

A Producer Plebiscite: Key Elements

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INTRODUCTION

The CWB Act essentially gives farmers the authority to determine the CWB's marketing mandate and requires the Government to hold a plebiscite before making major changes. But the Act leaves open the question of what a fair plebiscite would look like. To ensure farmers' views are clearly represented, reasonable determinations need to be made on a few key issues. These include:

- Who is eligible to vote?
- Is it one producer, one vote, or a weighted vote?
- What is the question? Should farmers make this determination, or government?
- Should there be spending limits?
- Is a majority fifty per cent plus one, or some other number?

For discussion, this paper describes in detail each of these issues as they might apply to a future plebiscite on the western grain marketing system. The analysis is based on review of past CWB plebiscites, CWB board of director elections, the CWB Election Review Panel and industry standard practices. Supporting material is annexed.

BACKGROUND

The current Conservative government campaigned on the promise of a voluntary Canadian Wheat Board (CWB). From this campaign pledge and their subsequent election, the Government has stated that they already have the directive to change the CWB's marketing mandate without resorting to a plebiscite. Other stated reasons for opposing a plebiscite centre on economic freedom and individual property rights.

The CWB Act states in section 47.1:

The Minister shall not cause to be introduced in Parliament a bill that would exclude any kind, type, class or grade of wheat or barley, or wheat or barley produced in any area in Canada, from the provisions of Part IV, either in whole or in part, or generally, or for any period, or that would extend the application of Part III or Part IV or both Parts III and IV to any other grain, unless

(a) the Minister has consulted with the board about the exclusion or extension; and

(b) the producers of the grain have voted in favour of the exclusion or extension, the voting process having been determined by the Minister.

This section of the CWB Act essentially gives farmers the authority to determine the CWB's marketing mandate and requires the Government to hold a plebiscite.

1. ELIGIBILITY CRITERIA

Who should vote? On the surface the answer is relatively easy. Farmers should vote. However, there are many items to consider in determining eligibility.

- **“Producer” versus “Actual Producer”:** The CWB Act defines and uses both the terms ‘producer’ and ‘actual producer’. In the Act, an actual producer is defined as *“a producer actually engaged in the production of grain”*. Whereas a producer, is in addition to an actual producer, *“any person entitled, as landlord, vendor or mortgagee, to the grain grown by an actual producer or to any share therein”*.

Section 47.1(b) of the CWB Act states that *“the producers of the grain have voted in favour...”*. As this section of the Act does not use the term actual producer, the Act should be interpreted to allow for all producers to vote. Furthermore, under the *Regulations Respecting the Election of Directors of the Canadian Wheat Board*, producers, and not actual producers, are permitted to vote in CWB board of director elections. If the plebiscite were limited to actual producers, the CWB would effectively be telling some who have voted in board of director elections that they do not have the right to vote on the future of CWB marketing.

The original voting list could be established based on CWB permit book records, with an option for non-permit book holders to complete a statutory declaration. This option provides a vote to farmers of wheat and barley who are currently delivering their grain off-board.

- **Permit versus non-permit book holders:** The voter list could be limited to current CWB permit book holders. However, there is no precedent for such a limitation. Past plebiscites and CWB board of director elections have provided mechanisms for non-permit book holders and other producers to cast their votes. Limiting the vote to permit book holders would exclude a significant number of barley and a smaller number of wheat producers who do not deliver to the CWB. It could be viewed as a less credible approach and the least accepted by farmers.
- **Permit Book holders versus Actual Producer:** Alternatively, the voter list could be based on the recommendations of the CWB board of director Election Panel review. Concluded in November 2005, the Panel recommended that the voting criteria for director elections be changed to ‘actual producers’, as defined in the CWB Act, who have delivered a minimum of 40 tonnes or more of grain to the CWB in any one of the last two years. The Panel concluded that a weighted vote was not necessary because the CWB was not a true shareholder corporation. The CWB has accepted this Panel recommendation.

The criterion effectively captures farmers who use the CWB and not those who simply hold a permit book but do not deliver grain. This could dispel concerns over farmers who do not share in the production or marketing of CWB grains being allowed to vote. This criterion could add additional credibility to the vote, as the list would be seen as fair and a more accurate portrayal of farmer opinion. CWB permit book delivery records could be used to formulate the original voting list, with statutory declarations to add ‘actual producers’ with 40 tonnes delivery who were inadvertently left off the original list. However, limiting the voter list to those who actually deliver would exclude interested parties who do not deliver.

Note that this would exclude a large portion of voters who have previously voted in director elections and in the 1997 plebiscite. Additionally, under this scenario, barley producers who do not deliver to the CWB would also not be eligible to vote.

Weight per vote: As with voter eligibility, there are different approaches for determining the weight a vote should have.

- **One producer, one vote:** One producer, one vote has been the common approach for producer votes and elections in Canada. It has historically been used in previous CWB-related plebiscites, CWB board of director elections, amongst supply-management agencies, farm product marketing boards and farm groups. Further, it is a common structure for co-operatives and new-generation co-

operatives. This option provides equal-access for all farmers to the voting system, notwithstanding the size of production or delivery to the CWB. Critics of this approach argue that larger farms have a greater economic interest that would not be reflected by this voting structure.

- **Weighted vote:** In a weighted vote, one farmer's vote would carry more weight than others. For a CWB plebiscite, the vote weight could be determined by farmers' actual production and delivery of board grains. This may be contrary to parliamentary procedure and democratic elections, but it is a common approach in shareholder corporations. This approach is used by the Australian Wheat Board. It has also been raised by some Canadian farm groups. Critics of this approach note that weighted voting provides a disadvantage to smaller farms and puts the interests of larger farms first. Also a weighted ballot based on deliveries would inherently exclude interested parties who do not actually produce nor deliver grain but have an economic interest in the grain.

