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## The SCC Experience of Gas Disputes: Perspectives from a Leading Arbitration Centre

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### I. The Arbitration Institute of the Stockholm Chamber of Commerce

The Arbitration Institute of the Stockholm Chamber of Commerce (SCC) was founded in 1917 and has handled international disputes since the 1970's.

Most disputes at the SCC are decided under the Arbitration Rules of the Arbitration Institute of the Stockholm Chamber of Commerce (SCC Rules). The SCC also has adopted rules for Expedited Arbitration and frequently acts as appointing authority under the UNCITRAL Arbitration Rules.

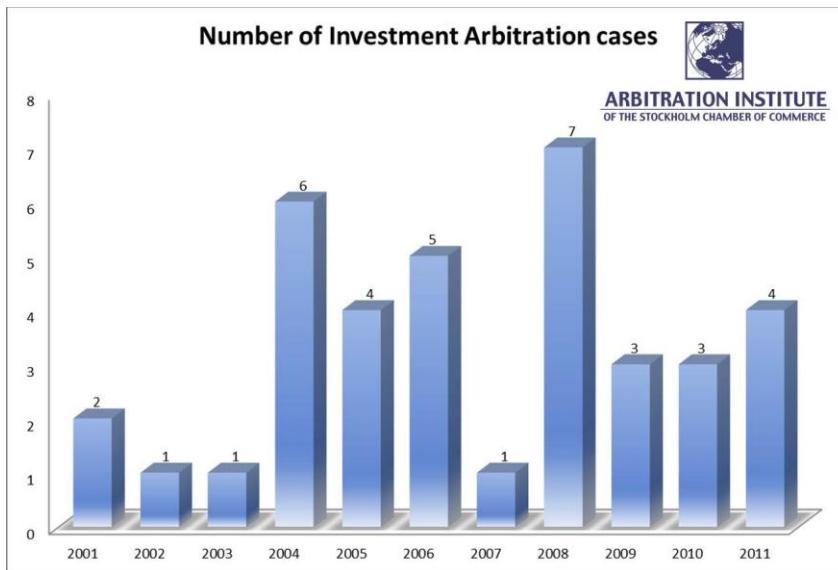
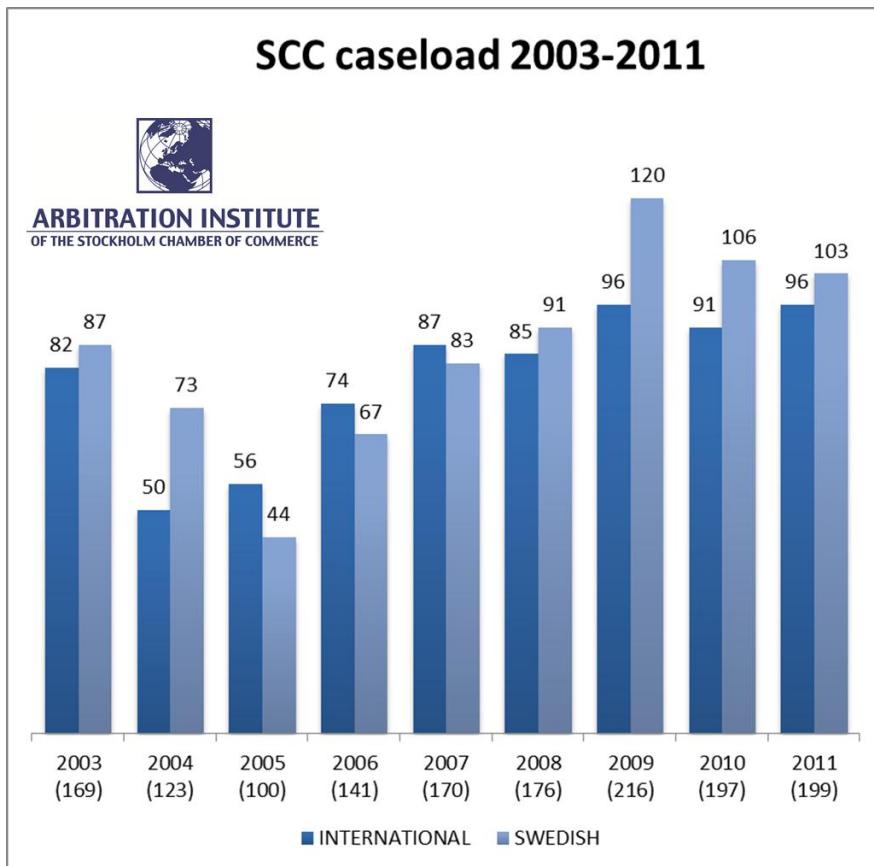
Roughly 50% of the SCC caseload consists of international cases. The SCC caseload has a strong East-West footprint; however in 2011 parties from more than 35 jurisdictions appeared before SCC.

