

Arbitration under Investment Treaties

WS (07) National Report of Sweden

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1. BILATERAL INVESTMENT TREATIES

1.1 Is your country party to any bilateral and/or multilateral investment treaties (together: "Treaties")? If so, please list the countries with which these Treaties were entered into, the dates of signature and the dates of entry into force.

Sweden is party to the following 65 bilateral investment treaties ("BITs"):

| <u>Country</u> | <u>Date of signature</u> | <u>Date of entry into force</u> |
|---------------------------|---|---------------------------------|
| 1. Albania | 31 March 1995 | 1 April 1996 |
| 2. Algeria | 15 February 2003 | Not in force |
| 3. Argentina | 22 November 1991 | 28 September 1992 |
| 4. Belarus | 20 December 1994 | 1 November 1996 |
| 5. Bolivia | 20 September 1990 | 3 July 1992 |
| 6. Bosnia and Herzegovina | 31 October 2000 | 1 January 2002 |
| 7. Bulgaria | 19 April 1994 | 1 April 1995 |
| 8. Chile | 24 May 1993 | 30 December 1995 |
| 9. China | 29 March 1982 | 29 March 1982 |
| China (Protocol) | 27 September 2004 | 27 September 2004 |
| 10. Côte d'Ivoire | 27 August 1965 | 3 November 1966 |
| 11. Croatia | 23 November 2000 | 1 August 2002 |
| 12. Czech Republic | 13 November 1990, 29 April and 1 June 1994 | 23 September 1991 |
| 13. Ecuador | 31 May 2001 | 1 March 2002 |
| 14. Egypt, Arab Rep of | 15 July 1978 | 29 January 1979 |
| 15. Ethiopia | 10 December 2004 | Not in force |
| 16. Estonia | 31 March 1992 | 20 May 1992 |
| 17. Guatemala | 12 February 2004 | Not in force |
| 18. Hongkong/SAR | 27 May 1994, 9 June 1997 | 26 June 1994 |
| 19. Hungary | 21 April 1987 | 21 April 1987 |
| 20. India | 4 July 2000 | 1 April 2001 |

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|-----|--------------------------------------|-------------------|--|
| 21. | Indonesia | 17 September 1992 | 18 February 1993 |
| 22. | Kazakhstan | 25 October 2004 | Not in force |
| 23. | Kyrgyzstan, Rep of | 8 March 2002 | 1 April 2003 |
| 24. | Korea, Rep of | 30 August 1995 | 18 June 1997 |
| 25. | Kuwait | 7 November 1999 | 10 May 2002 |
| 26. | Lao, People's Demo- cratic Rep | 29 August 1996 | 1 January 1997 |
| 27. | Latvia | 10 March 1992 | 6 November 1992 |
| 28. | Lebanon | 15 June 2001 | 12 November 2001 |
| 29. | Lithuania | 17 March 1992 | 1 September 1992 |
| 30. | Macedonia, former Yugoslav Rep of | 7 May 1998 | 1 October 1998 |
| 31. | Madagascar | 2 April 1966 | 23 June 1967 |
| 32. | Malaysia | 3 March 1979 | 6 July 1979 |
| 33. | Malta | 24 August 1999 | 1 January 2000 |
| 34. | Mauritius | 23 February 2004 | Not in force |
| 35. | Mexico | 3 October 2000 | 1 July 2001 |
| 36. | Mongolia | 20 October 2003 | 1 June 2004 |
| 37. | Morocco | 26 September 1990 | "provisoirement" on date of signature |
| 38. | Mozambique | 23 October 2001 | Not in force |
| 39. | Nicaragua | 27 May 1999 | Not in force |
| 40. | Nigeria | 18 April 2002 | Not in force |
| 41. | Oman | 13 July 1995 | 6 June 1996 |
| 42. | Pakistan | 12 March 1981 | 14 June 1981 |
| 43. | Peru | 3 May 1994 | 1 August 1994 |
| 44. | Philippines | 17 August 1999 | Not in force |
| 45. | Poland | 13 October 1989 | 4 January 1990 |
| 46. | Romania | 29 May 2002 | 1 April 2003 |

