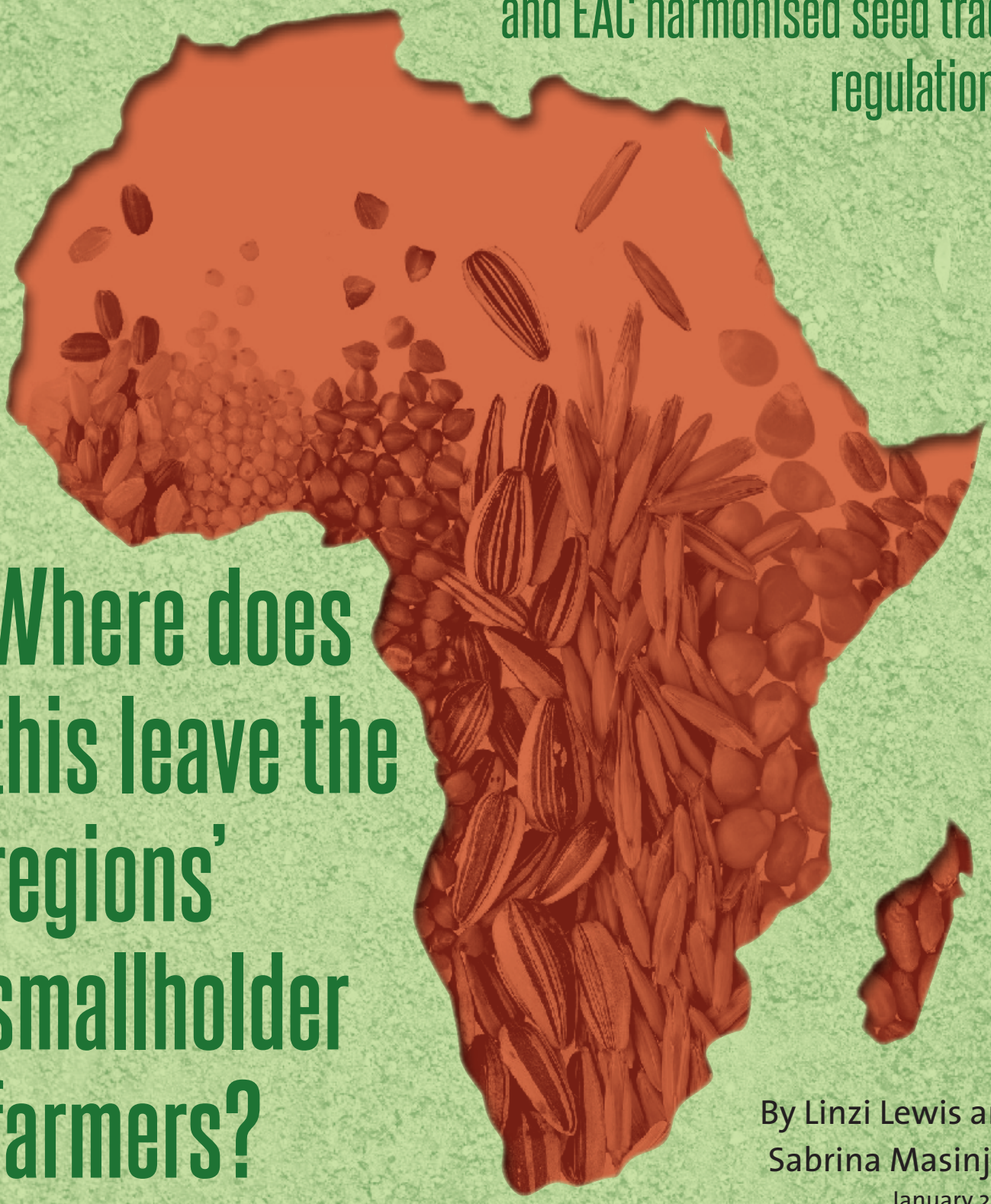
SUMMARY

Status report on the SADC, COMESA and EAC harmonised seed trade regulations:



Where does this leave the regions' smallholder farmers?

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The *Status Report on the SADC, COMESA and EAC harmonised seed trade regulations: Where does this leave the region's smallholder farmers?* researched and written by Linzi Lewis and Sabrina Masinjila of the African Centre for Biodiversity (ACB), provides a brief background to the regional harmonisation processes and their current status, and offers a critique of these frameworks and their implications for smallholder farmers and their seed systems within the agricultural, socio-cultural and ecological contexts of the region.

