

## **ANNEX 2: 2001 United Nations Guidelines aimed at creating a supportive environment for the development of cooperatives**

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### **Annex**

#### **Draft guidelines aimed at creating a supportive environment for the development of cooperatives**

##### **Objectives**

1. Within the General Assembly and the Economic and Social Council, and at major recent international conferences, Governments have acknowledged the significance of cooperatives as associations and enterprises through which citizens can effectively improve their lives while contributing to the economic, social, cultural and political advancement of their community and nation. They have recognized the cooperative movement as a distinct and major stakeholder in both national and international affairs.

2. Governments recognize that the cooperative movement is highly democratic, locally autonomous but internationally integrated, and a form of organization of associations and enterprises whereby citizens themselves rely on self-help and their own responsibility to meet goals that include not only economic but social and environmental objectives, such as overcoming poverty, securing productive employment and encouraging social integration.

3. Consequently, Governments seek to create an environment in which cooperatives can participate on an equal footing with other forms of enterprise and develop an effective partnership to achieve their respective goals. Policies should protect and advance the potential of cooperatives to help members achieve their individual goals and, by so doing, to contribute to society's broader aspirations.

4. However, such policies can be effective only if they take into account the special character of cooperatives and the cooperative movement, which differs significantly from that of associations and enterprises that are not organized according to cooperative values and principles.

5. The objective of the present guidelines is to provide advice to Governments and set out broad principles on which national cooperative policy might best be based, recognizing that more specific and detailed national policies fall within the responsibility of each Government. Because of the governmental expectations regarding the cooperative movement and the rapidly changing global conditions and changes in

the cooperative movement itself, many policies in most of the Member States of the United Nations might benefit from review, and in some cases from substantial revision.

##### **Policy regarding cooperatives and the cooperative movement**

6. The objective of the policy is to enable recognition of cooperatives as legal entities and to assure them and all organizations and institutions set up by the cooperative movement real equality with other associations and entities. In order to ensure equality, the special values and principles of cooperatives must receive full recognition as being desirable and beneficial to society and that appropriate measures are taken to ensure that their special qualities and practices are not the cause of discrimination and disadvantage of any kind.

7. To achieve this objective, Governments are concerned with creating, and with maintaining as conditions change, an enabling environment for cooperative development. As part of such an environment, an effective partnership between Governments and the cooperative movement could be sought.

##### **Public recognition**

8. It is appropriate and useful for Governments to acknowledge publicly the special contribution, in both quantitative and qualitative terms, made by the cooperative movement to the national economy and society. The joint observance of the observance of the International Day of Cooperatives and the International Cooperative Day organized by the International Cooperative Alliance, pursuant to General Assembly resolutions 47/90, 49/155 and 51/58, may provide an occasion on which information on the cooperative movement is publicly disseminated.

##### **Legal, judicial and administrative provisions**

9. Appropriate provision is necessary within legal, judicial and administrative practice if cooperatives are

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to contribute positively to improving the lives of their members and the communities in which they operate. Legal provisions may take various forms appropriate to individual national legal systems. The status, rights and responsibilities of cooperatives, the cooperative movement in general, and, if appropriate special categories of cooperatives or distinct aspects of cooperation should be addressed.

**10. National constitutions:** The legitimacy of cooperatives and the cooperative movement could be acknowledged in these instruments, if appropriate. Provisions that limit the establishment and operations of cooperatives should be appropriately amended.

**11. General law on cooperatives or the general section of a single law on cooperatives:** A general law on cooperatives or laws specific to cooperatives or under which cooperatives fall should ensure that cooperatives enjoy real equality with other types of associations and enterprises and not be discriminated against because of their special character. Laws should include the following basic set of acknowledgements, definitions and provisions: acknowledgement that the organization of associations and enterprises on the basis of cooperative values and principles is legitimate; acknowledgement of the utility of the cooperative approach to association and enterprise, its contribution to national life and the status of the cooperative movement as a significant stakeholder within society; definition of cooperatives, using the "Statement on the cooperative identity", adopted by the International Cooperative Alliance in 1995; recognition of the unique nature of the values and principles of cooperation, and hence the need for their separate and distinct treatment in law and practice; commitment that neither their unique nature nor their separate and distinct treatment in law and practice should be the cause of discrimination, intended or not; undertaking that no law or practice should restrict the rights of citizens to full participation in the cooperative movement in any capacity consistent with its values and principles and should not restrict the operation of that movement; provision that a general law apply to all categories of cooperatives but that, in order to respond to the situation of certain categories of cooperatives, special laws might be enacted, consistent with the general law; stipulation that all judicial and administrative regulations and practices be based only on the general or special laws on cooperatives; that all regulations clearly identify the provision of the law on

