

PERMANENT COURT OF ARBITRATION



PRESS RELEASE

MOX Plant Case Arbitral Tribunal Issues Order

On June 24, 2003, following two weeks of hearings in connection with a dispute between Ireland and the United Kingdom under the 1982 United Nations Convention on the Law of the Sea, the arbitral tribunal hearing the case issued *Order No. 3 – Suspension of Proceedings on Jurisdiction and Merits and Request for Further Provisional Measures*. The hearings were held in the Peace Palace from June 10 until June 21, 2003 by an arbitral tribunal established under Annex VII to the Law of the Sea Convention. The case, which was initiated by Ireland on 25 October 2001, concerns discharges into the Irish Sea from a mixed oxide fuel (“MOX”) plant located at Sellafield nuclear facility in the United Kingdom, and related movements through the Irish Sea of radioactive materials.

As announced on June 13, 2003 by the President of the Tribunal, Judge Thomas A. Mensah, the Tribunal’s Order formally suspends further proceedings in the case until not later than December 1, 2003. The Tribunal took this decision in light of concerns about its jurisdiction to hear and decide the case. Among other things, the United Kingdom had objected to the Tribunal’s jurisdiction based on the position of the Parties under the law of the European Communities. Noting that this issue had been addressed on May 15, 2003 in the European Parliament and that the European Commission had indicated that it “is examining the question whether to institute proceedings under article 226 of the European Community Treaty,” the Tribunal concluded that “there remain substantial doubts whether the jurisdiction of the Tribunal can be firmly established in respect of all or any of the claims in the dispute,” and that this uncertainty precluded it from proceeding at this stage to hear the arguments of the Parties on the merits of the case.

The Order also sets out the Tribunal's decision on Ireland's Request for Further Provisional Measures, which was filed following suspension of the proceedings, on June 16, 2003. The Tribunal heard arguments from the parties on Ireland's Request from June 17, 2003 to June 21, 2003. The Tribunal declined to order the provisional measures specifically requested by Ireland, but affirmed a provisional measure on cooperation between the Parties, which had been ordered on December 3, 2001 by the International Tribunal for the Law of the Sea before the Tribunal was fully established. The Tribunal's Order calls on the Parties, pending the final decision of the Tribunal, "to ensure that no action is taken by either Party which might aggravate or extend the dispute submitted to the Tribunal." The Parties are further required to provide reports and "information on compliance with the provisional measure affirmed, and the recommendations made...by the Tribunal in the present Order," by no later than September 12, 2003 and November 17, 2003. The Tribunal stated that it would "keep under review the possible need for further measures."

In addition to Judge Mensah, the Tribunal consists of Professor James Crawford SC, Maître L. Yves Fortier CC QC, Professor Gerhard Hafner, and Sir Arthur Watts KCMG QC. The International Bureau of the Permanent Court of Arbitration is serving as registry for the case. Copies of *Order No. 3*, transcripts of the hearings, the Parties' written pleadings, and further information on the MOX Plant Case are published on the PCA website at: www.pca-cpa.org, under the heading "Recent and Pending Cases".

The Hague, June 25, 2003