

## Agricultural Cooperation in France

Created by farmers to organise collectively and in solidarity the sourcing and the marketing of their production, agricultural cooperatives, present all over France, have largely contributed to the development of the agricultural sector in the country.

Agricultural cooperation is an established mode of organisation, able to provide farmers with local structures and at the same time allowing the emergence of large groups of international standing.

Set up by and for farmers, those cooperatives are directly confronted to the mutations of the agricultural sector and they have demonstrated repeatedly their capacity to adjust.

The large place occupied by agricultural cooperation is not just due to the talent and determination of its leaders. It is also a reflection of its capacity to inspire, motivate and support its members. In this respect, it is worth noting that 9 out of 10 French farmers are members of a cooperative.

Beyond quantitative aspects it is also essential that members actively demonstrate their willingness to construct collectively the success of their enterprises.

Therefore, the notion of solidarity, strong value in the cooperatives' world, provides a suitable answer to the difficulties currently experienced by farmers. By joining and committing themselves to those transparent structures, farmers benefit from a valuable support and often from a significant valorisation of their production.

Cooperatives, being active in both the production and the marketing spheres, provide a real opportunity for farmers to answer those questions with the collective dynamism that characterises their enterprises.

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# 1. The economic weight of agricultural cooperatives

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*Agricultural cooperatives represent a significant economic weight in the French agro-food business. With 3 500 industrial and commercial enterprises (cooperatives, unions and SICAs) and 1500 subsidiaries, they represent a global turnover of more than 77 Billion Euros (in 2004).*

With more than 150 000 employees spread all over the country, cooperatives directly help to maintain employment in rural areas and are active rural development operators.

Moreover, cooperatives, being grassroots structures, actively support local farmers to develop their farm in a sustainable manner. In addition, they have recently taken over a number of important companies from the non-cooperative sector and created many subsidiaries, especially in the collection, processing and marketing industries. Today farmers, through their cooperatives and their subsidiaries, control more than half of the processing industries of agricultural products.

Therefore, if the cooperative sector exists thanks to its capacity to attract members, its sustainability and growth arise from its capacity to behave like a real enterprise.

The fact that cooperatives belong to the marketing and production spheres provides them with various development options. It is also a real opportunity for them to improve their positioning on the great European market and compete with multinationals in the agro-food sector.

In this respect, agricultural cooperatives differ from limited-liability companies. The legal status of agricultural cooperation is here precisely to highlight those differences, in nature and in constraints. They play a different role from the private sector.

Even single-purpose cooperatives operate on both the production and the business worlds. A single-purpose collect-and-sell cooperative for instance collects the production of its members in order to sell it to the best possible conditions on the market.

- **A supply cooperative** provides its members with fertilizers, pesticides, phytosanitary products and any other necessary agricultural input. Some supply cooperatives control today entire networks of shops specialised in those types of products (Gamm Vert is one of those). Those cooperatives also play a role of adviser and help farmers to control their production costs and protect their environment.
- **Service cooperatives** supply their members with all the services necessary for their production: artificial insemination, maintenance and mending of agricultural equipment or joint use of agricultural machinery.
- **A joint-management cooperative** implies the collectivisation of various production means (land, cattle, equipment, staff...) in order to constitute a farm that members will collectively exploit. This type of cooperatives is however quite rare.

- It is important to stress the existence of **CUMAs: Cooperatives of collective use of agricultural equipment**. They are a type of service cooperative that carries out, with appropriate equipment, tasks that have a direct bearing on the animal or vegetal production cycles. Their aim is to ease or improve conditions of production and increase the farms' productivity.

CUMAs are generally small, regrouping at least 4 farmers. The average number of members was 18 in 2003. There are today more than 13 000 CUMAs in France with 230 000 members in total whose average age is between 38 and 45 years old. 2 300 permanent workers and 4 100 occasional workers are employed by CUMAs. Each year they invest very large sums of money.

The first CUMAs appeared after the Second World War thanks to the Marshall Plan. They have met an irrefutable success and have largely contributed to speed up the mechanisation of French agriculture and to its achievements.

The regrouping of farmers into this type of cooperatives allow:

- The joint purchase of high-performance machinery at a lower cost,
- Investment opportunities usually out of reach of single isolated farmers,
- The diffusion of a know-how useful to the entire farming community,
- Farmers' control over the process of mechanisation,
- The emergence of local structures generating rural employment.

CUMAs benefit from state support: they are exempt of local business tax, and have privileged access to special credit schemes with reduced interest rates (the State pays the difference between the commercial rates and the rates paid by CUMAs).

Most of the CUMAs economic activities are centred around facilitating harvests: combine-harvester 17%, ensilage of crops 18%, mechanised grape picking 6%. Mechanisation costs, which represent between 20% and 30% of farmers total structural expenditures, are reduced thanks to a rationalisation in the choice and usage of collectively owned equipment.

- **Cooperatives of artificial insemination**

It is also worth mentioning the 48 cooperatives specialised in artificial insemination (approved inseminating centres) and the 20 cooperative unions (production centres) that employ 3 300 workers and carry out 85% of inseminations for dairy breeds and 12% for suckling breeds (cattle for meat production).

- **Processing activities** represent 40% of the turnover of agricultural cooperatives. They own important amounts of shares in this sector.

For the 7 sectors that represent 94% of their industrial activities (livestock slaughtering, dairy products, animal feed, canning industry, sugar refinery, wine production and distillation), cooperatives own 40% of market shares.

However, those figures are bound to rise since cooperatives are currently taking over companies from the private sector and creating limited-liability subsidiaries, especially in the conditioning and marketing sectors.

