

Law of the People's Republic of China on Specialized Farmers Cooperatives

Order of the President of the People's Republic of China No.57

The Law of the People's Republic of China on Specialized Farmers Cooperatives, adopted at the 24th Meeting of the Standing Committee of the Tenth National People's Congress of the People's Republic of China on October 31, 2006, is hereby promulgated and shall go into effect as of July 1, 2007.

Hu Jintao

President of the People's Republic of China

October 31, 2006

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Chapter I

General Provisions

Article 1 This Law is enacted for the purpose of supporting and guiding the development of specialized farmers cooperatives, regulating their organization and behavior and protecting their lawful rights and interests and those of their members', and promoting the development of agriculture and of the economy of rural areas.

Article 2 Specialized farmers cooperatives are mutual-help economic organizations joined voluntarily and managed in a democratic manner by the producers and operators of the same kind of farm products or by the providers or users of services for the same kind of agricultural production and operation.

Specialized farmers cooperatives mainly serve their members, offering such services as purchasing the means of agricultural production, marketing, processing, transporting and storing farm products, and providing technologies and information related to agricultural production and operation.

Article 3 Specialized farmers cooperatives shall observe the following principles:

- (1) Their members are mainly farmers;
- (2) They aim to serve their members, working for the common interests of all the members;
- (3) The members join the cooperatives voluntarily and are free to withdraw from them;
- (4) The members are equal in status and democratic management is practiced; and
- (5) Profits are to be distributed mainly in proportion on the volume (amount) of the transactions effected between the cooperatives and their members.

Article 4 Specialized farmers cooperatives shall be registered according to this Law to obtain the status of a legal person.

Specialized farmers cooperatives shall enjoy the rights to possess, use and dispose of their property which includes capital contributions by their members, common reserve funds, subsidies received directly from the government, donations and other legitimately acquired assets, and shall be liable for their debts with the aforementioned property.

Article 5 Members of specialized farmers cooperatives shall be accountable to their cooperatives within the limits of the capital contributions recorded in their accounts and of their shares of the common reserve funds.

Article 6 The State protects the lawful rights and interests of the specialized farmers cooperatives and their members, and no units or individuals may infringe upon such rights and interests.

Article 7 In production and operation, specialized farmers cooperatives shall obey the relevant laws and administrative regulations, observe social and business ethics, and act in good faith.

Article 8 The State promotes the development of specialized farmers cooperatives through such measures as government financing, preferential taxation, support in fund raising, science and technology as well as human resources, and guidance through industrial policies.

The State encourages and supports all social sectors to provide services to specialized farmers cooperatives.

Article 9 People's governments at or above the county level shall make arrangements for the administrative departments of agriculture and the relevant departments and organizations to provide guidance, support and services to the formation and development of specialized farmers cooperatives, in accordance with this Law and within the limits of their respective duties.

Chapter II

Establishment and Registration

Article 10 For establishment of a specialized farmers cooperative, the following conditions shall be met:

- (1) having five or more members who meet the requirements as are prescribed in Articles 14 and 15 of this Law;
- (2) having a charter that meets the requirements as are prescribed by this Law;
- (3) having an organizational structure that meets the requirements as are prescribed by this Law;
- (4) having a name which is in conformity with the provisions of relevant laws and administrative regulations and a domicile as specified in the charter; and
- (5) having capital contributions made by members who meet the requirements as are specified in the charter.

Article 11 For establishment of a specialized farmers cooperative, an assembly shall be convened with the participation of all of the founders. Persons who voluntarily become members of the cooperative at the time of its establishment are founders.

The founders' assembly shall exercise the following functions and powers:

- (1) to adopt the charter of the cooperative, which is required to be adopted unanimously by all of the founders;
- (2) to elect the director-general, directors, the executive supervisor or members of the board of supervisors; and
- (3) to examine and discuss other major issues.

Article 12 In the charter of a specialized farmers cooperative shall clearly be specified the following matters:

- (1) its name and domicile;
- (2) scope of business;
- (3) membership qualifications, joining and withdrawing from the cooperative, as well as expelling a member;
- (4) rights and duties of members;
- (5) structure of the organization, measures for its formation, its functions and powers, term of office and the rules of procedure;
- (6) forms and amounts of capital contributions to be made by members;
- (7) financial management, distribution of profits and disposition of losses;
- (8) procedures for modification of the charter;

- (9) causes of dissolution and measures for liquidation;
- (10) the items for announcement and the manners of announcement; and
- (11) other matters that need to be specified.

