



STUDIES

**Agricultural
co-operation
in the
EEC**

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Agricultural co-operation in the European Economic Community

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Paris

with the collaboration of a group of experts

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FOREWORD

Agricultural co-operation can obviously be of great assistance in implementation of the common agricultural policy. Its development since the end of the 19th century has already demonstrated its usefulness. Achievement of the objectives of the common agricultural policy is proving sufficiently difficult to justify the employment of all possible means. It was therefore important to study agricultural co-operation and to know its legal bases and its workings in order to assess its real strength and see how far it can be counted on to increase productivity in agriculture, stabilize markets and ensure an equitable standard of living to the farming population.

Other reasons also spoke for a study of agricultural co-operation in the European Community. The first is that the Treaty has laid down the rules of competition to be applied in the Common Market; better knowledge of co-operation could facilitate their application. The second arises from the fact that the process of European integration will involve the harmonization of the national laws necessary for the expansion of business relationships within the Community. For this reason it was expedient to ascertain the present position as regards laws on co-operation.

The EEC Commission therefore included the present survey in the study programme of its Directorate-General for Agricultural and entrusted it to Dr LOCKHART. The experience which Dr LOCKHART had gained as director of French mutuels and co-operative organizations, and the comparative study of law on agricultural co-operation in Europe¹ drawn up under his chairmanship by a working party of the Third Commission of the European Confederation of Agriculture, specially marked him out for this project. The Commission wishes to express its sincere thanks for the competence, mastery of the subject and judgment which he displayed five years long in the performance of his difficult task.

M. Lockhart was assisted by two co-experts for each country:

Dr J. VORWERK and Dr G. KLUSAK for the Federal German Republic,

M. A. GILS and Dr A. VAN HULLE for Belgium,

M. A. HIRSCHFELD and M. P. REYMOND for France,

Dr G. FERRARA and Dr E. ROMANINI, for whom Professor A. PARLAGRECO² deputized when he became ill, for Italy,

M. E. LUDWIG and M. P. LUDWIG for Luxembourg,

Professeur H. J. FRIETEMA and Dr J. COENEN for the Netherlands.

The Commission wishes to thank them also. They undertook a great deal of work to provide the information needed by the chief expert; this they did with noteworthy competence, thanks to their thorough knowledge of co-operation questions, with which they are all professionally concerned. Furthermore, they showed admirable team spirit.

The Commission also wishes to thank those who have personally collaborated with M. Lockhart: the "Centre français de droit comparé" (French Centre for Comparative Law), and especially Mlle Y. R. MARX, Mlle A. M. MAGNOU, M. S. VAISSE, M. P. CHENUT and M. H. PERALS.

Finally, the Working Party benefited on several occasions from the presence and advice of M. C. FELDMANN, Assistant General Secretary of the European Confederation of Agriculture. Thanks are also due to him.

The Commission's staff feel that the chief expert, with the help of his colleagues, has produced an excellent and praiseworthy work which will be of the greatest service to political leaders, civil servants, economists, research workers and to co-operators themselves. This does not mean, however, that the conclusions reached necessarily represent the ideas of the Commission or may be taken as an indication of any position that the Commission might later adopt.

¹ "Etude comparative du droit de la coopération agricole en Europe" - ECA publication - Volume 26 - Brugg, Switzerland, 1963. An English translation has been made by the Plunkett Foundation.

² With the collaboration of Dr A. Pepe and Dr L. Vernia.

INTRODUCTION

1. At a session of the Committee of Agricultural Organizations of the European Economic Community (COPA) on 16 January 1959, M. Sicco Mansholt, Vice-president of the EEC Commission and President of its agricultural group, speaking on the subject of agricultural co-operation, made a reply that was minuted as follows:

"The question of co-operative, which has both a social and an economic aspect, is also essential: it is the problem of the distribution of products. We must study the causes in order to achieve an improvement. This will all be organized in the years to come."

2. On 11 September 1961, the EEC Commission decided to produce an inventory of all governmental measure taken in the six Community countries with regard to agricultural co-operatives in the widest sense of the term, and to carry out a study of the organization and activities of these bodies.

The Commission outlined the following programme of work:

1. To study the legislation dealing with agricultural co-operatives,
2. To study the fiscal system applicable to co-operative associations,
3. To list the budgetary measures relating to these associations.
4. To study the organization of agricultural co-operative activities in the different countries,
5. To study the position of agricultural co-operatives within the general organization of co-operatives in each country,
6. To study the position of agricultural co-operatives within the national economy of each country.

The Commission did me the honour of choosing me as chief expert and specified that I should be assisted by two co-experts per country, one being appointed by the relevant government and the other by M. Mansholt.

The twelve governmental and professional co-experts were

For Germany

Dr Joachim VORWERK, Ministerialrat, Bundesministerium für Ernährung, Landwirtschaft und Forsten (Counsellor, Federal Ministry of Food, Agriculture and Forestry);

Dr Gustav KLUSAK, Geschäftsführendes Präsidialmitglied des Deutschen Raiffeisenverbandes e. V. (Administrator, Executive Director of the German Association of Farmers' Credit Co-operatives);

For Belgium

M. Arthur GILS, inspecteur en chef - directeur au ministère de l'agriculture (Chief Inspector, department head in the Ministry of Agriculture);

Dr André VAN HULLE, Directeur, Dienst "Landbouwoöperatie", Belgische Boerenbond (Director of the Agricultural Co-operation Department of the Belgian Farmers' Union);

For France

M. André HIRSCHFELD, agricultural engineer, maître des requêtes in the Conseil d'Etat (Council of State) and president of the legal section of the Conseil supérieur de la coopération (National Council for Co-operation), responsible to the French Prime Minister;

M. Pierre REYMOND, agronomist, Secretary-General of the Fédération nationale de la coopération agricole (National Federation of Agricultural Co-operatives);

For Italy

Dr Giovanni FERRARA, department head in the Ministero agricoltura e foreste (Ministry of Agriculture and Forestry);

Dr Emilio ROMANINI, lawyer of the Supreme Court of Appeal, general proxy of the Federazione Italiana dei consorzi agrari (Italian Federation of "consorzi agrari"), replaced by Professor Attilio PARLAGRECO, lecturer in agrarian law at the University of Rome¹;

¹ With the collaboration of Dr Antonion Pepe, lawyer in the Supreme Court of Appeal, and Dr Luigui Vernia.

For Luxembourg

M. Edouard LUDWIG, Head of the agricultural mutual benefit department in the Administration des services agricoles (Agricultural Services Administration);

M. Peter LUDWIG, Director of the Fédération agricole d'achat et de vente (Agricultural Purchase and Sales Federation) of the Grand Duchy;

For the Netherlands

Professor Harmen Job FRIETEMA, Directeur, Nationale Coöperatieve Raad (Director, National Co-operative Council);

Dr Jan COENEN, Directeur van het Coöperatieve Instituut van de Katholieke Nederlandse Boeren- en Tuindersbond (Director, Co-operative Institute of the Federation of Dutch Catholic Farmers and Horticulturists).

Dr E. Romanini died on 22 January 1965. His decease cast a shadow over the final elaboration of this report by the experts. He was esteemed by all his colleagues and by the European civil servants, both as a person and for his legal knowledge.

3. The group of experts met for the first time on 14 December 1961 to draw up the questionnaire on which its work was to be based; at its twelfth session, on 17 and 18 December 1964, it agreed the provisional version of its report to the EEC Commission.

4. Guided by this questionnaire, the 12 co-experts submitted replies which made a large and coherent body of documentary material available to the undersigned. Comparison of different systems of law is a subtle science, calling for skill and knowledge; the personal assistance I received from the "Centre français de droit comparé" in Paris, thanks to the goodwill and understanding of its Secretary-General, M. Marc Ancel, judge at the Paris Supreme Court of Appeal, guaranteed the experts and the EEC Commission that the replies had been evaluated with all the requisite competence. On this foundation, I was able to compare the legal and, as far as possible, the sociological working of the six co-operative systems concerned.

This difficult operation was, of course, repeatedly checked by the co-experts, and the results were altered in accordance with their suggestions on a good many points; in such a field, the correct interpretation of the translations calls for great vigilance.

5. The group of experts soon realized that its work would be incomplete without a background survey of the six co-operative systems and without monographs on these. Two further tasks were thus carried out by the co-experts and the "Centre français de droit comparé".

6. At the beginning of 1962, the EEC Commission expressed the desire that the experts should complete their report by placing on record the lessons, whether divergent or not, to be drawn from investigations and discussions in the course of their labours. It was necessary to hold eight most careful discussions and make reciprocal concessions of opinion, in order to reach the conclusion and suggestions offered at the end of our report. By stating the points on which a consensus of views has emerged, these conclusions and suggestions may usefully serve as a basis for further work. The ideas put forward open up a number of possible lines of approach which will perhaps enable the Community and its Member States to improve the position of agricultural co-operation and to guide its future, thus giving the experts the satisfaction of having facilitated to some small extent the working-out of the Community's common agricultural policy.

7. To sum up, these detailed preparatory studies were all combined to form the present study, which falls into four sections:

Part One, entitled "The origins of agricultural co-operation in the six Member States of the EEC", provides a brief historical survey of each of the six co-operative systems.

Part Two, entitled "Agricultural co-operation — by country", gives an account of the position of the six agricultural co-operative systems in their respective countries.

Part Three, entitled "Agricultural co-operation by problem", gives a comparison of the six co-operative systems from the legal and — where possible — sociological points of view.

Part Four, entitled "Conclusions", puts forward those findings and suggestions which the Working Party of experts considered particularly important, even though no unanimous agreement was reached with regard to them in every case.

The information gathered has been presented in this form, because description should precede comparison: if we had limited ourselves to comparing a variety of points in the six situations, we should have been constantly exposed to the risk of misconceptions,

since the semantic value of a given word is not always identical in all the member countries.

8. The nearer the study came to completion, the more its author became aware of the weaknesses and gaps in the work. No member of the Working Party was entirely satisfied with it, and yet there was no possibility that it should be otherwise. Certain matters that some of the experts considered important could not be settled; again, several co-experts argued with reason that such and such an improvement required in agricultural co-operation had already been introduced in their particular countries. Furthermore, the difficulties caused by the geniuses of the respective languages were aggravated as the work went on by the fact that the co-experts were not able to check the final translations in their languages and therefore cannot guarantee the accuracy of those translations.

The experts would have liked to collect statistical figures sufficiently complete and comparable to present an exact and systematic picture of the economic strength of agricultural co-operation in the Member States. Unfortunately, we have had to recognize that we would not achieve this, in view of the disparities and gaps in the information gathered.

9. The general principles of the Member States' legal systems are divergent in character. As the legal status of agricultural co-operation depends on such principles, it was certain from the start that the co-experts' replies would reveal dissimilar situations. However, in practice, custom has produced all sorts of adjustments which, on the whole, have given rise to a certain *de facto* uniformity. A thorough inquiry into the actual functioning of the six co-operative systems would thus have been necessary in order to distinguish how far various similarities or dissimilarities were artificial. None the less, it became apparent that the development of agricultural co-operation was in many points conditioned by legislative developments as well as by the way in which men were able to turn them to account. In short, the only way to bring our task to a successful conclusion was by means of a series of approximations.

10. Nevertheless, the Working Party believes it can show the EEC Commission that agricultural co-operation in the six member countries is a powerful and solid institution capable of being turned to good account, and is extremely happy that it has been able to do this. Any ostentatious or over-flattering descriptions would have been out of place, nor would a timid and negative attitude have been appropriate either. The Working Party likes to think that, by making the six systems of agricultural co-operation better known, its work will justify their common aspiration to play a large part in the functioning of Europe's agricultural markets.

11. In concluding this presentation of our work, I cannot refrain from expressing my gratitude

— to the Structure Directorate of the EEC Directorate-General for Agriculture, in particular to Dr Hendrik ZIJLMANS and M. François CLERC, who have given unstinting and most friendly help to the group of experts,

— to my twelve colleagues, of whom I have had to ask sustained personal effort and who have put a great deal of their energy into our common task despite the many other demands made on them from all sides,

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PART ONE

*ORIGINS OF AGRICULTURAL CO-OPERATION
IN THE SIX MEMBER STATES OF THE EEC*

Preliminary remarks

It is symptomatic that agricultural co-operation in the six Member States made its appearance in the course of the 19th century as an empirical remedy for the extremely grave consequences to agriculture of crises brought about by the uninhibited functioning of economic liberalism. At that time it was accepted that governments should not intervene in the economic sphere; association and solidarity emerged as the only means of protection against the ruthless selection through poverty that public opinion and economic doctrines then considered inevitable.

This phenomenon was very evident in Germany, where the new ideas of individual liberty and of regulation of trade through competition had caused agriculture to move from a self-sufficient family economy to a market economy without any intermediate stages to cushion the shock. The final result was the immense distress caused by the winter of 1846/47, against which that great and admirable pioneer Friedrich Wilhelm Raiffeisen made a bold and successful stand.

Some forty years later in Italy, too, the agricultural co-operative movement was from the start given a strongly social character by the agricultural workers' co-operatives.

However, agricultural co-operation in the six Member States was made general by the long, hard agricultural crisis of 1878/1880 resulting from the arrival on the market of American and Russian wheat. The first chemical fertilizers also made their appearance at this time. The economic balance of agricultural life was thus upset, and it became necessary to adjust to new methods of production and financing, and hence of association.

Other, less widespread crises also acted as a stimulus: for instance, in France the destruction of the vineyards in the Charentes region by phylloxera from 1875 onwards led to the establishment of co-operative dairy farming.

It is curious to note that the agricultural co-operative movement was fairly slow to achieve its theoretical and practical independence. For a long time there was uncertainty as to its nature; it was difficult to admit that co-operatives were societies of a new form. Customary law preceded written law. In Germany, the concept of co-operation developed more quickly

than elsewhere, thanks to such thinkers as Friedrich Wilhelm Raiffeisen, Herman Schulze-Delitzsch and Wilhelm Haas. On 27 March 1867, a law was passed which regulated, on liberal lines, all sectors of co-operation in Prussia.

At the same period in the Netherlands, Belgium and Luxembourg there had been no progress beyond associations, and in Italy beyond local agricultural committees. In France, official trade unionism dates only from the law of 21 March 1884.

In most cases, co-operative credit acted as pace-maker for the other branches of agricultural co-operation. In certain States, such as Germany and Luxembourg, credit co-operatives still carry on direct buying and selling. In hardly any of the countries except France are the different branches of co-operation highly specialized or have a public organization above the network of agricultural credit banks.

If there is one sphere suited to mutual aid and solidarity, it is certainly that of insurance. Here, the term "mutual" is used more often than co-operative. In fact, the two concepts, co-operation and mutual benefit, overlap, and it would not be easy to make the necessary distinctions between them because, under the national legal systems, mutual benefit is not only a method of conducting business but also a particular form of society.

In the early days, agricultural mutual insurance was mainly used to cover livestock mortality, and it is interesting to note that nowadays there is less need for this type of cover.

The insurance arrangements of the six co-operative systems differ widely: the two extreme positions are those of Germany, where the co-operative organization owns a powerful group of insurance companies under ordinary law, and France, where the agricultural mutual benefit societies form a very large group of companies dealing strictly with farming hazards.

In the six States co-operation has made its way against many obstacles, exposed to every sort of attack and having to adapt itself all the time to circumstances. In every country it is based on the fundamental concept of serving and educating agriculturists and providing them, particularly the small

and medium-scale farmers, with the support of the appropriate economic and social framework. The six co-operative movements thus show basic similarities but have developed differently in the various countries. To the inevitable consequences of the diverse national situations have been added the divergent influences of the chief organizers, not all

of whom succeeded in providing a strong structure for their co-operative networks. Government policies have been another effective cause of diversity; in this respect, there is no greater contrast than that between the close supervision of agricultural co-operatives by the French authorities and the complete liberalism of the Netherlands.

History of agricultural co-operation in Germany

I. SOCIOLOGICAL AND ECONOMIC ORIGINS

CIRCUMSTANCES IN WHICH THE CO-OPERATIVE MOVEMENT FIRST APPEARED IN GERMANY

Strictly speaking, co-operation has only existed in Germany since the middle of the 19th century. Previously, associations had appeared which show some resemblance to the present co-operatives but can be considered as such only with reservations. No direct link exists between the old and the new organizations.

A description of the sociological and economic climate in which the modern forms of co-operation appeared requires us to go back, however briefly, to the period of transition between the 18th and 19th centuries.

On the social and political plane, this period was characterized by absolutism and individualism. Prompted by the government, a regime of equality for everyone in the eyes of the law, and of individual liberty, succeeded the systems based on privilege and inequality.

On the sociological plane, the ideas of the French Revolution and of intellectual liberalism had an undoubted influence in this respect well into the 19th century.

On the economic plane, liberalism, conservatism, and socialism influenced the founders of the modern system of co-operation:

— Economic liberalism, with its concern to eliminate all State intervention in the economic sphere, tended to ensure complete freedom for the individual in every respect. The economy was to be regulated by free competition, and whereas doctrinaire liberalism completely ignored the ensuing social disadvantages, moderate liberalism tried to find remedies for them.

— Conservatism, for its part, aimed to return to past institutions and re-establish the previous economic system. More significant, however, were the efforts made to view economic activity once again from a Christian point of view. This reaction against doctrinaire liberalism and socialism took the name of Christian socialism. Mention should be

made here of Raiffeisen's efforts. These different trends had one point in common: they did not in principle reject all state co-operation in the organization of the economy.

— Economic socialism also showed a variety of trends. Whereas revolutionary socialism spurned liberalism and the implications of its philosophy and also rejected co-operation as a means of economic and social reform, moderate reformist socialism gave co-operation an important place.

At the beginning of the 19th century, the influence of these doctrines, and especially of liberalism and individualism, was penetrating into agricultural circles, whilst a movement of rural emancipation was under way. Various governmental decisions put an end to the former rural structure (manorial system, feudal jurisdiction, serfdom). The peasant could become the owner of his farm, but after century-long servitude he was not ready to enjoy his new-found liberty. Another difficulty for him was the transition from a family economy and from the barter system to a market and money-using economy. The peasant found himself defenceless in face of all these transformations and his situation was aggravated by the absence of any appropriate credit institution. He fell into the grip of unscrupulous moneylenders who brought him to the brink of ruin. The peasantry were a prey to destitution and distress.

It was in this climate that Raiffeisen began his campaign.

BEGINNINGS OF THE CO-OPERATIVE MOVEMENT

The Germany agricultural co-operative movement which has become known historically as the "Raiffeisen movement" started at Weyerbusch, a small village in the Westerwald, a hilly region on the right bank of the Rhine between Coblenz and Bonn. Friedrich Wilhelm Raiffeisen (1818-1888) was burgomaster of this village at the time of the famine in the winter of 1846/47.

To alleviate the distress, he founded a "Brotverein" (bread union), which was also called the "Weyer-

buscher Konsumverein" (Weyerbusch Consumers' Association), and he used this later to help farms that were in danger by procuring them agricultural supplies and credits. In the spring of 1847 Raiffeisen set about buying potatoes and other forms of seed wholesale, and advancing them (as he had done with bread and flour) to the inhabitants who were in need, on the security of the burgomasters of the district. By calling on everyone to help, he enabled a large number of families to survive the critical period without having to contract any considerable debts. The "Weyerbuscher Konsumverein" was a charitable organization but it already had a certain element of collective mutual aid since, to carry out this relief operation, Raiffeisen had appealed for help to all in the area, whether rich or poor. This was the first important step in the direction of co-operation; it was this experiment that gave birth to the co-operative idea from which the credit associations sprang (Darlehenskassenvereine).

In 1849 Raiffeisen, at that time burgomaster of Flammersfeld, founded the "Flammersfelder Hilfsverein zur Unterstützung unbemittelter Landwirte" (Flammersfeld Association for the Assistance of Needy Farmers), the original object of which was to combat the growing practice of usury in the cattle business. The association began by buying cattle which it then handed over to the peasants in return for payment of the price by annual instalments. As this system proved too complicated, the association went over to a system of granting loans, which was later extended to all forms of purchase. The cattle-buying association had turned into a credit institution. The second step had been taken. The complete acceptance of joint and several liability, extending to all the assets, was also a new element.

Having been made burgomaster of Heddesdorf, Raiffeisen set up there in 1854 the "Heddesdorfer Wohltätigkeitsverein" (Heddesdorf Charitable Association), the purpose of which was also to meet the credit needs of the population. It also took on various social tasks. But it became plain that a single association was hardly suited to undertake, simultaneously, both economic and social tasks. It thus subsequently devoted itself entirely to lending operations, but since the borrowers had no share in working out the organization's decisions, the keenness of its members flagged. In 1864, Raiffeisen replaced this association by the Heddesdorfer Darlehenskassenverein (Heddesdorf Credit Association), of which every borrower would personally be a member. This was the third and decisive step towards co-operation in the modern sense of the word.

In Raiffeisen's view, co-operatives should cover only a limited area (one parish, for example). However, the small credit societies very soon felt the need for consultation and directives. Moreover, it proved necessary to find methods of clearing over and above the confines of each sector of action. At first, Raiffeisen arranged for clearing operations within the framework of the mutual transactions between the various fund. In 1872, however, he founded a special clearing house, the "Rheinische landwirtschaftliche Genossenschaftsbank" (Rhineland Agricultural Co-operative Bank), a registered co-operative society with unlimited liability, one stage above the credit associations, since its members were the local co-operative societies. This bank was the first of its kind. In 1874, Raiffeisen created two similar co-operative banks. That same year, the three banks founded the "Deutsche landwirtschaftliche Generalbank" (General Agricultural Bank of Germany), a registered co-operative society with unlimited liability. This set-up met with a general lack of understanding and with suspicion. As the 1868 law had made no provision for the formation of associations of co-operative societies, the Prussian government forced the General Bank to close down.

Nothing daunted, Raiffeisen created in 1876 a share company, the "Landwirtschaftliche Zentraldarlehenskasse für Deutschland" (Central Agricultural Credit Fund for Germany), which was re-named the "Deutsche Raiffeisenbank" (Raiffeisen Bank of Germany) in 1923 and lasted until 1929. He also advocated the creation of an agricultural credit institute for the whole of Germany which would meet the farmers' needs for personal credit (Personal-kreditbedarf). This institution never saw the light of day, but the "Preussische Zentralgenossenschaftskasse" (Central Co-operative Fund for Prussia) was founded in its stead in 1895. The activity of this Fund spread to the whole of Germany in 1932, under the name of the "Deutsche Zentralgenossenschaftskasse" (Central Co-operative Fund for Germany), and it became the central financial organ of all the co-operative groups. In 1949 it was replaced by the "Deutsche Genossenschaftskasse" (German Co-operative Fund) of Frankfurt am Main.

The need for consultation, general policy decisions and clearing arrangements operating beyond the scope of local associations was also felt in the sphere of agricultural supplies. To satisfy this need, Raiffeisen founded in 1881 the firm of "Raiffeisen und Konsorten" (Raiffeisen and Partners), which undertook this task as a central purchasing body. The firm was dissolved in 1899 and commercial transactions were reorganized at central level. In

1877, Raiffeisen further created the "Anwaltschaftsverband ländlicher Genossenschaften" (Legal Association of Agricultural Co-operative Societies) under his personal chairmanship; its task was to look after the interests of the co-operative societies and keep an eye on commercial transactions.

The Legal Association (Anwaltschaftsverband), the central loan institutions (Geldzentralen) and the central purchasing bodies (Warenzentralen) became the precursors of the present auditing and inspecting associations (Prüfungsverbände), central funds (Zentralkassen) and main agricultural co-operative societies (Landwirtschaftliche Hauptgenossenschaften), which are central purchasing organizations. Later, the Legal Association also gave birth to the "Deutscher Raiffeisenverband" (German Association of Farmers' Credit Co-operatives).

A second instalment of German agricultural co-operative organization was provided by Wilhelm Haas. Raiffeisen's example inspired him to create an agricultural consumers' co-operative in Hessen in 1872 and, in 1873, the "Verband der Hessischen landwirtschaftlichen Konsumvereine" (Federation of Agricultural Consumers' Co-operatives of Hessen). But the growing antagonism between Raiffeisen and Haas was to lead to Haas's followers breaking away. Many attempts at unification were made, of which only one was successful — in 1908. The resulting single association was, however, dissolved in 1913, the year of Haas's death. It was not until the economic difficulties of the later 1920's that the two great associations finally came together, to be merged permanently in 1930. This new single organization took the title "Reichsverband der deutschen landwirtschaftlichen Genossenschaften e. V." (Germany Federation of Raiffeisen Agricultural Co-operatives). In 1946, after World War II, a joint emergency organization (Arbeitsgemeinschaft) assumed the tasks of the former Federation. In 1948, this became the "Deutscher Raiffeisenverband e. V." (German Association of Farmers' Credit Co-operatives) which, as the new central federation of the co-operative societies, took over the tradition and tasks of the former national federation.

Raiffeisen also strove to provide the Agricultural co-operative sector with independent insurance organizations. He saw in insurance a principle related to the basic social and moral objectives of his own concept of co-operation, which went far beyond the mere economic aspect. For co-operative societies aim at increasing the income or furthering the economic activity of each member, while insurance tends to preserve the existence of the individual or his family

in critical situations for which he is not responsible. This principle of collective mutual aid which inspired all Raiffeisen's efforts found concrete expression in mutual insurance companies, and Raiffeisen also wished to apply it to protective insurance; he had been expounding his ideas on these matters since 1872.

Economic and organizational questions also played a part in Raiffeisen's schemes, in particular the possibility of procuring capital for the indispensable high-level clearing between the banks. He understood how to use reserves and insurance premiums to meet the demand for agricultural credit. To this end it was necessary also to create a central body which would group co-operatives and insurance undertakings. Use of the Agricultural Credit Bank of Frankfurt am Main was Raiffeisen's first target, but the negotiations came to nothing. The idea of founding a central body, not on the basis of an existing credit institution but of an existing insurance company, then suggested itself. Two further ideas for the creation of a central special and independent credit and insurance institute were worked out and submitted to the competent Ministry in Berlin.

The plan, which was meant to achieve Raiffeisen's objectives by means of two central and legally distinct bodies, was his most important venture in this field. In 1874 he founded the "Deutsche landwirtschaftliche Generalbank, eingetragene Genossenschaft mit beschränkter Haftung" (General German Agricultural Bank), a registered limited liability co-operative, and "Arminia, Deutsche landwirtschaftliche Lebensversicherungsanstalt auf Gegenseitigkeit" (Arminia), a German mutual-benefit agricultural life-insurance company. He was allowed to register only the first company; the court responsible for the business register refused to enter "Arminia".

The objections and attacks which Raiffeisen's co-operative system, and particularly his insurance scheme, had encountered reached their peak at this time. Objections were made especially to the structure of the central organization, to the division of responsibilities which resulted from the three-tier system, to the separation — legally contestable — of the credit institutions and the insurance companies, to the absence of registered shares and to the consequent scarcity of capital for the nascent co-operative movement. These criticisms influenced the authorities' decision, and all Raiffeisen's efforts came to nothing. The "Generalbank" was dissolved in 1876.

Raiffeisen did not, however, abandon his schemes, and his action in the insurance field was not in vain.

He showed the rural population the value of insurance. Until this time, his efforts had been concentrated on life insurance; now he also thought of accident insurance, and of livestock insurance.

Although in the insurance field partial use was eventually made of legal and administrative forms different from the co-operative, the soundness of Raiffeisen's conception was confirmed by the subsequent success of the "Raiffeisen- und Volksbanken-Versicherungsgruppe" (Raiffeisen and People's Banks Insurance Group).

After Raiffeisen's death in 1888, efforts in the insurance field continued and were extended to new sectors and other insurance companies. However, it was only after the first world war that success came to the Raiffeisen organization in this sphere. In 1922, two specifically co-operative insurance companies, the "Raiffeisen allgemeine Versicherungsgesellschaft auf Gegenseitigkeit" (Raiffeisen General Mutual Benefit Insurance Company) and the "Raiffeisen Lebensversicherungsbank auf Gegenseitigkeit" (Raiffeisen Bank for Mutual Benefit Life Insurance), were set up in Berlin, whither the headquarters of the "Generalverband ländlicher Genossenschaften für Deutschland" (General Federation of German Agricultural Co-operatives) had been transferred as far back as 1910. After 50 years, Raiffeisen's project had at last become a reality. The "Reichsverband der landwirtschaftlichen Genossenschaften" (National Federation of Agricultural Co-operatives) founded by Haas followed the example of the General Federation. After the merger of the two central co-operation bodies in 1930, the insurance companies of the two federations were also merged in 1932 under the names of "Regeno-Raiffeisen Allgemeine Versicherungs-Aktiengesellschaft" (General Regeno-Raiffeisen Insurance Company) and "Regeno-Raiffeisen-Lebensversicherungsbank auf Gegenseitigkeit" (Regeno-Raiffeisen Bank for Mutual Benefit Life Insurance).

In 1949, after the second world war, co-operative activity in the insurance sector was resumed at Wiesbaden under the new registered name of the

"Raiffeisendienst Versicherungsgesellschaft" (Raiffeisen Movement Insurance Company).

In the production sector, the co-operatives had no insurance organ of their own. The consequences of the two world wars brought home to them the need to cover themselves by insurance against risks connected with economic activity. There were strong grounds for uniting with an insurance company having deep roots in the co-operative field. Co-operation, begun in 1953 with the farmers' organizations and purchasing groups and strengthened in 1958 by the convention concluded with the producers' credit co-operatives, was reflected on 1 January 1959 in the new name given to the now joint establishment: "Raiffeisen- und Volksbanken-Versicherung" (Raiffeisen and People's Banks Insurance). This insurance organization was to render services to agricultural and to producers' co-operatives alike.

The five insurance companies of the Raiffeisen and People's Banks group have acquired remarkable economic importance. They are: the "Raiffeisen- und Volksbanken-Versicherung Allgemeine Versicherungs-Aktiengesellschaft", the "Raiffeisen- und Volksbanken-Versicherung Lebensversicherungs-Gesellschaft auf Gegenseitigkeit", the "Raiffeisendienst Pensionsversicherungsverein auf Gegenseitigkeit", the "Rhein-Main Rückversicherungs-Gesellschaft Aktien-gesellschaft" and the "Deutscher Bauerndienst Tier-versicherungs-Gesellschaft auf Gegenseitigkeit".

Thus, the co-operative insurance companies for small and medium-scale farmers and comparable occupations cover all important branches of insurance.

It can therefore be said that fruitful relationships exist between the agricultural co-operatives and the insurance companies of the rural trading classes with which they are intimately linked, and that the insurance companies of the Raiffeisen organization function according to co-operative principles although their legal form is not that of a co-operative. (German law prohibits the constitution of insurance companies in the legal form of co-operatives.)

II. SOURCES OF PRESENT LAW ON AGRICULTURAL CO-OPERATION

CUSTOM

Before any legal regulations were laid down concerning them, co-operative societies were regarded by the law as authorized private societies with a co-

operative organization in internal matters but without the rights of a legal person in dealings with third parties. In particular they could not acquire property or litigate. According to Raiffeisen's own expression "they relied more on loyalty and good faith than on

constraint". The efforts of Raiffeisen and Schultze-Delitzsch to obtain corporative rights for the co-operative were initially fruitless. Thus, the internal organization of the co-operative mainly rested on customary law, of which the following were the main provisions:

- i) unlimited membership,
- ii) a restricted territorial area,
- iii) unlimited joint and several liability,
- iv) absence of registered shares,
- v) absence of dividends in excess of the usual interest rate,
- vi) unpaid management,
- vii) indivisibility of assets.

The law on co-operatives (*Genossenschaftsgesetz*) was later to take over part of these customary rules, with some amendment. The indivisibility of assets was abolished, as was also the principle that there should be no registered shares.

But after this law came into force, a new practice was established in the form of refunds (dividends) to members. This system, on which legal regulations do not as yet exist, was considered a means of ensuring the betterment of the members — the essential aim of the co-operatives as laid down by the law itself — and of permitting a stricter balance among the services exchanged between the co-operative and its members.

However, in the absence of precise legal provisions, the legal position of the co-operative remained precarious. The courts were handing down divergent opinions as to the application of the customary principles. This state of affairs led Raiffeisen and Schultze-Delitzsch to urge the passing of a law on co-operatives.

STATUTE

The first legal regulation on co-operatives appears in the Prussian law of 27 March 1867 concerning the status of producers' and consumers' co-operatives. This law served as a basis for the Federal law of North Germany dated 4 July 1868. Later, the law of 4 July 1868 was superseded by the law of 1 May 1889, which is still in force in its original form. Its text was later adapted to the Civil Code which had meanwhile been drawn up, and it was published in its new version on 20 May 1898.

Each of these three laws which, chronologically, accompanied the progressive erection of the German

Reich, covered co-operation in the wide sense and not only agricultural co-operatives. The law of 1 May 1889, in particular, is a genuine organizational law applicable to all co-operatives.

This legislation, which to a great extent ratified customs, was therefore pragmatic in spirit. But, as it was also intended to introduce new departures, care was taken to make it logical. The provisions requiring the co-operatives to have their books audited, which were laid down at this time, are a case in point.

The law of 1 May 1889 has been amended or extended on various occasions:

- 1) The law of 1 July 1922, amended by that of 12 May 1923, introduced the system of the representatives' meeting for co-operatives with a large number of members; enabled small co-operatives to merge, on the lines of legislation on joint stock companies; and made the dissolution of credit co-operatives more difficult.

- 2) The law of 18 May 1933 made it possible, in the event of protracted bankruptcy, for supplementary payments by members to be allotted to creditors as a provisional distribution, and the law of 26 May 1933 increased the penalties for serious embezzlement.

- 3) The Ordinance of the Minister of Justice of 30 May 1933 laid down rules as to how the balance-sheet of registered co-operatives was to be drawn up, taking into account the need to ensure wider publicity.

- 4) The very important law of 20 December 1933 put an end, in the case of unlimited-liability co-operatives, to the direct liability of members towards creditors for all the co-operatives' commitments. This law further introduced the principle of compulsory composition in the event of the co-operative becoming bankrupt, and made possible the conclusion of a compromise between the receiver of the bankruptcy and the various members with regard to the supplementary payments to be made by the latter.

- 5) The most decisive amendment was the reform of the system of co-operative supervision by the law of 30 October 1934, which required all co-operatives to join a supervisory organization, failing which they would be dissolved.

- 6) The ordinance of 7 July 1937 organized the auditing of the annual balance-sheets of credit institutions incorporated as registered co-operatives.

- 7) The Federal law of 21 July 1954 abolished the

provision prohibiting extension of the commercial activities of consumers' co-operatives to non-members.

These amendments, however, did not in any way

affect the essence of the law itself. All the legal arrangements on co-operation are impregnated with the spirit of liberalism and increase the autonomy of management and of responsibility.

III. EVOLUTION OF AGRICULTURAL CO-OPERATION

Here we should mention the obstacles, the successes or failures, the structural features of co-operation, and the support it has received.

a) The obstacles which the co-operatives met with in their development are in the main of two orders: economic and human.

On the economic plane, they had to overcome difficulties common to all enterprises, particularly in wartime, when severe controls prevented the free exercise of economic activity and transform enterprises, whether co-operatives or not, into instruments of a directed economy. The co-operatives experienced difficulties, particularly of a financial nature, after the currency devaluations of 1922-1924 and 1945-1948.

On the human plane, the co-operatives had — and still have — to deal with members who do not always draw the conclusions implicit in their membership or show all the understanding necessary for the indispensable co-ordination of their activities within the association. In this respect, the educational role of the co-operatives never ceases. The associations of co-operatives had to face similar difficulties in their relationship with their member co-operatives. At this level the educational task is still necessary.

b) In performing their legal role, which is the economic betterment of their members, the co-operatives in the various branches of activity may be

considered to have achieved an excellent result, though admittedly to varying degrees; it is not possible to speak of co-operation having failed in any particular branch, but some sectors have experienced periods of special crisis (e.g. the egg marketing co-operatives after the two world wars).

c) With regard to their structural evolution, the different branches of agricultural co-operatives and of co-operatives of co-operatives have remained totally independent in their economic activities. Nevertheless, there are associations of three-tier co-operatives in one and the same sector (for instance, the dairy co-operatives; the regional sales centres for dairy products; the dairy products, fats and eggs central sales office, which is an umbrella organization for the whole Federal territory). Moreover, all the agricultural co-operatives are grouped at administrative level within the "Deutscher Raiffeisenverband" (German Association of Farmers' Credit Co-operatives), which acts as a co-ordinating body. Sectors recently created have also joined the general organization.

d) The financial crisis of 1931, which developed into a general economic crisis, brought with it serious difficulties for co-operatives, as for other enterprises. Through the intermediary of the "Deutsche Zentralgenossenschaftskasse" (Central Co-operative Fund for Germany) the State helped to put the co-operatives on a sound financial footing.

History of agricultural co-operation in Belgium

I. SOCIOLOGICAL AND ECONOMIC ORIGINS

The origins of agricultural co-operation in Belgium go back to the aftermath of the great farm crisis of 1878-1880. Until then the foreign trade policy followed had been protectionist.

However, the inadequacies of the agricultural market owing to bad harvests, and the progress achieved since the industrial revolution in the manufacturing and trading sectors, caused this policy increasingly to change over to free trade.

After the 1800 crisis on the cereals market — due to imports of American and Russian wheat — Belgian farmers were obliged to overhaul their production methods in order to cope with the pressing new tasks of changing crops, stepping up yields, breeding livestock on an intensive scale and using chemical fertilizers.

The first farmers' co-operatives made their appearance as part of this process of adaptation to the new economic conditions. Their aim was both social and economic: primarily, farmers had to be supplied with information and taught the new production methods, particularly the judicious use of fertilizers and seeds, and on the other hand farm output had to be marketed and the purchase of materials required on the farms facilitated.

Concurrently, the need to provide means for financing purchases led to the establishment of the first rural credit banks.

These initial groupings did not at first adopt the same form. Some of them took the shape of co-operative societies, others agricultural associations; this was the consequence of doctrinal divergences and legal arguments. The situation has continued, moreover, to the present time. In general, however the agricultural associations do not figure in statistics on co-operative activities.

The agricultural co-operatives were set up in successive waves, of which the first occurred between 1880 and 1890. Thus, in each parish in the Flemish regions, an agricultural or horticultural guild affiliated with the Boerenbond (farmers' union) was established by 1890. Each guild had a common purchasing and sales section. These

sections, which were constituted in the form of *de facto* associations, have never had legal status. In 1904 they were grouped to form a central organization, the "Aan- en verkoopvennootschap" (Purchasing and Sales Company) of the Boerenbond, a limited company with head office in Louvain.

From its earliest years (1890 onwards), the Boerenbond made serious attempts to set up, within the agricultural guilds, credit and savings banks known as "Raiffeisenkassen" (Raiffeisen Banks). In 1898 these formed a "Middenkredietkas" (Central Credit Bank) which became, in 1934, the "Centrale kas voor landbouwkrediet" (Central Rural Credit Bank) of the Boerenbond.

In the same way a large number of mutual benefit insurance societies against fire and, more particularly, against livestock mortality were constituted within the farmers' guilds. Sometimes these societies were grouped in reinsurance societies, at provincial or national level. Later, most of these insurance and reinsurance societies were taken over by the Boerenbond.

In the French-speaking (Walloon) regions, too, a large number of co-operatives, associations, committees ("comices") or mutual societies were established between 1880 and 1890. Many of these organizations are still in existence; others died out at the same time as the federations or central bodies to which they were affiliated. In this part of the country, the milk co-operatives have lasted longest.

Considered as a whole, the origins of the co-operative movement in the various sectors may be outlined as follows:

For the dairy industry, they date back to 1879-1887;

For credit and savings to 1892-1895;

For supply and marketing of products to the years 1890-1905, although these tasks were often performed through the intermediary of the agricultural associations;

For mutual insurance societies to 1890-1910;

For the marketing of fruit and vegetables mainly to the years 1938-1952;

For the stockpiling and preparation of cereals to 1955-1956;

For the joint purchase and utilization of farm machinery to 1951-1957.

II. SOURCES OF PRESENT LAW ON AGRICULTURAL CO-OPERATION

CUSTOM

The legal status of co-operative societies, which is in fact modelled on that of commercial companies, dates from 1873 and has undergone practically no change since that time. This explains why it has most often had to be supplemented by numerous provisions inspired by co-operative practice, particularly as regards conditions of membership, subscription and payment of shares, right to reserves, voting rights, etc.

STATUTE

The law of 1873 establishing the co-operative society as a new form of company was promulgated for both economic and social reasons. This law was drawn up in a spirit of sympathy with the co-operative movement and allowed the societies great latitude in deciding on their structure and operation; it is not specifically designed to fit *agricultural* co-operation, and has undergone practically no amendment.

III. EVOLUTION OF AGRICULTURAL CO-OPERATION

On the whole, the co-operative movement has succeeded in its various fields of activity. The chief difficulties have arisen in joint purchasing of raw materials for agriculture and in co-operative credit. These proved most serious in those cases where there was no central umbrella organization and where adequate adaptation to commercial methods had been long in coming.

In the Flemish part of the country, the decisive factor was the impetus given to the movement by the farmers' organization, the Boerenbond. The creation of various services — a dairy office, a horticultural office, an auditing service, technical services for building and farm machinery — greatly contributed to the expansion of co-operatives.

The dairy co-operatives affiliated to the Boerenbond have set up among themselves strong unions which specialize in liquid milk for consumption and powdered milk. They are grouped in an "Algemene federatie van coöperatieve zuivelfabrieken" (General Federation of Dairy Co-operatives) with its head office in Louvain.

The bodies arranging horticultural auctions, affiliated with the Boerenbond, have set up a "Federatie van coöperatieve veilingen" (Federation of Co-operative Auctions), also with its office in Louvain.

The 833 rural co-operative credit banks are affiliated to the Boerenbond's "Centrale kas voor landbouwkrediet" (Central Rural Credit Bank) in Louvain.

In the Walloon part of the country, numerous cereals storage co-operatives are grouped in a "Fédération de coopératives de stockage de céréales" (Federation of Cereals Storage Co-operatives), which has its head office in Brussels.

Co-operative dairies are also organized in unions which specialize in liquid milk and milk powder.

The interest shown by the authorities in agricultural co-operation is reflected in a number of measures which may be summarized as follows:

1. The setting up in 1946, at the Ministry of Agriculture, of a "Commission pour l'étude du statut des coopératives agricoles" (Commission for the Study of the Status of Agricultural Co-operatives).
2. The Regency decree on the promotion of agricultural co-operation, dated 19 January 1949, establishing an agricultural co-operation service and a "Commission de la coopération agricole" (Commission for Agricultural Co-operation — an advisory body) at the Ministry of Agriculture.
3. Royal decree of 10 October 1956 on the granting of subsidies to co-operatives for the purchase of farm machinery, and Royal decree of 22 December 1951 on subsidies for the purchase of sprayers.
4. Royal decree of 31 December 1951, authorizing loans to co-operative societies of an agricultural nature, and setting up a "Fonds des coopératives" (Co-operatives' Fund).

5. Law of 20 July 1955 creating a "Conseil National de la Coopération" (National Co-operation Council) at the Ministry of Economic Affairs.

6. Law of 24 July 1955 establishing an Agricultural Fund empowered to grant financial subsidies, in particular to agricultural co-operatives.

7. Royal decree of 8 October 1955, amending the Code of taxes assimilated to stamp duty by granting co-operative societies certain exemptions.

Along with the measures taken by the government, mention should be made of certain initiatives by the

provincial authorities and of the fact that the large agricultural associations have always supported the establishment and proper functioning of agricultural co-operatives.

At present, government action is mainly based on the law of 15 February 1961, which established the "Fonds d'investissement agricole" (Agricultural Investment Fund), with authority to grant interest-rate subsidies up to 3 % and to guarantee loans granted to farmers and to agricultural co-operatives up to a maximum of 75 %.

History of agricultural co-operation in France

I. SOCIOLOGICAL AND ECONOMIC ORIGINS

Agricultural co-operation, as a spontaneous expression of peasant solidarity, has very remote origins, but as a concerted and organized movement it hardly goes back more than seventy-five years. It was only at the end of the last century that association developed and became general in farming circles.

1. One point that should first be made clear is that in France the term "agricultural co-operation" applies only to the sectors concerned with the marketing of production, supplies to farmers, and the various farm services.

The real prototypes of modern co-operatives are the "fruitières" of the Jura and the Alps. These are very old *de facto* societies set up to circumvent difficulties of communication in the high valleys by the pooling of milk production and the joint manufacture of a cheese easy to conserve — Gruyère. About 1 500 of these societies still exist.

Until the 19th century, however, the agriculturist largely lived in an autarkic or subsistence economy. Trade with the outside world took place on local markets, was relatively small, and had little influence on the farmer's living standards.

From about 1880, two events occurred which brought far-reaching changes in the lives of those working the land; these were the improvement of farming techniques and the widening of markets. Chemical fertilizers made their appearance. The rapid development of communications had facilitated trade and the dissemination of ideas. Severe competition from the young countries was beginning to make itself felt; their farm products were offered on the national market at prices well below those of French products. This new situation was a great threat to the very life of small and medium-sized enterprises. Farmers were not slow to realize that the only way to survive was to get together to defend their interests, reduce costs, and improve conditions of production and sale. Between 1880 and 1890, numerous farmers' unions or syndicates were set up. They were joined by the great majority of farmers, because they embodied agreement between the collective effort so long practised and the voluntary membership which

implies individual freedom. These farmers' unions began to engage in joint purchasing, in particular of fertilizers, thus playing for many years the role which has now fallen to the supply co-operatives.

The law of 21 March 1884 on trade unions and syndicates certainly favoured the flowering of the co-operative movement, but was not the real reason for it. In this connection the origin of the first buttermakers' co-operatives in the Charentes region is typical. After the emergence of phylloxera in 1875 this part of France, which owed its prosperity to the vine, was obliged to substitute pasture for vineyards; a short time later, on the initiative of a small farmer, the first butter co-operative was set up, with the idea of profiting from the recent invention of the centrifugal cream separator. This example proved a success and was soon imitated in the neighbouring *départements*. In the same way the parlous state of the wine market gave rise to the first wine-growers' co-operatives early in the present century in the *département* of Hérault. A wheat crisis encouraged the creation of the first co-operative for the storage of cereals.

In this way, the agricultural co-operative movement gradually spread over the whole of France and to all the main sectors of agricultural activity. Its development is the product neither of a doctrine nor of a preconceived plan; it is the consequence of difficult circumstances and of the need felt by agriculturists to associate in order to cope with the problems of their calling.

2. Insurance co-operation seems to have originated in the agricultural unions and in the occupational societies for mutual aid. It took the form of mutual societies. These societies were due to local action by landowners, schoolteachers or ecclesiastics.

In 1897 there were about 1 500 livestock mortality societies, the machinery of which was very simple, their function being to apportion the losses among all the members.

The expansion of private insurance in the 19th century led the pioneers to realize a very simple fact. Within a commune, holders of fire insurance might

well pay premiums for years without a fire ever taking place. Was it not more sensible for farms in the same commune to undertake in advance to bear collectively the cost of compensation for any fire that might occur? The system, as it improved, provided for a provisional payment, the surpluses (and even the whole amount) being reimbursed at the end of the year. In this way, the mutual benefit society against fire began in 1840 at Mions (Isère); the formula spread rapidly, and covered the whole of France by about 1860.

In 1898 there were 12 local hailstorm insurance societies. From 1890 onwards some associations of local mutual benefit societies began to appear.

3. Even before 1848, there had been some idea of introducing in France "crédit foncier" institutions granting loans secured on landed property, similar to those which had given good results in Germany. The notion of the association of borrowers may be found in many projects put forward between 1848 and 1851. On 28 February 1852 a decree authorized the creation of *crédit foncier* societies on either a capitalist or a mutualist basis.

The farming world, being insufficiently prepared,

did not profit by this chance, but specialized banks were formed. The most important was the "Banque foncière de Paris" (Paris Land Bank) which, after absorbing the other companies, became the "Crédit foncier de France" (French Land Bank).

The centralization of this limited company, and the fact that it granted credit only on real estate, made it unsuited to the needs of farming. In 1860 it founded a subsidiary, the "Société du crédit agricole" (Agricultural Credit Company), which had little success with farmers and collapsed.

During the same period, Léon Say, Jules Simon and Casimir Périer founded the "Banque populaire centrale" (Central People's Bank) for the small enterprises neglected by the large capitalist banks. Only small artisan businesses, traders and industrialists took advantage of this opportunity.

If the farmer is to make use of credit societies, he must be able to feel that they are his own creation. This was realized by Jules Méline, the first Minister of Agriculture, when he endeavoured to make the union framework the cradle of agricultural mutual credit. Hence, like the other agricultural co-operatives, the agricultural mutual credit banks were cast in the union mould.

II. SOURCES OF PRESENT LAW ON AGRICULTURAL CO-OPERATION

As agricultural co-operation, agricultural mutual benefit and agricultural mutual credit are, in France, three distinct institutions of differing structure, the laws and regulations that govern them are different.

1. In the sphere of agricultural co-operation, custom alone guided the founders of co-operatives in the early stages.

Until agricultural co-operation was given a legal status by the law of 5 August 1920, co-operators were undecided as to the legal form which their enterprise should take. Its non-profit-making character led some people to favour the syndicate or even association. But the need for a legal basis suited to their operations led others to choose the form of a company, either a "société civile" or a "société anonyme" (joint-stock company;¹ both forms co-existed until the law of 4 September 1943 came into effect.

For a very long time there was no general legislation on co-operation. Each form (agricultural

co-operative, consumers' co-operative, workers' productive co-operative, etc.) had its own status. The law of 10 September 1947, eventually laid down a general status for them which made practically no important change in the status of the individual organizations.

The legal status proper to agricultural co-operation arises out of successive texts, because the law intervened only cautiously in the early stages, making slight adjustments here and there.

¹ *Translator's note:* In France, societies, companies and partnerships are termed "commerciales" or "civiles" according to their objects or their habitual functions. "Sociétés commerciales" (one form of which is the "sociétés anonymes") are those which habitually perform commercial acts such as buying and selling goods, manufacturing, transport, insurance, etc. All others are "sociétés civiles": a society or company engaged in mining or agricultural operations is therefore, in principle, a "société civile", though it may perform an occasional commercial act without changing its nature.

For convenience sake the following *ad hoc* translations will be used throughout this report:

société commerciale = commercial company
société civile = civil company.

The first laws on agricultural co-operation concerned credit for co-operatives. They applied only to those co-operatives which appealed to the State for financial aid through an agricultural mutual credit bank. Such was the law of 29 December 1906.

Title II of the law of 5 August 1920, which is the charter of agricultural mutual credit, dealt *inter alia* with agricultural co-operative societies.

The law of 5 August 1920 was supplemented by the decree of 9 February 1921 on application of the rules of public administration; this specified, in particular, the provisions which the co-operatives had to include in their Articles in order to obtain advances from the agricultural credit bank.

The law of 12 July 1923 defined the legal status of agricultural co-operatives, giving them the choice between the form of a "société civile" or a "société anonyme" (limited company).

The decree-law of 8 August 1935 was an important turning-point, because it applied to all agricultural co-operatives. Fiscal considerations were also behind this decree-law: in return for carrying out strict obligations, genuine agricultural co-operatives were granted certain tax reliefs. It introduced a system under which the co-operative is approved by the Ministry of Agriculture after consultation with an advisory body, the "Conseil supérieur de la coopération agricole" (National Council for Agricultural Co-operation).

The decree-law was the first legislative measure to deal with unions of co-operatives. In an important provision it laid down that, if the co-operative or union is dissolved, the net surplus of its assets must accrue to a cause approved by the Minister of Agriculture after hearing the National Council.

All the laws and regulations on agricultural co-operatives were codified by the decree of 11 February 1939.

The law of 4 September 1943 was enacted during the war for two purposes: to integrate the co-operative movement into the body of agriculture, and to give it a new legal status. This law stipulated that agricultural co-operative societies should henceforth be "sociétés civiles"; it provided for branch meetings in co-operatives with a large membership or covering a wide area, and introduced the principle of deciding whether there was a case for setting up a co-operative—an innovation which was taken over

by the ordinance of 12 October 1945 but abolished by the law of 14 May 1946.

The ordinance of 12 October 1945 incorporated numerous provisions of the law of 4 September 1943. It was relaxed successively by the laws of 14 May 1946 and 30 August 1947, and then by the decrees of 20 May 1955, 4 February 1959, 5 August 1961 and 3 September 1965.

2. The law of 24 July 1867 on companies allowed mutual insurance societies to be set up without authorization, but application of the relevant rules of public administration meant costly formalities which the agricultural funds could not afford.

The law of 21 March 1884 on trade unions and syndicates was also originally applied to co-operatives, though it was not really intended to do so. In order to regularize the situation a Senator and former Minister of Agriculture, M. Viger, got the law of 4 July 1900 passed, by virtue of which agricultural societies or mutual insurance societies are exempted from the formalities laid down by the law of 24 July 1867 provided they are managed or administered without remuneration and do not make any profit.

Mutual societies are constituted under the law of 21 March 1884. They are exempt from all stamp and registration duties other than the stamp duty on receipts.

3. As the syndicate framework was not suitable for agricultural mutual credit, the law of 5 November 1894 permitted the setting up, by members of one or more farmers' syndicates, or agricultural credit societies distinct from the syndicate itself and organized on a mutual benefit basis. However, local credit banks were established only very slowly prior to the law of 17 November 1897, under which the Bank of France made the State an interest-free advance of 40 million gold francs that the Ministry of Agriculture was instructed to distribute among farmers. The operation necessitated intermediate bodies, and this is how the regional banks came to be set up by the law of 31 March 1899. These banks, organized on the same mutual benefit principle as the local banks, are under the control of the State. This time a really effective stimulus was given. As a result, there is one kind of agricultural mutual credit in France which is commonly described as "official" because it receives advances from the State, and another which is said to be "free" because it does not.

III. EVOLUTION OF AGRICULTURAL CO-OPERATION

1. As they developed, the co-operatives themselves, like their members before them, felt the need to unite in defence of their interests and also in order to carry out certain business operations on a large scale; this led them to establish federations and, later on, unions of co-operatives.

The federations are associations or syndicates which group the co-operatives in an administrative framework — the scope of which can vary greatly — with a view to representing their professional and general interests. These federations cannot engage in trade.

The unions are co-operatives of co-operatives which engage in the same activities as their members but at the second or third level of organization. In the early days these bodies were set up empirically.

The “Fédération nationale de coopération agricole”—FNCA (National Federation of Agricultural Co-operatives) was formed in 1945 from different national federations and unions specialized by branches of activity. Since 1951 it has been able to admit all-purpose departmental federations.

The “Confédération générale des coopératives agricoles”—CGCA (General Confederation of Agricultural Co-operatives) was a similar organization, formed in 1950 by the “Fédération nationale des coopératives de céréales” (National Federation of Cereals Co-operatives) and the “Fédération nationale des groupements agricoles” (National Federation of Agricultural Groupings), together with the corresponding national unions which had left the FNCA.

Finally, the “Conseil national de la coopération agricole française” (National Council for French Agricultural Co-operatives) was a co-ordinating association, set up on 22 June 1960 between the FNCA and the CGCA. At the beginning of 1966 it was abolished, together with its two constituent bodies, in order to make way for a new all-purpose association called the “Confédération française de la coopération agricole” (French Confederation of Agricultural Co-operatives).

There are also other bodies with specialized objects:

1) The “Centre national de la coopération agricole”—CNCA (National Centre for Agricultural Co-operation), established in 1953 in the form of an association to improve the management of co-operatives and train their supervisory staff;

2) The “Syndicat national pour l’expansion de la

coopération agricole”—Syncopex (National Union for the Expansion of Agricultural Co-operation), formed in 1957 to facilitate the sale of agricultural products;

3) The “Syndicat national d’études, de révision et de vulgarisation des coopératives agricoles”—Synerva (National Union for Study, Auditing and Advisory for Agricultural Co-operatives);

4) The “Syndicat national d’étude et de recherches pour les coopératives et leurs unions”—Synercau (National Union for Study and Research for Agricultural Co-operatives and their Unions).

2. The law of 4 July 1900 enabled agricultural mutual benefit organizations to develop openly, particularly in south-eastern and central France and Brittany, and to set up regional and national reinsurance societies; the first regional society was that for the south-east, against fire, established at Lyons in 1903.

As early as 1912, the “Mutuelle agricole tourangelle” (Agricultural Mutual Benefit Society of Touraine) insured farmers against accidents within the framework of ordinary law. The law of 15 December 1922 on accidents at work in agriculture provided a new field of activity for agricultural mutual benefit societies.

The law of 2 December 1940, which gave agriculture a corporate organization, prescribed unification of the existing bodies by category. As regards the mutual benefit system in agriculture, this regrouping of forces, which also met urgent technical and financial needs, took place in 1943 and was maintained after the war.

Subsequently the drive towards unity continued to bear fruit: on 23 February 1966 the four central mutual societies for national reinsurance against fire, accident, hail and livestock mortality were merged into a single central society.

3. Agricultural mutual credit needed a central organ. The laws of 5 August 1920 and 9 August 1928 placed at its apex the “Caisse nationale de crédit agricole” (National Agricultural Credit Fund), a public body with legal personality and financial autonomy.

During that period, “free” agricultural mutual credit developed along two main lines:

a) One was the “Société des agriculteurs de France” (Society of French Farmers). Many of these banks applied the principle of unlimited and joint liability of their mutual societies.

b) The other co-operative movement followed Raiffeisen’s principles; its promoter was a Lyons lawyer, Louis Durand.

These two branches of “free” agricultural mutual credit were joined after 1918 by the Raiffeisen mutual credit banks in the *départements* of Moselle, Bas-Rhin and Haut-Rhin.

This coexistence of three kinds of agricultural mutual credit explains why the institution has not achieved unity.

History of agricultural co-operation in Italy

I. SOCIOLOGICAL AND ECONOMIC ORIGINS

In Italy, agricultural co-operation began in the closing decades of the 19th century and took firmer root during the first quarter of the 20th.

Following the needs of agricultural circles and of the rural classes, it covered various fields:

- a) Labour and cultivation;
- b) Harvesting, storage and processing of products;
- c) The supply of agricultural requisites;
- d) The supply of credit;
- e) Insurance.

1. The labour co-operatives originated in the 19th century under the influence of the workers' unions at a time when there was serious unemployment. These co-operatives either actually farmed the land or carried out improvement and transformation work.

The first farm labourers' co-operative was formed in 1883 at Ravenna. In 1884, led by Federico Bazzini, it undertook the improvement and settlement of Ostia, Fiumicino, Isola Sacra, and Maccarese in the Roman plain. Collective renting, the form of agricultural labour co-operation adopted, played a considerable part in the work of draining and improving vast areas of arable land.

But, in addition to the very precarious situation of the agricultural labourers, account had to be taken at that time of the "farmer general", a middleman who stood between the proprietor of a large estate and the peasant who rented the land or worked as share-cropper. The whole campaign of the co-operative movement in this field was concentrated on eliminating this intermediary.

The areas where collective renting developed from the end of the last century onwards were — after Sicily — Lombardy, the Ravenna area and vast expanses of Emilia and Latium.

The Socialists and Roman Catholics were the promoters of collective renting. The first favoured a form of single exploitation with the work carried out in common; the second preferred to divide the land

and allot plots to the various farmers. The merit of collective renting was that it enabled many dependent workers to become independent farmers and thus led to economic and social progress.

2. In Italy, co-operatives for the storage and processing of products generally concern two basic products: milk and wine (dairy and cheese co-operatives, co-operative wine cellars and similar co-operative establishments called "enopoli"). The activities of co-operative presses and oil mills in the olive-processing sector can be regarded as negligible.

a) The first co-operative cellars were introduced towards the end of last century to support the price of grapes and improve wine production.

In 1910, these co-operatives numbered 41; in 1922 there were 62 of them. Until that time, action had been confined almost exclusively to the north of the country, although southern Italy had also seen some fruitful experiments in co-operation, such as the co-operative cellar at Corato (Bari), which was established in 1885.

During the ten-year period 1922-32 expansion was more marked; by the end of 1932 there were 162 co-operative cellars. 60 % of them were situated in the three Venetias and in Emilia.

From 1932, grapes were pressed collectively by "enopoli" set up between 1932 and 1934 by the provincial wine-growing "consorzi" (co-operatives) under decree-law No. 225 of 2 September 1932. In fact, these "enopoli" played a role comparable to that of the co-operative cellars, pressing grapes on behalf of the growers.

The provincial wine-growing "consorzi" were abolished at the end of the last war, but the establishment of "enopoli" was continued by the agricultural "consorzi" and by their federation. These "enopoli" are always agricultural co-operatives whose aims are identical with those of the co-operative cellars, and hence any enquiry into the scale of the co-operative movement in the wine-growing sector will be concerned with the cellars and the "enopoli".

b) The "latteria turnaria" ("roster dairies"), which, particularly in hill-dwelling communities, handle the milk by organizing a roster of work among the families of producers, provided a precedent for co-operation. The earliest of them were set up in 1806 among the small producers of Osoppo in Friuli.

Recently this crude and traditional form of organization has been giving way, particularly in the Venetias, Lombardy and Emilia, to a more rational social and economic organization — the "dairy co-operative societies" with the dual purpose of processing and distributing milk.

3. In view of the need to procure farm requisites, it became clear in the second half of the 19th century that cultivating and stockbreeding methods must be modernized; thus it was realized that propaganda and technical instruction among agriculturists and farmers would be of value in extending the use of chemical fertilizers, for example. To this end Royal decree No. 3452 of 23 December 1866 introduced compulsory farmer's associations, as the Piedmont government had previously envisaged.

Thus a movement of ideas in favour of association began to develop. At this time trade unionism was also gaining ground.

It was against this background that the action of the pioneers, among them Giovanni Raineri, emerged. On 10 April 1892 they formed the "Federazione italiana dei consorzi agrari" (Italian Federation of "consorzi agrari") at Piacenza. The document setting up the Federation was signed by 17 agricultural associations and 33 individuals; the registered capital was 3 925 lire, divided into 157 shares of 25 lire each.

By the end of the year, the number of societies federated was 58. By 1905 it had reached 405, with 2 300 shares and assets of 126 283 lire. By 1924 there were 953 societies with 26 519 shares and assets of 2 486 042 lire; the societies federated then totalled 350 000 members and the aggregate turnover of produce was worth more than 1 000 million lire.

Around 1930 a new phase began in which the federated societies were concentrated with the aim of making the organization and machinery for collective procurement of supplies more economical and more rational.

The Federation of "consorzi agrari" developed its co-operative activities freely until, to meet wartime

requirements, decree-law No. 1593 of 5 September 1938 and law No. 159 of 2 February 1939 transformed it into a public body charged with tasks of general interest.

Decree-law No. 1235 of 7 May 1948 restored the co-operative character of the agricultural "consorzi" and of their national federation.

4. Agricultural credit co-operation began in Italy at the end of the 19th century.

In Padua, Leone Wollemborg was the advocate and founder of Raiffeisen-type co-operation. His first rural bank was established at Loreggia in 1883. Within five years Wollemborg had founded about 50 such banks, most of them in Venezia. In 1886 he set up the Federation of Rural Banks in Padua.

A priest named Luigi Cerutti, was also a pioneer of rural banks. He followed the German model closely and emphasized the ethical and religious nature of this form of co-operation. By the end of 1897 he was able to set against Wollemborg's organization, which had meanwhile reached the figure of 125 banks, a union of 779 Roman Catholic banks.

The Roman Catholic congresses in Genoa (1892), Rome (1894) and Turin (1896) set increasing store by the Christian-Socialist ideas of Luigi Cerutti, who maintained that only a sound local and federal organization was worth while. On this point he disagreed with Wollemborg, whom he also opposed with regard to the role and character of rural banks.

5. The origin of the agricultural mutual benefit insurance societies is bound up with that of the mutual societies for livestock insurance, which is rather obscure.

In 1853 the "Società anonima di assicurazioni sarde" (Sardinian Insurance Co. Ltd.) was set up in Turin. In addition to life insurance, it dealt in hail and livestock insurance, the first with fixed premiums and the two others in a mutual benefit form.

In 1865 mutual benefit societies came into being in the provinces of Cuneo and Como.

In 1881 the "Società fra i contadini di Galliate Novarese" (Society of Peasants of Galliate Novarese) was set up as a co-operative society in the province of Novara.

In 1890 further mutual benefit livestock insurance societies were constituted in Friuli, in the province of Udine.

All these mutual benefit societies operated in a very simple fashion. The premium paid was in proportion to the number of head of cattle owned and the money thus collected provided compensation in the event of loss.

Mutual benefit societies were also established in the Marches, Umbria, Tuscany, Calabria and Sardinia.

In Sardinia, the insurance covered not only death, but also "abigeato" (theft), which was particularly frequent at the time.

By the end of 1890 there were 38 mutual benefit societies in Lombardy, 8 in Piedmont, 7 in the Venetias, 1 in Liguria, 2 in the Marches, 1 in Tuscany, 1 in Campania and 5 in Sardinia.

II. SOURCES OF PRESENT LAW ON AGRICULTURAL CO-OPERATION

BASIC PRINCIPLES

The first Italian agricultural co-operatives were based on the principles and programme of the Rochdale pioneers. Their purpose, using the savings and subscriptions of their member farmers, was to protect their members against speculation by middlemen in obtaining low-interest loans, procuring equipment at favourable prices, and storing, processing and selling produce on behalf of their members, with deduction of only the cost of the services rendered.

These principles obviously had to be adapted to suit the different branches of agricultural co-operation:

a) The labour and cultivation co-operatives established between each individual and his society a member/society relationship, and then added a worker/employer relationship between the member and the society.

These two types of relationship, which are legally separate, also have a different economic content: for whereas membership involves proportional participation by subscribing stock, and is consequently of a permanent and institutional nature, the second type of relationship consists in an exchange of labour against the wage paid by the co-operative to the worker-member.

Thus, for example, in those co-operative which buy or rent land for their members to work, two forms of management may be distinguished: joint management and divided management. In the first, the work of the members is organized collectively. In the second, on the contrary, the land to be cultivated is divided into as many parts as there are members, in accordance with special contractual relations similar to a farming lease. This is done to facilitate the establishment of family farms. In principle, the first form is favoured by the organizations of Marxist leanings, and the second by those of Christian-Socialist tendency. In this field, the aim

of co-operation is a fair sharing-out of work to reduce the disadvantages and hazards of unemployment.

b) In the field of production, storage and processing of commodities, the features of the first dairies and wine-growers' co-operatives were already the same as those of modern co-operatives. The members are required to deliver a specific quantity of their products to the co-operative. A receipt is given showing the quantity and quality of the product delivered with a view to the settlement of each member's account at the end of the business year. The products delivered are stored, processed and sold by the society on behalf of the members, in conformity with a legal relationship analogous to a commission contract (sale on behalf of suppliers, but in the name of the co-operative society). At the time of final settlement, the members who have supplied products receive the proceeds of sales in proportion to the quantity and quality supplied, after deduction of management costs.

c) The features of the first supply co-operatives were the same as those of the societies for the purchase of producers' goods, which were intended to promote agricultural activity, not to ensure the farmers' subsistence.

By arranging hire purchase and bills of exchange, these co-operatives already ensured that farmers would have the credits needed to supply them with fertilizers, seed, equipment and machines.

d) The rural banks followed the principles laid down by W. Raiffeisen. They were to function in rural centres; they were based on savings, the work of the members, and the Christian solidarity of the richer farmers with those less well off; the co-operative had only a modest capital but counted on the joint liability of its members and on the reserves built up from profits, which were not distributed. The people's banks followed the principles of Schultze-Delitzsch. They were for the

small business, trading and artisan classes; the society was to be the exclusive work of the members concerned without any intervention by the State or by outsiders; reserves were to be increased each year by the amount of the profits; there was no joint liability of members; operations conformed to normal banking practice. These societies operated mainly in the towns.

e) As already pointed out, the agricultural mutual benefit insurance societies functioned in a very empirical fashion at the beginning. A premium proportionate to the number of animals owned was paid, and the sums thus collected were used to provide compensation for loss.

However, the characteristics of the first Italian co-operatives never added up to a real customary co-operative law. Only one form of agricultural co-operative — in the milk sector — can be considered as customary. This is the “roster” dairy system (*latteria turnaria*) found among the rural communities in hilly areas, under which each family brings the day’s milk to a common point (“casello”), where the various families who are members of the co-operative take turns at processing it; the proceeds are shared among the producers in proportion to the quantity brought by each to the “casello”. The public authorities took no account of these dairies and allowed them to survive, considering them to be *de facto* groupings and not co-operative societies. They have, moreover, given way little by little to the co-operative dairies set up in legal form and rationally organized.

EVOLUTION OF LEGISLATION

In Italy the public authorities have considered co-operation as a means of economic and social rejuvenation in the countryside. They have therefore intervened on several occasions, and first of all to define the characteristics of co-operative societies. Law No. 3818 of 15 April 1886 makes a distinction between co-operative societies proper and societies for mutual aid, dividing them in the light of their respective aims. Whereas the former were regarded as co-operative businesses, the latter, whose aim was only to guarantee their members payment of a subsidy in the cases covered by their Articles, could not be considered as engaging in business.

This distinction, which became a part of legal thinking, still holds good. As time went on, the tendency to define the societies in the light of their objectives became more and more pronounced in the various

Bills intended to give a more systematic and specific form to the provisions on co-operative societies.

Royal decree No. 3269 of 30 December 1923, which introduced a system of tax reliefs, laid down the conditions under which a co-operative society could be considered as mutualist.

Finally, the Civil Code of 1942 stipulates in Article 2511 that enterprises with a mutual benefit aim can be set up in the form of a co-operative society and, in Article 2515, that the title “co-operative” may not be used by societies which have no mutual benefit aim. Title VI of Book V of the Civil Code, which regulates mutual benefit insurance societies, also covers co-operative societies.

On 14 December 1947 a legislative decree repeated the substance of the 1923 law and specified the conditions which co-operative societies had to fulfil in order to be regarded as mutualist for fiscal purposes.

From all these legal arrangements it follows that the “mutualist” concept, which is considered sometimes as a feature and sometimes as an aim of the society, is identified with a “general principle of mutual benefit” which has concrete and specific characteristics in the various administrative and legal structures whose purpose is to apply it in the different sectors and circles. This mutual benefit principle may be embodied in the form of a co-operative society, of a mutual aid society, of a mutualist body applying the institutional mutual benefit system in public law, or in the form of any other association not defined by the law and consequently not corresponding to any legal type, on condition that reciprocity of benefits and services between the members is provided for.

The general arrangements for co-operative societies also apply to agricultural co-operatives. However, in addition to these provisions, there are a few laws which are peculiar to certain branches of agricultural co-operation, such as the supply of requisites, farm credit and mutual benefit.

As regards requisites, the aforementioned decree No. 1235 of 7 May 1948 restored to the “consorzi agrari” and their national Federation the co-operative character which they had originally possessed.

In the credit sector, the legislation relating to the rural banks, in particular Royal decree No. 1706 of 26 August 1937 and law No. 707 of 4 August 1955, defined the principles applicable to them by specifying the special adaptations for agricultural credit,

methods of operation and improvement, members' liability, and supervision of the banks.

Before 1907 there was no special legislation covering mutual benefit societies in the insurance sector. They were constituted either on the basis of the Commercial Code as co-operative societies, or under the law of 1886 on mutual aid societies. The legal status of the mutual benefit insurance company was first established by law No. 626 of 7 July 1907 concerning small agricultural co-operatives and mutual insurance societies whose capital did not exceed 300 000 liras. It is obvious that this law aimed at giving legal recognition to mutual benefit societies which already existed *de facto*.

In 1918 the "Istituto nazionale delle assicurazioni" (National Insurance Institute) came to the help of the mutual benefit societies and undertook the reinsurance of risks. This brings us to the adoption in 1919 of the basic law on agricultural mutual insurance associations, inspired by French legislation which had already been in force for some time. Regulations were established by Royal decree No. 1759 of 2 September 1919, which was later amended by decree No. 2479 of 21 October 1923 and decree No. 1920 of 12 July 1934, and by the regulation pursuant to the 1919 law approved by Royal decree No. 271 of 26 February 1920.

In the context of an overall agricultural policy, the State also intervened in other fields of co-operation and for other purposes.

Profiting by the experience acquired during the years 1918-1922, the government took measures, among them decree-law No. 279 of 19 October 1944, decree-law No. 89 of 6 September 1946 and law No. 199 of 18 April 1950, to regulate and organize in advance the movement towards the occupation of uncultivated land by seeking the support of the agricultural workers' co-operatives.

According to an inquiry carried out by the National Office of Economic Statistics for Agriculture in 1949 — a peak period — the area actually being managed by 1 187 co-operatives, on the basis of concessions, was 166 000 hectares. The movement is therefore undoubtedly of considerable importance.

The aim of agricultural policy was thus to establish a legal situation which would be such that co-operation in management and cultivation would gradually whittle away and supersede the economic and social phenomenon of the latifundia. Contractual relationships and working and living conditions prompted those concerned to choose co-operative association; the law favoured and protected this choice.

In the land reform areas, State laws No. 230 of 12 May and No. 841 of 21 October 1950, and Sicilian regional law No. 104 of December 1950, tackled the problem of the latifundium through a far-reaching innovation in the system of land tenure which encouraged the formation of new farm units on a family basis. Certain clauses of these laws, and specifically Articles 22 and 23 of law No. 230 of 1950, provided for the establishment in each settlement centre of compulsory co-operatives and "consorzi" grouping the newly installed farmers. In pursuance of these arrangements, the land reform bodies set up 645 co-operatives covering the management of farm machinery, cellars, oil mills, cheese and tobacco factories, sugar mills, requisites, marketing, and mutual livestock insurance. All these co-operatives are grouped into secondary "consorzi" and belong to the National Federation of land reform co-operatives.

Finally, in the framework of national agricultural policy, co-operation must familiarize the new farmers with practical democracy so that they can take their place in the life of a rural community that runs its own affairs untrammelled by political influences.

III. EVOLUTION OF AGRICULTURAL CO-OPERATION

When democratic life was restored in Italy after the last world war, agriculture was scarred by the material destruction which had occurred. It was necessary not only to restore the economic efficiency of agricultural enterprises but, above all, to re-create the foundations of economic and social equilibrium which had depended on corporate discipline during the years preceding the war but had broken down under the political events that followed.

The sector in which this breakdown was most severely felt was that of the large latifundia in Central and Southern Italy and even more in the islands. For the second time in a short period, the most serious symptom of unrest was the occupation of land by the workers; the impoverished peasantry were driven to action by the need to work and still more by hopes, encouraged by the war, that a real solution would be found to their troubles, while absentee

landlords, out of touch with the times and averse to change, believed they could cling on to their former position. In other sectors, too, by reason of the natural tendency for peasants to improve their lot, social claims were voiced which certainly dated back a long time but had so far remained muted.

1. The problem for all these areas was not primarily economic but was essentially one of substituting a new social structure for the old.

a) Agricultural co-operation played a vital part in the following fields:

— Allotment of land to be farmed by co-operatives set up by agricultural workers;

— Development of association structures in the areas where agrarian reform was carried out;

— Development of co-operation in the actual work of farming.

The part played by the public authorities in this reform has already been indicated. The movement for the allotment of uncultivated or insufficiently cultivated land was encouraged by political forces with different ideological approaches—Socialist-Communist, Christian Democrat, Republican. The Christian workers' associations played a decisive part in certain areas such as Emilia.

In the farming co-operation sector, many and varied initiatives were taken to provide technical services in addition to farming requisites. Certain agricultural "consorzi" and the Italian Federation of agricultural "consorzi" took the following steps:

— Organization of centres for the loan of tractor ploughs;

— Setting up of establishments for the selection of seed;

— Establishment of nurseries and plantations;

— Field trials;

— Organization of technical advisory offices and laboratories;

— Organization of pest control centres;

— Organization of voluntary storage of products, together with large advances to the producers taking part, while after sale of the product the balance of the price obtained is handed over, less a deduction to cover the expenses incurred by the body responsible for storage.

b) In the credit sector, the conflict of ideas between Wollemborg and Luigi Cerutti explains why the Catholic rural banks were grouped at the beginning

around the provincial centres, at the seat of the various dioceses, and why the Italian Federation of Rural Banks was not set up until 1909 after the Congress of Brescia, and became really operative only from 1914 onwards. In 1919, the Federation (a co-operative limited company) had 50 local federations with a membership of more than 2 000 societies.

During the last twenty years, although the Catholic Federation was wound up after the unification of the rural banks in a single association, many Italian rural banks, while federated in the legally recognized Association, have nevertheless maintained contact with the Catholic Institute for Social Action.

People's banks, which were set up throughout Italy at the end of the last century on the initiative of Luigi Luzzati, a disciple of Schultze-Delitzsch, also play a part in the agricultural sphere, albeit a very small one compared with the rural banks.

c) As in other countries in similar circumstances, the arrangements made by the public authorities concerning insurance gave a fresh boost to agricultural mutual benefit societies. Around 1920 there were about 1 300 such societies for livestock alone.

Mention should also be made of the initiative taken at that time by the "Istituto nazionale delle mutualità agrarie" (National Institute of Agricultural Mutual Benefit Societies) in setting up a "section for instruction in agricultural co-operation and agricultural mutual benefit work". Its task was to provide permanent facilities for training the personnel to run the small agricultural co-operatives and mutual benefit societies.

2. In all this, agricultural co-operation met with various obstacles:

— First, there were economic difficulties, since members' savings were not always sufficient to pay for the equipment required, particularly in processing co-operatives. Today, this problem has been partly resolved by means of State subsidies. But the limitation on the value of shares that can be held by a member was an obstacle of some gravity, particularly because of the depreciation in the value of money after the war.

— From the human point of view, agricultural co-operation came up against the individualism of the farmers, which is a threat to professional solidarity.

3. The fields of agricultural co-operation where progress has been most marked concern the supply

of farming requisites, the storage, processing and sale of products, and agricultural credit.

On the other hand, labour co-operation is tending to disappear. It came into being in times of crisis due to unemployment and overpopulation and was sustained by movements encouraging the class struggle; but it has been losing ground as the general progress of industry and agriculture absorbs increasing quantities of paid labour and holds out fresh possibilities of jobs.

4. At the representative level, the co-operatives

have grouped together either on the basis of social and political ideologies or for economic aims that have nothing to do with politics or religion.

As to the aid and the facilities granted to the co-operatives, it will be enough to say that only in recent years have they been on a noteworthy scale.

Owing to new farming techniques and the growing rationalization of cropping methods, new groupings of societies have begun to serve the co-operatives by direct production of farm requisites (such as fertilizers and pesticides) and by the selection of seed.

History of agricultural co-operation in Luxembourg

I. SOCIOLOGICAL AND ECONOMIC ORIGINS

In the Grand Duchy of Luxembourg the co-operative movement began only towards the end of the last century, when the country's agriculture was in great difficulties and farms could no longer be run at profit. Under these circumstances recourse was had to organized mutual aid and agricultural association. The basic idea was that association founded on community of interests is a most effective means for the collective defence of those interests and for promoting the development and progress of agriculture, while at the same time contributing notably to increasing the yield and income of farms through the rationalization of farming methods and the organization of purchase and sales operations.

Social conditions were very favourable to the spread of the co-operative movement. There was — and still is — a predominance of small and medium-sized farms. Farms of 50 hectares and over are few and far between. Furthermore, farms in Luxembourg are grouped in villages, and the occasions for contact and mutual help which arise daily in this setting favour co-operation. The linguistic and religious unity of the population was another no less propitious background factor. Finally, the State has always encouraged the co-operative idea.

In 1808 the "Société des jardiniers et agriculteurs de Luxembourg" (Luxembourg Society of Gardeners and Agriculturists) was set up, and three "cercles agricoles" (agricultural circles) were founded, the first in 1846 ("Société royale" — Royal Society), the second in 1853 ("Cercle agricole et horticole" — Agricultural and Horticultural Circle) and the third in 1896 ("Ardenner Ackerbauverein" — Ardennes Husbandry Association). However, apart from these organizations, the co-operative movement in the Grand Duchy, unlike those in other countries, had no precursors.

AGRICULTURAL ASSOCIATIONS IN THE STRICT SENSE

The oldest associations are the "local agricultural societies", today known as "comices agricoles" (in farming) and "comices viticoles" (in wine-growing).

The first was set up on 3 January 1875 at Weiswampach, a village in the Ardennes. These societies, which were modelled on the German "casinos", were more in the nature of study circles. Their main objective was to disseminate knowledge useful to farmers, to acquire educational periodicals and books, and to organize lectures. As a secondary activity, they arranged joint buying of seed and fertilizers and also of farm machinery and implements for common use.

The promotor of the first local agricultural societies was an enthusiast by the name of Decker who had studied some agricultural science in Germany, where he got to know the German co-operative movement and particularly the "casinos", which were already very widespread towards the middle of the last century in the Rhineland-Palatinate.

FARMERS' ASSOCIATIONS

The movement in favour of farmers' associations, which undertook land improvement work of common interest to the members, really began towards the end of the last century. The first attempts were due to the bad condition of much of the grazing land at the time. The law of 26 December 1855 on irrigation and drainage, which was modelled on the French laws of 29 April 1845 and 11 July 1847 on irrigation and of 10 June 1854 on drainage work, was intended to remedy this. Article 9 of this law provided for the establishment of associations with legal personality and having irrigation and drainage work as their declared objects; Article 10 laid down that communes specially authorized to do so by the government could themselves undertake this work. But the high hopes of the public authorities came to naught. The number of associations remained insignificant, and the communes, for lack of funds and qualified personnel, undertook no projects at all.

A new impetus to the association of common interests was given by the law of 28 December 1883 on associations to carry out drainage, irrigation, etc.,

which assigned to them as object the execution of various works:

- Defence against flooding by rivers;
- Cleaning, deepening, repair of banks, and regulation, of canals and watercourses;
- Draining of marshes;
- Improvement of damp and unhealthy land;
- Irrigation and repair of dykes;
- Drainage;
- Building of farm access roads and improvements in methods of cultivation of general interest to members.

The proprietors concerned can form either "free" or officially approved associations. Both types have legal personality.

In the free associations, the unanimous written consent of members has to be obtained before work planned can be carried out.

In the rules on officially recognized associations, Article 12 of the law of 28 December 1883 lays down that "if the majority of those concerned representing at least two-thirds of the area of the land, or two-thirds of those concerned representing more than half the area, have signified their willingness to join, the Minister may authorize the

association. Those persons concerned who do not appear and do not formulate their refusal in writing or who abstain from voting shall be deemed to support the projected undertaking."

MUTUAL AID SOCIETIES FOR LIVESTOCK INSURANCE

The idea of insurance on a mutual aid basis against loss of livestock goes back to 1860. Despite the efforts of the pioneers of this movement, about twenty years were needed before it took root. It was only in 1883 that the first society was constituted, at the instigation of the agricultural "comice" of Beaufort. Like similar societies established later, it did not apply the premium system. In the event of the loss of an insured animal, each member had to pay the fund a fixed sum (generally one Mark) per head of cattle belonging to him. Reinsurance did not yet exist; it was only established in 1898, when the "Fédération des sociétés de secours mutuel contre la perte du bétail" (Federation of Mutual Aid Societies against Livestock Loss) was created.

The method of insurance which the first societies applied was too cumbersome. The number of societies created remained limited; in general they were lacking in vigour. Moreover, they were only *de facto* societies of a local nature without legal personality.

II. SOURCES OF PRESENT LAW ON AGRICULTURAL ASSOCIATION IN THE STRICT SENSE

The first co-operative bodies set up from 1875 onwards, *de facto* societies, had Articles that were extremely simple and did no more than indicate the object of the organization and the principal rules on co-operation, together with a few internal organizational arrangements copied from the statutes of the German "casinos". However, these rules were not in any way such as to influence either the spirit of the first law on the organization of agricultural associations or that of the Articles of the associations set up subsequently.

