

REPORT on a MEETING of the "CONDITIONS"  
sub-COMMITTEE of the SCOTTISH POTATO TRADE  
ASSOCIATION held in 25 South Methven Street,  
PERTH at 2p.m. on Monday, 27th OCTOBER, 1986

PRESENT: Messrs. J.O. Robertson (Convenor), K.A. McKenzie and G.S. Brass (both ex.officio), J.R. McArthur and R.D. Hunter, with D. Blackmore (Assistant Secretary) in attendance.

APOLOGY: Mr. Blackmore intimated an apology for absence on behalf of Mr. P. Miller.

CONDITIONS OF SALE: During a review discussion, Mr. Hunter first briefly explained a dispute arising from conflicting interpretations of Conditions 8(6) (re "delivery") and 9(1)(b) (re passing of risk). In his own view the buyer's action is at variance with these Conditions but he sought the trading experienced views of those present both for home trade and export circumstances. In Mr. McArthur's view, although risk and property has passed to the buyer under 9(1)(b), he still retains the right to reject within three (or ten) days of "arrival at their destination" (in terms of Condition 11(1)). Mr. Hunter enquired whether an amendment restricting "destination" to the U.K. only would be desirable, but the meeting agreed it might be preferable to point out to customers (and over-print in the heading) that the Conditions of Sale are for use in the (U.K.) home trade only and do not apply for the export trade (for which special conditions should be negotiated between seller and buyer). Mr. Hunter agreed to consider the matter further and to report back to the sub-Committee.

Mr. McKenzie raised the problem of a buyer claiming he had contracted to buy verbally by telephone and that Conditions of Sale printed on a subsequent Confirmation of Sale Note were therefore imposed after the event and could not apply. It was agreed this could only occur with a new customer and discussion included the possibility of annual pre-notification of all customers at the beginning of each Season. It was also suggested that Members be recommended to have the face of their Confirmation of Sale Notes over-printed "The Conditions of Sale governing this Sale and printed on the reverse hereof shall be deemed accepted by you unless we are notified to the contrary within three days of the date hereof". It was decided to keep in mind the circularisation of advice to Members.

CONDITIONS OF PURCHASE: A review of operation of the Conditions of Purchase accepted that having been framed on behalf of the Buyer, a claim by the Buyer that the Conditions are unreasonable would be very difficult to sustain. Recent experience had indicated that the Conditions may not provide adequate protection in admixture and/or chemical problems cases. He wondered whether it might be better not to use the Conditions, leaving problems to be settled under common law. During prolonged discussion it was noted that while Condition 17 specifically covered admixture but not chemicals, Condition 7-NB(3) makes notification of post-harvest chemical treatment by the Seller a specific Condition of the Contract. In reply Mr. Hunter stated that to amend Condition 17 to include chemical treatment would require re-opening discussion with NFUS or, perhaps, to frame identical Conditions for both purchases and sales.

This led into further prolonged discussion, which included moral as well as legal obligations and which, in Mr. Hunter's view, tended to strengthen the case for a single set of Conditions. He felt today's review meeting could hardly wish to reach a decision on this and suggested it be given further thought and to seek the views of Council before arranging a further early meeting of the sub-Committee. The meeting agreed with this suggestion.

CO-OPTION: Mr. McKenzie's proposal that Mr. J.H. Barr be co-opted to serve on the sub-Committee was agreed.

ARBITRATIONS ARCHIVES: Following a short discussion it was felt to be desirable for record and guidance purposes to set up and maintain a record of all Arbitrations in which Mr. Hunter (as Association Secretary) acts as Clerk to the Arbiters.

The meeting was then concluded.