



**CONTRIBUTION OF THE PERMANENT COURT OF ARBITRATION TO  
THE REPORT OF THE UNITED NATIONS SECRETARY-GENERAL ON OCEANS  
AND THE LAW OF THE SEA, AS AT 13 JUNE 2025<sup>1</sup>**

## **EXECUTIVE SUMMARY**

The Permanent Court of Arbitration (“**PCA**”) is an intergovernmental organization that provides dispute resolution services to the international community. It has unparalleled experience in the administration of inter-State dispute resolution proceedings concerning oceans and the law of the sea.

The PCA has acted as registry in 14 of the 15 arbitrations conducted pursuant to Annex VII of the 1982 United Nations Convention on the Law of the Sea (“**Convention**”), as well as in the first (and, to date, only) compulsory conciliation under Annex V of the Convention. The PCA has also administered dispute resolution proceedings involving the law of the sea brought under other legal instruments.

In the period since the PCA’s last contribution to the report of the United Nations Secretary-General on oceans and the law of the sea in June 2024 (“**Reporting Period**”), the PCA has continued to administer the following arbitrations brought under the Convention:

- [\*Dispute Concerning Coastal State Rights in the Black Sea, Sea of Azov, and Kerch Strait \(Ukraine v. the Russian Federation\)\*](#), PCA Case No. 2017-06, which was instituted in September 2016 and remains pending; and
- [\*Dispute Concerning the Detention of Ukrainian Naval Vessels and Servicemen \(Ukraine v. the Russian Federation\)\*](#), PCA Case No. 2019-28, which was instituted in April 2019 and remains pending.

The PCA has continued to engage in outreach and education activities relevant to the law of the sea.

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<sup>1</sup> For developments after 13 June 2025 and further information about the PCA see [www.pca-cpa.org](http://www.pca-cpa.org).

## 1. INTRODUCTION

The Under-Secretary-General for the Office of Legal Affairs has invited the PCA to contribute to the 2025 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 of specific provisions of United Nations General Assembly Resolution 79/144 of 12 December 2024 (“**Resolution 79/144**”) relevant to the PCA. In addition, the invitation requests information on the main developments at the PCA in the field of ocean affairs and the law of the sea that have occurred since the last reporting period. The part of Resolution 79/144 that is most relevant to the PCA is Section IV on the “Peaceful settlement of disputes”.

Section 2 of this report provides background on the PCA. Sections 3 and 4 provide an overview of the PCA’s case activities in relation to the Convention and in other dispute resolution proceedings involving the law of the sea. Sections 5 and 6 contain a case-by-case description of relevant dispute resolution proceedings administered by the PCA in this Reporting Period. Finally, Section 7 sets out additional relevant activities undertaken by the PCA, particularly in the areas of outreach and education.

As some dispute resolution proceedings administered by the PCA are confidential, in whole or in part, this report is limited to publicly available information.

## 2. BACKGROUND ON THE PERMANENT COURT OF ARBITRATION

The PCA is an intergovernmental organization designed to facilitate arbitration and other modes of dispute resolution between States, State entities, intergovernmental organizations, and private parties. It is an autonomous institution, governed by the 125 Contracting Parties to one or both of its founding conventions: the 1899 and 1907 Conventions for the Pacific Settlement of International Disputes. Vanuatu, Timor-Leste, and Armenia recently became Contracting Parties during the reporting period.

While it is the world’s oldest intergovernmental organization for the resolution of international disputes, the PCA has developed into a modern, multifaceted institution well situated to meet the evolving dispute resolution needs at the international level. In addition to arbitration, the PCA administers a range of dispute resolution mechanisms, including mediation, conciliation, fact-finding commissions, expert determinations, and review panels. The PCA is also a center for scholarship and publication, and a forum for legal discourse.

The PCA is currently administering 215 cases. These cases comprise 7 inter-State arbitrations; 1 other inter-State proceeding; 95 investor-State arbitrations arising under bilateral or multilateral investment treaties or national investment laws; and 109 arbitrations arising under contracts involving States, other State-controlled entities, or intergovernmental organizations, and 4 other proceedings.

The International Bureau of the PCA, headed by the PCA Secretary-General, is the secretariat of the organization. The International Bureau is engaged in the day-to-day work of the organization in providing administrative support to tribunals or commissions operating under the PCA’s auspices. The PCA’s secretariat is also available to assist in the selection of arbitrators, and the PCA Secretary-General may be called upon to designate an appointing authority or act as appointing authority to assist in constituting tribunals or decide challenges against arbitrators. The PCA Secretary-General has received over one thousand such requests to date. In other mechanisms, the Secretary-General may appoint members of review panels, commissions of inquiry, or other dispute settlement bodies. For example, the Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean (“**SPRFMO Convention**”) designates the Secretary-General as appointing authority to ensure the constitution of review panels, which provide findings and recommendations on

objections to decisions of the Commission of the South Pacific Regional Fisheries Management Organisation (“SPRFMO”).<sup>2</sup>

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, Vienna, and Ha Noi.

