

CIVIL SOCIETY & SMALL HOLDER FARMER STATEMENT AT THE AWARENESS CREATION ON COMESA SEED TRADE HARMONISATION REGULATIONS FOR THE COMESA REGION 27 - 28TH MARCH 2013, LUSAKA.

GRAVE CONCERNS WITH PROCESS AND CONTENT OF THE COMESA SEED TRADE HARMONISATION REGULATIONS

We the members of civil society and small holder farmers present at this 'awareness creation on COMESA seed trade harmonisation regulations for the COMESA region', and representing various civil society and farmer groups from the Common Market for Eastern and Southern Africa (COMESA) region express our deep concerns both with the process involved in drafting the harmonised seed trade regulations as well as with the provisions of the regulations.

Our concerns are summarised as follows:

1. Flawed Process

We are of the opinion that there is no evidence to demonstrate the involvement of and consultation with the citizens in COMESA countries, particularly small - scale farmers. It is our view that a technical group from COMESA countries in collaboration with the African Seed Trade Association (AFSTA) and Commodity Trade in Eastern and Southern Africa (ACTESA and funded by USAID), deliberated on the issues and drafted regulations that are now said to be ready for submission to COMESA member state governments for endorsement during May/June 2013, when they will become binding on all 20 member states of the COMESA region.

The Regulations have far-reaching implications for millions of small farmers in the COMESA region. Their exclusion from the process renders it deeply flawed and inadequate.

2. Farmers' Rights

The Regulations allow for the expedited registration of seeds to enable the creation of a seed free trade zone within the COMESA region. 'Seed trade' is not defined in the regulations as being restricted to only the commercial seed sector. In this regard, we are concerned that the Regulations do not provide any safeguards that small farmers will be allowed to freely use, save, sell, barter and exchange traditional varieties of seed. We are extremely concerned that the lack of these safeguards will open the door for the criminalising of the customary practises of small farmers to exchange, sell and other use of traditional seed within the COMESA region. We require explicit provisions to the following effect:

"These Regulations shall apply to seed varieties developed and released by the commercial/formal seed sector, including those released for commercial use by public institutions and the private sector. Nothing in these Regulations shall preclude, prohibit or inhibit farmers from sharing, exchanging, saving and replanting their traditional seeds for the conservation and development of plant genetic resources."

3. Cost of Certified Seed

We anticipate that small scale farmers will not be able to afford the cost of purchasing registered seeds, despite the anticipated increased availability of such seeds on the market. Currently, despite the presence of commercial seed companies and certified seed available on the COMESA market, majority of small scale farmers are unable to afford this seed unless they are given support through government farmer input subsidy programmes. This is already a huge cost for governments who are struggling to restructure their subsidy programmes in order to save limited tax payer funds.

4. Ownership of germplasm

It is our view that the Regulations do not adequately protect farmers from loss of traditional seed varieties and germplasm arising from commercial variety registration. We require the inclusion in the Regulations, provisions for the compensation to small farmers/farmer communities for use of traditional knowledge and germplasm.

5. The burden of implementation of Regulations

Given the institution-heavy nature of the Regulations, this will imply placing additional burdens on the national governments within the COMESA region to establish relevant institutions and appropriate legal and policy reforms.

We therefore feel that funds being spent on this process could be more prudently spent on bolstering public research and general support to farmers and agro-ecological systems.

6. Creation of seed monopolies

This is already a reality in some countries such as South Africa where the entire maize sector is now totally controlled only by two companies namely Monsanto and DuPont/Pioneer, who have finally procured the last South African seed company, Pannar seed. We are concerned that these regulations will facilitate not only a free seed trade area within the COMESA region but will also eventually lead to the buy out of smaller African seed companies.

7. State Sovereignty: We insist strongly that the regulations should not hinder state sovereignty. National governments must retain their sovereign rights and responsibility to require national testing when deemed necessary.

8. Lack of sufficient detail and clarity in legislation

Distinctness, Uniformity, Stability (DUS) Testing: Under DUS requirements, the definition of *distinctiveness* has potential to lend itself to misappropriation of farmer varieties. “Common knowledge” has to be properly defined as well.

Similarly, the Regulations do not adequately describe how the Regional Variety Release mechanism will operate and what exactly the criteria entail for the VCU testing.

9. Value for Cultivation or Use (VCU) and Impact on agro-ecology: We question the rationale for testing a seed variety in two (2) COMESA countries for subsequent release in the entire region. Countries do not have the same agro-ecological conditions. What is the ecological and agronomic soundness of this method of testing?

10. Post variety release control: Pursuant to VCU, and in the event of crop failure of a variety, it is not clear in the regulations who will be liable for the loss and which will be the due process for redress.

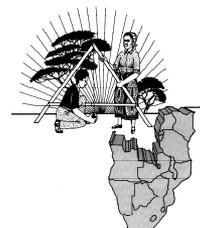
11. Genetically Modified Organisms: The regulations should not deal with GMOs because these are and should be regulated at the national level.

12. Strategic Food Security Crops: It is our position that the Regulations should exclude strategic food security crops, such as maize, millet, cassava, sorghum and others, from the list of 12 crops subject to these Regulations for free trade within the COMESA region. This is because free trade across the region of such seeds and plant material can impact negatively on genetic diversity of traditional crops and lead to loss of sometimes superior traditional varieties. In addition, whereas farmers have deliberately kept varieties which act as cushions in times of adverse weather and disease or pest events, the drive for regional commercialisation of food security crops will make them more vulnerable to potential impacts of climate change.

Furthermore, we require safeguards that the social, environmental, food security and food sovereignty impact of the implementation of these Regulations will be regularly reviewed. We are particularly concerned with access by farmers and farmer choices.

As a way forward, we demand that the outcomes of the significant and highly technical process conducted so far, should be subjected to civil society and farmers and broader citizens’ reflection, engagement and input. We re-iterate that the process must go back to national-level consultations, in accordance with nationally appropriate processes.

Statement made by the following represented Organisations, Climate Change NGO Network, Alliance and small scale farmers Umbrella body:



Zambia Climate Change Network (ZCCN); East and Southern Africa Small Scale Farmers Forum (ESAFF) – Zambia; Participatory Ecological Land-Use (PELUM) Association; Alliance for Agro-Ecology and Biological Diversity Conservation; Kasisi Agriculture Training Centre (KATC); Community Technology Development Trust (CTDT); Green Living Movement (GLM); African Centre for Biosafety (ACB)

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Note to editors:

Signing the Regulations into law by COMESA member states is designed to facilitate the efficient and smooth flow of seed among COMESA countries. The rationale is to promote access by farmers to seed from the region and enable seed producers to easily access regional markets by simplifying custom procedures and expedite seed variety release in the region. The Regulations cover twelve (12) crops which include beans, maize, rice, groundnuts, cotton, wheat, cassava, potatoes, sunflower, sorghum, soya beans and millet.

The specific objectives of the Regulations are outlined as follows:

- (a) to harmonize phytosanitary measures for seed in the region in order to facilitate the safe movement of seed within Member States, in a transparent manner and without dissemination of any pest of quarantine importance;
- (b) to ensure that varieties listed in the COMESA Variety Catalogue and traded among Member States are of high and known quality and that movement of seed is more efficient;
- (c) to encourage investment in seed business in the Member States;
- (d) to increase access to existing varieties in the Member States; and
- (e) to stimulate the breeding and availability of improved seed varieties resulting in increased variety choices for all farmers.

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