

# REVIEW OF NIGERIA AGRICULTURAL SEED ACT AND PROPOSED AMENDMENTS

**A Report of the Seed Law Review Committee**

**(MAIN REPORT)**



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## LIST OF ACRONYMS

|         |  |
|---------|--|
| ABU     | Ahmadu Bello University                                  |
| ADP     | Agricultural Development Project                         |
| AFAN    | Apex Farmers Association of Nigeria                      |
| BS      | Breeder Seed   |
| DAIMINA | Developing Agricultural Input Market in Nigeria          |
| FAO     | Food and Agricultural Organisation of the United Nations |
| FASCOM  | Farmers Supply Company                                   |
| FCT     | Federal Capital Territory                                |
| FDA     | Federal Department of Agriculture                        |
| FGN     | Federal Government of Nigeria                            |
| FMARD   | Federal Ministry of Agriculture and Rural Development    |
| FMST    | Federal Ministry of Science and Technology               |
| FS      | Foundation Seed  |
| GMO     | Genetically Modified Organisms                           |
| GMS     | Genetically Modified Seeds                               |
| IARC    | International Agricultural Research Centre               |
| IAR     | Institute for Agricultural Research                      |
| IFDC    | International Fertilizer Development Centre              |
|         | International Institute of Tropical                      |
| IITA    | Agriculture  |
| IPR     | Intellectual Property Rights                             |
| MIR     | Marketing Inputs Regionally                              |
| MIS     | Management Information Systems                           |
| NABDA   | National Biotechnology Development Agency                |
| NACGRAB | National Centre for Genetic Resources and Biotechnology  |
| NAFDAC  | National Food and Drug Administration and Control        |
| NARI    | National Agricultural Research Institutes                |
| NASC    | National Agricultural Seed Council                       |
| NCA     | National Council on Agriculture                          |
| NCRP    | Nationally Coordinated Research Project                  |
| NGO     | Non-Governmental Organisation                            |
| NSCA    | National Seed Certification Agency                       |
| NSS     | National Seed Service                                    |
| OON     | Order Of The Niger                                       |
| PCU     | Projects Coordinating Unit                               |
| PQS     | Plant Quarantine Service                                 |
| PVS     | Participatory Variety Selection                          |
| R&D     | Research and Development                                 |
| RMRDC   | Raw Materials Research and Development Council           |
| SPFS    | Special Programme on Food Security                       |
| USAID   | United States Agency for International Development       |
| VAT     | Value-Added Tax  |
| VRC     | Variety Release Committee                                |

## **ACKNOWLEDGEMENT**

The Seed Law Review Committee would like to place on record its gratitude to the Honourable Minister of Agriculture and Rural Development; Mal. Adamu Bello and his able Honourable Minister of State and the Permanent Secretary to consider as worthy professionals to review the seed law of the country. We equally acknowledge their laudable initiative to have the seed law reviewed in order not only to make it private sector sensitive but also to propel agricultural productivity, enhancement of rural livelihood as well as ensure poverty alleviation and food security.

The role of the IFDC-DAIMINA Project under the able leadership of its Chief of Party, Dr. H.B. Singh and his Project Manager, Dr. Umaru Alkalari, CON in obtaining government approval for the review as well as their enthusiasm in coordinating and facilitating the work of the Committee is highly commendable and appreciated.

Our gratitude also goes to Mal. Baba Fada, Director of FDA for his unflinching support and encouragement throughout the duration of the review exercise. This made our work easier.

We equally thank the Director of Projects Coordinating Unit/National Coordinator of SPFS Dr. Salisu Ingawa for his invaluable contributions and support of the contribution of the FAO International Consultant on seed, Mr. Neville C. McAndrew, as well as his wealth of experience and professionalism put at our disposal went a long way in shaping our report.

Finally we would like to commend Miss Olubunmi Kolawole, Miss Blessing Ihediwa and Mr. Richard Kachikwu in particular for computer processing and the entire IFDC-DAIMINA staff in general for their assistance in facilitating our work.

## **EXECUTIVE SUMMARY**

### **1.0 BACKGROUND:**

The existing seed law: “National Agricultural Seed Decree, No. 72 of 1992”, was promulgated in 1992 by the then military government to support seed industry development in Nigeria. Due to a number of changes arising from the global dynamics of our agricultural development since enactment, supported by the findings of a “Seed Market Assessment Study” undertaken by IITA in 2002 and commissioned by IFDC-USAID Developing Agric Inputs Market in Nigeria (DAIMINA), the need for an urgent review of the existing seed act and policy changes was identified. Consequently, the IFDC-DAIMINA Project proposed and obtained the Honourable Minister’s approval for review of the existing seed act together with the policy changes by the National Seed Law Review Committee which was constituted by the latter.

### **2.0 JUSTIFICATION:**

Since enactment in 1992, the desired results in the seed industry failed to be realised partly due to structural and functional defects of the law, as well as non-harmonization implementation roles and modalities for other similar acts, notably the Crop Varieties and Livestock Breeds Decree 33 of 1987. Furthermore, the recent government policy thrust is in tune with global economic climate of deregulations and liberalization of markets in favour of greater private sector participation. There was therefore the need to incorporate necessary components in the Seed Law for minimizing the role of public sector and for promoting private sector participation as a matter of public policy.

### **3.0 TERMS OF REFERENCE:**

The terms of reference of the National Seed Law Review Committee are as follows:

- To examine the current seed policy guidelines with a view to identifying the areas of weakness that need reforms
- To study the provisions of the National Agricultural Seed Decree No 72 of 1992 and recommend necessary amendments where felt necessary

- Identify the strengths and weaknesses of the Seed Decree in addressing:
  - a. Seed multiplication and distribution (Breeder, Foundation & Certified) Seed
  - b. Certification and Quality Control (Field Inspection, Seed Quality Control, Law Enforcement, etc.)
  - c. Seed Industry Development (Development of private sector, variety release, registration of new seed enterprises, capacity building, etc.)
  - d. Adequacies or otherwise of provisions of incentives for the overall benefit of the seed industry.
- Propose appropriate strategies and incentives that will promote private sector participation in production and marketing of improved seed in Nigeria.
- Recommend ways of harmonizing the relevant provisions of Decree 33 of 1987 with those of Decree 72 of 1992.

#### **4.0 OPERATIONAL MODALITIES OF THE COMMITTEE:**

- i. Chief O.O.O. Ogunkua, Permanent Secretary, Federal Ministry of Agriculture and Rural Development (FMARD) did inauguration of the National Seed Law Review Committee on April 26, 2004 at Command Guest House, Asokoro, Abuja.
- ii. The main committee was split into two sub-committee after inauguration with each sub-committee to address one of the two areas of
  - a) Seed Policy changes
  - b) Review of the National Agricultural Seed Act No. 72 of 1992.
- iii. Reports of the two sub-committees were pooled, discussed and presented as one national report of the Seed Law Review Committee.



- iv. The national report was given to an international seed Consultant, Mr. Neville McAndrew hired by Food and Agricultural organization (FAO)/Special Programme for Food Security (SPFS) for review and advice.
- v. Both the national report of the Seed Law Review Committee and that of the International Seed Consultant were presented to a Mini-Stakeholders' Workshop at Rock-view Hotel on June 15, 2004.
- vi. The views expressed and decisions arrived at after the mini-stakeholders' workshop was incorporated into a draft final report by a sub-committee.
- vii. The sub-committee draft final report was then presented to the full "Seed Law Review Committee" on July 21, 2004 for final consideration and submission to the Honourable Minister for Agriculture and Rural Development.

## **5.0 STRUCTURE OF REPORT:**

Report is presented in two volumes, viz:

- i) Vol. 1: Main Report comprising Executive Summary, Introduction, Revised Seed Policy, Revised Principal Seed Act, Private Sector participation and conclusions/ Recommendation.
- ii) Vol. 2: Appendices made up of Records of Meetings, subsisting Seed Policy document, highlights on strategies for seed sub-sector development plan, Report of Seed Policy sub-committee, National Agricultural Seed decree No. 72 of 1992 and report of Seed Law Review sub-committee.

