

Perhaps one of the most fundamental principles of ICA trading Rules is the concept of 'invoicing back', or the closure of contracts that have not, or will not be, performed, *for whatever reason*. The Rules are set out below, but for a more detailed explanation and practical examples, please refer to our explanation or submit an enquiry to arbitration@cotlook.com.

INVOICING BACK – ICA RULES 225 AND 226

Rule 225

- (i) If for any reason a contract or part of a contract has not been, or will not be, performed (whether due to a breach of the contract by either party or due to any other reason whatsoever) it will not be cancelled.
- (ii) The contract or part of a contract shall in all instances be closed by being invoiced back to the seller in accordance with our rules in force at the date of the contract.

Rule 226

Where a contract or part of a contract is to be closed by being invoiced back to the seller, then the following provisions will apply:

- (i) If the parties cannot agree upon the price at which the contract is to be invoiced back to the seller, then that price will be determined by arbitration, and if necessary, appeal.
- (ii) The date of closure is the date when both parties knew, or should have known, that the contract would not be performed. In determining that date the arbitrators or appeal committee will take into account:
 - a the terms of the contract;
 - b the conduct of the parties;
 - c any written notice of closure; and
 - d any other matter which the arbitrators or appeal committee consider to be relevant.
- (iii) In determining the invoicing back price, the Arbitrators or Technical Appeal Committee shall have regard to the following:
 - a the date of closure of the contract as determined in (ii) above;
 - b the terms of the contract; and
 - c the available market price of the cotton which is the subject of the contract, or such like quality, on the date of closure.
- (iv) The settlement payable on an invoicing back will be limited to the difference (if any) between the contract price and the available market price at the date of closure.
- (v) Any settlement due and payable on an invoicing back of a contract closed in accordance with Rules 225 and 226 will be calculated and shall be paid regardless of whether the party receiving or making the payment is considered to be responsible for the non-performance and/or breach of the contract.

Other claims and losses

- (vi) Any other losses or claims expressly agreed between the parties as recoverable will not be included in an invoicing back price. Such losses or claims should be settled by amicable settlement, or claimed at arbitration or appeal."