

SECOND

CRITICAL STUDY ON

CO-OPERATIVE LEGISLATION

AND POLICY REFORMS

RAVI SHANKAR & GARRY CRONAN



International Co-operative Alliance
Regional Office for Asia & the Pacific, New Delhi

**Second Critical Study
on
Co-operative Legislation
and Policy Reforms**

by

Ravi Shankar & Garry Cronan

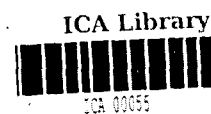
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Regional office for Asia & the Pacific
New Delhi - 110024**



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January 2002 (300)

ISBN : 92-9054-101-6

Typeset and printed in India at Document Press, HS-14 Kailash Colony Market, New Delhi - 110048.
Phone : 91-11-6432836 Fax : 91-11-6463593 E-mail : amin02@id.eth.net

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Exchange Rate Assumption - as of April 2001

US \$ (US Dollar)	- A\$ 1.98	(A\$ = Australian dollars)	Australia
	- Rs 46.59	(Rs = Indian rupees)	India
	- Rp 10,668	(Rp= Rupiah)	Indonesia
	- NIS 4.20	(NIS= New Israeli Shekels)	Israel
	- RM 3.80	(RM= Ringit)	Malaysia
	- NRs 74.38	(NRs=Nepalese rupees)	Nepal
	- S\$ 1.81	(S\$=Singapore dollars)	Singapore
	- SLRe 87.76	(SLRe= Sri Lankan rupees)	Sri Lanka
	- W 1325	(W = Won)	South Korea
	- Bht 45.35	(Bht= Baht)	Thailand
	-Vdn 14,000	(VDN = Dong)	Vietnam

Glossary

AAC	Australian Association of Cooperatives Ltd
ACCC	Australian Consumer and Competition Commission
ACFT	Agricultural Cooperative Federation of Thailand
ACT	Australian Capital Territory
ANZSIC	Australian and New Zealand Standard Industrial Classification
ASEAN	Association of South East Asian Nations
ADB	Asian Development Bank / Agriculture Development Bank of Nepal
AF0s	Area Farmers Organizations
AMC	Agricultural Marketing Cooperatives
ANGKASA	National Cooperative Organization of Malaysia
ASEAN	Association of South East Asian Nations
AWTC	Association of Women's Thrift Cooperative (Andhra Pradesh, India)
BAAC	Bank of Agriculture and Agricultural Cooperatives
BCDC	Bicol Cooperative Development Centre
BI	Bank Indonesia
BJD	Beijing Joint Declaration
BOD	Board of Directors
BPM	Bank Pertanian Malaysia
BPR	People's Rural Bank
BRI	Bank Rakyat Indonesia
BUKOPIN	Cooperative Bank of Indonesia
BULOG	The National Logistics Agency
CAD	Cooperative Audit Department
CAD	Cooperative Audit Department
CCA	Cooperative Council of Australia/Canadian Cooperative Association
CDF	Cooperative Development Fund

CECI	Canadian Centre for International Studies and Cooperation
CENCORD	Centre for Cooperative Research and Development
CFA	Cooperative Federation of Australia
CFSA	Cooperative federation of South Australia
CFV	Cooperative Federation of Victoria
CCFT	Consumer Cooperative Federation of Thailand
CCM	Cooperative College of Malaysia
CCP	Core Consistent Provisions
CCUs	Cooperative Capital Units
CDA	Cooperative Development Authority
CDF	Cooperative Development Foundation, Hyderabad (India)
CDF	Cooperative Development Fund
CETF	Cooperative Education Training Fund
CFAF	Common Fund to Assist Farmers
CHS	Cooperative Housing Societies
CIC	Cooperative Insurance Company
CID	Cooperative Institute for Development
CIDA	Canadian International Development Assistance
CISP	Cooperative Insurance System of the Philippines
CLIMBS	Cooperative Life Insurance Mutual Benefit Services
CLT	Cooperative League of Thailand
COBI	Cooperative Bank of India
CPD	Cooperative Promotion Department
CPF	Cooperative Promotion Fund
CRB	Cooperative Rural Banks
CU	Credit Unions
CUCO	Credit Union Coordination of Indonesia
CULT	Credit Union League of Thailand
CUP	Cooperative Union of the Philippines
CUSCAL	Credit Union Services Corporation of Australia
DA	Department of Agriculture
DANIDA	Danish International Development Agency

DAR	Department of Agrarian Reform
DCD	Department of Cooperative Development
DEKOPIN	Indonesian Cooperative Council
DDG	Deputy Director General
DG	Director General
DGF	Deposit Guarantee Fund
DTI	Department of Trade and Industry
FDA	Fisheries Development Authority
FACOMA	Farmers' Marketing Cooperatives
FELCRA	Federal Land Consolidation & Rehabilitation Authority
FELDA	Federal Land Development Authority
FFFCI	Free Farmers Federation of Cooperatives Inc.
FMC	Farm Mechanisation Centre
FO	Farmers' Organization
FOA	Farmers' Organization Authority
FPMC	Farm Product Marketing Centres
FSCC	Federation of Saving & Credit Cooperatives of Thailand
FTC	Farmers Training Centre
FY	Financial Year
GATT	General Agreement on Tariff and Trade
GDP	Gross Domestic Product
GFI	Government Financial Institutions
GKSI	Gabungan Koperasi Susu Indonesia
HD	Human Development
HDI	Human Development Index
ICA	International Cooperative Alliance
ICA ROAP	International Cooperative Alliance, Regional Office for Asia and the Pacific
ICIS	International Cooperative Identity Statement
ICT	Intercoop Trade
IFAD	International Fund for Agricultural Development
IFY	Indian Fiscal Year

ILO	International Labour Organization
IMF	International Monetary Fund
INKUD	National Apex Body of the KUD
JCR	Japanese Credit Rating
JICA	Japan International Cooperative Assistance
JPK	Jabatan Pemangunan Koperasi
KADA	Kemuba Agricultural Development Authority
KAI	Koperasi Asuransi Indonesia
KOSWIP	Koperasi Pegawai Kerajaan Selangor Dan Wilayah-Wilayah Persckutuan FBerhad
KUD	Koperasi Unit Desa
LBP	Land Bank of the Philippines
LSP2I	Lembaga Studi Pengembangan Perkoperasian Indonesia (Institute for Indonesian Cooperative Development Studies)
MA	Ministry of Agriculture
MACS	Mutually Aided Cooperative Societies Act (Parallel Cooperative Legis- lation of Andhra Pradesh state in India)
MADA	Muda Agricultural Development Authority
MASS-SPECC	Mindanao Alliance of Self-Help Societies - Southern Philippines
MCSE	Ministry of Cooperatives and Small Enterprise
MKM	Maktab Kerjasama Malaysia
MLCD	Ministry of Land and Cooperative Development
MOAC	Ministry of Agriculture and Cooperatives
MPCS	Multi Purpose Cooperative Society
NACF	National Agriculture Cooperative Federation
NACFT	National Agricultural Cooperative Federation of Thailand
NACTI	National Cooperative Training Institute
NAFAS	National Farmers' Organizations
NAMVESCO	National Market Vendors Cooperatives
NAP	National Agricultural Policy
NATCCO	National Confederation of Cooperatives
NCAC	National Cooperative Advisory Council
NCC	National Cooperative Council

NCCT	National Council for Cooperative Training (India)
NCP	National Competition Policy
NCUI	National Cooperative Union of India
NFA	National Food Authority
NDB	National Development Board of Thailand
NDDB	National Dairy Development Board (India)
NDP	National Development Policy
NEP	New Economic Plan
NGO	Non Government Organization
NICD	National Institute of Cooperative Development
NLCF	National Livestock Cooperative Federation
NORLU	Northern Luzon Cooperative Development Centre
NRI	Non Resident Indian
NRMA	National Roads and Motorists Association Ltd
NSW	New South Wales
NT	Northern Territory
OECD	Organization for Economic Co-operation and Development
PFCCO	Philippine Federation of Credit Cooperatives Organizations
PI	Presidential Instructions
PMU	Project Management Unit
PVO	Private Volunteer Organizations
PUSKUD	Provincial Secondary Societies of the KUD
QLD	Queensland
RAPS	Restructuring of Agricultural Production Systems
RBA	Reserve Bank of Australia
RBI	Reserve Bank of India
RCICM	Registrar General's Circular on Improvement of Cooperative Management
Reg NSW	Registry of Cooperatives, New South Wales
RISDA	Rubber Industry Smallholders Development Authority
SA	South Australia
SANASA	Thrift and Credit Cooperative Societies Federation (In Sinhalese)

SDB	SANASA Development Bank
SFOs	State Farmers' Organizations
SFU	Small Farmers' Unit
SLICM	Sri Lanka Institute of Cooperative Management
SME	Small – Medium Enterprises
SRF	Sustainable Rural Financial System
SSG	Statutory Services Group
TABCO	Thailand Agribusiness Company
TAGCODEC	Tagalog Cooperative Development Centre
TAS	Tasmania
TPA	Trade Practices Act
VANMICOM	Viakunth Mehta National Institute of Cooperative Management
VAT	Value Added Tax
VCA	Vietnam Cooperative Alliance
VCF	Visayas Central Fund
Vic	Victoria
VICTO	Visayas Cooperative Development Centre
WA	Western Australia
WAFT	Western Australia Ministry of Fair Trade
WCCU	World Council of Credit Unions
WTC	Women's Thrift Cooperative (Andhra Pradesh, India)
WTO	World Trade Organization

Acknowledgement

We are grateful to the International Cooperative Alliance Regional Office for Asia and the Pacific (ICA ROAP) for providing us an opportunity to study cooperative policy and legislation in quite a few countries of Asia and the Pacific. The study has been a valuable learning experience and it has helped us to discover new ways of looking at the subject. We hope this report would contribute in a meaningful way to current thought on cooperative policy and legislation. We also hope this review would enable ICAROAP to progress some of the larger objectives that led to the commissioning of our work.

Mr Robby Tulus, Regional Director, ICA ROAP and Mr BD Sharma, Director SOWECA have been instrumental in initiating this study and helping us to understand its framework and purpose. Most importantly, they have provided us every encouragement. To both of them we owe a special word of appreciation and thanks. The members of the study review committee, namely Mr. Ibnoe Soedjono, Hon. Cresente C. Paez, Ms. Rahaiah Baهران and Mr. Romulo M Villamin offered us important insights and guidance. We are obliged to all of them. We are also grateful to all those numerous persons and institutions – a list that is too long to reproduce here - who have helped us to see through this study.

We have been fortunate to enjoy free and frank exchange of views with cooperators, representatives of government and senior officials of the cooperative movement in every country that we visited during the study. Of course, we also enjoyed their warmth and hospitality. If this study is of some use then the credit goes to all those persons who took time to educate us and explain to us their policies and laws on cooperatives.

The responsibility for possible omissions in understanding or incorrect inferences in this report rests only with us. We would be happy to correct ourselves and would welcome comment and feed back from the readers of this report.

Finally, a special acknowledgement of the support and encouragement we have received from our respective spouses during the course of this study. They have also been more than generous in letting go of precious family time to enable us complete this report.

Ravi Shankar and Garry Cronan

22 May, 2001

Preface

This second critical study is a successor to the first critical study on cooperative legislation and competitive strength of select countries in Asia and the Pacific. Mr Ibnoe Soedjono and Mr Mariana Cordero made the first study in early 1996. Their report was published by ICAROAP in July 1997 and it served as an important instrument in the 5th cooperative ministers conference held in Beijing in October 1999. The basic objective of this study is to build on the work already carried out by the first study and offer a report that could facilitate quality deliberations in the 6th ministerial conference scheduled to be held in March 2002 at Kathmandu, Nepal. This report attempts to analyse how some of the rapid and significant changes in the socio-economic and socio-political landscape since 1996 have impacted cooperative policy and legislation. This report also tries to assess the extent to which ICA members and their corresponding governments have implemented follow up actions on the Beijing Joint Declaration (BJD).

Legislation is considered necessary because it helps society organize itself along efficient lines and generally provides for matters that are socially appropriate and morally desirable. Good legislation is supposed to direct activities having a great deal of community interface such as voluntary association, commerce, manufacturing, and public services into orderly modes, provide a non-contextual framework for decision making and enable effective conflict resolution. On the other hand, legislation is often considered as an instrument that stifles spontaneity and creativity. They are frowned upon as impediments to the development of both the individual and society. Legislation also has this tendency to place people and institutions in situations where they hesitate to set precedence, even as they eagerly hope that someone else would come along and do just that.

A complex society offers innumerable instances in every day life where routine responses become necessary. As a consequence, legislation is considered to be one of the best instruments for handling large-scale human interaction. While, in the final analysis, society cannot avoid having legislation, the matter of essence is that they ought to be designed well and structured such that they can be implemented effectively and efficiently. It is also generally recognised that legislation is never perfect. They are always close approximations. Therefore, there is this need to continuously scrutinise legislation — through the application of collective intelligence, based on on-going experiences at different levels and by being abreast of the judiciary's interpretation of legislation. Such processes offer tremendous potential to improve the quality of legislation to better serve both individual and collective human pur-

poses. For these reasons, the initiative of ICAROAP to hold ministerial level conferences on cooperative policy and legislation since 1991 is indeed a laudable objective.

The BJD was based on the consensus of 15 ministers and 36 high-ranking government officials from 24 countries in dialogue with 139 leaders of national cooperative movements and international organizations. The conference summarized a new approach to cooperative development in the Asia Pacific region focusing on two imperatives. Firstly, the need to create and sustain an enabling policy and legal environment conducive to cooperative development. Secondly, the need to establish new forms of cooperation between government and cooperatives. The political predicaments within each country - of which the cooperative ministry or authority is but one subset - indicate a natural propensity to holdup the making of good cooperative legislation and policy. This study tries to identify the positive and negative factors affecting the implementation of reforms within the scope of the BJD. Much of the momentum created by the 5th ministers conference in Beijing was through a consensus reached between governments and movements in adopting key standards and approaches required to create a sustained and enabling policy and legal environment conducive to cooperative development. Accordingly, this report seeks to carry this momentum forward - by offering a report that can play a positive role and serve a constructive purpose in the 6th Ministerial meeting.

Foreword

One of the important key result areas of International Cooperative Alliance (ICA) in Asia and the Pacific region is to facilitate the process of cooperative legislation and policy reforms for creating conducive environment to ensure the development of a sustainable and member centric autonomous cooperative system in the competitive market. Viewed in this context, continuous and constructive dialogue between the governments and cooperative movement assumes an added significance. ICA, therefore, has been sponsoring Cooperative Ministers' Conferences and Regional Consultations since 1990. In order to prepare authentic background material for these conferences based on critical analysis of the field situation, ICA Regional Office for Asia and the Pacific has undertaken critical studies of cooperative legislation and policies from time to time.

First such study undertaken in the backdrop of Asian Financial Crisis to focus on cooperative legislation and competitive strength, formed the core background material for IV Cooperative Ministers' Conference held in Chiang Mai in 1997. Since then a number of new trends have taken place. Notable of these are phasing out of financial crisis and subsequent recovery, initiation of second phase of the reforms in a number of countries and efforts of coops to adapt themselves with macro level structural adjustment processes in national economies. Taking note of these trends, the Fifth Cooperative Ministers Conference held in Beijing in 1999 deliberated on a number of issues that influence Coop-Govt relationships and adopted Beijing Joint Declaration (BJD).

The BJD, in main, formulated a new approach focussing on need to create and sustain an enabling policy and legal environment and to evolve new forms of government-cooperatives collaboration and relationships. The socio-economic and socio-political changes that have taken place since first study and the policy directions evolved in Fifth Cooperative Ministers Conference called upon ICA ROAP to undertake Second Critical Study to "..... assess the extent to which follow-up actions of Beijing Joint Declaration (BJD) have been implemented by the ICA members, emphasising the impact - rather than the processess....."

The Second Critical Study Report is an outcome of extensive field studies in a few selected countries of Asia-Pacific Region and analysis of a mass of data and information collected through a comprehensive questionnaire circulated among the ICA member organisations and Governments of Asia-Pacific. Hard labour put in by our consultants, Mr. Ravi Shankar (India), Mr. Gary Cronan (Australia) and support extended by Mr. Peter Boland (Australia) deserve our deepest appreciation to produce such a monumental report.

The study was initiated before I assumed the charge of Regional Director, ICA ROAP. My predecessor Mr. Robby Tulus and B.D.Sharma, Director (SOWECA) had formulated the terms of reference, purpose and framework of the study. I appreciate very much their efforts to provide valuable inputs to the consultants. Equally significant have been the inputs and suggestions of our Expert Committee consisting of Ms. Rahaiah Baharen (Malaysia), Hon'ble Cresente C. Paez (Philippines), Mr. Ibnoe Soedjno (Indonesia) Mr. Romulo M. Villamin (ICA ROAP) in completing the Study Report.

Objective analysis of the field situation on cooperative legislation and policy and focus on imperative need for suitable public policy for cooperative development will undoubtedly be very useful for cooperative policy makers and cooperators to charter out pragmatic course of action to promote independent, autonomous and competitive cooperative enterprises.

New Delhi
20 March, 2002

Shil Kwan Lee
Regional Director

Executive Summary

1. The first critical study on cooperative legislation was made in 1996. The countries covered by the study were Indonesia, Malaysia, The Philippines, Singapore and Thailand. The study found that based solely on their new laws and current stated policies, governments' are seen to be shifting away from being interventionists and taking on a more supportive (and passive) role in cooperative development. The study also observed that governments - nonetheless - continued to pursue flawed cooperative development strategies and programmes given four major factors viz., large cooperative development bureaucracies, many major players, cooperative development subsumed into broader objectives and the classical dilemma of socio-political agenda versus cooperative development. In making its analysis on cooperative competitiveness, the first study found a dichotomy in the cooperative movement and observed that cooperatives are susceptible to the pitfalls of growth and expansion. As early as 1996 conversion of cooperatives into corporations to have more flexibility in pursuing business opportunities was being explored. At the same time some cooperative advocates feared this development as a departure from the true essence of cooperativism.
2. The first study made a series of recommendations for the ICA, government authorities responsible for cooperatives and cooperatives societies. Many of these recommendations remain valid except that they must now be considered in a regional and global context. Accordingly, the documentation in this report is aimed at positioning the Cooperative Ministers Conferences in a Wider Regional Context. The first report recommended that the ICA identify other Government entities in member countries, which have a key role - positive or negative - in cooperative development. It was proposed that consideration should be given to their representation in future dialogues. The current study confirms the validity of this recommendation. The important offices in Government responsible for shaping public policy - affecting cooperatives - are the Agriculture Ministry, Attorney General, Treasury and Finance, Prime Ministers Office and the Cabinet. There is evidence from the Australian case study that sans the active support of all these constituents of Government, recommendations reached at Ministerial Conferences may not find broader legitimacy in the development and implementation of public policy. It is therefore imperative that key ministers and officials driving national public policy development be represented at Ministerial Conferences.

3. Inter-government and economic development organizations are becoming increasingly important as forums for development of regional policies. Therefore, multi-lateral agencies should be encouraged to attend the Ministerial Conferences. The development of regional trading zones and accompanying harmonisation of laws indicates that the next logical step could be to link cooperative development to regional policy. In developing regional policy, Governments could consider making commitments to move towards a gradual harmonisation of laws affecting cooperatives. This would position the Cooperative Ministers Conference as an important initiator of ideas for social and economic development within the Asia Pacific region.
4. This second study in early 2001 happens to take place in the context of a significantly changed environment. When the first study was undertaken in 1996 there was little to suspect that a multi dimensional East Asian economic crisis was in the making. In 2001, perhaps the worst of this crisis is over. The East Asian nations are beginning to show a new resilience, even as some of them make efforts to overcome problems of ethnic strife and conflict. Their economic indices indicate that they may just be gaining the confidence to remake themselves. The other major factor affecting development across the world is the impact of the new digital order. Debates on development and quality of life are no longer limited to the divide between the North and South. The new world order is being increasingly influenced by nations that have access to and can use information technology – with associated cutting edge technology sectors such as biotechnology - for the betterment of its people.
5. The international flow of capital, through deregulated banking systems; the opening-up of markets and the removal of restrictive and protectionist legislation and regulation, have all contributed to the current environment in which cooperatives now operate. Many of these changes have been brought about by the Asian financial crisis and at the insistence of the IMF and World Bank. These processes have imposed an external timetable on internal domestic reforms. This has occurred irrespective of the ability of the governments of affected countries to control the process or indeed the preparedness of the cooperative sector to respond. Within this changing economic environment, fragile cooperative movements must attempt to position themselves to cope with the interplay of market forces. In this context, the Australia case study illustrates what happens when the reform process runs ahead of the capacity of the movement to respond to changes in the economic environment. This second study is also being undertaken at a time when the ILO has just released its Report V(2) on Promotion of Cooperatives. This report documents the findings of the ILO questionnaire circulated to member countries on the decision to revise the Cooperatives (Developing Countries) Recommendation, 1966. ILO's revised standard on cooperatives is scheduled for adoption in 2002.
6. The changed environment has brought about new threats and extraordinary challenges for cooperatives in Asia and the Pacific. But it has also given them a breath

of fresh air – in terms of the changing attitude of governments towards cooperatives. A major shift is taking place in the mindset of governments in the region, about what they should be doing about cooperation and cooperatives. Illustrations of such a shift are evidenced by what's already happened in Nepal and what's happening in India and Indonesia. As nations across the globe have embraced market oriented economies, become signatories to the WTO and accepted multilateral trade, most governments are generally showing a far greater inclination to adopt progressive and liberal cooperative legislation. They are also showing a hurried interest to try and disengage themselves from their traditional roles and responsibilities in the promotion and development of cooperatives. Naturally, there are variations in these trends, given the political, social and economic milieu of individual countries. But this cannot take away the discernable fact that the direction and thrust of impending changes in cooperative policy and legislation are positive and indeed desirable.

7. On the other hand there is also this need to recognise that liberalization and democratisation will not necessarily, without proactive steps by the government, provide the grounds for the development of cooperatives and other civil society organizations. Cooperatives operate in a range of economies and are subject to different institutional and social environments. While, the global processes of liberalization and reform are gathering pace and becoming more pervasive in their affect on individual countries, the capacity of the respective movements to respond to commercial opportunities varies widely. In countries where the movement is weak such responses often depend upon pro-cooperative movement initiatives originating from the State through a top down approach. For example, in Korea, the basis of government supports for agriculture derives itself from strong cultural and historical influences. In such countries, Government can be expected to fill the policy void created by global forces only if it has particular cultural, historical and political relevance or significance.
8. Generally speaking, most governments are well seized of issues like the why and what of cooperatives. They also seem to be fairly aware of how they should now act so as to unleash the potential for the development of many sectors and their people through the cooperative method. Probably, what seems to impede the intention of governments to get going is their lack of ability to organize the critical mass of political will, both within their own parties and in their respective Parliaments. The countries in South Asia and most of East Asia have inherited their legacy of cooperative legislation and policy from their colonial past. Between the time these nations gained independence and till recently, government and political interests in cooperatives have used this legacy – or changed it – only to meet their larger objectives. The interests of the cooperative movement *per se* has not been the sole guiding factor for governments in the making of cooperative policy and legislation. Therefore, this report attempts to highlight the commonalties and diversities in how cooperative policies and legislations have evolved over the past century, contemporary attempts to shape cooperative policy and legislation, the emerging situation and the

likely manner in which further transformations may take place, given the unique context of each nation.

9. On Autonomy and Independence

- 9.1. In Australia, cooperatives have enjoyed a large measure of legal recognition derived from English statutes. Historically, different forms of co-operation have been given separate legal recognition. Credit Unions, Building Societies, Cooperative Housing Societies developed their own State based cooperative legislation. General cooperatives were similarly provided for, with discrete State based legislation. However, the trend in Australia, for financial cooperatives, is to move away from separate legal recognition, based on ownership type, to a more common Corporations Law framework. This tendency is supported in other policy areas, including taxation and competition policy. On the other hand, general cooperative legislation is being developed as stand alone national legislation, incorporating and acknowledging the separate legal existence of cooperatives. All Australian cooperatives are subject to the broader public policy. One of its key components is that it is a competitive marketplace, which is of importance in delivering real benefits to consumers, businesses and the economy as a whole. It is less important to distinguish between different types of organizations operating in the marketplace. The independence and autonomy of cooperatives in Australia is acknowledged. It is the form of regulation, and broader public policy which appears to be moving away from providing for their unique structure and purpose.
- 9.2. In India cooperation is a state (provincial) subject. There are about 32 pieces of cooperative legislation that are currently in force in different states. In recent years five states – led by Andhra Pradesh in 1995 - have put in place cooperative legislation that is parallel to the existing cooperative legislation in their state. Many of the remaining 24 states are considering enactment of parallel cooperative legislation. Cooperatives registered under parallel legislation enjoy complete autonomy and independence consistent with resolution no.1 of the BJD. The original legislation which also remains in force continues to regulate all those cooperatives that have major partnerships with governments through facilities such as government equity, loans, guarantees and are manned at the top levels by government officers. Cooperatives registered under the original legislation can choose to migrate to the parallel cooperative legislation if they can repatriate government equity, pay back government loans and accept to operate sans government assistance. The Andhra Pradesh experience on parallel cooperative legislation indicates that hitherto government led cooperatives have been able to change their true nature into becoming more autonomous, member controlled institutions, without sacrificing any of their values and principles. It has also given birth to a whole new generation of cooperatives conforming to the ICIS.
- 9.3. Most of Indonesia's cooperative movement has had major dependencies on the government for all its activities. It is now poised at a point in time where it has a good

chance to break free. After the 1997 crisis, the government seems to have made up its mind that only its members must manage the affairs of cooperatives. However, it is the passage of a new cooperative legislation that will actually break the ground for such a change.

- 9.4. In Korea, there are no provisions in the 1992 Constitution specifically mentioning Cooperatives. However, Article 123(4) does place an obligation on the State to foster organizations founded on the spirit of self-help among farmers, fishermen, and businessmen engaged in small and medium industry and to guarantee their independent activities and development.
- 9.5. Ever since the passage of the Nepal Cooperative Act, 1992, cooperatives in Nepal have been as autonomous and independent as the ICIS could expect them to be.
- 9.6. In Sri Lanka cooperatives continue to be generally regulated under the Cooperative Societies Law of 1972. Neither have cooperatives in Sri Lanka become more autonomous and independent, nor have hitherto government led cooperatives been able to change their true nature to get closer to the ICIS. With the devolution of cooperation as a provincial subject the situation could change — if the provinces choose to do so.
- 9.7. In Thailand, the Constitution guarantees the right of individuals to unite and form an association, a union, league, cooperative farmer group or private organization. In addition, the Cooperatives Act defines a cooperative as “a group of people who jointly conduct affairs for socio economic interests on the basis of self help and mutual assistance.”
- 9.8. In Vietnam, Article 20 of the 1992 constitution recognises the rights of the collective sector to organize in various forms following the principle of free consent, democracy and mutual benefit. The same article also places a positive obligation upon the State to create favourable conditions for consolidating and broadening cooperatives and allowing them to operate efficiently.

10. On Legal Existence

- 10.1. In Australia, the Core Consistent Provisions (CCP) legislation for general cooperatives includes the ICA principles. There are no barriers, legal or practical, to the principle of voluntary or open membership or the principle of democratic member control. In fact, member control is strengthened through the concept of active membership and the adoption of provisions designed to protect and preserve the principle of one-person-one vote.
- 10.2. In India, the distinct nature of cooperatives have been recognised both by law and by government policies. However, barring India’s parallel cooperative legislation, none of the other cooperative legislations specifically quote and reproduce the ICIS as such. Instead, most cooperative legislation include an annex that broadly explain

the cooperative principles. Generally, cooperatives are not permitted to undertake new forms of initiative and various restrictions apply.

- 10.3. In Indonesia, the distinct nature of cooperatives has been recognised both by law and through government policies. But cooperatives have been generally considered as instruments of government's development programmes. To that extent it may be said that government recognition of cooperatives impacts cooperative development in an unconstructive manner.
- 10.4. With opening up of the Korean economy, arising from the Asian financial crisis, there is a need for Korean farmers to become more efficient and for the industry to maximise economies of scale. This change has been brought about by the impact of the policies of the World Bank and IMF on the agricultural sector. Important changes include support of farm debt by government and the government's policy of subsidising farmer loans. The current cooperative legislation has been recently adopted to facilitate the amalgamation of a number cooperatives under the umbrella of the NACF.
- 10.5. Nepal has distinctly recognised the nature of cooperatives both by law and through its government policies.
- 10.6. In Sri Lanka, the distinct nature of cooperatives has been recognised both by law and through government policies. However, while the laws and government policies relating to the recognition of cooperatives remain steeped in the socialist era, the government expects cooperatives to perform successfully in a highly liberalized and globalized economy.
- 10.7. Upon its registration, the Cooperatives Act provides for cooperatives in Thailand to be a juristic person. The Act provides for prescription by Ministerial Regulation of the type of cooperatives which can be formed and registered under the Act. This has the potential to limit the development of new cooperative models and structures, which do not fit with in the standard class of cooperatives.
- 10.8. In Vietnam, a registered cooperative enjoys the status of a legal person but it is unclear as to the protection given to third parties when dealing with cooperatives who have acted contrary to the law or the provisions of their by-laws. The cooperative law gives a registered cooperative power to export, import, form joint ventures and integrate with organizations and individuals both inside and outside Vietnam. A cooperative also has power to borrow money from banks, to raise funds from other sources and to lend money to cooperative members in accordance with the Law. Under the law, there is no central government agency responsible for registration of cooperatives (issue of business certificates). This is done through the People's Committees at the district level. Moreover, the establishment of branches requires registration at the People's Committees in the area where the branch office is to be located. There are a number of legal requirements for the transformation of old model cooperatives under the Law. These are complicated as they involve the establishment of a transitional committee, determination of proposed cooperative assets, the

capital and contributions of members and the support of the local People's Committee. This has been a major barrier to the transformation process.

11. On Recognition

- 11.1. If the number of policies or statements issued in support of the cooperative movement is considered as the one measure of recognition for cooperatives, then as far as Australian governments are concerned, the sector is non-existent. It is understood that no government in Australia - State or Federal - has a stated public policy in support of cooperative development. Apart from a commitment to complete the CCP scheme, governments have been unable or unwilling to publicly express commitment to supporting or expanding the role of cooperatives. In fact, the Commonwealth Government, was one of only a handful of OECD countries, which failed to complete the country questionnaire for the new ILO resolution.
- 11.2. In India cooperatives have generally been considered to be instruments of socio-economic development, promoted by the state. However, the dairy and sugar cooperatives have been a shining exception and are fairly autonomous and independent. Cooperative in these two sectors have made - and continue to make - substantial contributions to civil society. The new generation cooperatives that are emerging through parallel cooperative legislation in states like Andhra Pradesh are also beginning to make a mark in the manner in which genuine cooperatives can positively impact civil society.
- 11.3. In the multi-dimensional crisis of 1997 in Indonesia, many cooperatives - most of which were dependent on the government - encountered major problems. However, there were a significant number of cooperatives that could surmount the impact of the crisis. These were cooperatives that remained true to their identity, such as the thrift and savings credit unions and the dairy cooperatives. These are private initiative grass roots led movements and are making important contributions to the promotion of civil society.
- 11.4. While the Korean cooperative movement was developed between the 1960's and 1980's through strong Government interference, there has been, since the beginning of the nineties, a recognition of the movement's independence by Government.
- 11.5. In Nepal there are quite a few genuine thrift and credit cooperatives that have made positive contributions to civil society. Dairy cooperative too are beginning to make a mark in their contribution to civil society.
- 11.6. In Sri Lanka the thrift and credit cooperatives of SANASA have made important contributions towards gender equity by increasing women membership in its cooperatives to 49 per cent. SANASA has emerged as a development institution where a village's financial resources are mobilised and redistributed within the village itself. SANASA's vision for the future is to create a new social order based on cooperative principles.

- 11.7. In Thailand, there is recognition under the Cooperative Act as to the special characteristic of cooperatives and as to the operation of the Cooperative principles. The Act also gives a Cooperative separate legal status from its members and permits it to hold property and dispose of property. However it does not permit a cooperative to give a guarantee or raise a loan without first obtaining approval of the Registrar as to the amount to of the guarantee or loan. Whilst there are strong policy reasons for doing this in relation to newly formed cooperatives and cooperatives with little management commercial expertise, it does not facilitate the development of business acumen among directors and management.
- 11.8. In Vietnam, article 1 of the Law in defining a cooperative acknowledges the role of cooperatives in improving living standards and in contributing to the socio-economic development of the country. There is also recognition in article 7 that cooperative members have the right of participating, managing, controlling and monitoring of cooperative activities through equal voting rights, which contributes to equity, social justice and democracy. This is borne out by the duty imposed on cooperatives through article 9 to protect the environment, human ecology and heritage. The cooperative law also imposes a duty on cooperatives to provide social security to members and to train, educate and upgrade qualifications, thereby improving the quality of life for members.

12. On fair playing field

- 12.1. In Australia, there has been little appreciation of the role that cooperatives can play in promoting and strengthening civil society values or business development. This report has highlighted that Australian governments seem much less focused at a policy level on cooperatives as cooperatives. Cooperatives will be treated equally as long as they are generally prepared to conform to the dominant organizational form – the private for profit corporation. The report has also drawn attention to the fact that certain aspects of competition policy are disadvantaging cooperatives.
- 12.2. Except the parallel progressive cooperative legislation in India, all cooperative laws in India provide a substantial role for the State in cooperative development. A plethora of restrictive provisions in cooperative legislation across states only makes the playing field that much more disadvantaged for cooperatives. Governments substantially support and aid cooperative education and training. This is a double-edged sword. On the one side it has the potential to create and nurture a valuable human resource system that can accelerate cooperative development. On the other side, as has often happened, it has the tendency to get politicised, bureaucratized and become insensitive to the genuine needs of members. Broadly observed, this approach has made cooperatives complacent to generate their own resources for education and training and remain dependent on government support.
- 12.3. While cooperatives in Indonesia have a playing field comparable to other forms of business enterprises, they have been unable to put in place systems and strategies

that could enable them to compete successfully in the market place. The proposed changes in cooperative legislation, if finally passed by Parliament, could go a long way in enabling cooperatives to redesign and re-engineer themselves to achieve their potential.

- 12.4. In Korea, the Government has provided financial assistance to farmers in the form of subsidised loans and loan guarantees to assist farmers to meet debt repayments. In doing so, the Government has utilised the vast branch structure of the NACF to provide for effective distribution of funds. This structure has ensured appropriate borrower selection processes to reduce the incidence of defaults among farmers.
- 12.5. Cooperatives in Nepal certainly enjoy a fair playing field and are allowed to operate under equal footing with other enterprises in order to realise their full potential. In fact, cooperatives in Nepal enjoy certain additional advantages when compared to other forms of enterprise.
- 12.6. The existing cooperative legislation in Sri Lanka does not provide the kind of autonomy and independence that are enjoyed by other forms of enterprise. The devolution of powers relating to cooperative legislation has only made this task that much more difficult.
- 12.7. In Thailand, there is a genuine recognition of the importance that cooperatives play at the grass roots levels. However, there has been a tendency for Government to encourage privately owned SME's to provide services and engage in small manufacturing activities. There are some positive policy statements from the Government as to the provision of financial assistance to the cooperative sector, particularly at the village level. There has also been an acknowledgment from the Government to build up infrastructure to assist in the long-term development of cooperatives.
- 12.8. In Vietnam, since the enactment of the Law on Cooperatives in 1996, the Law on Enterprises has been promulgated for the registration and regulation of limited liability companies. It is generally conceded that the Law on Cooperatives is over-prescriptive and complicated, in comparison to the equivalent law on enterprises.

13. On Self Regulation

- 13.1. In Australia, the responses from representatives of both the general cooperative sector and relevant regulatory agencies indicate that they believe the CCP legislation adequately provides for self-regulation of cooperatives. The respondents also indicated that they felt that appropriate and effective corporate governance and disclosure provisions existed in the legislation.
- 13.2. In India, parallel cooperative legislation provides substantial scope for self-regulation by cooperatives. This indicates that if governments are determined they can clearly set legal boundaries for cooperatives to further define their own legislative requirements.

- 13.3. The existing cooperative legislation in Indonesia does not provide for cooperatives to progress or adopt self-regulation. The new proposed legislation contains appropriate provisions to encourage self-regulation by cooperatives within an overall positive regulatory framework.
- 13.4. In Korea, since the recognition of the movement's independence by the Government in early 90s, the President of the NACF and its office-bearers have been elected by the membership rather than being chosen or imposed by the Government.
- 13.5. The cooperative legislation of Nepal provides more than adequate scope for self-regulation. In the process, its cooperative legislation does not provide for checks and balances for those cooperatives that escape regulating themselves in a manner that is both necessary and consistent with the ICIS.
- 13.6. The cooperative legislation in Sri Lanka does not provide for self-regulation by the cooperatives. In fact, the existing legislation provides for all kinds of micro regulation and supervision by the government and the department of cooperatives.
- 13.7. In Thailand, the Cooperative Act is a highly regulatory statute, designed to assist small and unsophisticated cooperatives. It does not encourage a staged development process for cooperatives focusing upon management skills and self-regulation. There is a need for the legislation to provide incentives to cooperatives to work towards self-regulation and the determination investment and capitalisation programs.
- 13.8. The Government economy has encouraged the restructuring of the cooperative industry through the rationalisation of second-tier and apex cooperative structures. This has promoted achievement of economies of scale and better utilisation of resources to meet market demand arising from the liberalization of the Korean economy.
- 13.9. In Vietnam, Article 9 imposes duties upon cooperatives to ensure that rights of members are protected and to provide economic benefits to members. Before a merger or division can occur, the cooperative must be authorised by a three quarter's majority of members, who vote on the proposal. As part of the formation process, cooperative members must approve of the by-laws and elect the cooperative president, manager and other members of the management committee. In addition, they are required to elect an Audit and Control Committee whose function is to supervise and control the affairs of the cooperative. People's Committees have been given the powers of registration and de-registration of cooperatives.

14. On Capitalisation

- 14.1. One of the unifying themes of the cooperative experience, in Australia, has been the quest for competitiveness. This journey has been most evident in the exploration of different options for capital raising. As industries have become more competitive, cooperatives have sought to compete, by seeking opportunities further down the value chain. This has meant additional capital, sometimes from outside the membership base is required. It has been noted that in recent years there is hardly a

significant Australian cooperative that has not considered its corporate status or the adequacy of its capital structures. While it is undoubtedly true that a number of influential cooperatives have made a complete break from their cooperative roots by converting into companies many others have been exploring different solutions to their problems – options, which stop short of demutualisation. It is in the area of hybrid equity models that many are seeking an answer. This quest is driven by a desire to maintain the cooperative heritage of the organization, particularly the element of member control while accessing external equity. In summary, cooperatives want additional funds - but not at the expense of active member control.

- 14.2. In India, except parallel cooperative legislation, all cooperative legislation provide for mobilization of additional resources through government assistance. An effort to disengage the state from its excessive involvement in cooperatives inevitably flounders on the issue of how government contributions to the capital of the cooperative could be repaid by the membership. The parallel cooperative legislation permits cooperatives to raise capital from the market through methods that are innovative enough to meet the cooperatives need for capital and at the same time retain member control.
- 14.3. In Indonesia, cooperatives can raise additional capital through borrowings from other cooperative societies, banks, financial institutions, issuance of bonds and through share capital from government. Consequently, both government and financial institutions have a major influence in the policies and programmes of cooperatives they have financed.
- 14.4. The progressive and liberalized cooperative law in Nepal ensures that while cooperatives can seek capital from government and external domestic and foreign institutions they can retain member control in their decisions and operations.
- 14.5. The cooperative law in Sri Lanka does not provide for any significant manner of mobilizing additional capital except from government. However, the SANASA has been using innovative methods to effectively mobilise capital from its members and redeploy such capital for the productive use of its members.
- 14.6. In Thailand, The Cooperatives Act requires all cooperatives to issue shares and limits the extent of a member's liability to the amount unpaid on the shares. Cooperatives are permitted to raise loans or borrow and to mortgage, pledge, sell or dispose of property. However, there is an obligation upon the Cooperative to obtain the approval of the Registrar before any guarantee or loan is given or raised by the Cooperative. In addition, a cooperative is required to keep an amount in liquid assets as prescribed in Ministerial Regulations. Approvals of the members must be by a two-thirds majority of votes cast.
- 14.7. In Vietnam, there is a requirement under the law for members to contribute capital before becoming members of a cooperative in accordance with the by-laws of the cooperative. No member may hold over 30percent of the total share capital. In addi-

tion, where a cooperative proposes to engage in a business, for which the Government has prescribed a minimum shareholding, the cooperative must have that amount of share capital in order to obtain a business registration certificate. A general meeting of members must approve of any variation to the members' contribution. Cooperatives may borrow from banks, subject to the provisions of law. Borrowing of money from other organization is subject to the terms agreed upon by the parties subject to terms complying with the laws.

15. On Official Development Assistance

- 15.1. Most respondents to the questionnaire noted that governments provided some assistance to general cooperatives in Australia. The most important was the NSW Government, which maintains by far the largest, Registry of Cooperatives. This Registry provides advisory and development assistance for new cooperatives and administers a Cooperative Development Fund, (CDF). The NSW Government has also initiated and principally funded, from CDF, a new cooperative research centre. The CDF is also used to provide funding directly to the cooperative federation and a number of other support organizations.
- 15.2. Parallel cooperative legislation in India has evolved over the past six years because of sustained efforts by a number of informed cooperators and forward looking institutions to aid and assist reforms in cooperative legislation through workable and practical solutions. In particular, funding and development institutions such as the National Dairy Development Board (NDDB) of India have taken major initiatives to encourage formation of dairy cooperatives under parallel cooperative legislation in Andhra Pradesh. Similarly, the Cooperative Development Foundation, Hyderabad has facilitated the formation of a number of new generation cooperatives under the parallel cooperative legislation in Andhra Pradesh involving thrift and credit and agriculture.
- 15.3. In Indonesia, the cooperative movement and the LSP2i have received support from the World Bank to prepare a comprehensive proposal for changes that are necessary in the existing cooperative legislation. It appears that once a new cooperative legislation is in place the World Bank would be keen on funding cooperative ventures in the country.
- 15.4. In Korea, the Government has provided financial assistance to members of agricultural cooperatives through the subsidisation of interest rates and the provision of loans and subsidies to farmers. During the financial crisis, the Government provided substantial funds to support outstanding loans made to farmers by the banking arm of the NACF.
- 15.5. In Nepal the cooperative dairy project was implemented through a major collaboration with DANIDA. Similarly, there are other international agencies like CECI that are assisting and supporting cooperative ventures in Nepal.

- 15.6. In Sri Lanka there are presently no major instances of official development assistance for the development of cooperatives in an autonomous and independent manner. However, SANASA has been able to attract and effectively use aid and assistance from the Asian Development Bank and the World Bank to promote thrift and credit for poverty alleviation.
- 15.7. In Thailand, the Cooperatives Act provides for the establishment of the Cooperative Development Fund, which provides loans to cooperatives. In addition, during 2000 the Government allocated funds to encourage urban development through credit cooperatives and other savings groups as well as encouraging lending to cooperatives through specialised institutions such as the Bank of Agriculture and Agricultural Cooperatives. (During the fiscal years of 1998-2000, the Ministry of Finance recapitalised the BAAC to strengthen its financial base to expand its services to the agricultural sector and rural areas). This Government has announced a lending and guarantee program for 2001 for SME's (including cooperatives) valued at 52, 100 million Baht consisting of loan support of 50,500 million Baht and guarantee support of 1,600 million Baht. The amount of 2,000 million Baht was allocated to the BAAC to extend its credit services to a greater number of farmers at lower interest rates.
- 15.8. The Vietnamese Government provides funding to the VCA and supports the cooperative sector through the Ministry of Agriculture and Ministry of Finance. The Ministry of Finance has provided assistance in the determination and valuation of assets in the transition of the old style cooperatives. The making of Decree No 15 CP on "Incentive Policy for Cooperative Development" was an important step in providing indirect assistance to cooperative development through the granting of exemptions and reductions in taxes and land rental.
16. **On Networking**
- 16.1. Australian cooperatives are neither domestically unified, nor internationally networked. The one exception, is the Australian Credit Union movement. General cooperatives remain commercially challenged, under-resourced, and inadequately represented. For most of the last decade, Australian general cooperatives have not been a member of the ICA.
- 16.2. While both the central and state governments in India are progressively divesting (denationalising) state owned industries, there is little to indicate whether it intends to perform a similar act with cooperatives. Divestment of state owned corporations yields substantial returns to the exchequer and is a crucial incentive to governments to divest. But this is not the case with cooperatives where governments will essentially have to write off their equity and loans as a one-time exercise. The main incentive to governments in disengaging from cooperatives would be that they would no longer be required to continue committing their increasingly scarce financial resources to cooperatives.

- 16.2.1. A middle path solution lies in evolving a plan where governments in India not just liberate cooperatives in the first instance but also commit themselves to a plan that tapers their assistance and aid to cooperatives in a diminishing manner over a period of five years or so. At the end of such a period, those cooperatives that are unable to perform in a productive and efficient manner may be allowed to fold up. Such a suggestion can be implemented by undertaking a comprehensive survey to classify cooperatives into categories A, B and C. Category A cooperatives would be those that can anyway take care of their cooperative development needs without external support. Category B cooperatives would be those that can partially generate resources for cooperative development and need only appropriate support to gain ground. Category C cooperatives would be those where it would be futile to invest in cooperative development since it may be a waste of scarce resources.
- 16.2.2. In the Indian context, the concept of parallel progressive legislation is a unique solution to achieve disengagement of the state from its deep and pervasive role in cooperatives and cooperative development. Perhaps, the central Government should consider assisting such a process by offering a significant package of incentives to the states that adopt parallel cooperative legislation. A comprehensive study followed by a national seminar on how parallel progressive cooperative legislation in the states can accelerate cooperative development can also contribute to this process.
- 16.2.3. The issue about legislation permitting cooperatives to be converted to producers companies in India, especially large agri-business cooperatives, needs to be considered from the common and agreed interest of the cooperative movement that good cooperative legislation must preserve and protect the cooperative identity and prohibit demutualisation by incorporating all necessary and sufficient safeguards.
- 16.3. In Indonesia, different sections of the cooperative movement led by civil society organizations like the LSP2i, DEKOPIN and the government would have to work together to quickly put in place a new enabling cooperative legislation that is based on the ICIS. Once a new cooperative legislation is in place, it may be expected that institutions like the World Bank and other multilateral development institutions would be positively inclined to fund and support new and major cooperative development ventures in Indonesia.
- 16.4. The NACF has been proactive in pursuing policies, which facilitate joint venture arrangement of commercial relations with SMEs to provide benefits to members and their families. The large branch structure of the NACF has provided an important avenue for networking with Government Agencies in provision of financial support to the farming sector.
- 16.5. In Nepal there is a need to relook at some of the extremely liberal provisions in its cooperative law and redefine them in a manner so that businessmen do not misuse the cooperative form of enterprise. It is also necessary to examine the need for

financial cooperatives to compulsorily follow certain well-defined prudential norms and practices in their operations.

- 16.6. In Sri Lanka, the need is to urgently evolve an unambiguous position on how different provinces would address the issue of cooperative policy and legislation and acquire the necessary skills and expertise for this purpose. There is also a need to work for a consensus between different provinces to ensure that their role in regulation of cooperatives brings cooperatives closer to the ICIS and gives them at least the same advantages that are available to other forms of enterprise.
- 16.7. The Cooperative League of Thailand has been proactive in networking with government agencies and international bodies in the furthering the cause of cooperatives in Thailand. It is also a member of the Cooperative Development Board, which has duties under the Act of prescribing policies and plans for cooperative development currently with national economic and social development plans. It also has the statutory duty of prescribing guidelines for the co-ordination of government agencies for the promotion of cooperatives.
- 16.8. The VCA provides an important avenue for networking with Government departments and agencies. It has worked closely with the Ministries of Agriculture and Finance in the transition process of the old style cooperatives and in the development of model by-laws.

17. On Cooperative Policy

- 17.1. While legislation is normally referred to as the making of law or any set of statutes, policy connotes a course of action adopted and pursued by a government and/or, a definite course of action adopted for the sake of expediency. Policy is also referred to as the set of general principles by which a government is guided in its management of public affairs, or the legislature in its measures. So, one can have a policy for making legislation. Alternatively, one can set a policy for implementing and enforcing a particular piece of legislation. A major distinction between cooperative policy and legislation is that the former is the domain and responsibility of the government. The latter is the role domain of Parliament and legislature. Finally, it may be said that policy as a word evades any precise definition and does not lend itself to easy explanation. Therefore, it is not surprising that in response to the questionnaire circulated by the ICA-ROAP, Singapore, Israel, Sri Lanka, Thailand and Nepal indicated that there is very little or, no distinction between cooperative policy and legislation in their respective countries.
- 17.2. In Australia, respondents to the questionnaire, which was part of this study, indicated that they believed that the Government had not been influenced by the ICA sponsored conferences including the recently held Ministerial Conference in Beijing.
- 17.3. On the other hand, Indonesia and India have reported that there is a clear distinction between cooperative policy and legislation in their respective countries. But these

responses need to be understood in the proper context. In India, only the central Government has articulated a draft policy on cooperatives. This draft policy was announced in June 2000 (Appendix VIII). However, since cooperation is a state (provincial) subject, it is equally important that all the state governments must have a cooperative policy in place. Preliminary enquiries revealed that no state government in India has a cooperative policy. In the case of Indonesia the consultants could not come across any document that specifically articulated the Indonesian Government's policy on cooperatives.

- 17.4. In Thailand, the Government has announced that it will support and strengthen cooperatives and agricultural development. It has indicated that it will adopt policies designed to develop the processing of agricultural produce with a "One village One Product" Project. This will have important implications for small primary cooperatives.
- 17.5. In Korea, during 2000, the Government has announced policies designed to make cooperatives more responsive to the needs of the members and to achieve greater scales of economy. The new Agricultural Cooperatives Act has facilitated amalgamations consolidating the 4 major cooperative federations in line with structural changes to agricultural policy to make agriculture more competitive and less dependent on subsidies.
- 17.6. In Vietnam, the Government has provided substantial resources in the transformation of Cooperatives as well as giving directives to local and provincial bodies to be involved in and facilitate the transformation process. The Government is currently looking at changes to the Cooperatives Law to modernise the legislation and to streamline some the processes leading to registration
- 17.7. The nature of distinction between cooperative policy and legislation in both these countries needs to be validated through a more extensive study. In order to provide a broad idea of the government line of thinking on cooperative policy and legislation, the relevant extracts of Report V (2) Promotion of Cooperatives (ILO 2001) has been reproduced at Appendix XIV. But it needs to be understood that the responses reported by the ILO in their Report V(2) is only in the nature of the intent and thought of government in the making of a new ILO recommendation on cooperatives. That the making of this new recommendation could lead to effective policy and legislation for cooperative development is another matter. This is because even if there is a policy in place, it becomes effective only when it can be duly assessed in terms of measurable outcomes and suitable benchmarks. This brings us back to the beginning of the thought process that when policy itself is ambiguous or, generally absent, how can there be any significant outcome(s)? These issues are suitably reflected in Appendices XII and XIII, which reproduces the responses to the detailed questionnaire on cooperative policy and legislation – circulated as a part of this study by ICAROAP to the member countries of the region.

17.8. This report avoids repeating in its country findings and analysis the information that can be gleaned from the appendices. Therefore, the avid reader who would like to look for individual country analysis on cooperative legislation or policy or, a comparative analysis for that matter, is requested to read the appendices. Appendices III to VI and VIII provides a comprehensive picture on cooperative legislation and policy in India. In the case of Indonesia, Nepal and Sri Lanka, the relevant appendices are VII and IX. The social and economic context of these and other relevant countries are reported in Appendices X and XII. These appendices provide macro indicators of social and economic development respectively.

18. Other general recommendations

18.1. The future of cooperatives will be dependent upon management being encouraged to stand away from the parochial hand of the Regulator. We recommend that legislation be developed which will permit greater responsibility attached to a graduated level of competency. This should be demonstrated by well defined management polices and by financial results which demonstrate an ability to function in the market with the simplest of regulatory overview. Cooperatives in this category would need to have independent auditors and have a finance and budget committee with statutory reporting obligations. The legislation would need to provide checks and balances to ensure that cooperatives which fail to meet the competency criteria are automatically brought under stricter supervision or reporting conditions – for example, where a cooperative suffered a major loss affecting its solvency, or where it had more than 2 years of accumulated loses.

18.2. One of the factors relevant to the operation of cooperatives is the need to have subsidiaries. We recommend that the Cooperative legislation allow for the registration of wholly owned special services bodies with the same powers as companies. The purpose of this recommendation is to bring the registration and regulation of these entities under the same regulatory authority. It would also provide for the subsidiaries to operate within the framework of a cooperative group structure and facilitate international trade with other cooperatives.

18.3. It is recommended that the ICA develop best practice guidelines for the commercial management of cooperatives to facilitate graduated development under cooperative legislation.

18.4. There is a clear need for the education of professionals such as lawyers and accountants as to the philosophy, operation, legal and accounting aspects of cooperatives. It is unlikely that this will be pursued without some legal obligation being imposed because of the tendency to deal with profit organizations and with those organizations, which are in the middle to upper end of the corporate market. This should be addressed through the continuing education and qualification programs of the legal and accounting societies in each country.

19. Issues for deliberations, further study and research

- 19.1. This study has revealed, often as most studies do, that with more time and resources it would have been meaningful and relevant to examine many more issues that have a bearing on the terms of reference of the study. These issues are listed below.
 - 19.1.1. Whether it is possible to evolve a model for measuring how different provisions of the ICIS are actually incorporated in the cooperative legislation of the region and then determine for each cooperative legislation an index that may be called the 'Proximity to the ICIS index'?
 - 19.1.2. Whether it is feasible to develop a grid model to plot the position of cooperative legislation and policy of different countries where the interfaces could be: Quadrant I - Market orientation versus cooperative values, Quadrant II - Cooperative Values versus State control, Quadrant III - State Control versus Investor Oriented Firm principles and Quadrant IV - Investor Oriented Firm versus Market orientation?
 - 19.1.3. Whether it is feasible to prepare a comparative digest on how various laws - other than cooperative legislation - such as direct and indirect tax laws, labour laws, competition law and industrial laws impact the functioning and operations of cooperatives in the region?
 - 19.1.4. How does cooperative policy and legislation compare with policy and legislation for other forms of enterprise, especially those forms of enterprise with which cooperatives have to directly compete in the market place?
 - 19.1.5. Whether it is necessary to have specificity in cooperative legislation i.e. whether there should be a single cooperative law with supporting cooperative legislation for each sector? And/or, whether the rigour and application of law should be different at different levels of the cooperative structure such as primaries, secondaries and tertiaries?
 - 19.1.6. To what extent should the different components of cooperative legislation regulate processes or, ends, or, both?
 - 19.1.7. How do important pronouncement(s) by the judiciary on redressal(s) sought by cooperatives and/or those involved with the cooperative movement impact cooperative policy and legislation in a given country?

Country findings

AUSTRALIA

1. Social – Overview

- 1.1. Australia is a continent between the Indian and the South Pacific Oceans, with a total land area of 7.6 sq km and a coastline of 25,760 km. It is the world's smallest continent but sixth-largest country with the populated areas mainly concentrated along the eastern and south-eastern coasts.
- 1.2. Australia's original inhabitants arrived in the continent about 40,000 years ago. European settlements commenced in 1788 and a majority (92percent) of the population is of European origin with British or Irish predominating. Other ethnic groups include Asian (7 percent) and aboriginal (1 percent). Christianity is the major religion with non-Christians about 11 percent of the population.
- 1.3. Australia is one of the world's most urbanised countries, with less than 15 percent of the population living in rural areas. The population has doubled since the Second World War, with nearly 5.5 million immigrants settled in Australia from 1945 to 1996 and almost one of every four Australians is foreign-born. The population is estimated at 19.2 million in mid-2000, with 67 percent of the people in the 15-64-age category. The population growth is estimated at 1.02 percent. The population of Australia has a life expectancy at birth of 80.1 years; 77.2 years for males, and 83.2 years for females. The infant mortality rate of 5.11 deaths/1,000 live births and the total fertility rate is 1.79 children born/woman. Literacy is universal among the population age 15 and over. In 1999, Australia had a HDI of 0.922 and was ranked 7th in the World – a high human development level.
- 1.4. Australia is a commonwealth country, having a democratic, federal-state system recognising the British monarch as its sovereign head of state. The head of government is the Prime Minister, the leader of the majority party appointed by the governor general for a three-year term, following general elections. The Federal Parliament consists of the Senate and the House of Representatives. The legal system is based on English common law and the Judiciary comprises the High Court, the governor general appoints the Chief Justice and six other justices.

2. The Economy

- 2.1. Australia has a free market economy, with a per capita GDP of US\$ 22,200. In the last 8 years, Australia has enjoyed economic expansion, productivity growth, and low inflation. GDP growth has averaged 4.2 percent with inflation at only 2 percent in the eight years. The GDP at the end of 2000 was A\$ 621.2 billion, achieving a growth rate of 4.3 percent in 2000. However, in the last quarter of 2000, the GDP contracted by 0.6 percent, raising the spectre of 'recession', after 37 quarters of consecutive growth.
- 2.2. Australia's major industries are mining, industrial and transportation equipment, food processing, chemicals and steel. In 1999, industrial production rose at 1.5 percent. Australia is a major exporter of agricultural products, minerals, metals, and fossil fuels. Agricultural products include wheat, barley, sugarcane, dairy, fruits, cattle, sheep and poultry. Commodities account for 57 percent of the value of total exports of \$58 billion. The major export partners are Japan, EU, ASEAN, US, South Korea, NZ, Taiwan, Hong Kong and China. Imports in 1999 were valued at \$67 billion, commodities being machinery and transport equipment, computers and office machines, telecommunication equipment and parts, crude oil and petroleum products. Major import partners were EU, US, Japan and ASEAN. The economic recovery of Asian countries after the financial crisis has shifted the direction of trade back to East Asia. Strong growth in exports is partially attributed to the low Australian dollar and the value of exports in the December quarter was 27 per cent higher compared to the previous year. Consequently, the trade deficit had dropped to its lowest level in years. In the December 2000 quarter, the current account deficit was \$5.5 billion.
- 2.3. At the end of 2000, money supply (M3) was A\$ 412.8 billion, an increase of about 1.4 percent over the first six months of FY 2000/01. In seasonally adjusted figures, there was a negligible increase in the money supply. Inflation rate, as measured by the Consumer Price Index, has been kept under control since 1996, with the average annual rate of inflation being in the range of 0 percent to 2.4 percent for 2000. The Reserve Bank of Australia (RBA) suggests that there are considerably better prospects for inflation to remain within the 2-3 per cent target zone over the next two years. It is their view that the risks of exceeding the target are low. Accordingly, in February 2001, monetary policy was eased and cash rates were reduced to 5.75 per cent. This easing is expected to promote sustainable growth of the economy consistent with the inflation target.
- 2.4. Tax Policies: In July 2000, a new tax system was introduced in Australia, setting a 10 percent Goods and Services Tax at the point of consumption. According to the RBA, this resulted in spending being shifted to the first half of 2000 and a decline in expenditure after July, which reduced GDP in the September quarter by more than a percentage point.

- 2.5. **Employment:** The Australian labour force was 9.57 million at the end of 2000, of which 4.18 million are females. The total labour force increased by about 1.5 per cent over the previous year. A majority is engaged in services (73 percent) while 22 percent are in industry and 5 percent in agriculture. In keeping with the current trend of people seeking part-time work, full-time employment declined by 0.1 percent while part-time employment rose by more than 0.2 percent. In February 2001, the unemployment rate was 6.8 percent. The wages growth has been moderate and the wages index for 2000 was 111.0 at 1995 wages.
- 2.6. **Trade:** Australia's net foreign debt in the September 2000 quarter was A\$294 billion, or 46 per cent of GDP. The private sector net debt had increased substantially in recent years, partly due to the depreciation in the Australian dollar. The Australian dollar exchange rate, which had been steadily declining, fell to historically low levels in late 2000 and early 2001. Over the past 5 years, the dollar had lost over 35 percent of its value as measured against the US Dollar. Gross household incomes had been steadily growing since 1990, reaching \$416.6 billion at the end of 2000. Despite the growth, net savings had been declining until the trend reversed in 1997.
- 2.6.1. **Share markets in Australia** have been generally higher and expanding with the All Ordinaries index reaching 3114 at the end of 2000, as compared to 2008 in mid 1995. Business profitability in most parts of the economy has been high over the past 3 years, with large companies and major banks reporting high annual profits. Company profits before taxes of all industries were 9.3 billion for the December 2000 quarter.