## **6.0 REPORT HIGHLIGHTS AND RECOMMENDATION:**

### **6.1 *Seed Policy:***

Derived from the current National Agricultural Policy of 2002, which emphasized greater private sector participation in the industry, other areas in the revised policy statements include:

- Need for improvement in the funding of National Agricultural Research Institutes (NARIs).
- The need for Intellectual Property Right (IPR) in the Seed Industry to be integrated into the IPR law currently in the Federal Ministry of Commerce.
- Provision of adequate manpower training and facilities for seed industry development.
- Adopting of appropriate pricing policy for all seed that will not thwart those of private sector.
- Genetically Modified Organism (GMO) technology to be provided for in the revised seed policy statement so as to accommodate provisions for genetically modified seed.
- Support for seed quality control, certification, seed extension and promotions.

## **6.2 *Review of 1992 Seed Act:***

In order to provide the necessary legal support for the revised Seed Act policy statements, the existing seed law needed to be amended. Committee felt strongly that the existing seed law would not need to be repealed; rather it should be amended since only minor modifications may be required to accommodate the major areas of policy changes. The suggested amendments in the seed law are:

- i) Establishment of a “National Agricultural Seed Council (NASC) as an institutional body corporate headed by a Director General who is charged with the responsibility of implementing policy decisions of a private-sector led Governing Board that is directly responsible to the Honourable Minister of Agriculture.

- ii) Composition of the Governing Board was amended with a tilt in favour of the private sector and other relevant operators in the seed industry. Number of “Board Members” was reduced from the original nineteen (19) to nine (9) with the proportion of 60%- 40% between private and public sector.
- iii) Functions of the Council were also re-orientated to make it more regulatory and for coordination of activities while the private sector operators will largely implement all seed business activities.
- iv) The NASC re-structured to function through three (3) technical departments and one administrative department as against ill-defined committees and Units in the Principal Act. Each department has been assigned definite responsibilities to avoid duplication or overlapping roles.

The departments are:

- a) Seed Industry Planning and Development Department
  - b) Crop Varieties Registration and Release Department
  - c) Seeds Standards Department
  - d) Administration and Finance Department
- v) The operating zones in the Principal Act were expanded from five (5) to six (6) to reflect the existing geopolitical zones in the country with definite operation headquarters.
  - vi) The committee recommended the removal of Breeder Seed (BS) class from among the classes of seed (Breeder, Foundation and Certified Seed) to be subjected to certification by the Council or its designated agency. This practice is in conformity with international norms in seed certification.
  - vii) Penalties for offences in the Principal Seed Act were revised upwards from ₦500.00 to ₦5,000.00 in the case of first offenders. Provisions for higher

penalties were included in the Principal Act for subsequent violations of the provisions in the Principal Act by the same offender.

- viii) Government will initially provide financial provisions to the Council. After a few years of government subvention to kick-start the Council, its funds will be sourced locally and internationally from private sector contributions.
- ix) The council shall report not later than six months after the end of each year through the Honourable Minister of Agriculture and Rural Development to the Federal Executive Council.
- x) By definition, “Agricultural Seeds” shall include Genetically Modified Seed (GMS) in the amended Principal Act..

### **6.3 *Private Sector Participation:***

The Committee noted that with the long gestation periods for investments in seed enterprises coupled with low returns, the private sector may not be encouraged to participate in the seed industry unless government deliberately provides adequate incentives and conducive environment that will attract private investments.

The incentives required amongst others are:

- a) Tax relief’s sales on buildings and equipment for seed enterprises.
- b) Low interest rates, not more than single digit (i.e. less than 10%) on loans for seed enterprises.
- c) Aggressive seed promotion programmes.
- d) Improved funding of Research and Development systems, etc.

### **6.4 *Harmonization of Decree 33 of 1987 with Decree 72 of 1992.***

The Committee observed that in order to harmonize these two decrees, a minor amendment on Decree 33 as against repeal will be *more* desirable. Among the three options suggested, the Committee recommends that the functions of the “Technical Sub-committees” in Decree 33 be excised and placed under Decree 72 of 1992, such that

the National Seed Council (NASC) will take over see this function. The NASC will however be required to submit the outcome of the release to NACGRAB Registrar for registration purposes. In order to actualize this minor amendment, and to ensure smooth transition and harmonization of the two decrees, the Federal Ministry of Agriculture and Rural Development should initiate necessary dialogue with the Federal Ministry of Science and Technology.

## **7.0 Conclusion and Recommendations**

Upon critical examination of the seed policy statements and the national Agricultural Seeds Decree No. 72 of 1992, the Committee concluded that: (a) these documents are indeed overdue for review and have been so reviewed herein; (b) the bits and pieces of policy statements about seed industry available at present do not constitute a consolidated national seed policy; and (c) only minor amendments of the seed Act were necessary rather than repealing the entire law. Consequently, the Committee came up with the following recommendations:

1. The National Agricultural Seed Council as a body corporate should be urgently established so as to enable it perform its functions based on the new Act.
2. The seed industry should be private sector driven, but government should ensure adequate incentives to attract and sustain their interest.
3. Aggressive publicity campaign should be urgently mounted to sensitize farmers and the general public to the importance of improved seed in farming enterprise.
4. The National Agricultural Research Institutes (NARIs) should be properly funded on a sustained level for continued injection of improved seed into the system.
5. The Minister should take the urgent initiative to ensure that the amended seed Act as propose herein is quickly passed into law.

# REVIEW OF NIGERIA'S AGRICULTURAL SEEDS LAW

## INTRODUCTION

Seed constitutes the cheapest agricultural input and contributes more than 50% of the total productivity gains in crop output. Despite this, it is generally taken for granted. Seed also sets the upper limit of efficiency of all other agricultural inputs. In view of these attributes, there is always the need to ensure provision of good quality and improved seed to farmers. Since these desirable traits of seed are not so obvious to farmers, and the fact that they are subject to abuse of various kinds, government usually enacts laws to protect the interest of seed producers and farmers.

Consequently, in order to put in place a regulatory framework for the protection of different actors in the industry, government promulgated the National Agricultural Seed Decree in 1992.

Since 1992 when the law was promulgated, the expected gains or results in propelling the agricultural sector have not been significantly achieved. This was largely due not only to structural deficiencies in the decree, as well as very weak capacity for the saddled institution to implement the provisions in the decree, but also that the Director General of the Council was never appointed to actualize the take-off of the Council. Furthermore, the current government agricultural policy thrust is to make the seed industry private sector driven. Therefore it was considered expedient to review the decree in order to make the seed sector vibrant.

### 1.1 Background

The existing seed law: "National Agricultural Seed Act, No. 72 of 1992", was enacted by the Federal Military Government of Nigeria in November 1992. The Act was enacted in recognition of the crucial roles of seed in agricultural development. Since its enactment, a number of changes (scientific, social, marketing, political, economic, and political etc), arising from global dynamics of the agricultural sectors have taken place to necessitate a fresh look at the existing seed law.

IFDC-USAID Developing Agric Inputs Market in Nigeria (DAIMINA) project commissioned IITA to conduct a seed market assessment study in 2002, which identified the urgent need for policy changes and review of the existing seed Act. Subsequently a national workshop was held to consider the report. As part of the recommendations of this workshop, a review of the existing seed law was

proposed and generally accepted. Thus the review of the existing seed law became an activity for IFDC- DAIMINA.

