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THE USA EXPERIENCE IN ORGANISING MARKETING ASSOCIATIONS IN AGRICULTURE

The agricultural policy

In the U.S. there have been several distinct periods in the evolution of the agricultural policy, which is to say that the state has had several interventions in regulating agricultural development and the incomes of the agricultural producers.

The first period (the first half of the 19^{th} century and early 20^{th} century) is characterized by the adoption of certain laws meant to facilitate the enhancement of family-owned farms and to ensure better professional skills for the farmers. The most important normative acts were [6; p. 187–192]:

- 1862 – *Homestead Act*: gave families who engaged in living and working on farms for five years the possibility of obtaining 160 acres (approximately 64 ha) of unknown public land, under the obligation of tax payment;
- 1862 – *The Morrill Act*: stipulated the donation of public land to certain agricultural colleges in every state to ensure a practical agricultural training;
- 1887 – *Hatch Act, Smith-Lever Act* in 1914, respectively stipulated the introduction of compulsory agricultural subjects in school curricula in order to ensure the teaching of agriculture in schools.

The second period (1920-1939) reflects the measures taken to support the agricultural producers in the circumstances of the general economic crash. The main normative acts were:

- 1921 – *Emergency Tariff Act*, 1922 – *Fordney McCumber Act*: regulated the maintenance of prices for agricultural goods at a level higher than average;

An. Inst. cerc. ec. „G. Zane", t. 10–11, Iaşi, 2001–2002, p. 113–127

– 1923 – *The Agricultural Marketing Act:* facilitated the creation of input supply cooperatives and agricultural output use in order to time the adjustment of market offer to market demands with maximum efficiency with a view to ensuring price balance. The law stipulated a credit of $500 million for the creation of marketing cooperatives;
– 1933 – *Agricultural Adjustment Act:* is considered to be the basic legislative act in the U.S. meant to regulate the agricultural market and support the farmers' incomes by state intervention. This act introduced the price subsidy programs. It called for the foundation of a new corporation – the *Commodity Credit Corporation*, which ensured both the credit operations and the interventionist purchases and storage;
– 1936 – *Soil Conservation and Domestic Allotment Act*: stipulated measures of land preservation, subsidy allotments for the cultivation of certain vegetables, i.e. for those cultures which contributed to soil fertility;
– 1938 – *Federal Food, Drug, Cosmetic Act*: stipulated the measures for the production of food in proper hygienic conditions.

The third period (1940-1969) preserved the price subsidy policy and the production control and confinement measures. Among the normative acts of this period we mention:
– 1948 – *Agricultural Act*: stipulated the maintenance of prices at 90% parity;
– 1954 – *Agricultural Trade Development and Assistance Act (Public Law 480, Food for Peace):* introduced the food support programmes, i.e. giving food to poorly developed countries on long run credit, with profitable interests;
– 1956 – *Soil Bank Act*: stipulated subsidies for farmers if these cultivated fairly erodud soil with vegetables and grass, and not with wheat, corn, rice, cotton, peanuts and tobacco;
– 1961 – *Consolidated Farm and Rural Development Act:* authorized USDA (United States Department of Agriculture) for farm leasing activities;
– 1964 – *Food Stamp Act:* regulated the allotment of domestic food aids;
– 1965 – *Food and Agricultural Act:* regulated the U.S. agricultural policy until 1970.

In the fourth period (1985-1995) the main acts issued were:

– 1970 – *Agricultural Act:* stipulated the introduction of the *set-aside* programmes and the restriction of payments for farmers to $ 55,000 maximum sum per product;

– 1973 – *Agricultural and Consumer Protection Act:* introduced the target-price, its level being established so that it should reach an adequate income level for farmers. The law stipulated the restrictions of payments per one culture to $ 20,000;

– 1977 – *Food and Agricultural Act:* established higher levels for the target-price, stipulating the application of a subsidy program of wheat storage by the farmers for periods of 3 to 5 years;

– 1981 – *Agricultural and Food Act:* stipulated the target-price for 4 years;

– 1983 – *Temporary Emergency Food Assistance Act:* had in view the reduction of previously accumulated stocks; the cereal cultures were reduced by 20%;

– 1984 – *Agricultural Programs Adjustment Act:* stipulated price freeze.

