

PCA Case No. 2019-28

IN THE MATTER OF AN ARBITRATION

- before -

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

- between -

UKRAINE

- and -

THE RUSSIAN FEDERATION

- in respect of a -

**DISPUTE CONCERNING THE DETENTION OF UKRAINIAN NAVAL VESSELS AND
SERVICEMEN**

PROCEDURAL ORDER NO. 3

ARBITRAL TRIBUNAL:

**Professor Donald McRae (President)
Judge Gudmundur Eiriksson
Judge Rüdiger Wolfrum
Judge Vladimir Golitsyn
Sir Christopher Greenwood**

REGISTRY:

The Permanent Court of Arbitration

WHEREAS pursuant to Article 11, paragraph 1, of the Rules of Procedure of the Arbitral Tribunal and paragraph 5 of Procedural Order No. 1, the Russian Federation submitted, on 24 August 2020, its Preliminary Objections;

WHEREAS on 27 October 2020, after having considered the views of the Parties, the Arbitral Tribunal adopted Procedural Order No. 2, in which it decided as follows:

1. The Arbitral Tribunal considers that the Preliminary Objections of the Russian Federation appear at this stage to be of a character that justifies having them examined in a preliminary phase, and in accordance with Article 11, paragraph 3, of the Rules of Procedure, decides that the Preliminary Objections of the Russian Federation shall be addressed in a preliminary phase of these proceedings.
2. The proceedings on the merits are hereby suspended.
3. In accordance with paragraph 5(f) of Procedural Order No. 1, Ukraine shall file any observations on the Preliminary Objections of the Russian Federation within three months of the date of this Order. Following receipt of these observations, the Arbitral Tribunal will decide whether any further written submissions are needed and, after consultation with the Parties, the time limits for such submissions.
4. If the Arbitral Tribunal, in delivering its award in the preliminary phase of the proceedings in accordance with Article 11, paragraph 7, of the Rules of Procedure, declares that a Preliminary Objection does not possess an exclusively preliminary character, then, in accordance with Article 11, paragraph 3, of the Rules of Procedure, that Objection shall be ruled upon in conjunction with the merits.

WHEREAS on 27 January 2021, Ukraine submitted its Written Observations on the Preliminary Objections of the Russian Federation;

WHEREAS on 5 February 2021, after having considered the views of the Parties on the need for further written submissions, the Arbitral Tribunal decided that the further proceedings in respect of the Preliminary Objections of the Russian Federation would be oral;

WHEREAS Article 17, paragraph 2, of the Rules of Procedure provides:

The dates for the hearings shall be set by the Arbitral Tribunal, after ascertaining the views of the Parties. The Arbitral Tribunal shall give the Parties adequate advance notice of the date, time and place of any oral hearing.

WHEREAS on 6 March 2021, after having considered the views of the Parties on the length and scheduling of a hearing on the Preliminary Objections of the Russian Federation, the Arbitral Tribunal fixed the hearing for the week of 11 October 2021 (up to and including Saturday, 16 October 2021, if necessary), with the hearing to take place in person if possible, and otherwise by videoconference;

WHEREAS on 20 August 2021, after having considered the views of the Parties on the format of the hearing in the light of continuing global travel and public health restrictions, the Arbitral Tribunal decided that the hearing should take place in a hybrid format, with some of the members of the Parties' delegations and some of the members of the Arbitral Tribunal joining in person and others by videoconference;

WHEREAS Article 28, paragraph 3, of the Rules of Procedure provides:

The presentation of the Parties' opening statements at any hearing shall be open to the public. The Arbitral Tribunal, after ascertaining the views of the Parties, shall consider at the appropriate time the extent to which any other parts of hearings shall be open to the public.

WHEREAS in accordance with Article 17, paragraph 2, of the Rules of Procedure, the Tribunal has ascertained the views of the Parties in respect of procedural and administrative aspects of the hearing on Preliminary Objections of the Russian Federation;

THE ARBITRAL TRIBUNAL HEREBY DECIDES:

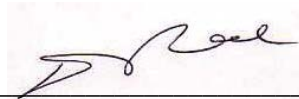
1. The following schedule for the Parties' pleadings in relation to the Preliminary Objections of the Russian Federation is established:

First round of oral argument	
Monday, 11 October 2021 (13:00 – 16:00 CEST)	The Russian Federation
Tuesday, 12 October 2021 (13:00 – 16:00 CEST)	Ukraine
Second round of oral argument	
Thursday, 14 October 2021 (11:30 – 14:30 CEST)	The Russian Federation
Friday, 15 October 2021 (14:30 – 17:30 CEST)	Ukraine
Reserved for a further session, if needed	
Saturday, 16 October 2021 (13:00 – 16:00 CEST)	

2. The opening statements of each Party's Agent in the first round of oral pleadings will be made accessible to the public through an online stream available on the Permanent Court of Arbitration website.
3. The Arbitral Tribunal may in due course establish special protocols for those participating in the hearing in person.

Dated: 17 September 2021

ON BEHALF OF THE ARBITRAL TRIBUNAL

A handwritten signature in black ink, appearing to read 'D. McRae', is positioned above a horizontal line. The signature is written in a cursive style with a large initial 'D'.

Professor Donald McRae
President