

Co-operative Legislation and Policy in Asia-Pacific – A Study



**International Co-operative Alliance
Asia and Pacific**

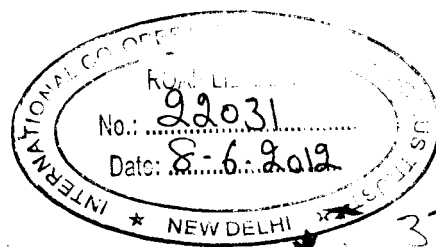
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– A Study**

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Chapter-I

INTRODUCTION

Cooperative legislation in most of the countries of Asia and Pacific region was initiated by the Colonial Governments to promote cooperatives as a tool to provide relief to the farmers and workers. However, the Colonial rulers were not much enthusiastic to make cooperatives as ground level institutions to fulfill the democratic aspirations of the people and to support the emergence of local political leadership. The cooperative system during colonial rule was developed in such a way that the Management Committee members of cooperatives remained politically loyal to the Government. It was also ensured by the colonial rulers that the cooperatives developed as an adjunct to the Government policies and programmes and became dependant on Government support. Thus cooperative legislation was shaped according to this perception of the then Government.

After independence, in most of the countries cooperatives were recognized as people based organizations. Governments in most of the Asian countries used them as instrument for economic planning and development of the persons of limited means like farmers and workers. The cooperative legislation was also fashioned accordingly to ensure increased commitment and support for cooperatives by the Governments. Governments sponsored cooperatives to achieve their developmental goals and provided specific budgetary allocations for cooperative development. This approach of the Government on the one hand resulted in greater expansion of the cooperatives in different segments of national economy, on the other hand it resulted in increased control of the Government over the affairs of the cooperatives. In this process cooperatives often have been treated as Government agencies and their autonomy as member centric institutions has been adversely impacted. Cooperative legislation formulated by the Government in many countries of Asia and Pacific region incorporated restrictive provisions that strengthened Government control at the cost of the democratic and autonomous character of cooperative institutions. Obviously such provisions in the cooperative legislation were not in the spirit of democratic control,

independence and autonomy of cooperatives in decision making process. The globalisation and liberalization of national economies created pressures on cooperatives to compete in the market calling for changes in the Government policies to provide support and regulate the cooperative institutions without impairing their autonomy. The Governments in most of the countries adopted a policy of disengagement from the cooperatives. Another dimension of impact of globalisation on cooperatives was their demand for providing level playing field to enable them to compete at the market place. Therefore, development of conducive cooperative legislation and policies for creating an enabling environment for the growth and development of members centric and member controlled cooperative enterprises emerged as one of the core issues before the cooperative movement of Asia and Pacific region.

International Cooperative Alliance (ICA) in Asia and Pacific region, therefore, adopted cooperative legislation and policy reforms as one of its Key Result Areas for creating enabling environment for the development of a sustainable member controlled autonomous cooperative system. Viewed in this context, the ICA has been assiduously pursuing the issue of cooperative legislation by facilitating a continuous and constructive dialogue between Government and the cooperative movement by sponsoring Cooperative Ministers' Conferences and regional consultations since 1990. At these Fora both Governments and Cooperatives review the trends in cooperative legislation and policy and deliberate on the issues arising there from. Critical studies have been undertaken by ICA to be placed before Regional Consultation and Ministerial Conferences as background material for deliberations. So far three studies have been undertaken.

This study, fourth in series, is based on the desk research. The main objective of this study is to document the trends in cooperative legislation which have taken place since last Conference of Cooperative Ministers held in New Delhi in 2004. Besides a questionnaire having following components was also sent to all the member organizations and the Governments in Asia and Pacific region to elicit their views on different aspects of cooperative legislation and policy.

I. COOPERATIVE POLICY

II. COOPERATIVE LAW

- A. General
- B. Protection of Cooperative Identify
- C. Government and Cooperatives
- D. Cooperative Law and Good Governance of Cooperatives
- E. Cooperative Law and Resource Mobilisation
- F. Cooperatives and Community

However, the response/comments of member organizations and Governments of the

region has been very inadequate. So far only two member organizations (India and Nepal), Two Governments (Sri Lanka and Thailand) have commented upon the issues raised in the questionnaire. In view of this, major reference material for drafting this study was drawn from the Cooperative Laws of India, Indonesia, Iran, Japan, Korea, Malaysia, Nepal, Philippines, Singapore, Thailand and Vietnam available in ICA-AP Library.

RETROSPECT

So far seven Conferences of the Ministers Incharge of Cooperatives have been held since 1990. Last Conference, 7th in series, was held in India (New Delhi). These Conferences through their deliberations have evolved strategic parameters for cooperative legislation reform. However, it is interesting to note that it was 5th Conference held in Beijing in 1999 which focused for the first time on Cooperative Law. The first Conference was held in Sydney (Australia) in 1990 with the theme "Cooperative – Government Collaborative Strategies for Development of Cooperatives during 90s." In the joint declaration brought out by the Conference, there was no mention of cooperative law reforms. However, in recommendation (No.3.5) "Enactment of progressive cooperative law in conformity with cooperative principles" was mentioned. The Jkarata Conference, second in series, held in 1992 adopted the same theme as in Sydney and emphasized on expeditious cooperative legislation reforms. Similarly, the third conference held in Colombo adopted the same theme and surprisingly did not make any mention about cooperative legislation in declaration and recommendation. Perhaps till third conference the delegates were more concerned with the impact of globalisation on the competitive strength of cooperatives. Therefore, they felt that there was need for cooperative – Government collaborative strategies for sustainable development of cooperatives. From 4th Conference onwards till the 7th Conference, cooperative legislation reform has been the main concern. The 4th Conference held in Thailand and in 1995 adopted a theme "Cooperatives in changing socio-economic environment" and, therefore, recommended "need for appropriate legislation and policies to develop coops as autonomous and democratic people based institutions". The Conference also called upon the Governments to formulate laws and policies consistent with Identity Statement issued by ICA. The theme of 5th Conference at Beijing focused on two imperatives for creating an enabling environment for cooperatives in globalised and liberalized economies – (a) need to create and sustain an enabling policy and legal environment and (b) need to establish new forms of cooperation between Government and the Coops. In recommendations, the Conference specifically emphasized on creating suitable parameters to define the legal existence of cooperative institutions. The Kathmandu Conference, sixth in series had theme, "Establishing relevant legislation and policy for cooperatives in the new millennium; and the 7th Conference held in India in 2004 adopted "Establishing supportive cooperative legislation and policy for sustainable growth of cooperatives". Thus for the first time Cooperative Ministers Conference held in Kathmandu specifically recognized

the importance for strengthening the processes that facilitate adoption and implementation of appropriate legislation and policy for Coops in new millennium.” In addition, this Conference also identified four contextual issues briefly mentioned as under:

- (i) Coop reforms have not been accompanied by supporting policy, As in most of the countries in Asia and Pacific, there is absence of specific policies on cooperative development. The Conference felt that while Coop legislation is necessary, it is not sufficient to achieve an enabling environment for cooperatives. Therefore, specific policies on cooperative development need to be formulated.
- (ii) Absence of cooperatives in broader public policy framework and decision making of the Government has resulted into absence of coordination between Nodal Ministry or Department for Cooperative Development and other branches of the Government such as Finance, Labour, Agriculture, Trade, Industry and Social Welfare.
- (iii) There is also a need for influencing multilateral UN Agencies particularly ADB, World Bank, IMF, etc. for ensuring flow of multilateral international assistance for cooperative development.
- (iv) There is a need for establishing regular exchange and interaction mechanism between Coop and Government particularly to ensure that cooperatives are transformed on the basis of visualization in the Cooperative Identity Statement (ICIS). Another important recommendation of the Conference was need for development of grid model to determine whether a given piece of legislation or policy is enabling to protect identity of cooperatives.

By the time 7th Cooperative Ministers’ Conference was held, the ILO recommendation 193 on promotion of cooperative had already been finalized. The ILO Recommendation provided important guidelines for deliberations of the Conference. Important recommendation of this Conference was to hasten the process of legislative and policy reforms that will guarantee more autonomy and independence of cooperatives, to ensure the creation of a conducive environment that will lead towards a more balanced and sustained growth of the cooperatives in all sectors of the economy, and hence ensuring the socio-economic development of the people and the country. The Conference, particularly, recommended:

- (a) the formulation of specific public policy – in consultation with the cooperative movement – that will facilitate the growth of member-centered, community oriented, autonomous and competitive cooperative enterprises;
- (b) the harmonization of cooperative policy and legislation;
- (c) the definition of an appropriate role and engagement of cooperatives in public policies relating to different sectors of economy, e.g. agriculture, credit, banking and insurance, trade and commerce, labour, etc.;
- (d) the repositioning and strengthening of the cooperatives by way of: i. Augmenta-

tion of capital and resources, ii. Professionalization of management, iii. Adoption of appropriate manpower development strategies, iv. Diversification and broad basing business operations, v. upgrading technologies for enhanced efficiency and effectiveness of services, and vi. Learning from experiences, good practices and successful growth models of cooperatives in different sectors in the countries of the Asia-Pacific Region;

- (e) the empowerment of cooperatives in order that they can play an enhanced role in social sector development; and
- (f) the creation of appropriate provisions in Cooperative Legislation that will enhance effectiveness of management and leadership.

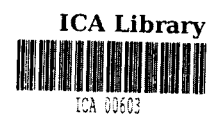
Besides, the Conference had also deliberated on certain important concerns of cooperatives, i.e., Cooperative Best Practices and "Globalisation and Poverty". Viewed in this context, the Conference called upon the Governments and cooperatives in Asia-Pacific Region as well as ICA ROAP, to:

- a. give special consideration to increasing women's participation in the Cooperative movement at all levels; the Government together with the cooperative movement in each country must provide the necessary funds for gender disaggregated data base, training and education of women and youth.
- b. recognize the important role of cooperatives in a rapidly changing global environment, and for governments to create a favourable environment for the development of cooperatives including, if necessary, to offer those preferences for cooperatives which work for the betterment of the community and for the creation of an information technology in order to help cooperatives to operate more efficiently;
- c. confirm and advocate to the UN and other relevant Development Agencies the contribution cooperatives can make in the area of Good Governance and Business Development as value added features in Poverty Reduction Strategies (PRS).
- d. seek a new strategy through which cooperatives can become an integral part in the PRS processes.

Parameters of Cooperative Legislation Reforms:

The important parameters evolved through deliberations of Cooperative Ministerial Conferences and Regional Consultations, convened by ICA Regional Office for Asia-Pacific, are as follows:

1. Incorporation of cooperative values and principles (ICIS) in Law.
2. Provisions in National Constitutions on cooperatives.
3. State Policy on cooperatives.
4. Positioning of cooperatives in different sectors of national economy.
5. Autonomy and Independence : Self Regulation.



6. Capitalization (Resource Mobilization).
7. Increased Role of women in cooperative management and leadership.

Some Distinctive Features of Cooperative Legislation in Asia and Pacific:

- (i) Most of countries of the region have a general comprehensive law on cooperatives applicable to all types of cooperatives. But in Japan and Korea sector specific cooperative legislation has been in operation.
- (ii) India is the only country where four types of Cooperative Laws are in operation. These are:
 - (1) Provincial Cooperative Laws.
 - (2) Legislation for self-reliant cooperatives
 - (3) Multi State Cooperative Societies Law for those cooperatives whose area of operation is beyond one Province.
 - (4) Producers Companies Law.
- (iii) Agricultural Cooperative Laws of Japan and Korea make a very comprehensive provisions for role and functioning of federations.
- (iv) Malaysian Cooperative Legislation recognizes ANKAKASA as National Cooperative organization.
- (v) Similarly Thai Cooperative Law accords recognition to Cooperative League of Thailand to perform specific functions to promote Coops.
- (vi) Indonesian Cooperative Law vide Chapter 11 (Article 57) "visualises an establishment of a single organization to function as an association "to safeguard interests of Coops and to act as Spokesman of Cooperative Societies".
- (vii) Cooperative Law of Iran has made a provision for establishment of a Central Cooperative Chamber having countrywide branches for performing the duties and authorities of industry, trade and mines chamber relevant to cooperative sector. The Law makes a specific provision for Cooperative Chamber as an independent legal character and is not dependant on Government financially and administratively.
- (viii) Cooperative Code of Philippine has incorporated special provisions for following types of cooperatives:
 - (1) Agrarian reforms cooperatives (Chapter 11)
 - (2) Public cooperatives (Chapter 12)
 - (3) The Cooperative banks (Chapter 13)
 - (4) Credit cooperatives (Chapter 14)
 - (5) Cooperative insurance societies (Chapter 15)
- (ix) Cooperative Law of Myanmar has a chapter on basic principles of cooperative

society. But these principles do not make any reference to ICA Cooperative Identity Statement.

- (x) Cooperative Law of Thailand has provided vide Chapter-1 Section 9 to 13 for the establishment of a Board of National Cooperative Development which would be responsible for formulation and implementation of cooperative policies and supervision and promotion of cooperatives.
- (xi) Cooperative Law of Nepal is very liberal. It visualises virtually no role for Government except registration and audit.
- (xii) Law of cooperatives in Vietnam gives a very comprehensive definition of cooperatives vide Article 1. It would be interesting to reproduce this definition:

“A cooperative shall mean collective economic entity established by individuals, households, legal person entities (hereafter called “members”) who have common needs and interests, and contribute voluntarily capital or labour in accordance with the provisions of the law to promote the collective strength of each member joining a cooperative for the purpose of mutual assisting in effective carrying out manufacturing, business activities and in improving material and spiritual life, contributing to socio-economic development of the country. Cooperatives shall operate as a form of business enterprise, enjoy a legal person status, autonomous, self-responsibility for financial duties within the amount of share capital, accumulated funds and other funds of cooperatives under the provisions of the law.”

Vietnam cooperative law also makes provision for constitution of Alliance of Cooperatives at National and Provincial level. The constitutional framework of Central Alliance is formulated with the approval of Prime Minister and Alliance at provincial and at municipality level are set up with the approval of Chairman of People’s Committee.

TRENDS IN COOPERATIVE MOVEMENT

Since the last Conference held in 2004, Cooperatives of region have witnessed visible impact of globalization motivating them to adapt themselves to the changing socio-economic scenario by strengthening their competitive strength through necessary structural changes, mobilization of resources and capacity building efforts. Governments, on their part, have also appreciated the need for necessary legislation and policy reforms for providing level playing field to cooperatives. Important cooperative trends that are seen in different countries are briefly described as under:-

Afghanistan

In Afghanistan a new cooperative legislation has been drafted by the transitional State of Afghanistan. Department of Agricultural Cooperatives has been started at the Central

and Provincial levels. There are nearly 204 Agricultural Cooperatives having 25669 Members and covering 6708 acres of land. The new law is being drafted and is expected to be in place in near future. Master Plan for Agricultural development has been prepared wherein emphasis has been given on promotion of farmers organizations.

China

In China a number of supportive measures have been adopted by the Government with regard to development of cooperatives. A cooperative law concerning farmers specialty cooperatives has been formulated. This law will come into force from July 2007 onwards.

However, 30000 rural cooperatives are in poor shape. Government has decided to allow private foreign investors to take shares in cooperatives. Main problems faced by these cooperatives are – (a) High NPAs (non-performing loans), (b) Lack of risk control, (c) Poor governance and (d) Lack of trained staff. China Banking Regulation Commission is formulating appropriate policy to strengthen the capital base and functional competence of the rural cooperatives. China has also witnesses emergence of 3000 specialised Coops which are also known as professionalised farmers organizations for special Crops. Another important trend in China is implementation of Coop Medical Care System in rural areas. Under this system, Central Government, local Governments and individual farmers contribute 10 Yuan each per year to create medical insurance account which is utilized for providing medical care to the farmers.

India

Important trends seen in Indian Cooperative Movement since last Ministerial Conference are (a) Formulation and implementation of National Policy on Cooperatives; (b) Amendments in the National Constitution to ensure autonomous and democratic character of cooperative; (c) Rehabilitation of cooperative agricultural credit structure; (d) structural reorganisation through mergers and acquisition particularly in the sector of urban credit cooperatives and (e) enactment of specific legislation for self-reliant cooperative in 9 Provinces and reformation of traditional cooperative legislation; (f) strengthening of capacity building and human resource development programmes.

Iran

In Islamic Republic of Iran, necessary follow up action for formulation of policies under four national development plans has been initiated. The Document drafted by the Government and placed in Islamic Consultative Parliament mentions, "The Government is duty bound to draw up and implement cooperative sector development plan". Another important trend in Iran was formulation of a proposal to establish a National Cooperative Bank for providing necessary coordinating mechanism for 1900 credit cooperatives.

Japan

Japan Innovative Consumer Cooperative known as “Life Support Consumer Cooperatives are being set up to help those consumers, who are in debt trap by providing them switch loans”.

Malaysia

In Malaysia there is a proposal for establishment of Cooperative Commission to replace Cooperative Development Department so that the Government could adopt a holistic view of cooperative development in accordance with members expectations. Besides, two types of funds are proposed to be set up – (a) Central Deposit Account and (b) Central Liquidity Fund to help cooperatives to strengthen their resource base.

Sri Lanka

In Sri Lanka Cooperative Leasing has been created by 1800 Multipurpose Cooperative Societies to mobilize resources from the market by securitizing a part of portfolio to micro finance rural cooperative Banks.

Vietnam

In Vietnam cooperatives are to be given preferential treatment in the socio-economic development policy. The Government is expected to provide necessary incentives to Coops in the form of land allocation, rents and tax exemption, HRD, etc.

Chapter-II

National Cooperative Policy

In Asia-Pacific Region, India and Malaysia have brought out specific national public policy on cooperative development. The policy documents are given at Annexure-I & II. However, in some countries either the policy directions for Coops are given in the overall economic policies of the nation or in law itself. In Nepal and Thailand specific institutional mechanism within the cooperative law has been established to formulate the policy guidelines for cooperative development. Some countries like Iran, Philippines and Vietnam, cooperative law itself defines parameters for formulation of specific policies on cooperative development.

