

PCA Case N° 2014-02

IN THE MATTER OF THE ARCTIC SUNRISE ARBITRATION

- before -

**AN ARBITRAL TRIBUNAL CONSTITUTED UNDER ANNEX VII TO
THE 1982 UNITED NATIONS CONVENTION ON THE LAW OF THE SEA**

- between -

THE KINGDOM OF THE NETHERLANDS

- and -

THE RUSSIAN FEDERATION

**PROCEDURAL ORDER NO. 1
(Terms of Appointment)**

ARBITRAL TRIBUNAL:

**Judge Thomas A. Mensah (President)
Mr. Henry Burmester
Professor Alfred Soons
Professor Janusz Symonides
Dr. Alberto Székely**

REGISTRY:

Permanent Court of Arbitration

17 March 2014

1. The Parties to the Arbitration

The Kingdom of the Netherlands

Agent

Prof. Dr. Liesbeth Lijnzaad
Legal Adviser
Ministry of Foreign Affairs
c/o Legal Affairs Department, International
Law Division (DJZ/IR)
2500 EB, The Hague
The Netherlands

Tel.: +31 (0) 70 348 6724
Fax: +31 (0) 70 348 5128
E-mail: djz-ir@minbuza.nl;
liesbeth.lijnzaad@minbuza.nl

Co-Agent

Prof. Dr. René Lefeber
Deputy Legal Adviser
Ministry of Foreign Affairs
c/o Legal Affairs Department, International
Law Division (DJZ/IR)
2500 EB, The Hague
The Netherlands

Tel.: +31 (0) 70 348 6724
Fax: +31 (0) 70 348 5128
E-mail: djz-ir@minbuza.nl;
rene.lefeber@minbuza.nl

The Russian Federation

Agent

** By its Note Verbale to the Permanent Court of Arbitration dated 27 February 2014, the Russian Federation has indicated its “refusal to take part in this arbitration.”*

Co-Agent

*

2. The Dispute and the Commencement of Arbitration

These proceedings were commenced on 4 October 2013 when the Netherlands addressed to the Russian Federation a Notification and *Statement of the Claim and the Grounds on Which it is Based* (the “**Statement of Claim**”) under Article 287 and Annex VII, Article 1 of the 1982 United Nations Convention on the Law of the Sea (the “**Convention**”).

3. Appointment of the Tribunal

- 3.1 In its Statement of Claim, the Netherlands appointed Professor Alfred H.A. Soons, a national of the Netherlands, as arbitrator pursuant to Article 3(b) of Annex VII to the Convention. Professor Soons’ contact details are as follows:

Professor Alfred H.A. Soons

Blikkenburgerlaan 83
3703 CV Zeist
The Netherlands

Tel.: +31 30 6920557 (home)
E-mail: a.h.a.soons@uu.nl

- 3.2 The Russian Federation not having appointed the second arbitrator within the period provided under Article 3(c) of Annex VII to the Convention, on 15 November 2013, the Netherlands requested the President of the International Tribunal for the Law of the Sea (“ITLOS”) to appoint the second arbitrator. In accordance with Article 3(c) and (e) of Annex VII to the Convention, the President of ITLOS appointed Dr. Alberto Székely, a national of Mexico, as arbitrator. Dr. Székely’s contact details are as follows:

Dr. Alberto Székely

Corregidora 18
Tlacopac, San Angel
México, D.F. 01040
México

Tel.: +52 555 663 1304 (office)
+52 555 662 1750 (home)
+521 555 107 1604 (mobile)
E-mail: aszekely@compuserve.com.mx

- 3.3 By letter dated 13 December 2013, the Netherlands requested that the three remaining members of the Tribunal be appointed pursuant to Article 3(d) and (e) of Annex VII to the Convention. On 10 January 2014, the President of ITLOS appointed as arbitrators Professor Janusz Symonides, a national of Poland, and Mr. Henry Burmester, a national of Australia. Judge Thomas Mensah, a national of Ghana, was appointed as arbitrator and President of the Tribunal.

- 3.4 Professor Symonides’ contact details are:

Professor Janusz Symonides

ul. Fabryczna 16/22 m. 40
00-446 Warszawa
Poland

Tel: +48 226563615 (office)
+48 226223561 (home)
+48 506988819 (mobile)
E-mail: januszsymonides@poczta.onet.pl

- 3.5 Mr. Burmester’s contact details are:

Mr. Henry Burmester

29 Quandong St.
O’Connor ACT
Australia 2602

Tel.: +61 2624 70193 (home)
+61 4174 03363 (mobile)
E-mail: henryburmester49@gmail.com

3.6 Judge Mensah's contact details are:

Judge Thomas A. Mensah
50 Connaught Drive
London NW 11 6BJ
United Kingdom

Tel.: +44 208 458 3180
Fax: +44 208 455 8288
E-mail: tamensah@yahoo.co.uk

3.7 The members of the Tribunal are and shall remain impartial and independent of the Parties.

4. Applicable Procedural Rules

4.1 Pursuant to Articles 4 and 5 of Annex VII to the Convention, the proceedings shall be conducted in accordance with Annex VII to the Convention and such rules of procedure as the Tribunal may adopt.