In fact, the Luxembourg co-operative system of today knows practically no usage or custom dating from the period before there was legislation. In so far as it is possible to speak of customary law applicable to the organization of associations, such law has existed only since 1900 and — curiously enough — it owes

its existence directly to the first law on agricultural associations. This law, dated 27 March 1900, was very brief — it contained only nine articles and did no more than fix the social objectives which the associations were to pursue and the formalities to be complied with in order to acquire legal personality. It allowed the associations full liberty as regards their internal organization. To settle the question of this organization, the associations set up under the 1900 law therefore referred back to the relevant arrangements in the statutes of the German co-operatives or to the stipulations of the German law of 1898 concerning "Erwerbs- und Wirtschaftsgenossenschaften" (industrial co-operatives). It should be noted that there was a customs union between the Grand Duchy of Luxembourg and Germany until 1918.

III. EVOLUTION OF AGRICULTURAL CO-OPERATION

1. Until 1883 the number of local agricultural societies grew only slowly. After that date, when the "Administration des services agricoles" (Agricultural Services Administration) was instituted, more and more societies were set up. In 1887 they numbered 67, and between 1888 and 1891 forty to fifty were created each year. It may be noted that after 1883 the local societies gradually lost their character of study circles and concentrated their efforts on supply of requisites and joint utilization problems. From 1898 the development of agricultural "comices" intensified; from that year onwards, most of the basic slag from Luxembourg steelworks used in agriculture was ordered through these societies.

In 1885, on the initiative of the Diekirch society, 20 societies formed a federation whose principal aim, apart from education, was the placing of collective orders for fertilizers required by the members of the affiliated societies. This federation lasted only a relatively short time. It was still going in 1886, but the exact date when it ceased to exist is unknown. The present federation of agricultural "comices" (Fédération agricole d'achat et de vente — Agricultural Purchasing and Sales Federation) was set up in 1909.

In the dairy sector, the first local co-operative dairy was established in 1892. It was the first to use in common a centrifugal skimming machine. Vigorously encouraged by the State, this new type of association spread fairly rapidly, so that after about thirty years almost every village had a co-operative dairy. After the last world war, Luxembourg agriculture rationalized the dairy economy on the basis of an overall reorganization plan that covered the whole country and was applied from 1951 onwards. At present the number of co-operative dairies serving the whole country is three, not counting one private dairy.

From 1900 onwards, thanks to the promulgation of the law of 27 March 1900 on the organization of agricultural associations, the movement really got powerfully under way. A whole range of associations was formed on the basis of this law, including in particular:

- a) The agricultural and viticultural "comices" (former agricultural and viticultural societies);
- b) The co-operative dairies;
- c) The co-operative cellars, at present six in number;

the first was set up in 1921, four others followed between 1929 and 1932, and the last was established in 1949; they are banded together in the "Groupe-ment des caves coopératives";

- d) Associations for the supply of services, such as threshing associations and co-operative distilleries.

In the stock-breeding sector the role of the syndicates for breeding cattle, pigs or horses consisted in the common ownership of a male stud animal. The first of these syndicates was formed on 19 November 1910, but their importance has greatly declined since an artificial insemination station was set up in 1952.

It is regrettable that in its original form the law of 1900 provided for only a small number of social activities to be pursued by the associations. Among other things, this law neglected savings and credit, so that the rural banks (Raiffeisen system), the first of which was established in 1925, had to be constituted as co-operative companies based on the commercial companies law of 10 August 1915. The same happened with the Federation of Rural Banks, the "Raiffeisenzentrale", today called "Caisse centrale des associations agricoles", formed on 1 January 1926 by the first seven rural banks.

In order to remedy this state of affairs, the law of 1900 was extended by two others:

- a) The law of 6 August 1921 giving legal personality as civil companies to associations of stock-breeders and to horticultural societies;
- b) The law of 26 June 1927 giving legal personality as civil companies to associations whose object is the establishment and administration of savings and credit funds.

The legislation on the agricultural associations was recast after the second world war. The decree-law of 17 September 1945 considerably widened the range of activities which the associations could pursue while maintaining the simpler formalities for incorporation and publicity provided by the old law of 1900. Following the improvements thus made, the agricultural associations ceased to be companies. Only three of them retained their commercial character in law.

However propitious the decree-law of 1945 was for the development of the co-operative system, it now appears too rudimentary and inadequate in view of the ever-increasing importance of the movement. A new law is therefore under consideration.

2. In the farmers' associations sector two events greatly contributed to the progress of the movement:

a) The first was the creation, as mentioned above, of the Agricultural Services Administration, which was made responsible for, *inter alia*, the cleaning, maintenance and improvement of watercourses.

b) The second event was the law of 28 December 1883 on farmers' associations for draining, irrigation and similar work.

In this field, the results obtained exceeded initial hopes, and 177 associations were given official recognition between 1883 and 1893.

3. In the insurance sphere, the movement got under way after 1891, thanks to the law on mutual aid societies of 11 July of that year. Article 1 of this law included among the aims "award of compensation in the event of death of livestock or of damage caused to harvests by hail or other hazards". The insurance societies set up under the law had legal personality, but their activity was limited to insuring against the loss of livestock, particularly cattle, and this has remained their *raison d'être*. The number of societies thus constituted increased rapidly and reached its maximum — 134 — in 1904.

The Fédération of Insurance Societies, created in 1898 as a *de facto* society, was reorganized in 1935 in the form of a non-profit-making society in accordance with the law of 21 April 1928 on non-profit-making associations. Originally, the sole purpose of this Federation was to group together the local societies and to cover their reinsurance. However, membership of the Federation was not compulsory. After a reorganization in 1935, the registered objects of the Federation extended to the following points:

i) Direct insurance to enable farmers not in a position to join a local society to insure against livestock loss nevertheless;

ii) Extension of cover to horses, etc., with the possibility of extending its effects also to stud cattle and horses of higher unit value;

iii) Extension of cover to slaughter animals, which ended in 1945 when the "Caisse d'assurance des animaux de boucherie" (Insurance Fund for Slaughter Animals) was established.

After the second world war, the practice of insuring against livestock losses declined more and more. At present the number of insurance societies does not exceed 22, and for the most part they lack drive. This regression is due mainly to the economic and

social evolution of agriculture. Small herds of cattle are becoming much less common, while enterprises which are really agricultural associations prefer to spread risks.

4. In the overall evolution of the co-operative system, the small associations have met with practically no obstacles in their economic context. The situation is different with the large associations, such as the regional associations and the federations. In view of their commercial character, they were bound to meet with competition from private traders. This competition was felt both when the co-operative organization came into being and in the course of its subsequent development. However, it lessened as co-operation grew in importance and proved to be incontestably a factor helping to regulate markets.

From the human angle co-operation, particularly in the early days, encountered difficulties due to the characteristically suspicious attitude of the farmer himself. In addition, various obstacles were raised by persons that did not belong to the movement, either because they were against it on principle or because they had a personal interest in the failure of those who supported it. This was the case particularly with the rural funds movement.

As for the State, it has always encouraged the co-operative idea.

If we consider what the movement has achieved, in no branch of activity has it been a failure, apart from a few isolated cases. Some branches have developed better than others, and co-operation has even come to dominate certain markets, e.g. dairy products. On the other hand, the activity of the agricultural "comices" has been taken over by the rural banks, the small local dairies have been replaced by the three large regional establishments; the associations for the joint ownership of stud animals have for the most part been superseded by the artificial insemination station.

Agricultural co-operation at business level is still divided by branches of activity. In Luxembourg there is no overall association responsible for achieving the various aims listed in Article 1 of the Grand Ducal decree of 17 September 1945 on the organization of agricultural associations. In general the associations are specialized.

As to representation, the co-operatives were represented by their federations before the last world war. At present, this is the responsibility of the National Council of Agriculture (Chamber of Agriculture) and of the farmers' groupings.

The help which agricultural co-operation has received in the course of its development has come solely from the public authorities, which have granted financial aid, certain tax reliefs and access to technical ser-

vices created by the State, and have also collaborated in the technical and economic spheres. But practically no help has been received from other co-operative sectors or from the other sectors of agriculture.

History of agricultural co-operation in the Netherlands

I. SOCIOLOGICAL AND ECONOMIC ORIGINS

The first agricultural co-operatives were set up in the Netherlands during the last quarter of the 19th century. The first co-operative purchasing association was formed in 1877, the first co-operative dairy in 1886, the first vegetable auction (*veiling*) in 1887 and the first co-operative credit bank in 1896. Furthermore, at the end of the 19th century and the beginning of the 20th, there existed starch, straw-board and beet sugar factories which had adopted the form of co-operative societies.

The origins of co-operation are closely linked with the critical situation of agriculture around 1880. Previously, the production of most farms had been intended largely for consumption on the farms themselves, but from then on it was essentially for marketing at home or abroad.

In these new circumstances, the weak position of the farmers became apparent in the purchasing and marketing sectors — and also in the field of credit, for the expansion of trade which went with this change called for borrowing on a considerable scale.

In the insurance sector, the origins of co-operation go back even further. The first mutual fire insurance society appeared about 1800 but, although societies of this type were founded throughout the 19th cen-

tury they only began to develop fully around 1880. This development is also explained by the crisis which agriculture was then going through, and is part of a general trend towards co-operation. The immediate objective was to satisfy the farmers' need for insurance cover. Private companies showed little enthusiasm for insuring farms, which they regarded as bad risks; whenever they did in fact consent to accept these risks, they set the premiums so high that the farmers could not pay them. The first livestock insurances were established in the first half of the 19th century, the frequency of contagious diseases among cattle being one of the reasons for their emergence. Separate funds were established for horses, cattle, pigs, sheep and goats. Mutual insurance of horses, cattle and, above all, pigs developed on a specially large scale. Lastly, the first mutual hail insurances date from the middle of the century but, like those against fire, they developed fully only towards 1880.

Although the establishment of agricultural co-operatives in the Netherlands must in general be considered a spontaneous reaction to unfavourable circumstances, it was nevertheless stimulated in a great number of cases by the farmers' organizations, in particular those of the Catholic farmers.

II. SOURCES OF PRESENT LAW ON AGRICULTURAL CO-OPERATION

The first statutory regulation on co-operative activities in the Netherlands dates from 1876. Previously, societies with the essential features of a co-operative were considered, in the absence of a special legal form, as ordinary societies within the meaning of the law of 1855 "regulating and restricting the exercise of the right of association and meeting".

In 1874 the Minister of Justice condemned the application of the 1855 law to the co-operatives on the grounds that it was intended to deal with non-profit-making societies whereas, in his opinion, the aim of the co-operatives was to promote the material interests of their members.

Following this decision, the co-operative societies were, for lack of a legal basis, no longer able to claim legal personality, and a special law was promulgated in 1876. But a rather remarkable thing happened on this occasion. The Government modified its point of view to such an extent that from then onwards the co-operative movement had two laws under which it could acquire legal status: the law of 1855 and that of 1876.

In 1925, the 1876 law was replaced by a new one. Various objections had in fact been formulated against it. In particular, it did not permit the establishment of a members' council, and it attached

too exclusive a value to the members' register as proof of affiliation. But even after 1925 the co-operative movement could still use the legal form of association (law of 1855) and, if necessary, pursue its objectives as a limited company.

This situation was due to the fact that the law on co-operative societies defined only the formal features of this type of society. Co-operation considered as the means of promoting particular material interests (the substantive feature of a co-operative society) did not, it was thought, imply compulsory adoption of the legal form of co-operative society to achieve this end.

When the new Civil Code was being drawn up, the question was re-examined in the context of company law. The new law, which is not yet in force, provides that, when a grouping pursues a co-operative objective and must be considered in substance as a co-operative society, it must also be formally constituted as such.

III. EVOLUTION OF AGRICULTURAL CO-OPERATION

1. The local Dutch co-operatives quickly felt the need to collaborate with similar institutions at regional and/or national level. Central organizations and central co-operatives were therefore soon set up.

The central co-operatives have mainly a commercial function, but this does not rule out the possibility of their managing the interests of the affiliated organizations in other fields—administrative, legal and fiscal. These activities are, moreover, the ones in which the non-commercial central organizations, normally engage.

In some cases this trend towards centralization led to the setting up of one central organization per sector for the whole of the Netherlands. This happened, for example, in the co-operative dairy industry, whose central organization is a confederation of regional federations. In other cases, two central organizations or two or more central co-operatives, or even a combination of both systems, are found in one and the same sector, for example in the credit sector and the purchase of requisites.

2. These groupings of co-operatives, like that of the 5 000 co-operatives in the Netherlands, present striking organizational differences.

In the mutual insurance sector Dutch legislation has so far left societies the greatest latitude in defining their structure and organization (except for mutual life insurance). Only a small number of mutual insurance societies — about thirty in all — are based on the law on co-operative societies. The very great majority of these operate on an entirely co-operative basis but have been constituted according to the principle set out in Article 286 of the Commercial Code, which lays down that "insurance and mutual guarantee societies shall be governed by their own conventions and regulations and, where these provisions are incomplete, according to the principles of law". Thus, a mutual society is validly constituted when the decision to cover a particular risk by setting up such a society has been taken by a given number of persons.

But the new Civil Code, which includes the law on companies, provides in detail for the structure of mutual insurance societies. Although already adopted by the two Chambers of Parliament, these provisions will not come into force for some time.

In some sectors the liability of members vis-à-vis their association is unlimited, in others it is limited. Similarly, various groups of co-operatives have included in their Articles a provision obliging the members to make use of their services (this is the case with dairies), whereas in other sectors (requisites, in particular) this obligation does not hold. It may also be pointed out that only certain groups of co-operatives (e. g. the co-operative sugar industry) have adopted a system obliging every new member to pay a sum which limits the liability he accepts. The shares, which represent the amount paid in, confer on members the right to deliver to the co-operative a corresponding quantity of their production. In practice, co-operatives with this system are not very numerous. Finally, it may be noted that although co-operatives in certain sectors deal extensively with non-members, this practice is unknown or exceptional in other sectors.

3. It has already been pointed out that the farmers' organizations, particularly the Catholic ones, played an important part in the foundation of co-operatives, particularly when the co-operative movement in the Netherlands was still in its infancy.

This stimulus led the Catholic farmers' organizations to establish close relations — sometimes even sharing

institutions — with the co-operatives. There are generally no such relations between the other professional organizations and the other co-operatives.

4. At the present stage, the general position of the agricultural co-operatives appears fairly strong.

The great problem now facing them in the Netherlands is how to adapt their organic structure to the requirements of modern business management. This problem involves concentration, which must be understood as a means not only of creating large technical units but also of facilitating the management of all co-operatives in the various sectors.

PART TWO

AGRICULTURAL CO-OPERATION — BY COUNTRY

Preliminary remarks

1. The following monographs briefly describe the legal, social and economic aspects of agricultural co-operation in each of the six countries of the Common Market. They have been compiled from the replies made by the co-experts to the questionnaires sent them. Attention should immediately be drawn to two points, so that the reader shall not be disconcerted by certain aspects of this Part:

a) The general layout of the monographs, the principle of which may not be easily grasped; although the matters in hand are studied case by case and problem by problem, certain questions sometimes seem to be "sliced up".

b) Some basic legal concepts, which are designated by the same terms in the different EEC countries, do not have quite the same meaning in all the countries.

2. Despite the similarity of their names, certain basic legal concepts differ appreciably in the six EEC countries. These differences are a further factor, in addition to history and economic and social conditions, accounting for the disparities between the six systems of agricultural co-operation. However, if we refer to the most commonly accepted classifications of present-day legal systems we must admit that the six systems of law are part of the same "legal family", the Romano-Germanic, within which there exists a broad consensus as regards both the sources of law and its main divisions and basic concepts. Moreover, the six legal systems of the Common Market, already brought close together by geography and history, are exhibiting an unmistakable movement towards harmonization. But, despite these convergences, it is still necessary today to ask what the basic legal concepts governing agricultural co-operation mean in each country.

Two groups of concepts, i. e. those governing classification into company, society or association, and into "sociétés civiles" (companies governed by civil law) or "sociétés commerciales" (companies governed by commercial law),¹ have led to so much confusion in connection with co-operatives that it seems essential to define them here.

3. In Germany, the two basic forms of groupings of persons on which all companies or societies are founded are the association ("Verein") and the company governed by civil law ("Gesellschaft"). The association is a union of persons forming a single

entity both internally and in its dealings with the outside world. As against this, the "Gesellschaft des bürgerlichen Rechts", or company governed by civil law, is not organized as a body, and each member is severally liable; the "Verein" has legal personality, but not the "Gesellschaft". The general partnership ("Kollektivgesellschaft"), and the "Kommanditgesellschaft" or partnership with sleeping partner(s), belong to this latter category, while the joint stock company, the partnership partly limited by shares ("Kommanditgesellschaft auf Aktien"), the limited liability company, and also the registered co-operative with limited or unlimited liability (the latter resting more on the action of its several members) and the mutual insurance society, all have the corporate structure of an association. The last two groupings, as well as the registered association which can only have an intellectual aim, are considered not to be pursuing a strictly economic end; however, because of their organization into bodies, they, like the joint stock companies, the partnerships partly limited by shares and the limited liability companies, possess legal personality, which confers on them the possibility of independent action as organizations in law.

All these groups, except associations in the strict sense of the term, are "commercial" by reason either of their form (joint stock companies, partnerships partly limited by shares and the limited liability companies), or of their activities (ordinary partnerships and partnerships with sleeping partner(s), when they carry on a full-scale commercial activity), or, again, of special laws which place co-operatives and mutual insurance societies on the same footing as commercial companies.

4. In Belgium, where the origin of the laws is often to be found in French codes, the word "sociétés" has different meanings which must be carefully distinguished. First of all, "associations" should be differentiated from "sociétés" in the strict sense. An "association" is an organized group of persons whose aim excludes all quest for and distribution of gain; the "société", on the contrary, is constituted with a view to sharing a profit. Nevertheless, Belgian law speaks of "sociétés coopératives", though, strictly speaking, the co-operative is an "association coopérative". In reality, the terminology is based on whether they are endowed with legal personality ("sociétés") or not ("associations").

¹ See footnote p. 29.

However, although in Belgian law a "société" is commercial when its object is to perform acts which the law considers commercial, the co-ordinated laws on companies recognize six types of "sociétés commerciales" — among them the co-operative society — on which legal personality and the title of "société commerciale" are conferred.

5. In France, the "société" must be distinguished from the "association" according to the aim pursued by the contracting parties. A "société" is a contract concluded in order to share the profits from a joint undertaking carried out by means of the capital contributions of the parties to it. An "association" is a contract by which a number of persons permanently pool their knowledge and their activity for a purpose other than to share profits.

According to case law, the concept of profit must be understood as a pecuniary gain which adds to the fortune of the associates. The consequent narrow definition of a "société" would have had the unfortunate result of extending the strict regulations on associations to groups which, without any sharing of profits, offer material advantages to their members, if the legislator had not provided for this contingency by endowing such groups with a status of their own and calling them "sociétés" (= companies). This is the case with co-operative societies.

"Sociétés" are civil or commercial companies, according to their object. A legal person, on the same footing as a natural person, is considered as exercising an occupation. If this occupation falls within the category of commercial occupations the company is commercial. However, the legislator decided that joint stock companies and limited liability companies would be regarded as commercial by reason of their form and irrespective of their object.

6. Italian law makes a distinction between the association and the company. The latter must be a "collective economic enterprise", which an association is not. What distinguishes the company from the association, then, is not whether the profit motive is involved but the presence or absence of the role of economic enterprise as revealed by their registered objects. A distinction recently proposed is that in associations the members themselves seek direct advantages (which may be of an economic nature), whereas in a company the advantage is first acquired by the company itself and is afterwards distributed among the members. Companies are divided into profit-making companies and mutualist societies (among them the co-operative societies). The basis of the profit-making company contract is the sharing

among the members of the profit produced by the economic activity exercised in common, while the basis of the mutualist society contract is the direct acquisition by the members of goods, services or employment on better terms than they would obtain on the open market.

Finally, Italian law distinguishes between a commercial and a civil company on the basis, not of the legal form embodied in the Articles, but of the type of activity it is desired to pursue. When a company wishes to carry on a commercial activity in industry, as an intermediary, carrier, banker or insurer, or an ancillary activity, it must be constituted as a commercial company — in the form of a partnership with or without sleeping partner(s), a partnership partly limited by shares or, again, a limited liability company. Thus co-operative societies engaged in farming in the sense of cultivation of a property, stock-breeding, forestry, or in related activities for the conserving, processing and sale of products, are civil companies; the last-mentioned activities must, however, be ancillary and supplementary to the agricultural activity proper of the members.

7. Luxembourg law distinguishes between groupings with an "ideal" aim and those with an "interested" aim. The first are associations pursuing a philanthropic object — non-profit-making associations or public utilities, all of which are legal persons in private law. The second are subdivided: groupings with an "interested" aim may be associations for professional mutual aid, with no sharing of profits possible (this is the case with agricultural co-operatives which take the form of the agricultural association); or they may be "sociétés" in which sharing of profits is allowed — civil or commercial companies, among them co-operative societies whose aim, unlike that of the agricultural associations, does not exclude the making and distribution of profits.

8. Apart from associations constituted under the 1885 law and deemed to be pursuing intellectual aims, Netherlands law distinguishes:

a) The civil company, the partnership with or without sleeping partner(s), and the joint stock company;

b) The co-operative union, a form which can be used in all sectors of economic life and is frequently found in agriculture. The aim of the co-operative union is to advance the material interests of its members, for instance by exercising their profession, trade or craft in common, by joint purchase of equipment, materials, etc., or by granting credits and loans.

9. For reasons of clarity and general harmony, the layout of the monographs has been modelled faithfully on that of the questionnaires, which were planned to elicit precise, concrete and — in a word — “practical” replies, and also to deal with the differ-

ent disciplines in succession: first law, then sociology, and finally economics and statistics. Ideas and general principles are never discussed at length or stressed in the monographs; their detailed treatment was reserved for the last two parts of this report.

Germany

SECTION I

THE LEGAL SYSTEM APPLICABLE TO AGRICULTURAL CO-OPERATION§ 1 - GENERAL REGULATIONS ON AGRICULTURAL
CO-OPERATIVES AND CO-OPERATIVES
OF AGRICULTURAL CO-OPERATIVES*LEGISLATIVE FRAMEWORK*

The basic text is the law of 20 May 1898 on producers' and consumers' co-operatives, a text which is still in force but has undergone several amendments. It is applicable throughout the Federal Republic and concerns both agricultural and other categories of co-operatives.

FORM AND DESIGNATION

The regulations as to form and designation are not peculiar to agricultural co-operatives, which are one category of society under private law and — like non-agricultural co-operatives — have legal personality under private law. They bear the title of "registered co-operative society with limited (or unlimited) liability". This title is protected because the general principles of company law apply to this field; the law on co-operatives does not of itself afford any particular protection.

OBJECTS

The rules applicable to the objects of the co-operatives are fairly flexible. Like all other co-operatives, agricultural co-operatives must be intended "to promote the purchases or the economic activity (of their members) by joint management" (Article 1 of the law on co-operatives), but no specific economic activity is assigned to them. Thus, within the limits of the general objectives laid down in Article 1 of the law on co-operatives, the objects of co-operative activity can be freely fixed by the Articles.

For example, agricultural co-operatives can, as a secondary activity, allot credits or carry out operations which satisfy not only the farmers' occupational requirements but also those of daily life. Nevertheless, co-operatives may not carry out insurance operations (Article 7 of the law of 12 May 1901

on private insurance companies). Their object may be a single or a multiple one: a co-operative may devote itself to a single economic activity (for instance, dealing with merchandise only or credit only) or it may pursue its activity in several fields (for instance, both merchandise and credit).

CHARACTERISTICS

Here too the regulations are equally flexible. Both primary and secondary agricultural co-operatives are traders within the meaning of the Commercial Code (Article 17 (2) of the law on co-operatives). Subject to the authorizations legally required for the pursuit of certain activities (for instance, banking operations), they may be set up freely. Their field of action is not limited in space or time. Only their Articles may assign a limit in time and make membership subject to residence in a certain area (Article 8 (1), points 1 and 2, of the law on co-operatives).

With the exception of credit co-operatives, which may make loans only to their members, agricultural co-operatives and unions of such co-operatives are not obliged to deal exclusively with their members unless their Articles impose this restriction or unless the fundamental principle that their object must be "to promote the purchases and economic activity of their members by joint management" would otherwise be infringed. Similarly, they are not required to give preference to the services of agricultural credit co-operatives.

*CAPITAL**Composition and return*

It is obligatory to constitute a capital stock, consisting of stock contributed by members plus reserves, but there are no rules as to the amount. The way in which the reserves are to be formed must be laid down in detail by the Articles.

The capital is not represented by securities and does not bear interest. Members participate in the profits of the society in proportion to the amount of

stock they contribute or according to any other mode of distribution laid down by the Articles.

Increase and reduction

The capital may be increased only:

- a) by increasing the amount contributed by each member,
- b) by requiring members to acquire several shares, or by forming supplementary reserves through transfer from profits.

The capital may not be increased by incorporating reserves.

The capital can only be reduced by diminishing in the same proportions the amount of all shares held by members (overall reduction).

Members leaving the society are entitled to have the stock they contributed reimbursed within six months of leaving. The amount they receive in settlement depends on the balance-sheet; if this shows that the co-operative's assets are insufficient to cover its liabilities, the retiring member must make a proportionate contribution towards the loss. In any case, he has no claim on the reserves and other assets of the co-operative.

The practice of "revolving funds"¹ does not exist in German law.

LOANS

Co-operatives may not raise money by loan issues, even in the form of redeemable bonds.

RIGHTS AND OBLIGATIONS OF MEMBERS

General rules

Anyone who fulfils the conditions laid down by the Articles of a co-operative can become a member. A rural artisan, for instance, can join a rural credit co-operative. However, save in exceptional cases, only local co-operatives can be members of a co-operative of agricultural co-operatives.

The number of members of co-operatives may vary, depending on the nature of the co-operative, which is a "society of unlimited membership" (Article 1 (1) of the law). However, the Articles may lay down a maximum number. The minimum number of members of co-operatives (and of unions of co-operatives) is fixed by law at seven. It is possible for one person to belong to several co-operatives.

Formalities for admission

These are four in number: lodging of a written declaration of candidature; consent of the managing committee; transmission of this declaration to the registration authority by the managing committee; inscription of the new member's name on the membership list. Only when all this has been done does the newcomer acquire the status of member of the co-operative.

Members' obligations

The member must subscribe one or more shares and make the corresponding payments. Furthermore, the Articles may require him to make deliveries in kind or to contribute by activities. They may also require him to pay an admission fee.

By joining the co-operative, members undertake to meet its debts out of their personal assets, should it go bankrupt (in the case of limited liability co-operatives, up to the amount guaranteed, and in that of unlimited liability co-operatives, up to the total of their assets). Members are not directly responsible towards third parties.

Members' rights

Each member has one vote at the General Meeting. He is entitled to participate in the operations for which the society was set up, the right to be informed, and also the right to contest, by a complaint to the managing committee, any decision of the General Meeting which is contrary to the law or to the Articles (provided that he has had his opposition to the decision noted in the minutes, or that participation in the General Meeting has been wrongfully refused him).

Every member has the right to withdraw from the co-operative. A declaration of withdrawal may only be accepted at the end of a business year and must be lodged at least three months in advance. This time-limit may be extended by the Articles but may never be longer than two years.

In the event of withdrawal, the member is entitled to the reimbursement of his share on the basis of the most recent balance-sheet. In the event of the co-operative being dissolved a member has the right to reimbursement of that fraction of the co-operative's assets corresponding to his capital contribution, unless the Articles provide for the assets to be otherwise distributed.

¹ For an explanation of this term, see p. 157.

At the end of the business year, the managing committee of the co-operative may expel any member who has been deprived of his civil rights or belongs to another — competing — co-operative. The Articles may, moreover, lay down other motives for expulsion. The member excluded may no longer take part in General Meetings or hold an administrative or supervisory post. His right to reimbursement of his capital contribution is the same as that of a member who withdraws.

ORGANS

The organs of the co-operative are:

- a) the General Meeting (*Generalversammlung*),
- b) the managing committee (*Vorstand*),
- c) the supervisory board (*Aufsichtsrat*).

General Meeting

The General Meeting is the highest authority in the co-operative. Each member has one vote in it, which he cannot exercise by proxy. In co-operatives with more than 3 000 members, the General Meeting consists of representatives of members who must be members themselves; the Articles lay down the number of representatives, the conditions of their eligibility and the method of voting.

The General Meeting convenes as laid down by the Articles and at any other time required by the interests of the co-operative, or when one-tenth of the members, or a smaller percentage fixed by the Articles, asks that it be convened. The General Meeting is convened by the managing committee unless otherwise provided for by law or by the Articles. It must be convened according to the procedures laid down by the Articles but with a minimum notice of one week, and the object of the meeting must be specified.

The decisions of the General Meeting must be entered in the minute book.

As the ultimate organ of the co-operative, the General Meeting can take decisions on all questions that are not reserved to another organ by law or by the Articles.

Moreover, the law assigns it the following tasks:

1. To approve or amend the balance-sheet; for this purpose the balance-sheet and the managing committee's general report must be made available to members at least one week before the General Meeting;

2. To discuss the distribution of profits and losses;
3. To give clearance to the managing committee and the supervisory board;
4. To fix the maximum amount of loans which the co-operative may grant and of savings deposits which may be entrusted to it;
5. To fix the limits to be observed in granting credits to members.

As ultimate authority, the General Meeting alone has power to amend the Articles. To this end, and where the Articles do not provide otherwise, a majority of three-quarters of the members present is needed.

Managing committee

The managing committee is elected by the General Meeting, and consists of at least two members. The Articles may, however, provide for a greater number of members and some other manner of designating them. The members of the committee must themselves be members of the co-operative and may not belong to the supervisory board.

The members of the managing committee are generally appointed for an unlimited period. However, the supervisory board has power to suspend them from their functions when it considers this advisable; the committee can only be definitely dismissed by the General Meeting.

The members of the managing committee may exercise their functions as a secondary or as a principal activity; they may be paid or honorary. The law says nothing on this point. When they exercise their functions as a principal activity and receive payment for doing so, they are bound by an employment contract. The law does not oblige them to put up surety.

The managing committee administers the current business of the co-operative. It represents the co-operative both at law and in other matters. It must respect the limits placed on its representative powers by the Articles or by the decisions of the General Meeting. Nevertheless, the limitation on its powers of management is without legal effect vis-à-vis third parties.

Supervisory board

Members of the supervisory board must be members of the co-operative. Membership of the supervisory board is incompatible with membership of the position of permanent deputy to members of the

latter. The supervisory board is composed of three members unless the Articles provide for more. It is elected and dismissed by the General Meeting (the duration of its term of office is normally unlimited).

The supervisory board supervises the managing committee and for this purpose must keep itself fully informed regarding the business of the co-operative.

In order to supervise the managing committee's operations, the supervisory board may demand accounts from it, consult the books of the co-operative, and check cash in hand, the securities portfolio and stocks. It may also convene the General Meeting and is authorized to represent the co-operative in concluding contracts with managing committee members. Other powers may be vested in it by the Articles.

The members of the supervisory board are required to act with the diligence expected of good businessmen. They have civil liability vis-à-vis the co-operative — jointly and severally — for any harm it suffers through their failure to carry out their duties. They are criminally liable if they act intentionally in a way prejudicial to the co-operative or if the quorum necessary to give validity to the board's deliberations is not attained for more than three months.

The members of the supervisory board may not receive a remuneration in proportion to the proceeds of the society's operations. However, they are not required to furnish surety.

FINANCIAL MANAGEMENT

Since they have the attributes of businessmen, co-operatives must keep their accounts in accordance with the rules applicable to businessmen, and the official financial year of the co-operative is the calendar year unless otherwise stated in the Articles. Profits, losses and examination of accounts are discussed in detail below.

Operating income

Legal reserves must be built up from operating income until they have reached the minimum amount fixed by the Articles. The fraction of profits to be placed annually to the reserve fund must be fixed by the Articles. As to free capital reserves, these are governed by the appropriate provisions in the Articles. The General Meeting decides on the use of any surpluses that remain after the legal and free capital reserves have been supplied. The law provides that these surpluses shall normally be

distributed in proportion to the co-operative's assets. Furthermore, it has become customary to distribute to members a dividend or refund from operating surpluses proportionate to the turnover realized between them and the co-operative.

Losses

The losses of a co-operative are covered by the free capital reserves and, when these are exhausted, by the legal reserves or by drawings on the assets standing in the names of members.

In the event of bankruptcy, the members are personally liable for the co-operative's debts. (In limited liability co-operatives, they are liable up to the amount of capital contributed, and in unlimited liability co-operatives up to the whole of their personal fortune.)

Inspection of accounts

This may not be done by members or employees of the co-operative. Every co-operative must be affiliated to an "auditing and inspecting association" ("Prüfungsverband"). These associations are neither equivalent to the French "commissaires aux comptes" nor to chartered accountants ("Bücherrevisoren"). They are corporate bodies authorized to operate by the Government. They call on the services of auditors who are their employees and who must have had proper training and sufficient experience in checking the accounts of co-operative societies.

This inspection does not cover the accounts alone. In fact, the main task of the inspectors is to check that the business situation of the co-operative is in order and that it is being properly managed, and they are at liberty to investigate as much as is needed for this purpose. They must carry out their inspection conscientiously and impartially and observe thorough discretion. They are responsible for any intentional neglect of duty or any serious negligence — jointly where the fault is attributable to more than one person.

The inspectors are paid by the auditing association to which they belong.

Co-operatives must be inspected at least every two years and, when their balance-sheet total is DM 350 000 or more, at least once a year.

The right to operate is conferred on the auditing association by the Government (i. e. for those associations that operate in only one Federal Land by the Land Minister of Economic Affairs, and for associa-

tions whose activity covers more than one Land by the Federal Minister of Economic Affairs). The Government can check whether the auditing association is acquitting itself satisfactorily of the tasks entrusted to it and can withdraw its right to operate if it is no longer convinced that this is the case.

PROLONGATION

In general, co-operatives are established for an indeterminate period. Where a certain life has been allotted to the co-operative when it was constituted, the General Meeting may take a decision to prolong this by amending the Articles.

DISSOLUTION BEFORE DUE DATE

a) A co-operative must be dissolved if the number of members falls below the legal minimum. In this case, the co-operative must be declared dissolved by court order, either at the request of the managing committee or at the discretion of the court.

b) A co-operative may be dissolved by decision of the General Meeting. By law, this decision requires a three-quarters majority of the members present, but the Articles may impose more stringent conditions.

c) A co-operative can be dissolved by the administrative authorities where it is guilty of illegal acts or of negligence injurious to the public interest, or where its objectives diverge from those laid down by law.

These three cases entail the normal liquidation of the co-operative.

d) The co-operative is dissolved by the opening of bankruptcy proceedings.

INSOLVENCY (AND EXCESSIVE INDEBTEDNESS)

In the event of insolvency or excessive indebtedness bankruptcy proceedings are instituted. Conciliatory proceedings may first be initiated, but if these are of no avail, bankruptcy proceedings must be followed. The bankruptcy of a co-operative is governed by the provisions of bankruptcy law unless the law on co-operatives contains some special rules. The legal representative of the insolvent co-operative is the trustee in bankruptcy.

LIQUIDATION

Liquidation is carried out by the managing committee, except where the Articles or a decision of the

General Meeting provide otherwise. There must be at least two liquidators.

These represent the co-operative. They discharge current business and may, if necessary, transact new business. They recover the co-operative's claims and convert its property into cash. If the co-operative's assets are inadequate to meet its liabilities, capital contributions may be increased at the liquidation stage in order to avoid bankruptcy. Any assets remaining after settlement of the debts are shared among the members.

§ 2 - FEDERATIONS OR CONFEDERATIONS OF AGRICULTURAL CO-OPERATIVES AND OF CO-OPERATIVES OF AGRICULTURAL CO-OPERATIVES

Under the law on co-operatives, the latter are required to federate only in order to set up auditing associations. In all other cases, co-operatives — and co-operatives of co-operatives — are free to federate or not to federate. Their federations can form confederations, but are not obliged to do so. Apart from auditing operations, these groupings serve to defend the interests of the individual co-operatives.

The area of a federation is generally a Land of the Federal Republic. Federations are not bound to assume any specific legal form. Only the auditing associations must be registered associations (*eingetragene Vereine*).

§ 3 - OFFICIAL PUBLICATION

FORMALITIES

The constitution of co-operatives and of federations of co-operatives having the legal form of registered co-operatives (*"eingetragene Genossenschaften"*) must be notified to the court (*"Amtsgericht"*) for entry in the register of co-operatives. Federations of co-operatives having the legal form of registered associations (*"eingetragene Vereine"*) must also be notified to the court (*"Amtsgericht"*) for entry in the register of associations.

Subsidiaries must be declared to the court of registration in whose territory they are situated.

Any amendment to the Articles, change in the managing committee, accession or withdrawal of members, or dissolution, must also be entered in the register of co-operatives. When liquidation is terminated, the books and records of the dissolved

co-operative must be entrusted to a former member or to a third party designated by the Articles or the General Meeting or, failing this, by the court, and kept for ten years.

INFORMATION FOR THIRD PARTIES

Third parties may consult the register of co-operatives. Changes concerning the managing committee are not opposable against such parties if they have not been entered in the register of co-operatives.

§ 4 - PUBLIC AUTHORITIES

Generally speaking, co-operatives come under the Federal Minister of Economic Affairs. However, because of their importance for agriculture, questions concerning them which touch on agricultural policy and economy fall within the competence of the General Agricultural Affairs Division in the Federal Ministry for Food, Agriculture and Forestry. But the State does not intervene in any way in the establishment or activities of co-operatives. There are no model Articles drawn up by State bodies, but the law on co-operatives specifies the minimum points that the Articles must cover (name and head office of the co-operative, objects, method of appointing the managing committee and the supervisory board, system of liability, amount of members' holdings, constitution of reserves). Only the auditing associations are subject to supervision by the competent Länder Ministries, which verify whether

they are carrying out the tasks incumbent upon them and, if necessary, summon them to do so. The auditing associations have no imposed Articles either, but any changes in their Articles concerning the object or the area of the federation must be approved by the competent Ministries.

Voluntary dissolution of co-operatives or of their federations is subject neither to authorization nor to supervision by the public authorities. The State administration may not call on co-operatives to provide public services.

§ 5 - LATERAL FORMS OF AGRICULTURAL CO-OPERATION

It may happen that individuals practise economic collaboration on co-operative principles without their association having the legal form of a registered co-operative. The legal form of such groupings varies; the most usual is the joint stock company (for instance, farmers with shares in a sugar mill undertake to grow sugarbeet).

These different forms of association co-exist with co-operatives in certain cases because they thus make it possible to elude the numerous difficulties stemming from the structure of the co-operative when capital has to be provided for enterprises requiring very large investments, and in other cases because the minimum number of partners needed to set up a co-operative is not available. The two sectors complement each other.

SECTION II

THE LEGAL SYSTEM APPLICABLE TO AGRICULTURAL CO-OPERATION

§ 1 - GENERAL DESCRIPTION

Agricultural co-operatives and co-operatives of co-operatives are not all taxed alike. A distinction should be made between :

- a)* Agricultural co-operatives for services (threshing, ploughing and breeding co-operatives, etc.);
- b)* Processing co-operatives (for instance, dairying, wine-growing, distilling, meat-processing and egg-processing co-operatives);
- c)* Purchasing and sales co-operatives (whose object is the sale of agricultural products of all kinds and the purchase of such requirements as fertilizers, fodder, seeds, farm machinery, etc.);

- d)* Agricultural credit co-operatives, whether carrying on trade in goods or not, and

- e)* Co-operatives of co-operatives.

With the exception of those mentioned at *a)* and *b)*, all these co-operatives pay taxes on profits and on turnover exactly like any other trading or industrial enterprise (German law has no tax on production) and also, in principle:

- Corporation tax (Körperschaftsteuer),
- Tax on industry and trade (Gewerbesteuer),
- Wealth tax (Vermögenssteuer),
- Turnover tax (Umsatzsteuer).

The agricultural service and processing co-operatives mentioned above at *a*) and *b*) are exempted from corporation tax, tax on industry and trade and wealth tax when they:

- i) Limit their activity to their members, and
- ii) Exercise their activity solely in the agricultural sphere.

The consequence of this are that:

- i) Agricultural service co-operatives exempted from taxes can only exploit purely agricultural installations (and not, for instance, a joint plant for washing or refrigeration), and
- ii) Agricultural processing co-operatives exempted from taxes may only manufacture agricultural products.

Hence, for instance, almost all the dairy co-operatives of any importance are fully subject to tax, since they have been obliged, as a result of the modern trend, also to manufacture products which are no longer recognized as agricultural, i. e. milk drinks, ice cream, condensed milk, etc.

Furthermore, these co-operatives cease to benefit from tax exemptions when they participate in a joint stock company in which they hold more than 4 % of the capital or in a co-operative where they hold more than 4 % of the votes or more than 10 % of the capital stock.

Agricultural service and processing co-operatives which do not comply with all the legal conditions required for exemption from tax, or carry on a secondary activity falling outside the relevant legal provisions, are fully subject to corporation tax, to tax on industry and trade and to wealth tax on assets, in the same way as any other industrial or commercial enterprise.

Agricultural co-operatives for purchase and sale of the products mentioned at *c*) above are without exception subject to corporation tax, tax on industry and trade and wealth tax.

Rural credit co-operatives, whether or not they trade in merchandise, are also subject to corporation tax, tax on industry and trade and wealth tax. They benefit by special treatment only if the banking they carry on parallel with their commercial activity is their principal activity, and if they grant loans exclusively to their members. In this case, the rate of corporation tax is lowered from 49 % to 19 %, the volume of the taxable income is reduced by two-thirds, and the contributions of members may be

deducted for the purpose of assessing the taxable assets (the unit value of the operating assets).

The co-operatives of co-operatives mentioned under *e*) above are fully subject to corporation tax, tax on industry and trade and wealth tax. However, the central credit funds (co-operatives of credit co-operatives) enjoy the same special fiscal treatment as credit co-operatives. The co-operatives of agricultural processing co-operatives are exempted from taxation on the same terms as agricultural processing co-operatives provided all their member co-operatives are also exempted. However, in practice this condition may not always be fully complied with.

§ 2 - CHARGES AND TAXES TO WHICH THE AGRICULTURAL CO-OPERATIVES AND THEIR UNIONS ARE SUBJECT DURING THEIR LEGAL EXISTENCE

CONSTITUTION, PROLONGATION AND DISSOLUTION OF THE CO-OPERATIVE

No special charge is laid down; ordinary law applies.

CHANGE IN REGISTERED CAPITAL

No special charge.

FORMATION OR USE OF RESERVES

The sums taken from profits and put to reserves are subject to tax on profits (corporation tax and tax on industry and trade). Only the agricultural service and processing co-operatives mentioned above at § 1 *a*) and *b*) escape this.

When, exceptionally, these reserves are distributed to the members, they are further liable to the 25 % withholding tax on income from capital, a rate which rises to 33 1/3 % when the co-operative itself pays the tax.

Finally, being a part of the assets, the reserves are subject to the 1 % tax on the latter (except where there is fiscal exemption for agricultural service and processing co-operatives).

USE OF SURPLUSES

The profits of all co-operatives except agricultural service and processing co-operatives are subjects to the 49 % corporation tax and to the tax on industry and trade (12 to 15 %). Only that part of the surplus which is distributed as a "patronage refund" to the members of the co-operative (i. e. the payments made to members in proportion to the turnover

which each one has achieved with the co-operative) may be deducted from the amount of taxable profits. Distributed profits, on the other hand, are fully taxable, whereas in joint stock companies they benefit by substantial tax reliefs.

MERGERS

In cases of merger there is no special tax such as is imposed for joint stock companies.

However, co-operatives do not enjoy the "Schachtelprivileg" by virtue of which profits of joint stock companies stemming from participation in other joint stock companies are exempt from tax if such participation is equal to at least 25 % of the capital of the other company.

Finally, according to case law, co-operatives can be part of an "Organschaft" (system of interlocking companies) as parent but not as subsidiary companies. This means that they cannot conclude in favour of another company profit transfer contracts which have fiscal implications.

§ 3 - CHARGES AND TAXES TO WHICH THE CO-OPERATIVES AND THEIR UNIONS ARE SUBJECT BY REASON OF THEIR TECHNICAL OPERATIONS

PRODUCTION AND PROCESSING

Deliveries or services are subject to turnover tax (normally 4 %).

Production and processing do not attract any charge or tax but may involve the cancellation of reliefs of turnover tax applicable to wholesale trade (except where the law expressly states the contrary).

PURCHASING, SALES AND SUPPLY OF SERVICES

The purchase of goods is not subject to any charge or tax.

Sales and supply of services are subject to turnover tax.

TRANSPORT OPERATIONS

In this field the co-operatives bear the same charges as the corresponding enterprises. They must therefore pay:

- i) The motor vehicle tax,
- ii) The tax on the transport of goods: at the rate of 7 % of the price of transport in authorized long-distance freight transport and 3 pfennig per ton/km

in all other cases, reduced to 1 pfennig per ton/km for certain products (milk and milk products, fish, fruit, vegetables, fruit juices).

TURNOVER

The proceeds of sales are subject to turnover tax.

INVESTMENTS

Investments must be entered on the credit side when the balance-sheet is drawn up, but they do not reduce the profits. Only depreciation authorized by fiscal legislation may be deducted from taxable profits.

§ 4 - DIFFERENCES BETWEEN CHARGES AND TAXES ON CO-OPERATIVES AND THOSE ON SIMILAR ENTERPRISES UNDER ORDINARY LAW

The special features of taxation applicable to agricultural co-operatives on the terms indicated in § 1 are the following:

- i) tax exemption for agricultural service and processing co-operatives,
- ii) tax reliefs for credit co-operatives.

The special treatment granted agricultural co-operatives is due, on the one hand, to the fact that since their activities are limited to the circle of their own members they do not present the features of an industrial or commercial enterprise. Fiscal exemption therefore appears as a compensation for this limitation. It is also intended to encourage small and medium-sized farms by avoiding the destruction through taxation of the economic advantages of the co-operative.

In the matter of credit, the tax exemptions granted have a similar purpose, i. e. to compensate for the disadvantages of the restriction of the activity of the credit co-operatives to transactions with their members alone.

Federations or confederations of co-operatives are subject to the same tax arrangements as similar professional groupings of commercial or industrial

§ 5 - DESTINATION AND IMPORTANCE OF THE CHARGES PAID BY THE CO-OPERATIVES AND THEIR UNIONS

The tax on industry and trade is paid to the communes (Gemeinden) and the other taxes to local tax offices.

SECTION III

SOCIAL PROVISIONS OF AGRICULTURAL CO-OPERATIVES

There is no difference between the social provisions of agricultural co-operatives and the provisions laid down by ordinary law.

SECTION IV

BUDGETARY MEASURES CONCERNING AGRICULTURAL CO-OPERATIVES

§ 1 - DIRECT SUBSIDIES RECEIVED FROM THE PUBLIC AUTHORITIES BY AGRICULTURAL CO-OPERATIVES AND THEIR UNIONS

The co-operatives do not receive any subsidy when they are founded but, as they are institutions which support the farming operations of each member, they obtain subsidies identical to those which individual farmers may receive, it being understood that such subsidies shall indirectly profit the farmer.

The "Green Plan" provides subsidies for individual farmers in order to:

- a) Improve the quality and promote the sale of farm products,
- b) Favour the dairy economy,
- c) Encourage electrification,
- d) Promote fishing.

Thus, in principle, the co-operation do not get any specially favourable treatment in the matter of subsidies.

Only subsidies to encourage the production of quality wines are reserved for co-operatives. They help small-scale wine-growers to produce quality wines, since the modern cellar installations needed for this purpose cannot be acquired or operated profitably by the isolated wine-grower, who can benefit from recourse to installations exploited jointly.

§ 2 - OTHER TYPES OF AID RECEIVED FROM THE PUBLIC AUTHORITIES BY AGRICULTURAL CO-OPERATIVES AND THEIR UNIONS

In this field there are no differences between the agricultural co-operatives and individual farmers or groupings of farmers which have not adopted the co-operative form.

Like others, co-operatives receive interest subsidies from State resources when they borrow on the open money market. This arrangement is part of general agricultural policy and was not introduced specially to help the co-operatives. Groupings of co-operatives are treated in the same way.

The auditing associations do not benefit by any direct subsidy or aid of another kind.

§ 3 - SOURCE AND VOLUME OF PUBLIC AID

Subsidies are granted by the Federal Government. The Länder, which are responsible for distributing the credits allotted by the Federal Republic under the "Green Plan", also grant subsidies from their own budgets.

SECTION V

ORGANIZATION AND PERFORMANCE OF AGRICULTURAL CO-OPERATIVE ACTIVITIES

§ 1 - UNITY OF CO-OPERATION

AT BUSINESS LEVEL

Agricultural co-operation has not achieved unity at business level. Free competition is not excluded,

either between co-operatives or between their central bodies.

AT REPRESENTATIVE LEVEL

Agricultural co-operation has achieved unity, based solely on voluntary agreements uninfluenced by the

State. Union assumes concrete form at Federal level in the "Deutscher Raiffeisenverband e. V." (German Association of Farmers' Credit Co-operatives); this assembles the regional federations of rural co-operative organizations, which themselves embody co-operative unity at regional level. The role of the central organization and the regional federations is twofold:

- i) Internally, they are responsible for supervisory tasks, and advise their members on general problems connected with co-operative activities.
- ii) Externally, their primary function is to represent the interests of their members.

§ 2 - CO-OPERATIVES AND PUBLIC AUTHORITIES

The State exercises no influence over the co-operatives and, in dealings with the public authorities and State corporations, the agricultural co-operative movement is represented by persons of its own choosing.

The agricultural co-operatives are electors to chambers of commerce wherever they must belong to these. They may also have representatives in commercial courts and produce exchanges. The Articles of the chambers of agriculture determine whether the co-operatives shall be electors in these or not.

§ 3 - CO-OPERATIVES AND IDEOLOGICAL AND OCCUPATIONAL GROUPINGS

CO-OPERATIVES AND IDEOLOGICAL GROUPINGS

There are no links between the agricultural co-operative organizations and political parties or religious denominations.

CO-OPERATIVES AND OCCUPATIONAL GROUPINGS

The all-purpose agricultural professional organizations and the agricultural co-operatives maintain relations with a view to technical collaboration.

It is incumbent on the co-operatives to defend and represent the material interests of the farmers. In this connection it should be pointed out that in Germany the expression "material interests" is interpreted in the restrictive sense of economic interests (wirtschaftliche Interessen) and not in the wide sense of professional interests (Berufsinteressen). Furthermore, the German co-operative associations occupy themselves with the material interests of their members only, and not with those of agriculture as a whole.

Similarly, agricultural professional organizations cannot impose any general policy on agricultural co-operatives.

There are hardly any relations between agricultural co-operative organizations and workers' trade unions.

§ 4 - TRADE UNIONS OF PERSONNEL OF AGRICULTURAL CO-OPERATIVES

GENERAL

Special trade unions exist for agriculture but not for the agricultural co-operatives. Collective bargaining agreements are regularly concluded with the competent trade unions and generally give satisfaction. The agreements, which are concluded for a given branch of activity, are negotiated and signed on behalf of the co-operative concerned by the employers' organizations to which it belongs.

STAFF REPRESENTATION

Personnel representation can be established vis-à-vis the managing committee in agricultural co-operatives of a certain size. The works council or delegates of personnel collaborate with the managing committee.

In the big co-operatives with more than 500 employees, the latter may delegate representatives to the supervisory board. These enjoy the same rights and have the same obligations as the other members of the board.

§ 5 - THE PATTERN OF POWER IN THE AGRICULTURAL CO-OPERATIVE

CHIEF STIMULUS

The managing committee is the mainspring of the co-operative's activities. Its work is supervised and supplemented by the supervisory board.

On the basis of qualifications, performance and experience, wage-earning personnel can be promoted to executive posts. Managerial staff are expected to have had a good general education, but of a practical nature. The largest enterprises also recruit externally. For the organs of unions of co-operatives, persons with general aptitudes are required.

TECHNICAL ASSISTANCE

As regards organization the co-operatives call upon advisers when the need arises, and the central admin-

istrative services also invoke the help of planning or method offices. The "Deutscher Raiffeisenverband" has engaged in the training of advisers on co-operative organization, in collaboration with the Land federations.

§ 6 - SPECIALIZATION

The agricultural co-operatives may be divided into roughly equal numbers of single-purpose and multi-purpose organizations. However, co-operatives of co-operatives are generally specialized in one field.

Under the prevailing conditions of free competition, conflicts which could arise from the multiplicity of co-operatives or unions cannot be settled by the authorities. However, co-operatives may submit their disputes to arbitration.

§ 7 - UNIONS OF AGRICULTURAL CO-OPERATIVES

CO-OPERATIVES OF CO-OPERATIVES

Without prejudice to their economic autonomy, the co-operatives generally belong to co-operatives of agricultural co-operatives which largely complete the activity of the member bodies. In co-operatives of co-operatives, the principle of joint action inherent in the local co-operative is applied at a higher level of the economy.

FEDERATIONS AND CONFEDERATIONS OF CO-OPERATIVES

Co-operatives and co-operatives of co-operatives are grouped in federations whose tasks chiefly concern checking accounts, advising members and representing their interests.

In each Land or part of the territory of a Land and also at national level (Bund) there is only one Raiffeisen co-operative Federation which covers all sectors of co-operative activity.

§ 8 - ADAPTATION TO ECONOMIC DEVELOPMENT

Co-operatives react to the general trend towards concentration and internationalization of business by endeavouring to centralize and concentrate, without, however, achieving integrated systems running from the co-operatives of co-operatives down to the individual farmer.

Some agricultural co-operative have themselves organized industrial, banking or commercial enterprises, where their aims required this. In fact, under ordinary law agricultural co-operatives or co-operatives of agricultural co-operatives are allowed to hold the major part of the capital of companies under ordinary law, which are thus subsidiaries of agricultural co-operation, provided this does not jeopardize the co-operative's objective of economic advancement.

§ 9 - CO-OPERATION AND YOUTH

Recruitment of new members is going on satisfactorily. Young farmers favour the idea of co-operation, have confidence in this form of enterprise, adapt themselves to the indispensable co-operative discipline and accept the need for strict accounting.

The central co-operative body (Spitzenverband) and the regional associations endeavour to keep alive the idea of co-operation by training courses, lectures and publications, and to arouse it and implant it in the younger generation.

§ 10 - CO-OPERATION LEGISLATION AND THE ACTUAL SITUATION

The legislation in force is adapted to the needs of the hour. It should be pointed out that the system of dividends or refunds has grown up as customary law.

SECTION VI

POSITION OF AGRICULTURAL CO-OPERATIVES WITHIN THE CO-OPERATIVES MOVEMENT AS A WHOLE

§ 1 - RELATIONS BETWEEN AGRICULTURAL CO-OPERATIVES AND CONSUMERS' CO-OPERATIVES

For many years now, there have existed joint committees set up between the "Deutscher Raiff-

eisenverband" (German Association of Farmers' Credit Co-operatives) on the one side and the Edeka retail traders' central purchasing co-operative and the "Zentralverband deutscher Konsumgenossen-

schaften" (Central Union of Consumers' Co-operatives) on the other. The task of these committees is to review periodically means of increasing business between the co-operatives of the organizations concerned. Business relations, which are already numerous, are particularly close as regards the sale of ware potatoes, fruit and vegetables, dairy products, eggs, poultry, cattle and meat.

§ 2 - RELATIONS BETWEEN AGRICULTURAL CREDIT CO-OPERATIVES AND CREDIT CO-OPERATIVES IN OTHER SECTORS

There is a central establishment for co-operative financing and credit, the "Deutsche Genossenschaftskasse" (German Co-operative Bank). To this are affiliated the central funds of the agricultural co-operatives (Raiffeisen system) and the central funds of the occupational co-operatives (Schultze-Delitzsch system). Clearance of available credits is carried out through this central body. There is no direct mutual financing of seasonal credit requirements between the agricultural credit co-operatives and those in other sectors.

§ 3 - RELATIONS BETWEEN PRIVATE AGRICULTURAL INSURANCE COMPANIES AND INSURANCE COMPANIES UNDER ORDINARY LAW

The Raiffeisen organization does include insurance co-operatives since insurance bodies are not allowed to take the form of co-operative societies (Chapter I, Section I, § 1). It does, however, include mutual insurance societies and insurance companies with the legal form of joint stock companies.

The mutual insurance societies (Versicherungsvereine auf Gegenseitigkeit) are of some importance. They are small village livestock insurance associations and small fire insurance funds. They have a special legal form and, although they are legally not registered co-operatives, they have a co-operative and occupational character arising from the composition of the groups of people they insure. They work on the principle of covering needs and are generally on a subscription system.

In 1952 leaders of the agricultural co-operative organizations founded several insurance companies which these organizations own which are closely

linked with them, the aim being to promote the interests of agriculture. The commercial activities of the insurance companies are co-operative in character, notably because the persons insured share in the profits, almost all of which are paid back to them in many cases. The controlling bodies of these companies consist almost exclusively of people concerned with agriculture and co-operatives. Because of their co-operative aims, their attitude towards their insured clients, and the attitude of the members of the co-operatives and occupational organizations towards them, these joint stock companies should be regarded as insurance institutions that are co-operative and occupational in character.

The companies' activities were subsequently extended to the small business classes, and since then they have worked under the aegis of the Raiffeisen organization and the people's banks. This group, the "Raiffeisen- und Volksbanken-Versicherung" (Raiffeisen and People's Banks Insurance), consists of five companies:

- a) a limited company for general casualty insurance,
- b) a mutual benefit life insurance society,
- c) a mutual benefit pension society which provides pensions for persons whose main activity has been in the co-operative organization,
- d) a mutual benefit livestock insurance society,
- e) a limited company for reinsurance.

This group collects over DM 369 million a year in premiums. The life insurance branch has a portfolio of more than DM 2 000 million. The invested capital of all the companies exceeds DM 730 million. Adapting themselves to the special needs of farmers and horticulturalists, their activities extend to all sectors of casualty insurance (fire, storm, automobile) and of personal insurance (accident, life, old age and family pensions, third-party).

§ 4 - POINTS OF CONTACT BETWEEN LEADING FIGURES IN THE DIFFERENT CO-OPERATIVES (AGRICULTURAL AND NON-AGRICULTURAL)

Leaving aside the joint committees mentioned in § 1, there are really no points of contact between representatives of agricultural and non-agricultural co-operatives, but personal relations are established between them as and when called for by local circumstances. This therefore holds good for con-

tacts between the agricultural and credit sectors. In practice, moreover, such relations are frequent. The joint schemes undertaken by co-operatives in the various sectors are reflected in the work of the "Freier Ausschuss der deutschen Genossenschaftsverbände" (Free Committee of the Central German Co-operative Organizations).

§ 5 - PUBLIC SERVICES OR BODIES DEALING WITH CO-OPERATION

Co-operation as a whole is not under government supervision; however, the auditing associations are subject to supervision by the competent Minister of Economic Affairs (i. e. of the Federal Republic or in the Länder).

SECTION VII

POSITION OF AGRICULTURAL CO-OPERATIVES IN THE ECONOMY

§ 1 - RELATIVE IMPORTANCE OF AGRICULTURAL CO-OPERATIVES AND OF OTHER FORMS OF ENTERPRISE IN THE VARIOUS BRANCHES OF ACTIVITY

MARKETING AND PROCESSING OF AGRICULTURAL PRODUCTS¹

- i) The share of co-operatives in cereals marketing and processing is 43 %.
- ii) Co-operatives account for 82.9 % of the total supply of milk to dairies, 25 % of the cattle, 29 % of wine production, 44.6 % of vegetable marketing, 27.2 % of the fruit sold, 60 % of operations to supply seed and seedlings, 62 % of fertilizers, 70 % of all dealings in pesticides, 45 % of animal feeding-stuffs, and 25 % of farm machinery.

CREDIT AND INSURANCE

The share of co-operative credit in the total volume of credit granted to farmers is as follows:

- 61 % of short-term credit,
- 24 % of all farm credit (short-, medium- and long-term).

§ 2 - AGRICULTURAL MARKETS DOMINATED BY CO-OPERATION

In certain spheres the co-operatives have won a decisive position on the market, e. g. milk, at least as regards collection, 82.9 % of which is performed by co-operatives. It is solely because of the services they render, and without any pressure by the public authorities, that the co-operatives have been able to acquire this dominant position.

§ 3 - TREND OF CO-OPERATIVE INDEX IN GERMANY

To establish this index the following elements were taken as a basis:

- a) Proceeds of the sale of agricultural products;
- b) Operational inputs (industrial fertilizers, complementary feedingstuffs, seeds, livestock bred for profit, new machines and plant protection products).

Comparison of the amount of direct transactions between co-operatives and farmers on the one hand and the total turnover of the agricultural sector on the other gives the following index numbers:

Pre-war: 33.6 %;
 1950-51: 36.5 %;
 1951-52: 35.2 %;
 1952-53: 36.7 %;
 1953-54: 36.7 %;
 1954-55: 37.0 %;
 1955-56: 38.0 %;
 1956-57: 39.4 %;
 1957-58: 39.2 %;
 1958-59: 38.9 %;
 1959-60: 39.9 %;
 1960-61: 40.2 %;
 1961-62: 40.1 %;
 1962-63: 40.4 %;
 1963-64: 40.8 %;
 1964-65: 41.7 % (provisional).

¹ As regards these figures it must be noted that the difference between the percentage for the co-operatives and 100 per cent does not exclusively concern transactions by enterprises of a different legal form. The difference partly results from the direct relations established between producers and purchasers of various farm products which consequently do not go through the distribution sector.

CHAPTER II

Belgium

SECTION I

THE LEGAL SYSTEM APPLICABLE TO AGRICULTURAL CO-OPERATION

§ 1 - GENERAL REGULATIONS ON AGRICULTURAL CO-OPERATIVES AND CO-OPERATIVES OF AGRICULTURAL CO-OPERATIVES

LEGISLATIVE FRAMEWORK

A reform of the co-operatives system is in course of preparation in Belgium. Actually, Belgian law assigns no particular status to agricultural co-operation, which has taken on very diverse legal forms. We will deal here with the very numerous co-operatives which have been constituted in the form of co-operative societies and are governed by Section 7 of the Commercial Code. However, in order to be able to take advantage of the "Fonds d'investissement agricole" (Agricultural Investment Fund), the co-operatives must comply with a number of conditions laid down by Royal decree of 15 May 1961. These mainly concern the objects and membership of the society, and their purpose is to ensure adhesion to agricultural mutualist principles.

The Belgian co-operative society is a company with variable capital. The legislative framework is largely supplementary, that is to say the Articles have wide freedom to fix the structure and the rights and the obligations of the parties concerned.

Model Articles have been drawn up to fill the gaps in the law, but they lack uniformity. This study is therefore confined to what is strictly required by law, leaving out of account what is usual in the Articles.

FORM AND DESIGNATION

The agricultural co-operatives are companies under private law whose title of co-operative does not enjoy any special protection.

OBJECTS

These can be freely fixed in the Articles, subject to no exclusion or limitation.

CHARACTERISTICS

The primary co-operatives and the co-operatives of co-operatives have the character of traders. Their establishment and their Articles are subject to no

restriction. They are not obliged to have any special territorial area (the rural banks generally choose one). Their maximum duration is 30 years but, if the Articles do not say anything on this point, it is fixed at 10 years.

CAPITAL

Composition and return

Share capital must be constituted, and no maximum or minimum amount is imposed by law; only the indication of a minimum in the Articles is required. This capital is variable, and is represented by registered shares with a nominal value. No minimum is fixed for the nominal amount of the shares. Transfer of shares to third parties is forbidden by the law, and transfer to other members is governed by the Articles. However, the law lays down special conditions for the transfer of shares representing actual contributions of a non-monetary character. Transfer is effected by entry on the official register.

As regards return on capital, legal freedom is restricted by the conditions of access to the benefits of the Agricultural Investment Fund, which fix the maximum percentage of annual dividends at 6 % of the paid-up amount of shares. Finally, the principal of the shares is statute-barred after 30 years, and the interest on them after 5 years.

Increase and reduction

The capital can be increased individually by the issue of new shares, or overall by raising the nominal value of shares or incorporating reserves. It may be reduced individually by reducing the number of shares (in the case of withdrawals), or overall by decreasing their nominal value (provided this does not reduce the capital below the statutory minimum). Except where the Articles contain a restrictive provision, a member leaving the society receives the value of his stock contribution as shown on the most recent balance-sheet, i. e. with profit or loss according to the case. The blocking of refunds is often resorted to, but the "revolving funds" system is little practised.

LOANS

The co-operative may raise money by loan issues in the form of redeemable bonds provided the issues conform with the procedures laid down in the co-ordinated laws on commercial companies. These bonds may circulate among the public and are then subject to special regulations. In theory they can be quoted on stock exchanges, but this has never happened.

RIGHTS AND OBLIGATIONS OF MEMBERS

General rules

The number of members of a co-operative is essentially variable but must not be lower than 7. The same person may be a member of more than one society (these rules are valid both for co-operatives and co-operatives of co-operatives).

Formalities for admission

The conditions of admission to a co-operative are laid down by its Articles. If they are silent on the point, the General Meeting is empowered to pronounce on admission. Its decisions, taken after consulting the board of directors, are final, and admission is only effective when the new member signs the society register. A fee for admission may be required.

Members' obligations

The obligations of members are laid down by the Articles. Their liability may be limited or (very rarely) unlimited. Except where otherwise stipulated in the Articles, they are jointly liable and their liability for commitments entered into by the co-operative while they were still members continues five years after they have left.

Members' rights

The rights of members are also defined elastically by the Articles. However, mention may be made of some rules which apply when the Articles do not make any provision: all members have an equal vote at the General Meeting; each year profits and losses are shared among the members, one half in equal shares and the other half in proportion to their contribution to the capital.

The General Meeting of the co-operative may expel a member for non-compliance with his obligations or for other reasons laid down by the Articles, which also fix the conditions of expulsion. The Articles

further indicate the terms on which members may leave the society. However, the law requires that they may only resign during the first six months of the business year, and allows them to receive back their share as it results from the balance-sheet of the business year during which the resignation was lodged unless the Articles contain restrictions on this point.

ORGANS

General Meeting

Legally the Articles must fix the way in which meetings are convened, the rights which the members have at them and, more especially, the method of voting and the majorities required if the discussion is to carry authority. Where the Articles say nothing on these points, members are convened by registered letter signed by the executive director; they all have an equal voice in the Meeting, and resolutions are voted according to the rules laid down for limited companies. The balance-sheet must be lodged with the registrar of the commercial court of the place where the society has its head office within 15 days of its approval.

Direction

It should first be pointed out that some confusion prevails in Belgium as to what is really meant by the various titles for directors, managing directors or even managers (*gérants*, *administrateurs*, *administrateurs-gérants*, *directeurs*). However, it is possible to distinguish clearly between functions which are on the direction plane and stem from a mandate contract with the society and those which are on the executive plane and stem from a contract for the hire of services by the society.

Legally, the Articles must indicate when and by whom official business will be directed and controlled, methods of nomination and dismissal, extent of powers and term of office. No maximum or minimum number of members is imposed for the directing body. Where the Articles say nothing on this point, the co-operative is run by a director appointed and dismissed by the General Meeting. He generally remains in office for six years.

The Articles must also lay down the manner of operation, responsibility and remuneration of the directing body. If they make no provision, the general rules of the mandate are applied. Failure to carry out certain formalities, such as deposition of the balance-sheet, renders the directing body liable at criminal law.

Management

The organization of the executive management should also be laid down by the Articles. If they do not do this, the directing body appoints the management; this consists of an official or officials bound by a contract for the hire of services. No remuneration procedure is prohibited.

FINANCIAL MANAGEMENT

The agricultural co-operatives, being traders, must observe the accounting rules of trade; the length of the accounting period is one year, except as regards the first, which may be longer or less long.

Results

The law demands the constitution of a reserve fund by the annual levying of at least one-twentieth of the profits; this levy ceases to be compulsory when the reserve fund has reached one-tenth of the registered capital. The distribution of profits and losses is a matter for the Articles. If these make no provision for this, profits and losses are shared each year between the members, one half in equal shares and the other half in proportion to their individual capital contribution.

In practice, the losses are adjusted first from the various reserves and then, if necessary, by reducing the capital or calling for further payments by members.

Inspection of accounts

The co-operatives are supervised by auditors who are chosen and dismissed by the General Meeting according to rules laid down in the Articles. (In addition to these auditors, co-operative societies which have called on public funds are obliged to appoint "réviseurs d'entreprises" (firms' auditors or inspectors), chosen from among the members of the "Institut des réviseurs d'entreprises" — Institute of Business Auditors.) If the Articles do not provide otherwise, the duration of the auditors' functions may not be longer than six years.

The auditors have very wide powers of investigation. They may obtain information by convening the persons concerned, have access to all documents, and may even demand a report from the administration on the society's assets and debts; they submit the result of their inspection and any proposals they consider advisable to the General Meeting. Their responsibility is that of specially authorized

employees without joint liability, and they are paid as laid down by the Articles.

PROLONGATION

Only the General Meeting has the right to prolong the existence of the society in accordance with the rules for amending the Articles.

DISSOLUTION BEFORE DUE DATE

The General Meeting can decide on this in the way indicated in the Articles. But anticipated dissolution could be compulsory if the number of members fell below seven or the capital below the statutory minimum. The public authorities have no greater claim to demand this dissolution than any other interested third party.

INSOLVENCY

Co-operatives are subject to normal bankruptcy procedures. The legal representative of the bankrupt society is the trustee, who, supervised by the judge-auditor and the court, realizes the assets and distributes the proceeds among the creditors. If a society does not reach a settlement with its creditors, it is declared bankrupt.

LIQUIDATION

Except where otherwise provided, the General Meeting appoints the liquidators. Failing this, the manager members are considered as liquidators. Their powers are laid down at the same time as they are appointed. Otherwise they are legally very wide, since the liquidators represent the co-operative and can institute and carry on any legal proceedings, receive any payment, realize any movable assets, bargain or compromise, and if necessary sell real estate by public tender. The net assets and the net losses are shared among the members according to the Articles. If the members are liable only for what they have personally contributed, the net loss is borne by the creditors.

§ 2 - FEDERATIONS OR CONFEDERATIONS OF AGRICULTURAL CO-OPERATIVES AND OF CO-OPERATIVES OF AGRICULTURAL CO-OPERATIVES

The federations and confederations almost always take the form of an association and not of a company, which means that their chief object must be "non-commercial". Their creation, their object and their

area of operation are entirely free, as are their legal forms, which are most often the *de facto* association, the professional union or the non-profit-making association.

It is the value of the federation which determines its designation or *de facto* recognition by the public authorities.

§ 3 - OFFICIAL PUBLICATION

FORMALITIES

The society is bound to lodge the deed of establishment with the registry of the commercial court or civil court within 15 days of the date it bears and to have it published in full in the "Moniteur belge" (Belgian official gazette). Amendments to the Articles and dissolution must also conform with these rules.

The following must also be lodged with the registry of the commercial court: the society's balance-sheet — within fifteen days of its approval; the list of members — every six months; and the act conferring their powers on the managers — within eight days of their appointment.

The act of termination of liquidation must be lodged within fifteen days and published with an indication of the place, chosen by the Meeting, where the books and official documents will have to be lodged and kept for at least five years and also, if necessary, of the deposit of sums and assets which are due to unpaid creditors and members.

Entry in the business register is also compulsory for both the head office and the branches of a co-operative.

INFORMATION FOR THIRD PARTIES

Third parties may have access to all this information, either in the publications mentioned or at the registry.

Information not published may not be adduced against third persons who, however, will be free to make use of it themselves. Moreover, any society whose constituent instrument has not been published in due form will find any action which it brings disallowed. Finally, sanctions are provided for to ensure the regular publication of the balance-sheet.

§ 4 - PUBLIC AUTHORITIES

For certain sectors (special credits, Agricultural Investment Fund, tax system for machinery-using co-operatives), agricultural co-operation comes under the Ministry of Agriculture (Department of Agricultural Co-operation). For approval by the National Co-operation Council, the Ministry of Economic Affairs and Energy is competent.

In return for financial aid provided by or obtained through the Ministry of Agriculture, a co-operative will usually have to submit to some supervision or accept conditions regarding its Articles. But apart from this case, the public authorities do not intervene at all in the life or operations of co-operative societies. There may be collaboration between a society and the authorities in the economic field either as a *quid pro quo* for advantages received or simply with the aim of good understanding.

§ 5 - LATERAL FORMS OF AGRICULTURAL CO-OPERATION

There is a lateral sector of activities in which legal persons, who can be either diverse companies or associations, function in a manner similar to that of co-operatives although, for historical, fiscal or structural reasons, they do not have their form. This sector hardly hampers the co-operative sector, but rather supplements it when at the service of agriculture.

SECTION II

FISCAL SYSTEM APPLICABLE TO AGRICULTURAL CO-OPERATION

§ 1 - GENERAL DESCRIPTION

The agricultural co-operatives are subject to the fiscal arrangements governing all co-operative societies; these come under the system applicable to partner-

ships that are commercial companies, without any exception, privilege or reduction.

The taxes on commercial companies, leaving aside those applicable to all traders, are the following:

Direct taxes:

- Withholding tax on real estate,
- Withholding tax on dividends and stock exchange capital gains,
- Standard 15 % tax on capital gains,
- Company tax.

Indirect taxes:

- Registration tax,
- Stamp duties (on documents),
- Taxes assimilated to stamp duty (transmission tax).

The fiscal reform of 1963 introduced a specific tax on companies. Agricultural co-operatives and co-operatives of co-operatives are treated on exactly the same footing as commercial companies. There is one exception, however: in primary co-operatives, interest on shares is exempt from capital gains withholding tax up to an amount of 100 francs per member.

§ 2 - CHARGES AND TAXES TO WHICH THE AGRICULTURAL CO-OPERATIVES AND THEIR UNIONS ARE SUBJECT DURING THEIR LEGAL EXISTENCE

CONSTITUTION

A registration tax of 2.5 % is charged on the gross amount, real or estimated, of capital contributions (movable or real or intellectual contributions). This rate is reduced to 1 % for co-operative societies recognized by the National Co-operation Council.

CHANGE IN REGISTERED CAPITAL

A registration tax of 2.5 %, reduced to 1 % for recognized co-operative societies, is charged in the case of an increase in the registered capital noted in an act submitted for registration. In practice, the increase takes place without any act being drawn up, and therefore without charge.

FORMATION OR USE OF RESERVES

Two stages must be distinguished:

1. Formation of reserves: at this stage income paid to reserves is subject, as a reserved profit, to the progressive tax on industry and trade, the minimum rate of which for companies is 25 %.

2. Use of reserves: operations for use in the registered assets (for instance, incorporation) are not taxable.

Distributions to members are subject to the withholding tax on capital gains which falls on both the society and the member. However, in the case of recognized co-operative societies the first 100 francs is exempt.

USE OF SURPLUSES

The use of surpluses for the benefit of the co-operative is subject to the tax on income from industry and trade. But a reduction is granted to all societies for any supplementary investment (time and amount are limited by legislation).

The distribution of surpluses to members is subject to the same charges as the distribution of reserves to them. When it is in the form of a co-operative dividend, such distribution is not taxable provided the dividend is granted before the closure of the balance-sheet. In fact it is considered as a commercial cost.

COMBINATION OR INTEGRATION

When the effect of a merger is only a contribution of property (contribution of branches of activity), the contribution is subject to a registration duty of 2.5 %, reduced to 1 % for recognized co-operative societies. When the effect is the absorption of one company by another (combination), the operation may be subject to industry and trade tax on the capital appreciation and to the withholding tax on the profits distributed to members.

The law grants favourable treatment to encourage merger and combination operations where these effect transfers of property. When the combination (or integration) results in extra activity, a reduction of transmission tax is provided for.

PROLONGATION

There is no longer any specific tax in connection with registration; the fixed charge only is payable.

DISSOLUTION

Dissolution does not give rise to any charge. Only the liquidation, in so far as it is a distribution of gains on capital contributed, attracts withholding tax for members.

§ 3 - CHARGES AND TAXES TO WHICH
THE CO-OPERATIVES AND THEIR UNIONS
ARE SUBJECT BY REASON
OF THEIR TECHNICAL OPERATION

PRODUCTION AND PROCESSING

Only the movement of goods and supply of services are subject to tax.

PURCHASING, SALES AND SUPPLY OF SERVICES

All these operations are subject to taxes considered equivalent to stamp duty. The transmission of property and the supply of services are in principle always taxable according to a tariff which varies according to the nature of the property and the nature of the contracting parties, respectively.

Buying and selling operations are subject to transmission tax (generally 6 %), luxury tax (13 % - 20 %), invoice tax (7 %) where transmission tax is not applicable, and, finally, invoice tax (7 %) on supply of services.

Supply of services is always taxable. Two exceptions should, however, be noted where co-operatives are concerned. The first is that of the "Cooperatives d'utilisation de matériel agricole" — CUMA (Co-operatives for the Use of Farm Machinery) which, as co-operative societies approved by the Ministry of Agriculture, are exempt from invoice tax. The second concerns the services (transport, packaging, sorting) supplied by the auction organizations on behalf of their members.

TRANSPORT OPERATIONS

The co-operatives are liable for transport tax except as indicated above.

TURNOVER

There is no turnover tax.

INVESTMENTS

On existing investments there is a real estate tax on buildings according to their nature and use.

There is no tax on the increase of investments. According to a provisional law, a percentage of the year's extra investments may be deducted from the basis liable to tax on income from industry and trade.

§ 4 - DIFFERENCE BETWEEN CHARGES AND TAXES
ON CO-OPERATIVES AND THOSE
ON SIMILAR ENTERPRISES UNDER ORDINARY LAW

Apart from the reductions of registration tax and some exemptions from tax on the supply of services, there is practically no difference between the charges on agricultural co-operatives and those borne by similar enterprises under ordinary law, or between the fiscal system for federations of confederations of co-operatives and that for similar groupings of commercial or industrial enterprises under ordinary law.

The charges are always levied on behalf of the State, the province or the commune.

SECTION III

SOCIAL PROVISIONS OF AGRICULTURAL CO-OPERATIVES

There is no difference between the social provisions of agricultural co-operatives and the provisions laid down by ordinary law.

SECTION IV

BUDGETARY MEASURES CONCERNING AGRICULTURAL CO-OPERATIVES

§ 1 - DIRECT SUBSIDIES RECEIVED FROM
THE PUBLIC AUTHORITIES BY AGRICULTURAL
CO-OPERATIVES AND THEIR UNIONS

DURING FUNCTIONING

The agricultural co-operatives may receive operational subsidies, but these are not measures of preference since the same advantages are also granted to non-

co-operative enterprises; bonuses are granted to dairying concerns which manufacture products derived from milk, and in certain circumstances the authorities act to promote exports. In all these cases the agricultural co-operatives receive no special favour but only advantages which are granted to enterprises under ordinary law.

However, for the storage of cereals, only the agricultural co-operatives receive a special premium, of 2 francs per quintal per month up to 35 000 quintals and 1.50 franc per quintal per month thereafter.

*DIFFERENCES BETWEEN THESE SUBSIDIES
AND THOSE OBTAINED BY SIMILAR ENTERPRISES
UNDER ORDINARY LAW*

Only one difference can be noted, concerning one particular agricultural activity, the storing of cereals, in which the co-operatives alone receive subsidies.

The aim of this is to encourage the establishment of cereals-storing co-operatives, which only a few years ago did not exist. The subsidies granted are degressive, and they will disappear in the more or less distant future.

*§ 2 - OTHER TYPES OF AID RECEIVED FROM
THE PUBLIC AUTHORITIES BY AGRICULTURAL
CO-OPERATIVES AND THEIR UNIONS*

These aids are in the form of interest-rate "subsidies" with a maximum rate of 3 %, and a complementary investment guarantee up to a maximum of 75 % of the credit obtained. They are granted by the Agricultural Investment Fund.

In addition, Belgian law provides for ground or building concessions. However, the provisions concerning these are part of the general policy of

encouragement to industry and are not peculiar to agricultural co-operation, which can, however, benefit from them. These concessions are granted by communes which make land available free of charge, or very cheaply, for the establishment of industries on their territory.

The benefits granted by the Agricultural Investment Fund are exclusively reserved for agricultural co-operatives, farmers and horticulturists. But other similar forms of aid exist to help commercial or industrial enterprises under ordinary law. The aim was not, therefore, to give agriculture any special advantage. Credit facilities exist in the industrial and handicrafts sectors as well.

§ 3 - SOURCE AND VOLUME OF PUBLIC AID

The subsidies are granted by the State (Ministry of Agriculture). The provinces and communes sometimes grant slight advantages to facilitate the installation or the operation of co-operatives or other enterprises on their territory.

For the financial year 1960, cereal-storing co-operatives were given subsidies to a value of 8 313 000 francs. Moreover, from 1 April 1961 to 31 March 1962 the Agricultural Investment Fund granted 3 344 000 francs in reduced interest rates to co-operatives alone. During the same period, 74 650 000 francs were made available in guarantees.

SECTION V

*ORGANIZATION AND PERFORMANCE
OF AGRICULTURAL CO-OPERATIVE ACTIVITIES*

§ 1 - UNITY OF CO-OPERATION

AT BUSINESS LEVEL

The agricultural co-operative organization has not achieved unity at business level. Competition exists between primary and between secondary co-operatives.

AT REPRESENTATIVE LEVEL

No unity exists, but in fact no case of competition arises. The function of the various bodies is purely consultative.

§ 2 - CO-OPERATIVES AND PUBLIC AUTHORITIES

Co-operation is in no way dominated by the public authorities, which, however, act indirectly in favour of the movement through the Agricultural Investment Fund. Agricultural co-operative bodies are indirectly represented through the occupational groupings.

The co-operative movement (which has the capacity of a trader) is an elector to commercial tribunals. Chambers of agriculture exist only at provincial level and their powers are very limited. Their members are not elected but nominated in the light of their capacity as representative of the farming world.

§ 3 - CO-OPERATIVES AND IDEOLOGICAL AND OCCUPATIONAL GROUPINGS

CO-OPERATIVES AND IDEOLOGICAL GROUPINGS

The agricultural co-operatives have practically nothing to do with the political parties but they do have relations with the religious denominations, particularly in the villages, where the clergy were among the very first founders of the agricultural organizations and also of the co-operatives.

CO-OPERATIVES AND OCCUPATIONAL GROUPINGS

Relationships exist between general-purpose agricultural trade organizations and agricultural co-operatives. The former assist and advise the co-operative bodies. On the other hand, the agricultural co-operative organizations have hardly anything to do with the workers' trade unions.

§ 4 - TRADE UNIONS OF PERSONNEL OF AGRICULTURAL CO-OPERATIVES

GENERAL

There is a trade union movement proper to agricultural enterprises, but the co-operatives have no trade union movement of their own. Collective bargaining agreements are concluded in the different branches of activity to which the agricultural co-operatives may belong. For instance, dairy co-operatives may be subject to agreements made in the food industry, and the "veilingen" (auctions) to those made in the fruit and vegetable sector. Agricultural co-operation is represented in the main sectors.

STAFF REPRESENTATION

Representation of personnel vis-à-vis the management may be assured by a works council (advisory committee), but cases where the law on this point is applied are rather rare.

§ 5 - THE PATTERN OF POWER IN THE AGRICULTURAL CO-OPERATIVE

CHIEF STIMULUS

The organs of direction and management are considered as the real driving force of the co-operatives. Further impetus is provided by the "services of professional organizations", whose members are chosen from among the co-operators on the basis of their industrial, commercial, economic and social qualifications.

Wage-earning personnel can be promoted to executive posts on the basis of qualifications, work performed and experience. They must have had a good general education. University degrees are well thought of, and in most industrial and commercial enterprises the members of the managerial bodies hold specialist diplomas or certificates. The largest enterprises also recruit staff from outside. However, a practical training may be considered sufficient; everything depends on the nature of the co-operative.

