

**PCA Case N° 2013-30**

**IN THE MATTER OF  
THE ATLANTO-SCANDIAN HERRING 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 DENMARK IN RESPECT OF THE FAROE ISLANDS**

**(Applicant)**

**- and -**

**THE EUROPEAN UNION**

**(Respondent)**

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**RULES OF PROCEDURE**

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**ARBITRAL TRIBUNAL:**

**Judge Thomas Mensah (Presiding Arbitrator)  
Professor Gerhard Hafner  
Professor Francisco Orrego Vicuña  
Dr. M.C.W. Pinto  
Judge Rüdiger Wolfrum**

**REGISTRY:**

**Permanent Court of Arbitration**

**15 March 2014**

WHEREAS the Kingdom of Denmark in respect of the Faroe Islands (“Denmark in respect of the Faroe Islands”) and the European Union (“European Union”) are Parties to the United Nations Convention on the Law of the Sea (“Convention”);

WHEREAS Article 286 of the Convention provides that “[s]ubject to section 3, any dispute concerning the interpretation or application of this Convention shall, where no settlement has been reached by recourse to section 1, be submitted at the request of any Party to the dispute to the court or tribunal having jurisdiction under this section”;

WHEREAS the Kingdom of Denmark has chosen the International Court of Justice as forum for settling disputes and the European Union has not made a choice under Article 287(1);

WHEREAS, Article 287(3) of the Convention provides that a “State Party, which is a Party to a dispute not covered by a declaration in force, shall be deemed to have accepted arbitration in accordance with Annex VII”;

WHEREAS Article 287(5) of the Convention provides that “[i]f the Parties to a dispute have not accepted the same procedure for the settlement of the dispute, it may be submitted only to arbitration in accordance with Annex VII, unless the Parties otherwise agree”;

WHEREAS Article 1 of Annex VII to the Convention provides that “[s]ubject to the provisions of Part XV, any Party to a dispute may submit the dispute to the arbitral procedure provided for in this Annex by written notification addressed to the other Party or Parties to the dispute. The notification shall be accompanied by a statement of the claim and the grounds on which it is based”;

WHEREAS Denmark in respect of the Faroe Islands has in its Notification invoked Article 287, Article 288(1) and Article 1 of Annex VII to the Convention in relation to a dispute concerning the interpretation and application of Article 63(1) of the Convention in relation to the shared stock of Atlanto-Scandian herring (“Dispute”);

WHEREAS the notification of the dispute (by a letter dated 16 August 2013 signed by Gunnar Holm-Jacobsen, Director of the Foreign Service of the Faroe Islands Prime Minister's Office to President José Manuel Barroso, with 1° the Full Powers from Villy Søvndal, Minister for Foreign Affairs of the Kingdom of Denmark to Kaj Leo Holm Johannesen, Prime Minister of the Faroe Islands, 2° the Institution of Arbitral Proceedings, signed by Kaj Leo Holm Johannesen, and 3° the Statement of Claim, signed by Dr. Bjørn Kunoy acting as Agent, and its 40 Annexes) was received by the European Union;

WHEREAS both Parties reserve their rights as to any position they may have in relation to any issue involved;

WHEREAS in accordance with Article 3 of Annex VII to the Convention, by 9 December 2013, the Arbitral Tribunal composed of five Arbitrators was constituted;

## **SECTION I. INTRODUCTION**

### ***Scope of Application***

#### **Article 1**

1. These Rules shall apply in these proceedings on a supplemental basis, subject to the Convention (including its Annex VII) and subsequent procedural orders of the Arbitral Tribunal.
2. To the extent that any question of procedure is not expressly governed by the Convention (including its Annex VII), these Rules, and, as appropriate, procedural orders issued by the Arbitral Tribunal, the question shall be determined by the Arbitral Tribunal after consultation with the Parties.
3. The International Bureau of the Permanent Court of Arbitration at The Hague (“PCA”) shall serve as the Registry for the proceedings. It shall maintain an archive of the arbitral proceedings and provide appropriate registry services as directed by the Arbitral Tribunal.

