



Technical and Financial Proposal

Study to Review Domestication Processes of SADC
Technical Agreements on Seed Harmonization in HaSSP
Project Countries

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1. INTRODUCTION

The Harmonized Seed Security Project (HaSSP) is a sub-regional 4 year project being implemented by the Food, Agriculture and Natural Resources Policy Analysis Network (FANRPAN). The project aims to, amongst other things, facilitate the domestication of SADC Technical seed-related Agreements on Seed Variety Release, Seed Certification and Quality Assurance, and Quarantine and Phytosanitary Measures for Seed in 6 pilot countries in the region. These countries are: Malawi, Mozambique, Swaziland, Tanzania, Zambia and Zimbabwe. The project is currently in its second half of implementation.

Domestication of SADC legal instruments is inherently a legal process. It entails establishing the SADC legal regime on seed laws as a basis for creating harmony between national legislation on seeds. The main objective of harmonizing these laws is to foster an even, level and enabling environment that facilitates seed trade between countries in the region. The reverse scenario is what currently obtains; where countries have seed laws that contain different and at times conflicting approaches and standards on seed variety release, seed certification, and quarantine and phytosanitary measures. Such a fragmented legal framework inhibits the free movement of seed between countries in the region.

The HaSSP project, as noted above, is predominantly concerned with creating this harmony. However, in order for the project to be effectively implemented, it is pertinent to establish a baseline of what it means to ‘domesticate’ regional instruments in the specific project countries. In the same context it is also important to know how the HaSSP Country Node Teams have progressed thus far in domesticating the SADC Agreements, in order to assess such progress against what should be done. Answering these broad questions is not only significant for purposes of effectively monitoring and evaluating project activities at country level; but it is also important to respond to any challenges that project country teams may face in achieving the desired goal in the remaining 2 years of the project. In other words, a baseline study on country-specific domestication processes and practices is an essential tool for ensuring that national domestication processes are properly conducted in the project countries.

This proposal outlines how the Centre for Applied Legal Research (CALR) intends to conduct a baseline study to answer these broad questions. It specifically outlines the

methodology and the research questions that will be form the basis of the study and the associated financial costs.

2. METHODOLOGY

The methodology that will be adopted in undertaking the study is two-pronged. The first component consists of a desk review of primary and secondary sources of literature on the subject. This will entail examining the legal systems of each of the 6 countries particularly on agricultural laws and policies relating to seeds. It will also involve investigating the standard national domestication/legal reform processes or practices in the 6 pilot countries. The desk review will rely on various sources of literature, namely; policy and legislative documents, books, peer reviewed journal articles, papers and ‘grey literature’ on the subject matter. The literature will be sourced from HaSSP Country Nodes, Ministries of Agriculture and Justice in the 6 countries, university libraries and on-line sources.

Because a critical part of the research focuses on assessing the status and progress of the country nodes in aligning/domesticating the SADC Agreement; CALR will officially engage the country nodes, national task teams and HaSSP Steering Committees in the 6 countries. This engagement, which forms the basis of the second component of the research methodology, will facilitate (a) the conducting of structured interviews (field surveys) with key individuals in these countries. The interviews will be structured to obtain information regarding the various stages each country is currently at in domesticating the SADC Agreements; and the challenges being faced by each project country. The survey will also be used to validate the desk review findings on the standard domestication process or practice in each country. This will involve key informant interviews with government representatives from the Ministries of Agriculture and Justice in the 6 countries.

3. RESEARCH ACTIVITIES

3.1 Desk Review

The desk review will entail (a) reviewing the legal systems and laws in the 6 countries and identifying the relevant laws/instruments that will require reform to align with the SADC Agreements; (b) assessing and establishing the standard processes or practices of domesticating and reforming laws that are followed in the 6 countries; and (c) evaluating the typical challenges that are ordinarily faced in domesticating and reforming laws in the 6

countries; (d) identifying examples and case studies of previous domestication processes in the 6 countries, and distil best practices from them.

