Workflow: Institutional Effectiveness

Toolkit 10.1
Strategic Partnerships

target audience

Farm owners.

what it is

Frequently, farmer owners who are in an establishment, re-establishment, or development phase, whether as a private owner or a community property association (CPAs) with multiple beneficiaries, enter a contractual relationship with a strategic partner with the intention of deriving a number of benefits from that relationship, such as:

- Production expertise.
- Access to an export market.
- Financial support, whether capital investment or working capital.

The strategic partnership can be in the form of a contract for services or a joint venture (JV) where the two parties (owners and strategic partner) create a new company (Newco) each with shareholding. In some cases, other stakeholders, such as funders (Department of Trade and Industry), take an equity stake in the JV as condition of their funding contribution.

why it is important

The decision to seek the support of a strategic partner is particularly important with significant, long-term implications for the owner(s). It is also a decision that is made infrequently and locks the owner into a contractual relationship for some time. Therefore, you cannot to afford to learn from your mistakes, and it is vital to follow a proper process, with due diligence, that will result in the best and most equitable arrangement for the farm owner and the strategic partner.

Unfortunately, the track record of strategic partnerships has shown several weaknesses and problems:

- Strategic partners whose main motivation is to secure an interest in primary production as means to securing product, but with little interest or experience in building sustainable production practice. In effect, a middleman to whom the farmer is beholden.
- Unscrupulous strategic partners who exploit the farm owner(s) by extracting inequitable benefit from the arrangement and have a policy of poor transparency.
- A failure by farm owners to negotiate and engage with prospective strategic partners on an equal footing. Often, the farm owners only approach a strategic partner when they have their

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backs against the wall and are desperate for a "saviour". This situation gives most of the bargaining power to the strategic partner, but it is based on few false premises:

- It is wrong to assume that the capital (money) and operational capacity of the strategic partner outweighs the value of land, orchards (even if they are in poor shape) and water. This is not true, cultivated land and especially water rights are a scarce resource which give the farm owner significant bargaining power.
- Exporters and market agents increasingly need to secure their export volumes by having a direct interest in primary production, i.e., vertical integration down the value chain including production. Therefore, the exporter or marketing agent needs the farm owner just as much as the farm owner needs market access.

➢ The failure of farm owners, especially if this is a poorly managed CPA, to manage the negotiation process, the due diligence, and the legal and service level (operational) details of strategic partnership agreements. Furthermore, once a strategic partnership has been agreed, ongoing relationship and governance needs a certain level of professionalism, involvement, and formality to ensure that the owner(s) do not just abdicate their responsibilities.

Obviously, there are examples of good strategic partnerships where the mutual contribution is equitably valued, benefits are equitably apportioned, transparency is good, trust is high, and transformation takes place. The factors below aim to highlight the most critical success factors.

success factors

➢ **Timing** – Often strategic partnerships are only considered once a point of desperation has been reached. Do not wait until you have reached a position of weakness. If it makes sense to strengthen your position and performance through a positive strategic partnership, do so at the right time, when you can go through a carefully managed, well-considered process.

➢ **The Track Record and Good Standing of the Strategic Partner** – Often the strategic partner will do proper due diligence on the farm and farm owners, but the due diligence on the strategic partner can be lacking. As a farm owner, you want to ensure that the prospective strategic partner is of good standing by doing proper due diligence, ensuring that your possible future strategic partner has:

- A sound financial and commercial track record, including unqualified audits, approved financial statements, good ROI, and low financial gearing.
- A sound production track record from other citrus business interests and partnerships, including volumes and quality results.
- Management structures and applicable CVs of senior and middle management, indicating operational experience, HR, and financial management skills.
- The board structure, showing expertise and relevant experience, such as strategic thinking, financial expertise, and broad-based value chain experience/exposure.

➢ **Commitment to Transformation** – Satisfy yourself that the strategic partner has the intention, track record and value system to support transformation.

- BBBEE internal audit are done with the scorecard reflecting progress.
- Employment equity scorecard.
- Proven contributions to employee training at all levels.

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- A track record of promoting effective collaboration and teamwork with the farm owners as dictated by the level of involvement, e.g., a pure lease of land to a strategic partner may require little-to-none operational involvement by the owners, whereas direct involvement by the owners in the operating company or JV and/or the employment of members of the CPA requires much more.
- The strategic partnership contract should include a strategic handover process to the owners and a proper exit plan.

➢ **Operational Competence, Experience and Organisational Capacity of the Strategic Partner** – As mentioned, avoid a strategic partnership that is, in effect, merely a middleman, who promises access to a certain market but does not contribute skills, expertise and input to the production and farming operation. Ideally, partner with someone who is a successful producer in their own right, and has:

- Proven ownership (title deeds) of a sizeable enterprise.
- Proven contractual arrangements with entire value chain service providers (harvesting, packing, in and outbound logistics, marketing, and material supply).
- Compliance to main market access requirements (GlobalGAP, SIZA).
- Finance facilities (working capital and development capital).