As a starting point for discussion, we feel the following eligibility criteria should be considered:

1. All Prairie 'producers', as defined in the CWB Act, who have grown wheat and/or barley at least once in the past two to five years in the CWB 'designated area' would be eligible to vote.
2. The voter list would be initially based on 2005/2006 CWB permit book holders.
3. Non-permit book producers would be eligible to vote by submitting a legally binding affidavit indicating they meet the criteria. Statutory declaration forms would be available during a plebiscite.
4. Each producer would be entitled to one vote, regardless of farm size or acreage.

Should the Government accept the CWB Election Panel Review changes and amend the CWB Act to allow for 'actual producer' who deliver a minimum of 40 tonnes to the CWB, the above recommendation could be altered to reflect the new changes.

2. THE QUESTION

It is imperative that any plebiscite amongst western Canadian producers focus on a well-defined question that asks farmers to select between realistic choices. The question should avoid misleading phrases that suggest that farmers could make the CWB voluntary and still have the same benefits, features and programs that the organization is able to provide today. Any suggestion that a strong CWB is sustainable in a dual market should be avoided.

- **OPTION 1 – Use the same question from the 1997 plebiscite, and repeat it to reflect wheat.**

BARLEY:

Open Market Option:

Remove all barley, both feed and malting/food, from the Canadian Wheat Board and place it entirely on the open market for all domestic and export sales.

Single-Seller Option

Maintain the Canadian Wheat Board as the single-seller for all barley, both feed and malting/food, with the continuing exception of feed barley sold domestically.

WHEAT:

Open Market Option:

Remove all wheat, both feed and processing/food, from the Canadian Wheat Board and place it entirely on the open market for all domestic and export sales.

Single-Seller Option

Maintain the Canadian Wheat Board as the single-seller for all wheat, both feed and processing/food, with the continuing exception of feed wheat sold domestically.

- **OPTION 2** – Re-word the 1997 plebiscite to use more neutral language (during the 1997 federal Government plebiscite, it was argued that the wording of the question favoured the single-desk option, as the word “remove” was considered negative).

BARLEY:

Open Market Option:

Market all barley, both feed and malting/food, on the open market for all domestic and export sales.

Single-Seller Option

Market all barley under the Canadian Wheat Board as the single-seller for both feed and malting/food, with the continuing exception of feed barley sold domestically

WHEAT:

Open Market Option:

Market all wheat, both feed and food, on the open market for all domestic and export sales.

Single-Seller Option

Market all wheat under the Canadian Wheat Board as the single-seller for both feed and food, with the continuing exception of feed wheat sold domestically.

- **OPTION 3 – Based on the CWB Producer Survey**

If you had to choose between two different approaches to marketing wheat/barley, which of the following would you choose:

A) That wheat/barley marketing, for export and domestic human consumption, remain the sole responsibility of the Canadian Wheat Board.

B) That there be a totally open market for wheat/barley without the Canadian Wheat Board.

While each of these questions realistically portrays farmers' choices, option one may be the preferred question. It provides the clearest question for producers. The choice is clearly between an open market and the CWB, with no implication of dual market choice. Additionally, as it was used in the 1997 federal government barley plebiscite, the question has precedence. The question options should not be combined and should be asked separately for wheat and barley.

Irrespective of which of these options is selected, the question will be heavily criticized by the Government and those farm groups opposed to the single desk. In the 1997 federal government barley referendum, a major criticism of the plebiscite was that a dual market option was not on the ballot. This would not change today, where the Government maintains that a strong CWB could continue to operate in a dual market system.

3. SELECTING A MAJORITY

To determine the outcome of the vote, both the required support level and industry representation should be considered:

- **A 50% (plus one) majority:** Fifty per cent plus one is the most common approach for referendums and democratic elections. It is similar to the 1995 Alberta Government CWB plebiscite and the federal government 1997 plebiscite, co-operatives and government elections.
- **60% or two-thirds majority support:** There are examples in Canadian agriculture where a higher majority was required for a vote to be binding. A 60 per cent or two-thirds majority has been used for the creation or amendment of provincial farm product marketing agencies. It was also used in the 1973 CWB Canola plebiscite. The rationale behind this number is that for such an important decision, a clear majority of farmers should be represented.
- **Establishing a minimum voter turnout:** A quorum would establish a required minimum number of voters necessary to ensure the legitimacy of the plebiscite results. Quorums are common for board and producer meetings. Defining a quorum would ensure the representation of a large portion of farmer voices.

Of these options, there do not appear to be strong arguments to move away from the widely accepted principle that majority support level means 50 per cent plus one. This has historically been used in past CWB plebiscites and government elections. A quorum could also be considered in order to capture farmer representation and enhance credibility of the vote.

4. CONDUCT OF THE PLEBISCITE

Who conducts the plebiscite? Appointing a third-party agent would add credibility to the results and potentially more weight with government and industry. For the case of CWB board of director elections, the CWB Act allows for the nomination of an election coordinator who is not the CWB, an employee of the CWB or a producer. Meyers Norris Penny is hired to administer and monitor the process. The Federal government hired KPMG to conduct the 1997 barley plebiscite.

Scrutineers: To ensure neutrality and legitimacy, farm-group scrutinisers should be permitted to ensure that the counting is legitimate.

Voting procedure: Voting packages should be distributed to eligible producers by mail. The voter package would include the plebiscite terms and conditions, voting instructions, the ballot and a postage-paid pre-addressed envelope. A deadline would be set for which voters would return their ballot and envelope provided. Non-CWB permit book holders would contact the agency responsible for the vote to obtain instructions and an affidavit form. Specific deadlines would be set for the campaign period, mailing out voting packages, obtaining statutory declaration forms, returning completed ballots, tabulation, and announcing the formal result.

A decision would have to be made on whether to provide formal information on either outcome in the voting package. This has occurred in past plebiscites.

