

*Center for Cooperatives*  
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# **The Role of Bargaining Cooperatives in a Global Market Economy**

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**The Center for Cooperatives**, University of California was established by the California Legislature in 1987 in response to the growing need for information and technical assistance by California cooperatives. The Center carries out and promotes education and development support to California's cooperatives.

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The food and fiber markets have been rapidly changing since the end of World War II.<sup>1</sup> The forces of industrialization, globalism, consumerism, environmentalism, and technology have driven these changes. The end result is an internationalization of the food and fiber economy and markets, and the growth and importance of multinational companies. The impact of change has taken place along the supply chain including the input, production, processing and packing, distribution, and retailing sectors. The one sector that has not participated as fully as the other sectors is production (or farming). This paper will discuss the changes that have taken place, their impact on the supply chain<sup>2</sup>, especially production agriculture, and the potential benefits that bargaining cooperatives may offer farmers and ranchers.

Industrialization has integrated production into marketing. While the popular viewpoint of industrialization in agriculture conjures up the image of large, corporate manufacturing facilities on the farm, the reality is that farming is still a family-owned operation. It is becoming less independent in decisions related to both inputs and marketing. Where agriculture was dominated by commodity markets, industrialization has brought a shift from food being marketed as a commodity to being marketed as a product with unique identities. The reason for this shift is two-fold: first, new consumers who are more demanding and knowledgeable and second, new producers who are integrating new technologies and management tools to engineer new food products. The new consumer is being defined through changing lifestyles, demographics, and diet and health concerns.

New technology has dramatically changed the face of agriculture and the supply chain. It involves both the physical (especially biotechnology) management, and information. Biotechnology allows firms to produce for market niches as well as to lower their overall cost structure. In addition, biotechnology allows firms to meet increasing environmental standards and health and nutrition requirements. The new information technologies allow firms to identify market activities, integrate production technologies into market demand, and coordinate activities horizontally and vertically. The impact of technological change on agriculture is that agribusiness will be more consumer driven than production driven. Less and less agricultural producers will find that they will lose their independence of what and how much to plant and be tied into meeting market requirements, especially through contracts.

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<sup>1</sup> For further detail, see Alden C. Manchester, "The Transformation of U.S. Food Marketing," in *Food and Agricultural Markets: The Quiet Revolution*, Lyle P. Schertz and Lynn M. Daft, editors, National Planning Association, Report No 270, Washington, DC, 1994.

<sup>2</sup> The supply chain is defined as those activities that take place to produce a product for consumer use including input activities such as seed, fertilizer, chemical, labor, equipment, and finance, farming and ranching, food processing, packing, and manufacturing, distribution, wholesaling, retailing, including stores and restaurants.

The globalization of the food industry has been ongoing and has changed agriculture dramatically. When discussing globalization, a central focus is on trade. Under the previously concluded General Agreement on Tariffs and Trade (GATT), agricultural trade restrictions were reduced on a multinational basis. In addition, the recent negotiations under the World Trade Organization (WTO), the successor to GATT, will focus on further reductions in trade restrictions thus leading to an increase in globalization of agricultural markets.

However, trade is a small part of the picture when discussing globalization. Other aspects of globalization and the internationalization of the food system involve 1) foreign operations of firms (including direct investment in other countries), 2) licensing, 3) joint ventures, and 4) strategic alliances. For example, the value of sales from foreign operations exceeds the value of international trade by a magnitude of 4 to 1 for all food processing firms, and 7 to 1 for U.S. firms.<sup>3</sup> Considerable evidence exists of sale of food and beverages under licensing arrangements, joint ventures, and the coordination of supply and marketing arrangements among firms located in different countries.

Two concerns arise from the changes taking place in the food and fiber supply chain. The first is the increasing concentration<sup>4</sup> in markets dominated by a few large firms, both on the buying and selling sides. Increasing consolidation is taking place from the retail through the supply segments.<sup>5</sup> For example, consolidation in the retail segment has placed increased market share into the hands of fewer retailers who are in a relatively more advantageous position to dictate to sellers terms and conditions. In the food manufacturing industry, especially the beef packing industry, fewer buyers shifts market power away from producers and towards the buyers (there are numerous examples of regions in the U.S. where there is only one buyer for fed cattle). In the biotechnology industry, consolidation has resulted in market domination by four large firms in the development of products for agriculture. In addition, these large biotech firms are acquiring seed firms and integrating them into their operations as their marketing arms. Similarly, a few large firms also dominate chemical production and sales. This increasing concentration is evident not only in the U.S., but internationally as well. The one segment in the food and fiber supply chain most impacted is agricultural production.

