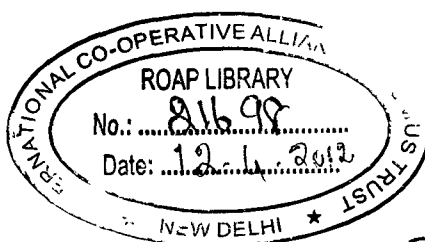


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CO-OPERATIVE LEGISLATION
IN CENTRAL AND EASTERN EUROPE COUNTRIES
T E X T S

INTERNATIONAL LABOUR OFFICE
INTERNATIONAL CO-OPERATIVE ALLIANCE
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PREFACE

The collapse of centrally-planned economies in Eastern and Central Europe has allowed the co-operative movements of these countries to return to their original role as an independent, member-controlled part of the private sector. Co-operatives have responded positively to the opportunity to reform their internal structures and to offer new services to their members.

This process of renewal is inevitably affected, as in all countries, by the legislative environment in which co-operatives operate. Co-operative legislation not only defines the nature of co-operative societies but also determines their ability to compete with other institutions. In the current environment of Eastern and Central Europe, the treatment of co-operative property is a particularly crucial issue which must be resolved.

It was against this background that the International Co-operative Alliance organised, in December 1990, a regional seminar on co-operative legislation in Prague. That exchange proved to be helpful for many co-operative movements in their efforts to influence the development of their own national legislation. Since that time new Co-operative Acts have been passed, or introduced for debate, in most countries.

This publication is designed to provide current information on the stage of legislative development in Eastern and Central Europe. As many bills are still before national parliaments, this publication will be updated next year.

This publication is a joint effort of the ICA and the Co-operative Branch of the International Labour Office, which have a long, and recently-intensified, history of collaboration. The ILO maintains the world's best data bank on co-operative legislation, and it was therefore only natural for ICA and ILO to collaborate in this project.

Particular thanks are due to Dr. D. Mavrogiannis, chief of the ILO's Human Resources, Legislation, Research and Information Section in the Co-op Branch, and to Ms. A. Pawlowska, ICA's documentation officer, for their efforts in collecting, translating, and editing this useful material.

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BULGARIA
CO-OPERATIVE LAW

N.B.: The Central Co-operative Union of Bulgaria has requested and received in 1990 advisory services of the International Co-operative Alliance and the International Labour Office, Co-operative Branch, for the finalisation of the text of the above law.

C O O P E R A T I V E S
L A W

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Chapter One
GENERAL PROVISIONS

Definition

Art. 1. (1) A cooperative shall be a voluntary organization of natural persons with variable capital and a variable number of members who shall engage in economic and other activity along the lines of mutual assistance and cooperation in order to meet their interests.

(2) A cooperative shall be a corporate entity.

Assistance and Promotion by the State

Art. 2. The state shall assist and promote the cooperatives through tax, lending rate, customs and other economic concessions.

Chapter Two
COOPERATIVES

Section I
Constitution

Constitution Procedure

Art. 3. (1) A cooperative shall be constituted by not fewer than seven capable natural persons whose constituent assembly shall resolve to constitute the cooperative, adopt its Statutes and elect its Board of Directors and Board of Controllers.

(2) The Statutes shall establish:

1. the name, the registered address and the purpose of the cooperative;

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2. the eligibility, rights and obligations of its members;

3. the managing bodies of the cooperative and their prerogatives;

4. the resolution-passing procedure;

5. the size of the members' subscription and shares;

6. the conditions and procedure for the contribution of land;

7. the distribution of income, profit and losses, funds, dividends and patronage, and the land rent;

8. the manner of disposal with cooperative property;

9. the grounds and procedure for the termination of membership.

(3) The Statutes may further settle other matters insofar as they are not settled by the law.

(4) The Memorandum of Incorporation and the Statutes shall be signed by the founding members.

Registration

Art. 4. A cooperative shall be registered with the district court where its registered address is located, upon application by its Board of Directors. The application shall be accompanied by the following:

1. copies of the Memorandum of Incorporation and the Statutes;

2. specimens of the signatures of the cooperative's authorized representatives, attested by a notary public;

3. certificates showing that each member of the Board of Directors and Board of Controllers has a clear conviction record;

4. affidavits by the members of the Board or Directors and Board of Controllers that they are not related to one another by marriage and are not direct relatives, brothers or sisters.

Incorporation

Art. 5. A cooperative shall be incorporated on the day of its court-ordered registration.

Cancellation

Art. 6. Should a cooperative fail to become a going concern within a year from its registration, it shall be struck from the register at the request of the Office of the Public Prosecutor.

Liability for Actions Preceding Incorporation

Art. 7. An act performed on behalf of a cooperative prior to the date of its incorporation shall give rise to rights and obligations on the part of the said cooperative if performed by persons duly authorized by the founding members. Absent such due authorization, these persons shall bear joint liability for any obligations thus assumed. Should a cooperative fail to be incorporated, all founding members shall bear joint liability except those who have refused to issue authorization.

Section II

Membership, Rights and Obligations

Membership

Art. 8. (1) Eligible for membership in a cooperative shall be anyone who subscribes to its Statutes and is above the age of 16 or, if a student, the age of 15.

(2) Everyone shall be free to be a member of more than one cooperative.

Admission of New Members

Art. 9. (1) An applicant shall submit a written application which shall be reviewed by the Board of Directors at its earliest meeting or, if held within fewer than 14 days from the receipt of the application, at its next earliest meeting.

(2) The resolution of the Board of Directors shall require the endorsement of the General Meeting.

(3) A refusal by the Board of Directors to approve an application may be appealed before the General Meeting within 14 days of receiving written notice of the refusal. Should the General Meeting overrule the Board of Directors, the applicant shall be considered admitted as of the date of the General Meeting's resolution.

(4) Should an applicant fail to appeal within the time established by para 3, or should the General Meeting confirm the refusal, the applicant shall not file a new application for membership until the expiry of one year.

(5) A newly admitted member shall be recorded in the register of members.

Rights of Members

Art. 10. (1) A member of a cooperative shall have the following rights:

1. to participate in and benefit from the cooperative's activity;

2. to participate in and vote at its General Meeting, and be elected to the managing bodies of the cooperative;

3. to question its managing bodies as to their failures to implement adopted resolutions and to have access to all information concerning his own interests;

4. to seek the overturning of resolutions or actions by the cooperative's bodies which contravene the law or its Statutes or are inappropriate;

5. to dividend;

6. to his share of the founding capital upon termination of membership;

7. to social and medical security in accordance with the law.

(2) A member of a cooperative who has contributed land shall further enjoy the following rights in addition to those established by para 1:

1. to retain his ownership over the land as real estate or an equivalent share;

2. to preserve the established crops on the contributed land;

3. to sell the contributed land to other members of the cooperative;

4. to receive rent for any land thus contributed;

5. to receive part of the rent or remuneration in the form of farm produce.

(3) A member of a producers' cooperative shall have the right to be employed therein in a job befitting his skills and age.

Obligations of Members

Art. 11. (1) A member of a cooperative shall observe its Statutes and the resolutions of its managing bodies.

(2) A member under legal age shall pay in his share of the capital pursuant to the provisions of the Persons and Family Act.

Employment Relations and Social Security

Art. 12. (1) The employment relations, medical and social security of non-members employed by a cooperative shall be settled in accordance with the national employment, medical and social security legislation.

(2) Control over the observance of employment, medical and social security legislation by a cooperative shall be exercised by a social affairs committee elected by the General Meeting.

Discipline

Art. 13. (1) A member may be given a reprimand or notice of expulsion for failure to carry out his obligations to the cooperative.

(2) Such reprimand or notice of expulsion shall be issued by the Board of Directors.

Termination of Membership

Art. 14. (1) A member of a cooperative shall cease to be one upon any of the following occurrences:

1. withdrawal from the cooperative;
2. joining of another cooperative by a procedure established in the Statutes;
3. expulsion;
4. death.

(2) Membership shall be further terminated with the termination of the cooperative by a liquidation.

Expulsion of Member

Art. 15. (1) A cooperative shall be free to expel a member for a systematic violations of the law, the Statutes or the resolutions of the cooperative's managing bodies.

(2) The Board of Directors shall be free to suspend a member prior to a final ruling on his expulsion by the General Meeting. The member shall be invited to attend the meeting which shall rule on the matter.

Material Consequences

Art. 16. (1) The share of a former member shall be reimbursed to him or his heirs after the approval of the cooperative's annual balance sheet.

(2) The amount of a reimbursed share shall be preserved, unless that Statutes provide otherwise.

(3) A former member who has contributed land and has retained his ownership over an equivalent share or that member's heirs shall be reimbursed with land equal in quantity and quality to the land originally contributed.

(4) The right to reimbursement of a share shall expire by limitation after five years, and the right to dividend, after three years.

Section III

Managing Bodies of a Cooperative

I. General Meeting

Membership and Prerogatives

Art. 17. (1) The General Meeting of a cooperative shall consist of all members of the cooperative. A cooperative with a very large membership or active in several communities shall be free to establish instead a Meeting of Plenipotentiaries elected by a secret ballot. The number of the plenipotentiaries shall not be less than one hundred. A Meeting of Plenipotentiaries shall enjoy all rights vested in a General Meeting.

(2) A General Meeting shall:

1. draw up, adopt and amend the Statutes;
2. elect and dismiss the Chairman of the cooperative;

tive;

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3. establish the number of and elect by secret ballot the members of the Board of Directors and the Board of Controllers;

4. approve the annual report of the Board of Directors and, after hearing the report of the Board of Controllers, the balance sheet and the distribution of income;

5. approve the report of the Board of Controllers;

6. resolve on the joining or withdrawal from a cooperative alliance and on the purposes thereof;

7. elect delegates to the General Meeting (Congress) of the cooperative alliance of which the cooperative is a member;

8. approve any cancellation of cash debts to the cooperative or their rescheduling;

9. approve any disposal of cooperative-owned fixed assets;

10. endorse the Board of Directors' resolution on the admission of new members or, on overturning such a resolution, shall terminate membership as of the date of the meeting;

11. expel members;

12. approve any voluntary purpose-oriented or other capital raising among the members;

13. rescind resolutions or acts of the other managing bodies of the cooperative which it considers to be contrary to the law or the Statutes or to be inexpedient;

14. resolve pursuant to the results from any auditing of the cooperative;

15. approve any reconstruction or the termination of the cooperative or a filing for liquidation.

(3) The General Meeting shall be competent to debate and resolve all matters pertaining to the cooperative and its activity even when not expressly authorized by the law or the Statutes.

Convocation

Art. 18. (1) A General Meeting shall be convened by the Board of Directors by written invitation communicated by a procedure established by the Statutes. The invitation shall indicate the agenda, the day, time and venue of the General Meeting. A General Meeting shall not resolve on matters not indicated on the invitation except if attended by all members and upon their unanimous resolution to do so.

(2) A General Meeting shall be convened as follows:

1. regularly, once a year, to hear a report on the cooperative's activity;

2. extraordinarily, by a resolution of the Board of Directors, or on a motion by the Board of Controllers or by one-third of the members of the cooperative. Should the Board of Directors fail to convene a General Meeting, this shall be done by the Board of Controllers or by one-third of the members of the cooperative.

3. The Board of Directors shall convene the General Meeting on any matter within the General Meeting's exclusive competence within fourteen days after it is requested to do so. Should the Board of Directors fail to do so, the General Meeting shall be convened by the procedure established by para 2.

Quorum

Art. 19. (1) A General Meeting shall be legitimate if attended by more than half of its members. A General Meeting convened to adopt the Statutes or to resolve on the reconstruction or liquidation of a cooperative shall be legitimate if attended by more than two-thirds of its members.

(2) In the absence of the required number of members, the meeting shall be postponed and shall be held seven days later with the same agenda. Should the required number of members again be not at hand, the meeting shall open one hour later regardless of the number of members attending.

Resolutions

Art. 20. (1) Resolutions of the General Meeting shall require a simple majority of the votes of those present, unless otherwise provided by the Statutes. 's

(2) Resolutions pursuant to Art. 17 para 2 subparas 1, 3, 7, 8, 9, 10 and 14 shall require a majority of two-thirds of all members.

(3) Voting at a General Meeting shall be by a show of hands, except when provided otherwise by the law. A General Meeting may resolve on holding a secret ballot on other matters as well.

Voting Rights

Art. 21. Each member shall be entitled to one vote which shall be cast personally, regardless of his share of the nominal capital.

II. Board of Directors

Composition

Art. 22. (1) The members of a Board of Directors shall be elected for a term of three years from among the members of a cooperative. A new Board of Directors shall not have among its members more than two-thirds of the members of the outgoing Board of Directors.

(2) Ineligible for election to the Board of Directors shall be:

1. anyone under 18 years of age, except for a student in a school cooperative, or anyone placed under a legal interdiction;

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2. anyone prohibited from occupying a managerial, accounting or materially liable post;

3. anyone married to or directly related to, or a brother or sister of another member of the Board of Directors or the Board of Controllers.

Prerogatives

Art. 23. (1) The Board of Directors shall implement the resolutions of the General Meeting, direct the activities of the cooperative and perform any other functions entrusted to it by virtue of the law or the Statutes. It shall report to the General Meeting.

(2) The Board of Directors shall be free to appoint an executive director and other executives whenever allowed to do so by virtue of the Statutes.

(3) The Board of Directors shall be free to set up commissions, councils and other auxiliary bodies to assist it in its work.

Convocation

Art. 24. (1) The Board of Directors shall be convened by its Chairman at least once a month. The Chairman shall further convene the Board of Directors on a motion by one-third of its members within seven days. Should he fail to do so, the Board of Directors shall be convened by the Board of Controllers.

(2) A session of the Board of Directors shall be legitimate if attended by at least two-thirds of its members.

Resolutions

Art. 25. Resolutions of the Board of Directors shall be passed by a show of hands and shall require a simple majority of its members, unless otherwise provided by the Statutes.

Liability

Art. 26. Members of the Board of Directors shall be jointly liable for any damages caused by them to the cooperative.

Court Representation

Art. 27. In a judicial dispute between a cooperative and the members of its Board of Directors the cooperative may be represented by one or several persons elected by the General Meeting.

III.^s Chairman

Art. 28. (1) The Chairman of a cooperative shall also serve as Chairman of the Board of Directors in which he shall be entitled to an ordinary vote.

(2) The Chairman of a cooperative shall:

1. represent the cooperative;
2. organize the implementation of the resolutions passed by the General Meeting and by the Board of Directors;
3. manage the day-to-day activities of the cooperative.

IV. Board of Controllers

Composition

Art. 29. (1) The members of a Board of Controllers shall be elected for a period of three years from among the members of a cooperative. The Board of Controllers shall elect a Chairman from among its members.

(2) Ineligible for election to the Board of Controllers shall be any person prohibited by virtue of Art. 22 para 2 and any member of the cooperative who in the previous year has occupied a post of material or accounting responsibility or has sat on the Board of Directors.

Prerogatives

Art. 30. (1) A Board of Controllers shall control the activities of the cooperative and report to the General Meeting.

(2) A member of the Board of Controllers shall be free to attend the meetings of the Board of Directors and shall be entitled to a deliberative vote.

(3) A member of the Board of Controllers shall enjoy the authority of auditor, provided he meets the professional requirements.

(4) The Board of Controllers shall convene the General Meeting whenever it finds essential violations of the law or the Statutes by the Board of Directors.

(5) The provisions of Art. 26 shall apply further to the members of the Board of Controllers.

Section IV

Property, Distribution of Income, Taxation

Property

Art. 31. (1) Cooperative property shall consist of ownership and other material rights over long-term and short-term assets, trade marks, industrial prototypes, licenses, securities, company stock and other rights and obligations.

(2) A cooperative's property shall be under the exclusive management of its members through their elected bodies.

(3) No object owned by a cooperative shall be acquirable by virtue of a limitation.

Sources of Income

Art. 32. A cooperative shall have the following sources of income:

1. members' subscriptions;
2. members' paid-in capital;

3. additional capital contributions by members;
4. business earnings;
5. loans;
6. other income.

Payments by Members

Art. 33. (1) Each member of a cooperative shall pay a subscription fee and his share of the called-up capital to an amount established by the statutes.

(2) The sum total of paid-in capital shall form the capital of the cooperative.

(3) Evidence of ownership over land contributed to a cooperative shall be in the form of a deed or a final ruling of the municipal land commission. A memorandum of land contribution shall be signed by the contributing member and the Chairman of the Board of Directors and shall be recorded in the notary public's register.

(4) A member's share of capital shall be exempt from distraint or confiscation.

(5) Members shall be free to extend loans to a cooperative which shall not be considered part of its capital.

(6) The interest rate on loans pursuant to para 5 shall be established by the cooperative's General Meeting.

Material Liability of Cooperative

Art. 34. (1) A cooperative shall be held liable to the extent of its assets.

(2) A member of a cooperative shall be held liable to the extent of his share.

Distribution of Income, Profit and Losses

Art. 35. (1) A cooperative shall keep its books in accordance with the Accountancy Act.

(2) The distribution of income, profit and losses, the nature of a cooperative's cash funds and the manner in which they are maintained and spent shall be established by its General Meeting.

(3) The amounts set aside for the different cash funds shall be charged to the cooperative's income. The residue income shall be distributed as dividend to members pursuant to a resolution by the General Meeting.

Cooperative Funds

Art. 36. (1) A cooperative shall maintain a contingency reserve and any other cash funds established by a resolution of the General Meeting.

(2) A portion of the income established by the General meeting but amounting to not less than 20 per cent of the cooperative's capital shall be deducted each year towards its contingency reserve.

(3) Any loss reported by a cooperative during a calendar year shall be charged either against its contingency reserve or against future profits by virtue of a General Meeting resolution.

Taxes and Tax Concessions

Art. 37. (1) A cooperative shall pay to the state the turnover tax, customs duties and excises established by the law.

(2) A cooperative shall be exempt of any tax or duty related to its incorporation, reconstruction, winding-up or liquidation.

(3) A member of a cooperative shall be exempt of any tax or duty on paid-in capital and the relevant transfer of rights.

(4) Any dividend reinvested by a member in the cooperative shall be exempt of tax.

(5) A cooperative of disabled persons or students shall be exempt of any tax or duty.

(6) The Council of Ministers shall be free to introduce at its discretion tax concessions or exemptions concerning certain cooperative activities and regions in which they are performed.

Savings and Loan Activities

Art. 38. A cooperative shall be free to engage in savings and loan activities by virtue of a resolution of its General Meeting.

Mutual Assurance Society

Art. 39. (1) A cooperative shall be free to set up a mutual assurance society for its members.

(2) A mutual assurance society shall be incorporated as a corporate entity by virtue of the opening of a separate bank account.

(3) Chapter Two of this Law shall apply further to a cooperative's mutual assurance society.

Section V

Reconstruction, Termination, Liquidation

Reconstruction

Art. 40. (1) The terms of any merger or amalgamation of cooperatives shall be negotiable between their boards of directors subject to approval by their general meetings.

(2) Any division of or separation from a cooperative shall require the approval of its General Meeting.

De Jure Membership

Art. 41. Members of merging or amalgamating cooperatives shall acquire membership in the new cooperative; members of a dividing cooperative shall acquire membership in the newly formed cooperatives.

Liability Following Reconstruction

Art. 42. (1) Cooperatives formed as a result of a division shall bear joint liability for the obligations of the terminated cooperative.

(2) A cooperative formed as a result of a separation shall bear joint liability with the source cooperative for any prior obligations.

Termination of Cooperative

Art. 43. (1) A cooperative shall be terminated:

1. by a resolution of the General Meeting;
2. by a district court ruling sought by the Office of the Public Prosecutor whenever the cooperative:
 - a. pursues aims prohibited by law or engages in prohibited economic activity;
 - b. has been left with fewer members than the established minimum and has failed to gain the required number of new members within a period of six months.
3. upon expiry of the term for which it had been set up or as otherwise provided for in the Statutes;
4. upon declaring insolvency.

(2) A terminated cooperative shall be placed in liquidation.

Liquidators

Art. 44. (1) Upon terminating the activity of a cooperative the General Meeting shall appoint a liquidator or a three-member board of liquidators and shall establish the liquidation period. A liquidator does not have to be a member of the cooperative.

(2) In a court-ordered liquidation the liquidators and the liquidation period shall be established by the court.

(3) Ineligible to serve as liquidators shall be any of the persons referred to in Art. 22 para 2.

Effect of Termination and Liquidation

Art. 45. (1) The termination of a cooperative and its placement into liquidation shall be subject to registration.

(2) The termination and liquidation of a cooperative shall take effect from the day on which the ruling concerning the registration is promulgated.

Rights and Obligations of Liquidators

Art. 46. (1) Liquidators shall have the rights and obligations of a Board of Directors. A cooperative shall be represented by liquidator or, in the case of a board of liquidators, by a member thereof appointed by the General Meeting or the court.

(2) Liquidators shall wind up the day-to-day operations of the cooperative, convert its property into cash, collect its receivables and settle its liabilities.

(3) Liquidators shall be free to terminate contracts concluded by the cooperative prior to its going into liquidation and to compensate the other parties for relevant damages suffered. Such compensation shall be settled on the same terms as the other debts of the cooperative.

Creditors' Claims

Art. 47. (1) The creditors of a cooperative in liquidation shall lodge with the liquidators all claims, regardless of origin, security or executability, within one month from the day of the promulgation referred to by Art. 45 para 2.

(2) The liquidators shall invite all creditors of a known address by letter with return advice of delivery to lodge their claims.

(3) Liquidators shall notify creditors of any disputed claims by the procedure established by the preceding paragraph. Should such a creditor file a claim within one month of receipt of the said notification, the liquidators shall enter such claims as disputed liabilities in the liquidation balance sheet.

Satisfaction of Creditors

Art. 48. (1) Should the property of a cooperative prove insufficient to satisfy all creditors, the liquidators shall satisfy the privileged claims in accordance with their order, and the remainder shall be used to satisfy the other claims proportionally to their size.

(2) A creditor who has failed to lodge a claim within the established time shall be satisfied from the residual property of the distribution.

(3) Members' shares shall be reimbursed only after all other liabilities have been settled. Should the residue prove insufficient, it shall be distributed proportionally to each member's share.

Execution

Art. 49. There shall be no separate execution against the property of a cooperative in liquidation.

Closing Down of Cooperative

Art. 50. (1) The liquidators shall report to the General Meeting on the final distribution of the property and the General Meeting shall then resolve on the closing down of the cooperative.

(2) In a court-ordered termination, the liquidators shall submit their report to the court which shall order the closing down of the cooperative.

(3) The liquidators shall request the court to register a resolution pursuant to paras 1 or 2 within seven days from its passage.

Disposal of Residue Assets

Art. 51. Any residue assets from the liquidation of a cooperative shall be distributed among its members proportionally to each member's share, except when provided otherwise by its Statutes.

Perpetuation of Terminated Cooperative

Art. 52. Should a cooperative be terminated by a resolution of its General Meeting, the latter shall be free to resolve on continuing its activity prior to the conclusion of the liquidation. The General Meeting shall then conduct an election pursuant to Art. 18 para 2 subparas 2 and 3, and shall register that resolution with the court.

Liquidators' Costs

Art. 53. The costs of the liquidators shall be approved by the body established pursuant to Art. 50 and shall be borne by the cooperative. The liquidators' emolument shall be paid prior to any other debts.

Liability of Liquidators

Art. 54. Liquidators shall bear joint liability for any damages caused to a cooperative.

Section VI

Cooperative Enterprise*Constitution, Reconstruction and Termination*

Art. 55. (1) A cooperative shall be free to constitute cooperative enterprises for particular economic activities.

(2) A cooperative enterprise may be a corporate entity.

(3) A cooperative enterprise shall be constituted, reconstructed or terminated by a resolution of the cooperative's General Meeting. The relevant resolution shall establish the name, registered address, purpose and the assets placed at the disposal of the cooperative enterprise.

(4) The regulations concerning the structure and activities of an enterprise shall be approved by the Board of Directors of the cooperative.

Assets of Enterprise

Art. 56. (1) The assets of an enterprise shall be owned by the founding cooperative which shall use and dispose of them in accordance with the established regulations.

(2) The manner of distribution of an enterprise's income shall be established by the enterprise's founding body.

Enterprise Manager

Art. 57. An enterprise shall be represented by its manager, who shall be appointed and dismissed by the Board of Directors of the founding cooperative.

C h a p t e r T h r e e
INTERCOOPERATIVE ENTERPRISE
Constitution

Art. 58. (1) Cooperatives shall be free to constitute intercooperative enterprises to engage in activities of common interest.

(2) The general meetings of the cooperatives referred to in para 1 shall resolve on the constitution of an intercooperative enterprise and shall elect plenipotentiaries to its constituent assembly.

(3) An intercooperative enterprise shall be a corporate entity.

Reference

Art. 59. The provisions of Chapters Two and Five shall apply to all matters pertaining to the intercooperative enterprise not settled by this Chapter.

Chapter Four COOPERATIVE ALLIANCES Constitution

Art. 60. (1) By virtue of a resolution of their general meetings cooperatives shall be free to join into a territorial, sectorial or other alliance.

(2) To be constituted, a cooperative alliance shall require at least two cooperatives.

(3) Cooperative alliances shall be free to form their own unions or federations.

Functions

Art. 61. A cooperative alliance shall:

1. assist its members in the attainment of their goals and objectives;

2. evolve guidelines for the development of cooperative activity;

3. defend the interests of its members before the state, public and other bodies and organizations;

4. engage in any other functions established by its Statutes.

Managing bodies

Art. 62. (1) A cooperative alliance shall have the following managing bodies: a General Meeting, a Board of Directors, a Chairman, and a Board of Controllers. The members of the Board of Directors shall be elected by the General Meeting for a term of three years.

(2) If provided for^s by the Statutes, the Board of Directors shall elect from among its members an Executive Committee and shall further establish that Committee's prerogatives and resolution-passing procedures.

(3) The General Meeting of a cooperative alliance shall consist of authorized plenipotentiaries elected by the general meetings of the constituent cooperative organizations on conditions and by a procedure established by its Statutes.

Cash Funds

Art. 63. (1) A cooperative alliance shall be free to set up cash funds for the purpose of mutual assistance, education, occupational training etc.

(2) Cash funds pursuant to para 1 shall be set up by virtue of a resolution of the alliance's General Meeting.

Chapter Five JUDICIAL CONTROL Grounds and Procedure

Art. 64. (1) The district court where a cooperative has its registered address shall be free to enjoin any resolution or act of a cooperative's managing body should it find it in contravention of a law or the Statutes.

(2) The injunction may be sought by any member of the cooperative, by its Board of Controllers, or by the Office of the Public Prosecutor.

(3) A member of the cooperative shall be free to file a suit pursuant to the preceding paragraph within two weeks of the day of the resolution or, in the case of a resolution passed in his absence, within two weeks of the day of finding out or receiving notification. In a suit seeking injunction of an act, the fourteen-day period shall begin on the day on which the member of the cooperative acquires knowledge thereof. In any case, a suit may be filed within a year from the date of the passage of the contested resolution or the commitment of the contested act.

(4) A cooperative's Board of Controllers shall be free to seek an injunction within two weeks of the passage of a resolution or the committing of an act.

Court Ruling

Art. 65. (1) The court shall be free to annul a resolution or act entirely or in part, or to deny action thereon.

(2) The court's ruling shall be subject to appeal by the generally established procedure.

Joining of Suit

Art. 66. (1) Any other member of the cooperative or the Board of Controllers shall be free to join the suit and shall be further free to press the claim after it is waived by the original claimant.

(2) In a suit filed against a resolution or action by a cooperative's managing body, a member shall be free to seek compensation for material damages caused by any violation of his rights by the said resolution or act.

Suspension of Execution

Art. 67. The district court shall be free to suspend the execution of a resolution or act against which a suit has been lodged pending its own ruling.

Additional Provisions

Clause 1. (1) The rights of existing and restored cooperatives over any property confiscated or nationalized after 10 September, 1944, is hereby reinstated.

(2) Evidence of ownership of the property in the sense of para 1 shall be in the form of deeds, protocols, balance sheets, receipts for taxes, duties or insurance premiums, court decisions or other written evidence. Absent such evidence, ownership shall be claimed by the generally established procedure. No stamp duty shall be paid on legal proceedings connected with such claims.

(3) All state, municipal and other companies and organizations shall reinstate the cooperatives' property pursuant to para 1 within six months from the date on which this Law comes into effect.

(4) The terms and procedure for the reinstatement of property shall be established by the Council of Ministers.

Clause 2. (1) All property of the cooperative alliances owned at the time of the passage of this Law shall be divided among their constituent cooperatives in proportion to their stock (contributions) in the alliance's funds. A recipient cooperative shall dispose of such property in accordance with this Law.

(2) Resolutions concerning the distribution of property pursuant to para 1 shall be passed by the General Meeting of the respective alliance.

(3) The General Meeting of a cooperative alliance shall resolve on what portion of these funds shall be transformed into cash funds of the alliance pursuant to Art. 63 of this Law.

Clause 3. A cooperative which receives stock or cash pursuant to Clause 2 shall place it in its contingency reserve.

Transitional and Concluding Provisions

Clause 4. This Law shall supersede the Law on Cooperative Organizations (published in Durzhaven Vestnik No. 102/1983, amended in No 46/1989).

Clause 5. Obligations pursuant to Clauses 2 and 3 of the Additional Provisions of this Law shall be settled within six months from the date on which this Law comes into effect.

Clause 6. This Law shall supersede Decree No. 922 of 1989 Concerning Land Use and Farming (published in Durzhaven Vestnik No. 39/1989, amended in No 10/1990).

Clause 7. (1) An organization constituted and incorporated by virtue of Decree 922 shall acquire the statute of a cooperative in the sense of this Law if incorporated prior to 1 March, 1992.

(2) The incorporation of a newly constituted cooperative shall not require a resolution of the General Meeting of the organization in the sense of para 1.

Clause 8. The following shall be entitled to a vote at a General Meeting convened to establish the rent and the share in the property of an organization in the sense of Clause 7 para 1:

1. a member of the cooperative or an attorney of his heirs;

2. a non-member owner of land cultivated by a farming organization, or an attorney of his heirs;

3. a person who has been in the employment of the farming organization for not less than five years on the date on which this Law comes into effect.

Clause 9. A land owner or his heirs shall be entitled to a share of the property of a cooperative farm even if not a member of

that farm for the years during which his land has been cultivated by the cooperative farm.

Clause 10. The owner of land and of a share of the property of a cooperative farm shall be entitled to rent and dividend from the date of coming into effect of the Farmland Ownership and Use Act.

This Law was passed by the Grand National Assembly on 19 July, 1991, and is sealed with the State Seal.

Nikolai Todorov
Chairman
Grand National Assembly

CZECH and SLOVAK FEDERATIVE REPUBLIC

N.B: The Co-operative Union of the Czech and Slovak Federative Republic has hosted in December 1990 the ICA Seminar on Co-operative Legislation for the Central and Eastern European countries.

L A W

of, 1991

on the Arrangement and Settlement of Property Relations
in Co-operative Societies

The Federal Assembly of the Czech and Slovak Federative Republic has enacted the following Law:

SECTION ONE

Introductory Provisions

Article 1

The Object of the Regulation

/1/ This Law regulates

a/ the way of settling property relations in co-operative societies, in connection with the arrangements in the extent of the property participation of the members or of other entitled parties in the co-operative society's property, as well as in connection with the return of property according to special regulations^{1/},

b/ the adaptation of the legal relations of a co-operative society to a special regulation^{2/},

c/ the transformation of a co-operative society to another form of business according to a special regulation^{3/}, or the liquidation of a co-operative society^{4/},

1/ Law No. 403/1990 of the Law Gazette, on the mitigation of the consequences of certain instances of property injustice, as amended by subsequent legislation.

Law No.87/1991, on extra-judicial rehabilitation.

Law No.229/1991, regulating the property relationship to land and to other agricultural property.

2/ Article 765, paragraph 1, of the Commercial Law Code.

3/ Articles 76, 93, 105, 154 and 221 of the Commercial Law Code.

4/ Article 259 of the Commercial Law Code.

d/ the surrender of the property of the Communist Party of Czechoslovakia and of the Socialist Youth League^{5/} acquired by co-operatives.

/2/ The settlement of property relations, the adaptation of legal relations to a special regulation, as well as - where appropriate - the change-over to another form of business /hereinafter only referred to as "transformation"/ shall be carried out by all co-operative societies which came into being before the effectiveness of this Law, according to a transformation project worked out and approved in conformity with this Law.

SECTION TWO

The Transformation of Co-operatives

Article 2

The Settlement of Affairs with the State

/1/ Before working out a transformation project, the co-operative society shall specify in figures

a/ the claims of the state and of the co-operative society arising from the settlement of affairs with entitled parties in cases of valorized or devalued real estate according to special regulations^{1/} and the consequent financial compensation, including the settlement of the purchase price,

b/ the property of the Communist Party of Czechoslovakia and of the Socialist Youth League, which has been transferred to the co-operative society since 17th November 1989 gratuitously or on conditions conspicuously advantageous for the society.

5/ Legislative regulation of the Presidium of the Federal Assembly, No.177/1990 of the Law Gazette, on certain measures affecting the property of political parties, political movements and social organizations, as amended by subsequent regulations.
Constitutional Acts No. 496 and 497/1990 of the Law Gazette, on the return of the property of the Communist Party of Czechoslovakia and of the Socialist Youth League, respectively, to the people of Czechoslovakia.

/2/ With the government authority of the republic, appropriate according to special regulations^{1/}, the co-operative society shall conclude a contract of agreement concerning the extent of the rights and obligations according to paragraph 1, including the manner and the timing of the settlement of their property affairs. If no such agreement has been reached within three months following the effectiveness of this Law, the matter shall be decided by court, on the basis of a proposal submitted by one of the parties involved.

/3/ The property which accrues to the state shall not be the object of transformation. The property which accrues to the co-operative society shall be transformed; the property shares of the entitled parties shall be increased by the amount involved.

Article 3

The Entitled Parties

The entitled parties in the sense of this Law are the natural persons /individuals/ specified, according to the particular types of co-operatives, in Articles 8, 11, 14 and 17 of this Law.

Article 4

The Transformation Project

/1/ The transformation project shall be worked out by the co-operative society itself or by a corporation or individual authorized by it.

/2/ A co-operative society's transformation project may also be worked out by any one of the entitled parties.

/3/ The transformation projects are to be presented to the general members' meeting by the co-operative society's management committee, whose duty it is to make all the transformation projects available for consideration; in case a transformation project is being worked out by an entitled party, the latter must deliver it to the co-operative society's management committee, not later than

30 days before the date on which the general members' meeting is to be held.

- /4/ The transformation project must contain
 - a/ the statement of accounts and the balance sheet for the last quarter of the current year,
 - b/ the contract of agreement according to Article 2, paragraph 2,
 - c/ the exact specification of the co-operative society's net property earmarked for division into property shares of the entitled parties. The net property, for the purpose of this Law, includes goods, claims and other rights as well as other values appraisable in money, a share in the joint-venture property proportionate to the amount of the contribution of the co-operative society which is earmarked - after the deduction of its obligations - for being divided up into property shares for the entitled parties; the net property does not include the items /assets/ for which a claim has been raised according to special regulations^{1/}, nor does it include the members' property contributions /deposits/ specified in Articles 9, 12, 15 and 18 according to the types of the co-operatives concerned. From the amount thus specified, it is further obligatory to set aside 25 % as the amount which will be used for any further restitution claims that may be raised,
 - d/ the designation of the person to whom it is intended to transfer the things /items/ with which obligations are connected, including a statement of the creditor's opinion,
 - e/ information on the number of the persons /parties/ entitled to decide about the transformation project, together with an indication as to where it is possible to see their list, which must contain their dates of birth and the addresses of their permanent residence,
 - f/ the criteria for the calculation of the property shares of the members and of other entitled parties,

- i.e. criteria prescribed as obligatory in accordance with sections three to six of this Law; a member's property share thus calculated becomes his further membership contribution^{6/}, unless the co-operative society becomes transformed into a commercial company or is liquidated,
- g/ the way and the conditions of disposal of the property share, with due regard to the rule that the property shares cannot be surrendered to the entitled parties until twelve months have elapsed since the approval of the transformation project, unless any other arrangement has been agreed upon by an entitled party and the co-operative society after the approval of the transformation project,
- h/ a proposal as to whether, after the transformation, the co-operative society should
1. continue to operate,
 2. be divided into several societies,
 3. be transformed into one or more legal entities /corporate bodies/ according to a special regulation^{3/},
 4. enter into liquidation,
- i/ the timing particulars of the co-operative society's transformation, including the deadlines for the acts that have to be carried out according to a special regulation^{7/},
- j/ the substantiation of the proposals contained in the transformation project.
- /5/ Appended to the transformation project must be
- a/ a proposal for the amendments of the co-operative society's rules /statutes/, with due regard to the transformation project and to special regulations^{8/}, as well as a proposal for the determination of the amount of the co-operative society's indivisible fund in accordance with special regulations^{9/},

6/ Article 223, paragraph 4 of the Commercial Law Code.

7/ Article 765, paragraph 1 of the Commercial Law Code.

8/ Article 765, paragraph 2 of the Commercial Law Code.

9/ Article 57, paragraphs 1 and the following, of the Commercial Law Code.

- b/ a draft of the rules /statutes/ of the new co-operatives, in case the co-operative society itself is to be divided up.
- c/ a proposal /draft/ of an incorporation contract^{10/}, if the co-operative society is to be transformed into a commercial /business/ company,
- d/ a proposal for the co-operative society's dissolution and for the appointment of liquidators^{11/}, in case the society is to enter into liquidation;

no vote is to be taken on these proposals by the general members' meeting when it considers and approves the transformation project.

/6/ The co-operative society shall determine the property shares according to the criteria approved in the transformation project and acquaint the entitled parties with them within 30 days following the approval of the transformation project; the list of the property shares shall become an appendix to the approved transformation project.

/7/ In case the transformation is to result in the creation of two or more legal entities /corporate bodies/, it must be specified in the transformation project which of them shall be obliged to settle the claims not yet raised according to special regulations^{12/}. This shall simultaneously be the legal entity to which the reserve set aside according to Article 4, item c/, shall be transferred.

/8/ If the co-operative society is to be transformed so as to be divided up into two or more legal entities, the transformation project must contain a proposal for the transfer of rights and obligations according to special regulations^{13/}.

10/ Article 259, paragraph 1 of the Commercial Law Code.

11/ Article 765 of the Commercial Law Code.

12/ Article 16 and Article 20 of Law No.229/1991 of the Law Gazette, regulating ownership relations to land and to other agricultural property.

13/ The Commercial Law Code.

/9/ A transformation project worked out by an entitled party need not contain sections identical with the co-operative society's own transformation project; in such an event, the entitled party may simply make a cross-reference to the sections concerned.

The Approval of a Transformation Project

Article 5

/1/ The co-operative society must invite the entitled parties to attend the general members' meeting in order to consider and approve the transformation project, at least 30 days before the date on which the meeting is to be held. The general members' meeting shall be regarded as having been properly convened if the invitations have been sent out by registered mail to the addresses of the entitled parties, or if they have been delivered by hand and their receipt has been certified. In the invitation, the co-operative society must provide information as to where and under what conditions it is possible to become acquainted with the transformation project worked out by the society itself, or - where appropriate - with any other transformation projects submitted in accordance with Article 4, paragraph 2 of this Law.

/2/ In the course of the deliberations of the general members' meeting, an entitled party /person/ may be represented by another person on the basis of a written authorization /proxy, power of attorney/; the number of votes held by such an authorized person is identical with the number of entitled parties /persons/ on whose behalf he or she acts.

/3/ The general members' meeting is competent to consider a transformation project if a simple majority of the entitled parties are present or duly represented, provided that the meeting has been properly convened in accordance with paragraph 1. The transformation project can be approved by a simple majority vote of the entitled persons present or represented.

/4/ If the general meeting is not competent /qualified/ to consider the transformation project according to paragraph 3, or if it has not approved it, the co-operative society must reconvene the meeting within 15 days. In such an event, the reconvened general meeting shall be competent to consider the transformation project irrespective of the number of persons present; its approval requires the consent of a simple majority of the entitled persons present or represented; the general meeting may be reconvened repeatedly under the same conditions.

/5/ The authorizations /proxies/ for representing the entitled parties are also valid for a reconvened general meeting, unless they have been revoked /cancelled/.

/6/ A transformation project must be approved within one year of the effectiveness of this Law at the latest.

Article 6

/1/ After the approval of a transformation project according to Article 5, the following matters have to be approved by the parties /bodies/ specified below:

- a/ amendments to the rules /statutes/ of the co-operative society which will continue to operate, to be approved exclusively by the members of the existing society,
- b/ the rules of the new co-operative societies coming into being as a result of the division - to be approved by the founder-members of these societies,
- c/ an incorporation or foundation contract and/or statutes, if the co-operative society is being transformed into one or more legal entities /corporate bodies/, to be approved by the founder participants /members/ of these new legal entities.

/2/ The proposal for the registration of a new legal entity coming into being according to paragraph 1, items b/ and c/, must be submitted to the commercial register by the above-mentioned persons not later than within 90 days following the date of approval of the transformation project. In such an instance, the hitherto-existing co-operative society

shall cease to exist in the manner provided by a special regulation^{13/}.

Article 7

- A co-operative society shall enter into liquidation^{14/},
- a/ if the transformation project fails to be approved by the deadline prescribed in Article 5, paragraph 6,
 - b/ if the society is to be transformed into other legal entities and these fail to submit the proposal for registration in the commercial register by the deadline prescribed in Article 6, paragraph 2,
 - c/ if the society does not cease to exist for another reason.

SECTION THREE

Agricultural Co-operatives

Article 8

Entitled Parties

The parties /persons/ entitled to decide about a transformation project are:

- a/ the co-operative society's members,
- b/ the living former members of the society who have worked for it for at least 10 years, as long as they contact the co-operative society in writing within three months of the effectiveness of this Law and as long as they have not been expelled from the society, unless such an expulsion is the object of rehabilitation according to special regulations^{15/},
- c/ the owners of the land and of other property used by the co-operative society, as long as they contact the society in writing within three months of the effectiveness of this Law and simultaneously prove that their property has been taken over by the co-operative society or is being used by it,

14/ Article 765, paragraph 4 of the Commercial Law Code.

15/ Law No.87/1991 of the Law Gazette, regulating extra-judicial rehabilitation cases.

d/ the citizens whose share in the co-operative society's property is determined according to special regulations^{16/}.

Article 9

The Property Contribution

The property contribution /input/ according to Article 4, paragraph 4, item c/ includes the following forms:

- a/ a monetary contribution /deposit/ paid by a member,
- b/ moveable and immovable property brought in by a member, in the prices current at the time of its input,
- c/ appraisable immaterial and material contributions /inputs/ brought in by the members, in the prices current at the time of their input.

Article 10

The Determination of Property Shares

/1/ For the calculation of the share in the co-operative society's net property, the following criteria must be contained in the transformation project:

- a/ the land which the co-operative society is using and to which the entitled party /person/ has the right of ownership,
- b/ the length of the person's membership and job participation in the co-operative society,
- c/ any other property taken over by the co-operative society, in the prices current at the time of the take-over.

Variant I.

/2/ The minimum application of one of the criteria according to paragraph 1 shall be determined in the amount of 10 % and it may not exceed 60 % of the property which is being divided and shared out.

Variant II.

/2/ The minimum application of one of the criteria according to paragraph 1 shall be determined in the amount of 15 %

16/ For example, Article 16 or Article 22, paragraph 3 of Law No.229/1991, regulating ownership relations to land and to other agricultural property.

and it must not exceed 50 % of the property which is being divided and shared out.

/3/ If the general meeting should fail to agree on the application of the criteria according to paragraph 1 in the transformation project and if this fact alone should result in preventing the whole transformation project from being approved, all the three criteria shall be applied to an equal extent.

SECTION FOUR

Industrial /Workers' Productive and Artisanal/ Co-operatives

Article 11

Entitled Parties

/1/ The parties /persons/ entitled to decide about a transformation project are:

- a/ the co-operative society's members,
- b/ the living former members of the society who have worked for it since 1st January, 1955, for at least 10 years,
- c/ the co-operative society's living former members who have brought into the society any movable or immovable property, unless its value has been compensated to the member by the society by the day of effectiveness of this Law.

/2/ The living as mentioned in the preceding provisions, former members of the co-operative society, are to be regarded as entitled parties only on condition that they have not been expelled from the society, unless such an expulsion is the object of rehabilitation according to special regulations^{15/}, and if - within three months of the effectiveness of this Law - they have contacted the co-operative society in writing, with the request for the renewal of membership; simultaneously with this request, they must provide evidence of their former membership of the co-operative society and, where appropriate, of having brought in some property.

/3/ In disabled persons' co-operatives, the entitled parties also include the living former members of the society concerned, as long as they are persons with reduced working capacity /handicapped workers/ and if their membership terminated as a result of organizational changes after 1st January, 1991.

Article 12

The Property Contribution

The property contribution /input/ according to Article 4, paragraph 4, item c/ includes the following forms:

- a/ the paid-up membership share,
- b/ other financial contributions made by the members,
- c/ appraisable immaterial and material contributions /inputs/ brought in by the members, in the prices current at the time of their input /deposit/.

Article 13

The Determination of Property Shares

For the calculation of the share in the co-operative society's net property, the following criteria must be contained in the transformation project:

- a/ the length of the person's membership in the society,
- b/ the amount of the membership share deposited,
- c/ the amounts of other property contributions /deposits, inputs/,
- d/ the person's gross earnings in the co-operative society in the course of his or her membership.

SECTION FIVE

Consumer Co-operatives

Article 14

Entitled Parties

/1/ The parties /persons/ entitled to decide about a transformation project are:

- a/ the co-operative society's members,

- b/ the co-operative society's living former members who have worked for it for at least 10 years since 1st January, 1955,
- c/ the co-operative society's living former members who have brought into the society movable or immovable property for which full compensation has not been given them by the date of effectiveness of this Law,
- d/ the co-operative society's living former members whose membership lasted at least for 10 years and terminated after 1st January, 1990.

/2/ The living former members of the co-operative society, as mentioned in the preceding provisions, are to be regarded as entitled parties only on condition that they have not been expelled from the society, unless such an expulsion is the object of rehabilitation procedure according to special regulations^{15/}, and if - within three months of the effectiveness of this Law - they have contacted the society in writing, with the request for the renewal of membership; simultaneously with this request, they must provide evidence of their former membership of the co-operative society and, where appropriate, of having brought in some property.

Article 15

The Property Contribution

The property contribution /input/ according to Article 4, paragraph 4, item c/, includes the following forms:

- a/ the paid-up membership share,
- b/ other financial contributions made by the members,
- c/ appraisable immaterial and material contributions /inputs/ brought in by the members, in the prices current at the time of their input /deposit/.

Article 16

The Determination of Property Shares

For the calculation of the share in the co-operative society's net property, the following criteria must be contained in the transformation project:

- a/ the length of the person's membership in the society,
- b/ the amount of the membership share deposited,
- c/ the amounts of other property contributions /deposits, inputs/.

SECTION SIX

Housing Co-operatives

Article 17

Entitled Parties

The parties /persons/ entitled to decide about a transformation project are the co-operative society's members.

Article 18

The Property Contribution

The property contribution /input/ according to Article 4, paragraph 4, item c/, includes the following forms:

- a/ the paid-up membership share, or the basic membership deposit, where appropriate,
- b/ the member's payment of the credit obtained for the construction of the home /flat/ or of premises serving other than housing purposes.

Article 19

The Determination of Property Shares

For the calculation of the share in the co-operative society's net property, the criterion which must be contained in the transformation project includes the amount of the membership share paid up by the member, as well as the amount of the member's ^{re}payment of the credit obtained for the construction of the home /flat/ or of premises serving other than housing /residential/ purposes.

Article 20

The Manner of Transformation

/1/ Co-operative building and housing societies, people's

housing co-operatives, co-operatives for the construction of family houses, as well as co-operatives for the construction and administration of garages, shall be transformed into generally beneficial co-operative societies according to special regulations.

/2/ On the basis of a contract, co-operative homes /flats/ and non-residential premises may be sold to the members who have been using them, at a price

Variant I.

corresponding to the amount of the unrepaid part of the investment credit obtained by the member for the home /flat/ to be sold to him, or alternatively, at a price agreed upon according to a special regulation.

Variant II.

fixed according to a special regulation.

SECTION SEVEN

Common, Concluding and Special Provisions

Article 21

Other Kinds of Co-operatives

For the transformation of co-operatives of other kinds /types/, the provisions of Articles 11, 12 and 13 of this Law shall be applied similarly /by analogy/.

Article 22

/1/ A person who has become a member of a co-operative society newly created by separation ^{17/} and whose membership in such a co-operative society continues to exist on the date when this Law becomes effective, shall not be regarded as a former member in the sense of this Law.

17/ Article 9, paragraph 2 of Law No.162/1990 of the Law Gazette, concerning agricultural co-operatives, and Article 49 of Law No.176/1990, on housing, consumer, producer and other co-operatives.

/2/ In the event that a co-operative society which came into being by division or separation before the effectiveness of this Law is to be transformed, the co-operative societies involved must conclude a contract of agreement, before the approval of the transformation projects, specifying which co-operative society is to be the one in relation to which the former members shall be regarded as entitled parties /persons/. Such an agreement is an essential condition for the approval of the transformation projects and forms their integral part.

Article 23

Exemption from Taxes and Levies

VARIANT I.

The property transfers and property shares resulting from the transformation of a co-operative society shall not be subject to any taxes or levies.

VARIANT II.

The property transfers and property shares resulting from the transformation of a co-operative society shall be subject to taxes and levies prescribed by special regulations^{18/}, charged at the time of their payment.

Article 24

Special Provision

The property which has been gratuitously transferred to the ownership of co-operatives from state-owned enterprises on the basis of the founder's decision after 1st December 1989, shall be separated from the net property of the co-operatives by the date of effectiveness of this Law, and their privatization shall be carried out by the original founder according to special regulations^{19/}.

18/.....

19/ Law No.427/1990, on the transfers of state ownership of certain goods to other legal entities or natural persons, as amended by subsequent legislation. Law No.92/1991, regulating the conditions of transfer of state property to other owners /corporations or individuals/.

Article 25

Repealing Provisions

The following regulations are hereby repealed:

1. Article 33 of Law No.229/1991 of the Law Gazette, regulating ownership relations to land and to other agricultural property,
2. Ordinance of the Government of the ČSSR No.127/1988 of the Law Gazette, regulating the financial operation of enterprises of the agro-food-industrial complex, unified agricultural co-operatives and joint ventures,
3. Decree of the Federal Ministry of Agriculture and Food, No.130/1988 of the Law Gazette, on the principles of sale of agricultural and dairy produce to the members and staff of socialist organizations engaged in agricultural and dairy production,
4. Instruction of the Federal Ministry of Agriculture and Food, on the remuneration of the members and staff of unified agricultural co-operatives and in joint enterprises, issued on 20th December, 1988, ref. FM 1 - 1901/1988, registered in the Law Gazette, part 50 of 1988.

Article 26

Effectiveness

This Law becomes effective on

Substantiating Report and Commentary

In the continuing process of economic, social and political reforms, the sphere of the co-operative movement has not yet been legislatively regulated in such a manner as to restore the original co-operative principles and to enable the co-operatives to adapt themselves to the market-economy conditions, while retaining the observance of the co-operative principles of economic operation and self-government.

After the enactment of Law No.403/1990 of the Law Gazette, concerning the remedying of certain property injustices, Law No.87/1991, on extra-judicial rehabilitation cases, and Law No.229/1991, regulating ownership relations to land and to other agricultural property, all of which renew, compensate and restore ownership rights to the entitled parties /persons/, it is still necessary, however, to deal with the problem of settling property relations in co-operatives, involving property which differs from state /public/ ownership in a number of respects.

Consequently, the transformation of co-operatives is an essential process which will create the prerequisites necessary for the restoration of the internationally recognized co-operative principles, which include, in particular, voluntary membership, the members' property participation, a co-operative society's independence of the state /government/, the members' equality in adopting decisions etc. The Transformation Law is in conformity with the draft of the Commercial Law Code, as regards the possibility of choosing any kind of business corporation in the form of which the hitherto-existing co-operative society will henceforth conduct its business.

Nevertheless, the draft of this Law regulates the procedure of transformation of co-operative societies and the manner of determining the property shares in a way which differs from that envisaged in the draft of the Commercial Law Code - particularly because it is necessary to regulate these matters with due regard to the provisions

of Law No.229/1991, which concern the shares of the entitled parties in the property of a co-operative society, a limitation of the possibility of disposal of the co-operative property for the sake of satisfying the restitution claims etc.

The purpose of the Law is to regulate the procedure of the transformation of a co-operative society into various forms of business, including the transfer of the net commercial property of the co-operatives to specific shares of the entitled parties /persons/. The transformation shall be carried out in all co-operative societies existing on the date of effectiveness of this Law, and this will be done according to a transformation project considered and approved by the general members' meeting. There is no reason to rule out the possibility that after the transformation a co-operative society will remain a co-operative society, though it will be based on new principles, in conformity with the Commercial Law Code. The Law No.162/1990, concerning agricultural co-operatives, as well as Law No.176/1990, concerning housing, consumer, producer and other co-operatives, will be repealed by the Commercial Law Code.

The property shares can only be obtained from the division of a co-operative society's net property which remains after restitution and which is not encumbered by debts.

It is recommended that the approval of a transformation project by the participants attending a general meeting should be based on the principle of an equal vote for all the entitled persons. There can be no question of suppressing the rights of owners, because even in the case of a tie in voting, the amount and the value of their immovable and movable property will be duly taken into account in fixing not only their corresponding share in the co-operative society's commercial property, but also their appropriate share in the profit.

A co-operative society can be divided up into several legal entities /corporate bodies/ representing different forms of business. Any member of the co-operative society who is not interested in taking part in the business of the newly-

established legal entities /corporations/ has the opportunity of doing business on his own; this circumstance, however, must be mentioned in the transformation project.

The transformation project must contain the specification of the net property earmarked for division /sharing out/, the number of the entitled persons together with the information as to where anybody can find the list of their names, dates of birth and addresses, the criteria for the calculation of the property shares of the participants /these criteria are prescribed in detail in a special section of the Law, with regard to the individual types of the co-operatives involved/, the way in which these criteria are to be applied, the way and the conditions of the disposal of the share after the transformation has been carried out, the determination of the form of business to which a co-operative society is being transformed, as well as the timing of the individual acts forming part of the transformation process.

The project must specify all the facts and circumstances which could influence the amount of the net property.

Furthermore, the transformation project must specify the reasons which have led the author to the decision to submit the proposal. This substantiation must be made by the author of the project himself, in order that objectiveness and impartiality should be assured.

In the transformation project, it must likewise be made clear which of the legal entities arising from the transformed co-operative society should be the one to settle the restitution claims raised after the end of the transformation; the corporation thus identified will be required to administer the reserve separated according to Article 4, paragraph 4, item c/ of this Law, until the end of the restitution process. Then the remainder of the reserve must be transferred to the newly-created legal entities /corporate bodies/ in the proportion corresponding to the basic property taken over. If, however, the restitution claims exceed the reserve thus created, the newly-

established legal entities must defray - to the administrator of the reserve - the proportional part of the difference, according to the amount of the net property taken over. In the event of liquidation, the settlement of these restitution claims shall be given priority.

The transformation project must be worked out by the co-operative society concerned, but it is not decisive whether such a project is drawn up by the members themselves or whether the society gets it worked out by an outsider. Working out a transformation project and making sure that it is approved according to the rules laid down by law is a duty which the co-operative society must fulfil within one year of the effectiveness of this Law. Failure to fulfil this condition has the consequence that the co-operative society enters into liquidation.

The entitled parties are only natural persons /individuals/, and the categories of people from amongst whom they can come into consideration are identified differently in the special sections of the Law. These persons may likewise submit a transformation project for consideration and approval by the general members' meeting, while the management committee of the co-operative society is obliged to submit all the projects to the general meeting not later than 30 days before the date on which it is to be held. While a co-operative society must submit a project containing all the prescribed essentials, a project submitted by an entitled person may confine itself to those requirements /parts/ in which it differs from the project worked out by the co-operative society itself; hence an entitled person need not, for example, work out any statement of accounts /balance sheet/ or determine the extent of the net property earmarked for division /sharing out/. This simplification is intended to make it possible for the entitled persons to participate actively in the transformation of the co-operative society concerned.

Together with the proposal of a draft project submitted by an entitled person, the co-operative society must also submit to the general meeting its substantiation, whereby the objectiveness of the consideration of the project is to be assured.

The convocation of a general members' meeting for the purpose of considering and approving the project is proposed to have a deadline of 30 days before the date when it is to be held.

The transformation project can be approved by a vote only in case it is supported by the votes of a simple majority of the entitled persons present. The entitled persons, however, may be represented by substitutes. The substitutes of the entitled persons then command a number of votes equal to the number of the entitled persons they represent, plus one vote in case the substitute himself is simultaneously an entitled person.

In sections three to six of the Law, the transformation of co-operative societies is regulated with a differentiation according to the specific kinds of their business, for it is obvious that agricultural, housing and other types of co-operatives have their own specific features, which cannot be subordinated to an identical, uniform régime.

In order that citizens should become entitled parties /persons/ for participation in the transformation of a co-operative society, the basic condition is a written application to the co-operative society concerned within three months of the effectiveness of this Law, and simultaneously providing evidence of the fact that the co-operative society has taken over their property or is using it; furthermore, where appropriate, the fulfilment of other criteria from the point of view of the duration of membership and of having participated in the work of the co-operative society in the form of a regular job.

The Law does not provide that the length /duration/ of membership must be uninterrupted; consequently, the individual periods of a person's membership /and job participation/ in a specific co-operative society may be added

together.

For the determination of the property shares in the co-operative society's net property, the Law lays down criteria which are likewise differentiated for the individual types of co-operatives with due regard to their specific features.

In producer and consumer co-operatives, the entitled parties /persons/ include the former members who have worked in the co-operative society concerned after 1st January, 1955. This was the date by which full property settlement had been carried out in these co-operatives in their mutual relations with members, including the determination of their shares in the profit according to Law No.53/1954, concerning people's co-operative societies and co-operative organizations.