3.2 Survey

The survey will entail: (a) Designing and administering questionnaires or a check list of questions on the status and progress of the current country nodes, national task teams and HaSSP Steering Committees in relation to domestication under the HaSSP project; or alternatively, conducting country visits to the 6 pilot countries to assess the status of domestication. The questionnaire will focus on obtaining information on the challenges being faced by project countries in facilitating the domestication/reform process; (b) Conducting key informant interviews with government officials (mainly Ministries of Agriculture and Justice) in the 6 countries to obtain validate the desk review findings the standard domestication process followed by the countries

Study's Focus Areas and Tools Used

	Standard National Domestication Processes and Practices	Status of Country Progress in Domestication
Literature Review	×	
In depth Interviews (through questionnaire or check list of questions)		×
Key Informant Interviews	×	

4. RESEARCH QUESTIONS

Within the general framework outlined above, the main but non-exhaustive research questions include:

4.1 Standard National Domestication/Reform Processes

(a) What is the nature of the legal system existent in each of the 6 countries?

- What is the legal and jurisprudential history forming the basis of the national legal system?
- How is legislation classified and administered in the country?

- What laws, legal instruments or policies regulate variety release, seed certification, and quarantine and phytosanitary measures in the country?

(b) What is the standard domestication process/practice in each of the 6 countries?

- What are the stages or steps typically followed in legislative reform processes in the country?
- Which national institutions are typically responsible for facilitating agriculture-related legislative reform processes in the country?
- What are the roles and responsibilities (including the specific key actors) of these institutions in facilitating reform processes in the country?
- Is there a role of non-State actors such as industry in the legal reform process? If so, what is the role and limitations of such actors?

4.2 Status of Domestication in HaSSP Countries

What is the status of legislative alignment (domestication) in each of the 6 countries to date?

- What stage in the domestication process have the country reached?
- What outputs (i.e. substantive policy documents) have been produced thus far?
- To what extent have these outputs been produced with the conscious participation of the relevant government institutions?
- What measures have been taken to institutionalize the project-led domestication process within government (i.e. within the context of the standard domestication process or practice ordinarily followed by government)?
- Are there any challenges being faced by the country nodes, national task teams and HaSSP Steering Committees in facilitating the domestication process?

4.3 Recommendations on Way Forward

How can country nodes address the challenges they face in domestication?

- Are there best practices from the project countries or elsewhere that can be used as possible mechanisms for addressing challenges being faced in the countries?
- How can the best practices be adapted and used to address country-specific challenges?
- Can the domestication process be expedited? If so, how can best practices distilled from past legal reform experiences be used to expedite the process?

- What is the appropriate ‘road map’ to be used by each country to facilitate and expedite the alignment process?

5. Budget and Outputs

The study will be conducted within a period of 40 days. The Centre will utilize all its resources and staff during this period to finalize the study.

Activity	Staff Time Days	Centre Rate (USD) ¹	Cost	Outputs
Desk Review a) Review of legal systems and laws in the 6 countries and identifying the relevant laws/instruments b) establishing the standard processes or practices of domesticating and reforming laws that are followed in the 6 countries; c) evaluating the typical challenges that are ordinarily faced in domestication d) identifying examples and case studies of previous domestication processes in the 6 countries, and distil best practices from them.	20	800	16,000	Desk Review Report of Narrative and Flow Charts (outlining the process) on Standard Domestication Processes in the 6 HaSSP countries
Survey a) Designing and administering questionnaires/check list of questions on the status and progress of the current country nodes in relation to domestication under the HaSSP project b) Key informant interviews with Ministries of Agriculture and Justice in the 6 countries to validate desk review findings c) Compilation and Analysis of Information received	10	800	8,000	a) Report on Country Progress and Status on Domestication b) 2 nd Report on Standard Domestication Processes in the 6 countries
Consolidation of Findings and Analysis	-	-	-	Final Report on Domestication Processes in the

¹ The Rate of USD 800/Day is the standard rate used by CALR when utilizing all its resources and staff on a project. Evidence of this rate (charged on previous projects) is available and can be produced upon request

				HaSSP Countries
Administration Costs	-	-	1,000	
a) Communication (Telephone Interviews)				
b) Contingency budget for country visits (where they are necessary)			Determined by FANRPAN	
TOTAL			25,000	