

A D I S C U S S I O N D O C U M E N T

# DRC's seed laws set to destroy small farmers' seed systems



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The African Centre for Biodiversity (ACB) is a research and advocacy organisation working towards food sovereignty and agroecology in Africa, with a focus on biosafety, seed systems and agricultural biodiversity. The organisation is committed to dismantling inequalities and resisting corporate industrial expansion in Africa's food and agriculture systems.

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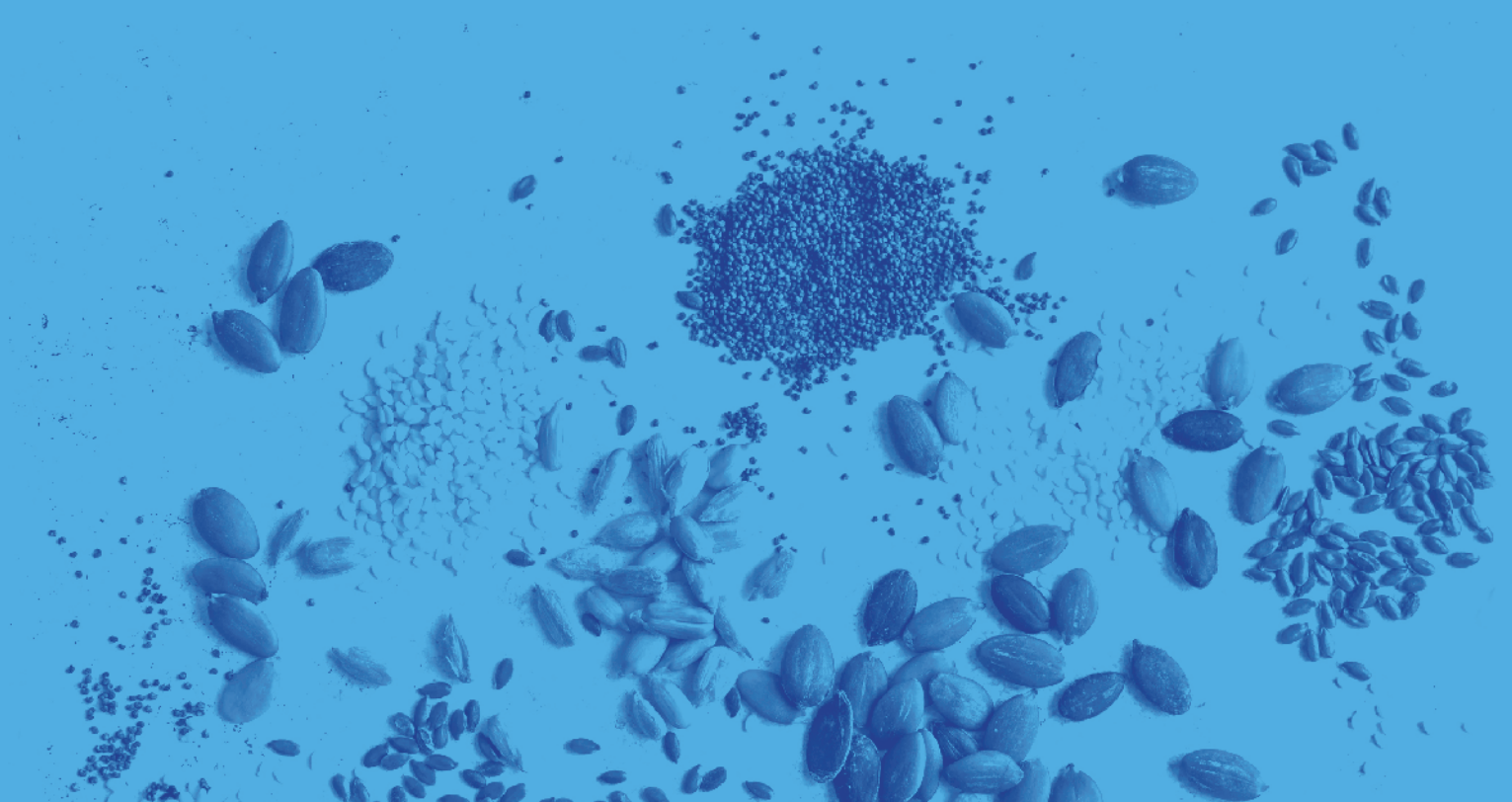
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# Acronyms and abbreviations

