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**Legal, Judicial and Administrative Provisions
for Successful Cooperative Development**

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I. Introduction: State, Cooperatives and Development

The debate about the relationship between the State and cooperatives is, both in the theory and the practice of the cooperative movement, continual. Although the issue achieved notoriety in the decades that followed the Second World War, it had drawn the attention much earlier, especially as a result of certain actions by colonial governments related to cooperatives.¹ While in European countries the issue generally raised dealt with recognition by the State of the legal status of cooperatives as organizations of a peculiar nature, in Asian, African, and Latin American countries the issue was raised in the framework of an expected role of the State as promoter of the country's social and economic development.

Consequently, in the so-called Third World the question of the relationship between the State and cooperatives was, from the very beginning, associated to development, and the debate shifted to the role played by cooperatives as factors of development. The question was then focused on how the State and cooperatives should cooperate to promote development, which in turn led to consider cooperatives as some sort of State partner or auxiliary towards the fulfillment of such goals.²

In the past few years, however, the issue has undergone substantial change as a result of considering cooperatives as independent organizations formed to meet the needs of their members, on one side, and as a result of the negative results showed by the developments experienced in different countries in which cooperatives had virtually become Government agents, to say the least.³

The issue currently presents a different outlook in line with the Statement on the Cooperative Identity formulated by the International Cooperative Alliance at the Manchester Congress held in 1995⁴ and the Guidelines Aimed at Creating a Supportive Environment for the Development of Cooperatives drawn by COPAC and recommended by the United Nations.⁵ In addition, consideration of the issue was extended to all countries generally, whether industrialized, in-transition or developing countries, which resulted in a change of focus not solely limited to the latter of the above-mentioned countries.

Moreover, cooperatives independently seek to improve the economic condition of their members, and in doing so, to promote the welfare and development of their communities. It is in this context that current discussions of the issue are taking place.

II. Universality of Cooperation and the National Legal Tradition

Cooperatives are universal in nature since they foster values that recognize no national boundaries; constitute the free willingness of persons who try to solve their needs through their own effort and mutual assistance, that is, organizing actions in cooperation with other persons with whom they share common needs and aims.

This universal nature of cooperation is written down on ICA Statement on the Cooperative Identity which, after defining cooperatives, formulates the basic values on which these organizations rest upon, and then, the principles through which cooperatives put such values in practice. Such instruments –definition, values and principles- have universal reach.

A cooperative is conceived as an autonomous association of persons who voluntarily join to meet and attain shared economic, social and cultural needs and purposes, through a democratically managed joint property enterprise. Accordingly, cooperative basic values include self-assistance, self-responsibility, democratic practices, equality, equity and solidarity, together with certain ethical values fostered by cooperative members, namely, honesty, openness, social responsibility and concern about others. The universal nature of this set of features is self-evident. Then, general guidelines are set forth pursuant to which cooperatives put such values in practice, i.e., cooperative principles.

Notwithstanding such universal nature, cooperatives are organizations deeply rooted in local communities; that is to say, they are born and develop in a given historical geographic and cultural setting that confers on them a profile characteristic of the place and the time. Within such local context, the legal system there in force is an aspect of unique specificity that is generally associated to the historical and political traditions of the country itself.

The above discussion leads to the question of how to reconcile the universal nature of cooperation –its values and principles- with the necessarily local trait of cooperatives. This problem may lead to two equally wrong solutions: to seek uniform legislation for the different countries regardless of their respective cultures and legal traditions⁶ on one side, and to press forward national legislation to regulate cooperatives with absolute disregard for the general features defining and characterizing such organizations, on the other. The appropriate position consists, however, in giving cooperatives a legal treatment that takes in consideration its universal traits but observes the national legal system.⁷ No doubt the solution is a complex one requiring appropriate knowledge of the issue to translate it into the pertinent legal rules.⁸

III. Importance of Cooperative Legislation

Cooperative legislation constitutes the first and basic stance of a State towards cooperatives; it states the way the State considers such organizations as regards their nature, their operation, their activities, etc. Certain countries have no specific legislation on cooperatives⁹, but these are exceptional cases because most countries do have specific legal provisions on cooperatives, whether contained in more comprehensive statutory codes (such as the Commercial or Civil codes) or in the form of separate acts.

