



64th Plenary Meeting of the INTERNATIONAL COTTON ADVISORY COMMITTEE

MINUTES FOURTH OPEN SESSION

1:45 PM, Tuesday September 27, 2005
Mr. Neal Gillen in the Chair

The CHAIR commented that international trade in cotton is a dynamic process involving hundreds of international merchants and cooperatives purchasing cotton from millions of farmers, classing and cataloging cotton, finding markets suitable for its use, and shipping to thousands of textile mills. He noted that this is a unique process where the members of the cotton network, utilizing transparent market information, serve one-another by producing a commodity, adding value to it, offsetting price, contract performance, and other risks, protecting the commodity's value, which stimulates additional production. He said such a system can function efficiently and affordably only with a universal set of rules, common contract provisions that reflect the customs and usage of the international trade, uniform letters of credit and bills of lading, and a fair, impartial, and affordable system to resolve disputes when they do arise. The CHAIR said that the separate systems long in use in the European markets with different rules for cotton trading in Italy, France, Spain, Germany, Belgium, and the U.K. proved to be inefficient and costly to the participants and eventually gave way to a common set of rules, the ICA Rules, which now govern approximately 65 percent of the world's cotton trade and benefit producers and sellers by providing them forward markets and prices, the ability to hedge their risks, and the right to arbitrate disputes. He reported that as the patterns of trade have changed in the last decade, the evolving markets in the Indian Subcontinent, Asia, and Southeast Asia are gradually acclimating themselves to the ICA Rules and their use is expanding, because these universal rules are the best guarantee to a textile mill of a timely delivery at the contract price, allow effective use of appropriate risk management tools, and allow access to the sanctions that the ICA rules provide. The CHAIR affirmed that it is the responsibility of the cotton industry to intensify its outreach and educational efforts in emerging markets by stressing these benefits in order to encourage, promote, and maintain a sound cotton economy through equitable universal rules and an impartial arbitration system that serves the common interests of buyers and sellers of raw cotton.

The CHAIR introduced Mr. Jan Wellmann, Executive Director of the Bremen Cotton Exchange (BBB) to report on efforts to standardize international cotton trading rules. Mr. Wellman reported that there are currently seven cotton associations in Europe with individual trading regulations based on national laws. All associations have been facing declines in their textile industries for more than 30 years, and in Germany alone the number of textile companies fell from 2369 in 1970 to under 900 in 2004. He informed that the European cotton associations tried to agree on a harmonized European contract, and following many years of negotiations the cotton associations of Belgium, France, Spain and Poland formed a European Cotton Confederation and agreed on a draft set of the "European Cotton Rules", but the Bremen Cotton Exchange, the ICA and the Associazione Tessile Italiana rejected the proposal for different reasons. Mr. Wellmann said that the Bremen Cotton Exchange decided not to pursue

the adoption of the “European Cotton Rules” but rather develop a standardized contract, and the members of the Bremen Cotton Exchange will soon be presented with a proposal to adopt the ICA rules with provisional retention of the arbitration and arbitral jurisdiction under German Law, and adopt the ICA definitions. He noted that the acceptance of this proposal would guarantee that standardised trading conditions and definitions would exist for both organisations, while at the same time the proceedings’ (quality and technical arbitration) section would (for the time being) be maintained and the members would still have the option of arbitral jurisdiction. Mr. Wellmann concluded that the rapid decline in the textile industry in Europe and a steadily increasing default list mean that there is now no time for a development of different sets of rules (European Cotton Rules/International Rules), but rather a fair and proven set of regulations is essential. Therefore, international cotton trade will be eased by a worldwide standardised contract, while additional, contract compatible rules must be developed for instrument classing.

The CHAIR introduced Mr. Hilton Lobb of the Australian Cotton Shippers Association (ACSA) to report on the benefits of standardized trading rules. Mr. Lobb reported that Australian Best Management Practice (BMP) introduced by cotton farmers is now extending beyond the farm gate. He noted that since the inception of the modern industry in mid-1960s, Australia had adopted the international trading rules (LCA/ICA) that cover all segments of trade except exports to Japan, rather than developing their own rules. He said that sanctity of contracts is vital, provides buyers and sellers in Australia the ability to lock in long-term commitments with confidence and security and without prohibitive price penalties. Mr. Lobb reported that Australian ACSA ensures that members trading with companies who have failed to abide by awards issued by CICC member arbitral bodies are subject to disciplinary actions. He said that because Australian shippers suffered from defaults affecting contracts of an estimated \$35 million in trade with China during 2004, ACSA worked with the ICA and the government of Australia to promote wider use of the ICA trading rules in China (Mainland), achieving positive results. Mr. Lobb concluded that industry standardization is one of the most important factors leading to growth in cotton trade and should focus not just on testing and bale packaging, but also on standardization of trading rules, dispute resolution and effective enforcement of arbitral awards.