For the governing bodies of the unions of co-operatives, personnel of general competence are required.

TECHNICAL ASSISTANCE

The large co-operatives make use of the services of technical advisers or planning offices set up by organizations in the agricultural sector or others.

§ 6 - SPECIALIZATION

The trend to specialization is met with among most primary (ground level) co-operatives, but not so much as among the unions of co-operatives, whose activity is, in fact, mainly specialized.

There is no authority competent to settle any conflicts which might arise from the multiplicity of co-operatives or from unions having competing activities.

§ 7 - UNIONS OF AGRICULTURAL CO-OPERATIVES

CO-OPERATIVES OF CO-OPERATIVES

These exist only in the dairy, cereals and credit fields.

Their work consists mainly in providing complementary activities for their members. A co-operative of co-operatives hardly ever admits to membership an enterprise under ordinary law engaged in an activity similar to that of the member co-operatives. There are co-operatives which do not belong to the unions.

FEDERATIONS AND CONFEDERATIONS OF CO-OPERATIVES

Co-operatives of co-operatives are federated in a few fields only. There are two kinds of federation: specialist federations for a branch of activity, with the stress on technical aims; and federations of a regional character with the stress on administration.

The federations generally comprise primary agricultural co-operatives and co-operatives of

agricultural co-operatives, but never members from outside the co-operative movement. In general, they have no profit-making activity. There are no confederations.

§ 8 - ADAPTATION TO ECONOMIC DEVELOPMENT

The co-operatives are reacting to the general trend towards business concentration by also endeavouring to centralize and concentrate. The internationalization of business has not yet harmed the beneficiaries of previous trade flows. So far, no integrated systems reaching from co-operatives of co-operatives down to the individual farmer have been established.

It is possible for agricultural co-operatives or co-operatives thereof to hold the major part of the capital of companies under ordinary law, which are then subsidiaries of agricultural co-operation.

§ 9 - CO-OPERATION AND YOUTH

The attitude of young farmers towards the co-operatives differs appreciably according to whether they are old societies or new ones adapted to present-day needs and directed by younger people. In some societies, the need to rejuvenate managerial staffs and methods is a very real problem.

The need to educate young members so as to prepare them for responsible posts is also being felt, and more and more attention is being paid to this.

§ 10 - CO-OPERATIVE LEGISLATION AND THE ACTUAL SITUATION

The law on co-operatives is being recast, as certain provisions have proved to be out of date. In Articles, usage has taken the places of imprecise and inadequate legislative provisions.

SECTION VI

POSITION OF AGRICULTURAL CO-OPERATIVES WITHIN THE CO-OPERATIVES MOVEMENT AS A WHOLE

There are hardly any links between agricultural credit co-operatives and credit co-operatives in other fields, or between agricultural private insurance co-operatives and ordinary insurance co-operatives.

§ 1 - RELATIONS BETWEEN AGRICULTURAL MARKETING OR PROCESSING CO-OPERATIVES OR UNIONS OF CO-OPERATIVES AND CONSUMERS' CO-OPERATIVES

Connections between these two fields are practically non-existent, both at primary and secondary level. What relations there are subsist between sellers and ordinary clients. However, the relations created in the National Co-operation Council could favour a rapprochement.

§ 2 - POINTS OF CONTACT BETWEEN LEADING FIGURES IN THE DIFFERENT CO-OPERATIVES (AGRICULTURAL AND NON-AGRICULTURAL)

There are national bodies which are "free" and others established by law:

i) The National Co-operation Council,

ii) Credit and savings councils for particular branches of activity,

iii) Councils or committees to meet the needs of particular branches of activity.

However, relationships within these bodies are not in any way systematic. Joint schemes are undertaken as and when the circumstances call for them.

§ 3 - PUBLIC SERVICES OR BODIES DEALING WITH CO-OPERATION

There is a single body responsible for these questions, the "Conseil national de la coopération" (National Co-operation Council), which comes under the authority of the Ministry of Economic Affairs and Energy. However, its character is distinctly occupational, rather than governmental, and its structure is as follows:

— The Council: 20 members and 20 alternates appointed by the King on the proposal of the committees;

— The officers: Chairman, secretary, 4 deputy-chairmen (chairmen of the committees), 4 advisers;

— 4 Committees: Committee for consumers' co-operatives, committee for agricultural co-operatives, committee for production and distribution co-operatives, committee for service co-operatives.

Each co-operative may only be represented on a single committee, and the seats there occupied are proportional to turnover. The National Co-operation

Council deals with questions referred to it by the Government but can also tackle problems on its own account. Each committee deliberates on the questions proper to the branch it represents; decisions or opinions must be submitted by all the delegates of the different branches meeting in the Council.

SECTION VII

POSITION OF AGRICULTURAL CO-OPERATIVES IN THE ECONOMY

At present, exact replies cannot be supplied for all branches of activity. The "Institut national de la statistique belge" (Belgian Statistical Institute) is engaged in directing a statistical survey on this point.

§ 1 - RELATIVE IMPORTANCE OF AGRICULTURAL CO-OPERATIVES AND OF OTHER FORMS OF ENTERPRISE IN THE VARIOUS BRANCHES OF ACTIVITY

MARKETING AND PROCESSING OF AGRICULTURAL PRODUCTS

Cereals

The development of co-operative installations in the cereals field dates only from the years 1955-56. Previously, the marketing of cereals was practically entirely in the hands of individuals. Then, within a few years, about twenty storage co-operatives were established to cope with the problems posed by the increasing use of harvesting machinery. The movement has, moreover, obtained the support of the Government. At present Belgium has 22 such co-operatives of which 18 are in the Walloon region. Their capacity is approximately 100 000 metric tons, and 19 of them had an aggregate turnover of 338 million francs in 1960.

The amount of wheat harvested in Belgium is generally between 700 000 and 800 000 tons a year, 75 000 tons of which remain on the farm. The share of the co-operatives in marketing and processing operations is 15 % of the total of 625 000 to 725 000 tons supplied to the trade.

Dairy products

The origin of co-operation goes back to the beginning of the century, and the movement has progressively

spread to Flanders and the Walloon region. At the end of 1960 the total number of dairies was 250, of which 121 were co-operatives; their producer members numbered 64 000 with an aggregate turnover of 5 100 million francs. In addition, six "inter-coopératives" (co-operatives of co-operatives) handle the preparation and sale of liquid milk cheeses, powdered milk and other dairy products. In 1960 their turnover was 727 million francs.

The proportions of total production dealt with by the dairy co-operatives are as follows:

- Milk: 62 % (or 8 800 000 hl),
- Cream: 61 % (or 400 000 quintals).

Fruit and vegetables

It would seem that Belgium was the first of the six countries to introduce co-operation in this field: the first "horticultural unions" were formed as far back as 1900. But it is since 1914 that the movement has really developed. At the end of 1960 there were 22 unions — 15 co-operative auctions for fruit, 5 for vegetables and 5 mixed — which grouped about 40 000 producers and had a turnover of 2 000 million francs, 48.8 % of which was for fruit, 41.5 % for vegetables, 7.7 % for flowers, and 2 % for other products.

The co-operatives' share in the marketing of these products is as follows:

- vegetables : 40 %,
- fruit: 60 %.

Miscellaneous

Mention should also be made of two co-operatives producing hops, one for the sale of hatching eggs and two for fresh eggs, and two co-operatives for making and selling wine. However, the importance

of these various co-operatives in their different branches of activity is small, as is also that of co-operation in the livestock and meat branch.

SUPPLY OF AGRICULTURAL REQUISITES

No precise information is available for Belgium.

JOINT USE OF AGRICULTURAL MACHINERY

The co-operative movement for the joint use of agricultural machines is of recent date in Belgium. It began only in 1950 but was immediately strongly supported by the authorities, who were anxious to help small and medium-sized farms to obtain access to the necessary equipment. At the end of 1960 there were 284 of these co-operatives; they had 3 767 members working 40 657 hectares of land and making use of 1 582 machines. But their role is still a relatively minor one.

CREDIT

The beginnings of the co-operative movement here go back to the end of the last century. By 1925,

1 500 Raiffeisen banks had been established. Serious difficulties rendered reorganization necessary during the years 1940 to 1944. Today all the banks, which numbered 833 at the end of 1961, are affiliated to the "Centrale Kas voor Landbouwkrediet" (Central Rural Credit Bank) of the Belgian Boerenbond.

Co-operative credit banks account for 45 % of the total amount of credit granted to farmers. In 1964, 39 183 loans were made by these banks, and the credits outstanding amounted to 8 100 million francs.

INSURANCE

There are no agricultural insurance co-operatives, but only mutual benefit societies, in particular to cover livestock mortality risks. The number of mutual benefit societies for this type of insurance fell from 1 050 in 1930 to 449 in 1955.

§ 2 - AGRICULTURE MARKETS DOMINATED BY CO-OPERATION

In some branches (milk, cereals, fruit and vegetables) the role of co-operation is very important.

CHAPTER III

France

SECTION I

THE LEGAL SYSTEM APPLICABLE TO AGRICULTURAL CO-OPERATION

CO-OPERATION IN THE STRICT SENSE MUTUAL BENEFIT SOCIETIES CREDIT

INTRODUCTION

In France, the term "agricultural co-operatives" applies only to organizations engaged in the production, marketing and sale of agricultural or forestry products, their preservation, packing and processing, the supply of requisites and services for farms and forestry undertakings, and the accomplishment of all operations or work normally involved in agriculture. All these co-operatives are governed by a single set of legal provisions, which is peculiar to them.

Primary and secondary agricultural mutual credit banks are explicitly described as co-operatives by the law, but the legal provisions applicable to them are distinct from those applicable to agricultural co-operatives. There are two sorts of credit banks: some come under the "Caisse nationale de crédit agricole" (National Agricultural Credit Fund), which is a public establishment; others do not, and therefore do not share in the financial advantages granted by the State.

Agricultural mutual insurance and reinsurance societies are mutual benefit societies of a particular kind. These funds are also governed by special legal provisions.

The differences in structure between the three types of institution are empirical. They are due to the different origins of the three, during the second half of the nineteenth century. In 1900 the agricultural insurance societies were separated from the agricultural syndicates, but they have retained some of the syndicates' features. Agricultural co-operation has long been distinct from the agricultural credit system, but has only been fully autonomous since 1935.

Nevertheless, there is a unity of substance, outlook and aim between these three branches of agricultural organization in France, and the differences between

the three sets of legal provisions lie in details of application much more than in basic principles. These differences are dealt with below, under each heading.

§ 1 - GENERAL REGULATIONS

- i) agricultural co-operatives and their unions,
- ii) agricultural mutual insurance and reinsurance societies,
- iii) primary and secondary agricultural mutual credit banks.

LEGISLATIVE FRAMEWORK

Agricultural co-operatives in the strict sense are governed by general texts which apply to all sectors of co-operation, and by particular texts applicable only to them:

- i) The general texts are:
 - Title III of the law of 24 July 1967 on companies — the title which relates to companies with variable capital,
 - The law of 10 September 1947 defining the legal status of co-operatives in general.
- ii) The particular texts applicable to agricultural co-operatives are:
 - Title IX of Book III of the Civil Code (Articles 1832 sqq.),
 - The decrees of 4 February 1959, 5 August 1961 and 3 September 1965, and the law of 29 December 1961.

Agricultural mutual credit banks are governed by Book V of the Rural Code and by the decree of 9 February 1921, which has been amended several times.

In the Moselle, Bas-Rhin and Haut-Rhin *départements*, a large number of credit banks of the Raiffeisen type, and even many co-operatives, have kept the status conferred by the German law of 20 May 1898, which was maintained in force by a law of 1 June 1924.

Agricultural mutual insurance and reinsurance societies are governed by the law of 4 July 1900, which has become Article 1235 of the Rural Code, and its implementing decree of 2 August 1923; by the decree of 23 May 1964 making the regulations on insurance applicable to them; and by the texts peculiar to the various types of insurance provided.

FORM

Agricultural co-operatives and agricultural credit or insurance societies are always civil companies governed by private law,¹ but of specific types; they are therefore not commercial in character.

The membership and capital of agricultural co-operatives must be variable. Furthermore, the name "co-operative", qualified by the adjectives "agricultural", "peasant", "rural" or "forestry", is reserved to them by law. Secondary and tertiary co-operatives are called "unions of agricultural co-operatives".

The number of members of agricultural mutual insurances and reinsurance societies is variable but, by definition, these societies have no registered capital.

The number of members and the capital of agricultural mutual credit banks is generally variable, but this is not obligatory; the banks that do not have registered capital must institute joint, several and unlimited liability for their members. The name "regional agricultural mutual credit bank" is reserved to secondary banks that receive loans from the National Agricultural Credit Fund.

The activities of these co-operatives, banks and insurance societies are confined to the areas legally assigned to them.

In principle, their formation is not governed by any rules; however, co-operatives and their unions must obtain permission from the public authorities before they can start operations.

OBJECTS

Within the limits laid down by the respective legal provisions applicable to them, the objects of these societies can be freely fixed in their Articles of Asso-

ciation, and their activities are generally confined to meeting the needs of persons engaged in agricultural activities.

The purpose of the agricultural co-operative must be:

1. To ensure or facilitate the production, disposal or sale of their members' products,
2. To ensure supply of their members' requirements,
3. To furnish their members, for their exclusive use, with all services required on their farm,
4. In a general way, to carry out on behalf of their members all operations or work normally falling within the province of agriculture.

Agricultural mutual insurance societies meet the agricultural insurance needs of farm owners and farmers (fire, accident, third-party, hail, livestock mortality); they may even extend to meeting family requirements and providing insurance in country districts for persons not directly connected with agriculture.

Agricultural mutual credit banks facilitate and finance production operations and the equipping of farms and rural areas. All co-operatives' relations with third parties are restricted because of the strict application of mutualist principles. Hence, save when an exception is permitted by a ministerial decision and justified by special economic circumstances (fall in business by more than 50 % of normal operating capacity), the co-operatives and their unions are required to confine their dealings to their own members.

CAPITAL OF AGRICULTURAL CO-OPERATIVES AND AGRICULTURAL MUTUAL CREDIT BANKS

Agricultural co-operatives must have a variable capital the amount of which is laid down by the Articles in pursuance of the legal obligation to establish a ratio between the fraction of capital that each member must contribute and the operations which he intends to carry out, or actually does carry out, with the co-operative.

Most agricultural mutual credit banks provide for a capital in their Articles, although they are not bound to do so. The Rural Code does not lay down any ratio between the members' operations with the co-operative and their loans.

The capital is represented by individual and indivisible share certificates with a single nominal value

¹ See footnote, p. 29.

which is fixed by the Articles and must be at least 1 franc for co-operatives established before 20 May 1955 and at least 10 francs for those established since that date. The shares can be reimbursed to members withdrawing or expelled from it and to the heirs of members who have died; they are repaid at their nominal value less, in certain cases, a contribution towards the debts of the co-operative. These shares are not negotiable but can be transferred, on authorization from the board of directors, either to other members or to third parties who satisfy the conditions required for membership. Transfer of shares is effected by entry on the members' register.

The shares held by a member of an agricultural co-operative necessarily accompany transfer of his farm unless the board of directors refuses to admit the new farmer; such refusal may be referred to the General Meeting or to the courts. A member of a credit bank who gives up his farm can keep his shares if he retains one of the qualifications required in order to be a member.

The shares do not entitle holders to dividends. Income from them is limited to interest allocated annually by the General Meeting on the basis of the results of the last business year; the maximum rate is 6 % for co-operatives proper and 5 % for credit banks.

Interest on shares in agricultural co-operatives and agricultural mutual credit banks is statute-barred after five years. The right to realize the shares themselves is statute-barred after thirty years — the term laid down in ordinary law.

The capital may be increased without limit, either through increases in individual contributions or, in the case of co-operatives, all round, following a decision by the extraordinary General Meeting to modify the statutory basis of the members' obligations to contribute. Increase of capital by incorporating reserves is expressly forbidden.

The capital of a co-operative may not be reduced below three-quarters of the highest amount to have been noted by a General Meeting since the society was founded, except when shares have to be repaid to members retiring at the end of their period of commitment, or following a case of *force majeure* or expulsion, when the members concerned have not been able to transfer them. Under these circumstances the capital may still not be reduced below one-quarter of the highest amount noted by a General Meeting since incorporation. Moreover, the capital may not be reduced when the co-operative has received a loan from the National Agricultural Credit

Fund unless this institution authorizes the society to do so. When holdings are withdrawn from a credit bank, the bank's capital may not be reduced to less than the amount of the initial capital and, where the bank has requested aid from the National Agricultural Credit Fund, it may not be reduced to less than the total amount of the capital when the latest loan was given, unless explicit authorization to make such a reduction is given by the National Fund.

The practice of "revolving funds" obtains in some agricultural co-operatives.

Agricultural co-operatives may, with administrative authorization, create a fund of their own called the "Fund for co-operative development", represented by nominal certificates transferable only between members.

LOANS

Only co-operative societies issue loans in the form of bonds or notes, subscribed by their shareholders or by third parties. These securities do not circulate among the public and are never quoted on stock exchanges.

RIGHTS AND OBLIGATIONS OF MEMBERS OF CO-OPERATIVES AND MUTUAL BENEFIT SOCIETIES

Any individuals or corporations in public or private law can join a co-operative provided they are engaged in agricultural activity in the co-operative's area of operations or own interests there which are covered by the objects of the co-operative; for example, a non-farming landowner who is paid his rent in kind could become a member of a co-operative and contribute the produce he receives in lieu of rent to the co-operative. A farmer may not join more than one co-operative on the basis of the same farm and for the same service. Any co-operative may join one or more unions if its interests are covered by their registered objects.

An agricultural mutual benefit society can admit to its ranks property owners, farmers working their own land, sharecroppers, paid farm workers, and also rural artisans residing in its area. Agricultural mutual insurance societies belong to primary reinsurance societies, which are not allowed to have other members.

Under Article 617 of the Rural Code, the members of an agricultural mutual credit bank may be: members of agricultural syndicates; members of agricultural associations or societies; members of family allotment organizations; rural artisans who do

not permanently employ more than two workers, owners of buildings mainly used as dwellings and situated in rural communes; agricultural syndicates, associations and societies; chambers of agriculture and their permanent assemblies; communes and *départements*; establishments providing agricultural training; and various other corporate bodies connected with agriculture. The following may become members of a secondary credit bank: a local bank whose office is situated in the secondary bank's area; agricultural or rural bodies whose activity extends beyond the area of a single local bank; and, by way of exception, individual persons.

The number of members of agricultural co-operative bodies is necessarily variable. Primary co-operative societies must have at least seven (four are sufficient for co-operatives for the joint use of farm machinery), but no minimum number is stipulated for the other bodies, or for any secondary co-operatives.

Admission is effected by simple entry in the register of members of the co-operative after approval by the board of directors, or by signing the insurance contract. Certain wine-growing and dairy co-operatives require payment of an admission fee.

Membership of an agricultural co-operative involves two main obligations:

- a) to use all or some of the co-operative's services, and
- b) to subscribe a certain number of shares.

The shareholders' liability is usually limited to twice the amount of the shares subscribed or which should have been subscribed in the case of agricultural co-operatives, and as laid down in the contract in the case of agricultural mutual benefit societies and credit banks. The shares can be refunded, a contribution towards the debts of the co-operative being deducted in certain cases. However, the members of a co-operative which has received a loan from the National Agricultural Credit Fund, representing the State, are jointly and severally liable for the repayment of such loans to the Fund and, under the same conditions, to any regional agricultural credit bank which would have repaid the loan to the National Fund. The liability of a member of a credit bank or of a co-operative continues five years after his departure.

Every member has the right to use the services of his co-operative, to take part in the General Meeting, and to be informed of business activities. Thus, the members of an agricultural co-operative are entitled

to go to the head office after the sixteenth day preceding the General Meeting and inspect the reports of the board of directors and auditors there, as well as the balance-sheet for the past business year, while the regulations of the credit banks lay down that the deliberations of the board of directors and the General Meeting shall be officially recorded in documents which can be consulted by members. Finally, any member of a credit bank may lodge complaints before the bank's board of directors.

No member of a co-operative or of a credit bank may leave it before the end of the period for which he is committed — except, where members of co-operatives are concerned, in a case of *force majeure* recognized by the board of directors; furthermore, members of co-operatives who wish to withdraw at the end of their period of commitment must give at least three months' notice. If a valid reason is given, the board of directors of a co-operative may accept a member's resignation before his period of commitment expires, provided his withdrawal does not harm the co-operative and does not reduce the capital stock unduly; if the board of directors refuses its consent, an appeal may be made to the next General Meeting or to the courts.

The expulsion of a member of a co-operative may be pronounced by the board of directors, that of a member of a credit bank must be proposed to the General Meeting by the board of directors; serious reasons are required for this (penal condemnation, activity injurious to the society, adulteration of products supplied and, more generally, failure to comply with the Articles). The person expelled loses all his rights as a member, but retains his right to reimbursement for his shares at their nominal value, subject to any penalty specified in the Articles.

The members of an insurance society withdraw from it by terminating their contracts in the way prescribed or by not renewing them. The society has the same rights towards members.

ORGANS

General Meeting

General Meetings of co-operatives banks and insurance societies are governed by law and by their Articles. Any member has the right to take part in them or to be represented by proxy (the exercise of more than one mandate is limited in co-operatives and credit banks). The General Meeting is always convened by the board of directors, either *ex officio* or on receipt of a written request from a specific

proportion of the members or auditors. The notices (individual) and the agenda must be sent out at least 15 days before the meeting. Each member has one vote, but this rule does not apply inflexibly to collective members: with ministerial authorization, a co-operative whose members include other co-operatives may grant them additional votes calculated according to the number of their members and/or the amount of business they do with the co-operative. Collective members of credit banks have a number of votes proportionate to the number of shares they own, up to a maximum of five votes.

In agricultural co-operatives, an ordinary General Meeting may deliberate if one-third of the members is present or represented, and decisions are taken on a majority of the votes cast. An extraordinary General Meeting may deliberate if half the members are present or represented, and decisions are taken on a two-thirds majority of the members present or represented. In mutual benefit societies decisions are taken as prescribed in the Articles.

Unions of co-operatives can provide for plural voting in their Articles. In that case, the number of votes assigned to the member co-operatives must be fixed according to the criteria given above for collective members of co-operatives. The Articles of reinsurance societies generally grant a limited number of extra votes to their member societies, on the basis of a scale calculated from the amount of premiums reinsured. The law and the Articles govern functions and powers of the Meeting. For instance, the law prescribes that the annual report shall be presented to the General Meeting before a specific date. The ordinary General Meeting examines the accounts and gives discharge, distributes surpluses where necessary, and designates the society's organs. But it is the Extraordinary Meeting which deliberates on amendments to the Articles and on the dissolution or prolongation of the life of the society.

Direction and administration

The administration of co-operatives, banks and insurance societies is the responsibility of a board of directors, elected from the members by the General Meeting, which can also dismiss it. For agricultural co-operatives, it must consist of not less than three persons. In co-operatives whose membership is below twenty and whose area of operation does not go beyond the canton and the adjacent communes, the Articles may provide that the administrative function invested in the board of directors shall be exercised by a single director; this provision is only

very rarely applied. Moreover, there are certain grounds disqualifying people from exercising the functions of director in co-operatives (e. g. direct or indirect participation in an activity that competes with that of the co-operative) and in banks and insurance societies (e. g. professions such as insurance broker or business agent); again, a parliamentary deputy or senator may not be chairman or managing director of a regional agricultural credit bank or chairman of a local agricultural credit bank.

The directors are appointed for two, three or four years in co-operatives, generally for six years in insurance societies, and for three years in credit banks. A proportion of the appointments is renewable each year.

The board meets as often as the interests of the society require (in co-operatives, at least once per quarter). If its discussions are to be valid, at least half the current members must be present. Decisions are taken by majority vote, the chairman having a casting vote in case of a deadlock. Details of how the board shall function are laid down in the Articles.

The board of directors administers the society and is responsible for its proper functioning. It has the power to perform or authorize all administrative acts which are not reserved for the General Meeting. The liability of the directors is personal or joint according to the case and, in the case of co-operatives, holds good vis-à-vis the society and third parties for all errors of management. In the credit banks, their personal liability is only involved if the Articles or the provisions of the Rural Code are infringed. Except in the mutual benefit societies, the directors are required to subscribe a certain number of shares laid down by the Articles. These shares are earmarked as a guarantee of their administration and may not be transferred during their term of office. The directors carry out their functions on an honorary basis, but their out-of-pocket expenses are reimbursed. In co-operatives and credit banks those directors specially detailed to supervise the actual running of the society may receive a compensatory indemnity, fixed annually by the General Meeting, for the time spent on these duties.

Management

This is the responsibility of a manager except in local insurance societies, which have a part-time secretary-treasurer. The manager is a paid official appointed and dismissed by the board of directors,

which may not choose him from among its members. The appointment of the manager of a primary credit bank must be approved by the secondary bank under whose authority it comes and, if it is a regional bank receiving financial help from the National Agricultural Credit Fund, by the latter. The disqualifying conditions are roughly the same for the functions of manager and director; the manager of a regional agricultural mutual credit bank may not at the same time pursue an industrial or commercial occupation, hold a private salaried post, or be director of an institution that might receive loans from an agricultural credit bank.

The manager receives a mandate from the board of directors, and represents the latter in dealing with third parties, within the limits of the powers conferred upon him. The manager's responsibility is that of paid employee towards his employer. In credit banks it is specified in the Articles. The manager is generally bound by a contract under which no guarantee is demanded of him. His remuneration may in no case be a percentage of the society's turnover.

FINANCIAL MANAGEMENT

Accounting

Despite their "civil" status, co-operatives and unions of co-operatives must apply the rules of commercial book-keeping and conform to a model accounting plan.

Insurance societies are governed by the regulations on accounting applicable to the particular form of insurance in which they are engaged.

Credit banks that have received loans from the National Agricultural Credit Fund must comply with the instructions of the Minister of Agriculture and of that body; the National Fund lays down uniform rules for book-keeping and for submission of balance-sheets by regional banks.

For co-operatives, insurance societies and credit banks, the accounting period is one year.

Results

Maintenance of legal and statutory reserves is given priority by the law and the Articles. Thus, in credit banks at least three-quarters of surpluses must go to the building of reserves. In co-operatives, it is compulsory to set aside 10 % of the net surpluses until such time as a legal reserve fund equal to the

amount of the capital has been constituted. The remaining surpluses may be shared between members in proportion to the turnover of each of them in business with the co-operative, or according to procedures laid down by the General Meeting.

Legal procedures for settling losses hardly exist. In practice this is done by dipping into reserves. Insurance societies may, if necessary, increase their members' contributions to cover losses, and credit banks may call upon their members for financial help within the limits of the members' liability.

Examination of accounts

The accounts of co-operatives are examined by auditors who are appointed and dismissed by the General Meeting.

When the turnover for the previous business year exceeds 200 000 francs, one of the auditors must be chosen from among those approved by the National Agricultural Credit Fund or by the Court of Appeal, or from among the members of the "Ordre national des experts-comptables et comptables agréés" (National Institute of Chartered Accountants).

The following persons are not eligible to be auditors:

- a) Relatives by blood or marriage up to the fourth degree inclusive, or the spouse of a director;
- b) Persons receiving a salary or remuneration from the directors, in any form whatsoever;
- c) Persons who are forbidden to exercise the functions of director, administrator, or manager, or who have been deprived of this right;
- d) The spouse of the persons mentioned under b) and c).

The task of the auditors is to check all accounts and the proper conduct of the co-operative's operations and to report to the General Meeting, with any relevant proposals. To this end they may carry out inspections considered necessary at any time of the year, and even convene the General Meeting in urgent cases. The auditors also submit to the General Meeting a special report on agreements which have been concluded between the co-operative and its directors with the approval of the board of directors.

The auditors' responsibility is that of the mandatory (it may be specified by the rules of the Institute, if they are members of that body). They are paid a fixed remuneration which is usually decided on by the General Meeting.

If a co-operative has joined a federation of co-operatives approved to carry out the periodical examination of all the accounts and administration of its member societies, the co-operative does not have to appoint auditors. But examination by the Federation is optional, and in general not widely practised. Moreover, although it has to be approved by the Minister of Agriculture, it is an internal matter for the co-operatives, not an official one: the public authorities do not supervise the operations.

Insurance societies generally have a supervisory committee chosen from members who do not belong to the board of directors. Reinsurance societies usually have auditors chosen from a list of auditors approved by the court of appeal.

In the case of credit banks that come under the National Agricultural Credit Fund, auditors must be professional accountants, former civil servants qualified to inspect the activities and book-keeping of a co-operative society, or people with sound references for commercial, industrial or accounting activities. In addition, the appointment of at least one auditor must be approved by the regional bank in the case of a local bank, and by the National Fund in the case of a regional bank. The balance-sheet, profit and loss account, and distribution of the annual profits of regional banks must be approved by the National Fund; the annual accounts of local banks must be approved by the regional banks to which they are affiliated.

The term of office of the auditors is generally three years; in agricultural co-operatives this period is obligatory.

TERM AND PROLONGATION

Legally, the period for which an agricultural co-operative is established may not exceed 99 years, unless this is prolonged by a decision of an extraordinary General Meeting.

For insurance and reinsurance societies the period is generally fixed at 99 years by the Articles, which permit prolongation.

Credit banks are established for an unlimited term.

DISSOLUTION BEFORE DUE DATE

Voluntary dissolution before the due date is a matter for the extraordinary General Meeting.

In the event of loss of three-quarters of the capital and reserves in a co-operative, or of half in a credit

bank, and failing a decision by the extraordinary General Meeting, which must then be convened, compulsory dissolution may be pronounced by the legal authorities at the request of any member or of the creditors.

Dissolution of a co-operative before due date may be made inevitable indirectly, by an administrative decision to withdraw approval. No amendment may be made to the Articles which would deprive a co-operative of its co-operative character.

Insurance societies may be administratively liquidated as provided for by the regulations applicable to insurance. If a reinsurance society is liable to be dissolved prematurely following the withdrawal of approval by the public authorities, the "Caisse centrale d'assurances mutuelles agricoles" (Central Agricultural Mutual Insurance Fund) has to take its place.

INSOLVENCY

Since the legislation on judicial settlement and bankruptcy applies only to traders, it does not apply to agricultural co-operatives, agricultural mutual insurance societies and agricultural mutual credit banks, because they are "civil companies". Hence, when business was bad they would become insolvent, a state of affairs in which there is no legal procedure for collective settlement. As machinery for mutual help exists in the two sectors of agricultural mutual insurance and agricultural mutual credit, the possibility of insolvency of any of their societies appears purely hypothetical.

LIQUIDATION

Liquidation is the consequence and logical upshot of dissolution, the legal act which terminates the existence of a society.

This is organized by the General Meeting, which appoints the liquidators (often the directors), who settle current business and have the widest powers.

The net assets resulting from liquidation of a co-operative bank, or insurance society must be passed on to other similar bodies (in the case of a credit bank, these must be situated in the same area) or establishments or causes of general agricultural interest.

Since 1961, however, the net assets of a co-operative may be divided among the members, following ministerial approval, provided these assets do not come from aid given by the State or by any public body. This measure does not appear to have been applied as yet.

The surplus assets of a union of co-operatives may be distributed among the member co-operatives. Those of a reinsurance society may, with the agreement of the administrative authority, be shared among the member societies in proportion to the contributions they have made during the preceding ten years.

The net liabilities are distributed in accordance with the prescribed rules for liabilities.

§ 2 - FEDERATIONS AND CONFEDERATIONS

Agricultural co-operatives and their unions, agricultural mutual insurance and reinsurance societies, and agricultural credit banks may federate or confederate but are not required to do so. The aim of such action may be to pursue one or more of the following objectives: representation and defence of general interests; organization of common services; conclusion of collective labour agreements and, more especially for co-operatives, settlement of disputes out of court; propaganda for co-operation; advisory services, provision of qualified experts; auditing of accounts. (The detailed provisions for examination of the accounts of agricultural co-operatives are laid down in two decrees of 2 May 1960; as already stated in § 1 of the present Section under the heading "Examination of accounts", a federation may not carry out such an examination without special permission from the Minister of Agriculture.)

Federations and confederations are free to delimit their territory. They take the legal form of syndicate or association. They function according to the same principles as the primary bodies (democratic procedure, collegial administration, absence of the profit motive); sometimes they are maintained from subscriptions paid by their members, have no share capital, and do not carry out any operation of a commercial nature. The public authorities recognize their representative function (representation on the "Conseil économique et social" (Economic and Social Council), on the "Conseil supérieur des structures" (National Council on Structures) of the Ministry of Agriculture, and in the main government bodies). This representative capacity is also recognized within private agricultural organizations.

§ 3 - OFFICIAL PUBLICATION

FORMALITIES

There are special rules on publication applicable to co-operatives. They are required to lodge within

one month at the registry of the court of appeal the duplicate or official copy of the instrument of incorporation and, where appropriate, copy of the deliberations of the constituent meeting and the list of directors and managers. Within the same time limit they must also publish in a legal gazette an excerpt describing the characteristics of the society.

If changes should subsequently occur, the chief characteristics must be published again.

The publication formalities for insurance societies are the same as for syndicates: the founders must lodge the Articles and a list of the directors and managers at the town hall in the place where they have their head office, and the same must be done whenever the management or Articles are changed; the municipal authorities forward this information to the Public Prosecutor.

Before a credit bank can begin operations, its Articles and a list of its directors, managers and members must be lodged in duplicate with the clerk of the court of the place where the bank has its head office. One of the two copies of these documents is sent to the clerk of the higher court. Each year, before 1 June, two copies of the balance-sheet for the preceding business year must be lodged in the same way, together with a list of the directors and auditors. The directors can be fined for making false statements concerning the Articles or the names and functions of directors or managers.

Depending on the form they take, federations and confederations carry out the formalities required for syndicates or declared associations. Declaration of an association must be effected at the office of the Prefect or Subprefect of the place where it has its head office; it must furnish information concerning its name, objects, the locations of its establishments, its directors, managers and Articles. Changes in the board of directors or the management and amendments to the Articles must be notified within three months.

INFORMATION FOR THIRD PARTIES

The documents lodged with clerks of the courts are available to anyone who wishes to see them. The legal gazettes also provide information concerning the co-operatives published in them, particularly as to the members who have been given power of signature by their boards of directors. Third parties who wish to know what powers have been delegated to the representatives of boards of directors of insurance funds or credit banks must apply direct to those funds or banks.

§ 4 - PUBLIC AUTHORITIES

Co-operatives and insurance society come under the Directorate-General for Education and Professional and Social Affairs, and credit banks come under the Directorate-General for Studies and General Affairs, at the Ministry of Agriculture. In addition, insurance societies come under the Insurance Directorate, and credit banks under the Treasury Directorate, at the Ministry of Finance.

The part played by the public authorities in the creation of agricultural co-operative or mutual benefit organizations can be briefly described as follows.

Agricultural co-operatives and their unions must be authorized by the Minister of Agriculture or the Prefect of their *département* (according to the size of the area they cover) after hearing an authorizing committee (*comité d'agrément*) consisting of officials and of qualified representatives of the agricultural co-operative movement. Such authorization may only be refused for weighty and well-defined reasons but, if given, it can be withdrawn subsequently. Federations that wish to examine accounts must obtain permission from the Minister of Agriculture (see § 2 of this Section). The establishment of an insurance society need not be authorized by the public authorities, but the establishment of a reinsurance society must have the approval of the Ministry of Finance. Finally, those credit banks which receive the help of the National Agricultural Credit Fund are required to obtain the authorization of the latter.

The authorities can intervene in the operation of agricultural co-operative and mutual benefit organizations in order to ensure equitable implementation of the legal provisions and the special fiscal system; to guarantee protection of members' rights; and to control the distribution of credit by the credit banks.

In concrete terms, the authorities are specially concerned with:

- a) The requirement for co-operatives and insurance societies to have Articles of Association which conform with the model Articles endorsed by the Minister of Agriculture.
- b) Supervision by civil servants of the Ministries of Agriculture and Finance, and also by the National Agricultural Credit Fund in the case of the organizations it finances.
- c) Communication of the remarks of the official supervising bodies to the directors or auditors, who must report them to the General Meeting.
- d) The possibility, in certain cases, for the autho-

rities to provoke an extraordinary General Meeting of the co-operative or credit bank and even to dissolve the board of directors and appoint a provisional administrative committee.

- e) The possibility of withdrawing authorization from a co-operative.
- f) The possibility of withdrawing official approval from an agricultural mutual reinsurance society, which would result in its dissolution if the Central Agricultural Mutual Insurance Fund did not take its place, as mentioned above in § 1 of this Section under the heading "Dissolution before due date".
- g) The possibility of prohibiting a credit bank that has infringed the regulations from benefiting by the provisions peculiar to agricultural credit and particularly those concerning the tax system, the effect of this measure being not to dissolve the bank but to turn it into a civil company under ordinary law.

Changes in the Articles are subject to control by the public authorities, but dissolution is not. However, mutual benefit societies can only be dissolved with the agreement of the Ministry in whose province they fall. Similarly, credit banks in receipt of aid from the National Agricultural Credit Fund must obtain the agreement of the latter before dissolution.

Certain branches of agricultural co-operation collaborate with the public authorities. As the "Office national interprofessionnel des céréales" — ONIC (National Joint Cereals Office), a public body, is responsible for regulating and supervising the market, all the storage organizations are governed by its rules. Both the wholesale merchants and the co-operatives, come under its technical control, and thus continuous relations have developed between the Office and the storage co-operatives. The dairy co-operatives conclude butter or cheese storage contracts entailing a price guarantee by the State.

The credit banks affiliated to the National Agricultural Credit Fund play a part in the payment of certain subsidies and indemnities granted by the public authorities (bonuses for small cereal producers, compensation for tearing up vines, etc.).

§ 5 - LATERAL FORMS OF AGRICULTURAL CO-OPERATION

There is a semi-co-operative sector consisting of the "Sociétés d'intérêt collectif agricole" - SICA (Societies of Collective Agricultural Interest). These societies were originally conceived by the law of 5 August 1920 on agricultural mutual credit and

agricultural co-operation in order, among other things, to arrange for electricity to be brought to country districts; under the decree of 5 August 1961, they now have a status which allows them to create or manage installations or equipment and to provide services, either for the farmers of a specific rural area or for the inhabitants of that area regardless of occupation. The members of these societies are not only individuals and bodies corporate who may be members of agricultural mutual credit banks and, in particular, of agricultural co-operatives, but also any person whose activities may facilitate the attainment of the society's objects; however, members in the second category may not together have more than half the votes at the General Meeting. (The persons who may be members of a credit bank are listed in § 1 of the present Section under the heading "Rights and obligations of members of co-operatives

and mutual benefit societies".) In principle, at least half the turnover or the volume of operations must be accounted for by members of the first category. These societies may take the form of civil companies, joint stock companies or limited liability companies. As the legal provisions applicable to them are more flexible than those applicable to co-operative societies proper, they tend to develop in fields where agricultural co-operatives are normally engaged.

To supplement their activity, co-operatives proper and even credit banks have created ancillary societies - joint stock or limited liability companies - whose shares belong to the parent organization.

The agricultural guidance law of 8 August 1962 provides for the creation of farming groups which are civil companies, for the joint exploitation of more than one agricultural property.

SECTION II

FISCAL SYSTEM APPLICABLE TO AGRICULTURAL CO-OPERATION

CO-OPERATION PROPER MUTUAL BENEFIT CREDIT

§ 1 - GENERAL DESCRIPTION

DIRECT TAXES

State taxes

Agricultural co-operatives are expressly exempted from company tax (50 %); nevertheless it must be paid by production, processing or sales co-operatives for the following operations:

- i) Sales carried out in a retail shop which is distinct from their main establishment;
- ii) Processing operations concerning products or by-products other than those intended for human or animal food or which can be used as raw materials in agriculture or industry;
- iii) Operations carried out by agricultural co-operatives with non-members, after ministerial authorization (see § 1, second paragraph under the heading "Objects").

Agricultural mutual insurance societies are liable to company tax only on their income from immovable property and on some of their income from securities; they pay at a reduced rate.

Agricultural mutual credit banks are exempt from company tax.

Production and sales co-operatives are liable to apprenticeship tax (0,4 % of the wage bill). Supply and service co-operatives, insurance societies and credit banks do not pay this tax.

Co-operatives, insurance societies and credit banks must pay the standard 5 % payroll tax into the supplementary family allowances budget. Since 1963, the 1 % building contribution is no longer added to this.

Local taxes

Agricultural co-operatives, agricultural mutual insurance societies and agricultural mutual credit banks are exempted from the business tax (licence to engage in trade-*patente*).

They must pay the property tax on buildings except when the buildings are used exclusively for agricultural purposes (silos, wine-making cellars, etc.).

Finally, they are subject to the tax on securities.

INDIRECT TAXES

Turnover taxes

Agricultural co-operatives are only liable to the 20 % value-added tax for operations which they carry out by industrial means or commercial methods.

They have to pay the 8.5 % service tax for what they do for their members as part of their statutory activities.

They are subject to the local tax of 2.75 % for their direct sales to consumers, on the same conditions as for the value-added tax.

Agricultural mutual insurance societies are exempt from these taxes.

Agricultural mutual credit banks are exempt from value-added tax and local tax; they pay service tax only for those of their operations that are not provided for in the texts applicable to them.

A new system of turnover taxes will enter into force on 1 January 1968 unless it is postponed; the value-added tax will then be made general, while service tax and local tax will disappear.

Duties on certain products

Duties instead of turnover taxes are charged on certain products such as wine and meat. These are paid by agricultural co-operatives.

The new turnover tax system will abolish the duty on wine and reduce that on meat.

Registration and stamp duties

Cereal, artificial insemination and machinery-using co-operatives are exempt from all registration duty.

Cereal co-operatives are exempt from all stamp duty other than the stamp on receipts.

Agricultural mutual insurance societies are exempt from registration and stamp duties other than the stamp on receipts.

Agricultural mutual credit banks are not exempt from registration and stamp duties.

§ 2 - CHARGES AND TAXES DURING LEGAL EXISTENCE

CONSTITUTION

Under ordinary law, the 1 % capital duty pure and simple is paid on the amount of agricultural co-operatives' capital unless they are exempt from

registration duties, and on the amount of the capital — if any — of agricultural mutual credit banks.

CHANGE IN REGISTERED CAPITAL

This 1 % capital duty is charged on increase in the capital of agricultural co-operatives not exempted from registration duties and of agricultural mutual credit banks that have a capital stock.

FORMATION OR USE OF RESERVES

No special charge is laid down.

USE OF SURPLUSES

The surpluses of agricultural co-operatives, agricultural mutual insurance societies and agricultural mutual credit banks are not taxed except for co-operatives' surpluses derived from the three kinds of operations mentioned in § 1 of the present Section under the heading "Direct taxes: State taxes".

No tax is deducted at source from the interest on agricultural co-operative and credit bank shares. Holders of these shares must include the interest from them in their annual declaration of income.

COMBINATION OR INTEGRATION

Until 31 December 1965 mergers of agricultural co-operatives were exempted from all registration duties, but not from stamp duties and the real-estate publication tax of 0.6 % on contributions in the form of immovable assets.

From 1 August 1965 until 31 December 1970, concentration of societies and companies of all sorts is being facilitated by the following tax system:

- i) Payment of a fixed duty of 50 francs;
- ii) Payment of a 1.2 % tax on the reserves of a society which is absorbed when these reserves are incorporated into the capital of the society that absorbs it;
- iii) Exemption from the real-estate publication tax;
- iv) Exemption from succession duty on the liabilities of an absorbed society when they are taken over by the absorbing society.

Agricultural co-operatives not exempt from registration duties, and agricultural mutual credit banks, enjoy these tax advantages; but since, in the case of agricultural co-operatives and agricultural mutual credit banks, the reserves of the absorbed society are

not allowed to be incorporated into the capital of the absorbing society, these reserves must be added to those of the absorbing society and the exchange of shares must be effected at not more than par. Such combination operations do not require the approval of the public authorities.

When agricultural co-operative societies split, they may benefit by paying the fixed duty provided the split has first been approved by the Minister of Economic and Financial Affairs. The same applies to partial contributions of assets.

From 1 January 1971, the tax system applicable in the case of combination will be less favourable:

- i) A 1 % duty on capital contributions pure and simple;
- ii) A duty of 12 % on the reserves of an absorbed society when incorporated into the capital stock of the absorbing society;
- iii) Duties totalling 16 % on immovable assets brought in when the liabilities are taken over;
- iv) Real-estate publication tax of 0.6 % on immovable assets brought in.

PROLONGATION

Since 1 August 1965, a fixed duty of 50 francs must be paid when the prolongation of any kind of society or company is registered.

DISSOLUTION

A fixed duty of 50 francs must be paid when the dissolution of any kind of society or company is registered provided none of its property has been transferred to its members. Agricultural co-operative societies and agricultural mutual credit banks are exempt from registration duties on dissolution if their net assets are transferred to an object of general agricultural interest.

§ 3 - CHARGES AND TAXES IN THE COURSE OF TECHNICAL OPERATION

PRODUCTION AND PROCESSING

As mentioned in § 1, agricultural co-operatives must pay value-added tax when their production or processing operations are carried out with industrial means.

PURCHASING, SALES AND SUPPLY OF SERVICES

As mentioned in § 1, agricultural co-operatives must pay value-added tax when their purchasing or selling

operations are carried out by commercial methods. In addition, local tax is payable on these operations when sales are made direct to the consumers; service tax must be paid by co-operatives except when the services concerned are rendered to their members as part of their official activity.

As also mentioned in § 1, agricultural mutual credit banks pay the tax on supply of services for operations not provided for in the rules applicable to them. They must also pay stock exchange turnover tax.

TRANSPORT OPERATIONS

MOTOR VEHICLES

For their passenger vehicles, agricultural co-operatives, agricultural mutual insurance societies and agricultural mutual credit banks pay the tax due under ordinary law of 500 francs for vehicles of rated power up to 7 h. p. and 700 francs for vehicles of more than 7 h. p.

For their transport operations, agricultural co-operatives pay the specific tax on haulage vehicles. This tax is not paid in respect of vehicles transporting agricultural or forestry products or products for use in agriculture in the canton where the enterprise is situated and the adjoining ones, or of vehicles fitted out to transport milk, wine, livestock and meat which do not go beyond the limits of an area known as the *zone courte*.

INVESTMENTS

There is no charge under this head for co-operatives proper. On the other hand, mutual insurance societies pay company tax (at a reduced rate) on income from immovable property and some income from securities.

§ 4 - DIFFERENCES BETWEEN CHARGES AND TAXES ON AGRICULTURAL CO-OPERATIVES, AGRICULTURAL MUTUAL INSURANCE SOCIETIES AND AGRICULTURAL MUTUAL CREDIT BANKS AND THOSE ON SIMILAR ENTERPRISES UNDER ORDINARY LAW

The tax system applicable to agricultural co-operative societies stems from their dual nature, in that they are at the same time both agricultural and co-operative:

§ 5 - EVALUATION OF AID GIVEN
BY THE PUBLIC AUTHORITIES THROUGH
FAVOURABLE FISCAL TREATMENT

On the one hand, an agricultural co-operative is only the sum and the extension of the farming enterprises of its members. Consequently, it would appear normal that for tax purposes, the co-operative should be treated in the same way as an individual farmer, since it only does what he does though with more substantial means.

However, since agricultural co-operatives' dealings with non-members are governed by ordinary tax law, there is a dual system of taxation.

On the other hand, the activities of agricultural co-operatives are based on the notion of service and not of profit: strictly speaking they do not make profits, since their surpluses are shared out among their members.

Such are the foundations and the justification for a special tax system; it is, however, difficult for tax legislation to admit this essential similarity between agricultural co-operatives and individual farmers, or the disinterested nature of co-operative activity. The tax authorities like to consider that, in view of the substantial technical and commercial means often employed, agricultural co-operatives take the place more of the processing industry or of individual traders; invoking the fundamental principle of equality of taxation, they deduce from this that the tax system applicable to co-operatives must be exactly the same as that applicable to their economic competitors. Experience shows that tax law has continually oscillated between these two extremes, co-operatives being equated now with individual farmers, now with industrialists or traders.

In 1900 the public authorities exempted agricultural mutual insurance societies from stamp and registration duties, with the express intention of encouraging the development of mutual societies of a very simple kind which would meet the wishes of the agricultural militants. The idea was that these societies would not make any profits, nor even seek to do so, and that they would be managed democratically by unpaid leaders elected by their members.

The tax reductions granted to agricultural mutual credit banks can be explained not only by their disinterested nature but also by the constraints to which their legal status subjects them and by the low rates imposed upon them by the public authorities.

Federations and confederations come under the ordinary tax law applicable to syndicates or associations, depending on the legal form they take.

It is not possible to know how high the authorities evaluate the aid they give to agricultural co-operation, agricultural mutual benefit and agricultural credit in the form of tax advantages, either in absolute terms or in relation to the total volume of tax receipts or to agricultural income.

It is, in fact, very difficult to define what constitutes a "fiscal favour", particularly when it is often by downward pressure on agricultural prices.

It is, for example, impossible to consider as such the exemptions benefiting co-operatives for wine-growing or the joint use of farm machinery (CUMA), since the operations of such bodies are absolutely identical with those normally practised by farmers or wine-growers acting individually on their own property. The same holds for several other kinds of co-operative.

If we consider company tax, what basis of assessment should be chosen to compute the amount of tax which would be paid by the co-operatives and funds were they subject to it? The total amount of the operating surplus for the relevant year; or only the part put to reserves, and excluding that paid out to the members as refund?

It should be pointed out in this connection:

a) That, according to the case, the co-operative refund arises either from an addition to the price (sale of agricultural products) or from an excess charge (supply of services), and that it should therefore not normally be taken into account when assessing tax;

b) That if tax were charged, whatever the solution chosen, the amounts of the refunds could be allotted to members before the close of the business year and calculated in such a way that the sums put to reserve would be smaller.

This reasoning, which tallies perfectly with the facts in those countries where tax is levied, shows that it is impossible to give figures for the amount of tax which the agricultural co-operatives would have to pay if they were subject to the ordinary system.

It also shows how debatable are the figures which are sometimes advanced in this connection by opponents of co-operation, agricultural mutual benefit and agricultural credit.

*SOCIAL PROVISIONS OF AGRICULTURAL CO-OPERATIVE,
AGRICULTURAL MUTUAL BENEFIT
AND AGRICULTURAL MUTUAL CREDIT ORGANIZATIONS*

FAMILY ALLOWANCES, ACCIDENTS, SICKNESS,
DISABLEMENT, OLD AGE, DEATH

There are special social security provisions for all who work on the land, the aim being to meet their particular needs more efficiently. This social security coverage, which is now almost complete, has evolved gradually over a period of time:

- i) In 1923, the provisions concerning industrial accidents and industrial diseases were extended to cover farmworkers;
- ii) In 1930, agricultural social insurance became compulsory for farmworkers;
- iii) In 1936, the payment of agricultural family allowances to farmworkers was made compulsory;
- iv) In 1939, agricultural family allowances were extended to independent farmers;
- v) In 1941, application of social security laws to those working on the land, which had formerly been the responsibility of the Ministry of Labour, became the responsibility of the Ministry of Agriculture;
- vi) In 1952, compulsory social insurance against old age was extended to independent farmers;
- vii) In 1961, compulsory social insurance against sickness and disablement was extended to independent farmers;
- viii) On 1 June 1967, compulsory social insurance against industrial accidents and industrial diseases was introduced for independent farmers.

The first few years of application of the social security laws in agriculture showed that competition between social insurers was allowing employers who were unwilling to pay social security contributions to evade their obligations; in order to end abuses and shortcomings, the public authorities decided, in 1941, that the management of agricultural social insurance should be reserved to agricultural mutual social insurance funds, and that of agricultural family allowances to agricultural mutual family allowance funds. Subsequently, these funds merged into agricultural mutual social funds, which are now divided

into five sections: wage-earners' social insurance, family allowances, insurance against old age, independent farmers' sickness insurance, and activities connected with health and social welfare. The boards of directors of these funds are elected, a quarter of the board's members being employers, a quarter wage-earners and half farmers who are heads of families and employ not more than one worker on a permanent basis. These funds are subject to control by the Ministries of Agriculture and Finance, and their managers must be approved by the public authorities after nomination by the board of directors.

Freedom of management exists for the optional insurance against accidents and industrial diseases for farmworkers, and for the compulsory insurance against accidents and industrial diseases for independent farmers. Agricultural employers who, since 1924, are held liable for accidents and industrial diseases affecting their employees are not bound to insure themselves against this risk; most of them do so, however, either through the agricultural mutual insurance societies against accidents, or through the insurance companies under ordinary law. Three-quarters of all farmers have insured against sickness with the agricultural mutual social funds.

The agricultural mutual social funds are fed by contributions from those liable to benefit and by subsidies from the special State budget for agricultural social benefits; this assistance from the public purse is justified by the constant drain of adults away from agriculture into other occupations, and by the low level of farmers' incomes.

As agricultural employers, agricultural co-operatives, agricultural mutual insurance societies and agricultural mutual credit banks may be members of the agricultural mutual insurance societies which are authorized to provide insurance against accidents and industrial diseases, and they must be members of the agricultural mutual social funds. The insurance payments and the social or family allowances made to the employees of co-operatives, banks, insurance societies or funds are, in practice, the same as those received by similarly-placed workers who are employed in industry, commerce or finance.

In addition, a very large number of co-operatives, banks, insurance societies and funds have voluntarily joined the "Caisse centrale de prévoyance mutuelle agricole" (Central Fund of Agricultural Mutual Provident Societies) which offers, among other things, supplementary retirement pensions to its members of all grades.

Work by women and children

Holidays with pay

On these points, too, employees of agricultural co-operatives, agricultural mutual insurance societies and agricultural mutual credit banks enjoy the same social security as wage-earners in other, equivalent sectors of the economy.

UNEMPLOYMENT

The co-operatives are not subject to the general system of unemployment insurance. However, an agreement introducing a system of unemployment insurance for their employees was signed with the trade unions on 3 June 1964. This system, which is modelled on the general one, takes account of the peculiar features of agricultural co-operatives and at the same time ensures their wage-earners the same benefits as those granted in trade and industry. It was made obligatory by a ministerial order which appeared in the "Journal officiel" (gazette) of 28 December 1964.

APPRENTICESHIP

There is no major difference between the system inside and outside co-operation, since the rules of the Labour Code apply here. Supervision is carried out by officials of the Ministry of Agriculture and not of the Ministry of Labour. Only co-operatives for the production, processing, storage and selling of farm products are subject to the apprenticeship tax.

VOCATIONAL TRAINING

The training of the personnel of agricultural co-operatives is assured by the "Centre national de la coopération agricole" (National Centre for Agricultural Co-operation), and by the "Syndicat national d'étude et de recherches pour les coopératives agri-

coles et leurs unions" — SYNERCAU (National Union for Study and Research for Agricultural Co-operatives and their Unions).

The "Union nationale des associations de formation et d'information mutualistes agricoles" (National Union of Agricultural Mutualist Associations for Training and Information), a declared association whose members are regional associations, has made the "Centre d'études techniques de la mutualité agricole" (Centre for Technical Studies of the Agricultural Mutual Benefit Organization) available to the directors and employees of agricultural mutual societies.

The "Fédération nationale du crédit agricole" (National Agricultural Credit Federation) has established a specialized department called the "Centre d'enseignement technique du crédit agricole" (Technical Education Centre for Agricultural Credit) for the benefit of the staff of regional agricultural mutual credit banks.

In addition, a session of courses on mutual benefit, co-operation and agricultural credit is organized each year by the Ministry of Agriculture, the "Institut national agronomique" (National Agricultural College) and the National Agricultural Credit Fund. These courses are held at the National Agricultural College and the agricultural colleges of Montpellier and Rennes. They include general education and technical instruction, are spread over about fourteen weeks, and followed by a training period of one month in an agricultural credit, co-operative or mutual benefit institution.

COLLECTIVE WAGE AGREEMENTS

The Minister of Agriculture is the competent authority in the matter of collective agreements. There are two collective agreements at national level in agricultural co-operation, one in the milk branch and one in cereals and supply of requirements; in addition, regional or departmental agreements have been concluded in most branches of agricultural co-operation.

Many regional or departmental agreements are also found in agricultural mutual benefit.

A collective agreement between the trade unions and the "Fédération nationale du crédit agricole" (National Agricultural Credit Federation), acting on behalf of 75 regional agricultural mutual credit banks, came into force on 1 July 1966.

BUDGETARY MEASURES**§ 1 - DIRECT SUBSIDIES RECEIVED FROM
THE PUBLIC AUTHORITIES BY
AGRICULTURAL CO-OPERATIVES AND THEIR UNIONS*****DURING FUNCTIONING***

The decree and the order of 17 March 1964 profoundly changed the procedures of financial aid from the State for investments in storing, packaging and processing agricultural and food products. Those directing these operations can now claim a grant, the "prime d'orientation", not exceeding 20 % of the value of the investments. This can be obtained in the following way.

Any enterprise (co-operative or otherwise) asking for State financial help for its investments must report its plans to the "Génie rural" (department of rural works) of its *département*.

As soon as it receives planning authorization from the Ministry of Agriculture, it must supply this department and, where appropriate, the financing establishment with the necessary data for compiling its dossier. The financing decision is then notified to it, and specifically states the amount of help which the State will give. The grant is paid to the enterprise in the form of capital instalments as the work proceeds.

The "prime d'orientation" can be combined with the subsidy for co-operative schemes provided for by the decree of 21 April 1939. This subsidy is granted to co-operatives and their unions whose investment projects have been approved by the technical services of the Ministry of Agriculture; its maximum amount is 20 % of the cost of the work.

The Ministry of Agriculture also grants the CUMA (machinery-using co-operatives) subsidies with which to buy equipment.

The decree of 2 August 1923 affirmed the principle of making direct grants to mutual insurance societies, but it has never been applied in practice.

**DIFFERENCES BETWEEN THESE DIRECT SUBSIDIES
AND THOSE OBTAINED BY SIMILAR ENTERPRISES
UNDER ORDINARY LAW**

The decree of 17 March 1964 specified that industrial and commercial enterprises are entitled to the "prime d'orientation" in the same way as agricultural co-operatives. Hence, in the award of this grant no

distinction is made between industrial and commercial enterprises on the one hand and agricultural co-operatives on the other. However, the same does not apply to the subsidy reserved for agricultural co-operatives and their unions.

**§ 2 - OTHER TYPES OF AID RECEIVED
FROM THE PUBLIC AUTHORITIES*****LOANS FROM PUBLIC FUNDS AT REDUCED INTEREST***

A body receiving the "prime d'orientation" provided for in the decree of 17 March 1964 is ineligible for any loan from budget resources (such loans could formerly cover half the cost of the work).

Agricultural co-operatives can therefore no longer receive the long-term credits previously granted by the National Agricultural Credit Fund from resources provided by the State budget.

The agricultural mutual benefit societies do not obtain any loans at reduced interest from public funds.

***GUARANTEES BY A PUBLIC ESTABLISHMENT
OR A PUBLIC FUND***

Only the cereal storage co-operatives can obtain such guarantees, from the ONIC (National Joint Cereals Office), and this on the same basis as private commercial stockpilers.

REFUNDS ON PURCHASES

Purchase of machines: the law of 10 April 1954, which grants partial reimbursement of the cost of the agricultural materials on a list laid down by inter-ministerial order, benefits co-operatives in the same way as individual farmers, but on more favourable terms. Actually, it is mainly the machinery-using co-operatives (CUMA) which profit by these provisions, since the list mainly consists of farm equipment.

Purchase of fuel: co-operatives for the use of agricultural machinery (CUMA), but not other types of agricultural co-operative or individual farmers, can obtain diesel fuel free of tax. As regards paraffin and petrol, the CUMA and the farmers receive vouchers for tax-free supplies. The vouchers are

granted annually to individual farmers and cover two-thirds of their requirements per hectare. There is no limit to the value in vouchers which the CUMA may obtain.

PRIORITY STATE CONTRACTS

Article 4 of the decree of 29 July 1961 concerning groupings of agricultural producers provides that groupings approved by the Ministry of Agriculture may enjoy certain priorities in supplying public authorities and in purchases by joint market-support societies. More often than not such groupings will consist of agricultural co-operatives or "Sociétés d'intérêt collectif agricole" — SICA (Societies of Collective Agricultural Interest). However, no practical use has yet been made of these arrangements.

DIFFERENCE BETWEEN THESE AIDS AND THOSE OBTAINED BY SIMILAR ENTERPRISES UNDER ORDINARY LAW

If the agricultural co-operatives still enjoy some advantages, these are justified by the peculiar characteristics of this form of enterprise, which exists

essentially to serve its members and not to obtain a maximum return on invested capital.

§ 3 - SOURCE AND VOLUME OF PUBLIC AID

a) The subsidies are granted by the State (Ministry of Agriculture);

b) The new investment procedures have not been in existence long enough to enable figures to be given for the aid granted by the State in this form. We no longer have the National Agricultural Credit Fund's statistics on budget credits, since these credits are no longer granted.

The subsidies granted for agricultural and rural equipment in 1964, 1965 and 1966 amounted to 4 517 million francs out of a total value of work done of 16 875 million francs. The objects concerned included improvement of the conditions of animal and vegetable production, land reclamation, rural public services, reafforestation and forestry equipment, and storage, processing and distribution of agricultural produce.

SECTION V

ORGANIZATION AND PERFORMANCE OF AGRICULTURAL CO-OPERATIVE ACTIVITIES

§ 1 - UNITY OF CO-OPERATION, MUTUAL BENEFIT AND AGRICULTURAL CREDIT

AT BUSINESS LEVEL

In several branches of agricultural co-operation, notably meat, wine, sugarbeet and artificial insemination, there is a single national union of agricultural co-operatives; this unity is on a contractual basis and has been established by voluntary agreements. In other branches there is more than one national union; nevertheless, these co-existent national unions generally consult one another and act together when importing or exporting.

The primary co-operatives are often rivals; but the fact that the public authorities can refuse to permit more than two co-operatives with the same objects to operate in the same area helps to prevent excessive competition.

Large and powerful co-operatives have technical arrangements and commercial networks which make it unnecessary for them to join the union of agri-

cultural co-operatives in their special field; nor do local co-operatives that find it easy to market their members' produce on the spot feel any need to seek help from a higher-level organization. Nevertheless, most primary co-operatives belong to the national unions for their respective fields; this is especially the case where supply of requirements, cereals, and artificial insemination are concerned. The contributions made by co-operatives to their national union are always partial and are fixed by mutual agreement. The main function of the national unions is to enable small and medium-sized co-operatives to meet the big ones on equal terms by combining with one another; these unions thus improve their members' economic position. The legal status of co-operation prohibits unions from admitting to membership enterprises under ordinary law which are engaged in activities similar to those of their member co-operatives. All things considered, co-operation proper is not a sector with a strict and powerful hierarchical structure.

The position is different in the agricultural mutual benefit insurance sector. Its basis is a very wide network of insurance societies, most of which are local; they have to be reinsured at regional or departmental level by the primary reinsurance societies. These reinsurance societies must be reinsured at national level by the "Caisse centrale d'assurances mutuelles agricoles" (Central Agricultural Mutual Benefit Insurance Fund). It is unusual to find two primary reinsurance societies in the same area, or two local societies with the same objects in the same locality.

In the agricultural mutual credit sector, the banks that receive financial aid from the "Caisse nationale de crédit agricole" (National Agricultural Credit Fund) are also arranged as a hierarchy; the primary banks are local and the secondary ones regional, and there is usually only one bank for each area. The local banks are members of the regional banks. The regional banks help the local banks in their operations with members, particularly by rediscounting and clearing, and they manage the local banks' deposit surpluses.

The banks that do not receive financial aid from the National Fund include not only some primary and secondary banks affiliated to each other but also some primary banks which operate in a wide area, serve a large number of members, and do not have any secondary banks above them. Most of these banks work with the "Banque française de l'agriculture et du crédit mutuel" (French Agricultural and Mutual Credit Bank), in which they hold shares.

AT REPRESENTATIVE LEVEL

Co-operation achieved unity at the highest — the national — level in two stages:

In 1960 the two associations then in existence, the "Fédération nationale de la coopération agricole" (National Federation of Agricultural Co-operatives) and the "Confédération générale des coopératives agricoles" (General Confederation of Agricultural Co-operatives) combined to establish a third, the "Conseil national de la coopération agricole française" (National Council of French Agricultural Co-operatives), with the object of jointly representing and defending the general interests of agricultural co-operation. On 3 February 1966, the "Confédération française de la coopération agricole" (French Confederation of Agricultural Co-operatives) was set up to replace the National Federation and the General Confederation, which were dissolved with effect from 1 April 1966. The National Council

has also disappeared. These arrangements took place by voluntary agreement, without any intervention by the public authorities.

The French Confederation now covers all the single national federations which exist in most branches of agricultural co-operative activity. Generally speaking, co-operatives and unions of co-operatives belong to the national federations for their respective branches; the national federations have no members outside the co-operative movement.

There are also all-purpose regional or departmental federations which fulfil an ancillary and complementary function.

The confederations and federations do not engage in any business activity.

In the agricultural mutual insurance sector, the "Union des caisses centrales de la mutualité agricole" (Union of Central Agricultural Mutual Benefit Funds) co-ordinates the activities of the "Caisse centrale d'assurances mutuelles agricoles" (Central Agricultural Mutual Benefit Insurance Fund) and the "Caisses centrales d'intérêt familial ou social" (Central Funds of Family or Social Interest); it also arranges for them to be represented jointly. In addition, the "Fédération nationale de la mutualité agricole" (National Federation of Agricultural Co-operative Mutual Societies) embraces all the central, regional or departmental societies, but does not in any way manage them.

In the agricultural mutual credit sector, each branch has its supreme representative body:

i) The "Fédération nationale du crédit agricole" (National Agricultural Credit Federation) groups the regional banks that receive aid from the National Agricultural Credit Fund;

ii) Agricultural mutual credit banks that do not receive aid from the National Agricultural Credit Fund belong either to the "Fédération centrale de crédit agricole mutuel" (Central Agricultural Mutual Credit Federation) or to the "Fédération des caisses de crédit agricole mutuel Raiffeisen" (Federation of Raiffeisen Agricultural Mutual Credit Banks), depending on which of the two suits their needs and inclinations better;

iii) The "Confédération nationale du crédit mutuel" (National Mutual Credit Confederation) of which the Federation of Raiffeisen Agricultural Mutual Credit Banks is a member, has also accepted banks as direct members.

The National Federation of Agricultural Co-operative Mutual Insurance Societies, the French Confederation

of Agricultural Co-operatives, and the National Agricultural Credit Federation are the three main components of the "Confédération nationale de la mutualité, de la coopération et du crédit agricole" (National Confederation for Agricultural Mutual Benefit, Co-operative and Credit).

These confederations and federations are declared associations; in the co-operative sector, they may also be syndicates.

§ 2 - CO-OPERATIVES, CREDIT BANKS, INSURANCE SOCIETIES AND PUBLIC AUTHORITIES

The public authorities do not dominate agricultural co-operation. Admittedly, the Government has always encouraged the development of such co-operation; but it has done so in a liberal spirit. The control exercised by the Ministry of Agriculture and its various services is confined to verifying the conformity of the Articles and operating conditions with relevant laws and regulations. In every case the co-operative societies retain their initiative and responsibility. Except perhaps in the cereals field, where since 1936 the co-operatives have provided the main foundation on which the "Office national interprofessionnel des céréales" — ONIC (National Joint Cereals Office) functions, it cannot be said that the French authorities have endeavoured to make co-operation the tool of their economic policy for agriculture.

Agricultural mutual credit banks contribute to the implementation of agricultural policy by encouraging selective development of production and equipment.

The threefold agricultural co-operative and mutualist movement is represented by persons of its own choosing on bodies of a public nature such as the Economic and Social Council, the Bank of France, the National Agricultural Credit Fund, the "Office national interprofessionnel des céréales" — ONIC (National Joint Cereals Office), the "Fonds d'orientation et de régularisation des marchés agricoles" — FORMA (Fund for the Guidance and Stabilization of Agricultural Markets), the national insurance and credit councils, the "Conseil supérieur de la coopération" (National Council for Co-operation), the "Conseil supérieur des structures agricoles" (National Council for Agricultural Structures), and the "Conseil supérieur des prestations sociales agricoles" (National Council for Social Benefits in Agriculture).

Agricultural co-operatives, agricultural mutual insurance societies and agricultural mutual credit banks are electors to Chambers of Agriculture.

§ 3 - AGRICULTURAL CO-OPERATIVES, AGRICULTURAL MUTUAL INSURANCE SOCIETIES, AGRICULTURAL MUTUAL CREDIT BANKS AND IDEOLOGICAL OR OCCUPATIONAL GROUPINGS

Co-operatives, insurance societies and credit banks are absolutely independent of political parties and religious denominations.

The general interests of agricultural producers are defended and represented by the "Fédération nationale des syndicats d'exploitants agricoles" (National Federation of Farmers' Unions) and the "Centre national des jeunes agriculteurs" (National Association of Young Farmers), while interests peculiar to each branch of production are similarly looked after by the specialized producers' associations. The supreme representative bodies of the various agricultural sectors meet in the "Confédération générale de l'agriculture — CGA" (General Confederation of Agriculture), and those of them that have to solve problems concerning employers in the "Conseil de l'agriculture française" (French Agricultural Council).

§ 4 - TRADE UNIONS OF PERSONNEL OF CO-OPERATIVES, CREDIT BANKS AND INSURANCE SOCIETIES

GENERAL

To begin with, there is a workers' trade union movement peculiar to agriculture and even to agricultural co-operation. Thus, the "Fédération nationale des ingénieurs, techniciens, cadres et employés de l'agriculture" (National Federation of Engineers, Technicians, Supervisory Staff and Employees in Agriculture), which is a member of the "Confédération générale de l'agriculture" (General Confederation of Agriculture), groups together several unions of senior staff and employees. In particular it includes a national union of managers and assistant managers of agricultural co-operatives and a national union of supervisory staff and employees of agricultural organizations, the latter including paid personnel of co-operatives.

Finally, the large workers' trade union organizations all have a special federation for wage-earners in agriculture and agricultural organizations which includes those working in agricultural co-operatives.

STAFF REPRESENTATION

Ordinary law applies; every enterprise in France normally employing more than 10 wage-earners must have shop stewards. The collective agreements sometimes stipulate that they must be instituted in

co-operatives employing less than ten wage-earners if at least two of them request it. These shop stewards have many tasks, but they all fall within three principal fields of action:

- i) Representation of the wage-earners with the management;
- ii) Transmission to the inspectorate for social laws in agriculture of any complaints and observations concerning the implementation of labour laws;
- iii) Collaboration with the employer.

Although works councils are not compulsory in co-operatives, the personnel delegates are sometimes invested with some of the attributes of such councils. They may then transmit to the management suggestions by the staff concerning the technical functioning of the enterprise, but in no case can they force the management to accept these suggestions. Moreover, the management is never bound to consult the delegates, and they do not have access to the accounts.

§ 5 - THE PATTERN OF POWER IN CO-OPERATIVES AND FUNDS

CHIEF STIMULUS

The driving forces of co-operatives and funds are the board of directors, its chairman and manager, all acting within the limits of their respective functions but in varying proportions according to the specific case and the personalities of those concerned.

All these persons therefore have an active, stimulating role to play. The directors are chosen on grounds of capacity, but only from among members.

Promotion of paid personnel to executive posts does not follow any special rule.

Executive personnel are not generally required to have a university degree. The emphasis is rather on technical qualifications and practical training, though no professional certificate is demanded.

Members of directing boards of federations are chosen on the basis of capacity, but only from among representatives of the affiliated bodies.

TECHNICAL ASSISTANCE

Technical assistance is provided by specialized bodies such as:

- i) The "Centre national de la coopération agricole" (National Centre for Agricultural Co-operation);
- ii) The "Syndicat national d'étude et de recherches pour les coopératives agricoles et leurs unions — SYNERCAU" (National Union for Study and Research for Agricultural Co-operatives and their Unions). (Both of these have been mentioned in

Section III of the present Chapter in connection with vocational training);

iii) The "Union des caisses centrales de la mutualité agricole" (Union of Central Agricultural Mutual Benefit Funds), which has a department for control and organization and a planning bureau.

iv) The control and auditing commission which comes under the "Fédération centrale du crédit agricole mutuel" (Central Agricultural Mutual Credit Federation) and the "Banque française de l'agriculture et du crédit mutuel" (French Agricultural and Mutual Credit Bank);

v) The control and auditing department and the organization department of the "Confédération nationale du crédit mutuel" (National Mutual Credit Confederation).

The tendency to call in technical consultants or planning offices is becoming more widespread.

§ 6 - SPECIALIZATION

Specialized co-operatives are more frequent in the single-crop regions or in branches which use a particular processing technique (e. g. wine, milk, distilling). The multi-purpose co-operatives are met with more often in the mixed-farming regions. Frequently, a supply co-operative and a cereals co-operative are twinned under the same board of directors and the same management. The activities of unions of co-operatives are nearly always specialized.

In agricultural mutual benefit, the need for greater simplification and efficiency that has already led to the merger of the four central agricultural mutual insurance societies has also made itself felt at the lower levels. The result is societies that are unified legally and financially but divided up technically: the four traditional branches of insurance — fire, accident, hail and livestock mortality — have now been joined by a fifth, that of rural welfare.

§ 7 - ADAPTATION OF AGRICULTURAL CO-OPERATION AND AGRICULTURAL CREDIT TO ECONOMIC DEVELOPMENT

Co-operatives and credit banks cannot stand passively by while their economic environment changes.

They are represented on bodies that may intervene to support the market, such as the "Office national interprofessionnel des céréales"—ONIC (National Joint Cereals Office), a public establishment set up in 1936, the "Société d'intervention pour les produits laitiers"—Interlait (Support-buying Society for Milk Products), and the "Société interprofessionnelle pour

le bétail et la viande”—SIBEV (Joint Support-buying Society for Livestock and Meat). These are limited companies governed by a decree of 30 September 1953 concerning market-supporting bodies of a private character, and they are therefore qualified to conclude contracts with the Government.

In order to extend their activities, particularly abroad, several national unions of agricultural co-operatives have set up a limited company called the “Union pour le développement de l’exportation des produits agricoles et alimentaires”—Union-Export (Union for the Development of Agricultural and Food Exports) and the “Syndicat national pour l’expansion de la coopération agricole”—SYNCOPEX (National Union for the Expansion of Agricultural Co-operation). Some unions of co-operatives have established ancillary societies abroad, especially in Germany, the United Kingdom and Switzerland.

Co-operation can modify and supplement its structures by mergers or the establishment of unions. Integration reaching down from the unions of co-operatives to their individual members would often be beneficial but, generally speaking, the bonds between co-operatives and the union to which they belong are much less stringent than those between individual members and their co-operative. In order to meet the challenge of new circumstances, co-operatives must often set up “Sociétés d’intérêt collectif agricole”—SICA (Societies of Collective Agricultural Interest), or even acquire a fairly substantial slice of the capital stock of limited liability companies or joint stock companies. An example of this is the “Banque française de l’agriculture et du crédit mutuel” (French Agricultural and Mutual Credit Bank), the majority of whose share-holders are agricultural mutual credit banks, agricultural co-operatives and unions of co-operatives (see § 5 of Section I). In order to improve the processing and marketing of agricultural produce, the National Agricultural Credit Fund, a considerable number of agricultural mutual credit banks, national unions of agricultural

co-operatives, and even some ordinary banks have combined to create the “Société pour le financement et le développement de l’économie agricole”—SOFIDECA (Society for the Financing and Development of the Agricultural Economy), one of whose main objects is to take up holdings in enterprises established for the purposes mentioned above.

§ 8 - CO-OPERATION AND YOUTH

In France, as in other countries, there are some young farmers who show little enthusiasm for co-operation. This is because they have had no experience of the hard struggles of the past, when the co-operatives played a predominant role in improving the farmer’s lot. These young men and women tend to consider co-operation out of date and unsuited to the demands of a modern economy. They are therefore on the look-out for other approaches to the economic organization of agriculture. However, despite this trend the majority of young people are very co-operative-minded and realize that co-operation, which is more stable and better adapted to the needs of agriculture than any other economic formula, can render them very great services. There is certainly a “youth problem” in agricultural co-operation. The solution must be sought in the promotion of young members and their accession to positions of responsibility.

§ 9 - CO-OPERATIVE LEGISLATION AND THE ACTUAL SITUATION

Legislation is periodically adapted to meet the needs of the moment. The most recent stages in the field of co-operation proper have been marked by the changes made in 1945, 1955, 1959, 1961 and 1965. In the credit field, schemas are being worked out concerning financing, reorganizing farms, and the guarantees which can accompany the different types of credit.

SECTION VI

POSITION OF AGRICULTURAL CO-OPERATION, MUTUAL BENEFIT AND CREDIT WITHIN THE CO-OPERATIVE MOVEMENT AS A WHOLE

§ 1 - RELATIONS BETWEEN AGRICULTURAL MARKETING OR PROCESSING CO-OPERATIVES OR UNIONS OF CO-OPERATIVES AND CONSUMERS’ CO-OPERATIVES

De facto relations exist between these two sectors of co-operation independently of any formal agree-

ments or organic connections. These relations are on the purely commercial level, between buyers and sellers, but are fairly constant and are continually increasing. Transactions take place largely between primary co-operatives, particularly in the branches

of dairy produce, certain types of alcohol, fruit and vegetables, rice and sugar.

A few joint projects have been attempted, but only on an experimental basis. In this way, a fish-canning co-operative at Saint-Gilles-Croix-de-Vie (Vendée) has been set up jointly by fishermen's and consumers' co-operatives. A Co-operative for the Distribution and Dispatch of Agricultural Products (CREPA) has also been established by some fruit and vegetable co-operatives in the South, in conjunction with a number of consumers' co-operatives. However, these experiments have not yet led to an expansion of inter-co-operative operations and schemes.

An agreement to develop inter-co-operative relations was signed on 21 October 1959 between the "Fédération nationale de la coopération agricole"—FNCA (National Federation of Agricultural Co-operatives) and the "Syndicat national pour l'expansion de la coopération agricole"—SYNCOPEX (National Union for the Expansion of Agricultural Co-operation) on the one hand, and the "Fédération nationale des coopératives de consommation" (National Federation of Consumers' Co-operatives) and the "Société générale des coopératives de consommation"—SGCC (General Society of Consumers' Co-operatives) on the other.

In addition, relations exist between French agricultural producer co-operation, chiefly at national union level, and certain foreign consumers' co-operative movements, in particular with the Co-operative Wholesale Society (CWS) of Great Britain.

§ 2 - RELATIONS BETWEEN AGRICULTURAL MUTUAL CREDIT BANKS AND CREDIT CO-OPERATIVES IN OTHER SECTORS

There are no relations, either organic or commercial, between the agricultural mutual credit banks and the credit co-operatives of other sectors. The "revolving funds" system is not practised, nor is there any mutual financing or joint financing body.

§ 3 - RELATIONS BETWEEN AGRICULTURAL MUTUAL INSURANCE SOCIETIES AND INSURANCE COMPANIES UNDER ORDINARY LAW

Agricultural mutual insurance and reinsurance societies are in contact with the insurance companies under ordinary law, and in particular with the "Société d'assurance moderne des agriculteurs" (Modern Farmers' Insurance Company), a limited company,

for insurance against natural disasters and for co-insurance transactions.

The external re-insurance of all agricultural mutual benefit societies comes under the exclusive competence of the "Caisse centrale d'assurances mutuelles agricoles" (Central Agricultural Mutual Insurance Fund), which concludes whatever agreements it thinks appropriate with the "Caisse centrale de réassurance" (Central Reinsurance Fund), a public body and compulsory reinsurer, and with French or foreign reinsurance companies.

§ 4 - POINTS OF CONTACT BETWEEN LEADING FIGURES IN THE DIFFERENT CO-OPERATIVES (AGRICULTURAL AND NON-AGRICULTURAL)

The heads of the different co-operative movements also come together at meetings of certain private inter-co-operative bodies, e. g.:

- i) the "Institut français d'action coopérative" (French Institute for Co-operative Action), which exists to provide advice and help in order to promote technical, economic, intellectual, moral and social development based on the principles and mutual aid methods of co-operation. In particular, it aims to co-ordinate co-operative action and strengthen its effectiveness.
- ii) the "Institut des études coopératives" (Institute for Co-operative Studies), whose aim is to further co-operative thinking, galvanize, renew and regenerate it.
- iii) the "Centre pour le développement de la coopération"—CEDECOOP (Centre for the Development of Co-operation), which deals particularly with the organization of new sectors of the co-operative movement.

§ 5 - PUBLIC SERVICES OR BODIES DEALING WITH CO-OPERATION

The only body which has overall competence in the co-operative field is the "Conseil supérieur de la coopération" (National Council for Co-operation), which is directly responsible to the Prime Minister; all sectors of co-operation are represented in it and its secretary is an official of the Secretariat-General of the Government. The National Council has only an advisory function, and is chiefly concerned with studying questions laid before it by the Government. However, it can tackle certain problems on its own initiative.

Actually, the departments responsible for dealing with the activity of the co-operatives are to be found at the level of each of the Ministries concerned, in particular:

— the Ministry of Agriculture, for agricultural co-operatives;

— the Ministry of Labour for consumers' co-operatives and workers' productive co-operatives;

— the Ministry of Mercantile Marine, for fishing and maritime credit co-operatives the Ministry of Financial and Economic Affairs, for artisan co-operatives and traders' co-operatives.

SECTION VII

POSITION OF AGRICULTURAL CO-OPERATIVES IN THE ECONOMY

§ 1 - RELATIVE IMPORTANCE OF AGRICULTURAL CO-OPERATION, MUTUAL BENEFIT AND CREDIT IN THE VARIOUS BRANCHES OF ACTIVITY

PRODUCTION, PRESERVING, MARKETING AND PROCESSING OF AGRICULTURAL PRODUCTS

Cereals

Co-operative organization in the cereals sector goes back to 1930, a time of acute crisis for producers.

From 1936, the year in which the National Joint Wheat Office (now the National Joint Cereals Office—ONIC) was set up, cereals co-operatives multiplied, and their number rapidly reached the thousand mark. Moreover, since the war much work has been done on modernizing installations.

As regards *wheat*, during the 1962-63 marketing year 800 co-operatives stored 81 500 000 quintals, and traders 19 500 000; the co-operatives thus accounted for about 82 % of all wheat stored.

As regards *coarse grains*, in the same year the co-operatives stored 28 300 000 quintals, and traders 15 000 000. The co-operatives thus accounted for roughly 65 % of the total amount stored.

There are also 200 co-operatives for the production of cereal seed; 11 rice-growing co-operatives, set up in southern France since 1948; and a few co-operatives for milling and baking.

Sugarbeet

In this branch there are 39 co-operatives, 22 of which are distilleries, 13 sugar factories and 4 combined slicing plants and distilleries.

Industrial sugarbeet is processed either into sugar or into alcohol. For some years past, the authorities

have encouraged processing into sugar to the detriment of processing into alcohol, and this has led to the conversion of a certain number of distilleries into sugar factories, and even to the closing of some as a result of the quota system for alcohol production. Annual output is:

- 150 000 tons of sugar;
- 500 000 hl of alcohol.

Dairy products

At present there are 3 200 dairy co-operatives in France, comprising 350 000 milk producers and collecting about 52 % of total output marketed. (Marketed production means the production which leaves the farm; total production also includes what is consumed on the farm.)

These co-operatives includes:

- 1 581 *fruitière* co-operatives (this is the name given to the small local cheese-making societies found mainly in the mountain regions of the Alps and Jura, where they produce Gruyère cheese; 617 of these process their product, and 964 are content to sell it in its original state);
- 857 milk-collecting co-operatives;
- 750 processing co-operatives;
- 14 ripening co-operatives.