The fifth period (1985-1995) is characterized by a focused market orientation. The basic regulations are:

– 1985 – *Food Security Act:* referred to the reduction of subsidies and granted credits;

– 1990 – *Food, Agriculture, Conservation and Trade Act (FACT):* stipulated the more focused orientation of agriculture towards market;

– 1992 – *Agricultural Credit Improvement Act:* stipulated the insurance of investment and floating capital credits for 10 years to fresh framers;

– 1993 – *Omnibus Budget Reconciliation Act:* stipulated the reduction of federal expenses;

– 1994 – *Federal Crop Insurance Reform and Department of Agriculture Reorganization Act:* obliges farmers to conclude calamity insurance.

From 1996, we can speak about a new orientation of agricultural policy in the U.S. The most important turning point is marked by the new law of U.S. agricultural regulation. The breakthrough was brought about by the *Federal Agriculture Improvement and Reform Act (FAIR)*, which refers to the 1996-2002 period. According to the new law, American framers can be subsidized irrespective of what and how they produce (except for vegetables and fruits). Their products will be capitalized on markets protected by import taxes relatively increased, among other things, by export subsidy. The alterations made by this law aimed for the direct compensation system and for the nice subsidy system applied to certain products.

We can only notice the extraordinary coherence of the U.S. agricultural policy throughout the years. Every normative act had a clearly defined purpose, targeting the application of agricultural strategy in the long run.

The cooperatist movement was supported by various measures, both direct and indirect, which led to the development of these organizations.

Legal bases of marketing associations in the U.S.

In order to effectively represent members for whose benefits it was set up and in order to work efficiently, the association/cooperative has to be acknowledged as a legal entity. One of the legal forms under which a cooperative can work is that of its being a corporation (shareholding company), which offers it manifold advantages. There is no general legal Statute on a federal (U.S.) level, and the associations have to acquire a legal status according to the specific law of the state on whose territory they are formed.

Each State has a general statute. In all the states there are specific laws for "agricultural cooperatives" or "marketing cooperatives" according to which the farmers' cooperatives are set up. Some states have more general/larger statutes, which the farmers' cooperatives can use. A group of farmers who wish to form an association have to go by the statute applicable in their state.

The main legal acts on the bases of which associations can be formed are the Constitution Act, the Statute, and the Association Contract.

Certain cooperatives, such as the *pool* marketing associations, also use the Commercialization Contracts. These differ in length and minuteness, but they basically stipulate the fact that the producer wishes to become a member of the association, that he consents to the delivery of a certain amount of products to the association, on certain conditions, that the cooperative has a legal right to commercialize the products, that he consents to pay penalties in case the contractual stipulations regarding the commercialization of the products were broken, and that he acknowledges the statute of the association. The Contract also stipulates the obligation of the cooperative to commercialize the products, to pay the equivalent value and the sums obtained by sales, and then redistributed, on fair terms, etc.

It is worth mentioning that the association in under the obligation to keep farmers informed about the laws at the bases of its legal functioning, apart from the law that stipulates the framework constitution statute. Among the laws applicable to the marketing associations, according to the legislation of each state, we mention: the *Basic Contract Law*, the *Uniform Commercial Code*, the laws regarding the financial and banking activity and insurances, the workers' compensations, insurances for the unemployed, security laws, state taxes etc. There are also numerous federal laws and regulations to be taken into account [10; p. 16-18].

In the early time of cooperation there were no legal restrictions regarding the constitution and functioning of agricultural cooperatives. Nevertheless, the first cooperative associations had to cope with the *Sherman Antitrust Act*, promulgated by the American Congress in 1890. According to this law, any attempt at constituting associations of farmers in order to obtain better prices to commercialize the products were considered to be attempts at breaking the antitrust laws, and thus passed as monopolistic tendencies.

