Report on mission to Guadalajara/Mexico
Sept.20 – 26, 2009

I Background
ICA Americas, the Regional Office of the International Cooperative Alliance for the Americas, organised from September 21 to 25 the I Cumbre Cooperativa de las Americas (the 1st Cooperative Summit of the Americas, Cooperative Summit). ICA Americas is the fastest “growing” region of ICA in terms of new cooperatives and membership. The estimate at the conference was that this development raised total membership of ICA to close to 1 billion. Whereas ICA Asia and ICA Africa organise every second year a Ministerial conference, ICA Americas had organised so far every second year a meeting of parliamentarians, not the least as it was the guardian of a model framework law on cooperatives elaborated by the now defunct Organisation of Cooperatives of the Americas (OCA) in 1988. This 1st Cooperative Summit was to give these meetings a new format, one which would allow for a more effective exchange of views and experiences between government, cooperative organisations and academia.

The purpose of the mission was to participate in 3 specific activities of the Summit (cf. below II) and to discuss with different stakeholders key points and requirements for a stronger presence in the form of a project of EMP/COOP in the region. Reports on the numerous events of the summit (classified as “working groups”, “meetings”, “fora” and “plenary sessions”) may be found on the ICA Americas web-site.

II Main results
1. General
The new format of the Summit yielded the expected results. The meeting brought together representatives of government agencies, cooperative organisations and academia, ca. 400 from Argentina, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Nicaragua, Paraguay, Panama, Peru, Puerto Rico, Uruguay, Great Britain, Netherlands, Spain and ca. 800 from the host country Mexico. CooperativesEurope, the European Regional Office of the ICA, was represented through its President, Dame Pauline Green, who is also Vice-President of ICA. Dame Green is candidate for the presidency of ICA after the death of Mr. Ivano Barberini.
The Summit was influenced by the crisis. Not the least the results of the study “Resilience of the Cooperative Business Model in Times of Crisis”, commissioned by ILO from the ICA early this year, fuelled thoughts on how to use the model for a sustained recovery. There was a clear and all contributions underlying consensus that cooperatives are enterprises, though of a specific type, that undue state involvement, be it in the form of preferences, be it in the form of control, is to be rejected, that the cooperative self-help principle needs strengthening and that for all purposes reliable and comparable statistics are needed, foremost for the promotion of cooperatives as recommended by ILO R.193. As also reported from Europe, there is a growing awareness that in order to achieve these results cooperatives might need to organise on the lines which define there specific character as compared to other types of business organisations, rather than on the lines of their activity. This would also for example enhance their lobbying capacity (cf. II 4. below).

The Summit concluded with the adoption of a declaration (cf. ICA Americas website). The Office of ICA Americas undertakes to develop a work plan based on this declaration and envisaging collaboration with the ILO on a number of points (cf. below follow-up).

2. Plenary sessions
The 3 plenary sessions with 8 contributions covered a wide range of subjects: development paradigms and new economic order, climate change, challenges for cooperatives, the changing cooperative business model and how to create hope in times of crisis.
I contributed with thoughts on “The promotion of the cooperative business model by the ILO and the ICA in the new economic order”. The presentation will be available under the title “La promoción del modelo cooperativo por la ACI y la OIT en el nuevo orden económico global”.

3. 2nd Meeting of the public Cooperative promotion agencies (Institutos de Promoción, Fomento, Supervisión y Crédito Cooperativo)
This was the second meeting of its kind, the first one had been held in 2007 in the Dominican Republic. I had participated in that meeting as well. The 2nd meeting was to follow up on the Declaration adopted at that first meeting.

The presentations by the Institutes revealed a great variety. Some of them are responsible for registration, promotion and supervision/control, while others are responsible for one or two of the mentioned areas only.
The Director of ICA Americas urged participants to assist in the dissemination of ILO R.193 and to take account if the new Ley marco para las cooperativas de América Latina, the “2nd edition” of the above mentioned 1988 model framework law. The ILO participated over several years in the elaboration of this new model law and is now participating through ICA in the implementation of it. Many participants referred to R.193 in their presentation, demonstrating the strong and the weak points of the implementation so far. Upon my proposal, the participants included references to R.193 into the final declaration of this 2nd Meeting of the
Cooperative promotion agencies. The final Declaration of the Summit also includes such references.

Many participants drew attention to the growing interest in the social economy, whose actors are - roughly defined - economic organisations the primary objective of which is not profit maximization. The main forms of these actors in the region are mutual societies, so-called employees’ funds and – the bulk – cooperatives. A number of national constitutions refer to the social economy. In some countries, like for example in Columbia and Ecuador, the social economy has become an object of legislation. A similar evolution can be observed in Europe (Great Britain, Italy and Spain) and in Asia (India). This implies, here as elsewhere, that attention must be paid to not lose gains had through long lasting and ongoing efforts to raise the awareness that cooperatives are enterprises.