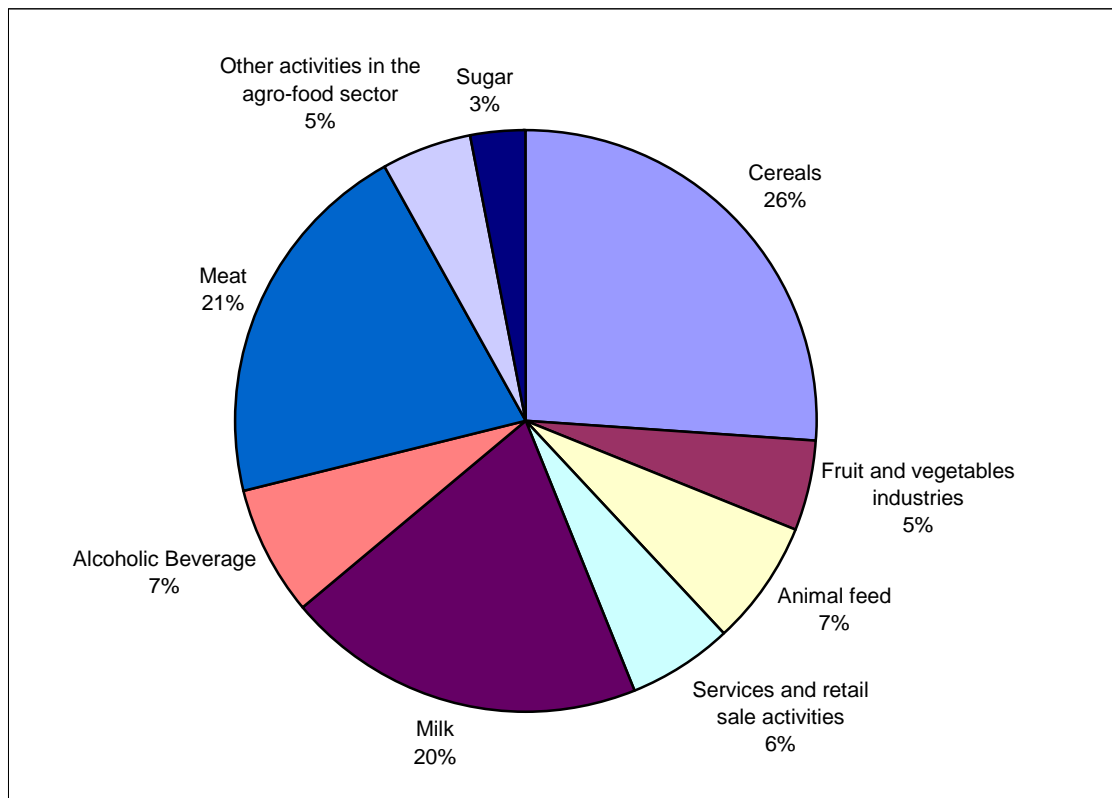
Today, 2/3 of the turnover of the agricultural cooperation is achieved by 10% of the cooperatives. Through mergers and restructuring operations and the rise of partnerships with the private sector, cooperatives, acting like large industrial groups, are creating high-performance economic tools for farmers.

## KEY FIGURES

The following graphs and tables show the weight of cooperatives in the agro-business sector.

Source: *Coop de France, 2003*

### Repartition of the turnover of agricultural cooperatives by sectors



**The global turnover of agricultural cooperatives is evaluated at nearly 77 Billion Euros for 2003 (including their subsidiaries) divided as follow**

	Turnover (In Billion Euros)
Collection activities of cooperatives	32
Transformation and processing activities of cooperatives	11.5
Collection activities of subsidiaries	10
Transformation and processing activities of subsidiaries	19
Other activities	4.5

**Market share owned by cooperatives in 2003 (%)**

Turnover in those sectors: 29 Billion Euros

Cider	80%
Table Wine	74%
Animal Feed	60%
Sugar	62%
Pork	46%
Corn	40%

Malting	40%
Quality Wine	38%
Dairy Products	37%
Beef	36%
Milling	35%
Champagne	30%