### ***Notice, Calculation of Periods of Time***

#### **Article 2**

1. As of the date the Arbitral Tribunal is established, the Parties agree that all notices, including notifications, communications or proposals, are to be transmitted by electronic mail with acknowledgement of receipt.
2. To that end, each Party agrees to designate an official email box, in addition to the email boxes of the agents, co-agents and deputy-agents, which should be copied (CC) in all exchanges. The notices to the European Union shall make reference to the internal case number U-1/13 and shall be addressed to [SJ-GREFFE-Contentieux@ec.europa.eu](mailto:SJ-GREFFE-Contentieux@ec.europa.eu). The notices to Denmark in respect of the Faroe Islands shall make reference to the internal case number AT/13 and shall be addressed to Mr Sofus Borðoy at “[info@tinganes.fo](mailto:info@tinganes.fo)” and “[sofusb@tinganes.fo](mailto:sofusb@tinganes.fo)”.
3. A notice shall be deemed to have been received upon return receipt of the electronic message by the respective Party, but no later than 2 business days from the date it was sent.
4. For the purpose of calculating a period of time under these Rules, such period shall begin to run on the day following the day when a notice is received. If the last day of such period is an official holiday or a non-business day of either Party, the period is extended until the first business day that follows. The official holidays till the end of 2014 are mentioned in Appendix 1 to these Rules. Official holidays or non-business days occurring during the running of the period of time are included in calculating the period.

### ***Representation and Assistance***

#### **Article 3**

1. Each Party shall appoint an agent and, if it so decides, one or more co-agents and deputy agents. Each Party may also be assisted by persons of their choice. To avoid future conflicts of interest after the appointment of members of the Tribunal, the Parties agree that any proposed additions to or changes in their representatives (Agents, Deputy Agents or Counsel) shall be communicated to the Tribunal and shall only take effect if the Tribunal does not object for reasons of conflict of interest.

2. The names and addresses of agents, Party representatives, and other persons assisting the Parties must be communicated to all Parties, to the Arbitral Tribunal, and to the PCA. Such communication must specify whether the appointment is being made for purposes of representation or assistance. Where a person is to act as an agent or representative of a Party, the Arbitral Tribunal, on its own initiative or at the request of any Party, may at any time require proof of authority granted to the agent or representative in such a form as the Arbitral Tribunal may determine.

## **SECTION II. COMPOSITION OF THE ARBITRAL TRIBUNAL**

### ***Number and Appointment of Arbitrators***

#### **Article 4**

The Arbitral Tribunal consists of five Members appointed in accordance with Article 3 of Annex VII to the Convention.

The following Members have been appointed:

By Denmark in respect of the Faroe Islands, in the institution of arbitral proceedings by letter dated 16 August 2013: Professor Francisco Orrego Vicuña (a national of Chile)

By the European Union by the registered letter of its agent, co-agent and deputy agents of 13 September 2013 to the agent of the Kingdom of Denmark in respect of the Faroe Islands: Professor Gerhard Hafner (a national of Austria)

By common agreement of both Parties on 9 December 2013:

- Judge Thomas A. Mensah
- Judge Rüdiger Wolfrum
- Dr M.C.W. Pinto

By common agreement of both Parties on 9 December 2013, Judge Thomas A. Mensah has been appointed as President of the Arbitral Tribunal.

All the Arbitrators have accepted to serve under the conditions mentioned in the Terms of Appointment signed on 15 March 2014.

### ***Challenge of an Arbitrator***

#### **Article 5**

1. Any Arbitrator may be challenged if circumstances exist that give rise to justifiable doubts as to the Arbitrator's impartiality or independence.

2. A Party may challenge the Arbitrator appointed by it only for reasons of which it becomes aware after the appointment has been made.