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|-----|---------------------------|---|-------------------|
| 47. | Russian Federation | 19 April 1995 | 7 June 1996 |
| 48. | Senegal | 24 February 1967 | 23 February 1968 |
| 49. | Serbia and Montenegro | 10 November 1978, 28 February 2002 | 21 November 1979 |
| 50. | Slovak Republic | 13 November 1990, 27 April and 1 June 1995 | 23 September 1991 |
| 51. | Slovenia | 5 October 1999 | 12 May 2001 |
| 52. | South Africa | 25 May 1998 | 1 January 1999 |
| 53. | Sri Lanka | 30 April 1982 | 30 April 1982 |
| 54. | Tanzania | 1 September 1999 | 1 March 2002 |
| 55. | Thailand | 18 February 2000 | 23 November 2000 |
| 56. | Tunisia | 15 September 1984 | 13 May 1985 |
| 57. | Turkey | 11 April 1997 | 8 October 1998 |
| 58. | Ukraine | 15 August 1995 | 1 March 1997 |
| 59. | United Arab Emirates | 10 November 1999 | 6 May 2000 |
| 60. | Uruguay | 17 June 1997 1 December 1999 | |
| 61. | Uzbekistan | 29 May 2001 | 1 October 2001 |
| 62. | Venezuela | 25 November 1996 | 5 January 1998 |
| 63. | Vietnam, Socialist Rep of | 8 September 1993 | 2 August 1994 |
| 64. | Yemen, Arab Rep of | 29 October 1983 | 23 February 1984 |
| 65. | Zimbabwe | 6 October 1997 | Not in force |

Sweden is also a party to the Convention Establishing the Multilateral Investment Guarantee Agency (MIGA), 150+ parties, signed 11 October 1985, entered into force 12 April 1988, ratified by Sweden 31 December 1987.

Furthermore, Sweden is a party to The Energy Charter Treaty, 50+ parties, signed 17 December 1994, entered into force 16 April 1998, ratified by Sweden 16 December 1997 and December 2001.

It could also be added that the treaties establishing the European Union arguably offer investors protection similar to such protection offered under BITs. Sweden is a member of the European Union.

1.2 Are the texts of the Treaties to which your country is party publicly available? If so, where/how?

The BITs entered into force to which Sweden is party, as well as Sweden's other agreements with foreign states, are published in the official publication *Sveriges Överenskommelser med Främmande Stater (SÖ)*. Extracts from this publication, where the BITs are rendered in full text in Swedish and, generally, English parallel text, are accessible through internet at the Swedish government's website (www.regeringen.se/sb/d/3029).

English versions of the BITs are accessible through UNCTAD's internet facility (http://www.unctadxi.org/templates/DocSearch___779.aspx).

2. ICSID CONVENTION

2.1 Is your country party to the ICSID Convention (Convention on the Settlement of Disputes between States and Nationals of other States)? If so, since when?

Sweden signed the ICSID Convention on 25 September 1965 and attained the status of a Contracting State by the entry into force of the ICSID Convention on 28 January 1967.

2.2 Has your country made a reservation with respect to any of the provisions of the ICSID Convention? If so, what are these?

Sweden has not made any reservation.

3. INVESTMENT DISPUTES

3.1 Which of the Treaties listed under 1.1 contain arbitration clauses for disputes between a contracting state and nationals of the other contracting state?

All the BITs referred to above, as well as the Energy Charter Treaty, contain arbitration clauses for disputes between the host state and investors of the other contracting state, except for the BITs concluded with China, Côte d'Ivoire, Madagascar and Senegal. However, the arbitration clauses for such disputes contained in the BITs concluded with Egypt, Malaysia and Serbia and Montenegro are applicable subject to an agreement thereon between the parties to the dispute. It should be mentioned that I have not taken part of the BITs that have not entered into force, as they are not available in the above mentioned publication or at the government's website.

3.2 Which of the arbitration clauses in the Treaties listed under 3.1 refer to institutional or pre-existing arbitration rules and if so, to which ones?

All the arbitration clauses in question refer to institutional or pre-existing arbitration rules.

More than half of the BITs refer to the ICSID Arbitration Rules as well as to the UNCITRAL Arbitration Rules, often at the choice of the investor. In some of these BITs, the UNCITRAL Arbitration Rules can govern the arbitration only if the ICSID convention is not

applicable. Further, some of these BITs refer also to the ICSID Additional Facility Rules as an alternative. Two of the BITs that refer to the ICSID Arbitration Rules and the UNCITRAL Arbitration Rules also refer to the Rules of Arbitration of the International Chamber of Commerce (ICC), at the investor's choice.