ACTESA	Alliance for Commodity Trade in Eastern and Southern Africa
AGRA	Alliance for the Green Revolution in Africa
ASARECA	Association for Strengthening Agricultural Research in East and Central Africa
COMESA	Common Market for East and Southern Africa
COPROSEM	Provincial Seed Council
DRC	Democratic Republic of Congo
DUS	Distinct, uniform, stable
FAO	Food and Agriculture Organisation
FMSS	Farmer managed seed system
INERA	National Institute of Study and Agricultural Research
ITPGFRA	International Treaty on Plant Genetic Resources for Food and Agriculture
NGO	Non-governmental organisation
OECD	Organisation for Economic Cooperation and Development
PASA	Partners for Seed in Africa
QDS	Quality Declared Seed
SADC	Southern African Development Community
SENASEM	National Seed Service
UNAGRICO	Union Nationale des Agriculteurs, Pêcheurs et Éleveurs du Congo
UNILU	University of Lubumbashi
USAID	United States Agency for International Development
VCU	Value for cultivation use
VPC	Vegetatively produced crops
WFP	World Food Programme





This briefing provides an overview of the seed systems currently operating in the Democratic Republic of Congo (DRC) and suggests how the Seed Bill may impact on farmer managed seed systems (FMSS), which remain the very basis for seed, food and nutrition security in the country. It also looks at the Provincial Decree of South Kivu's Provincial Seed Council as an example of how national legislation influences the provinces, where the impact of the proposed Seed Bill will be felt by smallholder farmers.





## Summary and key findings

The global seed/agrochemical industry is intent on expanding their seed and agrochemical market share in Africa and has embarked on an aggressive drive to replace farmers' complex and diverse seed systems with a feeble range of 'improved' corporate seed varieties. This is being done through a powerful, yet false, narrative that casts African agricultural systems as 'backward' and 'inefficient'; responsible for hunger and poverty and in need of modernisation. Investors in African agriculture are demanding that African governments craft and implement new draconian seed and intellectual property rights laws to attract private sector involvement in the seed sector and criminalise farmer managed seed systems (FMSS).

In the Democratic Republic of Congo (DRC), where the process of drafting a seed bill has been on hold for over a decade, the United States Agency for International Development (USAID) Feed the Future project is now putting money and energy into the development of new seed laws and establishing provincial seed councils to regulate the use of seed at provincial and village level.

Farmers' seed systems in the DRC are the lifeblood of the country, with less than around 4% of seed coming from the formal seed system (McGuire and Sperling 2016). Farmers use seed from their own stock and buy from their community and the local market, while a tiny fraction is bought from agro-dealers or received from development programmes. These locally managed FMSS are accessible, diverse and resilient, and are vital features in the DRC context, where food systems are constantly disrupted by conflict. However, the incoming Seed Bill seeks to replace or make these farmer seed systems

obsolete. The draft Seed Bill also aims to regulate the current chaotic behaviour of aid agencies in the country, the main purveyors of formal seed.

The Seed Bill is currently under consideration in Parliament. It is difficult to know how the text will be interpreted because many crucial terms are not defined. However, should it be interpreted in the strictest sense, and along the same lines that we have seen on the rest of the continent, it will sound the death knell for farmers' autonomy over their seed systems and for the vast agricultural diversity that farmers have created and stewarded.

Furthermore, Feed the Future is working to set up provincial seed councils, as provided for in the Seed Bill, which will give enormous power to seed companies to participate in policy-making and regulate local seed activities. For example, the South Kivu Provincial Decree radically limits who may participate in seed production and distribution and allows for the confiscation and destruction of uncertified seed, as well as providing for fines and jail time for those acting outside of the narrow confines of the new Seed Bill.

However, one mention of the importance of traditional seed varieties in the draft Seed Bill may signal the possibility for a softer interpretation of the Seed Bill, which recognises and protects FMSS, and for regulations to do the same. The lack of detail and definitions in the current draft potentially offer opportunities for definitions that exempt FMSS from the purview of this Act. The next challenge will be to deal with the provincial councils, which seem to be the real powerhouses and loci of control for the seed industry.



