PNABQ675
86171

CREDIT UNION LEGISLATION

IN THE CFA FRANC ZONE

OF WEST AND CENTRAL AFRICA

World Council of Credit Unions, Inc.
5810 Mineral Point Road
P.O. Box 2982
Madison, WI 53701-2982 USA
Telephone: (608) 231-7130
Fax: (608) 238-8020

Tony Schumacher, Executive Director

Contact Person for Franc Zone Legislation:
Kelly J. Morris, Project Manager

July 7, 1993

TABLE OF CONTENTS

EXECUTIVE SUMMARY 1

I. BACKGROUND: WOCCU/ACCOSCA/USAID APPROACH AND ACTIVITIES . 9

A. International 9
B. Bi-Lateral 12
C. ACCOSCA 15

II. CREDIT UNION UNIQUENESS 17

A. Definition: Credit Union 17
B. Implications of Uniqueness for Legislation and Regulation 19

III. NEED FOR SPECIFIC CREDIT UNION LEGISLATION AND REGULATION 21

A. Credit Union Growth 21
B. Crisis in the Franc Zone Banking Sector 21
C. Central Banks' View of Credit Unions 22
D. Credit Unions' View of Credit Unions 24

IV. THE HISTORY OF BCEAO/UMOA INTEREST IN CREDIT UNIONS 27

A. The "Aguié" Study 27
B. The I.R.A.M. Studies 31
C. BCEAO Seminar on the Formal and Informal Sectors 41

V. PARMEC/UMOA 45

A. Description of the "PARMEC" Initiative 45
B. Activities Conducted 47
C. Analysis of the "PARMEC" Model Law for UMOA Member Countries . . 51

VI. RECOMMENDATIONS TO USAID 55

A. Conclusions 55
B. Recommendations 55

APPENDICES

A. "PARMEC" MODEL LAW 57

B. DRAFT LAW FOR NIGER IN KEEPING WITH WOCCU CREDIT UNION LAW CONTENT GUIDE 89

a

ABBREVIATIONS USED

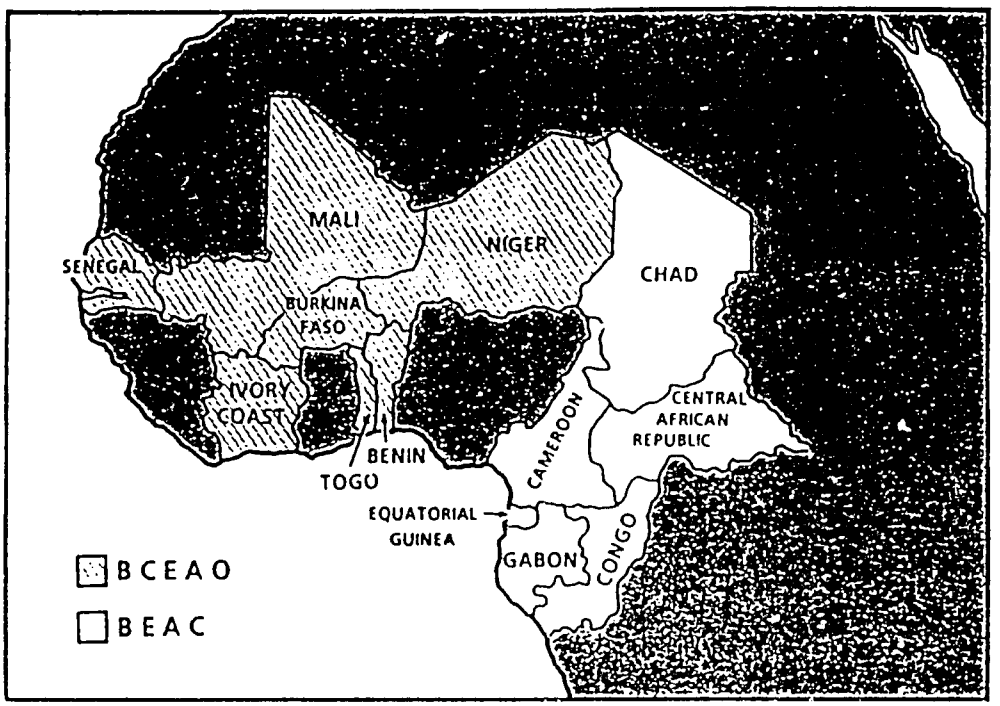
ACCOSCA	African Confederation of Co-operative Savings and Credit Associations
ACDI	Agence Canadienne pour le Développement International
BAD	Banque Africaine de Développement
BCCI	Bank of Credit and Commerce International
BCEAO	Banque Centrale des Etats de l'Afrique de l'Ouest
BEAC	Banque des Etats de l'Afrique Centrale
BIT	Bureau International du Travail
BNDA	Banque Nationale du Développement Agricole
BOAD	Banque Ouest-Africaine du Développement
CAMA	Central African Monetary Area
CamCCUL	Cameroon Co-operative Credit Union League, Ltd.
CCCE/CFD	Caisse Centrale de Coopération Economique/Caisse Française de Développement
CEAO/CREP	Communauté Economique de l'Afrique de l'Ouest/Programme Epargne et Crédit
CFA	Communauté Financière Africaine
CLF	Central Liquidity Facility
CICM	Centre International du Crédit Mutuel (France)
CIDR	Centre International pour le Développement Rural
CNCA	Caisse Nationale du Crédit Agricole
CONACAP	Conseil National des Caisses Populaires (Sénégal)

- b'

CONAPSCEC	Comité National pour la Promotion des Sociétés Coopératives d'Epargne et de Crédit (Bénin)
COOPEC	Coopérative d'Epargne et de Crédit (credit union)
CRCAM/CLCAM	Caisse Régionale de Crédit Agricole Mutuelle/Caisse Locale du Crédit Agricole Mutuelle (Bénin)
CREP	Caisse Rurale d'Epargne et de Prêt (Côte d'Ivoire) - credit union
CUNA	Credit Union National Association, Inc. (USA)
FUCEC-Togo	Fédération des Unions Coopératives d'Epargne et de Crédit du Togo
GON	Government of Niger
GOR	Government of Rwanda
GOT	Government of Togo
IRAM	Institut de Recherche et Application des Méthodes de Développement (France)
NCUA	National Credit Union Administration (USA)
PARMEC	Projet d'Appui à la Réglementation sur les Mutuelles d'Epargne et de Crédit
SDID	Société de Développement International Desjardins
SMEC	Programme d'Appui aux Sociétés Mutualistes d'Epargne et de Crédit
UMOA	Union Monétaire Ouest-Africaine
USAID	United States Agency for International Development
WAMU	West African Monetary Union
WOCCU	World Council of Credit Unions
ZMAC	Zone Monétaire d'Afrique Centrale

THE FRANC ZONE OF AFRICA

Central banks of the franc zone



Union Monétaire Ouest-Africain (UMOA) Banque Centrale des Etats de l'Afrique de l'Ouest (BCEAO)	Zone Monétaire de l'Afrique Centrale (ZMAC) Banque des Etats de l'Afrique Centrale (BEAC)
Bénin Burkina Faso Ivory Coast Mali* Niger Sénégal Togo	Cameroon Central African Republic Chad Congo Equatorial Guinea** Gabon

The Islamic Republic of Mauritania left the UMOA in 1976.

* Mali left the UMOA in 1962 and re-joined in 1982.

** Equatorial Guinea is a former Spanish colony which joined the Franc Zone in 1985.

The Republic of Comoros, a former French colony located in the Indian Ocean between Mozambique and Madagascar, has a currency which is also linked to the French Franc. Djibouti, Guinea, and Madagascar are former French colonies in Africa which are not in the Franc Zone.

EXECUTIVE SUMMARY

I. BACKGROUND

The World Council of Credit Unions is the international trade association of credit unions. WOCCU acts on behalf of its U.S. member, CUNA, in its collaboration with USAID to fulfill the Congressional mandate for credit union development. Among the subjects that are of vital interest in carrying out this mandate are credit union legislation, regulation, and internal structures and functioning.

WOCCU received USAID funding for its project to strengthen "safety and soundness" of credit unions by improving the legal and regulatory control systems. It produced a **Credit Union Law Content Guide** which constitutes the international norms and standards for credit union law, a legal digest, and examiner training modules. With the US regulatory body, NCUA, it co-hosted an International Regulators Workshop.

Appropriate legislation and regulation for credit unions has been pursued in the context of USAID-funded projects to assist credit union movements in Cameroon, Togo, Senegal, and Niger. In Niger, the French version of WOCCU's law content guide was first used to help draft a modern credit union law.

ACCOSCA, the panafrican credit union confederation, has pursued the same objectives with assistance from WOCCU and funding from USAID. ACCOSCA published an African credit union legal digest, conducted legislation and regulation seminars for the francophone ACCOSCA members, and assisted in a seminar in Niger.

II. CREDIT UNION UNIQUENESS

A credit union is an association of persons linked by a common bond (residential, professional, etc.) who save their money together and from their savings make loans to each other and obtain other financial services. A credit union is owned by the members and run by them along democratic principles on the basis of one

person, one vote. Credit unions provide credit to members on reasonable terms and at affordable rates of interest. All revenues are returned to members in the form of dividends, interest, or services. Credit unions do not discriminate on the basis of race, religion, or gender.

Credit unions are formal, **not informal**, financial institutions. They require legal recognition in order to avail themselves of the protection of the law, and to collect savings and enter into contracts.

Credit unions are not, by definition, small. The same principles of member ownership and operation, adherence to democratic practices, and mobilization of members' savings characterize all credit unions, whether they have 80 or 800,000 members, no matter where in the world they are located. They are a system which is distinct from and not subordinate to or part of the banking system.

While developing credit union movements may benefit from assistance in a project context, they are not themselves "projects" with fixed beginning and end dates. They are autonomous institutions which serve their members' needs on a permanent basis. Unlike projects, they are **savings-driven not credit-driven.** Consequently, they belong to their members, and are not just credit administrators which "involve" the beneficiaries.

Credit unions are unique financial institutions which occupy a separate and not inferior place among formal financial institutions from that occupied by banks. Their unique nature has definite and specific implications in regard to legislation and regulation.

Credit unions share certain characteristics with certain informal financial institutions such as "tontines," not the least of which are member ownership and operation and group solidarity based on a common bond. Because they are formal, deposit-taking institutions which must safeguard members' savings and use part thereof for credit, they cannot remain unregulated like the informal sector and must have the protection of law.

Credit unions and credit union institutions cannot, however, be regulated under bank law and still remain credit unions. Bank law does not take into consideration the democratic nature and the member ownership and operation of credit unions. Clients of banks, on the other hand, are not owners and have no say in the management of the institution. While credit unions should also be held to high standards of honesty and competency, banks require additional regulatory safeguards which make up for client lack of participatory and supervisory rights.

Volunteer involvement in credit unions makes it possible for them to operate. Most credit unions in Africa are operating under cooperative laws. These laws were entirely conceived for agricultural cooperatives, and make little if any mention of financial cooperatives. Worse, the cooperatives regulated are most often government-created institutions whose purpose is the administration of credit and other inputs for crop loans. The cooperative registrars' offices are almost always staffed by agronomists, rather than management or finance specialists. Cooperatives departments are always more oriented to the distribution of credit, while credit unions are first and foremost mobilizers of savings.

Credit unions cannot be unrecognized and unregulated; neither can they operate under inappropriate law and regulation, such as bank and cooperative laws. They require a legal and regulatory framework which recognizes and is adapted to their unique characteristics.

III. NEED FOR SPECIFIC CREDIT UNION LEGISLATION AND REGULATION

Several factors have recently brought the question of legislation and regulation for credit unions to the fore in the CFA Franc Zone of Africa. There has been rapid growth in several credit union movements in the zone (e.g. Cameroon and Togo). With aggregate savings in the billions of CFA francs, credit unions are no longer insignificant players in financial markets. During the crisis in the banking sector of the Franc Zone over the last five years, more than half of the Zone's banking sector has gone bankrupt and disappeared. These two events have caused the two central banks to become interested in regulating credit unions. The central banks' views and interests are **not** identical, however, to those of the credit union movement.

The central banks view credit unions, and especially credit union central liquidity facilities (CLF), as <u>a new source</u> of development funding to replace the failed development banks and make up for reduced foreign subsidies. In addition, the two central banks have been in a deficit position vis-à-vis the French central bank, causing them to impose restrictive measures in the zone's economy to bring the arrears into equilibrium. This has resulted in a severe liquidity crisis. The central banks see mobilizing savings as a part of the solution. Credit union CLF are viewed as key vehicles for "draining liquidity" from the rural areas into the formal banking system. The central banks assume (wrongly) that the

portion of members' savings deposited at the CLF to maintain the liquidity of the system constitute excess liquidity for which credit unions have no valid use and which can be better managed by the banking system.

Not surprisingly, credit unions view the situation quite differently. Members' savings belong to them and are intended to help the member and the member's family meet their needs and achieve the goals that they have established for themselves. The federations and their CLFs are the credit unions' credit union. Like credit unions, they are member-owned and operated. While mobilized savings promote development by improving the members' quality of life, this does not mean that CLFs are "development funds" to replace the failed development banks. They are not. They are first and foremost liquidity facilities, where a portion of each credit union's savings is kept in liquid or near-liquid form to insure that requests for withdrawal can always be met. CLF funds are often invested in a layered portfolio of short-term certificates of deposit in a variety of banks. They are also used for lending to credit unions with short-term liquidity problems (e.g., high demand for back-to-school loans in September in a community which markets its cash crops in December).

There is an underlying fear among many credit union people in the Franc Zone that governments and central banks somehow feel they have a right to these institutions and their money. There have unfortunately been a number cases where this is accurate, such as the repeated efforts of some in the Togolese government to take over FUCEC-Togo and force upon it the role of the defunct CNCA in administering external lines of credit. This reflects a failure to understand that the key factors underlying credit unions' success are member ownership and democracy.

IV. THE HISTORY OF BCEAO/UMOA INVESTIGATION OF CREDIT UNIONS

Credit unions have only recently begun to be recognized in the Franc Zone as cooperative financial institutions rather than social welfare projects. The BCEAO has used three "vehicles" for gathering information on and interfacing with the credit union movements of the zone.

The "Aguié Study" was a year-long sabbatical study undertaken by Mr. AGUIE Akichi, a departmental deputy director at BCEAO headquarters. The report contained a flawed but essentially accurate description of most of the movements.

Its understanding and analysis of critical issues was superficial, and it presented conclusions and recommendations which were not justified by the information presented. Most objectionable is the contention that "...the bankruptcy of the Agricultural Banks impose on credit unions the task if not the obligation to finance the annual crop loans..," presumably from external funding just as was the case with the CNCAs. Aguié did not understand that **credit unions are not by definition rural or agricultural institutions, but institutions whose members determine their own needs and priorities**. The history of the movement confirms that the destruction of credit unions and even entire movements can often be attributed to external lines of credit and donor loan capital. External capital substitutes for local capital formation and impedes financial intermediation.

Studies were conducted by **IRAM**, a French organization, and consisted of a report on the current situation and prospects for development of mutualist, "people's bank-type" institutions in each of the seven UMOA countries. This study was generally more competent and professional, with more accurate but not unflawed information and a more thorough presentation of issues facing credit unions in the Union. Again, however, the conclusions and recommendations were often not consistent with the credit union view, nor even with the information presented. The report concludes the need for independence and autonomy for credit unions, but includes discussion of devolving certain CNCA-type responsibilities to them against their will. Financial sustainability, good management, improved skills, specialization in financial intermediation, autonomy vis-à-vis government - it is hard to argue against them. But, while giving lip-service to not adopting foreign models and openness to "new experiences," the recommendations return like a carrier pigeon to the French model of regulation favored by the BCEAO - based on registering CLFs as banks subject to banking law and regulation. The fact that aspects of this model are highly objectionable to the credit union movement is not even mentioned. The report treats the CLF as if it were the most important institution and credit unions nothing but branch offices collecting savings to pass on to it.

The **BCEAO** also held a regional seminar nominally on the "formal and informal financial sectors," (read: the central bank and credit unions). There was no effort to insure that the democratically-elected representatives of the credit union movement would be present. By much last-minute scrambling, six of the seven country delegations contained representatives of the credit union movement who were thus able to present their views. The seminar's recommendations to the BCEAO and the UMOA, however, are still not available to the credit union movement.

V. PARMEC/UMOA

The Support Project for Credit Union Regulation in the West African Monetary Union (PARMEC/UMOA) is financed by CIDA (Canada) and staffed by consultants from SDID and technicians from BCEAO headquarters. The project's literature states that UMOA initiated PARMEC due to the banking crisis and the failure of most of the development banks in the zone in order to help "diversify the banking landscape" and make up partially for the absence of development banks. Its stated focus is the lack of an appropriate legal and regulatory system for credit unions which is therefore impeding their growth. Its program is to propose a common credit union regulatory system for the UMOA composed of a model credit union law and application decree to be adopted by each member country, and model by-laws and internal regulations for credit unions and credit union institutions.

PARMEC staff conducted "awareness" campaigns on visits with so-called interveners or actors in each country. They published a monthly newsletter. They held regular roundtable meetings with the principal interested donors. The tone of all of these efforts was one of reassurance that the wishes and interests of credit unions would be taken into consideration and served by the law and other documents to be drafted.

The reality of what is being proposed is quite different and in direct conflict with the months of reassurances received. The model law was presented in a series of hastily-organized national seminars in May and June 1993. The content of the draft law serves only the interests of the BCEAO. Its adoption would be a catastrophe that could eventually destroy the Franc Zone credit union movements. The BCEAO representatives to the seminars left no doubt that no changes would be broached and that the seminars and the national governments were expected to rubber-stamp and adopt the law without change. They confirmed without a doubt that **the process was a sham, based on co-option not cooperation.**

The PARMEC law requires registering and regulating central liquidity facilities as banks rather than credit union institutions. It continues and reinforces the paternalistic ministerial "tutelle" of credit union movements rather than a registrar/supervisory function more appropriate to private sector development. It seeks to separate the UMOA movements from the panafrican and international movements. It requires support structures at the regional level that are often hardly justifiable even at the national level, with the apparent purpose of serving certain external partners' interests and of multiplying the structures charged with centralizing funds (and being treated as banks). The proposed law is generally an inadequate treatment of the major points of credit union law as judged against international norms, standards, and guidelines.

VI. RECOMMENDATIONS TO USAID

In order to preserve the credit union movements in the Franc Zone in which WOCCU/CUNA, ACCOSCA, the national movements, and USAID have devoted so much time, energy, and money over the last seventeen years, it is imperative that the **PARMEC law** as it now exists be rejected categorically - it cannot be "repaired" by piecemeal modifications. To this end, WOCCU on behalf of CUNA, ACCOSCA, and ACCOSCA's affiliates in the Franc Zone, requests that USAID Missions and regional offices

1. intervene as soon as possible with each of the governments of the UMOA and request that they reject the PARMEC law when it is presented to the Council of Ministers of the UMOA in September 1993;

2. immediately suggest strongly that BCEAO and the national governments accept the fact that credit unions and credit union institutions are **not** banks and should not be regulated as banks but rather as the type of institution they are; and

3. suggest as strongly as possible through appropriate channels

   a) that BCEAO return to the starting point with PARMEC,

   b) that it abandon co-option for cooperation, and

   c) that it enter into an active good-faith collaboration with WOCCU, ACCOSCA, and the national federations with a view to producing ***together*** a legal and regulatory system which observes international norms and standards and is adapted to the particular realities of the Franc Zone.

For its part, the international credit union movement represented by WOCCU, CUNA, ACCOSCA, and ACCOSCA's Franc Zone affiliates is undertaking a comprehensive and coordinated program to encourage the member governments to reject the PARMEC law as it now is written. The credit union movement will propose to the BCEAO a specific process and terms of a collaborative effort between BCEAO and the movement which the credit union movement believes will be able to serve the interests of all interested parties.

I. BACKGROUND: WOCCU/ACCOSCA/USAID APPROACH AND ACTIVITIES

The World Council of Credit Unions is the international trade association of credit unions (savings and credit cooperatives). Its elected leadership has charged its staff with the mission of providing technical assistance to developing movements and of promoting the extension of credit unions to areas where none exist. WOCCU is the repository and clearinghouse for the cumulative experience and expertise of the credit union movement. Among the subjects that are of vital interest to WOCCU in both its trade association and technical assistance roles are credit union legislation, government regulation, and internal structures and functioning.

The World Council of Credit Unions has been charged by its American affiliate member, the Credit Union National Association, Inc. (CUNA), with the responsibility of developing and executing assistance projects to the benefit of developing movements. WOCCU acts on behalf of CUNA in its collaboration with USAID to fulfill the Congressional mandate to promote development wherever possible through extending the benefits of credit union membership. CUNA is the national trade association of credit unions representing the 64 million (one American in four) members of nearly 14,000 U.S. credit unions with total assets of $272 billion. In carrying out this responsibility, WOCCU and USAID have collaborated on a specific support ("core") grant in support of WOCCU's mission to assist developing movements; bi-lateral grants and cooperative agreements to assist individual country credit union movements; grants to assist ACCOSCA, Africa's credit union confederation, to render assistance to its members; and various add-ons and buy-ins to the "core" grant for specific endeavors.

A. INTERNATIONAL

At the **international** level, the World Council of Credit Unions has undertaken two activities of great importance to the promotion of appropriate legislative and regulatory environment for credit unions.

1. Safety and Soundness

In addition to supporting credit unions in their efforts to obtain and maintain effective and disciplined management and to supporting national and regional credit union associations in their efforts to provide services that enhance credit union operations at the local level, WOCCU has determined that there is no single area of more critical importance to credit unions now and in the decade to come for it to support than that of "Safety and Soundness," i.e., ensuring that members' shares and savings are protected. The "Policy Dialogue for Safety and Soundness" project funded by USAID provides technical support for policy dialogue with the public sector in a number of regions and countries to strengthen the safety and soundness of credit unions by improving the legal and regulatory control systems which help protect member savings. By improving safety and soundness, it intends to increase the efficiency of developing country financial markets and help credit unions expand their savings and lending services to predominantly lower and moderate income population groups.

a. Credit Union Law Content Guide

The "Safety and Soundness" project has developed a "Credit Union Law Content Guide" which has brought together the knowledge and experience of experts in credit union law of many countries. The document is now in its fifth draft in English, French, and Spanish. This guide, which will be adopted in its final form by WOCCU during 1993, constitutes the international norms and standards for credit union law. It has already been used successfully to draft credit union law for Niger and in an ACCOSCA legislation workshop for its Francophone affiliates. This Guide was produced in the belief that no single country's credit union act could validly serve as the international "model law," and that, in fact, given the variety of legal systems under which credit unions function, a comprehensive guide would be more useful than an inevitably flawed "model." In addition to Niger, WOCCU intends to use the guide to assist a number of other movements to collaborate with their governments to draft specific and appropriate credit union law. The project also produced a comparative digest of existing credit union laws.

The project is also developing a credit union examination ("inspection") system and a training module for the training of examiners. Finally, a model financial rating system for credit unions is being produced.

b. Implementation Module

The approach with which the promotion of safety and soundness is being undertaken by WOCCU, its member confederations, and national federations is one of dialogue, engagement, and collaboration with appropriate government and regulatory authorities. This approach is clearly illustrated in the Credit Union Law Drafting module jointly developed with the Niger project and implemented first in Niger. This module consists of **two principal parts.**

Preparatory Workshop - Part I

Part I is a three-day preparatory workshop. The participants in this workshop are those individuals who will be called upon to help draft and/or to review and comment upon a credit union law. Invitees would include credit union leadership and staff; representatives of appropriate government ministries (especially the Ministry of Finance), the central bank, and USAID and other donors as appropriate. The workshop is co-facilitated by a two-person WOCCU and ACCOSCA team. Local lawyers or law professors, especially those specializing in legislation or in private sector law, might be included in the group.

During the **first phase** of the workshop the group is introduced to the internationally-accepted definition of a credit union, credit union operating principles, and typical credit union organization and practices. In the **second phase**, credit unions are compared and contrasted to banks and commercial insurance companies on one hand, and to informal financial institutions and to credit projects (donor, government, NGO) on the other hand. These institutions are compared on approximately a dozen points. By the end of these two phases, the participants are all "on the same wavelength" as to what a credit union is, why it is a unique financial institution, and why this uniqueness requires that it benefit from specific credit union legislation and regulation.

The **third phase** is taken up with credit union law case studies. Approximately half of the 75 major points of law contained in the WOCCU "Credit Union Law Guide" are presented. Each point is then studied as it is treated in the texts of the credit union laws of the United States, of Québec, and of South Australia. This exercise is conceived in order to demonstrate how the "Guide" may be used to draft credit union law in different countries, with different languages and legal systems, while still observing international norms and standards. A fourth and final phase may be added which would present to the participants the guidelines of the country's government for the drafting of legislation, if such guidelines exist.