Source: Coop de France, 2003

### The first cooperative groups in the agro-food sector in 2004

ENTERPRISES	ADRESS	ACTIVITIES	MARKS	Consolidated turnover (Billion Euros)
TERRENA	44150 ANCENIS	Polyvalent	Val d'Ancenis, Gastronomes, Paysan Breton, Soviba	2 973
IN VIVO	75782 PARIS	Cereals/input supplier	GAMM Vert, Semences de France	2 727
SOCOPA	75755 PARIS	Meet	Hit Burger, Val tender, Valtero	1 930
SODIAAL	75014 PARIS	Dairy products	Yoplait, Candia, Riches Monts, Nactalia	1 870
TEREOS	02390 ORIGNY	Sugar	Origny, Beghin-Say	1 729
COOPAGRI BRETAGNE	29206 LANDERNEAU	Polyvalent	Paysan Breton, Prince de Bretagne, Régilait, ronsard	1 370
CECAB	56004 VANNES	Preserved food	D'Aucy	1 348
AGRIAL	14050 CAEN	Polyvalent	Florette, Manon	1 328
UNICOPA	29210 MORLAIX	Polyvalent	Cuisine et Vrai, Brocéliande, Rippez	1 193
ALLIANCE AGROALIMENTAIRE	31016 TOULOUSE	Dairy products	Cantorel, Capitoul, Pilpa	1 020
CHAMPAGNE CEREALES	51685 REIMS	Cereals/Input supplier, malt	Banette, Francine	989
LIMAGRAIN	63720 ENNEZAT	Seeds Biotechnologies	Limagrain, Vilmorin, Clause, Pain Jacquet	933
EPIS-CENTRE	18028 BOURGES	Cereals/Input supplier		912
EURALIS	64230 LESCAR	Polyvalent	Semences Rustica, Montfort-Grimaud, Rougié-Bizac	868
COOPERL HUNAUDAYE	22403 LAMBALLE	Meet	Calidel	857
GROUPE EVEN	29260 PLOUDANIEL	Dairy products	Even, Mamie Nova, Kerguelen, Paysan Breton	838
CRISTAL UNION	45490 CORBEILLES EN GATINAIS	Sugar	Daddy	835
UNEAL	62054 ST LAURENT BLANGY	Cereals/Input supplier		604
MAISADOUR	40001 MONT DE MARSAN	Polyvalent	Delpeyrat, Saint-Sever, Maïsadour semences	566
AGRALYS	28201 CHATEAUDUN	Cereals/Input supplier	Ebly	518
GROUPE EURIAL POITOURAINE	86130 DISSAY	Dairy products	Soignon, Couturier	480
GLAC	17700 SURGERES	Dairy products	Surgères, Lescures, Bongon, Saint-Loup	396
TERRES DU SUD	47320 CLAIRAC	Polyvalent		394
CAVAC	85001 LA ROCHE S/YON	Polyvalent		394
EOLYS	22204 GUINGAMP	Polyvalent		380
UNION SET	72021 LE MANS	Polyvalent		373
NORIAP	80440 BOVES	Cereals/Input supplier		371
LE GOUESSANT	22400 LAMBALLE	Polyvalent		344
LA DAUPHINOISE	38203 VIENNE	Cereals/Input supplier		343
NOURICIA	10088 TROYES	Cereals/Input supplier		338
LES VIGNERONS DU VAL D'ORBIEU	11104 NARBONNE	Wine	Listel	321
DIJON CEREALES	21604 LONGVIC	Cereals/Input supplier		303
VIVADOUR	32400 RISCLE	Cereals/Input supplier		297
CAP SEINE	76134 MONT ST AIGNAN	Cereals/Input supplier		296
CORALIS	35511 CESSON SEVIGNE	Polyvalent	Agrilait	295

## 2. The origins of the legal status of agricultural cooperation and its development

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*The cradle of the cooperation philosophy is the United Kingdom and comes from the movement of the 'Rochdale equitable pioneers' in the middle of the 19<sup>th</sup> century. We also find in France, as early as the 17<sup>th</sup> century, some 'dairy cooperatives' in the Jura region where producers used to collectivise their milk production in order to make cheese together. Each cheese requiring several hundred litres of milk, the producers simply had to get together.*

### I - THE HISTORICAL ORIGINS OF THE LEGAL STATUS

The cooperation is a way to organise economic activities based on the practice of solidarity between members, stronger members accepting to help weaker ones and all of them backing up each others in order to defend their common interests.

In France, cooperation was born out of the various crisis experienced by the agricultural economy since the end of the 19<sup>th</sup> century.

In the 1880's, farmers' trade unions got involved for the first time in economic operations and their power has grown stronger since. They start to oppose the power of merchants by purchasing fertilizers on behalf of their members.

In 1884, a new law on trade unions expressly mentions that their purpose can be the defence of agricultural interests. In 1920, a law specifies that trade unions can buy equipment, fertilizers, seeds, plants, cattle and animal feed to redistribute to their members. Many farmers' trade unions will transform themselves into cooperatives later on.

There are two main reasons for the emergence and development of cooperatives: they answer economic needs that their members cannot meet on their own and they defend them against the power of merchants.

The history of agricultural cooperation is closely linked to the crisis of the wine industry at the beginning of the 20<sup>th</sup> century. The wine makers of the south of France used to sell their production to merchants. As long as they could make enough profit out of their vineyard the idea to get together to defend their collective interest did not occur to them.

However, in 1899, wine makers started to experience serious difficulties to sell their wine. They had recently replaced their vineyards with a new American variety, after a devastating pest destroyed the old varieties. However, the new variety brought a yields increase and with it a severe drop in prices. To defend their interest and way of life, wine makers decided to create unions and the first cooperative of wine production 'The Free Winemakers' was born in December 1901.

The State, little by little, is going to financially support the agricultural sector. Mutual agricultural credit unions, constituted as early as 1894 support farmers and their cooperatives.

At the end of the First World War, cooperatives, benefiting from financial incentives, are instruments of the reconstruction of devastated zones and contribute to the economic recovery of rural areas. The crash of the wheat market in 1934-1935 gives birth to the Wheat Office whereby the State guarantees to the producers the payment of their harvest. Many silos are built, often by cooperatives.

At the time there are more than 6000 agricultural cooperatives to which new loan facilities are granted. More over, they are exempt of the tax on industrial and commercial profits and of the tax on business's turnover.

After the Second World War, agricultural cooperatives conserve their tax advantages and contribute largely to the economic development of the country.

We can then see blooming CUMAs, Cooperatives of collective use of agricultural equipment and Service Cooperatives. They get priority in the allocation of agricultural equipment provided by the Marshall Plan and they benefit from a number of advantages, especially the exemption of the local business tax and access to loans with lower interest rates guaranteed by the State.

The 10<sup>th</sup> of September 1947 law regarding the cooperatives' legal status gathers together in a single text all the rules common to different types of cooperative societies and sets their modes and terms of functioning.

The regulation hasn't stopped changing and being modified in order to take into account the major changes experienced by French agriculture, especially, the constraints brought by the creation of the European Community, and today by markets globalisation.

It is worth mentioning the 27<sup>th</sup> of June 1972 law that allows clauses derogatory to cooperative principles such as: the possibility for cooperatives to conduct business operations with non-members, the weighting of vote, the revaluation of their registered capital, the possibility for non-user (investors) to become members and, lastly, letting a management organ and a supervisory organ become responsible for the management of cooperatives.