About a third of the BITs in question refer only to the ICSID Arbitration Rules. About a tenth of the BITs refer only to the UNCITRAL Arbitration Rules.

The arbitration clause contained in the Energy Charter Treaty refers to the ICSID Arbitration Rules (in case both the home state of the investor and the host state are parties to the ICSID Convention), the ICSID Additional Facility Rules (in case either the home state of the investor or the host state is a party to the ICSID Convention), the UNCITRAL Arbitration Rules and the Arbitration Rules of the Stockholm Chamber of Commerce.

3.3 Which of the arbitration clauses referred to under 3.1 require parties to a dispute to first try to settle the matter amicably?

All the arbitration clauses in question require that the parties initially try to settle the matter amicably, except for the arbitration clauses contained in the BITs concluded with Egypt, Hungary, Malaysia, Poland, Serbia and Montenegro, Tunisia and Venezuela. The "cooling-off" period of those clauses is usually six months, but in some of the clauses this period is shorter than six months. In the Energy Charter Treaty the period is three months.

3.4 Are the arbitral awards rendered under a Treaty publicly available in your country? If so, where/how?

In general they are not publicly available. As regards awards rendered against Sweden, since there is no such award (cf. Section 3.5 below), there is no precedent to show how the Foreign Ministry or other Swedish authority would deal with a request to take part of such an award. An award against Sweden would be publicly available, unless otherwise follows from certain provisions of the Swedish Secrets Act (1980:100). The authority receiving the request to hand out such an award will try on its own motion whether it should be handed out or whether any exception in the Secrets Act apply. That decision is subject to appeal, if the request is denied.

Awards rendered by Swedish arbitral tribunals are not public as such. Awards rendered by Swedish or foreign arbitral tribunals may be summarized and commented upon in Swedish professional publications such as the *Stockholm Arbitration Report*.

Awards or copies thereof lodged with Swedish courts, e.g. in the kind of cases that are mentioned below, are publicly available, unless otherwise follows from the Swedish Secrets Act. A Swedish court will allow anyone asking for such an award to take part of it, unless the court, acting on its own motion, finds that certain provisions of the Secrets Act apply (for instance, provisions protecting trade secrets). The court can also find that only part or parts of the award should be handed out according to the Secrets Act. The decision of the court is subject to appeal, if the request is denied.

A motion to set aside a Swedish award, which is lodged with a Court of Appeal, is usually appending the award or a copy of the award. The determination of the Court of Appeal in

such a case may not be appealed, unless the Court of Appeal grants leave to appeal. An application for enforcement of a foreign award, which is lodged with the Svea Court of Appeal, must append the award or a certified copy thereof. Where the Svea Court of Appeal grants the application, the award shall be enforced, unless otherwise determined by the Supreme Court following an appeal of the Svea Court of Appeal's decision. Judgments and decisions of a Court of Appeal, and of the Supreme Court, are on the public record. The judgments and decisions of the Swedish Supreme Court are published in *Nytt Juridiskt Arkiv*. Judgments and decisions of the Courts of Appeal are published in *Rättsfall från hovrätterna*. Judgments from Swedish courts may also be found at:

<http://www.rattsinfosok.dom.se/lagrummet/index.jsp>.

3.5 Has your country been subject to any claims under a Treaty? If so, please list those cases and expand on the most important ones – describing the facts of the case, the legal issues in dispute and the outcome.

Sweden has not been subject to any claim under a Treaty that has resulted in any arbitration.

3.6 Have investors from your country initiated claims under a Treaty against another country? If so, please list those cases and expand on the most important ones – describing the facts of the case, the legal issues in dispute and the outcome.

There is such a case decided in October 2000 between the Swedish company SwemBalt and Latvia under the BIT between Latvia and Sweden.

Moreover, the first award rendered under the Energy Charter Treaty dealt with a dispute between the Swedish company Nykomb Synergetics Technology Holding and Latvia. This award was rendered in December 2003 under the Stockholm Chamber of Commerce Arbitration Rules.

The case between SwemBalt and Latvia is briefly summarized and commented upon in *Stockholm Arbitration Report 2003:2*. The award in the Nykomb case under the Energy Charter Treaty is to my knowledge not publicly available but a case summary has been published in *International Legal News*, 6 December 2004 at http://www.iln.com/2004_newsletter/dec/Nykomb%20v%20Latvia.pdf.

