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Strengthening business associations in the public-private sector dialogue



The Business Advocacy Fund is supported by the Danish Government

SCOPE OF WORK OF THE FUND

Poverty alleviation critically depends on economic growth in which people have the freedom to start and grow businesses and to trade widely, creating wealth and jobs. Encouraging business to start, invest and

The Doing Business reports, published by the World Bank, argue that countries that improve their investment climate see higher rates of economic growth, investment and job creation. Governments cannot do this by themselves and need effective, evidence based policy advice from the private sector. Indeed, private sector input to public policy making is crucial to build an investment climate conducive to business.

The Business Advocacy Fund's role is to provide appropriate support to business and trade associations in advocating their cases to government. In 2009, this resulted in 113 new dialogues commencing between the private and public sectors (2008-92).

The Fund engaged with a total of 69 BMOs during the year, considered 21 project applications, and approved 16 proposals from 13 BMOs worth KSh 27 million.

The evidence suggests that the rate of start of new dialogues is increasing. The snapshots on the following pages outline the wide range of issues that these dialogues have covered. While there is no guarantee of success, it is certainly the case that the Business Advocacy Fund support increases the chances of well constructed and evidence-based arguments being successful. The Business Advocacy Fund has created a momentum and new mechanisms for positive change to the business climate.

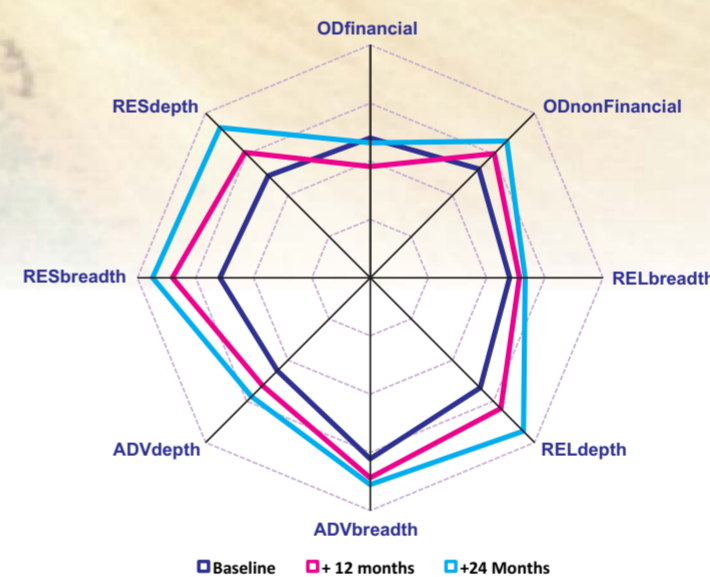
There is, of course, much more to achieve but the private sector is now more involved in policy formulation than before.

Important milestones have been achieved in 2009. These include:

Developing advocacy competence: As well as providing financial support to BMOs towards the cost of engaging in dialogue and advocacy, BAF offers a range of training courses and written materials intended to develop the competence of the staff and board of BMOs. Mentoring support is also available during implementation, to provide 'on the job' learning and support. BMOs learn through experience, but they can learn faster with external support, which is why BAF devotes a large proportion of its budget to this work. It is anticipated that this will build a cadre of people who, even if they move jobs or switch roles, will have developed their competence and gained experience in advocacy - which will assist them, and the country, in the future.

BAF continues to run a two-day training course on advocacy. In the three years since the launch of the Fund in November 2006, 355 participants have passed through this course, resulting in an increasing cadre of 'business advocates' with more confidence and expertise able to engage the government on a professional basis.

BAF monitors the progress of BMOs in developing their competence and the improvements are shown on the chart. This shows the baseline average (for 47 BMOs), the 12 month average (for 24 BMOs) and the 24 month average (for 7 BMOs). As can be seen, BAF's support is having a positive effect on building competence, particularly in relation to achieving results but also in the depth of relationships.



Building sustainability: it is all very well to support advocacy on a project-by-project basis. Indeed, it is beginning to make a difference - on a number of fronts. There is both positive change to policy and the number of associations becoming involved in dialogue and advocacy is increasing. Quite a number of important associations are over reliant on either external support or donor support or both. This leaves the remainder - the majority - very weak. In recognition of this, the Fund will introduce a Sustainability Support initiative in 2010 to assist them critically review their 'raison d'être' and how they will look to fulfilling their objectives.

