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**THIRD  
CRITICAL STUDY  
on  
COOPERATIVE LEGISLATION  
and  
POLICY REFORMS**

By  
**P.V.PRABHU**

**SUMMARY**

Sponsored by  
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# 3<sup>rd</sup> Critical Study on Cooperative Legislation and Policy Reforms

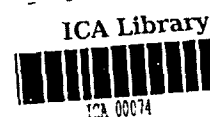
## SUMMARY

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### 1. INTRODUCTION

1.1 This study, third in the series, was commissioned by ICA-ROAP with the main objective to report on critical appraisal of the extent to which resolutions of the 6<sup>th</sup> Cooperative Ministers' Conference held in Kathmandu in April 2002 have been implemented / adapted by ICA members and the governments in the region focusing on impact of reforms process on cooperatives and actual results thereof. Understandably, the reforms process on cooperatives is in relation to enabling cooperative legislation and governments' public policy on cooperatives in the context of resolutions adopted at the ministerial conference. This summarised report is based on the field studies conducted in 5 countries of the 4 main sub-regions of Asia-Pacific Region (China, Japan, Bangladesh, Malaysia and Kuwait), response to the structured questionnaire canvassed for the study received from member-countries of ICA in the region and information gathered and input provided during discussions with cooperative leaders, government officials and experts in the field.

1.2 Limitations of this report, its contents and analysis are due to certain constraints, the most important being constraint of time which limited the field study to only 5 countries as against 8 planned and that too very brief.



1.3 Analysis and views in this summary are mainly based on field studies and status of the situation in other countries is analysed separately in the Report.

## **2. ENVIRONMENT**

### **A. Economic:**

2.1 The environment in the countries taken up for study has significantly changed since the last study early in 2001. East-Asian economic crisis is a history to learn lessons. There was also an adverse impact of 9/11 terrorist attack in 2001 in the United States on the global economy. Because of globalised nature of economy, what happens in one major developed country is bound to affect the economies of other countries and Asia-Pacific region is no exception to this rule.

2.2 Economy in the region was also impacted by the scare of SARS – the worst affected sectors being civil aviation, tourism and hospitality which contributed substantially to the economy of several countries in the region. More than anything, recessionary trend in the global economy, particularly in the developed countries, affected the trade of many countries in Asia-Pacific. Depressed economy has depressed growth of the cooperatives in no small measure. World economy is slowly back on track and in fact, started showing signs of revival and stability with modest growth, which otherwise was static if not negative. Cooperative development has to be seen from this background.

### **B. Policy Advocacy: Promotion of Cooperatives – ILO R-193**

2.3 International Labour Organisation (ILO), a specialized agency of the United Nations (UN) mandated by its Constitution for consultations with recognized non-governmental international

organizations including those of agriculturists and cooperators. ICA has maintained a consultative status with the ILO and collaborated in various forums and activities which have contributed in no small measures to the cooperative ideology and development.

2.4 The most significant development in the environment contributing to the future organization and growth of cooperatives in all the countries has been the Recommendation No.193 on Promotion of Cooperatives adopted by the ILO on 20<sup>th</sup> June 2002. This comprehensive resolution will have favourable impact on cooperatives globally. While this recommendation is annexed in this report, its salient features are briefly outlined below because of their relevance to some of the recommendations in this report:

- i. Recognition of importance of cooperatives in job creation, mobilization of resources, generating investment and their contribution to the economy.
- ii. Recognition of cooperatives in the economic and social development.
- iii. Promotion and strengthening of cooperative identity.
- iv. Adoption of measures for promoting the potential of cooperatives in order to assist them and their membership.
- v. Adoption of measures to enable cooperatives to respond to their members' needs and needs of the society.
- vi. Guidelines for national policies on cooperatives.
- vii. Promotion of best practice on corporate governance of cooperatives.
- viii. Adoption of legislation and regulation on cooperatives guided by cooperative values and principles.
- ix. Government facilitating access to cooperatives to support services as also to investment finance and credit.

- x. Role of employers' and workers' organizations and cooperative organizations, and relations between them.
- xi. International cooperation promoting relationship between national and international institutions.

### **3. RELEVANCE OF EARLIER STUDIES**

#### **Changed Scenario:**

3.1 The first study on cooperative legislation and competitive strength undertaken in 1996 touched upon various aspects of cooperative development and government attitudes and policies towards cooperatives. Series of recommendations made in the study report were meant to be addressed to for initiating follow-up measures at the level of ICA, governments and cooperatives themselves. Though these recommendations are valid for action even today, there have been developments of a diverse nature both at the country level and globally, which have impacted the cooperatives and the development process in one way or the other. In addressing to these resolutions of the first study, changed market conditions, economic scenario and reforms carried out by the governments in different sectors of the economy are relevant factors to be taken note of.

#### **Multiplicity of Regulatory Authorities:**

3.2 Governments' administrative structure responsible for cooperative development in each country differ considerably hampering cooperative development. Even when "cooperation" or "cooperatives" is a central subject at the level of national government, there are variances as to the authority responsible to administer the cooperatives. Typical example could be found in

Japan, where several ministries are responsible for respective sectoral cooperatives with multiplicity of laws for different sectors even within the same ministry. Ministry of Agriculture, Forestry and Fisheries (MAFF) has separate laws for Agricultural Cooperatives and Fisheries Cooperatives. Policies for cooperatives in different sectors necessarily have to be sector specific as they come under different ministries. Thus, it is not one single ministry or department, but several ministries and departments responsible for cooperatives in several countries of the region. Hence, conducive law or favourable policy for cooperatives has to be viewed from this diversity.

### **National Coordinated Approach (Government):**

3.3 In the above context, question would arise as to which minister, ministry or department of the government would represent the cooperatives at the forums like ICA Cooperative Ministers' Conference? There is no easy answer to this complex issue as cooperatives, as a matter of government set-up, fall under various ministries. In several countries, there is neither a ministry separate for cooperatives nor a department separately for cooperatives. It will be a complex and uphill task to monitor the implementation of any decision for reforms in cooperatives and impact of such reforms measures. The issue of one enabling legislation, one favourable public policy, one regulatory and responsible ministry for cooperatives under a minister is a desirable condition but in the absence of which, feasibility of evolving a national coordinated approach has to be explored through deliberations to avoid duality or multiplicity of controls.

### **Institutionalising Informal Coordinating Mechanism (Coops):**

3.4 Direct fall out of the above structure of governance – where cooperatives come under the control of different ministries with

multiplicity of control – is the structural deficiency in cooperatives devoid of a national apex federation representing all the sectoral cooperatives. Cooperative advocacy, spokesmanship and other promotional role expected to be played by the said apex federation gets weakened and diffused. This gap has to be filled in the overall interest of the cooperatives by institutionalising the informal coordinating mechanism.

### **Disparity in Reforms Process:**

3.5 There is yet another aberration where cooperatives come under the purview of the state / provincial control with legislations and policies which differ from province to province. Any national policy for cooperatives in such conditions could at best serve as a guideline to states / provinces and not mandatory. This has resulted in wide disparity in the autonomy of the cooperatives and in their development within a country. National governments in such conditions, have to play a pro-active role both for cooperative advocacy and for balanced growth of cooperatives facilitated by desirable legislative reforms and policies at the state / provincial level.

### **Involvement of International Organisations:**

3.6 Equally important is the suggestion in the report (1996) for advocating among major multilateral international organizations for adoption of a favourable policy on cooperatives restated by the resolution of the 6<sup>th</sup> Asia-Pacific Cooperative Ministers' Conference. This has so far not been operationalised. These multilateral institutions with the exception of specialized UN organizations like ILO and FAO are hardly seen to have been involved with cooperatives despite the inherent strength and suitability of cooperatives for transformation of socio-economic conditions. World Bank, it is reported, has supported for preparing a

comprehensive proposal for reforms in cooperative legislation in Indonesia. International agencies, generally, work with the governments or governmental organisations. Favourable disposition towards NGOs with technical and funding support is a recent phenomenon. Initiative for a cooperative policy or for involvement of cooperatives in implementing the projects / programmes aided by international organizations has to be at the highest level. To facilitate this process through ICA involving other international cooperative organisations, a draft approach has been drawn and suggested in this report for consideration and further refinement.

### **Emphasis on Reforms:**

3.7 The second critical study on cooperative legislation and policy reforms which formed the basis for deliberations at the 6<sup>th</sup> Conference, was an extension of first study though in a changed environment. East-Asian economic crisis which impacted the sub-region affected cooperatives too. To reposition themselves to the changed situation was a challenge and formidable task. The study therefore rightly emphasised on the need for reforms in legislations and for a favourable public policy on cooperative development in the ICA member countries of the Asia-Pacific region. This was endorsed by the Kathmandu declaration and incorporated in the conference recommendations. This needs to be pursued.