Housing co-operatives are allowed by the Law to sell the homes /flats/ and non-residential premises to the members using them. As far as the price is concerned, the Law contains two variants, the first of which envisages a price equivalent only to the amount not yet repaid by the member towards the investment credit obtained for the flat which is being sold to him /or for the non-residential premises, as the case may be/, or alternatively, a price fixed by mutual agreement according to a special regulation, while the second variant rules out the possibility of charging a price not exceeding the amount still outstanding /i.e. not yet repaid by the member towards the investment credit obtained/.

For the whole time when it was being worked out, the draft of this Bill was currently considered and discussed with representatives of co-operative unions, of owners' associations and of the trade unions concerned, as well as in consultation with a group of Members of the Federal Assembly /i.e.Parliament/. From the constitutional point of view there can be no doubt about the fact that this legislation falls within the competence of the Federation, because it is supposed to regulate ownership and matters involved in the business activities of citizens and of legal entities /corporate bodies/.

Commentary on Individual Provisions .

Article 1

The aim of the Law is, in particular, to determine the procedure for the settlement of the property relations of the contemporary co-operatives, in relation to the state /government/ as well as in relation to the members and to other entitled parties /persons/, to be followed by their transformation based on the principles incorporated in the Commercial Law Code, whose draft is under preparation. The whole transformation process must also be carried out in conformity with the internationally-recognized co-operative principles.

On the basis of a transformation project approved by the general members' meeting, however, individual co-operative societies may also be transformed into any other kind of business /company/ recognized by the Commercial Law Code, or they may even be broken up right down to individual persons, or - where appropriate - cease to exist by liquidation.

The introductory provision confirms a co-operative society's independence of the state /government/ and the existence of co-operative self-government.

The envisaged transformation is to be carried out on the basis of a transformation project, in all the co-operative societies which came into being before the effectiveness of this Law.

Article 2

Before working out its transformation project, each co-operative society must settle its claims and debts in relation to the state, insofar as they arise from the laws regulating the mitigation of cases of property injustice, as well as make appropriate arrangements regarding the value of the former property of the Communist Party of Czechoslovakia and of the Socialist Youth League, which

the co-operative society has acquired either free of charge or under exceptionally /conspicuously/ advantageous conditions; thereupon, the co-operative society must conclude an agreement with the appropriate authorities of the republic concerned, about the time-limits and about the way of settling the matters involved, and this agreement will form part of the transformation project. If it is not possible to conclude such an agreement within three months of the effectiveness of this Law, the issue shall be decided by court, on the basis of a proposal submitted by one of the parties involved.

Article 3

Only natural persons /individuels/ can be the entitled parties in the sense of this Law - i.e. those persons specified in the appropriate section of the Law separately for each type of co-operative society.

Article 4

Each co-operative society must work out and put forward the transformation project within a fixed deadline; the project must contain all the essentials specified in paragraph 4, while all other proposals, as mentioned in paragraph 5, must be appended to it. Such proposals, of course, serve the general members' meeting merely as background information indicating the kinds of statutes, incorporation contracts etc. on the basis of which new legal entities /corporate bodies/ could be established in case of approval of the transformation project. When a vote is taken, it concerns only the transformation project itself, not the appendices. In case the co-operative society is to be transformed into several legal entities, the relevant provisions are to be found in paragraphs 7 and 8, by which it is made obligatory for the co-operative society to specify in the transformation project the legal entity which will take over the rights and obligations concerned /which must likewise be specifically mentioned/. In this context, the obligations and rights in question are not only those arising from the co-operative

society's own business /economic activities/, but they also include the duty to settle the restitution claims which have not yet been raised. That particular legal entity /corporation/ which will satisfy such restitution claims will also be the administrator of the reserve set aside for this purpose from the co-operative society's net property, and it will be the liable party in the sense of the legislation regulating the mitigation of cases of property injustice.

In accordance with the Commercial Law Code, the newly-established legal entities are obliged to submit to the commercial register a proposal for their registration, which will then have all the consequences according to the Commercial Law Code; only the deadline for the submission of the registration proposal is different from that prescribed by the Commercial Law Code - it is 90 days following the approval of the transformation project, irrespective of whether the legal entity concerned is a commercial /business/ company, a joint-stock company or a co-operative society.

In the event that a co-operative society continues to operate as a single society even after the settlement of affairs in relation to the state, to the members and to other entitled persons, it shall not cease to exist, but it must adapt its rules /statutes, bylaws/ to the provisions of the Commercial Law Code.

Articles 5 and 6

A transformation project is subject to the approval of all the entitled persons forming part of the general meeting, but they need not take part in the voting personally. Their authorized representatives /substitutes/ command the same number of votes as the number of entitled persons whom they represent, plus their own vote, where appropriate /i.e. if such a representative is simultaneously an entitled person/.

The general meeting votes about those essentials of the transformation project which are specified in Article 4,

paragraph 4; the voting on amendments to the rules, on the adoption of the new rules /statutes/, as well as on the incorporation or foundation contract does not take place until after the approval of the transformation project, and then the persons entitled to vote are only those who are joining the co-operative society or business company concerned. The purpose of this arrangement is to prevent the people who are not joining the new legal entity /corporate body/ from taking part in the decision-making on its establishment or on the conditions under which it is being established.

Article 7

The project must be approved within a fixed time-limit, otherwise the co-operative society enters into liquidation. The same consequence would follow in case the new legal entities should fail to submit their registration proposal in time. The liquidation of the co-operative society will take place even if the general meeting approves it.

Articles 8, 9 and 10

In agricultural co-operatives, the entitled persons include the present-day members, the former members who have worked in the society for at least 10 years, as well as locally-known owners of land and other property used by the co-operative society; the condition is that they apply to the society in writing in good time and that they have not been expelled from its membership for any other reasons than those which are the object of rehabilitation according to Law No.87/1991 of the Law Gazette.

The property contributions /inputs/ are defined in such a way as to reflect the characteristic features of how the net property was created in the co-operatives in the past; the value of the movable and immovable property contributed or brought into the co-operative society is taken into consideration in the amount in which it was

recorded in the accounts. Any other kind of valuation /assessment/ of the property, for example in the prices current on the date of effectiveness of the Law, would delay the transformation for technical reasons, or even could make it quite impossible for the transformation to be completed within one year.

Articles 11, 12 and 13

In producer /workers' industrial and artisanal/ co-operatives, the entitled parties /persons/ are the actual members of the societies, the living former members who have worked at least 10 years in the society concerned after 1st January 1955, as well as former members who have brought into the society any immovable or movable property. The stipulation of this decisive date is being proposed with regard to the settlement of property issues according to Law No.53/1954, concerning people's co-operatives and co-operative organizations. According to this law, a co-operative society was obliged to settle property matters with each withdrawing member, taking into account the circumstance that his membership share had been increased by the society's profit.

In disabled persons' co-operatives, an additional category of entitled parties /persons/ is represented by living former members officially recognized as people with reduced working capacity /handicapped workers/, whose membership terminated after 1st January, 1990, as a result of organizational changes. The living former members, however, may become entitled persons only on condition that they apply for renewal of membership.

As distinct from other kinds of co-operatives, the criteria for the sharing out of the net property also include the member's gross earnings.

Articles 14, 15 and 16

In consumer co-operatives, the categories of entitled persons are defined in practically the same way as in

producer /industrial and artisanal/ co-operatives, and the condition of renewal of membership is likewise included in this provision.

Articles 17, 18, 19 and 20

In housing co-operatives, the entitled persons are only the present-day members of the societies. The criteria for the determination of the property share are the amount of the paid-up membership share and the amount repaid by the member to date towards the investment credit obtained for the construction of the co-operative home /flat/ or of premises serving non-residential purposes.

The Law envisages the transformation of co-operative building and housing societies, people's housing co-operatives, as well as co-operatives for the construction of family houses, into generally beneficial co-operative societies according to special regulations. It simultaneously envisages that the constitution and legal relations of such co-operatives will likewise be regulated by future special legislation. Furthermore, the possibility of contractual sale of a home /flat/ or of non-residential premises is dealt with in two variants, the first of which allows the price to be fixed in the amount of the unpaid part of the investment credit obtained for the flat or non-residential premises to be sold to him, or alternatively, to be agreed upon according to a special regulation, while the other variant simply refers to a special regulation in this context.

Article 21

As the Law cannot take fully into account all the specific features of co-operatives which are not producer, consumer, housing or agricultural co-operatives, but which have come into being on the basis of legislation still valid, it lays down the rule that their transformation will be governed by those provisions which can be most suitably applied to them by analogy.

Article 22

In the course of the last year, there have been relatively frequent cases of a co-operative society being divided up into several co-operatives, or instances of a co-operative society arising by separation from another one, while the original co-operative society settled the property matters with the members who were passing over to the newly-established society; therefore, the provisions of Article 22 prevent such natural persons /individuals/ from participating in the property of the original co-operative society again, on account of former membership, and in the property of the new society, on account of contemporary membership.

Article 23

This provision proposes two alternative variants dealing with the problem area of exemption from taxes and levies for the property shares acquired by the entitled persons in the course of the transformation. Variant I fully exempts the property shares from taxes and levies, while variant II envisages the taxation of such shares only in those cases where they have actually been paid out. This means that these property shares would likewise be exempt from taxes and levies in case they should be deposited with the co-operative society or business company concerned.

Article 24

The aim of this provision is to prevent the national property - which has been transferred to a co-operative society free of charge from state enterprises after 1st December 1989 - from being divided up into property shares of co-operative members, who would thus be groundlessly enriched.

The Housing, Consumer, Producer and Other Co-operatives Act,
=====

of 7th May, 1990
=====

The Federal Assembly of the Czech and Slovak Federative Republic has enacted the following Act:

S e c t i o n O n e

General Provisions

Article 1

The Purpose of the Act

/1/ The purpose of this Act is to regulate the status, the legal relations and the principles of the activities of housing, consumer, producer and other co-operatives /hereinafter referred to only as "co-operatives" or "co-operative societies"/ and other co-operative organizations.

/2/ The Act does not concern agricultural co-operative organizations.

Article 2

A Co-operative Society

/1/ A co-operative society is a voluntary community of citizens /members/ who have associated for collective business and other activities, as well as for satisfying and promoting their interests.

/2/ A co-operative society is a legal entity /corporate body/; in legal relations it acts in its own name and bears the responsibilities which arise from such relations. A co-operative society is not responsible for the obligations of other legal entities.

/3/ A co-operative society's affairs are managed by the members through the members' meeting and through its elected authorities, in accordance with general legislation and with the society's own rules /bylaws/.

/4/ A co-operative society conducts its business independently and on its own account; in doing so, it takes upon itself a reasonable degree of business risk.

Article 3

The Establishment of a Co-operative Society

/1/ The establishment of a co-operative society requires
a/ a resolution of the constituent meeting on its establishment, the rule being that a co-operative society can be formed by at least five citizens,
b/ the adoption of the society's rules /bylaws/,
c/ the election of the society's authorities.

/2/ A co-operative society may acquire rights and undertake obligations from the day of its entry in the register of enterprises.

/3/ The proposal for the society's entry in the register of enterprises has to be submitted by the co-operative society itself; appended to the proposal must be the society's rules /bylaws/ and the constituent meeting's resolution on its establishment.

/4/ Where special regulations require official consent for certain kinds or fields of activity, a co-operative society may be engaged in such activities only after obtaining such a consent.

Article 4

The Rules of a Co-operative Society

/1/ The basic set of a co-operative society's internal regulations /bylaws/ is represented by its constitutional rules /hereinafter referred to only as "the rules"/. The rules must contain:

- a/ the co-operative society's name, in which it must be expressly stated that the association concerned is a co-operative society,
- b/ the address of the society's headquarters,

- c/ the object of the society's activities /the nature of its business/,
 - d/ provisions concerning the commencement and termination of membership, the members' rights and obligations, as well as the procedure /measures/ to be taken against those members who fail to meet their obligations arising from membership,
 - e/ provisions concerning the amount /or the mode of fixing the amount/ of the membership share, or of a member's basic deposit or another form of property participation; the kinds and ways of their formation and use, valorization and/or amortization; the mode of their payment /deposit/ and of their settlement upon termination of membership or in connection with other circumstances constituting an entitlement to such a settlement /for example, the transfer of members' rights,
 - f/ the form and extent of a member's liability in respect of a loss that the co-operative society may incur,
 - g/ fairly detailed provisions concerning the co-operative society's authorities, their composition, term of office, the mode of their election and decision-making, as well as provisions specifying who organizes and manages the co-operative society's current business /Article 17, paragraph 5, and Article 21/ and who implements the tasks of the head of the organization in accordance with legislation regulating labour relations.
- /2/ The rules must not be in contradiction with this Act or with other regulations forming part of the general legislation.
- /3/ The rules and their amendments must be recorded in the register of enterprises.

Article 5

A Co-operative Society's Property

/1/ A co-operative society's property includes the items which the society owns, as well as the property rights it has acquired. The property may be taken away from the society only in the instances and under the conditions laid down by law.

/2/ A co-operative society's property is made up of the members' pooled resources /enrolment fees, membership shares, deposits, material contributions and other immaterial, material or financial assets whose value can be quoted in monetary terms/ and of the results achieved in the co-operative society's business, and/or assets from other sources

Article 6

A Co-operative Society's Economic Operation

/1/ A co-operative society defrays its requirements and costs from the income derived primarily from its economic activities /main business/, as well as from the income acquired from other sources.

/2/ From its profit, a co-operative society pays, in the first place, the appropriate taxes and other levies. The rest of the profit is used by the co-operative society freely and independently, and these funds cannot be taken away from the society.

/3/ The depreciation of the basic assets /plant and equipment/ remains in the co-operative society in the full amount, and the society utilizes it independently.

/4/ For the sake of promoting the members' greater participation in the co-operative activities and business results, a co-operative society may utilize their further property participation /additional financial or other property deposits/ valorized by the share of the profit in accordance with the rules /Article 4, paragraph 1, item e/.

/5/ For the purpose of financing its development, a co-operative society may issue bonds; the mode of their issue, the ways of their disposal and their valorization shall be

determined and made known by the members' meeting in accordance with the regulations laid down by general legislation.

/6/ A co-operative society may also include in its business the property of other legal entities /corporate bodies/ or natural persons; this may be done on the basis of a contract concluded in accordance with the regulations forming part of the general legislation.

Article 7

Protection of the Environment and of the Citizens' Health

/1/ In conducting its economic and social activities, a co-operative society must protect the environment, as effectively as possible, from any harmful effects that may be brought about by its business, and - in particular - make sure that any danger to the health of the citizens is avoided. It must finance from its own resources and put into effect the measures necessary for the formation and protection of all the environmental aspects threatened by its business and activities.

/2/ A co-operative society must provide and build the appropriate facilities for the protection of the environment, put these facilities into operation together with the productive or non-productive units concerned, and permanently ensure their smooth and effective functioning.

The Termination of a Co-operative Society's Existence

Article 8

/1/ The members' meeting may adopt a resolution to the effect that the co-operative society shall cease to exist, either with or without a liquidation. The co-operative society ceases to exist by the day of its deletion from the register of enterprises.

/2/ A co-operative society ceases to exist without a liquidation by amalgamation, integration or division.

/3/ A co-operative society which has taken over the property and obligations of a society which has ceased to exist must notify, without delay, any other parties affected by its discontinued existence, informing them to the effect that the society concerned has ceased to exist and that its property and obligations have been duly taken over; in the event of termination by liquidation, this is the duty of the liquidator.

/4/ A co-operative society may also be dissolved by decision of a law court, if, by its business or actions, it seriously contravenes the duties or conditions laid down in Articles 3 and 4 of this Act.

/5/ A co-operative society ceases to exist if the number of its members falls below five citizens.

Article 9

Amalgamation and Integration

/1/ The property, the obligations and the members of a co-operative society which is becoming part of another one by amalgamation are taken over by the latter.

/2/ In case of integration of two or more co-operative societies into one, their property, obligations and members shall be taken over by the newly-established /integrated/ society by the day when this new society's name has been recorded in the register of enterprises.

Article 10

Division

/1/ The members' meeting of a co-operative society which is to be divided shall determine how this division should be carried out, how its property and obligations should be divided, and it shall also decide, with due regard to the individual members' justified interests, to which of the newly-created co-operative societies the individual members should be transferred.

/2/ By being divided, a co-operative society ceases to exist and its property and obligations pass over to the new co-operative societies by the day of their recording in the register of enterprises, to the extent determined by the members' meeting of the society that has been divided up. By the same day, the members of the divided society become members of the new co-operative societies.

Liquidation of a Co-operative Society

Article 11

/1/ In case the members' meeting decides that the co-operative society should be dissolved by liquidation, it appoints a liquidator. If a co-operative society has been dissolved /according to Article 8, paragraph 4/, or if it ceases to exist /according to Article 8, paragraph 5/, the liquidator shall be appointed by the law court.

/2/ It is up to the co-operative society itself to propose that an entry should be made in the register of enterprises to the effect that the society is about to be liquidated and that a specific liquidator has been appointed.

/3/ The functions of all the authorities of the co-operative society, with the exception of the members' meeting, terminate by the day of the entry made in the register of enterprises according to paragraph 2. In the case of liquidation of a co-operative society dissolved by a decision made according to Article 8, paragraph 4, the function of the members' meeting shall terminate, too.

Article 12

/1/ The liquidator is entitled to act on the co-operative society's behalf in all matters connected with the liquidation.

/2/ The liquidator must notify, without delay, all the organizations, authorities and other parties concerned, about the co-operative society's entry into liquidation.

/3/ The co-operative society must work out a balance sheet and a statement of accounts covering the period up to the date of the beginning of the liquidation, and hand them over to the liquidator.

Article 13

/1/ Within one month of his appointment to office, the liquidator must draw up the initial balance sheet and submit it to the members' meeting together with the liquidation plan, the liquidation budget and the inventory recording the result of an extraordinary stock-taking of the business equipment and property carried out to the date of the beginning of the liquidation.

/2/ In the course of the liquidation, the liquidator must make particularly the following arrangements:

- a/ concentrate the financial resources on one single account in one banking institution,
- b/ bring to an end the current affairs related to the co-operative society's business,
- c/ convert the society's property into money as advantageously as possible or dispose of it appropriately otherwise, in accordance with the relevant provisions of general legislation,
- d/ from the proceeds of the liquidation, defray, successively, the claims of the state in levies, taxes and rates; furthermore, the claims of the co-operative society's members and staff, including the settlement of the membership shares and other property deposits /members' participation/; repay the money made available to the co-operative society from government /state/ resources for capital construction projects during the last five years preceding the liquidation; refund the resources invested in the society's property from pooled co-operative funds; and meet the remaining obligations /claims/.

/1/ To the date of the end of the liquidation, the liquidator must draw up the balance sheet and submit it to the members' meeting for approval together with his final report on the arrangements made in the course of the liquidation, and with a proposal of how the liquidation surplus, if any, should be divided.

/2/ The liquidation surplus should be divided by refunding to each member, successively, the amounts of his membership share and any other property deposit, and - where appropriate - an additional amount by which the member's liability of guarantee exceeds the membership share.

/3/ The resources remaining after the settlement carried out according to paragraph 2 shall be transferred by the liquidator:

- a/ in the co-operatives newly established after July 1st, 1988, among the members of the co-operative society concerned, in the manner laid down by its rules;
- b/ in other co-operatives, for the development of the communities in which the society concerned conducted its business.

/4/ The liquidator shall formally propose that the society's name should be deleted /erased/ from the register of enterprises, and make sure that the documentation files, records, books and accounts are properly stored in a safe place.

S e c t i o n T w o

The Authorities /Organs/ of a Co-operative Society

Article 15

The authorities of a co-operative society shall be the following:

- a/ the members' meeting or the general assembly /hereinafter only referred to as "members' meeting"/,
- b/ the management committee, +/

+/ Translator's note: the Czech name of this body is often translated into English in several different ways, e.g. board of directors, management board, executive etc.

- c/ the control commission,
- d/ other organs /authorities/ according to this Act and the co-operative rules /bylaws/.

Article 16

The Members' Meeting

/1/ The highest authority of a co-operative society is the members' meeting, at which the members exercise their right to decide about the society's affairs.

/2/ Members' meetings are held at intervals laid down by the rules, at least once a year.

/3/ A members' meeting must be convened if this is requested in writing by at least one-third of all the co-operative society's members, or by the control commission, as well as in other cases specified in the rules.

/4/ The powers and competence of the members' meeting include the following entitlements:

- a/ to adopt and amend the rules,
- b/ to elect and recall members of the management committee and of the control commission,
- c/ to approve the annual balance sheet and statement of accounts, the division and utilization of the profit, or - where appropriate - the way in which a loss should be covered,
- d/ to decide about the co-operative society's division, amalgamation, integration or dissolution,
- e/ to decide basic issues concerning the society's development and policy.

/5/ It is up to the members' meeting to decide about other affairs concerning the co-operative society and its activities, if this is required by this Act or by the rules, or if the members' meeting has reserved for itself the right to decide any particular issue.

/6/ The rules of a co-operative society may provide that members' meetings should be held in the form of sectional meetings of members. Sectional members' meetings are not

entitled to decide about any form of termination of the co-operative society's existence, or in other instances specified in the rules.

/7/ If it is not very well possible, with regard to the co-operative society's size, to convene members' meetings, the rules may provide that a delegate assembly /conference/ elected by the society's members should be convened instead of a members' meeting. The rules should simultaneously lay down further particulars for the election of the delegates.

Article 17

The Management Committee^{+/}

/1/ The management committee is the executive and statutory organ /body, authority/^{1/} of a co-operative society; it directs and manages the society's business and activities and decides on all matters with the exception of those reserved - by this Act or by a decision of the members' meeting - to another organ /authority/. For its activities /exercise of office/, the management committee is answerable to the members' meeting.

/2/ The management committee puts into effect and supervises the implementation of the decisions of the members' meeting; it regularly reports to the latter on its activities and on the society's business; it convenes members' meetings and prepares the agenda for their deliberations.

/3/ The management committee holds meetings according to need; as a rule, once every month. It must meet within 10 days following the delivery of the control commission's

+/ Translator's note: For alternative English names, see footnote referring to Article 15 /page 9/.

1/ Article 24 f of the Economic Law Code, No.109/1964 of the Law Gazette, as amended by subsequently issued regulations.

instruction to that effect, if this commission's earlier request or criticism has failed to result in getting things /shortcomings/ put right.

/4/ From amongst its members, the management committee elects the president of the co-operative society /the chairperson of the management committee/ and, where appropriate, also a vice-chairperson /two or more vice-chairpersons/, unless the rules provide that these officers are to be elected by the members' meeting.

/5/ The president of the co-operative society /the chairperson/ organizes and chairs the deliberations of the management committee. Where the rules envisage it, he or she also organizes and directs the society's current business and activities /Article 4, paragraph 1, item g/.

/6/ The ways in which the management committee acts on behalf of the co-operative society in relation to other /outside/ parties should be laid down by the rules.

Article 18

The Control Commission

/1/ The control commission is entitled to examine and review all the business and activities of the co-operative society; it considers the complaints of the society's members and - if specifically authorized by the rules - also those raised by its employees /members of the staff/. The control commission is answerable only to the members' meeting, without being dependent on any other organs /authorities/ of the co-operative society.

/2/ The control commission is required to express its opinion on the annual statement of accounts /balance sheet/ and on the proposal for the division of the profit or, alternatively, on the recommended manner of defraying the co-operative society's loss /deficit/.

/3/ The control commission must inform the management committee about the shortcomings discovered and insist that things are set right.

/4/ The control commission holds meetings according to need, at least once every three months.

/5/ From amongst its members, the control commission elects its chairperson and, where appropriate, also a vice-chairperson, unless the rules require these officers to be elected by the members' meeting.

Provisions Common to the Organs /Authorities/ of a Co-operative Society

Article 19

/1/ No other persons than the co-operative society's members over 18 years of age can be elected to its organs /authorities/.

/2/ The respective functions of a member of the management committee and of a member of the control commission are mutually incompatible. Other instances of incompatibility of certain functions are specified by this Act and/or by the co-operative rules.

/3/ The term of office of a co-operative society's elected organs /authorities/ is five years, unless the rules lay down a shorter term of office; however, the elected organs remain in office until new ones have been elected.

Article 20

/1/ The members' meeting, the management committee and the control commission can adopt valid decisions if more than half of all their members /delegates/ are present.

/2/ A decision, including the election of the co-operative society's organs /authorities/, is approved if it has been supported by the votes of a simple majority of the members present, unless this Act provides otherwise.

/3/ A simple majority of more than half of all members /delegates/ is required for the validity of a decision on the adoption of the rules and their amendments and on the termination of the society's existence /Article 9/.

/4/ Particulars concerning the election and recalling of a co-operative society's organs /authorities/, their deliberations and the verification of the minutes shall be laid down by the society's internal regulations - the election procedure and standing orders; the procedure for their adoption shall be laid down by the rules.

Article 21

In a co-operative society with a small number of members, not exceeding thirty, the rules may provide that the functions of the management committee and of the control commission are to be exercised by the members' meeting; that the latter shall elect, from amongst the co-operative society's members, the president /the chairperson/, who shall be the society's statutory organ /officer/,^{1/} and, where appropriate, also a vice-president /vice-chairperson/.

Article 22

The Manager +/

/1/ The rules may provide that the co-operative society's current business /Article 17, paragraph 5/ should be organized and managed by a manager, appointed and recalled by the management committee. This does not affect the functions /authority/ of the management committee in any way.

/2/ The status, activities and tasks of the manager should be determined by the rules.

Article 23

The Internal Organization of a Co-operative Society

/1/ A co-operative society's internal organization should be determined by its own comprehensive set of organizational regulations or by other internal organizational

1/ Article 21 f of the Economic Law Code & amendments.

+/ Alternatively translated as: "chief executive officer", "director", "general manager", etc. /translator's note/.

provisions. No internal organizational unit may be designated or described as a "co-operative society".

/2/ The authorization and appointment of a procurator,^{2/} if appropriate, shall be decided by the co-operative society's statutory organ /authority/.

S e c t i o n T h r e e

Membership

Article 24

The Commencement of Membership

/1/ The conditions under which membership arises /commences/ are determined by the Act and by the co-operative rules.

/2/ In a co-operative society where membership involves an employer-employee relation /a regular job/, a citizen can become a member after the end of his or her compulsory school attendance, but not before the day of reaching the age of 15 years.

/3/ Unless the rules provide otherwise, and unless a specific date of commencement of membership has been agreed upon by the co-operative society and the member /applicant/, membership shall arise, on the basis of an application duly submitted, by the day of the management committee's decision on the acceptance of the new member; in those instances where membership involves an employer-employee relation, membership commences by the date agreed upon as the day of taking up the job concerned, as specified in writing in the contract of agreement on the employment /working/ conditions /Article 33, paragraph 2, item a/.

Article 25

A Co-operative Member's Basic Rights and Obligations

/1/ A member shall have the following basic rights:

2/ Article 24, paragraphs 1 and m of the Economic Law Code.

- a/ to take part in the management and control of the co-operative society's business and activities, either directly or through the elected authorities /organs/,
- b/ to elect and to be elected to the society's authorities,
- c/ to put forward proposals for improvements in the co-operative society's activities, to address comments and queries to the co-operative authorities and to be informed about how they have been dealt with,
- d/ to share the advantages made available by the co-operative society to its members in accordance with the rules and on the basis of provisions forming part of the general legislation.

/2/ A member shall have the following basic obligations:

- a/ to observe the co-operative society's rules and to comply with the decisions of its authorities,
- b/ to pool resources to the extent laid down by the co-operative rules or by law,
- c/ to stand guarantee in respect of a loss incurred by the co-operative society, in a manner specified in the provisions of the rules,
- d/ to strengthen and develop the co-operative society's economy, to safeguard and improve its property.

/3/ In a co-operative society where membership also involves actual employment /a job/, a member is also entitled as well as obliged to work in accordance with the mutually agreed conditions. Each member is entitled to receive remuneration for the work done within the co-operative society; the amount of the remuneration depends on the society's business results and on the member's personal contribution towards their achievement. The remuneration system should be determined by the co-operative society in its internal regulations, in accordance with the relevant provisions of the general legislation laying down the guidelines for wage and salary policies.

/4/ In the decision-making of the co-operative organs /authorities/, including their election, each member shall have one vote.

Termination of Membership

Article 26

In those instances where membership involves an employer-employee relation, membership of the co-operative society concerned terminates according to legislation regulating labour relations /Article 33/, and the provisions of Articles 28 to 31 of this Act are not applicable.

Article 27

Where membership does not involve an employer-employee relation, this co-operative membership terminates:

- a/ by agreement,
- b/ by withdrawal,
- c/ by expulsion,
- d/ by death,
- e/ if the co-operative society ceases to exist by liquidation.

Article 28

Agreement

- /1/ If a co-operative society and a member reach an agreement on the termination of membership, the membership terminates by the date mutually agreed upon.
- /2/ An agreement on the termination of membership has to be concluded between the co-operative society and the member in writing. Depending on the member's request, the text of the agreement must specify the reasons for which the termination of membership has been brought about. One copy of the agreement on the termination of membership must be given by the co-operative society to the member concerned.

Article 29

Withdrawal

- /1/ A member may withdraw from a co-operative society on the basis of a written notice of withdrawal for no

matter what reason, or without stating any reason at all. The membership terminates with the lapse of two months; this period begins to run with the first day of the calendar month following the delivery of the member's notice of withdrawal to the co-operative society.

/2/ A notice of withdrawal may be revoked by the member only in writing and with the co-operative society's consent.

Article 30

Expulsion

/1/ The management committee may decide that a member should be expelled from the co-operative society /excluded from membership/,

- a/ if he or she has been validly convicted for a criminal offence committed against the co-operative society, against its property or against its members,
- b/ if he or she has gravely or repeatedly contravened the membership obligations laid down by law or by the rules.

/2/ The management committee may adopt a valid decision on a member's expulsion /exclusion/ only within two months of the date when it found out the reason for such a measure, but not later than one year after the date when this reason arose.

/3/ If a member's behaviour /action/, likely to be regarded as a reason for expulsion according to paragraph 1, item b, is being investigated by another organ /authority/, the time limit /of two months/ specified in paragraph 2 shall not begin to run until the co-operative society has been informed about the result of such an investigation.

/4/ The text of the decision on the expulsion of a member from the co-operative society /on his or her exclusion from membership/ must specify the actual reason /according to the alternatives of paragraph 1/, which cannot be subsequently changed or modified; membership shall terminate by the

date of delivery of the management committee's decision on the expulsion /exclusion/ of the member to him or her.

Article 31

Judicial Protection

/1/ If a member disagrees with the management committee's decision on his or her expulsion /exclusion/, he or she is entitled, within one month of the delivery of the written decision, to submit to the law court an application for a judgment to the effect that the expulsion /exclusion/ is invalid.

/2/ In case the termination of membership is judicially invalidated in accordance with paragraph 1, the injured party is entitled to claim compensation for the damage caused by the decision concerned.

Article 32

Settlement of Accounts

/1/ In the event of termination of membership, the co-operative society concerned shall settle the accounts of the mutual entitlements and obligations arising from membership, not later than one month after the approval of the final statement of accounts /balance sheet/ for the calendar year in which the membership in question terminated; at the latest, by the 30th June of the following calendar year. Further particulars concerning the settlement of accounts in respect of mutual entitlements and obligations shall be laid down by the rules /Article 4, paragraph 1, item e/.

/2/ The provision of paragraph 1 does not apply to a member's entitlements arising from employment.

Article 33

The Members' Labour Relations

/1/ In those co-operative societies where membership also involves an employer-employee relation, the labour /employ-

ment/ relations shall be regulated by the Labour Law Code, with the exception of the provisions which concern:

1. the applicability of the Labour Law Code in relation to special categories of workers /employees/,
2. the participation of the staff /workers, employees/ in the development, management and control of the employer organization,
3. the general labour-relations contract,
4. the participation of the trade union authorities /officers/ in staff transfers or reorganizations and in the instances of employment contracts being cancelled,
5. the entitlement of managers and other organs /authorities/ to impose disciplinary measures,
6. the social supervision exercised by trade union authorities /officers/,
7. provisions concerning the establishment of arbitration commissions,
8. transfers of entitlements and obligations arising from the employer-employee relations,
9. employer-employee relations involving the participation of another organization, as well as an employer-employee relation established between individual citizens.

/2/ The explanation of certain terms:

Translator's note: In the remaining 6 sub-divisions of this paragraph, the original Czech text contains detailed terminological instructions with cross-references to individual terms and formulations used in the provisions of the Labour Law Code. As these details are predominantly terminological technicalities of the Czech language, translating them into English would hardly serve any useful purpose, because in the absence of an English translation of the Labour Law Code they would be quite meaningless. Therefore, the rest of Article 33 /its paragraph 2, items a to f/ has been omitted in this translation.

S e c t i o n F o u r

Article 34

Association /Federation/

For the promotion of their development, co-operative societies, co-operative enterprises /agencies/ and special-interest /promotional/ organizations may associate with one another, as well as with other kinds of Czechoslovak and foreign legal entities /corporate bodies/ and natural persons, invariably on a voluntary basis and for the pursuance of a common interest; in doing so, they may take advantage, without any limitation, of all the forms of association or federation permissible by the Czechoslovak legislation.

Promotional Organizations

Article 35

/1/ For intensifying their mutual aid and co-operation, as well as in support of their professional and other interests, co-operative societies may establish promotional organizations of their own /for example, co-operative unions or federations/. Membership of a promotional organization is voluntary.

/2/ The preliminaries required for a promotional organization to come into being according to paragraph 1 include a resolution adopted by an assembly of duly authorized delegates of the co-operative societies concerned, to the effect that it is being established; furthermore, the adoption of the rules of the promotional organization and the election of its organs /authorities/.

/3/ A promotional organization is a legal entity /corporate body; in legal relations it acts in its own name and bears the responsibilities arising from such relations.

/4/ The rules of a promotional organization should regulate, in particular, the commencement and termination of membership, the members' rights and duties, the organization's business, activities and tasks, its organs /authorities/

and their jurisdiction, the ways of its economic operation, the principles determining the accumulation, utilization and administration of the pooled special-purpose /promotional/ funds, as well as the consequences of the organization's dissolution affecting property matters.

/5/ A promotional organization may cease to exist by a resolution adopted by an assembly of duly authorized representatives of the sponsoring co-operative societies to the effect that it is to be divided, integrated, amalgamated or liquidated.

Article 36

/1/ For the consideration of matters concerning co-operatives in common, as well as for the support and promotion of the interests of co-operatives and of their members, promotional organizations /Article 35/ may establish joint promotional /special-interest/ organizations.

/2/ The provisions of Article 35, paragraphs 2 to 5, apply analogically to the organizations mentioned here in paragraph 1.

S e c t i o n F i v e

A Co-operative Enterprise /Agency/ Founded by a Single Co-operative Organization

Article 37

/1/ A co-operative enterprise /agency/ may be founded by a co-operative society or by a promotional organization /hereinafter only referred to as the "founder"/.

/2/ A co-operative enterprise /agency/ is a legal entity /corporate body/; it comes into being, on the basis of the founder's decision, by the date of the entry of its name in the register of enterprises.

/3/ A co-operative enterprise /agency/ conducts its business with the use of the founder's property entrusted to its administration and management, and with the use of the property which it has acquired by means of its own

business activities; in respect of the latter part of the property, the enterprise /agency/ is entitled to its free economic use.^{3/}

/4/ The proposal for the entry of the name of the enterprise /agency/ in the register of enterprises has to be submitted by the founder. Appended to the proposal must be:

- a/ the foundation charter,
- b/ a document certifying the founder's agreement with the object /nature/ of the business to be conducted by the enterprise /agency/, if special regulations require such an agreement /consent/.

/5/ The foundation charter, which has to be issued by the founder, must contain and specify:

- a/ the name of the founder, with further relevant particulars,
- b/ the name and address of the enterprise /agency/; the name must rule out the possibility of confusion with the names of any other organizations, and be clear enough to make it evident that its bearer is a co-operative enterprise /agency/,
- c/ the identification of the main object of the business /activities/ to be conducted,
- d/ the specification of the property entrusted to the enterprise /agency/ at the time of its establishment and/or, where appropriate, a statement about the transfer of any rights and obligations to the enterprise /agency/, as the case may be,
- e/ the delimitation of the time for which the enterprise /agency/ is being established; also, where appropriate, the identification of the task for the implementation of which it is being established,
- f/ the determination of the relations, including financial ones, between the founder and the enterprise /agency/, and of the extent of the founder's liability in respect of the obligations of the latter in the event of its liquidation.

^{3/} Article 95, paragraph 1, of the Economic Law Code

/6/ A co-operative enterprise /agency/ is not liable for the founder's obligations, nor is the latter liable for the obligations of the former. The final statement of accounts, the balance sheet and the division of the profit /loss/ of the enterprise /agency/ are subject to the approval of the founder.

/7/ A co-operative enterprise /agency/ ceases to exist, on the basis of the founder's decision, by the date when its name is erased /deleted/ from the register of enterprises.

Article 38

/1/ A co-operative enterprise /agency/ is headed by a director /or by a chief executive officer whose managerial function is named otherwise/, appointed by the founder; the director manages the business and activities of the enterprise /agency/ and is answerable to the founder for its operation and for the results achieved; as its statutory organ /officer in charge/, he or she acts on behalf of the enterprise /agency/ in all matters.

/2/ The members of the staff of a co-operative enterprise /agency/ carry out their work within the framework of employer-employee relations /as a regular job/, or alternatively, on the basis of contracts of agreement on work done externally /not forming part of regular employment/.

S e c t i o n S i x

The Relations between Co-operatives and the State

Article 39

/1/ The business, the activities and the territorial boundaries of operation of a co-operative society may be limited or interfered with only under the conditions and in a manner laid down by law.

/2/ Against acts of interference - by the authorities of management of the national economy - affecting the co-operative business and activities, if such acts are in con-

tradiction with valid regulations of the general legislation, the co-operative society concerned is entitled to demand protection by the economic arbitration authorities under the conditions laid down by law.

/3/ The government authority /organ of the state/ whose unwarranted act of interference affecting a co-operative society's business and activities has caused any damage, shall be obliged to compensate it. The conditions and the extent of the compensation for such damage, as well as the instances when no compensation is due, are laid down by law.

/4/ If a co-operative society causes any property loss or damage, by its business and activities, to the state, to a government institution or to any other party, it shall be obliged to compensate it under the conditions and in a manner laid down by law.

/5/ The activities of inspection, examination and control may be carried out in a co-operative society only by those authorities /organs/ whose functions of control have been laid down by law. The government authorities /organs of the state/ carry out such activities with the participation of a representative of the control commission of the co-operative society concerned.

Article 40

/1/ By means of regulations forming part of the general legislation, the state /the government/ creates the appropriate prerequisites for the successful development of co-operatives; special consideration is given - and, in particular, financial contributions are made available - to disabled persons' co-operatives, with due regard to their role in the field of social welfare, as well as to the co-operatives securing the construction and upkeep of co-operative housing within the framework of the social welfare programmes of the state /government/.

/2/ The drafts of legislation, bills as well as other legal regulations and measures of major importance concerning co-operatives, have to be consulted by the central authorities of the state /government/ administration with the co-operative promotional /special-interest/ organizations established at the level of the Republics or, where appropriate, of the Federation /Articles 35 and 36/, in accordance with their spheres of competence.

S e c t i o n S e v e n

Special Provisions Concerning a Co-operative Society

Article 41

The Membership of Legal Entities /Corporate Bodies/ in a Co-operative Society

A legal entity /corporate body/ may be admitted to membership of a co-operative society according to whose rules this is permissible.

Article 42

Special Provisions Concerning the Membership of Building and Housing Co-operatives

/1/ Membership terminates with the member's death, unless it is transferred to an heir according to law.^{4/}

/2/ Joint membership of a married couple may terminate following the divorce of this marriage by being converted into separate /individual/ memberships of the divorcees by mutual agreement or by decision of the court, if the joint membership involved several rights of use.

/3/ By a contract of agreement, a member may transfer his or her membership rights and obligations to relatives in the direct line of descent, brothers, sisters, present or former spouse and other allied persons living in a common household with the member; the transfer of the membership rights and obligations to other persons is regulated by the rules.

^{4/} Article 179, paragraph 2, of the Civil Law Code.

/4/ A contract of agreement on a mutual exchange of homes /flats, apartments/ simultaneously involves an agreement on the transfer of membership rights and obligations.

Article 43

The Staff of a Co-operative Society

/1/ A co-operative society in which membership does not involve an employer-employee relation hires employees as regular staff for the jobs needed for the implementation of the society's tasks.

/2/ In its business and activities, a co-operative society makes use of the experience, professional knowledge and initiatives of its employees /staff/ and of their trade union branch, whose representatives it invites to attend the deliberations of the members' meeting and of the management committee.

/3/ In a co-operative society where membership also involves an employer-employee relation, non-members may be employed for regular jobs or on the basis of contracts of agreement on work done externally /not forming part of the main employment/, provided that this is permissible according to the rules of the co-operative society concerned.

Article 44

The Central Committee +/

/1/ In co-operative societies having more than five thousand members, the rules may provide that, in the periods /intervals/ between sessions of the members' meeting of the society, the tasks of this body shall be implemented by the society's central committee; the latter, however, cannot adopt or amend the rules, nor can it decide about the co-operative society's division, integration, amalgamation or dissolution.

+/ Translator's note: The English equivalent of the Czech original would be only "committee"; "central" has been added in order to avoid confusion with "management committee" /Articles 15, 17 etc./.

/2/ The central committee of a co-operative society is elected by the members' meeting; the number of its members is determined by the rules.

Article 45

The Members' Welfare Commission

/1/ In those co-operative societies where membership also involves an employer-employee relation, the members' meeting elects a members' welfare commission, which is answerable to the members' meeting for its activities.

/2/ In protecting and safeguarding the members' rights and interests, the members' welfare commission has the rights and obligations of the organs of a trade union branch, especially in negotiations concerning changes of the agreed working conditions, termination of membership on the co-operative society's initiative, social supervision and control of the observance of employment regulations and of the safety arrangements and health protection at work.

/3/ Further particulars concerning the competence of the members' welfare commission are determined by the rules.

/4/ The chairperson of the members' welfare commission is elected in accordance with the appropriate provisions of the rules.

/5/ In co-operative societies with a small number of members /Article 21/, the members' meeting may authorize an individual member of the society to exercise the function of this commission.

/6/ Membership of the welfare commission is incompatible with membership of the management committee or of the control commission.

S e c t i o n E i g h t

Common, Temporary and Concluding Provisions

Article 46

Common Provisions

/1/ A member who has been elected to office in a co-operative society may resign. However, he /or she/ must inform the organ /body/ whose member he is about the resignation. The exercise of office ends by the date on which the resignation has been considered by the organ /body/ competent for such a purpose according to this Act or on the basis of the rules. The organ concerned must consider the resignation at its next meeting following the day when the resignation was made known to it; this provision does not apply to a member of a co-operative society where membership also involves an employer-employee relation.

/2/ Any disputes that may arise between legal entities /corporate bodies/ by reason of the termination of a co-operative society's existence shall be decided by economic arbitration.

/3/ Disputes concerning the rights and obligations between a co-operative society and a member /citizen/, arising from the membership relation, as well as disputes concerning the settlement of accounts /Article 32/, shall be decided by a law court, unless this Act provides otherwise.

Temporary Provisions

Article 47

/1/ Unless the following paragraphs provide otherwise, the provisions of this Act shall also apply to the legal relations which arose before 1st June, 1990; however, the actual commencement of these legal relations, as well as the entitlements /claims/ which arose from them before 1st June, 1990, shall be considered according to regulations valid hitherto.

/2/ The co-operatives which came into being before the legal effectiveness of this Act /i.e. housing, consumer, producer and other co-operatives/ shall be regarded as co-operative societies existing in accordance with this Act.

/3/ The unions of co-operatives /co-operative unions/ which arose before the effectiveness of this Act shall be regarded as promotional organizations, and the Central Co-operative Council as a joint promotional organization in accordance with this Act /Articles 35 and 36/.

/4/ Any provisions of the rules /bylaws/ of co-operative societies, of promotional organizations and of the existing joint promotional organization, as well as the provisions of any other internal co-operative regulations, which are in contradiction with this Act, shall be null and void from the date of effectiveness of this Act.

Article 48

/1/ For identifying the type of co-operative society for the purposes of legal provisions regulating the relations to the state budget /taxes, levies etc./, the decisive criterion shall be the object /nature/ of the co-operative society's business, as formulated in the entry in the register of enterprises.

/2/ The co-operative enterprises /agencies/ established by a single founder before the legal effectiveness of this Act shall be regarded as co-operative enterprises /agencies/ existing in accordance with this Act.

/3/ The co-operative enterprises /agencies/ with several founders, established according to earlier legal regulations, shall be regarded as joint-venture enterprises /agencies/ governed by special regulations.

/4/ The statutes, foundation charters or contracts on the foundation of a co-operative enterprise /agency/ are documents which the founder must bring into conformity with this Act and with Article 106, paragraphs d and the following, of the Economic Law Code, within six months of the effectiveness of this Act.

/5/ The co-operative societies and promotional organizations which came into being according to earlier regulations, as well as the Central Co-operative Council, shall adopt rules formulated in conformity with this Act, by 30th April, 1991, at the latest. This is also the deadline for the end of the term of office of the organs /authorities, officers/ elected before the effectiveness of this Act. The amendments of the rules of promotional organizations may be made by their authorized organs.

Article 49

The Establishment of a Co-operative Society by Separation

/1/ The members of an organizational unit of a co-operative society /for example, a branch, a factory, a workshop, a shopping centre, a self-administrative unit, etc./, who have become this society's members as a result of its amalgamation, may ask the members' meeting of the co-operative society - on the basis of a decision approved by a simple majority of their total number belonging to the unit concerned - by 30th June, 1991, at the latest, to agree that these members, as well as the appropriate property and activities /business section/ should be separated from the existing co-operative society, with the effect of a new, separate co-operative society coming into being.

/2/ If the members' meeting should fail to express its agreement with the separation according to paragraph 1, within sixty days of the delivery of the request /application/ mentioned in paragraph 1, the members of the co-operative society's organizational unit concerned may decide about such a separation by themselves, by a resolution adopted by a simple majority of their total number belonging to that particular unit.

/3/ The new co-operative society shall arise by the date of the entry of its name in the register of enterprises. Appended to the proposal of this entry /registration/ must be a document certifying the transfer of the members and list-

ing them, as well as a comprehensive record /memorandum/ containing, in particular, a specification of the transferred /separated/ property, rights and obligations; this record has to be approved by the management committee of the co-operative society and by a simple majority of all members of the organizational unit which is being separated. In case an agreement on the contents of the record /memorandum/ has failed to be reached, this circumstance must be recorded in a statement appended to the registration proposal.

/4/ Any property disputes arising in connection with the separation shall be decided by economic arbitration.

Article 50

Repealing Provision

The Housing, Consumer and Producer Co-operatives Act, No. 94/1988 of the Law Gazette, is hereby repealed.

Article 51

Legal Effectiveness

This Act becomes effective as of 1st June, 1990

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Note: The text of this Act /in the Czech original/ may be subject to minor linguistic and terminological modifications, as the above version /wording/ has been copied from the minutes recording the results of the deliberations of the Federal Assembly /i.e. Parliament/.

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COOPERATIVE FARMING ACT

Part I

Chapter 1

General regulations

§ 1

Purpose of the Act

Purpose of the present Act is to rule the status, legal relations and principles of the cooperative farms (further "cooperatives") and other agricultural cooperative organizations.

§ 2

Cooperative

(1) Cooperative is a voluntary association of citizens (further "members") jointly realizing agricultural production, production of foodstuff and other economic activities for support and covering of own interests. It keeps farming activity on the agricultural grounds, waters and ponds with pisciculture, using its products.

(2) Cooperative is a juridical person; does not stay for the liabilities of other juridical subjects.

(3) The activity of the cooperative is managed through the members assembly and voted bodies of the cooperative in conformity with the general binding juridical rules, statutes of the cooperative and other cooperative regulations.

(4) The activity of the cooperative is realized on its own account and it is selfstanding; the cooperative accepts adequate economic risk.

§ 3

The establishing of the cooperative

(1) To establish the cooperative, it is necessary

- a) decision of the establishing meeting to establish the cooperative
- b) accepting of cooperative statutes
- c) voting of the cooperative bodies.

(2) The cooperative is able to step into rights and liabilities from the date of inscription in the register of companies.

(3) The application for inscription in the companies register presents the cooperative, it is necessary to enclose the cooperative statutes and the decision of the establishing meeting in writing.

(4) Such activity, for which license according special rules and prescriptions is needed, the cooperative can undertake only on the base of such license.

§ 4

Statutes of the cooperative

(1) Statutes of the cooperative (further "statutes") deem to

be the main regulation for the activity of the cooperative. Statutes must contain:

- a) the name of the cooperative, from which must be clear, that it is a cooperative,
- b) seat of the cooperative
- c) object of cooperative activity
- d) regulation concerning origin and losing of membership, rights and liabilities of members and regulation concerning the means used against the members not fulfilling their liabilities
- e) regulations concerning the amount and art of prescription of the membership share, event. the original membership contingent or other property part on the cooperative activity, ways and means of its production, use, valorization, event. amortization, way of its deposition and the way of settlement after the end of membership
- f) art and limit of the member's warranty for event. lost of the cooperative
- g) specified regulations concerning the bodies of the cooperative, their structure, terms of activity, ways of voting and ruling concerning who is managing and organizing the actual activity of the cooperative (§ 16, (5), § 22)
- h) regulations concerning the care about the senior members and securing the social and working activity of members disabled.

(2) Nothing in the statutes can be constructed against this act and other binding juridical rules in general.

(3) Statutes and its amendments and changes have to be enclosed in the application for inscription in the companies register.

§ 5

Property of the cooperative

(1) The property of the cooperative means material things to which the cooperative has property rights and ownership rights acquired by the cooperative.

(2) Property of the cooperative originates from association of the means of members (initiation fee, shares, deposits, material property and other valuable nonmaterial, material and financial deposits) and from the results of cooperative's activity event. from other sources. The cooperative property can be dispossessed only in accordance with the law.

§ 6

Cooperative economy

(1) Cooperative covers its needs and costs from the revenues acquired through its activity and from other sources.

(2) The cooperative covers from its profit above all the taxes and deliveries. Remaining profit the cooperative uses for in a selfstanding way and it could not be disposed from it.

(4) For covering financial needs of its development the cooperative may issue bonds; the way of issuing and using them and their valorization shall be ruled and promulgated by the members' meeting in accordance with the general binding regulations.

(5) For its activity the cooperative may use the property of other juridical persons on the base of contract closed in accordance with general binding legislative regulations.

§ 7

Dissolution of the cooperative

(1) The members' meeting can rule dissolution of the cooperative with or without liquidation. The cooperative cease to exist at the date of removal from the Company register.

(2) Without liquidation the cooperative is dissolved through fusion, merger or division.

(3) The cooperative, on which the property and liabilities of the dissolved cooperative were transferred, shall immediately inform other juridical subjects touched by the cooperative's dissolution, about the dissolution and about the transfer of its property and liabilities; in case of liquidation this shall be done by the liquidator of the cooperative.

§ 8

Fusion and merger

(1) Property and the liabilities of the fused cooperative shall be transferred on the receiving cooperative.

(2) In case of fusion of more cooperatives, their property and liabilities are transferred on the new cooperative originating from such merger at the date, on which the new cooperative will be inscribed in the Company register.

(3) The members of the old cooperative become members of the receiving or newly formed cooperative.

§ 9

Division of the cooperative

(1) The members meeting shall rule about the way of division and about the division of its property and liabilities.

(2) The cooperative shall be divided even in the case if the minority of its members will ask for it with the intention to establish a cooperative in accordance with the present Act.

(3) At the moment of cooperative's division such cooperative cease to exist and its property and liabilities go over to the new cooperatives at the date of their inscription in the Company register, to the extent ruled by the members' meeting. At the same date the members start to be members of new cooperatives.

§ 10

Liquidation of a cooperative

(1) In case of members meeting ruling dissolution of the cooperative with liquidation, it shall appoint the liquidator.

(2) The cooperative presents proposal of the inscription in the Company register noting that the cooperative is liquidated and the name of the liquidator.

(3) At the date of inscription in the Company register, according to (2), all the functions of cooperative bodies cease to exist with the exception of members' meeting.

§ 11

(1) Appointed liquidator may handle in the name of the cooperative in matters concerning liquidation.

(2) The liquidator shall without delay inform all organizations, bodies and other persons concerned about the fact of cooperative's liquidation.

(3) By the date of liquidation the cooperative he shall close the account books and account records and give them over to the liquidator.

§ 12

(1) One month after his appointment, the liquidator shall draft the balance and present it to the members' meeting together with the liquidation plan, budget and inventory record concerning the extraordinary inventory of economic means done at the date of liquidation's begin.

(2) Above all the liquidator shall in the time of liquidation

- a) concentrate all the financial means on one account of one banking institution
- b) shall terminate all current matters concerning the activity of the cooperative
- c) shall realize at the most preferable rate the property of the cooperative or shall handle it in other way in accordance with general binding regulations
- d) from the proceeds of liquidation he shall satisfy gradually the claims, of the state on taxes, fees and deliveries, further on the claims of the members and employees incl. settlement of member's shares and other property deposits (of the members) and shall return the means given to the cooperative from state governmental means for investments during the last five years before the liquidation and shall settle all other other claims too.

§ 13

(1) By the day of liquidation end the liquidator shall draft the account balance and shall present it together with the final record of the liquidation, and with the proposal for event. disposition of the liquidation's surplus to the members' meeting to be approved.

(2) The liquidation surplus shall be divided between the members according their shares or property deposits.

(3) The liquidator shall propose cancellation of the cooperative's entry in the Company register and secure safe deposition of all records and accounting sheets for the time established by special regulation.

Chapter 2

The cooperative's bodies

§ 14

The bodies of the cooperative are following:

- a) members' meeting
- b) management
- c) control committee
- d) other cooperative's bodies established in accordance with this Act and statutes.

§ 15

Members' meeting

(1) The supreme body of the cooperative is the meeting of the members, on which the cooperative's members exercise their right to rule about the cooperative's matters.

(2) The members' meeting shall convene in the term established by the statutes, min. once a year.

(3) The members' meeting shall be convened, if at least one third of all the cooperative's members or the control committee shall ask for it in writing as well as in other cases named in the statutes.

(4) The members' meeting shall

- a) accept and change the statutes
- b) vote and recall the management members and members of the control committee
- c) approve the year balance sheet, division and use of profit, event. the way of covering loss
- d) rule about fundamental changes of the lands available
- e) rule about division, fusion merger and winding up the cooperative.

(5) Meeting of the members rules in other matters concerning the cooperative and its activity, established through the Act, statutes event. if it has ruled, that some matters would be exclusively the right of its own and such matters would not be entrusted by the Act to other bodies.

(6) Statutes can establish, that the member's meeting will have the form of partial members' meetings.

(7) In case, that because of the cooperative's size, members' meeting could not easily convene, statutes may establish, that instead of members' meeting a conference (assembly) of the delegates voted by the cooperative members would be convened. Statutes fix conditions for delegates voting in particular.

§ 16

Management

(1) Management directs the whole activity of the cooperative and decides all matters not ruled through this Act, statutes or decision of the members' meeting explicate as the right of other body. It is responsible for its activity to the members' meeting.

(2) Management secures and controls fulfillment of members' meetings decisions, regularly informs it about its own activity and the activity of the cooperative, convenes the meeting of members and prepares its proceedings.

(3) Management meets as needed, once a month is usual. It has to meet 10 days after the suggestion of the control committee was presented in case, that upon this suggestion the imperfections were not removed.

(4) Management votes from its members the chairman of the cooperative (or management) event. his deputy or deputies in case, the statutes do not fix their voting on the members' meeting.

(5) The chairman of the cooperative as chairman of the management organizes and directs proceedings of the management. In case, it is established in the statutes, he organizes and directs the usual activity of the cooperative.

§ 17

Control committee

(1) Control committee has the right to control all activity of the cooperative; it proceeds all claims of the members and in case fixed by the statutes the claims of employees. It is responsible to the members' meeting and is independent on all other bodies of the cooperative.

(2) Control committee declares on the year account balance and on the proposal of profit distribution or on covering the loss of the cooperative.

(3) It brings the stated shortages to attention of managers of organizational units and of cooperative's bodies and asks for shortage removal.

(4) The control committee meets as needed, minimum once in three months.

(5) The control committee votes its chairman event. his deputy in case, that the statutes do not fix their voting on the members' meeting.

Common regulations of cooperative's bodies

§ 18

(1) Only members of the cooperative older than 18 years of age could vote and be voted in the bodies of the cooperative.

(2) The posts of management member and control committee member are incompatible. Other cases of incompatibility are fixed by this Act event by statutes.

(3) The term of voted cooperative's bodies is 5 years, subject the statutes do not establish shorter period, voted bodies stay in their functions up to new bodies voting.

§ 19

(1) The quorum for members' meeting, for management and for control committee shall be majority of not less than one half of all their members or delegates.

(2) Decision, incl. voting of cooperative's bodies is accepted in case of consent of not less than one half of

being present, subject this Act does not establish something different.

(3) The validity of the decision concerning acceptance of statutes, changes and amendments and of winding up the cooperative's activity (§7) needs consent of majority of not less than one half of all members or delegates except what is fixed in § 9 (2).

(4) Details concerning voting of cooperative's bodies, their proceedings and records verifying shall be established by election and proceedings rules; the way of its approval shall be established in statutes.

§ 20

In a cooperative with less than 50 members (further "small cooperative") the statutes may establish, that the function of management and of the control committee is realized through the members' meeting, voting the chairman event. deputy chairman from the members.

§ 21

Statutory body

(1) Statutory body¹ of a small cooperative (§20) is chairman. In case of other cooperatives in the statutes there must be established, whether the chairman or the management represent the statutory body.

(2) To confer procuration on a person decides the management.

§ 22

Director

(1) Statutes may establish, that the usual activity of the cooperative is organized and directed by the director appointed and recalled by the management. The sphere of management activity remains untouched.

(2) Status, activity and tasks of the director is established by statutes.