Article 13 For establishment of a specialized farmers cooperative, the following documents shall be submitted to the administrative department for industry and commerce to apply for registration:

- (1) letter of application for registration;
- (2) minutes of the establishment assembly signed and sealed by all of the founders;
- (3) charter signed and sealed by all of the founders;
- (4) letters of appointment and identity certifications of the legal representative and of the directors;
- (5) list of capital contributions signed and sealed by the members who make such contributions;
- (6) certification for use of the domicile; and
- (7) other documents as prescribed by relevant laws and administrative regulations.

The registration authority shall complete the registration procedure within 20 days from the date it accepts the application for registration and shall issue a business license to the applicant that meets the conditions for registration.

Where a specialized farmers cooperative intends to alter the statutory items for registration, it shall submit an application for the purpose.

The measures for registration of specialized farmers cooperatives shall be formulated by the State Council. No charges may be collected for registration.

Chapter III

Membership

Article 14 Citizen who have the capacity for civil conduct and enterprises, public institutions and organizations that are engaged in production and operation which are directly related to the business of a specialized farmers cooperative may become members of the cooperative, provided that they can make use of the services offered by the cooperative, recognizes and abides by the charter of the cooperative and complete the formalities for joining the cooperative as prescribed in the charter. However, a unit that exercises the function of administering public affairs shall not join such cooperative.

A specialized farmers cooperative shall have a membership roll and file it with the registration authority.

Article 15 Farmers shall account for at least 80 percent of the membership of a specialized farmers cooperative.

If the total number of members of a cooperative is 20 or less, there may be one enterprise, public institution or organization as its member; if the number exceeds 20, the number of enterprises, public institutions or organizations shall not exceed five percent of the total number.

Article 16 A member of a specialized farmers cooperative shall enjoy the following rights:

- (1) to attend the membership assembly, have the rights to vote, to elect and to stand for election, and exercise democratic management of the cooperative according to the stipulations in the charter;
- (2) to make use of the services and production and operation facilities provided by the cooperative;
- (3) to share profits according to the stipulations in the charter or the resolution of the membership assembly;
- (4) to consult the charter, membership roll, minutes of the membership assembly or of the conference of members' representatives, resolutions of the board of directors and of the board of supervisors, and financial statements and account books; and
- (5) other rights as are stipulated in the charter.

Article 17 The system of "one person, one vote" shall be adopted for election and voting at the membership assembly of a specialized farmers cooperative, and each member shall have the right to one basic vote.

Members who make considerably large capital contributions or who effect considerably large amounts (volumes) of transactions with the cooperative may, according to the stipulations of the charter, enjoy the right to extra votes. The total number of extra votes of the cooperative shall not exceed 20 percent of the total number of the members' basic votes. Each time a membership assembly is convened, the members present at the assembly shall be informed of those members who enjoy the right to extra votes and the number of extra votes they each enjoy.

In the charter restrictions may be placed on the scope of the extra votes to be cast.

Article 18 A member of a specialized farmers cooperative shall be charged with the following duties:

- (1) to execute the resolutions of the membership assembly, the conference of members' representatives and the board of directors;
- (2) to make capital contributions to the cooperative as stipulated in the charter;
- (3) to effect transactions with the cooperative as stipulated in the charter;
- (4) to share losses as stipulated in the charter; and
- (5) other duties as stipulated in the charter.

Article 19 If a member of a specialized farmers cooperative intends to withdraw from the cooperative, he shall submit a request to the director-general or the board of directors three months prior to the end of the fiscal year; and if an enterprise, public institution or organization intend to withdraw from the cooperative as a member, it shall do so six months prior to the end of the fiscal year; if the charter stipulates otherwise, the

stipulations there shall prevail. The membership qualifications of such member shall be terminated at the end of the fiscal year.

Article 20 A member shall continue performing the contract concluded with the specialized farmers cooperative before the termination of his membership, unless otherwise stipulated in the charter or otherwise agreed upon by him and the cooperative.

Article 21 At the termination of the membership, the cooperative shall, in the manners and within the time limit as are stipulated in the charter, return to the member the amount of the capital contributions recorded in his account and his shares of the common reserve funds; and it shall, according to the provisions in the second subparagraph of Article 37 of this Law, return to him the distributable profits earned by the cooperative prior to the termination of his membership qualifications.

