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**RATIONALIZATION AND HARMONIZATION OF SEED POLICIES AND REGULATIONS: EFFECTING  
POLICY CHANGE THROUGH PRIVATE-PUBLIC PARTNERSHIPS**

*Cereals are important staple foods in Africa but yields have remained low partly because of limited use of improved seeds and small and highly fragmented seed markets. Transaction costs within and across national boundaries have also remained high because of differing arrangements across countries. The establishment of common regulatory structures therefore is expected to reduce such costs and promote increased trade and use of improved seeds. ECAPAPA's experience as presented in this excerpt demonstrates how public-private partnerships can play a pivotal role in catalyzing, facilitating and supporting the establishment, development and strengthening of national and regional seed trade. The aim is to share experiences in order to identify areas that need modification to make the process more efficient and relevant. This initiative started with three countries in 1999 and has now spread to the ten countries of the ASARECA region.*

Most economies in sub-Saharan Africa are based on agriculture. Sluggish growth in agricultural production translates into slow growth and low per capita incomes. In eastern and southern Africa, national average yields of maize (the main staple) are about 1.5 tons per hectare (ha) compared with a global average of 4.5 tons per ha. This can be partly attributed to limited development of commercial seed markets where less than 10 percent of the seeds planted are purchased from the formal market. Seed markets in the region are small and highly fragmented; with closed national markets dominated by a few international companies and parastatals, and restrictive laws, regulations and policies. As a result, many released varieties have never been widely disseminated.

The commercial seed sector in Africa is limited in volumes given the fact that it accounts for less than 2 percent of the estimated levels of international seed trade. It is also restricted to a narrow range of crops led by hybrid maize, and small amounts of cash crops such as sunflower, cotton, soybeans, wheat and vegetables. It is estimated that half of the traded quantity occurs within countries of southern Africa. Transaction costs within and across borders are high because of differing regulatory and trade arrangements across countries.

To create a more enabling environment for private sector participation in seed trade, many African countries are investing in the creation of an enabling policy environment to transform farming from the common quasi-subsistence nature to market oriented commercial entities. This is being done in collaboration with development partners including the Common Market for Eastern and Southern Africa (COMESA), African Union (AU), the East African Community (EAC), Intergovernmental Authority on Development (IGAD) as well

as donors. One of the avenues being pursued is the establishment of common regulatory structures to reduce transactions costs and promote increased trade and hence use of improved seeds.

### **Private-public partnerships**

With the introduction of structural adjustment programmes of the 1980s and 90s that saw withdrawal of state presence in key development arenas, sub-Saharan Africa is reeling from market and institutional failures. Previously, the state controlled key input and output markets. In the new model, the private sector was expected to take over that role in a liberalised environment where market forces prevailed. Unfortunately this did not work and there are concerns that there is a need to restate the roles of the state and the private sector.

The concept of public-private partnerships (PPPs) has become increasingly important in development policy as a means of addressing diverse issues such as health, education, environment and agricultural research and development. These partnerships involve businesses or non-profit organizations working with government agencies and development institutions. They entail reciprocal obligations and mutual accountability, contractual agreements, sharing of investments and joint responsibility in design and execution.

Their importance is rising as a result of the appreciation of the need to supplement official resources and the need to take advantage of the private sector's perceived comparative advantage in efficiency. PPPs are also being seen as an avenue for unleashing innovations to solve persistent development challenges such as poverty; and have been effective in enhancing regulatory policy reforms and incentives. However, appreciation of the role of PPPs remains limited in both the private and public sectors. Partnerships are not based on genuine demand; do not produce expected synergies, co-innovation, and joint learning. Further, social, institutional and policy factors hamper implementation and scaling up of PPPs thereby limiting their number in agricultural research especially in developing countries. Examples of successful PPPs are Sustainable Community-Oriented Development Programme (SCODP) in western Kenya and Seedco in Zimbabwe that have helped disseminate seeds and fertilizers through rural trade networks.

### **Rationalization and harmonization of seed policies, laws, rules and procedures in eastern Africa**

Rationalization aims at changing the way business is done so as to increase efficiency or reduce waste. It focuses on how a country conducts business in a given sub-sector and determines what should be done to make it more efficient. As an example, an import consignment may require five officers from different departments to clear it at the port of entry. With rationalization a single officer could clear the cargo on behalf of all departments.

Harmonization is the process of bringing together, regionally, different approaches (policies, laws, regulations and procedures) into a unified strategy. This allows commodities and factors to move freely across national boundaries thereby improving domestic and foreign investment through expansion of markets beyond national borders.

