

ROUNDTABLE: SETTLEMENT OF INVESTMENT DISPUTES ASTANA 30 SEPTEMBER 2015

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INTRODUCTORY REMARKS

- SCC has an international case load of ca 200 cases per year with parties from approx. 40 countries. In 2014, treaty-based investor-state disputes represented 6% (11 cases). All investor-state disputes in 2014 were filed under the SCC Rules.
- In total, SCC has seen 73 investor-state disputes as of 31 December 2014, both under the SCC Rules and the UNCITRAL Arbitration Rules.
- SCC, Stockholm or Sweden is a designated venue for investor-state dispute resolution in 120 bilateral investment treaties, and under the Energy Charter Treaty (together with ICSID and the UNCITRAL Arbitration Rules).

- SCC's focus is to facilitate efficient dispute resolution in support of a strong economy. In Sweden and globally.
- In so doing, SCC provides tools aimed at assisting parties in resolving the disputes efficiently and, if possible, amicably.
- In 2014, new Mediation Rules were adopted for this purpose. Under the Mediation Rules, SCC appoints mediators for domestic and international disputes. SCC also facilitates training of mediators.

- Disputes can be very destructive for a long-term relationship. Typically, adversarial dispute resolution, including international arbitration, is about focusing on the past; on past misunderstandings or even mistakes.
- In contrast, mediation and other forms of conciliatory dispute resolution is forward-looking. Its' primary focus is to maintain fruitful relationships, continue doing good business and do well for the society in which the business operates, not least in support of sustainable solutions. This can be particularly relevant for investments in energy.
- Mediation is not primarily on what *can* be done – from a legal perspective, but what *should* be done – from business and good governance perspective.
- For this purpose, the SCC engages regularly in open discussions with business representatives and civil servants to advocate long-term dispute resolution options as offered for example by international mediation.
- Should the mediation fail, it is equally important that an avenue for a final resolution of the dispute is open. In this situation, international arbitration provides an indispensable tool to give effect to parties' respective undertakings.
- The support of the Washington Convention and New York Convention by more than 150 states respectively serve as in illustration of the recognition of this fact, and the importance attributed to international arbitration and final resolution of disputes by the international community.