

## FOREWORD

This volume contains the Award of the Arbitral Tribunal established to decide the dispute between the Kingdom of Belgium and the Kingdom of the Netherlands concerning the reactivation of the Iron Rhine (or “IJzeren Rijn” as it is known in Dutch) railway linking the port of Antwerp, Belgium, to the Rhine basin in Germany, via the Netherlands’ provinces of North-Brabant and Limburg. The Iron Rhine railway traces its legal origins to a right of transit across Dutch territory which was conferred on Belgium and later elaborated through several treaties concluded in the nineteenth century.

The Parties agreed to arbitrate their differences, *inter alia*, over the entitlement of Belgium, on the one hand, to embark on plans for the reactivation of the railway, and the entitlement of the Netherlands, on the other, to impose conditions specified under Dutch law – particularly with respect to environmental protection – for such a reactivation. A distinguished arbitral tribunal, comprised of Judge Bruno Simma, Judge Peter Tomka (both of the International Court of Justice), Professor Alfred A.H.A. Soons and Professor Guy Schrans, and presided over by Judge Rosalyn Higgins (now President of the ICJ), was established by reference to the Arbitration Agreement between the Parties. The Permanent Court of Arbitration served as Registry for the arbitration. Under the terms of their Arbitration Agreement, the Parties jointly posed specific questions to the Tribunal regarding the nature and extent of their respective rights under international law, “including European law if necessary”, to determine the parameters of the reactivation of the Iron Rhine railway, as well as the allocation of related costs. The Tribunal dealt with issues such as jurisdictional conflicts, the balance between the rights of one State over the territory of another and the latter’s residual sovereignty, and treaty interpretation.

The PCA would like to express its immense gratitude to Colin Warbrick, Professor of Public International Law at the University of Birmingham, for writing his perceptive introduction on the contribution of the Iron Rhine Award to international law. As Professor Warbrick remarks, “[i]t is the combination of the Tribunal’s treatment of treaty interpretation with the ‘fragmentation’ [of international law] considerations which give the Award its significance beyond the precise concerns of the Parties.” Professor Warbrick further notes that the Award will be of interest to far more States than Belgium and the Netherlands, not least because of the significance of the international and European Union law issues which arose in the case.

THE “IRON RHINE” (“IJZEREN RIJN”) ARBITRATION

The Award has been translated into French specifically for this edition, to make the text of the Award more easily accessible to the francophone community worldwide. It does not, however, constitute an official French version of the Award.

The Award as reproduced here contains one official correction. In September 2005 the Arbitral Tribunal agreed to a correction of paragraph 65 of its Award so that, in the final phrase of that paragraph, the word “works” replaced the word “plan”. The correction is printed in italics and accompanied by a footnote. At Belgium’s request, the Arbitral Tribunal also issued an Interpretation of the Award in September 2005. This is also included in the volume. A map, which was agreed by the governments, is annexed to the Award.

Special mention must be made of Anne Joyce, who served as Registrar to the Tribunal, and to Belinda Macmahon, who assisted Ms. Joyce and edited this volume. Thanks are also due to Dominique Stern, who translated both the Award and Professor Warbrick’s Introduction into French, and to Guillaume Tattevin and Samuel Moss, who assisted with the French translations.

The Hague, June 2007

Tjaco T. van den Hout  
Secretary-General  
Permanent Court of Arbitration