



## **SECTION III RULES GOVERNING ARBITRATIONS**

### **RULE 1**

#### **ARBITRATIONS:**

Should disagreement arise in matters of grade, quality, weights or fulfillment of contracts, and no satisfactory settlement be arrived at, then the matter in dispute shall be referred to the Arbitration Committee of this Association for adjustment. The following time limits for referring disagreements between contracting parties to the Arbitration Committee for adjustment, and submission of statements by the respective parties shall govern:

1. Within 5 days, excluding Sundays and Holidays, after establishing that an amicable settlement of the disagreement cannot be reached, the party seeking arbitration of the disagreement by the Arbitration Committee shall notify the Secretary of the Association of his desire for an arbitration.
2. Within 10 days, excluding Sundays and Holidays following the initial notification the party seeking the arbitration shall submit a statement of his side of the case to the Secretary. As soon as possible following receipt, the Secretary shall submit the statement of the party seeking arbitration to the other party for his information.
3. Upon notification by the Secretary of the Association to the other party concerned, the other party in the dispute shall submit his side of the case within ten days, Sundays and Holidays excluded, from the date of such notification. As soon as possible following receipt, the Secretary shall submit to the party seeking arbitration the statement received from the party against which arbitration is requested, for his information.
4. Whenever the parties have elected to have the arbitration proceed on briefs and/or written affidavits, either party shall have the opportunity to review the arguments presented by the other side. Within 10 days following receipt of the respective statements by the parties either party may, in its discretion, submit rebuttals and/or clarifications. The Secretary shall attach such additional statements to the respective original statements received and they shall become part of the evidence in the arbitration. The Secretary shall not disclose to either party the contents of the additional statements received.

COMMENT (not part of this rule): The foregoing procedure is established to give the parties a chance to fully discover and understand the other sides position. Only one statement of rebuttal is



permitted since further statements could imperil the parties right to a speedy settlement by the Arbitration Committee.

5. All notifications shall be in writing and may be made via the U.S. mail, overnight express mail or telefax.

6. Time limits for hearings and notifications of parties thereof are further described in Rule 9 of this Section of these Rules.

Also should disagreement arise between two members of this Association or a member of this Association and a non-member who is a member of an Association affiliated with the American Cotton Shippers Association, and the matter be referred to Arbitration Committee by either party, it shall be obligatory that the other party concerned consent to the arbitration, and should such party fail to submit statement of his side of the case, then the Committee shall proceed with the arbitration exparte. No claim predicated upon matters of quality shall be valid or available to the seller (whether a member or non-member of this Association) where the contract is made subject to the rules of the Association and the cotton has been outturned to such seller unless such seller notifies the buyer of his dissatisfaction with such outturn by telegraph or other written notice within seventy-two (72) hours, not including Sundays or Holidays, after the receipt of the outturn. Pending settlement, it shall be the privilege of the buyer to:

[paragraph amended – March 31, 1995]

**COTTON SHIPPED ON BUYER'S CLASS AND WEIGHTS:**

a) Ship any cotton in dispute, and he shall pay the seller for same in the usual manner upon the basis of the grades and weights, and at the value claimed by the buyer under the terms of the contract, and shall, at the same time, unless otherwise agreed at the time, hand to the seller a certified or valid check made payable to this Association for the amount of the difference in dispute, and \$1.00 per bale for costs.

**COTTON SHIPPED ON SELLER'S CLASS:**

b) Or ship the said cotton and pay the amount claimed by the seller under the terms of the contract, receiving in exchange from the seller a certified check, made payable to this Association, for the amount of the difference in dispute, and \$1.00 per bale for costs.

**RESAMPLING IN TRANSIT:**

c) Or the Association may have the cotton resampled in transit, the payment for costs of resampling to be determined in accordance with Rule 4 and Rule 6 of this Section as applicable.



## **RULE 2**

### **NON-PREJUDICE:**

Shipment and/or settlement under this rule shall be without prejudice to either of the contending parties, and awards shall be paid to the rightful disputant out of the aforesaid check, and any balance remaining shall be refunded to the depositor.

## **RULE 3**

### **FEES:**

The fees for arbitration shall be:

a) For classification or stapling, \$1.50 per bale; for classification and stapling, \$2.00 per bale.

b) For weights and handling, \$1.25 per bale.

c) For all other kinds of arbitration, the fee shall be \$1,000 for disputes between members of the Western Cotton Shippers Association (WCSA) and/or their producer customers and with non-WCSA members who are members of another Federated Association of the American Cotton Shippers Association (ACSA). For disputes between WCSA members and non-WCSA members, who are not members of another Federated Association of the ACSA, the fee shall be \$2,500. For disputes involving non-WCSA members, who are not members of another Federated Association of ACSA, and producers, the fee shall be \$3,000. [Revised 8/31/04]

## **RULE 4**

### **PAYMENT OF FEES:**

In quality arbitrations and/or appeals, the buyer shall pay the fees on all bales passed by the Committee as being equal to the contract, and the seller shall pay the fees on bales not passed by the committee as being equal to the contract. The arbitration fees shall be divided on the basis of the arbitration decision. In all other quality arbitrations and/or appeals, the principals must decide in advance who shall pay the fees, failing in which the Committee shall decide which party shall pay the fees.



## **RULE 5**

### **NON-MEMBERS:**

In the event of controversies involving transactions between members of the Association and non-members, the non-members shall have the same rights and privileges of asking for arbitration as are available to members; provided, the non-member shall deposit with the Association a certified check, or bond, for the approximate sum of money involved in the controversy and agree to abide by the results of the arbitration, unless this requirement is waived by the member. It is expressly understood and agreed by all parties to contracts made subject to these rules, whether members of the Association or non-members, that any controversy which may arise in connection with such contracts shall be submitted to the Arbitration Committee of the Western Cotton Shippers Association for adjustment. Arbitrations between non-members shall not be accepted by this Association.