It is also important to mention the laws of the 3<sup>rd</sup> of January 1991 and of the 13<sup>th</sup> of July 1992 that allow outsider investors (non-user members) to buy shares of the registered capital. They also allow cooperatives to withdraw from the cooperative legal status if their supervision authorities grant them the permission to do so. In this case, cooperatives cannot share their inalienable reserves for at least ten years.

The development of their legal status demonstrates the capacity and constant efforts of cooperatives to adapt to their changing conditions of production and to the new forms of marketing agricultural products.

## **II – THE REASONS FOR THE DEVELOPMENT OF AGRICULTURAL COOPERATION**

### **1/ The advantages of the cooperatives' mode of organisation**

#### **a/ The mutualisation of means**

Regrouping allows economies of scale (harvest, conditioning, marketing...)

Collective structures allow investments that isolated farmers could never afford.

Cooperatives allow the diffusion of know-how and gains of productivity.

Moreover, one of the cooperatives' purpose being to support local rural development, they allow the greatest number of farmers on their territory to join them and become members. This helps farmers to develop their production system in a sustainable way without fearing delocalisation. Keeping farmers and equipment in rural areas promotes local economic development.

#### **b/ The control of the sector by the producers**

Cooperative members can choose their degree of involvement in the various segments of agricultural production (cultivation, marketing, processing...).

It allows cooperative members to have control over their production strategies, their marketing strategies and their payment.

Cooperatives, being involved with the agricultural input sectors and the processing and marketing aspects of agricultural productions play a vital role in:

- The productivity gains of agricultural businesses,
- The adjustment of the production to requirements of consumers, both quantitatively and qualitatively,
- The conditioning of agricultural products towards an improvement of their positioning on the marketplace.

#### **2/ Public bodies' support towards agricultural cooperatives**

Conscious of the importance of agricultural cooperatives for the development of the agro-business sector in general, public bodies manifest their support in two ways:

- The granting of subsidies, not so much in use nowadays, but which constituted in the past a powerful incentive for the development of the cooperative movement,
- The existence of a specific tax regime that allows producers to develop their activities in a suitable framework.

### **III – THE CURRENT LEGAL FRAMEWORK**

#### **1/ Cooperatives in general**

There are several 'families' of cooperatives: small-scale industries, fishermen cooperatives, coop banks, consumers cooperatives...

All are regulated by the law of the 10<sup>th</sup> of September 1947 that sets the general rules applicable to all cooperatives, whatever their economic sector.

#### **2/ Agricultural cooperatives**

Agricultural cooperatives and Agricultural Common Interest Societies (SICAs) are regulated, in the main, by the rural code. The legal part of this code sets out most of the principles applicable to agricultural cooperatives. Their modalities of application are found in the regulatory part of the code. The main texts are the following:

- For agricultural cooperatives: Title II book V of the rural code (art. L.521-1 to L.529-6 and R.521-1 to R.529-2)
- For SICA: title III book V of the rural code (art L.531-1 to 535-5 and R.531-2 to R.535-1)

The Ministry of Agriculture establishes the standard statutes that agricultural cooperatives must absolutely follow.

It is worth mentioning that agricultural cooperatives shall also respect other provisions specified in other texts, legal or regulatory, such as general commercial and taxation laws.

### 3. The legal characteristics of agricultural cooperatives

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*The object of cooperatives is the common use, by farmers, of anything that may facilitate or develop their economic activities and improve or increase the results of those activities.*

#### I – THE MAIN PRINCIPLES

**Freedom of membership: this is the ‘open door’ principle.** Any producer whose activity is similar to the ‘object’ of the cooperative and who is based on the territory of the cooperative can become a member of this cooperative (after approval by the administrative organ).

**Democratic management: This is the ‘one man = one vote’ principle.** At the general assembly, all members have one vote each, regardless of the number of shares they own and of their volume of economic transaction with the cooperative.

However, the statutes may allow some exceptions: some votes may weight more than others according to the quality of members’ participation to the cooperative’s activity. This weighting of votes cannot be based purely on financial criteria and does not take into account capital contributions. In addition, the weighting cannot exceed a certain level: no one can have more than 20% of all votes in a general assembly.

**The ‘acapitalim’:** This neologism implies that cooperatives don’t distribute dividends and that their reserves cannot be shared.

Cooperatives are associations of individual people and not capital societies where shareholders can at anytime sell their shares.

#### II – MAIN RULES OR VALUES

**Transparency:** All members must be aware of the rules of functioning of their cooperatives and cooperatives must train and inform their members. However isolated farmers may be, they must all be aware of the services they can benefit from their cooperatives and be informed of their policy, especially regarding the price paid for each product.

**Equity:** All members are paid the same price for a similar product (in quantity and quality).

However, it is sometimes possible to pay members differently when farmers’ contribution can be better valorised on the market (ex: early-season fruits and vegetables etc.).

This disparity of treatment must be based on objective economic criteria and be known by all.

**Solidarity:** Cooperatives are privileged spaces of solidarity. They are not about permanent assistance, but they support members who have temporary difficulties or young farmers starting in the business.

**Responsibility:** One of agricultural cooperatives’ objectives is to help farmers to fully achieve their potential. Not only cooperatives are ways of providing fair remunerations for farmers’ produces, but they also provide them with the necessary information to understand their environment and adapt to its changes.

Cooperatives must therefore provide all of their members with objective information regarding markets, and agricultural policies so that they can manage their farms to the best of their ability.

#### **Remuneration of products:**

Producers receive each month an instalment, or advance payment, as a remuneration for their contribution (in products). Before the end of the financial year, the administrative organ can increase these instalments if the economic and financial situation of the cooperative allows it.

#### **Allocation of profits:**

After the closure of the balance sheet, the general assembly decides on the allocation of an eventual surplus. The general assembly has several options:

- Allocate all or part of the surplus to the reserves.
- Pay a dividend to members in proportion to their business with the cooperative, or the services they have performed for it.
- Finally, if there is still something left, the general assembly can provide a return on paid-up capital. This return cannot exceed a specific rate set by the Ministry of the Economy (4,26% in 2004).

