

## **REPORT**

### **Workshop “International experiences on Developing Cooperative and Cooperative Law In The World”**

**March 18, 2022**

To summarize 20 years of implementing Resolution No. 13-NQ/TW dated March 18, 2012, of the IX Party Central Committee, the Vietnam Cooperative Alliance (VCA) organized a Workshop “International experiences on Developing Cooperative and Cooperative Law In The World” on March 18, 2022. It was organised in Hanoi, Vietnam in a hybrid setup wherein 72 participants joined online and 94 participants were present in Hanoi.

#### **Workshop Chairpersons:**

Mr. Nguyen Ngoc Bao, Chairman, VCA; Mr. Nguyen Manh Cuong, Vice Chairman, VCA; Mr. Tran Duy Dong, Deputy Head of the Ministry of Planning and Investment and Mr. Weert Borner, Deputy Ambassador, Head of Economic Department of the German Embassy chaired the workshop.

#### **Participants:**

The participants in Hanoi were leaders of Ministries and branches of the Central Government, including standing members of the National Assembly Economic Committee, the National Assembly Committee, Central Economic Council, Central Theoretical Council, Legislative Research Institute, Institute of Policy and Strategy for Agriculture and Rural Development - Ministry of Agriculture and Rural Development, Department of Cooperative Development - Ministry of Planning and Investment, representative of Hanoi Law University, Foreign Trade University; representatives of foreign organizations in Vietnam including ILO, Agriterra, DGRV, DID, FES Institute - Germany, Socodevi - Canada, SNV - Netherlands, Rosa Luxemburg Institute – Germany.

Delegation of the National Assembly of 46 provinces/ cities; The National Agricultural Cooperatives of Korea Federation (NACF), the National Federation of Agricultural Cooperatives of Japan (JA Zenchu), the All China Federation of Supply and Consumption Cooperatives (ACFSMC), the International Cooperatives Alliance (ICA), International Cooperative Alliance Asia and Pacific

(ICA-AP); Chairman/Vice Chairman of 52 Cooperatives Alliance in provinces and cities, Directors of cooperatives representing 63 provinces joined online.

### **Opening Session:**

Speaking at the opening of the Workshop, Mr. Nguyen Ngoc Bao, Chairman, VCA said that the market economy, the core of which is the cooperative, is an important economic component, and is always encouraged by the Party and State to be developed. After 10 years of implementation of the Law on Cooperatives, the economic sectors and cooperatives have had positive changes such as overcoming their weakness, taking advantage of the potential development space, gradually affirming the position and role of one of the fundamental economic sectors. The transformation and reorganization of cooperatives according to the provisions of the Law on Cooperatives have been completed. The work of mobilizing and guiding the establishment of cooperatives has achieved important results, in the past 20 years, there have been 37,810 newly established cooperatives nationwide. However, the growth rate of the market economy sector is still low compared to other economic sectors, and the contribution rate to GDP has not met the requirements. Most of the economic organizations and cooperatives are small in scale and develop unevenly among regions, between agricultural and non-agricultural sectors. In addition, during the implementation of the Law on Cooperatives 2012, several issues arose that needed to be studied and summarized to amend, supplement and improve to suit the development of cooperatives in the new context. He said that the workshop aims at exchanging content on the

- current situation of applying the Law on Cooperatives 2012 in Vietnam;
- experience in cooperative development and government policies to support the cooperative movement;
- experience in cooperative audit activities;
- cooperative law and cooperative development policy in the Asia-Pacific region;
- international perspectives and recommendations for improvement of the Law on Cooperatives;
- impacts in the amendment of the Cooperative Law.

Mr. Tran Duy Dong, Deputy Minister of Planning and Investment, speaking at the workshop, said that cooperatives are an important force in Vietnam, in 10 years of

implementation of the Law on Cooperatives in 2012, Vietnam's economic and cooperative sector has made many positive changes, making important contributions to poverty reduction and improving the quality of life and developing socio-economic. Vietnam is facing many opportunities but also many challenges: The Industrial Revolution 4.0 is developing strongly in all fields, globalization and the free generation agreements are opening opportunities for investment, economic and trade cooperation with large markets. However, the requirements for design, quality, and standards for participation in these markets and the world, in general, are increasingly strict, so the maintenance of production according to the economic model of small, fragmented households and darts is standards cannot compete and survive. Therefore, cooperation to share market participation experience, technology, management skills and resources is an inevitable path for mutual development.