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. On 8 January 2025, the Host Country Agreement between the PCA and the Federative Republic of Brazil entered into force. On 15 January 2025, the Host Country Agreement with Ecuador came into force on 15 January 2025. On 3 April 2025, the President of the Federative Republic of Brazil signed a decree promulgating the Host Country Agreement between Brazil and the PCA (dated 25 August 2017).

### **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>3</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 to provide significant jurisprudence on aspects of the law of the sea, including: naval engagement (*The Dogger Bank Case* (*The International Commission of*

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<sup>2</sup> The PCA is also given roles in dispute resolution under various other fisheries agreements. A list of such multilateral instruments can be found at <https://pca-cpa.org/en/resources/instruments-referring-to-the-pca/>.

<sup>3</sup> The conciliation is described in greater detail in Section E of the PCA’s contribution to the 2019 United Nations Secretary-General’s report, at <https://pca-cpa.org/en/documents/publications/reports-to-un-division-for-ocean-affairs-and-the-law-of-the-sea/>. Further information is also available on the PCA website at <https://pca-cpa.org/en/cases/132/>.

*Inquiry between Great Britain and Russia arising out of the North Sea Incident*), 1904); the flagging of vessels (*Muscat Dhows (France/Great Britain)*, 1905); maritime delimitation (*The Grisbådarna Case (Norway/Sweden)*, 1909); fisheries (*North Atlantic Coast Fisheries (Great Britain/United States)*, 1910); port State obligations (*The Orinoco Steamship Company (United States/Venezuela)*, 1910); vessel seizure (*The “Carthage” and French Postal Vessel “Manouba” (France/Italy)*, 1913); destruction of vessels (*The Steamship Roula (Greece/Italy)*, 1955); and fishing rights (the Red Crusader Incident (*The International Commission of Inquiry between Denmark and Great-Britain regarding the Red Crusader Incident*), 1961).

The PCA also administered more recent arbitrations involving the law of the sea brought in accordance with special agreements. In the *Eritrea/Yemen* case (PCA Case No. 1996-04), the parties concluded an agreement providing for a two-phase arbitration to resolve the issue of sovereignty over certain islands 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 tribunal to determine (i) “the course of the maritime and land boundary between the Republic of Slovenia and the Republic of Croatia”; (ii) “Slovenia’s junction to the High Sea”; and (iii) “the regime for the use of the relevant maritime areas.”<sup>4</sup>

## 4.2. Other flexible dispute settlement mechanisms

The PCA also administers dispute settlement mechanisms other than arbitration in cases related to oceans and the law of the sea that are not brought under the Convention. In 2013, 2018 and, as further detailed below, in 2023, the PCA served as registry to three review panels established under Article 17 and Annex II of the SPRFMO Convention (entered into force on 24 August 2012). The first two reviews regarded the objections respectively made by the Russian Federation and the Republic of Ecuador to fisheries conservation and management measures adopted by the SPRFMO Commission. Each of the two review proceedings was conducted within less than three months and allowed for the participation, through oral and written submissions, of the objecting State and the representatives of the SPRFMO, as well as of all other members of the SPRFMO Commission and cooperating non-contracting parties.<sup>5</sup> The third review panel concerned an objection submitted by the Russian Federation in April 2023 and is described in Section 6 below.

## 5. RELEVANT PCA ARBITRATIONS ADMINISTERED IN THIS REPORTING PERIOD

### 5.1. Dispute Concerning Coastal State Rights in the Black Sea, Sea of Azov, and Kerch Strait (Ukraine v. the Russian Federation), PCA Case No. 2017-06

|                             |                                                                                                                                                                                                                  |
|-----------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Commencement date</b>    | 16 September 2016                                                                                                                                                                                                |
| <b>Jurisdictional basis</b> | Article 287 and Annex VII to the Convention                                                                                                                                                                      |
| <b>Tribunal members</b>     | Judge Jin-Hyun Paik (President), Judge Boualem Bouguetaia, Judge Alonso Gómez-Robledo, Prof. Vaughan Lowe KC, Judge Vladimir Golitsyn (until 26 March 2023), Professor Alexander Vylegzhanin (as of 30 May 2023) |

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<sup>4</sup> This arbitration is described in greater detail in Section E of the PCA’s contribution to the 2019 United Nations Secretary-General’s report, at <https://pca-cpa.org/en/documents/publications/reports-to-un-division-for-ocean-affairs-and-the-law-of-the-sea/>. Further information is also available on the PCA website at <https://pca-cpa.org/en/cases/3/>.

