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MINISTRY OF FOREIGN AFFAIRS OF DENMARK
DANIDA | INTERNATIONAL DEVELOPMENT COOPERATION

THE BUSINESS ADVOCACY FUND
Supporting Private Public Dialogue

The Business Advocacy Fund

The Business Advocacy Fund (BAF) was established in 2006, to support business associations to engage in effective public private dialogue and to advocate change in public policy with the objective of improving the business environment in Kenya. Through dialogue, associations aim to influence public policy and to hold government to account in improvement of the business enabling environment.

BAF delivers its objectives through four key activities:

- Building the capacity of business associations to engage in dialogue and advocacy through training;
- Supporting dialogue and advocacy with funding and mentoring;
- Assisting associations to become sustainable so that they can engage in advocacy over the long term; through revenue support funding and mentoring;
- Raising awareness via the media of the importance of the private sector for investment and job creation and thus of the need to create a conducive business enabling environment.

The Fund expects that an improved enabling environment will lead to a more vibrant and competitive private sector, increased investment, more jobs, and thus more men, women and young people starting in business.

A second programme of support (BAF2) commenced at the end of 2011 and by the end of 2014 involved a total of 299 Business Membership Organisations (BMOs) that have been supported directly or indirectly. Overall, a total of 1,509 people have attended advocacy training programmes.

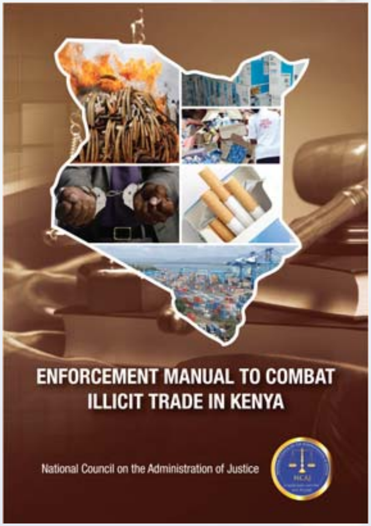
Key milestones achieved:

- Some 33 county level coalitions/Governors' Round Tables organised;
- Some 37 BMOs engaged in over 439 dialogues and consultations with government;
- Consultations and advocacy activities resulted in 34 policy wins at national and county level;
- There were some 112 articles in the print media totalling in excess of 12,000 column centimetres.

Whereas the Business Advocacy Fund support to BMOs has resulted in policy and regulatory reform, the business environment only improves when these 'wins' are implemented. BAF continues to encourage and support BMOs to pursue implementation and enforcement of the policy changes they have brought about. A good example is the advocacy for enforcement of the counterfeit regulations.

The long journey to tackle illicit trade

The trade in illicit and counterfeit goods has long been a problem in Kenya.



Kenyan manufacturers are said to be losing an estimated 40 per cent market share and close to KSHs 30 billion (USD 345 million[1]) in revenue to illicit trade. This also results in significant losses to government revenue as well as threatening growth in the manufacturing sector.

Since 2008, BAF has supported the Kenya Association of Manufacturers (KAM) to advocate policy reforms to address this issue more effectively.

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[1] Exchange rate: USD to KShs. as at Dec 2014 was KShs. 87 to 1 USD

BAF provided support for research, and later for lobbying for the enactment of the Anti-Counterfeit Act in 2008 and then for its implementation in 2009. However, the Anti-Counterfeit Agency which was established in 2010 has struggled to enforce the law. The lack of a comprehensive approach by separate enforcement agencies has resulted in inefficiencies in the investigation and prosecution of counterfeit and illicit trade crimes.

The National Council on the Administration of Justice (NCAJ), mandated to provide strategic guidance, partnered with KAM to identify the issues affecting effective enforcement of illicit trade laws. They found that there were 14 different laws with provisions on illicit trade which created confusion between investigative agencies. Utilizing lessons learned from neighbouring Uganda, the NCAJ and KAM agreed to consolidate the relevant sections of these laws into one manual, published in 2014. This created an easy point of reference for the impact and forms of illicit trade, which if applied as intended should reduce inefficiencies in the enforcement of illicit trade legislation.