In case of dissolution of the cooperative, the reserves must be transferred to another cooperative or to a charity dedicated to agricultural general interest. This is for two reasons:

- To transmit cooperatives' properties from one generation to the next. Because cooperatives' reserves cannot be split, the value of the social shares is necessarily equal to their nominal value. If young farmers had to buy back their elders' shares taking into account the real value of the cooperative, they could never afford to become members and cooperatives would be put on the market because farmers couldn't afford to remain their owners.
- To avoid ruining cooperatives given the variability of their registered capitals' real value: when an associate leaves the cooperative at the end of her/his period of involvement or retires, the cooperative pays back her/his social shares to their nominal value.

An actualisation of the shares' value is however possible through the incorporation of some of the reserves to the capital. In brief, this option **only** compensates the effects of inflation and puts into practice the equity principle of agricultural cooperation.

### **III – THE PRINCIPLES SPECIFIC TO AGRICULTURAL COOPERATIVES**

When deciding to join a cooperative, a producer undertakes to honour **two types of commitments**:

- **The commitment to deliver all or part of her/his production** to the cooperative during a compulsory period defined in the statutes.

- The commitment **to subscribe to a portion of the registered capital**, in order for the cooperative to be able to self-finance, at least in part, its developments. Farmers (individuals and legal entities), but also other cooperatives and agricultural associations can become members of a cooperative if they can commit to those two conditions.

Non-user (investors) members can also join cooperatives under a specific status. They can own a share of the capital if the statutes formally allow this option, but always less than half of the total amount of shares.

**Exclusivism:** Cooperative, being companies created by and for farmers, cannot, in principle, conduct business operations with anyone else than their members. There are however exceptions if the three following conditions are met:

- This option must be specified and allowed in the statutes.
- Transactions with non-members must be in conformity with the object of the cooperative.
- Those transactions are limited to 20% of the annual turnover. It is worth noting that those transactions are submitted to the normal business taxation regime.

## 4. The types of structures regulated by the legal status of Agricultural Cooperation

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*The competent authority (the county prefect, the region prefect or the Minister of Agriculture depending on the importance of the territory) grants an official approval to cooperatives for one or several of the following activities, all defined and limited by the rural code.*

### I – AGRICULTURAL COOPERATIVES

#### 1/ The types of activities (or the object)

##### **Collect and sale cooperatives**

Those cooperatives collect and centralise their members' harvests, condition and market them.

##### **Joint exploitation of resources**

Cooperatives jointly valorise their members' farms, whether rented or owned.

##### **The sections**

Given the territorial spread and the some times large number of members, cooperatives are materially and legally obliged to divide their general assemblies into sections to facilitate members' consultation.

##### **Cereals cooperatives**

Those cooperatives deal with everything related with cereals farming from production, to stocking, from preservation, to conditioning and sale.

##### **Supply Cooperatives**

Supply cooperatives buy products (seeds, packaging, fertilizers, pesticides, agricultural equipment...) and sale them back to their members.

##### **Service Cooperatives**

Those cooperatives supply their members (and only them) with specific services for their farms: tests, experiments, stocking facilities...

#### 2/ Sectors of activity

Cooperatives' statutes must specify both their type of activity and the products for which they are seeking approval. In this respect, there are two types of cooperatives:

##### **Univalent cooperatives:**

Cooperatives that have only one object or deal with only one product.

##### **Polyvalent cooperatives:**

Structures that either have several objects or conduct business in several production sectors.

### **3/ Specialised cooperatives**

Some cooperatives can be totally specialised: this is the case of cooperatives dealing with artificial insemination. The selection of animals is regulated by very strict rules brought into play by highly specialised cooperatives that contribute thereby to the improvement of species and to the health and quality of cattle.

This is equally the case of the CUMA (Cooperatives of collective use of agricultural equipment). They are a specific type service cooperatives and their characteristic is to deal with agro-machinery. CUMAs allow and organise the collective use of agricultural equipment such as tractors, combine-harvesters, pulverizers and vaporizers... They are often small local structures.

## **II – UNIONS OF AGRICULTURAL COOPERATIVES OR SECOND-DEGREE COOPERATIVES**

Unions of agricultural cooperatives regroup legal entities, mainly agricultural cooperatives but not exclusively. Individuals (farmers) cannot be members of a second-degree cooperative.

Second-degree cooperatives function in the main like cooperatives and are involved with the same kind of activities. Their advantage is that they can collect a greater amount of production and make bigger investments.

The milk production sector provides a good illustration: cooperatives collect their members' milk and deliver it to a union to be processed (into butter, milk powder, cheese...) and marketed.

## **III – SICAs: AGRICULTURAL COMMON INTEREST COOPERATIVES**

SICAs have been created to undertake work of collective interest (rural electrification, slaughter houses, social hygiene...) just after the First World War, when there was no exception to the rule of exclusivism in the cooperative statutes. SICAs facilitated the association of farmers and of other non-farmer professionals.

SICAs are limited-liability companies that, after being granted an approval by the competent authority, receive a quasi-cooperative status.

They differ however in their conception and functioning compared with proper cooperatives.

- Producers must own the majority of voting shares but the non-farmer members of the sector (industrialists, merchants and even local authorities) must own at least 20% of the voting shares in the general assembly.
- Subscriptions to the voting capital cannot be linked to commitment of activity.
- SICAs can conduct business with non-members for up to 50% of their turnover.

The main advantage of this status is that it brings together various types of partners operating in the same economic and geographical sector in order to increase its global performance.

#### **IV – COOPERATIVE GROUPS**

This is not strictly speaking a legal category, but it is important, given their economic weight, to mention their existence.

