

PERMANENT COURT OF ARBITRATION

DISPUTE CONCERNING ACCESS TO INFORMATION UNDER ARTICLE 9 OF THE OSPAR CONVENTION

IRELAND v. UNITED KINGDOM

DECISION N° 2
12 OCTOBER 2002

CONDUCT OF THE HEARINGS AND ACCESS TO UNREDACTED VERSIONS OF THE PA AND ADL REPORTS

1. The Arbitral Tribunal takes note of the agreement of the parties as expressed in their joint letter of 4 October 2002 on aspects of the procedure at the hearings and incorporates those agreements in this decision.
2. Hearings will take place from 21 October through 25 October 2002. Hearings will be conducted in two sessions each day, i.e., from 9:30 a.m. to 1:00 p.m. and from 2:30 p.m. to 6:00 p.m. There will be a twenty-minute break in each session and a brief five-minute break after each hour.
3. Each party will present the substance of its case as it wishes. The order of presentation at the hearings will be as follows:

MONDAY 21/10	TUESDAY 22/10	WEDNESDAY 23/10	THURSDAY 24/10	FRIDAY 25/10
Ireland	Ireland	UK		
Ireland	UK	UK	Ireland	UK

4. The United Kingdom has agreed to tender copies of the unredacted PA and ADL Reports, with the redacted sections highlighted, to each of the members of the Tribunal and to the Secretary of the Tribunal. These shall be delivered as follows: one copy for Lord Mustill to be delivered to him at Essex Court Chambers, 24 Lincoln's Inn Fields, London WC2A 3ED, no later than 5:00 pm on Wednesday, 16 October 2002. Copies for the Secretary, Chairman and Mr. Griffith will be delivered to the PCA secretariat at the Peace Palace in The Hague, no later than 12:00 noon on Friday, 18 October 2002. The unredacted documents shall remain confidential, no copies shall be made thereof, and they shall be returned to the United Kingdom at the time of rendering the award.

5. From 12:00 noon on Friday, 18 October 2002 and until the conclusion of the hearings, the United Kingdom is further requested to make available to independent counsel for Ireland for examination unredacted versions of the PA and ADL Reports, to be examined on the premises of the PCA secretariat only. The PCA Secretariat shall impose such conditions as are necessary to ensure confidentiality, without however impeding the right of independent counsel to conduct such examination. No copies shall be made of the documents in the course of examination, and they shall be returned to the United Kingdom at the conclusion of the hearings.
6. The Tribunal notes that Mr. Philippe Sands, independent counsel for Ireland, has submitted to the Secretary of the Tribunal an undertaking, dated 9 October 2002 and received on 11 October 2002, to “respect and preserve” the confidentiality of the unredacted PA and ADL reports. Any other independent counsel wishing to examine the unredacted documents on behalf of Ireland shall also submit an undertaking to that effect.
7. Ireland may apply to the Tribunal for permission to make the redacted material available to other counsel and witnesses for Ireland. If Ireland makes such an application, the Tribunal will convene at 9:00 a.m. at the opening of the hearings on 21 October 2002 to hear the parties’ arguments with respect to that application.

12 October 2002



Michael Reisman
Chairman, on behalf of the Arbitral Tribunal