India

Indian National Cooperative Policy aims at facilitation of an all round development of cooperatives. Under the policy framework, cooperatives would be provided necessary support, encouragement and assistance so as to ensure that they work as autonomous, self-reliant and democratically managed institutions accountable to their members and make a significant contribution to national economy particularly in areas which require people's participation and community efforts.

Important features of National Cooperative Policy 2002 of India are as follows:

- (i) It upholds values and principles of Cooperation and recognizes Cooperatives as defined in ICA Identity Statement.
- (ii) Cooperatives are treated as preferred instrument for implementation of the policies and programmes relating to rural development and, therefore, Government prefers to encourage cooperative in the sectors like credit, labour, consumer services, development of women, etc.
- (iii) Role of Government to be confined to regulation relating to timely election, audit and protection of interests of members and other stake holders.

- (iv) It enables cooperatives to establish subsidiaries and enter into strategic alliances with private and public sectors.
- (v) Policy underlines the importance of level playing field to cooperatives particularly in the areas of agro-processing and marketing.
- (vi) It encourages greater participation of members in management and member economic participation.
- (vii) It ensures that there is no discrimination against cooperatives regarding mobilization of resources for their financial viability.
- (viii) Policy highlights the need to phase out Government participation in the equity of cooperatives.
- (ix) Policy emphasizes on the steps to ensure autonomous and democratic management of cooperatives to make them accountable to the members.
- (x) The policy emphasizes that the Government recognizes the need to support cooperatives in the field of human resource development, education and training of members and employees and to help cooperatives in the application of appropriate technologies and development of infrastructure facilities.

Malaysia

The policy statement incorporated in national cooperative policy of Malaysia recognizes cooperative sector as a catalyst alongside the public and private sectors in the nation's economic development. It also gives the parameters regarding relationship between the Government and cooperatives. Important details of the national cooperative policy of Malaysia are as follows:

Short Term Objective:

"To enhance the understanding of cooperative identity among the people so that cooperatives could function as organizations that are capable of contributing towards economic growth and social development".

Long Term Objective:

- (a) "To transform the cooperative movement into a vehicle that is competitive and geared towards eradication of poverty, creation of employment and business opportunities and upgrading the quality of life, based on the cooperative principles, for national development in line with Vision 2020.
- (b) The Government's role is solely to regulate and enforce the policy".

To implement these policy objectives specific strategies have been formulated. In brief they are described below:

Strategy No.1:

To ensure that cooperative principles and philosophy are understood and practised in the cooperative movement.

Strategy No.2:

To formulate clear rules and regulations to assist in the promotion and development of cooperative development.

Strategy No.3:

To recognize the cooperative movement as a prime motivator and contributor in the economic development of the nation.

Strategy No.4:

To strengthen and maintain good cooperative governance, efficient administration and financial management and effective supervision of cooperatives.

Strategy No.5:

To increase sources of capital to enable cooperatives to face challenges and competition.

Strategy No.6:

To strengthen cooperation among cooperatives and cooperation between cooperatives and third parties.

Strategy No.7:

To continuously improve the quality of products and services to ensure members to receive the best of product and services offered by cooperatives.

Strategy No.8:

To establish a National Cooperative Consultative Council.

Iran

Iranian Cooperative Law vide Article 01 sets out the following concerns for cooperatives:

- (a) Cooperatives as an instrument for providing employment to the people.
- (b) Cooperatives as an instrument to prevent concentration of wealth and to ensure social justice.

- (c) Enhancing accessibility of means of production, management techniques and resultant revenue to cooperative members.
- (d) Prevention of Government becoming absolute provider of employment to the people.
- (e) Prevention of monopolization, goods accumulation, inflation.
- (f) Strengthening and developing general collaboration among people.

Indonesia

In Indonesia Article 60 of Cooperative Law mentions two important policy parameters on role of the Government – one, creation and development of climate and condition to stimulate cooperative growth and socialization; and two, provision of guidance, facilities and protection to the cooperative societies. For creation of conducive climate and conditions for cooperative growth Article 61 outlines the areas of policy support by the Government. These areas: (a) creation of business opportunities for cooperatives; (b) enhancing capacity and capability of coops; (c) creation of business relationships between cooperatives and other sectors; (d) propagation of cooperative values; (e) institutionalization Article 62 describes the nature and kind of facilities and assistance to be provided by the Government. These may include business guidance; cooperative education, training, extension and research; financial support, provision of consultancy services. For protection of cooperatives there are provisions vide Article 63 for reserving certain economic activities exclusively for cooperatives.

Nepal

In Nepal a specific institutional mechanism namely; National Cooperative Development Board has been created under a separate statute “National Cooperative Development Board Act, 1992”. The Board on the demand of the cooperative movement and in terms of its mandate has formulated a National Cooperative Policy having following main features:-

- (a) “In accordance with the cooperative principles, cooperatives shall be developed as sustainable institutions for their members economic and social development on the basis of mutual cooperation.
- (b) The Government shall be activated as facilitator and regulator for the cooperative movement.
- (c) Cooperatives shall be economically developed as sustainable and efficient business enterprises.
- (d) As stipulated in the provision under Cooperative Act, 1992 amenities and facilities shall be provided to cooperatives.
- (e) Special emphasis shall be paid on skill oriented business training on poverty

reduction by increasing production and productivity in rural areas and empower women and disadvantaged people”.

Philippines

In Philippines the Code of Cooperatives has made specific provision vide its Article-2 on State Policy on Cooperatives. The same is quoted below:

Article-2: Declaration of Policy: It is the declared policy of the State to foster the creation and growth of cooperatives as a practical vehicle for promoting self-reliance and harnessing people power towards the attainment of economic development and social justice. The State shall encourage the private sector to undertake the actual formation and organization of cooperatives and shall create an atmosphere that is conducive to the growth and development of these cooperatives.

Towards this end, the Government and all its branches, subdivisions, instrumentalities and agencies shall ensure the provision of technical guidance, financial assistance and other services to enable said cooperatives to develop into viable and responsive economic enterprises and thereby bring about a strong cooperative movement that is free from any conditions that might infringe upon the autonomy or organizational integrity of cooperatives.

Further, the State recognizes the principle of subsidiarity under which the cooperative sector will initiate and regulate within its own ranks and promotion and organization, training and research, audit and support services relating to cooperatives with government assistance where necessary.

Sri Lanka

In Sri Lanka, National Cooperative Policy Statement has been drafted and sent for approval of the Cabinet. It is expected to be declared on the International Cooperative Day in July 2007. Important features of this policy statement are:-

1. Creating the background for Cooperative Movement of Sri Lanka to function as an independent and autonomous public enterprise.
2. Building the horizontal and vertical structure necessary to strengthen cooperative as a public enterprise.
3. Strengthening member administration of the Cooperative Movement.
4. Defining the role of the government with regard to Cooperative.
5. Explaining the role of Cooperative Movement.
6. Development of Human Resources of Cooperative Movement.
7. Establishing Supportive Institutions for Strengthening Cooperative Movement.

Thailand

In Thailand, Policy approach of the Government towards Cooperatives is based on the Section 85 of the National Constitution and National Economic and Social Development Plan. However, Thai Cooperative Law has made provision for establishment of Board of National Cooperative Development vide its Section 10. The Board, among others, has mandate to prescribe policies:-

- (i) To propose to the Council of Ministers, the Board's ideas concerning policies and guidelines for development of cooperatives in accordance with the socio-economic conditions of the Kingdom.
- (ii) To prescribe policies and plans for cooperative development concurrent with the span of national and social development plans.
- (iii) To prescribe guidelines for promoting and supporting expansion of cooperative businesses and affairs including cooperation with private sector to participate in the development of cooperatives.
- (iv) To prescribe guidelines for coordination among the Government agencies, public enterprises or private sector for promotion and support of affairs of cooperatives.
- (v) To solve problems, obstacles and restraints which impede the successful implementation of cooperative policies and plans for the development of cooperatives.
- (vi) To deliberate any matter concerning cooperatives as assigned by the Council of Ministers.
- (vii) To perform duties and powers as prescribed in this Act.

Vietnam

Law on Cooperatives of Vietnam vide Article 3 has made obligatory on the State to implement following policies for cooperatives:

1. The State shall implement the following policies for cooperatives:
 - a. To promulgate and implement policies, programmes supporting development of cooperatives through training staff, human resources development, land, finance, credit, to set up the assistance fund for the development of cooperatives, to apply science and technology, marketing and market expansion, to invest in developing the basic infrastructure, to facilitate cooperatives to join in the socio-economic development programmes of the State.
 - b. To encourage and create favourable conditions for cooperatives to develop.
 - c. To ensure legal status and manufacturing, business conditions of cooperatives on equality basis as other enterprises.
 - d. To protect legitimate rights and interests of cooperatives in accordance with the provisions of the law.

- e. To respect the right to self-control, self-determination, self-responsibility in manufacturing and business activities of cooperatives.
 - f. Not to intervene with internal management and legitimate operation of cooperatives.
2. For the agricultural cooperatives, the Government shall issue the incentive policies in conformity with the specific features and development pace at a time.

The 6th and 7th Asia-Pacific Cooperative Ministers Conferences have recommended harmonization of cooperative policies and legislation. From the above description, it is clear while India and Malaysia have specific National Policy on Cooperatives, in some countries Cooperative Law itself provides parameters for formulation of National Policy on Cooperative Development. In those countries having specific policy document, the Cooperative Laws have to be in line with the Policy visualization and shaped accordingly. In these countries where Law provides parameters for Cooperative Policy formulation, it becomes incumbent on the part of the Government to formulate and implement a specific Cooperative Policy on Cooperatives. In both cases Cooperative Law and Policy have to be in close proximity and harmony.

Positioning of cooperatives in different sectors of National Economy:

The 7th Asia-Pacific Cooperative Ministers' Conference had recommended for definition of an appropriate role and engagement of cooperatives in public policies relating to different sectors of economy e.g. agriculture, credit, banking and insurance, trade and commerce, labour, etc. Although this issues relates to policy domain of respective countries, cooperative legislation in some of the countries have also included indicative provisions in this regard. However, Agricultural Cooperative Law of Republic of Korea vide Article 57 describe comprehensively about the businesses that can be undertaken by such coops. Another important feature of Korean Agricultural Cooperative Law is inclusion of provisions for specialized business cooperatives. The Chapter IV of this Act clearly defines the purpose of such cooperatives and types of business handled by them. Similarly, Japanese Agricultural Cooperative Law vide Article 10 also elaborates in detail the business portfolio of agricultural cooperatives including both economic and social sectors. Article 7 of cooperative law of Vietnam mentions positioning of coops in the following fields:

- (a) manufacturing, business and trade;
- (b) environment protection;
- (c) social insurance;
- (d) education, training and capacity building.

The cooperative Code of Philippines, while describing types of cooperatives, indicates involvement of cooperatives in the sectors of credit, consumption, production, distribution, medical and health-care, transportation, housing, power distribution, com-

munication, insurance. Singapore Cooperative Societies Act, in Section 4, dealing with societies that may be registered, mentions “the promotion of economic interest of the public” thus gives a broad indicator regarding positioning coops in different economic sectors of the country.

Article 43 of Indonesian Cooperative Law describes the following indicators regarding role of cooperatives in different business sectors:

- (1) The business of cooperative societies is business directly related to the interests of the members for improving their business and welfare.
- (2) The excess of service capability can be utilized to fulfill the needs of society which are non-members.
- (3) The cooperative society carry out business activities and play a principal role in all fields of people’s economic life.

Chapter-III

Cooperative Laws vis-à-vis Cooperative Identity

Preservation and strengthening of Cooperative Identity has assumed an added significance in the context of market competition and lurking danger of demutualisation of cooperatives. All the Cooperative Ministers' Conferences have called upon the National Governments to modify their policy and legislation framework aiming at preservation of Cooperative Identity and to improve the competitive strength of Cooperatives. The UN Guidelines issued in 2001 emphasized, "Law should include the following basic set of acknowledgement, definition and provisions: acknowledgement that organization of associations and enterprises on the basis of cooperative values and principles is legitimate; definition of cooperatives, using the "Statement on Cooperative Identity adopted by the International Cooperative Alliance in 1995; recommendation of the unique nature of the values and principles of cooperation and hence the need for their support and distinct treatment in law and practice; commitment that neither their unique nature or their support and distinct treatment in law and practice should be the cause of discrimination, intended or not;"

The ILO Recommendation 193 on promotion of cooperatives also emphasizes on the formulation of Cooperative Laws based on Cooperative Identity Statement. Article 10 states, "Member States should adopt specific legislation and regulations on cooperatives which are guided by cooperative values and principles set out in paragraph 3 and revise such legislation and regulations when appropriate". These policy enunciations by the United Nations and ILO underline the importance of strengthening of Cooperative Identity in order to recognize them as distinct economic enterprises for the socio-economic development of the persons of limited means.

Of these laws, only Multi-State Cooperative Societies Act, 2002 of India has included Cooperative Principles as mentioned in ICA Cooperative Identity Statement. Other countries reflect variation regarding inclusion of cooperative principles in their laws. Some countries, namely Indonesia, Malaysia, Vietnam mention their own adaptation of cooperative principles. Indonesian Cooperative Law vide Article 5 mentions follow-

ing as cooperative principles:

- (a) Membership is voluntary and open.
- (b) The management is carried out democratically.
- (c) The distribution of surplus is done justly in proportion to amount of business transaction of each of the members.
- (d) The payment of limited interest on capital.
- (e) Self-reliance.
- (f) Cooperative Education.
- (g) Cooperation among cooperatives.

Malaysian Cooperative Law, vide its Section 2, include:

- (a) Voluntary and open membership;
- (b) Democratic management;
- (c) Limited return on capital;
- (d) Equitable division of profit;
- (e) Promotion of cooperative education and
- (f) Active Cooperation among registered societies.

Vietnam has its own adaptation of cooperative principles. Article 5 under the title "Principles of organization and operation of cooperatives" say that cooperatives shall be organized and operated by the following principles:

1. **Voluntary:** all individuals, households and legal person status having sufficient requirements stipulated by this law, satisfying the cooperative by-laws shall have the right to join the cooperative; members of the cooperative shall have the right to withdraw from the cooperative in accordance with provisions of the cooperative by-laws;
2. **Democracy, equality and publicity:** Cooperative members shall have the right to participate in managing, controlling and monitoring businesses of the cooperative and enjoy the equal voting right, carry out publicity in manufacturing, business, finance, distribution and others stipulated in the cooperative by-laws.
3. **Self-control, self-responsibility and mutual benefit:** The cooperative shall be self-controlled, self-responsible for the output of its manufacturing, business activities; shall decide the method of income distribution at its discretion.

After payment of taxes and losses, a part of profits shall be used for funds of the cooperative, a part of profits shall be shared to members depending on their capital and labour contribution, the remaining part shall be distributed to members in proportion to the cooperative services used.
4. **Cooperation and community development:** Cooperative members shall have

sense of promotion of collective spirit and cooperation with each other in the cooperative and public community; promote cooperation between cooperatives inside the country and overseas in conformity with the provisions of the law.

Cooperative Code of Philippines, vide article 4 “Cooperative Principles” gives following interpretation:

- (1) **Open and Voluntary Membership** – Membership in a cooperative shall be voluntary and available to all individuals regardless of their social, political, racial or religious background or beliefs.
- (2) **Democratic Control** – Cooperatives are democratic organizations. Their affairs shall be administered by persons elected or appointed in a manner agreed upon by the members. Members of primary cooperatives shall have equal voting rights on a one-member-one-vote principle: Provided, however, that, in the case of secondary and tertiary cooperatives, the provisions of Article 37 of this Code shall apply.
- (3) **Limited interest on Capital** – Share capital shall receive a strictly limited rate of interest.
- (4) **Division of Net Surplus** – Net surplus arising out of the operations of a cooperative belongs to its members and shall be equitably distributed for cooperative development and common services. Indivisible reserve fund, and for limited interest on capital and/or patronage refund in the manner provided in this Code and in the articles of cooperative and by-laws.
- (5) **Cooperative Education** – All cooperatives shall make provision for the education of their members, officers and employees and of the general public based on the principles of cooperation.
- (6) **Cooperation Among Cooperatives** – All cooperatives, in order to best serve the interest of their members and communities, shall actively cooperate with other cooperatives at local, national and international levels.

In other countries, only a passing reference has been made to cooperative principles either in the provision for conditions of registration or in the objects of law. For example, Agricultural Cooperative Law (Article 1) of Korea relating to purpose of the Act mentions “promotion of autonomous cooperatives”, consumer’s livelihood cooperative society law of Japan makes reference to voluntarism (Article 2(3); one man one vote (Article 2(4); equitable distribution of surplus on the basis of purchases made. Similarly, Thai Cooperative Law, vide Section 33 relating to conditions of registration and objects mentions “...promotion of socio-economic interests of members by means of self-help and mutual assistance in accordance with cooperative principles”.

National Constitutions vis-à-vis Cooperative Laws:

The UN Guidelines emphasize that the legitimacy of cooperative and cooperative

movement could be acknowledged in the National Constitutions, if appropriate. Provisions that limit the establishment and operations of cooperative should be appropriately amended.

Cooperative legislation in the three countries, namely Iran, Indonesia and Vietnam, makes reference to specific provisions relating to cooperatives. The Article 44 of Islamic Republic of Iran's Constitutional Law states, "The Islamic Republic of Iran's Economic System, contains 3 sectors: Public, Cooperative and Private". The Article 43 of Iran's constitution prescribe following functional duties of the cooperatives:

"Ensuring conditions and opportunities of employment for everyone, with a view to attaining full employment; placing the means of work at the disposal of everyone who is able to work but lacks the means, in the form of cooperatives, through granting interest-free loans or recourse to any other legitimate means that neither results in the concentration or circulation of wealth in the hands of a few individuals or groups, nor turns the government into a major absolute employer. These steps must be taken with due regard for the requirements governing the general economic planning of the country at each stage of its growth".