<sup>5</sup> These proceedings are described in greater detail in the PCA’s contributions to the 2015 and 2019 Secretary-General’s reports on oceans and the law of the sea, which can be accessed at <https://pca-cpa.org/en/documents/publications/reports-to-un-division-for-ocean-affairs-and-the-law-of-the-sea/>.

|                            |                                                                                   |
|----------------------------|-----------------------------------------------------------------------------------|
| <b>Status</b>              | Ongoing                                                                           |
| <b>Further information</b> | <a href="https://pca-cpa.org/en/cases/149/">https://pca-cpa.org/en/cases/149/</a> |

These proceedings were instituted on 16 September 2016, when Ukraine served on the Russian Federation a Notification and Statement of Claim<sup>6</sup> under Annex VII of the Convention in respect of a “dispute concerning coastal state rights in the Black Sea, Sea of Azov, and Kerch Strait.”

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] to reserve this matter for consideration and decision in the proceedings on the merits”; (iii) rejected the other jurisdictional objections made by the Respondent; and (iv) requested Ukraine “to file a revised version of its

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<sup>6</sup> The full title of the document is “Notification under Article 287 and Annex VII, Article 1 of UNCLOS and Statement of the Claim and Grounds on which it is Based.”

Memorial, which shall take full account of the scope of, and limits to, the [Tribunal]’s jurisdiction as determined in the present Award.”

On 21 February 2020, the Tribunal also fixed the procedural timetable for further proceedings, which was revised on 17 November 2020 upon a request from Ukraine.

Ukraine filed its Revised Memorial on 20 May 2021.

On 13 December 2021 and again on 20 July 2022, upon requests from the Russian Federation, the Tribunal issued Procedural Orders No. 8 and 9, further revising the procedural timetable.

On 14 October 2022, the Russian Federation filed its Counter-Memorial and, on 24 March 2023, Ukraine filed its Reply.

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.

On 8 December 2023, the Russian Federation filed its Rejoinder.

On 30 July 2024, the Tribunal decided that the hearing would be held at the Peace Palace, from 23 September to 5 October 2024; and decided that the opening and closing statements of each Party’s Agent would be made accessible to the public through an online stream available on the website of the PCA; for the Members of the public, including accredited press representatives and members of the diplomatic corps.

From 23 September 2024 to 5 October 2024, the hearing took place in The Hague, the Netherlands, with opening statements delivered by H.E. Mr. Anton Korynevych, Agent for Ukraine, and H.E. Mr. Gennady Kuzmin, Agent for the Russian Federation.

## **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) (until 6 March 2024), Judge Gudmundur Eiriksson, Judge Rüdiger Wolfrum (until 6 March 2024), Sir Christopher Greenwood, GBE, CMG, KC, Judge Vladimir Golitsyn (until 26 March 2023), Professor Alexander Vylegzhanin (as of 30 May 2023) |
| <b>Status</b>               | Ongoing                                                                                                                                                                                                                                                                     |
| <b>Further information</b>  | <a href="https://pca-cpa.org/en/cases/229/">https://pca-cpa.org/en/cases/229/</a>                                                                                                                                                                                           |

These proceedings were instituted on 1 April 2019, when Ukraine served on the Russian Federation a Notification and Statement of Claim<sup>7</sup> under Annex VII of the Convention in respect of claims in connection with the events of 24-25 November 2018 summarized by the Tribunal as follows:

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<sup>7</sup> The full title of the document is “Notification under Article 287 and Annex VII, Article 1 of [the Convention] and Statement of the Claim and Grounds on which it is Based.”

On 24 November 2018, three Ukrainian naval vessels (the *Berdyansk*, the *Nikopol* and the *Yani Kapu*) set sail on a mission with the objective of navigating from the Ukrainian port of Odesa, through the Kerch Strait, to Ukrainian ports in the Sea of Azov. They were confronted by Russian vessels, which claimed that the Russian Territorial Sea on the Black Sea side of the approach to the Kerch Strait was temporarily closed and that by navigating towards the Kerch Strait they would be unlawfully crossing the Russian State border. After the Ukrainian vessels abandoned their attempt to transit the Kerch Strait and began to sail away, they were ordered to stop by vessels of the Russian Federation. When the Ukrainian vessels failed to do so, the Russian Federation intercepted and arrested the Ukrainian vessels and the servicemen on board. That same day, the Investigations Department of the FSB2 Directorate for the Republic of Crimea and the City of Sevastopol opened a criminal case and commenced criminal proceedings against the arrested servicemen, and detained the vessels as physical evidence in these criminal prosecutions, on the basis of their having unlawfully crossed the Russian State border.

The Tribunal was constituted on 8 July 2019. On 21 November 2019, the Tribunal held its first procedural meeting at the Peace Palace in The Hague, during which it consulted the Parties in respect of the procedural framework for the arbitration, including the calendar for oral and written pleadings.

Following these discussions, on 22 November 2019, the Tribunal adopted Procedural Order No. 1, including the Rules of Procedure for the arbitration and a procedural calendar.

On 22 May 2020, Ukraine filed its Memorial, in which it claimed that the Russian Federation had violated the immunity of the three Ukrainian naval vessels and also committed other violations of the Convention.