## Key concerns

- The Seed Bill and provincial councils valorise formal seed systems and paint FMSS as problematic, with there being no recognition of the already well established systems for seed (while traditional seed is mentioned, the system and the farmers that have conserved and maintained that seed in all its diversity is not).
- Should FMSS be dismantled by this law, the paltry seed portfolio on offer by the formal system cannot match what FMSS provide (nutritional diversity, livelihoods, fodder, medicine, shelter) fulfill the cultural and social functions that FMSS perform.
- In the strictest interpretation of the Seed Bill, the distribution of uncertified seed is a criminal offence, punishable by fines and subject to confiscation and destruction; and, at a provincial level, distributors may serve jail time. In essence, it criminalises the seed and food systems that are currently in operation.
- The power given to the private seed sector to engage in policy-making and in regulation and administration of seed activities, especially at provincial levels, is an affront to democracy and poses great danger to the exercise of farmers' rights, autonomy and well-being.



# Brief background

**The World Food Programme (WFP) (2020) reports that the DRC suffers from the second largest hunger crisis in the world, after**

**Yemen.** Twenty-five years of conflict and displacement has seriously affected people's ability to access their fields and to ensure food security, while 540 000 refugees and 4.5 million internally displaced persons struggle to survive (IFAD 2019). Furthermore, the tenth outbreak of Ebola in the country in 2018 claimed thousands of lives in North Kivu and Ituri provinces. An estimated 15.6 million people (of a population of 80 million) are severely food insecure and 3.4 million children are malnourished. The WFP (2020) estimates that only 10% of the DRC's arable land is cultivated and that at full potential, smallholder farmers could feed 2 billion people. Families are heavily reliant on their own agricultural practices and, on average, provide about 42% of their own food needs. The historical and recurring conflicts in the country have left governance systems extremely fragile and weak (IFAD 2019:iv).

McGuire and Sperling (2016) assessed FMSS in one site in the DRC. They found that 35% of seed planted came from farmers' own stock, 16.9% from a neighbour or relative and 44.6% was bought at the local market. Interestingly, the smallest farms (under 0.5ha) were more reliant on local markets for their seed (54.1%) while farms of 2ha and over relied on their own stocks for 77.3% of seed. This suggests that local markets are particularly important for relatively more vulnerable and resource poor farmers. Local markets, they report, are especially important for the provision of legumes and, further, more patronised by female-headed households, where women co-purchase household goods, such as soap, fish and peppers. Only 0.4% of seed came from the local agro-dealer, none from government, and 3.1% from non-governmental organisations (NGOs) and the United Nations. Regarding seed stock of vegetatively propagated materials including sweet potatoes, and dryland cereals such as

millet and sorghum, they found that farmers' own stocks provided as much as 80% across all country sites surveyed.

*In sum, from an array of at least nine possible provision channels, only two presently supply important quantities of seed to smallholder farmers: local markets and farmers' own stocks. Markets additionally stand out in terms of their importance for accessing legume seed. (McGuire and Sperling 2016:7)*

McGuire and Sperling's research shows very clearly that nutritional security was then, as it is now (and will be into the foreseeable future) based in farmers' own seed stocks, social networks and local markets, with the formal sector being insignificant. Further, their research shows that farmers paid for 51% of this seed, while only about 12% was gifted or exchanged, thus dispelling the long-held assumption of primarily widespread free exchange and sharing of seed. Sale of seed is common practice, even between neighbours, and criminalising this trade because this seed is not certified will have a huge impact on food and nutritional security and livelihoods. As there is no third party in these transactions, it is reasonable to expect regulation to happen directly between buyer and seller. Furthermore, requiring farmers' seed/varieties to meet industrial seed regulatory standards such as the distinct, uniform and stable (DUS) criteria will severely adversely impact on diversity, heterogeneity and adaptability of farmers' seed/varieties; the very characteristics that make them so valuable. Small scale/peasant seeds do not meet the DUS standards precisely because farmers' landraces and varieties have high degree of heterogeneity and are adapted to the environment they are developed in. Obtaining certification is also expensive and requires very particular expertise, thereby excluding family farmers from this process (ACB 2019).



