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Draft Law on Cooperatives of Vietnam

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Draft Cooperative Law for VietnamPrefaceBackground

Under the socialistic pattern of society in Vietnam, it was decided that ownership in every sector of economy should be collective. Cooperative ownership was considered as collective ownership and the two terms were interchangeable. In the state publications, cooperatives were included under collective sector. The process of cooperativisation started in 1955 in North Vietnam and was taken up in South Vietnam from 1976 onwards. The programme consisted of three phases : (i) Mutual-Aid Teams, (ii) Low Level Cooperatives, and (iii) High Level Cooperatives.

The first initiative of cooperativisation was in the form of mutual-aid teams where the farmers joined together to help each other. The state supported it and people accepted it. By 1958, there were 2,44,400 mutual-aid teams consisting of 17,70,000 households accounting for 65.7% of farming household in the North.

The second phase was to convert the mutual-aid teams into low level cooperatives where members pooled their land and resources and shared the profits. By 1960, there were 40,400 agricultural cooperatives consisting of 36,180 primary level and 4,300 at higher level covering 85% of the agricultural population.



The third phase was where these cooperatives handed over their land and resources to the cooperatives and they were paid wages based on the system of units of work done by them. Under this phase they had no say in the management nor had any share in the profits. By 1979, there were 15,300 high level cooperatives at village level and 1,700 low level cooperatives which finally were reduced to 4,154 at commune level and 984 others.

The programme of cooperativisation in South started after 1976 and by 1980 there were 1,518 agricultural cooperatives.

There was not much resistance to the first two stages of cooperativisation partly because of many of the members in North were landless as also they had autonomy and freedom to decide. However, in the third stage where they lost their autonomy and sharing the profits, made the members frustrated and they lost interest in the programme. Even though the membership was voluntary, people were forced to join these high level cooperatives. The resistance was more severe in the South where people had been cultivating their own land and they strongly resisted this process of cooperativisation. The result was the production in the country declined considerably and cooperatives became a unwelcome word for many people.

Land Reforms

Concerned with the decrease in the production, the government decided to initiate programme of renovation in 1981. Under this programme, as a first step, the land was distributed to the households and they were given freedom to

produce what they wanted. The responsibility of cooperatives were limited to the following :

- i. allocation and ploughing of land and providing production plan;
- ii. providing seed;
- iii. organise irrigation
- iv. provide fertilizers, insecticides etc.
- v. collection of paddy

Members had to contribute paddy to the cooperatives based on average production which included land revenue which the cooperatives paid to the state and retained the balance as its share. In 1987, this levy was increased which discouraged the members to produce more. Out of the additional levy received by the cooperatives due to increased production, only 20% was given to the members and the balance was spent by the management without having the approval of the general body. This further shook the confidence of members in the working of the cooperatives. The next step taken by the government in 1988 was under resolution 10 which gave freedom to the farmers to sell the produce to whom so ever they liked. Cooperatives provided only those services which the members wanted and contracted with them. Generally, these services included (i) providing new technology, (ii) carry research, production and supply of new seeds; and (iii) supply of insecticides.

In December 1990, the government enacted law on private enterprises as also on companies. Similarly, law has also been enacted for state companies, but no law has been enacted for cooperatives so far. The impact of this has been that cooperatives are losing their legal status. While some cooperatives have got registered themselves either state sector bodies or under companies law, in some other cases they have been allowed to continue under their old regulations. They are being told now by local authorities that their recognition might not be extended further and they must get themselves registered under the existing laws. This is a problem for many of the cooperatives who do not treat themselves either under state sector or in the private sector.

The government appointed a committee of officials to draft the cooperative law, but for more than two years the members of the committee could not come to an agreed draft. This was primarily because of the diversified opinions about the contents and the structure of the law.

