
UNDER THE CONVENTION ON THE SETTLEMENT OF INVESTMENT DISPUTES BETWEEN STATES AND
NATIONALS OF OTHER STATES AND THE INSTITUTION RULES AND ARBITRATION RULES OF THE
INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

AND

THE AGREEMENT ON THE MUTUAL PROTECTION OF INVESTMENTS BETWEEN THE GOVERNMENT OF THE
KINGDOM OF SWEDEN AND THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA

HUAWEI TECHNOLOGIES CO., LTD.

Claimant,

v.

THE KINGDOM OF SWEDEN

Respondent.

REQUEST FOR ARBITRATION

7 JANUARY 2022

Counsel for Huawei Technologies Co., Ltd.

GAILLARD BANIFATEMI SHELBAYA DISPUTES
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I. INTRODUCTION

1. This dispute arises out of measures taken by the Kingdom of Sweden (“**Sweden**” or the “**State**”) against investments made by Huawei Technologies Co., Ltd (“**Huawei**” or the “**Claimant**”) in Sweden.
2. By this Request for Arbitration, Huawei submits its dispute to the International Centre for the Settlement of Investment Disputes (“**ICSID**”). The dispute arises under the Agreement on the Mutual Protection of Investments Between the Government of the Kingdom of Sweden and the Government of the People’s Republic of China (“**China**”), signed in Beijing on 29 March 1982 and amended on 27 September 2004 (the “**Sweden-China BIT**”).¹ This Request for Arbitration is submitted pursuant to Article 25 of the ICSID Convention and Article 6 bis of the Sweden-China BIT.²
3. Since 2000, Huawei has made considerable investments in Sweden in its capacity as a foreign investor in the Swedish company Huawei Technologies Sweden AB (“**Huawei Sweden**”). These investments, which are centered on the provision of telecommunications infrastructure, including radio, fixed-access, transmission, and core networks to Swedish network operators, have permitted those operators to provide high speed network services to an ever-increasing segment of the Swedish population, and have thus played a critical role in driving Sweden’s digitalization over a 20-year period.
4. Huawei’s investments in Sweden do not exist in a vacuum, but have been made pursuant to a policy framework that has consistently encouraged increasing digitalization. In this regard, Huawei notes that its investments in Sweden have been designed, *inter alia*, to secure Huawei’s long-term participation in the Swedish telecommunications sector, covering not only existing technologies presently in use, but also future technologies developed to further enhance the provision of telecommunication services. Accordingly, Huawei’s investments in Sweden represent a substantial and long-term commitment to the Swedish economy.
5. Notwithstanding Huawei’s significant investments and considerable contribution to the Swedish economy, Sweden has recently adopted a series of measures directly targeted at Huawei, gravely damaging its investments in Sweden and, more generally, its interests in Europe and around the world. These measures form the basis of the present dispute.

¹ See, Agreement on the Mutual Protection of Investments Between the Government of the Kingdom of Sweden and the Government of the People’s Republic of China, signed at Beijing on 29 March 1982, **Exhibit CL-001**; see also Amendment to the Agreement on Mutual Protection of Investments Between the Government of the Kingdom of Sweden and the Government of the People’s Republic of China of 29 March 1982, signed at Stockholm on 27 September 2004 (“**Protocol**”), **Exhibit CL-003**.

² See, Article 6 bis of the Protocol, **Exhibit CL-003**.

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6. On 17 April 2020, the Swedish Post and Telecom Agency (the “PTS”) invited all major Mobile Network Operators active in the Swedish market (“MNOs”) to an auction for licensing rights in the 3.5 GHz and 2.3 GHz bands, *i.e.* the upcoming Swedish 5G network (the “5G Auction”). The MNO’s applications were to be submitted to the PTS no later than 30 June 2020. The PTS’ invitation was viewed with particular interest by market participants, as it was the first auction for rights to operate 5G networks in Sweden. 5G technology represents the next frontier in mobile communications technology, and the networks built pursuant to the licenses granted through the 5G auction will lay the foundation for the Swedish 5G network. It was therefore of crucial importance for both MNOs and network technology vendors to be part of the deployment of the Swedish 5G network from the outset.
7. On 20 October 2020, the PTS issued a decision (the “PTS Decision”) whereby the PTS authorized four MNOs – namely Hi3G Access AB, Net4Mobility HB, Telia Sverige AB and Teracom AB (the “Authorized MNOs”) – to participate in the 5G auction. At the same time, the PTS used the PTS Decision to indicate that, in order to participate in the 5G auction and potentially provide 5G services, the Authorized MNOs were required to take several steps, including not equipping the 5G network with products sourced from two Chinese suppliers expressly singled out in the decision, namely Huawei and ZTE:

“28. [...] the licensee shall observe the following.

- New installation and implementation of central functions for radio usage in the 3400-3720 MHz frequency band may not be carried out with products from the suppliers Huawei or ZTE.

- Where existing infrastructure for central functions will be used for the provision of services in the frequency bands in question, the decommissioning of Huawei and ZTE products shall be completed by 1 January 2025.

[...]

30. To the extent that central functions depend on personnel or functions located abroad, such dependencies shall be discontinued and, if necessary, replaced by functions or personnel located in Sweden. This shall be completed at the latest by 1 January 2025.”³

8. The PTS Decision is blatantly discriminatory as it excludes Huawei from the 5G network in Sweden, and accordingly deprives Huawei of the benefits of its long-term investments in the country. Despite all of Huawei’s efforts to engage with the Swedish authorities about these measures, the 5G auction proceeded on the basis of the PTS Decision and was completed on 19 January 2021. The effect of the PTS Decision and the resulting auction – which invoked vague and unsubstantiated security concerns in order to introduce anti-Huawei exclusions – is that all future licensees of the frequencies awarded through the 5G auction in Sweden are

³ PTS Decision in Matter No. 18-8496, 20 October 2020, **Exhibit C-006**, p. 2 (emphasis added).

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prohibited from using any of Huawei's equipment or services in their 5G networks for the next 25 years, and that such equipment and services already in use for existing 3G and 4G networks are to be phased out by no later than 1 January 2025.