§ 23

Intracooperative organization

Intracooperative organization is established by organization rules event. other intracooperative regulation concerning organization. Internal organization unit of the cooperative may not be denominated as cooperative.

Chapter 3

Membership

§ 24

Membership origin

(1) Conditions for membership origin are established by this Act and statutes. In a cooperative, where a part of the membership is labour relation, member could become every citizen after reaching 15 years of age and finishing school attendance.

(2) Subject not other stated in the statutes and the cooperative does not agree with the member on a date of membership origin, as membership origin is deemed the day, when the management on the base of presented membership application form decided on its acceptance. In case, where the membership includes labour relation the membership originates on the day agreed as a day beginning of work in the agreement about the term of labour (further "labour conditions agreement"9.

(3) The labour conditions agreement may establish trial period up to three months. Agreed trial period may not be extended. During the trial period, both the member and the cooperative can wind up the membership in writing without assigning reason. The trial period shall be established in writing, should it be valid.

(4) The period of labour obstacles because of which the member is not able to work in the cooperative, is a part of the trial period up to maximum of ten working days.

§ 25

Fundamental rights and duties of a cooperative's member

(1) Member has following fundamental rights:

- a) to take part in management and control of the cooperative's activity direct or through voted bodies of the cooperative
- b) vote and to be voted in the cooperative's bodies
- c) present proposals concerning better activity of the cooperative, remarks and questions to the cooperative's bodies and to be informed about the results of his presentations
- d) to take part in the benefits offered by the cooperative to its members in accordance with the statutes and general binding juridical regulations.

(2) Member has following fundamental duties:

- a) to comply with the statutes and fulfill the decision of the cooperative's bodies
- b) concentrate the means in amount allowed by statutes or by this Act
- c) suretyship for ev. loss of the cooperative by the way established in the statutes
- d) strengthen and develop the cooperative farming, defend and promote the property of the cooperative.

(3) In case that the labour relation is a part of the membership, the member has the right and duty to work in accordance with agreed conditions.

(4) In the proceedings incl. voting of the cooperative, every member has one vote.

§ 26

Membership termination

(1) The cooperative's membership terminates through

- a) agreement
- b) resignation
- c) blackballing

- d) in the event of death
 - e) termination of the cooperative in liquidation
- (2) In a cooperative where the labour relation is a part of the membership, the membership terminates through
- a) termination during the trial period
 - b) immediate resignation
 - c) winding up the cooperative's activity.

§ 27

Agreement

- (1) In case of agreement between the member and the cooperative upon the membership termination, the membership terminates at the date agreed in the agreement.
- (2) Agreement about membership termination between the member and the cooperative shall be in writing. If the member asks for it, it must contain the reason of membership termination. One copy of the agreement about the membership termination gives the cooperative to the member.

§ 28

Resignation

- (1) The member can resignate on its membership in writing on the base of any reason or without reason stated. The membership terminates after six months. This term begins on the first day of month following after presenting the information about resignation in writing to the cooperative.
- (2) The resignation may be recalled by the member only in writing and with the consent of the cooperative.

§ 29

Blackballing

- (1) The management can rule excluding of the member:
- a) in case of authorized condemnation under sentence of committing deliberate crime against the cooperative, its property or during its activity in the cooperative
 - b) if he breaks in a grave way or repeating his duties as a member established through this Act or statutes.
- (2) Management can rule excluding of the member only in a period of two months after the day, when it established the reason for blackballing, not later one year after committing.
- (3) In case that the activity of the member, deemed as reason for blackballing in accordance with (1) b), is subject of investigation through another body, the term two months in accordance with (2) begins on the day, when the cooperative was informed about the result of such investigation.
- (4) In the decision about excluding the member, the reason in accordance with (1) must be stated and later shall not be changed; the membership terminates on the day, the decision of the management concerning excluding was delivered to the member.

§ 30

Immediate resignation

(1) The member can retire immediately

a) if he is according the medical certificate not able to work on his working place in the cooperative without serious danger for his health and the cooperative did not transfer him in the period of 15 days after presenting such certificate to other, for him more convenient work

b) if the cooperative breaks by grave way some fundamental liability towards the member committed to the cooperative by the labour conditions agreement, statutes or general binding regulations; this can be done only in a term of one month since the day, the member learned the reason of immediate resignation, but not later than one year since the day of such reason's origin

c) if he does not want to be a member of any of the cooperatives originating in accordance with § 9 and only during the period of one month since the day, when he was informed about the decision of cooperative's division

d) if he was recalled from his post in accordance with § 39 (1) and does not agree with his transfer according § 39 (2), and this only in the term of one month since the day of delivery the decision of the cooperative to the member.

(2) Member who retired immediately from the cooperative on the base of reasons stated in (1) a) and b) had the right on compensation for payment of wages for the work in the cooperative in amount of two average month wages.

§ 31

Termination

(1) The management can rule terminating of membership the part of which is labour relation, if the member:

a) is not fulfilling the preconditions established through general binding juridical rules for such work, or does not correspond without the fault of the cooperative with the requirements which are precondition for his work; In case that the member does not fulfill the requirements because of his bad results of work, the termination is possible only if he was from the side of the cooperative during the period of 12 months called to remove such reason in writing and have not removed them

b) if he becomes superfluous for the cooperative as a result of the organizational unit's, where he works, tasks, its technical equipment or other organizational changes of the cooperative; such termination is not possible if the member is proprietor of associated estates.

(2) Decision about immediate membership termination in accordance with (1) a) and b) in writing delivers the cooperative to the member. The membership in such case

terminates after two months. This term starts on the first day of month following after the day of delivery of such decision about the membership termination.

(3) Management can rule membership termination if the member does not start his work on day day agreed in the labour conditions agreement, without existing obstacles to work. The membership terminates on the day of delivery of the management's decision to the member. In such decision the reason of termination must be stated in such way, that it is not possible to cause confusion with another reason. The reason of termination may not be changed later.

(4) The decision about termination of membership, delivered to the member could be recalled only with his consent in writing.

(5) The cooperative can terminate the membership on the base of reasons stated in (1) a) only if

- a) the member is not willing to change for a new, for him adequate work offered by the cooperative or to go through training necessary for such work
- b) the cooperative is not able to offer him work adequate to his abilities, which he will be able to do with such faults.

§ 32

Injunction of membership termination

(1) The cooperative may not on the base of reason established in § 31 (1) a) and b) terminate a membership, where the labour relation is a part of it

- a) of a pregnant woman or member living alone, if they take care of a child younger three years
- b) during the period when the member is temporary unable to work because of illness or injury not due to malicious evocation of illness or arising from being drunk or after use of other narcotics, and during the time since presenting proposal for hospital treatment or after granting permission for spa treatment up to the day of its end; if the member suffers from tuberculosis, such protective period makes six months after release from the hospital
- c) in the time of draft since the day, when the draft order was delivered to the member or when the official announcement containing common draft order was published, and 15 days after his dismissal from such service
- d) during the member's period of civil service
- e) in the time, when the member takes a public post in the society.

§ 33

Juridical protection

(1) If the members does not agree with the decision of management concerning termination of his membership or with the blackballing, or if the cooperative does not agree with the immediate resignation, can in the time of one month

after delivery of decision in writing or after delivery of resignation, present before the court proposal of ruling that the termination, blackballing or immediate resignation is invalid.

(2) After the court rules that the termination of membership in accordance with (1) is null and void, the injured part has the right to claim damages suffered.

§ 34

Account

If membership terminates, the cooperative accounts all rights and liabilities of both parties in the period one month after approval of year account for the year, in which the termination took place, at least, not later than 30 April of the following year. Details of account and account settling shall be fixed through § 4 (1) e).

Membership with labour relation

§ 35

Labour relations

(1) The content of the membership with labour relation as a part of it shall be established through this Act and statutes; in such case the work in the cooperative is done by the members and the cooperative steps with them in an agreement about labour conditions where shall be fixed:

- a) art of work performed by the member
- b) location of workplace (address, organization unit or other destination)
- c) amount of work done in the year in case that he will not work for the whole year or full tie

subject those details are not fixed by voting or appointment.

(2) The labour conditions agreement may content

- a) benefits delivered by the cooperative to the member
- b) other conditions interesting for the member or for the cooperative, agreed upon between them.

(3) Labour condition agreement and its changes shall be done in writing. One copy shall be delivered to the member

(4) Labour relations between the member and the cooperative are ruled through this Act, Labour Code and its regulations in accordance and range of this Act. There, where the statutes or intracooperative regulations do not rule such particular item, the Labour Code rules over. The Labour Code rules relations in following:

- a) security and health in work
- b) labour conditions of women and youngsters
- c) responsibility for damage
- d) compensations for public post of the members
- e) labour opinions and certificate of employment
- f) membership records in case, when labour relation is a part of the membership, into the identity documents of the member.

(5) Particularities in the labour relations may be ruled in accordance with (4) the labour order of the cooperative, approved by the members' meeting.

(6) Cooperative can employ a citizen in a labour relation or in other sort of juridical labour relation. Acceptance in labour relation or other sort of juridical labour relation shall approve the management; if such relation will not last longer than one month, approval can give the chairman or other entrusted manager.

§ 36

Secondary labour relation

(1) The cooperative can agree with the member on a secondary labour relation for other work, than agreed in the labour conditions agreement, beside the normal working hours agreed and for such work, which could not be secured according the above regulations of this Act. Agreement about the secondary labour relation is a part of the labour conditions agreement, subject other is established through this Act.

(2) With the consent of the cooperative, the member can perform his work with the help of his family or other persons named in the agreement.

(3) For the damage caused to the cooperative responds the member; the responsibility of against such persons from the side of the cooperative is ruled through the Civil Code.³

§ 37

Labour in the cooperative

(1) If the cooperative is not able to give adequate work to the member for the period of the whole year or for the full working time, the cooperative shall make it possible to the member to work temporary for other organization.

(2) The cooperative is obliged to free the member from his performed work on his request in case of his study on a day school or university, public post or in the time when the member has right to get pension on the base of age or disability and woman member or member living alone and taking care of a child. In such case, the labour conditions agreement terminates.

§ 37

Remuneration

(1) The member has the right to get remuneration from the results of cooperative's activity, amount of which depends on the economic result of the cooperative and member's share on it.

(2) Remuneration is established through intracooperative regulations in accordance with the general binding juridical regulations concerning regulation of wage resources.

Appointment and recalling

§ 39

(1) Managers established through statutes are appointed and recalled from their posts by the management. To the day of

delivery of management's decision in writing to the member about the appointment, event, to the day, there fixed, the labour range or location changes.

(2) Membership in the cooperative lasts even after the member have been recalled from his post; management shall agree with the member on other working place corresponding with member's professional abilities and possibilities of the cooperative. In case, the agreement between the member and the management about the working is not reached, the management will transfer the member on other work, corresponding with his professional ability, state of health and possibility of the cooperative.

§ 40

Member voted in his post or appointed can resign from such post. But he shall inform the body having him voted or appointed to such post. The function performance terminates on the day, corresponding body according to this Act or statutes acknowledges such resignation. This body shall proceed about this resignation on the next meeting following after the delivery of the resignation, not later than 15 days after it.

Chapter 4

§ 41

Association

The cooperatives can associate with other cooperatives or other Czechoslovak or foreign juridical persons or citizens on the base of voluntariness and mutual interest and use all forms of associations allowed by the Czechoslovak juridical order.

§ 42

Special-interest organizations

(1) To elaborate mutual help and cooperation and to support own professional and other interests, the cooperatives can establish their special-interest organizations on the base of voluntariness, above all unions of cooperative (further "unions"); other juridical person or citizen can be a member of the union in case, it is allowed by the statutes of the union.

(2) To establish an union, the founding meeting of entrusted representatives of juridical persons establishing the union, must be held, unambiguously expressing the decision to establish the union, accepting the statutes and establishing its bodies, followed by certificate of incorporation of the union in question in the Company register.

(3) The union is juridical person; it enters in juridical relations in its own name and stands for liabilities established from this relations.

(4) Statutes of the union shall rule the origin of membership and its determination, rights and duties of the members, the

way of managing, principles of formation, use and administration of common fund constituted for particular purposes and property outcome of union's termination.

(5) The union can terminate through the decision of entrusted representatives meeting concerning its distribution, concentration, association or liquidation. It ceases to exist on day of cancellation of its entry into the Company register.

Chapter 5

§ 43

Cooperative enterprise

(1) Cooperative enterprise (further "enterprise") can be established by a cooperative or union (further "founder").

(2) The enterprise is a juridical person; it is established by the decision of the founder and on the day of its entry into the Company register.

(3) The enterprise is managing the property of the founder, entrusted to it and with property acquired through its activity. To such property it has the right to manage.⁴

(4) Proposal of entry in the Company register presents the founder. To the proposal following deeds must be enclosed:

a) founding charter

b) permission for the sphere of business, if such permissions needed according to special regulations

(5) The founding charter must shall content:

a) name of the founder

b) name and seat of the enterprise; the name shall be such one, that confusion with names of other organizations is excluded and it shall be clearly recognizable, that it is a cooperative enterprise and its identification number of the organization.

c) specified the main object of business (activity) event. in this framework specified the obligatory object of undertaking (activity)

d) specification of property entrusted to the enterprise in the time of its origin, event. regulations concerning the transfer of rights and liabilities in case that such exist

e) term of activity of such established enterprise, event specification of the task, for which it was established.

f) specification of relations, above all financial, between the founder and the enterprise and range of founder's responsibility for the liabilities in the time of enterprise liquidation.

(6) The enterprise does not stand for the liabilities of the founder; the founder stands for the liabilities of his enterprise up to the amount of entrusted property value; account and and distribution of profit (loss) of the enterprise is approved by the founder.

(7) The head of the enterprise is director (event. other manager) appointed and recalled by the founder. Directs the

enterprise's activity and for it he is responsible to the founder; as statutory body he represents the enterprise in all matters.

(8) The enterprise ceases to exist on the basis of founder's decision through the cancellation of its entry in the Company register.

Part II

Relations between the cooperative and the state

§ 44

(1) The state creates the conditions for the cooperative's activity and adjusts it by means of general binding regulations.

(2) The activity and territorial field of cooperative can be limited and interfered with only under conditions and by the way specified through the law.

(3) Against interference of the economic managing bodies of the state in its activity, being in contrast to the general binding juridical rules, the cooperative may ask protection of the economic arbitration under conditions specified by the law.

(4) Economic managing body causing through its interference loss of cooperative's property, has to redress such loss. The conditions and scale of property indemnity, as well as cases, when the indemnity is not given, shall be specified by the law.⁵

(5) In case the state suffers property damage through the cooperative's activity, or such damage is caused to other subject, the cooperative must redress it under conditions and scale specified by the law.

(6) Central bodies of the state administration negotiate with the special-interest organizations, established on the federal and republic levels, according to their competence, drafts of acts and other general binding regulations and fundamental measures concerning the cooperative farming.

(7) Control activity in the cooperatives is allowed only to the bodies, specified in their control activity by law. State bodies can run such activity only under condition, control committees taking part in it.

(8) The cooperative is obliged in its economic and social activity to protect with the highest effectiveness the environment and nature against harmful influence, caused by its activity and above all to take care and measures for protection of citizens' health. From its own sources it finances and performs measures directed to removal of damages caused through its own activities, measures for protection and revival of environment and nature in all their elements, endangered by its activity. The cooperative shall build equipment for the protection of environment and nature, start such equipment simultaneously with the start of production or

productionless equipment and secure its effective and continuous operation.

Part III

§ 45

Concentration of estates

(1) The members can associate for common cooperative farming in a range established through the statutes estates (incl. forest, waters with pisciculture and ponds as well), that are their property at the moment of their entry in the cooperative and estate, they acquire during their lasting membership.

(2) The duty to concentrate the estates starts with the day of membership origin, in case of trial period in the labour conditions agreement only after expiring of this period, subject the membership not terminated.

(3) For common cooperative farming shall not be concentrated

- a) estates in the use of the cooperative or other agricultural organization before the membership's origin
- b) estates built up with houses and economic buildings together with courtyards and gardens.

Right of cooperative use

§ 46

Subject matter of the right

(1) To the estates concentrated for cooperative common farming, event. to the estates, given instead of them in the use after soil reclamation (further "concentrated estates") the cooperative has the right of cooperative use.

(2) The right of cooperative use is gratuitous; means that the cooperative has the right to use the concentrated estates with due care for all purposes and tasks, above all for agricultural production.

(3) The cooperative may

- a) adjust the estates for securing or enlarging of the agricultural production
- b) change the nature of concentrated estates and use it
- c) build on such concentrated estates buildings necessary for the cooperative's activity.

(4) All the growth on the concentrated estates is property of the cooperative.

(5) The cooperative has the right on protection against unauthorized infringement of the right of cooperative use; such right does not expire with time.

§ 47

Transfer of concentrated estates

(1) In justifiable cases the cooperative may, subject consent of the proprietor, and under contract in writing, transfer

- a) concentrated estates for the use of other agricultural organization or organization established in accordance with § 41

b) concentrated forest estates for the use of forestry organization

c) concentrated ponds with pisciculture for the use of state pisciculture organization or anglers club

d) concentrated estates, on which small hydro power stations should be built for the use of organizations or citizen.

(2) For the use of concentrated estates in accordance with (1) the regulation of § 44 (2) to (5) apply adequately.

§ 48

Restoring of transferred estates

(1) To denounce the contract of concentrated estates transfer is possible with term of notice one year to the 31 December of the actual year, subject the contract does not establish other condition.

(2) Estate, on which a building was set up during the period of use remains in the use of the organization building up such building, subject the cooperative and the organization will not agree other way; the same applies if this building was constructed by a citizen.

§ 49

Temporary use of concentrated estates

(1) The cooperative may, with the consent of the proprietor transfer by contract in writing the estate to citizens or organizations for agricultural use; to organization is transfer for other than agricultural use possible only as exception.

(2) The user of transferred concentrated estates in temporary possession for agricultural use may adjust them and build up temporary structures needed for agricultural use only with previous consent of the proprietor and of the cooperative. Such proprietor's consent needs the administrative body for permission, building approval, estate permission or just information, that it has nothing against such intent. Growth on such estate are property of the user.

(3) In the contract about the transfer for temporary use may be fixed adequate pay-off and the art of property account after termination of the temporary use.

(4) Temporary use terminates after period agreed. Was there not such an agreement, the term of termination is a period, in which the purpose was reached or could be reached, for which the transfer was realized. The use can terminate by six months notice to 31 December of the actual year, subject the general binding juridical regulation or the agreement of the parties fixed another condition.

(5) The contract may be cancelled immediately if the user uses the estate in contrary to the agreement.

(6) To the day of termination, the user shall restore the original state, subject another condition is established in the agreement about use or in later contract; it is necessary to take care, that no unaccountable economic loss will occur.

§ 50

Termination of the right of cooperative use

(1) The right of cooperative use terminates through transfer or through change-over of the proprietorship to the cooperative or to the state and terminates with termination of the cooperative by liquidation.

(2) The right of cooperative use terminates through closing of agreement of the temporary use of the estate by the cooperative (5).

(3) The cooperative will release the right of cooperative use of the estates for the benefit of proprietor of the concentrated estates, who is member of the cooperative, in range fixed by the statutes. The cooperative shall waive its right of cooperative use of the estate in cooperative use in accordance of special regulations would it be used for building up, upon request for the benefit of the estate proprietor of concentrated estate, which is a member of the cooperative and not later than before the start of the construction use.

(4) The right of the cooperative use terminates in the case of restitution of the estate for the benefit of proprietor, who is not member of the cooperative; the cooperative shall return the estate upon the request of the proprietor in writing. Agricultural lands can be restituted only for agricultural use and after the harvest. The full territory of the estate is restituted, subject the cooperative and the proprietor will not agree on another condition.

(5) In case, the proprietor requests restitution of the estate in accordance with (4), and it is not possible because such estates are built up, on the estates there is permanent growth or reclaiming done, subject no financial account was reached, or the estates are without access, the cooperative shall exchange such estate for another adequate estate ⁸ from cooperative property, upon request of the proprietor. If the cooperative does not have such estate in its property, it shall part with other adequate estate ⁸ for temporary use free of charge up to 1 January of the current year, upon request from the proprietor presented six months before, not later. In case, when the cooperative is not able to part with other adequate estate for the proprietor or the proprietor does not agree with the partition of such estate, it shall close an agreement with the proprietor concerning the temporary use of his estate for payment; unilateral withdrawal from such agreement is possible to the 31 December of current year with five years notice.

(6) The cooperative shall inform the bodies of cartography and geodesy in accordance with (3),(4),and (5) about the termination of the right of cooperative use.

§ 51

Transfer of buildings

(1) Building or other structure (further "economic structure"), not in use of the cooperative, the cooperative may transfer free of charge to the member who gave it in the

property of the cooperative or to the proprietor of the estate built up with the economic structure. The transfer of the economic structure in the property of the transferee terminates the right of cooperative use to the estate built up with such economic structure.

(2) If the economic structure was valorized at the cost of the cooperative, the transferee shall compensate the cooperative in amount corresponding with the reasonable and lasting valorization compared with the state in the time of structure's transfer. If there was a compensation paid for the economic structure transferred in the property of the cooperative, the transferee shall return such compensation to the cooperative.

Part ,IV

Common provisions

§ 52

Contract between the cooperative and its member or other citizen

The cooperative may enter in contract with its members or other citizens about common production or other economic activity, for which the cooperative has a permission.

§ 53

Property transfer from state enterprises

For the transfer of property, rights, liabilities of state enterprises, established from the previous unified agricultural cooperatives, and for transfer of organizational units of state enterprises of such origin, as well the provisions of the State Enterprise Act apply and shall be constructed so, that such transfer is possible in case of property, rights and liabilities managed by the organizational of the state enterprise. Such transfer does not need the approval of legislative bodies and such measures can be taken after 31 December 1990 too.

§ 54

Mutual farm cooperative

(1) Citizens active in agricultural production can, in interest of their farming, establish mutual farm cooperatives.

(2) For such cooperatives, the provisions of this Act, concerning the concentration of the estates and provisions regulating the right of cooperative use do not apply. Other provisions of this Act apply adequate.

(3) Associations of individual farmers established according previous provisions can change itself without liquidation in mutual farm cooperatives.

§ 55

(1) If this Act prescribes the form of juridical act in member and labour relations, the juridical act without this form is invalid.

(2) Foreigner or a person without state citizenship can enter in agreement with the cooperative concerning labour relations only after granting residence permit for the territory of the Czech and Slovak Federal Republic, subject special provisions do not prescribe another condition.

(3) Labour conditions agreement concluded with a foreigner or a person without state citizenship terminates

a) on the day of ending the residence permit for the territory of the Czech and Slovak Federal Republic in accordance with the executory decision of residence permit withdrawal

b) on the day of legal validity of sentence ordering such person to leave the territory of the Czech and Slovak republic.

§ 56

Cooperatives in the meantime without member shares, can in its statutes grant the rights linked with the member shares on the base of concerned land and labour in the cooperative as well.

§ 57

Temporary provisions

(1) Subject nothing different established, the provisions of this Act apply to the juridical relations originating before 15 May 1990, origin of such juridical relations and the claims originating from them before 15 May 1990 are considered according existing provisions.

(2) Unified agricultural cooperatives established before the validity of this Act, are cooperatives according this Act.

(3) Provisions of the cooperative statutes and other intracooperative prescriptions inconsistent with this Act are deemed invalid from the day of validity of this Act. The new statutes the cooperatives shall accept not later than 31 March 1991.

(4) Arbitration procedure in the unified agriculture cooperatives, beginning before the validity of this Act shall be finished according existing juridical regulations.

(5) Garden concentrated according previous provisions, not subject to the concentration according this Act, is deemed as non concentrated since 15 May 1990, subject the cooperative keeps to this day the right of cooperative use.

§ 58

Joint ventures and cooperative associations established according previous juridical provisions are deemed as joint ventures and associations according special provisions⁵ and must be carried in conformity with this provisions not later than six months since the validity of this Act.

§ 59

In case of member resignating before 31 August 1990 for the purpose of agricultural use of his estates, the cooperative shall terminate his membership and return the concentrated

estates (§ 50 (4)) not later than 14 days after the end of the harvest, to enable him to carry out the autumn field work.

§ 60

(1) The government of the Czech and Slovak Federal Republic will adjust through provision the financial management of the cooperatives and other agricultural cooperative organizations; the government will establish the principles for property and liabilities distribution in case of cooperative's division.

(2) Federal Ministry of Agriculture and Nourishment in consent with the Ministry of Agriculture and Nourishment of the Czech Republic and the Ministry of Agriculture and Nourishment of the Slovak republic and in consent with the Federal Ministry of Labour and Social Matters can through general binding juridical provisions adjust the rules for regulating of the means for bonuses and wages in the cooperatives and organizations being active in the framework of the agricultural-foodstuff complex.

Annulment provisions

§ 61

Cancelled is:

- a) Act 90/1988 Sb. concerning agricultural cooperative
- b) § 3, a) of the public notice of the Federal Ministry of Labour and Social Matters N. 195 1989 Sb., concerning securing of the working people in case of organizational changes and citizens before entry in employment.

Validity

§ 62

This act is in force since 15 May 1990.

-
- 1 § 24 f of the Act /1990 Sb, changing and amending the Economic Code
 - 2 § 24 l) and § 24 m) and following Act /1990 Sb. changing and amending the Economic Code
 - 3 § 421 and 438 - 449 of the Civil Code
 - 4 § 95, (1) of the Economic Code
 - 5 Economic Code. Act 121/1962 Sb. concerning the economic arbitration in wording of later provisions (§ 2a)
 - 6 § 39, § 57 (2) and § 66 of the Act 50/1976 Sb. concerning territory planning and construction order (Building Act)
 - 7 Act 50/1976 Sb.
 - 8 In case of estates transfer the cooperative takes steps adequate to the principles of the public notice of the Ministry of Agriculture and Forestry 27/1958 OG, § 17 and §18, publishing the provisions to the governmental provision about the reclaiming of estates.
-

Monsieur le Ministre de la Justice

ORIENTATIONS

proposées à l'attention de la commission
gouvernementale ad hoc

POUR LA LOI SUR LA COOPERATION

Les coopératives sont actuellement implantées dans six secteurs d'activité: production agricole (1341 entreprises), pisciculture-pêche (16 entreprises), industrie (3450 entreprises), distribution (274 entreprises), épargne et crédit (260 entreprises), habitation (1407 entreprises). Au total, 6747 entreprises coopératives groupent quelque cinq millions vingt et un mille adhérents.

Orientations générales

1) La propriété coopérative

Les travaux préparatoires ont mis en évidence le fait que la propriété coopérative est une forme de propriété privée. La Constitution ne reconnaît, en effet, que deux catégories de propriété: la propriété publique (Etat, municipalités) et la propriété privée appartenant aux autres personnes morales et physiques ou aux entreprises et établissements créés par celles-ci. Or la propriété coopérative est bien le produit de la réunion volontaire des propriétés privées des citoyens adhérents.

Il s'ensuit que le législateur doit prévoir pour les coopératives les mêmes possibilités dont dispose toute personne physique ou morale étant fondée sur la propriété privée.

Proposition: le ministre de la Justice sera chargé de l'élimination continue, dans le cours des travaux de codification, de toute disposition qui porte atteinte à l'égalité des chances des coopératives.

2) La nouvelle loi sur la coopération

Il est nécessaire de créer une loi unique sur la coopération en remplacement de la loi III de 1971 actuellement en vigueur. Les modifications essentielles porteront sur

a) la réduction des interventions et obligations administratives et, dans le même temps,

b) l'augmentation de l'autonomie coopérative (droits et devoirs s'il y a lieu), matérialisée dans les statuts et la réglementation interne;

c) la personnalité morale de la coopérative qui doit être assimilée aux sociétés économiques - à tous points de vue y compris la responsabilité de la direction et des entrepreneurs dont l'activité se situe à l'intérieur de la coopérative;

d) l'alignement, grâce aux différentes dispositions, sur les réglementations européennes.

Par voie de conséquence, la nouvelle loi rendra caducs non seulement la loi actuellement en vigueur mais aussi, - à quelques exceptions insignifiantes près -, toutes les autres lois, dispositions légales

et décrets-lois ou arrêtés du gouvernement exécutoires relatifs aux différents "secteurs coopératifs".

Les spécificités inhérentes aux différentes sphères d'activité seront contenues dans les dispositions et les autorisations de la nouvelle loi et matérialisées dans les statuts et règlements internes des coopératives. Une telle formule est d'autant plus indiquée que l'organisation "sectorielle", artificiellement instituée, des coopératives est à bout de course et que l'activité des coopératives s'étend de plus en plus sur plusieurs secteurs à la fois. La situation spéciale des coopératives d'épargnants nécessitera également l'application des dispositions de la loi bancaire, actuellement en préparation.

3) La future loi sur la coopération définira le modèle de la coopérative de l'avenir.

Il est, par conséquent, évident qu'il faudra faire transiter les quelque sept mille coopératives actuelles, créées en d'autres circonstances, vers un règne de conditions qui sera issu de la nouvelle loi. Comme le respect de l'autonomie coopérative est de rigueur, il faudra d'abord rétablir la qualité de propriétaire des adhérents et la réalité de leur intéressement. Dans un tel processus, il faudra veiller à la fois au maintien du potentiel de l'économie na-

tionale (exportations, marché national) et à éviter au maximum les décisions arbitraires dans le rétablissement des rapports de propriété. Il faudra aussi que les adhérents puissent prendre leurs décisions quant à la continuation, la transformation (fusion ou séparation) ou la liquidation de l'entreprise ainsi que la personne des administrateurs.

Car le passage d'un système à l'autre est particulièrement délicat et important quand il s'agit d'appliquer à la pratique une législation nouvelle qui demande l'adoption d'une attitude entièrement nouvelle de la part de citoyens qui font marcher et ont l'expérience d'entreprises déjà existantes.

La "nominalisation" du patrimoine des coopératives actuelles constitue l'une des premières tâches importantes. A cet effet, deux solutions sont envisagées:

a) la loi imposera la répartition (nominalisation) obligatoire à cent pour cent ou

b) la loi ne fera que permettre la répartition intégrale, la partie indivise étant destinée à servir de réserve.

Comme la solution b) paraît plus souple et plus "autonomiste", elle bénéficie du soutien du Conseil national des coopératives.

Mais d'autres dispositions sont encore nécessaires pour conduire la transition vers une issue favorable: mécanisme des prises de décision quant à la con-

tinuation, la transformation ou la liquidation de l'entreprise; rapports de propriété entreprise-adhérents, compte tenu des particularités de chaque secteur d'activité; règlement de l'élection des administrateurs; création de nouveaux statuts et d'autres réglementations dans un ordre bien établi, conforme à la nouvelle législation; règlement des droits rendus caducs par la nouvelle loi et règlement de toutes questions relatives aux procédures en cours et aux dispositions dont l'application cesse dès l'entrée en vigueur de la nouvelle loi.

L'élaboration de toutes ces mesures requiert deux conditions indispensables: il faut avant tout disposer d'un projet de loi adopté par le gouvernement et comportant le modèle d'application (en vue de préparer l'adaptation des entreprises déjà existantes) et, d'autre part, débattre aussi largement que possible les mesures transitoires à prendre (en vue de résoudre les problèmes d'ordre pratique de concert avec les intéressés). Il est, en effet, indispensable que les coopérateurs soient informés des formes futures de la coopération au moment où ils sont appelés à se prononcer sur l'avenir de leur entreprise.

Tout cela nous amène donc à affirmer que la nouvelle législation doit être réalisée par deux lois différées dans le temps. La première définira le modèle de la coopération à venir, la seconde disposera des

modalités de l'exécution et des mesures relatives à la transition.

Il faut enfin prévoir un laps de temps assez long entre la publication de la nouvelle loi sur la coopération dans le Journal Officiel et la date prévue de son entrée en vigueur. Un tel délai permettrait, en effet, aux coopérateurs d'en étudier tous les paragraphes et de se faire une idée quant à l'avenir de l'entreprise et, surtout, de créer de nouveaux statuts conformes à la nouvelle situation.

4) En ce qui concerne les questions de patrimoine et de rapports de propriété qui ne sont pas régies par la nouvelle loi sur la coopération ou qui ne relèvent pas de l'autonomie coopérative, on appliquera les dispositions du Code civil.

Orientations ponctuelles

1) Qualité de membre. La coopérative étant la réunion caractérisée de citoyens (personnes physiques), la question est de savoir si une personne morale ou juridique (autre coopérative, société, municipalité, etc.) peut normalement en faire partie.

De l'avis général, cette question ne doit pas être tranchée par la loi. Celle-ci doit se limiter simplement à autoriser la coopérative à décider statutairement si elle admet ou non des personnes morales

parmi ses adhérents. Toutefois la loi doit stipuler que les droits et les devoirs de la personne morale adhérente sont les mêmes (exception faite pour le travail effectivement fourni) que ceux des personnes physiques ayant la qualité d'adhérent ce qui ne modifie en rien le caractère essentiel de la coopérative.

2) A ce propos, la loi doit consacrer le principe classique "un adhérent - une voix", et aucune exception ne doit être faite à cette règle.

3) Pour créer une coopérative, il faut au moins cinq adhérents fondateurs et un patrimoine de départ permettant le démarrage de l'activité économique. La coopérative existe dès le moment de son enregistrement - comportant la date de l'assemblée générale constituante. Le secret professionnel, mis à part, les faits et données relatifs à la coopérative sont soumis à la publicité légale.

4) Conformément à la législation en vigueur et aux principes de l'autonomie coopérative,

a) la coopérative prend ses décisions en toute indépendance concernant les questions de gestion, d'activité et toute affaire ayant trait aux intérêts des adhérents;

b) la coopérative élit, conformément à la loi, ses organes effectivement et légalement nécessaires à la poursuite de son activité;

c) elle définit le règlement de son autonomie, prévu par la loi et nécessaire à son fonctionnement;

d) elle surveille le fonctionnement de ses organes et l'activité des responsables élus ou nommés;

e) elle entend les rapports préparés par les responsables élus et nommés.

L'activité des coopératives, le statut de leur patrimoine et les rapports de propriété doivent être régis par la loi. Les questions dont le règlement ne tombe sous aucune disposition légale exécutoire sont légalement résolues dans le cadre de l'autonomie coopérative.

5) En cas de cessation de la qualité d'adhérent, toutes les questions financières sont réglées avec le démissionnaire ou ses héritiers. Les statuts ou la décision de l'organe autorisé ont valeur exécutoire quant à la date du remboursement de l'apport, de la participation ou de la valeur du travail fourni par l'intéressé.

Les biens en usage commun mais appartenant à l'intéressé lui sont restitués. S'il s'agit d'un moyen de production, le délai de la restitution est de cinq ans sauf disposition différente contenue dans les statuts. La protection des créanciers doit être assurée.

6) Le patrimoine de la coopérative

Le titre de participation est la seule forme du rapport entre coopérative et adhérent. C'est la formule adoptée dans les pays européens. Les juristes hongrois d'entre les deux guerres mondiales en étaient aussi partisans et elle figurait dans la première loi sur la coopération de 1947.

Le résultat net, après déduction des taxes et autres frais, s'ajoute au patrimoine de la coopérative. La participation des adhérents est assurée par des titres nominatifs conformément aux statuts. A l'exception des terres qui sont toujours propriété des adhérents, le titre représente la part respective du patrimoine. Il est rémunéré tout en étant négociable. Les statuts définissent le nombre des parts que les adhérents peuvent souscrire au moment de l'adhésion. En cas de démission, la valeur nominale ou commerciale du titre sera versée à l'intéressé à condition de n'avoir été utilisé pour couvrir un déficit. Le Conseil national des coopératives estime que la disponibilité illimitée du titre est pratiquement irréalisable et que, en cas de démission, elle risquerait de nuire à la stabilité financière de la coopérative.

Que deviendra le patrimoine après la dissolution de la coopérative? De l'avis général, s'il n'y a pas

favorisant les activités individuelles des adhérents (usage de terrains, bâtiments, outillages, cession de produits ou crédits pour leur achat, etc.).

8) L'activité économique de la coopérative

Avec ses biens en toute propriété, mis à sa disposition par les adhérents, la municipalité ou l'Etat ou loués à des tiers, la coopérative développe son activité économique en toute indépendance et dispose librement des résultats nets acquis.

A l'exception des activités concernées par les dispositions légales, gouvernementales, municipales spéciales, la coopérative peut exercer n'importe quelle activité économique dont l'exercice n'est pas lié légalement à une autre forme d'entreprise bien définie.

9) Le travail

Dans la coopérative, le travail des adhérents s'effectue selon deux formules.

a) En entrepreneur. Cette catégorie s'apparente au régime contractuel et est régie par le Code civil et peut concerner des individus ou des groupes d'adhérents.

b) En employé. Cette catégorie s'apparente au travail en usine et est régie par le Code du travail.

La coopérative n'a pas l'obligation d'employer des salariés.

10) Les garanties

Le patrimoine de la coopérative constitue la garantie des dettes contractées. Le patrimoine comprend les titres de participation des adhérents qui, eux, ne sont pas garants avec leur fortune personnelle et leurs rémunérations.

La responsabilité des dommages causés à la coopérative par un adhérent est régie par le Code civil. La responsabilité des dommages causés au cours du travail régulier est régie par le Code du travail.

Quand est formulé un droit aux dommages et intérêts de la part d'un adhérent, la coopérative se conforme aux dispositions du Code civil. Il y a toutefois deux cas de responsabilité absolue:

a) Lorsque le dommage subi par l'adhérent intervient au cours du travail régulier (à l'entreprise ou au domicile de l'adhérent) effectué pour la coopérative (accident du travail).

b) Dommage causé aux objets régulièrement introduits sur les lieux de travail.

S'il y a lieu de décliner ou de faire partager la responsabilité absolue dans des cas précis, les dispositions actuellement en vigueur sont applicables.

La responsabilité des titulaires de postes de direction relève, comme pour les autres sociétés

économiques, du Code civil.

11) La représentation des coopératives

En vue de représenter leurs intérêts et ceux de leurs adhérents (économie, commerce, relations internationales, etc.), les coopératives créent des organismes professionnels nationaux ou régionaux.

Bien que financés principalement par les coopérateurs, les organismes de représentation peuvent, à l'exception de l'organisme national, développer des activités économiques propres, conformément à la loi No 2 de 1989.

Avant de soumettre une proposition relative à la coopération au législateur ou au gouvernement, il faut solliciter l'avis de l'organisme national. En cas de divergence d'avis notable, le Parlement et le gouvernement doivent en être saisis. Il appartient à l'organisme national de soumettre, après approbation, des propositions relatives à la coopération dans son ensemble au gouvernement ou au Parlement.

Fait à Budapest, le 27 novembre 1990

Act of 1991
on Cooperative Societies

The Parliament

- starting from paragraph /1/ of article 12 of the Constitution, according to which the state supports the cooperatives based on voluntary association, acknowledges the cooperatives' independence,

- in order to that cooperatives might be properly serving the members' interests with the utilization of up-to-date legal frames,

creates the act as follows:

PART I.

CHAPTER I.

Introductory Provisions

Subject of the Act

Article 1.

This law regulates the cooperative's foundation, the organization of its self-government and operation of its organs, the cooperative's and its members' rights, duties and responsibility, and particular issues of safeguarding cooperative interests.

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/1/ For the cooperatives' and their members' property and personal relations not regulated by the law and settled not even by the cooperative's self-government statutes Articles 1-54 of Act VI of 1988 on economic companies /further on Ec/ and provisions of the Civil Code are to be applied.

/2/ For cooperatives carrying on the activities of a financial institute the act on financial institutes and financial institute activities, for cooperatives carrying on insurance activities the act on insurance are to be applied, too.

Concept of the Cooperative Society

Article 3.

The cooperative society is a community established according to the freedom of cooperation and the principle of self-aid that within the frames of democratic self-government with the members' material contributions and personal collaboration carries on entrepreneurial and other activities serving thus the members' interests, The cooperative is a legal entity.

Article 4.

The cooperative's members are natural persons; but the membership of a legal entity can also be established on the basis of the provisions of the statutes. The rights and duties of the legal entity - excepting the personal contribution and holding an office - are the same as those of natural persons.

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CHAPTER II.

General Rules

Foundation of the Cooperative Society

Article 5,

A cooperative can be established at least by five members, the one operating in an educational institute /furthermore: school cooperative/ and a credit cooperative can be established at least by fifteen members.

Article 6,

/1/ The foundation of the cooperative is decided by the statutory meeting with the participation of the founding members. This meeting is to pass the statutes, to elect the office-bearers and to approve the contracts entered into before the foundation.

/2/ The statutes are signed by the chairman of the statutory meeting and the recorder, and then they are confirmed by two cooperative members by the statutory meeting.

/3/ The statutes and their amendment are to be included into an official or notarial document signed by a lawyer /legal counsel/.

Article 7.

/1/ The foundation of the cooperative is to be reported to the court charged with the registration of firms /furthermore: court of registration/ - for registration and announcement - within thirty days after the statutes were passed.

/2/ Being registered by the court of registration the cooperative is established retroactively by the date of the statutory meeting.

Article 8.

/1/ Those who proceeded on behalf of the cooperative before of the implementation of the registration are unlimitedly and collectively responsible for the obligations undertaken under the joint name. The exclusion or limitation of the responsibility against the cooperative's creditors is null and void.

/2/ The liability according to paragraph /1/ undertaken on behalf of the cooperative prior to registration becomes null and void if the contract is subsequently approved by the cooperative meeting.

/3/ If the cooperative begins its activity before its registration it cannot refer to the lack of registration to third persons.

Article 9.

If the court of registration refuses the registration of the cooperative, its activity is to be stopped after the receipt of the legally valid decision. During the period from the statutory meeting to the termination of the activities in connection with the legal interrelationship between the members - if the conditions exist and no other decision is made by the members - the rules of civil law companies are to be appropriately applied.

Article 10.

The facts and data referring to cooperatives - as statuted and according to the provisions of law about the court registration of firms - are public.

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Representation of the Cooperative

Article 11.

/1/ The cooperative is represented by the chairman, the managing chairman, the managing director or a member of the board as stated by the statutes; this sphere of their authority in force cannot be limited against third persons. The cooperative can be represented by another member or employee authorized in writing by the office-bearers enumerated above.

/2/ The right of registration of the office-bearers enumerated in the first sentence of paragraph /1/ is independent. To the validity of the right of registration of another member or employee two signatures signed jointly by the persons - authorized with the right of registration - are needed.

Legality Supervision

Article 12.

The legality supervision of the cooperative is performed by the court of registration. For this kind of procedure of the court of registration in connection with the cooperative the statutes of the court registration of firms are to be applied.

Judicial Supervision of Decisions Infringing Lawful Rights

Article 13.

/1/ If the cooperative member sustained a grievance - not involving any infringement in connection with one's operative work - on account of a decision made by the cooperative or its organs that infringe the provisions of law or other rules, the statutes or some other self-government regulation, the member may ask the court for supervision of the decision infringing the law. This right cannot be operatively excluded.

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/2/ The action for the supervision of the decision infringing the law - under the pain of the loss of right - is to be started against the cooperative within thirty days reckoned from the date when the decision was made. The action started - excepting the decision on excluding the member - makes no delay in the procedure, but the implementation of the decision might be suspended by the court.

/3/ For the court's procedure the general rules of Act III 1952 on civil procedure /furthermore: Cp/ are to be applied.

Article 14.

It might be made obligatory by the statutes that the infringement of the law should be reported - before the proceeding - to the supervisory or conciliation committees by the member who had suffered the infringement of the law.

PART II.

CHAPTER III.

Cooperative Self-Government

Subject of Self-government

Article 15.

The members of the cooperative - within the frames of the provisions of law -

a/ make their decisions in each of the issues of the cooperative's operation, economic and other activities that serve the members' interests;

b/ through election it establishes the corporate organs prescribed obligatory by this act, furthermore the ones necessitated by their own requirements;

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c/ it creates the self-government regulations prescribed obligatory by this act, further on the ones directed by their own requirements;

d/ it supervises the operation of the cooperative's organs, the office-bearers' activities;

e/ it makes the office-bearers and the leaders render their accounts.

Article 16.

Disposals about the cooperativel, particularly about their membership, organizational and property relations can only be made by law. The issues which the law does not dispose of obligatory might be settled by the cooperative's self-government regulations.

Self-government Regulations

Article 17.

/1/ The statutes represent the charter of the cooperative's organization, operation and economic activities; its contents are stated by the members considering the cooperative's purposes and resources.

/2/ The statutes shall determine:

a/ the firm's registered name, its headquarters and sphere of activities;

b/ the major regulations referring to the cooperative's structure and the operations of its organs;

c/ the members' strength /number of the corporate organs of the cooperative, the jurisdiction of these organs;

d/ the way of convening the general meeting through an announcement;

e/ the members' rights and duties;

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f/ the amount of the share, the conditions of its payment and the number of shares that can be subscribed by a member;

g/ the way of representing the cooperative;

h/ the jurisdiction and relation of the cooperative's local self-government units with the cooperative's central self-government organs;

i/ the relation between the member's own economic activity and the cooperative's business, and the principles of the services and assistance granted in this sphere by the cooperative;

j/ in the case of a school cooperative /cooperative group/ the relation between the educational institute and cooperative /cooperative group/;

k/ all issues whose settlement is related by the act to the statutes, or is deemed necessary by the general meeting;

/3/ In order to pass, or amend the statutes a majority of two-thirds of the votes of the members participating at the meeting is necessary, in the case of a school cooperative in addition the management of the educational institute is to agree;

/4/ If the statutes do not dispose of the length of the period of the cooperative's operations, the cooperative's establishment is regarded for an undetermined time.

Article 18.

The general meeting is to determine whether the cooperative - beyond the statutes - creates some other self-government regulation.

Article 19.

The self-government regulations may differ from the provisions of law so much as it is rendered possible by the provisions of law.

CHAPTER IV.

Self-government Organs of the Cooperative

General Meeting

Article 20.

/1/ The major self-government organ of the cooperative is the general meeting. The jurisdiction of the general meeting includes:

- a/ establishing and amending the statutes and other self-government regulations,
- b/ electing and terminating the posts of the members of the board and its chairman,
- c/ electing, terminating the posts of the members and chairman of the supervisory committee, or appointing, terminating the posts of other persons performing the tasks of the former as deputies,
- d/ fixing the office-bearers' fees,
- e/ fixing the amount of the share and the face-value of the cooperative business share,
- f/ passing the annual account, making decision on the utilization of the returns after taxes are paid , or finding the sources for covering the deficit,
- g/ determining the indivisible assets in the case of winding up,
- h/ determining the cooperative's merger, de-merger, transformation and termination,
- i/ joining the cooperative or another economic company or withdrawing from the same, further on establishing a cooperative or some other economic/business company if the value of the assets taken in is above the value determined by the statutes,
- j/ joining an organ safeguarding interests and withdrawing from it,
- k/ determining an action of damages against an office-bearer,
- l/ all that related by the act or by the statutes to the jurisdiction of the general meeting.

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/2/ The decision on structural changes enumerated in clause h/ of paragraph /1/ belongs to the exclusive jurisdiction of the general meeting. Making a decision in any other matter might be related by the statutes to the jurisdiction of the delegates' meeting.

/3/ The statutes might relate

a/ the establishment of the self-government regulation mentioned in Article 18 into the jurisdiction of the board or the supervisory committee,

b/ electing and terminating the posts of the members of the board into the jurisdiction of the cooperative's local self-government units.

Article 21.

/1/ The general meeting is convened by the board annually at least once. The general meeting is to be convened out of turn if it is proposed at least by fifteen percent of the members or - after giving the reason - by the supervisory committee handed in in writing.

/2/ The general meeting is to be convened - its date announced at least eight days preceding the event - by making the agenda known in writing or through an announcement.

/3/ Any matter is to be included into the agenda of the general meeting if it is proposed in writing at least by fifteen percent of the members. It can also be proposed by the same number of members that the general meeting should supervise the decision made by any other self-government organ of the cooperative or any of the office-bearers, or the general meeting should make its decision in a matter belonging to the jurisdiction of some other corporate organ.

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Article 22.

/1/ The general meeting has a quorum if at least half of the members are present. If it has no quorum for a date within eight days, the new general meeting is to be convened with the same agenda - with regard to the original agenda - and it has a quorum irrespective of the number of members present.

/2/ If not disposed otherwise by the act, the statutes or the general meeting, the meeting passes its resolution with open ballot cast by more than half of the members present.

/3/ At the general meeting - with the exception regulated in Article 94. and in the /2/ paragraph of Article 107. - each member is due to cast one vote.

Article 23.

The general meeting shall be recorded by taking down the minutes containing the number of the members present, the summary of the matters /motions/ discussed, the resolutions and the data referring to the results of voting. The minutes are signed by the chairman of the meeting and the recorder and confirmed by the cooperative members elected by the meeting.

Article 24.

/1/ The way of holding a meeting can be determined by the statutes also in the form of partial general meetings. In this case the directives of the formation of the sections of partial general meetings are to be stated.

/2/ The partial general meetings are to be held with the same agenda and the votes cast are to be calculated together.

Article 25.

The statutes might enable the members that they should cast their votes - without convening the general meeting - in writing, if the decision can be made in this way as well. In this case the way how the members are informed about the decision and its date is to be determined by the statutes.

Delegates' meeting

Article 26.

/1/ The statutes may prescribe the operation of a delegates' meeting. In this case it determines the ratio of the delegates compared with the strength/number of the members, the way of their election, the period of their mandate considering that the number of delegates cannot be less than fifty.

/2/ In the case of establishing ^{the} system of partial general meetings the delegates to the delegates' meeting are elected by the members participating at the partial general meetings; in the case of housing cooperatives /Article 92/ the statutes may dispose in a different way.

/3/ The delegates' meeting can be participated - without being entitled to vote - by any member of the cooperative.

/4/ For the jurisdiction and procedure of the delegates' meeting in others the rules referring to the general meeting are to be applied with the differences as follows:

- a/ excepting the housing cooperatives casting a vote only in writing is not permitted;
- b/ the second sentence in paragraph /1/ of Article 22. cannot be applied.

The Cooperative's Local Self-government Units

Article 27.

/1/ The members' communities organized on the basis of their job, organizational unit, place of residence or some other similar interest can be acknowledged by the statutes as local self-government units.

/2/ The jurisdiction of the cooperative's local self-government units, their relation with the cooperative's central self-government organs, and particularly the matters in which the unit is authorized by the right of making decisions, submitting proposals, expressing its opinion are determined by the statutes.

The Board

Article 28.

/1/ A board of the strength of at least three members is elected by the general meeting. In a cooperative where the number of members is less than fifty, further on in the case of housing cooperatives instead of a board the post of a managing chairman can be established by the statutes.

/2/ Only the member of the respective cooperative can be elected the member of the board; the statutes may dispose divergently from this, and may restrict the number of board members by stating that they should be in labour relation with the cooperative.

/3/ The chairman of the board, at the same time the chairman of the cooperative is elected by the general meeting from among the members.

/2/ A minor, having completed his/her fourteenth year with the approval of his/her legal representative can become the member of the cooperative.

/3/ The statutes of a credit cooperative may determine the joint interest, whose existence is the basic condition of the membership.

Article 43.

/1/ The admission of a member is decided at its earliest sitting by the corporate organ determined by the statutes following the lodging of the application for admission. The person to be joining the cooperative is to be informed about the decision, and - if the decision was not made by the general meeting - it is to be informed about it.

/2/ In a school cooperative the number of members admitted beside the pupils cannot be more than fifteen percent of the strength of the members.

/3/ The membership relation - in want of a diverging agreement - comes into existence at the time when the decision on the admission was made.

/4/ Against the decision refusing the admission - if not made by the general meeting - the applicant is to turn to the general meeting.

Article 44.

The cooperative is obliged to register the members, which - until the opposite is proved - identifies the data referring to the origin, existence and termination of the membership relation.

Members' Fundamental Rights and Duties

Article 45.

/1/ It is the member's fundamental right that

a/ he/she should participate in the cooperative's activities and according to his/her personal, material contribution and other interests he/she should receive his/her proper share out of the returns of the economic/business activities;

b/ he/she should utilize the services introduced by the cooperative for the members and should enjoy all the other advantages of cooperation;

c/ he/she should participate at the general meeting with the right of consultation and entitled to vote;

d/ he/she should be an office-bearer in the cooperative; the representative of a legal entity is not entitled to this right;

e/ he/she should ask information from the office-bearers and leaders about any issue concerning the cooperative.

/2/ The structural rights based on the membership relation and the ones in connection with one's personal contribution are equal, independent of the size of the material contribution.

Article 46.

The member's fundamental duty is

a/ to perform the material/wealth contribution and as undertaken to participate in the activities of the cooperative and its self-government organs;

b/ to administer and protect the cooperative's assets with care.

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Article 47.

The members' rights and duties are determined in detail by the statutes and other self-government regulations, further on by the membership agreements made with the cooperatives.

Termination of the Membership Relation

Article 48.

/1/ The membership relation comes to an end, if

- a/ the member dies, the relation of the member being a legal entity is terminated,
- b/ the member withdraws from the cooperative,
- c/ the member is excluded,
- d/ the cooperative is transformed into an economic/business company of another formula,
- e/ the cooperative is liquidated without a legal successor.

/2/ Further cases of the termination of the membership relation can also be determined by the statutes.

Article 49.

/1/ One's intention to withdraw is to be reported to the board in writing.

/2/ The length of time that should pass between the notice referring to withdrawal and the termination of the membership relation are to be determined in the statutes /self-government regulation/. The membership relation comes to an end if this period has passed.

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Article 50.

/1/ The member might be excluded by the cooperative, if he/she - can be blamed for -

a/ his/her behaviour violating, endangering heavily the cooperative's interests, or

b/ does not perform the duties originating from the membership relation - during the period determined in the statutes - in spite of being warned.

/2/ The corporate body - authorized for the implementation of the exclusion - is to invite the member to the sitting where the case of exclusion is to be discussed. A resolution is to be passed about the exclusion and the member in question is to be informed in writing.

/3/ Against the excluding resolution - if not passed by the general meeting - one can turn to the general meeting. The possibility and the dateline of employing a judicial court procedure is not involved.

/4/ The membership relation comes to an end in thirty days after the receipt of the excluding resolution, excepting if

a/ the resolution fixes a later date, or b/ against the resolution a judicial court supervision procedure had been started.

Article 51.

/1/ If the membership relation gets terminated on the basis of a/ - c/ clauses of paragraph /1/ of Article 48. or paragraph /2/, the accounts are to be settled with the former member or with the heir/ess/.

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/2/ In the course of settling the accounts on the basis of the membership agreement the piece of property utilized till then by the cooperative is to be handed over to the former member. The date of handing out is fixed in the statutes and the membership agreement. If it is a later date than the date of the termination of the membership relation during this period a fee is to be paid to the former member for the utilization of this piece of property.

/3/ If the piece of property utilized by the cooperative cannot be handed back its value is to be paid to the former member.

/4/ In the case of paying back the amount of the share to former members that of the share-holding, the way and date of repaying are decided by the statutes or the resolution of the cooperative self-government organ denoted by the former.

CHAPTER VI.

Relations of the Assets between the Members and the Cooperative

Share-holding

Article 52.

/1/ The number and amount of share-holdings that can be subscribed by the member are determined by the statutes.

/2/ When the cooperative is founded and joined by the member one share-holding is to be subscribed, excepting

a/ the housing cooperatives, further on

b/ if some other kind of material contribution

/Article 54./ is accomplished by the member.

/3/ If the whole amount of the share-holding is not paid in by the member when the cooperative is joined by him/her, the remaining part is to be paid in in the way and at the date

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determined in the statutes - the latest date should be within a year reckoned from the date of joining the cooperative. In the case of a foundation the period of a year is to be reckoned from the date of the cooperative's registration.

Article 53.

/1/ The share-holdings must have the same amount. The share-holding cannot be transferred and when the cooperative member's liability exists towards a third person no judicial procedure executed by a bailiff can be applied.

/2/ The share-holding authorizes the holder for a share of the cooperative's returns after taxes are paid.

Members' other Kind of Material Contribution

Article 54.

/1/ Within the frames of the statutes /self-government regulations/, furthermore the resolutions of the general meeting the cooperative member - over subscribing the share-holding or instead of it - may accomplish some other form of material contribution, and for interest may give a loan to the cooperative.

/2/ In accordance with paragraph /1/ the order of the payment, utilization, termination and repay, furthermore the rate of the interest - with regard to the details not determined by the self-government regulation - are to be included into the agreement made between the member and the cooperative. The form of the agreement should be a written one.

/3/ If the member - excepting the loan given to the cooperative - over or instead of subscribing the share-holding accomplished another kind of material contribution he/she may claim share-holdings proportionate with the value of the former.

Cooperative Business-share

Article 55.

/1/ The amount spent on increasing the business-share capital from the returns after taxation according to the decision of the general meeting, is to be distributed among the owners of the business-shares. Upon the request of the authorized person about the amount distributed a named security is to be made out /cooperative business-share/.

/2/ If the business-share capital had to be used for covering a deficit the face-value of the business-shares is proportionately decreased by the general meeting.

Article 56.

/1/ The cooperative business-share can be transferred, inherited and the owner is authorized to receive annually a share out of the cooperative's returns after taxes are paid. After a cooperative business-share no interest shall be paid.

/2/ If the member wants to transfer his/her business-share to an outsider the cooperative and its members are authorized to exercise their right of pre-emption. If within thirty days after the intention of transfer was announced, and the ones authorized fail to declare their intention, the case is to be regarded that they do not want to exercise their right of pre-emption.

/3/ If the owner of the business-share is not a member of the cooperative, at the general meeting he/she is authorized to exercise his/her right of consultation and his/her proposals may be submitted.

Article 57.

/1/ The owners of cooperative business-share and the face-value of the shares are to be registered by the cooperative. Any transfer or case of inheritance is to be reported at once to the cooperative.

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/2/ The rights attached to the business-shares can only be exercised by the person whose ownership of the business-share is registered.

Article 58.

If the membership relation gets terminated on the basis a/ - c/ clauses of paragraph /1/ of Article 48. or its paragraph /2/ the former member /his/her heir/ess// is to receive the amount of his/her share-holding if the share-holding capital has not been utilized for covering a deficit. The former member may claim furthermore his share out of the special reserve established by the cooperative's general meeting.

