



Concept Note: Program for the Congress of the Members of the Court (12-14 June 2024)

9 April 2024

I. INTRODUCTION AND BACKGROUND

1. On 18 December 2023, the Administrative Council approved the organization of a Congress of the Members of the Court (the “**Congress**”) on the occasion of the upcoming 125th anniversary of the PCA, which would transcend mere commemoration and provide a vital platform for the Court to harness the wealth of expertise, experience, and insights of its Members.
2. The PCA’s Members of the Court, being prominent figures in the international legal and dispute resolution community, have a keen understanding of the needs and challenges faced by the Contracting Parties and are attuned to developments in the international landscape. Their participation in the Congress offers a crucial resource for charting the organization’s future. Bringing together the PCA’s third organ, the Congress will be a strategic forum to discuss the future of the PCA, its contributions to international law, and how it can better serve the evolving dispute resolution needs of the Contracting Parties.
3. The Members of the Court have convened on only two previous occasions (in 1993 and 1999). Like the first two meetings, the International Bureau envisages this third Congress as an occasion for dialogue. The Congress offers the PCA both an opportunity to present its work to the international community, as well as to participate in active discussion within an eminent group of individuals who would not otherwise come together.
4. As the first Congress of the Members of the Court of the 21st century, this Congress has the potential to bring together the most diverse representation of Members of the Court yet. Indeed, since the last Congress was convened in May 1999, thirty-four new Contracting Parties have acceded to the PCA’s Founding Conventions. These new Contracting Parties, principally from Africa and Asia, represent over a quarter of PCA’s total Contracting Parties. Thus, a potential 136 additional Members of the Court may attend, for the very first time ever, a Congress of the Members. In addition, as also occurred between the first and second Congresses of the Members, the number of women appointed as Members of the Court has more than doubled between the 1999 Congress and this forthcoming Congress.
5. The Congress will also be the first to occur in the Internet age. The PCA will be in a position to harness the technological leaps of the past 25 years to develop the Members of the Court as the third organ of the PCA. Before, during, and after the event, the PCA will develop the inter-connections between the Members of the Court as well as between the Members of the Court and the other organs of the PCA.
6. The Members of the Court thus have a unique opportunity to reflect on the evolution of the institution and on its future, at a time where the availability of peaceful dispute resolution mechanisms is ever more relevant.

II. PROGRAM OF THE CONGRESS OF THE MEMBERS OF THE COURT

7. As in previous editions, the Congress will be invited to discuss topics relating to the PCA's Founding Conventions and to the current and future practice of the PCA. As such, it will be a key forum to discuss how the PCA can fit into the architecture of international organizations and what steps should be taken by the Members of the Court to support the PCA's evolution.
8. The diversity of the Members of the Court – in terms of their geographic representation, their legal and cultural diversity, and their various current and former positions – represents a true opportunity for discussion and exchanges. The participation of representatives of the Contracting Parties, well versed in the field of international disputes and involved in the representation of their respective States in the negotiation of international agreements and in disputes, would further enrich those discussions.

A. Structure of the Program

9. In order to foster these discussions, the program of the Congress would aim to combine plenary sessions with all of the participants and smaller sessions – in the form of workshops or table topics, led by members of the International Bureau – to discuss topics of a more technical or specialized nature. The aim of these smaller sessions would be both to nurture the discussions during the plenary sessions and to cater to the specific audiences of Members of the Court and representatives of the Contracting Parties.
10. The organization of the Congress over the course of three days – an afternoon session, followed by a full day, and a morning session – aims to fully enable the Congress of the Members to build steadily and reach its full potential. Thus:
 - (a) On Wednesday, 12 June 2024, the inaugural afternoon session would start with a series of inaugural speeches by representatives of the Host Country and of the PCA, and be followed by a substantive presentation on the PCA's work and its evolution, setting the scene for the Congress's discussions over the course of the following days. Far from being a mere introduction of the PCA, this session will be an opportunity to delve into the PCA's transformation over the past twenty-five years and highlight the extent of the past Congresses' contributions to the PCA's growth.
 - (b) On Thursday, 13 June 2024, the morning session would be divided into simultaneous, parallel sessions to which the participants would be invited to attend in smaller groups. Led and coordinated by members of the International Bureau, highly knowledgeable in the procedures administered by the PCA, these smaller sessions would focus on specific topics per type of dispute (inter-State disputes and contract-based disputes).

The afternoon would start and finish with common sessions with all of the participants – the first common session would be dedicated to the PCA's international offices; the closing session of the day would focus on innovation at the PCA. This closing session will incorporate elements from the first sessions and additionally rely on interactive apps, such as Mentimeter and/or Slido.