Article 2 of Indonesian Cooperative Law, while defining basis of the establishment of cooperatives states, "The Cooperative Society is founded on Pancasila and the 1945 constitution based on the principle of brotherhood". Vietnam's Law for cooperatives in its preamble states, "In accordance with the constitution of Socialist Republic of Vietnam in 1992 that was revised, supplemented under Resolution No.51/2001-QH10 dated 25th December, 2001 of the National Assembly 10th Legislature, 10th Session. The Law sets forth the provisions concerning cooperatives".

In India, cooperation is a State subject and, therefore, it is within the jurisdiction of Provincial Governments. But the Cooperative Societies whose area of operation is more than one State, Central Government is authorized to legislate and regulate the working of such cooperatives. There is no comprehensive provision in the Constitution of India about cooperatives. Under Article 43 of the Constitution, it has been stated that the State shall endeavour to promote cottage industries on an individual or cooperative basis in rural areas. Recently the cooperative movement and Central Government reviewed the Cooperative laws and observed that the process of their reformation was very slow at the level of the State Governments, who were reluctant to lose their control over cooperatives. In view of this, the Central Government has formulated a proposal for bringing out amendments in the National Constitution to ensure democratic and autonomous management of cooperative organizations. The proposal is being placed before Parliament for amending the Constitution.

Chapter-IV

Government and Cooperatives

In Asia-Pacific Region Governments have been playing a very significant role in the growth and diversification of cooperative movement since the beginning. However, increased involvement of Government and consequential interference in the functioning of cooperatives have called for redefining the role of the former in the context of globalization and liberal market economies. The question has often been raised about the disengagement of the Government from the Cooperative Movement so as to evolve them as autonomous and competitive business enterprises. Practically all the Cooperative Ministers Conferences organized since 1990 have emphasized on redefinition of the role of Governments in the changed context. The first three Conferences held in Sydney, Jakarta, Colombo had deliberated on Government – Cooperative collaborative strategies. From fourth Conference onwards specific recommendations for needed support of the Government to Cooperatives were formulated. The fourth Conference called upon the Government to formulate laws and policies consistent with the Cooperative Identity Statement; and (ii) to formulate macro level sectoral policies and programmes deemed vital to the development and competitiveness of cooperatives. The fifth Cooperative Conference held in Beijing in 1999 observed that Governments had to firm up and to consistently pursue a strategy of disengagement from cooperatives; in cases where still there is an official involvement in cooperatives. It also underlined that Government should accept cooperatives as being equal to and equivalent with all other forms of social and economic organizations and no Government barriers to the principle of voluntary and open membership and the principle of democratic member control should be created. In this context, the Conference had also recommended for providing assistance to cooperatives for delivery of social and community service on the basis of full equality with private and public enterprises. The Conference formulated following parameters regarding financial support of the Government to cooperatives:

- (i) Provision of seed and start up money to cooperatives to be redeemed in a prescribed time frame.

- (ii) Financial assistance for Coop HRD including Education and Training.
- (iii) Engagement of new Cooperative initiatives particularly new generation cooperative in social sector.
- (iv) Removal of all legal and other barriers which limit equal participation of women and women membership, leadership, management and decision making in cooperatives.

The sixth Cooperative Ministers' Conference expected Governments to develop and formulate a Cooperative Policy supportive of enabling environment for cooperatives, besides providing financial support in the following areas:

- (i) Member-education, Training and HRD.
- (ii) Infrastructural development to support Cooperatives.
- (iii) Collaboration between Government and Cooperatives in areas that are concern for community.

The seventh Cooperative Ministers Conference, while reiterating the earlier recommendations relating to Government support to cooperative, outlined following areas of Government support:-

- (a) Creation of level playing field for cooperatives.
- (b) Initiation of good taxation policies for cooperatives.
- (c) Enabling cooperatives to enter into the down stream economic activities such as storage, transport, processing and marketing of agricultural produce.

In the Cooperative Laws of some of the countries the above referred areas of Government support to Cooperatives have been included. There is an exclusive Chapter-12 of Role of Government in Cooperative Development in Indonesia in Cooperative Law vide Article 60 to 63. Article 60 lays down the parameters for the role of Government mentioning that it creates and develops conducive environment for cooperative growth and socialization and in that context it provides guidance, facilities and protection to Cooperative Societies. Vide Article 61 for developing conducive environment for the growth of cooperatives and socialization, the Government "(a) Provides extensive business opportunities to the Cooperative Societies, (b) Improves capability of Cooperatives, (c) Strives to realize business relationship between Cooperative Societies and other business enterprises which benefit one another; and (d) Spreads the Cooperative Values. The concrete areas of support of the Government to cooperatives are mentioned vide Article 62 as follows:

- (a) Support to implement Cooperative Education, Training, Extension and Research.
- (b) Support to strengthen capital and to develop financing institutions of cooperatives.
- (c) Support to development of business network.
- (d) Provision of consultancy assistance.

Article 63 of Indonesian Cooperative Law explains about the protection of the Cooperative through the support of the Government. Article suggests a "Framework to give protection to Cooperative Societies stating that, "Government can (a) decide the values of economic activities which can only be handled by Cooperative Societies, (b) decide the value of economic activities in an area which have been handled successfully by Cooperative Societies for not to be handled by other business enterprises".

This provision, though positive in its nature for supporting cooperative enterprises may also be debatable and somewhat contrary to the recommendations of Cooperative Ministers' Conferences. In the context of level playing field, the preferential treatment to the cooperative may be criticized somewhat discriminatory.

The Multi-State Cooperative Societies Law of India, too, makes provision vide Section 61 about the Government aid to Cooperatives. Important areas of Government assistance visualized in the provision are:-

- (a) Subscription to the share capital of cooperatives and giving loans or to make advances to cooperative;
- (b) Guarantee the repayment of principal and payment of interest on debentures issued by cooperative.
- (c) Guarantee the repayment of share capital of cooperatives and dividends thereon.
- (d) Guarantee the repayment of principal and payment of interest on loans and advances to the cooperative.
- (e) Financial assistance in any other form including subsidies.

The Cooperative Sector Law of Islamic Republic of Iran has also made specific provision regarding Government support to Cooperatives. Vide Article-18, the Government "can assign the industrial, agricultural or service units and the like public properties at its disposal to the Cooperative Societies. Similarly, vide Article 24, the Government "has to provide required possibilities and conditions for establishment and strengthening of cooperatives in order to implement constitutional provisions of Article-43. It may be through budgetary allocation or by directing the banks to give interest free loans to cooperatives."

Article 65 of Iranian Cooperative Law gives a detailed account of role of Ministry of Cooperatives. The Ministry of Cooperatives is established under the Law not only to enforce the Cooperative Legislation but also to provide necessary assistance to cooperatives in regard to provision of legal, financial, administrative and technical support. Article 66 elaborates the duties and responsibilities of Ministry of Cooperative, which among others, include the following:

- (i) Coordination, if required, in financial, administrative, technical and other assistance provided by related agencies for administration of Cooperatives.
- (ii) Supplying needed facilities for activity development of cooperative in productive affairs.

- (iii) Provision of the possibilities of exporting the products of Cooperatives.
- (iv) Supplying needed facilities so that Cooperatives can make use of required raw materials, means and products.
- (v) Securing conditions and provisions of possibilities of making investment in Cooperative Sector.
- (vi) Considering the Government financial and monitoring policies and according to Cooperative Ministry demand, Credit and Money Council has to take necessary action in giving required loan and assistance to Cooperatives.

In Korea and Japan the Government apart from enforcing Cooperative Legislation and providing policy support for cooperative development may help Cooperative by providing guarantee for the bonds issued by them.

The Section 30 of Singapore Cooperative Law deals with the Government assistance. It visualizes generally promotional assistance such as providing information on Cooperative Principles and Practices and Management and helping the promoters to prepare the feasibility study to organize cooperative; administrative and technical support; assistance in the formulation of bye-laws; and wherever an apex organization has been registered under the Act with the objects which includes provision of education and advisory services relating to cooperative enterprises and development, the Registrar may request the apex organization to furnish information regarding Cooperative principles, practices and management. However, regarding financial support for cooperatives, there is a provision for creation of a Central Cooperative Fund vide Section 71. This provision stipulates use of this Fund for Cooperative education, training, research, audit and for general development of cooperative movement in Singapore. Every Cooperative Society has to contribute 5% of the first 5000 Singapore Dollars of its surplus during the preceding financial year to this Fund and 20% of any surplus in excess of Singapore Dollars 500000 during the preceding financial year. However, this additional contribution is optional under which the Society can contribute either to the Central Cooperative Fund or to Singapore Labour Federation. Such contributions are subject to the directions regarding the reduction of the percentage of surplus given by the Minister. The Central Cooperative Fund is administered as a Trust Fund in such a manner as the Minister may prescribe in the rules. In Thailand, the Government has created two exclusive Government Departments for supervision and development of cooperatives. While Cooperative Promotion Department deals with the promotion and development of Cooperative, Auditing Department is responsible for audit of Cooperatives. There is a provision for establishing "Cooperative Development Fund" (CDF) vide Section 27 for the purpose of promoting the affairs of Cooperatives.

The resources of this Cooperative Development Fund have been defined vide Section 28 which states as under:

“CDF comprises: (1) Subsidies from National budget, (2) Donations of money/properties, (3) Money and Properties becoming the ownership of CDF, (4) Proceeds from sale of Property acquired under (1) & (3). Interest, income or any other benefit belonging to CDF”.

The rules and regulations for utilization of this Fund for the promotion of cooperatives in Thailand are prescribed by the Minister with the approval of National Cooperative Development Board which is constituted vide Section 10 of Thai Cooperative Law. The powers and duties of this Board include formulation of policies and plans for cooperative development and to provide guidelines for promoting and supporting the expansion of cooperative business and affairs including cooperation with private sector to participate in the development of Cooperatives.

Law on Cooperatives of Socialist Republic of Vietnam has also defined the support of the Government to Cooperatives. Article 3 (1)(a) states: the role of the Government as under:

“To promulgate and implement policies, programmes, support development of cooperatives through training staff, human resource development, land, finance, credit, to set up the Assistance Fund for development of Cooperatives, to apply science and technology, marketing and market expansion, to invest in developing basic infrastructure to facilitate cooperative to join the socio-economic development programmes of the States.”

The above description reveals that Government is positively involved in the development of cooperatives by providing variety of assistance. Since in most of the laws referred above, Cooperative values and principles have been either incorporated in original or adapted to the prevailing situation in the country, it is expected Government support to cooperatives would not lead to Government interference in their management and operations.

Chapter-V

Cooperative Law and Good Governance

Cooperatives are basically economic enterprises. In the earlier phase of Cooperative movement in Asia and Pacific, honorary service was the corner stone of management and governance of cooperative enterprises. However, with the growth and diversification of cooperatives, both horizontally and vertically, and their integration with the national global economy called for creation of a governance system that will distinguish cooperatives as economic enterprises with a difference unlike the corporate sector which is driven by profit motive. The driving force in cooperative enterprises, in contrast with corporate sector, is fulfillment of members' common economic interests through democratic management and equitable distribution of the gains of enterprise among them.

In present times cooperatives have emerged as major player in the economic system and they are expected to compete with other enterprises. In many countries cooperatives are having commanding position in certain sectors of national economy. In the process, they have earned Government patronage to implement various developmental programmes and schemes for the benefit of common man drawing attention of Government, public and civil society organizations. Although cooperatives are member-centric enterprises, they have to be equally concerned with the interests of other stakeholders. Viewed in this context, good governance of cooperatives having a blending of command and control of members, protection of members rights, accountability of management and concern for community has assumed an added importance. Particularly issue of governance becomes more important for large cooperatives and the federal cooperative organizations which operate at the secondary and tertiary levels.

Parameters of good governance of cooperatives are defined in Cooperative Identity Statement. These are democratic member control, autonomy, independence, self-regulation, Cooperative education, training, information, concern for community, equitable distribution of gains of enterprise and operationalisation of cooperative values and principles in the management and working of Cooperatives. These parameters

are intrinsically present in cooperative system, as is evident from the very definition of cooperative given in ICA Cooperative Identity Statement, "A cooperative is an autonomous association of persons united voluntarily to meet their common economic, social and cultural needs and aspirations through a jointly owned and democratically controlled enterprise." Self-Regulation ensures that rights of members are protected. It implies the faith in the ability of cooperatives to exercise self-determination and self-control, if they are to develop into autonomous institutions. Thus, self-regulation, in concrete form, is an institutional mechanism to enable members to manage and control their cooperatives without any outside interference. Cooperative Law, regulation and bye-laws should create institutional mechanisms for self-regulation.

In this context it will be relevant to quote the resolutions of 5th Cooperative Ministers' Conference on "Autonomy and Independence" and "Self-Regulation of Cooperatives". The Conference emphasized on the following to ensure autonomy and independence of cooperatives:

- (a) The autonomy and independence of cooperatives should be legally guaranteed and recognized.
- (b) Cooperatives be empowered and allowed to develop their own capacity.
- (c) Governments have to firm up and consistently pursue a strategy of disengagement from cooperatives, in cases where there is still official involvement of cooperatives.

On self-regulation, the same conference recommended as follows:

- (a) Cooperatives should formulate their own rules and regulations, which will guarantee accountability and transparency within the framework of the law. Such rules and regulations should be reviewed and updated from time to time, in consultation with all stakeholders.
- (b) Cooperatives should define their modes of transparency and accountability including reporting, audit and control committee, etc.; but the law may set the minimum standards for transparency and the penalties in case of non-compliance. Such modes should be understood by all stakeholders.
- (c) The law should set the conditions for registration and deregistration, the formation and dissolution by members of cooperatives and should define modes and mechanisms for settlement of disputes.

These recommendations were endorsed by the subsequent conferences.

From the above elaboration, important steps to ensure autonomy and independence and self-regulation of cooperatives are:

- (a) Legal Guarantee and Recognition of Autonomy and Independence in Cooperative Legislation;
- (b) Freedom of Cooperatives to formulate their own rules and regulations.

- (c) Provisions within Cooperative Law for setting minimum standards for transparency and accountability and penalties in case of violation.
- (d) Provisions within Cooperative Law to prescribe conditions of registration of genuine cooperatives based on cooperative principles.
- (e) Provisions in Cooperative Law for dissolution of the Cooperatives.
- (f) Provisions in Cooperative Law for settlement of disputes.

It would be interesting to examine the cooperative laws to ascertain the adequacy of the provisions therein to ensure autonomy and independence and self-regulation in cooperatives:

Although the Cooperative laws are not categorical in extending legal guarantee and recognizing autonomy and self-regulation in cooperatives, certain provisions contained therein may be used as steps towards development of autonomy and self-regulation of coops. For example, Indonesian Cooperative Law (Article 22) regards the Annual General Meetings as the highest authority in cooperatives. Subject to authority of members, managing committee is autonomous. Law also authorizes cooperatives to create their own supervisory mechanism which is directly responsible to Annual General Meeting. However, Cooperative Law of Iran has attempted to provide legal guarantee for independence of cooperatives. Article 7 says that cooperative unions and societies are independent legal entities. The law also stipulates that Government may collaborate with cooperatives “without interfering in cooperative management or becoming an absolute omnipotence”.

Japanese Agricultural Cooperative Law (Article 28 and 29) provides autonomy to cooperatives to formulate their Articles of Incorporation, supervisory and audit mechanism. On similar pattern Agricultural Cooperative Law of Korea provide for autonomy of cooperative in their working and operation. Article 1 itself mentions that purpose of cooperative law is to promote autonomous cooperatives.

In India, the practice of appointment of government nominee has been rationalized linking it with the extent of Government share capital contribution to cooperatives. The Multi State Cooperative Societies Act, 2002 has authorized cooperatives to appoint their own auditor and conduct elections. The provision of supersession of the Board of Directors has also been deleted. However, Thai Cooperative law (Article 22) authorizes Registrar to suspend elected board temporarily till the election of new board.

Cooperative Law of Vietnam (Article 30) stipulates creation of control committee for self-regulation of cooperatives. The control committee is elected by General Meeting of members to supervise the working of office-bearers and managing committee. In case of violation of bye-laws, resolutions of general meeting, financial impropriety, the control committee is authorized to convene a general meeting of members to deliberate on the issues and suggest corrective measures or punish those responsible for such violation.

Malaysian Cooperative Law confers on General Meeting of members ultimate authority subject to provisions of cooperative societies Act, Rules and Regulation. Besides the Law also provides for constitution of Internal Audit Committee, which has authority to present a report to General Meeting on the management and affairs of the society including any violation of the bye-laws. The Act also makes provision for compulsory statutory audit of cooperatives by an auditor appointed by the Registrar-General. The Law also has a provision to entitle Registrar-General or a person authorized by him to attend the General Meeting and give suitable advice to the delegates present at the meeting. Such provision, obviously, goes against the principle of autonomy and independence of cooperatives. Another provision that militates autonomy of cooperatives is power of Registrar to suspend and dissolve the elected board on the basis of inquiry and inspection conducted by him. However, the Multi-State Cooperative Societies Act, 2002 of India empowers Registrar to supersede the elected board of the societies having share capital contribution from the Government to the extent of 50% or more. It may be relevant to mention in this regard that cooperatives in majority of the countries of Asia-Pacific regard provision authorizing Registrar/Government to suspend or supersede the elected Board as anti-autonomy of cooperatives. Consensus is that what is important is empowerment of cooperative membership to take on the erring board/ officers of cooperatives.