## **4. STATUS OF IMPLEMENTATION(Resolutions of 6<sup>th</sup> Conference)**

4.1 While much remains to be attended to at the levels of governments and cooperatives for ensuring growth of cooperatives on a sustainable basis facilitated by legislation and policies, the position revealed from the present third study on the



implementation aspect of the 6<sup>th</sup> Asia-Pacific Cooperative Ministers' Conference is brought out in the report separately for review and follow up decisions at the level of Regional Consultations as also at the forthcoming 7<sup>th</sup> Ministerial Conference.

## **5. SLOW PROCESS OF REFORMS**

5.1 It may generally be stated that the progress on implementation of the resolutions is rather slow and evidently, the process of desirable and necessary reforms in the legislation as also evolving of an appropriate policy for cooperative development is yet to gather momentum in the countries of the region. The position in this regard is analysed in the report separately from the findings of field studies and from the responses to the questionnaire.

5.2 Overall economic reforms initiated by the governments cannot be at the exclusion of cooperatives. There was considerable delay in realising this fact in the developing countries because of other priorities like adjustments in macro-economic policies, fiscal policies, liberalisation policies applicable to commerce, trade and industry, privatization of public sector enterprises and reforms in the financial and banking sector. This caused incalculable damage to the cooperatives in several sectors as they lost the competitive edge in their business functions. Regulated and controlled regime over cooperatives continued and still prevalent in some countries. Cooperatives being democratic institutions, there is no let up in vote bank polity to serve mostly the political interest of parties in power.

5.3 Weaknesses noticed in cooperatives in the countries are the direct result of the indifferent attitude of the governments for repositioning the cooperatives through legislative and policy reforms. In comparison to private sector enterprises with

considerable flexibility in their operations facilitated by reforms, cooperatives are found to be at a disadvantageous position even now with constrained level playing field. This is partly due to their continued dependence on government for policy support and operational independence. While governments claim to support cooperatives as a matter of policy and are seized of their problems, not much seems to have been done to redress the grievances and to empower them to play the expected role in the economic development

## **6. LEGISLATIVE REFORMS INITIATIVES**

6.1 Enabling legislation has been a contentious issue because in most of the developing economies, initiative came from the government for setting-up cooperatives for implementation of certain government sponsored socio-economic programmes. Due to government support and even participation in equity of rural credit and banking cooperatives and other multipurpose agricultural cooperatives; government exercised undue controls and interfered in the managements functions of the cooperatives. Such support and control has minimized due to reforms in law; and by and large, cooperatives enjoy autonomy.

6.2 Simultaneously with such reforms, government assistance has petered out in most countries except in the nature of funds at concessional rates for certain priority sectors like agriculture. Funding support for training, education, etc., is forthcoming in most countries. Cooperatives also enjoy certain concessions in the matter of taxation on profits.

6.3 To a considerable extent, in most countries, funds for training and other developmental activities are raised from cooperatives in the form of contribution to Cooperative Development Fund or to Training and Education Fund constituted by the governments with the sanctity of law from out of net profits. These funds are administered mostly by the governments and quite often, utilised for purposes other than intended. It may be desirable to entrust this responsibility to the cooperatives themselves involving the apex federations or such other organization at the national level. To say the least, judicious utilization of scarce funds for the cooperatives either for development or for training / education is necessary with active involvement of cooperatives in the administration of the fund.

6.4 Reforms in legislation, mainly aimed at elimination of government control and interference in the management, has been a continuous process. Laws have undergone changes in most countries; but there exist scope for further amendments to make the cooperatives totally free from government clutches. They ought to be on their own and become self-reliant, member-driven and member-controlled organisations.

6.5 While in China, law is yet to be enacted and process is on at provincial level, in Bangladesh, existing legislation, though much liberal, has several restrictive provisions as also provisions for exercising control by the Registrar which, at times, may appear justifiable. While the Registrar has reasons for interventions, cooperative leadership feels otherwise as undue interference. In Malaysia, law is liberal and favourable for cooperative development and provisions are adequate as to the values and principles. Cooperatives feel government should involve them more actively before changes in the legislations are carried out or policy changes are made. In Japan, changes in sectoral laws under different

ministries have been carried out frequently to meet the changing needs of cooperatives and the markets for repositioning the cooperatives. Legislation for consumer cooperatives and rules framed there-under, however, need certain modifications based on experience of cooperatives. Cooperative values and principles as such are not finding place in the laws though they reflect such values and principles. In Kuwait, the Cooperative Law 1979 under the Ministry of Social Welfare and Labour is liberal enough to ensure growth of the consumer coops. Other cooperatives have hardly any presence. Law upholds the values and cooperative principles. Certain changes in the law are envisaged initiated by the consumer cooperatives. The government has initiated a dialogue with the cooperatives for carrying out the amendments based on feedback from field.

## **7. POLICY REFORMS INITIATIVES**

7.1 Policy environment for healthy growth of cooperatives is changing – thanks to the advocacy and initiative of the ICA. The governments have realized the importance of the cooperatives in a liberalized economic regime and have initiated framing appropriate policies for cooperatives to preserve their identity and to promote their development. Liberalisation, revitalization and globalization of the economy and WTO agreements have impacted cooperatives adversely in many countries. While reversing the process of policy reforms initiated mostly at the instance of world bodies like World Bank and IMF is not possible because of compulsions and even advantages, not all sections of the population are able to derive tangible benefits of liberalised policies. Disparities in income levels have grown and it takes time for the poor to take advantage of the emerging opportunities in the economy. Hence, cooperatives are

found more relevant today than ever before for organizing their economic activities and to gain from collective endeavour. This has lead the governments to reframe policies in the changed context of impacts of reforms.

7.2 It is not that governments are devoid of policies for cooperatives. In China the policy of the government for agriculture and farmers encompasses the policy for cooperatives. There is however no separate policy as such of the government at the national and provincial levels. The existing policies are supportive of cooperatives' endeavour. In Japan too sectoral policies of the government with different sector-specific laws promote development of the cooperatives even though there is no one policy as such applicable to cooperatives in all sectors. In Malaysia, a comprehensive policy for cooperatives has been drawn on slated lines, which is likely to be formalised for adoption. This draft policy is comprehensive with mechanism for review and follow-up. In Bangladesh, though government claims to have drawn a draft policy, not much of a development seen for its adoption. Cooperators are unaware of such a policy and cry for drawing one for strengthening the cooperatives which are weak and dormant except in emerging sectors like dairy and housing. In Kuwait, government policy for consumer cooperatives reflects its commitment for developing this sector. Government provides infrastructure for consumer cooperatives according to its work programme and cooperatives are fully exempt from tax on their profits according to the policy. A separate policy for cooperatives is however yet to be evolved and the government reaction to the proposal is favourable, particularly for promoting growth of cooperatives in other sectors like agriculture, savings and credit and handicrafts.

7.3 Policies for cooperatives exist in different forms, shapes and shades though not in the form as one would like it to be. They fall short of a comprehensive national public policy on cooperation specifying the place and role of the cooperatives with a distinct identity of their own in the socio-economic development of the respective countries. This needs to be pursued as a necessity in the on-going process of economic reforms.

## **8. DYNAMICS OF REFORMS PROCESS**

8.1 Reforms process in the cooperative development is closely linked with the ongoing reforms process in the economy and policy changes of the governments. The process of change in the cooperatives ought to be dynamic. So also the legislative reforms and policy reforms for cooperatives. They cannot and should not be static. Whatever reforms have taken place so far in changing the cooperative legislation and policies ought to be reformed or refined further consistent with the on-going economic reforms. Periodically, there is thus a need to re-look and examine the changes essential for development of cooperatives on a sustainable basis.

## **9. DISPARITY IN COOPERATIVE DEVELOPMENT**

9.1 Cooperative development in the countries studies shows wide disparity so also regional disparity within the country. Disparity in sectoral growth is yet another dimension of development. While several factors are attributed to this condition, government policies are also a contributory factor. For example, in China, reliance on cooperatives for growth of agriculture and rural economy by the government resulted in development of rural cooperatives (supply and marketing cooperatives). Governments at national and provincial levels have no definite strategy for developing

cooperatives in other sectors. Rural sector in general and agriculture in particular is the government priority hence the growth of agricultural cooperatives in the country.

9.2 In contrast, agriculture is not important in the economy of Kuwait. Government priority is food security and making available food and other essential commodities to the people in an organized manner. Consumer coops are encouraged and supported by the government as a matter of state policy and hence the growth and strong presence of consumer cooperatives accounting for more than 80% of retail trade in food items.

9.3 In Japan, cooperatives have strong presence in several major sectors which has lead to a balanced growth though cooperatives are relatively strong in agricultural sector and consumers' trade.

9.4 In Bangladesh, cooperatives are relatively weak, but dairy cooperatives are showing healthy growth with potential for further development because of government policy and support. The position is similar in regard to government sponsored and assisted farmers cooperatives administered by the government agency of BRDB.

