

Part II. Profiles of Legal Reform Projects

Mongolia

In Mongolia, the Working Group on Cooperative Law Reform was successful in promoting legal reform by engaging the government, apex organizations, and primary cooperative organizations at the grassroots level in discussions and in drafting new legislation. The cooperative community's involvement in these processes was necessary to broaden the cooperatives' understanding of the law and to guarantee that critical issues and concerns were addressed in the draft. To achieve these ends, the CLARITY Principles¹⁰ were used in two ways:

- Legal analysis, to determine where to concentrate efforts to create a more enabling law that responds to the needs of cooperative businesses, and
- Outreach activities, to enable grassroots organizations to hold their representatives accountable and increase their capacity to advocate for pro-cooperative legal reform.

After the collapse of the Soviet Union and the breakup of the Soviet bloc in 1991, Mongolia undertook massive economic and political reforms, including privatization. One outcome of the privatization process was a law on cooperatives. Subsequently, three major revisions were made to the law to build the competitive-

¹⁰ See text box on p. 3. For a full discussion, see the first CLARITY report *Enabling Cooperative Development: Principles for Legal Reform*.



ness of the cooperative sector. The original law and its revisions were instrumental in laying the groundwork for less state control and a clearer definition of the legal status, rights and responsibilities of cooperative businesses. Still, there remains a need to refine the legal framework to support capacity building and the competitiveness of cooperatives.

In 2005, CHF International's IMPACTS project (Improving, Measuring and Promoting Poverty Alleviation by Cooperatives in Transition Societies) was incorporated into the GER (Growing Enterprises Rapidly) initiative, an existing USAID-funded project that supported the development of micro and small enterprises in Mongolia. It was thought that a cooperative development program would complement this work and could be supported by the connections with cooperatives, unions, training centers and other industry stakeholders established under the GER initiative. IMPACTS complemented GER by supporting and

promoting entrepreneurs who wanted to take part in cooperative business activity.

When IMPPACTS began working in Mongolia, the enabling environment for cooperatives was weak because of several factors: the immaturity of business groups, a lack of knowledge of market networks, and insufficient communication of their needs by cooperative support organizations (CSOs) and cooperative groups. The government did not prioritize the informal sector, and relations among cooperative businesses, CSOs and the local and national governments were tenuous. In addition, the public perception of the cooperative sector was negative because of the history of cooperatives in communist Mongolia and a major crisis among credit cooperatives caused by mismanagement of funds.

Assessing the Cooperative Environment

Environmental Scan

Before it could develop and implement a plan, IMPPACTS had to understand the cooperative environment in Mongolia. To do this, it conducted two analyses in 2005-6. First, IMPPACTS developed the *Rapid Cooperative Assessment Tool* (see Appendix A) to assess the overall cooperative sector and identify areas of weakness and strength. The surveys were completed by field staff using their own knowledge, written resources and interviews with cooperative members, leaders and government officials. After collecting the information, the staff compiled their responses in a final report. A key finding of the report was the need to improve the enabling environment.

Second, to better understand the societal and behavioral context in which cooperatives operate in Mongolia, IMPPACTS conducted a study of psychological and environmental fac-

tors that determine the formation and endurance of business groups.¹¹ The study pointed to the lack of a tradition of working together as a group as an important factor affecting cooperative behavior in Mongolia. It was determined that this factor influenced a prospective member's decision to form a business group and sustain activities. As a result of this study, CHF shaped the IMPPACTS strategy to focus on building trust and teamwork as an integral part of cooperative governance.

Engaging with the Cooperative Community

The two assessments gave the IMPPACTS team a clearer understanding of Mongolia's cooperative sector and of the enabling environment, which was weak. To understand how best to work toward improving the environment, IMPPACTS began attending meetings and workshops with government representatives, national and international cooperative support and development organizations, and cooperative unions. Through these stakeholder meetings, IMPPACTS developed partnerships with cooperative-focused institutions and learned about legislative reform efforts at the national level. IMPPACTS used this information to educate its local partner organizations and encourage grassroots participation in the national debate.