3. The Cooperative Movement in Australia

3.1. Introductory Comments

- 3.1.1. Co-operation, in its present form, has a long history in Australia. It was one of the first countries to follow the lead set by the Rochdale pioneers. In 1859, a cooperative drawing its inspiration from Rochdale was formed in Brisbane. The first Australian Friendly Society was formed even earlier in 1840's.
- 3.1.2. In 1873, a Registry of Friendly Societies, based on the English model, was established in Sydney, its purpose to supervise the expanding number of mutual and cooperative entities being formed. The creation of the Registry marked the start of a long association between government and movement in Australia.
- 3.1.3. Australian representatives were also present in England, in 1895, at the formation conference of the ICA.
- 3.1.4. Although, co-operation has a long history in Australia, its future is more problematic. The general cooperative movement is now at what may well be its weakest point in a generation. Supporters are on the defensive against the view of some in the media, government and business that cooperatives have been left behind in what is

now an individualistic, competitive and post-modern global society. Many large and long established cooperatives and mutuals are demutualising or seeking answers in hybrid equity models. Attempting to guarantee their competitive if not cooperative survival. Among financial cooperatives, Credit Unions seem better placed to weather the storm of globalization and fashion responses to the new realities. However, little unity exists within the overall movement in Australia. The various sectors seem more focused on and have had most success in protecting gains made by previous generations, rather than forging new and unified strategies for the future.

- 3.1.5. There are important lessons to be learned from the experience of the Australian cooperative movement and the direction of the country's public policy. One conclusion is that; it is not sufficient to focus only on the development of cooperative policy and legislation in isolation from broader policy reform processes that are occurring. The Australian example shows this is particularly the case if the movement is institutionally weak and dispirited.
- 3.1.6. Part of the broader global reform agenda relates to the role of Governments. As the ILO has noted, in many countries, political, economic, technological and social changes in general have put pressure on governments to limit their involvement in economic affairs. The core idea of structural adjustment programs is to shift from public to private initiative, financing, management and responsibility. Subsequent monetary and fiscal programs, institution building, privatization and liberalization require individuals and civil society organizations, to take a more active role in economic, social and political affairs. Effectively, the State's role is increasingly limited to that of providing the political, legal and administrative framework of the development of private organizations, (including cooperatives), that may in turn strengthen democracy.
- 3.1.7. While it is acknowledged that in many countries of the Asia Pacific region, this democratisation and liberalization process has created, the public space for civil society organizations to play a larger role, this has not been, in general, the experience for Australian cooperatives. The Australia lesson teaches us, that unless, there is an integration of cooperative policy within the broader economic policy, it will be treated as marginal to mainstream economic and social development. One can not assume that these global processes alone are necessarily going to create the public policy space for cooperatives in all countries.
- 3.1.8. In this light, the Australian experience is instructive and cautionary. Australian governments have moved to embrace the new reform agendas – the last decade has been a period of profound and sustained public policy reform. Australia has been one of the leaders, among industrialised countries, in embracing neo-liberal economic reform, privatization and deregulation policies. It is suggested that the economic reform agenda pursued by Australian Governments has resulted in the private profit-maximisation model coming to the fore as the preferred model in public policy. The use of market processes as a co-ordinating mechanism and competition becoming

the dominant policy framework was based on achieving economic efficiency through self-interested individualism. Individual choice and action superseded the notions of social relationships and consequently, profit maximisation was accepted as the best way for resource allocation. In this context, there is an implicit acknowledgment of the private company model as the better structure for the organization of economic activities. This effectively reduced the profile and support of cooperatives.

- 3.1.9. The general market liberalization and globalization process has also challenged co-operatives. The spate of privatization of government assets and demutualisation of mutual organizations appears to have diminished the importance of ownership both to governments and the electorate. However, collective ownership of assets, and the ensuing control of their usage, forms the basis of mutuals and cooperatives. There has also appeared to have been a shift in Australian public policy to an emphasis on economic outcome rather than the on the type of entity used in achieving that outcome.
- 3.1.10. It can be concluded from the Australian experience that; the interplay between the strength and capacity of the country's cooperative movement and the commitment of the government to marketplace values - as the key driver of policy - may be as important in determining the long term success of cooperative initiatives as any reforms to specific cooperative policy or legislation.

3.2. Topology of the Movement

- 3.2.1. Australian cooperatives can be classified into two broad groupings, financial and non-financial or general cooperatives. Financial cooperatives include Credit Unions, Building Societies, Friendly Societies and Cooperative Housing Societies, (CHS). General cooperatives include agricultural marketing and supply cooperatives, consumer, housing, community, worker and most other types of cooperative organizations. Although general cooperatives are the more numerous, financial cooperatives, have both a larger turnover and membership base.

3.3. Financial Cooperatives

- 3.3.1. At December 2000 there were 18 Building Societies operating in Australia with total assets of \$13.1B, total members funds of \$966M with total net revenues of \$575.5M. Currently, there are 211 Credit Unions with total assets of \$22.9B, total member funds of \$2.09B and net revenues of \$1.17B. In mid 1999 there were approximately 250 Cooperative Housing Societies (CHS's) and at February 2001, 47 Friendly Societies funds operating in Australia.
- 3.3.2. There has been a significant decrease in the number of financial cooperatives operating over the last 15 years. Increased competition in the marketplace along with extensive public policy and regulatory reform are among the main reasons for this decrease. Building Societies numbers have dropped from 71 to 29 during this period. One reason was the series of demutualisation, which occurred, in the late 1980's.

Credit Union numbers have also dramatically reduced as competition in the market-place increased, hastening a series of mergers and other responses designed to achieve competitive advantage through greater economies of scale. The changed regulatory environment also explains, in part, the reduction in numbers. Many Credit Unions and Friendly Societies could only meet the higher capital adequacy and prudential requirements through merger and consolidation. In 1992, there were 352 Credit Unions in Australia, that number has been reduced to 211 at the end of 2000. Likewise, the number of funds operated by Friendly Societies has reduced from 165 in May 1999 to 47 as at February 2001. Cooperative Housing Societies numbers have also reduced during this period. On the other hand, because the new operating standards are set at such a high level, it is virtually impossible to form new cooperative entities. The reason, to provide schematic protection for the whole financial sector, and hence avoid any roll on effect of failure in one part affecting the whole system. The result, only a handful of new Credit Unions have been formed over the last decade.

3.4. General Cooperatives

- 3.4.1. General cooperatives are a key focus of this report. Legislation governing their operation includes the ICA principles. Australian membership of the ICA, when it has existed has been drawn from the ranks of the organizations representing general cooperatives.
- 3.4.2. There are approximately 2400 general (non-financial) cooperatives, registered under specific cooperative legislation operating in Australia. Over 90 percent are registered in the three eastern seaboard states of New South Wales, (NSW) Queensland, (QLD) and Victoria, (VIC). Annual turnover for all state-registered cooperatives is estimated at \$4.5B. NSW accounts for 80 percent of this total. The largest four NSW cooperatives, which are all agricultural marketing and supply cooperatives, account for over 60 percent of the total state figure.
- 3.4.3. General cooperatives are engaged in a wide range of activities. The Australian New Zealand Industrial Classification (ANZSIC) system, developed by the Australian Bureau of Statistics, is used to identify the activities of cooperatives in the database maintained by the NSW Registry of Cooperatives. The NSW experience is illustrative of the composition of the sector in other States.

3.5. NSW Cooperatives

- 3.5.1. The largest number of cooperatives in NSW are in the recreation, sport and gambling clubs industry - bowling clubs, returned servicemen's, league clubs, ski lodges, to name a few. The next largest groupings are community services; housing; agricultural services and wholesale and retail activities. Cooperative membership is approximately 1.1 million in NSW. Cooperatives have significant market shares in dairy products and milk processing, rice marketing and cotton ginning. The NSW's sector is characterised by a small number of comparatively large, mature coopera-

tives and a much larger group of smaller more recently established organizations. The age distribution of cooperatives in NSW follows the long-term formation pattern. Although the median age is 22 years, the 'formation peaks' relate to cooperatives in different industries. The older cooperatives are agricultural cooperatives, while the majority of 'middle-aged' cooperatives are recreation clubs, ski lodges and bowling clubs. Although there has been considerable formation activity in recent years, the sector is in relative decline when compared to other organizational alternatives, including companies and associations. Its use has been generally confined to certain industry sectors; it is not well represented, for example, in the newer information, community enterprise or networking areas. Nevertheless, cooperative numbers have still risen in recent years – over 250 new cooperatives were formed during the period 1990-1998. It appears that there has been a strong relationship, in NSW, between the commitment of government resources to formation programs and increased cooperative numbers.

3.6. Corporations Law Cooperative Companies

- 3.6.1. Additionally, a number of general cooperatives are registered under Corporations Law. The majority of these cooperative companies, which are mainly Victorian based, are marketing, and supply cooperatives. The largest seven, all agricultural cooperatives, had a combined turnover of \$3.7B in 1998. Overall, it is estimated that this category of Corporations Law cooperatives also has an annual turnover of approximately \$4.5B.

3.7. Cooperatives within the Broader Social Economy

- 3.7.1. Cooperatives are also part of a broader definitional grouping known as the social economy. Research suggests this grouping contributes approximately 10 percent of Australia's GDP, this is comparable with other similar OECD countries. It has been estimated that there are 115,000 organizations, with a total turnover of \$42B employing 570,000 people within the Australian social economy. Cooperatives account for approximately 3 percent of the social economy by number, but constitutes, at least, 20 percent of the turnover.

3.8. Representative Structures within the Australian Cooperative Movement

- 3.8.1. Lewis (1986) has stated that there has never been a cooperative movement, as such, in Australia. In its place, has been a loose assemblage of sectional interest groups comprised of farmer cooperatives, building societies, credit unions together with consumer cooperatives. There is, at present, no forum or organizational structure in Australia uniting general and financial cooperatives. This does not even occur on an informal or ad hoc basis.
- 3.8.2. Among the sectoral groups, Credit Unions, have been by far the most successful in building strong support and industry structures. However, no links exist between these organizations and general cooperatives. In the context of legislative develop-

ment, Credit Unions along with other financial cooperatives have gone their own way. Australian Credit Unions are not formally linked to the ICA, in their own right. An indirect link does exist – Australian Credit Unions are active participants in the activities of the World Council of Credit Unions, (WCCU). Credit Unions, in contrast to general cooperatives; have also been involved in international development activities, particularly in the Pacific and Asian regions.

- 3.8.3. Australia has many large and successful primary level, general cooperatives. It has not been as successful in developing lasting apex organizations. This is a major weakness of the movement. It is proving critical as it tries to respond to an increasingly competitive global marketplace, and a constant series of public policy and regulatory changes.
- 3.8.4. There have been periods of time when a well-resourced apex organization has existed. The most recent was in the late 1980's and early 1990's. The Australian Association of Cooperatives, (AAC) was launched in 1986 following the virtual collapse of the previous national organization, the Cooperative Federation of Australia, (CFA). AAC traced its origins back to the Cooperative Institute and its successor the Cooperative Federation of NSW. The failure of AAC in 1992, represented a historic setback for general cooperatives – one, it is yet to fully recover from.
- 3.8.5. The sector has attempted to rebuild its representative structures. AAC was nationally structured and focused. Rather than, re-establish a strong national organization it has chosen to form or revive, state based cooperative federations. A nominal national organization, the Cooperative Council of Australia, made up of representatives from the state federations, has also been established. Given the federated character of government in Australia, it is argued that a national perspective is essential to effectively service the strategic interests of cooperatives. The majority of recent policy changes affecting cooperatives have been initiated at this level.
- 3.8.6. AAC played an important role in the first Asia Pacific Cooperative Ministers Conference. It was held in Sydney, with AAC assisting the ICA ROAP in organising the conference. AAC was also at the table, when the Commonwealth Government, initiated a process in the late 1980's, to try to bring about consistency for state-based general cooperative legislation. This was the forerunner of the Core Consistent Provisions Scheme. It also played an important advisory role in the development of the NSW Cooperatives Act 1992. With the failure of AAC the formal link that existed, connecting general cooperatives in Australia to the international movement was effectively broken. It has been noted that considerable progress has been made between the Sydney and Beijing Cooperative Ministers Conferences. Particularly in terms of refining and achieving greater clarity in recommendations for legislative reform. Australian cooperatives have not been part of this legislative refinement process. They have not had formal representation, at these conferences, since Sydney.

4. Australian Public Policy

4.1. Public Policy Reform

4.1.1. It is important to understand what is driving public policy reform. Account needs to be taken of the institutional context and direction of policy; otherwise, efforts to develop and reform cooperative policy and legislation may deliver only limited improvements. Good cooperative policy and legislation set within a hostile or indifferent policy environment may not be able to deliver hoped for gains.

4.1.2. Australia, during the last decade, has experienced extensive public policy and regulatory reform - so much so, that some have described it as suffering from reform fatigue. The key areas which have had an impact on cooperative operation, include: the introduction of policies designed to facilitate the opening of the domestic market to global competition and the removal of government protection to certain industries; the introduction of National Competition Policy, (NCP); the privatization of governments assets and businesses; significant taxation and corporate law reform; deregulation of a number of sectors, including statutory arrangements for the marketing of agricultural products; deregulation of the labour market, and financial sector reforms. A number of these areas will be examined, to highlight underlying trends.

4.2. Competition Policy

4.2.1. The ILO have commented that it is now widely accepted that it is part of the duty of the modern State to maintain free and open competition. Fostering competition between enterprises is intended to safeguard the interests of consumers. The ILO, however, observed that cooperatives often become the target for competition legislation because the very act of co-operation involves the collaboration of individuals who agree to act in unison. It is interesting to note, given the Australian experience that the ILO suggests governments must recognise the essential difference between the collaboration of individuals who are comparatively 'small players' in the market (cooperatives) and the anti-competitive practices of large investor-driven enterprises.

4.2.2. In April 1995 Australian Governments - Commonwealth, State and Territory - signed the Competition Principles Agreement. The Agreement grew out of a review, which became known as the National Competition Policy, (NCP) Report, or Hilmer Report after its author. All governments, irrespective of political affiliation, gave support at the time, to NCP. A key informing principle behind these reforms was the idea that: the engine, which drives efficiency, is free and open competition. Under this Agreement, governments are required to review their respective legislation, including cooperative legislation, with the view to removing anti-competitive provisions where the costs outweigh the benefits. Cooperative legislation in NSW is, for example, currently the subject of an NCP review.

4.2.3. NCP Report has become, perhaps the most important, framework document, within which to evaluate public policy in Australia.

- 4.2.4. The Australian Competition and Consumer Commission, (ACCC) is the Commonwealth Government agency charged with the responsibility of insuring competition principles apply in the marketplace. Professor Allan Fels, the chair of the ACCC, said 'Cooperatives by their very nature are agreements between competitors and as such may be anti-competitive'. Professor Fels comments express the concern of the ILO in their recent report on the Promotion of Cooperatives.
- 4.2.5. The focus of the ACCC is on marketplace behaviour – restrictive trade practices - and consumer protection. From their perspective it is a competitive marketplace which is of importance in delivering real benefits to consumers, businesses and the economy as a whole – it is less important to distinguish between different types of organizations operating in the marketplace.

4.3. The Devil's in the Detail

- 4.3.1. Where trade practices or competition issues arise, cooperatives are able to apply for an authorisation from the ACCC, which results in immunity from certain parts of the Trade Practices Act. However, this will require the cooperative to demonstrate that the public benefits of the conduct or arrangements outweigh the anti-competitive and detrimental effects that arise from them. This procedure can hamper development of cooperatives. For example, the recent ruling given by the ACCC on an application made by Golden Circle Ltd (a cooperative company) would essentially act as a barrier on the development of 'New Generation Cooperatives' in Australia. It also has the effect of calling into question some aspects of 'active membership' under the core consistent cooperative legislation. Golden Circle Ltd is Australia's biggest fruit and vegetable manufacturer, with more than 700 grower suppliers. Golden Circle Ltd sought authorisation to require its members to supply a quota of their production (not the total production). The Commission concluded that the arrangement had the potential to adversely affect the other buyers in the market, although authorisation was granted for five years on the basis that the arrangement would allow Golden Circle Ltd to plan production schedules and that it would stabilise grower incomes.
- 4.3.2. The exemption process, under the Trade Practices Act, requiring each cooperative to seek individual authorisation presents a significant barrier to the promotion and development of cooperatives. The fact that cooperatives are based on a different set of principles that has collective ownership, limited returns and concern for the community as their core values, should be taken into consideration by that legislation. That such values will not, in a majority of cases, jeopardise the policy of the legislation should be recognised. Cooperatives applying for exemption under the Act need to have certainty. This could be achieved by the inclusion in the legislation of appropriate competition tests, which take account of the unique features of cooperatives. For example, the requirement, for members to have minimum dealings with the cooperatives to establish active membership. The broad perception that cooperatives

are anti-competitive needs to be abandoned in view of the arguments on ownership and commitment to local communities included under cooperative principles.

4.4. Privatization of Government Assets and Demutualisation of Cooperative/Mutual Organizations

- 4.4.1. All Australian governments - State and Federal – labour or conservative - have followed a policy of privatization of public assets and businesses. The rationale for this approach is that the market is more efficient in allocating resources or running businesses than government.
- 4.4.2. Parallels could be drawn between some of the arguments, which have been used in support of privatization of government services and the demutualisation of mutual and cooperative structures. In these cases underlying ownership, whether public or cooperative, is often seen as less important or relevant than efficiency and competition in the marketplace.
- 4.4.3. Privatization of government assets and demutualisation of cooperative and mutual organizations has made Australia, in the words of the Prime Minister John Howard, the ‘largest shareholder democracy in the world’. Over \$30B of cooperative and mutual assets have been demutualised in Australia during the last 15 years.
- 4.4.4. A partial explanation, for the success of the demutualisation trend in Australia, may lie in the widespread acceptance, over the last decade, of deregulatory and privatization programs. Media reporting of demutualisations, highlight that the weight of public and elite opinion has tended to view these events, as basically positive. Part of the broader market liberalization process. Hence, a largely sympathetic commercial, intellectual, media and public policy environment has been created which has been able to sustain, at least in part, the momentum of the demutualisation processes.

4.5. Taxation

- 4.5.1. The ILO has noted that in terms of taxation, the main differences between cooperatives and other enterprises derive from the fact that co-operation is often treated as a ‘mutual activity’. In other words, cooperatives are only an extension of the individual members, and one can not make a profit from trading with oneself - the mutuality principle.
- 4.5.2. The Commonwealth Government recently commissioned a review of business taxation in Australia. Although, the subsequent report, known as the Ralph Report, has not been fully endorsed or implemented its treatment of cooperatives is illustrative of the direction of much thinking, within government, in regards to cooperatives.
- 4.5.3. One of the key principles announced during the review process was that similar tax arrangements should generally apply to cooperatives or mutuals as will apply to all business entities that offer limited liability to their owners. This principle was further explained in the following terms: economic transactions should be taxed based

on their economic substance – not their legal form. If there are tax advantages in deriving income through one type of entity rather than another, that puts form - the type of entity - before substance, economic income. The intention, again, to regulate marketplace behaviour and outcomes not the underlying ownership models. This perspective seems to disadvantage cooperatives and mutuals, which define themselves through their structure, purpose and values. One result of such thinking may be the eventual dominance of the PLC model, with less diversity of organizational models recognised in policy and legislation leading to less incentive to develop or recognise alternative models.

4.6. Deregulation of Government Supported Marketing Arrangements

- 4.6.1. Australia has a long history, of using Statutory Marketing Authorities, (SMA) to market the produce of primary producers. However, in the late 1980's and early 1990's the role and relevance of SMA's was questioned. One view was that, although the justifications for statutory marketing arrangements had varied over time, they generally exist to correct perceived market failure and/or to provide government assistance to primary producers. It was felt that the relevance of these justifications was now increasingly questionable.
- 4.6.2. Within the Australian context, a number of the arguments used to question the role and function of SMA's have also been advanced against cooperatives. It is argued, by some, that the success of agricultural cooperatives resulted more from regulated markets, fixed price and vesting powers, than from inherent advantages of the organizational structure.
- 4.6.3. The dismantling of regulation in the Australian dairy industry, during the 1990's, has unleashed market forces, which may ultimately see the destruction or takeover of a large part of the historically strong cooperative dairy sector in Australia. Other primary industries have been similarly affected by such policy reforms.

4.7. Financial Services Sector

- 4.7.1. The regulatory and reform process affecting the financial services sector is outlined in the following section of this report dealing with financial cooperative legislation. It is suffice to say that competition principles as expressed in the NCP have again been one of the driving forces.

5. Cooperative Legislation

- 5.1. The Australian Constitution of 1901 established a federal system of government. Under this system, powers are distributed between a federal government (the Commonwealth) and the six States – the two Territories; the Australian Capital Territory, and the Northern Territory have self-government arrangements. The Constitution defines the boundaries of law-making powers between the Commonwealth and the States/Territories. Local or municipal councils are the third-tier of government in Australia.

- 5.2. The States and Territories are responsible for the governance and regulation of co-operatives – the Federal Government has no direct administrative or ministerial responsibility for general co-operatives.
- 5.3. Financial co-operatives, which were first brought under uniform state legislation, are now administered by the Australian Prudential Regulatory Authority (APRA) under a common Corporations Law framework along with other financial institutions.
- 5.4. The 1990's were a decade of significant legislative change for both financial and general co-operatives. The Australian finance sector was exposed to increasing competition as well as being subject to major public policy and regulatory reform. Financial co-operatives were caught up in these changes. The regulatory regime applying at the end of the 1990's was fundamentally altered from that at the beginning of the decade. Changes for general co-operatives although not as dramatic were nevertheless significant. During the decade, almost all States and Territories reformed their general co-operative legislation to achieve greater consistency.

5.5. Legislative Reforms: Financial Co-operatives

- 5.5.1. At the start of the 1990's, State Based Registries of Co-operatives were responsible for the regulation of both financial and general co-operatives. Each jurisdiction had separate and sometimes inconsistent Credit Union, Building Society and Friendly Societies Acts. Following the well-publicised collapse of a Victorian Building Society in the early 1990's along with failure of a number of other financial institutions, a new national scheme was established. The new arrangements were based on a template model, whereby one jurisdiction – Queensland – enacted a template or model Act, which other participating States and Territories then applied. The result, nationally consistent legislation, regulations, operating and prudential standards designed for and by Credit Unions and Building Societies.
- 5.5.2. A new national agency, the Australian Financial Institutions Commission, (AFIC) was established to help drive policy and regulatory development. In most cases, the former Registries of Co-operatives were split with a new state level financial regulator being established to administer the Credit Union and Building Society legislation in each of the jurisdictions. (General co-operatives remained with the Registry of Co-operatives.) Under the new arrangements, policy development for Building Societies and Credit Unions occurred at a national level with supervision being a state level responsibility. These administrative changes meant that by the mid 1990's the government link, which had existed for over 130 years, connecting general and financial co-operatives regulation had been broken.
- 5.5.3. The above changes occurred against the backdrop of a series of reforms affecting the whole of the Australian finance sector. The process of deregulation and reform of the sector commenced in Australia in the 1980's with the report of the Campbell Committee. Following this Committee's report a number significant changes occurred including, the floating of the Australian dollar and the deregulation and open-

ing of the banking sector to greater domestic and international competition. These reforms had an effect on the operation of financial cop-operatives, in some cases challenging their role as niche players in the former highly regulated banking and finance sectors.

- 5.5.4. The process of regulatory change continued with the Wallis Committee Report. Among the main conclusions of this Commonwealth Government commissioned review, which was released in April 1997, was recognition that marketplace and technological changes had blurred the distinction between banks and other financial intermediaries. The Committee acknowledged convergence in the marketplace and recommended regulation of the product and a focus on competition issues with less emphasis on the underlying ownership model of the provider of the service or product.
- 5.5.5. The Wallis Committee's report unleashed a further round of regulatory and policy initiatives. Importantly, it was decided to combine into one super agency responsibility for the prudential regulation of all financial institutions. For the first time in their history, financial cooperatives were being regulated by the same agency responsible for banks, insurance companies and superannuation funds. As part of these changes, Credit Unions, Building Societies and Friendly Societies were transferred from the AFIC regulated legislation to a common Corporations Law framework along with other financial institutions. They are now principally administered by the Australian Prudential Regulatory Authority (APRA), along with the general corporate regulator the Australian Securities and Investment Commission, (ASIC) and the Australian Competition and Consumer Commission, (ACCC). This effectively splits corporate and prudential regulation, as well as consumer protection, between three national regulators.
- 5.5.6. Amendments to Corporations Law were made to take account of the unique structure and operation of financial cooperatives. This included, a new Schedule which spelt out procedures to be followed in the event of a demutualisation, outlined possible capital structures and made clear which organizations were entitled to use the terms Credit Union, Building Society and Friendly Society.
- 5.5.7. Cooperative Housing Societies (and Starr Bowkett Societies) have remained registered under their own stated-based cooperative legislation. For the most part, they are now the responsibility of relevant state/territory general cooperative regulator.
- 5.5.8. One could view the last decade as one of both gains and losses for financial cooperatives. A level playing now exists for all financial intermediaries' organizations – all are subject to a similar and consistent national regulatory environment. The perception that financial cooperatives were second class financial organizations has been addressed. However, something of the cooperative heritage may have been lost. Where once financial cooperatives had their own legislation and a dedicated agency familiar with cooperative operation they now have a super regulator, generally more interested in regulating marketplace products and behaviour than in understanding their unique ownership structure or objectives. It has also been suggested that the

Corporations Law environment can make it easier to takeover or demutualise Credit Unions. Additionally, it is now very difficult to form new financial cooperatives. It is a moot point, but it is highly unlikely given today's regulatory environment that the Credit Union movement in Australia would be able to get started and grow to its present size if it had to operate under current conditions.

- 5.5.9. The strength of the Credit Union movement - it is the strongest and most successful example of co-operation in Australia - has enabled it to adopt a more pro-active policy role. It has been very diligent in responding to proposed policy and regulatory changes in a number of areas, including, taxation, credit legislation and corporate law reform. It has also, in partnership with government, been involved in a program designed to provide alternative financial services to regional and rural areas of Australia following bank closures.
- 5.5.10. Although many of the issues facing general and financial cooperatives, including capital structures, demutualisation procedures, taxation, are common, there has not been a unified response to these issues. This institutional weakness of the Australian cooperative movement has meant each sector is left to fight its own battles. The lack of unity within the wider Australian cooperative (and mutual) movement and the splitting of regulatory responsibility have meant that very little knowledge or experience has been passed between respective sectors or regulators. Ironically, while the movement seems unable to unite, there appears to be a unity of purpose and direction in those challenging the traditional role of cooperatives and mutuals.

5.6. Legislative Reforms: General Cooperatives

5.7. Consensus on What is Good Legislation

- 5.7.1. There is developing consensus on what constitutes effective and appropriate cooperative legislation. The ILO and the ICA have both developed guidelines and made recommendations as to the content of cooperative law. The ILO has identified the *growing trend towards harmonisation of cooperative legislation*, which seems to be occurring as a response to globalization and increasing competition. It has also been observed that an international customary cooperative law is slowly emerging. These moves towards harmonisation, however, need to be balanced, somewhat, against the need to be aware of the cooperative history and tradition of particular countries. The consensus seems to be that the legislation should move from proscriptive to facilitative. Informing principles include subsidiarity, autonomy, and independence. Such values sit very readily with the shift in paradigm, which seeks to replace the State with the market as an engine of growth and development.
- 5.7.2. Under the Australian system States and Territories have responsibility for cooperative matters. Each of the States and Territories has legislation for the regulation of general cooperatives. In South Australia, (SA) separate legislation also exists for (non-financial) housing cooperatives.

- 5.7.3. The key trend over the last decade has been a drive towards consistency. At the commencement of the 1990's each State and Territory Government had its own general cooperative legislation. Very little consistency existed between the jurisdictions. During the early part of the decade, both Commonwealth and State Governments pursued initiatives designed to achieve greater consistency between the different jurisdictions. Legislative inconsistency effectively acted as a barrier to interstate trade and operation of cooperatives. It placed them at a competitive disadvantage when compared to companies operating under the nationally consistent Corporations Law regime. Cooperatives faced a further problem. If they operated outside of their State or Territory of registration, or sought to raise funds from interstate, Corporations Law applied. This effectively imposed a corporate regime on their interstate operations, compounding the problems arising from the inconsistency of cooperative legislation.
- 5.7.4. NSW introduced new general cooperative legislation in 1992. This legislation was the basic platform upon which other jurisdictions built. Victoria introduced its Cooperatives Act in 1996 – this legislation took the NSW Act as its starting point and added further modifications. It became the model Act for other States and Territories. Over the course of the next few years almost all jurisdictions enacted what came to be known as the Core Consistent Provisions, (CCP) model. The approach adopted was not a template model, similar to that followed in the development of the AFIC arrangements for financial cooperatives. Rather, each jurisdiction agreed to enact very similar or core consistent provisions. In most jurisdictions, it was effectively the same legislation, with one exception - NSW being the first state to reform its Act, preserved a number of unique features of its legislation, including a form of hybrid equity. As at May 2001, all States and Territories, with the exception of Western Australia, (WA) and the Australian Capital Territory, (ACT) have operating CCP legislation. Both WA and the ACT are currently developing and intending to shortly introduce CCP Acts. Representatives of the State based Cooperative Federations have been actively involved in the development of the CCP legislation
- 5.7.5. Before the CCP scheme can become fully functioning, two steps need to be completed. All jurisdictions need to introduce CCP legislation and to proceed to recognise each other's respective legislation. When complete this mutual recognition process will enable cooperatives registered in one State or Territory to operate in all other participating jurisdictions. Secondly, the Commonwealth Government needs to agree to the 'roll-back' of Corporations Law for most aspects of the interstate operation of cooperatives. Stage one is well advanced but can only be completed when all jurisdictions have introduced their CCP legislation, and recognised all others. The second stage, the agreement with the Commonwealth is yet to be negotiated. One of the current issues for discussion is the NSW hybrid equity instrument, known as Cooperative Capital Units, (CCU's). A further complication is that relevant Minis-

ters and officials responsible for the development of the CCP scheme have decided to explore in greater detail the template model as an alternative to the core consistent provisions approach.

5.8. Key Features of Legislation

5.9. The principal features of the new CCP legislation are:

- 5.9.1. Active Membership: members decide core purpose of cooperative and corresponding membership 'activity test'. Inactive membership required to be cancelled and shares forfeited by directors
- 5.9.2. Includes statement of objects of the Act
- 5.9.3. ICA Principles enmeshed within CCP through interpretative provisions
- 5.9.4. Powers of a natural person- ultra vires removed - protection given to third parties in dealings with cooperative
- 5.9.5. Oppressive conduct provisions (not to apply to active membership)
- 5.9.6. Directors Responsibilities similar to company directors
- 5.9.7. Relevant interest provisions to protect one person one vote principle
- 5.9.8. Statutory recognition of voting based on membership
- 5.9.9. Provision for independent non-active member directors
- 5.9.10. Different classes of member shares, subordinated debt and debentures
- 5.9.11. Voluntary administration provisions
- 5.9.12. Procedures for the conversion or winding-up of the cooperative
- 5.9.12.1. In general CCP applies 'cooperative concepts' to internal governance matters - adopts, applies or modifies Corporations Law to external and third party dealings, ensuring greater commercial consistency

5.10. The main non-CCP features of the NSW legislation include:

- 5.10.1. Cooperatives Council, appointed by the Minister, includes sector nominated representatives, role includes promotion of cooperative principles
- 5.10.2. Cooperative Capital Units (form of debt/equity instrument) not yet agreed to by all jurisdictions, can be listed and traded on Stock Exchange. Terms of issue must be approved by members and by Registrar and comply with cooperative principles.
- 5.10.3. The introduction of the CCP legislation has been generally welcomed by the cooperative sector. However, it is still too early to make a judgement on its success. NSW has had the legislation in operation the longest. After its introduction there was some initial increase in the number of organizations wishing to form as coop-

eratives. However, this may have had more to do with concurrent cooperative development initiatives being undertaken by the Registry of Cooperatives, than the introduction of the legislation.

- 5.10.4. The CCP legislation is quite detailed – it includes well over four hundred sections in the Act. Much of the legislation deals with matters of concern to large commercial, trading or agricultural cooperatives. In many ways, it is overly complex for smaller community cooperatives or start-up organizations. There have been calls for the simplification of the legislation, perhaps introducing two tiers of regulation to deal with the complexity problem.

5.11. Cooperative Capital Units

- 5.11.1. An important feature of the NSW Cooperatives Act has been the introduction of Cooperative Capital Units. The ILO notes that many cooperative laws and amendments adopted by countries, during the 1990's introduced new forms of capital mobilization for cooperatives. The ILO report notes in particular, Australia, (NSW), Canada, France and Germany. The new federal Canadian Cooperatives legislation's investment shares are closest in concept to CCU's. The introduction of CCU's into the NSW cooperative legislation was controversial. It proceeded the changes made by the ICA, in 1995, to the capitalisation principle. To date there has only been five issues by NSW cooperatives. The most significant was the issue by Namoi Cotton Cooperative. This issue was listed on the Australian Stock Exchange, (ASX) and represented the first listing of a state registered cooperative on the Exchange.

5.12. Cooperative Development

- 5.12.1. The ILO have identified that virtually all cooperative laws adopted during the last decade restrict the hitherto all embracing role, played by government, in cooperative affairs to purely statutory functions. It is suggested that the new laws separate promotional from control or regulatory functions. This is interesting in light of the Australian experience. Several Australian States have allocated resources to cooperative development. In particular, NSW has for most of the last decade, actively sought to work with sector organizations to develop programs and strategies to encourage cooperative development and growth. Given that the general cooperative sector has had, over recent years, diminished resources to commit to development, the State has stepped in and actively assisted this process. The results have been mixed.
- 5.12.2. One of the themes that has been running through this case study has been, that, the general cooperative sector in Australia, has been in effective decline during the last ten to twenty years. In the relationship between the State and the sector it has been, on balance, the Government rather than the sector, who has been the initiator and driver of development. This has especially been the case, in NSW, after the demise of AAC. The experience of the State, in assisting with the establishment of the

Cooperative Federation of NSW in 1993, is illustrative of aspects of government/sector relations in NSW. The State has, until recent times, encouraged the development of a strong sector and representational bodies. Such an organization becomes an effective conduit for cooperatives to express their views to government and for government to deal with the sector. One could view such a relationship as symbiotic – in a period of “smaller government,” cooperative departments, need a strong partner to continue ‘their’ development programs. The sector can gain if its message is heard in the wider forums of government policy making. The problem is the comparative strength of this relationship. While the sector ‘cut its cloth’ to reflect its diminished resources, following AAC’s demise, the government proceeded to broaden its role in the mid 1990’s. When subsequently, the government reduced a number of these programs the sector was unable, or unwilling to fill the vacuum.

5.13. Analysis of Replies to Questionnaire

- 5.13.1. As part of this study, a questionnaire was circulated to general cooperative regulatory and representative organizations in Australia. Four replies were received – two each from the sector and government, a breakdown of the responses is attached. Interestingly, there appeared to be a more consistent view among the regulatory agencies on a range of issues, then from sector representatives. Perhaps this simply reflects the general lack of unity in the movement discussed elsewhere in the report.

5.14. Questionnaire Results: Cooperative Policy

- 5.14.1. There were two issues on which there was unanimity; firstly, that in Australia, there was movement initiated mechanisms for influencing the cooperative policy of Government. Secondly, that the Government had not been influenced by the ICA sponsored conferences including the recently held Ministerial Conference in Beijing. There was less agreement on whether cooperative policy (such as it was, noted one respondent) was in harmony with cooperative legislation. Views ranges from in harmony to independent of each other. There was however, some agreement that in comparison to other forms of business enterprises Government policy only provides either marginal preference or no preference for cooperatives.

5.15. Questionnaire Results: Cooperative Legislation

- 5.15.1. All respondents noted that there were no specific provisions in the Australian constitution for cooperatives and that cooperative laws and legislation were primary a State or provincial responsibility. All respondents noted that some effort was being made to achieve consistency of cooperative laws across various jurisdictions. Most respondents agreed that all major laws apply equally to cooperatives as they apply to other forms of business enterprise. There was no agreement however, as to whether the respondents were satisfied with the existing provisions in cooperative laws. Two were, one was not, and the final one only partly satisfied.

5.15.2. Respondents were evenly split on whether the legislation was overly prescriptive or contained enough flexibility. However, there was no disagreement with the proposition that cooperative laws in Australia provided adequate autonomy and independence for cooperatives. The majority regarded the cooperative laws as being conducive with market values that were required by cooperatives in a market driven economy.

5.16. Cooperative Values and Principles

5.16.1. The respondents were evenly split as to whether the legislation fully or only partly incorporated the ICA Statement on Cooperative Identity. This response may possibly be explained as confusion on the part of some between the full Statement on Cooperative Identity and the seven principles contained within it. The CCP legislation contains the principles but not the full statement.

5.17. Management and Governance

5.17.1. All respondents were in agreement that the cooperative laws substantially define the rights and responsibilities of the board, management/executive and members. Most agreed that the law provide for a comprehensive method of disclosure and consultation with the members to enable a decision about whether a cooperative undertakes significant change in its basic form and nature of activities eg, demutualisation, conversion into non-cooperative forms of enterprise or diversification. Most also agreed that the cooperative laws substantially provide for filters and systems of checks and balances that can adequately address misuse of authority and delinquent management decisions at all levels. The majority agreed that the laws provide for self-regulation by cooperatives. Respondents were split evenly between believing cooperative laws do not or only marginally provide for cooperatives at higher levels i.e. other than primaries to be sensitive to the needs of their members and work/function for the benefit of their members. This view is probably reflective of the lack of second and third tiered structures in the general cooperative movement in Australia.

5.18. Government and Cooperatives

5.18.1. There was general agreement that cooperative laws do not provide for agencies involved in cooperative regulation and cooperative development to be separate and have clearly defined roles in relation to promotion and development of cooperatives, monitoring and control and adjudication. Most agreed that cooperative laws in Australia provided for forms of government assistance to cooperatives and partnership between governments and cooperatives that use government assistance without affecting the autonomy and independence of cooperatives.

5.19. Capitalisation

5.19.1. Most agreed that cooperative laws encourage member economic participation by contributions of member capital through a set of incentives and mechanisms that

can be decided by the members themselves. Interestingly, there was a range of views on whether a majority of cooperatives believe that they can raise capital from sources other than members (such as capital markets) without affecting member control. Responses ranged from agreeing with this statement to totally disagreeing. This is not surprising; the issue of hybrid equity has been the centre of considerable discussion in Australia for many years. CCU's are still the centre of debate in relation to the CCP scheme. Views were also split on the actual practice of whether the laws provide for cooperatives to mobilise capital from sources other than members (such as capital markets) without affecting member control. There was total agreement on the fact that cooperative laws clearly allow for cooperatives to establish subsidiaries under any appropriate law that is for the time being in force.

6. Conclusions and Recommendations: Beijing Declaration

6.1. On Autonomy and Independence:

6.2. Legal Recognition

6.2.1. Cooperatives have long enjoyed a large measure of legal recognition in Australia derived from English statutes. Historically, different forms of co-operation have been given separate legal recognition. Credit Unions, Building Societies, Cooperative Housing Societies developed their own State based cooperative legislation. General cooperatives were similarly provided for, with discrete State based legislation. However, the trend in Australia, for financial cooperatives, is to move away from separate legal recognition, based on ownership type, to a common Corporations Law framework. It needs to be noted that some acknowledgment is given, within the Corporations Law framework, to the underlying nature of financial cooperatives, but it is incidental to the overall policy objectives of Corporations Law. This trend is supported in other policy areas, including taxation and competition policy.

6.3. Is Company Law a Better Alternative for General Cooperatives?

6.3.1. On the other hand, general cooperative legislation is being developed as stand alone national legislation, incorporating and acknowledging the separate legal existence of cooperatives. However, because of the complexity of CCP legislation and the difficulties in completing these regulatory arrangements some have argued for a different course. It has been mooted from certain quarters of the sector that, the larger commercial cooperatives would be better served if regulated under special provisions of the Corporations Law, along similar lines to cooperatives under the New Zealand's Companies Act, rather than operate under the still, as yet incomplete CCP scheme. The effect of this is that cooperatives are registered as companies, but must have certain provisions in their constitutions, which distinguish them as from public companies.

- 6.3.2. A major problem, in common law countries, with incorporation under company law statutes is that cooperatives are incorporated as companies and are subject to general corporate law principles. These legal principles are often conflict with the cooperative principles; for example, economic rights of shareholders must be recognised in the appropriation of shares. Whereas in a cooperative, shareholders generally, only have the right to the repayment of amounts subscribed for shares on appropriation.
- 6.3.3. A recent New South Wales Supreme Court decision relating to the demutualisation of the National Roads and Motorists Association Insurance Company, (NRMA) considered the issue of mutual companies registered under the Corporations Law. The Court held that the Corporations Law only provided for the registration of public and proprietary companies and that the issue of whether a company was a mutual organization was a matter for prescription under the company's constitution. Moreover, the duties of directors were held to be the same as those for ordinary companies and that neither the Common Law nor the Corporations Law imposed any different or additional duties upon directors of mutual organizations.
- 6.3.4. No Government Involvement in Day to Day Affairs**
- 6.3.5. Cooperatives in Australia are legal entities with a large degree of autonomy, freedom and independence. At various times governments, both State and national have encouraged certain types of cooperative activities. However, there is no direct government involvement in the day to day running of cooperatives in Australia. Consistent with trends elsewhere; Australian governments are following a policy course, which will probably mean less explicit support for cooperative type entities, as cooperatives. Rather, what support or recognition there will be in the future is more likely to come in spite of and not because of their cooperative character.
- 6.4. On Legal Existence:**
- 6.5. Role of Cooperative Principles in Legislation**
- 6.5.1. The CCP legislation for general cooperatives includes the ICA's cooperative principles. They first appeared in the former NSW Co-operation Act 1923 in the late 1980's. Both the movement representatives and relevant government officials have embraced the inclusion of the principles, in the CCP legislation. It is worth noting that the principles are given added force in the CCP legislation by the inclusion of an interpretative provision. It takes the following form: *In the interpretation of a provision of this Act or the regulations, a construction that would promote cooperative principles is to be preferred to a construction that would not promote cooperative principles.* The practical importance of the principles is further emphasised by the numerous express references to them in the legislation, in particular, to the necessity, in relation to the making of certain discretionary decisions under the Act.

6.5.2. Although, currently outside the CCP scheme, one such discretion relates to the Registrar of Cooperatives approving the issue of CCU's under the NSW Cooperatives Act. The Registrar must be satisfied that the terms of issue of the CCU's are not inconsistent with cooperative principles as defined in the legislation.

6.6. Member Democracy: Active Membership Provisions

6.6.1. There are no barriers, legal or practical, in the CCP legislation to the principle of voluntary and open membership or the principle of democratic member control. In fact, member control is strengthened through the concept of 'active membership' and the adoption of provisions designed to protect and preserve the principle of one-person one vote. This concept of "active membership" was first introduced into the NSW Co-operation Act, in the 1980's. The principle behind active membership is that the control of the cooperative should reside in the hands of the currently active members. The provisions were originally introduced to deal with the problem of take-overs of dairy and other agricultural cooperatives in NSW. Corporate raiders were approaching former, or currently inactive, members seeking their support in taking over the cooperative. The currently active members often opposed these takeover proposals. However, because the inactive members were still 'on the books' as members, and could vote, the takeovers were often succeeding.

6.6.2. Provisions were introduced requiring members to determine a primary activity for the cooperative and an accompanying test of active membership. The primary activity and active membership must be contained in the rules of the cooperative, which, are approved and registered by the Registrar of Cooperatives. The cooperative is obliged to cancel the membership of inactive membership and return their share capital. Members have a period of time in which to prove their membership and former members have certain entitlements, in special circumstances, if the cooperative is wound-up or converted to a company.

6.7. Government Prefers Corporate Structure for Some Activities

6.7.1. Although, it is not general practice, there are some barriers to cooperative formation as a result of government policy. The most obvious example is the requirement that registered clubs in NSW now incorporate under Corporations Law and not as cooperatives. Approximately one quarter of all clubs in NSW are registered as cooperatives – these being incorporated before the government decision.

6.8. Compliance Cost

6.8.1. Perhaps, an unintended consequence of the development of the state based CCP scheme is the higher compliance and registration costs imposed on cooperatives, compared to other corporate entities. The formation process is also more onerous for cooperatives than other business or community structures. These issues may be addressed, as the CCP scheme becomes operational.

6.9. Disclosure and Transparency Requirements

- 6.9.1. All Australian Registrars of Cooperatives maintain a fully searchable public register of cooperatives and documents required to be lodged or registered by the Regulator under the Legislation.

6.10. On Recognition

- 6.10.1. If one measure of recognition for cooperatives is the number of policies or statements issued supporting the movement, then one would come to the view that as far as Australian governments are concerned, the sector is non-existent. It is understood that no government in Australia - State or Federal - has a stated public policy in support of cooperative development. Apart from a commitment to complete the CCP scheme, governments have been unable or unwilling to publicly express commitment to supporting or expanding the role of cooperatives. Indeed, the Commonwealth Government, was one of only a handful of OECD countries, which failed to complete the country questionnaire for the new ILO resolution. (It is understood that a number of sector organizations along with several State Governments provided the Commonwealth with detailed advice on the questionnaire.)

6.11. Level Playing Field

- 6.11.1. In Australia, there has been little appreciation of the role that cooperatives can play in promoting and strengthening civil society values or business development. The example of the CreditCare program - establishing Credit Unions in rural areas to fill the gap left by the closure of bank branches - is the exception. Cooperatives are rarely asked by government to participate in the development of new social and economic programs.
- 6.11.2. This report has highlighted that; Australian governments seem much less focused at a policy level on cooperatives as cooperatives. Cooperatives will be treated equally as long as they are generally prepared to conform to the dominant organizational form - the private for profit corporation.
- 6.11.3. The report has also drawn attention to the fact that certain aspects of competition policy are disadvantaging cooperatives. The recent ACCC decision on Golden Circle seems to set some boundaries, which would make it very difficult for a cooperative operating in a contestable market to adopt an active membership test requiring a member to supply 100 percent of their production.

6.12. On Self-Regulation:

- 6.12.1. The responses from representatives of both the general cooperative sector and relevant regulatory agencies indicate that they believe the CCP legislation adequately provides for self-regulation of cooperatives. The respondents also indicated that they felt that appropriate and effective corporate governance and disclosure provisions existed in the legislation.

6.12.2. Ministerial Advisory Council

6.12.2.1. Under the NSW legislation, provision is made for a Cooperatives Council. The Minister appoints the Council members from among nominations received from the cooperative sector. The role of Council includes the promotion of cooperative principles and new cooperative formations. The Council also provides advice to the Minister on a range of additional cooperative matters and exercises a number of quasi-judicial powers under the Act. These involve powers to review administrative decisions of the Registrar.

6.12.3. Independent Audit of Activities

6.12.3.1. Under the CCP legislation, cooperatives are required to submit annual audited returns to the Registrar. Audits are to be carried out by independent professional auditors.

6.12.3.2. The Registrar pursuant to the legislation, possesses the authority to conduct inquiries into the financial and working conditions of cooperatives. If necessary, the Registrar can appoint an administrator to run the cooperative until such time as the members can again assume responsibility.

6.12.3.3. There is also provision under the Act for the board of a cooperative to appoint a voluntary administrator where a cooperative is insolvent or approaching insolvency. The voluntary administrator regime is designed to encourage the board to take steps to seek the assistance for an external person who has powers to enter into arrangements with the cooperative's creditors. It is also designed to provide a moratorium on claims by a cooperative's creditors to enable the cooperative to enter into an arrangement to enable it to trade out of financial difficulty.

6.13. Capitalisation

6.14. Hybrid Equity Models

6.14.1. One of the unifying themes of the cooperative experience, in Australia, has been the quest for competitiveness. This journey has been most evident in the exploration of different options for capital raising. As industries have become more competitive, cooperatives have sought to compete, by seeking opportunities further down the value chain. This has meant additional capital, sometimes from outside the membership base, is required.

6.14.2. It has been noted that in recent years there is hardly a significant Australian cooperative that has not considered its corporate status or the adequacy of its capital structures. While it is undoubtedly true that a number of influential cooperatives have made a complete break from their cooperative roots by converting into companies many others have been exploring different solutions to their problems – options, which stop short of demutualisation.

6.14.3. It is in the area of hybrid equity models that many are seeking an answer. This quest is driven by a desire to maintain the cooperative heritage of the organization,

particularly the element of member control while accessing external equity. In summary, cooperatives want additional funds - but not at the expense of active member control.

- 6.14.4. All the interest in hybrid equity options has meant that some cooperatives have missed taking advantage of existing member fundraising provisions contained in the legislation. One view is that many cooperatives have been lazy in managing their capital. Ultimately, causing takeover concerns and fundraising difficulties, which may invite more fundamental and belated responses – such as a conversion into a for profit structure.
- 6.14.5. As the ILO has noted, Australia has been among the leaders in introducing a broader range of capital raising options for cooperatives. It is a debatable point whether the innovation shown by Australian cooperatives in developing various forms of hybrid equity has served to strengthen the movement, or simply shown a way to leave it.
- 6.15. **Subsidiary Structures**
 - 6.15.1. The CCP legislation introduced different classes of member shares. It also provided for subordinated debt and debentures. As noted in the responses to the Australian questionnaire, the legislation provides for the use of subsidiary structures, of whatever kind, to raise equity. This has led, a number of Australian cooperatives, to experiment with structures, similar to that developed by several Irish dairy cooperatives. A number of cooperatives have also sought to link capital contributions to patronage or supply rights.
 - 6.15.2. Perhaps the most interesting innovation has been CCU's. While many within the general cooperative sector would welcome the inclusion of CCU's in the CCP scheme, a number of jurisdictions are yet to agree. Importantly, the NSW legislation has sought to ensure that any CCU issue does not dilute active member control - there are a number of checks and balances in the legislation designed to ensure this outcome. The latest CCU issue by Walgett Cooperative attempted to introduce elements from the new generation cooperative experience. Higher returns for greater member loyalty and support being among the key aspects. It is currently looking at extending the issue to superannuation funds operated by farmer members.
- 6.16. **Official Development Assistance**
 - 6.16.1. Most respondents to the questionnaire noted that governments provided some assistance to general cooperatives in Australia. The most important was the NSW Government, which maintains by far the largest, Registry of Cooperatives. This Registry provides advisory and development assistance for new cooperatives and administers a Cooperative Development Fund, (CDF). The NSW Government has also initiated and principally funded, from CDF, a new cooperative research centre. The CDF is also used to provide funding directly to the cooperative federation and a number of other support organizations.

6.17. On Networking

- 6.17.1. Australian cooperatives are neither domestically unified, nor internationally networked. The one exception, is the Australian Credit Union movement. General cooperatives remain commercially challenged, under-resourced, and inadequately represented. For most of the last decade, Australian general cooperatives have not been a member of the ICA.

India

1. Social Profile

- 1.1. India is a land of many cultures, a civilization that is more than five thousand years old. On 1st March 2001 India's population stood at 1.027 billion. India added about 181 million persons between 1991-2001, which is more than the estimated population of Brazil, the fifth most populous country in the world. India's share of the world population is 16.7 percent. On the other hand, close to seventy four per cent of this population continues to reside in rural India. India's population is currently growing at 1.58 per cent. The population below the poverty line in India is reported to be around 35 per cent. In 1998 India had a Human Development (HD) Index of 0.563 and was ranked 128 (Medium HD). Other important macro indicators of social development are given in the appendix.

2. Economy - overview

- 2.1. India's economy encompasses traditional village farming, modern agriculture, handicrafts, a wide range of modern industries, and a multitude of support services. India's international payments position remained strong in 1999 with adequate foreign exchange reserves, reasonably stable exchange rates, and booming exports of software services. Lower production of some non-food grain crops offset recovery in industrial production. Strong demand for India's high technology exports is likely to bolster growth in the next few years. Important indicators of economic development are given in the appendix.
- 2.2. Economic reforms since 1991 have helped India achieve a large measure of macro-economic stability and a moderate degree of liberalization of its trade, investment and financial sectors. These reforms boosted annual economic growth to around seven percent in the 1994-1997 period. In Indian Fiscal Year (IFY) 1997-98, growth slowed to 5.1 percent in the wake of the Asian financial crisis but increased to 6 percent in IFY 1998-99. For FY 1999-2000, the real GDP growth is of about 6.4 percent and industrial growth is 5.7 percent. The Indian economy has the potential to perform well, and the long-term prospects remain encouraging. There are continuing concerns, though, about inadequate infrastructure and chronic large budget deficits. The central government deficit has hovered around 5.5 to 6.5 percent of GDP with the consolidated public sector deficit (including states) remaining at a level of 9-10 percent of GDP.

- 2.3. During the first six months of FY 1999-2000, money supply (M3) rose by an estimated 18 percent. The Reserve Bank of India (RBI) target for M3 growth was 15 to 15.5 percent for the year. Credit policies for 1999-2000 announced in April and October 1999 were aimed at accelerating industrial investment and output, and reducing interest rates while improving credit availability to business. Inflation has dropped considerably. Government and private forecasters now predict an average inflation rate (as measured by the Consumer Price Index) of 7 percent during FY 1999-2000, following inflation of 13 percent in the previous year.
- 2.4. *Pricing Policies:* Central and state governments still regulate the prices of many essential products, including food-grains, sugar, edible oils, basic medicines, energy, fertilizers, water, and many industrial inputs. Agricultural commodity procurement prices have risen substantially during the past seven years, while prices for nitrogenous fertilizer, rural electricity and irrigation are subsidized. Acute power shortages are forcing several states to arrest the financial decline of state electricity boards by moving to market pricing. The federal government has also begun to scrutinize more carefully the cost of its subsidies. The government in 1997 announced a plan to reduce subsidy rates on food, and fertilizers from the existing 90 percent to 25 percent over the next five years. In September 1997, the government increased the prices of several petroleum products and committed to dismantling the Administered Price Mechanism for petroleum products over the next two years. However, progress has been slow.
- 2.5. Many basic food products are under a dual pricing system: some output is supplied at fixed prices through government distribution outlets ("fair price shops"), with the remainder sold by producers on the free market. Prices in government outlets usually are regulated according to a cost-plus formula; some formulas have not been adjusted in more than a decade. Regulation of basic drug prices has been a particular problem for U.S. pharmaceutical firms operating in India, although changes in national drug policy have sharply reduced the number of price-controlled formulations from 142 in 1994 to 72 at present.
- 2.6. *Tax Policies:* Public finances remain highly dependent on indirect taxes, particularly import tariffs. Between 1991 and 1998, indirect taxes accounted for about 70 percent of central government tax revenue. India's direct tax base is very narrow, with only 20 million taxpayers out of a total population of about one billion. Marginal corporate rates are high by international standards, although the FY 1996-97 budget lowered the corporate income tax rate for foreign companies from 55 percent to 48 percent. Tax evasion is widespread, and the government has stated that future rate cuts will depend on the success of efforts to improve tax compliance. Over the last seven years the government has been streamlining the nation's tax regime along the lines recommended by a government-appointed committee: increasing the revenue share from direct taxes; introducing a Value-Added Tax (VAT); and replacing India's complex tax code with one that is simple and transparent. The government also

provides tax incentives for specific sectors, such as a 10-year tax holiday for infrastructure projects.

- 2.7. *Regulatory Policies:* The “new industrial policy” announced in July 1991 considerably relaxed government’s regulatory hold on investment and production decisions. Under the new policies, industrial licenses are only required for 6 areas, defined as strategic. Some restrictions remain for manufacturing in certain sectors reserved for the public sector or small-scale industry. Additionally, the government announced in 1994 and 1995 liberal policies for the pharmaceutical and telecommunications industries. Most plant location strictures have been removed. Nevertheless, Indian industry remains highly regulated by a powerful bureaucracy armed with excessive rules and broad discretion. Government approval of foreign business investment projects often takes three to five years. As economic reforms take root at the federal level, the focus of liberalization is gradually shifting to state governments, which, under India’s federal system of government, enjoy broad regulatory powers. The speed and quality of regulatory decisions governing important issues such as zoning, land-use and environment can vary dramatically from one state to another. Political opposition has slowed or halted important regulatory reforms governing areas like labour, bankruptcy, and company law that would enhance the efficiency of domestic and foreign investment.
- 2.8. *External Debt Management:* India’s reliance during the 1980’s on debt-financed deficit spending to boost economic growth meant that commercial debt and Non-Resident Indian (NRI) deposits provided a growing share of the financing for India’s mounting trade deficit. The result was a hefty increase in external debt, compounded by rising real interest rates and a declining term structure that reflected India’s falling creditworthiness. Total external debt rose from \$20 billion in FY 1980-81 to about \$84 billion in FY 1990-91. Fueled by rising debt service payments, foreign exchange reserves fell to \$1.1 billion (excluding gold and SDRs) during the FY 1990-91 balance of payments crisis, the equivalent of only two weeks of imports. By October 1999, India’s reform program had succeeded in boosting reserves to \$33 billion (excluding gold and SDRs).
- 2.9. *External Debt Structure:* India’s total external debt reached \$98.2 billion by March 1999. Debt service payments were estimated at \$ 4.3 billion in 1998-99. Roughly two-thirds of the country’s foreign currency debt is composed of multilateral and bilateral debt, much of it on highly concessional terms. The share of concessional debt in total debt is about 42 percent. The addition of new debt has slowed substantially, as the government has maintained a tight rein on foreign commercial borrowing and defense-related debt and has encouraged foreign equity investment rather than debt financing. As a result, the ratio of total external debt to GDP fell from 39.8 percent in FY 1992-93 to 23.5 percent in FY 1998-99.
- 2.10. *Relationship with Creditors:* India has an excellent debt servicing record. However, Standard and Poor’s (S&P) in October 1998 downgraded India’s foreign currency

debt from BB+ to BB, one notch below the highest speculative grade. On the other hand, S&P at the same time upgraded its outlook on India from negative to stable. In October 1999, Moody's upgraded India's foreign currency rating outlook from stable to positive while maintaining an unchanged speculative grade rating of Ba2. Citing its growing foreign exchange reserves and ample food stocks, India chose not to negotiate an extended financing facility with the IMF when its standby arrangement expired in May 1993.

3. India's Cooperative Movement

- 3.1. Cooperatives in India have always had a rural emphasis. There are about 5.6 million villages in India and each of them is covered by at least one primary cooperative. There are a total of around 5 million cooperatives in India. At the primary level, there are 1.4 million Agricultural Cooperatives (including PACS) and 3.6 million non-credit cooperatives. The aggregate membership at the primary level of the cooperative movement is 210 million. Sixty five per cent of the grass roots membership belong to PACS and the remainder belong to primary non-credit cooperatives. There are 2572 secondary district level cooperative unions, 361 state level cooperative federations and 21 national level cooperatives.
- 3.2. In 1999 cooperatives accounted for 46 per cent of the agriculture credit disbursed by the organized sector in the country. Cooperatives sold 6 million metric tons of fertilizers, more than 36 per cent of the total fertilizer sold during the year. Sugar cooperatives produced 7 million metric tons of sugar, contributing to nearly 55 per cent of the total sugar produced in the country. Dairy cooperatives procured about 15 million litres of milk each day, a share of nearly 70 per cent of the milk handled by the organized dairy industry in India. Cotton cooperatives purchased 67 per cent of the total cotton procured during 1998 and produced 22 per cent of the cotton yarn and fabrics produced by the country. Similarly, in wheat and jute cooperatives were responsible for procuring more than twenty per cent of the total procurement of these commodities by different agencies. During the year, cooperatives enjoyed 51 per cent of the total market share for branded edible oils in consumer packs. In terms of self-employment, the cooperative movement was responsible for generating employment for 12.5 million persons during the year.
- 3.3. The aggregate share capital in cooperatives of all types and at all levels is estimated at Rs. 178 million with a matching amount as reserves. The working capital deployed in these cooperatives is about Rs. 2.2 trillion. The total agriculture credit advanced in 1998-99 was Rs. 206 billion. The advances for the short term and medium term were Rs. 143 billion and Rs. 37 billion respectively. The cooperative movement in India has many successes and perhaps as many stories of how potentially successful cooperatives got lost on the way. In terms of sectoral presence, India has cooperatives in most sectors and areas including agriculture, dairying, horticulture, sugar, fertilizer, consumer, marketing, credit and thrift.