On 22 August 2020, the Russian Federation submitted Preliminary Objections and requested that the Tribunal hear its objections to the Tribunal's jurisdiction in a preliminary phase of the proceedings. The Preliminary Objections were raised on the grounds (i) "that the dispute concerns military activities and is therefore excluded from the Tribunal's jurisdiction pursuant to Article 298(1)(b) of [the Convention]"; (ii) "that [the Convention] does not provide for an applicable immunity"; (iii) "that the Tribunal has no jurisdiction over alleged breaches of the ITLOS Provisional Measures Order and Article 279 of [the Convention]"; and (iv) "that Ukraine has not complied with Article 283 of [the Convention]".

In its Procedural Order No. 2, issued on 27 October 2020, the Tribunal decided to hear the Russian Federation's Preliminary Objections in a preliminary phase of the proceedings. Judge Gudmundur Eiriksson appended a Dissenting Opinion to the Order of the Tribunal.

On 27 January 2021, Ukraine submitted its Written Observations and Submissions on the Preliminary Objections of the Russian Federation.

Between 11 and 15 October 2021, the hearing on the Russian Federation's Preliminary Objections was held at the Peace Palace in The Hague. The hearing took place in a hybrid format, with some of the members of the Parties' delegations and some of the members of the Arbitral Tribunal joining in person and others by videoconference. The opening statement made by each Party's Agent was open to the public and webcast on the internet via live-streaming. Transcripts of each Agent's opening statement were published on the PCA website.

On 27 June 2022, the Tribunal issued an Award concerning the preliminary objections of the Russian Federation in which it, unanimously: (i) "Finds that the events of 25 November 2018 until a point in time after the Ukrainian naval vessels left anchorage area No. 471 constitute 'military activities' excluded from the jurisdiction of the Arbitral Tribunal in accordance with Article 298(1)(b) of the Convention;" (ii) "Finds that the events following the arrest of the Ukrainian naval vessels do not constitute 'military activities' excluded from the jurisdiction of the Arbitral Tribunal in accordance with Article 298(1)(b) of the Convention;" (iii) "Decides that the determination of the precise point at which



the events ceased to be ‘military activities’ within the meaning of Article 298(1)(b) of the Convention shall be ruled upon in conjunction with the merits;” (iv) “Rejects the objection that the Arbitral Tribunal has no jurisdiction over alleged breaches of the ITLOS Provisional Measures Order;” (v) “Rejects the objection that Ukraine has not complied with Article 283 of the Convention;” and (vi) decided that the remainder of the Russian Federation’s preliminary objections would be ruled upon in conjunction with the merits.

On 20 December 2022 and again on 2 March 2023, upon requests from the Russian Federation, the Tribunal issued Procedural Orders Nos. 4 and 5 amending the procedural calendar.

On 30 May 2023, following the passing of Judge Vladimir V. Golitsyn, the Russian Federation’s party-appointed member of the Tribunal, the Russian Federation appointed Professor Alexander N. Vylegzhanin as arbitrator.

During the Reporting Period, on 9 October 2023, the Tribunal issued [Procedural Order No. 6](#) inviting the Parties to make further written submissions. More specifically, the Tribunal invited Ukraine to submit a Reply addressing the Russian Federation’s preliminary objections that the Tribunal had joined to the merits phases in addition to any new matters identified in the Russian Federation’s Counter-Memorial, in particular the response of the Russian Federation to the request of the Arbitral Tribunal in its Award on Preliminary Objections for “further elucidation by the Parties before reaching a definitive conclusion on when military activities came to an end”. The Russian Federation was also invited to file its Rejoinder following the filing by Ukraine of its Reply.

On 24 November 2023, the Russian Federation asserted challenges against Professor McRae and Judge Wolfrum for lack of independence and impartiality and requested their disqualification as arbitrators in this case, as a result of their votes in support of the “Declaration of the Institute of International Law on Aggression in Ukraine” dated 1 March 2022 (the “**IDI Declaration**”). More specifically, the Russian Federation submitted that Professor McRae and Judge Wolfrum had failed to disclose their endorsement of the IDI Declaration, which, in its view, takes a clear stance on the Russian Federation’s alleged responsibility for “gross violations of international law”.

On 1 December 2023, the three unchallenged Members of the Tribunal, with Judge Gudmundur Eiriksson presiding, issued [Procedural Order No. 7](#) granting Ukraine’s request that each party be granted a four-week extension to file its next submission and reserving the week of 27 May 2024 for a hearing.

On 15 December 2023, the three unchallenged Members of the Tribunal, with Judge Gudmundur Eiriksson presiding, issued [Procedural Order No. 8](#), which set out the procedure to be followed for a decision on the challenges to Professor McRae and Judge Wolfrum.

On 6 March 2024, following an exchange of written submissions by the Parties and comments by Professor McRae and Judge Wolfrum, the Arbitral Tribunal issued a Decision on Challenges upholding the Russian Federation’s challenges by a majority of two votes to one, with Judge Eiriksson and Professor Vylegzhanin voting in favour and Sir Christopher Greenwood dissenting and appending a Dissenting Opinion. By letters dated 6 March 2024, the Arbitral Tribunal communicated the Decision and Dissenting Opinion to the Parties and to Professor McRae and Judge Wolfrum. On the same date, Professor McRae and Judge Wolfrum resigned from the Arbitral Tribunal, with reference to the Decision of the same date communicated to them.

