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Full Length Research Paper

Legal and institutional constraints to Kenya-Uganda cross-border bean marketing

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This study investigated the legal and institutional constraints to Kenya-Uganda cross-border bean marketing. Common bean is an important legume crop in East and Central Africa, providing protein, calories and cash income for rural households. There is high potential in cross-border bean trade between Kenya and Uganda. However, the complex methods of certification, stamp fees and institutional restrictions are some of the main reasons for bribery at border crossings and informal crossing points. The objectives of the study were to identify and assess the legal and institutional constraints, which lead to informal bean trade in the border districts of Kenya and Uganda. Purposive and systematic random sampling methods were used to select the study districts and bean traders respectively. One hundred and six respondents were interviewed using structured questionnaires. Descriptive statistics and Statistical Package for Social Scientists (SPSS) were used to analyse the data. The results revealed lengthy documentation procedures, high clearance fees, harassment by public officials and customs authorities, and instability of foreign exchange rates. High transportation costs due to poor roads and lack of storage facilities at border points increase business costs. Annual average of the formal bean exports from Uganda to Kenya from 1990 to 1998 accounted for only 15.2% of the total bean exports, while 83.7% was informal. In the year 2001 formal bean exports accounted for a value of 0.982 US$ million while 2.177 US$ million was informal. The study recommends removal of lengthy clearance procedures, lowering of taxes and strengthening of regional co-operation.

Key words: Bean, cross-border marketing, trade barriers.

INTRODUCTION

In Kenya, common bean is the most important pulse and second to maize as food crop (GOK, 1998). The national annual demand for common bean has been estimated at 500,000 metric tonnes, but the actual annual production is only about 125,000 metric tonnes (Muasya, 2001). The total area under bean cultivation in Kenya is estimated to be 500,000 ha (GOK, 1998) leading to actual bean yield of 250 kg ha^{-1} partly under mixed cropping. In pure stands, yields of 700kg ha^{-1} have been reported (Songa et al., 1995; Muasya, 2001). This yield is low compared to a potential yield of up to 5000 kg ha^{-1}. Such high yields have been achieved in other countries, such as Mexico under field conditions (Muasya, 2001).

Bean consumption in Eastern and Southern Africa exceeds 50 kilograms per person per year, reaching 66 kg per person in parts of Kisii district of Kenya (Wortmann, 1998). Bean also contributes 30% of the dietary energy in the widespread maize-based cropping systems of mild-altitude areas of Eastern and Southern Africa (Wandel and Holmboe-Ottesen, 1992). Bean forms a good source of income for farm families. In Uganda, bean is a major source of food security, readily available and popular food to both the urban and rural population. In 1987, Food and Agriculture Organization, (FAO) estimated Uganda's bean consumption as 29.3 kg per capita (Kirkby, 1987). However, recent studies show that the per capita

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consumption in Uganda's Nabongo area is 58 kg (David, 1999). Beans provide about 25% of the total calories and up to 45% of protein intake, of the diet of many Ugandans. The crop is also an important source of income in Uganda due to the increasing demands both in the domestic and export markets (NARO, 2000).

It is known that smallholder farmers have adopted some of the released varieties from research institutions. There is inadequate empirical evidence on the bean grain characteristics preferred by consumers. There is also inadequate knowledge about the released cultivars among customers, their marketability and geographical distribution within the region. This study was therefore conducted to investigate the legal and institutional constraints to Kenya-Uganda cross-border bean marketing. The objectives of the study were to identify and assess the legal and institutional constraints, which lead to informal bean trade in the border districts of Kenya and Uganda.

METHODOLOGY

This study was conducted in Bungoma and Busia districts of western Kenya and Mbale and Kapchorwa districts of eastern Uganda between March and June 2002. The study focused on the factors that prohibit traders from entering into or leaving the bean trade in order to be able to determine the relative ease of access into bean marketing. Primary and secondary data sources were utilized. The primary data were obtained in a survey from 106 bean traders using structured questionnaires. Besides questionnaires, observation and discussions were also used to capture the primary data. A descriptive survey design was adopted to attain the objective of describing problems encountered by bean traders in the study area. To achieve this, the informants who included Agricultural Extension Co-ordinators, KEPHIS officials and customs representatives were used in Kenya while in Uganda, CIAT Co-ordinators, NARO staff and DAOs were the informants. The primary data collected included formal export procedures, volumes of beans bought, sold and transported across the borders, their prices, number of buyers and sellers (participants), sources of supply, distance covered and modes of transport. Secondary data refer to published information mainly from previous studies on cross-border bean marketing and were only used where pertinent historical information was required. The data mainly used were qualitative, hence requiring descriptive analysis. Secondary data were obtained from the governments' publications such as Economic Surveys, Statistical Abstracts of Kenya and Uganda as well as publications from private institutions. Purposive sampling method was used to select the study districts, while systematic random sampling procedure was used to select the traders.