Cooperative laws also enable the cooperatives to create their federations/unions at secondary and apex levels. The cooperative laws of Iran and Thailand and Agricultural Cooperative Law of Republic of Korea make detailed provision regarding working and operations of the Apex Cooperative Organisations/Federations.

Cooperative laws also make specific provision about the members rights and obligations; accountability of management and protection of interests of members and other stakeholders. For example, Indonesian Cooperative Law vide Article 20 (1) defines the obligations of each member which include observance of the byelaws and working rules and decisions of general body meeting; participation in the business activities of cooperative and development and maintenance of togetherness based on the principle of brotherhood. The members' rights have been defined vide Article 20(2). In this Article provision has also been made for maintaining transparency of the management by providing right to the members to utilize the Cooperative Society and receive equal services and to acquire information on the development of cooperative society according to the provisions in the bye-laws. Article 31 of Indonesian Cooperative Law defines the accountability of the management mentioning that the Committee of Management is responsible for all the management activities of the cooperative society and its business to members meeting or extraordinary members meeting. For appointment of Manager, the Management Committee is required to submit the proposal to the General Body for approval, and thus gives overriding power to the members through their general body to decide for appointment of their Manager. In Indonesian Cooperative Law, there is also a provision for fixing responsibility of the Board/

Managing Committee for meeting loss due to acts of negligence or purposefully. To exercise control on management, there is a provision for constituting a Committee of Supervision vide Article 38 duly elected by the General Body. This Committee is responsible to the General Body and it has its duties to supervise the implementation of policy of management of Cooperative Society and to make report on the functioning of the Board/Management Committee about their performance to the General Body.

The Indian Multi State Cooperative Societies Law makes provision for protection of members rights and interests vide Sections 25,28,29 and 30. The Act also makes provision to check and control the delinquent members and entry of vested interests in the cooperatives. Rights and interests of other stakeholders are protected by the Section 26 of Indian Multi- State Cooperative Societies Act. The other stakeholders can be admitted as a nominal or associated member. Section 108 (1) (iii) also entitles member to inspect the books of accounts and other books and papers of the cooperative to ensure the right to have information and also to ensure transparency in the decision making process in the cooperatives. The Cooperative Law makes it obligatory on the part of the management to furnish necessary information to members through annual report, audited statement of accounts, audit compliance report and other necessary information. Another important provision in the Multi- State Cooperative Societies Act for ensuring good governance of cooperatives is about clear demarcation of duties, responsibilities and functions of the Board and Chief Executive vide Sections 49, 50, 51 and 52.

Iranian Cooperative Law recognizes the supremacy of members in the Cooperative Society and they have right to supervision of all of the cooperative affairs (Article 10). The Law also specifies the obligation of the members vide Article 11 "to devote themselves to fulfill the promised duties and responsibilities within the rules and regulations. Article 37 defines the duties and authorities of the Board of Directors and they are responsible to the General Assembly of Members. The Article 39 authorizes the Board to appoint a qualified individual from amongst the membership or outside the cooperative as Managing Director. The terms of appointment of Managing Director are approved by the General Assembly.

The Agricultural Cooperative Law of Japan vide Article 33 mentions the duties of the Director. Article 35 and 36 entitle the members and any creditor of cooperative to peruse the documents prepared by the Director and submitted to the auditors. Members also have entitlement to request the Board for dismissal of General Manager or Chief Accountant vide Article 43. However, associate members are not entitled to place such request. Agricultural Cooperative Law of Korea makes provisions for ensuring good governance of cooperative institutions. The power of election, duties and responsibilities of the Board of Directors have been clearly defined. Korean Law makes an unique provision vide Article 44 (organization and operation of the Advisory Committee for evaluation of operations). Such Committee is constituted by the Coop-

eratives to evaluate the operational status of cooperatives and to make recommendations on improvements needed in the working operations of cooperatives.

President presents the report to the Board of Directors and General meeting. Besides, there is also a provision for allowing cooperatives for utilization of business by non-members provided such practice does not interfere with the utilization of services by the members and this is also subject to the Article 57 and bye-laws of cooperative.

Cooperative Laws in some countries have made comprehensive provisions for role and working of cooperative federations. Agricultural Cooperative Laws of Japan and Korea have made such provision. Korean Law has an exclusive Chapter on National Agricultural Cooperative Federation defining all the aspects of its composition, constitution, working and relationship with the member organizations. It has been made obligatory on the part of the Federation vide Article 134 to provide guidance to its member cooperatives regarding the organization and business of members, provision of agricultural service, stock raising, credit services and other support services. There are provisions vide Article 142, 143, 144 and 145 for constitution and working of Cooperative Audit Committee which is constituted by the President of the Federation with the consent of General Meeting. The Committee is authorized to audit the members, their property and business execution atleast one time in every two years. The President of the Federation is authorized to take necessary follow up steps for implementation of the Audit Committee Report.

Malaysian Cooperative Law also makes provision for rights and liabilities of the members vide Article 26 to 35. There is a provision (Section 28) that "no member of a registered society shall exercise the rights of members unless and until he has made such payment to the registered society in respect of membership or acquired such interest in the registered society as may be prescribed by the regulations or by the bye-laws of such society". Thus, the entitlement of membership to exercise their rights is subject to fulfillment of certain obligations as specified in the regulations and the byelaws. For ensuring effective self-regulation, the Cooperative Law of Malaysia makes provision for constitution of an Internal Audit Committee which functions independent of the Board. While the Act makes provision about the election of the Board of Directors, duties and powers of the board and liability of the members of the board, it does not make provision for the duties and responsibilities of the Chief Executive/ General Manager/Managing Director of a Cooperative Society. These are perhaps mentioned in the byelaws of cooperative. Vide Article 45 liability of the members of the Board has been defined. The Sub-Section 1 of this Section says "in the conduct of the affairs of a registered society, the members of the Board of such registered society shall exercise the prudence and diligence of ordinary man of business and shall be jointly and severally liable of any loss sustained through the failure to exercise such prudence and diligence or through any Act which is contrary to the provisions of this Act, the regulation, the byelaws of such registered society or the directions of its general meeting". The Sub-Section 3 is categorical that Board of Directors of a coop-

erative cannot be absolved from their liabilities and responsibilities for any loss incurred due to the malfunctioning of the Manager appointed by them.

Nepalese Cooperative Law makes no provision regarding members rights and interests, rights and interests of other stakeholders, transparency in decision making process and accountability of the Board of Management to members and other stakeholders. There is only a provision about the timely election of the Board of Management. However, the bye-laws of cooperatives make provision for protecting and safeguarding members' rights and interests. These are as follows:-

- (i) Right of appeal to the General Assembly against the decision of the Management Committee.
- (ii) Right to participate in General Assembly meeting and to call General Assembly and special General Assembly meetings.
- (iii) To contest election for any position of Managing Committee and Accounts Committee.
- (iv) Withdraw membership from cooperative.
- (v) To transfer this share to eligible person.
- (vi) To protect his share from auction by cooperative.
- (vii) 'To take part for moving motion for vote of no confidence against the managing Committee or any member of the Managing Committee.

Cooperative Code of Philippine visualizes two kinds of members i.e. (i) Regular members and (ii) Associate members. A regular member is entitled to rights and privileges of membership. An associate member is one who has no right to vote or be voted upon and shall be entitled to only to such right and privileges as the byelaws may provide. The Code also puts an obligation on the member vide Article 31 to face the termination from membership, if he has not contributed to the services of cooperative for unreasonable period of time as may be fixed by the Board of Directors. The member may also face termination for any act of omission and the act prejudicial to the interests of the cooperative. The Code also makes enabling provision for composition of the Board of Directors and its powers. However, detailed rules and regulations regarding working of the Board and their rights and responsibilities are made within the byelaws of a cooperative. To ensure self-regulation, Article 44 has made it obligatory on the part of the cooperative to create an Audit Committee in its byelaws and such other Committees as may be necessary for the proper conduct of affairs of cooperatives. Article 46 specifies the liability of the Directors, officers and Committee members. It says that if Directors, officers and Committee members willfully and knowingly go for unlawful acts or who are guilty of gross negligence or bad faith in directing the affairs of cooperative or acquire any personal or pecuniary interests in conflict with their duty as Directors, officers or Committee members, they shall be liable jointly and severally for all damages or profits resulting there from to cooperative members and

other persons. The Law treats Directors as a Trustee of Cooperatives. Besides, Directors are also expected to maintain confidentiality of information relating to their cooperative which might materially affect the value of share or debt.

With a view to maintain transparency of the management decision making process of a cooperative, the Code vide Article 53 makes following provision “(1) Every Cooperative shall have the following open to its members and representatives of Authority for inspection during reasonable office hours at its official address; (ii) a copy of this Code and all other laws pertaining to cooperative (iii) a copy of regulations of Cooperative Development Authority. (iv) a copy of Articles of Incorporation and byelaws of cooperative, (v) a register of members, (vi) the books of minutes of meetings of the General Assembly/Board Members/Committee, (vii) share books where applicable, (viii) financial statements; and (ix) such other documents as may be prescribed by the law.

In Thailand, a specific chapter on supervision of cooperative to ensure good governance has been included. In this Chapter Sections 21, 22, 23, 24 and Section 25 make provisions to ensure good governance. However, main instrument for this purpose is the inspections by the Registrar of Cooperatives, Auditors and competent officials of the Government. There is also a provision for dismissal of a Board of Directors of Cooperative, if they had acted delinquently and brought losses to the Cooperative. However, the affected persons are entitled to appeal to the National Cooperative Development Board within 30 days after their dismissal by the Registrar of Cooperative Societies.

The powers and duties of the Board of Directors have been mentioned vide Section 50 to Section 51. Besides, there is a provision authorizing cooperatives to appoint one or more supervisors elected from members or from persons by general meeting to supervise the affairs of cooperative and to report the findings to general meeting (53). To conduct the audit of cooperatives, Registrar appoints the auditors. For maintaining transparency in the working of the cooperative, a provision vide Section 68 has been made making it obligatory to cooperative to keep in its office the annual reports and balance sheets together with byelaws and laws for inspection by the members. Vietnam Cooperative Law defines the rights of members vide Article 18 and duties of the members vide Article 19. Article 25 provides for the constitution of Management Committee and Article 27 and 28 give their duties and powers. There is a provision for constituting a Control Committee by general meeting of the members to supervise and control the affairs of cooperative in conformity with the law and byelaws vide Article 29.

Chapter-VI

Resource Mobilisation in Cooperatives

Capital in Cooperatives is a means by which members gain access to the services rendered by cooperatives. Cooperative laws make provision that members can exercise their right of participation in and control of their cooperatives only after they have paid their share of minimum capital as prescribed in the law, rules and bye-laws. As the cooperative institutions expand and progress, they require additional capital to strengthen their working capital base. Important limitations faced by cooperatives are:

- (a) Inability of their members to contribute more.
- (b) Weak cooperative financing system.
- (c) Inability of cooperatives to raise capital from private commercial banking institutions.
- (d) Possibility of elimination of system of Government funding & guarantee due to disengagement of Government from cooperatives.

It is to be recognized that intense competition in the market could create pressures on cooperatives. The law has to ensure that members maintain effective control even as cooperatives adjust to the competitive environment. Viewed in this back drop, the fifth cooperative Ministers' Conference had recommended following strategy:

- When seeking to raise capital, co-operatives should be encouraged to adopt the following strategy; first seek capital from members; if further capital is required it should seek capital funds from other cooperatives within the country and/or co-operatives in other countries; and if further capital is required only then should it be sought from other non-cooperative sources.
- Investments from outside (non-member sources) can be accepted if these do not lead to loss of member control. Coops may be allowed to set up holding companies/ subsidiaries, provided they are established to serve member interest and they retain member control over such institutions.

Most of the cooperative laws provide for mobilization of capital from following resources:

- (i) Entrance Fee, Share capital;
- (ii) Members Deposits;
- (iii) Loans from financing agencies;
- (iv) Loans and Grants of the Government;
- (v) Funds created out of disposal of profits.
- (vi) Trade Deposits from members and/or non-members.
- (vii) Donations;
- (viii) Investment by other coops.
- (ix) Issue of Bonds and Debentures.

Indonesian Cooperative law vide Article 41 states that capital of a Cooperative Society consists of equity capital coming from basic savings; compulsory savings; reserve fund and grants; and borrowed capital from members, other cooperative banks and financial institutions, issue of bonds and other securities and other legal sources. Article 42 says that apart from the above sources, a Cooperative society can also mobilize its resources from the share capital. Section 50 of Malaysian Cooperative law more or less mentions the above modes of mobilization of resources/capital.

In Nepal vide Section 23 of Cooperative Act, share capital is main source of resources of a Cooperative. Besides, bonds and borrowings from local and foreign banks or any other agency are other sources of finance from cooperative institutions.

Cooperative Code of Philippine vide Article 72 identifies following sources of capital:

- (i) Members share capital.
- (ii) Loan and borrowings including deposits.
- (iii) Revolving capital which consists of the deferred payments of patronage refunds or interest on share capital.
- (iv) Donations, legacies, grants, aid and such other assistance from any local or foreign institution whether public or private.

In addition to the above, Cooperative Law in some countries make provisions for creation of Special Fund for education, training and development of cooperative movement. For example, in Singapore, Section 71 of Cooperative Law provide for establishment of Central Cooperative Fund with the contribution of certain percentage of surplus of the cooperatives. The fund is administered as a Trust Fund in such manner as prescribed in the Rules.

Cooperative Societies Act, 1993 for Malaysia provide for two funds: (1) Cooperative Educational Trust Fund; (2) Cooperative Development Trust Fund for any secondary or tertiary society representing cooperative movement at the national and interna-

tional level. The funds are to be built up with the contribution of cooperatives out of their net surplus at the rate prescribed by the Minister.

Thai Cooperative Law, vide article 27 provide for establishment of Cooperative Development Fund (CDF) in the Ministry of Agriculture and Cooperatives. It consists of moneys, properties as prescribed in section 28 namely subsidies from national budget; donation of money and properties, money and properties owned by CDF; proceeds from the sale properties owned by CDF, interest, income from investments by CDF. To administer CDF section 30 provides for creation of Executive Board headed by Permanent Secretary.

Promotion of subsidiary institution

The Fifth Cooperative Ministers' Conference had emphasized that law should allow cooperatives to promote their own holding company or subsidiary to gain access to the opportunities of a competitive market and also to tap sources from financial markets. Agricultural Cooperative Law of Japan, Malaysian Cooperative Law and Multi-State Cooperative Societies Act 2002 of India have included suitable provisions to promote subsidiary organizations. While Agricultural Cooperative Law of Japan and Cooperative Societies Act of Malaysia include enabling provision to establish subsidiary organizations, Multi-State Cooperative Societies Act 2002 of India is very specific and comprehensive on this issue. It will be appropriate to quote relevant provision (Section 19) of the latter:

- “19 (1) Any multi-State cooperative society may, by a resolution passed at the general meeting by a majority of members present and voting, promote one or more subsidiary institutions, which may be registered under any law for the time being in force, for the furtherance of its stated objects.
- (2) any subsidiary institution promoted under sub-section (1) shall exist only as long as general body of the multi-State cooperative society deems its existence necessary:

Provided that a multi-State cooperative society, while promoting such a subsidiary institution, shall not transfer or assign its substantive part of business or activities undertaken in furtherance of its stated objects.

Explanation – For the purposes of this section:

- (a) an institution shall be deemed to be a subsidiary institution if the multi-State cooperative society -
- (i) controls the management or board of directors or members of governing body of such institutions; or
 - (ii) holds more than half in nominal value of equity shares of such institutions; or
 - (iii) if one or more members of such multi-State cooperative society, hold whether

by themselves or together with subsidiary institution or their relatives, as the case may be, the majority of equity shares in that institution;

- (b) a subsidiary institution shall not include a partnership firm.
- (3) The annual reports and accounts of any such subsidiary institution shall be placed each year before general meeting of the promoting multi-State cooperative society”.

Producers Company Law of India

Recognizing inability of cooperatives to sustain in a competitive market environment, a novel form of cooperative organization known as producer company has also appeared on the horizon of Indian Cooperative movement. Indian Companies Act, 1956 has been amended by inserting a specific Part IX-A for incorporating Producer Companies. These Companies are expected to operate on the cooperative principles of mutual assistance and patronage. Operationally they would enjoy the same freedom as other private Companies enjoy. For protecting them from takeovers, their shares cannot be tradeable at the stock exchange and membership is restricted to primary producers. Management of affairs of producer company shall be conducted by an elected Board of Directors who shall enjoy defined tenure of maximum 5 years. However, appointment of Chief Executive shall be mandatory of each Company. The producer company having turn over of Rs.5 crores (50 million) and above shall have whole time Secretary who should be member of Institute of Company Secretaries of India.

In nutshell, approach to the Producer Company Law visualized retaining the principles of mutual assistance, voluntary membership, democratic decision making, patronage rather than capital, distribution of surplus based on patronage and education of members and inter-alia permits voluntary transformation of cooperatives in producers companies. Although Producer Company Concept has not made much headway, Cooperative Movement has expressed a lot of concerns. The apex body of Indian Cooperative Movement has following views on the issue:-

“The proposed legislation does not elaborate on how it will actually help in overcoming the existing gaps and obstacles to eliminate middleman and enable marketing of rural produce in a modern, professional and stable manner. The level of education in India, particularly in rural areas is not adequate for farmers to benefit from such a broad and enabling legislation since in most cases the locus of control lies away from the members and there would be scope for misuse and exploitation. The word ‘company’ is generally associated with profiteers and exploitative elements in the rural areas. Therefore, conversion of cooperatives into companies would create confusion in the minds of the rural people and they may view it as a sell out. Justifying the proposed legislation on grounds that it will eliminate the scope for government assistance and hence also do away with government interference in cooperatives is erroneous.”

