issues related to maritime access and sovereignty.
- Forming dedicated negotiation teams equipped with technical advisors who can offer data-driven insights and legal analyses.
- Establishing institutional frameworks to provide consistent guidance and monitoring for future agreements.

2. Establish Clear and Enforceable Leasing Terms:

Leasing arrangements with Ethiopia should be structured as follows:

- Explicitly limit activities to commercial purposes, with clear prohibitions against military or strategic use of Somali ports.
- Include clauses that affirm Somalia's ultimate authority over leased territories.
- Establish robust oversight mechanisms, such as regular audits

3. Leverage International Legal Frameworks:

Somalia should actively utilize international legal principles to reinforce its position as a coastal state.

Key steps include:

- Emphasizing Ethiopia's non-signatory status to UNCLOS to frame maritime access as a conditional privilege rather than an inherent right.
- Highlighting Somalia's sovereign discretion under UNCLOS to strengthen its legal standing in bilateral or multilateral negotiations.

4. Address Ambiguities and Include Dispute-Resolution Mechanisms:

Somalia must address ambiguities within the Ankara Declaration during technical negotiations. This involves:

- Drafting agreements with precise language that prevents misinterpretation or exploitation.
- Insisting the inclusion of formal dispute-resolution mechanisms to efficiently handle disagreements and minimize political tensions.

5. Enhance Public Communication and Transparency:

Transparent and consistent public communication strategies are crucial for maintaining domestic and international support.

Somalia should:

- Actively counter misrepresentations, such as Ethiopia's earlier mischaracterization of the Declaration.
- Provide clear narratives to stakeholders, reinforcing Somalia's commitment to sovereignty, regional cooperation, and equitable maritime access agreements.

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