The ICA ROAP organised a Planning Workshop on Cooperative Movement in Vietnam in July 1992. In this Workshop, one of the recommendations was that ICA should provide technical assistance in drafting of the cooperative law. Based on this recommendation and the request of the Central Council of Vietnam Supply & Marketing Cooperatives and with financial assistance from the SCC, the ICA provided consultancy to Vietnam in December 1992 to help in finalising the draft cooperative law. After prolonged discussions with the concerned officials in various ministries, the drafting committee and others a mutually agreed draft has been

finalised. The draft law recognises that cooperatives are voluntary, democratic, autonomous institutions and they will have full freedom to operate as per their members' wish. The state will support the cooperatives but will not interfere and infringe their autonomy. Of course they will be governed by the various laws of the land. Initially, the drafting committee was not in favour of including registration of federal cooperatives in the draft law and wanted to make law only for primary cooperatives. However, after discussions, finally, the draft law covers all types of cooperatives at all levels.

It is now proposed to convene a workshop of cooperators, officials and media to explain the draft law so that they understand its implications and it could be adopted by the Parliament. As soon as the draft law goes to Parliament, it is proposed to undertake drafting of model bye-laws which is going to be perhaps more difficult task than drafting the law. At present, it is left to the concerned ministries to draft the model bye-laws. However, it has been suggested to the CCSMC that it would be desirable to have a coordinating agency to ensure that drafting of model bye-laws is done within the earliest possible time and in a uniform structure.

The whole emphasis in the draft law is to provide a simple legal framework and clarify the position of cooperatives vis-a-vis state and indicating the clear policy of the state so as to create confidence in the minds of the people to join cooperatives.

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Draft Cooperative Law of Vietnam 1993

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DRAFT LAW ON COOPERATIVES IN VIETNAM

PREAMBLE

In a multi sector economy, in order to facilitate the voluntary formation and democratic functioning of cooperatives as members' institutions based on self-help and mutual-aid and to enable people to promote their economic and social betterment; in pursuant of Article 20 and Article 84 of the Constitution of Socialist Republic of Vietnam, this law makes provisions on cooperative organisations.

CHAPTER I

GENERAL PROVISIONS

ARTICLE 1 ; EXTENT

This law shall extend to all types of cooperatives .

ARTICLE 2 ; DEFINITION

Cooperatives are economic institutions of persons who have common needs and interests, contribute their capital, labour and skill on the basis of self help and mutual-aid in order to improve their economic condition and meet social needs and will be registered under this law.

ARTICLE 3 : State Policy

- i. Cooperatives being people's institutions for economic development, social justice and equity for the society and particularly the farmers, artisans, workers and similar sections of society, it shall be the policy of the state to encourage and support its formation, growth and development.
- ii. The state shall recognise cooperatives as democratic institutions owned, managed and controlled by members for their economic and social betterment, operating their business based on mutual aid and cooperative principles as stated in Article 4.
- iii. The state shall create atmosphere and conditions conducive to the growth of cooperative development.

ARTICLE 4 : Cooperative Principles

The following shall constitute the cooperative principles:

- (i) Membership of a cooperative shall be voluntary and available to all persons who can make use of its services and are willing to accept the responsibilities of membership.
- (ii) Cooperatives are democratic organisations. Their affairs shall be administered by the persons elected in accordance with democratically expressed will of the members. The persons so elected shall be accountable to the members. In those cooperatives, whose membership consists of individuals, every member shall enjoy equal rights of voting (one member one vote) and participation

in the management of their cooperatives. In the cooperatives having membership of cooperative organisations only, the administration shall be conducted in a democratic manner as agreed by their member organisations

- (iii) Share capital shall receive a limited rate of interest.
- (iv) Surplus/profit/savings, if any, arising out of operations of the cooperative society shall belong to the members of that cooperative and shall be utilised for following purposes:
 - (a) The development of the business of the cooperative societies.
 - (b) Provision of common services for the members.
 - (c) Distribution among the members in such a manner as would avoid one member gaining at the expense of others or in proportion to their transactions with the cooperatives.
- (v) All cooperatives shall make provision for the education of their members, officers and employees and of the general public, in the principles and techniques of working of cooperatives both economic and democratic.
- (vi) All cooperatives, in order to best serve the interest of their members and communities shall actively cooperate in every practical way with other cooperatives local, national and international levels having as their aim the achievement of unity of action by cooperators through out the world.

ARTICLE 5 : Cooperative Officer

The Government of Vietnam and people's committees may designate officer / officers to be named Cooperative Officer or any other designation and confer all or any of the powers under this Act.