The major wholesale and retail markets in the study area were identified and selected. Retail traders and wholesalers were identified using the volume of beans they handle. In every market the first respondent was picked arbitrarily and the next respondent was picked by skipping one. Legal constraints were the factors analysed to determine the barriers to entry into bean business. Descriptive statistics and analytical models (S-C-P) were used to analyse the data using Statistical Package for Social Scientists (SPSS) and Microsoft Excel computer programs.

RESULTS AND DISCUSSION

Cross-border bean marketing

The trade across the Kenya-Uganda border is composed of both formal (recorded) and informal (unrecorded) trade There are four border points from Uganda to Ken-ya. These are Suam in Kapchorwa, Lwakhakha in Mbale, Malaba in Tororo and Busia in Busia districts of Kenya and Uganda. Informal trade thrives at virtually all the above border points despite the existence of physical barriers. This informal trade is particularly significant at Suam, Malaba and Busia border points. The major players in informal trade are women and the youth, who either carry their commodities on bicycles or cross on foot. Commodities are carried in small quantities (sometimes as low as 5 kg). However, since this is done repeatedly, the quantities exported end up being significant. It is important to note that informal trade is not only conducted using side-roads. In fact, a significant outflow of commodities through the informal channel was observed during the survey to be occurring at the official crossing points. One key informer was heard commenting that since no tax is levied on exports, there is no urge on the part of the Uganda Revenue Authority/Customs officials to record such transactions.

Participants in cross-border bean trade

Two groups of market participants are involved in cross-border bean marketing. 1. Wholesalers who travel from Kenya to Uganda to purchase beans and transport them across the four border points. This group of participants handled a sizeable volume of the cross-border bean trade. However, a significant amount of it was informal. 2. Uganda exporters who included large-scale producers and export companies who export their beans mainly through Busia, Malaba and Lwakhakha border points. The long distance wholesalers are the major participants in the informal cross-border trade. This group normally travels from Kenya to markets in Uganda such as Mbale, Sironko, Kapchorwa, Tororo and even as far as Kasese to purchase beans and transport them to border points using hired lorries. Once they reach the border towns, beans are carried across the border by different modes of transport, depending on convenience and volume. At Busia border point human labour is used to transport across the border through footpaths to the stores on the Kenyan side. Others use bicycles and pick-ups. On Malaba and Lwakhakha borders, head-load and bicycles are used to cross to Kenyan side. Kenyan wholesalers, who team up in a group to pay for one store, rent these stores. These bean stocks are accumulated to a reasonable volume in these stores for a week or more.

Lorries are hired by these long distance wholesalers who transport them to various destinations in Kenyan markets such as Kitale, Nakuru, Nairobi, Machakos, Kitui and Mombasa. The Uganda exporters purchase their bean stocks from Kampala, Mbale, Kapchorwa, Kasese, Kabale and Kisoro and transport them across the borders of Lwakhakha, Busia and Malaba through formal export channels.

Table 1. Cross-border bean exports and value to Kenya: 1990-1998.

Year	Formal (Mt)	% of total	Value (US$Mil.)	Informal (Mt)	% of total	Total (Mt)
1990	2,132	24.4	0.97	6,593	75.6	8,725
1991	2,855	13.6	0.84	18,165	86.4	21,022
1992	1,723	4.7	0.52	34,955	95.3	36,678
1993	767	8.6	0.2	8,112	91.4	8,879
1994	3,343	23.9	1.17	10,659	76.1	14,002
1995	678	2.7	0.5	4,663	87.3	5,341
1996	2,442	17.7	-	11,372	82.3	13,314
1997	2,592	19.6	-	10,658	80.4	13,250
1998	2,743	21.6	-	9,944	78.4	12,687

Source: Agribusiness Development Center (ADC)/ IDEA project, 2000.

Table 2. Estimated 1999 cross- border bean exports to Kenya.