The BIT between Sweden and Latvia, which was entered into in 1992, contains like other BITs definitions of, inter alia, "investment" and "investor", as well as provisions on protection of investments including, inter alia, protection against expropriation. The arbitration clause in question (Article 7) covers "Any dispute between one of the Contracting Parties and an investor of the other Contracting Party concerning the interpretation or application of this Agreement". The arbitration clause is different from most of the arbitration clauses concerning disputes between an investor and the host state contained in the Swedish BITs, since most of these clauses cover disputes between an investor and the host state "concerning an investment". Only about a tenth of the arbitration clauses in question are identical with or similar to the arbitration clause in Article 7 of the BIT between Sweden and Latvia, in this respect.

The award in the BIT arbitration between SwemBalt and Latvia, which was rendered in Copenhagen, was followed by successful enforcement proceedings in Sweden and unsuccessful challenge proceedings in Denmark, also commented upon in *Stockholm Arbitration Report 2003:2*.

The legal issues of the case are dealt with instructively in the award. I will, however, comment on some of the issues below. The facts of the case can be summarised as follows.

SwemBalt had allegedly acquired a ship registered in Sweden, which SwemBalt had leased to its newly established Latvian subsidiary. The ship had been positioned by SwemBalt in the port of Riga, allegedly with the permission from Latvian authorities and in accordance with a lease contract between the subsidiary and a region of Riga regarding the lease of a berth and land. The ship was to serve as, *inter alia*, a conference centre.

After some time, a representative of the port of Riga had removed the ship and Latvian authorities had subsequently informed SwemBalt that the lease of land etc. was invalid and that the positioning of the ship in the port was illegal. Following this, the Maritime Authority announced that the ship should be sold at a public auction, whereafter it was sold for scrap value, and scrapped.

As a result of the removal of the ship etc, SwemBalt and tenants of the subsidiary were allegedly prevented from opening their intended businesses on the ship.

Following fruitless negotiations, in which the Swedish Foreign Ministry was also involved, SwemBalt issued a notice of arbitration referring to the BIT in question and to the UNCITRAL Arbitration Rules. Latvia did not appoint an arbitrator, which was therefore duly appointed in an alternative way. When constituted, the arbitral tribunal established that the seat of the arbitration would be Copenhagen. Latvia received the arbitral tribunal's correspondence with the parties and all SwemBalt's submissions, but did not react prior to the oral hearing, and did not attend the hearing. A summary of the hearing was sent to Latvia, who thereafter submitted a brief, a few letters and an extract of the Latvian act on foreign investments, which were subsequently taken into account by the arbitral tribunal when rendering the award.

SwemBalt claimed USD 2,806,258 as compensation for loss of the ship (USD 2,250,000), loss of equipment and furnishings (USD 156,258) and loss of profit (USD 400,000), plus interest and compensation for legal costs.

SwemBalt submitted that it was an investor in the sense of Article 1 of the BIT and that the dispute was between an investor (SwemBalt) and the Contracting Party to the BIT. SwemBalt claimed that it had invested by placing its ship at the disposal of its subsidiary as lessee, cf. Article 1 (2) of the BIT, which provides that "Goods that under a leasing agreement are placed at the disposal of a lessee in the territory of one Contracting Party by a lessor being a national of the other Contracting Party or a legal person having its seat in the territory of that Contracting Party, shall be treated not less favourably than an investment".

By depriving SwemBalt of the ship and the earnings of the ship Latvia had, according to SwemBalt, acted in contravention of Articles 2 and 4 of the BIT. Article 2 deals with, *inter alia*, fair and equitable treatment of investments. Article 4 provides protection against expropriation.

According to SwemBalt, its profits claim represented the net income which the Latvian subsidiary would have obtained over the five years' period of the contract for lease of the land and berth, and which would have been passed on to SwemBalt as payment for the lease of the ship and as dividend.

Latvia contended that the arbitral tribunal did not have jurisdiction since the ship was not an investment within the meaning of the BIT. Although the term "investment" means any kind of asset, it was according to Latvia a condition for applying the BIT that the investment was made in accordance with the laws and regulations of the host state. Latvia referred in this connection to Articles 1 (1) and 2 (5) of the BIT. Latvia also raised doubt about SwemBalt's ownership of the ship. Article 1 (1) provides, *inter alia*, that the term "investment" shall mean every kind of asset, "provided that the investment has been made in accordance with the laws and regulations of" the host state. Article 2 (5) provides that "The investments made in accordance with the laws and regulations of" the host state "enjoy the full protection of this" BIT.