Election time lines: The following timelines are proposed:

	Preparation for the vote: (I.e. outlining the details, selecting a third-party agency, preparing the voting list and packages)	
Week 1:	Announcement of the plebiscite and voting requirements.	Official Campaign
Week 3:	Voting packages are mailed out to CWB permit book holders.	Official Campaign
Week 7:	Deadline for receipt of statutory declarations.	Official Campaign
Week 8:	Finalization of voting list.	Official Campaign
Week 9-11:	Mail-in voting period.	
Week 12:	Tabulation of results.	
Week 13:	Formal announcement.	

The formal campaign period would be two months (eight weeks), with an additional two weeks for producers to mail in their ballots. The entire process would be roughly three months. During the campaign period, it is expected that there would be substantial debate and that a marketing campaign would be launched by proponents of both sides of the question.

Spending Limits: Spending guidelines contribute to a fair, open campaign. The Federal Electoral Legislation, the Federal Referendum Legislation and the CWB regulations all contain financial provisions for campaign contributions and expenses. There were no spending limits in the federal government's 1973 canola and 1997 barley plebiscites.

Based on federal legislation, a spending limit of \$5000 per individual and \$1000 per corporation are proposed. Spending should be restricted to the official campaign period. This limit would effectively deter any one player or group of players to dominate the debate. It will allow the issues to be discussed and debated by producers. This limit would also bind the CWB's ability to provide an active voice in the campaign.

The concept of a spending limit is ideal but difficult to apply. Under the above federal legislations, donations and expenses are made to a registered entity (a candidate or registered political party). In the case of the federal referendum legislation, an individual or group incurring expenses must register with the Chief Electoral Officer before proceeding. For both, a refund must be filed with the Chief Electoral Officer outlining campaign contributions and expenses after the election. Federal systems need to be in place to ensure that the various parties comply with the requirements.

The reality is that unless a plebiscite is implemented by government, it is difficult to enforce a spending limit on any individual or group or force them to declare their donations or expenses to an election officer. Any established limit would be based on the good faith of the parties to comply.

Annexes

- ANNEX 1 - 1997: Federal Government Barley Plebiscite
- ANNEX 2 - 1995: Alberta Government CWB Plebiscite
- ANNEX 3 - 1973: CWB Canola Plebiscite
- ANNEX 4 - Supply Management and Provincial Marketing Boards
- ANNEX 5 - CWB Board of Director Elections
- ANNEX 6 - Producer Votes: Corporations, Co-operatives and New-Gen Co-operatives

Annex 1: 1997: Federal Government Barley Plebiscite

Context: Key events in 1995-1996 included:

- In November 1995, the Alberta Government conducted a non-binding plebiscite on the CWB. Alberta producers voted 62% for wheat and 66% for barley in favour of a dual market approach to grain marketing. The then Minister of Agriculture, Ralph Goodale, dismissed the vote as illegitimate and questioned the accuracy of the results.
- In May 1996, the Saskatchewan Conservative Party introduced an opposition bill calling for a similar plebiscite to Alberta to be held amongst Saskatchewan producers. The bill was not supported by the NDP government and a vote wasn't held.
- The Western Grain Marketing Panel (WGMP) was launched by the Federal government. The final report, released July 1996, outlined potential changes to the system of grain marketing in Western Canada.
- In July 1996, the Alberta Government launched a Charter of Rights challenge over the legality of the Canadian Wheat Board (CWB) contracting program and threatened a provincial U.S. sales program designed to sell Alberta grain directly to the United States.
- In October 1996, the Federal Government announced a Prairie producer vote on barley marketing. Vote results were released in March 1997.
- The total campaign period was three months.

Eligible voters: The voter list was primarily composed of CWB permit book holders and consisted of the following: (*Excerpt KPMG – Prairie Barley Vote Release*)

“All current Prairie farmers who are engaged in grain production and have grown barley at least once in the last five years (1992 to and including 1996) are eligible to vote.

Specific Eligibility Criteria:

1996/97 CWB Permit Book holders must meet criteria 1, 2 and 3:

1. *You are an ‘actual producer’ as defined in the Canadian Wheat Board Act;*
2. *You are a Canadian Wheat Board Permit Book holder in 1996/97; and*
3. *You have produced barley at least once in the past five years (1992 to and including 1996).*

Barley producers who do not have a 1996/97 CWB permit book, must meet criteria 4, 5, 6 and 6:

4. *You are currently directly involved in the business of farming as an ‘actual producer’ in the ‘designated area’, both as defined in the Canadian Wheat Board Act;*
5. *You produced barley on land in the ‘designated area’, as defined in the Canadian Wheat Board Act, at least once in the past five years (1992 to and including 1996);*
6. *Not more than one ballot is cast per farming operation; and*
7. *You have completed the affidavit form and submitted it by February 18, 1997.*

New producers who are currently farming land on which barley was grown during one of the years 1992 to and including 1996 will be considered on a case-by-case basis”

Voting packages were automatically mailed out to all producers with a 1996/97 CWB permit book. Producers who were not in possession of a 1996/97 permit book had to apply for eligibility by obtaining, completing and submitting a legally-binding affidavit that stated they met the required criteria. The affidavit form had to be signed and witnessed by a Commissioner for Oaths. It was the onus of the producer to obtain and submit the form. The affidavit form was available by contacting KPMG or through a Prairie Farm Rehabilitation Administration office. According to a KPMG press release, KPMG received close to 1,700 initial requests for affidavit forms. Of these, some 900 were returned and added to the voting list. There were a total of 77,437 eligible voters.

Ads were run across the Prairies informing barley producers of the eligibility requirements and the process for non-permit book holders to participate. A 1-800 number was established to handle producer queries regarding their eligibility and the voting process.

