Inefficiency, lack of speed and the attendant costs are the most common complaints amongst users of arbitration. In an effort to address this, major international arbitration institutions are revising their Arbitration Rules to include express “cut through” procedural provisions aiming to streamline their proceedings and ensure their offering remains competitive.

2017 sees the wider adoption of summary procedures and summary judgments. Unlike the new expedited procedure rules which usually require the agreement of the parties and the amount in dispute to not exceed a certain limit, summary procedures and judgments can be adopted upon application by either party, based merely on the merits of the claims or defences.

**Summary procedures**

On 01 January 2017, the new Arbitration Rules of the Stockholm Chamber of Commerce (SCC) came into force and introduced a summary procedure for the determination of factual or legal issues without necessarily undertaking every procedural step that would ordinarily be followed.

Article 39 of the SCC new Arbitration Rules provides that a party may apply to the tribunal for the adoption of a summary procedure in relation to issues of jurisdiction, admissibility or the merits. Such an application may be based on an assertion that:

- a factual or legal allegation which is material to the outcome of the case is manifestly unsustainable
- no award could be rendered in favour of a party under the applicable law irrespectively of the validity of its allegations, or
- any legal or factual issue which is material for the outcome of the case is suitable for determination by way of summary procedure.

The tribunal, after providing the other party an opportunity to submit comments on the request, shall issue an order either dismissing the request or fixing the summary procedure in the form it deems appropriate, with a view to ensure a more efficient and expeditious resolution of the dispute.
Summary judgments

SCC’s new summary procedure is coming into force only a few months after the introduction of an early dismissal mechanism by the Singapore International Arbitration Centre (SIAC). On 01 August 2016, the SIAC revised its Arbitration Rules and became the first major international arbitration centre to allow a tribunal to dismiss claims and defences at early stages of arbitration by issuing summary orders or awards.

Rule 29 of the new SIAC Arbitration Rules provides that a party may apply to the tribunal for the early dismissal of a claim or defence that is

- manifestly without legal merit, or
- manifestly outside the jurisdiction of the tribunal.

If the tribunal decides to hear such an application, which is at its discretion, it shall, within 60 days of the date of filing of the application, make a reasoned order or award on the application, which may be in a summary form.

Ending abuses

Summary procedures and judgments are not new concepts. Most arbitral rules implicitly grant tribunals the power to conduct summary proceedings already. Additionally, the early dismissal provision is conceptually similar to court summary judgment procedures available in some jurisdictions. However, this is the first time that international arbitration rules include such express provisions to that effect.

2017 is likely to see the first results of these new procedures, as parties seek to easily and quickly resolve disputes by either cutting through the arbitration procedure or dismissing a claim or defence altogether. It remains to be seen how willing tribunals will be to dismiss anything but the most obviously unfounded cases or to fix summary procedures, given the risk of due process challenges. Nonetheless, if early dismissals and summary procedures are applied robustly and proportionately, those innovative procedures could offer relief to parties and tribunals from abusive claims and long unnecessary proceedings.

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