## PERMANENT COURT OF ARBITRATION

## IRON RHINE CASE (BELGIUM v. THE NETHERLANDS)

## REPLY OF THE KINGDOM OF BELGIUM

## TABLE OF CONTENTS

INTR	INTRODUCTION				
JURIS	SDICTIC	ON	2		
QUES	STION N	<b>√</b> °1.	6		
A.	Relevant Rules and Principles of International Law				
	1.	Pacta sunt servanda and the principles of good faith and reasonableness	12		
	2.	Principles relating to the interpretation of treaties	16		
	3.	Rights relating to the use, restoration, adaptation and modernization of the Iron Rhine do not exclusively derive from the Iron Rhine's conventional regime	23		
B.	Interna	ational law as applied to the present case: General Issues	26		
C.	International law as applied to the reactivation of the Iron Rhine currently envisaged				
	1.	The Memorandum of Agreement of 28 March 2000	28		
	2.	Temporary Use	32		
	3.	Long Term Use	34		
		(a) Measures required by the Netherlands for the long-term reactivation presently envisaged	35		
		(b) Tracks which are in present or future use for Dutch railway transports	41		
		(c) Measures required to meet objectives beyond Dutch legislative requirements	44		
		(d) The loop around Roermond	46		
		(e) The tunnel under the Meinweg and other nature protection measures including compensatory measures	47		
		(f) The formulation of Belgium's submission	63		

QUESTION  $N^{\circ}$  2.

A.	use, Dutc	To what extent does Belgium have the right to perform or commission work with a view to the use, restoration, adaptation and modernisation of the historical route of the Iron Rhine on Dutch territory, and to establish plans, specifications and procedures related to it according to Belgian law and the decision-making power based thereon?  75				
	1.	The "plan" within the meaning of Article XII of the 1839 Separation Treaty shall be determined by Belgium without the agreement of the Netherlands	76			
	2.	The terms "according to the same plan" in Article XII of the 1839 Separation Treaty are not limited to ensuring to Belgium the physical trans-border use of the railway	82			
	3.	The scope of Belgium's right to have the Iron Rhine prolonged on Dutch territory according to the same plan as on Belgian territory	85			
	4.	Belgium's present request for reactivation does not amount to a request for a "new road" within the meaning of Article XII of the Separation Treaty	86			
	5.	Conclusion	88			
В.	proc on th	Should a distinction be drawn between the requirements, standards, plans, specifications and procedures related to, on the one hand, the functionality of the rail infrastructure in itself, and, on the other hand, the land use planning and the integration of the rail infrastructure, and, if so, what are the implications of this?				
C.	Can the Netherlands unilaterally impose the building of underground and above-ground tunnels, diversions and the like, as well as the proposed associated construction and safety standards?					
D.	Conc	clusions	93			
QUES	STION	N°3.	96			
A	assoc of th	pplication of the Iron Rhine's conventional regime, all cost items and financicated with the use, restoration, adaptation and modernisation of the railway infrase historical route of the Iron Rhine on Dutch territory shall be borne by the erlands.				
	1.	Belgium is under no obligation to bear the costs and financial risks of reactivating the Iron Rhine as a corollary of its right of transit				

under Article XII of the Separation Treaty

98

	2.	Belgium's present request for reactivation does not amount to a request for a "new road" within the meaning	
		of Article XII of the Separation Treaty	103
	3.	The Netherlands shall bear all costs items and financial risks associated with the use, restoration, adaptation and modernization of the Iron Rhine on Dutch territory so as to make it in a good state and prone to facilitating trade.	103
		(a) The Netherlands shall be responsible for restoring, adapting and modernizing the Iron Rhine on Dutch territory so as to make it in a good state and prone to facilitating trade	104
		(b) The reactivation presently envisaged does not exceed what is necessary for the line to be in a good state and prone to facilitating trade. The costs and financial risks associated with the envisaged restoration, adaptation and modernization shall, therefore, be	112
		borne in whole by the Netherlands.	112
	4.	On Commutative Justice	114
В.	use, res	sidiary order, all costs and financial risks associated with the storation, adaptation and modernisation of the historical route Iron Rhine on Dutch territory, which are caused by a violation Netherlands of their international obligations towards	
	Belgiu	m shall be borne by the Netherlands and not by Belgium.	117
C.	Conclu	asion	119
SU	BMISS	IONS	121