ARTICLE 6 : Objects and Functions

A cooperative is an institution which works for the economic progress and welfare of its members. Depending on its resources, it may also undertake programmes for the welfare and benefit of community at large and the handicapped and veterans particularly as provided in the bye-laws.

ARTICLE 7 : Rights

According to the Law, a cooperative shall have the rights in :

- i. selecting forms of business activities, size of business activities, such as production, trade, distribution, providing services etc.,
- ii. entering into contracts, agreements, joint ventures, etc with either domestic or foreign partners;
- iii. "hiring workers/employees to do the jobs and to implement activities/business of the cooperative society.
- iv. using foreign currencies;
- v. deciding issues concerning forms of organisation and structure within the cooperatives, and all other activities in accordance with rules and regulations of a cooperative and not contradicting this Law.

ARTICLE 8 : Obligations:

A cooperative shall have obligations to :

- i safeguard rights and interests of members and employees
- ii. mobilise and encourage cooperative organisations of youth and women;
- iii. Observe all rules and regulations on accounting and statistics;

CHAPTER II

ESTABLISHMENT AND REGISTRATION

ARTICLE 9 : Minimum Membership :

A primary cooperative to be registered must have a minimum membership of 5 persons of different families.

ARTICLE 10 : Promoters Meeting

In order to organise a cooperative, the promoters shall organise a meeting with the following agenda :

- i. approving list of members;
- ii. approving feasibility study and business plan;
- iii. approving proposed byelaws;
- iv. appointing two persons as representatives to sign all papers and documents for registration and follow-up; and
- v. approving the minutes of the meeting.

ARTICLE 11: Application for registration

1. Application for registration shall be submitted to the people's committee of district or provincial city where principal office or the headquarters of the cooperative will be located.

2. Each such application shall be accompanied by
 - a. two copies of the proposed byelaws of the cooperative as adopted by the promoting members.
 - b. a list of names of members with their addresses, occupation and equity participation.
 - c. a copy of the feasibility study and /or business plan,
 - d. Name of the persons authorised to sign the papers; and
 - e. a true copy of the minutes of the meeting at which the byelaws were adopted, duly signed by the chairperson.
3. Every such application shall be signed by at least 5 individuals from different families in the case of a proposed primary cooperative and by authorised representatives of at least 2 cooperatives in the case of a proposed federal cooperative.

ARTICLE 12: REGISTRATION

- i. The People's Committee where the application is filed, shall issue or refuse to issue certificate of registration as the case requires, within 30 days from the date it received the application. In case where it refuses to issue a certificate of registration it shall state written reasons for refusal.

ARTICLE 13: Appeal against refusal to registration

If not satisfied with the reasons given for not registering, an appeal can be made to the Chairman of People Committee with jurisdiction of province or city within 60 days from the date of receiving the intimation for refusal. The decision by the chairman of a respective People Committee will be the final one.

ARTICLE 14 : BUSINESS REGISTRATION

All cooperatives have to comply with the business regulations as provided in the existing laws.

Business requiring permission of the Prime-Ministers or any other authority shall be obtained before undertaking such activities, except where exempted by the Government for such permission.

ARTICLE 15 : Cooperative as Legal Entity

A cooperative shall have a legal identity from the date it is issued certificate of registration. Representatives authorised by the promoters meeting, shall convene and present the decision on the establishment of the cooperative to the Board of Directors within one month of the date of receipt of the permission.

ARTICLE 16: BRANCHES AND REPRESENTATIVE OFFICES

In case where a cooperative wants to open branches in other provinces, cities and districts it shall obtain permission from the People Committee of the locality where it intends to have the office before starting operations and shall obtain business licence as required under existing laws.

ARTICLE 17: Bye-Laws

Except on such articles prescribed in this law and may be prescribed in the model bye-laws but not contravene to this law, the activities of each coop shall be prescribed in its bye-laws.

Cooperative bye-laws shall cover the following details:

- i. Name of cooperative: its nature of activities;
- ii. Address of the principal office;
- iii. Objectives, scope of business;
- iv. Membership, members' rights and obligations;
- v. Share capital, capital mobilization methods;
- vi. Organisational structure, management responsibilities and powers at various levels;
- vii. Terms of office; ways of convening the General Assembly, quorum and others.