The Fund has engaged with over 200 BMOs to date. The evidence suggest that 5% to 8% only are capable and effective in advocacy and are independently sustainable. The SS initiative is designed to increase significantly the number in this category.

Parliamentary engagement: the advocacy process involves contact with both the executive and parliamentary branches of government. To date, advocacy has been concentrated on the executive branch of government. During 2009, the BAF supported KEPSA to form two new contact points with Parliament. The first was a conference where senior business interests met with MPs in a relaxed atmosphere. The results were surprising. It emerged that the private sector did not fully appreciate the role of MPs and, particularly, Parliamentary Committees, in framing legislation. In addition, MPs were able to convey their demand for more contact and information from the private sector so that they

could perform their role as a 'check and balance' on government initiated legislation. This is an important development in Kenya's public policy making process.

Approved consultants: evidence based argument by the private sector has a much higher probability of being successful than traditional lobbying in Kenya which has been largely done on a 'who you know' basis. BAF support includes funding for business associations to procure professional research and advice. This needs to be appropriate however and the Fund ensures that all professional advisers contracted by supported business associations are actively screened and selected on their abilities to carry out objective and well reasoned research. During the year, the Fund added 15 consultants to its list of Approved Consultants listed on the website. Not only is this pool of available advice growing, it is also starting to become a source of increased separate business opportunity and ideas sharing between associations and professionals.

"The Business Advocacy Fund is now recognised as a positive force supporting change in business regulation in Kenya. It is important that the Fund expands the range of its support so that this momentum becomes unstoppable and sustainable. The support of DANIDA and the commitment of the Government of Kenya is deeply appreciated."

William Lay, Chairman, Business Advocacy Fund.

Advocacy projects: during the year the Fund approved support to 13 new advocacy projects, bringing the total number of active advocacy projects to 25. While we are unable to report as high a number of policy changes achieved as in 2008, these projects are more sophisticated and complex in that important areas of legislation governing whole sectors of the economy are under review. With Fund support, the private sector has initiated many of these engagements and, as they involve legislative change, will necessarily take longer to result in change.

Evaluation: lesson learning is an important part of an intervention such as the BAF. Evaluation and impact assessment of selected advocacy projects are the tools used to derive this learning. During the year four evaluations were commenced of which two are complete. In all four cases, the advocated policy change was achieved. However, the key lesson emerging is the need for BMO involvement on implementation - the private sector must be diligent in ensuring government not only agree to policy change, but must follow the implementation process (STEP 5 of the 5 Step Advocacy Approach) to ensure policy change results in benefits that can be demonstrated as making an impact at individual business level.

"The Business Advocacy Fund has been instrumental, not just in stimulating private public dialogue, but also in improving the quality and range of dialogue. Denmark recognises this achievement and is pleased to continue to support such an initiative that can only lead to growth in business and employment opportunities, and thereby improved living standards."

Bo Jensen, Ambassador, Royal Danish Embassy

create jobs requires an investment climate which is conducive to enterprise and which promotes competition and a government that is coherent, consistent and ethical in its public policy - so that businesses can take decisions for the long term.



PROJECT BRIEFS

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FINANCE & GOVERNANCE

African Biotechnology Stakeholders' Forum (ABSF) is working with private sector and the Ministry of Science and Technology to ensure the drafting of appropriate regulations to the Biosafety Act passed in 2008.

Agrochemicals Association of Kenya (AAK) argues that the Pest Control Products Act 1982 is unable to regulate



effectively pest control products and is discussing amendments with the Ministry of Agriculture, the Ministry of Livestock Development and the National Environment Management Authority.

Association of Kenya Insurers (AKI) has assembled stakeholders and experts in the insurance industry to participate in a review of the Insurance Act and intends to propose amendments to be incorporated into a revised Insurance Bill.

Eastlands Business Association (EBA) is engaging City Council of Nairobi on the unilateral introduction and cost of parking fees in areas of the city beyond the Central Business District.

Kenya Private Developers' Association (KPDPA) is doing a study covering land transactions and payments in respect of land (rates, stamp duty etc) require a functioning land administration system. KPDPA argues that the Kenyan system is antiquated, paper based, understaffed and poorly managed, causing blockages to property development and delays in making property related payments.

Kenya Private Sector Alliance (KEPSA)
Speaker's Round Table
KEPSA was instrumental in bringing together a cross section of BMOs to meet Members of Parliament under the auspices of the office of the speaker to promote dialogue, information flows, and better understanding by all in assessing new legislation.