Allotments and Assistance Rendered to the Members

Article 59.

/1/ In accordance with the principle of cooperative solidarity in the way ^{under} and the conditions determined by the statutes /self-government regulation/ the cooperative renders assistance and services in various ways to the members - particularly the old, disabled, permanently ill ones, families consisting of many members with several children - then their widows, orphans, including an aid, supplementing the pension, professional training, contributing to their meals and recreation, organizing social welfare nursery etc. and supporting their cultural education and sport activities.

/2/ The amount determined by the general meeting for allotments can be settled by the cooperative to the debit of costs.

Article 60.

The cooperative in the way ^{under the} and conditions specified by the statutes /self-government regulation/ supports the member's extra-cooperative economic activities ceding thus the use of a

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real estate allotting produce or product or by redeeming the latter financially.

CHAPTER VII.

The Cooperative's Economic Activity Fundamental Rules

Article 61.

/1/ The cooperative carries on its economic activity independently with the assets in its possession or given by the members or others for use, it disposes freely of its taxed returns within the provisions of law.

/2/ The credit cooperative shall pay back the returns to its members.

Article 62.

/1/ The cooperative may carry on any activity that is not relegated by the law to the exclusive sphere of activity of some other form of economic organization or that of the state /state organ/.

/2/ The credit cooperative may carry on its activity for its members.

Rules Referring to Work

Article 63.

Within the frames of cooperative membership relations legal relation with the trend of performing entrepreneurial work and another one of plant production characteristics may come about.

Article 64.

The contents of the legal relation with the trend of performing entrepreneurial work are determined by group or individual membership agreements in conformity with the self-government regulation and civil law.

Article 65.

The legal relation of the trend of plant characteristics is decided by the Labour Code and in compliance with it the work contracts made by the members with the cooperative with differences as follows:

a/ the issues belonging to the collective contract are to be settled in the statutes /self-government regulation/;

b/ the rules referring to disciplinary responsibility cannot be applied;

c/ the responsibility existing in the case of damages caused to the cooperative in the course of performing work is decided by the law.

Article 66.

For labour relations of cooperative employees the provisions of the Labour Code are to be applied.

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Formation of Reserves

/1/ From the returns after the taxes are paid - with the exception of the housing cooperatives - reserves are to be formed, and - if the law does not dispose differently - at least ten percent of the taxed returns is to be deposited in the reserve, as long as it reaches the size of the share-holding capital as determined by the statutes.

/2/ If the reserve had to be used for covering a deficit in the following years the size of the formation of a reserve is to be increased proportionately until the deficit is replaced.

Obligation of Giving an Account and Auditing

Article 68.

The cooperative's obligation of giving an account and auditing, the provisions of the act of public accountancy are to be applied.

CHAPTER VIII.

Liability

The Cooperative's Liability for its Debts

Article 69.

/1/ The cooperative is responsible for its debts with its assets. The cooperative's assets: the share-holding capital, the business-share capital, the reserves and means of free assets.

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/2/ With his/her own assets, further on with his/her salary/wages due from the cooperative member is not liable for the cooperative's debts. This provision does not refer to the housing cooperative members.

The Cooperative's and the Member's Responsibility for Damages

Article 70.

/1/ The cooperative is responsible for a damage caused to its member unlawfully according to the general provisions of responsibility of civil law.

/2/ The cooperative - irrespective of culpability - is obliged to pay for the damages to the member, that

a/ befell the member in the course of performing his/her work in a plant or performed his/her economic activity under the direct direction and supervision of the cooperative, furthermore

b/ it took place in connection with things that are usually taken to the place where people work.

/3/ The cooperative is not responsible in accordance with paragraph /2/ if it proves that the damage was caused outside its own sphere of operation in some irresistible way or exclusively by the member's unavoidable behaviour. In want of it the cooperative is exempt of being obliged to pay for part of damages that was caused by the member's culpable behaviour.

Article 71.

The member's responsibility for the damages caused on the basis of the provisions of civil right. In the case of damages caused in a careless way within the frames of plant production the size of responsibility can be limited by the statutes.

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Article 72.

The obligation that a compensation should be paid for the damages belongs to the jurisdiction of the court.

Rules of Liability between the Cooperative
and the Employees

Article 73.

For the disciplinary and compensation responsibility of cooperative employees, and - in the case of responsibility - for damages caused by the cooperative to the employees the provisions of the Labour Code are to be applied.

PART V.

CHAPTER IX.

Cooperatives' Merger, De-merger, Transformation
and Termination

Cooperatives' Merger

Article 74.

/1/ Two or several cooperatives at their general meetings held separately - calculated so that a two-thirds majority of the votes cast by all the members of each of the cooperatives, in the case of saving cooperatives it is a two-thirds majority of the votes of the members present - may pass the resolution that through merger a new cooperative is established, or one of the cooperatives will merge in. In the case of a school cooperative for the merger or merging in the approval of the leader/headmaster of the educational institute is also necessary.

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/2/ At the general meeting of the merging cooperatives held together the date of the merger, the resolutions on the new cooperative's statutes are passed, if necessary the self-government regulations are amended, furthermore the necessary elections take place.

/3/ The rights and obligations of the cooperatives participating in the merger pass to the new /receiving/ cooperative.

Article 75.

For the merger otherwise articles 7 - 9 of the act, furthermore articles 60-66 of Act XIII., 1989 on the transformation of economic organizations and economic/business companies /later Ta/ are to be appropriately applied.

Article 76.

In the course of the merger of cooperatives the provisions of Act LXXXVI 1990 on the prohibition of unfair market conduct are to be applied, too, to control the rules of organizational amalgamations.

Cooperative De-merger

Article 77.

/1/ With a two-thirds majority of the votes of all the members the general meeting may pass the resolution on the de-merger of the cooperative into two or several cooperatives. For a de-merger two general meetings are to be held.

/2/ At the first general meeting the cooperative members announce their intention of the de-merger, and that who which of the cooperatives would like to join. Following this the board is obliged to prepare the balance of assets, and on the basis of the former a proposal of the division of the assets, of which - excepting the housing cooperatives -

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The opinion of an auditor is to be expressed. The board is obliged to submit a further proposal in order to establish the face-value of the business-share.

/3/ The second general meeting makes its decision about the de-merger and establishes the face-value of the business-shares. For the former liabilities the new cooperatives are proportionately responsible in accordance with the division of the assets.

Article 78.

For a de-merger otherwise the rules referring to amalgamation are to be appropriately applied.

Transformation of the Cooperative

Article 79.

/1/ With the resolution of the general meeting the cooperative may transfer into a company of limited liability or joint-stock company, a savings, a credit and an insurance cooperative may be transferred into a joint-stock company.

/2/ The membership relation of the members voting against the transformation is terminated and the accounts are to be settled with them applying Article 91.

Article 80.

If fifteen percent of the members proposes the transformation in writing the board is obliged to convene the preparatory general meeting for the cooperative's transformation /furthermore: preparatory general meeting/.

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Article 81.

/1/ The board is obliged to submit such a proposal to the preparatory general meeting which

a/ informs those who are concerned about the economic objective to be reached by the transformation, the means necessitated and the future situation of the cooperative members including also the issue of allotment and assistance /articles 59-60/.

b/ it contains the proposal on the company form selected and the division of the assets;

c/ it introduces the stands taken by the proposers and the board.

/2/ The preparatory general meeting decides about the issues proposed with a two-thirds majority of all the members - with the exception of recreation cooperatives, in the case of housing cooperatives the votes are to be cast unanemously.

/3/ A committee may be designated by the preparatory general meeting for the preparation of the transformation.

Article 82.

On the basis of the decisions of the preparatory general meeting the board /committee/ is obliged to make a list of the allotments and cases of assistance beside the preparation of the plan for transformation and the balance of assets.

Article 83.

/1/ If the preparatory general meeting passed its resolution positively on the transformation the board is obliged to convene the general meeting of transformation within thirty days following the preparatory general meeting.

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/2/ All the cooperative members are to be invited to the general meeting of transformation in such a way that the documents enumerated in article 82. are to be enclosed to the letter of invitation.

/3/ The general meeting of transformation with a two-thirds majority of all the members - with the exception of recreation cooperatives, in the case of housing cooperatives the votes should be cast unanimously - passes its resolution on the cooperative's transformation. Following this the general meeting goes on with its work as the first members' meeting of the company of limited liability, or as the statutory meeting of the joint-stock company in compliance with the rules of Ec.

Article 84.

The condition of transformation is the division of the entire property/wealth of the cooperative - incorporated in securities - among the members.

Article 85.

/1/ The basic /original/ capital of the new economic company

a/ is jointly constituted by the total value of the business shares standing at the disposal of the cooperative members and

b/ by the material/wealth/ contribution of the new company members.

/2/ The basic deposit/share/ of the respective company members is formed according to their part of the assets marked by clauses a/ - b/ of paragraph /1/. The smallest amount of the basic deposit - differing from paragraph /1/ article 159 - in the case of the member of the transforming cooperative cannot be less than Ft ten thousand.

/3/ The subscription of shares of the members of the transforming cooperatives cannot be rejected.

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Article 86.

If the cooperative

a/ is transformed into a company of limited liability articles 26-27 of Ta,

b/ is transformed into a joint-stock company clauses b/ and f/ of article 33 of Ta are to be applied, too.

Article 87.

If the majority of the founders of the company of limited liability or joint-stock company transformed from the cooperative were also members of the cooperative transformed the company's registered name may include the adjective "cooperative".

Article 88.

The economic company established through the transformation is the general successor of the cooperative transformed. For the transformation, otherwise, articles 4-11 and 71-75 of Ta are to be applied.

Transformation of the Cooperative

Article 89.

/1/ The cooperative is terminated, if

a/ the general meeting - with a two-thirds majority of all the members, in the case of housing cooperatives the voting should be unanimous - passes a resolution on the termination without a legal successor.

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b/ if it merges with another cooperative, merges in, demerges or transforms into another form of economic /business company;

c/ the number of members diminishes below five - in the case of school and credit cooperatives below fifteen - and on account of this or due to some other legal cause its termination is declared by the court of registration;

d/ it is terminated by the court in the course of a liquidation procedure;

/2/ In the case of the want of the smallest obligatory strength of members the termination of the cooperative can only be declared if within six months the cooperative fails to report to the court of registration that the smallest number has been reached.

/3/ The cooperative is liquidated by being struck off the firm register.

Article 90.

/1/ If the cooperative is terminated according to clauses a/ or c/ of paragraph /1/ article 89 without a legal successor a final settlement is to be implemented. For this purpose the provisions of articles 47-54 of Ea are to be applied with the difference regulated in paragraph /2/.

/2/ In the case of housing cooperatives the person performing the final settlement is ordered by the court of registration, in any other case the final settlement is performed by the board.

/3/ After the announcement of the liquidation on account of an insolvency no cooperative membership relation can be established

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Article 91.

/1/ The remaining means of property after finishing the final settlement are to be paid to and distributed among the member and non member owners of the business-shares in the proportion of their share-holdings, other material contributions and business-shares. The part of the indivisible assets as regulated by the statutes is to be used for some cooperative purpose in accordance with the statutes, in want of the former it is to serve some public interest.

/2/ In the case of housing cooperatives the wealth will be the joint property of the former member and non-member owners in the proportion of their share of interest.

PART VI.

CHAPTER X.

Specific Rules Referring to Housing Cooperatives

Common Regulations

Article 92.

/1/ From the point of view of the interpretation of this act housing cooperatives are: flat, pensioner home, recreation, car garage, workshop or store/shop building and maintenance cooperatives /furthermore housing cooperatives/.

/2/ A housing cooperative is a communal organization performing its activity for public use.

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Article 93.

When a housing cooperative is established the would-be cooperative should form a local unit or some other unit in accordance with cooperative characteristics /schedule of the construction, the house itself, group of houses etc./.

Article 94.

At the housing cooperative's general meeting by each flat /unit of use/ only one vote can be taken into consideration. If the flat /unit of use/ is in the property /use/ of several members it is the statutes that determine how the votes can be taken into consideration.

Housing Cooperative Membership Relations

Article 95.

/1/ A person can be the member of a housing cooperative who

a/ is willing to meet his/her financial and other obligations prescribed in accordance with the objectives of the housing cooperative, furthermore

b/ in case he fails to meet his/her financial liabilities he/she agrees

bb/ as a natural person that his/her debt is to be withheld from his pay, the appropriate part of the former should be transferred to the credit of the housing cooperative,

bc/ as a legal entity or as a person possessing a bank account agrees that the payment should be immediately collected.

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/2/ In the case of the flat maintenance cooperative when the owner himself/herself and the person with the possession of the right of utilization apply for a membership - if they meet the conditions regulated in paragraph /1/ - their request cannot be refused.

/3/ If the flat is possessed or utilized by several persons each proprietary partner or any person authorized for the use of the flat may ask for the housing cooperative membership.

/4/ If the application for a membership is refused the decision of the debate belongs to the jurisdiction of the court.

Article 96.

/1/ For ensuring the non-member owner's financial liability clause b/ of paragraph /1/ of article 95 shall be applied.

/2/ The transferring announcement is an enforceable document. If the member or non-member owner does not meet his/her financial liabilities existing towards the housing cooperative in spite of a notice delivered, the board on the basis of the transferring announcement may ask the employer that the debt payable can be withheld from the pay.

/3/ If the member withdraws from the flat maintenance cooperative or he/she is excluded the transferring announcement remains further valid as long as the former member is in debt.

Article 97.

/1/ A person may become the member of a pension house/home cooperative who can meet the general requirements of the housing cooperative membership and is a pensioner or reached the pensionable old age limit.

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/2/ Further membership conditions can be established by the statutes.

/3/ The member may receive into the dwelling unit only such a person who can meet the requirements prescribed by paragraph /1/-/2/; the reception of another person cancels the membership relation.

Article 98.

/1/ The housing cooperative membership relation comes to an end even then if the member's proprietary right to the flat or to some other part of the flat or his/her right to its permanent or temporary use is terminated.

/2/ In case of the termination of the membership relation the permanent or temporary right of use also comes to an end.

Article 99.

/1/ In the case of the house-building cooperative the withdrawing member and the heir/ess/ may transfer his/her right of construction, and thus the person authorized may apply for the membership relation. The application can be refused only then if the applicant does not meet the general requirements of the housing cooperative membership.

/2/ The claim on the cooperative of the member excluded from the flat-building cooperative may be limited by the statutes to the payments paid ^{by} the former member for the construction of the house, furthermore to the countervalue of the work performed and the services given. This regulation refers also to the former member who had withdrawn from the cooperative without having transferred his right of construction.

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/3/ The house-building cooperative within thirty days after the new member's admittance is obliged to settle the account with the withdrawn or excluded member.

Article 100.

/1/ In the case of the death of the member of the pensioner house/home cooperative the heir/ess/ may use the flat only then, if - upon his/her request - he/she is admitted as a cooperative member.

/2/ If the heir/ess/ does not meet the conditions prescribed or fails to ask his/her admission as a member, and he/she does not transfer and his/her proprietary right or the right of permanent use to the appropriate person within six months calculated from the date when the decree of legacy came into force, the pensioner house/home cooperative is authorized to exercise his right of purchasing.

Article 101.

/1/ If the right of the permanent use of the flat comes to an end the former member shall vacate the flat and no accomodation can be claimed for. This regulation is to be applied appropriately too in the recreation cooperative if the temporary right of use expires.

/2/ If the membership relation comes to an end in the flat maintenance cooperative the former member may not claim the repayment of the payments paid to the cooperative. It can be regulated by the statute differently.

Article 102:

/1/ In the case of a housing cooperative the commencement of an action for the judicial supervision of the resolution excluding the member has no delaying effect.

Article 103.

A housing cooperative can only be de-merged into housing cooperatives if they are appropriate regional or other kind of units /article 93./.

Proprietary and Use Relations in Housing Cooperatives

Article 104.

/1/ If in the housing cooperatives the flats are the members' private property the statutes shall determine that the area of land, the structural elements of the house, the premises/rooms for collective use, grounds, the central equipment, the concierge's flat, furthermore other premises serving the housing cooperative purposes /e.g. bureau, workshop, store, etc./ become the cooperative's or the members' collective property.

/2/ The owner of the flat shall report the board his intention of selling the flat.

Article 105.

/1/ The flats - if it is regulated by the statutes like this - may be also in the housing cooperative's property. In a case like this the member is authorized to use a flat assigned permanently. The member may/herself is allowed to use the flat, may make use of it, or the right of its use can be transferred.

/2/ If the permanent use of the flat is transferred with encumbrances the housing cooperative according to the pre-emption rules is authorized with the right of use. The housing cooperative exercises its right itself, or may designate one of its members.

/3/ If the housing cooperative does not exercise its right of preemption it may transfer the member's right of use to such a person who meets the membership requirements. Such a person's request for admittance cannot be refused.

/4/ In the case of the member's death the regulations of inheritance are to be applied for the right of use.

Article 106.

For the use of the part of land belonging to the dwelling house or the part of land in the joint property of the members, and the use of parts of the building - within the frames of the resolution of the general meeting - each of the members is authorized but none of them can exercise his/her right to the disadvantage of the rights of the others or the others' lawful interests.

Article 107.

/1/ A recreation cooperative can be founded in such a way that in the recreation building possessed by the cooperative the member - annually for a period determined by the statutes - is authorized with the right of the temporary use of a recreation unit.

/2/ Each natural person as a member possessing the right of the temporary use of the recreation/holiday building - independently of the extent of his/her right of use - at the general meeting is entitled for one vote. A member being a legal entity after each of the recreation/holiday units for whose use it obtained the right of use for the whole year in business/economic issues is authorized to cast a further vote.

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Article 108.

/1/ In case of the member's death the rules of inheritance are to be applied for the right of the temporary use of the recreation/holiday building.

/2/ The request for a membership relation made by the heir/ess/, the person presented and the buyer cannot be refused if the applicant meets the membership requirements.

The Housing Cooperative's Economic/Business Activities

Article 109.

/1/ The financial sources of the activities of the housing cooperative are obtained from the members' payments for the construction, the payments of members and non-member owners for covering the maintenance /operation/ and renewal costs and from other returns of the cooperative.

/2/ The liabilities of the members and non-member owners concerning construction, maintenance, operation and renewal are to be stated and registered separately for each of the buildings. The way bearing the costs shall be determined by the statutes.

Article 110.

/1/ The housing cooperative is liable with its assets for the debts originating from its basic activity /construction, operation, renewal/. If they do not cover the debts the general meeting may oblige the member and non-member owners for an additional payment.

/2/ Proportionately with the rate of the rise of prices concerning the operation costs the additional payment may be ordered by the board.

/3/ In case of an entrepreneurial activity carried on by the housing cooperative the members and non-member owners are exempt from the liability stipulated in paragraph /1/ if the part of the assets - proportionately with the venture - is separated in the statutes in order to cover the liabilities arising from the undertaking. In this case the cooperative is liable with its assets separated for the liabilities originating from the venture.

Miscellaneous Provisions

Article 111.

/1/ The guarantee and the interrelated claims for damages in connection with construction and other activities performed on dwelling-houses and flats may be put forward by the housing cooperative. In the course of judging legal disputes like these - if the other party is also a managing business organization - the provisions of civil procedure shall be applied.

/2/ The claim for damages against managing business organizations also lapses in five years.

C H A P T E R XI.

Closing Provisions

Cooperative Safeguarding of Interests

Article 112.

/1/ Cooperatives - both on behalf of themselves and for safeguarding the cooperative members' interests, conducting their business/economic activities at joint means of property, if there are no other means of cooperation - may establish rational or one of safeguarding interests or relations or professional classes.

/2/ The national organs of safeguarding interests may set up the joint, national organ of safeguarding interests of the Hungarian cooperative movement to represent Hungarian cooperatives in international organizations as well.

/3/ For the cooperative organs of safeguarding interests the provisions of Act II 1989 on the right of uniting shall be appropriately applied.

Article 113.

/1/ Before submitting the proposals to the Government or Parliament concerning the cooperatives or their members the stand/opinion of the respective national organ of safeguarding interests or that of the joint national organ of safeguarding interests is to be obtained. If the opinions differ essentially it is to be submitted to the Government of Parliament with the object that a decision is to be made.

/2/ The joint national organ of safeguarding interests expresses its opinion beforehand in general cooperative issues belonging to the jurisdiction of Parliament and Government.

/3/ The national organs of safeguarding interests and the joint national organ of safeguarding interests may initiate that provisions of law are adopted.

Coming into Force

Article 114.

A separate act should be adopted that this act should come into force and the transitional rules be formulated.

Act 1991

on Act 1991 on Cooperative Societies Coming into
Force and the Transitory Rules

In accordance with all contained in article 114 of
Act 1991 the Act created by Parliament is as follows:

GENERAL REGULATIONS

Article 1.

Act 1991 on cooperative societies /furthermore
C a / comes into force on 1 July 1991.

Article 2.

/1/ The provisions of C a as contained in the act are
to be applied for the cooperatives operating at the time when
the former came into force.

/2/ Act III 1971 on cooperative societies and other
provisions of law enumerated in article 42 are to be applied
for cooperatives operating at the time when Ca came into force
- with the exception regulated in paragraph /3/ - until 31
March 1992.

/3/ Following the date of passing the new /amended/
statutes the provisions of law enumerated in article 42. cannot
be applied for the cooperative.

/4/ For the cooperatives established after the date when the Ca came into force the regulations of Ca can be applied.

CHAPTER I

Settling the Relations of Assets between the Members

Naming of the Assets

Article 3.

/1/ The assets stated in the balance of 31 December 1990 of the cooperative operating at the time when the Ca came into force, diminished by the share-holding capital in accordance with the regulation of the act and the resolutions of the general meeting, shall be distributed /naming of the assets/, and the ones concerned are to be informed thereof.

/2/ The cooperative 's assets include the wealth granted by the state as a financial support until 31 December 1968 and registered as a state wealth in the cooperative 's balance of 31 December 1988.

/3/ The naming of the assets /paragraph 4-11 and 14/ are tax and duty free.

Article 4.

/1/ The assets of the cooperative - with the exceptions regulated in paragraph /2/ - are to be entirely distributed. The degree of the distribution can be decided by the general meeting in a different way but it cannot be smaller than the degree decided by the cooperative on the basis of earlier provisions of law.

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/2/ Within the frames of the naming of the assets no distribution can be carried out in the case of :

a/ the assets of housing, savings and school cooperatives /cooperative group/;

b/ the real estate included into paragraph /2/ article 19 act I 1987 on land;

c/ the part of the assets qualified as indivisible by the general meeting in accordance with Ca regulations.

/3/ The part of the assets undistributed - if it is not included in clause c/ of paragraph /2/ is qualified a reserve asset and for it Ca regulations are to be applied.

Article 5.

The assets shall be distributed in the form of a cooperative business share, within the frames of article 9., even in the form of a share-holding. For the parts of business stated in the course of naming the assets Ca regulations shall be applied.

Article 6.

The process of naming the assets is to be participated by the person who was a member of the cooperative on 1 January 1991, and even at the date when the act came into force, furthermore who reestablished his membership relation terminated.

Article 7.

/1/ The persons

a/ who terminated their cooperative membership relation after 31 December 1967 or it was annuled by a cooperative

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resolution and were in labour relation with the cooperative - excepting consumer cooperatives - on the day when the Ca came into force, furthermore

b/whose membership in an agricultural cooperative terminated during the year 1969 in the course of the execution of article 332 Act VI 1988 on economic/business companies, if reported they regain their membership. The report is to be addressed to the cooperative management /board/ - otherwise the case of loss of right steps in - until 30 September 1991.

/2/ In the case of the report according to paragraph /1/ the period spent in labour relation is to be regarded a membership relation.

/3/ If the membership relation is set up anew for the subscription of the share-holding Ca paragraph /2/-/3/, article 52 are to be applied.

Article 8.

The general meeting may pass the resolution that within the frames of naming the assets cooperative business shares are given

- a/ to the cooperative employees,
- b/ to the former cooperative members, their heir/ess/es,
- c/ to the former employees whose labour relation terminated according to clause b/ paragraph /1/ article 7,
- d/ in case of an agricultural cooperative to family members who worked regularly.

Article 9.

/1/ In the cooperative where in the course of naming the assets share-holdings were not introduced to the members until the date when the act came into force /article 6/, a share-holding of the same value shall be granted free of charge according to the resolution of the general meeting.

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/2/ With the exception of the case regulated in paragraph /1/ in the course of naming the assets the amount of the share-holdings subscribed earlier cannot be made up free of charge and no share-holding can be given to the members free of charge either.

/3/ The naming of the assets has nothing to do with the share-holdings subscribed earlier.

Article 10.

General viewpoints and a peculiar degree applied in the case of naming the assets are stated by the cooperative's general meeting, in want of it the distribution is to take place equally.

Article 11.

/1/ If the cooperative gave bills of assets or a security embodying a cooperative bill of share of the assets on the basis of former provisions of law, its face-value - beside withdrawing the bill of assets or some other security - is to be contracted with the face-value of the business-shares established in the course of naming the assets, and thus the value of the cooperative business share is to be established in accordance with the contracted values.

/2/ The asset-bill or other security received on the basis of the former provisions of law is transferred to an outsider for him/her beside withdrawing the asset-bill /security/ he/she shall be given a business-share of the same value, but he/she otherwise is not entitled to the naming of the assets.

Article 12.

The share-bill subscribed on the basis of the former provisions of law will remain further valid as another form of contribution according to article 54 of the Ca. The general meeting, however, is authorized to change the conditions and the parties can make use of the opportunity with immediate effect so that they may denounce exceptionally exercising this right until 31 March 1992.

Peculiar Regulations Referring to Agricultural Land

Article 13.

In the interest of settling the property relations in order to hand out the land required for enforcing the right of purchasing land the provisions of act 1991, furthermore the compensation act on the compensation of the damages caused unjustly by the state in the property of citizens after the date 8 July 1949 are to be applied.

Article 14.

/1/ The peripheral and closed orchard / kitchen garden land in the possession of the agricultural cooperative in whose case the right of purchasing in accordance with the compensation act has not come into force - with the conditions stated by the general meeting according to the proprietary ratio and gold crown value shall be given into the members' property /article 6./.

/2/ The general meeting may pass the resolution that from the land defined in paragraph /1/ a proprietary ratio is given also to the persons enumerated in article 8.

/3/ If no peculiar points of view and degree is determined by the general meeting for the distribution of the land property the distribution should be equal.

Article 15.

/1/ The change in accordance with article 14. is to be indicated in the real estate registers on the basis of the use of land of the agricultural cooperative appropriately with the relevant provisions of law.

/2/ In the forest that became the members' property the cooperative carries on joint, undivided forestry activities.

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Article 16.

Upon the request of the proprietor of the land in the proportion of the size and gold crown value of the property indicated by the real estate register the appropriate size and value of land shall be given him/her. With the costs of the formation of the land as an independent real estate and the duties of the procedure of registering the right of the ownership of the property into the real estate register the proprietor is encumbered.

CHAPTER II

Transitory Regulations of Structural Changes

Merger, De-merger, Transformation and Termination

Article 17.

/1/ The cooperatives' merger, de-merger, transformation and termination /furthermore altogether: structural changes/ the regulations of the Ca shall be applied with the differences regulated in paragraphs /2/-/3/.

/2/ When Ca comes into force the structural changes going on are to be finished with the application of former provisions of law, but doing so

a/ the decision on naming of the assets shall be made in accordance with the provisions of law,

b/ in the case of other decisions for the ratio of votes cast the provisions of paragraph /3/ shall be applied.

/3/ In the period between the date when the Ca came into force and 31 March 1952 for decisions on structural changes

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- with the exception of the housing cooperatives - the simple majority of the members present at the general meeting is required, in case of the general consumer cooperative the simple majority of all the members is necessary.

/4/ When paragraph /2/ is being applied a structural change is continuous in whose case the general meeting has not passed a resolution yet on the cooperative's assets until the Ca came into force.

Article 8.

In the case of cooperatives established then terminated without a legal successor before the Ca came into force from the means of assets remaining after the final settlement /liquidation/ the real estates in the possession of the state according to their location shall be handed over to the local authorities excepting if in consequence of the execution of the compensation act such parts of the assets will not remain.

Secession

Article 19.

/1/ In the period between the date when this act came into force and 31 March 1992 at least five members of the cooperative - for the purpose of establishing a new cooperative, joining simultaneously another cooperative, founding an economic / business company or joining simultaneously an economic / business company may secede the cooperative.

/2/ The agricultural and industrial cooperatives may be seceded by the members if they work in the same labour / work organization or carry on the same activity, in the case of general consumer cooperatives the members live in the same locality, the housing cooperative members may secede if their interest is centred around a single regional unit /building, edifice, etc./.

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/3/ The intention of secession - the planned date at least thirty days preceding the event - shall be reported to the management /board/ of the cooperative in writing.

Article 20.

If the number of members whose simultaneous secession is intended reaches one third of the strength of the members the regulations of Ca referring to a de-merger shall be applied with the differences regulated in article 17 of the act.

Article 21.

/1/ The general condition of a secession is - excepting the housing, savings and school cooperatives /cooperative group/ - that the naming of the assets should take place previously.

/2/ One is entitled to exercise one's right of secession at the latest till the date when the general meeting is convened passing /amending/ the new statutes.

Article 22.

/1/ For the secession the approval of the general meeting is not required. The rights and duties of the cooperative's assets legally due to the members seceded shall be handed over to the new /the other/ cooperative or economic/business company, thereof the general meeting shall pass its resolution. Such a transfer of the assets is tax and duty free.

The assets are handed over - if the parties do not agree otherwise - at the end of the crop / financial year.

/3/ If the members seceded find the resolution of the general meeting on the transfer of the assets prejudicial they may turn to the court for the supervision of the resolution.

Article 23.

For the secession the provisions of law are to be applied even then if the secession was initiated before the act came into force.

Regulations Referring to Cooperative Specialized Groups

Article 24.

/1/ From the date when this act came into force no new cooperative specialized group can be founded.

/2/ The members of a cooperative specialized group operating at the date when this act came into force, - if the cooperative in whose frames they operated does not establish a membership relation with them, - in accordance with the decision of the members' conference may terminate the specialized group without a legal successor with the application of the respective provisions of law, and may found a cooperative, economic/business company or a society that can be - with the application of the relevant regulations of the Ca - affiliated to a cooperative.

/3/ The assets of the former specialized group can be taken into a cooperative /economic/business company, society/ tax and duty free.

Article 25.

If the members' conference of the cooperative specialized group does not make any of the decisions enumerated in paragraph /2/ article 24 until 31 March 1992 by force of this act terminates on 1 April 1992.

Article 26.

In the case regulated in articles 24-25 in accordance with the provisions of law referring to specialized groups the accounts shall be settled with the cooperative within whose frames the specialized group was operating .

CHAPTER III

Procedure Regulations

Article 27.

/1/ In the interest of the appropriate preparation of switching over to the application of the regulations of the Ca the cooperative 's management /board/

a/ formulates its proposal referring to the local points of view and the peculiar degree of naming the assets,

b/ weighs and systematizes the claims arising for structural alterations,

c/ elaborates its proposal referring to the new structural system considering particularly the frames of the work of entrepreneurial and plant/factory characteristics, furthermore the system of conditions of membership agreements,

d/ prepares the new draft statutes or the proposals with regard to the amendment of the existing statutes,

e/ prepares the election of the office-bearers.

/2/ About the proposals enumerated in paragraph /1/ and all the other ones - together with the opinion of the supervisory /control/ committee referring to the former - the members are to be informed at least thirty days before the discussion of the proposals takes place at the general meeting.

/3/ Switching over to the application of provisions of the Ca is being accompanied by the attention of the cooperative 's supervisory /control/ committee and the general meeting is informed about the experience gained.

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Article 28.

/1/ If it is deemed necessary by the management /board/ of the cooperative switching over to the application of the regulations of the Ca can be implemented by holding several meetings. In this case the decisions shall be made as follows:

- a/ naming of the assets,
- b/ structural alterations,
- c/ passing new statutes /amending the existing ones/,
- d/ electing office-bearers.

/2/ The decisions enumerated in paragraph /1/ shall be made till 31 March 1992.

Article 29.

The general meeting in the case of general consumer co-operatives the delegates' meeting - in matters related to the naming of the assets passes its resolution with at least two-thirds of the votes cast by the members present at the meeting. For a quorum the regulations written in paragraph /1/ article 22 of Ca shall be applied.

Article 30.

/1/ If the delegation of the office-bearer of the cooperative that was operating when the Ca came into force, expires preceding the date of the general meeting convened to discuss the new statutes /or the amendment of the same/ the delegation is lengthened till the date mentioned. The general meeting may decide otherwise.

/2/ The delegation of the office-bearers of the cooperative that was operating at the time when the Ca came into force, ^{the} at the date of the general meeting discussing the new statutes /amendment of the statutes/ by the force of the act comes to an end and the general meeting elects office-bearers in accordance with the Ca on the basis of the act.

Article 31.

/1/ The report on the decisions made as prescribed in the act shall be delivered to the court of registration until 30 April 1992; the report is free of duty. The report sent in with the enclosures:

- a/ the minutes of the general meeting /meetings/ and
- b/ the new /amended/ statutes.

/2/ If the cooperative fails to keep the dateline prescribed in paragraph /1/, the court of registration officially declares the termination of the former. In such a case the final settlement is to be applied in accordance with the Ca; the auditor of the final settlement is ordered by the court of registration.

Article 32.

/1/ By passing the new /amended/ statutes the disciplinary resolution passed by cooperative organs, concerning a cooperative member that has not come into force yet - with the exception of the resolution on an exclusion - is not in force any longer.

/2/ Against this disciplinary resolution, declaring an exclusion and the one passed in the case of a claim for the damages suffered, a judiciary action can be started at the court of labour in the debate on the work of plant /factory characteristics within the original dateline, while in the case of other membership debates one may turn to the court.

/3/ In the case of membership and labour dabates going on at the cooperative committee of arbitration or at the general meeting the procedure is terminated by having passed the new /amended/ statutes and the matter in accordance with paragraph /2/ is submitted to the respective court. Paragraph /2/ is to be applied if an action is started against a decision made by the cooperative committee of arbitration or by the general meeting.

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Article 33.

In the procedure mentioned in paragraphs /2/ and /3/ of article 32. paragraph /2/ of article 349. of Act III 1952 on civil procedure cannot be applied.

CHAPTER IV

Miscellaneous Provisions

Article 34.

/1/ Work agreements made between the cooperative and its members on the basis of earlier provisions of law shall be supervised. Within its frames the work agreements can be denounced without an explanation offered; this right can be exercised till 31 March 1992.

/2/ Work agreements /amended/ made on the basis of Ca come into force with the date of the general meeting passing the new statutes /the ones amended/ retroactively to the date when it was made.

Article 35.

The regulations of Ca referring to the liability of the office-bearers shall be applied from the election held according to article 30, the other regulations of Ca on liabilities - if there is no other consequence originating from paragraph /3/ of article 2 -shall be applied from 1 April 1992.

Article 36.

The regulations of Ca referring to the formation of reserves shall be applied for the first time in connection with the annual account for the year 1991.

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Article 37.

The cooperative organ of safeguarding interests that had not been registered by the court on the basis of Act II. 1989 on the right of association and was operating when this came into force may ask its registration till 31 March 1992. If it fails to do so the organ of safeguarding interests gets terminated on 1 April 1992.

Closing Provisions

Article 38.

This act comes into force on 1 July 1991.

Article 39.

By coming into force ^f this act

1./ The provision as follows replaces article 38. of Act IV. 1959 of the Civil Code:

"Article 38. The cooperative is a community brought about in accordance with the principle of the freedom of cooperation and of self-aid which with the members' material and personal contribution within the frames of a democratic self-government carries on entrepreneurial and other activities in the service of the members' interests".

2./ The second sentence of paragraph /1/ of article 348 of the Civil Code is replaced by the provision as follows:

"/1/.... This regulation shall be applied even then, if the cooperative's member in relationship with his/her work of plant /factory characteristics causes damages to a third person."

3./ Article 8. of Act VI 1961 on sylviculture and game- keeping is replaced by the provision as follows:

"Article 8 /1/ If the sylvicultural society terminates excepting the case of a merger with another society - in harmony with the interest ratios, the area becomes the members' property, its administration and use relations shall be settled.

/2/ If a forest is handed over into another person's property or use, furthermore if it is drawn into the inner part of a locality it is required that it should be approved by an organ designated by the government."

4./ The first sentence of article 14. of Act VI. 1988 on economic /business companies is replaced by the following provision: "About proprietary rights - if there is no exception in accordance with the act - no security is to be made out."

5./ Article 13 /A of Act IX 1988 on the entrepreneurial profit tax is replaced by the paragraph as follows /5/:

"/5/ The tax payers enumerated in clause b/ of paragraph /4/ are entitled to make use of the tax allowance if they transform into a cooperative regulated in Act ... 1991 on cooperatives until the date 31 March 1992."

6./ Paragraph /3/ article 6 of Act XXXIII 1989 on the parties' operation and economic /business activities is supplemented with the following text:

"/3/ and cannot be a member of the cooperative."

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Article 40.

With the date 1 April 1992:

1./ Paragraphs /1/ and /2/ of article 349 of Act II 1952 on civil procedure are replaced by the provision as follows:

"/1/ In lawsuits originating from labour relations and from the cooperative membership relations in interrelationship with the work of plant /factory characteristics the provisions of chapter I-XIV shall be applied with the differences included in this chapter.

/2/ In labour disputes the person entitled - inasmuch the provision of law does not dispose otherwise - may turn to the labour court against the resolution of the committee of labour arbitration /the official superior/."

2./ The third sentence of paragraph /3/ of article 359 of civil procedure is replaced by the provision as follows:

"/3/ The same refers also to the case of the initiation /commencement/ of re-opening a lawsuit or a new procedure after six months against the resolution announcing that the cooperative member has been transferred to another sphere of activity or place of work, his/her employment got terminated."

3./ Paragraph /1/ of article 79 of Act IV on the general regulations of state administration is replaced by the provision as follows:

"/1/ If the resolution orders that money is to be paid and the private person obliged fails to perform it, the organ of state administration having proceeded at the first degree summons the employer of the person obliged /the organ making his/her emoluments payable/ that the sum stated in the resolution ^{is to be withdrawn} from the person's wages, allowances claims - in the case of a cooperative member -

from his/her wages for the work of plant /factory characteristics - /furthermore from wages/ and is to be remitted or paid to the person entitled."

4./ Clause c/ of paragraph /1/ of article 23 of Act IV on courts is replaced by the provision as follows:

"c/ it proceeds in connection with the work of plant /factory characteristics in legal disputes originating from cooperative membership relations and in lawsuits attacking the resolutions made by the national health /social service."

5./ Article 59. of decree of legal force 18 1979 on court execution by a bailiff and the title preceding the former are to be replaced by the provisions as follows:

"Execution against a cooperative member"

Article 59 /1/ The wages to be paid to the member under the title of work of plant /factory characteristics are to be executed /distrained in accordance with the rules of execution upon the wages. The business-share cannot be drawn into the procedure of execution.

/2/ Other claims due to the member against the cooperative /business-share, share, dividend, non-social allowance, land-rent, etc./ can be distrained in accordance with articles 79-80."

6./ Paragraph /1/-/3/ of article 62 of the Act of the Execution /Distrain are replaced by the provisions as follows:

"Article 62 /1/ The employer or the cooperative is obliged to certify the debtor when his/her labour relation or work of plant /factory characteristics is terminated according to a special separate provision of law which declares what debts shall be withdrawn from the wages /salaries/.

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/2/ It is to be certified that the employee, the member terminating his/her work of plant /factory characteristics have no debts as mentioned in paragraph /1/.

/3/ If the employee or the cooperative member establishes a labour relation or becomes a member in another cooperative performing work of plant /factory characteristics is obliged to hand over the certificate mentioned in the present article before setting to work to his/her new employer or the other cooperative."

Article 41

/1/ By this act coming into force the following get lapsed:

1./ Articles 39-50 and 459 of the Civil Code.

2./ Prph /1/ of article 7 of Act II 1967 on the Labour code, clause /1/ of article 10 and from its prph /2/ of article 67 the part of the text "the employees of agricultural farming cooperatives."

3./ Article 1 of Act III 1967 on agricultural farming cooperatives, paragraph /1/ of article 3, paragraph 1 of article 4, clause b/ of paragraph 1 of article 11, prph /4/ of article 12, article 13, in clause f/ of paragraph /2/ of article 16 the provision referring to secession, the second sentence of prph /3/ of article 21 and prphs /4/-/5/, prph /4/ of article 24, article 37, paragraphs /1/-/4/ of article 39/A, article 40, article 44, article 58-59, article 65, from paragraph /2/ of article 74 the provision referring to exclusion, clause f/ of paragraph /1/ of article 75 and its paragraph /2/, article 95 and articles 124-130.

4./ Article 2 of Act III 1971 on cooperatives, article 9, from clause c/ of paragraph /2/ of article 20 the part of the sentence beginning with the word "furthermore", articles 43-52, article 54, article 63/A, article 64/B, the second sentence of paragraph /1/ of article 67, the first sentence of paragraph

/1/ of article 68, article 72, from paragraph /1/ article 89/A the part of the text "and coordinating with the interest of society" and the second sentence, articles 107-112.

5./ From article 10, paragraph /1/ of article 15 of the decree of legal force 32 1971 on industrial cooperatives, the part of text beginning with "it can be used by the cooperative" to the end of the sentence, article 15/A article 16, article 18, clause h/ of paragraph /1/ of article 28, from paragraph /1/ of article 30 the part of the text "or excluded".

6./ Article 18 of the decree of legal force 1971 on consumer, sales and purchasing cooperatives.

7./ Article 17 of the decree of legal force 12/1977 on housing cooperatives.

8./ Article 31 and article 45 of decree of legal force 22/1978 on savings cooperatives.

9./ From paragraph /1/ of article 60 of decree of legal force 11/1979 on the execution of penalties and measures the part of the text "or the cooperative", from its paragraph /2/ "or in cooperative membership relation /furthermore together: work relation/".

10./ In the case of the country federations of consumer cooperatives the decree of legal force 20/1979 on lengthening the assignment of office-bearers.

11./ Article 16 of Act X/1988 on entrepreneurial profit tax and amendment of the income tax of private persons concerning the transitory provisions in connection with the enforcement of the act and the amendment and lapse of other provisions of law.

12./ Articles 35-45 of Chapter IV of Act XIII/1989 on the transformation of economic /business organizations and companies, clause e/ of article 2, the second sentence of paragraph /1/ of article 77 and its paragraph /2/, paragraph /2/ of article 79.

13./ Articles 4-7 and article 9 of Act XV/1989 on the amendment of Act III/1971 on cooperatives.

13./ Articles 2, 5 and 12-13 of Act XX/1989 on the amendment of Act III/1967 on agricultural farming cooperatives.

14./ Article 3 of Act IX/1990 on the amendment of Act I/1987 on the land and Act III/1967 on agricultural farming cooperatives.

15./ Clauses e/ and f/ of paragraph /2/ of article 67 of Act LXXXVI/1990 on the ban of dishonest market conduct.

16./ Act XIII/1991 on the completion of Act I/1987 on the land.

/2/ By coming into force with this act all the provisions of law lapse that prescribe that in a cooperative certain definitive sphere of activities, committees - excepting the cooperative committee of arbitration - should obligatorily be established or regulations created in a compulsory way.

/3/ With regard to the land possessed by the cooperative member but following the date when Ca came into force and the land was given to the collective use of the agricultural farming cooperative the liability of the payment of the land-rent of the cooperative is terminated when the contract of land tenancy is concluded.

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Article 42

/1/ By the date April 1992 the following got lapsed:

1./ Paragraph /2/ of article 358 of Civil Procedure.

/2/ Act III 1967 on agricultural farming cooperatives and its amendment in decrees of legal force 34/1971, 9/1977 and 35/1982.

/3/ Act III/1971 on cooperatives and decrees of legal force 6/1977, 14/1981, 30/1982 and then Act II/1988 all amending Act III/1971.

/4/ Decree of legal force 32/1971 on industrial cooperatives and the amending decrees of legal force 7/1977, 31/1982, and 12/1989.

/5/ Decree of legal force 35/1971 on consumer, sales and purchasing cooperatives and its amendment, the decrees of legal force 8/1977 and 34/1982.

6./ From clause a/ of paragraph /1/ of article 23 on courts the part of the text "the resolution passed by the cooperative committee of arbitration by the general meeting on labour debates of cooperative employees"; from paragraph /2/ the part of the text "cooperative committee of arbitration".

7./ Paragraph /2/ of article 14 decree of legal force 24/1976 on expropriation.

8./ Decree of legal force 12/1977 on housing cooperatives and its amendment of decrees of legal force 33/1982 and 19/1988.

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9./ Decree of legal force 22/ 1978 on savings cooperatives and its amendment the decrees of legal force 32/ 1982 and 3/ 1989.

10./ Articles 60-61 of Vht and the title preceding them.

11./ Act III/1971 on cooperatives and decree of legal force 32/ 1971 on industrial cooperatives amended by decree of legal force 13/ 1985.

12./ Decree of legal force 17/1986 on the amendment of certain cooperative provisions of law.

13./ Act XX/ 1989 amending Act JII/ 1967 on agricultural farming cooperatives.

14./ Articles 19-23 of this act on secession.

/2/ If the settlement / article 26/ concerning the liquidation /termination/ of a cooperative specialized group was going on on 1 April 1992 it shall be completed on the basis of provisions of law referring to specialized groups.

Article 43

Ca and the act do not concern the validity of the provisions of law as follows:

- the Ministry of Finance decree 57/ 1988 /XII. 24 on the establishment and utilization of the housing cooperative security fund;

- joint Ministry of Finance and Ministry of Construction and Municipal Administration decree 78/ 1988 /XII. 27/ PM- ÉVM on the order of the housing cooperatives economic administration.

POLAND

N.B. : The NSZZ "Solidarnosc" RI (Farmers' trade union) has requested and received in 1990 the advisory services of the International Labour Office, Co-operative Branch, for the study of the legal conditions and issues of agricultural co-operatives in Poland.

ACT ON CHANGES IN THE ORGANISATION AND
ACTIVITY OF THE COOPERATIVE MOVEMENT(1990)

Article 1.

On the day of enactment of the present law the cooperative unions acquire the state of liquidation. The same will be applied to the cooperatives of legal entities as well as cooperatives of physical and legal entities if those cooperatives have been formed as result of transformation of a cooperative union and have taken over a part or the whole of the union's assets.

If the present act does not provide otherwise, the liquidation of the cooperative unions will be carried out according to the Cooperative Law of 16 September 1982, with subsequent amendments.

Article 2.

A liquidator of central cooperative union will be appointed by the Minister of Finance immediately after coming into force of the present Act. Liquidators of remaining unions will be appointed by the Director of Revenue Chamber after consultation with the Minister of Finance. The liquidator of the Central Union of Cooperatives of the Handicapped and the Central Union of Cooperatives of the Blind will be appointed by the Minister of Employment and Welfare policy, while the liquidator of the Central Union of Artistic Handicrafts "Cepelia" will be appointed by the Minister of Culture.

Article 3.

The liquidator shall prepare a financial plan of liquidation and a plan of obligation fulfillment as well as the plan of disposing of enterprises and other economic units as well as material assets of a cooperative union.

The above plans shall be approved by the meeting of representatives of the cooperatives associated in the union, by simple majority of votes of those present at the meeting. If the plan will not be approved by the meeting of representatives within 30 days, it may be approved by the organ which appointed the liquidator.

The liquidator should ensure the continuation of activity of the enterprises belonging to the union under liquidation.

On the basis of agreement concluded with the liquidator, the enterprises and other material property of the union under liquidation can be given over to cooperatives associated in the union, to cooperatives established by the cooperatives associated in the union and to work cooperatives established by the workers of the enterprise with the purpose of continuing the economic activity of that enterprise.

The transfer of property may occur on the basis of partial or full payment depending on the amount of means necessary to cover the liabilities of the liquidated union; it can also be transferred free of charge if the buyer agrees to take over the liabilities on general terms.

A work cooperative established by a minimum of half the employees of an enterprise can claim the right for ownership of the enterprise if they present a request to that effect to the liquidator and each contributes a member's share of at least 3 average monthly salaries in that enterprise.

Article 4.

The enterprises and other material assets of the liquidated union which have not been taken over by cooperatives as provided in Art. 3, are subject to sale by unlimited auction; parts and equipment of the enterprises which cannot be sold as a whole can be sold piecemeal in the way mentioned above.

Priority for buying is granted to persons offering best price and conditions of buying; in case of same offers being made by a person and a cooperative priority is granted to the cooperative.

Article 5.

The mode of property transfer defined in Art. 3, is also applied to vocational schools, training centres and other centres having no economic activity within the liquidated union.

If cooperatives do not take over the vocational schools these schools will be given to the Supreme Cooperative Council after consultation with the Minister of Education who can in well grounded cases decide otherwise.

-3-

Article 6.

The liabilities of cooperative unions in the banks and with other creditors, arising from credits and loans granted to cooperatives and enterprises belonging to the unions are the responsibility of the Supreme Cooperative Council.

Article 7.

Financial means remaining after the liquidation of the central union will be divided between cooperatives in proportions agreed at the meeting of representatives and endorsed in the liquidation plan. The above assets exclude funds indispensable for covering the liabilities defined in Art.6 which will be taken over by the Supreme Cooperative Council for a necessary period. After that period the means taken over by the Supreme Cooperative Council will be divided as above.

In case of impossibility to sell some components of the property of liquidated cooperative unions they will be taken over by the Supreme Cooperative Council.

Article 8.

In this Article special cases of transformation of cooperative property done after 23 October 1987 are mentioned. They can be dealt with according to the Civil Code.

Article 9.

Until 31 December 1990, by majority of vote of the members of a cooperative who have their property rights and obligations vested in a unit /enterprise/ of this cooperative, the Board can be asked to convoke a general meeting of members for the purpose of division of the cooperative and creating a new cooperative out of the unit /enterprise/. The resolution of the general meeting in such cases is carried by simple majority. The general meeting can refuse to divide the cooperative only for valid economic reasons or because of the essential interests of members.

In case of negative decision by the general meeting, the members who have demanded division of the cooperative can apply to the district court within 6 weeks of the general meeting and obtain valid decision on the division.

Article 10.

The Supreme Cooperative Council represents the cooperative movement nationally and internationally. Membership in the Supreme Cooperative Council is not obligatory. The Council is a legal entity.

Article 11.

The Supreme Cooperative Council supports mutual collaboration between cooperative organisations in Poland and other countries; initiates and passes opinion on draft laws concerning the cooperative movement; initiates and organises scientific research, publishing for cooperative needs and collaboration with scientific institutions; the Supreme Cooperative Council also performs other tasks as defined in the present Act and other laws.

Article 12.

The General Meeting of Members of the Supreme Cooperative Council consists of representatives of the cooperatives - two from each voivodship /administrative unit of territory/ elected by secret ballot at meetings of delegates of cooperatives having their site in the voivodship.

Article 13.

The Supreme Cooperative Council will be financed out of the net surplus of the cooperatives.

Article 15.

The term of office of the present General Meeting of the Supreme Cooperative Council expires at the moment of election of delegates mentioned in Art. 12, not later though than 15 May 1990.

Presidium and the Auditing Commission of the Supreme Cooperative Council will perform their duties until the new bodies of the Council are elected.

Article 16.

The Presidium of the Supreme Cooperative Council shall organise the voivodship meetings of delegates of the cooperatives before 30 April 1990, to elect the representatives for the General Meeting of Supreme Cooperative Council. In case such meeting

is not organised, the voivodship court will decide on the time and place of the meeting as requested by a delegate/delegates of cooperatives, and makes appropriate announcement in the press. The costs of the meetings including press announcements will be financed by the Supreme Cooperative Council.

Articles 17 and 18.

The two articles contain provisions concerning the employees and administration of liquidated unions.

Article 19.

Until the new Cooperative Law is adopted, however not later than 31st July 1991, the parts of the present Cooperative Law concerning cooperative auditing and the whole of Part II /the formation and functioning of cooperative unions/ will be suspended. On the day of the present Act coming into power all the voluntary, vocational and economic organisations stop to perform their functions as central and other cooperative unions, i.e. they stop to perform their functions based on the Cooperative Law and other acts.

Until 31 March 1990 the cooperatives shall hold elections to their bodies, irrespective of the date of expiry of the present term of office. In the case that such election does not take place in the cooperative, the cooperative will acquire state of liquidation on the above date. In this case the liquidation will be carried out according to the provisions of the existing Cooperative Law.

Article 20.

By 31 March 1990 the Minister of Justice shall publish the list of legal acts connected with cooperative activity which lose their validity.

Article 21.

The present Act comes into force on the day of its publication.

U S T A W A
z dnia 30 sierpnia 1991 r.
o waloryzacji udziałów członkowskich w spółdzielniach
i zmianie niektórych ustaw.

Art. 1.

1. Spółdzielnie, z wyłączeniem spółdzielni mieszkaniowych, mogą dokonać waloryzacji udziałów członkowskich za okres lat 1944 — 1990 przez przeniesienie na fundusz udziałowy części funduszu zasobowego.
2. ~~Uchwałę w sprawie waloryzacji udziałów podejmuje w 1991 r. walne zgromadzenie (zebranie przedstawicieli) większością 3/4 głosów.~~

Art. 2.

1. Waloryzacja udziałów wniesionych na dzień 31 grudnia danego roku ~~może polegać na ich przeliczeniu w relacji przeciętnego miesięcznego wynagrodzenia w gospodarce uspołecznionej w 1990 r. do przeciętnego miesięcznego wynagrodzenia w gospodarce uspołecznionej w roku, którego dotyczy waloryzacja.~~
2. Przez przeciętne miesięczne wynagrodzenie w gospodarce uspołecznionej, o którym mowa w ust. 1, rozumie się kwoty podane w obwieszczeniu Prezesa Głównego Urzędu Statystycznego, wydanym na podstawie art. 27 ustawy z dnia 24 maja 1990 r. o zmianach niektórych przepisów o zaopatrzeniu emerytalnym (Dz. U. Nr 36 poz. 206). W odniesieniu do rozliczeń za lata 1944 — 1949 udziały przeliczone w relacji 100 do 3 podlegają waloryzacji w porównaniu do przeciętnego miesięcznego wynagrodzenia w gospodarce uspołecznionej za 1950 r.
3. ~~Walne zgromadzenie może określić inne zasady waloryzacji udziałów z zachowaniem wymogów określonych w art. 4 ust. 1 w odniesieniu do części funduszu zasobowego przewyższającej odpisy określone w ustawie Prawo spółdzielcze.~~

Art. 3.

1. W przypadku gdy spółdzielnia przy podjęciu decyzji o waloryzacji nie dysponuje pełną dokumentacją co do stanu funduszu udziałowego w poszczególnych latach, przyjmuje się udziały według stanu na rok, w którym istnieje możliwość ich udokumentowania.
2. Przy wyliczeniu wysokości zwaloryzowanych udziałów uwzględnia się odpowiednio również zwiększenia i zmniejszenia tego funduszu, przeliczone według zasad określonych w art. 2.

Art. 4.

1. ~~Fundusz przeznaczony na waloryzację nie może przekraczać 50% funduszu zasobowego, istniejącego w spółdzielni w dniu otwarcia bilansu 1991 r.~~
2. W przypadku gdy kwoty niezbędne dla przeprowadzenia waloryzacji przekroczyłyby 50% funduszu zasobowego, waloryzowane udziały zmniejsza się proporcjonalnie.
3. W przypadku gdy kwoty wynikające z waloryzacji udziałów, dokonanej zgodnie z art. 2 z uwzględnieniem art. 6, nie obejmują 50% funduszu zasobowego, ~~mogą podlegać waloryzacji również wpłaty na fundusz udziałów wnoszone w latach 1990—1991~~. W odniesieniu do tych wpłat wskaźnik waloryzacji nie może być wyższy od 300%. Nie dotyczy to wpłat na udziały wnoszone przez nowo przyjmowanych członków po dacie wejścia w życie ustawy.
4. Nominalny ~~wzrost wartości udziałów członkowskich w wyniku waloryzacji nie podlega opodatkowaniu~~.

Art. 5.

1. Kwoty udziałów przeniesione z funduszu zasobowego ~~nie mogą być wypłacone przed upływem 5 lat od daty podjęcia uchwały, o której mowa w art. 1 ust. 2.~~
2. Członkowie uczestniczą w pokrywaniu strat spółdzielni do wysokości zadeklarowanych udziałów z uwzględnieniem kwot przeniesionych z funduszu zasobowego.

Art. 6.

1. ~~Osobom fizycznym, które utraciły członkostwo w spółdzielni po dniu 1 stycznia 1989 r. z powodu nie uiszczenia udziałów do wysokości ustalonej po tej dacie, przywraca się członkostwo na ich wniosek złożony w terminie 3 miesięcy od daty otrzymania zawiadomienia spółdzielni o podjęciu uchwały o waloryzacji udziałów. Organy spółdzielni obowiązane są do miennego zawiadomienia tych osób o uchwale~~
2. ~~Warunkiem przywrócenia członkostwa jest wniesienie udziału, jednorazowo lub w ratach, w wysokości ustalonej w statucie przy uwzględnieniu waloryzacji w terminie 6 miesięcy od daty zadeklarowania udziału. Do tych wpłat nie ma zastosowania art. 4 ust. 3.~~
3. W razie przywrócenia członkostwa, o którym mowa w ust. 1 i 2, udziały wniesione przed ustaniem członkostwa podlegają waloryzacji. W tym przypadku nie ma zastosowania zapis w art. 3 ust. 2 w odniesieniu do ostatniej wypłaty z funduszu udziałowego.

Art. 7.

1. Przepisy ustawy stosuje się odpowiednio do waloryzacji udziałów banków spółdzielczych i Skarbu Państwa w banku państwowo—spółdzielczym.
2. Uchwałę w sprawie waloryzacji, o której mowa w ust. 1, podejmuje rada krajowa banku państwowo—spółdzielczego w uzgodnieniu z Ministrem Finansów.

Art. 8.