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<sup>3</sup> For further detail, see Dennis R. Henderson and Charles R. Handy, "International Dimensions of the Food Marketing System," in *Food and Agricultural Markets: The Quiet Revolution*, Lyle P. Schertz and Lynn M. Daft, editors, National Planning Association, Report No. 270, Washington, DC, 1994.

<sup>4</sup> Concentration indicates the state of competition in an industry, on both the selling and buying sides, and refers to the extent to which a market's total size is dominated by a few large firms.

<sup>5</sup> See Anthony E. Gallo, "The Food Marketing System in 1996," U.S.D.A., E.R.S., Agriculture Information Bulletin No. 743 and John M. Connor, "Food Processing: An Industrial Powerhouse in Transition", Lexington Books, 1988.

A second concern arising from the changes taking place in the food and fiber supply chain centers on who controls the activities taking place in the chain. The logical control mechanism is at the retail level where the direct interaction with consumers takes place. Retailers can dictate quantity, quality, inventory control, and delivery. They can also put into place complex pricing arrangements to entice consumers to shop at their stores. In addition, many retailers exact "slotting allowances" which are fees for shelf space thus making the introduction of new products and continuation of older products more costly and further increasing the incentive to merge among food processing and manufacturing firms.

Food processing and manufacturing firms also have control over the definition and introduction of new products, especially branded ones. In their purchases of raw materials from agricultural producers, this segment can and increasingly does dictate crop selection, technology, production management, and harvest schedules. Increasingly, contractual arrangements are required for a producer to market to a food processor or manufacturer.

The one segment that is entering and controlling the food and fiber supply chain is life sciences (defined as biotechnology and associated seed companies). Biotechnology companies are in the position of controlling markets and competition through proprietary control of germ plasm and resulting plant materials. For example, the introduction of herbicide resistant plant varieties to farmers for production was accompanied by strict restrictions and oversight on production practices and use of seed after harvest of the crop. One unforeseen glitch in this scenario is increasing consumer skepticism and resistance to genetically modified organisms (GMOs) especially in Europe. However, the control over supply and markets through the control of patented plant organisms by biotech companies and associated seed companies is a development that places production agriculture at an increasing competitive disadvantage with other segments of the food and fiber supply chain.

The changes that are evident in the food and fiber marketing system necessitates the creation of linkages and joint ventures an essential element of the procurement and marketing for a firm, especially the agricultural producer in a global market economy.<sup>6</sup> In addition, for a U.S. based agricultural sector to be competitive in world markets with other countries, its success will depend on the channel as a whole rather than one or more manufacturing stages in the channel.<sup>7</sup> For a producer of agricultural commodities and products to remain competitive in a

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<sup>6</sup> See Ray A. Goldberg, "New International Linkages Shaping the U.S. Food System," in *Food and Agricultural Markets: The Quiet Revolution*, Lyle P. Schertz and Lynn M. Daft, editors, National Planning Association, Report No. 270, Washington, DC, 1994.

<sup>7</sup> From John T. Dunlop and David Well, "Labor Productivity and Competitiveness – The Lessons from Apparel." Paper presented to the Eastern Economics Association Meeting, Boston, MA, March 1993.

global market economy, it will be highly important to not only have a global market perspective, but also to forge linkages with other sectors in the supply chain and beyond domestic markets. U.S. agriculture is dependent on growing export markets and yet facing increasing competition from other global market participants that include, in addition to producers, technology suppliers, processors, and distributors. As U.S. food and fiber chain participants have used imported technology to remain competitive, these foreign firms have become competitive both in U.S. markets as well as foreign markets that in many cases U.S. firms helped to create.

In the changes that have taken place in markets for food and fiber products, the producer of agricultural commodities and products is in the least favorable position in terms of market power to establish a presence in the market, domestic and global. Hence, it is necessary to forge linkages with other sectors in order to remain competitive and viable. In the past, marketing and supply cooperatives have enabled the farmer to obtain a return from the marketplace based on patronage<sup>8</sup>. However, even supply and marketing cooperatives will need to establish linkages with other entities in the rapidly changing global economy. Linkages are as important in a global economy as being a low cost producer and a unique value added producer. All three are needed for success. While a marketing and supply cooperative is one way for the agricultural producer to participate and become more of a partner in the food and fiber system, many do not prefer this particular structure for many reasons. For those producers who are seeking alternatives to establish linkages and partnerships in the food and fiber system, agricultural bargaining associations or cooperatives provide an alternative.