Therefore IFDC-DAIMINA Project subsequently proposed the review of the National Seed Act to the Hon. Minister of Agriculture and Rural Development, Mallam Adamu Bello, Dan'Iyan Adamawa in the month of April 2004. Following

a number of communications and contacts the Federal Ministry of Agriculture and Rural Development (FMARD) formally consented to the proposed review of Seed Law in the month of March. Seed Law Review Committee was constituted which started work on 26<sup>th</sup> April 2004, with opening remarks by the Permanent Secretary of the FMARD, Chief O. O. O. Ogunkua.

The subsisting seed law -“National Agricultural Seed Decree, No 72 of 1992” – was promulgated during the military regime. This decree could not be totally implemented due to the problems related to institutional framework. Meanwhile, several changes have taken place in the national economy in general and the agricultural economy in particular, leading to some policy reforms, particularly the new agricultural policy thrust of March 2002. Therefore, the need to review the seed law became essential in order to bring it in conformity with new policy directions in the agricultural sector and consistent with the tenets of the present democratic government. Similar reviews of agricultural legislations have also become expedient as in the cases of fertilizer and crop protection products.

## **1.2 Justification for Seed Law Review**

Since enactment of the subsisting seed law, experience has shown that some provisions of the Act have failed to achieve the desired results. Partly due to structural defects in the institutional framework. This suggests the need for a more implementable and functional organizational structure for the sub-sector. It has been observed that the functions of the various bodies were not clearly defined in the law leading to overlapping roles and responsibilities that are considered wasteful resource-wise and confusing practically.

Furthermore, the National Crop Varieties and Livestock Breed (Registration, etc.) Decree No. 33 of 1987 which has direct bearing on the seed policy and implementation has constituted a serious constraint in timely varietal release, improved seed availability and management control. This was compounded by the fact that the Registrar is domiciled in a different Ministry (FMST) and therefore

not answerable to the Hon. Minister of Agriculture. There is thus the need for a review of the overall seed sub-sector laws with a view to harmonizing and restructuring the institutional frameworks in the spirit of the current government policy of reducing waste, minimizing bureaucracy and liberalizing the agricultural industry.

At the time of enactment of the law in 1992, the economy was undergoing active structural adjustment for the purpose of deregulation and liberalization of markets of several commodities and services. Nevertheless, the agricultural sector did not witness measures to achieve such deregulation and liberalization in a number of respects, including the seed sub-sector. As such, the seed law failed to incorporate necessary components for minimizing the role of public sector and for promoting private sector participation. At the moment however, the economy is characterized by a strong drive towards private sector development, as a matter of public policy. Therefore, the seed law would require certain changes to reflect the need for greater private sector participation in the seed sub-sector in consonance with the current trend of globalization and export trade promotion.

In carrying out its assignment, the Committee employed a two-stage approach concurrently. The first stage involved an examination of the current seed policy with a view to determining necessary changes that would inform review of the law. The second stage involved review of the Seed Act itself in line with the policy changes proposed.

### **1.3 Terms of Reference for Review**

The terms of reference of the National Seed Law Review Committee are as follows:

- To examine the current seed policy guidelines with a view to identifying the areas of weakness that need reforms
- To study the provisions of the National Agricultural Seed Decree No 72 of 1992 and recommend necessary amendments where felt necessary
- Identify the strengths and weaknesses of the Seed Decree in addressing:
  - a. Seed multiplication and distribution (Breeder, Foundation & Certified)



- b. Seed Certification and Quality Control (Field Inspection, Seed Quality Control, Law Enforcement, e.t.c.)
  - c. Seed Industry Development (Development of private sector, variety release, registration of new seed enterprises, capacity building, etc.)
  - d. Adequacies or otherwise of provisions of incentives for the overall benefit of the seed industry.
- Recommend ways of harmonizing the relevant provisions of Decree 33 of 1987 with those of Decree 72 of 1992.

#### **1.4 Structure of the Report**

The report is structured into four main sections. The introductory section is followed by an examination of the current seed policy (Section 2) and subsequently by the review of the 1992 Seed Act (Section 3). Section 4 is on private sector participation; followed by conclusions and recommendations. The annexes (Volume II) comprise the following: Record of Committee Meetings; Subsisting Seed Policy Statement; Principal Seed Act; highlights of the national seed development plan; Report of Seed Policy Sub-committee; and Report of Seed Law sub-committee.

# SEED POLICY

## 1.0 Introduction

The Federal Government Agricultural Policy for Nigeria (2002) puts an emphasis on the importance of ensuring adequate supply of good quality seed. Provision of good quality seed of crop varieties suited to farmers' needs in diverse agro-ecological conditions is crucial to continued growth of Nigerian agriculture. The goal is to ensure timely and stable supply of quality seed at affordable prices.

This statement of the National Seed Policy is an elaboration of the provision in the National Agricultural Policy with respect to seed. The statement rationalizes the roles and responsibilities of various institutions involved in the seed sub-sector and also provides a favourable environment for the growth of the private sector in the seed industry. In addition, it presents the strategy for implementing the policy in terms of the roles and responsibilities of public and private sector agencies.

## 2.0 Seed Sub-Sector Policy Focus

The National Agriculture Policy provides that “” The Seed industry development programme would be invigorated and community seed development programme promoted to ensure provision of adequate and good quality seed to local farmers. The organized private sector would be mobilized, encouraged and given incentives to actively participate in the production of seeds and seedlings and also be involved in out-growers mobilization

The seed policy statement provides a framework for the future development of the seed sub-sector and identifies the actions to overcome the constraints facing the sub-sector. Specifically, the key objectives of the seed sub-sector policy are to:

- i) Support varietals development, registration, release and multiplication of released varieties.
- ii) Improve the quality of seed sold to farmers.
- iii) Re-orientate the operations of public sector agencies along commercial lines.
- iv) Encourage private sector participation in seed operations through appropriate policies and promotional activities/incentives.

### **3.0 Classification of Seed:**

There shall be three (3) classes of seed derived from nucleus seed/parental material viz:

**i) Breeder Seed:**

Breeder seed is the class of seed that is produced from nucleus seed supervised by qualified plant breeder. Breeder seed of publicly bred varieties is the responsibility of relevant National Agricultural Research Institutes (NARIs), while private breeders are eligible to produce breeder seed from privately bred lines.

**ii) Foundation Seed**

Foundation seed is the progeny of breeder seed which has met the prescribed minimum standard acceptable to the certifying agency. National Agricultural Seed Council (NASC) is to monitor, coordinate and certify the production and distribution of foundation seed of all publicly bred varieties by NARIs, while the private sector plant breeders are to produce and distribute Foundation seed from their privately bred lines, also under the regulatory control of NASC.

**iii) Certified Seed**

Certified seed is the progeny of Foundation seed which has met the prescribed minimum standards of the certifying agency. The Agricultural Development Programmes (ADPs), Seed Companies, NGOs, Producer-Sellers are responsible for the production and distribution of both publicly and privately bred varieties.

### **4.0 Major Components of the Seed Policy**

#### ***4.1 Research and Development***

Both public and private researchers are encouraged to be involved in varietal development and maintenance. Specifically, the National and International Agricultural Research Institutes would be responsible for varietal development and maintenance, breeder seed production and supply to Council and the private sector. The mandate crops of these Research Institutes are indicated in Annexure I and II.

The NARIs would be adequately funded to undertake genetic improvement, varieties maintenance and breeder seed production of their mandate crops. The use of biotechnology in the seed industry will be encouraged. The Intellectual Property Rights of researchers, inventors and investors in the seed industry would be safeguarded and remunerated through royalties and other returns to their efforts. Private seed companies would be encouraged to carry out R&D activities that may lead to new varieties and technologies.

#### **4.2 *Varietal Registration and Release***

Varietal evaluation would be conducted widely under the Nationally Coordinated Research Projects (NCRPs) in the ecology where that particular crop grows. Data will be collected for minimum of two (2) cropping seasons based on which request could be made for consideration of registration and release of such variety. Farmers would be involved in the process of varietal evaluation and release through on-farm tests while the Participatory Varietal Selection (PVS) process would be promoted. The NCRPs would be adequately funded to carry out multi-locational trials.

