

MINUTE of MEETING of JOINT
LIAISON COMMITTEE held in Annex
1 at the RURAL CENTRE,
INGLISTON, EDINBURGH, at
11.00 a.m. on WEDNESDAY, 26th
JULY, 1995.

PRESENT: S.P.T.A. Messrs. David Stewart, Archie Pullar, Bob
Doig, John Marshall, Ken McKenzie and David
Hunter.

N.A.S.P.M. Doctor L.M. Taylor and Messrs. P.E. Smith
and I Stirling.

APOLOGY: An apology for absence was intimated on behalf of Mr.
M. Beattie.

ARBITRATION RULES: Doctor Taylor suggested that an effort should
be made to achieve one set of Conditions of Sale with one set of
Arbitration Rules to be adopted by the Seed Potato Trade
throughout the whole of Great Britain. He expressed the opinion
that most of the disputes involving seed potatoes arise in
England and are in respect of seed from Scotland although in
recent years seed from other sources have increasingly been
involved. Accordingly, he suggested that consideration should be
given to the universal use of the N.A.S.P.M. Arbitration Rules
which have been successfully used for a considerable number of
years. In reply to Doctor Taylor, Mr. Hunter stated that from a
legal point of view, although Arbitration Law in England was
based on Statute whereas Arbitration Law in Scotland is based on
Common Law, in practical terms there was very little difference
and accordingly it would be legally possible to have common
Arbitration Rules covering both England and Wales and Scotland.
Mr. Hunter added that although S.P.T.A. were proposing to
introduce Arbitration Rules for the first time, this would not
result in any material change in the Arbitration Procedures
adopted in the past by S.P.T.A. Mr. Stewart stated that the
S.P.T.A. Arbitration Procedures had also operated in a
satisfactory manner for many years. Mr. Stewart suggested that
consideration should be given to both Associations adopting the
new Rules proposed by S.P.T.A. Mr. McKenzie confirmed that the
Scottish Arbitration Procedures had operated satisfactorily in
the past and suggested that undue importance is being attached to
one particular Arbitration in recent years which had proved to be
unsatisfactory. Mr. Hunter suggested that that particular
Arbitration had been unsatisfactory for the reason that the
seller had assumed that if it were unsuccessful it would merely
be a question of it passing responsibility back up the line to
the company from whom it had bought the seed and had accordingly
made no real effort to defend its position in the Arbitration.
As it turned out the seller lost the Arbitration involving its-
self and the company to whom it had sold and also lost a
subsequent Arbitration between its-self and the company from it
had bought the seed.

During general discussion Mr. Hunter suggested that there were three main areas of divergence between the N.A.S.P.M. Arbitration Rules and the Rules proposed by S.P.T.A., namely:-

- (1) The N.A.S.P.M. Rules do not allow for an Arbiters' Clerk whereas the S.P.T.A. proposed Rules give the Arbiters power to appoint an Arbiters' Clerk from a Panel of Clerks.
- (2) The N.A.S.P.M. Rules allow an Appeal on either factual or legal grounds to a Panel of Arbiters appointed from the same Panel from which the original Arbiters had been appointed. The proposed S.P.T.A. Rules exclude all Appeals both on factual or legal grounds.
- (3) The N.A.S.P.M. Rules are based on the Law of England whereas the S.P.T.A. proposed Rules are based on the Law of Scotland.

There was general discussion regarding these matters. Without giving any commitment whatsoever the N.A.S.P.M. representatives agreed to take back to their Association consideration of the possibility of allowing the Arbiters to appoint an Arbiters' Clerk.

During discussion regarding whether or not there should be an Appeal Procedure it was pointed out by Mr. Smith that although the N.A.S.P.M. Procedures allow for an Appeal this was very seldom used. Doctor Taylor stated that he understood that under the Law of England and Wales an aggrieved party in an Arbitration, even after an Appeal under the N.A.S.P.M. Rules, would still have the right to Appeal to a higher Court on the grounds that the Arbiters had misdirected themselves on a point of law. Mr. Stewart stated, on a completely without prejudice basis, that S.P.T.A. would reconsider its position with regard to allowing Appeals in its Arbitration Procedures.

It was agreed in principle that an effort should be made to investigate the possibility of having common Arbitration Rules for both Associations. With this in mind it was agreed to appoint a small Joint Committee comprising two or three representatives from each Association to investigate the possibility of drawing up common Arbitration Rules. It was agreed that the findings of the Joint Committee should be made available for consideration by both Associations by not later than 31st December, 1995. Mr. Stewart stated that the names of the S.P.T.A. representatives on the Joint Committee would be determined at the next meeting of Council of the Association due to be held on 24th August, 1995. Accordingly, it was hoped that the first meeting of the Joint Committee would take place shortly after that date. It was agreed that the Joint Committee should, after formulating its proposals with regard to Arbitration Rules, move on to considering the preparation of common Conditions of Sale to be adopted by both Associations.

PRESS COMMENT REGARDING CONDITIONS OF SALE: There was a short general discussion regarding the article which had appeared in the Farming News on 9th May, 1995 in which farmers appeared to be encouraged to seek legal advice to over-rule the N.A.S.P.M.

Conditions of Sale in the event of a dispute arising.

CONDITIONS OF SALE: It was confirmed that it had already been agreed to investigate the possibility of bringing together the Conditions of Sale of both Associations.

SALES "SUBJECT TO OUT-TURN AND SIMILAR CONDITIONS": The increase in the number of sales subject to "Certification, Safe Harvest and Out-turn" was discussed. It was agreed that although in certain circumstances (e.g. a "new variety") a sale under these conditions may be reasonable, in most circumstances it should be discouraged. It was agreed that in all circumstances the purchaser must be aware of the possible consequences of a purchase made under such conditions. It was felt that the best way to proceed was for the respective Associations to issue advice to their Members discouraging the use of such conditions and warning purchasers of their implications.

ILLEGAL SEED PRODUCTION AND SALES: There was general discussion regarding the need to control the illegal trading in "Small Ware" for planting. Doctor Taylor confirmed that his Association, along with the others, had been consulted by The Scottish Office and had responded with recommendations. Doctor Taylor outlined some of the proposals made by his Association. One of these proposals was to adopt the Irish definition of a seed potato which his Association considered would go some way to assisting prosecutions for the illegal supplying of Small Ware for planting. Mr. Hunter confirmed that S.P.T.A. had also been consulted by The Scottish Office and had responded with various proposals. Mr. Hunter gave details of some of these proposals. It was agreed that the Secretaries of the respective Associations would exchange copies of their responses to The Scottish Office. It was agreed to await further developments from The Scottish Office following the completion of the Consultation Exercise.

This terminated the business of the meeting.