➢ **The Farm Owner's Ability to Negotiate and Engage with the Strategic Partner** – It is vital that the farm owner(s) can negotiate and engage with the strategic partner before and after agreements have been reached.

- Is your negotiation team properly set up? If you are a CPA, your structure and decision-making team must be in place and mandated by the beneficiaries to make the necessary decisions.
- Prepare properly and insist on a thorough due diligence process.
- Ideally, bring in the independent expertise you require, and do not naively rely on the strategic partner's resources. Independent advice could include both legal and operational expertise. Often, legal review is undertaken, but the details of how the operations will be managed by/with the strategic partner are not ironed out properly. Do all that is required to ensure that the contractual provisions are sound and comprehensive.
- Operational obligations and provisions should be included in the management contract and/or in service level agreements (SLAs) that form part of the signed agreement.
- Remember, it is better to take longer to reach a good agreement than to spend many years afterwards arguing about what was or what was not agreed.

➢ **The Right Structure** – Ensure that the management structure is sound and serves both parties.

- Give careful consideration the governance and management structure.
- At times, a poorly organised and governed CPA with many beneficiaries, possibly with unrealistic expectations, can become very dysfunctional.
- It is good practice to establish a Pty Ltd management company (Newco) which ensures a professional, arm's length relationship between the strategic partner and business on the one hand, and the CPA and the business on the other. Both parties (the strategic partner and the owner) should be equitably represented and involved in the newco. All business affairs, decisions and transactions are executed through the newco. Assets can be transferred or loaned/leased to the newco. Profits can be distributed, and losses incurred

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by the newco. In this way, assets, and the proper operational and financial management of the strategic partnership, are protected from undue exploitation and manipulation.

- **Transparency** – It is critical that the owner has full access to information and data, and that he owns his numbers. This may not be applicable if the arrangement is not really a strategic partnership but merely a straight leasing of the land to a lessee producer. However, in most case, the owner is involved, members of the CPA are employed, and there is a need for transparency and trust. Transparency includes:
  - Complete transparency of the value chain and upstream and downstream costs.
  - A marketing agreement which ensures that information such as sales settlements, packhouse and logistical costs, agency commissions, and purchasing income (rebates) is fully disclosed.

execution steps

1. Put your own house in order. The better your business and/or ownership structure is, the better you will be able to engage successfully with a prospective strategic partner. This includes a clear management and decision-making structure of the CPA.
2. Preparation, which includes:
   - Complete financial and production records for as many years possible to facilitate the due diligence the strategic partner will want to do.
   - A clear picture of what your requirements are.
   - Engaging legal and operational expertise, whether this is paid for or provided by adequately experienced friends in the industry.
   - Clarity on your negotiation position, what you want, and what you are prepared to give.
   - A formal request for proposal process (RFP) which will give you the option to formally evaluate a number of prospective strategic partners.
3. A comprehensive due diligence of the prospective strategic partner(s), including references from current clients/partners. Your RFP will have indicated to a prospective strategic partner what your expectations are, both in terms of process and requirements.
4. Finalise comprehensive agreements and do not leave matters to assumption, loose mutual understanding, or unwritten promises.
   - It is worth emphasising that you should have clearly agreed-upon dispute solution mechanisms. This may include arbitration with a mutually agreed arbitrator.
5. Establish an appropriate management company/structure.
6. Manage the newco formally and professionally. Again, do not rely on memory, verbal agreements, and loose business practice. Structure your involvement professionally, hold scheduled management meetings, keep accurate minutes, review reports and information, and generally establish good habits in the manner in which the strategic partnership is run.

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assessment questions

Please Note: There is no minimum / maximum amount of questions you can add

1.	Do you have a clear business case and plan, with defined success criteria and objectives, for a strategic partnership?
2.	Are you, as an owner, able to negotiate and engage with a potential strategic partner effectively? That is, is your management team, its composition, and its structure, well positioned to engage with the strategic partner?
3.	Have you done comprehensive due diligence on the strategic partners you are considering?
4.	Have you defined and valued your contribution to the partnership properly?
5.	Is the structure/business vehicle (Pty Ltd etc.) appropriate for your purposes?
6.	Does the agreement/contract with the strategic partner ensure that services are fully and comprehensively defined and that full transparency is assured?
7.	Is the strategic partnership delivering as expected?
8.	Is there an effective transfer of knowledge and transformation?
9.	Is there a clear exit and handover plan?

resources

1.	Supply and Marketing Agreement example

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