He said that this workshop is very important for the Ministry of Planning and Investment to learn a lot of valuable experiences from the process of perfecting the legal framework as well as developing the cooperative sector of countries and international organizations as a reference for the development of the Law on Cooperatives (amended) of Vietnam; to promote the economic sector, cooperatives in Vietnam operate effectively and develop strongly in the coming time.

Mr. Weert Borner, Deputy Ambassador, Head of the Economic Department of the German Embassy gave a speech on the principles of cooperatives. He noted that cooperative members are both owners and customers. Members of a cooperative help each other, are accountable to each other, and run their businesses together, as members of an independent organization. While many other fields have changed a lot, these principles are still valid today. In the face of great development challenges such as climate change, biodiversity loss, air, soil and water pollution, humans must learn to live and produce much more sustainably. This is a real challenge for each person, for each society, and every country. At the same time, it also has to deal with digitization - part of the challenge, but part of the solution. The Deputy Ambassador said that Germany fully supports Vietnam's efforts to modernize its cooperative system. Although Vietnam's Law on Cooperatives in 2012 has created many favorable conditions for the economic and cooperative sectors, it is necessary to rethink to improve the legal basis for cooperative activities. Germany consists of experts, especially DGRV, ready to advise on a number of areas of law, as well as

practical issues of entrepreneurship and development. Through DGRV, we have participated in capacity building for the Vietnam Cooperative Alliance (VCA) as well as the Provincial Cooperative Alliances (PCAs). Another focus is on how to improve the structure and audit practices of cooperatives in Vietnam.

Mr. Phung Quoc Chi, Director of the Department of Cooperative Development - Ministry of Planning and Investment presented an assessment of the current situation of applying the Law on Cooperatives 2012 in Vietnam. It is the basic legal framework for the establishment, organization and operation of the cooperative sector. The summary of its 10 years of implementation shows that the implementation of the Law has been focused, the cooperative sector has initially had a positive change, proving the important role of cooperatives in the economic, political and social aspects of our country. In terms of existence and limitations, in addition to the objective and subjective reasons in the implementation organization, the main reason comes from the inadequacies and limitations of the current Cooperative Law regulations, specifically: many outdated, contradictory, overlapping regulations; cross with many important legal documents which were later amended and supplemented, causing barriers to the development of cooperatives; not yet stipulate unifying TA and representative organizations of cooperatives in a common Law; many regulations restricting the entry, operation and market expansion of cooperatives; regulations on the audit of cooperatives are not clear and specific, so they have not been implemented in practice; regulations on the dissolution of cooperatives are not suitable or have no specific instructions, conflict with legal regulations; State support policies for the economic market are not effective. To overcome the above shortcomings and limitations in the legal framework, the Government's Resolution No. 22/NQ-CP dated February 28, 2022 agreed to assign the Ministry of Planning and Investment to complete the proposal of the Law on Cooperatives (amended), submitted to the National Assembly for addition to the program of law and ordinance development in 2022.

Speaking about the proposals and recommendations to amend the Law on Cooperatives 2012, Mr. Nguyen Manh Cuong, Vice Chairman, VCA raised views similar to the Ministry of Planning and Investment. From the limitations, shortcomings and inadequacies of the Law on Cooperatives 2012 for the development of the collective economic sector and cooperatives, the Vietnam Union of Cooperatives proposed amendments. The Law on Cooperatives 2012 in the

direction of: (1) fully institutionalizing the Party's viewpoints, policies and guidelines; (2) amending the Law on Cooperatives in 2012 should create a "breakthrough" step, focusing on overcoming limitations and shortcomings for the development of the collective economy and cooperatives; (3) create favorable conditions for cooperatives to develop quickly, sustainably and equally with other economic sectors; (4) diversifying forms of association and cooperation, focusing on improving the quality and operational efficiency of cooperatives and unions of cooperatives under the market mechanism, operating like enterprises; respect the nature, objectives, principles of organization and operation of the cooperative; (5) clearly define the legal status, functions and tasks of the representative organization of cooperatives and unions of cooperatives, of which the VCA is the representative organization approved by the Party and State, role and promoting the development of collective economy and cooperatives, acting as a bridge between the Party and the State and the collective economic sectors, contributing to the cause of socio-economic development association of the country.