The aim of the seed harmonisation processes is to facilitate trade in seed across national borders and expand the corporate seed markets in the three overlapping regions. These regulations focus solely on the formal seed sector, both neglecting and prohibiting the historical and current role played by farmer-managed seed systems, which indisputably provide the majority of seed used in food production across the continent. The harmonisation efforts attempt to shortcircuit lengthy and costly variety testing and release processes that take place at the national level. Proponents of the seed regulations argue that this will facilitate greater availability of seed and will increase smallholder farmers' access to improved seed.

Harmonisation processes centre on three core aspects: variety testing, registration and release; seed certification; and phytosanitary measures. For the South African Development Community (SADC) and Common Market for Eastern and Southern Africa (COMESA) systems, once a variety is released in two member states, that variety can be included on the regional variety catalogues and will be deemed to be registered in all member states that have acceded to the respective harmonisation framework. The East African Community (EAC) requires a variety to be released in one member state only, before it can be made available for regional trade in all the countries in the EAC. The costs of registering a variety are very high; for example, COMESA's fees for registering a variety are US$ 400, its transfer fees are US$ 300 per country, and it requires an annual fee of US$ 200.[1]

The variety must then also undergo Distinctiveness, Uniformity and Stability (DUS) and Value for Cultivation or Use (VCU) testing before release and registration.[2] It is unclear how these tests can accurately determine the suitability of a variety's performance across diverse climatic and biophysical conditions for all the countries in that region. There are however, no mechanisms for redress by and compensation to farmers in the event a variety fails to perform, which is extremely worrying.

Strict certification standards create further barriers for farmer varieties and small-scale seed producers, barring them from entering the seed market. The high costs involved, the intensive labour demands, and the impossibly stringent and inappropriate international standards make it difficult to certify and trade farmers' varieties. Seed laws – be they regional or national – make it unlawful to market and trade seed that is uncertified, thereby criminalising the sale and even the exchange of farmers' varieties. In effect, this criminalises the very foundation of farmer-managed seed systems.

Registration and certification processes are administratively complex, onerous and expensive, making it unlikely that smallholder farmers or small-scale seed enterprises will be able to participate. We are witnessing the exclusion, neglect and criminalisation of farmers' seeds and farmers' seed systems, despite their indispensable role in the maintenance and production of

1. https://varietycatalogue.comesa.int/web/fillinghelp
2. **Distinctiveness** means that the variety is clearly distinguishable from any other variety whose existence is a matter of common knowledge.**Uniformity** means a variety being sufficiently uniform in its relevant characteristics, subject to the variation that may be expected from the particular features of its propagation. **Stability** means that a variety's relevant characteristics remain unchanged after repeated propagation, or in the case of a cycle of propagation, at the end of each such cycle. Value for Cultivation or Use (VCU) tests the performance of a new variety across multi-locations, to verify whether the variety has value to be released for cultivation.

agricultural biodiversity. Farmers use, and want continued access to, their own varieties, which have adapted over the years to their local agro-ecological conditions.[3]

The SADC Technical Agreements on Harmonisation of Seed Regulations – a guiding framework, not a legally binding tool – became operational in 2013, once two-thirds (i.e. 10 member states) of the SADC countries had signed the Memorandum of Understanding (MoU). Angola, Zimbabwe, Seychelles and Madagascar have yet to sign the MoU.

The SADC Seed Centre implements, coordinates and supervises the registration and development of the regional seed catalogue, and operates as the Secretariat to the SADC Technical Agreements.The Seed Charter, the Seed Centre's constituting document, was approved at the SADC Council in August 2017, along with the publication of the SADC Regional Variety Catalogue. In December 2015, USAID began its Feed the Future (FTF) Southern Africa Seed Trade Project, aiming to speed up the operationalisation of the SADC Technical Agreements. The FTF programme is targeting four countries: Malawi, Mozambique, Zambia, and Zimbabwe.

The COMESA Seed Trade Harmonisation Regulations were approved in 2014. While these are the newest regulations in the harmonisation seed process, they are proceeding more rapidly than the others. COMESA has been implementing the COMESA Seed Harmonisation Implementation Plan (COMSHIP), established in 2015, through its specialised agency, the Alliance for Commodity Trade in Eastern and Southern Africa (ACTESA), across its now 21 member states. Rwanda and Burundi have fully domesticated the COMESA seed regulations within their national seed laws, and Uganda, Kenya, Malawi, Zambia and Zimbabwe are all in the advanced stages of domesticating the seed regulations.

