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1 Arbitration Agreements

1.1 What, if any, are the legal requirements of an arbitration agreement under the laws of Sweden?

There are no legal requirements of an arbitration agreement. The Swedish Arbitration Act 1999 (the "Arbitration Act") does, however, define an arbitration agreement as an agreement between at least two parties that stipulates that a dispute shall be resolved by one or more arbitrators. The arbitration agreement could concern an on-going dispute or a future dispute. As for future disputes, there is a requirement that the arbitration agreement concerns a defined legal relationship.

1.2 What other elements ought to be incorporated in an arbitration agreement?

The arbitration agreement should determine the applicable arbitration rules, the seat of arbitration, the number of arbitrators and the method of their appointment, as well as the applicable law and the language to be used in the arbitration proceedings. As the Arbitration Act does not prescribe a general duty of confidentiality for the parties, incorporating a confidentiality clause should also be considered.

1.3 What has been the approach of the national courts to the enforcement of arbitration agreements?

Arbitration agreements are respected by Swedish courts and the courts have, for a long time, maintained a permissive approach towards the enforcement of arbitration agreements. A court will generally, upon objection from the other party, dismiss a case if proceedings have been initiated in the general courts despite an arbitration agreement. Arbitration proceedings are generally conducted without the intervention of the courts. The Arbitration Act does, however, in certain situations, give the courts competence to intervene upon the request of a party, e.g. to appoint an arbitrator or to order interim measures.

2 Governing Legislation

2.1 What legislation governs the enforcement of arbitration proceedings in Sweden?

The Arbitration Act governs the enforcement of arbitration proceedings.

2.2 Does the same arbitration law govern both domestic and international arbitration proceedings? If not, how do they differ?

The Arbitration Act governs both domestic and international arbitrations.

2.3 Is the law governing international arbitration based on the UNCITRAL Model Law? Are there significant differences between the two?

The Model Law has not been incorporated into Swedish law but the Arbitration Act is, to a great extent, based on the Model Law and, with a few exceptions, they conflate. The rules in the Model Law concerning the form of an arbitration agreement and the requirement of reasoned awards have not been enforced. Another distinction is that the Arbitration Act prescribes that, unless the parties have agreed otherwise, the parties shall appoint one arbitrator each and that the arbitrators so appointed shall appoint the third. If a party fails to appoint an arbitrator, the District court will make the appointment on the request of the other party.

2.4 To what extent are there mandatory rules governing international arbitration proceedings sited in Sweden?

The Arbitration Act is based on the principle of party autonomy and thus the parties are generally free to agree on the conduct of the proceedings. There are, however, a few mandatory rules in the Arbitration Act: the parties cannot refer a matter to arbitration that exclusively lies within the competence of a general or administrative court; the parties must be treated equally and must be given an opportunity to present their case, both in writing and orally; and the parties may not agree to exclude or limit the application of the grounds for setting aside an award if one of the parties has its domicile or place of business in Sweden.

3 Jurisdiction

3.1 Are there any subject matters that may not be referred to arbitration under the governing law of Sweden? What is the general approach used in determining whether or not a dispute is "arbitrable"?

The Arbitration Act prescribes that a dispute is arbitrable if the matter at hand may be agreed upon. There are certain exceptions

to this rule as prescribed by law and include, *inter alia*, disputes concerning collective agreements and discrimination on the basis of gender.

3.2 Is an arbitrator permitted to rule on the question of his or her own jurisdiction?

An arbitrator is permitted to rule on the question of his or her jurisdiction.

3.3 What is the approach of the national courts in Sweden towards a party who commences court proceedings in apparent breach of an arbitration agreement?

Civil proceedings commenced in breach of an arbitration agreement will be dismissed by a court upon the request of an objecting party. Such request must be advanced at the first opportunity given to plead the case before the court. If a party fails to do so, the right to invoke the arbitration agreement will be precluded. Further, the party that has commenced proceedings in a court will no longer be entitled to invoke the arbitration agreement should the other party object to this.

3.4 Under what circumstances can a court address the issue of the jurisdiction and competence of the national arbitral tribunal? What is the standard of review in respect of a tribunal's decision as to its own jurisdiction?