- 3.4. The history of India's cooperatives dates back to 1904 when experimental credit cooperatives were organized in an effort to break the poverty cycle of small agriculturists. During the struggle for India's independence in the 1920s, 1930s and 1940's thousands of cooperatives were organized, mostly for agricultural credit. However, given India's huge population, even in those days, such effort meant that barely three per cent of the credit needs of the country could be met through cooperatives. Consequently, after independence, the Indian government decided that cooperatives would be an important instrument to implement its five year plans for national development. Following the recommendations of the All India Rural Survey Committee in 1955 the government evolved an integrated scheme for cooperative development. The fundamental principles of this scheme were; State partnership at different levels, full coordination between credit and other economic activities specifically marketing and processing and administration through adequately trained and efficient personnel responsive to the needs of the rural population.
- 3.5. Thus, within a span of a decade, the government developed a large cooperative superstructure. It involved hundreds of thousands of organizations and millions of members. The priority for cooperative credit alone spawned 1.4 million PACS federated into 367 central cooperative banks and 29 state apex cooperative banks. The function of the apex cooperative banks is to pool liquidity for the central banks, draw surpluses from some and provide credit to those that need it. They also serve as a channel for the flow of production credit from the Reserve Bank of India. Credit through this structure is offered for productive purposes and not to meet short term consumption needs of farmers. The cooperative structure for other sectors perform similar functions and depending upon whether the flow of goods and services is top down or bottom upwards the linkages and integration between different levels are suitably defined and managed.
- 3.6. However, there seems to be a fair degree of consensus that the Indian cooperative movement, despite its large size has a number of weaknesses. These include lack of local leadership, complicated rules and regulations, lack of resources, lack of imaginative management and a general frustration amongst members because their hopes have not been fulfilled. State partnership with cooperatives have not helped to sort matters much. If anything, such an approach has lent itself to attract the politician, the bureaucrat and by extension, the government, to meddle in and run interference in its affairs. The two notable exceptions to this phenomenon, especially in the rural sector, have been the dairy and sugar cooperatives.
- 3.7. In a paper written in 1992, Professor JG Craig aptly described the problem confronting the Indian cooperative movement in the early nineties. He believed that the root cause of failure was the way the organizations were built and managed i.e. on the basis of a bureaucratic paradigm rather than one more compatible with the logic of cooperation. Essentially, Professor Craig held that cooperating groups are rational and objective only within their own framework of rationality. He therefore opined

that it is not possible to impose an external objectivity on the group because the logic of cooperation is that it is the perspective from within the group that should dominate. He believed that the logic of cooperation and cooperative organization have had a minimal effect because of the organizational logic of the environment within which they had been set.

4. Provisions for cooperatives in the Indian Constitution

4.1. Article 43 of the Indian Constitution states that the State shall endeavour to secure, by suitable legislation or economic organization or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular, the State shall endeavour to promote cottage industries on an individual or *cooperative basis* in rural areas.

4.2. Article 246 of the Indian Constitution provides for the subject matter of laws made by Parliament and by the legislatures of states. Entry 32 in List II (state list) of the seventh schedule to the Constitution provides for state legislatures to make laws relating to the incorporation, regulation and winding up of cooperative societies. However, the Constitution does not provide for any other matter in relation to cooperative societies. Accordingly, making cooperative law is the jurisdiction of each state legislature and where a cooperative's area of operations - which normally refers to the area from where the membership of a cooperative society is drawn - extends beyond a single state, such cooperatives are regulated by a central cooperative law.

4.3. There are currently about 27 cooperative laws that are in force in different states and union territories. In addition, during the past few years five states have enacted parallel progressive cooperative laws. A few more states are likely to opt for parallel cooperative laws in the next few years. Apart from all these cooperative laws, a central cooperative law regulates multi-state cooperatives. The central cooperative law, specifically the Multi State Cooperative Societies Act, 1984 has been enacted under Entry 44 in List I (Union List) of the Seventh Schedule which provides for Parliament to make laws under Article 246(1) on the incorporation, regulation and winding up of corporations, whether trading or not, with objects not confined to one State, but not including universities. Presently, India has about 33 pieces of cooperative legislation in place.

5. Policy choice that influenced cooperative legislation after independence

5.1. The post independence history of cooperative legislation in India - both in the states and at the centre - has been influenced by the policy choice made by governments to accelerate the development process. In the days following independence, the central Government opted for development through a mixed economy and chose the five year plans as an instrument for development. During the first five year plan (1950-1956) the plan emphasised that for all the aspects of community development a

cooperative method of organization should be adopted to the maximum possible extent. The second five year plan (1956-1961) said that one of the central aims of national policy is to build a cooperative sector as a part of the scheme of planned development. The plan advocated efforts that would enable cooperation to increasingly become the principal basis for the organization of economic activity. It was around the same time that with a view to facilitate partnership of the state in cooperatives the Reserve Bank of India was asked to set up a National Agricultural Credit (long term operations) Fund and the central Government established another fund called the National Cooperative Development Fund.

- 5.2. In the third plan (1961-1969) the focus was on progressively making cooperation the principal basis of organization in many branches of economic life. The broad aim was to develop the village as the primary unit of organization in agriculture and the many other economic and social activities, which affect the welfare of the rural population. Interestingly, the plan advised that regulatory power in relation to cooperatives may remain with government. The fourth plan (1969-1974) accorded agricultural and consumer cooperatives a central position. The plan stated that while it was the responsibility of the cooperatives themselves to make the effort needed to reach standards of efficiency that would enable them to compete with other forms of organization, the government should assist cooperatives in important aspects such as finance, organization and trained personnel. The fifth plan (1974-1979) had four specific objectives for cooperative development including *inter alia* strengthening cooperatives, correcting regional imbalances in cooperative development and restructuring and reorienting cooperatives to shift the focus in favour of small and marginal farmers and other underprivileged sections of people. The plan also recommended increased government support to strengthen the share capital base of the cooperative credit institutions.
- 5.3. The sixth five year plan (1979-1985) gave priority to strengthening primary village societies so that they would be able to act effectively as multi-purpose units catering to diverse needs of its members and to evolve policies that would direct the efforts of cooperatives at ameliorating the economic conditions of the rural poor. Not surprisingly, the plan stated that cooperative institutions “though peoples organizations” are, however, creatures of the government through various statutes. The plan went on to mention that what is of equal importance is the promotion of purely non-governmental organizations, which could motivate and mobilise people in specific or general development tasks. The seventh plan (1985-1990) emphasised comprehensive development of primary agricultural credit societies to function as viable multi-purpose units, realignment of policies and procedures of cooperatives to expand the flow of credit and ensure supply of inputs and services, particularly to the weaker sections. The plan also recommended launching special cooperative programmes in the under developed states, especially in the North-eastern region.
- 5.4. The Eighth Plan (1992-1997) did not contain any proposals or recommendations for

cooperatives or for cooperative development. This silence in the eighth plan was perhaps a reflection of a paradigm shift in the economic policies of India. In 1991 the Government initiated a structural adjustment programme. Liberalization, deregulation and globalization became key words in shaping the new economic policy. No longer was it considered appropriate to speak of a mixed economy, a socialistic pattern of society or even a planned approach to development. The new belief was that economic policy should be modelled on the assumption that markets know best and market forces will be able to foster quality economic growth. It was believed that such quality growth would automatically address the development challenge.

- 5.5. The Ninth Plan (1997-2002) aims to promote and develop people's participatory institutions like cooperatives. It recognises that some cooperatives have grown into substantial size; however, there are some policy and procedural limits to their rapid growth and diversification. Therefore as a policy priority, the Ninth Plan states that it will lay stress on removing the impediments to growth of the cooperative sector and to creating an environment which would be conducive to greater entrepreneurial initiative. In particular, the Ninth Plan states that there is a need to *de-bureaucratise and depoliticise the operation of the cooperative sector and to enable it to access investible resources from other sources on its own strength.*

6. The considerations that influenced policy on cooperative legislation

- 6.1. In 1951 the Reserve Bank of India initiated an All India Rural Credit Survey. The planning and organization of the survey was entrusted to a Committee of Direction under the Chairmanship of Mr AD Gorwala. This committee submitted its report in 1954. The survey revealed that the private creditor - the professional money lender, the agriculturist moneylender and the trader - still reigned supreme in the field of rural credit, supplying 70 per cent or more of the total requirements. The Government supplied as little as 3.3 per cent of the rural credit, and the cooperatives, an equally insignificant 3.1 per cent. Out of this credit supply, very little went to the bigger agriculturist and only a minor fraction percolated to the smaller cultivator.
- 6.2. The Gorwala committee recommended an integrated scheme of rural credit that required governments to enter into major partnership with cooperatives, depending upon the level and nature of the cooperative. In the case of credit supply, government partnership was to be direct at the apex level through subscription to the share capital of the cooperative. At the district level, partnership would be through the apex cooperative, which in turn would receive funds from governments in the form of additional share capital. In marketing and processing cooperatives, state partnership was to be direct, at all levels.
- 6.3. The committee recommended that with the state as the major partner in cooperative institutions up to and including the sub-divisional level, and sometimes beyond that, it will be possible to rectify a very serious weakness of the cooperative movement, namely a staff which, broadly speaking, is inadequate, ill-qualified and poorly paid.

The committee said that under the new arrangement it would be possible to have, for the first time, common cadres of different grades and technical qualifications. To the extent necessary, these cadres were to be instituted by governments.

- 6.4. The committee provided a detailed job profile of the Registrar of Cooperative Societies and in this context endorsed a passage of the Maclagan committee which said "... He (The Registrar) is also head of the teaching establishment, and must devise effective means for impressing a real knowledge of Cooperation on the bulk of the population. He has further to control a large staff, to draft model by-laws and rules.. It must be further remembered that there is no finality in the Registrar's work and he can never feel that it had been cleared off and brought up to date... His work is, moreover, highly responsible, involving watching over large sums of money deposited by the public and a share in the responsibility for the economic fate of the Province. It can well be realised that few officers are entrusted with work more serious or exacting." The committee said that in the context of the very extensive programme of cooperative development they have recommended, the importance of the Registrar would, if anything, be even greater than envisaged by the Maclagan committee.
- 6.5. The committee described how cooperatives should be supervised, inspected and audited and recommended that audit along with office inspection should continue to be in the hands of the government. It also spelt out the role of the Chief Auditor, outlined the procedure for classification of cooperatives for audit, the fees to be paid by them and the need for a cooperative audit manual for each state. Lastly, the committee gave its views on certain lines of organization already formulated by the central committee for cooperative training under the broad heads of; (a) All-India arrangements for training higher personnel; (b) Regional arrangements for training personnel at the intermediate level; and (c) State-wise arrangements for training subordinate personnel. Even in the case of training for non-official workers, the committee recommended that the central committee in collaboration with the All India Cooperative Union should address the matter.

7. Experiences drawn from forty five years of cooperative legislation

- 7.1. Even as Government found it expedient to implement the recommendations of the Gorwala committee, it shared the concern that state partnership with cooperatives could erode the autonomy of cooperatives. Therefore, as early as 1958, the National Development Council resolution on cooperative policy emphasised that cooperatives must function without excessive official interference, cooperative practices and procedures should be simplified and restrictive features in existing cooperative legislation should be removed. Ever since then while innumerable voices spoke for the autonomy and freedom of cooperatives, cooperatives entered into larger and deeper partnerships with governments. As a result, most cooperatives became agencies of the state and were used as instruments for developmental functions of the state and

to offer relief supplies of goods and services to the people at large. In other words, the operations of cooperatives were not based on the needs and aspirations of its members but those of governments.

- 7.2. To the extent that the needs and aspirations of governments converged with those of its members, cooperatives were generally viewed as success stories. In all the other cases, there were conflicting views about whether cooperation had indeed taken root. Beginning with Pandit Nehru's famous remarks in 1958, "Now I want to make a confession to you. I think our government was not quite right in accepting some of the decisions of the rural credit survey committee. I am sorry for it....", a number of groups and committees stated in subsequent years that cooperative legislation should be simplified and both government officials and politicians should cease to have any significant role in cooperatives. Such recommendations were made by the working group on cooperative policy (1959), committee on cooperative administration (1963), Mirdha committee on cooperation (1965), committee on cooperative law (1987), committee on model cooperative law (1991) and the advisory committee on cooperation (1996)
- 7.3. The Government recently issued a statement giving some important numbers about the Indian cooperative movement. It said that the total number of cooperatives increased from 181 thousand in 1951 to 488 thousand in 1997-98. The total membership of cooperative societies increased from 15.5 million to 207.6 million during the same period covering about 67 per cent rural households and about 99 per cent of all Indian villages. Cooperatives advanced agricultural credit to the tune of Rs. 139.690 billion during 1997-98 and had 44 per cent share in the institutional agricultural credit. The share of cooperatives in fertilizer distribution is presently 30.35 per cent while the fertilizer produced by the cooperatives accounts for 18.64 per cent of the total fertilizer production in the country. 56.8 per cent of the sugar production in the country is from the cooperative sector.
- 7.4. The Government also reported that the green revolution - launched in the late sixties - gave a big boost to the activities of cooperative societies. It said that 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 fields such as milk, oilseeds, sugarcane, cotton, agro-processing were established. Many large cooperatives emerged in the fields of fertilizer manufacture and marketing of agricultural produce. While the Government report lauds the rapid growth of the cooperative movement by highlighting its quantitative aspects, there are many who believe that the cooperative movement's 'quality of growth' has always left much to be desired.
- 7.5. In a paper written some time in the nineties, Samakhya (now Cooperative Development Foundation - CDF) had this to say about the cooperative movement in India.
 - 7.5.1. *"If for the sake of comparing coverage with potential, one were to assume that the*

average Indian family size was 5 and no individual was a member of more than one cooperative (which isn't quite true), then almost all Indian families might be said to have some representation in the membership of the cooperative movement. Having said so, it is equally important to speak about its quality..

- 7.5.2. *...Several Indian organizations termed "cooperatives" are not cooperatives by any stretch of imagination even if the law recognises them as such. They are government owned, government controlled enterprises, which work against and/or are formed in contravention of most or all of the universally accepted principles of cooperation.*
- 7.5.3. *Several vibrant cooperatives, for fear of losing their business and cooperative strength, choose to remain outside the formal cooperative structure, either as un-registered enterprises or as enterprises registered under legislation other than that pertaining to cooperatives..."*
- 7.5.4. Samakhya's paper explained what cooperators seek, illustrated why there is a distinct need to derecognise a whole set of organizations that are wrongly defined as cooperatives, highlighted the different interest groups that would like status quo in government control and administration of cooperatives and ended with a set of strategies to liberate the cooperative movement. These strategies included seeking a Constitutional amendment whereby the Constitution commits itself to the self reliant and democratic nature of cooperatives, registration of cooperatives under other laws, use of courts and the formation of cooperative associations that can work outside the purview of cooperative law.
- 7.6. Except the parallel progressive cooperative laws, which are of extremely recent origin, all cooperative laws provide - in line with the recommendations of the Gorwala committee - a substantial role for the State in cooperative development. The trends that have developed since independence show that there has been fast growth of cooperative activity — through increased governmental aid. But with this flow of aid there has been stronger and tighter control of the Government over the movement through incorporation of restrictive features in cooperative legislation, inhibiting cooperative leadership, generating member apathy and curbing local initiative at the grass roots. The restrictive provisions that are present in the cooperative laws include compulsory amendment of bye-laws by the Registrar, power of government to nominate directors on the committee of management, powers of government to veto annul/rescind resolutions, powers of Registrar/government to give directives, supersession/suspension of the committee of management, automatic supersession of the management committee or board of directors, restriction on term of office of office bearers of cooperative societies, restriction on holding office in more than one cooperative society simultaneously and, compulsory amalgamation and division of societies by the Registrar.
- 7.7. In all states and union territories, cooperative development is aided through a man-

datory share (normally one per cent) of the profits of each cooperative to a cooperative education fund to be maintained by the state cooperative union of that state. Expenditure from the cooperative education fund is authorised by a committee that has a significant number of government officials as its members. The expenditure from the cooperative education fund is supplemented by various government grants against budgeted provisions for cooperative development and assistance. The same arrangement also applies to multi state cooperatives. For example, the central Government's Department of Agriculture and Cooperation provides fairly comprehensive support and assistance to the cooperative movement in various ways.

- 7.8. For the past many decades the central Government is implementing a central sector scheme of cooperative education and training through the National Cooperative Union of India (NCUI) and the National Council for Cooperative Training (NCCT). The programmes relating to cooperative education are implemented by the NCUI through the State Cooperative Unions under different schemes such as general cooperative education programme, cooperative education programmes for youth, women and minority communities, cooperative education programmes for the members of industrial, handloom, handicrafts and fisheries cooperatives. The Government is also implementing a special scheme for intensification of cooperative education in cooperatively under-developed states. In addition, the Government also supports special projects that are meant exclusively for women education and development.
- 7.9. The Government provides 100 per cent financial assistance in the form of grants-in-aid to the NCUI for implementation of the special schemes and 20 per cent of the total expenditure on other approved activities. This amount is about Rs. 20 million per annum. The balance 80 per cent expenditure estimated at about Rs. 20 to Rs. 30 million is mainly met by withdrawals from the statutory cooperative education fund which currently receives an annual aggregate contribution between Rs. 30 to Rs. 50 million. In addition, the Government provides 100 per cent grant in aid (estimated at Rs. 160 million per annum) for the cooperative training programmes that are conducted by the NCCT through its constituents such as the Vaikunth Mehta National Institute of Cooperative Management (VAMNICOM), Pune and 19 Institutes of cooperative management located in various states. Assistance is also provided to 93 junior cooperative training centres functioning under the control of the state governments.
- 7.10. Apparently, the Government has in place its own system to evaluate the effectiveness of the education and training programmes that are offered with their financial support and assistance. There is also substantial data available about the number of programmes conducted by each institute and information to show that targets have most often been met or exceeded. However, there is little data or information about the quality of the programmes offered by these institutes and whether the institutes have sought and constructively used feedback from the participants and sponsoring cooperative institutions to improve the quality of their programmes. The other as-

pect is that since these programmes are heavily subsidised, a high level participation *per se* cannot be considered as a fair indicator of the interest of the participants or those of their sponsoring cooperative organizations. It is also difficult to come by information that can provide qualitative feed back about the appropriateness and relevance of the programmes.

8. Influence of Government's current draft cooperative policy on the future of cooperative legislation and cooperative development

- 8.1. For the past forty five years governments have remained as major partners in the development of cooperatives. In the process Parliament and legislatures modelled cooperative legislation on lines that it thought was most appropriate for governments to fulfil their roles and responsibilities as major partners of cooperatives. It is altogether a different matter that since 1991 successive governments have not only led privatization of many State undertakings but have also opened the doors for foreign industries to compete with State-owned or controlled industries in India. Evidently, times have changed.
- 8.2. There is now a clear intent of Government to disengage from all those areas that are not directly related to its role and responsibilities in the governance of the State. In the case of State held industries and organizations, the Government has already translated its intent to divest to a very significant level. The question that now arises is whether the government would be consistent in making a similar move to divest its stake and role from cooperatives? However, since divestment of government equity in cooperatives is unlikely to enrich the state exchequer, there seems to be at least no financial incentive for governments to do so. There are also other pressures. There are a significant number of those who argue for continuing the partnership between governments and cooperatives but with lesser interference from the government and the Registrar. On the other hand, there are a fair number of voices demanding that cooperatives must be granted complete independence and autonomy from governments.
- 8.3. In June 2000 the central Government announced a new draft cooperative policy. The objective of this draft policy is to facilitate all round development and economic viability of cooperatives. The draft policy says that it would provide necessary support, encouragement and assistance to ensure that cooperatives work as autonomous, self-reliant and democratically managed institutions accountable to their members and make significant contributions to the national economy, particularly in areas which require people's participation and community efforts. However, in the context of government partnership with cooperatives the draft policy makes a telling statement. It recognises that in a rapidly changing external environment, the "Cooperatives alone" approach will no longer be viable. The draft policy then resolves that cooperatives will however remain the preferred instrument of execution of Public Policy, especially in the rural areas and in sectors where on account of considerations relating to equity, they are the most effective delivery system.

- 8.4. The draft policy states that it will uphold the preservation of the distinct identity of cooperatives, its values and principles by providing an appropriate environment, legislative and otherwise. On the other hand the draft policy mentions that Government accepts the need to support the cooperative movement to develop human resources and infrastructural facilities for training. Government also affirms its continued support for the creation of infrastructure and other facilities through suitable programmes and schemes for the development of cooperatives without interference. This is a fine balancing act and going by the past, a difficult task to sustain. It therefore not difficult to suspect that Government's pursuit of its Public Policy may - as has happened since independence - override a policy to develop genuine member driven and controlled cooperatives. In other words, there are grounds for concern that cooperative autonomy and independence could continue to be compromised at the altar of Government's Public Policy.
- 8.5. The concern expressed in the earlier paragraph becomes apparent if one is to consider the Multi State Cooperative Societies Bill 2000 as introduced in the Lok Sabha in December 2000. The preamble to the Bill highlights the need for a new cooperative law to facilitate voluntary formation, democratic functioning, self-help and mutual aid in cooperatives but avoids making any reference to facilitating the autonomy and independence of cooperatives. Further more, the definition of cooperative principles contained in the first schedule to the Bill does not refer to the International Cooperative Alliance's (ICA) statement on the cooperative identity and omits the definition of a cooperative and the values of a cooperative as contained in the ICA statement on cooperative identity. The ICA statement states that principles are guidelines by which cooperatives put their values into practice. Consequently, the omission of the definition of cooperatives and their values in the Bill shows that the Bill does not go that extra mile to specially emphasise the formation and development of genuine cooperatives.
- 8.6. As of end March 2001 it is not known whether the Bill in its existing form would receive the approval of Parliament or get referred to a select standing committee. A study of the Bill reveals that while it contains quite a few salutary provisions, the Bill restricts the autonomy of those cooperatives that have majority participation by the Government in the form of equity. The Bill also contains some provisions that are not consistent with the model cooperative act proposed by the Chaudhary Brahm Perkash Committee in 1991. For example, the Bill in its existing form provides for government financing through equity, restriction on mobilisation of capital, continuation of the concept of area of operations, restrictions on investment and distribution of surplus, restriction in the holding of office by office bearers, absence of a provision for liability of deficit, limiting the choice in appointment of statutory auditors, mandatory contribution to the cooperative education fund and rule making power to government. All these provisions are not contained in the model cooperative law. However, on balance it must be said that the positive feature of the Bill is that it is a

major step towards disengaging Government from cooperatives and therefore deserves passage at the very earliest.

9. Influence of other laws on cooperative development

9.1. There are other laws that impact the working and development of cooperatives. They include laws relating to income tax and commercial tax, labour laws, and the dual nature of control on cooperative banks where they are subject to not just cooperative law but banking law.

9.2. The Income Tax Act 1961, as amended from time to time, provides certain relief to cooperatives by allowing them deductions in respect of income under section 80-P of the Act. The deductions are permitted in a fairly comprehensive manner for cooperative societies engaged in banking, marketing of agricultural produce, purchase of inputs and processing without the aid of power, collective disposal of labour, fishing etc. so long as these activities are confined only to the contributions of the members. This section also permits full deduction of income to primary cooperative societies engaged in the business of supplying milk, oilseeds, fruits or vegetables so long as it supplies the goods to a federal cooperative society or to a Government agency. Comprehensive deductions are also eligible in respect of any income derived by cooperative societies by way of interests or dividends in other cooperatives, letting of godowns or warehouses for storage, processing or facilitating the marketing of commodities.

9.2.1. However, the deductions permitted under section 80-P do not help the cooperative system in a significant manner because generally the raw produce collected by the primary cooperative is processed with the aid of power and added value by secondary and tertiary cooperatives. These secondary and tertiary cooperatives are therefore subject to the usual rates of corporate tax, which is currently 35 per cent with an additional surcharge of 11 percent. What section 80-P of the Income Tax Act does not recognise is that merely because primaries federate at district and state levels it is unfair and fallacious to tax each tier for income as if they are separate entities. This becomes amply evident when we consider by analogy a private enterprise that undertakes under one name all the activities that are performed by different tiers of the cooperative system and is therefore liable to be taxed for income in only a single instance.

9.2.2. There is one simple yet legal method for cooperatives to avoid being eligible for payment of income tax. That method is to pay to the members price differentials for their supply. However, this approach has severely undermined capital formation in cooperatives and consequently their growth. It is reported that the revenue gained by Government through taxation of cooperative income is negligible but exemption would give a major fillip to capital formation in cooperatives, thereby eliminating the need for Government to first tax cooperatives in order to subsidise them. Therefore, the best solution that is being advocated by the cooperative movement is that all cooperatives should be fully exempt from income tax. There is also another

angle to this issue. Till 1992-93, the pursuit of a mixed economy had meant that the rate of income tax for cooperatives used to be about 15 per cent lower than the rate applicable for private enterprises, particularly companies. However, this preferential treatment has since ceased to be. It is being argued that given the nature and role of cooperatives in our economy, if Government cannot fully exempt cooperatives from income tax, it should at least make a beginning by restoring the preferential rate for taxing the income of cooperatives.

- 9.3. A very large number of cooperatives are engaged in marketing and supply. Since sales tax and other commercial taxes are a state subject, each state had its own rates of sales tax for different goods and services. Last year, the Government announced a common policy for sales tax and constituted a Standing Monitoring Committee of State Finance Ministers under the Chairmanship of Dr Asim Das Gupta, Minister for Finance, Government of West Bengal to oversee the implementation this policy. The common sales tax policy does not recognise the special and unique features of sale by cooperatives. It is therefore not surprising that the policy contains no recommendations to the states to grant specific exemptions to cooperatives from the applicability of sales tax. In the absence of such a benefit the cooperatives lose their competitive edge because in an analogous situation private enterprises can and in fact actually avoid the incidence of multiple sales tax through the option of stock transfers.
 - 9.3.1. Given the unique reasons cooperatives federate into higher levels bodies, it is important to rationalise the sales tax laws applicable to cooperatives. Such a rationalisation would involve exempting every transaction between a member cooperative and its federal body and vice versa from sales tax. This is because such a transaction is not a sale but merely an arrangement of transferring the service or good to enable its actual sale. Cooperatives have also made a case to the Standing Monitoring Committee of State Finance Ministers that sales of commodities where cooperatives have a major share of production should be taxed at four per cent (Schedule-II) instead of eight per cent (Schedule-III) and certain commodities such as inputs – including fertilizers and cattle feed and milk in all forms – including pasteurised milk, infant milk food and milk powders should be fully exempt from sales tax. It is anticipated that the problems being faced by cooperatives in the matter of commercial taxes is likely to fade away once the states adopt the system of Value Added Taxation from 2002-03.
- 9.4. While the WTO agreement is not a law that directly impacts cooperative development, it nonetheless has manifold implications. One of the principal laws that affects cooperatives in this regard is the Customs Tariff Act, 1975. Cooperatives are major participants in the country's agricultural economy and they have been lobbying hard to insulate domestic farmers and producers from subsidies offered by the advanced nations on the production and export of their agricultural produce and products, dumping and exchange rate fluctuations. Government's application of the

WTO agreement in the country impacts all the domestic players in the economy. To that extent the efforts of cooperatives to seek a better deal in Government's implementation of its commitments under the WTO agreement has generally been supported by some of the industry associations and chambers of trade and commerce. During the past year, cooperatives have played a lead role in convincing the Government to appropriately increase import duties for sugar, milk powders and edible oils.

- 9.5. Cooperative banks are controlled in a dual manner. They are accountable under the Banking Regulation Act, 1959 and the Rules made thereunder for cooperative banks. In addition, they have to comply with the requirements of cooperative law under which they are registered. This also subjects cooperative banks to the norms and directions of the Registrar of cooperatives societies in matters relating to conduct of business, recovery, fixation of interest rates, waiver of dues, conduct of elections etc. Similarly, due to the absence of appropriate enabling provisions in the Banking Regulation Act, the Cooperative Bank of India (COBI) which was registered about seven years ago has not yet been granted a banking licence by the Reserve Bank of India. Therefore COBI has been unable to commence its banking operations. COBI has been registered under the Multi State Cooperative Societies Act, 1984 with the objective to bridge the systemic gaps within the organizational structure of cooperative credit and to meet the credits needs of agriculture and rural development on a national basis.
- 9.6. In 1982 Parliament passed the Industries Disputes (Amendment) Act which provided for a cooperative society carrying out any activity employing less than ten persons not to mean industry — and thereby exempt such cooperative societies from the purview of the Industrial Disputes (ID) Act 1947. However, this amendment is not in force since it is yet to be notified by the central Government. Most of the members of rural primary cooperative societies are small and marginal farmers and landless labourers. Each such primary society has a membership ranging from 100 to 500 farmers. However, such a large number of members who have joined together to gain an economic advantage continue to be exploited by a mere handful of employees who are normally not just better off than the members but are backed by the existing provisions of the ID Act. Efforts to influence the Government to notify the said amendment have not yet succeeded.
- 9.7. While speaking of the impact of other laws on cooperative development, an issue of considerable import is whether cooperative legislation itself should address the manner and extent to which some of the other laws apply to cooperatives or whether those respective laws should contain specific provisions on how they will apply to cooperatives. For example, by their very nature of operations cooperatives can be held liable under the Monopolies and Restrictive Trade Practices (MRTP) Act. However, cooperative laws specifically provide that the MRTP Act would not be applicable to cooperatives. Similarly, the Multi State Cooperative Societies Bill 2000 has a provision that the Companies Act, 1956 will not be applicable to Multi-

state cooperative societies. On the other hand the Income Tax Act has express provisions about deductions permitted to cooperatives. It is extremely difficult to decide about the degree to which cooperative legislation should specifically provide for how other laws would apply to cooperatives. This is because cooperative legislation is basically a state subject whereas many of the other laws that apply to cooperatives are central laws. In the circumstances, a facilitating factor could be that Government's public policy, including those on the economy, taxation, agriculture and labour, clearly recognise, respect and encourage the role of autonomous, self reliant cooperatives as important enterprises in the national economy policy. Such a policy could serve as an important input to enable Parliament and legislatures to decide about bills on cooperative legislation and other laws that impact cooperatives and cooperative development.

10. Views of some of the organizations on the route(s) to cooperative development

- 10.1. In the early nineties the Institute of Rural Management published the proceedings of a symposium on the management of rural cooperatives. This work suggested that considerable improvement could result in India's rural cooperatives through improvements in three distinct areas. They are; better governance, an enabling policy environment and superior organizational design. The work also suggested that there are, however, limits to improvement if only one of the three areas is acted upon. The work made two conclusions. It put forth the recommendation that if there are simultaneous efforts to bring about positive changes in all the three areas the resulting tremendous synergy will, in all likelihood, help the Indian cooperative movement shake off its slumber and assume its rightful role in Indian development. It also indicated that the first step to kick start the Indian cooperatives and launch them on the road to democratic development has to be legal and policy reform.
- 10.2. In a recent paper the CDF Hyderabad mentioned that four choices are available to state governments who are reviewing their state cooperative laws with the intention that cooperatives can work in a more liberal atmosphere. They are;
 - 10.2.1. To enact a new cooperative law and give all cooperatives at least as much freedom as is available to other forms of business, so that they can compete on a more level playing ground and repeal the existing law;
 - 10.2.2. To amend the existing cooperative law selectively or to incorporate a separate chapter in the existing law, so that it offers two different sets of legal environment for two different types of cooperatives, namely government dependent cooperatives, and self reliant (not necessarily self-sufficient) cooperatives;
 - 10.2.3. To amend in part the existing cooperative law so that it is not quite unreasonable as it is today; and
 - 10.2.4. To enact parallel cooperative law for such existing cooperatives and all new cooperatives, which are member driven, and raise equity entirely from their members,

and therefore, in which there can be no government share capital or government ownership.

- 10.3. CDF has explained that the ground reality is that there are at least two types of “cooperatives”. One type that have come into existence at the instance of the government, to fulfil an important public service, such as channelling cheap credit, or subsidised goods, or for distress procurement etc. The other type of cooperative are those which may have come into being with the encouragement of the government, but which essentially tries to meet its members needs, and is driven by the desire to fulfil their needs, not the needs of the larger public.
- 10.4. CDF therefore argues that the question of having one single, truly liberal law does not arise. This is because it may not be correct to give the first type of “cooperatives” complete freedom since it performs an important function as a public agency, will close down if government subsidies are removed and there can be no objection to such “cooperatives” being controlled by the government. Since there is this added problem that courts have been treating cooperatives as part of the state and accepting writs against them, it appears necessary to have a clear distinction between the two types of cooperatives. It is for these reasons and a number of other equally sound arguments that the CDF advocates two cooperative laws as a win win situation; one for public service and government resource dependent cooperatives and the other for member service equity based cooperatives.
- 10.5. On the other hand there are arguments that the progressive parallel cooperative legislation will prospectively take too long to ensure that producer controlled organizations have a viable and sustainable place in the market economy. Nor can it be expected that the reforms will take place nationwide. Since other options for such producers organizations such as registration as societies or public trusts are inherently unsuitable to commercial enterprises, it is proposed that producers may form a producers company since the Companies Act offers a statutory and regulatory framework that allows for competition on an equal footing with other forms of enterprise. This proposal is based on a legislative approach retaining the principles of mutual assistance that emphasise 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.
- 10.6. Till about a year ago, the NCUI - the country’s apex cooperative - campaigned for amendments only to existing cooperative laws and desired that the duly amended law should give all cooperatives (government dominated, member driven or any other variety) at least as much freedom as is available to other forms of business. Since the past year the NCUI has become more broad based in its approach. In addition to reform of existing cooperative law, the NCUI is now showing a positive inclination to support parallel progressive cooperative laws in the states. In anticipation of the Multi State Cooperative Societies Bill 2000 removing most of the

restrictions that currently apply in the Multi State Cooperative Societies Act, 1984, the NCUI does not contemplate advocating, for the time being, a central parallel progressive cooperative law. On the other hand, the NCUI has expressed its reservations on the proposed legislation that will enable cooperatives to convert themselves into producer companies even though supporters of the proposed legislation are clear that such producers companies will retain their cooperative character and there will be adequate safeguards against demutualisation.

- 10.7. The concerns and views of the NCUI are: The proposed legislation does not elaborate on how it will actually help in overcoming the existing gaps and obstacles to eliminate middlemen and enable marketing of rural produce in a modern, professional and stable manner. The level of education of 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.
- 10.8. Some of the other observations of the NCUI are: Cooperatives should continue to avail government assistance but lobby for cooperative legislation that can minimise government interference. The proposed legislation does not impose any compulsion and penalty on producer companies that may not adhere to the cooperative principles. Also, it does not provide for any monitoring agencies for this purpose. The NCUI has reservations on some specific sections of the proposed producer company legislation. They are: payment of substantial registration fees and frequent payments as filing fees, absence of patronage voting when members comprise both individuals and corporates, issue of bonus shares not being linked with usage, absence of force majeure provisions while complying with deadlines to hold AGM etc, difficulties in complying with the provision to appoint a company secretary for producer companies having a turnover exceeding Rs. 50 million, scope to hold the AGM in any place of its business in India and emphasis on debt rather than equity. Meanwhile senior leaders of the cooperative movement have already initiated a dialogue to address the observations of the NCUI and to identify ways to collectively move ahead with the proposal.
- 10.9. The debate about the efficacy and need for producers companies may continue for some more time. The ICA statement on cooperative identity does not make any reference to which law a cooperative should be registered under to qualify as a cooperative. In fact, the scope of the ICA statement is so wide that enterprises not registered under any law can also qualify as a cooperative so long as such an enterprise conforms to the provisions of the ICA statement. It is a different matter that in

India no organization that is not registered under a cooperative law can use the word 'cooperative' in its name. But there are several examples of different countries permitting registration of cooperatives under company law.

- 10.10. What may be said at this stage is that the proposed legislation is only another effort to provide agriculture and producers cooperatives the option to voluntarily register under a cooperative legislation that they believe is best suited to their membership and interests. If such is the view of an important and sizeable section of the cooperative movement representing genuine cooperatives there would be compelling reasons for the Government to consider progressing a legislation on producers companies. Liberalization and globalization is essentially about comparative advantage, competitive advantage and about providing as many choices and opportunities that may be legally possible to consumers and organizations alike. In the circumstances the concept of producers companies is definitely a legal frame work that is entirely consistent with the Government's new economic policy. It does appear that it will be difficult for Government to ignore the demand for the producers company legislation.

11. Summing up

- 11.1. There is perhaps little disagreement amongst politicians, legislators, officials, government and other constituents of civil society about the goodness of cooperation and its relevance and importance for the development of our people. Their differences lie in the manner in which cooperative development should be pursued. The Prime Minister recently announced that the intention of the central Government to reduce its work force by 10 per cent by 2004. The state governments would have to follow suit since other wise they will be unable to cope with the pressures of offering a viable system of governance. The Finance Minister is also keen to undertake a massive reform in government expenditure and has duly constituted a commission for this purpose. In such an emerging scenario the practice of governments deputing their officials to man key posts in cooperatives would also soon end. The obligations on governments to curtail their burgeoning budget deficits is bound to make aid and assistance to cooperatives one of the first casualties. In short, state partnership as the solution to cooperative development will soon be *passé*.
- 11.2. In 1954 the Gorwala committee had said in the context of rural credit: "Cooperation has failed, but Cooperation must succeed". In 2001 India's new slogan could perhaps be: "Major partnerships by governments with cooperatives have failed in cooperative development. But cooperative development must succeed". In a socialistic pattern of society autonomy and independence of cooperatives was generally a non-issue. This is because even if the State was not supposed to vest itself with the ownership and control of the necessary means and resources for production, capital, land etc, it certainly meant 'equal opportunity to each individual for progress' and 'socio-economic reform'. A major partnership of the State with cooperatives since

the late fifties and the nationalisation of key and core industries in the late sixties and seventies were in line with the thinking of the State in those times. The situation has changed. The State no longer wants to achieve the commanding heights of the economy through a socialistic pattern of society.

- 11.3. The approach now is to achieve “quality growth” by confining the State to the essentials of governance and letting the market decide the course of development. But the transition is proving to be tough and progress is slow. In an era of coalition politics where fates of governments hang in fragile balance it is difficult for them to carry out reforms without duly considering and duly accommodating the ideology and interests of one partner or another. Therefore, political parties in power feel the solution lies in governments pursuing only common minimum agendas rather than optimum and appropriate solutions. The net result is that industry has been the main beneficiary of the policies of deregulation and liberalization. Little has been done to liberate agriculture and cooperation. The problem is compounded by a significant section of the cooperative movement demanding that while government assistance and aid must continue to flow to cooperatives, governments must cease to interfere in the management and operations of cooperatives. This position is not tenable since it is like having ones cake and eating it too.
- 11.4. The Vision 2005 booklet developed by the National Resource Centre of the NCUI offers perhaps the most comprehensive information that is available about the Indian cooperative movement. While these efforts are laudatory, it needs to be recognised that the information is based purely on secondary sources. What now needs to be done is to commission an in depth nation wide ‘cooperative survey’ that would not just verify and validate the macro economic picture presented in the booklet but help in gaining major insights about the profile of the cooperative movement in terms of: paper cooperatives, defunct cooperatives, viability, financial results, autonomy, periodicity of elections, levels of participation by government and statutory bodies in cooperatives through equity, loans, grants and other financial assistance, degree of association of government personnel and statutory bodies with cooperatives through deputation and otherwise, audit, supersession, influence of cooperative legislation in the working of cooperatives, how important rulings of the courts have swayed the course of cooperative development, etc. This survey should be carried out for each sector and tier of the cooperative movement.
- 11.5. The other equally important objective of the cooperative survey should be to periodically classify all cooperatives on the basis of a cooperative development index, say once in two years. On a scale of 0 to 10, cooperatives should be bench marked for their conformity with the ICIS and all other relevant parameters. The exact scheme and methodology of the cooperative survey and cooperative development index could be worked out by a group of cooperative experts that may be constituted by the NCUI. The recommendations of this group should then be considered by the NCUI and after making such modifications as may be necessary, the NCUI should for-

mally approve the concept and methodology so that the cooperative development index gains credibility and respect. This is possible if the methodology is defined in a manner to ensure transparency and the highest levels of integrity.

- 11.6. The resources, both financial and otherwise, for an in depth cooperative survey on the lines explained should not be difficult to mobilise given the vast resources that are already at the disposal of the NCCT and the ability of the large national cooperative societies and other lead cooperatives to contribute financially for this crucial task. The cooperative survey will serve many purposes. They include; Classifying cooperatives into say categories A, B and C for the purposes of cooperative development. Category A cooperatives would be those that can anyway take care of their cooperative development needs without external support. Category B cooperatives would be those that can partially generate resources for cooperative development and need only appropriate support to gain ground. Category C cooperatives would be those where it would be futile to invest in cooperative development since it may be a waste of scarce resources.
- 11.7. The results of the cooperative survey would help the cooperative movement to justify aid and assistance from governments, other agencies and federal bodies to at least the deserving cooperatives on a continuous or tapering basis. In other words, the cooperative development index would help in justifying an increasing flow of resources and incentives to those cooperatives that are actually improving and bettering themselves.
- 11.8. Lastly, the NCUI should consider commissioning a professional study on the impact of parallel progressive legislation in cooperative development. Since there are now four states where such parallel cooperative laws are in place it would be useful to gain insights into how an enabling cooperative legislation aids cooperative development. This study could be followed up by a national seminar to work out strategies for speedier cooperative development through reforms in cooperative legislation.

12. Conclusion and recommendations

- 12.1. On Autonomy and Independence: *Whether hitherto government led cooperatives been able to change their true nature into becoming more autonomous, member controlled institutions, without sacrificing any of their values and principles in the realm of socio political conditions prevailing in that country?*
 - 12.1.1. In India cooperation is basically a state (provincial) subject. There are about 32 pieces of cooperative legislation that are currently in force in different states. In addition, there is a federal cooperative legislation when the area of operations of a cooperative extends beyond any single state. In recent years five states – led by Andhra Pradesh in 1995 - have put in place cooperative legislation that is parallel to the existing cooperative legislation in their state. Cooperatives registered under parallel legislation enjoy complete autonomy and independence consistent with resolution No. 1 of the BJD. The original legislation which also remains in force contin-

ues to regulate all those cooperatives that enjoy major partnerships with governments through facilities such as government equity, loans, guarantees and are manned at the top levels by government officers. The interesting feature of parallel legislation is that cooperatives registered under the original legislation can choose to register under - migrate to - the parallel cooperative legislation if they can repatriate government equity, pay back government loans and accept to operate sans government assistance. The Andhra Pradesh experience on parallel cooperative legislation indicates that hitherto government led cooperatives have been able to change their true nature into becoming more autonomous, member controlled institutions, without sacrificing any of their values and principles.

- 12.1.2. One part of the cooperative movement is also demanding cooperative legislation to be built into company law such that it can enable cooperatives to convert themselves into producer companies. Such an approach is being advocated to provide large agri-business cooperatives a level playing field with their competitors who are anyway registered under India's very liberal and progressive company law. They argue that this proposal would free large agri-business cooperatives from being bound by cooperative legislation of individual states. Consequently, cooperatives would be free to define their area of operations through out India, much in the same manner as any other private enterprise. The proponents of producers company argue that cooperative legislation can be included as a separate chapter in the existing company law so that producers companies will not just continue to retain their cooperative character but would be subject to necessary and sufficient safeguards from any kind of demutualisation. But there is another portion of the cooperative movement that has reservations and concern about the intended legislation on producers companies. The merits and efficacy of such an approach to cooperative legislation is currently a matter of discussion and debate between senior leaders of India's cooperative movement. However, the cooperative movement is generally agreed on one key issue. It believes that cooperative legislation must protect and preserve the cooperative identity and yet offer, at the least, all the flexibility and advantages that are available to corporations and other forms of enterprise.
- 12.1.3. Amongst the remaining twenty five states in India quite a few are already seriously considering the adoption of parallel cooperative legislation. It is expected that this trend may intensify further. The issue about cooperative legislation that can permit cooperatives to be converted to producers companies is being negotiated between different groups of the cooperative movement from their common and agreed interest that such legislation must preserve and protect the cooperative identity and contain all necessary safeguards to prevent demutualisation.
- 12.2. On Legal Existence: *Whether the distinct nature of cooperatives has been recognised by law or government policies?*
 - 12.2.1. In India, the distinct nature of cooperatives have been recognised both by law and by government policies. However, except some of India's parallel cooperative legisla-

tion, none of the other cooperative legislations specifically quote and reproduce the International Cooperative Identity Statement (ICIS) as such. Instead, most cooperative legislation include an annex that broadly explain the cooperative principles. In fact, even the new federal cooperative legislation currently tabled in the Indian Parliament does not include the ICIS portions relating to the definition and values of cooperatives but only mentions the cooperative principles contained in the ICIS. Except under parallel cooperative legislation, cooperatives are not permitted to undertake new forms of initiative such as establishing subsidiary enterprises under other laws on their own accord. There are also various restrictions on investments by cooperatives and the manner in which they carry out their business. In some states the principle of open and voluntary membership and democratic member control are severely compromised since it is the government that has the last word on both membership and control of the cooperative.

- 12.3. On Recognition: *Whether cooperatives are recognised on what cooperatives are and what cooperatives can actually do in promoting civil society?*
 - 12.3.1. In India cooperatives have been always considered to be instruments of socio-economic development promoted by the state. Consequently, despite its large size, the Indian cooperative movement has a number of weaknesses. These include lack of local leadership, complicated rules and regulations, lack of resources, lack of imaginative management and a general frustration amongst members because their hopes have not been fulfilled. State partnership with cooperatives have not helped to sort matters much. If anything, such an approach has lent itself to attract the politician, the bureaucrat and by extension, the government, to meddle in and run interference in its affairs. The two notable exceptions to this phenomenon, especially in the rural sector, have been the dairy and sugar cooperatives. Both the dairy and sugar cooperatives have made substantial and significant contributions to promoting civil society. The new generation cooperatives that are emerging through parallel cooperative legislation in states like Andhra Pradesh are also beginning to make a mark in the manner in which genuine cooperatives can positively impact civil society.
- 12.4. On fair playing field: *Whether cooperatives are allowed to operate under equal footing with other enterprises in order to realise their full potential?*
 - 12.4.1. Except the parallel progressive cooperative legislation, all cooperative laws provide a substantial role for the State in cooperative development. The trends that have developed since independence show that there has been fast growth of cooperative activity – through increased governmental aid. But with this flow of aid there has been stronger and tighter control of the Government over the movement through incorporation of restrictive features in cooperative legislation, inhibiting cooperative leadership, generating member apathy and curbing local initiative at the grass roots. The restrictive provisions that are present in the cooperative laws include compulsory amendment of bye-laws by the Registrar, power of government to nominate directors on the committee of management, powers of government to veto an-

nul/rescind resolutions, powers of Registrar/government to give directives, supersession/suspension of the committee of management, automatic supersession of the management committee or board of directors, restriction on term of office of office bearers of cooperative societies, restriction on holding office in more than one cooperative society simultaneously and, compulsory amalgamation and division of societies by the Registrar.

- 12.4.2. In all states and union territories, cooperative development is aided through a mandatory share (normally one per cent) of the profits of each cooperative to a cooperative education fund to be maintained by the state cooperative union of that state. Expenditure from the cooperative education fund is authorised by a committee that has a significant number of government officials as its members. The expenditure from the cooperative education fund is supplemented by various government grants against budgeted provisions for cooperative development and assistance. The same arrangement also applies to multi state cooperatives. In addition, some of the state governments and the central Government provide fairly comprehensive support and assistance to the cooperative movement in various ways. The consequence of all such aid and support by the government in cooperative education and training has two sides. On the one side it has the potential to create and nurture a valuable human resource system that can accelerate cooperative development. On the other side, as has often happened in the past, it has the tendency to get politicised, bureaucratized and insensitive to the genuine needs of the cooperatives and their members.
- 12.5. *On Self Regulation: Whether governments are determined to set legal boundaries for cooperatives to control their own legislative requirements?*
- 12.5.1. The parallel cooperative legislation provides substantial scope for self-regulation by cooperatives. This indicates that if governments are determined they can clearly set legal boundaries for cooperatives to further define their own legislative requirements. On the other hand, most cooperative legislation in India is overly prescriptive and contain a plethora of rules invariably providing for the Registrar to execute regulatory and control functions that the cooperative ought to any way do so by themselves.
- 12.6. *On Captialisation: Whether there are risks and/or potential among cooperatives to mobilise additional resources over their basic share capital?*
- 12.6.1. In India, except parallel cooperative legislation, all cooperative legislation provide for mobilization of additional resources through government assistance – such as contribution to equity, loans, grants, and land at highly concessional value. Such an approach has inevitably made the state a dominant force in the affairs of the cooperative. Efforts in disengaging the state from its excessive involvement in cooperatives inevitably flounders on the issue of how government contributions to the capital of the cooperative could be repaid by the membership. Even in instances where the cooperative is able to return government capital, governments are often hesitant

to accept such repatriations since it would lead to governments losing control over such cooperatives. Further more, except for parallel cooperative legislation, cooperative laws do not permit cooperatives to raise capital from the market through methods that are innovative enough to meet the cooperatives need for capital and at the same time retain member control.

- 12.7. On Official Development Assistance: *Whether there is a thrust and orientation amongst cooperatives to take good advantage of development assistance both from bilateral and multilateral institutions for their autonomous and independent growth and development?*
- 12.7.1. Parallel cooperative legislation in India has evolved in the past six years because of sustained efforts by a number of informed cooperators and forward looking institutions to achieve reforms in cooperative legislation through workable and practical solutions. Apparently, the choice of some of India's states to have parallel cooperative legislation seems to be unique in the world. In particular, funding and development institutions such as the National Dairy Development Board of India have taken major initiatives to encourage formation of dairy cooperatives under parallel cooperative legislation in Andhra Pradesh. Similarly, the Cooperative Development Foundation, Hyderabad has facilitated the formation of a number of new generation cooperatives under the parallel cooperative legislation in Andhra Pradesh involving thrift and credit and agriculture. Efforts are under way in some more states for enactment of parallel cooperative legislation. Increasingly, it will be the new generation cooperatives registered under parallel cooperative legislation that are best positioned to take good advantage of development assistance both from bilateral and multilateral institutions without risking their autonomy and independence.
- 12.8. On Networking: *Whether there are fresh opportunities to be pursued by both governments and cooperatives before and after the sixth ministers conference scheduled for Nepal in March 2002?*
- 12.8.1. While governments are progressively divesting (denationalising) State owned industries, there is little to indicate whether it intends to perform a similar act with cooperatives. Divestment of State owned corporations yields substantial returns to the exchequer and is a crucial incentive to governments to divest. But this is not the case with cooperatives where governments will essentially have to write off their equity and loans as a one time exercise. The main incentive to governments in disengaging from cooperatives would be that they would no longer be required to continue committing their increasingly scarce financial resources to cooperatives.
- 12.8.2. There is perhaps little disagreement amongst politicians, legislators, officials, government and other constituents of civil society about the goodness of cooperation and its relevance and importance for the development of our people. Their differences lie in the manner in which cooperative development should be pursued. The obligations on governments to curtail their burgeoning budget deficits and the cen-

tral Government's serious initiatives at expenditure reforms is bound to make aid and assistance to cooperatives one of the first casualties.

- 12.8.3. However, a significant section of the cooperative movement continues to demand that while government aid and assistance must continue to flow to cooperatives, governments must cease to interfere in the management and operations of cooperatives. This position appears untenable since it is like having one's cake and eating it too. A middle path solution lies in evolving a plan where governments not just liberate cooperatives in the first instance but also commit themselves to a plan that tapers their assistance and aid to cooperatives in a diminishing manner over a period of five years or so. At the end of such a period, those cooperatives that are unable to perform in a productive and efficient manner may be allowed to fold up. Such a suggestion can be implemented by undertaking a comprehensive survey to classify cooperatives into categories A, B and C. Category A cooperatives would be those that can anyway take care of their cooperative development needs without external support. Category B cooperatives would be those that can partially generate resources for cooperative development and need only appropriate support to gain ground. Category C cooperatives would be those where it would be futile to invest in cooperative development since it may be a waste of scarce resources.
- 12.8.4. The concept of parallel progressive legislation is a unique solution in the Indian context to achieve disengagement of the state from their deep and pervasive role in cooperatives and cooperative development. Therefore, the remaining twenty five states in India should actively consider the merits of adopting parallel cooperative legislation. Perhaps, the central Government should consider assisting such a process by offering a significant package of incentives to the states that adopt parallel cooperative legislation. A comprehensive study followed by a national seminar on how parallel progressive cooperative legislation in the states can accelerate cooperative development can also contribute to this process.
- 12.8.5. The issue about cooperative legislation that can permit cooperatives to be converted to producers companies, especially large agri-business cooperatives needs to be considered from the common and agreed interest of the cooperative movement that good cooperative legislation must preserve and protect the cooperative identity and prohibit demutualisation by incorporating all necessary and sufficient safeguards.
- 12.8.6. Finally, it is crucial to conduct an in depth nation wide cooperative survey to assess the 'quality' of the cooperative movement and formulate a cooperative development index that could be periodically revised to justify an increasing flow of resources and incentives for the development of those cooperative that are actually improving and bettering themselves.

Indonesia

1. Social Profile:

- 1.1. The population of Indonesia was around 224.7 million in July 2000 with a growth rate of 1.63 per cent. In 1998 Indonesia had a Human Development Index of 0.670 and was ranked 109 (Medium HD). Other important macro indicators of social development are given in the appendix.

2. Economy – overview

- 2.1. The Indonesian economy stabilized in 1999, following the sharp contraction and high inflation of 1998. By following tight monetary policy, the government reduced inflation from over 70 percent in 1998 to 2 percent in 1999. Although interest rates spiked as high as 70 percent in response to the monetary contraction, they fell rapidly to the 10 percent to 15 percent range. The economy stopped its free-fall as GDP showed some growth in the second half of 1999, although GDP for the year as a whole showed no growth. The government managed to recapitalise a handful of private banks and has begun recapitalising the state-owned banking sector. New lending, however, remains almost unavailable as banks continue to be wary of issuing new debt in an environment where little progress has been made in restructuring the huge burden of outstanding debts. IMF payments were suspended late in 1999 due to some disagreements between the government and IMF in the implementation of the letter of intent. The government has forecast growth of 3.8 percent for FY 00/01. The spread of sectarian violence and continuing dissatisfaction with the pace of bank and debt restructuring will make it difficult for Indonesia to attract private investment. Important indicators of economic development are given in the appendix.
- 2.2. Much of the cautious optimism toward Indonesia in the second half of 1999 stems from the political successes Indonesia achieved since former President Suharto resigned in May 1998. In that time, Indonesia has lifted press restrictions, held a peaceful, free and fair multi-party general election in June 1999 and installed a democratically elected president in October 1999. The new President, K.H. Aburrahman Wahid, is broadly acceptable to all political groupings. The subsequent selection as Vice President of Megawati Soekarnoputri, leader of the party which came in first in the June polls, heralded the selection of a multi-party “national

unity” cabinet.

- 2.3. Indonesia still faces daunting economic problems. Foreign capital fled in the early months of the financial crisis and is returning only slowly. The business sector is struggling to service existing foreign debts at the weaker exchange rate. The banking sector has not become active; banks are making few new loans and debtors are servicing even fewer old ones. In mid-1999, the role of Indonesian Bank Restructuring Agency (IBRA), whose credibility with both the domestic and international business community is crucial to Indonesia’s economic recovery, came under some differences with the IMF.
- 2.4. The IMF and its stabilization program have been the overriding economic fact of life in Indonesia since November 1997. The IMF suspended payments to Indonesia in September 1999 until the Bank Bali affair was resolved. The election of a new president and the belated release of an independent audit of the Bank Bali affair in November led the IMF to begin negotiations on a new three-year program. The target is to sign a new letter of intent by mid-January.
- 2.5. Despite the continued financial turmoil, there remain deep underlying strengths in the Indonesian economy. Indonesia is the world’s fourth largest country and the anchor of Southeast Asia politically and economically. The emerging middle class is slowly resuming consumer spending and represents a huge and growing potential market. The country has a strategic location, a large labour force earning relatively low wages and abundant natural resources. Once largely dependent on petroleum, natural gas, and commodities such as coffee, tea, rubber, timber, and palm oil, Indonesia again found those sectors to be a solid economic foundation when the crisis hit. Regions such as Sumatra and Sulawesi that have strong, agricultural commodity-based economies survived the crisis with only minor disruptions. In 1998, Indonesian agricultural exports rose some 17 percent in U.S. dollar terms, as farmers rushed to take advantage of the windfall brought about by the weak rupiah, and fell only slightly in the first half of 1999. Industrial exports in 1998 fell just over 1 percent. Indonesian exports to the U.S. have remained steady throughout the crisis at around \$9.3 billion a year. Total imports fell by 35 percent in 1998 over 1997. Imports from the U.S. fell by almost half from 1997 to 1998 and by another 15 percent in the first half of 1999.
- 2.6. The Indonesian Government has historically maintained a “balanced” budget: expenditures were covered by the sum of domestic revenues and foreign aid and borrowing, without resort to domestic borrowing. Often the government ended the year with a slight surplus. This remains the government’s long term goal. The new government says it expects the gap between domestic revenues and expenditures to remain for several years although some of the budgetary pressure has been relieved by the rise in oil prices in the latter half of 1999. The budgetary gap in the 1999/2000 fiscal year, which will need to be covered by foreign assistance, is expected to be in the range of 4 to 5 percent.

- 2.7. In parallel with its fiscal policy, the Indonesian Government earned a reputation for prudent monetary policy in recent years that helped keep consumer price inflation in the single digits. However, the massive depreciation of the rupiah that began in mid-1997 and huge liquidity injections into the banking system contributed to significant inflation. Indonesian monetary authorities dampened inflationary pressure and reduced pressure on the exchange rate by controlling the growth of the money supply.
 - 2.8. The government has made steady progress in trade and investment deregulation. Periodic “deregulation packages” of liberalization measures lowered investment barriers and instituted a program of comprehensive tariff reduction by staged cuts. The goal is to reduce all tariffs in the 1 to 20 percent range to 5 percent or less by 2000, and to reduce all tariffs in the 20 percent and higher range to 10 percent or less by 2003. Although the deregulation packages made comparatively less progress in reducing non-tariff barriers, the government’s collaboration with the International Monetary Fund (IMF) since November 1997 prompted much bolder measures, ending most import monopolies and gradually opening Indonesia’s closed distribution system. The program also includes a commitment to eliminate all non-tariff barriers over the program period.
 - 2.9. **Structural Policies:** In October 1997, deteriorating conditions led Indonesia to request support from the International Monetary Fund (IMF). The government signed its first Letter of Intent with the IMF on October 31, 1997. The letter called for a three-year economic stabilization and recovery program, supported by loans from the IMF (\$10 billion), the World Bank, the Asian Development Bank, and bilateral donors. Apart from financial support, the international community also offered detailed technical assistance to the government. Foreign governments and private organizations also contributed food and other humanitarian assistance.
 - 2.10. Indonesia’s agreement with the IMF has been revised repeatedly in response to deteriorating macroeconomic conditions and political changes. The result is a complex, multi-faceted program to address macroeconomic imbalances, financial weaknesses, real sector inefficiencies, and the loss of private sector confidence. In November 1999, the IMF resumed negotiations with the government with the aim of drafting a new letter of intent to take account of changing circumstances and the new government’s priorities.
- 3. The cooperative movement of Indonesia:**
- 3.1. The cooperative movement in Indonesia dates back to the early twentieth century when the credit cooperatives were formed in Central Java district. The movement gained ground in 1908 through the birth of the Budi Utomo movement. The first Cooperative Act was passed in Indonesia in 1927. A systematic approach to the development of cooperatives was adopted at the end of the first five year plan in 1973. These five year plans emphasised allocation of resources to rural areas for improvement of infrastructure, introduction of new technologies and creating other

facilities, all with a view to support agricultural development programmes, but more particularly increase food production. The government required a suitable framework to support this extensive development programme. It also wanted to secure the active participation of the rural population, especially farmers. Rural cooperatives therefore became an inseparable part of the programme. Accordingly, government support to rural cooperatives was meant to serve the national objectives of self-sufficiency in food and increasing incomes of farmers.

