



# CREATING CLARITY

## Assessment, Analysis and Outreach for Cooperative Legal Reform

*Principles for* **LEGAL REFORM**

### **The Overseas Cooperative Development Council (OCDC)**

The Overseas Cooperative Development Council is a partnership of U.S.-based cooperative development organizations building a more prosperous world through cooperative development. OCDC's mission is to champion, advocate and promote effective international cooperative development, which brings people together in democratically governed businesses to meet their mutual needs. OCDC serves as the umbrella organization for the work of the Cooperative Law and Regulation Initiative (CLARITY). Several additional phases of this project are expected, which will continue to develop tools and approaches for cooperators so they can effectively create the legal and regulatory environment that permits cooperatives to grow. The ultimate goal of the CLARITY initiative is the formation of institutions that reduce poverty and involve citizens in economic and social growth in many developing and transition economies.

### **About This Report**

This publication was made possible through support provided by the Cooperative Development Program, U.S. Agency for International Development.

The opinions expressed herein are those of the authors and do not necessarily reflect the views of the U.S. Agency for International Development.

This report was prepared by members of the Overseas Cooperative Development Council, coordinated by Sean Flynn, professorial lecturer in residence, American University Washington College of Law with Chelsy Castro and Hena Schommer, J.D./M.A. candidates at WCL and the School of International Service.

The OCDC members of the drafting team for this report included:

Kristin Beyard, *CHF International*  
Rachel Blum, *CHF International*  
Charles Cox, *ACDI/VOCA*  
Barbara Czachorska-Jones, *CHF International*  
Catherine Ford, *World Council of Credit Unions*  
Eric Gibbs, *National Rural Electric Cooperative Association*  
Ted Meinhover, *National Cooperative Business Association*  
Beth Melby, *National Cooperative Business Association*  
Rob Nooter, *Overseas Cooperative Development Council*  
Michael Parr, *Land O'Lakes, Inc.*  
Ed Potter, *The Americas Association of Cooperative/Mutual Insurance Societies*  
Susan Schram, *ACDI/VOCA*  
Terri Smiley, *National Rural Electric Cooperative Association*

Free downloadable copies of this report and related materials are available at [www.clarity.coop](http://www.clarity.coop).

# **CREATING CLARITY**

## **Assessment, Analysis and Outreach for Cooperative Legal Reform**

**THE COOPERATIVE LAW & REGULATION INITIATIVE (CLARITY)**

**THE OVERSEAS COOPERATIVE DEVELOPMENT COUNCIL**

**U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT**

**2009**

## CLARITY Cooperative Development Organization (CDO) Partners

**Agricultural Cooperative Development International/Volunteers in Overseas Cooperative Assistance (ACDI/VOCA)** ACDI/VOCA is a private, nonprofit organization that empowers people in developing nations to succeed in the global economy through community development, financial services, enterprise development, and agribusiness systems. ACDI/VOCA's cooperative roots extend from 1963, when U.S. farmer cooperatives founded the organization to strengthen cooperatives worldwide. By providing technical and management assistance to entrepreneurs, small- and medium-scale enterprises, farmers and agribusinesses, financial institutions, associations, cooperatives, NGOs, government agencies, and research and educational institutions in 150 nations, ACDI/VOCA has facilitated broad-based economic growth, raised living standards, and created vigorous civil societies. [www.acdivoca.org](http://www.acdivoca.org)

**The Americas Association of Cooperative/Mutual Insurance Societies (AAC/MIS)** AAC/MIS was created in 1979 as an inter-American association of 63 cooperative and mutual insurers in 20 countries throughout North, Central and South America, and the Caribbean. It is part of a global network with the International Cooperative/Mutual Insurance Federation (based in the United Kingdom) and three other regional associations in Europe, Africa and Asia that involve 206 cooperative and mutual insurers in 72 countries. A major focus of AAC/MIS is to help people-based organizations reach and serve populations that currently have no access to insurance protection. [www.aacmis.org](http://www.aacmis.org)

**CHF International** CHF International's mission is to be a catalyst for long-lasting positive change in low- and moderate-income communities around the world, helping improve social, economic and environmental conditions. CHF designs its programs with the appropriate social, environmental and economic solutions in mind to ensure that the communities served can manage and sustain their future development at a steady pace. CHF works in an average of 30 countries each year, promoting democratic, grassroots development to effectively build, strengthen and promote change within local institutions and communities, and to shape policy decisions that recognize and support those who are willing to help themselves. [www.chfinternational.org](http://www.chfinternational.org)

**Land O'Lakes, Inc.** Land O'Lakes is a national, farmer-owned food and agricultural cooperative with annual sales of more than \$11 billion. Land O'Lakes is a Fortune 300 company that does business in all 50 states and more than 50 countries. It is a leading marketer of a full line of dairy-based consumer, foodservice and food ingredient products across the United States; serves its international customers with a variety of food and animal feed ingredients; and provides farmers and ranchers with an extensive line of agricultural supplies (feed, seed and crop protection products) and services. For more than 25 years, Land O'Lakes International Development ([www.idd.landolakes.com](http://www.idd.landolakes.com)) has proudly delivered successful training and technical assistance to and through communities, industry organizations, producer groups, processors, input and service providers, and marketers covering a wide range of food and agricultural industries in more than 70 countries. [www.landolakesinc.com](http://www.landolakesinc.com)

**National Cooperative Business Association (NCBA)/Cooperative League of the USA (CLUSA)** Founded in 1916 as the Cooperative League of the U.S.A., NCBA is the oldest national cooperative development and trade association in the United States. NCBA is the lead national membership association for cooperatives in all sectors of the economy. Its mission is to develop, advance and protect cooperative enterprise. NCBA provides high-quality cooperative educational programming, and contributes to successful domestic public policy and development programs. The organization also encompasses an effective international program that helps people in developing countries establish member-owned businesses and mobilize local resources to tackle challenges related to promoting economic growth in rural areas, community health, natural resource management, and democracy and governance. [www.ncba.coop](http://www.ncba.coop)

**National Rural Electric Cooperative Association International, Ltd. (NRECA)** NRECA and its member cooperatives administer a program of technical advice and assistance in developing countries around the world. The original purpose of NRECA's international programs was to export America's model of rural electrification. Since 1962, 250 electric cooperatives have been formed in 14 developing countries. Today these utilities provide electric service to more than 34 million people. In addition, NRECA currently is working in nine countries to provide technical and management assistance, create cooperatives and other decentralized utilities, administer training programs, and introduce renewable energy programs (wind, solar, hydropower and biomass.) [www.nreca.org](http://www.nreca.org)

**World Council of Credit Unions, Inc. (WOCCU)** WOCCU is the global trade association and development agency for credit unions. WOCCU promotes the sustainable development of credit unions and other financial cooperatives around the world to empower people through access to high-quality, affordable financial services. WOCCU advocates on behalf of the global credit union system before international organizations and works with national governments to improve legislation and regulation. Its technical assistance programs introduce new tools and technologies to strengthen credit unions' financial performance and increase their outreach. [www.woccu.org](http://www.woccu.org)

# Contents

Executive Summary .....	v
Introduction .....	1
CLARITY Principles for Regulatory Enabling Environments Table.....	3
<b>Part 1. Implementing CLARITY Legal Reform Projects .....</b>	<b>5</b>
Assessing the Cooperative Environment .....	7
Mongolia .....	7
Nicaragua .....	8
Points to Consider in Assessing the Environment .....	9
Finding Information on Cooperatives .....	9
Obtaining General Information.....	10
Charting the History of the Cooperative Sector .....	10
Mapping the Legal Reform Process and Participating Actors.....	11
Using CLARITY Principles and Rubrics in Legal Analysis .....	12
Origins of the CLARITY Principles.....	12
Analytical Rubrics.....	12
Benefits of Legal Analysis.....	13
Tools for Analysis and Assessment.....	14
Nicaragua .....	15
<i>The CLARITY Scorecard</i> .....	15
<i>The Scorecard Analysis</i> .....	22
Yemen .....	25
Mongolia .....	26
Points to Consider in a Legal Analysis .....	27
Preparing for the Process.....	27
Funding Legal Analysis .....	27
Working with Foreign Legal Systems.....	27
Designing CLARITY Outreach Activities .....	28
Mozambique .....	28
Mongolia .....	29
Nicaragua .....	30
Points to Consider in Outreach Activities .....	32
Decide Who Should Come .....	32
Know Your Audience .....	33
Create an Engaging and Realistic Agenda .....	33
Prepare Handouts .....	34
Create the Proper Atmosphere.....	34
Invite Feedback and Follow-up.....	35
Use Media to Your Advantage .....	35

<b>Part II. Profiles of Legal Reform Projects</b> .....	<b>37</b>
Mongolia.....	37
Assessing the Cooperative Environment .....	38
Environmental Scan .....	38
Engaging with the Cooperative Community .....	38
Creating and Implementing a CLARITY Strategy .....	39
Using Legal Analysis to Revise the Cooperative Law.....	39
Educating Officials, Cooperative Leaders and Grassroots Members.....	39
Finalizing New Draft Legislation .....	40
Using the Media .....	41
Conclusion .....	41
Nicaragua .....	43
Assessing the Cooperative Environment .....	44
Creating a CLARITY Strategy .....	44
Soliciting Support and Identifying Leaders.....	44
Using the CLARITY Principles in Legal Analysis .....	45
Engaging Cooperative Leaders in a Workshop Setting .....	45
Integrating Flexibility into Strategy and Implementation.....	45
Conclusion .....	46
Mozambique.....	47
Assessing the Cooperative Environment.....	48
Creating a Strategy.....	48
Building Momentum through Public Education .....	48
Using a Participatory Approach to Encourage Leadership.....	49
Building Strong Partnerships to Ensure Grassroots Leadership.....	50
Conclusion .....	50
Yemen .....	51
Assessing the Cooperative Environment .....	53
Educating and Mobilizing Stakeholders and Policymakers .....	53
Conclusion.....	55
 <b>Conclusion</b> .....	 <b>57</b>
 <b>Appendix A. Rapid Cooperative Assessment Tool</b> .....	 <b>61</b>
 <b>Appendix B. Clarity Scorecard Process and Tools</b> .....	 <b>73</b>



**Key lessons and tools** are described for assessing the cooperative environment, using CLARITY Principles in legal analysis and designing outreach activities.

# Executive Summary

This is the second in a series of reports from the Cooperative Law and Regulation Initiative (CLARITY). The first CLARITY report – *Enabling Cooperative Development: Principles for Legal Reform* – established a set of principles to guide cooperative law reform. This report – *Creating CLARITY* – summarizes lessons learned and tools developed by Cooperative Development Organizations as they implemented CLARITY projects with local partners, with particular focus on projects in Mongolia, Nicaragua, Mozambique and Yemen. Specifically, key lessons and tools are described for (1) assessing the cooperative environment, (2) using CLARITY Principles in legal analysis, and (3) designing CLARITY outreach activities.

## Assessing the Cooperative Environment

CDOs implementing CLARITY projects found that initial research into the cooperative context was useful for a number of reasons, including:

- Determine the level of awareness of the law among cooperatives and their members,
- Identify perceived problems in the regulatory framework,
- Assess the readiness of cooperatives to engage in a legal reform campaign, and
- Identify the most useful targets for educational training and awareness building.

The first set of questions to answer in the assessment regard who is likely to have the information that is being sought. CDOs have found it useful to gather information on contacts in the government, academia, aid agencies and nongovernmental institutions that work with cooperatives and may be key sources of information.

A second set of questions may seek information to compile an overall snapshot of the cooperative sector. Here, information may be gathered on how many cooperatives exist in the country, in what industries they are concentrated, their average size, how the industry is structured, and so on.

A related line of questions may investigate the history of cooperative development as perceived by key actors in the sector. An assessment seeks to gather information on notable advocacy efforts the cooperative movement has engaged in, whether cooperatives are perceived to be flourishing, whether full access to markets exists, and what people perceive as the major threats or opportunities in the sector.

An assessment might also explore the current legal environment and the potential avenues for influencing it. For example, it might be useful to determine when the most recent changes to the cooperative law were made and whether cooperatives participated; whether there are any perceived problems with the current legal environment; and the extent of interest in and capacity to engage government in legal-reform discussions.

An example of the Rapid Cooperative Assessment Tool used by CHF in Mongolia is included as Appendix A. A summary report compiling the results of applying the tool can be found on the CLARITY web site at [www.clarity.coop](http://www.clarity.coop).

## Using CLARITY Principles in Legal Analysis

CLARITY projects have identified many benefits of using the principles in legal analysis, including:

- Increasing awareness and understanding of cooperative law and its impact.
- Assessing the overall state of cooperative law and its implications for cooperative registration, organization, governance and so on.
- Using the results of detailed legal analysis as an educational tool for national, regional and local cooperative leaders and stakeholders to develop a better understanding of how the existing law creates an enabling or disabling environment in which cooperative businesses operate.
- Enabling the identification and prioritization of options for potential action, depending on selected criteria — for example, the capacity to push for reform at this particular time or the expected impact on cooperative businesses.
- Justifying recommended legal reforms to policymakers.

Building on pioneering work by a collaboration of CDOs in Nicaragua, CLARITY projects developed two new instruments to help translate the CLARITY Principles into a process for guiding legal analysis:

- The *CLARITY Scorecard* is a spreadsheet with matrices, questions and information to help organize the legal analysis process. The Scorecard can guide an assessment of a law and result in ranking of the law based on adherence to the core CLARITY Principles.
- The *Scorecard* should be accompanied by a *Scorecard Analysis* — an analytical document that describes why each question received a certain score. This document provides further detail and context for the score, so that cooperative leaders and stakeholders can compare it to their own knowledge of and experience with the cooperative law.

In addition to creating these new tools for legal analysis, the CDOs implementing CLARITY projects have identified various factors to consider before performing a legal analysis.

First, the project should clearly define the purpose and intended outcome of the analysis, including whether the analysis should contain specific recommendations for action.

Second, legal analysis can be costly, so the proper preparation to secure funding can be a key factor. Projects can look for other local organizations to share the cost, request pro bono or discounted legal services, and research possibilities for international aid.

In many cases, the legal analysis includes working with foreign legal materials that require special considerations. Some suggestions include involving a local lawyer with experience in cooperative law using translators with legal experience, and seeking additional information about foreign legal systems and any historical documents that will explain how the law was prepared.

A template of a *CLARITY Scorecard* and *Scorecard Analysis*, based on the model developed in Nicaragua, is included as Appendix B. The filled out Scorecard and Scorecard Analysis, with information resulting from its application in Nicaragua and referring to that country's regulatory provisions, can be found on the CLARITY web site at [www.clarity.coop](http://www.clarity.coop).

## Designing CLARITY Outreach Activities

CLARITY projects designed various kinds of workshops to reach out to cooperatives, government officials and other stakeholders. CLARITY workshops can serve a number of important purposes, including:

- Creating a common language or perception among cooperatives regarding problems with the current law and ways to fix them.
- Building the confidence of grassroots cooperatives to articulate issues to governments and allies.
- Bringing together government and cooperative representatives to foster teamwork and share ideas and perspectives.
- Reaching out to new allies and constituencies to help build coalitions.
- Getting input on reform proposals, including comments on draft provisions of a new law.

In designing CLARITY workshops, CDOs found it helpful to concentrate on a few key considerations during the planning process.

- **Decide who should come.** Who should come to a workshop will depend on its goals. In general, workshops are most productive when all the participants are similar in their backgrounds and levels of experience.
- **Know your audience.** Workshops will be most effective when the planners know what knowledge the participants will bring to it. A key factor for workshop planners is the extent of participants' knowledge regarding elements of the cooperative law.
- **Create an engaging and realistic agenda.** When planning the mix of activities in the agenda, consider a mix of *presentations* of information; *exercises* that ask participants to collectively apply the information to a given task; *role plays* that encourage participants to act out a hypothetical situation; and *discussion* and *feedback*. Time in the workshop can be devoted to allowing attendees to select the topics they find most interesting.
- **Prepare handouts.** To cut down on the amount of information that needs to be delivered through presentations, consider delivering more detailed information in handouts.
- **Create the proper atmosphere.** Hold workshops in an appropriate setting with a business-like atmosphere. It may be advisable to hold the presentation in a pleasant location, such as a nice hotel or conference facility. Or it may be easier for people to attend if the venue is familiar and close by; for example, a community meeting space.
- **Invite feedback and follow-up.** After the workshop or at the end of each day, distribute a feedback form so participants can help planners improve the workshop in the future. It might also be necessary to schedule time for planners to conduct follow-up activities after the workshop to provide additional information and technical assistance as requested.

## Conclusion

The usefulness of CLARITY in educating grassroots farmers in Mozambique, electricity regulators in Yemen, cooperative regulators in Nicaragua, and grassroots cooperatives and government legal reform processes in Mongolia is a testament to the flexibility and vitality of the CLARITY idea. The ultimate message of this report is that CLARITY works. This report and volume I (*Enabling Cooperative Development: Principles for Legal Reform*) contain key tools for creating CLARITY for cooperative law and regulation around the world. Both reports and additional materials can be found at [www.clarity.coop](http://www.clarity.coop). Also available at the web site are translations of the first CLARITY report into Spanish, Arabic, Kiswahili, Mongolian and Portuguese.



**The CLARITY Principles** emphasize the need to promote cooperatives as autonomous private entities, governed by their members and free of state dominance.

## Introduction

This is the second in a series of reports from CLARITY – the Cooperative Law and Regulation Initiative.

CLARITY was created in 2005 by the Cooperative Development Organization members of the U.S. Overseas Cooperative Development Council (OCDC), with support from the U.S. Agency for International Development (USAID). CLARITY was born from the shared experiences and conviction of the CDOs that outmoded legal regimes were posing barriers to cooperative development in many parts of the world. The goal of CLARITY is to support cooperative movements as they analyze and change legal and regulatory environments to create an enabling environment for cooperative business.

An explanation of the historical roots of cooperative laws in many developing countries is included in the first CLARITY report, *Enabling Cooperative Development: Principles for Legal Reform*. To summarize, a variety of ideological, political and colonial histories led governments in many countries to adopt a form of cooperative law that permitted governments to dominate cooperative enterprises. These laws permitted governments to appoint cooperative leaders and members, direct business decisions, sign contracts and otherwise diminish the role of cooperative businesses as autonomous private institutions governed by their members.

These colonial-era cooperative laws stood in sharp contrast to the long-established principles that had guided the development of cooperatives for centuries. The principles of the British Rochdale Society of Equitable Pioneers and of the German Raiffeisen Savings and Credit Cooperatives in the 1800s, as well as the principles published in the 1960s by the International Labour Organization and the International Cooperative Alliance, all emphasized that cooperatives must be voluntary, autonomous and democratically governed by their members — not controlled by government officials or agents.

Over the past half century, decolonialization and the fall of the Soviet Union undermined much of the political and ideological support for state-dominated enterprises. But although other private businesses in parts of the developing world were being unshackled from government dominance, the laws regulating cooperatives were slow to change. Consequently, groups of individuals, farmers or businesses that would benefit from a cooperative model were often dissuaded from creating cooperatives, and existing cooperatives were finding their growth and development stunted.

The first CLARITY report established a set of principles to guide cooperative law reform in this century. Building on the historical principles that have long motivated the establishment of cooperatives, the principles emphasize the need to promote cooperatives as autonomous private entities governed by their members and free of state dominance. The principles add modern good-governance concepts as well, suggesting that cooperative laws should provide a coherent and efficient regulatory system and promote equitable treatment of cooperatives with other private businesses.

The nine CLARITY Principles for an enabling legal and regulatory environment are listed below. The first four recognize the need for laws to protect and promote democratic control of cooperatives by the membership, affirming that legal and regulatory systems should:

- Protect the democratic character of cooperatives, vesting control of the organization in its members.
- Protect the autonomy and independence of cooperatives from the government, persons or entities other than members of the cooperative.
- Protect the voluntary nature of membership, permitting membership to be determined by the cooperative, not mandated by law or government order.
- Protect and promote the responsibilities of membership, including the duties to contribute equitably to and democratically control the capital of the cooperative.

The next two principles promote the integration of cooperatives into the general economy by banning discrimination that disadvantages cooperatives and recognizing that encouraging cooperative participation may require accommodations within generally applicable regulatory frameworks. To promote the equitable treatment of cooperatives, the CLARITY Principles advise that legal and regulatory systems should:

- Be no less advantageous to cooperatives than to other businesses in the same sector, while protecting and being sensitive to the mutuality of cooperatives.
- Provide reasonable accommodations and incentives, where appropriate, that enable cooperative forms of business to operate within a sector.

The last three principles promote a regulatory framework that advances good governance, including the provision of due process in administrative proceedings and the minimization of lengthy bureaucratic processes. The CLARITY Principles recommend that regulatory systems should:

- Be simple, predictable and efficient; should minimize bureaucratic delay and obstructions to business operation; and should avoid conflict with and duplication of other laws.
- Accord due process of law, including applicable rights to hearings, representation and impartial appeals for decisions of the state that affect cooperatives or their members.
- Administer the roles of the state in law enforcement, dispute resolution, license and promotion in a manner that avoids duplication or undue influence, and minimizes conflicts of interest.

