

# DRC Operating Rules

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# Operating Rules – Part 1 – General Administrative Provisions

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## I. DEFINITIONS

### A. Affiliated Industry Organization

An “affiliated industry organization” is any North American not for profit or produce industry organization whose members are eligible for DRC membership.

## II. DIRECTOR REMUNERATION

The Directors shall serve as such without remuneration and no Director shall directly or indirectly receive any profit from occupying the position of Director; provided that a Director may be reimbursed for reasonable expenses necessarily incurred by the Director in the performance of the Director's duties while attending Board meetings of the Corporation. In addition to reimbursement of reasonable expenses, the Board of Directors may establish a per diem allowance payable to Directors to cover meals and incidentals. Nothing herein contained shall be construed to preclude any Director from serving the Corporation as an officer or in any other capacity and receiving remuneration therefore.

## III. OFFICERS (s. 7.01 By-law No.1)

### A. Officers of the Corporation

#### 1. Chairman and Vice-Chairmen of the Board of Directors

The Board of Directors may annually, or more or less often as may be required, appoint a Chairman of the Board (referred to as the “Chairman”) and two or more Vice-Chairmen of the Board. The Chairman and Vice-Chairmen of the Board of Directors must be members of the Corporation, or an officer, partner, employee or named representative of a member or a person representing an affiliated industry organization, must reside in different countries, must be members of the Board of Directors of the Corporation, and must have served on the Board of Directors for at least one year.

#### 2. President

The President shall be the chief executive officer of the Corporation. In general, he shall supervise and control all business and affairs of the Corporation. In particular, he shall:

- (a) supervise the carrying out of the policies and orders of the Board of Directors;

(b) be authorized from time to time, and within the budget of the Corporation, to employ such persons as he may deem necessary for the proper conduct of the affairs of the Corporation, and determine the compensation to be paid therefore; and

(c) do all and every such other things and acts pertaining to the office of President as may be directed by the Board of Directors, and shall make such reports, recommendations, and suggestions to the Board of Directors as in his judgment will be for the benefit of the business of the Corporation.

### 3. Treasurer

The treasurer of the Corporation shall be the same person as the President of the Corporation unless and until the Board of Directors appoints a separate person to the office of treasurer. The treasurer of the Corporation shall:

(a) give a bond for the faithful discharge of his duties in such sum and with such surety or sureties as the Board of Directors shall determine if required by the Board; and

(b) have charge and custody of and be responsible for all funds and securities of the Corporation; receive and give receipts for moneys due and payable to the Corporation from any source whatsoever, and deposit all such moneys in the name of the Corporation in such banks, trust companies or other depositories as shall be selected by the Board of Directors.

### 4. Secretary

The secretary of the Corporation shall be the same person as the President of the Corporation unless and until the Board of Directors appoints a separate person to the office of secretary. The secretary of the Corporation shall:

(a) keep the minutes of the members' meetings and of the meetings of the Board of Directors, in one or more books provided for that purpose;

(b) see that all notices are duly given to the members and Directors in accordance with the provisions of the By-Laws, or as required by law, be custodian of the corporate seal and of the records of the Corporation, and see that the seal is affixed to all documents requiring the same;

(c) keep a register of the post office address of each member and Director, which address shall be furnished to the secretary by each such member and Director; and

(d) make any and all reports as may from time to time be required of the Corporation.

## B. Removal of Officers

Officers shall be subject to removal by the Board of Directors at any time, with or without cause, provided however, that such removal shall be without prejudice to the contract rights, if any, of the officer so removed.

## C. Vacancies

Each incumbent officer shall continue in office until the earlier of:

- (a) that officer's resignation, which resignation shall be effective at the time the written resignation is received by the secretary of the Corporation or at the time specified in the resignation, whichever is later;
- (b) the appointment of a successor;
- (c) that officer ceasing to be a Director if such is a necessary qualification of appointment;
- (d) that officer's removal by the Board of Directors; or
- (e) that officer's death.

If the office of any officer of the Corporation shall be or become vacant, the Directors may, by resolution, appoint a person to fill such vacancy.

## D. Remuneration of Officers

The remuneration of all officers appointed by the Board of Directors shall be determined from time to time by resolution of the Board of Directors.

