

**Progress Towards Industry Standardization
Of Trade Rules**

**Remarks
Of**

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Following a Plenary Session on “The Need for Standardized Trading Rules,” The 2005 Plenary Meeting of the ICAC resolved in September 2005 that:

“The Plenary encourages the universal adoption of common trade rules and contract terms that reflect the customs and usage of the international trade of cotton as common rules benefit both buyer and seller by promoting a sound cotton economy through efficiency in trade and the equitable resolution of contract disputes.”

What I remember most about that Plenary Session, which I had the honor of chairing, was the contribution of Orhan Ogucu of Marmara Pamuklu Mensucat here in Turkey. As a prominent and significant purchaser of cotton from many countries of origin, Mr. Ogucu strongly advocated for uniform contract terms, uniform trade rules, and uniform arbitration procedures. He made the appropriate and readily understandable analogy to the game of football. Mr. Ogucu noted that players and officials from numerous foreign countries speaking different languages were able to compete fairly and be judged impartially, because the size of the field and the rules were standardized or uniform. “That is how we should play the game in cotton he concluded.”

Following that meeting, where Jan Wellman announced that Bremen was revising its trade rules, the Bremen Cotton Exchange, modified its rules to comport with those of the ICA.

At the breakout session on contract compliance during the 2006 Plenary in Brazil, Mr. Nayan Mirani, a prominent industry leader from India, now the second largest cotton producer and a global giant in textile manufacturing, made the same football analogy in announcing that India agreed that its interest would best be served through uniform international contract terms and rules.

Also in 2006, in its negotiations with China, the world's largest producer and manufacturer, the ACSA/Amcot China Committee reached agreement that Chinese mills could arbitrate disputes pursuant to ICA Rules. In a recent meeting in Memphis, the China Cotton Association representatives reaffirmed that right.

We are making great strides in bringing the world closer together through this common objective to agree to one set of rules. That is because we are of one voice on the issue of sanctity of contracts.

As the ICAC's Permanent Representative to the United Nations Commission on International Trade Law (UNCITRAL), I have actively participated in the recent revision of the UN Model Arbitration Act to reflect the changes that have taken place throughout the world since the New York Convention adopted the Model Act in 1958. In this process, each member nation of the UN was represented by government officials, practicing lawyers, judges, arbitrators, the business community, and academics from the world's leading law schools. All of these representatives were able to work together cooperatively in reaching agreement on the necessary revisions in the UN Model Arbitration Law.

We have that model in the cotton industry – the ICA Rules. The ICA has now fully integrated representatives from throughout the world in its governance – its board is composed of international representatives. But long before the LCA transitioned into the ICA, its mill and merchant members were continually redrafting the rules to reflect the constant changes in trade patterns, finance, shipping innovations, quality criteria, bale packaging, insurance coverage, contracts, and other factors.

The formation of the ICA is full recognition that our business is more flexible, resilient, transparent, and self-correcting than it ever was and most importantly it is an acknowledgment by the world cotton industry that only one set of rules will do.

The recent development of the European Cotton Rules (ECR) is an acknowledgment by Poland, Belgium, and France that consolidation of rules is necessary. The officials in Gydnia, Ghent, and Le Harve understand that one set of rules is better than three. I view this as an interim or temporary step towards the adoption of the ICA Rules. Having participated in the U.S. debate in the 1970s when ACSA decided to abandon its own rules and uniform contract in favor of the LCA, now ICA, rules, I fully understand the desire to maintain national or regional identity. The next logical step for these countries is to follow the German model by revising their rules to comport with those of the ICA and by conducting their arbitrations in Gydnia, Ghent, and Le Harve by applying these revised rules as Bremen is now doing.

Summing up, the international trade in cotton is a dynamic year-round/twenty-four/seven process involving hundreds of international merchants and cooperatives purchasing and selling the production of millions of farmers, cataloging the cotton into its

quality categories, finding markets suitable for its use, and shipping it across the world to thousands of textile mills ready to spin a product for a specific consumer need.

This is a truly 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, shipping it for manufacturing, and then creating it into new products which stimulate additional production.

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 system cannot function with a hodgepodge of rules for each individual market.

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 within those markets. Why? Because these universal rules are the best guarantee to a textile mill that it will receive timely delivery of the cotton specified in the contract at the contract price, allow it to make effective use of appropriate risk management tools, and to have access to the sanctions that the ICA rules place on those who fail to comply by singling them out to the world as transgressors and denying them the right to utilize its impartial arbitration system. Conversely, such a system also benefits producers and sellers by providing them forward markets and prices, the ability to hedge their risks, and the right to arbitrate disputes.

It is the responsibility of the cotton industry to intensify its outreach and educational efforts in the 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 serve the common interests of buyers and sellers of raw cotton.