Latvia contended, *inter alia*, that the requirements of the Latvian act on foreign investments had not been complied with.

In its reasons, the arbitral tribunal stated that the first question was whether the tribunal had jurisdiction, whereupon the tribunal referred to Article 7 (1) of the BIT and stated, *inter alia*, that it was satisfied that SwemBalt was an investor in the sense of Article 1 (3) (b) of the BIT. The arbitral tribunal then stated that Latvia's argument, that an investment to qualify must be made in accordance with Latvia's laws, was not relevant in relation to the definition of investor in Article 1 (3) (b). After stating, *inter alia*, that SwemBalt was also an investor of the other Contracting Party under Article 7 (1), the arbitral tribunal found that, *prima facie*, it had jurisdiction.

Before finally expressing its view in this respect (i.e., on the jurisdictional issue), the arbitral tribunal pointed out that resolution of disputes by arbitration generally presupposes the existence of an arbitration agreement between the parties to the arbitration, but that nothing, however, can prevent two sovereign states from concluding an agreement according to which they accept to submit themselves to arbitration of disputes with subjects of the other party whenever such subjects so request and regardless whether the dispute is of a contractual or of a non-contractual character. Therefore, the arbitral tribunal concluded that it had jurisdiction.

The arbitral tribunal then turned to Latvia's contentions that

- 1) SwemBalt did not own the ship,
- 2) no investment had been shown to have been made, and
- 3) SwemBalt had not complied with Latvian law with respect to foreign investments.

There is, in my view, no doubt that the arbitral tribunal had the opinion that none of these three issues under the BIT at hand constituted any issue regarding the jurisdiction of the tribunal. This follows, *inter alia*, from the fact that the tribunal dealt with them separately, after expressing its conclusion on the jurisdictional question. All the three issues related to the merits of the case, in the opinion of the tribunal. As mentioned above, most arbitration clauses regarding investor-host state disputes in the Swedish BITs cover disputes

“concerning an investment”. Under such arbitration clauses, the issues in question, or at least the second and third issues, would constitute jurisdictional issues, in my view, from a Swedish procedural law perspective. The distinction between jurisdictional issues and issues related to the merits is of great interest since the arbitrators’ determinations of jurisdictional issues can generally be re-litigated in a court of law, at least if the arbitrators have found that they have jurisdiction. Under the Swedish Arbitration Act, also a determination of the arbitrators that they do not have jurisdiction can be re-tried by a court. Issues related to the merits can not be re-litigated in court.

With respect to the issue of SwemBalt’s ownership of the ship, there was according to the arbitral tribunal no basis for doubt about SwemBalt’s ownership.

With respect to Latvia’s contention that no investment took place, it was according to the tribunal correct, as Latvia had pointed out, that no written contract about the lease between SwemBalt and its subsidiary had been submitted, but clear from the evidence, *inter alia*, that the ship was bought by SwemBalt for the purpose of establishing a floating trade centre in Riga, that the ship was renovated and converted for this purpose and that land was leased in Riga in the name of SwemBalt’s subsidiary to create a basis for the centre and a quay for the ship. In these circumstances, the arbitral tribunal found that, subject only to the question whether the investment was made in accordance with the laws and regulations of the country concerned, there was an investment covered by Article 1 (1) and/or Article 1 (2).

With respect to the question of compliance with Latvian law, the arbitral tribunal first found that Latvia’s allegation that SwemBalt had not complied with the Latvian act on foreign investments was not correct.

As to the question of the validity of the lease contract between SwemBalt’s subsidiary and a region of Riga and the alleged permission to tow the ship to the port of Riga, the tribunal stated that Latvia had provided little to enlighten it and that it had not been provided with the text of the legal instruments referred to in a previous letter from the Harbour Master of the port of Riga to SwemBalt according to which the lease was not valid. The tribunal stated that it found it surprising, *inter alia*, that SwemBalt had not been informed at an earlier stage and that the Harbour Master, as it appeared from the pilot’s bill, should have taken part with a pilot in towing the ship to the port of Riga if the anchoring of the ship there was illegal.

