



# THE PERMANENT COURT OF ARBITRATION

PRESENTATION FOR THE AD HOC COMMITTEE ON  
SOVEREIGN DEBT RESTRUCTURING PROCESSES

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## Background on the PCA

- Established pursuant to the 1899 Hague Convention on the Pacific Settlement of International Disputes
- Precursor to the Permanent Court of International Justice/International Court of Justice
- Independent of the United Nations System

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## Mandate of the PCA

- Permanent forum to assist the resolution of international disputes
- Open to disputes involving various combinations of States, State entities, intergovernmental organizations, and private parties
- Principally arbitration, but also conciliation proceedings

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## Structure of the PCA

- Not a court but a permanent administrative framework for arbitral tribunals
- Organized in three parts:
  - The **Administrative Council** (governing body)
  - The **Members of the Court** (list of arbitrators)
  - The **International Bureau** (assists parties and arbitrators in PCA-administered proceedings)

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## PCA International Bureau

- Headquartered in the Peace Palace in The Hague
- Experienced legal and administrative staff
- Multinational and multilingual
- Provide support to participants and tribunals in international arbitration and conciliation proceedings

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## PCA Support in Arbitration Proceedings

- Support arbitrations worldwide:
  - PCA provides administrative support to parties and tribunals at any location worldwide
- Support dispute resolution under a wide variety of treaties and international agreements:
  - Treaty provisions need not expressly reference the PCA
  - PCA administers cases under its own rules of procedure as well as under the UNCITRAL Arbitration Rules and other *ad hoc* rules

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## Inter-State Arbitration

- Examples:
  - *Railway Land Arbitration* (Malaysia/Singapore)
  - *Indus Waters Kishenganga Arbitration* (Pakistan v. India)
  - *Case concerning the Loan Agreement between Italy and Costa Rica*

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## Mixed Arbitration

- Arbitrations pursuant to bilateral and multilateral investment treaties
- Arbitrations pursuant to contracts involving States or State entities
- Proceedings usually conducted pursuant to the UNCITRAL Arbitration Rules

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## Standing Tribunals

### Bank for International Settlements Tribunal:

- Established by the Hague Agreement of 1930
- Competent for disputes concerning the treaties or statutes of the Bank for International Settlements
- 5 member tribunal, appointed by original member States
- Constituted permanently, but only active in the event of a dispute

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## Dispute Resolution and Matters of Public Interest

### PCA Optional Rules for Disputes Relating to the Environment:

- Prepared by a specialized working group of environmental law experts
- Widely used in the context of Kyoto Protocol emissions trading agreements

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## Other PCA Activities

- Training for government lawyers in international dispute resolution
- Actively involved in UNCITRAL Working Group II (Commercial Disputes)
  - Revision of the UNCITRAL Arbitration Rules
  - Development of the UNCITRAL Transparency Rules
- Support for major multilateral processes
  - Convention on Biodiversity
  - UNFCCC Conference of the Parties

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## Study on Arbitration and Sovereign Debt

### Conclusions:

- No technical bar to arbitration in the context of sovereign debt
- Difficult to create any mechanism involving a third party decision-maker (arbitration or a court) on a contractual basis
- Creating any third party restructuring mechanism would require attention to substantive rules or principles to be applied by such decision-maker

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