Since publication of the first CLARITY report in 2006, the CDOs that authored it have been implementing CLARITY projects with local partners in developing countries. They have used the CLARITY Principles to analyze legal environments in a number of countries and have developed new tools for and learned from experiences about building consensus for cooperative law reform. The lessons learned from these implementation projects are the subject of this second report in the CLARITY series, *Creating CLARITY: Assessment, Analysis and Outreach for Cooperative Legal Reform*.

*Creating CLARITY* is organized into three major sections:

**Part I** contains excerpts from case studies and descriptions of the lessons learned by CDOs during various stages of legal-reform projects. The stages include the initial assessment of a country's cooperative environment, analyzing laws and regulations using the CLARITY Principles, and using the principles and legal analysis in outreach and education activities.

**Part II** contains expanded case studies describing the progress of CLARITY projects in four countries: Mongolia, Nicaragua, Mozambique and Yemen.

**The appendices** contain templates of two analytical instruments developed by CDOs during the implementation of projects described in this report. Appendix A contains the Rapid Cooperative

Assessment Tool, developed by CHF in its work in Mongolia and other countries. Appendix B contains the CLARITY Scorecard and Scorecard Analysis, developed by the team of CDOs working in Nicaragua.

As with all materials developed by CLARITY, this report does not offer a one-size-fits-all approach to legal analysis or project development. In each of the countries where CLARITY projects have been initiated, organizers used different methods to analyze the environment and support reform. In subsequent efforts, it surely will be necessary to adapt the lessons and tools to other local environments. However, by sharing what has been learned so far, the report can make a contribution to creating clarity in legal reform.

### CLARITY Principles for Regulatory Enabling Environments

- **Democratic member control:** Law must protect the democratic character of cooperatives, vesting control of the organization in its members.
- **Autonomy and independence:** Cooperatives are private-sector businesses. Law must protect the autonomy and independence of cooperatives from government, persons or entities other than members of the cooperative.
- **Voluntary membership:** Law must protect the voluntary nature of membership in cooperatives; membership should be determined by each cooperative, not mandated by law or government order.
- **Member economic participation:** Law must protect and promote the responsibilities of membership, including the duties to contribute equitably to and democratically control the capital of the cooperative.
- **Equitable treatment:** Law and regulation should be no less advantageous to cooperatives than to other businesses in the same sector, while protecting and being sensitive to the mutuality of cooperatives. Incorporation, law enforcement, dispute resolution, and licensing of cooperatives should be handled in the same manner as for other businesses.
- **Access to markets:** Sector-specific regulations should provide reasonable accommodations and incentives, where appropriate, that enable cooperative forms of business to operate.
- **Coherent and efficient regulatory framework:** The regulatory framework should be simple, predictable and efficient; should minimize bureaucratic delay and obstructions to business operation; and should avoid conflict and duplication of other laws. Regulation with respect to the business of cooperatives should be handled by institutions with the most relevant specialized expertise.
- **Due process:** Cooperative organizations and their members should be accorded due process of law, including applicable rights to hearings, representation and impartial appeals for decisions of the state that impact cooperatives or their members.
- **Absence of conflicts of interest:** The role of the state in law enforcement, dispute resolution, license and promotion should be administered in a manner that avoids duplication or undue influence and minimizes conflicts of interest.



**A CLARITY project** may operate as a cycle rather than a timeline, progressing from one stage to the next, then feeding back into itself as the pattern repeats in subsequent projects.

# Part 1. Implementing CLARITY Legal Reform Projects

Achieving legal reform through a democratic political process can be daunting. Most cooperatives do not have experience proposing legislation in their national parliaments and may have little direct understanding of how the political process in their country works. But cooperatives often have the key resources needed for organizing legal reform campaigns, including experience working with others in coalitions using democratic decision-making structures.

Cooperative law reform campaigns often take the form of what community organizers call an “issue campaign.”<sup>1</sup> As the name implies, this is a campaign that seeks victory on a particular issue. An issue in this sense is the solution or partial solution to a problem. Cooperative law reform campaigns work on issues related to specific changes in how cooperative law is written, interpreted or enforced in order to address problems encountered in forming or developing a cooperative.

In the beginning of an issue campaign, groups with a common problem define the problem they want to work on together. In cooperative law campaigns, defining particular legal reform issues can take a great deal of research and analysis. First, the campaign needs a broad understanding of the cooperative environment and the existing problems. Conducting such an analysis is the subject of the first section, “Assessing the Cooperative Environment.” Second, to identify specific legal-reform issues, the campaign must research the cooperative law of that particular country and how it is interpreted. The process of using CLARITY Principles to guide such analysis is the subject of the second section, “Using CLARITY Principles and Rubrics in Legal Analysis.”

As an issue campaign gets under way, organizers seek to build their power to effect change through outreach and recruiting activities, which are designed to enlarge their movement and educate leaders and the general public about their issue. Using CLARITY Principles and research to guide such efforts is the subject of the third section, “Designing CLARITY Outreach Activities.”

In the latter stages of an issue campaign, coalitions develop specific strategies and timelines to influence particular decision makers to make the changes the campaign desires. For a law-reform campaign, this stage can require knowledge about how political processes operate (e.g., which committee or person has the power to deliver the desired change), along with detailed knowledge of the changes desired and the political power of the coalition.

Some of the projects discussed in Part II have begun engaging in strategic advocacy designed to mobilize cooperative resources to influence decision makers directly. Lessons from these efforts will be the subject of the next report in the CLARITY series, which will focus on tools and lessons for advocating for CLARITY.

1 This discussion is informed by the canonical organizer training text *Organizing for Social Change: A Manual for Activists* by Kim Bobo, Jackie Kendall, and Steve Max of the Midwest Academy. Seven Locks Press. 3rd edition, 2001.

Although the various stages of an issue campaign can be described in a linear fashion, in practice they are interrelated and often feed back into each other. The process of assessing the cooperative environment, for example, may be useful to help identify problems that help define issues for the campaign, but it also may help identify resources and targets for advocacy. Workshops with cooperative organizations can help form broader coalitions as well as define the issues and form strategies for the campaign. After certain issues have been won or lost, a campaign may return to earlier stages (assessing problems and defining issues) for future advocacy efforts. So a CLARITY project may operate as a cycle rather than a timeline, progressing from one stage to the next, then feeding back into itself as the pattern repeats in subsequent projects.



# Assessing the Cooperative Environment

Often the first step in a cooperative law reform effort is for the organizing entity to research the broad context of the cooperative environment in that particular country. An early-stage assessment may serve various functions. For a CDO that is newly active in a country, the assessment can help the organization better understand the current state of cooperative development and the problems the sector faces. A local or sector-specific cooperative might conduct an assessment to better understand how widely its own experiences are shared by others. Assessments also can be tailored to tasks more specific to a legal-reform campaign, such as determining how the political process is operating, what points of entry exist for reform advocates, and whether sufficient support and resources exist to begin a project.

In Mongolia and Nicaragua, initial assessments were used by the implementing CDOs to help define and guide the cooperative law-reform projects. The Mongolia team chose to implement a fairly broad-based assessment that would give the project a bird's-eye view of how the cooperative sector was structured and functioned, and what problems it faced. In Nicaragua, the project team had background knowledge about the cooperative sector and its problems, but needed to answer specific questions about whether the sector would be receptive to a legal-reform educational project, and if so, where such a project should be directed.

---

*A well-designed initial assessment can be a key factor to guide later education and advocacy efforts and to ensure that any activities complement sector needs.*

---

## Mongolia

In Mongolia, CHF International, an international development organization, conducted two assessments at the beginning of its program in 2005. The assessments were designed to obtain an in-depth understanding of the social and political contexts affecting cooperatives and to understand where to target program activities.<sup>2</sup> Each of the analyses was based on interviews, published reports and the general knowledge of program staff.

The rapid assessment was a broad survey of the entire cooperative environment. It included questions on the number and types of cooperatives, cooperatives' understanding of the law and its application at the local level, and the problems the sector was facing in its development. The Rapid Cooperative Assessment survey was conducted by CHF's field staff (see Appendix A). Later, a second study explored the behavior of cooperatives in Mongolia and public opinion about them. In this survey, interviewers focused on the structures and relationships between cooperatives and how they interact with government processes and institutions.<sup>3</sup>

CHF found that results of the rapid assessment were valuable not only to inform appropriate program activities based on the sector's needs and service gaps, but also to aid the local cooperatives. For the first time, cooperatives were able to see the entire sector in a broad snapshot. For example, the first assessment showed that most cooperatives in the country were not formally registered, because the registration process and other regulatory requirements were too onerous.

<sup>2</sup> For more information, see the profile on Mongolia in the first CLARITY report ("Mongolia: Engaging Cooperatives in Legal Reform," in *Enabling Cooperative Development: Principles for Legal Reform*, 2006, pp. 27–29).

<sup>3</sup> *Psychological and Environmental Factors that Determine the Formation and Endurance of Business Groups: Mongolian Case Study*. By Jimena Valades Galeana, CHF International, January 2007.



The second assessment uncovered structural and capacity issues that inhibited information flow between cooperatives and decision makers. This assessment showed that while national-level cooperative representatives served on government planning committees, they were not receiving adequate communication from the grassroots cooperatives on regulation problems. The cooperatives, in turn, had very little knowledge of the content of cooperative law or the development and planning activities their representatives were involved in. The assessments also revealed that people in Mongolia lacked a tradition of working together or building and working in coalitions.

The two assessments helped CHF design a capacity-building project to increase cooperatives' knowledge of relevant law and strengthen the accountability chain between the cooperatives and their national representatives. Without a broad and open-ended assessment process at the beginning of the project, CHF might not have identified cooperative law and regulatory reform as the key point of entry to supporting cooperative development. The assessment process also resulted in the development of a strategy to use the CLARITY Principles to inform a national-level working group on cooperative-law reform about the opinions of the grassroots cooperatives and build the capacity of those cooperatives to understand and engage in the reform process.

---

*The results of the rapid assessment were valuable not only to inform appropriate program activities, but also to provide the local cooperatives with a broad snapshot of the entire sector and about existing service gaps.*

---

## Nicaragua

In Nicaragua, a new cooperative law was passed in 2005 with little coordinated input from the cooperative movement in the country.<sup>4</sup> In 2007, a team of three international CDOs working in Nicaragua joined forces to explore ways they could help the cooperative sector use CLARITY as a tool to assess the new law and formulate collective recommendations for its implementation.

The three CDOs—The Americas Association of Cooperative/Mutual Insurance Societies, the National Cooperative Business Association and the World Council of Credit Unions — undertook an initial assessment to understand nuances of the new regulatory environment and develop long-term advocacy goals. A key aim of the assessment was to evaluate whether CLARITY Principles could be a useful tool in the regulation implementation process, and if so, to which institutions a CLARITY education project should be directed.

<sup>4</sup> For more information, see the profile on the Nicaragua project in the first CLARITY report ("Nicaragua: Learning the Value of Early Engagement," in *Enabling Cooperative Development: Principles for Legal Reform*, 2006, pp. 21–23.)

The CDO team hired an experienced consultant who was very familiar with the local cooperative environment to perform the initial assessment through a series of interviews. The consultant's wide knowledge of Nicaragua's recent cooperative history and sensitive political environment suited him for the task. He interviewed leaders of cooperative organizations, high-level government officials, and representatives of the local USAID mission. His work honed in on the shortcomings of the cooperative law and the unclear role designated to a newly formed cooperative regulatory entity, National Institute for Promotion of Cooperatives (INFOCOOP).

---

*Tailoring the assessment to the characteristics and realities of the local environment ensures that the CLARITY Principles are applied in a way that is most relevant and beneficial to those who deal with cooperative legal and regulatory issues on a daily basis.*

---

The original assumption was that a CLARITY education project would be designed for cooperatives. However, the assessment led to a shift in focus to building the capacity of cooperative representatives to INFOCOOP and the newly formed cooperative apex organization, National Council on Cooperatives (CONACOOOP). Ultimately, the targeted training organized at this level was deemed to be highly productive. Together, the regulator and cooperative leaders developed a common understanding about the principles that should animate the implementation of the new law. Without the initial assessment, the CDO's project probably would have been focused in a different direction, possibly with less success.

### **Points to Consider in Assessing the Environment**

A well-designed initial assessment can be a key factor to guide later education and advocacy efforts that support legal-reform projects and ensure that any activities complement sector needs. Investment in a well-executed assessment can pay large dividends later in the project by identifying the key actors, the constituencies that will be most receptive to the project, and the history and context that will enable reformers to understand the views and experiences of the sector.

The kinds of questions an assessment should answer will depend on the experience of the organizations initiating the project and the type of information they need to guide the project. The following suggestions may help an organization design its own assessment, adding to CHF's Rapid Cooperative Assessment Tool in Appendix A.

### **Finding Information on Cooperatives**

Many developing countries (especially those with relatively low Internet connectivity) have no well-developed processes for publishing material online. Whether the initial assessment uses a consultant or the project's own field staff, it will require getting out of the office and talking to the people who are most likely to have the answers.

The first set of questions to answer in the assessment might be related to who is likely to have the information. These questions can be asked of persons who have been identified as potential sources of information. Ideally, the list of contacts and sources will grow as the assessment process continues. The assessment report might list everyone who provided information as well as additional sources that might be consulted in the future. The following are some key questions:

- Is there an agency or office in government that has a primary responsibility for the support of cooperatives?
- Is there a primary regulator of cooperatives?
- Is there a cooperative apex organization or union likely to have information on the broad sector?
- Are there sector-specific apex organizations or unions that represent parts of the cooperative movement?
- Is there a university program or a professor who specializes in the study or support of cooperatives?
- Is there an international funder that works with cooperatives?
- Are there any recent or historical government or non-government reports on cooperatives in the country?
- Are there international cooperative-development organizations that have offices or have worked with cooperatives in the country?
- Are there any good books or articles written on cooperatives in the country?

### **Obtaining General Information**

The following types of questions can help the project obtain an overall snapshot of the cooperative sector:

- How many cooperatives are there in the country? In what regions or industries are they concentrated?
- What is the average size of a cooperative in various sectors in the country?
- How is the cooperative sector structured? Are there apex organizations or unions that represent the entire sector or specific industries?
- What external institutions support cooperatives (e.g., university programs, nonprofit organizations, government offices)?

### **Charting the History of the Cooperative Sector**

The following questions can be useful in explaining the history and recent developments in the cooperative sector:

- What are the key points in the history of the cooperative sector?
- What notable advocacy efforts has the cooperative movement engaged in? What were the results?
- Is the recent trajectory toward growth or shrinking of the sector? Is the sector generally healthy or weak?
- Do cooperatives have full access to all markets on par with other private businesses?
- What are the key problems facing the sector?
- What are the key economic or political opportunities for the sector to grow and develop?
- What are the key external and internal threats to the sector?

## Mapping the Legal Reform Process and Participating Actors

The following types of questions can help the project better understand the current legal environment and potential avenues for influencing it:

- When were the most recent changes made to the cooperative law? What did they achieve? Did cooperatives participate in the process?
- What are the problems with the current law or the process of registration, regulation, or otherwise governing of cooperatives? Is the registration or regulation of cooperatives seen as more onerous than for other types of businesses?
- Is there any interest in reforming the cooperative law? If so, who is interested? What issues are in need of reform?
- Is there a current legislative process for considering changes to cooperative law or policy? Are cooperatives represented in that process? Do cooperatives know about the process?
- How does law reform happen? Which actors would participate in the process? Which would be most influential? Do reforms usually begin in the executive or legislative branch? Would there be public hearings? How can citizen groups effectively propose legal changes?
- With whom in the government do cooperatives have the most influence? Are any members of parliament or government officials particularly interested in cooperative issues? Are there members of parliament who represent districts in which large numbers of cooperative businesses are located? Are there cooperative members/organizations with existing relationships with key decision makers?
- Does the cooperative community have a tradition of consultative meetings with parliamentary leaders and/or government officials?
- Are there other important supporters, such as business groups and organizations that might become partners in a reform process?



# Using CLARITY Principles and Rubrics in Legal Analysis

## Origins of the CLARITY Principles

At the core of CLARITY projects is the use of the CLARITY Principles and analytical rubrics to analyze the laws and regulations that govern cooperatives. The first CLARITY report presented a list of nine basic principles that every cooperative law should respect and promote, as well as two related analytical rubrics or matrices that facilitate legal analysis in particular cases. For in-depth discussion about the origins of the CLARITY Principles and analytical rubrics, the first CLARITY report is available to download at [www.clarity.coop](http://www.clarity.coop). (See also pages 1-3 of this report.)

Since the original CLARITY report was published, the principles have been used in several countries, leading to the development of new lessons and tools for analyzing cooperative laws and related regulations.

---

*By applying the CLARITY Principles and analytical rubrics to specific provisions of an existing law, reform movements can identify provisions that fail to fully enable cooperative development.*

---

## Analytical Rubrics

To demonstrate how the CLARITY Principles can be used to examine legal and regulatory environments, two analytical rubrics or matrices are offered for use by cooperative movements and other policy advocates. CLARITY reviewed many cooperative laws and conducted research on cooperative regulatory practices in the countries in which its members work. From this research, the project created two rubrics: one focusing on common elements of cooperative-specific laws and practices; the other focusing on common provisions in sector-specific regulations that affect cooperative participation.

In each rubric, CLARITY identifies how and why one or more of the core principles can be applied to a specific aspect of a regulatory framework (see table on next page). Each rubric suggests practices to successfully implement the principles and identifies the reasons why a certain area of law or regulation may be important to cooperative development. Specific examples of enabling or disabling practices from past and present laws and regulatory practices are included for comparison. This provides a general framework through which a given law or regulation can be examined to see whether it complies with the CLARITY Principles.

Again, like the CLARITY Principles, the rubrics are not intended as model language or provisions that should be adopted in every country. Rather, they are intended to show how CLARITY Principles can be used to analyze specific regulatory environments and debate on needed regulatory changes.<sup>5</sup>

<sup>5</sup> The rubric was later used by the Nicaragua team as the basis for development of the two instruments: *CLARITY Scorecard* and *Scorecard Analysis*.

## ANALYTICAL RUBRICS

### Formation and Registration of a Cooperative

Core Principle	Implementing Principle	Underlying Reasons
Provide coherent and efficient regulatory framework	Time limits/default registration periods. To minimize possibilities for long bureaucratic delays, a time limit may be set for approval of applications for registration. At the end of this time period, the application is presumed to be granted.	In countries where the registration process is cumbersome, not timely or filled with uncertainty, cooperatives frequently organize under nonprofit or general company statutes.

**Enabling example:** *Philippines Cooperative Code, § 16, 1990*: “All applications for registration shall be finally disposed... within a period of thirty (30) days..., otherwise the application is deemed approved.”

**Disabling example:** *Ghana Cooperative Societies Decree, 1968*: Law imposes a six-month probationary period for cooperative registration, but it often stretches for two or more years.

### Benefits of Legal Analysis

Legal analysis can bring many benefits to a project. Not only can it provide an overview of cooperative law in a country, but also enable the exploration of nuances in a law or regulation. The results of any legal analysis depend largely on the goals of the project and the analysis being performed. In some circumstances (as in the Yemen case), legal analysis may be performed to identify and overcome very specific barriers to cooperative formation in a particular industry. In other circumstances (as in the Nicaragua and Mongolia examples), an analysis was conducted to identify legal obstacles to cooperatives operating across a range of industries.

*Legal analysis using the CLARITY Principles and tools can help “zoom in” on the issues that will have the greatest impact on the cooperative community.*

The CLARITY project created the principles and other tools to help guide legal analysis in developing countries. The principles provide an objective framework to assess existing cooperative law. Results of the analysis can identify options for legal and regulatory reform that can be pursued depending upon the goals established by the entity that is undertaking this process. By applying the CLARITY Principles and analytical rubrics to specific provisions of an existing law, reform movements can identify provisions that fail to fully enable cooperative development.

The principles and rubrics also can help reform movements determine why certain changes are needed. The principles themselves and the “Underlying Reasons” sections of the analytical rubrics provide background justification for why specific provisions of law may be more or less enabling of cooperative development. Cooperative reform movements can use these sections to attain a deeper understanding of the motivation for the principles and to develop their own justifications for legal change proposals.

Whether it is performed by a government body charged with implementing the reform or by a group that seeks to identify and press for changes, legal analysis using the CLARITY Principles and tools can help “zoom in” on the issues that will have the greatest impact on the cooperative community.

The following are some of the benefits of using the principles and rubrics in legal analysis:

- Increasing awareness and understanding of cooperative law and its impact.
- Assessing the overall state of cooperative law and its implications for registration, organization, governance, etc.
- Using the results as an educational tool for national, regional and local cooperative leaders and stakeholders to encourage greater understanding of how the existing law creates an enabling or disabling environment for cooperative businesses.
- Enabling the identification and prioritization of options for potential action, depending on selected criteria (e.g., the capacity to push for reforms at this particular time or the expected impact on cooperative businesses).
- Justifying recommended legal reforms to policymakers.