On 8 April 2024, the Russian Federation submitted its Rejoinder on the merits of the case.

On 29 April 2024, following an earlier invitation from the Arbitral Tribunal for the Parties to communicate their views on the timing of further proceedings, Ukraine proposed that the oral hearing on the merits which had been contemplated for the week of 27 May 2024 be postponed until two replacement arbitrators had been appointed pursuant to Article 3 of Annex VII to the Convention,



whereupon the Parties and the full Arbitral Tribunal could proceed to schedule the oral hearing in the fall of 2024.

On 30 April 2024, the Russian Federation submitted that the hearing that had been tentatively scheduled for the week of 27 May 2024 could not proceed as planned and that it would only be feasible to assign new hearing dates once the Arbitral Tribunal was fully reconstituted. In the same letter, the Russian Federation proposed that the Arbitral Tribunal develop and adopt an *ad hoc* procedure for the selection of replacement arbitrators following the successful challenges.

On 2 May 2024, the Arbitral Tribunal decided to postpone the oral hearing scheduled for the week of 27 May 2024 and invited the Parties to submit any comments they might have on each other's letters dated 29 and 30 April 2024.

On 16 May 2024, following a further exchange of submissions between the Parties on the procedure for appointment of replacement arbitrators, the Arbitral Tribunal expressed its view that it would be beneficial for the Parties to engage in further efforts to reach an agreement until at least 30 May 2024, at which time a re-evaluation could take place.

By separate letters dated 30 May 2024, the Parties indicated to the Arbitral Tribunal that they had agreed upon a set of criteria applicable to the selection of candidates and undertook to update the Arbitral Tribunal on further developments in their efforts to reach an agreement.

On 29 June 2024, following a request by the Arbitral Tribunal for further updates, the Russian Federation (i) indicated that the Parties had been discussing the modalities of the selection procedure but had not reached consensus in this regard; (ii) set out its proposed selection procedure and commented on the selection procedure proposed by Ukraine; and (iii) invited the Arbitral Tribunal to assist the Parties in reaching agreement in this respect.

On 1 July 2024, Ukraine (i) confirmed that the Parties continued to discuss the modalities of the selection procedure but were not able to reach a consensus; (ii) set out its proposed selection procedure and commented on the selection procedure proposed by the Russian Federation; and (iii) communicated its intent to proceed with requesting the President of the International Tribunal for the Law of the Sea ("ITLOS"), H.E. Judge Tomas Heidar, to make such appointments if no agreement was reached by 5 July 2024.

On 8 July 2024, Ukraine informed the Arbitral Tribunal that it had sent a request for appointment of replacement arbitrators to the President of ITLOS, pursuant to Article 3 of Annex VII to the Convention, and requested that the Arbitral Tribunal await the appointments by the President of ITLOS before making any other procedural or substantive rulings in this case.

On 10 July 2024, the Russian Federation, inter alia, requested that the Arbitral Tribunal:

- (a) Proceed with a ruling in respect of the proper procedure for appointment of replacement arbitrators;
- (b) Inform the ITLOS President that such a ruling is currently pending and that proceeding with making the appointments as requested by Ukraine would be considered inappropriate; and
- (c) Subsequently, inform the Parties and the ITLOS President of the ruling on the proper procedure for appointing the replacement arbitrators in the present case.

On 12 July 2024, the Arbitral Tribunal advised the Parties that, in light of the Russian Federation's request for a ruling in respect of the proper procedure for appointment of replacement arbitrators, it

would proceed to deliver such a ruling and would expect to do so within one week, to prevent an undue disruption of the proceedings before the President of ITLOS.

On 18 July 2024, following consultations with, *inter alia*, the Agents and counsel for each Party, the Arbitral Tribunal issued Procedural Order No. 9, rejecting, by a majority of two votes to one, with Judge Eiriksson and Sir Christopher Greenwood voting in favour and Professor Vylegzhanin dissenting and appending a Dissenting Opinion, the request of the Russian Federation that the Arbitral Tribunal rule on the procedure for the appointment of replacement arbitrators.

On 19 July 2024, Ukraine advised the President of ITLOS of the Arbitral Tribunal's issuance of Procedural Order No. 9 and reaffirmed its request of 8 July 2024 for the appointment of replacement arbitrators pursuant to Article 3(e) of Annex VII to the Convention.

On 8 August 2024, the President of ITLOS informed the Parties and Judge Eiriksson, as Acting President of the Arbitral Tribunal, of his decision to appoint Judge Eiriksson as President of the Arbitral Tribunal and Judge James Kateka and Professor Joanna Mossop as members of the Arbitral Tribunal.