The participants exchanged experiences on how some of the Institutes started a process to de-register non genuine or false cooperatives. The latter, mainly set up to access undue preferences or to circumvent labour law (bogus worker and work hiring cooperatives), are of concern to governments, cooperative movements, and the ILO alike. According to information provided by OCB, the apex organisation of Brazilian cooperatives, Brazil is about to establish a voluntary certification system to be run by a private company. While this market driven approach is interesting, care should be taken to not release public authorities from the duty to see to it that only genuine cooperatives are registered. Various models are available to ensure this: Protection of the denomination of cooperatives, thorough pre-registration assessment of the application for registration, as well as strict monitoring systems.

The need to ensure “clean” records links to the issue of setting up reliable and comparable statistics system. The national federation of cooperatives in Columbia, ConfeCoop, together with the national Institute, seems to have a well developed statistics system in place.

The representative of the Mexican banking surveillance authority reported on efforts to formalise informal savings and credit groups by having them form cooperatives.

The presentations by the Institutes were followed by Prof. Dante Crarogna’s explanation of the rationale of the Ley marco and that of some of its key sections (for further details, cf. his contribution to COOP News No.1, 2009, p.7). Mr. Cracogna was the main drafter of the model law. These explanations, in the form of short commentaries, seem to be a useful tool for the understanding of the model framework law and one which is missing in most, if not all of the represented legal systems.

I contributed with a presentation on R.193, explaining its legal nature in the context of public international law and laying emphasis on its geographical and thematic scope, on the meaning of promotion (including supervision/control) suggesting that rather than discussing individual promotional measures it is important to have a clear understanding of the finality of the promotion, as well as on the meaning of equal treatment of cooperatives as compared with other business organizations. As an example I referred to taxation of cooperatives which
is currently under investigation by the EFTA Surveillance Authority (concerning Norway) and the EU Commission (concerning several EU Member states). The presentation will be available under the title “La Recomendación 193 de la OIT y el rol de los Institutos de Promoción, Fomento, Supervisión y Crédito Cooperativo”.

4. Forum on the Ley marco para las cooperativas de América Latina
This forum discussed ways on how to lobby for the implementation of R.193 and for the respect of the principles laid down in the new Ley marco para las cooperativas de América Latina.

The event attracted a high number of participants.

It became clear from the various presentations and the discussion that policy and law making is a multi-layered and multi-faceted process, the national being more and more interwoven into regional and international, even global processes and standard setting by private entities is gaining more and more influence. By way of example I pointed out to the work of the International Accounting Standards Board (a private entity), which has impacted the interpretation of the capital structure of cooperatives (equalling variability with volatility), and which has prompted the call for a minimum capital for cooperatives and an adjustment of their way of merging to that of capital centred enterprises.

Lobbying must be responsive to these developments.

I made a presentation on “The evolution of cooperative law worldwide”. It will be available under the title “La evolución del derecho cooperativo en el mundo”).

5. Bilateral discussions
a) ICA Americas
The Director and I discussed the finalisation of the current external collaboration contract under which the ICA is implementing a number of activities related to the dissemination of the Ley marco. ICA will report on the activities shortly including a financial report.

Possible future collaboration on the follow-up actions mentioned under III and on the design and implementation of a project for Latin America.

Together with the Secretary of the Mercosur legislation group and Prof. Dante Cracogna, advisor to Mercosur on this matter, we discussed ILO’s possible involvement in the preparation and holding of a conference organised by the Labour ministries of the sub-region on the implementation of R.193 next spring. I pointed out that a formal request by the ministries had not yet been received.

b) ConfeCoop, Columbia, and Brazilian OCB
Discussed with the representatives of these two organisations possible ways to combine activities in Columbia (cf. report on mission to Bogota, May 2009) with efforts in Brazil to cope with the phenomenon of falsas cooperativas.

c) Discussions with representatives of those Cooperative promotion agencies where legislative changes are either under way or planned (cf. below III 1.).
III Follow-up (partly in collaboration with ICA)

1. Participation in legislation: Colombia, Costa Rica, Guatemala, Mexico and Peru are currently either revising or planning to revise their cooperative legislation. Others, like Ecuador, are planning to legislate on social economy entities, including cooperatives.

2. Inclusion of the following items either into already ongoing EMP/COOP activities and/or into a project: False cooperatives (project); obligatory audit, extended to include also societal and environmental audit (project); establishment of vertical structures having both economic and representative functions (project); statistics; social economy (link outcome of the ILO organised Social economy conference in Johannesburg and Latin American experiences); formalisation of informal economy actors.

c/
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