Of the 750 processing co-operatives,

- 190 mainly produce liquid milk,
- 260 mainly produce butter,
- 300 mainly produce cheese.

In addition, and as a sideline to one or other of these activities, some co-operatives market the by-products they obtain (notably casein) or use them for pig-breeding.

Livestock and meat

In this branch, there are 96 groupings: 70 "Sociétés d'intérêt collectif agricole"—SICA (Societies of Collective Agricultural Interest), 22 co-operatives and 4 syndicates. Among these 96 groupings, 85 engage in slaughtering and wholesaling, and 8 in processing.

In 1963 these organizations marketed 110 000 tons of beef and 30 000 tons of pigmeat, i. e. 9 % of all beef and 4 % of all pigmeat produced.

Wine

At present there are 1 172 co-operative cellars in France, spread over 44 *départements* and comprising 275 148 wine-growers, who represent a capacity of about 34 200 000 hl. There are 400 distilleries, in 26 *départements*.

The co-operative cellars have marketed 33 % of all French wine production.

Fruit and vegetables

The fruit and vegetable market is a fairly tricky one, for not only does production tend to exceed requirements, but it is also seasonal and consists of perishable products. The market is insufficiently organized, and considerable fluctuations or disturbances occur on it. Speculation plays an important part, and this explains the difficulties encountered by the co-operatives. However, despite these obstacles the fruit and vegetable co-operatives, which appeared after World War II and now number about 400, are more than holding their own in regions where production is intense and well-organized. The packaging and marketing co-operatives carry on these activities either as their main function or as a sideline to another activity — most usually cereals storage. Their production of both fruit and vegetables represents 15 to 20 % of marketed French production, the value of which is 7 000 million francs.

In addition, there are 50 processing co-operatives which produce jam or preserves from fruit and vegetables.

Textiles

Twenty-nine co-operatives engage in retting and scutching flax, the fibre being then sold to spinners. Their production represents about 25 to 27 % of all French output.

Twenty co-operatives collect and sell wool. Their activity represents 30 % of total production.

Eggs and poultry

There are 80 poultry-breeding co-operatives. Of total production these account for

- 15 % of the chickens, and
 - 10 % of the eggs;
- and of total organized production,
- 15 to 20 % of the chickens, and
 - 50 to 60 % of the eggs.

Oil-seeds

Four hundred co-operatives, most of which are primarily engaged in storing cereals, have been approved for the storage of oil-seeds. Two-thirds of rapeseed and sunflower seed production, and one-third of linseed production, are collected by these co-operatives.

Olives

A hundred co-operatives handle about 25 % of total production. Their activity has been very greatly reduced as a result of the destruction of olive trees by the exceptionally severe frosts in 1956.

Other products

Mention must finally be made of a few co-operative food-starch works, hops co-operatives and co-operatives for collecting resin, forestry products, kitchen salt, plants for perfume, lavender, honey, etc.

SUPPLY OF AGRICULTURAL REQUISITES

Co-operatives for the supply of agricultural requirements are numerous and on a considerable scale in the West, the North and the Paris basin. Elsewhere their development has been slower.

The area they cover varies in size from the rural commune to several *départements*. The largest have depots and warehouses which facilitate their operations, and the less important are quite often grouped in departmental or regional unions which centralize orders. There are 1 500 supply co-operatives in France at present, in the various sectors. Their share in total supplies to agriculture is about 50 % on the average.

This figure applies to seeds and seedlings, fertilizers, pesticides, fuel and lubricants, and agricultural equipment (small implements). For livestock feeding-stuffs the co-operatives' percentage for 1963 was:

— 13 to 14 % of the value of all compound feed manufactured;

— 35 % of sales to farmers.

SERVICES

Threshing and other agricultural operations

There are already 11 000 co-operatives for the joint use of farm machinery (CUMA), and their number is constantly increasing. They play a dual role :

- a) by enabling small farms to obtain access to the equipment necessary for efficient operation,
- b) by placing at the disposal of large farms, which have their own standard machines, specialized, complementary of breakdown equipment.

Artificial insemination

Artificial insemination began in 1945. Since then it has expanded remarkably, almost exclusively in and through agricultural co-operation (92 %). Along with this main activity, the artificial insemination co-operatives often carry on secondary and complementary ones: combating cattle diseases, improvement of animal feeding, supervision of milk and butter production, keeping of herd books. In 1962, 65 co-operatives, comprising 1 200 000 members, were responsible for the insemination of more than 56 % of the dairy cows.

Miscellaneous

There are some service co-operatives in the following branches of activity: soil improvement by obtaining and spreading lime, drainage of land, white-washing of cattle sheds, weeding, parasite control, frost protection and farriery.

The "Institut coopératif du vin" (Co-operative Wine Institute), with its headquarters in Montpellier, is a union of agricultural co-operatives whose aim is to make available to its members the technical experts and oenological products needed for good wine-making.

In the Pyrénées Orientales *département* there is a research and experimental co-operative.

The "Laboratoire coopératif national des éleveurs de moutons" (National Sheepbreeders' Co-operative Laboratory), set up in 1950, carries out research into the detection and treatment of diseases of sheep and supplies its members with the necessary products, equipment and advice.

§ 2 - RELATIVE IMPORTANCE OF AGRICULTURAL MUTUAL INSURANCE

The proportion of agricultural mutual insurance in the total volume of agricultural insurance is not known with certainty.

At the end of 1966 the agricultural mutual insurance network comprised 26 000 local insurance societies, 65 primary reinsurance societies at regional or departmental level, and a single secondary reinsurance society at national level.

During their 1965 business year, these societies together issued 6 600 000 contracts and collected 843 million francs in premiums, divided as follows:

— Fire:

- ★ 1 450 000 contracts, 142 million frs in premiums,

— Accident:

- ★ 4 765 000 contracts, 674 million frs in premiums of which 148 million frs for industrial accidents, 401 million frs for 2 500 000 motor vehicles, including 700 000 tractors, i. e. 63 % of all tractors registered.

— Hail:

- ★ 277 000 contracts, 20 million frs in premiums.

— Livestock mortality:

- ★ 90 000 contracts, 7 million frs in premiums covering 250 000 animals.

§ 3 - RELATIVE IMPORTANCE OF AGRICULTURAL MUTUAL CREDIT

No details can be given concerning the proportion of agricultural mutual credit in the total volume of credit granted for agriculture.

At the end of 1965, the network of agricultural mutual credit banks affiliated to the National Agricultural Credit Fund comprised 94 regional banks and 3 042 local banks with 1 667 912 members.

★ Deposits: 16 311 millions frs.

★ Loans of all categories: 34 469 million frs; of which short-term loans: 8 932 million frs.

★ individual and collective medium-term loans: 18 294 millions frs.

★ individual and collective long-term loans: 6 860 million fr.

★ loans on special terms: 383 million frs.

At the end of 1965, the network of agricultural mutual credit banks belonging to the "Fédération centrale du crédit agricole mutuel" (Central Agricultural Mutual Credit Federation) comprised 9 primary banks and 4 secondary banks covering 433 local banks with approximately 150 000 members.

★ Deposits: 717 million frs.

★ Total loans outstanding: 595 million frs.

At the end of 1965 the network of agricultural mutual credit banks coming under the "Confédération nationale du crédit mutuel" (National Mutual Credit Confederation), either directly or through the "Fédération des caisses de crédit agricole mutuel Raiffeisen" (Federation of Raiffeisen Agricultural Mutual Credit Banks), comprised 1 431 primary banks and 12 secondary banks with approximately 250 000 membres.

★ Deposits: 776 millions frs.

★ Total loans outstanding: 618 million frs.

§ 4 - AGRICULTURAL MARKETS DOMINATED BY CO-OPERATION

The supremacy of co-operation is an accomplished fact in the cereals branch, where it occupies the most important place in a market controlled and regulated by the "Office national interprofessionnel des céréales"—ONIC (National Joint Cereals Office).

As regards the other branches, the figures given above show that co-operation is strong enough to be able to defend farmers' interests affectively. The positions won by co-operation owe nothing to the action of the authorities.

Italy

SECTION I

THE LEGAL SYSTEM APPLICABLE TO AGRICULTURAL CO-OPERATION§ 1 - GENERAL REGULATIONS ON AGRICULTURAL
CO-OPERATIVES AND CO-OPERATIVES
OF AGRICULTURAL CO-OPERATIVES*LEGISLATIVE FRAMEWORK*

In Italy this is provided by:

- 1) Article 45 of the Constitution of the Italian Republic (3 December 1947): "The Republic recognizes the social function of co-operatives of a mutual nature not designed to serve ends of private speculation. The law promotes and encourages their development by the most appropriate means and, through the necessary supervision, assures the preservation of their character and the achievement of their aims".
- 2) Title IV "Co-operative and mutual insurance enterprises" of the Civil Code, and
- 3) The law on co-operation (law No. 1577 of 14 December 1947).

No special frameworks are provided for the individual branches of co-operation, and in particular no special legislation exists concerning agricultural co-operation or its different branches. But there are legislative provisions which are peculiar to certain co-operatives. For agricultural co-operation especially, we should recall legislative decree No. 1235 of 7 May 1948, which regulates the co-operative structure of "consorzi agrari" and of the "Federazione Italiana dei consorzi agrari" by virtue of Royal decree No. 1706 of 26 August 1937 and law No. 707 of 4 August 1955 on the organization and control of rural and artisan banks. On the other hand, as the Constitution divides Italy into regions, special laws can exist for certain regions. In this way, a Sicilian Bill on agricultural processing and marketing co-operatives is being drawn up.

FORM AND DESIGNATION

It seems advisable to begin by specifying one point, concerning the co-operative society in general, and that is that a distinction should be made between the legal *form* and the *nature* of the society.

The legal form arises from the type of legal regulations fixing procedures for setting up the society, publication vis-à-vis third parties, and operating methods.

The nature depends on the type of economic activity organized, i. e. by the type of business the society intends to perform. As regards activities it should be borne in mind that enterprises engaged in those scheduled in Article 2195 of the Civil Code (industrial activity for the production of goods or services, intermediary activities for the movement of goods, transport, banking or insurance, and activities ancillary to the above) possess the legal status of commercial companies. Hence, activities other than these are considered as civil, since they are not commercial activities. Thus, a co-operative society is a "civil company of commercial form" when, although constituted according to the legal type proper to commercial companies, it exercises an activity which is of a civil nature because it is not commercial. On the other hand, it is a commercial company when it not only has the commercial form (which is compulsory) but also exercises one of the activities listed in Article 2195 quoted above.

This being postulated, it may be said that agricultural co-operative societies are civil companies of a commercial form when their object is cultivation of the soil, forestry, or livestock breeding (see Article 2135 of the Civil Code). On the other hand, they are commercial companies if the nature of their activity is commercial (processing or sale of products, transport, insurance, or activities ancillary to these).

Like other co-operative societies, an agricultural co-operative society must be incorporated by public deed, and the registered name must contain the words "limited liability co-operative society".

The title of "co-operative society" may not be used by a society whose object is not mutual benefit.

The agricultural co-operative has a mutual benefit object when it procures directly for its members goods, services or possibilities of work on more advantageous terms than those of the market by eliminating the action and profit of middlemen.

The agricultural co-operative, like other co-operatives, is a partnership because it is chiefly based on the personal participation of its members in the common activities, whereas the capital contributions are only a means of enabling it to function.

Generally speaking, we may conclude that the formal legal structure of the agricultural co-operative does not present any special features differentiating it from other co-operative societies.

As regards in particular the "consorzi agrari" and the "Federazione Italiana dei consorzi agrari", Article 1 of legislative decree No. 1235 of 1948 already quoted says:

"The 'consorzi agrari' and the 'Federazione Italiana dei consorzi agrari' are limited liability co-operative societies governed by the present decree and, where not otherwise specified, by the criteria of Title VI, Article 2514 sqq. and of Book V of the Civil Code."

OBJECTS

Within the limits laid down by law No. 1577, the objects of an agricultural co-operative can be freely fixed by its Articles and can cover everything except agricultural insurance, the need for which is met by mutual benefit insurance. The activity of a co-operative may, for instance, comprise agricultural credit, family requirements, and even occupational needs unrelated to agriculture. There is no compulsory classification for co-operative activities, and societies may be either multi-purpose or specialist.

The objects of the "consorzi agrari" are laid down as follows in Article 2 of legislative decree No. 1235:

- 1) They produce, acquire and sell fertilizers, parasite control preparations, seeds, implements, products of machines, live and dead stock, and in general everything which can be of use to farmers and to agriculture;
- 2) They carry out, encourage and facilitate the harvesting, transport, treatment and marketing of the products of the soil and of all industries ancillary to agriculture, acting either as intermediaries or as principals;
- 3) They are responsible for operations of voluntary storage and collective utilization, processing and marketing of agricultural products;
- 4) They hire out agricultural machinery and implements to farmers;
- 5) They effect, either directly or in the capacity of intermediary, loans for working credit in kind to agriculturists, and make advances to producers

participating in voluntary storage of products and in collective utilization, processing and marketing;

6) They collaborate in study and research and in the setting up of experimental stations and fields for the benefit of agriculture and, in general, in all action to improve production and the capabilities of farmers;

7) They may participate in bodies whose aims have a bearing on the activity of the "consorzio", or promote the establishment of such bodies;

8) They may carry out on behalf of and for the benefit of the State the operations necessary to receive, hold and distribute goods or products of all kinds. Such operations will be accounted for separately from normal operations.

With respect to the "Federazione Italiana dei consorzi agrari", Article 3 of legislative decree No. 1235 of 1948 lays down that it shall "exercise, with due regard to national needs, the activities mentioned in the preceding Article, and that it shall provide services of a general nature in the interests of the 'consorzi' whose activities it facilitates and co-ordinates", and that it is authorized to carry out farm credit operations to help the "consorzi agrari".

CHARACTERISTICS

The co-operative societies have the character of traders if their object is commercial activity. The same is true of co-operatives of co-operatives but not of federations of co-operatives constituted for purposes of joint representation and not of economic integration. The freedom to establish co-operatives is basic, and the law does not lay down any limit for their activity in time (though the deed of establishment must fix a duration) or in space (leaving aside certain provisions of special laws). In the same way, no prohibition and no priority is imposed on them, and so agricultural co-operatives may, if their Articles authorize such extension, deal with other parties besides their members. Similarly, co-operatives of the other branches are not bound to apply first to the agricultural credit co-operatives when they need credit. These rules also apply to co-operatives of agricultural co-operatives.

CAPITAL

Composition and return

Capital must be constituted, from payment of contributions and purchase of shares by the members.

With the exception of rural and artisan banks, which must have a capital of at least 300 000 lire if their liability is unlimited and at least 500 000 if it is limited, the agricultural co-operatives are not subject to any regulation of the amount of their capital. The capital is variable, since not only does the number of members vary, but also the amount of each member's participation (between a minimum and a maximum). The amount is represented by individual non-negotiable shares, which must have a nominal value. This may not be lower than 500 lire or higher than 10 000, except in certain cases laid down by the law and in the "consorzi agrari", where it has been fixed at 100 lire, and in the "Federazione Italiana dei consorzi agrari", where 50 000 lire is the required figure.

Return on the capital is assured by dividends. In general, however, to enjoy the tax advantages available to them co-operatives may not pay dividends in excess of the rate of legal interest. There is no statute of limitations as regards the principal and the interest on shares.

Increase and reduction

Capital may be increased either individually by enrolling new members, or generally by increasing the participation of the various members within the legal limits (250 000 lire per person, with the exception of corporate bodies) but not by incorporating reserves.

Capital may be reduced either individually, by the voluntary or compulsory withdrawal of a member, or generally, following losses of capital recognized by the General Meeting. It is usually stipulated in the Articles that shares may not be transferred without the consent of the board of directors, and that in any case they may only be transferred to parties who fulfil the conditions required for membership of the co-operative.

The law prescribes that when a member leaves the co-operative, is expelled from it, or dies, his interest is liquidated or his shares are reimbursed on the basis of the balance-sheet of the business year when he ceased to be a member. Payment must be made within six months following approval of the balance-sheet. Finally, it should be pointed out that the practice of "revolving capital" does not exist in Italy.

LOANS

In principle, agricultural co-operatives do not issue loans in the form of bonds or debentures.

RIGHTS AND OBLIGATIONS OF MEMBERS

General rules

The following may become members of a co-operative: any person working the land or exercising an activity directly linked with agriculture even as a labourer, though in certain cases a proprietor who does not directly work or improve his land or a worker who does not participate in cultivating the property may be excluded. The Articles may even make provision for rural artisans to become members, but in practice they rarely join. The conditions of accession to a co-operative or to an association of co-operatives are laid down by the Articles of these groupings.

The number of members of a co-operative is normally variable and may not be less than nine. With the exception of "societies of co-operatives" which are eligible to bid for public tenders and must comprise at least five members, no minimum or maximum membership is laid down for secondary co-operatives. It is possible to be a member of more than one co-operative, but this seldom occurs in the case of co-operatives of co-operatives.

Formalities for admission

The admission of a new member is declared by the directors at the request of the party concerned. The latter must pay for each business year, in addition to the amount of his holding or share, a sum fixed by the directors on the basis of the results of the most recent balance-sheet.

Members' obligations

The various obligations of the member towards his society are laid down by the Articles. His liability may be limited or unlimited, but when it is limited the Articles may provide that in the event of bankruptcy or compulsory administrative liquidation it shall be several times the amount of his contribution.

Members' rights

Every member has the right to enjoy the advantages provided for by the Articles, to vote in the election of directors, of the "collegio dei sindaci" (board of auditors), of arbitrators, on the approval of balance-sheets and on decisions amending the Articles. He has a right to information (at meetings) and of appeal — in particular to arbitrators. While the society exists he has no claim to its assets.

A member may be expelled for reasons laid down by the law or by the Articles (the law provides for expulsion for failure to pay for shares, suspension of civil rights, incapacity, penal conviction and other like circumstances). The decision rests with the General Meeting, except when competence is specially delegated to the directors. The member has thirty days in which to appeal to the court. His expulsion deprives him of his capacity as a partner, and entails liquidation of his holding and reimbursement of his shares on the basis of the balance-sheet of the business year in which he leaves the society.

Any member can withdraw from the society in the circumstances as defined in the Articles by notifying his decision by registered letter. Such withdrawal becomes effective only on closure of the balance-sheet, provided three months' notice has been given. Failing such notice, it takes effect on expiry of the following business year. Its consequences are the same as those of expulsion.

ORGANS

General Meeting

Details of the General Meetings are laid down by law. At least 15 days before the date fixed for the Meeting, the directors must send members a notice specifying the day, hour, place and agenda, and the annual report, approved by the board of directors and submitted to the board of "sindaci" 15 days earlier, must be made available to the members. If the co-operative has 500 members or more, the General Meeting may be preceded by sectional meetings at local headquarters. At the General Meeting proxies are allowed, but limits are often set to the number of members any member may represent. Each member has one vote; by way of exception, a plural vote — which may not exceed five — can be granted under the deed of establishment to companies belonging to the society, in conformity with the amount of their participation.

Direction and administration

This is the business of a board of directors elected from among the members (or, in the case of co-operatives of co-operatives, from among the legal representatives of the member co-operatives). Grounds for ineligibility are the same as for expulsion. The members of the board of directors may be dismissed either by the Meeting or by the public authorities; the law fixes the maximum

duration of their office at three years, but the Articles may reduce this.

No maximum or minimum is laid down for the number composing the board of directors; it functions as a body, taking decisions by a majority of those present. Its powers are conferred on it by the law and by the deed of establishment and consist in the performance of all acts of administration: they may vary a little from one society to another. The members of the board have by law the same responsibilities as the board of directors of a (limited) commercial company, and the law does not demand any guarantee of them. Their remuneration must be fixed by the General Meeting if this has not already been done by the deed of establishment. Even when their services are unpaid, their out-of-pocket expenses are usually reimbursed, and they receive fees for attending meetings.

Management

The managers are chosen — not necessarily from among members — and dismissed by the board of directors. The grounds for ineligibility are the same as for the directors. Their powers, which are normally defined by the Articles, may also derive from decisions of the board of directors, which can cause its chairman to give them power of attorney "ad negotia" or extend their powers provided third parties are given an opportunity to learn of this from the court register. Their responsibilities are those of mandataries. Like all managers of commercial companies, they are legally responsible for the correctness of the balance-sheet and the fulfilment by the society of its legal obligations. No guarantee is demanded of them by law but could be by contract, particularly when they are entrusted with the management of funds. No particular remuneration procedure is precluded, and they are bound by collective or personal work contracts.

FINANCIAL MANAGEMENT

If agricultural co-operatives carry on commercial activity, they must observe the accounting rules of commerce. The accounting period may not be more than one year.

Results

Legally, one-fifth of the net annual surpluses must be paid to reserves, but the Articles may increase this proportion and create other obligatory reserves or

prescribe other uses for a part of the surpluses. The law provides that any remaining surpluses which are not allocated to members must be used for mutualist purposes. Losses are settled in the annual balance-sheet.

Inspection of accounts

This is done by a board of auditors, the "collegio dei sindaci", who are technical experts. They may be considered equivalent to business auditors, but in an administrative and not in a technical sense. In fact, anyone who has the necessary technical qualifications can be a member of such a board of "sindaci", and co-operatives are not legally required to choose their "sindaci" from special registers of business auditors, doctors of commercial science or chartered accountants, as is the case in other types of society or company. The "sindaci" of a co-operative are chosen for three years and dismissed by its General Meeting, which also fixes their remuneration. Grounds for ineligibility are the same as those for the functions of director, trustee in bankruptcy, etc. (bankruptcy, loss of civil rights, incapacity, etc.), to which must be added the exercise of an activity in competition with that of the co-operative.

The "sindaci" must carry out their examination at least once every three months. They are required to check all accounts, to look into the administration of the co-operative, and to ensure compliance with legal rules and the provisions of the deed of establishment. Their obligations and responsibilities are governed by the law.

This examination is a matter for the co-operatives themselves when it is carried out by suitably empowered representative associations. The co-operatives are subject to compulsory supervision by the Ministry of Labour and Social Insurance, although there are some exceptions (for instance, the provincial "consorzi agrari" and the "Federazione Italiana dei consorzi" are supervised by the Ministry of Agriculture). This is done by means of ordinary inspections — at least one every two years — and extraordinary inspections whenever called for. The work of inspection is carried out by the national associations for the representation, assistance and defence of the co-operative movement recognized by the Ministry of Labour.

PROLONGATION

This is decided on by the General Meeting according to the procedure laid down in the Articles.

DISSOLUTION BEFORE DUE DATE

This may be voluntary, forced or imposed by the authorities.

Voluntary dissolution flows from a decision in due form by an extraordinary General Meeting. Early dissolution is compulsory when it has become impossible to attain the society's objects; when the co-operative is not in a position to function; when the General Meeting has remained dormant for a long time; and following loss of the assets. Dissolution by the authorities consists in the compulsory administrative liquidation of the co-operative when its activities are inadequate to ensure payment of its debts, or in its dissolution in cases of inability to attain its official objects, inaction of the managing body, and failure to submit the balance-sheet for two consecutive years. Moreover, when irregular operations have taken place the competent authorities can transfer all the powers of the different organs of the society to a government commissioner.

According to the provisions governing mutual benefit societies, the net assets after deductions of the registered capital must be devoted to co-operation purposes. The members of unlimited liability co-operatives are jointly and severally liable for the net deficit.

INSOLVENCY

This can lead to either of two procedures, which are mutually exclusive. When a co-operative cannot pay its debts, the administrative authority may decree compulsory administrative liquidation and appoint a liquidator to carry this out. If the object of the co-operative is a commercial one, bankruptcy procedure can be initiated and is then a matter for the legal authorities. If the co-operative does not arrive at a composition, it is declared bankrupt and the trustee in bankruptcy is its legal representative.

LIQUIDATION

This is directed by the liquidators appointed, in conformity with the Articles, by the General Meeting, which fixes their powers. The net assets are disposed of according to the wishes of the Meeting on a proposal of the liquidators and to the various objects laid down by law. When there is a situation of insolvency, procedure is as it would be if this occurred during the existence of the society.

§ 2 - FEDERATIONS OR CONFEDERATIONS
OF AGRICULTURAL CO-OPERATIVES
AND CO-OPERATIVES
OF AGRICULTURAL CO-OPERATIVES

In Italy, the term "federation" has many meanings, all based on the concept of a union of various elements with a common purpose, but the name is sometimes given to genuine "co-operatives of co-operatives" (such as the "Federazione Italiana dei consorzi agrari"). In this case the word "federation" describes a co-operative which exercises all the activities of the member co-operatives and conforms to their rules. In other cases the term "federation" means a grouping in the form of an association whose object is to defend a category of persons, to improve the activities proper to this category, and to lend assistance to its members. It is with these federations that we are concerned here.

Co-operatives may federate but are never required to do so. Similarly, a confederation of federations is possible but not compulsory. These federations and confederations take the legal form of civil associations recognized by the law, which lays down rules as to their object. They function on the basis of their deed of incorporation and can be national, regional or provincial. Confederations and federations which comprise at least 1 000 co-operatives are recognized as having a representative character which entitles them to carry out auditing of accounts.

§ 3 - OFFICIAL PUBLICATION

FORMALITIES

The co-operatives of the different levels (primary, secondary, etc.) are subject to all the formalities of legal publication prescribed for commercial companies: Incorporation by public instrument, the contents of which are laid down in detail by law; lodging within 30 days of this instrument, which comprises the deed of establishment and the Articles, for entry in the business register; registration of the deed within 20 days of its conclusion, after which the court orders that the society shall be entered in the register. Throughout its existence, the co-operative must lodge with the clerk of the court (business registry department) the minutes of its meetings and all documents reporting facts concerning the life of the society. It is also bound to comply with these publicity formalities for all acts concerning its

termination. All acts regarding offices other than head offices must also be notified to the business registry department of the court competent for the place in which they are situated.

INFORMATION FOR THIRD PARTIES

Third parties may take cognizance of legal announcements at the court registry or through the legal gazette of the province. The law ensures that they shall be informed by laying down penalties for failure to comply with the provisions concerning publication of acts.

§ 4 - PUBLIC AUTHORITIES

Generally speaking, the co-operatives come under the Directorate-General for Co-operation in the Ministry of Labour and Social Insurance, but special laws may make them answerable to other Ministries, such as Agriculture and Forestry. As mentioned above, the authorities have reserved for themselves certain rights of intervention if irregularities should occur in the operation of a co-operative. Apart from such intervention, and from the measures of supervision to ensure compliance with legal and statutory provisions, freedom is of the essence for both the constitution and the functioning of all these bodies.

The State may have recourse to the co-operatives, where their Articles so provide, for carrying out certain operations on its behalf. When it entrusts a co-operative with a public service, this service must be accounted for separately from the other statutory objects of the co-operative so that the profits or losses on operations carried out on behalf of the State may not affect the profits or losses on the co-operative's own operations.

Co-operatives may also collaborate with public services on their own initiative, for instance by carrying out special operations, such as voluntary storage of farm products.

§ 5 - LATERAL FORMS
OF AGRICULTURAL CO-OPERATION

At present there is nothing of this sort in Italy.

FISCAL SYSTEM APPLICABLE TO AGRICULTURAL CO-OPERATION

§ 1 - GENERAL DESCRIPTION

National finances

Italian fiscal law distinguishes between taxes, duties and contributions.

A tax is a compulsory levy by the State on the fortune of the party concerned.

A duty is the price paid by the user of a public service.

A contribution is a payment imposed by law for the execution of work of public utility or to meet the social security requirements of private persons (for example, social security contributions).

As regards taxes, there is a further distinction between direct and indirect taxes. Direct taxes are those which fall immediately on property or on income from production and are levied by means of assessment books. Indirect taxes are those which fall on wealth as it circulates.

Direct taxes. These are broken down into real and personal. Real taxes are those on property, income and capital considered objectively and independently of the personal position of the taxpayer. Personal taxes are those which take account of this position. The main real taxes affecting the agricultural sector are the following:

a) Tax on land. This falls on landowners' income, consisting of the income from land and the interest on capital permanently invested in such land. It is payable by agricultural co-operatives which own land, or hold it on long lease, or have rights of cultivation or usufruct.

b) Tax on agricultural income. This is charged on the income earned from farming land held under the head of property, usufruct or any other real right.

The tax is on the income from the working capital resulting from application of the assessment rates, always excluding manual labour by any person whatsoever (Article 65 T.U. No. 645 of 29 January 1958). Agricultural income is also considered to cover income arising, after the first handling of the products, from subsequent handlings, provided they are part of normal agricultural activity. Co-operatives which own properties and exploit them

directly through the work of members or hired wage-earners, or exploit them as settlements (share-cropping), are also subject to this tax.

c) Tax on movable wealth. This is a tax on net income in cash or in kind, continuous or casual, arising from capital and/or labour or from any other source, provided it is not subject to another real tax. In the case of co-operatives, as for other companies, it is computed from the results of the balance-sheet and the profit and loss account.

Co-operatives which work land on lease are subject to this tax and not to the one on agricultural income.

d) Company tax. This is calculated on the capital and income of companies, including co-operative societies, and other bodies in respect of which the tax on movable wealth must be based on the balance-sheet. The taxable capital consists of the sum of subscribed and paid-up capital, ordinary and extraordinary reserves shown in the balance-sheet, and surpluses from monetary revaluation, to the exclusion of reserves and balances intended to cover specific commitments and debts towards third parties, as well as of annual profits carried forward.

Indirect taxes. The following are those which more especially concern the agricultural sector:

a) Registration duty. This is charged at the time of entry in a special public register of contracts concluded by public deed or private agreement, and also of decisions by the legal authorities.

b) Stamp duty. This is charged by the use of special stamped paper or special stamps when official documents are drawn up.

c) Mortgage tax. This is charged on entries and renewals of mortgages, transcriptions, cancellations and other annotations made in real estate registers in conformity with the law.

d) Stock exchange turnover tax. This is charged on securities which can be circulated and negotiated. The shares of co-operative societies are not subject to it if the deed of establishment or legal provisions forbid their transfer.

e) Turnover tax. This is charged on receipts, in money or other permitted means of payment, for the transfer of property or supply of services.

f) Tax on licences and permits issued by the State. For certificates of authorization or permits given by the administrative authorities, for instance, licences to open dairy farms for the production of milk, to operate mechanical threshers, to plant nurseries, to open horticultural establishments and for trade in plants, etc.

Local finances

In order to meet public requirements or provide the main services of local importance, local authorities (regions, provinces and communes) have power to apply a system of taxes which provide the local finances.

These taxes can be classified as follows:

a) Surcharges on State taxes, such as the communal and provincial surcharges on landowners' and farmers' income, and the surcharge on the tax on movable wealth known as the "tax on industrial, commercial, artistic and professional activities";

b) Taxes in the strict sense, autonomous taxes, such as the family tax, the tax on rental value, consumption tax.

The following are exempted from consumption tax: bread, foodpastes and flour, rice, dried vegetables, milk, eggs, fresh vegetables and fruit, and wine. Meat, cheese and dairy products, however, are taxed.

The co-operative societies are subject to local taxes in the same way as ordinary enterprises of the same kind.

§ 2 - CHARGES AND TAXES TO WHICH THE AGRICULTURAL CO-OPERATIVES AND THEIR UNIONS ARE SUBJECT DURING THEIR LEGAL EXISTENCE

ESTABLISHMENT

Co-operatives enjoy general exemption from registration and stamp duties.

CHANGES IN REGISTERED CAPITAL

In general, co-operatives do not make any taxable changes in their capital since, by definition, the capital is variable.

FORMATION OR USE OF RESERVES

That part of income put to ordinary or extraordinary reserves is subject to the tax on movable wealth

(State tax), to the tax on industrial, commercial, artistic and professional activities (provincial and communal tax), and to the tax levied by Chambers of Commerce, Industry and Agriculture.

USE OF SURPLUSES

All profits of agricultural co-operatives, whatever the use to which they are put, go to form the taxable income of the business year during which they were made.

COMBINATION OR INTEGRATION

As a rule, merger or combination operations do not enjoy any special fiscal concessions. The following are therefore applied:

- Normal registration and stamp duties,
- Direct taxes, in particular the tax on movable wealth.

PROLONGATION

An exemption from registration and stamp duties is granted for the first ten years following prolongation provided that the amount of the actual capital is less than 3 million lire and that the co-operative is run on mutual benefit lines as defined by the fiscal laws.

DISSOLUTION

In the event of liquidation, the exemptions from indirect tax are the same as those laid down for prolongation.

§ 3 - CHARGES AND TAXES WHICH THE CO-OPERATIVES AND THEIR UNIONS ARE SUBJECT BY REASON OF THEIR TECHNICAL OPERATIONS

PRODUCTION AND PROCESSING

The tax on manufacture concerns agricultural co-operatives only in so far as they perform processing operations (e.g. the extraction of alcohol from wine).

Among direct taxes, co-operatives are subject to the State tax on movable wealth, the local tax on industrial, commercial, artistic and professional activities, and the special tax levied by Chambers of Commerce, Industry and Agriculture.

However, income arising from operations which are a normal part of farming activity are not subject to the tax on movable wealth (Article 84 of decree No. 645 of 29 January 1958).

PURCHASING, SALES AND SUPPLY OF SERVICES

The trading operations of agricultural co-operatives are subject to turnover tax. The following is exempted from this tax: supply of products by members to the co-operatives, or by the agricultural co-operatives to co-operatives of co-operatives, with a view to the processing or collective sale of these products.

In the same way, exemption is also given to trade in goods between "consorzi" and federations of co-operatives exclusively for supply of the associated co-operatives.

TRANSPORT OPERATIONS

Like all other transport operations, transport carried out on behalf of agricultural co-operatives attracts turnover tax (3.3 %).

TURNOVER

See "Production and processing" and "Purchasing, sales and supply of services" above.

INVESTMENT

There is no separate tax on investments. They are taken into account in computing the taxable income for the tax on movable wealth. Annual amortization is deductible with effect from the financial year in which the relevant income was entered on the balance-sheet for the first time. Expenditures for exceptional growth or maintenance are also deductible in terms of annual percentages fixed in relation to the time during which the income to which they refer will still be received.

§ 4 - DIFFERENCES BETWEEN CHARGES AND TAXES ON CO-OPERATIVES AND THOSE ON SIMILAR ENTERPRISES UNDER ORDINARY LAW

When their operations are carried out by means of their members, the co-operatives enjoy special tax arrangements with respect to:

- i) The tax on movable wealth (see "Production and processing" above);
- ii) Turnover tax on receipts and deliveries of 29 January 1958 — see "Sales and supply of farm products (Article 111 of decree No. 645 of services" above);
- iii) Company tax in the case of labour and consumers' co-operatives, co-operatives for the handling, processing and sale of products, (provided the capital does not exceed 4 million lire and the taxable assets 8 million) and unlimited liability co-operatives (Articles 151 and 152 of the above-mentioned decree).

The fiscal advantages granted to agricultural co-operatives are due to the favour with which the Italian Government regards this form of enterprise in general.

With the exception of the tax reliefs already mentioned, granted to co-operatives and co-operatives of co-operatives, the fiscal system applied is the same in all cases, whether it is a matter of unions of co-operatives or similar sectoral groupings of commercial or industrial enterprises under ordinary law.

The surcharges on income from real estate and the tax on industrial, commercial, artistic and professional activities accrue to the provinces and communes. Surcharges assessed on the same basis are levied by the Chambers of Commerce, Industry and Agriculture. All other taxes go to the State.

SECTION III

SOCIAL PROVISIONS OF AGRICULTURAL CO-OPERATIVES

1. With regard to accidents at work and industrial diseases, the situation is as follows:

a) For the co-operative societies which market or process products of the soil or agricultural requirements, the contribution for industrial injuries insurance is fixed on the basis of legally approved tables: contributions vary according to the work concerned,

and to the diversity of the risks it involves. The insurance covers only wage-earners engaged in manual work.

b) For agricultural co-operatives proper, i. e. those set up to cultivate the land, the industrial injuries insurance contribution rates are determined, as for all farms, year by year and province by province, by

the Ministry of Labour in the light of the extent and nature of the land concerned and the manpower necessary. The contribution is paid in the form of surcharge on the land tax levied by the State.

2. With regard to sickness in general (excluding industrial diseases, which are covered by the insurance just mentioned), the situation is as follows:

a) Processing co-operatives: a contribution of 7.55 % of pay for workers and of 5.55 % for employees;

b) Marketing co-operatives: a contribution of 6.05 % of pay for both workers and employees;

c) Co-operatives for farming the land: a fixed contribution for each day of work, which may be estimated on the average at 2.8 % of their pay for workers and 4 % for employees;

d) Marketing and processing co-operatives which handle only the products of their farmer members: for workers, the charges correspond to those levied for the co-operatives mentioned in point c) above and for employees to those covered in points a) and b) according to the case.

The above contributions do not include insurance against tuberculosis, for which an extra contribution of 2 % of wages is paid by all personnel of the co-operatives mentioned under a) and b), and by the employees only of those under c) and d). Workers of the co-operatives coming under c) and d) contribute a fixed amount per working day, which may be estimated on the average at 0.8 % of pay.

3. As regards disablement risks, the insurance is included in that mentioned under point 1 when the disability is the result of an accident at work or an industrial disease, and under point 4 below when it is due to other causes.

4. As regards old age and disablement pensions and sickness aid to pensioners, contributions are as follows:

a) Marketing and processing co-operatives: 12.65 % of their wages for workers and employees;

b) Co-operatives for farming the land: 12.65 % of their salaries for employees and an amount fixed for each working day, which can be estimated on the average at 3.5 % of their pay, for workers.

c) Marketing and processing co-operatives which handle only the products of their farmer members: the contributions are the same as under b) above.

5. As regards family allowance, the contributions are as follows:

a) Marketing and processing co-operatives: 17.5 % of wages and salaries.

b) Co-operatives for farming the land: 17.5 % of wages and salaries, and per unit of manpower for employees, and a fixed amount per day for each worker, which can be estimated on the average at 9.2 % of total pay;

c) Marketing and processing co-operatives which handle only the products of their farmer members: for employees the charges are the same as those mentioned under a) above, and for workers as under b).

6. Unemployment insurance:

a) Marketing and processing co-operatives: 2 % of all wages and salaries;

b) Co-operatives for farming the land: 2 % of salary for employees, and a daily fixed amount for each worker which can be estimated on the average at 1.6 % of pay;

c) Marketing and processing co-operatives which handle only the products of their farmer members: charges shown at b).

7. When co-operatives employ apprentices they are required to fulfil all the relevant social obligations, and each week they must affix a 242-lire stamp to the individual worker's card.

There is no special obligation concerning vocational training. It should, however, be pointed out that a contribution is paid to the Office for aid to orphans of Italian workers, which mainly concerns itself with vocational training. The contribution is 0.15 % of pay in industry and commerce and also for salary-earners in agriculture. As regards agricultural wage-earners, the contribution has also to be paid in respect of workers of co-operatives exclusively processing or selling the products of their farmer members.

8. In the matter of collective wage agreements, each co-operative applies the one in force in the commercial sector to which it belongs, i. e. the agreements observed by the other enterprises engaged in the same activities.

The main charges are annual contributions for compensation on redundancy. The average is as follows:

a) For employees: 8 % of yearly salary;

- b) For agricultural workers: 1.35 % of yearly pay;
- c) For workers engaged in industrial or commercial activities: 3 to 4 % of yearly pay.

The other important agreed charges are those which concern public holidays (not including Sundays). There are 17 recognized public holidays a year, and for these days persons in paid employment are entitled to their day's pay without working.

9. As regards leave, the personnel of co-operatives are entitled to roughly the following periods of paid annual leisure:

- a) Marketing and processing co-operatives: employees, an average of 20 to 25 days; workers, 8 to 12 days;
- b) Co-operatives for farming the land: employees, 25 days; workers, 8 to 12 days.

As regards maternity benefits, the insurance contributions and the charges borne by the co-operative are as follows:

- a) Processing co-operatives: maternity allowance is paid during the compulsory absence of the expectant mother (who retains her employment) for three months before and 8 weeks after confinement; a contribution of 0.53 % of the wages of all workers has to be paid;
- b) Marketing co-operatives: the allowance is paid during compulsory absence 6 weeks before and 8 weeks after confinement; contributions amount to 0.31 % of the wages of all workers;
- c) Co-operatives for farming the land: the allowance is paid during compulsory absence 8 weeks before and 8 weeks after confinement; contributions are 0.25 % of the average wage for each worker converted into fixed contributions per day;
- d) Co-operatives processing or marketing only the products of their farmer members: the allowance is paid for absence as laid down in a) and b), and contributions are as mentioned in c) above.

10. The pay of female personnel is being gradually equalized with that of male personnel.

The worker's sex has no influence on capacity to conclude a work contract. However, there are prohibitions concerning employment of women in heavy, dangerous or unhealthy work, and special guarantees for the protection of minors (law No. 653 of

26 April 1934, amended by law No. 1325 of 29 November 1961).

11. As regards minors of both sexes, the minimum age for beginning work is generally fixed at completion of the fifteenth year. By way of exception, this can be reduced to the thirteenth in non-industrial activities and for light work which does not jeopardize school attendance by the minors concerned, is compatible with the need to protect their health, and does not have to be done at night or during holidays. The minimum age is raised to 16 or 18 completed years for some heavy or dangerous jobs or for work involving moral risk to the worker.

Minors between 13 and 14 cannot be required to work during school hours or for more than two hours daily, it being understood that periods of work and at school may not exceed 7 hours daily in all. For minors between 14 and 15, the maximum period of work per day may not be more than 7 hours.

In addition to respecting the minimum ages laid down by the law, employers may not employ minors under 15 if they are not in possession of a worker's book containing, among other things, their health card and copy of a medical certificate as to their physical fitness and specifying what tiring, dangerous or unhealthy work they are not in a condition to do.

Mention should also be made of a reduction in the rate of contributions for co-operatives whose industrial and commercial activities are exclusively concerned with their members' products. This advantage is likewise granted to farmers who process and sell their own products.

There are also a considerable number of co-operatives for the individual cultivation of holdings which, being considered as owner-farmers, have the benefit of a social security system of their own.

This consists of:

- i) An insurance against agricultural accidents (established by a law of 23 August 1917), applicable to members and to collective share-croppers aged between 12 and 70 who normally carry out manual work in farming or forestry.
- ii) A disablement, old age and surviving dependents insurance covering owner-farmers, sharecroppers and tenant farmers; this was instituted by a law of 26 October 1957, and can operate from the age of 14.
- iii) A sickness insurance, covering farmers cultivating their own land and made compulsory by a law of 22 November 1954.

SECTION IV

BUDGETARY MEASURES CONCERNING AGRICULTURAL CO-OPERATIVES

§ 1 - DIRECT SUBSIDIES RECEIVED FROM THE PUBLIC AUTHORITIES BY AGRICULTURAL CO-OPERATIVES AND THEIR UNIONS

SPECIAL SUBSIDIES

Special subsidies may be granted to facilitate the technical and economic operation of co-operatives, in particular:

- i) To encourage disinfection of agricultural products and the control of parasites on vegetables and animals;
- ii) To promote the development of certain crops (olives, citrus and other fruits, grape vines);
- iii) For the purchase of livestock for reproduction and breeding centres;
- iv) To buy agricultural equipment.

All these subsidies can also be granted to individual farmers. Their main purpose is to help small and medium-sized farms.

INVESTMENTS

These may be subsidized. In particular, the State subsidizes real estate investments (construction, enlargement and repair of buildings, and new installations required for the functioning of farms).

DIFFERENCE BETWEEN THESE SUBSIDIES AND THOSE OBTAINED BY SIMILAR ENTERPRISES UNDER ORDINARY LAW

The system of direct subsidies is a favour reserved for co-operatives only in so far that they enjoy priority in its application.

This system is part of a general policy aimed at encouraging agricultural co-operation.

§ 2 - OTHER TYPES OF AID RECEIVED FROM THE PUBLIC AUTHORITIES BY AGRICULTURAL CO-OPERATIVES AND THEIR UNIONS

LOANS OF PUBLIC FUNDS AT REDUCED INTEREST OR INTEREST RATE "SUBSIDIES" ON INTEREST DUE TO PRIVATE LENDERS

Loans are granted to co-operators in the form of State help in the payment of interest or of expenditure within specific limits (law No. 454 of 1961).

GUARANTEES GRANTED BY A PUBLIC ESTABLISHMENT OR A PUBLIC FUND

Law No. 454 of 1961 (Articles 36) created an "inter-bank guarantee fund" to cover risks stemming from long-term loans for land improvement and for the promotion of peasant ownership. The guarantee covers up to 80 % of any loss reported by the establishment granting the loan after the usual procedures of recovery by constraint have been applied.

REFUNDS ON PURCHASES OF MACHINES OR FUEL

A body has been established to enable farmers, either individually or in association, to acquire and use agricultural machinery and the necessary fuel on favourable terms.

GRANTS OF LAND OR BUILDINGS

Arrangements have been made for ceding uncultivated or inadequately cultivated land to agricultural co-operatives (most recently in law No. 199 of 18 April 1950).

The differences in treatment between co-operatives and others in the award of direct subsidies also apply to indirect subsidies and to the grounds for them.

Finally, it should be pointed out that federations and confederations of agricultural co-operatives do not receive any direct subsidies or other types of aid.

§ 3 - SOURCE AND VOLUME OF PUBLIC AID

The direct or indirect subsidies are granted by the State (Ministry of Agriculture).

SECTION V

ORGANIZATION AND PERFORMANCE OF AGRICULTURAL CO-OPERATIVE ACTIVITIES

§ 1 - UNITY OF CO-OPERATION

AT BUSINESS LEVEL

Agricultural co-operative organization has not achieved unity on the business plane. There is

competition between primary and secondary co-operatives.

AT REPRESENTATIVE LEVEL

There is no unity at this level. Several representative organizations are in competition, one or other

predominating according to region. However, the "Federazione Italiana dei consorzi agrari" enjoy an indisputable escendancy in the fields of co-operative purchasing, marketing and supply of services.

§ 2 - CO-OPERATIVES AND PUBLIC AUTHORITIES

The public authorities have a hold only over co-operatives established between persons to whom land has been granted in agrarian reform regions under laws No. 230 of 12 May 1950 and No. 841 of 21 Octobre 1950. The agricultural co-operative movement is entitled to be represented by persons of its own choosing vis-à-vis the public authorities and State companies.

The co-operative movement is an elector to Chambers of Agriculture which are, at the same time, Chambers of Industry and Commerce.

§ 3 - CO-OPERATIVES AND IDEOLOGICAL AND OCCUPATIONAL GROUPINGS

CO-OPERATIVES AND IDEOLOGICAL GROUPINGS

The political parties whose programme favours co-operation encourage it; the unions of co-operatives have marked political leanings, and consequently affinities with or that political party.

CO-OPERATIVES AND OCCUPATIONAL GROUPINGS

In matters of policy, contacts exist between all-purpose agricultural organizations and agricultural co-operatives, but the agricultural organizations cannot impose a general line of conduct on agricultural co-operation.

§ 4 - TRADE UNIONS OF PERSONNEL OF AGRICULTURAL CO-OPERATIVES

GENERAL

A distinction must be made:

- i) The position of people who are both members of the co-operative and wage-earners in its employment is determined by its regulations and is generally modelled on the collective agreements between the employers' organizations and the farmworkers' unions;
- ii) The position of wage-earning personnel who are not members is governed exclusively by the collective agreements concluded between the above-mentioned organizations. Generally speaking, these agreements give satisfaction.

STAFF REPRESENTATION

Representation of personnel on the bodies managing agricultural co-operatives is provided for, but only in labour co-operatives, where the wage-earners are themselves members. The works council or delegates of personnel with the management are essentially concerned with social provisions.

Association of representatives of personnel with the management exists only in labour co-operatives where the wage-earners are themselves members. They have a right to supervise the running of agricultural co-operatives or co-operatives of co-operatives.

§ 5 - THE PATTERN OF POWER IN THE AGRICULTURAL CO-OPERATIVE

CHIEF STIMULUS

Both the directing and the managing organs act as driving forces in the co-operatives. The members of the board of directors therefore have both a dynamic and a representative function. Most often they are chosen for their industrial, commercial, financial, economic and social qualifications.

Paid personnel can be promoted to executive posts on the basis of ability, performance and experience. Persons in such posts must have had a good general education; practical and theoretical training are also required. Managerial staff can also be recruited from outside; they are generally expected to hold agricultural science diplomas. The directors, however, are chosen from among the members.

For the organs of unions of co-operatives, people with general qualifications are required. Only the technical and administrative managers are paid, and then only if they have the status of employees.

TECHNICAL ASSISTANCE

The co-operatives generally call on the services of management consultants or of planning and method bureaux, the latter being set up by the federations for their members. The agricultural "consorzi" have also created such offices.

§ 6 - SPECIALIZATION

There is a marked trend towards specialization in primary co-operatives. The activity of the unions of co-operatives is specialized anyway.

No authority is competent to put an end to any conflicts which might arise from the multiplicity of co-operatives or unions of co-operatives with competing activities.

§ 7 - UNIONS OF AGRICULTURAL CO-OPERATIVES

CO-OPERATIVES OF CO-OPERATIVES

In only a few fields do co-operatives participate in co-operatives of agricultural co-operatives.

The co-operatives of co-operatives help both to improve the economic position of small and medium-sized co-operatives and to make them competitive with the largest and also to open up additional fields of activity for their members.

A co-operative of co-operatives hardly ever admits to membership an enterprise under ordinary law engaged in an activity similar to that of the member co-operatives.

FEDERATIONS AND CONFEDERATIONS OF CO-OPERATIVES

There are two kinds of federation: federations specialized by their branch of activity, which are of a more technical nature, and federations of regional character and tending more to carry out administrative functions.

The co-operatives of co-operatives all belong to federations; generally speaking no co-operatives of co-operatives prefer to stand outside.

The federations generally comprise primary agricultural co-operatives and co-operatives of agricultural co-operatives, but never members who are outside the co-operative movement.

The federations are members of the confederations and cannot perform any business acts. The confederations have members other than co-operatives, but this is by way of exception. In general they have no profit-making activities. These organizations are not monolithic, the general interests of co-operation being expressed and represented by the various federations and confederations.

§ 8 - ADAPTATION TO ECONOMIC DEVELOPMENT

Co-operation responds to the general trend towards larger groups in business by an effort to concentrate itself. Integration is strengthened and developed on the two planes of economies (by setting up co-operatives of co-operatives) and of industrial organization (by the creation of federations and confederations). Internationalization of business has not, as yet, harmed the beneficiaries of previous trade flows.

It is possible for agricultural co-operatives or co-operatives of co-operatives to hold the majority of the shares of companies under ordinary law, which are thus a projection of agricultural co-operation. Such a takeover is justified when the company's functions complement those of the co-operatives; but these situations are hardly ever met with in practice.

§ 9 - CO-OPERATION AND YOUTH

Recruiting of members is satisfactory. The younger generation is favourable to co-operation, has confidence in this form of association, and accepts the necessary co-operative discipline and the no less necessary exactitude in accounting matters, despite the difficulties of financial administration as organized by the law.

Arrangements exist for the instruction of young farmers.

§ 10 - CO-OPERATIVE LEGISLATION AND THE ACTUAL SITUATION

The legislation in force is no longer adapted to the needs of the time. As an example it is sufficient to mention the extra-legal development of the co-operative refund system. Signs of obsolescence are to be discerned in the body of law on co-operation, but steps are being taken in Parliament to modernize it.

SECTION VI

POSITION OF AGRICULTURAL CO-OPERATIVES WITHIN THE CO-OPERATIVES MOVEMENT AS A WHOLE

§ 1 - RELATIONS BETWEEN AGRICULTURAL MARKETING OR PROCESSING CO-OPERATIVES OR UNIONS OF CO-OPERATIVES AND CONSUMERS' CO-OPERATIVES

De facto relations exist between these two co-operative sectors irrespective of all formal agreements or organic connections. They occur on the purely

commercial plane between buyers and sellers, but are still only of an occasional nature.

§ 2 - RELATIONS BETWEEN AGRICULTURAL CREDIT CO-OPERATIVES AND CREDIT CO-OPERATIVES IN OTHER SECTORS

There are no relations, either organic or of a business character, between the agricultural credit co-operatives and credit co-operatives in other fields.

§ 3 - RELATIONS BETWEEN PRIVATE AGRICULTURAL INSURANCE CO-OPERATIVES AND INSURANCE CO-OPERATIVES UNDER ORDINARY LAW

Relations exist between agricultural insurance co-operatives and insurance co-operatives under ordinary law. Such relations are not subject to regulation, but are left to the discretion of the bodies concerned and generally have to do with reinsurance of risks.

§ 4 - POINTS OF CONTACT BETWEEN LEADING FIGURES IN THE DIFFERENT CO-OPERATIVES (AGRICULTURAL AND NON-AGRICULTURAL)

There is a common directing body for the various co-operative branches: the Committee of Chairmen. Within this body, the leaders of the national federations of agricultural co-operatives can contact and collaborate with the leaders of consumers' co-operatives. This national body constitutes a horizontal structure, towards which the national organizations with a vertical structure (federations) converge.

§ 5 - PUBLIC SERVICES OR BODIES DEALING WITH CO-OPERATION

STRUCTURE

Legally and administratively, co-operation as a whole comes under the Ministry of Labour, one of whose directorates-general is specially entrusted with supervision of the co-operatives. Alongside this body there exists:

- i) A central commission to advise on agricultural co-operative legislation,

- ii) Provincial supervisory commission with the "Prefetture" (Prefectures). However, not all the co-operatives fall within the jurisdiction of the Ministry of Labour and its peripheral bodies: certain categories come under other State organs:

— The credit co-operatives (rural and artisan banks and people's banks) are under the supervision of the Bank of Italy, which acts through its technical personnel (Article 2 of decree-law No. 226 of 1 December 1944);

— The insurance co-operatives are under the exclusive supervision of the Ministry of Industry and Commerce (law No. 473 of 17 April 1925);

— Building co-operatives partly financed by the State are supervised by the Ministry of Public Works directly or through civil engineering offices and with the help of a supervisory committee for popular, low-cost housing;

— The "consorzi agrari" and the "Federazione Italiana dei consorzi agrari" are under the supervision of the Ministry of Agriculture and Forests (decree-law No. 1245 of 7 May 1948).

POWERS

Through its services, the State supervises and checks on the whole co-operative sector for the purpose of promoting its development. Control is carried out by means of ordinary or special inspection, and measures may be taken against co-operatives whose management or functioning prove to be irregular. These measures include: summons to put matters right, striking from the registers, dismissal of directors or "sindaci", official dissolution. The central commission must be consulted on the application of such sanctions.

SECTION VII

POSITION OF AGRICULTURAL CO-OPERATIVES IN THE ECONOMY

§ 1 - RELATIVE IMPORTANCE OF AGRICULTURAL CO-OPERATIVES AND OF OTHER FORMS OF ENTERPRISE IN THE VARIOUS BRANCHES OF ACTIVITY

The statistics given for the various sectors of agricultural co-operation are averages for the last fifteen years. The information has been collected by a strict method according to which true co-operatives have been distinguished from those that are merely

nominal co-operatives. Here we shall only indicate the importance of the main sectors.

MARKETING AND PROCESSING OF AGRICULTURAL PRODUCTS

Cereals

Co-operative organization in the cereals branch goes back to the 1930's, a period of disorder on the

market and irregular prices. Until 1935, arrangements for the voluntary storage of cereals were the responsibility of the "Federazione Italiana dei consorzi agrari". Then, from 1936 to 1947, these arrangements were taken over by the State, which made cereals storage compulsory. With effect from 1948, the system became partially free again. Since that date, voluntary storage of wheat and maize has been carried out by the "consorzi agrari" and their federation in collaboration with the organizations of agriculturists and owner-farmers. This collaboration, which had initially concerned small quantities, grew rapidly and continuously. Only stockpiling subject to quotas was maintained, to support prices in the interest of producers, until the implementation of the Community regulation for the market in cereals (1961-62). At that time the "Federazione Italiana dei consorzi agrari" was designated by the State as the market-support organ for implementation of the regulation laid down by the competent EEC authority. Since 1948 the quantities delivered by the co-operative cereals sector have continued to grow steadily: they have increased from between 10 and 12 million quintals, representing a value of 72 000 million lire, to 30 million quintals, worth about 180 000 million lire. The "consorzi" and their Federation are equipped to deal with over 30 million quintals.

Dairy products

As far back as 1937 there were already 3 000 dairy and fodder associations with over 188 000 members, which accounted for a quarter of national production (8 million quintals of milk). Today, with the trend towards larger enterprises, the number of co-operatives has fallen to about 2 500, but they handle 50 % of the milk for processing (25 million quintals), of a value of about 100 000 million lire.

Wine

The situation here is in process of evolution and not yet stabilized. In 1958 there were already 398 co-operative cellars and "enopoli", with a capacity of 9 323 000 hl and very nearly 100 000 producers. In 1962, 641 co-operative cellars, including 122 enopoli, accounted for a capacity of 18 340 000 hl (2 314 000 for the enopoli alone). The share of the co-operatives in this field is rising: in 1962 it was 21 % and in 1963 it was 20 % of total production (35 % of all production marketed). But the wine market does not yet enjoy real stability

because of a lack of co-ordination between the different co-operative cellars. Only those enopoli — and they are a minority — which market their wine through a single central office — the "Federazione Italiana dei consorzi agrari" — are organized at sales level and can influence the movement of prices. With better co-ordination the co-operatives, which represent about a quarter of the wine production sold, could have a decisive influence on the stability of the market. It must be expected that their role will continue to gain in importance in the years ahead.

Fruit and vegetables

20 % of Italian production is collected and sold by the co-operative sector. In addition to the agricultural "consorzi" and their Federation, there are 200 co-operatives which collect and sell products inside and outside the country.

Mention should also be made of some co-operatives which, in 1961/62, voluntarily stored 30 000 quintals of oil, about a million quintals of grapes, and 60 000 quintals of sweet wines.

Co-operative activities have recently been organized for sugar production in Tuscany and in the land reform areas. They handle practically all the sugar-beet produced.

SUPPLY OF AGRICULTURAL REQUISITES

In this field, co-operatives account for 80 % of the country's seed requirements; 26 % of seedling requirements; about 65 % of fertilizer requirements; 40 % of fungicide requirements; 26 % of requirements of animal feedingstuffs (simple and compound); 40 % of requirements of farm machinery.

CREDIT

The leading role in this field is played by the rural and artisan banks, with people's banks in second place. The former — at present 800 in number — are co-operatives with joint and unlimited liability or limited liability. They are affiliated to the "Ente Nazionali Casse Rurali" (National Office of Rural Banks), which is a co-ordinating and developing body. On 31 December 1944, the rural and artisan banks were holding deposits amounting to 240 000 million lire. Together with them, mention should be made of the important part played by the provincial "consorzi agrari" and their national

Federation in the credit field by sales of equipment on the deferred-payment system; in 1961 they accounted for nearly one-third of operational farm credit.

Deferred payment sales by the "consorzi agrari" alone represent about 35 % of the operating credits granted.

INSURANCE

The mutual benefit societies insure against agricultural risks. There are more than 200 of them, and they are particularly active in the land reform

areas. Capital insured is more than 10 000 million lire, principally in the livestock breeding branch.

§ 2 - AGRICULTURAL MARKETS DOMINATED BY CO-OPERATION

This is more a matter of influence on market stabilization than of monopoly. On the cereals market the supremacy of co-operation is beyond doubt, and it is also important in wine and in fruit and vegetables. Its influence is decisive in the supply sector too.

CHAPTER V

Luxembourg

SECTION I

THE LEGAL SYSTEM APPLICABLE TO AGRICULTURAL CO-OPERATION

§ 1 - GENERAL REGULATIONS ON AGRICULTURAL CO-OPERATIVES AND CO-OPERATIVES OF AGRICULTURAL CO-OPERATIVES

LEGISLATIVE FRAMEWORK

In Luxembourg, there is no general structure of laws and regulations covering all sectors of co-operation. The legal bases for the various branches of agricultural co-operation are:

- i) The law of 10 August 1915 on "sociétés commerciales" (commercial companies) and more especially Section VI, dealing with the "société coopérative", a form which has been adopted by three agricultural co-operatives;
- ii) The Grand Ducal decree of 17 September 1945 revising the law of 27 March 1900 on the organization of "agricultural associations", whose possible activities it defines;
- iii) The law of 28 December 1883 on syndical associations established to carry out land improvement work of general importance;
- iv) The law of 11 July 1891 on mutual aid societies.

A number of small local organizations with very few members have set up as *de facto* societies which do not enjoy legal status. A new Bill on the organization of associations proper has been prepared.

FORM AND DESIGNATION

Only three of the Luxembourg agricultural co-operatives are commercial companies; all the others are agricultural associations. The new Luxembourg Bill indicates that the agricultural association is a group of persons, variable in number, who co-operate actively in agricultural matters for the purpose of satisfying the economic requirements of their occupation by appropriate measures of mutual aid, and in particular through a common enterprise. It is managed on the basis of equality of rights and duties among its members and is not authorized to distrib-

ute profits. It is endowed with legal personality and comes within the competence of the civil courts. This form of "group of persons in private law" is specific, but the title of "agricultural co-operative" is not legally protected.

OBJECTS

The activity of the co-operatives can be freely fixed by their Articles, provided it corresponds to one of the aims set by the law. In general, it serves only occupational requirements, including agricultural credit and agricultural insurance but rarely family needs. The co-operatives are classed according to the aims they pursue. They are generally specialized, with the exception of the rural banks, which have three objects: credit and savings operations, buying and selling of goods and products, provision of farm machinery for joint use by members.

NOTE

The following remarks will deal more particularly with agricultural associations in the strict sense, and federations thereof.

CHARACTERISTICS

Neither primary nor secondary co-operatives possess the character of traders; they may be set up freely, and the law assigns practically no limits to their activity in space (but their Articles specify an area) or in time (unless otherwise mentioned in the Articles, the maximum duration is 30 years). In addition, the law does not formally prohibit agricultural associations and their federations from dealing with non-members — though this is not only rare but would involve the risk of forfeiting certain fiscal advantages; and they are free in their choice of credit institution.

CAPITAL

Constitution of a capital stock is compulsory, and its detailed composition must be shown in the Articles.

This capital is variable because of the variability in the number of members. It is represented by individual shares which are not transferable (except in cases of inheritance) and have a nominal value (no amount is fixed by law). In general, the capital yields no income. Increase of capital is effected individually and generally. Increase by incorporation of reserves is only allowed for the revaluation reserve (established after the war, following the currency reform). Reduction of capital can also be individual or general. A member resigning or expelled is entitled to receive back his holding at the value it has according to the balance-sheet of the business year in which he leaves, but the amount reimbursed may in no case exceed the nominal amount of his shares.

LOANS

Agricultural associations may not issue loans.

RIGHTS AND OBLIGATIONS OF MEMBERS

General rules

In principle, agricultural associations accept only farmers as members. However, the law provides for acceptance of a minority from outside the agricultural sector — a provision applied mainly in the rural funds. The federations are made up exclusively of legally constituted agricultural associations. Both primary and secondary co-operatives have a variable number of members, which may not be less than five. The law does not prohibit membership of more than one grouping, but the Articles of most co-operatives forbid members to join a competing co-operative. This also holds for co-operatives of co-operatives.

Formalities for admission

Admission to membership takes place in three stages: the person concerned submits an application to the managing committee;

The committee then decides on the application within one month;

If he is admitted, the applicant signs a declaration of membership in the form laid down by the committee. Every member is required to subscribe the number of shares fixed by the Articles, but there is no necessary correlation between the services asked of the association and shares subscribed.

Members' obligations

Some associations require members to undertake to use their services. If the Articles demand it, the new member must pay an admission fee the amount of which is fixed by the annual General Meeting.

The obligations of members, and in particular their liability, are defined by the Articles. Where these contain nothing on the matter, liability is limited to the amount which a member has subscribed.

Members' rights

The Articles also defined the member's rights, particularly his right to vote or stand for election, his right to check up on the co-operative's activities, his right of appeal and his right to use co-operative services. It must be pointed out, however, that no member can have less than one or more than three votes (but actually all Articles stipulate "one man — one vote"), that he has a right to information and discussion in the General Meeting, and a right of complaint to the managing committee or the General Meeting. On the other hand, he has no claim to the association's assets.

The managing committee can expel a member, if serious grounds exist for doing so. He may appeal to the General Meeting, which decides in the final instance by absolute majority. Once his holding has been liquidated the expelled member becomes a stranger to the association and may not claim any part whatever of its assets or provoke its dissolution. A member may withdraw freely except when the Articles prescribe a minimum period of membership, which may not be longer than five years, but he can resign only in the first six months of the business year. Resignation takes effect from the end of that year, and its consequences are the same as those of expulsion.

ORGANS

General Meeting

The legal provisions governing these are supplementary. Thus where nothing is laid down in the Articles, members are convened personally and in writing at least eight clear days before the Meeting, and the agenda is communicated to them. At the Meeting, representation by another member holding a written proxy is allowed, but no member may represent more than two others. The law vests in the Meeting power to accept and amend the Articles, to appoint the managing committee and the supervisory board, to approve the balance-sheet and the profit-and-loss

account, to decide in the final instance on admission and exclusion, the dissolution or liquidation of the association, and the terms on which these shall be carried out. The Articles also entrust the Meeting with the tasks of allocating surpluses and deciding on purchase or sale of buildings and on loans.

Discussions in the General Meeting are valid irrespective of the number present, and decisions are taken by majority vote of those present or represented. However, it may not deliberate on amendments to the Articles unless the object of such amendments is indicated in the notice of meeting and two-thirds of the members are present or represented. If this proportion is not present or represented, a second General Meeting may be convened, and may deliberate, irrespective of the number present, but the amendments can be adopted only by a majority of two-thirds of the votes cast. The annual General Meeting must be held within three months of the closing of the business year.

Direction and administration

This is the responsibility of a managing committee, a body with a minimum of three members who are chosen from among the co-operators with due regard to the grounds for ineligibility laid down in the Articles and can be dismissed by the General Meeting. Failing statutory provisions, the mandate of members of the managing committee is valid for three years. The committee is convened by the chairman and meets as often as the affairs of the co-operative require. In large organizations it often nominates from among its members a select committee to deal with day-to-day business. The managing committee operates as a college. For its findings to be valid a majority of the members must be present, and decisions are taken by a majority of those present. Members are not paid, but any special out-of-pocket expenses incurred through the exercise of their functions are reimbursed.

The managing committee's powers extend to everything except those matters reserved for the General Meeting. Its members' liability is limited to execution of the mandate received and to errors made in their administration. They are not required to furnish a guarantee.

Management

The administrators and executive managers are chosen — not necessarily from among the members, but taking into account the grounds for ineligibility

laid down by the Articles — and dismissed by the managing committee. In general, in large co-operatives they are bound by a work contract and no remuneration procedure is precluded. They have no powers of their own and possess only such as are delegated to them by the managing committee under whose supervision they exercise their functions. Third parties can take cognizance of these powers only at the head office of the co-operative. The responsibility of administrators and managers does not extend beyond the powers and functions delegated to them. They are not required to furnish a guarantee.

FINANCIAL MANAGEMENT

The agricultural co-operatives are required to observe normal business accounting rules. The length of the accounting period is one year.

Results

Surpluses are primarily used to build up the reserve fund and contingency fund provided for in the Articles; all distribution of profits is forbidden but the payment of bonuses or refunds from overheads to members in proportion to their dealings with the association is not considered as a distribution of profits. Losses are made good by drawing on the reserve fund.

Inspection of accounts

Internal control can be exercised by a supervisory board, which is compulsory in associations with more than fifty members. The members of the board are usually appointed for three years, not necessarily from among members, with due regard to the grounds for ineligibility laid down in the Articles, and they can be dismissed by the General Meeting. They have an unlimited right to supervise and check on the management of the association, and to this end, they are vested with the widest powers of investigation and intervention. The board must submit the result of its work to the General Meeting with any proposals it thinks fit. The liability of its members extends only to executing the mandate they have received and to errors made in the performance of their duties. They receive no remuneration but any special expense incurred in the exercise of their functions is reimbursed.

However, some co-operatives voluntarily have their accounts checked by a business auditor, a chartered

accountant chosen by the managing committee. Others, such as the rural banks, are subject to an examination organized by their federation.

PROLONGATION

In principle, the life of an agricultural association is unlimited. In cases where a limiting date is set, prolongation is possible provided the limiting date has not yet been reached.

DISSOLUTION BEFORE DUE DATE

This can be voluntary or imposed by the authorities:

- i) Only the General Meeting can dissolve the co-operative before the due date, under the quorum and majority conditions laid down by the Articles.
- ii) The Justice of the Peace must pronounce the dissolution of the association on application by any interested party when the number of members has been less than five for more than six months.

Dissolution entails liquidation.

INSOLVENCY

As neither agricultural associations nor their federations have the character of traders, they cannot be declared bankrupt.

LIQUIDATION

The General Meeting decides on liquidation, the operations of which are regulated by the liquidators, who are the members of the current managing committee unless the Meeting appoints special liquidators and fixes their powers and emoluments. After settlement of the association's liabilities, any remaining assets are shared between the members in proportion to their holdings. The net deficit must be made good by the members, in proportion to their liability towards third parties.

§ 2 - FEDERATIONS OR CONFEDERATIONS OF AGRICULTURAL CO-OPERATIVES AND OF CO-OPERATIVES OF AGRICULTURAL CO-OPERATIVES

These federations and confederations do not exist in the Grand Duchy, where the federations of co-operatives are "co-operatives of agricultural co-operatives" set up to pursue in common all or some of the objectives laid down in their Articles. The public authorities do not recognize these federations as having a representative role.

§ 3 - OFFICIAL PUBLICATION

FORMALITIES

The deed of establishment of a co-operative must be made out in the form of two original copies and registered. Within 15 days of establishment, one of the copies and a list of members of the managing committee, of persons empowered to sign on behalf of the co-operative, and of the members of the supervisory board must be lodged at the administrative office of the commune where the co-operative has its seat, and the fact announced in the "Mémorial" (official gazette).

The same formalities are required for amendments to the Articles. Within 15 days following approval by the General Meeting, the balance-sheet and the profit-and-loss account must be lodged at the administrative office of the commune in which the association has its headquarters. Furthermore, initiation and completion of the liquidation process must also be notified to the commune in which the association has its head office, and both steps are announced in the "Mémorial".

INFORMATION FOR THIRD PARTIES

All documents required for information of third parties are at the disposal of the public, which is free to take a copy of them at the administrative office of the commune in which the association has its headquarters. Failure to ensure such official publication results, according to the case, in nullity for the co-operative, impossibility for it to acquire legal personality, and inopposability against third persons, and involves the liability of the members of the managing committee.

§ 4 - PUBLIC AUTHORITIES

The agricultural co-operatives come under the Ministry of Agriculture (Agricultural Mutual Benefit Department of the Agricultural Services Administration). The public authorities do not intervene in the workings of agricultural co-operatives as long as they comply with laws and regulations. Co-operatives can be freely established, and no restrictions are placed on the content or form of their Articles. However, with a view to facilitating the creation of associations, the Agricultural Services Administration makes model Articles available to them.

Furthermore, the associations and federations are subject to State supervision exercised by the Agricultural Mutual Benefit Department in the said Administration. Supervision covers the accounting,

legal and administrative angles. Liquidation operations are also under official supervision. Furthermore, no branch of co-operation is at the disposal of the public services. However, collaboration takes place in the technical and economic fields, either as a *quid pro quo* for benefits received or in order to maintain good relations.

§ 5 - LATERAL FORMS OF AGRICULTURAL CO-OPERATION

There is a semi-co-operative sector which functions in a similar way to the co-operatives. The bodies

in question, set up at the instigation of the "Centrale paysanne" (an agricultural organization), have the form of limited liability companies. They comprise private individuals (farmers) and corporations, in particular co-operatives. Their object is to store, process and market agricultural products. The reasons for their existence are chiefly economic and structural; they tend to remedy difficulties arising from the more or less strict regulation of co-operation. The two sectors supplement each other, but various branches of the co-operative sector nevertheless fear that the semi-co-operative sector might hamper their activities.

SECTION II

FISCAL SYSTEM APPLICABLE TO AGRICULTURAL CO-OPERATION

§ 1 - GENERAL DESCRIPTION

We will list here the direct and indirect taxes to which agricultural associations are subject, with a brief description of each tax.

DIRECT TAXES

Corporation tax

This is paid on all the association's income. It is assessed on the basis of the surpluses for the preceding year or for the twelve months period whose results were used in drawing up the most recent balance-sheet.

No deduction may be made for corporation tax, wealth tax, or tax on income from capital paid during the past business year, gifts during the year for charitable purposes of public interest or otherwise, or allowances or other emoluments paid to members of the managing committee or of the supervisory board.

The rates of tax are as follows:

- i) Taxable profits up to 400 000 francs: 20 %;
- ii) Taxable profits between 400 000 and 600 000 francs: 50 %;
- iii) Taxable profits between 600 000 and 1 000 000 francs: 30 %;
- iv) Taxable profits between 1 000 000 and 1 312 000 francs: 72 %;
- v) Taxable profits in excess of 1 312 000 francs: 40 %.

Wealth tax

Taxable wealth consists of the reserves, that part of the profit for incorporation into reserves, and the registered capital. The latter does not count as wealth:

i) In rural banks "in the strict sense", if they grant credit only to their members (rural banks "in the strict sense" are those which engage only in savings and credit operations or those which, in conjunction with this but nevertheless in a secondary capacity, also buy and sell merchandise).

ii) In "enlarged" rural banks, if their gross assets do not exceed 3 000 000 francs ("enlarged" rural banks are those whose chief activity (dominant object) apart from saving and credit operations is the purchase and sale of merchandise).

The rate of tax is fixed at 0.5 %.

Agricultural associations whose assets are below 100 000 francs are exempt from wealth tax.

Withholding tax on income from capital

The tax is withheld at source on different forms of income from capital. As regards agricultural associations the forms of income taxable are any interest which the shares may bear, and refunds distributed at the end of the business year (distribution of the surplus or a part of the surplus in proportion to the business done with their association by the individual members).

The rate of tax is fixed at:

- i) 15 % of the gross amount of the income mentioned above;
- ii) 17.65 % when the person responsible for paying the income from capital also takes the tax for his account.

The person liable for the tax is the beneficiary of the income from capital which attracts the tax.

He is, however, only liable for the withholding tax, jointly with the person paying the income from capital, if:

- i) The tax has not been deducted from his income, or
- ii) If he knows that the person paying the income has not paid the tax within the prescribed time-limit and does not immediately inform the tax authorities of this.

Trade tax

Trade tax is assessed on a twofold basis:

- i) From trading profits,
- ii) From operating capital.

The basis rate of tax is 2 ‰ of the operating capital, and 4 % of profits after deduction of an allowance of 80 000 francs.

However, the operating capital is not taxable if it is less than 30 000 francs.

The total of the two amounts thus computed represents the overall basic tax which, multiplied by the commune rate, finally gives the amount of trade tax due.

Tax on company directors' fees

This is charged on travel expenses, indemnities and other emoluments paid to the members of the managing committee and supervisory board in connection with their attendance at the meetings of the said bodies.

The rate of tax is fixed at:

- i) 20 % if the beneficiary himself pays the tax,
- ii) 25 % if the association pays it for him.

INDIRECT TAXES

Tax on land and buildings

Agricultural associations are liable for this tax if they own real estate, whether buildings or land without buildings. As this is a commune tax, the rate is variable.

Payroll tax

This tax is charged by various communes with the authorization of the State. It is calculated on the total amount of wages and salaries — after deduction of social charges — paid to office personnel and workers. The rate is fixed by the commune, and is 1.2 % for the city of Luxembourg.

Registration tax

This is levied on the total amount of capital. The rate is 0.5 %.

Turnover tax

This is a multi-stage tax (cumulative tax) which bears on all transactions at all stages of production and distribution including supply of services. The rate varies according to the nature of the transaction and of the goods involved.

Import tax (tax on turnover from imports)

Tax is charged on imported goods at a rate which is generally 2 % of the invoiced price of the goods plus transport costs to the Luxembourg frontier, customs duties and other charges levied at the same time.

§ 2 - CHARGES AND TAXES TO WHICH THE AGRICULTURAL CO-OPERATIVES AND THEIR UNIONS ARE SUBJECT DURING THEIR LEGAL EXISTENCE

CONSTITUTION

Agricultural associations are subject to a registration tax of 0.5 %.

CHANGE IN REGISTERED CAPITAL

The registration tax of 0.5 % is applicable to any increases in capital.

FORMATION OR USE OF RESERVES

Reserves are built up by allocation of business surpluses. This being so, all associations are in principle subject to corporation tax, wealth tax and trade tax. But the law provides for systems of exemption or special arrangements favouring certain associations. Thus, small local supply and marketing associations may be exempted from corporation tax provided their annual income does not exceed 7 500 francs. Rural banks in the strict sense are granted a reduction of two-thirds of the amount of corporation tax when they lend only to their members. Associations for the joint use of machinery (agricultural, viticultural or silvicultural) are exempted from corporation tax on condition that they deal only with their own members. Processing associations likewise do not pay this tax provided they deal only with their own members and provided their processing operations cover only agricultural, viticultural or forestry products harvested by their members and the processing is of an agricultural and not an industrial nature. Joint sales associations are also exempted.

Any association which is exempt from corporation tax is at the same time not liable for wealth tax or trade tax.

Refunds granted proportionately to the volume of business done with the association in the course of the year are deductible from taxable income for all associations subject to income tax — with the exception of rural banks in the strict sense — but only in the same proportion as turnover of business done with members in relation to total turnover.

Furthermore, the deduction is not allowed when the total amount of dividends distributed is lower than the amount which would represent a fair return (5 %) on the association's own capital (shares and reserves). Refunds granted to non-members are fully deductible.

Reserves, whether earmarked or not, attract wealth tax and the trade tax in all associations which are subject to these taxes.

USE OF SURPLUSES

Surpluses are taxed in various ways, according to the use to which they are put, whenever the associations which have made them are not covered by special regulations or an exemption.

That portion of the surpluses distributed in the form of dividends attracts dual taxation:

- i) Corporation tax,
- ii) Withholding tax on income from capital (from which no exemption is possible).

That portion of the surpluses intended to be put to reserves is subject to corporation tax and wealth tax.

Subject to the arrangements indicated above, the portion of the surpluses used for co-operative refunds is taxed in the same way as that distributed as dividend.

COMBINATION OR INTEGRATION

When a merger involving take-over is announced by registered instrument, a 0.5 % registration tax is charged on the total amount of the movable and real contributions of capital made by the association taken over, after deduction of its liabilities.

When the merger involves the setting up of a new association, transfer against payment of real property or movables attracts a registration tax of 5 %.

When the merger involves an increase in capital, this is also subject to registration tax.

PROLONGATION

Registration tax is levied on the net registered assets on the day of prolongation.

DISSOLUTION

Turnover tax must be paid on all sales liable for it. Furthermore, any profit from liquidation is subject to corporation tax if the association is liable for this tax.

§ 3 - CHARGES AND TAXES TO WHICH THE CO-OPERATIVES AND THEIR UNIONS ARE SUBJECT BY REASON OF THEIR TECHNICAL OPERATIONS

PRODUCTION AND PROCESSING

These activities are not liable for any tax.

PURCHASING, SALES AND SUPPLY OF SERVICES

In principle all sales and supply of services effected for payment by the association as part of its activity are subject to turnover tax. When the association acts on behalf of another party, the tax is levied only on the association's commission.

Purchasing operations are exempt from tax, except where buildings or imports of goods are concerned.

TRANSPORT OPERATIONS

All invoiced transport operations attract turnover tax.

INVESTMENT

Investments are liable for wealth tax and, as regards buildings, land and buildings tax.

§ 4 - DIFFERENCES BETWEEN CHARGES AND TAXES ON CO-OPERATIVES AND THOSE ON SIMILAR ENTERPRISES UNDER ORDINARY LAW

Generally speaking, the legislation concerning taxation of enterprises under ordinary law applies to agricultural associations. However, for various kinds of associations special provision has been made for exemptions or reliefs from, in particular, corporation tax, wealth tax and trade tax. The result is that agricultural associations and their federations are not uniformly taxed.

The purpose of the tax concessions granted is to encourage the co-operative movement.

Trade tax, land and buildings tax, and payroll tax accrue to the commune and all the others to the State.

SECTION III

SOCIAL PROVISIONS OF AGRICULTURAL CO-OPERATIVES

There is no difference between the social provisions for persons employed by agricultural associations and

the provisions made by similar enterprises under general law.

SECTION IV

BUDGETARY MEASURES CONCERNING AGRICULTURAL CO-OPERATIVES

(Reference year 1961)

§ 1 - DIRECT SUBSIDIES RECEIVED FROM THE PUBLIC AUTHORITIES BY AGRICULTURAL CO-OPERATIVES AND THEIR UNIONS

DURING FUNCTIONING

Subsidies are granted to co-operatives only in exceptional cases, with a view to putting their financial situation on a healthy footing.

Subsidies in 1961 amounted to 1.4 million francs.

INVESTMENTS

The small and local associations can sometimes obtain subsidies for the acquisition of equipment (10 to 20 %, credit provided for: 400 000 francs), and construction of new buildings or reconstruction of old ones (10 to 15 %, credit provided for: 150 000

francs); they also have access to credit for land improvement amounting to 5.6 million francs.

On the other hand, syndical associations which carry out work of importance to the community receive subsidies of the order of 40 % for drainage or irrigation, 33 % for laying water conduits in live-stock pens and building country roads, and 20 % for the maintenance of such roads. The credit granted is 3 million francs.

The subsidy system is part of a general policy to encourage agricultural co-operation.

§ 2 - OTHER TYPES OF AID RECEIVED FROM THE PUBLIC AUTHORITIES BY AGRICULTURAL CO-OPERATIVES AND THEIR UNIONS

Interest rate subsidies on interest due to private lenders are granted as a form of State assistance

towards the repayment of loans contracted by the agricultural associations for structural investment. Other subsidies are granted to the "Ligue Luxembourgeoise du coin de terre et du foyer" (Luxembourg League for Hearth and Home) or its members on the occasion of the purchase or laying out of allotments. The subsidies generally amount to half the interest payable. In certain cases they may be increased or cancelled.

Only agricultural associations and their unions can receive indirect credit.

§ 3 - SOURCE AND VOLUME OF PUBLIC AID

- a) The subsidies are granted by the State (Ministry of Agriculture).
- b) The following figures have been supplied for budgetary aid given solely to co-operatives in 1961:
 - i) Land improvement: subsidies granted 1.4 + 5.6 million francs,
 - ii) Acquisition of equipment: credit provided for 400 000 francs,
 - iii) Syndical associations: credit granted: 3 million francs.

SECTION V

ORGANIZATION AND PERFORMANCE OF AGRICULTURAL CO-OPERATIVE ACTIVITIES

§ 1 - UNITY OF CO-OPERATION

AT BUSINESS LEVEL

Agricultural organization has achieved unity at business level. All competition has been eliminated in the co-operative sector, within which the associations complement each other. This unity is the result of agreement and stems exclusively from voluntary accords without any intervention by the authorities. It takes place within large unions or central co-operatives and farmers' groupings.

AT REPRESENTATIVE LEVEL

Unity exists on this plane and flows, on the one hand, from voluntary understandings (farmers' groupings) and, on the other from the institution of a Chamber for the agricultural sector. The farmers' groupings and the Chamber of Agriculture set up under the Grand Ducal decree of 29 December 1960 give concrete expression to unity at regional and national levels.

The farmers' groupings exist to defend the occupational, material and social interests of their own members (individuals, associations or unions). On the other hand, the Chamber of Agriculture is meant to safeguard the general interests of agriculturalists and wine-growers, to subsidize essentially agricultural establishments or services, to give advice and to encourage the practice of agriculture. Moreover, it can make proposals to the Government which the latter is obliged to study and submit to the Chamber of Deputies. Finally, all Government

orders which mainly concern agriculture and viticulture must be submitted to this Chamber for its opinion except in urgent cases (e. g. health control of livestock).