9. Sweden's ongoing breaches of the Sweden-China BIT have harmed Huawei in many ways, including, but not limited to, the following:
 - (i) Huawei has incurred immediate and irremediable losses given that its customers cancelled many purchase orders for its 5G equipment and services following the issuance of the PTS Decision. In addition, ongoing negotiations for future projects have been terminated as a result of the PTS Decision and Huawei's existing commercial partners in Sweden have increasingly sought to walk back on their commitments and replace Huawei equipment and services with those provided by Huawei's competitors.
 - (ii) With the 5G auction already completed, the Authorized MNOs have contracted with Huawei's competitors for the equipment and services necessary to roll out the 5G network. Accordingly, Huawei has already lost market share vis-à-vis the 5G networks in Sweden, with no prospect of regaining that market share for the foreseeable future.
 - (iii) Sweden's unfounded security allegations are likely to have a spillover effect on other countries in Europe and will continue to have an extremely detrimental impact on Huawei's reputation in Sweden and globally.
10. On 31 December 2020, Huawei filed a written notification of dispute outlining Sweden's breaches of the Sweden-China BIT. Following that notification, the parties entered into a series of discussions that have not borne any fruit. Given Sweden's many breaches of the Sweden-China BIT and its refusal to remedy its internationally wrongful acts, Huawei has no option but to commence this arbitration.
11. In this Request for Arbitration, Huawei first sets out the Parties to this Arbitration (II) and the factual background of this dispute (III). Subsequently, Huawei confirms that the conditions for it to bring claims under the Sweden-China BIT have been met (IV). Huawei will also demonstrate that Sweden's measures leading to and including the PTS Decision, which were adopted without any transparency and have unlawfully targeted and discriminated against Huawei, directly violate Sweden's international obligations under the BIT, whereby Sweden undertook in particular (i) to ensure at all times fair and equitable treatment to the investments made by investors from China; (ii) not to subject investments made by investors from China to a treatment less favorable than that accorded to investments made by domestic investors as well as investors of third States; and (iii) not to expropriate, nationalize or take any other measure having similar effect with respect to an investment made in its territory by

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investors of China (V). Finally, Huawei addresses the question of the constitution of the Tribunal (VI) and concludes by laying out its Request for Relief (VII).

II. PARTIES TO THE ARBITRATION

12. Huawei is a corporation organized under the laws of China. Huawei's registered office is located at the address below:

Huawei Base, Bantian
Longgang District,
Shenzen, China

13. The Claimant is represented in these proceedings by Dr. Yas Banifatemi and Messrs. Anders Junker-Nilsson and Ashish Mitter of Gaillard Banifatemi Shelbaya Disputes, and Dr. Nils Eliasson, Mr. Emmanuel Jacomy, Ms. Kitty Zheng and Mr. Eric Li of Shearman & Sterling. All correspondence and notices to the Claimant should be addressed to counsel for the Claimant and be delivered to the following addresses:

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14. The Respondent is the Kingdom of Sweden. The Claimant understands that the Respondent's address, for the purposes of these proceedings, is as follows:

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Prime Minister's Office
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Tel: +46 8 405 10 00
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III. FACTUAL BACKGROUND

15. Huawei has made considerable investments in the Swedish telecommunications sector over a 20-year period. These investments have been centered on the provision of telecommunications infrastructure, including the development of 2G, 3G, 4G and 5G mobile networks. In light of this experience, as well as Huawei's position as a global leader in the commercial deployment of 5G technology, it is no surprise that Huawei's core investments in Sweden have increasingly been geared towards the network infrastructure business (**III.A**).
16. Despite Huawei's significant investments in Sweden and contribution to the digitalization of the Swedish economy, Sweden has taken a number of harmful measures against Huawei, in breach of the Sweden-China BIT. In particular, the PTS Decision, which directly targets Huawei and effectively bans it from participating in the Swedish 5G network has gravely damaged Huawei's investments in Sweden (**III.B**).

A. HUAWEI HAS INVESTED IN THE SWEDISH TELECOMMUNICATIONS MARKET FOR MORE THAN TWO DECADES

17. Founded in 1987, Huawei is a leading global provider of information and communications technology infrastructure. Huawei has approximately 197,000 employees and operates in over 170 countries and regions, serving more than three billion people around the world.⁴
18. Huawei is a private company wholly owned by its employees. Through the Union of Huawei Investment & Holding Co., Ltd., Huawei implements an Employee Shareholding Scheme involving 121,269 employees. Only Huawei employees are eligible to participate in this structure. No government agency or outside organization holds shares in Huawei.⁵

⁴ See, Huawei Annual Report 2020, **Exhibit C-015**, GBS p. 2.

⁵ See, Huawei Annual Report 2020, **Exhibit C-015**, GBS p. 2.

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19. Huawei has long maintained an active and prominent presence in the Swedish telecommunications sector and established its first European research and development centre in Kista in 2000 (1). Huawei's investments in Sweden have played a central role in making the country a leader in the telecommunications sector.
20. In 2016, Sweden adopted a national broadband plan with the stated goal that 95% of all households and companies should have access to broadband internet at a minimum capacity of 100 Mbps by 2020, and that by 2025, all of Sweden should have access to high-speed broadband.⁶ Central to this plan is the development of new telecommunication technologies, including what has colloquially come to be known as the "fifth generation" technology standard for broadband cellular networks (5G). The most distinctive feature of 5G technology is the enhanced connectivity speeds it offers, thereby having the potential to provide digital connectivity to large segments of previously unconnected or poorly connected populations. In addition, the enhanced speeds will allow for the digital transformation of virtually every sector of the economy, from manufacturing to the provision of financial services. For Huawei, the deployment of the 5G networks around the world is therefore of utmost commercial and financial importance. Sweden is of particular importance for Huawei, as it is one of the countries taking the lead in the European 5G roll-out (2).
21. As a Chinese company at the forefront of the global 5G roll out, Huawei has been the target of unwarranted concerns relating to cyber security and privacy protection, such as those invoked by the Swedish authorities in the present case. Not only are the concerns referenced by the Swedish authorities unsubstantiated, they are also actively negated by the fact that Huawei has implemented an independently recognized end-to-end and state-of-the-art global cybersecurity assurance system. Accordingly, even if the concerns raised by the relevant Swedish authorities had any merit (which they do not) the effective exclusion of Huawei from the Swedish 5G network is a disproportionate response against a bona fide investor with a long-standing commitment to the Swedish economy (3).

1. Huawei's first European research and development operations were established in Sweden

22. For more than 20 years, Huawei has, in its capacity as a foreign investor in the Swedish company Huawei Sweden, invested heavily in Sweden. In 2000, Huawei established its first European research and development office in Kista, Sweden, and has ever since been a driving force behind Swedish digitalization. Since its inception in 2000, Huawei Sweden has grown from strength to strength, and at present employs over 300 research and development engineers and consultants in Stockholm, Gothenburg, and Lund. Huawei's investment in

⁶ See, *Broadband in Sweden – Shaping Europe's digital future* (European Commission), **Exhibit C-019**, p. 1.

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Sweden has increasingly been geared toward the supply of telecommunications equipment and services under technologies presently in use, as well as for future deliveries of such equipment and services in conjunction with the upcoming 5G network.

