



CGIAR ADE-PSC

Workshop on Public Private Partnerships and Associated Needs for Product Stewardship and Liability

Swissotel Zurich, Switzerland, November 11-13, 2009

Final Report

1. Introduction

The objective of the workshop was to reach a common understanding of and guidelines for cooperating in R&D-based Public-Private Partnerships (PPPs). The following summarizes the key points from the three-day meeting.

The topics addressed in the workshop included a description of Public-Private Partnerships and Product Development; Management and Policy Implications (e.g. confidentiality, exclusivity, communications, transparency and financing aspects); Partnership Perceptions, Challenges, Barriers and Best Practices, as well as Product Stewardship and Intellectual Property (IP) issues related to R&D-based partnerships. The participants also composed a Top 10 priority list of success criteria for productive PPPs between the CGIAR Centers and the Private Sector that is attached hereto as Annex 1.

2. Summary Observations

- The workshop highlighted best practices from PPPs between the CGIAR and the private sector in the past, noting areas (e.g. regulatory and seed systems; liability and stewardship IP issues) where greater attention is needed.
- On stewardship and liability issues related to IP, the Central Advisory Services on Intellectual Property (CAS-IP) provides required guidance on the "how", but there is need for system guidance and structure around "what needs to be done." The cost of this could be factored into the reform process.

- It is very important to address the need to bring R&D closer together with product dissemination/deployment in order to increase the impact of research and development programs.
- There is considerable experience with private sector collaboration in the CGIAR. However the approach to partnerships is not consistent across the CGIAR Centers and the lack of system-wide knowledge of these experiences stifles an effective institutional learning process.
- A formalized evaluation of the benefits, risks, and resources necessary for PPPs between the CGIAR and the private sector is essential.
- Knowledge of macro and microeconomic market trends is indispensable to creating value for the poor, which are in line with the common elements of the mission of CGIAR and the private sector, and should always be considered appropriately in developing a PPP's value creation target.
- On the organizational aspects of PPPs, donors' support for common initiatives between the private and public sectors aimed at achieving sustainably increased production is necessary. The complementarities and synergies emerging from the common work of different players have been key in driving the entire production chain in the past.
- Donor understanding of the importance of promoting and supporting capacity building initiatives for local private companies is critical. These local players frequently act as partners of CGIAR Centers enabling the product of Center research available to the end users.

3. Recommendations

- PPPs should be seen as a valuable and effective vehicle used to capitalize on the complementarities that exist between the CGIAR and the private sector's R&D value creation process.
- The CGIAR should establish an effective and time sensitive process for investigating and evaluating strategic partnerships. The outcome of this work would benefit from the experience of similar evaluations done by private sector companies.
- Critical skills are needed in any organization to effectively partner and to efficiently design and execute PPP-projects. These skills include an understanding of the diverse ways of thinking of the CGIAR and private sector. There is an opportunity to establish a centralized function to do this, that could serve the CGIAR System and that would be responsible for providing support, direction and service on what needs to be done and how to structure

such collaborations. This could also strengthen the CGIAR's ability to establish new value-creating partnerships.

- Prior to the start of any PPP it will be critical to have a shared and clear understanding of the type and nature of the value creation as well as market access plans for the innovation. A well defined business plan that includes sound project management and resourcing plans is essential. This plan needs to include all the relevant players and participants to enable maximum impact and effectiveness. The critical skill sets associated with project management and effective process development and resourcing cannot be over-emphasized. This type of cross cutting competency would provide greater transparency, definition and create greater levels of trust.
- It is assumed that the future demands for crop production in CGIAR's target countries require more cross-functional and cross-sectoral approaches involving the complete set of technologies and inputs to boost production as well as create a feasible approach to cope with the changing systems for producing and distributing food and underlying agricultural commodities. In order to position the CGIAR research effort more favorably in this dynamic environment, consultation with the private sector must be enhanced in such a way as to assist CGIAR's conceptual and practical direction setting of R&D. This would also provide and ensure greater transparency and broader support of the CGIAR's relevance and strategic role along with competitive advantages in the world's agricultural community.
- Greater private sector input into the Strategy and Result Framework and Mega Programs should be sought, in order to ensure that a more strategic operational view of partnerships is included. This leads to clarity around the comparative and competitive advantages of the CGIAR, and the funding roles and responsibilities of the parties.
- The elaboration and implementation of a product stewardship framework for the CGIAR System, responsive to likely private partner concerns, and encompassing the treatment of stewardship of genetically modified organisms through all stages of product development, distribution, and use, would be highly beneficial for the success of future PPPs.
- As a follow-up to this workshop, donors, senior management, and Center research directors need to establish minimum standards for PPP engagement with the CGIAR, including a position on the extent of the CGIAR's product stewardship responsibility for material it shares with partners.