Later, several acts were issued in an attempt to correct the injustice done to the farmers. In this context, we mention the following acts:

– 1914 – *The Clayton Antitrust Act*, which prohibited certain practices, such as price discriminations and fusion of certain business organizations, which were likely to reduce market competition or create monopoly. Section 6 refers to cooperatives and mentions that these stipulations do not refer to work, agricultural or horticultural organizations set up on mutual aid purposes.

– 1936 – *The Robinson-Patman Price Discrimination Act* stipulates the use of the spare fund, i.e. the fact that by the sums kept at cooperative level the antitrust laws shall not be broken.

– 1974 – *The Antitrust Procedures and Penalties Act* toughened the penalties for breaking antitrust laws.

Many states exempted the agricultural cooperatives from the stipulations of antitrust laws.

The most important **laws for the development of marketing cooperatives** in the U.S. were the following:

– 1922 – *The Capper-Volstead Act*: authorized farmers to associate in order to carry out the following activities:

1. the processing and commercialization of all members' products, both on the markets of other U.S. states and abroad;

2. the conclusion of commercialization contracts among agricultural cooperatives;
3. the conclusion of contracts needed to attain the objectives stipulated by 1 and 2.

In order to work according to the stipulations of the Capper-Volstead Law, an agricultural cooperative had to be organized so that it should meet certain provisions of the statute, i.e.:

1. it has to work for the benefit of its members, who are the producers;
2. it has to limit each member to a single vote irrespective of the social parts owned, or, if they pay dividends, it has to restrict these dividends to 8% per year;
3. it is not allowed to manipulate (commercialize) a greater quantity of products from members than the one from its associate members.

Section 2 of the law regards the cases when the State Secretary of Agriculture can issue annulment orders whenever he sees any sign of monopolizing tendencies on the part of the agricultural association.

– 1922 – *The Grain Futures Act* authorized the Secretary of agriculture to appoint *boards of trde* that should intervene on the cereal market; according to this law no activity by which a cooperative association rewards its members can be regarded as a breach of the stipulations of commercial contracts on cereal market;

– 1926 – *The Cooperative Marketing Act*: by this law the Congress went beyond the provisions of the Capper-Volstead Law regarding the acknowledgement of the cooperatist principles in agriculture. The law authorizes the agricultural cooperatives to "purchase, change, interpret, disseminate old and new information on crops, markets, statistics, economy, by direct exchanges among farmers, associations, federations, or by appointed mediators" [10; p.21].

In 1927, the Congress issued an act against the discriminations operated by *boards of trade,* which stipulated that no board of trade could exclude the agricultural cooperatives from product purchasing and selling activities.

– 1929 – *The Agricultural Marketing Act* settled the interstatal and foreign trade promotion policy for agricultural products, boosting the association of farmers in cooperatives or corporations, thus pulling together, under their control, all the efforts of agricultural products commercialization.

– 1933 – *The Farm Credit Act* lay the foundations of the associationist credit system by the creation of 13 popular banks and a network of associations to credit agricultural products.
– 1967 – *The Agricultural fair Practices* protected the farmers' right to voluntarily associate in cooperatist organizations authorized by law.

The role of cooperatives in the U.S. agricultural development

There are more than 40,000 cooperatives in the U.S. "One of four U.S. citizens is a member of at least one cooperative" [2; p.10].

The cooperatives set up by farmers aim, in the first place, for the increase of economic welfare by commercializing agricultural products, obtaining agricultural inputs and the most efficient services. The objectives of the agricultural cooperatives are as follows [10; p.11].

– to increase the incomes and the living standard of its members, minimizing the costs and maximizing the obtained benefits by marketing the products;
– to cater for the necessary services or to better the commercialization services, i.e. to obtain specialized services;
– to boost the production and commercialization of first-class products, i.e. to provide the members with quality inputs, which will result in bigger productions.

The cooperatives are part of all the stages of production and commercialization. There are various classifications of agricultural cooperatives, of which the most frequently used are the criteria of function, processing degree, operations adjustment, served area, size, organizational structure, etc. From the point of view of economic functions they fall into:

1) marketing cooperatives;
2) catering cooperatives;
3) service cooperatives.

The main products commercialized through marketing cooperatives are: cereals, milk and dairy products, fruit and vegetables, cattle, sugar and rice. These products represent 90% of the total amount of agricultural marketing.