W ustawie z dnia 16 września 1982 r. Prawo spółdzielcze (Dz.U. Nr 30, poz.210, z 1983 r. Nr 39, poz. 176, z 1986 r. Nr 39, poz. 192, z 1987 r. Nr 33, poz. 181, z 1988 r. Nr 41, poz. 324, z 1989 r. Nr 3, poz. 13 i Nr 6, poz. 33, z 1990 r. Nr 6, poz. 37 i Nr 14, poz. 87) w art. 78 w § 1 w pkt 2 ostatnie zdanie skreśla się.

Art. 9.

~~W ustawie z dnia 20 stycznia 1990 r. o zmianach w organizacji i działalności spółdzielczości (Dz. U. Nr 6 poz. 36, Nr 11 poz. 74, Nr 29 poz. 175 i Nr 34 poz. 198) wprowadza się następujące zmiany:~~

1) w art. 3:

a) w ust. 6 dodaje się zdanie w brzmieniu:

~~"Przekazanie zakładów oraz rzeczowych składników majątkowych likwidowanej Centrali Spółdzielni Ogródniczych i Pszczelarskich może nastąpić także na rzecz spółki z ograniczoną odpowiedzialnością lub spółki akcyjnej założonych przez spółdzielnie zrzeszone w tej Centrali. Pracownicy zakładów, członkowie tych spółdzielni oraz producenci rolni związani co najmniej od 2 lat z tymi zakładami poprzez kontraktację lub kooperację, mają prawo do objęcia udziałów lub akcji w takich spółkach na zasadach określonych w planie, o którym mowa w art. 3 ust. 1 i 2".~~

b) po ust. 6 ust. dodaje się ust. 6a w brzmieniu:

~~"6a. Składniki majątkowe nie służące do prowadzenia działalności gospodarczej powinny być przekazane przez likwidatora nowo utworzonym związkom rewizyjnym na ich wniosek, o ile nie są zatwierdzone plany likwidacji.~~

2) w art. 11 dodaje się pkt 5 i 6 w brzmieniu:

"5) przyjmuje i wykonuje funkcje związków spółdzielczych określone w przepisach szczegółowych w odniesieniu do spółdzielczych jednostek badawczo—rozwojowych, a także ustala kryteria ich organizacji i funkcjonowania. Art. 5 ust.3 stosuje się odpowiednio,

- 6) do czasu określenia zasad, o których mowa w pkt 5, zawiesza się postępowanie likwidacyjne przewidziane w ustawie z dnia 25 lipca 1985 r. o jednostkach badawczo—rozwojowych (Dz.U. z 1991 r. Nr 44, poz. 194).";
- 3) w art. 18 w ust. 1 wyrazy "w okresie do dnia 31 lipca 1991 r." zastępuje się wyrazami "w okresie trwania likwidacji oraz w okresie postępowania związanego z podziałem spółdzielni.";
- 4) w art. 19 po ust. 4 dodaje się ust. 5, 6 i 7 w brzmieniu:
 - "5. ~~Pod dniu 31 lipca 1991 r. Spółdzielnie mają prawo zrzeszania się w~~ ~~związkach rewizyjnych nie prowadzących działalności gospodarczej,~~ z wyjątkiem działalności o charakterze instruktażowym i doradczym.
 6. Do nowoutworzonych związków mają odpowiednie zastosowanie przepisy części II tytuł I ustawy Prawo spółdzielcze.
 7. Walne zgromadzenia (zebrania przedstawicieli) spółdzielni są uprawnione do obniżania wysokości odpisów na fundusz zasobowy z dochodu rocznego przewidzianych w art. 76 § 1 ustawy Prawo spółdzielcze do czasu nowego ustawowego uregulowania."

Art. 10.

W ustawie z dnia 29 września 1990 r. o zmianie ustawy o gospodarce gruntami i wywłaszczaniu nieruchomości (Dz.U. Nr 79, poz. 464) w art. 2 dodaje się ust. 10 w brzmieniu:

"10. ~~Spółdzielnie, z wyjątkiem spółdzielni mieszkaniowych, mają prawo do~~ ~~otrzymania w użytkowanie wieczyste gruntu oddanego im w użytkowanie~~ na mocy ustawy z dnia 29 kwietnia 1985 r. o gospodarce gruntami i wywłaszczaniu nieruchomości (Dz.U. z 1991 r. Nr 30, poz. 127), ~~bez konieczności~~ ~~przeprowadzania przetargu,~~ o którym mowa w art. 4 ust. 8 tej ustawy. Przepisy ust. 1 i 2 oraz ust. 6 stosuje się odpowiednio."

Art. 11.

Do czasu wejścia w życie ustawy nowelizującej Prawo spółdzielcze uprawnienia przewidziane dla centralnych związków spółdzielczych z art. 114 § 1 i art. 132 § 1 ustawy z dnia 16 września 1982 r. — Prawo spółdzielcze przysługują związkom rewizyjnym lub Naczelnej Radzie Spółdzielczej.

POLAND

DRAFT LAW of 19September 1991
amending the basic co-operative law of 1982 as well as other
legislative texts. This text, being adopted by the Diet (Lo-
wer Chamber) is awaiting the Senat's approval.

U S T A W A
z dnia 19 września 1991 r.

o zmianie ustawy — Prawo spółdzielcze

Art. 1.

W ustawie z dnia 16 września 1982 r. — Prawo spółdzielcze (Dz.U.Nr 30, poz. 210, z 1983 r. Nr 39, poz. 176, z 1986 r. nr 39, poz. 192, z 1987 r. Nr 33, poz. 181, z 1988 r. Nr 41, poz. 324, z 1989 r. Nr 3, poz. 12 i Nr 6, poz. 33, z 1990 r. Nr 6, poz. 37 i Nr 14, poz. 87) wprowadza się następujące zmiany:

1) art. 1 otrzymuje brzmienie:

"Art.1. § 1. Spółdzielnia jest dobrowolnym, zrzeszeniem o nieograniczonej liczbie członków, zmiennym składzie osobowym i zmiennym funduszu udziałowym. Spółdzielnia prowadzi działalność gospodarczą w celu zaspokojenia potrzeb swoich członków.

§ 2. Spółdzielnia może prowadzić działalność społeczno—kulturalną na rzecz swoich członków, ich rodzin i lokalnego środowiska."

2) art. 2 otrzymuje brzmienie:

"Art.2. Spółdzielnia prowadzi działalność na podstawie niniejszej ustawy, innych ustaw oraz zarejestrowanego statutu."

3) art. 3 skreśla się;

4) art. 4 skreśla się;

5) art. 5 otrzymuje brzmienie:

"Art.5. § 1. ~~Statut spółdzielni~~ powinien określać:

1) oznaczenie firmy z dodatkiem "spółdzielnia" lub "spółdzielczy" z podaniem jej siedziby oraz ze wskazaniem "z odpowiedzialnością udziałami", lub "z odpowiedzialnością nieograniczoną",

2) przedmiot działalności gospodarczej spółdzielni oraz czas trwania, o ile założono ją na czas określony,

3) ~~wysokość wpisowego oraz wysokości udziału~~, który członek zobowiązany jest zadeklarować, terminy wnoszenia i zwrotu oraz skutki nie wniesienia udziału w terminie; ~~statut może przewidywać wnoszenie większej ilości udziałów i określić ich górną granicę.~~

4) prawa i obowiązki członków,

- 5) zasady i tryb przyjmowania członków, wypowiedzenia członkostwa oraz wykreślenia i wykluczania członków,
- 6) zasady zwoływania walnych zgromadzeń, obradowania na nich i podejmowania uchwał,
- 7) zasady i tryb wyboru organów spółdzielni,
- 8) zasady podziału nadwyżki bilansowej (dochodu ogólnego) oraz pokrywania strat spółdzielni.

§ 2. Statut ponadto powinien zawierać postanowienia, których wprowadzenia wymagają przepisy niniejszej ustawy oraz może zawierać inne postanowienia.";

6) w art. 7 w § 3 wyrazy "państwowe biuro notarialne" zastępuje się wyrazem "notariuszy";

7) w art. 8 § 1 otrzymuje brzmienie:

"Art.8. § 1. Sąd wyda postanowienie o wpisaniu spółdzielni do rejestru w terminie jednego miesiąca po stwierdzeniu, że uchwalony przez założycieli statut zgodny jest z przepisami prawa.";

8) w art. 10:

a) w § 1 w pkt 2 skreśla się wyrazy "i teren jej działania",

b) w § 5 liczbę "5 000" zastępuje się liczbą "100 000" i skreśla się zdanie drugie;

9) po art. 12 dodaje się art. 12a w brzmieniu:

"Art.12a. § 1. Zmiana statutu spółdzielni wymaga uchwały walnego zgromadzenia podjętej większością 3/4 głosów.

§ 2. Zarząd jest obowiązany uchwałą o zmianie statutu zgłosić w ciągu jednego miesiąca od daty jej podjęcia do sądu rejestrowego, załączając dwa odpisy protokołu walnego zgromadzenia. Przepis art. 8 stosuje się odpowiednio.

§ 3. Zmiana statutu nie wywołuje skutków prawnych przed jej wpisaniem do rejestru.";

10) w art. 13 wyrazy "Naczelnej Rady" zastępuje się wyrazami "~~Krajowej Rady~~ ~~Spółdzielczej~~";

11) w art. 14 wyrazy "Naczelną Radę" zastępuje się wyrazami "Krajową Radę Spółdzielczą";

12) w art. 15 § 4 otrzymuje brzmienie:

"§ 4. ~~członkami spółdzielni mogą być również osoby prawne, o ile statut~~ ~~nie stanowi inaczej.~~";

13) art. 23 skreśla się;

14) art. 26:

"Art.26. Udział byłego członka wypłaca się na podstawie zatwierdzonego bilansu tego roku, w którym członek przestał należeć do spółdzielni. Sposób i terminy wypłaty określa statut.";

15) w art. 32 § 1 otrzymuje brzmienie:

"§ 1. Od uchwał w sprawach między członkiem a spółdzielnią, członek może odwołać się w postępowaniu wewnątrzspółdzielczym do organu określonego w statucie, chyba że statut wyłącza lub ogranicza to uprawnienie. Statut określa zasady i tryb postępowania wewnątrzspółdzielczego, a w szczególności terminy wniesienia i rozpatrzenia odwołania.";

16) w art. 33 § 1 otrzymuje brzmienie:

"§ 1. W sprawach o wykluczenie lub wykreślenie członka z rejestru członków członek może dochodzić na drodze sądowej swoich praw po wyczerpaniu postępowania wewnątrzspółdzielczego przewidzianego w art. 24 § 4 i art. 32, lub po bezskutecznym upływie terminów ustalonych w statucie do podjęcia uchwały przez organ odwoławczy.";

17) art. 34 skreśla się;

18) w art. 36 § 4 otrzymuje brzmienie:

"§ 4. W walnym zgromadzeniu mają prawo uczestniczenia z głosem doradczym przedstawiciele związku rewizyjnego, którego członkiem jest spółdzielnia oraz przedstawiciele Krajowej Rady Spółdzielczej.";

19) w art. 38 w § 1:

a) w pkt 1 wyraz "wychowawczej" zastępuje się wyrazem "kulturalnej",

b) pkt 3 otrzymuje brzmienie:

"3) podejmowanie uchwał w związku z przedstawionym protokołem polustracyjnym działalności spółdzielni";

c) pkt 5 otrzymuje brzmienie:

"5) podejmowanie uchwał w sprawie zbycia nieruchomości, zbycia za kładu oraz jego jednostki organizacyjnej",

d) pkt 7 otrzymuje brzmienie:

"7) podejmowanie uchwał w sprawach połączenia się spółdzielni, podziału spółdzielni oraz likwidacji spółdzielni.";

20) w art. 39:

a) w § 2 skreśla się pkt 2,

b) w § 5 wyrazy "lub centralny związek" zastępuje się wyrazami "lub Krajowa Rada Spółdzielcza";

21) w art. 40 w § 1 wyrazy "centralny związek" zastępuje się wyrazami "związek rewizyjny";

22) w art. 41:

a) § 2 otrzymuje brzmienie:

"§ 2. Uchwały podejmowane są zwykłą większością głosów przy obecności co najmniej połowy uprawnionych do podejmowania uchwał, chyba że ustawa lub statut stanowi inaczej.";

b) w § 4 skreśla się zdanie drugie.

23) w art. 42:

a) § 2 otrzymuje brzmienie:

"§ 2. Członek spółdzielni ~~może zaskarżyć do sądu każdą uchwałę z powodu jej niezgodności z przepisami prawa lub postanowieniami statutu~~, z tego samego powodu uchwałę może zaskarżyć także zarząd spółdzielni lub poszczególni jego członkowie."

b) w § 6 zdanie drugie otrzymuje brzmienie:

"Prawo zaskarżenia uchwały w sprawie wykluczenia lub wykreślenia przysługuje wyłącznie członkowi spółdzielni, którego uchwała dotyczy."

c) po § 6 dodaje się § 6a w brzmieniu:

"§ 6a. Jeżeli powództwo o uchylenie uchwały walnego zgromadzenia wnosi zarząd lub członek tego organu, spółdzielnię reprezentuje rada."

24) art. 43 skreśla się;

25) w art. 45 wprowadza się następujące zmiany:

a) w § 2 dodaje się zdanie trzecie w brzmieniu:

~~"Udział pracowników będących członkami spółdzielni w radzie nadzorczej nie może być większy niż 25%~~, nie dotyczy to spółdzielni pracy."

b) § 6 otrzymuje brzmienie:

"§ 6. Członkowi rady będącemu pracownikiem, zarząd spółdzielni nie może wypowiedzieć umowy o pracę albo warunków pracy i płacy bez uprzedniego uzyskania zgody rady. Przepis ten stosuje się do członków rady świadczących pracę na innej podstawie, niż umowa o pracę."

26) w art. 46:

a) w § 1 w pkt 1 wyraz "wychowawczej" zastępuje się wyrazem "kulturalnej",

b) w § 1 w pkt 2 wyrazy "a w szczególności" zastępuje się wyrazami "a mianowicie",

c) w § 1 pkt 3 otrzymuje brzmienie:

"3) podejmowanie uchwał w sprawie nabycia i obciążenia nieruchomości",

d) § 2 skreśla się,

e) § 3 otrzymuje brzmienie:

"§ 3. Statut może przewidzieć wybór przez radę jej prezydium z zadaniem organizowania pracy rady."

27) art. 47 skreśla się;

28) art. 49 otrzymuje brzmienie:

"Art. 49. §. 1. ~~Zarząd składa się co najmniej z trzech członków spółdzielni~~. Skład i liczbę członków zarządu określa statut."

- §. 2. Statut może przewidywać, że bieżącą działalnością gospodarczą spółdzielni kieruje, w ramach uchwał zarządu, jeden z członków zarządu lub osoba powołana przez zarząd, po uzyskaniu zgody rady lub walnego zgromadzenia, na stanowiska kierownika (jego zastępcy) tej działalności. Statut może określać wymagania, którym powinien odpowiadać członek zarządu.
- § 3. ~~Członków zarządu, w tym prezesa, wybiera stosownie do postanowień statutu rada lub walne zgromadzenie.~~ Organ, który dokonuje wyboru członków zarządu, może ich odwołać.
- § 4. Walne zgromadzenie może odwołać tych członków zarządu, którym nie udzieliło absolutorium (art. 38 § 1 pkt 2), niezależnie od tego, który organ stosownie do postanowień statutu wybiera członków zarządu. W tym wypadku nie stosuje się przepisu art. 41 § 1.";
- 29) art 51 skreśla się;
- 30) art. 53 skreśla się;
- 31) art. 54 § 1 otrzymuje brzmienie:
"Art.54. § 1. Oświadczenie woli za spółdzielnię składają dwaj członkowie zarządu lub jeden członek zarządu i pełnomocnik.";
- 32) art. 55 otrzymuje brzmienie:
"Art.55. Zarząd może udzielać pełnomocnictwa do dokonania czynności prawnych, do czynności określonego rodzaju lub czynności szczególnych.";
- 33) w art. 56 dodaje się § 3 w brzmieniu:
"§ 3. ~~Członkowie rady i zarządu nie mogą zajmować się interesami konkurencyjnymi, a w szczególności uczestniczyć w innych podmiotach gospodarczych jako wspólnik lub członek władz.~~ Naruszenie zakazu konkurencji stanowi uzasadnioną podstawę odwołania członka rady lub zarządu oraz powoduje inne skutki prawne przewidziane w odrębnych przepisach.";
- 34) w art. 58 w § 2 zdanie drugie otrzymuje brzmienie:
"W wypadkach, w których przepisy te przewidują górną granicę odszkodowania, wynosi ono w stosunku do członków zarządu lub rady nie zatrudnionych w spółdzielni, kwotę trzykrotnego średniego wynagrodzenia w spółdzielni za ostatni kwartał.";
- 35) w art. 59:
a) w § 1 zdanie drugie otrzymuje brzmienie: "Zasady podziału na grupy członkowskie oraz zasady ich funkcjonowania określa statut.";
b) § 2 otrzymuje brzmienie:
"§ 2. Do uprawnień zebrania grup członkowskich należy wybieranie i odwoływanie przedstawicieli na zebraniu przedstawicieli. Statut może określać również inne obowiązki grup członkowskich.";
c) § 3, 4 i 5 skreśla się;
- 36) w części I w tytule I dział V i dział VI skreśla się;

37) w art. 67 skreśla się zdanie drugie;

38) art. 68 otrzymuje brzmienie:

"Art.68. Spółdzielnia prowadzi działalność samodzielnie i odpowiada za swoje zobowiązania całym majątkiem.";

39) art. 69, 70, 71, 72 i 74 skreśla się;

40) art. 76 otrzymuje brzmienie:

"Art.76. ~~Nadwyżka bilansowa podlega podziałowi na podstawie uchwały walnego zgromadzenia. Co najmniej 5% nadwyżki przeznaczają się na zwiększenie funduszu zasobowego, jeżeli fundusz ten nie osiąga wysokości wniesionych udziałów obowiązkowych.~~"

41) art. 77 otrzymuje brzmienie:

"Art.77. § 1. Część nadwyżki bilansowej pozostała po dokonaniu odpisu, o którym mowa w artykule poprzedzającym, przeznaczają się na cele określone w uchwale walnego zgromadzenia.

§ 2. Zasady podziału części nadwyżki bilansowej między członków określa statut.

§ 3. Jeżeli zadeklarowane przez członka udziały nie zostały w pełni wniesione, kwoty przypadające członkowi z tytułu podziału nadwyżki bilansowej zaliczają się na poczet jego niepełnych udziałów.

42) art. 78 otrzymuje brzmienie:

"Art. 78. § 1. Spółdzielnia tworzy następujące fundusze własne:

1) fundusz udziałowy powstający z wpłat udziałów członkowskich oraz z podziału nadwyżki bilansowej,

2) fundusz zasobowy powstający z wpłat przez członków wpisowego, części nadwyżki bilansowej oraz innych źródeł określonych w statucie,

3) inne fundusze przewidziane w statucie.

§ 2. Fundusz zasobowy służy do pokrycia strat bilansowych.";

43) art. 79, 81 i 82 skreśla się;

44) art. 83 otrzymuje brzmienie:

"Art.83. ~~Składki spółdzielni na wykonywanie zadań związku rewizyjnego obciążają koszty jej działalności;~~"

45) art. 84 i 85 skreśla się;

46) art. 87 otrzymuje brzmienie:

"Art.87. Spółdzielnia prowadzi rachunkowość na zasadach określonych odrębnymi przepisami.";

47) w art. 88:

a) § 1 otrzymuje brzmienie:

"§ 1. Bilans roczny spółdzielni podlega sprawdzeniu pod względem rzetelności i prawidłowości. Uchwałą w tym zakresie podejmuje rada nadzorcza.",

b) § 2 skreśla się,

c) § 3 otrzymuje brzmienie:

"§ 3. Przepis § 1 stosuje się odpowiednio również do bilansów stanowiących podstawę przy łączeniu i podziale spółdzielni.";

48) art. 89 otrzymuje brzmienie:

"Art.89. Sprawozdanie roczne łącznie z rachunkiem wyników, wyklada się w lokalu spółdzielni co najmniej na czternaście dni przed terminem walnego zgromadzenia w celu umożliwienia członkom spółdzielni zapoznania się z nimi.";

49) art. 91 otrzymuje brzmienie:

"Art.91. § 1. ~~Każda spółdzielnia powinna przynajmniej co cztery lata~~ poddać się lustracyjnemu zbadaniu legalności, gospodarczości i rzetelności ~~całości jej działania~~ (lustracja obligatoryjna)."

§ 2. Spółdzielnia może wystąpić w każdym czasie o przeprowadzenie lustracji całości lub części jej działalności albo tylko określonych zagadnień (lustracja dobrowolna).

§ 3. Lustrację przeprowadzają właściwe związki rewizyjne wobec spółdzielni w nich zrzeszonych. ~~Spółdzielnie niezrzeszone zlecają odpłatne przeprowadzenie lustracji wybranemu związkowi rewizyjnemu lub rzeczoznawcy.~~

§ 4. Lustratora wyznacza właściwy związek rewizyjny. Obowiązki lustratora może pełnić osoba, która uzyskała świadectwo kwalifikacyjne wydawane przez Przewodniczącego Krajowej Rady Spółdzielczej na wniosek związku rewizyjnego. Sposób przeprowadzenia lustracji określi Krajowa Rada Spółdzielcza.";

50) art. 93, 94 i 95 skreśla się;

51) w części I w tytule I skreśla się dział X;

52) w art. 110 drugie zdanie otrzymuje brzmienie:

"Przepisy art. 7§ 2 i 3 oraz art. 8 stosuje się odpowiednio.";

53) w art. 112 skreśla się powołanie 105;

54) w art. 113:

a) w § 1 pkt 2 otrzymuje brzmienie:

"2) wskutek zmniejszenia się liczby członków poniżej liczby wskazanej w statucie lub w ustawie, jeżeli spółdzielnia w terminie jednego roku nie zwiększy liczby członków do liczby obowiązującej.",

b) § 2 otrzymuje brzmienie:

"§ 2. W wypadkach przewidzianych w paragrafie poprzedzającym zarząd spółdzielni (likwidator) zgłosi do rejestru otwarcie likwidacji spółdzielni i zawiadomi o tym Krajową Radę Spółdzielczą i związek rewizyjny, w którym spółdzielnia jest zrzeszona. Jeżeli zarząd (likwidator) tego nie uczyni mają odpowiednie zastosowanie przepisy art. 114.";

55) w art. 114:

- a) w § 1 wyrazy "Zarząd właściwego centralnego związku" zastępuje się wyrazami "Krajowa Rada Spółdzielcza na wniosek związku rewizyjnego",
- b) w § 2 wyrazy "zarządu" i "właściwy centralny związek" zastępuje się wyrazami "Krajowa Rada Spółdzielcza";

56) art. 115 wyrazy "właściwego centralnego związku" zastępuje się wyrazami "Krajowej Rady Spółdzielczej";

57) w art. 118 w § 3 zdanie drugie otrzymuje brzmienie:

"W wypadku, gdy zwołanie rady napotyka poważne trudności albo, gdy likwidatora wyznacza Krajowa Rada Spółdzielcza, umowę z likwidatorem w imieniu spółdzielni zawiera Krajowa Rada Spółdzielcza.";

58) w art. 119:

- a) w § 3 wyrazy "centralny związek" zastępuje się wyrazami "Krajowa Rada Spółdzielcza",
- b) w § 4 zdanie drugie skreśla się,
- c) § 6 skreśla się;

59) w art. 122:

- a) w pkt 1 wyrazy "właściwy centralny związek" zastępuje się wyrazami "Krajowa Rada Spółdzielcza",
- b) w pkt 3 wyrazy "sześciu miesięcy" zastępuje się wyrazami "trzech miesięcy";

60) w art. 123 skreśla się powołanie art. 23 oraz literę "i";

61) w art. 124 w § 3 skreśla się wyrazy "także w postępowaniu arbitrażowym";

62) w art. 125 § 5 otrzymuje brzmienie:

"§ 5. Pozostały majątek spółdzielni zostaje przeznaczony na cele określone w uchwale ostatniego walnego zgromadzenia. Jeżeli uchwała walnego zgromadzenia nie zawiera stosownego wskazania, pozostały majątek likwidator przekazuje nieodpłatnie Krajowej Radzie Spółdzielczej z przeznaczeniem na cele spółdzielcze";

63) w art. 126:

- a) w § 2 wyrazy "centralnemu związkowi" zastępuje się wyrazami "Krajowej Radzie Spółdzielczej",
- b) § 3 otrzymuje brzmienie:

"§ 3. Po zatwierdzeniu bilansu na dzień zakończenia likwidacji likwidator zgłasza do rejestru wniosek o wykreślenie spółdzielni z rejestru oraz przekazuje księgi i dokumenty zlikwidowanej spółdzielni do przechowania Krajowej Radzie Spółdzielczej. Wykreślenie powinno być ogłoszone przez sąd.";

64) art. 127 otrzymuje brzmienie:

"Art. 127. W razie zaspokojenia wszelkich należności przypadających od spółdzielni i złożenia do depozytu kwot na zabezpieczenie należności spornych lub niewymagalnych, spółdzielnia może ulec wykreśleniu z rejestru przed zakończeniem prowadzonych przez nią lub przeciwko niej sporów sądowych. W takim wypadku w miejsce spółdzielni wchodzi jako strona właściwy związek rewizyjny, a jeśli spółdzielnia nie była w nim zrzeszona, Krajowa Rada Spółdzielcza, które uzyskane w wyniku procesu kwoty pieniężne obowiązane są użyć zgodnie z postanowieniami walnego zgromadzenia.";

65) art. 129 otrzymuje brzmienie:

"Art. 129. Minister Sprawiedliwości w porozumieniu z Krajową Radą Spółdzielczą w drodze rozporządzenia określi sposób i czas przechowywania ksiąg i dokumentów zlikwidowanych spółdzielni.";

66) art. 133 otrzymuje brzmienie:

"Art. 133. Jeżeli z bilansu sporządzanego przez zarząd lub przez likwidatora okaże się, że majątek spółdzielni, która zaprzestała swojej działalności, nie wystarcza na pokrycie kosztów postępowania upadłościowego, a wierzyciele nie wyrażą zgody na ich pokrycie, sąd na wniosek wierzycieli lub Krajowej Rady Spółdzielczej, zarządzi wykreślenie spółdzielni z rejestru, zawiadamiając o tym wierzycieli i Krajową Radę Spółdzielczą. W takim wypadku nie przeprowadza się postępowania upadłościowego.";

67) art. 140 skreśla się;

68) w art. 141 w § 1 wyraz "powinien" zastępuje się wyrazem "może";

69) w art. 152 § 3 otrzymuje brzmienie:

"§ 3. Wkład pieniężny jest oprocentowany. Statut określa wysokość oprocentowania.";

70) po art. 154 dodaje się art. 154a w brzmieniu:

"Art. 154a. Statut spółdzielni może przewidzieć powiększenie wkładów pieniężnych z dochodu ogólnego. W takim wypadku statut określa wysokość dokonywanych odpisów i sposób podziału między członków środków przeznaczonych na wkłady, a także określa uprawnienia członków do wycofania w czasie trwania członkostwa części wkładu pieniężnego pochodzącego z odpisów.";

71) art. 168 otrzymuje brzmienie:

"Art. 168. §. ~~Dochód ogólny podlega podziałowi na podstawie uchwały walnego zgromadzenia~~

§. 2. Spółdzielnia przeznaczca ~~co najmniej 5% dochodu ogólnego~~
~~na fundusz zasobowy, socjalno—kulturalny i mieszkaniowy.~~

Odpis na fundusz zasobowy powinien wynosić co najmniej 3%,
jeżeli fundusz ten nie osiąga wysokości wniesionych udzia—
łów obowiązkowych.";

72) art. 169 i 170 skreśla się;

73) w art. 171 w § 1 skreśla się powołanie art. 170;

74) w art. 172 powołania" art. 75—78, 81, 82, 84 oraz 85" zastępuje się powo—
łaniami "art. 75—78";

75) w części I w tytule II w dziale I skreśla się rozdziały 2 i 4;

76) art. 197 otrzymuje brzmienie:

"Art.197 § 1. Termin do wszczęcia przez członka Spółdzielni postępowania
przed sądem w sprawach dotyczących wypowiedzenia warunków
pracy lub płacy, spółdzielczej umowy o pracę, jej wypowiedze—
nia, rozwiązania oraz odmowy jej nawiązania wynosi 14 dni i
liczy się od dnia doręczenia pisemnego zawiadomienia członka
o oświadczeniu spółdzielni w tych sprawach wraz z uzasadnieniem.

§ 2. W wypadku wniesienia przez członka odwołania w postępowaniu
wewnątrzspółdzielczym termin ten biegnie od dnia doręczenia
członkowi zawiadomienia wraz z uzasadnieniem o uchwale organu
odwoławczego lub od upływu terminu ustalonego w statucie do pod—
jęcia uchwały przez ten organ.";

77) w art. 204 § 3 otrzymuje brzmienie:

"§.3. Statut spółdzielni powinien określać, w jakich formach spół—
dzielnia zaspakaja potrzeby mieszkaniowe członków.";

78) art. 205 otrzymuje brzmienie:

"Art.205. Liczba członków oczekujących w spółdzielni na przydział
lokali mieszkalnych powinna odpowiadać liczbie mieszkań
przewidzianych do budowy. Z członkiem ubiegającym się o
przydział lokalu spółdzielnia zawiera w ciągu trzech miesięcy
od dnia jego przyjęcia umowę określającą kolejność przydziału
uzgodnionej wielkości lokalu mieszkalnego. Zasady zawierania umów
i ustalania kolejności przydziału określa statut.";

79) art. 207 otrzymuje brzmienie:

"Art. 207. Członkiem spółdzielni mieszkaniowej może być osoba o ograni—
czonej zdolności do czynności prawnej lub nie mająca tej zdol—
ności. Jednakże przydział lokalu mieszkalnego może otrzymać
tylko osoba pełnoletnia.";

80) w art. 208:

a) w § 1 wyraz "wychowawczej" zastępuje się wyrazem "kulturalnej" a wy—
razy "mieszkaniowych lub budowlanych" wyrazem "inwestycyjnych",

- b) w § 3 wyrazy "mieszkaniowych i budowlanych" zastępuje się wyrazem "inwestycyjnych" i wyrazy "mieszkaniowe i budowlane" zastępuje się wyrazem "inwestycyjny",
- c) § 5 i 5a skreśla się;

81) w art. 209 § 4 otrzymuje brzmienie:

"§ 4. W wypadku modernizacji budynku członek spółdzielni obowiązany jest uzupełnić wkład inwestycyjny o koszt modernizacji.";

82) art. 211 otrzymuje brzmienie:

"Art.211. W razie ustania członkostwa zwrot udziałów powinien być dokonany równocześnie ze zwrotem wkładu inwestycyjnego; w takim wypadku przepisu art. 26 § 1 nie stosuje się.";

83) art. 212 otrzymuje brzmienie:

"Art.212. W sprawach nie uregulowanych niniejszą ustawą prawa i obowiązki członka spółdzielni, a zwłaszcza zasady wnoszenia i ustalania wysokości wkładu inwestycyjnego przyznawania prawa do lokalu mieszkalnego, rozliczeń z tytułu dodatkowego wyposażenia lokalu przez członka spółdzielni oraz uprawnień członka do zamiany lokalu, określają postanowienia statutu.";

84) w tytule II w dziale IV w rozdziale 2 skreśla się wyrazy "Oddział 1" oraz "Przepisy ogólne";

85) w art. 213:

a) § 1 otrzymuje brzmienie:

"§1. W budynkach stanowiących własność spółdzielni mieszkaniowej członkom przysługuje prawo używania przydzielonych im lokali mieszkalnych (spółdzielcze prawo do lokalu mieszkalnego),",

b) § 2 skreśla się;

86) art. 214 skreśla się;

87) w art. 215 w § 4 wyrazy "mieszkaniowy lub budowlany" zastępuje się wyrazem "inwestycyjny";

88) W art. 217 skreśla się § 1.

89) w tytule II w dziale IV w rozdziale 2 skreśla się oddział 2;

90) w tytule II w dziale IV w rozdziale 2 skreśla się wyrazy "Oddział 3" oraz "Własnościowe prawo do lokalu";

91) w art. 223:

- a) w § 1 wyraz "własnościowe" zastępuje się wyrazem "spółdzielcze",
- b) w § 2 pierwsze zdanie skreśla się,
- c) w § 3 wyraz "własnościowego" zastępuje się wyrazem "spółdzielczego" a wyraz "budowlany" zastępuje się wyrazem "inwestycyjny";

92) art. 224 otrzymuje brzmienie:

"Art.224. ~~Spółdzielnia jest obowiązana w terminie trzech miesięcy do~~
~~przyjęcia w poczet członków nabywcy prawa~~, jeżeli odpowiada
on wymaganiom statutu. ~~To samo dotyczy spadkobiercy~~, który
dopełnił czynności przewidzianych w art. 228, oraz licytanta.
W przypadku odmowy przyjęcia w poczet członków wymagane jest
podanie uzasadnienia odmowy na piśmie.";

93) art. 225 skreśla się;

94) w art. 226:

- a) w § 1 wyraz "budowlanego" zastępuje się wyrazem "inwestycyjnego",
- b) w § 2 wyraz "budowlany" zastępuje się wyrazem "inwestycyjny" i wyraz "własnościowego" wyrazem "spółdzielczego",
- c) w § 3 wyraz "budowlanego" zastępuje się wyrazem "inwestycyjnego" i wyraz "własnościowe" wyrazem "spółdzielcze";

95) w art. 227 w § 1 wyraz "własnościowe" zastępuje się wyrazem "spółdzielcze";

96) w art. 228:

- a) w § 1 i 2 wyrazy "własnościowe" zastępuje się wyrazami "spółdzielcze",
- b) § 3 i 4 otrzymują brzmienie:

"§ 3. W razie niedopełnienia czynności przewidzianych w paragrafach poprzedzających spółdzielnia podejmie uchwałę o wygaśnięciu prawa do lokalu.

"§ 4. ~~W razie odmowy przyjęcia spadkobiercy w poczet członków~~
~~spółdzielni, spółdzielcze prawo do lokalu wygasa z upływem sześć-~~
~~ciu miesięcy od dnia, w którym odmowa ta stanie się ostateczna;~~
chyba że spadkobierca przed upływem tego terminu wskaże oso-
bę, której zbył prawo, a osoba ta złoży deklarację członkowską.
Art. 227 § 1 stosuje się odpowiednio.";

97) art. 229 otrzymuje brzmienie:

"Art.229. §1. W razie wygaśnięcia spółdzielczego prawa do lokalu spół—

dzielnia obowiązana jest uiszczyć uprawnionemu równowartość tego prawa po potrąceniu należności z tytułu nie wniesionej części wkładu. Równowartość ustala się przyjmując za podstawę wkład inwestycyjny, z uwzględnieniem:

- 1) zwwyżki lub zniżki kosztów budowy,
- 2) przypadającej na dany lokal wartości zużycia lokalu,
- 3) zniszczenia lokalu przekraczającego normalne zużycie,
- 4) innych okoliczności mających wpływ na obniżenie lub podwyższenie wartości użytkowej lokalu.

§2. ~~W razie śmierci członka przed przydzieleniem lokalu, wkład inwestycyjny wraz ze związanymi z nim uprawnieniami przechodzi na spadkobierców.~~ Przepisy art.228 stosuje się odpowiednio.

§3. W razie ustania członkostwa z innych przyczyn niż śmierć, przed przydzieleniem lokalu:

- 1) byłemu członkowi przysługuje zwrot sum wpłaconych na wkład inwestycyjny,
- 2) małżonkowi, dzieciom i innym osobom bliskim byłego członka przysługuje roszczenie o przyjęcie do spółdzielni i przydział lokalu w kolejności przysługującej byłemu członkowi.";

98) w art.230 wyraz "własnościowego" zastępuje się wyrazem "spółdzielczego";

99) w art.231 wyraz "własnościowe" zastępuje się wyrazem "spółdzielcze";

100) w art. 232 § 2, 3 i 4 otrzymują brzmienie:

"§ 2. Po wybudowaniu domu jednorodzinnego spółdzielnia obowiązana jest przydzielić go członkowi, chyba, że przydziału dokonano wcześniej.

§ 3. Z chwilą przydziału prawo do tego domu staje się prawem dziedzicznym, zbywalnym i podlega egzekucji. Skuteczność przeniesienia prawa zależy od przyjęcia nabywcy w poczet członków spółdzielni.

§ 4. Do prawa do domu jednorodzinnego stosuje się odpowiednio przepisy o spółdzielczym prawie do lokalu mieszkalnego z zachowaniem przepisów poniższych.";

101) w art. 234:

a) w § 1 zdanie drugie otrzymuje brzmienie:

"W razie wygaśnięcia prawa z przyczyn przez członka niezawinionych, spółdzielnia może zaproponować mu przydział spółdzielczego lokalu mieszkalnego, jeżeli w danej miejscowości

wznosi budynki wielomieszkaniowe, przy uwzględnieniu zasad określonych w art. 205.",

b) w § 3 wyraz "budowlany" zastępuje się wyrazem "inwestycyjny";

102) w art. 235:

a) w § 1 wyraz "budowlanych" zastępuje się wyrazem "inwestycyjnych",

b) w § 3 wyraz "budowlanym" zastępuje się wyrazem "inwestycyjnym",

c) w § 4 ostatnie zdanie otrzymuje brzmienie:

"Do tej współwłasności przepisy art. 136 § 3 Kodeksu cywilnego stosuje się odpowiednio.";

103) w art. 237 skreśla się wyraz "małe";

104) w art. 238:

a) w § 1 zdanie drugie otrzymuje brzmienie:

"Z chwilą przydziału powstaje spółdzielcze prawo do lokalu użytkowego, do którego stosuje się odpowiednio przepisy dotyczące spółdzielczego prawa do lokalu mieszkalnego z zachowaniem przepisów poniższych.",

b) po § 2 dodaje się § 2a w brzmieniu:

"§ 2a. Zmiana profilu działalności gospodarczej w lokalu użytkowym wymaga zgody spółdzielni.",

c) w § 4 po pkt 2 dodaje się pkt 2a w brzmieniu:

"2a) zmienił profil działalności gospodarczej bez zgody spółdzielni.",

d) po § 4 dodaje się § 5 w brzmieniu:

"§ 5. Zasady przydziału i najmu lokali użytkowych określają postanowienia statutu.";

105) art. 239 otrzymuje brzmienie:

"Art. 239. Spółdzielnia mieszkaniowa może przydzielać garaże członkom lub wynajmować je członkom oraz innym osobom fizycznym i prawnym. Z chwilą przydziału powstaje spółdzielcze prawo do garażu, do którego stosuje się odpowiednio przepisy artykułu poprzedzającego oraz przepisy dotyczące spółdzielczego prawa do lokalu mieszkalnego. ~~Zbycie spółdzielczego prawa do garażu, może nastąpić tylko na rzecz innego członka spółdzielni lub na rzecz spółdzielni.~~"

106) W części II w tytule I po wyrazach "Związki Spółdzielcze" dodaje się wyrazy "i Krajowa Rada Spółdzielcza."

107) Art. 240 otrzymuje brzmienie:

"Art.240. §.1. Spółdzielnie mogą zakładać związki rewizyjne i przystępować do takich związków. ~~Liczba założycieli związku rewizyjnego nie-może być mniejsza niż dziesięć~~, chyba że statut związku wymaga liczby większej.

§.2. ~~Do zakładania związków rewizyjnych mają odpowiednio zastosowanie przepisy o zakładaniu spółdzielni~~

§.3. Statut związku rewizyjnego powinien w szczególności określać:

- 1) nazwę i siedzibę związku,
- 2) cele i przedmiot działania związku,
- 3) zasady i tryb przyjmowania, występowania i wykluczenia członków,
- 4) zasady funkcjonowania ogólnego zebrania przedstawicieli zrzeszonych spółdzielni, a nadto jego zakres właściwości,
- 5) zasady wyboru rady i zarządu związku oraz obowiązki i uprawnienia tych organów,
- 6) zasady i tryb wyznaczania lustratorów.

§.4. Statut może przewidzieć, że związek prowadzi na rzecz zrzeszonych spółdzielni również działalność instruktarską i doradczą.

§.5. Związki rewizyjne nie prowadzą własnej działalności gospodarczej o charakterze produkcyjno—handlowym.

§.6. Statut związku oraz uchwały ogólnego zebrania przedstawicieli nie mogą zastrzegać dla organów związku uprawnień stanowiących i nadzorczych wobec zrzeszonych spółdzielni.";

108) art. 241 otrzymuje brzmienie:

"Art.241. §.1. Zarząd związku rewizyjnego niezwłocznie po wpisaniu związku do rejestru sądowego przesyła odpis statutu Krajowej Radzie Spółdzielczej.

§.2. Upoważniony przedstawiciel Krajowej Rady Spółdzielczej może uczestniczyć z głosem doradczym w obradach ogólnego zebrania przedstawicieli każdego związku rewizyjnego.

§.3. ~~Krajowa Rada Spółdzielcza prowadzi rejestr związków rewizyjnych~~. Zasady prowadzenia rejestru i dane w nim uwidaczniane określa Krajowa Rada Spółdzielcza.";

109) art. 242 otrzymuje brzmienie:

"Art. 242. §.1. Związek rewizyjny ulega likwidacji:

- 1) wskutek zmniejszenia się liczby członków poniżej liczby wskazanej w statucie lub ustawie,
- 2) na mocy uchwały ogólnego zebrania przedstawicieli podjętej zwykłą większością głosów,
- 3) na podstawie orzeczenia sądu rejestrowego wydanego na wniosek Krajowej Rady Spółdzielczej w

wypadku gdy związek swoją działalnością rażąco narusza przepisy prawa lub statutu.

- §.2. W wypadku określonym w § 1 pkt 1 i 2 zarząd związku niezwłocznie zawiadamia sąd rejestrowy w celu wyznaczenia likwidatora oraz Krajową Radę Spółdzielczą.
- § 3. Wniosek Krajowej Rady Spółdzielczej określony w § 1 pkt 3 jest równoznaczny z wnioskiem o wyznaczenie likwidatora.
- §.4. Do likwidacji związku mają odpowiednie zastosowanie przepisy niniejszej ustawy dotyczące likwidacji spółdzielni.";

110) art. 243 skreśla się;

111) art.244 otrzymuje brzmienie:

- "Art.244. §.1. ~~Spółdzielnie~~ mogą zakładać związki gospodarcze i przystępować do takich związków.
- §.2. Celem związków gospodarczych jest zapewnianie spółdzielniom pomocy w ich działalności gospodarczej.
- §.3. ~~Do związków gospodarczych stosuje się odpowiednie~~ ~~przepisy dotyczące spółdzielni, których członkami~~ ~~zgodnie ze statutem są wyłącznie osoby prawne~~";

112) art. 245 — 257 skreśla się;

113) w tytule II wyraz "Naczelna" zastępuje się wyrazem "Krajowa";

114) w art.258:

a) §1 otrzymuje brzmienie:

"§ 1. ~~Krajowa Rada Spółdzielcza~~ jest samorządową organizacją ruchu spółdzielczego reprezentującą ~~ruch spółdzielczy w kraju i~~ ~~za granicą~~,"

b)w §2 wyraz "Naczelna" zastępuje się wyrazem "Krajowa";

115) art.259 otrzymuje brzmienie:

"Art.259.Krajowa Rada Spółdzielcza w szczególności:

- 1) prowadzi działalność zmierzającą do zapewnienia przestrzegania przez organizacje spółdzielcze praworządności i zasad demokracji spółdzielczej,
- 2) inicjuje współpracę i wzajemną pomoc między organizacjami spółdzielczymi w kraju i za granicą oraz organizuje wymianę doświadczeń między nimi,

- 3) propaguje i wspiera rozwój różnych form działalności ruchu spółdzielczego,
- 4) inicjuje, opracowuje i opiniuje projekty aktów prawnych dotyczących całego ruchu spółdzielczego lub spraw mających dla niego istotne znaczenie,
- 5) bada i ocenia formy, kierunki i wyniki działalności ruchu spółdzielczego oraz przedstawia odpowiednie wnioski i informacje naczelnym organom władzy państwowej,
- 6) inicjuje i organizuje badania naukowe, prowadzi działalność szkoleniowo wydawniczą w zakresie potrzeb ruchu spółdzielczego i zagadnień pracowniczych w spółdzielczości oraz współpracuje w tym zakresie z instytucjami naukowymi,
- 7) może wykonywać określone ustawą funkcje związku rewizyjnego w stosunku do spółdzielni niezrzeszonych w tych związkach na wniosek zainteresowanej spółdzielni.";

116) w art. 260 i 261 wyrazy "Naczelnej" zastępuje się wyrazami "Krajowej";

117) art. 262 otrzymuje brzmienie:

"Art.262. Ogólne zebranie składa się z przedstawicieli spółdzielni.

Liczbę przedstawicieli ich kadencję oraz tryb i sposób wyboru określa statut Krajowej Rady Spółdzielczej.";

118) w art. 263, 264 i 265 wyrazy "Naczelnej" zastępuje się wyrazami "Krajowej";

119) art. 266 otrzymuje brzmienie:

"Art.266. ~~Wydatki Krajowej Rady Spółdzielczej pokrywane są ze składek~~
~~spółdzielni. Składki spółdzielni na wykonywanie zadań Krajowej~~
~~Rady Spółdzielczej obciążają koszty działalności spół-~~
~~dzielni."~~;

120) art. 267 otrzymuje brzmienie:

"Art.267. Szczegółowe zasady i tryb działania Krajowej Rady określa statut. Statut i jego zmiany stają się skuteczne po stwierdzeniu przez Sąd Wojewódzki w Warszawie ich zgodności z prawem.";

Przepisy przejściowe i końcowe

Art. 2.

Postępowania wewnątrzspółdzielcze wszczęte przed dniem wejścia w życie ustawy toczą się według przepisów dotychczasowych.

Art. 3.

- § 1. Przewidziane w dotychczasowych przepisach lokatorskie i własnościowe prawo do lokalu mieszkalnego ulega przekształceniu w spółdzielcze prawo do lokalu na warunkach określonych w ustawie.
- § 2. Dotychczasowy wkład mieszkaniowy oraz budowlany staje się wkładem inwestycyjnym.
- § 3. ~~W terminie sześciu miesięcy od dnia wejścia w życie ustawy członek może~~ ~~złożyć w spółdzielni pisemne oświadczenie o zachowaniu lokatorskiego~~ ~~prawa do lokalu mieszkalnego~~
- § 4. Statut może przewidywać, że w domach dla inwalidów, osób samotnych i w innych domach o specjalnym przeznaczeniu lokatorskie prawo do lokalu nie podlega przekształceniu.
- § 5. ~~Lokatorskie prawo do lokalu jest niezbywalne, nie przechodzi na spad-~~ ~~kobierców i nie podlega egzekucji~~
- § 6. Lokatorskie prawo do lokalu wygasa z chwilą ustania członkostwa. W wypadku gdy przysługuje ono małżonkom, wygaśnięcie następuje z chwilą ustania członkostwa obojga małżonków.
- § 7. ~~Z chwilą śmierci jednego z małżonków lokatorskie prawo do lokalu, któ-~~ ~~re przysługiwało obojgu małżonkom, przypada drugiemu małżonkowi. Ma-~~ ~~łżonek ten, jeżeli nie jest członkiem spółdzielni, powinien pod rygorem~~ ~~wygaśnięcia prawa w terminie jednego roku od dnia śmierci członka złożyć~~ ~~deklarację członkowską.~~
- § 8. ~~W wypadku śmierci rodziców, członków spółdzielni, którzy nie wyrazili~~ ~~zgody na przekształcenie, o którym mowa w § 1, uprawnień do zachow-~~ ~~wania lokatorskiego prawa do lokalu mieszkalnego przysługujących dzie-~~ ~~ciom zamieszkałym w chwili śmierci w tym samym lokalu. Lokatorskie~~ ~~prawo do lokalu wygasa w takim wypadku po ukończeniu przez te dzieci~~ ~~24 roku życia.~~
- § 9. Z chwilą wygaśnięcia lokatorskiego prawa do lokalu, spółdzielnia ~~może~~ ~~zawrzeć z osobami, o których mowa w § 8, umowę najmu mieszkania.~~

Art. 4.

- § 1. Przekształcenie lokatorskiego prawa do lokalu mieszkalnego polega na dopisaniu do rachunku kredytu bankowego kwoty odpowiadającej umorzonyj części kredytu:
- 1) w odniesieniu do lokalu mieszkalnego oddanego do użytku przed dniem 1 stycznia 1990 r. po jej przeszacowaniu według zasad przeszacowania majątku trwałego, obowiązujących w dniu 1 stycznia 1990 r.,
 - 2) w odniesieniu do lokalu mieszkalnego oddanego do użytku po dniu 31 grudnia 1989 r. — w wysokości nominalnej.

- § 2. Spłata kredytu po przekształceniu, o którym mowa w ust.1, następuje z zachowaniem terminów określonych w umowach kredytowych.
- § 3. ~~W razie jednorazowej spłaty, w terminie sześciu miesięcy od dnia wejścia w życie ustawy, osiemdziesięciu procent wartości kredytu pozostała część umarza się~~

Art. 5.

- § 1. Członkowie spółdzielni zamieszkujący w dniu wejścia w życie ustawy w mieszkaniach rotacyjnych pozostających w zasobach spółdzielni uzyskują w stosunku do tych lokali spółdzielcze prawo do lokalu mieszkalnego. Przepis art. 3 § 3 niniejszej ustawy stosuje się odpowiednio.
- § 2. Uzyskanie prawa, o którym mowa w §1, nie narusza nabytych uprawnień do przydziału lokalu spółdzielczego zgodnie z zawartą ze spółdzielnią umową.

Art. 6.

Rada Ministrów określi w drodze rozporządzenia szczegółowe zasady oraz tryb rozliczeń, wynikających z przepisów zawartych w art. 3 i 4 niniejszej ustawy.

Art. 7.

- § 1. Prawo do garażu przydzielonego członkowi spółdzielni mieszkaniowej w zamian za pokrycie całości kosztów budowy (wniesienie wkładu garażowego) przekształca się z mocy prawa w spółdzielcze prawo do garażu.
- § 2. ~~Członek~~ spółdzielni mieszkaniowej, ~~który wybudował ze środków własnych garaż na gruncie stanowiącym własność spółdzielni lub oddanym jej w użytkowanie wieczyste i jest najemcą tego garażu, a także jego następcą prawnym będący członkiem spółdzielni i najemcą garażu ma prawo uzyskać przydział tego garażu na zasadzie spółdzielczego prawa do garażu.~~ Garaż jest przydzielany nieodpłatnie na żądanie zainteresowanego członka.

Art. 8.

- § 1. Spółdzielnie istniejące w dniu wejścia w życie niniejszej ustawy dokonują zmian swoich statutów stosownie do wymagań ustawy i w trybie przez nie przewidzianym. Zgłoszenia zmian do rejestru spółdzielni dokonają najpóźniej do dnia 31 lipca 1992 r.

§ 2. Do czasu zarejestrowania nowych statutów postanowienia dotychczasowych statutów pozostają w mocy. W razie sprzeczności między nimi a przepisami niniejszej ustawy stosuje się przepisy tej ustawy.

Art. 9.

Organizacje społeczno—zawodowe zrzeszające spółdzielnie w dniu wejścia w życie ustawy, mogą wykonywać funkcje związku rewizyjnego określone w art. 240, 241, 242.

Art. 10.

- § 1. Dotychczasowa Naczelna Rada Spółdzielcza w terminie do dnia 30 czerwca 1992 r. zwoła zjazd w celu uchwalenia statutu.
- § 2. Zjazd składa się z przedstawicieli spółdzielni wybranych przez zjazdy wojewódzkie w liczbie po jednym przedstawicielu z każdego rodzaju spółdzielni.
- § 3. ~~Zjazdy wojewódzkie zwołuje Naczelna Rada Spółdzielcza w terminie trzech miesięcy od daty wejścia w życie ustawy~~
- § 4. Do czasu wyboru organów Krajowej Rady Spółdzielczej jej prawa i obowiązki wykonuje Naczelna Rada Spółdzielcza.
- § 5. Krajowa Rada Spółdzielcza jest następcą prawnym Naczelnej Rady Spółdzielczej.

Art. 11.

~~Minister Sprawiedliwości ogłosi w Dzienniku Ustaw jednolity tekst ustawy Prawo spółdzielcze z uwzględnieniem zmian wynikających z przepisów ogłoszonych przed dniem wydania jednolitego tekstu i z zastosowaniem ciągłej numeracji artykułów, paragrafów i punktów.~~

Art. 12.

Ustawa wchodzi w życie z dniem ogłoszenia, z tym, że przepis art. 3 § 1 niniejszej ustawy wchodzi w życie w terminie sześciu miesięcy od dnia ogłoszenia ustawy.

ROMANIA
THE COUNCIL OF THE NATIONAL SALVATION FRONT
DECREE - LAW
regarding the organizing and functioning
of the Handicraft Cooperation

THE COUNCIL OF THE NATIONAL SALVATION FRONT decrees :

CHAPTER I

GENERAL STIPULATIONS

Art.1. - The handicraft cooperatives are associations with economic character, based on consent, expressed freely, by persons who become their members, with the aim to develop an activity in commun, with production means, collective propriety or borrowed.

The cooperative of invalids, whose aim is to integrate these disabled persons in productive activities, belong to the system of handicraft cooperatives.

The handicraft cooperatives function according to the rules of the present law and its proper Statute and are led by chosen bodies from the cooperative members in their general meetings

Art.2. - The Handicraft cooperation through its whole activity brings its contribution to the prosperity of the economic and social life of Romania. The Handicraft cooperation takes part in the national economic system as an independent economic - productive organization.

The whole activity of the handicraft cooperation develop according to the law, based on proper regulations, according to the economic, financial, social and cultural programmes stipulated by rules.

Art.3. - The activity of the handicraft cooperation has its objects :

- a) works at order and carry out services for population for proper units and other beneficiaries from our country and abroad;
- b) production of consumer goods;
- c) acquisitions, reconditionings and revaluations of goods from the population and other units;
- d) productions of artizans and folkcraft objects;
- e) specific productive activity for invalids;
- f) manufacture of products by cooperation with enterprizes and other organizations and the execution of the works ordered by them;
- g) sale of goods;
- h) activity of foreign enterprise, import-export, exchange of goods, cooperation and other activities of foreign trade, through own units or other specialized units;
- i) economical, technical relations, exchange of specialists and sport-cultural exchanges made with organizations from other countries.

Art.4. - The activity of the handicraft cooperatives takes place in production workshops, units of carrying out services or at home.

Art.5. - The handicraft cooperation can organize according to law, units and specific activities in foreign countries.

CHAPTER II

STIPULATIONS REGARDING SETTING UP ORGANIZING AND FUNCTIONING OF HANDICRAFT COOPERATION ORGANIZATIONS

Art.6. - The organizations of the handicraft cooperation are:

- a) the handicraft cooperatives and the invalids cooperative
- b) the unions of handicraft cooperatives
- c) the Central Union of Handicraft Cooperation

Art.7. - The handicraft cooperatives set up, organize themselves, function according to the statutes adopted by their general meetings; on the basis of the frame-statute approved by the Congress of the handicraft cooperation.

Art.8. - The handicraft cooperatives can associate themselves in unions organized territorially in districts and in Bucharest or on the basis of fields of activity. The Central Union of Handicraft Cooperatives is the general organization of the handicraft cooperation system and defends its interests in their relations with the state bodies, as well as with other bodies and organizations.

Art.9. - The unions of cooperatives and the Central Union of Handicraft Cooperation set up, organize themselves, function according to the adopted statutes, and if necessary by conferences or by the Congress of the Handicraft cooperation. These are led by the chosen bodies according to the statutes.

Art.10. - The acknowledgement of the setting-up of handicraft cooperatives and of the Unions of cooperatives is done by the Council of the higher handicraft cooperatist organization. These obtain legal personality through registration at the competent state bodies according to law.

Art.11. - The production and carry out services units of the handicraft cooperation organizations are set up by them, through the decision of the general meeting of each organization.

Art.12. - In order to satisfy some of the needs proper to the organizations of the handicraft cooperation and of their members, near the cooperatives, unions and the Central Union of Handicraft Cooperation the followings can be set up :

- a) school for staff training;
- b) units to improve and specialize the staff and the leading staff;
- c) units of research, design and technological engineering;
- d) units of technical- scientific and economical documentation;
- e) units of data automatic processing and information;
- f) units of presentation, advertise and marketing;

f) social assurances and the pensions of the cooperators
g) other fields of organization and functioning of the handicraft cooperation.

Art.16. - The organizations of the handicraft cooperatives establish the prices and price lists, according to their jurisdiction stipulated by law.

Art.17. - The litigations among the organizations of the handicraft cooperation are solved by the competent bodies according to law.

Art.18. - The organizations of the handicraft cooperatives keeps the available funds open at the bank units, which perform their discount payments.

Art.19. - The handicraft cooperation organizations pay in the state budget taxes and duties for the activity they develop according to legal regulations.

Art.20. - The Central Union of Handicraft Cooperation can represent the organization of the handicraft cooperation from Romania in the relations with the cooperatist organization from other countries, with international cooperatist organizations, as well as with other international organizations, so it can affiliate to them.

CHAPTER III

THE JURIDICAL REGIME OF THE GOOD'S OF THE HANDICRAFT COOPERATION ORGANIZATIONS

Art.21. - The personal proprieties and real estates, fixed means, the property of the handicraft cooperation organization can be transmitted in property or put into use only with payment, in the conditions stipulated by statutes.

CHAPTER V

SOCIAL ASSURANCES IN THE HANDICRAFT COOPERATION

Art.28. - The handicraft cooperation organizes its own system of social assurances of medical and social assistance.

Art.29. - The right for material assurance is carried out in system of social assurances of the handicraft cooperation through pensions, aids for temporary incapacity of work, to prevent illnesses, to recover and strengthen health, maternity and death as well as through balneary treatment and rest the family members of the assured benefit of pensions and social aids as descendants, as well as material assistance in case of the breadwinner's death.

The pupils and the scholars of the handicraft cooperation, who become invalids during and because of the vocational practice, benefit of pensions of invalidity caused by work accident and professional disease.