## **Agricultural Bargaining Cooperatives**

Cooperative bargaining associations, or bargaining cooperatives, operate in many fruit, nut, and vegetable markets in the U.S., especially on the West Coast. In addition, bargaining cooperatives have performed a role in the U.S. milk industry (representing 25 percent of cooperative milk volume<sup>9</sup>). Milk bargaining cooperatives in the dairy industry are especially instrumental in pricing activities of federal milk marketing orders. Currently in California, there are ten Bargaining Cooperatives which include the California Canning Peach Association, California Pear Growers, Olive Growers Council, Prune Bargaining Association, Walnut Bargaining Association, Apricot Producers of California, California Freestone Peach Association, California Tomato Growers Inc., Raisin Bargaining Association, and Vegetable Bargaining Associa-

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<sup>8</sup> Patronage is the use of the cooperative by the farmer in either a supply or marketing context. Returns to the farmer are based on use, not on the equity contributed.

<sup>9</sup> K. Charles Ling and Caroline Betts Liebrand, "Vertical Integration Patterns of Dairy Co-ops Reflect a Changing Market," *Farmer Cooperatives*, September 1995.

tion of California. These cooperatives represent a wide variety of programs, activities, and services, and have histories that date from the early 1900's to the 1980's.

Prior to the 1950's, records of agricultural bargaining associations are fragmentary at best.<sup>10</sup> Whether the organizations at that time were a bargaining cooperative or rather a trade association that did not bargain but sought to encourage favorable prices is not clear. Since 1950, it is clear that bargaining cooperatives have become an integral part of the food supply chain in marketing certain agricultural commodities and products.

Bargaining cooperatives are generally organizations of agricultural producers that negotiate terms of trade with processor-buyers of their raw product<sup>11</sup>. They are distinguished from processing cooperatives that can process the produce of their members and market the processed products. Hence, bargaining cooperatives usually do not become involved with the handling of raw product, nor do they usually have mechanisms to control producer supply, although some exceptions occur. A primary objective of bargaining cooperatives is to increase grower returns through providing market power for its members in the marketplace. This action is referred to as "countervailing power" and challenges the market power of buyers. The extent to which this power may be achieved depends on the nature and structure of the market in which a bargaining cooperative operates.

Bargaining cooperatives can be categorized in two ways. The first establishes minimum prices and terms of sale for their members' production which are incorporated into contracts which the members execute themselves. Organizations of this type include the California Tomato Growers Association and the Olive Growers Council. A second, in addition to establishing price and terms of sale, also act as exclusive sales agents for their members and contract for the sale of their members' production. Organizations of this type include the California Pear Growers, Apricot Producers of California, California Canning Peach Association, California Freestone Peach Association, and the Prune Bargaining Association.

In the milk industry, bargaining cooperatives are distinguished in two ways. The first is a category that includes only associations that bargain for milk prices (usually under a federal

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<sup>10</sup> For a more complete detailed description of the development of agricultural bargaining associations, their legal authorities, and operational principles, see Gerald D. Marcus, "Farm Bargaining Cooperatives: Group Action, Greater Gain," U.S.D.A., Agricultural Cooperative Service, Research Report No. 130, Washington, DC, March 1994.

<sup>11</sup> See Julie Iskow and Richard Sexton, "Bargaining Associations in Grower – Processor Markets for Fruits and Vegetables," U.S.D.A., Agricultural Cooperative Service, Research Report No. 104, Washington, DC, March 1992.

milk marketing order) and refrain from producer/processor manufacturing. This category represents 25 percent of cooperative milk volume as pointed out previously. The second category includes cooperatives that bargain for milk prices and manufacture the surplus into commodity dairy products for supply balancing and are described as “bargaining – balancing cooperatives”. Bargaining cooperatives of this type operate much like a pure bargaining cooperative except it has plant facilities to service handlers’ needs and/or to balance the milk supply. By having the capability to dispose of surplus milk strengthens these organizations’ bargaining position. This ability to impact market supply may have significant consequences for bargaining cooperatives in general.