The existence of special legislation on cooperatives –whether in the form of a distinct law or as part of a more comprehensive statutory set of rules- constitutes a requirement to typify cooperatives and give them the proper legal framework for their organization and development. Such legislation may adopt the form of a single general law applicable to all classes of cooperatives (with specific articles dealing with the different classes) or else, separate laws regulating each specific class of cooperative.

It could be stated that the existence of one single general law comprehensive of all classes of cooperatives would be advisable, as it would thus re-affirm the single and common nature of them all, even if containing special provisions for certain specific types of cooperatives. In addition, having one general law avoids contradictions or duplications likely to arise from separate laws. It would also be advisable that a cooperative law be an autonomous piece of legislation, and not part of a more comprehensive statutory set of rules, as it would re-affirm the specific and distinct nature of cooperatives.¹⁰

It should be noted, however, that no cooperative law contains the entirety of legal rules and regulations governing cooperatives since cooperatives are also governed or influenced by other laws regulating their activities. Consequently, care should be taken to avoid that through such other pieces of legislation cooperatives become subject to other statutory provisions that may negatively affect their operation or contradict their nature. It often happens that even in presence of proper specific cooperative legislation, other legal provisions may obstruct or hinder cooperative activities.

It is to be noted, in addition, that administrative rules and regulations of lower rank than laws should be consistent with the law so as not thwarting the purposes and provisions of cooperative laws. To avoid this, or to remedy any such occurrence forthwith, the necessary and proper mechanisms should be contemplated in the cooperative legislation proper. The law should contain all essential provisions regulating cooperatives, thus leaving for administrative rules and resolutions only those of a secondary nature.¹¹

IV. Defining Cooperatives

The legal definition of cooperatives is of paramount significance since it is the chore upon which any legislative legislation rests. The correct definition of cooperatives is the milestone for any adequate law. The correct definition of cooperatives should lead to draw a distinction from other forms of legal organizations such as corporations, associations, etc. and thus build the cooperative profile according to its specific nature.

ICA Statement on the Cooperative Identity contains a definition of cooperative¹² that may be of guidance, together with Recommendation N° 127/66.¹³ Notwithstanding, the definition shall have to be adjusted to the specificities of the national legal system.

Cooperative principles should also be incorporated into any definition of cooperatives since they contribute a more rigorous definition of the nature of such organizations. It is worth noting, however, that pursuant to the Statement on the Cooperative Identity, the principles are 'general guidelines' through which cooperatives put their values in practice. In other words, adjustments are admitted provided that the essentials are not affected.

A proper definition of the term and of cooperative principles constitutes an essential requisite of cooperative legislation to characterize authentic cooperatives and avoid misunderstandings or even undue uses of the term. This requirement should be supplemented by the prohibition of using the term 'cooperative' by entities that do not meet the legal provisions.

V. Formation and Registration

Cooperative legislation shall establish that cooperatives are entities capable of holding legal rights or obligations, that is, entities whose existence is recognized by the national legal system as having all rights of any legal person, on equal terms as corporations, non-profit organizations and other legal forms of association admitted under national law.¹⁴

The law shall in a clear and precise way establish the proceeding for cooperatives to obtain legal status, which shall be similar to that provided for corporations and associations, without costly and or excessive requirements. Generally, such proceeding shall consist in the registration with a registration authority, which may well be a section of the Registrar of Companies where all other legal entities are registered upon compliance with the relevant formalities. Upon denial by the authority to register a cooperative, applicants shall be entitled to appeal before the courts, thus enforcing judiciary control over administrative decisions and avoid any likely arbitrariness.

The existence of bye-laws that fulfill all legal requirements, and adequately set forth the main issues relating to cooperative organization, operation and winding-up, is a condition precedent to register a cooperative with the registration authority, since such instrument, freely accepted by members shall govern the life of a cooperative and its relationship with them. Model bye-laws furnished either by the registration authority or higher ranking cooperative organizations could be helpful in organizing cooperatives, provided that they shall be not obligatory but reference documents.

The register shall be public, that is, open to any and all persons willing to obtain information about registered cooperatives, this, notwithstanding the existence of bulletins or publications disseminating new registrations. The registration authority shall also provide evidence or certificates of registration to registered cooperatives.

