



**ARBITRATION INSTITUTE**  
OF THE STOCKHOLM CHAMBER OF COMMERCE

## **SCC Practice Note: The SCC Experience of Insurance Disputes**

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### **Introduction**

The Arbitration Institute of the Stockholm Chamber of Commerce (SCC) has been a forum of choice to resolve many insurance related arbitrations. This report reviews the SCC experience with respect to insurance related arbitrations during the period 2002 – April 2013. The review of the SCC caseload indicates that a common denominator, in an otherwise diverse group of disputes, is procedural issues related to multi-party arbitration.

### **The SCC Experience of Insurance Related Disputes**

#### ***The Arbitration Institute of the Stockholm Chamber of Commerce***

The SCC was founded in 1917 and has provided case management with respect to international disputes since the 1970's.

The SCC has adopted the SCC Arbitration Rules (the SCC Rules) and the Rules for Expedited Arbitrations (the Expedited Rules) which are in force as of 1 January 2010. In addition, the SCC provides parties with Mediation Rules and Procedures and Services under the UNCITRAL Arbitration Rules.

#### ***The Numbers on the SCC's Insurance Related Arbitrations***

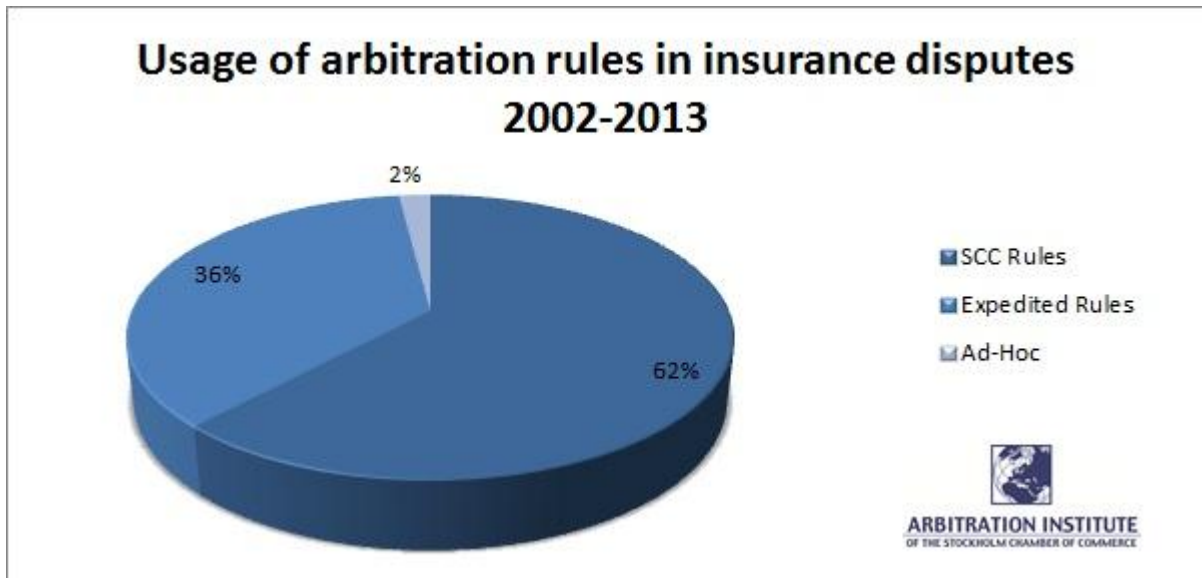
The majority of the disputes related to insurance brought before the SCC have been conducted under the SCC Rules (62 percent), while 36 percent of the disputes have been conducted under the Expedited Rules and 2 percent of the disputes were *ad hoc* arbitration with the SCC acting as appointing authority. Further, the review of SCC caseload shows that insurance