One fruit bargaining cooperative that has had a program to remove surplus production and thus provide an improved bargaining position for its members is the California Canning Peach Association. At the end of 1993, faced with a crisis of overproduction due to increased peach yields, the organization took action to bring supplies back to marketable levels. It instituted a program to pull out of production 3,278 acres representing some 45,000 tons (about 8 percent of previous year’s production). Growers were paid to pull trees; the program was financed through assessments of association members. In addition, the association explored ways of marketing additional supplies of peaches such as promotional programs, school lunch program purchases, and increased exports. Further, the association represented the industry before government agencies on such topics as unfair competition from heavily subsidized Greek production and unfair trade barriers. These activities reflect the wide range of programs that bargaining cooperatives undertakes for their members’ welfare and interests in the marketplace.

According to California Canning Peach Association documents, “The California Canning Peach Association maintains its leadership position by offering grower members a range of essential services aimed at improving their strength, profitability, and standing in the world peach market.” It accomplishes this mission by providing the following services:

- Establishing price and terms of sale;
- Assuring payment schedules;
- Acting as members’ agent in complaints on grade and tare weights;
- Protecting members from processor discrimination;
- Auditing processor payment statements to insure correct payments;
- Providing a full field staff;
- Maintaining liaison between growers and processors;
- Working to remove trade barriers and advance fair trade practices;
- Represent member interests before state and national government bodies;

- Seek new cling peach markets and uses;
- Collect and disseminate information, news, and statistics;
- Act as industry liaison in seeking United States Department of Agriculture (U.S.D.A.) purchases of cling peaches; and
- Conduct varietal research work.

As an example of a different type of bargaining cooperative, the California Tomato Growers Association defines its mission as “an association of California Processing tomato growers that provides economic, public policy, and business leadership for the benefit of the growers in the industry. The Association represents grower interests through services to its members including bargaining, communications, and advocacy to ensure the stability, viability, and prosperity of the industry.” The Tomato Growers Association accomplishes its mission through the following:

- Setting a price and terms of sale for the delivery of members’ annual crop;
- Ensure a fair and impartial grading;
- Provide up-to-date information and statistics on issues and events that impact members’ farming business;
- Provide lobbying activities to various government agencies and legislators at the state and federal levels on water, labor, pesticides, taxation, transportation, trade and land use to protect its members’ interests;
- Support and assist in a broad range of tomato related research aimed at advancing members’ ability to efficiently produce and market a tomato crop and prosper in a highly competitive global tomato business;
- Work to preserve those inputs, including necessary chemicals, critical to tomato farming operations and explore alternatives, such as Integrated Pest Management;
- To assist growers in reducing chemical inputs; and
- Assure consumers that tomatoes are wholesome, nutritious, and safe.

The examples of programs cited for the California Canning Peach Association and California Tomato Growers Association provide an insight into how two different bargaining cooperatives approach the task of best representing their members, interests. A survey by Iskow and Sexton<sup>12</sup> provides further insight into members’ expectations of services provided by bargaining cooperatives. Most frequently reported benefits included increased price stability, increased or improved information, and an improved (less costly) price discovery process. Other benefits cited included third-party grading, support in “mutually dealing” with problems facing the in-

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<sup>12</sup> Ibid.

dustry, fair and equal treatment of all processors, assistance on regulatory/legislative issues, assured supply, and protection from abuses by large growers or groups of growers.

Two issues relating to bargaining cooperatives must be mentioned briefly. These issues are relationships to marketing and supply cooperatives and relationships to marketing orders/commissions.

Frequently, bargaining cooperatives operate in industries where a marketing and/or supply cooperative also exists. Usually, members of the bargaining cooperative are not members of a marketing cooperative as well, although there is evidence of membership crossover. In recent years, marketing cooperatives have been receiving increased production from non-members. It is typical for a bargaining association to seek out and represent these members and negotiate with the marketing cooperative on price and terms of sale. In addition, bargaining cooperatives may provide services that marketing or supply cooperatives do not provide their members whom may find them beneficial and become members. Also, bargaining cooperatives may represent their marketing cooperative members' interests to the marketing cooperative and enter into agreements to provide services. Consequently, both cooperative forms may form strategic alliances to address industry problems and issues as well as cooperate on other issues. It is rare to see a marketing or supply cooperative as a competitor with a bargaining cooperative, although there are instances where this unfortunate situation has occurred.

