



ARBITRATION

CAPE VERDE HAS COMPLETED THE ACCESSION PROCESS TO THE NEW YORK CONVENTION

The United Nations Secretary-General confirmed that Republic of Cape Verde has deposited its instrument of accession to the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

Last week, the United Nations Secretary-General confirmed that Republic of Cape Verde has deposited its instrument of accession to the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (hereinafter, "NYC"), thereby concluding the process of accession to that convention. As a consequence, the NYC came into force in Cape Verde on 20 June 2018, that is, 90 days from the date on which the instrument of accession was deposited, in accordance with article XII (2) of the NYC.

By entering into the NYC, the Republic of Cape Verde has taken a significant step towards enhancing the confidence of investors through the creation of a more reliable and predictable legal framework of investment protection at least in regard to the recognition and enforcement of foreign arbitral awards.

Having been concluded under the auspices of the United Nations, the NYC is deemed to be the main international instrument for the recognition of foreign arbitral awards. In fact, due to its wide acceptance by the international community, it has undoubtedly played a very important role in the harmonisation and simplification of the recognition and enforcement proceedings of foreign arbitral awards throughout the world.

The domestic law of Cape Verde already provided for the automatic recognition of foreign arbitral awards, provided that the requirements set out by articles 44 and 45 of the its Arbitration Law (Law no. 76/VI/2008 of 16 August) were met. Thus, the accession to the NYC only reinforces a procedure that was already in place. Nonetheless, it strengthens Cape Verde's international visibility as a foreign investment hub.

Under article 2 of Resolution no. 26/IX/2017, through which the accession of Cape Verde to the NYC was approved, Cape Verde will only apply the Convention to the recognition and enforcement of foreign arbitral awards made in the territory of another Contracting State.

There is no doubt that by entering into the NYC – which now brings together 158 Contracting States, such as Portugal, Brazil, Mozambique and Angola – Cape Verde has provided investors with a higher level of security as to the recognition of foreign arbitral awards.

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