Chapter-VII

Cooperatives and Community

The 7th Asia-Pacific Cooperative Ministers' Conference had discussed on globalisation and poverty and called upon the Governments and Cooperatives in Asia and Pacific Region as well as ICA Asia-Pacific to confirm and advocate to the UN and other relevant development agencies the contribution cooperatives can make in the area of good governance and business development as value added features in poverty reduction strategies being undertaken by the Governments and civil society organizations in ICA Member countries in Asia and Pacific. The Conference also called upon the Governments and the Cooperatives to seek a new strategy through which cooperatives can become an integral part of poverty reduction strategy process being undertaken by the Governments and civil society organizations.

Conceptually Cooperatives are mandated to address the needs of the vulnerable sections of the community such as the poor, women, tribals, etc. Cooperatives provide an effective institutional set up to organize the vulnerable sections for finding solutions of their problems through self-help and mutual aid. In most of the countries of Asia and Pacific Region micro finance as a tool and efficacy of Self-Help Groups as an institutional mechanism for poverty reduction is well recognized. Some of the developing countries of the region have also used cooperatives as an agency for implementing the programmes for the welfare of the poorer sections of the community.

Although Cooperative Laws of the Region do not make any specific provision outlining the involvement of cooperatives in poverty alleviation programmes, there is no bar on cooperatives to undertake poverty reduction programmes. Bye-laws of most of the cooperatives provide for social and economic betterment of members through Self-Help and mutual aid in accordance with Cooperative Principles. Thus the provision for social and economic betterment could obviously include poverty alleviation programmes. However, cooperative legislation in most of the countries makes no mention about eligibility of Self-Help Groups to become members of Cooperatives. It may, therefore, be appropriate to make provision in the Cooperative law for promoting Self-Help Groups of the poor to become members of Cooperatives at local level so as to enable them to take advantage of cooperative support for poverty reduction programmes.

Another important issue relating to community is positioning of women in the cooperative movement. Present situation is that none of the Cooperative Laws have made specific provision to ensure involvement of women in the management and leadership of cooperatives. The matter seems to have been left to the bye-laws of cooperatives.

The consensus of cooperatives in various countries seems to have veered around the need for building up more positive attitude of the membership and leadership for increased involvement of women in cooperatives through constant education rather legal fiat. In almost all the countries significance of greater involvement of women is well recognized both at the level of the cooperatives and the Government. However, progress has been very slow. The 7th Cooperative Ministers' Conference had, therefore, recommended for:

“the creation of appropriate provisions in Cooperative Legislation that will enhance the role and participation of women in cooperative management and leadership.”

Chapter-VIII

Recommendations

The foregoing analysis shows that in most of the countries reforms in cooperative legislation and policy has been a continuous process aiming at elimination of government control and interference in cooperatives for strengthening autonomy and self control. Although amendments made in cooperative laws have helped cooperatives to come out of shell of government control and support, still scope exists for further reformation in cooperative legislation and policy to transform them into self reliant, member driven and member controlled enterprises. Viewed in this context the following recommendations/suggestions are offered for consideration and follow-up at respective levels.

1. One cooperative law with one regulatory body/authority is a desirable condition for ensuring uniform growth of cooperatives. In the countries having more than one cooperative law and multiple regulatory bodies, there may be need to evolve a national coordinated approach by constituting some sort of inter-ministerial/inter departmental coordination committee at national level to avoid multiplicity of control. However feasibility of such mechanism will be conditioned by country specific situation.
2. The cooperative law should accord a distinct recognition to cooperatives different from private and public sector enterprises. In this connection it would be appropriate to reiterate resolution of Fifth Cooperative Ministers' Conference which set out the following parameters for highlighting distinct legal existence of cooperatives:
 - “(a) Recognition of Cooperatives as defined in ICA Cooperative Identity Statement (ICIS) in law.
 - (b) Setting ICIS as the minimum condition for legal definition of cooperatives”.
3. Of the Cooperative Laws referred in this study only Multi State Cooperative Act 2002 of India has explicitly included ICIS. Other countries reflect a lot of variation.

With a view to distinguish an enterprise as a 'cooperative', it would be appropriate to include ICIS as the basis of legal recognition of cooperatives.

4. Another related issue is an objective evaluation of cooperative law to ascertain whether it is an enabling legislation or is being shaped on the pattern of investor owned firm/state owned enterprises. ICIS should form the basis of such evaluation. From this view point, too, inclusion of ICIS in Cooperative Law becomes imperative for cooperative legislation reforms.
5. In most of the countries of Asia-Pacific Region, reform/amendments in cooperative law have not been accompanied by supporting policies. Although good cooperative law is important, it is not adequate to create an enabling environment for cooperatives. Therefore supporting policies articulating interest and aspirations of the people need to be formulated and implemented. The process has been somewhat slow. So far only India, Malaysia and Sri Lanka have formulated specific national policy on cooperative development. In other countries, policy formulation needs to be expedited.
6. Another aspect of cooperative policy formulation in the absence of specific positioning of cooperatives in broader public policy relating to different segments of national economy e.g. labour, industry, trade, commerce, social welfare etc. This leads to uncoordinated growth of coops. This needs to be corrected.
7. In the context of dynamic changes in socio-economic complexion of various countries brought out by globalisation requires redefinition of the role of government. There has been consensus of the earlier Ministerial Conferences that while the government should be responsible to perform regulatory functions, the cooperatives and their federations be entrusted with the task of cooperative development for which the government may provide assistance either through budgetary allocation or otherwise.
8. Government support be extended to cooperatives without affecting the latter's autonomy and independence.
9. In some countries the Cooperative Law provides for creation of "Cooperative Development Fund"/"Cooperative Education Fund" from the contributions of cooperatives out of their profits and its administration by the Government. It is desirable to assign the responsibility of administration of such fund to representative apex of cooperatives. However government may formulate guidelines for the purpose for utilization of funds.
10. Although parameters of good governance are defined in ICIS, it is necessary to formulate practical guidelines/working code for practical operationalisation of these parameters. The Cooperative law/byelaws should make enabling provisions in this regard. Equally important is raising the level of awareness of cooperative leaders, members and regulators about governance issues.

11. Following steps are recommended to ensure good governance in coops.
 - (a) Legal Guarantee and Recognition of Autonomy and Independence in cooperative legislation
 - (b) Freedom of cooperatives to formulate their own rules and regulations.
 - (c) Provisions within Cooperative Law for setting minimum standards for transparency and accountability and penalties in case of violation.
 - (d) Provisions within Cooperative Law to prescribe conditions of registration of genuine cooperative based on cooperative principles
 - (e) Provisions in cooperative laws for dissolution of the Cooperatives.
 - (f) Provisions in Cooperative Law for settlement of disputes.
12. For helping cooperatives to mobilize resources/capital from sources other than members, cooperative law should make enabling provision. However investment from outside i.e. non member resources should be allowed, if it does not lead to loss of member control of their coops.
13. While process of reformation of cooperative legislation and formulation of public policies on cooperatives has been initiated in most of the countries of the region, its effectiveness on mitigating structural weaknesses of cooperatives is yet to be seen. Weak primary structure compounded by absence of support from higher level cooperative organizations at secondary and tertiary levels creates hinderances for cooperatives to compete effectively as an unified structure at market place. Cooperative law should make provisions to prescribe norms of obligation of federations towards their primary affiliates and vice versa. In no case federation should compete with primaries.
14. In order to ensure professionalism in the management of cooperatives, dual board of directors system may be introduced in federations and large cooperatives. While the elected board members may constitute Board of Directors, the Chief Executive and professional departmental heads under him may constitute Executive Board. The former will be responsible to formulate management policies, the latter (Executive Board) will be accountable to the former for implementing the policies and business plan.
15. Fair globalisation , as defined by ICA, means “ people first, respecting their rights, cultural identity and autonomy and the empowerment of local communities in which they live”. In this context the World Commission on Social Dimensions of Globalisation has highlighted the role of cooperatives in the areas of “strengthening dialogues and governance” and “strengthening economic capacities”.
16. Cooperatives, imbued with social purpose and values, not only globalise local communities but also ensure fair and equitable distribution of gains of globalisation. The Cooperative Law should make enabling provisions to enable coops to ex-

pand their span of activities beyond national borders. This may be achieved in following ways:

- (a) Organisation of Transnational Coops
- (b) Strategic Alliances with other sectors
- (c) Development of Coops in social sector
- (d) Enabling the self-help groups of the poor to establish institutional linkages with coops
- (e) Reservation of 33% of seats for women in the management of the cooperatives
- (f) Development of exclusive coops of women and youth.
- (g) Implementation of concept of joint membership (wife & husband) in coops.

MALAYSIA
NATIONAL CO-OPERATIVE POLICY*
[Year 2002 to Year 2010]

INTRODUCTION

1. The introduction of the National Co-operative Policy (DKN) for the first time has outlined implementation strategies for the development of co-operatives in this country. It enables the co-operative movement to play a more effective role in the nation's development as well as face future challenges in line with the requirements of the Development Policy and Vision 2020 until the year 2010. Towards this end, co-operatives will no longer be limited to conventional activities but on the other hand will be involved in new business areas whilst upholding co-operative principles and philosophy. The NCP that is targeted for all types of co-operatives under the supervision of the Co-operative Development Department (JPK), Farmers' Organization Authority (LPP) and Fisheries Development Board of Malaysia (LKIM) will specifically focus on the relationship between the co-operative sector with the government as well as amongst the co-operatives. The formulation of the NCP is aimed at providing a conducive environmental framework for transforming co-operatives into institutions capable of assisting in the economic growth and social development thereby contributing directly to national development.

BACKGROUND

Historical background of the co-operative movement

2. Co-operatives were first introduced in this country in the early 1900s to assist in overcoming the problem of exploitation of the rural people by middlemen and indebtedness among government servants. The first thrift and loan co-operative was registered on July 21, 1922 under the Co-operative Societies Enactment 1922 (which has since been repealed) and replaced by the Co-operative Act 1993 that is in force today.

* Note : Approved but not launched officially.

This Act has been utilized as a general guideline whereby co-operatives have been using it as a 'policy' in streamlining their operations. In practice, this 'policy' is more statutory and regulatory in nature utilized for the purpose of supervisionion.

Co-operative definition, concept and philosophy

3. A co-operative is an organization formed and owned by a group of individuals for the purpose of improving their economic standard of living and social services rendered. This is achieved through their participation in economic and social activities administered democratically based on the co-operative principles. The 1995 Manchester Declaration on the ICA Co-operative Identity Statement (ICIS) has defined co-operative as an autonomous association of persons united voluntarily to meet their common economic, social and cultural needs and aspirations through a jointly owned and democratically controlled enterprise.

4. The underlying philosophy of co-operatives emphasizes services and well being of members rather than maximization of profits. As such, co-operatives are not profit oriented, not oppressive and uphold honesty in conducting their business activities. The ultimate aim is to provide a good alternative to society in terms of quality goods and services rendered at a reasonable price.

5. Co-operatives are controlled, managed and governed by members who play the dual role of owners cum clients. This unique feature of co-operatives facilitates co-operatives in undertaking activities towards improving members' level of income or reducing their cost of living. At the same time, a ready market for activities or projects undertaken by co-operatives is guaranteed via members of the co-operatives. Active co-operation among co-operatives is another important factor that will enable co-operatives to reduce costs and compete with other business organizations.

Co-operative Principles

6. The co-operative movement is governed by seven (7) co-operative principles that have been universally accepted and adopted by the International Co-operative Alliance (ICA). The so-called principles are as follows:

- i) voluntary and open membership.
- ii) democratic member control.
- iii) member economic participation.
- iv) autonomy and independence.
- v) education, training and information.
- vi) co-operation among co-operatives.
- vii) concern for community.

Co-operative Legislation

7. The Co-operative Act 1993 (Act 502) has repealed all other prior legislation pertaining to co-operatives. As an Act formulated to promote the development of co-operative societies, it makes provisions for the constitution, registration, control and regulation of co-operatives. In addition, co-operatives are also subjected to provisions in the Co-operative Regulations 1995 (formulated under the Co-operative Act 1993), the Registrar General's Circulars issued from time to time and co-operative by-laws.

Achievement and performance

8. The co-operative movement has recorded an average growth rate of 3.2% in terms of the number of co-operatives, 4.4% in terms of membership, 10.6% in terms of share capital/subscription and 12.2% in terms of asset since 1990 to 2000 as shown in Schedule-1 as follows:

Schedule 1: Co-operative Development 1990-2000*

Year	No. of Co-operatives	Membership (million)	Share/Subscription (RM billion)	Total Asset (RM billion)
1990	3,028	3.33	1.64	6.15
1991	3,083	3.44	1.75	6.55
1992	3,288	3.66	1.92	7.60
1993	3,388	3.91	2.18	8.33
1994	3,473	4.06	2.44	10.14
1995	3,554	4.25	2.74	10.39
1996	3,735	4.21	2.83	12.17
1997	3,847	4.13	3.17	12.96
1998	3,942	4.55	3.60	14.10
1999	4,049	4.33	3.84	14.10
2000	4,155	4.67	4.57	16.1
Average annual growth rate %	3.2	4.4	10.6	12.2

* The above statistics are for co-operatives under the supervision of JPK 9. The performance of the co-operative movement under the respective agencies.

(JPK, LPP and LKIM) as at 31 December 2001 and 31 December 2002 is shown as follows:

	Year 2001			Year 2002 (Estimate)		
	JPK	LPP*	LKIM*	JPK	LPP*	LKIM*
No. of co-operatives	4,246			4,330		
Total Membership (million)	4.75			5.02		
Subscription (RM billion)	4.3			4.4		
Total Asset (RM billion)	18.9			19.0		

* Note : Awaiting figures from the relevant agencies

During the economic recession, which started in 1997, the co-operative movement has managed to sustain a positive growth except in terms of membership in 1999. The co-operative movement has been successful in maintaining a large spectrum of membership comprising of government servants, farmers, fishermen, land settlers, private sector workers and students.

PROBLEMS AND ISSUES

10. The majority of co-operatives are small in terms of capital, comprise of inactive members (members' apathy) and have poor networking amongst them. Thus co-operatives are unable to generate sufficient capital to implement activities. Generally, co-operatives rely on conventional sources of capital such as share capital, subscription and accumulated income. Co-operative surplus funds are neither utilized economically nor mobilized amongst co-operatives but on the other hand are channelled to financial institutions in the form of fixed deposits. The long-term effects are co-operatives are not only unable to provide better services to their members but are also unable to participate in activities that will benefit the nation's economy.

11. Another weakness in the co-operative movement today is poor integration among existing co-operatives. As a result, many co-operatives remain as small and weak entities that are unable to compete in the market. Apart from that, co-operation amongst co-operatives in terms of business, training, management and capital is still at a very low level thus leading to dismal performance by secondary co-operatives that have been registered.

12. Likewise, the management and administration of co-operatives rely to a great extent on the voluntary services and intellectual capabilities of the Board of Directors. This has led to a vacuum in terms of professionals and expertise, which is required to

take the co-operatives to greater heights through proper planning and implementation of activities. Due to lack of professional and qualified management expertise as well as limited funding, co-operatives are not brave enough to undertake risks in expanding their businesses. As a result, co-operative businesses remain as traditional (conventional) and low scale activities, which eventually lose out to competition and development posed by businesses undertaken by the public and private sectors.

13. There are also situations whereby certain co-operatives have deviated from the original purpose and concept of formation. In such cases, members show lack of interest and remain inactive (members' apathy). In their eagerness to obtain profits, board members have failed to adhere to the underlying values that differentiate co-operatives from other business entities. As such, businesses undertaken by the co-operative will no longer be governed by the co-operative principles and concept.

The above scenario has made it difficult for co-operatives to obtain external sources of funds to overcome the problem of insufficient internal funding due to lack of confidence by financial institutions as well as lack of professional manpower engaged in the co-operatives.

14. All co-operatives (that include (a) agro-based co-operatives, (b) fisheries based co-operatives and (c) non-agro based co-operatives and non-fisheries based co-operatives) are subjected to the Co-operative Act 1993 although they come under two different Ministries that are responsible for co-operative development. The Ministry of Agriculture is responsible for the development of agro-based co-operatives under the supervision of LPP and fisheries based co-operatives under the supervision of LKIM whereas the Ministry of Land and Co-operative Development is responsible for the development on non-agro based co-operatives and non-fisheries based co-operatives under the supervision of JPK. The Co-operative Act 1993 has only differentiated cooperatives as primary, secondary and tertiary co-operatives. Co-operatives under the supervision of JPK comprise of credit, construction, transportation, consumer (including schools), industrial, services, plantation and housing co-operatives. The National Co-operative Organization of Malaysia (ANGKASA) is a tertiary co-operative, which is recognized as the apex body representing the co-operative movement of Malaysia both at the national and international level.

15. The integrity of the co-operative in preserving its identity, concept and ideology is being challenged by current development trends such as in the area of information technology and communication and external influences via globalization, liberalization, deregularization and national policy changes. Co-operatives also face challenges in improving their organization and upgrading the quality of products and services to members. As such, there is a need for co-operatives to compete with the private sector in a fair and competitive environment. Apart from that, resolutions pertaining to co-operative development that have been adopted at the international level such as Recommendation 193 approved at the International Labour Organization (ILO) Con-

ference held at Geneva from 3-20 June 2002, has recognized the importance of co-operatives in job creation, mobilization of resources, generating investment and their contribution to the economy. This recommendation emphasizes the relationship between government, society (people) and co-operatives.

NATIONAL CO-OPERATIVE POLICY (DKN)

16. The DKN has been formulated after taking into consideration the following factors:

- a) To make the co-operative a cost effective organization in order to maximize benefits for members and society;
- b) To strengthen co-operation and networking among co-operatives and other organizations in order to meet the objectives of their formation; and
- c) To enhance the understanding of the co-operative concept and ideology amongst members and society as a whole.

Policy Statement

17. The DKN's aim and policy statement is as follows :

The co-operative sector is recognized as a catalyst, alongside the public and private sectors, in the nation's economic development.