### Tools for Analysis and Assessment

Building on pioneering work in Nicaragua, CLARITY has developed two important tools for facilitating cooperative legal analysis:

1. The *CLARITY Scorecard* — a multi-part spreadsheet with matrices, questions and worksheets to help organize information gathering and the legal analysis process. The *Scorecard* can guide the assessment of a law and its ranking in terms of adherence to the core CLARITY Principles.

2. The *Scorecard Analysis* — an analytical document that explains the scoring on

each question. This document provides additional detail and context for the benefit of cooperative leaders and stakeholders who can compare the information with their own knowledge and experience with cooperative law.

In the following discussion of the Nicaragua case and the fuller description in Part II, we describe how the *CLARITY Scorecard* and the *Analysis* were developed and used. A template (blank) version of both documents is included as Appendix B and filled out versions of both documents are available on the CLARITY website [www.clarity.coop](http://www.clarity.coop).

Also included in this section of the report are case studies of Mongolia and Yemen where the legal analyses were conducted prior to the development of the *Scorecard*. Therefore, in these two countries, the analyses of existing cooperative law vis-à-vis the CLARITY Principles were conducted in a slightly different manner. As shown in the accompanying examples, regardless of which method was used, the resulting analysis provided cooperative leaders and policymakers with important information about deficiencies in the law and specific areas for legal reform.

## Nicaragua

In Nicaragua, the main objective was to educate key cooperative leaders about the new cooperative law so they could analyze, assess and prioritize legal issues and develop preliminary recommendations for changes. (Developing and advocating such recommendations will be a future stage of the project.)

Before a group is ready to discuss issues about cooperative law, the participants must be oriented and prepared. The following are some of the practical challenges involved in such an effort:

- How can group members learn about, analyze and assess the law and its implications with little or no legal knowledge or experience?
- How can they decide where to begin their analysis, when cooperative law and regulation documents are dauntingly vast?
- How can they do this in a short period (e.g., in a three-day workshop)?

To overcome these challenges, the Nicaragua team created a process to use the CLARITY Principles to prepare for each stage of legal analysis. The resulting scorecard for evaluating a cooperative law with respect to the CLARITY Principles is a spreadsheet with matrices, questions and worksheets to help organize information and assist in the legal analysis process.

### The CLARITY Scorecard

The main *Scorecard* (see sample) is intended to provide a big-picture view of the cooperative law, which is the result of applying the multi-part scoring tool. It is a one-page matrix consisting of the nine CLARITY Principles along the top row and 12 critical areas of the cooperative legal/regulatory framework (derived from the analytical rubrics) on the left-hand side. In each of the 12 critical areas, specific practices are listed that enable successful implementation of the CLARITY Principles or that contribute to achieving the underlying objectives of the principles. For example, in the critical area “Formation and Registration of Cooperatives,” clearly defined time limits and default registration periods are indicators of enabling laws and regulations. (See CLARITY Indicators matrix.)

Since the *Scorecard* is linked to accompanying sets of matrices, in order for the scoring to take place several steps must be followed, including filling out the Country Law Worksheet, considering CLARITY Indicators and answering CLARITY Questions (each constitutes a separate but related part of the process).<sup>6</sup> Each set of matrices helps analysts evaluate specific provisions of law. For example, Country Law Worksheet helps organize information about specific legal provisions and their relationship to CLARITY Principles. CLARITY Indicators in each critical area, guide the process of answering the CLARITY questions and assigning a required score under the corresponding CLARITY Principle (see accompanying samples of each). In Nicaragua, the goal of the measurement was to produce a starting point for discussion about cooperative law and possible focus areas for legal reform. At this point, the group did not consider the sector-specific issues, which are part of the complete CLARITY process.

<sup>6</sup> See Appendix B for detailed instructions relating to the process, steps and scoring scale.

## COUNTRY COOPERATIVE LAW WORKSHEET

	Country Cooperative Law Worksheet	CLARITY Principle	Notes
--	-----------------------------------	-------------------	-------

### Chapter 1 Definitions and Principles

Article	Overview of what is covered in law	0 – None	CLARITY Principles
Article 2	Social and economic rationale	0 – None	0 – None
Article 3	Role and obligations of The State	0 – None	1 – Protect democratic member control
Article 4	Definition: cooperative law	0 – None	2 – Protect autonomy and independence
Article 5	Definition: cooperatives	0 – None	3 – Respect voluntary membership
Article 6	Definition: cooperative agreement	0 – None	4 – Require member economic participation
Article 7	Definition: cooperative acts	0 – None	5 – Promote equitable treatment
Article 8	Cooperative principles	10 – All CLARITY Principles	6 – Promote access to markets
			7 – Provide coherent and efficient regulatory framework
			8 – Protect due process
			9 – Avoid conflicts of interest
			10 – All CLARITY Principles
			11 – Several Principles – See Notes

### Chapter 2 Constitution, Formation and Authorization

Article 9	How cooperatives are constituted via private document	7 – Provide coherent and efficient regulatory framework	
Article 10	How constitution is decided upon and by whom	1 – Protect democratic member control	
Article 11	Cooperative meetings, conditions and requirements	11 – Several Principles – See Notes	Could involve principles 1, 2 and 3
Article 12	What activities cooperatives may engage in	5 – Promote equitable treatment	Mentions that "coops may engage all types of activities in equal condition with private law"
Article 13	Cooperative relations with other legal entities	2 – Protect autonomy and independence	
Article 14	Types of cooperatives that can be organized	5 – Promote equitable treatment	
Article 15	Limited responsibilities of cooperatives	8 – Protect due process	
Article 16	Use of limited responsibilities designation in name	8 – Protect due process	
Article 17	Legal usage of "cooperative" in organization names	5 – Promote equitable treatment	
Article 18	Cooperative prohibitions	11 – Several Principles – See Notes	
Article 19	Minimum number of founding members required	11 – Several Principles – See Notes	
Article 20	Minimum requirements of by laws	11 – Several Principles – See Notes	Could involve principles 1, 2, 5 and 7
Article 21	Bylaw changes requirements	1 – Protect democratic member control	
Article 22	Bylaw approval process	1 – Protect democratic member control	
Article 23	Requirements for obtaining legal personhood for cooperative	1 – Protect democratic member control	
Article 24	Negation of application	7 – Provide coherent and efficient regulatory framework	
Article 25	Registration in National Register of Cooperatives, requirements	7 – Provide coherent and efficient regulatory framework	

# CLARITY SCORECARD QUESTIONS

EXAMPLE

Question	CLARITY Principles & Explanation	Enabling & Disabling Examples	Score/ Notes	Law Reference
----------	----------------------------------	-------------------------------	--------------	---------------

## 1 Formation and Registration of a Cooperative

Score: Article:

1a. Is a time period set for the approval of registration applications (after which there is automatic approval)?	<b>Principle 7</b> – efficient regulatory framework <b>Explanation</b> – the default for regulatory inaction should be to approve the registration to minimize the impact of bureaucratic delay on cooperative formation	<b>Enabling</b> – all applications shall be finally disposed of within 30 days or assumed to be granted <b>Disabling</b> – statutory 6 month approval period that in practice runs into years and prohibits operation until registration is formally approved	1	Cooperative Law, Articles 23, 23a, 23b, 23c, 24, 27; Regulation 2005, Article 7
1b. Are registration requirements for coops the same as for regular businesses?	<b>Principle 5</b> – equitable treatment <b>Explanation</b> – How do requirements for starting a cooperative compare with requirements for starting a new business? Some groups may choose to register as an association or other type of business if it is easier and quicker than registering as a cooperative	<b>Enabling</b> – coops are required to file with similar requirements to corporation law <b>Disabling</b> – there are many special requirements for formation of coops that do not apply to other businesses	1	Cooperative Law, Articles 146–150, and, in particular, Articles 145, 146b, and 150e
1c. Are the Registrar's duties combined with other coop promotion or regulation activities?	<b>Principle 9</b> – conflict of interest <b>Explanation</b> – combining promotion and regulatory tasks can create conflicts of interests in the agency – an agency devoted to promoting cooperative formation should not also be in charge of enforcing regulatory mandates	<b>Enabling</b> – registration functions are handled by a separate ministry than those charged with cooperative promotion and technical assistance <b>Disabling</b> – registrar of cooperatives is also charged with cooperative promotion, regulation and dispute mediation	3	"Cooperative Law Articles 145, 113–115; See, in particular: 1. Registration: Articles 114b, c, h, and 145; 2. Promotion: Articles 114a, e, m, n, o, p, and s; 3. Supervision: Articles 114d, f, g, j, k, l, and r; 4. Dispute Resolution: Articles 115; Regulation 2007, Article 98"
1d. Does the govt. impose mandatory by-laws or otherwise restrict member governance?	<b>Principles 1 &amp; 2</b> – democratic governance & autonomy <b>Explanation</b> – a central characteristic of a cooperative that supports their vitality is the vesting of ultimate governance of the organization in its membership	<b>Enabling</b> – membership has maximum ability to shape the structures and processes of the organization through bylaws, law imposes minimum requirements applicable to other businesses, such as procedure for appointing officers <b>Disabling</b> – mandatory by law language is imposed for all cooperatives	4	

### Scoring Scale – Level of Law Compliance

- 0 – Does not comply with the CLARITY Principles or contribute to the achievement of the underlying goal
- 1 – Weak compliance with CLARITY Principles and/or weak contribution to the underlying goal
- 2 – Partial compliance with the CLARITY Principle(s) and contribution to the achievement of the underlying goal
- 3 – General compliance with CLARITY Principle(s) and contribution to the achievement of the underlying goal
- 4 – Complete compliance with CLARITY Principle(s) and contribution to the achievement of the underlying goal

## CLARITY INDICATORS

### Enabling Cooperative Development Principles for Legal Reform

Clarity principles	Protect democratic member control	Protect autonomy and independence	Respect voluntary membership	Require member economic participation
Indicators	Principles For Cooperative Law And Regulation			
1 – Formation and Registration of a Cooperative		Avoid mandatory model by-laws.		
2 – Cooperative Supervision		Coordination of business regulatory functions.		
3 – Legal Status and Rights		a) Liability/indemnification of officers and directors. b) Legal personhood.		
4 – Membership	Autonomy in determining size and qualifications for membership.	Ban on government membership.	No compelled membership.	
5 – Member Governance	a) Majority voting rules. b) Records subject to inspection.			
6 – Officers and Directors		a) Avoid detailed definitions of management functions. b) No state appointment of managers. c) Autonomous financial management.		
7 – Board of Directors	The board should be elected by the members of the cooperative.	By-laws determine the size and composition of board.		
8 – Capital Accounts		Allow reserves and capital funds.		Distribution according to patronage.
9 – Auditor	Member selection.	Member selection.		
10 – Dispute Resolution				
11 – Dissolution/Amalgamation/Merger			Procedures for member approval.	
12 – Apex Organizations		Permissive autonomy.		

This *Scorecard* was made possible through support provided by the Cooperative Development Program, U.S. Agency for International Development. The opinions expressed are those of the authors and do not necessarily reflect the views of USAID. The *Scorecard* was produced by the staff of Cooperative League of the USA/National Cooperative Business Association, including: Douglas Barcenas, assistant project manager.

Promote equitable treatment	Promote access to markets	Provide coherent and efficient regulatory framework	Protect due process	Avoid conflicts of interest
Principles For Cooperative Law And Regulation				

Regulatory Factors				
Register cooperatives in the same office as other businesses.		Time limits/default registration periods.		Streamline registrar's role.
Coordination of business regulatory functions.				Separation of regulatory from promotion functions.
Legal personhood.				
		Availability of independent tribunals and traditional forums.	Availability of independent tribunals and traditional forums.	Availability of independent tribunals and traditional forums.
			Procedures for member approval.	

EXAMPLE

## CLARITY SCORECARD

CLARITY principles	Protect democratic member control	Protect autonomy and independence	Respect voluntary membership
--------------------	-----------------------------------	-----------------------------------	------------------------------

### General cooperative law indicators

Questions >	a	b	a	b	c	
1 – Formation and Registration of a Cooperative				1		
2 – Cooperative Supervision				2		
3 – Legal Status and Rights				4		
4 – Membership		3		2		4
5 – Member Governance	4	3				
6 – Officers and Directors			4	4	3	
7 – Board of Directors		4		3		
8 – Capital Accounts		2				
9 – Auditor		2		2		
10 – Dispute Resolution						
11 – Dissolution/Amalgamation/Merger						4
12 – Apex Organizations				4		
Score		18		29		8
Maximum Score		24		40		8
Percentage		75%		73%		100%

Total Possible Score for General Cooperative Legal Indicators	120
Score	81
Percentage	68%

This *Scorecard* was made possible through support provided by the Cooperative Development Program, U.S. Agency for International Development. The opinions expressed are those of the authors and do not necessarily reflect the views of USAID. The *Scorecard* was produced by the staff of Cooperative League of the USA/National Cooperative Business Association, including: Douglas Barcenas, assistant project manager.



Require member economic participation	Promote equitable treatment		Promote access to markets	Provide coherent and efficient regulatory framework	Protect due process	Avoid conflicts of interest
	a	b				
	1			4		3
	2					2
	3	1				
4						
				1	1	1
					3	
4	7			5	4	6
4	16			8	8	12
100%	44%			63%	50%	50%

EXAMPLE

Following the process step by step allows the analyzing team to generate material that will make scoring possible. The process of gathering and systematically organizing the material results in a *Scorecard* that offers a concise view of how the overall cooperative law measures up to the CLARITY Principles. It provides a basis for prioritizing issues and serves as a map with which a group can begin to chart a reform path according to the group's own priorities and needs.

### Scorecard Analysis

The Nicaragua team hired a legal expert fluent in Spanish and a local Nicaraguan lawyer to complete the Scorecard, and based on results, conduct the *Scorecard Analysis*<sup>7</sup>. The analysis encompassed the entire Nicaraguan cooperative law and generated an extensive report that included an explanation of the results of the *Scorecard*, an analysis of the issues, and recommendations for possible improvements to the law. In short, the *Scorecard Analysis* provides a microscopic view of specific areas of cooperative law, with enough details and analysis that the group can become familiar with the issues and potential alternatives. The Nicaragua team found the combined perspective of the outside legal consultant and the local lawyer made for an effective analysis of the cooperative law and a richer *Scorecard Analysis*.

Scorecard Analysis	
<p><b>ISSUE ANALYZED</b>  <b>Formation and Registration</b></p> <p><b>SCORECARD QUESTION</b>  <b>1A</b></p>	
<b>IMPLEMENTING PRINCIPLE:</b>	To minimize the possibility of long periods of bureaucratic delay, a time period may be set for approval of applications for registration, after which point the application is presumed to be granted.
<b>RELATED CORE PRINCIPLE:</b>	Provide Coherent and Efficient Regulatory Framework.
<b>SCORE: 1.0</b>	
<b>DISCUSSION:</b>	<p><b>There is a Lack of Automatic Acceptance if Registration is Not Timely Completed.</b></p> <p>The law sets a time period for approval of applications for registration. (Law, Art. 23, 24).</p> <p>The law does not presume that the application is granted if it is not acted on in the established time period. It is silent on that matter. One cannot know what happens if the registrar does not act within the time period allowed. However, one can surmise that it</p>
continued on next page	

<sup>7</sup> Spanish and English versions of the *Scorecard* and *Scorecard Analysis* reflecting work of the Nicaragua team are available at [www.clarity.coop](http://www.clarity.coop).

*continued from previous page*

would be dangerous for an applicant to proceed on an assumption of acceptance because of the absence of a timely notice of rejection. This is particularly true because, as is noted below, no time period is established by the law for notification of a non-correctible or final rejection.

### **The Registration Process is Too Long and is Subject to Unwarranted Delays.**

The law does not minimize the possibility of long periods of bureaucratic delay.

The time periods for acting on an application for registration are too long: 30 days for the registrar to decide on the application; 15 days for the registrar to notify the applicant of a rejection that is correctible, 20 days for the judge to notify of his decision on administrative appeal, and 10 days for the registrar who rendered the initial rejection to submit his report to his superiors. (Law, Art. 23, 24, and 27).

There are no limits in the law on the time in which the registrar must notify an applicant of a rejection for reasons that are not correctible. There are no time limits in which the registrar's superior must render a decision on an appeal.

Registration may be delayed because of the condition that founding members must take a 40 hour training course on cooperatives prior to registration. (Law, Art. 23a). Two questions come to mind regarding this requirement. First, does training about cooperatives fulfill a public purpose that would justify making it a registration requirement? In market economies, persons are free to form whatever business, charitable and social entities they choose without the government taking steps to ensure their competence. The market weeds out those who are unable to perform. Why is that not permitted here? Second, why can this requirement not be fulfilled and a certificate of completion presented to the registrar within a short time *after* the cooperative is registered? As matters stand now, delays in cooperative formation may result from the government not providing an adequate schedule of courses. The founding members will suffer the burden of not having courses available. If post registration completion were allowed, the onus would be on the government to provide adequate course schedules to meet its desires for a trained cooperative leadership, and registration would not be delayed.

Registration may also be delayed because of the requirement that the founding members include in their registration materials a study of the viability of the proposed cooperative. (Law, Art. 23c). Delays due to this requirement may result from the time needed to perform such a study or the unavailability of expert personnel or resources needed to do the job. This requirement also permits unintentional or, more ominously, purposeful bureaucratic delays because neither the law nor the regulations specify the topics that must be covered in the study or standards for the content of the study. Consequently, there is wide latitude for the study to serve as a pretext for rejection of applications. Such rejection might considerably complicate and delay the application process because the absence of specifications as to topics and content means that there are no standards for appellate review, or only weak general standards of reasonableness. Furthermore, the requirements of such a study and its submission to the government as a condition for registration means that the judgment on viability of the cooperative is taken from the people who are forming it, who know the most about it, and who have the greatest interest in its success. The

*continued on next page*

*continued from previous page*

judgment on viability is given to a potentially politicized governmental agent who is likely to have less knowledge about the community to be served and other facts concerning the matter and less interest in the success of the cooperative endeavor.

Registration may further be delayed because of the requirement that that 25% of social capital be paid-in at the outset. (Law, Art. 23b). The law appears to allow the payment of social capital in kind; and the 25% requirement might be difficult or impossible to meet if a large portion of the cooperative's social capital is to be contributed in this form. In addition, there may be circumstances in which capital is scarce, a great deal of capital is not needed at the outset, and the business plan of the cooperative is to generate its member's capital contributions through surpluses over time. The question again arises as to whether, from the philosophical view of Nicaraguan culture, it is appropriate public policy to be concerned with whether economic entities, including cooperatives, are adequately capitalized, or whether this is a matter for the founders' judgment and determination by market forces through the success or failure of the business.

#### **Registration Requires Too Much Information.**

Finally, the law and regulations appear to require the submission of more completed acts, paperwork, and information than is needed for the registration and formation of a legal entity. (Law, Art. 23; R2005, Art. 7). Many of the mandatory submissions, including books of the general assembly, administrative counsel, and oversight board, and the registry of members inscriptions, appear to be necessary for governmental regulation and control but not for the orderly registration of cooperatives.

The *Scorecard* and *Scorecard Analysis* made it possible to hold focused discussion sessions involving a broad group of cooperative leaders on problematic sections of the law. The analysis and explanation enabled a wide audience with little or no legal training to understand the cooperative law and provided an opportunity for informed discussion and involvement by a variety of cooperative leaders. Because any legal analysis will be subjective, the involvement of cooperative leaders provides an important reality check. Ultimately, the Nicaragua team found that having a single evaluation of the entire law by one team of experts was invaluable as an educational tool and focused discussion that engaged cooperative leaders and led to tangible reform options.

*The Scorecard and Scorecard Analysis offer a concise view of how a country's cooperative law measures up to the CLARITY Principles. It provides a basis for prioritizing issues and a map with which to chart a reform path.*

In Nicaragua, the team learned that presenting a big-picture analysis to cooperative leaders helped them focus the discussion around problem areas. Cooperative leaders were able to reach a consensus despite opposing political views because the issues were presented using an apolitical, legal-analysis tool.

## Yemen

In Yemen, the CLARITY Principles were used to analyze the existing cooperative law for two purposes:

- Determine the most appropriate and expeditious legal path to form rural electric cooperatives in the short term, and
- Identify specific issues in the cooperative law that will require amendments in the future as part of a long-term legal reform strategy.

The analysis of cooperative law in Yemen was conducted with the assistance of a local attorney, using an Arabic translation of the first CLARITY report and knowledge of Yemeni law.<sup>8</sup> The team created its own matrix to evaluate the current law against CLARITY Principles, identifying numerous legal barriers to electric cooperatives. For example, the second CLARITY Principle requires that cooperatives have autonomy and independence, but the current Yemeni law prevents cooperatives from choosing their constitutions and gives a government agency authority to change decisions made by a cooperative's board of directors. (Additional examples from the legal analysis are detailed in the Yemeni section in Part II.)