Drafting Workshop - Part II

Once the preparatory workshop has been completed, the task of drafting the credit union law is undertaken. The responsibility for drafting the law is in the hands of the same workshop participants as above. For convenience sake, a smaller group of drafters (composed of those most concerned and/or possessing the most appropriate knowledge and skills) may be constituted for the actual writing while the larger group is reconstituted for review and comment. For this task of at least two weeks' duration, WOCCU provides two expert consultants who are familiar with complementary aspects of credit union legislation and regulation, and who are familiar with the "Guide." In Niger, for instance, WOCCU provided the services of a lawyer who is a former manager with the Bolivia Credit Union Federation, and of a Supervisory Examiner (inspector) on loan from the National Credit Union Administration (NCUA), the U.S. Government independent credit union regulatory agency. The experts present the full "Guide" to the group and each article is thoroughly discussed. The country legislation drafting guidelines and format are then reviewed. Writing tasks are assigned to group members. The experts serve as resources and advisors, and possess sufficient practical experience to know the implications of different options. They review the draft for completeness and to insure that the draft is in harmony with the norms and standards as presented in the "Guide." In francophone African countries, where legislation format is in two parts - the law, and accompanying instructions for the practical application of the law ("décret d'application") - the drafting session may be organized in two parts to accommodate this. Completing review of the draft law may be necessary before beginning work on the "décret."

It should be noted that neither the "Guide" nor the implementation module nor other products of this effort are "off-the-shelf" or "do-it-yourself" tools. They are conceived and intended to be used by those with particular expertise in the field in a structured collaborative effort with credit union movements, their governments, and central banks.

2. Regulatory Development

WOCCU and the National Credit Union Administration, the independent U.S. Government regulatory agency for federally chartered credit unions, jointly administer a "Regulatory Development Grant" from USAID. The principal accomplishment of this grant was the holding of the International Regulators Workshop. This workshop was held in Madison, Wisconsin in June 1991 during the three days preceding the triennial International Credit Union Forum. The workshop assembled several dozen credit union government regulators from both developed and

developing countries for seminars on regulatory issues and exchanges of experiences. Along with this workshop, WOCCU and NCUA published the first "International Regulatory Directory" containing summary descriptions and contact information on credit union regulatory bodies. WOCCU and NCUA have undertaken to facilitate continued contact between the attendees and to provide regulators with documentation relating to credit union legislation and regulation.

B. BI-LATERAL

A number of **bi-lateral projects** in recent years have addressed legislation and regulation directly.

1. Cameroon

In **Cameroon**, where credit unions come under cooperatives law, WOCCU and CamCCUL have worked together to draft new law that would make more appropriate provision for credit unions. Unfortunately, the donor community committed itself to a process of direct collaboration with the government to "reform" the cooperatives law and keep all cooperatives, including credit unions, under this law. Despite (or perhaps because of) being the strongest and certainly the most democratic cooperatives in Cameroon, credit unions have been systematically excluded from the process. Credit union input, including law drafted by CamCCUL staff and USAID-funded WOCCU advisors and consultants, has been largely ignored. The end result has been a boiler-plate re-hashing of old law which provides a worse rather than better legal environment for credit unions. If, as expected, BEAC follows the lead of the BCEAO in moving to regulate credit unions under the central bank system, this cooperatives law will be rendered moot as regards credit unions. The Cameroon movement and others in the ZMAC, however, will then be confronted with a challenge as formidable as that of the PARMEC law to movements in the UMOA.

2. Togo

In **Togo**, the current WOCCU/FUCEC-Togo collaboration financed by USAID has as one of its objectives the obtaining of a more appropriate legal environment for credit unions as well as improving the internal policies, regulations, and structures of credit unions and the federation.

Credit unions are still regulated under the old cooperatives law. Under this law, the Ministry of Rural Development's Cooperatives Department serves as the registrar for credit unions. This department is reasonably prompt in responding to requests to register credit unions that are transmitted to it via FUCEC-Togo. This department has neither the personnel nor the resources, however, to fulfill its responsibilities in the area of inspection (examination) of credit unions. Given the importance of inspection to the safety and soundness of credit unions, one of the conditions precedent of the current project was the delegation to FUCEC-Togo of the responsibility to conduct inspections of credit unions and the authority to enforce recommendations, if necessary with the aid of the authorities. FUCEC-Togo established an

Inspection Department, staffed it with qualified inspectors, and developed an Inspection Manual and forms with the assistance of CICM and WOCCU. Unfortunately, government support of FUCEC-Togo has been non-existent in situations where a credit union resists inspection. The head of the GOT Cooperatives Department has taken the position that such matters are entirely internal to the movement and that FUCEC-Togo must derive its authority to inspect and to enforce inspection recommendations entirely from within the movement. This position is in direct conflict with the provisions of existing law, weak as it is, and with international norms and standards. One can only conclude that appropriate and effective regulation of credit unions cannot be obtained under the existing law.

Both federation and credit union standard written by-laws, internal regulations, and policies, including credit policy have been adopted. Federation manuals for credit union liquidation and merger were prepared. FUCEC-Togo also adopted a "credit union health index" as an early-warning detection of situations that may threaten the safety and soundness of credit unions. Monthly account verification is conducted in each credit union by FUCEC-Togo field agents.

Once the current general strike is over, WOCCU and FUCEC-Togo will engage the process of obtaining a law specific to credit unions for Togo.

3. Niger

Niger has Africa's youngest credit union movement, yet if the draft credit union law recently completed in Niger were adopted, it would have the continent's most modern and progressive credit union law. The new movement in Niger was the first one in which WOCCU and USAID have collaborated to initiate a credit union movement where none had existed previously. The three-year pilot project, which recently was succeeded by a larger five-year project, was initiated in the context of a policy reform project, the Agricultural Sector Development Grant (ASDG). The objectives of this effort included encouraging the Government of Niger to adopt market economic policies and to create an administrative and regulatory environment conducive to initiatives of the private economic sector. In this context, USAID/Niger supported WOCCU's insistence that GON agree to certain conditions precedent: that credit unions be exempted from the application of both bank and cooperatives law; that GON adopt temporary credit union legislation providing for a Credit Union Registrar, legal registration of credit unions, and other elements; that GON agree to refrain from interfering in the internal affairs and management of credit unions; and that it agree to collaborate with WOCCU and ACCOSCA to draft a permanent credit union law for Niger according to internationally accepted standards. All of these conditions were satisfied. As Phase II enters the second semester of its first year, the law that was drafted during Phase I is ready to be proposed for adoption. A "décret d'application" to accompany it remains to be drafted. However, new personnel who are unfamiliar with credit unions and the history of this legislation have now taken office in the Ministry of Finance after the recent elections. They have indicated initially that they support a law emanating from the PARMEC/UMOA project rather than the one drafted in Niger. Since the adoption of inappropriate legislation would violate the conditions precedent for the project's USAID funding, this issue will need to be resolved if it is not to threaten the continuation of project funding.

As part of Phase II activities, WOCCU will hire and train credit union Inspectors, draft an inspection manual and forms, and conduct regular inspections. Its agents will regularly verify credit union accounts and help credit union supervisory committees to learn to fulfill their role of internal control.

4. Sénégal

In **Sénégal**, WOCCU has supported CONACAP's efforts to provide training to its affiliated credit unions since 1989 with a series of Mission Buy-ins to the WOCCU "core grant" by USAID/Sénégal. In addition, CONACAP has benefitted from assistance from ACCOSCA in the area of training of credit union managers in accounting and support to field services. WOCCU and CONACAP anticipate beginning a two-year collaboration during Fourth Quarter 1993 financed by USAID to reinforce CONACAP's ability to provide essential services to credit unions, and, under the auspices of ACCOSCA, to help CONACAP and the credit unions create a democratic national federation to replace CONACAP.

Obtaining an appropriate legal and regulatory environment for credit unions in Sénégal has been an important issue in recent years. With WOCCU's encouragement and support, CONACAP participated actively and took a leadership role in ATOBMS - the Technical Assistance Project for Mutualist Banking Institutions in Sénégal ("Projet d'Assistance technique aux opérations bancaires mutualistes au Sénégal") which was based at the Ministry of Finance and staffed by SDID. WOCCU has provided considerable documentation and advice to CONACAP on this and related areas, and has encouraged CONACAP to develop positive collaborative relationships with the Ministry of Finance while attempting to bring about a new, more appropriate role for government. This positive relationship was exhibited most recently at an ACCOSCA seminar on credit union legislation for francophone countries held in Burkina Faso in December 1992. Sénégal was represented by CONACAP's president and vice-president <u>and</u> by two representatives of the Ministry of Finance. The delegation worked with the WOCCU legislation "Guide" and drafted a new draft credit union law for Sénégal based largely upon these guidelines in succession to the legal framework drafted under ATOBMS. During the next phase of activities, CONACAP will continue its active pursuit of a more appropriate legal framework by working with the Ministry to refine this draft to be presented for adoption. CONACAP is participating actively and taking a leadership role in the successor organization to ATOBMS - the Cellule d'Assistance Technique aux Caisses Populaires d'Epargne et de Crédit. Using Niger's temporary legislation as a model and with the support of USAID/Sénégal, the Cellule was able to obtain the adoption of a similar "arrêté ministeriel" which for the first time provides appropriate legal recognition of credit unions in Sénégal.

CONACAP will also initiate regular unannounced inspection and develop the account verification and internal control functions in its system.

C. ACCOSCA

WOCCU and USAID's assistance to **ACCOSCA** has helped it to intervene in this area on a number of important occasions in recent years:

1. Credit Union Legal Digest

ACCOSCA published a digest containing the texts of all the laws under which its affiliate members were operating in Africa - a mammoth reference work.

2. Legislative Guidelines

Together with the World Council of Credit Unions, ACCOSCA has developed a model set of legislative guidelines which national associations can use to achieve better legislation to cover credit union activities.

3. Francophone Seminars

ACCOSCA has hosted two seminars in the last 15 months for its francophone affiliates - the first to bring its members together with representatives of the Ministries of Finance and of the BCEAO, and the second to initiate the process of using the WOCCU "Credit Union Law Content Guide" to draft specific credit union law.

4. Niger Law

A representative of ACCOSCA assisted in the preparation seminar prior to the drafting of credit union law in Niger.

5. "Plan Africa 2000"

At the 1993 biennial meeting, ACCOSCA's members adopted a comprehensive strategic business and marketing plan to support the growth and development of the African credit union movement titled "Plan Africa 2000." The primary purpose of this strategic business and marketing plan is to provide an overall strategy and set of guidelines to aid WOCCU and ACCOSCA in working with primary credit unions, national leagues, external donors and other partner organizations that facilitates credit union growth and development.

Plan Africa 2000 is based on the view that a credit union is a dynamic people-owned financial institution operated on sound cooperative and business principles. Its primary purpose is to provide high quality, reasonably priced financial products and services that not only meet, but exceed members' expectations. Its overall concept is a marketing-based approach to enhance credit union development, emphasizing the use of incentives to implement the various components. In meeting this vision, the credit union movement strategy is designed to foster growth through:

* **IMPROVED SAFETY AND SOUNDNESS**

* **INSTITUTIONAL STRENGTHENING**

* **PRODUCT AND SERVICE DEVELOPMENT**

Short-term goals would consist of improvement in primary societies record-keeping, interest rate structure revision, increased membership, reduction in loan delinquency, improvements in asset quality and liquidity, and enhanced safety and soundness. At the national association level the key goal is improved efficiency and viability.

Long-term goals and objectives would consist of further improvements in safety and soundness, management and leadership development, stabilization programs, an **enhanced legal and regulatory environment**, and development of improved and new products and services. At the national association level the key goal is providing quality, needed and sustainable services to the primary credit unions which enhances their service to members. This would include sound and well run central finance facilities.

II. CREDIT UNION UNIQUENESS

A. DEFINITION

DEFINITION: CREDIT UNION
A credit union is an **association of persons** linked by a **common bond** (residential, professional, occupational, associational) who **save** their money together and **from their savings** make **loans to each other** for provident, productive, or consumption purposes, and **obtain other financial services** as determined by the needs of the members. A credit union is **democratically organized and run** by the members who make decisions regarding the management of the credit union in General Meetings on the basis of **one person, one vote** and who elect a Board of Directors, and Credit, and Supervisory Committees to execute their decisions and carry out the day-to-day operations of the credit union to the benefit of the members. Credit unions provide **credit on reasonable terms and at affordable rates of interest** (typically, the lowest possible rates consistent with covering operating costs, competitive remuneration of savings, provision for bad debt and other required or desired reserves, and building of institutional capital required for safety and soundness of members' savings). **All revenues are returned to the members in the form of dividends on shares, interest on savings, or better services.** Credit unions **do not discriminate** on the basis of **race, ethnic or national origin, religion, gender, or political affiliation.** (*emphasis added*)

1. Formal Institutions

Credit unions have many important similarities to institutions of the informal sector such as "tontines," especially member ownership and group solidarity which are the basis of both. **Credit unions, however, are formal and not informal financial institutions.** They are organized and function according to a specific set of cooperative principles as expressed in the **Statement of International Credit Union Operating Principles** adopted by WOCCU's General Meeting in 1984. They adopt by-laws and elect officers democratically and are duly registered or incorporated by the appropriate government regulatory body. They must have the legal status (as "personnes morales") to avail themselves of the protection of their country's legal system in case of theft, fraud, or non-payment of loan obligations, and to collect savings and enter into contracts, e.g., make loans, hire a bookkeeper, lease an office, etc.

2. Defined by Principles, Not by Size

Credit unions are not by definition "small" nor are they limited in the scope of financial services they may offer to their members, although commercial banks often try retroactively to impose such a straitjacket on credit unions when they feel the heat of competition to provide moderately-priced personal financial services to the marketplace. The same principles of member ownership

and operation, adherence to democratic practices, and the mobilization of member savings which characterize community credit unions in Louga and Ziguinchor (Sénégal) also apply to the largest credit union in the world, Navy Federal Credit Union (USA) with its 800,000 members - they are different only in their size and the variety of products available to members. Neither credit unions themselves nor their national associations and central finance units aspire to be banks "when they grow up." Even when credit unions are able to provide to their members some or most of the financial services typically offered by banks, their ownership structure, democratic nature, and reliance on members' savings make them fundamentally different from banks. They reject the idea that size alone has somehow redefined them into the banking industry. They define themselves in terms of who they are (credit unions believe that they are their members) and not exclusively in terms of what they do. Their bottom line is service to their members. Any attempt to regulate them as if they were other institutions destroys their ability to function as the institutions they are.

3. Savings-Driven, not Credit-Driven

Although credit union movements may receive development assistance in a project context from one or more of a number of possible partners, credit unions differ in several important ways from many donor-assisted targeted credit projects conducted by governments, development banks, NGOs/PVOs, etc. The most fundamental difference is that **credit unions are primarily savings-driven rather than credit-driven.** Because credit unions mobilize members' savings for all or at least the vast majority of the services they offer, they quite literally belong to their member-owners and are not just run by them. Credit projects may attempt to decentralize their operations to beneficiary groups which they may try to organize along cooperative lines and sometimes erroneously call credit unions. They still operate, however, by administering OPM - other people's money - and therefore do not "belong" to the beneficiaries in the truest sense. Credit unions mobilize part of the members' savings which has heretofore not been invested and has perhaps remained in non-monetary form. They operate in the "real market" and therefore they must adopt real-market interest rates and policies and acquire the needed managerial capacity if they are to survive, grow, and provide increasing services to their members. In credit projects, savings, if it exists at all, is most often a token gesture or a future goal to be attained, and credit is provided overwhelmingly from donor funds. Credit projects often insulate their beneficiaries partially or entirely from real-market forces through subsidized interest rates, easy terms, targeting with accompanying technical and logistical assistance and fixed commodity prices.

4. Credit Unions Are Not Themselves "Projects"

Credit unions are created by people to meet their needs and solve their problems. It is important to remember that, while credit unions and credit union institutions may benefit from participating in a project, they are not themselves "projects" with fixed beginning and end dates. They are autonomous institutions which are a permanent part of community life and evolve according to the resources and need for services of their members.

5. Unique Financial Institutions

Credit unions, then, are unique cooperative financial institutions. Grounded in group solidarity, they belong nonetheless to the formal rather than the informal sector. They occupy a separate place among formal financial institutions from that occupied by banks, finance companies, housing banks, mutuals, agricultural and development banks, and commercial insurance companies. Because national-level credit union institutions - such as federations, central finance units, and mutual insurance programs - are organized along the same principles and ownership structure as credit unions themselves, they possess the same unique qualities as credit unions. In fact, credit unions and their national institutions are part of an international credit union system which extends to continent-wide confederations and to the World Council of Credit Unions.

B. IMPLICATIONS OF UNIQUENESS FOR LEGISLATION AND REGULATION

The unique nature of credit unions has definite and specific implications in the area of legislation and regulation.

1. The Necessity for Regulation

Credit unions are formal institutions which require the protection of law. They must insure the integrity of credit unions' most fundamental services to their members - that is, the safeguarding of their savings and the granting of credit. In order to do so, they must have the legal status that will guarantee that they have access to the protection of the law through the police and the courts in case of theft, fraud, or non-repayment. This status can only be conferred by legal recognition by the appropriate government registrar office which grants its charter upon proposal by its national federation. As credit unions grow and both the size and the variety of the financial products required by the members increase apace, it is increasingly important for credit unions to not be unregulated or unsupervised by virtue of being assumed to be part of the informal finance sector. Without the assurance of the protection of law, credit unions will be hesitant to accept deposits and make loans, and members will be hesitant to save at their credit union.

2. Bank Law

Credit unions and credit union institutions cannot, however, be regulated under bank legislation and still remain credit unions. Bank legislation does not recognize the democratic nature and the member ownership and operation of credit unions. Because banks operate using the invested funds of stockholders who vote their shares, usually with a profit motivation, and using the deposits of clients who have no say whatsoever in the banks' management, the central banks and government have a heavy regulatory and supervisory responsibility to protect the deposits and investments of its citizens. It is required to act on their behalf in an area where they have few or no rights to know and to see. While credit unions should also be held to high standards of honesty and competence, certain standards which are appropriate for banks would stifle and destroy credit unions. An example might be that of minimum capital requirement. Credit

unions must have adequate capital. However, what might be an appropriate minimum capital level for a bank (sufficient to cover operating deficits, bad debt losses, etc. and to repay depositors) might be so high as to prevent the creation of both community and workplace credit unions in all but the most affluent of groups, even in the developed world. Credit unions, thanks to the volunteer participation of their Boards of Directors and Credit and Supervisory Committees as well as, at first, their bookkeeper/managers, can and do operate autonomously and well at very modest levels when they are young. They therefore would not require the same minimum capital level as a bank. They grow and become more complex as membership and savings grow and member needs for services evolve, and they observe the prudential standards of business practice appropriate to the volume and complexity of their operations.

3. Cooperatives Law

To the extent that credit unions are recognized and registered in most African countries, this is almost always done under the Cooperatives Law administered by the Cooperatives department of the Ministry of Agriculture or Rural Development. In some cases, credit unions or, at least, the credit union promotion committee are registered as NGOs with the Interior and/or Social Affairs Ministry (the case in Sénégal). Cooperative law was designed with agricultural production and marketing cooperatives in mind and little or no mention of credit unions. Worse, the cooperatives in question are more often than not government institutions rather than real cooperative businesses, so that the law permits or even requires government interference in cooperative management - a disastrous situation when applied to private, autonomous credit unions. In addition, the cooperatives departments are often staffed entirely by agronomists who may (or may not) have taken a course in cooperative organization but certainly have no background in finance. During the period in which credit unions were in their infancy and had not mobilized nor centralized significant amounts of money, this situation was not much of a problem. In the best of situations, credit unions could acquire legal registration documents, although in some countries this required years of waiting. Little or no supervision or regulation of an appropriate or useful nature has been provided these agriculture-oriented cooperatives departments.

III. NEED FOR SPECIFIC CREDIT UNION LEGISLATION AND REGULATION

There are several factors which have brought the need for specific credit union legislation and regulation to the fore in Africa in general and in the CFA Franc Zone in particular.

A. CREDIT UNION GROWTH

The first factor - shared by both the credit union movements and central banks - is the realization that there has been **extremely rapid growth in several credit union movements in the zone** in recent years and that they are no longer insignificant players in the financial markets of their countries. For example, the Cameroon movement's 80,000 members with 12 billion francs CFA in savings and the Togo movement's 33,000 members with 3 billion francs CFA in savings are hard to ignore. Other movements have yet to reach these levels, but several are poised for "take-off." Both credit unionists and central bankers realize that fraud or incompetent management of credit unions could cause significant losses to members. Consequently, both are anxious to have a system which will insure that credit unions are properly constituted, that they undergo periodic and regular audits and inspections, and that they have the opportunity to arrange for the support services they require in order to function smoothly.

B. CRISIS IN THE FRANC ZONE BANKING SECTOR

The **crisis in the banking sector of the Franc Zone** during the last five years has caused the central banks to have their own reasons for looking to the credit union movement and seeking to regulate it. Since 1988, more than half of the Franc Zone's banking sector has gone bankrupt and disappeared. The wave of failures of government development banks and agricultural credit banks (CNCA) as well of a number of commercial banks with significant government ownership participation has resulted in losses totaling billions of US dollars. For instance, by 1988, bad loans in the Franc Zone already totaled more than 750 billion CFA francs, or roughly 3 billion US dollars. This does not even count cases of outright theft and fraud, such as the multi-million dollar withdrawals against fictitious deposits at Cameroon Bank, or the multi-million dollar check-kiting schemes at CNCA-Togo. Losses at Togo's CNCA came to more than 50 million USD before they stopped counting. Losses due to bank failures in Côte d'Ivoire and Cameroon dwarf this situation by comparison. Côte d'Ivoire's failed development banks are an alphabet soup of corruption and intrigue - BNDA, BICT, BNEC, BIDI, CCI - in which the BCEAO itself is deeply implicated at the very least through negligence.

The closing of BCCI's branches in the zone, the fall of the "Grandfather" of Franc Zone banks, the BIAO, and the flight of American and British banks such as Chase Manhattan, Morgan Stanley, Manufacturer's Hanover Trust, Bankers' Trust, and Barclay's from the Franc Zone have also contributed to the dramatic loss of consumer confidence in banks. The result has been not only liquidity crises, reductions in services, and increases in prices, but also the increasing flight of local deposits toward the informal sector, to credit unions, and out of the continent entirely. The effects of the off-the-continent exodus are particularly acute, because those who are able to expatriate their savings are most often those who have the largest amounts and were

the preferred clients of the banking system. This expatriation of funds increases drastically the need to mobilize local savings to replace them.

The creation of what is intended to be an independent bank regulatory agency for West Africa - "La Commission Bancaire Internationale" - has served to restore confidence somewhat but has not stemmed the flow. This is at least partially due to the fact that many of the key players in the previous disasters are still occupying key central banking positions, including membership in the aforementioned regulatory body. A similar body - "La Commission Bancaire de l'Afrique Centrale" (COBAC) - was recently announced for Central Africa. The banking system has also benefitted from structural adjustment loans from the World Bank and from the CFD (ex-CCCE). However, it is only the intervention of these donors that guarantees that the affected governments will insure that the long-suffering small depositors whose accounts have been frozen for months or years will be served first. Without such intervention, many governments would pay themselves and other large depositors first. For instance, it was only through WOCCU intervention with the World Bank that the 6 million US dollars of Cameroon's 70,000 credit union members on deposit in a CamCCUL central finance account at the defunct Cameroon Bank was given priority for reimbursement. Left to their own devices, the priorities of the various governments would hardly endear them further to their populations, nor would they help restore consumer confidence in banks.

C. CENTRAL BANKS VIEW OF CREDIT UNIONS

1. A New Source of Development Funding

The donor governments and agencies and the foreign commercial banks which have supported these development banks and mixed capital (private/public) banks in the past are, needless to say, loathe to pour additional money into the same bottomless pit. Thirty years experience in supporting these institutions has been such a spectacular failure that few if any donors are willing to consider it any longer, especially with more promising undertakings looming on the horizon in Central and Eastern Europe. Furthermore, development professionals and academics are increasingly concluding that credit-driven approaches to development assistance have been a mistake and, in fact, do not bring about sustainable development. (The February 1993 report of the World Bank's Technical Department, Africa Region, on "Development of Rural Financial Markets in Sub-Saharan Africa" is the most recent study to confirm this conclusion.)

Central banks, then, have increasingly come to view the savings mobilized by credit unions as an alternative or new source of funds for financing investment in economic development endeavors. They are anxious to have a more direct way of interfacing with credit unions and especially with credit union movement central finance units.