Third-Party agency: To ensure fairness and accuracy, the Government hired KPMG of Winnipeg to conduct the voting process. KPMG had organized the WGMP country-wide series of agriculture round-table consultations. Results were determined by KPMG in the presence of scrutineers from four farm organisations- Western Canadian Wheat Growers Association, Western Barley Growers Association, National Farmers Union and Saskatchewan Association of Rural municipalities. KPMG had originally decided not to allow scrutineers for fear the vote results may be made public prematurely. The Government changed the policy to accommodate the requests of interested farm groups to observe the process. The Western Canadian Wheat Growers Association and National Farmers Union both requested that producers be allowed to scrutinise the vote counting by KPMG.

News sources estimate the government's cost of the plebiscite was roughly \$250,000, not including the costs of running advertisements. Individual farm group advertising expenses were separate. The Government does not have a record of a spending limit being imposed in the 1997 vote.

Majority support: The Government released the official voting requirements in November 1996. There was no formal announcement on the issues of majority support or if the vote was to be binding. It was generally accepted that 50 percent support was required, with a high level of voter turn-out. The Minister was quoted as saying:

"I don't think it is appropriate, from the point of view of the machinery of government, to absolutely lock in a position of hypothesis before the fact. What I have said is that assuming a solid level of turn-out and considering the fact it is a clear-cut question, I will find the results compelling"

The ballot: The vote was conducted through a mail-in ballot. Envelopes were coded to ensure only eligible farmers voted and they only voted once. There were two questions on the ballot:

Open Market Option

Remove all barley (both feed and malting/food) from the Canadian Wheat Board and place it entirely on the open market for all domestic and export sales. OR

Single-Seller Option

Maintain the Canadian Wheat Board as the single-seller for all barley (both feed and malting/food), with the continuing exception of feed barley sold domestically.

The plebiscite and the simplicity of the ballot question was the object of criticism. Opponents argued that the simplicity of the question would unduly sway votes in favour of the CWB single-desk. Opposition members called it a "dishonest question" and criticized the plebiscite rules. Goodale maintained that any vote wording had to be very clear and would not include the option of the dual market.

Preceding the announcement of the plebiscite and question, certain farms groups, most notably the Alberta Barley Commission and the Western Canadian Wheat Growers Association (WCWGA) publicly announced that they may not participate and might urge their members to do the same. The boycott was to protest the legitimacy of the process and the exclusion of a dual marketing option on the plebiscite ballot.

Preparation for the vote: As done in the 1973 canola marketing plebiscite, the Government or KPMG did not distribute official information on the pros and cons of each option. The Government is said to have considered this practice but ruled against it due to limited time constraints. In the 1973 Canola plebiscite, eligible voters received arguments in support and against canola being marketed by the CWB

as part of their voting packages. The three Prairie pools produced the brochures supporting the CWB case, and the Rapeseed Association of Canada the open market one. The information was approved by the government and mailed out at the government's expense.

Despite the above, there was substantial debate and publicity arguing both sides of the case leading up to the plebiscite.

In December 1996, the Minister released a pamphlet entitled "Western Grain Marketing" outlining the proposed changes to grain marketing and the CWB, as developed from the WGMP. There was a section on the barley vote and the problems with dual-marketing. Although, the primary focus of the pamphlet was not the producer vote and it was not part of the official voting package, critics denounced the Government for using tax payers' money to advocate support for the Canadian Wheat Board.

Western Canadian farm groups distributed information arguing both sides of the cases and encouraged their farmer-members to vote.

Results: Results were announced as a Prairie-wide vote, i.e. results were not tabulated on a provincial basis.

Eligible Producers:	77,437
Total ballots returned:	58,042 (74.95 % turnout)
Spoiled Ballots:	525
Votes for Open Market Option:	21,347 (37.1 %)
Votes for Single-Desk Option:	36,170 (62.9 %)

Annex 2: 1995: Alberta Government Plebiscite

Context: The Alberta Government conducted a non-binding plebiscite in an attempt to determine what marketing system Alberta producers preferred for barley and wheat. In February 1995, the Alberta Legislature passed a motion asking for a plebiscite on barley marketing on the North American continent.

In spring 1995, the Alberta Minister of Agriculture established a steering committee to set the criteria and question for the plebiscite. The Steering Committee consisted of 10 farm leaders and representatives from the wheat growers; barley growers; the Alberta Winter Wheat Producers Commission; the Alberta Barley Commission; Unifarm (now WRAP); the Alberta Grain Commission; and the Canadian Wheat Board (CWB) advisory committee. The committee expanded the question to include marketing to a global market.

The CWB advisory committee member represented both the Alberta Grain Commission and the CWB. The CWB advisory committee released a press release stating that they were not involved in the development of the question, nor were they invited to participate on the steering committee. Unifarm also issued a press release stating that they were not comfortable with the chosen question.

Voting criteria was distributed to the public in October 1995.

Eligible voters: No official voters' list was developed for the plebiscite. Instead, voters were invited to declare their eligibility. It was the responsibility of the producer to obtain a ballot and complete the registration form certifying they met the established criteria. The steering committee believed that an established list was limiting and could miss eligible voters. Voting by declaration was considered a proven procedure in municipal elections in which eligible voters declare their eligibility, sign their declaration and obtain a ballot.

Eligible voters needed to meet the following requirements: *(Excerpt from the Alberta Barley and Wheat Producer Plebiscite criteria)*

- *“have a principal residence in Alberta;*
- *be 18 years of age or older;*
- *in 1993, 1994, or 1995 grew barley or wheat in Alberta and have a financial interest in these crops as one or more of the following:*
 - *land owner other than one whose sole interest is based on land rented on a cash basis on which barley or wheat is grown;*
 - *lessee;*
 - *participant in a crop share agreement;*
 - *shareholder in a corporation;*
 - *partner in a partnership;*
 - *other farming entity;*
- *has or will report farm income, if taxable, in 1993, 1994 or 1995 on a personal and/or Alberta corporate income tax return; and*
- *has not previously voted in a plebiscite.”*

The vote was not restricted per farm, but to anyone who had a financial interest in wheat or barley.