#### **4.3 *Seed Production and Marketing***

The Council would be responsible for foundation seed production of publicly bred crop varieties. The Community based seed production strategy would be encouraged. Producer-sellers of certified seed shall be encouraged. The activities of the private sector seed producers and marketers will be encouraged and closely monitored. The roles of ADPs shall be limited to production of certified seed using out-growers and the marketing of certified seed by government agencies shall be on commercial basis.

#### **4.4 *Seed Certification***

The Seed Certification system shall guarantee the farmer the assurances that the seed in circulation is genetically pure and that it meets specified minimum germination and physical standards.

#### **4.5 *Quality Control***

The quality control system would ensure that only seed lots that meet prescribed minimum standards is offered for sale to farmers. To ensure this, joint monitoring field inspection of breeder seed shall be undertaken while field inspections would

be conducted for foundation and certified seed based on prescribed procedures and standards. There shall be regular sampling and testing of seed in order to enforce the seed law in accordance with the seed rules and regulations. The production and trade of truthfully labelled certified/uncertified seed under Internal Quality Control Assurance would be allowed subject to laid down guidelines and meeting all the prescribed seed standards equivalent to those of certified seed.

The Seed Testing Laboratories comprising the regional and Central Seed Testing laboratories would be strengthened while adequate quality control manpower and facilities, including field equipment and mobility would be provided.

#### **4.6 *Seed Import and Export***

Except for breeding and varietal development purpose, importation of large quantity of seed shall be subjected to satisfactory results of multi-locational trials by the relevant NCRPs. Application for import and export of seeds would be handled in a manner as specified in the Seed Act and in consonance with phytosanitary requirements of Plant Quarantine Service (PQS).

Seed export especially to countries in the West African and African countries would be encouraged in order to facilitate international seed trade. Importation of genetically modified (GM) seeds would be subject to availability of local capacity and facilities for proper testing and adequate monitoring.

#### **4.7 *Seed Processing***

It shall be a requirement that all seed be processed by registered processors before marketing and distribution.

#### **4.8 *Seed Extension and Promotion***

Farmer's level of awareness about use of improved seed would be enhanced through seed extension and other promotional activities such as demonstration, field days, mass media and other methods. The quality and volume of seed extension work would be improved through training and re-training of extension workers. The private seed sector would be encouraged to undertake seed extension and promotion.

##### **4.9.1 *Seed Pricing***

The seed pricing policy would be to ensure economic viability of the seed industry. A pricing policy that reduces or eliminates the price dichotomy between public and private sector will be pursued.

## **5.0 Legal and Institutional Framework for Implementation**

### **5.1 *Legal Framework***

The legal framework for implementing the National Seed Policy is the Seed Act No 72 of 1992. This seed policy statement constitutes a schedule to the Seed Act and form part of the Seed Act. Also the seed rules and regulations governing the seed industry constitute a schedule to the Act and form part of the Act. These rules and regulations cover the following aspects:

- i. Varietals Development
- ii. Registration, release and certification of seeds
- iii. Seed quality control
- iv. Production and marketing
- v. Institutional structure and functions
- vi. Import and export of seeds.

### **5.2 *National Seed Council***

The National Seed Council shall be made operational. The participation of Seed Associations in the Council would be encouraged.

The activities of National Seed Service (NSS) would be strengthened to carry out its statutory responsibilities in the industry namely, Foundation seed production, certification and quality control, seed industry development and human resource development.

### **5.3 *National Agricultural Research Institutes (NARIs)***

The NARIs would be strengthened to carry out their activities with respect to their mandate crops, namely varietal development and maintenance, as well as breeder seed production.

### **5.4 *Agricultural Development Programme (ADPs)***

The role of ADPs in the seed system would be strengthened to perform maximally in seed extension and promotion. There would be a gradual disengagement of ADPs from marketing of certified seed.

## **6.0 Human Resource Development**

Seed Technology Centres in the country would be strengthened to undertake the formal training of manpower in the seed industry at undergraduate and post-graduate level, while the vocational training would be handled by Council.

## **7.0 Private Sector Development**

The private sector shall have the sole responsibility for certified seed production, processing and marketing through private seed producers, seed enterprises, seed distributors and dealers. A number of specific actions put in place to support and encourage the private sector would be intensified. These include:

- i) Participation in the formulation of policies through representation on the National Seed Council;
- ii) Access to breeder and foundation seed of publicly bred varieties for seed enterprises that do not have an independent research capability;
- iii) Grant of exclusive right to produce and market hybrids and vegetable seeds;
- iv) Freedom to import breeding material, subject to plant quarantine regulation to develop own cultivars;
- v) Liberalization of the licensing of private seed producers, marketers, etc.

The following policy incentives shall also apply to members of the private seed sector:

- Grant of pioneer status
- Concessionary interest rates on loans
- Exemption from import duty on equipment
- Exemption from sale taxes
- Liberalization of letter of credit consistent with foreign exchange regulations, etc.

## **REVIEW OF THE SEED ACT**

Based on the revision of the seed policy in the previous section, the committee undertook a thorough examination of the subsisting Seeds Act with a view to proposing the necessary amendments to the provisions of the Act (National Agricultural Seeds Decree No. 72 of 1992). The outcome of this exercise is presented below as the National Agricultural Seeds Act as amended.

### **NATIONAL AGRICULTURAL SEEDS ACT WITH PROPOSED AMENDMENTS INCORPORATED**

**Commencement**

**BE IT ENACTED BY THE NATIONAL ASSEMBLY of the Federal Republic of  
Nigeria as  
follows: -**

#### **PART I – ESTABLISHMENT, ETC. OF THE NATIONAL AGRICULTURAL SEEDS COUNCIL.**

- |           |     |   |  |
|-----------|-----|---|--|
| <b>1.</b> | (1) | There is hereby established a Council to be known as the National Agricultural Seeds Council (in this Act referred to as “the Council”) which shall be charged with responsibility for the overall policy guidelines and monitoring of the development of the national seed system. | <b>Establishment<br/>of the<br/>Agricultural<br/>Seeds Council</b> |
|           | (2) | The Council shall be an institutional body corporate charged with seed regulatory functions, quality control, certification and enforcement of seed laws.   |  |
|           | (3) | The Council shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name. The policy organ of the Council shall be under the purview of the Governing Board (in this Act referred to as “the Board”)                         |  |
| <b>2.</b> | (1) | The Board shall consist of: -   | <b>Membership of<br/>Board.</b>                                    |
|           | (a) | Three persons to be nominated by the Seed Association of Nigeria.   |  |
|           | (b) | the Director-General of the National Agricultural Seeds Council as an ex-Officio member;  |  |
|           | (c) | The Director of the Federal Department of Agriculture;  |  |
|           | (a) | Two persons one from Research Institutes and the other from Faculties of Agriculture/Agricultural Universities, who in each case shall be persons with  |  |



- cognate experience and relevant qualifications in crop breeding technology;
- (e) Two persons from the Apex Farmers Association of Nigeria, one each representing the Large Scale Farmers group and the Small Scale Farmers group.
- (2) The Chairman of the Board shall be a person with versed cognate experience and relevant qualification in Seed Science and Technology and the National Seed industry and who is not a public servant.
- (3) All appointments for Board membership shall be made by the President of the Federal Republic of Nigeria upon the recommendation of the Minister.
- (4) Members of the Board, appointed under this section, shall hold office for a period of four years and shall be eligible for reappointment for a further term of four years and no more.
- (5) The supplementary provisions set out in the Schedule to this Act shall have effect with respect to the proceedings of the Board and the other matters specified therein.
- 3. the** (1) The functions of the Board shall be - **Functions of Board**
- (a) to analyse and formulate programmes, policies and actions regarding seed development and the seed industry in general, including legislation and research on issues relating to seed testing, registration, release, production, marketing, distribution, certification, quality control, supply and use of seeds in Nigeria, importation and exportation of seeds and quarantine regulations relating thereto;
- (b) design improved management system and procedure relating to the administration of seed activity and advise the Federal Government on the organization, management and proper financing of seed programme;
- (c) analyse the market and prices of seeds;
- (d) control, supervise and approve the activities of the following Departments established by or pursuant to this Act, that is –
- (i) the Seed Industry Planning & Development Department;
- (ii) the Crop Variety Registration and Release Department;
- (iii) the Seed Standards Department;
- (iv) the Administration and Finance Department and such other Departments as may be established from time to time;
- (e) advise the national research system on the changing pattern of seed demand and farmers needs;
- (f) monitor and evaluate the achievement of the national seed system and recommend improvements thereto;
- (g) encourage the formation or establishment in Nigeria of seed companies for the purpose of carrying out research, production, processing and marketing of seeds; and
- (h) perform such other related functions as may be required of the Council, from time to time.