The SCC and Sweden have also developed into a preferred venue of investment treaty arbitration. In addition, the SCC is one of two institutions listed in the Energy Charter Treaty (ECT) as a forum to resolve investor-state disputes.

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## II. SCC Statistics



### III. The Numbers on the SCC's Gas-Related Disputes

Parties in SCC-cases have brought a wide-range of commercial and investment gas-related disputes to the SCC since 1994.

As one of two institutions listed in the Energy Charter Treaty (ECT) as a forum to resolve investor-state disputes, the SCC has witnessed an increase in energy-related arbitrations in both the commercial and investment sectors in recent years. Amongst the twenty highest valued disputes filed at the SCC since 2001, twelve of these disputes were related to the energy sector. And of the five highest valued disputes registered at the SCC since 2001, four of these disputes relate to gas.

The majority of disputes have arisen under commercial contracts, but parties have also brought investment claims based on alleged ECT violations in two gas disputes to the SCC. Claims range from €320,000 to €8,895,031,783, with an average amount in dispute of €1,216,412,059.

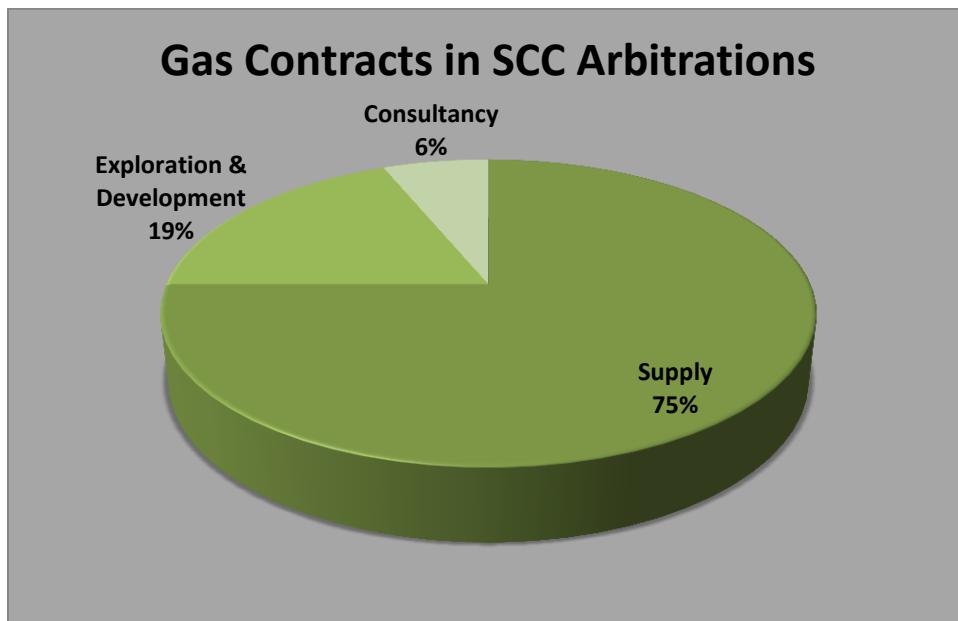
The average length of time for all gas-related arbitrations concluded at the SCC is 17.6 months, calculating from the date the SCC registered the arbitration to the date of the arbitral award. The length of time for all concluded gas-related disputes ranges from six and thirty-six months.

Parties have brought gas disputes to the SCC from across Asia, Europe and North America. Russian parties are the most frequently appearing. German, Swiss and Ukrainian parties are the second most frequently appearing parties.

