

PCA Case N° 2013-30

**IN THE MATTER OF
THE ATLANTO-SCANDIAN HERRING ARBITRATION**

- before -

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

- between -

THE KINGDOM OF DENMARK IN RESPECT OF THE FAROE ISLANDS

(Applicant)

- and -

THE EUROPEAN UNION

(Respondent)

PROCEDURAL ORDER N° 1

ARBITRAL TRIBUNAL:

**Judge Thomas Mensah (Presiding Arbitrator)
Professor Gerhard Hafner
Professor Francisco Orrego Vicuña
Dr. M.C.W. Pinto
Judge Rüdiger Wolfrum**

REGISTRY:

Permanent Court of Arbitration

15 March 2014

WHEREAS the Kingdom of Denmark in respect of the Faroe Islands (“Denmark in respect of the Faroe Islands”) and the European Union (“European Union”) are Parties to the United Nations Convention on the Law of the Sea (“Convention”);

WHEREAS Article 286 of the Convention provides that “[s]ubject to section 3, any dispute concerning the interpretation or application of this Convention shall, where no settlement has been reached by recourse to section 1, be submitted at the request of any Party to the dispute to the court or tribunal having jurisdiction under this section”;

WHEREAS the Kingdom of Denmark has chosen the International Court of Justice as forum for settling disputes and the European Union has not made a choice under Article 287(1);

WHEREAS Article 287(3) of the Convention provides that a “State Party, which is a Party to a dispute not covered by a declaration in force, shall be deemed to have accepted arbitration in accordance with Annex VII”;

WHEREAS Article 287(5) of the Convention provides that “[i]f the Parties to a dispute have not accepted the same procedure for the settlement of the dispute, it may be submitted only to arbitration in accordance with Annex VII, unless the Parties otherwise agree”;

WHEREAS Article 1 of Annex VII to the Convention provides that “[s]ubject to the provisions of Part XV, any Party to a dispute may submit the dispute to the arbitral procedure provided for in this Annex by written notification addressed to the other Party or Parties to the dispute. The notification shall be accompanied by a statement of the claim and the grounds on which it is based”;

WHEREAS Denmark in respect of the Faroe Islands has in its Notification invoked Article 287, Article 288(1) and Article 1 of Annex VII to the Convention in relation to a dispute concerning the interpretation and application of Article 63(1) of the Convention concerning the shared stock of Atlanto-Scandian herring (the “Dispute”);

WHEREAS the notification of the Dispute (by a letter dated 16 August 2013 signed by Gunnar Holm-Jacobsen, Director of the Foreign Service of the Faroe Islands Prime Minister’s Office to President of the European Commission José Manuel Barroso, with 1° the Full Powers from Villy Søvndal, Minister for Foreign Affairs of the Kingdom of Denmark to Kaj Leo Holm Johannesen, Prime Minister of the Faroe Islands, 2° the Institution of Arbitral Proceedings, signed by Kaj Leo Holm Johannesen, and 3° the Statement of Claim, signed by Dr. Bjørn Kunoy acting as Agent, and its 40 Annexes) was received by the European Union;

WHEREAS both Parties reserve their rights as to any position they may have in relation to any issue involved;

WHEREAS in accordance with Article 3 of Annex VII to the Convention, by 9 December 2013, the Arbitral Tribunal composed of five Arbitrators was constituted;

WHEREAS on 9 December 2013, the Parties jointly submitted proposed Rules of Procedure, including timetables in Appendix 2A and Appendix 2B to the Rules of Procedure;

WHEREAS on 15 March 2014 the Arbitral Tribunal held its First Organizational Meeting with the Parties at the Peace Palace in The Hague to discuss the procedural framework for the arbitration and to sign the Terms of Appointment.

THE ARBITRAL TRIBUNAL HEREBY ISSUES THE FOLLOWING PROCEDURAL ORDER:

1. Rules of Procedure

- 1.1 The Rules of Procedure appended to this Order (“the Rules”) shall apply in these proceedings, subject to the Convention (including its Annex VII), the Terms of Appointment, and subsequent procedural orders of the Arbitral Tribunal.
- 1.2 To the extent that any question of procedure is not expressly governed by the Convention (including its Annex VII), the Rules, existing procedural orders issued by the Arbitral Tribunal, or the Terms of Appointment, the question shall be determined by the Arbitral Tribunal after seeking the views of the Parties.

2. Procedural Timetable

- 2.1 Bearing in mind Articles 8 and 12 of the Rules and the timetables in Appendix 2A and Appendix 2B to the Rules, the Tribunal orders the following immediate next steps in the Arbitration:
 - 2.1.1 Denmark in respect of the Faroe Islands shall submit its first written submission on or before 18h00 CEST on 15 July 2014.
 - 2.1.2 The European Union shall submit its first written submission, including any preliminary objections, on or before 18h00 CEST on 15 October 2014.
 - 2.1.3 A meeting on bifurcation shall be held at 10h00 CET on 11 November 2014 at the Peace Palace in The Hague.
 - 2.1.4 The Arbitral Tribunal will endeavour to issue a reasoned Procedural Order on bifurcation within 15 days of the meeting on bifurcation, subject to seeking any extension from the Parties.

3. Leave to Apply

Any Party has leave to apply to the Arbitral Tribunal for a variation of this Order, giving particulars of the variation sought and the reason for it.

Dated: 15 March 2014

On behalf of the Arbitral Tribunal

A handwritten signature in black ink, appearing to read 'Thomas Mensah', written in a cursive style.

**Judge Thomas Mensah
President**