Between these two common sessions, parallel sessions will take place: one for the Members of the Court, who would be called upon to adopt a resolution, another for the legal advisors. It is suggested that this specific session for legal advisors would cover practical issues with which they are likely to engage in their work (e.g. drafting arbitration agreements into

contracts and treaties, the relevance of relying on PCA administration and/or referring to the PCA Rules, key issues regarding procedural orders and hearings).

- (c) On Friday, 14 June 2024, the morning session would represent an opportunity to have a final substantive session on investment disputes before concluding the Congress with the Members' final adoption of one or more resolutions and the closing speeches. Parallel to this final voting session, a specific Q&A session will be held for the legal advisors with the members of the PCA International Bureau.

B. Content of the Program

11. As foreshadowed by the side event held at the UN International Law Week in October 2023, one topic of particular relevance will be inter-State conciliation, which accommodates diplomacy even after formal resort to a dispute resolution mechanism. Another, exemplified by the recent adoption of the UNCITRAL Expedited Arbitration Rules carving out a role for the PCA, would be the continued development of the PCA's efforts relating to expedited and summary procedures. UNCITRAL is also actively discussing the reform of the architecture for investor-State dispute settlement, including potential roles for the PCA in new instruments for the resolution of such economic disputes.
12. Further to various encounters with current Members of the Court, the International Bureau is confident that delving into the topics of inter-State arbitration, investment disputes, and contract-based disputes would be of particular relevance. Pursuing the same ideas as those that had motivated the first and second Congress, the International Bureau also believes that it would be relevant to take stock of the lessons learned over these past years relating to the PCA's Rules,¹ and to use the same impetus to discuss key evolutions in the past quarter-century in the field of international disputes (e.g. tax disputes; labour disputes in international organizations; artificial intelligence). Although certain topics are in constant evolution (e.g., in particular, artificial intelligence), it is proposed that this Congress provides the opportunity to lay down the foundations of working hypotheses that could then be pursued by the International Bureau.
13. It has also been suggested to include a topic of how to balance the arbitration system's functional needs of refreshment by facilitating the entry of, and granting opportunities to, new participants as counsel and arbitrators with the parties' desire for trustworthy and experienced attorneys. The Members of the Court and legal advisors, speaking from different experiences, could provide interesting insights into one of the essential roles of the Secretary-General as appointing authority under the UNCITRAL and PCA Rules.
14. The Congress may also be an opportunity for the Members to consider partaking in more regular dialogue, if only by means of creating a means of regular communication between the PCA and the Members of the Court (such as a biannual newsletter). In this perspective, the International Bureau has been working on a directory of the Members of the Court and hopes that the Congress of the Members will represent an opportunity to initiate more regular contact with the Members of the Court. Doing so will encourage a better promotion of the PCA's role as well as that of the Members of the Court themselves.

¹ PCA Arbitration Rules; PCA Optional Rules for Arbitration of Disputes Relating to Outer Space Activities; PCA Optional Rules for Arbitration of Disputes Relating to Natural Resources and the Environment

15. In light of the above, it is proposed that the Congress of the Members of the Court have the following title, which will serve as a red thread throughout the full Congress:

A Court Fit for Its Time: Pursuing the Evolution of the Permanent Court of Arbitration for the Fulfilment of its Promise.

III. PRODUCTS OF THE CONGRESS OF THE MEMBERS OF THE COURT

16. As in previous editions, the Members of the Court will be invited to issue one or more resolutions which would aim to summarize their views and briefly sketch their proposals for the future of the Permanent Court of Arbitration. The International Bureau is currently working on potential drafts to be proposed to the Members of the Court for their consideration in advance of the events of June 2024.
17. Beyond the products of the discussions themselves, the publication of the Congress papers (and their eventual translation into various languages) will provide a material contribution of interest for the international legal community and showcase the commitment of the Contracting Parties and Members of the Court to the furtherance of international law and peaceful dispute resolution.
18. It is expected that the Congress papers would be accompanied by papers and summaries of other events organized at the occasion of the 125th Anniversary, including for example the event held in Vienna in January 2024.