The most credible proponent, at least in French and other European circles, of credit union central finance investment in and/or creation of private businesses for purposes of stimulating employment and income is Bernard Taillefer, the French former Director of the Banques Populaires du Rwanda. Taillefer, however, poses several pre-conditions for such investment in

his article in the January 1993 issue of **Jeune Afrique Economie**, "L'Avenir des Mutuelles." **Before investing in businesses or creating wholly-owned subsidiaries, a credit union movement must first, he says, be financially autonomous.** Most importantly, he notes that **these investments can only be made from the setting aside of portions of net revenues of credit unions or federation central finance units for these purposes - there is no question of using members' savings for this purpose.** Last, his opinion is that credit unions and federations must undertake rigorous efforts to reduce costs and improve efficiency with the express intention of producing the net revenues that would make such investments possible. Taillefer's views are by no means shared by all credit unionists, but even those who disagree with him would appreciate that he is not speaking of using members' savings.

The incomplete state of central bankers' understanding of credit unions, however, does not allow them to make the important distinctions that Taillefer makes. They see only a growing pool of money for which the credit union movement, in their view, either has no valid investments (i.e., insufficient loan demand) and/or does not possess the expertise to manage. If, as they believe, the credit union movement does not know how to use its money productively, bankers do. In his article, "La Collecte de l'Epargne," in the same issue of **Jeune Afrique Economie** cited above, Paul Derreumaux, CEO of the Bank of Africa/Benin and Mali, takes up this subject again and demonstrates once again how widespread and current this view is among bankers. Since it is not profitable for banks to create many if any branches in the interior of West African countries, they can "... proceed with a cooperation with other savings' collecting institutions which are more decentralized, such as rural and urban credit unions, for which commercial banks can serve as central banks."

2. A Source of Liquidity for the Two Monetary Unions

Ambassador Francis Terry McNamara, in his recent book France in Black Africa, notes that the two monetary unions of West and Central Africa are often described as "France's most valuable legacy to her former black African dependencies. These unions have ensured a level of financial discipline that has helped member governments to avoid some of the dangerous temptations to which so many other developing countries have fallen victim...The guaranteed convertibility of the CFA into French francs has provided WAMU and CAMA members with the blessings of a hard currency. This has been a distinct advantage in attracting potential investors and foreign creditors...**For the first 15 years of their existence, the BCEAO and BEAC ran continuous surpluses in their operations accounts. The real effect of these surpluses was to provide a comfortable loan to the French treasury. In more recent years, however, WAMU has produced a series of deficits.** These shortfalls reflect chronic balance-of-payments problems that have troubled WAMU's two most important members, the Ivory Coast and Sénégal." Because of the oil revenues to Gabon, Congo, and Cameroon, **CAMA avoided comparable difficulties until the mid-80's.** "The French are understandably concerned by the persistent deficits being run by virtually all African franc zone members...For the first time in post-independence history, both central banks are now in serious arrears with the French treasury. The precipitous fall in commodity prices, coupled with a fall in the value of the dollar, is ravishing even the strongest African economies...**Both the BCEAO and the BEAC**

have taken steps to implement restrictive measures aimed at squeezing their member countries' economies and bringing their accounts at the French treasury into equilibrium." The result can be seen in the ensuing liquidity crisis.

In a classic case of "blaming the victim," finance ministers across the franc zone at first publicly railed against and condemned the informal financial sector, including "tontines" and njangis, for keeping substantial amounts of money out of the formal financial (banking) system and for contributing to and even causing the liquidity crisis! The fact that people in the franc zone, and not just lowly peasant farmers, have rational economic and social reasons of self-interest when they participate in informal finance seems never to have crossed their minds. In a press release (6 May 1992) following an African Development Bank-sponsored symposium on restructuring the African financial sector, the central bankers in attendance included among their recommendations the following statement: "The narrow perception of regulation and supervision had led to restriction of supervision to the banking sector alone while **non-bank financial intermediaries (NBFIS) which are not subjected to regulation and supervision were able to undermine monetary policy implementation."** After finally coming to the inevitable conclusion that it is futile to try to fight informal finance, much time and energy has been devoted by the central banks to the idea of developing links between the formal and informal financial sectors and devising ways to render the informal sector more efficient. **Credit unions, which are considered to be the informal institution which has a foot in the formal camp, are considered to be a key vehicle for, as they often say, "draining liquidity" out of the informal sector and into the banking system.** It is not hard to see, then, why regulating credit unions and other so-called mutualist financial institutions has become a priority for the central banks.

D. CREDIT UNIONS' VIEW OF CREDIT UNIONS

1. Credit Unions - Of, For, and By the Members

Not surprisingly, **neither credit unions and their member/owners nor credit union national federations see credit union member savings as a source of development funding** to replace the failed development banks, agricultural credit banks, and projects charged with implementing five-year plans and attaining seasonal crop production goals. They are not interested in using that part of members' savings which is centralized for long-term investment in medium-to-high risk private or mixed public/private ventures to suffer the same fates as the previous failed efforts. **The savings of credit union members are first and foremost intended to help the member and the member's family to fulfill their obligations and to achieve the goals that they have established for themselves.** The safety of these savings is their highest priority. They can be excused if they do not see entrusting their life savings to government as a priority. They want to contribute to their countries' development by using the group solidarity of credit unions to build their local economies one family at a time. In addition, the "ordinary working people" who largely make up credit union membership were often treated with contempt and derision by the personnel of these former institutions when they attempted to access their

services. They do not share, therefore, the combined nostalgia and financial interest of those who long to see these institutions replaced.

2. Central Finance - Not a Development Fund

One of the services that a national credit union federation renders to its member credit unions is the services of a Central Liquidity Facility. **The federation and its Central Liquidity Facility serve as the credit unions' credit union (or central financial cooperative) and are organized and run along the same principles as the credit unions themselves, i.e., they are still member-owned and member-operated.** Credit unions typically deposit at least 10%, more frequently 25%, and sometimes as much as 50% or more of their funds at the Central Liquidity Facility. The service of the CLF to member credit unions is that **it is first and foremost a liquidity facility.** Credit unions must be able at any time to satisfy the request of members for withdrawals from their savings accounts. Consequently, credit unions cannot loan to members 100% of their accumulated savings - they must maintain a portion in liquid form, or in a form that can be converted to liquid form promptly. The security and liquidity of a large portion of consolidated savings therefore take precedence over the desire for yield or the desire to promote a particular kind of investment. These funds are most often maintained in short-term investments (bank 30-day certificates of deposit or a "layered" portfolio of CDs).

The second priority use of CLF funds is in inter-lending between credit unions. For instance, credit unions experiencing seasonal liquidity shortages (e.g., an overwhelming demand for back-to-school loans in September from a community which markets its cash crops in December or January) might obtain a four-to-six month loan in order to satisfy this need. **Only particularly well-developed movements may be in a position to create programs for medium-to-long-term investments, such as building or home mortgage loans.** Even at this level, the credit union movement does **not** require the management services of commercial or central bankers or government bureaucrats - the federation will acquire the expertise it needs as it needs it. The federations welcome, however, appropriate supervision and regulation, for at this level like at the basic level, they are incentives for better management and safeguards of the members' savings.

3. Member Distrust of Government and Banks

There is an underlying fear among a great many credit union people in the Franc Zone - from the aforementioned "ordinary working people" who form the membership to federation elected leadership and staff - **that government, including the central banks,**

a. **wants their money** and wants control of their credit unions,
b. feels that credit unions have excess liquidity that they do not know what to do with,
c. feels that credit unions do not possess the expertise that government does to properly manage money,
d. feels that credit unions exist thanks only to government benevolence, and
e. feels, in some bizarre gymnastic feat of logic, that it somehow has a "right" to this money.

This is not a picture of central bank and government attitude toward credit unions that WOCCU and ACCOSCA seek to cultivate, and is contrary to the kind of engagement and collaboration with governments and central banks that WOCCU and ACCOSCA have undertaken to promote. There are, however, regrettably all too many cases where this perception is perfectly accurate, especially cases involving government agriculture or rural development ministries.

4. The Togo Example - The Campaign for a "New" CNCA

For instance, since the demise of CNCA-Togo, the Togo Credit Union Federation (FUCEC-Togo) has been the object of at least **four different concerted efforts by the government (in particular the Rural Development Ministry) in collaboration with certain donors to take over the federation by government edict and force it to assume the CNCA's former role of administering external subsidies and lines-of-credit**, ostensibly for crop loans ("crédit de campagne agricole"). The most recent effort, undertaken by the Rural Credit interministerial commission, admitted clearly that donors will no longer fund rural credit in Togo because of the lack of a credible financial institution to administer the funds. Therefore, **because FUCEC-Togo is the only credible institution around, it should be requested but, if it refuses, forced to become a bank ("être bancarisée" !) and to administer the external funds for crop loans.** In its unmitigated arrogance and in spite of Togo's ongoing struggle for democracy and the right of private initiative, this commission recommends destroying an autonomous, democratic private institution and effectively expropriating a significant portion of its resources. Neither FUCEC-Togo nor the credit unions are the property of this commission, they did not ask it for permission to exist, nor did they ask for or want to play the role of administrator of crop loans, yet one would not know this from the commission's report.

This example is not unique in Togo, where it is only the most recent in a series of four attempts. It is also not unique in the franc zone, where **various other initiatives by governments or, usually, by governments in collaboration with donors or even NGOs, have been undertaken in other countries to co-opt or otherwise take over a credit union movement. In each one of these cases, the common denominator has been the attitude that credit unions are a vehicle which the government, donor, or NGO can use in order to achieve its own goals and objectives. Not surprisingly, credit union members see their credit unions and credit union institutions as vehicles only to achieve the goals and objectives which they, the members, have set for themselves. Governments, donors, and NGOs see credit unions' proximity to "the masses" and their low operating costs as the secret to their success - completely ignoring the critical role of member ownership and democracy.**

IV. THE HISTORY OF BCEAO/UMOA INVESTIGATION OF CREDIT UNIONS

With their origins close to the informal sector, their frequent relationships to churches and NGOs, and their supervision by Ministries of Rural Development or Social Affairs if at all, **credit unions have only recently begun to be recognized in the Franc Zone as cooperative financial institutions rather than charitable or social welfare projects.** Credit unions were initiated in the Franc Zone more than twenty-five years ago. They grew and evolved for more than twenty of those years with little or no notice by the Ministries of Finance and the central banks. As noted previously, the simultaneous crisis in the banking sector, the liquidity crisis, and the growth of credit union movements have caused central bankers and Ministry personnel alike to begin to take notice and ask questions. Are these groups with their hundreds of millions or billions of francs in savings a potential disaster waiting to happen? Are credit union failures due to lack of regulation and supervision going to be the next major catastrophe to occur "on our watch?" On the other hand, in addition to meeting the modest needs of villagers for small loans, are the consolidated savings of these groups not a potential source of development funding, replacing departed banks and diminishing project assistance?

The interest of the central banks was and is not limited to credit unions (savings and credit cooperatives) according to the internationally accepted definition of that term. Their interest includes a broad range of what they often refer to as "mutualist" groups, including both credit unions and several other kinds of groups involved in some way in savings and/or credit. Some of the latter erroneously use the name credit union or one of its accepted equivalents (such as the so-called COOPECs of FONGS in Sénégal or the Caisses Populaires de Développement Economique in Togo). In other cases, such as in Niger, a tendency developed to use erroneously the term "credit union" ("caisse populaire") as a generic term to cover a wide variety of groups including credit unions but also informal and semi-formal groups supported by government, donors, and NGOs. The banks' interest extends also to informal finance in its newer and traditional forms.

This interest has been pursued on many fronts, but **three "vehicles" in particular stand out as significant means by which the BCEAO has sought to learn about credit unions and about "mutualist," semi-formal, and informal finance. These include two studies and a workshop.**

A. THE "AGUIE" STUDY

During his year long sabbatical (10/01/89-30/09/90) from his post as a departmental deputy director at BCEAO headquarters in Dakar, Mr. Akichi AGUIE carried out a study whose summary report is entitled "Etude sur les Coopératives d'Epargne et de Crédit dans l'UMOA" **(Study of Credit Unions in the West African Monetary Union).** The stated objectives of his study mission were to collect information on the organizational and operating principles of credit unions; to visit credit unions to observe these principles in practice; on the basis of these observations, to make recommendations as to strengthening existing credit unions and to extend them to places where they do not exist; and to plan for a legal framework which would bring credit unions into the existing system.

1. Given the relationship of the UMOA to the Banque de France (the French central bank) and the general franco-centrism of the Zone, it is not surprising that **Mr. AGUIE began his study in France.** In meeting with the C.C.C.E., IRAM, the Cooperative College, Crédit Coopératif (which provides credit to industrial and other cooperatives), and CNCA in addition to the French credit union movement (an associate member of WOCCU), Crédit Mutuel, he sought answers to questions about credit union philosophy and operating principles, the relative roles of savings and credit, credit union promotion and support, regulation, and evaluation. While this part of the study was undoubtedly informative, there is, however, **no evidence in the report that the author learned about the history of France's cooperative movement. More importantly, there is no analysis of the common origins of CNCA and Crédit Mutuel, the break-up, and the ensuing long period of hostility, nor is there any discussion of the impact of French and European Bank law upon Crédit Mutuel and its decentralized, member-owned-and-operated tradition.** Discussions of these important subjects and their implications would have added considerably to understanding the questions facing those concerned with credit union legislation and regulation in the Franc Zone. The absence of such analyses is particularly surprising given the fact that the author represents the central bank and one would therefore expect a particular sensitivity to such issues.

2. **This report is essentially accurate in its presentation of credit union operating principles, practices, and structures, although occasionally a local variation is erroneously assumed to be general practice.** This is the case, for instance, of the description of the role of regional Unions of credit unions. These Unions generally exist for purposes of representation and coordination and rarely have any permanent structure. They are usually not involved in central finance, as indicated in the report. The descriptive and statistical profiles of the credit union movements in the UMOA is generally accurate, although the ACCOSCA-affiliated movements in Sénégal organized by CONACAP and in Bénin organized by CONAPSCEC were completely and inexplicably ignored.

3. **The financial situation of the various movements is described in a somewhat inconsistent and therefore confusing way.** The description of Togo, for instance, relates to the situation of the national federation which is degressively subsidized over a period of years as it increasingly covers its operating costs from movement-generated revenues. The description of Togo does not, however, present the readily available (from a computerized Management Information System) consolidated position of the movement's credit unions which are growing and financially autonomous. **Descriptions of other movements' financial position relate to the credit unions, rather than the federation, and still others present both.**

It should be noted that almost all of this information (with the exception of Mali's various groups and Bénin's CRCAM/CLCAM) was and is readily available in a more up-to-date version from **ACCOSCA and WOCCU, the panafrican and world trade associations to which the credit union movements are directly or indirectly affiliated** and which **were never contacted during the course of the study.**

4. In summarizing its findings, the report notes the **diversity existing in the credit union movements in the UMOA** - some dating to the 1960's, others very recent; some exist mainly in rural areas, others mainly in urban areas; some are large, growing, and dynamic, others have been languishing for years. Compared to the population, **the "rate of penetration" of credit unions is still low (Togo's 1% is probably the highest).** In some countries there is more than one movement, with no effective national coordinating body. Management problems are not unusual. There is a gap between credit unions' potential and actual impact. **Credit unions require government regulation that is appropriate to them and current cooperatives laws are both inadequate and inappropriate.** Project and NGO funds are not yet at adequate levels to promote the spread of the movement and to support its service organizations until they are financially and technically self-sufficient. The report further notes the existence of savings in rural areas - savings "in kind" that can be transformed and financial savings that are hidden - that can be mobilized by credit unions. Few credit unionists would argue these points.

5. There are **other observations**, however, that **are misleading.** The report's estimation of total savings and total loans outstanding in the movements in the UMOA countries seriously underestimates the real figures. Its conclusion that few loans are made for productive purposes is at least arguable - the percentage of loans expressly made for productive purposes (including micro-enterprise such as trading, artisanry, and agriculture) is relatively high and growing. Movement technicians estimate that the percentage is considerably higher, since borrowers for productive purposes find the paperwork simpler and the credit committees less intimidated by loan applications for social purposes and therefore falsify the loan purpose on their applications.

a. Another observation of the report warrants challenging. It states that ". . . given the level of training of the members, they are not able to understand the various aspects of management so that the 'ins and outs' of their own organization escape them. This explains why the management is done by managers who are external to the credit union and who in addition make decisions in place of the members: (Managers, Directors, Chiefs of Projects)." First of all, credit union managers (i.e., bookkeeper/managers) are not external to the credit union. **Whether they are simply members of the credit union (perhaps the elected treasurer), who volunteer at first and may eventually receive honorariums for their effort, or whether they are part-time or full-time paid managers, in almost all cases they work for the credit union and therefore are in no way "external" to them.**

b. Secondly, it should be noted that there is a significant difference in approach between the two most important facilitators of credit union development in the UMOA - WOCCU/CUNA/ACCOSCA with financing principally from USAID, and the International Center for Crédit Mutuel, financed principally by CCCE. **WOCCU supports credit union development by working in partnership with credit union national federations and helping them acquire the skills and means necessary to provide essential support to their member credit unions. A major emphasis is placed on training** and the transfer of knowledge and skills. Manuals are produced (not only in French but in national languages), seminars and workshops are conducted regularly, and follow-up on-the-job training is provided. Where illiteracy is an obstacle, literacy training is organized and often made mandatory for elected leadership (e.g., Ouolof literacy in

Louga and Hausa literacy in Zinder). Rather than externalizing and centralizing authority and decision-making where knowledge and skills are lacking, heaven and earth are moved to transfer the knowledge and skills without which credit unions cannot be truly member-owned-and-operated.

Crédit Mutuel prefers to try to arrive at the same destination by a different route. In its work with UMOA country credit union movements it **uses more of a "turn-key" approach - that is, Crédit Mutuel retains the managerial authority and power which it turns over to the national movement when it concludes that movement is ready.** Its emphasis is often on classical bank professional training and on-the-job assistance. Preference is given to developing technical competencies rather than skills associated with democratic functioning. Management decisions, including evaluation of loan applications, are often centralized to its project headquarters. Credit unions they assist typically keep 40 to 60 % of their funds on deposit at a Central Finance Facility. The author of the report has obviously observed Crédit Mutuel's approach, which is being implemented in Sénégal (in the Kaolack region), Guinea, Côte d'Ivoire, Congo, and Burundi and assumed erroneously that this approach was shared by the rest of the movements. This may also explain the author's criticism of over-dependency on NGO and project assistance and the "confiscation of the principle of democratic management by experts who are not from the networks." Since the WOCCU/CUNA/USAID assistance to movements such as CamCCUL (Cameroon), FUCEC-Togo, and CONACAP (Sénégal) involves supporting the financial and technical self-sufficiency strategies of these movements, and its technical assistants are advisors, not federation managers, these generalizations are also inaccurate and represent projecting erroneously a particular experience onto a larger landscape.

6. The **most revealing parts of the author's conclusions** are these: "The needs expressed by credit union members far exceed the resources available in the credit unions. Furthermore, **the bankruptcy of the Agricultural Banks [CNCA, BNDA] impose on credit unions the task if not the obligation to finance the annual crop loans of their members and, beyond them, the needs of other users of agricultural credit.** It is necessary to be realistic, however, the credit union movements do not yet dispose of financial means sufficient to take over for the agricultural banks in the near future. In addition, the 'rural partnership,' if it is to be achieved, would require putting into place an important amount of capital. This is why it is proposed to authorize the credit unions to:

- widen their base of recruitment to include new professional categories to be defined especially for urban credit unions,
- mobilize the savings of the general public (clients),
- negotiate external lines of credit,
- look for subsidies from any source, all without prejudice to the autonomy of the credit unions and their associations."

The author recommends joint Ministry of Finance/Ministry of Agriculture stewardship (or "tutelle") of credit union movements and the requirement for a Central Liquidity Facility for each network that is registered as a bank ("bancarisée") and must maintain the minimum capital level of banks.

The body of the report does not demonstrate that credit unions are by definition or in practice rural institutions, that they have a mission as providers of agricultural credit, nor even that crop loans are a major priority for credit union members. It does not recognize that a major portion of the membership and the majority of total savings in the zone are in fact already located in urban areas. It demonstrates no recognition of the fact that providing services to members only and not to non-member clients is an essential element of credit union uniqueness, not to mention a major argument for credit unions' tax-free status. **Had the report delved into the history of worldwide credit union development, it would have found that external lines of credit and donor-furnished loan capital have frequently been the death-knell of credit union movements** and, notwithstanding the last statement, the end of their autonomy. Central finance, as noted previously, has an altogether different mission in the eyes of credit unions, and this mission does not include becoming a bank. Finally, the proposal for a joint Agriculture/Finance "tutelle" of credit unions is unworkable and founded on the erroneous assumption that credit unions are by definition rural and/or agricultural financial institutions.

7. Finally, one must inevitably find that the report's conclusions represented the current thinking and particular point of view of the author and perhaps of his institution at the time of the study. Because **some of the most important conclusions and recommendations do not logically follow from a presentation of factual findings**, this report can only have served as an initial, superficial step of central bank investigation of credit unions. **Its flawed conclusions and recommendations illustrate positive feelings toward credit unions. They also illustrate some of the major misconceptions about credit unions with which the credit union movement is confronted - that they are rural and agricultural by vocation, that they are somehow extensions of government that may be manipulated to attain government "development" objectives, that credit union institutions should be regulated as banks, etc.**

B. THE I.R.A.M. STUDIES

The "Aguié Study" was the initial step for the central bank and related institutions (UMOA, BOAD, BAD) in the process of learning about the credit union movement and other "non-bank" financial institutions. The next logical step was to conduct a study that was more comprehensive, more detailed, and more analytical. That task was assigned to a French organization, I.R.A.M. - L'Institut de Recherche et Application des Méthodes de Développement. I.R.A.M. was awarded a contract by the West African Development Bank (B.O.A.D.) for a **"Study on the Prospects for and Means of Creation, in the WAMU Sub-Region, of New Cooperative and Mutual Kinds of Banking Institutions ('People's Banks')"** or "Etude sur les Perspectives de Création, Dans la Sous-région UMOA, de Nouvelles Institutions Bancaires de Type Coopératif et Mutualiste ('Banques Populaires')." The study was conducted in 1990 and its eight-volume report (one for each of the seven countries and a synthesis document) was published in final form in March 1991.

1. The franco-african team which conducted the study appears to have been well-qualified to do so. It should be noted, however, that **the "experience base" of the study team in regard**

to cooperative finance in general and credit unions in particular is limited in scope to a particular kind of experience. The team's three French members are all familiar with Crédit Mutuel in France which, since coming under bank law in 1984, has been hard put to preserve its credit union character in the face of forces pushing it towards increased centralization. Mouret's background is with Crédit Coopératif, another of France's six cooperative financial systems, which provides credit not to individuals but to cooperatives in such areas as manufacturing, transportation, etc. Fournier's experience is with the Banques Populaires du Rwanda, a highly successful credit union movement to date with more than $55 million in savings mobilized. The Banques Populaires experience, however, is one that in many ways is unique and would be difficult to replicate elsewhere. In this most densely populated African country, the Banques Populaires (under French expatriate management until 1991) were extended throughout the country with a high degree of government support, including the presidential level, as joint GOR/BP teams carried out a campaign to "open" banques at crossroads market towns, with practically no effort at promotional or public education activities. The system is highly centralized: evaluation of loan applications is centralized; little credit is provided in rural areas; and the 40-60% of savings that is centralized has most often been invested in government bonds and bank certificates of deposit. **The team was not familiar with the North American credit union experience even though credit union membership in the United States and Canada constitutes nearly three-quarters of the total world membership. They were not familiar with Franc Zone credit union experiences that have learned from the North American experience - Togo, Cameroon, Niger, and Sénégal (CONACAP).**

2. The authors had the good sense to recognize that certain assumptions of the terms of reference of the study were not correct. They noted that not all the CNCA/BNDAs of the UMOA had yet failed, and that while those in Côte d'Ivoire, Togo, Niger, and Bénin had failed, those in Mali and Burkina Faso functioned fairly efficiently and honestly, and Sénégal's institution was too young and limited to judge. **In regard to credit unions, the authors debunked the notion that they are informal institutions** which "rapidly reach their limits..." and have "little structure." They recognized that credit unions are formal institutions with appropriate structures, are recognized legally to the extent possible, and have existed in the UMOA zone for many years.

3. The authors deplore the cases of reticence to provide information which the respondents attributed to the need for confidentiality, and bemoan the "intellectual stagnation" that may be the result. They seem not to have understood that **the reasons for this reticence are in fact quite practical** rather than intellectual. **Many of credit union movements are extremely jealous of their independent, non-governmental status and fear that revealing too much information may arouse undue interest of government.** In addition, those institutions associated with SDID see the Desjardins network as being in competition with other institutions, including other credit union institutions, and do not wish to reveal business information to competitors. Finally, there seems to be a general bias in the work of several of the authors toward the intellectual exercise of conceiving yet more new kinds of financial institutions at the expense of adopting and adapting credit union models and experiences, especially North American ones.