The creation of cooperative groups able to bring together cooperatives, unions, SICAs and limited-liability companies is an important factor in the development of agricultural cooperation.

Since 1991, cooperatives can create limited-liability subsidiaries. They do so essentially for the conditioning and marketing sectors.

Cooperative groups should, in principle, result in a more rational usage of the groups' resources and greater competitiveness thanks to the specialisation of each subsidiary. Those groups must consolidate their accounts and present them to the general assembly.

Those groups are essential tools for cooperatives to compete with multi-nationals in the agro-business sector and better position themselves on the great European market.

## 5. The application of cooperative principles in the actual life of agricultural cooperation

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*Cooperatives are enterprises, as such, they use accounting methods that reflect the functioning rules specific their legal status. The originality of a cooperative lies in its privileged relationship with its members.*

The accounting method used by cooperatives embodies this originality. Today accounting methods for cooperatives across Europe are being harmonised thanks to new European Union regulations.

Cooperatives must account separately for the services they provide their members with (marketing, artificial insemination of the cattle, supply of specialists for the keeping of vineyards, etc...). Their books must show immediately what tasks they undertake to valorise the production of their members or to offer them the best possible services for their farms.

To this effect, a book-keeping method was established by the agricultural and finance ministries specifically for agricultural cooperatives. The method complies with new European Union rules: while they generally follow normal business accounting methods they also translate the specificities of the relationship between cooperatives and their members, including the specific rules related to the registered capital.

The registered capital is an expression of membership and is founded on a logic of activity and not on a financial logic. It is calculated for each member according to the surface of her/his farm, her/his turnover within the cooperative, or the yield per hectare s/he achieves.

The cooperative chooses an appropriate criterion for subscribing to its registered capital once and for all and must specify it in its statutes.

The registered capital shown in the books is variable and changes according to the size of the farms of its members.

The registered capital is a crucial element to set up a cooperative, to make it function and to fulfil its role as a promoter of its members' activities.

The registered capital allows farmers to invest jointly or to take control of the conditioning and marketing sectors related to their productions. The social shares received by farmers authenticate their membership and confirm their responsibility towards the cooperative.

When a member leaves the cooperative at the end of her/his legal involvement or when s/he retires, the cooperative repays her/him her/his shares of the subscribed capital. This repayment shall be made at the shares' nominal value and shall not take into account the real or potential value of the entire cooperative.

However, the statutes of a cooperative may expressly allow a revaluation of the shares by incorporating some reserves to the capital in order to compensate the effects of inflation.

In addition, the price paid for a product by a cooperative is the same for all members, whether they own a big farm or a small structure, given that the products are similar in quantity and in quality.

Cooperatives must actually ensure that all their members are aware of the concrete modalities of payments for their contribution. Members must also be informed of the price of the goods and services offered by their cooperatives.

Agricultural cooperatives are an instrument of organisation of the production, joint valorisation of agricultural products and mutualisation. This is why the equity principle has been reaffirmed despite the evolution of cooperatives in a modern world more and more open to financial partners.

In some cases, cooperatives may reward members who contribute regularly with a production well spread in time, or members who respect a pre-established schedule imposed by the cooperative to position them better on the markets.

Equity is a basic economic principle for agricultural cooperatives but disciplined productions respecting quantitative and qualitative criteria are also highly valued.

## **6. The functioning of an agricultural cooperative**

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***The functioning of a cooperative must always be consistent with the laws and regulations of the sector. The Ministry of Agriculture establishes standard statutes and agricultural cooperatives must imperatively respect them.***

The basic structure of a cooperative is the following:

### **The general assembly**

This is where members deliberate and vote. All members have the right to be present or represented at the general assembly and have one vote each regardless of the number of shares they own. This principle \_ 'one man, one vote' \_ departs from the law on limited-liability companies where the number of votes is generally proportional to the amount of shares owned.

### **The annual ordinary general meeting**

After a reading of the management and financial reports, of the administrative organ's reports and of the auditors' reports, the annual general meeting must:

- examine, approve or amend the accounts, and if necessary the consolidated accounts,
- give or refuse the 'quitus' (final discharge) to the administrators,
- decide on the modalities of allocation of a potential surplus and in particular the amount to allocate to the compulsory legal reserve,
- decide to provide a return on shares and if necessary set the rate of return.

When called regularly and when the quorum is reached, the ordinary general assembly can take decisions within its prerogatives.

### **The annual extraordinary general meeting**

This is the only suitable meeting where statutes can be amended without contravening to the cooperatives' legal status.

### **The administrative Organ**

The administrative organ is a collective and permanent organ. It manages the cooperative and represents it in its dealings with third parties. It meets as often as necessary and at least once every three months. The administrative organ is a rapid decision-making body and the general meeting elects its members.

The administrative organ appoints a managing director, employed and paid by the cooperative and it is her/his responsibility to manage the company.

The spirit of cooperation is based on the respect of human beings, on the responsibility of cooperatives as enterprises, on solidarity principles (each one for everyone), on mutual aid (all for one) and on social justice (equal distribution of the fruits of the cooperative's labour proportionally to each member's contribution).

Healthy cooperatives strive to promote those principles through the regular circulation of information to their members, the training of administrators and the respect of the equality rules. The main components of a cooperative, beside its members themselves, are the chairman, the committee, the administration organ and the executive organ.

### **The chairman**

The administrative organ appoints the president. Her/his role is essential as s/he normally chairs the general assemblies and represents the cooperative in legal proceedings.

### **The committee**

The committee is appointed by the administration organ and renewable every year.

General policy matters are first discussed within the committee with the participation of the management. The committee and the management often work on three-year plans to establish the development policies and the investment and commercial strategies of the cooperative. Those plans are then put forward the administrative organ to be discussed, amended or accepted. After acceptation, the executive organ is responsible for the application of the plans.

