



*Statement | June 2019 | Helsinki*

## **Becoming A Seat for International Arbitration: A Significant Opportunity to Raise Finland's Image for Business Attraction**

Key message: The new Finnish Government should adopt the UNCITRAL Model Law on International Commercial Arbitration during its mandate period (2019–2023).

*The following written statement is based on Amcham Finland's Legal Committee Arbitration Roundtable discussion held on May 24<sup>th</sup>, 2019 with representatives from law firms and companies, both Finnish and international, operating in the Finnish market.*

### **Introduction**

The pace of development within international and local operating environments affects legislation and competition, driving the need for revision of the 1992 Finnish Arbitration Act.

Amcham Finland is pleased that the Ministry of Justice has appointed a monitoring group to begin the process of reviewing what the new legislation should address. Though it's clear that the added responsibility of the Finnish EU Presidency will affect the attention brought to this issue this year, we think it's important to bring forward takeaways for the government to discern.

### **Why?**

The Amcham Legal Committee recommends that the Finnish government adopt the UNCITRAL Model Law on International Commercial Arbitration (United Nations Commission on International Trade Law). While a modernized arbitration act will not solve all issues, it remains a critical step forward for Finland being considered an attractive seat for international arbitration.

Finland has an acknowledged institution for arbitration in The Arbitration Institute of the Finland Chamber of Commerce (FAI), yet promoting Finland as a place for international arbitration falls short on one question by potential stakeholders. "Is Finland a UNCITRAL Model Law country?"

Potential business opportunities turn away when the answer is negative. Foreign stakeholders do not have the time nor interest in studying the 1992 Finnish Arbitration Act. Instead, they need assurances that Finnish arbitration law matches the international standards. This is achieved through the adoption of the UNCITRAL Model Law.

General counsel of an international company responsible for choosing a location for arbitration will pick the safe choice. Should anything unpredictable occur in the process, they will not be at fault for choosing a UNCITRAL Model Law country over a non-Model Law country. Sweden is a notable exception as a non-Model Law country. However, unlike Helsinki, Stockholm has the advantage of a long, proven track record of solidifying its reputation as a hub for international arbitration. The Stockholm Chamber of Commerce has benefited from being one of the arbitral



institutions listed in the Energy Charter Treaty, which confers Stockholm a competitive edge when compared to Finland.

By becoming a UNCITRAL Model Law country, Finland can differentiate itself from Sweden in a positive way. In addition, this would allow Finland to be included alongside Norway and Denmark in the list of Nordic UNCITRAL Model Law countries. An Arbitration Act like UNCITRAL Model Law with appropriate adjustments that aim to create additional competitive advantages is worth striving for.

## **The Business Angle**

The revision of the Arbitration Act is not only a matter of legal and political deliberation, but a significant benefit to business and society. Finland's image as a hub for international business could be highlighted as a by-product of Finland becoming a UNCITRAL Model Law country.

Our geographical location as a connection between Europe and Asia, our societal safety, our advanced infrastructure, and our status as 3<sup>rd</sup> least corrupt country in the world according to Transparency International, contribute to Finland's image as a safe and neutral place for dispute resolution. Amcham Finland recently released *Finland as a Business Location 2019 Barometer Report* in partnership with Business Finland, Kantar TNS, EK, ETLA, Mandatum Life and MPS. It showcases the strengths and weaknesses perceived by over 350+ executives of the Finnish business environment. Both foreign affiliates and Finnish international companies want to see an environment more conducive to international business and foreign direct investment.

A common complaint from Finnish companies is that the current Arbitration Act makes disputing with contracting parties from abroad impossible in practice in Finland. One major benefit of resolving the disputes in Finland is the cost benefit.

Becoming a recognized location for arbitration through the adoption of UNCITRAL Model Law will not only benefit law firms, but fundamentally create opportunities for vital sectors of employment. The tourism and hospitality sectors benefit from providing accommodation, facilitation, and other services, and arbitration is a service that creates tax revenue for states. While the act itself is a matter for the Ministry of Justice, the ramifications of the act and its revision will have a positive economic impact.

From Amcham Finland's perspective, which represents around 230 companies – foreign affiliates invested in Finland and Finnish international companies – and its Legal Committee, this is a win-win situation that benefits the economy and business in Finland, as well as the perception of Finland abroad.