VI. Members. Rights and Obligations

Joining a cooperative is a voluntary and free decision open to all persons in a position to use its services who accept the responsibilities arising from association without racial, political, religion, social or gender discrimination. Accordingly, the text of the law shall expressly contain this principle in order that all persons with shared needs and a willingness to solve them through common action may join cooperatives.¹⁵ This is a particularly defining trait of cooperative organizations, reason why law-makers should ascertain proper and careful treatment thereof.

Once the principle of free and voluntary association is established, the law should set out the effects of association, that is, the rights and obligations arising from membership. The provisions shall be general in nature, leaving the specifics for the bye-laws. Certain rights and obligations should be established, however, in the statutory rule, such as the right to democratically participate in the management of a cooperative and the duty to perform the obligations established in the bye-laws.

The cooperative intends to meet members' needs and purposes through a common organization; hence the law shall generally establish the rights and obligations assumed by members upon joining a cooperative.

VII. Financing and Surplus

A cooperative, as an economic organization, shall be funded as necessary to meet its purposes to the benefit of its members. Financial resources basically consist of the capital contributed by members and any reserves built out of undistributed surplus. This matter deserves specific statutory rules consistent with cooperative principles.¹⁶

It should be mentioned that funding needs may advise the granting of compensation on shares in the form of limited interests. In addition, capitalization mechanisms can be established in proportion to the use of the services provided by the cooperative, or in the form of, among others, revolving funds permitting the cooperative to avail of reasonable capital to work without economic constraint.¹⁷

Any reserve built out of undistributed surplus constitutes a funding mechanism in which cooperatives do not incur costs, hence it is particularly interesting and helps consolidate the cooperative capital. The law should establish that at least a portion of such reserve shall be of a non-divisible joint ownership nature, that is, not subject to allocation to members individually but forming a genuine joint ownership capital fund.

In any event, since cooperatives should work on equal terms as other business organizations, access to financing facilities, whether or not banking, should be secured to them on equal terms as are to business companies.

The law shall also provide for possible allocations of any financial surplus from the cooperative business, although it is for each cooperative to decide, whether in its bye-laws or in the general meeting of members, the destination thereof. One such allocation may be to constitute the above-mentioned reserve fund. Another may be the distribution to members pro-rata to their transactions with the cooperative, hence reimbursing to those members who contributed to the cooperative activity (such reimbursement may also be in the form of shares). Moreover, it may be allocated to support activities of common interest as decided by the general meeting.

Legislation in many countries set forth the sound obligation of allocating certain percent of the surpluses to educational activities to be performed by the cooperatives in order to ensure that members and officers improve their level of cooperative education and training.

VIII. Accounting and Audit

The law should establish that cooperative accounts shall be carried in a clear and reliable manner, to the benefit of both its members and any third party in any way related to the cooperative. Accordingly, it shall contain adequate provisions in line with the cooperative's

economic capacity and transactions volume, trying to avoid excessive requirements the cost or complexity of which may exceed the cooperative's ability to cope with them.

Aside from accounting provisions, the law shall contain rules about the preparation and publication of the balance sheet, the document that states the economic and financial condition of the cooperative. The balance sheet shall also be brought to the consideration of members in a general meeting, and raised to the registration authority for access to it by the public at large.

The auditing of cooperative accounts is a requirement that secures the reliability thereof. It is then advisable that the accounts be audited by independent public accountants, or by specialized cooperative organizations. Certain advantages arise from shared cooperative specialization, the lower costs incurred being one of them.¹⁸

IX. The Organs of the Cooperative

The organizational structure of a cooperative is of paramount significance for the correct operation thereof. Such structure should combine an active and dynamic management, democratic governance, and internal controls. Consequently, different bodies are required with specific and clearly defined powers and functions. Where functions are overlapping, the bodies interfere with each other, conflict arises, and cooperative operations deteriorate.

As a rule, cooperative organs include: a governance body (the general meeting), an administration body (the board of directors), and a control body (the supervisory committee). Although the bye-laws of each cooperative shall clearly describe the functions of each such bodies, the law should establish generally the respective powers and functions in accordance with the nature of each organ.

