

**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. 295, 296 and 297

Seller (Producer)

(Claimant in Arbitration Nos 295 and 296)

and

Seller (Producer)

(Claimant in Arbitration No. 297)

and

Buyer (Trader)

(Respondent in Arbitration Nos. 295, 296 and 297)

Interim Award

A. Introduction

1. This is an Interim Award in 3 arbitrations conducted pursuant to the Dispute Resolution Rules of Grain Trade Australia Ltd (“GTA”).
2. As a preliminary issue we must decide whether the 3 arbitrations should be consolidated.
3. There is no dispute about the incorporation of a valid GTA arbitration agreement into the underlying broker’s notes (save that we note that the Respondent has indicated that it intends to contest the formation of the asserted contracts).
4. We 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, including for the avoidance of doubt whether the asserted contracts have been formed.
5. This Tribunal comprises:
 - (a) Mr Matthew Kelly, nominated by the First and Second Claimants;
 - (b) Mr Craig Perkins, nominated by the Respondent, and
 - (c) Mr John Orr, nominated by GTA to Chair this Tribunal.

B. Consolidation

6. The parties (by their legal counsel) appear to agree that the 3 references should be consolidated. Further the grounds for consolidation in section 27C(1) of the *Commercial Arbitration Act 2010 (NSW)* appear to be satisfied. We 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. We 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

- 7. 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 July 2019.

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Mr John Orr, Chair nominated by GTA

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Mr Matthew Kelly, nominated by the Claimants

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Mr Craig Perkins, nominated by the Respondent