23. Huawei Sweden is thus a leading supplier of fixed and mobile telecommunications infrastructure in Sweden. Through its investments in Sweden, Huawei has sold its products and solutions to all major telecommunication operators in the Swedish market, namely Telia, Telenor, Tele2 and Hi3G.
24. Huawei's investments in Sweden have had a significant and positive impact on the country. According to a recent study by the forecasting and quantitative analytics firm Oxford Economics, between 2015 and 2019, Huawei purchased products and services in Sweden worth more than EUR 159 million on average per year.⁷ The report also estimates that during the same period, the company paid an annual average of EUR 203 million in taxes, generated 3,600 jobs in the country and made an average annual contribution to Sweden's GDP of EUR 380 million.⁸ Undoubtedly, Sweden has benefitted greatly from Huawei's large investments in the country.

2. 5G is of strategic importance for the telecommunications industry

25. Since establishing a presence in Sweden, Huawei's investments in the country have increasingly been focused on the network infrastructure business. The market for infrastructure in the telecommunications sector is globally characterized by the presence of three major players: Huawei, its main competitor globally, the Swedish company Telefonaktiebolaget L.M. Ericsson ("**Ericsson**"), and, to a somewhat lesser extent, the Finnish company Nokia Oyj ("**Nokia**"). All three companies provide a range of equipment and services focused on wireless network connectivity.
26. The market for wireless connectivity is fast evolving and has come a long way since it was first developed in the 1980s. In comparison to its predecessors, 5G technology provides network connectivity at considerably faster speeds, having the potential of bringing millions of people onto the digital grid and revolutionizing the way in which various sectors of the economy engage with the digital network. Huawei predicts that, by 2025, 5G will serve 58% of the global population.⁹ 5G is thus at the cutting edge of the telecommunications sector and will rapidly render predecessor technologies obsolete as 5G networks are deployed around the world.

⁷ See, *The Economic Impact of Huawei in Sweden* (Oxford Economics), November 2020, **Exhibit C-022**, p. 2.

⁸ See, *The Economic Impact of Huawei in Sweden* (Oxford Economics), November 2020, **Exhibit C-022**, p. 2.

⁹ See, Huawei Annual Report 2019, **Exhibit C-014**, GBS p. 5.

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27. Huawei has long recognised the central role that 5G will play in the global economy and has invested huge amounts of resources over several years to emerge as a global leader in the commercial deployment of 5G. In this regard, Huawei has established 5G joint innovation centres with carriers in Europe, with the aim of continuously driving the commercial deployment and service innovation of 5G on the European continent.¹⁰ Sweden's decision to exclude Huawei from the Swedish 5G market strikes at the root of these efforts, and directly impacts Huawei's investments and commercial strategy both in Sweden and beyond.

3. Huawei has implemented a state-of-the-art cybersecurity framework

28. As a company at the forefront of the global 5G rollout, Huawei is keenly aware of security concerns surrounding the use of the new technology, and has preemptively taken a series of steps to ensure that its security framework remains at the cutting edge of the industry.

29. As a preliminary point, Huawei notes that for decades, it has been highly committed to developing secure and trustworthy digital products and services. Huawei has thus developed, and continues to optimize, an end-to-end assurance system, making sure that each domain is constantly refined to stay up-to-date with advancements in cyber security and privacy protection.¹¹

30. In its further efforts to take and maintain the lead in cyber security, Huawei implemented in 2020 the following measures relating to process transformation, solutions, technological innovation, independent verification, supply chain, and personnel management:¹²

- (i) Enhanced software engineering capabilities and cyber resilience to build secure, trustworthy, and quality products and solutions;
- (ii) Improved cyber security risk management and capacity building of the supply chain;
- (iii) Improved secured and trustworthy service operations;
- (iv) Enhanced security awareness among all employees supporting professional capability improvement;
- (v) Improved protection and respect for user privacy.

31. Huawei's long-term work on cyber security issues as a manufacturer of network equipment has led to Huawei receiving more than 270 Product Safety Certificates worldwide. Moreover, Huawei has been approved by the leading international organizations of mobile operators, and its security apparatus has been independently verified by organizations including ATSEC

¹⁰ Huawei Annual Report 2019, **Exhibit C-014**, GBS p. 4.

¹¹ See, *Cyber Security and Privacy Protection* (Huawei Fact Sheet), **Exhibit C-020**.

¹² See, *Cyber Security and Privacy Protection* (Huawei Fact Sheet), **Exhibit C-020**.

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(Sweden), DEKRA (Spain) and Brightsight (The Netherlands), which noted in its certificate of 13 November 2020 that:

“During our cooperation with Huawei in the past ten years, we experienced Huawei as a professional, transparent, and trustworthy company delivering state-of-the-art security products.”¹³

32. Being able to offer state-of-the-art security products is an effect of Huawei making cybersecurity its top priority, as Huawei’s rotating Chairman of the Board also confirmed in Huawei’s Annual Report of 2020:

“As always, cyber security and privacy protection remain our top priorities. We will confront challenges in these domains through technological innovation and through the ongoing transformation of our management systems. We will continue to build secure, trustworthy, and quality products, solutions, and services in order to help our customers enhance their cyber resilience.”¹⁴

33. Huawei would not be in the leading position it is today if it did not offer state-of-the-art security products and make cyber security its top priority. To be clear, there is no evidence or indication that Huawei’s network systems are more vulnerable to cyberattacks than its peers, Ericsson and Nokia. Suggestions to the contrary are rooted in non-technical factors, including prejudice and geopolitical considerations. Moreover, even if concerns regarding Huawei’s operations had merit (which they do not), the Swedish authorities had the option of implementing a raft of technical and non-technical measures short of the outright ban that has been imposed on Huawei’s participation in the 5G market.

B. SWEDEN HAS EXCLUDED HUAWEI FROM THE SWEDISH 5G MARKET

34. Notwithstanding Huawei’s long-term presence in Sweden and its contribution to the Swedish economy, the Swedish Government took a series of steps in 2020 and 2021 that have served to exclude Huawei from the roll-out of 5G services in Sweden.
35. Sweden has historically implemented policies that have fostered the growth of telecommunication networks and the deployment of state-of-the-art telecommunication technologies. In this regard, Sweden had long signaled its intention to be at the forefront of the development and use of 5G technology (1). In 2020, Sweden amended the applicable legislation to provide for the grant of individual telecommunications licenses to be subject to specific security requirements, despite a recommendation from the PTS to the contrary (2). Once the amendment had come into force, the PTS invoked its provisions to exclude Huawei

¹³ Letter from Brightsight to Huawei Sweden, 13 November 2020, **Exhibit C-026**, p. 2.

¹⁴ Huawei Annual Report 2020, **Exhibit C-015**, GBS p. 7 (emphasis added).

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from the Swedish 5G market on 20 October 2020 (3). Sweden's decision to exclude Huawei from the provision of 5G services represented a drastic and unexplained change of position from all relevant Swedish authorities (4). On 19 January 2021, the PTS completed the auction of 5G licenses, and the Authorized MNOs immediately began to take steps to roll out 5G services (5). Huawei Sweden has appealed the PTS Decision to exclude it from participating in the 5G market under Swedish administrative and EU law. However, regardless of the outcome of this appeal, the actions taken by the Swedish authorities have already irremediably damaged the investments made by Huawei, a Chinese investor protected by the Sweden-China BIT, in Sweden (6).