- 3.2. A detailed profile of the Indonesian cooperative movement, its challenges and future prospects have been provided in the first study report and therefore its repetition is avoided here. However, it would be important to list in this report the issues that have emerged since the completion of the first study in 1997. The un-audited statistics on the Indonesian cooperative movement for 1999 indicate about 89,900 active cooperatives, a primary membership of 22.5 million, assets worth Rupiah 5.2 trillion and an aggregate business turnover of Rupiah 22.2 trillion. The national apex of all types and sectors of cooperatives in Indonesia is Dewan Koperasi Indonesia (DEKOPIN). It was established in 1947 and its membership includes cooperatives belonging to different sectors such as agriculture, fisheries, credit, workers, banking, consumers, housing, insurance and services. DEKOPIN is responsible for cooperative advocacy, promoting business development, education and training.
- 3.3. Historically, the government has had a major role in cooperatives and cooperative development. The Minister in-charge of cooperatives used to be an important figure in the affairs of cooperatives. However, in the days following the economic crisis of 1997, government perception about its role in cooperatives and what cooperatives can achieve through an enabling environment has changed significantly. The government has generally recognised that the existing cooperative has not helped in fulfilling the aspirations of its members and cooperatives have exhibited a dependency syndrome on the government. There has also been a perception that cooperatives are no different than companies. In 1999 the government emerged with a view that cooperatives are the responsibility of the people themselves and it is not the responsibility of the government. Accordingly, the government has encouraged initiatives to prepare a new bill on cooperative legislation. The government intends to incorporate two important issues in the new bill on cooperative legislation, namely that cooperatives shall be autonomous and independent organizations and the government will only act as a facilitator without making any intervention in the affairs of cooperatives.
- 3.4. Last year, the World Bank approached the State Minister for Cooperatives and Small and Medium Enterprises and the Bureau of National Planning to consider undertaking reforms in the cooperative legislation of the country. Thereafter, the government entered into an agreement with the World Bank in May 2000 to entrust the LSP2i to prepare a document on the changes and reforms to be made in the cooperative law of the country. Supported by the World Bank the LSP2i is carrying out a series of

workshops to arrive at its recommendations. These workshops are being held in a cascading manner, beginning with grass root primaries through the regions and finally at the national level. At each level the workshops have sought the participation of not just members of cooperatives and their leaders but academics, professionals and others involved in the cooperative movement of the country. This exercise commenced in May 2000 and it culminated through an iterative process in a national level workshop in end February 2001.

- 3.5. It is now anticipated that the final recommendations of the national level steering committee would be ready for consideration of legislation by the government in another few months. The recommended legislation is likely to be in the nature of a general cooperative law with provisions for laws to be made for specific sectors of the cooperative movement. In the event of any contradiction between the two laws, the general cooperative law would prevail. Broadly, the recommended legislation would *inter alia* not just provide for autonomous and vibrant cooperatives but provide for redefining the regulatory function of government to the bare essentials.
- 3.6. On the other hand, DEKOPIN is also progressing matters relating to reforms in cooperative legislation. Based on an internal review DEKOPIN believes that the new cooperative legislation must provide a clear role for DEKOPIN. It is observed by DEKOPIN that while there may be around 90,000 registered cooperatives, a reality check in terms of proximity to cooperative principles would reveal that there are no more than 20,000 cooperatives. This is reportedly because twenty persons can get together and form a cooperative with no economic or relevant activity. Therefore, one of DEKOPIN's suggestions is that the new cooperative legislation should provide for registration of cooperatives by the government only upon receipt of a no objection certificate (NOC) from DEKOPIN. This recommendation emerges from DEKOPIN's belief that the new legislation must unambiguously recognise DEKOPIN as the apex body of all cooperatives in the country.
- 3.7. Till 1998-99 the government provided about Rupiah 20 billion as aid to DEKOPIN, accounting for eighty per cent of DEKOPIN's annual expenditure. Therefore, DEKOPIN has launched an ambitious master plan to become financially independent of government support within the next five years. This master plan includes a business plan to make its 26 district unions (DEKOPINDA) self reliant. The DEKOPINDA's presently have an annual expenditure of about Rupiah 40 million each. About one third of the current members of Parliament have concern for cooperatives and all of them have been associated with cooperatives in some way or the other. DEKOPIN proposes to use this group of members of Parliament to influence the passage of a new cooperative legislation.
- 3.8. So far, the cooperative department has been responsible for carrying out both regulatory and developmental functions. Consistent with this requirement, the cooperative department had about 16,000 employees on its rolls till 1999. However, earlier this year the government initiated a massive restructuring of the Ministry of Coop-

eratives, Small and Medium Enterprises and has also reduced its status from being a full fledged ministry. Consequently, the number of employees working in the cooperative department have been drastically reduced and they have been redeployed to serve in the local governments to perform a similar role. This action of the government is an indicator of its seriousness to disengage from cooperatives and let the members of the cooperative manage their own affairs.

4. Conclusion and recommendations

4.1. *On Autonomy and Independence: Whether hitherto government led cooperatives been able to change their true nature into becoming more autonomous, member controlled institutions, without sacrificing any of their values and principles in the realm of socio political conditions prevailing in that country?*

4.1.1. Indonesia's cooperative movement has always had major dependencies on the government for all its activities. It is now poised at a point in time where it has a good chance to break free. After the 1997 crisis, the government seems to have made up its mind that its members must manage the affairs of cooperatives. However, it is the passage of a new cooperative legislation that will actually break the ground for such a change. A sizeable portion of the cooperative movement led by autonomous institutions like the LSP2i have concluded a year long iterative exercise - beginning with primary members at the grass roots - to arrive at the nature of changes that need to be made in the existing cooperative law. The recommendations of LSP2i have been finalized and are under consideration of the Drafting Committee comprising ten senior and experienced persons involved in the cooperative movement and three representatives of the government. The draft cooperative bill - as prepared by the Drafting Committee - will be submitted by the LSP2i to the government by well before the end of 2001. Meanwhile, DEKOPIN, the apex cooperative of Indonesia and recognised as such by the government, has also undertaken an internal review of the changes to be made in the existing cooperative legislation and have placed their recommendations before the appropriate body in Parliament.

4.1.2. So, cooperatives cannot be said to have become more autonomous and independent. Neither have government led cooperatives been able to change their true nature - not as yet. But it is expected that a year down the line - once the new enabling cooperative legislation is approved by the Parliament - a major transformation of government led cooperatives to cooperatives based on the ICIS is waiting to happen. In the process a large number of cooperatives like the KUDs could get de-recognised. If this were to happen the remaining cooperatives - currently a small fraction of the present cooperative movement - could become the torch bearers for ushering a new generation of genuine cooperatives in Indonesia.

4.2. *On Legal Existence: Whether the distinct nature of cooperatives has been recognised by law or government policies?*

4.2.1. In Indonesia, the distinct nature of cooperatives has been recognised both by law and

through government policies. But cooperatives have been generally considered as instruments of government's development programmes. To that extent it may be said that government recognition of cooperatives impacts cooperative development in an unconstructive manner.

- 4.3. On Recognition: *Whether cooperatives are recognised on what cooperatives are and what cooperatives can actually do in promoting civil society?*
- 4.3.1. In the multi-dimensional crisis triggered by the financial crisis of 1997, many cooperatives – most of which were dependent on the government – had problems and only a small number could surmount the impact of the crisis. Cooperatives that remained true to their identity, such as the thrift and savings credit unions and the dairy cooperatives are private initiative grass roots led movements making important contributions to the promotion of civil society.
- 4.4. On fair playing field: *Whether cooperatives are allowed to operate under equal footing with other enterprises in order to realise their full potential?*
- 4.4.1. While cooperatives in Indonesia have a playing field comparable to other forms of business enterprises, they have been unable to put in place systems and strategies that could enable them to compete successfully in the market place. The proposed changes in cooperative legislation, if finally passed by Parliament, could go a long way in enabling cooperatives to redesign and re-engineer themselves to achieve their potential.
- 4.5. On Self Regulation: *Whether cooperatives are allowed to operate under equal footing with other enterprises in order to realise their full potential?*
- 4.5.1. The existing cooperative legislation does not provide for cooperatives to progress or adopt self regulation. Till a decade ago, credit institutions owned by 20 or more persons, mostly local elites, used the term 'cooperative' only to access special privileges and to seek exemption of their credit institutions from the Banking Laws and the supervision of the Bank Indonesia (Central Bank). The new proposed legislation contains appropriate provisions to encourage self regulation by cooperatives within an overall positive regulatory framework.
- 4.6. On Captialisation: *Whether there are risks and/or potential among cooperatives to mobilise additional resources over their basic share capital?*
- 4.6.1. In Indonesia, cooperatives can raise additional capital through borrowings from other cooperative societies, banks, financial institutions, issuance of bonds and through share capital from government. Consequently, both government and financial institutions have a major influence in the policies and programmes of cooperatives they have financed.
- 4.7. On Official Development Assistance: *Whether there is a thrust and orientation amongst cooperatives to take good advantage of development assistance both from*

bilateral and multilateral institutions for their autonomous and independent growth and development?

- 4.7.1. The cooperative movement and the LSP2i have reached out to the World Bank for support in preparing a comprehensive proposal for changes that are necessary in the existing cooperative legislation. It appears that once a new cooperative legislation is in place the World Bank would be keen on funding cooperative ventures in the country. This move illustrates how cooperatives in Indonesia are seeking assistance both from bilateral and multilateral institutions for their autonomous and independent growth and development.
- 4.8. *On Networking: Whether there are fresh opportunities to be pursued by both governments and cooperatives before and after the sixth ministers conference scheduled for Nepal in March 2002?*
- 4.8.1. Sections of the cooperative movement led by civil society organizations like the LSP2i and DEKOPIN would have to together work with the government to quickly put in place a new enabling cooperative legislation that is based on the ICIS. Once a new cooperative legislation is in place, it may be expected that institutions like the World Bank and other multilateral development institutions would be positively inclined to fund new and major cooperative development ventures in Indonesia.

Korea

1. Social Profile

- 1.1. Republic of Korea is located in Eastern Asia, in the southern half of the Korean Peninsula bordering the Sea of Japan and the Yellow Sea. The landmass is 98,480 sq km with a coastline of 2,413 km.
- 1.2. The population in the Republic of Korea was estimated at 47.5 million in July 2000. 71 percent of the population is in the age group 15-64 years and the population growth rate is estimated in 2000 at 0.93 percent. The life expectancy at birth of the total population is 74.4 years with 70.7 years for males and 78.5 years for females. The population is homogeneous with a religious mix of Christians (49 percent) and Buddhists (47 percent). The main language is Korean but English is widely taught in schools. The literacy rate for males is 99.3 percent and 96.7 percent for females according to 1995 estimates.
- 1.3. The head of the Government of Korea is a President elected by popular vote for a single five-year term and the Prime Minister appointed by the President. The legislative branch is the National Assembly, where members elected by popular vote serve four-year terms. The legal system combines elements of European civil law systems, Anglo-American law, and Chinese classical thought. The Judicial branch of the Government comprises the Supreme Court with justices appointed by the President subject to the consent of the National Assembly.

2. Economy

- 2.1. The Republic of Korea is referred to as one of the Four Dragons of East Asia, based on the economic growth exhibited over the past two decades. In the 1970's, Korea's GDP per capita was comparable with levels in the less developed countries in Africa and Asia. In 1999, its Gross Domestic Product (GDP) was estimated at US\$ 625.7 billion; GDP per capita being US\$ 13,300. This economic success through the late 1980s is attributed to an incentive scheme from government to business, which improved their ties, directed credit, import restrictions and sponsorship of specific industries. Korea's labour had also contributed significantly to the growth. In 1999, in terms of World Ranking based on GDP, Korea was placed 13 out of 191 countries and 165 out of 191 countries in terms of GDP per capita.

- 2.2. The Asian financial crisis of 1997-99 affected Korea resulting in high debt/equity ratios, massive foreign borrowing. However, by 1999, Korea had recovered financial stability, turning economic decline in 1998 into strong growth in 1999, with real growth rate of GDP estimated at 10 percent. The contribution to the GDP is mainly from the services and industry sectors; agricultural sector contributing only 5 percent. The industries were mainly electronics, automobile production, chemicals, ship building, steel, textiles, clothing, footwear and food processing. Agricultural products include rice, root crops, barley, vegetables, fruit; cattle, pigs, chickens, dairy and fish. According to the Korea Development Institute, real GDP growth is projected to decline to 4.3 percent in 2001, down from 8.8 percent in 2000. The reasons are seen as lower domestic demand and significant fall of exports.
- 2.3. The number of small to medium enterprises represents 91 percent of Korean business and 42 percent of Korean exports. In 1999, Korea exported electronic products, machinery and equipment, motor vehicles, steel, ships, textiles, clothing, footwear and fish, worth \$144 billion, to US, Japan, China, Hong Kong and Taiwan. It imported machinery, electronics and electronic equipment, oil, steel, transport equipment, textiles, organic chemicals and grains valued at US\$116 billion, from US, Japan, China, Australia and Saudi Arabia. According to preliminary figures, terms of trade had fallen significantly in early 2000 but has currently stabilized, with the manufacturing sector growing at 23 percent and the service sector by 11.7 percent. The agricultural, forestry and fishery industries have grown only by one percent.
- 2.4. In 1999, the current account balance recorded a surplus of US\$25.2 billion, compared to a surplus of US\$40.2 billion in 1998. Korea's external debt in 1999 was \$142 billion.
- 2.5. Consumer price inflation is predicted to rise to over 4 percent in 2001, mainly due to increases in public service prices and currency depreciation. According to the Korea Development Institute, inflationary pressure on the demand side will remain small.
- 2.6. Monetary Policy: The Bank of Korea conducted monetary policy with the focus on ensuring success of structural adjustment and the recovery of the real economy. Since September 2000, effective exchange rates are estimated to have depreciated by over 12 percent. Accordingly, the Bank of Korea maintained monetary policy to strengthen the foundation of price stability, setting an inflation target for the year 2000 at 2.5 percent, based on the annual rate of increase in the Consumer Price Index. From the year 2001 onwards, the Bank of Korea will set an inflation target of 2.5 percent on an annual average basis. Money supply will be maintained to avoid the emergence of inflationary pressure over the medium and long term. The target range for annual M3 growth has been set at 7 to 10 percent based on the annual inflation target and the forecasted economic growth rate. The growth rate of M3 registered 5.5 per cent during the third quarter of 2000.
- 2.7. Fiscal Policy: The fiscal consolidation undertaken by the Korean Government has

progressed faster than expected according to the IMF, with the fiscal account achieving a surplus in 2000, at an estimated 1.1 percent of GDP. This performance has enabled the scheduled government spending of 49.1 trillion won in the second quarter (34.3 trillion won in the second quarter of 2000) is expected to bring about sizeable boosting effects.

- 2.8. Labour Market: Korea's labour force is about 22 million. The unemployment rate, which was a three-year low of 3.4 percent in October 2000, has risen to 5.0 percent in February 2001. This decline has been linked with the economic downturn and the corporate restructuring undertaken since the Asian Financial crisis. However, the rate is expected to stay around the natural rate of unemployment, which is estimated to be around 4 percent.
- 2.9. Agriculture Sector: The primary food crops produced in Korea are barley, maize, potatoes, rice, soybeans and wheat. The primary meat products are beef and veal, chicken, duck, goose, lamb and pork. The largest agricultural exports are fish, pork, crude organic materials, prepared food and refined sugar. The total value of agricultural exports in 1998 was \$3,168.8 million, while the total value of agricultural imports in 1998 was \$7,819.6 million.
- 2.10. The Asian financial crisis of 1997-98 resulted in high debt/equity ratios, massive foreign borrowing, and an undisciplined financial sector. Subsequently, in December 1997, Korea signed for a US\$58 billion IMF package. Under this package, Korea will accelerate the opening of its financial and equity markets to foreign investment and to reform and restructure its financial and corporate sectors. The objective of the reform is to increase transparency, accountability and efficiency. According to IMF, by the end of 1998, Korea had recovered financial stability, rebuilding foreign exchange reserves to record levels by running a current account surplus of US\$40 billion. The stock market, which fell sharply at the onset of the crisis, rebounded, rising by 70 percent through November 1999. However, there are reports of Korea facing problems due to the poor performance of many businesses.
- 2.11. Foreign direct investment (FDI) in Korea has increased, bringing the total investments to US\$2.7 billion in 2000. Foreign investment was mainly in the manufacturing sector, which increased by 139 percent during the first three months of 2000. Investment came from the EU and the US, historically the largest sources of FDI.

3. Cooperative Movement and Development in Korea

- 3.1. The Korean cooperative movement consists primarily of agricultural cooperatives. There are some 1,177 agricultural cooperatives, serving over 5 million farmers and rural communities.
- 3.2. Agricultural cooperatives are organized into a two-tier system consisting of the primary cooperatives and their national federation. Primary cooperatives in turn are classified as regional cooperatives and special cooperatives. There are currently

- 1,132 Regional cooperatives, which carry on a range of activities including the marketing of agricultural products, the supply of farm inputs and the provision of banking, credit and insurance services. There are 45 special cooperatives, which conduct marketing supply businesses and provide banking and credit services to their members.
- 3.3. The apex organization for agricultural cooperatives in Korea is the National Agricultural Cooperative Federation (NACF), which was established in 1961. The NACF's primary objective is to increase agricultural productivity and to enhance the economic and social status of its members. The NACF was established at a time when Korea was undergoing major economic and social changes aimed at industrialising the country and promoting an export oriented economy.
 - 3.4. The NACF employs some 13,505 people in its administration with a further 38,723 at member cooperatives. The NACF is also an important player in the insurance of agricultural cooperatives. It provides reinsurance to cooperative members and directly underwrites policies issued to its members. Surpluses are redistributed in the form of welfare services, health care and recreational facilities. The NACF has been instrumental in the mechanisation of farms and has provided machinery to assist making farmers become more productive and competitive. Some of this equipment has been funded from the surpluses made through its cooperative insurance.
 - 3.5. Before 1988, the Government appointed all Presidents of the NACF. In 1989, the NACF adopted a direct election system for representatives for all of its cooperative members and Federations. The first President to be elected by direct votes of the membership took office in 1990.
 - 3.6. The NACF is involved in a diverse number of functions including marketing, processing, supply of farm products and consumer goods. In order to increase farmers sales and reduce marketing costs through vertical integration, the NACF and its member cooperatives run 96 Agricultural Wholesale Marketing Centres, five agricultural Marketing complexes, 2,392 Hanaro Marts (non member supermarkets), 11 Hanaro Clubs (membership warehouse discount stores) and 595 Sintoburi (mini-grocery marts) in the NACF's banking branches. This has allowed the NACF to develop their own brands and to maintain a quality product for their customers. It has enabled the farmers to extract higher returns from produce supplied.
 - 3.7. NACF also provides important credit and banking services to its members with one of the largest deposit banks in South Korea with over 40,000 billion won in deposits. An important domestic function of the bank is to provide funds for agricultural development and the provisions of credit guarantees to farmers and fishers. The bank's extensive branch system also plays an important role in the channelling of government loans to farmers. Credit card and other financial services are provided by the Bank.
 - 3.8. Unlike other financial institutions in Korea, NACF bank did not suffer a run during the Asian financial crisis in 1997. Indeed the NACF has been successful in its

international banking operations and obtained in May 2000 a double AA plus (AA#) rating from the Japanese Credit Rating Agency (JCR) which was the highest grade among all financial institutions in Korea. This has assisted the bank in obtaining greater access to medium to long term funds from international financial markets at competitive rates to fund its lending programs. In addition, the NACF's nation-wide system of branches and the synergy between other services offered are important factors in encouraging savings among its members and farmers.

- 3.9. Forestry and Fishery cooperatives are formed and regulated under their own legislation. The view expressed by the NACF is that the forestry cooperatives are set up as entities to implement government forestry policies and environmental policies. Fishing cooperatives come under a different Ministry and have different policy objectives to those related to farmers and the production of agricultural crops.
- 3.10. During 2000, the Government recently announced plans to separate the financial operations of the State run National Federation of Fisheries cooperatives which has acted as a defacto bank and sales outlet for South Korean fishers. The Federation had a bad debt portfolio of approximately \$628.4 million and required 1.2 trillion won of public monies to meet the Bank of International Settlements capital adequacy ratio of 12 percent.

4. Public Policy and Reforms

- 4.1. Since the beginning of the 1960's the major purpose of co-operation in Korea has been to provide a mechanism for collectively implementing government policies aimed at protecting the agricultural sector against the growing imbalance between rural and urban sectors.
- 4.2. The rapid industrialisation of South Korea during the 1960's and 70's contributed to a dramatic rural-urban migration creating changes in living standards and food consumption. These social and economic changes were the catalyst for the government implementing policies designed to make the agricultural sector more competitive and responsive to the changes in consumer demand for meat products, horticultural and processed foods. Hence the need for Korea to be food self-sufficient. They were also designed to balance the social and economic development of farmers, who were affected by price fluctuations during time of recession in the manufacturing and industrial sectors.
- 4.3. Certain cooperatives are exempted from the Monopolies Act 1980, except where they engage in acts relating to unfair business practices, or acts that substantially restrict competition, and which result in an undue price increase. To qualify for the exemption a cooperative must:
 - 4.3.1. Provide mutual aid to small-scale enterprises or consumers
 - 4.3.2. Be established voluntarily and permit its commissioners to voluntarily join and withdraw

- 4.3.3. Limit the profits that may be distributed in the articles of the cooperative
- 4.3.4. Korean agriculture remains small by world standards. The average size of farms is 1.3 hectare of land, in the form of small farm plots scattered in the mountainous areas of the country. However, of the 9.9 million hectares of land only 1.9 million hectares is suitable for cultivated. The amount of land cultivated has fallen from 22.9 percent in 1965 to 19.4 percent in 1997 due to shortages of labour, lower profitability in farming and the encroachment from urban and industrial sectors.
- 4.3.5. With the continued encroachment of industrialisation and urbanisation, the number of farm household has decreased together with the number of full time farmers. Despite these changes, there is still a high dependence on farm income by Korean farm households. However, the age of the average farmer has increased significantly in recent years as greater numbers of young people head to the cities in search of employment opportunities. As a result of this, significant changes have occurred in the labour structure and mechanisation of farms, the cropping intensity undertaken by farmers and the level of agricultural inputs used to cultivate crops.
- 4.3.6. These issues are of primary importance to the NACF as they affect the way in which services are structured to serve the needs of the farming community. Before the amalgamation of the National Livestock Cooperatives Federation and the Gensing Cooperatives Federation with the NACF there was a perception that each of the Federations had become too pre-occupied with the provision of banking and financial services.
- 4.3.7. In negotiations with the WTO, the South Korean Government has stressed the issue of the non-trading aspect of its agricultural industry, underlying the importance of a multi faceted industry. It has also stressed the importance of its agricultural policies in terms of food security and farm development and has called for a gradual access to global farming.
- 4.4. Legislative Environment
 - 4.4.1. Korean Law was essentially based on the European Civil Law as adopted from the Japanese during their occupation of Korea from 1910 to 1945. Under US occupation the legal system was influenced by the American legal system and a number of laws were adopted gradually repealing the Japanese codified Laws.
 - 4.4.2. Currently, the law is made up of Statute Law passed by the National Assembly, subordinate legislation such as enforceable decrees of the President, regulations made by the National Assembly, ordinances of the Prime Minister and Ministers, municipal ordinances and Rules and administrative rules. There is also customary case law; legal reasoning which supplements the written law. In this regard, it is not a strict civil law country.
 - 4.4.3. The Executive is responsible for submitting legislation to the National Assembly and has powers to issue laws. The President has powers to issue binding decrees

which supplement and enforce the statute law on matters that are delegated to the President or which are necessary to enforce an Act. Despite the powers of the Legislature the President still has a great deal of power in the law making of Korea, although this has been affected by decisions of the Constitutional Court and by the limitation of the term of office to 5 years. In addition changes, brought about by the financial crisis of the late 1990's have resulted in a review of the regulation of the Korean economy.

- 4.4.4. In essence, the law of Korea is founded upon administrative regulation. This has provided the means by which past Governments have implemented policies for the development of cooperatives through the NACF.
- 4.4.5. Since the financial crisis of 1997, the Ministry of Agriculture and Fisheries has focused upon the review of regulations affecting farming activities to enhance the development and productivity of farmers. To assist in the review of agricultural regulation and to make recommendations as to the implementation of policy reforms, the Ministry appointed a Task Force for Regulatory Reform, consisting of private experts and professional researchers. Acting on the advice of the Task Force the MAF rewrote or repealed some 527 regulatory items, amounting to 75.2 percent of a total of 701 regulatory items affecting the agricultural sector. During 1998, it was decided by the Ministry that a further 326 regulatory items would be repealed as part of the reform process.
- 4.4.6. The view taken by the NACF is that it is now a more democratic and autonomous organization with direct elections of its officers by member cooperatives and legislation which ensures its independence of Government.
- 4.4.7. The Government has adopted an agricultural finance system including loan guarantees and government policy loans to provide financial support to farmers. This system has been implemented to make farmers less dependent on subsidies and to conform to the World Trade Organization's requirements on subsidisation.
- 4.4.8. Through the operation of the finance system the NACF has been able to secure backing from the Government for the subsidisation of interest rates for loan to farmers through the Government's lending program. In practice, NACF has been responsible for financing cooperatives encountering severe financial difficulties even though the government has a final responsibility for the promotion of cooperatives.
- 4.4.9. Some of the problems encountered in implementing the agricultural credit policy relate to the selection of borrowers, the selection of recipients of preferential policy loans, and improper roles of agricultural financial institutions. Efforts by the Government to improve this system have focused on improving the borrower selection process by requiring higher standard of economic analysis in assessment of investment projects, and in the advancement of credit. The NACF has played a pivotal role in this process.

- 4.4.10. The NACF has also been authorised to have 570 offices and branches to provide foreign exchange to improve international agribusiness activities of its clients. These services are supplemented by four representative offices in New York Tokyo, Beijing and Brussels to improve international payments, to develop new financial products and to conduct marketing and research.
- 4.4.11. The international banking activities play an important role in strengthening the agricultural sector and providing avenues for international trade and co-operation. The banking system is designed specifically to financial support to farmers and to fund important projects and infrastructure to improve competitiveness and food self-sufficiency. An important and recent activity of the NACF has been to establish a subsidiary company NACF Futures Corp (NFC) in 1997 to specialise in futures, options and other financial instruments to hedge risks of its members and to maximise returns to farmers. This area of activity is aimed at ironing out fluctuations in commodity prices affecting farm incomes as well as providing a source for agricultural finance.

5. Cooperative Legislation

- 5.1. The first Agricultural Cooperatives Act was approved by the Congress in 1957 for the purposes of re-organising the agricultural cooperatives that had developed during the time of the Japanese occupation of Korea. In 1961 this legislation was replaced with the Agricultural Cooperatives Law which was subsequently amended nine times between 1961 and 1999, to meet the changing needs of the farming sector and to implement Government agricultural policies.
- 5.2. The new legislation was introduced to improve the operation of active agricultural cooperatives and facilitate the unification of the National Agricultural Federation, the National Livestock Cooperatives Federation and the Korea Ginseng Cooperative Federation into the Korean Agricultural Cooperative Federation.
- 5.3. This restructure was a major reform initiated by the Government to make the agricultural sector more competitive and responsive to changes in a market economy. It was also designed to end the overlapping of functions between the three sectors whilst maximising resources on the distribution of agricultural, livestock and ginseng products.
- 5.4. After extensive consultation with the Federations, the Government gave each of the Federations a period of seven months in which to make recommendations on the proposals. Despite concerns from the Federations that a merged entity would result in a loss of control, the Federations agreed to the merger. It appears that the merger has occurred without major incident or problems arising from each of the agricultural sectors. However, the legislation does emphasise the need for co-operation between the new Federation and its cooperative members.
- 5.5. The Government has indicated that it views the merger as creating a new NACF and the framework for the reform of cooperative sector. It has also indicated that it will

be pressing ahead with plans to complete liquidation of marginal cooperatives whilst bolstering the organizational activities of cooperatives.

- 5.6. The new Act also aims at making cooperatives autonomous associations for farmers and to raise the standards of farmers in terms of economic, social and cultural aspects. In this regard, it allows cooperatives to raise and operate the distribution support fund to assist members.
- 5.7. It also reinforces the participation of partners in the operation of cooperatives and the building of strategic links for future development of the agricultural sector.
- 5.8. New prudential systems were implemented under the Act to enhance the credit business of the Federation and to strengthen its banking operations.
- 5.9. There are also new provisions dealing with the auditing of Cooperatives by the Federation and with ministerial direction as to the management of near solvent cooperatives. This is an important mechanism in the dissolution and amalgamation of cooperatives to create a stronger cooperative responsive to the changing economic environment. However, it has the potential to lead to government interference and manipulation of the industry without member involvement.
- 5.10. Future Development
 - 5.10.1. The future development of the agricultural cooperatives will be dependent upon the extent to which the Government affects agriculture by changes in economic policy and funding. There appears genuine effort from Government to make cooperatives more responsive to the need of their members and the general public. However, there is still some concern that individual cooperatives are not given enough freedom to operate within the market to match the operations of independent organizations operating under company structures.
 - 5.10.2. There is a need for the legislation to provide for staged development leading to cooperatives based on prior performance and compliance information. The first stage or infancy stage would be incorporation, requiring full regulatory supervision and compliance. The second stage or intermediate stage would require less reporting but continued supervision by the respective Ministries. For example auditing would continue to be carried out by the NACF, but there would be less inspectorial involvement unless there were two consecutive years of major trading losses, or the cooperative became dysfunctional or committed serious breaches of the Act. Those reaching the third stage should have independent auditing and advisory services as well as auditing and compliance committees with statutory reporting obligations. This system would enable cooperatives to strive for greater economic independence with the necessary checks and balances to ensure solvency and compliance with the legislation.
 - 5.10.3. The introduction of an administrator regime should be considered for third stage cooperatives, which experience a liquidity or trading crisis, or face insolvency. The

Act would require the cooperative management to appoint an external administrator and failure to do so would result in the officers incurring substantial personal liability for the debts of the cooperative. A person appointed by the management would be an external insolvency practitioner with powers to trade the cooperative out of its liquidity problems, recommend a compromise with creditors, sell off property, or to recommend winding up to the relevant Ministry. The primary focus of the administrator would be to continue the operations of the cooperative and to make necessary structural and administrative changes to make the cooperative viable. The administrator would also have power to arrange a full or partial transfer of a cooperative undertaking to another cooperative or entity with the consent of the relevant Ministry. There would be an obligation upon the administrator to submit six monthly reports, and the relevant Ministry may direct other reports as may be required.

- 5.10.4. One of the issues facing the cooperative movement in Korea is the extent to which company structures should be used in the development of external operations and export activities. It is recommended that the legislation be amended to provide for the Registration of Special Service Providers which would have all the powers and functions of a company but which would be wholly owned legal entities of a cooperative. The purpose of this amendment would be to provide for the regulation of these entities to come under the auspicious of the relevant Ministry that was responsible for regulating the holding cooperative.

6. Conclusions and Recommendations: Beijing Declaration

6.1. On Autonomy and Independence:

- 6.1.1. There are no provisions in the 1992 Constitution specifically mentioning Cooperatives. However, Article 123(4) does place an obligation on the State to foster organizations founded on the spirit of self-help among farmers, fishermen, and businessmen engaged in small and medium industry and to guarantee their independent activities and development.

6.2. On Legal Existence:

- 6.2.1. With the opening up of the Korean economy, arising from the Asian financial crisis, there is a need for the farmers to become more efficient and for the industry maximise economies of scale. This change has been brought about by the impact of the policies of the World Bank and IMF on the agricultural sector. The most important are the support of farm debt by government and the government's policy of subsidising farmer loans. The current legislation has been recently adopted to facilitate the amalgamation of number cooperatives under the umbrella of the NACF.

6.3. On Recognition

- 6.3.1. While the Korean cooperative movement was developed between the 1960's and 1980's through strong Government interference, there has been, since the beginning of the nineties, a recognition of the movement's independence by Government.

6.4. Level Playing Field

6.4.1. The Government has provided financial assistance to farmers in the form of subsidised loans and loan guarantees to assist farmers to meet debt repayments. In doing so, the Government has utilised the vast branch structure of the NACF to provide for effective distribution of funds. This structure has ensured appropriate borrower selection processes to reduce the incidence of defaults among farmers.

6.5. On Self-Regulation

6.5.1. Since the recognition of the movement's independence by the Government in early 90s, the President of the NACF and its office-bearers have been elected by the membership rather than being chosen or imposed by the Government.

6.5.2. The Government has encouraged the restructuring of the cooperative industry through the rationalisation of second-tier and apex cooperative structures. This has promoted achievement of economies of scale and better utilisation of resources to meet market demand arising from the liberalization of the Korean economy.

6.6. Cooperative Policy

6.6.1. During 2000, the Government has announced policies designed to make cooperatives more responsive to the needs of the members and to achieve greater scales of economy. The new Agricultural Cooperatives Act has facilitated amalgamations consolidating the 4 major cooperative federations in line with structural changes to agricultural policy to make agriculture more competitive and less dependent on subsidies.

6.7. Networking

6.7.1. The NACF has been proactive in pursuing policies, which facilitate joint venture arrangement of commercial relations with SMEs to provide benefits to members and their families. The large branch structure of the NACF has provided an important avenue for networking with Government Agencies in provision of financial support to the farming sector.

7. Official Development Assistance

7.1.1. The Government has provided financial assistance to members of agricultural cooperatives through the subsidisation of interest rates and the provision of loans and subsidies to farmers. During the financial crisis, the Government provided substantial funds to support outstanding loans made to farmers by the banking arm of the NACF.

Nepal

1. Social profile

- 1.1. The population of Nepal was 24.7 million in July 2000 with a growth rate of 2.34 per cent. In 1998 Nepal had a Human Development Index of 0.41 and was ranked 144 (Low HD). Amongst the countries under study, life expectancy of females was lower than males only Nepal. Other important macro indicators of social development are given in the appendix.

2. Economy - overview

- 2.1. Nepal is among the poorest and least developed countries in the world with nearly half of its population living below the poverty line. Agriculture is the mainstay of the economy, providing a livelihood for over 80 percent of the population and accounting for 41 percent of GDP. Industrial activity mainly involves the processing of agricultural produce including jute, sugarcane, tobacco, and grain. Production of textiles and carpets has expanded recently and accounted for about 80 percent of foreign exchange earnings in the past three years. Agricultural production is growing by about 5 percent on average as compared with annual population growth of 2.3 percent. Since May 1991, the government has been moving forward with economic reforms, particularly those that encourage trade and foreign investment, e.g., by reducing business licenses and registration requirements in order to simplify investment procedures. Important indicators of economic development are given in the appendix.
- 2.2. The government has also been cutting expenditures by reducing subsidies, privatising state industries, and laying off civil servants. More recently, however, political instability - five different governments over the past few years - has hampered Kathmandu's ability to forge consensus to implement key economic reforms. Nepal has considerable scope for accelerating economic growth by exploiting its potential in hydropower and tourism, areas of recent foreign investment interest. Prospects for foreign trade or investment in other sectors will remain poor, however, because of the small size of the economy, its technological backwardness, its remoteness, its landlocked geographic location, and its susceptibility to natural disaster. The international community's role of funding more than 60 percent of Nepal's development budget and more than 28 percent of total budgetary expenditures will likely continue as a major ingredient of growth.

- 2.3. Nepal is classified as a least developed country on account of a low per capita income of around US\$ 220, low contribution of manufacturing sector in GDP (less than 10 percent) and low indices in the social indicators of development. The land-locked nature and the rugged mountain terrain of a large part of the country add to the economic rigidities of Nepal. Nepal started programmes of planned economic development as early as mid fifties with the launching of the First Five Year Plan in 1956 with others to follow.
- 2.4. The Government has expressed a strong commitment to achieve optimum growth of national production and its equitable distribution. Several new policy measures have been adopted in line with the free market oriented liberal economic policy to stabilise the economy and pave the way for accelerated economic and social development. Monetary policy is being fine-tuned to increase domestic resource mobilization, enhance efficiency of capital and provide credit to the priority and productive sectors. Steps are also being directed towards maintaining satisfactory balances in internal and external payments. In the field of industry and commerce, government policy is aimed at giving the private sector a dominant role. Private enterprises are expected to increase efficiency and productivity in industrial and commercial operations.
- 2.5. The Government's role will be that of a facilitator providing infrastructure facilities and a conducive environment in which the private sector could perform effectively. Moreover, private investment is also being encouraged in the development of infrastructure and operation and management of services like road, transport, water supply, etc. The government has implemented a bold privatization program. Likewise, private foreign investment has been highly encouraged. The trade policy is also directed towards reducing the trade imbalance through improved import management, export promotion and diversification. To make the economy more competitive, tariff rates have been lowered and the Nepali currency has been made fully convertible in all current account transactions. Quantitative restrictions and import licensing system have been abolished. This is aimed at providing a congenial and investment friendly economic environment and to help promote industrial development and make products more competitive. Export procedures have been simplified, and bonded warehouse and duty drawback facilities have been introduced to make trade competitive.
- 2.6. Besides, a wide ranging financial reform measures have also been carried out to strengthen the liberalization process. Joint venture banks as well as finance companies have increased significantly in number. The Government has initiated legal and procedural arrangements necessary for the implementation of its policies for permitting up to 25 percent foreign investment in tourism (aviation companies and big hotels), water resources (power and drinking water), mines and mineral related industries and goods production and processing sources through the stock market. This is in line with the government policy of opening foreign investment through the secondary market. The limitation of 25 percent foreign investment and its scope

could be further extended in future based on the experiences. Government owned banks and financial institutions are also being either restructured or divested. Furthermore, formulation of necessary legislative measures are underway to establish off shore banking facility in Nepal.

3. The Cooperative Movement of Nepal

- 3.1. Nepal's Cooperative Department was established in 1953. Its functions included promotion, organization and registration of cooperative societies. It is reported that the cooperative movement emerged in an organized manner in 1954 when the cooperative form of organization was used by the government to systematically rehabilitate flood affected people through the Rapti Valley Multipurpose Development Project. This also led to the establishment of the Cooperative Development Centre in 1955.
- 3.2. Cooperatives and cooperative development have always found an important place in the development plans of the Nepal government. During the first development plan (1956-57 to 1960 - 61) thirteen primary savings and credit cooperative societies were established in Chitwan to provide loans to the flood affected people. By 1960-61 378 primary cooperative societies with more than 11,000 members and a share capital of Rs. 362605 had been established. In 1962. The Cooperative Bank Act, 1962 led to the establishment of the Cooperative Bank. The Cooperative Development Fund was established in the same year. The government initiated a major re-organization of the agricultural sector in 1964.
- 3.3. The third development plan (1965-66 to 1969-70) saw a rapid growth in the cooperative movement of Nepal. By 1969-70 1489 primary cooperative societies with a membership of 71,163 and a share capital of Rs. 2.73 million was formed. The loans disbursed in 1969-70 amounted to Rs. 19.9 million and repayments were Rs. 14.6 million. In 1969 the government merged the Cooperative Bank with the Agriculture Development Bank (ADB). The ADB was charged with the responsibility to function as a specialized Bank including activities such as providing credit to cooperatives, individuals and agri-businesses. During the third development plan the government also launched a programme to convert some of the compulsory savings of members into the share capital of the cooperative societies to which they belonged.
- 3.4. The fourth development plan (1970-71 to 1974-75) witnessed a major restructuring of the cooperative movement. The government liquidated 1388 cooperative societies and began to lay an emphasis on the quality of cooperatives. As a consequence, while the number of primary cooperative societies were reduced to 293 by 1974-75 its primary membership and share capital remained unchanged. The cooperative societies diversified their activities and commenced selling agriculture inputs and consumer goods. During this period the management of cooperative societies was entrusted to the Agriculture Development Bank and eighteen loan associations were converted into district cooperative unions.

- 3.5. The fifth development plan (1975-76 to 1979-80) undertook a massive cooperation expansion programme of creating "Guided cooperatives". Under this programme village committees were converted into Sajha societies and cooperatives were organized to cover almost all villages in the country. Under this programme local politicians were made ex-officio members of the board of cooperatives. The main objective of Sajha societies was to increase production and farmers income through improved farming systems, institutional loans, supply of inputs, savings and marketing of consumer goods. In 1978 the Agricultural Development Bank ceased to manage cooperatives. The management of cooperatives was restored to its respective management committees. The number of cooperative societies multiplied to 678 and the district unions increased to 33. Primary membership grew to 1.2 million.
- 3.6. The sixth development plan (1980-81 to 1984-85) launched an intensive Sajha programme in 1981. All the cooperatives and village committees were converted into 'Sajha' institutions. Consequently, this programme became an area of extensive political activity. Sajha institutions were mandated with the task of supplying consumer goods, improved seeds, pesticides, fertilizers, purchase and storage of agricultural products, mobilizing savings in rural areas and providing raw materials and credit to cottage industries. The basic objective of this programme was to be more responsive to the needs and problems of small farmers. Emphasis was laid on cooperatives responding to felt needs rather than resorting to mere numerical growth and formation of new cooperatives was encouraged only after a thorough feasibility study. During the sixth development plan there was only a small growth in the number of cooperatives and membership. However, the business transactions of cooperatives in agricultural inputs increased more than five fold. A new cooperative Act was notified in 1984. This Act replaced an earlier cooperative Act of 1959.
- 3.7. Cooperatives showed a marginal growth in the seventh development plan (1985-86 to 1989-90). At the end of this plan there were 883 cooperative societies, 33 district cooperative unions, 1.44 million individual members and the aggregate share capital in cooperatives was Rs. 149 million.
- 3.8. The eighth development plan (1992-93 to 1996-97) witnessed a rapid growth in the cooperative movement. A major event during this period was the notification of The Cooperative Act, 1992. By 1996-97, there were 3711 primary cooperative societies, 77 district cooperative unions. While individual membership came down from 1.44 million to just about 1 million the aggregate share capital increased to a level of Rs. 324 million. The reduction in individual membership was reportedly on account of a change in the pattern of compulsory savings scheme that was operated by the government. In the eighth plan milk marketing by milk producers cooperatives increased from about 20,000 litres per day to more than 40,000 litres per day. There was also a significant increase in the transaction of agriculture produce, consumer goods and agricultural inputs. In 1992-93 central level cooperative unions were formed for the dairy, consumer and credit and savings sectors. The National Coop-

erative Federation was also registered during the same year. By the end of the eighth plan cooperative societies had a total of 393 godowns with a total storage capacity of 58,000 metric tons.

- 3.9. In the first year of the ninth development plan (1997-98 to 2001-02) milk collection by milk producers cooperatives has increased substantially to 160 thousand litres per day. This accounts for 6 per cent of the daily milk production in Nepal, estimated at 2.7 million litres. 1997-98 there were 958 primary milk producers cooperatives spread across 35 districts. By 2000, more than 5000 cooperatives are reportedly registered. There are presently 303 women cooperatives in Nepal, mostly belonging to the savings and credit sector.
- 3.10. The cooperative movement of Nepal was the responsibility of different ministries and institutions at different times. Initially, it was under the Ministry of Food and Agriculture, then under the Agriculture Development Bank, later under the Ministry of Land Reform and again under the Ministry of Agriculture in 1987. Accordingly, these ministries and agencies introduced different programmes such as the 'Guided Cooperative Programme', 'Integrated Agricultural Development Programme', 'Sajha Programme' and the 'Cooperatives for Exploitation Free Society Programme'. However, the views of different cooperators and analysts is that in all these programmes the fundamental principles of cooperation which included *inter alia* people's initiative, voluntarism, autonomy and freedom in trade and business were never given serious consideration by the government. The government established the cooperative training centre - Nepal's only training institution - in 1962 with assistance from the ILO and DANIDA. This institute is responsible for conducting various training programmes for the members and employees of different cooperatives. It is reported that the ADB has a very conservative policy when it comes to lending to cooperatives.

4. Conclusion and recommendations

- 4.1. On Autonomy and Independence: *Whether hitherto government led cooperatives been able to change their true nature into becoming more autonomous, member controlled institutions, without sacrificing any of their values and principles in the realm of socio political conditions prevailing in that country?*
 - 4.1.1. Ever since the passage of the Nepal Cooperative Act, 1992, cooperatives in Nepal have been as autonomous and independent as the ICIS could expect them to be. Therefore, there is nothing more to report on this point as far as Nepal is concerned. However, the nature of extreme autonomy and independence granted to Nepal's cooperatives, especially its financial cooperatives has led to a different kind of a problem i.e. misuse of the cooperative form of enterprise by private businessmen to derive the benefits that are meant to support genuine cooperatives.
- 4.2. On Legal Existence: *Whether the distinct nature of cooperatives has been recognised by law or government policies?*

- 4.2.1. Nepal has distinctly recognised the nature of cooperatives both by law and through its government policies.
- 4.3. *On Recognition: Whether cooperatives are recognised on what cooperatives are and what cooperatives can actually do in promoting civil society?*
- 4.3.1. In Nepal a large proportion of cooperatives are the thrift and credit cooperatives. Their numerical growth cannot be considered as an indicator of their positive impact on civil society. Nonetheless, there are genuine thrift and credit cooperatives that have made positive contributions to civil society. Dairy cooperative too are beginning to make a mark in their contribution to civil society.
- 4.4. *On fair playing field: Whether cooperatives are allowed to operate under equal footing with other enterprises in order to realise their full potential?*
- 4.4.1. Cooperatives in Nepal certainly enjoy a fair playing field and are allowed to operate under equal footing with other enterprises in order to realise their full potential. In fact, cooperatives in Nepal enjoy certain additional advantages when compared to other forms of enterprise.
- 4.5. *On Self Regulation: Whether cooperatives are allowed to operate under equal footing with other enterprises in order to realise their full potential?*
- 4.5.1. The cooperative legislation of Nepal provides more than adequate scope for self regulation. In the process, the cooperative legislation does not provide for checks and balances for those cooperatives that escape regulating themselves in a manner that is both necessary and consistent with the ICIS. For example, the financial cooperatives in Nepal do not come under the purview of the Central Bank of Nepal either for reporting prudential norms or for undertaking sound banking practices. This is a case of excessive liberalization in cooperative law and perhaps requires a rethink of how loosely should the state define the boundaries of an enabling cooperative legislation.
- 4.6. *On Captialisation: Whether there are risks and/or potential among cooperatives to mobilise additional resources over their basic share capital?*
- 4.6.1. In Nepal, cooperatives can issue twenty per cent of its share capital to foreign cooperatives (subject to government approval). Cooperatives can also mobilise additional capital through debentures, loans from foreign banks and seek government guarantees for issue of debentures or for raising loans. The progressive and liberalized cooperative law in Nepal ensures that while cooperatives can seek capital from institutions and government they can retain member control in their decisions and operations.
- 4.7. *On Official Development Assistance: Whether there is a thrust and orientation amongst cooperatives to take good advantage of development assistance both from bilateral and multilateral institutions for their autonomous and independent growth and development?*

- 4.7.1. In Nepal the cooperative dairy project was implemented through a major collaboration with DANIDA. Similarly, there are other international agencies such CECI that are assisting and supporting cooperative ventures in Nepal. These programmes have been supported and funded in a manner so as to sustain and increase the autonomy and independence of cooperatives.
- 4.8. On Networking: *Whether there are fresh opportunities to be pursued by both governments and cooperatives before and after the sixth ministers conference scheduled for Nepal in March 2002?*
- 4.8.1. There is a need to relook at some of the extremely liberal provisions in its cooperative law and redefine them in a manner so that the cooperative form of enterprise is not misused by businessmen and its financial cooperatives follow certain well defined prudential norms and practices in their operations.

Sri Lanka

1. Social Profile

- 1.1. In July 2000 Sri Lanka had a population of 19.23 million with a growth rate of 0.89 per cent. In 1998 Indonesia had a Human Development Index of 0.57 and was ranked 84 (Medium HD). In 1997 Sri Lanka had about 22 per cent of its people living below the poverty line. Other important macro indicators of social development are given in the appendix.

2. Economy – overview

- 2.1. In 1977, Colombo abandoned statist economic policies and its import substitution trade policy for market-oriented policies and export-oriented trade. Sri Lanka's most dynamic industries now are food processing, textiles and apparel, food and beverages, telecommunications, and insurance and banking. By 1996 plantation crops made up only 20 percent of exports (compared with 93 percent in 1970), while textiles and garments accounted for 63 percent. GDP grew at an annual average rate of 5.5 percent throughout the 1990s until a drought and a deteriorating security situation lowered growth to 3.8 percent in 1996. The economy rebounded in 1997-98 with growth of 6.4 percent and 4.7 percent - but slowed to 3.7 percent in 1999. For the next round of reforms, the central bank of Sri Lanka recommends that Colombo expand market mechanisms in non-plantation agriculture, dismantle the government's monopoly on wheat imports, and promote more competition in the financial sector. A continuing cloud over the economy is the fighting between the Sinhalese and the minority Tamils, which has cost 50,000 lives in the past 15 years. Important indicators of economic development are given in the appendix.
- 2.2. The economic success of Sri Lanka in the midst of Asia's collapsing economic giants has been remarkable. As the economic powerhouses to the east of Sri Lanka suffer downturns, this island nation has the potential to become the fastest growing economy in the whole of Asia, pushing China into second place. The Asian Development Bank (ADB) estimated a 6.2 percent growth in GDP for Sri Lanka in 1999, putting it ahead of China, India and Pakistan. This would follow an estimated 5.2 percent GDP growth in 1998.
- 2.3. Full foreign ownership is permitted in most areas of the economy, including in infrastructure. And there are no restrictions on repatriation of earnings and capital. In

fact Sri Lanka was the first country in South Asia to adopt market-friendly economic policies, and at one point was the second strongest economy in Asia, after Japan. But in the 1970s, as the Asian tiger economies raced ahead, Sri Lanka got bogged down in a period of nationalization when a socialist government seized plantations and other successful enterprises.

- 2.4. The ruling party was later decisively defeated at the polls and a new government stepped in and reversed the socialist trend. However, a great number of business leaders still today express bitterness over what is perceived as a monumental blunder. Now more than 90 percent of the industrial output is generated by the private sector compared to 50 percent 20 years ago. And the private sector employs 70 percent of the work force.
- 2.5. Manufacturing output increased by over 10 percent in 1997 and the unemployment rate declined to 10.4 percent, almost a full percentage point less than the previous year. Inflation declined to 9.6 percent in 1997 from 15 percent in 1996, and it is expected to hold at 10 percent in 1998. Creating jobs through investing in infrastructure resulted in increased government borrowing and last year the budget deficit rose to 7.8 percent of GDP. However it is forecast to drop to seven percent this year. Meanwhile, total exports and industrial exports grew by 13 percent and 16 percent respectively, while remittances increased by 13 percent over the previous year. The current account deficit and the trade deficit declined to 2.5 percent and 8 percent of GDP respectively. Total foreign capital inflows, consisting of net foreign direct and portfolio investment and privatization proceeds, reached \$450 million for 1997 - the highest ever on record. This has played an important role in the expansion of manufactured exports from Sri Lanka and contributed to an overall diversification of the country's economy and industrial base.
- 2.6. The external debt service ratio eased to 13.7 percent of exports in 1997 from almost 16 percent the year before. Short-term foreign borrowings were less than one percent of total capital inflows, thereby insulating Sri Lanka's economy against volatile capital transfers. The balance of payments recorded a surplus of \$163 million, or 2.7 percent of GDP, and foreign reserves remained steady at around \$2 billion, enough to cover four months of imports. Sri Lanka has signed bilateral investment protection agreements with 21 countries, backed by legislative guarantees to provide strong protection to foreign investment, including double taxation agreements with some 25 countries. Sri Lanka seems to have definitely left behind its dabbling in socialism and even some of the more activist, socially-concerned politicians are openly committed to free enterprise and relaxing foreign investment regulations.
3. **The cooperative movement of Sri Lanka:**
 - 3.1. The Sri Lankan cooperative movement originated in 1906 with the formation of the Dumbara Cooperative Credit Society. The first cooperative law was enacted in 1911 with the objective of registering and administering cooperative credit societies. This law was revised in 1921. In 1930 the Cooperation Branch of the Department of

Agriculture was made into an independent Department of Cooperatives. The great depression in 1929 followed by World War II caused severe shortages of food and essential commodities. This led to the formation of cooperative stores societies in the early forties. The government launched an initiative to form fishery and industrial cooperatives in the early fifties. To facilitate agricultural development a number of cooperative agricultural production and sales societies were formed in the fifties. In the late fifties the government caused the formation of one multi purpose cooperative society (MPCS) in each village of Sri Lanka. The MPCS were intended to be institutions for development planning, production, employment and distribution at the village level. All these efforts of the government resulted in a deep involvement of the nation's cooperatives with the socio-economic activities of the government.

- 3.2. In the early seventies the government carried out large scale amalgamation of MPCSs. It also made substantial nominations to the board of directors and the level of political interference in cooperatives increased substantially. Consequently, members began to have only a peripheral involvement in the affairs of the cooperative. Till the liberalization of the economy in 1977, cooperatives in Sri Lanka had a large share of the market especially in the consumer trade. This is because most of the essential articles were made available to cooperatives through rationing schemes of the government. Similarly, till 1977 the government also provided substantial support to cooperatives involved in agriculture and cottage industries. With the beginning of a new liberalized era, cooperatives involved in consumer trade suddenly found themselves in a precarious position, accustomed as they were to surviving only through government supported schemes. However, the government continued to help these cooperatives through food stamp schemes, mid-day meal scheme, monopoly import of wheat flour and the Janasaviya scheme.
- 3.3. Post liberalization, the government wanted the cooperatives to manage their own affairs. This resulted in the amendment to the cooperative law in 1992 where many of the powers of the Registrar were diluted. This amendment also resulted in preventing members of Parliament, provinces, municipal and urban councils or pradeshiya sabhas from being eligible for election as a member of the committee of a cooperative society. Unfortunately, since many cooperatives, especially large cooperatives remained indebted to the government the new amendments to the cooperative law would not give them any benefit. If any one sector of the cooperative movement can be said to have made robust and rapid growth post liberalization, it is the credit cooperatives. SANASA (Sinhalese acronym for thrift and credit cooperatives) has emerged as a close knit network of cooperative societies lending to their members for various activities and providing opportunities for the members to save and invest.
- 3.4. The resurgence of SANASA took place in 1978 through the initiative of the Kegalle district thrift and credit cooperative society at Walgama. SANASA has made im-

- portant contributions towards gender equity by increasing women membership in its cooperatives to 49 per cent. Women's committees have been set up in almost 3000 societies and there are women leaders in almost 4,500 societies. Some societies have been formed exclusively by women members. SANASA has not just mobilised rural savings in a major manner but it has been able to plough back over 70 per cent of these savings as loans in the rural areas itself. SANASA has emerged as a development institution where a village's financial resources are mobilised and redistributed within the village itself. This has earned several accolades for SANASA from all quarters and it is now recognised as a model for the region. SANASA believes in continuous education of its members and to fulfill this goal it has established a campus at Kegalle. The campus aims to become a national centre for research and education. SANASA's vision for the future is to create a new social order based on cooperative principles. In order to create a greater synergy in its operations SANASA recently chose to establish the SANASA Development Bank (SDB) Limited in 1997.
- 3.5. SDB is a public company with limited liability incorporated under the Companies Act and registered as a Licensed Specialised Bank by the Central Bank of Sri Lanka under the Banking Regulation Act and an approved Credit Agency under the Mortgage Act and Trust Receipt Ordinance. SANASA chose to register SDB under the companies Act rather than the Cooperative Act since it perceived that the existing Cooperative Act is very restrictive and will not provide it with the necessary flexibility and freedom of operations so necessary for a Bank of its nature. The vision of SDB is to raise the income and employment level of people with particular focus on poverty alleviation and social equity through development oriented financial services. SANASA reported a total asset base of Rs. 1.29 billion in its balance sheet for 2000. Interestingly, another cooperative venture registered under the Companies Act of Sri Lanka is the Cooperative Insurance Company (CIC) Limited. CIC is an unquoted public company with limited liability incorporated in 1997 and is licensed as a company authorised to carry on insurance business in Sri Lanka under the Control of Insurance Act, 1962. CIC started its operations in March 1999 with a share holder group of 150 cooperatives and 75 individuals and a paid up capital of Rs. 83 million. In 1999, CIC reported a gross written premium of Rs. 40 million and Rs. 1.75 million for general insurance and life insurance respectively.
- 3.6. The NCC – formed in 1955 – represents the entire cooperative of the country. It has 34 members including sectoral apex cooperatives in the fields of marketing, consumer, textile, industries, coconut producers, fisheries, rural banks, youth services, thrift and credit, poultry producers, rubber and milk producers. The movement has one hundred and thirty secondary cooperative societies. The number of secondaries range for eight to eighteen in each province, except the north east province which has 41 secondary cooperative societies. In terms of primary membership, sixty six per cent of the cooperative movement is dominated by MPCs. The remaining primary membership largely hail from credit cooperatives (fifteen per cent), youth ser-

vices cooperatives (seven per cent) and school cooperatives (four per cent). In terms of geographical profile of the primary membership, twenty one per cent belong to the western province. An average thirteen per cent each belong to the central, south, north west, south galle and north east provinces. The north central and uva provinces have the least primary membership accounting for about 6 per cent each of the national primary membership.

- 3.7. Presently, the primary membership of cooperatives in Sri Lanka is estimated at 5.6 million, about one fourth nation's total population. About fifty thousand persons are employed in different cooperatives in Sri Lanka. The bulk of employment of thirty thousand jobs is provided by MPCS alone followed by about 6000 jobs in rural cooperative banks. The aggregate turnover of MPCS in consumer activities in 1999 was Rs. 32073.1 M.L. 1999 304 rural banks with 1418 branches were in operation. 1418 branches were reported to be in profit and 244 had losses. The rural banks had a membership of 3.3 million. The aggregate deposit value of these rural banks by members was Rs. 18 M.L. whereas the non-member deposit contribution accounted for Rs. 5682 M.L. In addition these banks had a total banking collection of Rs. 7232 M.L. These rural banks belong to 14 secondary cooperative rural bank unions. During 1999, the secondary unions had an aggregate deposit Rs. 54811.0 M.L. and granted loans of Rs. 8476 M.L.
- 3.8. There are three important institutes responsible for cooperative development and training in Sri Lanka. They are the Sri Lanka Institute of Cooperative Management (SLICM), National Institute of Cooperative Development (NICD), Polgolla and Centre for Cooperative Research and Development (CENCORD), Kandy. SLICM was formed as a public corporation through an Act of the Sri Lankan Parliament in 1983. SLICM is dedicated to the development of cooperation and cooperative societies, primarily through management promotion. SLICM works within the overall policy of the government and functions under the special and general directions of the minister incharge of cooperatives. In its day to day operations SLICM works in close collaboration with the Commissioner and department of cooperative development. The National Cooperative Council (NCC) of Sri Lanka, its regional centres, district councils and their district training centres provide on-going support to the programmes of SLICM. The government supports the budget of SLICM through an annual budget. In addition, SLICM also receives support from the cooperative development fund and derives income from services offered to the cooperative sector.
- 3.9. Till July 2000 the NICD was a departmental organization under the cooperative department and was called the Sri Lankan School of Cooperation, Polgolla. From August 2000 the organization has become a body incorporated through an Act of the Sri Lankan Parliament. The functions of NICD include acting as a centre for the promotion and coordination of activities related to cooperative development, providing training in cooperative development with the use, *inter alia*, of modern methods, cooperative research and offering professional advice to cooperatives. NICD is

reportedly a self financing institute and does not need to depend on the government for budgetary support. However, the management and control of NICD is very similar to that of SLICM.

- 3.10. CENCORD is an institution established by the NCC and is managed by a separate board of management and functions as an independent body. The vision of CENCORD is to realise a strong and sustainable people's enterprise system used, managed and owned by the members as an independent association of persons functioning in accordance with cooperative ideology and values. Its mission is to extend services on the basis of investigation and innovation to achieve excellence in cooperative enterprises and accordingly it offers a range of services to cooperatives of different levels.