Currently the EAC does not have a finalised seed harmonisation framework, although a number of seed harmonisation processes have taken place since 1999. These include the regional harmonisation agreements in 2002 around: (i) variety evaluation, release and registration process; (ii) seed certification process; (iii) phytosanitary measures; (iv) plant variety protection; and (v) import/export documentation.[4] The draft EAC harmonised regulatory framework should have been submitted to the Sectoral Council on Agriculture and Food Security for endorsement by mid-2016, to have been ready for validation and adoption by December 2016. However, it is not certain how far the process of adopting the framework has moved.

SADC is the only regional economic community to provide for the registration of landrace varieties. This provision opens new avenues to make farmers' varieties part of the commercial seed sector and eligible for regional trade. Traditionally, landrace varieties are not able to pass formal DUS and VCU tests, due to their heterogeneity and adaptability. How this system will be operationalised, and who will ultimately benefit, remains to be seen.

Farmers require access to good quality seed in sufficient quantities at the right time, but it is questionable whether the formal seed systems, which favour large-scale seed corporations, will achieve this in Africa; particularly across Eastern and Southern Africa, where the formal seed sector supplies only 10–20% of the seed used by smallholders. Harmonisation processes seem to disregard the undeniable fact that the majority of seed is produced locally by farmers, who manage their own seed supply through farmer-managed seed systems, with

3. ACB. 2016. *Farmer-managed seed systems in Morogoro and Mvomero, Tanzania: the The disregarded wealth of smallholder farmers*. African Centre for Biodiversity, Johannesburg, South Africa. https://acbio.org.za/wp-content/uploads/2016/08/Tanzania-Field-Report.pdf
4. Waithaka, M., Nzuma, J., Kyotalimye, M. and Nyachae, O. et al. 2011. *Impacts of an improved seed policy environment in Eastern and Central Africa*. ASARECA. https://www.asareca.org/sites/default/files/publications/Impactsofanimprovedseedpolicyenvironment.pdf

around 90% sourced from informal systems, of which 60% comes from local markets.[5]

The orientation of harmonised seed regulation systems is embedded within the green revolution ideology, which promotes large-scale agribusiness as the solution to seed insecurity in Africa. This approach is deeply flawed and fails to ensure a long-term solution for the region. Clearly, the harmonisation of seed laws across the region will favour the expansion of the formal seed system and the spread of corporate seed, while at the same time further neglecting and marginalising farmer varieties and farmer-managed seed systems, thus threatening agricultural biodiversity. This will have major implications for the availability of seed and therefore the future of food production across the continent. Civil society across Africa has long advocated for systems that support seed and food sovereignty, agricultural biodiversity and agroecology, as central to the future of African seed and food systems.

The recent outbreak of the Fall Armyworm caused devastation across much of sub-Saharan Africa, illustrating the failure of the phytosanitary control measures currently in place, which facilitated the movement of Fall Armyworm via grain imports from the Americas. It is still unclear how the new harmonised phytosanitary measures will deal with such issues, which have catastrophic consequences for farmers in the region.

The recently concluded discussions under the International Treaty on Plant Genetic Resources for Food and Agriculture have resulted in a call for contracting parties to review or adjust national laws that affect the realisation of farmers' rights; in particular those regulations concerned with variety release and seed distribution.

All the harmonisation efforts underway should therefore include provisions that guarantee the rights of farmers, especially of women farmers. This requires comprehensive and appropriate national and regional seed policies that acknowledge the small-scale farmers' role in ensuring adequate and available seed for local production, as well as protect agricultural biodiversity. African civil society should be involved in formulating comprehensive seed policies for farmer-managed seed systems, to ensure egalitarian, sustainable and thriving national and regional seed systems.

5. ACB. 2015. The expansion of the commercial seed sector in Subsub-Saharan Africa: Major players, key issues and trends. African Centre for Biodiversity, Johannesburg, South Africa. https://acbio.org.za/wp-content/uploads/2015/12/Seed-Sector-Sub-Sahara-report.pdf; McGuire, S. and Sperling, L. 2010. Understanding and strengthening informal seed markets. Experimental Agriculture 46(2): 119–136. https://seedsystem.org/wp-content/uploads/2014/03/Local-seed-markets.pdf

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