

# PERMANENT COURT OF ARBITRATION



## **PRESS RELEASE**

### **OSPAR Arbitral Tribunal Issues Final Award**

On July 2, 2003, the arbitral tribunal established to decide a dispute between Ireland and the United Kingdom pursuant to the 1992 Convention for the Protection of the Marine Environment of the North-East Atlantic, or OSPAR Convention, issued its Final Award. The arbitration was initiated by Ireland on 18 June 2001 pursuant to the dispute resolution provisions of the OSPAR Convention (Article 32). Written pleadings were filed by the Parties between March and August 2002, and the Tribunal heard oral submissions in the case at the Peace Palace in The Hague from October 21, 2002 until October 25, 2002.

The dispute concerned access to information about a mixed oxide (“MOX”) fuel plant located at the Sellafield nuclear facility in the United Kingdom. Pursuant to its understanding of the requirements of the OSPAR Convention, Ireland requested access to material deleted from the published versions of certain reports prepared as part of the approval process for the MOX plant. The United Kingdom declined to provide the information requested, arguing, among other things, that the information was properly withheld on commercial confidentiality grounds.

In the Final Award, which is binding on the Parties and may not be appealed, the main findings of the Tribunal were as follows:

- The Tribunal by unanimous decision rejected the United Kingdom’s request that the Tribunal find that it lacked jurisdiction over the dispute;
- The Tribunal by unanimous decision rejected the United Kingdom’s request that Ireland’s claims were inadmissible;
- The Tribunal by majority decision rejected the United Kingdom’s submission that implementation of Article 9(1) was assigned exclusively to the competent authorities in the United Kingdom and not to a tribunal established under the OSPAR Convention;
- The Tribunal by majority decision found that Ireland’s claim for information did not fall within Article 9(2) of the OSPAR Convention;

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- the Tribunal by majority decision found as a consequence, that Ireland's claim - that the United Kingdom had breached its obligations under Article 9 of the OSPAR Convention, by refusing, on the basis of its understanding of the requirements of Article 9 (3)(d), to make available information - did not arise; and
- The Tribunal by unanimous decision decided that each Party would bear its own costs and an equal share of the costs of this arbitration.

The Tribunal was composed of Professor W. Michael Reisman (Chairman), Lord Michael Mustill PC, and Dr. Gavan Griffith QC. Appended to the Final Award are a Declaration by Professor Reisman and a Dissent by Dr. Griffith.

The Permanent Court of Arbitration, which is based in the Peace Palace, served as registry for the arbitration. The written pleadings, transcripts of hearings, procedural decisions, and Final Award are available at: <http://www.pca-cpa.org>.

The Hague, July 2, 2003