The relationship between the co-operative sector and the government as well as amongst co-operatives is outlined in the DKN to assist in improving the socio-economic development of the nation:

- i) Besides playing the role of a regulator, the government also promotes the formation and development of co-operatives in certain sectors of the economy;
- ii) There should be no differentiation in terms of ethnicity, religion, politics and gender in developing the co-operative institution;
- iii) Capital requirement is to be raised through mobilization of member's savings and shares / subscription, borrowings and financial assistance from the government and other organizations;
- iv) To increase co-operation amongst co-operatives and between co-operatives and other organizations that will mutually benefit both parties;
- v) To encourage active participation of women especially in co-operative management and leadership;
- vi) The co-operative movement should take advantage of the present government policy with regards to k-economy and e-commerce; and
- vii) The apex body representing the co-operative movement should play a respon-

sible role in providing services effectively for the overall development of co-operatives.

Short-term Objective

To enhance the understanding of co-operative ideology among the people so that co-operatives can function as organizations that are capable of contributing towards economic growth and social development.

Long-term Objectives

- a) To transform the co-operative movement into a vehicle that is competitive and geared towards eradication of poverty, creation of employment and business opportunities and upgrading the quality of life, based on the co-operative principles, for national development in line with Vision 2020.
- b) The government's role is solely to regulate and enforce the policy.

IMPLEMENTATION STRATEGIES

18. To achieve the objectives of the DKN, the following eight (8) strategies have been formulated:

Strategy I:

To ensure that the co-operative principles and philosophy are understood and practiced in the co-operative movement.

- Co-operatives have to adhere to the co-operative principles and philosophy to prevent them from deviating from their original purpose of formation;
- The element of democratic self-control is always practiced by cooperatives;
- The principle of autonomy in co-operative dealings is maintained as an element of self-reliance to enable the co-operative to perform in line with its constitution;
- An autonomous and independent co-operative will be able to play its role more effectively; and
- To provide knowledge to all members of co-operatives.

Strategy II :

To formulate clear rules and regulations to assist in the promotion and development of the co-operative sector.

- There has to be a provision in the statute that enables the involvement of co-operatives in all sectors of the economy;
- Any law and policy that hinders the rapid expansion of co-operatives has to be

reformulated to promote co-operative development;

- Co-operatives should be given official recognition via opportunities to speak up through representatives within the country and abroad;
- To encourage women's participation in the leadership and management of co-operatives; and
- The government's role is solely to regulate and enforce the law.

Strategy III :

To recognize the co-operative movement as a prime motivator and contributor in the economic development of the nation.

- To accept the co-operative movement as a key partner in the mainstream development of the community and nation;
- To give equal commitment and attention to co-operatives in a similar manner as given to the private and public sector;
- To assist co-operatives to be self-reliant through human resource development which includes education and training in management, entrepreneurship, and co-operative knowledge and practices;
- To introduce co-operative subjects in the national educational system and curriculum and to allow for the formation of co-operatives in institutions of learning; and
- To strengthen the activities of the apex co-operative and enable it to serve as a prime motivator for co-operatives and as a liaison between co-operatives and the government.

Strategy IV :

To strengthen and maintain good co-operative governance, efficient administrative and financial management and effective supervision of cooperatives.

- Co-operative by-laws must ensure accountability and transparency. The existing provisions in the by-laws must be reviewed and revised from time to time in accordance with members' needs. The Cooperative Societies Act should be utilized solely for the purpose of ensuring that transparency and accountability is adhered to;
- Co-operatives have to determine procedures for settling disputes and such procedures have to be incorporated in the by-laws; and
- It is the responsibility of the co-operative to train its members, board members, internal auditors and its employees.

Strategy V :

To increase sources of capital to enable co-operatives to face challenges and competition.

- Co-operatives are encouraged to raise capital by:
 - (i) increasing their own funds through members' shares/subscriptions based on the provisions in the by-laws;
 - (ii) securing capital from other co-operatives within the country and abroad; and
 - (iii) securing capital from other sources, provided that the co-operative maintains its overriding authority.
- Co-operatives are allowed to invest in other co-operatives within the country or abroad, subjected to existing law and regulations;
- Co-operatives are allowed to receive investments through formation of subsidiaries, provided that the co-operative controls the business management of its subsidiaries;
- To formulate rules that prevent co-operatives from participating in speculative activities using external borrowings;
- To reduce taxation on co-operative to encourage the growth of cooperatives; and
- The government's privatization policy should emphasize equal opportunities for co-operatives and other parties.

Strategy VI :

To strengthen co-operation among co-operatives and co-operation between co-operatives and third parties.

- To provide suitable infrastructure and environment to encourage cooperation among co-operatives and co-operation between cooperatives and third parties; and
- To encourage the formation of new co-operatives and the consolidation of co-operatives in various sectors of the economy.

Strategy VII :

To continuously improve the quality of products and services to ensure members receive the best of product and services offered by co-operatives.

- To undertake research and development (R&D) to identify and fulfill the needs, requirements and desires of members;
- To enhance efforts that will facilitate co-operatives in venturing into new areas in

the field of k-economy, e-commerce and in the utilization of information and communication technology (ICT); and

- To nurture, integrate and inculcate continuous quality improvement in the co-operative movement.

Strategy VIII :

To establish a National Co-operative Consultative Council (MPKK).

- The MPKK will serve as a forum in which representatives from the Ministry / Government departments and the co-operative movement will hold discussions and reach a consensus on matters relating to cooperative development so that planning, implementation, coordination and supervision of development programmes for co-operatives are more streamlined and effective.

19. Towards implementing the DKN, some concerted actions need to be taken according to the various sectors as follows:

Finance

- Special budgetary allocation for co-operative development and education;
- Increase in allocation of JPK's revolving fund;
- Creation of new funds and allocations for co-operatives by financial institutions and government departments; and
- Encourage co-operatives to increase their minimum share to raise capital.

Education and Training

- Improve co-operative knowledge;
- Improve training skills;
- Update co-operative study syllabuses;
- Recognize co-operative study as a curriculum in the national education system;
- Encourage co-operatives to undertake their own internal training programmes;
- Undertake awareness training for prospective members;
- Conditional requirement for prospective members to undergo awareness programmes before they are accepted as members; and
- Compulsory requirement for Board members and Internal Audit Committee members to undergo co-operative courses or training upon appointment.

Business Opportunities

- Networking amongst co-operatives and with other business organizations;
- Given consideration for obtaining special privileges such as licences and permits;
- Encourage co-operatives to be involved in new areas such as healthcare, education and tourism; and
- Extension of business opportunities by the government such as franchise and tourism.

Legislation

- Review and update legal provisions that hinder but regulate co-operative governance such as the setting up of co-operatives' subsidiaries;
- Provide a standard by-law according to the various co-operative activities as a guideline;
- Provide regulations for new activities to be undertaken;
- Circulars formulated by the Registrar General to regulate good governance by co-operatives;
- Develop training opportunities sponsored by government agencies for cooperatives such as entrepreneurial training by the Ministry of Entrepreneur Development and Ministry of Women's and Family Development;
- Create policy for regulation of co-operative expenditure (to ensure a reasonable rate of dividend, honorarium and other payments); and
- Ensure enforcement and implementation of co-operative legislation.

Women

- Increase participation of women in co-operatives;
- Increase the number of women co-operatives;
- Encourage more women to play the role of decision makers;
- Create women's bureau and committees in co-operatives; and
- Conduct specific training programmes for women.

ICT (Information and Communication Technology)

- e-commerce and e-co-op; and
- Encourage co-operatives to develop web sites.

Non-Governmental Organizations (NGOs) and tertiary co-operatives

- Improve the role and function of affiliated co-operatives (secondary and tertiary co-operatives);
- ANGKASA to serve as a liaison between co-operatives and the government so as to promote the interests of the co-operative movement; and
- Create a mechanism for discussions and co-operation at the state and district level with the State and District Co-operative Development Department as the Secretariat.

Government Departments

- Economic Planning Unit (EPU) to consider the role and contribution of the co-operative movement in national development when outlining and preparing development plans;
- Statistics Department - to ensure that it takes into account the contribution of co-operatives in national productivity;
- Develop new business opportunities for co-operatives such as in Federal Land Development Authority (FELDA) schemes and other development work in the districts;
- Relaxation of conditions such as in the processing of licenses and permits; and
- Develop training opportunities for co-operatives (Board members and workers).

SUMMARY AND CONCLUSION

20. The role of the co-operative movement as a third sector is becoming increasingly important. The formulation of a policy for the co-operative movement in this country is aimed at providing an environmental framework for transforming co-operatives into institutions capable of assisting in the economic growth and social development of the nation. Through co-operation in the implementation of activities, data and information collection, education and training, the co-operative movement can be further strengthened and consolidated as an institution capable of contributing directly to national development. Through coalitions and collaboration, co-operatives can pool resources in terms of capital and experience to enable them to venture into large-scale activities so as to consolidate their competitiveness.

21. Through support for the co-operative movement as enshrined in the National Co-operative Policy, it is hoped that active collaboration between co-operatives and other organizations will spearhead the co-operative movement's involvement in various business ventures that will mutually benefit members as well as to provide the best alternative in uplifting the economic status of the community and society as a whole. As such, commitment by all parties concerned is absolutely necessary begin-

ning with the grass roots at the respective co-operative level comprising of members, officials (Board, Internal Auditors and management) right up to apex organizations and tertiary co-operatives such as ANGKASA and Bank Rakyat. The same goes for co-operative regulatory authorities which include JPK, LPP and LKIM, supportive agencies such as the Co-operative College of Malaysia (MKM) and other training institutions for cooperatives as well as other stakeholders (including the relevant government administrative machinery) at the district, state and central (Ministerial) levels. All of these will be coordinated, monitored and evaluated at the national level by the National Co-operative Consultative Council (MPKK) chaired by the Honorable Deputy Prime Minister. The MPKK comprises of members representing Cabinet Ministers or representatives from the relevant Ministries related to co-operatives, State Governments, ANGKASA and cooperators whose collective role forms a critical and crucial factor in implementing the National Co-operative Policy successfully.

Recommended actions, implementing agencies and implementation of time frame

For effective implementation of the National Co-operative Policy, a detailed Plan of Action is being drawn up whereby every strategy has streamlined activities, sub-activities and recommended actions by the relevant agencies.

NATIONAL POLICY ON COOPERATIVES (INDIA)

I. INTRODUCTORY

1.1 The cooperative movement in India traces its origin to the agriculture and allied sector and was originally evolved as a mechanism for pooling the people's meager resources with a view to providing to them the advantages of the economics of scales. The first attempt to institutionalize cooperatives began with the enactment of the Co-operative Credit Societies Act, 1904, the scope of which was subsequently enlarged by the more comprehensive Cooperative Societies Act of 1912. Under the Government of India Act, 1919, the subject of Cooperation was transferred to the then Provinces, which were authorized to enact their own cooperative laws. Under the Government of India Act, 1935, cooperatives remained a provincial subject. Presently, the item "Cooperative Societies" is a State subject under entry 32 of the State List of the Constitution of India. Cooperative Societies Acts enacted by State Governments are now in place in the respective states.

1.2 In order to administer the operations of cooperative societies where membership was from more than one province, the Government of India enacted the Multi-Unit Cooperative Societies Act, 1942, which was subsequently replaced by the Multi-State Cooperative Societies Act, 1984, under entry 44 of the Union List.

2. REVIEW SINCE INDEPENDENCE

2.1 In the pre-independence era, the policy of the Government, by and large, was one of laissez-faire towards the cooperatives and Government did not play an active role for their promotion and development. After independence, the advent of planned economic development ushered in a new era for the cooperatives. Cooperation came to be regarded as a preferred instrument of planned economic development and emerged as a distinct sector of the National Economy. It was specifically stated in the first Five Year Plan document that the success of the Plan should be judged, among

other things, by the extent which it was implemented through cooperative organisations. In the sixties, special importance was attached to achieving increased agricultural production as well as rural development through cooperatives. A significant development on the agricultural front, during 1966-71, was the implementation of the new agricultural strategy, aimed at the achievement of self-sufficiency in food. The introduction of high-yielding and hybrid varieties of seeds and the allocation of large outlays for the provision of irrigation facilities and adequate application of farm inputs led to a manifold increase in the role of cooperatives. Thus, the Green Revolution gave a big boost to the activities of the cooperative societies; increased agricultural production and enhanced productivity necessitated an emphasis on value-addition in agricultural produce, marketing and storage and the development of allied sectors. As a result, specialised cooperative societies in the fields of milk, oil seeds, sugarcane, cotton, agro-processing, etc. were set up. Many large cooperatives emerged in the fields of fertiliser manufacture and marketing of agricultural produce. The role of cooperatives, thus, no longer remained confined to their traditional activities and expanded to new economic ventures as in the case of other such enterprises in the public or the private sector.

2.2 The past few decades have witnessed substantial growth of the sector in diverse areas of the economy. The number of all types of cooperatives increased from 1.81 lakh in 1950-51 to 5.04 lakh in 1998-99. The total membership of cooperative societies increased from 1.55 crore to 20.91 crore during the same period covering about 67% rural households and about 99% villages. Cooperatives advanced agricultural credit to the tune of Rs. 16987.00 crore during the year 1998-99 and had 44.6% share in institutional agricultural credit. The share of cooperatives in fertiliser distribution is of the order of 30.35% while the fertiliser produced by the cooperatives accounts for 18.64% of the total fertiliser production in the country. 56.8% of the sugar production in the country is from the cooperative sector. There are 84,289 village dairy cooperative societies in the country procuring 157.80 lakh kg. milk per day. These village level dairy cooperative societies are having membership of 106.28 lakh out of which 21.19 per cent are women members. Besides procurement and marketing of milk, dairy cooperatives are actively engaged in the field of superior cattle breeding, product diversification, nutrition, animal health and high quality animal feed. The number of urban cooperative banks rose from 1106 as on 30th June 1967 to 1936 as at the end of March 1999 and deposit increased from Rs. 153 crore to Rs. 50,544 crore. The average deposits per bank, which stood at Rs. 13.83 lakh in March 1967, rose to Rs. 26.11 crore by March 1999.

3. EXISTING CONSTRAINTS

In spite of the quantitative growth, the cooperative sector is beset with several constraints related to legislative and policy support, resource availability, infrastructure-development, institutional inadequacies, lack of awareness among the members, ero-

sion of the democratic content in management, excessive bureaucratic and governmental controls and needless political interference in the operations of the societies.

3.1 Legislative and Policy Constraints

Cooperatives are basically economic enterprises requiring proper legislative and policy support aimed at the creation of an environment conducive to their healthy development. Provisions continue to remain in the cooperative laws which hinder and hamper the development of these institutions. The restrictive regulatory regime has also restricted the autonomy of the cooperatives.

3.2 Resource Constraint

The cooperative sector in general and cooperative societies in the agricultural credit sector in particular are facing severe resource-crunch. Mounting over dues in cooperative credit institutions and lack of recycling of funds together with inability to mobilise internal resources, have made a large number of cooperatives sick and defunct.

3.3 Infrastructure Constraint

The cooperative sector is still predominated by poor infrastructure, particularly, in the field of post harvest technology, storage, marketing and processing apart from lack of basic rural infrastructural support such as roads, electricity, communications, etc.

3.4 Institutional Constraint

There have been instances of cooperative institutions in some cases working at variance. Some federal cooperatives which were supposed to guide and nurse their affiliate organisations are competing with them resulting in deterioration of the health of the primary and grass root level cooperatives. Lack of professional management and human resource development are also some of the traditional institutional constraints. Cooperatives in the financial sector and particularly in the banking sector are facing the problems of (i) dual controls; (ii) increasing incidence of sickness; and (iii) low level of professionalism, which have been adversely affecting the depositors' interest.

3.5 Constraint Relating to Member Awareness

A successful cooperative requires enlightened and informed membership. Although the membership of cooperatives in terms of numbers has increased manifold, dormant membership and the absence of active participation of members in their management have not only resulted in sickness but also encouraged the dominance of vested interests causing blockages in the percolation of benefits to the members. In a large number of cases, elections and general body meetings in cooperatives are not held regularly. The non-conduct of elections and general body meetings regularly has been creating apathy among members towards the management.

3.6 Constraint Arising Out of Excessive Government Controls and Needless Political Interference

Unjustified supersession of elected management by the Government and bureaucratic controls over the management of cooperatives have rendered these institutions as Government driven bodies rather than member driven. There are institutions where the administrators continue for unduly long periods and members are not allowed to exercise their right to elect their own management. This situation leads to a regulatory regime and excessive governmental control and political interference in the day-to-day management of cooperatives.

4.1 The ideology of cooperatives is based on the principles of self-help, self-responsibility, democracy, equality, equity and solidarity. Members of cooperatives should believe and imbibe the values of honesty, openness, social responsibility and concern for one another.

4.2 Basic Cooperative Principles

As pronounced in the Declaration of the Manchester International Cooperative Alliance (ICA) congress 1995, the basic Cooperative Principles are as follows :

4.2.1 Voluntary and Open Membership

Cooperatives are voluntary organisations, open to all persons capable of using their services and willing to accept the responsibilities of membership, without discrimination on basis of gender, social status, racial, political ideologies or religious consideration.

4.2.2 Democratic Member Control

Cooperatives are democratic organisations controlled by their members, who actively participate in setting their policies and decision making. Elected representatives of these cooperatives are responsible and accountable to their members.

4.2.3 Members' Economic Participation

Members contribute equitably and control the capital of their cooperatives democratically. At least a part of the surplus arising out of the economic activity would be the common property of the cooperatives. The remaining surplus could be utilised - benefiting the members in proportion to their shares in the cooperative.

4.2.4 Autonomy and independence

Cooperatives are autonomous self-help organisations controlled by their members. If cooperatives enter into agreement with other organisations including government or raise capital from external sources, they do so on the terms that ensure democratic control by members and maintenance of cooperative autonomy.