§ 2 - CO-OPERATIVES AND PUBLIC AUTHORITIES

The public authorities have no hold over the co-operatives. The control exercised by the Ministry of Agriculture and its services is confined to verifying that the Articles and the conditions of operation are in conformity with each other. The co-operatives retain initiative and responsibility. Moved by a favourable attitude to co-operation, the public authorities have always encouraged its development, and in a liberal spirit. For instance, they have not endeavoured to make co-operation an instrument of their own agricultural economic policy. The agricultural co-operative movement may be represented by persons of its own choosing in councils and committees for control and study set up by the authorities, and the Chamber of Agriculture is run on an elective basis. However, on a proposal from the farmers' groupings the Minister of Agriculture designated 18 associations with an agricultural object and two with a viticultural object, each of which has the right to be represented in the Chamber by one delegate. The associations designated choose their delegates themselves. The large associations of essentially commercial character are members of the Chamber of Commerce and as such are also electors. However, they hardly appear as electors in commercial courts, produce exchanges or the arbitration tribunals organized by these.

§ 3 - CO-OPERATIVES AND IDEOLOGICAL AND OCCUPATIONAL GROUPINGS CO-OPERATIVES AND IDEOLOGICAL GROUPINGS

The political parties favourable to co-operation encourage it, but the Luxembourg associations all maintain a neutral attitude towards them. Neutrality towards religious denominations is also the rule.

CO-OPERATIVES AND OCCUPATIONAL GROUPINGS

All the large associations are members of the farmers' groupings (one grouping for agriculture, and one for viticulture) and are represented in the central committee by a delegate. The influence of the farmers' organizations is very great, but nevertheless does not extend to imposing a general policy. Since many of the agricultural associations' workers belong to trade unions, there are relations between the associations and the unions, which keep an eye on the economic and social security position of the wage-earners.

§ 4 - TRADE UNIONS OF PERSONNEL OF AGRICULTURAL CO-OPERATIVES

GENERAL

There is no trade union movement peculiar to agriculture or, *a fortiori*, to agricultural co-operation.

Collective bargaining agreements are only concluded in the large associations, and the association's managing committee is empowered to sign them. Generally speaking, they give satisfaction.

STAFF REPRESENTATION

Provision is made for representation of the personnel vis-à-vis the management of agricultural co-operative. The delegates' task is to represent employees and workers before the management, collaborate with the employer, and see that labour laws are complied with.

§ 5 - THE PATTERN OF POWER IN THE AGRICULTURAL CO-OPERATIVE

CHIEF STIMULUS

As a rule, the managing committee is the motive force behind the co-operatives. The members of the supervisory board play more of a representative part, and only accessorially do they take a hand in the business. Directors and managers are usually chosen for their industrial, commercial, financial, economic and social capacities. In general, a technical qualification is sufficient.

TECHNICAL ASSISTANCE

The co-operatives usually call on the services of advisers on organization or of planning and method offices. Only the dairy co-operatives branch has organized its own services, but the others are studying the possibility of doing likewise.

§ 6 - SPECIALIZATION

The tendency to specialize is general among the ground-level agricultural co-operatives. The activity of the unions of co-operatives is also specialized.

§ 7 - UNIONS OF AGRICULTURAL CO-OPERATIVES

CO-OPERATIVES OF CO-OPERATIVES

As a general rule, all agricultural co-operatives belong to co-operatives of co-operatives, the only exceptions being the associations for the joint use of farm equipment. The task of these unions is to further and strengthen the economic position of their members.

The legal status of co-operation precludes admission to a co-operative of co-operatives of an enterprise under ordinary law engaged in an activity similar to that of the member co-operatives.

FEDERATIONS AND CONFEDERATIONS OF CO-OPERATIVES

These do not exist in Luxembourg.

§ 8 - ADAPTATION TO ECONOMIC DEVELOPMENT

The co-operative is responding to the general trend towards larger groups in business by endeavouring to centralize and concentrate in its own field.

The effort to concentrate which developed after the war is continuing and becoming stronger. However, faced with the internationalization of business, it is not yet possible to say what methods of adaptation Luxembourg co-operation will employ. Integrated systems extending from unions or farmers' groupings down to individual member farmers have been achieved or are under study. But in these cases the members are not always able to fulfil their engagements vis-à-vis their primary co-operative.

It is permissible for agricultural co-operatives or co-operatives of co-operatives to hold the majority of the share capital in companies under ordinary law.

§ 9 - CO-OPERATION AND YOUTH

Recruitment of members is going on satisfactorily. Young people favour co-operation and have confidence in this form of association, which they consider an essential feature of the modern agricultural economy. They accept the necessary co-operative discipline and the no less necessary accounting exactitude.

§ 10 - CO-OPERATIVE LEGISLATION AND THE ACTUAL SITUATION

There are signs that the current legislation is getting out of date.

SECTION VI

POSITION OF AGRICULTURAL CO-OPERATIVES WITHIN THE CO-OPERATIVES MOVEMENT AS A WHOLE

§ 1 - RELATIONS BETWEEN AGRICULTURAL MARKETING OR PROCESSING CO-OPERATIVES OR UNIONS OF CO-OPERATIVES AND CONSUMERS' CO-OPERATIVES

"Consumption" is not among the co-operative activities provided for and authorized by the Grand Ducal decree of 17 September 1945 on the organization of agricultural associations. Hence, there are very few consumers' co-operatives, viz.: a total of 11, all established in towns and incorporated on the basis of the law of 10 August 1915 concerning trading companies. However, the consumers' co-operatives are on fairly regular business terms with the agricultural marketing and processing associations.

§ 2 - RELATIONS BETWEEN PRIVATE AGRICULTURAL INSURANCE CO-OPERATIVES AND INSURANCE CO-OPERATIVES UNDER ORDINARY LAW

At the most, it is possible to point to the survival of a few mutual benefit livestock insurance societies, which are of purely local importance.

§ 3 - PUBLIC SERVICES OR BODIES DEALING WITH CO-OPERATION

The bodies or services are attached to a State Administration.

STRUCTURES

The Agronomics Section of the Agricultural Services Administration has several departments, including that of "mutualité agricole" (Agricultural Mutual Benefit), which deal with co-operation in agriculture.

POWERS

The Agricultural Mutual Benefit Department handles all questions relating to co-operation in agriculture, in particular the establishment, organization, liquidation, supervision and auditing of accounts of associations, federations and societies.

SECTION VII

POSITION OF AGRICULTURAL CO-OPERATIVES IN THE ECONOMY

§ 1 - RELATIVE IMPORTANCE OF AGRICULTURAL CO-OPERATIVES AND OF OTHER FORMS OF ENTERPRISE IN THE VARIOUS BRANCHES OF ACTIVITY

The situation varies from one branch to another. In certain agricultural markets, the co-operatives are dominant, while in others they yield pride of place to other forms of enterprise. This is due to the fact that co-operation in the Grand Duchy developed only after 1900. However, the movement is generally and progressively expanding.

MARKETING AND PROCESSING OF AGRICULTURAL PRODUCTS

Cereals

The situation evolved during the same period as in Belgium. The initial impulse was given in 1957, when it was decided to build two grain silos one of 22 000 and the other of 20 000 tons capacity. The first belongs to the "Silo-centrale", a semi-co-operative set up on the initiative of the "Centrale Paysanne" (a farmers' grouping), and the second

to the "Fédération agricole d'achat et de vente" (Agricultural Purchasing and Sales Federation), which also has a silo for renting with a capacity of 1 500 tons. The co-operatives' share in the marketing and processing of bread grains is 66 %.

Dairy products

A general plan for the rational reorganization of the dairy economy was launched in 1951. Before this date, there were 154 butter-making plants and creameries. At present, the number of dairy co-operatives is three, plus a private dairy working as a butter and cheese factory.

The proportions of total production handled by the dairy co-operatives are as follows:

- Supply of milk to dairies: 90.3 % (148.7 million kg);
- Supply of pasteurized milk: 97.6 % (24.4 million litres);
- Butter manufacture: 91.4 % (4 574 tons);
- Sale of fresh cream (37 %): 85.9 % (2 571 tons);
- Manufacture of fatless cheese: 56 % (627 tons);
- Manufacture of fat cheese: 0 %;
- Skim milk powder: 100 % (1 334 tons);
- Miscellaneous products: 88.8 % (885 tons).

Livestock and meat

The slaughter-cattle marketing syndicate set up in 1931 to sell animals for slaughter plays a very important role. It accounts for 20 - 25 % of animals slaughtered.

Wine

The organization of this is due to co-operative arrangements which began in 1921 and have enabled Luxembourg viticulture to change over from table wines to quality wines and to standardize these. At present, there are six co-operative cellars in the Grand Duchy. These process the harvest of 70 % of Luxembourg vineyards and organize the marketing of the wines (148 000 hl).

Fruit and vegetables

A distinction must be made between the fruit and the vegetables branches. In the fruit branch, co-operation

is active thanks to the "Centrale du fruit" (Central Fruit Office) and "Luxfruit", two associations for the sale of fruit at present being re-equipped to improve operations for grading, conserving and marketing dessert fruit, particularly apples. In the vegetables branch, co-operation plays no part in marketing. Moreover, Luxembourg imports 80 % of all it consumes and association, in the form of the "Fédération horticole professionnelle luxembourgeoise" (Luxembourg Horticultural Federation), is influential only in defence of the material interests of market gardeners.

The co-operatives market 25 % of all fruit and 60 % of all dessert fruit, more particularly apples).

Eggs and poultry

Co-operative sale of eggs began in 1961. Ovolux ("Organisation pour la vente des œufs" — Egg Marketing Organization) handles 11 % of all home-produced eggs sold (37 000 000 units), and this percentage is rising.

Potatoes

Two associations ensure the packaging and marketing of ware potatoes. They account for about 30 - 40 % of the volume sold.

SUPPLY OF AGRICULTURAL REQUISITES

The purchasing and sales associations and their federations, and also the rural banks, play a preponderant role in the supply of agricultural requisites; local agricultural societies known as "comices agricoles" (in farming) or "comices vini-coles" (in wine-growing) are the oldest in the Grand Duchy. The former were set up as long ago as 1875, when their purpose was exclusively the propagation of technical know-how in agriculture. Then this objective was replaced by purchases in common and joint use of agricultural machinery. At present there are 254 agricultural "comices" grouped in the "Fédération agricole d'achat et de vente", (Agricultural Purchasing and Sales Federation), and 11 viticultural "comices" affiliated to the "Fédération des associations viticoles" (Federation of Viticultural Associations) and the Agricultural Purchasing and Sales Federation. The rural banks, formerly known as Raiffeisen banks, developed only late; the first dates from 1926 and today there are 137 of them, two-thirds having as their principal activity, apart

from savings and loan operations, the purchase and sale of goods (enlarged banks). Each of them belongs to one of the above-mentioned federations.

Seeds and seedlings

Ninety-four percent of seed potatoes are marketed by the "Syndicat des producteurs de plants de pommes de terre" (Seed Potato Producers' Syndicate), set up in 1946. Marketing is carried out through associations for the supply of agricultural requisites and by private trade.

Fifty-seven percent of supplies of imported seed potatoes are distributed through the co-operative sector.

Fifty-four percent of all imports of certified seed are affected through co-operatives; 90 % of domestic production of certified seed is marketed by the "Coopérative des producteurs luxembourgeois de semences" (Luxembourg Seed Producers' Co-operative).

Fertilizers

The co-operatives' share in the distribution of fertilizers is as follows: 88 % for Thomas slag, 60 % for nitrogen fertilizers, and 60 % for potash.

Pesticides

Co-operative activity accounts for 60 % of the quantity consumed.

Fuel and lubricants

The co-operatives account for 10 % of the volume distributed.

Animal feedingstuffs

Fifty percent of the compound feedingstuffs manufactured and supplied are of co-operative origin. Eighty percent of all fodder wheat is marketed by the "Silo-centrale" company and the co-operatives. Eighty percent of deliveries of other feedingstuffs including denatured wheat are also of co-operative origin.

Farm machinery

Co-operatives handle 20 % of total sales of heavy equipment. This percentage is an estimate based on proceeds from import duty.

SERVICES

Threshing and other farm operations

The CUMA, which are associations in the strict sense, make possible joint buying and use of heavy equipment. At present they number 140.

Artificial insemination

Since 1952 the "Centrale Paysanne" has been running an artificial insemination centre which inseminates 60 % of the cows and heifers in the country.

CREDIT

The only credit institutions on a co-operative basis are the rural banks. They number 137 and are grouped in a federation known as the "Caisse Centrale" (Central Fund). They are more rural than specifically agricultural and exist both in localities with a mixed urban and rural population and in genuine country villages.

Co-operative credit provides 50 % of the total volume of loans to agriculturalists.

§ 2 - AGRICULTURAL MARKETS DOMINATED BY CO-OPERATION

In a few branches co-operation plays a very important part and it holds *de facto* sway in the milk and wine branches.

§ 3 - GENERAL IMPORTANCE OF AGRICULTURAL CO-OPERATION

The following table shows, by branch of activity, the number of co-operative bodies in existence at the end of 1961:

— Agricultural and viticultural "comices"	265
— Rural banks	137
— Co-operative dairies	3
— Cattle-breeding syndicates	150
— Pig-raising syndicates	19
— Horse-breeding syndicates	3
— Syndicates for breeding small livestock	51
— Forestry associations	13
— Associations for the joint use of farm machinery (AMA)	89

Threshing associations	31	<i>Central associations</i>
Associations for the joint use of a grader or sorter	33	“Agroproduits” Central Fruit Office, “Luxfruit”, Farming and Stock-breeding Circle, Seed Potato Producers’ Syndicate, Horticultural Federation, Studbook, Herdbook, Fatstock Marketing Syndicate, Luxembourg Seed Producers’ Co-operative, “Ovolux”.
— Co-operative distilleries	3	
— Co-operative cellars	6	
Beekeepers’ associations	12	
— Small gardeners’ associations (legally constituted)	42	<i>Federations</i>
— Associations for combating late frost	19	Central Fund, Agricultural Purchasing and Sales Federation, Federation of Wine-growers’ Associations, Co-operative Cellars Group, Dairies Federation, Federation of Beekeepers’ Unions, Union of Poultry-keepers’ Associations, National Luxembourg League for Hearth and Home.
— Joint milking associations	2	
— Associations for the joint use of a refrigerating plant	6	
Other associations	11	

The Netherlands

SECTION I

THE LEGAL SYSTEM APPLICABLE TO AGRICULTURAL CO-OPERATION

§ 1 - GENERAL REGULATIONS ON AGRICULTURAL CO-OPERATIVES AND CO-OPERATIVES OF AGRICULTURAL CO-OPERATIVES

LEGISLATIVE FRAMEWORK

The 1925 law on co-operative societies, which followed from the earlier law passed in 1876, is still in force. It states various formal conditions to which the constituent instrument must conform if the society in question is to be considered a co-operative society within the meaning of the law. If this is the case, its organization is governed by the provisions of this law, whether it is an agricultural, a credit, or any other sort of co-operative. The various sectors of co-operation are not regulated by separate laws.

Alongside the co-operative societies as defined by the law, there is a semi-co-operative sector. This may be considered to include those associations which, although organized on a co-operative basis, do not fulfil the formal obligations which the law imposes on a co-operative society. Associations of this type are governed by the 1855 law which, supplementing general law, regulates and restricts exercise of the right of association and assembly. Hence we find a large number of agricultural credit banks and purchasing associations organized in conformity with the last-mentioned law. However, associations whose sole aim, both in theory and in practice, is to obtain benefits for their members cannot receive Royal approval, and this is obligatory under the 1855 law if the association wishes to acquire legal status.

These formal rules are shortly to be replaced by others. Co-operative societies will no longer only be those whose deed of establishment complies with certain formal requirements but all societies whose main purpose is to satisfy certain material needs of their members. These societies will then no longer be governed by a specific law but by the provisions of general law, into which arrangements particularly concerning co-operative societies will have been incorporated.

FORM AND DESIGNATION

The present legal arrangements in no way impose a special legal form on agricultural co-operatives. If the aim is exclusively commercial, the co-operative society is the most suitable form, although the limited company may also be chosen. If the co-operative occupies itself not only with the material interests of its members, but also with non-pecuniary interests, it may, where appropriate, be established as an association under the 1855 law, although in this case nothing prevents it from being set up as a co-operative.

OBJECTS

These can be freely laid down by the Articles of Association. They may include the purchase and sale of agricultural supplies and of products harvested, the storage and processing of the latter, the satisfaction of agricultural credit requirements, agricultural insurance and family needs, in short everything considered essential or useful for agriculture. The objects need not necessarily be limited to the needs of the farming sector.

In the great majority of cases, agricultural co-operatives are specialized. Where they are established as co-operative societies, their name must include a brief indication of the aim they pursue.

CHARACTERISTICS

Since 1934, Netherlands legislation has ceased to distinguish between commercial acts and other acts, traders and non-traders, companies governed by civil law and companies governed by commercial law, etc. With a view to serving a specific interest, it is lawful to establish a co-operative society or not to establish it. In this respect there is no legal impediment and no limit as to the co-operative's field of activity or duration. These questions and others of the same kind are settled in the Articles of Association, which may stipulate, for instance, that activities may be widened to cover non-members. With regard to

the duration of the society, it should further be noted that the law assumes that co-operatives are constituted for an indeterminate period, and this is often stipulated in the Articles.

CAPITAL

There are no legal provisions under which a co-operative society must possess or constitute a capital stock. Any co-operative may arrange its financing in accordance with its own wishes or requirements.

In practice, the majority of co-operatives do not have capital of their own in the sense of share capital. They generally build up their capital by not refunding the profits they have made and keeping all or part of them in the enterprise.

Certain big processing co-operatives which need a lot of capital (sugarbeet refineries, strawboard factories, etc.) constitute their own capital by issuing, in particular among their members, shares which carry the obligation for the member to supply, and for the co-operative to purchase, a certain quantity of products. Such an issue of shares is based in the statutory arrangements laid down by the General Meeting.

As a rule, these are individual shares, and their transfer is governed by the Articles. In this way, they may only be transferred between members and with the approval of the board of directors.

Many co-operatives practise the system of "revolving funds".

LOANS

Agricultural co-operatives may issue loans represented by redeemable bonds which can be negotiated and even quoted on stock exchanges, although in practice this very seldom happens.

RIGHTS AND OBLIGATIONS OF MEMBERS

General rules

In principle, anyone who is legally competent may become a member (the Articles may also provide for the admission of corporate bodies), but co-operatives are free to make admission subject to certain statutory conditions, and in practice this is always done. For instance, the Articles always prescribe that members must be domiciled within the co-operative's area of activity. The other conditions laid down in the Articles vary from one category of agricultural co-

operatives to another. Thus, the Articles of dairy co-operatives require that members shall be breeders of dairy cattle, those of co-operatives specializing in the sale of eggs, that they shall be poultry breeders, etc.

Formalities for admission

According to the law on co-operatives the characteristic of the co-operative is that it is an open association, i. e. one which permits adhesion and withdrawal of members. However, adhesion and withdrawal may be subject to certain terms, and this is also the rule in practice.

It is possible to belong to several co-operatives at the same time, and the law on co-operatives contains no restriction on this point.

Cases are frequently found of persons who are simultaneously members of an agricultural loan co-operative, a purchasing and sales association, a co-operative dairy, etc.

Simultaneous membership of two analogous co-operatives — two dairy co-operatives, for instance — hardly ever occurs. Such twofold membership would not be of any advantage and in most cases would be prohibited by statutory arrangements concerning supply obligations, delimitation of the field of activity, etc.

The law on co-operatives lays down that membership must be applied for and admission confirmed in writing. Unless the Articles specify otherwise, it is the board of directors which decides on admission. Particularly in co-operatives whose members have an important financial liability, the Articles lay down that they must sign the members' register.

Members' obligations

The law on co-operatives makes no provision for members' obligations vis-à-vis the co-operative. Such obligations are laid down by the Articles and largely depend on the type of co-operative. Thus, members of processing and marketing co-operatives are generally required by the Articles to supply their co-operative with all products of interest to it.

If the co-operative has a capital divided into shares, members are obliged to acquire one of these.

Persons accepting the status of member automatically accept liability for the co-operative's debts in the event of its legal or extra-legal liquidation. This

liability, which is always stipulated in the Articles, may be unlimited or limited. Under the law on co-operatives the Articles may exclude liability, but this is practically never the case in agricultural co-operatives. In addition to liability on liquidation, the Articles of many agricultural co-operatives also lay down the interim liability of the members towards the society in the event of any operating deficit or deficit in the balance-sheet, liability for which is determined according to the same criteria as for the deficit on liquidation. The Articles almost always exclude direct liability of members with regard to third parties.

They sometimes require the payment of an admission fee and often contain arrangements for the withdrawal of members.

Members' right

A member has the following general rights: access to the General Meeting; voting right, right to elect members of the board of directors and the supervisory board and, where appropriate, of the co-operators' council. He also has special rights which are laid down in the Articles and vary according to the type of co-operative.

In the matter of voting, the law provides that each member shall have only one vote but permits statutory clauses granting a plural vote, for instance in proportion to the volume of business done by the member with the co-operative. When the Articles authorize plural voting, they almost always set a limit to the total number of votes which a member may cast.

As regards information, the law makes it obligatory on the board of directors to give an account of its stewardship to the General Meeting within the six months following the closure of each business year, failing which the members may take legal action to obtain such account.

Under the law on co-operatives a member may withdraw by giving up his membership, but this can only be done by a special act or by a declaration entered in the books of the co-operative and signed and dated by the member concerned. Renunciation of membership can only become effective at the end of the business year. The Articles need not lay down any period of notice, but this must be at least four weeks anyway.

The law on co-operatives states that the Articles may impose terms for withdrawal, and in practice they

often do so. Thus, in dairy co-operatives a member withdrawing arbitrarily is often required to pay compensation. However, the law on co-operation expressly stipulates that such terms must be consonant with the aims and objects of the co-operative and not infringe freedom to withdraw.

The board of directors may also terminate membership when the person concerned no longer satisfies the conditions laid down in the Articles.

A member may also be expelled.

The law provides for expulsion when a member acts against the Articles or intentionally harms the association. These grounds for expulsion may, where necessary, be amplified in the Articles. According to the law on co-operatives, expulsion is decided on by the board of directors unless the Articles stipulate that another authority (for instance the supervisory board) shall be competent.

Normally, cessation of membership, which entails loss of the rights recognized by the Articles, takes effect immediately, but it is possible that the dismissal decision may fix a more distant date. The Articles may stipulate that a fine is due in the event of dismissal.

The law says nothing about possible claims by members on the assets of the co-operative. Consequently, the Articles must be consulted in such a case, and these, generally speaking, make no provision for personal claims by members on the undistributed assets of the co-operative even where a member resigns.

ORGANS

General Meeting

The General Meeting is the co-operative's supreme authority. All members are entitled to take part in it, but for co-operatives with a membership of 200 or more the law offers the possibility of setting up a council elected by the co-operators themselves. This council must consist of at least 20 members and fulfils the functions of the General Meeting as regards the appointment of the co-operative's other organs. It is legally and automatically dissolved if membership of the co-operative falls below 200. At the General Meeting, voting by proxy is permitted: the procedure is laid down in the Articles.

The General Meeting must be convened by the board of directors within six months after the end of the business year or whenever one-fifth of the members

request it (if the board refuses to convene the Meeting, those requesting it may do so themselves). At least seven days' notice must be given of any General Meeting whose agenda contains an item amending the Articles. The agenda must mention all matters requiring approval by the General Meeting, and the procedure for conducting the latter must be laid down in the Articles.

The competence of the General Meeting is limited only by law and the Articles. Its special powers cover approval of the annual accounts, which must be submitted within six months following the closure of the business year; appointment and dismissal of the members of the board of directors and of the supervisory board; amendment to the Articles; and any decision to dissolve the society.

Direction and administration

This is the responsibility of the board of directors, which represents the co-operative in and outside the courts. The law lays down that it shall consist of five members, but the Articles may provide otherwise.

The Articles govern the operation and powers of the board of directors. Usually the latter allocates functions among its members and appoints an executive manager to handle the current business of the co-operative.

As regards the *civil liability* of the members of the board a distinction should be made between:

i) *Liability towards the co-operative society.* The law on co-operatives stipulates that a member of the board of directors is responsible to the co-operative society for any failure in performing the tasks entrusted to him.

If such failure concerns a matter which is within the competence of several members of the board, all the latter are jointly liable. No liability attaches to a member of the board who can prove that the failure is not attributable to him and that he lost no time in trying to remedy its consequences.

ii) *Third party liability.* The liability of members of the board of directors towards third parties is not specifically defined in the law on co-operatives.

As regards *penal liability*, the law stipulates:

"A fine not exceeding 1 000 fl. shall be imposed on members of the board of directors of a co-operative society who do not fulfil the obligations:

i) To preserve, in cases where this is required, the documents by which membership of the co-operative is applied for;

ii) To keep an exact account of admissions and withdrawals of members of the association;

iii) To lodge a list of members, in cases prescribed, at the office of the business registry at the same time as the enterprise is registered there, or to give written notification of changes in the list of co-operators within the month following the close of each business year;

iv) To submit accounts and the annual report to the office of the business registry within the month following their approval (failure to do this carries a fine of up to 100 fl.)."

For the rest, the penal liability of members of the board of directors is defined in a large number of laws.

The Articles may provide for salaries or attendance fees for the members of the board of directors. They generally do contain a provision on the subject of fees; but in practice the members receive no salaries except in a few central co-operative offices.

Management

There are no legal provisions on the appointment of managers; this is regulated by the Articles. In practice, managers are usually appointed by the board of directors. There is no provision under which managers must be chosen from among members, and no such rule is ever applied in practice.

A manager is dismissed by the organ which appointed him, with due observance of the provisions of his contract of service.

The Articles often prescribe that a manager who has been removed from his office by the board of directors shall have the right to appeal to the supervisory board or the General Meeting. There are no legal provisions concerning ineligibility for the position of manager. The Articles sometimes state that the position is incompatible with membership of the board of directors or the supervisory board, and there are often also rules concerning family relationship between a manager and members of these bodies.

The management derives its competence from the body (generally the board of directors) in which the Articles invest power of appointment and which, at the time of appointment, grants the material com-

petence required, with due regard to the provisions in the Articles concerning the task to be vested in the management.

This competence, which is conferred both by the Articles and by procuration, generally covers the whole of the current business of the co-operative, it being understood that the management is responsible to the board of directors, and that the latter remains responsible for the overall administration.

The board of directors is directly responsible to the General Meeting for the administration as a whole. If it has made use of its statutory powers to delegate a part of its task to a manager, it nevertheless bears responsibility for the manager's actions.

In fact, the situation is as follows: the manager is responsible for his acts only to the board of directors which, in its turn, is responsible to the General Meeting.

FINANCIAL MANAGEMENT

Like all individuals and corporate bodies exercising an activity, co-operatives are obliged by law to keep accounts, to draw up an annual balance-sheet and to keep the relevant books and documents for ten years.

Results

The law on co-operatives does not prescribe the uses to which surpluses are to be put; this is governed by the Articles. However, if these do not lay down how profits are to be allocated, the General Meeting will decide on what is to be done with them, and the board of directors will make proposals in this respect.

If a deficit on operations should arise in the course of a business year, statutory arrangements may be made under the law on co-operatives by authorizing its allocation between members. Many Articles include such a provision.

Wherever the distributable profit is allotted to the members in proportion to the volume of business each has done with the co-operative, this same criterion is used in allotting operational deficits.

Inspection of accounts

Where the Articles do not provide for supervision of the administration, the law on co-operatives requires the General Meeting to appoint annually an auditing or finance committee of three members, who may not belong to the board of directors.

This committee examines the accounts submitted by the board of directors and reports on them to the General Meeting. It is incumbent upon the board of directors to supply the committee with all information it requests, together with the relevant books and documents.

The committee is authorized to obtain the help of not more than two experts (chartered accountants) at the expense of the society.

However, in practice most of the co-operatives depart from this legal provision by setting up, through their Articles, a supervisory board, which receives much wider powers than the auditing committee. According to the law, this supervisory board must be elected by the members, it being understood that the Articles may lay down that one-third at most of those serving on it may be designated by one or more persons who are not members. The functions of members of the board can be terminated by the same authorities.

This board not only examines the accounts but also inspects all administration and management by the board of directors. In many cases the Articles contain a provision that the latter must obtain authorization from the board before proceeding to certain actions, such as buying or selling real property, contracting loans, etc. Fees are often granted to members of the supervisory board. In some co-operatives the management audit is carried out by the auditing or inspection services of the central organization or federation to which such co-operatives are affiliated, or, failing these, by private auditing bodies.

PROLONGATION

In principle, the life of co-operatives is unlimited. When the Articles lay down a specific period, any decision to prolong this must be made by the General Meeting at the request of the board of directors. If the latter fails to make such a request, one of its members, a co-operator, or even an outside party may ask the Minister of Justice to prolong the co-operative.

DISSOLUTION BEFORE DUE DATE

This may be voluntary or compulsory.

A decision for voluntary dissolution must be taken by the General Meeting in accordance with the procedures laid down by the Articles. Compulsory dissolution results from insolvency once the co-operative has been declared bankrupt.

BANKRUPTCY

Agricultural co-operatives are subject to normal bankruptcy procedure. The legal representatives of a co-operative which has been declared bankrupt is the trustee in bankruptcy.

§ 2 - FEDERATIONS OR CONFEDERATIONS OF AGRICULTURAL CO-OPERATIVES AND OF CO-OPERATIVES OF AGRICULTURAL CO-OPERATIVES (federations of co-operatives and central co-operative organizations)

Most agricultural co-operatives are freely affiliated to central co-operative offices, organized for the different sectors and acting at regional or national level. The aims of these central organizations are to strengthen the position of the co-operatives on the market, to rationalize purchasing and sales, etc.

Furthermore, several of the central offices assist their members, when necessary, in various fields (legal and technical aid, establishment and supervision of accounting procedures, etc.).

In certain sectors there are also federations of co-operatives which, from the broadest point of view, watch over and defend the interests of the member co-operatives, particularly in relationships with official or semi-official bodies. These federations have the legal form of (non-profit-making) associations.

§ 3 - OFFICIAL PUBLICATION

FORMALITIES

The co-operatives are required:

- i) To conclude the constituent instrument containing the Articles in the presence of a notary public;
- ii) To publish the Articles and any subsequent amendments thereto in the "Nederlandse Staatscourant" (the Netherlands official gazette);
- iii) To be entered in the business registry of the Chamber of Commerce competent for the area in which they have their head office, and to lodge there the Articles and the external proxies granted by the board of directors;
- iv) To lodge with the same business registry the list of responsible members and any amendments thereto, and the accounts, within one month after their approval;
- v) To declare dissolution and termination of activity to the same registry.

INFORMATION FOR THIRD PARTIES

Third parties may take cognizance of legal announcements by consulting the Netherlands official gazette and the business register.

Nothing which has not been published may be adduced against third parties acting in good faith.

Co-operatives of some size usually inform their correspondents in writing of the proxies granted by their boards of directors.

§ 4 - PUBLIC AUTHORITIES

Agricultural co-operatives do not come under any Ministry or Government department. As the principle in this field is maximum freedom, the authorities do not interfere, either when agricultural co-operatives are established or in the course of their operations. The law requires that the Articles shall cover a certain number of points: the name and official address of the co-operative; the nature of its activity; the liability of members; rules for amending the Articles. This is the sum total of the intervention by the authorities in the organization and life of these co-operatives.

§ 5 - LATERAL FORMS OF AGRICULTURAL CO-OPERATION

As already mentioned, a certain number of co-operatives have been established under the 1855 law. These are associations which receive legal personality by Royal assent. In earlier days many co-operatives, especially co-operatives for the supply of agricultural requisites and agricultural credit banks, chose this form, particularly in order to avoid higher costs of incorporation, to escape the stricter organizational rules of the other form, and to stress that aspect of their activities defined as the "defence of their members' moral interests". On the other hand a few co-operatives, although operating strictly in accordance with co-operative principles, have been established as limited companies.

As regards mutual casualty insurance, Netherlands legislation is extremely brief. A provision of the Commercial Code simply refers to the conventions and rules of the mutual insurance and guarantee societies, and for the rest to the principles of the law. A small number of mutual insurance societies have been established under the law on co-operative societies (about thirty in all).

FISCAL SYSTEM APPLICABLE TO AGRICULTURAL CO-OPERATION

§ 1 - GENERAL DESCRIPTION

In the Netherlands, agricultural co-operatives are subject to the same fiscal laws as other taxpayers.

NATURE OF TAXATION

The State derives 45 % of its fiscal income from indirect taxes, i. e. turnover tax (transmission tax), excise (indirect duties), taxes on imports (entry duties), the tax on motor vehicles (road tax) and stamp and registration duties. All these charges are levied when certain operations take place. If these operations are carried out by co-operatives, the latter are subject to the tax in the same way as other taxpayers. About 55 % of fiscal revenue is obtained by direct taxation, either through corporation tax (vennootschapsbelasting), or income tax, or again by wages tax or some other relatively less important charges.

PERSONS SUBJECT TO TAX

Individuals are subject to income tax, which is very sharply progressive. When the income stems from an employment contract, wages tax is charged in respect of it.

Wages tax is deductible from income tax withheld at source. If the income is below 12 000 fl. p. a. and the taxpayer has no other income, he is not liable for income tax.

Taxpayers possessing legal personality must pay corporation tax on the profits they have made under this head. No distinction is made according to the legal form of the corporation concerned. When the taxable profit is being computed, payments supplementing prices initially paid to suppliers, or reductions in those originally invoiced to buyers, may be considered as expenses, thus reducing the taxable profit. This system is applied both to co-operatives and to other corporate bodies. Naturally, the tax authorities have the right to see whether sums are paid to sleeping partners under the guise of price increases or reductions (hidden dividends), and if this is the case such payments may not be deducted.

BASIS OF CORPORATION TAX

As regards corporation tax, the following should also be noted. The destination of the profit is not

a criterion in the levying of the tax, which is charged on the profit realized. The total profit attracts corporation tax, whether it is reserved or distributed to shareholders contributing to the capital. However, a sum equal to that part of the profit paid to members of the co-operative in proportion to the business they have done with it may be deducted when computing the profit.

This part is therefore outside the amount of profit on which corporation tax is due.

As regards deductibility of the amount paid to members in proportion to the business they have done with the co-operative, the following two restrictions hold good:

- i) Any profit the co-operative has made on operations with non-members is taxable.
- ii) If the co-operative operate with capital contributions, its net assets are taxed at a reasonable rate.

Subject to the above restrictions, a co-operative can therefore give its supplying or purchasing members the benefit of price increases or reductions. It should further be noted that if a limited company makes payments to its suppliers or clients in proportion to supplies or purchases, it is also exempted from corporation tax in respect of these operations.

Exemption from corporation tax is granted to the small co-operatives whose aim is exclusively or almost exclusively to exploit, for their members, agricultural goods such as threshing machines, farm tractors, storage silos for seed potatoes, or breeding animals. This exemption applies only if the property owned by the co-operatives, excluding cash, claims not producing interest and bank credits, has been less than 25 000 fl. during the three years preceding the year of assessment. Credit societies on a mutual or co-operative basis are taxed at a rate which is only half that applicable to companies if they confine their lending operations to their members and do not distribute profits among them.

§ 2 - CHARGES AND TAXES TO WHICH THE AGRICULTURAL CO-OPERATIVES ARE SUBJECT DURING THEIR LEGAL EXISTENCE

CONSTITUTION, CHANGE IN REGISTERED CAPITAL, PROLONGATION

There is no special charge or tax.

FORMATION OR USE OF RESERVES

The total amount of profit realized is subject to corporation tax irrespective of whether it is to be used for the constitution of reserves or distribution to members who have contributed capital. Only that part of the profits distributed to members in proportion to the volume of their business with the co-operative may be deducted from taxable income.

USE OF SURPLUSES

Since the criterion for taxation is not the purpose for which the profits are used but their existence as such, it follows that they attract corporation tax in all cases (see *b*) above).

COMBINATION OR INTEGRATION

Only the profit which may result from a merger or other form of combination is subject to corporation tax in the same way as other profits.

DISSOLUTION

Corporation tax is levied on all profits realized at the time of liquidation.

§ 3 - CHARGES AND TAXES TO WHICH THE CO-OPERATIVES ARE SUBJECT BY REASON OF THEIR TECHNICAL OPERATIONS

PRODUCTION AND PROCESSING

There is no special charge for these activities.

PURCHASING, SALES AND SUPPLY OF SERVICES

All these operations come under the general law on turnover tax applicable to all enterprises.

TRANSPORT OPERATIONS

There is no tax or charge on transport operations unless the co-operative acts as a transport undertaking, in which case it must pay turnover tax.

§ 4 - DIFFERENCES BETWEEN CHARGES AND TAXES ON CO-OPERATIVES AND THOSE ON SIMILAR ENTERPRISES UNDER ORDINARY LAW

In principle only one system is applicable to co-operatives, whether their business is done with their members or with non-members. However, the deduction from taxable profits of the proportion allocated among members (see § 2) does not apply to profits made in business with non-members. Such profits are taxable.

The differences between taxes on co-operatives and taxes on similar undertakings under ordinary law have been explained above. However, there is no difference between the tax arrangements for federations or confederations of co-operatives and those for similar groupings of commercial or industrial enterprises under ordinary law.

All these taxes and charges accrue to the State (Ministry of Finance).

SECTION III

SOCIAL PROVISIONS OF AGRICULTURAL CO-OPERATIVES

Agricultural co-operatives are subject to the same provisions in the social field as other enterprises.

SECTION IV

BUDGETARY MEASURES CONCERNING AGRICULTURAL CO-OPERATIVES

No subsidy whatever is granted to agricultural co-operatives.

ORGANIZATION AND PERFORMANCE OF AGRICULTURAL CO-OPERATIVE ACTIVITIES

§ 1 - UNITY OF CO-OPERATION

AT BUSINESS LEVEL

The vast majority of the co-operatives are organized by fields of activity under co-operative central offices acting at regional or national level. In certain fields the co-existence of several central co-operatives results in an absence of overall unity. There are also cases in which primary co-operatives are in competition with each other.

AT REPRESENTATIVE LEVEL

The above-mentioned co-operative central offices and the federations of co-operatives existing in some fields represent the peculiar interests of the co-operatives affiliated to them.

These central organizations in their turn are grouped in the "Nationale coöperatieve raad" (National Co-operative Council), which may be considered as the representative organization of the Dutch co-operative movement.

Furthermore, the groupings of agricultural co-operatives active in the "Katholieke Nederlandse boeren-tuindersbond" (Federation of Dutch Catholic Farmers and Horticulturists), and those which work normally in close relationship with this organization, are grouped at national level in the "Coöperatie-instituut van de KNBTB" (Co-operative Institute of the Federation of Dutch Catholic Farmers and Horticulturists).

§ 2 - CO-OPERATIVES AND PUBLIC AUTHORITIES

The public authorities cannot exercise any decisive influence on the establishment, existence or dissolution of co-operatives.

The co-operative societies are represented in economic bodies under public law, in particular the "schappen" (boards), which play an important part in applying agricultural policy and in certain fields can publish regulations which must be obeyed by all enterprises (farmers, processing industries, traders, etc.). The directing bodies of these organizations under public law include representatives of the groups of co-operative societies concerned.

Agricultural co-operatives as such are not electors in organizations like the Chambers of Commerce.

§ 3 - CO-OPERATIVES AND IDEOLOGICAL AND OCCUPATIONAL GROUPINGS

CO-OPERATIVES AND IDEOLOGICAL GROUPINGS

There are no links between agricultural co-operatives and the political parties. With regard to links between the co-operative movement and the various religious associations, it should be noted that in the past, in various spheres of co-operative activity, Roman Catholic farmers (mainly living in certain regions of the country) formed distinct co-operative groups within their own farming organizations. Their activities included the purchase of farm supplies and equipment, sales and processing, slaughter cattle, insurance and farm accounts. In other fields there are agricultural co-operatives to which Catholics and non-Catholics alike belong (e.g. dairying co-operatives, sugar co-operatives, "veilingen" (auctions)).

CO-OPERATIVES AND OCCUPATIONAL GROUPINGS

In general there are no organic links between agricultural co-operatives and other agricultural groupings except for the farmers and market gardeners belonging to the "Katholieke Nederlandse boeren-tuindersbond" (Federation of Dutch Catholic Farmers and Horticulturists). Actually, many agricultural co-operatives have been set up in various fields in the framework of this federation, which has long maintained close relations with them.

In the Netherlands the allocation of tasks between the farmers' unions and the agricultural co-operative organizations is approximately as follows: the unions defend the occupational interests of farmers and market gardeners, particularly on the agricultural policy plane, while the co-operatives protect the economic interests of their members, each in its special field.

§ 4 - TRADE UNIONS OF PERSONNEL OF AGRICULTURAL CO-OPERATIVES

There are trade unions proper to the agricultural sector, but no special organization for workers employed by agricultural co-operatives.

The pay and other working conditions of persons employed by co-operative and non-co-operative

undertakings are often laid down branch by branch in collective bargaining agreements. Such agreements are applicable to a whole branch and are signed for the employers by their organizations, including the co-operatives, and for the workers by their corresponding organizations.

Some large co-operatives have concluded agreements of their own.

STAFF REPRESENTATION

No workers' delegate sits on the board of directors of the co-operatives. Every enterprise in the Netherlands with more than 25 workers is required by law to establish a works council.

§ 5 - THE PATTERN OF POWER IN THE AGRICULTURAL CO-OPERATIVE

CHIEF STIMULUS

Under the responsibility and guidance of the board of directors, the manager exerts a great influence on the activities of the co-operative. The board of directors is responsible to the General Meeting.

The members of the board of directors are generally chosen for their general knowledge and the confidence they enjoy with members. The manager must usually measure up to special requirements in the matter of education and professional experience.

TECHNICAL ASSISTANCE

Central co-operative offices and other national organizations of co-operatives carrying on their activities in the various branches usually have special departments to advise and aid member co-operatives, particularly as regards mechanical equipment, implements, building, engines, motor vehicles and in many other fields with which the co-operatives are concerned.

Co-operatives of a certain size increasingly call on the "raadgevende adviesbureaus" (firms of consultants), particularly when drawing up wage scales, planning rationalization measures, etc.

§ 6 - SPECIALIZATION

In general, the activities of both local and central agricultural co-operatives are specialized.

§ 7 - UNIONS OF AGRICULTURAL CO-OPERATIVES

CO-OPERATIVE CENTRAL OFFICES

Agricultural co-operatives are generally affiliated to regional or national co-operative central organizations, with which they do most of their business. The general task of the central offices is to improve the position of their members. There are hardly any cases in which a non-co-operative enterprise operating in the same field as the member co-operatives applies to join a central organization.

FEDERATIONS AND CONFEDERATIONS OF CO-OPERATIVES

It has already been said that in order to defend their non-commercial and general interests co-operatives often join central organizations other than those mentioned above, particularly when the latter confine their activities to the trading field.

§ 8 - ADAPTATION TO ECONOMIC DEVELOPMENT

In conformity with the general trend towards concentration, the co-operative movement has also been tending to concentrate its farms and enterprises and centralize its powers, since the end of the second world war but particularly in recent years. In some branches considerable progress has already been made, while in other branches plans are being studied. Similarly, some branches of co-operation are effecting closer integration of the treating, processing and marketing of farm products. Latterly some forms of almost total integration of these activities have developed within the co-operative sector.

§ 9 - CO-OPERATION AND YOUTH

Generally speaking, recruitment of new members is satisfactory. Most young people adopt an attitude of constructive criticism towards agricultural co-operatives. There are various training courses setting out the aims and operations of the co-operatives in such a manner as to elicit among young people the necessary understanding for this way of farming and, at the same time, to help in the formation of future directing staff.

Efforts are being made to achieve more frequent changes in the membership of the board of directors. Appeals are also being made to young people to fill the posts of responsibility.

§ 10 - CO-OPERATIVE LEGISLATION
AND THE ACTUAL SITUATION

The 1925 law on co-operatives has been amended and adapted to contemporary needs on several points,

brought into line with the general provisions governing corporate bodies, and integrated into the new Civil Code. However, no date has yet been fixed for the entry into force of new legal provisions.

SECTION VI

*POSITION OF AGRICULTURAL CO-OPERATIVES
WITHIN THE CO-OPERATIVES MOVEMENT AS A WHOLE*

§ 1 - RELATIONS BETWEEN AGRICULTURAL
MARKETING OR PROCESSING CO-OPERATIVES
OR UNIONS OF CO-OPERATIVES
AND CONSUMERS' CO-OPERATIVES

Between the local, regional or central marketing and processing co-operatives for farm products on the one hand, and the "Nederlandse verbruiks-coöperaties" (Dutch consumers' co-operatives) on the other, relationships exist which, however, are purely commercial — the relations between sellers and buyers.

There are no organic links between the two groups of co-operatives except for a very small number which buy and sell farm requisites and are at the same time consumers' co-operatives. Similarly, regular business relations are maintained with the

central organizations of a certain number of foreign consumers' co-operatives.

§ 2 - POINTS OF CONTACT BETWEEN LEADING
FIGURES IN THE DIFFERENT CO-OPERATIVES
(AGRICULTURAL AND NON-AGRICULTURAL)

The "Centrale van de Nederlandse verbruiks-coöperaties" (Central Office of Dutch Consumers' Co-operatives) is a member of the "Nationale coöperatieve raad" (National Co-operative Council). In this council the representatives of the consumers' co-operatives and of the central agricultural co-operatives have regular personal contacts, but they are confined to questions connected with the objectives and activities of the National Co-operative Council.

SECTION VII

POSITION OF AGRICULTURAL CO-OPERATIVES IN THE ECONOMY

§ 1 - RELATIVE IMPORTANCE OF AGRICULTURAL
CO-OPERATIVES AND OF OTHER FORMS
OF ENTERPRISE IN THE VARIOUS BRANCHES
OF ACTIVITY

MARKETING AND PROCESSING

Cereals

The share of co-operatives in the marketing and processing of cereals is about 50 %. This is accounted for by two co-operative central organizations to which are affiliated about 1 000 local and regional purchasing and marketing co-operatives.

Sugarbeet

Six co-operative factories process 63 % of sugarbeet output. In 1962/63 they handled 1.8 million metric tons.

Dairy products

In 1962 the co-operative dairies, roughly 320 in number, handled the following quantities:

- Milk supplied to dairies: 84 %;
- Liquid milk sold: 41.5 %;
- Butter production: 83.6 %;
- Cheese: 87.8 %;
- Milk powder: 79.1 %;
- Condensed milk: 59.8 %;
- Whey powder and paste: 88.4 %.

The seven dairy marketing co-operatives, to which are affiliated about 260 co-operative factories, accounted for the following proportions of Dutch production:

- 60 % of butter;
- 50 % of cheese;
- 40 % of powdered milk;
- 50 % of condensed milk.

Livestock and meat

13 co-operatives process 30 - 50 % of total meat production. They account for 30 % of pigmeat processed for butchers and 50 % of that made into bacon.

Fruit and vegetables

Co-operatives market more than 90 % of production. In 1963 the total turnover of the 126 co-operative auctions affiliated to the "Centraal bureau van de tuinbouwveilingen" (Central Horticultural Auctions Office) was about 890 million fl.

Flax

There are two co-operatives for processing flax, one of which accounts for a sixth of all sales.

Wool

The co-operative sector markets 90 % of the wool produced by sheepbreeders.

Eggs and poultry

In 1962/63, commercial transactions of 14 co-operatives covered:

- 2 400 million eggs, i.e. 40 % of total production,
- 33 % of eggs exported,
- 16.5 % of poultry sales.

Potatoes

13 co-operatives produce potato starch; they account for 89 % of all Netherlands production.

Grass and forage plants

50 co-operatives dry 41 % of the forage thus treated (63 000 metric tons in 1963).

Straw

10 co-operatives account for 65 % of the production of strawboard.

SUPPLY OF AGRICULTURAL REQUISITES

Seeds and seedlings

13 primary co-operatives and 2 central organizations export 30 - 40 % of seed potatoes produced. It may be estimated that the co-operatives' share in imports of agricultural seeds is of the same order of magnitude.

Fertilizers

Co-operatives account for 55 - 60 % of trade. There are two central organizations in the buying and selling sector, to which are affiliated 1 100 local co-operatives and a large manufacturing co-operative.

Pesticides

In the supply sector, co-operative activity represents about 33 % of turnover. There is also a plant producing pesticides which is owned by two central agricultural buying and selling co-operatives.

Fuels and lubricants

Co-operatives account for 12 % of purchases and sales of coal, and 5 % of trade in petroleum products.

Animal feedingstuffs

Co-operation produces 45 % of the compound feedingstuffs.

Agricultural equipment

7 - 10 % of sales are concluded by co-operatives.

SERVICES

Threshing and other farm operations

There are about 600 co-operatives engaged in these activities.

Artificial insemination

In 1963 about 60 % of Dutch cattlebreeders were members of 122 associations in this field. During the same year, there were 15 artificial insemination associations.

CREDIT

There are about 1 300 agricultural credit banks, which grant some 75 % of the loans made to farmers by financial institutions.

INSURANCE

There are about 300 mutual insurance societies, covering various risks. Their activity is principally concentrated in the agricultural and horticultural fields; three of them provide life insurance, and 40 insurance against hailstorm risks. There are also

about 2 000 local mutual societies for insuring livestock.

§ 2 - INFLUENCE OF CO-OPERATIVES ON THE MARKETS FOR AGRICULTURAL PRODUCTS

Co-operation plays an important part in certain fields, particularly in the provision of credit, in the marketing and processing of milk, sugarbeet, straw, potatoes and eggs, and in trade in animal feeding-stuffs and chemical fertilizers.

PART THREE

AGRICULTURAL CO-OPERATION — BY PROBLEM

Comparison of the different legal systems concerning agricultural co-operation in the six countries

SECTION ONE

AGRICULTURAL CO-OPERATIVES

§ 1 - THE LEGISLATIVE FRAMEWORK OF AGRICULTURAL CO-OPERATIVES

1. a) In every member country except Luxembourg, all fields of co-operation are governed by a body of general legislation.

In Belgium, agricultural co-operatives are regulated by the provisions of the Commercial Code, which are applicable to all co-operative societies, whether agricultural or not; but agricultural co-operatives wishing to enjoy the benefits offered by the "Fonds d'investissement agricole" (Agricultural Investment Fund), which was set up in 1961, must first comply with a number of conditions governing aid from the Fund.

b) In addition, France and Luxembourg have legislation specifically concerned with agricultural co-operation; Italy has such legislation for two particular fields.

In France, four special types of legislation are in force:

i) One concerns agricultural mutual credit banks;
ii) Another concerns agricultural mutual insurance and reinsurance societies; these count as mutual aid societies, and not as agricultural co-operatives, which are two distinct things in France;

iii) Another concerns the branches dealing with agricultural products and their marketing or processing, supplies to farmers, and various farm services. There are the branches to which the expressions "agricultural co-operation" and "agricultural co-operative" in current French terminology refer. Moreover, the concept of a union of agricultural co-operatives has been reserved for co-operatives of agricultural co-operatives, while groupings of agricultural co-operatives for representative purpose must be called federations. Apart from a few details, the legal system is common both to co-operatives and to their unions.

iv) Lastly, in the Moselle, Bas-Rhin and Haut-Rhin départements the Raiffeisen system persists by virtue of local law; it still governs a large number of mutual credit societies, some of which are agricultural and

some not, but most agricultural co-operatives have changed over to the general system.

In Italy, local legislation is found in areas with a special status.

In Luxembourg, the activities of agricultural co-operatives were regulated by the Grand Ducal decree of 17 September 1945 on the organization of agricultural associations.

c) Administrative classification of agricultural co-operatives in the strict sense is found only in France.

2. a) In Germany, France and Italy, agricultural co-operatives are always companies.

In Germany, they constitute a type of company *sui generis*. They are distinct from civil companies and commercial companies.

In France, agricultural co-operatives in the strict sense, agricultural mutual credit banks and agricultural mutual insurance societies are "sociétés civiles" (civil companies).

In Italy, co-operative societies are collective enterprises of a mutual character, and they are always commercial in form. Nevertheless, they are either civil or commercial companies, depending on whether the type of economic activity or, in other words, the enterprise in which they engage, is civil or commercial. Only the economic activities listed in Article 2195 of the Civil Code are commercial; activities not specifically mentioned in that Article are deemed to be civil.

b) In Belgium, most agricultural co-operatives take the form of a co-operative society; co-operative societies are commercial companies (*sociétés commerciales*) (see 1 a)).

However, a number of agricultural co-operatives are professional unions, associations of a specific type, which have legal personality and are governed by the law of 31 March 1898 amended by the Royal decree of 29 January 1935 confirmed by the law of 4 May 1936. Without ceasing to be a non-profit-making

association, a professional union has the right to carry out five kinds of operations in the service of its members; it may not draw any profit from these operations, which are not deemed to be commercial acts on its part although they are commercial in character. Professional unions are subject to government authorization and supervision in order to make sure that they conform to the aforementioned law of 1898; this form of organization is now somewhat less common, owing to the rulings of the "Conseil d'Etat" (Council of State) in cases concerning the unions.

Many local enterprises engaged in buying and selling are *de facto* associations without legal personality.

c) In Luxembourg a distinction is made between:

i) Non-profit-making associations under the law of 21 April 1928, which are groups engaging in no industrial or commercial undertaking whatever, nor seeking to procure material gain for their members, and which originally had no legal personality;

ii) "Agricultural associations" constituted under the Grand Ducal decree of 17 September 1945, which are groups for advancing the interests of their members, but are non-profit-making in intent.

All agricultural co-operatives are agricultural associations, with the exception of three which are "sociétés commerciales" (commercial companies) governed by the law of 10 August 1915, and of societies insuring against hail and livestock mortality, which are mutual aid societies governed by the law of 11 July 1891.

d) In the Netherlands a distinction is made between:

i) Associations (verenigingen) provided for under Title IX of Book III of the Civil Code and having, in principle, non-profit-making aims;

ii) Specifically co-operative societies as defined by the law of 28 May 1925.

The law of 22 April 1855, which regulates and restricts exercise of the right of association and of assembly, concerns associations in the strict sense, which do not have legal personality unless they have been approved by the public authorities. This law does not apply to specifically co-operative societies, which do not require such approval.

Agricultural co-operatives are either:

i) Ordinary associations governed by the law of 22 April 1855, as this form may in fact be used with an economic purpose for the establishment of co-operatives, or

ii) Specifically co-operative societies.

They are never:

i) Civil companies (*burgerlijke maatschappijen*) governed by Articles 1655 sqq. of the Civil Code, nor

ii) Commercial companies (*vennootschappen*) governed by Articles 16 sqq., 19 sqq., and 36 sqq. of the Commercial Code.

3. In France and Italy the designation "agricultural co-operative" is legally protected.

§ 2. THE ESTABLISHMENT OF AGRICULTURAL CO-OPERATIVES

4. Freedom to establish agricultural co-operatives is recognized in all six countries. In France, however, an agricultural co-operative in the strict sense cannot function until the approval of the public authorities has been obtained (Prefect of the *département* or Minister of Agriculture, as the case may be).

5. a) In all member countries the objects of each co-operative may be freely defined within the limits of the legislation governing co-operation.

b) A very large number of the co-operatives dealing with products, goods and services pursue a specialized activity: this is generally also the case with co-operatives of co-operatives.

In Germany, agricultural co-operatives are more or less equally divided into specialized co-operatives and those engaged in more than one type of activity.

In France, agricultural co-operatives are officially classified into production, storage, processing and marketing co-operatives, supply co-operatives, and services co-operatives (see 1 c)).

The French legal system encourages specialization, but this is not compulsory. In single-crop regions and for operations requiring particular techniques, agricultural co-operatives are usually specialized. In mixed-farming regions, co-operatives are more often multi-purpose. Generally speaking, multi-purpose co-operatives have been on the increase for some time.

In Luxembourg, the 254 agricultural societies ("comices") and the 11 viticultural societies are groups concerned with buying and selling and also with the joint utilization of agricultural equipment.

In the Netherlands, most agricultural co-operatives are specialized.

c) In all six countries, agricultural credit plays a part in agricultural co-operation.

In Germany and Luxembourg, rural credit co-operatives are allowed to pursue a dual activity and to engage in buying and selling.

In Germany, rural credit co-operatives are subject to a special fiscal system on two conditions:

- i) That their commercial activities do not outweigh their banking activities, which must remain their principal business;
- ii) That they grant credit only to their members.

In Luxembourg the 137 rural banks of the Raiffeisen type consist of rural banks in the strict sense and "enlarged" rural banks. In the former, saving and lending are the principal activities and commercial operations are secondary; in the latter, the reverse is the case.

In France, co-operatives of a special type — agricultural mutual credit banks — provide credits for agriculture to the exclusion of any other form of co-operative activity.

d) Agricultural co-operation concerns itself with private insurance. It does this most often in the form of mutual benefit societies, and therefore under a different legal system from that governing agricultural co-operation in the strict sense.

In Germany, agricultural co-operative insurance is dealt with by the limited companies for general insurance and for life insurance of the Raiffeisen banks and people's banks; there are no insurance co-operatives.

In Belgium the Belgian Boerenbond insurance companies, which are limited companies, provide insurance and reinsurance against agricultural risks, but specialized mutual benefit societies also undertake such insurance and reinsurance.

In France, agricultural mutual insurance has developed considerably, and a network of specialized insurance and reinsurance societies provides cover against livestock mortality, fire, accident and hail.

In Italy there are 200 specialized mutual benefit societies, established mainly in the land reform areas.

In Luxembourg there are also specialized mutual benefit societies.

In the Netherlands, agricultural insurance societies wishing to function on co-operative lines may choose to take the form of a society as provided for under co-operative legislation or of the types of company

defined by the Commercial Code. The large majority of these societies are mutualist in form; about 300 mutual societies provide casualty insurance, a few deal with life insurance and about 2 000 with livestock insurance.

The mutual societies which provide life insurance are specialized, because the law on life insurance (*Wet op het levensverzekeringsbedrijf*) prohibits them from covering other risks. The other mutual societies generally provide cover for several types of risk.

e) Neither in Germany, Belgium, Italy nor the Netherlands are co-operatives obliged to limit their activities to meeting professional requirements in agriculture. In these countries they may satisfy family needs, but in the Netherlands such operations must be authorized by their Articles.

In Luxembourg, family needs are generally excluded.

In France, the statutes governing agricultural co-operation limit the object of the co-operatives to the satisfaction of farming needs; on the other hand, agricultural insurance societies against fire or accident may meet family requirements. Where agricultural credit is concerned, there is a tendency to pass beyond the purely agricultural to the general rural level.

6. Except in Belgium and France, and subject to a few special legal provisions in Italy, agricultural co-operatives are not obliged to choose a specific and limited area for their operations, although it has become customary to do so.

In Belgium, the 833 rural credit banks are given carefully defined areas within which to pursue their activities. These rural banks are affiliated to the Belgian Boerenbond's "Centrale Kas voor Landbouwkrediet" (Central Rural Credit Bank), which sees to it that a bank's activity does not extend beyond the bounds of the territory assigned to it and encroach upon those of neighbouring banks.

In France:

i) Co-operatives concerned with products, goods and services must operate only within a specified area, which may be freely determined; however, approval of a new co-operative may be refused when two co-operatives having the same object are already operating in the district it has chosen for its activities (see under 4).

ii) The activities of regional agricultural mutual credit banks which operate in the same *département* and come under the "Caisse nationale de crédit agri-

cole" (National Agricultural Credit Fund) must not overlap.

7. The law or the Articles determine the duration of co-operatives in the different countries.

In Germany, the law does not require any limitation of duration, but this can be stipulated by the Articles. In most cases, German co-operatives are of unlimited duration.

In Belgium, the Articles freely determine the duration of the co-operative within a legal maximum of 30 years. Where the Articles are silent on this point, a duration of 10 years is prescribed by law.

In France, the duration of agricultural co-operatives in the strict sense and of agricultural mutual insurance societies must always be fixed by the Articles, the maximum being 99 years. There is no legal limit to the duration of agricultural mutual credit banks.

In Italy, the duration of an agricultural co-operative must always be limited by the deed of establishment, but no maximum is laid down by law.

In Luxembourg the duration is freely determined by the Articles and is generally unlimited, but the law restricts duration to 30 years if the Articles fail to specify otherwise.

In the Netherlands, the duration is considered to be unlimited, unless the Articles specify otherwise.

§ 3. THE LEGAL CAPACITY OF AGRICULTURAL CO-OPERATIVES

8. In Germany and Belgium, all agricultural co-operatives have the status of traders.

In France and Luxembourg, agricultural co-operatives do not have this status.

In Italy, they have this status when commercial activities are their object.

In the Netherlands, all co-operatives are deemed to pursue a commercial activity, for Dutch legislation does not make any distinction between civil and commercial activities.

9. *a)* Except in France and Luxembourg, agricultural co-operatives have the right to carry out operations with persons other than their members.

However:

In Germany, credit co-operatives may only grant loans to their members;

In Belgium, restrictions are imposed upon agricultural co-operatives receiving assistance from the Agricultural Investment Fund (see 1 *a)*);

In the Netherlands, working with non-members affects the co-operative's tax position.

b) In Luxembourg, the only agricultural co-operative not bound to serve their members exclusively are the three that have taken the form of commercial companies governed by the law of 10 August 1915; this affects their tax position (see 2 *c)*).

c) In France, the exclusive-dealing rule is rigorously applied. However, an agricultural co-operative in the strict sense whose normal working capacity has been reduced by more than half may derogate from this provision if it obtains government authorization. Moreover, funds belonging to non-members may be deposited in agricultural credit banks.

10. In none of the six countries are agricultural co-operatives in the strict sense obliged to apply first to agricultural credit co-operatives or to agricultural insurance societies before looking elsewhere.

§ 4. AGRICULTURAL CO-OPERATIVES OWN RESOURCES

11. In all six countries, agricultural co-operatives have resources of their own whose origin is analogous but reflects different preferences.

a) In Germany, the concept of "own capital" (*Eigenkapital*) includes:

i) The "capital stock" held by the members of the co-operatives, i. e. the funds brought in by them, which are represented by their shares, and

ii) The reserves, which comprise the "reserve fund" (legal reserves) and the "working capital" (statutory reserves), these two types of reserve being designed to cover the co-operative's possible losses or extraordinary expenses.

The law makes the reserve fund obligatory and lays down that the Articles shall state the minimum share of the net annual profits that shall be earmarked for this fund until it reaches its minimum level.

The Articles generally provide for the creation of "working capital". This is maintained by drawings on the annual profits, as well as by other sums earmarked by decision of the General Meeting.

b) In Belgium, France and Italy, a co-operative's own resources consist of:

i) The "share capital", being the total amount of the funds brought in by the members, which are represented by shares, and

ii) The reserves.

In Belgium, one-twentieth of the profits must be put to reserves until the latter correspond to one tenth of the share capital.

In France, the decree of 4 February 1959 makes the constitution of a "reserve fund" obligatory for agricultural co-operatives in the strict sense and fixes the method by which it is to be financed: each year, a tenth of the net surplus is allocated to the reserve fund until this reaches the amount of the share capital. The Articles of each co-operative may provide for the creation of supplementary reserve funds which are maintained by other drawings.

In Italy, a distinction is made between the "share capital" and the "assets"; the latter include, in addition to the "share capital", properties, reserves, credits and debits, etc. This distinction is of great importance in determining the respective liability of the members and of the co-operative itself vis-à-vis third parties. Article 2536 of the Civil Code states that at least one-fifth of the annual profits must be put into the legal reserve, however great that fund may be; the Articles may, in addition, provide for statutory reserves.

c) In Luxembourg, the total funds contributed by the members constitute the "share capital" or "partnership funds" of the co-operative.

The idea of "capital stock" exists in Luxembourg but is interpreted otherwise there than in Germany, because it includes both the share capital and the reserves.

The creation of a legal reserve is not obligatory by law.

d) In the Netherlands, the law on co-operation does not contain any provision relating to capital; co-operators are therefore under no legal obligation to contribute funds to their society, but they may be required to do so by the Articles.

When co-operators contribute funds in this way, accounts are opened in the name of each of them in the co-operative's books; this account shows, in addition to their contributions, their respective shares in the co-operative's trading surplus. All the accounts together constitute the "co-operators' capital" or the "co-operators' credit account". Co-operatives are increasingly adopting this method of financing.

If the co-operative uses these accounts, it becomes debtor to its members.

12. a) The existence of "capital stock" in Germany, and of "share capital" in Belgium, Italy and Luxembourg, is always obligatory.

In France, agricultural mutual credit banks whose members have unlimited joint liability, and agricultural mutual insurance societies, do not possess share capital.

In the Netherlands, the law concerning co-operatives contains no provision regarding capital; however, the law of 22 December 1922 on life insurance stipulates that the subscribed capital of life insurance companies must amount to at least one million florins.

b) The amount of capital subscribed by co-operative members is not laid down officially, except in Italy for rural and artisan banks, which must have a capital of at least 300 000 lire if they are of unlimited liability and of at least 500 000 lire if liability is limited.

In Belgium, the Articles must lay down a certain minimum.

13. In Germany, Italy and Luxembourg the capital subscribed by co-operative members must be variable.

In Belgium, such variability is not obligatory but is inherent in the idea of a co-operative society with variable stock.

In France, the capital must be variable in the case of agricultural co-operatives in the strict sense, but not in the case of agricultural mutual credit banks. In the Netherlands, the law has not laid down any regulations regarding variability of the capital subscribed by co-operators; moreover, there need be no obligatory correlation between the amount of the capital and the number of co-operators, since the members are not obliged to contribute funds to their co-operatives. In practice, the co-operatives' capital increases when trading surpluses are added to it and decreases when losses are charged to it.

14. a) In Belgium, France, Italy and Luxembourg, the capital subscribed by the co-operative members is always represented by individual registered shares. These are not negotiable.

In Germany, the capital contributions are not represented by any certificate.

In the Netherlands, the legislation on co-operatives contains no provision relating to the representation by certificates of the capital subscribed by members. If the co-operative operates with subscribed capital, the issue of certificates is governed by the Articles.

b) In France and Luxembourg, the shares must have a uniform nominal value; this is generally the case in Belgium, too, but nominal values may differ according to the rights of members.

There is no minimum value in Belgium and Luxembourg. In France, it is one franc for co-operatives in the strict sense established before 20 May 1955, and 10 francs for those set up after this date. In Italy, apart from legal exceptions, the nominal value of the shares must range from 500 to 10 000 lire; however, the minimum is 100 lire for "consorzi agrari", and 50 000 for their federation (which is a co-operative of co-operatives).

15. In Germany, the capital stock of a member who leaves the co-operative may be transferred, but in its entirety, to another member.

Transfer of shares between members of agricultural co-operatives is permitted in Belgium, France and Italy.

In the Netherlands, when shares are issued, the conditions of transfer are laid down in the Articles.

Transfer to third parties is forbidden in Belgium. It is permitted in France and Italy, provided the transferee complies with the conditions laid down for admission to the co-operative.

The approval of the board of directors is always required in France and usually required in the Netherlands and Italy.

In France, all transfers are carried out by a note of transfer on the register of members. This is also the case in Belgium for transfers between members.

In Luxembourg, shares may only be transferred by inheritance.

16. In every country, members are always allowed to increase their individual contributions of capital. Overall increase are also allowed, except in France, in the case of agricultural credit banks.

In Germany and Italy, the overall increase is effected by increasing the holdings of members; however, the holding of an Italian member other than a body corporate may not exceed 250 000 lire.

In Belgium, increases in share capital may be made:

- i) Individually, by subscription of new shares;
- ii) Overall, by increasing the nominal value of the shares or by the incorporation of reserves.

In Luxembourg, overall increases in the share capital may be effected either by increasing the nominal value of the shares or by altering the proportion which each member contributes to formation of the registered assets. Such increases in the share capital necessarily involve amendment of the Articles. Individual increases are effected by subscription of new shares.

In the Netherlands the capital is increased by issuing new shares.

17. Incorporation of reserves into the capital is permitted in Belgium and also — theoretically — in Italy and the Netherlands; in Luxembourg, only the revaluation reserve resulting from the post-war monetary reform may be incorporated.

In Germany, the transformation of working capital into capital stock is theoretically possible but unusual. In France, incorporation of reserves into the capital is prohibited.

18. a) Individual reductions of capital subscribed by co-operative members are allowed in all six countries, but in some countries they are subject to limitation:

In Belgium, the capital subscribed by members may not fall below the minimum capital stipulated in the Articles.

In France, the share capital of agricultural co-operatives in the strict sense may not be reduced to less than three-quarters of the maximum amount noted by the General Meeting since establishment of the co-operative, except when it is necessary to reimburse the shares of a member who is withdrawing at the end of his period of commitment and has not been able to sell his shares to a third party or to other members beforehand, or when a member has been expelled. In addition, no reductions are allowed as long as the co-operative has not finished repaying loans received from the National Agricultural Credit Fund.

Agricultural mutual credit banks that have applied for financial aid from the National Fund are not entitled to reduce their share capital without the Fund's permission. Moreover, the withdrawal of assets must not cause the share capital to fall below the level of the initial capital.

b) Overall reductions are permitted in all countries except France.

In Germany and Belgium, overall reductions are effected by reducing the nominal value of the shares.

In Italy, they result from losses of capital recognized by the General Meeting.

In Luxembourg, overall reductions in the share capital are effected either by reducing the nominal value of the shares or by altering the proportion which each member contributes to the creation of the share capital; these overall reductions are accompanied by amendment of the Articles.

19. The repayment of shares to members leaving the co-operative is allowed in all six countries, subject to compliance with the provisions limiting the reduction of the capital subscribed by members.

In the Netherlands, there are no legal regulations on this subject.

Only in Belgium is it conceded that repayment may give rise to profits or losses on the basis of the last balance-sheet.

In the other four countries, the amount repaid may not exceed the member's share, after possible deduction of a proportion of any losses suffered by the share capital according to the last balance-sheet.

In Germany, repayment must be effected within six months of the withdrawal of the member, and in Italy within six months of adoption of the balance-sheet. In France, the board of directors enjoys wide powers of discretion, since by law the time allowed for repayment may not be longer than 10 years.

20. In Belgium, Luxembourg and the Netherlands, the ordinary-law statute of limitations applies to the principal and interest of the shares (30 years for the principal and 5 years for the interest).

In Germany, the right to repayment of capital stock lapses two years after the member's withdrawal.

In France, repayment of the principal is barred after 30 years under ordinary law and interest after 5 years for the shares of agricultural credit banks and, since 1 March 1964, for those of agricultural co-operatives in the strict sense.

In Italy, the member's rights with respect to the co-operative lapse after the period of time prescribed in ordinary law in Article 2949 of the Civil Code: "The rights which derive from business relations

lapse after 5 years if the company is entered on the business register". There is no special statute of limitations for co-operatives.

21. a) In order to ensure that co-operatives have adequate resources for their operations, widespread use is made in the United States of the system of "revolving funds":

All or some of the surpluses that should be paid out to the members of the co-operative for successive financial years are transferred to the share capital for a certain number of years.

The corresponding shares are officially created. They give co-operators the same rights as do those voluntarily subscribed by them.

At the end of the prescribed period, these shares are repaid; payments are spaced out over a certain time so that the repayment of large sums to all the members at once is avoided.

In this way co-operatives improve their finances, but also — which is more important — they bring their capital up to a level more commensurate with the scale of their operations.

b) In Germany, Italy and Luxembourg, the system of revolving funds is not applied in co-operatives.

It is fairly common in the Netherlands.

It is rare in Belgium and France.

In France, a few agricultural co-operatives in the strict sense have recourse to this procedure, although there is no text which explicitly allows it; the decision must therefore come from the extraordinary General Meeting which, under the decree of 4 February 1959, has power to alter the co-operators' obligations as regards subscriptions.

c) In Belgium, the freezing of co-operative refunds is preferred; refunds are retained by the co-operative for a certain time before being distributed.

In France, the model Articles specify that the General Meeting, acting on a proposal of the board of directors, may postpone the payment of interest and of refunds until a date fixed by the Meeting, in order to ease the finances of the co-operative.

d) A third possibility has existed in France since the decree of 5 August 1961 instituting co-operative development funds which agricultural co-operatives in the strict sense are permitted to create, subject to authorization by the public authorities, for their operational requirements only. These funds are represented by interest-bearing individual certificates

which are transferable only between co-operative members; these certificates are issued:

- i) For the lifetime of the co-operative where subscription to them is a condition for the admission of new members or for an extension of members' rights, or
- ii) For a period of between three and ten years if they are subscribed by members or represent non-distributed refunds.

§ 5. BORROWING BY AGRICULTURAL CO-OPERATIVES

22. Redeemable loans may not be issued in Germany, Italy and Luxembourg.

Such loans can be issued in Belgium, France and the Netherlands. However, in Belgium co-operatives must comply with the legislation governing commercial companies, and in France with financial legislation.

In Belgium and the Netherlands, these securities may be bought and sold by the general public; theoretically they can be quoted on the stock exchange, but in practice this occurs very rarely in the Netherlands and never in Belgium.

§ 6. MEMBERS OF AGRICULTURAL CO-OPERATIVES

23. a) In Germany, Belgium and the Netherlands, the conditions for membership of an agricultural co-operative are laid down in the Articles.

France has detailed legislation on the subject:

- i) For agricultural co-operatives in the strict sense, all natural or legal persons, including public corporations and agricultural syndicates, are eligible for membership, provided they are farming within the agricultural co-operative's area or have interests there which fall within the scope of the co-operative's objects.
- ii) In the case of agricultural mutual credit banks, 17 categories of persons are listed as eligible, connected mainly with farmers' associations, communes syndicates, *départements*, all private and public agricultural research and teaching establishments; various interprofessional or mixed bodies, as well as owners of rural housing; may now become members of an agricultural credit bank.
- iii) In the case of agricultural mutual insurance societies, all owners of rural real estate within the area,

and any farmer, farmers' association, and farmworker living or working there, are eligible for membership.

In Italy, anyone in any way connected with farming may become a member of an agricultural co-operative, but the relevant texts tend to exclude owners who do not work their property directly and workers who are not actually engaged in agriculture.

In Luxembourg, a co-operative may include non-farming members provided they are in the minority.

b) Rural artisans are admitted without legal restriction in Germany, Belgium, Italy and the Netherlands.

In France, they may only be members of agricultural mutual credit banks and agricultural mutual insurance societies.

In Luxembourg, they are admitted provided they are in the minority.

c) In Germany, Belgium and the Netherlands, it is for the Articles to lay down who shall be members of a co-operative of agricultural co-operatives.

In Italy and Luxembourg, only primary agricultural co-operatives may belong to a co-operative of agricultural co-operatives.

In France, a distinction must be drawn between the three sectors:

- i) Any agricultural co-operative in the strict sense whose interests correspond with the objects of a co-operative of agricultural co-operatives may belong to that co-operative of co-operatives; if it performs several activities, it may join more than one co-operative of co-operatives.
- ii) Any primary agricultural mutual credit bank may become a member of the secondary bank within its area of operation. Moreover, agricultural or rural professional organizations, and particularly agricultural co-operatives in the strict sense whose area of operation extends beyond that of the local primary agricultural mutual credit banks may join secondary agricultural credit banks directly.
- iii) Any local agricultural mutual insurance society may affiliate with the primary agricultural mutual reinsurance society in its area, but the latter does not have the right to accept direct insurees.

24. In all six countries, the number of members may vary; in Italy there are special legal provisions that sometimes limit this rule.

25. a) In the Netherlands, no minimum number of members is laid down for primary agricultural

co-operatives; in the following countries there is a fixed minimum:

- seven in Germany and Belgium,
- nine in Italy,
- five in Luxembourg.

In France, a distinction must be made:

i) A minimum of seven members is prescribed for agricultural co-operatives in the strict sense, except for machinery-sharing co-operatives, where four is enough.

ii) No minimum number is required for agricultural mutual credit banks.

iii) The minimum number of members required to constitute a local agricultural mutual insurance society is fixed by the Articles; it is usually seven.

b) The rules are the same for co-operatives of agricultural co-operatives, except that no minimum number of members is prescribed in France and Italy. Secondary agricultural mutual credit banks and agricultural mutual reinsurance societies, are likewise subject to these rules, apart from the fact that in France, again, no minimum is laid down.

26. In France it is expressly forbidden for a farmer to belong to more than one agricultural co-operative, except when they are concerned with different services or different farms.

In Germany, membership of a competing merchandise co-operative in the same locality provides legal grounds for exclusion; this rule is even stricter as regards credit, where membership of several co-operatives also constitutes legal grounds for exclusion regardless of where the co-operatives are located. In Luxembourg and the Netherlands, the Articles of agricultural co-operatives usually forbid membership of a competing co-operative.

The same applies to co-operatives of agricultural co-operatives. However, multiple membership, which is legally allowed, is sometimes precluded by the Articles in Belgium, and practically always in Italy and the Netherlands.

27. a) The formalities involved for the admission of a member vary little from one country to another; a written declaration of membership is always required.

Membership is subject to acceptance by the co-operative represented by its managing or directing body and in Belgium even by its General Meeting, unless otherwise specified in the Articles.

In Belgium, agricultural co-operatives may not receive aid from the Agricultural Investment Fund if the conditions for admission of new members are regarded as unreasonable. This requirement is not extended to co-operatives of agricultural co-operatives when their member co-operatives fulfil it.

b) In Germany, Belgium, Luxembourg and France, the new member must be entered on the register of members.

In Germany, the register is made by the court.

In Belgium, the new member must sign the register of members.

In France, the register is kept at the head office of a co-operative in the strict sense; agricultural mutual credit banks or mutual insurance societies are not obliged to possess registers.

In the Netherlands, the Articles may stipulate that a register of members of the co-operative be kept, although the law does not require this. But the law does oblige the board of directors to preserve for at least 30 years the applications for membership made by members when they are liable for their commitments, unless they have signed the register of members on joining.

c) The payment of an admission fee is compulsory in Italy, where the amount is calculated by the board of directors in the light of the results of the latest balance-sheet.

In Germany, Belgium, Luxembourg and the Netherlands, the Articles may require that admission fees be paid.

In France, this has become customary in, for example, certain wine-growing co-operatives.

28. All or some of the obligations of members towards the agricultural co-operative to which they belong are laid down by law in Germany, Belgium, France and Luxembourg; in Italy and the Netherlands, they are mainly laid down by the Articles.

a) A legal obligation to contribute business exists only in France, where membership of an agricultural co-operative in the strict sense entails a commitment to make use of its services either wholly or in part over an agreed period of time; no similar provision exists for agricultural mutual credit banks or agricultural mutual insurance societies.

In Germany, the Articles may oblige members to use the co-operative equipment; this requirement is

common in co-operatives concerned with milk, fruit and vegetables, and wine.

In Luxembourg, the Articles may bind members for periods of up to five years.

In the Netherlands, the law does not require members to employ the services of their co-operative exclusively. However, the Articles of most marketing, packaging and processing co-operatives require members to deliver all their produce to the co-operative. It is rare for the Articles of purchasing co-operatives to oblige their members to buy from them. The Articles of agricultural credit co-operatives never oblige their members to use their services exclusively.

b) As regards the contribution of funds, every member of an agricultural co-operative is legally bound to subscribe to one or more shares in all the six countries except the Netherlands. In France, the number of shares to be subscribed is related to the commitment to bring in business, or to the size of the member's farm. In Luxembourg, the Articles must specify the individual contributory holdings of the members, which go to make up the share capital (see 11. *b)*, *c)* and *d)*).

c) In the Netherlands, this question only arises in the case of co-operatives working with capital subscribed by the members; it is then regulated by the Articles (see 11. *d)*).

d) The contribution of skills is provided for only in Belgium, but does not arise in practice.

e) In Germany, the Articles may provide for contributions in the form of work.

29. The right of a member to withdraw from the co-operative is recognized in all six countries, but the procedure differs:

In Germany, the declaration of withdrawal does not become effective until the end of the business year, but it must be made at least three months before. The Articles may require a longer period, but only up to a maximum of two years for basic co-operatives and five years for central co-operatives.

In Belgium, when the Articles contain no provisions on the matter, the member may always withdraw during the first six months of the co-operative's year.

In France, the situation is more restrictive for agricultural co-operatives in the strict sense than for agricultural mutual credit banks and agricultural mutual insurance societies.

i) In agricultural co-operatives in the strict sense, the member may not leave the co-operative before the expiry of the period for which he is committed and, in addition, he must notify the chairman of the board of directors of his intention three months in advance; failing this, his commitment is tacitly renewed for a period not exceeding five years. A member may, however, resign during the period for which he is committed provided he can satisfy the board of directors that he is justified in doing so because of "force majeure". The board may only accept his withdrawal on two conditions: that his departure will not prejudice the smooth working of the co-operative, and that the share capital will not fall below the permitted minimum. If the board of directors gives no ruling within three months, or explicitly refuses to accept the resignation, its negative decision may be referred to the next General Meeting or to the court.

ii) Members of agricultural mutual credit banks and of agricultural mutual insurance societies may, on the other hand, withdraw at will.

In Italy, the law lays down that members may withdraw from the co-operative in the circumstances listed in the Articles. Withdrawal takes effect from the end of the current business year, and three month's notice is required. If this notice is not given, the withdrawal will take effect from the end of the following business year.

In Luxembourg, commitment for a specified period may limit the freedom to withdraw. Withdrawal becomes effective at the close of the current business year, notice having been given during the first six months of the co-operative's year.

In the Netherlands, too, withdrawal only takes effect at the end of the business year. If nothing is stated in the Articles, at least four weeks' notice must be given. The Articles may not restrict the freedom to withdraw but, under the law governing co-operatives, they can make the departure of a member subject to certain conditions corresponding to the aims and objects of the co-operative. When proceedings are taken, the courts may annul any condition which exceeds the limits established by law.

30. In all six countries, a member who leaves the co-operative is entitled to repayment of his shares.

In Germany, France, Italy and Luxembourg, he is only entitled by law to the nominal value of either his capital stock or his shares, as the case may be, subject to the possible deduction of his share of the co-operative's losses.

In Belgium, the law allows repayment of shares in accordance with the results of the balance-sheet of the business year during which the resignation was announced. However, there are no legal obstacles to the inclusion of restrictive clauses in the Articles. There are no legal regulations on the subject in the Netherlands. Generally speaking, the Articles refuse members any personal claim to the joint property of the co-operative, which includes the reserves.

31. The right to expel a member of the co-operative is recognized in all six countries:

a) Except in Luxembourg, the law lists the grounds for expulsion:

In Germany, deprivation of civil rights, membership of a competing co-operative in the same locality, and even, where credit is concerned, membership of any other co-operative;

In Belgium, failure to meet the commitments of membership;

In France, condemnation for a criminal offence, activities prejudicial to the co-operative, adulteration of produce delivered;

In Italy, default in payment, incompetence, judicial interdiction, condemnation for certain offences, serious breaches of statutory obligations.

In the Netherlands, violation of the Articles, action deliberately detrimental to the co-operative.

In all six countries, the Articles may specify further grounds for expulsion.

b) The authority empowered to expel a member varies according to the country, as do also the arrangements for appeals.

In Germany, except where special provisions are made, the competent authority is the managing committee. Appeal procedure is laid down in the Articles.

In Belgium it is the General Meeting, unless otherwise stated in the Articles.

In France, the board of directors is competent for this purpose in agricultural co-operatives in the strict sense, but its decision may be appealed against to the General Meeting within two years of notification; in the case of agricultural mutual credit banks, expulsion must be carried out by the General Meeting, on a proposal of the board of directors.

In Italy, the General Meeting is competent to expel members, unless the Articles confer this power on

the board of directors. The person concerned may appeal to the court within 30 days of notification.

In Luxembourg, the decision is taken by the managing committee, and the person concerned may appeal to the General Meeting within one month of notification.

In the Netherlands, the board of directors can expel a member, but the Articles can empower another body to expel certain members — the General Meeting or the supervisory board for example.