9.5 In Malaysia, cooperative development is impressive particularly in banking and credit and agricultural sectors. School cooperatives are well-spread with a large membership benefiting school children in several ways. This model is worth studying for replication in other countries.

9.6 Sectoral growth, which is country specific, is directly related to deliberate government policy to develop a particular sector through the cooperative system. This policy has lead to lopsided

growth and weaknesses in the cooperatives of neglected sectors. A balanced policy ensuring growth of cooperatives in all the major sectors for percolating the economic benefits to cross sections of the people would be a desirable policy. ICA-ROAP could play a facilitating role for sharing experiences of successful sector specific growth models of the Asia-Pacific region.

## **10. SUPPORTIVE MEASURES**

10.1 The governments in most countries have given up the role of promoting and sponsoring cooperatives through their agencies. Cooperatives supported by government with equity and subsidy have failed miserably when support is withdrawn. Liberalised economic policy of governments invariably envisages growth of any form of enterprise, including public sector without government assistance, funding and subsidies. This policy has been more or less made applicable to cooperatives. Disengagement of government from cooperatives also means autonomy and independence so essential for making cooperatives member-driven free from government control.

10.2 Government support in the matter of enabling legislation, policy, training and education, infrastructure and in taxation is however essential for development of cooperatives and attainment through them the socio-economic development of the country. Cooperatives are generally viewed as essential partners of development in several fields of economic activity beneficial to weaker sections of the society. They serve the socio-economic objectives of the government.



10.3 It is in the above background, most governments support cooperatives in one or more of the following areas:

- (i) Liberalised conducive legislation;
- (ii) Public policy for cooperative development
- (iii) Financial support in select sectors
- (iv) Concessional funding particularly for farm sector.
- (v) Equity support to cooperatives in priority sectors.
- (vi) Support of infrastructure to cooperatives as also to members.
- (vii) Training infrastructure and funding for education and training.
- (viii) Support to members of cooperatives, particularly farmers.
- (ix) Support to cooperatives for undertaking agency functions of the government.
- (x) Technology upgradation assistance.
- (xi) Concession in the matter of taxation, stamp duty, registration fees, etc.

10.4 In all the countries, support of government to cooperatives is extended in one or the other form and its continuance is ensured despite policy changes and economic reforms. If not, the policy should be reviewed in this regard. Government equity is hardly forthcoming in cooperatives though such support was a major factor in government sponsored cooperatives in the past, particularly in the agriculture and rural sectors.

## **11. AREAS OF CONCERN**

11.a **Identification:-** To realize the objective of cooperative development on a sustainable basis, certain areas of concern are focused, as observed during the study, which need to be attended to through the joint endeavour of the government and the cooperatives. They are:

### **(i) Mechanism for policy implementation**

Enabling legislation and well intended policy in themselves will not ensure cooperative development unless initiative is taken to derive benefits of the law and policy. To translate the policy into action, institutional arrangement is necessary represented by the government and the cooperatives. The task is to review and monitor the policy on a continuing basis.

### **(ii) Professionalisation of management**

Cooperatives continue to be managed by non-professionals. Professionally ill-equipped managements find it difficult to face the competition and challenges of the market economy. Further, cooperatives are neither cost effective nor efficient because of outdated management practices. It is necessary to professionalise the management at all levels.

### **(iii) Man-power planning & development strategies**

Absence of manpower planning and development strategy is an area closely related to professionalisation. Training arrangements covering members, elected representatives of the board and employees are found to be grossly inadequate in

some countries. On the other hand, available set-up is not used properly. Under utilisation is mainly due to lack of importance given for training and inadequate budgetary support. Indifference towards training institutions run by the government is evident. In such cases, desirability of devolving responsibility to cooperative national federations by transfer of these institutions or to such other authority represented by cooperatives may be examined. Other related issues are adequacy of funding arrangements, strengthening of training infrastructure including faculty and streamlining the managements of the institutions to be more responsive to the needs.

**(iv) *Business planning & development***

Cooperatives in several developing countries are not known to the practice of drawing their business plans to realize the targets, objectives and goals. Such a perspective plan covering all areas of operations is essential for business development in a planned and organized manner. Higher tier cooperatives like apex unions / federations could play an important supportive role to introduce the concept of business planning in cooperatives at all levels by means of guidelines, models and of course training.

**(v) *Implementation of govt. sponsored programme***

It is not uncommon for government to implement their socio-economic programmes through cooperatives aimed at certain target groups and objectives. Its impact on cooperatives could be adverse. Implementation of such programmes,

howsoever desirable they may be, cannot be at the cost of autonomy and viability of cooperatives.

**(vi) Government support & its implications**

Government support should not be viewed as a favour but as an essential component of the policy for realising the desired objectives. Support to members provided through cooperatives should not be an excuse for controlling and interfering in the management of cooperatives. Cooperatives to be insulated from bureaucratic control and governmental interference in the management.

**(vii) Cooperation among cooperatives**

The cooperative principle of "cooperation among cooperatives" is not always adhered to and cooperatives are seen working in total isolation. This worked to their disadvantage. For example, marketing and processing cooperatives not agreeing to link credit with marketing. Net-working between cooperatives at different tiers of the structure is also lacking. In the overall interest of the cooperative movement, cooperation among cooperatives should be practiced more effectively.

**(viii) Capitalisation**

Inadequate financial base – equity and resources – is a serious problem and concern for developing business at the level of small cooperatives and credit, banking and insurance cooperatives. There are several constraints in augmenting equity through

members like limited returns on capital, non-tradability of stock in the market and observance of principle of "one member one vote". Banks are finding it difficult to raise equity to meet the prudential norms of capital adequacy ratio mandated by central banks. Inadequacy of working capital is also a problem for cooperatives due to weakness of cooperative banking sector. Problem of capitalization calls for serious deliberations as also innovations.

**(ix) *Revitalisation***

Sickness in cooperative is growing in many countries for a variety of reasons both internal and external to the organisations. No concrete plan of action for revitalizing and rehabilitating these cooperatives has been put into place in these countries. Potentially viable cooperatives need support from the government and federal organisations. Action plan and monitoring mechanism necessarily be sector / institution specific after determining the causes of sickness.

**(x) *Inter-departmental Co-ordination***

Apart from regulatory role of RCS, cooperatives are also controlled / regulated by other ministries / departments of the central / provincial governments and even by development finance institutions and central bank in certain cases. This duality / multiplicity of control are a problem and an area of conflict affecting the cooperatives. To minimize such adverse impact, inter-ministerial coordination at the government level is desirable besides clear functional

demarcation.

**(xi) *Institution protection mechanism***

Cooperatives are ill-equipped to deal with situations affecting their business operations which may be due to various external factors. Certain risks of business, including funds constraints also affect the viability. To meet with such a situation, a process of amalgamation and restructuring is seen globally particularly in sectors like credit and banking, marketing, consumer trade and agriculture. Infusion of funds / capital becomes a necessity to strengthen the amalgamated set-up and for viability. Establishment of an institution protection system / fund with or without government support could be a solution for protecting the cooperatives from risks and uncertainties. Constitution of sector – specific fund at the national / provincial level may be worked out as a matter of policy with modalities for its augmentation, utilization and administration.

**(xii) *Technology – application and upgradation***

Cooperatives are rather slow to take advantage of the information and communication technologies for modernizing the management and for efficiency of business operations. Through such technologies they can considerably improve their systems and procedures as also efficiency of services to the members. This could also be a cost effective measure for enhancing profitability and competitive strength. Government and apex institutions including development finance institutions, who have a stake in

the cooperatives or are responsible for ensuring their development could play a supportive role for modernization of management technologically.

11.b **Solutions:-** Through the joint endeavour of the government and the movement, the identified areas of concern could be effectively tackled. They have a bearing on the legislation, policies and rules of the government even though a few of the problem areas concern management policies and decisions. Since reforms in legislation and policies are meant to facilitate unhindered development of cooperatives, any government support or helpful intervention by suitably modifying the legislation or rules should be viewed as legitimate government responsibility for resolving the areas of concern affecting the cooperatives. This apart, some concern areas could also find appropriate place in government policies for implementable action by concerned. Ignoring these areas of concern / problems would only mean ignoring the realities.

## **12. SUMMING UP**

12.1 Environment for cooperative development is found to be favourable with the global economic revival and due to the on-going reforms process of the governments. Advocacy of ICA-ROAP is also a contributory factor for the enabling legislation and policies pursued by the governments for cooperative development. More than anything, ILO recommendation No.193 of 2002 on Promotion of Cooperatives has been a notable development which will not only accelerate the process of desirable reforms but will also contribute substantially to establish and develop cooperatives on sound footing as vehicles of socio-economic development.