Responsible agency: The plebiscite was conducted by the Alberta Grain Commission. The original questions and voting criteria were established by the steering committee. The steering committee suggested the appointment of a neutral returning officer. Mr. J. Harold Hanna was appointed and was responsible for managing the voting process. His roles and responsibilities were outlined in a set of government established criteria pertaining to the Alberta barley and wheat producer plebiscite.

The ballot: Voting was conducted from November 14 to 24, 1995. Eligible producers voted in person at established polling stations through-out the Province, or by requesting a mail-in ballot. Producers could vote at the Alberta Agriculture, Food and Rural Development district offices; the Agriculture Financial Services Corporation offices or the Plebiscite Returning Office in Edmonton. Roughly 13,000 voted in person and 3,000 by mail. Mail-in votes had to be post-marked by November 24.

The Questions were as follows:

*Are you in favour of having the freedom to sell your **barley** to any buyer, including the Canadian Wheat Board, into domestic and export markets? Yes or No*

*Are you in favour of having the freedom to sell your **wheat** to any buyer, including the Canadian Wheat Board, into domestic and export market? Yes or No*

Preparation for the vote: Prior to the official adoption and public release of the question, an independent firm was hired to test the question. The Alberta Government maintained this process was to test the question for fairness, bias and ease of understanding. A random sample of 25 people was surveyed with 72 per cent of respondents saying they felt the question was un-biased and fair, with 24 per cent having no opinion. Critics of the vote maintain that the vote was market-tested to determine if the question would elicit the response the Government wanted, a majority yes vote.

Furthermore, words such as ‘freedom’ and ‘choice’ were viewed as emotionally charged. The ‘all-encompassing’ nature of the voting list was also criticized by both the CWB advisory committee and the federal government.

Advertisement campaigns were launched on both sides of the argument to inform producers on their different options. The “Yes” side distributed material demonstrating that the CWB could co-exist in a dual market, and the “No” side on the myths of the dual market. The CWB advisory committee set up a series of “marketing facts” meetings across Alberta. The meetings were designed to separate fact from fiction and discuss the plebiscite.

In December 1995, the CWB hired Western Opinion Research to conduct a telephone poll amongst Alberta producers. The poll asked the question, “Are you in favour of having the freedom to sell your wheat to any buyer, including the Canadian Wheat Board, in both domestic and foreign markets?”, 68 per cent of Alberta producers responded that they intended to vote “Yes”. However, the poll also asked “If it was proven to you that a “Yes” vote in the plebiscite would result in the elimination of the Canadian Wheat Board, would you still vote “Yes” or would it be “No”? Only 29 per cent responded that they would still vote yes for having the open market option.

Results: Results were released in December 1995. A total of 16,151 farmers registered to vote:

	Yes	No	Total Voters
Barley	10452 66%	5395 34%	15,847
Wheat	9701 62.2%	5890 37.8%	15,591

The results of the plebiscite were dismissed by the federal government. Then federal Minister of Agriculture, Ralph Goodale, questioned the credibility of the Alberta vote, as it “discouraged debate, offered a loaded question, did not allow the presumptions of the dual market advocates to be analyzed and challenged the management of the voters list to ensure votes were legitimate.” He insisted that the only way to decide the legitimate future of the CWB monopoly was through the Western Grain Marketing Panel.

Annex 3: 1973: Canola Plebiscite

Context: In the mid 1960's, rapeseed acreage was roughly 800,000 acres producing an average yield of 13 million. By 1971, there were 5.5 million acres producing roughly 100 million bushels. The increase in production coincided with an increase in discussion on how to best market rapeseed. In April 1970, the federal government appointed a three-person committee to study the question of rapeseed marketing. Their report provided descriptions and evaluations of alternate marketing mechanisms for rapeseed, i.e. an open market versus the CWB single-desk. The government consulted with western Canadian producers on the proposed marketing options, and from the formal consultations a producer poll was launched. The then Minister Responsible for the Canadian Wheat Board, Otto Lang, appointed Mr. George Turner, a former GM and president of Manitoba Pool to administer the poll.

Eligible voters: The voter list consisted of all CWB permit book holders who indicated acreage seeded to canola in any two of the three crop years 1971-72, 1972-73 and 1973-74. Also included were new permit book holders who first grew grain in 1972 or 1973, and who indicated acreage seeded to rapeseed in at least one of those years.

Majority support: The government established a 60 per cent requirement of votes indicating a preference for CWB marketing, in order for the government to change CWB legislation to include canola marketing. The 60 per cent was the recommendation of the poll administrator, after consultation with rapeseed growers and their representative organisations. It was felt that a change to the CWB was a big transition and it required a motion of support from a clear-cut majority of the industry.

Preparation for the vote: Prior to the vote each producer received two brochures funded by the government- one outlining the case for an open market and one for the Canadian Wheat Board. The three Prairie pools produced the brochures supporting the CWB case, and the Rapeseed Association of Canada the open market one.

The ballot: The poll was conducted through mail-in votes. The question was as follows:

"Which system would you prefer to have for the marketing of rapeseed? Present System, Canadian Wheat Board or Undecided"

Poll results: The results of the vote were released January 14, 1974. The votes were as follows:

	<u>Total</u>	<u>Percentage</u>
Ballots Distributed	41,142	--
Ballots Returned	32,279	78.5%
Voting to Retain Present System	16,992	52.7%
Voting to change to CWB system	14,894	46.2%
Voting Undecided	370	1.1%
Spoiled Ballots	23	--

The rules of the plebiscite required 60 per cent of those voting to indicate a preference for marketing under the CWB system, only 46.2 per cent voted in favour of the change. An open market was retained for canola.