The aim of rationalization and harmonization of seed policies, laws, regulations and procedures is that the seed industry in the region faces many different standards and regulations in each country, which are costly to meet. These high costs, coupled with relatively low effective demand, make it unprofitable for either local or international seed companies to make the investments required to provide the quantity, quality and variety of seed needed to support an expanding agricultural base in the eastern and central Africa region. Most of

these costs take the form of non-tariff barriers—regulations, procedures, administrative and technical requirements imposed by the governments of these countries, and place discriminatory demands on importers, exporters, domestic producers and traders. The ultimate aim of rationalization and harmonization is to increase the flow of seed across national boundaries. This increases the choices of quality seeds available to farmers, leading to increased productivity, increased incomes and food security.

The ECAPAPA project on rationalization and harmonization of seed policies and regulations in eastern Africa was established in 1999, in recognition of the fact that seed trade in sub-Saharan Africa (both domestic and regional) is constrained by regulations and policies that were established when most plant breeding and formal seed production were in the hands of the public sector. Variety release procedures were designed to meet the needs of public research institutes and seed certification was focused on public or parastatal seed enterprises. Each country developed its own seed regulatory regime, criteria, procedures for variety testing and approval, which constituted a significant barrier to seed trade and inhibited the spread of new varieties beyond national boundaries. This led to delays in release and often rejection of useful varieties that did not meet national criteria. A public variety released in one country faced a long battle to gain release in a second country. Seed trade was also hampered by phytosanitary regulations that are not based on scientific evidence, various tariffs and regulations, and lack of intellectual property protection for plant varieties.

Many issues must be considered in effective regulation; a few key ones are highlighted here. Regulatory reform implies broad-based participation and is as much a function of policy direction as technical rules. Often, there is a great difference between regulations on paper and their implementation.

Regulation is needed in situations where markets are unable to provide sufficient information, either for consumers to make informed choices, for example seed quality or to protect against negative externalities such as the spread of plant disease. Effective regulatory reform requires strengthening of producer and consumer capacities through discussions and debate among a wide range of stakeholders.

The road that begins with regional agreements, moves to modifying national legislation and regulation, and quickly results in new procedures and protocols that have an immediate impact on seed trade is not smooth. The regulator's principal purpose should be to encourage seed system development rather than be an agricultural police force. Modification of laws and regulations obviously takes time, but changes in attitude and interpretation are often as important and as difficult to achieve. In addition, many regulatory reforms imply changes in institutional responsibilities and the establishment of new protocols that require additional resources.

Regulatory reform and regulatory harmonization can be exceptionally complex. Projects that address these issues must accept a long time frame and be ready to accommodate inevitable delays in effecting legal and regulatory change; and recognize that policy and resource support for implementation (even for procedural changes that require little or no high-level approval) is as important as any changes on paper.

The original focus of this project was on 'harmonization', but equal effort was placed on 'rationalization', ensuring that national policies and regulations were effectively conceived and transparently managed, a prerequisite to regional harmonization. The project began with extensive analyses of seed systems in Kenya, Tanzania and Uganda and a range of national- and regional-level activities and meetings that developed an agenda for seed regulatory reform. National efforts were augmented by regional workshops that discussed modalities for regional coordination and implementation.

In 2001 a Seed Regional Working Group (S-RWG) of 12 elected members from the public and private sectors was formed and mandated to carry forward the initiative and coordinate implementation of agreements reached earlier. Three years later, this initiative was broadened to involve all ASARECA member countries and led to the establishment of an East African Seed Committee (EASCOM) with expanded coverage, broader mandate and responsibility. This committee's functions includes: review of seed policies, laws and regulations; strengthening of national seed and plant breeder associations; operationalization of harmonized agreements; development and maintenance of data bases; capacity building; representation in EAC and COMESA, and fund raising. EASCOM includes four representatives from each of the ten countries, covering policy (ministry of agriculture), regulation, seed trade, and plant breeding.

To bring about desirable changes in the seed industry, sub-sector participants worked through a four stage policy cycle process, namely; policy data collection, policy data analysis, policy dialogue and policy action. This discussion is focused on stages three and four of the ECAPAPA policy cycle.

In the policy data collection stage, country data on constraints and concerns in the seed industry were collected by national resource persons. This information was analyzed in the next stage - policy data analysis -by the resource persons in collaboration with other experts. International standards in the major seed categories were compared with existing and proposed regional standards. The process also involved a range of international experts in seed evaluation, registration, certification, plant variety protection and phytosanitary issues. The end results were different options on the way forward, on benefits and costs, and even on identification of winners and losers. By and large these two stages were technical and scientists played a leading role.

The policy dialogue stage was essentially a political process where changes suggested by technical teams were communicated to a broad range of stakeholders: about 50 and 60 participants at national and regional level respectively. These included multidisciplinary sets of scientists, business community, seed companies, transporters, stockists, government technocrats, politicians and policy makers. This was a highly interactive effort that required constant dialogue with policy makers and formation of coalition of supporters, and several rounds of discussions with the full range of stakeholders, to reach consensus on a common course of action. Discussions were initiated at national level where stakeholders agreed on issues of rationalization as well as issues for harmonization that should be carried forward for discussion at regional forums.