# IV. COMMITTEES (s. 6.05 By-Law No.1)

## A. Nominations Committee

Not less than 30 days following the annual meeting of the members of the Corporation, the Chairman shall appoint a nominations committee, the members of which shall hold office for a term of one (1) year from the date of their appointment, or until their successors are appointed. The nominating committee shall be comprised of three (3) current Directors of the Corporation, with 1 being from Canada, 1 being from Mexico and 1 being from the United States, whose terms are not up for re-election or where their term is up, they have chosen not to run for re-election at that time. The committee will select its own chairman. The primary task of the nominating committee shall be to recruit and secure strong balanced leadership for the Corporation in accordance with

the geographic representation and composition of the Board established in By-Law No. 1. In particular, the nominating committee will:

- (a) prepare a nominating committee report which shall include a slate of one or more candidates for each Director's office which will be vacant and for which an election is to be held at the annual meeting, the slate to be determined in accordance with the DRC Nominating and Director Selection Process attached as Appendix A to this Part 1 of the Operating Rules;
- (b) provide its report to the Board of Directors for its approval at least sixty (60) days before the annual general meeting in each year;
- (c) present the nominating committee report to the members at the annual general meeting;
- (d) make recommendations to the Board of Directors regarding nominees for the election of officers on an annual basis;
- (e) make recommendations to the Board of Directors of names of persons to fill vacancies on the Board, in officer's positions or on committees that occur throughout the year.

#### B. Advisory Committee

The Chairman shall appoint an advisory committee comprised of 1 government representative from each of Canada, Mexico and the United States. The committee shall select its own chairman as necessary. This committee may at its discretion consider and comment on any initiatives of the Corporation including, but not limited to, any By-Law or Operating Rules changes and any industry or government initiatives, laws or regulations that affect or may affect the Corporation or any of its members. Where this committee has chosen to consider and comment on any one or more of these issues, this committee shall be entitled to attend at Board meetings in order to report its comments in person to the Board.

#### C. Trading Standards Committee

The Chairman may appoint a trading standards committee. The trading and standards committee shall be comprised of 3 persons, with 1 being from Canada, 1 being from Mexico and 1 being from the United States. The committee will select its own chairman. It shall be the duty of this committee to consider the Trading Standards of this Corporation and any proposals for changes to such Trading Standards, and to report its recommendations to the Board of Directors.

#### D. Transportation Standards Committee

The Chairman may appoint a transportation standards committee. The transportation standards committee shall be comprised of 3 persons, with 1 being from Canada, 1 being from Mexico and 1 being from the United States. The committee will select its own chairman. It shall be the duty of this committee to consider the Transportation Standards of this Corporation and any proposals for any changes to such Transportation Standards, and to report its recommendations to the Board of Directors.

#### E. Mediation and Arbitration Committee

The Chairman may appoint a mediation and arbitration committee. The mediation and arbitration committee shall be comprised of 3 persons, with 1 being from Canada, 1 being from Mexico and 1 being from the United States. The committee will select its own chairman. It shall be the duty of this committee to consider the Mediation and Arbitration Processes, Policies, Standards and Rules of this Corporation and any proposals for changes to such Processes, Policies, Standards and Rules of this Corporation, and to report its recommendations to the Board of Directors.

#### F. Term and Vacancies

With the exception of the Nominations Committee, the term of service of any committee appointed by the Chairman shall expire on the date of the next annual meeting of members, or upon such earlier or later date as may be indicated by the Chairman. The Chairman may remove any committee member. The Chairman may, in his discretion, fill any vacancy on any such committee. All committees are responsible to and must report to the Board of Directors.

#### G. Remuneration

Members of any committee will serve as such without remuneration, but shall be entitled to reasonable expenses incurred in the exercise of their duties as such with the prior approval of the Chairman or the President.

### V. MEMBERSHIP

#### A. Application Process (s. 3.01 By-Law No. 1)

- (a) All applications for membership shall be submitted to the President who shall determine whether the applicant may be admitted to membership.
- (b) Every application for membership shall be signed by the applicant if the applicant is an individual or sole proprietorship, any general partner of the applicant if the applicant is an individual or sole proprietorship, any general partner of the applicant if the applicant is a partnership, or a duly authorized signing officer of the applicant if

the applicant is a corporation or company, or a duly authorized managing member or manager of a limited liability company.