4. The report identifies **five areas of need** in regard to financial services. They are:

a. the need for **security** against theft, insects, fire, and social pressure;
b. the need for **availability of funds** for withdrawal at a convenient nearby place (a strength of credit unions and the informal sector, a great weakness of banks);
c. the need to **earn interest** or dividends on savings, especially in areas where interesting profits can be made on quick turnaround trading;
d. the need to be **free of government interference** and to be able to save at an institution managed by its members, as opposed to forced savings of revenues by withholding from crop sales; and
e. the need for **multiple loans**, e.g., loans for both productive (crop or small business) and provident (school, illness, etc.) purposes.

The report accurately describes the dilemma of identifying and quantifying "productive" loans. Borrowers will falsify the purpose of the loan on their application in order to take the option that involves the least paperwork and the shortest procedures. Furthermore, certain loans that appear to be social in nature may in fact have a legitimate claim to being productive, e.g., school loans may be productive in the long run, or a loan for illness may help a farmer avoid selling a plow or mortgaging a crop for a low price.

5. The report noted **six principal kinds of savings and credit institutions** in the UMOA zone:

a. **commercial banks**, whose investment in agriculture is modest and consists of administering crop loans from concessional credit from the BCEAO or 100% guaranteed crop loans, and who have not intervened at all in the informal sector or small- and micro-enterprise; [The report notes that credit unions often have accounts at banks, but mistakenly asserts that these banks pay good interest rates. In fact, **banks often cheat credit unions through incorrect interest calculation, delayed deposit posting, etc. They are frequently illiquid and unable to satisfy credit unions' requests for withdrawals.** Only Federation central liquidity units have the size and skill to assert depositors' rights and negotiate favorable rates.];

b. **agricultural credit banks (BNDA/CNCA)** which administer external lines-of-credit and/or subsidies for crop loans, with some efforts to decentralize loan-granting and collecting through village-level groups such as CIDR in Mali, some of which erroneously call themselves credit unions (e.g., the "COOPECs" of FONGS in Sénégal). **These institutions, even more than commercial banks, are notorious for their bad service to credit unions as clients.** The rural credit unions in Côte d'Ivoire (CREP) were seriously compromised and almost destroyed in the 1980's due to their close association with BNDA and the large amounts of credit union savings on deposit there as the bank failed;

c. **agricultural credit administered by projects, NGOs, and cotton companies**: the projects generally administer external lines of credit and are more interested in distributing inputs, using up the external funds, and attaining "development" goals than in promoting savings or institutional development; the NGOs also habitually undertake credit for agricultural or

development purposes at subsidized rates, often with little thought to repayment or institutional sustainability; the cotton companies, with their positions as monopolies, are able to collect 100% repayments of credit for inputs by withholding from crop payments;

d. **credit unions**: are described fairly accurately as to the primacy of savings mobilization, the need to maintain liquidity for withdrawals, the range of percentages of savings used for loans (the 70% maximum is correct, the 30-40% range is much less frequent), the cooperative organization and management structure, the diversity of size, location, and common bond field (community, workplace, professional, associational), and the different states of development of both primary credit unions and their federations; (It should be noted that, while credit unions are correctly identified and distinguished from other institutions, the report frequently persists in using the term "COOPEC" - credit union - in referring not only to credit unions but also to other groups which, by the report's own definition, are clearly not credit unions.);

e. so-called **"innovative" interventions**: relatively recent experiences, such as

i. GRAMEEN BANK-type institutions which are based on "the hypothesis (contrary to that of credit unions) that in certain areas and for certain categories of people (notably women), the savings requirement is difficult and will delay the possibility of providing credit..." and which provide credit from external funds to small solidarity groups;

ii. **the "Caisses Villageoises du Pays Dogon"** (Mali): whose "originality," the report notes, is in a partnership with BNDA whereby BNDA refinances at the rate of 1.5 times savings; in the creation of a separate "innovation fund" to experiment with financing economic diversification (which the report seems to define as anything that is not a crop loan); and in an institutional support framework in which the services which a service federation provides to its member credit unions are in this case provided by the BNDA and the Government of Mali's cooperatives department;

iii. the **credit/education tandem** (PRODIA/Burkina, BIT/Niger): whereby the same institution not only provides credit from external sources, but works with the borrower throughout the whole process - business plan, loan application, training, implementation, and repayment; and

iv. several new experiences in Mali, as yet not evaluated, such as mutual guarantee societies, investment clubs, rotating credit, etc.

f. the **"informal sector"**: this includes

i. **simple tontines**;

ii. **complex tontines**: such as the "Operations 71" tontine in Bénin;

iii. **social solidarity mutuals**: which collect dues and from them provide interest-free credit for emergencies (e.g., illness, funerals);

iv. **money-keepers;**

v. **"susu" or "yes-yes":** money-keepers who collect small daily savings from market women which is returned at the end of each month less one day's collections as their fee;

vi. **loans from family or friends;**

vii. **usury:** usurers are generally merchants who loan at rates of 10 to 25% per month, or who buy a crop or part thereof for a very low price while it is still in the field.

6. After viewing the situations of each of the seven countries, the study team grouped them into three classes and described the situation of each as follows:

a. Burkina Faso and Mali - countries with a complete range of financial institutions and good prospects for progress: CNCA/BNDA on solid ground due to cotton; credit union networks developing; a wide range of the so-called "innovative experiences," and numerous projects;

b. Togo and Bénin - countries with mixed prospects for success, characterized by the failure of the two CNCAs, an important role played by credit unions, and national availability of agricultural credit through the state crop development companies. (It should be noted that the authors classify the CRCAM/CLCAM of Bénin - the regional and local bodies previously associated with the defunct CNCA which are now being "rehabilitated" in a multi-donor project - as credit unions. While they share a number of characteristics with credit unions, it will require further examination to determine if they meet the criteria.) The informal sector is well-developed in both countries. The question in both countries, according to the authors, is whether the credit unions (Togo's COOPECs and Bénin's CRCAM/CLCAM) can effectively fill the void left by the CNCAs. [As noted previously, this may be a "question" for the authors but it is not a question that the Togo movement is interested in, since replacing the CNCA as a source of directed agricultural credit has never been their intention or desire.]

c. Sénégal, Cote d'Ivoire, and Niger - countries in difficulty. The situation in Sénégal is characterized by restructuration in the commercial banking sector, a young CNCA not yet successful, and slow development of credit unions, with cotton credit working. In Côte d'Ivoire, all of the large banking structures are in bad shape, with the various state/development banks (BNDA, etc.) requiring liquidation. The credit unions (CREP) organized through the government cooperatives department have existed for a long while but are encountering major problems. As one would expect, the cotton monopoly is functioning efficiently. In Niger, the CNCA has failed, and it states that there are only timid [!] attempts by WOCCU and BIT [where?] to start credit unions. There is some credit administered in agriculture projects.

7. In general, **the reports present a more or less accurate portrait of the current status at the time of the report and the plans and future prospects of various efforts in each of the UMOA countries.** As one moves to the reports' conclusions and recommendations, however, it is important to note that **the question of definition of the institutions that are the subject**

of the study is never resolved, at least to the satisfaction of the credit union reader. The "new, cooperative, peoples' bank-type institutions" apparently include all those efforts which are not banks (commercial, development, or mixed) and which do not belong to the traditional informal financial sector (tontines, etc.), and which in some way work with groups involved in financial services such as credit-granting, savings mobilization, etc. In this middle ground, therefore, are found a wide range of institutions, from credit unions, to NGOs, to projects involving various combinations of government, NGOs, donors, and/or international institutions, to groups operating as local affiliates of development banks.

From the lofty perch of regional central and development banks, it may seem perfectly logical and, at the very least, more convenient administratively, to classify such diverse institutions together for purposes of regulation and promotion. Viewed from below, at the level of credit unions and credit union institutions, this forced marriage often makes for strange bedfellows. Credit union organizations are not averse to participating in voluntary commissions and fora of diverse groups for purposes of mutual information and, where possible, coordination. However, **the prospect of being regulated and "promoted" with groups that have fundamentally dissimilar operating principles and practices threatens credit unions in ways to which the banks and the study team are not entirely sensitive.**

8. The conclusions and recommendations of the report, therefore, point to the current efforts at regulation and in doing so presage the mixture of problem and opportunity with which the credit union movement is currently confronted. Some are very positive, others are fraught with internal contradictions or narrowly attached to a particular point of view to the exclusion of others, especially that of the international credit union movement.

a. Conclusions

i. The first conclusion is a particularly welcome one: that **the three financial "sectors" of the UMOA - the informal sector, the so-called cooperative sector, and the banking sector - should be left alone to promote themselves.** The importance of such a recommendation should not be underestimated. Many governments of the zone are so attached to the idea that they are responsible for "organizing" or "promoting" different sectors of the economy that they do not readily see that the new and different role to which many have committed themselves vis-à-vis the private sector is fundamentally incompatible with continuing such stances. The independence proposed in this conclusion bears watching, however, because its definition is relative to the tradition in which one understands it. The mentality of government officials, especially in Rural Development Ministries, is very close to that of the French civil servants, such those of the Trésor and Cooperation Ministry, "all of [whose] instincts" (according to Parisian economist Guy Sorman writing in the Wall Street Journal) like their allies on the recently victorious French Right, "lead them to the tradition of state control." **There persists a tendency in government circles to recognize the need for independence while in the same breath speaking of assigning to or devolving on credit unions the responsibility to administer the agricultural lines of credit of the defunct CNCAs.** Credit unionists might find it hard to recognize such "independence."

ii. The report notes continued efforts by the "official sector," i.e., development banks and government ministries, to dominate the "informal" and "cooperative" sectors by government authority to delegate the role of credit retailer to them and by attempting to exercise a monopoly over the deposits of savings mobilized. In spite of these efforts, the report notes that the other sectors are increasingly insistent upon their independence, their autonomy in the investment of their funds, and their interest in establishing complementary relationships with other groups.

iii. The report concluded that the current state of the financial market in the UMOA has caused all three sectors - "official" banks, cooperative/mutualist institutions, and informal and traditional institutions - to share a number of principles:

* **financial sustainability as a prime objective,** necessitating freedom to fix interest rates, quality loans, strict control of costs, and avoidance of top-heavy structures [Here it is interesting to note that, in spite of the primacy of sustainability on this list, **credit unions are literally the only sustainable institutions of all the so-called "mutualist" institutions studied.** None of the credit-first schemes, however laudable the services rendered by them, show any indication at all of being financially sustainable in the long run. This includes the much ballyhooed Grameen Bank and Grameen-inspired schemes in Africa];
* **a relationship between savings and credit** - its nature determined by each different institution [This relationship is of fundamental importance, and **credit unions differ fundamentally from the other institutions in how they determine it.**];
* **accounting and management systems permitting rapid verification of key indicators and uncovering of embezzlement;**
* **adaptation to local conditions;**
* **credit determined by the applicants' needs rather than predetermined by banks or government** [The report rejects targeted agricultural credit/crops loan and artisanal credit in favor of orientations to rural or urban credit. Too often, this can amount to the same thing. **Credit union credit is determined by the needs of members,** with special effort being made to help those who wish to borrow for productive purposes to improve their business plans and loan applications and to help credit committees improve their ability to properly evaluate applications for loans for productive purposes.];
* **specialization on the area of savings and credit** while maintaining regular collaborative relationships with other development efforts [The latter is less true of credit unions, which are more likely to specialize in financial intermediation to the exclusion of other developmental orientations determined by association with other efforts.];
* **autonomy in relation to government** and the ability to resist government pressure to dispense easy credit, to decentralize too rapidly [Credit unions, organized from the bottom up, cannot be "decentralized" too rapidly.], or to expand based on a supposed need to cover all the national territory; and
* **the necessity for a favorable environment in the economy, in legislation, and in regulation.**

b. Unanswered Questions

For the authors of the report, two main areas of unanswered questions remain:

i. The first issue is the internal conflict between economic and social goals. According to them, village credit unions with clear and understood rules and regulations tend to stagnate economically. Large urban ones, according to them, grow rapidly but have passive members who leave the main responsibilities of management to salaried technicians or expatriates [CICM?] resulting eventually in exorbitant operating costs and high loan delinquency. They further ask themselves, rather disingenuously,

* **whether a balance can be reached between the adaptation to local conditions necessary for "peasants" to feel like owners while maintaining enough structure to have transparency and control**, e.g., is double-entry bookkeeping really necessary? [It is if credit unions are to be real financial institutions. "Peasant" credit unionists in Cameroon, Togo, Sénégal, and Niger have successfully learned double-entry bookkeeping.];
* **whether institutions introduced from the West or from other Third World countries are applicable or should only be "sources of inspiration"** [The question might be re-phrased: **Are real co-operative principles, not the ones practiced by colonial and post-colonial governments for administrative convenience, not universal?** Are they not easily adopted because similar or identical principles already exist in most cultural and religious traditions?]; or
* **whether a new, African model financial institution based on tontines is still to be developed** [Is this question not moot? Tontines that wish to do so can be transformed relatively easily into credit unions. Those who are particularly attached to the tontine have helped it evolve into more sophisticated forms, such as Bénin's Opération 71 and Cameroon's "njangis." **Is there really a demand for a tontine-like formal financial institution, or is this just intellectual posturing?]**

ii. The second area is that of **financial sustainability**. All of the institutions studied, they say, face this problem once they get past the level of small village groups where volunteerism is sufficient. They note that most of the CNCA/BNDAs failed and that those still in business rely on "soft" loans and/or lines of credit or association with major industrial crop efforts (e.g., cotton).

Credit unions in rural areas, they state, can reach financial equilibrium only by paying low rates of interest on deposits (2-4 %) and charging "high" interest on loans (15-20 %). [A financial viability study for rural credit unions conducted in Togo found that appropriate management policies and realistic interest rates - 24% on loans, 8% on deposits - can lead to rapid growth and financial viability, including a paid bookkeeper/manager. Five years of effort with thirty credit unions have confirmed this conclusion.] The study further notes that, even after as much as 15 years of assistance, the federations and other service structures still depend on external assistance (e.g., Rwanda, Burkina Faso, Togo). They do note in a small footnote, that an important movement's national federation - CamCCUL of Cameroon,

previously assisted by WOCCU and USAID - has achieved 100% financial self-sufficiency. [They do not note that other "assisted" federations have definite financial self-sufficiency strategies that are being implemented over the long-term. Rwanda and Togo, for instance, are much closer to financial sufficiency than they were 15 years ago, with Togo's progress temporarily stalled due to the political troubles in that country.]

The report recommends that all of the institutions studied adopt a financial self-sufficiency strategy. [This is already a fait accompli with most of the credit union movements, especially the ones assisted by credit union institutions (e.g., WOCCU, CICM, SDID). It is difficult to imagine, however, how this will be accomplished by the non-credit union institutions which either are not deposit institutions by definition or which have savings mobilization only as a medium-to-long-term goal. **While credit union service institutions have accomplished progressive attainment of financial self-sufficiency (e.g., CUNA in the US and CamCCUL in Cameroon), there is no evidence of any of the other types of institutions ever doing so.** The Grameen Bank in Bangladesh is still far from self-sufficient and gives no indication of being able to accomplish it. The Grameen clones in Africa offer no better solution. One of the more bizarre attempts to save a CNCA under the guise of rendering it financially viable is still under consideration in Sénégal. There, a grab-bag of NGOs and other groups with credit schemes plus credit unions and other cooperatives, all of which supposedly require the services of CNCAS, are being asked to "purchase" the CNCAS over a ten year period. Since credit unions are net mobilizers of funds and without exception all the other groups are net users of funds, this scheme is from the start a losing proposition for credit unions who are expected to accept CNCAS in the place of their own service federation and central finance unit. So far, the only institution which has agreed is FONGS and their inappropriately-named COOPECs, which already retail CNCAS agricultural loans as their primary activity.]

c. Recommendations

The report's recommendations are essentially divided into two groups.

i. The first group of recommendations is rather perfunctory and pro forma and concerns the short-term future of the various networks of institutions in the UMOA:

* the institutions should give priority to qualitative improvements;
* extension of the networks should be moderate and manageable;
* there is no apparent need to create new kinds of institutions, since a full range already exists;
* there is a need for projects specifically targeted to urban areas;
* there is a need for a greater role to be played by the BCEAO, primarily through France's cooperatives support project and the CEAO/CREP [The CEAO/CREP project is a laughingstock. After more than ten years of existence, it has not promoted a single CREP and, indeed, does not seem to really know what credit unions are and how they are promoted.];
* there should be national level programs, round-tables, and projects; and

* BOAD can help decentralize the CNCA/BNDAs, be a leader in the urban sector [how?], and finance the extension of credit union networks in the urban areas.

ii. The second group of recommendations is much more important and has far-reaching implications of both a positive and negative nature. The BCEAO is recommended as the appropriate legal and regulatory body for credit unions in the UMOA because it has the "responsibility for guaranteeing the safety of savings by supervising financial activities."

* The report finds that, at a certain stage of its development, a young institution [the report seems to be referring here to "networks" (réseaux) or federations of credit unions and not the individual credit unions themselves] needs to be recognized by an official body, such as the BCEAO, in order to obtain public confidence. Examination by the bank regulatory body of the UMOA ("Commission Bancaire") is essential, according to the authors, because of UMOA's role stated above. Furthermore, they state that BCEAO recognition would permit the "networks" to place their excess liquidities directly at the BCEAO for security and without paying fees or taxes. [It is important to note that what is being recommended here involves credit union federations being exempted from paying BCEAO for this privilege - there is no question of receiving any interest on these deposits, no matter what use is made of the funds while on deposit or what revenues are gained from these uses.] Finally, all networks create a Central Liquidity Facility sooner or later. The report's description of the role of the Central Liquidity Facility may perhaps describe the Banques Populaires du Rwanda, but in general they group together roles properly belonging instead to a democratic credit union national federation (of which the Central Liquidity Facility is a part) and the government registrar. Registering credit unions whose dossiers are presented by their federation, for example, is a government registrar's function. Inspection is also a government function that may be delegated, for instance, to a federation inspection department. Interlending and liquidity placement are the two functions on the list that are appropriate to the Central Finance Facilities of federations.

* How is the regulatory function of the BCEAO to be rendered effective? **In spite of lip service rendered in the report to innovative experiences and the need to avoid adopting foreign (i.e., North American) models, it is not surprising that what the report recommends is nothing less than the adoption of the French system of regulating cooperative financial institutions.** In France, each cooperative financial institution (Crédit Mutuel, Crédit Agricole, Banques Populaires, and Crédit Coopératif) has a central finance body which is registered as a bank under banking law. This central finance unit in turn registers and inspects its local affiliates. The BCEAO, the report states, will thereby be able to avoid the impossible task of supervising and regulating all the little local credit unions. Since only the central finance unit will be registered as a bank under a clause in the UMOA model banking law allowing for cooperative or mutual banks, they contend that credit unions themselves will not lose their unique character. Certain exceptions to the bank law, however, would need to be requested in areas such as reserves, interest rate limitations, etc.

* An additional advantage to the proposed system is an administrative one for the central banks. They can register the central finance units of any number of so-called "mutualist" networks of institutions - be they credit unions or not - without concerning themselves with defining the basic institutions. Furthermore, since they register only the central unit, the BCEAO and government do not need to bother with registering or supervising any of the local units - this is left to the central unit which is in turn responsible to the BCEAO. The BCEAO, in country-level meetings, should bring the diverse institutions to agree upon certain basic elements that should be contained in the by-laws of each kind of institution. The report notes that something called "épargne-crédit" ["savings-credit," not necessarily to be confused with savings and credit cooperatives, and which is now a development "buzz word"] is now included in almost all development projects. These projects, it states, will want to conform to the new system as soon as they can in order to obtain the advantages of legal recognition for the institutions they are promoting.

WOCCU understands and agrees that for the foreseeable future it is impractical to think that a government regulatory body can supervise and inspect on a regular basis all the credit unions in the CFA Franc Zone countries and do so in a cost-effective way. Therefore, there is no question but that the responsibility for and the authority to inspect credit unions must be delegated by the government regulatory body to the credit union federation and specifically to be carried out by the federation's inspection department. WOCCU does not agree, however, that registering credit union federations (with their Central Liquidity Facilities) as banks is the appropriate way to regulate credit unions. As stated earlier, credit unions are not banks and do not aspire to be banks, even at the level of their national federation. **The report's recommendations treat the Central Liquidity Facility as if it is the most important element and credit unions as if they are nothing but branch offices of the Central Liquidity Facility. Little interest is exhibited in the credit unions themselves, even though they are in fact the essential elements of the system.**

In fact, given the recommendations' preoccupation with central finance and the inclination to dismiss the grass-roots credit unions from regulatory view, one can perhaps be forgiven for wondering if the recommendation does not boil down to skimming the cream off the top of the system and wondering further for whose benefit do central banking authorities wish to regulate credit unions. The recommendations appear to confirm the conflicting views of central finance presented in Chapter III, C and D. If there is a sincere desire to protect depositors and create an appropriate environment in which credit unions can function, they should be accepted as they are and not expected to transform themselves into something they are not in order to obtain those benefits.

C. BCEAO SEMINAR ON THE FORMAL AND INFORMAL SECTORS

The BCEAO hosted a seminar on the relationship between the formal and informal sectors in Dakar, Sénégal on January 21-22, 1991. From the point of view of credit unions, the processes involved in the organization and running of this seminar outweighed its content in terms of what the credit union movement was able to learn about BCEAO's views in regard to credit unions.

First, it should be noted that, in spite of its somewhat general title, **the real subject of this seminar was the relationship between the central bank and credit unions.** In the words of the seminar's "Rapport de Synthèse," it was credit unions which "occupied most of the attention of the participants." To this end, invitations were issued to each member country for a three-person delegation composed of representatives of the local BCEAO office, the Ministry of Finance, and of an NGO involved in "mutualist" finance. In addition, there was a substantial representation at the seminar of both the French treasury and cooperation ministry. Given the earlier description of the two central banks' deficit relationship to the French treasury, this presence is all the more understandable and indicative of the raison d'être of the seminar.

There was absolutely no effort to deal with the democratically elected representatives of the organized credit union movements in the zone, let alone with the panafrican and world representative bodies, ACCOSCA and WOCCU. It was only because of the fact that, in Niger, the WOCCU credit union development project works with Niger's Ministry of Finance that WOCCU and the ACCOSCA affiliates of the UMOA countries learned of this seminar. Had WOCCU not notified ACCOSCA's affiliates of the seminar so that they could contact their respective Ministries of Finance and lay claim to a spot on the delegation, half of them probably would not have been invited to participate. The format of the seminar as originally described was so innocuous that the affiliates were not fully aware of the direction that BCEAO was taking in its desire to see credit unions regulated. WOCCU was able to provide written material on credit unions and credit union development for distribution at the seminar, and was able to conduct phone conferences and briefings on legislative and regulatory issues with the credit union delegates. The result was that the credit union movement was represented on six of the seven delegations, and that these representatives were at least able to articulate the credit union point of view. Like many such undertakings, however, credit union participation may have been important symbolically but superfluous to **the recommendations** of the seminar to the member governments of the UMOA. The recommendations **may have been decided beforehand,** since they were never explicitly articulated, and were not contained in the "Synthèse des Travaux."

The synthesis report made a number of observations as regards credit unions:

1. the importance of savings mobilization;
2. the key role of local initiative, social pressure, and group solidarity;
3. the lack of appropriate legal environment as an inhibiting factor;
4. the inadequate skill level of credit union bookkeepers [further stating that the group consensus was for a greater government role in their training, which is certainly not a credit union position];
5. the relatively long time needed for credit union development;
6. the low percentage of savings that is invested due to excessive prudence and inadequate investment opportunities;
7. the good loan repayment rates of credit unions;
8. most credit union loans are short-term;
9. access to credit is conditional upon savings [the report notes that, for certain institutions, credit precedes savings and generates revenues which are the basis for repayment - it does not

note that in such cases not only does credit precede savings, credit does not come from savings but from external lines of credit or grants];
10. government should register credit unions, but only by registering their "networks" or federations, not the individual credit unions [here again, not entirely a position shared by credit unions];
11. since credit union credit is short-term, interest rates should not be an issue for government;
12. credit unions should pay a competitive rate of interest on deposits in order to attract new savings;
13. credit unions need to keep their costs down in order to preserve their autonomy and financial viability;
14. stewardship ("tutelle") of credit unions, according to some participants, should be in the hands of the central bank and the finance ministry in order to avoid multiple regulation and supervision;
15. the majority of participants were in favor of increased training by participant and partner organizations, "not just by government;"
16. the informal sector is diverse and includes not just credit unions [!] but also tontines, moneykeepers, and usurers;
17. the success of the so-called informal sector is due to its adaptation to "realities in the field" (proximity and availability) rather than from any deficiencies or lack of confidence in the formal sector [!];
18. "individual" forms in the informal sector should not be allowed to develop [?];
19. the informal and formal financial sectors should be complementary;
20. in regard to savings, banks can provide placements for rural credit unions, and rural credit unions can provide resources to the banks;
21. in regard to credit, the formal sector will provide long-term financing for the productive sector, and credit unions will provide credit for more immediate needs;
22. banks can refinance credit unions through lines of credit;
23. the role of credit unions should be recognized in bank law, while leaving credit unions certain "maneuverability" especially in determining interest rates;
24. healthy informal sector institutions should be promoted;
25. banking and monetary laws and regulations should be adapted not only for credit unions but also for tontines;
26. credit unions should be helped in the areas of training and management; and
27. links between the formal and informal sectors should be promoted, in the area of complementarity in savings mobilization and use, and in the specialization in the area of credit, with banks being in charge of long-term productive credit.

