

PRESENT: N.F.U.S. - Messrs. J.W. Hay and J.A. McLaren
S.P.T.A. - Messrs. J.G.H. Fenton, J.R. McArthur, K.A. McKenzie and
R.G. Ramsay, with R. David Hunter and D. Blackmore in
attendance.
S.S.P.D.C. - Messrs. J. Bethel and I. McKenzie, with Miss Susan Hare in
attendance.
V.T.S.C.G.A. - Mr. I. McKenzie with H.A.C. Davie in attendance.
Mr. A.A. Sinclair (Export Development Officer, P.M.B.) attended by invitation.
Mr. John Bethel occupied the Chair and welcomed those present to the meeting
called expressly to discuss the proposed FROST BAN ARRANGE-
MENTS.

Referring first to D.A.F.S letter of 8th November which he had pre-
circulated to those present, Mr. Bethel explained D.A.F.S. present approach
was defined in the two inset lines in the second paragraph of its letter.
For the first of these (1982/83 loading Season), D.A.F.S. proposed "advisory
guidelines" and for the second (future seasons), D.A.F.S. is willing to
incorporate into revised Regulations such powers as it remains to be convinced
are necessary. He further explained D.A.F.S. view is that such safeguards
as are required ought to be incorporated into commercial contracts, rather
than in statutory powers which the industry was urged to consider could well
have inhibiting effects.

In discussion, Mr. Bethel confirmed D.A.F.S. continues to insist it has
no legislative powers to implement the proposed mandatory ban immediately.
Some present felt such powers are provided by a sympathetic interpretation
together of Sections 16, (4), (5) and 18 of the Seed Potato Regulations
1978. In reply to the Chair, Mr. Hunter professionally agreed Sections 16
(4) and (5) apply "during official examinations" and he understood D.A.F.S.
view that these Sections were not adequate for a movement ban during
prolonged severe frost. Nevertheless he shared the view of others present
that D.A.F.S. must already have sufficient powers somewhere, albeit not
within the Seed Potato Regulations 1978 and it is not the Industry's
responsibility to tell D.A.F.S. where its powers are to be found.

With support, Mr. K. McKenzie pointed out that D.A.F.S. has been aware
of the whole industry's totally united demand for a frost ban for almost a
year now. At this late date he felt D.A.F.S. letter of 8th November raised
some elementary points which have previously already been explained to
D.A.F.S. Mr. Hay later felt some parts of the letter, notably reference to
"rain" in the fourth question, were mischievous and Mr. McArthur objected
strongly to the implication in D.A.F.S. fifth question that the trade has
not already organised itself to minimise the risk of penalties.

Resuming discussion of "force majeure" the Chairman explained D.A.F.S.
understanding that this refers essentially to unforeseeable/unpredictable
events. In northern winter climates frost is a normal, expected occurrence and
thus outwith "force majeure" provisions, for which reason separate frost
safeguards should form part of commercial contracts. The meeting disagreed
entirely. It was explained that most commercial contracts already incorporate
frost safeguards but these lack a vital definition. To illustrate this
point Mr. Ramsay read the frost clause from a standard Shipping Charter
party/

party document which operates in "severe frost". The proposed frost ban would operate as a "Trigger" to invoke this frost clause. He also explained an Exporter's contract with an overseas Importer (usually a foreign government agency) was by tender, involving acceptance of buyers' terms which exclude adjustment. While these provide for frost conditions to the point of shipboard loading, for the exporter to invoke this safeguard without the agreement of the importer, results in cancellation penalties. The proposed frost ban on movement, being a "government order" (and nothing less will be acceptable to an overseas government agency importer) would "trigger" the "force majeure" clause itself instead, without penalty on either party.

During further discussion, 1981/82 damage was considered. Mr. Sinclair explained his knowledge of vessels cancelled or diverted from Montrosé because of severe frost conditions. Mr. Ramsay also explained the Algerians had changed their usual C.I.F. terms, the 1982/82 contract being on C. & F only terms. Under this change the Algerians classified frost as a "quality" fault. He also quoted from a Marine Surveyors Report which he had instructed to persuade the Master of a vessel to invoke the Charterparty frost provision. The Report recorded hoar frost on already loaded bags in the hold, under hatches, more than 24 hours after loading. Mr. Hunter felt the number of examples should be maximised, to which end Mr. Sinclair felt the prime source was the S.P.T.A. membership itself.

In reply to D.A.F.S' second question the meeting agreed unanimously that penalties had been incurred in the 1982/82 Season. These had occurred at all points in the chain and had been borne virtually exclusively by the Exporters. In reply to the third question it was felt a frost ban would have very considerably reduced (but not completely avoided) these penalties. A ban would also have postponed grading, during which some frost losses were known to have occurred.

In discussion of D.A.F.S' fourth question Mr. McArthur pointed out that RUCIP Article 30 provides one of the clearest definitions known to and used by the trade. In reply to the Chair he explained RUCIP applied to intra-European rather than international potato trading. D.A.F.S' fifth and final question was agreed to have been answered earlier during the meeting.

In reply to Mr. K. McKenzie the Chairman explained D.A.F.S. had declined to join to-day's meeting because it felt its presence would impede the industry's task of compiling a fully supportive case for its proposals. In this respect D.A.F.S' questions would hopefully prove indicatively useful. It was agreed Mr. Bethel would write D.A.F.S. in full reply as provided by to-days meeting and requesting a meeting of two representatives each from N.F.U.S., S.S.P.D.C., and S.P.T.A. with D.A.F.S within seven days. Mr. I. McKenzie explained that on 12th November, V.T.S.C.G.A. Council had instructed him to insist on a mandatory ban. Mr. Sinclair added that the P.M.B. backed the proposals and was eager for an early favourable response.

The meeting was thereupon concluded.