which they are based and the purpose for which they are made; recognition of the full autonomy and capacity for self-regulation of the cooperative movement; acknowledgement that intervention by Governments in the internal affairs of the movement should be strictly limited to measures applied generally to all associations and enterprises equally in order to ensure their conformity with the law. Adjustments may be made only to ensure: real equality in treatment; definition of the responsibilities of the cooperative movement for self-regulation in all matters distinctive to it; provision that the texts of laws and regulations be made available to all cooperative members and employees; provision that representatives of the cooperative movement participate fully in drafting special laws or judicial or administrative regulations and guidelines concerning practice; provision for the maintenance of a public register of cooperatives as a part of procedures for registration of all associations and enterprises; provision for procedures for continuous monitoring and regular review of law and practice which would include the full and equal participation of representatives of the cooperative movement and for encouragement of research on the effect of law and practice on the environment for cooperatives; establishment of the responsibility of Governments to formulate and carry out a policy in respect to cooperatives that would seek to establish a supportive and enabling environment while avoiding any infringement of the autonomy of the movement and any diminution of its capacity for responsible self-regulation and would seek also to engage in an effective and equal partnership with the movement in all matters where it is able to contribute significantly to the formulation and carrying out of public policy; recognition of the value of governmental support for the international cooperative movement, including through intergovernmental activities; and definition of the responsibilities of the cooperative movement as a major stakeholder in society, to the extent these responsibilities are consistent with its full autonomy.

**12. Special laws on certain categories of cooperatives:** Consistent with the basic provisions of general cooperative legislation, and recognizing the distinctive nature of the business of some cooperatives, it may be appropriate to make special provisions in law for certain types of categories of cooperatives to safeguard their ability to enjoy real equality with other types of associations and enterprises and not be discriminated against because of their special character.

13. **Judicial and administrative practice concerned explicitly with cooperatives:** These must be consistent with the general law on cooperatives and, specifically, with its provisions concerning such practice.

14. **Other laws and practices that may have an effect on cooperatives:** Governments should seek to exclude or eliminate provisions of any law that discriminate against, or are specifically prejudicial to cooperatives. Governments should create an environment that enables cooperatives to identify and communicate cases needing revision.

15. **Monitoring, review and revision of laws and judicial and administrative practices:** This is necessary to ensure that the impact of laws and judicial and administrative practices on the cooperative movement is entirely positive. If identified, discriminatory provisions should be rendered inoperative as quickly as possible pending enactment of revised laws or the issuance of revised regulations and guidelines concerning practice. This process should have as its purpose the early and complete disengagement by Governments from the internal affairs of cooperatives and the cooperative movement, where this still exists, and full operational realization of the principles that cooperatives, although different, are equal to other business enterprises and civil associations.

16. For these purposes, formal procedures for consultation and collaboration should be set up and should include regular and full participation by the cooperative movement. Advantage may be taken also of the special programmes and guidelines offered by specialized international cooperative organizations and intergovernmental organizations.

#### Research, statistics and information

17. **Research:** Given the significance of the cooperative movement, it may be appropriate to envisage collaboration between governmental and cooperative movement research on matters relevant to public policy; publication and wide diffusion of research results, including those produced by the international cooperative movement, intergovernmental organizations and the United Nations. Emphasis should be on applied research of immediate utility in improving the efficiency of cooperatives, extending benefits to society and improving partnerships between the cooperative movement and Governments.

18. **Statistics:** Several measures may be undertaken to improve statistics for and about cooperatives in view of integrating statistics on cooperatives in regular programmes of the national statistical service and participate in international efforts to improve cooperative statistics, including the establishment of a uniform set of definitions for use by national statistical services.

19. **Information:** Given that Governments regulate and broadly influence information diffusion, a number of measures may be useful in expanding knowledge of the cooperative movement and overcoming prejudices and misconceptions: extension of technical and financial assistance to an extent equal to that made available to other stakeholders; ensuring that no discrimination exists because of the distinctive nature of cooperatives; equal and non-discriminatory access by the cooperative movement to all public media commensurate with its contribution to national life; use of affirmative action to overcome prejudice and misinformation where the term cooperative is associated with a previous and inappropriate usage; diffusion through public media of material on intergovernmental activities undertaken in partnership with or in support of cooperatives; dissemination of printed and computer-based information prepared by governmental or intergovernmental bodies with the same priority and resources as allocated to information on other stakeholders.