One interesting aspect of the seminar was some of **the first articulation of the development "buzz word" of the '90s - "épargne-crédit."** As noted earlier, a wide variety of groups doing anything in the area of finance - credit and/or savings - now say that they are part of the "épargne-crédit" movement, frequently erroneously called the credit union movement, thereby assisting the credibility of some of these groups with a free ride on the reputation of the 140-year-old credit union movement. The French Cooperation made a presentation on two such groups - each with a "mutualist" organizational structure. One was a Grameen Bank clone, and

made no representation of being a savings mobilizer. The other ostensibly began as a savings-based group, but quickly relegated savings to a goal rather than a pre-condition, and is committed to a relationship via lines-of-credit with classical banks (if BNDA/CNCAs can be considered to be such). Whatever the relative merit of these and other groups, **it would be hard to avoid the conclusion that the term "mouvement épargne-crédit" is nothing more than an enlargement of the idea of the credit union movement to be able to include under the same tent the groups that are continuing to do the "same old stuff" - i.e., administering outside credit through "mutualist" village groups because the banks, NGOs, and projects cannot efficiently administer loans and collect repayments.**

It should be noted as well that a similar seminar was held for the member countries of the BEAC later in 1991. WOCCU and ACCOSCA's affiliate members in this zone - representing Cameroon and Congo - were not so lucky as to find out about the details of the seminar, let alone be invited. Therefore, the seminar on the relationship between the "formal" financial system and the "informal" system (i.e., credit unions) of this zone was held entirely without the participation of the formal credit union movement! Considering that the Cameroon movement represented by CamCCUL is the largest and most important in the Franc Zone, this can only be considered an extraordinary occurrence. Obviously, hearing the voices of the democratically-elected representatives of credit unions was not considered to be important or necessary.

V. PARMEC/UMOA

A. DESCRIPTION OF THE "PARMEC" INITIATIVE

PARMEC is the Support Project for Credit Union Regulation in the West African Monetary Union ("Projet d'Appui à la Réglementation sur les Mutuelles d'Epargne et de Crédit de l'Union Monétaire Ouest-Africain - UMOA). The project is financed by the Canadian International Development Agency (CIDA) for a period of three years beginning in June 1992. It is staffed by two SDID technicians and staff from the west african central bank department of credit and bank supervision - BCEAO-DCCSB (Direction Centrale du Crédit et de la Surveillance Bancaire).

PARMEC/UMOA's literature states clearly that the single most important factor causing the UMOA to initiate PARMEC was the banking crisis in the UMOA and in particular the failure of the vast majority of the development banks and agricultural development banks in the UMOA member countries. This left a void in the sources of credit for productive purposes, particularly in agriculture and small and medium enterprise. In 1989, the UMOA authorities adopted policy reforms in the areas of money and credit. Among the priorities established was the "diversification of the banking landscape," by promoting **the development of credit unions to make up partially for the lack of national development finance institutions.**

The growth of the credit union movement in recent years also caused the UMOA, according to PARMEC, to seek to exercise greater regulatory control over credit unions. In addition, they continue, the plethora of studies, conferences, and seminars on credit unions all indicate that the lack of an appropriate legal, financial, and fiscal environment is a major obstacle to credit union development.

In February 1992, SDID co-hosted a conference in Dakar, Sénégal, on the "fundamental elements of a legal framework for mutualist banking institutions" as the final major activity of its ATOBMS project with Sénégal's Ministry of Finance. The recommendation of the SDID seminar was that, for the UMOA member countries, the development of an appropriate legal framework and the "harmonization" of the different countries' legislation proceed under the auspices of the BCEAO. [By this time, the details of PARMEC's implementation by SDID for the UMOA were already being finalized. The same two SDID technicians who had worked on ATOBMS were therefore able to move across town directly to their new assignment at the BCEAO.]

If one were only to read its promotional materials and monthly bulletin, it would appear hard to find much with which to disagree in the program of "PARMEC." The promotional literature describes PARMEC as follows:

1. Problem. PARMEC's statement of the problem to which it is addressing itself is simple: households; economic sectors such as agriculture, animal husbandry, and fishing; and small and medium enterprises have difficulty accessing sources of financing. The absence of an

appropriate regulatory system for credit unions impedes the promotion and development of credit unions.

2. Proposed solutions. In order to solve these problems, PARMEC foresees the "emergence" of credit unions in the UMOA countries; a common regulatory system for credit unions in the UMOA countries; and the implementation of structures and systems to inspect credit unions.

3. Main features of a UMOA credit union regulatory system. The system to be proposed by PARMEC would include a model law and its accompanying application decree (which each member country would adopt) and model by-laws and internal regulations for credit unions and credit union institutions.

4. Principal considerations. PARMEC committed itself to respecting fundamental cooperative principles; involving all of the principal "interveners" and target populations; promoting the grouping together of credit unions into "networks;" adopting appropriate prudential standards and control systems; and organizing a close collaborative relationship between "interveners" and the central bank (BCEAO).

5. Philosophical approach. PARMEC undertook a "continuous process of working in concert ...in order to bring about a constant synergy with all the 'interveners' and the target populations."

6. Means of implementation. The following are the major elements of PARMEC's implementation plan:

a. Itinerant "awareness" promotion campaigns in the seven member countries of UMOA in September and October 1992.
b. National and regional seminars.
c. A monthly newsletter ("**PARMEC-INFO**").
d. Media coverage.
e. Field visits and training programs.
f. Donor round-table.

7. Target groups.

a. Indirect: households, peasant farmers, fishermen, small and medium business persons.
b. Direct: ministries of finance; ministries currently exercising "stewardship" (i.e., "tutelle") over credit unions; representatives of credit union national federations and regional unions; representatives of donor institutions and organizations which are interested in credit union development; representatives of organizations or institutions involved in activities which have a component part related to credit unions; and representatives of financial institutions which have expressed an interest in the cooperative approach to finance.

PARMEC's documentation repeatedly talks about the way in which all the various movements, the "interveners," and the donors concerned with credit union development in the zone will be "closely associated" to the project.

B. ACTIVITIES CONDUCTED

1. Itinerant "awareness" campaigns

Each one of the seven member countries was visited during September-October 1992. The PARMEC team met with those groups defined by them as "interveners" in the promotion of credit unions. However, a number of these groups are **not** credit unions according to the internationally accepted definition of the term, but rather are groups which administer external loan funds. The nature of the meetings was one of **marketing** PARMEC and the eventual model law to those who were to be regulated by it. In a typical meeting, the PARMEC representatives explained that the BCEAO was caught "off guard" by the growth of certain movements and the emergence of others. BCEAO does not have the "tools" to intervene, nor can it stop the movements from growing. [Why would it want to stop them?] They recognized that credit unions do not have an appropriate legal or regulatory environment.

PARMEC's mission, they stated, is to support the examination of ideas about credit union regulation and **to draft the law and the accompanying application decree which will be adopted by each one of the member countries' governments. [It is worth noting here that at no time was there <u>ever</u> any discussion with anyone in the credit union movement or in the national governments about whether or not credit unions should be regulated by BCEAO. They were told that BCEAO had both the authority and responsibility to do so under existing law and told that the national governments would be obliged to adopt the PARMEC-drafted law and decrees.]** The team reassured the various credit union federations that their primary concern was that the law and regulations that they drafted would fulfill the expectations of the credit union movement and that they were therefore consulting with credit union movements, donors, and development projects with a savings and credit element.

The team members listened to the points of view of the national federations. [Exactly how the missions were conducted is somewhat of a mystery. In Togo, for example, the movement represented by FUCEC-Togo counts approximately 35,000 members and more than $11 million in savings, and is the only credit union movement in the country. There are two small pseudo-credit union groups which are statistically insignificant. The newsletter states that the team met with 18 (!) credit union groups in Togo. The team, however, spent <u>only two hours</u> out of several days in Togo with FUCEC-Togo.] In these sessions, the federations were able to correct some erroneous information about their movements accumulated in the various studies which led up to PARMEC and which was assumed to be true.

The team reaffirmed its commitment to cooperative principles. It also added that their intention was to give the credit union movement access to the BCEAO money market. They stated that the purpose of PARMEC was to promote the proper functioning of the movement, which in their words, would have the advantage of guaranteeing the nominal if not the real value of members' savings.

Finally, on several occasions in October 1992, the PARMEC team was informed by national federations that obtaining appropriate legislation and regulation for credit unions was a high priority for WOCCU and ACCOSCA in their collaboration with movements in UMOA countries, and that much had already been accomplished (e.g., the legislation content guide in French, the draft law in Niger, etc.). [This fact already well-known to SDID since WOCCU shares copies of project documents with them and consulted the Desjardins movement in preparing the credit union legislation guidelines.] In order to avoid wasted effort, the federations advised PARMEC to contact WOCCU and ACCOSCA to seek their views and collaboration. Except for a request to WOCCU's publication department for a couple of innocuous technical pamphlets unrelated to legislation, PARMEC had made no contact with WOCCU or ACCOSCA in this regard as of June 1993.

2. PARMEC-INFO

PARMEC published at least six issues of its newsletter, "PARMEC-INFO," during the September 1992-February 1993. The bulletin provided a means for continuing to explain/market the project and to inform recipients of recent and upcoming events. It also contained profiles of "partner" organizations and reprinted articles on specific subjects. [Mention of WOCCU was usually excluded. For instance, a profile of CONACAP/Sénégal in Issue No. 1 includes mention of CONACAP's various partners and USAID funding, but excludes mention of WOCCU's partnership with CONACAP since 1988. In Issue No. 3, a WOCCU document is reprinted without mentioning WOCCU. Issue No. 4's profile of FUCEC-Togo, unable to avoid mention of WOCCU, concludes that the Togo movement owes **all** of its considerable success and notoriety to WOCCU support with USAID funding, as if the efforts of the FUCEC-Togo, its member credit unions, and their members counted for nothing. Finally, in Issue No. 5 a WOCCU document on savings promotion is reprinted with attribution.]

The general tone of the bulletins was one of reassurance to credit unions that BCEAO regulation is necessary and that the law and application decree would take into account their wishes and most importantly their interests.

3. Donor Roundtable

The donor roundtable assembles periodically the donors who finance directly or indirectly the development of mutualist financial institutions in the UMOA. The purpose of the meetings is the exchange of information and views. No representatives of the institutions to be regulated are present at these meetings.

[The role of SDID should perhaps be clarified at this juncture. **SDID is not participating in PARMEC as the representative of the international credit union movement.** By its own definition, SDID is not a credit union development organization. It is rather a private international development consulting firm specializing in rural development and finance which is a wholly-owned subsidiary corporation of the Desjardins credit union movement of Quebec. Like other consulting firms, it bids on contracts to provide technical assistance in joint donor

and government development projects, principally those financed by CIDA. Assistance to credit union movements forms a relatively small part of SDID's business, and it has executed contracts in support of institutions that are direct competitors of credit movements affiliated to WOCCU. Therefore, in the context of PARMEC, it must be understood that, **if only for contractual reasons, SDID is required to execute the wishes of the BCEAO in regard to credit union regulation regardless of its own views or those of the credit union movement.]**

USAID/Sénégal has represented the USAID Missions of the UMOA countries at the roundtable. The USAID/Sénégal Banking Sector Restructuring Program seeks, among other aspects of its mission, to promote access to credit for small and medium enterprises and agriculture. "We find the BCEAO initiative," a USAID/Sénégal circular cable stated, "well-suited to moving toward this goal, as it will permit existing project-supported activities to become legally independent entities, and fledgling savings and credit groups to expand their scale of operations and eventually establish links with the banking sectors." [Dakar 09683, 9/9/92] USAID/Sénégal had not at this point received adequate information from credit unions institutions on legislation issues as regards credit unions. Credit unions, as demonstrated earlier in this document, are not intermediate institutions situated between the informal financial sector on one hand and banks on the other. They are unique financial institutions which require a legislative and regulatory environment which recognizes and is adapted to their uniqueness.

USAID/Niger emphasized in a cable to USAID/Sénégal [Niamey 07967, 9/24/92] that it is "...essential that those most directly involved in credit union development on the ground be given a full voice in drafting of UMOA credit union legislation...Important differences in philosophy and approach continue to exist between USAID-supported WOCCU programs in Togo, Cameroon, and Niger on the one hand, and BCEAO instincts to control credit unions through UMOA banking law on the other...Believe it essential that both WOCCU and ACCOSCA be directly involved in deliberations on establishment of credit union legislation in the West African Monetary Union...We would urge other missions to weigh in on these issues using whatever means may be appropriate." USAID/Sénégal concurred to this recommendation and alerted USAID/Niger and WOCCU to a planned meeting of lawyers from each of the UMOA countries scheduled for December 1992. A representative from WOCCU headquarters in Madison was then scheduled to attend the meeting until it was cancelled at the last minute.

Understandably taking the PARMEC declarations at face value, USAID/Sénégal reassured USAID/Niger that PARMEC was being "very sensitive to all concerns," that "each country will be able to make changes [in the model law]as they see necessary, but within guidelines...," and that the PARMEC work was "very 'enabling' to all concerned and is not being ramrodded at people."

4. Drafting of model law

The actual drafting of the UMOA model law was completed and the law published by late May 1993. No representatives of the credit union movement were involved in the actual drafting process. [In contrast, the process undertaken by WOCCU for the drafting of credit union

legislation in Niger (and planned for several other countries) was an entirely collaborative one in which the credit union movement representatives and Ministry of Finance technicians took the time to painstakingly draft and discuss and re-draft each article together over a period lasting several weeks. Their reference resource was the international norms and standards contained in the WOCCU **Credit Union Law Content Guide**, rather than a single country's law. They were aided by international experts with years of high-level experience in credit union legislation and regulation, and by a Nigerien expert in private sector law.]

5. National seminars

One of the principal purposes of the first series of national seminars to be organized by PARMEC was to be to "examine" the draft model law and to "validate the regulatory framework" therein by "thorough discussions with credit union promoters, specialists in credit union matters, and participating institutions." The first series of seminars was held beginning in late May 1993 and was announced on very short notice - so short that in Sénégal the only two real credit union groups were unable to attend and in Togo the seminar almost caught key FUCEC-Togo players out of the country for meetings and training.

As it turns out, the presence of the democratically elected representatives of the credit union movements and their staff was unnecessary, since the credit union movement's worst fears and best predictions were realized in the course of the so-called seminars. The draft law presented serves very well the interests of the BCEAO and **fails miserably** to serve the interests of credit unions and their members. (An analysis of the draft law follows in Chapter V.C.). The BCEAO representatives to the seminars left no doubt that the seminars were expected to "rubber-stamp" the draft just as their national governments are expected to adopt without serious debate the final versions. In Niger, for example, the BCEAO representative stated categorically that there would be no credit union law, only bank law, thereby stifling discussion of what is a fundamentally important question for the credit union movement. At the Togo seminar, participants from the credit union movement, donors, and other organizations all left with the same message from BCEAO - that the model law would be adopted intact and unaltered.

The so-called concerted effort (to involve all the interested and, especially, the affected parties in the process and to insure that credit unions' interests would be served), appear to have been a sham. It would be hard not to conclude that the end results of the process were decided before the process began, that what was described as a cooperative and collaborative process has been a classic exercise in co-option, and that whatever consensus has been achieved was pre-ordained.

Worse, the winds of democracy blowing across francophone Africa obviously have not blown through the halls of the BCEAO, where the authoritarian top-down approach to regulation by decree has been modified only in form, not in substance. The policy dialogue undertaken by USAID and other donors over the last few years with a view to creating a more favorable environment for the development of true private economic sector activities appears to have left BCEAO untouched. The message that private operators of all kinds can glean from both the draft law and the PARMEC effort is that BCEAO is committed neither to "enabling" legislation

and regulation nor to the kind of participatory processes that will produce sound and reasonable legislation.

C. ANALYSIS OF "PARMEC" MODEL LAW FOR UMOA MEMBER COUNTRIES

1. General Comments

Some of the more egregious aspects of this draft law can be categorized as "The Two B's" - "Bancarisation" and Balkanization.

a. **"Bancarisation" - The BCEAO has rejected without even the slightest consideration the contention of the credit union movement that credit unions are unique financial institutions which are different from banks in many fundamental ways and that these differences exist at all levels - local, regional, national, and international - and regardless of size.** In doing so, it has thus rejected the international experience of credit unions in countries such as the United States. For the BCEAO, there are essentially two kinds of financial institutions - those which are big enough to be worthy of the BCEAO's attention, which they call banks irrespective of what the institutions call themselves; and those which are not big enough individually to merit the BCEAO's attention. The question of size alone should not be used as the pretext for forcing a credit union service institution to become something that it is not and does not want to be, and for imposing a regulatory system on it that is <u>inappropriate</u> to its nature and mission.

The draft law wastes no time in defining the "financial organs" of credit unions, their unions, federations, and confederations as being different and separate from these "financial institutions" themselves. The "financial institutions" themselves are exempted from both bank and cooperatives laws. **The "financial organs" (CLF), however, are classified as banks and regulated by bank law and regulation.** [Article 2] Since existing credit union central liquidity facilities are not separate institutions but rather are departments of the federations or unions which created them, this separation appears somewhat strange. There is, however, a method to BCEAO's madness here. After all, the CLF is where the money is - where, depending on the movement, anywhere from 10 to 60% of the members' savings may be centralized. The BCEAO seems to believe that this money, so inaccessible to commercial and development banks, has been graciously accumulated by credit unions for the use of the banking system in financing "development." Many times in the last five years we have heard central bankers and government officials speak of the necessity to <u>drain</u> the excess liquidities from the rural areas into the formal banking system ("...la necessité de drainer les liquidités de la campagne au système bancaire formel...").

The PARMEC law places strong emphasis on regional unions within a country, which would be required not just permitted, to have **all** of the service functions normally associated with national federations, including CLFs. By multiplying the institutions charged with centralizing funds and requiring these institutions to function under bank law, the BCEAO obviously intends to fine-tune the credit union system into a more efficient conduit for bringing members' savings into the banking system.

With so much of a movement's liquidity of necessity centralized and its CLF subject to bank law; and given BCEAO's clearly demonstrated intention to regulate credit union institutions in accordance with the BCEAO's and not the credit unions' interests; and given that BCEAO is not subject to the control of any democratically-elected institution, what is there to stop BCEAO from, for instance, copying the Zairian central bank and requiring that CLFs keep 50% of their members' deposits on permanent deposit at the central bank through obligatory purchase of government bonds (i.e., government confiscation of private savings)?

If the fundamental nature of the CLF as a service of the credit union federation to its member credit unions following the same bottom-up principles of cooperative organization that governs the relations between primary credit unions and their members (as described in Chapter III.D.2 of this document) is not understood and respected, then the credit unions in the UMOA are seriously undermined as a private, member-owned and operated system.

Treating CLFs as banks leads PARMEC into another grievous violation of the relationship between government and cooperatives. In Article 59, **it provides for the CLFs, as non-profit as the credit unions who own it and are its members, to be taxed as banks.**

b. **"Balkanization" - As noted in Chapter I, credit unions, no matter where they are located, are part of an international credit union system.** Credit unions form national federations (or state leagues in the U.S.), which in turn form continental confederations, which in turn are members of the World Council of Credit Unions. **In Africa, twenty-eight national credit union movements are members of ACCOSCA** - the African Confederation of Co-operative Savings and Credit Associations. In addition to representing Africa within the credit union movement, ACCOSCA represents the panafrican credit union movement to a number of international organizations, including observer status at the Organization of African Unity, membership in the International Cooperative Alliance, and recognition by various United Nations specialized agencies.

National associations of seven former French colonies are members of ACCOSCA (Bénin, Burkina Faso, Cameroon, Congo, Côte d'Ivoire, Togo, and Sénégal) as are the associations of two former Belgian colonies (Rwanda and Zaire). In addition, there are additional ACCOSCA members in countries where the French language is widely used - Mauritius and Seychelles. For more than fifteen years, the Francophone members of ACCOSCA have been the object of several concerted efforts by organizations external to Africa to entice these movements to abandon ACCOSCA and form a separate confederation based on the French language and their common former colonial status. The principal external associations and partnerships of such a confederation would be along strictly Francophone lines.

Whatever their grievances have been in regard to ACCOSCA, and there have been some in the past, **the Francophone African movements have consistently declined to secede from ACCOSCA. They have consistently defined themselves as Africans first and Francophones second, at best. They have repeatedly committed themselves to panafricanism and refused to participate in any new carving up of Africa into spheres of influence,** à la Berlin 1885.

They have recognized that problems of common interest to Francophone affiliates, e.g., due to a common currency, legal system, accounting system and standards, etc., can be dealt with within the context of ACCOSCA by ad hoc or semi-permanent committees or work groups.

The PARMEC model law seeks to accomplish by law what persuasion was unable to accomplish. **In Article 5, a confederation is defined as "...a mutualist financial institution or credit union brought about by the grouping of Federations at the level of the UMOA." In Article 82, it declares that no Federation may be a member of more than one confederation, i.e., members of a UMOA confederation could not be members of ACCOSCA.**

By emphasizing regional unions of credit unions and requiring them to have all the service functions of a national federation, the PARMEC law protects the interests of certain external partners who have traditionally worked at this level rather than protecting the interests of a country's credit union movement. In some, larger countries, regional and/or sectorial unions eventually band together to form national federations. In some of these, like Mali, Burkina Faso, and Côte d'Ivoire, external donors have associated themselves with different unions. These partners resolutely resist the creation of national federations that might require them and their partner unions to work with movements assisted by other partners. In smaller countries like Togo, the federation is formed by the primary credit unions with unions playing roles in the areas of communication, promotion, and proportional representation. In these cases, it is <u>not</u> practical <u>nor</u> a good use of resources, to try to replicate all of the service functions of a federation at the level of each regional union. Yet this is exactly what Articles 71 and 72 of the PARMEC law **require**, not permit but <u>require</u>! The only conceivable *raison d'être* for this wording seems to be to protect the approaches of certain partners, and undermine others.

2. Specific comments

a. **"Tutelle"** - The PARMEC law's treatment of the question of "tutelle" or "stewardship," first mentioned in Article 2, constitutes **a major step backward in the efforts to create a regulatory framework for credit unions that is positive and enabling. It is a rejection of the efforts at policy dialogue of USAID and other donors.**

The idea of "tutelle" supposes that the institution to be regulated, even though private, exists thanks to the benevolence of the State and requires government guidance in order to function and develop properly. At best, this concept is both paternalistic and outmoded when applied to private businesses, including not-for-profit cooperative businesses such as credit unions.

Credit unions require a government Registrar or regulating agency, whose basic functions are the registration of credit unions whose dossiers are vetted and presented by their federation or its equivalent; the collection of aggregate financial and statistical information for input into the government economic and financial database; and the inspection (examination) of credit unions, often carried out through delegation to a federation inspection department and "last resort" action on problem credit unions. The Registrar should be relatively inconspicuous in the supervision

of credit unions. Like a soccer referee, the Registrar monitors the "play," sanctions violators, but in general "lets the players play" with as little interference as possible.

