

## ACSA SPECIAL RULES

**RULE 1** The shipment of foreign cotton against any contract specifying U.S. growth is hereby declared to be a fraudulent practice and a violation of the rules of the Federated Associations.

**RULE 2** The shipment of reginned, blended or recleaned cotton which reginning, blending or recleaning shall have taken place after its original baling, unless specified and described as such in the contract, is hereby declared to be a fraudulent practice and a violation of the rules of this Association.

**RULE 3** The shipment of raingrown cotton against a contract for irrigated cotton or of irrigated cotton against a contract for raingrown, except by mutual consent, is hereby declared to be an unfair trade practice and a violation of the rules of the Federated Members. Cotton should be described by specific territories of growth, but, as used herein and where the terms "raingrown" or "irrigated" are used without more detail growth specifications, the first shall be interpreted to mean all cotton of U.S. growth other than that grown in California, Arizona, New Mexico (excepting cotton grown in Lea County, New Mexico), and the Pecos and El Paso Valleys of Texas, which shall be regarded as irrigated. Where cotton is sold on type, actuals, or description, when no growth is specified in the contract, it shall be understood that USA growth is required. Where USA growth is specified in the contract, any cotton grown in the United States of America, except reginned cotton, may be shipped.

Nothing herein shall be interpreted to preclude more detailed stipulations between the buyer and seller as to territories of growth. Any deviation from such stipulation, except by mutual consent, is an unfair trade practice and a violation of the rules of the Federated Associations.

**RULE 4** Where cotton is sold on Government Class or Green Card Class, the adulteration or misrepresentation of the official USDA class in the form of green cards, computer printouts or tag lists is hereby declared to be a fraudulent practice and a violation of the Special Rules of this Association.

Cotton shipped in accordance with any sale specifying USDA/HVI Classification shall include all of the quality data specified in the USDA/HVI classification, including extraneous matter, and shall be binding on the seller unless agreed otherwise by the parties to the contract

**RULE 5** The removal of any bale tag indicating origin or growth, the failure to replace any such tag on recovered bales and the failure to report to the Secretary a request to remove tags or otherwise to obscure origin or growth shall constitute unfair trade practices and violate the rules of the Federated Association. This shall not apply to metal band tags removed in the compressing process nor to mill tags.

**RULE 6** A buyer may request of the seller, within 90 days of the last day of unloading, evidence that cotton shipped him in satisfaction of their contract is not in violation of Rules 1, 2, 3, 4, and/or 5 of the Special Rules. This request should be sent to the seller by mail and a copy may be forwarded to the Administrative Office of this Association in Memphis. If the buyer is not satisfied with the evidence submitted or if the seller does not respond within 30 days, the buyer may then lodge a formal complaint with the Fair Practices Committee of the Association by forwarding, in writing, to the Administrative Office of the ACSA, factual information pertinent to a review of the complaint together with reasonable and prima facie evidence in support of the buyer's claim that a violation has occurred, with copy to the seller.

The Fair Practices Committee, after determining that the complaint is properly before the Committee, shall then request in writing of the seller evidence that the cotton was not shipped in violation of Rules 1, 2, 3, 4 and/or 5. If the seller fails to respond in writing to this request within 30 days or within the time specified in an extension of time, such extension to be approved by majority of the Committee voting, then the Committee will proceed to judge the complaint on the evidence at hand and that which it may choose to secure from other sources.

If the Committee finds for the buyer, he shall be awarded a penalty of four cents (4 cents) per pound for any violation determined by the Committee to be intentional, in addition to any other rights he may have or damages he may recover under arbitration and appeal procedures otherwise provided for in the applicable rules and contract terms. In any case in which the Committee determines that the violation was not willful and intentional, it may reduce the penalty.

The Secretary of the ACSA shall promptly notify the buyer and the seller of the Committee's decision and awards, if any.

