

Unifying Competing Dispute Resolution Processes into a One-Stop Arbitration

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Abstract

Whether a court should stay or alternatively refuse to stay proceedings in the court to avoid or minimise a multiplicity of proceedings – arbitral and curial – that focus on essentially the same or a related cluster of disputes, arises from time to time in domestic and international commercial arbitration situations. The parties generally want their dispute to be consolidated in the one adjudication. As a party to an arbitration agreement, this one-stop adjudication will be achieved by way of arbitration. This paper examines the responses of the courts and legislatures to this and related issues in common law jurisdictions.

I. The issue

A question arises from time to time in the context of both international and domestic commercial arbitration, as to whether a court should stay or alternatively refuse to stay proceedings in the court in order to avoid or minimise a multiplicity of proceedings – arbitral and curial – focusing on essentially the same or a related cluster of disputes.

In one common class of case two parties in dispute are (or are alleged to be) party to an agreement to arbitrate their dispute. One of them in (alleged) breach of the arbitral agreement, commences litigation of this dispute. The other party – the respondent to these proceedings – seeks a permanent stay of proceedings in order to compel the other party to arbitrate their dispute as contemplated

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