

Table of Contents

About Mannheimer Swartling	5
About the firm's dispute resolution group	5
About the authors	7
I. Introduction	21
II. Arbitration in Sweden	23
1. The Arbitration Act	23
2. The arbitration agreement	24
2.1 General requirements for arbitration agreements	24
2.2 Law governing the arbitration agreement	25
2.3 The principle of 'Kompetenz-Kompetenz'	26
2.4 Exclusion agreements	26
2.5 The doctrine of separability of the arbitration agreement	27
2.6 Formation of the arbitration agreement	27
2.7 Invalidity of the arbitration agreement	28
2.8 Scope of arbitration agreements	29
2.8.1 General principles for interpretation and determination of the scope	29
2.8.2 The doctrine of assertion	30
2.9 Multi-tiered arbitration agreements	30
2.10 Parties bound by the arbitration agreement	31
2.11 Termination of arbitration agreements	31
2.12 Enforcement of arbitration agreements	32

3.	The arbitrators	32
3.1	Number of arbitrators	32
3.2	Qualification of arbitrators	32
3.3	Appointment of arbitrators	34
3.4	Arbitrator's resignation	35
3.5	Challenges and replacement of arbitrators	35
3.5.1	Grounds, procedure and deadlines for challenging an arbitrator	35
3.5.2	Procedure for appointing a new arbitrator	36
3.6	Liability of arbitrators	37
4.	The proceedings	37
4.1	Introduction	37
4.2	Party autonomy and due process	38
4.3	The place of arbitration	39
4.4	Commencement of arbitration and constitution of the arbitral tribunal	40
4.4.1	Request for arbitration	40
4.4.2	Requirements on requests for arbitration under the SCC Rules	43
4.4.3	Service of requests for arbitration and communications with parties	44
4.4.4	Withdrawal of a request for arbitration	45
4.4.5	Answer to request for arbitration	45
4.5	Multiparty arbitrations	46
4.6	Written submissions	48
4.6.1	Statement of claim	49
4.6.2	Statement of defence	50
4.7	Request for relief	51
4.7.1	Facts relied on in support of request for relief ...	52
4.7.2	Amendment and withdrawal of claim	52
4.8	Interim relief	53
4.8.1	In general	53

4.8.2	Interim measures granted by an arbitral tribunal	53
4.8.3	Emergency arbitrator	55
4.9	Hearings	57
4.9.1	General	57
4.9.2	Procedural meetings	58
4.9.3	Jurisdictional hearings	59
4.9.4	Merits hearing	60
4.9.5	Post-hearing briefs	62
4.10	Confidentiality	63
4.11	Fast track arbitration	64
5.	Evidence	65
5.1	General principles	65
5.2	Burden and standard of proof	67
5.3	Oral evidence	68
5.3.1	Witnesses	68
5.3.2	Experts	71
5.4	Documentary evidence and production of documents ...	72
5.4.1	Use of documents in arbitration	72
5.4.2	Production of documents	73
6.	The award	75
6.1	Time limits for making the award	75
6.2	Rules and principles governing the decision-making process	75
6.3	The deliberations	76
6.4	Dissenting opinions	77
6.5	Awards and decisions	78
6.5.1	Distinguishing between an 'award' and a 'decision'	78
6.5.2	Final award	78
6.5.3	Separate awards	79
6.5.4	Consent awards	81
6.5.5	Separate awards on costs	81

6.6	Form of the award	82
6.7	Amendment, correction and interpretation of the award	83
7.	The costs	83
7.1	Introduction	83
7.2	Fees of the arbitral tribunal	84
7.2.1	Ad hoc proceedings	84
7.2.2	Institutional proceedings	84
7.2.3	Tax issues	85
7.2.4	Expenses	86
7.3	Costs of the institution	86
7.4	Costs of the parties	87
7.5	Advance on costs	88
7.6	Allocation of costs between the parties	90
7.7	Time and form of the decision on costs	91
8.	Challenge of awards	91
8.1	General principles	91
8.2	Invalid awards – section 33 of the Act	92
8.2.1	Non-arbitrability – section 33(1) of the Act	92
8.2.2	Public policy – section 33(2) of the Act	93
8.2.3	Formal deficiencies – section 33(3) of the Act ...	94
8.3	Challengeable awards – section 34 of the Act	94
8.3.1	General	94
8.3.2	No valid agreement to arbitrate – section 34(1) of the Act	95
8.3.3	Excess of mandate – section 34(2) of the Act	96
8.3.4	The arbitration incorrectly conducted in Sweden – section 34(3) of the Act	98
8.3.5	Arbitrator improperly appointed – section 34(4) of the Act	99
8.3.6	Arbitrator lacking in authority or impartiality – section 34(5) of the Act	99

8.3.7	Procedural errors likely influencing the outcome – section 34(6) of the Act	99
8.3.8	Waiver of the right to invoke a challengeable error	100
8.4	Appeals against awards dismissing the case – section 36 of the Act	101
8.5	Procedure and deadlines for challenging or appealing an award	102
8.6	Correction/interpretation of an award – section 32 of the Act	104
8.7	Remedy of defects in awards – section 35 of the Act	105
8.8	Challenge to the arbitrators' compensation – section 41 of the Act	105
9.	Enforcement of arbitral awards in Sweden	106
9.1	General principles	106
9.2	Recognition and enforcement of foreign awards	107
9.3	Procedure for enforcement of foreign awards	108
10.	Further reading about arbitration in Sweden	109
III.	Investment Arbitration in Sweden	111
11.	Introduction	111
12.	Investment treaties and investment arbitration	111
13.	Investment arbitrations before the SCC	112
14.	How is Stockholm chosen as the seat of arbitration?	113
15.	The statutory framework applicable to an investment arbitration seated in Stockholm	115
16.	Applicable law in investment arbitrations	115
17.	The proceedings in investment arbitrations	116
18.	Challenge of investment treaty awards	118
18.1	General	118