The general meeting –consisting of all members entitled to one vote each– elects the members who will constitute the other organs and also appoints the auditor, approves the the annual budget and main investments, approves the annual balance sheet, and considers any such other matters the significance of which may affect the cooperative's general operations such as the reforms of the bye-laws and new activities of the cooperative.

The board of directors –consisting of a reduced number of members – is entrusted with the administration in the framework of the provisions of the bye-laws and general meeting resolutions; carry the cooperative records and accounts; and submit the balance sheet and the annual report to the consideration of the general meeting.

The supervisory committee –consisting of the number of members set forth in the bye-laws– is charged with overseeing the board of directors activities and reporting their findings to the general meeting. This committee may be in charge of appointing the external auditors instead of the general meeting.¹⁹

X. Dissolution and Winding-up

A cooperative may cease operating for different reasons that should be specifically provided for by the law, such as by decision of a special majority of its members, the inability to fulfill its purposes, maturity of its term, failure to comply with registration requirements, etc. Upon dissolution of a cooperative, either its board of directors or a committee specially appointed for this purpose shall proceed to its winding-up –disposition of its assets, payment of liabilities, and if any balance remains, proceed to reimburse to members the capital contributed by them. Non-divisible reserves shall be treated in accordance with the provisions specifically set forth by the law or the bye-laws. The supervisory committee and auditors shall oversee the winding-up process to ensure compliance with the regulations and transparency deals.

If, on the contrary, the cooperative were in default, the winding-up shall proceed pursuant to the general procedure provided for in the statutory bankruptcy rules applicable to any corporation.

Moreover, in the case of merger with another cooperative, dissolution without winding-up is also possible.

Whichever the reasons that lead to cooperative dissolution, upon completion of winding-up proceedings the cooperative shall be deleted from the respective registry with cancellation of its legal status.

XI. Integration and Representation Organizations

One of the cooperative principles establishes that cooperatives serve more effectively to their members and strengthen the cooperative movement when they work jointly through local, national, regional, and international structures. Accordingly, the legislation shall contemplate that in order for cooperatives to achieve their economic and representation purposes, they may constitute higher-ranking organizations.²⁰

Such organizations allow cooperatives to boost their economic capabilities in the different fields they operate, thus leading to achieve a more efficient job and result thanks to scale economies and better use of resources. In addition, as far as representation is concerned, they can achieve increased strength to express the purposes and goals of cooperatives as a whole, and make their voice heard more effectively by governments and public opinion in defense of cooperative interests.

Representative organizations should be recognized as cooperative speakers in any negotiation with government officials with respect to any and all matters affecting cooperatives. They should also have some sort of participation in, or at least be consulted by, public agencies dealing with activities such as those performed by them. In addition, they should be consulted in the event of any plan to amend cooperative legislation.

XII. Public Surveillance of Cooperatives. Self-control

Any supervision as to the compliance with statutory and regulatory rules governing cooperatives should be made, in the first place, by cooperatives themselves through adequate self-control mechanisms.²¹ Cooperatives will thus gradually assume liability for their own management and will avoid undue public officers' involvement in their own business. Audit –as mentioned previously- constitute adequate, but not the only mechanism of control.

Notwithstanding, many countries have government agencies in charge of supervising cooperatives. Usually such agencies are also in charge of cooperative registration. The undertaking of these two functions –non-incompatible in themselves- of registration and supervision by one single agency appears to present no major problems.

Such agencies, however, are often in charge of promoting cooperatives. Such function may, indeed, be incompatible with supervisory functions and give rise to excessive interference with cooperatives by government officials.

XIII. National Cooperative Office

Several countries have a specialized cooperative agency within the administration. Such agency often concentrates the three above-mentioned functions of registration, public oversight and promotion of cooperatives. The existence of one single public agency dealing with cooperatives offers the advantage of one single and consistent policy with respect to cooperative matters.²²

When such agency exists it should be located in the general or strategic area of the administration, such as the planning department or the office of the prime minister or the president, rather than within the structure of a ministry. Such location would allow to define and implement one single policy for all areas of government and all classes of cooperatives.