12.2 Generally speaking, ICA-ROAP initiatives and advocacy for reforms in legislation and formulation of policy supportive of

cooperative development have largely succeeded in influencing the national and provincial governments of the Asia-Pacific Region. As a result, legislative reforms are taking place in many countries. Reformed laws are found to be more liberal and flexible for ensuring development of cooperatives as autonomous, independent and member-driven democratic entities to sub-serve the objectives of socio-economic development of members thus contributing substantially to the process of economic development of the nations.

12.3 A contentious issue often raised, which is more of an academic nature, is what should follow what for legislative and policy reforms. The views are found to be divergent. There can be a debate on this for drawing guidelines. Historical factors and reforms dynamics differ considerably from country to country. In this background, relevant aspects are: (a) harmony in the enabling legislation and policy reforms; (b) avoidance of contradictions keeping in view the overall objectives; and (c) elimination of inconsistencies. Action point relates to one of the following three alternatives depending on the country specific situation:

- (i) examine both legislation and policy for reforms;
- (ii) examine the legislation for drawing policy;
- (iii) examine the policy for enabling legislation.

12.4 While only a few countries have drawn policies on the suggested lines specifying the role and place of the cooperatives in the economy consistent with the reformed legislation. Policies however do exist in all the countries facilitating development of cooperatives. Besides continuance of advocacy for adoption of appropriate national level policy in all the countries, emphasis need



be laid for follow-up measures for ensuring more effective implementation of the policies.

12.5 In the above context, a need has arisen to look into the policy and work programme of the ICA-ROAP in so far as Regional Consultations and biannual Ministers Conference are concerned. It is felt that two years is too short a period for governmental action and decision on implementation of the recommendations of the conferences. The process of legislative reforms and of policy changes, involves, inter-alia, investigations, consultations and decision making at different levels. Impact and results show that not much progress has been achieved in actual implementation of the decisions of the last conference held in 2002, though there are indications of action being initiated at the governmental level influenced by the advocacy of ICA-ROAP. In this context, the following issues are raised for ICA-ROAP to decide on:

- (i) changes in the periodicity of Regional Consultations and Ministerial Conference; and
- (ii) follow-up measures and dialogue during the intervening period with the national governments and cooperatives for implementation of the recommendations.

12.6 Cooperative bureaucracy today is less powerful than in the past because of legislative reforms, public policies and public awareness. They exercise less control over cooperatives though control and interference continues in several developing countries where cooperatives depend on government support and patronage. Political interference is also on the wane as cooperatives are more independent and less dependent. Insulating cooperatives from such control and interference is not an easy task considering the element

of democracy in the management. It would take some more time but the developments are encouraging.

12.7 Support of governments to cooperatives, apart from policy, continues in almost all the countries though extent of such support varies from country to country. Taxation is one area where cooperatives enjoy concessions though not total exemption. Equity and funds cooperatives received in respect of government sponsored cooperatives particularly in the agriculture and rural sector are being withdrawn in all the countries – though with a few exceptions – and governments are no more partners of cooperative enterprises. This is desirable and necessary for preserving the autonomy and for attaining self-reliance despite initial adverse impact of the policy. The problem of capitalization and limitations on its augmentation particularly in the credit, banking and insurance sectors for complying with prudential norms is a serious issue for deliberations and innovations. Government support in areas like taxation, education, training and infrastructure development should continue because of the potential of the cooperatives for contributing to the socio-economic development of the country.

12.8 In the matter of government control and intervention, it is necessary to make a clear distinction between support to members and support to cooperatives. Support provided to members for their benefits should not be an excuse for government interference in the management.

12.9 Weakness and sickness in cooperatives is growing in several sectors for a variety of reasons both internal to the organization and due to extraneous factors on which they have less control. The reasons are analysed in the report. These areas of concern should be effectively resolved / attended to through the joint endeavour of

cooperatives and the government and wherever necessary, through reforms in legislation and policy.

### **13. RECOMMENDATIONS / SUGGESTIONS**

In the context of the foregoing, the following recommendations/suggestions are made for deliberations, consideration and necessary follow-up action at the respective levels:

- (i) Changes in the socio-economic environment of a country considerably impact not only the reforms in the legislation and policies of the government for cooperatives but also the future development of cooperatives. A significant development in the environment, which will have positive impact on cooperative development, has been facilitated by the ILO Resolution 193 of 2002 on Promotion of Cooperatives touching upon cooperative ideology, identity, values and principles, as also operations and management of cooperatives, which will form the guideline for the development of cooperatives globally. The Resolution is expected to greatly influence the governments in adopting favourable and progressive legislation and policies for the cooperatives and give an impetus to reforms process initiated by ICA-ROAP through its advocacy measures over the years. Both the governments and the cooperatives in the Asia-Pacific region may act upon and evolve appropriate strategies for implementing the said Resolution in a time bound manner.
- (ii) The issue of one enabling legislation, one regulatory department for cooperatives under a minister is a desirable condition, but in the absence of which and due to multiplicity of regulatory authorities, feasibility of evolving a national coordinated approach (inter-ministerial coordination) may be

explored to avoid duality or multiplicity of controls. Clear demarcation as to the regulatory functions of ministries concerned is a necessity.

- (iii) Structural deficiency in cooperatives, devoid of a national apex federation / union due to multiplicity of structure of governance in the government, is an avoidable gap to be filled by institutionalizing the informal coordinating mechanism, if any exists. This will strengthen cooperative leadership, spokespersonship, advocacy and other promotional and developmental roles both at the national and international levels.
- (iv) Wide disparity in the growth of cooperatives is observed particularly in countries where cooperatives come under the purview of provincial / state governments. National governments in such conditions have to play a pro-active role both for cooperative advocacy and for balanced growth of cooperatives facilitated by desirable legislative reforms and policies.
- (v) Even in countries where considerable legislative and policy reforms have taken place, need has arisen to re-examine and re-look into those reforms for changes so essential for developing cooperatives on a sustainable basis in view of dynamic process of reforms in the economy.
- (vi) Governments should bestow attention for evolving strategies which promote development of new generation cooperatives in sectors which have remained unexplored or undeveloped mostly due to their policies biased in favour of favoured sectors like agriculture and rural credit. Sector-specific growth models in different countries of the region would be worth emulating - facilitated by ICA-ROAP.
- (vii) Disengagement of government from cooperatives for the autonomy and independence should not mean

discontinuance of support in such areas like taxation, education, training, infrastructure, technology and even funding for priority sectors so essential for development of cooperatives and socio-economic advancement of members. Governments may review policies in this regard for continuance of such support to cooperatives.

- (viii) In carrying out legislative reforms, in framing rules and in evolving policies for cooperative development, government should ensure harmony, avoid contradictions and eliminate inconsistencies.
- (ix) For judicious use of funds, it is desirable to entrust the responsibility of administering the Cooperative Development Fund / Cooperative Education Fund (constituted from the contributions of cooperatives from their profits) to the apex federations / unions or to such other body represented by cooperatives. Governments should however draw guidelines in consultation with cooperatives on augmenting funds, its use and management.
- (x) Capitalisation in cooperatives, particularly in sectors like credit, banking and insurance where they have to adhere to the universally recognized prudential norms stipulated by the concerned central banks, is a major problem affecting several cooperatives. ICA-ROAP should address to this emerging problem and facilitate interaction / discussion for solutions through innovations.
- (xi) Identified areas of concern need be tackled / resolved / attended to through the joint endeavour of the government and the cooperative movement. Some of these areas of concern have a bearing on the cooperative legislation, rules framed under the law and the policies of the government; and hence, initiative for appropriate changes in them should

receive prompt attention of the government. Major areas of concern, as such, are –

- (a) Slackness in implementation of policy in the absence of effective mechanism for review and monitoring at the level of government.
- (b) Absence of professional management
- (c) Ineffective man-power planning and development strategy and inadequacy of training infrastructure.
- (d) Absence of business planning and development.
- (e) Implementation of government sponsored programmes at the cost of autonomy and viability.
- (f) Government exercising control and interfering in the management even when support is intended for members benefit.
- (g) Disadvantages arising from non-adherence of principle of 'cooperation among cooperatives' and due to poor net-working between cooperatives at different tiers of structure.
- (h) Inadequacy of funds and problems of capitalization.
- (i) Absence of action plan and strategy for revitalization/ restructuring of weak/ sick cooperatives which are potentially viable.
- (j) Adverse impact of duality/ multiplicity of government control.
- (k) Absence of institution protection mechanism/ arrangements for strategic repositioning/ restructuring as also for protection against risks and uncertainties.
- (l) Slow process of technology application and upgradation so essential for building up competitive strength and operational efficiency.

(specific suggestions on some of the areas of concern are given in the report).