On 9 August 2024, the Russian Federation reiterated its objections regarding the selection procedure and rejected the appointments made by the President of ITLOS, concluding as follows:

The Russian Federation firmly submits that the purported appointments are inconsistent with the applicable rules and were made without the Russian Federation's participation in consultations, or consent. Therefore, the Russian Federation cannot consider itself bound by the President's decision, and rejects the appointments. If acted upon this decision, the Arbitral Tribunal will not be properly constituted.

In light of the above, the Russian Federation hereby suspends its participation in this Arbitration until further notice.

The Russian Federation respectfully requests that this information be conveyed to the Agent of Ukraine and the incumbent members of the Arbitral Tribunal.

On 13 August 2024, Professor Mossop informed the President of ITLOS of her decision to withdraw from the proceedings. On the same day, the Arbitral Tribunal transmitted Professor Mossop's letter to the Parties and invited the Parties to attend consultations with President Eiriksson on 15 August 2024. The Arbitral Tribunal also declared as follows with respect to the matters raised by the Russian Federation in its letter dated 9 August 2024:

At this stage, then, the concerns of the Russian Federation set out in its letter dated 9 August 2024 could be characterized as a challenge to the constitution of the Arbitral Tribunal, and accordingly its jurisdiction, on which the Arbitral Tribunal could issue a ruling or decision.

On 15 August 2024, the consultations proposed in the letter of the Arbitral Tribunal dated 13 August 2024 took place with the participation of the representatives of the Parties, the Registrar and President Eiriksson.

On 16 August 2024, the Registrar transmitted to the Parties Judge Kateka's signed Declaration of Acceptance and Statement of Impartiality and Independence and his Disclosure Statement dated 15 August 2024.

By letter dated 6 September 2024, the Russian Federation asserted that Judge Kateka's appointment "suffer[s] from the same deficiencies that led to the disqualification of Judge Wolfrum and Professor McRae". The Russian Federation drew the Arbitral Tribunal's attention to various circumstances, including the following:

- (a) “Despite Mr Kateka’s abstention from voting, his comments on the [IDI] Declaration published in the Institute [of International Law]’s Yearbook reveal that he aligns with the substance of the Declaration.”
- (b) “[Judge Kateka’s] repost[ing on 22 February 2022] on his X (then Twitter) account an entry praising the Kenyan ambassador’s speech before the UN Security Council that ‘perfectly explains how people across Africa understand Ukraine, and what the Kremlin’s acts of aggression mean in our post-colonial world’ [. . .] gives rise to justifiable doubts regarding his impartiality much in the same way as Judge Wolfrum’s and President McRae’s did.”
- (c) “Mr Kateka was a member of ITLOS when the latter rendered the Provisional Measures Order on 25 May 2019. [. . .] Given the relevance of the issues considered by ITLOS at the Provisional Measures stage of the present arbitration, the Russian Federation is concerned that Mr Kateka’s exposure to the Parties’ arguments in the earlier proceedings, as well as his unequivocal support of the Order regarding multiple issues at the heart of the proceedings, might unduly influence his decision-making on the merits of the case.”

In the penultimate paragraph of its letter dated 6 September 2024, the Russian Federation further stating:

The Russian Federation is therefore compelled, without prejudice to its overarching principled position on the illegality of Mr Kateka’s appointment in the first place, to bring these considerations to the attention of the incumbent three members of the Arbitral Tribunal and Mr Kateka, and respectfully invites Mr Kateka to consider withdrawing from the case.

In a letter dated 9 September 2024, Judge Kateka submitted his comments on the circumstances outlined in the letter of the Russian Federation dated 6 September 2024. His comments were transmitted to the Parties on 12 September 2024.

On 14 October 2024, Ukraine submitted a request to the President of ITLOS for the appointment of an arbitrator following Professor Mossop’s resignation.

On 28 October 2024, the President of ITLOS informed President Eiriksson and the Parties of his decision to appoint Judge Kathy-Ann Brown as member of the Arbitral Tribunal. On 30 October 2024, the Registrar transmitted to the Parties Judge Brown’s signed Declaration of Acceptance and Statement of Impartiality and Independence.

On 5 November 2024, the Arbitral Tribunal indicated to the Parties, with reference to its letter dated 13 August 2024, that upon the appointment of Judge Brown it could now proceed to consider the matters raised by the Russian Federation in its letters dated 9 August and 6 September 2024. The Arbitral Tribunal thus invited the Parties to make further written submissions on the challenge of the Russian Federation to the constitution of the Arbitral Tribunal, reserving its decision on the subsequent procedure.

On 14 November 2024, the Registrar transmitted to the Parties a Disclosure Statement from Judge Brown.

On 22 November 2024, Ukraine submitted its comments on the challenge of the Russian Federation to the constitution of the Arbitral Tribunal, in response to the Russian Federation’s letters dated 9 August and 6 September 2024.

On 6 December 2024, the Russian Federation submitted its supplementary comments on its challenge to the constitution of the Arbitral Tribunal, in response to Ukraine’s letter dated 22 November 2024.