## B. Membership Qualifications (s. 2.01(b) By-Law No. 1)

Applicants for membership and all responsibly connected persons to the applicant for membership must meet the following membership conditions in order for the applicant to be considered for membership in the Corporation:

- (a) must not have had a license issued under the Licensing and Arbitration Regulations of Canada as amended or the Perishable Agricultural Commodities Act of the United States, as amended, revoked or suspended in the 5 years preceding the day on which the application is submitted;
- (b) must not have been expelled from membership in the Corporation in the 5 years preceding the day on which the application is submitted;
- (c) must not have failed to comply with any order or direction of an arbitration or failed to comply with a mediated agreement and/or arbitration award in the 5 years preceding the day on which the application is submitted;
- (d) must not have been convicted of a criminal act, for which a pardon has not been granted, in the 5 years preceding the day on which the application is submitted;
- (e) must not have been convicted of or pled guilty to any charges under any statute for activities which violate any provision of the Letters Patent, By-Laws or Rules in the 5 years preceding the day on which the application is submitted;
- (f) must not have been named in any outstanding court order regarding matters related to the operation of any business in the 5 years preceding the day on which the application is submitted;
- (g) must not have made a false or misleading statement, or provided false or misleading information to the Corporation in the 5 years preceding the day on which the application is submitted;
- (h) must not have become bankrupt or suspended the payment of debts generally or compounded with creditors or made an authorized assignment or been declared insolvent or made an arrangement under the Companies' Creditors Arrangement Act, R.S., c. C025, s. 1 as amended from time to time, or a proposal under the Bankruptcy and Insolvency Act, R.S. 1985, c. B-3, s. 1; 1992, c. 27, s.2, as amended from time to time, or made a similar arrangement or proposal or sought similar protection under any equivalent statute in the United States or Mexico or other country, province or state in the 5 years preceding the day on which the application is submitted;



(i) must not have suspended the operations of a business (sole proprietorship, partnership, corporation or otherwise) without fully meeting its financial obligations in the 10 years preceding the day on which the application is submitted;

(j) in the case of the applicant, must demonstrate an ability to meet its financial obligations in a timely manner;

(k) in the case of a responsibly connected person to the applicant, must not be or must not have been responsibly connected to any sole proprietorship, partnership, limited liability partnership, corporation or other entity who fails to meet the membership criteria set out in this Section B;

(l) upon being notified by the President, in the case of the applicant, it must have provided or posted financial security in an amount and form, and upon such conditions as may be determined by the board of directors; and/or

(m) must have satisfactorily replied to requests for such further information as the President of the Corporation may deem necessary in order to fully evaluate the application, including further information about the applicant, responsibly connected persons to the applicant, employees of the applicant, the information supplied on the application and any membership conditions or criteria.

#### C. [Membership Fees \(s. 3.02 of By-Law No. 1\)](#)

The Membership Fees of the Corporation are published and shall be adjusted annually by the Board to take into account cost of living increases as determined by the Board in its absolute discretion.

#### D. [Agreement to Arbitrate](#)

A member's agreement to submit disputes to arbitration shall only apply to disputes arising in relation to transactions that have entered into commerce in Canada, Mexico and the United States by the product that is the subject matter of the dispute having been grown in, received in or otherwise physically present in Canada, Mexico and the United States.

#### E. [Communications and Information \(s. 3.03 of By-Law No. 1\)](#)

Members shall promptly provide the Corporation with the following information upon request:

- (a) Information on whether the member's business is still operating and capable of meeting its financial obligations in a timely manner;
- (b) the member's address, phone number, fax number, including the address, phone number and fax number of any branch office or warehouse;
- (c) the names of the owners, shareholders and/or responsibly connected persons to the member;
- (d) the names of any persons who are employees of the member; and
- (e) copies of the records required to be kept by the member pursuant to the Operating Rules.

## VI. Appendix A - DRC Nominating and Director Selection Process

### A. Goal

To increase pool of qualified director candidates and to provide transparent process for director selection.

### B. Overview

The nominating committee solicits qualified candidates from affiliated organizations. Affiliated organizations may nominate candidates active in the produce industry who meet the director qualifications. The nominating committee selects candidates from the affiliated organizations and presents its report to the membership least 90 days prior to the annual meeting.

Members may nominate additional qualified candidates 75 days prior to the annual meeting provided any nomination is supported by the signatures of at least 5 DRC members.

Based on qualifications and balancing the board membership the nominations committee will present its report to the Board at least 60 days prior to the annual meeting for approval. The final slate of nominations will be presented to the members for a vote at the Annual General Meeting.

### C. Director Attributes

Candidates will be sought with the following attributes which are in addition to the mandatory qualifications for directors set out in the By-laws:

- a. Exhibit ability to communicate inter-personally, provide facilitative leadership, and enforce group discipline on board processes.
- b. Possess a strong understanding and experience with the appropriate roles, group processes and corporate bylaws and policies that form systems of corporate governance.
- c. Show demonstrated judgment and integrity in an oversight role.
- d. Have the ability to creatively and strategically envision future strategy and to understand existing strategy and its implications.
- e. Have experience serving on a not-for-profit Board or governance committee or senior level experience working with other Boards will also be considered.