Medium and Small Enterprises
The Informal sector in Kenya is estimated to account for as much as 50% of economic activity. The sector is poorly represented, although there are supposedly as many as 700 separate sector associations. KEPSA, which represents the cross section of formal private sector businesses, recognises the difficulty of involving informal sectors and took on a consultative dialogue with informal sector

Institute of Certified Public Secretaries of Kenya (ICPSK) has developed revisions to the rules and regulations governing "unclaimed assets" in response to new proposals put forward by the Ministry of Finance. It was instrumental in obtaining an amendment to the Capital Markets Act 2007 so that unclaimed dividends outstanding in listed companies for more than seven years are remitted to a new Investor Compensation Fund.

Kenya Association of International and Independent Schools (KAIS), in alliance with other education sector BMOs, is lobbying the government to implement the Education Sessional Paper 2005.



Kenya Association of Hotelkeepers (KAHC) is proposing revisions to the costs and requirements of environmental compliance regulations administered by the National Environment Management Authority.

Kenya Association of Manufacturers (KAM)
Business Regulation
The Government of Kenya carried a major rationalisation of 1325 trade licences in 2006 to reduce the

costs and administrative burden on business. Of these, 625 have been reviewed and revised or eliminated. KAM has assessed the impact of these changes so that both the private sector and government inspectors and administrators have the information to operate the revised schedule. KAM will complete a further study to propose amendments or elimination of the remainder to leave a regulatory environment that license on grounds of public health, public safety and protection of the environment that will enable easier entry into business, and reduced costs in operating businesses.

Intellectual Property Rights
KAM was instrumental in the passing of a new legal framework for Intellectual Property Rights (IPR) in Kenya that addressed counterfeit issues and raised awareness among law enforcement agencies and members of the public.

Trade Facilitation
Firms trading across borders struggle with challenges including cost of inland transport, cost of maritime transport, quality inspection, security of goods in transit, levies and time taken to release goods. Key successes in 2009 include implementing 24-hour operation of the port in Mombasa; harmonising, at least partially, the EAC Common External Tariff and draft COMESA Common External Tariff; removing of certain non-tariff barriers; and increasing dialogue with the Government on issues of Trade Facilitation.

Communications has announced an initiative specifically targeting local FOSS software developers and service providers.



Mombasa Coast Tourism Association (MCTA) plan to investigate the feasibility of marketing the Kenya Coast region under a separate, regional brand to promote Coast tourism and shield it from the negative impact of events or incidents (e.g. insecurity) elsewhere in Kenya.

Pubs Entertainment and Restaurants Association of Kenya (PERAK) want to develop and propose a widening of the tax burden on pubs to bring more pubs into the tax net on the grounds of equity.



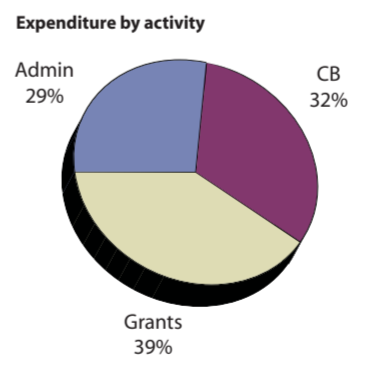
Think Tank Project
Following the 2008 post-election violence KAM assembled a wide cross section of private sector stakeholders to engage government on the maintenance of basic security in the country, explore the origins of the breakdown in 2008 and to inform public debate on its causes and possible solutions. This led to the setting up of the Prime Minister's Round Table forum in 2009 where security and other issues are publicly discussed. Land was also central to the 2008 political violence and the Ministry of Lands has developed the Kenya National Land Policy (KNLP) in response.

Kenya Chamber of Mines (KCM). Kenya is among the best mineral endowed countries in Africa with large fluorspar, tavorite and titanium deposits but its mineral potential remains locked up due to the lack of an efficient legal framework. KCM has successively influenced the Draft Mining and Minerals Bill 2008 but continues to engage the Ministry of Environment and Mineral Resources to address key issues.



Financial report
The fund has a total of KSh 106 million available to give as grants to BMOs. In 2009, it committed KSh 27 million taking total commitments to KSh 94 million. It disbursed KSh 29 million taking total disbursements to KSh 62-million. The chart below shows cumulative grant commitments and grant disbursements for six monthly periods.

Capacity building and fund administration are budgeted separately from the grant fund. Our target is to keep fund administration below 30 per cent and BAF continues to succeed in meeting that objective.