- (xii) While continuing its advocacy for reforms in legislation and policy, ICA-ROAP should emphasise on the need to evolve appropriate follow-up measures for more effective implementation of policies, which is presently found to be lacking.
- (xiii) To hasten the process of information and policy dialogue with the multilateral international organisations recommended at the earlier ministerial conferences, ICA may evolve a coordinated approach for dialogue, at the highest level, involving other international cooperative organisations. Evolving an appropriate approach as to the objective, expectations and results to be achieved is a pre-requisite for such information and advocacy dialogue.
- (xiv) In the context of slow process in implementing the resolutions of ministerial conference by governments and inevitable delays in the decision making process of governments, ICA-ROAP should review its policy and work programme to decide on (a) periodicity of regional consultations and ministerial conference; and (b) follow-up measures and dialogue in the intervening period for sensitizing political and cooperative leadership and the bureaucracy at the country level for implementation of the recommendations.
- (xv) If the overall objective of advocacy and dialogue is for ensuring all-round development of cooperatives on a sustainable basis, sub-serving the socio-economic interests of the members in particular and the country in general, mere reforms in legislation and policies alone are not adequate. Enabling legislation and progressive policy are important but not enough for cooperative development, which depends on

other equally important factors like responsible and responsive professional management, productivity, operational efficiency and competitive strength of cooperatives. Governments and cooperatives should constantly endeavour to achieve higher levels in management and operations, matched by enabling legislation and policy reforms. It is necessary to refocus attention to these vital aspects related to cooperative development, besides pursuing reforms in legislation and policies of governments.

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## **STATUS OF ACTION ON RESOLUTIONS OF 6<sup>TH</sup> ASIA-PACIFIC COOPERATIVE MINISTERS' CONFERENCE**

1. The following Kathmandu Declaration adopted at the 6<sup>th</sup> Cooperative Ministers' Conference in April 2002 is a decision calling upon the Governments of the Asia-Pacific Region for adoption and implementation of appropriate legislation and policy for cooperatives in the new millennium.

### **Kathmandu Declaration**

**Recognizing** that co-operatives are important people centric organizations imbued with social equity as also instruments for employment generation and wealth creation – particularly for the poor and marginalized in rapidly liberalizing and market driven economies;

**Acknowledging** the role played by cooperatives during the Asian financial crisis of 1997 when cooperatives amply demonstrated their resilience to thrive in times of crisis;

**Noting** that Governments of the Asia-Pacific Region have played a very important role to promote cooperatives but in the process there have often arisen major dependencies, thereby limiting cooperatives from achieving their full potential, especially in developing countries;

**Emphasizing** that the pace of globalization has created a deep sense of urgency to formulate both public policy and other relevant sectoral policies that support development of member based cooperatives;

**We the participants of the 6<sup>th</sup> Cooperative Ministers' Conference held in Kathmandu from April 3-7, 2002 recognize the importance of strengthening processes that facilitate adoption and implementation of appropriate legislation and policy for cooperatives in the new Millennium.**

The above Declaration derives strength from the five adopted resolutions of the Conference. Implementation of these resolutions or action taken for implementing them or follow up measures

initiated both at the levels of government and cooperatives are summarised below based on the information gathered by the consultant for this study during field studies in five countries (Kuwait, Malaysia, Bangladesh, Japan & China), status reported in the country reports of the consultants from 3 countries (India, Indonesia and Sri Lanka) and from responses to the structured questionnaire (drawn by the consultant in consultation with and guidance of ICA-ROAP) received from 9 organisations (including from country consultants) in 6 countries (Indonesia, Sri Lanka, Iran, India, Vietnam and Nepal) and 5 national governments (Kuwait, Malaysia, Singapore, Philippines and Israel) represented by members of ICA-ROAP.

## **2. RESOLUTION-1**

Governments should develop and formulate a co-operative policy – consistent with existing laws and supportive of an enabling environment for co-operatives – that would inter alia contain the following elements:

A preamble that articulates the importance and need for a cooperative policy.

A statement on how Parliament, legislatures and governments must work to sustain an environment where cooperatives can have self-regulation, autonomy and independence.

Describe methods by which government would enable capacity building in cooperatives – leading to their empowerment.

Define the areas where government can provide assistance for member education, training and HRD.

Outline how good governance; such as transparency, right of information and accountability of the board towards members shall be recognized and encouraged in cooperatives.

Explain how different ministries that comprise the government would act in a coherent and coordinated manner to fulfill the objectives of cooperative development.

Outline other areas where government assistance could be made available without affecting the autonomy and independence of cooperatives.

Make clear government's commitment to offering infrastructure support to cooperatives.

Provide for collaboration(s) between government and cooperatives in areas that are of concern to the community.

Not much progress seems to have taken place in formulating the cooperative policy for creation of an enabling environment for cooperatives to develop on stated lines – self-regulation, autonomy and independence. However, governments generally are seized of the need for evolving appropriate policy.

In **India**, the draft policy drawn has since been adopted in March 2002 by the Department of Agriculture and Cooperation of the Ministry of Agriculture. The Policy document covers the cooperative principles and also the spirit of cooperative values and identity. The role of the government in the policy is restricted to functions such as (a) conduct of timely elections; (b) audit; and (c) to protect and safeguard the interest of members and stake holders in cooperatives and not to interfere in the management of cooperatives. However, follow-up action for implementing the policy is lacking and monitoring mechanism is yet to gather momentum. A Ministerial Task Force constituted in April 2002 has formulated a "plan of action" for implementation of the national policy which, inter-alia, includes action plan and reforms for providing greater freedom and autonomy to cooperatives. A single liberalized law has been suggested where parallel laws exist in states. Other major reforms suggested by the task force are institutional and financial reforms. Favourable impact of the policy on cooperatives is not visible looking to their weakened strength and dormancy in several sectors of the economy. Policy of the government at the centre will have to be followed by the state

governments though cooperation is a state subject under the constitution of India and cooperatives are governed by state laws.

In **Malaysia**, the draft policy document has been drawn incorporating most of the elements / aspects stated in the resolution. It is a well meaning public policy on cooperatives defining clearly the objectives and stating pointedly the role expected to be played by the cooperatives / government for realising the objectives. The policy, inter-alia, covers the following aspects with the statement that "The cooperative sector is recognised as a catalyst, alongside the public and private sectors, in the nation's economic development."

- (i) Relationship with cooperative sector and the government.
- (ii) Short-term and long-term objectives.
- (iii) Implementation strategies (8 strategies)
- (iv) Financial support from government (including special allocation for cooperative development and education).
- (v) Education and Training (compulsory for elected members of the Board and Auditors)
- (vi) Business opportunities
- (vii) Legislation (with provision for review and updating of provisions that hinder but regulate cooperative governance such as the cooperative subsidiaries).
- (viii) Involvement of Women (for encouraging participation in cooperatives, training, etc.)
- (ix) Information and communication technology

- (x) Non-governmental organisations (NGOs) and tertiary cooperatives (mostly promotional through ANGKASA)
- (xi) Government Departments (services by the departments)
- (xii) Action, implementing agencies and time frame. (for effective implementation of the policy, a detailed plan of action is being drawn up whereby every strategy has streamlined activities, sub-activities and recommended actions by the relevant agencies).

The draft policy is expected to be adopted soon.

Follow-up and monitoring mechanism for ensuring implementation of the policy by concerned at all levels is also expected to be formalised in the form of National Cooperative Consultative Council (MPKK) chaired by the Deputy Prime Minister and represented by concerned government departments and representatives from cooperative sector including ANGKASA – the apex body of cooperatives.

The policy is likely to generate favourable impact on the future development of cooperatives in Malaysia.

In **Kuwait**, no separate policy on cooperatives has been drawn. However, government is committed to cooperative development and provides all support and encouragement. Government work programme includes several aims concerning the development of cooperatives during the period 2003 to 2007.

Though the government does not feel it necessary to evolve any separate policy because of its total commitment to cooperatives as a matter of policy, it is not totally averse to the idea of evolving

an appropriate and favourable policy for cooperatives in the near future.

In **Philippines**, policies for cooperatives are embodied in Section 3 of Executive Order No.96, These policies cover -

- ▶ role of the State in cooperative development
- ▶ affirmation of cooperatives as autonomous associations organized for the economic and social betterment of their members based on self-reliance and self-management.
- ▶ protection, preservation and strengthening of cooperative identity.

For implementation of the policies, Executive Order No.95, item 3, provides for establishment of Cooperative Development Councils at the national, regional, provincial and city levels.

Since government has specific policies for cooperatives, there is no proposal to adopt another separate policy.

In **Israel**, neither there is any specific policy for cooperatives nor the government considers it necessary to evolve one since it follows free market economy. The State of Israel has a law on cooperative societies and is considering a new modern legislation based on experience and in consultation with the cooperative movement.

In **Indonesia**, no specific policy for cooperatives exists. There is however a national cooperative strategy (as a part of government five year plan) which serves as guidelines for cooperative development. There is also National Cooperative

Programmes. Reaction of the government is not available about its commitment to draw a specific policy for cooperatives.