Art.30. - The rights of social assurance from the handicraft cooperation is granted through own bodies established by the Central Union of Handicraft Cooperation to grant, the quantum and the procedure to establish the rights of the assured as well the competent bodies to judge the legal contests referring these rights are those stipulated in the regulations approved by the Central union of the Handicraft Cooperation.

The regulations are elaborated on the basis of the principles comprised in the regulations of the state social assurances, taking into account the specific of the handicraft cooperation. The different degrees of invalidity is established by the bodies and with the proceedings stipulated by legal rules applied to state social assurances.

Art.31. - The assured persons of the social assistance of the handicraft cooperations and their family members, benefit, in the conditions of law by medical aid, support, medicines and sanitary materials in the period of admittance in hospital, as well as ambulatory medical assistance.

The right to pension and social assistance is imprescriptible.

The sums of money payed without foundation as pensions, social assistance or other due rights, as well as those played in addition as material aids will be recovered, by with drawal of the funds of the social assurances from the handicraft cooperation they were granted.

CHAPTER VI

FINAL DISPOSITIONS

Art.36. - Law nr 14 dated May 15th 1989, as well as any other dispositions contrary to this law are abrogated.

THE PRESIDENT OF THE NATIONAL
SALVATIONFRONT

ION ILIESCU

BUCHIAREST, February 8th 1990

Nr.66

ROUMANIEConseil du Front de Salut NationalDécret-Loi sur l'organisation et les activités des
coopératives de consommation et de crédit

Le Conseil du Front de Salut National décrète :

CHAPITRE IDispositions générales

Article 1 : Les coopératives de consommation sont des organisations sociale à caractère économique, créées dans les villes et à la campagne en vue de satisfaire les besoins d'ordre économique (mot illisible) et culturel de la population.

Les coopératives de crédit sont des organisations sociales à caractère économique, créées dans les villes et à la campagne en vue d'assurer l'assistance mutuelle financière de leurs membres.

Article 2 : Les coopératives de consommation et de crédit se réunissent en unions à l'échelle du district, qui à leur tour forment une union centrale des coopératives de consommation et de crédit.

Article 3 : Les activités des coopératives de consommation et de crédit et de leurs unions sont conformes au présent décret-loi ainsi qu'aux statuts approuvés par le Congrès des coopératives de consommation et de crédit.

Article 4 : Les activités des coopératives de consommation et de crédit sont autonomes et sont basées sur leurs propres Loi et statuts.

CHAPITRE IIObjet des activités des coopératives de consommation et de crédit

Article 5 : Les coopératives de consommation et de crédit opèrent les activités suivantes :

- a) commerce de détail de tous les articles alimentaires et non-alimentaires destinés à la consommation individuelle et à l'utilisation économique et industrielle;
- b= restauration publique dans le pays et à l'étranger;
- c) commerce de gros par l'intermédiaire de ses propres entrepôts desservant leurs propres entreprises, petits commerçants et autres entreprises; entretien de liens directs avec les producteurs en vue d'assurer les stocks de marchandises;
- d) production industrielle et prestation de divers services à la population et aux différents établissements;

- e) en conformité avec la loi, achat des produits agricoles à la population et aux entreprises agricoles aux conditions mutuellement avantageuses, et leur traitement;
- f) vente aux entreprises agricoles de machines et outils, engrais, animaux producteurs, fourrage, grains, plants et autres produits dont les entreprises ont besoin;
- g) exportation/importation, coopération et troc avec les coopératives, entreprises et firmes étrangères, création de sociétés mixtes avec les organisations coopératives et non coopératives, comme prévu par la loi;
- h) investissements en propre base matérielle et en base matérielle de tiers;
- i) coopération sur une base contractuelle de ses propres entreprises et organisations avec les autres organisations coopératives et d'état ainsi qu'avec des personnes privées;
- j) octroi de prêts et de services bancaires aux membres des coopératives, organisation de banques coopératives;
- k) formation et recyclage des cadres;
- l) publicité, activités d'édition et d'imprimerie, presse;
- m) activités culturelles et sportives, loisirs.

CHAPITRE III

Institution, organisation et activités des coopératives de consommation et de crédit

Article 6 : Les coopératives de consommation et de crédit, leurs unions de district et l'union centrale des coopératives de consommation et de crédit sont instituées, organisées et fonctionnent en conformité avec le présent décret-loi et les statuts.

Article 7 : Les coopératives de consommation et de crédit, les unions de district ainsi que l'union centrale des coopératives de consommation et de crédit sont représentées auprès des organes du pouvoir et de l'administration d'Etat, des institutions juridiques, du Parquet et des organisations sociales par leurs dirigeants.

Les dirigeants des coopératives de consommation et de crédit peuvent mandater d'autres personnes pour les représenter.

Article 8 : Les organisations, entreprises et autres unités de la coopération de consommation et de crédit acquièrent le statut juridique moyennant l'enregistrement conformément à la loi auprès des organes compétents d'Etat.

Article 9 : L'Union centrale, les unions de district et les coopératives peuvent créer leurs propres entreprises et unités avec ou sans statut juridique.

Les critères (texte illisible) sont déterminés par l'Union centrale des coopératives de consommation et de crédit.

Article 10 : L'Union centrale des coopératives de consommation et de crédit détermine la structure organisationnelle de son propre appareil et approuve la structure organisationnelle des organisations et des entreprises sous sa tutelle.

Article 11 : L'Union centrale des coopératives de consommation et de crédit détermine les normes obligatoires pour toutes les organisations et entreprises de la coopération de consommation et de crédit dans les domaines suivants :

- a) création et utilisation des fonds propres;
- b) financement et investissements, mise au point et approbation de la documentation technique, grosses réparations y compris;
- c) formes d'organisation de travail et de gestion de toutes les activités économiques,
- d) salaires et motivation du personnel;
- e) solution des litiges entre les organisations et les entreprises de la coopération de consommation et de crédit;
- f) fixation des prix et des tarifs;
- g) octroi des prêts des fonds propres aux coopératives;
- h) conditions de gestion, garanties et responsabilités;
- i) autres questions relevant des activités économiques et financières.

Article 12 : Les organisations, entreprises et autres unités de la coopération de consommation et de crédit ouvrent des comptes dans des banques pour y déposer leurs avoirs.

Article 13 : L'Union centrale des coopératives de consommation et de crédit représente les coopératives de consommation et de crédit de la Roumanie auprès des organisations coopératives à l'étranger. Il en est de même en ce qui concerne les associations coopératives et les organisations internationales. L'Union peut y adhérer.

Article 14 : Le contrôle financier et économique des activités des coopératives de consommation et de crédit est assuré par les commissions de révision et l'appareil de contrôle financier interne.

Les déviations aux normes de la discipline financière et de la discipline du travail commises par les salariés des coopératives de consommation et de crédit sont enregistrées par ses propres organes de contrôle. Les sommes résultant de l'application des sanctions sont versées aux fonds de l'organisation coopérative.

Article 15 : Tout contrat conclu entre les organisations de la coopération de consommation et de crédit et les personnes physiques sont exécutoires. C'est sur cette base que les organisations de crédit ont la possibilité de faire payer les dettes dans le cas de non-respect par le débiteur de ses engagements.

Les organisations et les entreprises de la coopération de consommation et de crédit peuvent engager des poursuites par voie de justice et récupérer leurs créances par l'intermédiaire de leurs agents.

CHAPITRE IV

Régime juridique des biens propriété des organisations de la coopération de consommation et de crédit

Article 16 : Les biens mobiliers et immobiliers, la propriété des organisations et des entreprises de la coopération de consommation et de crédit, peuvent être cédés en propriété ou en utilisation uniquement contre récompense, comme cela est prévu par la loi et les statuts.

Les biens mentionnés ci-dessus ne font pas l'objet de poursuite par voie de justice par les créanciers des organisations coopératives et les créanciers des salariés et des membres.

Ce paragraphe mal traduit du roumain en russe stipule de toute évidence que les biens mobiliers et immobiliers constituent la propriété des entreprises et des organisations de la coopération de consommation et de crédit.

La réclamation des biens ne peut pas être annulée.

Les fonds de roulement font l'objet des mêmes dispositions que mentionné ci-dessus.

L'excédent des fonds de roulement peut être cédé contre remboursement en conformité avec les dispositions de l'Union centrale des coopératives de consommation et de crédit.

CHAPITRE V

Soutien accordé par l'Etat aux coopératives de consommation et de crédit

Article 17 : La propriété des organisations et des entreprises de la coopération de consommation et de crédit est protégée par la loi.

Article 18 : L'Etat soutient les organisations de la coopération de consommation et de crédit dans les domaines suivants :

- a) acquisition des articles de consommation courante, des matières premières, des services et des investissements, de l'énergie, de l'équipement, des pièces de rechange et des moyens de transports;
- b) octroi de crédits bancaires;
- c) introduction d'un système d'imposition qui favoriserait la promotion des activités coopératives;
- d) octroi de terres pour utilisation ou en propriété en vue de la construction d'installations à vocation économique et sociale;
- e) vente ou location de bâtiments ou de locaux qui appartiennent à l'Etat;
- f) autres mesures visant à promouvoir les activités des coopératives de consommation et de crédit.

CHAPITRE VIDispositions finales

Article 19 : Les dispositions du Décret No 230/1974 ne s'appliquent pas aux organisations et entreprises de la coopération de consommation et de crédit.

Article 20 : L'entrée en vigueur du présent Décret-Loi abroge ce qui suit :

- Loi No 6/1970 sur l'organisation et les activités de la coopération de consommation,
- Articles 7, 9 et 29 concernant les activités de la coopération de consommation de la Loi No 3/1972 portant sur le commerce extérieur,
- Dispositions du Décret No 160/1976 sur l'organisation et l'activité du conseil central ainsi que des conseils de district, municipalités, des villes et des villages en ce qui concerne la coordination des activités des organisations coopératives,
- Dispositions de l'article 2 du Décret No 401/1076 sur la structure organisationnelle de l'Union centrale des coopératives artisanales et de l'Union centrale des coopératives de consommation,
- Décret No 18/1977 sur certaines mesures affectant les entreprises du système de l'Union Centrale des coopératives de consommation,
- Dispositions de l'article 4 sur la coopération de consommation du Décret No 280/1977 sur certaines mesures visant à perfectionner l'organisation du commerce (mot illisible),
- Autres dispositions en contradiction avec le présent Décret-Loi.

Président du Conseil du
Front de Salut National
Ion Iliescu

Bucarest, 8 février 1990
No 67

USSR

N.B. : CENTROSOYUS has requested and received in May 1988 and in January 1989 the advisory services of the International Labour Office, Co-operative Branch for the finalisation of the Draft Law of 1988 and the by-laws of consumer co-operatives.

RESOLUTION OF THE USSR SUPREME SOVIET ON THE PROCEDURE FOR PUTTING INTO EFFECT THE LAW ON COOPERATIVES IN THE USSR

In connection with the passage of the Law on Cooperatives in the USSR, the Supreme Soviet of the Union of Soviet Socialist Republics hereby resolves:

1. To put into effect the Law on Cooperatives in the USSR from July 1, 1988.

The procedure for insurance of collective farm property, prices for produce of collective farms and other agricultural cooperatives, payment of rent for the use of natural resources by cooperatives envisaged in Paragraph 3 of Article 22 and in Paragraph 4 of Article 34 of the Law on Cooperatives in the USSR, respectively, shall take effect from January 1, 1991.

The USSR Council of Ministers, in drafting a new Law on a pension scheme for the working people, shall provide for putting into effect on a priority basis the terms for pensions to members of collective farms and for registering the time of their work on the collective farm as length of service for granting state pensions and allowances under the state social insurance scheme, as fixed in Paragraph 5 of Article 25 to the Law on Cooperatives in the USSR.

The procedure and schedule for levying progressive taxes on the incomes of persons working in cooperatives shall be established by statutory acts of the USSR.

Terms for the emission and distribution of shares and other securities of cooperatives shall be fixed in keeping with the procedure defined by the USSR Council of Ministers.

2. Until legislation of the USSR and the constituent

republics is brought into line with the Law on Cooperatives in the USSR, statutory acts of the USSR and the constituent republics now in effect shall be applied inasmuch as they do not contradict the Law in question.

3. To direct the Presidium of the USSR Supreme Soviet to bring the relevant statutory acts of the USSR and the constituent republics into line with the Law on Cooperatives in the USSR before January 1, 1989.

4. Before January 1, 1989, the USSR Council of Ministers shall:

bring the relevant resolutions of the USSR Government into line with the Law on Cooperatives in the USSR;

ensure a review and repeal by the USSR ministries, state committees and departments of legislative instruments and instructions by them which are at variance with this Law.

5. To direct the Supreme Soviets of the constituent republics to bring legislation of the constituent republics into line with the Law on Cooperatives in the USSR.

A. GROMYKO,
Chairman of the Presidium
of the USSR Supreme Soviet

T. MENTESHASHVILI,
Secretary of the Presidium
of the USSR Supreme Soviet

The Kremlin, Moscow, May 26, 1988

THE LAW OF THE UNION OF SOVIET SOCIALIST REPUBLICS ON COOPERATIVES IN THE USSR

This Law, in accordance with the Constitution of the USSR, stipulates the economic, social, organisational and legal terms of operation of cooperatives on the basis of Lenin's ideas on cooperatives further developed to be applied to the current stage in the building of socialism in the USSR.

The Law is designed to reveal the vast potential of cooperatives and their growing role in accelerating the country's social and economic development. It aims to speed up the democratisation of economic life, to impart fresh impetus to the collective farm movement and to create the conditions for involving broad segments of the population in cooperatives. The Law requires all-round utilisation of the cooperative forms for meeting the growing demand of the national economy and the population for food products, consumer goods, housing, services and various industrial and technical products. The Law lays down the basic principles for the development of cooperative democracy, governs the relations between the state and coope-

ratives, guarantees the cooperatives a free choice of forms of economic activity, opens up broad opportunities for initiative and self-management, and raises the responsibility of cooperative members for the results of their work.

The Law guarantees all citizens the right to join and withdraw from the cooperative on a voluntary basis, and participate in the management of all its affairs. It guarantees collective self-management and independence of the cooperative in the decision-making involved in accomplishing its statutory tasks. It guarantees social justice and social equality in the right to work, to personal incomes commensurate to the quantity and quality of one's efforts, and to social security.

The Law on Cooperatives in the USSR is geared to ensure equitable collaboration of the state and collective farm or cooperative sectors of the socialist economy and contributes to further development of the political and economic systems in the USSR.

I. SOCIALIST COOPERATIVES AND THEIR PLACE IN THE COUNTRY'S ECONOMY

Article 1. Cooperatives in the System of Socialist Public Relations

1. Socialist cooperatives are an ever developing, progressive form of socially useful activity. They provide the population with broad opportunities for using its energy and knowledge in productive work in accordance with talent, inclinations and abilities, for receiving incomes in proportion to the quantity and quality of work and to the contribution to the cooperatives' end results, and for meeting the requirements of cooperative members.

2. Under the Soviet political and economic systems with the leading role of the state (popular) form of ownership, all-round development of the cooperative form of ownership is conducive to fuller utilisation of the potentialities and advantages of socialism, the growth of social wealth, the saturation of the market with quality goods and services, reduction in prices, and to an ever fuller satisfaction of the Soviet people's material and intellectual requirements.

3. Proceeding from the great importance of cooperatives for the economic and social development of society, for the rational use of material and labour resources and for the expansion of democracy, the state gives its undivided support to the cooperative move-

ment, contributes to its expansion, and guarantees the rights and the legitimate interests of the cooperatives and their members.

4. Cooperative enterprises (organisations), hereafter referred to as "cooperatives", alongside state enterprises (associations), are a basic component of the integrated national economic system. Work in cooperatives is important and prestigious and is encouraged in every possible way by the state.

5. Cooperatives in the USSR offer real opportunities to and create material incentives for their members for higher performance on the basis of independent development and fulfilment by cooperatives of their plans for production, distribution and sales of goods and services and other forms of activity, as well as in the improvement of the social environment for cooperative performance.

The work of the cooperatives, and their high production efficiency and pay system are designed to stimulate economic rivalry and competition on the goods and services market both among the cooperatives and between the cooperatives and state enterprises and organisations, and to promote more effective economic management.

Article 2. Legislation on Cooperatives

The establishment and activities of cooperatives shall be regulated by this Law and by other legislative acts of the USSR and constituent republics to be issued in accordance with this Law.

Article 3. The Cooperative System and Types of Cooperative

1. Consistent promotion of the cooperative movement in the country is turning the cooperatives into a dense network closely linked with the state sector of the economy and with self-employed activities.

Cooperatives may be formed and operate in agriculture where their predominant form is the collective farm, in industry, construction, transport, trade, catering, paid services and other manufacturing, cultural and social areas.

Cooperatives are free to engage in any activities except those prohibited by the laws of the USSR and constituent republics.

2. The two principal types in the socialist cooperative system are producer and consumer cooperatives.

Producer cooperatives manufacture goods, carry out work and provide paid services for enterprises, organisations, agencies and individuals.

They are formed to engage in the manufacture, purchasing, processing and sale of farm produce, industrial and technical items and consumer goods, for the collection and processing of reusable and commercial wastes, the repair and maintenance of machines and equipment, industrial, road and housing construction, retail trade and catering, utility and cultural services, medical aid, legal, transportation, forwarding, research, design, contractor, sports and physical fitness services as well as for fishing, fishery and fish processing, logging, mining of minerals and other natural resources, and other economic activities.

Such cooperatives are based on the personal participation of all their members in the work.

Consumer cooperatives meet the demand of their members and other citizens for trade and utility services and the demand of cooperative members for housing, out-of-town cottages and gardening plots, garages and parking lots for motor vehicles, and social, cultural and other services. Alongside these functions, consumer cooperatives may carry out various production functions and thus operate as cooperatives of a mixed type.

Article 4. The Main Goals of Cooperatives

1. The primary task in the work of cooperatives is satisfaction of the economy's and the population's demand for food products, consumer goods, housing, industrial and technical items, quality services, promotion of the workplace and social activity of the cooperative members, and improvement of their material well-being, cultural standard and occupational skills.

To accomplish these tasks, cooperatives are developing production and raising its efficiency, improving the quality of their products and services, enhancing performance, making maximum use of local materials in production, and developing and introducing waste-free and resource-saving technologies.

2. Cooperatives raise the rate of employment in socially useful work, involve additional labour in the production of goods and services and create conditions for the participation of individuals who are not cooperative members in cooperatives on a contract basis in their time off their basic job.

3. Cooperatives, which operate on the principles of self-financing, derive incomes that ensure a higher living standard for cooperative members and their families resolve social problems, create favourable op-

portunities for highly productive work, ensure protection of the property interests and social rights of their members, and participate in the formation of the state budget. 2'

II. COOPERATIVE: THE PRIMARY COMPONENT OF THE COOPERATIVE SYSTEM IN THE USSR

Article 5. The Socialist Cooperative

1. A cooperative is a public organisation of Soviet citizens who have voluntarily united by way of membership for the joint conduct of economic and other activities on the basis of their own or hired property, or property leased or given free of charge, independence, self-management, self-financing and material interest of the cooperative members, and the fullest possible combination of their interests with those of the group and society.

2. The cooperative as the primary component in the cooperative system in the USSR is to take an active part in the economic and social development of the country and in the attainment of the uppermost goal of social production under socialism, which is the fullest possible satisfaction of the population's growing material and intellectual requirements.

3. To carry out the tasks and exercise the powers stipulated by this Law, the cooperative has the right to pass any decisions as long as they do not run counter to the existing legislation and the cooperative's Rules. Cooperatives have a legal personality, enjoying the rights and bearing the responsibilities associated with their activity, and have their own independent budget.

4. Within the framework of the cooperative, various structural units (including territorially isolated ones) can be formed: divisions, farms, workshops, services, shops and so on, operating mostly on the team, family and individual contract basis, with property leasing included. The cooperative has the right to open its branches and agencies.

Article 6. The Work Group of a Cooperative

1. The members of a cooperative who contribute personal labour to its operations and the persons working with the cooperative on a contract basis make up the work group of the cooperative.

2. The cooperative forms a work group capable of achieving high end results in conditions of full budget autonomy and self-financing, takes proper measures to raise the work skills of the cooperative members and other persons working for the cooperative, and allocates the work among them with regard for their skills and for the economic interests of the cooperative.

3. The Party organisation of the cooperative, as the political nucleus of the work group, functions within the framework of the USSR Constitution, promotes production initiative and social activity of the work group members, political awareness, co-owner attitudes and responsibility for the end results of the cooperative's activities.

4. Social and economic decisions pertaining to the cooperative's activity are to be worked out and adopted by its governing bodies with the participation of the work group and of the Party, trade union, Kom-

somol and other public organisations according to their Rules and legislation.

Article 7. The Property of the Cooperative

1. The property of the cooperative includes its means of production and other assets it needs to fulfil its statutory obligations. The cooperative may own buildings, structures, machines, equipment, vehicles, productive and draft livestock, end products, commodities, finances and other property meeting its purposes.

2. The property of the cooperative is made up of the monetary and material contributions of its members, end products, proceeds from sales and other activities, proceeds from the sales of shares and other cooperative securities, and bank loans. The property of the cooperative may be formed with the participation, by way of monetary and material contributions on a contractual basis, of state, cooperative and other public enterprises (organisations) and also individuals who are not members of the cooperative but work for it under contract.

3. The property of the cooperative includes the property of the enterprises and organisations it integrates, and also the property of intersectoral enterprises and organisations in proportion to its participatory interest.

The property of associations incorporating cooperatives and other public and state enterprises and organisations is the common property of the state, the cooperatives and other public organisations.

The property of the unions (associations) which comprise cooperatives only belongs to these cooperatives as common property or to the union (association).

4. The cooperative as a full owner of the property which belongs to it by title and of the property at its disposal must augment, effectively use and protect that property. No one has the right to use cooperative property for extracting illegal profits or for other selfish ends.

Article 8. Legal Protection of Cooperative Property

1. Cooperative property as a form of socialist property is inviolable and enjoys state protection. It is protected by law on a par with state property. Cooperative property can be confiscated only by a ruling of court or arbitrage as per their competences.

2. The right to manage the property belongs to the cooperative alone. The use of cooperative property for purposes unrelated to its statutory tasks is prohibited.

3. The cooperative has the right:

to sell or give to other enterprises, organisations, agencies and individuals, exchange, lease out, lend and hand over free of charge for temporary use buildings, structures, equipment, transport facilities, implements, raw materials and other assets as well as write off its balance sheet fixed assets if they are worn-out or obsolescent; and

to hand over on a contractual basis material and financial resources to other enterprises, organisations and individuals manufacturing products or performing services for the cooperative.

4. The cooperative bears independent liability with all its property, including fixed assets. The state is not

liable for the cooperative's commitments. The cooperative is not liable for the commitments of the state or of its own members. Members of the cooperative are not liable for its debts with the exception of the cases specially stipulated by this Law and other legislation of the USSR and constituent republics or by the cooperative's Rules.

Article 9. The Use by the Cooperative of Natural Resources and Property Which Does Not Belong to It by Title

1. The cooperative shall use land and other natural resources as prescribed by the legislation of the USSR and of the constituent republics. The cooperative bears responsibility for fulfilling the requirements and carrying out the measures to ensure rational use and protection of the land, water, mineral, forest and other natural resources placed at its disposal.

2. The cooperative shall ensure effective utilisation of the land, show constant concern for higher soil fertility, use that land sparingly for what it was allotted, protect the environment from pollution and other hazardous influences and organise production on the basis of low-waste and waste-free technologies.

The cooperative shall, with its own and borrowed funds, apply conservation measures that will compensate for the negative effects of production on nature. In individual cases such measures may be financed from central sources.

The cooperative is obliged to indemnify for work done by it in violation of nature conservation legislation.

The operation of a cooperative grossly violating the approved environmental management regime can be suspended as envisaged by the legislation of the USSR and of the constituent republics until the said violations have been redressed.

3. To fulfil its statutory tasks, the cooperative has the right to use, on a contractual basis, the property placed at its disposal by state, cooperative and other public enterprises, organisations, agencies and individuals. With the consent of the enterprises, organisations, agencies and individuals that have put their property at the cooperative's disposal, the cooperative may purchase buildings, premises, equipment and other property which is described as fixed assets.

Article 10. Operating Principles of the Cooperative

1. The cooperative builds its activity on the principles of voluntary joining in and unobstructed withdrawal from the cooperative, a combination of private, group and state interests, economic independence, material incentives and social justice, and direct participation by the cooperative members in the management of its affairs on the basis of cooperative democracy and socialist laws.

2. Interference in the cooperative's economic and other activities by state and cooperative bodies (unions and associations of cooperatives) is not allowed.

In the event of a body of state administration or a cooperative body issuing an act outside its frame of reference or one violating legislative requirements, the cooperative has the right to ask the court or a state arbitration agency to declare such an act null and void partially or completely.

Damages caused to the cooperative as a result of the fulfilment of the instructions of state and cooperative bodies which have violated the cooperative's rights, or as a result of inadequate fulfilment by cooperative bodies of their responsibilities towards the cooperative, shall be repaid by these bodies. Disputes over the repayment of damages shall be resolved by the courts or state arbitration.

3. To make more effective use of the production potential, and to expand production and sale of goods and services, cooperatives may, on a voluntary basis, pool part of their funds with the funds of state, cooperative or other public enterprises and organisations.

Cooperatives have the right to participate:

in joint work associated with modernisation and retooling of enterprises and facilities, acceleration of scientific and technological progress, improvement of product quality, expansion of consumer goods production and development of consumer services;

in the establishment of intersectoral facilities, repair, construction, trade and other enterprises and organisations;

in the construction and management of agricultural projects, housing and other production, social and cultural facilities as well as in road construction, and

in the training of specialists and in the establishment of production training facilities.

To handle these and other joint activities, cooperatives shall sign contracts providing for the settlement of questions associated with the organisation and operation of joint enterprises and organisations.

Soviets of People's Deputies and other state authorities shall assist cooperatives in developing joint enterprises and organisations and in exercising the rights granted them in this field.

Article 11. Establishment of a Cooperative and its Rules

1. A cooperative is organised at the wish of individuals and exclusively on a voluntary basis. The establishment of a cooperative does not require any special permit from government, economic or other authorities.

A cooperative is regarded as formed from the moment of the registration of its Rules which are the principal document regulating its activities. The Rules are adopted by a general meeting of people wishing to form a cooperative. Any cooperative must have at least three members.

Cooperatives are formed and operate both as independent entities and at state, cooperative or other public enterprises, organisations and offices.

2. The cooperative's Rules shall be registered at the executive committee of the rural district, city or urban district Soviet of People's Deputies on whose territory the cooperative is located.

If the cooperative is formed at an enterprise, organisation or office, its Rules can only be registered with the consent of that enterprise, organisation or office.

3. In cases where the cooperative needs a plot of land or other natural resources for its operation, its Rules can only be registered with the consent of the appropriate government agency or primary user.

4. The cooperative's Rules shall be considered by the executive committee of the corresponding Soviet of People's Deputies within a month of its presentation for registration.

2.
If the executive committee fails to register the statute within the stipulated period of one month, the cooperative has the right to lodge a complaint with the executive body of a superior Soviet of People's Deputies, the Council of Ministers of an autonomous republic, or the Council of Ministers of a constituent republic which has no regional subdivision.

The complaint must be considered by these authorities within 15 days.

The executive committee of the rural district, city or urban district Soviet of People's Deputies has the right to deny registration of the cooperative's Rules only if they run counter to existing legislation.

5. The cooperative's Rules specify: the name of the cooperative, its location, the object and purpose of its activities, the procedure of joining and withdrawing from the cooperative, the rights and responsibilities of the cooperative members, its managing and supervisory bodies and the scope of their authority, the procedure for the formation of cooperative property and income (profit) distribution, provisions and procedure for the dismissal of cooperative members, and conditions for the reorganisation and closure of the cooperative. The Rules may include other provisions associated with the specific character of the given cooperative if they do not run counter to the existing legislation.

6. Amendments and additions made to the Rules by a decision of the general meeting of the cooperative members must be registered following the procedure and within the term stipulated by this article.

7. Refusal to register the cooperative's Rules, or amendments and additions thereto, can be appealed at the executive committee of a higher-ranking Soviet of People's Deputies, the Council of Ministers of an autonomous republic, the Council of Ministers of a constituent republic, which has no regional subdivision, or in a court.

Complaints against refusal to register the cooperative Rules shall be considered by the above-mentioned bodies within a month.

Article 12. Membership in the Cooperative

1. Any person aged 16 or older, unless stipulated otherwise by the legislation of the USSR or constituent republics, who is desirous and capable of participating in the accomplishment of the tasks and goals of the cooperative, may be a member.

In cases stipulated by this Law and by the cooperative's Rules, other cooperatives, and state and public enterprises and organisations may be collective members, too. The relations between the cooperatives and their collective members are based on contracts.

2. A person may simultaneously be a member of a producer and of a consumer cooperative. A member of a producer cooperative which is his main place of work may, in his spare time, participate in the work of another producer cooperative, provided he is a member of the latter. Persons working at a state, cooperative or any other public enterprise, organisation or office may be members of only one producer cooperative and participate in its work in their spare time.

A person may be a member of several consumer cooperatives of different types, but may not be a member of two or more consumer cooperatives of the same type, unless stipulated otherwise by the legislation.

No consent is required from the management (managing body) at the place of work to join a cooperative or work in it on a contract basis.

3. Disputes over cases arising from membership relations shall be resolved by the cooperative bodies following the procedure specified by its Rules; and in the cases stipulated by the legislation of the USSR or constituent republics, by a court.

4. A member of a cooperative can be expelled from his cooperative by decision of a general meeting in the cases envisaged by its Rules.

Expulsion from cooperative membership can be appealed in court.

5. Persons who are prohibited by a court from engaging in specific activities or occupying specific posts may not be members of cooperatives of the corresponding types, take part in their work on a contract basis or occupy the corresponding positions in such cooperatives.

Persons with a criminal record for embezzlement, bribery and other such offences cannot be elected chairman or board member, chairman or member of the auditing commission (auditor), or occupy other managerial positions or posts associated with material responsibility in a cooperative.

Article 13. Rights and Responsibilities of Cooperative Members

1. Members of cooperatives of all types have the right to:

participate in the work of the cooperative and in the management of its affairs, elect and be elected to the managing and supervisory bodies of the cooperative, make proposals on improving the performance of the cooperative and on removing shortcomings in the work of its bodies and managerial staff;

receive a share of the income (profit) subject to distribution among the cooperative members in proportion to their labour contribution and, in the cases envisaged by the Rules, in proportion to the property contribution to the cooperative;

use the property of the cooperative and the benefits and advantages envisaged for the members of the cooperative, and

receive information from the cooperative managerial staff on any issue related to the cooperative's performance.

In addition to this, members of producer cooperatives have the right:

to work in the cooperative, including the right to choose a job and occupation to match one's inclinations, abilities, vocational training and education, and the cooperative's requirements;

to leisure, including days off and paid annual vacations of a duration not shorter than that established for the corresponding categories of industrial and office workers;

to social insurance and social security, and

to cultural and everyday services and satisfaction of other requirements following the procedure established by the general meeting of the cooperative members.

2. Members of cooperatives of all types must:

honour the cooperative Rules and abide by the decisions of the general meeting and elective management and supervisory bodies of the cooperative;

fulfil their duties associated with labour or property inputs in the cooperative's work;

take an active part in managing the cooperative's affairs, and

save and augment state and cooperative property and prevent a careless and wasteful attitude to common assets.

In addition, members of producer cooperatives must:

use advanced forms and methods of work in the cooperative and bear responsibility for the results of their work, observe production and labour discipline and the rules of labour protection and safety engineering, and upgrade their occupational skills, and

make rational use of and save the natural resources put at the cooperative's disposal.

3. Cooperative members also have other rights and responsibilities envisaged by the Rules of their cooperative.

Article 14. Management of a Cooperative

1. A cooperative shall be managed on the basis of socialist self-management, broad democracy, openness and active participation of all its members in settling all questions of the cooperative's activity.

2. The supreme body of cooperative management is the general meeting which elects a chairman, and in large cooperatives a board as well, to handle current business. Each member of the cooperative, including collective members, shall have but one vote irrespective of his property input.

Persons working in the cooperative under contract shall participate in the general meeting on a non-voting basis.

3. The general meeting shall:

adopt the cooperative's Rules and make amendments and additions to those Rules;

elect the chairman, the board and the auditing commission (auditor) of the cooperative, and hear reports on their performance;

tackle questions relating to the admission of new members to the cooperative, voluntary withdrawals and expulsions from the cooperative;

adopt and amend the organisational rules of the cooperative, pay regulations; material liability for the damage done to cooperative property and other internal regulations of the cooperative;

decide the size of the statutory membership fees and price of shares;

approve the cooperative's work plans and reports on the fulfilment of those plans;

decide the procedure for the distribution of revenues (profits), the forms, size and areas for the use of the cooperative funds and reserves, and examine pricing issues, and

address itself to questions of the reorganisation and termination of the cooperative's activities, of its joining and withdrawing from unions (associations).

Decision-making on these issues is the prerogative of the cooperative's general meeting. In accordance with the cooperative's Rules or by decision of a general meeting, other questions of organisational, economic and public activities at the cooperative may be included within the powers of general meetings.

In large cooperatives, a meeting of representatives may be convened to decide on questions within the competence of a general meeting.

4. The cooperative board (the chairman of a cooperative having no board) runs the cooperative's current affairs and decides on matters that are not included in the exclusive prerogative of the general meeting (meeting of representatives). The cooperative chairman is the chairman of its board.

The cooperative's chairman ensures the fulfilment of the decisions of the general meeting (or meeting of representatives) and of the board, represents the cooperative in its contacts with state bodies, enterprises, organisations and offices, as well as with other cooperatives, signs contracts and performs other actions.

An auditing commission (auditor) checks on the board's financial and economic activities.

Article 15. Termination of Cooperative Activities

1. Reorganisation (merger, takeover, separation, or restructuring) or the termination of the activities (liquidation) of the cooperative shall be effected by decision of a general meeting.

2. Activities of a cooperative may also be terminated by decision of the executive committee of the Soviet of People's Deputies if the cooperative is unprofitable and insolvent or in cases where the cooperative, in spite of a warning made, has repeatedly or grossly violated the legislation. The decision to cease the activities of a cooperative can be appealed within three months at the executive committee of a higher-ranking Soviet of People's Deputies, the Council of Ministers of an autonomous republic, the Council of Ministers of a constituent republic which has no regional subdivision, or in court.

3. The property remaining after the liquidation of a cooperative shall be used in the way established in civil legislation, unless otherwise stipulated by this Law.

Article 16. Unions [Associations] of Cooperatives

1. Cooperatives may, in a strictly voluntary manner, form unions (associations) on the basis of common specialisation and territorial unions (associations) in districts, regions (territories), autonomous and constituent republics and the whole country.

2. Unions (associations) of cooperatives shall:

foster cooperative democracy, collective discussion of the most important issues concerning the cooperatives' activity, generalise experience and elaborate recommendations on the fullest possible use of the available reserves and opportunities, and popularise the cooperative movement;

promote improved production specialisation, coordination of the cooperatives' activities, organisation of cooperative links and material and technical supply, processing, storage and sale of products;

study the condition and prospects for the expansion of the market for goods and services in which the cooperatives specialise;

protect the rights of the cooperatives and render them legal assistance, represent their interests in the appropriate state and other bodies and also in international organisations, and

render the necessary assistance to cooperatives in streamlining production, introducing the latest breakthroughs in science and technology, advertising their

products and services, and training and upgrading the skills of their workforce.

By decision of congresses and meetings of delegates (representatives) of cooperatives, unions (associations) of cooperatives may be vested with centralised fulfilment of individual production or economic functions.

3. Unions (associations) of cooperatives shall be formed at congresses and meetings of delegates (representatives) of the cooperatives, whose frequency shall be decided by the same congresses and meetings.

Unions (associations) of cooperatives shall operate on the basis of Rules adopted by congresses and meetings of delegates (representatives) of the cooperatives. The Rules of the unions (associations) shall not be registered with state authorities. A union (association) is considered formed and approved as a legal personality from the moment of the adoption of its Rules.

Congresses and meetings of delegates (representatives) of the cooperatives can adopt model Rules of the cooperatives.

Unions (associations) may possess property needed for the accomplishment of their statutory tasks and for the conduct of other activities.

The expenses involved in maintaining the unions (associations) and their managing bodies shall be covered by deductions from the incomes of the respective cooperatives and also by revenues from the economic activity of these unions (associations).

III. ECONOMIC PRINCIPLES OF COOPERATIVE MANAGEMENT

Article 17. Principles of Cooperative Operations

1. Soviet cooperatives rely on the principles of socialist economic management and self-financing and wide application of commodity-money relations. The cooperative mode of generation and distribution of products and incomes accounts for the cooperative sector's specifics in planning, pricing, labour remuneration, relations with the state budget authorities and banks, and in material and technical supply.

2. The producer cooperative is an economically autonomous collective socialist producer. Geared to management accounting and self-financing, the producer cooperative determines areas of its operations and the volume and pattern of output, plans and organises production, and sells its goods and services.

The consumer cooperative has full economic autonomy and covers expenses with its members' contributions and incomes from its operations.

3. The cooperative's economic and production relationships with state, cooperative and other public enterprises and organisations and private consumers of its goods and services, and material and technology suppliers, and all its operations shall develop solely on a contract basis. The contract shall be the only legal and economic regulator of the cooperative's economic and production links listed above.

Honouring contracts and consumer interests is the major requirement to be met by the cooperative and the principal measure of its quality and efficiency record. The cooperative that fails to abide by its obli-

gations under contract shall be liable with its property for the damage done to the consumer. State-operated, cooperative or other public enterprises, organisations or individuals failing to meet their contractual obligations to a cooperative, shall be held materially liable for such a failure according to the established procedure and shall redeem the damage done to the cooperative.

Concluding contracts, including the choice of partners, is the prerogative of the cooperative and the corresponding enterprises, organisations and private persons. Government and cooperative management bodies or officials may not interfere with the establishment and exercise of contractual relations between the cooperative and its other enterprises, organisations and individuals.

Article 18. Planning

1. The cooperative shall plan its own production, finances and social development. Plans (or expenditure and revenue estimates) shall be endorsed by the general meeting of the cooperative.

In drawing up plans (or expenditure and revenue estimates), the cooperative shall proceed from the demand for its goods or services and likely receipts necessary to finance production and social growth and labour remuneration. The cooperative shall be efficient with land, other natural resources and capacities, employ advanced technologies, promote the economy policies, emphasise local resources and recycles, reduce production and circulation costs and raise productivity.

In planning, the cooperative shall proceed from contracts with users of its goods and services and materials and technology suppliers.

2. The cooperative may voluntarily accept government orders, including offers by tender alongside state, cooperative or other publicly owned enterprises and organisations. To fulfil a government order, the cooperative shall sign contracts with consumers and materials and technology suppliers.

Cooperatives shall compete with state and other organisations for government orders, making for higher quality and lower costs and prices of products and services.

Cooperatives and their unions (associations) may participate in wholesale fairs and sign contracts with consumers and suppliers.

3. In planning, the cooperative shall use the following long-term normative standards fixed by the state: price bands for products manufactured and sold under contracts linked to government orders; tax rates; bank rates; rates of pay for natural resources and fines for environmental pollution; and rates of deductions to the state social insurance fund. Other normative values or initial planning data shall not be mandatory for cooperatives.

On natural resources and nature conservation, cooperatives shall have their plans endorsed by the executive committees of the local Soviets of People's Deputies.

4. To ensure integrated planning and coordination with other enterprises and organisations regionally or sectorally, the cooperative shall advise the corresponding administrative body, or its parent enterprise (organisation, office), of the projected production, sales of products (services), expenditures and incomes.

The cooperative may request assistance of the respective administrative bodies, enterprises and organisations in regulating its supply issues and relations with building and assembly subcontractors. In conjunction with cooperatives, administrative authorities shall generalise cooperatives' ideas and incorporate them into regional or sectoral plans.

5. To substantiate the plans in scientific terms and balance them against one another, central and local authorities in the republics, the ministries and departments, the Councils of Ministers of the constituent and autonomous republics and the executive committees of local Soviets of People's Deputies shall, at cooperatives' request, assist them in using normative acts on production engineering and work organisation, capital construction, economy of material and financial resources and other aspects of the cooperatives' activities.

Article 19. Prices and Pricing

1. The cooperative's prices or rates shall reflect socially necessary inputs, quality, demand and the utility characteristics of its goods and services. They shall accord with the interests of cooperatives, users and the national economy in general, and promote budget autonomy and self-financing.

2. The cooperative shall sell products and goods of its manufacture, perform work, and offer services at prices and rates to be established by it in agreement with consumers or on its own. Prices (rates) formed as a result of commercial deals between cooperatives and buyers of their goods (work and services) are called upon to bear on economic interests of the cooperatives, to promote the quality of products (work and services), to help improve the manufacturing techniques and organisation of production, and to reduce costs. Competition on the goods (works, services) market is called upon to reduce costs of products (work, services) and prices (rates) thereof.

3. Centrally fixed or, when state enterprises are authorised to do so, contract-based prices and rates shall apply to the goods and services the cooperative has produced under a government order or made of state-supplied materials. In the similar way, retail prices shall be fixed for goods allocated to cooperatives from state market resources for selling among the population, and also prices and extra charges for cooperative-sold goods bought in the state and cooperative retail distributive network.

On centralised wholesale prices, the cooperative may negotiate increments or discounts for extra operations to improve the utility characteristics of products, for optionals, delivery dates, etc.

4. State price (rate) controls shall extend to the goods and services the cooperative has produced under a government order or made of state-supplied materials or state commodity stocks sold via cooperatives, or the commodities cooperatives purchase in the retail network for merchandising. If the cooperative overcharges for its goods or services, the illicit income shall be withdrawn into the state budget. A cooperative that charges excessive prices (rates) shall also pay a fine into the budget equal to the illicit additional income. When a cooperative sets excessive prices (rates) for its goods (work, services), the client shall have the right to annul the contract concluded with the cooperative.

Article 20. Income and Income-Sharing

1. By socio-economic nature, cooperatives are self-supporting enterprises (organisations). Losses are incompatible in their operations.

The income of a cooperative consists of returns from the sale of goods (work or services). The cooperative covers its expenses from returns. The cooperative uses gross income to meet its obligations to the state budget and banks, expand production and finance social development and the wage bill.

Dividing the gross income for production and social growth and labour remuneration shall be the prerogative of the general meeting of the cooperative membership. The ratio between funds set aside for production growth and labour remuneration shall be economically substantiated.

The cooperative shall decide on the formation and utilisation of assets and reserves. Superior organisations (cooperative and state) shall not dictate normative standards of assets formation to the cooperative.

2. Payments to the centralised funds and reserves of cooperative unions (associations) shall be made at long-term stable rates. The rates of payment shall be determined by meetings of cooperative representatives in a democratic manner. They shall also decide on the utilisation of the centralised funds and reserves mentioned above.

Government and economic bodies may not interfere in the formation and utilisation of the centralised funds and reserves of cooperative unions (associations).

Article 21. Taxation of Cooperative Income

1. The cooperative participates in forming the state budget with taxes and other payments specified by law. Taxation stimulates the cooperative to choose promising areas of operations, the structure and production techniques and income generation modes, and ensures social justice in income sharing.

Depending on the specifics of their activities and objectives cooperatives shall be subject to graduated tax rates.

2. Taxes shall be levied on the income (profit) of the cooperative and the personal incomes of its members and employees, under contract.

Tax rates fixed, in most cases, for no less than five years shall apply to the income (profit) of the cooperative to encourage it to expand production.

Progressive tax rates shall apply to the personal incomes of the cooperative's members and employees to ensure an expedient ratio between funds earmarked for production and social growth and labour remuneration.

In cases when cooperatives sell their goods (work, services) at centrally fixed prices (rates), cooperative members and those employed there under contract shall be taxed according to rates existing for factory and office workers engaged at state enterprises (organisations).

To promote the output of goods (work, services) required by the population and the national economy and to reduce prices (rates) for them, the local Soviets of People's Deputies and other government bodies may introduce tax concessions on the incomes of cooperatives, their members and also those working

there under contract according to the procedures laid down in USSR legislation.

Any part of income (profit) which the cooperative donates to the Soviet Children Fund, the Soviet Peace Fund, the Soviet Culture Fund or other charities, shall be exempt from tax.

3. A cooperative which caters for its members and simultaneously produces goods and services bringing cash income shall have this income taxed under the procedure established for producer cooperatives.

4. To encourage local Soviets of People's Deputies to expand cooperative operations, create new jobs and improve the supply of consumer goods and services, the sum total of taxes levied on the cooperative and its members and employees shall go to the local budget for economic and social development of the respective area.

5. The cooperative shall conform to taxation rules and routines. Fraudulent concealment or understatement of assessable income shall be punished by exacting the concealed income of the cooperative to the state budget, the culprit being fined as indicated by USSR legislation.

In the event of repeated concealment or understatement of income, the corresponding fiscal body may ask the executive committee of the local Soviet of People's Deputies to consider closing the cooperative.

Article 22. Cooperatives' Finances

1. The cooperative shall strengthen its financial standing by promoting production, productivity and quality of goods and services, and reducing costs.

The cooperative's finances shall comprise product and service sales receipts, amortisation charges, payments by cooperatives towards their share of the capital and other contributions by the cooperative's individual and collective members and employees, loans and receipts from sales of securities (shares).

2. The cooperative shall use its finances, irrespective of their origin, for production and social development at its discretion.

To help the cooperative, the state may in some cases allocate funds from the budget for capital construction in the production sector and elsewhere, some of these funds being returnable.

3. To make for financial stability and compensate for the damage incurred by natural calamities or other contingencies, the cooperative may insure its property and property interests with the USSR state insurance bodies. Insurance is voluntary and shall be done by decision of the general meeting of the cooperative.

Cooperatives and their unions (associations) may set up cooperative insurance organisations and define insurance terms, types and procedures.

4. To use the money of their members and employees and other organisations for expansion, modernisation and output range extension, cooperatives and their unions may issue shares to cooperative members and employees and to enterprises (organisations).

Shares shall be issued in conformity with USSR legislation and guaranteed by the property of the issuers. The total value of shares shall not exceed, as a rule, the gross annual income of the issuer.

Cooperative members shall be given preference in share purchasing.

Issuers shall fix the face value of shares for the circulation period and the procedure of annual dividend payment.

Proceeding from the level of the cooperative's profitability and its plans, the general meeting may, together with shareholders, change the rate of annual dividend.

Permission to issue shares shall be given by the corresponding financial body, subject to the consent of a local office of the USSR State Bank which provides credit and settlement services for the cooperatives, following a check-up on the would-be issuer's solvency. If permission is refused, the financial body shall state its reasons to the applicant, who may appeal to higher financial authorities.

The state shall not be liable for the obligations the cooperative (union, association) has in connection with stock operations.

Article 23. Credit and Settlements

1. Credit shall help improve the financial status of the cooperative, stimulates progress and greater production of goods and services.

A new cooperative may have a starting credit on easy terms determined by a local bank office.

The cooperative may open bank accounts both where it and its branches and representations operate and sell their output. The cooperative shall be free to choose a bank for credit and settlement operations.

2. The bank shall extend a credit to the cooperative on the basis of agreement. The cooperative shall pay interest on the credit.

Bank offices shall keep the cooperative's funds on settlement and other accounts. Banks shall pay the cooperative interest for the use of its temporarily surplus funds on their accounts.

Banks shall handle cash settlements for the cooperative and help it organise money operations.

Money may be transferred from the accounts of the cooperative only by its own order or by decision of the court of arbitration or other court. The cooperative shall effect settlements, including payments to the state budget and wages, as they are presented on a calendar basis or mature.

The cooperative shall settle obligations to its corporate or private clients giro or in cash, the sum of payment not being subject to capping.

The cooperative shall be free to fix a ceiling on cash for current expenses constantly at hand.

3. The cooperative shall respect settlement practices. It shall be fully responsible for its credit agreements and settlement schedule. A cooperative which systematically fails to make settlements may be declared insolvent by the bank. Until the financial status of the cooperative has been normalised, payment priorities shall be established by the bank. Creditors (enterprises or organisations) may stop catering for cooperatives declared insolvent.

As an exception, the cooperative may receive credit against the guarantee of the parent enterprise or a higher cooperative organisation.

If the cooperative proves a loser or goes insolvent, the bank may ask the executive committee of the local Soviet of People's Deputies to consider liquidating the cooperative, with the property interests of its creditors being satisfied in the established order.

4. The cooperative may use its funds to credit other organisations, interest and other terms subject to agreement between the parties concerned.

5. Cooperative unions (associations) may establish self-supporting sectoral or territorial cooperative banks. Cooperatives belonging to a given union (association) join these banks on a voluntary basis.

The cooperative bank shall be a democratic credit centre providing funds for the growth of the cooperative, handle its cash and settlement operations and represent its interests in economic and fiscal bodies. In agreement with cooperatives or their union (association) issuing securities (shares), the bank may undertake to fulfil operations involved in stock selling and buying and dividend payment.

Cooperative banks shall use the cooperative's idle capital at the owner's consent. They may also attract funds from other enterprises (organisations) and private persons and take loans from other specialised Soviet banks.

The cooperative bank may participate, under contract, with its funds in the operations of a cooperative.

The cooperative bank shall register its statute with the USSR State Bank.

Cooperative unions (associations) may, with the consent of their members, set up settlement centres to give them loans and pay their obligations to the state budget, banks and other enterprises and organisations.

6. By decision of a general meeting, the cooperative may invest part of its idle funds in the bonds of the internal state lottery loan, bank certificates and other securities. Receipts from such operations shall go to the cooperative concerned.

Article 24. Social Development of Cooperatives

1. An active social policy shall be a cooperative's major concern. Matters of the cooperative's social development shall be decided by its general meeting. The cooperative shall improve working and living conditions, satisfy the interests and wants of its members, those employed under contract, and their families, and also render them all-round assistance in cooperative and private house building by issuing loans for this purpose. The cooperative shall show particular care for war and labour veterans.

2. The cooperative shall finance the building of housing, children's pre-school institutions and other social amenities out of its own funds, contribute to their construction on a shared basis, or it may lease or purchase such amenities.

3. The cooperative shall pursue its social policy in close touch with the local Soviet of People's Deputies, and a state body that manages the particular sector of the national economy to which the cooperative belongs by virtue of its activities.

Article 25. Labour and Pay

1. Working for the cooperative has the same social significance as working for the state and other sectors.

Labour relations among cooperative members shall be regulated by this Law and by cooperative Rules, and in the case of persons employed by cooperatives, under contract, by the labour legislation of the USSR and constituent republics, with due allowance made for the specifics introduced by this Law.

2. The cooperative shall use labour remuneration to boost productivity, quality, workplace discipline

and compliance with technological standards and routines.

The cooperative shall itself determine labour remuneration schemes for its members and employees. Labour remuneration may be in cash and in kind. Work organisation and pay plans shall, as a rule, be geared to a group, family or personal contract. Cooperative members' earnings shall be linked to their contribution to a common cause and the share of the cooperative's gross income used for labour remuneration.

The cooperative may contract labour, pay subject to mutual agreement.

Persons working in cooperatives in time free from their main occupation, shall not be subject to restriction on pluralism provided by the legislation.

Cooperative labour shall retain full pensions, scholarships or wages with the main employer not subject to caps. No wage ceiling shall be imposed on cooperative members and other employees.

3. The cooperative shall institute penalties for its personnel itself.

The chairman of the cooperative, members of the board and the auditing commission (auditor) may be summarily penalised, particularly relieved of office, only by decision of a general meeting, while other senior officials may be penalised by the cooperative board as well. State or higher cooperative bodies may not penalise the chairman and other senior officials of the cooperative.

Along with bonuses, the cooperative shall widely use moral incentives for high performance and diligence.

4. Working day duration and routine, regular and extra days-off, vacations and other conditions shall be subject to the internal regulations of the cooperative.

The cooperative shall look after workplace safety and industrial hygiene, proceeding from the regulations in force at the state enterprises and organisations of the corresponding sector of the national economy.

5. Cooperative members who contribute their labour to their cooperative's activities shall be subject to social insurance and social security on a par with the state sector workforce. Work for a cooperative is included into the service record.

Pregnant women who are members of the cooperative shall be entitled to easier work, their previous average wages preserved, and to maternity leaves as in the state sector. The cooperative may institute longer maternity leaves. Women with small children shall be given every opportunity to take proper care of them, and enjoy additional vacations and other benefits under law applicable to the state sector.

The cooperative shall introduce a shorter working day and other privileges for its members under 18 as set forth in the state sector legislation.

By decision of a general meeting, the cooperative may introduce extra social security arrangements using its incomes.

6. To implement its members' social insurance and social security rights, the cooperative shall contribute part of its income to the state social insurance fund as specified by the USSR Council of Ministers.

Article 26. Incentives to Scientific and Technological Innovation

1. The cooperative shall keep pace with technology to make its products and services competitive. It

shall have its output range regularly updated and keep it consumer-oriented. For this purpose, the cooperative shall emphasise new methods and machinery.

2. Along with public sector producers, the cooperative may use, under contract, research and development projects carried out by the Academy of Sciences and sectoral research institutes.

The state shall encourage the cooperatives to keep abreast of technology and combat administrative hindrances here.

State bodies shall examine the cooperatives' ideas as regards research and development programmes and help implement them on a cost-effective basis.

3. The cooperative may form, on its own or with others, teams to undertake research, development and implementation of projects on a contract basis.

4. Quality of its products (work services) shall be the gauge of the cooperative's performance and of its technology record. The cooperators shall focus on quality. To promote quality and competitiveness, cooperatives and their unions (associations) may arrange exhibitions and fairs, advertise their products (services) in the media, and publish advertising literature.

On quality, the cooperative shall comply with the relevant legislation of the USSR and constituent republics.

The cooperative shall comply with state standards and other acts protecting the interests of the state and consumers, especially those bearing on safety, health and environmental protection. Cooperative products shall have emblems and registered trademarks except when stipulated otherwise by the USSR legislation.

For the breaking-in period, involving heavy expenses, the cooperative may be granted tax privileges established by the USSR legislation.

Authorised state bodies shall see that the cooperative observes the quality legislation of the USSR and constituent republics.

Article 27. Cooperative Supplies

1. The cooperative shall buy materials, machinery etc., from state or cooperative wholesalers, on the farm market, and from individuals. It shall use materials supplied by its clients (individuals, enterprises and organisations) on a contractual basis, and shall also buy goods from state and cooperative retailers.

The executive committees of the local Soviets of People's Deputies may fix a list of food and other goods not subject for sale to cooperatives from the state and cooperative retail distributive network. In the event of a cooperative purchasing such commodities in the retail trading network and using them for manufacturing goods (services), all the receipts from their sales shall be withdrawn into the local budget.

The state shall promote development of a network of wholesale supply centres and specialised outlets to supply cooperatives with commodities at their request.

2. Government orders for foods (work, services) shall be backed by centrally allocated materials and machinery.

3. Whenever necessary, the cooperative shall organise the processing of local materials and minerals; the handling of recycles and industrial waste; subsidiary farming enterprises; manufacture and repairs of equipment and tools, and after-sale service.

4. The cooperative may buy, exchange, lease or loan production premises, plant, transport facilities, raw

materials, etc., from state or cooperative owners and individuals.

5. The cooperative, producing consumer goods or services, shall buy resources at upwards-adjusted wholesale prices, retail prices or contract prices.

The cooperative, manufacturing producer goods or services, shall buy resources at wholesale or contract prices.

Article 28. Cooperative Business Operations with Other Countries

1. Cooperatives and their unions (associations) shall promote external business operations to make for the nation's economic strength, its international prestige, foreign exchange stocks, faster technological advance and overall cooperative efficiency.

In external business operations, cooperatives and their unions (associations) shall be self-sufficient and self-financing as far as foreign exchange is concerned.

2. Producer cooperatives and their unions (associations) which are competitive internationally may be allowed to transact export and import business by themselves.

Cooperatives and their unions (associations) shall handle exports and imports via national foreign trade organisations under contract.

Cooperatives and their unions (associations) may engage in across-border trade.

3. To boost the interest of cooperatives and their unions (associations) in export and import operations and to promote their autonomy in this field, foreign exchange receipts, less payments to the state at rates introduced by the USSR Council of Ministers, shall be left at the disposal of cooperatives and may be amassed for use in the future.

Cooperatives and their unions (associations) may use foreign exchange to import commodities and services to develop production, trade and social amenities.

If exports and imports are the prerogative of a cooperative union (association), foreign exchange receipts, less payments to the state, are divided among its members in accordance with their contribution to a common cause. With the consent of the union (association) members, part of the foreign exchange earnings may go to the centralised fund of the union (association).

4. To promote technological advance and competitiveness, production cooperatives may establish joint enterprises, international associations and organisations with cooperatives in CMEA and other socialist countries and joint ventures with firms in capitalist and developing countries.

Cooperatives shall decide, together with foreign partners, on the specialisation of joint enterprises (organisations) and the volume and pattern of production, proceeding from demand, prices (rates) and other market factors. Joint enterprises (organisations) may be situated in this country or elsewhere.

Cooperatives and their unions (associations) shall collaborate in science, technology and production with partners in foreign countries, organise joint research and development projects and teams, exchange technical documentation, and promote personnel training.

5. Cooperatives and their unions (associations) may participate in the activities of international cooperative organisations, exhibitions and fairs to promote effective

collaboration with cooperative organisations in other countries.

6. Soviet banks may extend credits in Soviet rubles, transferable rubles or foreign exchange to cooperatives and their unions (associations) to be covered by foreign exchange receipts, imports or other means.

7. Cooperatives and their unions (associations) shall be responsible for their external economic performance and the use of foreign exchange in the interests of production. For a failure to discharge export, import or other contractual commitments, they shall be liable with all their assets, including foreign exchange. Also, they shall pay fines and other compensation in foreign exchange to foreign clients.

IV. THE STATE AND COOPERATIVES

Article 29. Relations Between State Bodies and Cooperatives

1. Citizens' constitutional right to unite in cooperatives is guaranteed by the USSR's political and economic systems, recognition of the cooperatives' ownership of the means of production and other statutory property, and state encouragement of cooperative property.