4.2.5 Education, Training and Information

Cooperatives provide education and training to their members, elected representatives and employees so that they can contribute effectively to the development of these institutions. They also make the general public, particularly young people and leaders, aware of the nature and benefits of cooperation.

4.2.6 Cooperation among Cooperatives

Cooperatives serve their members most effectively and strengthen the cooperative movement by working together through the available local, regional, national and international structure.

4.2.7 Concern for Community

While focusing on the needs of their members, cooperatives work for the sustainable development of communities through policies accepted by the members.

5. THE NEED FOR A NATIONAL POLICY

The role of cooperatives has acquired a new dimension in the changing scenario of globalisation and liberalisation of Nation's economy. Internal and structural weaknesses of these institutions combined with lack of proper policy support have neutralised their positive impact. There are wide regional imbalances in the development of the cooperatives in the country. This has necessitated the need (or a clear-cut national policy on cooperatives to enable sustained development and growth of healthy and self-reliant cooperatives for meeting the sectoral/regional aspirations of the people in consonance with the principles of cooperation. In this connection, it is also imperative to address the issues which require to be attended to by evolving a suitable legislative and policy support to these institutions.

The proposed National Policy on Cooperatives, as follows, is a part of the concerted efforts of the government to provide appropriate policy and legislative support to cooperatives with a view to revitalizing them.

6. OBJECTIVE

The objective of the National Policy is to facilitate all round development of the cooperatives in the country. Under this Policy, cooperatives would be provided necessary support, encouragement and assistance, so as to ensure that they work as autonomous, self-reliant and democratically managed institutions accountable to their members and make a significant contribution to the national economy, particularly in areas which require people's participation and community efforts. This is all the more important in view of the fact that still a sizeable segment of the population in the country is below poverty line and the cooperatives are the only appropriate mechanism to lend support to this section of the people.

The National Policy on Cooperatives to this end would seek to achieve:

- Ensuring functioning of the cooperatives based on basic cooperative values and principles as enshrined in the declaration of the International Cooperative Alliance Congress, 1995;
- Revitalization of the cooperative structure particularly in the sector of agricultural credit;
- Reduction of regional imbalances through provision of support measures by the Central Government/State Government, particularly in the under-developed and cooperatively undeveloped States/regions;
- Strengthening of the Cooperative Education and Training and Human Resource Development for professionalisation of the management of the Cooperatives;
- Greater participation of members in the management of cooperatives and promoting the concept of user members;
- Amendment/removal of provisions in cooperative laws providing for the restrictive regulatory regime;
- Evolving a system of integrated cooperative structure by entrusting the federations predominantly the role of promotion, guidance, information system, etc. towards their affiliate members and potential members;
- Evolving a system of inbuilt mechanism in Cooperative legislation to ensure timely conduct of general body meetings, elections and audit of cooperative societies;
- Ensuring that the benefits of the cooperatives' endeavour reach the poorer sections of the society and encouraging the participation of such sections and women in management of cooperatives.

7. POLICY

The Government of India in consultation and collaboration with the State Governments hereby enunciates the following:

- (i) While upholding the values and principles of cooperation, it recognizes the cooperatives as autonomous associations of persons, united voluntarily to meet their common economic, social and cultural needs and aspirations through jointly owned and democratically controlled enterprises;
- (ii) uphold the preservation of the distinct identity of cooperatives, its values and principles by providing an appropriate environment and taking the required administrative and legislative measures;
- (iii) recognizes cooperatives as a distinct economic sector and an integral component of the socio-economic system of the country and an effective and potential instrument, of socio-economic development. It considers them as essentially com-

munity initiatives for harnessing people's creative power, autonomous, democratically managed, decentralized, need-based and sustainable economic enterprises. Cooperatives will, however, remain the preferred instrument of execution of the public policy especially in the rural area;

- (iv) the regulatory role of the Government will be mainly limited to the conduct of timely elections, audit of the cooperative societies, and measures to safeguard the interest of the members and other stake holders in the cooperatives. There shall, however, be no interference in the management and working of the cooperatives. The Government recognises the apolitical nature of cooperatives;
- (v) reiterates and reinforces its commitment to the cause of the SC/ST, women and other weaker sections of the Society and their development through the cooperatives. Wherever members belonging to women or Scheduled Castes/Scheduled Tribes and other backward castes want to have their exclusive societies provided they find a socio-economic reason to form such a society, encouragement and assistance will be provided by the Government. Cooperative Societies, if they so decide, can provide for the representation of such category of persons in their bye-laws which they are competent to frame;
- (vi) accepts the need to phase out its share holdings/equity participation in the cooperatives. It shall, however, endeavour and extend appropriate support for improving financial viability and resource mobilization by harnessing local savings and adequate refinance facility, and to the possible extent providing a policy framework to ensure that there is no discrimination against the cooperatives in the matter relating to resource mobilisation to attain financial viability. The cooperatives shall be enabled to set up holding companies/subsidiaries, enter into strategic partnership, venture into futuristic areas like insurance, food processing and information technology etc., and shall be independent to take the financial decisions in the interest of the members and in furtherance of their stated objects;
- (vii) recognizes the role of the Government in ensuring that the benefits of liberalization and globalisation in the emerging economic environment are extended to the cooperatives in equal measure through suitable fiscal policies and pledges to provide support and protection to the cooperative movement through suitably designed investment programmes with a view to providing the cooperatives a level playing field vis-a-vis other competing enterprises especially in the field of agro-processing and marketing;
- (viii) recognizes the need for more effective regulation of cooperatives operating in the financial sector and accepting public deposits;
- (ix) also recognises the need for incorporating special provision in the Cooperative Societies Acts with regard to banking, housing, real estate development, processing, manufactures' co-operatives, infrastructure development, etc.;
- (x) recognizes the need to provide preferential treatment, as far as possible, to the

cooperatives engaged in areas such as credit, labour, consumer, services, housing, development of SC/ST and women and development of emerging areas as well as sectors requiring people's participation especially in rural areas;

- (xi) undertakes to devise and execute suitable programmes and schemes to build and develop cooperative institutions in the cooperatively underdeveloped States/regions with particular reference to the North Eastern States including Sikkim;
- (xii) recognises the need to support the cooperative movement to develop human resources, cooperative education and training, appropriate technologies and infrastructural facilities so as to promote professional management in cooperatives particularly at the primary level, for their greater functional and operational efficiency. It may also include the introduction of cooperatives as a curriculum vitae at school level;
- (xiii) undertakes to initiate structural reforms in order to improve the functioning of the cooperatives at various levels to ensure greater efficiency and viability. These may include steps to activate idle membership, enhance member participation and involvement, provision of multi cooperatives approach, ensure timely conduct of general body meetings and elections, provide for effective audit, devise suitable mechanism for rehabilitation of the sick societies particularly in the processing sector, expedite winding up of defunct societies; and providing legal framework for voluntary winding up of cooperatives;
- (xiv) undertakes to bestow autonomy to cooperatives to follow appropriate personnel policies including those relating to recruitment, promotions and other such matters with due emphasis on quality and transparency;
- (xv) undertakes to introduce the required electoral reforms through legislative measures. Elections to the cooperative societies should lie held through an independent authority like the State Election Commission; and
- (xvi) also undertakes to take other such measures as would lie required for efficient and healthy growth of the cooperative movement.

8. PLAN OF ACTION

A plan of action for implementation of the policy shall be formulated and pursued with adequate budgetary support by the Government of India, state governments and other concerned agencies including federal/national level cooperative organizations in a time bound manner.

9. CONCLUSION

The Government of India trusts that the enunciation of this statement of Policy on Cooperatives aimed at professionalisation and democratization of their operations will facilitate the development of cooperatives as self-reliant and economically viable or-

ganizations, providing their members improved access to the economies of scale, offsetting various risk elements, safeguarding them against market imperfections and bestowing the advantages of collective action.

And further trusts that the above statement of policy would ensure enduring autonomy and lasting viability to them as democratically owned, self-reliant enterprises, responsible and accountable to their members and to a larger public interest.

NATIONAL CO-OPERATIVE POLICY (SRI LANKA)

01. Prelude

The Co-operative Movement of Sri Lanka, which reaches its 100th milestone in 2006 has undergone many a transformation since its inception in 1906. Like in most other countries, the Co-operative Movement of Sri Lanka too at its outset was created to cater to the needs of the Colonial period while being a solution to the poverty of the people. However this movement with its strength of over 11,000 active co-operative societies and around 5.9 million membership plays a pivotal role in the development of the rural sector while making a significant contribution towards national development in addition to its vital stake in the national problems.

The legislations enacted from time to time such as the Loan Societies Act No. 07 of 1911, Act No. 34 and 35 of 1970, the Co-operative Society Act No. 05 of 1972 and the amendments No. 32 of 1983 and No. 11 of 1992 made to the above have had a strong impact on the change of government policy on the Co-operative Movement.

There is no clear consensus among the political leadership, government officials and Co-operative Movement as to the place and recognition and the role of the Co-operative Movement as well as what the government intervention in this regard are. In this background, wrong decisions taken, based on the many clashes of opinion and various ideologies have resulted in large quantities of valuable national resources going waste. The sustainable growth and development of the Co-operative Movement has been at stake due to various haphazard activities carried out as short term solutions for social and economic problems.

A close analysis of the economy reveals that the Co-operative Movement, unlike the State sector and the private sector, has not been evaluated properly. In a country where free market economy is in place, there's no clear definition about the co-operative movement.

The Government has now understood the need for promoting and propagating the

Co-operative Concept since it has been identified as the most suitable mode through which all communities can be stakeholders of the social development in the march towards economic progress.

2. The need for a National Co-operative Policy

Presently the Co-operative Movement function in terms of the Co-operative Act no 05 of 1972, the amendments made to it from time to time and other ordinances passed by the provincial Councils. It is obvious that international co-operative policies, recommendations of the International Labour Organization or the proposals of the United Nations Organization have not been taken into due consideration when preparing these rules and regulations.

With independence, the Co-operative Movement enjoyed a power of monopoly as well as State security on the sponsorship accorded by the government, according to the strategies consistent with the needs of the era, specially, these facilities were given to the Multi Purpose Cooperative Societies as well. In keeping with the positive objectives of the Movement, supporters of the successive governments were appointed to serve in the co-operatives but the expected objectives were not able to be reached. Multi Purpose Co-operative Societies were more or less a tool which fulfilled the needs of the government rather than being a people's enterprise.

Even though governments pumped in money continuously the C-operatives did not show any economic progress. The macro economic benefits provided to the local economy by the Co-operative movement were not assessed properly. The concept of Multi Purpose Co-operative Society, instead of co-operatives began to be deeply rooted in the lives of the rural masses.

All sectors affiliated to the Co-operative Movement has, over the decades been involved in taking temporary measures for what is known as 'Contingencies', rather than being planned for a sustainable future. As a result Co-operative Movement came to be known as a money gobbling monster which is largely inefficient with a dependable mentality. All this resulted in the co-operative Movement being unable to compete with the private sector and finally beginning to collapse.

In this backdrop the biggest challenge was that the members lost confidence in the Movement. The youth lost interest and did not join it. Therefore, the need of the hour is to formulate a Co-operative Policy consistent with the national needs which can reactivate the broken mentalities of the people.

These inherent qualities of the Co-operative Movement of Sri Lanka do not suit the fast changing and open economic system and the social background of the 21st century. Therefore, a great service has to be done by the Co-operative Movement for individual and collective development, economic empowerment and promoting the citizens' understanding of their responsibilities. At the same time room should be provided for the Co-operative to act as a public owned enterprise that serves women,

youth and the disabled irrespective of differences.

The population estimated as 12.7 million in 1972 will be 19.7 million in 2006. By 2050 it is expected to exceed 25 million. The extent of services that can be provided by the government for the fast increasing population is contracting. The trend for the monopoly corporate and multi-national enterprises to keep free economy under their power for economic profit has become stronger. Strengthening Co-operative Movement to face the challenges created by the said forces is a compulsory timely need.

Furthermore, in face of various pressures, problems and challenges of globalization, people's uniting and getting organized is necessary for fair sharing of the fruits of globalization.

Generating jobs, pooling resources, promoting investment and giving their fullest contribution to national economy is also necessary. Creating better employment opportunities while preventing the flow of human and other resources from the rural to the urban is another equal important responsibility. Co-operative should be used as an aid to create a self reliant culture instead of relying on a dependent economy. It will be necessary to follow flexible economic tactics and to provide reliable insurance and child protection measures in achieving these goals.

Achieving sustainable human development through Co-operative Movement while involving disadvantageous groups of society in socio-economic process is a timely need to be given priority.

Co-operative Movement has an important standing within the State policy of developing as well as developed countries. International Labour Organization also has recommended using co-operative method for economic, social, cultural and human development of a country by its 193 declaration. Also by the proposal 51/58 made on 12.12.1996 by the United nations General Assembly, it has been requested from the member countries to create a favourable environment for the co-operative.

The members cannot achieve their objectives with a co-operative movement utilized by the government and the provincial councils as a tool to serve their needs. Co-operative principles and ethics are like the heart of the movement. They are inter-related. If at least one principle is ignored in its activities either by State intervention or any other way, the objectives of other principles are lost. Therefore, as a whole, preserving co-operative principles, to operate it as a people's enterprise, it is necessary to act based on an accepted national policy.

Principles and legal framework should be prepared to strengthen Co-operative Movement as one that contributes to maintain a balanced economy, unmoved by the fast changing social, economic challenges, facing the competition of the commercial world on par with individual and corporate companies of Sri Lanka.

The need for a national policy on the relationships between the State and the co-operative has been emphasized since at all Ministers' conventions since the Asia –

Pacific Co-operatives ministers' Convention in Sydney in 1990 to date.

Although many countries of the Asia Pacific Zone have already planned and implemented national policy on co-operatives, this will be the first time in the recent history that Sri Lanka prepares a national policy on co-operatives taking into consideration the views and needs of the members.

Although there may be slight differences in its operation, co-operative method should not differ from province to province. It is very important to have a common national policy to take similar decisions in the eight provinces where co-operative powers are effected. Within that, co-operative principles can be decided. But it should be within a common national policy. It should be within a common national policy. It should be so because the "Co-operative" is a movement in operation universally and in which the members' decisions are vital.

It will also be important to declare clearly how social organizations like the co-operative can be involved in various social, economic and welfare programmes conducted by various Ministries and the importance of using the co-operative for that purpose by the relevant Ministries.

In rural development and in distribution of relief when there is no other alternative mechanism, using the co-operative society has become a common practice. Only the National Co-operative Policy is the most important factor to be used to introduce co-operative as a social organization that can be used country wide as a common social mechanism: Through that, people should be made aware that co-operative is not a common social welfare movement but a people's enterprise administered by the members with the active participation of members.

It is clear that a decision has been made about the need of a national policy on co-operative by the Presidential Committee Report on Co-operative of Sri Lanka issued in 2002, after long deliberation on this. (Presidential Committee Report on Co-operative – Page 305)

According to the manifesto of the current Government of Sri Lanka also, it has been emphasized that a national policy will be compiled. (Mahinda Chinthana, Page 37)

03. Vision

Making Co-operative Movement a major partner of social, economic and cultural development of Sri Lanka, as an independent people's enterprise based on internationally accepted co-operatives identity.

04. Responsibility

Creating the legal and institutional background necessary to strengthen Co-operative Movement as an independent and autonomous public enterprise that contributes to the social, economic and cultural development of Sri Lanka.

05. Objectives

01. Creating the background for the Co-operative Movement of Sri Lanka as an sovereign and independent public enterprise.
02. Building the horizontal and vertical organizing structure to strengthen co-operative as a public enterprise.
03. Empowering co-operative membership.
04. Defining the role of the government with regard to co-operative.
05. Identifying the responsibilities of co-operative movement.
06. Developing the human resources of co-operative movement.

5.1 Creating the background for Co-operative Movement of Sri Lanka to function as an independent and autonomous public enterprise.

5.1.1. Co-operative Movement of Sri Lanka will be adjusted to reflect the internationally accepted co-operatives identity.

- (i) According to the declaration made by the International Co-operatives Alliance about the identity of co-operatives,
 - (a) Accepts Co-operative as “A voluntarily united independent organization with the aim to achieve common economic, social and cultural needs and expectations through an enterprise with corporate ownership and democratic administration.”
 - (b) Those engage in co-operative movement will direct their movement in accordance with values such as self- help, self-responsibility, democracy, equality, justice and co-operation and ethics such as honesty, openness, social responsibility and caring for others.

5.1.2. The following internationally accepted co-operative principles will be adopted and under their guidance, local co-operative movement will be re-vitalized.

(a).

- (i) 1st principle : Voluntary and open membership
- (ii) 2nd principle : Democratic Members’ rule
- (iii) 3rd principle : Members contribution to economic activities.
- (iv) 4th principle : Independence and Sovereignty
- (v) 5th principle : Education, training and information broadcasting.
- (vi) 6th principle : Inter-co-operative co-operation
- (vii) 7th principle : caring for the community.

(b).

