

2005 China-Canada Seminar on Agricultural Legislation
and Technical Cooperation
Beijing, China

June 9 and 10, 2005

The Evolution of Farmers' Cooperatives and
Cooperative Legislation in Canada

Organized by Special Committee on Agriculture,
National People's Congress and Parliamentary Centre

Presented by

Anders Bruun LLB
Partner

Campbell Marr LLP
Barristers and Attorneys-at-Law
10 Donald Street,
Winnipeg, Manitoba
Canada R3C 1L5

PH: (204) 942-3311

Fax: (204) 943-7997

abruun@campbellmarr.com

Definition:

- A co-operative is an autonomous association of persons united voluntarily to meet their common economic, social and cultural needs and aspirations through a jointly-owned and democratically-controlled enterprise.

Values

- Co-operatives are based on the values of self-help, self-responsibility, democracy, equality, equity and solidarity. In the tradition of their founders, co-operative members believe in the ethical values of honesty, openness, social responsibility and caring for others.

Principles

- The co-operative principles are guidelines by which co-operatives put their values into practice.

1st Principle: Voluntary and Open Membership

- Co-operatives are voluntary organizations, open to all persons able to use their services and willing to accept the responsibilities of membership, without gender, social, racial, political or religious discrimination.

2nd Principle: Democratic Member Control

- Co-operatives are democratic organizations controlled by their members, who actively participate in setting their policies and making decisions. Men and women serving as elected representatives are accountable to the membership. In primary co-operatives members have equal voting rights (one member, one vote) and co-operatives at other levels are also organized in a democratic manner.

3rd Principle: Member Economic Participation

- Members contribute equitably to, and democratically control, the capital of their co-operative. At least part of that capital is usually the common property of the co-operative. Members usually receive limited compensation, if any, on capital subscribed as a condition of membership. Members allocate surpluses for any or all of the following purposes: developing their co-operative, possibly by setting up reserves, part of which at least would be indivisible; benefiting members in proportion to their transactions with the co-operative; and supporting other activities approved by the membership.

4th Principle: Autonomy and Independence

- Co-operatives are autonomous, self-help organizations controlled by their members. If they enter into agreements with other organizations, including governments, or raise capital from external sources, they do so on terms that ensure democratic control by their members and maintain their co-operative autonomy.

5th Principle: Education, Training and Information

- Co-operatives provide education and training for their members, elected representatives, managers, and employees so they can contribute effectively to the development of their co-operatives. They inform the general public – particularly young people and opinion leaders – about the nature and benefits of co-operation.

6th Principle: Co-operation among Co-operatives

- Co-operatives serve their members most effectively and strengthen the co-operative movement by working together through local, national, regional and international structures.

7th Principle: Concern for Community

- Co-operatives work for the sustainable development of their communities through policies approved by their members.

Legislation

- The Governments of Canada and each of its provinces has a law that governs cooperatives – The Cooperatives Act.
- Each cooperative then adopts its own By-Laws – which must be consistent with the Act – which also govern the cooperative.
- The Act does allow cooperatives to have many options for the rules which a cooperative can put into its By-laws.

Legal Status

Canadian Cooperatives are distinct legal entities

- This means that a cooperative can:
 1. Own property and land.
 2. Buy and sell property and land.
 3. Enter into contracts with its members and others.
 4. Operate bank accounts.
 5. Borrow money from lenders.
 6. Hire employees.
- Unless its By-laws restrict some of these activities.

Act and By-Laws

- The Act and the By-laws set govern the rights of the members of the cooperative by:
 1. Setting out the rules for becoming a member.
 2. Requiring the cooperative to hold meetings of the members.
 3. Setting out how members are to elect a Board of Directors.
 4. Setting out which matters are so important that they can only be decided by the members.
 5. Giving each member 1 vote.

Cooperative Clients

Manitoba Pool Elevators

- Grain handling and sales
- Farm inputs and services
- 15,000 members

Willow Park Housing Coop

- Provided housing to members
- 200 member families

Manitoba Cooperative Association

- A cooperative of cooperatives
- Share information
- Provide education
- Work with government
- 12 members

Kinloss Water Coop

- Provides water to 8 farm families
- Built a water distribution system which cost \$300,000

Ranchers Choice Beef Coop

- Building a \$16,000,000 beef processing plant
- Sells delivery rights shares
- Each \$100 share allows members to deliver 1 cow or bull per year

Arnolds Campers Coop

- Provides recreational facilities
- 85 members

Other Types of Cooperatives

Retail Store Cooperatives

- Sell food, household goods, farm supplies
- Sell gasoline and farm fuel
- Sell seed, fertilizer and farm inputs

Processing Cooperatives

- Produce livestock feed
- Process farm products for sale

Financial Cooperatives (Credit Unions)

- Accept savings deposits
- Make Loans

Child Care Cooperatives

- Provide child care for working parents

Car Cooperatives

- Purchase one or more cars to be shared by members

Starting a Co-operative

The Seven Steps in Forming a Co-operative in Canada

PHASE I – DEVELOP THE CO-OPERATIVE BUSINESS IDEA

Step 1: Assemble a group of interested people

- Identify the needs to be met:
 - unavailability or instability of work,
 - unavailability of certain products and services,
 - products and services that are overpriced,
 - market development.