IMPPACTS participated in the Working Group on the Cooperative Law Reform, which was formed under the Ministry of Agriculture in 2005 to assess and propose the necessary reforms to the Mongolian cooperative law. The Group met several times throughout 2005 and 2006, but it lacked momentum and wide community representation. Recognizing an opportunity to become engaged, add value and offer resources and technical assistance, IMPPACTS encouraged discussion of the issues within the Working Group and the cooperative community, which helped mobilize them around the legal reforms.

¹¹ See footnote #3.

Creating and Implementing a CLARITY Strategy

When the first CLARITY report was published in 2006, IMPPACTS introduced it to the Working Group. The CLARITY Principles were a good fit with the activities of IMPPACTS and the Group, whose joint goals were to make the process of revising the cooperative law more broadly participatory, combat the negative perception of cooperatives in Mongolia, and build the capacity and interest of cooperative unions to engage with the constituencies they represent. IMPPACTS used the CLARITY Principles as a framework on which to base cooperative law reforms and to promote an objective regulatory enabling environment for cooperative businesses. IMPPACTS focused its efforts on the clarification or simplification of regulations to ensure uniformity in the application of laws and to help build the capacity and sustainability of the cooperative sector through education.¹²

Using Legal Analysis to Revise the Cooperative Law

To identify areas in which the Mongolian cooperative law could improve, IMPPACTS enlisted the assistance of a volunteer U.S. legal expert to compare Mongolian law with the CLARITY Principles. The expert identified areas that did not contribute to an enabling cooperative environment and wrote a report recommending changes in the Mongolian law, focusing on areas where it varied most widely from the CLARITY Principles.¹³ The analysis was translated into Mongolian, and a Mongolian lawyer verified the recommendations to ensure the quality of the translation and its accurate reflection of the local legal context.

This comparative analysis enabled IMPPACTS to see the legal intricacies of the Mongolian cooperative law. The analysis also identified aspects of the law that needed the most

attention and helped the cooperative unions improve their understanding of the strengths and weaknesses of the law.

Educating Officials, Cooperative Leaders and Grassroots Members

The CLARITY Principles were introduced in Mongolia through various events, workshops and meetings in early 2007. Translation and distribution promoted understanding of the principles and created a consensus on the need for reforms. The principles provided a reference point around which the cooperative community could focus its efforts for cooperative reform.

Open dialogue through which grassroots cooperatives can voice their opinions and share their concerns gives the cooperative community a more active role in the legal reform process.

IMPPACTS first introduced the principles during a formal session of the Working Group on Cooperative Law Reform in March 2007 attended by government officials, cooperative unions and a select group of grassroots cooperatives. Community representatives had never been included in the Working Group before, so the meeting was a testing ground, verifying their interest in the process. IMPPACTS staff made a presentation on the CLARITY Principles and the process of mobilizing cooperatives to take action in revising laws. The feedback was quite positive. Many community representatives expressed interest in participating in the reform process using CLARITY, seeing it as a way to inform the unions and legislators about problems they faced in operating their cooperative businesses.

However, it quickly became apparent there was no standard practice for conducting consultative meetings between the union representatives and their constituents, or for

¹² The Mongolian translation of the first CLARITY report is available on the web site, www.clarity.coop.

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gathering or sharing input from cooperative members. IMPACTS designed and conducted a train-the-trainers workshop for representatives of nine cooperative unions. It focused on community mobilization and other techniques to broaden participation of grassroots cooperatives in legal reform. During the one-and-a-half-day workshop, held in August 2007, a community-development consultant instructed union representatives on the principles of effective community mobilization and how to interpret the current cooperative law and related regulatory frameworks, including application of the CLARITY Principles. At the end of the workshop, the union leaders developed an agenda to guide future community meetings in a manner that would maximize participation and feedback from their constituents.

Over the next four months, cooperative union representatives organized and conducted a series of consultative meetings. More than 300 grassroots members participated from nine regions across Mongolia, including some of the most rural areas. Each day-long session brought together local administrative officials, union leaders, grassroots cooperative members and business groups in the region. Participants received copies of the current cooperative law, updates on the status of drafted reforms and information about the CLARITY Principles.

The participants broke into small groups

to discuss regulatory problems they faced and how their union leaders could channel feedback to the Working Group. In a forum that had not existed before, the participants discussed a wide range of issues, including difficulties in registering cooperative businesses, the lack of consistency in the application of regulations, tax policy, the need to develop market links and support mechanisms, and how the national cooperative development program was being implemented. Discussions also touched on the evolving relationship between grassroots cooperative members and their union representatives, with participants strongly supporting the need to strengthen communication and responsiveness.

