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## **1. INTRODUCTION**

The Under-Secretary-General for the Office of Legal Affairs has invited the PCA to contribute to the 2023 report of the United Nations Secretary-General on oceans and the law of the sea. The invitation requests information on the activities which have been undertaken or are ongoing in the implementation

The International Bureau has its headquarters at the Peace Palace in The Hague, the Netherlands, as well as permanent offices in Mauritius, Singapore, Buenos Aires, Ha Noi, and Vienna.

The PCA has concluded Host Country Agreements with a number of its Contracting Parties and cooperation arrangements with many institutions across the globe in order to make its dispute resolution services more widely accessible. During the Reporting Period, the PCA signed Host Country Agreements with the Republic of Ecuador and the Republic of Austria. The latter also came into force during the Reporting Period. The PCA also concluded a Cooperation Agreement with the Lagos Chamber of Commerce International Arbitration Centre (LACIAC).

### **3. PCA CASE ACTIVITIES IN RELATION TO THE 1982 UNITED NATIONS CONVENTION ON THE LAW OF THE SEA**

The Convention sets forth in Part XV rules for the resolution of disputes between States Parties arising out of its interpretation or application.

Pursuant to Article 287 of the Convention, arbitration under Annex VII is the default means of dispute settlement if a State has not expressed any preference with respect to the means of dispute resolution available under Article 287(1), or if the disputing parties have not accepted the same procedure for the settlement of the dispute. Since the Convention came into force in 1994, the PCA has administered all but one of the fifteen arbitrations conducted pursuant to Annex VII of the Convention. The Annex VII arbitrations of this Reporting Period are discussed in further detail in Section 5 below.

Additionally, Article 298 of the Convention provides for compulsory conciliation under Annex V where a State has elected to exclude certain subject-matters from arbitration or judicial settlement. In 2016-2018, the PCA assisted a five-member Conciliation Commission in the first (and thus far only) compulsory conciliation under Annex V of the Convention: the *Timor Sea Conciliation between Timor-Leste and Australia* (PCA Case No. 2016-10). The Conciliation Commission held extensive confidential meetings with the two States, during which they first agreed to an integrated package of confidence-building measures intended to facilitate the conciliation process, and eventually reached agreement on a maritime boundaries treaty, which was signed on 6 March 2018 at a ceremony hosted by the Secretary-General of the United Nations.<sup>2</sup>

### **4. OTHER PCA DISPUTE RESOLUTION PROCEEDINGS INVOLVING THE LAW OF THE SEA**

#### **4.1. Arbitrations**

As noted in the PCA's prior reports, the PCA has administered historical and contemporary arbitrations involving the law of the sea that were not brought under the Convention. Some of the earliest arbitrations administered by the PCA continue

and maritime features located in the Red Sea and, thereafter, to delimit the maritime boundary between the two States. The parties designated the PCA as registry. The PCA also acted as registry in the *Arbitration between the Republic of Croatia and the Republic of Slovenia* (PCA Case No. 2012-04), which was conducted pursuant to an arbitration agreement between the parties tasking the arbitral

The Tribunal was constituted on 29 November 2016. On 12 May 2017, the Tribunal held its first procedural meeting, during which it consulted with the Parties in respect of the procedural framework for the arbitration, including the calendar for oral and written pleadings.

On 19 February 2018, Ukraine filed its Memorial. Ukraine's claims, as described in its Memorial, are that the Russian Federation has violated (i) "Ukraine's rights to hydrocarbon resources in the Black Sea and Sea of Azov"; (ii) "Ukraine's rights to living resources in the Black Sea, Sea of Azov, and Kerch Strait"; (iii) "Ukraine's rights by embarking on a campaign of illegal construction in the Kerch Strait that threatens navigation and the marine environment"; (iv) "its duty to cooperate with Ukraine to address pollution at sea"; and (v) "Ukraine's [Convention] rights and [its] own duties in relation to underwater cultural heritage."

On 21 May 2018, the Russian Federation raised preliminary objections to the jurisdiction of the Tribunal on the grounds that (i) the Tribunal lacks jurisdiction because the Parties' dispute in reality concerns Ukraine's "claim to sovereignty over Crimea" and is therefore not a "dispute concerning the interpretation or application of the Convention" as required by Article 288(1) of the Convention; (ii) the Tribunal has no jurisdiction over claims concerning activities in the Sea of Azov and in the Kerch Strait; (iii) the Tribunal has no jurisdiction in light of the Parties' declarations under Article 298(1) of the Convention, relating to military activities, law enforcement activities, delimitation, and historic bays or titles; (iv) the Tribunal has no jurisdiction over fisheries claims in light of Article 297(3)(a) of the Convention; (v) the Tribunal has no jurisdiction over fisheries, protection and preservation of the marine environment, and navigation in light of Annex VIII to the Convention; and (vi) the Tribunal has no jurisdiction pursuant to Article 281 of the Convention. The Russian Federation further asked that the Tribunal hear its objections to the Tribunal's jurisdiction in a preliminary phase of the proceedings.

On 20 August 2018, having received comments from both Parties in respect of the Russian Federation's request, the Tribunal issued Procedural Order No. 3, deciding that it would examine the Russian Federation's preliminary objections in a preliminary phase of the proceedings.

Between March and May 2019, the Parties submitted written pleadings concerning the Russian Federation's preliminary objections and, from 10 to 14 June 2019, the Tribunal held a hearing concerning the preliminary objections at the Peace Palace in The Hague.

On 21 February 2020, the Tribunal issued an Award concerning the preliminary objections of the Russian Federation. The Tribunal, unanimously: (i) upheld "the Russian Federation's objection that the [Tribunal] has no jurisdiction over Ukraine's claims to the extent that a ruling of the [Tribunal] on the merits of Ukraine's claims necessarily requires it to decide, directly or implicitly, on the sovereignty of either Party over Crimea"; (ii) found "that the Russian Federation's objection that the [Tribunal] has no jurisdiction over Ukraine's claims concerning the activities in the Sea of Azov and the Kerch Strait does not possess an exclusively preliminary character, and accordingly decid[ed]

During the Reporting Period, on 20 July 2022, upon a further request from the Russian Federation, the Tribunal issued [Procedural Order No. 9](#) revising the procedural timetable.

On 26 March 2023, the member of the Tribunal originally appointed by the Russian Federation, Judge Vladimir Golitsyn, passed away. In accordance with Article 6 of the Tribunal's Rules of Procedure, on 30 May 2023, the Russian Federation appointed Professor Alexander N. Vylegzhanin to succeed Judge Golitsyn on the Tribunal.

## **5.2. Dispute Concerning the Detention of Ukrainian Naval Vessels and Servicemen (Ukraine v. the Russian Federation), PCA Case No. 2019-28**

<b>Commencement date</b>	1 April 2019
<b>Jurisdictional basis</b>	Article 287 and Annex VII to the Convention
<b>Tribunal members</b>	Professor Donald McRae (President), Judge Gudmundur Eiriksson, Judge Rüdiger Wolfrum, Sir Christopher Greenwood, GBE, CMG, KC, Judge Vladimir Golitsyn

On 22 May 2020, Ukraine filed its Memorial, in which it claimed that the Russian Federation had

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