---

*Whether done with use of a Scorecard or in another manner, legal analysis helps identify those aspects of the cooperative law that may need the most attention from the point of view of the cooperative business community.*

---

The CLARITY analysis identified major legal challenges to the establishment and governance of electric cooperatives under existing Yemeni cooperative law. Armed with this information, the project team and the local legal counsel devised a strategy to overcome legal barriers to cooperative development and identify alternatives for future legal reform.

Recognizing that it would take a significant amount of time to secure parliamentary amendments to the existing cooperative law, the project team took a three-pronged approach to address issues identified in the analysis:

1. To allow the creation of the first electric cooperative, the team drafted a needed regulatory decree.
2. To provide oversight for new electric cooperatives, the team drafted a decree to create a Rural Electrification Authority and provide governance for this new institution.
3. To address other legal reform issues identified in the CLARITY analysis as pertinent to the success of electric cooperatives, the team is preparing amendments to the existing cooperative law for consideration by parliament.

In Yemen, the CLARITY analysis revealed a host of legal barriers that could not be addressed legislatively in a timely manner. Therefore, the project team focused on identifying alternative methods (decrees) to achieve the immediate goal of creating an electric cooperative, and proposed legislative amendments to meet the long-term goal of legal reform. The key lesson in this case: Be flexible. Amending existing laws, while often the most direct course of action, may not be the best solution because of time constraints. It may be possible to change the effect of the existing law through regulatory orders, agency rulings or executive pronouncements.

<sup>8</sup> See Arabic translation available at [www.clarity.coop](http://www.clarity.coop).

## Mongolia

The Working Group on Cooperative Law Reform included a team of legal experts from the Ministry of Agriculture that reviewed the law and proposed line-by-line changes. To add to this work and provide a wider perspective using the CLARITY Principles and rubrics, CHF's volunteer legal expert identified areas of potential improvement while considering the interaction and interdependence of principles for the ultimate desired effect. The expert looked at each CLARITY Principle, formulated a general observation as to the level of consistency with the provisions of existing Mongolian cooperative law, and formulated specific suggestions for change, which were considered by the working group.

For example, regarding the formation and registration of a cooperative, the CLARITY rubric calls for maximum flexibility for members to define the rules of internal governance (implementing principle) because this flexibility reinforces the principle of cooperative independence and autonomy (core principle). See excerpt below from first CLARITY report, page 7.

### ANALYTICAL RUBRIC

#### Formation and Registration of a Cooperative

Core Principle	Implementing Principle	Underlying Reasons
Protect autonomy and independence	Avoid mandatory model bylaws. Registration process and statute should provide maximum flexibility for a cooperative to define its governance through bylaws and articles of incorporation.	Central to the success of a cooperative is the development of the capacity of its members to govern the organization democratically and to adopt the most beneficial structure for its line of business.

The CHF expert concluded that Mongolian cooperative law could improve by reducing the number of topics that must be addressed in a cooperative's registration charter to those necessary to identify it as a separate legal entity and to give the public sufficient contact information to locate and deal with it (i.e., topics that correspond with the ultimate purpose of the registration process). All other provisions, if desired, could be included as default provisions in case the members do not define such rules. This way, not only would the principle of cooperative autonomy and independence be achieved, but also the process of registration would be simplified. The latter effect was strongly endorsed by grassroots cooperatives in subsequent community meetings, during which the registration process was generally criticized as being lengthy and cumbersome. (Full text of this analysis is available at [www.clarity.coop](http://www.clarity.coop).)

The English-language version of the resulting analysis was translated into Mongolian and provided to the Working Group for discussion and consideration in their work on the cooperative law draft. It identified the aspects of the Mongolian law that needed the most attention, while helping the cooperative unions improve their understanding of the strengths and weaknesses of the existing law.

## Points to Consider in a Legal Analysis

Performing a comprehensive analysis of existing cooperative laws and regulations is one of the most important steps of a legal reform project. It can also be costly and time consuming and, without proper planning, may not yield helpful results. Here are some factors to consider in performing a legal analysis.

### Preparing for the Process

Clearly define the purpose and intended outcome of the analysis, for example:

- Specific recommendations for action.
- An overview of the strengths and weakness in the cooperative law.
- A tool to stimulate discussion among cooperative leaders.
- Information to present to government leaders.

### Funding Legal Analysis

Legal analysis can be costly, so the proper preparation to secure funding can be a key factor. The following are some approaches to consider:

- Seek out other local organizations that would like to share the cost; for example, an apex organization in the cooperative sector.
- If you are using a local lawyer, request pro bono or discounted services.
- If you are using an international/foreign expert, research available international aid or connect with international organizations already in your country to request support.
- Provide the local attorney with samples of the Scorecard and Scorecard Analysis and links mentioned in this report. This will help speed up the process.

### Working with Foreign Legal Systems

In many cases, the legal analysis may include working with foreign legal materials that require special considerations. The following are some suggestions:

- Involve a local lawyer, preferably one with both international and local legal experience, as well as experience working with cooperatives and cooperative law.
- Use translations of legal documents, but be aware that the translator may have linguistic but not legal expertise. The terminology used in such texts may be confusing or may require additional interpretation by a local expert to make the legal context clear.
- Ensure that you use the most recent legal documents. Laws and regulations are frequently amended.
- Seek out additional information about foreign legal systems and any historical documents that will tell you how the law was prepared.
- In presenting results of a legal analysis to a non-legal audience, begin with the simplest issues to retain the interest and attention of the listeners.

# Designing CLARITY Outreach Activities

In most cooperative law reform projects, completing the initial assessment of the cooperative environment and a detailed legal analysis are just the beginning. To bring about change, outreach campaigns seek to build coalitions and awareness that can push a reform effort.

In the outreach projects described below, the CLARITY Principles were used in various ways to reach out to cooperatives and government officials. These activities helped build broader support for law reform objectives, gave cooperatives a sense of ownership over the process and its outcomes, engaged cooperatives with each other and with government leaders, and set the stage for effective advocacy.

---

*To bring about change, outreach campaigns seek to build coalitions and awareness that can push a reform effort.*

---

## Mozambique

In Mozambique, the National Cooperative Business Association simultaneously organized several different education campaigns to motivate cooperative members and everyday citizens to support the legal-reform process.

Mozambique does not have a cooperative law. Farmers' cooperatives around the country used a farmer association law to formalize their organizations. However, that law does not envision such associations operating as independent businesses and fails to give them many of the basic powers needed to operate a successful enterprise.

Rather than focusing specifically on the CLARITY Principles, initial education efforts beginning in the fall of 2008 promoted conversations about the inadequacy of the farmer association law for cooperative businesses. Conversations focused on issues such as the lack of legal authority under the association law to attract and build capital or enter into certain contracts. Because this was the only law under which farmers could organize, the initial education efforts focused on generating options for improving the law rather than replacing it.

As interest in the issues grew at the grassroots level, a coalition of national organizations, including the National Organization of Farmers and the Association of Fruit Producers, saw the benefit in improving the association law. These associations joined forces with NCBA to organize workshops about the law for their members, key social leaders and decision makers in the government and parliament.

As the educational workshops continued, the first CLARITY report was introduced as a resource for the burgeoning cooperative movement. The report was translated into Portuguese and used as a tool to demonstrate how cooperatives function around the world. Case studies from the report were discussed as examples of how laws can be written to help or hinder cooperative development.

In subsequent meetings and workshops, participants considered the CLARITY Principles and the possibility of replacing the association law with a modern cooperative law — bringing legal reform in a way that would reflect local cooperative needs. Workshops with cooperatives and other stakeholders were organized to consider key provisions of a draft cooperative law, and comments were compiled to improve the draft. The highly participatory process for drafting and commenting

on a new law helped foster a strong sense of ownership for the process and its eventual product. The educational projects highlighted and began to address related issues, including the need to broaden functional literacy for farmers and to expand the rights of women to participate in the economic process.

As a result of its inclusive approach and the incorporation of various issues into the campaign, the proposed law garnered unprecedented levels of public support and enthusiasm. In 2008, a draft law was transmitted to government officials, who were already aware of the public process and impressed by the broad support for reform proposals. The breadth and depth of support for the law is encouraging the government to take the suggestions seriously and will be the basis of future advocacy efforts for enacting the law.



## Mongolia

Mobilization through education in Mongolia took place at various levels of the cooperative sector.

CLARITY was first introduced to a meeting of the Working Group on Cooperative Law Reform in March 2007. CHF invited government officials, cooperative union representatives and a small number of grassroots cooperative members to take part. Community representatives had never been included in the Working Group, so the meeting served as a testing ground to verify the interest of all parties in the legal-reform process and whether the CLARITY Principles were a tool the group could use.

To help first-time participants understand the context of law reforms and their relevance to individual cooperative members, as well as the Working Group's objectives, an introductory information session was conducted prior to the larger meeting with government officials. This gave cooperative participants a chance to learn and discuss among their peers in a setting where they felt comfortable raising concerns and issues they might have been reluctant to raise in the larger meeting.

Following the Working Group session, union leaders and grassroots members confirmed their interest in participating in the law-revision process. A prime objective among cooperative members was to inform the legislators about the practical issues involved in running cooperative businesses.

It quickly became apparent that there was no standard practice for conducting consultative meetings between the union representatives and their constituents, particularly when the focus was on legal issues. To help with this process, a train-the-trainers workshop was developed for cooperative leaders. A consultant who specialized in community development and facilitating town hall meetings was engaged to teach techniques and share tips on community mobilization.



The trainers workshop held in August 2007 included sessions on how to interpret the current cooperative law, and how and why the process of legal reform was being undertaken. Discussion of cooperative principles, including application of the CLARITY Principles, was aimed at broadening the understanding of legal provisions and application of the principles to cooperative business operations. The workshop concluded by producing an agenda for guiding the facilitation of future community meetings between unions and cooperative members.

In the four months following the trainers workshop, consultative meetings were organized and conducted by cooperative union representatives around the country. Each daylong session brought together local administrative officials and grassroots cooperative members in the region. After an information session focusing on CLARITY and cooperative principles, participants met in small groups to discuss legal and regulatory issues, identify the authority figures to whom they should address their concerns, and brainstorm potential solutions and ways their union leaders could channel information. Discussions also focused on the evolving relations between the members and their unions, with participants strongly encouraging ongoing dialogue with the cooperative unions.

The more groups in the cooperative sector were educated about CLARITY and legal reform, the better able they were to identify issues and contribute to finding solutions. All comments and input were compiled by the organizers and presented for consideration to the Working Group on Cooperative Law Reform in February 2008, as it continued to work on the draft.

If government officials, cooperative leaders and cooperative members had not been educated about each other's needs and issues, mobilization for legal reform would have been more difficult. The groups would not have been aware of each other's concerns and would not have established the communication lines necessary to organize and mobilize reform efforts.

---

*The more groups in the cooperative sector that were educated about CLARITY and legal reform, the better able they were to identify issues and contribute to finding solutions.*

---

## Nicaragua

The Nicaragua CLARITY education activity culminated in a workshop, “Application of the CLARITY Principles to the General Law of Cooperatives.” The August 2008 workshop was the first opportunity for representatives from the two new cooperative institutions — INFOCOOP (responsible for regulating the sector) and CONACOOOP (tasked with promoting the cooperative form of business) — to meet and focus on the details of Nicaraguan cooperative law. It also provided a unique opportunity for the Nicaragua team to present the results of the *CLARITY Scorecard* and *Scorecard Analysis* for discussion among Nicaraguan cooperative leaders.

The workshop had four main parts:

1. An overview of the Nicaraguan cooperative law, including a demonstration of relationships between international cooperative principles and the CLARITY Principles.
2. An introduction to the CLARITY initiative, CLARITY Principles, the *CLARITY Scorecard* and the *Scorecard Analysis*.
3. Presentations on particular issues highlighted by the *CLARITY Scorecard* as applied to Nicaraguan law and the legal analysis based on the *Scorecard*.
4. Group discussions on prioritized issues in an effort to reach consensus about how to address them.

A pre- and post-workshop evaluation showed that the workshop activities led to higher levels of understanding of both the Nicaraguan law and the CLARITY tools. The pre-workshop evaluations completed by participants showed a much greater level of understanding about cooperative law and regulation than the Nicaragua team had been led to believe. This finding was incorporated into a revised agenda for the workshop. Without the pre-workshop evaluation, the organizers would have underestimated the participants' level of understanding, lowering the credibility of the CLARITY initiative and wasting time on material the participants already knew.

The pre- and post-workshop evaluations also showed an increase in participants' understanding of the Nicaraguan cooperative law and in their ability to analyze strengths and weaknesses of laws and regulations. Overall, participants expressed greater confidence in using the CLARITY Principles to analyze cooperative laws and regulations. Cooperative leaders with different political orientations engaged in meaningful communication in a productive environment. The workshop also helped open a dialogue between INFOCOOP and CONACOOB on how they could capitalize on their respective roles as regulators and promoters to create a better enabling environment for cooperative development in Nicaragua.

A lesson learned from the experience in Nicaragua is that educating cooperative leaders and groups about ways they can work together to bring about positive change can overcome political differences. Though a cooperative legal reform campaign may not emerge quickly, a seed has been planted in Nicaragua for future work. These committees are in a position to make cooperative law more enabling through their oversight of its implementation. A sense of cohesiveness was created that will encourage collaboration in the future.



## Points to Consider in Outreach Activities

CLARITY workshops can serve a number of important purposes. In the examples, workshops were used to:

- Create a common language or perception among cooperatives about the problems with the current law and ways to fix it;
- Build the confidence of grassroots cooperatives to articulate issues to governments and allies;
- Bring together government and cooperative representatives to foster teamwork and share ideas and perspectives;
- Reach out to new allies and constituencies to help build a coalition for reform efforts; and
- Get input on reform proposals, including comments on draft provisions of a new law.

Workshops differ from general meetings or other forums in that they are relatively small (10 to 30 people) and highly interactive. A workshop should not be a lecture. It should be used when active group participation will aid the learning process. One of the keys to developing a good workshop is to carefully construct the goals for the event to maximize group interaction and deliberation, and to minimize the presentation of information from a single source.

The following tips can help in the design of a successful CLARITY workshop.<sup>9</sup>

### Decide Who Should Come

Who should come to a workshop will depend on its goals. In general, workshops are most productive when the participants are similar in their backgrounds and levels of experience. Relative homogeneity is important to ensure that the workshop can convey information to the group without boring any segment or creating a situation in which a few very knowledgeable people dominate the discussion. This is more effective than having a mixed group because people are more likely to speak freely in front of their peers than in front of strangers or their superiors. Separate workshops

could be planned, for example, for groups of local cooperative leaders, grassroots cooperative members, representatives from a cooperative apex organization or a group of government employees.

However, there are exceptions to the general advice that homogenous groups are better in workshops. Sometimes the purpose of the workshop is to promote interaction among people from different backgrounds. In Nicaragua for example, the workshop was planned to foster deliberation among cooperative leaders from diverse sectors representing either the national apex organization or the cooperative regulating body. In Mongolia, workshops were designed to foster interaction between grassroots cooperatives and their national apex organization representatives.

When workshop participants are a mixed group, facilitators must ensure that everyone has sufficient confidence and background knowledge to fully participate. In Mongolia for example, the planners organized a small meeting for cooperative organizations before the larger meeting that included both cooperatives and government officials.



<sup>9</sup> This section is informed by Kim Bobo, Jackie Kendall and Steve Max, "Chapter 15: Designing and Leading a Workshop," *Organizing for Social Change: A Manual for Activists* (Midwest Academy, Seven Locks Press, 3rd edition, 2001.)

## Know Your Audience

Workshops are most effective when the planners know the participants' level of knowledge. Sometimes this will be obvious because of the nature of the group. If the training is with a specific organization, the planners may want to speak to its leaders for advice on what the members are likely to know and not know.

A key issue for workshop planners is how much the participants know about the cooperative law. In Nicaragua, the planners conducted a brief survey before the meeting and were surprised to learn that most of the participants had a high level of understanding of the new law.

That knowledge helped them plan a more sophisticated workshop.

Another subject for pre-workshop research is the existence of known divisions in the group that will be attending the session. In Nicaragua for example, the trainers knew the participants would be from rival political parties, so they were sensitive about avoiding political subjects and encouraging respectful and honest discussion between the participants.

To encourage attendance and bolster the legitimacy of the workshop, invite an influential cooperative member or other insider to participate. You could ask this person to make the opening and closing remarks for the workshop, to set the tone for the event.



## Create an Engaging and Realistic Agenda

A key aspect of workshop planning is setting the agenda. Remember that the goal is to encourage participation and discussion. Presentations of information will be necessary to stimulate the interactive exchanges, but make sure that lecture-style presentations do not dominate the agenda.

In planning the agenda, consider a mix of *presentations* of information; *exercises* that ask participants to collectively apply the information to a task (e.g., analyze a specific provision of the current law, prepare a strategy for influencing government, draft a model press release;) *role plays* in which participants act out hypothetical situations (e.g., using the procedures in the current law, presenting a set of concerns to a government official;) and *discussion and feedback*.

Presentations should be the smallest part of a workshop, and they should be made in a way that helps people grasp the information quickly and absorb it easily. For example, the Nicaragua team developed the *CLARITY Scorecard* primarily so they could present an overview of a complicated legal analysis in a way that allowed people without a legal background to understand and engage.

Encourage participation by making it fun. Consider organizing a contest or game. Games are an easy way to break the ice, get people to relax with each other and realize they are part of a common community. For example, the planners could create a “true or false” game with a series of questions about cooperative law.

Workshops should be long enough to accommodate the educational and participation goals, but short enough to encourage broad participation. Most workshops should be at least a half day, but no longer than a weekend. It is important to build extra time into the agenda to accommodate unforeseen problems, scheduling challenges and robust discussion.

It is impossible to discuss every aspect of a cooperative law in a single workshop. Instead, provide a broad overview of the CLARITY Principles, then focus on topics of high interest in the country. There should be some leeway in the topics discussed, and participants should have an opportunity early in the workshop to select the topics they are most interested in.

### **Prepare Handouts**

To reduce the amount of information that must be delivered through oral presentations, use handouts to cover details. Pass them out before a break or after a presentation, so people aren't reading during the presentation. Handouts are best when kept to a page or two and given out at various times throughout the workshop, rather than all at once at the beginning or end.

---

*Outreach activities based on CLARITY enable cooperative leaders and their constituents to develop ways to work together to bring about positive change in regulatory environment even if cooperative legal reform is not their immediate goal.*

---

### **Create the Proper Atmosphere**

Participants will form their first impression of the workshop when they walk in the door. Show that you respect their time and their importance to the process by holding the workshop in an appropriate, businesslike setting. Provide paper and pencils to encourage note taking.

Choose a location that will maximize participation. It could be a nice hotel or conference facility, or it might be easier for people attend in a familiar local venue. Consider participants' transportation challenges and provide transport if necessary.

Organize the seating in a square or circle so people are facing each other. Seating is important to create a sense of equality and give people an equal chance to express their ideas.

Ensure that the facility has all the equipment and other resources you need, such as

- Comfortable chairs and tables;
- Adequate lighting (including the ability to dim lights for slide presentations);
- Electrical outlets; and
- Audio-visual equipment, including projectors, microphones (if needed,) and equipment to videotape the workshop.



### **Invite Feedback and Follow-up**

At the end of each day or the end of the workshop, ask participants to fill out a feedback form so you and other planners can improve the workshop in the future. The form might simply ask people to say what was most effective and least effective about the program. You might also ask some questions about the cooperative law and the CLARITY Principles, to see which parts of the workshop's content are being conveyed clearly and which are not getting across well.

It might be necessary to schedule time for planners to conduct follow-up activities after the workshop, to provide additional information and technical assistance. In Mongolia for example, union leaders not only committed themselves to share the results of consultative meetings with the Working Group on Cooperative Law Reform, but also to inform grassroots cooperatives on the results of their work with the Group, its progress and the anticipated direction of proposed

law changes. Following up on these commitments became an important part of building trust between the union representatives and their constituents.



### **Use Media to Your Advantage**

Engage local media to help carry your messages. Apart from workshops, televised roundtables, interviews and other media events increase public knowledge of cooperatives and may contribute to showcasing them and their issues in a positive light. In Mozambique for example, media events were used effectively to foster support for cooperatives, combat negative perceptions of them and build momentum for a coalition of national organizations.



**Change will not happen without** the active participation and collaboration of the grassroots cooperatives and their apex organizations. They must take ownership of their cause, follow through with their plans, and create the change they want to see.

## Part II. Profiles of Legal Reform Projects

### Mongolia

In Mongolia, the Working Group on Cooperative Law Reform was successful in promoting legal reform by engaging the government, apex organizations, and primary cooperative organizations at the grassroots level in discussions and in drafting new legislation. The cooperative community's involvement in these processes was necessary to broaden the cooperatives' understanding of the law and to guarantee that critical issues and concerns were addressed in the draft. To achieve these ends, the CLARITY Principles<sup>10</sup> were used in two ways:

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

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



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

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

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

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

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

### Assessing the Cooperative Environment

#### Environmental Scan

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

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

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

#### Engaging with the Cooperative Community

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

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

<sup>11</sup> See footnote #3.

