

**IN THE MATTER OF THE COMMERCIAL ARBITRATION ACT 2010 (NSW) AND
IN THE MATTER OF AN ARBITRATION
UNDER THE RULES OF GRAIN TRADE
AUSTRALIA LTD**

GTA Arbitration Nos. 310 and 311

Grain Buyer (Trader)

(Claimant)

and

Grain Seller (Trader)

(Respondent)

Interim Award

A. Introduction

1. This is an Interim Award in 2 arbitrations conducted pursuant to the Dispute Resolution Rules of Grain Trade Australia Ltd (“GTA”).
2. The disputes relate to 2 contracts as follows.
 - (a) Seed Sales Contract dated 21 November 2018 for the sale by the Respondent to the Claimant of 1500 metric tonnes of undelinted cotton seed at \$390 per metric tonne, for delivery FOT [REDACTED] Gin April-December 2019; and
 - (b) Seed Sales Contract dated 30 October 2018 for the sale by the Respondents to the Claimant of 4000 metric tonnes of undelinted cotton seed at \$383 per metric tonne, for delivery FOT [REDACTED] Gin, start of ginning 2019.
3. I note that each contract appears to be evidenced by contract forms issued by the Claimant and Respondent.
4. As a preliminary issue the parties have requested that the 2 arbitrations be consolidated.
5. There is no dispute about the incorporation of a valid GTA arbitration agreement into the contract forms.
6. I find therefore that we are a validly constituted Tribunal under the *Commercial Arbitration Act 2010* (NSW) and with jurisdiction to determine all issues in dispute between the parties.
7. As Chair of the Tribunal I am authorized under the GTA Dispute Resolution Rules to make this interim award on behalf of the Tribunal which comprises:
 - (a) Mr Mark O’Brien, nominated by the Claimant;
 - (b) Mr Ole Houe, nominated by the Respondent, and

(c) Myself, nominated by GTA to Chair this Tribunal.

B. Consolidation

8. The parties (by their legal counsel) appear to agree that the 2 references should be consolidated. Further the grounds for consolidation in section 27C(1) of the *Commercial Arbitration Act 2010* (NSW) appear to be satisfied. I have taken into account whether any party would or might suffer substantial hardship if a consolidation order was made and concluded that there is no evidence that such hardship might result. I will make the following orders under subsection 27C(3) as follows;

- (a) The proceedings be consolidated;
- (b) If the parties require a hearing, the proceedings be heard at the same time;

C. Interim Award

9. For the reasons above, our Interim Award on preliminary issues is;

- (a) The proceedings be consolidated;
- (b) If the parties require a hearing, the proceedings be heard at the same time; and
- (c) Costs of this application to be costs in the consolidated reference.

This award is published at Sydney, the day of September 2019.

Mr Andrew Wilsdon, Chair nominated by GTA