The products purchased through catering cooperatives are: fodders, fertilizers, oil, substances, seeds, building materials. These products represent 80% of total amount of purchases.

Many cooperatives combine these economic functions. Some associations are highly specialized, covering a small range of products (milk and dairy products; fruit and vegetables; cotton).

Marketing cooperatives are widespread in the U.S., and they commercialize most of the farm products. The importance of these cooperatives varies from one product to another. Thus, 86% of the total value of the dairy production obtained by farmers is commercialized through marketing cooperatives, 41% of the cotton production, 40% of the cereal and oil seeds production, 20% of the value of fruit and vegetables [7; p. 1].

In 1998 there were 3651 agricultural cooperatives in the U.S., of which 1. 863 were marketing cooperatives, and 1.788 were catering and services cooperatives (see Annex 1) [11; p. 4]. These cooperatives had 3,353,000 members (see Annex 2).

The marketing cooperatives supply an increasing number of processing and commercialization services outside the farm for about one fourth of the products obtained by the farmers [4, 43]. The marketing cooperatives help the farmers to produce and process quality products to meet the market demands. The operations carried out within the marketing cooperatives are various, and thus they may result in the setting up of dairy factories, animal markets, vegetable markets or fruit packaging factories. Some cooperatives supervise animal products, dairy products, fish, meat and poultry processing, preservation, dry-processing, blending, condensation, extraction, cooling or packaging activities, or similar operations with fruit, nuts, vegetables and a lot of other products.

The marketing cooperatives allow farmers to control their products so long as the cooperatives hold property of the products while these are processed, delivered and commercialized.

There are two main types of marketing cooperatives: the *buy/sell* and the *pooling* cooperatives.

Buy-sell is the method by which most of the non-cooperatist companies work. The producer is paid when the products is delivered to the cooperative. The cooperative re-sells the products after these have been graded, sorted, packaged or undergone processes meant to increase their value. After the cooperative has re-sold the products any profit obtained is distributed to the members according to the amount of the transactions done with the cooperative.

A problem with this form of operation is the decrease of flexibility in making marketing decisions at cooperative level as the quantity of the products to be sold to the cooperative is not known in advance. This problem can be overcome by the use of marketing agreements (contracts) or *forward* contracts, which enable the producers to conclude contracts for subsequent deliveries. Thus the cooperatives can adopt a better marketing strategy as it knows in advance the quantities of available products. The forms of these contracts differ, the only element they have in common being the producer's obligation to deliver the quantity of products stipulated by the contract to the cooperative.

The *buy-sell* cooperatives pay the equivalent value of the products when these are delivered by the farmers. The non-cooperatist organizations use this method in order to purchase the products, but cooperatives differ from these in that they offer their members the reliability of the market, and any profits resulted from re-selling are redistributed to the members.

Pooling is a method that collects and sells the farmers' products at on go. All the marketing decisions are made by a *pool manager*. After the operation costs have been deduced, the members get the equivalent value of the products according to the net average price. This method allows risks, expenses and profits to be shared by the farmers.

Farmers usually get paid in advance after having delivered their products to the cooperative. As products are sold, costs are deduced, and farmers continue to be paid. Eventually payments are regularized, which is to say that the sold products are paid together with the price differences for quality. Thus the farmer gets the average price for his products, and this price is better than if it were obtained by the *buy-sell* method.

Farmers also benefit from sharing the risk with the other members and from the use of the "marketing expertise of the cooperative" [7; p.2]. The cooperative is far more efficient because it has a larger quantity of good quality products and because it is much stronger on the market.

Some cooperatives (such as the cotton cooperative in California) use the *call-pool* method [5; p.29], which is a version of the pool method. When the call-pool method is used, each cotton bale remains in the possession of the associate member who has produced it, and the member decides for himself when he wants the bale to be commercialized. After the has let the association know that he wishes his production to be sold the sale is complete, and the association keeps only the equivalent value of the expenses and the member's contribution to the capital of the association (the spare fund).

The first California goods stock exchanges came into being by similar methods.

Another form in which a marketing association can work is that of a broker between buyer and seller, especially in the case of fresh vegetables and fruit.