The member whose membership qualifications are terminated shall, according to the stipulations in the charter, share the losses and debts incurred by the cooperative prior to the termination of his qualifications.

Chapter IV

Organizational Structure

Article 22 The membership assembly of a specialized farmers cooperative shall be composed of all of the members. It is the organ of power of the cooperative and shall exercise the following functions and powers:

- (1) to modify the charter;
- (2) to elect and remove the director-general, directors, the executive supervisor or members of the board of supervisors;
- (3) to decide on disposition of major assets, external investment, providing guarantee to entities and individuals outside the cooperative, and other major issues in respect of production and operation;
- (4) to grant approval of the annual business report, and the plans for distribution of profits and for disposition of losses;
- (5) to make a resolution on merger, division, dissolution or liquidation of the cooperative;
- (6) to decide on the number of managers for business operation and technicians to be employed and their qualifications and terms of office;
- (7) to hear reports on the change of membership delivered by the director-general or board of directors; and
- (8) other functions and powers specified in the charter.

Article 23 When a specialized farmers cooperative holds its membership assembly, the number of persons present shall be two-thirds or more of its membership.

The outcome of an election held or the resolution made at a membership assembly shall be deemed to be effective if it is adopted by more than half of the total votes of the members of the cooperative; for a resolution on modifying the charter or on merger, division or dissolution of the cooperative to be adopted, two-thirds or

more of the total votes of the members of the cooperative is required. If the charter requires a greater number of votes on such matters, the stipulations there shall prevail.

Article 24 Membership assembly of a specialized farmers cooperative shall be held at least once every year, and convening of the assembly shall be stipulated in the charter. A special membership assembly shall be held within 20 day under one of the following circumstances:

- (1) It is proposed by 30 percent or more of the members;
- (2) It is proposed by the executive supervisor or the board of supervisors; or
- (3) Other circumstances as stipulated in the charter.

Article 25 Where the number of members of a specialized farmers cooperative exceeds 150, a conference of members' representatives may be organized according to the stipulations of the charter, which may, according to the stipulations of the charter, exercise part or all of the functions and powers of the membership assembly.

Article 26 In a specialized farmers cooperative there shall be a director-general, and a board of directors may be set up. The director-general shall be the legal representative of the cooperative.

In a specialized farmers cooperative there may be an executive supervisor or a board of supervisors. The director-general, director, manager, the book-keeper or accountant shall not concurrently hold the office of the supervisor.

The director-general, director, the executive supervisor or members of the board of supervisors shall be elected at the membership assembly from among the members of the cooperative, and they shall exercise their functions and powers according to the provisions prescribed in this Law and the charter and shall be accountable to the membership assembly.

The system of "one person, one vote" shall be applied to voting at the meetings of the board of directors and the board of supervisors.

Article 27 Decisions made on the matters discussed at the meetings of the membership assembly, the board of directors and the board of supervisors of a specialized farmers cooperative shall be recorded in the minutes, which shall be signed by the members of the assembly, directors and supervisors present at the meetings.

Article 28 The director-general or the board of directors of a specialized farmers cooperative may employ managers, book-keepers and accountants according to the decision made at the membership assembly, and the director-general or director may concurrently hold the office of a manager. A manager may, according to the stipulations of the charter or the decision of the board of directors, employ other staff members.

A manager shall be responsible for the specific production and operation as stipulated in the charter or as authorized by the director-general or the board of directors.

Article 29 The director-general, director or manager of a specialized farmers cooperative shall not do any of the following:

- (1) illegally taking into his own possession, misappropriating or illegally sharing the assets of the cooperative;
- (2) in violation of the stipulations of the charter or without permission of the membership assembly, loaning to another person the funds of the cooperative or providing guarantee to another person with the assets of the cooperative;
- (3) taking into his own possession the commissions charged for transactions effected between another person and the cooperative; or
- (4) engaging in other activities jeopardizing the economic benefits of the cooperative.

Any incomes derived by the director-general, director or manager in violation of the provisions in the preceding paragraph shall belong to the cooperative; if any losses are caused to the cooperative, he shall be liable for compensation.

Article 30 The director-general, director or manager of a specialized farmers cooperative shall not concurrently hold the office of the director-general, director, supervisor or manager in another specialized farmers cooperative that is engaged in the same nature of business as is the said cooperative.