Arbitrators are permitted to rule on their own jurisdiction. If the arbitral tribunal concludes that it has jurisdiction, a party can challenge that decision after the final arbitral award has been rendered. If, on the other hand, the arbitral tribunal determines that it lacks jurisdiction, the proceedings will be terminated through an award which can be appealed to the Court of Appeal. Furthermore, during ongoing arbitration proceedings, a party has the possibility to turn directly to the court to initiate proceedings in order to determine whether or not the arbitral tribunal has jurisdiction. A court's decision on the issue of the jurisdiction of the arbitral tribunal is binding on the arbitrators.

3.5 Under what, if any, circumstances does the national law of Sweden allow an arbitral tribunal to assume jurisdiction over individuals or entities which are not themselves party to an agreement to arbitrate?

The Arbitration Act does not allow an arbitral tribunal to assume jurisdiction over individuals or entities which are not party to an arbitration agreement.

3.6 What laws or rules prescribe limitation periods for the commencement of arbitrations in Sweden and what is the typical length of such periods? Do the national courts of Sweden consider such rules procedural or substantive, i.e., what choice of law rules govern the application of limitation periods?

There are no laws or rules that prescribe limitation periods for the commencement of arbitrations in Sweden. There is, however, a general limitation period of ten years for claims and three years for claims towards a consumer. Rules governing limitation periods are considered to be substantive and not procedural.

3.7 What is the effect in Sweden of pending insolvency proceedings affecting one or more of the parties to ongoing arbitration proceedings?

The effect of pending insolvency proceedings depends on what insolvency regime the party is subject to, i.e. bankruptcy or a company reconstruction procedure.

As for bankruptcy, the estate is bound by an arbitration agreement if the dispute concerns a matter in respect of which the debtor had a right to dispose over and which is relevant to a future bankruptcy. In such situations, the estate will be given an opportunity to intervene in the arbitration proceedings. If the estate chooses not to intervene, the arbitration will be separated from the estate and thus unaffected by the pending bankruptcy.

The arbitration proceedings are not affected by the fact that a party is subject to a company reconstruction procedure.

4 Choice of Law Rules

4.1 How is the law applicable to the substance of a dispute determined?

Unless the parties have agreed on the governing law, the tribunal will decide what country's substantive law is applicable to the substance of the dispute.

4.2 In what circumstances will mandatory laws (of the seat or of another jurisdiction) prevail over the law chosen by the parties?

Only in extraordinary cases will Swedish mandatory rules prevail over the law chosen by the parties. This could be the case if the law agreed upon between the parties contains rules to be applied on the substance of the dispute that are clearly in conflict with public policy in Sweden or international public policy.

4.3 What choice of law rules governs the formation, validity, and legality of arbitration agreements?

Pursuant to the doctrine of separability, an arbitration agreement is treated separately from the agreement to which it shall be applied. Hence, an agreement on governing law in, for example, a share purchase agreement, does not mean that the same law will govern the formation, validity, legality and interpretation of the arbitration agreement. If the parties have not explicitly agreed on which country's law shall govern the arbitration agreement, the Arbitration Act provides that the law governing the arbitration agreement shall be the law of the country in which, by virtue of the arbitration agreement, the proceedings have been or will be held, i.e. the seat.

5 Selection of Arbitral Tribunal

5.1 Are there any limits to the parties' autonomy to select arbitrators?

An arbitrator must be at least 18 years old and may not be subject to trusteeship. Beyond this, the Arbitration Act allows the parties to freely appoint the arbitrators of their choice. Agreements that would give one of the parties an unfair advantage may, however, be subject to adjustment as a result of rules of equation under the Swedish

Contracts Act. For example, it is highly likely that a condition in an arbitration agreement giving one of the parties the right to appoint a sole arbitrator, or all arbitrators should they be more than one, would be set aside upon request of the other party.

Even though the parties are free to appoint the arbitrators of their choice, it should be noted that arbitral proceedings that have been conducted in a manner which could be deemed as being not legally secure – such as, for example, with arbitrators that have been appointed by only one of the parties or if the arbitrators are clearly unqualified for the task – may give rise to a justifiable reason for the losing party to challenge the award with respect to public policy in Sweden regarding principles of natural justice.