## Creating and Implementing a CLARITY Strategy

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

### Using Legal Analysis to Revise the Cooperative Law

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

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

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

### Educating Officials, Cooperative Leaders and Grassroots Members

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

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

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

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

<sup>12</sup> The Mongolian translation of the first CLARITY report is available on the web site, [www.clarity.coop](http://www.clarity.coop).

<sup>13</sup> Also available at the web site, [www.clarity.coop](http://www.clarity.coop).



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

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

The participants broke into small groups

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

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

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

### **Finalizing New Draft Legislation**

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

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

### Using the Media

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

### Conclusion

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

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

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

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

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

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

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

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

# Nicaragua

CLARITY can be used as an effective educational tool to help cooperative leaders understand the strengths and weaknesses of their cooperative law. In Nicaragua, three U.S. Cooperative Development Organizations (CDOs) introduced CLARITY to the newly formed cooperative promotion and regulation organizations: CONACOOOP and INFOCOOP. Using CLARITY as a lens to evaluate the country's new legal framework, CONACOOOP and INFOCOOP identified key areas of improvement. The Nicaragua team developed the *CLARITY Scorecard*, an assessment tool accompanied by a comparative legal analysis that helped provide Nicaraguan cooperatives with a roadmap for evaluating the cooperative legal environment.

Since 2004, U.S. CDOs have worked side by side with Nicaraguan cooperatives, advocating for a new cooperative law in Nicaragua that creates a more enabling environment for cooperative growth. In January 2005, a new law was passed: Law No. 499, Ley General de Cooperativas.<sup>14</sup>

However, Nicaraguan cooperatives were not consulted or involved in the process of writing the new law. When they saw it after its passage, a number of cooperative leaders recognized significant flaws. Several cooperatives joined together to lobby for a regulation to address some of the flaws and gaps. In 2007, a regulation was passed to clarify the law and aid in its implementation.

The 2005 law and the 2007 regulation named two institutions as the primary regulator and promoter of cooperatives: the National Institute for Promotion of Cooperatives (INFOCOOP) and the National Council of Cooperatives (CONACOOOP). INFOCOOP is concerned



with regulation, registration and oversight, while CONACOOOP is responsible for promotion functions. The two institutions came into existence in early 2008, but neither the law nor the regulation provide clear direction on their roles vis-à-vis one another or how they could collaborate effectively on behalf of Nicaraguan cooperatives.

**Working directly with the government institutions in charge of cooperative regulation and promotion provided a highly effective channel through which CLARITY could play an important role.**

In 2007 three U.S. CDOs — The Americas Association of Cooperative/Mutual Insurance Societies, the National Cooperative Business Association, and the World Council of Credit Unions — pooled their human and financial resources to examine the cooperative legal-reform process in Nicaragua. They developed a methodology for using CLARITY to understand

<sup>14</sup> For a discussion of the new Nicaraguan cooperative law, see *Enabling Cooperative Development: Principles for Cooperative Legal Reform*, 2006, pp. 21–23.

the country's legal and regulatory environment for cooperatives. The team reinvigorated the process of legal reform through a complementary process involving an assessment of the cooperative sector, an evaluation of the cooperative law, and education of cooperative leaders, using CLARITY as a catalyst for analysis and discussion.

### **Assessing the Cooperative Environment**

Understanding the cooperative environment is key to determining whether conditions are conducive to a CLARITY reform activity and identifying potential partners and appropriate actions. The role of good timing in legal reform efforts should not be overlooked. The Nicaragua team hired a consultant to evaluate

### **Finding a leader to help champion the CLARITY cause encourages interest, participation and feedback.**

whether the cooperative sector was organized and interested enough to benefit from CLARITY activities. The consultant had established connections with Nicaraguan officials and cooperative leadership, a good understanding of the cooperative environment and recent cooperative history, and sensitivity to the political environment. The consultant's connections enabled him to elicit details of the formation of CONACOOOP and INFOCOOP, and pinpoint the best timing for a CLARITY-related activity.

The consultant's evaluation significantly influenced the design of the CLARITY activity. Because the law had recently been revised, there was not much interest in pursuing legal reform. Instead, he suggested focusing on working with INFOCOOP and CONACOOOP to understand the law and help determine the

roles of these new institutions in improving the overall enabling environment for cooperative development. Working directly with the government institutions in charge of cooperative regulation proved to be a highly effective approach.

## **Creating a CLARITY Strategy**

### **Soliciting Support and Identifying Leaders**

From the beginning, the team always consulted Nicaraguan cooperative leaders to plan CLARITY activities. Without local recognition of the potential value of the CLARITY Principles, any activity would fall short of stimulating long-term interest and meaningful discussion. An orientation meeting with CONACOOOP members focused on CONACOOOP's potential to shape Nicaragua's cooperative environment and how learning more about laws and regulations would empower cooperatives to understand their rights and responsibilities. As a result of the positive response to the idea of using CLARITY as a tool to facilitate this work, the Nicaragua team proposed a workshop to bring together CONACOOOP members and elected cooperative representatives of INFOCOOP. At this workshop, leaders from both organizations could discuss the CLARITY Principles and their applicability to Nicaraguan cooperative law.

To help solidify support for the CLARITY activity, the team hired a second consultant, a respected leader in the cooperative community. This consultant acted as liaison and facilitator with INFOCOOP and CONACOOOP, building trust and promoting interest in a dialogue about CLARITY. The team also identified a member of CONACOOOP who would champion the CLARITY cause, encouraging interest among his colleagues and providing feedback on the workshop design to ensure that it fulfilled the needs and desires of its intended audience.

## Using the CLARITY Principles in Legal Analysis

Before planning the details of the workshop's activities, the team used CLARITY to identify strengths and weaknesses in the cooperative law. This analysis was crucial in highlighting the effects of the legal and regulatory environment on cooperative development. With the assistance of an American lawyer, the team developed and tested a new tool, the *CLARITY Scorecard*, to measure the extent to which the articles in the law adhered to the CLARITY Principles.

Using the *Scorecard*, an analyst can rate the law's compliance on a scale of zero to 4, identifying weak and strong areas of cooperative law that can then serve as starting points for discussions about advocacy or legal reform. In addition to scoring the articles of law according to their compliance with the CLARITY Principles, the American lawyer worked with a local attorney to interpret the meaning of each score and propose remedies to overcome weaknesses. The local attorney provided clarification and context for many of the laws, ensuring an accurate Nicaraguan perspective in the *Scorecard Analysis*.

Together, the *Scorecard* and *Scorecard Analysis* are a complete tool for reviewing cooperative law. The *Scorecard* provides the big-picture view and the *Scorecard Analysis* supplies the details, enabling participants to understand and prioritize many legal issues.<sup>15</sup> However, the tools are not prescriptive. The final decisions on prioritizing issues, crafting solutions and moving forward are completely in the hands of the local cooperative movement.

In Nicaragua, the numerical scoring values and the comparative analysis report made CLARITY accessible to the target group of cooperative leaders. Because they were not overly technical or focused on legal terms, the numerical values and the analysis became the roadmap workshop participants could use to

navigate the law and regulations, guide discussions on strengths and weaknesses, and come to a consensus on priorities.

## Engaging Cooperative Leaders in a Workshop Setting

The Nicaragua CLARITY activity culminated in a workshop, "Application of the CLARITY Principles to the General Law of Cooperatives." For a complete discussion of the workshop, see page 30-31.

## Integrating Flexibility into Strategy and Implementation

The Nicaragua initiative evolved over a period of 18 months between March 2007 and August 2008. Success was largely due to the contextually appropriate and flexible approach, even though it resulted in a lengthy and evolving process, which meant adapting to new information and new circumstances. For example, based on the first consultant's report, the Nicaragua team identified an opportunity to be involved from the ground up in helping educate and inform the newly chosen INFOCOOP and CONACOOOP leaders about the CLARITY Principles.



<sup>15</sup> See Appendix B for a blank template of both instruments. Filled-out versions, reflecting the analysis of Nicaraguan law are available at [www.clarity.coop](http://www.clarity.coop).

The approach also was successful because of the level of commitment of the team members and their ability to marshal their respective USAID Cooperative Development Program resources to fund the activities. All team members were willing to propose new ideas, test unique approaches and devote human and financial resources to achieve a positive outcome.

### Conclusion

Several findings from the CLARITY Nicaragua experience are relevant to movements looking to connect across cooperative sectors on legal and regulatory issues.

First, the Nicaragua team was fortunate in the timing of the collaboration and the formation of INFOCOOP and CONACOOOP. Working directly with the government institutions in charge of cooperative regulation and promotion was unexpected, but provided a highly effective channel through which CLARITY could play an important role.

The lessons CHF International learned from its training workshop experience in Mongolia (see the Mongolia profile) helped the organization refine the Nicaragua workshop.

The Nicaragua team used the same legal consultant and applied the lessons from Mongolia to the benefit of the Nicaraguan cooperative leaders.

The findings from the pre-workshop evaluations — that participants already had a high level of understanding about cooperative law and regulation — enabled the team to revise the workshop agenda to make it more relevant and useful. Participants appreciated the gravity of the topic, especially because it was presented with legal and regulatory examples from cooperative movements around the world.

It is hoped that the experience of the Nicaraguan cooperative leaders so far will be a stepping stone to future activities, such as advocacy or lobbying for changes in the cooperative law. The Nicaragua team completed a final report in Spanish, documenting the lessons learned from the workshop. The report was shared with INFOCOOP, CONACOOOP and the Nicaraguan cooperative community to provide context and a starting point for future efforts. INFOCOOP and CONACOOOP are expected to take the lead in advocating and establishing an enabling environment for cooperatives. The CLARITY process has provided them with the tools to begin this work.

# Mozambique

The work of the National Cooperative Business Association in Mozambique has included persistent efforts to raise awareness of the legal environment affecting cooperative organizations; educate the public about the value of cooperatives to the economy; and pursue legal reform through grassroots organization, beginning at the local level and progressing to the national level. Essential to NCBA's success are:

- broad educational campaign reaching diverse segments of the population;
- highly participatory approach through which major stakeholders and the general public realize their potential to effect change; and
- building of strong partnerships with local organizations to ensure grassroots leadership of all activities.

While the CLARITY Principles have not been the centerpiece of the legal reform strategy in Mozambique, they have been used as an important reference and educational tool to bolster the issues on which cooperatives and their members are focusing. CLARITY was the reference point against which the draft law was compared to determine if it was meeting international standards for cooperative law. By adhering to these standards, the burgeoning cooperative system will be a distinct departure from historical uses of cooperatives in Mozambique. CLARITY has focused on the central importance of democracy in cooperatives. This focus has helped to develop a more positive public perception of the value of cooperative enterprises in Mozambique.

During the socialist regime (1977 to 1993), the government heavily influenced the governance and direction of cooperatives. A non-democratic governance structure and gov-

ernment direction of cooperatives' activities characterized the sector. During this period, cooperatives were primarily organized to supply food for cities, without regard for the trade or marketing aspects of the businesses or for democratic member control. During these years, the perception of cooperatives as independent businesses was severely damaged.

Since 1995, NCBA's strategy has been to rejuvenate the growth of cooperatives in Mozambique. Initial efforts focused on the promotion of farm associations and the need to recast the term "cooperative" in a positive light. Subsequent work focused on promoting an enabling environment for cooperative development through legal reform.

**Legal reform cannot be imposed from the outside. The reform process must be organic, following a course desired by the local population and relevant to local needs.**

At first, farm associations were promoted as groups of farmers working together to take advantage of economies of scale to transport and market their products. These associations allowed farmers to combine their production capabilities to realize higher profits. Because associations were not burdened by the negative connotation of the word "cooperative," they were more readily embraced by farming communities. Beginning in 1995, NCBA assisted with the development of associations of farmers and other groups as well. Forming an association became a way for a group to work toward common goals.



However, Mozambican law did not grant associations the right to conduct business, including marketing and trading activities. As not-for-profit organizations, they were relegated to social, not business, activities. After noting this serious deficiency in the legal framework, in 2007 NCBA and its local partners ushered through the parliamentary process a revised farm association law that allows farm associations to market their crops.

The revised association law sparked an increase in registrations for new associations, a positive development that clarified the deficiencies of the law. A better registration process was needed — one that was less cumbersome and expensive, and available locally. NCBA and its partners shifted their focus to the passage of a new Decree Law for farm associations. This law, passed in 2006, made it possible for associations to register at the local level and gave them more legal protections. NCBA then turned to helping register new associations and conducting broad campaigns to educate farmers about the benefits of association membership.

### Assessing the Cooperative Environment

In 2007, acknowledging the possibility that the Decree Law was not enough to pro-

tect associations and cooperatives, NCBA hired a Mozambican lawyer to assess gaps in the law when it was applied to cooperatives. The lawyer concluded that the farm association law was too simplistic and ignored more complex business entities such as cooperatives. Furthermore, its focus was on farmers and failed to include other sectors — transportation, communications and housing — in which associations and cooperatives already existed. The legal assessment underscored the need for a modern cooperative law based on democratic principles, rather than government intervention, in order to respond to the needs of the growing Mozambican economy. NCBA and its partners altered their strategy once again to place more emphasis on public awareness activities promoting a modern cooperative law.

## Creating a Strategy

### Building Momentum Through Public Education

Public education and awareness raising on cooperative-related issues were necessary to promote understanding in the sector of the importance of advocating for legal reform. Educating all levels of Mozambican society about the need for a modern cooperative law was a major challenge for NCBA, especially in the face of long-standing public misconceptions about cooperatives. Beginning slowly, NCBA and its partners spread awareness about the inadequate protections and rights afforded to associations and their business dealings. Because the association law was the only one under which farmers could organize, the educational strategy called for improving it rather than discarding it.

In 2008, NCBA and its advocacy partners — farmers' associations and apex organizations — undertook a strategy of intensive and broad public education about cooperatives,

not only to convince farmers of the need for a modern cooperative law but also to convince all stakeholders, including government officials, of the significant social and economic benefits of creating an enabling legal framework for cooperatives. To foster support for cooperatives and combat negative perceptions, NCBA supported several seminars about the success of cooperatives in Brazil and their contributions to the Brazilian economy.

### CLARITY has focused on the central importance of democracy in cooperatives.

The Brazilian example was effective because Brazil is respected in Mozambique and the two countries share a common language. Televised roundtables and other media events increased public knowledge of cooperatives and recast these organizations and their issues in a positive light. As interest grew at the grassroots level, a coalition of national organizations, including the National Organization of Farmers and the Association of Fruit Producers, began to see the potential benefits of a cooperative law. Throughout the year, these organizations joined forces to organize informational and advocacy workshops not only for their members and key social leaders, but also for government decision makers, including members of parliament.

Throughout the public education process, CLARITY was introduced as a resource for the growing cooperative movement. The translation of the CLARITY report of 2006 into Portuguese made it accessible to non-English speakers. The case studies were used to create awareness about the cooperative sector around the world and as examples of how laws can help or hinder cooperative development. Including CLARITY in the education process helped elevate the status of the cooperative sector, encourage a level playing field for co-

operatives and private sector businesses, and promote ethics and fairness in business practices in Mozambique.

### Using a Participatory Approach to Encourage Leadership

In its activities, NCBA has used participatory approaches to facilitate the involvement of all segments of society and all sectors of the economy. This bottom-up approach builds support at the grassroots level and includes feedback channels so opinions expressed locally are heard at the national level.

In drafting the new cooperative law, an important aim was to incorporate the enabling principles articulated in CLARITY in a manner appropriate for Mozambique. The Mozambican modern cooperative law would be a clear departure from the historical tradition of cooperatives.

The participatory drafting process began in 2007 and continued in 2008, with an evaluation of the existing cooperative law at workshops and public hearings throughout the country. Constituents were encouraged to share their experiences with the law and their beliefs about what was needed in a modern cooperative law.

Recommendations from the public events were passed on to a team of three lawyers from Mozambique, Brazil and the Netherlands that discussed guidelines for a new cooperative law based on their home country expertise and best practices around the world. The Mozambican lawyer took the lead in drafting the new law, ensuring the framework was locally generated and not imposed by external actors. The team prepared three drafts; each was submitted for public discussion. Improvements were made via workshops and the incorporation of public comments. This participatory, iterative process ensured that input was received from all levels. It also generated feelings of ownership in the cooperative community and wide support for an enabling legal environment from the public at large. Before

the draft law was submitted to parliament in December 2008, it was reviewed by partners and local organizations.

Concurrently with the drafting process, NCBA supported workshops for government officials that focused on explaining how cooperative development could have a positive effect on the Mozambican economy. The workshops corrected misperceptions about cooperative formation and operation, described international best practices, and explored how these best practices could be implemented in Mozambique. The workshops were attended by ministers, members of parliament and other government officials. Engaging these stakeholders was vital to keep them informed about the issues and solicit their feedback throughout the drafting process.

### **Building Strong Partnerships to Ensure Grassroots Leadership**

NCBA has worked diligently to encourage collaboration by establishing a coalition of organizations to lead activities. Some organizations, such as the National Organization of Farmers, are strong, but most have internal weaknesses because they are still influenced by the former political regime. In its work in Mozambique, NCBA has not only supported activities related to legal reform, but also provided technical assistance to partner organizations to ensure their ability to carry out these activities on their own.

With technical assistance and mentoring from NCBA, coalition partners (farmers associations and apex organizations) formed a steering committee in 2007 to oversee the legal-reform effort. The committee outlined a three-year plan, with clear objectives and activities. It provided leadership for workshops and hearings to gather opinions on the existing legal framework and to make recommendations for the new law. NCBA primarily has played a role in bringing the coalition together. Coalition partners are taking the lead

in ongoing education of local partners about cooperatives and legal reform efforts. In making local ownership of activities a central part of its work, NCBA aims to ensure that all levels of society have access to information and are aware of the channels to voice opinions and be heard. The process of building local ownership was grounded in the iterative process used to review, make recommendations, and revise the cooperative law, which required ongoing dialogue and communication among various groups.

### **Conclusion**

NCBA and its partners have made considerable strides in improving the enabling environment for cooperative growth in Mozambique by advocating around key legal issues and supporting cooperative enterprises. However, the work is not finished. Substantial efforts must continue to reform existing cooperatives into modern, democratic organizations that can operate successfully in the modern economy. A long-term approach is required. The new cooperative law was delivered to parliament on December 9, 2008. Now that it has passed, its application and usefulness will need to be tested to determine how successful legal reform has been in Mozambique.

Overall, legal reform cannot be imposed from an external source if it is to be supported by the local population. The reform process must be organic, so that it follows the course desired by the people and is relevant to their needs. In Mozambique, the importance of public education and participation in building ownership of the legal reform process was a critical lesson learned. It was by educating constituents about the benefits of a modern cooperative law that generated the high level of public support needed to influence the government to act appropriately.

## Yemen

The National Rural Electric Cooperative Association International, Ltd. is providing technical assistance to the government of Yemen in the design and development of a national rural electrification program. The Rural Energy Access Program (REAP) will create 27 new electricity distribution cooperatives that will provide electric service to over a million households and businesses, benefiting more than 7 million people in rural areas.

NRECA used the CLARITY Principles to analyze and evaluate the cooperative legal enabling environment in Yemen. The two primary goals were to:

- Develop a legal and regulatory approach for the creation of electric cooperatives, and
- Establish a foundation for future amendments to the cooperative law that will strengthen the legal basis for all cooperatives and promote the success of rural electric cooperatives in particular.

**The support of local officials was critical to the rapid mobilization of the steering committee and activities related to the formation of an electric cooperative.**

NRECA also used CLARITY Principles to inform and educate stakeholders regarding cooperative concepts and the cooperative business model.

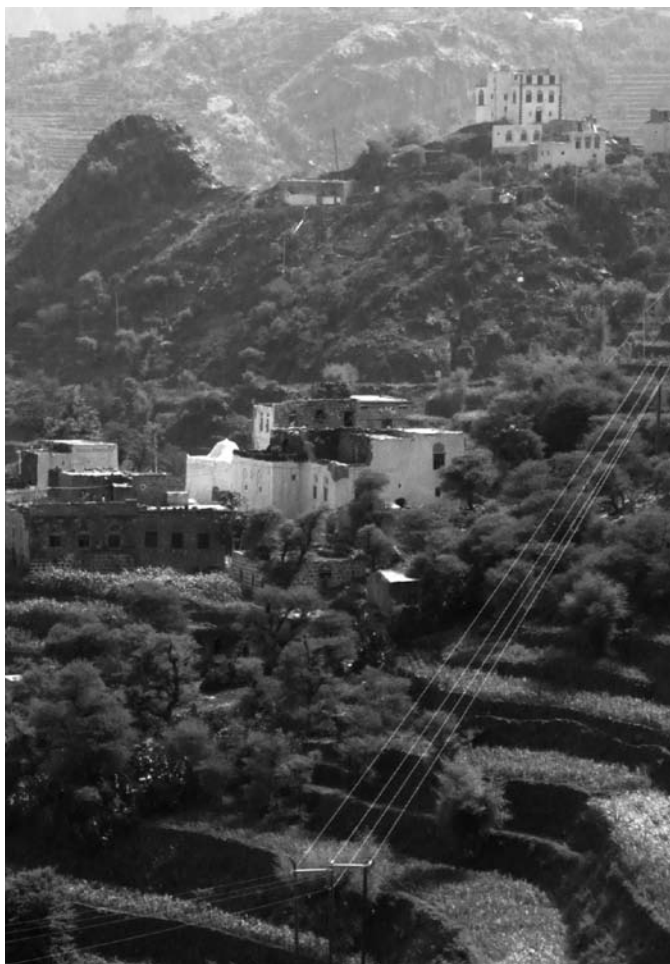
Yemeni legal counsel was engaged to prepare a comparative analysis of CLARITY Principles applied to specific provisions of the Law on Cooperative Societies and Federations (Law 39.) The analysis identified numerous



areas in which CLARITY Principles were lacking in the law and was the basis for proposed amendments. Because legal reform is a long-term solution, an alternative approach was selected to facilitate the creation of electric cooperatives under the existing law. NRECA developed and submitted a regulatory decree under Law 39 to provide the foundation for the cooperative rural electrification project. The decree to create the first electric cooperative was submitted in 2008. In 2009, NRECA plans to submit proposed amendments that are consistent with CLARITY Principles, for consideration and approval by the cabinet and parliament.

