

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF FLORIDA  
Miami Division

**Case Number: 16-24275-CIV-MORENO**

INVERSIONES Y PROCESADORA  
TROPICAL INPROTSA, S.A., a Costa Rican  
Corporation,

Petitioner,

vs.

DEL MONTE INTERNATIONAL GMBH, a  
Swiss Corporation,

Respondent.

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**ORDER GRANTING MOTION TO DISMISS AND DENYING MOTION FOR REMAND**

THIS CAUSE came before the Court upon Motion to Dismiss and Cross-Petition to Confirm Final Arbitral Award (**D.E. 6**), filed on **October 11, 2016** and Plaintiff's Motion for Remand (**D.E. 13**) filed on **October 21, 2016**.


THE COURT has considered the motions, the responses, the pertinent portions of the record, and being otherwise fully advised in the premises, it is

**ADJUDGED** that the motion to dismiss the Petition to Vacate Final Arbitral Award is **GRANTED** and the Petition to Vacate Final Arbitral Award is **DISMISSED**. In the Eleventh Circuit, the only grounds to vacate a non-domestic arbitration award are set forth in Article V of the New York Convention. *See Indus. Risk Insurers v. M.A.N. Gutehoffnungshutte GmbH*, 141 F.3d 1434, 1446 (11th Cir. 1998). Petitioner does not rely upon any of the New York Convention defenses in seeking to set aside the final arbitral award. Rather, Petitioner seeks to vacate the award based on Florida law governing domestic arbitrations, which is not the case here. Both sides here are foreign corporations and the dispute involves property located abroad

and performance or enforcement abroad. Having failed to raise any New York Convention defenses, the Court grants the motion to dismiss the petition to vacate the arbitral award. *See also Costa v. Celebrity Cruises, Inc.*, 768 F. Supp. 2d 1237 (S.D. Fla. 2011) (dismissing petition to vacate arbitral award). It is

**ADJUDGED** that all other pending motions are DENIED as moot.

DONE AND ORDERED in Chambers at Miami, Florida, this 5 of December 2016.

  
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FEDERICO A. MORENO  
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of record