In **Sri Lanka**, no favourable policy for cooperatives exists. The most important policy document of the government "Regaining Sri Lanka" has nothing to say about cooperatives although it covers extensively other subjects. Under the structural adjustment programmes, even some of the existing institutions have been closed down including liquidation of Sri Lanka Institute of Cooperative Management in 2002. In 2003, the Ministry of Cooperatives appointed a Committee comprising of officials of the Ministry / Government Departments and Cooperators and the said Committee has drawn a "Report on Principles and Strategies for Development of the Cooperative Sector." The report has become a subject for review of a Cabinet Sub-Committee.

In **Iran**, the constitution recognizes a national status for cooperatives. The principle 44 of the Iranian Constitutional Law stipulates that the national economy is based on 3 sectors, viz., Government, Cooperative and Private. There is however no specific government policy for cooperative development in the country. In sectoral policies, there are certain recommendations regarding cooperative development. There appears to be no immediate proposal for evolving a well-defined cooperative policy.

The **Singapore**, policy on cooperative development is expected to be the role and responsibility of the apex body as the government function is regulatory. Government seems to have been impacted by ICA-ROAP Ministerial Conference recommendations in framing / adopting cooperative policy. The process for evolving such a policy is not evident.

In **Vietnam**, no policy for cooperatives exists. The government is proposing to revise and supplement the law on cooperatives for placing before the National Assembly. As a part of the revision, it is considering to supplement the policies on cooperatives. There are at present specific legal documents and policies on cooperatives.

In **Nepal**, no specific policy on cooperative development has been evolved so far. However, influenced by the recommendations of the last ICA-ROAP sponsored Ministerial Conference held in 2002 in Nepal, the National Cooperative Development Board of Nepal, which is responsible for cooperatives, has initiated the process and the draft has since been drawn. The draft is likely to be approved by the HMG/N (Government) in the near future. Under this policy, the government is expected to support cooperatives in several ways including concession on taxes and development of human resources in the cooperatives. The government, as a matter of policy, will make cooperatives function in accordance with the cooperative values and principles, so that, cooperative identity could be preserved. More than anything, policy envisages withdrawal of government control on cooperatives which is so essential for their autonomy, independence and unhindered operations.

### **3. RESOLUTION-2**

The participation of governments in the succeeding Co-operative Ministers' Conference should be enlarged to include other ministries, such as finance, agriculture, trade, industry and social welfare.

There are advantages in ICAROAP hosting a separate conference by inviting Finance Ministers or at least senior officials from the Finance Ministry of different countries to discuss the issue of cooperative taxation in depth and arrive at an agreed set of recommendations in so far as taxation of cooperatives are concerned. Similarly, it will be important for ICAROAP to commission studies that could examine how different laws impact the functioning of cooperatives.



The suggestion to enlarge participants of the successive Cooperative Ministers' Conference by including other concerned ministries is yet to be put into practice by ICA-ROAP.

The other suggestion made in the Resolution for hosting a separate conference of Finance Ministers / senior officers from Ministry of Finance of different countries in the region for discussing and deciding on taxation of cooperatives is reportedly being examined for action, as it involves considerable preparations and funding arrangements.

Yet another suggestion in the recommendation for commissioning the studies for examining different laws and their impact on the functioning of cooperatives is also said to be under examination with possible sources of funding.

The field study and contents of this report indicate that in several countries of the region, not only there are more than one law, but even under a single law, various ministries / departments of the Government are involved exercising regulatory functions over cooperatives. This is a real problem for cooperatives with duality and multiplicity of control over their operations and management.

#### **4. RESOLUTION-3**

ICA ROAP should initiate information and policy dialogue with multilateral international institutional like IMF, World Bank and ADB.

The process of initiating information and policy dialogue with multilateral international institutions by ICA-ROAP is an on-going one. Perhaps initiative for policy dialogue should come from the parent body, i.e., ICA, since the issue concern cooperatives globally

and not confined only to the Asia-Pacific Region represented by ICA-ROAP.

Preparations by way of parameters for such a dialogue are necessary and therefore, a draft approach has been drawn which needs to be finalised with input from consultations at different levels. The suggested parameters are outlined separately in the report for consideration / reference.

ICA is found to be active with its continuing dialogue with UN and its specialized organizations like ILO and FAO for creating favourable opinion and policies towards cooperatives. Several programme of ILO and FAO are implemented involving cooperatives beneficial to their members and the community at large. Commitment of these organisations and their support is evident from UN Report of 2003 on the implementation of its resolution 56 / 114 on cooperatives in social development. It contains proposals to promote cooperative development and a supportive environment for the development of cooperatives.

As for FAO, a memorandum of understanding with ICA ensures its cooperation by consultation, exchange of information and coordination of efforts in the promotion of cooperative principles and methods. FAO has provided support and technical assistance in establishment of regional net-work for the development of agricultural cooperatives in Asia and Pacific. Recently, FAO has initiated a programme for strengthening of agricultural cooperative business competitiveness through computerisation.

Support of ILO to cooperatives and its involvement in the cooperative development activities on the initiatives of ICA are

laudable. Such support has been consistent through the cooperative branch of ILO. Several technical cooperation activities have been undertaken by ILO in the areas of training (including training material) employment generation and poverty elevation. New Resolution No.193 adopted by ILO in 2002 will be a milestone for promotion of cooperatives. The main features of this Resolution are:- (a) recognition of importance of cooperatives in economic and social development; (b) reaffirmation of cooperative identity; (c) definition of the government's role in creating a supportive policy and legal frame work and in facilitating access to support services and finance; (d) encouragement of international cooperation; and (e) promotion of social development and poverty elevation in rural areas through cooperative development. (ILO Resolution No.193 is incorporated in the Appendices of the report).

Looking to the similarity of some of the objectives and programmes of ICA and ILO / FAO, particularly for enabling cooperative legislation and in creating a supportive policy, advocacy efforts of ICA-ROAP will be considerably strengthened if such efforts are collaborated and action initiated jointly. Such joint endeavours may generate much better response at the levels of governments and multilateral international organisations.

Equally important is ICA / ICA-ROAP adopting a coordinated approach with other international cooperative organisations like IRU for initiating dialogue with multi-lateral international institutions like World Bank, IMF and ADB. This will have much better impact and response.

#### **5. RESOLUTION-4**

Governments could work to achieve better and superior reforms in cooperative legislation using objective tools – to be developed by the ICAROAP – to

measure progress towards an enabling legislative and policy environment for co-operatives in different countries using new and emerging concepts such as the 'Proximity to ICIS' index and the Grid Model.

ICAROAP should develop the 'Proximity to ICIS' index and the Grid Model through processes that could involve representatives from governments, cooperative movement and international organisations, examine whether the grid model can incorporate the idea of mapping cooperatives in a 'cooperative corridor' and factor the concept of social audit in cooperatives to assess overall performance of cooperatives.

In the second stage, ICAROAP's development of the 'Proximity to ICIS' index and the Grid Model should be expanded over time through a larger consultative process so as to incorporate differing interests and position on the subject both within countries and across the region, including *inter alia*, the application of the Grid Model to a model piece of cooperative legislation and linking the Grid Model with the 'Proximity to ICIS' index to first measure the efficacy and ability of a cooperative to fulfill its objectives consistent with the ICIS.

Action on this resolution to be initiated by ICA-ROAP for developing objective tools to measure the progress towards an enabling legislative and policy environment for cooperative in different countries using new concepts like 'Proximity to ICIS' index and the Grid Model, may have to be a long-term strategy of the work plan considering certain constraints such as:

- (i) in most countries of the region, the process of reforms in cooperative legislation and drafting of public policy on cooperation on suggested lines is yet not complete and it might take some time for these reforms. Follow-up on this ought to be the priority on the work agenda of ICA-ROAP;
- (ii) developing the index to measure the progress in regard to enabling legislation and policy is of a complex nature involving specialists. The exercise is also going to be a lengthy one involving studies in various countries where conditions vary considerably;

- (iii) resource and manpower constraints of ICA-ROAP need to be addressed to apart from prioritizing its work programme and activities in relation to resources and feasibility.

While it is desirable and helpful to use objective tools for achieving higher and better level of reforms, by the governments and for measuring progress of reforms through such tools, developing such index based tools or models at this stage when the reforms process is yet to pick pace in most countries of the region, need not be a priority. Time is inappropriate for this exercise which can wait for some more time till reforms are effected and positive impact on development cooperatives is visible. Any index based evaluation of governments' performance in the area of reforms may cause more problems than it aims to achieve considering the complexity of conditions prevailing in countries and wide variations in the development of cooperatives and in government policies. Available resources and energy of ICA-ROAP are better used for more objective purposes of development of cooperatives and related reforms which will articulate cooperative values and principles in operations and management of cooperatives on sound basis. It is important to prioritise the short-term and long-term work programme in relation to needs and resources.