5.2 If the parties' chosen method for selecting arbitrators fails, is there a default procedure?

Should a party fail to appoint an arbitrator within thirty days from when the other party announced its choice of arbitrator, a court will appoint that arbitrator on the request of the first party. The same applies if the parties have agreed to appoint a sole arbitrator by mutual decision and one party fails to participate in the choice of the arbitrator, or if two arbitrators appointed by the parties fail to mutually appoint a chairman.

As regards the removal of an arbitrator, a challenge in respect of an arbitrator's impartiality shall be settled by the tribunal itself, unless otherwise agreed by the parties. The tribunal's decision to remove an arbitrator may not be challenged. However, should the challenge be rejected, a dissatisfied party may apply to the district court for the removal of the arbitrator.

5.3 Can a court intervene in the selection of arbitrators? If so, how?

See the answer to question 5.2 above. A court may be involved in the selection or removal of arbitrators on the initiative of at least one of the parties. A court may never intervene on its own initiative.

5.4 What are the requirements (if any) as to arbitrator independence, neutrality and/or impartiality and for disclosure of potential conflicts of interest for arbitrators imposed by law or issued by arbitration institutions within Sweden?

The Arbitration Act stipulates that an arbitrator shall be "impartial". A person may not act as arbitrator if he or someone close to him is a party to the matter or could otherwise be affected by the outcome of the dispute, or if he or someone close to him is involved (a member of the board or signatory) in a company or an association that is a party to the matter or that could be affected by the outcome of the dispute. Nor must a person act as an arbitrator if he has taken a position in the matter as an appointed expert or if he has assisted one of the parties to prepare or present its case. Finally, a person may not act as an arbitrator if he has received or has reserved himself the right to compensation through an agreement with only one of the parties.

A person asked to act as an arbitrator must immediately disclose any circumstances mentioned above and any other circumstances that may give rise to justifiable doubts as to that person's impartiality.

According to the Arbitration Rules of the Stockholm Chamber of Commerce, an arbitrator shall be "impartial and independent" and the same general rules apply as stated in the Arbitration Act.

6 Procedural Rules

6.1 Are there laws or rules governing the procedure of arbitration in Sweden? If so, do those laws or rules apply to all arbitral proceedings sited in Sweden?

There are rules in the Arbitration Act governing the procedure of arbitration. However, these rules are not mandatory, and the parties may, at their own discretion, choose to handle the proceedings in any other way they prefer. Hence, the rules in the Arbitration Act only apply if the parties have not agreed otherwise. For example, if the parties have agreed that the Arbitration Rules of the Stockholm Chamber of Commerce shall be applied to the proceedings, then those rules will be applied instead of the rules in the Arbitration Act.

6.2 In arbitration proceedings conducted in Sweden, are there any particular procedural steps that are required by law?

No, there are not.

6.3 Are there any particular rules that govern the conduct of counsel from Sweden in arbitral proceedings sited in Sweden? If so: (i) do those same rules also govern the conduct of counsel from Sweden in arbitral proceedings sited elsewhere; and (ii) do those same rules also govern the conduct of counsel from countries other than Sweden in arbitral proceedings sited in Sweden?

The Swedish Code of Judicial Procedure provides that counsel appearing in court should be suitable. However, there are no rules governing the conduct of counsel from Sweden, or elsewhere, in the Arbitration Act. There is no requirement under Swedish law that counsel has to be a member of the Swedish Bar Association in order to appear in court or arbitral proceedings. If counsel is a member of the Swedish Bar Association, he or she is obliged to comply with the Code of Conduct of the Bar Association.

6.4 What powers and duties does the national law of Sweden impose upon arbitrators?

The tribunal's main duties are to conduct the proceedings in an impartial, practical and expeditious manner. The tribunal shall facilitate and safeguard due process, treat the parties equally and afford them a fair opportunity to present their case. Procedural errors are one of the grounds on which an award may be challenged.