The CHAR introduced Mr. Orhan Ogucu of Mamara Pamukly Mescucat, Turkey to make a presentation on the advantages of internationally standardized trading rules. Mr. Ogucu said that with increased volumes of international trade in cotton and textiles and reduced government restrictions on imports, there is greater need for common trading rules to protect all parties involved in trade. He noted that there is great variation in legal requirements from country to country and it not possible for anyone to know laws of other countries in detail. To highlight the need for common trading rules he pointed, as an example, to a football game played in all countries under the same set of rules. Mr. Ogucu observed that product quality, quality of service and price are the most important criteria for modern trade, and common trading rules should safeguard the interests of all parties involved in trade, including banks. He noted that expediency in solving trade disputes as well as an international acceptance of verdicts are extremely important for reducing the cost of trade. Mr. Ogucu stated that the ICA rules are comprehensive, widely acceptable, unbiased and easily accessible. He noted that the

reason for low usage of the Izmir Cotton Exchange Rules is the absence of information about these rules in international trade. Mr. Ogucu suggested continuation of efforts by the ICA to inform and educate trade participants about the ICA rules, and advantages of using them universally to become more competitive.

The CHAIR asked Mr. Wellman to confirm that the Bremen Cotton Association (BBB) will integrate fully the rules of the ICA.

Mr. Wellman confirmed that the ICA trading rules and definitions will be fully integrated into the rules of the BBB, except for arbitration proceedings, which will remain for the time being subject to the BBB rules.

The CHAIR asked Mr. Lobb to describe the disciplinary actions that could be taken against parties that do not abide by the ACSA and ICA rules.

Mr. Lobb answered that so far there were no serious instances of violations of the rules. However, if it occurs violators could be fined or suspended from membership.

The CHAIR asked Mr. Ogucu to comment on the effectiveness of the educational programs run by the ICA in Turkey with the purpose to create awareness of usefulness of the ICA rules to the mills.

Mr. Ogucu commented that the educational programs on the international trading rules have been very effective and it is very important to continue them in the future.

The CHAIR asked Mr. Ogucu to comment on the fact that under current ICA procedures arbitration awards are not published.

Mr. Ogucu said that it could be useful if the awards were published.

Mr. Mahboob Aktab of Pakistan asked if the standardized contract rules precede the contract terms.

Mr. Andrew Macdonald explained that parties are free to agree on specific terms in the contract they sign, but if there were no specific stipulations agreed in the contract the rules come into effect.

The delegate of Brazil thanked the speakers for their presentations and commented that there seems to be a wide agreement on the use of ICA rules for standardization of international trading rules. He reported that 100% of Brazilian cotton exports and imports are carried out subject to the ICA rules. He praised Mr. Ogucu for presenting an illustrative example about football.

The representative of CICCAs asked Mr. Wellman to comment on the possibility to harmonize the ICA rules with the European cotton rules agreed upon by the associations cooperating under the framework of the European Cotton Confederation.

Mr. Wellman answered that these two sets of rules represent two different approaches to the standardization of international trading rules. However, the BBB decided not to pursue the development of the European trading rules in view of the declining textile industry in Europe.

A gentleman from Pakistan asked if it is possible under the ICA rules to use arbitrators in other countries in order to reduce the cost of arbitration.

Mr. Grobien, the first international president of the ICA, commented that this concept is being promoted by the ICA. Arbitrators from many countries are appointed by the ICA and arbitrations take place in many countries under one condition, that arbitration is conducted subject to English law, as a standard. He commented on the proposal by Mr. Ogucu to increase efforts on education about the ICA rules around the world, saying that the ICA will conduct interactive workshops in various countries on the ICA rules. He urged countries to come forward and to propose such workshops, which will be readily answered by the ICA.

The CHAIR asked Mr. Grobien to comment on the ICA arbitration affordability question raised by the gentleman from Pakistan.

Mr. Grobien commented that the issue of the arbitration cost is being addressed by the ICA and there are different rates depending on the difficulty of the case. He noted that the cost of the ICA arbitration is reasonable taking into account its quality. However the ICA will continue efforts to address the arbitration affordability questions.

A gentleman from Pakistan asked if parties enter into a contract under the ICA rules, does the arbitration clause apply to them?

The CHAIR answered yes.

The delegate of Pakistan asked what are the required qualifications of the ICA arbitrators and how is the integrity of the arbitrators assured?

The CHAIR answered that normally to become an arbitrator it is required to have a minimum experience in the industry of about 15 years, certain educational qualifications, high reputation and integrity in the community, an absence of conflicts of interest with parties involved in the arbitration, and the arbitrator must be an expert on the association rules.

The CHAIR adjourned the session at 3:00 PM