Implementation of the suggestion in the resolution has to be viewed from the above constraints, limitations and necessities, though needs to be pursued as a long-term strategy.

## **6. RESOLUTION-5**

The Kathmandu declaration to which all participating governments of member countries have affixed their hand is symbolic of the importance and commitment of governments to the above resolutions and it is in this spirit that governments of Asia and the Pacific would strive to establish relevant legislation and policy for cooperatives in the new millennium.

This resolution is which governments of the Asia-Pacific Region have committed to establish enabling legislation and policy for cooperatives in the new millennium, is the spirit of the Kathmandu declaration and meant to be attended to by the respective governments of the region. The status in regard to the cooperative policy adaptation is indicated in the report on Resolution No.1. The status on adaptation of **enabling legislation** in different countries of the region is out-lined below:

No new law has been enacted or major amendments made in the existing laws in the 5 countries studied by the consultant. The existing laws have no major impediments for the autonomy, independence, democratic management and self-reliance of cooperatives though cooperatives are not totally free of government controls. Some changes in the law are found necessary in all the laws of **Kuwait, Malaysia, Bangladesh** and **Japan** as opined by cooperative leadership. In the absence of any law for cooperatives in **China**, a beginning is being made to make laws, particularly for rural cooperatives (supply and marketing cooperatives) at the provincial level. At least in 4 provinces, this process is in an advance stage. The national law for cooperatives is expected to be legislated by the National People's Congress only sometime in 2006 as per plans and work agenda (More details in study reports).

In **India**, as per constitution, "Cooperation" is a state subject and only multi-state cooperative societies and national federations come under the purview of the central government. Enactment of Multi-State Cooperative Societies Act-2002 by repealing the earlier Act of 1984 is a step in the right direction to facilitate voluntary formation of cooperatives, democratic functioning of cooperatives and to provide them functional autonomy and freedom. This liberal

Act takes away all restrictive provisions of the earlier act, and to a great extent, control of the central registrar and his powers are reduced. The Act however has little impact on cooperative development in the country as cooperatives are governed by the laws of the states, which are still restrictive with scope for control and interference of the government exercised mostly through the RCS and the cooperative department.

Government of India is pursuing the matter with the State Governments emphasizing on the need to promote development of cooperatives free from all government controls. A model Act has also been proposed. Though there is progress in this regard with some states enacting parallel laws known as Mutually Aided Cooperative Societies Act and Self-supporting / Self-reliant Cooperative Societies Act. They are liberal and progressive laws taking away several controlling functions and powers of the RCS. In some states, the existing laws have been amended in the direction of making cooperatives autonomous member-driven organisations. Even after almost 10 years of advocacy, there are many states which are still thinking and examining the needs for changes in the law.

Generally speaking, more than the political leadership, it is the bureaucracy which is hesitant to give up powers enjoyed so far. The argument is that left to themselves, cooperatives will mismanage and since government has a stake in the cooperatives, it becomes necessary to retain powers and exercise control on cooperatives whenever necessary. It is a question of changing the mind-set of the bureaucracy and their perceived opinion about cooperatives and more so its leadership.

In **Iran**, principles 44 and 43 of the constitutional law define cooperative sector as one of three national sectors. Cooperative values and principles have been directly or indirectly covered in various articles of cooperative law. The Iranian Chamber of Cooperative (ICC) is currently assessing the needs of cooperatives for reforms in law. Changes in law are necessary in several matters though the government is not exerting any excessive powers over cooperatives. Weakness of the cooperatives is due to other factors like poor resources, inactive participation of members and lack of qualitative manpower and professionalism.

In **Nepal**, though there is no specific constitutional provision for cooperatives, certain articles like on Directive Principles and Policies of the State, there are clear indications for a self-reliant and independent income system and for prevention of economic exploitation. Cooperatives can fit-in in this context. Cooperative values and principles are not specifically incorporated in the law, but both values and principles are integrated into various clauses of 1992 law and rules of 1993. The reforms in cooperative legislation is in draft stage and remain to be carried out.

In **Vietnam**, articles 15, 16 and 20 of the constitution directly relate to cooperatives. Provisions in the law reflect the values and principles of cooperation and are found to be adequate. Cooperatives suffer not for want of these values and principles in the law, but for other reasons related to their operations and management. Cooperatives need reforms in law concerning business registration procedure which is found to be cumbersome and time consuming.

In **Sri Lanka**, under schedule No.9 of the constitution, there is reference to cooperatives. In the Cooperative Act No.5 of 1972



provisions are not adequate as to the cooperative identity, values and principles. Reforms are necessary not only in regard to these areas, but also on other matters including modifications in various restrictive provisions of the law.

In **Singapore**, though there is no provision in constitution for cooperatives, the existing law is found to be adequate to protect the cooperative identity, values and principles. There are no initiatives for any reforms in the legislation.

In **Israel**, provisions in the laws are fairly adequate to preserve and strengthen the cooperative identity. However, the process of enacting a modern legislation based on experiences and in consultation with the movement is in an advanced stage.

In **Philippines**, there are specific constitutional provisions relating to cooperatives in several articles, the most important being Article-XII (section 15) which says "the Congress shall create agency to promote the viability and growth of cooperatives as instruments for social justice and economic development." There are no restrictive provisions or controlling powers in the law. The law contains only the ICA principle of 1966 and not the new principles. To preserve the cooperative identity and for promotion of development of cooperatives in accordance with new values and principles, a new draft law has been drawn and pending consideration of the Parliament. This law is expected to meet the emerging challenges and in line with the political reforms.

## **ILO Recommendation No.193 on Promotion of Cooperatives**

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 90th Session on 3 June 2002, and

Recognizing the importance of cooperatives in job creation, mobilizing resources, generating investment and their contribution to the economy, and

Recognizing that cooperatives in their various forms promote the fullest participation in the economic and social development of all people, and

Recognizing that globalization has created new and different pressures, problems, challenges and opportunities for cooperatives, and that stronger forms of human solidarity at national and international levels are required to facilitate a more equitable distribution of the benefits of globalization, and

Noting the ILO Declaration on Fundamental Principles and Rights at Work, adopted by the International Labour Conference at its 86th Session (1998), and

Noting the rights and principles embodied in international labour Conventions and Recommendations, in particular the Forced Labour Convention, 1930; the Freedom of Association and Protection of the Right to Organise Convention, 1948; the Right to Organise and Collective Bargaining Convention, 1949; the Equal Remuneration Convention, 1951; the Social Security (Minimum Standards) Convention, 1952; the Abolition of Forced Labour Convention, 1957; the Discrimination (Employment and Occupation) Convention, 1958; the Employment Policy Convention, 1964; the Minimum Age Convention, 1973; the Rural Workers' Organisations Convention and Recommendation, 1975; the Human Resources Development Convention and Recommendation, 1975; the Employment Policy (Supplementary Provisions) Recommendation, 1984; the Job Creation in Small and Medium-Sized Enterprises Recommendation, 1998; and the Worst Forms of Child Labour Convention, 1999, and

Recalling the principle embodied in the Declaration of Philadelphia that "labour is not a commodity", and

Recalling that the realization of decent work for workers everywhere is a primary objective of the International Labour Organization, and

Having decided upon the adoption of certain proposals with regard to the promotion of cooperatives, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation;

adopts this twentieth day of June of the year two thousand and two the following Recommendation, which may be cited as the Promotion of Cooperatives Recommendation, 2002.

## **I. SCOPE, DEFINITION AND OBJECTIVES**

1. It is recognized that cooperatives operate in all sectors of the economy. This Recommendation applies to all types and forms of cooperatives.

2. For the purposes of this Recommendation, the term "cooperative" means an autonomous association of persons united voluntarily to meet their common economic, social and cultural needs and aspirations through a jointly owned and democratically controlled enterprise.

3. The promotion and strengthening of the identity of cooperatives should be encouraged on the basis of:

- (a) cooperative values of self-help, self-responsibility, democracy, equality, equity and solidarity; as well as ethical values of honesty, openness, social responsibility and caring for others; and
- (b) cooperative principles as developed by the international cooperative movement and as referred to in the Annex hereto. These principles are: voluntary and open membership; democratic member control; member economic participation; autonomy and independence; education, training and information; cooperation among cooperatives; and concern for community.

4. Measures should be adopted to promote the potential of cooperatives in all countries, irrespective of their level of development, in order to assist them and their membership to:

- (a) create and develop income-generating activities and sustainable decent employment;
- (b) develop human resource capacities and knowledge of the values, advantages and benefits of the cooperative movement through education and training;
- (c) develop their business potential, including entrepreneurial and managerial capacities;
- (d) strengthen their competitiveness as well as gain access to markets and to institutional finance;
- (e) increase savings and investment;
- (f) improve social and economic well-being, taking into account the need to eliminate all forms of discrimination;
- (g) contribute to sustainable human development; and
- (h) establish and expand a viable and dynamic distinctive sector of the economy, which includes cooperatives, that responds to the social and economic needs of the community.

