

FOREWORD

This volume contains the Award of the Arbitral Tribunal established under the dispute resolution provisions of the 1992 Convention for the Protection of the Marine Environment of the North-East Atlantic (“OSPAR Convention”), to consider an international environmental dispute between Ireland and the United Kingdom which dates back to the early 1990s. The dispute concerns alleged potential radioactive pollution of the Irish Sea from a mixed oxide (“MOX”) manufacturing plant at Sellafield, England. The *OSPAR* Arbitration was the first round of the notable *MOX Plant* Case.

Ireland commenced arbitral proceedings against the United Kingdom under two different treaties in 2001. Both arbitrations were administered by the Permanent Court of Arbitration (“PCA”). The first – the *OSPAR* Arbitration – was initiated in June of that year on the ground that the United Kingdom had failed to provide access to certain information regarding its decision to commission the MOX plant, in breach of Article 9 of the OSPAR Convention. The second arbitration – the *MOX Plant* Case – was brought under Annex VII of the United Nations Convention on the Law of the Sea (“UNCLOS”) in October, and concerned the authorization and operation of the MOX Plant. The dispute also gave rise to proceedings in which Ireland requested provisional measures from the International Tribunal for the Law of the Sea pending constitution of the UNCLOS tribunal, as well as infringement proceedings brought by the European Commission against Ireland before the European Court of Justice.

The *OSPAR* Arbitral Tribunal was composed of Professor W. Michael Reisman (Chairman), Lord Michael Mustill PC, and Dr. Gavan Griffith QC. The PCA served as Registry for the arbitration. By agreement of the Parties, the hearings, held at the Peace Palace in October 2002, were open to the public, and the written pleadings, transcript of the proceedings and the Tribunal’s procedural orders are available on the PCA website at <www.pca-cpa.org>.

The Tribunal was requested to address a comparatively narrow legal issue concerning information exchange between States. In its Final Award, rendered on July 2, 2003, the Tribunal, *inter alia*, rejected the United Kingdom’s arguments regarding its jurisdiction over the dispute and the admissibility of Ireland’s claims, but by majority decision denied Ireland’s requests for information in its interpretation of the relevant provision of the OSPAR Convention. Appended to the Final

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Award are a Declaration by Professor Reisman and a Dissenting Opinion by Dr. Griffith.

The PCA would like to express its gratitude to Daniel Bodansky, Woodruff Professor of International Law at the University of Georgia, for writing an astute and perceptive introduction on the contribution of the *OSPAR* Award to international law.

The Hague, September 2008

Christiaan Kröner
Secretary-General
Permanent Court of Arbitration