### **Experience in the development of cooperatives in the Asia-Pacific region**

After the speeches of the domestic delegates, the experience of cooperative development of foreign cooperative federations was shared. Mr. Zhang Wangshu, Head of the International Cooperation Department, ACFSMC gave an overview of Chinese cooperatives. Founded in 1954, ACFSMC is considered the most influential system, providing the most variety of services to farmers in China with total revenue of \$832.1 billion, an annual growth rate of 14.2%. In terms of organizational structure, ACFSMC is headed by the General Assembly, then by the Board of Directors and Supervisory Board, stretching from provinces, cities to districts, and Chinese cooperatives are all members of ACFSMC. The specific law on farmers' cooperatives took effect in 2007 and was revised in 2017. The concept of cooperatives has become popular with Chinese farmers. Farmers' cooperatives are granted the same legal status as businesses. The role of farmers' cooperatives is getting prominent in the agricultural and rural economy.

About the development experience of the Federation of Cooperatives in Japan, Mr. Takuo Ichiya, Deputy Director of the General Department, Ja-Zenchu, gave a speech on the independence and autonomy of Ja-Zenchu. He presented the difference between a cooperative and a corporation based on – objectives (cooperatives aim for non-profit purposes while corporations must be profitable); founders (cooperatives

run by farmers, fishermen, etc., owners of small and medium-sized businesses and the corporation is founded by investors); the members of the cooperatives are limited, while the corporations are not; the business area of the cooperative is regulated by law and the corporation is not limited; the service user of the cooperative is a member of the cooperative and the corporation is a customer (unlimited); on decision-making at the cooperative, each member has 1 vote, while in a corporation, each share is one vote; legally the cooperative is governed by specialized cooperative law or general cooperative law while the corporation is the company law. In Japan, the Law on Cooperatives is multi-sectoral or specialized in specific fields, for example, Law on Agricultural Cooperatives, Law on Fisheries Cooperatives, Law on Consumer Cooperatives, Law on SME Cooperatives. The Law on Agricultural Cooperatives was enacted in 1947, with particular emphasis on “farmer autonomy and independence”, avoiding the control of shareholders who were farmers but were not members. Official members of agricultural cooperatives must be farmers or small-scale farming households. The Cooperative Charter is applied before the Law on Agricultural Cooperatives and the Charter must comply with the Law. The main charter is the regulations of the cooperative for organizational governance, business and management. The registration authority (Minister of Agriculture or Provincial Head) is responsible for the establishment/dissolution of agricultural cooperatives and has the power to approve/ disapprove the cooperative's charter. At the same time, the Licensing Authority always places priority on the voluntariness and self-governance of each cooperative.

Mr. Jae Ho Lee, Director of the Economic Research Institute, NACF shared Korea's experience in developing cooperatives and the support from the Government. He said NACF is the largest organization of farmers and agricultural cooperatives in Korea, representing 1,118 cooperative members and 2.11 million farmers (as of the end of 2020). NACF has 4 companies, 16 agricultural corporations and 11 financial groups operating in many fields such as agriculture-livestock, finance-banking, and consulting support. The relationship between the government and NACF is based on the common goal of rural poverty eradication, using simultaneous government support and rural resources. NACF has been the political and agricultural partner of the government since its inception, able to sustain and grow in the market competition along with government policy-related projects. Regarding the Law on Cooperatives, Korea has separate laws for each type of cooperative, each of which

is handled by specialized ministries. For example, the agricultural cooperative law is overseen by the Ministry of Agriculture, Food and Rural Affairs; the Law on Fisheries Cooperatives is managed by the Ministry of Oceans and Fisheries; The Law on Forestry Cooperatives is managed by the Ministry of Forestry.