3. In the event that an Arbitrator fails to act or in the event of the de jure or de facto impossibility of his or her performing his or her functions, the procedure in respect of the challenge of an Arbitrator as provided in Article 6 shall apply.

#### **Article 6**

1. A Party that intends to challenge an Arbitrator shall send notice of its challenge within 30 days after the circumstances mentioned in Article 5 became known to that Party.

2. The notice of challenge shall be communicated to the other Party, to the Arbitrator who is challenged, to the other Arbitrators, and to the PCA. The notice of challenge shall state the reasons for the challenge.

3. When an Arbitrator has been challenged by a Party, the other Party may agree to the challenge. The Arbitrator may also, after the challenge, withdraw from his or her office. In neither case does this imply acceptance of the validity of the grounds for the challenge.

4. If, within 15 days from the date of the notice of challenge, the Parties do not agree to the challenge or the challenged Arbitrator does not withdraw, the Party making the challenge may elect to pursue it. In that case, within 30 days from the date of the notice of challenge, it shall seek a decision on the challenge by the President of the International Tribunal for the Law of the Sea.

#### ***Replacement of an Arbitrator***

#### **Article 7**

1. If a challenge to an Arbitrator is sustained, or in the event of the death or withdrawal of an Arbitrator during the course of the proceedings, a substitute Arbitrator shall be appointed in accordance with Article 3(f) of Annex VII to the Convention.

2. In such an event, prior hearings shall be repeated at the request of either Party.

### **SECTION III. THE PROCEEDINGS**

#### ***General Provisions***

#### **Article 8**

1. Subject to Annex VII to the Convention and these Rules, the Arbitral Tribunal may conduct the arbitration in such manner as it considers appropriate, provided that the Parties are treated with equality and that at any stage of the proceedings each Party is given a full opportunity to be heard and to present its case. The Arbitral Tribunal, in exercising its discretion, shall conduct the proceedings so as to avoid unnecessary delay and expense and to provide a fair and efficient process for resolving the Parties' dispute.

2. The timetable of the arbitration is established by the Parties and attached to these Rules (Appendices 2A and 2B). The Arbitral Tribunal may, at any time, after inviting the Parties to express their views, adapt the timetable to the developments in the proceedings.

3. The Arbitral Tribunal shall hold hearings for the examination of witnesses and experts, and/or for oral argument, as established in these Rules. Additional hearings may be held on the request of any Party or at the discretion of the Arbitral Tribunal.
4. All communications to the Arbitral Tribunal by one Party shall be communicated at the same time by that Party to the other Party and the PCA.
5. Subject to these Rules, the Parties shall facilitate the work of the Arbitral Tribunal in accordance with Article 6 of Annex VII to the Convention.

### ***Venue of Arbitration***

#### **Article 9**

1. The seat of arbitration proceedings shall be The Hague, the Netherlands.
2. Upon consulting the Parties, the Arbitral Tribunal may conduct hearings at any alternative location it considers appropriate. The Arbitral Tribunal may also meet at any location it considers appropriate for deliberations or related purposes.
3. The Award shall be made at the seat of arbitration.

### ***Language of the Arbitration***

#### **Article 10**

1. The language of the arbitration shall be English.
2. Any decision or Award of the Arbitral Tribunal shall be rendered in English.
3. All exhibits shall be submitted in their original language, together with translations into English if they are in a different language. When a Party considers that the content of a document is not relevant in its entirety, the translation may be limited to the relevant passages and such other portions of the document that are necessary to put such passages in context. A full translation shall be provided if the Arbitral Tribunal so requests or if the other Party so requests and, in case of objection by the submitting Party, the Arbitral Tribunal deems it appropriate.
4. Witness statements and expert reports shall be submitted in their original language, together with translations into the language of the arbitration, if necessary.

### ***Publicity of the Proceedings***

#### **Article 11**

1. The arbitration shall be listed on the website of the PCA. The listing shall identify the Parties to the arbitration, the members of the Arbitral Tribunal, and the Parties' Agents, and, where relevant, Co-Agents, Deputy Agents, Counsel, Advocates and Advisers.
2. Any procedural orders or decisions issued by the Arbitral Tribunal shall be made publicly available on the website of the PCA the day after they have been notified to the Parties.