(2) The Board shall make rules and regulations governing its activities.

4. As from the commencement of this Act, every company incorporated in Nigeria for the purposes specified in paragraph (g) of section 3 this Act, shall enjoy such incentives as are granted by the Federal Government to an agricultural and seed enterprise. **Incentives to seed companies.**

## PART II - STAFF OF THE COUNCIL

5. There shall be appointed by the President, Commander-in-Chief of the Armed Forces, on the recommendation of the Minister, a Director-General of the Council who shall be the chief executive of the Council and be responsible for execution of the policies and day-to-day running of the affairs of the Council. The Director-General must possess the professional qualification with cognate experience in seed science and crop technology. **Director General of the Council**
6. (1) Subject to this Act, the Council may appoint such other qualified persons as members of its staff as it considers necessary and may approve scheme and conditions of service for the staff. **Staff generally.**
- (2) If the Council thinks it expedient that any vacancy in the staff of the Council should be filled by a person holding office in any of the public services in the Federation, it shall inform the appropriate body to that effect and thereafter the Council may, by arrangement with the body concerned, cause such vacancy to be filled by way of secondment or transfer.
- (3) Where any person is seconded under subsection (2) of this section, he shall be notified of the terms and conditions of the secondment, and the secondment shall be without prejudice to any pension rights which, but for the secondment, would still accrue to him.
- (4) A person seconded under subsection (2) of this section may elect to be transferred to the staff of the Council in which case any previous service in the public service concerned shall be qualifying services as defined in the Pension Act.
7. (1) Service in employment of the Council shall be approved service **Pension Cap.**  
**346** for the purpose of the Pension Act and accordingly, officers and other persons employed in the Council shall be entitled to pensions, gratuities and other retirement benefits as are prescribed hereunder, so however, that nothing in this Act shall prevent the appointment of a person to any office on terms, which preclude the grant of a pension, gratuity or other retirement benefit in respect of that office. **LFN.**
- (2) For the purposes of application of the provisions of the Pension Act, any power exercisable hereunder by a Minister or other authority of the Government of the Federation (not being the power to make regulations under section 10 thereof) is hereby vested in and shall be exercisable by the Council and not by any other person or authority.

**PART III. RULES AND REGULATIONS GOVERNING CERTIFICATION OF SEEDS AND APPOINTMENT OF SEED INSPECTOR, ETC.**

8. (1) The Council shall, by notification in the gazette, establish such rules and regulations as deemed necessary for certification of seeds.
- (2) The Council shall, by notification in the gazette, establish such minimum standards governing the quality of seeds.
- (3) The Council may, by notification in the *Gazette*, appoint such persons as it thinks fit, having the prescribed qualifications, to be Seed Inspectors and define the areas within which they shall exercise jurisdiction. **Seed Inspector.**
9. (1) A Seed Inspector may - **Powers of Seed Inspector.**
- (a) take samples of any seed of any variety or hybrid from –
- (i) any person selling such seed; or
- (ii) any person who is in the course of conveying, delivering or preparing to deliver such seed to a purchaser or a consignee;
- or
- (iii) a purchaser or a consignee after delivery of such seed to him;
- (b) send such sample for analysis to the Seed Analyst for the area within which such sample has been taken;
- (c) enter and search at all reasonable times, with such assistance, if any, as he considers necessary, any place in which he has reason to believe that an offence under this Act has been or is being committed and order in writing the person in possession of any seed in respect of which the offence has been or is being committed, not to dispose of any stock of such seed for a specific period not exceeding thirty days;
- (d) examine any record, register, document or any other material object found in any place mentioned in paragraph (c) of this subsection and seize the same if he has reason to believe that it may furnish evidence of the commission of an offence punishable under this Act; and
- (e) exercise such other powers as may be necessary for carrying out the purposes of this Act or any regulations made there under,
- (2) The power conferred by this section includes power to break-open a container in which any seed of any kind or variety may be contained or to break-open the door of any premises where any such seed may be kept for sale,
- Provided that the power to break-open the door shall be exercised only after the owner or any other person in occupation of the premises, if he is present therein, refuses to open the door on being called upon to do so.
- (3) Where a Seed Inspector takes any action under paragraph (a) of subsection (1) of this section, he shall, as far as possible, call not less than two persons to be present at the time when such action is taken and take their signatures on a memorandum to be prepared in the prescribed form and manner.
10. (1) If any person – **Offences and Penalties.**
- (a) contravenes the provision of section 9 of this Act or any

- regulations made there under; or
- (b) prevents a Seed Inspector from taking sample under this Act; or
  - (c) prevents a Seed Inspector from exercising any other power conferred on him by or under this Act;
  - (d) contravenes any other provisions of this Act, he is guilty of an offence –
- (2) A person who is guilty of an offence shall on conviction be liable –
- (a) for the first offence, to a term and imprisonment for six months or a fine not exceeding twenty five thousand Naira and  
**Imprisonment**
  - (b) in the event of such person having been previously convicted of an offence under this section, to imprisonment for a term of two years, or a fine of fifty thousand Naira, or to both such fine and imprisonment.
- 11.** When any person has been convicted under this Act for the contravention of the regulations made hereunder, the seed in respect of which the contravention has been committed may be forfeited to the Government. **Forfeiture of property**
- 12.** (1) Where an offence under this Act has been committed by a company at the time the offence was committed was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall he deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly; **Offences by companies**
- Provided that nothing contained in this subsection shall render any such person liable to any punishment under this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.
- (2) Notwithstanding anything contained in subsection (1) of this section, where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- 13.** Nothing in this Act shall apply to any seed of any variety or hybrid grown by a person and delivered by him on his own premises direct to another person without any monetary consideration for being used by that person for the purpose of sowing or planting. **Exemption**