This information should normally be circulated, after approval, to the cooperative's members by representatives of the administrative organ or by employees of the cooperative mandated to do so. This is to ensure that all members are able to follow the development of their enterprise. This information is also circulated at general assemblies and are the opportunity to take bearings on the situation and occasionally to receive suggestions.

A close relationship with the grassroots of the cooperative is necessary for a good functioning of those structures.

### **The managing director**

The managing director applies the policies defined by the administrative organ, suggests innovations and manages the cooperative, including the collection, transformation and marketing of the members' production. S/He is also in charge of the employees of the cooperative. It is essential that the chairman and the managing director work closely together as they are the supervisory and the management elements of a cooperative.

Within a cooperative, the management of human relations follow the same rules as in any other enterprise: principles of productivity, quality, security and competitiveness apply in the same way.

In brief, the general assembly, the administrative organ, the chairman and the managing director have the human, social, economic and philosophical responsibility of the enterprise.

## Specific system of auditing

Legal requirements stipulate that agricultural cooperatives and their unions must be members of a federation of cooperatives. Legally authorised by the Minister of Agriculture, those federations are in charge of proceeding to **an analytical and periodical inspection of the accounts and of the management of the cooperatives** that request it. This special auditing system aims to produce a critical assessment to be used by the audited cooperative.

The approved federations of cooperatives must be member of the **National Specific System of Auditing Association** of the agricultural cooperation whose aim is to establish auditing methods and principles, to organise, follow and control their application, to assist with the recruiting and approval of auditors/revisers and to manage the resources available to this effect.

The statutes and budgets of the National Specific System of Auditing Association (NSSAA) are submitted for approval to the Minister of Agriculture and to the Minister of Finance. Its resources are constituted by the cooperatives or unions' compulsory contributions, collected through the intermediary of the federations.

The auditing of the accounts is for the moment only compulsory in two cases:

- When the statutes of a cooperative allow a clause departing from the principle of exclusivism,
- When there is a revalorisation of the social shares through the incorporation of part of the reserves to the capital.

A new law is currently being considered to render compulsory the special auditing of cooperatives accounts in cases of mergers, scissions and restructuring.

In all cases, all cooperatives and unions of agricultural cooperatives must join an approved federation and through its intermediary contribute to the NSSAA.

Approved federations are either polyvalent or specialised national federations or regional federations. Thanks to those high-performance auditing tools and bodies, cooperatives have been able to improve their weaknesses and carry out necessary adjustments to be all the time more competitive.

## 7. The tax regime of agricultural cooperatives

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### *Why is there a specific tax regime for cooperatives?*

**Agricultural cooperatives are exempt of business tax** for the transactions they carry out with their members. This is for two reasons:

- Farmers who are members of a cooperative shouldn't pay twice the business tax: once for their own production and a second time through the collective tool. The results of cooperatives are indeed taken into account in the revenue of their members,
- Members cannot make any profit on the registered capital they subscribed to when they join the cooperative.

Cooperatives and unions must pay the local business tax but their tax base is reduced by half. CUMAs do not pay it at all.

SICAs in principle must pay business tax like all other limited-liability companies for all their activities. However, in most cases, they only pay half of the local business tax.

Cooperatives, like any other company based in France, must pay indirect taxes such as VAT.

Some criticise this aspect of the cooperative legal status and argue that, this specific tax regime is a factor of unfair competition to the disadvantage of the rest of the private sector. However, these criticisms must be tempered given the importance of cooperatives for the development of the entire French agricultural sector. Moreover, cooperatives' specific status grants them some advantages but also significant constraints, which shouldn't be underestimated.

First of all, cooperatives are subjected to a process of legal approval, which grants them the authorisation to operate only in the economic sector(s) applied for and only on a specific and restricted territory. This constitutes in itself a restrictive framework to their activities. In addition, they can only operate transactions with their members within this restrictive framework.

Other rules of functioning of cooperatives have significant consequences. The equity rule for example, obliges cooperatives to handle all the contributions of their members and to pay all of them an equal price for their production.

**The rule of exclusivism** is equally a limiting factor since cooperatives can only carry out transactions with their members.

It is true that the cooperatives can specify in their statutes the possibility of 'transactions with non members' as long as they don't exceed 20% of the turnover, but those activities are then submitted to the normal business tax regime like any other limited-liability company.

Similarly, it is worth remembering that **the reserves of a cooperative are indivisible in case of dissolution.**

Finally, both the tax agency and the services of the Ministry of Agriculture control agricultural cooperatives and check that they respect the constraints of their legal status. This sometimes leads to tax adjustments and cooperatives' transactions are then treated like classical commercial activities and/or leads to the cancelling of their approval.

## **8. The role of the State in relation to agricultural cooperatives**

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### **I – THE DRAWING-UP OF THE REGULATION**

The first function of the State, in this respect, is to establish and adapt the legal framework applicable to agricultural cooperatives.

This is more specifically the mission of the Ministry of Agriculture but other ministries are also concerned, especially the ministries of economy and finance for the taxation aspects and the Ministry of Justice regarding commercial and company laws.

At the moment, State agencies are guided by three main concerns:

- To preserve the conditions of a loyal and balanced competition between cooperatives and the private sector.
- To adapt and adjust cooperatives' legal status in order to harmonise it with the European Community Status of European Cooperative Societies (SCE).
- To maintain and reinforce the cooperative movement given its interest for the producers and for French agriculture as a whole.
- To Monitor the good management of cooperatives.

### **II – STATE APPROVAL AND CONTROL OF AGRICULTURAL COOPERATIVES**

Cooperative structures are likely to deal with several types of administrations: the taxation authorities will ensure that cooperatives respect the rules of functioning specific to their legal status and other administrations will check that they respect the sector-related rules.