Bringing about change required active participation and collaboration of the grassroots cooperatives and their representative organizations. They must take ownership of their cause, follow through with their plans and create the change they want to see.

The cooperative community meetings created an open dialogue through which participants could voice their opinions, seek answers to questions, learn about available support programs, meet other cooperative members, and showcase their work and products. The meetings mobilized the cooperative members to take a more active role in the reform process and the union leaders to share the grassroots ideas with the Working Group.

Finalizing New Draft Legislation

When the series of community meetings was completed, cooperative leaders and IMPACTS presented the ideas and feedback to the Working Group, which was charged with final-

izing the law draft. Grassroots suggestions incorporated into the Spring 2008 draft included clarifying the definition of a cooperative and its legal status as a nonprofit; amending existing civil, tax, mining, insurance and auditing statutes to eliminate inconsistent treatment of cooperatives; lowering the minimum number of members required to establish a cooperative; and establishing a national office for cooperative matters. As a result of the dialogue and the relationships that developed in the community meetings, union leaders reported to the cooperatives to discuss the draft and the expected legislative actions.

Using the Media

Promoting cooperative issues through legal reform requires an active outreach and communications strategy, which local unions did not have before their collaboration with IMPACTS and the CLARITY project. A connection with the media was born out of the initial CLARITY presentation to the Working Group — a member of the media who was present was interested in airing programs on the collaborative work. Soon, more radio and TV stations expressed interest and cooperated in producing a number of programs that promoted cooperatives and the cooperative law reform process. During 2007, eight radio programs and four TV programs were aired, consisting of interviews with cooperative members and participants of the working group. These programs brought the experiences of grassroots cooperatives to a wider audience, improved the reputation of cooperatives in Mongolia, and built stronger support for the law reforms.

Conclusion

As of March 2009, the draft of the new cooperative law is in the final stages of preparation for submission to the Mongolian Parliament. All actions taken by participants in the

process — including the Working Group, IMPACTS, the cooperatives and the unions — combined with using the CLARITY Principles to analyze the law, educating and mobilizing the cooperative community, and engaging the media contributed greatly to the drafting process. Valuable lessons were also learned regarding mobilization and support for the reform process, and the strategies the cooperative movement in Mongolia must adopt to play a stronger role in similar undertakings.

First, an in-depth understanding of the legislative processes and practices is important in order to develop an effective work plan, engage the necessary actors, synchronize cooperative reform initiatives, and gain support for them. A variety of tools are available to help.

Second, the cooperative community also must develop an understanding of other laws and on-going reform processes that may affect it, and be able to provide input and represent cooperative interests when these laws are debated and considered. In Mongolia, to present a unified voice across all cooperative sectors, the cooperative unions formed an umbrella group to ensure more effective leadership, coordination and monitoring of ongoing regulatory reforms. Consultative meetings, which accompanied development of the latest draft, strengthened and energized the unions. At the same time, circulating and collectively examining the CLARITY Principles in a series of meetings and participatory workshops helped inform and motivate grassroots cooperatives to engage in the law reform debate. Both strengthened the capacity of the cooperative sector as a whole to advocate for needed reforms.

Third, as the process of information sharing and consensus building using the CLARITY Principles is implemented, there is a simultaneous need to build the capacity of the cooperatives and their unions to design and implement a lobbying and advocacy strategy. Currently, there is no unified lobbying strategy

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to advocate for passage of the draft law or to address new legal and regulatory issues as they arise. Without a strong united front, opportunities to advocate for cooperatives could be lost. At the request of the Working Group, IMPPACTS engaged a former U.S. congresswoman with expertise in lobbying and government relations to develop a lobbying strategy to help get the draft law passed in parliament. As of March 2009, that work was under way,

and a detailed work plan was being developed to guide ongoing advocacy activities.

The foundation for reform has been established. However, no matter what plans are developed, change will not happen without the active participation and collaboration of the grassroots cooperatives and their apex organizations. They must take ownership of their cause, follow through with their plans and create the change they want to see.