The PARMEC law not only designates the Ministry of Finance as the "tutelle" of credit unions, it centralizes all decision-making down to the most mundane task (e.g., registering a credit union), to the Minister himself or herself. It does not even provide, as in the Niger law, for the creation of a Registrar's office within the finance ministry itself. The PARMEC law is replete with statements that one or another action requires "the approval of the Minister."

b. The definition of credit unions in Article 5 is inadequate, perhaps purposely so. The definition is vague enough to allow the law to be used to regulate a grab-bag of groups, institutions, and projects that are in some way involved in savings and/or credit, and whose regulatory needs are quite different from those of credit unions.

c. A significant portion of the law is taken up with rather innocuous descriptions of the attributions of various parts of credit union and federation structure (board of directors, credit committee, etc.). Even here, there are some surprising errors, such as when the credit committee's primary responsibility is described as being that of credit granting, rather than that of decision-making on credit applications.

d. The PARMEC law's treatment of credit union insurance (loan protection and life savings) is surprising in its inappropriateness. It requires that credit union insurance programs, which are mutuals insuring only members and not the general public, to nonetheless be registered as insurance companies and conform to all laws and regulations applicable to general insurance companies.

e. The PARMEC law requires credit unions to adopt a fiscal year from October 1 through September 30 - which may serve the needs of the BCEAO but not necessarily those of credit unions.

f. Article 63 of the law, which deals with prudential standards, is vague. It does not provide for credit union movement participation in their determination, thereby almost guaranteeing that they will be established without regard to credit unions' unique characteristics.

3. International Standards

The PARMEC law is so entirely inadequate for the registration and regulation of credit unions according to the international standards contained in the WOCCU **Credit Union Law Content Guide**, in addition to the most egregious faults cited above, that **the PARMEC law is practically useless.** The text of the PARMEC law and the text of the draft Niger law, which is in accordance with the content guide, are included as appendices for comparative purposes.

VI. RECOMMENDATIONS TO USAID

A. CONCLUSIONS

After review of the entire process leading up to the PARMEC law, several conclusions are inevitable.

1. The BCEAO authorities have **not** acted in good faith in regard to the credit union movement. The PARMEC law contains no indications that BCEAO listened to or took seriously any of the most important views of the credit union movement.

2. The credit union movement seeks a positive and collaborative relationship with the BCEAO and the Ministries of Finance with a view to obtaining appropriate legislation, regulation, and a long-term constructive collaboration. The BCEAO has rejected the credit union movement's own definition of itself, its nature, and its mission. It redefines credit union institutions to conform to its own purposes and structures so that they will inevitably no longer be able to be credit unions.

3. In process and in content, the BCEAO has undertaken to continue regulation by decree and a paternalistic, interfering government role vis-à-vis credit unions.

4. The PARMEC law is unacceptable for the registration and regulation of credit unions according to international norms and standards of credit union law. Its adoption by the member country governments of the UMOA could destroy the credit union movement in the zone, or at the very least, drive it from the formal to the informal sector.

B. RECOMMENDATIONS

In order to preserve and allow the future promotion of the credit union movements in the Franc Zone in which WOCCU/CUNA, ACCOSCA, the national movements, and USAID have devoted so much time, energy, and money over the last seventeen years, it is imperative that the PARMEC law as it now exists be rejected categorically - it cannot be "repaired" by piecemeal modifications. The document is fundamentally flawed. To this end, WOCCU on behalf of CUNA, ACCOSCA, and ACCOSCA's affiliates in the Franc Zone, requests that USAID Missions and regional offices

1. intervene as soon as possible with the governments of the UMOA and request that they reject the PARMEC law when it is presented to the Council of Ministers of the UMOA in September 1993;

2. immediately suggest strongly that BCEAO and the national governments accept the fact that credit unions and credit union institutions are not banks and should not be regulated as banks but rather as the type of institutions they are; and

3. suggest as strongly as possible through appropriate channels

   a) that BCEAO return to the starting point with PARMEC,

   b) that it abandon co-option for cooperation,

   c) that it abandon its rigid attitude and enter into an active good-faith collaboration with WOCCU, ACCOSCA, and the national federations with a view to producing ***together*** a legal and regulatory system which observes international norms and standards and is adapted to the particular realities of the Franc Zone.

For its part, the international credit union movement represented by WOCCU, CUNA, ACCOSCA, and ACCOSCA's Franc Zone affiliates is undertaking a comprehensive and coordinated program to encourage the member governments to reject the PARMEC law as it now is written. The credit union movement will propose to the BCEAO a specific process and terms of a collaborative effort between BCEAO and the movement which the credit union movement believes will be able to serve the interests of all interested parties.

APPENDIX A

PARMEC/UMOA MODEL LAW

BANQUE CENTRALE DES ETATS
DE L'AFRIQUE DE L'OUEST

Direction Centrale du Crédit
et de la Surveillance Bancaire

04 Mai 1993

REGLEMENTATION DES INSTITUTIONS FINANCIERES MUTUALISTES OU COOPERATIVES D'EPARGNE ET DE CREDIT

TITRE I DU DOMAINE D'APPLICATION ET DES DISPOSITIONS GENERALES

CHAPITRE 1 : DOMAINE D'APPLICATION ET DÉFINITIONS

SECTION 1 DOMAINE D'APPLICATION

Article 1 : La présente loi s'applique aux institutions financières mutualistes ou coopératives telles que définies à l'article 5 et exerçant leurs activités sur le territoire de la République de ( )[1], à leurs Unions, Fédérations ou Confédérations.

Elle reconnaît en outre les précoopératives et clubs d'épargne et de crédit dans les limites et suivant les conditions prévues au TITRE VIII de la présente loi.

[1] Etat où est promulguée la loi ou l'ordonnance.

3

Article 2 : Sauf dispositions contraires de la présente loi :

1°) le droit des sociétés, la loi portant réglementation bancaire et la loi sur les coopératives[2] ne s'appliquent pas à ces institutions. Toutefois, les organes financiers de ces institutions sont régis par la loi portant réglementation bancaire ;

2°) les rapports de ces institutions avec les tiers, notamment leurs transactions financières, sont régis par le code civil.

SECTION 2 TUTELLE

Article 3 : L'autorité de tutelle des institutions financières mutualistes ou coopératives d'épargne et de crédit est le Ministre chargé des Finances.

SECTION 3 EXPRESSIONS ET DEFINITIONS

Article 4 : Dans la présente loi, les expressions suivantes désignent :

1°) "UMOA" : l'Union Monétaire Ouest Africaine ;

2°) "Banque Centrale" : la Banque Centrale des Etats de l'Afrique de l'Ouest;

3°) "Commission Bancaire" : la Commission Bancaire de l'Union Monétaire Ouest Africaine ;

4°) "décret" : tout décret d'application adopté en vertu de la présente loi ;

5°) "Ministre" : le Ministre chargé des Finances ;

6°) "Règlement" : règlement intérieur d'une institution.

---

2 Dénomination de la loi selon les pays.

4

Article 5 : Au sens de la présente loi, sont considérés comme :

1°) "Précoopératives ou clubs d'épargne et de crédit" : un groupement de personnes qui, sans remplir les conditions exigées pour être agréées comme Institution de base, effectue des activités d'épargne ou des activités de crédit en s'inspirant des règles d'actions coopératives prévues à l'article 6 et favorise l'éducation économique, sociale et coopérative de ses membres pour faciliter son passage au statut d'Institution de base dans le délai qui lui est imparti ;

2°). "Institution financière mutualiste ou coopérative d'épargne et de crédit" : un groupement de personnes, doté de la personnalité juridique, sans but lucratif et à capital variable, fondé sur les principes d'union, de solidarité et d'entraide mutuelle et ayant essentiellement pour objet de collecter l'épargne de ses membres et de leur consentir du crédit ;

3°) "Institution de base" : une institution financière mutualiste ou coopérative d'épargne et de crédit à l'exclusion des Unions, Fédérations, Confédérations et organes financiers ;

4°) "Union" : une institution financière mutualiste ou coopérative d'épargne et de crédit résultant du regroupement d'institutions de base.

5°) "Fédération" : une institution financière mutualiste ou coopérative d'épargne et de crédit résultant du regroupement d'Unions ;

6°) "Confédération" : une institution financière mutualiste ou coopérative d'épargne et de crédit issue du regroupement, à l'échelle de l'UMOA, de Fédérations ;

7°) "Institution" : une Institution de base, une Union, une Fédération ou une Confédération ;

5

+002271-13-35-69 CAB PUBLIC STIN P04 24.05.93 15:39

8°) "Organe financier" : une institution financière mutualiste ou coopérative d'épargne et de crédit ayant le statut de banque ou d'établissement financier et qui a notamment pour objet de centraliser les ressources des membres de l'institution qui l'a créée.

SECTION 4 DENOMINATION SOCIALE

Article 6 : La dénomination sociale d'une Institution de base, d'une Union, d'une Fédération ou d'une Confédération ne doit pas être susceptible d'être confondue avec une autre dénomination ou raison sociale.

Aucune personne autre qu'une Institution de base régie par la présente loi, une Union de telles institutions de base, une Fédération de ces Unions ou une Confédération de ces Fédérations, ne peut inclure dans sa dénomination sociale ou sa raison sociale l'une ou l'autre des appellations suivantes ou une combinaison de celles-ci : "caisse populaire", "caisse d'épargne et de crédit", "coopérative d'épargne et de crédit", "mutuelle d'épargne et de crédit", "caisse d'épargne" ou "caisse de crédit" ou, dans le cas d'une Union, d'une Fédération ou d'une Confédération, selon le cas, "Union", "Fédération" ou "Confédération" de telles "caisses", "coopératives" ou "mutuelles", ni les utiliser pour ses activités, ni créer l'apparence d'une telle utilisation.

Toute utilisation non conforme ou abusive de ces appellations est passible de sanctions.

Les dispositions du présent article ne s'appliquent pas à la Caisse Nationale d'Epargne[3], ni à la Caisse Nationale de Crédit Agricole du ( )[4].

CHAPITRE 2 : DISPOSITIONS GENERALES APPLICABLES AUX INSTITUTIONS

SECTION 1 REGLES D'ACTIONS COOPERATIVES

Article 7 : Les institutions sont régies par les règles d'action coopératives suivantes :

---

[3] Ou autre appellation selon le pays.

[4] Nom du pays.

6

+00227-75-55-69 CAE PUBLIC STIN P05 24.05.93 15:39

1°) l'adhésion des membres est libre ;

2°) le nombre de membres n'est pas limité ;

3°) chaque membre titulaire n'a droit qu'à une seule voix, quel que soit le nombre de parts qu'il détient ;

4°) le vote par procuration n'est autorisé que dans des cas exceptionnels et dans les limites prévues par le règlement ;

5°) aucune rémunération ne peut être versée sur les parts d'adhésion. L'intérêt payable sur les autres parts est limité ;

6°) la constitution d'une réserve est obligatoire. Les sommes ainsi mises en réserve ne peuvent être partagées entre les membres ;

7°) les actions visant l'éducation économique, sociale et coopérative des membres de l'institution sont privilégiées.

SECTION 2 *CONSTITUTION*

Article 8 : Une institution est créée après constitution du capital minimum prévu à l'article 12, l'adoption de ses statuts par l'Assemblée générale constitutive et l'agrément du Ministre. Elle jouit de la personnalité morale.

Article 9 : Un décret détermine la composition des statuts qui comportent notamment les éléments suivants ainsi que les modalités de leur modification :

1°) la raison sociale ;

2°) le siège social et la zone géographique d'intervention ;

3°) l'objet ;

4°) l'indication des membres fondateurs ;

5°) les droits et obligations des membres ;

6°) les organes, leur composition et leur mode de fonctionnement ;

7°) la durée de vie de l'institution.

7

Article 10 : Toute modification des statuts, portant sur les dispositions prévues à l'article 9, requiert l'approbation préalable du Ministre.

Article 11 : Le capital social d'une institution est constitué de parts sociales qui peuvent se composer de parts d'adhésion et éventuellement de parts supplémentaires.

Article 12 : Le capital social d'une institution est variable. Il ne peut être inférieur à un montant minimum fixé par décret. Toutefois, des dérogations exceptionnelles pour une reconstitution du capital social à la suite du retrait de membres ou de pertes, peuvent être accordées par le Ministre. La durée de cette dérogation ne peut excéder un an.

Article 13 : Les parts sociales sont nominatives et non négociables. Leur valeur nominale, les conditions de leur cession et de leur remboursement sont définies par les statuts.

Article 14 : Un membre peut souscrire plusieurs parts mais ne peut détenir plus d'une fraction du capital déterminée par décret. Les parts sociales souscrites doivent être intégralement libérées.

Une institution ne peut payer d'intérêt sur les parts d'adhésion qu'elle a émises.

SECTION 2 AGREMENT

Article 15 : Nul ne peut exercer les activités définies à l'article 5, sans avoir été, au préalable, agréé et inscrit sur le registre des institutions tenu par le Ministre. L'agrément est prononcé par arrêté du Ministre. Il est réputé avoir été donné s'il n'est pas prononcé dans un délai d'un mois à compter du dépôt de la demande, sauf avis contraire donné au demandeur.

Le décret détermine les documents et renseignements qui doivent accompagner la demande d'agrément.

Article 16 : Le retrait d'agrément est prononcé par arrêté du Ministre comme en matière d'agrément et, dans le cas d'un organe financier, après avis conforme de la Commission Bancaire. Il peut intervenir dans les cas ci-après :

8

1°) à la demande expresse de l'institution ;

2°) lorsque le démarrage des activités n'intervient pas dans l'année qui suit la décision d'agrément ou lorsque l'institution n'exerce aucune activité depuis plus d'un an ;

3°) en cas de manquements graves ou répétés aux dispositions de la présente loi ;

4°) à la cessation des activités de l'institution ;

5°) à la dissolution de l'institution.

Dans le cas visé au paragraphe 3 du premier alinéa, le retrait d'agrément s'effectue dans les conditions prévues aux articles 105 et 106.

Le retrait d'agrément entraîne la radiation de l'institution concernée du registre des institutions.

Article 17 : Dès la publication de l'arrêté au Journal Officiel, l'institution cesse ses activités dans le délai fixé par l'arrêté de retrait d'agrément.

SECTION 4 MEMBRES

Article 18 : Outre ses fondateurs, peuvent être membres d'une institution, toutes autres personnes physiques ou morales, qui partagent un lien commun au sens de la présente loi. Chaque membre souscrit au moins une part d'adhésion.

Article 19 : Au sens de la présente loi, le lien commun s'entend de l'identité de profession, d'employeur, de résidence, d'association ou d'objectif.

Article 20 : Les statuts déterminent les cas, les conditions et les modalités de retrait ou d'exclusion des membres.

Article 21 : Toute démission ou exclusion d'un membre donne lieu à l'apurement du solde de ses dettes et créances à l'égard de l'institution.

9

Après cet apurement, le membre démissionnaire ou exclu ne dispose d'aucun droit sur les biens de l'institution.

Article 22 : La responsabilité des membres vis à-vis des tiers est limitée au montant de leurs parts sociales.

Article 23 : Tous les membres d'une institution bénéficient de ses services dans les conditions fixées par ses statuts.

Article 24 : Les statuts peuvent prévoir l'adhésion de membres auxiliaires selon les conditions et modalités qu'ils fixent. Les membres auxiliaires ne peuvent avoir accès au crédit et ne sont éligibles à aucune fonction au sein des organes. Ils peuvent assister aux Assemblées générales mais ne disposent d'aucun droit de vote.

SECTION 5 ORGANES ET POUVOIRS

Article 25 : Un décret détermine l'organisation et l'administration de l'institution. Il spécifie en particulier, les pouvoirs de l'Assemblée Générale, les fonctions et les pouvoirs des différents organes de gestion.

Article 26 : Sous réserve des dispositions de l'article 25, toute institution dispose des organes de gestion suivants :

- l'Assemblée Générale ;
- le Conseil d'Administration ;
- le Comité de Crédit ;
- le Conseil de Surveillance.

Article 27 : L'Assemblée Générale peut décider de la création de tout autre organe qu'elle juge utile.

Article 28 : Pour être élu membre de l'un des organes d'une institution, le candidat doit être membre d'une institution ou représentant d'un membre de l'institution et, dans le cas d'une Institution de base, remplir les conditions ci-après :

1°) jouir d'une bonne moralité et n'avoir jamais été condamné à une peine d'emprisonnement à la suite d'infractions pénales ;

2°) n exercer aucune activité rémunérée dans l'Institution de base ;

3°) ne pas participer, de manière directe ou indirecte ou d'une façon permanente ou occasionnelle, à une activité concurrente à celle de l'Institution de base.

Article 29 : Les fonctions exercées par les membres au sein des quatre organes visés à l'article 26 et, le cas échéant, dans le Comité de Déontologie ne sont pas rémunérées.

Toutefois, sauf pour l'Assemblée Générale, les frais engagés par les membres de ces organes dans l'exercice de leurs fonctions, peuvent leur être remboursés, en partie ou en totalité, dans les conditions fixées par décision de l'Assemblée Générale.

L'ASSEMBLEE GENERALE

Article 30 : L'Assemblée Générale est la plus haute instance de l'institution . Elle est constituée de l'ensemble des membres convoqués et réunis à cette fin.

Article 31 : Lorsque l'étendue du territoire couvert par l'institution le justifie, l'Assemblée Générale peut prévoir la tenue d'Assemblées de secteur dont elle définit les modalités de fonctionnement.

Article 32 : L'Assemblée Générale a notamment compétence pour :

1°) s'assurer de la saine administration et du bon fonctionnement de l'institution ;

2°) modifier les statuts et le règlement ;

3°) élire les membres du Conseil d'Administration, du Comité de Crédit, du Conseil de Surveillance et, le cas échéant, du Comité de Déontologie et fixer leurs pouvoirs ;

11

4°) créer des réserves facultatives ou tous fonds spécifiques ;

5°) approuver les comptes et statuer sur l'affectation des résultats ;

6°) fixer, s'il y a lieu, le taux de rémunération des parts sociales, dans les limites définies par la présente loi ;

7°) définir la politique de crédit de l'institution ;

8°) traiter de toutes autres questions relatives à l'administration et au fonctionnement de l'institution.

Article 33 : A l'exclusion des dispositions relatives aux modifications des statuts, à l'approbation des comptes et à l'affectation des résultats, l'Assemblée Générale peut déléguer tout ou partie de ses pouvoirs au Conseil d'Administration.

Article 34 : L'Assemblée Générale se réunit au moins une fois par an, sur convocation du Président du Conseil d'Administration dans les six mois qui suivent la clôture de l'exercice financier de l'institution, en vue notamment de :

1°) prendre connaissance du rapport d'activités de l'exercice ;

2°) examiner et approuver les comptes de l'exercice ;

3°) donner quitus aux membres du Conseil d'Administration.

Article 35 : L'Assemblée Générale peut se réunir en session extraordinaire à la demande de la majorité des membres du Conseil d'Administration ou du Comité de Surveillance. Elle peut également se réunir à la demande d'au moins un quart des membres de l'institution ou à l'initiative d'une des institutions à laquelle elle est affiliée. Seuls les sujets mentionnés dans l'avis de convocation peuvent faire l'objet de délibérations et de décisions à une assemblée générale extraordinaire.

LE CONSEIL D'ADMINISTRATION

Article 36 : Le Conseil d'Administration assure le fonctionnement de l'institution et veille à sa bonne gestion.

12

Article 37 : Le Conseil d'Administration est composé d'un nombre impair d'au moins cinq membres élus par l'Assemblée Générale et révocables par elle.

Le nombre maximum de membres du Conseil d'Administration, la durée de leur mandat, les conditions de leur renouvellement ou de leur révocation et les règles de fonctionnement du Conseil d'Administration sont fixés par les statuts.

Le Conseil d'Administration élit en son sein un bureau composé d'un président, d'un vice-président, d'un secrétaire et d'un trésorier.

Les membres du Conseil d'Administration sont financièrement responsables, individuellement ou solidairement selon les cas, des fautes commises dans l'exercice de leurs fonctions.

Article 38 : Le Conseil d'Administration peut nommer, pour une durée déterminée ou non, un directeur ou gérant qu'il peut choisir parmi ses membres. Il peut également recruter et nommer tout autre employé indispensable au bon fonctionnement de l'institution. Le gérant exerce ses fonctions sous le contrôle du Conseil d'Administration. Ses droits et obligations sont déterminés par les statuts ou le contrat conclu avec le Conseil d'Administration.

Article 39 : Le Conseil d'Administration se réunit au moins une fois par trimestre et aussi souvent que nécessaire.

Article 40 : Le Conseil d'Administration adopte son règlement intérieur qu'il soumet à l'approbation de l'Assemblée Générale.

Article 41 : Le Conseil d'Administration a notamment pour fonctions de:

1°) veiller à la mise en oeuvre des décisions de l'Assemblée Générale ;

2°) s'assurer du respect des dispositions de la présente loi, des décrets pris pour son application ainsi que des statuts et règlements qui régissent les institutions ;

13

P02 24.05.93 15:49

3°) mettre à la disposition du Comité de Crédit, du Conseil de Surveillance et, le cas échéant, du Comité de Déontologie, les moyens nécessaires à l'exécution de leurs fonctions ;

4°) déterminer, dans la limite des plafonds fixés par la législation en vigueur et, sous réserve de disposer de délégation de pouvoirs de l'Assemblée Générale, le taux d'intérêt applicable aux dépôts et aux prêts aux membres de l'institution ;

5°) arrêter, dans les mêmes conditions de délégation de pouvoirs, le montant des ressources à allouer au Comité de Crédit pour les opérations de prêts aux membres ;

6°) définir la politique de gestion des ressources de l'institution ;

7°) arrêter les comptes et présenter le rapport annuel à l'Assemblée Générale, en rendant compte de son mandat.

LE COMITE DE CREDIT

Article 42 : Le Comité de Crédit est composé d'un nombre impair d'au moins trois membres élus par Assemblée Générale. La durée du mandat ainsi que le nombre maximum de membres sont précisés par les statuts. L'exercice de cette fonction est incompatible avec celles de membre du Conseil d'Administration, du Conseil de Surveillance ou du Comité de Déontologie.

Article 43 : Le Comité de Crédit a pour compétence principale, conformément aux politiques de crédit définies par l'Assemblée Générale ou le Conseil d'Administration, agissant par délégation :

1°) d'approuver les crédits;

2°) d'exiger des cautions et garanties ;

3°) d'autoriser la signature de quittances, main-levées ou de tous autres documents relatifs aux crédits accordés aux membres de l'institution.

14

Article 44 : Les modalités et les règles de fonctionnement du Comité sont fixées par les statuts ou le règlement de l'institution.

Article 45 : Le Comité de Crédit présente un rapport de ses délibérations au Conseil d'Administration.

LE CONSEIL DE SURVEILLANCE

Article 46 : Le Conseil de Surveillance est composé d'un nombre impair d'au moins trois membres élus par l'Assemblée Générale. La durée du mandat ainsi que le nombre maximum de membres sont précisés par les statuts. Cet organe est chargé de la surveillance de la régularité des opérations de l'institution et du contrôle de la gestion.

Article 47 : Ne peuvent faire partie du Conseil de Surveillance :

1°) les membres du Conseil d'Administration ;

2°) les membres du Comité du Crédit ;

3°) les personnes recevant, sous une forme quelconque, un salaire ou une rémunération de l'institution ou de ses organes.

Cette interdiction d'être membre du Conseil de Surveillance s'applique également aux personnes liées aux catégories de personnes visées au premier alinéa.

Au sens de la présente loi, sont considérés comme personnes liées à une des personnes visées au premier alinéa :

1°) son conjoint, ses parents au premier degré ou les parents au premier degré de son conjoint ;

2°) la personne à laquelle il est associé ou la société de personnes dont il est associé ;

3°) une personne morale qui est contrôlée par lui, par son conjoint ou par leurs parents au premier degré individuellement ou collectivement ;

15

4°) une personne morale dont il détient au moins 10% des droits de vote rattachés aux actions qu'elle a émises ou au moins 10% de telles actions.

Article 48 : Le Conseil de Surveillance est habilité à entreprendre toute vérification ou inspection des comptes, des livres et opérations de l'institution. Il peut demander la constitution de toutes provisions nécessaires sur les créances. Pour l'exercice de cette mission, il peut faire appel à tout expert et a accès à toutes pièces ou tous renseignements qu'il juge utiles.

Le Conseil est également compétent pour vérifier la régularité des décisions du Conseil d'Administration, du Comité de Crédit ou de tout autre organe de l'institution .

Il présente chaque année à l'Assemblée Générale, un rapport sur la régularité et la sincérité des comptes et opérations.

Article 49 : Le Conseil de Surveillance peut, à la majorité des voix, convoquer une Assemblée Générale extraordinaire, lorsqu'il constate de graves infractions à la présente loi, aux statuts et règles de l'institution ou lorsqu'il juge que la situation met en péril les intérêts ou l'équilibre financier de l'institution.

Le Conseil de Surveillance peut, à l'unanimité des voix, proposer à l'Assemblée Générale, la suspension d'un membre du Conseil d'Administration, du Comité du Crédit ou de tout autre organe de l'institution.

Article 50 : Le Conseil de Surveillance peut recevoir toute plainte des membres.

Il examine cette plainte et la soumet, avec ses conclusions, à la prochaine réunion du Conseil d'Administration. Les statuts définissent les modalités de traitement de cette plainte.