1. Sweden's plans to develop 5G technology

36. As noted above, Sweden adopted a national broadband plan in 2016, with the vision of an entirely connected Sweden, including goals for both mobile coverage and high-speed broadband connections for households and businesses.¹⁵ The roll-out of 5G capabilities was envisaged as playing an important role in this process:

"According to a message transmitted on the 14th of September 2016 by the European Commission, it is important to facilitate the development of 5G. 5G is considered a revolutionary technology which enables wireless broadband services at Gigabit capacity, thereby creating opportunities for new kinds of application as well as innovative business models in areas like transport, health, energy and media. The European Commission suggests that all densely populated areas and all larger roads used for transport by land should have continuous 5G-coverage and that a number of cities in respective countries should be chosen to be prepared for 5G by the year 2020."¹⁶

37. Sweden's longstanding commitment to 5G technology is further evidenced by the declaration on 5G, signed by the Nordic Prime Ministers in May 2018, which encapsulates a common vision of the Nordic region being among the most integrated regions in the world.¹⁷ Specifically, that declaration states that:

"As the development of fifth generation wireless systems (5G) breaks through, the Nordic countries will be at the forefront of that development to become world leaders in using 5G technology for the development and digitalization of all sectors of society.

The deployment of 5G will require substantial investments as well as the appropriate regulatory framework. At political level, we commit to creating

¹⁵ See, *Broadband in Sweden – Shaping Europe's digital future* (European Commission), **Exhibit C-019**, p. 1.

¹⁶ *A Completely Connected Sweden by 2025 – A Broadband Strategy* (Swedish Ministry of Enterprise and Innovation), **Exhibit C-018**, pp. 27–28.

¹⁷ See, *Broadband in Sweden – Shaping Europe's digital future* (European Commission), **Exhibit C-019**, p. 1.

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the conditions in the public sector for digitalization and 5G to flourish. As Nordic prime ministers, we have agreed to the common vision of being the first and most integrated 5G region in the world. We want to create a common Nordic 5G space.”¹⁸

38. Accordingly, Sweden has positioned itself as a global leader in the deployment of cutting-edge telecommunications technology. This extends to the use of 5G technology, which had been envisaged as constituting an important plank of Sweden’s telecommunications framework for several years prior to the intended roll out in 2020 and 2021.

2. The Swedish Government amended applicable legislation to require the grant of individual telecommunications licenses to be subject to varying security requirements, despite an initial recommendation from the PTS to the contrary

39. The Electronic Communications Act (“**ECA**”) of 2003 is the principal legislation that regulates the use of electronic communications in Sweden. Under the framework set out by the ECA, the PTS has been designated as the responsible authority for regulating and monitoring electronic communications and the relevant operators. In accordance with the ECA, any operator that wishes to carry out radio transmission and related activities in Sweden is required to apply to the PTS for formal permission to do so.¹⁹ Accordingly, any operator wishing to participate in the rollout of Sweden’s 5G networks was required to submit an application to that effect to the PTS.
40. On 1 January 2020, the ECA was amended to, *inter alia*, ensure that the PTS takes national security risks into account before and after an individual telecommunications license is granted.²⁰ Specifically, the ECA amendment stipulates that (i) the PTS is required to involve the Swedish Security Police and the Swedish Armed Forces (together, the “**Consultation Authorities**”) when vetting applications for individual licenses and they can appeal decisions to issue permits on grounds of national security, and (ii) the PTS is required to carry out its national security risk assessment in cooperation with the Consultation Authorities.²¹
41. Given the central role occupied by the PTS in the Swedish telecommunications sector, the Swedish Government formally consulted the PTS regarding its proposal to amend the ECA, including with respect to the involvement of the Consultation Authorities. On 5 June 2019,

¹⁸ Letter of Intent – Development of 5G in the Nordic Countries, 23 May 2018, **Exhibit C-025**.

¹⁹ See, Electronic Communications Act (2003:389), **Exhibit CL-004**, Chapter 2, Section 1; Chapter 3, Sections 1, 6 and 11.

²⁰ See, Electronic Communications Act (2003:389), **Exhibit CL-004**, Chapter 3, Sections 6 and 11.

²¹ See, Electronic Communications Regulation (2003:396), **Exhibit CL-005**, Section 12(a); Electronic Communications Act (2003:389), **Exhibit CL-004**, Chapter 8, Section 19a.

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the PTS filed a consultation response to the Swedish Government's proposed changes to the ECA, objecting to the proposal to make the grant of individual licenses subject to varying security requirements. Specifically, the PTS stated that:

"[...] PTS considers it less appropriate for the PTS, in the future before each specific allocation of frequencies, to stipulate which *safety measures* (e.g. current equipment and its operation) shall be undertaken by the venture using the frequencies. What can be considered justified requirements of that type can vary over time. Threats and risks may also mean that it may be justified to introduce requirements for radio use that take place on the basis of already granted licenses. The PTS, therefore, considers that the most appropriate way to handle this type of security requirement is through general rules on security in electronic communications networks and services."²²

42. In other words, the PTS itself advised against making the grant of 5G licenses subject to specific security requirements. The PTS was thus not in favor of legislation that provided for the possibility of imposing varying security conditions on the grant of individual licenses rather than regulating security related issues in a standardized manner across the telecommunications industry as a whole. However, the PTS' observations and recommendations were not taken onboard by the Swedish Government and not included within the amended ECA as adopted by the Swedish Parliament. The amended ECA entered into force on 1 January 2020.

3. The Consultation Authorities caused the PTS to exclude Huawei from the provision of 5G services

43. On 17 April 2020, the PTS invited the MNOs to an auction for network rights in the 3.5 GHz and 2.3 GHz bands (*i.e.* for the upcoming 5G network).²³ The MNOs were asked to submit their respective applications to the PTS no later than 30 June 2020. The invitation had been preceded by consultations between the MNOs, the PTS and the Consultation Authorities and these consultations continued with the MNOs even after the PTS invitations had been published.
44. On 26 May 2020, the PTS publicly stated that it currently saw no reason to exclude specific suppliers from participating in the 5G roll out.²⁴
45. Eventually, the four major MNOs in Sweden, namely Hi3G Access AB, Net4Mobility HB, Telia Sverige AB and Teracom AB, all applied to participate in the 5G auction. On 20 October 2020 however, reneging on the assurances it had given previously, the PTS issued the PTS Decision,

²² PTS Consultation Response, 5 June 2019, **Exhibit C-001**, p. 14 (emphasis in original).

²³ See, PTS Decision in Matter No. 18-8496, 17 April 2020, **Exhibit C-002**.

²⁴ See, PTS Clarifications, 26 May 2020, **Exhibit C-003**, p. 4.