The dissemination of the manual to the police, the judiciary, prosecutors and other agents involved in fighting illicit trade is expected to result in better enforcement of current laws and improve the business climate for Kenyan manufacturers.

Building capacity for dialogue and advocacy

BAF designs and delivers training programmes to build the capacity of BMOs for dialogue and advocacy.

The aim of the training is to equip BMO executives and board members with skills to identify, plan and implement their advocacy strategies and deliver member services as well as improve the governance and financial independence of a greater number of BMOs. BAF has developed a suite of training modules that are delivered either on demand or as part of BAF's sustainability support to BMOs.

Building advocacy capability

Advocacy competence entails building knowledge and skills within BMOs to undertake research to assemble the necessary evidence in support of their advocacy arguments. Writing compelling policy position papers is critical for regulatory reform. Advocacy competence also involves the application of influencing skills and tactics to advocate these proposals effectively. The management of their public relations (PR) through the use of the media is also important to ensure sufficient and effective coverage of their advocacy issues, thereby mobilising wider support.

Building management capability

Like any small business, BMOs must be managed professionally and with integrity if they are to be financially independent. The overwhelming majority of BMOs in Kenya require support to build higher levels of professionalism to run their organisations successfully. The skills gaps are leadership, governance, financial planning and management, resource mobilisation, performance management and customer (members) relationship management.

Training delivered

In 2014, 64 training programmes were delivered for 1,509 participants from 159 organisations. These training programmes have been delivered in 31 counties.

A post-training survey undertaken by BAF in 2014 showed that 72 per cent of participants had subsequently applied their new skills in their BMO and were making a significant difference. Some 78 per cent had shared their new knowledge with colleagues and board members.

Advocacy support in Kenya

Business Member Organisations in Kenya have continued to engage in dialogue and advocacy – evidenced by the growing number of associations seeking BAF funding to support their advocacy projects. In 2014, a total of 75 enquiries were received, of which 31 were successfully funded to 24 BMOs.

Associations may be funded to undertake a project individually or, increasingly, on behalf of a coalition of BMOs working together on a common project. BAF has particularly encouraged BMOs to undertake their national and county advocacy projects through coalition building to increase critical mass, thereby increasing the chances of success.

With the introduction of devolution, BAF supported the creation of more private-public dialogue (PPD) platforms in the counties organised through partnerships and coalitions of BMOs at the county level.

County advocacy

Counties implement business priorities

The private sector led GRTs provided PPD platforms to engage with county governments. BAF supported five principle BMOs[2] to establish GRTs in all the 47 counties. These lead BMOs formed coalitions of business associations in each county to ensure that there was ownership of the GRT process by the private sector. At the close of the year (2014), 33 counties had held GRTs and

[2] Specifically, BAF supported KAM, KNCCI, KENAFF, KNCCI-Trans Nzoia County, Kenya Coast Tourist Association (KCTA) and Kenya Livestock Marketing Council (KLMC).

secured commitments by county governments to address agreed priority areas in each respective county.

GRTs have helped to inform county governments of private sector needs, this process has led to various successes. These successes include changes in administrative arrangements, improved infrastructure, drafting of new laws, increases in budgetary allocations and innovative projects to kick start or support entrepreneurship.

Additionally, notable wins have been achieved where counties have embraced ICT to increase access to information for the business community including new county websites and automated payment for services. Through this process, previously contentious issues such as Finance Bills, levies for traders, the need for improved market spaces, have been resolved amicably with solutions that match private sector needs.

There have been significant improvements in infrastructure in several counties to increase the accessibility of markets and reduce traffic congestion. Some counties that have made significant improvements in their infrastructure include Mombasa, Uasin Gishu and Nakuru. Security has also been improved across numerous counties with new rapid response units in Mombasa County as well as the street lighting programs operational in Mombasa, Trans Nzoia and Nairobi. BMOs are now represented in various committees in several counties such as the County Budget Economic Forum in Uasin Gishu and Trans Nzoia. Counties have also launched new products to market county tourism such as the Mombasa County 'Mshikaki' festival.