Article 31 A person who handles official business concerning specialized farmers cooperatives shall not concurrently hold the office of the director-general, director, supervisor, manager, book-keeper or accountant in such a cooperative.

Chapter V

Financial Management

Article 32 The department of finance under the State Council shall establish a financial and accounting system for the specialized farmers cooperatives in accordance with relevant laws and administrative regulations of the State. The specialized farmers cooperatives shall carry out their accounting according to the said financial and accounting system.

Article 33 The director-general or the board of directors of a specialized farmers cooperative shall, according to the stipulations in the charter, organize efforts to prepare the annual business report, plans for profit distribution and for disposition of losses, and financial statements, and shall, 15 days prior to the convening of the membership assembly, make them available in the office for the members to consult.

Article 34 Accounting for the transactions effected between a specialized farmers cooperative and its members shall be separated from the ones effected between the cooperative and the non-members that make use of the services provided by the cooperative.

Article 35 A specialized farmers cooperative may draw common reserve funds from the profits of the year in accordance with the stipulations in the charter or the decision made by the membership assembly. The common reserve funds shall be used for making up for losses, expanding production and operation or be converted into members' capital contributions.

The common reserve funds drawn every year shall be quantified as shares of each member according to the stipulations of the charter.

Article 36 A specialized farmers cooperative shall start an account for each member, in which shall mainly be recorded the following:

- (1) the amount of capital contributions of the member;
- (2) the quantified common reserve funds as shares of the member; and
- (3) the volume (amount) of transactions effected between the member and the cooperative.

Article 37 The profits of the year left after the losses are made up for and the common reserve funds are drawn shall be the distributable profits of a specialized farmers cooperative.

The distributable profits shall be returned or distributed to the members according to the following provisions, and the specific measures for distribution shall be decided according to the stipulations in the charter or the resolution of the membership assembly:

- (1) to return the profits in proportion to the volume (amount) of the transactions effected between the members and the cooperative, and the total amount returned shall not be less than 60 percent of the distributable profits; and
- (2) to distribute pro rata to the members of the cooperative the rest of the profits left after the return according to the provisions in the preceding subparagraph, on the basis of the capital contributions and shares of common reserve funds recorded in the members' accounts and the members' average quantified shares of the assets accumulated from subsidies directly given by the government and donations made by other persons to the cooperative.

Article 38 Where there is an executive supervisor or a board of supervisors in a specialized farmers cooperative, the executive supervisor or the board of supervisors shall be responsible for the internal financial auditing of the cooperative and shall report the auditing results to the membership assembly.

The membership assembly may also entrust an auditing body with the financial auditing of the cooperative.

Chapter VI

Merger, Division, Dissolution and Liquidation

Article 39 Where a specialized farmers cooperative intends to merge with another cooperative, it shall inform its creditors of the matter within 10 days from the date the resolution is made to such an effect. The credits and debts of the merged parties shall be succeeded by the surviving or newly established entity after the merger.

Article 40 Where a specialized farmers cooperative intends to be divided, it shall have its assets divided accordingly, and shall inform its creditors of the matter within 10 days from the date the resolution on division is made. The entities after the division shall bear joint and several liability for the debts of the cooperative incurred prior to the division, except that the written agreement on payment of the debts it concluded with the creditors prior to the division stipulates otherwise.

Article 41 A specialized farmers cooperative shall be dissolved for one of the following reasons:

- (1) The causes for dissolution stipulated in the charter arise;
- (2) A resolution on dissolution is made by the membership assembly;
- (3) Dissolution is necessary because of merger or division; or
- (4) Its business license is revoked or its registration is cancelled according to law.

Where a cooperative is dissolved due to the reasons as specified in subparagraph (1), (2) or (4) of the preceding paragraph, a liquidation team composed of the members of the cooperative who are elected by the membership assembly shall be formed within 15 days from the date a cause for dissolution arises, in order to initiate liquidation for dissolution. If a liquidation team cannot be formed at the expiration of the time limit, members and creditors of the cooperative may apply to a people's court for designating members to form a team for liquidation, and the people's court shall accept such an application and in a timely manner, designate members to form a liquidation team. Article 42 A liquidation team shall, from the date it is formed, take over the specialized farmers cooperative, and it shall be responsible for disposing of the outstanding businesses which are related to the liquidation, straightening out the assets, credits and debts, distributing the assets left after the debts are repaid, participating in litigation, arbitration or other legal proceedings on behalf of the cooperative and, at the end of the liquidation, handle the formalities for canceling registration.