ARTICLE 18: MODEL BYE-LAWS

- i. Government shall draft model bye-laws of different types of cooperatives and federations and make them available to any one who needs them. The promoters meeting may use them for adoption as their bye-laws as per their needs.
- ii. The General Assembly will be competent to amend its bye-laws. But such amendment should not contravene with this law. A copy of any amendments made shall be sent to the Peoples Committees and others concerned.

CHAPTER III

MEMBERSHIP

ARTICLE 19: Qualifications

i) Any citizen of Vietnam not less than 18 years of age shall be eligible for membership in a cooperative if the applicant meets the qualifications prescribed in this Law, having willingness and ability to fulfil the objectives and responsibilities required by the cooperative and his application is accepted by the cooperative.

ii) A person can be member of more than one cooperative if there is no restriction in the bye-laws and he can use the services.

iii) Bye-laws may provide for membership for persons of age of 16 years and above. Such persons will be entitled to vote but will not be allowed to hold elected post.

ARTICLE 20: Rights

1. A member of cooperative shall have the following rights:

- i. participating in General Body meetings and expressing his opinion and voting;
- ii. to elect or to be elected member of Board of Directors, Audit and Control Committee or any other elected position;

iii. expressing his opinion to the Board of Directors, Audit and Control Committee of the cooperative and seek replies and suggesting to the Board of Directors to convene the General Assembly under Article 31 of this Act.

- iv. a) receiving services from the cooperative;
- b) exercise economic contract obligations to other members;
- c) having access to the technical and economic information available with the cooperative;
- d) benefiting from welfare if any;
- e) sharing profits of the cooperative to the extent of his transactions.

ARTICLE 21: Responsibilities

Responsibilities of members are as follows:

- i. Follow rules and regulations of the cooperative, resolutions of members' meetings; and comply with the decisions of the Board of Directors to achieve the objectives of the cooperative.
- ii. Fulfilling economic obligations to the cooperative, taking responsibility for the debts of the cooperative and sharing losses to the extent of his share contribution.

ARTICLE 22: Transfer of Membership

A member may transfer his shares and membership to others who can meet all requirements for the membership in the cooperative as provided in the bye-laws.

ARTICLE 23; TERMINATION OF MEMBERSHIP.

Membership may be terminated according to the bye-laws under the following circumstances;

- i. voluntarily withdrawing if approved.
- ii. having transferred membership to another person.
- iii. death
- iv. being removed from membership.
- v. other conditions provided in the act, rules and byelaws.

CHAPTER IV

ADMINISTRATION AND MANAGEMENT

ARTICLE 24; General Assembly

- i. General Assembly is the highest authority and decision-taking body of a cooperative.
- ii. Cooperatives with a membership of 100 and above may provide for representative general assemblies if necessary. Procedure of electing representatives, their number and terms will be specified in the byelaws of the cooperative. The general meeting of representatives will have the same power, responsibilities and functions as that of general assembly. (hereafter it will be referred as general assembly)
- iii. Annual General Assembly in every cooperative shall be convened by its Board of Directors within six months of the date of its closing of accounts. It shall elect members of Board of Directors and Audit and Control Committee when due.

ARTICLE 25; Special General Assembly

- i. The Board of Directors and/or the Audit and Control Committee may call a Special General Assembly Meeting to deal with urgent matters, which may not be in their in competence.

- ii. In case at least one fifth of members sign an application for a special general assembly meeting, within 45 days from the date the application is filed, the Board shall call a Special General Assembly.

ARTICLE 26 ; Notice

A notice of minimum 10 days for the General Assembly Meeting along with time ,venue and agenda shall be sent to all members . The Meeting shall discuss and take decisions only on issues included in the agenda.