Annex 4: Supply Management and Provincial Marketing Boards

National marketing boards- plebiscites

There are five supply management industries in Canada. The National Farm Products Council (NFPC) supervises the operations of the Canadian Egg Marketing Agency, the Canadian Turkey Marketing Agency, the Chicken Farmers of Canada and the Canadian Broiler Hatching Egg Marketing Agency. The Dairy Farmers of Canada operate separately from the NFPC and is governed by the Canadian Dairy Commission Act.

Excluding dairy, any supply-management agency decision that requires a change in its federal regulation, such as quotas and policies, must be approved by the NFPC and changed in the national marketing order. Changes are normally made by the respective agency's board of directors and do not require a producer vote. Board of directors are composed of a member from each provincial marketing agency and various industry representatives. The NFPC requires evidence of demonstrated support in order to create a new marketing agency, to extend an existing agency or to make substantial changes to the marketing or research plan. The NFPC relies on information gleaned from votes at provincial meetings, public hearings or provincial producer plebiscites.

According to the NFPC, there has been no nationally organised plebiscite vis-à-vis a national marketing agency. The national agencies act as umbrella organizations for their provincial counterparts. Any producer vote or plebiscite would be first held by the provincial board.

The Canadian Dairy Commission (CDC) is a crown corporation tasked with coordinating federal and provincial dairy policies and maintaining the dairy supply management system. Industry policies are formulated by the CDC and a consultative committee. Both are appointed by the Governor in Council. The national commission has jurisdiction over inter-provincial and export trade. Provincial boards govern the production within their borders. The structure of provincial boards depends on the Province, with some regulated by the government and some regulated by a board of elected producers and operated independently. Producer's roles vary per Province and depend on the structure of the provincial board.

Provincial supply management agencies- producer vote

In addition to federal supply management regulations, each provincial marketing agency is governed by provincial regulations. The regulations vary by agency and Province. Excluding the Saskatchewan Milk Control Board, all provincial supply management agencies are established under their respective Agriculture/Farm Products Council. Provincial regulations outline voting requirements for board of directors and at any annual or special meetings. Registered producers are entitled to introduce motions and vote on issues at these meetings. The Saskatchewan Milk Control Board is established under the Saskatchewan Milk Control Act and is the responsible to the Minister. The board is appointed by the Lieutenant Governor in Council.

In the Prairie Provinces, voting requirements for board of directors, annual or special meetings are:

- each registered producer is entitled to one vote;
- eligible voters are restricted to registered producers of the respective agency;
- a corporation, co-operative or partnership can also be a registered producer. In such case, they are entitled to designate one representative to vote;
- an established quorum of voters is required for the vote to be considered; and
- an established majority number must be met.

Quorums vary per Province and agency. For example, in Manitoba, an agency's administration by-laws can be repealed, replaced or amended at an annual or special meeting by a majority of eligible voters present, if written notice has been mailed to each registered producers or designated representative at least seven days in advance of the meeting. Without a notice, a 75 per cent approval of those present is required. In Saskatchewan and Alberta, each agency has their own quorum and majority support level. The Saskatchewan Turkey Producers require a presence of 10 producers or 10% of producers (whichever is highest) and majority support vote. The Alberta Hatching Egg Producers have a set quorum of 33 per cent. The Manitoba and Alberta dairy boards are divided between production regions and have set quorums and procedures for district and provincial meetings and elections.

Provincial development and marketing commissions/boards- plebiscites

Each Province has an established regulatory council and farm products marketing act. The Provincial Farm Product Act provides legislation for producers to join together and ask the government to delegate authority to regulate a specific agricultural commodity within that province. For example, the Manitoba Sheep Board and Alberta Beekeepers Association are established provincial marketing agencies. The provincial regulatory body is responsible for supervising these agencies; administer new applications or changes and provide quasi-judicial role to hear complaints.

Provincial councils resemble in their mission and responsibilities, but vary on legislative specifics. The requirement and practice to hold a plebiscite for creating, changing or dismantling a commodity board depends on the province and the nature of its legislation. Historically and to date, the use of a plebiscite for creating a new marketing agency has been a common practice in Canada. The majority of provincial regulatory councils are required to ensure the commodity group has the support of the majority of the producers before authorizing the application. The provincial regulatory councils are responsible for outlining, administering and reviewing plebiscite results. In all Provinces, the Lieutenant Governor in Council has the final authority.

There has yet to be significant dismantlement of established provincial commodity groups. The exceptions would be the dismantling of certain fruit and vegetable boards, the combining to commodity boards or the changing of the group's regulatory functions as to make them obsolete. As compared to the creation of a group, provincial legislation and practices requiring a producer vote to dismantle a commodity group are not well-established. Practices vary per province, with certain provinces possessing better defined legislation and practices. For each Province, the Lieutenant Governor in Council has the final authority to amend and revoke a provincial plan.

Practices vary per province:

- British Columbia: The British Columbia Farm Industry Review Board (FIRB) is mandated to ensure that the majority of producers support the creation of any new farm product development agency or marketing plan. There are no publicly-made requirements on how the FIRB would hold and administer a plebiscite.
- Alberta: The Alberta Agricultural Products Marketing Council requires a plebiscite on the creation of any new non-refundable commission. A plebiscite can be waived for the creation of a refundable commission, if the applicant party presents documented support through other means such as industry and annual meetings. The Agricultural Products Act also stipulates that a marketing plan established pursuant a plebiscite should not be amended or terminated without a producer vote. There is no pre-established percentage for a vote. The Council is responsible for determining the specific requirements such as percent required, eligible producers, adequate voter turn-out and industry representation.