That letter also included a section entitled “The Russian Federation’s serious concerns as to impartiality of Judge Kateka”, in which the Russian Federation stated:

[B]y its letter of 6 September 2024, the Russian Federation separately communicated its observations concerning the existence of justifiable concerns about the impartiality of Judge Kateka. While the Registry’s communication of 5 November 2024 does refer to that letter, it does not mention how the matter related to Judge Kateka will be addressed. The letter from Judge Kateka of 9 September 2024, purporting to address the Russian Federation’s concerns, fails to dispel the doubts indicated.

The Russian Federation’s letter of 6 December 2024 concluded with the specific requests that:

1. the Russian Federation’s objections to the constitution of the Tribunal and its challenge to Judge Kateka be resolved by those three members of the Tribunal whose standing as arbitrators is unchallenged;
2. the Russian Federation’s challenge to Judge Kateka be upheld;
3. the Russian Federation’s challenge to the constitution of the Tribunal be upheld and the appointments of Judge Kateka and Judge Brown be held invalid *ab initio*;
4. Ukraine’s request to award it the costs of this part of the proceedings be dismissed.

On 20 December 2024, Ukraine submitted its supplementary comments on the challenge of the Russian Federation to the constitution of the Arbitral Tribunal, in response to the Russian Federation’s letters dated 9 August, 6 September and 6 December 2024. In its letter, Ukraine specifically requested that the Arbitral Tribunal:

1. Decide Russia’s challenge to the constitution of the Tribunal as the fully constituted, five-member Tribunal;
2. Dismiss Russia’s challenge to the constitution of the Tribunal;
3. Dismiss Russia’s purported challenge to Judge Kateka as untimely and/or not properly asserted;
4. Adjudge and declare that it is properly constituted to hear and decide the claims and Submissions filed by Ukraine in this case; and
5. Award Ukraine its costs for the phase of these proceedings commencing since the resignations of Professor McRae and Judge Wolfrum.

On 24 December 2024, the Registrar, on behalf of the Arbitral Tribunal, advised the Parties that Judge Kateka had indicated that he did not wish to participate in any deliberations of the Arbitral Tribunal with respect to the Russian Federation’s challenge to him or the procedure to be adopted for its resolution. Accordingly, the four other members of the Arbitral Tribunal decided, in accordance with Article 19, paragraph 1, of the Rules of Procedure, that Judge Kateka should not take part in any such deliberations but that he should continue to receive copies of any communications between the Arbitral Tribunal and the Parties. The Registrar also communicated the Arbitral Tribunal’s proposed procedure to be followed for a decision on the Russian Federation’s challenge to Judge Kateka, including a proposal that the Russian Federation be invited to submit a supplementary statement in response to Ukraine’s objection in its letter dated 20 December 2024 that “Russia’s failure to assert a challenge to Judge Kateka in the more than three months since [its letter dated 6 September 2024 and Judge Kateka’s letter dated 9 September 2024] indicate[d] that it ha[d] waived its right to do so”. The Parties were invited to comment on the proposed procedure by 27 December 2024.

On 26 December 2024, the Russian Federation reasserted its position that the Arbitral Tribunal was not legitimately constituted and that its challenge to Judge Kateka—including any related matters of procedure—must therefore be resolved by the Arbitral Tribunal composed only by the three members whose standing as arbitrators remained unchallenged. The Russian Federation also remarked that the dates proposed in the letter of 26 December 2024 encompassed the winter holiday season, which would prejudice the Russian Federation by requiring it to prepare its supplementary statement in the midst of the holiday season. Finally, the Russian Federation “maintain[ed] the suspension of its participation in the present proceedings”.

On 27 December 2024, Ukraine stated that it did not object to the proposed procedure for deciding the Russian Federation’s challenge to Judge Kateka.

On 29 December 2024, the Registrar, on behalf of the Arbitral Tribunal, advised the Parties that Judge Brown had informed the President and the other two members of the Arbitral Tribunal that she considered that she should not take part in the proceedings on the challenge to Judge Kateka. Accordingly, the three other members of the Arbitral Tribunal decided, in accordance with Article 19, paragraph 1, of the Rules of Procedure, that Judge Brown should not take part in the deliberations and decisions of the Arbitral Tribunal on the present challenge. Responding to the comments of the Russian Federation, the Arbitral Tribunal also revised its proposals as regards the timelines for the challenge procedure such that the Russian Federation would not be required to submit its supplementary statement within the holiday season.

On 31 December 2024, Ukraine commented that it had no objection to the revised proposal and additionally noted that the Russian Federation’s assertion of non-participation was “inaccurate, self-serving, and [did] not excuse or justify any rights it ha[d] waived in this proceeding”. No comments on the proposed revised procedure were received from the Russian Federation. On 2 January 2025, the Arbitral Tribunal, constituted for the purposes of the challenge to Judge Kateka by President Eiriksson, Sir Christopher Greenwood and Professor Vylegzhanin, issued [Procedural Order No. 10](#), setting out the procedure for a decision on the challenge to Judge Kateka.