It is widely held that policy making is a problem solving process which is rational, balanced, objective and analytical and that decisions are made in a series of sequential phases that start with identification of a problem and end with a set of activities to solve or deal with it. However, in our experience, policy making is very different. It is a political process as much as it is an analytical or problem solving one.

The fourth stage in the policy cycle, policy action, dwells on implementation of the agreements reached. Experience in the ECAPAPA project shows that to achieve effective policy change the following must be in place:

- i) Facilitation, building and empowering of public-private partnerships; bringing private sector and public/regulatory authorities together to discuss and reach consensus on what has to change, why and how on key issues for the sub-sector under study.
- ii) Observation of the importance and differences amongst technical (technical personnel to discuss issues based on science), political (get buy-in from different parties including civil society) and

legislative (once agreement is reached, legal protection to guard against backsliding) stages in the process of reform

- iii) Dialogue at two levels: national (to deal with, and differentiate between rationalizable and harmonizable issues) and regional, to discuss the issues that need to be harmonized nurturing of transparency, participatory inter-institutionality and multi-disciplinarity in the whole process
- iv) Differentiation between administrative/procedural and legislative issues in discussions and consensus building. For administrative/procedural issues, implementation of desired changes can proceed under existing legislation, but with improvements in administrative procedures. For legislative issues, desired changes have to wait until requisite laws are considered and accommodated in the existing legislation

The policy-change-cycle model has proved replicable in similar regional initiatives and is now being applied with some adjustments in other regional projects: maize, fertilizer, dairy and in forging a regional strategy in biosafety.

### **Achievements, experiences and lessons learnt**

Facilitation of seed technical working groups, joint seed certification exercises and review of seed policies and regulations have resulted into revision of certification procedures, harmonisation of variety release and registration, harmonisation of import/export procedures in Kenya, Rwanda, Tanzania and Uganda. Initially, only Kenya had a plant variety protection (PVP) system, but the focus on harmonization resulted in a PVP Act of 2003 in Tanzania and a draft PVP Bill for Uganda now with the parliamentary committee. In Kenya, there have been several high-level consultations to discuss a bill to rationalize three existing acts into one. Tanzania and Rwanda enacted Seed Acts in 2003 and 2004.

In 2005, a review of the project was undertaken and a report was presented at EASCOM's annual general meeting. The review lauded the projects efforts in bringing the public and private sector to work to get through the national seed traders' associations. It also pointed out to areas requiring further attention, e.g., improving efficiency of variety testing systems, support to national seed quality control and implementation of agreements and policies.

In 2006, EASCOM published varietal lists and standards handbooks and shared them with Permanent Secretaries in the Ministries of Agriculture in Kenya, Rwanda, Tanzania and Uganda. In Sudan, seed law was revised and plans for establishment of seed traders association are at an advanced stage. Draft quarantine pests lists and seed certification standards for Kenya, Rwanda, Tanzania and Uganda were produced. Business plans for establishment of seed traders associations in Sudan, Rwanda and Tanzania were developed. Burundi reviewed existing seed Act guidelines for implementation of Seeds Act of 2003 and Plant Breeders Act of 2002. Implementation of the acts in Tanzania became operational with the establishment of the Tanzanian Official Seed Certification Institute (TOSCI) to follow seed testing and quality control. 21 varieties have so far been released.

The project has invested resources in local capacity building. This has been valuable and would be an element of future EASCOM work. However, training and capacity building pay off when supported with resources and management structure to ensure that regulatory procedures can be carried out on a day-by-day basis. Examples abound where agreements on reform have not been implemented due to lack of local resources.

## Conclusions

It is clear that the public-private partnerships can play a pivotal role in the development of the seed industry in the region. They are an engine of growth and are crucial for catalyzing, facilitating and supporting the establishment, development and strengthening of national and regional seed trade.

It pays to start small and apply lessons learned along the way. This project started with a pilot phase in Kenya, Tanzania and Uganda. It then moved on to cover five more countries and an additional two countries of ASARECA. This seems to be the way to carry out regional initiatives - start in a few countries and if there is success, expand to other countries.

The technical, political and legislative processes in the policy-change cycle are equally important. Optimal outcomes must be based on trade-offs between technical issues and stakeholders' interests. Good policies can be put in place, but without effective implementation, these policies will not deliver the intended results.

For more information, please contact ECAPAPA [ecapapa@asareca.org](mailto:ecapapa@asareca.org) or EASCOM secretariat [stak@kenyaweb.com](mailto:stak@kenyaweb.com)

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