4. Conclusion and recommendations

- 4.1. On Autonomy and Independence: *Whether hitherto government led cooperatives been able to change their true nature into becoming more autonomous, member controlled institutions, without sacrificing any of their values and principles in the realm of socio political conditions prevailing in that country?*
 - 4.1.1. The devolution of powers and administration under the Sri Lankan Constitution has made cooperatives a provincial subject. So far, only three of the eight provinces are reported to have adopted new cooperative laws. However, cooperatives continue to be generally regulated under the Cooperative Societies Law of 1972. Post liberalization, the government wanted the cooperatives to manage their own affairs. This resulted in the amendment to the cooperative law in 1992 where many of the powers of the Registrar were diluted. This amendment also resulted in preventing members of Parliament, provinces, municipal and urban councils or pradeshiya sabhas from being eligible for election as a member of the committee of a cooperative society. Unfortunately, since many cooperatives, especially large cooperatives remain indebted to the government the new amendments to the cooperative law, ground realities remain unchanged. In the circumstances, it may be said that cooperatives in Sri Lanka have not become more autonomous and independent and nor have hitherto government led cooperatives been able to change their true nature to get closer to the ICIS.
- 4.2. On Legal Existence: *Whether the distinct nature of cooperatives has been recognised by law or government policies?*
 - 4.2.1. In Sri Lanka, the distinct nature of cooperatives has been recognised both by law and through government policies. Till 1977, cooperatives were always considered as instruments of the government for its relief, ration distribution and development programmes. In 1977, the government adopted market oriented policies and liberalized its economy. However, the laws and government policies relating to the recognition of cooperatives remain steeped in the socialist era, the government expects

cooperatives to perform successfully in a highly liberalized and globalized economy.

- 4.3. On Recognition: *Whether cooperatives are recognised on what cooperatives are and what cooperatives can actually do in promoting civil society?*
 - 4.3.1. If any one sector of the cooperative movement can be said to have made significant and substantial contributions to civil society, it is SANASA. The thrift and credit cooperatives of SANASA have emerged as a close knit network of cooperative societies lending to their members for various activities and providing opportunities for the members to save and invest. SANASA has made important contributions towards gender equity by increasing women membership in its cooperatives to 49 per cent. Women's committees have been set up in almost 3000 societies and there are women leaders in almost 4,500 societies. Some societies have been formed exclusively by women members. SANASA has not just mobilised rural savings in a major manner but it has been able to plough back over 70 per cent of these savings as loans in the rural areas itself. SANASA has emerged as a development institution where a village's financial resources are mobilised and redistributed within the village itself. This has earned several accolades for SANASA from all quarters and it is now recognised as a model for the region. SANASA believes in continuous education of its members and to fulfill this goal it has established a campus at Kegalle. The campus aims to become a national centre for research and education. SANASA's vision for the future is to create a new social order based on cooperative principles.
- 4.4. On fair playing field: *Whether cooperatives are allowed to operate under equal footing with other enterprises in order to realise their full potential?*
 - 4.4.1. The existing cooperative legislation in Sri Lanka does not provide the kind of autonomy and independence that are enjoyed by other forms of enterprise. The devolution of powers relating to cooperative legislation has only made this task that much more difficult. Sri Lanka seems to be getting into a situation which some of India's cooperatives want to be set right i.e. seeking cooperative legislation under company law so that they are no longer subject to the jurisdiction of the states (provinces). In the circumstances, cooperatives in Sri Lanka are unlikely to enjoy a fair playing field, at least in the short term.
- 4.5. On Self Regulation: *Whether cooperatives are allowed to operate under equal footing with other enterprises in order to realise their full potential?*
 - 4.5.1. The cooperative legislation in Sri Lanka does not provide for self regulation by the cooperatives. In fact, the existing legislation provides for all kinds of micro regulation and supervision by the government and the department of cooperatives.
- 4.6. On Capitalisation: *Whether there are risks and/or potential among cooperatives to mobilise additional resources over their basic share capital?*
 - 4.6.1. The cooperative law in Sri Lanka does not provide for any significant manner of mobilizing additional capital except from government. Further more, the coopera-

tive law places restrictions on the investment of funds by the cooperative. Therefore, even if a cooperative can mobilise additional capital, its investment is subject to government approval and in a manner that may be prescribed.

- 4.7. On Official Development Assistance: *Whether there is a thrust and orientation amongst cooperatives to take good advantage of development assistance both from bilateral and multilateral institutions for their autonomous and independent growth and development?*
- 4.7.1. In Sri Lanka there are presently no major instances of official development assistance for the development of cooperatives in an autonomous and independent manner.
- 4.8. On Networking: *Whether there are fresh opportunities to be pursued by both governments and cooperatives before and after the sixth ministers conference scheduled for Nepal in March 2002?*
- 4.8.1. The need is to evolve an unambiguous position on how different provinces would address the issue of cooperative policy and legislation. There is also a need to work for a consensus between different provinces to ensure that their role in regulation of cooperatives brings cooperatives closer to the ICIS and gives them at least the same advantages that are available to other forms of enterprise.

Thailand

1.1. Social profile

- 1.2. Thailand is a country, approximately 514,000 square kilometres, home to 60.6 million people in mid-2000. It is the only southeast Asian country never to have been governed by a European power. The Thai population comprises four regional categories: Central Thai, Northeastern Thai, Northern Thai and Southern Thai. About 17 percent of the population are minority groups. About 70 percent of the population are in the 15-64-age category. Population growth in 2000 is expected to be 0.93 percent. Buddhism is the pre-dominant religion and there are minorities of Muslims and Christians. Thai is the main language and English is the secondary language.
- 1.3. Thailand's capital, Bangkok, has an estimated 5.5 million people but a large part of Thai society is rural. The life expectancy at birth is 69.2 years; 65.6 for males and 73.0 for females. The Government supports universal free primary education and the literacy rates are 96 percent for males and 92 percent for females. In the HDI ranking system, Thailand is ranked 67th by the United Nations, the HDI being 0.753 – middle level human development.
- 1.4. Thailand is a Kingdom, having a constitutional monarchy. The chief of state is the King and the head of government is a Prime Minister. The monarch is hereditary and the Prime Minister is designated from among the members of the House of Representatives, the legislative assembly, following a national election. The legal system is based on a civil law system, with influences of common law. The judicial branch comprises a Supreme Court, with judges appointed by the monarch.

2. Economy

- 2.1. Thailand's economy enjoyed high growth rates in the period 1985 to 1995, averaging approximately 9 percent annually. With the Asian Financial crisis affecting the national currency, Bhat, and the floating of the currency, the economy contracted at 10 percent in 1997. It has recovered from the crisis and in 1999, the economy expanded by about 4 percent. Beginning in 1999, the Baht stabilized and inflation and interest rates began coming down. The government followed the steps stipulated by the IMF and has implemented several changes, including passage of new bankruptcy and foreclosure laws. Other processes currently in place include recapitalising the

financial sector, implementing a privatization plan and forcing the private sector to restructure.

- 2.2. The GDP of Thailand in 1999 was estimated at \$388.7 billion, with a real growth rate of 4 percent. GDP per capita is \$6,400. 12.5 percent of the population was below the poverty line. Composition of GDP by sectors was, agriculture: 12 percent, industry: 39 percent and services: 49 percent. In 2000, real GDP is expected to grow by 4-5 percent with complete recovery from the Asian Financial crisis. However, it is reported that private investments fell by 7.0 percent. Corporate restructuring plan is expected to correct this deficiency and both exports and domestic demand, which increased in 1999, will have a positive influence on the economy.
- 2.3. Agricultural production rose by 3.9 percent in 1999, recovering from a 1.4 percent decline in the previous year. Expansion of planting areas and favourable weather conditions saw increased crop output while livestock production also expanded by 4.0 percent. Manufacturing production also rose by 11.1 percent in 1999, following increased domestic demand and higher exports. Industries in Thailand are tourism, textiles and garments, agricultural processing, beverages, tobacco, cement, light manufacturing, computers and components. Increased production led to an expansion of trade by 5.5 percent.
- 2.4. Exports performance was better than expected in 1999 and imports of raw materials and intermediate goods rose significantly. Despite a fall in export prices, the value of exports increased by 7.4 percent to \$ 56.8 billion in 1999. Export growth came mainly from agricultural products while manufactured products also improved in total export value. Imports also expanded significantly to \$47.8 billion, bringing a smaller trade balance at 7.9 percent of the GDP. However in 2000, imports declined by 10.9 percent and exports declined by 3.7 percent resulting in a trade balance surplus of US\$ 218 million. The balance of payments registered a surplus of US\$ 299 million. International reserves as of end-February 2001 stood at US\$ 33.2 billion.
- 2.5. Government fiscal policy in 1999 was aimed at recovering and supporting the economy through increased budgetary expenditure and external loan disbursements.
- 2.6. Money market liquidity remained high and Inflation was contained in 1999, dropping from 8.1 percent in 1998 to 0.3 percent provisionally, according to the Bank of Thailand. The CPI rose by 1.5 percent in 2000 following an increase in prices of food and beverages. Commercial bank deposits improved considerably, contributing to an increase of 3.7 percent in broad money (M2A). The projected stability in the economy will see a continuation of the monetary and fiscal policy stance of the government, aimed primarily at supporting economic recovery. It is expected that inflation would be contained and that the Government would resolve the loan problems faced by financial institutions to restore investor confidence.
- 2.7. The estimated Thai labour force is 32.6 million. The majority (54 percent) is em-

ployed by the agricultural sector while industry and services employ 15 percent and 31 percent respectively. The unemployment rate is estimated at 4.2 percent.

- 2.8. As stated earlier, the Government budget deficit was 7 percent of the GDP. The total external debt reached \$ 78.7 billion at the end of 3rd quarter of 1999, projected at 61.3 percent of GDP for the year. The debt is expected to decrease to 53 percent of the GDP by end of 2000, with a debt service ration of 18 percent of total exports.

3. Cooperative Movement in Thailand

- 3.1. The first, *ICA Critical Study on Cooperative Legislation and Competitive Strength*, focused on financial (credit) cooperatives as well as general cooperatives. This study has concentrated on developments arising in the non-financial cooperative sector, in particular the operation of the Cooperatives Act 1999

3.2. History of the Movement

- 3.2.1. The main purpose of co-operation in Thailand has been to promote the social and economic development of individuals, and, in particular, to improve the economic conditions of Thai farmers. The Government in 1915 with the objective of relieving farmers of severe indebtedness and preserving their ownership of land, which had been the subject of mortgage guarantees, initiated co-operation. Cooperatives were used as the conduit for funds provided by the Government which were on lent to farmers to meet mortgage and guarantee obligations.
- 3.2.2. The first cooperative in Thailand was registered on 26 February 1916 under the Civil Association Act (Amendment) 1916. This cooperative was the first village credit cooperative, which operated under the German Raiffeisen's principle and carried unlimited liability for its members.
- 3.2.3. The first cooperative legislation was enacted in 1928, 12 years after the first cooperative. The legislation was an important step in the development and establishment of different types of cooperatives such land settlement, consumer, fishery, marketing and processing; and remained in force until 1968. The 1968 Act was subsequently repealed in 1999 by the Cooperatives Act BE 2542.
- 3.2.4. As at 30 September 2000, there were 5,561 registered cooperatives of which approximately 60 percent were agricultural cooperatives followed by thrift and credit cooperatives with 23 percent. Consumer and service cooperatives accounted for approximately 6 percent and 7 percent respectively. The number of members of all cooperatives was 6.66 million. A majority (58 percent) of members belong to agricultural cooperatives and 27 percent are members of thrift and credit cooperatives. Consumer cooperatives have the third highest number of members at around 11 percent, whilst service cooperatives accounted for less than 2 percent.
- 3.2.5. The modern cooperative movement is viewed as an important mechanism for instituting economic and social development especially at the grass roots or primary level of production.

- 3.3. The Cooperative League of Thailand
 - 3.3.1. The Cooperative League of Thailand (the League) is the apex cooperative organization dedicated to the promotion of the Cooperative movement in Thailand.
 - 3.3.2. The League was established in 1968 by Royal decree under the Cooperatives Act of 1968. On the repeal of the 1968 legislation, the Act provided for the establishment of the League as a statutory body with the primary objective of promoting the affairs of the every kind of cooperative. Under the Act, the League is deemed to be a juristic person having powers to:
 - 3.3.2.1. Promote and propagate the activities of cooperative societies as well as conducting research and compiling statistics concerning activities
 - 3.3.2.2. Give technical advice and assistance to cooperative societies and provide facilities in respect of the communication and co-ordination between cooperative societies and government agencies of other persons
 - 3.3.2.3. Provide technical study and training on the activities of cooperative societies
 - 3.3.2.4. Promote relationship between cooperative societies and with foreign cooperative institutions having similar objectives
 - 3.3.2.5. Purchase, procure, dispose of, hold ownership, possess or execute a juristic act in respect of any property
 - 3.3.2.6. Promote commercial business trade industry and services of cooperatives
 - 3.3.2.7. Support and assist cooperatives in solving obstacles and constraints relating cooperative affairs which are of common benefit
 - 3.3.2.8. Act as an agent of cooperatives in protecting and maintaining rightful interests deservedly derived from the State or international organizations or other private sector institutions
 - 3.3.2.9. Co-operate with the Government in the promotion of cooperatives for genuine and real benefits to them in general
 - 3.3.2.10. Carry on other acts in compliance with its objects, as entrusted to it by the Government.
 - 3.3.3. As of 30 July 1999, the League had 5,418 affiliated cooperatives serving a membership exceeding 6.6 million. In addition there are 15 National Cooperative Federations with 1,600 member cooperatives, 3 Regional Cooperatives Federations with 333 member cooperatives and 81 Provincial Cooperatives Federations with 1,271 member cooperatives.
 - 3.3.4. Whilst all types of cooperatives at all levels are required to be affiliates of the League, the League does not operate any business enterprises on behalf of its affiliates. The current activities of the League's emphasize its role as a promo-

tional and educational organization, although it does have a role in protecting the rights, entitlements and interests of cooperatives. However, it does not have any administrative duties under the legislation in relation to the registration or dissolution of cooperatives. Nor does it have any statutory role to review decisions of the Registrar or the Board of National Cooperative Development.

- 3.3.5. The League has played an important role in the conduct of seminars aimed at encouraging collaboration between relevant provincial governments and village administrations in the development of cooperatives in important areas of food production. For example, in November of 1997 the League assisted in the organization of a Seminar conducted by the FAO on the Role of Fishing Cooperatives in Promoting Sustainable Fishing Development in Thailand. An important consequence of the seminar was the recommendation that the legal framework for the fishing rights of coastal fishing villages be established, with full coordination with the village administrative units of the provincial governments. The recommendation recognised fishers' groups as basic organizations, which could develop into fully functional cooperatives as membership increased and business management became effective. More importantly, the seminar recognised that it was essential to foster closer coordination among the relevant public agencies concerned, as well as with financial institutions, through a Common National Policy and a Comprehensive Plan of Action for Fishery Cooperative Development.
- 3.3.6. The seminar also recommended several points for further consideration by the agencies concerned, such as, the review of existing fishery laws and regulations to establish coastal fishing rights to be managed by either coastal communities and/or fishery cooperatives. In its recent policy statement the new Government has emphasised the promotion coastal fishing, aqua-culture and marine farming as well as fishing beyond territorial waters through the development of a strong national fishing fleet, support of the cold storage industry, and the promotion of processed fish goods. The Government has also indicated an intention to manage the environment, natural resources and bio-diversity in an integrated manner by upholding the principles of good governance and popular participation by the people and the local community.
- 3.3.7. The main sources of income of the League are derived from subscriptions and government subsidies, as well as proceeds from the sale of technical publications and from the provision of services to members. The League is also funded by interest earned from the Central fund of Unlimited Liability Cooperatives and from the proceeds cooperative liquidations.
- 3.3.8. The board of the League consists of 15 members who are answerable to the annual general meeting of cooperative delegates. The delegates are elected from all classes of cooperatives based on the number of cooperatives in each province. This is set as 10 cooperatives per delegate or a minimum of one delegate per province where there are less than 10 cooperatives registered and operating in a province. Del-

egates are elected for two years whereas the board of the League is elected for a period of 4 years.

- 3.3.9. One of the most pressing problems confronting the cooperative movement in Thailand is the provision of training to cooperatives. As most of the primary cooperatives are relatively poor, expenditure for the education and training of directors and managers is limited. A major activity listed by the League is the provision of specialised training services catering to the needs of directors, managers and employees of cooperatives.
- 3.3.10. To facilitate its training activities, the League has established a training centre with accommodation and conference facilities. It has also established the "Bidyalongkorn Institute" to provide cooperative education, training and extension services to its member cooperatives at the national level, as well to other cooperatives in South East Asia at the international level. The institute has the main objective of establishing education and training curriculum, and developing effective training and teaching models for meeting the needs of cooperatives. It is anticipated that there will be 2,400 board members, managers and employees who will be trained through this facility. In addition a further 100 personnel from cooperatives in South East Asia are expected to be trained at the Institute.

4. Public Policy

- 4.1. The policy of the Government has been to treat Small Medium Enterprises (SMEs) on equal terms with cooperatives. However, SMEs have been viewed as playing an important function in the manufacturing of raw materials produced by primary cooperatives. This is because most primary cooperatives have limited funds and lack the managerial skills required to engage in the value adding or processing of raw materials. In addition, cooperatives are perceived as having higher costs than other business and with fewer avenues to market raw materials. In this context, cooperatives lack bargaining power and are reduced to being price takers. The closed ownership of private enterprises reduces agency costs in the monitoring of management and provides management flexibility to meet changes in market conditions.
- 4.2. This encouragement of small independent private companies in the processing of raw materials produced by cooperatives has been a constraining factor on the development of vertical integration of cooperatives through engagement in value-added activities.
- 4.3. Whilst there has been a recent change in government, the future policies on cooperative development appear to be positive and progressive. The Government has indicated that it will promote and strengthen cooperatives, community businesses, agricultural institutions, and community organizations, enabling them to participate in making and proposing agricultural policy and other measures. In addition,

it has outlined policies to develop production in the rural sector and to strengthen community economics by linking the processing of agricultural produce with a "One Village, One Product" Project. Funding to the amount of one million, Bhat will be made available to each village to serve as a revolving loan facility for the long-term local investments and income creation in rural areas at the community level.

- 4.4. The Government has also promised to promote the principles of the Sufficiency Economy and to support villagers in coming together to conduct economic activities at the community level.
- 4.5. Legislative Environment
 - 4.5.1. Section 45 of the constitution of Thailand guarantees the right of persons to unite and form an association, a union, league, cooperative, farmer group, private organization or any other group. The constitution also precludes restrictions on the constitutional rights and freedoms of persons except where the Constitution specifically authorises enactment of laws to the contrary. However, restrictions can only be imposed to the extent necessary and must be of general application without interfering with the essential substance of the rights and liberties granted under the constitution.
 - 4.5.2. The Constitution also guarantees the right of a person to engage in an enterprise or an occupation and to undertake fair and free competition. Restrictions on this right can only be imposed where the law is specifically enacted:
 - 4.5.2.1. maintaining the security and safety of the State or economy of the country,
 - 4.5.2.2. protecting the public in regard to public utilities,
 - 4.5.2.3. maintaining public order and good morals,
 - 4.5.2.4. regulating the engagement in an occupation,
 - 4.5.2.5. regulating town and country planning,
 - 4.5.2.6. preserving natural resources or the environment,
 - 4.5.2.7. public welfare,
 - 4.5.2.8. preventing monopolies, or eliminating unfair competition or regulating consumer protection.
 - 4.5.2.9. Therefore, the right to form cooperatives is not only recognised under the constitution, but the basic rights and freedoms of members are also protected from artificial restrictions imposed under the law. When enacting Cooperative legislation any restriction under the legislation must take into account the rights and freedoms guaranteed to citizens of Thailand under the Constitution.
 - 4.5.3. It is generally recognised that cooperatives require financial support from the Government to develop the necessary infrastructure to enable them to enhance

their ability to market products. The Act has institutionalised the Board of National Cooperative Development as a statutory adviser to the Government on policies and guidelines for the promotion and development of cooperatives. The constitution of the Board is very broad and includes the Minister of Agriculture, the Secretary General from the Agricultural Economics Office, delegates from the Bank for Agriculture and Agricultural Cooperatives and from the National Economic and Social Development Board and other Government officials. In addition a delegate of the League, and the Chairman of the National Federation of each type of Cooperative as ex-officio members of the Board. The Board also has the responsibilities of prescribing guidelines for promoting and supporting the expansion of cooperative businesses including co-operation with the private sector to participate in the development of cooperatives. The Board also has powers to deliberate on any matter that is referred to it by the Council of Ministers' as well as some quasi-judicial powers of review. These concern appeals on the decisions of the Registrar relating to

- 4.5.3.1. Refusal to register a cooperative, and
- 4.5.3.2. Dissolution of a cooperative.
- 4.5.3.3. There is no right to appeal from a decision of the Board, even though the composition of the Board comprises a number of officers from the Ministry of Agriculture and Cooperatives, including the Cooperative Auditing Department and Agricultural Extension Department. The appeal mechanism clearly leads to potential conflicts of interest and raises issues affecting natural justice and transparency of the review process.
- 4.5.3.4. The Board also has administrative functions relating to the prescription of contribution rates by cooperatives to their reserve funds and the prescription of modes of deposit and investments by cooperatives.

5. Cooperative Legislation

- 5.1. The Cooperatives Act B.E. 2542 (the Act) of Thailand was enacted in 1999 repealing the previous cooperative legislation dating back to 1968. The purpose of the legislation was to encourage the development of cooperatives in line with changes to the market. It also required cooperatives to have limited liability.
- 5.2. The concept of unlimited liability was abolished under the transitional provisions of the Act by requiring all unlimited cooperatives to apply for registration as limited liability cooperatives within 180 days of the commencement of the Act. Those, which did not apply, were to be dissolved in accordance with the liquidation provisions of Part IV of the Act. As a result, all cooperatives registered under the Act have limited liability.
- 5.3. Responsibility for the administration and control of the Act has been given to the

Minister of Agriculture and Cooperatives. Within the Ministry of Agriculture and Cooperatives, there are the Cooperative Promotion Department (CPD) and the Cooperative Auditing Department (CAD).

- 5.4. The CPD plays an important role in the promotion of cooperatives at the provincial and district levels and in the implementation of Government policy on cooperative development. The CAD provides compliance auditing services to cooperatives through its regional and provincial branches. Cooperative inspectors attached to the CAD have powers to examine activities and financial conditions of cooperatives as prescribed by the Registrar of Cooperatives. These officers may assist wholly or partially in the operations of a cooperative to rectify management issues or to restructure the cooperative to trade efficiently.
- 5.5. While the inclusion of the CPD and CAD within the same Ministry may provide better co-ordination of the development and regulatory roles of Government, there is a potential for conflict between the two branches in the performance of functions. This type of administrative structure can lead to an unintended loss of independence by cooperatives where specific development policies have regulatory and supervisory consequences. In these circumstances, cooperatives may be left with little alternative but to follow the development policies, or risk regulatory interference with management decisions. This can restrict the development independent management policies and innovative practices within cooperative movement.
- 5.6. The Cooperatives Act has established the League as the national cooperative organization and as the apex non-government organization. The board of the League is charged under the Act with the responsibility of administering the League and it has powers to authorise the making of regulations in compliance with its objects.
- 5.7. An important check against the board exercising this power capriciously or against the best interests of its members is the legislative requirement for the Board to obtain the approval of the members before issuing certain regulations. These concern
 - 5.7.1. regulations for expenses and custody of funds.
 - 5.7.2. procedures for the calling and conduct of general meetings and attendance of delegates.
 - 5.7.3. matters pertaining to the election of directors.
 - 5.7.4. the calling and conduct of director meetings and
 - 5.7.5. administration by the board.
- 5.8. The Act provides for cooperatives to be vertically organized in a three-tier system consisting of primary, provincial federation and national cooperatives. The primary cooperatives consist of natural persons who come together for the promotion

of the social economic interests of the members by means of self-help and mutual assistance in accordance with the cooperative principles. The average membership at the primary level is 1,300 households and divided into groups at the village level. Under the Act, the board of directors who are elected by the members carry on the affairs of the cooperative.

- 5.9. A provincial or national federation is formed by five or more primary cooperatives that wish to carry on business jointly so as to accomplish common objectives may apply under Act to form a federation. However, it must be formed with the objects:
 - 5.9.1. offering facilities and benefits to cooperatives of the same type as the component cooperatives; or
 - 5.9.2. undertaking the same kind of business production, trade, industry or services of the component cooperatives in accordance with the criteria and conditions prescribed by the National Cooperative Development Board.
- 5.10. There is no provision under the Act for companies or other juristic persons to form or join a federation. Moreover, a federation can only be formed with the consent of the members of the component cooperatives given in general meeting. This provision protects and enhances the democratic rights of the members in the component primary cooperatives by ensuring member involvement at the formation stage.
- 5.11. These provisions on apex organizations of cooperatives ensure that the objectives of the organization are relevant to the grass roots or primary cooperatives. It promotes democratic processes in the operation of the organization and in the formulation of its policies.
- 5.12. There are a number of national federations dealing with specific areas of production mainly agricultural in nature. For example, the Agricultural Cooperative Federation of Thailand Ltd has 76 provincial agricultural cooperatives, which are affiliates.
- 5.13. The Act provides for the registration of different types of cooperatives as prescribed by ministerial regulation. There are currently six types of prescribed cooperatives, namely:
 - 5.13.1. Agricultural Cooperatives – providing services for the deposit and lending of money, sale of farm input and marketing of produce and the provision of agricultural services;
 - 5.13.2. Land Settlement Cooperatives – to provide land to farmers and to increase under-sized plots;
 - 5.13.3. Fisheries Cooperatives – to provide marketing services, deposit and lending facilities and training on fishery activities and services to improve fish farming;
 - 5.13.4. Consumer Cooperatives - to provide goods and services to member and non members;

- 5.13.5. Thrift and Credit Cooperatives - to promote saving amongst members as well providing facilities for the making of loans; and
- 5.13.6. Service Cooperatives – encouraging cottage industries, transportation housing and infrastructure.
- 5.14. Cooperative Development Fund
 - 5.14.1. The Cooperatives Act has established the Cooperative Development Fund (CDF) administered by the Ministry of Agriculture and Cooperatives for the specific purpose of promoting the affairs of cooperatives. The Act provides for the fund to consist of subsidies from the national budget, donations of money or properties, money and properties becoming the ownership of CDF, and proceeds from the sale of properties acquired from monies of the fund. This provides an important source of funds for cooperatives as banks generally view cooperatives as being high risk. Loans from commercial banks are generally short term around 2 years and require Registrar approval. Even where approval is granted for a global amount, the cooperative must inform the Registrar each time that a loan is drawn down on. This creates a restriction on those cooperatives, which are well organized and market driven.
- 5.15. Flexibility of Legislation
 - 5.15.1. Whilst the Cooperatives Act is a recent enactment, the perception amongst cooperative management is that cooperatives are less independent because of the need to obtain approvals from the Registrar before undertaking projects or borrowing of funds. The private sector is perceived as having much more flexibility in responding to changes in market conditions and opportunities than is the situation with cooperatives. However, it is the League's view that the provision of funds and the training of cooperative boards and management is necessary to progress cooperatives in the market economy and to enable them to compete with private companies. The League is also a strong advocate of policies to co-ordinate information and business linking to take advantage of existing resources in the marketing and sale of cooperative products, and in the export of those products. The stance taken by the League is consistent with the trend of current Government policies and initiatives.
 - 5.15.2. The economic development of primary cooperatives remains a crucial factor in strengthening of the cooperative movement and in the improvement of welfare and social conditions of local communities. However, many primary cooperatives do have strict cultural and social objectives with little or no trading activities. They are, in essence, the equivalent of the non-profit cooperatives found in a number of western countries which function for purely benevolent or charitable purposes. These cooperatives are not involved in commercial development, processing or value adding activities. Nevertheless, the League has recognised the importance of these cooperatives to the welfare and social well being of the general community.

- 5.15.3. The League has also been proactive in pursuing policies to enable primary cooperatives to vertically integrate into the manufacturing of raw materials and to foster business relationships or linkages with other cooperatives and private entities. To this effect, the League has been advancing policies with the Government designed to relieve the debt of the members of primary cooperatives and to facilitate low interest loans to the to cooperatives to purchase the necessary infrastructure required for these entities to compete in an open market economy.
- 5.16. Future Developments for Cooperatives
- 5.16.1. There has been some positive outcomes achieved in the adoption of the Cooperatives Act. Cooperatives remain an important development mechanism for assisting in the production of raw materials or commodities. As stated earlier, there is a perception that SMEs are better attuned to manufacturing and processing of raw materials produced by the primary cooperatives. The development of primary cooperatives will be dependent upon Government funding and support and the provision of appropriate training for directors and management of cooperatives.
- 5.16.2. There does not appear to be any legislative or administrative barriers upon the establishment of cooperatives in Thailand. In the area of fund raising, however, there are some major impediments upon commercial cooperatives seeking funds from the banking and financial sectors. Leaving aside the ability of individual cooperatives to source funds, the requirement under the Act for all cooperatives to obtain Registrar approval could prove a major disincentive for financial institutions to lend funds to cooperatives, as well as stifling initiative on the part of cooperatives to make independent commercial decisions.
- 5.16.3. Legal issues can arise where approvals are not obtained prior to, or at the time of, the execution of contracts thereby affecting the enforceability of the contract. A statutory approval process can give rise to a moral hazard problem. However, the legislation could provide for a staged development process, which would encourage greater independence and autonomy and to enable cooperatives to make financial and funding decisions independent of the Registrar. This should coincide with greater funding options being permitted under the Act to attract external capital and facilitate joint ventures.
- 5.16.4. There is a need for an independent review mechanism to be incorporated in the Act relating to decisions of the Registrar. There are a number of provisions where an appeal lies to the Cooperative Development Board. However, this body is primarily made up of Government officials from Ministry of Agriculture and Cooperatives and other government bodies. This can effectively be an avenue for interference in internal decision-making by cooperatives and for indirect implementation of government policy. An independent body would preclude such decisions being made and promote accountability and transparency in the hearing of appeals. It would also promote the development of law relating to review of administrative decisions affecting cooperatives.

- 5.17. Restrictive Provisions under the Cooperatives Act
- 5.17.1. The provisions, which are identified as restrictive under the Cooperatives Act, are
- 5.17.2. Registrar or Deputy Registrar must file a complaint or lawsuit on behalf of a cooperative on failure of the Cooperative to take action against a member of the board of directors, manager or personnel of the cooperative that causes damage to the cooperative.
- 5.17.3. Power vested in the Registrar to order an inspector or competent officer to assist wholly or partially in the operations of the cooperative:
- 5.17.4. Where there a cooperative has been registered for less than three years; or
- 5.17.5. Where a cooperative has made losses in its operations for more than two consecutive years. Section 23
- 5.17.6. Assistance, which may be given to a cooperative by an inspector or competent officer, must be in accordance with the regulations prescribed by the Registrar with the approval of the National Cooperative Development Board. Section 23
- 5.17.7. Registrar may dismiss the board and appoint an interim board who may hold office for a period of one hundred and eighty days from the date of appointment. Section 24
- 5.17.8. The type of cooperatives, which may be formed under the Act, is prescribed by ministerial regulation. Section 34
- 5.17.9. The admission of associate members is restricted to those cooperatives that are prescribed by the Registrar. Section 41
- 5.17.10. Rulings on the interpretation of by-laws limited to rulings by Registrar without appeal. Section 45.
- 5.17.11. Registrar approval required before loans or guarantees may be given or raised by cooperatives. Section 47
- 5.17.12. Cooperatives required to keep liquid assets in accordance with the criteria and methods prescribed in ministerial regulations. Section 48
- 5.17.13. Restrictions on the minimum number of delegates (and the quorums for delegates) which may be prescribe in the by-laws of cooperatives with more than 500 members. Section 56
- 5.17.14. Restrictions on the deposit and investment of monies. Section 62
- 5.17.15. Restrictions on the appointment of auditors. Section 69
- 5.17.16. Registrar has power to dissolve cooperative. Section.71
- 5.17.17. Limitation on the right to appeal against Registrar's order to dissolve a cooperative. Section 72

- 5.17.18. Registrar must approve of the election of a liquidator. Section 75
- 5.17.19. Approval of the Registrar is required for an amalgamation of cooperatives. Section 97
- 5.17.20. Approval of the Registrar required for a division and there is no appeal from the Registrar's decision. Section 97
- 5.17.21. Undertaking carried on be cooperative federations to be in accordance with criteria and conditions prescribed by the National Cooperative Development Board. Section 101
- 5.17.22. Restriction on the location of the head office of Cooperative League. Section 109
- 5.17.23. National Cooperative Development Board may entrust additional acts on the Cooperative League.

6. Conclusions and Recommendations: Beijing Declaration

6.1. On Autonomy and Independence:

- 6.1.1. The Constitution of Thailand guarantees the right of individuals to unite and form an association, a union, League, cooperative farmer group or private organization. In addition, the Cooperatives Act defines a cooperative as "a group of people who jointly conduct affairs for socio economic interests on the basis of self help and mutual assistance." On the Registration of a Cooperative the Registrar must be satisfied that a cooperative has this objective specified in its by-laws along with the requirement for the provision of self help and mutual assistance to be given in accordance with the cooperative principles.
- 6.1.2. The Act does provide for a review of certain decisions of the Registrar to the Board of National Cooperative Development, in particular a decision not to register a cooperative (Section 38). However, the Board is comprised of the Minister for Agriculture and Cooperatives as well as a number of bureaucrats from the Ministry. As the Registrar is a Ministry officer, it is unlikely that the Board could exercise quasi-judicial functions in way, which was impartial.

6.2. On Legal Existence:

- 6.2.1. On registration of a cooperative, the Cooperatives Act provides for the entity to be a juristic person. However, it is not clear whether there is protection under the Act for third parties who deal with cooperatives that act contrary to their by laws or to the provisions of the Act and regulations.
- 6.2.2. The Act provides for prescription by Ministerial Regulation of the type of cooperatives, which can be formed and registered under the Act. This has the potential to limit the development of new cooperative models and structures, which do not fit with in the standard class of cooperatives.

6.3. On Recognition

6.3.1. There is recognition under the Cooperatives Act as to the special characteristic of cooperatives and as to the operation of the Cooperative principles. The Act also gives a Cooperative separate legal status from its members and permits it to hold property and dispose of property. However it does not permit a cooperative to give a guarantee or raise a loan without first obtaining approval of the Registrar as to the amount to of the guarantee or loan. Whilst there are strong policy reasons for doing this in relation to newly formed cooperatives and cooperatives with little management commercial expertise, it does not facilitate the development of business acumen among directors and management.

6.4. Level Playing Field

6.4.1. There is a genuine recognition of the importance that cooperatives play at the grass roots levels. However, there has been a tendency for Government to encourage small privately owned SME's to provide services and engage in small manufacturing activities. There is some positive policy statements from the Government as to the provision of financial assistance to the cooperative sector, particularly at the village level. There has also been an acknowledgment from the Government to build up infrastructure to assist in the long-term development of cooperatives.

6.5. On Self-Regulation

6.5.1. The Cooperative Act is a highly regulative statute, which is designed to assist the small and unsophisticated cooperatives. It does not encourage a staged development process for cooperatives focusing upon management skills and self-regulation. There is a need for the legislation to provide incentives to cooperatives to work towards self-regulation and the determination investment and capitalisation programs.

6.5.2. The Act does recognise the right for members of a Cooperative to determine the qualifications for membership and the rights and duties flowing from membership in a cooperative. In addition, the Act permits the by-laws to prescribe the circumstances under which a cooperative can be dissolved as well as leaving the decision in the hands of the membership.

6.5.3. Where five or more cooperatives wish to form a federation the members of each cooperative must authorise their respective cooperative to participate in the formation. Similarly, where a cooperative wishes to amalgamate or divide its assets, the members of the cooperative must resolve to authorise the amalgamation or division.

6.6. Capitalisation

6.6.1. The Cooperatives Act requires all cooperatives to issue shares and limits the extent of a member's liability to the amount unpaid on the shares. Cooperatives are permitted to raise loans or borrow and to mortgage, pledge, sell or dispose of property. However, there is an obligation upon the Cooperative to obtain the approval of the

Registrar before any guarantee or loan is given or raised by the Cooperative. In addition, a cooperative is required to keep an amount in liquid assets as prescribed in Ministerial Regulations. Approvals of the members must be by a two-thirds majority of votes cast.

6.7. Cooperative Policy

- 6.7.1. The Thai Government has announced that it will support and strengthen cooperatives and agricultural development. It has indicated that it will adopt policies designed to develop the processing of agricultural produce with a "One village One Product" Project. This will have important implications for small primary cooperatives.

6.8. Networking

- 6.8.1. The Cooperative League of Thailand has been proactive in networking with government agencies and international bodies in the furthering the cause of cooperatives in Thailand. It is also a member of the Cooperative Development Board, which has duties under the Act of prescribing policies and plans for cooperative development currently with national economic and social development plans. It also has the statutory duty of prescribing guidelines for the co-ordination of government agencies for the promotion of cooperatives.

6.9. Official Development Assistance

- 6.9.1. The Cooperatives Act provides for the establishment of the Cooperative Development Fund, which provides loans to cooperatives. In addition, during 2000 the Government allocated funds to encourage urban development through credit cooperatives and other savings groups as well as encouraging the lending to cooperatives through specialised institutions such as the Bank of Agriculture and Agricultural Cooperatives. (During the fiscal years of 1998-2000, the Ministry of Finance recapitalised the BAAC to strengthen its financial base to expand its services to the agricultural sector and rural areas). This Government has announced a lending and guarantee program for 2001 for SME's (including cooperatives) valued at 52, 100 million Baht consisting of loan support of 50,500 million Baht and guarantee support of 1,600 million Baht. The amount of 2,000 million Baht was allocated to the BAAC to extend its credit services to a greater number of farmers at lower interest rates.

Vietnam

1. Social Profile

- 1.1. Vietnam is located in the south-eastern Asia, bordering the Gulf of Thailand, Gulf of Tonkin, and South China Sea, alongside China, Laos, and Cambodia. The total area is 329,560 sq km, with a coastline of 3,444 km and a land boundary of 4,639 km.
- 1.2. The population by mid-2000 was estimated 78.8 million, with 62 percent of the people in the 15-64 years age group. Population growth rate is estimated to be 1.49 percent. The life expectancy at birth for the total population is 69.27 years; 66.84 years for males and 71.87 years for females. The infant mortality rate was 31.13 deaths/1,000 live births in 2000. 85 percent-90 percent of the population is Vietnamese and other ethnic groups include Chinese and other East Asians. The main religions are Buddhism, Taoism and Roman Catholic. The official language is Vietnamese although many Vietnamese also speak Chinese, English and French. The literacy rate is 93.7 percent for the total population; 96.5 percent for males and 91.2 percent for females. Vietnam has a HDI value of 0.664 (medium level human development) and a world ranking of 110.
- 1.3. The chief of state is a President. The head of government is a Prime Minister and the legislative branch is the National Assembly, whose members are elected by popular vote to serve five-year terms. The National Assembly elects the President from among its members for a five-year term and the Prime Minister is appointed by the president from among the members of the National Assembly. The legal system: based on communist legal theory and French civil law system with the Judicial branch being the Supreme People's Court, whose chief justice is elected for a five-year term by the National Assembly on the recommendation of the President.

2. Economy

- 2.1. In 1975, the North Vietnamese communist regime took control the south and adopted Soviet style economic policies. After a 10-year period of closed activity, free market principles were gradually adopted as part of the policy of renovation (doi moi) of the economic system of the reunited country.
- 2.2. The economy progressed substantially from 1986 to 1996 with growth averaging around 9 percent per year from 1993 to 1997. The 1997 Asian financial crisis af-

- affected the Vietnamese economy and the GDP growth of 8.5 percent in 1997 fell to 4 percent in 1998. The economy has recovered slightly and the growth rate is estimated at 4.8 percent in 1999. The GDP is estimated at \$143.1 billion in 1999, the GDP per capita being \$1,850. GDP is reported to have increased in the first half of 2000 due to Government's demand stimulation, rising consumption and strong export performance. The GDP is expected to grow at 6.2 percent in 2000. The contribution to the GDP by the services sector was 41 percent with agriculture and industry sectors contributing 26 percent and 33 percent respectively. Population below the poverty line is estimated at 37 percent.
- 2.3. Foreign direct investment fell from \$8.3 billion in 1996 to about \$1.6 billion in 1999, resulting in the Government implementing new policies and initiatives aimed at attracting foreign investment.
 - 2.4. Vietnam's agricultural products are paddy rice, corn, potatoes, rubber, soybeans, coffee, tea, bananas; poultry, pigs and fish. Exports in 1999 amounted to: \$11.5 billion, export commodities being crude oil, marine products, rice, coffee, rubber, tea, garments and shoes. The major export partners were Japan, Germany and Singapore. Imports were valued at \$11.6 billion in 1999, the commodities being machinery and equipment, petroleum products, fertilizer, steel products, raw cotton, grain, cement, motorcycles. Major import partners were Singapore, South Korea and Japan. Vietnam registered a trade deficit of about \$500 million in 1999-2000. Exports in 2000 are projected at \$ 13.5 billion with a trade balance deficit of nearly \$ 1 billion.
 - 2.5. Inflation rate (based on consumer prices index) has been 4.3 percent in 1998, but the year-on-year increase in consumer price index (CPI) in December 1999 was only 0.1 percent. In August 2000, year-on-year inflation has been negative. Since 1999, the State Bank of Vietnam (SBV) has been relaxing monetary policy and expanding domestic credit. In the first half of 2000, credit is estimated to have grown at an annual rate of 30 percent. In July 2000 adopted a flexible interest-rate policy, setting a base rate and allowing commercial banks to vary their rates.
 - 2.6. The Government has adopted an expansionary fiscal stance in 1999 and 2000 Budget revenue is estimated at 18.4 percent of GDP and expenditure 20.4 percent of GDP, which includes capital expenditures of 6.5 percent of GDP. Capital works were envisaged to improve rural infrastructure.
 - 2.7. The labour force in Vietnam is estimated in 1999, at 38.2 million, a majority (67 percent) being employed in the agricultural sector. The unemployment rate is currently around 7 percent with an underemployment rate of 30 percent. It is estimated that the workforce in Vietnam will grow by 11 million people during the next 10 years.
 - 2.8. The average per capita income in Vietnam stands at VDN 295,000. However when this is broken down into urban and rural incomes that average city wage was VDN 832,500 compared with VDN 225,000 for rural wages.

- 2.9. The major industries in Vietnam are food processing, garments, shoes, machine building, mining, cement, chemical fertilizer, glass, tires, oil, coal, steel, paper and industrial production grew at a rate of 10.3 percent in 1999.
- 2.10. External Debt of Vietnam was 11.1 percent of the GDP in 1999 and expected to rise to 13.5 percent of GDP. Vietnam has reserves of \$ 3.5 billion.

3. Cooperative Movement in Vietnam

- 3.1. Historically, co-operation in Vietnam has been viewed as an instrument of the State for the implementation of centrally designed policy. Cooperatives were used (in the agricultural context) to collectively mobilise resources to meet production quotas and to provide services for benefit of the State.
- 3.2. Membership of the cooperative was almost compulsory determined by place of birth, with little or no say in the future direction of the organization or in the extent or nature of the services provided to members. Rules for the organization and management of cooperatives were determined by the party organs and were strictly adhered to. This included the convocation of meetings, the election of management committees and office peers, the operation of internal work organizations and the determination and distribution of surplus.
- 3.3. The process of collectivisation of agricultural produce had commenced in the North in the late 1950's as the state gradually implemented centralised policies adopted from the Soviet Union. At the heart of this process was the commune or cooperative, which controlled the land and mobilised local villages and resources to meet the production policies from Hanoi. However, by the early 60's it became obvious to the bureaucrats that modifications to the collective system were needed to encourage farmers to be more efficient. As a result, farmers were given small plots to cultivate for their own economic purposes. These plots were usually no more than 5 percent of the total land under the control of the Cooperative, but were often farmed more efficiently than the communal land.
- 3.4. By the middle 60's there were some 41,000 agricultural production cooperatives representing 2.4 million households and 84 percent of the rural population. As a result of a number of government encouraged amalgamations this number was reduced in 1967-68 20 million members comprising, on average, 300-500 households with an area of 200-300 hectares. With the down turn of the economy in the early 1980's and the collapse of the collective system the number of cooperative members decreased to 15 million.
- 3.5. On the unification of Vietnam in 1975, the State implemented policies designed to place agricultural production in the South under centralised control. From 1976 land was confiscated in the south and brought under the control and management of newly formed state run cooperatives. However, the operations of these cooperatives proved largely unsuccessful, or were largely resisted by farmers, particularly those

farmers in the Mekong Delta.

- 3.6. Farmers who were brought under the cooperative system quickly lost incentive to farm on a communal basis preferring to cultivate their small family plots on a self-help basis with other farmers. Therefore, many of the cooperatives existed in name only and provided no economic benefit to the state.
- 3.7. From 1975 to the early 1980's the focus of cooperative activities was on implementing government policies aimed at the rebuilding and unification of post war Vietnam on a collective basis. The operation a cooperative as an independent organization and providing mutual self help and economic benefits for its membership, was inconsistent with the economic realities of a centrally planned system. This was because the Marxist – Leninist policies adopted by Vietnam placed the development of the State above the needs of the individual on the basis that the needs of the individual would be met by the collective action of the State. However, as production fell and food shortages grew the Peoples Congress turned to the adoption of market reforms aimed at renovating the old centralised system under a socialist led government.
- 3.8. By the mid 1980's Vietnam introduced a number of economic changes aimed at transforming the economy from a planned or centralised system to a multi sector market economy under State control. The implementation of market reforms since 1985 has been an on-going process, which has provided momentum for the decollectivisation of agriculture. This in turn has contributed to farm households having a greater role in the decisions affecting agricultural production. Amidst these changes, the role of cooperatives has been transformed from that of regulating production activities to that of providing of economic services to enhance the production and income of members.
- 3.9. In 2000, the productive value of new cooperatives amounted to 8.2 percent of Vietnam's GDP providing important services to some 50,000 members.
- 3.10. Role of the Vietnam Cooperative Alliance
 - 3.10.1. The Vietnam Cooperative Alliance (VCA) was formed in 1991 as the unofficial organization of the Vietnamese Cooperative Movement. At the National Congress in October 1993, the Government agreed to contribute money and provide paid officials to the VCA to continue its activities of mobilising and developing the cooperative movement.
 - 3.10.2. The role of the VCA is essentially one of facilitating the development of cooperatives in Vietnam through the provision of specialist services. It is established under Article 48 of the Law. The VCA has no administrative duties under the Law, nor is it responsible for the registration of cooperatives. The Peoples Committee undertakes registration of cooperatives at the Local Level. (Article 17).
- 3.11. Some of the important areas of involvement listed by the VCA are:

- 3.11.1. Pro-active policies designed at increasing the number of new cooperatives
- 3.11.2. Support and guidance to cooperatives in the development of new business opportunities and the enlargement of business activities.
- 3.11.3. To provide advice and direction to cooperatives on export activities as well as facilitating international trade opportunities.
- 3.11.4. To establish cooperative unions to support regional and provincial primary cooperatives.

4. Public Policy

- 4.1. The Legal System of Vietnam and its effects on Co-operation
 - 4.1.1. The law of Vietnam is essentially a civil law system in that statute law and a hierarchical system of implementing subordinate legislation determine the law. In essence, law and policy are seen as “essential sources of social regulation” designed to mobilise resources, implement intended outcomes and provide strategic direction at the provincial and village levels.
 - 4.1.2. Under this system, a law made by the National Assembly can only be implemented if Government and other authorised administrative and regulatory bodies make further implementing regulations. This can lead to uncertainty where State and provincial agencies without prior consultation or co-ordination issue contradictory regulations. The consistent interpretation and implementation of laws by different functional organs of the state is vital to future competitive efficiency of Vietnam. The Prime Minister Phan Van Khai has acknowledged that the administrative apparatus of the State has not been successful in the implementation of law and policy and has indicated that the implementation of administrative reforms will accelerate.
 - 4.1.3. With the collapse of the centralised system in the mid 1980’s, and the redirection of land rights to farmhouse holds the old communal, cooperatives ceased to have importance in the mobilisation of agricultural resources. Many of these entities existed in name only as they had no statutory status under the new reforms. However, as these cooperatives held state and community assets it was necessary for a mechanism to be developed which could identify and redistribute these assets to the local village committees or peoples committees. The complete dismantling of the old model cooperatives was one option for consideration by the Government.
 - 4.1.4. In implementing changes leading to a market economy, the Government recognised that the transformation of the former cooperatives into independent organizations based on mutual self help could play an important role in revitalising and developing the farm sector and urban economy.
 - 4.1.5. The years of centralised cooperative development by the state had brought the concept of co-operation into disrepute. However, the Government was aware of the extent to which farmers had relied on self-help in the cultivation of their small family

plots. To harness the benefits of mutual self help using the membership of existing cooperatives, it was necessary for the Government to provide a legal framework that would transform those entities into independent democratic organizations. Moreover, legislation that would remove the shackles of government control and promote an independent cooperative sector operating under the cooperative principles.

- 4.1.6. The development of a strong vibrant agricultural sector is an important goal of the government as 75 percent of the population resides in the rural areas of the country. Out of the 38.2 million workforce approximately 26 million people are employed in the agricultural sector. The establishment of agricultural Cooperatives is seen as an important strategy for providing employment in the agricultural sector. Cooperatives are also important in the mobilisation of resources and the provision of inputs and services for farm production and diversification. There is strong encouragement by the Ministry of Agriculture to encourage farmers to cultivate alternate cash crops and experiment with new farming techniques
- 4.1.7. The Government has indicated that it will support enterprises in removing the obstacles to boost production and business activities with greater efforts to expand outlets for agro-products. The VCA will play an important role in assisting in the reduction of the obstacles facing agricultural cooperatives in the transformation process through a review of Law on Cooperatives which is expected to be conducted during the latter half of 2001.
- 4.1.8. Despite the intended policies of the Government to promote private enterprise, state-owned firms are still receiving substantial subsidisation. It is estimated that 75-80 percent of the 5,400 state-owned firms are operating in the red causing a burden to the Government's budget and absorbing approximately half of all bank credit. The reluctance of the Government to convert these firms to either private firms or cooperatives effectively restricts the potential for cooperatives to enter into areas traditionally covered by state-owned enterprises.

5. Cooperative Legislation

- 5.1. Before 1 January 1997, Vietnam had no national law on Cooperatives. The regulation of cooperatives was effected through a number of Resolutions and Decrees and Decisions made at the government and Ministerial level. There was no legislative imprimatur from the national assembly authorising transformation of the old cooperatives or recognising the right of cooperatives to be independent democratic organizations.
- 5.2. The promulgation of the Law on Cooperatives was an important step in Government recognising the independence of cooperatives and the basic tenants of co-operation. The Law was also instrumental in implementing the transformation process of the old collective style cooperatives to the new service orientated entities embracing cooperative principles. However the implementation of the Law was subject to a

number of important Decrees and regulations aimed at facilitating cooperative development by providing incentives for the transformation and registration of cooperatives.

- 5.3. On the commencement of the Law on Cooperatives the number of agricultural cooperatives stood at 13,120, with 10,219 or approximately 78 percent still operating. The majority of the cooperatives were located in the Northern and Central Provinces. Out of the operating cooperatives 19 percent were considered to be poor in that they provided one service to their members. A further 16 percent were classified as providing 3 or more services and were considered the core group for transformation to the new style cooperatives under the Law. The majority of cooperatives (43 percent) were classified as operating unstably with an expectation of transformation if economically viable business activities could be identified.
- 5.4. In February 1997, the Government issued Degree No 16/CP "On Transformation and Registration of Cooperatives and Organizations and Operation of Unions of Cooperatives." The decree created an obligation on the old cooperatives to establishment of a preparatory transformation board charged with the responsibility of convening meetings of their members to settle issues that were inappropriate to the Law on Cooperatives.
- 5.5. The preparatory transformation boards charged with the responsibility of explaining to members the objectives, significance and transformation requirements under the Law. The preparatory boards are also responsible for taking inventories, evaluating assets, determine and classify debts and borrowings and prepare lists of creditors and debtors and propose solutions to members for the settlement of assets and debts. The Ministry of Finance has the responsibility for guiding the implementation of this requirement. The Peoples Committees in the provinces and cities are important stakeholders in the commencement of the transition process. The Peoples Committees have an obligation to establish directing committees to formulate plans for the implementation of the transformation process and for facilitating registrations of cooperatives and unions within their locality.
- 5.6. Under Decree No. 16, the decision to transfer to the Law lies with the members of the cooperative. Members are required to pass a resolution approving of the transformation or dissolution of the cooperative before any action can be taken to register or liquidate the entity. However, where the members elect not to maintain an agricultural cooperative all non-distributable assets are to be transferred and managed by the local People's Committee for community use. In the case of a non-agricultural cooperative, the assets previously funded by the State are to be managed by the local administration to serve local economic development. The distributable assets are distributed to members after the satisfaction of debts, in a manner determined by the members, or in the case of non-agricultural cooperatives, based on each member's contributions.

- 5.7. The average estimated value of assets for the old style cooperatives was around VDN 470.6 million. The average value of assets transferred to communes was an estimated VDN 75.7 million, whilst the sale of assets to repay debts or to distribute funds to members averaged around VDN 7.5 million (or less than 2 percent). In the determination of asset values, capital, debt and funds a cooperative a great deal of liberty has been given to the preparatory transition boards because of the lack of documentation and the difficulty in determining membership.
- 5.8. Perhaps of greater importance to the membership is the requirement under Decree No 16 for member participation in the determination of cooperative assets, capital funds, and the plans for production, business and services. The members are also required to determine the charter of the new cooperative and to elect the board of management, committee of inspection and chairperson.
- 5.9. As part of the transformation process all cooperatives registering under the Law must obtain a Certificate of Business from the Peoples Committee in the city or province in which the cooperative will be operating. The application must be lodged with the Planning and Investment Department in the province in which the head office is located. There is a statutory period of 15 days in which the Planning and Investment Department must forward the application to the relevant Peoples Committee. Where this involves trades associated with the manufacture of explosives, poisons chemicals exploration of gold or gem stones, production of equipment for telecommunication and media operations, import/export of goods international tourism, ocean and air transport, then the approval of the Prime Minister is required as well as a Certificate of Business from the relevant Peoples Committee. In addition, the cooperative must meet minimum level of capital prescribed for each trade under the Declaration. For example, a cooperative that wanted to conduct an export or import business would require a minimum capital of 1 billion VDN. Whereas a cooperative involved in the manufacture of poisons or chemicals would require 60 million VDN.
- 5.10. An application for a Certificate of Business relating to the above trades requires:
- 5.11. Application for business registration together with the meeting minutes approved by the meeting of the cooperative's members
 - 5.11.1. The Cooperative's Charter passed by the meeting of the Cooperative's members
 - 5.11.2. List of members of the board of management (council of management) chief inspector and members of the board of inspection, and a list of the cooperatives members with their capital contribution
 - 5.11.3. Plans of production, business and service
 - 5.11.4. Professional license for trade
 - 5.11.5. Certificates issued by village People's Committee for the title to or the rights to use the Cooperative Office

- 5.12. Where a cooperative intends to establish subordinating units in the form of a branch, sub-office or farm, in the province of the where the head office is placed, the cooperative must obtain the approval of the Peoples Committee in the village in which the office subordinating unit is to be placed. Moreover, if the subordinated unit is to be placed in the another province then than the approval of the Peoples Committee at the provincial or city level is required as well as registration with the Peoples Committee in the district of operation. An application for a certificate of business of a subordinating unit includes the following documents:
 - 5.12.1. Application for placement of office
 - 5.12.2. A copy of the Cooperative's certificate of business at the provincial or city level
 - 5.12.3. A copy of the charter of the Cooperative
- 5.13. Functions and duties of the subordinating unit and full name of the head of unit
 - 5.13.1. This complicated approval and registration process has been a major burden on the transformation and establishment of new cooperatives. However, the Hanoi Service of Planning and Investment is speeding up preparations for the establishment of the capital city's business information network, to be completed during 2001. The network would include a data system providing updated information regulated by the Business Registration Bureau in coordination with other State agencies via wide area network and connected with computer systems of district-level business registration bureaus. One of the expected outcomes of the new system is to facilitate business registration activities by cooperatives and household business.
- 5.14. In addition, to the "Decree on Transformation the Government" has made Decree no: 15/CP on the "Incentive Policy for Cooperative Development". This Decree is applicable to those cooperatives, which have Certificates of Business under the Law on cooperatives. The decree grants certain exemptions and reductions in the payment land rental and taxes for cooperatives involved in specified business activities. For example, cooperatives engaged in agriculture, forestry, aquaculture and salt producing are exempt from the payment of land use if assigned with land by the Government. Whereas newly registered cooperatives recognised as eligible to land rent are entitled to a 50 percent reduction in land rental for the first two years. In the case of revenue or profit taxes, newly registered cooperatives are entitled to exemption or reduction from payment.
- 5.15. Despite these incentives, the Ministry of Agriculture and the Vietnam Cooperative Alliance generally accept that the formation of limited liability companies is a less complicated and involved than the registration of cooperatives under the Law of Cooperatives. This is because of the Law on Enterprises was enacted in 1999 in the context of recent economic reforms designed to improve foreign investment and local business activities.
- 5.16. The VCA does provide a conduit for cooperatives to have input into the making of

laws and the determination of policies affecting cooperative development through the VCA's close collaboration with the Ministries of Trade and Agriculture. The VCA was an active participant in the construction of Decree NO. 15/ND-CP, relating to policies encouraging cooperative development in the aspects of land use, taxes, credits, training, investment projects etc. It also participated in setting up of Decree No. 16/CP, on the transformation and registration of cooperatives and Unions of Cooperatives under the new Law. In addition, the VCA has played an important role in the development of model by-laws under the Laws and is actively involved in the transformation process of a number of old model cooperatives. This is achieved through the provision of assistance in the establishment of the "preparatory transformation boards" and the giving of advice on the transformation of cooperatives. The VCA also provides technical assistance in the drafting of documents and with the procedures for lodgment and registration of documents for transformation.

- 5.17. The VCA has an important role in the development of international trade for cooperatives. It has a number of subsidiaries that operate in the domestic and export markets. One of the main functions of the VCA is to provide facilities that are conducive to the export of cooperative products, in particular the export of arts and crafts, which is a major source of hard currency. In the first two months of 2001, Vietnam earned US\$ 41 million from handicraft exports sold to 50 countries and territories worldwide. It is expected that export earnings for 2001 will top the US\$ 350 million mark.
 - 5.18. Under a plan submitted by the Ministry of Trade to the Government for approval an export target of between 900 million and USD 1 billion has been set for the year 2005. It is anticipated that the VCA will play an important role in developing cooperatives involved in this arts and crafts by working closely with the Ministry of Trade to improve the quality and diversity of the products provided by cooperatives.
 - 5.19. The VCA will have an important function to play in future modernisation of the Law on Cooperatives to bring it into line with the current business law for the establishment of companies. The registration provisions of the current Law are seen by some as being too cumbersome and overly complicated. Moreover, the transition requirements under Decree: 16/CP appear to add to the complication by prescribing a number of preliminary steps, such as the identification and valuation of assets, before registration documents can be lodged and registration obtained.
 - 5.20. The VCA is currently reviewing the legislation for submission to the National Assembly in 2002 of amendments to the Law designed to simplify registration procedures and to provide maximum commercial flexibility to make cooperatives more attractive general community.
6. Current Cooperative Legislation
 - 6.1. The major objective of the Law on Cooperatives was to reform the old model cooperatives away from central government domination to independent organizations

based on open and voluntary principles serving the economic interests of members. Members of the old model cooperatives were given a choice as to the transformation of the cooperative or dissolution and distribution of assets. There was no compulsion to join or participate in the new cooperatives, but where members decided to transform a cooperative, the focus of the activity shifts to provision of services and economic benefits for members. Members who wish to leave the cooperative must apply to withdraw from membership and to be repaid share capital.