GERANCE

Article 51 : Une institution peut être dirigée par un gérant ou toute autre personne investie à cet effet par le Conseil d'Administration qui fixe, le cas échéant, les conditions de leur contrat et le montant de leur rémunération.

Article 52 : Les personnes visées à l'article 51 sont nommées et révoquées par le Conseil d'Administration. Elles exercent leurs fonctions sous l'autorité de ce dernier et le contrôle du Conseil de Surveillance.

Elles sont chargées de la gestion quotidienne de l'institution, selon les conditions définies par les statuts et sont individuellement responsables de leur gestion. A cet égard, elles peuvent être tenues de constituer, selon des critères définis par les statuts ou tous autres règlements, des dépôts de garantie ou d'apporter des cautions solvables.

SECTION 6 *DES OPERATIONS*

DEPOTS

Article 53 : Une institution peut ouvrir des comptes de dépôts à ses membres. Il ne peut en être disposé par chèque ou virement, à l'exclusion des comptes ouverts par les organes financiers. Les conditions et modalités de fonctionnement de ces comptes sont déterminées par l'Assemblée Générale ou le Conseil d'Administration agissant par délégation.

OPERATIONS DE CREDIT

Article 54 : Les politiques de crédit de l'institution sont définies par l'Assemblée Générale ou le Conseil d'Administration, agissant par délégation. Elles déterminent notamment, en matière d'octroi des prêts, les objets autorisés, les critères d'éligibilité, les plafonds, les taux d'intérêt, les durées, les cautions et garanties à exiger ainsi que la procédure à suivre en cas de non-respect de l'échéancier de remboursement.

Article 55 : Tout prêt aux dirigeants d'une institution ou aux personnes dont les intérêts ou les rapports avec l'institution sont susceptibles d'influencer les décisions de cette dernière doit être autorisé par le Conseil d'Administration, par une décision prise à l'unanimité.

Sont considérées comme dirigeants d'une institution, toutes personnes exerçant des fonctions de direction, d'administration, de contrôle ou de gérance de cette institution.

17

+002227-73-35-69 CAB PUBLIC STIN PAG 24.05.93 13:31

Article 56 : L'encours des prêts accordés à l'ensemble des personnes visées à l'article 55 ne peut excéder une fraction de l'actif net de l'institution, fixée par décret.

Article 57 : Sous peine d'être démise de ses fonctions, toute personne visée à l'article 55 ayant un intérêt dans une demande de prêt ou sollicitant un prêt, ne peut prendre part ou se faire représenter aux délibérations relatives à cette demande.

AUTRES OPERATIONS ET ACTIVITES

Article 58 : L'institution peut conclure des accords avec d'autres institutions similaires, des organisations ou des institutions financières afin d'aider ses membres à acquérir des biens et services offerts par des tierces parties, dans le cadre de ses objectifs.

Elle peut souscrire des contrats d'assurance en vue de couvrir les risques liés à son activité et souscrire également toute assurance au profit de ses membres, à titre individuel ou collectif.

L'institution peut créer, après avis du Ministre, en tant que de besoin, des sociétés financières et de services en vue de satisfaire les besoins de ses membres et de réaliser ses objectifs, sous réserve de se conformer aux dispositions légales régissant la constitution et le fonctionnement de telles sociétés.

Toute autre activité jugée utile pour l'intérêt du public et des membres de l'institution doit être autorisée par le Ministre.

SECTION 5 REGIME FISCAL

Article 59 : Les institutions sont exonérées de tout impôt direct ou indirect, taxe ou droit afférents à leurs activités financières, à l'exception des organes financiers et des sociétés de services qu'elles peuvent créer.

Article 60 : Les membres de ces institutions sont également exonérés de tous impôts et taxes sur les parts sociales, les revenus tirés de leur épargne et les paiements d'intérêts sur les crédits qu'ils ont obtenus de l'institution.

18

+002227-73-35-69 CAB PUBLIC STIN PAG 24.03.93 13:55

SECTION 7 COMPTABILITE ET REGLES DE GESTION

COMPTABILITE

Article 61 : L'exercice social court du 1er octobre au 30 septembre de l'année suivante, sauf pour le premier exercice qui débute à la date d'obtention de l'agrément.

Article 62 : Les états financiers et comptables doivent être établis et conservés conformément aux normes comptables et financières usuelles.

REGLES DE GESTION

Article 63 : Les institutions doivent veiller à maintenir l'équilibre de leur structure financière.

A cet égard, elles doivent respecter les normes édictées par décret, notamment en matière de :

1°) capital social ;

2°) réserve générale ;

3°) division des risques ;

4°) liquidité ;

5°) solvabilité ;

6°) emplois et de ressources.

Article 64 : L'Assemblée Générale peut décider de la constitution de toutes autres réserves ou de tous autres fonds qu'elle juge nécessaires à la sécurité des opérations de l'institution et à la protection des intérêts de ses membres. Elle en détermine les modalités d'alimentation et d'utilisation.

Article 65 : Les personnes qui concourent à la direction, à l'administration, au contrôle, à la gérance ou au fonctionnement d'une institution sont tenues au secret professionnel, sous réserve des dispositions de l'article 90 dernier alinéa et de l'article 103.

+00227-73-35-69 CAB PUBLIC STIN

Article 66 : Il est interdit à toute personne visée à l'article 65 d'user des informations dont elle a connaissance dans l'exercice de ses fonctions, pour en tirer un profit personnel ou en faire bénéficier des tiers, sous peine de s'exposer aux sanctions prévues au titre VII, chapitre 2 de la présente loi.

SECTION 8 FUSION ET SCISSION

Article 67 : La fusion d'institutions de même niveau, ainsi que la scission d'une institution doivent, au préalable, être approuvées par le Conseil d'Administration de chacune des institutions concernées et être adoptées par leurs Assemblées Générales respectives.

Dans le cas d'institutions affiliées, la fusion ou la scission requiert l'avis de l'institution à laquelle elles sont affiliées.

La fusion ou la scission ne devient effective qu'après autorisation du Ministre et, dans le cas d'organes financiers, après avis conforme de la Commission Bancaire.

Les conditions et modalités de la fusion ou de la scission sont précisées par décret.

SECTION 9 DISSOLUTION

Article 68 : La dissolution d'une institution peut intervenir, soit à son initiative, soit à la suite d'un retrait d'agrément. Elle est décidée par l'Assemblée Générale. Le Ministre en est immédiatement informé.

Article 69 : L'actif net subsistant après apurement du passif et remboursement des parts est affecté, par décision de dévolution de l'Assemblée Générale, à une autre institution ou à des oeuvres sociales ou humanitaires.

TITRE II DES DISPOSITIONS SPECIFIQUES AUX UNIONS

Article 70 : Plusieurs Institutions de base peuvent se regrouper, pour constituer une Union.

Une Institution de base ne peut être membre de plusieurs Unions.

Les Unions ont pour membres, les institutions de base dûment constituées et agréées.

Chaque Union détermine dans ses statuts, les conditions d'adhésion et de retrait de ses membres.

Article 71 : Les Unions ont pour mission de protéger et de gérer les intérêts de leurs membres, de leur fournir des services de tous ordres, notamment administratif, professionnel et financier en vue de concourir à la réalisation de leurs objectifs. Elles sont tenues de créer un fonds commun de garantie dont l'organisation et les modalités de fonctionnement sont fixées par les statuts.

Elles agissent en qualité d'organisme de surveillance, de contrôle et de représentation des institutions de base qui leur sont affiliées.

Article 72 : Toute Union dispose d'un organe financier. Les opérations financières de l'Union sont exclusivement réalisées par cet organe financier.

Article 73 : Les membres du Conseil d'Administration de l'Union sont élus par ceux des institutions membres.

Article 74 : Les statuts peuvent prévoir la constitution, au sein du Conseil d'Administration, d'un Comité plus restreint auquel le Conseil délègue une partie de ses pouvoirs pour la gestion des affaires courantes de l'Union.

Article 75 : Sous réserve des dispositions de l'article 71, les opérations d'une Union consistent principalement à :

1°) apporter à ses membres, une assistance technique notamment en matière de gestion, de comptabilité, de finances, d'éducation et de formation ;

2°) vérifier et contrôler les comptes et les états financiers de ses membres ;

3°) inspecter les institutions de base ;

21

+002?-?3-35-69- CAB PUBLIC STIN P05 24.05.93 15:56

4°) promouvoir des institutions de base ;

5°) représenter ses membres auprès de la Fédération à laquelle elle est affiliée et, si elle ne l'est pas, aux plans national et international.

TITRE III DES DISPOSITIONS SPECIFIQUES AUX FEDERATIONS

Article 76 : Plusieurs Unions peuvent se regrouper pour constituer une Fédération. Peuvent également être membres d'une Fédération, les institutions de base, dans les cas d'exception prévus par décret.

Une Union ne peut être membre de plusieurs Fédérations.

Article 77 : La Fédération assure des fonctions techniques, administratives et financières au bénéfice de ses membres. Elle est notamment chargée :

1°) de représenter ses membres auprès de la Confédération et, lorsqu'elle n'est pas affiliée, aux plans national et international ;

2°) d'exercer un contrôle administratif, technique et sur les Unions qui lui sont affiliées ainsi que sur les institutions affiliées à ces Unions ;

3°) d'assurer la cohérence et de promouvoir le développement d'institutions, en favorisant la création d'Unions ;

4°) de prendre toute mesure nécessaire au bon fonctionnement et à l'organisation des Unions ;

5°) de fournir une assistance technique à ses membres notamment en matière d'organisation, de fonctionnement, de comptabilité, de formation et d'éducation ;

6°) d'assumer toutes tâches que ses membres lui confient.

Article 78 : La Fédération a également pour mission de définir, à l'usage de ses membres, les grandes orientations du code de déontologie. A cet égard, elle peut se doter d'un Comité de Déontologie.

Article 79 : Toute fédération est dotée d'un fonds commun de garantie dont l'organisation et les modalités de fonctionnement sont fixées par les statuts.

Article 80 : Sous réserve du respect des dispositions de l'article 63, la Fédération définit les règles applicables, aux plans administratif et financier, à ses membres. Elle soumet ces règles au Ministre et à la Commission Bancaire pour avis.

Dans ce cadre, elle peut définir toutes normes prudentielles applicables à ses membres.

Article 81 : Toute Fédération dispose d'un organe financier. Les opérations financières de la Fédération sont exclusivement réalisées par cet organe financier.

TITRE IV DES DISPOSITIONS SPECIFIQUES AUX CONFEDERATIONS

Article 82 : Plusieurs Fédérations peuvent se regrouper, à l'échelle de l'UMOA, en Confédération.

Peuvent également être membres d'une Confédération, les Unions dans les cas d'exception prévus par décret.

Une Fédération ne peut être membre de plusieurs Confédérations.

Article 83 : La Confédération assure, à l'échelle de l'UMOA, les mêmes fonctions que la Fédération.

TITRE V DES ORGANES FINANCIERS

Article 84 : Toute Union ou Fédération est tenue de se doter d'un organe financier. Cette disposition est facultative pour les Institutions de base et les Confédérations.

Article 85 : Le capital des organes financiers est souscrit par :

1°) les institutions ;

2°) toute autre personne physique ou morale.

Article 86 : Les organes financiers peuvent bénéficier de dérogations relatives à la division et à la concentration des risques, dans les conditions et selon les modalités prévues par la loi portant réglementation bancaire.

Article 87 : Outre les attributions prévues dans la présente loi, les organes financiers peuvent, dans la limite des pouvoirs qui leur sont dévolus :

1°) exercer un rôle d'agent de compensation des institutions et assurer leur refinancement, dans les conditions prévues par les statuts ;

2°) garantir la liquidité des institutions membres et assurer leur solidarité financière interne, au besoin par un Fonds d'assistance ;

3°) mobiliser des financements extérieurs ou une assistance technique au profit de leurs membres ;

4°) contribuer aux placements des ressources des membres ;

5°) effectuer tous dépôts et consentir tous prêts ;

6°) gérer des fonds de liquidités et procéder à des investissements.

Pour réaliser leurs objectifs, les organes financiers peuvent émettre des titres et réaliser des emprunts.

TITRE VI DE LA SURVEILLANCE ET DU CONTROLE

Article 88 : Le pouvoir de contrôle et de surveillance au plan interne est dévolu au Conseil de Surveillance, élu au niveau de chaque institution et par les services compétents de l'institution à laquelle elle est affiliée.

Dans le cas où l'institution n'est pas affiliée, outre le rôle dévolu au Conseil de Surveillance, le contrôle et la surveillance sont assurés par le Ministre.

24.05.93 16:00

Article 89 : Toute Union, Fédération ou Confédération est chargée d'assurer le contrôle sur pièces et sur place, des opérations des institutions qui lui sont affiliées. A cet effet, elle peut édicter tous manuels de procédures, sous réserve que ceux-ci soient conformes aux normes édictées en la matière par la Banque Centrale ou la Commission Bancaire. Elle est tenue de procéder au moins une fois l'an, à l'inspection des institutions qui lui sont affiliées.

Article 90 : Le contrôle et la surveillance au plan interne portent sur tous les aspects touchant à l'organisation et au fonctionnement de ces institutions, en rapport avec les textes législatifs, réglementaires, les statuts et les règlements qui les régissent. Le contrôle doit notamment permettre de procéder à l'évaluation :

1°) des politiques et pratiques financières ;

2°) de la fiabilité de la comptabilité ;

3°) de l'efficacité du contrôle interne.

Les organes chargés de la surveillance et du contrôle ont droit, dans le cadre de cette mission, à la communication, sur leur demande, de tous documents et informations nécessaires à l'exercice de leurs fonctions, sans que le secret professionnel leur soit opposable.

Article 91 : Les organes chargés de la surveillance et du contrôle au sein des institutions peuvent recourir à toute assistance technique en vue de les aider à accomplir efficacement leur mission. Leurs agents peuvent être admis, à leur demande ou à l'initiative des dirigeants, à participer à des réunions des organes de l'institution.

Article 92 : Les anomalies constatées doivent faire l'objet d'un rapport, assorti de recommandations, adressé au Conseil d'Administration de l'institution concernée et à l'institution à laquelle elle est affiliée ainsi qu'au Ministre, dans le mois suivant l'établissement du rapport. Copie de ce rapport est également transmise à la Banque Centrale et à la Commission Bancaire, dans le même délai, s'il s'agit d'un organe financier.

Article 93 : Les agents des organes chargés de la surveillance et du contrôle sont tenus au secret professionnel.

P04 24.05.93 16:01

Article 94 : La Fédération peut déléguer tout ou partie de ses pouvoirs de contrôle et de surveillance aux Unions membres. Il en est de même de la Confédération à l'égard des Fédérations membres.

TITRE VII DES RELATIONS AVEC LES AUTORITES MONETAIRES

CHAPITRE 1 : INFORMATIONS STATISTIQUES

Article 95 : Toute institution est tenue d'élaborer un rapport annuel au terme de chaque exercice social.

Le rapport comprend, en sus des informations sur les activités de l'institution, les états financiers, établis selon les exigences prévues au décret et approuvés par l'Assemblée Générale.

Article 96 : Les Unions, Fédérations et Confédérations doivent présenter des situations consolidées.

Article 97 : Les rapports et états financiers annuels sont communiqués, dans un délai de six mois suivant la clôture de l'exercice au Ministre, et en ce qui concerne les organes financiers, à la Banque Centrale et à la Commission Bancaire.

Article 98 : Le Ministre et, s'agissant des organes financiers, la Banque Centrale et la Commission Bancaire sont habilités à demander en outre, communication de tous documents, états statistiques, rapports et tous autres renseignements nécessaires à l'exercice de leur mission.

Article 99 : La Banque Centrale peut, par instruction, requérir des organes financiers, la production d'états périodiques dont elle détermine la forme et la périodicité.

Article 100 : Les rapports internes de vérification ou d'inspection sont adressés au Ministre, et dans le cas des organes financiers, à la Banque Centrale et à la Commission Bancaire qui peuvent, en cas d'infractions aux dispositions légales ou réglementaires ou de pratiques préjudiciables aux intérêts des déposants et des créanciers, exiger la mise en oeuvre de mesures appropriées de redressement et prendre des sanctions.

Article 101 : Le Ministre procède ou fait procéder à un contrôle sur pièces des institutions.

Article 102 : La Banque Centrale et la Commission Bancaire peuvent, à leur propre initiative ou à la demande du Ministre, procéder à des contrôles sur place des organes financiers et de toutes sociétés sous le contrôle de ces dernières.

Article 103 : Le secret professionnel n'est opposable ni à la Banque Centrale, ni à la Commission Bancaire, dans l'exercice de leur mission de surveillance du système financier.

CHAPITRE 2 : INFRACTIONS ET SANCTIONS

Article 104 : Toute infraction aux dispositions de la présente loi est passible de sanctions disciplinaires, pécuniaires ou pénales, selon les cas.

Article 105 : Suivant la nature et la gravité des infractions commises, le Ministre peut prendre les sanctions disciplinaires suivantes : l'avertissement, le blâme, la suspension ou l'interdiction de tout ou partie des opérations, la suspension ou la destitution des dirigeants responsables, le retrait d'agrément. Les sanctions doivent être motivées.

Elles sont prises après audition du contrevenant ou de son représentant, assisté éventuellement de tout défenseur de son choix.

Article 106 : L'avis de la Commission Bancaire est requis préalablement à la prise de toute sanction à l'encontre des organes financiers.

756

A cet égard, la Commission Bancaire convoque le contrevenant à comparaître devant elle.

Article 107 : Les sanctions disciplinaires sont prises sans préjudice des sanctions pénales du droit commun.

Article 108 : Toute personne qui utilise abusivement les appellations prévues à l'article 6 de la présente loi, sans en avoir reçu l'agrément ou qui crée l'apparence d'être une institution est passible d'une amende dont le montant est fixé par décret.

Article 109 : Tout défaut de communication des statistiques et des informations destinées au Ministre, à la Banque Centrale et à la Commission Bancaire ou requises par celles-ci, est passible de pénalités financières fixées par décret.

Le produit de ces pénalités est recouvré pour le compte du fonds commun de garantie, visé aux articles 71 et 79.

Article 110 : Sera puni d'un emprisonnement d'un mois à six mois et d'une amende dont le montant est fixé par décret ou de l'une de ces deux peines seulement, quiconque, agissant pour son compte ou celui d'un tiers, aura communiqué au Ministre, à la Banque Centrale ou à la Commission Bancaire des documents ou renseignements sciemment inexacts ou falsifiés des organes financiers ou se sera opposé à l'un des contrôles visés à l'article 102.

Article 111 : Les poursuites pénales sont intentées, sur requête du Ministre ou de tout autre plaignant, par le Procureur de la République ou son mandataire. Dans le cas d'infractions commises par les organes financiers, elles peuvent aussi être intentées sur requête de la Banque Centrale ou de la Commission Bancaire.

CHAPITRE 3 : ADMINISTRATION PROVISOIRE

Article 112 : Le Ministre peut, par décision motivée, mettre sous administration provisoire toute institution, soit à la demande des organes de cette institution, soit lorsque la gestion de l'institution met en péril sa situation financière ou les intérêts de ses membres.

Article 113 : La mise sous administration provisoire entraîne la suspension des pouvoirs des dirigeants qui sont transférés en partie ou en totalité à l'administrateur provisoire.

Article 114 : La décision de nomination de l'administrateur provisoire précise l'étendue de ses pouvoirs, de ses obligations et la durée de son mandat.

Article 115 : Le Ministre peut mettre fin avant son terme ou proroger la durée du mandat de l'administrateur provisoire. Il peut décider de la mise en oeuvre du processus de liquidation lorsque la situation de l'institution concernée l'exige.

CHAPITRE 4 : LIQUIDATION VOLONTAIRE OU FORCEE

Article 116 : La liquidation précède la dissolution d'une institution. Elle peut être volontaire ou forcée.

La liquidation est dite volontaire lorsqu'elle est décidée à la majorité qualifiée des trois quart des membres réunis en Assemblée Générale Extraordinaire et a obtenu l'accord du Ministre.

La liquidation est dite forcée lorsque la décision émane du Ministre ou de l'Autorité judiciaire, agissant à la demande d'un créancier ou d'un groupe de créanciers.

Article 117 : La décision de liquidation doit être assortie de la nomination d'un ou plusieurs liquidateurs par l'Assemblée Générale Extraordinaire lorsque la liquidation est volontaire, par le Ministre ou le Tribunal, selon les cas, s'il s'agit d'une liquidation forcée.

Article 118 : Les Unions, Fédérations et Confédérations peuvent être, par la décision de liquidation, associées à la conduite des opérations de liquidation des institutions qui leur sont affiliées.

Article 119 : A la clôture de la liquidation, lorsqu'il subsiste un excédent, l'Assemblée Générale peut décider de l'affecter au remboursement des parts sociales des membres.

Le solde éventuellement disponible après cette opération est dévolu à une autre institution ou à des oeuvres d'intérêt social ou humanitaire.

Article 120 : Sous réserve des dispositions prévues par la présente loi, le processus de liquidation s'effectue conformément aux règles relatives à la liquidation des sociétés commerciales.

TITRE VIII PRECOOPERATIVES ET CLUBS D'EPARGNE ET DE CREDIT

Article 121 : La précoopérative ou le club d'épargne et de crédit est un groupement de personnes qui ne remplit pas encore toutes les conditions requises pour se constituer en institution.

Article 122 : La précoopérative ou le club d'épargne et de crédit peut solliciter sa reconnaissance par le Ministre ou toute autre personne autorisée à cette fin par ce dernier. Il est tenu de constituer, dans le délai indiqué dans le certificat de reconnaissance, un dossier d'agrément en vue de l'obtention du statut d'institution de base.

La reconnaissance de la précoopérative ou du club d'épargne et de crédit ne lui confère pas la personnalité morale.

Article 123 : Un décret détermine les conditions particulières qui sont applicables aux précoopératives ou clubs d'épargne et de crédit. Il spécifie notamment les conditions relatives à leur constitution, à leur dénomination sociale, à leurs opérations et aux modalités de leur contrôle. Il fixe également la nature et l'étendue de leurs obligations statistiques vis-à-vis du Ministre.

Article 124 : A la fin du délai visé à l'article 122, à moins que ne lui soit consenti un délai additionnel dont la durée, ajoutée à celle du délai initial, ne peut excéder cinq ans, la précoopérative ou le club est soit agréé en tant qu'Institution de base, soit rayé du registre des précoopératives et clubs d'épargne et de crédit, ce qui entraîne la perte de sa reconnaissance.

TITRE IX DES DISPOSITIONS TRANSITOIRES ET FINALES

Article 125 : Les institutions en activité disposent d'un délai de deux ans, à partir de l'entrée en vigueur de la présente loi, pour se conformer à ses dispositions.

Article 126 : Les modalités d'application de la présente loi sont précisées par décret.

Article 127 : Des instructions du Ministre déterminent, en tant que de besoin, les dispositions de base auxquelles doivent se conformer les statuts et les règlements des institutions.

Article 128 : Des instructions de la Banque Centrale et de la Commission Bancaire, déterminent en tant que de besoin, les dispositions applicables dans leurs domaines de compétence.

Article 129 : La présente loi entre en vigueur à compter de la date de sa promulgation et sera publiée au Journal Officiel de la République du ( )[5]

Article 130 : Sont abrogées, à compter de la date d'entrée en vigueur de la présente loi, toutes dispositions antérieures contraires .

---

5 Etat où est promulguée la loi ou l'ordonnance.

P05 24.05.93 16:06

APPENDIX B

DRAFT CREDIT UNION LAW FOR NIGER

Notes. In this law:

- there is no "ministère de tutelle," only the "Ministère chargé des finances is designated as the regulatory body. The accompanying "Décret d'Application" would further specify a credit union registrar office under this ministry as the designated regulatory agency.

- there is nothing that is referred to the Minister, but rather to the Ministry (and, by extension, to the registrar's office).

- Article 46 presumes that there will be a relationship between credit unions and the central bank, but that relationship does not involve forcing a credit union institution to become a bank against the wishes of the national federation of which it is a part as well as the wishes of the member credit unions.

PROJET DE LOI POUR LES CAISSES POPULAIRES D'EPARGNE ET DE CREDIT DE LA REPUBLIQUE DU NIGER.

Portant création et réglementation des
Caisses d'Epargne et de Crédit.

DISPOSITIONS GENERALES

CHAMP D'APPLICATION DE LA LOI

Article premier - La présente Loi s'applique aux Caisses d'Epargne et de Crédit telles que définies à l'article 4 ci-après et exerçant leurs activités sur le territoire de la République du Niger.