We expect these gains to contribute to improved environments for business in counties. It is hoped that these coalitions will continue to engage county governments to ensure that the business climates across Kenya are improved.

County livestock sale yard agreements

The Kenya Livestock Marketing Council (KLMC) has, over the years, worked to improve markets and marketing structures for pastoralist communities in arid and semi-arid lands. Previously, the KLMC successfully entered into agreements to manage livestock sale yards jointly with 15 former Local Government Authorities. This led to improved management of the markets where livestock keepers benefited from increased animal sales and local government revenue. With the devolved government, the KLMC were proactive and sought to renew the previous agreements. They successfully negotiated Memoranda of Understanding (MOUs) with 10 county governments to co-manage sale yards to ensure that livestock traders would continue to benefit.

However, agriculture is now a devolved function of the county governments and this includes the management of livestock sale yards. The constitution states that revenue generated by the county government is to be channelled to service provision thus requiring KLMC to go back to the drawing board to develop a mechanism for the joint management of sale yards. KLMC received further BAF support to partner with governments in 13 counties to develop suitable County Livestock Yard Bills that will cater for the participation of County Livestock Marketing Councils in the management of sale yards.

This project is currently underway.

National advocacy

National business priorities implemented

The Kenya Private Sector Alliance (KEPSA) developed the National Business Agenda (NBA) II (2013 to 2018) to identify priorities in the enabling environment for business and set out appropriate policy recommendations to government. It is expected to form the basis for future advocacy by the private sector. The NBA was successful in influencing priorities in the Medium Term Plan II (2013-2017) therefore effectively influencing the government's agenda.

Some of the key issues taken up through MTP II include implementing provisions of the National Police Service Act 2011 and the National Police Commission Act 2011 that led to reforms in policing including vetting of police officers; effecting land reforms to operationalise the National Land Commission (NLC); prioritising and constructing the Standard Gauge Railway from Mombasa to Malaba; and amending the Public Procurement Act in 2014 to institutionalise Access to Government Procurement Opportunities (AGPO) which states that 30 per cent of all government contracts should be awarded to women, youth and persons with disabilities.

These changes are significant to the economy, though further analysis is required to determine the impact of these policy successes more accurately.

Economic Partnership Agreements

In 2014, one of the most significant successes for Kenya and the East African Community (EAC) region was the completion of the Economic Partnership Agreement (EPA) negotiations and restoration of Duty Free Quota Free (DFQF) market access to the EU. This process had been underway since 2007 and, for the last seven years, Kenya has been trading under an interim agreement pending the conclusion of the full EPA arrangements. BAF supported the initial advocacy by the Fresh Produce Exporters' Association of Kenya (FPEAK) to secure this interim agreement, in November 2007.

In 2013, a group of Kenyan BMOs led by the Kenya Association of Manufacturers received a BAF grant to partner with Kenya Flower Council, Fresh Produce Exporters' Association of Kenya and the Association of Fish Processors and Exporters of Kenya to work with the Kenyan Government to lobby the EAC countries to come-up with an agreed position on the EPA and also lobby with the European Union. This resulted in the successful conclusion of the agreement, on 15 October 2014. The conclusion safeguarded Kenya's growing exports to the EU market, which accounts to a quarter of all of Kenya's exports. By the time of concluding this agreement and reinstatement of Kenya to the DFQF market access on 24 December 2014, Kenya had already paid duty (approx. KShs. 1.5 billion, USD 17 million) to the EU since the expiry of the interim EPA, on 30 September 2014, adversely raising the cost of Kenyan goods to the EU market.

This success, secured a saving in the duty payable to European markets estimated at KShs. 7.5 billion (USD 86 million) per annum which would have been payable had Kenya been locked out of DFQF access[3]. This success should secure the direct employment of 150,000 people and support a further 450,000 indirectly.

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[3]KAM Policy Brief on EPA, October 2014.