NRECA developed a comprehensive business plan for the first electric cooperative in Ibb governorate. It will continue to provide technical assistance in organizational development, management and operational training, and utility systems design and implementation. REAP has attracted more than \$100 million in funding commitments from international donor organizations, and the first phase of the program is expected to begin in 2009.

The Republic of Yemen was established in 1990 through the unification of North Yemen and South Yemen. It is among the poorest countries in the Middle East, with per capita income of about US\$570 and a rapidly growing population of more than 23 million. Most people live in rural areas, and more than 80 percent do not have access to electric service.



Cooperative businesses and apex organizations have had mixed success in Yemen. Prior to unification, the British colonial administration in South Yemen encouraged the production of cotton through cooperatives. After unification, the state established additional cooperatives to gain control of agricultural production. In the north, agricultural cooperatives developed through farmer initiatives. However, as these cooperatives evolved into semi-public entities, the cooperative movement in general began to lose its reputation as a member-oriented and efficient service provider. The current political leadership in Yemen supports renewed efforts to decentralize management and operations through the development of private service providers, including member-owned and -operated electric cooperatives.

NRECA provided technical assistance to Yemen's Ministry of Electricity and Energy in the development of a national rural electrification strategy. It is currently assisting in the design and creation of a new institutional framework for national rural electrification. The goal is to support the legal formation and establishment of a national Rural Electrification Authority (REA) and the formation of the first local electric cooperative in Yemen.

As part of this project, NRECA has been instrumental in developing and revising key legal documents, including the Electricity Law, the decree to establish the REA, and the decree to establish the first electric cooperative.

The Electricity Law was approved by the Yemeni parliament in 2009. It will fundamentally restructure the power sector in Yemen by ending the Public Electricity Corporation's vertical monopoly over generation, transmission and distribution; establishing the new REA; and allowing for the creation of new distribution service providers. NRECA proposed amendments to the law to reflect some of the goals of the rural electrification program. NRECA also developed a decree for the REA that includes provisions for governance, management, operation and administration. The decree is an essential next step after the Electricity Law to establish a functional REA. The Government of Yemen is expected to approve it in 2009.

NRECA also developed a decree to establish the first electric cooperative in Yemen. The decree would create the cooperative according to the terms of Law 39 under the Ministry of Social Affairs and Labor. However, the decree stipulates that since the cooperative's business is the provision of electric service, oversight should be provided by the Ministry of Electricity and Energy. The Ministry of Social Affairs and Labor is considering the decree and is expected to approve it in 2009 after the Electricity Law and the REA decree are executed by parliament and the president, respectively.

## Comparative Analysis of Yemeni Law & CLARITY Principles

CLARITY Principle	Law 39
Protection of democratic administration by members	Law does not grant such autonomy for cooperatives. It does include provisions for membership and stipulates the number of member founders to be no less than 31.
Protecting autonomy and self management	<ul style="list-style-type: none"> <li>Law prevents cooperatives from developing their own constitutions and regulations, obligating them to apply certain existing constitutional forms.</li> <li>Law gives Ministry of Social Affairs and Labor the right to override any decision made by the cooperative board of directors if the decision contradicts the law.</li> </ul>
Respecting volunteer membership	Law does not give members the right to dissolve, merge or break up a cooperative without an agreement by two-thirds of the members and approval from the minister.
Promoting equitable treatment	Law stipulates that cooperatives must be registered at a different agency than the one where firms are registered. It grants relevant privileges neither to cooperatives nor to other private businesses.
Providing for a solid and effective organizational structure	<ul style="list-style-type: none"> <li>Law does not mandate action on cooperative applications.</li> <li>Law stipulates that cooperatives may establish operational procedures only with the permission of the minister.</li> </ul>
Avoiding conflict of interests	<ul style="list-style-type: none"> <li>The Ministry of Labor and Social Affairs has the authority to organize and register cooperatives, while the Ministry of Electricity and Energy is tasked with promotion.</li> <li>Law does not give cooperatives the right to go directly to courts. It restricts this right by procedures stated in Article (145,) which defines to whom the matter should be referred in case of a dispute between two or more cooperatives.</li> </ul>

### Assessing the Cooperative Environment

Since 1994, cooperative societies in Yemen have been governed by the Ministry of Social Affairs and Labor under Law 39. NRECA engaged Yemeni legal counsel to undertake a comparative analysis of the law and the CLARITY Principles. The analysis identified several legal barriers to the development of electric cooperatives, such as those listed in the chart.

The full comparative analysis of CLARITY Principles and Yemen's Law 39 provides excellent resource material for potential amendments. However, because it was unlikely that the law could be amended in the short term, NRECA proposed republican and ministerial decrees to create the REA and establish the

first electric cooperative in Yemen. This was deemed the most expeditious approach to lay the legal foundation for a new rural electrification program.

### Educating and Mobilizing Stakeholders and Policymakers

The NRECA project team used CLARITY Principles to educate and mobilize opinion on cooperative law and regulation. Three workshops were conducted to educate government, nonprofit, private and cooperative stakeholders at the national, regional and local levels.

The focus of the first workshop held in 2006 was on cooperative concepts and key



financial, institutional and regulatory issues that affect the establishment, operation and viability of electric cooperatives. Most participants agreed that Yemen required new local and national institutions to implement and manage a cooperative rural electrification program. Most agreed that a new rural electrification authority should be legally established and that electric cooperatives were the preferred approach for rural electricity service delivery. Potential legal and regulatory reforms were also discussed. Workshop participants included Yemeni senior policymakers, representatives from the international aid community and local leaders.

At the second workshop held in late 2007, policymakers discussed preliminary institu-

tional frameworks for the rural electrification program, possible legislative modifications, and a proposed REA decree.

The first CLARITY report (*Enabling Cooperative Development: Principles for Legal Reform*), published in Arabic,<sup>16</sup> was presented at the third workshop held in early 2008 in the Ibb governorate, which had been selected as the site for Yemen's first rural electric cooperative. CLARITY Principles were discussed and local stakeholders were briefed on the development of the pilot project in their area and its importance for the success of the national rural electrification program.

**CLARITY creates guidelines that can be broadly useful to cooperatives facing similar problems in a great variety of legal systems. The principles and guiding documents can be applied in different settings without losing their validity.**

A steering committee was formed with an equal number of representatives from each district included in the pilot project. The support of local officials was critical to the rapid mobilization of the steering committee and the activities related to the formation of an electric cooperative. The steering committee will promote the pilot project within the service territory, act as the local entity taking ownership of the process and as a direct counterpart for NRECA.

NRECA has established an advocacy relationship with a leading member of the Yemeni Parliament. This influential person is a strong promoter of the cooperative business model and believes the community orientation of rural Yemen provides an ideal environment for a cooperative electric distribution system

16 Available at [www.clarity.coop](http://www.clarity.coop) and NRECA's web site at [www.nrecainternational.coop/News/Publications.htm](http://www.nrecainternational.coop/News/Publications.htm).

## Conclusion

NRECA succeeded in developing a viable national rural electrification strategy for Yemen, which proposes to use electric cooperatives as the institutional model for service delivery. The comparative analysis of Law 39 and the CLARITY Principles identified areas of concern and provided a foundation for recommendations for amendments to the law.

Education and advocacy efforts with consumers, policymakers, local and national stakeholders, and political leaders will continue through the steering committee, using CLARITY concepts as a touchstone and educational tool. The committee will communicate with local citizens about the new institution and will help organize the election for the pilot cooperative's board of directors.





**The use of CLARITY** helps level the playing field between cooperatives and private sector businesses. It also promotes ethics and fairness in business practices.

## Conclusion

**T**his report documents the initial success and continuing evolution of CLARITY. When the Cooperative Development Organization authors of this report first met in early 2005, it was not certain they could create a product that would be relevant to the broad range of countries and industries represented in the Overseas Cooperative Development Council. But as they shared their experiences, it became clear that many common problems face cooperatives that exist in very different contexts:

- Cooperatives in former Soviet states as well as those in former U.K. colonies faced a lack of independence from government.
- Cooperatives in Africa and in the Middle East faced regulatory environments that had no provision for cooperatives in some sectors.
- Cooperatives in Asia and in Latin America faced onerous regulatory systems that forced cooperatively governed organizations to register as other kinds of organizations to evade bureaucratic delays and inefficiencies.

CLARITY strove to create guidelines that would be broadly useful to cooperatives facing similar problems in a great variety of legal systems. Early on, the project rejected the idea of creating a model law because of the difficulty of drafting a law that could be integrated into diverse legal systems. Instead, the project sought to create principles and guidance documents that could be applied in different settings without losing their vitality.

The first CLARITY report introduced a set of nine principles for legal and regulatory reform and two analytical rubrics to guide legal analysis.<sup>17</sup> The principles were rooted in historical efforts to articulate principles of cooperative enterprise, but were adapted and expanded to specifically address legal and regulatory environments. The rubrics were expanded matrices with explanations and examples of “enabling” and “disabling” legal provisions. They were meant to help explain and apply the CLARITY Principles to specific provisions of law.

Since the publication of the first CLARITY report, the CDO members have used it in the field in a number of projects. This report describes experiences from four of the most advanced projects: Mongolia, Nicaragua, Yemen and Mozambique. In each of these projects, CLARITY was adapted and combined with existing or newly developed



17 See the first CLARITY report, *Enabling Cooperative Development: Principles for Cooperative Legal Reform*, 2006.



tools and instruments to translate the abstract principles into a practical process.

The positive results from applying CLARITY in development projects around the world show that it works. Although the CLARITY approach continues to evolve as it is put into practice — including development of tools such as the *CLARITY Scorecard* — it is clear that CLARITY is useful for planning and guiding legal-reform projects.

This report contains additional guidance for translating CLARITY into practice. It explains how the CLARITY Principles and other tools can be used to assess the cooperative environment, conduct detailed analysis of a cooperative law, and design and implement educational outreach and training programs.

The uses of CLARITY described in this report — for assessment, legal analysis and outreach — can be seen as the first stages of a legal reform campaign. Project participants research the context and determine the viability of the project, identify specific legal issues and form co-

alitions for change. The final stage of such a campaign would be to plan and implement strategic advocacy projects to influence decision makers. Some of the projects discussed in this report have initiated such efforts. Lessons from them will be the subject of the next report in the CLARITY series, which will focus on tools and lessons for advocating for CLARITY. Until then, OCDC will continue to work on creating clarity for laws and regulations for cooperatives around the world, including posting new tools and resources to its web site, [www.clarity.coop](http://www.clarity.coop).

## Appendices





**CLARITY used as a catalyst** for analysis and discussion helps in planning strategic advocacy projects to influence decision makers.

# Appendix A.

## Rapid Cooperative Assessment Tool

### Purpose

The Rapid Cooperative Assessment Tool<sup>1</sup> is used to gauge the current level of cooperative activity in the country. This assessment provides a general background for program developers and managers who are designing or beginning to implement a cooperative development program.

### Survey Method

This is an informal assessment. Sources of information may include, but are not limited to, any of the following:

- Your own knowledge of the environment.
- Research in books, government reports, non-governmental organization (NGO) surveys and reports, newspapers, the Internet, etc.
- Interviews with program managers and staffs of business and cooperative programs.
- Brief, informal interviews with knowledgeable persons: cooperative managers, local government officials, lawyers, and members of chambers of commerce, cooperative associations, business associations, NGOs, etc.

Please note that intensive one-on-one interviews are conducted in sections II, III and IV of this survey. Some of the questions in these sections may repeat or further examine the questions in section I. Therefore, if you decide to interview people for the questions in section I, select interviewees who will not mind responding to similar questions later in the survey.

### Time Frame

This analysis should take no more than 15 days to complete. The intent is to provide a rapid analysis for the program designer/manager.

### Instructions

Provide a short report that answers each of these questions. You may either type the answers directly into this document or write a separate report that answers each question. The report need not follow every question line-by-line — feel free to use this document as a general outline to structure your rapid assessment and report on its findings.

<sup>1</sup> Created by CHF International under funding from USAID.

## Definitions

**Cooperative:** In some contexts, there is considerable ambiguity concerning the definition of a “cooperative.” For the sake of clarification, please define the type of cooperative structure you will be referring to in this survey. \_\_\_\_\_

---

---

---

**Participants:** Please define the basic characteristics of your target population.

Household income: \_\_\_\_\_

Number of dependents: \_\_\_\_\_

Highest education level: \_\_\_\_\_

Ethnicity/race/religion (where applicable): \_\_\_\_\_

Age(s): \_\_\_\_\_

Gender percentage: \_\_\_\_% female \_\_\_\_% male \_\_\_\_\_

Other: \_\_\_\_\_

---

## Target Area

Please list the geographic area(s) where the program will be targeting its cooperative activities, the area population and the estimated number of potential cooperative members.

---

---

---



## I. General Cooperative Information

### General Status of Cooperatives in the Country

If you can find a reliable source of information about cooperatives in your country, please provide additional relevant information.

- a. Approximately how many cooperatives are there in the country? How many “cooperative organizations”? (Please provide source(s) of information.) \_\_\_\_\_

---

---

---

- b. Approximately how many cooperatives are there in the areas where you will be targeting activities? \_\_\_\_\_

---

---

---

- c. Where are cooperatives typically located (urban/rural)? If they exist in certain areas of the country, list those areas. \_\_\_\_\_

---

---

---

- d. Explain why cooperatives exist in the areas where you will be targeting activities. \_\_\_\_\_

---

---

---

- e. How many members do the majority of cooperatives have? (Mark the box with an “X.”)

☐ 2–20    ☐ 21–75    ☐ 76–100    ☐ >100    ☐ >1,000

If cooperatives differ widely in number of members, describe the differences.

---

---

---

- f. What are the most common industries<sup>2</sup> in which cooperatives are active? (Give percentages, if possible.)

---

---

---

2 Possible industries: Housing (rental, management, repairs); Construction; Textile and Wearing Apparel; Production; Handicrafts; Agriculture [Input Provider, Production, Processing, Distribution and/or Marketing]; Food, Beverage, and Tobacco Processing; Wood Production and Processing; Printing and Publishing; Chemical and Plastics Production; Non-Metallic Mineral Processing (pottery, glass, brick, etc.); Metal Fabrication; Wholesale (non-agricultural) Trade; Retail trade; Hotels, Restaurants, and Bars; Transportation; Services (laundry, cleaning, hair, funeral services, etc.); Financial Services (i.e. credit unions); Business Counseling Services; Information, Technology, and Communications (ITC); Multipurpose; Marketing; Utilities.

- g. On average, what size business do these cooperatives typically represent?

Number of members/employees: \_\_\_\_\_

Roughly what percentage of members/employees are family members? \_\_\_\_\_

Average annual revenues: \_\_\_\_\_

Average annual profits or losses (revenues minus costs). Please define how profits/losses are calculated (i.e., net or gross profits before/after financial costs): \_\_\_\_\_

\$ Value of fixed assets: \_\_\_\_\_

\$ Value of capital assets: \_\_\_\_\_

Cooperative net worth, if possible: \_\_\_\_\_

Equity per member: \_\_\_\_\_

Other information: \_\_\_\_\_

- h. Please complete the following table regarding cooperatives in the target area. If the sectors listed do not reflect your area, adjust the industries accordingly. Leave rows blank if there are no active cooperatives.

Industry Type	Number of cooperatives	Number of members	Assets	Liabilities
Housing (rental, management, repairs)				
Construction				
Textile and wearing apparel production				
Handicrafts				
Agriculture (specify input provider, production, processing, distribution or marketing)				
Food, beverage and tobacco processing				
Wood production and processing				
Paper, printing and publishing				
Chemical and plastics production				
Nonmetallic mineral processing (pottery, glass, brick, etc.)				
Metal fabrication				
Wholesale (nonagricultural) trade				
Retail trade				
Hotels, restaurants and bars				
Transportation				
Services (laundry, cleaning, hair, funeral services, etc.)				
Financial services (e.g., credit unions)				
Information, communications and technology (ICT)				
Business consulting services				
Other (please list)				



## II. History of Cooperative Activity

Provide a short summary (no more than three or four paragraphs) of the history of cooperative activity in the country, including answers to the following questions.

Are there past examples of cooperative activity in the country? What was the context? \_\_\_\_\_

---

---

What sector of cooperatives has a long or successful history in that region/country?

---

---

What was the legal and regulatory environment when successful cooperatives were formed? Is the environment basically the same now or different? Briefly describe. \_\_\_\_\_

---

---

What other sociological, economic or political influences have changed since then?

---

---

Are there experiences from other similar/surrounding countries that could shed light on the potential for cooperative development in your country? Please describe. \_\_\_\_\_

---

---

## III. Recent Trends in Cooperative Development

In general, has the number of cooperatives declined, increased or stayed the same in recent years? Why? What factors (e.g., historical, sociological, economic, political) influenced this change? \_\_\_\_\_

---

---

In which sectors has the number of cooperatives increased recently? \_\_\_\_\_

---

---

In which sectors has the number of cooperatives decreased? \_\_\_\_\_

---

---

What are the theories about the reasons for these changes? Please cite academic/political/empirical sources for these theories. \_\_\_\_\_

---

---

## IV. Snapshot of Enabling Environment

### Law on Cooperatives

- a. Please summarize the law on cooperatives in the country. (If you can obtain the law document or a relevant reference please cite the title and source.) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- b. Are you aware of an effort to change the cooperative law or its provisions?
- c. Based on your observations, is the law on cooperatives known and understood at the district and local levels? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- d. To your knowledge, what are the basic legal/regulatory issues that need to be addressed to facilitate further cooperative development? Please provide a short summary. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### Practical Application of Legal/Regulatory Framework

- a. In general, are these laws applied at the local level? Please explain. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- b. In general, do local officials know about these laws? Do they abide by them? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- c. In general, do cooperatives know about these laws? Do they abide by them? Please explain. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- d. Are any federal or state government agencies designed specifically to promote cooperatives in the country? If so, briefly describe their activities. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- e. If the answer to the previous question is “No,” which legal/regulatory agency or body oversees the activities of cooperatives (e.g., Ministry of Economics, Department of Business Affairs)? Briefly describe the relevant activities of these agencies or bodies. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



## Registration

- a. In general, are cooperatives informally or formally organized/registered? Please explain.
- 
- 
- b. If cooperatives are usually not formally registered in the country, why not? \_\_\_\_\_
- 
- 
- c. How are cooperatives registered (e.g., as a business entity, nonprofit organization)?
- 
- 
- d. What is the registration process like for cooperatives? Overall, is it easy or difficult to register? What are the requirements for a group to register as a cooperative? How many days/months does it take to register a cooperative? What are the registration fees? How many different offices must be visited and how many signatures obtained to complete the registration process?
- 
- 
- e. If possible, provide a resource reference or attach a document that describes the current laws on registration of cooperatives. Please cite the source(s) for this information (including name, title, date, etc.) \_\_\_\_\_
- 
- 

## Taxation

Provide a brief summary of the tax situation for cooperatives and businesses. For example:

- What is the corporate tax rate for cooperatives? Is it the same for individually owned businesses? \_\_\_\_\_
- How are taxes divided (e.g., federal, state, pension, employee benefits)? \_\_\_\_\_
- What other taxes do businesses face (e.g., transportation, customs)? \_\_\_\_\_
- Are any tax breaks or subsidies offered to new/emerging businesses? If so, please describe.
- Are cooperatives and businesses taxed on revenues or net income? How does this policy affect local businesses? \_\_\_\_\_
- How often are taxes collected (e.g., annually, quarterly)? \_\_\_\_\_
- Do businesses and/or cooperatives face considerable pressure from tax authorities? Please explain. \_\_\_\_\_

- For a business to operate, are other kinds of “fees” required by tax or other government authorities? \_\_\_\_\_  
\_\_\_\_\_
- Are other kinds of “fees” required by other groups not affiliated with the government? Please explain. \_\_\_\_\_  
\_\_\_\_\_
- Are there any other issues concerning taxes that negatively affect businesses? \_\_\_\_\_  
\_\_\_\_\_

### **Financial Sector**

- a. Describe access to capital and loan types (e.g., for assets or working capital), sizes of loans available, loan terms, payment period, number of different financial institutions providing capital.
- b. What are the requirements for collateral?
- c. Describe the loan application process and approval requirements.
- d. How many, or what percentage of cooperatives typically apply for loans? What are the terms of these loans?
- e. Do banks recognize cooperatives as businesses eligible for a loan?
- f. Is leasing of equipment an option?