## **RULE 6**

### **SAMPLES:**

In the arbitration of disputes on grade, quality and/or staple, samples must be freshly drawn from both sides of the bale by the compress, yard or warehouse having custody of the cotton, and sent to such address as is designated by the Secretary of the Association, by such compress, yard or warehouse. The buyer shall pay the sampling costs on all bales passed by the Committee as being equal to the contract, and the seller shall pay the sampling costs on all bales not passed by the Committee as being equal to the contract.

In the event of an appeal, samples must be freshly drawn from both sides of the bale and all sampling costs are to be borne by the appellant.

After samples have been classed by the Arbitration Committee, either original or appeal samples, it shall be the Arbitration Committee's responsibility to determine how such samples should be handled, stored or disposed of absent any special instructions from the parties.

## **RULE 7**

### **WEIGHTS:**

In the arbitration of disputes on weights, the Association may appoint a disinterested weigher to reweigh the cotton, at the place of delivery (if without delaying shipment) or in transit.



## **RULE 8**

### **CANCELLATION OF SPOT CONTRACTS:**

In case of cancellation, by mutual agreement, of spot contracts, unless otherwise agreed between the parties concerned,, the weight to govern in making a settlement shall be 500 pounds net weight per bale.

## **RULE 9**

### **PROCEDURE:**

Where arbitration is had as provided for in the foregoing provisions of these rules, the procedure in reference thereto shall be as follows:

- a) The person desiring arbitration shall notify the Secretary of the Association in writing of his or its desire to arbitrate, shall give the name and address of the party against whom such arbitration is sought, and a brief statement of the nature of the controversy and the subject matter to be arbitrated.
- b) The Secretary of the Association shall thereupon advise the party against who such arbitration is sought that arbitration is desired, the name of the person seeking same, and a brief statement of the nature of the controversy and the subject matter to be arbitrated.
- c) Hearings in arbitration may be had upon briefs, written affidavits or oral testimony, at the election of the parties.
- d) The Secretary of the Association shall request of the parties to said arbitration whether they desire to present the matter in person and by oral evidence, and in the event that either party desires so to do, the Secretary shall advise both parties ten days in advance by letters mailed to their last known addresses of the time and place fixed for such hearing. Where neither party desires to present oral evidence or make personal appearance, then the Secretary need not give notice of the time and place of hearing, but shall, in lieu thereof, advise both parties by letters sent to their last known addresses, of the time within which all written evidence and briefs must be filed and the same shall be filed with the Secretary of the Association within said time, to be by him in turn submitted to the Committee of Arbitration.
- e) Where personal appearance and oral evidence is not desired or requested by either party to the controversy and the matter is submitted on written evidence and affidavits, the Secretary of the Association will refrain from advising the Committee of the names of the parties to such



controversy and will submit to the Committee in lieu of the original briefs, affidavits and evidence filed with him, identical copies of the same, substituting in lieu of the names of the interested parties anonymous appropriate designations of such parties.

f) In event that a personal appearance or oral evidence is desired by either party, then both parties shall be entitled to produce witnesses and appear before the Committee, either in person or by representatives, and both parties agree to abide by the rulings of the presiding member of said Committee on the pertinency of any evidence offered.

g) Where, after notice has been given of the time and place of hearing, or of the time within which evidence must be submitted, as the case may be, and either party to the arbitration fails to appear to file briefs and written evidence, the Committee nevertheless shall proceed to a determination of the arbitration.

h) On conclusion of the hearing, whether the same be submitted by personal appearance and oral testimony, or on written statements, or both, the Committee shall proceed to a determination of the arbitration and make such award as is in the decision of the majority of the Committee right, proper and just, and the decision and award of a majority of said Committee shall be final and conclusive on both parties to such arbitration, and the award and arbitration made.

i) When the Committee on Arbitration has made a decision and made an award, the Secretary of the Association shall immediately notify the parties by letters, addressed to each at their last known addresses, advising them of the determination and award so made.

j) Wherever reference in this Rule is to mailing or notifications in writing, it shall be understood that submission via overnight express mail or Telefax of any written statements, letters or notifications shall meet the requirements of due notice hereunder.

## **RULE 10**

### **ASSOCIATION RULES GOVERN:**

Where contracts are made subject to the rules of the Western Cotton Shippers Association, the parties to such contracts shall be fully bound by any award or decision in arbitration had in accordance with the rules of said Association, without regard to whether or not such parties are members or non-members of said Association.



## WESTERN COTTON SHIPPERS ASSOCIATION

It shall be obligatory upon all members and all non-members, where contracts with non-members are made subject to the rules of the Association, to arbitrate in accordance with the rules of the Association relating thereto, and any and all controversies had between members and between members and non-members where they arise out of such contracts in all matters relating to grade, quality, weight and fulfillment of contracts, and no suit shall be brought in any court where arbitration has been requested by either party to such controversy unless and until such arbitration has been had.

No award or decision of an Arbitration Committee made under the rules of the Western Cotton Shippers Association in reference to arbitration shall ever be questioned in any court save and except to ascertain whether or not such arbitration has been had in accordance with the By-Laws and Regulations of the said Association and the rules pertaining thereto, and where such arbitration has been so made, it shall be binding, conclusive and enforceable upon the parties thereto.

### **RULE 11**

#### **RIGHT TO APPEAL:**

Either party to any arbitration held under the rules of the Association shall have the right to appeal the decision of the Arbitration Committee; provided, he shall notify the Secretary of his intentions to do so within five (5) days after receipt of such decision. The decision of the Appeal Committee shall be final. The fees for each appeal shall be set by the Appeal Committee.