Mining Bill

The Mining sector has significant potential to be a major contributor towards the Kenya's GDP, with the Ministry of Mining estimating the sector currently contributes one per cent of GDP. For close to a decade, the Kenya Chamber of Mines (KCM) has been lobbying for the revision of the Mining Act to align it to modern international minerals development practices. Some piecemeal revisions to the Act have been made with the most recent in 2010. Sustained advocacy for the development of a comprehensive mining policy and the need for a dedicated Ministry of Mining to exploit the sector's potential led to the creation of the Ministry in 2013.

The KCM successfully engaged the new Ministry to partner in a process of formulating a mining policy and suitable mining legislation. Upon publication of the Bill in the National Assembly, the KCM successfully engaged the Parliamentary Committee on Environment and Natural Resources to ensure its position was considered in the new Bill. The Bill was later passed in the National Assembly and then referred to the Senate for further consideration. It had not emerged from the Senate at the end of 2014, but the revised Bill addressed many, if not quite all, of KCM's concerns.

The Ministry of Mining is also continuing discussions with the KCM and other stakeholders to finalise the Mining Policy. If the Policy is approved and the Bill enacted and effectively implemented, they should bring Kenya's mining regulatory framework closer to international standards, therefore attracting new and higher levels of direct foreign investment. The Ministry of Mining has estimated that the mining sector has the potential to contribute between 5 and 7 per cent of Kenya's GDP if developed to its fullest potential.

Physiotherapy Act

The field of physiotherapy has grown significantly in Kenya over the years with more training programmes and an increase in the number of graduates. However, unlike other medical professions in Kenya, physiotherapy did not have legislation regulating its practice. This left Kenyans exposed to poor professional standards. Cases of malpractice by physiotherapists have also been on the rise and can be attributed to lack of standardised training programmes.

The Kenya Society of Physiotherapists (KSP) received BAF support and successfully lobbied the National Assembly first to introduce, and then to enact, the Physiotherapists' Bill. The Physiotherapists' Act of 2014 enables self-regulation of the profession ensuring standardisation of the curriculum, professionalism in the industry, and the setting up of a Physiotherapists' Council that will, if implemented effectively, lead to delivery of higher quality treatment.

Whilst the economic impact is difficult to measure, the expectation is that there will be a reduction in the number of work days lost from incapacity and thus greater productivity. This is an excellent example of what can be achieved by determined BMO advocacy.

‘Green’ advocacy

Climate Change Bill

Climate Change (CC) affects core economic, social and environmental activities. Kenya has signed various agreements regionally and internationally and has implemented several interventions to mitigate CC. These activities have not been holistic or directed by government policy but have been reactive and driven by different stakeholders. Climate change has had adverse effects on the business community with significant negative economic impact cited in various sectors.

The Ministry of Environment, Water and Natural Resources together with other stakeholders initiated the process of drafting the CC Policy and Bill as per international standards. The Kenyan Association of Manufacturers was nominated by the Ministry as a member to the National Steering Committee responsible for drafting the CC Policy and Bill. It therefore received BAF funding to gather private sector views on the impact of CC on their businesses and also ensure the new Policy and Bill addresses business concerns sufficiently. The Climate Change Bill was developed and approved by the Cabinet in 2014 for onward publishing and is currently being considered by the National Assembly.

It is expected that an appropriate CC Policy and Bill will lead to a reduction in energy costs due to better managed water levels which leads to more efficient irrigation and increased forest cover from the current 1 to 10 per cent.

This project is currently underway.

New Kenya standards for biogas lamps and stoves

Biogas is environmentally friendly and a cheaper source of energy for households. It is a proven, viable technology with a large market readily available. Nevertheless, the sector, as promising as it is, has experienced slow growth caused by several issues including an unstructured regulatory environment. The lack of industry standards governing biogas equipment in the Kenyan market place has continued to prevent the widespread adoption on biogas by households.

The Association of Biogas Contractors of Kenya (ABC-K) was successful in engaging the Ministry of Energy and the Kenya Bureau of Standards (KEBS) to form a Biogas Energy Standards Technical Subcommittee whose main mandate was to develop Kenya standards for biogas energy equipment, for both domestic and institutional plants. BAF supported some of the Committee's activities through the ABC-K. Two industry standards were finalised and approved in December 2014 for gazetting in early 2015.