3. Any Award of the Arbitral Tribunal shall be made public, unless both Parties object. The manner of public release of an Award shall be determined by the Arbitral Tribunal after consultation with the Parties. The Award shall not contain confidential information designated as such by either Party.

4. The hearings will be held publicly, unless one of the Parties requests otherwise. In the case of confidential information only part of the hearings may be open to the public. The written submissions may be made public upon agreement of both Parties.

5. The Arbitral Tribunal may, from time to time and after consultation with the Parties, issue press releases on the website of the PCA in respect of developments in the proceedings.

### ***Preliminary Objections and Stay of Proceedings***

#### **Article 12**

1. The Arbitral Tribunal shall have the power to rule on objections to its jurisdiction or to the admissibility of any claim made in the proceedings.

2. A submission that the Arbitral Tribunal does not have jurisdiction or that a claim or counterclaim made in the pleadings is inadmissible shall be raised either:

(a) by the European Union filing a substantiated preliminary objection within 3 months of the scheduled date for the first written submission of Denmark in respect of the Faroe Islands;

(b) in all other circumstances, in accordance with Appendix 2, but no later than 1 month from the raising of the claim or counterclaim.

3. Upon receipt of a preliminary objection under paragraph 2(a) the Arbitral Tribunal shall decide by a reasoned Procedural Order, promptly after having heard the Parties orally by way of a meeting, whether to order bifurcation or to decline to order bifurcation and to reserve the preliminary objections for the final Award.

4. If bifurcation is ordered, Denmark in respect of the Faroe Islands shall file within 3 months of the order its written observations on the preliminary objection.

5. Any objection to jurisdiction made by the Respondent shall then be dealt with by way of an oral hearing.

6. After hearing the Parties, the Arbitral Tribunal shall rule by an Award on the preliminary objection.

7. If the Arbitral Tribunal rejects the preliminary objection by an interim Award under paragraph 6 or decides by order under paragraph 3 or by interim Award under paragraph 6 that the preliminary objection is reserved for the final Award, the European Union shall submit its second written submission no later than 4 months after that decision. The time limits for further proceedings are established in Appendix 2.

#### **Article 13**

1. The Arbitral Tribunal shall have the power to order the stay of the proceedings where the proper administration of justice so requires.

2. A submission that the Arbitral Tribunal should stay the proceedings can be raised at any time by a substantiated request.
3. If the Parties agree to the stay of the proceedings, the Arbitral Tribunal shall order the stay of the proceedings.
4. If the other Party opposes stay of the proceedings, the opposing Party shall file its written observations on the request within the delay set by the Arbitral Tribunal.
5. After hearing the Parties by way of an oral hearing, the Arbitral Tribunal shall rule by a reasoned Procedural Order on the request for stay of the proceedings.
6. The procedure can be resumed by a Procedural Order, following the same procedure.
7. The stay of proceedings shall take effect on the date indicated in the order of stay. Unless the order of stay sets the length of the stay, it shall end on the date indicated in the order of resumption.
8. While proceedings are stayed, time shall cease to run for the purposes of prescribed time-limits for all Parties.
9. From the date of resumption, time shall begin to run again for the purposes of the time-limits.

