



INTERNATIONAL ARBITRATION ALERT

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INTERNATIONAL ARBITRATION: SOUTH AFRICA ADOPTS INTERNATIONAL ARBITRATION BILL: A NEW DAWN FOR THE SETTLEMENT OF INTERNATIONAL COMMERCIAL DISPUTES IN AFRICA

On 24 October 2017, the South African National Assembly passed the International Arbitration Bill incorporating the United Nations Commission on International Trade Law Model Law on International Commercial Arbitration. The Bill must now be approved by the National Council of Provinces after which it will become an Act of Parliament and will be referred to the president for his assent.

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This long-awaited development in our law will enable South Africa to promote itself as a seat of choice for the resolution of international and particularly African commercial disputes.

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The Bill will align the South African International Arbitration Law with international best practice and should go a long way to establish South Africa as a seat of choice for international commercial arbitrations in Africa. Some of the highlights of the Bill, amongst others, include:

- the Act will be binding on all public bodies;
- the UNCITRAL Model Law, as adapted, will have the force of law in South Africa;
- public bodies, subject to the exclusion of investor-state arbitrations under the Protection of Investment Act, will continue to be able to engage in international commercial arbitrations;
- immunity will be granted to arbitrators and arbitral institutions acting in good faith;
- international arbitrations involving any South African public body must be held in public, unless the arbitrator based on compelling reasons directs otherwise;

- the Recognition and Enforcement of Foreign Arbitral Awards Act will be replaced by chapter 3 of the Bill giving full effect to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards;
- the permission of the Minister of Economic Affairs for the enforcement of foreign arbitral awards in terms of the Protection of Businesses Act relating to business activities in, amongst others, mining, production, importation, exportation, will no longer be required.

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