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whereby it authorized the four MNOs to participate in the 5G auction on the express condition that they should exclude Huawei and ZTE from their list of suppliers. For present purposes, the conditions listed in the PTS Decision included:

“28. [...] the licensee shall observe the following:

- New installation and implementation of central functions for radio usage in the 3400-3720 MHz frequency band may not be carried out with products from the suppliers Huawei or ZTE.

- Where existing infrastructure for central functions will be used for the provision of services in the frequency bands in question, the decommissioning of Huawei and ZTE products shall be completed by 1 January 2025

[...]

30. To the extent that central functions depend on personnel or functions located abroad, such dependencies shall be discontinued and, if necessary, replaced by functions or personnel located in Sweden. This shall be completed at the latest by 1 January 2025.”²⁵

46. As a result of the PTS Decision, Sweden’s established telecom operators were required to not only avoid working with Huawei in the 5G roll-out, but also to cease existing commercial relationships regarding the provision of wireless network services by 1 January 2025. Thus, Huawei was effectively blacklisted from working with Sweden’s telecommunications operators in the provision of network equipment and services.
47. In justifying its decision, the PTS noted that “[t]he use of Huawei and ZTE products in central functions may harm Sweden’s security”.²⁶ Thus, the PTS Decision does not even purport to identify a specific threat posed by Huawei to Sweden’s security. Further, the PTS Decision does not make any attempt to quantify the extent of such an alleged threat. Nor does it make any effort to particularize the nature of such an alleged threat. The PTS Decision is thus on its face both arbitrary and unjustified.
48. Given its track record of investing in the Swedish telecommunication sector, and of maintaining a secure network infrastructure in the country, the PTS Decision came as a rude shock to Huawei. This was particularly so in circumstances where the decision was rendered in an opaque manner, without providing Huawei with a list of allegations, far less the opportunity to submit its observations, be heard or defend itself before the Swedish authorities.
49. A perusal of the PTS Decision suggests that the decision to exclude Huawei from the 5G network was based on reports issued by the Consultation Authorities (the “**Consultation**

²⁵ PTS Decision in Matter No. 18-8496, dated 20 October 2020, **Exhibit C-006**, p. 2 (emphasis added).

²⁶ PTS Decision in Matter No. 18-8496, dated 20 October 2020, **Exhibit C-006**, p. 5 (emphasis added).

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Reports") dated 30 September 2020.²⁷ The content of the Consultation Reports has been briefly summarized in the PTS Decision, and it is evident that the PTS has not made any independent assessment of the security risks surrounding Huawei's participation in the supply of 5G network equipment and provision of 5G services itself.²⁸ On the contrary, it appears that the PTS has been instrumentalized by the Consultation Authorities to exclude Huawei from the provision of 5G services.

50. A bare perusal of the Consultation Reports makes clear that they are not based on any documented wrongdoing by Huawei, but instead are founded on far-reaching speculation and unfounded assumptions. Most strikingly, the Consultation Reports are not accompanied by or based on any credible evidence.
51. Thus, despite the extremely far-reaching consequences of the PTS Decision, Huawei and its subsidiary Huawei Sweden, were: (i) not involved in any way in the process underlying that decision; (ii) not invited to submit their observations prior to the decision; and (iii) not contemporaneously provided with the Consultation Reports or the elements justifying the decision (other than what is described in the PTS Decision itself).

4. Huawei's exclusion from the 5G market represented a drastic change of position from the Swedish authorities

52. The PTS Decision came as a complete surprise to all parties involved, including the Authorized MNOs. As an initial remark in this regard, Huawei notes that as late as May 2020, the PTS publicly announced to the MNOs that: "[a]t present, the Consultation Authorities have not excluded any equipment suppliers".²⁹
53. At about the same time, Sweden's Minister of Infrastructure and Digitalization, Mr. Anders Ygeman, stated in an article in the Swedish daily *Svenska Dagbladet* that he did not see any problems with Swedish telecommunications operator Tele2 using Huawei products to provide Swedish customers with 5G services. Mr. Ygeman said specifically:

"You likely already do that today [use Huawei's products] if you surf on 4G. There is quite a lot of that company's [Huawei's] equipment. Then the question is where in the network the operator chooses to use different components depending on how critical that part of the network is. That question should be directed at the operator because it is against them that the legislation is directed, he says to TT."³⁰

²⁷ See, Consultation Reports Concerning the Authorized MNOs, 30 September 2020, **Exhibit C-004**.

²⁸ See, PTS Decision in Matter No. 18-8496, 20 October 2020, **Exhibit-006**, pp. 4–5.

²⁹ PTS Clarifications, 26 May 2020, **Exhibit C-003**, p. 4.

³⁰ *Ygeman sees no problem with Huawei* (Svenska Dagbladet), 25 May 2020, **Exhibit C-021**.

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54. Although Huawei was not contemporaneously aware of the existence of the Consultation Reports, far less invited to submit observations on them, the Authorized MNOs received the Consultation Reports on 5 October 2020 and were invited, at short notice, to submit their comments on the same by 9 October 2020 at the latest. The correspondence from one of the Authorized MNOs, Net4Mobility (“N4M”) (a joint venture by Sweden’s Tele2 and Norway’s Telenor), to the PTS makes clear that the Consultation Authorities, and ultimately the PTS, changed their position as regards Huawei’s participation in the 5G roll-out at the very last minute, and without any credible basis for doing so.
55. **First**, after concluding that the Security Police and the Armed Forces had acted “*extraordinarily unprofessional[ly]*” in the consultative process with the MNOs,³¹ N4M’s response to the PTS reveals that it had repeatedly asked the Consultation Authorities whether they saw any concerns with Huawei’s operations, which might lead them to consider Huawei an unsuitable supplier to the MNOs. According to N4M, the Consultation Authorities consistently responded that they saw no reason in principle to characterize Huawei as an “*unsuitable [...] supplier*”. Instead, the Consultation Authorities emphasized that their relevant security assessment focused on concrete security deficiencies and vulnerabilities in the operators’ security architecture, thereby suggesting that Huawei was not considered a point of concern in this regard.³²
56. **Second**, as late as 3 September 2020, N4M asked the Consultation Authorities whether there had been any change in the assessment of the suitability of different suppliers. According to N4M, the Consultation Authorities replied that there was no change in any assessment, as previously indicated.³³
57. 27 days later, on 30 September 2020, the Consultation Authorities submitted their Consultation Reports to the PTS, in which they recommended the wholesale exclusion of Huawei from the provision of 5G services. This recommendation was based on a superficial analysis and no credible evidence. It is only after receiving the Consultation Reports that the PTS changed its position and issued the PTS Decision excluding Huawei from the Swedish 5G market on 20 October 2020.

³¹ See, Letter from N4M to PTS, 9 October 2020, **Exhibit C-005**, p. 2.