Marketing orders and commissions are federal or state mandated programs voted in by agricultural producers to achieve specific goals and objectives through various programs such as information, grades and standards, research, advertising, and promotion. In some cases, marketing orders have been used to accomplish supply control, although current government policy direction frowns upon this activity. In addition, milk marketing orders set minimum producer prices and pool returns to growers. A bargaining cooperative may have some or all of the marketing order/commission programs. Since these programs are financed by the entire industry, both cooperative members and non-members, their existence provide a large leverage for programs important to bargaining cooperatives. Usually, bargaining cooperatives provide industry leadership in the initiation and governance of marketing order/commission programs and represent their members' interests. However, cooperatives, marketing, supply, and bargaining, must assure that the programs serve the broad industry interests, otherwise legal and other challenges may force the dissolution of the marketing order/commission.

## Legal Status of Bargaining Cooperatives

Bargaining cooperatives enjoy the limited exemption from the antitrust laws enjoyed by other agricultural cooperatives.<sup>13</sup> Like all other forms of cooperatives, bargaining cooperatives are subject to general antitrust law and dependent on the limited exemption provided by the Capper-Volstead Act. They are also affected by the Federal Agricultural Fair Practices Act (AFPA) which has important strengths and weaknesses as well as various state statutes.

The AFPA became law in 1968 and was in response the substantial resistance of the development of agricultural bargaining cooperatives by many processors as the volume marketed through these organizations increased significantly. Specifically, AFPA provided that it is unlawful for any handler to knowingly engage in the following practices:

1. Coerce a producer from joining an association or refusing to deal with a producer because of membership;
2. Discriminate against a producer because of membership in an association;
3. Coerce a producer to breach or terminate association membership;
4. Offer an inducement to a producer to cease being an association member or refuse to join;
5. Make false reports about an association; or
6. Conspire with another to commit any of the above.

However, lack of enforcement of this statute by U.S.D.A. has caused it to fall into disuse. As a result, bargaining cooperatives are actively seeking remedial legislation.

In addition, several states have adopted fair practices legislation incorporating the prescriptions of AFPA against discrimination by a processor or growers because of their desire to join or retain membership in a bargaining cooperative. The California Act requires that the negotiating parties bargain in good faith and if there is an impasse, either party can request the California Secretary of Agriculture to require both parties to engage in mediation under the American Arbitration Association. However, they are not required to reach agreement and there is no compulsory arbitration.

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<sup>13</sup> See Gerald D. Marcus, "Farm Bargaining Cooperatives: Group Action, Greater Gain," U.S.D.A., Agricultural Cooperative Service, Research Report No. 130, Washington, DC, March 1994.

## Summary and Conclusions

Bargaining Cooperatives/associations have a long history of representing producer members' interests in the marketplace. The programs, activities, and services offered by these organizations vary with price negotiation and terms of trade central to their activities. These organizations represent their members' interests not only in the marketplace, but also to government agencies and legislative bodies. They also undertake market expansion activities, finding an outlet for members' production, research, and, in some cases, supply control. In a few limited cases, such as in the dairy bargaining cooperatives, they actually own and engage in manufacturing activities. While they have appropriate legal authority, there are some weaknesses that need improvement.

As agricultural commodity and product markets become more global, concentrated, and dominated by multi-national businesses, agricultural producers will be forced to find linkages, not only into large buyer dominated markets, but into large supplier dominated input markets as well. Internationally, trade barriers are being reduced which increases competition both domestically as well as in export markets that in many cases U.S. participants helped to develop. In addition, some anti-competitive practices are still being conducted such as dumping and trade distorting subsidies, especially by the European Union. Representation of producer interests before U.S. governmental agencies and Congress as well as to international trade bodies such as the World Trade Organization will be highly important as global competition increases. Woven through this scenario is the need for increased information and knowledge by producers to make intelligent decisions regarding production and marketing. Lastly, increasing food safety and environmental regulation necessitates representation of producers' interests both before regulatory agencies and legislative bodies to assure development of policy and regulations that will enable the producer to remain viable and competitive. The need for new technologies and knowledge through research will assist producers to meet both regulatory obligations and meet competitive pressures.

The need for multi-faceted representation by producers is increasing through pressures brought about by industrialization, globalization, environmentalism, consumerism, and technology. The relationships and linkages in a global market economy are complex and difficult. The linkages that a bargaining cooperative can provide can prove to be highly invaluable to producers needing representation with the institutions, organizations, and governments that will dominate the global market economy.

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