**RULE 7** If the Fair Practices Committee finds a member of the Federated Associations guilty of a violation of any of the Special Rules, and the member does not comply within 30 days with the finding and penalty invoked by the Fair Practices Committee, then the Committee shall report the same to the Federated Association or Federated Association(s) whose member is involved, together with a copy of the Committee's complete file on the complaint for handling in

accordance with its By-Laws and Rules. If the Federated Association suspends or expels its member as a result of the violation and/or failure to comply with the findings of the Fair Practices Committee, the American Cotton Shippers Association shall announce this suspension or expulsion to the party or parties filing the complaint as well as to all recognized domestic and foreign cotton associations.

**RULE 8** A member shall be fully responsible for any violation of these Special Rules by any subsidiary, affiliated, financed or controlled shipper; or by any broker, agency or intermediary of any kind acting for or at the request of such member or financed by such member.

**RULE 9** The seller shall, upon request of the buyer, furnish to the buyer adequate proof that the cotton shipped was of the contract origin or growth specified or was not reginned or foreign cotton, or where applicable, the government class represented was genuine. The seller may present his evidence to the proper Federated Association or recognized Cotton Exchange, at his option, and the certificate of such Association or Exchange that it has examined such proof and regards it as sufficient shall constitute such adequate proof.

**RULE 10** Refusal or failure of a seller to pay any final arbitration award rendered by the arbitral body having jurisdiction within 90 days from the date of the award shall constitute a violation of the Rules of this Association.

Complaint by the buyer of a refusal or failure to pay must be made to the Administrative Office of this Association in Memphis in writing with supporting documents attached within five (5) months of the date of the arbitration award. Complaints received after the expiration of this time limit will not be recognized by this Association.

Upon request, the seller shall furnish the Fair Practices Committee in writing evidence that his refusal or failure to pay is not willful. If the seller fails to respond in writing to this request within 30 days or within the time specified in an extension of time, such extension to be approved by the majority of the Committee voting, then the Committee will proceed to judge the complaint on the evidence at hand and that which it may choose to secure from other sources.

If the Committee, upon examination of such evidence, or in the absence of evidence, submitted by the seller, finds that such refusal or failure to pay is willful, the buyer shall be awarded an additional penalty of 10% of the amount of the arbitration award plus interest on the original award at the average prime rate of the five major New York Banks.

The following official interpretation of Rule 10 was adopted by the Board of

Directors on January 26, 1967:

"The American Cotton Shippers Association and its Federated Associations are firmly committed to the policy of arbitration of commercial disputes, particularly those involving the quality of cotton shipped upon contracts. The Federated Associations have regarded the willful failure or refusal of an individual member concerned to pay a final arbitration award as grounds for suspension or expulsion from membership. Our Special Rule 10 was adopted in 1963 in order to make costly any delay or failure to pay promptly and to compensate the buyer for unwarranted delay.

"To qualify for such enforcement the award must be a final award rendered by a recognized arbitral body having jurisdiction and rendered in strict accordance with the rules and the essential terms of an agreement to arbitrate in effect at the time the agreement is made. The Association will not recognize the authority of any arbitral body to change the applicable rules post facto or after the contract has been entered into, without the express assent of all parties thereto.

"The Association will not countenance refusal to recognize an arbitration award on purely technical grounds, but where there is a bona fide dispute as to compliance with the specified rules regarding application for arbitration, selection of arbitrators, the drawing and care of samples, or as to the observance of jurisdictional time limits for such actions and for the arbitration itself, the validity of the arbitration award must properly be left to the courts."

**RULE 11** It shall be a violation of the Rules of the Federated Associations for any member to sign or cause to be signed, a Letter of Indemnity to ocean carriers in exchange for a clean bill of lading.

**RULE 12** The Special Rules will apply to any growth of cotton handled by ACSA members as specified in their sales contract.

The Special Rules will not apply with respect to year of growth.