With standards in place, there will be a basis for investors in the Biogas sector to invest confidently in equipment development and sale.

The Kenya standards for biogas are aligned to the internationally acceptable standards making it easy to facilitate the trading of resulting carbon credits and other future opportunities that may arise in the clean energy sector. The ABC-K believes that renewable energy, particularly biomass-based energy production, will be a key ingredient for the total energy required for economic growth. The Standards will also make it easier for the private sector to press the government for tax rebates and duty exemption on biogas plants' components and appliances, thus reducing costs.

In addition, the standards are expected to form a basis for enhanced professionalism, training, quality control, accreditation and certification listing of practitioners in the Biogas sector. This will build confidence between government and the private sector to help support positive growth.

Sustainability support

In addition to supporting advocacy through BMOs, BAF is keen to ensure that they are sustainable. Part of this strategy is providing financial support in the form of Revenue Support Grants (RSGs) to selective BMOs. So far, a total of 34 RSGs have been awarded to 26 BMOs.

The objective is that BMOs are better able to provide adequate services to their members and represent their interests. To achieve this, BMOs must build an adequate revenue base by increasing membership and generating income from service delivery.

An increase in membership has been reported by 21 BMOs with an average increase of 346 per cent since 2012. These BMOs also reported an overall increase of 146 per cent of paid membership. Some 21 BMOs have introduced fee based services with more than 16,000 users by the end of 2014, implying that BMOs are selling to non-members as well as to members.

This support has led to improved revenues with the combined income (subscriptions and services) for 21 BMOs rising from KShs. 84 million (USD 965,517) in 2013 to KShs. 101 million (USD 1.16 million) in 2014 – an increase of KShs 17 million (USD 195,402) or 21 per cent.

Towards sustainability

Architectural Association of Kenya (ArchAK)

The Architectural Association of Kenya (ArchAK) represents professionals in the building and built environment sector including Architects, Town Planners, Quantity Surveyors, Engineers, Landscape Architects, Environmental Design Consultants and Construction Project Managers. ArchAK received a BAF grant in 2013 to: expand and improve the continuous Professional Development programs; improve the quality of two publications (The Architect and The AAK Newsletter); grow its membership and membership income; and grow services income.

The total revenues show impressive growth over the period of BAF support. The annual income grew from just over KShs 35 million in 2011 to KShs 48 million in 2014; a 36 per cent growth. Specifically, income from members' services grew steadily from KShs 21 million in 2011 to KShs 39 million in 2014.

ArchAK made a profit of KShs. 2.8 million in 2014 which indicates financial independence. A significant portion of this income however is from the Architects' Annual Convention. This represents a risk going forward since if such income is not replicated every year then a loss could easily result.

Institution of Surveyors of Kenya (ISK)

The Institution of Surveyors of Kenya (ISK) represents surveying professionals in the land sector. It received an RSG in 2013 to:

- improve service delivery by streamlining operations and processes at the secretariat;
- increase active membership;
- increase its revenue base;
- increase the number of partnerships and networks/collaborations;
- enhance the professional capacity of members through Continuous Professional Development (CPD);
- enhance recognition and visibility of ISK locally and internationally;
- improve members' welfare;
- increase the technical capacity of the secretariat.

By the end of 2014, the ISK reported positive growth and is progressing well towards sustainability. Specifically, new membership revenue grew by 108 per cent (against projected growth) while revenue from services grew by 236 per cent. These results indicate that the current strategy coupled with sustained membership (recruitment and retention) could eventually lead to the organisation's sustainability as long as the increases in costs are controlled.

This performance notwithstanding the final result is still a small loss. If BAF's direct support is taken out then the loss increases to KShs. 5 million.

The ultimate test

ArchAK and ISK represent two of the best performers in the sustainability support portfolio. Despite their impressive gains in income generation, the ultimate test for any BMO is financial independence. For instance, although the ISK is not yet sustainable after two years of BAF support, it still stands a good chance of becoming self-sustaining, if the levels of membership and service delivery are improved consistently. ArchAK is a good example of a BMO that has begun to take the steps necessary to grow its income. To be successful these strategies must be implemented consistently and over the long term.