Unless the Articles include provisions governing appeal by a member thus expelled, he retains the right to appeal to the General Meeting for one month from the date on which he was informed of the steps taken against him.

c) In Germany, France, Italy and Luxembourg, the law allows repayment to the expelled member of his capital stock or shares, as the case may be.

In Belgium, his rights are the same as those of a member who resigns from the co-operative. In the Netherlands, this question is settled by the Articles.

In France and the Netherlands, the Articles may allow fines to be imposed.

In France, a member expelled from an agricultural mutual insurance society ceases to be insured.

32. When the co-operative's life ends, the rights of members to the society's assets are far from uniform:

In Germany, the net assets are distributed among the members in proportion to the amount of their capital stock, unless the Articles contain provisions excluding such distribution or fixing another proportion.

In Belgium and Luxembourg, the assets are distributed in proportion to the shares held by the members, unless the Articles rule otherwise.

In France, the following distinctions must be drawn:

i) In agricultural co-operatives in the strict sense and in co-operatives of agricultural co-operatives, the net assets on liquidation must, in principle, pass to other agricultural co-operatives or co-operatives of agricultural co-operatives or to establishments or undertakings of general agricultural interest, with the approval of the competent public authorities.

ii) The net surplus of a co-operative of agricultural co-operatives may, however, be distributed among the co-operatives belonging to it at the time of its liquidation, provided authorization is given.

iii) Nevertheless, since the decree of 5 August 1961 it has been possible to divide the net surplus of a co-operative or of a co-operative of agricultural co-operatives into two parts: the portion deriving directly or indirectly from aid received from the State or from public organizations and bodies to be determined by decree, and the portion not so deriving. (A decree will establish the rules for this apportionment.) The first portion must devolve upon third parties, as mentioned above. It is now admissible for the second portion to be divided up among the members, after governmental authorization has been given.

iv) In the case of agricultural mutual credit banks and agricultural mutual insurance societies, the members have no claim on the assets.

v) Liquidation of agricultural mutual credit banks which have received financial assistance from the National Agricultural Credit Fund must be supervised by the State through the medium of the Fund; the net assets of a secondary bank affiliated to the National Fund are placed on deposit without interest until such time as they can be made available to the bank that takes the place of the bank going into liquidation; the net assets of a primary bank which has benefited indirectly from advances from the State are allocated to an undertaking of general agricultural interest by decision of the General Meeting with the approval of the Minister of Agriculture or, failing this, by decision of the Minister after the National Fund has expressed its opinion.

In Italy, the net assets must be used for purposes that are in the public interest and accord with mutualist principles.

In the Netherlands, the Articles lay down rules for disposal of the net assets.

33. In all six countries, members of co-operatives are either totally or partially liable vis-à-vis third parties for the debts of the their co-operative.

a) In Germany, levies may be made on the co-operators' capital stock to offset the losses that remain after first the statutory reserves and then the legal reserves have been exhausted.

In the case of bankruptcy, the members are obliged to make additional payments; if necessary, the same obligation may be extended to members who have left the co-operative within the last 18 months before the declaration of bankruptcy.

b) In Belgium, liability is most often limited by the Articles. Failing this, it is unlimited and joint

and several. It continues for five years after the departure of a member. Losses are shared in the same way as profits, unless the Articles specifically provide otherwise. When the reserves are exhausted, losses are made good by reducing the share capital or by asking the members to make payments.

c) In France, a distinction must be made:

i) In the case of agricultural co-operatives in the strict sense which have been established since the decree of 5 August 1961, the member is liable up to twice the amount of his shares and of those which he ought to have subscribed, inclusive of both. Under the previous system, this liability was five times, including the amount of the shares. A member who leaves the co-operative remains liable for five years for his proportion of the business debts then existing. Lastly, members are jointly and severally liable for the repayment of loans granted to their co-operative by the National Agricultural Credit Fund on behalf of the State or by the "Fonds forestier national" (National Forestry Fund).

ii) In the case of agricultural mutual credit banks, a member who leaves the bank may not, in principle, be released from his commitments until after the settlement of current transactions, but this liability ceases five years after his withdrawal. In no case are members who are legal persons under public law liable beyond the shares they have subscribed.

In respect of all obligations of their members towards them, agricultural mutual credit banks have a preferential claim on the shares that make up their share capital. The State, represented by the National Fund, has a preferential claim on all shares making up the share capital of the societies that have borrowed from it, for all sums due in consideration of advances or loans granted to those societies.

iii) In the case of agricultural mutual insurance societies, the members are only bound by the commitments expressly laid down in their insurance contract and in the Articles.

d) In Italy, the liability of members of co-operatives is limited or unlimited; the Articles of a co-operative may provide that, in the event of bankruptcy or of compulsory administrative liquidation, the liability of each member shall be increased to several times the amount of his subscription.

e) In Luxembourg, the liability of members is limited unless the Articles rule otherwise.

Only the Articles of rural banks make provision for unlimited liability.

Additional payments may be required of co-operative members within the limit of their liabilities. All the claims that may be made against an agricultural association or its organs lapse after five years from the announcement of its dissolution.

f) In the Netherlands, the law lays down that the liability of co-operators shall be regulated by the Articles. Failing this, "legal" liability applies, as defined by the law on co-operatives:

If it appears, at the time of the liquidation of a co-operative — whether voluntary or due to bankruptcy — that its assets are insufficient to cover its commitments, the members of the co-operative and those whose membership ceased less than one year before are liable for the deficit vis-à-vis the liquidators, each for an equal share. Should a member or a former member default, the others share his unpaid debt in equal portions. The duration of the period for which former members are liable may never be less than 365 days.

The law authorizes derogations provided for by the Articles, which take the following forms:

- Limited liability for equal shares,
- Limited liability for unequal shares,
- Unlimited liability for unequal shares,
- Abolition of liability, a form which is only found in agricultural co-operatives.

Generally speaking, the Articles exclude direct liability of the co-operators vis-à-vis third parties.

In addition, the Articles often make the members of the co-operative liable for the deficits at the end of the business year; it is then laid down that these operational deficits may be shared out each year among the members, and that members who have withdrawn from the co-operative during the business year remain liable for its deficits or are obliged to pay a certain sum as compensation on withdrawal.

§ 7. GENERAL MEETINGS

34. In all six countries, agricultural co-operatives must hold a General Meeting at least once a year. General Meetings are governed by legal regulations in each country, but in Belgium and the Netherlands the procedure for General Meetings is usually laid down in clauses of the Articles and the law only applies if no provision is made in the Articles.

35. As a general rule, every co-operative member has the right to attend the General Meeting; some legislative provisions have, however, taken into account the practical difficulties arising from excessively large meetings:

In Germany, the law prescribes that when co-operatives have more than 3 000 members the General Meeting is composed of representatives of the members; when the number of members is more than 1 500 but less than 3 000, the Articles may provide that it shall be so composed. In both cases these representatives must be members of the co-operative.

In France, when agricultural co-operatives in the strict sense operate in an extensive area or have a particularly large membership, their Articles may empower the General Meeting to establish branch meetings, delegates from which constitute the General Meeting. These branch meetings also have the right to designate members to be their permanent representatives with the board of directors.

In Italy, the General Meeting of a co-operative with at least 500 members may be preceded by partial meetings held at the local offices, provided this is allowed for in the Articles.

In the Netherlands, the Articles of co-operatives with more than 200 members may set up a co-operators' council of at least 20 persons elected by and from the members. This council exercises the powers of the General Meeting, particularly as regards designation of the members of the co-operative's supervisory and managing bodies.

36. a) In all six countries, the General Meeting is convened by the body responsible for direction of the co-operative.

In more than one country, the law sets this body a time-limit within which the General Meeting must be held in order to examine the accounts after the end of the business year.

In France, a distinction must be made:

i) The ordinary General Meetings of agricultural co-operatives in the strict sense must be convened at least once a year within six months of the end of the business year; for unions of co-operatives, this period may be nine months.

ii) The ordinary General Meetings of local agricultural mutual credit banks must be held before 30 April, and those of regional banks before 31 March.

In Italy, the ordinary General Meeting must be convened at least once a year within four months from the end of the business year. The Articles may relax this rule provided the time-limit is not extended beyond 6 months.

In Luxembourg, the annual General Meeting must be held in the three months following the end of the business year.

In Germany and the Netherlands, the time-limit is six months.

b) In several countries, the law permits a General Meeting to be convened at the request of a certain proportion of the members:

— One-tenth in Germany, although the Articles may fix a lower proportion;

— One-fifth or one-quarter in France for agricultural co-operatives in the strict sense, depending on whether it is to be the ordinary General Meeting or an extraordinary General Meeting;

— One-fifth in Italy, Luxembourg and the Netherlands, unless the Articles contain provisions fixing a different proportion of members entitled to convene the Meeting.

c) In France, the auditors have the right to order the ordinary General Meeting to be convened if they think this necessary.

37. In all six countries, the General Meeting is the sovereign body of the co-operative, which alone is empowered to take the most important decisions. Its powers are substantially the same in all countries:

— Election of the managing body and of the supervisory body, and in Italy of the college of “probi-viri”;

— Examination and, where appropriate, approval of: the operations of the past business year after hearing the report of the managing body, and the accounts and balance-sheet after they have been examined by the auditing body;

— Authorization of the managing body to perform actions which exceed its normal powers;

— Amendment of the Articles, prolongation, dissolution.

In Germany, France, Luxembourg and the Netherlands, these powers are specified by law. In Belgium, the requirement that the accounts and a report be presented to the General Meeting is only implicit in the law.

In Germany, any increase in the commitments undertaken by the members towards the co-operative must be voted unanimously by the General Meeting; in France, it must be voted by the extraordinary General Meeting (see 6).

In Italy and the Netherlands, certain powers are exercised by the General Meeting exclusively, and the Articles cannot rescind them or transfer them to other bodies.

38. In principle, every member of the co-operative has a vote at the General Meeting.

The plural vote is, however, allowed in all countries except Germany.

In Belgium each member has only one vote, if the Articles do not pronounce otherwise on the matter. Agricultural co-operatives cannot obtain aid from the Agricultural Investment Fund unless their Articles give each member one vote only; however, the Minister of Agriculture has power to grant such aid when the Articles give an additional vote for each set of shares subscribed, provided the number of votes of any one member may not exceed one-fifth of all the votes cast and the additional votes may not amount to more than half of the votes present or represented. The one-man, one-vote requirement does not extend to co-operatives of agricultural co-operatives when their member co-operatives fulfil it.

In France, when the membership of an agricultural co-operative in the strict sense comprises not only individuals but also other co-operatives, its Articles may, with ministerial authorization, grant such co-operatives votes commensurate either with the number of their members or with the amount of business transacted, or both. In the case of agricultural mutual credit banks, a very limited number of additional votes may be granted to collective members in proportion to the number of shares subscribed by them.

In Italy, the Articles may allocate a maximum of five votes to legal persons which are members of the co-operative, in proportion to the amount of their shares.

In Luxembourg, the plural vote may be as many as three votes, but it is seldom used.

In the Netherlands, the plural vote is authorized by law but, when the Articles provide for it, it is generally limited to a certain maximum number of votes. When a co-operators' council exists, the Articles may give its members plural voting rights.

39. a) In Italy the law and the Articles, and in the Netherlands the Articles, specify the composition of General Meetings and the majority required.

In Germany, important decisions are taken by a majority of three-quarters of those present. However, the law demands unanimity when the measures to be taken would go beyond what is usually provided for by the Articles; this is, for example, the case when members are obliged to deliver their produce only to their co-operative.

In Belgium, the law allows the composition of General Meetings and the majority required to be fixed freely by the Articles but, if no provision is made in the Articles, the law provides that all members will be able to vote and that resolutions will be taken under the same rules as for limited companies.

In France, a distinction must be made:

i) In agricultural co-operatives in the strict sense, when the ordinary General Meeting is convened for the first time it may deliberate if one-third of the members are present or represented, decisions being taken by simple majority, whereas at an extraordinary General Meeting half the members must be present or represented and a two-third majority is required; when the General Meeting is convened a second time, it may deliberate whatever the number of members present or represented.

ii) In the case of agricultural mutual credit banks, there is no law or regulation laying down the quorum for General Meetings. However, the agricultural mutual credit banks affiliated to the National Agricultural Credit Fund are governed by Articles of a standard type drawn up by the Fund for the use of member funds; Article 33 of these Articles lays down that the General Meeting may validly deliberate if a quarter of the members are present and decisions shall be taken by simple majority.

iii) In the case of agricultural mutual insurance societies, the General Meeting may deliberate if a quarter of the members are present or represented, and decisions are taken by simple majority.

In Luxembourg, the General Meeting decides by simple majority and there are no rules stipulating the number of members who must be present, except for amendment of the Articles. In the latter case, two-thirds of the members must be present at the first convening, and the decision must be taken by a two-thirds majority; on the second convening, the Meeting may deliberate whatever the number of members present, though a two-thirds majority of those present is still required before a decision can be taken.

b) Except in Germany, members absent from the General Meeting may always be represented by members who are present. Proxy voting is subject to the following rules in France and Luxembourg:

In France, plurality of votes is limited to five in agricultural co-operatives in the strict sense and in agricultural mutual credit banks.

In agricultural mutual insurance societies, plurality of votes is not provided for by any law or regulation; generally, the Articles of these funds limit it to five votes.

Moreover, a member may be specially represented by his or her spouse, an adult relative or a similar connection by marriage.

In Luxembourg, no member may have more than two votes. A co-operator may be represented by an adult member of his family if the latter works on the same farm.

In the Netherlands, representation of absent members is usually provided for by the Articles. However, notwithstanding such provisions legal representatives may always exercise the rights and assume the obligations of the members they represent.

§ 8. HOW AGRICULTURAL CO-OPERATIVES ARE RUN

GENERAL REMARKS

40. The rules according to which agricultural co-operatives are run are, as is natural, derived from the general principles of company law in each Member State. These general principles embody differing ideas about how management should be organized and supervised; thus we find two quite different systems and an intermediate system.

One of the two quite different systems is common to Belgium, France and Italy, where the General Meeting elects:

- i) A college which is responsible for the direction of the co-operative, and from which the managing body derives, and
- ii) Special representatives whose task is to audit the balance-sheet and accounts each year.

The other system is applied in Germany, where the General Meeting elects:

- i) A college responsible for the management of the co-operative, and
- ii) A college responsible for ensuring close and continuous control over what is done by the managing

body. (The Articles may, however, empower this second college to designate the members of the first.)

The intermediate system is that of Luxembourg and the Netherlands, where the General Meeting elects two colleges:

- i) One to direct the co-operative, as in Belgium, France and Italy, and
- ii) Another to ensure continuous control by the General Meeting, as in Germany.

THE SYSTEM COMMON TO BELGIUM, FRANCE AND ITALY

The board of directors

41. a) As a general rule, the General Meeting is legally bound to elect a board of directors with at least three members.

b) Other provisions exist, however, in Belgium and France:

In Belgium, the law generally calls for at least an administrator (*gérant mandataire*) who is elected by the General Meeting, which does not necessarily have to choose him from among the members. But as the law is always supplementary, the Articles of co-operatives usually prescribe that a board of directors shall be elected from among the members.

In France, two special cases have been permitted since the decree of 4 February 1959, but very little use has been made of these concessions in practice:

- i) Co-operatives which have less than 20 members, and whose area of operation does not extend beyond the territory of the canton and adjacent communes, may provide in their Articles for a single director who will preside over the General Meeting of members.
- ii) With ministerial authorization, the Articles of co-operatives of agricultural co-operatives may provide for them to be administered directly by the General Meeting itself, in which case the latter must be convened at least three times a year.

42. a) Except in Belgium and Italy, the directors must always be chosen from among the members of the co-operative.

In Belgium, this is generally obligatory but as a provision of the Articles.

In Italy, the directors are recruited in principle from among the members, but the law provides for exceptions:

i) Article 2535 of the Civil Code, in granting the State or public bodies the right to nominate one or more directors, implies that some directors need not belong to the co-operative.

ii) Moreover, decree-law No. 1235 of 7 May 1948 states that some members of the boards of directors of "consorzi agrari" and of federations of the latter shall be designated to represent the wage-earning members, even though they are not members themselves.

b) In Belgium, the Articles generally forbid the election of foreign directors.

In France, the directors must be of French nationality except where a reciprocal agreement has been concluded with other States or where this rule has been waived by the Minister of Agriculture after consultation with the central authorizing committee.

In Italy, there is no legal provision preventing foreigners from becoming directors of co-operatives, nor do the Articles forbid this.

43. In France and Italy the law lays down grounds on which certain persons are ineligible for directors' posts.

In France, there are three restrictions:

- i) The directors of a co-operative in the strict sense may not take part either directly or indirectly in any activity competitive with it.
- ii) Parliamentary senators and deputies may not be directors of an agricultural mutual credit bank.
- iii) Directors of agricultural mutual insurance societies may not act as insurance agents or brokers, managers or directors of a credit institution, insurance company or social security fund, or as business agents or legal brokers, unless authorized to do so by the Minister of Agriculture.

In Italy, the grounds for ineligibility are the same as those for the expulsion of co-operative members.

44. a) In these three Member States, the boards of directors have virtually the same powers. They extend to all aspects of management other than those reserved to the General Meetings by law or by the Articles. The General Meeting may confer additional powers on the board of directors to enable them to deal with specific questions.

In Belgium, the powers of the board of directors are usually laid down by the Articles. When these are silent on the matter, the law grants the directors managing powers.

In France, the law expressly vests the widest powers in the boards of directors of agricultural co-operatives in the strict sense, the only limitations being those which the law or the Articles reserve to the General Meeting.

In Italy, the Articles vest the widest powers in the board of directors, excepting only those reserved to the General Meeting.

b) Since boards of directors can only act collectively, they must organize an executive.

45. French law stipulates that boards of directors of agricultural co-operatives in the strict sense must meet at least once a quarter. Under the law, they cannot validly deliberate unless half the current members are present and half the members present are in favour. Both these limits are raised to two-thirds when it is a matter of expelling a member.

In Italy, a simple majority of those present is sufficient.

46. The term of office is six years in Belgium, unless the Articles contain clauses to the contrary.

In France, the term of office in agricultural co-operatives in the strict sense is two, three or four years, one-half, one-third or one-quarter of the directors being appointed each year. Directors of agricultural mutual credit banks hold office for three years, a third of the total number being appointed each year.

In France, the term of office of the boards of directors of agricultural mutual insurance societies is fixed by the Articles and is usually six years.

In Italy, the law lays down three years as the maximum term of office.

47. a) The dismissal of directors is the prerogative of the General Meeting.

b) In France and Italy, the law gives the public authorities right to dismiss directors.

In France, a distinction must be made:

i) In agricultural co-operatives in the strict sense, the public authority competent to give approval has the right to convene the General Meeting if inspection has shown the directors to be incompetent, the law, regulations or Articles to have been infringed, or the interests of the society neglected. If the decisions of this General Meeting prove to be inoperative, the

Minister of Agriculture may dissolve the board of directors and nominate a provisional directing committee; if the co-operative has received an advance from the State via the National Agricultural Credit Fund or if it has received a loan from an agricultural mutual credit bank, the committee is appointed on the proposal of the National Fund.

ii) In the case of regional agricultural mutual credit banks, the National Fund may nominate a provisional managing committee pending the election of a new board of directors, if the previous board has ceased to function or has taken decisions contrary to the law, regulations or the instructions of the National Fund.

In Italy, if there are irregularities in the functioning of a co-operative, the government authorities may dismiss its directors and "sindaci" (auditors) and entrust the management to a government Commissioner, whose powers and term of office they determine. For specific acts, it may even invest him with the powers of the General Meeting; in that case, the decisions of the government Commissioner are only valid if approved by the government authorities.

48. Generally speaking, the individual or joint responsibility of the directors is that of ordinary law.

In France, directors of agricultural co-operatives in the strict sense are obliged to earmark a certain number of shares as a guarantee of their management. This obligation does not exist in any of the other countries.

49. a) Directors may receive remuneration everywhere except in France. However, in France an allowance may be paid as compensation for time spent on the co-operative's business:

i) To directors specially charged with supervising the actual operations of agricultural co-operatives in the strict sense, but the total allowance to be granted to these directors must have been voted by the General Meeting;

ii) To a single director, in the case of agricultural mutual credit banks, with the approval of the National Agricultural Credit Fund.

In Italy, remuneration may be provided for by the Articles or voted by the General Meeting.

b) Generally speaking, even in France, directors may be reimbursed for out-of-pocket expenses incurred in the course of their work.

The chairman of the board of directors

50. Boards of directors usually elect a chairman.

In France, this is obligatory.

In Belgium and Italy, the election of a chairman is not required by law, but the Articles usually provide that a chairman shall be elected by the board of directors.

In France, the election of chairmen and even of vice-chairmen of regional agricultural mutual credit banks affiliated to the National Agricultural Credit Fund must be approved by this public body.

51. As a rule, the chairman has little personal power:

In Belgium, his powers are conferred by the Articles or by the board of directors. They are generally limited to convening the board's meetings, presiding over the discussions, and signing correspondence and other papers.

In France, the regulations grant chairmen of agricultural co-operatives in the strict sense:

— The right to convene the board of directors;

— The casting vote at a meeting of the board when voting is equally divided for and against;

The right to act for the co-operative both as plaintiff and defendant in legal proceedings.

The Articles of agricultural mutual reinsurance societies also award the casting vote to the chairman.

In Italy, no special powers are granted to the chairman of the board of directors; he acts in the name of and on behalf of the board. He usually represents the co-operative unless the Articles vest such representation in two or more colleagues or in directors-general, whether members of the co-operative or not.

Management

52. a) In Belgium, the management is generally chosen, appointed and dismissed by the board of directors; this is also the case when the Articles do not specify otherwise but sometimes the latter confer this power on the General Meeting. The Articles generally define management as the daily conduct of business under the authority of the board of directors. This daily task may be carried out by any one of the following :

i) A managing committee of several directors with one or more managers under them, as is usually the case with large co-operatives, or

ii) A director delegated by the board of directors or empowered by the Articles to act as executive director or, sometimes, as managing director, as is usually the case in small co-operatives, or

iii) A paid manager who comes directly under the board of directors but remains an executive.

b) In France and Italy, boards of directors organize the management as they think fit:

French regulations expressly authorize the board of directors of an agricultural co-operative in the strict sense:

i) To delegate powers to one or more of its members;

ii) To confer special powers on members who are not directors or on third parties, for one or more specified purposes;

iii) To appoint a manager who carries out his duties under the direction, control and supervision of the board of directors, which he represents vis-à-vis third parties within the terms of his mandate.

The appointment of managing directors and managers of the regional agricultural mutual credit banks affiliated to the French National Agricultural Credit Fund must be approved by that body; in addition, these managers may be dismissed by the Fund.

In Italy, the board of directors chooses the managers freely.

53. a) Generally speaking, the functions of manager and director are incompatible, since the managers are necessarily subordinate to the board of directors.

b) Furthermore, in France and Italy the law defines certain grounds disqualifying particular persons from holding the post of manager.

In France, a distinction must be drawn:

i) In Agricultural co-operatives in the strict sense, a manager may not take part either directly or indirectly in any activity competitive with that of the co-operative.

ii) The manager of an agricultural mutual credit bank may not be chosen from among its members. Senators and Deputies may not act as managers of a bank. Unless managers are given special permission to do so by the National Agricultural Credit Fund, they are prohibited from pursuing any industrial or

commercial occupation, accepting private paid employment, doing private work for gain, or acting as director of an establishment that might receive agricultural credit loans.

iii) The grounds of ineligibility for managers of agricultural mutual insurance societies are the same as those for directors (see 43).

c) In Belgium, the Articles sometimes forbid a manager to be a member, director or auditor.

54. In Belgium and France, the manager's powers are delegated to him by the board of directors.

In Italy, these powers either proceed from the Articles or are delegated by the board of directors; in the latter case, they must be delivered as a notarial deed and lodged with the clerk of the court and at the business registry.

55. As a general rule, the manager's liability is that of a salaried representative.

In France, however, the liability of managers of agricultural mutual credit banks is defined by the Articles.

56. a) Generally speaking, managers are bound by contracts in their relations with agricultural co-operatives.

b) No form of remuneration is legally prohibited, except in France.

There, the manager of an agricultural co-operative in the strict sense may not receive a percentage of its turnover. The manager of an agricultural mutual credit bank may not receive a percentage of the profits or turnover; moreover, his salary and other benefits paid to him must be approved by the National Agricultural Credit Fund.

The compensatory allowance paid to the managing director of a bank must also be approved by the National Fund (see 49 a)).

Auditing of accounts

57. In Belgium, France and Italy, the accounts must be audited annually.

This is done:

— In Belgium, by auditors (commissaires), who form a college called a supervisory board if there are more than two of them;

— In France, by auditors (commissaires aux comptes);

— In Italy, by auditors (sindaci).

58. The appointment and dismissal of auditors come within the competence of the General Meeting in all three countries.

In France, however, the presiding judge of the high court has the power to appoint or replace auditors if such are not appointed by the General Meeting, or if an auditor appointed by the Meeting is unable or unwilling to act.

In Italy, the "sindaci" of co-operatives rendering a public service are appointed and dismissed by the Government. In addition, the "sindaci" of any co-operative may be dismissed by the Government if irregularities take place in the functioning of the co-operative (see 47 b)).

59. Professional qualifications are required in France and Italy:

In France a distinction must be made:

i) In the case of agricultural co-operatives in the strict sense with a turnover of more than 200 000 francs during the previous business year, at least one of the auditors must be chosen from among those approved by the National Agricultural Credit Fund or by the Court of Appeal or from among the members of the National Institute of Accountants.

ii) In agricultural mutual credit banks, the choice lies between accountants, former officials with the necessary qualifications, or any other person able to furnish sufficiently good references.

iii) In agricultural mutual reinsurance societies, the choice is usually made from the list of auditors approved by the Court of Appeal.

In Italy, the college of "sindaci" may be composed of doctors in commercial science, accountants and even of persons who possess accountants' qualifications but are not on the roll of auditors.

60. In all three countries, there is at least *de facto* incompatibility between the position of auditor and that of director.

In France and Italy, grounds for ineligibility are also defined by law.

In France the position of auditor in agricultural co-operatives in the strict sense, and in agricultural mutual credit banks, may not be held by any of the following:

Parents or relatives of directors of the society, up to and including the fourth degree;

Wives or husbands of directors;

Persons receiving any kind of salary or remuneration from the directors of the society for functions other than those of auditor;

Persons prohibited from holding the position of director, managing director or manager, or who have forfeited their right to do so;

The wives or husbands of the above persons.

In Italy, the grounds for ineligibility are the same as those applying to directors. In addition, a person who pursues an activity competitive with that of the co-operative may not act as "sindaco".

61. The term of office varies according to the country:

In Belgium, it is six years unless otherwise stated in the Articles;

In France, it is three years in agricultural co-operatives in the strict sense, from one to three years in agricultural mutual credit banks, and one year in agricultural mutual insurance societies;

In Italy, it is three years.

62. In all three countries, the powers of the auditors are very wide:

In France, the auditors may carry out investigations at any time.

In France, auditors present reports at the General Meeting. In Belgium, they have the right to submit proposals to it. In France, the law gives them the right to have the General Meeting convened (see 36 c)).

In Italy, the "sindaci" have the right to check the administration of the co-operative and satisfy themselves that the law and the Articles are being complied with.

63. In no country are there any special legislative provisions governing the liability of auditors.

64. Their remuneration varies:

In Belgium, these functions are unpaid unless the Articles contain a clause to the contrary.

In France and Italy, remuneration may be granted by the General Meeting.

THE SYSTEM PECULIAR TO GERMANY

The "Aufsichtsrat" (supervisory board)

65. a) The supervisory board is elected by the General Meeting; it must, by law, consist of at least three members.

b) Its members must be members of the co-operative. If they are not members at the time of their election, they are required to join the co-operative forthwith.

c) In the case of co-operatives with more than 500 wage-earners, one third of the members of the supervisory board are elected by the personnel.

66. The supervisory board elects its chairman by the procedure specified in the Articles.

It generally chooses a chairman and his deputy from among its members.

67. The supervisory board is, to some extent, the trusted organ of the General Meeting, and it is required by law to keep a continuous watch on the work of the managing committee. It can only act as a body.

It examines the accounts at the end of the business year, the balance-sheets and the apportionment of profit and loss presented by the managing committee, and presents a report to the General Meeting before the balance-sheet is approved. It may check cash in hand, securities and stocks of merchandise.

It convenes the General Meeting when this is necessary in the interests of the co-operative.

It is empowered to represent the co-operative when contracts are concluded with the managing committee.

It may suspend members of the managing committee from their duties until the General Meeting has given a decision concerning them.

It may appoint — from among its members but for a specified period — deputies for members of the managing committee who are unable to carry out their duties; during this time, these deputies do not exercise their prerogatives on the supervisory board.

The Articles may empower the supervisory board to appoint the members of the managing committee.

68. The mandate of the members of the supervisory board normally lasts until its term expires.

It terminates earlier if revoked by the General Meeting or as a result of resignation, withdrawal from the co-operative and, of course, death.

69. a) In Germany, the members of the supervisory board are required to carry out their tasks with the diligence normal in good businessmen.

b) They are civilly liable personally, jointly and severally for any damage suffered by the co-operative as a result of their negligence.

They are penally liable if they deliberately act in a manner detrimental to the co-operative, or if the supervisory board is under strength for more than three months.

c) They are not required to furnish a surety.

70. The members of the supervisory board may not receive a remuneration proportional to the profits of the business year, but all other forms of remuneration (fixed salary, attendance fees, etc.) are authorized.

The "Vorstand" (managing committee)

71. a) The managing committee is elected by the General Meeting, unless the Articles provide otherwise. It must consist of at least two members.

The Articles frequently empower the supervisory board to appoint the members of the managing committee because the board is in a better position than the General Meeting to assess the abilities and qualifications required (see 67).

b) The dismissal of the managing committee is always the prerogative of the General Meeting. Its members can be dismissed at any time.

The supervisory board can suspend them (see 67).

72. The law does not provide for the appointment of a chairman of the managing committee. Generally speaking, the Articles rule that the General Meeting, when it elects the managing committee, shall also appoint a chairman and his deputy.

73. a) The members of the managing committee may be elected from outside the co-operative. If they are not members at the time of their election, they are required to join the co-operative; failure to do so may result in the General Meeting annulling their appointment.

Authorization must be obtained from the authorities before foreign workers may be employed in Germany; but members of a body which may legally represent a body corporate are not regarded as workers. Consequently, no authorization is required before foreigners can become members of the managing committee; there is no provision forbidding them to do so in either law or the Articles.

b) Members or deputy members of the managing committee are ineligible for membership of the supervisory board.

c) When members of the managing committee are unable to carry out their duties, members of the supervisory board may be appointed to act as their deputies (see 67).

74. The powers of the managing committee are established by law. The Articles or the General Meeting may restrict them, but such limitations are not opposable to third parties.

The managing committee takes decisions as a body.

75. The managing committee is itself responsible for management of the co-operative. It may apportion the task of carrying out its decisions among its members as it thinks fit. It is not entitled to delegate all its powers to one person but may delegate some of its powers, for certain clearly defined business matters or categories of business, to one or more managers, whose main occupation is doing this work and may even be chosen from outside the co-operative.

76. The members of the managing committee are bound to the co-operative by a work contract or by a mandate contract, depending on whether they are paid or not.

The duration of these contracts is generally unlimited. Unless revoked by the General Meeting, the contracts become ineffective in the event of death, resignation or dismissal from the co-operative.

77. a) The members of the managing committee are individually and jointly and severally liable within the terms of ordinary law.

b) They are not obliged by law to furnish a surety.

78. a) The members of the managing committee may receive a remuneration consisting of a fixed salary and of a share in the annual profits.

b) When they are not paid, they may be compensated for out-of-pocket expenses.

*THE INTERMEDIATE SYSTEM APPLIED
IN LUXEMBOURG AND THE NETHERLANDS,
WHICH HAS SOME FEATURES IN COMMON
WITH THE TWO SYSTEM OUTLINED ABOVE*

The directing body

79. a) In Luxembourg, the General Meeting elects a managing committee of at least three members.

b) In the Netherlands, the law lays down that the "bestuur" (board of directors) shall consist of five members, unless otherwise stated by the Articles.

This board is normally elected by the General Meeting, but the law allows other methods of nomination provided the appointment is made by the members of the co-operative — by correspondence, for example.

80. a) In the Netherlands, the Articles may allow the directors to be chosen from outside the co-operative.

b) In Luxembourg and the Netherlands, there is nothing to prevent the appointment of foreigners.

81. a) In Luxembourg the managing committee, and in the Netherlands the board of directors, generally possess wide powers of direction and decision, limited only by the objects of the co-operative and the provisions of the law or the Articles.

In the Netherlands, the board of directors represents the co-operative in proceedings in and out of court, by virtue of the law on co-operatives.

In the Netherlands, the Articles often oblige the board of directors to obtain the approval of the supervisory board or even of the General Meeting before carrying out specific acts.

b) As these boards and committees can only act collectively, they have to organize an executive.

c) In Luxembourg, over half the members must be present before the committee can deliberate; decisions are taken by simple majority.

82. The members' term of office is fixed by the Articles. In Luxembourg, it is three years when the Articles fail to specify otherwise.

83. In Luxembourg, the members of the managing committee receive no remuneration but may be compensated for out-of-pocket expenses.

In the Netherlands, the Articles may provide for salaries or fees to be paid to the directors.

The chairman

84. a) In the Netherlands, and as a general rule, the board of directors chooses a chairman, a secretary and a treasurer from among its members; under some Articles, however, only the General Meeting has the right to appoint the chairman.

b) In Luxembourg, the chairman must be elected by the managing committee.

The chairman represents the society in legal proceedings; he convenes the committee, over which he presides, and signs the official correspondence and other papers.

Management

85. In general, boards of directors or managing committees organize the management of their society as they think fit.

a) In Luxembourg, the most usual methods are the following:

i) Delegation of powers to one or more members of the managing committee;

ii) Establishment, from among its members, of a permanent select committee responsible for the daily conduct of business and the supervision thereof;

iii) Appointment of a manager, administrator or other executive official to act under the authority, control and supervision of the managing committee, which represents vis-à-vis third parties within the terms of his mandate.

Grounds for ineligibility are generally laid down by the Articles; a manager, administrator, employee or paid worker of the agricultural co-operative association may not be a member of the managing committee.

b) In the Netherlands, it is lawful for the Articles to lay down that one or more of the members of the board of directors be empowered to act and sign documents in the name of the association.

It is not compulsory by law to appoint a "directeur" (manager) but the Articles generally contain provisions empowering the board of directors to take on one or more paid managers to look after the day-to-day business, and to suspend or dismiss the managers. In fact, every agricultural co-operative has a manager and the large ones even have several. The extent of the manager's powers depends on the mandate conferred by the board of directors, to which alone he is responsible.

The auditing committee in the Netherlands

86. When the Articles make no provision for auditing, Dutch law requires the General Meeting to appoint each year an auditing committee consisting of three "commissarissen".

87. These auditors need not be qualified accountants, but they can call upon not more than two chartered accountants to assist them at the co-operative's expense.

88. No director may be an auditor.

89. The auditing committee makes an annual inspection of the books; it examines the accounts and checks the supporting documents, and presents a report to the General Meeting.

90. Auditors are almost always unpaid, but no legal provision prohibits co-operatives from paying their auditors.

The supervisory board

91. *a)* In Luxembourg, agricultural co-operative societies with more than 50 members must have a supervisory board.

b) In the Netherlands, the Articles usually establish a supervisory board (raad van toezicht), in which case there is no need for the General Meeting to appoint an auditing committee.

This supervisory board is normally elected by the General Meeting but, as in the case of the board of directors, the law sanctions any other method of appointment decided upon by the members of the co-operative (see 79 *b)*).

92. *a)* In both Luxembourg and the Netherlands, there are no legal restrictions on the composition of the supervisory board and the choice of its members.

Persons who do not belong to the co-operative may be members of the supervisory board provided the Articles do not forbid this. It frequently occurs in large co-operatives in the Netherlands.

b) Under Dutch law, the Articles may empower one or more persons, who need not necessarily be members of the co-operative, to nominate a maximum of one-third of the members of the supervisory board.

c) The members of the supervisory board need not be qualified accountants.

93. Membership of the supervisory board is incompatible with the position of director and, in the Netherlands, director's deputy.

94. *a)* In Luxembourg, the supervisory board exercises active and continuous supervision over the work of the managing committee.

It can carry out investigations at any time. Its members may be present in an advisory capacity at the meetings of the managing committee.

The supervisory board examines the accounts each year and presents a report to the General Meeting; it can submit proposals to the Meeting, and may be empowered by the Articles to convene it.

b) In the Netherlands, the Articles generally give supervisory boards wide powers concerning the whole of the work of the board of directors. The supervisory board may carry out investigations at any time.

The Articles extend or restrict the duties of the supervisory board; they generally stipulate that its consent must be obtained to such important acts as the purchase or sale of a building, borrowing 'in excess of a certain specified sum, or investment above a fixed amount.

The Articles often empower the supervisory board to hear and determine certain disputes on appeal.

95. The term of office of the members of the supervisory board is fixed by the Articles.

If this is not done, the term of office is three years in Luxembourg.

96. The members of the supervisory board are individually or jointly and severally responsible under ordinary law.

97. In Luxembourg, members of the supervisory board are unpaid; the Articles may only provide for expenses to be reimbursed.

In the Netherlands, the Articles may provide for salaries or fees to be paid to the members of the supervisory board.

§ 9. SETTLEMENT OF INTERNAL DISPUTES

98. In Belgium, Italy, Luxembourg and the Netherlands, agricultural co-operatives may require their members to solve internal disputes by arbitration.

In Belgium, the Articles often contain clauses to this effect. Each party has the right to nominate an arbitrator either from within the co-operative or from outside. If one party refuses to do so, the presiding judge of the commercial court will appoint the arbitrator. If the two arbitrators cannot reach agreement, the presiding judge of the commercial court will appoint a third.

In Italy, a board of "probiviri" (arbitrators) may be elected by the General Meeting. This board is competent to settle disputes affecting relations between members and the co-operative. Every member has the right of recourse to it. The board may persuade the parties to reach an amicable settlement or may pass an arbitral judgment without any formality (see 37).

In Luxembourg, an arbitration clause in the Articles is permitted and regulated by the Civil Code; in addition, decisions by the managing committee to expel a member or reject an application for membership may be appealed against to the General Meeting by the interested parties within one month of notification of the contested decision.

In the Netherlands, the code of civil procedure governs arbitration. The contracting parties may agree to submit their future disputes to an arbitrator. In some cases, it is possible to appeal against an arbitral decision before an ordinary judge. The Articles sometimes contain a clause appointing an arbitration body.

99. a) In French law, the arbitration clause is only valid in such contracts as are commercial for all parties and are subject to the exclusive competence of the commercial courts. Consequently, French agricultural co-operatives, which are essentially civil companies, may not undertake to accept arbitration in their future disputes; nevertheless, they may accept arbitration in their current disputes.

b) The legal status of French agricultural co-operatives gives any member the right to appeal to the General Meeting against decisions of the board of directors which expel him or refuse to accept his resignation when tendered before the expiry of his period of commitment.

In the first case, the member can appeal within two years from the date on which his expulsion was notified. In the second case, he must bring the matter before the next General Meeting.

100. In all six countries, co-operatives must observe the rules of commercial book-keeping. This obligation exists in France notwithstanding the civil character of agricultural co-operatives.

In all countries, the business year lasts twelve months, with the possible exception of the first.

In Italy, this period of time must not be exceeded.

In the Netherlands, the business year coincides with the calendar year unless the Articles specify otherwise.

101. The rules governing the use of surpluses vary greatly from one country to another.

In Germany, each member of the co-operative shares in the profits in proportion to the amount of his capital stock by any other method of distribution laid down in the Articles. It is customary for the managing committee to grant members "refunds on merchandise" in proportion to their respective turn-overs with the co-operative. The amount of such refunds is fixed by the managing committee unless the Articles provide otherwise. The General Meeting decides how the rest of the surplus is to be disposed of. No return on capital stock takes place in the form of interest.

In Belgium, the law prescribes that, unless different provision is made in the Articles, the annual profits are distributed among the members, half in equal shares and half in proportion to their paid-up contributions; however, case law has laid down that this second half may be distributed in proportion to the capital subscribed. Nevertheless, co-operatives which receive assistance from the Agricultural Investment Fund may not pay out more than 6 % of the paid-up amount of the shares. Most Articles contain other provisions: for fiscal reasons, the refunds are distributed before the balance-sheet is drawn up. The net surplus is then generally applied in the following way:

- A limited interest on the paid-up capital,
- A contribution of not more than 5 % to the legal reserve,
- Application of the balance to the ordinary reserves.

In France, interest is paid on the shares; it is fixed each year by the General Meeting in accordance with the results at the end of the business year and may

not exceed 6 % free of tax for agricultural co-operatives in the strict sense and 5 % free of tax for agricultural mutual credit banks. If there is still a surplus after payment of interest on the shares held and allotment to the legal reserve, it may be distributed among the members in proportion to their respective turnovers with the co-operative; in the case of agricultural mutual credit banks, at least three-quarters of the surplus must be placed to reserves.

In Italy, a return in the form of dividends may be granted on shares that are fully paid up. However, co-operatives wishing to enjoy tax privileges must not pay dividends in excess of the rate of legal interest. The law provides that the remainder of the surpluses must be put to mutual benefit uses.

In Luxembourg, any distribution of profits is prohibited. Only premiums or refunds may be granted, in proportion to the business transacted with the co-operative. The payment of such refunds must be decided on by the General Meeting after examination of the accounts and on the proposal of the managing committee. Only one federation pays a limited interest on its shares.

In the Netherlands, when co-operatives possess "co-operators' capital", these funds are productive of interest at a rate which is usually the same as that of long-term national loans or the discount rates of the "Nederlandse Bank".

Distribution of profits is always provided for by the Articles. In co-operatives with "co-operators' capital", the trading surpluses are credited to the various accounts in proportion to the account-holders' turnover with the co-operative, but the Articles of agricultural credit co-operatives forbid the distribution of profits (see 11 *d*)).

102. Except in Luxembourg and the Netherlands, the creation of a legal reserve is obligatory by law (see 11).

103. Incorporation of reserves into the share capital is generally prohibited, or at any rate uncommon (see 17).

104. Repayment of shares is allowed in all countries, but Belgium is the only one in which it is conceded that repayment may be accompanied by profits (see 19).

105. Agricultural co-operatives frequently have recourse to indirect methods of increasing their own

resources: "revolving capital", freezing of refunds, co-operative development funds (see 21).

106. In all six countries, agricultural co-operatives engage in borrowing (see 22).

107. The payment of debts may involve the liability of members during the life of the co-operative or on liquidation (see 33).

108. *a*) Directing bodies must present the accounts for the past business year and a report on their work to the General Meeting each year (see 37).

In Belgium, the presentation of these accounts and of this report to the General Meeting is only required implicitly by law (see 37).

b) In all six countries, the accounts must previously have been submitted for examination by an auditing body.

In Germany, at the end of each business year, the managing committee must present the accounts for the year (balance-sheet and profit and loss account), together with a report on the work of the supervisory board. It then submits these documents to the General Meeting together with the report on its own work and, where appropriate, the supervisory board's comments. When the balance-sheet has been published in the gazette prescribed by the Articles, the managing committee must forward it and the report on its work to the magistrate responsible for co-operatives (see 67).

In France, in the case of agricultural co-operatives in the strict sense, the inventory, operating accounts, profit and loss account and balance-sheet must be made available to the auditors at least one month before the General Meeting (see 62).

In Italy, the report of the board of directors must be submitted to the board of "sindaci" one month before the General Meeting (see 62).

In Luxembourg, the inventory, profit and loss account and balance-sheet must be submitted for auditing by the supervisory board (see 94 *a*)).

In the Netherlands, the accounts supplied by the board of directors and its responsibilities must be examined either by the auditing committee or by the supervisory board, as the case may be. This committee or board must present a report on its examination to the General Meeting (see 89 and 94 *b*)).

c) In all six countries, the General Meeting decides on the accounts (see 37).

109. Information on the financial management of the co-operative is supplied to individual members in much the same way in all countries:

In Germany the managing committee must publish the accounts and the report on its work during the six months following the end of the business year; the accounts and report must be made available to the co-operative's members at least one week before the General Meeting.

In France, a distinction must be drawn:

- i) in agricultural co-operatives in the strict sense, any member may, during the 15 days preceding the General Meeting, inspect the balance-sheet and the reports of the board of directors and of the auditors at the co-operative's head office.
- ii) Members of agricultural mutual credit banks and agricultural mutual insurance societies may examine the reports of the board of directors and of the auditors before the General Meeting. In addition, the rules of agricultural mutual credit banks permit every member to consult the minutes of the board of directors' meetings and of the General Meetings at any time.

In Italy, the board of "sindaci" must make the board of directors' report available to members 15 days before the General Meeting.

In Belgium, Luxembourg and the Netherlands, the Articles often stipulate that the accounts and the management report may be consulted by the members at least during the week preceding the General Meeting.

§ 11. INSPECTION

110. Inspection of agricultural co-operatives is obligatory in Germany and Italy, and partly so in Belgium, and optional in the other three Member States.

- a) In Germany, the law requires the "Prüfungsverbände" (auditing and inspecting associations) to inspect the co-operatives periodically, and the co-operatives have to submit to such inspection.

The work of the auditing and inspecting association is not confined to examining the accounts; it also concerns the co-operative's equipment and financial position. Its aim is to satisfy itself as to the business situation of the co-operative and its proper management.

These inspections must be carried out at least once a year when the balance-sheet amounts to

DM 350 000, and at least once every two years in other cases.

The professional qualifications of the inspectors are guaranteed by the auditing and inspecting associations, which are supervised by the government.

An inspector may not be a member or employee of the co-operative he inspects.

The law holds the auditing and inspecting association liable in the event of deliberate error or serious negligence.

Inspectors are paid by the auditing and inspecting association to which they belong.

- b) In Belgium, the General Meetings of co-operatives which have requested assistance from public funds must appoint inspectors who are members of the "Institut des Réviseurs d'Entreprise" (Institute of Business Auditors).

Rural banks are inspected by the Central Rural Credit Bank of the Belgian Boerenbond.

- c) In France, the position varies from one sector to another:

- i) The legal status of agricultural co-operatives requires them to see that they are inspected: federations of agricultural co-operatives are empowered to carry out periodical inspections of all the accounts and of the management of the co-operatives and unions of co-operatives which belong to them; this must be done according to a systematic and standardized plan, and the accounting, financial, legal, technical, economic and co-operative aspects must be considered. For these purposes, federations must obtain an authorization from the Minister of Agriculture after reference to the "Comité central d'agrément" (Central Authorizing Committee). When a co-operative belongs to a federation that has been authorized in this way, it is relieved of the obligation to appoint auditors.

In addition, agricultural co-operatives which submit to the permanent supervision of any body authorized by Agricultural Credit may obtain loans from agricultural mutual credit banks without their members being required by these banks to furnish a surety jointly and severally.

- ii) Inspection is carried out in the branches of agricultural mutual credit which are not affiliated to the "Caisse nationale de crédit agricole" (National Agricultural Credit Fund):

The "Fédération agricole d'Alsace et de Lorraine" (Agricultural Federation of Alsace and Lorraine),

set up in 1921, was instructed by the French Government to continue to carry out inspections in the *départements* of Haut-Rhin, Bas-Rhin and Moselle, in accordance with the German legislation which had been retained as local law.

Then the "Fédération centrale du crédit agricole mutuel" (Central Agricultural Mutual Credit Federation), set up in 1946, established an auditing and inspecting committee and introduced, consensually, inspection of the agricultural mutual credit banks affiliated to it.

The "Confédération nationale du crédit mutuel" (National Mutual Credit Confederation), set up in 1958, is required by law to exercise administrative, technical and financial supervision over the organization and management of every mutual credit bank in sectors other than agriculture. But it includes a large number of agricultural banks, to which it has extended its inspection system by means of conventions. The Confederation has delegated its powers of inspection to its regional federations, which include the "Fédération du crédit mutuel d'Alsace et de Lorraine" (Mutual Credit Federation of Alsace and Lorraine), which took over the work of inspection from the "Fédération agricole d'Alsace et de Lorraine".

In the agricultural mutual insurance sector, the "Union des caisses centrales de la mutualité agricole" (Association of Central Funds of Agricultural Mutual Institutes) has a supervisory and organizational service at its disposal.

d) In Italy, co-operatives are inspected at least once every two years, and more frequently whenever the need is felt. These inspections are carried out by the national associations which represent, assist and guide the co-operative movement and are legally recognized by the Ministry of Labour and Social Insurance.

e) In Luxembourg, some co-operatives voluntarily call upon the services of business auditors, who are often qualified accountants. They are selected by the managing committee.

In addition, in view of the development of rural banks during the last twenty years, their Central Fund has found it necessary to arrange for them to be inspected by qualified auditors.

f) In the Netherlands, it is common for co-operatives to ask for the services of inspectors.

In addition, the law on credit places agricultural co-operatives under the supervision of the "Nederlandse Bank" which operates through the "Centrale Coöpe-

ratieve Boerenleen-banken" (Central Banks for Co-operative Agricultural Credit). It is customary for agricultural co-operatives to be inspected by the central organization to which they are affiliated or by a qualified accountant.

111. In Germany and Italy, the public authorities supervise inspections to some extent.

In Germany, the Ministries for Economic Affairs of the Bund and of the Länder exercise supervision over the auditing and inspecting associations without this depriving them of their character as private bodies.

In Italy, supervision is entrusted to the Ministry of Labour and Social Insurance, apart from certain exceptions; thus, for example, inspection of the Italian Federation of "consorzi agrari" devolves upon the Ministry of Agriculture.

§ 12. PROLONGATION

112. In all six countries, the existence of co-operatives may be prolonged. The power to decide that this shall be done rests with the General Meeting.

In the Netherlands, if the board of directors should happen not to bring the matter before the General Meeting, the decision to extend the statutory life of the co-operative could be taken by the Minister of Justice under the law on prolongation and at the request of a member of the board acting in a personal capacity, or of a member of the co-operative or even a non-member.

§ 13. DISSOLUTION BEFORE DUE DATE

113. In all six countries, voluntary dissolution before due date lies within the competence of the General Meeting (in Belgium, provided that the Articles make such provision or that the General Meeting has the power to amend them). Certain conditions as to the composition and majority of the Meeting must be fulfilled in all countries: in Germany, a majority of three-quarters of the votes of members present is required; where a credit organization is concerned, it is even necessary for the General Meeting to have been specially convened for this purpose and to have heard the opinion of the inspecting association before taking a decision.

114. Provision for compulsory dissolution before due date, following debate at the General Meeting, exists in a number of countries.

This is the case in Belgium if the number of members falls below seven, or if withdrawals from membership reduce the capital to less than the statutory minimum.

In France, the extraordinary General Meeting must decide on dissolution of the co-operative if three-quarters of the share capital and reserves of an agricultural co-operative in the strict sense are lost, and if two-thirds of the share capital and reserves of an agricultural mutual credit bank are lost.

In Italy, dissolution must be carried out in the following instances:

- Inability to achieve the object of the co-operative;
- Inability to carry on business;
- Prolonged inactivity of the General Meeting;
- Loss of the assets.

115. Independently of bankruptcy proceedings, compulsory dissolution before due date by administrative or judicial procedure is possible in certain cases in all countries except the Netherlands.

In Germany the judicial authorities may dissolve a co-operative, either at the request of the managing committee, or *ex officio* if the number of members has fallen below the legal minimum; the administrative authorities may also do so if criminal acts or acts of negligence have been committed, or if the objects pursued by the co-operative are not in conformity with the law.

In Belgium the judicial authorities may, at the request of any interested party, pronounce the nullity and dissolution of a co-operative society in the event of irregularities in its deed of establishment, if the number of members falls below seven, or if its capital drops to less than the statutory minimum.

In France, the judicial authorities may entertain a request for dissolution from any member of a co-operative in the strict sense if three-quarters of the co-operative's share capital and reserves are lost and the General Meeting fails to take any decision; the administrative authority brings about dissolution indirectly when it withdraws its approval from a co-operative in the strict sense.

In Italy, administrative liquidation may occur in the event of the co-operative's inability to pay its debts or to attain its objects, inactivity on the part of the managing body, or failure to submit the balance-sheet for two years in succession.

In Luxembourg, judicial dissolution may be pronounced at the request of any interested party if the number of members remains below five for a period of six months.

§ 14. INSOLVENCY

116. Normal bankruptcy procedure is applicable to agricultural co-operatives in Germany, Belgium and the Netherlands; in Italy, it is admissible when co-operatives have a commercial activity as their object.

Neither in France nor in Luxembourg is normal bankruptcy procedure applicable. In France, however, a Bill that was passed by the Senate but is now being reconsidered would introduce a special procedure based largely on the judicial regulations.

§ 15. LIQUIDATION

117. a) The process of amicable liquidation comes within the competence of the General Meeting in all six countries.

Except in Italy, the actual liquidation operations are carried out by the board of directors or the managing committee, depending on the country concerned, unless the Articles provide otherwise or a decision to the contrary has been taken by the General Meeting.

In Italy, liquidation is entrusted to agents appointed by the General Meeting; it is subject to supervision by the judicial authorities and by the Minister of Labour.

b) Liquidation after declaration of bankruptcy is a matter for the bankruptcy trustee in Germany, and for the administrator appointed by the court in Belgium, Italy and the Netherlands.

118. The regulations governing the disposal of the net assets vary from country to country (see 32).

119. Members of co-operatives are liable for all or part of the net liabilities on liquidation, depending on the different rules (see 33).

*DEFENCE AND REPRESENTATION OF THE MORAL
AND MATERIAL INTERESTS OF AGRICULTURAL CO-OPERATIVES*

120. In all six countries, agricultural co-operatives have felt the need to combine for the defence of their moral and material interests and, in particular, as regards their representation vis-à-vis the public authorities and professional organizations in other sectors of the economy. There are, however, two essential differences to be found in the Member States.

i) In Germany, France and Luxembourg, there is a very clear-cut division between the task of defence and representation and commercial operations. In Belgium, Italy and the Netherlands, on the other hand, combination of these fields of activity is not prohibited.

ii) Unity of representation for the whole agricultural co-operative movement has only been achieved in Germany and Luxembourg.

121. In Germany, the law concerns only the auditing and inspecting associations. Agricultural co-operatives are regarded as forming part of them (see 110 a)).

All co-operative activities are grouped together in the Raiffeisen unions of each Land and, at national level, in the "Deutscher Raiffeisenverband" (German Association of Farmers' Credit Co-operatives); the former belong to the latter, which may not admit other members except the specialized central bodies (Zentralgeschäftsanstalten).

These unions have a dual function:

i) Internally, their purpose is purely administrative. They advise their members on general problems connected with agricultural co-operation; in addition, the public authorities have recognized them as competent to undertake inspection.

ii) Externally, the Raiffeisen unions are only empowered to represent the interests of their member co-operatives.

122. In Belgium, there are federations of agricultural co-operatives which are not homogeneous; some are specialized by branch of agricultural co-operation and their work tends to be more technical, while others have a regional character and their work is more administrative.

The federations' objects are freely determined. They do not work for profit; their function is purely advisory but they may undertake inspection, which they carry out in a spirit of service and not of coercion. In Belgium, inspection is above all viewed as a form of assistance rendered to the auditors who are responsible for checking the book-keeping of co-operatives and may not have all the necessary knowledge (see 110 b)). In spite of the lack of unity and representation, no competition arises in practice. The public authorities recognize the representative function of the federations, but this is a case of *de facto* recognition.

In Belgium, the law does not require that defence and representation of the co-operatives' interests be kept separate from commercial operations. It is therefore possible for a co-operative to combine a commercial object with a federal object, but it goes without saying that it is not then described as a federation.

123. In France, a distinction must be made:

a) In the sphere of agricultural co-operatives in the strict sense, the functions of federations of co-operatives are legally defined. These are:

— Representation and defence of the interests of agricultural co-operatives;

— Amicable settlement of disputes between their members;

— Propaganda in favour of co-operation;

— Assistance to their members in the form of advice and the provision of qualified experts;

— Inspection of their members, but after special authorization from the public authorities has been obtained (see 110 c)).

Federations participate in advisory services aimed at spreading a knowledge of improved agricultural techniques, after obtaining the approval of the public authorities required for these services, and they receive subsidies for the purpose.

It is important to note that the legal system applicable to agricultural co-operatives in the strict sense makes an explicit distinction between federations of co-operatives, the object of which is described above, and unions of co-operatives, which are co-operatives of co-operatives (see 1 b)).

In most branches of agricultural co-operation, there is one specialized federation. There are also departmental or regional federations, whose role is complementary. At national level, two other associations co-existed until 1966: the "Fédération nationale de la coopération agricole" (National Federation of Agricultural Co-operatives) and the "Confédération générale des coopératives agricoles" (General Confederation of Agricultural Co-operatives); the first is more representative than the second because it is older and bigger and, above all, because it extends to all branches. Opinion has, however, been moving strongly in favour of unity. A liaison body, the "Conseil national de la coopération agricole française" (National Council of French Agricultural Co-operatives), was set up in 1960 to speak for all co-operatives. Then, at the end of 1965, a procedure was set on foot which led to the concerted dissolution of these three associations and their replacement by a single association which was given the name of "Confédération française de la coopération agricole" (French Confederation of Agricultural Co-operatives).

b) The agricultural mutual credit banks have combined voluntarily, according to affinity, in various federations whose task is to safeguard their general interests:

i) The regional banks coming under the "Caisse" nationale de crédit agricole" (National Agricultural Credit Fund) have formed among themselves the "Fédération nationale du crédit agricole" (National Agricultural Credit Federation).

ii) The agricultural mutual credit sector currently termed "free" because it does not come under the National Fund is divided between two allegiances:

The banks which do not employ the Raiffeisen system either belong to the "Fédération centrale du crédit agricole mutuel" (Central Agricultural Mutual Credit Federation) or directly to the "Confédération mutuel" (National Mutual Credit Confederation) (see 110 c)).

Those which apply the Raiffeisen system belong to the "Fédération des caisses de crédit agricole mutuel Raiffeisen" (Federation of Raiffeisen Agricultural Mutual Credit Banks).

c) Agricultural mutual insurance societies are not obliged to federate. Nevertheless, unity of representation in this sector is entrusted to the "Fédération nationale de la mutualité agricole" (National Federation of Agricultural Mutual Societies) and to the "Union des caisses centrales de la mutualité agricole"

(Union of Central Funds of Agricultural Mutual Societies).

d) The three national federations (agricultural co-operatives, agricultural credit and agricultural mutual societies), whose activities are mainly specialized, have entrusted to the "Confédération nationale de la mutualité, de la coopération et du crédit agricole" (National Confederation for Agricultural Mutual Benefit, Co-operation and Credit) the tasks of ensuring liaison between them, defending their institutions and, above all, representing them jointly before the public authorities.

The Federation of Raiffeisen Agricultural Mutual Credit Banks is affiliated by contract to the "Confédération nationale du crédit mutuel" (National Mutual Credit Confederation).

124. In Italy, a distinction must be made between federations:

a) Certain federations or confederations provide commercial assistance for their members and they, too, are therefore commercial in character.

b) Other federations or confederations have as their aims assistance and economic, social and administrative organization, and their role is mainly representative. These confederations are sometimes specialized by branch of co-operation, sometimes territorial with administrative powers. Federations in the same sector are grouped horizontally in confederations. These federations compete freely with each other.

Non-commercial federations may be authorized to carry out inspection provided they cover at least a thousand agricultural co-operatives; there are associations for purposes of representation and assistance which are legally recognized and are empowered to carry out auditing (see 110 d)).

The public authorities recognize the representative function of the federations but only as regards their supervisory tasks.

c) There is one case in which affiliation is obligatory: the "consorzi agrari" must belong to the Italian Federation of "consorzi agrari", which is legally empowered to market agricultural produce co-operatively, as well as equipment and materials used in production.

125. In Luxembourg there are two agricultural and viticultural groupings whose purpose is to defend the professional, material and social interests of their members; these members are private individuals,

associations and federations, this last term being used in Luxembourg to denote co-operatives of co-operatives.

126. In the Netherlands, the regrouping of the basic co-operatives in various fields of co-operative activity presents a very varied pattern:

In certain sectors, the basic co-operatives are affiliated to national or regional federations. These federations of co-operatives have no commercial function; they defend the interests of their members in legal, fiscal and administrative matters.

In other sectors where there are no federations, the central co-operatives, to which the basic co-operatives belong, carry out tasks that would normally be done by federations.

Collaboration between the basic co-operatives, either in the federations for their sectors or in the central co-operatives, is always voluntary but generally very far-reaching.

The central co-operatives and federations of co-operatives belong to the "Nationale Coöperatieve Raad" (National Co-operative Council), which thus represents all co-operative sectors.

In addition, the groupings of co-operatives with affinities for the local professional organizations of the "Katholieke Nederlandse Boeren- en Tuindersbond" — KNBTB (Federation of Dutch Catholic Farmers and Horticulturists) are members of its Institute of Co-operatives.

127. The legal forms taken by federations cannot be homogeneous, as their objects are too diverse.

In Germany, auditing and inspecting associations have the legal form of registered association (see 110 *a*)).

In Belgium, the most usual forms are the non-profit-making association and the professional union (see 2 *b*)).

In France, the legislation governing agricultural co-operatives in the strict sense allows them to choose whether to be an association or a syndicate; federations in the credit and mutual benefit sectors are associations.

In Italy, federations whose object is to provide assistance are associations, and those whose object is commercial are co-operative societies.

In Luxembourg, federations have adopted the system of agricultural associations; professional groupings are unions of agricultural associations (see 2 *c*)).

In the Netherlands, federations are always associations. The central co-operatives generally take the form of co-operative societies but sometimes of limited companies (see 2 *d*)).

128. In Belgium, France, Italy and Luxembourg, the directors of federations receive no remuneration.

In Germany, on the other hand, they are granted a fixed salary provided their work for the federation is their main activity.

SECTION THREE

OFFICIAL PUBLICATION

129. So long as they are in existence, agricultural co-operatives are obliged to comply with formalities regarding publication.

a) In Germany, new agricultural co-operatives and federations must be declared by the managing committee to the competent court in their area responsible for the registration of companies, with a view to entry on the register of co-operatives. The same form of declaration must be observed whenever the articles are amended or the composition of the managing committee is changed; whenever the delegation of powers to members of the managing committee comes to an end; or whenever members join or leave the co-operative.

b) In Belgium, new agricultural co-operatives must deposit their deed of establishment at the office of the clerk of the commercial court or of the civil court within 15 days of its date, and must publish it in full in the "Moniteur belge"; this must also be done in the case of any amendments to the deed. In addition, they must deposit at the same office within 6 months the list of members responsible for the management, within 8 days the deeds appointing new managers, and within 15 days of their adoption, the annual balance-sheets. Finally, they must see that they are entered on the business register.

Federations carry out the publication required by

their legal systems; those which are *de facto* associations do not publish anything.

c) In France, co-operatives must follow a procedure which is peculiar to them. The following points should be noted:

i) One month before the constituent General Meeting of an agricultural co-operative in the strict sense, its promoters are obliged to notify the secretariat of the authorizing committee concerned of their intention to form a co-operative society, and they must give proof of its economic utility. A representative of the authorizing committee is invited to the constituent General Meeting.

New agricultural co-operatives in the strict sense must deposit the minutes of their constituent meeting, their deed of association, and the list of their directors and managers with the clerk of the appeal court of the area in which they have their head office, within one month of the constituent meeting. Within the same period they must publish the following information in the local gazette of legal notices: name, head office, object, area of operation, duration, amount of capital, directors, auditors, and persons authorized to sign on behalf of the co-operative. In the case of national unions of agricultural co-operatives, this announcement must be inserted in the "Journal officiel de la République française" (national gazette). The same formalities must be observed for any subsequent changes.

Lists of the agricultural co-operatives that have obtained authorization and of those that have forfeited it are published in the "Journal officiel" within 6 months of authorization or of withdrawal thereof.

A registration number is given to each organization approved.

ii) Federations of agricultural co-operatives must carry out the publication formalities appropriate to associations or syndicates.

iii) Agricultural mutual credit banks are not validly established until two copies of the Articles and of the list of directors, managers and members have been deposited with the clerk of the competent court of the place where they have their head office. One of the copies of the Articles and of the list of members of the bank is forwarded by the clerk of this court to the clerk of the appeal court.

Every year, before 1 June, the bank must deposit with the clerk of the local court two copies of the balance-sheet for the preceding business year, and

the list of directors and auditors. One of the copies is forwarded by the clerk of this court to the clerk of the appeal court.

The documents thus deposited with the clerks of the courts by co-operatives and agricultural credit banks are available to anyone on request.

iv) The formalities governing publication in the case of agricultural mutual insurance societies are the same as for syndicates.

d) In Italy, new agricultural co-operatives must comply with the provisions of commercial law; within 30 days they must lodge at the office of the clerk of the local court their deed of establishment and the Articles duly executed and authenticated by a notary; in addition, they must register the deed of establishment within 20 days of its date. Subsequently, agricultural co-operatives must deposit at the office of the clerk of the court the minutes of their General Meetings and all acts reporting the co-operative's activities.

As stated before, orders delegating powers by the board of directors must be deposited at the office of the clerk of the court and at the business registry (see 54).

e) In Luxembourg, the deed of establishment must be registered in two originals; one of these is lodged with the secretariat of the commune in which the co-operative has its head office, together with the list of persons authorized to sign on behalf of the co-operative and the list of the members of the supervisory board and managing committee; a notice is inserted in the "Mémorial" (official gazette). The same applies to amendments to the Articles.

In addition, the balance-sheet and the profit and loss account must be lodged with this secretariat within 15 days of their adoption by the General Meeting.

f) In the Netherlands, the board of directors must publish the co-operative's deed of establishment and its Articles in the "Nederlandse Staatscourant" (official gazette). Enter the co-operative on the business register at the Chamber of Commerce of the area in which the co-operative has established its head office, and deposit there at the same time the list of members or a certified true copy of this list if the members are in any way liable vis-à-vis third parties.

Orders delegating powers by the boards of directors must be deposited with the Chamber of Commerce.

In addition, any changes in the list of members liable during the existence of the co-operative must be

notified in writing to the Chamber of Commerce during the month following the end of the business year. The accounts must be lodged at the business registry within one month of their adoption.

130. In four Member States, formalities are laid down for offices other than the head office:

a) In Germany, inclusion on the registers of co-operatives of the courts competent for the area must be requested when sub-offices have assets of their own and keep their own accounts and when the person in charge of them is empowered to conclude contracts with third parties.

b) In Belgium, co-operatives must be entered on the appropriate business registers.

c) In Italy, notification of the opening and closure of sub-offices must be made to the local of the courts, and the notarially authenticated powers of attorney of their managers must be lodged with them.

d) In the Netherlands, all subsidiaries or branches of a co-operative must also be entered in the business register at the Chamber of Commerce competent for the place in which they are established.

131. *a)* In Belgium, Italy and Luxembourg, the same formalities must be gone through on dissolution as during the existence of the co-operative.

b) In Germany, dissolution must be reported without delay by the managing committee, for entry in the register of co-operatives.

c) In France, no particular formalities are prescribed.

d) In the Netherlands, dissolution must be reported to the business registry.

132. On the closure of liquidation, the following formalities must be carried out:

a) In Germany, the books, papers, etc. must be entrusted to a former member or to a third party who will preserve them for 10 years. This third person is appointed by the judicial authorities unless provision is made in the Articles or a decision on the matter is taken by the General Meeting.

b) In Belgium, the act of closure must be lodged at the office of the clerk of the civil or commercial court within 15 days, and an announcement must be made in the "Moniteur belge" stating where the

co-operative's books and papers will be deposited and kept for at least 5 years, and where the sums due to creditors and to members have been deposited.

c) In France, there are no provisions regarding agricultural co-operatives; agricultural mutual insurance societies are subject to the same rules as syndicates.

d) In Italy and Luxembourg, the aforementioned rules regarding publication are applied.

e) In the Netherlands, an entry must be made in the business register.

133. In all six countries, the prime consequence of errors and omissions in publication required by law is inopposability against third parties. In France and Italy, such errors and omissions carry penalties.

In certain countries they also have other consequences:

In Germany, the legal personality of a co-operative dates only from the date of its entry in the register of co-operatives.

In Belgium, legal actions brought in connection with an unpublished decision or amendment are inadmissible. Penalties may be incurred as a result of failure to lodge the balance-sheet.

In France, errors and omissions taking place at the time of establishment of the co-operative may entail its nullity. The ordinary law governing syndicates applies to agricultural mutual insurance societies.

In Luxembourg, the co-operative is null and void if the Articles have not been drawn up in two originals and registered. Failure to publish the required information in the "Mémorial" deprives the co-operative of its legal personality. Failure to lodge the balance-sheet involves liability on the part of the members of the managing committee.

In the Netherlands, the law lays down that directors who have omitted to publish the co-operative's deed of establishment, or to have it entered in the business register, incur personal and unlimited liability for their actions or for actions carried out on their authority on behalf of the co-operative.

In addition, the law allows fines to be imposed on the members of the managing committee if they fail to lodge the list of the co-operative's members with the Chamber of Commerce, to notify changes made in this list during the existence of the co-operative, or to submit the accounts.

INTERVENTION BY THE PUBLIC AUTHORITIES

134. Except in the Netherlands, public services or bodies emanating from the public authorities are competent in matters relating to agricultural co-operation; the degree of competence varies from country to country.

a) In Germany, co-operatives come under the Federal Ministry of Economic Affairs and the Ministries of Economic Affairs of the Länder. These Ministries have the right to supervise the auditing and inspecting associations and are at the same time responsible for co-operation in general.

Agricultural co-operatives also come under the General Agricultural Affairs Division of the Federal Ministry of Agriculture in so far as questions concerning them have a bearing on agricultural policy.

b) In Belgium, the "Conseil national de la coopération" (National Co-operation Council), although professional in character, comes under the Ministry of Economic Affairs and Energy. Its function is purely advisory. It comprises four committees: for consumers' co-operatives, agricultural co-operatives, co-operatives concerned with production and distribution, and co-operatives which provide services. Co-operatives can only be approved for one committee, and the number of seats is in proportion to the business turnover. The 20 full members of the Council and their 20 alternates are appointed by the King on the proposal of the committees. The Council deals with questions referred to it by the government, but can also consider other problems on its own initiative; each committee examines the matters within its own sphere of competence, but opinions are discussed by all the delegates meeting together in council.

Agricultural co-operatives come under the Department of Agricultural Co-operation of the Ministry of Agriculture for certain matters peculiar to them (special credits, agricultural investment funds, tax arrangements).

The "Fonds d'investissement agricole" (Agricultural Investment Fund) set up by the law of 15 February 1961 provides substantial and effective financial support for farmers and agricultural co-operatives (see 9 a)).

In order to qualify for such aid, agricultural co-operatives and co-operatives of agricultural co-op-

eratives must fulfil several conditions laid down in the implementing royal decree; the chief of these concern:

- The admission of new members (see 27 a));
- Single voting at the General Meeting (see 38);
- Limitation of the annual dividend allocated to shares (see 101).

c) In France, the only body with overall competence in co-operative matters is the "Conseil supérieur de la coopération" (National Council for Co-operation), which comes under the Prime Minister and whose secretariat is run by an official of the government's Secretariat General; its activity is limited to the study of matters referred to it by the government.

The Ministry of Social Affairs is responsible for general application of the rules governing co-operation and more particularly workers' production co-operatives, except as regards co-operatives in agriculture, which have been exclusively under the Ministry of Agriculture since 1941. However, various other Ministries have to do with certain sectors of the co-operative movement coming within their province; this is the case with co-operatives concerned with consumption, credit, maritime credit, fisheries, construction, transport, the liberal professions, leisure, etc.

The Ministry of Agriculture is the seat of the "Conseil supérieur des structures" (National Council on Structures), whose section dealing with structures in agriculture has taken the place of the former "Conseil supérieur de la coopération agricole" (National Council for Agricultural Co-operation), now abolished; this section includes a sub-section which constitutes the Central Authorizing Committee and replaces the former National Council (see 4, 42 b) and 110 c)).

Agricultural co-operatives come under the Directorate-General for Production and Markets at the Ministry of Agriculture; agricultural credit banks also come under the Treasury Directorate at the Ministry of Finance, and agricultural insurance societies under the Insurance Directorate of this Ministry.

d) In Italy, co-operation is supervised, as a whole and in legal and administrative matters, by the Directorate-General for Co-operation at the Ministry

of Labour and Social Insurance. A central committee in this Directorate is consulted on matters relating to legislation on agricultural co-operatives; in addition, supervisory committees are set up in the provinces, in the Prefects' offices. Various categories of co-operatives, however, come under the authority of other ministerial departments:

— Insurance co-operatives are supervised by the Ministry of Industry and Commerce by virtue of law No. 437 of 17 April 1925;

— Credit co-operatives (rural and artisan banks and people's banks) are supervised by the Bank of Italy by virtue of decree-law No. 226 of 1 December 1944;

— "Consorti agrari" and their Federation are supervised by the Ministry of Agriculture and Forestry by virtue of decree-law No. 1235 of 7 May 1948;

— Building co-operatives partially financed by the State are controlled directly by the Ministry of Public Works or indirectly through the civil engineering offices and with the assistance of a supervisory committee for low-cost people's housing.

e) In Luxembourg, the Agricultural Services Administration at the Ministry of Agriculture includes, in its agronomics section, the Agricultural Mutual Benefit Department, which deals with matters relating to co-operation: establishment, organization, liquidation, supervision, inspection and auditing of agricultural associations, federations and co-operative societies.

135. Except in France and Luxembourg, the law does not provide for any model Articles.

In France, moreover, they exist only for agricultural co-operatives in the strict sense, which are obliged to comply with them (see 4 above). In Luxembourg, they are optional.

In Italy, particular provisions apply to certain types of co-operatives.

The law lists the points which must figure in the Articles in Germany, Luxembourg and the Netherlands, and in France as regards agricultural mutual credit funds.

136. The public authorities exercise more or less extensive supervision over agricultural co-operatives and federations of them in all the six countries except the Netherlands:

a) In Germany, the competent Ministries of the Federal Republic and of the Länder have the right

to supervise only the auditing and inspecting associations; they make sure that the inspections required by law are properly carried out. The auditing and inspecting associations cannot alter their objects nor the area in which they operate without Government authorization (see 110. a), 111. and 134 a)).

b) In Belgium, only agricultural co-operatives which wish to be approved by the "Conseil national de la coopération" (National Co-operation Council) are subject to supervision; this extends only to the Articles, and does not concern the co-operative's activities. These activities may, however, be subject to supervision by the Ministry of Agriculture if the co-operative has received aid from the Agricultural Investment Fund.

In addition, agricultural co-operatives which take the form of a professional union are subject to the approval and supervision of the Government (see 2 b)).

c) In France, agricultural co-operatives, agricultural mutual credit banks and agricultural mutual insurance societies are subject to the supervision of the Ministries of Agriculture and Finance.

Furthermore, any institution or organization that has received advances or loans from the National Agricultural Credit Fund is subject to the supervision of the Inspectorate-General of Finance. In addition, the National Fund supervises the functioning of all institutions or organizations that have obtained advances or long-term loans from the Fund either directly or indirectly, or loans from agricultural credit banks.

i) Agricultural co-operatives in the strict sense are governed by the following rules:

At the time of their establishment, agricultural co-operatives must be approved by either the Ministry of Agriculture or by the Prefect of the *département* where their head office is located, depending on the size of the area in which they operate, after the opinion of either the central or the departmental authorizing committee has been obtained; these committees are composed of officials and of representatives of agricultural co-operatives (see 4 and 134 c)).

Approval can be withheld in the event of: irregularities in the formalities governing establishment; non-conformity of the Articles with the model Articles; non observance of laws or regulations; prior existence, in the area in question, of two agricultural co-operatives having the same object (see 6).

Amendments to the Articles of an agricultural co-operative in the strict sense are subject to approval by the public authorities, in the same way as is establishment of the co-operative.

This approval can be withdrawn if the co-operative infringes laws or regulations, if it extends its object or area of operation without the consent of the public authorities, or if, the co-operative has failed to resume its normal activity within a year of the appointment of a new board of directors to replace a previous one that has been dissolved (see 47 *b*)).

The Ministries of Agriculture and of Finance are also required to keep a direct check on the management and functioning of agricultural co-operatives. Their observations are addressed to the board of directors or even to the auditors, and must be communicated to the General Meeting. To this end, in the month following its General Meeting every agricultural co-operative is obliged to submit to the departmental director of agriculture or to the Ministry of Agriculture — depending on its size — a copy of the minutes of the General Meeting and of the documents previously made available to members, together with a statement giving the number of members and the names of the directors, auditors, managers and persons authorized to sign on behalf of the co-operative. Official checks may result in dissolution of the board of directors, but this is very unusual (see 47 *b*)).

In addition, any agricultural co-operative that has obtained a loan from the National Agricultural Credit Fund or from an agricultural mutual credit bank must submit, to the secondary credit bank affiliated to the National Fund and at least one month before its annual General Meeting, its balance-sheet, business report and profit and loss account, and its plans for allocating the surplus on this account.

The legal status of agricultural co-operatives makes it necessary for them to obtain the authorization of the Minister of Agriculture in many cases, such as the following:

- ★ Derogation from the rule of exclusiveness (see 9 *c*));
- ★ Creation of a co-operative development fund (see 21 *d*));
- ★ Introduction of plural voting in the General Meeting (see 38);
- ★ Election of foreigners as directors (see 42 *b*));
- ★ Distribution of the net surplus on liquidation (see 32);

★ Direct administration of unions of co-operatives by their General Meeting (see 41 *b*)).

In principle, the public authorities do not have any responsibility to intervene in the business of federations of agricultural co-operatives. However, federations which carry out inspections are subject to the approval of the Minister of Agriculture, given after consultation with the Central Authorizing Committee. This approval can be withdrawn by the same authority, using the same procedure. Federations of agricultural co-operatives are also subject to supervision by the Minister of Agriculture (see 110 *c*)).

ii) In the agricultural credit sector, the position is similar:

All agricultural credit institutions which benefit from tax exemptions are subject to State supervision exercised by agents of the Ministry of Agriculture or of the National Agricultural Credit Fund.

If it is found that an agricultural mutual credit bank is failing to comply with laws or regulations, the Minister of Agriculture may, after consulting the Ministry of Finance, deprive it of the tax exemptions; this brings it under the ordinary law system pertaining to companies.

In serious cases, the board of directors of a secondary agricultural mutual credit bank affiliated to the National Fund may be dissolved by the latter institution (see 47 *b*)).

Secondary agricultural mutual credit banks affiliated to the National Fund must submit their balance-sheet, profit and loss account and plans for the distribution of their annual surplus to the National Fund for its approval at least one month before the General Meeting is held.

Secondary agricultural credit banks affiliated to the National Fund must obtain its approval for:

- ★ Election of their chairmen and vice-chairmen (see 50);
- ★ Appointment of their managing directors and managers (see 52 *b*));
- ★ The salaries and other benefits paid to their managers (see 56 *b*));
- ★ The compensatory allowance paid to their managing directors (see 56 *b*)).

The authorization of the National Fund is required in other cases, such as the following:

- ★ Reduction of the share capital of banks that have applied to it for financial aid (see 18 *a*));

★ Distribution of the net assets on liquidation (see 32);

★ The combination of more than one post by bank managers (see 53 *b*)).

A primary agricultural mutual credit bank may not transact business with a secondary bank affiliated to the National Fund unless it has been authorized to do so by the latter institution. In its relations with its affiliated primary banks, the secondary bank enjoys the same prerogatives as the National Fund does in its relations with the secondary bank; the latter cannot, however, dismiss managers, secretaries, accountants or treasurer, nor appoint a provisional managing committee, without the approval of the National Fund.

iii) The establishment of an agricultural mutual insurance society is not subject to authorization by the public authorities. But the direct handling of industrial and automobile accidents is reserved in France to insurance companies authorized for the purpose by the Ministry of Finance; in the case of agricultural mutual societies, only reinsurance societies are actually given such authorization.

Agricultural mutual insurance of reinsurance societies are subject to the supervision of the Ministry of Agriculture for the whole of their business activity. Furthermore, the branches dealing with industrial and automobile accidents are placed under the supervision of the Ministry of Finance.

In the case of certain functions, the Minister of Agriculture's permission must be obtained before the same director can perform more than one of them (see 43).

d) In Italy, the State keeps an eye on agricultural co-operation in order to promote and encourage its development. The Italian Civil Code confers upon the public authorities the right to intervene if irregularities are found in an agricultural co-operative's business; the authorities can check it or have it checked by a legally recognized association of co-operatives.

After the central committee has been consulted, the co-operatives at fault may be dealt with by such measures as:

— Formal summons to terminate the irregularity in question;

— Being struck off the registers;

— Dismissal of the directors and "sindaci" (see 47 *b*));

— Transfer to a government commissioner of all the powers of the co-operative's institutions (see 47 *b*));

— Compulsory administrative liquidation (when the co-operative is unable to pay its debts) (see 115).

In addition, some directors are appointed by the Government or by public bodies (see 42 *a*)):

— The "sindaci" of co-operatives which are empowered to act on behalf of the State are appointed and dismissed by the Government (see 58);

— The national associations which exist to represent, assist and guide the co-operative movement are recognized by a decree of the Minister of Labour and Social Insurance, and are supervised by him except in cases such as that of the Italian Federation of "consorzi agrari", which comes under the Ministry of Agriculture (see 110 *d*) and 111).

Agricultural co-operatives are free to amend their Articles, except in the cases provided for in special laws.

e) In Luxembourg, the public authorities exercise supervision over primary and secondary associations via the Agricultural Mutual Benefit Department in the Agricultural Services Administration. This supervision embraces book-keeping and legal and administrative matters.

f) In the Netherlands, as mentioned above, the Minister of Justice has power to extend the statutory life of the co-operative if the board of directors and General Meeting fail to do so (see 112).

137. *a*) In no country is the permission of the public authorities required for the voluntary dissolution of an agricultural co-operative.

In France, however, the voluntary dissolution of an agricultural mutual reinsurance society qualified to handle industrial and automobile accidents cannot be carried out without the consent of the Ministry of Finance.

b) Voluntary liquidation is not supervised by the public authorities except, in some cases, in France (see 32).

138. *a*) Only in France and Italy is it possible for a branch of agricultural co-operation to be placed at the disposal of a public service.

France has two public establishments, the "Caisse nationale de crédit agricole" (National Agricultural

Credit Fund) and the "Office national interprofessionnel des céréales" — ONIC (National Joint Cereals Office) which maintain close relations for collaboration and supervision with the agricultural mutual credit banks affiliated to the National Agricultural Credit Fund, on the one hand, and the cereal storage co-operatives and cereal traders, on the other — both of which groups are attached to the ONIC. The ONIC is responsible for organizing the market in cereals, of which the agricultural co-operatives are a fundamental feature since they play an important part in the collection of cereals. Consequently, both agricultural co-operatives and stockpiling traders are represented on the ONIC's central

council, while being at the same time subject to strict supervision by the agents of that institution.

In Italy, the State may call upon the co-operatives' services if provision for this is made in their Articles; thus, decree-law No. 1235 of 7 May 1948 gave the "consorzi agrari" the task of collecting and storing agricultural products such as wheat, oil and grapes, on behalf of the State; the performance of a public service by a co-operative must be accounted for entirely separately from its other activities.

b) Voluntary collaboration also takes place in Belgium, France and Italy; in France, this is the case with dairy co-operatives.

SECTION FIVE

LATERAL FORMS OF AGRICULTURAL CO-OPERATION

139. Except in Italy, there is in addition to the agricultural co-operative sector a lateral sector which is co-operative in inspiration though not in form.

a) In Germany, Belgium, Luxembourg, and sometimes in the Netherlands, the lateral sector takes the form of companies under ordinary law.