On 11 April 2025, the Arbitral Tribunal, constituted for the purpose of the challenge to Judge Kateka by Judge Gudmundur Eiriksson, as President, Sir Christopher Greenwood and Professor Alexander N. Vylegzhanin, as Members, and without the participation of Judge Kateka and Judge Kathy-Ann Brown, issued its [Decision on Challenge](#) rejecting the challenge to Judge Kateka by two votes to one, with Judge Gudmundur Eiriksson and Sir Christopher Greenwood voting to reject the challenge, and Professor Alexander N. Vylegzhanin voting to uphold the same. Professor Alexander N. Vylegzhanin appended a Dissenting Opinion to the Decision.

## **6. ADDITIONAL RELEVANT PCA ACTIVITIES**

### **6.1. Education and outreach**

PCA lawyers regularly participate in conferences and publish on issues relating to the peaceful settlement of disputes in international law, including in the context of the governance of oceans and the law of the sea. The PCA also gives lectures to students, visiting scholars, legal practitioners, and government representatives. In many of these presentations, the PCA discusses cases that relate to the governance of oceans and the law of the sea.

During the Reporting Period, on 25 July 2024, a commemorative event for the 125<sup>th</sup> Anniversary of the Permanent Court of Arbitration was held in Singapore. The third panel was a conversation moderated by Dr Hab. Marcin Czepelak, Secretary-General of the PCA, with Ms Elizabeth Exposto and Mr Toby Landau KC. During the conversation, Ms Elizabeth Exposto shared with the audience her experience

representing Timor-Leste in the PCA-administered conciliation proceedings against Australia pursuant to the 1982 United Nations Convention on the Law of the Sea (UNCLOS).

On 30 September 2024, Ms. Sandra Magalang, PCA Legal Counsel, gave a guest lecture on the Law of the Sea to the ITLOS-Nippon Fellows, providing guidance on the work of the PCA and its relevance to diplomatic efforts in the field of the Law of the Sea.

On 6 November 2024, PCA Senior Legal Counsel & Representative in Singapore, Dr. Tulio Di Giacomo Toledo, delivered a lecture on the PCA & Inter-State Arbitration, with a focus on UNCLOS, at the National University of Singapore.

On 10 December 2024, the Ministry of Foreign Affairs in Vietnam hosted a commemorative event in Hanoi to celebrate the 30<sup>th</sup> Anniversary of the Entry into Force of the United Nations Convention on the Law of the Sea (UNCLOS). The event was attended by PCA Legal Counsel and Representative in Vietnam, Mr. Neil Nucup. Mr. Nucup contributed to the discussion centered on “The Arbitral Tribunal under UNCLOS in settling maritime disputes: Practices and Assessments.”

On 7 May 2025, Mr. Neil Nucup attended the 14<sup>th</sup> Ocean Dialogue in Hanoi, Vietnam, co-organized by the Diplomatic Academy of Vietnam, Konrad-Adenauer Stiftung Vietnam and the Australian Embassy in Viet Nam. Mr. Neil Nucup discussed the vital role of UNCLOS in facilitating the peaceful resolution of maritime disputes among States.

On 15-16 May 2025, PCA Deputy Secretaries-General Mr. Garth Schofield and Mr. Martin Doe participated in the second Dili International Conference on the Law of the Sea and Maritime Dispute Settlement organised by Timor-Leste’s Land Maritime Boundary Office.

The Conference brought together senior officials, including the President and Prime Minister of Timor-Leste, legal experts, and representatives from the Pacific, ASEAN, the g7+ group, countries and other nations, to examine the role of international law in the peaceful resolution of maritime disputes.

A highlight of the event was the panel discussion on the resolution of the Timor Sea maritime boundary dispute – achieved through a PCA-administered conciliation under the United Nations Convention on the Law of the Sea (UNCLOS).

Deputy Secretary-General Mr. Martin Doe joined all five Conciliators – Ambassador Peter Taksoe-Jensen, Dr. Rosalie Balkin, Judge Abdul G. Koroma, Professor Donald McRae, and Judge Rüdiger Wolfrum, to reflect on the conciliation process, which culminated in the 2018 Maritime Boundary Treaty between Timor-Leste and Australia.

Deputy Secretary-General Mr. Garth Schofield contributed to the panel on “Recent Developments in Maritime Boundary Settlement”, along Judge Jin-Hyun Paik, Sir Michael Wood KCMG KC, and Rodman Bundy, moderated by Professor Joanna Mossop.

## **6.2. Coordination with other international institutions**

The PCA seeks to contribute to a cooperative approach amongst international institutions engaged in the peaceful settlement of international disputes relating to ocean affairs and the law of the sea. Through an exchange of letters between the Secretary-General of the PCA and the Registrar of ITLOS, the PCA and ITLOS have agreed to cooperate with respect to relevant legal and administrative matters. The PCA and ITLOS have undertaken to exchange documents and explore cooperation in areas of mutual concern.

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