The tribunal may rule on its own jurisdiction. However, this does not prevent the parties from subsequently challenging the tribunal's jurisdiction with a court.

The tribunal has a right to appoint expert witnesses, unless both parties oppose this.

6.5 Are there rules restricting the appearance of lawyers from other jurisdictions in legal matters in Sweden and, if so, is it clear that such restrictions do not apply to arbitration proceedings sited in Sweden?

There is a rule in the Swedish Code of Judicial Procedure restricting the appearance of representatives from jurisdictions other than citizens of the EEA and Switzerland in the general courts of Sweden.

A court may, however, decide to allow representatives from other jurisdictions as well. There is no such limitation regarding arbitration.

6.6 To what extent are there laws or rules in Sweden providing for arbitrator immunity?

Arbitrators are not granted immunity from claims from the parties or otherwise.

6.7 Do the national courts have jurisdiction to deal with procedural issues arising during an arbitration?

A court may rule on issues explicitly provided for in the Arbitration Act. The main areas of the procedural jurisdiction of the courts are: (1) the appointment and/or removal of arbitrators; (2) hearing witnesses under oath; (3) trying matters relating to production of documents; (4) issuing orders concerning interim relief; and (5) trying the jurisdiction of the arbitral tribunal.

7 Preliminary Relief and Interim Measures

7.1 Is an arbitrator in Sweden permitted to award preliminary or interim relief? If so, what types of relief? Must an arbitrator seek the assistance of a court to do so?

An arbitrator in Sweden is entitled to grant interim measures in the following circumstances: a) to maintain or restore the *status quo* pending the determination of a dispute; b) to apply for an order that would prevent or restrain the opposite party from taking action that is likely to harm or prejudice the arbitral process itself; c) to provide means of securing assets out of which a subsequent award may be satisfied; or d) to secure evidence that may be relevant to the resolution of the dispute. The arbitrator can decide whether he has the power to grant a request for interim measures or not.

An arbitrator's interim decisions are not enforceable in Sweden which means that if a party does not comply with an interim decision, the other party may have to apply for interim measures before a court of general jurisdiction as well. Depending on the circumstances, an enforceable decision from such court is normally available within a few days should the court find reason to grant interim measures.

7.2 Is a court entitled to grant preliminary or interim relief in proceedings subject to arbitration? In what circumstances? Can a party's request to a court for relief have any effect on the jurisdiction of the arbitration tribunal?

A court of general jurisdiction in Sweden is entitled to grant interim relief on matters subject to a pending arbitration. The arbitration agreement does not preclude a request for an interim measure in the courts of general jurisdiction. According to Swedish law, the Swedish courts have the authority to grant such relief if the requesting party shows probable cause for its claim and it could reasonably be assumed that the other party might disclaim responsibility for fulfilling its duties. The decision as such can be of a prohibitive nature. A decision could also include a requirement to take certain action or to decide to enforce a judgment in relation to a claim of superior right to certain property.

A request to a court for interim relief has no effect on the jurisdiction of the arbitration tribunal.

7.3 In practice, what is the approach of the national courts to requests for interim relief by parties to arbitration agreements?

The courts do not treat a request for interim measures in a matter subject to arbitration any differently from any other case under their competence.

7.4 Under what circumstances will a national court of Sweden issue an anti-suit injunction in aid of an arbitration?

Swedish courts do not have the authority to issue an anti-suit injunction in aid of arbitration.

7.5 Does the national law allow for the national court and/or arbitral tribunal to order security for costs?

Swedish courts may, if a party so requests, decide that a party domiciled outside the EU should provide security for costs incurred in connection with the proceedings. In practice, this is very unusual. The arbitrators may request the parties to provide security for the arbitrators' fees and expenses and this is common practice in arbitration proceedings.

8 Evidentiary Matters

8.1 What rules of evidence (if any) apply to arbitral proceedings in Sweden?

According to Swedish law, the parties are responsible for presenting evidence in arbitration proceedings. An arbitrator may appoint experts, unless both parties oppose this. The parties could agree to use written witness statements or other rules of evidence but, unless otherwise agreed, the principle of orality applies. In international arbitrations, the IBA Rules are used as guidelines with regard to matters on evidence.