5. The adoption of special measures should be encouraged to enable cooperatives, as enterprises and organizations inspired by solidarity, to respond

to their members' needs and the needs of society, including those of disadvantaged groups in order to achieve their social inclusion.

## **II. POLICY FRAMEWORK AND ROLE OF GOVERNMENTS**

6. A balanced society necessitates the existence of strong public and private sectors, as well as a strong cooperative, mutual and the other social and non-governmental sector. It is in this context that Governments should provide a supportive policy and legal framework consistent with the nature and function of cooperatives and guided by the cooperative values and principles set out in Paragraph 3, which would:

- (a) establish an institutional framework with the purpose of allowing for the registration of cooperatives in as rapid, simple, affordable and efficient a manner as possible;
- (b) promote policies aimed at allowing the creation of appropriate reserves, part of which at least could be indivisible, and solidarity funds within cooperatives;
- (c) provide for the adoption of measures for the oversight of cooperatives, on terms appropriate to their nature and functions, which respect their autonomy, and are in accordance with national law and practice, and which are no less favourable than those applicable to other forms of enterprise and social organization;
- (d) facilitate the membership of cooperatives in cooperative structures responding to the needs of cooperative members; and
- (e) encourage the development of cooperatives as autonomous and self-managed enterprises, particularly in areas where cooperatives have an important role to play or provide services that are not otherwise provided.

7. (1) The promotion of cooperatives guided by the values and principles set out in Paragraph 3 should be considered as one of the pillars of national and international economic and social development.

(2) Cooperatives should be treated in accordance with national law and practice and on terms no less favourable than those accorded to other forms of enterprise and social organization. Governments should introduce support measures, where appropriate, for the activities of cooperatives that meet specific social and public policy outcomes, such as employment promotion or the development of activities benefiting disadvantaged groups or regions. Such measures could include, among others and in so far as possible, tax benefits, loans, grants, access to public works programmes, and special procurement provisions.

(3) Special consideration should be given to increasing women's participation in the cooperative movement at all levels, particularly at management and leadership levels.

8. (1) National policies should notably:

- (a) promote the ILO fundamental labour standards and the ILO Declaration on Fundamental Principles and Rights at Work, for all workers in cooperatives without distinction whatsoever;
- (b) ensure that cooperatives are not set up for, or used for, non-compliance with labour law or used to establish disguised employment relationships, and combat pseudo cooperatives violating workers' rights, by ensuring that labour legislation is applied in all enterprises;
- (c) promote gender equality in cooperatives and in their work;
- (d) promote measures to ensure that best labour practices are followed in cooperatives, including access to relevant information;
- (e) develop the technical and vocational skills, entrepreneurial and managerial abilities, knowledge of business potential, and general economic and social policy skills, of members, workers and managers, and improve their access to information and communication technologies;
- (f) promote education and training in cooperative principles and practices, at all appropriate levels of the national education and training systems, and in the wider society;
- (g) promote the adoption of measures that provide for safety and health in the workplace;
- (h) provide for training and other forms of assistance to improve the level of productivity and competitiveness of cooperatives and the quality of goods and services they produce;
- (i) facilitate access of cooperatives to credit;
- (j) facilitate access of cooperatives to markets;
- (k) promote the dissemination of information on cooperatives; and
- (l) seek to improve national statistics on cooperatives with a view to the formulation and implementation of development policies.

(2) Such policies should:

- (a) decentralize to the regional and local levels, where appropriate, the formulation and implementation of policies and regulations regarding cooperatives;
- (b) define legal obligations of cooperatives in areas such as registration, financial and social audits, and the obtaining of licences; and
- (c) promote best practice on corporate governance in cooperatives.

9. Governments should promote the important role of cooperatives in

transforming what are often marginal survival activities (sometimes referred to as the "informal economy") into legally protected work, fully integrated into mainstream economic life.

### **III. IMPLEMENTATION OF PUBLIC POLICIES FOR THE PROMOTION OF COOPERATIVES**

10. (1) Member States should adopt specific legislation and regulations on cooperatives, which are guided by the cooperative values and principles set out in Paragraph 3, and revise such legislation and regulations when appropriate.

(2) Governments should consult cooperative organizations, as well as the employers' and workers' organizations concerned, in the formulation and revision of legislation, policies and regulations applicable to cooperatives.

11. (1) Governments should facilitate access of cooperatives to support services in order to strengthen them, their business viability and their capacity to create employment and income.

(2) These services should include, wherever possible:

- (a) human resource development programmes;
- (b) research and management consultancy services;
- (c) access to finance and investment;
- (d) accountancy and audit services;
- (e) management information services;
- (f) information and public relations services;
- (g) consultancy services on technology and innovation;
- (h) legal and taxation services;
- (i) support services for marketing; and
- (j) other support services where appropriate.

(3) Governments should facilitate the establishment of these support services. Cooperatives and their organizations should be encouraged to participate in the organization and management of these services and, wherever feasible and appropriate, to finance them.

(4) Governments should recognize the role of cooperatives and their organizations by developing appropriate instruments aimed at creating and strengthening cooperatives at national and local levels.

12. Governments should, where appropriate, adopt measures to facilitate the

access of cooperatives to investment finance and credit. Such measures should notably:

- (a) allow loans and other financial facilities to be offered;
- (b) simplify administrative procedures, remedy any inadequate level of cooperative assets, and reduce the cost of loan transactions;
- (c) facilitate an autonomous system of finance for cooperatives, including savings and credit, banking and insurance cooperatives; and
- (d) include special provisions for disadvantaged groups.

13. For the promotion of the cooperative movement, governments should encourage conditions favouring the development of technical, commercial and financial linkages among all forms of cooperatives so as to facilitate an exchange of experience and the sharing of risks and benefits.

#### **IV. ROLE OF EMPLOYERS' AND WORKERS' ORGANIZATIONS AND COOPERATIVE ORGANIZATIONS, AND RELATIONSHIPS BETWEEN THEM**

14. Employers' and workers' organizations, recognizing the significance of cooperatives for the attainment of sustainable development goals, should seek, together with cooperative organizations, ways and means of cooperative promotion.

15. Employers' organizations should consider, where appropriate, the extension of membership to cooperatives wishing to join them and provide appropriate support services on the same terms and conditions applying to other members.

16. Workers' organizations should be encouraged to:

- (a) advise and assist workers in cooperatives to join workers' organizations;
- (b) assist their members to establish cooperatives, including with the aim of facilitating access to basic goods and services;
- (c) participate in committees and working groups at the local, national and international levels that consider economic and social issues having an impact on cooperatives;
- (d) assist and participate in the setting up of new cooperatives with a view to the creation or maintenance of employment, including in cases of proposed closures of enterprises;
- (e) assist and participate in programmes for cooperatives aimed at improving their productivity;
- (f) promote equality of opportunity in cooperatives;
- (g) promote the exercise of the rights of worker-members of cooperatives; and

(h) undertake any other activities for the promotion of cooperatives, including education and training.

17. Cooperatives and organizations representing them should be encouraged to:

- (a) establish an active relationship with employers' and workers' organizations and concerned governmental and non-governmental agencies with a view to creating a favourable climate for the development of cooperatives;
- (b) manage their own support services and contribute to their financing;
- (c) provide commercial and financial services to affiliated cooperatives;
- (d) invest in, and further, human resource development of their members, workers and managers;
- (e) further the development of and affiliation with national and international cooperative organizations;
- (f) represent the national cooperative movement at the international level; and
- (g) undertake any other activities for the promotion of cooperatives.

## V. INTERNATIONAL COOPERATION

18. International cooperation should be facilitated through:

- (a) exchanging information on policies and programmes that have proved to be effective in employment creation and income generation for members of cooperatives;
- (b) encouraging and promoting relationships between national and international bodies and institutions involved in the development of cooperatives in order to permit:
  - the exchange of personnel and ideas, of educational and training materials, methodologies and reference materials;
  - the compilation and utilization of research material and other data on cooperatives and their development;
  - the establishment of alliances and international partnerships between cooperatives;
  - the promotion and protection of cooperative values and principles; and
  - the establishment of commercial relations between cooperatives;
- (c) access of cooperatives to national and international data, such as market information, legislation, training methods and techniques, technology and



product standards; and

- (d) developing, where it is warranted and possible, and in consultation with cooperatives, employers' and workers' organizations concerned, common regional and international guidelines and legislation to support cooperatives.

## **VI. FINAL PROVISION**

19. The present Recommendation revises and replaces the Co-operatives (Developing Countries) Recommendation, 1966.