

administered by the PCA in this Reporting Period. Finally, Section 6 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 122 Contracting Parties to one or both of its founding conventions: the 1899 and 1907 Conventions for the Pacific Settlement of International Disputes.

While it is the 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 183 cases. These cases comprise 7 inter-State arbitrations; 107 investor-State arbitrations arising under bilateral or multilateral investment treaties or national investment laws; and 69 arbitrations arising under contracts involving States, other State-controlled entities, or intergovernmental organizations.

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 800 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 designates the Secretary-General as appointing authority to ensure the constitution of review panels, which provide findings and recommendations on objections to commission decisions.

The International Bureau has its headquarters at the Peace Palace in The Hague, the Netherlands, as well as permanent offices in Buenos Aires, Mauritius, and Singapore. 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 a Framework Cooperation Agreement with Mexico. The PCA also concluded a cooperation agreement with the Madrid International Arbitration Centre (CIAM).

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

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 5-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

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.⁴

The PCA has also administered conciliations involving intergovernmental organizations and other public entities under the UNCITRAL Conciliation Rules 1980, and a matter referred to arbitration under the PCA Optional Rules for Arbitration of Disputes Relating to the Environment and/or Natural Resources was subsequently referred, by party agreement, to conciliation under the PCA Optional Rules for Conciliation of Disputes Relating to the Environment and/or Natural Resources.

5. RELEVANT PCA ARBITRATIONS ADMINISTERED IN THIS REPORTING PERIOD

5.1. The “Enrica Lexie” Incident (Republic of Italy v. Republic of India), PCA Case No. 2012-28
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Sergeant Girone to India in case the Tribunal finds that India has jurisdiction over him; and (iii) decided that Italy and India shall each report to the Tribunal on compliance with its provisional measures.

Between September 2016 and March 2018, the Parties exchanged several rounds of written pleadings on the Tribunal's jurisdiction and the merits of the case. In its pleadings, India raised objections to the jurisdiction of the Tribunal and the admissibility of Italy's claims, and presented counter-claims.

On 11 October 2018, the member of the Tribunal originally appointed by India, Judge Patibandla Chandrasekhara Rao, passed away. In accordance with Article 6 of the Tribunal's Rules of Procedure, on 26 November 2018, India appointed Dr. Pemmaraju Sreenivasa Rao to succeed Judge Rao on the Tribunal. Due to the illness of Judge Rao, the hearing originally scheduled to take place in the autumn of 2018 was postponed until July 2019.

From 8 to 20 July 2019, a hearing addressing the jurisdiction of the Tribunal as well as the merits of Italy's claim and India's counter-claims was held at the Peace Palace in The Hague.

During the Reporting Period, on 21 May 2020, the Tribunal issued its [Award](#) to the Parties, and on 20 July 2020, published its

interpretation or application of the Convention” as required by Article 288, paragraph 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 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 issued Procedural Order No. 6, fixing the procedural timetable for further proceedings.

During the Reporting Period, further to a request from Ukraine dated 4 November 2002, the Tribunal revised the timetable in its [Procedural Order No. 7](#) dated 17 November 2020.

Dispute Concerning the Detention of Ukrainian Naval Vessels and Servicemen (Ukraine v. the Russian Federation), PCA Case No. 2018

Commencement date	1 April 2019
Jurisdictional basis	Article 287 and Annex VII to the Convention
Tribunal members	Professor Donald McRae (President), Judge Gudmundur Eiriksson, Judge Rüdiger Wolfrum , Judge Vladimir Golitsyn, Sir Christopher Greenwood, GBE, CMG, QC
Status	Ongoing
Further information	https://pca-cpa.org/en/cases/229/

These proceedings were instituted on 1 April 2019, when Ukraine served on the Russian Federation a Notification and Statement of Claim⁹ under Annex VII of the Convention referring to a “dispute concerning the immunity of three Ukrainian naval vessels and the twenty-four servicemen on board.”

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 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.

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.

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. During the Reporting Period, Senior Legal Counsel Garth Schofield took part in a roundtable on “Arbitration and Conciliation under the Law of the Sea Convention” hosted by the Fletcher School of Law and Diplomacy. Senior Legal Counsel Martin Doe presented at a webinar entitled “Arbitration as a Means of Effective Remedy for Human Rights Abuses at Sea”, organized by Human Rights at Sea. Former Senior Legal Counsel Judith Levine and Legal Counsel Susan Kimani contributed the chapter “Peace, Water and the Permanent Court of Arbitration: Supporting Dispute Settlement from the Rhine to the Corentyne” to H. Ruiz Fabri, et al (eds), *Dispute Resolution in the Law of International Watercourses and the Law of the Sea: A Bridge Over Troubled Waters* (Waters, October 2020).

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, the PCA Deputy Secretary-General, Brooks W. Daly, presented lectures on the Convention and related cases for the Advanced LLM in Public International Law at Leiden University and the LLM in International Dispute Settlement (MIDS) at the Geneva Centre for International Dispute Settlement. PCA Senior Legal Counsel Evgeniya Goriatcheva presented a lecture on Annex VII arbitration as part of a capacity building and training programme under the Convention funded by the Nippon Foundation. Presentations were also given to officials, diplomats, and legal professionals from Azerbaijan, Belgium, the Dominican Republic, Kenya, Malaysia, Mexico and Sierra Leone, as well as fellows from the International Tribunal for the Law of the Sea (“ITLOS”).

Given the increasing number of PCA-administered disputes involving sustainable development and environmental law, including under the Convention, the PCA also engages in education and outreach

