

## **CHECK AGAINST DELIVERY**

### **120308 Innovation in Arbitration – Speech by Minister for Trade Ewa Björling**

Thank you for inviting me to this seminar on Innovation in Arbitration on the occasion of the 15<sup>th</sup> Annual IBA International Arbitration Day. I hope and believe that the choice of venue, Stockholm, is a sign of the importance that you, as arbitrators, litigators, judges, government officials and all others involved in dispute resolution, attach to arbitration in my country.

As Minister for Trade in a trade-oriented country, I fully understand the importance of arbitration to the international trading community. Sweden's commitment is demonstrated by several features, but perhaps the fact that our capital hosts one of the most successful international arbitration centres is the most convincing credential that we can offer. The Arbitration Institute of the Stockholm Chamber of Commerce (SCC) was established in 1917, and in the 1970s it was recognised as a neutral centre for the resolution of east-west trade disputes. Since then the number of cases has increased, as has the geographical spread of the actors involved.

I believe that Sweden and the SCC are still earning credentials by having the necessary infrastructure in place to ensure that the arbitration process is efficient and user-friendly.

But the fast-changing world makes it necessary to constantly adapt and take advantage of new opportunities. This is why the theme for this afternoon, innovation, is so interesting and fundamental. We must use new technology in the right way, so that the processes not only remain relevant and attractive, but so that they also become more efficient and beneficial for the actors involved in investments and arbitration.

The way we do business and the demands of society have changed, and so must arbitration. Every year in this building, the Stockholm Concert Hall, a number of innovators receive the recognition they are due as this is the arena for the Nobel Prize ceremony. I hope that this atmosphere will inspire the fruitful discussions that will take place here today.

Trade is made possible through the international legal order that lies at the heart of our international commitment. Sweden is one of the most open economies in the world. Promoting free trade and global legal frameworks is central for our trade and foreign policy. Foreign direct investment and trade increase our economic growth and competitiveness and create jobs. Investment decisions are primarily driven by market considerations, but these decisions are to a great extent influenced by the economic, political and legal environment. In order to promote increased investments and trade, it is very important that we create a stable and predictable environment in our own market and in the markets which investors face in other countries.

One of my objectives as Minister for Trade is to double Swedish exports between 2010 and 2015. The performance of the Swedish economy has so far been better than in many other countries, but in order to reach the goal of doubling our exports, we need to join forces and develop a framework for trade that supports the on-going internationalisation of companies.

In order to increase our exports we have developed a programme which focuses on five different areas: a changing world, opening of markets, support to exporting enterprises, differentiated actions adapted to different markets and the way the image of Sweden can contribute to export opportunities. Some of the measures are at national level, but we are also working at EU level to intensify the negotiations on free trade agreements

with partners such as Canada, Singapore, India, Malaysia, Mercosur, Japan and the United States.

The service sector is growing faster than any other sector, and the increase in employment in this area is twice as large as in the economy as a whole. Services are becoming more and more important and represent almost one third of Sweden's exports. As you are all aware, international arbitration is one example of a service that has grown in recent years and become increasingly significant. The number of arbitrations has increased and so has the number of services related to arbitral institutions. I am thinking of mediation and counselling, but also of the revenue from guests in hotels and restaurants.

For me as Minister for Trade, it is important to develop this sector and provide the necessary conditions for it to grow further.

I would like to say a few words about the interesting on-going development of the EU investment policy. The Lisbon Treaty implies that foreign direct investment has become part of the common commercial policy of the European Union. The ambition to create a level playing field for all EU investors in third countries, and for investors from third countries in the EU, is a positive development. I also believe that the EU, acting as one, can contribute to the creation of a stable investment regime globally. Also, when the EU is truly considered as a single market by foreign investors, we will be in a better position to attract foreign direct investments. The new common policy on investment should support the objective of the Union to remain the world's leading destination and source of investment, as well as aim to further liberalise the global markets.

The EU Member States have so far created a beneficial investment environment by adopting bilateral investment agreements with third countries. Sweden, for instance, has concluded such agreements with 68 countries. These agreements have been a major source of protection and

legal security for European investors abroad. They have also attracted foreign direct investments, which in turn have served as a source of growth. As the new common investment policy is now being developed, it is vital to build on the experience from these existing agreements. Part and parcel of the investment protection of these agreements is access to efficient systems of dispute settlement. As these agreements will gradually be replaced by EU agreements on investment protection, we want to ensure continued access to efficient dispute settlement.

The European institutions, including the Council where the Member States are represented, need to adapt to the situation and develop new legislation. Since 2010 we have been negotiating transitional arrangements for bilateral investment agreements between Member States and third countries.

The objective is to ensure legal security and predictability for investors at the same level of protection they enjoyed before the Lisbon Treaty. Several meetings have taken place between the European Parliament, the Council and the Commission, and I hope that we will be able to reach a solution as soon as possible. Furthermore, the Commission is going to present a proposal that will provide the answers on how the EU will be represented and made financially liable in the event of investment disputes. In other words, the proposal will deal with the distribution of financial responsibility and practical involvement in disputes between the Commission and the Member States. In the free trade agreements that the EU is negotiating with Canada, Singapore and India, there will be a chapter on investment protection; it is therefore important that the Commission presents its proposal on financial liability before any of these agreements are concluded.

I hope that you will all have a constructive day discussing innovative and visionary arbitration techniques and that perhaps some of the Nobel Prize

creativity that is linked to this building will inspire you. For Sweden, and me, it is important to maintain Stockholm as a leading centre of arbitration.

Thank you!