**PART IV – THE DEPARTMENTS ESTABLISHED UNDER THE NATIONAL  
AGRICULTURAL SEEDS COUNCIL AND THEIR FUNCTIONS**

- 14.** (1) There are hereby established for the Council, the following Departments that is
- |   |  |
|---|--|
| <ul style="list-style-type: none"> <li>(a) the Seed Industry Planning &amp; Development Department;</li> <li>(b) the Crop Variety Registration and Release Department;</li> <li>(c) the Seed Standards Department;</li> <li>(d) the Administration and Finance Department;</li> <li>(e) and such other departments or bodies as the Board may from time to time deem expedient for effective discharge of the functions of the Council under this Act.</li> </ul> | <p><b>Establishment of<br/>Seed Industry<br/>Planning &amp;<br/>Development Dept. &amp;<br/>other bodies of<br/>the Council.</b></p> |
|---|--|
- (2) Each of the Departments referred to in subsection (1) of this section shall be headed by a Director.
- 15.** The Seed Industry Planning & Development Department shall have responsibility for –
- |   |  |
|---|--|
| <ul style="list-style-type: none"> <li>(a) Facilitation and monitoring the production and distribution of breeder, foundation and certified seeds.</li> <li>(b) Liaise with Public and Private Sector Research and Development Agencies on biotechnological seed development and distribution;</li> <li>(c) Identification, development and provision of technical support to small, medium and large scale seed enterprises.</li> <li>(d) Carrying out seed promotion programmes to encourage the use of high quality seeds by farmers</li> <li>(e) Development of community based seed enterprises in order to spread the use of improved seed varieties among farmers.</li> <li>(f) Providing planning and monitoring support to the Council for both on-going and future activities.</li> <li>(g) Organise trainings and information dissemination on seeds and seed technology.</li> <li>(h) Providing and developing management information systems (MIS) for planning support to the council.</li> </ul> | <p><b>Seed Industry<br/>Planning &amp;<br/>Development<br/>Dept.</b></p> |
|---|--|
- 16.** The Crop Variety Registration and Release Department shall have responsibility on matters relating to.
- |  |   |
|--|---|
| <ul style="list-style-type: none"> <li>(a) Liaising with the activities of the National Agricultural Research Institutes (NARIs) and International Agricultural Research Centres (IARCs) on variety development in the context of the Nationally Coordinated Research Projects.</li> <li>(b) Follow up on the post-release performance of the variety or hybrid.</li> <li>(c) the registration and release of any given crop variety or hybrid.</li> <li>(d) the declaration of a crop variety as a notified kind and for the purposes of this Act, different kinds or varieties of seed may be notified for different States of the Federation or different areas thereof.</li> <li>(e) ensure that crop variety under this section has to undergo a minimum of two growing seasons of multilocational tests to determine its adaptability to particular geographical areas;</li> <li>(f) Document essential information on released varieties of crops, their</li> </ul> | <p><b>Crop Varieties<br/>Registration and<br/>Release Dept.</b></p> |
|--|---|

outstanding characteristics and areas of adaptation;

- (g) Ensure the maintenance of a National Register of all crop varieties;
- (h) Organize the maintenance of the germplasm of registered varieties;
- (i) Ensure that the importation of any crop variety, hybrid or genetically modified seed into Nigeria which are required for general distribution and use shall pass through the variety testing, evaluation and certification process required by this Act and subject to satisfactory compliances with the Nigerian phytosanitary regulations and biosafety guidelines .

17. The Seed Standards Department shall have responsibility for the following: **Seeds Standard Dept..**

- (a) Setting standards that govern the quality of seeds
- (b) Monitor and evaluate seed quality during production, distribution and marketing.
- (c) Ensure that proper procedure of seed production is followed during growing and harvesting of the seed crop, seed handling at processing plants as well as inspection of premises and other physical facilities used by private breeders, seed growers, seed companies and processors to ensure compliance with standards.
- (d) Create and enforce standards, and maintain the list of registered breeder, foundation and certified seed producers.
- (e) Verify the eligibility of notified crop/cultivar offered for certification and ensure that the seed source used for planting was authenticated and the record of purchase is in accordance with the Seed Rules and Regulations;
- (f) Sampling and testing of seeds.
- (g) Grant certificates including tags, labels, seals etc. as prescribed under this Act and the Seed Rules and Regulations;
- (h) Conduct varietal purity/ grow-out-tests for confirmation of genetic purity of all foundation and certified seed lots under a certification programme.

18. There shall be maintained a register of persons and organizations in licensed to engage in seed production and marketing under the following classification, namely – **Classification of persons engaged in production**

- (a) seed production company;
- (b) seed enterprises production on contract for seed company;
- (c) breeder seed production agency (research institutes and private);
- (d) foundation seed grower (research institutes and private);
- (e) enterprise seed processor;
- (f) seeds dealer whether as wholesaler or not.

19. (1) The Council shall have six operating Zones and six Zonal Secretariats as listed in Schedule 2 to this Act. **Operating Zones and Zonal Secretariats.**  
 (2) Each Zonal Secretariat shall consist of a Deputy-Director and such critical mass of professional and non professional staff as can operate the Zone.

**PART V. SEED CERTIFICATION, IMPORT/EXPORT, PACKAGING etc.**

20. (1) Any person who sells, keeps for sale, offers to sell, barter or otherwise supplies any seed of any variety or hybrid shall apply to the Council for the grant of certification for the purpose. **Seed certification.**  
 (2) Every application under subsection (1) of this section shall be in such form and contain such particulars and fees as may be prescribed by the Council.  
 (3) On receipt of an application for the grant of a certification, the Council may, after making such enquiry as it thinks fit and after satisfying itself that the seed to which the application relates is a progeny of a pedigree seed and conforms to the field and laboratory standards for that seed under this Act, grant a certificate in such form and on such conditions as may be prescribed.

21. (1) The Council may revoke any certification granted under this Act if it is satisfied that the certification was obtained by misrepresentation or that the holder of the certification has contravened any of the provisions of this Act or any regulations made there under. **Revocation certification.**  
 (2) The Council shall, before revoking any certification, give due notice to any person likely to be affected by such a revocation.  
 (3) A person who is aggrieved by a decision of the Council under subsection (1) of this section may appeal to such authority as may be specified by the Council within 30 days from the date on which the decision is communicated to him:

Provided that the appellate authority may entertain an appeal at the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

- (4) On receipt of an appeal under subsection (3) of this section, the Council shall after giving the appellant an opportunity of being heard, dispose of the appeal as expeditiously as possible.  
 (5) Every order of the appellate authority shall be final.
22. (1) Every certification shall specify that the genetic identity of the released variety is preserved through the various stages of multiplication of the seed. **Genetic identity.**  
 (2) The following categories of seeds of released varieties shall be subject to certification, namely:-  
 (a) foundation seed/inbred line- conventional or genetically modified; and  
 (b) certified seed –conventional or genetically modified.

23. The Minister may, on advise of the Council, and by notification in the gazette, recognize any seed certification agency established in any foreign country, for the certification purposes of this Act. **Recognition of seed certification agencies of foreign country**
24. (1) No person shall for the purpose of sowing or planting by any person (including himself) export or import or cause to be exported or imported any seed or hybrid without permission from the Council, provided that:
- (a) any seed imported must meet the minimum standards of the Council
- (b) any seed exported must be a certified seed.
25. (1) An application to export or import seeds of a variety or hybrid shall be made to the Council and the applicant shall forward a copy of such application to the Plant Quarantine Service. **Importation and Exportation of seed**
- (2) Seed samples meant for research purposes and seeds intended for export from or import into Nigeria shall carry the necessary phytosanitary certificates and viability tests results.
- (3) No seed shall be exported unless certified by the official seed certifying agency of the exporting country.
26. (1) As from the commencement of this Act, no person shall sell, offer or expose for sale, falsely-labelled, tagged or untagged seeds of variety or hybrid. **Prohibition of the sale of falsely-labelled seed, etc.**
- (2) A person who offers agricultural seeds of a variety or hybrid for sale shall ensure that the label affixed to the seed container accurately describes the seeds contained therein.
- (3) Except for demonstration purposes, no person shall offer for sale agricultural seeds of any variety or hybrid in an open container.
- (4) When the seed of any variety or hybrid is offered for sale each container shall be marked or labelled in the manner hereinafter specified.
- (5) The person whose name appears on the mark or label shall –
- (a) be responsible for the accuracy of the information required to appear on the mark or label if the seed is contained in the unopened original container;
- (b) not be responsible for the accuracy of the statement appearing on the mark or label or for the accuracy of the germination statement beyond the date of validity indicated on the mark or label if the seed is removed from the original unopened container
27. (1) Subject to subsection (2) of this section, no person other than a person registered under this Act shall produce or be engaged in the processing etc of seeds for production, processing and marketing of seeds for commercial purposes. **Prohibition on processing of seeds for commercial purposes.**
- (2) The provisions of this section shall not apply to a person growing and delivering seeds of any variety direct to another person without monetary consideration for use by that other person for sowing on the latter’s own farm.
28. The Minister may on the recommendation of the Council, designate any laboratory as a central seed testing laboratory (in this Act referred to as “a **Central Seed Laboratory.**



Seed laboratory”) for the purpose of carrying out the functions entrusted to a seed laboratory by or under this Act.