# Current status of the formal seed industry in DRC

According to a 2019 USAID's Feed the Future report on commercial, legal, and institutional reform, "the enabling environment for seed in the DRC is characterized by an almost nonexistent legal framework to govern the sector" (USAID 2019:6). The report also notes that there is 10-year old seed bill that has been updated to align with the Southern African Development Community (SADC) and the Common Market for East and Southern Africa (COMESA) in terms of their seed harmonisation frameworks, and that was submitted to Parliament in 2018 for deliberation<sup>1</sup>. This process was delayed by the national farmers' union – Union Nationale des Agriculteurs, Pêcheurs et Éleveurs du Congo (UNAGRICO) – due to confusion about which law was under consideration<sup>2</sup>. UNAGRICO has been a key player in advocating for new seed regulations and has been active through the Alliance for Commodity Trade in Eastern and Southern Africa (ACTESA) and at SADC and COMESA meetings.

Feed the Future (2019) describes the formal seed sector as suffering from a dire lack of political will and budgets; lack of capacity to administer the regulations, from production through to distribution; and chaos and corruption in the donor sector, which, according to them, is the engine of the seed sector in the country.

Feed the Future reports that:

*In the absence of a seed law, the seed sector in the DRC is governed by the Technical Regulations for the Production, Control, and Certification of Seeds of the Major Food and Vegetable Crops of 1997, which are now in their third revision*

*and have been harmonized with SADC seed procedures for all areas except seed import and export. SENASEM (the seed inspectorate) also developed a manual of procedures, the National Seed Service Manual of Procedures (Procédures Administratives et Techniques des Prestations des Services du SENASEM [PATPS]), for variety registration; seed certification; and the accreditation of laboratories, samplers, analysts, and seed inspectors, which were adapted from SADC seed center models with the support of the World Bank. However, SENASEM lacks the organizational capacity and financial and technical resources to apply the procedures at this time. (Feed the Future 2019:7)*

Basically, there is no regulation of the formal seed industry and no mechanism or institutional capacity for variety registration and seed certification testing and oversight. There is also no plant breeders' rights legislation in place that we know of. Not surprisingly, the formal seed industry is largely absent; the presence of private seed companies is relatively new in the country, with the first local private seed companies launched in 2014 under the Alliance for a Green Revolution in Africa's (AGRA's) project, Partners for Seed in Africa (PASA) (Mabaya et al. 2017).

The structure of the formal seed sector in the DRC is different from that in other Eastern and Southern African countries, in that seed is produced mainly by a combination of individual seed producers, seed associations, and a few seed companies (Mabaya et al. 2017). In 2017 it was reported that during the 2016 growing season, a total of 73 seed

1. SADC Technical Agreements on Harmonisation of Seed Regulations is not legally binding but a guiding framework. It became operational in 2013. COMESA Seed Trade Harmonisation Regulations, approved in 2014, is binding on members. Implementation of the COMESA Seed Harmonisation Implementation Plan is happening through ACTESA.
2. Apparently, DRC's parliament members confused the Seed Law with the Agricultural Code, leading to objections from UNAGRICO. (The union did not have a problem with the content of the Seed Law.)



producers focused on at least one of the four focus crops – maize, rice, beans and soybean (Access to Seeds Index 2019). Of these, 11 were seed companies, 25 were seed associations, and 37 were individual seed producers. Most of the seed producers sourced foundation seed locally, primarily from the National Institute of Study and Agricultural Research (INERA) and the University of Lubumbashi (UNILU), both of which work closely with other agricultural institutions and projects, such as the CGIAR institutions, International Institute of Tropical Agriculture (IITA) and Harvest Plus, and AGRA, under the PASA project. Reports of low seed quality and circulation of fake seed are attributed to the lack of seed legislation and administrative capacity (Mabaya et al. 2017). In 2017, 14 breeders for the priority crops were employed by INERA and UNILU. Breeders for foreign-owned companies in the country are stationed in other countries in the region, while local seed companies and associations have no breeders of their own.

In the DRC, the seed aid/relief market is significant, with the main players being United Nations agencies (such as FAO and WFP) and aid/relief-oriented NGOs, such as Caritas, the International Committee of the Red Cross, the Norwegian Refugee Council and World Vision International. These organisations source seed by issuing bids to private suppliers.