- 6.2. After 4 years of operation, there are currently 10, 000 cooperatives registered under the Law on Cooperatives. The process of transformation has been slow due to the requirements under the Law to clarify property rights of members of the former cooperative and to determine the assets of the State to be transferred to the relevant local administration or peoples committee.
- 6.3. Major efforts have been made by the Ministries of Trade and Agriculture in conjunction with the VCA to mobilise and involve people in becoming members of new cooperatives mainly in the credit, agriculture, transportation, fishery and handicraft areas. After 4 years of implementation of the Law, the view held by the VCA is that the cooperative movement is generally in a good situation. In support of this, the VCA cites the following factors:
 - 6.3.1. End of the trend away from co-operation;
 - 6.3.2. Establishment of new cooperatives organized along cooperative principles;
 - 6.3.3. Intensification of business activities through the new cooperative structures and
 - 6.3.4. Two fold increase in capital subscriptions.
- 6.4. However, the transformation of the old model cooperatives remains a slow process under the Law. This is because of the requirements under Decree No: 16/CP for the classification and evaluation of assets of the old model cooperatives. As these cooperatives had control over a number community assets it is necessary for these assets to be identified and separated from assets which will be used by for direct service to production, business and service of the cooperative. Moreover, the identification of assets is an important factor in determining the capital contribution of members in a new cooperative.
- 6.5. In the case of non agricultural cooperatives the previous share capital is considered the members contribution in the new cooperative The cooperatives accumulated capital is divided in to portions, one belonging to collective and the other supplemental to the member's previous capital contributions.
- 6.6. Future Developments for Cooperatives
 - 6.6.1. The future development of cooperatives remains an important issue in the economic development of Vietnam. The transition of the old model cooperatives has been a major concern of the VCA and Government in the development of a modern independent cooperative sector. There is a genuine concern amongst Government offi-

cial that the Law on Cooperatives requires modification to streamline the registration and administration processes and to enable cooperatives to be a viable alternative to the company structure.

- 6.6.2. There are positive indications that the Government will move to make changes to enhance the growth of cooperatives and to promote them as democratic independent organization providing economic benefits to members and the wider community.
- 6.7. Restrictive Provisions in the Law on Cooperatives are identified as follows:
 - 6.7.1. Restrictions on the establishment of a branch or representative office outside the district or province where head office is located. Article 21(1).
 - 6.7.2. Requirement for Cooperatives to comply with Government provisions relating to the establishment of a branch or representative office outside of Vietnam. Article 21(3)
 - 6.7.3. Restrictions on the qualification and admission of households to membership, and the member's status in the household. Article 22(3).
 - 6.7.4. Restrictions on the transfer of assets, such as land and public infra structure, on dissolution of a cooperative. Article 41.
 - 6.7.5. Requirement for merged or divided cooperatives to obtain a business registration certificate from the local Peoples Committee.
 - 6.7.6. The Peoples Committee, which issues the business registration certificate of a Cooperative, has the power to decide on compulsory dissolution. Article 46(2).
 - 6.7.7. The establishment, organization and operation of Unions of Cooperatives are prescribed by Government regulation. Article 48(4)
 - 6.7.8. Central Alliance of cooperatives to be recognised by a decision of the Prime Minister, and Provincial Alliances of Cooperatives to recognised by a decision of the Chairman of the Provincial Peoples Committee. Article 49(3).

7. Conclusions and Recommendations: Beijing Declaration

- 7.1. On Autonomy and Independence:
 - 7.1.1. Article 20 of the 1992 constitution recognises the rights of the collective sector to organize in various forms following the principle of free consent, democracy and mutual benefit. The same article also places a positive obligation upon the State to create favourable conditions for consolidating and broadening cooperatives and allowing them to operate efficiently.
 - 7.1.2. Under the law on cooperatives, article 5 requires the State to protect legal rights and interests of cooperatives. It also obligates the State to provide equality to cooperatives in the manufacturing business and service activities as well as encouraging the development of cooperatives. The State is also required to respect the right of self-control and self-responsibility in the pursuance of manufacturing business and ser-

vice activity. The article places an obligation on the State not to intervene with legitimate management of cooperatives.

7.1.3. Article 7 prescribes principles as the operation of cooperatives registered under the law. For example, voluntary joining and withdrawal from registered cooperatives is recognised as well as democratic and equal management. In addition to these principles, the article prescribes the principle of self-responsibility and mutual benefit in relation to carrying on of activities and distribution of income. The article also acknowledges the principle of community co-operation and community development.

7.2. On Legal Existence:

7.2.1. Under the law, a registered cooperative enjoys status of a legal person but it is unclear as to the protection given to third parties when dealing with cooperatives who have acted contrary to the law or provisions of their by-laws.

7.2.2. The Law gives a registered cooperative power to export, import, form joint ventures and integrate with organizations and individuals both inside and outside Vietnam. A cooperative also has power to borrow money from banks, to raise funds from other sources and to lend money to cooperative members in accordance with the Law.

7.2.3. Under the law, there is no central government agency responsible for registration of cooperatives (issue of business certificates). This is done through the People's Committees at the district level. Moreover, the establishment of branches requires registration at the People's Committees in the area where the branch office is to be located.

7.2.4. There are a number of legal requirements for the transformation of old model cooperatives under the Law. These are complicated as they involve the establishment of a transitional committee, determination of proposed cooperative assets, the capital and contributions of members and the support of the local People's Committee. This has been a major barrier to the transformation process.

7.3. On Recognition

7.3.1. Article 1 of the Law in defining a cooperative acknowledges the role of cooperatives in improving living standards and in contributing to the socio-economic development of the country.

7.3.2. There is also recognition in Article 7 that cooperative members have the right of participating, managing, controlling and monitoring of cooperative activities through equal voting rights, which contributes equity, social justice and democracy. This is borne out by the duty imposed on cooperatives through article 9 to protect the environment, human ecology and heritage.

7.3.3. There is also a duty imposed on cooperatives to provide social security to members and to train, educate and upgrade qualifications, thereby improving the quality of life for members.

7.4. Level Playing Field

- 7.4.1. Since the enactment of the Law on Cooperatives in 1996, the Law on Enterprises has been promulgated for the registration and regulation of limited liability companies. It is generally conceded that the Law on Cooperatives is over-prescriptive and complicated, in comparison to the equivalent law on enterprises.
- 7.4.2. In February 1997, the Government issued Decree no 15 relating to incentive policy for cooperative development. Under this decree, a number of exemptions were given in relation to land rent, revenue and profit taxes, transfer fees on shares. In addition, the decree provided for cooperative managers, executives and inspectors to be eligible for concessionary training and education as well as financial assistance for training of managers. Incentives were also given for cooperatives, which engage in exports. Despite these incentives, there is evidence of discrimination in favour of state-owned organizations through subsidisation.

7.5. On Self-Regulation

- 7.5.1. Article 9 imposes duties upon cooperatives to ensure that rights of members are protected and to provide economic benefits to members. Before a merger or division can occur, the cooperative must be authorised by a three quarter's majority of members, who vote on the proposal.
- 7.5.2. As part of the formation process, cooperative members must approve of the by-laws and elect the cooperative president, manager and other members of the management committee. In addition, they are required to elect an Audit and Control Committee whose function is to supervise and control the affairs of the cooperative.
- 7.5.3. People's Committees have been given the powers of registration and de-registration of cooperatives.
- 7.5.4. Article 46 permits a cooperative to voluntarily dissolve according to a resolution at a general meeting of members. Provision is also made for the People's Committee which registered the cooperative to dissolve the society if the cooperative had not conducted business activities or had ceased activity or does not have the minimum number of members required by law or has not convened an ordinary general meeting.

7.6. Capitalisation

- 7.6.1. There is a requirement under the law for members to contribute capital before becoming members of a cooperative in accordance with the by-laws of the cooperative. No member may hold over 30 percent of the total share capital. In addition, where a cooperative proposes to engage in a business, for which the Government has prescribed a minimum shareholding, the cooperative must have that amount of share capital in order to obtain a business registration certificate.
- 7.6.2. A general meeting of members must approve of any variation to the members' con-

tribution.

7.6.3. Cooperatives may borrow from banks, subject to the provisions of law. Borrowing of money from other organization is subject to the terms agreed upon by the parties subject to terms complying with the laws.

7.7. Cooperative Policy

7.7.1. The Vietnamese Government has provided substantial resources in the transformation of Cooperatives as well as giving directives to local and provincial bodies to be involved in and facilitate the transformation process. The Government is currently looking at changes to the Cooperatives Law to modernise the legislation and to streamline some the processes leading to registration

7.8. Networking

7.8.1. The VCA provides an important avenue for networking with Government departments and agencies. It has worked closely with the Ministries of Agriculture and Finance in the transition process of the old style cooperatives and in the development of model by-laws.

7.9. Official Development Assistance

7.9.1. The Vietnamese Government provides funding to the VCA and supports the cooperative sector through the Ministry of Agriculture and Ministry of Finance. The Ministry of Finance has provided assistance in the determination and valuation of assets in the transition of the old style cooperatives. The making of Decree No 15 CP on "Incentive Policy for Cooperative Development" was an important step in providing indirect assistance to cooperative development through the granting of exemptions and reductions in taxes and land rental

Issues for deliberations, further study and research

1. This study has revealed, often as most studies do, that with more time and resources it would have been meaningful and relevant to examine many more issues that have a bearing on the terms of reference of the study. These issues are listed below.
 - 1.1 Whether it is possible to evolve a model for measuring how different provisions of the ICIS are actually incorporated in the cooperative legislation of the region and then determine for each cooperative legislation an index that may be called the 'Proximity to the ICIS index'?
 - 1.2 Whether it is feasible to develop a grid model to plot the position of cooperative legislation and policy of different countries where the interfaces could be: Quadrant I - Market orientation versus cooperative values, Quadrant II – Cooperative Values versus State control, Quadrant III – State Control versus Investor Oriented Firm principles and Quadrant IV – Investor Oriented Firm versus Market orientation?
 - 1.3 Whether it is feasible to prepare a comparative digest on how various laws - other than cooperative legislation – such as direct and indirect tax laws, labour laws, competition law and industrial laws impact the functioning and operations of cooperatives in the region?
 - 1.4 How does cooperative policy and legislation compare with policy and legislation for other forms of enterprise, especially those forms of enterprise with which cooperatives have to directly compete in the market place?
 - 1.5 Whether it is necessary to have specificity in cooperative legislation i.e. whether there should be a single cooperative law with supporting cooperative legislation for each sector? And/or, whether the rigour and application of law should be different at different levels of the cooperative structure such as primaries, secondaries and tertiaries?
 - 1.6 To what extent should the different components of cooperative legislation regulate processes or, ends, or, both?
 - 1.7 How do important pronouncement(s) by the judiciary on redressal(s) sought by cooperatives and/or those involved with the cooperative movement impact cooperative policy and legislation in a given country?

2. The above issues for further study and research emerged consequent to the following observations during the study.
 - 2.1 It is absolutely clear that the role of the government is critical in providing an enabling and conducive environment for cooperative promotion and development. Governments also need to be focused on how its role fits in vis a vis cooperative legislation i.e. where are people and governments now — given that their country is in transition, beginning to change etc and where would they like to go?
 - 2.2 How can cooperative promotion agencies and cooperatives themselves get access to and attract ODA and what would be the role of government in the matter?
 - 2.3 How do differences in demography and constitutional provisions impact the role of the federal government vis a vis the provincial governments in the context of cooperative legislation and development?
 - 2.4 What are the common quantifiable parameters that can indicate the quality of a particular cooperative legislation (including the role of the Registrar), cooperative policy and the level of cooperative development through both intra and inter comparisons. Is it possible to evolve benchmarks on how cooperative legislation, policy and development measure against the ICIS?
 - 2.5 What are the parameters on which it can be said that one piece of legislation does not suit all? When should a country prefer a general cooperative law as an umbrella act and get sectoral laws for cooperatives to be interpreted in the context of the general cooperative law?
 - 2.6 What are the concrete steps that need to be traversed to move from a prescriptive to an enabling legislation and how are those steps to be traversed?
 - 2.7 How can cooperatives operate and compete in the market place and yet not lose their values.
 - 2.8 When coops go overseas they form companies. Can they not form cooperatives abroad?
 - 2.9 How does cooperative policy and legislation get impacted by government policy and legislation in other areas and sectors of the economy? How do the courts interpret cooperative legislation vis a vis the Constitution and other civil and commercial laws?
 - 2.10 Does cooperative policy always have to sit atop cooperative legislation? Cannot there be policies that assist the implementation of cooperative legislation? Is it adequate to merely have good cooperative legislation sans a cooperative policy?
 - 2.11 How can the progress of a cooperative be assessed? What are the mechanisms to test the grounds of public opinion of cooperatives at large. How can it be demonstrably proven that cooperatives are really doing things?
 - 2.12 What are the mechanisms by which the cooperative movement can advocate the

cause of cooperative policy and legislation? How can the cooperative movement create and sustain an achievement agenda for Parliamentarians and political parties? What kind of mechanisms are required for cooperative movements to come to grips with government agenda vis a vis Parliamentary agenda?

- 2.13 In what circumstances do cooperatives trade off tax benefits for access to other financial areas or other benefits?
- 2.14 What are the circumstances when amalgamation of cooperatives – with or without government support - become necessary or desirable?
- 2.15 What are the differences between structural and operational autonomy of cooperatives? For example, structural autonomy relates to appointment of Directors etc while government offering a subsidy on say fertilizer sales subject to certain controls of the government on the matter would be an issue of operational autonomy. Should structural autonomy be non-negotiable? Can operational autonomy be negotiated depending on how the cooperative benefits through partnership with government?

APPENDIX I

Resolutions of the Fifth Asia Pacific Cooperative Ministers' Conference held at Beijing, China, 11-16 October 1999

RESOLUTION No. 1 : On Autonomy & Independence

It is important that:

- a) The autonomy and independence of cooperatives are legally guaranteed and recognized.
- b) Cooperatives are 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 in cooperatives.

RESOLUTION No. 2 : On Legal Existence

The legal existence of cooperatives should be strengthened to ensure their meaningful contribution to the economy and society in general. This can be done in the following ways:

- a) Recognition of cooperatives as defined in ICIS in law.
- b) Setting ICIS as the minimum condition for legal definition and acceptance of cooperatives.
- c) Acceptance of cooperatives as being equal to and equivalent with all other forms of social and economic organizations.
- d) No government barriers to the principle of voluntary and open membership and the principle of democratic member control.
- e) No special barriers to the area or field of cooperative enterprise.
- f) Recognition of new initiatives by cooperatives as legitimate.
- g) Government registration of cooperatives.

RESOLUTION No. 3 : On Recognition

Governments have to recognize that:

- a) Cooperatives, by serving the needs of members and their communities, contribute to national development, to the reduction of poverty, to job creation, to rural and community development, to the development of social services, and to the improvement of the quality of people; they also serve as real examples of democratic governance.
- b) Cooperatives as well contribute to equity, social justice and democracy, and to giving a "human face" to the market.

- c) Cooperatives do best, and they can realize these contributions, if they are autonomous and independent.

RESOLUTION No. 4 : On Fair Playing Field

Governments can take advantage of the unique contribution of cooperatives to national development by giving attention to the following considerations:

- a) Recognition and acceptance by government, of cooperatives as legitimate and involved partners in development, national policy and social planning.
- b) Assistance from government for the delivery of social and community service, on the basis of full equality with private or public enterprises.
- c) Government assistance, when needed, should be limited to seed and start-up money. Recovery strategies and targeted programs should be undertaken on a limited basis and should ensure cooperative independence.
- d) Assistance in coop HRD, including education and training for managerial, entrepreneurial and cooperative development.
- e) Introduction of cooperatives in the curriculum of educational systems as well as allowing formation of Cooperatives in schools.
- f) Encouragement of new cooperative initiatives, such as the formation of cooperatives among SMEs, new generation cooperatives, social service coops and others.
- g) Removal of all legal and other barriers, which limit equal participation of men and women in membership, leadership, management and decision-making in cooperatives.

RESOLUTION No. 5 : On Self-Regulation

It is important that:

- 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 committees etc.; but the law may set the minimum standards for transparency and the penalties in case of noncompliance. Such modes should be understood by all stakeholders.
- c) The law should set the conditions for registration and de-registration, the formation and dissolution by members of cooperatives, and should define modes and mechanisms for settlement of disputes.
- d) The law should require internal and external audit. The responsibility for internal audit belongs to the cooperative, and the cooperative movement. Where a cooperative is unable to carry out internal audit, the cooperative movement shall, assist by:

- (a) providing necessary assistance, and
- (b) developing appropriate instruments and training so that primary cooperatives may conduct their own internal audit.
- (c) The government retains the right of dissolution of coop societies only for violation, as specified in the law and executes such right in accordance with the procedures, defined by law.
- f) Cooperatives and the cooperative movement are responsible for organization and development of cooperatives including HRD, training, education, etc.

RESOLUTION No. 6 : On Capitalization

In formulating laws and policies, governments can promote the cause of cooperatives by considering the following conditions:

- a) Member participation in capital should be increased but individual shareholdings should not exceed a certain percentage of total equity. Limited interest or dividend should be paid on basic share; however, a market competitive rate of return may be paid on additional investments beyond the basic share.
- b) Cooperatives should be encouraged to invest in other cooperatives, both within the country and abroad. Laws that prohibit foreign investment are relevant to this consideration.
- c) When seeking to raise capital, cooperatives 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 cooperatives in other countries; and if further capital is required only then should it be sought from other non-cooperative sources.
- d) 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.
- e) Cooperatives can promote their image and comparative advantage in the market by projecting their distinctiveness and cooperative character.
- f) Coop laws and bylaws should prescribe special voting conditions in case of "change of nature", of cooperatives into non-coop forms. such conditions, for instance, to include approval by a major percentage of membership.
- g) Cooperatives which are operating within the law (including laws relating to solvency and honesty) should be protected from takeovers by other sectors.
- h) Cooperatives and governments should, in case of winding up, seek to protect the cooperatives' residual assets built up over a time by making an appropriate cooperative development fund the beneficiary of such assets.

- i) Government should recognize the special nature of cooperatives when formulating taxation laws and policies.
- j) In carrying out reforms in some countries, privatization in other countries or restructuring of state owned enterprises, government should give priority to cooperatives, ensuring that this is in line with their coop nature and their capacity to undertake and manage them. This process should serve the interest of employees and the users and should facilitate job creation.
- k) If the government's economic assistance is offered following natural disaster, it should be made available to cooperatives on the basis of equality to other sectors and it should ensure that the cooperative does not suffer any loss as a result of waiver of loans.
- l) The law should prohibit speculative investment of funds obtained by cooperatives from external sources.

RESOLUTION NO. 7 : On Official Development Assistance

Cooperative are legitimate focus for development assistance by international and national agencies. They welcome such assistance in the region provided that:

- a) The ICA Cooperative Identity Statement (ICIS) is respected.
- b) Funds are provided for and through cooperatives.
- c) Initiative at the grassroots level is not stifled.
- d) Assistance is provided according to the needs of cooperatives including legal, policy and institutional reforms, HRD and capacity building.
- e) Development assistance should be based on the expectation that it will be managed along the lines of economic responsibility, competent management, and accountability.
- f) Programs of development assistance should be coordinated to ensure that there is no overlapping or conflict of goals and that maximum coordination is achieved.
- g) National governments and development assistance agencies should recognize ICA and ICA ROAP as appropriate partners and agent for developing and coordinating projects in partnership with member organizations.
- h) Efforts must be made to ensure that the World Bank financial and development programs fully recognize and accept cooperatives and ICA.

RESOLUTION No. 8 : On Networking

Networking is an important element in maximizing the effectivity of Official Development Assistance. Networking may be promoted through following programs:

- a) The establishment of an ICA ROAP website.
- b) Enhancing the ICA ROAP Regional Database.

- c) Strengthening the HRD, HRM and R&D programs within coop institutions and jointly with other institutions.
- d) Networking with Asian Productivity Organization and the World Productivity Movement.
- e) The joint ICA-NEDAC Declaration, which should be translated into an action plan with the required technical, financial and institutional support from agencies, including continued support from FAO and other appropriate agencies like the World Bank.
- f) Networking, with ILO Coop Branch including COOPNET, COOPREFORM and INDISCO programs.
- g) Networking with other important development agencies such as the Asian Development Bank.
- h) Consultation with ICA whenever, national governments formulate new cooperative laws.

APPENDIX II

Legislation for General Cooperatives in Australia

Commonwealth

General cooperatives can be registered under Corporations law. However, no specific provisions are made for their special character under this legislation.

State/Territory Based Core Consistent Cooperative Legislation and Regulations

New South Wales

Cooperatives Act 1992 (as amended) http://www.austlii.edu.au/au/legis/nsw/consol_act/ca1992157/

Cooperatives Regulation 1997 http://www.austlii.edu.au/au/legis/nsw/consol_reg/cr1997248/

Victoria

Cooperatives Act 1996 http://www.austlii.edu.au/cgi-bin/disp.pl/au/legis/sa/consol_percent5fact/sacacha1991549/?query=title+percent28+percent22co+operative+percent22+percent29

Cooperatives Regulations 1997 http://www.austlii.edu.au/au/legis/vic/consol_act/chsa1958320/

South Australia

Cooperatives Act 1997 http://www.austlii.edu.au/au/legis/sa/consol_act/ca1997157/

Cooperatives Regulations 1997 http://www.austlii.edu.au/au/legis/sa/consol_reg/cr1997266/

Queensland

Cooperatives Act 1997 http://www.austlii.edu.au/au/legis/qld/consol_act/ca1997157/

Cooperatives Regulation 1997 http://www.austlii.edu.au/au/legis/qld/consol_reg/cr1997248/

Tasmania

Cooperatives Act 1999 <http://www.thelaw.tas.gov.au/search>

Cooperative Regulations 2000 <http://www.thelaw.tas.gov.au/search>

Northern Territory

Cooperatives Act 1997 <http://notes.nt.gov.au/dcm/legislat/legislat.nsf/d989974724db65b1482561cf0017cbd2/445198f2ddee2f692569a8000d538d?OpenDocument>

Cooperatives Regulations 1998 <http://notes.nt.gov.au/dcm/legislat/legislat.nsf/>

[d989974724db65b1482561cf0017cbd2/e5359d77308ef746692568eb001aa1c5?](http://www.austlii.edu.au/au/other/austrlii/other/austrlii/legis/other/wa/consol_act/ca1943225/)
[OpenDocument](#)

Other Non CCP or Sector Specific State/Territory Cooperative Legislation and Regulations for General Cooperatives in Australia

Western Australia

Companies (Cooperative) Act 1943 http://www.austlii.edu.au/au/legis/wa/consol_act/ca1943225/

Company Regulations 1947

Cooperative and Provident Societies Act 1903 http://www.austlii.edu.au/au/legis/wa/consol_act/capsa1903364/

Cooperative and Provident Societies Act Regulations

Australian Capital Territory

Cooperative Societies Act 1939 http://www.austlii.edu.au/au/legis/act/consol_act/csa1939234/

South Australia

South Australian Cooperative and Community Housing Act 1991 (Note this Act regulates non-financial (rental) housing cooperatives) http://www.austlii.edu.au/cgi-bin/disp.pl/au/legis/sa/consol_percent5fact/sacacha1991549/?query=title+percent28+percent22co+operativepercent22+percent29

South Australian Cooperative and Community Housing (Electoral Procedures) Regulations (1992)

Housing Cooperatives (General) Regulations 1992

Cooperative and Community Housing (Housing Associations) Regulations 1994

Housing Cooperatives (Investment Shares) regulations 1994

Legislation for Financial Cooperatives in Australia

Commonwealth:

Corporations Law http://www.austlii.edu.au/au/legis/cth/consol_act/cl184/

Since 1 July 1999 Credit Unions, Building Societies, Friendly Societies and related bodies and associations are now regulated under Corporations Law. Schedule 4—Transfer of financial institutions and friendly societies deals specifically with cooperative/mutual matters relating to financial cooperatives, including possible share structures and procedures to be followed in the event of a demutualisation. Financial cooperatives are also regulated by other relevant banking and associated financial sector and credit legislation.

New South Wales

Cooperative Housing and Starr Bowkett Societies Act 1998 <http://www.austlii.edu.au/au/>

[legis/nsw/consol_act/chassa1998496/](#)

Cooperative Housing and Starr Bowkett Societies Regulation 2000 http://www.austlii.edu.au/au/legis/nsw/consol_reg/chassr2000587/

Tasmania

Cooperative Housing Societies Act 1963 (as amended) http://www.austlii.edu.au/au/legis/tas/consol_act/chsa1963320/

Cooperative Housing Societies Regulations 1998

Victoria

Cooperative Housing Societies Act 1958 (as amended) http://www.austlii.edu.au/au/legis/vic/consol_act/chsa1958320/

Cooperative Housing Societies Regulations 1998

South Australia

Starr Bowkett Societies Act 1975

Starr Bowkett Societies Regulations 1994

APPENDIX - III

Comparative statement of the provisions of cooperative law in Andhra Pradesh (India)

Section	Andhra Pradesh Cooperative Societies Act, 1964	Andhra Pradesh Mutually Aided Cooperative Societies Act, 1995
Cooperative Law in force	This Act was enacted by the legislature of the state of Andhra Pradesh. It came into force from 01 August 1964	This act was passed unanimously by the Andhra Pradesh Legislative Assembly on 04 May 1995
Preamble	No Preamble	It came into force on 01 June 1995, even as the Andhra Pradesh Cooperative Societies Act, 1964 was and continues to be in force
Definition of cooperatives	Cooperative is projected as an instrument of public good, as a channel for distribution of government, resources	To provide for the voluntary formation of cooperative societies as accountable competitive, self-reliant business enterprises, based on thrift, self-help and mutual aid and owned, managed and controlled by members for their economic and social betterment and for the matters connected therewith or incidental thereto
Cooperative principles	Not defined	Cooperative is defined as instrument of its members for their economic social betterment, based on mutual aid
Definition of the terms used in the law	"Society" means a cooperative society registered or deemed to be registered under this act.	Principles of cooperation as internationally accepted at the time of enactment are incorporated in the Act
		"Cooperative Society" means a mutually aided cooperative society registered under section 4 whose byelaws prohibit it from raising share capital from the government, a cooperative society registered under section 7 of the Andhra

Section	Andhra Pradesh Cooperative Societies Act, 1964	Andhra Pradesh Mutually Aided Cooperative Societies Act, 1995
Formation	<p>“Prescribed” means prescribed by rules made under this act.</p> <p>“Member” means a member of a society, and includes any nominal or associate member</p> <p>“Committee” means the governing body of a society by whatever name called, to which the management of the affairs of the society is entrusted</p> <p>“Rebate” means a share of the profits of a society divided among its members in proportion to the volume of business done by each of them with the society</p> <p>Minimum 10 persons for a primary cooperative society</p>	<p>Pradesh Cooperative Societies Act, 1964, if it amends its bylaws where necessary to reconstitute its capital base and in respect of other relevant aspects to be in accordance with this act, and returns to the government its share capital, if any, and either enters into a memorandum of understanding with the government for any outstanding loans, or guarantees given by the government, or returns to the government such assistance and further gets itself registered under section 4 as a cooperative society under this Act</p> <p>Minimum 10 persons for a primary cooperative society</p> <p>Minimum 2 cooperative societies for a federation</p>
Registration and publication	<p>Registration can be refused because of non-viability, conflict of area of jurisdiction, for same class of cooperative</p> <p>Provides for cooperatives to be registered with limited or unlimited liability. However it requires federations to be registered only with limited liability</p> <p>Society to be body corporate</p>	<p>Registration cannot be refused except if bye laws are not in accordance with Act. Therefore, multiplicity of organisations possible. Registrar does not have the right to classify cooperatives</p> <p>Provides for cooperatives to be registered with limited or unlimited liability</p> <p>Society to be body corporate</p>
Admission	<p>Society to be body corporate</p>	<p>Society to be body corporate</p>

Section	Andhra Pradesh Cooperative Societies Act, 1964	Andhra Pradesh Mutually Aided Cooperative Societies Act, 1995
	<p>and interest on loans and advances or debentures, the government shall have the right to nominate to the board not more than 3 persons or one third of the total number of members of the board, which ever is less</p>	<p>coming to an end, are less than one half of the total strength of the board; provided that the term of the director shall not exceed five years; further provided that at the first election all the directors shall be elected at once, and their terms staggered by drawal of lots specifying different terms</p>
	<p>The elected board is not responsible for all such matters which the board of directors of any business would normally be responsible for</p>	<p>Elections by incumbent board failing which by ad-hoc committee;</p>
		<p>Disqualification of all directors for not conducting elections in time, for not conducting general body meetings in time, for not placing audited accounts before annual general meeting Elections of the directors of board shall be conducted by outgoing directors in the manner specified by the bye-laws. When a board does not take steps to conduct elections, the Registrar at the request of not less than 25 members or 5% of the total number of members which ever is less or may suo motto appoint an ad-hoc board for the specific purpose of conducting elections.</p>
		<p>The term of the ad-hoc board shall not exceed one month over and above the minimum period required under the bye-laws to conduct elections.</p>

Section	Andhra Pradesh Cooperative Societies Act, 1964	Andhra Pradesh Mutually Aided Cooperative Societies Act, 1995
The supervisory committee		The elected board has the power to admit members, to elect the chairperson and other office bearers, to frame business policies, personnel policies, financial policies and to be responsible for all such matters which the board of directors of any business would normally be responsible for
Financial resources	<p>Not provided for</p> <p>Cooperatives may mobilise funds within the limits fixed by the Registrar</p> <p>The government may subject to the rules give loans or advance money to the society, subscribe to the share capital of the society and provide money to a society, guarantee the repayment of share capital of a society, guarantee the repayment of principal and payment of interest on loans and advance of money to a society, guarantee the repayment of deposits received by a society and payment of interest on such deposits and give financial aid in any other form including subsidies to any society</p> <p>Restrictions on transactions with non members</p> <p>May invest or deposit its fund as prescribed</p> <p>May receive deposits and raise loans as prescribed.</p>	<p>Not provided for</p> <p>Cooperatives may mobilise funds within the limits fixed by the bye-laws</p> <p>A cooperative society may mobilise funds in the shape of share capital, deposits, debentures, loans and other contributions from members to such extent and under such conditions as may be permissible under the bye-laws of the cooperative society provided;</p> <p>that at the time of dissolution of the cooperative society, the amounts due to the members shall be settled only after the settlement of dues to others;</p> <p>A cooperative society may also mobilise funds in the shape of deposits, debentures, loans and other contributions from other individuals and institutions, to such extent and under such conditions as may be permissible under the bye-</p>

Section	Andhra Pradesh Cooperative Societies Act, 1964	Andhra Pradesh Mutually Aided Cooperative Societies Act, 1995
Surplus distribution at the end of the financial year	A society shall not grant loan to non members but may grant loans to another society subject to security deposit	laws provided that a cooperative society shall not accept share capital from the Government but may accept other funds or guarantee from the Government on such terms and conditions as are mutually agreed upon through a Memorandum of Understanding
	Defines quite rigidly the amounts to be set aside from the surplus each year, towards various funds and reserves	The General Body is free to decide about the disposal of surplus
	Contribute an amount, not being less than 25% of the profits goes to the reserve fund; provided that when the total amount so transferred becomes equal to the paid up share capital amount, the amount to be transferred may be reduced to not less than 10% of the profit.	In any year a cooperative society shall allocate towards the deficit cover fund, reserve funds, deferred payment to members as patronage rebate in proportion to their use of the cooperative society's services, and payment on share capital of interest not exceeding the rate of interest paid by scheduled banks, such patronage of the surplus arising from its business transactions in the previous year, as may be approved by the General Body.
	Contribute towards dividend to members on their paid up share capital, an amount not less than 15% of the net profit.	
	Contribute an amount not less than 15% of the profit towards rebate to members on the volume of business done by them.	
	Contribute such portion of the net profits as may be prescribed to the cooperative education fund, bad debt reserve and others as may be prescribed	
Distribution of capital		

Section	Andhra Pradesh Cooperative Societies Act, 1964	Andhra Pradesh Mutually Aided Cooperative Societies Act, 1995
173 Transactions with non-member users and other non-members	<p>Government and other non-members may contribute share capital.</p> <p>Where the liability of a member of a society is limited, no person is eligible to hold more than one-fifth of the total share capital</p> <p>Government or a society will not be subject to this restriction</p> <p>Irrespective of number of shares purchased, voting to be according to the principle of one person one vote and shall exercise vote in person and not by proxy</p>	<p>Members alone can contribute share capital and non-member share capital is forbidden.</p>
Audit	<p>There is restriction of the society on other transactions with non-members, as may be prescribed</p> <p>Audit is the responsibility of audit wing of the department; choice of auditors not available to cooperatives; no penalty for non-conduct of audit</p>	<p>Not Mentioned</p> <p>Audit is the responsibility of the board; Auditor to be a Chartered Accountant or from Registrar's office – at cooperative's discretion; non-presentation of audit report to general body in stipulated time results in disqualification of all directors</p>
Dissolution without liquidation:	<p>Only by Registrar, only in the event of poor functioning; voluntary dissolution by members is not possible;</p>	<p>By members and by Tribunal; not just because of non-viability, but also because of lack of interest in continuing the cooperative; for not functioning in accordance with the Act and the principles of cooperation;</p>

Section	Andhra Pradesh Cooperative Societies Act, 1964	Andhra Pradesh Mutually Aided Cooperative Societies Act, 1995
Immunities and facilities	pointment/removal of chief executive where cooperative is in receipt of government aid	
Fines and penalties	Cooperatives have certain rights and privileges, such as first charge on the property of their members, exemptions from certain stamps and duties, and obligation on employers - on request of cooperatives - to deduct from wages their dues to their cooperatives	Cooperatives have certain rights and privileges, such as first charge on the property of their members, exemptions from certain stamps and duties, and obligation on employers - on request of cooperatives - to deduct from wages their dues to their cooperatives
	Offences to be tried by Special Courts; several offences mentioned in detail and their penalties, too; prior permission of Registrar necessary for prosecution	Special Courts to look at offences; Directors and Officers to prove that they tried to prevent offence, otherwise held responsible for the offence; any affected party can move Special Court; any persons entrusted with responsibility by the Act will be deemed to have committed offences if responsibility is neglected

APPENDIX IV

A cross section of the restrictive provisions in the cooperative laws of India Restrictive Provisions in the Bihar State Cooperative Societies Act 1 935

1. Power of the Registrar to supersede the Managing Committee of a society (Section 41).
2. Power of the Registrar to direct amendment of bye-laws (Section.26).
3. Power of the Registrar to order liquidation of societies and amalgamation of several societies (Section. 44AQ).
4. State Government membership and holding of equity (Section.29).
5. Power of the State government to subscribe directly to the share capital of a cooperative society (Section.13A).
6. Registrars exclusive power of audit the account of a cooperative(Section.33).
7. Power of the state Government to make the rules (Section.66)
8. Power of the State Government to nominate all or any of the members of the board (Sec 14(4)).
9. Power of the Registrar to inspect the books of accounts of a registered society (Section 36).
10. Power of the State Government to exempt societies from any of the provisions of the Act. {Section 62(2)}
11. Appoint a new committee or administrator to manage the affairs of a Cooperative Society. (Section.41(3)).
12. Power of the Government nominee to have one vote in the affairs of the society. (28(1))
13. The State Governments power to issue orders for compulsory affiliation of the society to a federal cooperative. (Section.61)
14. Provision for the State Government to determine the condition, nature and number of posts to be created and the mode of recruitment of. the personnel for the cooperative (Section.66B)
15. Power of the Registrar to order the winding up of a cooperative society. (Section.42).
16. Registrar, Liquidators and Arbitrators to have certain powers of civil court (Section 49).

Restrictive Provisions in the Gujarat Cooperative Societies Act 1961

1. Supersession of committee by the Registrar (Section.81)
2. Power of Registrar to direct amendment of the bye-laws (Section.14)
3. Power of Registrar to direct amalgamation and reorganization of societies in public interest (Section.17A.)
4. Provision for membership to the State Government. (Section.22D)
5. Audit by the Registrar (Section. 84)
6. Power of the state Government to make rules. (Section.168)
7. Power to appoint government nominee (Section.80)
8. Power of the Registrar to appoint a new committee or Administrator to manage the affairs of a cooperative society. (Section.81 (i)&(ii)).
9. Power of the government to conduct elections (Section.74C)
10. Power of the Government nominee to have one vote in the affairs of the society (Section.80)
11. Registrars power to order a society to - invest funds in a particular manner with the approval of the state cooperative council (Section.71(2)
12. Restriction on term of the office of Chairman/designated officers (Section.74A)
13. Appointment and removal of Managing Director to be approved by the Registrar (Section. 76A)
14. Power of the Registrar to seize records etc. (Section.83)
15. Registrars power to give direction (Section.160)
16. Power of the Government to exempt any society or any such class of societies from any Provisions of the Act (Section.161)
17. Power of the Government to subscribe directly to the share capital of a society (Section.51(1))
18. Power of the Registrar to act as a civil court (Section.152)
19. Power of the Registrar to inspect the books of accounts of a society. (Section 88)

Restrictive provisions in the Kerala Cooperative Societies Act 1 969

1. Power of the Registrar to supersede the committee of a society and to appoint (a) new committee consisting of not more than three members of the society in its place or (b) appoint one or more administrator, who need not be a member or members of the society to manage the affairs of the society (Section. 32)

2. Power of the Registrar to direct amendment of bye-laws of a society (Section.12(5,))
3. Power of the Registrar to direct amalgamation transfer of assets and liabilities and division of society (Section.14)
4. Provision for Government membership (Section.16(c))
5. Power of the Government to conduct elections. (Section.28)
6. Power of the Registrar to appoint a new committee or administrator to manage the affairs of a society (Section.28(1A))
7. Power of the Registrar to audit the accounts of every society (Section.63)
8. Power of the Government to exempt societies from any of the provisions of the Act (Section. 101)
9. Power of the government to nominate on the committee of the society (Section.31)
10. Power of the Registrar to inspect the working of the society (Section.66)
11. Power of the Registrar to appoint a special officer (Section.32(b))
12. Power of the Government to subscribe directly to the share capital of a society (Section.42(1))
13. Restrictions on becoming a member of the committee of another society of the same type or member of the committee of two or more societies of a different type or different types (Section 28)
14. Power to make Rules (Section.109)
15. Power of the Registrar to act as a civil court (Section.77)
16. Power of the Government nominee to have one vote in the affairs of the society (Section.20 (b))

Restrictive Provisions in the Madhya Pradesh State Cooperative Act 1960

1. Registrars power for supersession of committee (Section.53)
2. Registrars power to direct amendment of bye-laws (Section.12)
3. Power of the Registrar to direct reorganization of societies (Section.16)(3)
4. Provision for membership to the Government. (Section.19)
5. Power of the Registrar to conduct elections. (Section.48)
6. Registrars power to give directions to make rules (Section.95)
7. Power to remove committee of a society and constitution of managing board (Section.52A)
8. Power of the Government to nominate nominee(s) on the committee (Section.52)

9. Power of the Registrar to inspect the books of the society (Section.60)
10. Power of the Government to exempt societies from condition of registration (Section.93)
11. Restriction on holding the office of Chairman in more than one apex or central society (Section.48)
12. Registrars power to seize records (Section. 57) Power of the Registrar to act as a civil court (Section.90)
13. Power of the Government nominee to have one vote in the affairs of the Society (Section.22)

Restrictive provisions in the Maharashtra Cooperative Societies Act 1961

1. Power of the Registrar to remove the committee or a committee member (Section. 78(1))
2. Power of the Registrar to direct amendment of bye-laws(Section.14(1))
3. Power of the Registrar to direct amalgamation, division and reorganization in public interest, etc (Section. 18(1))
4. Power of the Government to become a member of a cooperative society (Section. 22(d))
5. Power of the Registrar to audit the books of accounts of the society (Section.81)
6. Power of the Government to make rules for the conduct and regulation of the 'business of such society or class of societies' and for carrying out the purposes of the Act (Section.165).
7. Power of the Government to exempt societies from provisions of the Act. (Section. 157)
8. Power of the Registrar to appoint a committee or administrator to manage the affairs of the society (Section.77(A))
9. Power of the Registrar to inspect the books of accounts of the society (Section.84)
10. Power of the Government to give directions in public interest etc. (Section.79(A))
11. Power of the Government to conduct elections (Section73 (1B&1C))
12. Power of the Government to subscribe directly to the share capital of a society (Section.50)
13. Registrars power to seize records etc. (Section.80)
14. Power of the Registrar to order the winding up of a cooperative society (Sec 102)
15. Power of the Government to constitute cooperative courts (Section.91 (A))

16. Power of the Registrar to order the amalgamation of primary agricultural credit societies (Section.1 8(B))
17. Power of the Registrar to hold an enquiry in to the constitution, working and financial condition of a society (Section.83)

Restrictive Provisions in the Orissa Cooperative Societies Act 1992

1. Registrars power to supersede the committee of management and disqualify the officers of the society (Section.32).
2. Power of the Registrar to direct amendment of the bye-laws (Section.1 2(5)).
3. Registrars power to direct amalgamate or reorganize societies (Section (1 4A)
4. Power of the State Government to become a member of a cooperative society (Section.16).
5. Power of the Government to conduct elections - (Section.28 (A)).
6. Power of the Registrar to audit the accounts of the society (Section.62)
7. Power of the Government to make rules (Section.134).
8. Government's powers to exempt certain class of societies (Section 123).
9. Power of the State Government to nominate on the committee of a society (Section.31)
10. Power of the Government to subscribe directly to the share capital of a society (Section.41)
11. Registrars power to appoint and determine the conditions of services of society's employee (Section.33A)
12. Power of the Registrar to act as a Civil court (Section.104))
13. Power of the Registrar to inspect the books of accounts of a society (Section.64)
14. Power of the Government nominee to have one vote in the affairs of the Society (Section.20 (c))
15. Power of the Registrar to appoint a new committee or administrator to manage the affairs of a society (Section.32 (J&B)).

Restrictive provisions in the Punjab Cooperative Societies Act, 1961

1. Power of the Registrar to remove or suspend the committee or member of a coop. society (Section.27)
2. Power of the Registrar to direct amendments in the bye-laws(Section.10 (A))
3. Power of the Registrar to direct the amalgamation, transfer of assets and liabilities and division of cooperative societies (Section.13 (8))

4. Power of the Government to become a member of the society (Section.1 5(c))
5. Power of the Government to conduct elections (Section.26)
6. Power of the Registrar to audit the books of accounts of a cooperative society (Section.48(1))
7. Power of the Government to make rules (Section.85)
8. Power of the government to exempt a society or class of societies from any of the provisions of the Act (Section.77)
9. Power of the Registrar to nominate on the committee of a society (Section.26 2 (A))
10. Power of the Registrar to inspect the books of accounts of a cooperative society (Section.49)
11. Power of the Registrar to act as a civil court (Section.66)
12. Power of the Registrar to appoint a Government employee as an Administrator of Coop. Society (Section.26(1 D))
13. Power of the Government to subscribe directly to the share capital of a cooperative society (Section. 40(a))
14. Power of the Government to appoint the Managing Director of a society (Section. 26(2)(b))
15. Restrictions to be a member of committee of (a) more than two primary societies and (b) more than one central and one apex society (Section.26B(1))

Restrictive provisions in the Rajasthan State Cooperative Societies Act 1965

1. Registrars power to remove committee or members thereof and to appoint an administrator (Section.36)
2. Registrars power to direct amendment of bye-laws (Section.4).
3. Registrars power to direct amalgamation, division and reorganization in public interest (Section.17)
4. Provision for membership to the Government (Section.19)
5. Power of the Government to conduct elections (Section.33).
6. Registrars power to audit or cause to be audited the accounts of a co- operative society (Section.68)
7. The State Government may, for the whole or any part of the State and for any class of Cooperative societies, after previous publication, make rules to carry out the purposes of this Act (Section.148)
8. Governments power to exempt certain class of societies from any of the provisions of this act (Section.139)

9. Government's power to nominate nominee/s on the committee (Section.35)
10. Power of the Registrar to inspect the books of the society (Section.71)
11. Restriction on holding the office of Chairman in more than one apex or central society (Section.34)
12. Power of Registrar to act as a Civil Court (Section.119)
13. Power to exempt societies from any of the provisions of the Act (Section.139).
14. Power of the Government to subscribe directly to the share capital of a society (Section.47)
15. Power of the Registrar to appoint a new committee or administrator to manage the affairs of a Society (Section.36)

Restrictive Provisions in the Tamil Nadu Cooperative Societies Act 1983

1. Power of the Registrar for supersession of board (Section.88)
2. Power to direct amendment of bye-laws (Section.12)
3. Power of Registrar to direct amalgamation in public interest etc. (Section.14)
4. Power of the Government to become a member of the cooperative society (Section.21)
5. Power of the Government: to conduct elections (Section.33)
6. Power of the Registrar to audit the books of accounts of a society (Section 80)
7. Power of the Government to make rules (Section. 180)
8. Power to exempt societies from any of the provisions of this Act (Section. 170)
9. Power of Government or the Registrar to nominate all or any of the members of the board of a cooperative society. (Section 33 -1(b))
10. Power of the Registrar to inspect the books of accounts of the society (Section. 82 (1))
11. Appointment of special officer in certain circumstances (Section.89)
12. The power of the Government to appoint a Managing Director of a Cooperative Society. (Section.33 (7))
13. Restriction to become a board member of more than five registered societies and two apex or central societies (Section 34 (4) (a) &(b))
14. Power of the Registrar to order the winding up of registered societies (Section.137)
15. Power of the Registrar to act as a civil court.(Section.87 (4))
16. Power of the Government to subscribe directly to the share capital of a society (Section. 52(1))

17. Power of the Government nominee to have one vote in the affairs of the society (Section.26 (iii))

Restrictive provisions in the Uttar Pradesh Cooperative Societies Act 1966

1. Power of the Registrar to supersede or suspend the committee of management of any society (Section.35(1))
2. Power of the Registrar to direct amendments in bye-laws (Section. 14)
3. Power of the Registrar to direct amalgamation or, merger of cooperative societies (Section.125)
4. Power of the Government to become a member of a coop. society (Section. 17 (c))
5. Power of the Government to conduct elections. (Section.29)
6. Power of the Registrar to audit the accounts of every cooperative society (Section.64)
7. Power of the Government to make rules (Section.130)
8. Power of the Government to nominate on the committee of management of societies (Section.34)
9. Power of the Registrar to inspect the books of accounts of the society and property of a coop society (Section.66)
10. Power of the government to appoint. the administrator (Section.36 (3b))
11. Power of the Registrar to (a) constitute a committee of one or more member's of the society (b) appoint an administrator or administrators who need not necessarily be members (Section.35(3))
12. Power of the Government to subscribe directly to the share capital of a coop society (Section.44(2)(b))
13. Power of the Government to nominate the Managing Director of a Cooperative Society (Section.31 (A))
14. Power of the Registrar to direct the winding up of a cooperative society (Section.72(1) & (2))
15. Registrars emergency powers to seize records etc. (Section.37)
16. Power of the Registrar to hold an enquiry into the constitution working and financial condition of a cooperative society (Section.65)

Restrictive Provisions in the West Bengal Cooperative Societies Act 1983

1. Registrar has, the power for dissolution and reconstitution of the Board of any cooperative society. (Section.29)
2. Power of Registrar to direct amendment of by-laws (Section.18)

3. Power of registrar to order amalgamation of cooperative societies. (Section.20)
4. Power of the State government to become a member of a cooperative society (Section.69c)
5. Power of the Government to conduct election (Section.35)
6. Power of the Registrar to audit the accounts of the society (Section.90 (1))
7. The state government has powers to make rules (Section.147)
8. State government has powers to exempt cooperative societies from the provision of the Act. (Section.7)
9. State government has the right to nominate members of the Board of the cooperative societies, not more than three members of the Board or one-third of the total number of elected members which ever is less. (Section. 33)
10. Power' of the Registrar to inspect the accounts of the society (Section. 92).
11. The power of state government to issue directives to take actions on the cooperatives to modify its policies (Section. 49)
12. State government nominee to have one vote in the affairs of a cooperative society (Section. 27)
13. Registrar has powers to appoint a special officer if and when he feels necessary (Section.31)
14. Power of the State Government to subscribe directly to the share capital of a Cooperative Society (Section.48).
15. Power of the Registrar to act as a civil court (Section.98)

Restrictive Provisions in the Multi State Cooperative Societies Act 1984

1. Power of the Central Registrar to supersede the committee of a society and to appoint one or more Administrators, who need not be members of the society to manage the affairs of the society.(Section.48 (1)).
2. Power of the Central Registrar to prepare scheme of amalgamation or reorganization of Cooperative Bank in certain cases. (Section.15)
3. Power of the Central Government and State Governments to become a member of a Multi-State Cooperative society. (Section.19 (c) &(d)
4. Power Of the Central Government and State Government to nominate on the board of a Multi-State Cooperative Society. (Section.41 (1))
5. Power of the Central Registrar to conduct elections. (Section.35)
6. Power of Central Registrar to audit the accounts of each multi -state cooperative society. (Section.67)

7. Power of the Central Government to exempt any Multi-State Cooperative Society or any class of such societies from any provisions of the Act and Rules.(Section.99 (2)&(1))
8. Power of the Central Government to make rule to carry out the provisions of the Act (Section.109).
9. Power of the Central Registrar or the person authorised by him to be Civil Court for certain purposes (Section.88)
10. Power of the Central Registrar to inspect all the books of accounts of a society (Section.68)
11. Power of the Central or State Governments to subscribe to the share capital of a multi-state cooperative society (Section.59(a))
12. Power of the Central Government for the preparation of a list of persons eligible for appointment to the posts of Chief Executive and other managerial posts in national cooperative societies (Section.50)
13. Power of the Central Registrar to secure possession of records etc of a multi-state cooperative society (Section.49).
14. Power of the Government nominee to have one vote in the affairs of the society (Section.22.c)
15. Association of employees in the management decision making process (Section.33).
16. Restrictions to hold, at the same time, office of a president or Chairman or Vice-president or Vice-chairman on the board of more -than one multi-state cooperative society (Section.36)
17. Power of the Central Government to give directions in public interest (Section.47).
18. Restriction on holding of office of a president or Chairman or Vice-president or Vice-chairman on the board of a multi-state cooperative society for more than two consecutive terms (Section.37).
19. Power of the Central Registrar to order the winding up of a multi-state society (Section.177 (2)).

APPENDIX V

Cooperative Initiative Panel ANAND DECLARATION 2000

We, the undersigned, having considered the current status of cooperatives and cooperative legislation, with the conviction that cooperatives must better meet the needs of their members in today's emerging economic environment, and having deliberated on the importance of our identity, values and principles in relation to law, do hereby declare that in all forums we will advocate and support such laws as fully conform with cooperative principles and which are faithful to the characteristics described below. Recognizing that more than five decades have been spent in advocating reform of cooperative law and, further, that nine years have passed since the Chaudhary Brahm Perkash Committee recommended a Model Act, we urge the Union and State Governments to set and meet a time-bound schedule to enact laws that meet the criteria herein set forth. To delay is to jeopardize the role of cooperatives and their members in the coming years. It is our unanimous view that good cooperative law:

- => Must directly incorporate the ICA Statement of Cooperative Identity and Principles of Co-operation; the provisions of the law should be wholly consistent with these principles.
- => Make the Registrar of Cooperatives responsible only for registration and liquidation of cooperatives.
- => Allows cooperatives to avail of such financing as is available to other forms of enterprise but does not allow them to accept Government equity.
- => Must require the active patronage and participation of members.
- => Must include specific provisions to ensure the accountability of boards to members and of employees to the board.
- => Must guarantee full autonomy of democratic governance by making cooperatives responsible for conduct of their own elections and the appointment of Chartered Accountants as auditors.
- => The law must provide for cooperative bylaws to specify the arrangements for members to appoint an interim committee to carry out the functions of the board for such limited period specified in the event a board does not fulfill its obligation to conduct elections.
- => Must provide that the law take its normal course in the case of misappropriation, defalcation, embezzlement or any other illegal act, without requiring permission of the Registrar or other authority.

- => Must encourage professionalism in the management of cooperatives.
- => Must place the responsibility for the rules of governance with the bylaws, with the cooperative's board, subject to strict penalties should they fail to comply with the bylaws.
- => Must ensure that settlement of disputes is arbitrated or adjudicated by an independent authority which may include an authority constituted by cooperatives themselves.
- => Must be devoid of all restrictive provisions contained in the existing cooperative laws.

We recognize that good laws are a necessary, but are not a sufficient condition for the success of cooperatives. To best serve their members cooperatives must enhance their efficiency, effectiveness and economy as well as quality. We therefore commit ourselves to:

- Revamp, redesign and revitalize training and education programs for members, boards and employees, to meet today's needs while remaining true to cooperative principles.
- Reorient cooperative leadership to both the need to employ professionals and to respect the professionals' responsibility for management within the framework of plans and policies established by the board.

And, finally, with the knowledge that other laws and policies can advance, or retard, the interests of cooperatives, we urge that:

- The NCUI play a proactive role in educating cooperatives and co-operators as to the implications of the World Trade Organization (WTO) agreements and other challenges, ensuring that the voice of cooperatives receive full consideration in development of Government's negotiating positions.
- The same policies, programmes and benefits available to other forms of enterprise should be available to cooperatives in full measure.
- All states accelerate adoption of Value Added Taxation, in replacement of multipoint sales taxes, thereby ending the discriminatory treatment of two and three tier cooperatives.

The participants who attended the Cooperative Initiative Panel National Seminar on 8, 9 November 2000 which led to the above declaration included:

Mr Mohan Dharia, Chairman. Vanrai, Dr SS Sisodia, President, NCUI, Mr Sharad Joshi, President, Shetkari Sanghatana, Mr M Rama Reddy, President, CDF. Mr Praveen Reddy, Chairman, Mulkanoor, Dr V Kurien, Chairman, NCDFI, Mr SK Jakhar, Chairman, IFFCO, Mr Ajit Kumar Singh, Chairman, NAFED, Mr Chander Pal Singh, Chairman, KRIBHCO, Dr Amrita Patel, Chairman, NDDB, Mr V Ramachandran, Chairman, Centre for Development Studies, Professor Samar Datta, IIM, Ahmedabad and a host of other senior co-operators, practitioners and professionals from different segments of the Indian cooperative movement.