4. Approach to PPPs

The approaches to public-private partnerships from both private and public sectors respond to different incentives and objectives. Whereas public researchers are often more problem-solving-oriented and less influenced by “the profitability factor”, private sector researchers focus more on potential business impact and the delivery of products all the way to clients.

In entering into a PPP, the private sector evaluates the partnership's potential to enable a more positive business environment. This approach involves assessing, among other things, the PPP's: a) impact (How much does the PPP matter and how many people will be reached?); b) design (Is the technology able to solve the problem? and/or, how will the partnership use it?); c) likelihood of success (Do the PPP managers have the expertise, technical capacity and financial resources to succeed, and the credibility and support of partners as good stewards?); and, d) Risk (IP protection, regulatory risks, stewardship risks and liability risks, etc.). In this regard, public entities interested in entering into PPPs will find it helpful to review private sector companies' selection criteria and policies on PPPs.

The partnership's predictability (the ability to foresee the risks and difficulties associated with the partnership so that the necessary efforts to overcome them can be calculated) is a key issue evaluated by private companies in their investment decision-making. In some regions, enthusiasm for PPPs may be hampered by the persistent problem of unpredictable regulatory systems. The investment climate for private sector participation in PPPs may be improved, inter alia, by:

- Providing strong and predictable regulatory and seed systems, enabling the creation of favorable climate for investments and business;
- Enhancing local agro-dealer networks (fundamental for distribution of seeds to farmers); and
- Supporting capacity building and mentorship initiatives (which are just as relevant as technology donation to strengthen local markets).

The improvement of local conditions is so important that even where private companies are interested in donating products (usually involving products outside their main market focus) for "humanitarian" purposes, they cannot do so because of weak stewardship by prospective local partners. Ensuring high stewardship standards is key to private companies entering into PPPs, since carrying out their development aid objectives presupposes that their donation would not needlessly harm their reputation simply because it was not handled properly by the beneficiaries.

One of the main obstacles preventing farmers from getting access to better quality seeds derives from regulatory frameworks hampering the production of seeds at community level. Support by policy makers is critical for technology uptake and also to provide farmers access to those better seeds that will allow them to increase their yields. Improving the regulatory environment is a matter of utmost importance, which must be also supplemented by providing the necessary infrastructure to help move the seeds as swiftly as possible.

In terms of the CGIAR Centers' approach to PPPs, their interest in partnering with private sector companies is frequently hindered by internal obligations, such as those posed by provisions contained in Standard Material Transfer Agreements, and other IP-related issues (e.g. the unrestricted access clauses). A possible course of action to help facilitate Centers' participation in PPP would be the common adoption of standard terms and conditions applicable to all the partnership agreements between the private sector and the CGIAR Centers. PPPs involving access to hybrid seeds require case-

by-case analysis and negotiation by the parties to determine the share of the genetic material owned by each party.

5. Best Practices for Productive Partnerships

The majority of the best practices highlighted at the workshop are reflected in the above list of 10 key points for successful PPPs. However, the analysis of case studies and the discussions among experts from public and private sectors identified some practices successfully followed in the negotiation and implementation of PPPs. These can be summarized as follows:

- PPPs between CGIAR Centers and private companies are negotiated case by case;
- Partners must outline their background IP and objectives;
- Partners must protect their IP appropriately;
- Partners need to know why they are entering into a partnership and where it is aiming;
- The commitment must set realistic objectives;
- The parties should be willing to accept the chances of failure (innovation always involves risks);
- Transparency and good communication between parties are essential;
- The partnership must envisage appropriate supervision;
- The parties must accept their different approaches to the partnership;
- The parties must recognize the different skills that they bring to the partnership; and
- The parties must favor an environment that encourages partnership rather than seeing it as a challenge.

Some reflections about the scope of past PPPs underlined that joint projects between private and public sectors that result in the "donation" or open-access of genetic materials would have geographical limitations, since allowing a global open-access pathway is not a realistic option for the private sector. Moreover, PPPs aimed at providing free seeds to poor populations have not always turned out to be successful for private companies. Often, companies were targeted by the media, who criticized them arguing that poor populations granted free seeds become dependent on the donors. This has often discouraged private sector participation in PPPs.

Finally, the workshop discussed the importance of CGIAR Centers agreeing upon a set of good practices for PPPs. The proposal focused on the need for CGIAR Centers to set out and commit

themselves to a set of principles and practices in common at the product stewardship level and on IP issues. The current practice of negotiating with the private sector case by case could remain, but all CGIAR Centers' adherence to a common set of general principles and standards would significantly facilitate the negotiation process.

6. Common barriers and Challenges for PPPs

The most common barriers discussed are mainly derived from the lack of knowledge about each others' activities and strengths. The PPPs must then capture the strengths of each partner and focus on collaborative solutions. Intellectual property rights, exploitation and development rights, lack of market and geographical segmentation, exclusivity rights, full cost recovery, liabilities and risks are also some of the common barriers hindering the achievement of productive PPPs.