*A key challenge in the relief market is that the seed supplied to relief agencies (and subsequently to smallholder farmers) tends to be low quality, in part because these agencies pay relatively low prices for the seed: the price of relief seed is between USD 0.6 and USD 0.9 per kg, as compared to the market rate of about USD 1.50 per kg. As a result, few seed companies respond to the bids. Instead, the successful bidders usually source grain from the grain market and supply it as seed to the NGOs. (Mabaya et al. 2017:4)*

According to Feed the Future (2019), cross-border trade in seed through both informal and formal channels plays a central role in the supply of improved seed, with import levels for vegetable seed close to 100% and 80% for maize seed. It seems that this seed moves across the border with little regulation or monitoring. Seed imports are issued with general plant import permits, which do not require that the applicants to meet specific seed standards or confirm that the variety is listed in national or regional seed variety catalogues. Reportedly, in the absence of a clear legal mandate for imported seed quality control, no sampling or testing is conducted at the border; verification of seed imports includes only a review of paperwork (Feed the Future 2019).



# DRC's Seed Bill

The Seed Bill has been drafted for the express purpose of “advancing the Green Revolution” model of agriculture (Democratic Republic of the Congo, undated). It is designed to meet the “commitments made to international, regional and sub-regional organizations of which it is a member, in particular the Organisation for Economic Co-operation and Development (OECD), the COMESA, the SADC and the Association for Strengthening Agricultural Research in Eastern and Central Africa (ASARECA)” (Democratic Republic of the Congo, undated). Its purpose is to “regulate the production of quality seeds and their marketing throughout the national territory” and applies to all seeds and seedlings of plant species and other reproductive material produced and marketed in the DRC. It excludes biosafety (which deals with genetically modified organisms) and does not deal with plant variety protection.

The Seed Bill sets out general provisions and two consultation platforms for seed sector stakeholders (the National Seed Council [CONASEM] and the provincial seed councils [COPROSEMs]). It creates a national variety catalogue and deals with production and marketing and certification as well as import and export. Finally, it also provides for penalties in the event of non-compliance. Regulations/ secondary legislation are not at hand and may still have to be drafted. The role of the seed industry in governance is inscribed in the national and provincial legislation, particularly at provincial level, where the industry is given a powerful and pivotal role.

In the Seed Bill, there is one reference to traditional varieties, but this is not operationalised in the text or mentioned again in any way:

Article 2.a: Traditional varieties constitute a heritage for national plant genetic resources. They must be managed in the interest of the nation and in accordance with international conventions ratified by the Democratic Republic of Congo. The varieties created are the breeders' property.

The DRC is a Party to the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGFRA), so this may refer to obligations under that Treaty to protect and promote farmers' rights (which go beyond the rights to save and exchange farmers' seed as opposed to 'varieties'). Perhaps Article 2.a opens the door to interpret the Seed Bill as applying only to formal, certified seeds and not to seed in circulation through FMSS. Regulating activities within the formal sector, while leaving the vital and currently functioning systems intact would be a sensible way forward, including providing safeguards for farmers to exercise their rights.

However, the likely purpose of Article 2.a is to offer farmers' seed as open access in the interests of the nation, rather than to protect farmers' seed and food systems. Further, Article 2.a refers only to 'varieties', whereas farmers' seed comprises of populations, varieties, landraces, farm-saved seed, seed that may be purchased, and so forth. The implication is that only seed defined as a variety within the interpretation of the Seed Bill will be the property of the breeder. However, if the term “traditional varieties” is interpreted broadly, then all the seed in farmers' seed systems cannot be accessed and/or appropriated without free prior informed consent being given on mutually agreed terms and benefit sharing arrangements are put in place.

## **Criminalisation of farmer managed seed**

**The Seed Bill essentially renders all current seed practices in the DRC unlawful and farmers may face fines of up to 20 000 francs, while their seed may be confiscated and/or destroyed.**

A great difficulty throughout the text is the lack of definitions for vital terms such as “distribution”, “sale” and “marketing”, making it difficult to discern which farmers and which seed fall within the purview of this law. However, given McGuire and Sperling's findings that farmers are already buying seed at local

markets from other farmers, it is likely that these transactions are considered sales that will be regulated by these laws and therefore rendered criminal activities.

Examples of articles prohibiting trade in uncertified seed include:

- Any distribution by natural or legal persons of uncertified seed shall be prohibited throughout the national territory. (Article 39)
- Only varieties of the plant species listed in the Official Catalogue may be produced as certified seed within the national territory. (Article 2.f.)
- Only certified seed may be marketed within the national territory. (Article 30)<sup>3</sup>

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The prohibition of the production, distribution, marketing and sale of uncertified seed is repeated in a number of different ways in many clauses throughout the Seed Bill. However, under the penalties section, Article 41 specifically states that selling seed that is not registered in the National Catalogue of Species and Varieties “on a professional basis” is an offence. This is the first time in the text that the phrase “on a professional basis” is mentioned, and yet again, there are no definitions to assist us in

interpreting the intended meaning and scope of this phrase.