- Saskatchewan: For the purpose of the Saskatchewan Agri-Food Act, commodity groups are divided by purpose and function into development commissions, development boards and marketing boards. A development commission funds its operations through a refundable levy and a development board through a non-refundable one. The Saskatchewan Agri-Food Council requires a plebiscite for the creation of all non-refundable development and marketing boards. Today's requirement is 60 per cent majority for a development board and 80 per cent for a marketing board. A plebiscite is not required for the creation of a development commission, but the applicant party must demonstrate support amongst its member producers.
- Manitoba: Under the Manitoba Farm Products Acts, there is no requirement for a plebiscite to create, amend and dismantle a provincial marketing board. Though to receive certification under the Agricultural Producers' Organization Funding Act, a 60 per cent majority is required irrespective of a refundable or non-refundable levy. The Funding Act facilitates the funding of one general farm policy organization (KAP) or designated organisations that represent producers of a specific agricultural product. The purpose of the designated organization is to fund research and promotion activities for the Province. The funding act specifies that an organization may be designated as the representative organization of that agricultural product, provided that it is a corporation without share capital or a cooperative and not listed under the Manitoba Farm Product Act.
- Ontario: The Ontario Farm Products Marketing Commission has an established policy on plebiscites. The policy applies to establishing, retaining and amending marketing plans under the Ontario Farm Products Marketing Act and the Milk Act. The commission has established a positive support level at 66.66 per cent producers casting ballot votes in favour; with 50 per cent of the cumulative production represented by producers casting ballots in favour.

ANNEX 6: CWB Board of Director Elections

Context: The CWB is governed by a 15-person board of directors. Of the fifteen, ten are elected by western Canadian producers and five appointed by the Government. There have been four elections since the 1998 amendment to the CWB Act provided farmers with the right to elect their directors. The process and criteria for CWB board of director elections is set out in the “*Regulations Respecting the Election of Directors of the Canadian Wheat Board*” (the CWB regulations).

Eligible voters: As set out in the CWB regulations, a voter is defined as

“5. (1) A producer who is an individual may vote if they have attained the age of 18 years by the last day of the election period or, if under 18 years of age the producer has designated a cosignatory of a permit book who is at least 18 years old on that day and who has consented to vote on behalf of producers.”

The CWB Act defines both ‘Producer’ and ‘Actual Producer’. Producers include actual producers of the grain, as well as persons entitled to the grain grown, as landlord, vendor or mortgagee.

The CWB regulations require the CWB to provide to an Election Coordinator, not later than 60 days before the last day of the election period, a list of producers named in a permit book, or who were named in a permit book during the previous crop year. 7(1) A producer whose name is not included on the voters list may request the Election Coordinator, at least fourteen days before the last day of the election period, to add their name to the voter list providing proof of identity and eligibility (8).

Voters can only vote once, and must vote only in one electoral district.

Meyer Norris Penny 2004 voter eligibility included actual producers named in a 2003-2004 or 2004-2005 permit book and any person named in a 2003-2004 or 2004-2005 permit book as being entitled to grain produced by an actual producer. Permit book holders were automatically included on the voting list. Non permit-book holders who were involved in the business of farming as an actual producer, or as a landlord, vendor or mortgagee, entitled to a share of one of the six major grains defined under the CWB Act were also eligible to vote. For the latter to register on the voting list, they were required to complete and sign a statutory declaration form signed by a Commissioner of Oath. All voters had to farm within a district that was up for re-election.

Third party agency: The CWB regulations require an outside agency be nominated as Election Coordinator to manage and oversee the election process. In the last three elections, the CWB has contracted Meyer Norris Penny to plan, co-ordinate and carry out the election process. Votes are counted in the presence of independent scrutineers appointed by the Minister.

Majority Support: A candidate must receive more than half of the total number of votes cast in their respective electoral district 20(1). (50% plus one)

The Ballot: The vote is done by mail-in votes. Voters are asked to rank each candidate by order of their preference (first choice, second choice, third choice etc.) Voters are not required to rank each candidate. The Election Coordinator counts all first choice candidates. If no candidate has received a majority, a second count is required. The candidate with the least first preference votes is eliminated, and that candidate’s vote is re-distributed to the remaining candidates according to the voters second preference choice. The process continues until a candidate receives a majority of votes.

Election Spending: The CWB regulations establish spending limits for both candidates and third-party interveners. The maximum spending limit for candidate is \$15,000 and for third-party interveners \$10,000. The CWB regulations establish spending criteria and reporting procedures.

Election Review Panel: In June 2005, the Government of Canada created a three-person panel to review the CWB board of director electoral process. The review process consulted producers, different levels of government, the CWB board of directors and Meyer Norris Penny.

The final report, released November 2005, made the following recommendations:

1. Change the eligibility to vote criteria – Streamline the voter list to ‘actual producers’, who have delivered 40 tonnes or more grain to the CWB in any one of the last two crop years.
2. Reduce the voting age to 16 – The CWB permit book criteria is 16 or 17 years of age. Reducing the voting age for the elections would create consistent criteria.
3. Designate home quarters be used to define voting districts – Actual producers should be assigned to the voting district in which his or her designated home quarter is situated.
4. District boundaries should be re-aligned – A re-alignment of district boundaries may be required after a change in the eligibility of voters.
5. There should be an independent election commissioner – The independent election commissioner, appointed by the CWB board of directors, should manage the elections.
6. Maintain third party spending limits – Any third party spending that supports specific candidates should be counted against candidates’ spending limit.
7. The election scrutineer process should be changed – Each candidate should name one scrutineer, rather than the Minister or the CWB appointing independent scrutineers.
8. The ability of the candidates to communicate with the voters should be enhanced – A section of the permit book application could be included that offers the option for the producer to indicate if the CWB could release their phone number or email to the candidates voter list.
9. The preferential ballot voting system should be retained – Information material should be developed and distributed to enhance voter understanding.
10. No financial support from the CWB should be provided to a candidate – It is not in the mandate of the CWB to fund candidates’ campaign expenses.
11. The Election Code of Conduct should be revised – The code should be revised to eliminate the possibility of unequal public or media exposure of incumbent candidates during the election.
12. The timing of the CWB election should be changed – The time of the election should be change to begin December 1 with candidate nominations and end April 1, with winning candidates assuming their roles.
13. Change methods of appointing directors – The Minister should select government-appointed directors at the recommendation of the CWB board of directors. At any given time, only three of the five government-appointed directors should be eligible to vote.