8.2 Are there limits on the scope of an arbitrator's authority to order the disclosure of documents and other disclosure (including third party disclosure)?

According to Swedish law, there is no duty to disclose documents in proceedings unless the arbitrator, upon request from a party, has ordered the disclosure of documents which are considered important for the proceedings in question. However, this order is not enforceable and the party needs to request an order to disclose documents to the courts of general jurisdiction in order to receive an enforceable disclosure order. In practice, the IBA Rules serve as guidelines.

8.3 Under what circumstances, if any, is a court able to intervene in matters of disclosure/discovery?

According to the Arbitration Act, the court could intervene in matters of disclosure/discovery if a party requests that the court orders the opposite party or a third party to produce documents. This court order is enforceable. However, the arbitrator should provide his consent to such request with regard to the case.

8.4 What, if any, laws, regulations or professional rules apply to the production of written and/or oral witness testimony? For example, must witnesses be sworn in before the tribunal or is cross-examination allowed?

There is no law in Sweden that regulates the production of written and oral witness testimony in arbitration. However, the parties could agree to produce written witness statements. In national arbitrations, a party will often hear its witnesses and the opposite party will then cross-examine. In international arbitrations, witness statements are often used. In arbitrations, the witnesses may not give evidence under oath or truth affirmation, nor may the arbitrators impose fines or order other means of coercion. If a party wants its witnesses to give evidence under oath, that party may request that the witness gives evidence in court under oath. Such request shall be approved by the arbitrators. Swedish law on judicial procedure applies with regard to such witness examination, and cross-examination of the witness in question is always allowed.

8.5 What is the scope of the privilege rules under the law of Sweden? For example, do all communications with outside counsel and/or in-house counsel attract privilege? In what circumstances is privilege deemed to have been waived?

All information disclosed in the course of arbitration proceedings and the proceedings *per se* are normally subject to confidentiality. However, there is no rule under Swedish law that arbitration is subject to an implied or expressed duty of confidentiality. All communication between a legal counsel and his client is subject to legal privilege according to the Swedish Bar Association's Code of Conduct. Documents containing trade secrets could be subject to legal privilege. Any notes made by a legal counsel are also subject to legal privilege.

9 Making an Award

9.1 What, if any, are the legal requirements of an arbitral award? For example, is there any requirement under the law of Sweden that the Award contain reasons or that the arbitrators sign every page?

According to the Arbitration Act, the award must be duly signed by the tribunal. If all of the members of the tribunal are unable to sign it, it is sufficient if the majority of the tribunal sign the award, provided that the reasons for why all of the arbitrators have not signed are noted. Furthermore, the award should include some formal facts including the seat of the arbitration, the date when the award was duly prepared, the parties and the dispute. If one of the arbitrators has a dissenting opinion, this opinion must be noted in the award, together with the award as such. The Arbitration Act does not formally require that the award is reasoned although reasoned awards are usually provided.

10 Challenge of an Award

10.1 On what bases, if any, are parties entitled to challenge an arbitral award made in Sweden?

An arbitral award shall, upon challenge of a party, be set aside fully or partially if: (a) the matter has not been subject to a valid arbitration agreement between the parties; (b) the arbitrators have rendered the award after the expiration of the time frame decided by the parties, or where the arbitrators have otherwise exceeded their mandate; (c) arbitral proceedings should not have taken place in Sweden; (d) an arbitrator has been appointed in conflict with the agreement between the parties or the Arbitration Act; (e) an arbitrator is incapable to act as an arbitrator due to requirements of legal capacity or impartiality; or (f) there has otherwise occurred any irregularity in the course of proceedings which has likely influenced the outcome of the case, and if this irregularity is not the result of the challenging party's fault.

10.2 Can parties agree to exclude any basis of challenge against an arbitral award that would otherwise apply as a matter of law?

If none of the parties is domiciled or has its place of business in Sweden, they may, if the matter concerns a commercial relationship, through a written agreement, agree to exclude the right to invoke any or all grounds for challenging the arbitral award.