### ***Form of Written Submissions***

#### **Article 14**

1. The Parties shall submit together with their written submissions all documentary, witness, expert and other evidence upon which they intend to rely. The legal authorities (such as treaties, laws, decrees, or judicial decisions) cited in their submissions need only be provided in an electronic version, where available.
2. The Parties' written submissions shall be transmitted in the following manner:
  - (a) The submitting Party shall transmit an electronic copy of its submission by e-mail, with accompanying evidence and legal authorities, to the other Party, the Arbitral Tribunal, and the Registry.
  - (b) On the same day, the submitting Party shall dispatch by courier to the opposing Party, the Arbitral Tribunal, and the Registry, hard copies of the same document sent electronically, together with hard copies of all accompanying documentary exhibits, witness statements and, expert reports. The submitting Party shall dispatch two copies of its submission to the opposing Party, one copy to each member of the Arbitral Tribunal, and four copies to the Registry.
  - (c) Along with every hard copy submission, the submitting Party shall dispatch a complete electronic copy, including accompanying evidence as well as legal authorities (such as treaties, laws, decrees, or judicial decisions) cited in their submissions on USB flash drive or other electronic device, if possible in searchable Adobe PDF.
3. Evidence and legal authorities appended to the Parties' written submissions shall be organised as follows:



(a) Documents submitted to the Arbitral Tribunal shall be numbered consecutively throughout the arbitration and shall clearly distinguish between different types of documents (e.g., exhibits, witness statements, expert reports, legal authorities). The Parties shall agree on a method of numbering and labelling of documents that is consistent between them.

(b) Hard copies of documents shall be submitted in an appropriate order in files or volumes.

(c) Written submissions shall be accompanied by a detailed table of contents describing all evidence and legal authorities appended to them by exhibit number, date, type of document, and author or recipient, if and as applicable.

4. Communications other than submissions shall be sent by e-mail to the Arbitral Tribunal and shall be simultaneously copied to the opposing Party and the Registry.

5. Parties shall treat as confidential information submitted by the other Party to the Arbitral Tribunal which that Party has designated as confidential.

### *Evidence*

#### **Article 15**

1. Each Party shall have the burden of proving the facts relied on to support its claims, counterclaims or defences.

2. The Arbitral Tribunal may take all appropriate measures in order to establish the facts.

3. At any time during the proceedings the Arbitral Tribunal may call upon a Party to produce documents, exhibits or other evidence within such a period of time as the Arbitral Tribunal shall determine.

4. The Arbitral Tribunal shall determine the admissibility, relevance, materiality and weight of the evidence offered.

5. All documents, including copies of original documents, submitted to the Arbitral Tribunal shall be deemed to be authentic unless indicated otherwise by the submitting Party or promptly disputed by the other Party.

6. Confidential information which is provided shall not be revealed without formal authorization from the Party providing the information.

#### **Article 16**

1. Each written witness statement tendered in accordance with Article 14(1) shall stand as the witness's evidence-in-chief. No witness statement may be submitted after the time limit granted to the Parties to make their respective written submissions.

2. Each witness statement shall contain at least the following information: the name and date of birth of the witness; a description of the witness's background, position, qualifications and/or experience, if relevant to the dispute or to the contents of the statement; a description of the facts on which the witness's testimony is offered and, if applicable, the source of the witness's knowledge; and the witness's signature. Witness statements shall be accompanied by all documents or information upon

which the witness relies, unless such documents or information have already been submitted with the Parties' written submissions. The provisions of Article 10(4) shall apply *mutatis mutandis* to such documents and information.

3. If witnesses, including expert witnesses, are to be heard, each Party shall communicate at least 30 days before the hearing to the PCA, to the members of the Arbitral Tribunal and to the other Party, a list of the names and addresses of the witnesses it intends to present, and the subject upon and the languages in which such witnesses will give their testimony.

4. Within 20 days of the exchange of witness lists, a Party wishing to cross-examine one or more of the other Party's witnesses shall communicate the name or names of such witness or witnesses to the other Party, the Arbitral Tribunal, and the PCA. Further details regarding the examination, cross-examination, and re-examination of witnesses at any hearing will be addressed by the Arbitral Tribunal after consultation with the Parties at an appropriate time before the hearing. In general, the direct-examination of witnesses shall be restricted to a brief introduction of the witness to the Arbitral Tribunal, and the notification of any minor corrections or updates to the witness's statement.