ARTICLE 27; Agenda

The agenda of the Annual General Assembly shall be the following:

- i. Annual report on management performance by the Board and the Audit and Control Committee.
- ii. Audited finance and accounts, profit distribution and how to meet losses in case of loss.
- iii. Discussing business plan and work programme for the ensuing year.
- iv. Election of members of the Board and the Audit and Control Committee when due according to the bye-laws.
- v. Hearing appeals of new members.
- vi. Hearing appeal in case of termination of membership.
- vii. Decrease or increase the authorised capital.
- viii. Amendment of the bye-laws
- ix. Prescribe minimum level of patronage/transaction for members as qualification for participation in election and voting.
- x. Other matters included in the agenda.

ARTICLE 28; Quorum

- i. The quorum of a General Assembly Meeting shall be at least half of total number of members of the cooperative. The meeting shall be postponed if the number of members or representatives are less than half. After the first postponement the Board shall convene the adjourned meeting with a notice of 15 days in which no quorum will be needed. The agenda for the second meeting will be the same and no additional items shall be considered. However, the adjourned meeting shall not consider amendment of bye-laws.
- ii. For approval of amendments of the bye-laws votes of two third of the members present will be necessary and shall not be considered by adjourned meeting.

ARTICLE 29; Board of Directors

- i) The Board of Directors is the body to administer, and conduct the affairs of a cooperative. The Board shall be composed of such number of members as provided in the bye-laws and shall not be less than 3 and more than 15 and shall be elected by the general assembly.
- ii) A Cooperative which has less than 15 members shall elect only the Chairperson and not Board of Directors. A monthly meeting shall exercise all powers and responsibilities of the Board and Chairperson shall have all powers and responsibilities of the Board.
- iii) The term of the office of the members of the Board of Directors shall not be less than 2 years and more than five years as provided in the bye-laws.

Reelections on alternate periods.

ARTICLE 30; Qualifications of members of Board of Directors

The qualification of member of the Board shall be as under:

- i. a member of the cooperative;
- ii. should not be under trial for criminal proceedings and should not be under conviction .
- iii. should have extended patronage as prescribed by General Assembly;
- iv. should possess other qualifications as provided in the bye-laws of the cooperative.

Assembly?

ARTICLE 31 : Powers and Functions of Board of Directors

The powers, responsibilities and functions of the Board shall be as under:

- i. Elect the Chairperson of the Board;
- ii. Delegate authority for legal matters on behalf of the cooperative;
- iii. Approve organisational and professional structure of the cooperative;
- iv. Appoint and approve terms of appointments of Chief Executive and Executive Director(s);
- v. Follow-up of the implementation of the resolutions of the General Assembly;
- vi. Prepare annual report, compliance on audited accounts and financial report;
- vii. propose profit distribution to the General Assembly meeting;
- viii. Fix date, time, venue and convening of the General Assembly meeting.

- ix. Approve budget and work plan and quarterly review its progress.
- x. Admit new members and approve transfer of shares if authorised by the General Assembly.
- xi. The Board shall be responsible for its decisions.

ARTICLE 32: Chairperson

- i. The Chairperson shall be elected by the Board from among its members and the duties and responsibilities of the chairperson shall be either as provided in the byelaws or as approved by the General Assembly. The chairperson shall be responsible to the Board of Directors for his decisions.
- ii. The board shall act and take decisions by majority vote. In the case of equal votes, the vote of the chairperson shall be decisive.

ARTICLE 33; MANAGING DIRECTOR

Managing Director shall be the Chief Executive and person responsible for running the day- to-day affairs of the cooperative. His selection, terms of appointment, suspension, removal, emoluments, duties and powers shall be decided by the Board of Directors.

If the bye-laws do not provide for the post of Managing Director the Chairperson can also act as Managing Director and be responsible for day-to-day activities .

ARTICLE 34; Audit and Control Committee of the Cooperative

i. The Audit and Control Committee (hereafter referred to as Committee) shall exercise supervision and control over the cooperative to ensure that it is acting according to the act, rules and byelaws. Members of the Committee shall have the same qualifications as those of the members of the Board of Directors but shall not be members at the same time of the Board of Directors. Members should not be close relatives of Chairperson, Board members and Managing Director.

ii. Audit and Control Committee shall consist of 3 members and elect one of the members as Chairperson. Cooperatives having less than 15 members shall elect one or two persons for this purpose.

iii. The term of office of the members of the Audit and Control Committee shall not be less than 2 years and more than 5 years as provided in the bye-laws.