In some cases, the affairs of the cooperative agency are conducted by a board consisting of representatives of the government and the cooperative movement. This experience has shown good results as it permitted that cooperative representatives participate in government activities relating to cooperatives and can relay to public officials their needs and purposes. In any event, the fact that a body or board conducts its affairs rather than one single official, may contribute to lessen the risk of arbitrary personal decisions through group decisions. Final decisions adopted by the agency that may affect cooperatives shall be subject, however, to court revision.

The action of such agency is particularly important because it is closely related with the principle of autonomy and independence of cooperatives, which is expressly included in ICA Statement on the Cooperative Identity. Such principle may be adversely affected both by undue government interference with cooperatives and excessive protection that turns them into government-dependent entities.²³ This is a crucial issue for an authentic cooperative development since in many cases government promotion activities have replaced cooperative action, thus turning cooperatives into mere extensions of administration policies or mere instruments of implementation of such policies.

XIV. Settlement of Disputes within Cooperatives

It is only natural that conflict and disputes arise in cooperatives, as in any human organization. Disputes may arise between the cooperative and its members, between members, or between cooperatives. What matters is that a mechanism is available for the rapid and economic settlement of any dispute, when and if it arises.

A method to settle disputes that has been successfully implemented in different countries consists in arbitration. The proceeding is generally entrusted to arbitrators that belong to specialized organizations or to cooperative organizations proper. Advantages of arbitration include low cost, simplicity and relative speed. The same can be said about mediation.

When failing to settle disputes by other means freely accepted by the parties in conflict, the parties can always resort to the courts. Court action should be available to cooperatives and/or members similarly as to any other person or organization. Under such circumstance, it seems advisable that the case be filed with ordinary courts, avoiding special forums to hear cooperative issues.²⁴

XV. Taxation

The tax treatment is a critical issue to cooperatives. What taxes should be levied on cooperatives? Should cooperatives be treated differently from other economic organizations?

Different viewpoints exist to answer these questions. Some people hold that cooperatives should be tax-exempt because they contribute to the community's social and economic development. Others say that cooperatives should have equal treatment as corporations, etc. without drawing any difference among them. Still some others advocate that cooperatives should be tax-exempt during certain initial period, or according to the volumes transacted or the class of activity performed.

It is beyond discussion that cooperatives should not exist on any preferential tax treatment since any such temperament leads them to live artificially and prevents them from having full autonomy since it turns them government-dependent.²⁵

This does not mean to say, however, that cooperatives should pay the same taxes as other profit-making companies, because they are different in nature. In any case, the tax treatment given to cooperatives should be in accordance with the very nature of entities supported by their own effort and mutual aid to provide services to its members. Hence, cooperatives may be subject to certain but not all taxes.

No doubt that national tax systems differ significantly from one another, so generalizations may be hard and risky. Notwithstanding a guidance to define tax treatment issues should be the peculiar nature of cooperatives, as defined in ICA Statement on the Cooperative Identity, among others, that surpluses, if any, are not distributed pro-rata to capital contributions; that all members are entitled to one vote; that the reserve fund may not be distributed; that any surplus is either reimbursed to members that contributed to building them,

or destined to purposes of common interest; etc. All such traits combine to make cooperatives a kind of organization different from regular profit-making organizations; accordingly, the tax treatment applicable to them shall be consistent with the nature thereof.

XVI. Final remarks

Certain general issues should be taken into account in relation to the issues discussed hereunder:

It would be advisable that the Constitution –as the highest level of the national normative system– include some provision recognizing cooperatives and securing a legislative treatment suitable to their peculiar characteristics.

Active participation of the organizations belonging to the cooperative movement²⁶ should be ascertained at the time of drafting cooperative legislation as a means of ensuring that the text of the bill shall consecrate the genuine characteristics and needs of cooperatives.

Cooperative legislation, as well as any other legislative provision, shall grant cooperatives at least equal treatment as that conferred to other profit organizations, particularly, corporations.

Cooperative independence from the State is a requisite that the law should expressly secure with no restriction whatsoever to all cooperatives, whichever the specific activity thereof.

The language of cooperative legislation shall ensure the understanding thereof by the largest number possible of the population and, particularly, of potential cooperative members. All this as far as it is compatible with the technical requirements of legal language proper.

To conclude, cooperative legislation should be widely disseminated to allow all sectors of the population become aware of this form of organization to which it may resort to seek a solution to their social and economic needs by working together.