Perhaps this creates some opportunity in the regulations to define what constitutes “professional” sale, to exempt seed exchange and local, informal, solidarity and circular market sales/trade. While Article 30 prohibits “any distribution of uncertified seed”, it may be possible to argue that farmer managed seed should not be included here. It is unclear if traditional seeds as mentioned in Article 2 may be exempt; and whether it can be argued that the Seed Bill should apply only to the formal sector, with a recommendation that FMSS and traditional/farmers’ seed be catered for under a different law dealing with the full implementation farmers’ rights.

The Provincial Decree of South Kivu (see below) goes further than the national law in describing who may participate in legal seed activities, and thus in criminalising farmer seed. Article 11 provides that “anyone who is not a member of COPROSEM (the provincial council) who buys or sells seeds, is liable to a three-month to two-year jail sentence and to a fine ranging between 100 and 10,000 Fiscal Francs or is liable to one of these penalties only”. According to Article 10, only seed producers, seed multipliers and seed merchants or agro-dealers who are members of COPROSEM and approved by the National Seed Service (SENASEM) are entitled to market seeds.

The provincial councils are where United States Agency for International Development Mission to the DRC (USAID/DRC) Feed the Future project seems to have huge clout in convening meetings and drafting such outrageous legislation. At a COPROSEM meeting in South Kivu in February this year, a participant asked a pointed question, “Why should COPROSEM be both a judge and a party, given that its organizers are seed multipliers?” (COPROSEM 2020).

Other provisions in the regulations that may preclude farmers from operating in the seed sector include: requirements for seeds

3. Variety registration is currently governed by procedures adapted from the SADC seed centre models with the support of the World Bank, which includes submission of DUS and value for cultivation use (VCU) test results. However, there is currently no capacity for variety registration or conducting VCU, it seems.



to be labelled with the national logo and Latin name of the species, information on repackaging and re-labelling and testing and expiry dates; and rules for seed packages to be sealed and detailed registers to be kept of seeds that have been sold.

### **Quality declared seed**

Article 4.6 deals with quality declared seed (QDS). This provision is likely to be in line with SADC provisions on QDS, which require seed to meet industrial standards – DUS and VCU – for variety release, but allow a shorter cut for seed multiplication and certification. This provides a semi-formal type of seed system, for the participation of smallholder farmers in the multiplication of improved open pollinated seed varieties. The QDS system attempts to meet the challenges of seed

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shortages and provision of improved seed varieties to smallholder farmers, by allowing farmers to produce seed on their own farms, declare the quality of their own seed, and sell their seed to nearby farmers. The national seed certification agency may occasionally inspect the QDS of smallholder farmers.

Unlike certified seed, QDS seed is affordable, readily available, and can be saved and replanted in the next season (ACB 2018). Given that smallholders, individual contract growers and seed associations are currently the main producers of seed in the DRC,