ARTICLE 35: Powers and Functions of Audit and Control Committee

i. The Committee shall have the following powers and responsibilities:

a. ensure the implementation of act, rules, bye-laws, regulations and decision of the General Assembly;

b. Supervise activities of Board of Director, Managing Director and Chairperson where there is no elected Board of Directors.

c. Auditing of the finance and accounts, including records and figures of financial activities of cooperative.

- d. Receiving all complaints and appeals from members about the internal working of the cooperative.
- e. Presenting its report to the Board and/or the General Assembly;
- f. The Committee will have power to seek from concerned persons papers and information needed for the above work. It shall keep the information confidential and shall not publicise it or use or disclose it against the interest and image of the cooperative.
- g. In case violations have been observed the Committee may request the Board of Directors to take preventive measures or convene a General Assembly meeting of members of the cooperative if Board fails to take appropriate measures.
- ii. The Committee may utilise professionals from among the members of the cooperative to carry its tasks and ask Chief Executive for the service of any competent staff member to help them.

ARTICLE 36: Remuneration of Board and Audit & Control Committee:

The remuneration of the members of the Board and Audit and Control Committee and their Chairpersons shall be as approved by the General Assembly.

CHAPTER V

MANAGEMENT OF CAPITAL, PROPERTY,

FUNDS AND PROFIT DISTRIBUTION

ARTICLE 37 ; SHARE CAPITAL

- i. Share capital belongs to the members . The value of each share shall be provided in the bye-laws.
- ii. A member in the cooperative shall not hold more than one fifth of paid up share capital at any time.
- iii. When joining the cooperative, the member will have to pay immediately value of one share. If there are difficulties, members may be permitted to pay in instalment as prescribed in the bye-laws. If shares are paid in kind they have to be valued in cash by agreement.

ARTICLE 38: Mobilisation of funds

- i. A cooperative may mobilize capital, deposits, loans and other contributions from its members to such extent and under such conditions as may be specified in the byelaws or approved by the General Assembly.
- ii. A cooperative may mobilize debentures, deposits, raise loans and receive grants from external sources to such extent and under such conditions as mutually agreed.
- iii A cooperative may accept funds from the government or other financing institution for the fulfilment of its objectives on such terms and conditions as mutually agreed.

ARTICLE 39 : Valuation of Shares

While finalising the balance sheet, the value of share capital of a cooperative shall also be calculated either in increased or decreased proportion to changes in value of assets after each capital assessment.

ARTICLE 40 : Inheritance and transfer of shares

On death of a member, his shares shall be inherited under the existing Law. If a member withdraws from the membership of the cooperative, his share capital shall be refunded either in cash or in kind depending on the regulations of the cooperative. Refunding shall be carried out as soon as concerned member settles all debts to the cooperative and after the annual financial report and profit distribution or loss sharing (in this case it shall be some subtraction from share capital of a member) plans are available. After a member's withdrawal his share capital must be refunded not later than one year.

ARTICLE 41 : Disposal of Surplus

Net surplus of a cooperative shall be distributed as follows:

- i. For the Reserve Fund as provided in the rules and bye-laws. Members shall not share this fund and shall be used with the prior approval of General Assembly only for specific purposes.
- ii. For the National Education and Development Fund as provided in the rules and bye-laws.

iii. The balance shall be used for declaring dividend, patronage refund, bonus to the employees and for such other purposes as provided in the byelaws. ~~members??~~

ARTICLE 42; PROVISIONS FOR LOSSES

Loss of a cooperative shall be charged from the share capital of members or reserved fund or carried forward for next year as decided by the General Assembly.

ARTICLE 43: Members to be owners of Funds and Property

All capital and property of a cooperative has to be used and managed according to the rules and regulations and shall not contravene the law. Property and funds from other sources such as aids, subsidies, grants, etc. shall be used for the purposes they have been secured and shall not be distributed to members.

ARTICLE 44; USE OF MEMBERS' RESOURCES AND FACILITIES

The members having their own means of production and willing to use them in the business activities of the cooperative shall be encouraged. The cooperative shall provide favourable conditions for the members to use their means of production efficiently and fulfill economic obligations agreed with them.