Notes

¹ Hans-H. Münkner, *Introduction into the Seminar Concept of State-sponsored Cooperative*, Report on the ACO-SNCF-FES Seminar on Cooperative Law in ASEAN, Singapore, 10-14 April 1984, and *New Trends in Cooperative Law in English-Speaking Countries of Africa*, Institute for Cooperation in Developing Countries, Papers and Reports, N° 4, Marburg, 1971, p. 3.

² Dieter W. Benecke, *Cooperación y Desarrollo*, ICECOOP, Santiago de Chile, 1973, pp. 277 et seq.; Dante Cracogna, *La promoción del movimiento cooperativo a través de la acción gubernamental en América Latina y el Caribe. Informe presentado al Seminario sobre el rol de los gobiernos en la promoción del movimiento cooperativo*

en los países en desarrollo, organizado por la UN, Moscú 1987, reproduced in Cuadernos de Economía Social, N° 30, Buenos Aires, 1988.

³ Hans-H. Münkner, *Rediscovery of Co-operatives in Development Policy*, ICA/ROAP Sub-Regional Workshop on Co-operative Policy Reforms, Kathmandu, 13-16 January 1999, Reprint from COOP Dialogue, An ICA ROAP Journal, Vol. 10, N° 1, January 2000, pp. 8-13; Roland Lindenthal, *Structural Adjustment and Cooperation in Developing Countries*, Occasional Discussion Paper, ILO, Geneva, 1994, pp. 16 et seq.

⁴ *ICA Statement on the Cooperative Identity*, Review of International Cooperation, Vol. 88, N° 4, 1995.

⁵ UN Document A/56/73-E/2001/68.

⁶ Such solution has been attempted through adopting bills on cooperatives that followed the model of countries in which cooperatives attained significant development, in the belief that the successful experiences in the countries of origin could be introduced through the passing of the bill.

⁷ To facilitate the job, model bills have been drafted to guide and assist legislators' work, containing the basic universal cooperative characteristics, and leaving all other issues open for definition pursuant to each country's legal system. An example of this is the *Draft bill of a Framework for Cooperative Legislation for Latin America*, prepared by a group of experts of the Organization of American Cooperatives (OAC) in 1988. (See: Dante Cracogna, *Un intento de armonización de la legislación cooperativa: el Proyecto de Ley Marco para las Cooperativas de América Latina*, Anuario de Estudios Cooperativos 1989, Instituto de Estudios Cooperativos, Universidad de Deusto, Bilbao, 1990, pp. 129 et seq.)

⁸ An excellent guidance in this field is provided by the *Framework for Cooperative Legislation* prepared by Hagen Henry and published by the International Labor Organization (ILO), Geneva, March 1998, under the ILO/DANIDA Program for Cooperative Development in Rural Areas.

⁹ The case of Denmark is worth noting. This country has no cooperative law, however, it has an important cooperative movement. See: José María Montolío, *Legislación cooperativa en la Unión Europea*, 2a ed., Ministerio de Trabajo y Seguridad Social, Madrid, 2000, p. 111 et seq. and P.O. Scheel, *The Relationship between the State and Cooperatives in Cooperative Legislation: The Case of Denmark*, ILO, The Relationship between the State and Cooperatives in Cooperative Legislation, Report of a Colloquium held at Geneva, 14-15 December 1993, Geneva, 1994, pp. 79 et seq.

¹⁰ On the importance of cooperative legislation as stance of the State about cooperatives see: ICA, *Cooperative Ministers' Conference, Jakarta, February 1992*, New Delhi, 1992; UN, *Report of the Seminar on the Role of Government in Promoting the Cooperative Movement in Developing Countries*, Moscow, May 1987, UN Office in Vienna, Centre for Social Development and Humanitarian Affairs, Vienna, 1987.

¹¹ ILO Recommendation N° 127/66 on the Role of Cooperatives in Social and Economic Development of Developing Countries –the revision of which will be considered by the International Labor Conference in June 2002- contains a list of issues that should be provided for in cooperative legislation.

¹² “A cooperative is an autonomous association of persons who voluntarily join to meet and fulfill shared economic, social, and cultural needs and purposes through a joint ownership undertaking under democratic management.”