- (i) Co-operatives will be considered an open and voluntary organizations formed in such a way that holding membership and responsibilities and getting services is possible without any discrimination based on gender, disability and social, political or racial factors.
- (ii) Co-operative accepts membership as its center and accepts as its prime duty the rights of the members and providing them a service of high quality.
- (iii) It is emphasized that co-operative members should actively participate in decision taking and pay good attention not only to their democratic rights but also their duties. Representatives elected will be strongly duty bound to the membership.
- (iv) The need for the democratic administration of co-operative institute by the members who contribute the capital is stressed.
- (v) The final authoritative power for paying interest for members' shares, paying dividends when co-operative enterprise is profitable, creating pools with retained income, distributing collective capital among members when the organization ceases to be, contributing a share of profits when extra capital is needed and paying an interest for financial contributions made by members for further investments.
- (vi) when co-operative organizations enter into pacts and shared projects with the government or any other organizations, they will retain the sovereignty to control their fate.
- (vii) It is decided that to get maximum service of the elected representatives, leaders and managers, their knowledge, attitudes and skills should be improved and a fair percentage of the annual income should be spent on that. While making the public aware of co-operative and protecting its environment, steps will be taken to attract youth to co-operative and to familiarize them with leadership.
- (viii) Creating a balance between expectations of co-operative organizations, to reap the full benefits, co-operation among horizontal and vertical organizations will be encouraged, to safe guard rights of initial level organization while reaping profits of large scale organizations.
- (ix) The responsibility of co-operative organizations for sustainable continuation of work with regard to protecting economic, social and cultural environment while working for the welfare of their members is emphasized.

5.2 Building the horizontal and vertical structure necessary to strengthen co-operative as a public enterprise

While accepting co-operative as a public enterprise, the organizing structure vital for

its strength will be made stronger. Therefore, the co-operative organizing structure will consist of 3 layers, namely,

- (i) Primary level co-operative societies
- (ii) Secondary level co-operative societies
- (iii) Tertiary level co-operative societies

The need for a ceiling organization is accepted. That organization should refrain from spreading its power in such a way that it is harmful to independence other co-operative organizations. No primary level society can become a member of the national level organization.

Secondary level societies should not force primary level societies to get membership.

It is the responsibility of co-operative societies of all levels to conduct affairs with economic potential.

5.2.1. Primary Co-operative Societies

- (i) Societies founded based on members with common enterprising needs.
- (ii) The domain of a primary co-operative society is declared by its proviso.
- (iii) The minimum membership of a primary co-operative society is regarded as 50.
- (iv) To hold the membership of a primary co-operative society, a shareholder shall have a minimum share of Rs. 1000/=.
- (v) After identifying as an effective socio-economic unit, the domain of the society is determined and the domain may be amended as required by timely needs in a manner that is not detrimental to the objectives of other co-operative societies.
- (vi) Members of a primary co-operative society shall contribute a minimum of 60 % of its capital needs which are required to fulfill its business objectives successfully. The value of the share capital shall be determined by the capacity of the enterprise.
- (vii) On the requirements of the membership, the structure of the co-operative societies which at present provides consumer services, yet found to be ineffective, will be reorganized and permitted to function as independent primary societies not coming under the regional concept.
- (viii) In order to realize its business goals, horizontal and vertical relationships may be built with organizations involved in that enterprise with the agreement of members.
- (ix) The management committee or the Board of Directors of a primary co-operative society and representatives who are elected to the performance evaluation committee and audit and ethics committee should be of a higher elevation when

dealing with issues pertaining to the society's economic participation, the basic understanding of subjects connected with the co-operative enterprise, discipline and commitment to work.

- (x) The election of members to these committees shall be done by the society's general assembly.

5.2.2. Secondary Level Societies

- (i) The secondary co-operative societies consist of agent management committee members nominated by primary co-operative societies. The domain of the secondary co-operative society will be determined in keeping with its proviso.
- (ii) Secondary societies based on similar social and entrepreneurial needs may maintain horizontal and vertical relationships with organizations connected to that business.
- (iii) The management committee shall be responsible that each secondary co-operative society will become an economically viable organization according to its earnings.
- (iv) The minimum number of members of a secondary co-operative society is 03 primary co-operative societies.
- (v) The minimum value of a share for membership is Rs. 5000/=
- (vi) Secondary co-operatives at provincial level may be established in place of current District Board System which has been rendered ineffective, for the common needs at provincial level and to represent the national level organization.
- (vii) The management committee or the Board of Directors of a secondary co-operative society and representatives who are elected to the performance evaluation committee and audit and ethics committee shall be of a higher elevation when dealing with issues pertaining to the economic participation, the basic understanding of subjects connected with the co-operative enterprise, discipline and commitment to work of the society.
- (viii) The election of members to these committees shall be done by the general assembly of the society.

5.2.3. Tertiary Societies

- (i) Co-operative societies that were established at provincial or all island level consisting of representative management committee members of secondary level societies are regarded as tertiary level co-operative societies.
- (ii) The minimum number of members in a tertiary co-operative society shall consist at least of membership of 03 secondary level societies.

- (iii) Tertiary level co-operative societies should be able to offer guidelines to devise professional standards which are required to conduct successfully business of primary and secondary societies that are placed under it.
- (iv) The management committee shall be responsible that each tertiary co-operative society will become an economically viable organization according to its earnings.
- (v) Tertiary societies based on similar social and entrepreneurial needs may maintain horizontal and vertical relationships with organizations connected to that business.
- (vi) The management committee or the Board of Directors of a tertiary co-operative society and representatives who are elected to the performance evaluation committee and audit and ethics committee shall be of a higher elevation when dealing with issues pertaining to the economic participation, the basic understanding of subjects connected with the co-operative enterprise, discipline and commitment to work of the society.
- (vii) The election of members to these committees shall be done by the general assembly of the society.

5.2.4. Ceiling Organization

- (i) In order to enable the functioning of the entire co-operative sector as a viable business venture in the island, all tertiary level societies shall get together to form a national level organization. Societies of the secondary and higher levels should only be established in co-operative societies if there is a need to provide services that cannot be provided by primary societies of its kind and if it possess the ability to generate income for the said organization's existence.
- (ii) The general assembly of the national level organization consists of representatives of tertiary level society and representatives of non-primary highest level societies of each sector.
- (iii) It is committed to the well being of the co-operative sector by coordinating activities of co-operative societies of various types, promoting co-operation among co-operative societies, propaganda activities related to the co-operative movement, provision of consultative services, educational, training and expansion services and safeguarding and promoting the co-operative society: The ceiling organization will also facilitate the maintaining of international relationships.
- (iv) Further, it will stand for the entire co-operatives when national co-operative policies are formulated.
- (v) It facilitates the fostering of international relationships.
- (vi) The management committee is responsible for maintaining this organization as an economically viable unit.

- (vii) it will work in close co-ordination with the linear Ministry and the Provincial Co-operative Development Department and the Ministry in charge of the co-operative portfolio in formulating national policies and promoting activities of the co-operative sector.
- (viii) Steps should be taken to promote co-ordination in relation to necessities such as inter co-operative economic, loan and grants, exchange of information etc.

5.3. Strengthening member administration of the co-operative Movement.

5.3.1 Member participation

- (i) Those who have fulfilled the legal requirements as stipulated by the proviso and in good physical and mental fitness can obtain membership of a co-operative society.
- (ii) In the case of a school co-operative society, any student in or above grade 6 as well as a member of the academic or non-academic staff as stipulated by the proviso and a past pupil shall be able to get the membership.
- (iii) Members of a registered co-operative society are deemed equal.

That notwithstanding,

- a. those who took the initiative to establish a co-operative society utilizing their investments to inaugurate an enterprise based on commonly shared interests, may be termed as founder members;
- b. those who obtained the membership of a registered co-operative society in accordance with its proviso, yet not completed a period of one year from the date of obtaining membership is termed as probationary members. Those members who completes a successful period of one year become full members;
- c. those members who continuously hold the membership of a recognized co-operative society for a period of 10 years while actively participating in the activities of the society fulfilling his/ her obligations as stipulated by the proviso, and not found guilty of any wrongdoing and not defaulted any loan or payment due to the society is conferred the status of super member by the general assembly of the society.
- (iv) Members of the primary co-operative societies sharing common interests can organize themselves into groups of 5 – 10 and shall appoint a team leader to forward their needs to the society.
- (v) If there are regulations which prevent the management from taking effective, sudden business decisions in the current proviso, they should be amended in a manner favourable to the enterprise.

- (vi) When recruiting staff to the co-operative, members who have fulfilled the required qualifications and their children should be given priority.
- (vii) The management systems of the societies should be reorganized to effectively manage financial, physical and human resources.
- (viii) Multi-purpose co-operative societies already incurring losses should be converted into primary societies managed by its members.
- (ix) 51% of the total transactions of a co-operative society or the minimum amount of transactions as stipulated by the proviso shall be conducted among the members of the organization. This amount shall be determined by the proviso.

5.3.2 The General Assembly of co-operative societies will be strengthened on following matters.

- (i) Making policy decisions and reviewing progress to fulfill the objectives of the society.
- (ii) Appointment of a management committee and monitoring its activities.
- (iii) Making decisions on the annual budget and development projects of the society and follow up programme
- (iv) Making decisions on utilizing excess funds of the society for business purposes.
- (v) Taking decisions on the payment of rebates subject to a ceiling of 65% of the net profit of the society.
- (vi) Appointment of the management committee, audit and ethics committee and performance committee.
- (vii) making decisions on recommendations made by the committee report and their implementation.
- (viii) Making decisions on the future existence of the society.

5.3.3 Management Committee

- (i) Super members should be elected as the leaders of small groups and the management committee/ board or directors should be elected enabling their representation.
- (ii) The minimum number in other committees should be three and the maximum may vary depending on the number of members.
- (iii) In order to encourage new leadership, the appointment to these committees will be restricted to a period not exceeding two consecutive years.

5.3.4 Management Committee will be empowered on the following matters.

- (i) Appointment of election committees to conduct the elections of the society.
- (ii) Allocation of incentives from the net profit of the society to enhance the professional quality of the management committee.
- (iii) Increasing funds of the society.
- (iv) Taking decisions on the investment of funds.
- (v) Appointment of ad-hoc committees
- (vi) Compiling of audit reports and forwarding them to auditors.
- (vii) Managing the society in accordance with a development oriented strategy.
- (viii) Taking decisions on forming alliances with the State and private sectors to realize development objective of the society with the endorsement of the general assembly.
- (ix) Adopting resolutions for the proviso of the society with the approval of the general assembly.

5.3.5 Dividends and Privileges

- (i) The membership should have the freedom to use the excess income of co-operative societies for the promotion of the enterprise with the approval of the general assembly.
- (ii) The value of shares owned by the members including interest and dividends should be evaluated annually and members should receive due benefits as decided by the general assembly.
- (iii) Although there should be freedom to market the shares without any hindrance, the general assembly should make provisions to avoid unfavourable results.
- (iv) Taking into consideration the service provided by the secondary societies for the primary societies, the general assembly should decide about allocating a just share of the profits of the primary societies for those administrative functions of the secondary and tertiary societies.
- (v) The value of the goods and services related to a member's transactions with the society should be the basis for issuing dividends and other privileges.

5.3.6 Control of financial activities and loan facilities.

- (i) 10% of the income of the annual budget of co-operative societies should be allocated for member/ employee educational development and training activities.
- (ii) The responsibility of maintaining the liquidity at a suitable level in keeping with

the capital ratio regulations of the societies lies with the management committee and the general assembly.

- (iii) Financial management activities including members' shares, obtaining loans, granting loans, maintaining member and non-member deposits, asset management and resolving capital related issues taking into account the financial stability and benefits of a co-operative society shall be executed in accordance with the decisions of the general assembly.
- (iv) There shall be provisos to decide the ceiling of the acceptance of non-member deposits and the general assembly should be responsible for the same.

5.3.7 Accounting and Auditing

- (i) All registered co-operative enterprises should maintain an accounting system in keeping with the accounting and auditing standards recognized by the government and it is the responsibility of the management committee to finalize such accounts before 31st March each year and subject them to an audit within 5 months from that date.
- (ii) Performance audit, test audit and system audit will be introduced to verify the performance accountability of societies.
- (iii) The Commissioner of Co-operative Development and the Registrar General should declare an updated list of auditors and audit firms approved by them after determining the professional qualifications of professional auditors and audit firms, for the annual audit of each registered co-operative enterprise.
- (iv) The general assembly of the society shall elect suitable auditors from the list.
- (v) In the instances of when the responsibilities stated in this paragraph are neglected by the management committee of the society, the Commissioner of Co-operative Development and the Registrar General should intervene to get the auditing done, subject to being charged.
- (vi) It is the responsibility of the Commissioner of Co-operative Development/ Registrar General to take necessary legal action regarding such negligent management committees.

5.4. Defining the role of the government with regard to co-operative.

- (i) It is accepted that the recognition given to public and private sector by the constitution to be involved in the economic development of the country, should be extended to the co-operative sector.
- (ii) The need for Ministry of Co-operatives and a Co-operatives Development Department as the responsible public institution at national level with regard to Co-operative project is accepted (Report of the National Commission – Page 336)

- (iii) The national commission on Co-operative Development will be established, to revise, amend, co-ordinate and implement national policy related to co-operative when necessary.
- (iv) This commission established under the chairmanship of the Secretary to the Minister of Co-operatives will comprise of secretaries to Provincial Ministers of Co-operative and representatives of the Co-operative project.

5.4.1. Preparation of legal background for the sustainability of the Co-operative Movement.

- (i) The legal framework is prepared to protect the rights of the members of co-operative movement which operates as a public enterprise.
- (ii) As proposed by the Presidential Commission on Co-operative, providing legislature for the establishment of Co-operatives Enterprise Development Board, Co-operatives Tribunal and Co-operatives Development Bank will be done and they will be kept under supervision.
- (iii) The subject of Co-operatives will be included to the curriculum of schools and universities.
- (iv) Disputes of co-operative societies will be given the opportunity to be brought before a conciliation board appointed by the general committee prior to being directed to the Commissioner of Co-operative Development/ Registrar General for judgement.
- (v) Section 70 of Bribery Act No. 17 of 1954 which was amended by Bribery Amendment Act No. 20 of 1994 too amends the criminal law and civil law of the relevant section so that people involved in fraud and bribery in co-operative societies can be punished.
- (vi) Steps will be taken to invest the Co-operatives Development Commissioner and the Registrar General of Co-operative Societies with the power to file cases against violations of the provisions of Co-operative Societies Act and to appear for the plaintiff when provisions are made.
- (vii) Steps will be taken to get the new Co-operative Entrepreneur Act to strengthen the proposed national policy and to enable its implementation.
- (viii) Provisions will be made so as to invest the power on the C.C.D/ R.G.C.S. to acquire for reorganization, any co-operative organization which acts against democratic rule or when it cannot be maintained further without economic potential.
- (ix) Will have the powers with regard to registration of co-operative societies, arbitration, auditing, mortgage proceedings, expending co-operative funds, consolidation and separation, liquidation, dissolution and closing down societies, punishing fraud and corruption and maintaining proper administration within co-operatives and affiliated groups.

5.4.2. Empowering Co-operative Development Work

- (i) Co-operative enterprise will be strengthened as the only way to build a balanced economy keeping between public and private enterprise.
- (ii) On that basis, as an institution that support State sector and the public, it will be provided appropriate tax relief.
- (iii) Financial, technological and physical support necessary for education, training and development of co-operative enterprise will be provided.
- (iv) When government programmes are implemented through the co-operative, it will be done in such a way that the identity of the co-operative is protected and no loss is caused to those institutions.
- (v) When getting organized for collective activities within the government, the co-operative base will be used.
- (vi) National Co-operative Development Institute will be promoted to university level and affiliated institutions will be established at Provincial level.
- (vii) When strengthening the co-operative as a public enterprise, the structure and role of Co-operatives Development Department and national Co-operatives Development Institute will be re-organized and kept under supervision.
- (viii) Facilities will be provided to appoint a qualified executive director according to the capacity and the need of the co-operative enterprise.
- (ix) A Research and Development unit will be established with an information centre so that any party can obtain information about the co-operative enterprise.
- (x) Co-ordinating Committee for the Provincial Commissioner of Co-operatives and the convention of Provincial Ministers of Co-operative will be held to enable proper co-ordination between the line Ministry of Co-operatives and the Provincial Ministry in order to safeguard the development and unity of the co-operative movement.
- (xi) It will be the responsibility of C.C.D/ R.G.C.S. to prevent the creation of pseudo co-operative societies when registering co-operative societies.
- (xii) Steps will be taken to provide the support needed for appreciation and encouragement of varied services in local and foreign co-operative enterprise.
- (xiii) The necessary qualifications to appoint management staff to co-operative societies will be introduced.
- (xiv) Opportunity will be provided to the co-operative societies to appeal to a higher authority against the decisions of the C.C.D/ R.G.C.D in accordance to the limitations defined by the Co-operative Enterprise Act.
- (xv) Will assist in defining achievement standards of co-operative enterprise.

- (xvi) Legal provisions will be made with relevance to co-operative funds.
- (xvii) Proposals brought forth by National Co-operative board for the development if co-operative enterprise will be considered.
- (xviii) Support will be given through local and foreign connections in co-operative field to promote co-operative enterprise.

5.5. Explaining the role of Co-operative Movement

- 5.5.1. Every Co-operative institute should abide by and respect the internationally accepted co-operative principles.
- 5.5.2. For the sustainable development of the members of the co-operative Movement
 - (i) Building up co-operation among members.
 - (ii) Preparing development plans.
 - (iii) Providing necessary capital and investing in co-operative enterprises.

Principles of Co-operation

DEFINITION

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

VALUES

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

PRINCIPLES

The Principles of Co-operation are guidelines by which Co-operatives put their values into practice.

First Principle: Voluntary and Open Membership: Co-operatives are voluntary organisations, open to all persons able to use their services and willing to accept the responsibilities of membership, without gender, social, racial, political or religious discrimination.

Second Principle: Democratic Member Control: Co-operatives are democratic organisations controlled by their members, who actively participate in setting their policies and making decisions. Men and women, serving as elected representatives, are accountable to the membership. In primary Co-operatives, members have equal voting rights [one member one vote], and Co-operatives at other levels are also organised in a democratic manner.

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

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

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

Sixth Principle: Co-operation among Co-operatives: Co-operatives serve their members most effectively and strengthen the Co-operative Movement by working together through local, national, regional and international structures.

Seventh Principle: Concern for the Community: Co-operatives work for the sustainable development of their communities through policies approved by their members.