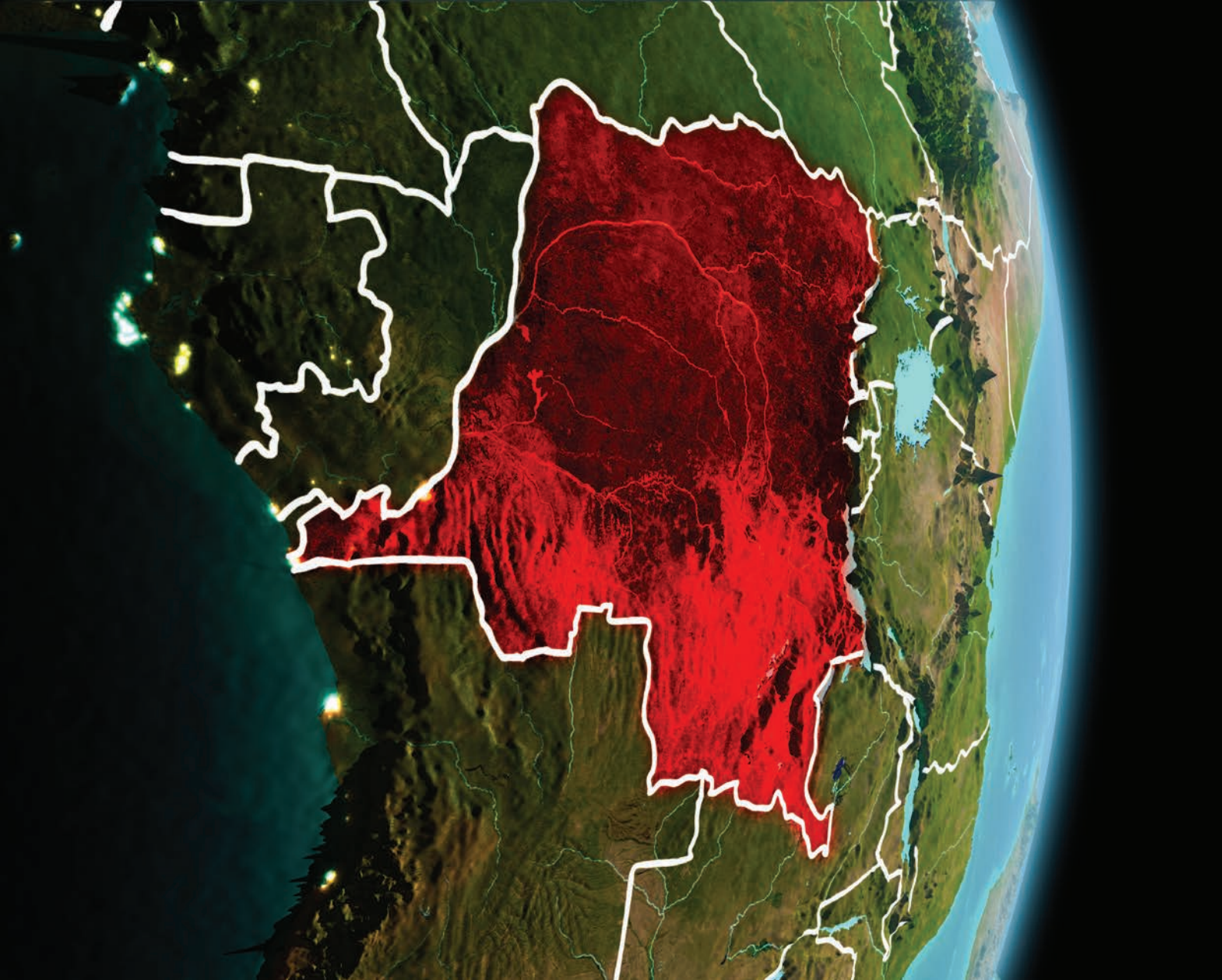
this easing of certification standards may provide some benefits to those farmers who participate in this scheme. However, QDS are typically aimed at only a handful of seed producing farmers and at a miniscule number of crops and does not include the seed needed by farmers for multi-faceted purposes. It should not and cannot be a replacement for FMSS and the full realisation of farmers' rights.

### **Seed Sector Support Fund**

Article 12 of the Seed Bill establishes a Seed Sector Support Fund. Its purpose is to finance certification, quality control and promotional activities, in the broadest sense of the term. The organisation and operation of the fund are determined by presidential decree. (In the South Kivu Decree, fines that are meted out will go into this fund.) Vested interests have had exceptional opportunity to shape this Seed Bill and these public funds funnelled to support essentially private activities is worrisome, especially in the absence of financial and other support for small holder farmers to deal with a wide range of shocks. Given the prominence of farmer managed seed systems in supplying the nutritional and livelihood needs of smallholders, such a fund should be prioritised.

Article 21, which deals with packaging and labelling, also stipulates that individual seed breeders can benefit from compensatory fee modalities provided by the national seed authority. The compensatory fees provide a liability waiver to the breeder in the event of any prejudice assumed in the country in which the seeds were sold and places the State at the forefront of this protection.

In this case, the primary responsibility accrues to SENAEM, which takes part in selecting multiplier fields and in the validation of seeds in the field. It is also responsible for providing the basic seed and monitoring the seeds being multiplied. SENAEM also takes part in harvest operations, after which the organisation delivers a certificate to certify the seed that was produced by a farmer-multiplier.