IV. SIDE EVENTS ON THE OCCASION OF THE CONGRESS OF THE MEMBERS OF THE COURT

19. At the occasion of this Congress, it is hoped that the Members of the Court will travel to The Hague to attend and participate in the Congress over the course of three days. However, considering the costs inherent to such travels, the organization of side events – whether before or after the sessions of the Congress – would surely encourage Members to travel to and stay in The Hague.
20. In this perspective, the International Bureau would welcome the support of the Contracting Parties in the organization of separate events during the days prior to and leading to the week of the Congress, which could be oriented in the same direction as the main Congress. Side events do not need to be purely academic events and could serve as a welcome networking event for the Members of the Court and legal advisors. The International Bureau would however encourage that these side events include a regional perspective and provide an opportunity for the Members of the Court and PCA staff to participate in multilingual events that would showcase the strengths of the institution as a multilingual arbitration institution.
21. In the event that a Contracting Party wishes to organize an academic event, the PCA would be delighted to send members of the International Bureau as speakers. These side events could be an opportunity to create bridges between the Members of the Court with legal practitioners, academics, diplomats, and students. One possible example would be to have various “Arbitrator’s Studio” events with some Members of the Court,² aimed principally at students and younger

² Inspired by the events launched and organized by the Paris Very Young Practitioners Association (PVYAP). The aim of the Arbitrator’s Studio is to allow for a frank, open conversation between leading practitioners and young lawyers, and an opportunity to ask questions on varied topics such as career

professionals (in particular those who are interning at the major international institutions and diplomatic missions in The Hague). In order to further contribute to the relevance of these events, it is proposed that summaries of each of these side events be included in the papers of the Congress. The PCA would be happy to provide its support to host, when possible, any of those events at the Peace Palace.

22. As the Special Working Group will recall, the Host State and Host City have already confirmed their willingness to organize a reception on the inaugural day of the Congress. This reception would be hosted at the Peace Palace.
23. In order to promote the participation of the Members of the Court and legal advisors, the PCA would include the side events in the program set out on the Congress's registration website.

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development and advocacy techniques. The format of the event consists of a Q&A session where participants are encouraged to ask the arbitrator "anything they want to know". The arbitrator's answers are cloaked with the Chatham House Rules – what is said in the Arbitrator's Studio stays in the Arbitrator's Studio.

Proposed Calendar of the Congress

	Wednesday, 12 June 2024	Thursday, 13 June 2024		Friday, 14 June 2024
8:30	Visits of the Peace Palace / the city of the Hague (organized by the Municipality)	Registration		Registration
8:45				
9:00				
9:15				
9:30		Workshop 1: PCA and Inter-State Dispute Resolution (including conciliation)	Workshop 2: PCA and Contract-Based Dispute Resolution (including conciliation)	Session 4: ISDS (including conciliation)
9:45				
10:00				
10:15				
10:30		<i>BREAK</i>		Members of the Court: Discussion on Resolution(s) Legal Advisors: Q&A Session
10:45				
11:00		Workshop 1: PCA and Inter-State Dispute Resolution (including conciliation) (cont'd)	Workshop 2: PCA and Contract-Based Dispute Resolution (including conciliation) (cont'd)	<i>BREAK</i>
11:15				
11:30				Closing speeches
11:45				
12:00		<i>Transition to Lunch break</i>		
12:15		<i>Lunch break</i>		
12:30	<i>Lunch break</i>			

12:45			
13:00	Registration		<i>Lunch break (to be organized by Contracting Parties / in association with the side events)</i>
13:15			
13:30			
13:45			
14:00	Welcome speeches / Inauguration of the Congress of the Members	Session 2: The PCA around the world - special focus on our overseas offices & regional groups	<p style="text-align: center;">Side events</p> <p style="text-align: center;">(focused on regional groups / language distributions)</p> <p style="text-align: center;">*****</p> <p style="text-align: center;">Visits of the Peace Palace / the city of the Hague (organized by the Municipality)</p>
14:15			
14:30			
14:45		<i>Transition to Break sessions</i>	
15:00		<p style="text-align: center;">Members of the Court: Discussion and adoption of Resolution</p> <p style="text-align: center;">Legal Advisors: Practical workshops –</p> <p style="text-align: center;">The relevance of relying on PCA Administration / Drafting arbitration agreements and/or referring to the PCA Rules / Key issues regarding procedural orders & hearings</p>	
15:15	<i>BREAK (45 minutes - Networking)</i>		
15:30			
15:45		BREAK	
16:00	Round-table on the Permanent Court of Arbitration		
16:15		<i>Introduction to interactive features of Session 3 - word cloud, polling, quizzes</i>	
16:30			
16:45			
17:00		Session 3: Innovation at the PCA	
17:15			

17:30			
17:45	<p>Reception (hosted by Municipality and Ministry of Foreign Affairs) - Peace Palace -</p>	<p>Side events (focused on regional groups / language distributions)</p>	<p>Reception (invitation only event) - Peace Palace -</p> <p>*****</p> <p>Side events (focused on regional groups / language distributions)</p>
18:00			
18:15			
18:30			
18:45			
19:00			
19:15			
19:30			