

## The Standardisation of Trading Rules

In 2006, the Bremen Baumwollbörse made the decision to adopt the ICA Rules. This was not a step taken lightly and was a decision arrived at only after much discussion within the BBB and consultation with the ICA.

The decision encompasses trading Rules, but Bremen continues to operate its own arbitration system subject to German law. There are also several 'opt outs' which take the form of appendices for specific provisions which Bremen wished to retain to reflect local conditions and requirements.

The quid pro quo was that Bremen was allocated one seat on the ICA Rules Committee (incidentally occupied by Jan Wellmann) which gives Bremen a voice in the ongoing development of the ICA Rules. This is not just 'window dressing' as Jan has taken full part in committee discussions and has had a noticeable influence on the direction of the debate and the conclusions reached. ICA has indicated that a similar offer of a place on the ICA Rules Committee would be granted to any other association opting to adopt the ICA Rules.

It is also a fact that the ICA Rules are not static but dynamic and are in a constant state of review and refinement, in response to changes and developments in the trading environment or to problems encountered.

Turning to the rest of Europe: - The European Cotton Confederation was formed in 1999 and this grew out of the European contract group, which had started meeting in 1973. In 2001, a draft set of European Cotton Rules was produced and these have been refined progressively since. The European Rules have been adopted subsequently by Belgium, Gdynia and latterly, AFCOT. To date, neither Spain nor Italy have made a final decision about the European Rules, whereas, as we have seen, Bremen had chosen to go down the route of adopting the ICA Rules.

The ICA has long championed the case of one set of international trading rules, which it sees as a commonsense approach to world trade, as opposed to the confusion which might be caused by a multiplicity of trading rules – especially in dealing with China, for example. The ICA naturally sees the ICA Rules as the ideal vehicle for this, especially as ICA Rules have established international recognition and are used in more than three quarters of the contracts for the sale and purchase of raw cotton worldwide.

It also makes the point that the world has moved on since the European Rules were originally conceived and that the European cotton industry has declined - and continues to decline - to a become a shadow of its former self. Thus, it could be argued that the case for a set of specifically European rules has been overtaken by events.

Preliminary discussions began with AFCOT in mid-2006 but did not really progress until September 2007 with extensive discussions in Paris, led by Didier Mercier for AFCOT and Fritz Grobien for ICA. The aim was to establish the common ground between the two jurisdictions and then to examine the differences to see how progress might be made towards harmonisation.

Agreement was reached at an early stage that one set of rules was a **desirable goal** and that this should be a message which should be conveyed to the cotton industry.

It was agreed that the negotiation process should commence and that areas which could **not** be agreed should be kept separately. The first step was to carry out a comparison of the Rules. A working party should be set up, initially of Jan Wellmann and John Beck from Bremen/ICA, plus two from AFCOT and the other European associations should be invited to participate. This was confirmed at a subsequent meeting of the European Confederation in Liverpool on 5 October.

Bremen had taken approximately 90% of the ICA Rules but this was not viewed as a threat to the existence or the autonomy of BBB. There had to be

a recognition of national identities and regional differences and accommodation of specific requirements, such as via the use of appendices.

The main differences identified initially were to do with *invoicing back* and *Force majeure* but it was recognised that there were others, for example time periods etc. It was agreed that the comparative study would need to be done quickly so that momentum was not lost.

The emphasis throughout is that this initiative is necessary and vital for the worldwide trade and that its importance should not be underestimated.