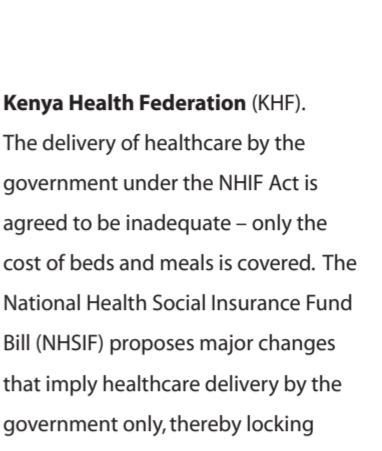


SUMMARY OF OUR ACHIEVEMENTS

	2007*	2008	2009	Total
BMOs met by the Fund	97	68	69	234
Concept notes received	30	29	48	107
Project applications by volume	13	15	19	47
Project applications by value	KSh 37 m	KSh 38 m	KSh 39 m	KSh 114m
Approvals by number of projects	11	15	16	42
Approvals by value	KSh 29 m	KSh 38 m	KSh 27 m	KSh 94 m
Disbursements by value	KSh 17 m	KSh 18 m	KSh 27 m	KSh 62 m
BMOs supported	6	12	9	27
Participants in training programmes	64	142	97	303
Active dialogues and consultations by supported BMOs	33	92	113	238
Research carried out	0	18	10	28
Policy proposals published by supported BMOs	8	10	14	32
Alliances & partnerships developed	9	75	88	172
Number of articles in the press	65	124	98	287
Number of radio broadcasts	51	71	49	171
Number of TV broadcasts	46	57	50	153
Policy changes	1	12	23	36
Projects completed	1	2	8	11

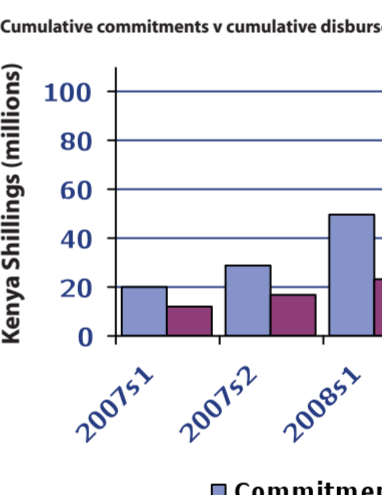
*The Fund was launched in November 2006

Kenya Health Federation (KHF). The delivery of healthcare by the government under the NHIF Act is agreed to be inadequate – only the cost of beds and meals is covered. The National Health Social Insurance Fund Bill (NHSIF) proposes major changes that imply healthcare delivery by the government only, thereby locking out the private sector. Funding these changes is also a contentious issue. KHF want to research actual delivery of healthcare in Kenya and use the findings to develop alternative proposals to the NHSIF Bill.



Kenya ICT Federation (KIF) represents the ICT sector which is widely promoted in Vision 2030 as key in the development of the economy. It argues that Kenya's regulatory framework governing data protection, copyright and recognition of cross border electronic contracts by the courts prevents the development of the sector. KIF lobbied for the introduction of international norms through the Communications (Amendment) Act 2007 and, as the Act was not promulgated, has the opportunity to lobby for a much improved Act.

Kenya National Chamber of Commerce and Industry (KNCCI) North Rift Branches). The seven districts of the expansive North Rift security of Kenya all experience serious insecurity problems that undermines business. The KNCCI branches of the North Rift are engaging the Office of the President and the Provincial Commissioner to improve security.



Governance
The Board, which represents the private and public sectors, approves policies governing the management of the fund and approves grant applications. The chair is Bill Lay (Private Sector), the other members are Betty Maina (KAM), Hezekiah Okeyo (Ministry of Industrialization), Johnstone Nyagah (KNCCI), Steve Smith (KEPSA) and Kim Kristmoen (DANIDA).

Kenya Medical Women's Association (KMWA) want to develop and advocate proposals that give equal opportunities to women in the workplace.

Kenya Poultry Farmers' Association (KEPOFA). The poultry industry in Kenya is an important source of food, income and employment. The development of the poultry industry has been hindered by a number of challenges, including poor marketing, poor disease management and lack of quality inputs such as chicks, feeds and vaccines. KEPOFA, a recently formed BMO, has been working closely with the Ministry of Livestock Development to develop a National Poultry Policy for adoption as a Sessional Paper.

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