APPLICATION A D'AUTRES LOIS

Article 2. - Sauf dispositions contraires de la présente loi, le régime juridique des sociétés, la loi bancaire et la loi sur les coopératives ne s'appliquent pas aux Caisses d'Epargne et de Crédit.

Article 3. - Sauf dispositions contraires de la présente loi les rapports des Caisses d'Epargne et de Crédit avec les tiers, notamment les transactions financières, sont régis par le Code civil.

DEFINITION ET INTERPRETATION

Article 4. - Une "Caisse d'Epargne et de Crédit" (Caisse) est une association de personnes physiques doté de la personnalité juridique, associant ou non des personnes morales, à l'exception des sociétés commerciales, dans le but d'épargner ensemble leur argent et d'obtenir des prêts et d'autres services financiers à des taux raisonnables et à des conditions supportables.

Les Caisses d'Epargne et de Crédit sont des coopératives financières à capital variable et à but non lucratif.

Article 5. - Les Caisses d'Epargne et de Crédit obéissent aux principes coopératifs suivants:

- Nul ne peut être contraint d'adhérer à une Caisse d'Epargne et de Crédit. Toute personne qui accepte de respecter les conditions d'adhésion à une Caisse d'Epargne et de Crédit peut être acceptée en qualité de membre sans aucune forme de discrimination.

- Les membres titulaires d'une Caisse d'Epargne et de Crédit sont égaux dans l'exercice du droit de vote . Ils ont les mêmes droits et obligations. En cas de vote, chacun dispose d'une seule voix.

- Les Caisses d'Epargne et de Crédit sont des organismes démocratiques. Leurs affaires sont administrées par les membres élus ou nommés selon la procédure adoptée par les statuts.

- Nul ne peut intervenir dans l'administration d'une Caisse d'Epargne et de Crédit sans être délégué.

- Les Caisses d'Epargne et d Crédit et leur membres se doivent entraide et solidarité mutuelle.

- Les Caisses d'Epargne et de Crédit ont à l'égard de leurs membres un devoir d'éducation et de formation aux règles et principes de leur fonctionnement.

EXEMPTIONS

Article 6. - Les Caisses d'Epargne et de Crédit sont exonérées des impôts et taxes suivants:

- T.V.A.;
- contribution foncière sur les propriétés bâties;
- impôt sur les bénéfices industriels et commerciaux;
- droit d'enregistrement et de timbres;
- contribution des patentes et licences;
- taxe d'apprentissage;
- taxe des biens de main-morte;
- impôt sur le revenu des capitaux mobiliers.

DOCUMENTS, LIVRES ET REGISTRES

Article 7. - Toute Caisse d'Epargne et de Crédit doit tenir et conserver les livres, registres et documents comptables suivant les dispositions du plan comptable des entreprises.

Ces livres, documents et registres doivent être conservés pendant au moins 10 ans. Il en est de même de toute correspondance reçue ou envoyée.

CREATION ET ORGANISATION

CREATION D'UNE CAISSE D'EPARGNE ET DE CREDIT

Article 8. - Tout groupe composé d'au moins 50 personnes physiques majeures et partageant un lien commun peut créer une Caisse d'Epargne et de Crédit.

Article 9. - Au sens de la présente loi le lien commun s'entend de l'identité de profession ou d'employeur, de résidence ou d'association.

Article 10. - Les statuts de la Caisse d'Epargne et de Crédit doivent décrire les conditions de constitution et spécifier, entre autres, le lien commun, le nombre minimum de parts qui doivent être souscrites et libérées, et le droit d'adhésion à verser pour être membre.

Article 11. - La Caisses d'Epargne et de Crédit peut amender ses statuts pour, entre autre, modifier le lien commun. Ces modifications doivent recevoir l'approbation du Ministère chargé des Finances.

Article 12. - Les membres de la Caisse d'Epargne et de Crédit ne sont responsables des actes de la caisse vis-à-vis des tiers qu'à concurrence du montant qu'ils ont versé au titre de parts sociales.

Article 13. - Peuvent également être membres de la Caisse d'Epargne et de Crédit les époux, épouses et descendants directs des personnes physiques partageant un des liens communs décrits à l'article 9.

Peut faire acte d'adhésion toute personne morale constituée de personnes physiques répondant aux critères du lien commun de l'article 9.

Article 14. - La Caisse d'Epargne et de Crédit comprend des membres titulaires et des membres auxiliaires.

Ont la qualité de membres titulaires, les personnes physiques partageant le lien commun tel que décrit à l'article 9 et jouissant de leurs droits civils et civiques.

Sont membres auxiliaires, les mineurs, les personnes morales et les personnes physiques ne partageant plus le lien commun mais conservant leur dépôt minimum au niveau de la Caisse d'Epargne et Crédit.

Les membres auxiliaires assistent aux assemblées générales sans voix délibérative. Il ne peuvent être élus à un des organes de gestion, ni emprunter.

Article 15. - La Caisse d'Epargne et de Crédit peut offrir un nombre illimité de parts sociales à valeur nominale, conformément aux dispositions statutaires en vigueur. Ces parts sociales font partie du capital social de la Caisse d'Epargne et de Crédit.

Les statuts fixent le nombre minimum de parts sociales que les membres doivent souscrire et prévoient les conditions de paiement de ces parts. Les statuts peuvent limiter le nombre de parts par personne; une telle limite doit s'appliquer à tous les membres sans distinction.

Article 16. - La Caisse d'Epargne et de Crédit est définitivement constituée après adoption de ses statuts par l'assemblée générale constitutive et leur agrément par le Ministère chargé des Finances.

LES ORGANES ET LEURS POUVOIRS

Article 17. - Les organes de la Caisse d'Epargne et de Crédit sont :

- l'Assemblée Générale
- le Conseil d'Administration
- le Comité de Crédit
- le Comité de Surveillance

La Caisse peut décider en assemblée générale la création de tout autre comité qu'elle juge utile.

Article 18. - Les fonctions de membre du Conseil d'Administration, du Comité de Crédit, du Comité de Surveillance ou de tout autre comité ne sont pas rémunérées.

Toutefois, les frais engagés par les membres du Conseil d'Administration et de toute autre comité peuvent leur être remboursés dans les conditions déterminées par le règlement intérieur.

L'ASSEMBLEE GENERALE

Article 19. - L'Assemblée Générale est la plus haute instance de la Caisse d'Epargne et de Crédit. Elle est constituée de l'ensemble des membres.

Article 20. - L'Assemblée Générale a compétence pour :

- modifier les statuts;
- délibérer sur les décisions du Conseil d'Administration relatives à l'exclusion des membres;
- accorder des allocations spéciales;

- traiter toutes les questions concernant l'administration et le fonctionnement de la Caisse d'Epargne et de Crédit.

Article 21. - L'Assemblée Générale annuelle doit être convoquée par le président du Conseil d'Administration dans les trois mois qui suivent la clôture de chaque exercice social.

Article 22. - L'Assemblée Générale peut se réunir en session extraordinaire à la demande de la majorité des membres du Conseil d'Administration ou du Comité de Surveillance. Elle peut également se réunir à la demande d'au moins 25% des membres de la Caisse d'Epargne et de Crédit ou à l'initiative de la Fédération nationale.

L'Assemblée Générale Extraordinaire ne peut délibérer que sur les points inscrits dans l'avis de convocation.

LE CONSEIL D'ADMINISTRATION

Article 23. - Le Conseil d'Administration dispose de l'autorité et des pouvoirs que lui confèrent les statuts de la Caisse d'Epargne et de Crédit.

Article 24. - Le Conseil d'Administration est composé d'un nombre impair de cinq (5) à treize (13) membres élus en assemblée générale. Il comprend un président, un vice président, un secrétaire, un trésorier et un trésorier adjoint.

L'Assemblée Générale peut laisser à l'appréciation des administrateurs élus la répartition des fonctions à occuper. Les modalités de renouvellement des mandats seront précisées dans les statuts.

Le Conseil d'Administration se réunit au moins une fois par mois et chaque fois que cela est nécessaire.

Article 25. - Le Conseil d'Administration peut nommer pour une durée indéterminée, un directeur ou gérant, qu'il peut ou non choisir parmi ses membres. Le conseil peut nommer tout autre employé nécessaire au bon fonctionnement de la caisse.

LE COMITE DE CREDIT

Article 26. - Le Comité de Crédit est composé d'un nombre impair d'au moins trois (3) membres élus en assemblée générale pour un mandat dont la durée sera précisée par les statuts.

Article 27. - Le Comité de Crédit étudie les demandes de prêts. Il approuve ou rejette les demandes de prêts conformément aux directives de la politique de crédit définie par l'Assemblée Générale.

Le comité de crédit se réunit autant de fois que nécessaire afin d'examiner les demandes de prêts.

Aucun prêt ne pourra être accordé sans avoir été approuvé par la majorité des membres du Comité de Crédit, sauf les cas prévus à l'article 29.

Article 28. - Le Comité de Crédit présente un rapport de sa gestion au Conseil d'Administration à chacune des réunions de ce dernier.

Article 29. - Le Conseil d'Administration peut recruter un ou plusieurs employés pour assister le Comité de Crédit et/ou examiner certaines demandes de prêts dont le montant maximum sera fixé dans les directives de la politique de crédit.

Les décisions de rejet du ou des employés visés à l'alinéa précédent doivent être motivées et peuvent être soumises à l'appréciation du Comité de Crédit qui décide en dernier ressort.

Article 30. - Les modalités de fonctionnement du Comité de Crédit sont précisées par les statuts.

LE COMITE DE SURVEILLANCE

Article 31. - Le Comité de Surveillance est composé d'un nombre impair d'au moins trois membres élus en Assemblée Générale pour un mandat dont la durée sera précisée dans les statuts.

Le comité peut entreprendre toute vérification des comptes, des livres et des opérations de la Caisse d'Epargne et de Crédit. Dans l'exercice de cette mission il peut faire appel à toute personne compétente.

Il est compétent pour vérifier la régularité des décisions du Conseil d'Administration, du Comité de Crédit ou de tout autre organe.

Le comité de surveillance soumet annuellement les comptes de la Caisse d'Epargne et de Crédit au contrôle de la Fédération ou de toute autre organisme extérieur compétent.

Article 32. - A la requête du chef de bureau d'enregistrement, le Comité de Surveillance présente ses rapports et tout autre document relatif à ses opérations de vérification.

Article 33. - Le Comité de Surveillance présente à l'Assemblée Générale annuelle un rapport sur la régularité et la sincérité des comptes et opérations.

Article 34. - Le Conseil de Surveillance peut, à l'unanimité des voix, suspendre un membre du Conseil d'Administration, du Comité de Crédit ou tout autre comité jusqu'à la prochaine Assemblée Générale Extraordinaire, qui devra être convoquée dans un délai compris entre le septième jour et vingt-unième jour après la suspension. L'Assemblée Générale se prononce sur le maintien ou la révocation de l'administrateur ou de membre de comité.

Article 35. - Le Comité de Surveillance peut, à la majorité des voix, convoquer une Assemblée Générale extraordinaire afin d'examiner toute violation de la loi, des statuts ou toute autre pratique de la Caisse d'Epargne et de Crédit qu'il juge préjudiciable aux intérêts de la caisse.

POUVOIRS DES CAISSES D'EPARGNE ET DE CREDIT

Article 36. - Les Caisses d'Epargne et de Crédit acquièrent la personnalité juridique dès leur agrément et immatriculation au registre des Caisses d'Epargne et de Crédit au Ministère chargé des Finances.

Article 37. - La Caisse d'Epargne et de Crédit peut faire tout acte d'administration ou de disposition lié à l'objet social.

Cependant, ses emprunts, hormis ceux effectués auprès de la Caisse Centrale, ne peuvent excéder le montant de ses fonds propres.

FUSION

Article 38. - Deux ou plusieurs "caisses" peuvent fusionner et continuer leurs activités comme une seule caisse.

La fusion doit suivre un plan approuvé par le Conseil d'Administration de chacune des caisses fusionnantes et accepté par un vote majoritaire de leurs Assemblées Générales respectives.

Toute fusion est subordonnée à l'autorisation préalable du Ministère chargé des Finances. Le Ministère chargé des Finances dispose d'un délai de 30 jours à compter de la réception de la demande pour se prononcer sur le projet de fusion. A défaut de réponse expresse à l'expiration de ce délai, la fusion est considérée comme approuvée.

FEDERATION

Article 39. - Les Caisses d'Epargne et de Crédit peuvent se constituer en fédération dans le but d'encourager l'organisation et l'expansion des Caisses d'Epargne et de Crédit et d'améliorer leur fonctionnement interne.

Article 40. - La constitution de la Fédération requiert un nombre minimum de 25 Caisses. Toute Caisse d'Epargne et de Crédit enregistrée suivant les dispositions de la présente loi peut devenir membre de la Fédération.

Article 41. - La Fédération est dirigée par un Conseil d'Administration dont les membres sont élus par les délégués des caisses fédérées. Les statuts fixent les obligations des dirigeants et l'organisation des structures de la Fédération.

Article 42. - La Fédération conseille et assiste les Caisses d'Epargne et de Crédit et leur fournit tous services leur permettant de mieux servir leurs membres. La nature de ces services est déterminée par les statuts de la Fédération.

Article 43. - Les statuts de la Fédération doivent être approuvés par le Ministère chargé des Finances.

CAISSE CENTRALE

Article 44. - La Fédération peut créer une Caisse Centrale jouissant d'une autonomie de gestion.

Article 45. - L'objectif de la Caisse Centrale est de recevoir des dépôts des caisses affiliées, d'emprunter des fonds, d'assurer le refinancement des caisses affiliées et d'investir les fonds disponibles afin de promouvoir leurs intérêts.

Article 46. - Un décret pris en Conseil des Ministres précisera les modalités d'organisation et de fonctionnement de la Caisse Centrale ainsi que ses rapports avec la B.C.E.A.O.

AGREMENT

Article 47. - Nul ne peut,sans avoir été préalablement agréé et inscrit sur le registre des Caisses d'Epargne et de Crédit au Ministère chargé des Finances, exercer l'activité définie à l'article 4 de la présente loi.

Article 48. - Nul ne peut, utiliser la dénomination Caisse d'Epargne et de Crédit ou toute autre appellation susceptible de créer l'apparence de cette qualité, notamment par l'emploi de termes, tels que Caisse Populaire, Banque Populaire, Caisse Mutuelle d'Epargne et de

Crédit, Coopérative d'Epargne et de Crédit (COOPEC) ou Caisse Rurale d'Epargne et Prêt (CREP), sans l'agrément du Ministère chargé des Finances.

Ne peuvent non plus être utilisés que par les Caisses d'Epargne et de Crédit agréés, les sigles du Conseil Mondial des Coopératives d'Epargne et de Crédit (WOCCU) ou de la Fédération Nationale.

Article 49. - Les dossiers de demande d'agrément sont transmis au Ministère chargé des Finances par la Caisse d'Epargne et de Crédit. Ils doivent comprendre:

- Le procès-verbal de l'assemblée constitutive de la Caisse d'Epargne et de Crédit;
- Deux exemplaires des statuts adoptés par les membres;
- La liste des membres fondateurs ayant souscrit et libéré au moins une part sociale chacun;
- La liste des administrateurs et des membres des autres comités;
- Le montant nominal de la part sociale;
- Une demande d'agrément.

L'octroi de l'agrément doit intervenir dans un délai de 60 jours à compter de la date de réception. A défaut de réponse expresse à l'expiration de ce délai, l'agrément est considéré comme acquis.

Article 50. - Le retrait de l'agrément, à la demande de la Caisse d'Epargne et de Crédit intéressée ou lorsqu'il est constaté que ladite caisse n'exerce aucune activité depuis au moins un an, est prononcé par arrêté du Ministère chargé des Finances, après avis de la Fédération.

Le retrait d'agrément pour infraction à la présente loi est prononcé dans les conditions prévues à l'article 75.

Le retrait d'agrément entrain la radiation de la caisse du registre des Caisses d'Epargne et de Crédit.

Article 51. - Les Caisse d'Epargne et de Crédit doivent cesser leurs activités dans le délai fixé par la décision de retrait d'agrément.

CAPITAL SOCIAL

Article 52. - Le capital social est constitué par l'ensemble des parts sociales de même valeur nominale.

La Caisse d'Epargne et de Crédit peut offrir à ses membres un nombre illimité de parts.

Les statuts fixent le nombre minimum de parts auxquelles les membres doivent souscrire et prévoient les modalités de la souscription.

Les parts sociales ne peuvent être retirées qu'à la cessation de la qualité de membre de la Caisse d'Epargne et de Crédit.

LES FONDS PROPRES

Article 53. - Les fonds propres d'une Caisse d'Epargne et de Crédit sont constitués du capital social, des réserves, des subventions d'équipement, du report à nouveau et du résultat de l'exercice en cours non distribué.

LES RESERVES

Article 54. - La Caisse d'Epargne et de Crédit doit verser sur la réserve légale, avant le paiement des dividendes, 10% de ses revenus bruts jusqu'à ce que cette réserve représente au moins 10% du total de son actif.

La réserve légale est la propriété de la caisse et ne peut dès lors être utilisée que pour absorber les pertes résultant de l'actif.

Elle ne peut être distribuée qu'en cas de liquidation de la Caisse d'Epargne et de Crédit.

Article 55. - Lorsque le volume de la réserve légale tombe en dessous du niveau fixé à l'article 54, il doit être reconstitué jusqu'à ce que le niveau requis soit atteint.

Article 56. - Les Caisses d'Epargne et de Crédit sont tenues de constituer une provision pour créances douteuses. Cette provision ne doit être incluse dans la réserve légale.

Article 57. - La Caisse d'Epargne et de Crédit peut en outre constituer des réserves spéciales destinées à protéger les intérêts des membres.

DEPOTS

Article 58. - La Caisse d'Epargne et de Crédit ouvre des comptes de dépôts à ses membres.

Les titulaires de ces comptes peuvent effectuer à tout moment des versements et/ou des retraits.

Toutefois la caisse peut refuser un retrait, sauf au cas où l'avoir du titulaire du compte permet de couvrir, à la fois, ses engagements vis à vis de la caisse et le montant du retrait demandé.

Article 59. - Si un compte de dépôt est resté inactif pendant 5 ans, le Conseil d'Administration peut décider du paiement des frais de tenue de compte.

LES OPERATIONS DE CREDIT

Article 60. - Les directives de la politique de crédit définie par l'Assemblée Générale déterminent les conditions d'octroi des prêts.

Article 61. - La Caisse d'Epargne et de Crédit prête de l'argent à ses membres aux conditions décrites dans les directives de la politique de crédit.

Article 62. - Le montant total des prêts accordés à un seul membre ne peut dépasser 10% de l'actif de la Caisse d'Epargne et de Crédit.

Article 63. - La Caisse d'Epargne et de Crédit peut accorder un prêt à ses dirigeants, membres du Conseil d'Administration, employés, membres du Comité de Crédit, du Comité de Surveillance ou tout autre comité dans les conditions déterminées par les directives de la politique de crédit.

Les prêts accordés aux membres dirigeants doivent être approuvé par le Conseil d'Administration à l'unanimité de ses membres.

Un rapport spécial du Comité de Surveillance attestant la régularité de prêt aux dirigeants est adressé au Conseil d'Administration.

Le demandeur de prêt ne peut prendre part ou se faire représenter aux délibérations relatives à sa demande, tant au sein du Comité de Crédit que du Conseil d'Administration.

AUTRES OPERATIONS

Article 64. - Les fonds de la Caisse d'Epargne et de Crédit non prêtés aux membres doivent être investis.

La Caisse d'Epargne et de Crédit ne peut investir plus de 5% de son actif dans les immobilisations sauf sur autorisation écrite du Ministère chargé des Finances.

Article 65. - La Caisse d'Epargne et de Crédit peut souscrire des contrats d'assurance pour couvrir tout risque lié à son activité.

Elle peut également souscrire toute assurance au profit de ses membres à titre individuel ou collectif.

Article 66. - La Caisse d'Epargne et de Crédit peut conclure des accords avec d'autres Caisses d'Epargne et de Crédit, des organisations ou des institutions financières afin d'aider ses membres à acquérir des biens et des services offerts par des tierces parties et conformes à ses objectifs.

Article 67. - La Caisse d'Epargne et de Crédit peut recevoir et utiliser des fonds afin d'offrir des services de chèques négociables, de mandats postaux, de chèques de voyage et autres instruments monétaires, ainsi que pour fournir des services informatisés aux membres. Elle pourra recevoir un paiement pour ces services.

RESULTATS

Article 68. - Le Conseil d'Administration peut décider périodiquement que des dividendes seront payés sur les parts de la Caisse d'Epargne et de Crédit en utilisant les revenus disponibles. Les dividendes ne peuvent être distribués qu'après constitution des réserves légales obligatoires.

Des intérêts peuvent être versés à des taux divers selon les caractéristiques de chaque type de compte d'épargne.

Article 69. - Chaque fois que les pertes de la Caisse d'Epargne et de Crédit, dépassent les bénéfices non distribués et les réserves, de sorte que la valeur totale estimée de l'actif est inférieure au montant total des sommes dues aux membres, celle-ci pourra, par vote à la majorité des membres votants, ordonner une réduction de la valeur des parts sociales et dépôts de chaque membre afin de répartir la perte au prorata des apports et dépôts.

Lorsque l'actif de la Caisse d'Epargne et de Crédit produit un revenu plus important qu'il n'est escompté au moment de la réduction, cet excédent de revenus est distribué proportionnellement entre les membres dont les parts sociales et dépôts avaient été préalablement réduites, sans toutefois dépasser le montant de la réduction.

LIQUIDITE

Article 70. - La Caisse d'Epargne et de Crédit doit conserver une réserve minimale de liquidité dont le taux fixé par rapport au volume total des dépôts sera déterminé par le décret d'application de la présente loi.

Le Ministère chargé des Finances peut décider d'augmenter ou diminuer ce pourcentage minimum.

Article 71. - La réserve de liquidité doit être maintenue sous forme d'encaisse, de dépôts dans les institutions bancaires, d'autres Caisses d'Epargne et de Crédit ou la Caisse Centrale.

COMPTABILITE

Article 72 . -L'exercice social de la Caisse d'Epargne et de Crédit va du 1er Janvier au 31 Décembre.

Article 73 . - Les documents comptables et financiers doivent être établis sur la base d'un manuel de comptabilité élaboré de la Fédération nationale.

Ces documents doivent être visés,cotés et paraphés par les autorités administratives compétentes.

CONTROLE ET SANCTIONS

Article 74. - Le Ministère chargé des Finances contrôle le respect de la réglementation et la régularité des opérations des Caisses d'Epargne et de Crédit.

A cette fin il reçoit les situations comptables trimestrielles et le rapport annuel de chaque caisse.

Tout autre document susceptible de l'éclairer lui est obligatoirement communiqué sur requête écrite.

Il peut déléguer son pouvoir de contrôle à la Fédération des Caisses d'Epargne et Crédit ou demander le concours de tout organisme compétent .

Article 75. - Les infractions à la réglementation sont passibles par ordre de gravité, des sanctions suivantes:

- révocation du dirigeant fautif,
- suspension des activités de la caisse, suivie de la nomination d'un administrateur.
- retrait définitif de l'agrément.

Article 76. - Les sanctions disciplinaires s'appliquent sans préjudice des sanctions pénales prévues par les lois et règlements en vigueur.

DISSOLUTION

DISSOLUTION VOLONTAIRE

Article 77. - La dissolution volontaire de la Caisse d'Epargne et de Crédit est décidée à l'Assemblée Générale Extraordinaire.

Un liquidateur est désigné à l'effet de réaliser l'actif et apurer le passif de la caisse.

Les statuts précisent les modalités de convocation, les conditions de quorum et majorité de l'Assemblée Générale visée à l'alinéa 1er.

DISSOLUTION FORCEE

Article 78. - Si le Ministère chargé des Finances après avoir émis une notification de suspension et entendu les dirigeants de la caisse, rejette le plan proposé par la caisse, il peut prononcer la dissolution forcée et nommer un liquidateur.

DISPOSITIONS TRANSITOIRES ET FINALES:

Article 79. - A l'exception de la création de la Caisse Centrale et du service d'assurance prévu aux articles 44 et 65, les attributions relevant de la fédération nationale sont provisoirement assurées par les organismes de promotion agrées des Caisses d'Epargne et de Crédit.

Article 80. - La présente loi abroge toutes dispositions contraires, notamment l'arrêté 225 MF/DGRMF/DRF/ du 04 décembre 1991, portant organisation, fonctionnement et conditions d'agrément des Caisses Populaires d'Epargne et de Crédit.

Elle entre en vigueur dès sa promulgation et publication au Journal Officiel.

Toutefois, les Caisses d'Epargne et de Crédit existantes à la date d'entrée en vigueur de la présente loi ont un délai de deux (2) ans pour se conformer à ses dispositions.