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SOME RESULTS OF THE APPLICATION OF THE LAW ON STATE ENTERPRISE
AND THE LAW ON COOPERATIVE SOCIETIES IN
THE UNION OF THE SOVIET SOCIALIST REPUBLICS*

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Problems of the development of cooperation movement in our country are among the most critical problems of our time. This has been caused by a great number of reasons of objective and subjective character.

The revival of cooperative movement during the period of perestroika has been viewed by the Soviet State as a natural process of the renewal of a socialist system of management. This process assumes a diversity of methods of management based on different forms of property, the establishment of economic ties on cooperative basis and thus, further expansion of the sphere of contractual relationships determined in general or exclusively by the participants. The direct planning of these ties must be restricted to the utmost.

The country's economy has been demanding more freedom for the actual producers of material goods and transformation of their relations with state and economic managerial bodies. Important measures had to be taken in order to change the economic and legal status of state enterprises and associations as well as to create conditions necessary for the establishment of new organizational and legal forms of business activity among which an important part is assigned to cooperation.

Cooperation on one hand, helps to combine personal, group and social interests by means that are the simplest and most acceptable to people and, on the other hand, to provide the market with sufficient amount of necessary goods and services.

It was meant first of all to revive the cooperative nature of collective enterprises in agriculture, consumer societies and of their unions. For years the state policy towards the cooperative societies was to draw them and state enterprises closer together and to ensure gradual merging of cooperative property and state property into the property of the people as a whole. Under new economic conditions a new task was set forth: to transform collective farms and consumers' cooperative societies into authentic cooperative societies in towns and villages that would produce consumer goods, manufactured goods, offer paid services to the population, enterprises and organizations and to their highly productive activity.

To these ends two fundamental laws on economic reform have been adopted: The Law on State Enterprise (Association) in the USSR (valid from the 1st January 1988) and the Law on Cooperative Societies in the USSR (valid from the 1st July 1988).

Both Laws proclaimed state-owned and cooperative enterprises to be the basic links of the national economy and give them the necessary rights enabling them to operate in production and distribution spheres as free producers who would collaborate and compete with each other.

The application of these Laws yielded positive results. State enterprises received more liberty in dealing with their property, in establishing direct contacts with their partners inside the country and abroad. Self-government of state enterprises has developed. The Law of Cooperative Societies paved the way for the rapid growth of different kinds of cooperative societies. They participate actively in the economic life of the country: they build roads, buildings and constructions, produce consumer goods, offer consumer, medical, legal and other services to the population. Consumers' and agricultural cooperative societies have been transformed gradually in accordance with the Law.

At the same time state enterprises as well as cooperative societies are confronted with a great number of difficulties in trying to apply these Laws. An important part of them are caused by reasons of other than legal character. Among them are a complex political situation, and a deteriorating economic situation. But a lot of difficulties are caused by the imperfection of these Laws. Having rented or bought (with the help of bank loans) fixed assets of unprofitable state enterprises, cooperative societies managed to make them profitable. In accordance with the Law the income of cooperative societies is directly tied to the final results of their activity. But as for the state enterprises their profit still depends on the fulfilment of formalized terms in the form of the state order (that differs very little from the old output plans), of contractual obligations arising from it and norms fixed by managerial bodies.

Cooperative societies who do not have any managerial bodies above them to nourish and who depend mainly on the results of their own activity have created better material conditions for their workers than state enterprises. This concerns first of all the high rate of the wages of cooperative workers. That awakens discontent of workers and employees of state enterprises and organizations. Workers of state enterprises find themselves in a disadvantageous situation in comparison with the workers of cooperative societies.

At the same time the Law of Cooperative Societies puts a lot of successfully operating cooperative societies in unequal conditions in comparison with state enterprises. This concerns first of all the possibility to acquire material resources, such as raw materials and equipment, to rent buildings, constructions and locations necessary for their activity. There is not yet a free market where one can buy resources.

