

Rationalization and Harmonization of Seed Policies and Regulations in Eastern and Central Africa: Effecting Policy Change through Private Public Partnerships

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**Poster paper prepared for presentation at the
International Association of Agricultural Economists Conference,
Gold Coast, Australia, August 12-18, 2006**

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Introduction

Most economies in sub-Saharan Africa are based on agriculture. Sluggish growth in agricultural production translates into slow growth and low per capita incomes (ASARECA, 2005). In eastern and southern Africa, national average yields of maize (the main staple) are about 1.5 tons per ha compared with a global average of 4.5 tons per ha (ASARECA, 2005). This can be partly attributed to limited development of commercial seed markets: less than 10% of the seed planted is purchased from the formal market (Rohrbach et al; 2003). 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 – it accounts for less than 2% 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 (Rohrbach et al; 2003). Transactions 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.

This paper describes the process, results, and lessons learned in developing and operationalizing a seed trade harmonization system in eastern and central Africa. This initiative started with three countries in 1999 and has now spread to the ten countries of the ASARECA region¹. The aim is to share experiences in order to identify areas that need modification to make the process more efficient and relevant. The paper attempts to identify a minimum set of conditions that must be met to establish effective and equitable private-public partnerships.

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 (Omamo, 2005).

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

¹ Burundi, Democratic Republic of Congo, Eritrea, Ethiopia, Kenya, Madagascar, Rwanda, Sudan, Tanzania and Uganda are the ten countries of the Association for Strengthening Agricultural Research in Eastern and Central Africa (ASARECA). The Eastern and Central Africa Programme for Agricultural Policy Analysis (ECAPAPA) is a programme of ASARECA.

entail reciprocal obligations and mutual accountability, contractual agreements, sharing of investments and joint responsibility in design and execution (World Economic Forum, 2005).

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 (Hartwich et al 2005). 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 (Seward and Okello, 1998) and Seedco in Zimbabwe (Kelly et al., 2003) 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 motive for 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 (ECAPAPA 2002). 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 (e.g. seed quality) or to protect against negative externalities (e.g. 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.

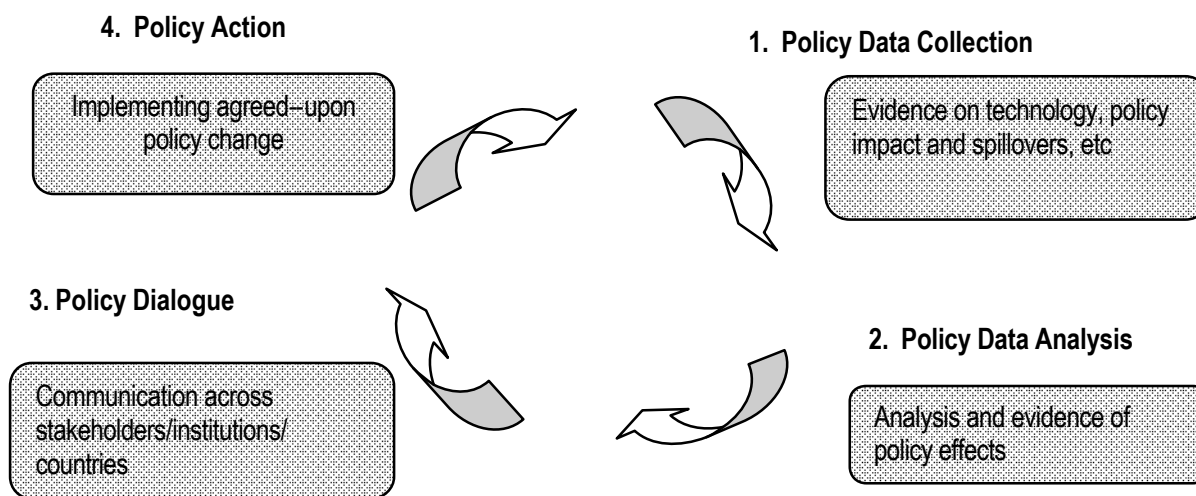
The original focus of this project was on ‘harmonization’, but equal effort was placed on ‘rationalization’, ensuring that national policies and regulations were effectively conceived and transparently managed, a prerequisite to regional harmonization. The project began with extensive analyses of seed 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 Eastern 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 (ECAPAPA 2004). 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 (Figure 1). This paper focuses on the third and fourth stages.

Figure 1. Policy change cycle



Adapted from: Mukhebi et al., 2001. ECAPAPA mid term external review.

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 (Sutton, 1999; Omamo, 2003; Omamo, 2004). However, in reality, 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
- iv. nurturing of transparency, participatory inter-institutionality and multi-disciplinarity in the whole process
- v. 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

Despite the challenges the ECAPAPA project has been successful, due to a combination of reasons. First, pressure had been building from scientists who were unable to transfer improved

seed material across borders, and the project appeared in the right place at the right time. Second, the project initially focused on three countries (Kenya, Uganda and Tanzania) that have a long history of regional collaboration and whose seed systems were the strongest among the ASARECA countries. Lessons learned from these countries were applied to next round of countries. In most cases we were able to shorten the circuit in the new countries because stakeholders were convinced and adapted for use the information from the older countries. In addition there was interaction with key regional bodies (EAC and COMESA) where proposals on improving national seed systems and development of regional collaboration and trade were presented. Third, the project was conceived in a participatory fashion that elicited the active engagement of a wide range of stakeholders (various regulatory agencies, public policy, and the private seed sector) and was managed with patience and commitment. Many participants appreciate the personal contacts and development of shared purpose that was established by the project. Agreements on changes relied much more on open discussion of problems and proposals than on the advice of external experts (Tripp, 2005).

This model is now being emulated by several similar policy change initiatives in the region (RATES, 2004). Although it is possible to cite various regulatory changes as evidence of progress, it is the establishment of a regional forum and the forging of links and trust between players (e.g. public and private sector) and between countries that is the most important accomplishment. Most of the project accomplishments would not have been possible without this kind of interaction.

A major indicator of project outcomes should be quantities of seed produced and traded, but data are not readily available. Part of the problem is that intra-regional seed trade is fairly modest, and

it would be difficult to draw conclusions from any statistical trends in the past few years. The EAC countries and the ASARECA region still have some way to go to achieve the harmonization that they seek in seed certification, and EASCOM may be a forum for pursuing these goals. In most countries, the priority would be (i) finding a reasonable way to balance aspirations for increased commercial seed production with very limited regulatory budgets and (ii) forming a sustainable public- private collaboration in developing workable quality control schemes.

The project achieved considerable progress in phytosanitary regulation for the EAC countries and it is possible to extend this experience to the other countries. It will be important to monitor progress in seed trade for the EAC countries. For most ASARECA countries beyond the three EAC states, there is relatively little regional seed trade. Unless regional specializations (based on agronomic and technical seed production conditions and breeding skills) are identified and promoted in specific countries, both regional and national seed trade will remain confined to maize and a few other crops.

All countries in the region will soon have some system in place for plant variety protection (PVP). There is very little regional experience in this area and there are a number of issues (e.g. costs, coverage, seed saving) that require resolution.

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.

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