There are few cooperatives set up the statue framework of nonprofit corporations [1; p.1]. These documents are primarily meant to facilitate the development of education and charity institutions and not business organizations. Such associations are obstructed since the profits are redistributed to the associate members, and they may encounter difficulties in concluding the sale contracts with their members. On these accounts, it is important that an organization analyses if the association on the basis of a nonprofit organization framework statute is profitable or not.

At present in the U.S. the *bargaining cooperatives* have an important role in the stabilization of agricultural markets. "The real power of the bargaining associations lies in the fact that they are the instruments by which farmers establish market prices..." [3; p. 2]. These associations do not invest capital in buildings or equipment. They do not have brand names, nor do they implement marketing campaigns. What they do is that they have the ability to gather farmers in trade on the grounds of common purposes.

Other types of cooperatist organizations

There are many kinds of organizations which allow the marketing cooperatives to reach specific goals as an answer to certain situations. Of these we shall mention [7; p.3 – 4]:

– *Marketing Agencies-in-Common (MACs)* are strategic alliances among marketing cooperatives – similar with the cooperatist federations – which join concluding a common agreement. They have role of marketing agencies for their members, and pursue the scale economies in marketing or the enhancement of the range of products (complementary products). The autonomy of the members is preserved in other fields. The agency will have the right to exclusively sell members' products on certain markets or all the markets (authorized dealer). These agencies also sell the members' products with a view to enhancing the range of products.

- *Export Trading Companies (ETCs)* are agencies of the same type as the one previously presented, and their role is to export the agricultural products. The ETC members can be: cooperatives, investor-owned companies, commodity associations etc. The cooperatives have used ETC in order to increase their bargaining power with foreign buyers, to obttain better profits by doing without mediators/dealers, to develop market quotations on the foreign markets, and to share the risk of commercializing the goods on international markets.
- *New-Generation-Cooperatives* are cooperatives with specific traits set up with a view to obtaining better profits in targeted-value activities. By maintaining the activities which add value on a local plan the rural economy develops due to the jobs created. These cooperatives sell shares under the obligation of delivering certain quantities of products. Farmers have the right to sell membership and to be exempted from the obligation of delivering a certain quantity of products to the association. Thus they profit from these transactions.

The cooperatives or their members have set up organizations at a State or Nation level which should offer specific or common functions to the cooperatives [9; p.48]. Moreover, various governmental agencies carry out activities to support cooperatives.

There are 40 cooperatist state organizations, some of them being both producers' cooperatives and consumers' cooperatives, which offer, in the first place, legal assistance and educational services. The credit unions are joined at the level of each state in the *State Credit Union League.*

The national commerce associations serve certain types such as: the *National Milk Producers Federation, National Rural Electric Cooperative Association, Credit Union National Association.* Other national organizations serve cooperatives of various kinds: *National Council of Farmer Cooperatives, National Cooperative Business Association.*

Various governmental agencies support the cooperatives. These are agencies within certain ministries/departments. For instance, within the United States Department of Agriculture there are agencies such as:

- *Agricultural Cooperative Service* – which grants economic and educational assistance;
- *Rural Electric Administration* – for credits.

Other governmental agencies have regulating functions *(e.g. Farm Credit Administration, National credit Union Administration etc.)*

Conclusions

In the U.S. the farmers' associations and cooperatives have the support of the institutions which have a role in their development and, last but not least, they are supported by an extremely favorable and permissive legislation. Thus, farmers can set up the type of organization which suits them best. Even if in most of the cases the cooperatives are business organizations, which are treated as any other organization from the point of view of the general legislation, there are situations in which farmers can set up nonprofit cooperatist associations. Thus, according to the *California Food and Agricultural Code* (8), Art. 3:

"Three or more persons, of whom the majority live in this state, and who produce any kind of product, can form a nonprofit association with a view to carrying out an activity in correlation with the following:

a) producing, marketing or selling the products obtained by the members;
b) harvesting, storing, drying, processing, preserving, packaging, grading, sorting, manipulating, delivering or using any product of the members;
c) manufacturing, selling or providing the members with machines, equipment or materials;
d) financing the activities mentioned before;
e) any of the activities stipulated above or other activities."