The Law gave cooperative societies the right to use the retail trade, to buy secondary raw materials, production wastes, as well as resources that are not utilized by state enterprises but at prices greatly superior to state prices (with correction coefficients). And as for the wholesale trade in material and technical resources promised by the State, it has not been widely adopted. The only chance for cooperative societies to secure a steady supply of material resources is by receiving a state order. But this cannot last forever.

In order to survive, cooperative societies use all available means, legal and illegal, for selfprovision. This awakens growing discontent among the population because of the short supply of the goods in retail trade network as well as dissatisfaction and sharp criticism on the part of the State and public bodies.

The aforementioned Laws gave state enterprises and cooperative societies (mostly the latter) the possibility to use widely contractual prices and to fix them independently. This led to a sharp rise of prices for consumer goods that aggravated the situation on the market that was already tense. Consumers, who are placed under very hard conditions, express justified discontent with the present situation.

The experience in applying the Law on Cooperative Societies has questioned the correctness of the procedure for the creation of cooperative societies. A group of at least three persons may choose any field of activity, except the ones prohibited by Law, draw up a Charter of Cooperative Society in accordance with the Law, and the local state governing bodies must register it. As a result a lot of cooperative societies whose managers did not intend to produce anything have appeared. Having received a loan from a bank (such an opportunity is offered by the Law) and obtained orders paid by clients, they finished their activity after distributing that money among themselves without paying it back.

At the same time the Law on Cooperative Societies has not ensured an effective protection of the interests of cooperative societies working honestly and profitably for the society and has not protected them from the authorities' tyranny. And the latter have not been provided with the necessary levers and means to control cooperative activity.

As a result in a number of districts, towns and regions cooperative societies were closed without sound reasons.

These and some other reasons made it necessary to further improve state enterprises' and cooperative societies' laws.

At present both Laws - The Law on State Enterprise (Association) and the Law on Cooperative Societies - have been amended.

The Supreme Soviet of the USSR has adopted the Law on amendments to the Law on State Enterprise (Association). State enterprises have been given more liberty in dealing with their property and profit. State enterprises have the right to emit stocks and other securities, to use new forms of economic activity, including lease relations. State enterprises may create independently on contractual basis concerns, consortia, inter-sectorial and state associations and other large organizational structures with the participation of cooperative societies, joint ventures with foreign companies and effect export-import operations.

State enterprises and their work collectives may decide to secede from ministry's of department's system and to function as fully autonomous state units.

The most important innovation is that there is a possibility to transform a state enterprise into an organization of lease holders or a lease enterprise. At present such organizations exist in accordance with the Decree of the Supreme Soviet of the USSR of the 7th April 1989 "On Lease and Lease Relations". But this is only a temporary document. The draft Law on Principles of Lease and Lease relations has been submitted to the Supreme Soviet of the USSR that is to establish finally the legal status of such enterprises.

Certain amendments to the Law on cooperative Societies in the USSR are being made.

Their main purpose is to promote the financial improvement of the Soviet economy and to level economic and legal conditions for the development of state and cooperative sectors of economy.

But such isolated amendments are not likely to improve substantially the legal status of state enterprises and cooperative societies, to draw closer together the legal basis of their activity, to strengthen the lawfulness in relationships between state enterprises, cooperative societies and state managerial bodies.

Many hopes are attached to the package of documents that are being considered at the Second Session of the Supreme Soviet of the USSR. The most important among them is, certainly, the Law on Property in the USSR, the aforementioned Principles of Lease Relations and other Laws, in particular, on greater economic and political independence of Union Republics.

Finally the importance of correspondence between Law and economy for the development of a society should be emphasized.

Instability of legislature, including the Laws on state enterprises and cooperative societies, has been caused in particular by sharp functions in economy and not always thoughtful economic decisions. There are many drawbacks in the legislative process as well. There are still no strict rules for the elaboration and adoption of laws, without which it is hard to avoid mistakes in legislature.

At present government bodies at the highest level in the center and in the republics do a lot to ensure the success of perestroika and the development of the Soviet economy and its legal regulations so that it would be up to the mark.