- Identify professional assistance needed to launch the business:
 - legal consultant,
 - co-operative developer,
 - feasibility study, business plan and financial consultant,
 - accounting consultant,
 - others.

Step 2: Conduct a feasibility study

- Conduct a preliminary market review
- Identify available technical and financial assistance
- Assess receptiveness to the co-operative business in the local community
- Evaluate if the co-operative is the best legal framework to use or if the kind of co-operative selected is the most suitable
- Define the intended benefits of the co-operative for members, (eg. quality, price) and characteristics:
 - products and services offered (consumers' co-operative)
 - or products and services marketed (producers' co-operative)
 - or salaries and working conditions (workers' co-operative)
- Evaluate the project's potential to attract the minimum number of members required.

If this study is not conclusive, the group should re-evaluate its business idea. If this study shows that the planned co-operative is feasible, the group can proceed to the second phase.

PHASE II – CO-ORDINATE THE PRE CO-OPERATIVE'S ACTIVITIES

Step 3: Hold an organizing meeting

- Choose the corporate name of the co-operative and the location of its head office
- Define the co-operative's mission (objectives, purpose)
- Elect a temporary board of directors and secretary to the board
- Officially submit an application for incorporation as a co-operative from the provincial ministry responsible for co-operatives or from Industry Canada, if you are incorporating federally

Step 4: Conduct a viability study

- Obtain financing for the viability study from such sources as:
 - internal financing by the members
 - special grant
 - and/or negotiate a technical assistance or business start-up agreement with a specialized organization.
- Define the strategic objectives
- Evaluate the various strategic scenarios, production costs, and human, material and financial resources necessary

- Evaluate the various start-up financing scenarios
- Do a preliminary projection of budgeted statements and of a cash budget (revenues and expenditures, investments by members in share capital, partners, credit union or bank loans, grants).

If this study concludes that, although the planned co-operative looks feasible it would not be financially viable, the group should consider terminating the project. If the study shows that the new co-operative will be financially viable, the group can proceed to the third phase.

PHASE III – ORGANIZE AND START UP THE CO-OPERATIVE

Set up ad hoc committees to distribute the workload among the members of the temporary board of directors. For example:

- Planning committee
- Training committee
- Committee to draft by-laws

Step 5: Organize the association

- Decide on the association's structure and define the various categories of members, if necessary (consumers, suppliers, workers)
- Determine the roles and responsibilities of the various democratic bodies (general meeting, board of directors, committees)
- Establish the articles and by-laws
- Recruit members
- Organize and offer a program to train members in the administration and management of a co-operative, the chairing and running of annual meetings (eg. "parliamentary procedure"), the operation of a committee or board.

Step 6: Organize the enterprise

Step 6.A: Plan the operation of the enterprise

- Draw up an organization chart of the enterprise
- Do the operational planning for the first year of activities
- Negotiate contracts for the supply of necessary products and services (inputs) and, as required, sales or marketing contracts (depending on the kind of co-operative and the nature of the enterprise)
- Devise and implement an ad hoc accounting system
- Define the duties and responsibilities of each position
- Develop a salary policy
- Select and recruit the person to occupy the position of chief executive officer/general manager

Step 6.B: Plan and organize the enterprise's start-up financing

- Determine the value of the membership share to become a member
- Evaluate the value of the share capital on start-up and during the first three years of operation (in terms of the expected growth in the number of members)
- Prepare the preferred share by-laws (if applicable)

- Draw up the overall financing plan for the first three years of operation
- Draw up the business plan
- Negotiate the capital contribution of external financial partners (if necessary); venture capital corporations, private funds or credit union investment programs
- Apply for a government start-up grant (if they are available and if required)
- Negotiate medium term credit union or bank loans and a line of credit

Step 6.C: Recruit and train the enterprise's staff

- *Select and recruit employees (responsibility of chief executive officer, except in the case of a worker co-operative where recruitment decisions are usually made collectively)*
- *Organize and offer a staff training program*
- *Organize and offer a co-operative training program*

Step 6.D: Ensure the legality of the enterprise's operations

Take care of the legal formalities and obtain the legal authorization necessary to start up the enterprise's activities:

- Federal: employer numbers for government discounts, (for GST/HST) for Revenue Canada
- Provincial: numbers for the provincial revenue department, for provincial tax
- Co-operatives may also have to register with, or be licenced by, other legislation or federal or provincial departments
- Municipal: municipal permit, employer number, etc.

Step 7: Hold the initial general meeting

- Adopt the by-laws
- Adopt the business plan
- Approve the co-operative's membership in a sectoral federation or an intersectoral interco-operative organization
- Appoint an external auditor
- Elect the members of the board of directors, and of any other committees (if the general meeting has the power to do this)

When in operation the cooperative should

- Serve a needed purpose
- Have the full support of its members
- Be profitable
- Save for the future
- Have a good and respected Board of Directors
- Improve the financial well-being of its members

Drafting Cooperative Legislation

Governments should consider:

- The real needs of the people
- The skills and abilities of people
- The resources available
- The amount of freedom and flexibility that cooperatives should have
- How to simplify rules and regulations as much as possible
- Penalties if a member steals from the cooperative or misuses its property
- Measures to ensure the financial integrity of cooperatives
- And, most importantly, the role that cooperatives can serve in improving rural life and having more productive, prosperous and self-reliant citizens.