After a number of sharings by delegates in Asia, a delegate from the Dutch Organization for Agricultural Development (Agriterra) - Mr. Richard van der Maiden gave a speech on the development of cooperatives in the Netherlands. The Netherlands currently has a total of 2,500 cooperatives, contributing 18% of the total GDP with 30 million members. The factors that make up the success of cooperative development in the Netherlands are:

1. Creating a cooperative legal corridor
2. Members participating in cooperatives operate effectively
3. Specialization and strengthening of communication
4. The association in the system of cooperatives
5. The cooperative and its members have always determined that the relationship between the two parties is a "symbiotic relationship."

Thanks to these five factors, during the covid-19 pandemic, despite the reduced demand for goods, logistics services were affected, there were export barriers, and cooperative employees had to work from home, but cooperatives in the Netherlands managed the crisis by providing financial support to members, advocating for policies, negotiating with suppliers, reducing financial reporting regulations. Mr. Richard van der Maiden concludes that cooperatives are complex organizations aiming to maximize value, not profit, which are owned, managed and controlled by the members themselves. Cooperatives are organizations with special governance properties and members stand in key positions. This makes cooperatives more resilient than normal businesses in the context of a crisis.

To share her experience on cooperative auditing in Germany, Ms. Anja Muthmann, DGRV, noted cooperative auditing unions in Germany, DGRV services, characteristic-purpose-benefit-roles and audit training in Germany. DGRV is the national audit federation for the entire German cooperative system providing the following services

- Compulsory audit (Article 53 of the German Cooperative Law)
- Auditing of Consolidated Financial Statements

- Specialized audit
- Audit of treasury and securities transactions
- Providing Internal Auditing services to members
- Cooperate with DGR auditing firm to ensure the 4-eyes principle (for example for outsourced services).

Features of cooperative audit in Germany include: Compulsory audit rights granted by regional authorities to the cooperative audit union; At least one member of the Board of Directors of the federation of cooperative audits must have a CPA certificate; All cooperatives are required to be members of the cooperative audit union; Compulsory audits are carried out by the audit union of which the cooperative is a member; The audit opinion is completely independent - not affected by the Board of Directors or the Supervisory Board of the audited cooperative; Auditors must have specialized knowledge about cooperatives; Have the right to attend meetings of the Board of Directors/BOS to report on the audit results of the federation. Ms. Anja also outlined the processes, the main contents of the audit, and the duties and roles of the auditor, in addition to having an accounting-auditing degree, must also have necessary soft skills. Auditors themselves must also regularly attend professional events, and keep up with reality through reading professional publications or professional associations.

### **Trends, Policies and Laws of Cooperative Development in Asia-Pacific**

In the next part of the Workshop, legal experts from the ICA Cooperative Law Committee, the Legal Department of the International Cooperative Alliance (ICA) and the International Cooperative Alliance Asia-Pacific (ICA-PA) gave speeches about formulating position and policy development of Cooperative Law and international experience on the development of cooperative law.

Mr. Balu Iyer, Regional Director, ICA- AP highlighted the important role of the state in the development of cooperatives, suggesting that cooperatives need to be equipped with new skills in technology, and take steps to transform themselves to adapt to the new context. He presented the latest trends and governmental policies in cooperative development in the Asia-Pacific region citing examples from countries like Australia, U.A.E., and India, among others. Mr. Santosh Kumar - Head of the legal department, ICA highly appreciated the process of developing cooperative law, he said that this is a way to approach closer to the economic and



cooperative sector. Mr. Santosh said that the United Nations and the European Union have recognized the roles of cooperatives that need to create more conditions for developing cooperatives. Regarding the general issues in the Cooperative Law in the Oceania region, Ms. Ann Apps, a Member of the ICA Cooperative Law Committee raised common problems in Asia- Pacific (Fiji, Vanuatu, PNG, Kiribati, Australia, New Zealand) and broader legal issues impacted by globalization in Australia. Ms. Ann Apps stated that the law on cooperatives should retain the unique nature of cooperatives, taking into account existing laws including competition law, tax, banking and finance (these areas tend to favor organizations, large segment), innovate in emerging fields such as digital transformation, ecological solutions related to environmental problems, blockchain and digital currency. In addition, she suggested that the Government should understand and recognize, commit to accompany, remove barriers, strengthen information and communication, and consider the potential of cooperatives to contribute to the economy and society.