Since BAF will not be able to, nor should it continue to support BMOs indefinitely, the most valuable lesson learned from this intervention is that BMOs must take responsibility for their sustainability themselves. On that basis BAF will continue to advise BMOs on appropriate strategies that will lead to financial independence. For example, this might include sourcing external support from agencies that want to ally with particular BMOs to access their members thereby providing additional services indirectly. BAF will continue to work on this basis with BMOs whose leaderships are committed to making such changes.

Media and raising awareness

The media plays a crucial role in the supporting BMOs in their attempts to improve the business environment in Kenya. First, public discussion of the current business climate reveals important information and challenges to investors and the wider public. Second, the media can be used to promote advocacy positions and create wider public support, increasing the chance for regulatory reform from government.

BAF encourages and supports BMOs to publicise their advocacy as widely as possible. This means BMOs should have effective public relations strategies to create relationships with media houses, write press releases and participate in media interviews to explain their positions.

The ideal situation is that journalists and publishing houses will be encouraged to devote more coverage to the business climate when they recognise that BMOs can be a source of additional credible information. BMOs can improve relationships with journalists by offering, access to better information and an improved understanding of particular industries and business issues. The result should be much better informed articles and coverage by broadcast media highlighting the issues of concern and the proposals for change.

In 2014 BMOs supported by BAF produced a total of 23 press releases. This resulted in 112 print articles, 13 radio stories and 20 TV spots on various advocacy issues. Collectively, since 2012, 218 press releases have been issued resulting in 499 print articles, 145 radio stories and 138 TV spots. These figures demonstrate that BMOs are able to generate wide publicity of their advocacy positions. In addition, BAF widened its support to BMOs' public relations strategies in 2014 by developing and delivering targeted media training programmes to improve press release writing and media interview skills.

BAF in figures

	2014	BAF2 to date
Advocacy project applications by volume	31	113
Advocacy project applications by value	113m	357m
Advocacy approvals by number of projects	31	108
Advocacy approvals by value	113m	358m
Advocacy disbursements by value	75m	223m
BMOs supported	24	53
Projects completed	19	33
Sustainability projects approved	5	34
Sustainability projects approvals by value	54m	168m
Sustainability project disbursements	17m	137m
Increased subscription revenue	14m	29m
Increased services revenue	36m	122m
Capacity building expenditure	22.5m	35.5m
Participants in training programmes	850	1567
Dialogues started by supported BMOs	368	789
Consultations with government	324	766
Policy proposals published by supported BMOs	28	86
Alliances & partnerships developed	214	643
Number of articles in the press	145	532
Policy changes	9	34

Governance and fund management

Seven members serve on the Board of BAF. They are William Lay, (Chairman); Jennifer Barasa, CEO, Top Image Ltd; Kiprono Kittony, CEO, Capital Real Time Ltd; Betty Maina, CEO, Kenya Association of Manufacturers; Dr Geoffrey Mwau, Economic Secretary, Ministry of Finance, Government of Kenya; Lisa Karanja, Regional Director, Private Sector & Civil Society, TradeMark East Africa; and Joe Okudo, Programme Manager/DBP Partnerships, Embassy of Denmark.

Danida contracted a partnership with Coffey International Development Ltd (Coffey) and Irwin Grayson Associates through an international tender process to manage BAF.

The Fund management team comprises Clive Davis as the Fund Manager with overall responsibility for management and delivery. Mary Nyoike is the Organisation Development Manager with responsibility for capacity building and sustainability outputs, including advocacy training. Kariuki Waweru is the Advocacy Manager assisted by Mary Githinji. Ruth Gathee is the Finance and Accounting Manager with responsibility for contracting, grant and management expenses accounting and general administration. Joy Muiruri is the Assistant Fund Administrator. Eunice Kiondo Leshao is the Office Manager responsible for office management, enquiries management and communications.

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