2. The state shall guarantee observance of the rights and legitimate interests of cooperatives and their members and accommodation of national and cooperative interests.

State bodies shall promote cooperatives' economic autonomy and efficiency, discouraging obstacles to cooperators' efforts and initiatives.

State guidance of cooperatives shall be effected in national interests by Soviets of People's Deputies and other state bodies in compliance with the present Law.

3. State bodies shall help establish cooperatives on the basis of small or medium-sized manufacturing, agricultural, building and other enterprises (organisations) closed through losses, insolvency, absence of demand or for other reasons listed in Article 23 of the Law on a State Enterprise (Association). They may sell, transfer or lease property of the losers to operating or projected cooperatives on a contractual basis.

4. The state shall use the media and other methods to foster the most favourable ideological attitudes to cooperators who help with economic advance, particularly with satisfying consumer demand.

Article 30. Soviets and Cooperatives

1. Soviets of People's Deputies and other state bodies shall stimulate cooperatives' involvement in national economic, intersectoral, sectoral and regional development with the aid of government orders backed by capital investment and allocation of centrally distributed resources.

2. Soviets of People's Deputies and other state bodies shall assist cooperatives in every way. In particular, the cooperative shall have, in free use or on lease, land, premises and plant; assistance with machinery and methods, product advertising, and production (work, services) planning; and various privileges and benefits.

3. Soviets and other state bodies shall provide would-be cooperators with information about the specifics of current regional demand.

4. Soviets and other state bodies shall use their competence to see that cooperatives comply with regulations on industrial safety and hygiene, fire safety, animal and plant disease control, protection of natural resources and the environment, payments to the budget and other fiscal procedures, accounting and reporting.

5. Soviets and other state bodies shall help cooperatives with social development, particularly with building health care facilities, holiday centres, children's camps and pre-school institutions and residential homes for elderly citizens and invalids. For this end, they shall provide cooperatives with land and centrally allocated resources.

Article 31. Cooperative Training Schemes

1. Cooperatives may use training and retraining facilities on a par with state sector organisations.

2. State educational establishments shall, under contract, train, refrain and upgrade personnel required by cooperatives.

3. The state shall organise at cooperatives' expense the advanced training of their personnel at research centres run by USSR ministries and departments, the USSR Academy of Sciences and sectoral academies and higher educational establishments.

4. Cooperatives may organise, under contract with sectoral institutes, the further training of their personnel, in the first place in areas using the latest breakthroughs in science and technology. They may also send their personnel for practical studies or training abroad to familiarise themselves with the experience and activities of cooperatives in other countries.

Cooperatives shall finance these training schemes out of their own funds.

5. The state shall help cooperatives and their unions (associations) in developing the network of their institutes, specialised secondary and vocational schools, and research and development centres.

Article 32. Accounting, Reporting and Inspection

1. For the purposes of analysing production development, streamlining management, and preventing likely disproportions in the fulfilment of its production programme, the cooperative shall register its performance and prepare accounting and statistical reports as indicated by the state, and be responsible for their authenticity. The income declaration shall be a legal document adequately reflecting the incomes of the cooperative and its members and employees.

Reports other than those instituted by the state shall be prohibited.

2. The cooperative shall ensure the rational use of materials, labour and money, prevent mismanagement and squandering, report thefts and illegal practices to the public prosecutor's office and Interior Ministry bodies, and enhance the responsibility of its accounting and other services for compliance with the law, contracts and fiscal regulations.

3. The cooperative which receives credits shall submit the required accounting and statistical reports to a bank office.

In the event of production and income reports being doubtful or neglected, the bank may suspend credit and cash and settlement operations with the cooperative.

4. The revision of a cooperative's record of performance and finances shall be carried out by its auditing commission (auditor) or the respective union (association) of cooperatives, as well as by financial institutions and other state bodies in accordance with their supervisory functions under the legislation in force. Neither revisions nor inspection may disrupt the normal operation of a cooperative.

5. Financial bodies shall assess the records, the taxable incomes of a cooperative, and monitor the proper taxation of the incomes of its members in accordance with the income declaration submitted.

V. SPECIFICS OF INDIVIDUAL TYPES OF COOPERATIVE

COLLECTIVE FARMS AND OTHER AGRICULTURAL COOPERATIVES

Article 33. Collective Farms and Other Agricultural Cooperatives Within the Agro-Industrial Complex

1. Collective farm as the dominant form of agricultural producer cooperative shall enjoy all the rights provided for by the present Law and, shall have specifics following from the specifics of agricultural production and organisation of the management of the agro-industrial complex.

2. The collective farm, as an independent collective producer, shall work together, under contract, with other enterprises (organisations) of the agro-industrial complex and be integrated with them in production and economics.

The collective farm shall be expected, by making rational use of the land assigned to it and other natural resources, to build up high-quality crop and livestock production to meet the population's demand for foodstuffs and that of industry for agricultural primary products.

3. To make fuller use of land, productive assets, labour and financial resources, and enhance incomes, the collective farm along with agricultural production may engage, without restriction, in other lawful activities: processing agricultural primary products, producing food and consumer goods, making producer goods, conducting trade, repair and construction work, and provision of services to enterprises, organisations and the population.

The state shall assist the collective farms in promoting various activities both on their territory and beyond.

4. To make more rational use of farmland, productive assets and manpower, and enhance the economic interest of collective farmers and other farm workers in higher productivity and profitability, collective farms and other agricultural enterprises shall allow detached self-supporting groups, with their in-

comes depending on overall performance, to operate, should citizens so desire, under group or family contract, as the major form of intra-farm production and economic relations, with plots of land and fixed assets on lease, on a self-financing basis.

A farm may grant such self-financing groups the right, under contract, to independently sell their products (work, services), to use the incomes derived at their discretion, for payroll and payment of taxes, contributions to the national social insurance fund, etc., or to open accounts in a bank institution or in a settlement office. Given the collective farm's agreement, these groups shall be established as primary cooperatives and function under this Law.

5. Other types of cooperative may be established in the countryside, notably cooperatives (societies) producing and processing farm products, agricultural producer cooperatives, collective fisheries, cooperatives building housing, connecting roads and other projects, supply and marketing cooperatives, forestry cooperatives, cooperatives for the joint management of private subsidiary farms and for the provision of other services. These cooperatives may be created on an inter-farm basis on the initiative of the work groups, given the consent of the member farms.

Collective farmers, workers of state farms and of other agricultural enterprises and other persons living both in country and town may share in organising and operating such cooperatives and societies, by contributing their property.

6. Cooperatives hiring out tractors and sophisticated agricultural machinery, motor vehicles and other technical facilities and those providing manufacturing, technical, agrochemical and other services may be formed to create conditions for agricultural cooperatives, especially the smaller ones, to operate efficiently and use advanced technology and production techniques.

7. Collective farms and other agricultural cooperatives working together with other enterprises and organisations of the agro-industrial complex may, by decision of general meetings, join district and other agro-industrial associations, agro complexes, agro firms, production, research and production and other systems, on voluntary and mutually beneficial terms, without losing their economic independence.

In the event of infringement of the rights and legitimate interests of collective farms or other cooperatives within said associations and systems, or if joint operation proves to be economically ineffective for the cooperatives, they shall have the right, by decision of a general meeting, to withdraw from the association or system.

8. Collective farms and other agricultural cooperatives may, by decision of their general meetings, share in creating inter-farm enterprises (organisations) where economically expedient.

Cooperatives shall participate, through their representatives, in running the affairs of their respective inter-farm enterprise (organisation), receive their due share of the incomes earned through the sale of its products (services) and bear material responsibility for its overall performance under a provision approved by a meeting of representatives of the farms participating in this enterprise (organisation).

The inter-farm enterprise (organisation) shall be totally accountable to a meeting of representatives of the participating farms.

By decision of a general meeting, a collective farm may withdraw from the inter-farm enterprise (organisation), with its respective share of the common assets returned.

Article 34. Specific Economic Machinery on Collective Farms and Other Agricultural Cooperatives

1. Collective farms and other agricultural cooperatives shall independently draw up and adopt their five-year economic and social development plans with a year by year breakdown. In these plans, they shall define an economically sound pattern of production, ensuring the highest possible output and incomes indispensable for the development of the farms and the satisfaction of the material and social needs of their members.

2. Collective farms and other agricultural cooperatives may voluntarily conclude contracts with enterprises and organisations concerned with the purchasing and processing of agricultural products for their delivery, and sell them as they see fit to other consumers and at the farm market in cities.

Agro-industrial associations, agro firms and other agro-industrial units, enterprises and organisations shall encourage the sale of produce by cooperatives under contract as part of a government order placed with these associations, enterprises and organisations, by offering a system of prices, guaranteeing marketing of this produce, allocating required material and technical resources, and by using other economic methods.

3. The products sold by the collective farms or other agricultural cooperatives to enterprises and organisations under contract in fulfilment of a government order shall be paid for at centrally fixed prices.

The rest of the products sold by the cooperative, shall be priced by agreement between the parties concerned or by the farm itself.

4. In the interests of the collective farms, other agricultural cooperatives and the national economy, the state shall encourage economically specialisation of cooperatives and facilitate large-scale commercial production of food and feed grain, vegetables, fruit and industrial crops, livestock products in specialised zones, and maximum on the spot processing thereof.

The prices of staple crops specific for each particular zone, sold by cooperatives under contract in fulfilment of a government order, shall cover the cost of production and yield a net income essential for expanded reproduction for the cooperatives with relatively inferior natural conditions in these zones. Overhead expenses due to a low performance standard shall not be taken into account.

Relatively advantaged cooperatives shall pay rentals to the state, along with income tax, considering the quality of the land and other natural conditions they have.

The incomes they gain by enhancing land fertility and improving land management shall remain wholly and entirely at their disposal.

5. Collective farms and other agricultural cooperatives, forming part, as voluntary members, of agro-industrial associations, complexes, agro firms, production and research and production systems of the agro-industrial complex shall conclude contracts with consumers according to their targets.

6. To accelerate the social and economic development of collective farms and other agricultural coope-

ratives, the state may provide either repayable or free financial aid out of the budget for land improvement, building of roads, housing, schools and cultural centres, pest and animal disease control, environmental protection and other activities of national economic and social importance.

In such cases, the state may make a government order for cooperatives to start up projects funded out of the budget.

Article 35. Responsibility of Collective Farms and Other Agricultural Cooperatives for the Use of Land

1. The collective farm or other agricultural cooperative shall ensure the rational utilisation and preservation of the basic productive asset—land—as well as other natural resources, and shall be totally responsible therefor.

In the event of deterioration of farmland through the fault of the cooperative, diminution of soil fertility or sustained non-use of lands, the Council of Ministers of the particular constituent or autonomous republic, or the executive committee of the local Soviet of People's Deputies may partly or totally withdraw such farmland from the farm. The only recompense in such cases shall be for the cost of the buildings and other structures built with the resources of the cooperative concerned on the land thus being withdrawn.

In other cases, the cooperative may have the damage arising from the withdrawal of farmland repaid in full at the expense of the enterprises and organisations to whom the land is turned over.

2. To make more effective use of farmland and other natural resources, the collective farm or other agricultural cooperative may, if necessary and by decision of its general meeting, rent or lease out plots of land to other cooperatives, state enterprises and organisations or individuals. The duration and the terms of the lease shall be specified under contract. The rent for the exploitation of these resources may be paid either in cash or in kind.

3. The collective farm or other agricultural cooperative shall arrange with environmental protection agencies the siting of intra-farm building projects (for livestock or storage of mineral fertilisers, pesticides, etc.) which could damage the environment.

Article 36. The Property of Collective Farms and Other Agricultural Cooperatives

1. All the assets of the collective farm or other agricultural cooperative, as well as its product and cash income, shall be its property.

The cooperative using the monetary and property contributions of its members, other enterprises, organisations or individuals, shall, by decision of a general meeting, distribute some of the income or produce in proportion to these contributions.

2. To raise the personal interest of the members of the collective farm or other agricultural cooperative in putting their production assets to better use, part of the increased annual value of fixed assets created with their own resources may be entered into a special account—the pool stock of the cooperative members.

This stock shall be distributed among the cooperative members and entered into their personal accounts according to respective performance. These accounts shall have annual interest added to them out

of the gross income at a rate fixed by the general meeting of the cooperative. The incomes to be derived by the cooperative members in annual interest shall build up on their personal accounts and may be used at their discretion.

The pool stock shall be formed and used as determined by the cooperative's Rules.

3. In the event of the collective farm or other agricultural cooperative being liquidated, its property, upon payment of earnings and pool stock shares to the cooperative members and fulfilment of its commitments to the budget, banks, shareholders and other creditors, shall be turned over to other cooperatives or enterprises (organisations) for agricultural production by decision of a council of collective farms (association).

Article 37. The Agricultural Cooperative and Private Subsidiary Farms

1. The collective farm or other agricultural cooperative shall create conditions for the promotion of subsidiary farming by the cooperative members and other individuals, grant them plots of land to use, assist, in cultivating, supply them with fertilisers, pesticides, seeds and seedlings, provide fodder and pastureland, livestock and poultry, agronomist and veterinarian services, help in building and repairing housing and production premises, and in marketing and processing their produce.

The relationship between subsidiary farms and cooperatives shall be regulated by their rules and contracts.

The size of the plots of land, as well as the amount of livestock and poultry in private ownership, shall be decided by village Soviets of People's Deputies and by the general meeting of the cooperative.

2. Subsidiary farmers shall be expected, with assistance from the collective farm or other agricultural cooperative, to obtain agricultural produce for their own consumption, first and foremost. They may sell their produce under contract with farms, consumer cooperatives and other enterprises, and on the market.

3. The collective farm or other agricultural cooperative may, by decision of a general meeting, let farmland under a long-term tenancy lease to the cooperative members or other individuals for agricultural production and the sale of farm produce to the cooperative or a consumer cooperative under contract. Buildings, structures, machines, equipment and other material assets indispensable for the fulfilment of contractual commitments may likewise be let on lease along with the land. The cooperative may sell horses and other draught animals and small-scale farm implements to individuals for use on subsidiary farms and for work under contract.

4. To ensure more extensive involvement of members of collective farms or other agricultural cooperatives in crop cultivation and stock and poultry farming, women with small children to look after and persons incapable of full-scale employment in social production because of advanced age, disability or other valid reasons, shall have the time they have spent producing agricultural output on their subsidiary farms and marketing them under contract with the cooperative counted in their total work record as prescribed by the cooperative Rules.

Article 38. Elective Representative Collective Farm Bodies

1. Elective collective farm bodies: national and republican congresses of collective farmers, regional, territorial, autonomous and constituent republican conferences of collective farmers, district assemblies of representatives of collective farms, and the respective collective farm councils they elect shall be created and shall function proceeding from the principles of collective farm democracy to consider short- and long-term priorities of collective farms, review their common working experiences, draw up recommendations and represent collective farms in government bodies and public organisations.

2. A USSR Congress of Collective Farmers shall be convened at least once in five years. A special congress of collective farmers may be called ahead of schedule if required by at least one-third of the USSR Collective Farm Council.

The USSR Congress of Collective Farmers shall consider the economic status of collective farms in the country's agro-industrial complex, adopt, amend and amplify the Model Rules of a Collective Farm as well as other regulations on the major aspects of the development of collective farming, elect the USSR Collective Farm Council and ratify its Statute.

The USSR Congress of Collective Farmers and the USSR Collective Farm Council shall have the right to initiate legislation.

3. Collective farms and their elective representative bodies may participate in the activities of international cooperative organisations, set up and develop trade, economic, scientific, technological and cultural links, and promote collaboration with agricultural cooperatives and other enterprises (organisations) in the CMEA and other socialist countries as well as enterprises and firms in capitalist and developing countries.

Article 39. Collective Fisheries

The predominant form of the fishing, fish breeding and fish processing cooperative is a collective fishery.

The collective fishery, in addition to its primary functions, may engage, without constraint, in any other kinds of pursuits not prohibited by the legislation.

Collective fisheries may set up voluntary unions (associations) to form a system of collective fisheries, and may establish elective representative bodies.

COOPERATIVES IN PRODUCTION AND IN THE SERVICES

Article 40. Cooperative Activities and Membership

1. Cooperatives concerned with production and services shall specialise, above all, in making and marketing consumer goods and providing all kinds of paid services as well as in making and selling producer goods and doing work for the public, enterprises, organisations and institutions.

2. All persons wishing to share in making consumer and producer goods and providing services may join cooperatives without any restriction. Preference shall be given to staff made redundant at state-run enterprises, organisations and institutions as well as pen-

sioners, the disabled, housewives and students. Preference shall also be given to people working for cooperatives under contract. Cooperatives shall be open to industrial workers, research, engineering and technical staffs, and office employees of state, cooperative and other public enterprises, organisations and institutions for part-time sharing in their activities under contract or in their capacity as cooperative members.

Membership in the cooperative shall be conditional on participation in its work. The state shall take action to stop cooperatives from being used for private enterprise involving hired labour in the guise of creation of cooperatives.

The ratio of individuals employed by a cooperative under contract to cooperative members shall be regulated by the Executive Committee of the local Soviet of People's Deputies with due regard for demand and the type of cooperative.

The state shall encourage cooperative association of self-employed persons.

3. To speed up scientific and technological progress and reduce the research and development time-lag, the state shall in every way encourage and facilitate the rise of cooperatives concerned with research and technological services, engineering, designing, promotional and other services, cooperatives producing goods and providing services based on scientific discoveries and inventions, as well as on the personal involvement of those who have made them in the work of these cooperatives.

4. Work in a cooperative, requiring specialised knowledge and skills under current legislation may be performed only by persons having requisite training, skills and appropriate expertise.

Article 41. Relations Between Cooperatives in Production and Services and Local Soviets of People's Deputies

1. The cooperative shall work together with local Soviets of People's Deputies in seeking and tapping the reserves for expanding the production of goods and the provision of services and their range and for improving quality to meet public demand, and in ensuring the welfare of the cooperative's members.

2. Local Soviets of People's Deputies shall give priority assistance to cooperatives fulfilling government orders for the manufacture of consumer goods and provision of public services and to those employing the disabled, and shall provide these cooperatives with privileges in acquiring premises and material resources and meeting the social needs of their members.

3. Local Soviets of People's Deputies shall encourage full-scale cooperative participation in regional and republican fairs for the wholesale marketing of consumer goods, as well as of the raw materials to make them.

4. While taking steps to promote extension of the network of cooperatives within a given area, the local Soviets of People's Deputies together with the unions (associations) of cooperatives and government bodies concerned shall be under obligation to counteract, by economic methods, the monopolistic tendencies of some cooperatives, artificial increase of prices (rates), restriction of the output and marketing of products and of the provision of needed public services, and promote in every way the progress of cooperatives on a sound economic basis.

Article 42. Sale of Products Made by Cooperatives in Production and Services

1. Cooperatives concerned with production and services shall sell the products they make to the public, state and cooperative enterprises and organisations independently, as well as under contract, through state and cooperative retail trade shops both at places of production and in other cities and areas.

In the event of a cooperative independently marketing its products, it may, by agreement with the local Soviet of People's Deputies, open shops, stalls and booths, either individually or jointly with other cooperatives. Local Soviets of People's Deputies shall arrange for the cooperative to rent the requisite premises.

2. In the event of the products made being sold to the public through the state and cooperative retail trade network, or to state and cooperative enterprises and organisations, cooperatives shall be held responsible for honouring their commitments under the contracts concluded following the procedure and under the terms provided for by legislation in force.

Enterprises and organisations within the state and cooperative trade network shall accept the products made by cooperatives for sale to the public on commission, with proceeds to be handed over as these products are sold.

Article 43. Property Liability of Members of Cooperatives in Production and Services

Members of a cooperative concerned with production and services shall be liable for the cooperative's debts following the procedure, to the extent and under the terms provided for in its Rules.

Article 44. Sale and Distribution of the Property of Liquidated Cooperatives in Production and Services

In the event of cooperatives in production and services being liquidated, their premises, structures, machines, equipment, stocks of raw materials, unsold goods and other property shall be sold out to enterprises, organisations and private individuals at negotiated prices.

The property sale proceeds and the cash the cooperative has at its disposal after meeting its commitments to the budget, banks and other creditors, and upon remunerating the labour of individuals working for the cooperative under contract, shall be distributed among the members of the cooperative following the procedure and under the terms provided for in the Rules.

CONSUMER COOPERATIVES

Article 45. Specifics of Consumer Cooperatives in the Distribution Field

1. Consumer cooperatives concerned with distribution and the related production of goods and provision of services (consumer societies) may unite, on voluntary terms, in unions (associations) forming a system of consumer cooperatives and create their own elective representative bodies.

2. The basic objectives of the consumer cooperative system shall be:

creating and promoting a network of retail trade and catering establishments in town and country; providing,

along with state distributive enterprises and organisations, their members and the public they serve with foodstuffs and consumer goods which they produce or purchase from producer cooperatives, state enterprises and organisations and individuals as well as merchandise they receive from the state market stocks;

purchasing from the public, collective farms and state farms agricultural produce and raw materials, items coming from subsidiary enterprises, handicrafts, wild-growing fruit, berries and mushrooms, medicinal herbs and industrial raw materials for subsequent processing and sale through the retail trade network and for industrial uses;

organising the production of foodstuffs and consumer goods out of purchased agricultural and other local raw materials as well as out of raw materials centrally allotted or acquired through the wholesale trade system, and providing various production and domestic services to the public.

3. To attain the basic objectives of consumer cooperatives—effectively providing goods and services for their members and catering to the public in town and country, manufacturing (handicrafts), construction, transportation and other types of producer cooperatives may be created within the system of consumer cooperatives. Enterprises which may have production and work organised in accordance with the Law on a State Enterprise (Association) may also function within this system.

4. Members of consumer societies shall have the right to preferential treatment in cooperative shops, contractually assured sale of the products of their subsidiary farms and handicrafts through purchasing and distributive organisations and enterprises of consumer cooperatives, avail themselves of their services and enjoy priority in employment within the consumer cooperative system.

5. In the event of a consumer society being liquidated, the property remaining after payroll discharge and fulfilment of obligations to the budget, banks and other creditors shall be turned over to the cooperative union (association), of which the given consumer society was a member.

Article 46. Consumer Cooperatives in the Countryside

1. The organisations and enterprises of the consumer cooperative system operating in the countryside shall actively collaborate, under contract, with collective farms and other enterprises and organisations of the agro-industrial complex in promoting economic growth, providing goods and services for rural regions and in reshaping social services in the countryside.

To this end, the consumer cooperatives shall build up the material and technical facilities for the purchasing and processing of agricultural produce and raw materials, bring their operations as close as possible to the public and the sites of agricultural production, create an integrated system of purchasing, processing and distribution permitting rural workers and other individuals operating subsidiary farms to sell their surplus products, and to acquire the goods they need on the spot.

2. Enterprises and organisations of the agro-industrial complex shall ensure effective interaction with the consumer cooperative organisations in establishing purchasing and processing enterprises right

on collective and state farms and in sharing in the construction of retail trade, catering, recreational and everyday-service facilities.

Rural consumer cooperatives may set up various production, transportation, construction and other enterprises to turn out consumer and producer goods and provide services.

Article 47. Consumer Cooperatives in Cities

1. Cooperatives of any kind, within the consumer cooperative system, may be created in addition to state enterprises and organisations in all areas of social and economic activity in cities to improve the provision of goods and services for the public.

2. Manufacturing, building and other enterprises, organisations and institutions may have catering cooperatives attached to them, with enterprises, organisations and institutions incorporated as collective members.

Cooperatives for producing, purchasing and processing agricultural produce may be created to supply these catering cooperatives with food resources and to improve the provision of foodstuffs for the staff of enterprises, organisations and institutions.

3. The enterprises, organisations and institutions which will have these cooperatives attached to them shall offer benefits and advantages to their staff, who as members of the cooperatives, will be productively involved in the activities of cooperatives outside ordinary working hours.

Article 48. Membership in the Consumer Society

1. Membership in the consumer society shall not be conditional on a person's productive involvement. Members of the consumer society shall pay an admission fee and make share cash payments.

Should a member leave a consumer society, that person's total share payment shall be refunded and the portion of the society's distributable income (profit) due shall be paid out.

The admission fee for a member of the consumer society shall not be refundable.

A member of the consumer society shall be answerable under all of his or her commitments within the limits of the share payment remitted.

2. Cooperatives producing goods or providing services, and other enterprises and organisations may join a consumer society, along with individuals, as collective members.

The collective member of a consumer society shall retain its economic independence and the rights of a legal personality, and shall be guided in its activities by its own Rules (statute). It bears sole responsibility for property. A consumer society shall not be liable under the obligations of its collective member, whereas the latter shall be liable under the society's obligations within the limits of its share payment.

Economic relations between a consumer society and its collective member shall be built on negotiated terms. No decision affecting the property rights of a collective member may be taken without its consent.

3. Cooperatives may be created on the initiative of the work groups and with the consent of respective consumer societies (unions, associations) within the consumer cooperative system, if economically expedient, out of enterprises operating within the consumer cooperative system, in order to enhance the economic

effect and material incentive for the workers and broaden the democratic base of the operation of distributive, catering, industrial, purchasing and construction enterprises.

Article 49. Formation of Merchandise Inventories of Consumer Cooperatives

1. To build up merchandise inventories, consumer societies and their unions (associations) shall:

offer through the retail trade network items made by consumer goods producing cooperatives and self-employed citizens, and, through direct relations, products turned out by state enterprises;

promote their own fattening and other subsidiary farms and also production of foodstuffs and consumer goods at manufacturing enterprises;

stimulate the development, in the countryside, of cooperatives and private subsidiary farms breeding and fattening livestock, poultry and rabbits, growing vegetables, fruit and berries, as well as carrying out their primary processing and subsequently delivering them to consumer societies under negotiated terms. To this end, consumer societies shall provide them, under negotiated terms, with mixed feeds, requisite implements and other material resources essential for their activities, and emphasise local building materials in the distributive network.

2. Consumer societies and their unions (associations) may assume, under negotiated terms, the marketing of foodstuffs and consumer goods out of government stocks through the retail trade network, purchasing agricultural produce and raw materials, and producing specified consumer goods in fulfilment of a government order.

3. Consumer cooperative organisations shall have the right to acquire wholesale consumer goods, raw materials, including fuel, materials, transportation facilities, small-scale machinery and implements, spare parts, tools, semi-finished products and other items from state enterprises and organisations and other cooperative and public organisations and individuals as well as through their own or state retail trade network, either for cash or transfer payment.

Article 50. Prices and Charges for the Products and Services of Consumer Enterprises and Organisations

1. Consumer societies and their unions (associations) shall have the right to fix prices (rates), either independently or in agreement with the consumer:

for agricultural produce and raw materials, purchased at agreed prices from the public, collective farms or state farms, produced on their own subsidiary farms or purchased independently, and also for products made out of these, all of which they sell either through their own retail network or to consumer enterprises and organisations;

for manufactured consumer goods made by cooperatives and the products of catering establishments and the charges for the work they perform and the services they provide.

2. Consumer societies may grant privileges to their members in the form of discounts on the retail prices (rates) of the goods and services they provide as well as benefits for credit buying. These advantages and benefits shall come from the income (profit) derived

from the productive, commercial and other activities of consumer cooperative organisations.

Article 51. Cooperative Activities to Meet Members' Demand for Housing and Everyday Services

1. Individuals may establish, on voluntary terms, cooperatives for building homes, garages and country cottages; associations of individual home builders, and other consumer cooperatives to meet their need for housing and everyday services.

The principal aspect of these cooperatives and societies shall be private investment in the construction and subsequent maintenance of cooperative property (housing, garages, etc.), and, in cases stipulated by their Rules, also of the private property of members of a cooperative (society) and the provision of services to members of a cooperative (society) appropriate to its constituent purposes.

2. State and cooperative enterprises and organisations shall lend all-round assistance to societies of private home builders in putting up housing and in landscaping, and may likewise defray part of the expenses which private home builders and their societies have to bear.

3. Cooperatives meeting their members' demand for housing and everyday services may be established for sharing in the construction and maintenance of facilities, designed for the needs of cooperative members and belonging to the given cooperative and the state, cooperative and collective farm or other cooperative and public organization, as common property, as well as for putting to good use facilities that are the property of the state, collective farm or other cooperative and public organisation.

4. Work in the cooperative, essential for it to function, shall be done under contracts concluded by the cooperative both with members of the given cooperative and with other persons, enterprises and organi-

sations. Performance of work by members of the cooperative in their capacity as members shall be allowed.

Article 52. Gardening Societies

1. Gardening societies shall be part of the cooperative system. These shall create conditions for recreation and health-building for the working people, early working opportunities for the young and facilities for cooperative members to produce for their own consumption and also for sale.

2. State, cooperative and other public enterprises, organisations and institutions shall assist gardening societies with construction work, land reclamation and plot improvement, cultivation, scientific farming and other work, using the resources of the societies on negotiated terms; and, by decision of their membership, may also provide financial and other aid out of their own funds to gardening societies attached to them.

3. To make more rational use of agricultural produce and reduce waste, the garden associations may create processing centres and storage capacities as well as booths, joineries and repair shops, and acquire as collective property agricultural machines and transport facilities, draft animals and productive livestock and other means of production, and build recreational and service facilities.

Article 53. Safeguards of Cooperative Rights

The central and local government authorities shall be responsible for the enforcement of the present Law, take it as their guide in adopting regulations pertaining to the practical activities of cooperatives, and build relations with them in strict accordance with this Law.

Article 54. Particulars of Application of the Present Law

Particulars of application of the present Law in individual sectors of the national economy and to individual types of cooperatives shall be determined by the USSR Council of Ministers.

A. GROMYKO
Chairman of the Presidium
of the USSR Supreme Soviet

T. MENTESHASHVILI
Secretary of the Presidium
of the USSR Supreme Soviet

The Kremlin, Moscow, May 26, 1988

See pp. 2-3

* Lenin's article "On Cooperation" was one of the last works he dictated during his illness from December 23, 1922, to March 2, 1923. These included "Letters to the Congress", "Granting Legislative Functions to the State Planning Commission", "The Question of Nationalities or 'Autonomisation'", "Pages From a Diary", "On Cooperation", "Our Revolution (Apropos of N. Sukhanov's Notes)", "How We Should Reorganise the Workers' and Peasants' Inspection (Recommendation to the Twelfth Party Congress)" and "Better Fewer, But Better".

The significance of Lenin's last articles and letters can hardly

be exaggerated. Organically bound with one another, they are in effect an integrated work in which Lenin, developing the ideas contained in his previous writings and speeches, completed the elaboration of his great plan of building socialism in the USSR and set forth, in generalised form, the programme for the socialist remaking of Russia in the light of the general prospects of the worldwide liberation movement.

Lenin's ideas on cooperation of the peasantry underlay the 13th Party Congress' resolutions On Cooperation and On Work in the Countryside.

First published in "Pravda"
Nos. 115 and 116 on May 26 and 27.
Signed: N. Lenin

Published according to the text
in Lenin's "Collected Works", Vol. 45,
pp. 369-377.

9th August 1989

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Official Documents

THE LAW OF THE UNION OF SOVIET SOCIALIST REPUBLICS
APPROVING THE DECREE OF THE PRESIDIUM OF THE USSR SUPREME
SOVIET "ON TAXES ON COOPERATIVES' INCOMES"

The Supreme Soviet of the Union of Soviet Socialist Republics hereby resolves:

To approve the Decree of the Presidium of the USSR Supreme Soviet of February 23, 1989, "On Taxes on Cooperatives' Incomes" (Vedomosti Verkhovnogo Soveta SSSR, 1989, No.9, Article 62), re-worded as follows:

On Taxes on Cooperatives' Incomes

The Presidium of the USSR Supreme Soviet hereby resolves:

1. To lay down that production cooperatives (except collective farms), and also their associations and amalgamations, receiving incomes from economic activity, further referred to as 'cooperatives', shall transfer to the budget an income-tax on earnings from the marketing of products (work done and services rendered) and other earnings, discounting the cost of primary and other materials consumed, payment for services rendered by other organisations, transportation costs, depreciation charges, rent on basic production assets, interest on short-term credits granted by the bank, actual spending on the acquisition of basic production assets, the training of personnel and other expenses (except spending on remuneration for work done) connected with production and the marketing of products (work and services), and also the sums of money paid in taxes and other obligatory payments to the budget on account of basic activities, including contributions to state social insurance funds.

Part of incomes contributed to the Lenin Soviet Children's Fund, the Soviet Peace Fund, the Soviet Culture

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Foundation, the Soviet Charity and Health Foundation, other similar foundations and for other charitable purposes, and also part of incomes spent on environmental protection, shall be exempt from taxation.

2. That the rate of taxes shall be fixed by legislation of the Union Republics, proceeding from the need for the maximum possible development of the cooperative movement, consideration for the local and national specifics, the creation of conditions for making cooperatives economically competitive with state enterprises and the pursuance of effective taxation policy; that the rate of taxes may be differentiated depending on the type of cooperatives, the purpose of their activity, topicality in meeting the consumer demand of the population, conditions for material and technical supplies and the marketing of products (work and services), the pricing of products and the level of cooperatives' profitability, the proportion of work done by members of the cooperative directly to general expenditure of labour; that the maximum tax rate shall not exceed 25 per cent of the taxable incomes of the cooperative marketing its products (work and services) at prices not higher than state prices, and 35 per cent in all other instances, with the exception of sale and purchase, public catering, middleman, entertainment (except theatrical and artistic) cooperatives.

That in establishing the ratio between the number of members of the cooperative and persons working on the basis of labour contracts, invalids, pensioners, students, school children and mothers of large families shall not be counted in calculating the income-tax.

That cooperatives for growing and processing agricultural produce (except collective farms), building cooperatives, and also cooperatives for the production of building materials, shall be fully exempt from the income-tax in the first two years of operation; that cooperatives of all other types shall in the first year of operation pay a 25-per cent income-tax of the tax rate fixed for cooperatives of a similar type and, in

the second year, a 50-per cent income-tax; that in the event of the termination of the activities of a cooperative before the expiry of a three-year period, the sum of the tax is calculated in full measure as fixed for the cooperative of this particular type for the entire period of its operation.

That for the purposes of encouraging the production of consumer goods needed by citizens and the economy (work and services) and reducing the prices (tariffs) on them, the Executive Committee of the local Soviet of People's Deputies, on whose territory the cooperative in question is registered, may, as decided by the local Soviet of People's Deputies or concluded by a special Deputies' commission, may lower the tax rate or exempt some cooperatives from taxation for a certain period of time.

That the right to privileges shall be granted to cooperatives with at least 50 per cent of personnel having limited capacity for work (invalids of all categories, old-age pensioners and students), and also those which use local raw materials and salvage, are growing or processing their own agricultural produce, making special articles for invalids and senior citizens and rendering charitable services, or mastering the manufacture of high-quality products involving increased production costs.

That cooperative branches and departments outside the locality of the mother firm, which have independent or separate balances and bank accounts, shall pay income taxes to local bodies according to the legislation of the constituent republic in which they are active.

3. That cooperatives shall declare their incomes to financial bodies no later than the 15th of the first month after the previous three-month period. The order and form of declaration are stipulated by the USSR Ministry of Finances.

4. That cooperatives shall pay income taxes once every three months, no later than the 20th of the first month after the previous three-month period. Cooperatives shall calculate and pay their incomes themselves.

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5. That cooperatives shall be responsible for correct calculation and timely payment of income taxes. In case cooperatives wholly or partially conceal incomes liable to taxation, the sum equal to the concealed or underrated income is exacted from them to the budget, irrespective of the time the incomes in question were received, plus fines equal to such sums. In cases of repeated income concealment or underrating, double fines are imposed. The sums and fines shall be paid within five days since the detection of the violation.

6. That when cooperatives delay tax payments, fines shall be imposed amounting to 0.05 per cent of the arrears per day of delay.

On order by financial bodies, taxes, payments on wholly or partially concealed incomes and fines on them are exempted on indisputable grounds, if not paid in due time.

7. That income taxes, sums of wholly or partially concealed incomes and fines on them shall come to the budgets of the district or town whose executive committee of the Soviet of People's Deputies has registered the status of the given cooperative. Such payments from cooperative unions and amalgamations shall come to the budgets of districts and towns where the given unions and amalgamations are located.

8. That financial bodies shall supervise the calculation and terms of payments of income taxes from cooperatives, and the correct drawing and timely submittal of declarations. If financial bodies so demand, cooperatives shall present all documents necessary to verify the correctness of calculations of taxable incomes and the income amounts.

9. That appeals against abuses by financial officials in exempting income taxes from cooperatives shall be made according to the procedure stipulated by the Statute on Exempting Tax and Non-Tax Payment Arrears, approved by the Resolution of the Presidium of the USSR Supreme Soviet of January 26, 1981 (Vedomosti Verkhovnogo Sovieta SSSR, No. 5, 1981, Art. 122).

10. With the adoption of this Resolution,

(1) in the Resolution of the Presidium of the USSR Supreme Soviet of March 1, 1979, "On Income Taxation of Cooperative and Public Organisations" (Vedomosti Verkhovnogo Sovieta SSSR, No. 10, 1979, Art. 156; No. 7, 1987, Art. 90; No. 11, 1988, Art. 174):

Article 1 shall be read in the following redaction:

"1. In conformity with this Resolution, actual balance profits from economic activities of cooperative (with the exception of production cooperatives, their unions and amalgamations, and jointly owned enterprises and organisations in agriculture and their amalgamations) and public organisations are subject to income taxation, as well as sums by which incomes from paid activities exceed expenses.

"Taxes shall amount to 35 per cent of the taxable incomes.

"Public organisations of handicapped persons, their offices, training and production enterprises and amalgamations shall be exempt from income taxation";

Item C, Article 2 shall be considered invalid;

Part 2, Article 3 shall be read in the following redaction:

"Income taxes shall be calculated once every three months on the basis of actual balance profits and the sums obtained since the start of the year, by which incomes exceed expenses";

Part 2, Article 8, and Article 15 shall be considered invalid.

(2) Article 4 of the Resolution of the Presidium of the USSR Supreme Soviet of March 14, 1988, "On Taxation of Citizens Employed in Production, Sales and Consumer Service Cooperatives, and on Changes in the Procedure of Issuing Patents on Self-Employment" (Vedomosti Verkhovnogo Sovieta SSSR, No. 11, 1988, Art. 174) shall be considered invalid.

11. That this Resolution shall enter into force on July 1, 1989.

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12. That the USSR Council of Ministers shall bring decisions of the Government of the USSR into conformity with this Resolution before July 1, 1989.

13. That the Presidiums of the Supreme Soviets of the constituent republics shall bring the legislation of the constituent republics into conformity with this Resolution before July 1, 1989.

Mikhail GORBACHEV,
President, USSR Supreme Soviet

Kremlin, Moscow, August 2, 1989

(Izvestia, August 8. In full.)

Proposition de règlement
du Conseil portant statut
de la société coopérative européenne

(Document de travail approuvé à la réunion des Présidents
du CCACC le 12 octobre 1990)

TITRE PREMIER

DISPOSITIONS GENERALES

Article premier

Nature de la Société Coopérative Européenne

1. La Société Coopérative Européenne (S.C.E.) est une société qui, en tant qu'entreprise, a pour objet la satisfaction des besoins et la promotion des activités économiques et/ou sociales de ses membres.
2. Des sociétés coopératives européennes peuvent être constituées dans l'ensemble de la communauté dans les conditions et selon les modalités prévues par le présent règlement.
3. Peuvent constituer et être membres de la S.C.E. toute personne physique ou morale de droit public ou privé ainsi que des sociétés de personnes de droit public ou privé qui sont intéressées par l'objet de la société et adhèrent aux principes coopératifs tels qu'ils sont appliqués dans les statuts.
4. Au moins deux des membres doivent avoir leur siège statutaire, leur administration ou leur domicile sur le territoire d'Etats membres différents.
5. Le nombre des membres ainsi que le capital de la S.C.E. sont variables.
6. Les membres ne répondent des obligations de la S.C.E. qu'à concurrence de leurs parts de capital. Les statuts peuvent stipuler une responsabilité étendue à un multiple du capital souscrit ou selon un autre critère.
7. La S.C.E. ne peut admettre des tiers non membres à bénéficier de ses activités, sauf dispositions contraires des statuts.
8. La S.C.E. est commerciale quel que soit l'objet de son entreprise.
9. La S.C.E. a la personnalité juridique.

Article 2

Constitution

1. Le nombre des membres de la S.C.E. ne peut être inférieur à cinq.
Cette disposition n'est pas applicable lorsque la société comprend au moins deux membres ayant la qualité de personnes morales ou de société de personnes.
2. Des personnes visées à l'article 1^{er} paragraphe 3 domiciliées ou constituées selon le droit d'un Etat membre et ayant leur siège statutaire et leur administration centrale dans la Communauté, peuvent constituer une S.C.E. par création directe.
3. Des sociétés coopératives ainsi que d'autres entités juridiques de droit public ou privé constituées selon le droit d'un Etat membre et ayant leur siège statutaire et leur administration centrale dans la Communauté peuvent constituer une S.C.E. par création d'une filiale commune.
4. Des sociétés coopératives constituées selon le droit d'un Etat membre et ayant leur siège statutaire et leur administration centrale dans la Communauté peuvent constituer une S.C.E. par fusion.
5. Une société coopérative constituée selon le droit d'un Etat membre et ayant son siège social statutaire et son administration centrale dans la Communauté peut se transformer en S.C.E. sans création d'une personne morale nouvelle dès lors qu'elle répond aux dispositions du présent règlement.
6. Une ou plusieurs S.C.E. peuvent participer à la création d'une autre S.C.E. selon l'un des modes de constitution prévus aux paragraphes 2.3.4. du présent article.

Article 3

Capital minimal

1. Le capital d'une S.C.E. doit être d'au moins 15 000 écus.
2. Les statuts fixeront une somme au-dessous de laquelle le capital ne pourra être réduit par les reprises des apports des membres démissionnaires ou exclus.
3. Cette somme ne pourra être inférieure au montant prescrit au paragraphe 1 du présent article, à celui fixé par la législation de l'Etat dans lequel la S.C.E. aura son siège social et en l'absence de dispositions dans le droit national, au dixième du capital le plus élevé atteint depuis la constitution de la société.
4. Lorsqu'une SCE exerce l'activité d'un établissement de crédit, elle est soumise aux exigences en matière de capital minimal prescrites par la législation de l'Etat membre du siège conformément à la directive 89/299/CEE.
5. Lorsqu'une S.C.E. exerce l'activité d'entreprise d'assurance, elle est soumise aux exigences en matière de capital minimal prescrites par la législation de l'Etat membre du siège.

Nota : art. 1-3 « les sociétés de personnes » = « personen gesellschaft » du droit allemand des sociétés.

Article 4

Siège de la S.C.E.

Le siège de la S.C.E. est fixé au lieu désigné par ses statuts. Ce lieu doit être situé à l'intérieur de la Communauté. Il doit correspondre au lieu de l'administration centrale de la S.C.E.

Article 5

Champ d'application

1. Dans les matières que le présent règlement régit, les points qui ne sont pas expressément réglés doivent être tranchés comme suit :
 - a) selon les principes généraux dont ce règlement s'inspire,
 - b) si ces principes généraux ne permettent pas de trancher la question, selon la loi générale applicable aux coopératives enregistrées dans l'Etat du siège de la S.C.E.
Ou à défaut, au droit de cet Etat applicable aux sociétés coopératives du secteur d'activité concerné.
2. Lorsqu'un Etat comprend plusieurs unités territoriales dont chacune a ses propres règles applicables aux matières visées au paragraphe 1, chaque unité territoriale est considérée comme un Etat aux fins de la détermination de la loi applicable selon le paragraphe 1 sous b).
3. Dans les matières qui ne sont pas régies par le présent règlement, les dispositions du droit communautaire et du droit des Etats membres sont applicables à la S.C.E.
4. En ce qui concerne ses droits, facultés et obligations, la S.C.E est traitée, dans chaque Etat membre et sous réserve des dispositions spécifiques du présent règlement, comme une société coopérative du droit national.

Article 6

Immatriculation

1. Toute S.C.E. est immatriculée dans l'Etat du siège à un registre désigné par la législation de cet Etat conformément à l'article 3 de la directive 68/151/CEE.
2. Lorsqu'une S.C.E. a une succursale dans un Etat membre autre que celui du siège, cette succursale sera immatriculée dans cet autre Etat selon les modes prévus par la législation de celui-ci conformément aux dispositions de la directive 89/666/CEE, et, s'il y a lieu de celles spécifiques aux établissements de crédit ou d'assurances.

Article 7

Publicité des actes relatifs à la S.C.E.

1. Les actes et indications concernant la S.C.E. soumis à la publicité par le présent règlement font l'objet d'une publicité effectuée selon les modes prévus par la législation de chaque Etat membre conformément à l'article 3 de la directive 68/151/CEE.

Article 8

Publication au J.O.

1. La constitution d'une S.C.E., avec indication du numéro, de la date et du lieu d'immatriculation de celle-ci, ainsi que la date, du lieu et du titre de la publication, est publiée pour information au Journal Officiel des Communautés européennes après la publication visée à l'article 7. Il en est de même de la clôture de la liquidation.
2. Les Etats membres s'assurent que les indications visées au paragraphe 1 sont communiquées à l'office des publications officielles des communautés européennes dans le mois suivant la publication visée à l'article 7.

Article 9

Documents d'affaires de la S.C.E.

1. Les lettres, notes de commande et documents similaires doivent indiquer lisiblement :
 - a) la dénomination de la S.C.E., précédée ou suivie de l'abréviation « S.C.E. » à moins que cette abréviation ne figure déjà dans la dénomination ;
 - b) le lieu du registre où la S.C.E. est immatriculée conformément à l'article 6 paragraphe 1, ainsi que le numéro d'inscription de la S.C.E. à ce registre.
 - c) l'adresse du siège de la S.C.E. ;
 - d) le cas échéant le numéro de T.V.A. de la S.C.E. ;
 - e) le cas échéant, la mention que la S.C.E. est en liquidation.
2. Toute succursale de la S.C.E., lorsqu'elle est immatriculée conformément à l'article 6 paragraphe 2, doit faire figurer les indications visées ci-dessus, accompagnées de celles relatives à sa propre immatriculation, sur des documents visés au premier alinéa qui émanent de cette succursale.

TITRE II

CONSTITUTION

SECTION PREMIERE GENERALITES

Article 10

Fondateurs

Les fondateurs au sens des dispositions du présent titre sont les personnes physiques et les entités juridiques qui, conformément à l'article 1 alinéa 3, peuvent participer à la création d'une S.C.E. selon les différents modes de constitution.

Article 11

Acte constitutif et statuts de la S.C.E.

Les fondateurs établissent l'acte constitutif et les statuts, s'ils font l'objet d'un acte séparé, conformément aux dispositions prévues pour la constitution des coopératives enregistrées par la législation de l'Etat du siège de la S.C.E.

Article 12

Experts, vérification

Les dispositions prévues dans le droit national du siège de la S.C.E. relatives à la vérification des apports autres qu'en numéraire prises en application de l'article 10 de la directive 77/91/CEE s'appliquent.

Article 13

Contrôle de la constitution

Le contrôle de la constitution d'une S.C.E. et des statuts au regard des dispositions du présent règlement et, le cas échéant, du droit national applicable, est effectué selon les modalités prévues pour les coopératives par la législation de l'Etat du siège de la S.C.E. Les Etats membres prennent les mesures nécessaires pour assurer que ce contrôle soit efficace.

Article 14

Contenu des statuts

Les statuts de la S.C.E doivent au moins contenir :

- a) la dénomination sociale de la Coopérative suivie de l'abréviation S.C.E.
- b) le siège de la société ;
- c) l'indication précise de l'objet social ;
- d) la valeur nominale des parts ainsi que le montant du capital, l'indication de la variabilité du capital et l'étendue de la responsabilité des membres ;
- e) l'établissement des comptes annuels et les modalités d'affectation des résultats ;
- f) les conditions préalables ainsi que les modalités afférentes à l'acquisition de la qualité des membres à leur admission, à leur démission et à leur exclusion, pour autant qu'elles complètent les dispositions de ce règlement ;
- g) le nombre minimum des membres du directoire et du Conseil de Surveillance ou du Conseil d'Administration ;
- h) la durée du mandat des membres des organes de direction et de surveillance visée à l'alinéa « g » ;
- i) la durée de la coopérative si elle n'est fondée que pour une durée limitée.

Article 15

Personnalité morale

1. La S.C.E. jouit de la personnalité morale à dater de l'accomplissement des formalités prévues à cet effet par la législation de l'Etat de son siège.
2. Les personnes ayant agi au nom d'une S.C.E. en formation avant qu'elle ait acquis la personnalité morale sont tenues solidairement et indéfiniment des actes ainsi accomplis, à moins que la société, après avoir été régulièrement constituée et immatriculée, ne reprenne les engagements souscrits.

DEUXIEME SECTION
CONSTITUTION PAR FUSION ENTRE COOPÉRATIVES
DE DROIT NATIONAL ET/OU S.C.E.

Article 16

Définition

1. En cas de constitution d'une S.C.E. par fusion de sociétés coopératives, l'ensemble de leur patrimoine est transféré activement et passivement à la S.C.E. par suite de leur dissolution sans liquidation moyennant l'attribution aux sociétaires de ces sociétés de parts de la S.C.E. et, éventuellement, d'une soulte en espèces ne dépassant pas 10 % de la valeur nominale des parts attribuées ou, à défaut de valeur nominale, de leur pair comptable.
2. Une société coopérative peut participer à la création d'une S.C.E. par fusion, même si elle est en liquidation, pourvu qu'elle n'ait pas encore commencé la répartition de son actif entre ses sociétaires.
3. Pour la protection des droits des travailleurs de chacune des sociétés qui participe à la fusion pour la constitution d'une S.C.E., les dispositions nationales prises en application de la directive 77/187/CEE (1) s'appliquent.

Article 17

Etablissement du projet de fusion

1. Les organes d'administration ou de direction des sociétés fondatrices établissent un projet de fusion. Ce projet comprend :
 - a) la forme, la dénomination et le siège social des sociétés fondatrices ainsi que de la S.C.E. ;
 - b) le rapport d'échange des parts et le cas échéant, le montant de la soulte ;
 - c) les modalités de remise des parts de la S.C.E. ;
 - d) la date à partir de laquelle ces parts donnent le droit de participer aux bénéfices ainsi que toute modalité particulière relative à ce droit ;
 - e) la date à partir de laquelle les opérations des sociétés fondatrices sont considérées du point de vue comptable comme accomplies pour le compte de la S.C.E. ;
 - f) les droits assurés par la S.C.E. aux sociétaires ayant des droits spéciaux et aux porteurs de titres autres que des parts ou les mesures proposées à leur égard ;
2. Le projet de fusion doit être établi par acte authentique lorsque la législation dont relèvent une ou plusieurs sociétés fondatrices le prévoit.
3. La législation de l'Etat membre qui prévoit l'établissement d'un acte authentique détermine les personnes ou instances qui sont compétentes pour établir cet acte. Dans le cas où plusieurs législations dont relèvent les sociétés fondatrices prévoient l'établissement d'un acte authentique, celui-ci peut être établi par toute personne ou instance qui est compétente pour ce faire selon une de ces législations.

Article 18

Publicité du projet de fusion

1. le projet de fusion doit faire l'objet d'une publicité effectuée selon les modes prévues par la législation de chaque Etat membre, conformément à l'article 3 de la directive 68/151/CEE, pour chacune des sociétés fondatrices un mois au moins avant la date de la réunion de l'assemblée générale appelée à se prononcer sur le projet de fusion.
- 2 La publication du projet, visé au paragraphe 1, telle que prévue à l'article 3 paragraphe 4 de la directive 68/151/CEE doit toutefois comporter, pour chacune des sociétés fondatrices, les indications suivantes :
 - a) la forme, la dénomination et le siège social des sociétés fondatrices ;
 - b) le registre auprès duquel les actes visés à l'article 3 paragraphe 2 de la directive 68/151/CEE ont été déposés pour chacune des sociétés fondatrices ainsi que le numéro d'inscription dans ce registre ;
 - c) les conditions qui déterminent, conformément à l'article 24, la date à laquelle la fusion et la constitution prennent effet.
3. La publication doit en outre comporter, pour les sociétés fondatrices, les modalités d'exercice des droits des créanciers desdites sociétés conformément aux dispositions nationales prises en application des articles 13, 14 et 15 de la directive 78/855/CEE (2) ainsi qu'à l'article 22 de ce règlement.

(1) JO n° L 61 du 5.3.1977, p. 26.

(2) JO n° L 295 du 20.10.1978, p. 36.

Article 19***Rapport de l'administration***

Les organes d'administration ou de direction de chacune des sociétés qui fusionnent établissent un rapport écrit détaillé expliquant et justifiant du point de vue juridique et économique le projet de fusion, et en particulier, le rapport d'échange des actions ou des parts.
Le rapport indique en outre les difficultés particulières d'évaluation s'il en existe.

Article 20***Contrôle des opérations de fusion***

1. Pour chaque société fondatrice, le projet de fusion est examiné et un rapport destiné aux membres est établi. Ce contrôle est effectué conformément aux dispositions d'application générale relatives au contrôle des opérations de fusion des coopératives contenues dans la législation de l'Etat membre dans lequel la S.C.E. a son siège social. Dans le cas où la législation ne prévoit pas de dispositions spécifiques aux coopératives, le contrôle est effectué par un ou plusieurs experts indépendants désignés ou agréés par une autorité judiciaire ou administrative de l'Etat membre dont relève chacune des sociétés concernées.
2. Dans le rapport mentionné au paragraphe 1, les experts doivent en tout cas déclarer si, à leur avis, le rapport d'échange est ou non pertinent et raisonnable. Cette déclaration doit au moins :
 - a) indiquer la ou les méthodes(s) suivies pour la détermination du rapport d'échange proposé ;
 - b) indiquer si cette ou ces méthodes sont adéquates en l'espèce et mentionner les valeurs auxquelles chacune de ces méthodes conduisent, un avis étant donné sur l'importance relative donnée à ces méthodes dans la détermination de la valeur retenue.

Le rapport indique en outre les difficultés particulières d'évaluation s'il en existe.

3. Chaque expert a le droit d'obtenir auprès des sociétés qui fusionnent tous les renseignements et documents utiles et de procéder à toutes les vérifications nécessaires.
4. Lorsque les législations de tous les Etats membres dont relèvent les sociétés fondatrices prévoient la désignation d'un ou plusieurs experts indépendants pour toutes les sociétés fondatrices, cette désignation peut, sur demande conjointe de celles-ci, être faite par une autorité judiciaire ou administrative de n'importe lequel des Etats membres. Dans ce cas, le contenu du rapport d'expert est déterminé par la législation de l'Etat membre dont cette autorité judiciaire ou administrative relève.

Article 21***Approbation de la fusion par les assemblées générales***

1. L'assemblée générale de chacune des sociétés fondatrices approuve le projet de fusion, ainsi que l'acte constitutif, et s'ils font l'objet d'un acte séparé, les statuts de la S.C.E. Elle décide conformément aux dispositions prises en application de l'article 7 de la directive 78/855/CEE applicables aux fusions nationales.
2. En ce qui concerne les renseignements à fournir aux sociétaires avant la date de la réunion de l'assemblée générale, appelée à se prononcer sur la fusion, les dispositions du droit des Etats membres prises conformément à l'article 11 de la directive 78/855/CEE sont applicables pour chacune des sociétés fondatrices.

Article 22***Protection des créanciers***

Les dispositions du droit national des sociétés fondatrices relatives au système de protection des intérêts :

- a) des créanciers et des obligataires des sociétés en cas de fusion nationale, s'appliquent ;
- b) des porteurs de titres autres que les sociétaires auxquels sont attachés des droits spéciaux, s'appliquent, étant entendu qu'en cas de constitution d'une S.C.E. par fusion de sociétés coopératives :
 - la législation dont relève chacune des sociétés fondatrices détermine si une assemblée de porteurs de titres peut approuver une modification de leurs droits dans cette société.
 - la législation du siège de la S.C.E. détermine si les porteurs des titres ont le droit d'obtenir le rachat de leurs titres par la S.C.E.

Article 23***Contrôle de la légalité de la fusion***

1. Si la législation d'un Etat membre, dont relèvent une ou plusieurs sociétés fondatrices, prévoit un contrôle préventif judiciaire ou administratif de légalité, cette législation est applicable à ces sociétés.
2. Si la législation d'un Etat membre, dont relèvent une ou plusieurs sociétés fondatrices ne prévoit pas un contrôle préventif judiciaire ou administratif, ou que ce contrôle ne porte pas sur tous les actes nécessaires à la fusion, les dispositions nationales prises en application de l'article 16 de la directive 78/855/CEE s'appliquent à la ou aux sociétés concernées. Dans le cas où cette législation prévoit la conclusion d'un contrat de fusion postérieur aux assemblées générales sur la fusion, ce contrat doit être conclu par toutes les sociétés participant à cette opération. L'article 17 paragraphe 3 s'applique.

3. Si la législation de l'Etat du siège de la S.C.E. et la législation dont relèvent une ou plusieurs sociétés fondatrices prévoit un contrôle préventif judiciaire ou administratif de la légalité, ce contrôle doit d'abord être effectué auprès de la S.C.E. Il ne peut être effectué auprès d'une société fondatrice que sur preuve de ce que le contrôle a été effectué auprès de la S.C.E. conformément à l'article 13.
4. Si la législation dont relèvent une ou plusieurs sociétés participant à l'opération prévoit un contrôle préventif judiciaire ou administratif de légalité, alors que la législation dont relèvent une ou plusieurs autres sociétés participant à l'opération n'en prévoit pas, le contrôle doit être effectué au vu des documents authentiques visés à l'article 16 de la directive 78/855/CEE.

Article 24

Date de prise d'effet

La législation de l'Etat du siège de la S.C.E. détermine la date à laquelle la fusion et la constitution simultanée de la S.C.E. prennent effet. Cette date doit être postérieure à l'exécution des contrôles et le cas échéant, à l'établissement des documents authentiques visés à l'article 23 auprès de toutes les sociétés fondatrices.

Article 25

Publicité

La fusion doit faire l'objet d'une publicité effectuée selon les modes prévus par la législation de l'Etat membre conformément à l'article 3 de la directive 68/151/CEE, pour chacune des sociétés qui fusionnent.