Border point	Volume of Beans (Metric tones)		
	1999		
	Formal	Informal	Total
Lwakhakha	-	801	801
Malaba	2,245	3,570	5,815
Busia	8,132	7,150	15,282
Suam	-	-	-

Source: (Agribusiness Development Center (ADC)/ IDEA project, 2000

Formal export procedures

The Ministry of Agriculture Animal Industry and Fisheries (MAAIF), Kampala, Uganda is a government body that is responsible for controlling the importation and exportation of plant materials. For any trader to export beans and other plant materials from Uganda into Kenya, the following documents are required by MAAIF: 1. Plant import permit from the importing country (Kenya). 2. Phytosanitary certificate charged Ush 2,000 or Ksh 85 per consignment. 3. Letter of request for exportation, indicating the importer, the exporter and their addresses. The Kenya plant Health Inspectorate Service (KEPHIS) is the Kenya government agency that regulates plant imports and exports. For bean imports to be formally allowed into Kenya or out of it, KEPHIS requires a phytosanitary certificate to confirm that the consignment has been inspected in Uganda and is free of pests and diseases. Other costs that apply are as follows: Import Duty Fee (IDF) paid to customs at Ksh 5,000 per consignment, depending on weight, for example up to 20 tons the charge is Ksh 5, 000. Up to 50 kg, the charge is Ksh10-20. All these payments go to the Kenya Revenue Authority (KRA). At the time of the survey, the Kenya customs department was administering two levies; (i). Horticultural Development Authority (HCDA) levy, at the rate of Ksh1 per kg of product. This is charged on beans, oranges, bananas and onions. (ii). Import duty of 3.5% of value of produce. For countries which are members of Common Market for Eastern and Southern Africa (COMESA) pay 90% less than the rate applied to import goods from non –COMESA countries. Most traders interviewed commented that HCDA levy discourages formal cross-border bean trade, because beans attract this levy. This scenario leads most of the bean traders evading formal export procedures and customs duty. However, in an interview with one KEPHIS official at the end of the survey it was established that the levies by HCDA have since been withdrawn.

Volume of cross-border bean trade

The formal bean trade across the border of Uganda and Kenya is small. According to a recent study by Ackello-Ogutu (1997), the annual average of the formal trade figures between Kenya and Uganda from 1983 to 1993 period may account for less than 12% of the total trade between the two countries, while informal trade constituted about 4.5% of Kenya's national production figures for beans. Table 1 shows trends of Cross-border formal and informal bean exports to Kenya over the period 1990-1998.

Analysis of bean exports reveals that formal bean exports from Uganda to Kenya increased from 2,132 metric tonnes in 1990 to 2,855 metric tonnes in 1991, and then fluctuated between 1,723 metric tonnes in 1992 to 678 metric tonnes in 1995, while informal bean exports increased from 1990 to 1992, decreased in 1993 and fluctuated again up to 1995 (Table 1). During the time when formal exports were increasing from 1996 to 1998, informal bean exports were declining. The explanation to this scenario is that the formal bean exports increase was attributed to improved trade relations and the strengthening of the East African Common market at the time and the lifting of export ban to Kenya. It was noted that nearly 22,000 metric tons of beans were exported through the three border points. Busia was ranked first among the three border points in bean exports followed by Malaba then Lwakhakha. Table 2 summarizes the volumes of

Table 3. Estimated annual cross-border bean exports to Kenya.

Border point	Range (Metric tonnes/annum)	Informal Trade as % of Total
Lwakhakha	170-800	100
Malaba	4000-6000	41-61
Busia	6500-15000	45-47

Source: Agribusiness Development Center (ADC)/ IDEA Project, 2000.

Table 4. Cross- border bean exports to Kenya and value: 2000.

	Suam	Busia	Malaba	Lwakhakha	Total
Formal volume (Mt)	239	17,668	107	702	18,716
Formal value (US$ Mil.)	0.047	4.03	0.035	0.172	4.284
Informal volume (Mt)	378	11,640	1,733	1,322	15,073
Informal value US$ Mil.)	0.036	2.20	0.535	0.313	3.08
Total volume (Mt)	617	29,308	1,840	2,024	33,789
Total value (US$ Mil.)	0.083	6.23	0.57	0.485	7.37

Source: Foodnet, 2002.

Table 5. Cross-border bean exports to Kenya and value: 2001

	Suam	Busia	Malaba	Lwakhakha	Total
Formal volume (Mt)	0	2,868	261	323	3,452
Formal value (US$ Mil.)	0	0.841	0.055	0.086	0.982
Informal volume (Mt)	0	4,360	4,035	416	8,811
Informal value (US$Mil.)	0	1.191	0.88	0.106	2.177
Total volume (Mt)	0	7,228	4,296	739	12,263
Total value (US$ Mil.)	0	2.032	0.935	0.192	3.159

Source: Foodnet, 2002.

formal and informal bean exports that crossed from Uganda to Kenya in 1999.