### **Infrastructure**

- a. How reliable are public utilities (water, gas, electric) for local businesses? Please explain.  
\_\_\_\_\_  
\_\_\_\_\_
- b. Describe the reliability of telecommunications — land lines, mobile phones electronic communications, etc. — for local businesses. \_\_\_\_\_  
\_\_\_\_\_
- c. Domestic transport. Describe the physical state of domestic roads and other transportation networks (rail, shipping, air.) How reliable, costly and safe is it for businesses to move products and services around the country? \_\_\_\_\_  
\_\_\_\_\_
- d. International transport. What opportunities exist for transporting goods and services outside the country? \_\_\_\_\_  
\_\_\_\_\_
- e. International transport. What limitations exist on transporting goods and services outside the country? \_\_\_\_\_  
\_\_\_\_\_
- f. Other municipal services. Describe any other service delivery challenges (e.g., trash collection) that may affect local businesses. \_\_\_\_\_  
\_\_\_\_\_



### Other Enabling Environment Issues

Please discuss any other major issues concerning the enabling environment (e.g., corruption.)

---

---

---

---

---

---

## V. Cooperative Networks and Advocacy

### Snapshot of Networks or Support Organizations

- a. Are cooperatives organized into higher level apex organizations that provide services or advocacy? \_\_\_\_\_  
\_\_\_\_\_
- b. Please list any support organizations that might serve cooperative businesses, such as chambers of commerce, business associations and industry associations. Are they independent agencies or affiliated with the government? Are they operational? What is the quality of services? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- c. What is the structure of these support organizations? \_\_\_\_\_  
\_\_\_\_\_
- d. Please list organizations that might provide support for cooperatives.

Cooperative apex organizations: \_\_\_\_\_  
\_\_\_\_\_

Business associations/Chambers of Commerce: \_\_\_\_\_  
\_\_\_\_\_

Business consulting services: \_\_\_\_\_  
\_\_\_\_\_

International humanitarian organizations: \_\_\_\_\_  
\_\_\_\_\_

Universities with business, democratic mobilization, legal or technical expertise: \_\_\_\_\_  
\_\_\_\_\_

Non-governmental organizations with business, democratic mobilization, legal or technical expertise: \_\_\_\_\_  
\_\_\_\_\_

Larger cooperatives that can provide technical assistance: \_\_\_\_\_

Other: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

- e. Summarize any notable advocacy efforts that cooperative/support organizations have initiated in the past one or two years. \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## VI. Other General Cooperative Information

1. In general, how do people perceive cooperatives? When asked about cooperatives, what statements do people make about them? Are attitudes toward cooperatives negative, positive or neutral? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

2. What are the perceived weaknesses of cooperatives? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

3. Which international or domestic organizations currently provide support or assistance to cooperatives? What kinds of support are they providing and to whom? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

4. Which international or domestic organizations currently provide support or assistance to other kinds of businesses? What kinds of support are they providing and to whom?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



5. What kinds of opportunities do you see for cooperative development in the country?

---

---

---

6. What threats to cooperatives do you see in the country? \_\_\_\_\_

---

---

---

7. Any other comments regarding cooperatives, cooperative development or this program?

---

---

---

## VII. General Business and Economic Environment

### Income Opportunities for Marginalized Groups

a. Besides cooperatives, what other mechanisms exist for economic opportunity among low-income earners? How do people typically earn money? \_\_\_\_\_

---

---

b. Besides cooperatives, what other long-term opportunities might there be for generating income? \_\_\_\_\_

---

---

c. What are the short-term opportunities for income? \_\_\_\_\_

---

---

d. What are the perceived benefits and constraints of these other opportunities? \_\_\_\_\_

---

---

e. How would cooperatives serve as an alternative solution? \_\_\_\_\_

---

---

f. What do cooperatives offer that other opportunities do not? \_\_\_\_\_

---

---

g. What do other business opportunities offer that cooperatives do not? \_\_\_\_\_

---

---

### Small and Micro Enterprises (SMEs)

- What are the key industries in the country/target areas?
- How prevalent are SMEs?
- What types of industries are these SMEs engaged in? (Refer to the table below.)

Mark "X"	Industry Type	Approximate number of cooperatives in this industry	% of cooperatives in this industry compared to total number of cooperatives
	Housing (rental, management, repairs)		
	Construction		
	Textile and wearing apparel production		
	Handicrafts		
	Agriculture (specify input provider, production, processing, distribution or marketing):		
	Food, beverage and tobacco processing		
	Wood production and processing		
	Paper, printing and publishing		
	Chemical and plastics production		
	Nonmetallic mineral processing (pottery, glass, brick, etc.)		
	Metal fabrication		
	Wholesale (nonagricultural) trade		
	Retail trade		
	Hotels, restaurants and bars		
	Transportation		
	Services (laundry, cleaning, hair, funeral services, etc.)		
	Financial services (e.g., credit unions)		
	Information, communications, and technology (ICT)		
	Business consulting services		
	Other		

## Appendix B.

# CLARITY Scorecard Process and Tools

### Introduction

Analysis of your country's laws pertaining to cooperatives can seem like a daunting process. But this *Creating CLARITY* report provides you with the *CLARITY Scorecard* Process, a multi-phase tool that will guide you through your legal-reform project. It's been designed for use by groups who may not have a legal background, as well as legal professionals. The result, the *CLARITY Scorecard*, is a subjective analysis that will help you establish priorities and give you a starting point for legal reform.

Before you get started, it would help to review the CLARITY Principles and how they relate to legal reform. You can find this information in the first CLARITY report, which can be viewed or downloaded at [www.clarity.coop](http://www.clarity.coop).

Electronic versions of all *Scorecard* materials, including an easy-to-use spreadsheet that automatically calculates scores, are available at [www.clarity.coop](http://www.clarity.coop).

### Working Through the Scorecard Process

The *CLARITY Scorecard* process is broken down into six phases. Each phase contributes information for the next one, culminating in the analysis and review of your findings.

1. **Collect:** Collect all the statutes, regulations, judicial decisions and other laws in your country that you are going to review.
2. **Familiarize:** Familiarize yourself with the CLARITY questions.
  - Read each question.
  - Determine the subject matter that you think it covers.
  - Write down a short phrase describing that subject matter.
3. **Organize:** Using the CLARITY Country Cooperative Law Worksheet, organize the provisions of the laws you have collected according to the CLARITY Scorecard question or questions to which each pertains. It helps to list under each Scorecard question the parts of the law that are relevant to it.
  - Note that some statutes, articles, case decisions, regulations and orders may relate to more than one question. They should be listed under each relevant question.
  - Note that only parts of some statutes, articles, etc., may be relevant to a question. You may want to note that in your list.
4. **Analyze:** Use the CLARITY Scorecard Indicators to analyze the extent to which the law fulfills each of the 30 CLARITY questions. For each question:

- Analyze the goals of the law and the problems that will be faced in writing a law that will accomplish them. Any number of questions may be asked and answered in such an analysis. We've suggested some questions you might want to ask.
  - Based on your analysis, make a list of the provisions the law should have to fulfill the goals of the *CLARITY Scorecard* question.
  - Review the law in detail and, using your list, divide its provisions into three categories:
    - Desirable provisions contained in the law.
    - Desirable provisions not contained in the law.
    - Other provisions contained in the law.
    - **Ask yourself:**
      - What is the effect of each desirable provision on achieving the goals of the *CLARITY Scorecard* questions? How important is this effect?
      - What is the effect of the absence of each desirable provision in failing to achieve the goals of the *CLARITY Scorecard* questions? How important is this effect?
      - What is the effect of each of the other provisions contained in the law? Does it have a positive, negative or no effect in achieving the goals of the *CLARITY Scorecard* question? How important is each of these effects?
    - Based on your answers, assign a number from 0 to 4 to the question that indicates how well you think the law fulfills the goals of that question. Use the Scoring Worksheet which explains the scoring system.
5. **Review:** Review your scoring as reflected on the *CLARITY Scorecard* Worksheet. If you're using the electronic version, the scores you entered into the right-hand column on the Questions Worksheet should automatically carry over to the Scorecard. If your results don't appear on the *Scorecard*, press the F9 key on your keyboard.
6. **Analyze the score:** Think what the *Scorecard* result means for possible legislative action. What needs to be done now and what can wait until later? Consult other evaluators to compare results, discuss solutions and set priorities.

## CLARITY SCORECARD INSTRUCTIONS

To help with your analysis of existing laws and regulations, apply the following CLARITY questions to the sections of the law being evaluated. You can note the score for each section and the article to which it pertains. Additional copies of the *CLARITY Scorecard* Questions can be downloaded at [www.clarity.coop](http://www.clarity.coop).

Instructions	
1	The first step for the evaluator is to read and understand the law and regulations to be evaluated; the evaluator should at least be confident enough of their understanding of the law and regulations to be evaluated. Working with a trained lawyer familiar with cooperative law is ideal. It also may be helpful to identify areas of the law related to specific CLARITY Principles. In the Country Cooperative Law tab under column "B," choose from the drop-down list the CLARITY Principle that applies to the Article of the law.
2	On the spreadsheet "SCORECARD QUESTIONS" there are 30 questions that create the relationship between the CLARITY Principles and the CLARITY Indicators. After each question is a space to enter a score, based on the analysis of that aspect of the cooperative law. Each of the questions may apply several principles under one indicator.
3	For scoring, points are awarded to each question on a scale from 0 to 4, which is explained on the "SCORING SCALE" tab. Basically "0" represents a no compliance with CLARITY Principles and "4" represents full compliance with CLARITY Principles. The highest number of points that can be awarded in the CLARITY Scorecard tool is 120 points, which would represent the "Most Legal and Regulatory Enabled Environment for Cooperatives" and with "0 points" representing the contrary.
4	After points have been allocated to all questions in the "SCORECARD QUESTIONS" tab, go to the SCORECARD tab to see the results. If you do not see the results press the "F9" key on your keyboard.
5	An in-depth analysis and rationale for the score should be written to explain the reasoning for the score, provide context and details, justifications, etc.
	<b>NOTE:</b> When allocating the score to the questions, the evaluator must have the first CLARITY document to compare "Enabling Examples" and "Disabling Examples" from other cooperative laws around the world and to provide an equitable, fair and transparent score.

## COUNTRY COOPERATIVE LAW WORKSHEET

This worksheet can be helpful in organizing the existing codes, regulations, laws, etc., of your country as you begin the *CLARITY Scorecard* process. Fill in the information you've collected and select a CLARITY Principle that applies to it. Additional blank worksheets can be downloaded at [www.clarity.coop](http://www.clarity.coop). Customize this worksheet to reflect the structure of your country's law or regulation, or create your own.

	Country Cooperative Law Worksheet	CLARITY	Notes
		Principle	
Chapter 1			
Article 1			
Article 2			
Article 3			
Article 4			
Article 5			
Article 6			
Article 7			
Article 8			
Chapter 2			
Article 9			
Article 10			
Article 11			
Article 12			
Article 13			
Article 14			
Article 15			
Article 16			
Article 17			
Article 18			
Article 19			
Article 20			
Article 21			
Article 22			
Article 23			
Article 24			
Article 25			

### CLARITY Principles

- 0 – None
- 1 – Protect democratic member control
- 2 – Protect autonomy and independence
- 3 – Respect voluntary membership
- 4 – Require member economic participation
- 5 – Promote equitable treatment
- 6 – Promote access to markets
- 7 – Provide coherent and efficient regulatory framework
- 8 – Protect due process
- 9 – Avoid conflicts of interest
- 10 – All CLARITY Principles
- 11 – Several Principles – See Notes

## CLARITY SCORING SCALE

The *CLARITY Scorecard* brings together all the information you've gathered and allows you to give the elements of the law you're evaluating a numerical value. The *Scorecard* indicates how closely each element compares to the CLARITY Principles. Using these percentages, you then can set priorities and begin discussing solutions.

Level of Compliance with the Law	Score
0 = Does not comply with the basic CLARITY Principles or does not contribute to the achievement of the basic Principle objective.	0
1 = Weak compliance with the basic CLARITY Principles and weak contribution to the achievement of the basic Principle objective.	1
2 = Partial compliance with the basic CLARITY Principles and partial contribution to the achievement of the basic CLARITY Principle objective.	2
3 = General compliance with the basic CLARITY Principles and general contribution to the achievement of the basic CLARITY Principle objective.	3
4 = Full compliance with the basic CLARITY Principles and achievement of the basic CLARITY Principle objective.	4
(Shaded = Not applicable)	
CLARITY Principles	
1 – Protect democratic member control	
2 – Protect autonomy and independence	
3 – Respect voluntary membership	
4 – Require member economic participation	
5 – Promote equitable treatment	
6 – Promote access to markets	
7 – Provide coherent and efficient regulatory framework	
8 – Protect due process	
9 – Avoid conflicts of interest	

## CLARITY SCORECARD QUESTIONS

Question	CLARITY Principles & Explanation	Enabling & Disabling Examples	Score/ Notes	Law Reference
----------	----------------------------------	-------------------------------	--------------	---------------

### 1 Formation and Registration of a Cooperative

Score: Article:

1a. Is a time period set for the approval of registration applications (after which there is automatic approval)?	<b>Principle 7</b> – efficient regulatory framework <b>Explanation</b> – the default for regulatory inaction should be to approve the registration to minimize the impact of bureaucratic delay on cooperative formation	<b>Enabling</b> – all applications shall be finally disposed of within 30 days or assumed to be granted <b>Disabling</b> – statutory 6 month approval period that in practice runs into years and prohibits operation until registration is formally approved		
1b. Are registration requirements for cooperatives the same as for regular businesses?	<b>Principle 5</b> – equitable treatment <b>Explanation</b> – How do requirements for starting a cooperative compare with requirements for starting a new business? Some groups may choose to register as an association or other type of business if it is easier and quicker than registering as a cooperative	<b>Enabling</b> – cooperatives are required to file with similar requirements to corporation law <b>Disabling</b> – there are many special requirements for formation of cooperatives that do not apply to other businesses		
1c. Are the Registrar's duties combined with other cooperatives promotion or regulation activities?	<b>Principle 9</b> – conflict of interest <b>Explanation</b> – combining promotion and regulatory tasks can create conflicts of interests in the agency – an agency devoted to promoting cooperative formation should not also be in charge of enforcing regulatory mandates	<b>Enabling</b> – registration functions are handled by a separate ministry than those charged with cooperative promotion and technical assistance <b>Disabling</b> – registrar of cooperatives is also charged with cooperative promotion, regulation and dispute mediation		
1d. Does the government impose mandatory by-laws or otherwise restrict member governance?	<b>Principles 1 &amp; 2</b> – democratic governance and autonomy <b>Explanation</b> – a central characteristic of a cooperative that supports their vitality is the vesting of ultimate governance of the organization in its membership	<b>Enabling</b> – membership has maximum ability to shape the structures and processes of the organization through bylaws, law imposes minimum requirements applicable to other businesses, such as procedures for appointing officers <b>Disabling</b> – mandatory by-law language is imposed for all cooperatives		

#### Scoring Scale – Level of Law Compliance

- 0 – Does not comply with the CLARITY Principles or contribute to the achievement of the underlying goal
- 1 – Weak compliance with CLARITY Principles and/or weak contribution to the underlying goal
- 2 – Partial compliance with the CLARITY Principle(s) and contribution to the achievement of the underlying goal
- 3 – General compliance with CLARITY Principle(s) and contribution to the achievement of the underlying goal
- 4 – Complete compliance with CLARITY Principle(s) and contribution to the achievement of the underlying goal

## CLARITY SCORECARD QUESTIONS

Question	CLARITY Principles & Explanation	Enabling & Disabling Examples	Score/Notes	Law Reference
----------	----------------------------------	-------------------------------	-------------	---------------

### 2 Cooperative Supervision/Regulating a Cooperative Score:      Article:

2a. Are cooperatives subject to the same or similar regulatory requirements as other businesses?	<b>Principle 5</b> – equitable treatment <b>Explanation</b> – cooperatives should be subject to similar minimal regulations as other forms of business; the main force for regulating cooperatives is member governance	<b>Enabling</b> – cooperatives are subject to the same regulator agency and laws as other businesses <b>Disabling</b> – cooperatives are subject to much more onerous reporting and oversight requirements that other private businesses		
2b. Does the law protect the cooperative from government interference in cooperative business decisions?	<b>Principle 2</b> – autonomy and independence of cooperatives <b>Explanation</b> – cooperatives, like other businesses, should be empowered to manage their businesses free from the dictates of government officials	<b>Enabling</b> – law prohibits government interference in internal affairs of cooperatives <b>Disabling</b> – government officials are given authority to control or approve cooperative business decisions		
2c. Are the regulatory and promotion functions separate offices or a separately controlled agency/institution?	<b>Principle 9</b> – conflict of interest <b>Explanation</b> – Entrusting the same agency with promotion and regulation could result in conflicts of interest and compromise the efficiency and fairness of regulation	<b>Enabling</b> – creation of a promotion office that gives technical assistance, but has no control over regulating cooperatives <b>Disabling</b> – One agency is granted all power over registration, promotion, and regulation of cooperatives		

#### Scoring Scale – Level of Law Compliance

- 0 – Does not comply with the CLARITY Principles or contribute to the achievement of the underlying goal
- 1 – Weak compliance with CLARITY Principles and/or weak contribution to the underlying goal
- 2 – Partial compliance with the CLARITY Principle(s) and contribution to the achievement of the underlying goal
- 3 – General compliance with CLARITY Principle(s) and contribution to the achievement of the underlying goal
- 4 – Complete compliance with CLARITY Principle(s) and contribution to the achievement of the underlying goal

## CLARITY SCORECARD QUESTIONS

Question	CLARITY Principles & Explanation	Enabling & Disabling Examples	Score/ Notes	Law Reference
----------	----------------------------------	-------------------------------	--------------	---------------

### 3 Legal Status and Rights of a Cooperative

Score: Article:

3a.1. Is a cooperative granted the same legal rights as other businesses (the right to sue, enter into contracts, hold assets, etc.)?	<b>Principle 2</b> – autonomy <b>Explanation</b> – Businesses form corporations in part to obtain the same legal rights to enter contracts and utilize legal processes as individuals have – known as “legal personhood.” Cooperatives, like other businesses, must have these rights to do business effectively	<b>Enabling</b> – an explicit statement giving the rights of individuals to cooperatives (access to courts, contracts) <b>Disabling</b> – Requiring government approval for entering contracts, engaging legal processes or other activities normally undertaken by individuals or corporations		
3a.2. Is a cooperative granted the same legal rights as other businesses (the right to sue, enter into contracts, hold assets, etc.)?	<b>Principle 5</b> – equitable treatment <b>Explanation</b> – Businesses form corporations in part to obtain the same legal rights to enter contracts and utilize legal processes as individuals have – known as “legal personhood.” Cooperatives, like other businesses, must have these rights to do business effectively	<b>Enabling</b> – an explicit statement giving the rights of individuals to cooperatives (access to courts, contracts) <b>Disabling</b> – Requiring government approval for entering contracts, engaging legal processes or other activities normally undertaken by individuals or corporations		
3b. Are cooperative officials given the same legal liability as corporate officers (not held personally responsible for coop matters, unless they act fraudulently)?	<b>Principle 5</b> – equitable treatment <b>Explanation</b> – Cooperative officials should owe fiduciary duties to the cooperative (as in corporate law), but be protected from legal responsibility (unless there was dishonesty or fraud) because it allows them to confidently represent the cooperative in all situations without fear of personal reprisal	<b>Enabling</b> – stating that coop personnel owe fiduciary duties to the cooperative, but are not liable (i.e. are indemnified) in the course of their duties, unless there was willful misconduct <b>Disabling</b> – considering law suits against cooperatives or their officers to be suits against the government		

#### Scoring Scale – Level of Law Compliance

- 0 – Does not comply with the CLARITY Principles or contribute to the achievement of the underlying goal
- 1 – Weak compliance with CLARITY Principles and/or weak contribution to the underlying goal
- 2 – Partial compliance with the CLARITY Principle(s) and contribution to the achievement of the underlying goal
- 3 – General compliance with CLARITY Principle(s) and contribution to the achievement of the underlying goal
- 4 – Complete compliance with CLARITY Principle(s) and contribution to the achievement of the underlying goal

## CLARITY SCORECARD QUESTIONS

Question	CLARITY Principles & Explanation	Enabling & Disabling Examples	Score/ Notes	Law Reference
----------	----------------------------------	-------------------------------	--------------	---------------

### 4 Membership in a Cooperative

Score: Article:

4a. Can the government require specific individuals or groups to be members in cooperatives?	<b>Principle 3</b> – respect voluntary membership <b>Explanation</b> – government mandated membership undermines the democratic character of cooperatives and harms the accountability links between a cooperative and its members	<b>Enabling</b> – allowing cooperatives to set the requirements for membership and permitting (not requiring) membership based on uses of cooperative services <b>Disabling</b> – Requirement that a certain group (e.g. dairy farmers) be a member of a national cooperative		
4b. Can the government dictate size and qualifications for membership in a cooperative?	<b>Principle 1</b> – democratic member control <b>Explanation</b> – the number and attributes of members for a given cooperative will vary depending on the goals and services of the cooperative; these decisions should be left to the members and management	<b>Enabling</b> – permits the members to determine the minimum number of members and the qualification requirements for a given cooperative <b>Disabling</b> – requires that a cooperative have at least 20 members		
4c. Does the law permit government agencies to be members of cooperatives?	<b>Principle 2</b> – autonomy and independence of cooperatives <b>Explanation</b> – if the government was a member it would not provide the independence needed for the cooperative to be considered a private organization	<b>Enabling</b> – banning a member of the cooperative regulatory authority from being an officer or director of a cooperative <b>Disabling</b> – allowing the cooperative regulatory authority to appoint officers of a cooperative		

#### Scoring Scale – Level of Law Compliance

- 0 – Does not comply with the CLARITY Principles or contribute to the achievement of the underlying goal
- 1 – Weak compliance with CLARITY Principles and/or weak contribution to the underlying goal
- 2 – Partial compliance with the CLARITY Principle(s) and contribution to the achievement of the underlying goal
- 3 – General compliance with CLARITY Principle(s) and contribution to the achievement of the underlying goal
- 4 – Complete compliance with CLARITY Principle(s) and contribution to the achievement of the underlying goal

## CLARITY SCORECARD QUESTIONS

Question	CLARITY Principles & Explanation	Enabling & Disabling Examples	Score/ Notes	Law Reference
----------	----------------------------------	-------------------------------	--------------	---------------

### 5 Member Governance – Membership Control of a Cooperative

Score: Article:

5a. Does the law require one-person-one-vote democratic governance?	<b>Principle 1</b> – democratic member control <b>Explanation</b> – unlike stock corporations, where voting shares are distributed according to capital invested in the corporation, cooperatives are governed by its members based on a one-person-one-vote principle	<b>Enabling</b> – each co-operative member has only one vote, which may be voted through a variety of means (e.g. cumulative voting, etc.) <b>Disabling</b> – permitting votes to be weighted by contribution to the cooperative		
5b. Does the government require the business records to remain open to inspection by members?	<b>Principle 1</b> – democratic member control <b>Explanation</b> – access to information on the operation of the cooperative is necessary for members to effectively perform their role as the owners and governors of the cooperative	<b>Enabling</b> – requiring the cooperative to make its records, auditing reports and other essential information available to any member upon request		

#### Scoring Scale – Level of Law Compliance

- 0 – Does not comply with the CLARITY Principles or contribute to the achievement of the underlying goal
- 1 – Weak compliance with CLARITY Principles and/or weak contribution to the underlying goal
- 2 – Partial compliance with the CLARITY Principle(s) and contribution to the achievement of the underlying goal
- 3 – General compliance with CLARITY Principle(s) and contribution to the achievement of the underlying goal
- 4 – Complete compliance with CLARITY Principle(s) and contribution to the achievement of the underlying goal

## CLARITY SCORECARD QUESTIONS

Question	CLARITY Principles & Explanation	Enabling & Disabling Examples	Score/ Notes	Law Reference
----------	----------------------------------	-------------------------------	--------------	---------------

### 6 Regulating Officers & Directors of Cooperatives

Score: Article:

6a. Does the government have the authority to dictate the roles and responsibilities of management?	<b>Principles 1 &amp; 2</b> – democratic control and autonomy <b>Explanation</b> – the members of the cooperative should remain responsible for defining the division of roles between the board of directors and management (e.g. through the bylaws) depending on the nature of the sector in which they do business	<b>Enabling</b> – gives members the authority to define the responsibilities of the Board of Directors and Management <b>Disabling</b> – dictates the adoption of generalized structures for governance that may be at odds with business necessity		
6b. Does the government have power to appoint or remove officers of a cooperative?	<b>Principle 2</b> – autonomy and independence of cooperatives <b>Explanation</b> – cooperatives must remain responsible to members, who should be the sole electors of the Board and Management, not to government officials	<b>Enabling</b> – giving all authority to appoint officers and directors of the cooperative to members <b>Disabling</b> – granting the cooperative regulatory authority power to appoint or remove officers of the cooperative		
6c. Does the government retain power to dictate or supervise cooperative financial arrangements?	<b>Principle 2</b> – autonomy and independence of cooperatives <b>Explanation</b> – subject to auditing requirements, cooperatives should have complete autonomy over their expenditures and investments like other businesses.	<b>Enabling</b> – granting full discretion over financial management decisions, subject to financial audits <b>Disabling</b> – mandating certain expenditures or investments or requiring government approval for financial decisions		

#### Scoring Scale – Level of Law Compliance

- 0 – Does not comply with the CLARITY Principles or contribute to the achievement of the underlying goal
- 1 – Weak compliance with CLARITY Principles and/or weak contribution to the underlying goal
- 2 – Partial compliance with the CLARITY Principle(s) and contribution to the achievement of the underlying goal
- 3 – General compliance with CLARITY Principle(s) and contribution to the achievement of the underlying goal
- 4 – Complete compliance with CLARITY Principle(s) and contribution to the achievement of the underlying goal

## CLARITY SCORECARD QUESTIONS

Question	CLARITY Principles & Explanation	Enabling & Disabling Examples	Score/Notes	Law Reference
----------	----------------------------------	-------------------------------	-------------	---------------

### 7 Regulating the Board of Directors of a Cooperative Score: Article:

7a. Does the government have the authority to appoint or remove members of the Board of Directors?	<b>Principle 1</b> – democratic member control <b>Explanation</b> – the board should be responsible to the members who elect them, not to the government or any other outside entity	<b>Enabling</b> – all responsibility for electing or removing directors belongs to the cooperative's members <b>Disabling</b> – cooperative regulator has authority to appoint or remove board members		
7b. Can the government dictate the size of the Board	<b>Principle 2</b> – autonomy and independence of cooperatives <b>Explanation</b> – the size (above the minimum number for decision making, e.g. 3) of a Board of Directors should be determined by the members through bylaws; the appropriate number will depend upon factors internal to the cooperative and should not be dictated by government	<b>Enabling</b> – the board shall be elected in the number determined by the bylaws and be at least three members <b>Disabling</b> – requiring the Board be no less than five members and no more than nine members		

### 8 Capital Accounts Score: Article:

8a. Is the surplus income from cooperatives distributed according to patronage of the cooperative rather than capital investment?	<b>Principle 4</b> – require member economic participation <b>Explanation</b> – a key distinction between cooperatives and share holding companies is that in cooperatives surplus income (i.e. profits) are distributed according to use of the cooperative rather than capital invested	<b>Enabling</b> – requirement that after deducting operating expenses and costs, the remainder of proceeds shall be distributed to members according to the ratio of their patronage to the total patronage of the cooperative <b>Disabling</b> – permitting the cooperative to distribute surplus income according to capital invested in the cooperative		
8b. Does the government mandate distributions to funds for capital, reserves, education or other activities?	<b>Principle 1</b> – democratic member control <b>Explanation</b> – although investments in reserves, education and other purposes may be prudent and should be permitted and encouraged, mandating specific contribution levels sacrifices democratic member control and may be unwise in specific circumstances	<b>Enabling</b> – law allows, but does not require, the creation of reserves and distribution to educational funds <b>Disabling</b> – requiring a cooperative to put at least 25% of its annual surplus into a reserve or educational fund		

#### Scoring Scale – Level of Law Compliance

- 0 – Does not comply with the CLARITY Principles or contribute to the achievement of the underlying goal
- 1 – Weak compliance with CLARITY Principles and/or weak contribution to the underlying goal
- 2 – Partial compliance with the CLARITY Principle(s) and contribution to the achievement of the underlying goal
- 3 – General compliance with CLARITY Principle(s) and contribution to the achievement of the underlying goal
- 4 – Complete compliance with CLARITY Principle(s) and contribution to the achievement of the underlying goal

## CLARITY SCORECARD QUESTIONS

Question	CLARITY Principles & Explanation	Enabling & Disabling Examples	Score/Notes	Law Reference
----------	----------------------------------	-------------------------------	-------------	---------------

### 9 Regulating the Auditor

Score: Article:

9a1. Does the law allow cooperative members to select the auditor of their choice?	<b>Principle 1</b> – democratic member control <b>Explanation</b> – purpose of an audit is to facilitate member control of the cooperative by assuring affairs are being conducted in an honest and professional way; to serve this purpose, members should be empowered to select an auditor that they trust	<b>Enabling</b> – requiring the auditor to report to and be elected by the general members <b>Disabling</b> – giving the cooperative regulator the authority to conduct an audit or appoint an auditor itself		
9a1. Does the law allow cooperative members to select the auditor of their choice?	<b>Principle 2</b> – autonomy and independence <b>Explanation</b> – purpose of an audit is to facilitate member control of the cooperative by assuring affairs are being conducted in an honest and professional way; to serve this purpose, members should be empowered to select an auditor that they trust	<b>Enabling</b> – requiring the auditor to report to and be elected by the general members <b>Disabling</b> – giving the cooperative regulator the authority to conduct an audit or appoint an auditor itself		

#### Scoring Scale – Level of Law Compliance

- 0 – Does not comply with the CLARITY Principles or contribute to the achievement of the underlying goal
- 1 – Weak compliance with CLARITY Principles and/or weak contribution to the underlying goal
- 2 – Partial compliance with the CLARITY Principle(s) and contribution to the achievement of the underlying goal
- 3 – General compliance with CLARITY Principle(s) and contribution to the achievement of the underlying goal
- 4 – Complete compliance with CLARITY Principle(s) and contribution to the achievement of the underlying goal

## CLARITY SCORECARD QUESTIONS

Question	CLARITY Principles & Explanation	Enabling & Disabling Examples	Score/ Notes	Law Reference
----------	----------------------------------	-------------------------------	--------------	---------------

### 10 Regulations Regarding Dispute Resolution

Score: Article:

10a. Is the entity that adjudicates disputes independent of the agency that promotes or regulates cooperatives?	<b>Principle 9</b> – avoid conflicts of interest <b>Explanation</b> – dispute mechanisms must ensure impartiality by being independent of officials with responsibilities for promoting or regulating cooperatives in other settings	<b>Enabling</b> – empowering an independent mediator office with no cooperative oversight responsibilities to handle disputes between cooperatives or between a cooperative and a third party <b>Disabling</b> – referring all disputes involving cooperatives to the cooperative registrar or cooperative regulator		
10b1. Do cooperatives have access to courts and existing tribunals and can they voluntarily enter into alternative dispute resolution agreements?	<b>Principle 7</b> – efficient regulatory framework <b>Explanation</b> – cooperatives should have equal access to the same tribunals as any other businesses to minimize the duplication of resources and promote equal treatment between cooperatives and other businesses	<b>Enabling</b> – permitting cooperatives full access to the courts as any other business <b>Disabling</b> – mandating that all disputes involving a cooperative be brought before the registrar or cooperative regulator or are considered a dispute with the government		
10b2. Do cooperatives have access to courts and existing tribunals and can they voluntarily enter into alternative dispute resolution agreements?	<b>Principle 8</b> – due process <b>Explanation</b> – cooperatives should have equal access to the same tribunals as any other businesses to minimize the duplication of resources and promote equal treatment between cooperatives and other businesses	<b>Enabling</b> – permitting cooperatives full access to the courts as any other business <b>Disabling</b> – mandating that all disputes involving a cooperative be brought before the registrar or cooperative regulator or are considered a dispute with the government		

#### Scoring Scale – Level of Law Compliance

- 0 – Does not comply with the CLARITY Principles or contribute to the achievement of the underlying goal
- 1 – Weak compliance with CLARITY Principles and/or weak contribution to the underlying goal
- 2 – Partial compliance with the CLARITY Principle(s) and contribution to the achievement of the underlying goal
- 3 – General compliance with CLARITY Principle(s) and contribution to the achievement of the underlying goal
- 4 – Complete compliance with CLARITY Principle(s) and contribution to the achievement of the underlying goal

## CLARITY SCORECARD QUESTIONS

Question	CLARITY Principles & Explanation	Enabling & Disabling Examples	Score/Notes	Law Reference
----------	----------------------------------	-------------------------------	-------------	---------------

### 11 Regulation of the Dissolution, Amalgamation & Merger of Cooperatives

Score: Article:

11a. Does the law provide for the dissolution and distribution of assets after dissolution of a cooperative?	<b>Principles 3 &amp; 8</b> – voluntary membership and due process <b>Explanation</b> – cooperatives are voluntary organizations which have the right to cease to exist as well as to form; law should ensure that any dissolution is truly voluntary with adequate notice and process involving the membership	<b>Enabling</b> – the law permits dissolution and provides for procedures for notifying all members to approve the action and fairly distributing all assets of the business to the members <b>Disabling</b> – lack of provision for how to dissolve a cooperative		
11b. Does the law provide for the merger and amalgamation of cooperatives through the definition of procedures to notify members, etc?	<b>Principles 3 &amp; 8</b> – voluntary membership and due process <b>Explanation</b> – a cooperative should have the right to change its shape through mergers or amalgamations to grow and provide better services to its members while protecting the rights of members	<b>Enabling</b> – including the procedures needed to complete a merger & member rights to abstain from membership in the new society <b>Disabling</b> – lack of provision for cooperatives to merge or amalgamate		

### 12 Regulation of Apex Organizations for Cooperatives

Score: Article:

12a. Are the laws surrounding unions/apex organizations permissive (not requiring cooperative membership in them)?	<b>Principle 2</b> – autonomy and independence of cooperatives <b>Explanation</b> – the allowance of apex organizations can be a great support to cooperatives, however requiring membership in them or requiring certain structures can undermine the efficiency and uses of apex/unions.	<b>Enabling</b> – allowing cooperatives to create structures that will promote, train and provide resources to cooperatives themselves <b>Disabling</b> – permitting the government to mandate membership in a cooperative union		
--	---	---	--	--

#### Scoring Scale – Level of Law Compliance

- 0 – Does not comply with the CLARITY Principles or contribute to the achievement of the underlying goal
- 1 – Weak compliance with CLARITY Principles and/or weak contribution to the underlying goal
- 2 – Partial compliance with the CLARITY Principle(s) and contribution to the achievement of the underlying goal
- 3 – General compliance with CLARITY Principle(s) and contribution to the achievement of the underlying goal
- 4 – Complete compliance with CLARITY Principle(s) and contribution to the achievement of the underlying goal

## Enabling Cooperative Development Principles for Legal Reform

CLARITY principles	Protect democratic member control	Protect autonomy and independence	Respect voluntary membership	Require member economic participation
CLARITY Indicators	Principles For Cooperative Law And Regulation			
1 – Formation and Registration of a Cooperative		Avoid mandatory model by-laws.		
2 – Cooperative Supervision		Coordination of business regulatory functions.		
3 – Legal Status and Rights		a) Liability/indemnification of officers and directors. b) Legal personhood.		
4 – Membership	Autonomy in determining size and qualifications for membership.	Ban on government membership.	No compelled membership.	
5 – Member Governance	a) Majority voting rules. b) Records subject to inspection.			
6 – Officers and Directors		a) Avoid detailed definitions of management functions. b) No state appointment of managers. c) Autonomous financial management.		
7 – Board of Directors	The board should be elected by the members of the cooperative.	By-laws determine the size and composition of board.		
8 – Capital Accounts		Allow reserves and capital funds.		Distribution according to patronage.
9 – Auditor	Member selection.	Member selection.		
10 – Dispute Resolution				
11 – Dissolution/Amalgamation/Merger			Procedures for member approval.	
12 – Apex Organizations		Permissive autonomy.		

This **Scorecard** was made possible through support provided by the Cooperative Development Program, U.S. Agency for International Development. The opinions expressed are those of the authors and do not necessarily reflect the views of USAID. The **Scorecard** was produced by the staff of Cooperative League of the USA/National Cooperative Business Association, including: Douglas Barcenas, assistant project manager.

Promote equitable treatment	Promote access to markets	Provide coherent and efficient regulatory framework	Protect due process	Avoid conflicts of interest
-----------------------------	---------------------------	---	---------------------	-----------------------------

## Regulatory Factors

Register cooperatives in the same office as other businesses.		Time limits/default registration periods.		Streamline registrar's role.
Coordination of business regulatory functions.				Separation of regulatory from promotion functions.
Legal personhood.				
		Availability of independent tribunals and traditional forums.	Availability of independent tribunals and traditional forums.	Availability of independent tribunals and traditional forums.
			Procedures for member approval.	

## CLARITY SCORECARD

CLARITY Principles	Protect democratic member control	Protect autonomy and independence	Respect voluntary membership
--------------------	-----------------------------------	-----------------------------------	------------------------------

### General Cooperative Law Indicators

Questions →	a	b	a	b	c	
1 – Formation and Registration of a Cooperative						
2 – Cooperative Supervision						
3 – Legal Status and Rights						
4 – Membership						
5 – Member Governance						
6 – Officers and Directors						
7 – Board of Directors						
8 – Capital Accounts						
9 – Auditor						
10 – Dispute Resolution						
11 – Dissolution/Amalgamation/Merger						
12 – Apex Organizations						
Score						
Maximum Score						
Percentage	%		%			%

Total Possible Score for General Cooperative Law Indicators	120
Score	
Percentage	%

This Scorecard was made possible through support provided by the Cooperative Development Program, U.S. Agency for International Development. The opinions expressed are those of the authors and do not necessarily reflect the views of USAID. The Scorecard was produced by the staff of Cooperative League of the USA/National Cooperative Business Association, including: Douglas Barcenas, assistant project manager.

Require member economic participation	Promote equitable treatment	Promote access to markets	Provide coherent and efficient regulatory framework	Protect due process	Avoid conflicts of interest
	a	b			
%	%	%	%	%	%

## CLARITY Scorecard Analysis

This worksheet provides a simple format to discuss the results of the scoring process and reasoning behind it. Main points are captured in relation to the core principles providing further structure to resulting conclusions and decision of future steps.

CLARITY SCORECARD ANALYSIS
<div>ISSUE ANALYZED</div> <div>_____</div> <div>SCORECARD QUESTION</div> <div>_____</div>
<div>IMPLEMENTING PRINCIPLE:</div> <div>_____</div> <div>_____</div> <div>_____</div>
<div>RELATED CORE PRINCIPLE:</div> <div>_____</div>
<div>SCORE: _____</div>
<div>DISCUSSION:</div> <div>_____</div> <div>_____</div> <div>_____</div> <div>_____</div> <div>_____</div> <div>_____</div>
<div>SUGGESTED ACTION:</div> <div>_____</div> <div>_____</div> <div>_____</div> <div>_____</div>

## Limitations and Benefits of the CLARITY Scorecard Process

The *CLARITY Scorecard* Process is not meant to provide a rigorous evaluation of the compliance of a nation's cooperative law based on the CLARITY Principles. Its purpose is to uncover areas of law that merit review and may be amenable to improvement, as well as those areas where the cooperative law is strong and worthy of praise. The *Scorecard* Process can indicate if the laws promote the Rochdale ideals of self-help, self-reliance, democracy and equality.

It cannot be concluded from the *CLARITY Scorecard* Process that a nation's cooperative laws are inappropriate. Nations are in different economic circumstances, at different stages of economic development with diverse customs, cultures and economic needs.

Policymakers may want to foster cooperative societies as a means of carrying out government economic development programs. In this case, the government may view cooperatives as an adjunct of its own operations. Governments also may find it necessary to provide citizens unfamiliar with market economies the concepts, tools and experience necessary to form successful businesses that can survive in unregulated markets. They may want to protect small-scale, fledgling enterprises from existing, dominant, well-capitalized economic entities. Or the society may value ideals other than the western concepts embodied in the Rochdale Principles.

Consequently, a government might consider laws that meet the CLARITY Principles and grant self-governance and freedom of action to cooperatives, unwise in the short run and in the long run as well. The possibility also exists that governments will assert unjustified control over cooperatives for reasons that do not benefit their people, such as the obsession of political leaders with power and control, the desires of elites to misappropriate benefits, the entrenchment of bureaucracies, or the failure of congresses and parliaments to change the laws as social and economic conditions change.

The *CLARITY Scorecard* Process alone can't tell whether a nation's cooperative laws are detrimental to its economy and society, but the analysis can point to areas where problems may lurk and an inspection of current laws and regulations might be merited. Where developmental, cultural and other characteristics of a nation do not justify deviating from the CLARITY Principles, the existence of such deviations may point to political, bureaucratic, economic and other distortions in the law that should be eliminated and suggest ways to resolve the problems.

## Notes

## Notes



US Overseas Cooperative Development Council

1060 West Broad Street, Suite 763, Falls Church, VA 22046 • Tel. 703-909-8781