In these circumstances, the tribunal found that SwemBalt had shown “that in all likelihood it has complied with Latvian law”, that Latvia had “not shown that the investment was not made in accordance with the laws and regulations of Latvia”, and that in any event the actions of Latvia were out of proportion with any non-compliance that may have existed. The arbitral tribunal concluded, therefore, that SwemBalt had made an investment in Latvia which fulfilled the requirements made by the BIT for being protected by the BIT.

Thus, it seems like the arbitral tribunal was of the opinion that Latvia had the burden of proof regarding the issue of whether the investment had been made in accordance with the laws and regulations of Latvia, at least since Swem-Balt had shown that “in all likelihood” it had complied with Latvian law. If the issue of compliance with the laws of the host state had been a jurisdictional issue (which it was not under the Latvian BIT, cf. above), would it then have been appropriate to place the burden of proof in this way on the host state?

The arbitral tribunal then stated that, from the evidence before it, it was not clear to which extent the decisions resulting in the loss of the ship and other losses, directly or indirectly, was taken by governmental or municipal authorities, or both, or whether the Port Authority, which seemed to have played a certain role in the events, was a municipal or governmental authority. The tribunal pointed out that it was faced with a dispute in which it was alleged that the duties and obligations of Latvia under general international law and under the BIT itself had been breached and that, in such a case, the subdivisions of the state and the way in which each state chooses to divide the work between such subdivisions is without relevance. The arbitral tribunal therefore concluded that the question of which public institution in fact acted to deprive SwemBalt of its rights was not relevant in the case, regardless of the status of the authority directly involved.

According to the tribunal, it followed that Latvia, by taking the ship away, preventing SwemBalt from using it and, finally, auctioning it away and permitting that it be scrapped without any compensation to SwemBalt, had breached its obligations under the BIT and general international law.

As regards SwemBalt's claims for compensation for losses resulting from the mentioned breach, the tribunal remarked that the BIT itself contains no provisions directly regulating the right to compensation, but that indirectly such right may be based upon the provision contained in Article 4 (1) (c), providing as one of the conditions for lawful expropriation that prompt, adequate and effective compensation is paid. The tribunal also stated that, in addition, the right to compensation for breaches of international law follows from general principles of international law as supplemented by general principles of law recognised by civilised nations, cf. Article 38 of the Statute of the International Court of Justice. The tribunal further stated that it seems clear that when Article 7 of the BIT refers disputes concerning the interpretation or application of the BIT to arbitration, the intention has been to permit the tribunal to decide not only the existence or not of a breach of the BIT, but also any consequences of such breach. The tribunal, therefore, then considered the claims for compensation made by SwemBalt.

The arbitral tribunal awarded compensation for loss of the ship (USD 2,250,000) and loss of equipment and furnishings (USD 156,258), as claimed. As regards the claimed compensation for loss of profit (USD 400,000), the tribunal awarded USD 100,000, since SwemBalt in the tribunal's view had not shown all the claimed losses.

In respect of SwemBalt's claim for interest, the arbitral tribunal stated that SwemBalt's claims were not based on contract but resulted from Latvia's breach of its duties or obligations under international law, including the BIT, and that there is no general consensus in international or comparative law or in international principles of arbitration on the right to claim interest on a claim for damages in tort. The tribunal stated that the BIT does not contain any express provision in this respect, and that an interest claim can only indirectly be based upon the provision in Article 4 (1) (c). The tribunal found, in analogy with that provision, that for prompt and adequate compensation to be paid, and in view of the long period having passed since SwemBalt was unlawfully deprived of the ship, and during which no amicable settlement had proved possible, interest must be paid.

According to the arbitral tribunal, international law contains no rules with respect to the rate of interest to be paid. It was therefore, according to the tribunal, necessary to seek guidance

in national law. In deciding in which law to seek such guidance, the tribunal referred to general principles of private international law, which according to the tribunal form part of general international law. The tribunal, therefore, found that it had a choice between applying the law of the place of injury, Latvian law, or the law of the seat of the tribunal, Danish law, since the tribunal was of the opinion that the connection to Sweden was not sufficiently close for Swedish law to be applied. The tribunal stated that it was not in possession of any information on Latvian law in this respect and that it found it natural, in the present circumstances, to apply the law of the seat of the tribunal. The tribunal therefore turned to the Danish Interest Act when awarding interest.

Considering the outcome of the case and the UNCITRAL Arbitration Rules, SwemBalt was also awarded compensation for legal costs.