#### **Article 17**

1. Each Party may retain and submit the evidence of one or more expert witnesses to the Arbitral Tribunal.

2. The provisions of Article 16 concerning witness evidence shall apply *mutatis mutandis* to expert evidence.

#### ***Hearings***

#### **Article 18**

1. In the event of oral hearings in accordance with the timetable in Appendices 2A or 2B, the Arbitral Tribunal shall give the Parties adequate advance notice of the date, time and place thereof.

2. Witnesses and experts may be examined in the manner set by the Arbitral Tribunal.

3. The Arbitral Tribunal may require the retirement of any fact witness during the testimony of other such witnesses.

#### ***Experts appointed by the Arbitral Tribunal***

#### **Article 19**

1. After consultation with the Parties, the Arbitral Tribunal may appoint one or more independent experts. That expert may be called upon to report to the Arbitral Tribunal, in writing, on specific issues to be determined by it. A copy of the expert's terms of reference, established by the Arbitral Tribunal, shall be communicated to the Parties.

2. Pursuant to their obligations under Article 6 of Annex VII to the Convention, the Parties shall give the expert any relevant information or produce for his or her inspection any relevant documents or goods that he or she may require of them. Any dispute between a Party and such expert as to the relevance of the required information or production shall be referred to the Arbitral Tribunal for decision.

3. If called upon to prepare an expert's report, the Arbitral Tribunal shall, upon receipt of the report, communicate a copy of it to the Parties, who shall be given the opportunity to express, in writing, their respective opinions on the report. A Party shall be entitled to examine any document on which the expert relied in his or her report.

4. If a Party so requests or if the Arbitral Tribunal considers it necessary, the expert shall, after delivery of the report, participate in a hearing where the Parties have the opportunity to put questions to him or her and to present experts in order to testify on the points at issue. The provisions of Article 18 shall be applicable to such proceedings.

5. Any expert shall, in principle before accepting appointment, submit to the Arbitral Tribunal and to the Parties a description of his or her qualifications and a statement of his or her impartiality and independence. Within the time ordered by the Arbitral Tribunal, the Parties shall inform the Arbitral Tribunal whether they have any objections as to the expert's qualifications, impartiality or independence. The Arbitral Tribunal shall decide promptly whether to accept any such objections. After an expert's appointment, a Party may object to the expert's qualifications, impartiality or independence only if the objection is for reasons of which the Party becomes aware after the appointment has been made. The Arbitral Tribunal shall decide promptly what, if any, action to take.

#### ***Decisions on Administration and Routine Procedure***

#### **Article 20**

Decisions of the Arbitral Tribunal, both on procedure and substance, shall be taken by a majority vote of its members, except that questions of administration or routine procedure may be decided by the President of the Arbitral Tribunal, unless the President wishes to have the opinion of the other members of the Arbitral Tribunal or one of the Parties requests a decision of the full Arbitral Tribunal.

### **SECTION IV. THE AWARD**

#### ***The Award***

#### **Article 21**

1. An Award of the Arbitral Tribunal shall be rendered in accordance with Articles 8 to 11 of Annex VII to the Convention.

2. Not less than 30 days before issuing its Award, the Arbitral Tribunal shall make a confidential draft of the Award available to the Parties for comment, and shall consider any written comments either Party may make within 10 days of receipt of the draft Award. Such comments shall also be communicated to the other Party which shall have 5 days to comment on them. The Parties shall not make public the draft Award or any part of it, or the comments made.

3. In addition to making a final Award, the Arbitral Tribunal shall be empowered to make preliminary, interim, or partial Awards. The Arbitral Tribunal may make separate Awards on different issues at different times.

4. The Parties shall communicate to the PCA the laws, regulations, or other documents evidencing the execution of an Award of the Arbitral Tribunal.

### ***Settlement or other Grounds for Termination***

#### **Article 22**

1. If, before an Award is made, the Parties agree on a settlement of the dispute, the Arbitral Tribunal shall either issue an order for the termination of the arbitral proceedings or, if requested by the Parties and accepted by the Arbitral Tribunal, record the settlement in the form of an arbitral Award on agreed terms. The Arbitral Tribunal is not obliged to give reasons for such an Award.