More than that, item 54033 of this act mentions that "the associations that organize themselves on the purpose mentioned in this chapter are considered nonprofit because they are not organized to obtain profits from the association, but to serve their members in their quality of producers."

These associations enjoy certain fiscal facilities, i.e. they are exempted from paying certain taxes (*Franchise Tax, Revenue and Taxation*) if they are located in "economically distressed areas", respectively;

– unemployment rate 9% or 2% higher than average in the state;
– 8% of the residents or more than 2% than the average number per state depend on public social services for their incomes.

The purpose of this chapter dedicated to the nonprofit associations is (according to the provisions of item 54031):

– promoting, increasing and encouraging the development of an intelligent and orderly agricultural marketing based on cooperation;
– doing away with illicit profits and losses;
– distributing the agricultural products from producer to consumer in the most efficient way;
– stabilizing the marketing of agricultural products.

Taking into account the difficulties faced by our country at present as far as the commercialization of the agricultural and food products is concerned, we consider that casting a glance at the way in which the agricultural marketing associations are set up and work in other countries, we can get a better understanding of how these organizations should be promoted in Romania.

Annex 1. The number of cooperatives[1] in the U.S. according to functions and states, 1998[2]

State	Marketing	Catering and services	Total
Alabama	10	53	63
Arizona	5	5	10
Arkansas	12	45	57
California	116	70	186
Colorado	29	23	52
Florida	36	8	44
Georgia	9	8	17
Hawaii	22	7	29
Idaho	24	16	40
Illinois	127	69	196
Indiana	27	31	58
Iowa	136	68	204
Kansas	122	22	144
Kentucky	12	30	42
Louisiana	18	32	50
Maryland	3	17	20
Massachusetts	10	6	16
Michigan	38	30	68
Minnesota	155	186	341
Mississippi	19	59	78
Missouri	27	46	73
Montana	38	37	75
Nebraska	75	47	122
New Jersey	13	5	18
New Mexico	4	5	9
New York	82	17	99

Annex 1 (continued)

North Carolina	20	9	29
North Dakota	157	126	283
Ohio	63	25	88
Oklahoma	45	50	95
Oregon	25	14	39
Pennsylvania	46	14	60
South Dakota	66	73	139
Tennesse	8	71	79
Texas	69	193	262
Utah	10	8	18
Virginia	22	41	63
Washintong	55	35	90
Virginia de Vest	14	13	27
Wisconsin	40	158	198
Wyoming	7	6	13
Other states[3]	47	10	57
USA	**1863**	**1788**	**36511**

Annex 2. Farmers' cooperatives in the U.S. classified by their members and value of total incomes, 1998[1]

Total Income Million Dollars Group	**Cooperatives**		**Incomes in dollars**		**Members**	
	Number	**% of total**	**Gross income[2]**	**% total**	**Number[3] Thousands**	**% of total**
<5.0	1769	48.5	3331	2.8	690	20.6
5 – 9.9	667	18.3	4706	3.9	463	13.8
10 – 14.9	315	8.6	3832	3.2	275	8.2
15 – 24.9	335	9.2	6381	5.3	314	9.4
25 – 49.9	293	8.0	9998	8.3	426	12.7
50 – 99.9	146	4.0	10195	8.4	248	7.4
100 – 199.9	44	1.2	6295	5.2	123	3.7
200 – 249.9	21	0.6	4661	3.9	35	1.0
250 – 499.9	24	0.7	8265	6.8	165	4.9
500 – 999.9	21	0.6	14601	12.1	115	3.4
1000 >	16	0.4	48696	40.3	498	14.9
Total[4]	**3651**	**100.0**	**120961**	**100.0**	**3353**	**100.0**

1. Total incomes include: commercialization collections, comission values, input sales, equivalent value of services, other incomes
2. The amount of inter-cooperatist business included
3. The number of farmers, farms, and all those with a right to vote included. Member cooperatives, such as votes of local cooperatives within regional cooperatives are not included.
4. Bottom line is not drawn on round offs.

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