In particular, the varying IP procedures and experience with operating confidentiality requirements among Centers raise major obstacles that need to be addressed within the CGIAR System. Moreover, in the case of PPPs aimed at benefitting smallholder farmers, the different objectives of CGIAR Centers and the private sector make it difficult to create effective partnerships. This kind of initiative presents few incentives for the private sector, while the public sector alone may not have the full capacity to deliver the outcome and impact that are needed.

A major challenge to future PPPs between CGIAR Centers and private companies is the generalized public sector need for long- term large-scale commitment by the private sector.

These challenges will require both parties to "think outside the box" and answer questions such as:

- How to create mutual benefit?
- How to effectively deliver?
- How to share risks and create re-investable capital?
- As partners.....: how to present a unified vision of enhanced productivity?

7. Product Stewardship and Liability Issues for the CGIAR Centers

Workshop Part 2 focused on product stewardship and liability. This provided a forum for examining the increased complexity of challenges linked to the sustainable use and distribution of CGIAR Center research products. Deployment of CGIAR products now involves regulatory and legal liability (including IP-related) challenges that we have not faced in the past. This challenge involves a broad range of CGIAR products, variation in regional, national and local impacts and differences in levels of responsibility within the research, development and deployment domains.

Workshop participants emphasized the importance of CGIAR Centers maintaining their credibility and responsibility as research partners through clear product stewardship principles and mechanisms. In the discussions on stewardship, it became obvious that even the definition of stewardship is perceived differently by various stakeholders in the agricultural sector. In addition, the wide variety of products that may carry liability – from “brands” to agricultural machinery designed by CGIAR researchers, to GMOs – were highlighted. An interesting case of plastic bags used for post-harvest storage of grain and beans was described by the Research Director from IITA. Imitators of the technology were selling “counterfeits” whose inferior qualities meant that the beans were not protected against insect damage. Thus IITA’s reputation was at risk, as farmers were dismayed, falsely believing that their harvest was not protected despite using IITA-endorsed bags for storage.

As a conclusion of the debates on IP and product stewardship, the participants agreed to an action plan for CAS-IP and the Centers’ IP Managers/Focal points to collect case studies and practices from the Centers, including identification of established processes/procedural units such as seed health/phytosanitary sections that could provide models for stewardship management activities. The group also recommended that this stewardship study should then be followed up with the Center Research Directors. A meeting in mid-2010 is envisaged, to bring a small group together to use these results in developing a CGIAR-wide plan for stewardship strategies that address changing institutional roles in partnership, identification of differing strategies for the array of products developed and deployed for the smallholder farmer, and means to provide due diligence for stewardship through appropriate contract language.

Top 10 priority considerations for successful PPPs

The following 10 key points were identified as essential for the success and productivity of future PPPs between CGIAR Centers and the private sector.

1. Shared Vision

- Defining and prioritizing goals and objectives; and
- Establishing an agreement on principles, roles and responsibilities.

2. Trust & Mutual Respect

- Understanding each other's language;
- Capturing the strengths of each partner and focusing on collaborative solutions;
- Acknowledging mutual dependency and recognition of partner's needs;
- Understanding of partners' agenda; and
- Respect accountability to stakeholders of the parties.

3. Mutual Value & Benefit

- Providing a clear definition of partner and donor contributions;
- Establishing precise and defined benefits (qualitative and quantitative to all partners); and
- Understanding that both sides must benefit from the PPP.

4. Business Plan

- Inviting parties to determine management of project IP;
- Setting forth a clear IP strategy that can be flexibly applied;
- Providing clear product and market specifications and delivery pathways; and
- Laying down indicators of success.

5. Good Agreement Upfront

- Defining roles, rights and responsibilities of the partners;
- Providing a material sharing understanding (clarity internally and bilaterally);
- Addressing exclusivity;
- Laying out a communication strategy;
- Addressing IP and Stewardship issues; and
- Providing the timeframe, full costing and adequate scale of the PPP.

6. Strong Project Management

- Good governance;
- Ambitious setting and keeping milestones;
- Providing exit strategies; and
- Monitoring and Evaluation.

7. Common Communication and Public Awareness Strategy

- Determining what is confidential and what can be communicated to the public; and
- keeping everyone to the same message.

8. Confidential Information and Transparency

- Know-how sharing (defining what must be shared for effective technology development versus what disclosure would compromise competitive advantage); and
- Understanding CGIAR's values clearly.

9. Risk assessment and understanding liabilities

- Envisaging a clear risk mitigation strategy;
- Providing for litigation and mitigation plans and remedies;
- Providing stewardship plans; and
- Foreseeing mechanisms for dispute resolutions.

10. Commitment

- Securing strong talent involvement (project champions at managerial and research levels)
- Ensuring high level buy-in on all sides; and
- Ensuring leadership on all sides (willing to defend positions).