Nationality of Parties			
Austria	Germany	Norway	Switzerland
China	Gibraltar	Russian Federation	Tajikistan
Cyprus	Hungary	Singapore	Ukraine
Czech Republic	Italy	Sweden	USA
Georgia	Kyrgyz Republic		

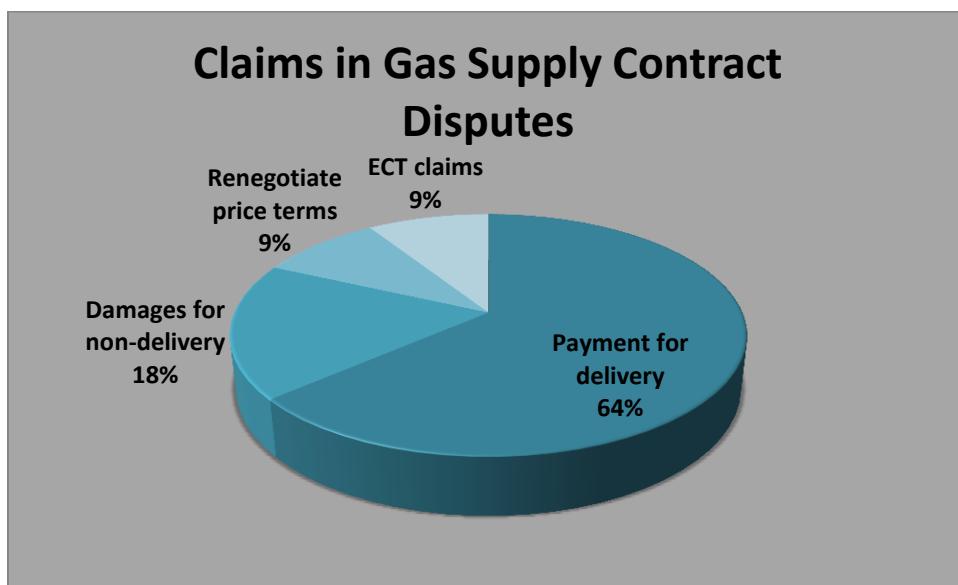
States or state-controlled entities and their subsidiaries appear as a party in 47% of the disputes.

Supply contracts are the most commonly disputed gas contracts, accounting for 75% of the gas-related arbitrations administered by the SCC. 19% of the gas-related disputes have involved contracts for the exploration and development of gas fields, while 6% involved a consultancy agreement.



The supply contracts at issue in gas disputes at the SCC also sometimes contain agreements on the delivery and storage of the gas to be supplied.

Within the disputed *gas supply* contracts at the SCC, claimants most often seek to recover payments on delivered gas. These claims make up 64% of the claims brought under gas supply contracts. Claimants have also sought damages for non-delivery of gas in 17% of the supply contract gas arbitrations. Price renegotiation (9%) and ECT claims (9%) also were at issue in gas supply contract disputes at the SCC.



#### IV. Selected SCC Gas Disputes

The below provides brief summaries of five gas-related arbitrations administered by the SCC, which will be further discussed on 14 June 2012.

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##### **SCC Arbitration V183/2009**

Subject-matter: Supply of natural gas over ten years. Termination of contract.

Applicable law: Swedish.

Amount in dispute: €1,527,426,907

Length of proceedings: 17 months

Findings of the arbitral tribunal: The tribunal concluded that the respondent was liable for the entire amount claimed by the claimant

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##### **SCC Arbitration V075/2004**

Subject-matter: Long-term gas sales agreement. Price review clause.

Applicable law: Norwegian.

Amount in dispute: €2,387,000,000

Length of proceedings: 21 months

Findings of the arbitral tribunal: The tribunal found that conditions for price revision had been met, and ordered the revision, granting damages sought by the claimant.

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**SCC Arbitration 91/1995**

Subject-matter: Payment for the delivery of gas. *Ex parte* proceeding.

Applicable law: Russian, incorporating the CISG.

Amount in dispute: \$424,249

Length of Proceedings: 12 months

Findings of the arbitral tribunal: The tribunal determined that the claimant's claims were consistent with the documentary evidence and that the claimant was entitled to the amount owed.

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**SCC Arbitration 86/1995**

Subjet-matter: Failure to deliver gas. Default under contract with third party. *Ex parte* proceeding.

Applicable law: Russian, incorporating the CISG.

Amount in dispute: \$1,200,000

Length of Proceedings: 9 months

Findings of the arbitral tribunal: The tribunal determined that the claimant's claims were consistent with the documentary evidence and granted the relief requested.

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**SCC Arbitration 25/1994**

Subject-matter: Gas delivery. Default under settlement agreement. *Ex parte* proceedings.

Applicable law: Russian, incorporating the CISG.

Amount in dispute: \$4,300,810

Length of Proceedings: 14 months

Findings of arbitral tribunal: The tribunal concluded that the documentary evidence supported the claimant's request and granted the request as formulated for payment on the contract.

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