³² See, Letter from N4M to PTS, 9 October 2020, **Exhibit C-005**, p. 2.

³³ See, Letter from N4M to PTS, 9 October 2020, **Exhibit C-005**, p. 3.

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5. The PTS completed the 5G auction and granted licenses on 19 January 2021

58. On 19 January 2021, the PTS began and ended the 5G auction and granted Hi3G Access, Net4Mobility, and Telia Sweden each a share of the 15 licenses available in the 3.5 GHz band, while Teracom Group won all eight licenses in the 2.3 GHz band.
59. In view of the completed auction on 19 January 2021, the following day the PTS issued a decision authorizing the use of radio transmitters in the 3.5 GHz and 2.3 GHz bands.³⁴ In the decision, the Authorized MNOs were formally granted the licenses by the PTS. The validity of the licenses extends from 20 January 2021 until 31 December 2045.³⁵ In order to comply with the PTS Decision, the four Authorized MNOs are required to exclude Huawei's equipment and services from the design of their 5G network.
60. The PTS Decision and the 5G auction have had the direct effect of driving Huawei out of the 5G market in Sweden, while ensuring that Huawei's global competitor Ericsson would effectively gain a monopoly supply of products and services to 5G network providers in its home country.³⁶
61. The consequences of the PTS Decision on Ericsson's position in the Swedish market were not lost on Ericsson, which however appeared itself not to be pleased about this development. In an interview with the Financial Times on 18 November 2020, Ericsson's CEO Börje Ekholm criticized the PTS Decision and stated among other things that:
- "For Ericsson and Sweden, we're built on free trade. We're built on the opportunity to trade freely... From my perspective it is important that we have open markets and free competition."³⁷
62. Mr. Ekholm further argued that Sweden had deviated from the EU's guidelines on secure 5G networks, which aims at balancing legitimate concerns regarding national security with free competition. With respect to those guidelines (known colloquially as the "EU toolbox for 5G security"), Mr. Ekholm stated that:

³⁴ See, PTS Decision in Matter No. 18-8496, 20 January 2021, **Exhibit C-007**.

³⁵ See, PTS Decision in Matter No. 18-8496, 20 January 2021, **Exhibit C-007**, p 2.

³⁶ See e.g., *Tele2 and Telenor win Swedish 5G frequencies and choose Ericsson and Nokia as vendors for their nationwide 5G rollout* (Tele2), 19 January 2021, **Exhibit C-024**.

³⁷ *Ericsson chief hits out at Swedish 5G ban on Huawei* (Financial Times), 18 November 2020, **Exhibit C-023**.

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“I do think that framework [EU’s guidelines on secure 5G networks] is a good one. This is their [PTS’] own interpretation of the toolbox.”³⁸

63. That Ericsson has seen it fit to criticize the PTS Decision, despite having undoubtedly benefitted from it, further confirms that decision as being discriminatory, arbitrary and heavy-handed.

6. Huawei Sweden appealed the PTS’ decision

64. On 5 November 2020, Huawei Sweden challenged the PTS Decision before the Administrative Court of Stockholm under Swedish administrative and EU law. In the proceedings, Huawei Sweden specifically sought to set aside those provisions of the PTS Decision that restricted its ability to participate in the provision of 5G services. On 9 November 2020, the Administrative Court of Stockholm granted Huawei Sweden’s request that the PTS Decision be suspended pending the Court’s determination of Huawei Sweden’s challenge on the merits.
65. However, a decision of the Administrative Court of Appeal issued on 16 December 2020 revoked the suspension of the PTS Decision previously ordered by the Administrative Court in Stockholm, meaning that the damage caused to Huawei’s investment in Sweden is irreversible in any event, since the four Authorized MNOs are required, in order to comply with the PTS Decision, to exclude Huawei’s equipment and services from the design of their respective 5G networks.
66. Following the court’s revocation of the suspension of the PTS Decision, the PTS Decision remains in full effect pending the final determination of the merits of Huawei Sweden’s challenge to the Decision.
67. On 22 June 2021, the Administrative Court in Stockholm dismissed Huawei Sweden’s case on the merits. Huawei Sweden subsequently appealed the decision of the Administrative Court in Stockholm. The Court of Appeal has granted leave for review of the appeal on 8 October 2021.
68. Whatever the outcome of the administrative proceedings in Sweden between Huawei Sweden and the PTS relating to the validity of the PTS Decision, Huawei, as a Chinese investor, has already suffered serious harm through the Swedish authorities’ actions, having been excluded from participation in the supply of 5G services in any meaningful way. In addition, the Authorized MNOs have already made network design and procurement decisions on the basis of the PTS Decision prohibiting the inclusion of Huawei’s equipment and services.

³⁸ *Ericsson chief hits out at Swedish 5G ban on Huawei* (Financial Times), 18 November 2020, **Exhibit C-023**.

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69. In this arbitration, Huawei seeks full reparation for the multiple breaches of international law and Sweden's commitments under the Sweden-China BIT to protect its investments, as a Chinese investor, in Sweden.

IV. THE CONDITIONS FOR HUAWEI TO BRING ITS CLAIMS UNDER THE SWEDEN-CHINA BIT ARE MET

70. The Tribunal's jurisdiction over this dispute is established under Article 6 bis of the Sweden-China BIT and Article 25 of the ICSID Convention.

A. THE JURISDICTIONAL REQUIREMENTS OF THE SWEDEN-CHINA BIT ARE MET

71. All jurisdictional requirements under the Sweden-China BIT are met.

72. **First**, Huawei is a protected investor under Article 1(2) of the Sweden-China BIT.

73. Article 1(2) defines an "investor" with respect to China as:

"[...] any company, other legal person or citizen of China authorized by the Chinese Government to make an investment."³⁹

74. As a legal person organized under Chinese law and authorized by the Chinese Government to make investments,⁴⁰ Huawei qualifies as a protected investor under this provision.

75. The Tribunal's jurisdiction also extends to Sweden, the Respondent in this case and a Contracting Party to the Sweden-China BIT.

76. **Second**, Huawei holds protected "investments" in Sweden, as defined by the Sweden-China BIT.

77. Article 1(1) of the Sweden-China BIT provides:

"The term 'investment' shall comprise every kind of asset invested by investors of one Contracting State in the territory of the other Contracting State in accordance with the laws and regulations of that State, and more particularly, though not exclusively,

(a) Moveable and immovable property as well as any other rights in rem, such as mortgage, lien, pledge, usufruct and similar rights;

³⁹ Article 1(2), Sweden-China BIT, **Exhibit CL-001**.

⁴⁰ See, Business License of Huawei Technologies Co., Ltd, 12 June 2018, **Exhibit C-013**. See also Overseas Investment Certificate for Enterprises concerning Huawei Technologies Co., Ltd, 24 July 2020, **Exhibit C-016**; Letter from the Bureau of Foreign Trade and Economic Cooperation of Shenzhen Municipality to Huawei Technologies Co., Ltd, 8 January 2004, **Exhibit C-012**. Atelier Telecom AB is Huawei Sweden's previous company name (see Swedish Companies Registration Office's Certificate of Registration for Huawei Technologies Sweden AB, 24 December 2021, **Exhibit C-017**, p. 2).