2. If, before an Award is made, the continuation of the arbitral proceedings becomes unnecessary or impossible for any reason not mentioned in paragraph 1, the Arbitral Tribunal shall inform the Parties of its intention to issue an order for the termination of the proceedings and invite them to submit their observations within 30 days. The Arbitral Tribunal, after having heard the Parties, shall have the power to issue such an order unless there are remaining matters that may need to be decided and the Arbitral Tribunal considers it appropriate to do so.

3. Copies of the order for termination of the arbitral proceedings or of the arbitral Award on agreed terms, signed by the Arbitrators, shall be communicated by the Arbitral Tribunal to the Parties. Where an arbitral Award on agreed terms is made, the provisions of Article 21 of these Rules shall apply.

### ***Interpretation of the Award***

#### **Article 23**

1. Any request for interpretation of an Award made in accordance with Article 12 of Annex VII to the Convention shall be submitted by a Party by giving notice to the Arbitral Tribunal and the other Party.

2. The interpretation shall form part of the Award and the provisions of Article 21 of these Rules shall apply.

### ***Correction of the Award***

#### **Article 24**

1. Within 45 days after the receipt of an Award, either Party, with notice to the other Party, may request the Arbitral Tribunal to correct in the Award any errors in computation, any clerical or typographical errors, or any errors of similar nature. The Arbitral Tribunal may make such corrections on its own initiative after the communication of the Award.

2. Such corrections shall be in writing, and the provisions of Article 21 of these Rules shall apply.

### ***Additional Award***

#### **Article 25**

1. Within 45 days after the receipt of an Award, a Party, with notice to the other Party and the PCA, may request the Arbitral Tribunal to make an Award or an additional Award as to claims presented in the arbitral proceedings but not decided by the Arbitral Tribunal.

2. If the Arbitral Tribunal considers the request for an Award or additional Award to be justified, it shall render or complete its Award within a reasonable period of time after the receipt of the request.

The Arbitral Tribunal may extend, if necessary, the period of time within which it shall make the Award.

3. When such an Award or additional Award is made, the provisions of Article 21 of these Rules shall apply.

### ***Expenses and Costs***

#### **Article 26**

1. Unless the Arbitral Tribunal decides otherwise because of the particular circumstances of the case, the expenses of the Arbitral Tribunal, including the remuneration of its members, shall be borne by the Parties in equal shares.

2. The remuneration to the members of the Arbitral Tribunal is established by the Parties according to the Terms of Appointment. The same rules shall apply with respect to experts. The expenses of the PCA Secretariat are established by the Parties and the Secretariat in accordance with the practice in similar cases.

3. The PCA shall keep a record of all expenses, and shall furnish a final statement thereof to the Parties.

#### **Article 27**

Each Party bears its own costs of presenting its case.

### ***Deposit for Expenses***

#### **Article 28**

1. The PCA may request each Party to deposit an equal amount as an advance for the expenses referred to in Article 26. All amounts deposited by the Parties pursuant to this Article shall be directed to the PCA, and disbursed by it for such expenses, including, inter alia, fees to the Arbitrators, and the PCA.

2. During the course of the proceedings, the PCA or the Arbitral Tribunal may request supplementary deposits from the Parties in respect of the expenses referred to in Article 26.

3. If the requested deposits are not paid in full within 60 days after the receipt of the request, the Arbitral Tribunal shall so inform the Parties in order that one or another of them may make the required payment. If such payment is not made, the Arbitral Tribunal may order the suspension or termination of the proceedings.

4. After the Award has been made, the PCA shall render an accounting to the Parties of the deposits received and return any unexpended balance to the Parties.

