

Mongolia: Engaging Cooperatives in Legal Reform

By CHF International

Project Summary

Mongolian cooperative law reform began in the mid-1990s as part of the general socio-economic shift from state-owned to market-oriented and democratically-run cooperatives. Since that time, the national cooperative law has been amended several times in response to lobbying campaigns by cooperative support organizations, each time changing the minimum number of cooperative members needed to register. While the number of members needed to register a cooperative in Mongolia is still under debate, the Mongolian experience displays the capacity of the cooperative movement to effect legal change, and will hopefully lead to a strengthening between grassroots cooperatives and their representative institutions.

The Need for Change

Since emerging from communist control in 1991, Mongolia has developed a market economy and undertaken legal reforms to encourage the development of the private sector. In the initial period of economic privatization, many formerly state-owned farms and factories began calling themselves “cooperatives,” although they were not managed according to cooperative principles.

In 1995, Mongolia enacted its first cooperative law to regulate the newly developed cooperative sector. The law stipulated that a cooperative may consist of as few as three members. Mongolians were not familiar with cooperative principles and did not differentiate between cooperatives and small businesses. Thus, many small businesses registered as cooperatives despite a lack of intention to operate according to cooperative principles.

Leaders of cooperative unions and foreign agencies recognized that many registered cooperatives were not following cooperative principles. The German Agency for Technical Cooperation (GTZ) noted a particular problem with small cooperatives not being managed democratically and proposed that the minimum number of members be increased.

Reform Process

With limited knowledge and experience in developing private, free-market business laws and regulations, the Mongolian lawmakers looked to foreign agencies for guidance in drafting the 1995 law and subsequent amendments. The International Labor Organization sent consultants to Mongolia to speak at workshops organized by the Union of Production and Service Cooperatives. Additionally, the International Cooperative Alliance hosted a conference for cooperative stakeholders in Mongolia, in coordination with the Union of Consumer Cooperatives. GTZ organized a series of training sessions and sponsored two trips to Germany for Mongolian Ministers and Members of Parliament





to study the German model of cooperative law. Working with GTZ, the cooperative unions in Mongolia collaborated to lobby the government to amend the 1995 Cooperative Law of Mongolia to bring it closer to the German model. The German Cooperative Societies Act dates to 1867, one of the first cooperative specific laws in the world, and is unique in its focus on consumers and credit cooperatives.

As part of their reform proposals, the cooperative unions advocated increasing the

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minimum number of members from three to nine to encourage the democratic management of cooperatives. The cooperative unions hoped this membership requirement would encourage multiple households to join their small businesses to form a single cooperative and that democratic management would evolve naturally.

Primary cooperatives in Mongolia were generally not involved in the decision-making process regarding developing and advocating for legislative reform. Cooperative support organizations and unions had undergone extensive training to reach these decisions, and believed that primary cooperatives did not yet understand internationally accepted principles of cooperation. The cooperative unions were presumed to represent the interests of individual

cooperatives. However, it is not clear whether the unions received direct guidance regarding the needs and opinions of their members.

Outcome

The cooperative unions successfully lobbied the Ministers and Members of Parliament to write a new cooperative law in 1998 which included a nine member minimum. The 1998 law also called for an association of cooperatives to serve as an apex organization of the cooperative sector. The unions created the Mongolian Cooperative Training and Information Center (MCTIC) to serve as this apex organization. The cooperative union leaders now sit on the board of directors and rotate its leadership.

In recent years, the membership requirement under the cooperative law has again come under debate. MCTIC and its union representatives are now lobbying the Members of Parliament to lower the minimum member requirement, along with changes to the cooperative law's auditing regulations and tax rates. Some unions, such as the Union of Production and Service Cooperatives, want to lower the minimum member requirement to five to allow small cooperatives to operate as formal entities. Without the ability to register as formal businesses, some small cooperatives have been unable to obtain loans from commercial banks or receive payments from large businesses.

In 2005, Mongolian cooperative policymakers formed a working group to study proposals to reform the law. The working group included the Ministry of Agriculture, MCTIC, seven cooperative unions, MongolBank, GTZ, and the Asian Development Bank. The involvement of local constituencies, however, is still very limited.

Lessons Learned

Throughout the legal reform processes to date, there has been insufficient engagement of local grassroots cooperatives and business groups working in informal sectors. This lack of engagement may partially explain the shifting definitions of the minimum member requirement for cooperatives. Engaging grassroots stakeholders in the cooperative debate may result in more effective, responsive, and realistic legislation.

The current cooperative sector structure assumes that cooperative unions represent the breadth of the sector, though this may not be the case. Allowing for feedback from stakeholders at the local level, as well as national policymakers, will help prevent the abuse of systemic “loopholes” when decisions are made by select interest groups. Participation in the legal reform process by cooperative members will ensure that more appropriate legislation is adopted for the local context, creating a more enabling

environment in which cooperative businesses may prosper over the long run.

CHF is working to help the Mongolian cooperative movement achieve a more participatory process for policy deliberations. The movement is working

to generate effective feedback and communication mechanisms for local cooperatives to voice their needs and opinions in addition to opinions of union leaders. It is also working to allow the majority of smaller primary cooperatives to engage in public debate and build relationships with the larger, more influential primary cooperatives. ■

For more information, please contact Rachel Blum, CHF International, at (301) 587-4700.