CHAPTER VI
AMALGAMATION, DIVISION, SUBSIDIARY AND
DISSOLUTION.

ARTICLE 45: Amalgamation and division.

A cooperative may by a resolution of its General Assembly;

- i) Decide to transfer its assets and liabilities, in whole or in part, to any other cooperative which agrees to such transfer by a resolution of its General Body.
- ii) Divide itself into two or more cooperatives.
- iii) Any two or more cooperatives may decide to amalgamate themselves and form a new cooperative.

ARTICLE 46 ; PROCEDURE FOR AMALGAMATION AND DIVISION.

i. Every resolution of a cooperative under article 45 shall be passed at its general meeting by a majority of total members with right of vote or two third of members present and voting whichever is less and such resolution shall contain all particulars of the liability, transfer, division, amalgamation as the case may be.

ii. Where a cooperative has passed a resolution under this section, it shall give notice thereof together with a copy of the resolution to all its members, federal cooperatives to which it is affiliated and creditors who may give their consent. Otherwise, notwithstanding any byelaw or contract to the contrary, any member, federal cooperative or creditor shall, during a period of one month from the date of service of the notice have the option of withdrawing their shares, deposits, loans, or services as the case may be.

iii. Any member, federal cooperative or creditor who or which does not exercise within the specified period the right under sub-section (ii) shall be deemed to have assented to the resolution.

iv. A resolution passed by a cooperative under this section shall not take effect until :

(a) all the members, federal cooperatives and creditors have assented or are deemed to have assented to the resolution under sub-section (ii) or,

(b) all claims of the members, federal cooperatives and creditors who have exercised the option referred to under sub-section (iii) within the period specified therein have been met in full or otherwise satisfied; and

(c) in the case of change of liability, amendment of the byelaws of the cooperative concerned is registered or deemed to have been registered;
or

(d) in the case of division or amalgamation, the certificate of registration of the cooperative, or the cooperatives, as the case may be, is issued or deemed to have been issued.

v. When a resolution passed by a cooperative under sub-section (i) takes effect the resolution shall be a sufficient conveyance to vest the assets and liabilities in the transferee without any further assurance.

vi. The registration of a cooperative shall stand cancelled and the cooperative shall be deemed to have been dissolved and shall cease to exist as a cooperative;

a) when the whole of the assets and liabilities of such cooperative are transferred to another cooperative;

or

b) when such cooperative divides itself into two or more cooperatives.

vii. Where two or more cooperatives are amalgamated into a new cooperative, the registration of the cooperatives so amalgamated shall stand cancelled and they shall be deemed to have been dissolved and shall cease to exist as cooperatives.

ARTICLE 47: Promotion of subsidiary

i. Any cooperative may, by a resolution passed at general meeting by a majority of members present and voting, promote one or more subsidiary organisations for the furtherance of its stated objectives, and such organisation or organisations may be registered under any law for the time being in force, as agreed to by the General Body.

ii. The annual reports and accounts of any such subsidiary organisation shall be placed before the general meeting of the promoting cooperative each year.

iii. Any subsidiary organisation created under sub-section (1) shall exist only as long as General Body of the cooperative deems its existence necessary.

ARTICLE 48: Dissolution :

A cooperative may be dissolved as under :

- i. Voluntary dissolution by decision of the General Assembly;
- ii. Compulsory dissolution when;
 - a) Membership becomes less than provided in this law;
 - b) General Assembly is not held successively three times for want of quorum;
 - c) Having not started its operation for more than a year from the date of its registration.
 - d) Having no operations for two successive years.

ARTICLE 49; PROCEDURE FOR DISSOLUTION

i) In the case of voluntary dissolutions an application for permission to dissolve shall be filed in the concerned People's Committee having jurisdiction over it and published in five consecutive issues of both a daily national and local newspaper. Application and notice shall cover proceedings and procedure of assets liquidation, duration of time that will be taken to settle all due debts owed by the cooperative and deal with contracts.