#### **PART VI - FINANCIAL PROVISIONS**

- 29.** (1) There shall be established and maintained by the Council, a fund from which shall be defrayed all expenditure incurred by the Council. **Financial provisions**
- (2) There shall be paid and credited to the fund established pursuant to subsection (1) of this section –
- (a) initial take – off grant provided by the Government;
  - (b) such moneys as may be provided to the Council by the yearly budgetary allocation approved by the National Assembly;
  - (c) all moneys as may be raised for the purposes of the Council by way of gift, loan, grants in aid, testamentary disposition or otherwise;
  - (d) all interests received in respect of moneys invested by the Council, including revenue earned from its various activities; and
  - (e) all other assets, from time to time, accruing to the Council
- (3) The fund shall be managed in accordance with rules made by the National Assembly and without prejudice to the generality of the power to make rules under this subsection, the rules shall in particular contain provisions -
- (a) specifying the manner in which the assets of the fund are to be held, and regulating the making of payments into and out of the fund;
  - (b) requiring the keeping of” proper accounts and records for the purposes of the fund in such form as may be specified in the rules;
  - (c) for securing that the accounts are audited periodically by auditor appointed from a list and in accordance with guidelines supplied by the Auditor-General of the Federation;
  - (d) requiring copies of the accounts and of auditor’s report thereon to be furnished to the Minister of Agriculture.
- 30.** The Council shall not later than six months after the end of each year submit to the National Assembly a report on the activities of the Council during the preceding year, and shall include in such report the audited accounts of the Council. **Report on activities of Council**

#### **PART VII. MISCELLANEOUS**

- 31.** (1) For the purposes of the Lands Use Act, the purposes of the Council shall be public purpose of the Federation within the meaning of that Act, **Acquisition of land Cap. 202 LFN.**
- (2) The Minister charged with responsibility for land matters may, by an instrument under his hand and seal, vest in the Council any property acquired pursuant to subsection (1) of this section and the Council shall pay into the Consolidated Revenue Fund of the Federation a sum equal to the aggregate amount of any expenses (including compensation) incurred on behalf of the

Federal Government of Nigeria by virtue of that subsection in respect of any property vested in the Council by such an instrument.

- 32.** (1) The Minister may, by notification in the Gazette make regulations to carry out the purposes of this Act.. **Regulations.**
- (2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for -
- (a) the functions of the Central Seed Laboratory;
  - (b) the certification of seeds;
  - (c) the manner of marking or labeling the container of seed of any notified kind, hybrid or variety under section 26 of this Act;
  - (d) the requirements which may be complied with by a person carrying on the business referred to in sections 25 and 26 of this Act.
  - (e) the form of application for the grant of a certification under section 20 of this Act, the particulars it may contain, the fees which should accompany it, the form of the certificate and the conditions subject to which the certification may be granted;
  - (f) the form and manner in which and the fee on payment of which an appeal may be preferred under section 21 of this Act and the procedure to be followed by the appellate authority in disposing of the appeal;
  - (g) the qualifications and duties of Seed Analysts and Seed Inspectors;
  - (h) the manner in which samples may be taken by the Seed Inspector, the procedure for sending such samples to the Seed Analyst or the central seed laboratory and the manner of analysing such samples;
  - (i) the form of report of the result of the laboratory analysis and the fees payable in respect of such report;

- 33.** In this Act, unless the context otherwise requires -
- Interpretation** “agricultural seeds” includes cereals, legumes, oilseed, grass, forage, fibre, root, tuber, tree or any other kind of crop seed or seedling commonly recognised within Nigeria as agricultural seed; lawn seed, vegetable seed, forestry seed and seedlings, conventional or genetically modified seeds, horticultural seeds and seedlings, ornamental seeds, seed mixtures and all planting materials as the Minister may designate from time to time;

“seed laboratory” means a central seed laboratory designated as such under section 28 of this Act.

“certified seed” means any prescribed seed which is certified under the provisions of this Act.

“container” means a box, casket, tin, barrel, tank, receptacle sack, bag, wrapper or other thing in which any article or thing is placed or packed;

“Council” means the National Agricultural Seed Council established by section 1 of this Act.

“labelling” means any label or other written, printed or graphical representation, in any form, accompanying and pertaining to seed, whether in bulk or in container;

“Minister” means the Minister charged with the responsibility for Agricultural Development and other related matters;

“export” means taking out of Nigeria to a place outside Nigeria;

“import” means bringing into Nigeria from a place outside Nigeria;

“notified kind or variety” in relation to any seed means any kind of seed or variety thereof notified under this Act;

“seed importer” means any person who, either exclusively or in conjunction with any other trade or business, imports seeds into Nigeria for resale;

“seed inspector” means the person appointed as seed inspector pursuant to section 8 of this Act;

“seed producer” means any person who either exclusively or in conjunction with any other trade or business, produces seeds for sale;

“seed seller” means any person who, either exclusively or in conjunction with any other person, trade or business, sells seeds for growing to Nigerian farmers;

“sell” includes to exchange or to offer, advertise, keep, expose, transmit, convey or deliver in pursuance of a sale, exchange or barter;

“Departments” means the Departments established by section 14 of this Act;

“variety” means a sub-division of any crop species which can be differentiated from other sub-division of that kind of growth, plant, fruit or other characteristics and any uniform group which can be a first generation hybrid or a plant population reconstituted on each occasion by crossing two or more breeding stock maintained by inbreeding or population maintained;

“weed seed” includes the seed of all plants included as weeds in the Seed Regulations or commonly recognized as weeds in Nigeria;

**34** This Act may be cited as the National Agricultural Seeds Act 2004

**Citation**

## SUPPLEMENTARY PROVISIONS RELATING TO THE COUNCIL

*Proceedings of the Board***Cap. 192 LFN.**

1. Subject to this Act and to section 27 of the Interpretation Act, the Board -may make standing orders regulating its proceedings or those of any of its committees.
2. The quorum of the Board shall be five and the quorum of any committee of the Board shall he determined by the Board
3. At any time while the office of the Chairman is vacant or the Chairman is in the opinion of the Board temporarily or permanently unable to perform the functions of his office the vice-chairman shall perform those functions and references in this Schedule to the Chairman shall constructed accordingly.
4. (1) Subject to the provisions of any applicable standing orders, the Board shall meet quarterly and whenever summoned by the Chairman as dictated by circumstances; and if the Chairman. is required so to do by notice given to him by not less than six other members, he shall summon a meeting of the Board to be held within twenty-one days from the date on which the notice is given.  
(2) Where the Board wishes to obtain the advice of any person on a particular matter, the Board may co-opt him as a member for such period as it thinks fit, but a person who is a member by virtue of this sub paragraph shall not be entitled to vote at any meeting of the and shall not count towards quorum.

*Committees of the Board*

5. (1) The Board may appoint one or more committees to carry out, on behalf of the Board, such of its functions as the Board may determine.  
(2) A committee appointed under this paragraph shall consist of the number of persons determined by the Board and not more than one-third of those person may be persons who are not members of the Board; and a person other than a member of the Board shall hold office on the committee in accordance with the terms of the instrument by which he is appointed.  
(3) A decision of a committee of the Board shall be of no effect until the Board confirms it.
6. (1) The fixing of the seal of the Board shall be authenticated by the signature of the. Chairman or of some other member authorised generally or specifically by the Board to act for that purpose.  
(2) Any contract or instrument which if made or executed by a person not being a body corporate, would not be required to be under seal may be made or executed on behalf of the. Board by any person generally or specially authorized to act for that purpose by the contract.