5. Tribunal's Fees and Expenses

5.1 Each member of the Tribunal shall be remunerated at a rate of EUR 600 per hour for the time devoted to the arbitration, with a cap of eight hours per day.

5.2 The rate payable for travel time shall be 50 percent of the hourly rate above.

5.3 Members of the Tribunal shall be reimbursed in respect of all expenses reasonably incurred in connection with the proceedings (including but not limited to travel expenses, accommodation costs, telephone, fax, delivery, and copying). When travelling by air, members of the Tribunal shall be entitled to business class travel. When travelling by train, the members of the Tribunal shall be entitled to first class travel. In appropriate cases, the Registry may make advances to the members of the Tribunal in anticipation of travel and other expenses.

5.4 Members of the Tribunal may bill for the reimbursement of expenses as and when they are incurred, and may submit periodic bills in respect of fees.

5.5 All payments to the Tribunal shall be made from the deposits referred to in paragraph 7 below.

6. Registry

6.1 The International Bureau of the Permanent Court of Arbitration shall act as registry (the "**Registry**") in the arbitration on the following terms:

6.1.1 The Registry shall act as the channel of communication between the Parties and the Tribunal.

- 6.1.2 The Registry shall maintain an archive of filings and correspondence and manage amounts deposited by the Parties. If needed, the Registry will make its hearing and meeting rooms in the Peace Palace and at certain other locations around the world available to the Parties and the Tribunal at no charge. The costs of catering, court reporter services, technical support, or other costs and services associated with hearings or meetings at the Peace Palace or elsewhere shall be borne by the Parties.
- 6.1.3 The Secretary-General of the PCA shall appoint a legal officer from the staff of the PCA to serve as the Registrar for these proceedings. Upon request of the Tribunal or its President, the Registrar and the staff of the PCA shall carry out appropriate registry tasks on behalf of the Tribunal. The work carried out by the Registry shall be billed in accordance with the PCA Schedule of Fees.
- 6.1.4 Registry fees and expenses shall be paid in the same manner as the Tribunal fees and expenses referred to in paragraph 5.
- 6.1.5 The contact details of the Registry are as follows:

Permanent Court of Arbitration
Attn: Dr. Aloysius P. Llamzon
Peace Palace
Carnegieplein 2
2517 KJ The Hague
The Netherlands

Tel.: +31 70 302 4165
Fax: +31 70 302 4167
E-mail: lllamzon@pca-cpa.org
bureau@pca-cpa.org

7. Deposits to Secure the Tribunal's Fees and Expenses

- 7.1 The Parties shall establish an initial deposit of EUR 300,000 (EUR 150,000 from each party). The deposit shall be placed by wire transfer to the following account:
- Bank: ING Bank N.V., Schenkkade 65
2595 AS The Hague, The Netherlands
Account number: 68.55.45.369
IBAN: NL71 INGB 0685 5453 69
BIC and SWIFT: INGBNL2A
Account name: Permanent Court of Arbitration
Reference: 2014-02 (NL-RF)
- 7.2 If the requested deposit is not paid in full within 45 days after the receipt of the request, the Tribunal shall so inform the Parties in order that one of them may make the required payment. Thus, in the event that one of the Parties does not participate in the proceedings, the Tribunal may request the other Party to pay the remaining portion of the requested deposit. If such payment is not made, the Tribunal may order the suspension or termination of the arbitral proceedings.
- 7.3 The Registry will review the adequacy of the deposit from time to time and may, after consultation with the President of the Tribunal, request the Parties to make supplementary deposits.

7.4 Any unused balance held on deposit at the end of the arbitration shall be returned to the Parties as directed by the Tribunal.

8. Privileges and Immunities

8.1 Pursuant to Article 9 of the “Agreement Concerning the Headquarters of the Permanent Court of Arbitration,” the members of the Tribunal, in the exercise of their duties within the Netherlands, enjoy such immunities as are accorded to diplomatic agents under the 1961 Vienna Convention on Diplomatic Relations. Other participants in the proceedings enjoy immunity from criminal, civil, and administrative jurisdiction in respect of acts performed in the Netherlands in the fulfillment of their duties in these proceedings.

8.2 The Parties shall not seek to make the Tribunal or any of its members liable in respect of any act or omission in connection with any matter related to the arbitration. No arbitrator shall be required to be a party or witness in any judicial or other proceedings arising out of the arbitration.

9. Title of this Arbitration

9.1 These proceedings shall be referred to as the “*Arctic Sunrise Arbitration (Netherlands v. Russia)*.”

For the Arbitral Tribunal:



Judge Thomas A. Mensah
President

For the Permanent Court of Arbitration:



H.E. Mr. Hugo Hans Siblesz
Secretary-General

Dated: 21.03.14