But the Ministry of Agriculture plays a predominant role. Professional representatives of the agricultural sector are in constant relation with their Ministry. The Ministry of Agriculture is also responsible for two essential procedures: granting approvals and sometimes cancelling them if a breach of cooperatives' rules has been established.

#### **The approval**

Agricultural cooperatives, their unions and SICAs are the subject of a procedure of approval that validates the conformity of their status to the current legal regime. Depending on the extent of the territory, the agreement is granted by the departmental prefect, the regional prefect or the Minister of Agriculture.

The registering structure must submit their application to the competent administrative authorities. A special commission (departmental commission on agricultural orientations or central commission of cooperatives approval), composed of representatives of the administration and of professionals examines the application and gives a consultative opinion. The final say is up to the competent authority.

## **The control**

Each year agricultural cooperatives must provide the authority that granted them their approval with documents demonstrating that their functioning is consistent with the rules applicable to cooperatives.

Those documents must include a copy of the minutes of the general assembly, a copy of the documents available for members to examine before the general assembly, the annual accounts, profit and loss accounts, balance sheet, reports made to the members or consolidated accounts and management reports, reports from the auditors regarding both the annual accounts and the consolidated accounts.

In addition, all amendments to the statutes (object, length of time of activity, transformation, mergers, takeovers...) must be notified to the competent authority within one month of their adoption.

Similarly, when cooperatives wish to take some shares in a limited-liability company, they must inform the services of the Ministry of Agriculture who may grant or refuse their approval.

An approval can be cancelled if a cooperative ceases to apply the rules of its status, if it modifies its object or if it extends its territory of action without the official approval of the competent authority.

Approvals can also be cancelled when control reveal that the administrators of a cooperative are incompetent, that legal, statutory or regulatory rules have been broken or that a cooperative has failed to grasp and promote the interests of its members.

## **9. Financial support to agricultural cooperatives**

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It is important first of all to stress that there is no subsidy specifically granted to cooperatives because of their status.

The only financial advantage that cooperatives benefit from permanently is their specific tax regime.

However, cooperatives, like limited-liability companies, may receive some financial assistance in relation with some specific projects they undertake.

This is the case for example of some aides granted by the European Structural Fund. Some investment projects (acquisition of new transformation equipment, pollution-reduction activities or steps taken toward quality-improvement) can be co-financed by French and European authorities and of course by the interested parties themselves. These actions are linked to the respect of pre-established priorities.

Financial support may also be granted as part of the State's or the Regions' economic development strategies to promote specific programs adapted to the needs of the regional economies. In this case, the regional authorities finance in part those actions or projects.

Finally, there are a few other very specific types of assistance such as: financial assistance for the creation of some types of CUMAs, or reduced interest rates on loans for the acquisition of specific types of equipment by CUMAs.

## 10. As a mode of conclusion

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***The agricultural cooperation is a mode of organisation with an established track record, able to facilitate the emergence of groups of international standing and at the same time to provide farmers with adapted local structures and instruments for their development.***

Being tools set up by and for the producers, agricultural cooperatives are directly confronted to the mutations of the agricultural sector. They have many times demonstrated their ability to adapt.

The success of the cooperation are linked not only to the skills and determination of its managers, but also to its capacity to bring together members and promote their interest. Bearing this in mind, cooperatives can be proud to count in their ranks nearly all French farmers.

### **A bit of history...**

Cooperatives have certainly evolved a lot in the last century. Yesterday an extension of their members' farms, encouraging their economic growth and defending their economic interests constantly threatened by recurring crisis, cooperatives have become today genuine enterprises able to perform the game of the private sector while respecting the great principles of agricultural cooperation.

The development of cooperatives, especially in the last twenty years, is characterised by two trends: a movement of restructuring on the one hand and the involvement of cooperatives in the industries of stocking, transformation and marketing of agricultural products.

Powerful cooperative groups are born and can now have an impact on the European and international markets.

A constant attention to competitiveness remains the key to ensure the sustainability of the production of cooperatives' members.

Agricultural cooperation has perfectly played its role when it was about collecting and selling their members' production through a simple valorisation on protected markets. The new economic, social and political rules urge them to develop strategies similar to those of the private sector facing open markets.

The ability of cooperatives to adapt, to adjust to their environment and to constantly meet the new expectations of their members is a confirmation that the ideas of getting together to cooperate and carrying out joint projects remain and will remain modern ideas, adapted to the economic reality.

### **Future challenges**

The main axes of cooperatives' development are the following:

- Cooperatives should be tools for young farmers and support them when they set up a new farm,
- Cooperatives should remain fundamental actors as far as economic organisation, production cost reductions, valorisation of agricultural products and qualitative and quantitative market adjustments of products are concerned. They are a way for farmers to get involved with the development policy of their sector,

- The territorial roots of cooperatives confer them a decisive role in local economic development and environmental conservation of rural areas,
- Cooperatives are training schools for farmers involved in the running of their economic tool.

The future of farmers and of the agricultural world depends above all on their ability to cooperate and to set up systems of collective actions and appropriate mechanisms of solidarity.

The legitimacy of cooperatives lays on their economic performance and on their capacity to champion the values of transparency, equity and solidarity in the scrupulous respect of the democratic rules of functioning that characterise them.

Cooperatives have a responsibility towards their members but also towards the rural world in general and the specific area they have bounds with.

The great challenges of today and tomorrow are those of the internationalisation of markets, of innovation, of environmental conservation and of food security. This presupposes that cooperatives become leader on the market and probably means more restructuring, alliances, regrouping in order to better position themselves on the international market.

Today French cooperatives operate alliances and partnerships across Europe. The regulation 1435/2003 regarding European Cooperative Societies (SCE) provides an appropriate legal framework to create transnational European cooperative groups.