14. The statutory declaration process should remain in place – Maintain the declaration to add actual producers to the list should their name be inadvertently left off the voters list.

As a whole, the CWB supports the panel recommendations and has indicated such to the Minister. The Government is now considering the Panel recommendations. As a change in voter eligibility is required, the Government would be required to change CWB regulations under the CWB Act.

It is important to note for future consideration for plebiscite purposes, that voting criteria of a minimum 40 tonnes of grain delivery would eliminate a large portion of farmers. This system bases voting rights on deliveries and not permits books or production of the grain, where the current voting system is open to all producers regardless of whether or not they deliver grain to the CWB. The Election panel chose to not suggest weighted voting, opting instead for minimum deliveries.

The 2006 CWB Election of Directors: Fall 2006 elections will be held in Districts 1, 3, 5, 7 and 9. The current schedule is:

September 5th, 2006	Official Beginning of Election Period and Call For Nominations
October 23rd, 2006	Deadline For Nominations
October 30th, 2006	All Ballots To be mailed to Eligible Voters
December 1th, 2006	Postmark Deadline For Returned Ballots
December 9th and 10th, 2006	Tabulation and Results Announced
December 31st, 2006	Elected Directors assume office

Annex 7: Corporations, Non-profit co-operatives, Co-operatives and New Generation Co-operatives

Context: In past plebiscites, CWB elections and within the current political debate on holding a plebiscite, an argument for weighted votes has been made. To illustrate Canadian industry common practice, different business structures are examined below. Other than for-profit corporations, the standard practice is that each producer or member has one vote. For-profit corporations are closest to a weighted voting system, with votes being accorded by share. A shareholder with more than one share has more than one vote.

	For-Profit Corporation	Non-Profit Corporation	Co-operative	Non-profit Co-operative	New Gen Co-operative
Purpose	Profit for shareholders on investment of time or money.	Activities for purposes other than personal, financial gain.	Service and saving for members.	Voluntary for social, cultural and economic needs of members.	Supports members to raise capital and jointly own and operate a value-added processing venture.
Ownership	Shareholders or Private Different types of share offerings	Members	Open and voluntary membership	Members	Members who have purchased common par-value share/delivery rights. New-gen co-ops can also issue non-par value shares to raise capital.
Voting	Shares per shareholder, unless share class does not have voting rights.	One member, one vote unless otherwise specified in the articles or by-laws.	One member, one vote. No proxy.	One member, one vote. No proxy.	One-member (Common par-value share), one-vote.
Distribution of Surplus Earnings	Dividends paid on shares. Rates set per board of directors.	Surplus remains in the corporation.	To members in proportion to use of service. Allocated, but members may choose to re-invest.	Surplus remains in co-op. Surplus goes to another non-profit group at time of dissolution.	Surplus returned to common par and non-par value shareholders. May also be re-invested into the Co-op.
Initiation of Policies	Board of directors, shareholders and management.	Board of directors, members and management.	Board of directors, members and management	Board of directors, members and management	Board of directors, members and management.

Select Case Examples:

Saskatchewan Wheat Pool: The Saskatchewan Wheat Pool (SWP) is now a publicly-traded agribusiness incorporated under the Canadian Business Corporation Act. SWP offers a single-class of common voting shares to its members. All shareholders vote for the board of directors based on the amount of shares they hold. The board consists of seven directors from the business community and five farmer directors. The latter are selected through the newly established Western Farm Leadership Co-operative (WFLC). Farmers elect directors to the WFLC board of directors.

United Farmers of Alberta (UFA): The UFA offers its co-op members a wide range of farm supply products, farm services and access to petroleum outlets. Co-op membership is available for five dollars, and entitles the member to vote for a group of delegates and to receive dividends. Delegates, in turn, elect the board of director. All members are eligible to one vote providing they have spent a minimum of \$100 from Jan 1 to September 30 and are present at the annual meeting.

AWB Limited (AWBL): AWBL's corporate structure consists of two classes of shares. Class A shares are issued to current wheat growers, as defined in the AWBL constitution. They can't be transferred and are automatically redeemed when the grower stops growing wheat. Class A shares do not receive dividends, but provide voting rights for annual meetings and the election of the majority of the board of director elections. Class B shares are publicly traded, receive dividends and include voting rights for a minority of directors. They can be freely traded, subject to no one person owning more than 10 per cent.

Class A shareholder directors are elected in districts defined by state boundaries with two in new South Wales, two in Western Australia and one each in South Australia, Victoria and Queensland to the Northern Territory. Class A shareholders who grow and market more than an average of 33.33 tonnes per year receive one vote, irrespective of whether or not they deliver to the AWB. A second vote is granted if they market between 33.33 and 500 tonnes/year through the AWB. For each additional 500 tonnes (or part thereof) they receive an additional vote. There is no cap on the number of votes a farmer can be entitled to. Class B directors are elected by Class B shareholders.

ZESPRI International: Zespri International Limited operates a single point of market entry (SPE) system for kiwifruit from New Zealand to all export markets, except Australia. Zespri International is grower-owned and controlled. It is controlled by an eight person board of directors. Three of the directors are independent, neither a shareholder or industry participant.

Zespri international was established in 2000, with shares in the company being allocated to growers based on a production-based formula. Later that year, growers supported a constitutional amendment establishing a voting cap and backing a capital raising share issue to strengthen the company's balance sheet. In 2001, shares were split on a two for one basis and shareholders' voting rights became and remain capped relative to production supplied to the Company. Growers do not need to possess shares to deliver to Zespri, but are not entitled to any dividends and to participate in any voting. In 2005, Zespri again initiated a share offering solely aimed at bringing the company into closer alignment of shareholders with production. The offering was only open to under-shared growers, producers who had increased their production levels or had new plantings.