It is also worth noting that Lwakhakha border point is a well-established border point, though the road to this exit is poor. The situation worsens in the rainy season. The poor road infrastructure renders the border point to have low cargo traffic. The border point also has a river barrier whose water level is most of the time high rendering the route impassable during heavy rains. Malaba is a busy border point and handles a sizeable amount of exports to Kenya. It has a river barrier but despite this, informal trade at this point is significant. Busia border point is perhaps the busiest as it handles big volumes of exports to Kenya. The border has no physical barrier and only the forms of barrier are the local councils (LCs) who have instituted local taxes at the unofficial crossing points on Uganda side. Table 3 shows the annual export volumes at the three border points.

In depth analysis of bean volume indicates that the informal volume of beans exported from Uganda to Kenya in 2000 was more than the formal volume in three border points, Suam, Malaba and Lwakhakha (Table 4 and Table 5), while in the year 2001, informal volume of beans exported was more than the formal volume in all the four border points. This was observed to be the case during the survey in the study area as evidenced by the high traffic of mostly women and the youth who were seen carrying small quantities of bean stocks crossing several times in a day. However, the total formal volume was more than the informal volume in the year 2000. The informal trade thrives due in part to the physical nature of the border points, reluctance on the part of customs officials to record what they call “small” transactions, lengthy documentation procedures and the reluctance on the part of the traders to avoid paying what they term as high “clearance fees”. It was noted that some of the border points did not have up-to-date data on exports. This was observed particularly in Suam border point. The estimates of the informal volume of cross-border bean trade reported here suggest that more than half of this trade was not registered, implying a serious omission in the calculation of both countries Gross Domestic product (GDP). Therefore, there exists a big potential in cross-border bean trade between Kenya and Uganda, and trade liberalization through regional co-operation initiatives will enhance the realization of this potential.

Legal and institutional constraints

Entry barriers prohibit potential competitors in various ways. In both Kenya and Uganda, though beans are marketed under a free (liberalized) market system with minimum government intervention, a number of constraints still exist. The complex methods of certification and stamp fees are one of main reasons for the presence of bribery at border crossings. This was evident at Busia, and Malaba border points. Institutional restrictions in form of lengthy documentation procedures involved in the issuance of licenses coupled with high clearance fees forces many traders to resort to informal crossing points (Mauyo et al., 2007). This was cited by traders as one of the major causes of informal trade. A number of traders who were interviewed complained of harassment by public officials and customs authorities. In relation to the above, local councils particularly in Busia border point have instituted local taxes at the unofficial crossing points and as a result, traders end up incurring more costs that were not planned for. Rent seeking practices among Public officials at the major border crossing points and cumbersome import/export procedures encourage both large and small traders to pass their beans through undesignated routes. This leads to loss of income on the part of the importing and exporting countries as tax is not paid at entry points by most traders since most of them are not captured. This forces traders to engage in bribes to police officers who may be found on such routes. High transportation costs due to poor roads increase the cost of business and were cited by most traders as a barrier to entry in the bean business. Other constraints that were considered as barriers by most traders are: lack of working capital and credit facilities, instability of foreign exchange rates which makes them not to plan well for their business and lack of storage facilities at the border points which not only affects quality of products but also encourages trade in “small” quantities. This therefore leads to reduction in the two governments’ revenue and volume of trade. We can therefore conclude that, legal and institutional constraints are barriers to entry in the bean trade in the study area, which have locked out many traders who would have ventured into the business.

Conclusions

Lengthy documentation procedures, high clearance fees, harassment by public officials and customs authorities are legal and institutional constraints, which have led to informal bean trade on Kenya-Uganda border. Instability of foreign exchange rates, high transportation costs due to poor roads and lack of storage facilities at border points increase business costs. However, there is potential in cross-border bean trade between Kenya and Uganda, which could be exploited through regional co-operation.

Recommendations

The following recommendations are suggested based on the findings of this study: i). There is need to provide the necessary road infrastructure in the bean production districts of the two countries including the maintenance of all weather roads to border exit points. This will improve the transport efficiency by providing effective competition and all farmers and traders from an efficient rural transport system will derive gains in reduced transport costs. ii). The two governments (Uganda and Kenya) through the local governments’ authorities should construct cheap market storage facilities which are appropriately located within the open air markets in order to reduce the trader’s handling and other marketing costs. This will also generate extra revenues in form of stall hiring charges. iii). Focus should be directed to elimination of trade obstacles such as non-tariff and institutional barriers, which increase transaction costs for importers and exporters. This can be achieved through strengthening of regional cooperation

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