**APPENDIX 1**

**LIST OF OFFICIAL HOLIDAYS IN 2014**

17, 18, 20, 21, 25 April 2014

1, 9, 16, 29, 30 May 2014

9 June 2014

21, 28, 29 July 2014

15 August 2014

24-31 December 2014

The holidays and non-business days for 2015 and, if needed, subsequent years will be communicated by both Parties and be deemed to be part of Appendix 1.

**APPENDIX 2A**

**TIMETABLE FOR THE ARBITRAL PROCEEDINGS IN THE EVENT OF BIFURCATION**

<b>Description</b>	<b>Period</b>	<b>Dates</b>	<b>Time</b>
Organizational meeting:		<b>15 March 2014</b>	10:30
a. Receipt of first written submission of Denmark in respect of the Faroe Islands	+4 months	<b>x+4</b> <b>15 July 2014</b>	18:00
b. Receipt of first written submission of the European Union (preliminary objection)	+3 months	<b>x+4+3</b> <b>15 October 2014</b>	18:00
c. Meeting on bifurcation	+15 days, adjusted for availability	<b>11 November 2014</b>	10:00
d. Reasoned Procedural Order ordering bifurcation	+ 15 days, subject to extension	<b>c. + 15d (=Y)</b> <b>26 November 2014</b>	
e. Receipt of rebuttal on preliminary objections from Denmark in respect of the Faroe Islands	+ 3 months	<b>Y+3</b> <b>26 February 2015</b>	18:00
f. Hearings on the preliminary objection raised by the European Union	+ 2 months	<b>Y+ 3+2</b> <b>27 April 2015</b>	10:00
g. Arbitral Tribunal rules by an Award on preliminary objection raised by the European Union	3 months, subject to extension	<b>Z</b> <b>27 July 2015</b>	
h. (if applicable) Receipt of second written submission of the European Union (on substantive issues including possible counterclaims)	+4 months	<b>Z+4</b> <b>27 November 2015</b>	18:00
i. Receipt of second written submission of Denmark in respect of the Faroe Islands, if so decided by the applicant	+ 2 months	<b>Z+4+2</b> <b>27 January 2016</b>	18:00
j. Receipt of rebuttal of the European Union, if applicable	+2 months	<b>Z+4+2+2</b> <b>28 March 2016</b>	18:00
k. Hearings (including hearing of experts and witnesses)	+ 2 months	<b>Z+4+2+2+2</b> <b>30 May 2016</b>	10:00
l. Arbitral Tribunal delivers the Award	Within 4 months unless extended	<b>30 September 2016</b>	

**APPENDIX 2B**

**TIMETABLE FOR THE ARBITRAL PROCEEDINGS  
IN THE EVENT OF NO BIFURCATION**

<b>Description</b>	<b>Period</b>	<b>Dates</b>	<b>Time</b>
Organizational meeting:		<b>15 March 2014</b>	10:30
a. Receipt of first written submission of Denmark in respect of the Faroe Islands	+4 months	<b>x+4 15 July 2014</b>	18:00
b. Receipt of first written submission of the European Union (preliminary objection)	+3 months	<b>x+4+3 15 October 2014</b>	18:00
c. Meeting on bifurcation	+ 15 days, adjusted for availability	<b>11 November 2014</b>	10:00
d. Reasoned Order declining bifurcation	+ 15 days, subject to extension	<b>c. +15d (=Y) 26 November 2014</b>	
e. Receipt of second written submission of the European Union (on substantive issues including possible counterclaims)	+4 months	<b>Y+4 26 March 2015</b>	18:00
f. Receipt of second written submission of Denmark in respect of the Faroe Islands, if so decided by the applicant	+ 2months	<b>Y+4+2 26 May 2015</b>	18:00
g. Receipt of rebuttal of the European Union, if applicable	+2 months	<b>Y+4+2+2 27 July 2015</b>	18:00
h. Hearings (including hearing of experts and witnesses)	+ 2 months	<b>Y+4+2+2+2 28 September 2015</b>	10:00
i. Arbitral Tribunal delivers the Award	Within 4 months unless extended	<b>28 January 2016</b>	