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- (b) Shares or other kinds of interest in companies;
 - (c) Title to money or any performance having an economic value;
 - (d) Copyrights, industrial property rights, technical processes, trade names and goodwill; and
 - (e) Such business-concessions under public law or under contract, including concessions regarding the prospecting for, other extraction or winning of natural resources, as give to their holder a legal position of some duration.”
78. Huawei’s investments in Sweden comprise its shareholding in Huawei Sweden, a wholly-owned subsidiary of Huawei Technologies Coöperatief U.A., which is in turn owned by Huawei.⁴¹ They also comprise Huawei’s significant, long-term interests in property, contract rights, as well as Huawei’s interests and entitlement to performance having an economic value in Sweden.
79. The dispute described in this Request for Arbitration is thus a “*dispute concerning an investment between an investor of one Contracting State*” – namely Huawei – “*and the other Contracting State*” – namely Sweden – as required by Article 6 bis of the Sweden-China BIT.
80. **Third**, Huawei has already consented to Sweden’s offer to arbitrate investment disputes under the Sweden-China BIT in the notice of dispute of 31 December 2020, in which it stated that it “*hereby accepts the Kingdom of Sweden’s consent to the submission of the present dispute to the International Centre for the Settlement of Investment Disputes (‘ICSID’) pursuant to Article 6 bis of the BIT*”.⁴²
81. Accordingly, all jurisdictional requirements under the Sweden-China BIT are met.

B. THE JURISDICTIONAL REQUIREMENTS OF THE ICSID CONVENTION ARE MET

82. All jurisdictional requirements under the ICSID Convention are also met.
83. Article 25(1) of the Convention states:

“The jurisdiction of the Centre shall extend to any legal dispute arising directly out of an investment, between a Contracting State [...] and a national of another Contracting State, which the parties to the dispute consent in writing to submit to the Centre.”

⁴¹ See, Share Registry of Huawei Technologies Sweden AB, **Exhibit C-009**. See also Shareholder structure of the relevant entities within the Huawei Group of Companies, **Exhibit C-010**; Register of membership in Huawei Technologies Coöperatief U.A., **Exhibit C-008**; Annual Return of Huawei Tech. Investment Co., 2001, **Exhibit C-011**. See also Overseas Investment Certificate for Enterprises concerning Huawei Technologies Co., Ltd, 24 July 2020, **Exhibit C-016**.

⁴² Huawei’s Written Notification of Dispute, 31 December 2020, **Exhibit C-027**.

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84. Sweden and China are both Contracting Parties to the ICSID Convention.
85. The term “National of another Contracting State”, as contained in Article 25(1), is defined in Article 25(2) as follows:
- “National of another Contracting State’ means: [...]
- (b) any juridical person which had the nationality of a Contracting State other than the State party to the dispute on the date on which the parties consented to submit such dispute to conciliation or arbitration and any juridical person which had the nationality of the Contracting State party to the dispute on that date and which, because of foreign control, the parties have agreed should be treated as a national of another Contracting State for the purposes of this Convention.”
86. As a Chinese company incorporated in China in accordance with Chinese law, and having its registered office in Shenzhen, China, Huawei is a “*juridical person which had the nationality of a Contracting State other than the State party to the dispute*” under Article 25(2)(b) of the ICSID Convention, and accordingly is a “National of another Contracting State” for the purposes of Article 25(1) of the ICSID Convention.
87. Huawei also has “*investments*” within the meaning of Article 25(1) of the ICSID Convention. Although Article 25 does not provide a definition of “*investment*”, significant, long-term interests in property, shareholdings, concessions, and other contract rights, such as Huawei’s interests in Sweden, are all considered investments within the meaning of Article 25(1) of the ICSID Convention.
88. Furthermore, as required under Article 25(1) of the ICSID Convention, there exists a legal dispute relating to and arising directly out of Huawei’s investments in Sweden. The legal dispute described in this Request for Arbitration directly concerns Huawei’s investments in Sweden.
89. Finally, the Parties to the dispute have consented in writing to submit this dispute to arbitration before the Centre. Sweden’s consent in writing to submit investment disputes to ICSID arbitration is expressed in Article 6 bis (3) of the Sweden-China BIT. As noted above, Huawei gave its written consent to ICSID jurisdiction in its notice of dispute of 31 December 2020. Sweden’s written expression of consent in the Sweden-China BIT and Huawei’s expression of consent in the notice of dispute together form the Parties’ consent required by Article 25(1) of the ICSID Convention.
90. All procedural requirements under the ICSID Rules have also been met. In particular, Huawei confirms that, pursuant to ICSID Institution Rule 2(1)(f), it has taken all internal actions necessary to authorize the submission of this Request for Arbitration.

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91. In this regard, Huawei encloses with this submission a signed letter of authority and confirms it has paid the USD 25,000 filing fee required under ICSID Administrative and Financial Regulation 16.⁴³ Accordingly, all procedural requirements under the ICSID Convention and ICSID Institution Rules are met.

C. HUAWEI UNSUCCESSFULLY ATTEMPTED TO RESOLVE ITS DISPUTE WITH SWEDEN THROUGH NEGOTIATIONS

92. Huawei has also satisfied the requirement in Article 6 bis (3) of the Sweden-China BIT that a period of “(3) months following the date on which the dispute was raised by the investor through written notification” be lapsed before the initiation of arbitration proceedings.⁴⁴ Huawei provided its written notification of the dispute to Sweden in its letter of 31 December 2020. Between that date and this Request for Arbitration, and given the significant and irreversible damage to its investments in Sweden, Huawei made repeated attempts to amicably resolve the present dispute with Sweden. However, in light of Sweden’s unwillingness to remedy its breaches of the Sweden-China BIT and to genuinely engage in finding solutions that would mitigate Huawei’s loss and its own liability, Huawei is entitled to initiate the present arbitration.⁴⁵

V. SWEDEN’S BREACHES OF THE SWEDEN-CHINA BIT

A. SWEDEN HAS BREACHED SEVERAL PROVISIONS OF THE SWEDEN-CHINA BIT

93. Sweden’s measures leading to and including the PTS Decision, which were adopted without any transparency and have unlawfully targeted and discriminated against Huawei, directly violate Sweden’s international obligations under the Sweden-China BIT, both individually and in the aggregate, including as follows:
94. **First**, Sweden has, through its actions, breached the national treatment standard incorporated into the Sweden-China BIT, which requires Sweden to afford investments held by Chinese investors treatment that is no less favorable than that afforded to Swedish investors.⁴⁶ The foreign investor in this case, Huawei, has been unlawfully targeted by the Swedish authorities.