#### Education

20. Given the important contributions of the cooperative movement to education, a number of enabling measures might be useful including the provision of public funds if they are made available to other forms of enterprise for educational programmes. Governments may also consider the inclusion within the national curricula at all levels of the study of the values principles, history, current and potential contribution of the cooperative movement to national society; and encouragement and support of specialized studies in cooperatives at the tertiary level.

#### Provision of public funds

21. Financial self-reliance, total responsibility and full independence are vital for an effective cooperative enterprise. The best policy approach is one where cooperatives receive the same treatment as any other form of enterprise. A number of other measures are

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valuable: acknowledgement and protection of the special character of cooperatives and avoidance in law or practice of any discrimination arising from the special financial status, organization and management of cooperatives; avoidance of any direct or indirect engagement in the internal financial affairs of cooperatives or of the cooperative movement and recognition of the full responsibility of the movement for its own financial affairs; and the development of partnerships with cooperative financial institutions in such matters as community and regional development, drawing on their experience of mobilizing and managing capital in a manner and for purposes conducive to the public good.

### **Institutional arrangements for collaboration and partnership**

22. All Government departments and bodies that have contact with the cooperative movement should be aware of, and act consistently with, national policy on cooperatives. In order to ensure consistency, certain coordinating functions within government, as well as liaison with the cooperative movement, will be useful.

23. It is advisable that a single department or office assume central coordinating, focal and liaison functions, of which the following might be most important: elaboration of a single national comprehensive policy in respect of cooperatives, formulation of guidelines for consistent execution throughout government, including monitoring and review of that execution; collaboration with legal departments in drafting the general and any special laws; and liaison, consultation and collaboration with the cooperative movement.

24. The most effective organizational location for the responsible entity would be within a department already charged with broad strategic and coordinating functions, such as the office of a prime minister or president, or that responsible for economic management of development planning.

25. An institutional arrangement which enables regular consultation and effective collaboration between Governments and the cooperative movement would be valuable.

26. Liaison between intergovernmental programmes and the international cooperative movement should be supported.

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Cooperatives contribute significantly to economic and social development in virtually all countries of the world. Their documented resilience to crisis and thus sustainability, and their particularity of being principles-based enterprises that are member-controlled and led are increasingly drawing the attention of governments, policy-makers and citizens around the world. The fact that cooperatives serve their members and as such balance the need for profitability with the needs of their members makes them different from stock companies and thus requires laws that recognize their specificities.

The ILO has played a key role in providing guidance and advice on the creation of enabling environments for cooperative development at national, regional and international levels. In the mid-1990s it first commissioned the elaboration of guidelines for cooperative legislation to fill the gap of information on how to draft a cooperative law and policy. In 2005 a second edition was produced to provide information on two new international instruments on cooperatives – the United Nations Guidelines aimed at creating a supportive environment for the development of cooperatives, and the 2002 ILO Recommendation No. 193 on the promotion of cooperatives.

This new third edition has been produced to incorporate more new developments that impact how cooperative law is being developed. These new developments are multiple and include a general trend in the harmonization of law, the emergence of international regulations which directly impact enterprises, new regional cooperative legislation and regional framework laws as well as innovation in the cooperative form of enterprise itself.

These guidelines are a contribution to fulfilling the aims of the United Nations International Year of Cooperatives celebrated in 2012 and its follow-up.

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Cooperatives contribute significantly to economic and social development in virtually all countries of the world. Their documented resilience to crisis and thus sustainability, and their particularity of being principles-based enterprises that are member-controlled and led are increasingly drawing the attention of governments, policy-makers and citizens around the world. The fact that cooperatives serve their members and as such balance the need for profitability with the needs of their members makes them different from stock companies and thus requires laws that recognize their specificities.

The ILO has played a key role in providing guidance and advice on the creation of enabling environments for cooperative development at national, regional and international levels. In the mid-1990s it first commissioned the elaboration of guidelines for cooperative legislation to fill the gap of information on how to draft a cooperative law and policy. In 2005 a second edition was produced to provide information on two new international instruments on cooperatives – the United Nations Guidelines aimed at creating a supportive environment for the development of cooperatives, and the 2002 ILO Recommendation No. 193 on the promotion of cooperatives.

This new third edition has been produced to incorporate more new developments that impact how cooperative law is being developed. These new developments are multiple and include a general trend in the harmonization of law, the emergence of international regulations which directly impact enterprises, new regional cooperative legislation and regional framework laws as well as innovation in the cooperative form of enterprise itself.

These guidelines are a contribution to fulfilling the aims of the United Nations International Year of Cooperatives celebrated in 2012 and its follow-up.

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