**SCHEDULE 2 Section 11.**

**OPERATING ZONES**

- |                       |   |
|-----------------------|---|
| 1. Central Zone       | Comprising the Federal Capital Territory Abuja, Benue, Kwara, Nasarawa, Kogi, Niger and Plateau States with Secretariat in <b>Jos, Plateau State.</b> |
| 2. North-Eastern Zone | Comprising Adamawa, Bauchi, Gombe Borno, Taraba and Yobe State with Secretariat in <b>Maiduguri, Borno State</b>                                      |
| 3. South-Eastern Zone | Comprising Abia, Ebonyi, Anambra, Enugu, Imo and with Secretariat in <b>Enugu, Enugu State.</b>   |
| 4. South-Western Zone | Comprising Lagos, Ekiti Ogun, Ondo, Osun and Oyo States with Secretariat in <b>Ibadan Oyo State.</b>  |
| 5. North-Western Zone | Comprising Jigawa, Kaduna, Zamfara, Katsina, Kebbi, Kano and Sokoto States with Secretariat in Zaria, Kaduna <b>States.</b>                           |
| 6. South – South Zone | Comprising Akwa Ibom, Bayelsa, Cross River, Delta, Edo, Rivers States with Secretariat in <b>Port Harcourt, Rivers.</b>                               |

MADE at Abuja this day of 2004

**EXPLANATORY NOTE**

(This note does not form part of the above Act but is intended to explain its purpose).

The Act establishes the National Agricultural Seeds Council to promote and stimulate the development of dependable seed industry, regulate and control the registration of released varieties, protect the farmers from the sale of poor quality seeds, facilitate the production and marketing of high quality seeds in Nigeria and provide legal backing for official testing, certification, sales, importation, exportation, and use of seeds.

The new Act seeks to promote greater private sector participation in the seed sub sector in line with the current agricultural seed policy, globalization and export trade promotion

# **PRIVATE SECTOR PARTICIPATION AND INCENTIVES**

## **1. Background**

The seed sector in Nigeria is faced by problems common to other countries in sub-Saharan Africa. Generally, the private sector is not keen to invest in many agricultural enterprises, particularly in the seed types of crops preferred by small holders as most retain seed from season to season, hence limiting future sales. The reasons are quite obvious and other factors could be summarized as:

- i) Very low returns to investment. The profit margins are rather low when compared with other non-agriculture productive sectors competing for same funds.
- ii) The gestation period for investment in seed enterprises is also very long. It takes fairly longer time before an investor can reap any benefits from his investment.

Due to these major bottlenecks, private sector investors are not readily going to invest in seed business unless government deliberately provides some incentives that can attract investment from the private sector.

## **2. STRATEGIES FOR ATTRACTING PRIVATE SECTOR INVESTMENTS**

In view of the above bottlenecks, government has to devise appropriate strategies that will stimulate private sector interest to invest in agriculture. Some of the strategies are as follows:-

- i. To promote healthy marketing of seeds and encourage private sector participation, enforcement of quality and standards in an essential desirable governmental activity. Accordingly, government should as a matter of urgency, fully establish the National Agricultural Seed Council with complementary human, financial and material resources for its immediate take-off. The NASC should be an autonomous parastatal within the ambit of the Ministry of Agriculture.
- ii. Strong representation of private sector entrepreneurs in the proposed “National Agricultural Seed Council” (NASC) to be able to influence national policy decisions on seed related business at highest levels.
- iii. With the seed law in place, government should not interfere in pricing, marketing and distribution of seeds in particular and inputs in general. Pricing policy for the public sector agencies should aim at full competitive cost recovery so as not to thwart private sector. seed pricing
- iv. Public sector should withdraw from the production and marketing of certified seeds.
- v. There should be access to breeder and foundation seed of public sector bred varieties for all interested private sector enterprises that do not have capability to establish their own Research and Development programmes.

- vi. Public sector should also deal only with production and distribution of open-pollinated varieties, leaving the hybrid seed production, which is more remunerative to the private sector. This is without prejudice to the need for the private sector to negotiate on the use of public sector developed parental lines for their hybrid seed programmes.
- vii. There should be a deliberate policy support to create conducive and investment-friendly environment for private sector seed enterprises.
- viii. Government should create a conducive and consistent macro-economic policy environment as well as ensure monetary and fiscal policies to stabilize exchange rate and the value of domestic currency.
- ix. Government should develop and /or strengthen physical and financial infrastructural facilities in the rural areas. This will not only reduce transaction costs but it will also promote input-output market linkages between rural and urban areas.
- x. Government should ensure, if not guarantee, security of property and life in the rural areas. This will encourage private sector participation in seed enterprise in the rural areas and thus add to the development of input (seed) markets in particular, and agricultural sector in general.
- xi. Implement large-scale training and provide technical support programme for private sector participants in the seed industry. Human capital in the public sector should be strengthened through training and re-training so as to enable them perform their regulatory and quality central functions.

### **3. SPECIFIC INCENTIVES TO PRIVATE SECTOR**

Specific incentives proposed attract private investments in the seed business, amongst others will include:

- a) Strengthening and facilitating National Agricultural Research Institutes through adequate funding for the development of improved seeds.
- b) Grant of pioneer status to all seed enterprises such that concessions given to other categories of enterprises can be extended to those in the seed industry too.
- c) Exemption from import duty and other charges at the port for machinery and equipment used in the seed industry.
- d) Exemption from building taxes usually imposed on industrial estates.
- e) Access to finance being indispensable as the lifeblood of any business activity, mechanisms for making soft credit available to farmers and private sector seed entrepreneurs should be strengthened. Accordingly, government should ensure low interest rate on loanable funds to the seed enterprises, such that it will not exceed single digit interest rate (i.e. below 10%).
- f) Exemption from sales taxes, including VAT.

- g) Special quota allocation of fertilizer and other farm inputs for seed companies/ enterprises/associations to assist in their seed production operations.
- h) Encouragement of seed exports and imports to and from the West African sub-region in the first instance and later to the whole world.
- i) Aggressive seed promotional programmes to sensitize and create sufficient awareness for the use of improved seeds among farmers. Management information system (MIS) should be set up to monitor, collate and analyse production, prices supply and demand of input-output data on seeds.
- j) Strengthening of States ADPs, NGOs and other extension agencies for overall sensitization and publicity campaign on the importance of improved seed in farming enterprises.
- k) Allocation of commensurate resources of government to the National Seed Programme in line with the attention being given to fertilizer.
- l) Varietal release mechanism should be addressed through participatory variety selection process involving farmers and researchers and other stakeholders so as to ensure timely release of new varieties.
- m) Government should institute a technical and legal framework for the introduction and protection of intellectual property rights (IPR) of breeders in line with the international guidelines to stimulate private sector seed enterprise.



## **7.0 Conclusion and Recommendations**

Upon critical examination of the seed policy statements and the national Agricultural Seeds Decree No. 72 of 1992, the Committee concluded that: (a) these documents are indeed overdue for review and have been so reviewed herein; (b) the bits and pieces of policy statements about seed industry available at present do not constitute a consolidated national seed policy; and (c) only minor amendments of the seed Act were necessary rather than repealing the entire law. Consequently, the Committee came up with the following recommendations:

1. The National Agricultural Seed Council as a body corporate should be urgently established so as to enable it perform its functions based on the new Act.
2. The seed industry should be private sector driven, but government should ensure adequate incentives to attract and sustain their interest.
3. Aggressive publicity campaign should be urgently mounted to sensitize farmers and the general public to the importance of improved seed in farming enterprise.
4. The National Agricultural Research Institutes (NARIs) should be properly funded on a sustained level for continued injection of improved seed into the system.
5. The Minister should take the urgent initiative to ensure that the amended seed Act as propose herein is quickly passed into law.