- a) Peoples Committee shall accept the application for the dissolution of a cooperative if there shall be no claims and appeals after 30 days when deadline for debt settlement comes.
- b) A cooperative shall be dissolved when the application is approved.

ii. Liquidator shall use value of liquidated assets of the cooperative to pay all debts, dissolution costs. Any surplus left shall be transferred to the National Cooperative Education and Development Fund.

iii. In the case of compulsory dissolution the concerned peoples Committee shall send a written notice to the cooperative stating reasons for dissolution.

If the cooperative fails to give satisfactory explanation within 60 days from the date of receipt of notice, action will be taken to dissolve the cooperative.

iv. In case the cooperative is not satisfied with the order of dissolution, it can file an appeal to the Chairman of the Peoples Committee within 30 days of the order of dissolution and the decision of the Chairman shall be final.

CHAPTER VII

FEDERAL COOPERATIVES

ARTICLE 50; OBJECTS AND FUNCTIONS.

i) Cooperatives of different types may organise separately or jointly National and territorial federal cooperatives as their representing bodies and/or for seeking guidance, extension and technical services, business support, facilities, goods and other needs as agreed by the member cooperatives and provided in the bye-laws.

ii) The objects, functions and organisational structure of such federal cooperatives will be provided in their bye-laws.

iii) The national level federal cooperatives may also represent and collaborate at national and international level on behalf of their member cooperatives.

ARTICLE 51; REGISTRATION

i. Cooperatives consisting of primary and/or secondary cooperatives with at least 2 cooperatives as members may be established and shall be registered under this Act.

ii. In case a federal cooperative provides its membership from more than one province it shall submit its registration to the Central Government.

ARTICLE 52 ; GENERAL ASSEMBLY.

i) General Assembly of cooperatives shall consist of delegates from the member cooperatives as provided in the bye-laws.

- ii. The chairperson of a cooperative shall ordinarily be the delegate to the next tier of cooperative provided, however, that if the chairperson is unable to represent for any reason, he may nominate the Chief Executive or any other member of the board to be the delegate.
- iii. The delegate shall continue to represent his/her cooperative in the federal cooperative as long as he/she remains in office in the member cooperative.

Article 53: JOINT VENTURES

In case the state, a public corporation or others invest in joint venture of a federal cooperative or provide funds for its activities, it may be entitled to nominate not more than three representatives in the General Assembly as per the agreement and approved by the General Assembly.

CHAPTER VIII

OFFENSES AND PENALTIES

ARTICLE 54: Offenses

i. The following actions in cooperatives are considered offence under this law :

- a. Not having a business license, establishment permission, operations without registration or operates in area or trade without permission if such a permission is needed under the law;
- b. Organisation and individual having not registered as cooperative, assume cooperative's name or disguise as cooperative;
- c. Any person assumes falsely to organise a cooperative and violates provisions of this Law.

ii. Any person who abuses powers to provide permission in contradiction to the provisions, not provide permission or business licenses to people/cooperatives meeting all requirements or tries to influence voluntary decisions of a cooperative or breaks any other provision of this law.

iii. Any person who contravenes organisational, management or administrative obligations or principles of cooperation, or acts against the interests of members or cooperative or does not exercise full obligations or misuses resources of a cooperative or breaks any provision of this Law shall be committing offence.

ARTICLE 55; PENALTIES

The above mentioned offenses depending on degree shall be punished by administrative measures or called to criminal court under the legal provisions.

CHAPTER IX

PROVISIONS FOR COMMENCEMENT

ARTICLE 56: Commencement

- i. This law shall come into force with effect from _____
- ii. Whatever promulgated formerly contradicts to Provisions of this Law shall be of no validity.
- iii. All cooperatives recognised under any law, regulation or orders prior to coming of this law shall deemed to be registered under this cooperative law and shall be regulated by its provisions. Within 180 days from the date of the promulgation of this Cooperative Law, the existing cooperatives shall do changes in the byelaws according to the provisions of this Law and submit for registration to the concerned authority.
- iv. In case of refusal to register an appeal can be filed as provided in Article 13.

ARTICLE 57 ; POWER TO MAKE RULES

Government may make rules under this act to explain, clarify, ,provide procedure and others details to facilitate implementation of the provisions of this act.