In Germany, insurance is entrusted to the limited companies of the Raiffeisen banks, and of the people's banks whose head office is in Wiesbaden, which provide casualty and life insurance (see 5 d)).

In Belgium, there are three limited companies: the "Aan- en verkoopvennootschap" (Purchasing and Sales Company), which groups the agricultural associations for joint buying and selling; the "Assurantie van de Belgische Boerenbond" (Belgian Boerenbond Insurance Company), which operates in all branches of agricultural insurance and reinsurance; and the "Technische Dienst van de Belgische Boerenbond" (Belgian Boerenbond Technical Service), whose object is the sale of agricultural machinery and equipment (see 5 d)).

In Luxembourg, the semi-co-operative sector was established on the initiative of a professional group, the "Centrale Paysanne"; it consists of limited liability companies, whose members are farmers and corporations, particularly co-operatives.

In the Netherlands some limited companies are found, but they are very few.

b) In Belgium and the Netherlands, the semi-co-operative sector includes other legal forms.

In Belgium, it may take the form of associations under ordinary law.

In the Netherlands, there are some societies that are co-operative in spirit but take the form of associations under the law of 22 April 1855 and not that of specifically co-operative societies under the law of 28 May 1925 (see 2 c)).

c) In France, there are limited companies almost all of whose share capital belongs to co-operatives, to credit banks or to insurance societies: for example, the "Banque fédérative du crédit mutuel d'Alsace et de Lorraine" (Federative Bank of Alsace and Lorraine) in Strasbourg, whose shareholders are the rural and urban Raiffeisen mutual credit banks of the Eastern *départements*; the "Banque française de l'agriculture et du crédit mutuel" (French Agricultural and Mutual Credit Bank) in Paris, the majority of whose shareholders are agricultural mutual credit banks, agricultural co-operatives, and unions of agricultural syndicates; the "Union pour le développement des exportations agricoles et alimentaires" — Union-Export (Union for the Development of Agricultural and Food Exports) in Paris, whose shareholders are big agricultural co-operatives and regional agricultural mutual credit banks; and the "Société d'assurance moderne des agriculteurs" (SAMDA — Modern Farm Insurance Society) in Paris, the shareholders in which are agricultural mutual reinsurance societies whose activities it extends on the non-agricultural rural level.

There is, however, a special field of semi-co-operative activities with a legal status of its own. This com-

prises the "Sociétés d'intérêt collectif agricole" — SICA (Societies of Collective Agricultural Interest), which were reorganized by decree No. 61-868 of 5 August 1961; these societies can elect to take the form of a civil company, "société à responsabilité limitée" (cf. limited liability partnership) or "société anonyme" (cf. limited company). Their objects are to set up or manage installations or equipment and to render services to farmers or to a given district; they may, on certain conditions, admit non-farmers to membership and transact half their business with persons other than their members.

Another special legal arrangement has recently appeared in France with the "Groupements agricoles d'exploitation en commun" (Joint Farming Groups), which were created by the law of 8 August 1962 and are civil companies.

140. The existence of the semi-co-operative sector is justified on various grounds, which can be summarized as follows:

In Germany, economic and above all financial requirements, practical exigencies such as the small number of members, the desire for wider facilities and, lastly, personal convenience, have all worked in this direction; thus there are some joint stock companies which are co-operative in spirit, whose shareholders have undertaken to cultivate sugarbeet.

In Belgium, a wide variety of motives — historical, fiscal or structural — have made themselves felt.

In France, the impetus undoubtedly comes from the flexibility of the legal arrangements governing the

SICA (Societies of Collective Agricultural Interest), which is in contrast to the rigidity of those governing agricultural co-operatives: the SICA are not obliged to do business exclusively with their members, and may include non-farmers among their members. Moreover, in the case of the new Joint Farming Groups the net assets on liquidation may be distributed among the members.

In Luxembourg, economic necessities have revealed the narrowness of the legal system which governs agricultural associations by virtue of the Grand-Ducal decree of 17 September 1945 (see 2 c)).

In the Netherlands, associations have been formed on the basis of the law of 22 April 1855 because the cost of establishing them was appreciably lower than for co-operative societies under the law of 28 May 1925. Furthermore, the law of 1855 allows much greater freedom in the drafting of the Articles.

141. In Germany, Belgium, Luxembourg and France, the two sectors are complementary in so far as they both serve the cause of agriculture.

The attitude of the French authorities was clearly shown in their statement of the grounds for the Bill which became the law of 29 December 1961: firstly, agricultural co-operation is the institution of ordinary law in the organization of the economic infrastructure of agriculture; secondly, the SICA, which are co-operative in character and complementary to co-operatives, can intervene to call upon assistance from outside the co-operative world; thirdly, co-operatives and SICA may combine to set up ancillary commercial companies.

Comparison of fiscal systems applicable to agricultural co-operatives

142. In all six countries there are special tax arrangements for agricultural co-operatives; these are fairly limited in Belgium and the Netherlands, and appear to be most far-reaching and varied in France.

143. For the purposes of the present study, the main question is to clarify the differences between the taxation of agricultural co-operatives and that of competing enterprises subject to ordinary fiscal law.

a) In Germany, agricultural co-operatives are subject in fiscal matters to the ordinary law applicable to corporate bodies, except in a few cases:

i) Agricultural service co-operatives and processing co-operatives are exempt from corporation tax, tax on industry and trade and wealth tax if the following conditions are fulfilled:

They confine their activity to their members;

This activity does not extend beyond the field of agriculture (court rulings have added the stipulation that the reserves held in accordance with the law and the Articles should not exceed 40 % of the total balance-sheet and 400 % of the total shares, unless half of the investments are covered by the latter total);

They do not own more than 4 % of the capital of a joint stock company;

They do not have more than 4 % of the votes or 10 % of the assets of a co-operative.

It follows from this that:

An agricultural service co-operative will lose its tax exemption if it does not confine its activity to operating purely agricultural facilities and if, for example, it acquires joint washing or refrigeration equipment;

An agricultural processing co-operative will lose its tax exemption if, under the pressure of industrial developments, it starts manufacturing products that are not deemed to be agricultural products, such as milk drinks, milk powder, condensed milk or ice cream.

Co-operatives of agricultural processing co-operatives enjoy the same advantages, provided all the co-operatives affiliated to them are themselves exempt from tax.

ii) Those of the rural credit co-operatives whose main activity is banking enjoy special fiscal advantages, provided they grant loans only to their members.

Under this special system, their corporation tax (*Körperschaftsteuer*) is reduced from 49 % to 19 %; the tax on income from industry and trade (*Gewerbesteuer*) is reduced by two thirds; and the members' capital stock is deducted when the assets liable to wealth tax (*Vermögensteuer*) are computed.

Co-operatives of rural credit co-operatives enjoy the same advantages.

iii) The surpluses distributed to members in the form of patronage refunds proportional to turnover can be deducted from the surplus on the business year in the case of co-operatives fully liable to tax.

On the other hand, distributed profits are fully taxable, while joint stock companies may enjoy considerable reliefs.

Co-operatives do not benefit from the "Schachtelprivileg", under which the profits of joint stock companies derived from holdings of at least 25 % in other joint stock companies are exempt from taxation.

The courts have refused co-operatives the right to "Organschaft" (relationship of dependence on another company), which carries certain tax exemptions. Accordingly, co-operatives cannot conclude contracts, with fiscal effect, for the cession of profits to other companies.

Where these last three points are concerned, agricultural co-operatives are thus at a disadvantage compared with joint stock companies.

b) In Belgium, agricultural co-operatives are governed by the fiscal arrangements applicable to co-operative societies, to which the fiscal system pertaining to trading partnerships without privileges applies, with no reduction apart from the following concessions:

Machinery-using co-operatives are exempt from invoice tax (6 %) if they are recognized by the Ministry of Agriculture's co-operation department.

Services (such as transport, packing, sorting) provided by the auction organizations for their members are exempt from invoice tax.

The distribution of surpluses to members in the form of a patronage refund is no longer taxable, provided it was made before the balance-sheet was closed; it is then deemed to be a professional charge.

Interest on the paid-up capital of recognized co-operative societies is exempt from tax up to a limit of Bfrs. 100 for each beneficiary.

The registration duty on capital brought in is reduced from 2.50 % to 1 % for recognized co-operative societies.

c) In France, a distinction is made between co-operatives in the strict sense, credit banks and insurance funds.

i) The basic principle is that agricultural co-operatives in the strict sense are governed by special fiscal provisions in respect of operations carried out by them with their members, but that operations carried out with non-members are subject to ordinary fiscal law. The special fiscal arrangements relating to them are as follows:

Agricultural co-operatives are exempt from company tax except on:

Sales in a retail shop distinct from the main establishment;

Sales of products which are neither foodstuffs for humans or animals nor agricultural or industrial raw materials;

Operations that the co-operatives carry out with non-members within the terms of the exceptions allowed by inter-ministerial decrees when their normal working capacity has been reduced by more than half;

In respect of their exclusively agricultural buildings (e.g. silos and cellars where wine is made), agricultural co-operatives benefit from the exemption from property tax that is granted for farm buildings;

The additional tax for building (1 % of wages and salaries) does not apply to agricultural supply and service co-operatives; and co-operatives which produce, process, preserve or sell agricultural products are only subject to this tax in the exceptional cases when they are liable to company tax;

Agricultural co-operatives are exempt from business tax (*contribution des patentes*);

Only agricultural co-operatives engaged in production and selling pay the apprenticeship tax (0.4 % of wages, earmarked for technical training);

Co-operatives do not have to deduct tax "at source" (24 % or 12 %) when they pay the statutory interest on their shares;

Such agricultural co-operatives as operate with industrial means or by commercial methods pay added-value tax (20 %); in addition, local tax (2.75 %) is levied on their direct sales to consumers;

Agricultural co-operatives do not have to pay the service tax (8.5 %) for services rendered by them to their members in connection with their registered objects;

Cereal co-operatives are exempt from all stamp duties other than that on receipts;

Cereal co-operatives and those concerned with artificial insemination and joint use of agricultural equipment are exempt from registration duties; consequently, they do not pay the tax of 1.6 % which is chargeable when capital is brought into a company on establishment or when its existing capital is increased;

Mergers of agricultural co-operatives were temporarily encouraged by the abolition of all registration duties until 31 December 1965;

In the case of agricultural co-operatives, the registration duty payable for company prolongation (0.8 %) is levied only on the amount of their share capital;

Liquidation is exempt from registration duty provided the assets are devoted to a purpose of general agricultural interest with the approval of the public authorities.

(ii) Agricultural mutual credit banks are exempt from company tax, business tax, apprenticeship tax, value-added tax, service tax and local tax;

Some of their credit operations are governed by special fiscal provisions;

On establishment, agricultural mutual credit banks do not have to pay the costs connected with publication formalities;

The shares are exempt from stamp duty and their reimbursement entails the charging of a fixed duty of 10 francs.

(iii) Agricultural mutual insurance societies pay company tax only on their income from real estate and from certain stocks and shares, and at a reduced rate at that.

As "sociétés civiles", they do not pay business tax.

They are completely exempt from stamp and registration duties.

d) In Italy, although agricultural co-operatives are as a general rule liable to taxation in the same way as ordinary enterprises, a number of exceptions are made in their case:

On establishment, they enjoy general exemption from registration and stamp duties. Changes in their share capital are not generally such as to attract tax, since such capital is variable by definition.

During the ten years following their prolongation, agricultural co-operatives are exempt from registration and stamp duties if their actual share capital is less than 3 million lire and if they apply the rules of a mutual society as that term is understood for fiscal purposes.

On liquidation the same exemptions apply, but as regards indirect taxes.

The manufacturing tax concerns only the agricultural co-operatives that process agricultural products (e. g. co-operative distilleries).

Several exemptions are allowed if the co-operative deals only with its members:

The tax on movable wealth is not imposed on normal farming operations.

The general tax on receipts, which is levied on receipts from assets realized in cash or by any other means of payment, does not apply to the supply of products intended for processing or collective sale by members to co-operatives, or by co-operatives to co-operatives of co-operatives; nor does it apply to exchanges of goods between federations of co-operatives and the co-operatives which are affiliated to them for the purpose of obtaining supplies.

Company tax is imposed neither on workers' nor consumers' co-operatives, nor on co-operatives that handle, process or sell products, provided the share capital does not exceed 4 million lire and the taxable property 8 million lire; nor is it charged on unlimited liability co-operatives.

e) In Luxembourg, too, the general rule is that agricultural co-operatives are subject to ordinary fiscal law, but there are a number of exceptions:

Agricultural co-operatives whose capital is less than Lfrs. 100 000 are exempt from wealth tax (0.5 %).

Local purchasing and sales associations whose annual taxable income does not exceed Lfrs. 7 500 are exempt from corporation tax, property tax and trade tax.

Co-operatives for the joint use of agricultural, viticultural or forestry equipment are also exempt, provided they work only with their members.

The same applies to processing co-operatives, provided their activities are exclusively concerned with their members' agricultural, viticultural and forestry products and that their activities are agricultural and not industrial in character.

Joint sales co-operatives are also exempt.

There are special fiscal arrangements which apply to rural banks in the strict sense and enlarged rural banks.

For rural banks in the strict sense, corporation tax is reduced to one third of the actual amount, provided they grant credits only to their members.

The share capital of rural banks in the strict sense and that of enlarged rural banks is not taken into consideration when calculating property tax, provided that rural banks in the strict sense grant credits only to their members and that the assets of enlarged rural banks do not exceed Lfrs. 3 million.

Except in the case of rural banks in the strict sense, the refunds allocated to members are deducted from taxable income, with two limitations:

They are deductible only in the proportion of the turnover realized with members as compared with the total turnover;

This deduction is not allowed when the total amount of dividend distributed to members is lower than the appropriate interest on the capital stock. (This capital stock includes the shares and the reserves, and the appropriate remuneration in question is 5 %.) (See 11 c)).

f) In the Netherlands, all the profits realized by a corporate body are liable to corporation tax, whether they are put to reserves or distributed to the shareholders. An abatement may, however, be made on the part of these profits that is distributed to the members of the co-operative because of the business transacted by them with the co-operative.

The application of these provisions is subject to two limitations:

The profits arising from business done with persons who are not members of the co-operative are liable to tax;

The net assets of the co-operative are taxed at a fair rate of interest when the co-operative operates with funds on deposit.

It should be noted that all corporate bodies (including limited companies) which grant their suppliers or customers refunds proportionate to their deliveries or purchases may apply this abatement for such transactions.

The rate applied to mutual societies or credit co-operatives is equal to half the rate applicable to companies, provided they confine their lending to their members and do not distribute any part of the profits.

Small co-operatives whose object is solely or almost solely the use, for the benefit of their members, of equipment currently employed in agriculture (such as threshing machines, tractors, potato silos or breeding animals) enjoy individual exemption from corporation tax, but this exemption is granted only on condition that the value of the co-operative's property — exclusive of cash, non-interest-bearing claims and bank credit balances — has not exceeded Fl. 25 000 during the three years preceding the one for which tax is chargeable.

Stamp and registration duties, turnover tax and other taxes apply to co-operatives on the same conditions as to other taxpayers. Nevertheless the law on co-operation exempts from stamp duty applications for membership and notifications of admission to membership.

144. As transport is of great importance for agricultural co-operatives, it is interesting to compare taxation in this branch of activity.

In Germany, co-operatives pay the same taxes as corresponding enterprises, namely:

The tax on motor vehicles;

The tax on goods transport, i. e. 7 % of the transport charge in the case of authorized long-distance goods transport operations and 3 pfennig per ton/km in all other cases, reduced to 1 pfennig for milk and milk products, fish, vegetables, fruit and fruit juice.

In Belgium, agricultural co-operatives are liable to transport tax.

In France, they are liable to:

A tax of FF 500 for passenger vehicles of 7 horsepower or less and a tax of FF 700 for those of over 7 horse-power;

The specific tax on vehicles of over 3 tons used for the transport of goods.

This specific tax is, however, not levied on vehicles which transport agricultural or forestry products, nor on those which transport products for agricultural use within the canton where the co-operative has its head office and in adjoining cantons, nor on vehicles equipped to transport milk, wine, livestock or meat when used within a limited area ("zone courte").

In Italy, all transport is subject to turnover tax (3.3 %), but transport between co-operatives and their members is exempt from this tax.

In Luxembourg, all invoiced transport is subject to turnover tax.

In the Netherlands, co-operatives are liable to the same taxes as other enterprises where transport is concerned.

145. In none of the six countries are investments subject to a special tax. In all of them, the depreciation authorized by fiscal legislation is deductible from taxable profits.

Interesting procedures are to be found in Belgium and Italy:

In Belgium, a temporary law applicable to all commercial companies allows reduction of the amount liable to earned-income tax by a percentage of the additional investments made during the year.

In Italy, investments are not taxed separately but are taken into consideration when calculating taxable income in respect of the tax on movable wealth. The annual amortization instalments of such amortizable costs as real estate, installations, machines, dues on industrial patents, concessions or trade-marks and expenditure on advertizing or publicity can be deducted as from the year when the corresponding income was recorded in the balance-sheet for the first time. Expenses for extensions, including those for extraordinary maintenance, which are a source of income, can be deducted from tax in the form of annual percentages fixed according to the period of time during which they will produce this income.

146. The problem of taxation of reserves deserves mention.

a) Except in Germany to some extent, and in France, the surpluses added to reserves do not enjoy any special fiscal exemption.

In Germany, additions to reserves are subject to corporation tax and to the tax on industry and trade; the formation of service or processing co-operatives'

reserves is exempt when these co-operatives enjoy exemption from corporation tax (see 143 a)).

In Belgium, the income earmarked for reserves is, like reserved profits, subject to earned-income tax at a progressive rate, the minimum being 25 % for companies.

b) In Germany, the existing reserves are included in the basis of assessment for wealth tax (1 %), except — under certain conditions — in the case of agricultural service and processing co-operatives (see 143 a)).

In Belgium, only one-half of the reserves used for co-operative purpose is taxable.

In Luxembourg, the existing reserves are subject to wealth tax (0.5 %) and to trade tax, for all co-operatives which pay these taxes.

c) In Germany, the statutory reserves distributed to members must be included in the taxable profit; in addition, they are liable to the withholding tax at source of 25 % on income from capital, and this rate is increased to 33 % if the co-operative itself takes this withholding tax for its account (see 11 a) and 17).

147. It does not seem possible to assess the amount of aid given to agricultural co-operatives by the special fiscal arrangements from which they benefit.

Comparison of the social security systems applicable to agricultural co-operatives

148. In Germany, Belgium, Italy, Luxembourg and the Netherlands, agricultural co-operatives come under the social security system laid down in ordinary law.

At most, the only differentiation is that in Italy the rates of contribution are reduced for co-operatives whose industrial and commercial activities exclusively concern their members' products. (This advantage is, moreover, given to farmers who process and sell their own produce.)

149. A special social security system peculiar to agricultural occupations exists in France; it applies particularly to agricultural co-operatives in the strict sense, agricultural mutual credit banks, agricultural mutual insurance societies and agricultural mutual social funds.

a) The present position in France can be explained historically by the caution which the public authorities have shown in the field of social security.

The law of 9 April 1898, which made the employer liable for injuries to his employees at work, only applied to occupations in industry and commerce. However, the new conception of this law was extended to occupations in agriculture and forestry by the law of 15 December 1922.

The laws of 5 April 1928 and 30 April 1930, which instituted social insurance, included a Title VI laying down special rules for social insurance in agriculture. The decree-laws of 28 October 1935 and 14 June 1938 concerned the general system, and those of 30 October 1935 and 15 June 1938 the system applicable in agriculture. Since then, the autonomy of the latter system has been confirmed.

Pensions for old wage-earners were instituted by the law of 14 March 1941 which has been amended several times, notably on 27 March 1951.

Family allowances, which had long been given on a voluntary basis as a result of agreements with employers, particularly in the North, were made general by the law of 11 March 1932, which envisaged regulations applicable by the public authorities for the agricultural sector. These regulations were adopted on 5 August 1936. The special

character of the system applicable in agriculture was confirmed by the decree-law of 29 July 1939, which instituted a family code.

b) Implementation of the social security systems applicable in agriculture is ensured by a network of mutual benefit societies which have been made responsible for administering social security in agriculture.

Insurance against injuries at work in agriculture is however covered either by the 20 000 agricultural accident mutual insurance societies or by the ordinary-law insurance companies. These societies are reinsured in the first instance, by regional or departmental mutual reinsurance societies and, secondarily, by a central fund.

Social insurance in agriculture is, on the other hand, covered exclusively by the social insurance sections of the agricultural mutual social funds (in the main, funds whose area of operation is one *département*). These funds come under the central fund for this branch, which also deals with the administration of retirement pensions.

Similarly, family allowances in agriculture are paid exclusively by the family allowance sections of these agricultural mutual social funds. The expenses of the sections are repaid by the central fund for this branch.

Additional social benefits provided by agricultural social insurance societies may be paid to the staff of agricultural professional organizations by the "Caisse centrale de prévoyance mutuelle agricole" (Central Fund of Agricultural Mutual Provident Societies), and to supervisory staff on farms by the "Caisse de prévoyance des cadres d'exploitations agricoles" (Provident Fund for Agricultural Supervisory Personnel); since membership is open to all, other social security institutions are active in agriculture.

c) All these societies are administered by boards of directors elected by their members.

The composition of the boards of agricultural mutual social funds reflects the relative size of the various groups of members.

The board of the Central Fund of Agricultural Mutual Provident Societies represents employers and workers on an equal footing.

d) For the social security systems applicable in agriculture, the risks covered and the compensation paid are the same as for those in ordinary law where accidents at work, sickness, disablement, old age and family allowance are concerned.

The necessary resources come from contributions and also, in the case of social insurance and family allowances, from charges on various agricultural products and from State subsidies.

e) Until the law of 5 April 1941 was passed, the enforcement of agricultural social laws was the joint responsibility of the Ministries of Labour, Agriculture and Finance. Since the promulgation of that law, agricultural social policy has come under the Ministry of Agriculture only, and the Ministry of Labour has been released from responsibility for it. Consequently, the Minister of Agriculture is competent for matters concerning agricultural apprenticeship, labour contracts and collective bargaining agreements in agriculture, and agricultural vocational training.

150. The social security system for the members of farming co-operatives merits attention.

a) There is a special system in Italy; the members of co-operatives of individual plot cultivators are regarded as being direct farmers of their land, and enjoy three social benefits:

By virtue of the law of 23 August 1917, the following are insured against accidents at work in agriculture, from 12 to 70 years of age inclusive: Farmers who are members of agricultural co-operatives;

Share-croppers who are associated collectively with the holder of a concession.

The law of 22 November 1954 extended compulsory sickness insurance to direct farmers;

The law of 26 October 1957 extended disability, old age and survivors' insurance to direct farmers, share-croppers and tenant farmers, from 14 years of age.

b) In Germany, Belgium, France and Luxembourg, no special social security system has been established; in Belgium and France there are, in fact, very few farming co-operatives.

In Belgium, however, the members of these co-operatives can benefit either from the social security arrangements for wage-earners, if they are employees or workmen, or from those for independent workers, if they are managers.

In France it is necessary to distinguish between statutory and actual conditions; the wage-earners of co-operatives come under the social security system applicable to agricultural wage-earners.

c) In the Netherlands, farming co-operatives are very uncommon.

Comparison of budgetary measures concerning agricultural co-operatives

151. Except in Germany and the Netherlands, agricultural co-operatives receive direct subsidies from the State but, in granting these, the public authorities pursue two sorts of aims which are not mutually exclusive. Sometimes they offer encouragement to an institution whose development they have found to be essential for the necessary social and economic integration of those who work small and medium-sized farms; sometimes their aim is to stimulate particular sectors of agriculture. Moreover, these subsidies are not always peculiar to co-operatives:

a) In Germany, aids granted to collective agricultural enterprises are not reserved for enterprises of any specific legal form. The aim of these subsidies is to help to achieve definite progress in rationalizing production, improving the quality of goods, or promoting their sale.

Agricultural co-operatives may obtain these advantages provided they fulfil the necessary conditions. Consequently they do not enjoy a privileged position, except in one respect. In order to encourage wine-growers to produce quality wines by making it possible for them to install suitable modern equipment, the State grants them subsidies on condition that they join co-operatives and that the principal or sole activity of their co-operatives is to press grapes and cellar wine from the vineyards affiliated to them.

b) In Belgium, co-operatives share in the advantages granted to enterprises of all kinds; thus, bonuses are paid to the dairy industries that make milk products.

The public authorities wish, however, to encourage the formation of cereal co-operatives, which were still unknown a few years ago. These co-operatives are the only ones to receive a bonus, of Bfrs 2 per quintal and per month up to a limit of 35 000 quintals, and of Bfrs. 1.5 thereafter. These bonuses will diminish progressively, and will disappear completely sooner or later.

The investments of agricultural co-operatives are never subsidized directly.

c) In France, profit-making enterprises can receive subsidies (e. g. for industrial decentralization); these

lead fairly rapidly to their enrichment, which benefits their members. The situation is entirely different for agricultural co-operatives: the public authorities make certain that good use is made of their subsidies, which have to be repaid over 10 years if the co-operative is dissolved or ceases to be a true co-operative; these subsidies can never be divided among the members of the co-operative.

In the agricultural and food sector, since the decree of 17 March 1964, the State may encourage the creation, extension, regrouping or modernization of enterprises which store, pack or process products, by granting "primes d'orientation" (guidance bonuses) of not more than 20 % of their value, payable in capital and without security. This grant is available to all enterprises and not only to agricultural co-operatives in the strict sense; before it is given, the economic importance of the project and its profitability are considered, as well as the financial position of the enterprise in question.

The grant is exclusive of any loan financed out of budgetary resources.

In the case of agricultural co-operatives, it may be additional to the subsidies of not more than 20 % which were instituted by the decree of 21 April 1939 for projects technically approved by the Ministry of Agriculture.

Co-operatives for the joint use of agricultural equipment quite often receive subsidies for the acquisition of equipment from the general councils of the *départements*.

The regulations on agricultural mutual societies provided for the granting of subsidies to agricultural insurance societies; this facility has fallen into disuse.

d) In Italy, agricultural co-operatives can benefit from the subsidies granted to small and medium-sized farms for:

Encouraging the disinfection of agricultural produce and the destruction of parasites in plants and animals;

Developing the cultivation of certain crops such as olives, citrus fruit, grapes and other fruit;

Helping to buy animals for breeding and stock-raising centres;

Financing the purchase of farm equipment.

The State subsidizes investment, particularly building investment by collective enterprises and whatever extensions, repairs and improvements are necessary to enable farms to function efficiently. This system of direct subsidies is not confined to agricultural co-operatives, which are simply given priority.

e) In Luxembourg, support can be given to local associations for various purposes:

Acquisition of equipment: 10 - 20 %, the budget credit being Lfrs. 400 000;

New construction or improvement of old buildings: 10 - 15 %, the credit being Lfrs. 150 000;

Land improvement: a credit of Lfrs 5 600 000.

The syndical associations that carry out work of communal importance may receive the following subsidies, within the limits of a credit of Lfrs. 3 million:

Drainage and irrigation: 40 %;

Water conduits in cattle-pens and the construction of country roads: 33 %.

In addition, the Agricultural Guidance law of 23 April 1965 provides for subsidies to be given for investment by enterprises which store, process and market agricultural produce.

152. In all countries except the Netherlands, the public authorities facilitate borrowing by agricultural co-operatives.

a) Except in Belgium, France and Luxembourg, this type of aid may take the form of low-interest loans from public funds.

In Germany, co-operatives are treated in the same way as individual farmers in this respect, provided they satisfy the same conditions.

In Italy, the State intervenes within the limits fixed by the law.

b) In France, the introduction of the aforementioned system of "prime d'orientation" has superseded the previous arrangements under which agricultural co-operatives in the strict sense could obtain loans at 3 % for a maximum of 30 years, by means of budgetary credits from the National Agricultural Credit Fund, to pay for not more than 50 % of construction, fittings and the purchase of equipment, on condition that those projects had been included in the agricultural investment programme; in practice

the duration of these long-term loans was 20 years. The National Fund gave its affiliated banks advances to be used as medium-term loans for individual or collective equipment and as individual long-term loans.

c) France is the only country in which the State does not grant subsidies to reduce the burden of interest on loans contracted on the capital market.

In Germany, co-operatives are ranked with individual farmers in this respect, too, provided they fulfil the same conditions.

In Belgium, the Agricultural Investment Fund may grant interest-rate subsidies of up to 3 %, and may even guarantee up to three-quarters of the investment credits granted by authorized credit institutions. The competence of this Fund covers only agricultural co-operatives, farmers and market gardeners; similar forms of aid exist for commercial or industrial enterprises in ordinary law and for artisan enterprises.

The scope of the Fund's activities is considerable: from its creation in 1961 up to the end of November 1965 it provided credits amounting to some Bfrs. 12 500 million, 1 500 million of which were for co-operatives, and it guaranteed over Bfrs. 2 000 million, about 1 000 million of which concerned co-operatives (see 134 b)).

In Italy, loans of private funds are facilitated by State help in the payment of interest, within the limits fixed by the law.

In Luxembourg, the State pays generally up to about one-half of the interest on loans taken up by agricultural associations for structural investment; in the same way it helps the "Ligue du coin de terre et du foyer" (League for Hearth and Home), and its members, to purchase and improve workers' gardens and allotments. But it does not intervene in this way in the other sectors of the national economy.

153. In France and Italy, State aid may take the form of guarantees.

In France, agricultural co-operatives for the storage of cereals, and also the corn-traders who build up stocks, can have their bills of exchange guaranteed by the "Office national interprofessionnel des céréales" — ONIC (National Joint Cereals Office).

In Italy, the law No. 454 of 1961 established an "Inter-bank Guarantee Fund" to guarantee long-term loans for land improvement and the encouragement of peasant ownership; the guarantee covers up to 80 % of the losses sustained by the lenders after the

normal procedures of recovery by constraint have been applied.

154. Partial reimbursement on purchases of machines or fuels occurs only in Germany, France and Italy.

In Germany, until 1965 subsidies were granted to farmers' organizations, including co-operatives, for the purchase of agricultural machines for joint use; these subsidies represented 15 % of the value of the purchase, the maximum possible subsidy being DM 7 500 per machine.

In France, a law of 10 April 1954 instituted reimbursement of up to 10 % on purchases of various types of agricultural equipment figuring on a list approved by interministerial decree. This advantage is available to farmers and to co-operatives; as it concerns mainly farm equipment, the co-operatives which benefit from it are those for the joint use of agricultural machinery.

In addition, the latter co-operatives can obtain their diesel fuel, oil and petrol free of tax. Individual farmers, too, receive vouchers for tax-free oil and petrol, but only to an amount of two-thirds of their needs per hectare.

In Italy, a body that assists users of agricultural engines helps individual farmers and their co-operatives to buy and use agricultural machines and fuel.

155. In France, the law of 6 July 1964 prescribed that, in cases where equal tenders are submitted for contracts awarded by the State, local authorities or public bodies, preference should be given to the agricultural producers' groups which are recognized by the government. As most of these groups are formed by agricultural co-operatives or by "societies of collective agricultural interest" (SICA), co-operatives should enjoy an advantage here.

Nothing similar exists in the other countries.

156. In Belgium and Italy, the legislative is in favour of the ownership of land.

In Belgium, there are provisions favourable to industry in general of which agricultural co-operatives may avail themselves. Facilities for the acquisition of land are provided by communes that wish to attract industry.

In Italy, law No. 199 of 18 April 1950 (latest text) is designed to favour agricultural workers' co-operatives by concessions of uncultivated or insufficiently cultivated land.

157. In France, federations of agricultural co-operatives help to spread information on improved farming methods (see 123 a)).

158. It is not possible to assess the amount of direct or indirect aid given to co-operatives by the public authorities in Germany and in Italy.

In Belgium, the bonuses paid to cereals storage co-operatives in the 1960 financial year totalled Bfrs. 8 313 000. From 1 April 1961 to 31 March 1962, interest-rate subsidies amounting to Bfrs 3 344 000 were paid out to these co-operatives by the Agricultural Investment Fund, which also gave them its guarantee for a total of Bfrs. 74 650 000.

In France, a total of 50 400 000 was paid out in State subsidies for storage and for the agricultural and food industries in the three years 1958, 1959 and 1960; the major part of this sum went to agricultural co-operatives. The operations assisted in this way represented a total investment of FF 345 920 000.

(It is interesting to note that, for this period, all agricultural and rural equipment projects (improvement of production, land improvement, rural public services, re-afforestation and forestry equipment, storage, processing and distribution of agricultural products) amounted to FF 11 226 927 000, of which FF 2 626 752 000 were paid by the State.)

In 1961, the budgetary credits used by the National Agricultural Credit Fund came to FF 283 million for advances to its affiliated banks, and FF 243 million to reduce the burden of interest.

In Luxembourg, where budgetary aid from the State is given only to agricultural associations, the figures for 1961 are as follows:

Drainage: subsidies granted: Lfrs. 1 400 000 plus 5 600 000;

Acquisition of equipment: credit envisaged: Lfrs. 400 000;

Syndical associations: credit granted: Lfrs. 3 000 000.

Organization of agricultural co-operative activities in the EEC countries

§ 1 - DEGREE OF UNITY ACHIEVED BY AGRICULTURAL CO-OPERATIVES

159. Some agricultural co-operatives are specialized, others are engaged in a number of branches of activity (see 5 *b*)).

160. At business level, agricultural co-operation has achieved complete unity only in Luxembourg.

Competition between co-operatives exists in Germany, Belgium, Italy and the Netherlands.

In France, a distinction must be made:

i) Among co-operatives in the strict sense *de facto* unity exists in most branches, particularly in those concerned with milk, beet, meat, fruit and vegetables, and artificial insemination; on the other hand, duality has been maintained in the two powerful branches of requisites supply and cereals. The public authorities, it should be remembered, can refuse to authorize more than two co-operatives with the same object in the same branch (see 6 and 136 *c*)).

ii) Credit banks are divided into three groups: banks which come under the National Agricultural Credit Fund, from which they receive financial aid; banks which, although of the same type, have kept apart from that public body; and banks which apply the Raiffeisen system. Thus, banks of different sorts compete with each other in a number of *départements*, but the activities of secondary banks coming under the National Fund may not overlap (see 6).

iii) With a few exceptions, there is only one agricultural insurance society for each branch.

§ 2 - DEGREE OF UNITY ACHIEVED BY CO-OPERATIVES OF AGRICULTURAL CO-OPERATIVES

161. As a general rule, the primary agricultural co-operatives are members of co-operatives of agricultural co-operatives which supplement their activities and are usually specialized (see 5 *b*)).

a) In Germany, the central agricultural co-operatives fulfil the same functions for their member co-operatives as the latter do for their members.

A central co-operative may include among its members an enterprise in ordinary law whose activities are similar to those of its member co-operatives.

b) In Belgium, co-operatives of co-operatives are found in the milk and cereals branch and in savings and credit.

As has been said, the 833 credit banks of the Raiffeisen type existing at the end of 1961 were all affiliated to the "Centrale Kas voor Landbouwkrediet" (Central Rural Credit Bank of the Belgian Boerenbond) (see 6).

c) In France, a distinction must be drawn:

i) The sector consisting of agricultural co-operatives in the strict sense is not organized into a hierarchical structure. The primary co-operatives are very unequal in size. In different districts, there are unions of co-operatives operating in areas of varying extent. Lastly, there are national unions which primary co-operatives as well as unions of co-operatives may join, but not in all branches.

In the supply, cereals and artificial insemination branches, most primary co-operatives belong to the relevant national unions; there are two competing national unions for supply and cereals.

In the other branches, there is less cohesion.

The extent of the activities of a union of co-operatives compared with those of its members depends on circumstances and on the relevant agreements.

In spite of the rivalries that may exist at national level, the French agricultural co-operatives have achieved unity at the international level, because all the national unions act together where exports are concerned. For this purpose, they are served by two main bodies: the "Syndicat national pour l'expansion de la coopération agricole" — Syncopex (National Union for the Expansion of Agricultural Co-operation), established in 1957 under the auspices of the "Fédération nationale de la coopération agricole" (National Federation of Agricultural Co-operatives) in order to promote the exports of its member co-

operatives and co-operative unions; and the "Union pour le développement des exportations agricoles et alimentaires" — Union-Export (Union for the Development of Agricultural and Food Exports), founded in 1960 to carry out buying and selling abroad (see 139 *c*)).

In short, unions of agricultural co-operatives in France serve two purposes:

— To improve the economic position of small and medium-sized co-operatives and to enable them to compete with larger ones;

— To supplement the activities of their members at other levels.

ii) The agricultural credit sector affiliated to the National Agricultural Credit Fund is organized at three levels: the 3 250 local banks, the 94 regional banks, and the National Fund. Only the first two are professional in character, since the National Fund is a public institution. It should be noted that the term "regional banks" is restricted to the second-level banks, which receive loans from the National Fund and operate under its supervision.

The situation is more fluid in the other sectors of agricultural credit; a second level is not always superimposed on the first;

The "Banque Fédérative de crédit mutuel d'Alsace et de Lorraine" (Federative Mutual Credit Bank of Alsace and Lorraine) in Strasbourg works with about 960 rural and urban mutual credit banks of the Raiffeisen type (see 139 *c*)).

The "Banque française de l'agriculture et du crédit mutuel" (French Agricultural and Mutual Credit Bank) works with all the relevant "free" banks, whether agricultural or not.

In 1964, the "Confédération nationale du crédit mutuel" (National Mutual Credit Confederation) was authorized to set up the "Caisse centrale du crédit mutuel" (Central Mutual Credit Fund), which is a co-operative limited company under ordinary law (law of 10 September 1947). Its shareholders are local or regional Raiffeisen banks. Thus, the group belonging to this confederation, which includes 1 431 agricultural banks and 2 070 general-purpose banks — a total of 3 501 local banks including those of the Federative Mutual Credit Bank of Alsace and Lorraine — is now also organized at three levels (see 123 *b*) and *d*)).

In addition to their own operations, regional agricultural credit banks facilitate the working of the local banks, particularly by discounting operations.

iii) Agricultural insurance is subject to strict regulation:

The system of three levels — local, regional and national — is applied everywhere except in a few cases; thus the two lower levels are often merged in respect of hailstorm risk, for which local societies are considered inadequate;

The lower level can only take out reinsurance at the higher level;

The central secondary reinsurance society is the sole provider of cover for fire, accident, livestock mortality, and hailstorm risks.

d) In Italy, there are co-operatives of co-operatives in all sectors of agricultural activity. The superiority of the Italian Federation of "consorzi agrari" is very marked in respect of co-operatives which buy, sell or provide services. This federation is a national co-operative of provincial co-operatives (see 124 *c*) and 127).

Co-operatives of Italian agricultural co-operatives try to put the small and medium-sized co-operatives in their groups on an equal footing with the large ones, and to extend the activities of these co-operatives by engaging in operations which are complementary to theirs.

In addition, the 800 rural and artisan banks are attached to the "Ente Nazionale Casse Rurali" (National Office of Rural Banks), which is a national body for co-ordination and development.

e) In Luxembourg, there are two levels in all branches except that concerned with the joint use of agricultural equipment. As was mentioned above, secondary co-operatives are known as federations; their task is to defend and improve their member co-operatives' economic position on the market; they are also qualified to intervene in conflicts arising between the co-operatives (see 125 and 127).

Agricultural societies (*comices*) are members of the Agricultural Purchasing and Sales Federation, and the viticultural societies belong to the Federation of Wine-growers' Association. The credit banks have joined these federations for similar operations; they are also members of the Central Fund of Agricultural Associations.

Other federations also exist, such as the Dairies Federation, the Co-operative Cellars Group, the Union of Poultry-keepers' Associations, etc.

f) In the Netherlands, virtually all the primary co-operatives are grouped by branch of activity in

central co-operatives established at the regional or national level. The primary co-operatives do most of their business with these central co-operatives, whose function is mainly commercial.

The general object of the central co-operatives is to defend and improve their members' position on the market.

162. In Germany, no co-operative remains outside the co-operative organization. This also happens very seldom in Luxembourg; if it does, it betokens a lasting disagreement between a co-operative and the federation to which it was affiliated.

The situation is different in Belgium and France:

In Belgium, the advantages of membership are not always obvious;

In France, there may be no advantage in membership for:

— Very large co-operatives which have access to services and installations equal to those of the national unions;

— Small co-operatives which do no more than market their members' produce on the spot.

§ 3 - BUSINESS RELATIONS BETWEEN AGRICULTURAL CO-OPERATIVES

163. The size of the funds deposited with agricultural credit co-operatives by co-operatives from the other sectors varies greatly from country to country.

In Germany, agricultural co-operatives in the strict sense generally have accounts with local credit co-operatives. The latter also act as "village banks" for farmers and other co-operatives.

In Belgium, agricultural co-operatives in the strict sense are free to invest their funds as they please. But they maintain excellent and close relations with the rural banks and the central fund; these serve the dual purpose of savings and lending banks and are the only co-operative institution in the private financial sector.

In France, the general tendency is for agricultural co-operatives in the strict sense and agricultural mutual insurance societies to increase their deposits with agricultural mutual credit banks.

Agricultural co-operatives are free to deal with the agricultural credit banks of their choice; agricultural

mutual insurance societies are likewise free to carry out transactions with regional agricultural mutual credit banks, but the agricultural mutual credit banks that do not come under the National Agricultural Credit Fund may only accept deposits from them if specially authorized to do so by the Ministries of Agriculture and Finance.

In Italy, most credit banks are rural or artisan banks; this makes it more complicated to assess the position in their case. It is well known, however, that agricultural co-operatives in the strict sense are increasing their deposits with these banks.

In Luxembourg, rural banks and their federation enjoy a near-monopoly in respect of the deposits of agricultural associations. Nevertheless, these associations open current accounts in ordinary-law banks to facilitate their financial transactions with customers and suppliers.

In the Netherlands, a very large number of agricultural co-operatives have current accounts with the agricultural credit banks. Transactions between co-operatives, farmers and market gardeners are effected through these banks and settled in deposit money; the volume of such transactions is considerable and is increasing steadily.

164. The extent to which agricultural co-operatives in the strict sense are financed by agricultural credit co-operatives also varies from country to country.

In Germany, agricultural credit co-operatives cover all the credit requirements of other agricultural co-operatives. When the resources of local credit co-operatives are insufficient they turn to the central fund to which they are affiliated.

In Belgium, agricultural co-operatives have recourse either to the rural and artisan banks or to institutions in the public sector. Co-operatives which are approved by the Agricultural Investment Fund can obtain loans at a better rate in either the private or the public sector.

In France and Italy, there has been an increase in the loans and credits granted to agricultural co-operatives in the strict sense by agricultural mutual credit banks.

In Luxembourg, the rural banks and their Central Fund of Agricultural Associations provide two-thirds of the credits needed by agricultural co-operatives in the strict sense and by farmers' associations.

In the Netherlands, agricultural credit co-operatives have long played an important part in the financing

of other agricultural co-operatives. At 31 December 1963, the total loans and credits distributed to agricultural co-operatives by the two central agricultural banks and by the local agricultural banks affiliated to them amounted to about Fl. 745 million.

165. The only organic connections between agricultural credit co-operatives and other agricultural co-operatives arise from the obligation on borrowers to become members of the lending credit co-operative. In the Netherlands, however, this is not a legal obligation on borrowers, but the Articles of the credit co-operatives frequently make such a stipulation.

Practical relations develop because the same persons are often members of the boards of directors, supervisory boards or any other of the two parties' managing bodies. For example, in Luxembourg, the most important federations of agricultural co-operatives and the agricultural groupings are shareholders of the central fund and are represented on its managing committee or supervisory board.

166. The degree to which agricultural insurance co-operatives cover the insurance risks of the other agricultural co-operatives also varies greatly.

In Germany, co-operatives entrust almost all of their insurance to the group of insurance companies following the Raiffeisen system. It should be remembered that these companies do not have the legal status of co-operative societies (see 139 a)).

In Belgium, there are mutual benefit societies — not agricultural insurance co-operatives — which mainly cover livestock mortality; they are not large enough to insure the risks of co-operatives. Agricultural co-operatives are free to insure themselves with whom they wish; very many are covered by the Belgian Boerenbond Insurance Company (see 139 a)).

In France, the situation is entirely different. The financial power of the four sectors of private agricultural mutual insurance is such that they are able to issue policies covering large or even, in certain cases, unlimited amounts. Generally speaking, agricultural co-operatives cover their risks with the agricultural mutual societies.

In Italy there are over 200 agricultural mutual insurance societies, most of which have developed in the land reform areas. They cover specifically agricultural risks, such as hailstorm and livestock mortality; only in exceptional cases, therefore, are they able to meet the requirements of agricultural co-operatives (see 5 d)).

In Luxembourg, the situation is similar: this country has only a small number of local associations, which provide insurance against livestock mortality (see 5 d)).

In the Netherlands, there are about 2 000 local societies which insure livestock and some 300 mutual insurance societies in other fields, including a few mutual societies or co-operatives which deal with life insurance. Agricultural co-operatives usually cover their risks with co-operative insurance societies or with insurance societies which are run on co-operative lines and whose activities extend to agriculture (see 5 d)).

§ 4 - RELATIONS BETWEEN AGRICULTURAL CO-OPERATIVES AND THE PUBLIC AUTHORITIES, POLITICAL PARTIES, AND RELIGIOUS DENOMINATIONS

167. Where the agricultural co-operative movement has achieved unity, this is not due to government coercion but to voluntary agreements between the parties concerned.

In Belgium, the public authorities exert some influence on co-operatives through the Agricultural Investment Fund or through federations of co-operatives (see 134 b)).

In France, the National Agricultural Credit Fund and the regional agricultural mutual credit banks collaborate in implementing agricultural policy by working for a selective development of production and equipment; in addition, they are responsible for providing loans for the agricultural investment programmes adopted by the Minister of Agriculture in connection with successive equipment and modernization.

The rigidity of French legislation on agricultural co-operatives in the strict sense is, in practice, moderated by the attitude of the Ministry of Agriculture which contents itself with making sure that the Articles and operating conditions of agricultural co-operatives conform to laws and regulations; consequently, the co-operatives' members and directors retain full initiative and responsibility. However, co-operatives concerned with cereals are a special case because since the law of 15 August 1936 they have been incorporated in the machinery of the "Office national interprofessionnel des céréales" — ONIC (National Joint Cereals Office), which is a public body; the same also applies to corn-traders (see 134 c) and 138 a)).

In Italy, the public authorities exercise close supervision only over co-operatives established by holders of land concessions in the land reform areas in application of laws No. 230 of 12 May 1950 and No. 841 of 2 October 1950.

168. In all six countries, agricultural co-operatives co-operate with the public authorities, particularly through their representatives, who are persons of their own choosing, on numerous councils, committees or commissions which assist the government.

In Belgium, agricultural co-operatives are represented in this way through the professional organizations.

In France, too, agricultural co-operatives often benefit from being represented indirectly in this way; but they also have their own representatives on, for example, the "Conseil économique et social" (Economic and Social Council), the "Conseil national du crédit" (National Credit Council), the "Conseil supérieur de la coopération" (National Council for Co-operation), the "Conseil supérieur des structures" (National Council on Structures), the "Fonds d'orientation et de régulation des marchés agricoles" (Fund for the Guidance and Stabilization of Agricultural Markets), and the "Caisse nationale de crédit agricole" (National Agricultural Credit Fund) (see 134 c)).

In Luxembourg, the professional organizations ensure contact between the agricultural sector, including agricultural co-operatives, and the public authorities (see 125).

In the Netherlands, co-operative societies are represented on public-law bodies, including the joint trade boards ("schappen"). The latter play an important part in the implementation of agricultural policy; in certain fields they can make regulations that are binding on all who are subject to their authority (farmers, processing industries, wholesalers, retailers) (see 126).

169. Agricultural co-operatives participate in Chambers of Agriculture, which are found in all countries except the Netherlands and a few of the German Länder.

In Germany the situation varies according to the internal legislation of the Länder.

In Belgium, there are Chambers of Agriculture for the various provinces but their powers are limited. Their members are appointed on the grounds of their qualifications for representing the agricultural world.

In France, some of the members of the departmental Chambers of Agriculture are elected by the college of agricultural associations, which includes agricultural co-operatives in the strict sense, agricultural mutual credit banks and agricultural mutual insurance societies. In France, Chambers of Agriculture are public institutions and *de jure* advisers to the Prefects; the permanent assembly of their Presidents is also a public institution and *de jure* adviser to the Minister of Agriculture.

In Italy, the Chambers are common to agriculture, industry and commerce, and co-operatives are electors to them.

In Luxembourg a Chamber of Agriculture was established by the Grand-Ducal decree of 29 December 1960, which was based on the law of 4 April 1924 concerning the creation of professional Chambers. The Chamber of Agriculture exists to safeguard the interests of farmers and wine-growers, to set up and subsidize establishments or services that are essentially agricultural in character, to give advice, formulate complaints, and elicit information and statistical data. It may make proposals to the government, which must examine them and submit them to the Chamber of Deputies where appropriate; all decrees concerning agriculture must be referred to the Chamber of Agriculture for its opinion, except in an emergency (e. g. where live-stock health protection is concerned).

The Luxembourg Chamber of Agriculture is composed not only of elected members but also of delegates from 18 agricultural associations and two viticultural associations which are chosen by the Minister of Agriculture on the proposal of the professional organizations; each association is represented by one delegate. The associations are chosen for their representative character, the number of their members and their economic importance.

170. In general, agricultural co-operatives remain aloof from political parties and religious denominations.

In Belgium and Italy, however, certain links are found because of the economic and social doctrines of various political parties and because of the influence of Christian Socialism on some sectors of the co-operative movement.

In the Netherlands, there are no links between political parties and agricultural co-operatives. However, within the Federation of Dutch Catholic Farmers and Horticulturists, the local professional organizations are almost always in close contact with local

co-operatives in numerous branches of activity; the latter, moreover, were usually created by the local professional organizations (see 126).

§ 5 - RELATIONS OF AGRICULTURAL CO-OPERATIVES WITH PROFESSIONAL ORGANIZATIONS REPRESENTING AGRICULTURAL INTERESTS GENERALLY

171. In all six countries there are one or more all-purpose professional organizations dealing with the problems and interests of agriculture as a whole and agricultural production in particular. In each country mutual relations have been established between these all-purpose organizations and those representing agricultural co-operatives.

In Germany, collaboration between the two types of organization is mainly technical in character, the work being divided in the following way: the co-operative societies handle the economic interests of co-operatives, but leave it to the all-purpose associations to deal with matters of economic policy in agriculture.

In Belgium, the agricultural professional organizations, with which co-operatives are in contact, are responsible for representing farmers and defending their interests; they assist and advise co-operative bodies.

In France, farmers' affairs come under the "Fédération nationale des syndicats d'exploitants agricoles" (National Federation of Farmers' Unions) and the specialized producers' associations for the various branches.

The "Confédération générale de l'agriculture" (General Confederation of Agriculture) serves as a periodic meeting-place for the aforementioned federation and associations and the representatives of the three sectors of the co-operative movement: the "Confédération française de la coopération agricole" (French Confederation of Agricultural Co-operatives), the "Fédération nationale du crédit agricole" (National Agricultural Credit Federation), the "Fédération centrale du crédit agricole mutuel" (Central Agricultural Mutual Credit Federation), and the "Fédération nationale de la mutualité agricole" (National Federation of Agricultural Mutual Societies). The influence of the General Confederation of Agriculture is not such that it can impose a general policy on agricultural co-operatives.

In 1966 the National Federation of Farmers' Unions, the French Confederation of Agricultural Co-op-

eratives, the National Agricultural Credit Federation and the National Federation of Agricultural Mutual Societies felt the necessity of forming a tighter, centralized "directorate" which would enable them to act together frequently. To this end they set up the "Conseil de l'agriculture française" (French Agricultural Council), which works in conjunction with the General Confederation of Agriculture, a much more broadly-based organization.

In Italy, relations between the all-purpose organizations and those that represent agricultural co-operatives occur at agricultural policy level; in addition, their collaboration even involves joint approaches to the government and Parliament.

In Luxembourg, as in Belgium, agricultural circles combine in the agricultural professional organizations, which exert a considerable influence without going so far as to dominate agricultural co-operation.

In the Netherlands, the professional organizations defend the farmers' interests, and the co-operative societies safeguard the material interests of their members. There have long been close contacts between the Roman Catholic professional organizations and the co-operatives linked with them. The ties between the non-Catholic professional organizations and the other co-operatives are very much looser, and often there are no links at all (see 170).

§ 6 - THE DRIVING FORCE BEHIND THE AGRICULTURAL CO-OPERATIVE MOVEMENT

172. The task of animating the co-operative is assumed either by the managing body or by the directing body or both.

In Germany, the managing committee combines the duties of a managing and a directing body; it provides the real driving force for the co-operative.

In Belgium, the drive comes sometimes from the managing body and sometimes from the directing body, depending on whether the managers or the directors are more influential. In addition, an impetus is given to agricultural co-operatives by the agricultural professional organizations.

In the Netherlands, the managing body is the prime mover of the co-operative, but the directing body also provides a stimulus.

In France, Italy and Luxembourg, the situation varies from case to case.

173. In all six countries, agricultural co-operatives, when filling posts on their directing bodies, look for men who are not only well versed in agriculture but are also, as far as possible, competent in commercial, financial, economic, social and sometimes even industrial matters; in addition, for the bodies that defend the interests of co-operatives and represent them, a knowledge of politics and international affairs is desirable.

The choice of such directors is, however, made more difficult in France, Italy and Luxembourg by the fact that they have to be chosen from among the members of the co-operative.

For management posts it goes without saying that technical qualifications and general education are everywhere considered necessary, especially a knowledge of industrial management and markets.

University degrees are increasingly regarded as an asset in Germany and Belgium, and often even as a necessity for large co-operatives in Luxembourg and the Netherlands. In Italy, agricultural diplomas are generally considered desirable.

Management personnel are frequently recruited externally in Belgium and also, where very large co-operatives are concerned, in Germany and Luxembourg.

174. a) In several countries, the bodies that defend the interests of co-operatives and represent them have set up special research institutes and departments for studying agricultural co-operation.

Such is the case in Germany.

In Belgium, however, this has been done by the agricultural professional organizations.

In France we may mention:

i) The "Centre national de la coopération agricole" (National Centre for Agricultural Co-operation), founded in 1953 under the auspices of the "Fédération nationale de la coopération agricole" (National Federation of Agricultural Co-operatives);

ii) The "Syndicat national d'études et de recherches pour les coopératives agricoles et leurs unions" — Synercau (National Union for Study and Research for Agricultural Co-operatives and their Unions), established in 1956 under the auspices of the "Confédération générale des coopératives agricoles" (General Confederation of Agricultural Co-operatives).

In Italy, the confederations and the Italian Federation of "consorzi agrari" have taken similar action.

In Luxembourg, the dairy co-operatives have set up such services; other branches are considering similar schemes.

b) In addition, it is becoming increasingly common in Germany and Italy to call on organizing consultants, planning bureaux and method offices outside agriculture.

In Belgium, Luxembourg and the Netherlands, large co-operatives often do this. The practice is also tending to develop in France, where it is becoming increasingly frequent in large co-operatives.

In Germany, there are co-operative institutes attached to the Universities of Cologne, Erlangen, Frankfurt, Giesen, Hamburg, Marburg and Münster.

175. Recruitment of members by co-operatives is carried out satisfactorily in all six countries. However, the attitude of young farmers towards agricultural co-operation varies greatly from country to country.

a) In Germany, Italy and Luxembourg, young farmers have confidence in this form of association; in Luxembourg, they regard it as an essential feature of modern agriculture.

In Belgium and the Netherlands, however, the attitude is more critical and reforms are demanded, especially in Belgium.

In France, two opposite trends have appeared:

i) A minority tends to look for approaches regarded as novel, outside the co-operative movement;

ii) A large majority remains attached to the co-operative system but would like to see it strengthened and developed, its efficiency increased, and its members involved more closely in its activities.

In short, a serious problem arises everywhere — that of the accession of young co-operators to posts of responsibility.

b) The promotion of young members implies methodical training by means of oral and written instruction, in-service training periods, study trips, etc. A felicitous and effective procedure would seem to be the creation of committees of young members to awaken, maintain and deepen the co-operative spirit.

The training of young co-operative members is undertaken:

- In Germany, by schools run by the federations;
- In France, mainly by the “Centre national de la coopération agricole” (National Centre for Agricultural Co-operation).
- In Italy, by the rural youth organizations and above all by the National Federation of 3 P Clubs (provare, produrre, progredire — try, produce, progress);
- In Luxembourg, by the State Agricultural School and training courses;
- In the Netherlands, by a number of institutes and courses run by specialized staff;
- In Belgium, the need for such training has been felt, and the possibilities are being considered.

§ 7 - RELATIONS BETWEEN AGRICULTURAL CO-OPERATIVES AND THEIR PERSONNEL

176. In Germany, wage-earners in agricultural co-operatives can join any of the trade unions for the branches of economic activity in which they are engaged.

In Belgium and Luxembourg, trade unions peculiar to agriculture, and therefore to agricultural co-operatives, are unknown.

In France, the “Confédération générale des cadres” (General Confederation of Supervisory Staff), the “Confédération générale du travail” — CGT (General Confederation of Labour), the “Confédération générale du travail ‘Force ouvrière’” — CGTFO (General Confederation of Labour, “Force ouvrière”), and the “Confédération française démocratique du travail” — CFDT (French Democratic Confederation of Labour) each include an agricultural federation. The three labour federations are of little importance; they have joined the “Confédération générale de l’agriculture” (General Confederation of Agriculture) but exert no influence upon it. Under the auspices of the General Confederation of Agriculture, special trade unions for managerial staff, supervisory staff, technicians, employees and wage-earners in agriculture have been established and developed.

In Italy, there are trade unions specifically for agricultural workers; these also include the members of agricultural labour co-operatives.

Such agricultural workers as wage-earners and day labourers belong to trade unions which are grouped in workers’ confederations with horizontal structure;

There are professional organizations especially for self-employed workers, such as independent farmers, to which are affiliated the co-operatives set up by independent farmers for actual cultivation and for the industrial and commercial use of farm produce.

In the Netherlands, there are trade unions specifically for agricultural wage-earners, but not for those in agricultural co-operatives.

177. In all six countries, the system of collective labour agreements is in current use and is generally satisfactory.

In Germany and the Netherlands, these agreements are concluded for one specific branch of activity; they are accepted, on behalf of the co-operatives, by the employers’ organizations of which the co-operatives concerned form part.

In Belgium, agricultural co-operatives must implement the agreements concluded in the sectors of activity to which they belong; for example, dairy co-operatives abide by the agreement valid for the food industry. Joint Councils represent the various sectors within the same branch of activity (for example, the food industry and the food trade); the co-operative sector is represented on these by a delegate.

In France, these agreements are signed by the national federations and the national unions, on behalf of the various branches of the co-operative movement.

In Italy, a distinction must be made:

- i) Wage-earners who are members of co-operatives are subject to the statute provided for them in the rules of the co-operative; this statute is generally based on the collective agreements concluded between the agricultural employers and workers’ trade unions;
- ii) Wage-earners who are not members of co-operatives are subject to collective agreements.

In Luxembourg, only the large associations conclude such agreements, which they sign directly.

178. Representation of personnel with the management is provided for in many cases:

In Germany, the regulations concern only large co-operatives whose personnel is entitled to elect a works council. Works councils or personnel delegates collaborate with the management.

In Belgium, the personnel can be represented by a consultative works council, but this legislation is very seldom applied.

In France, every enterprise that regularly employs more than ten wage-earners must have personnel delegates under ordinary law; collective labour agreements often lower this limit. The law of 16 April 1946 assigns the following tasks to such delegates:

- To represent the wage-earners with the management;
- To transmit to the competent authority (the "Inspectorate for Social Laws in Agriculture" with the agricultural professions) complaints and observations relating to the application of labour legislation;
- To collaborate with the employer.

On the other hand, works councils are not compulsory for agricultural co-operatives. Thus, personnel delegates are sometimes endowed with some of the powers of these councils; in that case they are entitled to transmit to the management suggestions made by the personnel with regard to the technical functioning of the enterprise. However, the management is never bound to follow their advice, nor is it compelled to ask for it. The personnel delegates have no access to the accounts.

In Italy, representation of the personnel is found only in labour co-operatives whose wage-earning employees are the members. The personnel delegates collaborate with the management, especially in welfare matters.

In Luxembourg the situation is the same as in France, except that the appointment of personnel delegates is compulsory when the co-operative employs 15 or more regular wage-earners.

In the Netherlands, the law relating to works councils requires enterprises employing more than 25 people over a certain age to have a works council.

179. Participation of personnel in the management, but only within the legal limits, is to be found in Germany and in Italy, for example in the case of the Italian Federation of "consorzi agrari". Elsewhere, personnel have no share in the management.

In Germany, one third of the supervisory board of co-operatives with more than 500 workers must consist of representatives of the workers (see 65 c)).

In Italy, the rule only applies to labour co-operatives, where wage-earning employees and members are the same persons. In addition, certain members of the boards of directors of "consorzi agrari" and federations of the latter represent the wage-earning employees (see 42 a)).

180. Concentration of enterprises, which is apparent in agricultural co-operatives as elsewhere, has already had repercussions on the co-operatives' functioning and structure.

In Germany, co-operatives of co-operatives, and mergers of co-operatives, are becoming more and more frequent.

In Belgium, concentration is beginning to emerge, and the advisability of creating tertiary co-operatives to facilitate such concentration is being discussed.

In France, mergers of co-operatives are taking place; and unions of co-operatives are being created. However, the obligations of co-operatives towards the unions to which they belong do not cover anything like all the operations of the member co-operatives, unlike the obligations of the members of primary co-operatives towards *their* organization.

In Italy, the trend is continuing on the two levels of business and representation, through the establishment of co-operatives of co-operatives, on the one hand, and of federations or confederations, on the other.

In Luxembourg, concentration has become more intensive in recent years.

In the Netherlands, important mergers and other forms of concentration are increasingly taking place in the different sectors of co-operation.

181. a) Another general contemporary phenomenon is the internationalization of business, to which the agricultural co-operative movement will have to adapt itself.

In France, some co-operatives and unions of co-operatives participate in international trade (see 161 c)).

In Luxembourg, it is not possible to say as yet what means will be chosen to meet the new situation.

In the Netherlands, trading co-operatives whose particular purpose is to market agricultural products abroad have long existed in various sectors.

b) So far, trade flows have not changed for the worse. In Germany, however, imports of potatoes and other vegetables, cereals and fruit from the other EEC countries have sometimes disturbed sales of

local produce; these imports have thus led to some standardization of national products and to concentration with the object of obtaining larger and more regular supplies. Federal agencies already in existence, such as the "Deutsche Raiffeisen-Warenzentrale" (Raiffeisen Wholesale Society) and the "Milch-, Fett- und Eierkontor GmbH" (Milk Products and Eggs Agency), are dealing with imports and exports of agricultural produce.

182. The co-operative movement in agriculture has been led to acquire subsidiary or auxiliary societies by either establishing or acquiring industrial, commercial or banking enterprises. In all countries, it is permissible for agricultural co-operatives to own more than half share capital of non-co-operative societies or companies (see 139).

In Germany, these procedures have been used as far as was necessary to serve the co-operative's official purpose; however, they must not jeopardize the task of promoting co-operation.

In France, such extensions of indirect activity are confined to large co-operatives and national unions. Agricultural co-operation has subsidiary enterprises in Germany, the United Kingdom and Switzerland.

In Italy, companies in ordinary law may be acquired by co-operatives if their functions are complementary.

In Luxembourg, such take-overs are also carried out by regional or national agricultural associations, or by federations or professional organizations; they have occurred mainly in the retail sector. (These federations, it should be remembered, correspond to what are known elsewhere as co-operatives of co-operatives.) (See 125).

In the Netherlands, large co-operatives in various fields of agricultural activity have quite often collaborated in setting up subsidiary enterprises with a

view to achieving better integration of production and processing; in many cases they have also acquired shares in non-co-operative enterprises.

183. In France, agricultural co-operatives have also been induced to participate in support-buying organizations whose object is to keep an eye on agricultural markets with a view to controlling fluctuations. The following may be mentioned:

i) The "Office national interprofessionnel des céréales" — ONIC (National Joint Cereals Office), a public body which in many cases acts as a support-buying society (see 167).

ii) The "Société d'intervention pour les produits laitiers" — Interlait (Support-buying Society for Milk Products) and the "Société d'intervention pour le bétail et la viande" — SIBEV (Support-buying Society for Livestock and Meat), which are limited companies with special features and are governed by the legislative decree of 30 December 1953.

iii) The "Société pour le financement et le développement de l'économie agricole" — Sofideca (Society for the Financing and Development of the Agricultural Economy), set up in 1962 as a limited company by the national organs of agricultural credit and agricultural co-operation, in conjunction with public financial bodies and credit and banking establishments; its chief aim is to acquire holdings in the groups set up to improve the processing and marketing of agricultural produce.

184. In France, societies in an intermediate position between companies in ordinary law and agricultural co-operatives, the "Sociétés d'intérêt collectif agricole" — SICA (Societies of Collective Agricultural Interest), provide co-operatives with the legal means of extending their activity beyond the statutory limits (see 139 c)).

The position of agricultural co-operatives within the general co-operative movement of each country

185. *a)* It would be normal and logical for co-operatives engaged in selling and processing agricultural produce to have direct, continuous and organic business relations with consumers' co-operatives in their respective countries; the situation varies, however, from country to country.

In Germany, joint commissions have been established for this purpose by the "Deutscher Raiffeisenverband" (German Association of Farmers' Credit Co-operatives) and by the "Zentralverband deutscher Konsumgenossenschaften" (Central Union of German Consumers' Co-operatives). Similarly, relations have been established between the Raiffeisen co-operatives and the purchasing co-operatives of the retail food trade (EDEKA, REWE). Direct transactions between the various co-operative sectors are numerous and concern the majority of agricultural products. In addition, personal relations develop according to local circumstances between those actively involved in the two sectors.

In Belgium, the two sectors have next to nothing to do with each other at either the primary or the secondary level.

In France and Italy, commercial relations between buyers and sellers have developed between co-operatives in the two sectors, without formal agreements being made at higher levels. Such contacts are still infrequent in Italy. They are on the increase in France and are becoming more firmly established, especially at regional level. An example of this is the "Conserverie cooperative de poissons" (Fish-canning Co-operative) at Saint-Gilles-Croix-de-Vie, Vendée, which, although it is now owned by the consumers, was founded by fishermen's and consumers' co-operatives. A framework for the development of interco-operative relations has existed in France at national level since the conclusion on 22 October 1959 of a general agreement between the "Fédération nationale de la coopération agricole" (National Federation of Agricultural Co-operatives) and the "Syndicat national pour l'expansion de la coopération agricole" — Syncopex (National Union for the Expansion of Agricultural Co-operation), on the one hand, and the "Fédération nationale des coopératives de consommation" (National Federation of Consumers' Co-operatives) and the "Société générale

des coopératives de consommation" (General Society of Consumers' Co-operatives), on the other.

In Luxembourg there are eleven urban consumers' co-operatives, which are governed by the law of 10 August 1915 on commercial companies. These co-operatives have fairly regular business connections with agricultural co-operatives concerned in selling and processing.

In the Netherlands what business relations there are between the two sectors mainly occur at secondary level; agricultural secondary co-operatives have as their counterpart the "Centrale der Nederlandse Verbruikscoöperaties" (Central Office of Dutch Consumers' Co-operatives).

b) In France and the Netherlands, business has begun to develop between agricultural sales co-operatives and foreign consumers' co-operatives.

Thus, the national unions of French agricultural co-operatives are working with the British Co-operative Wholesale Society (CWS).

In the Netherlands, there are a large number of unions of co-operatives specializing in the marketing of agricultural produce which maintain regular business relations with consumers' co-operatives abroad.

In Germany and Luxembourg, such dealings are rare. In Italy, they occur only very occasionally.

186. In Germany, contacts exist between rural credit co-operatives and credit co-operatives in other branches of activity, and capital rotation takes place between the different sectors thanks to the "Deutsche Genossenschaftskasse" (German Co-operative Bank). The central credit banks of the Raiffeisen and Schulze-Delitzsch systems are affiliated to this public-law institution, as are also the Raiffeisen insurance companies and People's Banks, the "Zentralverband deutscher Konsumgenossenschaften" (Central Federation of German Consumer Co-operatives) and the "Gesamtverband gemeinnütziger Wohnungsunternehmen" (Federation of Non-Profit-Making Housing Enterprises). The Schwäbisch-Hall Building Society is an institution common to both the two other sectors of co-operative credit, as is also the

aformentioned group of insurance companies (see 139 a)).

Nothing similar exists in Belgium, France, Italy or Luxembourg.

In France there are no organic or even business links between the agricultural mutual credit banks and the credit co-operatives of other professions — “*crédit populaire*” (people’s credit), “*crédit maritime*” (maritime credit), “*Caisse centrale de crédit coopératif*” (Central Co-operative Credit Fund), and the “*Banque coopérative*” (Co-operative Bank). (The Central Co-operative Credit Fund and the Co-operative Bank do business mainly with consumer co-operatives and workers’ production co-operatives.)

187. Points of contact between those who manage the various sectors of co-operation are found in certain countries.

In Germany, the joint efforts of the four sectors of the co-operative movement find expression in the

activities of the Contact Committee of Unions of German Co-operatives. In addition to joint commissions, links have been established, on a voluntary basis and depending on local conditions, between the managers of local and regional co-operatives in these sectors.

In Belgium, there are professional councils, including the council for credit and savings.

In Italy, the “Committee of Chairmen” of the national confederations which represent co-operatives is a directing body covering the various sectors of the co-operative movement. This committee provides a meeting-point for the vertical national federations, and heads of agricultural co-operatives have the chance to collaborate on it with those of the consumers’ co-operatives.

In the Netherlands, all types of agricultural co-operatives and the central organization of consumers’ co-operatives are represented on the National Co-operation Council (see 126).

The position of agricultural co-operatives within the national economy of each country

188. It is difficult to determine the importance of the co-operative contribution to any one branch of agricultural activity compared with the contribution of competing enterprises which have other legal forms. Furthermore, it is not always possible to separate the activities of the co-operative sectors from those of the lateral or semi-co-operative sectors, which are very considerable in some of the EEC countries.

a) Except in Germany, agricultural statistics are so inadequate that it is impossible to know with reasonable certainty what position agricultural co-operation occupies in the sale and processing of agricultural products and the provision of supplies and services to farms.

b) Moreover, not all agricultural produce is disposed of through commercial channels; consequently the statistics relating to such trade cover only a part of the total quantity of agricultural products distributed. They do not reflect:

— trade on markets where transactions are not recorded;

— the direct relations established occasionally or permanently between producers and buyers;

— the considerable amounts consumed by producers themselves.

c) The absence of a statistical instrument common to all the six EEC countries makes it equally dangerous to compare the positions which the six agricultural co-operative movements occupy in their respective national economies.

As no common standards exist, the percentages are not always comparable between one country and another. (Not infrequently, for a given agricultural product the percentages sometimes refer to the quantity produced and sometimes to the quantity marketed, or else they apply to categories of products which are not homogeneous.)

In view of the diverse nature of the statistical data available, it therefore seems wise to do no more than list them, without attempting to make comparisons or draw conclusions.

189. With regard to the sale and processing of agricultural products, the following data can be given:

a) Cereals

Agricultural co-operatives account for the following percentages of cereals sold and processed:

Germany 43 %,

Belgium 15 % approx.,

Luxembourg 66 %,

Netherlands 50 % approx., this percentage being achieved by two federations of co-operatives to which some 1 100 local and regional co-operatives engaged in buying and selling are affiliated.

These are percentages of the total quantities of cereals available, which amount:

— in Belgium to 625 000 - 725 000 metric tons of wheat delivered to the trade;

— in the Netherlands to 5 600 000 metric tons for the 1959/60 marketing year.

In France, in the 1962/63 marketing year, co-operatives collected 81 500 000 quintals of wheat and 28 300 00 quintals of coarse grains, and traders 19 500 000 quintals of wheat and 15 000 000 quintals of coarse grains; thus co-operatives collected about 82 % of all wheat and 65 % of all coarse grains.

In Italy, there has been a considerable increase in the quantities supplied by the cereals co-operatives since 1948; deliveries have risen from between 10 and 12 million quintals, worth 72 000 million lire, to 30 million quintals, worth approximately 180 000 million lire.

b) Sugarbeet

There are no co-operatives in this branch in Belgium and Luxembourg; sugarbeet is not cultivated at all in the latter country.

In Germany there are some co-operatives of beet cultivators, but the sugar refineries are joint stock companies.

In France there are 39 co-operatives, including 22 distilleries, 13 sugar refineries and 4 grating plants. Industrial sugarbeet is processed either into sugar or into alcohol. In the last few years, sugar production has been encouraged by the public authorities to the detriment of alcohol production; this has led to the conversion of a number of distilleries into sugar refineries, and even to the closing-down of some distilleries as a result of the establishment of quotas for alcohol production. Total output in 1964/1965 was:

250 000 metric tons of sugar

500 000 hl of alcohol.

In Italy, sugar co-operatives have recently been established; they process about 10 % of all beet produced in Tuscany and the land-reform areas.

In the Netherlands, six co-operative sugar refineries process 63 % of all beet produced; in 1962/63 they treated 1.8 million metric tons.

c) Milk and milk products

The dairy co-operatives treat the following percentages of total production:

Germany

milk treated in dairies: 82.9 %

fresh milk: 78 %

butter production: 77 %

cheese production: 67 %

production of condensed milk: 24 %

production of milk powder: 78 %.

Belgium

milk: 62 % (8 800 000 hl)

cream: 61 % (400 000 quintals).

France (1963/64)

52 % of milk marketed after leaving the farm; total production also includes milk consumed on the farm.

Italy

75 % of milk for processing.

Luxembourg (1963)

milk delivered to dairies: 90.3 % and 148 700 000 kg
deliveries of pasteurized milk: 97.6 % and 25 400 000 litres

butter production: 91.4 % and 4 574 metric tons

sale of fresh cream with 37 % fat: 85.9 % and 2 571 metric tons

production of fatless cheese: 56 % and 627 metric tons

production of fat cheese: 0 %

skim milk powder: 100 % and 1 334 metric tons

miscellaneous products: 88.8 % and 885 metric tons.

Netherlands (1963)

milk delivered to dairies: 84 %

milk sold: 41.5 %

butter production: 83.6 %

cheese: 87.8 %

milk powder: 79.1 %

condensed milk: 59.8 %

products derived from whey: 88.4 %.

The seven dairy marketing co-operatives, to which about 260 co-operative factories are affiliated, account for the following percentages of total sales of Dutch production:

butter: 60 %

cheese: 50 %

milk powder: 40 %

condensed milk: 50 %

d) Livestock and meat

Co-operative activity in this sector represents:

Germany

25 % for livestock

31 % of all pigs slaughtered (3 143 000 pigs in 1964 for the co-operatives)

24 % of all cattle slaughtered (424 000 head in 1964 for the co-operatives)

(These figures do not include direct sales by farmers)

France (1963/64)

9 % of beef production (110 000 metric tons)
4 % of pigmeat production (30 000 metric tons).

Luxembourg

in 1963 co-operatives accounted for between 20 and 25 % of all slaughtering.

Netherlands

30 % for the processing of pork-butcher's meat
50 % for the processing of pigmeat for bacon production.

e) Wine

No wine is produced in the Netherlands, and little in Belgium, which has only 2 co-operatives for the production and sale of wine, whose influence on the market is insignificant.

The percentage of wine produced by the co-operatives is as follows:

Germany

29 %. There are 58 000 wine-growers who are members of co-operatives; this is twice as many as in 1938. In 1963 the wine-producing co-operatives marketed 1 349 000 hl of wine and put 1 800 000 hl of grape-juice into cellars.

France (1963/64)

33 % including dessert wines.

Italy (1963)

There were 641 co-operative cellars representing a capacity of 18 340 000 hl; these cellars included 122 "enopoli" representing a capacity of 2 314 000 hl. The percentage accounted for by co-operatives is increasing; it was 20 % of total production in 1961, and 21 % in 1963, i. e. 35 % of all wine marketed.

In 1961/62, 60 000 quintals of table wines had to be stored. In years when the harvest is too great, wine surpluses are transformed into alcohol; in 1963, 1 900 000 quintals were distilled in this way.

Luxembourg (1963)

Co-operatives accounted for 70 % of all wine produced.

f) Fruit and vegetables

The co-operatives' share in the marketing of these products is as follows:

Germany

44.6 % for vegetables
27.2 % for fruit.

Belgium

30 % for vegetables
60 % for fruit, including table grapes some of which are marketed by co-operative auctions.

France (1963/64)

15 - 20 % of all fruit and vegetables marketed.

Italy

20 % of production in northern Italy and
10 % in southern Italy
(In 1961/62 one million quintals of grapes had to be stored on a voluntary basis.)

Luxembourg (1963)

Co-operatives marketed 25 % of all fruit produced, including 60 % of the total output of dessert fruit.

Netherlands (1963)

Over 90 % of production. The turnover of all the 126 co-operative auctions affiliated to the "Centraal Bureau van de Tuinbouwveilingen" (Central Horticultural Auctions Office) amounted to about Fl. 980 million.

g) Textiles

There are no co-operatives in this branch in Germany, Italy and Luxembourg.

In Belgium, there is only one co-operative for the processing and sale of some 1 000 ha. of flax.

In France, co-operatives treat 30 % of all wool produced and 25 - 27 % of the total output of flax.

In the Netherlands the wool co-operative, which has 57 000 members, markets 90 % of all wool produced in the country. Two co-operative linen factories handle 10 % of the total tonnage of flax processed.

b) Eggs and poultry

In Germany, 669 million eggs were collected by co-operatives in 1964; 9 slaughterhouses for poultry have been built since 1963. The total turnover of the co-operatives and central co-operative for the use of eggs amounted to DM 262 100 000 in 1964.

In Belgium there is one co-operative for the sale of eggs for hatching, and there are 2 co-operatives that sell eggs for consumption; but they do not play a very important part in this branch of activity. In addition, local sections of the agricultural guilds collect eggs, which are marketed by three central agencies. There is one slaughterhouse for poultry run on co-operative lines.

In France, there are 80 poultry co-operatives which in 1963/64 accounted for:

15 % of total production of chickens

10 % of total production of eggs

15 - 20 % of the organized production of chickens

50 - 60 % of the organized production of eggs.

In Italy, the number of co-operatives for the production and marketing of eggs and poultry has been increasing steadily for some time.

In Luxembourg, OVOLUX (Egg Marketing Organization) was set up in 1961. In 1963, this body sold 11 % of all eggs marketed. The percentage is increasing.

In the Netherlands, 14 co-operatives sold 2 400 million eggs in 1962/63, i. e. 40 % of the national output, and marketing co-operatives accounted for 33 % of total egg exports; two co-operative slaughterhouses processed and sold 16.5 % of all poultry slaughtered.

The Belgian and Dutch co-operatives engaged in the selective breeding of poultry collaborate within a common co-operative body.

i) Potatoes

In Germany, co-operatives marketed 1 242 000 tons of potatoes in 1964 (excluding seed potatoes). As farmers sell a large proportion of their potatoes themselves (for winter storage), the share of co-operatives in the total production marketed can be estimated at 50 or 60 %.

In Belgium, the marketing of new potatoes is carried out by the co-operative auctions and local joint sales sections.

In France, 70 potato co-operatives are engaged in this activity, but usually in addition to the sale of fruit and vegetables. They produce 50 % of seed potatoes, and account for 15 % of all sales of potatoes for storage and 10 % of sales of new potatoes. There are also two co-operative potato starch factories.

In Italy, co-operatives supply 90 % of seed potatoes with certificates of origin, amounting to about 400 000 quintals. In addition, 10 % of all sales of ware potatoes are effected by co-operatives.

In Luxembourg, two associations deal with the preparation and sale of ware potatoes. In 1963, they sold 30 - 40 % of all potatoes marketed.

In the Netherlands, 15 co-operatives account for 15 % of all sales of ware potatoes. In addition, 13 co-operatives produce potato starch. In 1963, their output represented about 89 % of the country's total production, which amounted to 247 000 tons.

j) Oil seeds

In France, 400 co-operatives whose main activity is, in most cases, the storage of cereals, also store oil-seeds. They collect 2/3 of sunflower production, 2/3 of rapeseed production and 1/3 of linseed.

In Italy, voluntary storage of oil amounted to 30 000 quintals in the year 1961/62, and 525 000 quintals in 1963/64.

k) Olives

In France, 100 olive-growing co-operatives handle about 25 % of total production; their activity has been appreciably reduced by destruction of olive trees during the abnormal frosts of 1956.

l) Grass and green fodder

In the Netherlands, 50 co-operatives account for 45 % of all fodder dried (63 000 metric tons in 1963).

m) Straw

In the Netherlands, 10 co-operatives produce straw-board. Their output represents 65 % of Dutch production.

190. No precise data can be given for Belgium regarding the supply of farm requisites. However, the agricultural guilds affiliated to the Belgian Boerenbond, and many Walloon co-operatives, have sections for the joint purchase of seeds and seedlings, fertilizers, animal feedingstuffs, pesticides and agricultural equipment.

a) Seeds and seedlings

The co-operatives' share of all supplies is approximately as follows:

Germany

60 %, for 1964:

960 000 metric tons of seed potatoes,

134 000 of cereals seed.

France

slightly less than 50 %.

Italy

12 % for seedlings

80 % for seeds.

Luxembourg (1963)

94 % of the seed potatoes produced were marketed by the "Syndicat des producteurs de plants de pommes de terre" (Seed Potato Producers' Syndicate) and sold through the associations for the supply of agricultural requirements and through private trade; 57 % of seed potatoes were supplied by co-operatives; 54 % of imports of certified seed were carried out by co-operatives and 90 % of home production was marketed by the "Producteurs luxembourgeois de semences" (Luxembourg Seed Producers' Co-operative) and sold through the supply associations and private trade.

Netherlands

Thirteen primary and two secondary co-operatives account for 37 % of total sales of seed potatoes;

they export 30 - 40 % of total output. The share of co-operatives in imports of agricultural seed and fodder is of the same order.

b) Fertilizers

The part played by co-operatives is as follows:

Germany: 62 % of total consumption

France: 50 %

Italy: about 65 % of distribution

Luxembourg: an average of 65 % of distribution

Netherlands: 55 - 65 % of the total tonnage marketed.

In the latter country, there is one large co-operative fertilizer factory which produces 36 % of the total output of superphosphates.

c) Pesticides

Co-operative activity represents:

Germany: 70 % of total consumption

France: a little less than 50 %

Italy: 40 % of the quantity consumed

Luxembourg: 60 % of the quantity consumed

Netherlands: about 33 % of the quantity produced.

d) Fuels and lubricants

The part played by co-operatives in this sector is as follows:

Germany: 5 000 000 metric tons of fuel and lubricants were sold in 1964 and the turnover amounted to DM 40 300 000;

France: a small percentage;

Italy: about 60 % of distribution;

Luxembourg: 10 % of fuels and lubricants distributed in 1963;

Netherlands: 10 - 12 % of sales of solid fuel.
5 % of sales of petroleum products.

e) Animal feedingstuffs

The percentages are as follows:

Germany: 45 %

France: 10 % of the value of compound feeding-stuffs manufactured in 1961,
35 % of sales to farmers

Italy: 20 % of national consumption

Luxembourg (1963): 50 % of the compound feedingstuffs produced and delivered
80 % of the feedingstuffs marketed by the central silo organization and co-operatives
80 % of all deliveries of other feedingstuffs, including denatured wheat

Netherlands: 45 % of production of compound feedingstuffs
55 % of total turnover.

f) Agricultural equipment

The percentages are as follows:

Germany: 25 %

France: somewhat less than 50 % (for small implements)

Italy: 40 % of total sales

Luxembourg: 15 % of the total turnover of heavy equipment sold, this percentage being computed from import duty

Netherlands: 7 - 10 % of sales.