APPENDIX VI

Profile of some of the Cooperatives Registered Under the Parallel Cooperative Legislation in Andhra Pradesh (India)

Table 1 : Cooperatives registered under MACS Act in Andhra Pradesh (Conversion and New Registrations) as on 31.10.2000

Sl. No.	District	Conversion	New Registration	Total
1	2	3	4	5
1	Adilabad	1	25	26
2	Ananthapur	8	179	187
3	Chittoor	8	145	153
4	Cuddapah	3	26	29
5	East Godavari	-	30	30
6	Guntur	423	116	539
7	Hyderabad	12	88	100
8	Karimnagar	1	171	172
9	Khammam	1	65	66
10	Krishna	20	62	82
11	Kurnool	4	244	248
12	Mahaboobnagar	1	191	192
13	Medak	-	9	9
14	Nalgonda	-	150	150
15	Nellore	-	78	78
16	Nizamabad	-	12	12
17	Prakasham	-	35	35
18	Rangareddy	5	66	71
19	Srikakulam	15	14	29
20	Visakhapatnam	353	165	518
21	Vijayanagaram	87	12	99
22	West Godavari	1	8	9
23	Warangal	1	236	237
Total		944	2,127	3,071

**Table 2 : Cooperatives registered under MACS Act in Andhra Pradesh
(Profile of important sectors) as on 31.10.2000**

Sl. No.	District	Agro-Processing	Dairy	Fisheries	Housing	Labour	Thrift
1	2	3	4	5	6	7	8
1	Adilabad	-	7	5	-	-	13
2	Ananthapur	1	-	-	1	-	55
3	Chittoor	-	44	-	-	12	53
4	Cuddapah	-	-	-	-	-	20
5	East Godavari	-	-	1	1	8	16
6	Guntur	1	430	7	-	5	69
7	Hyderabad	-	-	-	26	-	26
8	Karimnagar	14	35	-	1	-	87
9	Khammam	-	-	-	-	-	60
10	Krishna	1	23	-	1	1	48
11	Kurnool	-	-	-	11	21	135
12	Mahaboobnagar	3	30	-	4	6	138
13	Medak	-	-	-	-	-	6
14	Nalgonda	1	-	-	-	28	106
15	Nellore	-	-	-	-	24	49
16	Nizamabad	-	-	-	-	-	6
17	Prakasham	-	-	-	-	-	13
18	Rangareddy	1	-	-	20	-	29
19	Srikakulam	4	15	-	-	1	5
20	Visakhapatnam	2	408	-	1	18	68
21	Vijayanagaram	-	87	1	1	1	8
22	West Godavari	-	-	1	-	-	4
23	Warangal	8	2	-	1	8	168
Total		36	1,081	15	68	133	1,182

**Table 3 : Cooperatives registered under MACS Act in Andhra Pradesh
(Profile of other sectors) as on 31.10.2000**

Sl. No.	District	Consumer	Employees	Farming societies	Lift Irrigation	Marketing	Oil seeds	PACs	Sheep breeding	Tree Growers	Urban	Water	Weavers	Others
1	Adilabad	-	1	-	-	-	-	-	-	-	-	-	-	-
2	Ananthapur	8	2	-	-	3	8	1	1	-	-	-	105	2
3	Chittoor	6	5	5	-	-	1	-	-	15	-	-	1	11
4	Cuddapah	1	1	-	-	-	2	1	-	-	-	-	2	2
5	East Godavari	-	-	-	-	1	-	-	-	-	-	-	-	3
6	Guntur	5	2	-	-	14	-	-	-	-	1	-	-	5
7	Hyderabad	8	18	-	-	4	-	-	-	-	1	-	-	17
8	Karimnagar	5	3	-	-	1	3	1	-	-	-	18	3	1
9	Khammam	-	4	-	-	-	-	-	-	-	-	-	-	2
10	Krishna	3	4	-	-	1	-	-	-	-	-	-	-	-
11	Kurnool	14	8	1	25	1	1	-	2	-	1	-	1	27
12	Mahaboobnagar	4	-	-	1	1	1	-	1	-	-	-	1	2
13	Medak	-	-	-	-	-	2	-	-	-	-	-	-	1
14	Nalgonda	1	7	-	2	1	-	-	-	-	-	-	-	4
15	Nellore	1	1	-	-	1	-	-	1	-	-	-	-	1
16	Nizamabad	-	1	-	-	-	1	-	-	-	-	-	-	4
17	Prakasham	18	-	-	-	-	-	-	-	-	-	-	-	4
18	Rangareddy	6	9	-	1	-	-	-	-	-	-	-	-	6
19	Srikakulam	-	-	-	-	-	-	-	-	-	-	-	1	2
20	Visakhapatnam	8	4	-	-	1	-	-	-	-	1	-	-	7
21	Vijayanagaram	-	-	-	-	1	-	-	-	-	-	-	-	-
22	West Godavari	-	2	-	-	-	-	1	-	-	-	-	-	1
23	Warangal	2	5	-	-	39	1	-	1	-	-	-	1	1
Total		90	77	6	29	69	20	4	6	15	4	18	115	103

**Table 4 : Performance of Women's Thrift Cooperatives (WTCs) in
Warangal and Karimnagar districts 1990-99**

Sl. No.	Description	Unit	As on 31 Dec '90	As on 31 Dec '95	As on 31 Dec '99
1	2	3	4	5	6
1	Members	No	1,422	13,830	38,187
2	Thrift Cooperatives	No	8	63	143
3	Associations of Thrift Cooperatives	No	1	6	15
4	Thrift	Rs	90,019	7,401,827	35,354,072
5	Thrift defaulters	No	-	960	4,015
6	Thrift default amount	Rs	-	108,260	326,670
7	Members in DRAS (loan insurance)	No	-	9,374	18,408
8	DRAS deposits	Rs	-	367,339	1,694,519
9	Others funds	Rs	9,324	1,923,793	7,103,626
10	Total own funds	Rs	99,343	9,692,959	44,311,627
11	Borrowings from AWTCs	Rs	-	200,061	1,983,230
12	Total funds including borrowings	Rs	99,343	9,893,020	46,215,152
13	Borrowers	No	980	9,764	25,916
14	Loan outstanding	Rs	91,904	8,646,091	41,668,299
15	Loan defaulters	No	-	869	2,868
16	Loan default amount	Rs	-	88,425	616,225
17	Average membership in a (1/2) cooperative	No	177	219	267
18	Average thrift per member (4/1)	Rs	63	535	926
19	Average loan outstanding (14/13)	Rs	93	885	1,608
			1990	1995	1999
20	Loans disbursed during the year	Rs	200 995	11,718,480	50,500,090
21	Number of loans given during the year	No	1,045	11,343	25,395
22	Average loan size during the year (20/21)	Rs	192	1,033	1,989

Table 5 : Caste-wise overview of 37 WTCs affiliated to 5 Associations of Women's Thrift Cooperatives (AWTCs) in Warangal & Karimnagar districts as on 31.12.97

Sl	Caste	SC	ST	BC	OC	NA	Total
1	2	3	4	5	6	7	8
1.	Members	1,729	310	8,683	1,834	1,663	14,219
2.	% of total	12.16	2.18	61.07	12.9	11.7	100
3.	Leaders	58	10	251	75	26	420
4.	% of total	13.81	2.38	59.76	17.86	6.19	100
During 1997							
5.	Borrowers	1,010	183	5,263	1,011	556	8,023
6.	% of total	12.59	2.28	65.6	12.6	6.93	100
7.	Loan in Rs lakhs	17.45	2.18	104.27	24.05	10.17	158.13
8.	% of total	11.03	1.38	65.94	15.21	6.44	100
9.	Loan Delinquents	671	161	2,940	396	496	4,664
10.	% of total	14.39	3.45	63.04	8.49	10.63	100

Table 6 : Land holding-wise overview of 37 WTCs affiliated to 5 (AWTCs) in Warangal and Karimnagar districts as on 31.12.97

Sl.	Acres held	0	Upto 1	Upto 2	Upto 3	Upto 5	Upto 10	Over 10	Total
1	2	3	4	5	6	7	8	9	10
1	Members	7851	2106	1707	755	1234	523	43	14219
2	% of total	55.21	14.81	12.01	5.31	8.68	3.68	0.30	100.00
3	Leaders	204	77	47	35	35	18	4	420
4	% of total	48.57	18.33	11.19	8.33	8.33	4.29	0.95	100.00
During 1997									
5	Borrowers	4096	1285	1056	472	761	329	24	8023
6	% of total	51.05	16.02	13.16	5.88	9.49	4.10	0.30	100.00
7	Loan in Rs lakhs	76.17	25.65	21.77	9.60	16.57	7.76	0.59	158.13
8	% of total	48.17	16.22	13.77	6.07	10.48	4.91	0.38	100.00
9	Loan delinquents	2587	733	599	238	365	131	11	4664
10	% of total	55.47	15.72	12.84	5.10	7.83	2.81	0.24	100.00

Table 7 : Performance of Men's Thrift Cooperatives (MTCs) in Warangal and Karimnagar districts: 1992-99

Sl	Description	Unit	As on 31 Dec 92	As on 31 Dec 95	As on 31 Dec 99
1	2	3	4	5	6
1	Members	No	213	3,319	20,477
2	Thrift Cooperatives	No	2	22	91
3	Associations of Thrift Cooperatives	No	1	1	9
4	Thrift	Rs	15,900	1,680,596	30,993,000
5	Thrift defaulters	No	3	344	2,193
6	Thrift default amount	Rs	75	24,675	376,160
7	Members in DRAS	No	-	1,292	8,169
8	DRAS deposits	Rs	-	617,750	4,300,650
9	Other funds	Rs	201	354,014	3,991,279
10	Total own funds	Rs	16,101	2,652,360	39,674,932
11	Borrowings from ATCs	Rs	-	414,499	3,198,719
12	Total fund	Rs	16,101	3,066,859	42,686,606
13	Borrowers	No	17	1,767	13,507
14	Loan outstanding	Rs	7,650	2,099,753	34,068,914
15	Loan defaulters	No	-	236	1,750
16	Loan default amount	Rs	-	52,900	829,000
17	Average membership in a cooperative (1/2)	No	106	151	225
18	Average thrift per member (4/1)	Rs	975	506	1,513
19	Average loan outstanding (14/13)	Rs	450	1,188	2,522
			1992	1995	1999
20	Loans disbursed during the year	Rs	10,050	6,528,050	53,000,050
21	Number of loans given during the year	No	18	2,321	14,288
22	Average loan size during the year (20/21)	Rs	550	2,813	3,709

**Table 8 : Caste-Wise overview of 39 MTCs affiliated to 3 AMTCs
in Warangal and Karimnagar districts as on 31.12.97**

Sl.	Caste	SC	ST	BC	OC	NA	Total
1	2	3	4	5	6	7	8
1	Members	1,439	181	7,530	2,178	834	12,162
2	% of total	11.83	1.49	61.91	17.91	6.86	100.00
3	Leaders	23	8	268	151	1	451
4	% of total	5.1	1.77	59.42	33.48	0.22	100.00
During 1997							
5	Borrowers	693	48	3686	1,109	299	5,835
6	% of total	11.88	0.82	63.17	19.01	5.12	100.00
7	Loan in Rs lakhs	15.65	1.28	125.37	45.91	7.38	195.61
8	% of total	8.00	0.66	64.09	23.47	3.77	100.00

**Table 9 : Land holding-wise overview of 39 MTCs affiliated to 3 AMTC
in Warangal an Karimnagar district as on 31.12.97**

Sl.	Acres held	0	Upto 1	Upto 2	Upto 3	Upto 5	Upto 10	Over 10	Total
1	2	3	4	5	6	7	8	9	10
1	Members	4051	1541	2658	1791	1319	699	103	12162
2	% of total	33.31	12.67	21.85	14.73	10.85	5.75	0.85	100.00
3	Leaders	76	27	67	80	123	72	6	451
4	% of total	16.85	5.99	14.86	17.74	27.27	15.96	1.33	100.00
During 1997									
5	Borrowers	1664	795	1372	838	684	431	51	5835
6	% of total	28.52	13.62	23.51	14.36	11.72	7.39	0.87	100.00
7	Loan in Rs Lakhs	47.67	24.60	47.95	31.51	25.31	16.01	2.54	195.61
8	% of total	24.37	12.58	24.51	16.11	12.94	8.19	1.30	100.00

APPENDIX - VII

Comparative Statement of the Provisions of Cooperative Law in Indonesia, Nepal and Sri Lanka

Section/Country	Indonesia	Nepal	Sri Lanka
Cooperative Law in force	<p>Law of the Republic of Indonesia Number 25 of the year 1992 concerning Cooperative</p> <p>Consequently, Law Number 12 of the Year 1967 concerning the Basic Regulations for Cooperatives is stated to be no longer valid</p>	<p>The Cooperative Act, 1992, repealing the Sajha Societies Act 1984 read with The Cooperative (Amendment) Act 2001</p>	<p>Cooperative Societies Law No.5 of 1972, read with Cooperative Societies (Amendment) Act, No. II of 1992</p>
Preamble	<p>That the cooperative societies as people's economic movement as well as business enterprises participate to realise an advanced, just and prosperous society based on Pancasila and the 1945 constitution in a national economic system organised as a joint endeavour based on the principle of brotherhood and economic democracy;</p> <p>That the cooperative societies need to further develop themselves and to be developed to become strong and</p>	<p>To provide for the formation and operation of various types of cooperative societies ... on the basis of mutual cooperation and cooperative principles</p>	<p>To provide for the development of cooperative societies and to consolidate and amend the law relating to the constitution and administration of cooperative societies ...</p>
			<p>Acts repealed:</p> <p>The Cooperative Societies Ordinance (Chapter 124), the Cooperative Societies (Special Provisions) Act (Chapter 125), The Commissioner of Cooperative Development Ordinance (Chapter 127), The Cooperative Societies (Special Provisions) Act of 1958 and The Cooperative Societies (Amendment) Act of 1964</p>

Section/Country	Indonesia	Nepal	Sri Lanka
	<p>self reliant based on cooperative principles so that they are able to play the role as the pillar of the national economy;</p>		
	<p>That cooperative development is the task and responsibility of the Government and all the people;</p>		
Definition of cooperatives	<p>A cooperative society is a business enterprise having individuals or registered cooperative societies as members of which its activities are based on cooperative principles and simultaneously as a people's economic movement based on the principle of brotherhood</p>	Not defined	Not defined
Cooperative principles	<p>Membership is voluntary and open</p>	Not defined	Not defined
	<p>The management is carried out democratically</p>		
	<p>The distribution of surplus is done justly in proportion to the amount of the business contributions of each of the members</p>		
	<p>The payment of limited capital</p>		
	<p>Self reliance</p>		
	<p>Cooperative education</p>		

Cooperation amongst cooperative societies

Key definitions of the terms used in the law	Prescribed means as prescribed in the rules framed under the Act	Rules means rules made or deemed to have been made under the Law
Formation	<p>Minimum 25 members for primaries, 5 societies for unions, 25 societies for central cooperative unions, at least 15 unions for the national cooperative federation.</p> <p>Disallows more than one district union of the same nature in the same district or more than one central union of the same nature</p>	<p>Minimum 10 members residing within the area of operation for primary societies, at least 3 members for secondary societies</p> <p>Other particulars as may be provided for in the rules</p>

Registration and publication

The establishment of a cooperative society is done by means of stipulating articles of incorporation contained in the by laws

Registration may be refused by Registrar after investigation, applicant has a right to appeal to the Government

Registration may be refused by the Registrar on various grounds, applicant has a right to appeal to the Minister

Cooperative society acquires a legal body status after legalisation of its articles of incorporation by the Government

Society to be body corporate with limited liability only

Primary society may have limited or unlimited liability but secondary society to have only limited liability

Society to be body corporate

Other particulars as may be provided for in the rules

Admission

Each Indonesian citizen capable to perform legal action or a cooperative

Citizens residing in area of operation of the society accepting to undertake

Member to exercise rights only after making necessary payments for mem-

Section/Country

Indonesia

Nepal

Sri Lanka

society that fulfills the requirements as stipulated in the by laws

Provision for admission of associate members with rights and obligations as may be stipulated in the by laws

responsibilities of membership and fulfilling other conditions as contained in the bye laws

Right of appeal to the General Body if the Board refuses admission

Membership in a union is simple and straightforward

bership and acquiring such interests as may be prescribed or contained in the bye laws

An individual may be admitted any individual as an associate member without a share in the assets or profits of the society and without voting rights but with all other privileges and rights of a member

Other particulars as may be provided for in the rules

Resignation

As per provisions in the by laws

Not mentioned

Restrictions on transfer of share or interest provided for

Transfer of interest on death of member provided for

Other particulars as may be provided for in the rules

Exclusion and suspension

As per provisions in the by laws

Termination of membership under prescribed conditions

As may be provided for in the rules

Obligations

Each member has to observe the by laws, working rules and decisions, participate in the business activities of the cooperative society and develop and maintain togetherness based on the principle of brotherhood

Not mentioned

May be provided for in the bye laws

Minister has powers to direct non-members to sell through the society such part of the total quantity of article produced by him as is not required for his own consumption

Section/Country	Indonesia	Nepal	Sri Lanka
Rights	Each member can attend, express opinion and give vote in the members meeting, elect and be elected, to utilise the services of the cooperative society and receive equal services among other members and to acquire information about the society in accordance with the by laws	Not mentioned	Persons soliciting members to violate contract with the society can be convicted after summary trial and fined up to Rs. 1000/-
Provisions relating to members employed by their cooperative	Not mentioned	Not mentioned	This is governed by a separate Cooperative Employees Commission Act, No. 12 of 1972, an Act to establish and incorporate a commission to be known as the cooperative employees commission to make special provision in respect of employees of cooperative societies
General assembly	Members meeting is the highest holder of authority in the cooperative society which decides on by laws, general policy, election, appointment and discharge of members of the Board of Management and the Committee of Supervision, work plans, revenue and budget plans, ratification of financial reports, distribution of net surplus and amalgamation, merger,	Approves the annual audit report, elects the Board of Directors, their removal and dissolution, discuss reports of the Board and Accounts committee, amend bye laws and decide on amalgamation and dissolution	By laws of a society to bind members Powers to make by laws in restraint of trade Power to make by laws for the imposition of fines on members Other particulars as may be provided

Section/Country**Indonesia****Nepal****Sri Lanka**

division and dissolution

Decision to be reached through consensus in the first instance failing which each member has one vote and decision to be based on majority votes

In secondary cooperatives voting can be arranged in its by laws in proportion to number of members and business contribution

Board of Directors

Members to be elected from and by the members of the cooperative society

Maximum term of office is 5 years

Eligibility for becoming a Board member to be stipulated in the by laws

Board has duties to manage the cooperative and its business, prepare all plans, hold Members meeting, submit financial reports, properly administer accounting and inventory and maintain register of membership

Board has authority to represent the cooperative society, to decide about

for in the rules

To be provided for in the by laws subject to such rules as may be prescribed

No person who is a member of Parliament, Provincial Council etc. shall be eligible to be elected as or continue in office as a member of the committee of a cooperative society

Other particulars as may be provided for in the rules

Term not to exceed 5 years, Registrar to be informed if elections are not held in a timely manner and he can intervene to conduct elections within 6 months

Section/Country**Indonesia****Nepal****Sri Lanka**

admission of members and to act in the interests of the society

Board is responsible for all its activities to the Members Meeting

Board can appoint manager but the Board is, both collectively and individually, responsible to compensate for loss due to acts of negligence carried out purposefully and is liable for being sued by the public prosecutor

The supervisory committee

Members of the supervisory committee to be elected from and by the members

General Assembly may form an Accounts Committee of 3 members through elections

Not provided for

Supervisory committee responsible to the Members meeting

Accounts Committee may put in place internal audit, give suggestions to the Board and submit its report to the General Assembly

Eligibility for being elected to the supervisory committee is to be stipulated in the by laws

Supervisory committee has duties to supervise implementation of policy and management of the society and has authority to examine the records and get all information needed

Financial resources

Capital of the society can be own capital i.e. basic savings, compulsory savings, reserve fund and grants and

May collect share capital by selling shares to eligible members and prescribed agencies, may issue 20 per

Restrictions on making loans even if only to members

Section/Country

Indonesia

borrowed capital i.e. borrowings from members, other cooperative societies/ their members, banks/financial institutions, issuance of bonds/ other securities and other legal sources

A cooperative society can also strengthen its capital originating from outside as may be arranged by Government regulation

A cooperative society can collect funds and funnel the funds through savings-loan business from and for the members of the cooperative society and other cooperative societies/ their members

Savings loan business can be one of the business activities or the only business activity by the cooperative society the implementation of which is further arranged by Government regulation

Nepal

cent of share capital to foreign cooperatives (subject to government approval), irrespective of number of shares held voting in Society and Union is on the principle of one man one vote

Debentures may be issued and loans may be accepted from national and any other agencies

May also accept loans from foreign banks subject to government approval
May seek government guarantee for issue of debentures or for raising loans

Society may accept savings and deposits from members or other persons and extend loans to its members

Societies and Unions may undertake banking transactions with the permission of the Nepal Rastra Bank but would not be subject to any regulation by the Nepal Rastra Bank

Sri Lanka

Deposits and loans from non members to be received in manner prescribed

Restrictions on transactions with non members

Restrictions on investment of funds
May deposit securities as a pledge

Right to acquire and sell property except for immovable property for which the prior approval of the Registrar is necessary

Society has rights over crops, agricultural produce, cattle, implements and raw materials and manufactured articles belonging to any member

Society has charge and set off in respect of shares and interests of members

Shares, contributions and interests of members not liable to attachment or sale

Other particulars as may be provided for in the rules

Not less than 25 per cent of profits to

One fourth of the net surplus goes to

Members meeting to decide amount

Surplus distribution at the end of the

Section/Country	Indonesia	Nepal	Sri Lanka
financial year	<p>of net surplus (specifically defined) to be remitted to the reserve fund</p> <p>Balance amount may be distributed to the members in proportion to the amount of their business contribution and utilised for cooperative education purposes and other purposes as determined in the members meeting</p>	<p>the Reserve Fund, balance may be used to create funds as may be prescribed</p> <p>Funds other than Reserve Funds may be used for distributing dividends subject to a maximum of 15 per cent</p>	<p>be transferred to the reserve fund of the society</p> <p>Contribute such portion of the net profits as may be prescribed to the Cooperative Fund</p>
Distribution of capital	<p>No person or agency eligible to be a member shall hold more than twenty per cent of the total share capital</p> <p>Government or its undertaking will not be subject to this restriction</p> <p>Irrespective of number of shares purchased, voting to be according to the principle of one person one vote</p>	<p>No person or agency eligible to be a member shall hold more than twenty per cent of the total share capital</p> <p>Government or its undertaking will not be subject to this restriction</p> <p>Irrespective of number of shares purchased, voting to be according to the principle of one person one vote</p>	<p>Balance net profits may be used to pay dividends at a rate not exceeding the rate that may be prescribed and payments of rebates, contribution to such funds as per by laws, payment of bonus and contribution to a common good fund</p> <p>Other particulars as may be provided for in the rules</p> <p>As may be provided for in the rules</p>
Transactions with non - member users and other non - members	<p>Not allowed to provide donations to political parties or to any religious institution</p>	<p>Not allowed to provide donations to political parties or to any religious institution</p>	<p>As may be provided for in the rules</p>

Section/Country	Indonesia	Nepal	Sri Lanka
Audit	<p>The cooperative society can ask for an audit service to the public accountant</p>	<p>Society cannot grant a contract to any Board member or Accounts committee or to any employee</p> <p>Obligatory to maintain minutes, accounts of all transactions and other records as may be prescribed</p> <p>Annual report, audit report and other governance particulars to be furnished annually to the Registrar</p>	<p>The Registrar shall audit or cause to be audited the accounts of every society and communicate the defects observed in audit to the society</p> <p>Other particulars as may be provided for in the rules</p>
Dissolution without liquidation:	Not provided for	Not provided for	Not provided for
Amalgamation, division		<p>Two thirds majority of the General Assembly can adopt a resolution clearly specifying the terms and procedures of amalgamation or division</p>	<p>Possible only with the previous approval of the Registrar and by a resolution passed by two thirds majority of the members present and voting at a general meeting</p>
Dissolution with liquidation	<p>Dissolution can be done based on the decision of the members meeting or the decision of the Government if there is evidence that the concerned cooperative society doesn't fulfill the provision of the law or its activities are contrary to the public order and/or against morality or its survival cannot anymore be expected</p> <p>Law provides elaborate procedure for Government to receive objections for dissolution and for Government to</p>	<p>Two thirds majority of the General Assembly may pass a resolution to dissolve the society or union</p> <p>Registrar may appoint a liquidator to execute related matters</p>	<p>Subject matter of by laws and in conformance with other particulars as may be provided for in the rules</p>

thereafter overrule or sustain the objection and to carry out dissolution and liquidation

The Act provides in detail for the Government to create and develop climate and condition that stimulates cooperative growth and socialisation

The Act provides in detail for the Government to provide guidance, facilities and protection to cooperative societies

The Act also provides for Government to carry out its development effort for cooperative societies in the context of the situation and interests of the national economy, even distribution of business and work opportunities

The word Registrar does not appear in the Act

Role of registration and other regulatory functions under the Act vested in the Government

. Registrar

Government to appoint Registrar. No qualifications or conditions mentioned.

On application of at least 5 per cent members Registrar can hold or cause an inquiry and communicate the findings to the Society or Union

Registrar can also carry out or cause an inspection and give necessary sug-

Unclear who is to appoint the Registrar and the Commissioner of Cooperative Development who may exercise the same powers as that of the Registrar

Registrar on his own motion or on application of a majority of the committee or not less than one third of the members may hold an inquiry

Section/Country	Indonesia	Nepal	Sri Lanka
Immunities and facilities	<p>gestions</p> <p>Society and Union other than financial cooperatives enjoy:</p> <p>Exemption from registration of any</p>	<p>Registrar may on his own motion or on the application of a creditor of a society may inspect or cause to be inspected books and investigate the affairs of the society</p> <p>If members or society is in doubt. Registrar's interpretation of by laws is final</p> <p>Registrar can dissolve the committee of a society if the Registrar is of the opinion to do so after inquiry or inspection</p> <p>Registrar can dissolve the society after an inquiry or inspection</p> <p>Registrar can cancel the registration of a society</p> <p>Registrar may appoint one or more persons to be liquidators of a society whose registration is cancelled and has powers to control liquidation</p> <p>Registrar to decide disputes and can enforce a decision or award</p> <p>Every registered society to be exempted from stamp duty and fees</p> <p>Every member shall be exempt from</p>	

Section/Country	Indonesia	Nepal	Sri Lanka
		document concerning its transactions other than those related to immovable property	the payment of stamp duty chargeable under any written law
		No revenue stamp duty or registration fee on documents relating to transactions, sale and purchase of immovable property or any other type of document	
		No income tax shall be collected on the surplus earned by a society or union, or on dividends and no house and compound rent tax or wealth tax	
		No local tax on goods dealt in by a society or union	
		Provides for government to exempt fully or partially imports by the society or union	
		Provides for government to exempt fully or partially excise duty and sales tax on goods produced by the society or union	
		In addition a society or union will enjoy the immunities, exemptions, facilities and protection that are available to other industries under any other law for the time being in force	

Fines and penalties

Failure to submit reports or furnish information shall be liable to a fine not exceeding Rs. 1,500/- on order by the Registrar

Fine for any person other than a registered society or union to conduct business by using the term 'Cooperative' under the Act

Registrar authorised to require an officer, member or servant of the society to pay over or produce such amounts as may be determined after audit and inquiry as liability for breach of trust failing which the person will be guilty of criminal breach of trust and subject to trial and conviction

Penalty for non compliance with the law shall on conviction after a summary trial before a magistrate be liable for a fine not exceeding five hundred rupees

Other points

Cooperative Societies to jointly establish a single organisation with the function to act as an association to struggle for the interests and to acts as the spokesman of the aspirations of the cooperative societies

Said single organisation to be based on the Pancasila

The Act defines activities of the said single organisation and provides for the cooperative societies to jointly accumulate the cooperative education fund to implement defined activities

The shares or rights of members cannot be auctioned in consideration of any loan or liability other than those of the society or union itself

Prohibition to use the term 'Sahakari' or its equivalent by any person other than a society or union

Company Act 1964 not to be applicable

Government has power to frame rules

Government has powers to compulsorily acquire lands and building of a society

Minister may make rules as may be necessary but will take effect only with the approval of the National State Assembly

Provides for recovery of debts due to government

Special power of minister to exempt any society from requirements as to registration

Special power of Minister to exempt

Section/Country	Indonesia	Nepal	Sri Lanka
The Act states that the said single organisation is legalised by Government			societies from provisions of the law Registrar may require bank to produce any information
			Companies Ordinance and Trade Unions Ordinance not to apply
			Penalty for non compliance with the law

APPENDIX VIII

DRAFT COOPERATIVE POLICY OF THE GOVERNMENT OF INDIA ISSUED IN JUNE 2000

1 Introductory

- 1.1 The cooperative movement in India traces its origin to the agriculture and allied sector and was originally evolved as mechanism for pooling the peoples' meagre resources with a view to providing them the advantages of the economies of scales. The first attempt to institutionalise cooperatives began with the enactment of the Cooperative 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 authorised 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.
- 1.2 In order to administer the operation 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 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 to which it was implemented through cooperative organizations. In the sixties, special importance was attached to achieving increased agricultural front during 1966-71 was the implementation of the new agricultural strategy aimed at the achievement of the 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 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 fertilizer manufacture 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 181 thousand in 1950-51 to 488 thousand in 1997-98. The total membership of cooperative societies increased from 15.5 million to 207.6 million during the same period covering about 67 percent rural households and about 99 percent villages. Cooperatives advance agricultural credit to the tune of Rs. 139.690 billion during the year 1997-98 and had 44 percent share in institutional agricultural credit. The share of cooperatives in fertilizer distribution is presently of the order of 30.35 percent while the fertilizer produced by the cooperatives account for 18.64 percent of the total fertilizer production in the country. 56.8 percent of the sugar production in the country is from the cooperative sector.

3 Major 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, erosion 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 constraints:* The cooperative sector in general and cooperative societies in the agricultural sector in particular are facing severe resource-crunch. Mounting overdues 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 constraints:* 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 infrastructure support such as road electricity, communication etc.
- 3.4 *Institutional constraints:* 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 organizations, are competing with them, resulting in deterioration of the health of primary and grass root level cooperatives. Lack of professional management and human resource development are also some of the institutional constraints.

3.5 Constraints 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 in 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 Constraints arising out of excessive bureaucratic controls and needless political interference: Frequent supersession of elected management and draconian bureaucratic controls over the management of cooperatives are also major constraints.

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 has led to Governmental and political interference in the day to day management of cooperatives.

4. Existing policy

4.1 Basic cooperative principles

4.2 Cooperatives are based on the principles of values of self-help, self-responsibility, democracy. Members of cooperative believe in the values of honesty, openness and social responsibility and caring for one another.

4.3 As pronounced in the declaration of the Manchester International Cooperative Alliance (ICA) Congress 1995, the basic Cooperative Principles are as follows :-

4.3.1. Voluntary and Open Membership

Cooperatives are voluntary organizations, open to all persons capable of using their services and willing to accept the responsibilities of membership, without discrimination on bases of gender, social inequality, racial , political ideologies and religious considerations.

4.3.2. Democratic Member Control

Cooperatives are democratic organizations 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.

4.3.3. Members Economic Participation

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

4.3.4. Autonomy and Independence

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

4.3.5. 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 their cooperatives. They also make the general public, particularly young people and leaders aware of the nature and benefits of cooperation.

4.3.6. Cooperation among Cooperatives

Cooperatives serve their members more effectively and strengthen the cooperative movement, by working together through available local, Regional, national and international structures.

4.3.7. Concern for Community

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

- 4.4 Before independence, the Government, by and large, adopted the policy of laissez-faire towards the cooperatives and did not have an active role in their promotion and development. After independence, cooperation was considered a part of the strategy of planned economic development. As a result, states came forward as active partners in the development and management of the cooperatives. The cooperatives were also envisaged as an instrument for implementing state policies in areas such as public distribution market intervention and price support operations for agricultural commodities. Following this policy, states participated in the equity of the cooperatives which though conceived originally as a support measure resulted in incorporation of various provisions in cooperative laws empowering the states. These are e.g. to make nominations on their Boards, undertaking appointment of staff, amalgamation and division of cooperatives issuance of directives, supersession of their Managing Committees besides a number of other provisions which are now being considered to be restrictive and hampering the autonomous and democratic management of the cooperative institutions. Similar other provisions such as providing for restriction on the holding of office in the cooperatives, were also introduced in order to curb dominance

of the vested interests. These policy measures, however, created a regulatory regime which was against a professionally operated, democratically managed, self-reliant and autonomous cooperative system. The Government interest in these cooperatives in some cases degenerated into intervention and interference. Considering these aspects, some state Governments have also introduced a dual system of legislation providing autonomy to the cooperatives not seeking any financial assistance from the government. A large number of cooperative institutions are, however, still under overwhelming legislative and administrative control facilitated by the restrictive and regulatory legal regime.

5. The need for a National Policy

The role of Cooperatives has acquired a new dimension in the changing scenario of globalization and liberalization of the Nation's economy.

Internal and structural weaknesses of these institutions combined with lack of proper policy support have neutralised their positive impact. This has necessitated the need for a clear cut policy on Cooperatives to enable sustained development and growth of healthy and self-reliant cooperatives for meeting the sectoral/regional aspirations in consonance with the principles of Cooperation facing with the Cooperatives an integral part of the Nation's economy. 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 the Cooperatives.

The Finance Minister, while presenting the Budget on 1st June, 1998 has made the following announcement reflecting the policy of the Central Government in this context.

"The system of agricultural cooperatives in our country is plagued by bureaucracy and political interference at many levels. As part of a concerted programme to revitalise the cooperative sector, government will shortly bring forward a model cooperative law to replace the Multi-State Cooperative Societies Act of 1984 and will encourage the States to make similar amendments in their own Acts."

The proposed National policy on Cooperatives as follows is part of the concerted efforts of the Government to provide appropriate policy and legislative support to Cooperatives with a view to revitalising them.

6. Objective

The objective of the National Policy is to facilitate all round development of the Cooperatives and their economic viability. 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 the view of the fact that about 40 percent of the population in the country is below the poverty line and 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:

- ◆ Revitalisation of the Cooperative structure particularly in the sector of agricultural credit;
- ◆ Reduction of regional imbalances through provision of support measures particularly in the under-developed and Cooperatively underdeveloped States;
- ◆ Strengthening of the Cooperative Education and Training and Human Resource Development;
- ◆ 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 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
- ◆ Ensuring functioning of the Cooperatives based on basic cooperative, values and principles.

7. Policy

While upholding the values and principles of Cooperation, the National Policy recognizes the cooperatives as autonomous associations of persons, united voluntarily to meet their common economic, social and cultural needs and aspirations through a jointly owned and democratically controlled enterprise. The Government of India, therefore:

- 1) recognises cooperatives as a distinct economic sector and integral component of the socio-economic system of the country with cooperatives as an effective and potential instrument of socio-economic development, and considers them as essentially community initiatives for harnessing people's creative power as autonomous, decentralised, voluntary, need-based, and sustainable economic enterprises and at the same time; recognises that the "Cooperative alone" approach will no longer be viable in the context of rapidly changing external environment following liberalization, de-regulation and globalization of the Indian economy; and resolves that : Cooperatives will, however, remain the preferred instrument of execution of the Public Policy especially in the rural areas and in sectors where on account of considerations relating to equity, they are the most effective delivery system;
- 2) upholds the preservation of the distinct identity of Cooperatives, its values and principles by providing an appropriate environment and the required administrative and legislative support;
- 3) underlines the need for Cooperatives to mobilise local resources, diversify new activities and ventures their member constituencies;

- 4) recognizes the role of the Government in ensuring that the benefits of liberalization in the emerging economic environment are extended to Cooperatives in equal measure, through suitable fiscal and other policy supportive of the cooperatives; and Pledges to provide support to the Cooperative Movement through suitably designed investment programmes as also resource-neutral policy measures devised with a view to providing the Movement a level playing field vis-a-vis other competing institutional devices;
- 5) accepts the need to support the movement to develop human resources and infra-structural facilities for training, so as to promote professional management in Cooperatives for their greater functional efficiency;
- 6) affirms its continued support for the creation of infrastructure and other facilities through suitable programmes and schemes for the development of Cooperatives without interference from the Government in the functioning of these Cooperatives;
- 7) undertakes to
 - i. initiate structural reforms in order to improve the functioning of the cooperatives at various levels to ensure greater efficiency and viability and viability. These may include steps to activate idle membership, enhance member participation and involvement rejuvenate dormant societies and expedite winding up of defunct societies;
 - ii. phase out financial support from the Government with a clear guidance for improving financial viability and resources of the cooperatives by harnessing local savings, encouraging redemption of Government share capital and providing adequate refinance support to potential cooperatives;
 - iii. provide preferential treatment as far as possible to rural/urban Cooperatives engaged in areas such as labour, consumer services, development of weaker sections including women, development of new, emerging areas as well as sectors requiring people's participation;
- 8) encourage self-help groups and non-Governmental organizations working at the grass root level with a view to integrating them into the Cooperative system; and
- 9) devise suitable programmes and schemes to build and develop Cooperative institutions in cooperatively under-developed and undeveloped States/regions.

8. Plan of action

A plan of action comprising specific programmes under the National Policy would be prepared in consultation with the State Governments/ Central Government Departments and other concerned agencies including federation/ National level cooperative Organizations for implementation of the policy.

9. Conclusion :

The Government of India trusts that the enunciation of the statement of the policy on cooperative aimed at professionalisation of the cooperative and democratisation of their opera-

tions will facilitate the development of cooperatives as self-reliant and economically viable organizations, providing their members improved access to the economies of scale, offsetting various risk elements safeguarding them against market imperfections and bestowing the advantage of collective action.

And further trusts that the above statement of policy would insulate the Cooperatives from needless Governmental controls and political interference ensuring enduring autonomy and lasting viability to them as democratically owned self-reliant enterprises, responsible and accountable to their members.

APPENDIX - IX

Comparative Statement of the Cooperative Policy and Change Indicators in Indonesia, Nepal and Sri Lanka

Section/Country	Nepal	Sri Lanka	Indonesia
Constitutional provision as mentioned or provided in the cooperative law	No provision	No provision	The 1945 Constitution, especially Article 33 paragraph (1) states that the Indonesian economy shall be organised as a joint endeavour based on the principle of 'brotherhood'. Further, the elucidation of Article 33 among others states that the prosperity of the society shall be given priority, not the prosperity of individuals, and the form of enterprise would be the cooperative society.
Cooperative Policy	To assist in the promotion and development of different types of cooperative societies and unions and to bring about improvements in the economic and social standard of the lower strata of people through mutual help and co-operation the Government found it expedient to establish and provide for the operation and management of the National Cooperative Development Board. The important functions, duties and powers of the Board are: To formulate needful national level policies for the promotion and development of cooperative unions and societies and to recommend such poli-	Provide direction and guidance to the cooperative societies to achieve the objectives of the cooperative sector through the introduction of various projects. Guide the societies to perform their business activities in such a manner as to achieve economic and social improvements to the membership. Set up a strong movement by organising the poorer sections of the population under the cooperative principles in order to alleviate poverty. Prepare the necessary background for self management and self development of the cooperative sector.	The Government is responsible to develop cooperative societies. The Minister in charge of cooperative affairs is responsible for the implementation of this responsibility. Nevertheless it does not mean that the Government would meddle in the internal affairs of the cooperative organisations and it would pay attention to the principle of cooperative self-reliance. In the effort to create and develop the climate and conditions that stimulate cooperative growth and socialisation, the Government; Provides extensive business opportunities to the cooperative societies

Section/Country	Nepal	Sri Lanka	Indonesia
	<p>cies to the Government for implementation</p>	<p>Implement the powers entrusted to the Commissioner of Cooperative Development and the Registrar by law which include registration of societies, settlement of disputes, conduct investigations and most importantly audit the accounts of societies through an inspectorate. Further more, train recruit officers and conduct training programmes to upgrade skills and efficiency of its staff through the school of cooperation and implement education and extension programmes for employees of the cooperative movement.</p>	<p>Improves and consolidates the capability of the cooperative societies so that they become healthy, strong and self reliant.</p>
	<p>To establish a cooperative development fund with the objective of providing loans and grants to cooperative unions and societies in an easy manner and to provide funds for development oriented activities</p>	<p>The Department is the guide, philosopher and friend of the cooperative movement.</p>	<p>Strives to realise business relationships between the cooperative societies and other business enterprises which benefits one another</p>
	<p>To invest in the share capital of cooperative unions, societies or cooperative bank</p>	<p>The Department is the guide, philosopher and friend of the cooperative movement.</p>	<p>Spread the cooperative values</p>
	<p>And to generally provide in the interests of cooperatives sureties, technical support, coordinated assistance, facilitate joint ventures and to do or get done such other activities as may be deemed necessary for cooperative development.</p>	<p>The Department is the guide, philosopher and friend of the cooperative movement.</p>	<p>Institutionalises cooperative values and concepts in the society</p>
	<p>The Board has an Executive Committee for the purpose of the day to day operation of the Board and comprises the Minister or the Minister of State for Agriculture as the Chairperson, a person nominated by the Government as the Co-Chairperson and 21 other members including the Governor, Nepal Rastra Bank, five permanent Secretaries to the Government, Registrar of Cooperatives, two persons elected from among the Chairpersons</p>	<p>The Department is the guide, philosopher and friend of the cooperative movement.</p>	<p>In the frame work to give guidance and facilities to the cooperative societies, the Government</p>
	<p>The Board has an Executive Committee for the purpose of the day to day operation of the Board and comprises the Minister or the Minister of State for Agriculture as the Chairperson, a person nominated by the Government as the Co-Chairperson and 21 other members including the Governor, Nepal Rastra Bank, five permanent Secretaries to the Government, Registrar of Cooperatives, two persons elected from among the Chairpersons</p>	<p>The Department is the guide, philosopher and friend of the cooperative movement.</p>	<p>Guides the business of the cooperative societies which is in accordance with the economic interests of the members</p>
	<p>The Board has an Executive Committee for the purpose of the day to day operation of the Board and comprises the Minister or the Minister of State for Agriculture as the Chairperson, a person nominated by the Government as the Co-Chairperson and 21 other members including the Governor, Nepal Rastra Bank, five permanent Secretaries to the Government, Registrar of Cooperatives, two persons elected from among the Chairpersons</p>	<p>The Department is the guide, philosopher and friend of the cooperative movement.</p>	<p>Encourages, develops and assists the implementation of cooperative education, training, extension and research</p>
	<p>The Board has an Executive Committee for the purpose of the day to day operation of the Board and comprises the Minister or the Minister of State for Agriculture as the Chairperson, a person nominated by the Government as the Co-Chairperson and 21 other members including the Governor, Nepal Rastra Bank, five permanent Secretaries to the Government, Registrar of Cooperatives, two persons elected from among the Chairpersons</p>	<p>The Department is the guide, philosopher and friend of the cooperative movement.</p>	<p>Provides facilities to strengthen the capital and develops the financial institutions of the cooperative societies</p>
	<p>The Board has an Executive Committee for the purpose of the day to day operation of the Board and comprises the Minister or the Minister of State for Agriculture as the Chairperson, a person nominated by the Government as the Co-Chairperson and 21 other members including the Governor, Nepal Rastra Bank, five permanent Secretaries to the Government, Registrar of Cooperatives, two persons elected from among the Chairpersons</p>	<p>The Department is the guide, philosopher and friend of the cooperative movement.</p>	<p>Supports in developing business networks of the cooperative societies</p>

Section/Country

Nepal

of central cooperative unions, representative of the national planning commission, five Government nominees, one woman nominee, two experts, General Manager, Agriculture Development Bank and a member secretary.

Drivers forcing a rethink on approach to cooperative matters

Mushrooming of non - genuine financial cooperatives at the primary level that serve interests of private businessmen rather than members

No provision for regulation of financial cooperatives by the Central Bank

Constitution of a committee by the Government to examine and recommend the role and responsibilities of the NCDB, Department of Coopera-

Sri Lanka

which benefit one another

Provides consultancy assistance to solve the problems faced by cooperative societies while persistently paying attention to their by laws and cooperative principles

In the framework to give protection to cooperative societies, the Government:

Decides the fields of economic activities which can only be handled by the cooperative societies and, decides the fields of economic activities in an area which have been handled successfully by the cooperative societies for not to be handled by other business enterprises

Existing cooperative law is far and removed from the ICIS. In the circumstances, it would be difficult for cooperatives to perform in an increasingly competitive environment.

Devolution of powers to nine provinces has made cooperative policy and legislation a provincial subject. About 3 provinces have reportedly passed cooperative laws and the rest are in the process of doing so. Con-

Indonesia

In October 1999 the President of Indonesia said that cooperatives are the responsibility of the people and not the Government. This was re-emphasised by the Vice-President of Indonesia at Singapore in June 2000.

Efforts are underway by civil society organisations like LSP21 with support from the World Bank and the apex cooperative Dekopin for a substantial revision in the existing law. The

Section/Country	Nepal	Sri Lanka	Indonesia
<p>tion, National Cooperative Federation and the possibility of establishing a National Cooperative Bank.</p> <p>The difference in the development and success of cooperatives in the Terai region (Plains) as compared to the hill areas.</p> <p>Resources for education, training and development are not adequate and there is a need to redefine the efforts being made in this area.</p>	<p>sequently, cooperatives that were hitherto regulated under a single central cooperative law would now be subject to regulation by respective provincial governments.</p> <p>Attempts to revise the existing cooperative law in accordance with the ICIS is yet to achieve any significant progress. Meanwhile, civil society organisations such as CENCOD are making fresh attempts to address the need for reform in cooperative legislation.</p> <p>Meanwhile, cooperatives are choosing to register their federated businesses under Company law e.g. Sanasa Bank.</p> <p>Successful cooperatives: credit and thrift cooperatives, credit unions and some small dairy cooperatives</p> <p>Weak cooperatives: MPCS and a number of state promoted, aided and dependent cooperatives</p> <p>Resources for education, training and development are provided only by the Government and the Polgolla institute is now a parastatal body under the direct administration and control of the Minister incharge of cooperation.</p>	<p>reform in cooperative law could be an important enabling measure to facilitate significant aid and assistance for development of certain sectors of the economy through the cooperative method.</p> <p>Dekopin's plans to scale down its dependency on Government's budgetary support for education, training and development and to become generally self-reliant in the next five years or so.</p>	

APPENDIX - X

Macro Indicators of Social Development

SOCIAL INDICATORS	AUSTRALIA	VIETNAM	SOUTH KOREA	INDIA	INDONESIA
Population in million (July 2000)	19.16	78.77	47.47	1,027 (Census of India 2001)	224.7
Age structure (2000) in %	0-14 years: 21 (male 2,052,095; female 1,954,543) 15-64 years: 67 (male 6,458,083; female 6,322,475) 65 years and over: 12 (male 1,040,950; female 1,340,937)	0-14 years: 33 (male 13,353,828; female 12,516,289) 15-64 years: 62 (male 23,691,412; female 24,951,397) 65 years and over: 5 (male 1,696,708; female 2,564,239)	0-14 years: 22 (male 5,471,520; female 4,867,688) 15-64 years: 71 (male 17,155,401; female 16,662,227) 65 years and over: 7 (male 1,274,943; female 2,039,190)	0-14 years: 34 (male 175,228,164; female 165,190,951) 15-64 years: 62 (male 324,699,562; female 301,821,383) 65 years and over: 4 (male 23,925,371; female 23,138,386)	0-14 years: 30.57 (male 34,932,102; female 33,783,603) 15-64 years: 64.96% (male 72,889,994; female 73,124,821) 65 years and over: 4.47% (male 4,413,268; female 5,640,422)
Population growth rate (2000) in %	1.02	1.49	0.93	1.58 (Decadal population growth 1991-2001; 21.34 : Census of India 2001)	1.63
Birth rate Births/1000 population (2000)	13.08	21.62	15.12	24.79	22.6
Death rate Deaths/1000 population(2000)	7.12	6.26	5.85	8.88	6.31
Sex ratio (2000) male(s) per female	at birth: 1.06 under 15 years: 1.05 15-64 years: 1.02 65 years and over: 0.78 total population: 0.99	at birth: 1.06 under 15 years: 1.07 15-64 years: 0.95 65 years and over: 0.66 total population: 0.97	at birth: 1.13 under 15 years: 1.12 15-64 years: 1.03 65 years and over: 0.63 total population: 1.01	at birth: 1.05 under 15 years: 1.06 15-64 years: 1.08 65 years and over: 1.03 total population: 1.07	at birth: 1.05 under 15 years: 1.03 15-64 years: 1 65 years and over: 0.78 total population: 1

SOCIAL INDICATORS	AUSTRALIA	VIETNAM	SOUTH KOREA	INDIA	INDONESIA
Infant mortality rate deaths/1,000 live births (2000)	5.04	31.13	7.85	64.9	42.21
Life expectancy at birth (2000) in years	total population: 79.75 male: 76.9 female: 82.74	total population: 69.27 male: 66.84 female: 71.87	total population: 74.43 male: 70.75 female: 78.54	total population: 62.5 male: 61.89 female: 63.13	total population: 67.96 male: 65.61 female: 70.42
Total fertility rate children born/woman (2000)	1.79	2.53	1.72	3.11	2.61
Adult literacy rate (in %) 1998	100	93.7	98	55.7	85.7
Human Development index (HDI) rank 1998	4 (High HD)	108 (Medium HD)	31 (High HD)	128 (Medium HD)	109 (Medium HD)
Real GDP per capita (ppp\$) 1998	22,452	1,689	13,478	2,077	2,651
Life expectancy index	0.89	0.71	0.79	0.63	0.68
Education index	0.99	0.83	0.95	0.55	0.79
GDP Index	0.90	0.47	0.82	0.51	0.55
HDI Value 1998	0.929	0.671	0.854	0.563	0.670
Real GDP per capita (ppp\$) minus HDI rank	9	24	4	-7	4

Social Indicators	ISRAEL	MALAYSIA	NEPAL	SINGAPORE	SRI LANKA	THAILAND	
Population in million (July 2000)	5.84	21.8	24.7	4.15	19.23	61.23	
Age structure (2000) in %	0-14 years: 28 (male 825,443; female 787,159) 15-64 years: 63 (male 1,831,142; female 1,820,424) 65 years and over: 9 (male 248,695; female 329,591)	0-14 years: 35% (male 3,914,112; female 3,697,731) 15-64 years: 61% (male 6,655,506; female 6,642,073) 65 years and over: 4% (male 386,387; female 497,484)	0-14 years: 41% (male 5,187,805; female 4,860,583) 15-64 years: 56% (male 7,056,784; female 6,748,293) 65 years and over: 3% (male 422,314; female 428,340)	0-14 years: 18% (male 390,352; female 365,730) 15-64 years: 75% (male 1,520,875; female 1,590,355) 65 years and over: 7% (male 124,413; female 159,539)	0-14 years: 26% (male 2,605,251; female 2,490,416) 15-64 years: 67% (male 21,102,363; female 21,714,411) 65 years and over: 6% (male 1,726,043; female 2,194,816)	0-14 years: 24% (male 7,386,231; female 7,107,010) 15-64 years: 70% (male 21,102,363; female 21,714,411) 65 years and over: 6% (male 1,726,043; female 2,194,816)	
Population growth rate (2000) in %	1.67	2.01	2.34	3.54%	0.89	0.93	
Birth rate Births/1000 population (2000)	19.32	25.3	33.83	12.79	16.78	16.86	
Death rate Deaths/1000 population (2000)	6.22	5.25	10.41	4.21	6.43	7.53	
Sex ratio (2000) male per female	at birth: 1.05 male(s)/female under 15 years: 1.05 male(s)/female 15-64 years: 1.01 male(s)/female 65 years and over: 0.75 male(s)/female total population: 0.99 male(s)/female	at birth: 1.06 male(s)/female under 15 years: 1.06 male(s)/female 15-64 years: 1 male(s)/female 65 years and over: 0.78 male(s)/female total population: 1.01 male(s)/female	at birth: 1.05 male(s)/female under 15 years: 1.07 male(s)/female 15-64 years: 1.05 male(s)/female 65 years and over: 0.99 male(s)/female total population: 1.05 male(s)/female	at birth: 1.08 male(s)/female under 15 years: 1.07 male(s)/female 15-64 years: 0.96 male(s)/female 65 years and over: 0.78 male(s)/female total population: 0.96 male(s)/female	at birth: 1.05 male(s)/female under 15 years: 1.05 male(s)/female 15-64 years: 0.95 male(s)/female 65 years and over: 0.93 male(s)/female total population: 0.97 male(s)/female	at birth: 1.05 male(s)/female under 15 years: 1.04 male(s)/female 15-64 years: 0.97 male(s)/female 65 years and over: 0.79 male(s)/female total population: 0.97 male(s)/female	
Infant mortality rate deaths/1,000 live births (2000)	7.9	20.96	75.93	3.65	16.51	31.48	

Social Indicators	ISRAEL	MALAYSIA	NEPAL	SINGAPORE	SRI LANKA	THAILAND
Life expectancy at birth (2000)	total population: 78.57 years male: 76.57 years female: 80.67 years	total population: 70.83 years male: 68.22 years female: 73.63 years	total population: 57.84 years male: 58.3 years female: 57.35 years	total population: 80.05 years male: 77.1 years female: 83.23 years	total population: 71.83 years male: 69.33 years female: 74.45 years	total population: 68.55 years male: 65.29 years female: 71.97 years
Total fertility rate children born/woman (2000)	2.6	3.29	4.68	1.16	1.98	1.88
Adult literacy rate (in %), 1998	95.7	86.4	38.1	91.4	90.7	94.7
Human Development index (HDI) rank 1998	23 (High HD)	61 (Medium HD)	144 (Low HD)	24(High HD)	84 (Medium HD)	76 (Medium HD)
Real GDP per capita (ppp\$) 1998	17301	8137	1157	24210	2979	5456
Life expectancy index	0.88	0.79	0.55	0.87	0.81	0.73
Education index	0.91	0.79	0.46	0.86	0.83	0.84
GDP index	0.86	0.73	0.41	0.92	0.57	0.67
HDI Value 1998	0.883	0.772	0.474	0.881	0.733	0.745
Real GDP per capita (ppp\$) minus HDI rank	3	-10	7	-16	25	- 5

TECHNICAL NOTES:

Total population: Total population of an economy includes all residents regardless of legal status or citizenship- except for refugees not permanently settled in the country of asylum, who are generally considered part of the population of their origin.

Infant mortality rate: The probability of dying between birth and exactly one year of age times 1,000

Life expectancy at birth: The number of years a newborn infant would live if prevailing patterns of mortality at the time of birth were to stay the same throughout the child's life.

Literacy rate (adult): The percentage of people aged 15 and above who can, with understanding, both read and write a short, simple statement on their everyday life.

Total fertility rate: The average number of children that would be born alive to a woman during her lifetime if she were to bear children at each age in accord with prevailing age-specific fertility rates.

The human development index: The Human Development Index measures a country's achievements in three aspects of human development: longevity, knowledge, and a decent standard of living. The HDI is based on three indicators: longevity, as measured by life expectancy at birth; educational attainment, as measured by a combination of adult literacy (two-thirds weight) and the combined gross primary, secondary and tertiary enrolment ratio (one-third weight); and standard of living as measured by real GDP per capita (PPPS).

Fixed minimum and maximum values

To construct the index, fixed minimum and maximum values have been established for each of these indicators:

Life expectancy at birth : 25 years and 85 years.

Adult literacy rate: 0% and 100%.

Combined gross enrolment ratio: 0% and 100%.

Real GDP per capita (PPPS): \$100 and \$40,000 (PPPS).

For any component of the HDI individual indices can be computed according to the general formula:

$$\text{Index} = \frac{\text{Actual Xi value} - \text{minimum Xi value}}{\text{Maximum Xi value} - \text{minimum Xi value}}$$
$$\text{Life expectancy index} = \frac{65-25}{85-25} = \frac{40}{60} = 0.667$$

If, for example, the life expectancy at birth in a country is 65 years, the index of life expectancy for this country would be:

Human development index is a simple average of the life expectancy index, educational attainment index and adjusted real GDP per capita (PPPS) index. as is so derived by dividing the sum of these three indices by 3.

APPENDIX - XI

Macro Indicators of Economic Development

MAJOR ECONOMIC INDICATORS	AUSTRALIA	VIETNAM	SOUTH KOREA	INDIA	INDONESIA
GDP purchasing power parity \$ (1999 est)	\$416.2 billion	\$143.1 billion	\$625.7 billion	1,805 trillion	610 billion
GDP - real growth rate (1999 est.)	4.3%	4.8%	10%	5.5% (1999 est.) 6.4% (FY '99-2000 est)	0%
GDP - per capita: purchasing power parity - \$(1999 est.)	\$22,200	\$1,850	\$13,300	1,800	2,800
GDP - composition by sector:	agriculture: 3% industry: 26% services: 71%	agriculture: 26% industry: 33% services: 41%	agriculture: 5% industry: 45% services: 50%	agriculture: 25% industry: 30% services: 45% (1997)	agriculture: 21% industry: 35% services: 44% ('99 est.)
Population below poverty line	NA	37%	NA	35% (1994 est.)	NA
Household income or consumption by percentage share:	lowest 10%: 2.5% highest 10%: 24.8%	lowest 10%: 3.5% highest 10%: 29%	lowest 10%: NA highest 10%: NA	lowest 10%: 4.1% highest 10%: 25% (1994)	lowest 10%: 3.6% highest 10%: 30.3% (1996)
Inflation rate (consumer prices)	1.8%	4%	0.8%	6.7% (1999 est.) 4% (2000)	2% (1999 est.)
Labor force	8.9 million	38.2 million	22 million	NA	88 million (1998)
Labor force - by occupation	services 73%, industry 22%, agriculture 5%	Agriculture 67%, industry and services 33%	Services and other 68%, mining and manufacturing 20%, agriculture, fishing, forestry 12%	agriculture 67%, services 18%, industry 15% (1995 est.)	agriculture 45%, trade, restaurant, and hotel 19%, manufacturing and communications 5%, construction 4% (1998)
Unemployment rate	7.5%	25%	6.3%	NA	15%-20% (1998 est.)

MAJOR ECONOMIC INDICATORS	AUSTRALIA	VIETNAM	SOUTH KOREA	INDIA	INDONESIA
Budget	revenues: \$90.73 billion expenditures : \$89.04 billion	revenues: \$5.6 billion expenditures: \$6 billion, including capital expenditures of \$1.7 billion	Revenues: \$68.9 billion expenditures: \$82.3 billion, including capital expenditures of \$14.5 billion	revenues: \$35.8 billion expenditures: \$66.3 billion, including capital expenditures of \$15.9 billion (FY98 /99 est.)	revenues: \$25.4 billion (of which \$6 billion is from international financial institutions) expenditures: \$25.4 billion, including capital expenditures of \$NA (FY99 /00 est.)
Overall Budget Deficit (including grants) 1997 % of GDP	0.4	-0.27	-2.1	-5.6	-0.7
Industries	Mining, industrial and transportation equipment, food processing, chemicals, steel	Food processing, garments, shoes, machine building, mining, cement, chemical fertilizer, glass, tires, oil, coal, steel, paper	Electronics, automobile production, chemicals, shipbuilding, steel, textiles, clothing, footwear, food processing	Textiles, chemicals, food processing, steel, transportation equipment, cement, mining, petroleum, machinery	Petroleum and natural gas; textiles, apparel, and footwear, mining, cement, chemical fertilizers, plywood; rubber, food; tourism
Industrial production growth rate	1.5%	10.3%	22%	6% (1999 est.) 5.7 % (April-Dec 2000)	1.5% (1999 est.)
Agriculture - products	Wheat, barley, sugar- cane, fruits; cattle, sheep, poultry	Paddy rice, corn, pota- toes, rubber, soybeans, coffee, tea, bananas; poultry, pigs; fish	Rice, root crops, barley, vegetables, fruit; cattle, pigs, chickens, milk, eggs; fish	rice, wheat, oilseed, cot- ton, jute, tea, sugarcane, potatoes; cattle, water buffalo, sheep, goats, poultry; fish	rice, cassava (tapioca), peanuts, rubber, cocoa, coffee, palm oil, copra; poultry, beef, pork, eggs
Exports (i.o.b., '99 est.)	\$58 billion	\$11.5 billion	\$144 billion	\$36.3 billion	\$48 billion
Exports - commodities:	Coal, gold, meat, wool, alumina, iron ore, wheat, machinery and transport equipment	crude oil, marine products, rice, coffee, rubber, tea, garments, shoes	Electronic products, machinery and equipment, motor vehicles, steel, ships; textiles, clothing, footwear; fish	textile goods, gems and jewelry, engineer- ing goods, chemicals, leather manufactures	oil and gas, plywood, textiles, rubber

MAJOR ECONOMIC INDICATORS	AUSTRALIA	VIETNAM	SOUTH KOREA	INDIA	INDONESIA
Exports - partners	Japan 20%, EU 14%, ASEAN 11%, US 10%, South Korea, NZ, Taiwan, Hong Kong, China	Japan, Germany, Singapore, Taiwan, Hong Kong, France, South Korea, US, China	US 17%, Japan 9%, China 9%, Hong Kong 7%, Taiwan 4%	US 21%, UK 6%, Germany 6%, Hong Kong 5%, Japan 5%, UAE 4% (1998)	Japan 18%, EU 15%, US 14%, Singapore 13%, South Korea 5%, Hong Kong 4%, China 4%, Taiwan 3% (1999 est.)
Imports:	\$67 billion	\$11.6 billion	\$116 billion	\$50.2 billion (f.o.b., 1999 est.)	\$24 billion (c.i.f., 1999 est.)
Imports - commodities	Machinery and transport equipment, computers and office machines, telecommunication equipment and parts; crude oil and petroleum products	Machinery and equipment, petroleum products, fertilizer, steel products, raw cotton, grain, cement, motorcycles	Machinery, electronics and electronic equipment, oil, steel, transport equipment, textiles, organic chemicals, grains	crude oil and petroleum products, machinery, gems, fertilizer, chemicals	Machinery and equipment; chemicals, fuels, foodstuffs
Imports - partners:	EU 24%, US 22%, Japan 14%, ASEAN 12%	Singapore, South Korea, Japan, France, Hong Kong, Taiwan, Thailand, Sweden	US 22%, Japan 18%, China 7%, Australia 5%, Saudi Arabia 5%	US 10%, Belgium 7%, UK 6%, Germany 6%, Saudi Arabia 6%, Japan 6% (1998)	Japan 17%, US 13%, Singapore 10%, Germany 9%, Australia 6%, South Korea 5%, Taiwan 3%, China 3% (1999 est.)
Debt - external:	\$222 billion (Donor): ODA, \$1.43 billion	\$7.3 billion Western countries; \$4.5 billion CEMA debts primarily to Russia; \$9 billion to \$18 billion nonconvertible debt (former CEMA, Iraq, Iran)	\$142 billion	\$98.2 billion (March 1999)	\$150.8 billion (1998 est.)
Economic aid - recipient:		\$2 billion in credits and grants pledged by international donors for 1999 and again for 2000	\$NA	US \$ 97.86 billion at end- September 2000	\$43 billion from IMF program and other official external financing (1997-2000)

Major Economic Indicators	ISRAEL	MALAYSIA	NEPAL	SINGAPORE	SRI LANKA	THAILAND
GDP purchasing power parity \$ (1999 est)	105.4 billion	229.1 billion	27.4 billion	98 billion	50.5 billion	388.7 billion
GDP - real growth rate (1999 est.)	2.1%	5%	3.4%	5.5%	3.7%	4%
GDP - per capita: purchasing power parity - \$(1999 est.)	18,300	10,700	1,100	27,800	2,600	6,400
GDP - composition by sector:	agriculture: 2% industry: 17% services: 81% (1997 est.)	agriculture: 12% industry: 46% services: 42% (1998)	agriculture: 41% industry: 22% services: 37% (1998)	agriculture: Negl. industry: 28% services: 72%	agriculture: 21% industry: 19% services: 60% (1998)	agriculture: 12% industry: 39% services: 49% (1997 est.)
Population below poverty line	NA	5.8% (1997 est.)	42% (1995-96 est.)	NA	22% (1997 est.)	12.5% (1998 est.)
Household income or consumption by percentage share:	lowest 10%: 2.8% highest 10%: 26.9% (1992)	lowest 10%: 1.4% highest 10%: 20.4% (1997 est.)	lowest 10%: 3.2% highest 10%: 29.8% (1995-96)	lowest 10%: NA highest 10%: NA	lowest 10%: 1.8% highest 10%: 39.7% (1995-96 est.)	lowest 10%: 2.5% highest 10%: 37.1% (1992)
Inflation rate (consumer prices)	1.3% (1999 est.)	2.8% (1999)	11.8% (FY 98/99 est.)	0.4% (1999)	6% (1999 est.)	2.4% (1999 est.)
Labor force	2.3 million (1997)	9.3 million (1999 est.)	10 million (1996 est.) note: severe lack of skilled labor	1.932 million (1998)	6.6 million (1998)	32.6 million (1997 est.)
Labor force - by occupation	public services 31.2%, manufacturing 20.2%, finance and business 13.1%, commerce	manufacturing 27%, agriculture, forestry, and fisheries 16%, local trade and tourism 17%,	agriculture 81%, services 16%, industry 3%	financial, business, and other services 38%, manufacturing 21.6%, commerce 21.4%, construction	services 45%, agriculture 38%, industry 17% (1998 est.)	agriculture 54%, industry 15%, services 31% (1996 est.)