Article 26

Effets de la fusion

La fusion entraîne *ipso jure* et simultanément les effets suivants :

- a) la transmission universelle, tant entre les sociétés fondatrices et la S.C.E. qu'à l'égard des tiers, de l'ensemble du patrimoine actif et passif des sociétés fondatrices à la S.C.E
- b) les sociétaires des sociétés fondatrices deviennent sociétaires de la S.C.E.
- c) les sociétés fondatrices cessent d'exister.

Article 27

La responsabilité civile des membres

La responsabilité civile des membres de l'organe d'administration ou de direction des sociétés fondatrices ainsi que des experts des sociétés fondatrices est régie par les dispositions prises par la législation de l'Etat membre dont relève la société conformément aux articles 20 et 21 de la directive 78/855/CEE ou le cas échéant par le présent règlement. Toutefois, dans le cas de l'article 20 paragraphe 4, la responsabilité civile du ou des experts est régie par la législation de l'Etat membre dont relève l'autorité judiciaire ou administrative qui l'a ou les a désignés.

Article 28

Régime de nullité

La nullité d'une fusion ayant pris effet au sens de l'article 24 est régie par les dispositions prévues dans le droit national de la société concernée sous la réserve qu'elle peut seulement être prononcée pour défaut de contrôle préventif judiciaire ou administratif de légalité ou défaut d'acte authentique, et pour autant qu'un tel contrôle ou l'établissement d'un tel acte soit exigé par la législation de l'Etat membre dont relève la société concernée. Toutefois, lorsque la législation du siège de la S.C.E. ne prévoit pas la nullité de la fusion pour défaut de contrôle préventif judiciaire ou administratif de légalité de la fusion ou pour défaut d'acte authentique, celle-ci ne peut être prononcée.

Article 29

Fusion : participations entre sociétés fondatrices

Les dispositions des articles 16 à 28 sont également applicables lorsqu'une des sociétés fondatrices est titulaire de tout ou partie des parts d'une autre. Dans ce cas, des parts des sociétés fondatrices qui échoient à la S.C.E. en tant qu'ayant cause d'une société fondatrice sont annulées.

TITRE III

ACQUISITION ET PERTE DE LA QUALITÉ DE MEMBRE**Article 30***Acquisition de la qualité de membre*

1. L'acquisition de la qualité de membre de la S.C.E. est soumise à l'agrément du Directoire, de l'organe d'Administration ou de direction. La demande d'admission est formulée par écrit et comprend l'engagement de participer au capital et d'adhérer sans restriction aux statuts. Les statuts peuvent stipuler que des personnes n'ayant pas vocation à utiliser les services de la S.C.E. peuvent être admis en qualité de membres (non-usagers). Dans ce cas, l'acquisition de la qualité de membres est soumise à l'assemblée générale. Dans les S.C.E. constituées entre des coopératives, des mutuelles ou des associations, ces catégories de membres sont considérées comme ayant la qualité d'usagers par représentation de leurs propres membres ou usagers.
2. Eu égard aux relations spécifiques d'une société coopérative avec ses membres, les statuts peuvent subordonner l'admission à d'autres conditions et notamment :
 - à la souscription d'un montant minimal de capital ;
 - à des conditions en relation avec l'objet de la société.
3. Sauf disposition contraire des statuts, sont de même soumises à l'agrément du Directoire ou de l'organe d'Administration ou de direction, les demandes de participation complémentaire au capital ainsi que les cessions de parts.
- 4.
5. Toutes les opérations ayant pour effet de modifier l'affiliation et la répartition du capital, son augmentation ou sa réduction donne lieu à inscription sur le fichier des membres prévu à l'alinéa 4 ci-dessus.
6. Ces opérations ne prennent effet tant à l'égard de la S.C.E. que des tiers qu'à dater de leur inscription sur le fichier. Les statuts peuvent stipuler que les inscriptions sur le fichier n'interviennent qu'à la date de clôture de l'exercice ou à d'autres échéances.
Une attestation écrite d'enregistrement est délivrée au titulaire des parts.

Article 31*Perte de la qualité de membre
Démission - Exclusion - Transfert*

1. La qualité de membre d'une S.C.E. se perd par :
 - la démission ;
 - l'exclusion ;
 - la cession de toutes les parts détenues lorsqu'elle est autorisée par les statuts ;
 - le décès d'une personne physique ou la dissolution d'une personne morale ;
 - et dans les cas prévus dans les statuts.
2. Les statuts prévoient les conditions et modalités applicables à la démission des membres.
3. Les statuts déterminent les conditions et modalités applicables en cas d'exclusion d'un membre. Si elle en fait la demande, la personne doit être entendue par le Conseil d'Administration ou le Directoire et bénéficier d'une procédure de recours devant l'Assemblée Générale des membres.
4. En cas de dissolution d'une personne morale la qualité de membre prend fin au terme de l'exercice en cours si les statuts n'en disposent autrement.
5. Les parts sont cessibles ou négociables avec l'accord de l'organe d'Administration ou du Directoire. Les statuts peuvent interdire ou limiter la transmissibilité des parts ou la subordonner à l'accord de l'Assemblée Générale.
6. Sont interdits la souscription et l'achat par la S.C.E. de ses propres parts, soit directement soit par une personne agissant en son propre nom mais pour le compte de la société.
7. Est interdite la prise en gage par la S.C.E. de ses propres parts directement ou par l'intermédiaire d'une personne agissant en son propre nom, mais pour le compte de la société.
Cette interdiction n'est pas applicable aux opérations courantes des établissements de crédit.

Article 32*Droits pécuniaires des membres en cas de retraits*

1. Sauf en cas de cession de parts, la perte de la qualité de membre ouvre droit au remboursement des apports, réduits s'il y a lieu en proportion des pertes imputables sur le capital social.
Les statuts peuvent prévoir que le membre sortant a droit, en fonction de sa participation dans le capital à une fraction de la réserve constituée à cet effet.

2. La valeur des parts est calculée en fonction du bilan de l'exercice au cours duquel le droit au remboursement a pris naissance.
3. Les statuts impartissent le délai dans lequel ce remboursement doit s'effectuer.
4. Les dispositions des alinéas ci-dessus s'appliquent en cas de remboursement d'une partie seulement des parts détenues par un membre.
5. L'associé qui cesse de faire partie de la société ou qui a exercé son droit au remboursement partiel reste tenu envers les associés de toutes les obligations existantes à la clôture du bilan ayant servi de référence pour le calcul de ses droits, à concurrence de sa participation antérieure et des sommes éventuellement perçues sur les réserves jusqu'à l'approbation des comptes du troisième exercice suivant celui de référence.

TITRE IV

CAPITAL

Article 33

Capital de la S.C.E.

1. Le capital de la S.C.E. est exprimé en Ecus.
2. Le capital de la S.C.E. est représenté par les parts des membres exprimées en Ecus, et le cas échéant par l'une des catégories de valeurs mobilières visées à l'article 36 bis ci-après exprimées en Ecus.
Il peut être émis plusieurs catégories de parts.
Des dispositions statutaires peuvent stipuler que des catégories de parts confèrent des droits différents en ce qui concerne la répartition des résultats. Les parts conférant les mêmes droits constituent une catégorie.
3. Les parts sont obligatoirement nominatives. Leur valeur nominale est identique pour chaque catégorie de parts. Elle est fixée dans les statuts. Les parts ne peuvent pas être émises pour un montant inférieur à leur valeur nominale.
4. Les parts émises en contrepartie d'apports en numéraire doivent être libérées à concurrence d'au moins 25 % de leur valeur nominale à la souscription. Le solde doit être libéré dans un délai maximum de cinq ans sur décision du Directoire ou de l'organe d'Administration.
5. Les parts émises en contrepartie d'apports en nature doivent être intégralement libérées à la souscription.
6. Les statuts fixent le nombre minimum des parts à souscrire pour accéder à la qualité de membre et éventuellement la proportion maximale du capital qu'un membre est autorisé à détenir.
7. Le capital est variable. Il est susceptible d'augmentation par des versements successifs des membres ou l'admission de nouveaux membres et de diminution par le remboursement total ou partiel des apports effectués sous réserve de l'application de l'article 3 alinéas 2-3-4 et 5 ci-dessus.
Les variations du montant du capital ne nécessitent pas de modifications des statuts ni de publicité.
Une résolution de l'Assemblée Générale annuelle statuant sur les comptes de l'exercice prend acte du montant du capital à la clôture de l'exercice et de sa variation par rapport à l'exercice précédent.
Le capital peut être augmenté par incorporation de tout ou partie des réserves partageables sur décision de l'Assemblée Générale statuant aux conditions de quorum et de majorité requises pour la modification des statuts.
8. La valeur nominale des parts peut être augmentée par regroupement de parts émises, lorsque l'augmentation de la valeur nominale des parts entraîne une augmentation du capital social devant être réalisée par appel à des versements complémentaires des membres selon des dispositions prévues dans les statuts, la décision est du ressort de l'Assemblée Générale des membres statutaires aux conditions de quorum et de majorité renforcées requises pour la modification des statuts.
Les membres ayant exprimé un vote contraire à cette décision peuvent exercer leurs droits de retrait avec remboursement de leurs parts dans les conditions prévues à l'article 32 ci-dessus.
9. La valeur nominale des parts peut être réduite par division des parts émises.

Article 34

Parts sans droit de vote

1. Les statuts peuvent prévoir la création de parts sans droit de vote susceptibles d'être souscrites par les membres ou par toute personne extérieure à la S.C.E. mais intéressée par le développement de ses activités.
2. Les parts sans droits de vote peuvent conférer des avantages spéciaux.
3. Leur montant nominal total ne peut dépasser le montant stipulé dans les statuts.

4. Les statuts doivent inclure des dispositions tendant à assurer la représentation et la défense des intérêts des porteurs de parts sans droit de vote.
Ils doivent notamment prévoir la réunion des titulaires de parts sans droit de vote en Assemblée Spéciale. L'Assemblée Spéciale peut émettre un avis avant toute décision de l'assemblée générale.
L'avis est porté à la connaissance de l'Assemblée Générale et éventuellement commenté par des mandataires de l'assemblée Spéciale.
L'avis est porté au P.V. de l'Assemblée Générale.

Article 34 bis

Membres investisseurs (non usagers)

Lorsque les statuts autorisent la souscription de parts avec droit de vote par des personnes n'ayant pas vocation à utiliser les services de la S.C.E., conformément à l'art. 30-1, ces membres investisseurs peuvent être nommés administrateurs, mais la majorité du C.A. doit être constituée par des membres coopérateurs.
Les statuts peuvent établir des conditions particulières en faveur des membres investisseurs en ce qui concerne la répartition des résultats bénéficiaires.

Article 35

Titres participatifs européens

1. La S.C.E. peut émettre des obligations participantes subordonnées dénommées « Titres participatifs européens ».
2. Ces titres sont librement négociables.
3. Leur rémunération peut comporter une partie fixe et une partie variable calculée par référence à des éléments relatifs à l'activité ou aux résultats de la société et assise sur le nominal du titre.
4. L'émission et le remboursement des titres participatifs sont autorisés par l'Assemblée Générale des membres délibérant aux conditions de quorum et de majorité prévues pour les modifications des statuts.
5. Les statuts prévoient des dispositions assurant à la masse des porteurs de titres le droit à la représentation de leurs intérêts. Ils ont droit aux mêmes informations que les membres de la S.C.E. Les représentants de la masse des porteurs de titres assistent aux Assemblées des membres avec voix consultative.
Les porteurs de titres peuvent obtenir communication des documents sociaux dans les mêmes conditions que les membres.

Article 36

Obligations

1. La S.C.E. peut émettre des obligations.
2. Les dispositions de la législation de l'Etat du siège de la S.C.E. s'appliquent à la masse des porteurs d'obligations.

Article 36 bis

Autres valeurs mobilières

1. Plus généralement, la S.C.E. peut constituer toutes les formes de fonds propres et émettre toutes les catégories de valeurs mobilières et assimilées autorisées par la réglementation applicable aux sociétés coopératives de l'un des Etats membres et notamment les certificats coopératifs d'investissements.
2. En l'absence de dispositions de droit européen applicables à l'une de ces catégories de valeurs mobilières ou assimilées, la législation applicable est celle de l'Etat dans lequel cette catégorie de valeurs fait l'objet de dispositions légales et/ou réglementaires particulières.
La législation de référence doit être expressément visée dans les statuts de la S.C.E.

Article 37

Ristourne

Les statuts peuvent prévoir le versement d'une ristourne aux membres proportionnellement aux opérations faites par eux avec la société ou du travail qu'ils lui ont fourni conformément à la réglementation en vigueur dans l'Etat où la S.C.E. a son siège social.

Article 38

Réserve légale

1. Les statuts déterminent les règles d'affectation des excédents de l'exercice.
2. En cas de résultats bénéficiaires, les statuts doivent prévoir avant toute autre affectation la constitution d'une réserve légale par prélèvement sur les résultats.

3. Tant que cette réserve n'atteint pas le montant du capital social, le prélèvement ne peut être inférieur à 15 % des excédents nets annuels affectables.
4. Les membres sortants ne peuvent prétendre à aucun droit sur les sommes ainsi affectées à la réserve légale. Les statuts ne peuvent déroger à cette disposition.

Article 39

Affectation du résultat disponible

1. Le solde des excédents disponibles après dotation à la réserve légale, et d'imputation éventuelle des sommes ristournées, augmenté le cas échéant des reports bénéficiaires constitue les excédents distribuables.
2. L'Assemblée Générale appelée à statuer sur les comptes de l'exercice a la faculté d'affecter ces excédents dans l'ordre et la proportion déterminés par les statuts et notamment :
 - à un report à nouveau ;
 - à la dotation de tous fonds de réserves facultatifs ordinaires ou extraordinaires ;
 - à la rémunération du capital libéré et des titres assimilés, le paiement pouvant intervenir en numéraire ou par attribution de parts.
3. Les statuts peuvent également exclure toute distribution.

TITRE V

ORGANES

Article 40

Les statuts de la S.C.E. prévoient comme organes, l'Assemblée des sociétaires et soit une Organe de Direction et un Organe de Surveillance (système dualiste) soit un organe d'administration (système moniste).

PREMIERE SECTION

L'ASSEMBLEE GENERALE

Article 41

Compétence

1. L'Assemblée Générale décide en matière de :
 - a) Arrêté des comptes annuels ;
 - b) Affectation des résultats de l'exercice annuel ;
 - c) Nomination et révocation des membres de l'Organe de Surveillance ou de l'Organe d'Administration ;
 - d) Révocation des membres du Directoire sauf stipulation contraire dans les statuts ou révocation du membre de l'organe d'administration ;
 - e) Nomination ou révocation des commissaires aux comptes lorsqu'ils sont prévus par la législation nationale du siège de la S.C.E. ;
 - f) Exercice de l'action sociale en responsabilité ;
 - g) Emission de titres participatifs ou d'obligations ;
 - h) Modification des statuts ;
 - i) Dissolution de la S.C.E. et nomination des liquidateurs ;
 - j) Fusion de la S.C.E. avec une autre société coopérative de droit national ou une autre S.C.E. ;
 - k) Transferts partiels de l'actif.
2. Les statuts peuvent donner d'autres compétences à l'Assemblée Générale.

Article 42

Convocation

1. L'Assemblée Générale est convoquée par le Directoire ou par l'organe d'administration. Elle a lieu au moins une fois par an dans les six mois qui suivent la date de clôture de l'exercice. Toutefois la première Assemblée Générale peut avoir lieu dans les dix-huit mois après la constitution de la S.C.E.

2. L'Assemblée Générale doit être convoquée lorsque le conseil de surveillance l'exige.
3. Si le Directoire omet de convoquer une Assemblée Générale prévue dans ce règlement ou dans les statuts ou demandée par le Conseil de Surveillance, elle peut être convoquée par le Conseil de Surveillance ou par l'organe de vérification des comptes ou par l'organe extérieur de révision et de contrôle prévu à l'article 75.

Article 43

Droit de convocation des membres

1. Les membres de la S.C.E. disposant d'au moins 25 % de l'ensemble des voix peuvent demander au directoire ou à l'organe d'Administration la convocation d'une Assemblée Générale en indiquant par écrit leurs motifs et les points de l'ordre de jour.
2. S'il n'est pas donné suite à la demande formulée selon le paragraphe 1 dans le délai d'un mois, les membres ayant demandé la convocation de l'Assemblée Générale peuvent demander au tribunal de l'ordonner. Le tribunal du siège statue sur cette requête en dernier ressort. Si le tribunal — après avoir pris l'avis de la S.C.E. — considère que la requête est justifiée, il autorise les membres ayant demandé la convocation de l'Assemblée Générale à convoquer l'Assemblée Générale aux frais de la S.C.E. ; en même temps, le tribunal fixe l'ordre du jour de l'Assemblée Générale et nomme le président.
3. Les membres mentionnés au paragraphe 1 de cet article peuvent demander avant la convocation que certains sujets soient inscrits à l'ordre du jour de la prochaine Assemblée Générale. Si le Directoire ou l'Organe d'Administration ne donne pas suite à cette demande dans le délai d'un mois, les membres ayant formulé cette demande peuvent la faire valoir en justice. Le tribunal du siège statue sur cette requête en dernier ressort. Si le tribunal — après avoir pris l'avis de la S.C.E. — considère que la requête est justifiée, il ordonne au Directoire ou à l'Organe d'Administration d'inscrire un ou plusieurs sujets à l'ordre du jour qui ont fait l'objet de la requête.

Article 44

Forme et délai de la convocation

1. La convocation se fait :
 - soit par une publication dans un journal habilité à recevoir les annonces légales désigné par le législateur de l'Etat du siège conformément à l'article 3 du paragraphe 4 de la direction 68/151/CEE ;
 - soit par insertion dans un ou plusieurs journaux à large diffusion dans les Etats membres ;
 - soit par tous moyens de communication écrits adressés à tous les membres de la société.
2. La convocation contient au moins les mentions suivantes :
 - a) la dénomination sociale et le siège de la SCE ;
 - b) le lieu et la date de la réunion ;
 - c) la nature de l'Assemblée Générale (ordinaire, extraordinaire ou spéciale) ;
 - d) le cas échéant, les formalités prescrites dans les statuts pour la participation à l'Assemblée Générale et l'exercice du droit de vote ;
 - e) l'ordre du jour avec indication des sujets à traiter ainsi que des propositions de décision.
3. Le délai entre la date de la publication de la convocation ou la date d'envoi de la lettre de convocation visés au 1^{er} alinéa et la date de la première réunion de l'Assemblée Générale doit être de trente jours au moins.

Article 45

Droit de participation

1. Seuls les membres sont habilités à participer à l'Assemblée Générale avec voix délibérative.
2. Les membres du Directoire, les mandataires représentant les porteurs de parts sans droit de vote, les administrateurs délégués à la direction ou les directeurs salariés assistent à l'Assemblée Générale avec voix consultative à moins qu'ils aient — en tant que membre de la S.C.E. — une voix délibérative.
3. Les personnes ayant le droit de vote peuvent se faire représenter à l'Assemblée Générale par un mandataire selon les modalités prévues dans les statuts.

Article 46

Droit de vote

1. Il est attribué à chaque membre une voix, quel que soit le nombre de parts qu'il détienne.
2. Les statuts peuvent prévoir un vote plural. En l'occurrence, les statuts doivent régler les conditions selon lesquelles le vote plural est accordé ; cela peut être le degré de recours aux équipements ou autres services de la coopérative par les membres ou des critères économiques des entreprises des membres ou l'importance de

la participation à la coopérative. Les statuts doivent prévoir une limitation de vote plural pour un membre ainsi que les pouvoirs maxima que reçoit un membre en tant que mandataire d'autres membres.

3. On ne peut attribuer aux membres n'ayant pas vocation d'utiliser les services de la coopérative (non usagers) plus d'un tiers des votes de l'ensemble des membres inscrits.

Article 47

Présidence de l'Assemblée Générale

Les modalités de tenue de l'Assemblée Générale sont précisées dans les statuts.

Article 48

Droit à l'information

1. Tout membre qui en formule la demande à la réunion de l'Assemblée Générale a le droit d'obtenir de la part du Directoire ou de l'Organe d'Administration des renseignements sur les affaires de la S.C.E. ayant un rapport avec des sujets inscrits à l'ordre du jour ou avec ceux sur lesquels l'Assemblée Générale peut prendre une décision conformément à l'article inscrit à l'ordre du jour.
2. Le Directoire ou l'Organe d'Administration ne peuvent refuser la communication d'un renseignement que si :
 - a) elle est de nature à porter préjudice grave à la S.C.E. ;
 - b) elle est incompatible avec une obligation légale de secret.
3. Lorsque l'information est refusée à un membre, celui-ci peut demander l'inscription au procès-verbal de l'Assemblée Générale de sa question et du motif de refus qui lui a été opposé.
4. Le membre, à qui l'information est refusée, peut saisir du bien-fondé de ce refus le Tribunal du siège de la S.C.E.. La demande doit être introduite dans le délai de deux semaines à compter de la clôture de l'Assemblée Générale.

Article 49

Prise de décision

1. L'Assemblée Générale ne peut pas prendre de décisions sur des sujets qui n'ont pas été communiqués ou publiés conformément à l'article 44 paragraphe 2.
2. Toutefois le paragraphe 1 n'est pas applicable lorsque tous les membres sont présents ou représentés à l'Assemblée Générale sauf si un membre s'oppose à ce qu'une telle délibération ait lieu.
3. Les statuts prévoient les règles de quorum et de majorité applicables aux Assemblées Générales ordinaires.
4. Ni les abstentions ni les voix non valables n'entrent dans le calcul du vote. Seules comptent les voix exprimées valables.
5. L'Assemblée Générale appelée à se prononcer sur une modification des statuts ne délibère valablement sur première convocation que si les membres présents ou représentés possèdent ou représentent au moins la moitié et sur deuxième convocation le quart du nombre total des membres inscrits à la date de la convocation. Lorsqu'elle est appelée à se prononcer sur une modification des statuts, l'Assemblée Générale statue à la majorité des deux tiers des voix des membres présents ou représentés. Lorsqu'elle est appelée à se prononcer sur la dissolution de la société, l'Assemblée Générale statue aux conditions de majorité prévue à l'article 87 du présent règlement. L'Assemblée Générale statue à la majorité des voix dont disposent les membres présents ou représentés.
6. Sur troisième convocation aucune condition de quorum n'est requise.

Article 50

Procès-verbal

1. Il doit être établi un procès-verbal de chaque réunion de l'Assemblée Générale. Le procès-verbal doit contenir les informations suivantes :
 - a) la date et le lieu de la réunion ;
 - b) l'objet des décisions ;
 - c) le résultat des votes.
2. Au procès-verbal doivent être annexés la feuille de présence, les documents relatifs à la convocation de l'Assemblée Générale ainsi que les rapports soumis aux membres sur les sujets de l'ordre du jour.
4. Le P.V. ainsi que les documents annexés doivent être conservés pendant au moins cinq ans. Copie du P.V. ainsi que les documents annexés peuvent être obtenus par tout membre sans frais et sur simple demande.

Article 51***Action en annulation***

Les décisions de l'Assemblée Générale peuvent être annulées pour violation des dispositions du présent règlement ou des statuts de la S.C.E. dans les conditions suivantes :

1. L'action en annulation peut être intentée par tout membre sous condition qu'il puisse invoquer un intérêt légitime au respect des dispositions violées et qu'il ait fait inscrire son opposition au procès-verbal dans l'Assemblée Générale.
2. L'action en annulation est portée dans un délai de trois mois devant le tribunal du lieu du siège de la S.C.E. Elle est dirigée contre la S.C.E. Les modalités de procédure pour l'action en annulation sont régies par la loi du lieu du siège social de la société.
3. Le tribunal peut après avoir pris l'avis de la S.C.E. — suspendre l'application de la décision dont l'annulation a été demandée. Le tribunal peut également ordonner que le demandeur constitue, le cas échéant, une garantie pour le préjudice occasionné par son action en justice ou par la suspension de l'exécution de la décision pour le cas où sa demande serait rejetée comme irrecevable ou non fondée.
4. Les jugements qui donnent suite à l'annulation ou qui ordonnent la suspension de la décision ont l'effet juridique pour tout le monde sous réserve des droits acquis envers la S.C.E. par des tiers de bonne foi.

Article 52***Réunion des représentants***

1. Les statuts peuvent admettre le vote par correspondance.
2. Lorsque la S.C.E. exerce plusieurs activités distinctes, ou qu'elle a plusieurs établissements ou étend ses activités sur plus d'une région ou que le nombre de ses membres est supérieur à cinq cents, les statuts peuvent prévoir que l'Assemblée Générale peut être précédée par des Assemblées de section délibérant séparément sur le même ordre du jour. Les Assemblées de section élisent des délégués qui sont eux-mêmes convoqués en Assemblée Générale. Les statuts déterminent la répartition en section, le nombre des délégués par section et les modalités d'application.

DEUXIEME SECTION**SYSTEME DUALISTE****Article 53*****Directoire***

1. La S.C.E. est dirigée et représentée par un Organe de Direction dénommé « Directoire ».
2. Les membres du Directoire sont nommés par le Conseil de Surveillance. Ils sont révoqués par l'Assemblée Générale, ou par le Conseil de Surveillance selon des dispositions des statuts.
3. Les statuts déterminent le nombre des membres du Directoire.
4. Le Directoire arrête son propre règlement qui doit être approuvé par le Conseil de Surveillance.
5. Nul ne peut simultanément exercer la fonction de membre du Directoire et celle de membre du Conseil de Surveillance de la même S.C.E.

Article 54***Conseil de Surveillance***

1. Le Directoire exerce ses fonctions sous le contrôle d'un conseil de Surveillance.
2. Sous réserve des applications expressément réglées par le présent règlement ou par les statuts, le Conseil de Surveillance ne peut intervenir dans la gestion de la société, ni la représenter dans ses rapports avec des tiers. Toutefois, il représente la société dans ses rapports avec les membres du Directoire.
3. Le Conseil de Surveillance doit être composé de 3 membres au moins ayant la qualité de sociétaire. Les membres de l'Organe de Surveillance sont désignés par l'Assemblée Générale qui peut les renvoyer à tout moment. Des membres non usagers peuvent être nommés au Conseil de surveillance sans pouvoir y détenir la majorité.

Article 55***Droit à l'information du Conseil de Surveillance***

1. Le Directoire informe le Conseil de Surveillance, au moins tous les trois mois, sur la gestion et la marche des affaires de la S.C.E. ainsi que sur sa situation et l'évolution prévisible.

2. Le Directoire informe sans délai le Président du Conseil de Surveillance de toute question importante, y compris de tout événement survenu dans la société de nature à avoir des répercussions sensibles sur la situation de la S.C.E.
3. Le Conseil de Surveillance peut à tout moment demander au Directoire la communication de renseignements sur les questions concernant la S.C.E.
4. Le Conseil de Surveillance a le droit de procéder à toutes les vérifications nécessaires à l'accomplissement de sa mission. Il peut confier l'exercice de ce droit à un ou plusieurs de ses membres et se faire assister d'experts aux frais de la S.C.E.
5. Chacun des membres du Conseil de Surveillance est autorisé à prendre connaissance de tous les rapports, documents, renseignements et résultats des examens, visés aux paragraphes précédents.

Article 56

Règlement intérieur, convocation

1. Après avoir pris l'avis du Directoire, le Conseil de Surveillance arrête son propre règlement intérieur. Il élit en son sein un président et un ou plusieurs vice-présidents.
2. Le président convoque le Conseil de Surveillance soit d'office, soit à la demande d'un membre du Conseil de Surveillance, soit à la demande du Directoire.

TROISIEME SECTION

SYSTEME MONISTE

Article 57

Organe d'Administration - désignation des membres

1. La S.C.E. est administrée et représentée par un organe d'administration. Cet Organe doit être composé de trois membres au moins. Des membres non usagers peuvent être nommés à l'organe d'administration sans pouvoir y détenir la majorité.
L'Organe d'Administration arrête son propre règlement intérieur et élit en son sein un président et un ou plusieurs vice-présidents.
2. La direction générale de la S.C.E. est déléguée par l'organe d'administration à un ou plusieurs membres de cet organe ou à un directeur salarié, qui assurent, en outre la représentation de la S.C.E. dans ses rapports avec les tiers. Les membres dirigeants de l'Organe d'Administration doivent être inférieurs en nombre aux autres membres de cet Organe. La délégation des pouvoirs de direction d'un membre de l'Organe d'Administration peut être révoquée par cet Organe à tout moment.

Article 58

Droit à l'information

1. L'Organe d'Administration se réunit tous les trois mois au moins pour délibérer sur la gestion et la marche des affaires de la société, y compris des entreprises contrôlées par elle, ainsi que sur sa situation et l'évolution prévisible.
2. Chaque membre est tenu d'informer sans délai le président de cet Organe, le ou les administrateurs délégués ou le directeur salarié de toute question importante, y compris de tout événement survenu dans la société et les entreprises contrôlées par elle de nature à avoir des répercussions sensibles sur la situation de la S.C.E.
3. Tout membre de l'Organe d'Administration peut demander au président de convoquer cet Organe pour délibérer sur certaines affaires de la société. S'il n'est pas satisfait à cette demande dans un délai de quinze jours, l'Organe d'Administration peut être convoqué par un tiers de ses membres.
4. Chaque membre de l'Organe d'Administration peut prendre connaissance de tous les rapports, documents et renseignements donnés à cet Organe concernant les affaires indiquées aux paragraphes 1 et 3.

QUATRIEME SECTION

REGLES COMMUNES AUX SYSTEMES MONISTE ET DUALISTE

Article 59

Durée du mandat

1. Les membres des organes sont nommés pour une période fixée par les statuts qui ne peut dépasser 6 ans. Le mandat des membres peut être renouvelé.

2. Toutefois, les premiers membres de l'Organe de Surveillance ou de l'Organe d'Administration à désigner par les membres sont désignés par l'acte constitutif de la S.C.E. pour une durée qui ne peut dépasser trois ans.
3. Le mandat des membres peut être renouvelé.

Article 60

Conditions d'éligibilité

1. Lorsque les statuts de la S.C.E. prévoient qu'une personne morale ou une société peut être membre d'un Organe, celle-ci doit désigner une personne physique comme son représentant pour l'exercice de ses fonctions dans l'Organe concerné. Ce représentant est soumis aux mêmes conditions et obligations que s'il était personnellement membre de cet organe. La publicité prévue à l'article 7 vise le représentant permanent ainsi que la personne morale ou la société représentée.
2. Ne peuvent être membres les personnes qui :
 - selon la loi qui leur est applicable ou
 - en raison d'une décision judiciaire ou administrative rendue ou reconnue dans un Etat membre, ne peuvent faire partie de l'Organe d'Administration, de Direction ou de Surveillance d'une société.
3. Pour la nomination des membres du Conseil de Surveillance ou de l'Organe d'Administration par l'Assemblée Générale, les statuts de la S.C.E. peuvent prévoir des modalités de vote permettant également à des membres représentant des intérêts minoritaires de nommer un ou plusieurs membres et leurs suppléants.

Article 61

Nomination en cas de vacance

Les statuts de la S.C.E. peuvent prévoir en cas de vacance la nomination de membres suppléants. Ces nominations peuvent être réformées à tout moment par une nomination de membres titulaires.

Article 62

Pouvoir de représentation

1. Lorsque le Directoire est composé de plus d'un membre ou lorsque la direction de la société est déléguée à plusieurs membres de l'Organe d'Administration, ceux-ci n'ont le pouvoir de représenter la société dans ses rapports avec les tiers qu'à titre collectif. Les statuts de la S.C.E. peuvent toutefois disposer qu'un membre de l'Organe concerné a le pouvoir de représenter la Société à titre individuel, ou conjointement avec un ou plusieurs des autres membres de l'Organe concerné ou conjointement avec un représentant au sens du paragraphe 2.
2. L'Organe d'Administration ou le Directoire avec l'accord de l'Organe de Surveillance, peut attribuer à une ou plusieurs personnes un pouvoir de représentation général. Ce pouvoir de représentation peut être révoqué, à tout moment, dans les mêmes conditions par l'Organe qui l'a accordé.
3. La S.C.E. est engagée à l'égard des tiers par les actes accomplis conformément aux paragraphes 1 et 2 même si ces actes ne relèvent pas de l'objet social, sauf s'ils excèdent les pouvoirs attribués par le présent règlement.

Article 63

Opérations soumises à autorisation

1. La mise en œuvre des décisions concernant :
 - a) la fermeture ou le déplacement d'établissement ou de parties importantes d'établissements ;
 - b) des restrictions, extensions ou modifications importantes de l'activité de la S.C.E. ;
 - c) d'importantes modifications dans l'organisation de la S.C.E. ;
 - d) l'établissement avec d'autres entreprises d'une coopération durable et importante pour l'activité de la S.C.E. ou la cessation d'une telle coopération.
 - e) la création d'une filiale.
 peut être effectuée par le Directoire seulement après autorisation préalable de l'Organe de Surveillance, ou par l'Organe d'Administration.
 La mise en œuvre ne peut faire l'objet d'une délégation aux membres dirigeants de l'Organe d'Administration. La violation des dispositions prévues ci-dessus est inopposable aux tiers, à moins que la S.C.E. ne prouve que le tiers en avait connaissance.
2. Les statuts de la S.C.E. peuvent prévoir d'autres catégories de décisions pour lesquelles le paragraphe 1 s'applique.

Article 64
Conflit d'intérêts

1. Toute opération à laquelle un membre a un intérêt opposé à celui de la S.C.E. doit être autorisée au préalable par l'Organe de Surveillance ou par l'Organe d'Administration.
2. Les statuts de la S.C.E. peuvent prévoir que la disposition du paragraphe 1 ne s'applique pas aux opérations courantes conclues à des conditions normales.
3. Un membre auquel le paragraphe 1 s'applique a le droit d'être entendu avant la décision sur l'autorisation et ne doit pas prendre part à la délibération de l'Organe compétent pour l'autorisation.
4. Les autorisations données selon le paragraphe 1 au cours d'un exercice sont communiquées au plus tard à la première Assemblée Générale suivant la clôture de cet exercice.
5. L'absence d'autorisation est inopposable aux tiers, à moins que la S.C.E. ne prouve que le tiers avait connaissance de la nécessité d'une autorisation et de son absence.

Article 65
Droits et obligations

1. Chacun des membres d'un organe de la S.C.E. a les mêmes droits et obligations sans préjudice :
 - a) d'une répartition interne des attributions entre les membres de chaque organe ainsi que des dispositions du règlement intérieur pour la prise des décisions en cas d'égalité des voix ;
 - b) des dispositions concernant la délégation du pouvoir de direction à certains membres de l'Organe d'Administration.
2. Tous les membres exercent leur fonction dans l'intérêt de la S.C.E. compte tenu notamment des intérêts des membres et des travailleurs.
3. Tous les membres observent la discrétion nécessaire en ce qui concerne les informations de caractère confidentiel dont ils disposent sur la S.C.E. Ils sont tenus à cette obligation, même après la cessation de leurs fonctions.

Article 66
Quorum - majorité

1. A moins que les statuts de la S.C.E. ne prévoient un quorum plus élevé, chaque Organe ne délibère valablement que si la moitié au moins de ses membres prend part aux délibérations.
2. Les membres absents peuvent prendre part aux décisions en donnant pouvoir de les représenter à un membre présent. Chaque membre ne peut représenter qu'un seul membre absent.
3. A moins que les statuts de la S.C.E. ne prévoient une majorité plus élevée, les décisions sont prises à la majorité des membres présents et représentés.
4. Dans les conditions prévues par les statuts de la S.C.E., chaque organe peut également prendre des décisions sur la base d'un vote exprimé par écrit, par télex, par télégramme, ou par tout autre moyen de télécommunication, si tous les membres sont informés de la procédure de vote prévue et si aucun membre ne s'oppose à l'adoption de cette procédure.

Article 67
Responsabilité civile

1. Les membres du Directoire, du Conseil de Surveillance ou de l'Organe d'Administration et les dirigeants délégués répondent du préjudice subi par la S.C.E. en raison des fautes commises à son égard dans l'accomplissement de leurs fonctions.
2. Lorsque l'Organe concerné comprend plusieurs membres, tous sont solidairement et indéfiniment responsables. Toutefois, un membre de l'Organe concerné peut s'exonérer de sa responsabilité s'il prouve qu'aucune faute ne lui est personnellement imputable. Une telle exonération ne peut résulter pour un membre du seul fait que le fait dommageable n'entre pas dans le cadre des compétences qui lui ont été attribuées.

Article 68
Action sociale

1. L'action sociale en responsabilité peut être intentée soit par l'Organe d'Administration, soit par le Conseil de Surveillance.
2. L'action sociale en responsabilité doit être intentée si l'Assemblée Générale le décide ; à cet effet elle peut désigner un mandataire spécial. Pour cette décision, les statuts ne peuvent prévoir une majorité plus grande que la majorité absolue des voix présentes et représentées.
3. L'action sociale en responsabilité peut aussi être intentée par un ou plusieurs membres disposant de 10 % du droit de vote de la SCE.
4. L'action sociale en responsabilité peut être exercée par tout créancier de la S.C.E. qui prouve qu'il ne peut se faire désintéresser par elle.

Article 69***Renonciation à l'action sociale***

1. La S.C.E. peut renoncer au droit d'exercer l'action sociale en responsabilité. Une telle renonciation est subordonnée à une décision expresse de l'Assemblée Générale prise en connaissance de la faute commise et de son incidence dommageable pour la S.C.E.
2. Les dispositions du présent article s'appliquent à toute transaction à conclure entre la S.C.E. et un membre d'un des Organes concernant une action sociale en responsabilité.

Article 70***Prescription de l'action sociale***

L'action sociale en responsabilité ne peut plus être exercée après un délai de cinq ans à compter du fait dommageable.

Article 71***Organe interne de vérification des comptes***

Les statuts peuvent prévoir la création d'un organe interne de vérification des comptes dont les membres élus parmi les sociétaires ont pour mission le contrôle permanent des comptes et de la gestion de la société. Ils font chaque année rapport à l'Assemblée Générale des diligences faites pour l'accomplissement de leur mission. Lorsque la loi nationale impose aux sociétés coopératives le contrôle comptable par des personnes externes à la société, l'organe interne de vérification ne peut se substituer aux prescriptions légales.

TITRE VI**COMPTES ANNUELS ET COMPTES CONSOLIDÉS ; CONTRÔLE****PREMIERE SECTION****COMPTES ANNUELS ET RAPPORT DE GESTION****Première sous-section****Etablissement des comptes annuels****Article 72**

1. La S.C.E. établit des comptes annuels qui comprennent le bilan, le compte des profits et pertes ainsi que l'annexe. Ces documents forment un tout :
Les comptes annuels sont établis conformément aux dispositions en vigueur dans l'Etat du siège de la société et conformément à la directive 78/660/CEE.

Deuxième sous-section**Etablissement du rapport de gestion****Article 73**

1. La S.C.E. établit un rapport de gestion qui contient au moins un exposé fidèle sur l'évolution des affaires et la situation de la société.
2. Le rapport de gestion comporte également les indications prévues à l'article 46 de la directive 78/660/CEE.

Troisième sous-section**Contrôle****Article 74**

1. Le contrôle des comptes annuels de la S.C.E. est effectué par une ou plusieurs personnes agréées dans un Etat membre conformément aux dispositions de la directive 84/253/CEE.

Toutefois, la S.C.E. doit adhérer et se soumettre à un système de révision et de contrôle lorsque le droit de l'Etat dans lequel la S.C.E. a son siège social rend obligatoire un tel système pour l'ensemble des sociétés coopératives relevant du droit de cet Etat.

Cinquième sous-section

Publicité

Article 75

1. Les comptes annuels régulièrement approuvés ainsi que le rapport de gestion et le rapport de contrôle font l'objet d'une publicité effectuée selon les modes prévus par la législation de l'Etat membre dans lequel la S.C.E. a son siège conformément à l'article 3 de la directive 68/151/CEE.
2. La S.C.E. peut se prévaloir des options prévues à l'article 47 de la directive 78/660/CEE.
3. Les articles 48, 49 et 50 de la directive 78/660/CEE s'appliquent à la S.C.E.

Sixième sous-section

Dispositions finales

Article 76

Les articles 56 à 61 de la directive 78/660/CEE s'appliquent à la S.C.E. La S.C.E. peut se prévaloir des options prévues dans ces articles.

DEUXIEME SECTION COMPTES CONSOLIDES

Première sous-section

Conditions d'établissement des comptes consolidés

Article 77

1. Lorsque la S.C.E. est une entreprise mère au sens de l'article 1^{er} paragraphes 1 et 2 de la directive 83/349/CEE, elle est tenue d'établir des comptes consolidés et un rapport consolidé de gestion conformément aux dispositions de cette directive.
2. L'article 1^{er} paragraphe 1 sous c) dernière phrase, sous d) point bb), dernière phrase et sous d) deuxième et troisième alinéas, ainsi que les articles 4 et 5 de la directive 83/349/CEE ne sont pas applicables.
3. La S.C.E. peut se prévaloir des options prévues aux articles 1^{er}, 6, 12 et 15 de la directive 83/349/CEE.

Article 78

1. Lorsque la S.C.E. est une entreprise mère au sens de l'article 1^{er} paragraphes 1 et 2 de la directive 83/349/CEE et en même temps une entreprise filiale d'une entreprise mère relevant du droit d'un Etat membre, elle est exemptée de l'obligation d'établir des comptes consolidés dans les conditions prévues aux articles 7 et 8 de la directive 83/349/CEE. L'article 10 de cette directive s'applique.
2. Les articles 7 paragraphe 1 sous b) deuxième alinéa, 8 paragraphe 1 dernière phrase et paragraphes 2 et 3, ainsi que l'article 9 ne sont pas applicables.

Article 79

1. Lorsque la S.C.E. est une entreprise mère au sens de l'article 1^{er} paragraphes 1 et 2 de la directive 83/349/CEE et en même temps une entreprise filiale d'une entreprise mère qui ne relève pas du droit d'un Etat membre, elle est exemptée de l'obligation d'établir des comptes consolidés dans les conditions prévues à l'article 11 de la directive 83/349/CEE.
2. L'article 8 paragraphe 1 deuxième phrase et paragraphes 2 et 3 ainsi que l'article 10 de la directive 83/349/CEE ne sont pas applicables.

Deuxième sous-section

Modes d'établissement des comptes consolidés**Article 80**

1. Les comptes consolidés comprennent le bilan consolidé, le compte de profits et pertes consolidé, ainsi que l'annexe. Ces documents forment un tout.
2. Les comptes consolidés sont établis conformément aux dispositions de la directive 83/349/CEE sous réserve du paragraphe 3 du présent article et de l'adaptation nécessaire en raison des caractères spécifiques des sociétés coopératives.
3. a) L'article 16 paragraphe 5 dernière phrase et paragraphe 6, l'article 33 paragraphe 2 sous c) première phrase et paragraphe 3 dernière phrase, l'article 34 point 12 dernière phrase et point 13 dernière phrase, l'article 35 paragraphe 1 sous b) deuxième phrase et les articles 40, 41 paragraphe 5 et 48 de la directive 83/349/CEE ne sont pas applicables.
b) La S.C.E. peut se prévaloir des options prévues aux articles 17 paragraphe 2, 19 paragraphe 1 sous b), 20, 26 paragraphe 1 sous c) dernière phrase et paragraphe 2, 27 paragraphe 2, 28 deuxième phrase et paragraphe 5 dernière phrase, 30 paragraphe 2, 32, 33 paragraphe 2 sous d) et 35 paragraphe 1 de la directive 83/349/CEE.

Troisième sous-section

Etablissement du rapport consolidé de gestion**Article 81**

1. Le rapport consolidé de gestion contient au moins un exposé fidèle sur l'évolution des affaires et la situation de l'ensemble des entreprises dans la consolidation.
2. Le rapport consolidé de gestion comporte également les indications prévues à l'article 36 de la directive 83/349/CEE. La S.C.E. peut se prévaloir de l'option prévue au paragraphe 2 sous d) dernière phrase de cet article.

Quatrième sous-section

Contrôle des comptes consolidés**Article 82**

Le contrôle des comptes consolidés est effectué par une ou plusieurs personnes agréées dans un Etat membre conformément aux dispositions de la directive 84/253/CEE. Ces personnes doivent également vérifier la concordance du rapport consolidé de gestion avec les comptes consolidés de l'exercice.
Dans les Etats dont la législation coopérative nationale prévoit un ou plusieurs organismes de révision et de contrôle visés à l'article 75 ci-dessus, ces organismes sont habilités à effectuer le contrôle des comptes consolidés dès lors que la société mère a son siège social dans l'un desdits Etats.

Cinquième sous-section

Publicité**Article 83**

1. Les comptes consolidés régulièrement approuvés et le rapport consolidé de gestion ainsi que le rapport de contrôle font l'objet d'une publicité effectuée selon les modes prévus par la législation de l'Etat membre dans lequel la SCE a son siège, conformément à l'article 3 de la directive 68/151/CEE.
2. L'article 38 paragraphes 3, 4 et 6 de la directive 83/349/CEE ne sont pas applicables.
3. Les membres de l'Organe de Direction ou les membres dirigeants de l'Organe d'Administration sont passibles (des sanctions prévues...) lorsque les comptes consolidés et le rapport consolidé de gestion ne sont pas publiés.

Sixième sous-section

Banques et entreprises d'assurance**Article 84**

1. Les S.C.E. qui sont des établissements de crédit ou des établissements financiers se conforment en ce qui concerne l'établissement, le contrôle et la publicité des comptes annuels et des comptes consolidés, aux règles prévues dans le droit national de l'Etat du siège en application de la directive 86/635/CEE (1).
2. Les S.C.E. qui sont des entreprises d'assurance se conforment en ce qui concerne l'établissement, le contrôle et la publicité des comptes annuels et des comptes consolidés, aux règles prévues dans le droit national de l'Etat du siège en application de la directive... qui, (complétant la directive 78/660/CEE, harmonise les dispositions relatives aux comptes annuels et aux comptes consolidés des entreprises d'assurance).

(1) J.O. n° L 372 du 31.12.1986, p. 1.

TITRE VII

DISSOLUTION, LIQUIDATION, INSOLVABILITE ET CESSATION DES PAIEMENTS

PREMIERE SECTION

DISSOLUTION

Article 85

La S.C.E. est dissoute :

1. par l'expiration de la durée fixée par les statuts ou ;
2. par décision de l'Assemblée Générale ou ;
3. par décision du tribunal du siège :
 - a) lorsque le nombre des membres est inférieur au nombre minimum prévu par le présent règlement ou par les statuts de la coopérative ;
 - b) en cas de réduction du capital souscrit en dessous du capital minimal fixé par les statuts ;
 - c) en cas de défaut de publicité des comptes pendant les trois derniers exercices de la société ;
 - d) pour une cause de dissolution prévue par la loi du siège de la S.C.E. ou par les statuts ;
 - e) lorsque les conditions visées à l'article 1 paragraphes 3 ou 4 ne sont plus remplies.

Article 86

Dissolution par l'Assemblée Générale

1. La décision de l'Assemblée Générale sur la dissolution de la S.C.E. pour une cause prévue par les statuts requiert au moins la majorité simple des voix présentes ou représentées.
2. Dans tous les autres cas, la décision de l'Assemblée Générale sur la dissolution requiert au moins une majorité qui ne peut être inférieure aux trois quarts des voix présentes ou représentées.
3. La décision est prise au vu d'un Etat comptable de la situation patrimoniale de la S.C.E. à la clôture du dernier exercice précédant la date de l'Assemblée à l'initiative et sous la responsabilité de l'Organe d'Administration ou des dirigeants délégués.

Article 87

Dissolution par le tribunal du siège

1. La procédure de dissolution devant le tribunal du siège peut être intentée par l'Organe d'Administration, du Directoire, du Conseil de Surveillance de la S.C.E. par tout membre ou par toute personne justifiant d'un intérêt légitime.
2. Lorsque la S.C.E. peut porter remède à la cause de dissolution, le tribunal peut lui accorder un délai suffisant pour régulariser sa situation.

Article 88

Publication de la dissolution

La dissolution de la S.C.E. fait l'objet d'une publicité selon les modalités prévues à l'article 7.

Article 89

Continuation d'une S.C.E. dissoute

L'Assemblée Générale peut décider la continuation d'une S.C.E. dissoute par l'expiration de sa durée ou par décision de l'Assemblée Générale tant qu'aucune répartition au titre de la liquidation n'a été faite.

Article 90

Nomination des liquidateurs

1. La dissolution de la S.C.E. entraîne la liquidation de son patrimoine. Cette liquidation est opérée par un ou plusieurs liquidateurs.
2. Les liquidateurs sont nommés :
 - a) soit directement par les statuts, soit selon les modalités fixées dans ce document ;
 - b) soit par une décision de l'Assemblée Générale prise à la majorité simple des voix ;
 - c) soit, à défaut d'une nomination conformément aux cas visés sous a) et b), par le tribunal du siège sur demande de l'Organe d'Administration, du Directoire ou du Conseil de Surveillance.

3. Les fonctions des liquidateurs, à défaut de leur nomination conformément au paragraphe 2, sont exercées par l'Organe d'Administration ou par le Directoire.
4. L'Assemblée Générale fixe la rétribution des liquidateurs. Si les liquidateurs sont désignés, par le tribunal du siège, celui-ci fixe leur rétribution.

Article 91

Révocation des liquidateurs

Les liquidateurs peuvent être révoqués avant la clôture de la liquidation :

- a) en cas de nomination conformément à l'article 60 paragraphe 2 sous a) et b) ou d'application de l'article 60 paragraphe 3, par une décision de l'Assemblée Générale prise à la majorité simple des voix visée à l'article 56 paragraphe 1 ;
- b) dans tous les cas de nomination, par le tribunal du siège sur demande de toute personne ayant un intérêt légitime et pour juste motif.

Article 92

Pouvoirs des liquidateurs

1. Les liquidateurs peuvent accomplir tous les actes utiles à la liquidation de la S.C.E., et notamment mettre fin aux affaires en cours, recouvrer les créances, convertir en espèces le patrimoine restant de la S.C.E. dans la mesure nécessaire de sa réalisation et désintéresser les créanciers. Ils peuvent prendre de nouveaux engagements si la liquidation le nécessite.
2. Les liquidateurs ont le pouvoir de représenter la S.C.E. en justice en dehors de la voie judiciaire. La nomination, la cessation des fonctions ainsi que l'identité des liquidateurs font l'objet d'une publicité. Les mesures de publicité doivent préciser si les liquidateurs peuvent engager la société seuls ou s'ils doivent le faire conjointement.

Article 93

Responsabilité des liquidateurs

1. Les dispositions sur la responsabilité civile des membres de l'Organe d'Administration ou du Directoire s'appliquent à la responsabilité civile des liquidateurs en raison des fautes commises dans l'accomplissement de leur mission.

Article 94

Documents comptables

1. Les liquidateurs doivent vérifier l'état comptable de la situation patrimoniale de la S.C.E. à la date de l'ouverture de la liquidation. Une copie de cet état comptable peut être obtenue par tout membre ou par tout créancier de la S.C.E., sans frais et sur simple demande.
2. Les liquidateurs sont tenus de rendre compte annuellement de leur activité à l'Assemblée Générale.
3. Les dispositions en matière d'établissement, de contrôle et de publicité des comptes annuels ainsi que d'agrément des personnes chargées du contrôle légal de ces comptes s'appliquent, *mutatis mutandis*.

Article 95

Information des créanciers

1. La publication de la dissolution de la S.C.E. prévue à l'article 86 doit comporter l'invitation aux créanciers à produire leurs créances ainsi que l'indication du délai à partir duquel des répartitions au titre de la liquidation seront faites.
2. En outre, une telle invitation doit être adressée par écrit à tout créancier connu de la S.C.E.

Article 96

Répartition du patrimoine

1. Aucune répartition au titre de la liquidation ne peut être faite aux ayants droits désignés dans les statuts ou, à défaut d'une telle désignation, aux membres avant que tous les créanciers de la société n'aient obtenu satisfaction et avant que les délais prévus aux articles 96 paragraphe 1 et 98 paragraphe 2 soient écoulés.
2. L'actif net de la S.C.E. après le désintéressement de ses créanciers et, le cas échéant, après répartition de ce qui est dû aux ayants droits visés au paragraphe 1, est sauf clause contraire dans les statuts dévolu par décision de l'Assemblée Générale soit à d'autres sociétés coopératives européennes ou relevant du droit de l'un des Etats membres soit à un ou plusieurs organisme ayant pour objet le soutien et la promotion des sociétés coopératives.

3. Lorsqu'une créance envers la S.C.E. n'est pas échue ou qu'elle est litigieuse ou encore que le créancier n'est pas connu, il ne peut être procédé à la répartition de l'actif net que si une garantie adéquate est constituée en faveur de ce créancier ou que le patrimoine restant après une répartition partielle représente une sûreté suffisante pour le créancier.

Article 97

Document de répartition

1. Les liquidateurs doivent établir un document de répartition de l'actif net de la société conformément à l'article 97 et après le délai indiqué à l'article 96.
2. Ce document de répartition doit être porté à la connaissance de l'Assemblée Générale et de tout ayant droit désigné dans les statuts. Tout membre ainsi que tout ayant droit peut intenter un recours contre ce document de répartition devant le tribunal du lieu du siège dans un délai de trois mois après l'information de l'Assemblée Générale ou de cet ayant droit. Aucune répartition ne peut être faite avant l'expiration de ce délai.
3. Lorsqu'un recours est intenté, il appartient au tribunal de décider si et dans quelle mesure les répartitions partielles peuvent être faites, en cours de procédure, avant que le tribunal ne statue.

Article 98

Fin de la liquidation

1. La liquidation est clôturée après que la répartition a été faite.
2. Lorsque, après la clôture de la liquidation, des éléments du patrimoine de la S.C.E., inconnus auparavant, sont découverts ou que d'autres mesures de liquidation s'avèrent nécessaires, le tribunal du siège sur demande d'un membre, ou d'un créancier, renouvelle le mandat des anciens liquidateurs ou en désigne d'autres.
3. La clôture de la liquidation et la radiation de la S.C.E. s'effectuent selon la législation de l'Etat membre du siège.
4. Après la liquidation, les livres et écritures se rapportant à la liquidation doivent être déposés à l'autorité compétente selon la législation de l'Etat membre du siège. Toute personne intéressée peut prendre connaissance de ces livres et écritures.

DEUXIEME SECTION

PROCEDURES D'INSOLVABILITE ET CESSATION DES PAIEMENTS

Article 99

La S.C.E. est soumise aux dispositions du droit national ou lieu du siège régissant l'insolvabilité, la cessation des paiements et le surendettement.

Article 100

1. L'ouverture d'une procédure d'insolvabilité, de cessation de paiements ou de surendettement est communiquée au registre aux fins de son inscription, par la personne chargée d'exécuter la procédure. L'inscription contient les mentions suivantes :
 - a) la mesure prononcée et la date de la décision ainsi que la juridiction qui l'a rendue,
 - b) la date de la cessation des paiements, si la décision contient une telle indication,
 - c) les noms et adresses des curateurs administrateurs, liquidateurs et des personnes auxquelles des pouvoirs d'exécuter la procédure ont été délégués,
 - d) toutes autres indications jugées utiles.
2. Si un tribunal a refusé définitivement de déclarer d'ouvrir une procédure visée au paragraphe premier faute d'actif suffisant, le tribunal ordonne, soit d'office, soit à la demande de tout intéressé, l'inscription de cette décision dans le registre.
3. Les inscriptions faites conformément aux paragraphes 1 et 2 sont publiées conformément à la législation de l'Etat membre du siège.

TITRE VIII

FUSION

Article 101

Une S.C.E peut fusionner avec d'autres S.C.E. ou avec des sociétés coopératives constituées selon le droit d'un Etat membre dans la mesure où les statuts juridiques des sociétés à fusionner autoriseraient cette fusion :

- a) par constitution d'une nouvelle S.C.E.
- b) par absorption par une S.C.E. d'une ou plusieurs sociétés anonymes.

Article 102

Dispositions applicables aux fusions

1. Lorsqu'il s'agit d'une fusion dans laquelle les sociétés participantes ont leur siège dans le même Etat membre, les dispositions nationales prises en application de la directive 78/855/CEE s'appliquent.
2. Lorsqu'il s'agit d'une fusion dans laquelle les sociétés participantes ont leur siège dans des Etats membres différents, les dispositions du titre II du présent statut s'appliquent *mutatis mutandis*.

TITRE IX

ETABLISSEMENTS STABLES

Article 103

1. Lorsqu'une S.C.E. a un ou plusieurs établissements dans un Etat membre ou un pays tiers, et que l'ensemble des résultats d'une période d'imposition de ces établissements stables fait apparaître une perte, celle-ci est déductible des bénéfices de la S.C.E. dans l'Etat dont celle-ci est un résident fiscal.
2. Les bénéfices ultérieurs des établissements stables de la S.C.E. dans un autre Etat constituent un revenu imposable de la S.C.E. dans l'Etat dont elle est un résident fiscal, à concurrence de la perte admise en déduction en vertu des dispositions du paragraphe 1.
3. Lorsqu'un établissement stable est situé dans un Etat membre, la perte déductible en vertu des dispositions du paragraphe 1 et les bénéfices imposables en vertu des dispositions du paragraphe 2 sont déterminés selon les règles du droit de cet Etat membre.
4. Les Etats membres peuvent ne pas appliquer les dispositions de cet article lorsqu'ils évitent la double imposition en autorisant la S.C.E. à imputer sur l'impôt dû par celle-ci sur les bénéfices réalisés par ses établissements stables, l'impôt payé par ceux-ci.

TITRE X

DISPOSITIONS FINALES

Article 104

Arbitrage

Les statuts peuvent stipuler une clause d'arbitrage imposant le recours préalable à l'arbitrage pour le règlement des conflits susceptibles de s'élever entre la S.C.E. et ses sociétaires.

En cas d'usage de cette faculté, ce recours se substitue aux dispositions du présent règlement qui édictent l'intervention des juridictions nationales.

Article 105

Place des travailleurs

La place des travailleurs dans la S.C.E. est définie selon les dispositions applicables aux sociétés coopératives dans l'Etat du siège de la S.C.E.