18.2	Challenges for lack of jurisdiction	119
18.3	The standard to be applied by the court when reviewing the arbitral tribunal's jurisdictional decision	119
19.	Enforcement of investment arbitration awards	121
20.	Further reading about investment arbitration in Sweden	123
IV.	Swedish Contract Law	124
21.	Introduction	124
22.	Legal sources	125
23.	The fundamentals of Swedish contract law	125
24.	Contractual capacity	126
25.	Formation of contracts	127
25.1	The Contracts Act – the model of 'offer and acceptance'	127
25.2	Formation of contracts beyond the Contracts Act	128
25.3	Contracts formed through conduct	129
25.4	Passivity	130
25.5	Business customs and party practice	131
25.6	Summary on formation of contracts	131
26.	Pre-contractual obligations	131
26.1	General liability at the pre-contractual stage	131
26.2	Letters of intent and similar pre-contractual documents	132
27.	Interpretation of contracts	132
27.1	Common intention of the parties	132
27.2	Other features of contract interpretation	133
27.2.1	The wording of the agreement	133
27.2.2	When the wording is not enough	133
28.	Invalidity of contracts	134
28.1	Rules on invalidity of contracts	134

28.1.1	Sections 28 to 31 – duress, fraud, deception and usury	135
28.1.2	Section 33 – ‘honour and good faith’	135
28.2	The general clause – section 36 of the Contracts Act	135
29.	Termination of contracts	136
30.	Consequences of breach of contract	137
30.1	Specific performance and price reduction	137
30.2	Damages for breach of contract	138
31.	Further reading on Swedish contract law	139
V.	Practicalities	140
32.	Entry into Sweden	140
32.1	How to apply for a visa	140
32.2	Requirements for a business visa/conference visa	141
33.	In emergencies	141
33.1	Emergency phone number	141
33.2	Medical treatment	141
34.	Visiting Stockholm	142
34.1	Travel to and around Stockholm	142
34.1.1	Airports	142
34.1.2	Transportation around Stockholm City	143
34.2	Hearing venues	144
34.2.1	Stockholm International Hearing Centre	145
34.2.2	IVA – Ingenjörsvetenskapsakademien	145
34.2.3	Radisson Strand Hotel	145
34.2.4	Sheraton Hotel	145
34.2.5	Grev Ture – Summit	146
34.2.6	Hitechbuilding	146
34.2.7	T-House	146
34.2.8	Grand Hôtel	146

34.3	Hotels	146
34.3.1	Five-star hotels	146
34.3.2	Four-star hotels	147
34.4	Dining	148
34.4.1	Gourmet	148
34.4.2	Mid-range	149
34.5	If time allows	150
34.5.1	Gamla Stan	150
34.5.2	The Stockholm Archipelago	151
34.5.3	The Vasa Museum	151
34.5.4	The Royal Palace	152
34.5.5	Fotografiska	152
34.5.6	Moderna Museet	153
35.	Visiting Gothenburg	153
35.1	Traveling to Gothenburg	153
35.1.1	By plane	153
35.1.2	By train	154
35.2	Arbitration venues	154
35.2.1	Hotel Riverton	155
35.2.2	Elite Plaza Hotel	155
35.2.3	Radisson Blu Scandinavia Hotel	155
35.3	Hotels	155
35.3.1	Five-star hotels	155
35.3.2	Four-star hotels	156
35.4	Dining	157
35.4.1	Gourmet	158
35.4.2	Mid-range	159
35.5	If time allows	159
35.5.1	Götaplatsen and the Concert Hall	159
35.5.2	Feskekôrka Fish Market	160
35.5.3	Haga district	160
35.5.4	Gothenburg Museum of Art	160
35.5.5	Hasselblad Center	160

36. Visiting Malmö	161
36.1 Traveling to Malmö	161
36.1.1 From Malmö Airport	161
36.1.2 From Copenhagen Airport	162
36.2 Arbitration venues	162
36.2.1 Sankt Gertruds konferens	162
36.2.2 Radisson Malmö	162
36.2.3 World Trade Centre	163
36.3 Hotels	163
36.3.1 Five-star hotels	163
36.3.2 Four-star hotels	163
36.4 Dining	164
36.4.1 Gourmet	164
36.4.2 Mid-range	165
36.5 If time allows	166
36.5.1 Malmöhus Castle and museums	166
36.5.2 Malmö Konsthall	166
36.5.3 Turning Torso	167
36.5.4 Möllevångstorget	167
36.5.5 Stortorget, Town Hall and St. Petrikyrkan	167
Appendix 1. The 1999 Arbitration Act	169
Appendix 2. The SCC Rules	189
Appendix 3. The SCC Expedited Rules	216
Appendix 4. The Contracts Act	242
Appendix 5. City Map Stockholm	254
Appendix 6. Underground Map Stockholm	256
Appendix 7. Model Arbitration and Governing Law Clauses	258
Appendix 8. Contact details for our offices	260