Major Economic Indicators	ISRAEL	MALAYSIA	NEPAL	SINGAPORE	SRI LANKA	THAILAND
	12.8%, construction 7.5%, personal and other services 6.4%, transport, storage, and communications 6.2%, agriculture, forestry, and fishing 2.6% (1996)	services 15%, government 10%, construction 9% (1999 est.)	7%, other 12%			
Unemployment rate	9.1% (1999 est.)	3% (1999 est.)	NA; substantial underemployment (1999)	3.2% (1999 est.)	9.5% (1998 est.)	4.5% (1998 est.)
Budget	revenues: \$40 billion expenditures: \$42.4 billion, including capital expenditures of \$NA (2000 est.)	revenues: \$23.2 billion expenditures: \$27.6 billion, including capital expenditures of \$NA (1999)	revenues: \$536 million expenditures: \$818 million, including capital expenditures of \$NA (FY96 /97 est.)	revenues: \$13.9 billion expenditures: \$16.9 billion, including capital expenditures of \$8.1 billion (/99 est.)	revenues: \$2.7 billion expenditures: \$4.2 billion, including capital expenditures of \$1.1 billion (1998 est.)	revenues: \$20 billion expenditures: \$23 billion, including capital expenditures of \$NA (1999 est.)
Overall Budget Deficit (including grants) 1997 % of GDP	0.4	2.9	-3.9	11.7	-4.5	-0.9
Industries	food processing, dia- mond cutting and pol- ishing, textiles and apparel, chemicals, metal products, mili- tary equipment, transport equipment, electrical equipment, potash mining, high- technology electron- ics, tourism	rubber and oil palm processing and manufacturing, light manufacturing indus- try, electronics, tin mining and smelting, logging and process- ing timber; Sabah - logging, petroleum production; Sarawak - agriculture process-	tourism, carpet, tex- tile; small rice, jute, sugar, and oilseed mills; cigarette; ce- ment and brick pro- duction	electronics, financial services, oil drilling equipment, petro- leum refining, rubber processing and rub- ber products, proc- essed food and bev- erages, ship repair, trade, biotechnology	processing of rubber, tea, coconuts, and other agricultural commodities; cloth- ing, cement, petro- leum refining, tex- tiles, tobacco	tourism: textiles and garments, agricul- tural processing, bev- erages, tobacco, ce- ment, light manufac- turing, such as jewel- ery; electric appli- ances and compo- nents, computers and parts, integrated circuits, furniture,

Major Economic Indicators	ISRAEL	MALAYSIA	NEPAL	SINGAPORE	SRI LANKA	THAILAND
Industrial production growth rate	5.4% (1996)	8.5% (1999 est.)	NA%	14% (1999 est.)	6.3% (1998)	12.6% (1999 est.)
Agriculture - products	citrus, vegetables, cotton; beef, poultry, dairy products	rubber, palm oil, rice; Sabah - subsistence crops, rubber, timber, coconuts, rice; Sarawak - rubber, pepper; timber	rice, corn, wheat, sugarcane, root crops, milk water buffalo meat	rubber, copra, fruit, vegetables; poultry, eggs, fish, vegetables, orchids, ornamental fish	rice, sugarcane, grains, pulses, oilseed, spices, tea, rubber, coconuts; milk, eggs, hides, beef	rice, cassava (tapioca), rubber, corn, sugarcane, coconuts, soybeans
Exports (f.o.b., '99 est.)	\$23.5 billion	\$83.5 billion	\$485 million (1998), but does not include unrecorded border trade with India	\$114 billion	\$4.7 billion (1998)	\$58.5 billion
Exports - commodities:	machinery and equipment, software, cut diamonds, chemicals, textiles and apparel, agricultural products	electronic equipment, petroleum and liquefied natural gas, chemicals, palm oil, wood and wood products, rubber, textiles	carpets, clothing, leather goods, jute goods, grain	machinery and equipment (including electronics) 63%, chemicals, mineral fuels (1998)	textiles and apparel, tea, diamonds, coconut products, petroleum products (1998)	computers and parts, textiles, rice
Exports - partners	US 32%, UK, Hong Kong, Benelux, Japan, Netherlands (1997)	US 23%, Singapore 16%, Japan 11%, Hong Kong 5%, Netherlands 5%, Taiwan 5%, Thailand 3% (1999 est.)	India 33%, US 26%, Germany 25% (FY97/98)	US 19%, Malaysia 17%, Hong Kong 8%, Japan 7%, Taiwan 5%, Thailand 4%, UK 4%, China 3%, Germany 3% (1998)	US 40%, UK 11%, Middle East 9%, Germany 5%, Japan 4% (1998)	US 22.3%, Japan 13.7%, Singapore 8.6%, Hong Kong 5.1%, Netherlands 4.0%, UK 3.9%, Malaysia 3.3%, China 3.2%, Taiwan 2.9% (1998)

Major Economic Indicators	ISRAEL	MALAYSIA	NEPAL	SINGAPORE	SRI LANKA	THAILAND
Imports:	\$30.6 billion (f.o.b., 1999)	\$61.5 billion (1999 est.)	\$1.2 billion (f.o.b., 1998)	\$111 billion (1999)	\$5.3 billion (f.o.b., 1998)	\$45 billion (f.o.b., 1999 est.)
Imports - commodities	raw materials, military equipment, investment goods, rough diamonds, fuels, consumer goods	machinery and equipment, chemicals, food, fuel and lubricants	gold, machinery and equipment, petroleum products, fertilizer	machinery and equipment 57%, mineral fuels, chemicals, foodstuffs (1998)	machinery and equipment, textiles, petroleum, foodstuffs (1998)	capital goods, intermediate goods and raw materials, consumer goods, fuels
Imports - partners:	US 19%, Benelux 12%, Germany 9%, UK 8%, Italy 7%, Switzerland 6% (1997)	Japan 21%, US 18%, Singapore 14%, Taiwan 5%, South Korea 5%, Thailand 4%, China 3% (1999 est.)	India 31%, China/Hong Kong 16%, Singapore 14% (FY97/98)	US 17%, Japan 17%, Malaysia 16%, Thailand 5%, China 5%, Taiwan 4%, Germany, Saudi Arabia (1998)	India 10%, Japan 10%, South Korea 8%, Hong Kong 7%, Taiwan 6% (1998)	Japan 23.6%, US 14.0%, Singapore 5.5%, Malaysia 5.1%, Taiwan 5.2%, Germany 4.2%, China 4.2%, South Korea 3.5%, Oman 2.6%, Indonesia 2.1% (1998)
Debt - external:	\$18.7 billion (1997)	\$44.7 billion (1998 est.)	\$2.6 billion (1998)	\$NA	\$8.5 billion (1998)	\$86.1 billion (1998 est.)
Economic aid - recipient:	\$1.1 billion from the US (1999)	\$NA	\$411 million (FY97/98)	\$NA	\$577 million (1998)	\$1.732 billion (1995)

Technical notes:

Gross domestic product (GDP): The total output of goods and services for final use produced by an economy by both residents and non-residents, regardless of the allocation to domestic and foreign claims. It does not include deductions for depreciation of physical capital or depletion and degradation of natural resources.

Purchasing power parity (PPP): At the PPP rate, one dollar has the same purchasing power over domestic GDP that the US dollar has over US GDP. PPP could also be expressed in other national currencies or in special drawing rights (SDRs). PPP rates allow a standard comparison of real price levels between countries, just as conventional price indexes allow comparison of real values over time; otherwise, normal exchange rates may over or undervalue purchasing power.

Real GDP per capita (PPPS): The GDP per capita of a country converted into US dollars on the basis of the purchasing power parity exchange rate.

National poverty line: The poverty line deemed appropriate for a country by its authorities.

Inflation rate (consumer prices): A fall in the purchasing power of money reflected in a persistent increase in the general level of prices as generally measured by the retail price index.

Labour Force: Total labour force comprises those people who meet the international labour organisations definitions of the economically active population: all people who supply labour for the production of goods and services during a specified period. It includes both the employed and the unemployed. Although national practices vary in the treatment of such groups as the armed forces and seasonal or part time workers, in general the labour force includes the armed forces, the unemployment and fast time job seekers but it excludes home makers and other unpaid care givers and workers in the informal sector.

Unemployment : All people above a specified age who are not in paid employment or self-employed, but are available and have taken specific steps to seek paid employment or self-employment.

Budget Deficit or Surplus: Central government current and capital revenue and official grants received, less total expenditure and lending minus repayments.

External debt: Debt owed by a country to non-residents repayable in foreign currency, goods or services.

APPENDIX - XII

SUMMARY OF RESPONSES TO THE QUESTIONNAIRE (EXCEPT AUSTRALIA)

Question / Country	Singapore (Ministry of Community Development)	Indonesia (Cooperative Council)	Israel (Ministry of Labour)	Sri Lanka (Cooperative Council)	Sri Lanka (Ministry of Cooperative)	Thailand (CPD)	Nepal (Ministry of Agriculture & Cooperatives)	India (National Cooperative Union of India)
11.1 There exists between Co-operative Policy and Co-operative Legislation a clear distinction	No	Yes	Marginal	Marginal/No	No	Yes	Marginal	Yes
11.2 Cooperative Policy and Cooperative Legislation are in harmony with each other	Yes	Yes	Yes	No clear Reply	No	Yes	Substantially	Yes
11.3 In comparison to other forms of business enterprises, present Government policy provide preferential treatment for Cooperatives	Yes	No	Yes	Marginal	Marginal	Marginal	Marginal	No
11.4 Government has put in place mechanisms for formulation of cooperative policy	Yes	Yes	Yes	No Reply	Yes	Yes	Yes	Yes
11.5 Government has been positively influenced by the ICA sponsored conferences including the recently held Ministerial Conference in Beijing	Yes	No	No	Marginal	No	Yes	Yes	Yes
11.6 There are Cooperative movement initiated mechanisms for influencing	Yes	Yes	Yes	No Reply	No	Yes	Yes	Yes

Question / Country	Singapore (Ministry of Community Development)	Indonesia (Cooperative council)	Israel (Ministry of Labour)	Sri Lanka (Cooperative Council)	Sri Lanka (Ministry of Cooperative)	Thailand (CPD)	Nepal (Ministry of Agriculture & Cooperatives)	India (National Cooperative Union of India)
cooperative policy of Government								
II.7 There are well defined Government mechanisms to implement cooperative policy.	Yes (both Govt & Coop)	No (Only Coop)	No	No Reply	Yes (No cooperative movement)	No	Yes	Yes (Both Govt & Coop)
IIIA.1 There are specific provisions in the National Constitution for cooperatives	Yes	Yes	No	No	No	Yes	No	No
IIIA.2 Cooperative laws and legislation are primarily a federal subject	Yes	No (Provincial)	No (State)	No (Provincial)	No (Provincial)	Yes	Yes	No (State)
IIIA.3 There are efforts to unify and harmonise the cooperative laws and legislation across provincial and national levels?	N/A	Yes	No Need	No	Marginal	Not applicable	No	Marginal
IIIA.4 Cooperatives are subject to other specific laws that apply to them depending upon the sector they belong to eg. Banking	No	Yes	Combine	Yes	Yes	Yes	No	Yes
IIIA.5 All the major laws apply equally to cooperatives as they apply to other forms of business enterprises	No	Yes	Marginal	No	Yes	Yes	Yes	Yes
IIIA.6 Cooperative laws encourage formation of strategic alliances with coopera-	Silent	Yes (International market also)	No	No Reply	Silent	Yes	Yes	Silent (in both domestic & Int'l market)

Question / Country	Singapore (Ministry of Community Development)	Indonesia (Cooperative council)	Israel (Ministry of Labour)	Sri Lanka (Cooperative Council)	Sri Lanka (Ministry of Cooperative)	Thailand (CPD)	Nepal (Ministry of Agriculture & Cooperatives)	India (National Cooperative Union of India)
tives of other countries for operations in the domestic markets								
IIIA.7 You are satisfied with the existing provisions in cooperative laws	Marginal	Marginal	No	No	No	Mostly	Marginal	Marginal
IIIA.8 Cooperative laws encourage new cooperative formation, new forms of cooperative enterprise and cooperative development	Yes	Yes	Marginal	No Reply	No	Yes	Yes	Yes
IIIA.9 Cooperative laws are overly prescriptive	No	No (Flexible)	Yes	Yes	Yes	Yes	Flexible	Yes
IIIA.10 Cooperative laws authorize governments - specifically Ministers and government officials - to interfere and impair the autonomy and independence of cooperatives	No	No	No	Yes	Yes	No	No (adequate autonomy)	Yes
IIIA.11 Cooperative laws create a conflict with market values that are required to be adopted by cooperatives in a market driven economy	No	No	No	No	Yes	No	No (Conductive)	Yes
IIIB.1 Cooperative laws fully incorporate the cooperative values and principles as stated in the ICA state-	Yes	Substantially	Yes	Substantially	No	Marginal	Substantially	Substantially

Question / Country	Singapore (Ministry of Community Development)	Indonesia (Cooperative Council)	Israel (Ministry of Labour)	Sri Lanka (Cooperative Council)	Sri Lanka (Ministry of Cooperative)	Thailand (CPD)	Nepal (Ministry of Agriculture & Cooperatives)	India (National Cooperative Union of India)
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ment on cooperative identity

III B.2 Cooperative laws are wholly consistent with and fully articulate in their different sections the statement on cooperative identity

Yes

Substantially

Yes

No Reply

Substantially

Substantially

Substantially

Substantially

III C.1 Cooperative laws adequately and clearly define the rights and responsibilities of the Board of Directors/Management Committee, management/ Executive and Members/ general Body

Yes

Yes

Yes

No Reply

Substantially

Yes

Substantially

Yes

III C.2 Cooperative laws provide for a comprehensive method/due process of disclosure and consultation with the members to enable the members to finally make a decision about whether a cooperative undertakes significant change in its basic form and nature of activities e.g. Demutualisation/ Conversion into non-cooperative forms of enterprise, diversification.

Yes

Yes

Yes

Yes

Yes

No

No

No

Question / Country	Singapore (Ministry of Community Development)	Indonesia (Cooperative Council)	Israel (Ministry of Labour)	Sri Lanka (Cooperative Council)	Sri Lanka (Ministry of Cooperative)	Thailand (CPD)	Nepal (Ministry of Agriculture & Cooperatives)	India (National Cooperative Union of India)
IIIC.3 Cooperative laws adequately provide for filters/systems of checks and balances that can adequately address misuse of authority and delinquent management decisions at all levels	Yes	Substantially	No	No Reply	No	Yes	Marginal	Substantially
IIIC.4 Cooperative laws provide for self regulation of cooperatives to a substantial extent	Marginal	Yes	Yes	Yes (Not in practice)	Yes	Marginal	Marginal	Marginal
IIIC.5 Cooperative laws provide for cooperatives at higher levels, i.e. other than primaries to be sensitive to the needs of their members and work/function for the benefit of their members	Yes	Yes	Yes	Yes (Not in practice)	Yes	Marginal	No	Yes
IIID.1 Cooperative laws/Government policy provide for agencies involved in cooperative regulation and cooperative development to be separate and have clearly defined roles in relation to promotion and development of cooperatives, inspection, monitoring and control and adjudication	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Question / Country	Singapore (Ministry of Community Development)	Indonesia (Cooperative council)	Israel (Ministry of Labour)	Sri Lanka (Cooperative Council)	Sri Lanka (Ministry of Cooperative)	Thailand (CPD)	Nepal (Ministry of Agriculture & Cooperatives)	India (National Cooperative Union of India)
IIID.2 Cooperative laws provide for forms of government assistance to cooperatives and partnership between governments and cooperatives that use government assistance without affecting the autonomy and independence of cooperatives	Yes	Yes	Yes	N/A	Yes	Yes	Yes	No (affect the autonomy)
IIIE.1 Cooperative laws provide for forms of government assistance to cooperatives and partnership between governments and cooperatives that use government assistance without affecting the autonomy and independence of cooperatives	Yes	Yes	Yes	Marginal	Yes	Substantially	Substantially	Marginal
IIIE.2 A majority of cooperatives believe that they can raise capital from sources other than members (such as capital markets) without affecting member control	Yes	Yes (Substantial Capital)	Yes	N/A	No	Yes (Small amount)	Yes (Substantial Capital)	No
IIIE.3 Cooperative laws provide for cooperatives to mobilise capital from sources other than members (such as capital markets) without affecting member control	Yes	Yes	Yes	Marginal	No	Marginal	No	No

Question / Country	Singapore (Ministry of Community Development)	Indonesia (Cooperative council)	Israel (Ministry of Labour)	Sri Lanka (Cooperative Council)	Sri Lanka (Ministry of Cooperative)	Thailand (CPD)	Nepal (Ministry of Agriculture & Cooperatives)	India (National Cooperative Union of India)
III.E.4 Cooperative laws facilitate inter-cooperative investments clearly	Yes	Substantially	Yes	Yes	Yes	Yes	Marginal	Marginal
III.E.5 Cooperative laws clearly allow for cooperatives to establish subsidiaries under any appropriate law that is for the time being in force	Yes	Yes	Yes	No Reply	No	Unclear	Unclear laws	No
III.E.6 Cooperative laws permit cooperatives to decide the utilisation of their funds including reserve funds in a manner consistent with the decisions of members	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
III.E.7 Revenue laws permit Cooperatives to enjoy exemption from direct taxation on the contributions that cooperatives make to their respective reserve funds and the income they earn from their reserve funds and other statutory funds	No reply	No	No Reply	Yes	No	Yes	Yes	No

SUMMARY OF RESPONSES TO THE QUESTIONNAIRE – (Received in end May 2001)

Question No.	QUESTION	MALAYSIA (Ministry of Land & Cooperative Development)			PALESTINE (Ministry of Labour)		IRAN (Central Chamber of Cooperatives)
		Yes	Marginal	No	Yes	Marginal	No
11.1	There exists between Cooperative Policy and Cooperative Legislation a clear distinction.	Yes	Marginal	No			
11.2	Cooperative Policy and Cooperative Legislation are in harmony with each other.	Yes	Yes	No			
11.3	In comparison to other forms of business enterprises, present Government policy provide preferential treatment for Cooperatives.	No	Marginal	Marginal			
11.4	Government has put in place mechanisms for formulation of cooperative policy.	Yes	Yes	Yes			
11.5	Government has been positively influenced by the ICA sponsored conferences including the recently held Ministerial Conference in Beijing.	Yes	Yes	No			
11.6	There are Cooperative movement initiated mechanisms for influencing cooperative policy of Government.	Yes	Yes	Yes			
11.7	There are well defined Government mechanisms to implement cooperative policy.	Yes	No	Yes			
III.A.1	There are specific provisions in the National Constitution for cooperatives.	Yes	No	Yes			
III.A.2	Cooperative laws and legislation are primarily a federal subject	Yes	Yes	Yes			

Question No.	Question	MALAYSIA (Ministry of Land & Cooperative Development)			PALESTINE (Ministry of labour)	IRAN (Central Chamber of Cooperatives)
III. A.3	There are efforts to unify and harmonise the cooperative laws and legislation across provincial and national levels?	N/A	Yes	Yes (some)		
III.A.4	Cooperatives are subject to other specific laws that apply to them depending upon the sector they belong to eg. Banking.	No	No	No		
III.A.5	All the major laws apply equally to cooperatives as they apply to other forms of business enterprises.	No	Yes	Yes		
III. A.6	Cooperative laws encourage formation of strategic alliances with cooperatives of other countries for operations in the domestic markets.	Silent	Silent	Silent		
III.A.7	You are satisfied with the existing provisions in cooperative laws.	Yes	No	Partly		
III A.8	Cooperative laws encourage new cooperative formation, new forms of cooperative enterprise and cooperative development.	Yes	Yes	Yes		
III.A.9	Cooperative laws are overly prescriptive.	No	No	No (flexible)		
III.A.10	Cooperative laws authorise governments – specifically Ministers and government officials – to interfere and impair the autonomy and independence of cooperatives.	No	No	No Reply		
III.A.11	Cooperative laws create a conflict with market values that are required to be adopted by cooperatives in a market driven economy.	No	No	No		
III.B.1	Cooperative laws fully incorporate the cooperative values and principles as stated in the ICA statement on cooperative identity.	Marginally	Yes	Yes		

Question No.	Question	IRAN (Central Chamber of Cooperatives)		
		MALAYSIA (Ministry of Land & Cooperative Development)	PALESTINE (Ministry of labour)	IRAN (Central Chamber of Cooperatives)
III.B.2	Cooperative laws are wholly consistent with and fully articulate in their different sections the statement on cooperative identity.	Yes	Substantially	Yes
III.C.1	Cooperative laws adequately and clearly define the rights and responsibilities of the Board of Directors/Management Committee, management/Executive and Members/General Body.	Yes	Yes	Yes
III.C.2	Cooperative laws provide for a comprehensive method/due process of disclosure and consultation with the members to enable the members to finally make a decision about whether a cooperative undertakes significant change in its basic form and nature of activities e.g Demutualisation/Conversion into non-cooperative forms of enterprise, diversification.	Yes	Yes	Yes
III.C.3	Cooperative laws adequately provide for filters/systems of checks and balances that can adequately address misuse of authority and delinquent management decisions at all levels.	Yes	Yes	Yes
III.C.4	Cooperative laws provide for self regulation of cooperatives to a substantial extent.	Yes	Yes	Yes
III.C.5	Cooperative laws provide for cooperatives at higher levels, i.e. other than primaries to be sensitive to the needs of their members and work/function for the benefit of their members.	Yes	Yes	Yes
III.D.1	Cooperative laws/Government policy provide for agencies involved in cooperative regulation and cooperative development to be separate and have clearly defined roles in relation to promotion and development of cooperatives, inspection, monitoring and control and adjudication.	No	Yes	Yes

Question No.	Question	MALAYSIA (Ministry of Land & Cooperative Development)			PALESTINE (Ministry of Labour)			IRAN (Central Chamber of Cooperatives)		
		Yes	Marginal	No	Yes	Marginal	No	Yes	Marginal	No
III.D.2	Cooperative laws provide for forms of government assistance to cooperatives and partnership between governments and cooperatives that use government assistance without affecting the autonomy and independence of cooperatives.	Yes			Yes			Yes		
III.E.1	Cooperative laws encourage member economic participation through contribution of member capital through a set of incentives and mechanisms that can be decided by the member themselves.	Yes			Marginal			Yes		
III.E.2	A majority of cooperatives believe that they can raise capital from sources other than members (such as capital markets) without affecting member control.	Yes			Yes (small amount)			Yes		
III.E.3	Cooperative laws provide for cooperatives to mobilise capital from sources other than members (such as capital markets) without affecting member control.	Yes			Marginal			Yes		
III.E.4	Cooperative laws facilitate inter-cooperative investments clearly.	Yes			Yes			Substantially		
III.E.5	Cooperative laws clearly allow for cooperatives to establish subsidiaries under any appropriate law that is for the time being in force.	Yes			Yes			Unclear		
III.E.6	Cooperative laws permit cooperatives to decide the utilisation of their funds including reserve funds in a manner consistent with the decisions of members.	Yes			Yes			Marginally		
III.E.7	Revenue laws permit cooperatives to enjoy exemption from direct taxation on the contributions that cooperatives make to their respective reserve funds and the income they earn from their reserve funds and other statutory funds.	Yes			No			Yes		

SUMMARY OF RESPONSES TO THE QUESTIONNAIRE (EXCEPT AUSTRALIA)

Responses were received from:

- The Cooperative Federation of Victoria Ltd (CFV)
- The Cooperative Federation of South Australia Inc (CFSA)
- Cooperative Council of Australia Inc (CCA)
- Registry of Cooperatives of Cooperatives, Department of Fair Trading, NSW (RegNSW)
- Ministry of Fair Trading (WAFT)

SUMMARY OF THE RESPONSES TO THE QUESTIONNAIRE FROM AUSTRALIA - PART II COOPERATIVE POLICY

11.1	There exists between cooperative policy and cooperative legislation	a clear distinction	No clear distinction (CFV) RegNSW	Marginal distinction (CFSA) WAFT	
11.2	Cooperative policy and cooperative legislation	Are in harmony with each other	exhibit divergence in approach	Are substantially in harmony with each other	are independent of each other (CFV Also depends on what harmony)
11.3	Present government policy	Provide preferential treatment for cooperatives	RegNSW some lengthy comments are provided	Does not provide preferential treatment for cooperatives	Provide marginal preference for cooperatives
			WAFT	(CFV)	(CFSA) WAFT RegNSW

SUMMARY OF THE RESPONSES TO THE QUESTIONNAIRE FROM AUSTRALIA - PART II COOPERATIVE POLICY

11.4	Government has	Put in place mechanisms for formulation of cooperative policy	Not put in place mechanisms for formulation of cooperative policy	
		WAFT RegNSW	(CFSA) (CFV)	
11.5	Government has	Been positively influenced by the ICA sponsored conferences including the recently held Ministerial Conference at Beijing	not influenced by the ICA sponsored conferences including the recently held Ministerial Conference at Beijing	(CFSA Not aware of any influence or not)
		(CFV) WAFT RegNSW		
11.6	There are	Cooperative movement initiated mechanisms for influencing cooperative policy of Government	No cooperative movement initiated mechanisms for influencing cooperative policy of Government	No CSO initiated mechanisms for influencing cooperative policy of Government
		(CFSA) (CFV mechanism is ad hoc and part-time) WAFT RegNSW		
11.7	There are	Well defined government mechanisms to implement cooperative policy	Well defined cooperative movement mechanisms to implement cooperative policy	Lack of cooperative movement mechanisms to implement cooperative policy
		WAFT RegNSW		(CFV there are some cooperative movement mechanisms)
111.A.1	There are	Specific provisions in the National Constitution for cooperatives	No specific provisions in the National Constitution for cooperatives	Some specific provisions in the National Constitution for cooperatives

SUMMARY OF THE RESPONSES TO THE QUESTIONNAIRE FROM AUSTRALIA - PART II COOPERATIVE POLICY

111.A.2	Cooperative laws and legislation are primary a federal subject	(CFSA) (CFV) WAFT RegNSW
	Cooperative laws and legislation are primary a state provincial subject	
		(CFSA) (CFV) WAFT RegNSW
111.A.3	There are Efforts to unify and harmonise the cooperative laws and legislation across provincial and national levels	No efforts to unify and harmonise the cooperative laws and legislation across provincial and national levels
	(CFV) WAFT RegNSW	(CFSA)
111.A.4	Cooperative is the subject of other specific laws that apply to them depending upon the sector they belong to eg. Banking	Cooperatives are not subject to other specific laws merely because they are working in a particular sector
	(CFV) WAFT RegNSW	(CFSA)
111.A.5	All major laws apply equally to cooperatives as they apply to other forms of business enterprise	All major laws do not apply equally to cooperatives as they apply to other forms of business enterprises
	(CFSA) WAFT RegNSW	(CFV)

SUMMARY OF THE RESPONSES TO THE QUESTIONNAIRE FROM AUSTRALIA - PART II COOPERATIVE POLICY

- 111.A.6
 Cooperative laws encourage formation of strategic alliances with cooperatives of other countries for operation in domestic markets
 Cooperative laws encourage formation of strategic alliances with cooperatives of other countries for operation in the international market
 Cooperative laws are silent about the formation of strategic alliances with cooperatives of other countries for operation in domestic markets
 Cooperative laws are silent about strategic alliances with cooperatives of other countries for operation in the international market
 (CFSA) (CFV) WAFT (CFSA) (CFV) WAFT RegNSW
- 111.A.7
 Are you satisfied with the existing provisions in cooperative laws
 You are not satisfied with the existing provisions in cooperative laws
 You are partly satisfied with the existing provisions in cooperative laws
 (CFSA) (CFV) WAFT RegNSW
 (CFV) WAFT legislation is outdated
 RegNSW
- 111.A.8
 Cooperative laws encourage new cooperative formation, new forms of cooperative enterprise and cooperative development
 Cooperative laws do not encourage new cooperative formation or creation of new forms of cooperative enterprise or cooperative development
 (CFSA There is little encouragement by lawyers and accountants to form co-ops, not enough are well informed) WAFT
 (CFV) RegNSW
- 111.A.9
 Cooperative laws are overly prescriptive
 Cooperative laws provide enough flexibility for becoming competitive vis a

SUMMARY OF THE RESPONSES TO THE QUESTIONNAIRE FROM AUSTRALIA - PART II COOPERATIVE POLICY

111.A.10	<p>(CFV) RegNSW</p> <p>vis other forms of business enterprise</p> <p>(CFSA) WAFT</p>	<p>Cooperative laws authorise governments – specifically Ministers and government officials – to interfere and impair the autonomy and independence of cooperatives</p> <p>(CFSA) WAFT RegNSW</p>
111.A.11	<p>(CFV)</p>	<p>Cooperative laws create a conflict with market values that are required to be adopted by cooperatives in a market driven economy</p> <p>(CFV) WAFT RegNSW</p>
111.B.1	<p>(CFSA) RegNSW</p>	<p>Cooperative laws fully incorporate the cooperative values and principles as stated in the ICA Statement on Cooperative Identity</p> <p>Cooperative laws do not incorporate the cooperative – even marginally – the cooperative values and principles as stated in the ICA Statement on Cooperative Identity</p> <p>Cooperative laws substantially incorporate the cooperative values and principles as stated in the ICA Statement on Cooperative Identity</p>
111.B.2	<p>Cooperative laws are wholly consistent with and</p>	<p>Cooperative laws are substantially consistent with cooperative laws are</p> <p>In their different sections, cooperative laws are</p>

SUMMARY OF THE RESPONSES TO THE QUESTIONNAIRE FROM AUSTRALIA - PART II COOPERATIVE POLICY

fully articulate in their different sections the statement on cooperative identity and substantially articulate in their different sections the statement on cooperative identity wholly inconsistent with the statement on cooperative identity

(CFV 'partly' instead of substantially) WAFT

SECTION C

111.C.1

Cooperative laws adequately and clearly define the rights and responsibilities of the Board of Directors Management Committee, Management and Members/ Executive and Members/ General Body

Cooperative laws substantially define the rights and responsibilities of the Board, Management/Executive and Members

(CFSA) (CFV) WAFT RegNSW

111.C.2

Cooperative laws provide for a comprehensive method of disclosure and consultation with the members to enable a decision about whether a cooperative undertakes significant change in its basic form and nature of activities eg., Demutualisation, conversion into non-cooperative forms of enterprise, diversification

Cooperative laws do not provide for a comprehensive method of disclosure and consultation with the members to enable a decision about whether a cooperative undertakes significant change in its basic form and nature of activities eg., Demutualisation, conversion into non-cooperative forms of enterprise, diversification

(CFSA) WAFT RegNSW (CFV)

SUMMARY OF THE RESPONSES TO THE QUESTIONNAIRE FROM AUSTRALIA - PART II COOPERATIVE POLICY

111.C.3 Cooperative laws adequately provide for filters and systems of checks and balances that can adequately address misuse of authority and delinquent management decisions at all levels

Cooperative laws do not adequately provide for filters and systems of checks and balances that can adequately address misuse of authority and delinquent management decisions at all levels

Cooperative laws marginally provide for filters and systems of checks and balances that can adequately address misuse of authority and delinquent management decisions at all levels

(CFV) WAFT RegNSW

111.C.4 Cooperative laws provide for self regulation of cooperatives to a substantial extent

Cooperative laws do not provide for self regulation at all

Cooperative laws provide for some self regulation

(CFV)

(CFV) RegNSW

WAFT

111.C.5 Cooperative laws provide for cooperatives at higher levels i.e. other than primaries to be sensitive to the needs of their members and work/function for the benefit of their members.

Cooperative laws do not provide for cooperatives at higher levels i.e. other than primaries to be sensitive to the needs of their members and work/function for the benefit of their members.

Cooperative laws marginally provide for cooperatives at higher levels i.e. other than primaries to be sensitive to the needs of their members and work/function for the benefit of their members.

Cooperative laws substantially provide for cooperatives at higher levels i.e. other than primaries to be sensitive to the needs of their members and work/function for the benefit of their members.

(CFV)

WAFT

PART D GOVERNMENT AND COOPERATIVES

111.D.1 Cooperative laws and Government policy provide for agencies involved in co-operative laws and Government policy does not provide for agencies

SUMMARY OF THE RESPONSES TO THE QUESTIONNAIRE FROM AUSTRALIA - PART II COOPERATIVE POLICY

operative regulation and cooperative development to be separate and have clearly defined roles in relation to promotion and development of cooperatives, monitoring and control and adjudication

(CFSA) (CFV we don't have the agencies) WAFT RegNSW

111.D.2 (CFV none of the above)	Cooperative laws provide for forms of government assistance to cooperatives and partnership between governments and cooperatives that use government assistance without affecting the autonomy and independence of cooperatives	Cooperative laws provide for forms of government assistance to cooperatives and partnership between governments and cooperatives that use government assistance which affect the autonomy and independence of cooperatives	Cooperative laws provide for forms of government assistance to cooperatives and partnership between governments and cooperatives that use government assistance which substantially affect the autonomy and independence of cooperatives
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(CFSA in some states)

WAFT RegNSW

PART E CAPTIALISATION

111.E.1	Cooperative laws encourage member economic participation through con-	Cooperative laws do not encourage member economic participation	Cooperative laws substantially encourage member economic participation
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SUMMARY OF THE RESPONSES TO THE QUESTIONNAIRE FROM AUSTRALIA - PART II COOPERATIVE POLICY

tribution of member capital through contribution of member capital through a set of incentives and mechanisms that can be decided by the members themselves

(CFV) WAFT RegNSW

(CFSA)

111.E.2

A majority of cooperatives believe that they can raise capital from sources other than members (such as capital markets) without affecting member control

(CFSA)

A majority of cooperatives believe that they can not raise capital from sources other than members (such as capital markets) without affecting member control

WAFT

A majority of cooperatives believe that they can raise only a very small amount of capital from sources other than members (such as capital markets) without affecting member control

(CFV) RegNSW

A majority of cooperatives believe that they can raise a substantial amount of capital from sources other than members (such as capital markets) without affecting member control

111.E.3

Cooperative laws provide for cooperatives to mobilise capital from sources other than members (such as capital markets) without affecting member control

WAFT RegNSW

Cooperative laws do not provide for cooperatives to mobilise capital from sources other than members (such as capital markets) without affecting member control

Cooperative laws marginally provide for cooperatives to mobilise capital from sources other than members (such as capital markets) without affecting member control

Cooperative laws substantially provide for cooperatives to mobilise capital from sources other than members (such as capital markets) without affecting member control

111.E.4

Cooperative laws clearly facilitate inter-cooperative investments

(CFV) WAFT

Cooperative laws marginally facilitate inter-cooperative investments

Cooperative laws substantially facilitate inter-cooperative investments

SUMMARY OF THE RESPONSES TO THE QUESTIONNAIRE FROM AUSTRALIA - PART II COOPERATIVE POLICY

- 111.E.5
 Cooperative laws clearly allow for cooperatives to establish subsidiaries under any appropriate law that is for the time being in force
 Cooperative laws do not allow for cooperatives to establish subsidiaries under any appropriate law that is for the time being in force
 Cooperative laws are unclear about allowing cooperatives to establish subsidiaries under any appropriate law that is for the time being in force
 (CFSA) (CFV) WAFT RegNSW
- 111.E.6
 Cooperative law permits cooperatives to decide the utilisation of their funds including reserve funds in a manner consistent with the decisions of members
 Cooperative law do not permit cooperatives to decide the utilisation of their funds including reserve funds in a manner consistent with the decisions of members
 Cooperative law significantly restricts cooperatives in deciding the utilisation of their funds including reserve funds in a manner consistent with the decisions of members
 Cooperative law marginally restricts cooperatives in deciding the utilisation of their funds including reserve funds in a manner consistent with the decisions of members
 (CFSA) WAFT RegNSW (CFV)
- 111.E.7
 Revenue laws permit cooperatives to enjoy exemption from direct taxation on the contributions that cooperatives make to their respective reserve funds and the income they earn from their reserve funds and other statutory funds
 Revenue laws do not permit cooperatives to enjoy exemption from direct taxation on the contributions that cooperatives make to their respective reserve funds and the income they earn from their reserve funds and other statutory funds
 (CFSA in some cases) WAFT RegNSW

Comments from the CCA:

We note this questionnaire has been forwarded to all State Cooperative Federations in Australia. . . . As the Cooperative Council of Australia (CCA) is made up of representatives from each of the State Federations, it is felt that CCA would only be duplicating the replies from the State Federations and the fact that insufficient time was available to collate any comments that may have been received.

APPENDIX - XIV
EXTRACTS OF THE REPORT V(2) PROMOTION OF COOPERATIVES (ILO 2001)

Note: The Australian Government did not respond to the ILO questionnaire

Q. No	Question	India	Indonesia	Israel	Malaysia	Nepal	Sri Lanka	Thailand	Rep. of Korea
1	Do you consider the International Labour Conference should adopt a new international instrument concerning the promotion of cooperatives?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
2	If so, do you consider that the instrument should take the form of a Recommendation?	Yes The recommendation should provide a comprehensive set of guidelines to national authorities	Yes It should recommend that the establishment of workers cooperative in the employer's enterprise will not be detrimental to the operation of the company.	Yes	Yes	Yes	Yes	Yes	Yes
3	Should the instrument include a preamble referring to : (a) Employment Policy Convention, 1964 (No. 122), and Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169)? (b) Rural Workers' Organisations convention, 1975 (No. 141), and Recommendation (No. 149)? (c) Human Resources Development Convention, 1975 (No. 142), and Recommendation (No. 150)?	Yes (a), (b) & (d) No (c): Since the ILO will consider revision of recommendation no. 150	Yes (a) to (d) No (e)	Yes (a) to (d)	Yes (d)	Yes (a) to (d)	Yes (b) & (d)	Yes (a) to (d) No (e)	Yes to (a) No to (b) to (e)

Q. No.	Question	India	Indonesia	Israel	Malaysia	Nepal	Sri Lanka	Thailand	Rep. of Korea
	(d) Job Creation in Small and Medium-Sized Enterprises Recommendation, 195 (No. 189)?								
	(e) Other instruments? (Please specify).								
4	Should the instrument seek to promote the considerable potential that cooperatives have, in all countries whatever their level of development, to assist their member to:	Yes	Yes	Yes	Yes	Yes	Yes	(a) to (c)	Yes (a) to (c)
	(a) create employment and expand access to income-generating activities?	(a) to (c)	(a) to (c)	(a) to (c)	(a), (b) & (d)	(a) to (c)	(a) to (c)		No to (d)
	(b) improve social well-being?								
	(c) increase savings and investment?								
	(d) attain other economic and social objectives? (Please specify)								
5	Do you consider that the instrument should apply to all types and forms of cooperatives and to all economic and social sectors in which cooperatives operate?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No
6.1	Do you consider that the framework for a definition contained in the Cooperatives (Developing Countries) Recommendation, 1966 (No. 127), is still relevant and adequate? If not, what should be the definition of a cooperative?	No Response	Yes	Yes	Yes	Yes	Yes	No	Yes
6.2	Do you consider that a definition of cooperatives should continue to be left solely to national laws and practice or	No	Yes	Yes	Yes	Yes	Yes	Others	Other

Q. No.	Question	India	Indonesia	Israel	Malaysia	Nepal	Sri Lanka	Thailand	Rep. of Korea
	should a definition be contained in the instrument itself?								
7	Should the instrument encourage the promotion and strengthening of the identity of cooperatives based upon the following unique characteristics:	Yes (a), (b) & (d) to (g)	Yes (a), (b) & (d) to (g)	Yes (a), (b) & (d) to (g)	Yes (a), (b) & (d) to (f)	Yes (a) & (c) to (g)	Yes (a), (b) & (d) to (g)	Yes	Yes (a), (b) & (d) to (g)
	(a) voluntary and open membership;								
	(b) democratic member control;								
	(c) member economic participation;								
	(d) autonomy and independence;								
	(e) education, training and information;								
	(f) cooperation among cooperatives;								
	(g) concern for the community?								
8	Should the instrument encourage measures enabling cooperatives to respond to the needs of disadvantaged groups in society? If yes, what should such measures include?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
9.1	Should the instrument provide for the following role for governments in the promotion and regulation of cooperatives:	Yes (a), (b) & (d)	Yes (a), (c) & (d)	Yes (a), (c) & (d)	Yes (a) to (c)	Yes (a) & (b)	Yes (b) & (c)	Yes (a) & (b)	Yes (a) to (c)
	(a) establishment of a policy and legal frame work?								No to (d)
	(b) establishment of an institutional framework allowing for the registration of cooperatives in a rapid and simplified manner?								

Q. No.	Question	India	Indonesia	Israel	Malaysia	Nepal	Sri Lanka	Thailand	Rep. of Korea
	(c) establishment of a policy and legal framework for the promotion of a vertical cooperative structure? (i.e. primary, secondary and apex bodies).								
	(d) adoption of special measures for the oversight of cooperatives?								
9.2	Should the instrument provide for governments to have any other responsibilities with respect to the promotion and regulation of cooperatives? If so, please specify.	Yes (subsidised capital for cooperatives)	Yes	Yes	Yes	Yes	Yes	Yes	Yes
10	Should employers' organizations be encouraged to:	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes (a) to (c) & (e) to (f)
	a) make appropriate support services available to cooperatives?	(a) & (c) to (g)	(a) & (c) to (g)	(b) to (f)	(a) to (f)	(a) to (f)	(a) to (f)	(a) to (f)	No (d) & (g)
	b) include cooperative organizations in their regional, national and local groups, especially where the latter deal with policies and programmes having an impact on cooperatives?								
	(c) participate in the exchange of experience and the establishment of commercial linkages between cooperatives and other forms of Enterprises?								
	(d) Participate in studies on social and labour market issues of interest to cooperatives?								
	(e) participate in programmes for cooperatives aimed at improving product and service quality and access to market opportunities?								

Q. No.	Question	India	Indonesia	Israel	Malaysia	Nepal	Sri Lanka	Thailand	Rep. of Korea
	(f) recommend that their members assist workers to establish consumer cooperatives, savings and credit cooperatives and housing cooperatives?								
	(g) carry out other activities? (Please specify)								
11	Should workers' organizations be encouraged to:	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
	(a) advise their members to establish cooperatives with the special aim of facilitating access to basic consumer goods, loans, housing and social services?	(a) to (e)	(a) to (e)	(a) & (c) to (f)	(a) to (e)	(a) to (e)	(a) to (e)	(a) to (e)	(a) to (b) & (d)
	(b) promote the establishment of cooperatives in the informal sector in order to improve the competitiveness of micro-enterprises and to organize social services?			No (b)					No to (c), (e) to (f)
	(c) participate in committees and working groups at the national and local levels to consider economic and social issues having an impact on cooperatives?								
	(d) participate in the setting up of new cooperatives, such as workers' cooperatives converted from private and state enterprises?								
	(e) participate in programmes for cooperatives aimed at improving productivity and equality of opportunity?								
	(f) carry out other activities? (Please specify.)								

Q. No.	Question	India	Indonesia	Israel	Malaysia	Nepal	Sri Lanka	Thailand	Rep. of Korea
12	Should cooperative organizations, and in particular their unions and federations, be invited to: (a) establish an active partnership with employers' and workers' organizations and development agencies (b) finance and manage their own technical support services, including management consultancy, human resource development and external Audit? (c) furnish commercial and financial services to affiliated cooperatives? (d) represent the national cooperative movement at the international level? (e) carry out other activities? (Please specify).	Yes (a) to (d)	Yes (a) to (d)	Yes (a) to (d) Others: e: Education, information & training.	Yes (a), (c) & (d)	Yes (a) to (d)	Yes (a) to (d)	Yes (a) to (d)	Yes (a) to (d) No to (e)
13.1	Should the instrument recommend the promotion of voluntary and independent cooperatives as one of the objectives of national economic and social development?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
13.2	Should such cooperatives and other enterprises or social organizations be treated on equal terms?	Yes	Yes	Yes	No	Yes	Yes	No	Yes
14.1	Should member States' policies include, as recommended by current international standards, measures which:	Yes (a) to (g)	Yes (a) to (g)	Yes (a) to (g)	Yes (a), (c) to (f) & (h)	Yes (a) to (e) & (g)	Yes (a) to (e), (g) & (h)	Yes (a) to (e), (g) & (h)	Yes (a) to (c) & (g) No (d) to (f) & (h)

Q. No	Question	India	Indonesia	Israel	Malaysia	Nepal	Sri Lanka	Thailand	Rep. of Korea
	(a) create an appropriate legal and institutional framework for cooperatives?								
	(b) facilitate access to credit for cooperatives?								
	(c) promote education in the principles and practices of cooperative membership?								
	(d) develop the technical and managerial abilities of both members and managers?								
	(e) contribute to the spread of information on cooperatives?								
	(f) improve the level of productivity and quality of the goods and services produced by cooperatives?								
	(g) facilitate access of cooperatives to markets?								
	(h) improve national statistics on cooperatives with a view to the formulation and implementation of development policies?								
14.2	Should the instrument also recommend measures which:	Yes (b) & (c)	Yes (b) & (c)	Others : Cooperative should be allowed the flexibility to create their own arrangement.	Yes (c) No (a) & (b)	Yes (a) & (b)	Yes (a) & (c)	Yes (a)	Yes (b) & (c) No to (a)
	(a) limit the role of the State with regard to cooperatives to regulatory functions, dissolution and the enforcement of cooperative legislation?								
	(b) decentralize as far as possible to the regional and local levels the formulation and implementation								

Q. No.	Question	India	Indonesia	Israel	Malaysia	Nepal	Sri Lanka	Thailand	Rep. of Korea
	of policies and regulations regarding cooperatives?								
	(c) limit the legal obligations on cooperatives to registration, audits and the receipt of licences and establishment of business reports in the same manner as is required of any other form of business								
15	Is it desirable that member States adopt specific legislation on cooperatives and periodically revise such legislation? If so, is it desirable that such legislation recognize explicitly the cooperative characteristics listed in question 7 above?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
16	Should the instrument recommend the consultation of the employers' and workers' organizations concerned, as well as cooperative organizations, in the formulation of cooperative legislation?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
17.1	Should cooperatives have access to a package of support services to strengthen their business viability and their capacity to create employment and income?	Yes It should be left to the cooperatives to decide whether or not to utilize the package of support services provided by any external agency	Yes Critical problems faced by most cooperatives to date are lack of human resource management, capability and finance.	Yes	Yes	Yes	Yes	Yes	Yes
17.2	If so, should these services include the following:	Yes (a) to (h)	Yes (a) to (h)	Yes (a) to (h)	Yes (a) to (h)	Yes (a) to (h)	Yes (a) to (h)	Yes (a) to (h)	Yes (a) to (h) No (i)

Q. No.	Question	India	Indonesia	Israel	Malaysia	Nepal	Sri Lanka	Thailand	Rep. of Korea
	(a) training programmes for the improvement of the entrepreneurial capabilities of members, managers and employees of cooperatives?			Preferably cooperative audit.					
	(b) research and management consultancy services?								
	(c) access to finance and investment?								
	(d) external audit and accountability?								
	(e) management information services?								
	(f) information and public relations services?								
	(g) consultancy services on technology and innovation?								
	(h) legal and tax services?								
	(i) other specialized services? (Please specify.)								
17.31	Should the above package of services, in principle, be financed by the cooperative organizations themselves?	Yes	No	Yes	Yes	Yes	No	Yes	
17.32	If such financing is not considered appropriate, or where it is not currently feasible, how should these services be financed?	Cooperatives are based on self help and mutual aid.	From other institutions willing to provide financing.					By the government, both central and local authorities	Yes
18	Should the instrument recommend measures to facilitate the access of cooperatives to investment finance and credit? If so:	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
		(b) to (d)	(a) to (c)	(a), (b) & (d)	(a), (b) & (d)	(b) to (d)	(c) & (d)	(a), (b) & (d)	(b) to (d)

Q. No.	Question	India	Indonesia	Israel	Malaysia	Nepal	Sri Lanka	Thailand	Rep. of Korea
	(a) should additional measures be adopted to address related Problems, for example, bureaucratic procedures, low level of cooperative assets, cost of loan transactions?	Various measures may be recommended but it should be up to cooperatives whether to adopt one or more of them	Government should facilitate special financial institutions for cooperatives based on a preliminary feasibility study.			No.	No.	No	No to (a)
	(b) should specific measures be adopted to provide for an autonomous system of finance for cooperatives, including credit and savings cooperatives, cooperative banks and cooperative insurance?						(a) & (b)	(c)	
	(c) should credit and finance facilities be offered at market conditions as for other forms of business enterprises?								
	(d) should special conditions be offered to vulnerable groups?								
19	Should the instrument encourage the development of linkages among all forms of cooperatives in order to encourage an exchange of experience and the sharing of risks and benefits or the promotion of the cooperative movement?	Yes Sharing of experience, benefits etc should be through mechanisms and methods evolved by cooperative themselves.	Yes Though development of linkages, it will bring about synergy.	Yes (a), b(i) to b(v) & c	Yes It is vital to maintain such cooperation.	Yes (a), b(i) to b(v) & c	Yes (a), b(i) to b(v) & c	Yes (a), b(i) to b(v) & c	Yes (a), (b) (i) to (v), (c) No (b) (v)
20	Should the instrument recommend that members take appropriate measures to facilitate international cooperation in the following areas: (a) the exchange of information on	Yes (a), b (i) to b(v) & c	Yes (a), b(i) to b(v) & c	Yes (a), b(i) to b(v) & c	Yes (a), b(i) to b(v) & c	Yes (a), b(i) to b(v) & c	Yes (a), b(i) to b(v) & c	Yes (a), b(i) to b(v) & c	Yes (a), (b) (i) to (v), (c) No (b) (v)

Q. No.	Question	India	Indonesia	Israel	Malaysia	Nepal	Sri Lanka	Thailand	Rep. of Korea
	<p>policies and programmes which have proved to be effective in employment creation and income generation for members of cooperatives?</p> <p>(b) the encouragement and promotion of linkages between national and international bodies and institutions involved in the development of cooperatives, in order to:</p> <ul style="list-style-type: none"> i) exchange personnel and ideas? ii) exchange educational or training materials, methodologies and reference materials? iii) facilitate the compilation and utilization of research material and other data on cooperatives and their development? iv) establish alliances and international partnerships between cooperatives? v) promote and protect cooperative values and principles? vi) carry out other activities? (Please specify.) <p>(c) promotion of the access of cooperatives to national and international data such as market information, legislation, training methods and techniques, technology and product standards?</p>			<p>International legislation on cooperative matters and binding treaties.</p>					

APPENDIX XV

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APPENDIX XVI

TERMS OF REFERENCE

SECOND CRITICAL STUDY ON COOPERATIVE LEGISLATION AND POLICY REFORMS

1. BACKGROUND

The Fifth Cooperative Ministers Conference in Beijing was staged during a period when mounting advocacies by cooperatives and other non-governmental organizations were on the rise and increasingly listened to by governments and multilateral agencies. The Ministers Conference has apparently prompted a number of governments, particularly in South East Asia, to adjust their policies, and also the way these policies are presented to the public at large. Companies are also bending to the pressures exerted by NGOs that argue relentlessly as to why economic growth must be accompanied by greater equity. ICA ROAP is also beginning to set the stage for a meaningful dialogue between cooperatives and big companies that are more open to creating productive employment and higher incomes for low-wage earners, and it has done so by working more closely with the ICFTU (International Confederation of Free Trade Unions) in the Asia Pacific region.

It is becoming more apparent that the mighty forces driving globalization are not impervious to advocacies by people-based organizations, but that such advocacy must be staged persistently, and using non-violent measures, to gain intellectual acceptance from official as well as the so-called "capitalist" quarters. The latter portrays the strategy of ICA ROAP in its policy development work, promoting the role of cooperatives in the ongoing process of economic integration, presenting our belief that globalization is not just an economic issue, as much as it is also a moral issue, hence demanding more efforts by governments to civilize the process. Within the cooperative system itself, we have been adamant in preserving the true co-op identity and avoid privatization and demutualisation to prevail over our cooperative uniqueness.

Technology is also seen as a key driver of globalization. The progress achieved in computing and telecommunications offer enormous and unprecedented scope for improvements in local efficiency, and gains from an infinitely denser network of connections, electronic and otherwise, between the developing and the developed world.

Technological progress, therefore, makes it easier to achieve global integration as it is regarded as a self-fuelling process. But economic integration is not necessarily made easy by technological progress alone because integration also requires economic freedom. And barriers to trade that are established by rich and poor country governments alike, is a clear

restriction to economic freedom. Cooperatives, having a deep concern for their communities and especially the poor, must continue to question the impact of globalization and find answers to capturing fresh opportunities and overcoming new threats.

The financial crisis in Asia, which is slowly receding, has also taught a positive lesson to cooperative movements in this region. People-based cooperative organizations, that stayed focused on serving member needs and simultaneously used their members' advantage to rebuild local communities, have continued to remain strong. Inspired by the spectacular resilience of member-based cooperatives during the crisis, ICA Regional Office for Asia and the Pacific has kept this positive momentum by creating forums where members can learn and act together. The 5th Cooperative Ministers' Conference organized in collaboration with the All China Federation of Supply and Marketing Cooperatives (ACFSMC) was one such forum.

The rapid and significant changes in the socio-economic and socio-political landscape since the launching of the first Critical Study in 1996 have advanced the pressures on ICA ROAP to conduct the Second one. The First Critical Study remains relevant even until today and was also highly instrumental to the success of the Fourth and Fifth Ministers' Conferences. However, this initial Study must be updated and enriched by the conduct of a Second one in order to carry greater weight at the Sixth Ministers Conference, as a consequence of a renewed critical analysis on the impact and pursuit of the Joint Declaration adopted in Beijing.

2. SCOPE OF STUDY

2.1. Rationale

The momentum created by the Fifth Ministers Conference in Beijing was not simply due to its successful attendance and organizational accomplishments, but more so because of the rare consensus reached between governments and movements in adopting key standards and approaches required to create a sustained and enabling policy and legal environment that is conducive to cooperative development. It further set the common agenda towards the establishment of new forms of co-operation between governments and cooperatives. All eight *Resolutions* are practical and doable.

However, political preponderance within any given country – with the cooperative ministry or authority being only one fraction of the political make up and socio-economic framework in that country – could potentially delay or hamper the implementation of these recommendations. Hence the need for a critical study to identify the positive and negative factors affecting the implementation of reforms within the scope of the Joint Declaration, inter alia:

- to what extent have co-ops been able to demonstrate their true nature as autonomous, member-controlled institutions, and remain true to their values and principles in the realm of political and socio-economic conditions prevailing in that country? (autonomy and independence);
- to what extent is the distinct character of cooperatives recognized by law (legal exist-

ence), and whether their recognition is based on what they are and what they can do?(recognition);

- are cooperatives allowed to operate under equal footing with other enterprises to realize their best potential? (fair playing field);
- do governments set the legal boundaries, whereas cooperatives regulate themselves within them? (self-regulation);
- in what manner do cooperatives mobilize additional resources to add to their the basic share capital from members, without threatening their cooperative character? (capitalization);
- do co-ops take advantage of development assistance both from bilateral and multilateral institutions for their growth and development? If yes, to what extent did they do so within a framework of networking with other co-ops and ICA? (official development assistance).

2.2. Objectives

The main objective of the Second Critical Study is *“to produce a Study Report which will assess the extent to which follow up actions of the Beijing Joint Declaration (BJD) have been implemented by ICA members, emphasizing the impact – rather than processes – of BJD on cooperatives and their changed positions (actual results) for cooperatives in the Asia Pacific Region, as well as identifying lessons learned”*.

More specifically, it will:

- Determine the extent to which hitherto government-led co-ops have been able to change their true nature into becoming more autonomous, member-controlled institutions, without sacrificing any of their values and principles in the realm of political and socio-economic conditions prevailing in that country. (*autonomy and independence*);
- Ascertain the extent to which the distinct character of cooperatives has been - recognized by law and/or by more recent government policies (*legal existence*), and whether their recognition is based on what cooperatives are and what cooperatives can actually do in promoting civil society (*recognition*);
- Carefully assess the degree to which cooperatives are allowed to operate under equal footing with other enterprises in order to realize their full potential (*fair playing field*);
- Carefully assess the determination of governments to set legal boundaries for cooperatives to control their own legislative requirements (*self-regulation*);
- Analyze the effectiveness, deficiencies, risks and/or potential among cooperatives to mobilize additional resources over their basic share capital (*capitalization*);
- Examine the thrust and/or orientation among co-ops to take good advantage of development assistance both from bilateral and multilateral institutions for their auto-

mous and independent growth and development. If yes, to what extent did they do so within a framework of networking with other co-ops and with ICA? (*official development assistance*), as well as:

Identify factors for further *improvements*, i.e. fresh opportunities, to be pursued by both the government and cooperatives before and after the Sixth Cooperative Ministers Conference scheduled for Nepal in the year 2002, and register all *lessons learned* for future development in order to avoid repetition of past failures.

3. CONDUCT OF THE STUDY

3.1. Methodology

The study will be carried out by way of interviews with cooperative leaders from the cooperative movements and relevant government officials from select countries namely Indonesia, the Philippines, Malaysia, Thailand, Singapore, Sri Lanka and India.

Official documents and literature available at ICA ROAP will be consulted to act as the frame of reference. Measurement of study variables and relevant sources of data, documents, and key informants will be identified and reviewed.

A questionnaire will be employed to source and gather important data and information from select ICA members and governments in the Asia Pacific Region.

As well, relevant, and available records, reports, data and statistics on cooperative development in the above select countries in Asia will be examined in the process, and utilized in the final report, to authenticate findings and conclusions.

3.2. Study Team and Review Committee

The team will be composed of two main consultants, one from India and one from Australia. Both consultants will have proven knowledge and expertise on cooperative development, whose backgrounds should be complementary to both the process and results of the study. Whereas the first Critical Study was conducted by two consultants who were not themselves actively involved as directors or employees in cooperative development work, the current one will have a combination of a research-oriented consultant and a true co-op practitioner to ensure the same depth and objectivity like the first one.

In order to optimise the analysis and depth of the study, a Review Committee will be constituted to guide and support the actual Study Team. The Study Team and the Review Committee will be responsible for the integration, and syntheses of all study inputs and outputs. Members of the Review Committee will also be called upon to help in providing critical input based on their knowledge and expertise, so as to ease the burden of the Study Team, as well as avoid duplicative inputs.

The final results, however, should reflect a consensus of opinions and recommendations of the Study Team, following its exchanges and deliberations with the Review Committee.

3.3. Management

ICA ROAP, represented by its Regional Director, Mr. Robby Tulus, will assume overall responsibility of the direction of the study, and will co-ordinate the work of the Review Committee.

Mr. B.D. Sharma, Director of SOWECA, ICA ROAP, will undertake overall management responsibility for the implementation of the critical study, and work in close co-ordination with the Regional Director and the Study Team. ICA ROAP, from its Regional Office in New Delhi, will also prepare the necessary letters of authorization to the Study Team to enable them to set appointments with ICA members in the region.

When and where required, part-time consultants will be hired on a case to case basis to supplement data, information, and analyses, at the overall direction and supervision of the Study Team.

4. PRODUCT OF THE CRITICAL STUDY

4.1. Overall Workplan

The Study Team will produce a detailed work-plan on the basis of the above Terms of Reference.

The overall work-plan, which will serve as a general guide will be as follows :

1. November 22-23: Joint meeting of Study Team and Review Committee in Bangkok to finalize Terms of Reference, Questionnaire, and detailed Work-plan.
 2. November 24-30: Study proper, Thailand (one member of Study Team)
 3. December 2000 : Study proper – Australia and India
 4. January 08-24 (2001): Study proper – China/Vietnam (Aussie member)
Study proper – Nepal/Sri Lanka (India member)
 5. January 26-27 : Joint Meeting of Study Team and Review Committee in Jakarta, Indonesia (concurrent with SC/World Bank/ILO/ICA Workshop on Co-op Law reform).
 - 6) February 2001 : Report writing
 - 7) March 10-12 : Joint Meeting in Singapore
 - 8) March 25 : Printing of Report
 - 9) Late April/Early May : Regional Consultation in Iran. Presentation of Report to Permanent Secretaries of governments and CEOs of Co-op Federations in Asia Pacific.
- b) Where feasible, some trips could be made simultaneously by the Study Team, with a minimum overlap of four days. The following members and government agencies are

to be visited :

1. Thailand:
Cooperative League of Thailand (CLT) and select members
Cooperative Promotion
2. Nepal
National Cooperative Federation of Nepal (NCF) and select members
Department/Ministry of Cooperatives.
3. India
Select ICA members
Ministry of Agriculture and State Ministries in charge of Co-ops.
4. Peoples Republic of China:
All China Federation of Supply and Marketing Cooperatives.
5. Sri Lanka
NCC, SANASA, MPCS.
Ministry of Cooperatives, and Department of Cooperative Development.
6. Vietnam:
Vietnam Cooperative Alliance (VCA) and select members.
Ministry of Agriculture.

As scheduled in the Workplan above, verbal and/or written reports will be made to update the coordinator/ICA ROAP on the progress of the Critical Study.

4.2. Study Report

Study report should contain at least, hence not restricted to, the following :

- An introductory section: overall background of co-op environment in the Asia Pacific region;
- An analytical section: impact, lessons learned, findings, and changed scenario/condition following the Beijing Cooperative Ministers' Conference, with special emphasis on all 8 resolutions in the Joint Declaration.
- Conclusions and recommendations: synthesis of findings and assessment of issues and survey results.
- An Executive Summary of not more than 4 pages.
- An appendix containing a narrative section: chronology of significant events and key persons and organizations involved in conceptualisation of study;

APPENDIX XVII

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