¹³ The Recommendation states that any cooperative legislation shall include “a definition or description of cooperatives emphasizing the essential characteristics thereof, namely, an association of persons who voluntarily join to achieve a common purpose through a democratically managed undertaking, contribute an equitable part of the required capital and accept a fair share of risks and benefits, and in the operation of which members have active participation.”

¹⁴ Discussions are held about the convenience of the so-called “pre-cooperatives” as organizations prior to cooperative legal organization. Generally speaking, it would be advisable to adjust the requirements to organize cooperatives rather than creating a new legal intermediate form whose profile is not precise and could lend itself to confusion. See further: Hans-H. Münkner, *The Legal Status of Pre-Cooperatives*, 2nd edition, F. Ebert-Stiftung, Bonn, 1983, passim.

¹⁵ Hagen Henry, *Cooperative Law and Human Rights*, The Relationship between the State and Cooperatives in Cooperative Legislation, Report of a Colloquium held at Geneva, 14-15 December 1993, ILO, Geneva, 1994, pp. 21 et seq.

- ¹⁶ Although ICA Statement on the Cooperative Identify admits capital contributions from non members, no agreement exists about this matter. See for further discussion the special issue of the International Association of Cooperative Law Journal: *El capital en las cooperativas*, Nº 35, Unviersidad de Deusto, Bilbao, 2001, passim.
- ¹⁷ H.-H. Münkner and A. Shah, *Creating a Favourable Climate and Conditions for Cooperative Development in Africa*, ILO, Geneva, 1993, pp.180-181.
- ¹⁸ K.K. Taimni, *Creating a Favourable Climate and Conditions for Cooperative Development in Asia*, ILO, Geneva, 1994, p. 130.
- ¹⁹ According to certain cooperative acts, the board of directors is appointed by the supervisory committee, so the general meeting only elects the latter.
- ²⁰ Dante Cracogna, *Intercooperacao e integracao cooperativa na America Latina*, Pensamento Cooperativo, Nº 1, Dezembro 2000, INSCOOP, Lisboa, pp. 111-124.
- ²¹ H.-H. Münkner and A. Shah, *Creating a Favourable Climate and Conditions for Cooperative Development in Africa*, ILO, Geneva, 1993, pp. 170-172; OIT, *Reunión de expertos sobre legislación cooperativa, Ginebra 22-26 de mayo de 1995*, Ginebra, 1996, p. 21.
- ²² Dante Cracogna, *El derecho cooperativo en América Latina*, in *Derecho Cooperativo Actual. Anales de las Jornadas Nacionales de Derecho Cooperativo*, Buenos Aires, 25 y 26 de junio de 1992, Intercoop, Buenos Aires, 1993, pp. 19-20.
- ²³ ICA, *Role of Government in Promoting Cooperative Development in Asia. Report of the Asian Regional Consultation, Singapore 1988*, New Delhi, 1989, p. 6.
- ²⁴ Ashish Shah, *Cooperative Law: An Instrument for Development?*, International Labour Review, Vol. 131, 1992, Nº 4-5, p. 523. See also: John Joseph Ogola, *Structural Changes in Cooperative Movements and Consequences for Cooperative Legislation in Different Countries of Africa*, ILO, *Structural Changes in Cooperative Movements and Consequences for Cooperative Legislation in Different Countries of the World*, Report of a Colloquium held at Marburg, 2-3 July 1993, edited by Ashish Shah, Geneva, 1993, pp. 28-29.
- ²⁵ H.-H. Münkner and A. Shah, *Creating a Favourable Climate and Conditions for Cooperative Development in Africa*, ILO, Geneva, 1993, pp. 120-123; K.K. Taimni, *Creating a Favourable Climate and Conditions for Cooperative Development in Asia*, ILO, Geneva, 1994, pp. 133-134. It is pointed out that such privileges can foster the creation of bogus cooperatives: OIT, *Creación de un clima positivo y condiciones favorables para el desarrollo cooperativo en América Latina*, Ginebra, 1996, pp. 66-67.
- ²⁶ H.-H. Münkner, *Participative Law-making: A New Approach to Drafting Cooperative Legislation in Developing Countries*, *Verfassung und Recht in Übersee*, 19. Jahrgang, 2. Quartal 1986, pp. 124 et seq.