## Provincial Decree of South Kivu

The Provincial Decree of South Kivu illustrates the extent to which Feed the Future and other vested stakeholders can use their close contact to authorities and other local actors to great – and fairly disturbing – effect. The preamble to the decree notes the complete chaos of the formal seed sector at local level where individuals in the seed sector carry out their activities:

*“in an amateur, improvised and opportunistic manner, which has led to the disarray of the seed production and/or distribution circuits, and resulted in seed deprived of any certification of quality, on the one hand, including*

*the negative impact this has had on agricultural production and the impoverishment of the real seed actors it has led to on the other hand” (South Kivu Province n.d: 1), leading to the Provincial Council (COPROSEM) needing to clean up the sector, co-ordinate the implementation of policies and “defend the interests of the stakeholders”.*

In the decree, COPROSEM is highlighted as a consultation (multi-stakeholder) framework between public and private sectors. COPROSEM is to be financed by its members, provincial government and international and national partners interested in promoting



and supporting the seed sector. The seed industry is thus given a direct line into seed governance, policy and decision-making.

The president of COPROSEM's co-ordinating body is the provincial agriculture inspector, with both the first and second vice presidents coming from the private sector (an elected representative of the agri-multipliers and a representative of major agricultural dealers). The General Assembly consists of seed companies, agri-multipliers, farmers' organisations, research institutions, universities and technical and financial partners. COPROSEM is devolved to territorial level, where each territorial council will consist of the territorial agriculture inspector with two farmer representatives, vice presidents and a rapporteur.

It is not clear how the provincial and territorial bodies relate to each other or what powers the territorial councils have within this structure. It is also not clear if there is any weighting within the members of the General Assembly or what powers they have within the structure. It is also unclear how one becomes a member of the South Kivu COPROSEM. However, COPROSEM has great power – Article 9 states that “Activities of any kind, including the awarding of public or private contracts in the seed sector, are valid only after the Provincial Seed Council has given its assent”. Further, only seed producers, seed multipliers and seed merchants or agro-leaders who are members of COPROSEM and approved by SENASEM are entitled to market seeds. A fine of between 100 and 10 000 francs and a three-month to two-year jail sentence, or either of the two sentences, can be imposed.

COPROSEM powers extend even further, including to what seed may be imported: anyone who sources seeds abroad, “except in instances where the need for seed is not met by local producers, without obtaining the prior favourable opinion of COPROSEM, after examination of the relevant specifications, shall be punished by a fine ranging between 30,000 and 100,000 FF”.

COPROSEM's powers include:

- Promoting seed sector activities and ensuring the protection of stakeholders' interests;
- Mapping the actors working in the seed sector;
- Creating awareness of the legal instruments regulating the seed sector;
- Conducting studies to identify the needs relating to basic seeds;
- Formulating and sending proposals to decision-makers relating to the policies and orientations underpinning an improved development of the seed sector;
- Improving the quality of services provided by the actors involved in the sector; and
- Collecting the grievances of the operators intervening in the seed sector and supporting them with getting positive outcomes to their grievances.

In the absence of national political will to move seed legislation forward, the provincial seed councils seem to be an important focus and locus of influence for Feed the Future, the private sector and other stakeholders.

# Conclusions and recommendations

Food and nutritional security, as well as the array of multifunctional demands that agriculture needs are currently based almost entirely on FMSS in the DRC. The commercial or formal seed industry is currently supplying a negligible amount of seed to farmers, for a handful of crops, with limited varieties being available. Much of this seed supplies the emergency seed aid industry and development programmes. These laws are wholly inappropriate for FMSS, and, if applied, will ultimately destroy this seed sector in the DRC, which is the very system that is currently providing food for the nation.

Given that farmers are already selling seed from their systems, it is important to ensure that this seed be exempted from certification and from the provisions of the legislation. Further to that, any seed law must recognise farmer seed and farmer seed systems, and provide adequate safeguards for the full implementation of farmers' rights in discreet law on farmers'

rights. In this regard, the current Article 2.a should be substantially redrafted.

Close attention needs to be paid to the formation of provincial seed councils, and private sector power in these councils must be challenged. The legislation emanating from these councils seems to be especially draconian and undemocratic, with the private sector being given important executive and administrative roles.

It must also be noted that these laws are influenced strongly by regional seed harmonisation frameworks and obligations and the strong forces that are shaping new seed regimes on the continent. While no plant variety protection laws or biosafety laws have yet been drafted, these processes are slated to begin in the near future and need careful monitoring, particularly any moves to base such new PVP laws on UPOV 1991.



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