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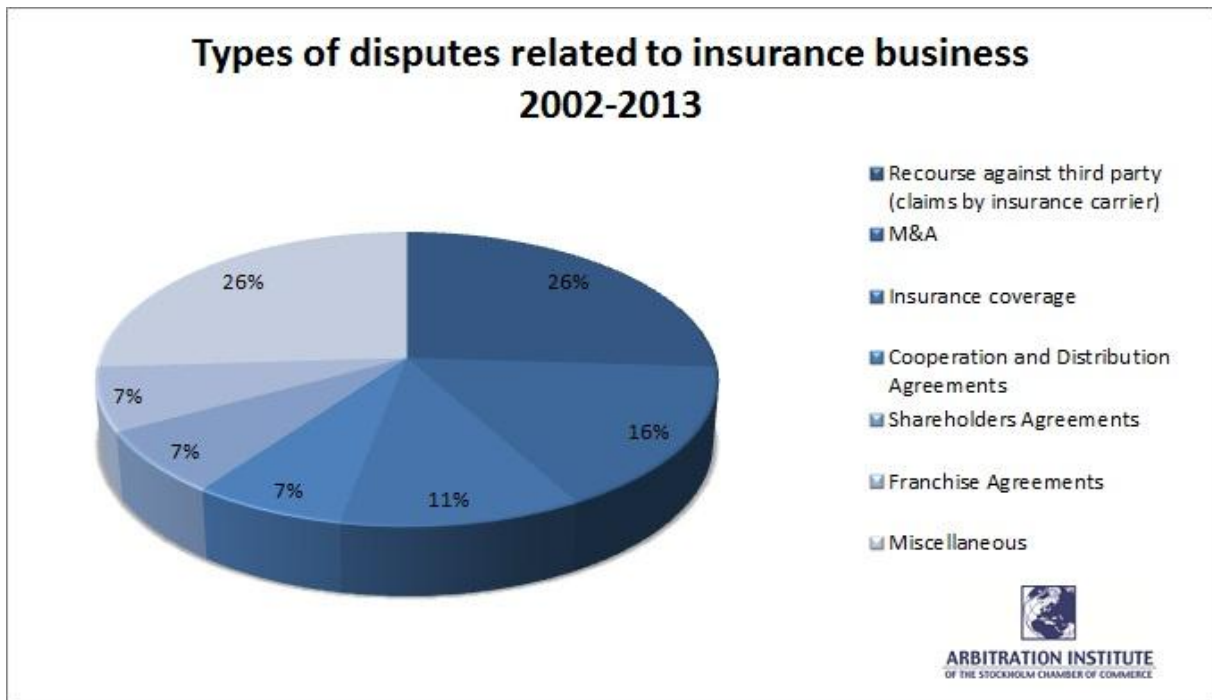
related arbitrations have an international footprint, with international cases making up 20 percent of the insurance arbitrations.<sup>2</sup>



The review of the SCC caseload shows that disputes related to insurance businesses include a wide range of legal and factual issues. The most common dispute concerned claims for recourse by an insurance carrier against a third party, accounting for 26 percent of the cases. 16 percent of the arbitrations concerned disputes related to mergers and acquisitions within the insurance industry while 11 percent of the arbitrations concerned claims for insurance coverage. Disputes related to insurance also included co-operation and distribution agreements (7 percent), disputes regarding shareholders agreements (7 percent) and disputes regarding franchise agreements (7 percent).

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<sup>2</sup> During the period 2003-2012, 48 percent of SCC's total caseload was international cases.



The group of miscellaneous insurance disputes at the SCC, accounting for 26 percent of the insurance disputes, illustrates the diversity of the insurance disputes. The group of miscellaneous disputes included claims regarding portfolio transfers, asset management and re-insurance.

### ***Issues Related to Multi-party Disputes***

The SCC experience of insurance arbitrations suggests that parties in insurance arbitrations are not seldom faced with issues related to multi-party disputes. 30 percent of the insurance arbitrations conducted at the SCC involved more than two parties.

The involvement of more than two parties raises the important issue of the appointment of arbitrators in multi-party arbitrations.<sup>3</sup> The SCC mechanism for appointment of arbitrator in multi-party arbitration is set out in article 13(4) of the SCC Rules. It provides that where there are multiple claimants or multiple respondents and the arbitral tribunal is to consist of more than one arbitrator, the parties on each side shall jointly appoint an equal number of

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<sup>3</sup> See for example Nathalie Voser, *Multi-party Disputes and Joinder of Third Parties* in Albert Jan van den Berg (ed), *50 Years of the New York Convention: ICCA International Arbitration Conference, ICCA Congress Series, 2009 Dublin Volume 14* (Kluwer Law International 2009) 343 – 410, at 361.



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arbitrators. If either side fails to make such joint appointment the SCC Rules provides that the SCC Board shall appoint the entire arbitral tribunal.<sup>4</sup>

Further, the insurance disputes conducted before the SCC are frequently multi- party disputes in the sense that multiple-proceedings are conducted concerning affiliated (but perhaps not identical) parties and issues. The review of the SCC caseload shows that 25 percent of the insurance arbitrations to some extent were related to a separate arbitration. A common example in the SCC caseload is a claim for recourse, where typically the respondent in a dispute will seek a claim for recourse against a third-party, which will be resolved in a separate arbitration from the main claim.

The context of multi-party disputes raises the possibilities to consolidate proceedings. With the adoption of article 11 of the SCC Rules in 2007 the SCC was given increasing powers to consolidate cases in cases where the parties' do not agree on consolidation. Under article 11 of the SCC Rules the SCC may, at the request of a party, decide to consolidate arbitrations conducted under the SCC Rules if the cases concern the same legal relationship between the same parties. The SCC will consult with the parties and the arbitral tribunal before making its decision on consolidation.

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<sup>4</sup> The procedure for the appointment of a three-member tribunal in multi-party arbitrations does not apply in arbitrations conducted under the Expedited Rules where the parties pursuant to article 13 of the Expedited Rules shall agree on the appointment of a sole arbitrator. If the parties' cannot agree the SCC board will appoint the arbitrator.