10.3 Can parties agree to expand the scope of appeal of an arbitral award beyond the grounds available in relevant national laws?

The parties can agree to expand the scope of appeal of an arbitral award.

10.4 What is the procedure for appealing an arbitral award in Sweden?

An action against an arbitral award must be commenced before the court of appeal within the jurisdiction of which the arbitral proceedings were held. Should the seat of arbitration not be stated in the award, proceedings shall be commenced before Svea Court of Appeal in Stockholm. With the exception of claims regarding invalidity, any action must be brought within a period of three months from the date on which the party received the award.

The decision of the court of appeal may not be appealed unless the court of appeal grants a leave to appeal to the Swedish Supreme Court. This is done in cases where it is of importance, as a matter of precedent, that the appeal is tried by the Supreme Court.

11 Enforcement of an Award

11.1 Has Sweden signed and/or ratified the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards? Has it entered any reservations? What is the relevant national legislation?

Sweden has, without any reservation, signed and ratified the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

11.2 Has Sweden signed and/or ratified any regional Conventions concerning the recognition and enforcement of arbitral awards?

No, Sweden has not.

11.3 What is the approach of the national courts in Sweden towards the recognition and enforcement of arbitration awards in practice? What steps are parties required to take?

Arbitral awards issued in Sweden are recognised and enforceable in Sweden principally in the same way as national court judgments or orders and thus an application for enforcement can be made to the Swedish Enforcement Authority directly.

As a general rule, foreign arbitral awards which are based on arbitration agreements shall be recognised and enforced in Sweden. However, foreign arbitral awards have to undergo *exequatur proceedings* before enforcement can be made. An application for enforcement must be submitted to Svea Court of Appeal. Such an application will not be granted unless the opposite party has been afforded to present its case with regards to the application. Consequently, the opposite party is given the opportunity to prevent enforcement. To prevent enforcement, the opposite party has to prove any of the grounds set out in sections 54-55 of the Arbitration Act (Article V.1 and V.2 in the New York Convention). If Svea Court of Appeal grants an application for enforcement, the arbitral award is recognised and enforceable in the same way as judgments and orders of national courts. Thus, hereafter an application for enforcement can be made directly to the Swedish Enforcement Authority.

11.4 What is the effect of an arbitration award in terms of *res judicata* in Sweden? Does the fact that certain issues have been finally determined by an arbitral tribunal preclude those issues from being re-heard in a national court and, if so, in what circumstances?

An arbitral award will gain *res judicata* effect as between the parties. Thus, issues that have been finally determined by an arbitral tribunal preclude those issues from being re-heard in national courts or in arbitral proceedings between the same parties.

11.5 What is the standard for refusing enforcement of an arbitral award on the grounds of public policy?

The approach to refusing enforcement on the grounds of public policy under the Arbitration Act is very restrictive. To refuse enforcement on such grounds, the award must be in breach of fundamental principles of Swedish law. The Svea Court of Appeal will consider the public policy ground *ex officio*.

12 Confidentiality

12.1 Are arbitral proceedings sited in Sweden confidential? In what circumstances, if any, are proceedings not protected by confidentiality? What, if any, law governs confidentiality?

Arbitral proceedings sited in Sweden are not automatically deemed as confidential by law, although the parties normally agree on confidentiality.

Regardless of any specific agreement on confidentiality between the parties, the arbitrators have a duty of confidentiality in their capacity as arbitrators.

12.2 Can information disclosed in arbitral proceedings be referred to and/or relied on in subsequent proceedings?

Information disclosed in arbitral proceedings can be referred to and relied upon in subsequent proceedings, such as actions for invalidity or challenge proceedings, actions against the award regarding the payment of compensation to the arbitrators or in any subsequent enforcement procedure.

13 Remedies / Interests / Costs

13.1 Are there limits on the types of remedies (including damages) that are available in arbitration (e.g., punitive damages)?

According to the Arbitration Act, an award is invalid if it conflicts with the fundamental principles of Swedish law (the public policy rule). Awards which decide on *pactum turpe* claims or awards in which someone is ordered to do something prohibited by law are examples targeted by this rule. It is unclear whether an arbitral award regarding punitive damages would violate this provision.