**RULE 13** Where a certificate of micronaire and/or pressley designates an independent laboratory as the source of testing, any misrepresentation shall be deemed to be a violation of these Special Rules and the Rules of the Federated Associations.

**RULE 14** The shipment of gin motes, cleaned gin motes or recleaned gins motes, unless otherwise described as such in the contract, is hereby declared to be a fraudulent practice and a violation of the rules of this Association. The Fair Practices Committee shall award a penalty of 15 of the stated contract value which shall be payable to the buyer, notwithstanding other damages awarded through arbitration procedures and/or litigation.

**RULE 15** Deliberate submission of false samples for approval shall be a fraudulent practice and a violation of the Special Rules of this Association.

**RULE 16** The Fair Practices Committee shall consider a formal complaint alleging a violation of ACSA Special Rules, render an opinion on whether such rules have been violated and forward such opinion and recommendations to the appropriate Federated Association as provided in Rule 7, even if a settlement is reached by the parties or the complaint is withdrawn while the matter is properly before the Committee.

**RULE 17** Should a complaint be submitted against a Member, and in the Committee's review it is determined that the Special Rules may have been violated, the Member subject to the complaint is required to provide the Committee with any information requested that is related to the transaction and its application to a possible violation of these Rules, and should the Member fail to comply with the Committee's request the Committee is authorized to recommend to the Members's Federated Association that the Member be expelled.

**RULE 18** 1.(a)(1) Membership in the American Cotton Shippers Association requires that Members honor their contractual obligations to purchase or sell cotton. Should the Committee's review of a complaint submitted, by an ACSA or non-ACSA Member, against an ACSA Member find that the contract default is willful, the Committee shall recommend to the Member's Federated Association that the Member be expelled. This Rule shall not apply should the matter proceed to arbitration or litigation or be resolved amicably by the parties.

(2) Inability to perform because of financial difficulty - Any failure to comply with the terms of a contract requiring the delivery or acceptance of a specified quality and a quantity of cotton sold or purchased due to the inability to perform because of financial difficulty is deemed to be a willful default for the purpose of Rule 18.

(b) Membership in the American Cotton Shippers Association requires that Members not knowingly or willfully interfere with the resolution of existing contractual disputes by making direct or indirect sales to parties listed in default, including their subsidiaries or affiliates, by any member organization of the Committee for International Cooperation between Cotton Associations (CICCA) for failing to honor a contract, arbitration award, or court ruling

Should the Committee's review of a complaint, submitted by an ACSA or non-ACSA Member, against an ACSA Member find that the sale to the party listed in default was knowingly or willfully entered into the Committee shall recommend to the member's Federated Association that the Member be fined up to \$25,000, be suspended from membership, or expelled.

Expulsion shall not be recommended in the event that the Member found to have knowingly or willfully entered into such a contractual relationship with the defaulting party facilitates the settlement of the outstanding claim between the complaining party and the party listed in default.

(3) The following legal procedures shall be employed by the Rules, By-Laws & Fair Practices Committee in determinations in all matters involving the application of these Rules:

1. Timely notice of the alleged rule violation through the receipt of a written complaint fully detailing the charges.
2. Sufficient notice of all procedural steps including a reasonable time to answer the complaint and filing of appropriate written motions preliminary to a formal hearing.
3. The right of access to all evidence to be considered by the Committee.
4. If requested, a hearing be set for date convenient to the member and his counsel.
5. The right to cross-examine all witnesses.
6. The right and opportunity to present a defense to or refute the allegations.
7. The hearing shall be before an unbiased tribunal.
8. A written or recorded transcript of the hearing shall be made.

**RULE 19** Members storing cotton in warehouses that are members of the Cotton Warehouse Association of America or other warehouse associations with similar membership requirements or warehouses that include in their tariff an agreement or requirement to arbitrate all disputes are deemed to have consented to arbitrate such disputes pursuant to the Rules established by the Cotton Warehouse Association of America and the American Cotton Shippers Association and agree to be bound by the decision rendered.

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