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Bio-fertilizer Regulation in Kenya: Legal Frameworks, Institutional and Capacity Limitations

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Back Ground

Regulation of fertilizers in Kenya involves multiple agencies. The Fertilizers and Animal Foodstuffs Act, Cap 345, under The Ministry of Agriculture, Livestock and Fisheries (MOALF) State Department of Livestock was passed to regulate the importation, manufacture and sale of agricultural fertilizers and animal foodstuffs and substances of animal origin intended for the manufacture of such fertilizers and foodstuffs, and to provide for matters incidental to and connected with the foregoing. In this act, the term "fertilizer" is defined as any substance or mixture of substances which is intended or offered for improving or maintaining the growth of plants or the productivity of the soil, but does not include manure, compost, wood ash, gypsum or refuse when sold in its original condition and under the same name, nor does it include organic fertilizers, other than lime. This law has had its deficiencies in ensuring effective regulation of the fertiliser claimed products including biofertilisers.

Growing Interest

The use of biofertilisers has gained popularity as shown by the import requests received by Kenya Plant Health Inspectorate ervice (KEPHIS), working under the Kenya Standing Technical Committee on Imports and Exports (KSTCIE).

A farmers field of soybean in Western Kenya planted with rhizobium inoculant.

KEPHIS, as a secretariat to KSTCIE, facilitates the process of risk assessment before introduction of live organisms. These include live biological controls, bio- fertilizers, bio-stimulants, organic fertilizers, their products and other regulated articles. Once risk assessment is complete, products approved for introduction are referred to relevant research institutions for efficacy or registration. KSTCIE constitutes public, private agencies of which the public agencies include; Pest Control Products Board, Kenya Agriculture and Livestock Research Organisation, Kenya Wildlife Service(KWS), National Environmental Management Organisation (NEMA), National Museums of Kenya (NMK), Directorate of Veterinary Service-State Department of Agriculture, universities among others.

This role is efficiently executed by KEPHIS mainly because of their mandate under the Plant Protection Act, CAP 324, but not without challenges.

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Challenges

The legal mandate to regulate biofertilisers among the other mentioned products is not available. As a result, a streamlined structure to ensure consistency in regulating these products in matters quality and market place monitoring is not available. Because of this, KEPHIS has managed to invest a section of their resources towards regulation of these products but still has constraints especially with having a laboratory for testing the products` identity, quality, safety and efficacy.

Inadequate penalties to defaulters of the set interim measures have caused regulation of these products become a problem resulting in fake, substandard products in the market. This is despite the work done by Kenya Bureau of Standards in conjunction with KSTCIE to develop and review the Biofertiliser and Organic fertilizer standards. These spell out the general requirements for a biofertiliser (labeling, packaging) as well as the specifications of different organism based biofertilisers.

Efforts by the Ministry of Agriculture, Livestock and Fisheries (MOALF) have been made with the development of the draft biofertiliser and soil conditioners bill remaining in draft since 2006.

A need for culture preservation centers to serve as reference banks for the biological material both locally collected and imported.

Current Progress

Several measures to alleviate some of these challenges were proposed, and action taken by KEPHIS under KSTCIE. These among other, include the development of biofertilizer and related products interim measures which would be presented as registration guidelines. The registration guidelines stipulate the processes involved in importing, risk assessment, registering, distributing and monitoring of biofertilizer products. It however is silent on the penalties for non compliance since it is not legally supported.

Standard operating procedures (SOPS) for sampling, laboratory, greenhouse and field safety, quality and safety testing of biofertilizers have also been developed under the same support..

It is however important to realise that development of an interim structure would only last for a while. It is necessary to work in haste to develop a policy that would encompass all soil fertility products. A special emphasis to biofertilisers should be made as the products are sensitive to handle and varied in their effectiveness and safety.

Way Forward.

With the efforts by KSTCIE to implement the guidelines to improve regulation of biofertilisers, it is important for the relevant arms of government to join hands and develop fertiliser related policy(ies). This should be advised by baseline study of the current challenges and the existing interim measure experiences so as to come up with a comprehensive policy that promotes good practices. Interventions by COMPRO II to support harmonisation of these regulations and policies across its partner countries (Kenya, Uganda, Tanzania and Ethiopia) have also been felt.

In the meantime, awareness will need to be enhanced on the registration guidelines so that all stakeholders support its implementation. Processing of applications willingly brought to KSTCIE by responsible citizens should be well managed to ensure that the competitive advantage between them and the noncompliant operators is to the minimum.

Accreditation/ approval of laboratories for quality, safety and efficacy testing of biofertilisers should be enhanced to support provision of safe, efficacious products to the Kenyan Market.

The COMPRO II project is managed by the International Institute of Tropical Agriculture (IITA) and currently covers Ethiopia, Kenya, Tanzania, and Uganda in East Africa Ghana and Nigeria in West Africa). Objective 3 of the project aims to institutionalize and strengthen regulatory environments for commercial products including bio-fertilizers and bio-pesticides. This objective is led by African Agricultural Technology Foundation (AATF). The project is supported by Bill & Melinda Gates Foundation.