13.2 What, if any, interest is available, and how is the rate of interest determined?

Interest is available unless otherwise agreed between the parties. Under Swedish law, the Swedish Interest Act grants a party the right to interest in addition to its claim.

13.3 Are parties entitled to recover fees and/or costs and, if so, on what basis? What is the general practice with regard to shifting fees and costs between the parties?

At the request of a party the arbitrators may determine the allocation of costs for the arbitration as between the parties. Apart from the compensation to the arbitrators, these costs may include, *inter alia*, counsel fees, costs for the party's own work and costs relating to evidence. The main principle is that costs follow the event, i.e. the loser pays the winner's fees. Unless a party admits or does not object to the costs claimed by the other party, the arbitrators are required to determine costs subject to a reasonableness assessment.

13.4 Is an award subject to tax? If so, in what circumstances and on what basis?

An award is not subject to tax.

13.5 Are there any restrictions on third parties, including lawyers, funding claims under the law of Sweden? Are contingency fees legal under the law of Sweden? Are there any "professional" funders active in the market, either for litigation or arbitration?

Swedish law does not restrict third party funding. According to the Swedish Bar Association's Code of Conduct, a member of the Bar may not accept contingency fees. This corresponds to the provision in the Code of Conduct that compensation to a lawyer must be reasonable. There are no professional funders active on the Swedish market.

14 Investor State Arbitrations

14.1 Has Sweden signed and ratified the Washington Convention on the Settlement of Investment Disputes Between States and Nationals of Other States (1965) (otherwise known as "ICSID")?

Yes, Sweden signed the ICSID in 1965 and it entered into force in 1967.

14.2 How many Bilateral Investment Treaties (BITs) or other multi-party investment treaties (such as the Energy Charter Treaty) is Sweden party to?

Sweden is currently a party to approximately 65 bilateral investment treaties. Sweden signed the Energy Charter Treaty in 1994 and it entered into force in 1998.

14.3 Does Sweden have any noteworthy language that it uses in its investment treaties (for example in relation to "most favoured nation" or exhaustion of local remedies provisions)? If so, what is the intended significance of that language?

Sweden has formulated its investment treaty model on the basis of the OECD model agreement.

14.4 What is the approach of the national courts in Sweden towards the defence of state immunity regarding jurisdiction and execution?

State immunity can be invoked in Swedish courts in disputes involving acts of state but not when a dispute regards measures of a commercial or otherwise private law nature.

15 General

15.1 Are there noteworthy trends in or current issues affecting the use of arbitration in Sweden (such as pending or proposed legislation)? Are there any trends regarding the type of disputes commonly being referred to arbitration?

In February 2014, the Swedish Government appointed a committee to review the Arbitration Act in order to further strengthen Sweden's role as a venue for international arbitration. The committee's mandate is to focus on issues regarding multi-party disputes, efficiency, the possibility of holding challenge proceedings in English before Swedish courts and to review the provisions governing the determination of applicable law in relation to disputes. The Committee is due to submit its report on the proposed changes to the Arbitration Act in August 2015.

Arbitration has traditionally enjoyed a strong position as a forum for settling disputes in Sweden. Commercial actors are increasingly aware of the advantages of arbitration as a dispute resolution mechanism and the Stockholm Chamber of Commerce is a well-established and frequently used institution which is considered to offer an efficient and cost-effective procedure. The Stockholm Chamber of Commerce is a leading institution for the resolution of investment treaty arbitration. During 2014, disputes based on mergers agreements (21 % of total caseload), service agreements (20% of total caseload) and supply agreements (20% of total caseload) constituted the most common disputes brought before the Stockholm Chamber of Commerce.

15.2 What, if any, recent steps have institutions in Sweden taken to address current issues in arbitration (such as time and costs)?

The current version of the Arbitration Rules of the Stockholm Chamber of Commerce entered into force on 1 January 2010 introducing an emergency arbitrator procedure. As mentioned under question 15.1 above, the Stockholm Chamber of Commerce is considered to offer an efficient and cost-effective procedure.

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