191. The following information can be given with regard to the activity of service co-operatives, excluding Italy.

THRESHING AND OTHER FARM OPERATIONS

In Germany, there are 12 284 co-operatives for the joint use of machinery. These co-operatives make available to their members 52 167 machines and implements, including 3 335 threshers, straw balers and thresher-chaffcutters (Häckseldrescher), 2 197 machines for scattering lime and chemical fertilizers, and 2 078 mobile installations for steaming potatoes.

The co-operative movement for the joint use of agricultural machinery and equipment is fairly new in Belgium. It started in 1950, and immediately received substantial support from the public authorities, which were eager to help small and medium-sized farms. At the end of 1960, there were 284 machinery-using co-operatives with a membership of 3 767 and cultivating 40 657 hectares. They still play only a minor role.

In France, there are 11 000 machinery-using co-operatives (CUMA), and their number is increasing steadily. They have two objects: to make available to small family farms the equipment necessary for rational operation, and to provide specialized and complementary equipment or equipment to deal with breakdowns for big farms which already have all the ordinary equipment necessary.

In Luxembourg, the CUMA, which are associations in the strict sense, enable heavy equipment to be bought and utilized in common. In 1963, these associations numbered 140.

The agricultural and wine-producing societies (comices) make it possible to acquire light farming equipment. Actually, their importance is decreasing as more and more farmers themselves become owners of equipment.

In the Netherlands there are about 400 such co-operatives, with about 20 000 members.

ARTIFICIAL INSEMINATION

In Belgium there is no co-operative dealing with artificial insemination. In each province, only one association for artificial insemination is recognized by the Ministry of Agriculture.

In Germany, there are 199 co-operatives for artificial insemination.

In France, 65 co-operatives with a total of 1 200 000 members inseminated over 56 % of all dairy cows in 1962. In addition to this main activity, the artificial insemination co-operatives often engage in secondary and complementary activities: campaigning against cattle diseases, improvement of animal feeding, milk and butter control, keeping of herd books.

In Luxembourg, an artificial insemination centre set up by the "Centrale paysanne" in 1952 inseminated 60 % of cows and heifers in 1963.

In the Netherlands, 60 % of Dutch cattle-breeders were grouped together in 131 co-operatives in 1964. In the same year, there were also 25 co-operatives for the artificial insemination of pigs.

OTHER SERVICE CO-OPERATIVES

In Germany, there are 249 electricity co-operatives, 479 refrigeration co-operatives, 176 grazing co-operatives, and 297 water supply co-operatives.

192. In the credit sector, the following details can be given:

Compared with the total volume of credit granted to farmers, the percentage of credit from co-operatives is as follows:

Germany: 62.5 % of short-term credit

21.9 % of all agricultural credit (short-, medium- and long-term).

Belgium: 45 % for 1964.

Italy: 53 % approx. of all working credits granted are in the form of hire-purchase sales by the "consorzi

agrari" alone. At 31 December 1963, 800 rural banks had received 223 000 million lire on deposit.

Luxembourg: 50 %.

Netherlands: 40 % (Fl. 3 800 million).

For France, it is not possible to provide information on the relative importance of agricultural mutual credit in the total volume of credits granted to agriculture. A view of the situation, albeit an incomplete one, can be obtained from the annual reports of the "Caisse nationale de crédit agricole" (National Agricultural Credit Fund).

PART FOUR

CONCLUSIONS

General situation of agricultural co-operation in the Member States

§ 1. EVOLUTION OF CONTEMPORARY AGRICULTURAL CO-OPERATION

An overall comparison of the *de facto* and *de jure* situation of agricultural co-operatives in the six Member States of the European Economic Community gives the impression that the similarities far outweigh the differences. The laws and their implementing regulations often appear divergent and even contradictory on important subjects, yet contractual Articles and usage have, in many cases, brought the operations of co-operatives to resemble each other, and sometimes legislative texts which were too meticulous were simply allowed to fall out of use. In the end, a sort of common European co-operative practice, based on rules, legislation, contracts and usage, has evolved.

The differences which remain in spite of this seem to be mainly due to the mentality of co-operators and responsible functionaries in the co-operatives; to the technical and financial means at the disposal of the organizations; and to the attitude of public authorities towards them.

The large international agricultural associations, particularly the European Confederation of Agriculture, the International Federation of Agricultural Producers and the International Confederation for Agricultural Credit, have helped to disseminate a common co-operative ideal in Europe. Thanks to them, bonds of fellow-feeling are drawing the agricultural co-operative movements in various countries closer together. Agricultural co-operatives now think in much broader terms than formerly, when they did not look beyond local or at most national horizons and barely concerned themselves with what their counterparts in other countries were doing. It is interesting to note that agricultural co-operatives in the Six work together within the General Committee for Agricultural Co-operation in the EEC Countries (COGECA) at Brussels in order to present a common front in dealings with the European institutions.

Owing to the adequate *de facto* uniformity of the agricultural co-operative movement in the EEC, the situation in one Member State does not seriously differ from that in another. It therefore satisfies current agricultural views and wishes in the Community. We are witnessing a rapid economic, tech-

nical and social evolution in European agriculture. Inevitably, the problem arises of how far present structures of agricultural co-operation will be suited to the future situation.

Five factors, among many, merit particular attention:

The first is the growing internationalization of commercial, industrial, agricultural and financial transactions; different national markets thus become increasingly open to each other through the speed with which men, capital, goods, news, methods and ideas circulate. The Rome Treaty has determined the direction of this trend once and for all by establishing the European Common Market on the basis of a competitive economy. Thus, the right of establishment granted to companies gives them full freedom to set up agencies, branches, or subsidiaries in any Member State. Freedom to supply services will allow them to pursue their objectives directly in another Member State. When the last monetary restrictions have been lifted will no longer be any barriers. Although these new principles will only be applied gradually, agricultural co-operatives will be living in a fool's paradise if they do not prepare for them.

A second factor is a result of the general evolution which farms are undergoing, with the result that the economic position of co-operators changes accordingly. The general term "agriculture" has always covered a variety of activities. It may be vital to the future of Europe to ascertain the type of agriculture suitable for the Community of tomorrow. For instance, certain specialized types of farming, such as poultry-rearing, are ceasing to be conducted on the old family-farm basis and are becoming increasingly industrialized.

As far as agricultural co-operatives are concerned, a few comments must be made:

- 1) Care must be taken to distinguish between family farming and small-scale farming. Agricultural co-operatives cannot be expected to keep unprofitable family farms going artificially; on the other hand, it would be absurd to state as an axiom that no small family farm can be run at a profit.
- 2) The definition of large, medium-sized and small farm needs to be continually brought up to date. Farms have been growing for a long time,

stimulated by growing mechanization, which has now extended to movement of persons and things. Moreover, agricultural activity is no longer so closely bound up with the amount of land free for farming.

3) The wider availability of energy has led to the siting of factories in the country and has increasingly broken down the barriers that used to separate factory life from country life. The emergence of semi-agricultural, semi-industrial occupations has brought with it a completely new way of life in rural areas.

In these times, only a few farms are large enough to pay their own way unaided in certain sectors or are so highly specialized as to have a guaranteed clientele of connoisseurs and thus be able to do without agricultural co-operation. Most medium-sized and small farms have no such intrinsic advantages, and cannot do other than market their production as best they can. But in many cases their survival is socially essential. If they are not to disappear, these struggling farmers must realize the need to band together in economic units of adequate size. And what better form of combination could they have than that of the co-operative?

The role of the farmer today is becoming more and more complicated. Highly advanced economic and technical training will become increasingly necessary for him if he is to cope with the brain-work and labour involved. His tasks are, it is true, not all equally important; but they are too numerous and often very dissimilar. Co-operation must therefore help by lightening this load which no one person can carry any longer by himself.

In any case, it has been frequently noted that the effects of slumps were even more drastic where there were no co-operatives to market farm production — increased by technological progress — and, if necessary, stabilize sales through storage or processing.

A third factor is the attitude of the rising generation towards co-operation. A short while ago, in certain countries there was reason to fear that too many young farmers might behave as systematic adversaries of the co-operative approach: some through an excess of individualism, others out of hostility to all established traditions. The co-operatives were described as out of date and a jungle of unnecessary red tape. These criticisms brooked no reply and were, moreover, not limited to co-operation: all the farmers' groupings were written off as obsolete. However disagreeable and unjustified this attitude

was, it was less negative than at first appears. Indeed, even the majority of young farmers in these countries, who solidly support co-operation, want to see it modernized and to participate more actively in the work of the co-operatives.

Generally speaking, an urge to reform farm structures may be noted. It is a healthy sign that young farmers learning the business are no longer content to apply out-of-date procedures and tricks of the trade handed down from father to son. Audio-visual techniques make the results of science and research more accessible. Modern progress allows good use to be made of time saved from work and of new opportunities for travelling. It is up to the leaders of the agricultural co-operatives to enlist the energy of the young farmers.

A fourth factor which is worthy of attention is the emergence, alongside the traditional agricultural co-operatives, of new approaches, frequently audacious and often co-operative in spirit.

This phenomenon is not a source of concern when it is a question of adapting to new elements in the economic situation. On the other hand, it is disquieting when the champions of these projects, in attempting to substantiate their claim to take over tasks which rightly belong to agricultural co-operation, assert that the latter has been outstripped by events and is showing signs of obsolescence.

A fifth factor to be considered is that various national Governments seem to feel impelled to revise the legal structure of their agricultural co-operatives, or at least bring it up to date. This review of legal status could afford an excellent opportunity to align the different systems, provided the various national agricultural co-operative movements concerned have a say in the matter.

Summing up, the second half of the twentieth century might well witness a phase of renewal in agriculture in the six Member States.

§ 2. CO-OPERATIVES AND THE PROBLEMS OF INTEGRATION

a) The weak market position of farmers is due to several reasons, notably:

i) Agricultural commodities are usually perishable, and their production depends on factors beyond the farmer's control;

ii) The market for agricultural produce is not very elastic, and progress in farming techniques is increasing production.

b) For a long time producers of industrial raw materials have tried to better themselves by integration and concentration of industry and trade. The same causes should have the same effects on farming, and farmers should increasingly realize that their profession will never overcome its difficulties if agricultural co-operatives do not further develop industrial and marketing activities related to agricultural products. It is not sufficient for the farmers to understand this; they must fully grasp the implications.

The problem can be seen from so many angles that it would be out of place to deal with them all here. Limiting ourselves to co-operatives, six comments should be made:

First, it is important for isolated farmers to avoid direct contracts with industrial and commercial firms far stronger than themselves. Because of the ratio of forces and, in particular, agricultural dispersion farmers risk being forced to accept hard terms, and even where terms seemed attractive and undoubtedly advantageous they would tend, by dealing as individuals, to impair the solidarity of the profession.

Secondly, in itself organization in groups would still not be enough to prevent farmers from being exploited. In such discussions, in farming as elsewhere, representation is a matter for experienced entities which know their own mind. Hence, farmers would be wise to entrust their interests to agricultural co-operatives which have proved their worth, provided some adapt themselves to their new roles and do not allow themselves to be hampered by tradition.

Thirdly, agricultural co-operatives should integrate and concentrate as much as possible. But such reorganization presupposes ability to impose sufficient discipline upon their members to ensure standardization of their products.

Fourthly, solidly organized agricultural co-operatives could make agreements with industrial and commercial firms.

Fifthly, co-operation can only succeed in extending agricultural activity in the industrial and trade sectors if a mighty effort is made, especially a financial effort. But the future of agricultural co-operatives may depend upon it.

Sixthly, a deliberate extension of agricultural co-operation to the processing of farm products and

their sale after processing will encounter many obstacles. The agricultural co-operatives could come into conflict with the vested interests of many industrial and commercial firms and find themselves accused of trespassing whereas, in reality, they would only be making legitimate use of the natural rights of any enterprise to free development.

§ 3. PRESENT ROLE OF AGRICULTURAL CO-OPERATION

In the nineteenth century, agricultural co-operation offered small and medium-sized farms the chance to compete in the economy with large ones. Later, it provided the farmers of certain countries with a better footing on which to talk business with purchasers of their products and with those who sold them industrial goods, particularly chemical fertilizers. Moreover, it put loans, and even insurance policies, within their reach at low rates. The mere presence of co-operatives in the markets was sufficient to protect farmers from all sorts of abuses. In this role of "pilot sector", co-operation made a decisive contribution to protecting the farm. Little by little, agricultural co-operatives established themselves.

No one now contests that the mission of co-operation is to supplement and directly prolong the activities of members where isolated efforts are no longer adequate. Its opponents merely try to stop it from going further. As we mentioned in § 2, agricultural co-operation, and agriculture in general, cannot agree to be thus restricted and to be satisfied with what has already been achieved. The original functions of co-operation remain as important as ever, but it is necessary for agricultural co-operatives to cope with new conditions, for time moves on and farmers already feel the need for powerful co-operative networks engaged in industrial and commercial activity. Furthermore, the co-operative movement will increasingly discover that it can no longer limit itself to consolidating and strengthening results achieved at national level but must go on to success on a European scale.

Such expansion of the agricultural co-operative movement will only succeed if much initiation and adaptation work is carried out and the movement obtains the necessary technical, financial and intellectual resources. Most necessary of all is, at ground level, a large proportion of individual members conscious of the identity of interests between their co-operative and themselves.

§ 4. INTEREST SHOWN BY THE STATE
IN AGRICULTURAL CO-OPERATION

a) Agricultural co-operation is an economic and social phenomenon. As such, public authorities could not afford to disregard it, particularly because an unorganized dispersion of farmers is not consonant with the common good. On the contrary, it is economically and socially advisable that they should be grouped in agricultural co-operatives and that co-operation be treated as a major institution by the public authorities.

b) If most of the Member States grant direct or indirect subsidies to agricultural co-operatives for given purposes, such support is justified by the characteristics of this form of enterprise, which is orientated, by definition, towards service and the advancement of its members rather than towards profit on invested capital. It should be pointed out

in this connection that the founders and the leaders of agricultural co-operatives cannot deal with their members primarily on a basis of profitability, as is the rule in profit-making enterprises.

c) Co-operation would have suffered a radical and harmful deviation if, in aiding it, the States had tried to make it their tool. On the other hand, it is possible that the objectives of their agricultural policies would never be achieved without the help, *inter alia*, of agricultural co-operative networks. Everything therefore speaks for a government policy favouring the co-operatives, but it is essential that the latter continue to be run by their members alone. There is a barrier here which should not be crossed. Luckily, no threat to take over the co-operatives has appeared in governmental quarters in the Member States. On the contrary, these authorities show sympathy for agricultural co-operation and act towards it in a liberal spirit.

Necessary reforms

NECESSARY REFORMS

If it is felt that the interests of European agriculture require a vigorous expansion of co-operatives, both nationally and at European level, it is essential to find out whether the present agricultural co-operative structures will long remain suited to the changing economic and social setting of European agriculture, and to the circumstances resulting from the development, within the European Economic Community, of a European competitive market economy. Many established situations and long-held assumptions of agricultural co-operatives may soon appear outdated and therefore be challenged, because:

- a) Their progress up to the present has been based on regional or, at best, national objectives;
- b) Customary or juridical rules have ossified to the point of becoming traditions, and it is important periodically to re-examine them to find if they are still applicable;
- c) In certain countries the empirical development of agricultural co-operatives resulted in gaps or delay in entering certain sectors where the vacant places are now filled by industrial and commercial enterprises.

These few points are sufficient to show the complexity of the problem and the need for caution. Nevertheless, it is important to find the essential lines of action for a new general orientation of agricultural co-operatives in Europe. It would already represent considerable progress if national authorities could be shown what road to take should they feel the need to remodel the legal systems of their agricultural co-operatives.

§ 1. LEGAL NATURE OF AGRICULTURAL CO-OPERATIVES

- a) All Member States recognize the legal personality of co-operatives in their legislation. After that, practice diverges, and this is understandable. The idea of a company was defined by most legal systems at the beginning of the nineteenth century, a period when the idea of co-operatives had not yet emerged. These laws defined the aim of companies as the production of profits which members would share. It is obvious that co-operatives do not fit into this

category. This is why the oldest laws classed co-operatives as "associations". Theory, court judgments and practice have often done the same. However, it is important not to miss the differences which underlie an appearance of similarity, because the term "association" itself has different meanings in different countries. Only in Belgium, France and Italy are the ideas of "company" and "association" clearly opposed. A company must be profit-making whereas an association may not be.

In Belgium, Luxembourg and the Netherlands, agricultural co-operatives were at first legally defined as associations. It was later admitted that they could be companies as well. In these three countries, agricultural co-operatives therefore sometimes take the form of an association and sometimes of a company; the latter is generally a more recent development.

- i) In Belgium, the numerous local purchasing and sales groups are really only *de facto* associations.
- ii) In Luxembourg, several types of associations exist side by side.

The oldest agricultural co-operative were non-profit-making associations without commercial or industrial activities, and did not seek pecuniary gain for their members or have legal personality. They are now governed by the law of 21 April 1928.

A special type of association appeared on the scene with the law of 27 March 1900, dealing with the organization of "agricultural associations" which carry on non-profit-making industrial and commercial activities. This law was revised by a Grand-Ducal decree on 17 September 1945.

In addition, livestock and hail insurance are operated by mutual aid societies under the law of 11 July 1891.

Finally, joint use of agricultural machines is often organized by *de facto* associations without legal personality.

- iii) In the Netherlands, the law on associations of 22 April 1855 governs all non-profit-making groups. In order to have legal personality these associations must be approved by the Government. A certain number of them act as co-operatives and in practice can be regarded as such.

The law of 17 November 1876 instituted "co-operative societies" which do not require approval. This law was replaced by that of 22 April 1925.

French, German and Italian legislation, on the other hand, requires all agricultural co-operatives to be "companies".

iv) German legislation solved the problem by making the co-operative a company "sui generis". A third type of company was thus added to civil and commercial ones,¹ which is a solution worth studying.

v) In France the Cour de Cassation's view of the co-operative long oscillated between limited company and association. The Court's judgment of 11 March 1914, in a case concerning a rural credit bank of the Raiffeisen-Durand type, seemed to decide for association but later legislation consistently re-affirmed that agricultural co-operatives were companies:

The law of 10 September 1947 establishing the general status of co-operation defines co-operatives as companies and lays down their essential objectives.

According to the decrees of 4 February 1959 and 5 August 1951, pertaining to the legal status of agricultural co-operation and to the Rural Code, agricultural co-operatives for goods and services and agricultural mutual credit banks are civil companies.

The law of 4 July 1900 attributes to agricultural mutual insurance societies the special character of mutuels in the form of professional unions.

vi) There is no longer any doubt under Italian legislation.

Article 2247 of the Civil Code of 1942 applies the criterion that a company is a collective economic activity organized in the form of an enterprise for production and trade. According to this idea, an agricultural co-operative is definitely a company because its guiding principle of service does not prevent it from being an enterprise. (It is worth noting that views in France are tending in this direction.)

Where legislation admits that agricultural co-operatives are companies, it classifies them not as "associations of capital" but as "associations of persons". In this respect also we may ask whether agricultural co-operatives should not be placed in a special category because of their special structure.

b) The legal capacity of agricultural co-operatives is hardly restricted except in France, where the laws make a clear distinction between "capacité civile" and "capacité commerciale" and only the former is per-

mitted to agricultural co-operatives. The French system is a strict application of the generally accepted theory that an agricultural co-operative is an extension of the activity, "civil" by definition, of the farmers who are its members. But it may be questioned whether this limitation is still appropriate, especially for those agricultural co-operatives which have branched out into the industrial and commercial fields.

Everywhere else, agricultural co-operatives are under no restrictions as to capacity and can carry on any commercial activities they wish. This does not mean that legislation everywhere outside France accords them the capacity of traders. The best solution is probably that of German legislation which, having placed agricultural co-operatives side by side with commercial companies, grants them specifically the same rights.

c) It is accepted everywhere that the membership and capital of co-operatives may vary.

The variability of the number of members is a characteristic trait. However, a closed co-operative could be imagined and its character as a partnership ("société de personnes") would thus be more marked.

It is striking that the above-mentioned French law of 10 September 1947 does not impose variability of numbers. Nevertheless, a fixed number of members hardly squares with the intrinsic nature of co-operatives. However, limitation on number of members could result from a restricting technical factor, such as the impossibility of extending the capacity of plant. In theory it might be better to enlarge the latter as soon as possible, but in practice the exigencies of profitable operation cannot be set aside.

Variability of registered capital is a necessity when the activities carried out by members through their co-operatives must be associated with contributions of capital; increase in the one would inevitably mean increase in the other.

d) The Working Party of experts feels it must draw the attention of the Governments to the fact that agricultural co-operatives should everywhere be regarded as companies of a special type and should exercise in all the Member States a capacity as wide as that of the French "sociétés commerciales".

§ 2. LIMITS OF AGRICULTURAL CO-OPERATION

a) The idea of agricultural co-operation has been considerably extended and now includes a variety of activities which differ widely in type and importance.

¹ See translator's footnote, p. 29.

The whole agricultural co-operative movement is based on primary co-operatives whose members, in greater or less number, are farmers in a small or large area. These basic co-operatives are considered, and rightly so, as the direct and normal extension of the farming activity of their members. They aid members, too often hampered by isolation, in coping with daily problems, in supplying their farms and selling their products and, when necessary, in changing the type and volume of their production or modernizing their farms.

There are also secondary and even tertiary co-operatives, whose task it is to help the co-operatives of the lower echelon and supplement their activities. But this pattern does not necessarily correspond to a precise hierarchy. The areas covered by the first, second or third types are not homogeneous. The higher types either cover larger areas of activity or specialize in financial, industrial or commercial affairs. A difficulty arises here in analysing the structures of co-operatives; when studying the different types one is not always dealing with comparable situations.

Will it be possible to continue much longer the empirical approach by which the agricultural co-operative networks were formed, often in response to immediate and specific problems of all sorts, and depending on the personal qualities and defects of the founder members? Will the application of the common agricultural policy not impose a readjustment of co-operative activities, with the higher echelons drawing more functions to themselves? Will a more rational division of labour not greatly reduce the operational freedom of the leaders of primary co-operatives who are unable to get a broad enough view of the market situation? Thus it seems that the role of secondary and tertiary co-operatives will increase. It is natural that technical stimulus should come from the top and penetrate to the lower levels, but those co-operatives at the apex will still be the legal offspring of the primary co-operatives and this may cause some conflicts. We must be careful not to overstep the bounds, for a very dangerous situation would arise if the primary co-operatives were wiped out; agricultural co-operation would lose its human value and strength for, in the final analysis, the whole system rests on the members on the ground in the primary co-operatives.

b) Opponents of agricultural co-operation admit that primary co-operatives can be considered on the same level as farms as long as they remain on a human scale. When the primary co-operatives are on a large scale, these critics deny that they are an

extension of the farms' activities, and claim that those at higher levels are no longer specifically agricultural.

It is true that mentalities, aptitudes, methods and roles cannot be the same on all levels of agricultural co-operation. It is obvious that those agricultural co-operatives engaged in financial, industrial or commercial activity are obliged to conform to the technical processes current in these sectors. Nevertheless, an organic link exists between, on the one hand, the farmers grouped in primary co-operatives and, on the other hand, the secondary co-operatives which are made up of primaries. This also holds good for tertiary co-operatives formed of secondary ones. The organic link is a result of the specific character of co-operatives, where the member is both partner and, according to the situation, customer or supplier. This feature is found legally and economically on all levels of co-operatives, and the upper echelons truly represent an extension of the farmers' activities through the intermediary of primary co-operatives.

c) The experts feel that the legal system of agricultural co-operatives should not be too pettifogging but should be flexible enough to enable each level of agricultural co-operation to organize according to its own needs. In particular, it is important for the local, basic group to be able to operate using very simple mutualist rules.

The Working Party notes that where legal systems are rigid agricultural co-operatives are unable to adapt themselves to the rapid changes taking place in agriculture, and the farmers then tend to have recourse to lateral systems or to semi-co-operative solution. The experts are aware of the drawbacks of such remedies for the narrowness of some legal systems governing co-operation.

On the other hand they agree that economic necessities might justify the presence of ancillary sectors alongside agricultural co-operatives, provided they did not become so large as to disrupt the co-operative networks.

It must therefore be admitted that agricultural co-operatives, and more particularly those on the higher levels, may participate in non-co-operative companies, and even hold a majority of the shares in them when this is desirable.

§ 3. THE CO-OPERATOR

a) The members of an agricultural co-operative in the strict sense must be farmers, whether as

individuals or partners in a group. Except in France, membership of agricultural farm credit banks is wider, and extends to other sectors of the population.

Some legal systems allow retired farmers to continue as members of their agricultural co-operative.

Others permit the presence among the members of people who are not connected with agriculture but whose abilities in other fields make them useful to the co-operative. (In Germany, for example, a member of the managing committee may not have been a member at the time of his election by the General Meeting but, in order to hold office, must become one immediately after.)

These may be seen as two wise measures to ensure that the co-operatives benefit from the help of men of practical experience and thinkers.

b) Each candidate must enter the co-operative of his own volition. He must also undertake responsibilities toward the co-operative which are commensurate with his professional activities. The admissions committee must be very careful in its examination of new members, since the role of the member in a co-operative is of primary importance.

c) The "exclusive-dealing rule" according to which all the elements of a co-operative's activity should be contributed by its members is becoming less and less applicable in today's economy, which demands standardized batches of merchandise and higher productivity. Strict observance of this tradition would often lead to poor technical performance and consequently to unfortunate financial results. That is why observance of the rule tends to be more flexible and few statutes still maintain it. It is still true, nevertheless, that some activity must be required of every member and that any relaxation on this point is contrary to a fundamental co-operative principle.

Except in the Netherlands, the member legally owes capital contributions to his co-operative. The long-established opinion that a co-operative is not a "société de capitaux" often leads to negligence and misunderstanding on this subject among members.

d) It is completely in accordance with co-operative principles for co-operatives to grant their members the lowest possible prices. Any exaggeration, however, would be imprudent. It is important that the business year of an agricultural co-operative should close with a reasonable surplus just as in any other well-run enterprise.

The methods of distributing the surpluses remaining after maintenance of reserves and even, in some

countries, of capital are a characteristic feature of co-operatives. The law almost everywhere prohibits co-operatives from paying dividends in proportion to the amount of capital contributed by a member. At most, in certain countries it allows a limited amount of interest on this capital. The general rule is to break down the annual surplus among members in proportion to their respective contributions to the co-operative's business.

e) The right to withdraw from a co-operative is regulated in two ways.

German, Luxembourg and Dutch legislation specifically allows any member to give notice of withdrawal at any time and leave when this notice expires. In order to limit the inconvenience of this facility, co-operatives can only lengthen the period of notice to the maximum allowed by law.

Other legal systems require that the member or an agricultural co-operative must join for a fixed length of time.

The member is thus required to be faithful to his co-operative and respect his commitments until the end of the term agreed. The co-operative thus knows exactly how many members it can count upon. French legislation even goes so far as to allow a tacit renewal of the agreement unless the member indicates he wishes to withdraw.

No legislation opposes a mutual termination of contract, although French law requires the member to present a legitimate reason, which the co-operative may accept or reject.

After full consideration, the majority of experts are of the opinion that the common interest of members and co-operative makes it preferable to have a fixed-term commitment by members rather than to allow withdrawal upon notice at any time. Furthermore, it is not possible to allow any member to break off his deliveries of his own accord, because this would be equivalent to withdrawal without notice. It is true that primary co-operatives involved in simple operations could often afford to be tolerant; but such would not be the case with co-operatives which have made large investments and must conform to a manufacturing or processing schedule.

f) As far as the legal liability of members is concerned, there are four types of co-operative.

i) Those where liability is limited to the capital investment or, if there is none, a given sum of money.

ii) Those where liability goes beyond the capital invested but is limited.

iii) Those with unlimited liability.

iv) Those liability depends on the member's operations with the co-operative.

Generally speaking, the liability of members of companies is diminishing, as economic development progresses and the growth of enterprises depersonalizes them. This tendency in the case of agricultural co-operatives has been pronounced in some countries but not in others. There is therefore a great difference in the degree of legal liability of co-operative members in different countries.

As long as the total assets of agricultural co-operatives far from correspond with their commitments, liability above the capital investment is necessary — but it must be kept within reasonable limits.

When these assets are sufficient, either of two opposing opinions may be held.

Some feel that liability must continue to be unlimited, because this would encourage members to finance their co-operatives themselves in order to avoid being called to account at some future time, and because it improves the co-operative's standing with the bank.

Others, on the contrary, think that it is bad to scare members off; that a call upon the whole body of members to guarantee debts could hardly yield appreciable results; and that the security of creditors is ensured above all by sound technical and financial management and by a corresponding increase in the co-operative's funds.

In short, the two opinions are based on estimates of members' psychology but both agree that strengthening the assets of agricultural co-operatives is not merely advisable but indispensable.

g) The Working Party feels:

That new members must be recruited on a completely voluntary basis, albeit selectively.

That relations between a co-operative and its members must be as free as is possible without hampering its operation.

Therefore it would suggest:

That each member be required, in conformity with the commitments undertaken when joining or renewing membership, to contribute to the co-operative business and funds in accordance with its needs.

That the leaders of co-operatives see that these commitments are met.

That members' right to withdraw may only be exercised in conformity with the statutory forms or legal provisions on this point.

That the personal liability of members in regard to third parties be reasonably defined, taking into consideration the tasks carried out by the co-operative and the size of its assets.

The Working Party feels that the legislation of Member States should, where necessary, be adjusted in the light of these observations based on experience.

§ 4. OPERATIONS OF AGRICULTURAL CO-OPERATIVES WITH PERSONS OTHER THAN THEIR OWN MEMBERS

a) Since the traditional exclusive-dealing rule is becoming increasingly incompatible with current business practice, agricultural co-operatives must be allowed the right to work not only with their members but also with third parties who are not members. They do, in fact, have this right in most Member States. Hence we find a system where the co-operative deals with three different sorts of customers or suppliers at the same time:

Its members, that is to say, the farmers who belong to it and who must also be its customers and suppliers according to the terms of the Articles;

Other farmers who, though not members, may be customers or regular suppliers;

Other third parties, with whom the co-operative carries out buying and selling operations in the course of, or in order to supplement, its own operations with its permanent customers or suppliers, whether members or not.

However, the operations of a co-operative must, except in cases of *force majeure*, be mainly carried out with its members. One could have a co-operative where the third parties were in a large majority and did the bulk of the business, and all went well. But such an establishment would not respect traditional co-operative principles, because it would not really be aiding its members in the first place. It would then be advisable if "non-member" farmers joined the co-operative, seeing that they were acting as regular buyers or suppliers anyway.

b) Legislation which forbids relations between co-operatives and customers and suppliers who are not members is usually based on fiscal considerations. The aim is to prevent non-members from profiting by tax arrangements covering operations with memb-

ers. This concern is quite understandable; but does it not lead to restrictions which are incompatible with real everyday situations? It is therefore important to make the following distinctions:

i) On the one hand, it would be proper to tax business operations with non-members in the same manner as those with members if the transactions are exceptional and due to *force majeure*, in which case the original character of the co-operative is not fundamentally impaired.

ii) On the other hand, a double taxation system would be imperative when agricultural co-operative deliberately and systematically used the services of "non-members"

In any event, a literal application of the exclusive-dealing rule which would mean introducing, in order to avoid taxes, members who were not really in sympathy with agricultural co-operatives would certainly not be a good solution.

c) The Working Party is therefore of the opinion that all legislation in all the Member States should authorize agricultural co-operatives to carry on transactions with non-members but should:

— limit the scope of such operations so that the co-operatives do not lose their character as associations of members for mutual assistance; and

— judiciously extend those tax provisions now applicable to operations carried out with members to those carried out by way of exception with non-members.

§ 5. AGRICULTURAL CO-OPERATIVES' OWN RESOURCES

The agricultural co-operatives' own resources include:

Capital belonging to them;

Capital borrowed by them;

Any extra capital contributions by members.

CAPITAL BELONGING TO AGRICULTURAL CO-OPERATIVES

As the term "registered capital" does not have the same meaning in all Member States, it would be better not to cause confusion by using it. It is sufficient to say that capital belonging to agricultural co-operatives can come from three sources:

i) Individual contributions by members;

ii) Maintenance of reserve funds by the General Meeting;

iii) Subsidies and donations.

1) Individual contributions of funds by members is not very important for small primary agricultural co-operatives, particularly for those in which the members furnish their own labour. By definition mutual societies and associations do not receive capital contributions.

When the liability of the members is unlimited and the solvency of the co-operatives is therefore assured, capital contributions are theoretically superfluous. Nevertheless, German and Luxembourg legislation requires capital contributions from members at all levels of the co-operative hierarchy, even if their liability is unlimited. The solvency of the co-operatives is thereby reinforced. A similar practice exists in the Netherlands for certain types of co-operative.

The funds from individual contributions by members are often very inadequate in relation to the business operations and commitments of the co-operatives.

In Italy the limit on the total capital contribution of each member — 250 000 lire — now seems far too low.

In order to meet this grave deficiency, it would seem logical systematically to convert the members' refunds into individual capital contributions. In Germany, France, Italy and Luxembourg, this requires the permission of each individual, which often leads to complications; however, Italy frequently allows a portion of the annual profits to be distributed among the members in the form of new shares. In the Netherlands, the General Meeting may convert members' refunds into individual capital contributions. In Belgium, the situation is more complex. The General Meeting may decide to convert the refunds into capital contributions in a blocked account, but when these are to be included in the capital subscribed by the members, the consent of each member must be obtained.

2) Increasing reserves by adding to them from annual surpluses is, in practice, the best way to increase a co-operative's own resources. But once the legal and statutory limitations on appropriation to reserve have been respected, the use made of the remaining surplus depends on the wisdom of the General Meeting. As the refunds are reduced proportionately to the amounts placed to reserve, conflict arises between the co-operative's interest and the individual interests of members, since the sums placed to reserve cannot be used to increase the

individual capital contributions of members, except in Belgium and Italy.

3) Except in the Netherlands, subsidies are granted to certain co-operatives for specific purposes and on certain terms.

In some Member States, co-operatives may receive donations particularly by devolution of the net assets from the liquidation of other co-operatives or, in France at least, of agricultural syndicates.

However, it would be quite unusual if agricultural co-operatives were to find resources sufficient for their operations through such donations or subsidies.

CAPITAL BORROWED BY AGRICULTURAL CO-OPERATIVES

Such capital may come from three sources:

i) Advances from members by such means as temporarily withholding their refunds and even the interest on their capital contributions;

ii) Short-term advances from credit co-operatives or banks;

iii) Loans proper, repayable at more or less long term.

1) When the co-operative's own capital is not sufficient for its needs, the members are primarily responsible for remedying this. It is simple and normal for agricultural co-operatives to seek to supplement their capital through advances from their members which allow them to keep, for a given time, the total interest and refunds that would otherwise be distributed to the latter. However, these decisions must be taken in broad daylight and it is important that the General Meetings base their decisions on legal provisions or the Articles.

2) Short-term advances from credit co-operatives or banks do not call for any special comments here.

3) It is quite common practice to take up loans at more or less long term in order to pay for investments in capital goods, but the profitability of such loans, which must be repaid, imposes certain limits which it is dangerous to exceed.

The insufficiency of their own capital forces agricultural co-operatives to borrow too often, thus endangering their credit rating and exposing themselves to financial difficulties. Experience has shown how dangerous it is to meet with borrowed capital expenses which should be covered by an enterprise's own capital.

ADDITIONAL CONTRIBUTIONS BY MEMBERS

In certain EEC countries members are required to make additional contributions if an agricultural co-operative finds itself in difficulty. The legal and statutory provisions on this point differ from one country to another, and sometimes contain elements which have survived from another age.

It is obvious that members of agricultural co-operatives feel the full psychological effects of their complete solidarity only in the primary co-operatives, where all know each other well enough to assess the risks they run in guaranteeing each other.

To lighten the responsibility of members the higher organs of agricultural co-operation in certain Member States, particularly the "Deutscher Raiffeisenverband" (German Association of Farmers' Credit Co-operatives), have set up reorganization funds to help out co-operatives in difficulties and prevent their being forced to obtain aid from outside agriculture.

THE NEED FOR SELF-FINANCING BY AGRICULTURAL CO-OPERATIVES

1. The Working Party feels that agricultural co-operatives, like other enterprises, must have sufficient funds of their own to carry on their business and allow for immobilization. Any evaluation of these resources must take account of two factors:

a) First, it often happens that agricultural co-operative installations are, by definition, established more on the basis of professional than of technical considerations. Such immobilizations therefore have less inventory value and so their amortization is more difficult.

b) Furthermore, many farmers only have liquid capital when they deliver their annual harvests. Their co-operative has no choice but to give them time to pay for the industrial products it procures for them and the services it renders, and to repay advances on the agricultural products it sells or processes on their behalf. These recurring and unavoidable services are a heavy burden on the finances of agricultural co-operatives, whose working capital must be increased to a proportionate extent to cover them.

2. The Working Party is strongly of the opinion that a policy of excessive borrowing is perilous for agricultural co-operatives, which must avoid getting too deeply into debt by:

a) putting into reserve funds that portion of surpluses which could have been distributed as refunds to members; and

b) obtaining additional individual capital contributions from members.

3. Once granted, these refunds are business debts; but the Working Party considers that, when funds are tight, payment of them should be deferred or that they should even be distributed in the form of more or less short-term interest-bearing notes. The Working Party feels that this conversion is one way of temporarily avoiding calling upon the members for supplementary capital contributions.

4. The Working Party considers:

- i) That it is normal for members, like the partners in any other collective enterprise, to make personal efforts to give the co-operative the funds it needs for efficient operation;
- ii) That the problem of self-financing of the agricultural co-operative is vitally important for the future of the institution.

It calls the attention of Member States to the grave drawbacks of inadequate self-financing for the financial health of agricultural co-operatives, particularly the secondary and tertiary ones and these for processing and marketing. It points out how important it is that this form of self-financing should not be rendered sterile by fiscal arrangements.

5. The Working Party considers that the members should receive further instruction regarding self-financing.

First of all, because farmers often still entertain prejudices in financial matters and wrongly conclude that because a co-operative is an organization for mutual assistance it hardly needs any financial resources of its own.

Furthermore, because decisions on this point are made by members in the General Meeting and it is bad policy to have them feel that they voted as a result of moral pressure without understanding the necessity and the implications of the measures put before them.

6. Since it has been argued in various quarters that the indivisibility of the agricultural co-operative's reserve fund during its existence presents an obstacle to individual capital contributions,

Since the problem only presents itself when agricultural co-operatives are companies or entities on the same footing as companies, and not non-profit-making associations or mutual aid groups where members have no capital contribution to make,

Since only one Member State allows repayment of individual capital contributions of members with appreciation on the basis of the last balance-sheet and this repayment is made everywhere else according to nominal value, with a possible deduction of a proportion of losses,

Since, on the liquidation of agricultural co-operatives, four Member States authorize complete division, and one partial division, of the net assets between the members in proportion to their individual capital contributions,

The Working Party wondered if it would not be proper to encourage incorporation of all or part of the reserve into the individual capital contributions, which would thus be proportionally increased.

But the problem presents various aspects which are hard to reconcile, notably:

The liability of members towards creditors, when, being limited, it is proportional to the individual capital contributions, would be automatically increased each time more reserve funds were incorporated.

The use of members' right to withdraw capital, because the prospect of profitable repayment of individual contributions might induce members not deeply imbued with co-operative ideals to think in terms of speculation outside the co-operative and encourage them to leave the co-operative merely to make a profitable transaction.

Not having been able to reach agreement on the innovation suggested, the Working Party considered that studies covering all aspects of the question were indispensable.

§ 6. ADMINISTRATION OF AGRICULTURAL CO-OPERATIVES

CO-EXISTENCE OF THREE TYPES IN THE COMMUNITY COUNTRIES

Type found in Germany

1) Two bodies share the administration of German co-operatives: the managing committee and the supervisory board (Aufsichtsrat). These exist side by side and have their own respective powers and duties.

2) Furthermore, German co-operatives have to belong to an auditing and inspection association (Prüfungsverband) which periodically examines their accounts and management. The supervisory board is the trusted instrument of the General Meet-

ing. The law grants it wide powers to inspect all the managing committee's activities and to check the accounts. Its powers may be extended further under the Articles.

3) The managing committee is responsible for running the co-operative and allocates among its members, as it thinks fit, the work of implementing its decisions. It may also grant limited powers to senior employees, in particular to an administrator who has the capacity of a manager in the large co-operatives; but the granting of general powers of attorney is prohibited by law.

4) If the Articles permit, persons who are not already members of the co-operative may be chosen to sit on the managing committee or supervisory board; to discharge their duties however, they must join the co-operative (see Chapter II, 3 a).

5) In principle, both the managing committee and the supervisory board are directly elected by the General Meeting. Under the Articles of the large co-operatives, however, responsibility for appointing members of the managing committee is usually transferred to the supervisory board, though power of dismissal in all cases rests legally with the General Meeting.

TYPE FOUND IN LUXEMBOURG AND THE NETHERLANDS

1) In Luxembourg, co-operative management is generally shared by the managing committee and the supervisory board; in the Netherlands, by the board of directors and the supervisory board.

2) In Luxembourg a supervisory board is only compulsory when the co-operative has more than fifty members.

In the Netherlands the supervisory board exists by virtue not of the law but of the Articles. The law only calls for a three-man committee appointed by the General Meeting; this committee checks the accounts and reports to the Meeting. However, the Articles of most of the larger agricultural co-operatives provide for a larger supervisory board, endowed with wider powers, instead of this committee.

3) The managing committee in Luxembourg and the board of directors in the Netherlands manage the co-operatives as a body. In Luxembourg the supervisory board has a consultative voice in the discussions of the managing committee; in the Netherlands the approval of the supervisory board is generally required for very important decisions.

4) The system of management resembles the German system in Luxembourg, but differs from it in the Netherlands. In Luxembourg the managing committees delegate powers to some of their members, or form a select committee from among themselves, or nominate a manager. In the Netherlands, the Articles of most agricultural co-operatives provide for the appointment of one or more managers, who are salaried agents responsible for implementing the board of directors' decisions. However, this is not compulsory by law.

5) Unless the Articles specify otherwise, the members of the managing committee in Luxembourg, the board of directors in the Netherlands, and the supervisory board in both countries, may be chosen from persons outside the co-operative.

6) Managing committee, board of directors and supervisory board are, generally speaking, elected by the General Meeting. However, Dutch law does not prohibit other methods of appointment, provided the members of the co-operative make the appointment, voting by post, for example. In the Netherlands, the Articles even empower persons from outside the co-operative to appoint one-third of the members of the supervisory board.

TYPE FOUND IN BELGIUM, FRANCE AND ITALY

1) In Belgium, France and Italy, co-operatives are managed by a single body, elected by the General Meeting and known everywhere as the board of directors. There are three exceptions to this rule, however.

Under Belgian law, only an administrator (*gérant mandataire*) is required, although most Articles establish a board of directors.

In France, cantonal agricultural co-operatives with less than twenty members need have only one director; moreover, secondary and tertiary co-operatives may be managed directly by the General Meeting. These are recent innovations which have hardly been applied as yet.

2) Generally speaking, boards of directors have very wide powers, limited by such decisions as can only be taken by the General Meeting.

3) Boards of directors organize their management as they deem fit, and delegate powers either to some of their members or to senior employees.

4) Directors generally have to be selected from among members of the co-operative.

In Belgium, this requirement arises purely from the Articles. Administrators are not necessarily members of the co-operative.

In Italy, some directors are appointed by the State or by public bodies. Staff representatives also sit on the boards of the "consorzi agrari".

5) In Belgium and France accounts are checked by auditors, and in Italy by a "collegio dei sindaci" (board of auditors), all elected by the General Meeting.

In Belgium, when more than two auditors are appointed they constitute a body with the powers of a supervisory board.

In Italy, the powers of inspection of the board of auditors extend to the administration of the co-operative and to the latter's compliance with the law and its own deed of incorporation. This does not apply in Belgium or France.

REMUNERATION OF MEMBERS OF MANAGING COMMITTEES, SUPERVISORY BOARDS, OR BOARDS OF DIRECTORS

The question of remuneration of members of the various bodies responsible for running agricultural co-operatives is interesting for two main reasons:

- i) The direction or management of agricultural co-operatives of any size calls for competence, vigilance and diligence, and necessitates travel.
- ii) Many members of co-operatives, particularly young and small or medium-scale farmers whose presence on the supervisory board, board of directors or managing committee would be useful to the co-operative, are often unable to accept such an appointment unless they are compensated for their time and trouble.

In this respect, the German system offers most scope:

Members of the supervisory board may receive attendance fees or allowances for out-of-pocket expenses; however, the granting of fixed allowances is exceptional. The payment of allowances proportional to operating results is prohibited by law.

Members of the managing committee may receive expense allowances. If their post on the committee is their chief occupation, and they are therefore bound to the co-operative by a work contract, they receive a fixed salary and perhaps a share of the annual profit.

The French system is very restrictive:

Only those directors specially entrusted with supervising the running of agricultural co-operatives may receive allowances for time so spent. Agricultural credit banks may not pay such allowances to more than one director. Generally speaking, however, the trend appears to be towards abandoning the traditional theory of unpaid service.

Summing up, it would be advisable to start taking a more generous view of this matter of remuneration.

BASIC SIMILARITY OF THE THREE TYPES OF ADMINISTRATION

a) The three forms of administration found in agricultural co-operatives appear to differ in the essential aspects of number, membership and powers of their administering bodies. This is only to be expected, since the management of agricultural co-operatives is inevitably based on the general notions of company law existing in each of the Member States.

In the final analysis, however, the solutions thus applied are found to be more alike than one might suppose on a first examination.

For instance, the following may be noted:

1) There are two types of mandataries in each country:

Those responsible for managing the agricultural co-operatives (members of managing committees and boards of directors); and those responsible for supervising their management (members of supervisory boards, auditors and boards of auditors).

All these bodies derive their powers from the General Meeting, to which they have to account for their actions.

2) Both managing committees and boards of directors are called upon to take decisions which go beyond the requirements of day-to-day operations, and have to deliberate on them as a body.

Both attend to the implementation of such decisions and to the day-to-day management of the co-operative's business. The German system differs from the other five, however, in that it does not permit these tasks to be assigned to a general proxy.

3) The essential point of difference between the system in Germany, the Netherlands and Luxembourg on the one hand, and that in Belgium, France

and Italy on the other, lies in the supervision of the activities of the managing committee and board of directors.

Under the German, Luxembourg and Dutch systems, the supervisory board acts as a watchdog for the General Meeting when it is not in session; the competence and experience it thus acquires enable it to authorize the managing committee or board of directors to act in matters too important for those bodies to decide on alone. It is also able to take suitable measures to meet difficult situations, and is responsible for following up the investigations of its authorized accountants or auditors.

In short, the supervisory board serves as a link between the General Meeting and the managing committee or board of directors.

Under the other system, the board of directors both represents the General Meeting and manages the society. There is nothing to bridge the time-lapse between General Meetings which themselves must pass judgment on the actions of the board of directors, assisted by their own appointed auditors whose work is confined, however, to inspecting the accounts and balance-sheet, except in Italy.

French law has sensed the inadequacy of such supervision, since it allows the sectional assemblies of large agricultural co-operatives to appoint members to represent their interests permanently on the boards of directors in the intervals between General Meetings. This partial remedy can serve to strengthen the position of the General Meeting in relation to the board of directors.

4) Of the three systems under consideration, most difference exists between the German system and that adopted in Belgium, France and Italy. The system in the Netherlands and Luxembourg occupies an intermediate position, being closer to the German in so far as the activities of managing committee or board of directors are subject to control by a supervisory board, but closer to that employed in Belgium, France and Italy in so far as the decisions of managing committee or board of directors are almost always implemented by a general proxy.

To sum up, these three systems of management stem from two opposite concepts:

German, Luxembourg and Dutch legislation has apparently sought to create a system whereby the organs of the co-operative counterbalance each other.

Elsewhere, the law has contented itself with a series of delegations of power.

It would be impossible to choose between these two concepts because they are deeply rooted in the customs of the respective countries and, being the result of the general company law in force in the Member States, are based on different premises.

In any case, the principle of compensating the members of supervisory boards, boards of directors and managing committees for trouble and time spent in serving the larger co-operatives must be fully accepted when such payments are justified, for it is indvidious that problems of personal resources should hamper recruitment to the management of agricultural co-operatives and the normal, timely accession to such posts by the younger generation.

§ 7. AUDITING OF AGRICULTURAL CO-OPERATIVES

a) The problem of checking company accounts is not confined to agricultural co-operatives, but it is particularly important in their case for several reasons.

Inspection should not be limited to the accuracy of annual accounts. Since the co-operatives' activities may concern the general interests of the farming community, it should be possible to bring questions which might otherwise become sore points into the open before they fester.

As a rule, farmers are not accustomed to company accounting because their own accounting is usually done differently. Hence, many of the people who attend the General Meetings of agricultural co-operatives wrongly assess the incidence of the deficiencies they hear about, particularly if these are reported in terms familiar only to the initiated.

It would therefore be useful and advisable if professional auditing by qualified experts became the general rule throughout the Community, as is already the case in Germany, Italy and the Netherlands. Where there are not enough auditors, it is essential that the co-operative movement should train them.

b) While aware of the many practical difficulties of extending auditing to all agricultural co-operatives, the Working Party considers that the success of such a reform is essential for the future, and deserves the full attention of Member States.

§ 8. MANAGEMENT FORECASTING

a) Retrospective auditing should be distinguished from management forecasting; the former refers to the past, while the latter concerns the future.

In view of the constant emergence of new techniques and the growing interpenetration of markets, affecting economic structures and business life, all sizeable concerns are feeling an increasing need to adopt management forecasting so as to plan and safeguard their future.

b) Agricultural co-operatives cannot escape this need, but management forecasting is particularly difficult in their case as they are obliged to reckon with many hazards. Furthermore, farming circles are hardly grounded in management forecasting since this presupposes highly advanced scientific facilities and special methods of analysing and synthesizing the data thus obtained.

It would therefore often seem essential for co-operatives to be guided in their estimates by management consultants.

c) The Working Party hopes:

— that agricultural co-operatives will realize more fully the hazards of working without properly established plans for the future and

— that they will come to understand that the assistance of competent and qualified management consultants will become increasingly vital to them in preparing their forward estimates.

§ 9. INSOLVENCY OF AGRICULTURAL CO-OPERATIVES

a) Normal bankruptcy proceedings are generally applicable to agricultural co-operatives. In Italy, however, an administrative liquidation procedure allows exceptions to the ordinary law on bankruptcy. In France, a Bill to provide special procedures has been passed by the Senate and is still being studied.

All things considered, there are two objections to the application of ordinary law proceedings:

i) Agricultural co-operative establishments would often hardly attract purchasers;

ii) Since a co-operative is not like other concerns, its failure would involve losses of an occupational and moral as well as of a material nature, and have manifold repercussions on the members' farms.

The process of official liquidation as practised in Italy, whereby a co-operative is found to have ruined itself, is both expeditious and effective.

b) The simplest way might be for insolvent co-operatives to be dealt with in accordance with some special procedure based on settlement of debts under

judicial control, the leading authorities in co-operation being empowered to intervene to present a salvage programme.

The Working Party was divided between advocates of the normal procedure and of a special one.

§ 10. OFFICIAL PUBLICATION

a) One cannot attach too much importance to method of official publication. The role of convenient, clear and accurate legal notices as means of informing civil servants, statisticians and third parties, and for the security of members, creditors and foreign partners in trade, should never be underestimated. It would be irrelevant to discuss here the respective merits and disadvantages of the various legal notification procedures employed in Europe, since their modernization and standardization go beyond the framework of agricultural co-operation.

b) The Working Party nevertheless wishes to stress that judicial action, as provided for in some Member States, would be appropriate for agricultural co-operation because those in charge too often tend to neglect the formalities involved in setting up a corporate body and in the events of its legal existence.

§ 11. LEGAL SYSTEM APPLICABLE TO AGRICULTURAL CO-OPERATIVES

a) The body of private companies for collective aid known as agricultural co-operatives, with their oft-changing articulation, requires an adequate legislative framework.

Experience shows that a summary legal organization suffices for a commercial institution with great vitality, which is led by capable and reasonable men and helped along by competent, devoted enthusiasts at every level. In such cases, the public authorities frequently need do no more than ratify the order of things which has thus come about spontaneously. A demonstration of this has been provided by the Dutch agricultural co-operatives, which sprang into life under the law of 22 April 1855 on associations in general, whereas it was not until the law of 17 November 1876 was introduced that co-operatives received their own legal framework. Another example is found in the private-enterprise system of French agricultural mutuals, which was built up with the few lines of the single article of the law of 4 July 1900 as its only legal basis; the decree to implement that law was not enacted until 2 August 1923.

On the other hand, long and detailed provisions might give the impression that the authorities thought it necessary to impose a mould for an institution it considered fragile or artificial and whose first steps it felt a need to guide.

The long and short of it is that the content of the legal provisions governing any such commercial or trading institution should depend on the state of that institution at the time the legislator intervenes.

b) It is difficult to give a generally valid reply to the question whether agricultural co-operatives should be governed by a section of a single set of legal provisions governing co-operatives as a whole, or whether special provisions applicable to agriculture alone would be better.

Four Member States, Belgium, Germany, Luxembourg and the Netherlands, have single sets of provisions; these are highly flexible, the least restrictive apparently being the Dutch text, which contains 40 articles based on very liberal principles.

Although both general and special provisions co-exist in France and Italy, the position is the reverse in each State: in France, the general text holds little interest, whereas the special one governing agricultural co-operatives is sufficient in itself and highly detailed. Conversely, the general provisions existing in Italy directly govern agricultural co-operatives subject to complementary provisions which may be enacted by special instruments, such as those for the "consorzi agrari" and rural banks.

Comparisons are difficult because everything has depended on:

- The respective development of the various co-operative sectors;
- The most important sector to which reference is perforce made;
- The cohesion of the co-operative movement; and
- The state of relations between the various sectors.

c) It should again be noted that agricultural co-operatives cannot function in the same way at all the successive stages of co-operation:

Most of the ground-level agricultural co-operatives are one with their members' farms. In contrast, the secondary and tertiary co-operatives have to be on an equal footing with their rivals in industry, commerce or banking, particularly if they are associated with them in profit-making concerns, and notably in companies under commercial law. Primary co-operatives therefore require contractual articles that are properly

suited to the mentality of farmers, while secondary and tertiary co-operatives need a more mandatory and more vigorous framework. This is a cogent and apparently decisive argument in favour of flexibility in the legal provisions governing agricultural co-operatives, for, failing such flexibility, separate provisions would have to be introduced for primary, secondary and tertiary co-operatives, a solution which the Working Party cannot recommend.

d) With regard to legal systems, it should not be forgotten that custom and usage play a part just as much as laws and regulations; according to the national situation, the same rule will be derived from different sources of law.

e) Some Member States have laid down rules which co-operatives must obey if they wish to obtain certain advantages. Hence, co-operatives which intend to call for State support cannot avoid complying with the conditions for the granting of such aid.

f) Since agricultural co-operative societies are private companies, the general principles of law empower them to constitute themselves freely, and to draw up their own Articles and particularly their Memoranda as they think fit, within the limits fixed by the legal definition of agricultural co-operation. This is the case in all the Member States except France, where agricultural co-operatives have to be approved by the public authorities and draft their Articles on the basis of official standard Articles.

However, two observations are called for:

The first is that these private companies are part of the structure of the farming profession. Does the fact of their belonging to agriculture entitle them to disregard the higher interests of the profession in the pursuit of their activities? If so, they need concern themselves solely with the interests of their members; if not, they will venture into the field of agricultural policy, and this would not be without its disadvantages. Thus, the solution offering the fewest drawbacks might well be for the groupings responsible for protecting the general interests of agriculture to bring influence to bear on the co-operatives, not directly but indirectly by acting on their members.

The second observation is that, in a European free market economy, legislation which restricts the capacity of agricultural co-operatives endangers their ability to meet the new requirements of business life.

g) In theory, competition between agricultural co-operatives may appear contrary to logic and

efficiency. Farming circles, however, often include people of different professional, political or denominational leanings. But if an agricultural co-operative is to operate successfully, there must be common moral ground between members, mutual confidence and a common concern for the general well-being. Experience shows that in many cases plurality of agricultural co-operatives is the only means of ensuring that farmers who are capable of being good co-operators are not lost to the movement.

Economic and commercial competition between agricultural co-operatives may be beneficial in so far as it incites them to avoid stagnation, and leads them to give better service to the farmer. Such competition must be kept within rational bounds, however; the existence of numerous nationally representative bodies is only justified if the co-operatives are grouped together in them on the basis of real and consistent affinities.

b) The respective merits and disadvantages of specialization and pluralization of activities among agricultural co-operatives could be discussed interminably. It should be pointed out, however, that the operation of non-specialized co-operatives is complicated by the fact that not all their members are concerned with the same activities.

In the case of multi-purpose co-operatives, the really basic problem is the conduct of savings and credit operations side by side with the purchase and sale of merchandise.

This system is commonly practised in Germany, where there are about 10 000 credit banks, only one-fifth of which deal exclusively with the management of funds and credit transactions. This practice is also very widespread in Luxembourg, but rare in the Netherlands. In Italy, the multi-purpose "consorzi agrari" also engage in agricultural credit transactions.

In Belgium and France, credit transactions have to be handled by specialized co-operatives.

There is no doubt that financing costs are reduced when they are burdened solely by the overheads of a single entity. To be safe, however, such methods presuppose the most vigilant mutual inspection, which means that the area and the number of people concerned must not be too large.

i) Another traditional rule of agricultural co-operatives is the "one man one vote" principle at General meetings, regardless of the extent of each member's contribution in funds or work.

This rule still applies without restriction in Germany.

In France it is obligatory except that the Articles of secondary and tertiary agricultural co-operatives may allot to member co-operatives a number of votes based on membership and/or the volume of business they contribute. It is interesting in this connection that workers' production co-operatives may grant in their Articles an extra vote to member workers for each 5-year period of seniority, up to a maximum of 5 votes.

In Belgium, Luxembourg and the Netherlands, the Articles may provide for plural voting. In Luxembourg, for instance, the Articles of agricultural associations may grant their members up to three votes, but where no such provision is made the single-vote rule is applied; co-operatives governed by the Companies Act are not, of course, bound to observe this rule.

In Italy, the law awards one vote to each member regardless of the number of shares he holds. When the members are corporations, however, they may be granted up to five votes by the Memorandum, depending on their individual membership and the number of shares.

j) The Working Party considers that:

Whether the legal system governing agricultural co-operatives is of a general or a special nature, it should in all cases be flexible and liberal, it should do no more than lay down general rules, and the Member States should be able to refer to conventions and usage in applying these rules to specific cases;

Agricultural co-operatives in particular should be able to define their own corporate aims and activities without having to seek governmental or administrative authorization;

Agricultural co-operatives should confine themselves to protecting the interests of their members, while maintaining, without jeopardizing their independence, close links with the general agricultural bodies; and

Where unity does not exist between co-operatives, it should not be imposed by the authorities.

The Working Party has noted that the trend towards multi-purpose co-operatives is gaining ground everywhere, but some of its members held that it had not been proved:

a) That multi-purpose organization was better suited than specialization to the conditions of the free market economy; or

b) That this trend deserved encouragement.

§ 12. TAX SYSTEM APPLICABLE
TO AGRICULTURAL CO-OPERATIVES

a) Agricultural co-operation calls for a tax system suited to its special method of operation. The situation differs from country to country.

In Belgium and the Netherlands, agricultural co-operatives are subject to fiscal provisions similar to ordinary law.

In Germany, fiscal immunity was generally observed until 1938. Since then, co-operatives have been subject to tax provisions based on the principles generally applied but allowing for the special nature of the co-operative society. Under given conditions, some types of co-operatives may thus secure reductions or exemptions (though not for turnover tax).

The situation is the same in Luxembourg.

In France, the trend is towards the ordinary law system particularly as regards turnover tax.

In Italy, agricultural co-operatives are subject to ordinary tax law, although they may receive a measure of exemption if they conform to the legal definition of mutual aid societies.

Except in Italy and the Netherlands, it seems to be accepted that the transactions of agricultural co-operatives are treated for tax purposes as though they were effected by farmers whenever the co-operative takes the place of its members in carrying out professional farming activities. For instance, co-operatives for the joint use of agricultural equipment are favourably treated in Germany, Belgium, France and Luxembourg. In Italy, exemption is granted only to co-operatives which conform to the mutual principle. It would be desirable if such equalization for tax purposes became general.

Be this as it may, the overall impression is that the respective fiscal positions of agricultural co-operation within the Common Market are in practice closer than a superficial glance might suggest; however, substantial differences do exist on certain points.

b) The claims of agricultural co-operation to tax arrangements suited to its nature and manner of working rest on four main arguments.

1) Co-operative activity replaces or extends the farming activities of its members; it is logical that it should be subject to the same fiscal provisions as those members.

2) It operates, not for gain, but to serve the general interests of farmers. The notion of service which guides it is seen, *inter alia*, in the calculation of its

prices and the way it distributes its surpluses. In so doing, it places limits on its activities and powers and suffers disadvantages which, in all fairness, the public authorities should compensate by their tax treatment.

3) Co-operatives engaged in processing and distribution suffer from several chronic disadvantages in relation to their profit-conscious competitors. They cannot choose their sites on the basis of purely technical criteria, and the loyalty they owe to agriculture may weigh on their decisions. They are not entitled to use their discretion and rid themselves of unsatisfactory suppliers or bad customers if these are members, but can exclude them only by observing the formalities provided in the Articles. If integration or industrial or commercial concentration or, more generally, an economic bad patch should occur, entailing the sharing-out of clientèle or changes in activity, they have not the same freedom as their competitors to take part in regroupings or switch-overs to other operations.

4) Refunds paid on the basis of the business brought in by members should never be considered as taxable, since they represent the co-operative's operating surpluses produced by the joint contribution of all its members and must revert to the latter directly as of right: from the economic standpoint, they are either supplements to the prices obtained for agricultural produce, or repayments of amounts charged in excess for provisions or services supplied. Hence, in so far as the co-operative's activities have shown a profit it is the members and no longer the co-operative that should be taxed. Consequently, refunds should be exempted if any unfair double taxation is to be avoided. Moreover, wherever refunds are taxed, co-operatives tend to avoid showing surpluses; this jeopardizes the normal accumulation of reserves and runs counter to good management.

c) Since its inception the agricultural co-operative movement has been the object of unceasing attacks by opponents who invoke the principle of fiscal equality in maintaining that the tax provisions governing agricultural co-operatives should be identical with those governing their competitors; the supposedly favourable provisions governing the co-operatives are denounced as abusive. Wherever agricultural co-operation is subject to special fiscal provisions, the movement's detractors strive openly to delude people into thinking that it is a question of privilege, and of privilege without which, moreover, the co-operatives could not survive. In the course of time these propagandist arguments have

convinced a fair number of the militants among the farming community and induced them to accept all sorts of limitations in the hope of retaining their so-called fiscal advantages. It is therefore important that those responsible for agricultural co-operation should at all times have a clear idea as to the true extent of the advantages and disadvantages of the fiscal provisions applicable to their co-operatives; they could then demonstrate just how inconceivable it would be to limit equality between agricultural co-operatives and profit-conscious concerns to the fiscal plane alone.

d) Experience has shown that governments oscillate between the two opposing theories whereby agricultural co-operatives are classified either as farms or as industrial processing firms or traders.

The result is that the tax arrangements governing agricultural co-operatives everywhere reveal anomalies and even opportunism in some countries — in short, a “trial and error” approach. As these arrangements form part of highly disparate, general fiscal legislation, it is difficult to obtain a clear picture. Briefly, it is scarcely possible to assess with accuracy the help given to agricultural co-operation by fiscal measures.

e) To sum up, in fairness the exemptions granted to agricultural co-operatives whose operations are identical with those of farmers, forestry operators or wine-growers operating individually on their own land should never be contested, since their work replaces that of their members. This is particularly the case with agricultural equipment co-operatives, wine- and butter-making co-operatives, and all co-operatives which sell farm produce.

Even less account should be taken of co-operative refunds; these are exempted in the industrial sector, at least under French fiscal law.

Since the dependent position of agricultural co-operatives in the farming world reduces the profitability of their investments, the fiscal provisions which govern agricultural co-operation should stimulate amortization of these.

It is everywhere accepted that agricultural co-operatives should benefit from suitable fiscal provisions when they operate exclusively with their own members. However, it should be borne in mind that such special terms cannot be applied to transactions effected with “non-members” except in cases of *force majeure* or overriding necessity.

f) The Working Party hopes that Member States will decide, once and for all, their position of

principles with regard to taxing agricultural co-operatives. It considers that the specific position of agricultural co-operatives must be taken into very careful consideration when the European authorities come to compare the six sets of tax laws with a view to harmonizing them. It emphasizes that the fiscal provisions governing agricultural co-operatives must be conceived in accordance with their legal basis, otherwise drastic deviations from the latter will be bound to occur, with every sort of harmful consequence.

§ 13. REPRESENTATION OF THE GENERAL INTERESTS OF AGRICULTURAL CO-OPERATIVES AND INTERNAL DISCIPLINE

a) The preceding considerations show the importance of reconciling freedom and discipline within agricultural co-operation. Nobody wants the public authorities to intervene in this connection, so the agricultural co-operative movement must rely on its own representative bodies, the names of which vary from one Member State to another. Their competence is already recognized at national level, although unity of representation has not been achieved in some Member States. It is true that their powers and duties differ in many respects, but no great effort would be needed to make them homogeneous.

The crux of the matter is that agriculture is contending with big problems which have a social aspects. It is necessary that the bodies which represent the co-operatives should help to solve the economic difficulties of agriculture.

b) It may be asked whether the bodies at present representing the agricultural co-operative movement in the Member States would be capable of doing this. Apparently they would, for their present powers and duties have prepared them for the task, but only provided that, where necessary, they are consolidated and reinforced, and are in a position to win acceptance for such solutions as they decide upon.

But it is not their job to directly concern themselves with business, save in exceptional circumstances.

c) Absolute unity of representation is not necessary. Wherever agricultural co-operation covers several fields, a representative body for each of these is essential because whoever is to represent it must have a thorough knowledge of what he is representing; it would be desirable, however, for these bodies to be grouped together as one supreme body.

d) To do their job properly, the bodies representing agricultural co-operation require adequate general services.

Externally they should be accredited still more strongly to the public authorities, to the other sectors of agriculture, and to the bodies representing other occupations.

Internally, the functions they are already discharging should be pursued, but from another standpoint gained as a result of the more extensive powers with which their member organizations would have freely invested them. Their present powers and duties include:

— Assisting their members administratively, legally, technically and in fiscal matters;

— Educating prime movers of the agricultural co-operative movement, particularly young recruits;

— Judging disputes between co-operatives and even between co-operatives and their members;

— In some countries, concluding collective wage agreements with trade unions and employers' associations; and

— Training auditors and organizing the auditing for all categories of co-operative.

It now seems likely that further concerns will exercise their attention:

— Neither the agricultural co-operative movement nor the public authorities can go on doing without clear, precise and complete statistics. They also need serious surveys on markets and outlets.

— More generally, it would be essential to keep agricultural co-operatives within the sphere of agriculture.

Let us now return to the settlement of disputes, in which Italian conciliators have established a noteworthy precedent. Agricultural co-operative business is so special that only specialists are in a position to unravel its quarrels and disputes, which usually involve all manner of material and personal factors. In this connection, it should be pointed out that at its twenty-second meeting, on 20 October 1965 in Munich, the European Confederation of Agriculture's Working Party on agricultural co-operatives concerned with direct exports and imports adopted a plan for a Chamber of Arbitration for the Confederation; more than thirty federations of co-operatives, in twelve European countries, have already endorsed to this plan.

To sum up, "staff work" will become increasingly important in agricultural co-operation. If it is to face the future, the movement must acquire very considerable material means and, what is even more important, intellectual resources.

§ 14. APPROXIMATION OF CO-OPERATIVE LEGISLATION AS CALLED FOR UNDER THE TREATY OF ROME

a) Each legal system governing agricultural co-operation stems from the general rules of law in each Member State; it also stems more or less completely from each State's co-operative and agricultural law. Any attempt to approximate these systems to the extent of unifying them would run into all manner of obstacles because it would mean an upheaval in national legislations.

b) Nevertheless, national legislative provisions should be approximated under Articles 100 and 101 of the Treaty of Rome:

— If they had a direct incidence on the establishment or functioning of the Common Market;

— If they gave rise to disparities leading to unfair competition and brought about distortions which should be eliminated;

— If such approximation facilitated access to an exercise of self-employed activities; or

— If it rendered equivalent the guarantees required of companies in the Member States.

c) Moreover, under Regulation No. 38/64, adopted in implementation of the Treaty of Rome, Part Two, Title III, Chapter 1 (Workers), nationals of each Member State are entitled to conclude work contracts with employers in other Member States.

National laws which restrict the access of aliens to paid employment in co-operatives will have to be recognized as invalid; this will apply particularly to management posts, except perhaps where it is laid down that staff must be recruited from among co-operative members.

d) Furthermore, the provisions to be introduced to implement the aforesaid Title III, Chapter 2 (Right of Establishment) will enable farmers from each Member State to sit on the boards of directors or supervisory boards of co-operatives in another Member State, on the same terms as the nationals of that Member State. This is another point where discrimination based on nationality would have to be eliminated.

(It is worth mentioning in this connection that the legal system governing agricultural co-operation in France requires the directors of agricultural co-operatives to be of French nationality, but makes a general exception in favour of nationals of foreign countries with which a reciprocity agreement has been concluded; they further permit the Minister of Agriculture to make particular exceptions after consultation with the "Comité central d'agrément" (Central Authorizing Committee).

e) Lastly, the provisions to be introduced to implement Title III, Chapter 3 (Services), will recognize the right of co-operatives of one Member State to operate freely as providers of services (within the meaning of Article 60 of the Treaty) on the territory of another Member State. Co-ordination of national laws could be achieved under Articles 57 (2) and 66 combined, or under Article 100, and remove prohibitions arising from the principles of exclusivity and territoriality.

f) The Working Party considers that when a Member State amends its laws and regulations on agricultural co-operatives, its public authorities would be well advised to endeavour to reduce the existing disparities to the extent required to facilitate international collaboration between agricultural co-operatives.

§ 15. INSTITUTION OF A STANDARD "EUROPEAN" AGRICULTURAL CO-OPERATIVE

a) The revolutionary notion of a European type of limited company common to the six Member States was launched at the international congress of 250 jurists held at the Palais de Justice in Paris in June 1960. As the regulations relating to limited companies were found to differ widely between the Six, the congress pronounced in favour of working out a new European legal form to take its place in the legislation of each country.

b) At its nineteenth meeting, in Rotterdam on 5 September 1963, the above-mentioned Working Party of the European Confederation of Agriculture discussed the formation of international companies:

- To carry out and promote international business;
- To establish processing plants;
- To provide stocking facilities through a common equipment and investment policy; and
- To share marketing responsibilities from the production to the consumption stage.

A study group was set up immediately.

c) Institution of a type of commercial company adapted to the needs of the Common Market has been receiving the attention of the EEC Commission for a long time past. Ideas on the matter were clarified through the action taken by the French Government in submitting to the Commission, in a note dated 15 March 1965, a proposal that six identical national laws should be passed creating a uniform European type of company which should take its place under the six national bodies of law beside the domestic forms of company already in existence.

d) The Commission's memorandum of 22 April 1966 on the creation of a European-type company recognizes the French proposal as an advance in terms of Articles 52 to 58, 100 and 220 of the Treaty of Rome. However, it points out that this procedure of six uniform laws would not solve two major difficulties, viz. transfer of registered offices and mergers of companies of differing nationality, and also that uniform interpretation of the six laws would be required — a necessity which, for that matter, had not escaped the attention of the French Government.

The Commission does not reject the idea of a system of uniform laws in its memorandum, but nevertheless favours creation of a type of company under European law by a convention supplementing the Treaty of Rome. Such companies would come under the jurisdiction of the Court of Justice of the European Communities. However, the Commission agrees that, if this path were followed, many difficulties would arise in the fields of company, fiscal, financial and social legislation, and concludes that no choice can be made before exhaustive studies have been carried out and have produced a formula offering the best solutions to these practical problems.

e) The agricultural co-operative movement cannot remain indifferent to the precedent established by the international congress of 1960 and to the standpoint taken by the Commission in its memorandum of 22 April 1966. Articles 59 to 66 of the Treaty of Rome provide for freedom to supply services within the Community; the agricultural co-operatives of one Member State will therefore be empowered to enter into contracts freely in other Member States. Nevertheless, the existence of a European type of agricultural co-operative, in which the terms of establishment, capacity, management and winding-up procedure of agricultural co-operatives with European activities would be fixed, would have the advantage

of removing any conflict between laws and of relieving much uncertainty.

It might appear advisable to await the appearance of European-type companies, and base decisions on the results of this first initiative. On reflection, it may be thought that such caution would have the major disadvantage of causing agricultural co-operatives, under the pressure of events, to plump for the first practicable new European formula, thus delaying the emergence of a specifically co-operative solution until the situation to be avoided already existed.

f) We may anticipate that companies at European level will become necessary in the field of agri-

cultural co-operation. This superstructure should not fall outside the co-operative sector. The Working Party therefore considers that the best instruments of extra-national agricultural operations would be agricultural product and credit co-operatives constituted under private European law and empowered to enter into contracts directly in all Member States.

The Working Party is aware of the difficulty and seriousness of causing the traditional notions of private international law to make this step forward. It feels, none the less, that it must recommend the EEC Commission not to overlook the case of agricultural co-operation in establishing the fundamentals of such a novel system as that of a standard European commercial company.

Final remarks

§ 1. AGRICULTURAL CO-OPERATION AND ARTICLES 39 AND 40 OF THE TREATY OF ROME

a) Emphasis should be laid on the complete concordance between the objectives of agricultural co-operation and the aims which Article 39 of the Treaty of Rome has assigned to the common agricultural policy, namely:

— To increase agricultural productivity by developing technical progress and by ensuring the rational development of agricultural production and the optimum use of the factors of production, including labour;

— To ensure thereby a fair standard of living for the farming population, particularly by increasing the individual earnings of persons engaged in agriculture;

— To stabilize markets;

— To guarantee regular supplies; and

— To ensure reasonable prices in supplies to consumers.

1. Agricultural co-operation is unquestionably a factor in technical progress. Here are a few examples of its work in this direction, though many more could be cited:

— Dissemination of information on technical advances, the testing of equipment and new processes, the distribution of high-quality seeds, and improvement of animal feedingstuffs;

— Packing, preservation, processing and sale of farm products; and

— Placing modern equipment and techniques at the disposal of small production units.

2. Moreover, agricultural co-operation makes for more honest dealing and greater stability on the various markets. The direct economic backing which a co-operative gives its members indirectly benefits all the farmers working in its area. The positions acquired by agricultural co-operation in the economic field make it an essential factor in the organization of agricultural markets, because it has become capable of playing an effective part in:

— Guiding and standardizing future production in the interest of better adaptation of its volume quality

to consumer requirements, e. g. through co-operative production and delivery contracts:

— Stocking at the peak-production period of each farming year and delivering to the market;

— Processing and distributing farm products, thus enabling farmers to benefit from values added at these different stages.

3. Then again, farming is no longer simply a way of life; it has become a technical profession. It has passed from the semi-autarky of subsistence economy to trade economy and consequently market economy. This evolution signifies great progress; but its obverse is increased vulnerability. Farming has become dependent on trade and industry, both before and after its operations proper, for the acquisition of its means of production (machinery, fuel, electricity, fertilizers, animal feedingstuffs, etc.); payment for new services (private insurance, welfare charges, etc.), the purchase of domestic consumer goods which it no longer produces itself; and, finally, for the disposal of its output. Co-operation is specially capable of providing agriculturists with the means of adapting their farms to the needs of a modern economy.

Agricultural co-operation is also accomplishing an educational task by initiating members into the responsibilities of management, broadening their horizons and giving them a feeling for general interest and devotion to a common task.

Lastly, co-operation improves the living conditions of farmers by helping to increase their incomes.

b) This social aspect of co-operation should be stressed, since it necessarily burdens its activities.

1. It cannot be said too often that the great difference between a concern which exists purely for gain and a co-operative concern is that the former chooses its own sites, suppliers and customers solely for motives of self-interest, whereas a co-operative does so on the grounds of the services it intends to render its members — applying, as far as possible, what is commonly known as the “open-door” rule. Naturally, if this policy is carried too far the results may be unfortunate:

— The “open door” is not held open to all comers; one can never be too careful when recruiting new members;

— The “open door” in no sense enables members to leave the co-operative at any time they like, relinquishing their commitments without notice;

— Lastly, the admission of new members is often limited by the working capacity of the co-operative’s equipment.

Subject to these commonsense reservations, co-operatives welcome all who are properly qualified and accept their Articles and regulations. They even take in those who, despite their good conduct and devotion, will be no great acquisition in the economic or pecuniary sense, for the social aspect must predominate; a co-operative will thus keep farms running which would disappear more or less rapidly were it not for this professional solidarity of which the co-operative, by the consent of all its members, is the practically indispensable medium.

2. Some circles maintain that farms and agricultural co-operatives deemed unfit to meet the situations and standards to be imposed will inevitably have to be eliminated if agriculture is to be made competitive.

Agriculture would thus become organized in companies under ordinary law, made up of highly-advanced farmers concerned solely with the personal gain of the enterprise and its members. In terms of efficiency, it can be claimed that this system would certainly have favourable effects; however, it would start a trend in farming, the consequences of which it would be foolish not to weigh in advance.

Those who hold the traditional notions on agricultural co-operation could never accept the social implications of this over-logical, utilitarian solution. They will persist in thinking that the general welfare requires that agricultural co-operation should serve as the infrastructure of economic and social progress in agriculture, and in maintaining that the social role of co-operation is chiefly to facilitate necessary changes.

c) The Working Party hopes that the EEC Commission and the Member States will resolutely uphold the traditions of agricultural co-operation and strike the best possible balance between the economic and human factor involved.

The Working Party considers that agricultural co-operation could be an element of incalculable value in the organization of agricultural markets provided for under Article 40 of the Treaty of Rome, and urges the Commission to associate co-operation with this work of organization since that would further

its full development and enable it to render even more services to the farmer.

§ 2. THE THREE LINES OF REFORM IN THE AGRICULTURAL CO-OPERATIVE MOVEMENT

a) Owing to the various activities of their respective co-operatives, farmers in the Member States are embarking on gradual application of the common agricultural policy not only with an active and proven framework superior to that of other economic sectors, but also with inestimable moral force.

In themselves, agricultural co-operatives do not require to be generally overhauled, but they will feel an increasing need to make their working methods and legal and practical operation as homogeneous as possible; in this they will have to adopt a flexible approach but also act consistently.

b) This approximation will never be achieved without resolute perseverance on the part of the leading figures in the different areas of co-operation. The customary aspect will not call for any intervention on the part of the public authorities. Here, changes will be facilitated by the relations of confidence and sympathy which fortunately exist between those responsible for agricultural co-operation in the various European countries. In bringing about these human contacts, the large international agricultural associations have accomplished useful and timely work which will condition many future developments.

The competitive economy will lead to combinations, regroupings, vertical and horizontal integrations, specialization of activity, modernization in manufacture and distribution, improvement of quality and better adaptation to outlets. It is for the leaders of the agricultural co-operative movement to give wise and cautious direction to the formidable process of renewing the successive echelons in the existing organization of co-operatives.

c) The national leaders of the co-operative movement will be able to do a great deal, but nevertheless it will not be enough. The Member States must review the respective legal systems of their agricultural co-operative organization. The Working Party felt it necessary to indicate to the EEC Commission and national governments (Chapter II) those modifications which it deems advisable on the basis of its experience of agricultural co-operation. If these governments were to be guided thereby, the Working Party would experience the great satisfaction of

having achieved its aim. There is no doubt by getting together to amend their legal systems in these various respects, the six governments would eliminate all sorts of practical complications stemming from disparities of legislation that would thus have been corrected.

§ 3. RECAPITULATION OF SUGGESTIONS MADE IN CHAPTER II

a) The Working Party felt it should draw the attention of the governments of the Member States to the following points:

1. Recognition of agricultural co-operatives as companies of a special type (§ 1, pages 225 and 226).
 2. Recognition for agricultural co-operative societies of a capacity as broad as that of commercial companies (§ 1, pages 225 and 226).
 3. Need for a legal system flexible enough to enable each stage to organize itself to meet its own situation and to adapt itself to the rapid developments in agriculture (§ 2, pages 226 and 227).
 4. A reserved attitude towards the "lateral" sectors of agricultural co-operation (semi-co-operatives), particularly when their purpose is to palliate the rigidity of some of the legal provisions governing co-operatives (§ 2, pages 226 and 227).
 5. Recognition for agricultural co-operative societies of the right to form part of societies and companies of non-co-operative character and, more precisely, of their right to majority holdings therein (§ 2, pages 226 and 227).
 6. Affirmation that the recruitment of co-operative members must be completely voluntary but that it must also be selective (§ 3, pages 227 - 229).
 7. Requirement that members on joining must undertake appropriate obligations towards their co-operative (§ 3, pages 227 - 229).
 8. Requirement that their right to withdraw be exercised in compliance with the relevant legal and statutory regulations (§ 3, pages 227 - 229).
 9. Advisability of reducing the personal liability of members towards third parties within reasonable limits and particularly in keeping with the increase in the co-operative's assets (§ 3, pages 227 - 229).
 10. Recognition, for agricultural co-operatives, of the right to perform transactions not only with members but also with non-members, provided the co-operatives do not thereby lose their character of providers of mutual aid to members (§ 4, pages 229 and 230).
 11. Stimulation of members to make it their personal business to provide co-operatives with adequate capital of their own (§ 5, pages 230 - 232).
 12. Maintenance of the three current systems of co-operative administration (§ 6, pages 232 - 235).
 13. Full acceptance of the system of compensation for members of boards of directors and supervisory boards of agricultural co-operative societies (§ 6, pages 232 - 235).
 14. Extension of the auditing system to all agricultural co-operative societies (§ 7, page 235).
 15. Requirement that agricultural co-operatives should practise management forecasting, if necessary with the help of competent management consultants (§ 8, page 235).
 16. Need for a legal procedure in the event of agricultural co-operatives becoming insolvent but hesitation between the application of normal bankruptcy procedure and the introduction of a special one (§ 9, page 236).
 17. Advisability of legal control of the formalities of legal notification (§ 10, page 236).
 18. Need for a flexible and liberal legal system, whether it be a system embracing all forms of co-operation including agricultural co-operation or a special one for agricultural co-operation. Limitation of this legal system to rules of a general nature. Recognition of the right of agricultural co-operatives to establish their own corporate aims and activities without having to obtain governmental or administrative permission (§ 11, pages 236 - 238).
 19. Need for a fiscal system in keeping with the agricultural co-operative's legal system (§ 12, pages 239 - 240).
 20. Consolidation and strengthening of the bodies representing co-operation at national level with a view to increasing their efficiency and authority. Acceptance of the multiplicity of these bodies (§ 13, pages 240 and 241).
- b) It is for the European Economic Community to investigate, when it thinks fit, the amendments which the common agricultural policy will inevitably entail for the national legal systems governing agricultural co-operatives. Nevertheless, the Working Party has submitted four important recommendations to it in Chapter II:

1. That full capacity to act as commercial companies be given to these co-operatives which do not have it (§ 1, pages 225 and 226).

2. That national laws should be approximated and co-ordinated in accordance with the Treaty of Rome (§ 14, pages 241 and 242).

3. That the specific position of agricultural co-operatives be taken into consideration when European fiscal law is harmonized (§ 14, pages 241 and 242).

4. That a study be made for a prospective European type of agricultural co-operative society (§ 15, pages 242 and 243).

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