⁴³ A copy of the wire transfer instruction is enclosed with this submission.

⁴⁴ See, Article 6 bis (3) of the Protocol, **Exhibit CL-003**.

⁴⁵ See, Huawei’s Written Notification of Dispute, 31 December 2020, **Exhibit C-027**.

⁴⁶ Although the Sweden-China BIT does not contain any express provision for the national treatment standard, Huawei relies on this standard through the operation of the MFN clause contained in Article 2(2) of the Sweden-China BIT, which is used to incorporate the national treatment standard contained at Article 3 of the Hong Kong-Sweden BIT. See, Agreement between the Government of Hong Kong and the Government of the Kingdom of Sweden on the Promotion and Protection of Investment, signed on 27 May 1994, **Exhibit CL-002**.

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The PTS Decision favors, on its face, Swedish domestic companies over Chinese companies. In fact, it has a practical effect of benefitting Swedish domestic companies at the expense of Huawei, with the consequence of driving Huawei out of business in Sweden. There is no legitimate social or economic justification for such differential treatment.

95. The alleged policy reason for the PTS Decision, *i.e.* national security concerns, is, absent elaboration and substantiation, not a legitimate or rational basis for that decision, given that such concerns are solely based on an arbitrary and as yet unparticularized assessment by the Swedish Security Police and Armed Forces. To recall, throughout its 20-year long presence in Sweden, Huawei has not faced a single security incident and there is no evidence that equipment and services supplied by Huawei could be used to undermine Sweden's security interests any more than the equipment and services provided by its competitors.
96. **Second**, Sweden has violated its obligations under Article 2(1) of the Sweden-China BIT to provide fair and equitable treatment to Chinese investors in Sweden. Sweden has breached the fair and equitable standard because the PTS Decision is (i) arbitrary and discriminatory, (ii) disproportionate, (iii) not transparent, (iv) contrary to Huawei's legitimate expectations as an investor in Sweden, and (v) was made without respecting Huawei's due process rights.
97. **Third**, under Article 3(1) of the Sweden-China BIT, "[n]either Contracting State shall expropriate or nationalize, or take any other similar measure in regard to, an investment made in its territory by an investor of the other Contracting State, except in the public interest, under due process of law and against compensation". In direct breach of this provision, Sweden has taken measures that have had the effect of expropriating Huawei's investments without compensation.
98. Due to Sweden's breaches of the substantive protections of the Sweden-China BIT, Sweden is required, under international law, to provide full reparation to Huawei. On this basis, Sweden is liable to compensate the full amount of Huawei's losses.
99. Given that Sweden's conduct causing harm to Huawei's investment continues to this day, Huawei reserves its right to expand, update or modify its claims against Sweden in due course.

B. SWEDEN IS LIABLE TO COMPENSATE THE FULL AMOUNT OF HUAWEI'S LOSSES

100. Huawei is entitled to claim the full amount of damages it has suffered as a result of Sweden's multiple breaches of the Sweden-China BIT, including all loss of profits and business opportunities in Sweden.
101. At this juncture, it suffices to note that the measures taken by the PTS have already led to Huawei incurring immediate and irreparable losses. Following Huawei's exclusion from the 5G market, many of Huawei's purchase orders were cancelled and the Authorized MNOs have

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already finalized their vendor procurement for the 5G networks. In view of the PTS Decision, the Authorized MNOs have chosen to contract with Huawei's competitors for the provision of equipment and services necessary for the roll out of the 5G networks, to Huawei's detriment.

102. It goes without saying that for the Authorized MNOs, it is critical to gain a competitive advantage by implementing the 5G rollout as quickly and seamlessly as possible. This has necessarily put Huawei at a disadvantage and precluded it from selling products to the Swedish 5G market, either now or in the future.
103. These initial losses represent, however, only a fraction of the total losses that Huawei will incur as a result of the Swedish Government's actions. As Huawei has already indicated in its written notification of dispute, Huawei's immediate loss of revenue caused by Sweden's actions is estimated at SEK 5.2 billion (approximately EUR 520 million) for the 2021-2025 period alone.
104. As the PTS Decision covers a period of 25 years, and the network businesses affiliated with 5G are estimated to grow exponentially in that period, the total estimated revenue losses will be considerably larger than the SEK 5.2 billion figure. Thus, the estimate in Huawei's written notification of dispute only served to highlight the magnitude of Huawei's losses over a short period of time following the PTS Decision and is without prejudice to a final quantification of damages, which will be undertaken in due course.
105. The actions taken by Sweden against Huawei are also likely to have ripple effects in other business areas and will not only be felt in Sweden but also in other EU member States. Huawei reserves all its rights in this regard.
106. As a result of the principle of full reparation, Huawei also reserves all its rights to seek damages for Huawei's loss of reputation arising out of Sweden's treaty breaches. The PTS Decision to exclude Huawei from the 5G network in Sweden on the ground of unfounded security allegations and other non-technical criteria has, and will continue to have, an extremely detrimental impact on Huawei's reputation in Sweden and globally.

VI. CONSTITUTION OF THE ARBITRAL TRIBUNAL

107. Huawei proposes that the Arbitral Tribunal consist of three arbitrators, with one arbitrator appointed by each party to the dispute within 30 days of the registration of this Request for Arbitration. If either party fails to appoint its arbitrator within 30 days, such arbitrator shall, at the request of a party, be appointed by the Secretary-General of ICSID. The third arbitrator, who will be the President of the Tribunal, shall be appointed by agreement of the Parties within 30 days of the appointment of the second arbitrator. If the Parties fail to agree on the appointment of the third arbitrator, the third arbitrator shall be appointed by the Secretary-General of ICSID at the request of either party.

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VII. REQUEST FOR RELIEF

108. As a result of the foregoing, Huawei respectfully requests the Arbitral Tribunal to issue an award:
- (i) declaring that Sweden has violated its obligations under the Sweden-China BIT;
 - (ii) ordering Sweden to compensate Huawei for all damages and losses suffered as a result of Sweden's breaches of the Sweden-China BIT, to be quantified by Huawei in due course;
 - (iii) ordering Sweden to pay all arbitration costs, including Huawei's legal costs and expenses;
 - (iv) ordering Sweden to pay interest on all of the above amounts, as of the time when Sweden's breaches of the Sweden-China BIT occurred; and
 - (v) grant Huawei any other remedy as the Tribunal may find appropriate.
109. For the avoidance of doubt, Huawei reserves its right to:
- (i) raise any and all further claims arising out of or in connection with the disputed matters described in this Request for Arbitration or otherwise arising between the Parties;
 - (ii) amend and/or supplement the relief sought herein;
 - (iii) seek interim and provisional measures before this Arbitral Tribunal pursuant to the ICSID Arbitration Rules.

Respectfully submitted on behalf of Huawei

7 January 2022



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