Professor Akira Kurimoto, Chairman of the ICA Cooperative Research Committee, provided terminology on cooperatives, research, documents on cooperative law and an overview of cooperative law in Asia. He emphasized building cooperative identity, ICA needs to issue a joint statement on cooperative identity as a basis for cooperative organizations around the world to use it as a framework to develop cooperative law for the country. Professor Hagen Henry - Chairman of the ICA Cooperative Law Committee stated that it is necessary to recognize cooperatives as an Enterprise with a specific name; The Law on Cooperatives must reflect the identity of the cooperative, so the cooperative must have its own shape, strengthen links and coordinate with labor organizations, unions, and approach partners.

### **Proposals and recommendations of the Workshop:**

In concluding the workshop, Mr. Nguyen Manh Cuong thanked the speakers, scientists, managers, and experts for their enthusiasm in sharing a lot of useful information - valuable documents for research and restoration. Service for formulating policies for cooperative development as well as amending Vietnam's Law on Cooperatives 2012 in the coming time, creating a favorable legal corridor to promote the development of collective economy and cooperatives.

Through discussions and opinions, the workshop agreed to have 5 recommendations with the Government, ministries and branches for amending the Law on Cooperatives 2012:

1. Fully institutionalize the Party's viewpoints, policies and guidelines on continuing to innovate and develop the collective and cooperative economy in our country's socialist-oriented market economy - Inheriting as much as possible the relevant provisions of the 2012 Law on Cooperatives, and at the same time selectively absorbing international experiences relevant to cooperatives in Vietnam, respecting the basic principles of cooperation; Creating development, taking cooperatives as the center to build a common legal framework, on the basis of cooperatives that are autonomous, self-responsible, dynamic, creative, and integrated with domestic and international markets.

2. Amending the Law on Cooperatives in 2012 should create a "breakthrough" step, focusing on overcoming limitations and shortcomings for the development of the collective economy and cooperatives towards the elimination of "pre-inspection" and strengthening of "post-inspection" of cooperatives and cooperatives unions; promptly overcome the situation of lax management, not paying due attention to the development of collective economy and cooperatives in the past time; completing the legal framework, amending and supplementing policies on economic support and incentives for collectives economic sector and cooperatives, including mechanisms and policies suitable to the characteristics of production organization and management mechanism; improve the quality of information and reporting work; strengthen inspection and supervision of operations, minimize the dissolution or bankruptcy of cooperatives and unions of cooperatives;

3. Creating favorable conditions for cooperatives to develop quickly, sustainably and equally with other economic sectors, associated with innovation of growth model, social security, environmental protection, sustainable development, green economy, circular economy, inclusive economy; diversifying forms and forms of cooperation in industries, fields and classes of people, especially in rural areas, suitable to local conditions; production and business associated with value chains, actively contributing to economic growth, socio-political stability, preserving cultural identity and developing socio-political;

4. Diversifying forms of association and cooperation, focusing on improving the quality and operational efficiency of cooperatives and unions of cooperatives according to the market mechanism, operating like enterprises - respect the nature, objectives, principles of organization and operation of the cooperative; encourage the development of large-scale cooperatives and unions of cooperatives in order to improve competitiveness and operational efficiency in the market economy and deepen integration;

5. Clearly defining the legal status, functions and tasks of the representative organization of cooperatives and unions of cooperatives, of which the Vietnam Cooperatives Alliance is the representative organization approved by the Party and State, plays a pivotal role and promotes the development of the collective economy sector and cooperatives, acts as a bridge between the Party and the State and the collective economic sector, contributing to the cause of economic development - the society of the country; specifying functions, tasks and resources for the Vietnam Cooperative Alliance system to perform the task of developing the collective economy and cooperatives.