Article 43 A liquidation team shall, within 10 days from the date it is formed, notify the members and creditors of the specialized farmers cooperative of its formation and announce the matter in newspapers within 60 days. The creditors shall, within 30 days from the date they receive the notification, or for those who fail to receive such notification, within 45 days from the date the announcement is made, declare their claims to the liquidation team. If all the members and creditors receive the notification within the prescribed time limit, the liquidation team shall be absolved from the obligation to make an announcement.

When declaring their claims, the creditors shall explain the matters concerned and provide the certifying documents. The liquidation team shall keep a record of the claims.

During the period of declaration of claims, the liquidation team shall not pay back any debts to the creditors.

Article 44 When a specialized farmers cooperative is dissolved due to the causes specified in the first paragraph in Article 41 of this Law, or when its application for bankruptcy is being processed by a people's court, it shall not handle any formalities for any member to withdraw from the cooperative. Article 45 The liquidation team shall be responsible for drawing up liquidation plans for paying off the salaries and social insurance premiums of the employees of the cooperative, the taxes in arrears and other debts and for distributing the remaining assets, and shall execute the plans after they are adopted by the membership assembly, or confirmed by the people's court upon the team's application.

If the liquidation team discovers that the assets of the specialized farmers cooperative is insufficient to pay off the debts, it shall apply for bankruptcy to a people's court according to law.

Article 46 When a specialized farmers cooperative is being liquidated for dissolution or bankruptcy, the subsidiaries it directly received from the government which form part of its property shall not be distributed to the members of the cooperative as distributable surplus property, and the measures for disposing of such assets shall be formulated by the State Council.

Article 47 Members of a liquidation team shall be devoted to their duty and perform their duty of liquidation according to law, and they shall be liable for compensation if they intentionally cause losses to the members or creditors of a specialized farmers cooperative or do so through gross negligence.

Article 48 The relevant provisions of the Enterprise Bankruptcy Law shall be applicable to the specialized farmers cooperatives that go bankrupt. However, after the bankruptcy assets are used for paying off the expenses for bankruptcy proceedings and the debts incurred for the common good of creditors, priority shall be given to settling the outstanding accounts resulted from transactions with the farmer members of the cooperatives effected prior to bankruptcy.

Chapter VII

Supportive Policies

Article 49 The State supports the construction projects for developing agriculture and the rural economy, and the relevant competent specialized farmers cooperatives may be entrusted with or assigned such tasks.

Article 50 The Central and local governments shall respectively allot funds to support the specialized farmers cooperatives in providing services in respect of information, training, quality standards for farm products and their authentication, construction of infrastructure for agricultural production, marketing, technology dissemination, etc. Priority shall be given to the specialized farmers cooperatives in ethnic areas, outlying areas and poverty-stricken areas and to the ones engaging in the production of major farm products which are urgently needed by the State and the society.

Article 51 The policy-oriented financial institutions of the State shall adopt diversified means to provide funds through various channels in support of the specialized farmers cooperatives. The specific supportive policies shall be formulated by the State Council.

The State encourages the commercial financial institutions to provide financial services to the specialized farmers cooperatives by diversified means.

Article 52 The specialized farmers cooperatives shall enjoy preferential treatment in taxation prescribed by the State in respect of agricultural production, processing, circulation and services and other economic activities involving agriculture.

Other preferential taxation policies in support of the development of specialized farmers cooperatives shall be formulated by the State Council.

Chapter VIII

Legal Responsibility

Article 53 A person who illegally takes into his own possession, misappropriates, withholds, illegally shares or by other means infringes on the lawful property of a specialized farmers cooperative or its members, illegally intervenes with the production and operation of such cooperative or its members, apportions expenses or tasks to the cooperative or its members, or compels the cooperative or its members to accept paid services, thus causing financial losses to the cooperative, shall be investigated for legal responsibility according to law.

Article 54 Where a specialized farmers cooperative provides false materials for registration to the relevant registration authority or gets registered by other deceptive means, it shall be ordered by the registration authority to rectify; and if the circumstances are serious, its registration shall be canceled. Article 55 Where a specialized farmers cooperative makes false entries or conceals important facts in such materials as financial statements submitted in accordance with law to the relevant department in charge, it shall be investigated for legal responsibility according to law.

Chapter IX

Supplementary Provisions

Article 56 This Law shall go into effect as of July 1, 2007.

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