THE BUSINESS ADVOCACY FUND
Supporting Private Public Dialogue

ANNUAL REPORT 2019

MINISTRY OF FOREIGN AFFAIRS OF DENMARK
Danida

Foreword

Since its inception, the Business Advocacy Fund has been key in nurturing private public dialogue (PPD) thus encouraging government action to develop and maintain an environment that is conducive to business. The Fund's support has been felt across different sectors of the economy.

Over the years, BAF has supported important private sector advocacy projects. Through these projects there has been a steady increase in dialogue and engagement with encouraging results and achievements at the national and county levels of government.

There is also an indication that BAF's initiatives alongside business association advocacy are bearing fruit. BAF programmes and advisory services to improve the ability of BMOs to undertake successfully dialogue with government have shown good results and have received positive feedback from BMOs and other stakeholders. Support has included capacity building, research and policy advice, media interventions and public relations advice for BMOs. Beneficiaries have found these initiatives to be valuable for their PPD and also for their institutional development.

Policy reforms achieved with BAF's support have impacted Kenya's economic transformation and Kenya's recent ascent up the World Bank's Doing Business league table. BAF has always acknowledged the potential of private sector actors determinedly to pursue the improvement of a business environment that ultimately boosts job creation and alleviates poverty.

On behalf of the Board, I would like to thank the Ministry of Foreign Affairs of Denmark through the Royal Danish Embassy in Kenya for its support to the Fund. I would also like to thank the Government of Kenya for embracing dialogue with the private sector for the benefit of the economy. Finally, I would like to thank the Board and the staff of BAF for their support, dedication and hard work through the years that the Fund has been in operation.

Bill Lay
Chairman

Introduction

In 2006, the Business Advocacy Fund was set up with an intention to support business membership organisations (BMO) engage with the Government of Kenya on policy reform. This was done in the belief that government policy that considered and addressed the views of the private sector would not only create a better enabling environment for business but also confer greater legitimacy for government decisions.

From its inception in 2006 to the end of 2019, the Business Advocacy Fund provided 269 grants worth nearly a billion shillings resulting in 1,045 issues raised with government and 343 policy reforms at national and county levels of government.

Initially, there was a perception that Government would be unwilling to listen to BMOs. However, by the close of the first phase of BAF, it was clear Government was open to dialogue with the private sector in the belief this could improve and support policy reform.

This annual report features case studies of policy reforms secured in 2019, the fourth year of the Fund's third phase (BAF3) which started in July 2016, and highlights many.

The Fund has always pursued an approach of innovation. The greatest changes have occurred during BAF3 as our overall goal broadened into supporting the development of a business climate supportive of inclusive and sustainable economic growth.

Advocacy support, capacity building and sustainability support for BMOs have been at the core of BAF's operations. The recruitment of Research & Policy Advisers allowed us to give more intensive support to BMOs as they developed their policy positions. BAF3 sought to build on earlier media training for BMOs to improve their capabilities to engage with the media and to encourage journalists' coverage of the business enabling environment. The support for BMOs was expanded to provide them with detailed communications plans and support to implement those plans.

During its lifetime, BAF has experienced gradual changes starting with a two-person team, a Fund Manager and a Fund Secretary, to a broader team of 10 core staff assisted by a network of consultants to support BMOs' dialogue and advocacy.

BAF3 in figures

	2016 July to December	2017 January to December	2018 January to December	2019 January to December	Totals
Total Board Approvals (Kshs)	95m	210m	180m	203m	687m
Advocacy approvals by number of projects	24	27	32	21	104
Advocacy approvals by value (Kshs)	105m	144m	157m	201m	607m
Advocacy disbursements by value (Kshs)	18m	70m	70m	201m	359m
BMOs supported	19	37	36	34	126
Projects completed	-	6	19	28	53
Sustainability projects approved	-	3	7	-	10
Sustainability projects approvals by value (Kshs)	-	12	3	5	20

BAF3 in figures (continued)

	2016 July to December	2017 January to December	2018 January to December	2019 January to December	Totals
Sustainability project disbursements (Kshs)	-	-	12m	6m	18m
Capacity building expenditure (Kshs)	2m	10m	14m	13m	39m
Participants in training programmes	100	300	406	503	1309
Dialogues started by supported BMOs	79	183	206	243	711
Consultations with government	73	184	187	212	656
Policy proposals published by supported BMOs	7	4	25	46	82
Alliances & partnerships developed	20	11	15	25	71
Policy changes	3	30	19	125	177

BAF in figures

Output	Item	BAF1	BAF2	BAF3	Totals
Capacity Building	Total participants	629	2819	1309	4757
	Organisations in training	117	212	196	525
Advocacy	Grants (number)	58	107	104	269
	Grants (total value) (Kshs)	98m	223m	607m	928m
	BMOs supported	37	53	53	87
	Issues brought to government	167	222	656	1045
	Research reports	52	63	36	151
	Position papers published	52	86	82	220
	Dialogues & consultations	419	1155	711	2285
	Policy reforms	56	101	177	334

BAF in figures (continued)

Output	Item	BAF1	BAF2	BAF3	Totals
Sustainability support (Kshs)	Revenue Support Grants	3	34	10	47
	Committed (Kshs)	22m	168m	20m	210m
Media	Press articles	487	499	2318	*
	Radio	322	145	1759	*
	TV	262	138	1028	*

**The media figures reflect BMO progress reports. However, in 2019, BAF undertook two studies to access the accuracy of BMO tracking and reporting of media coverage and concluded that coverage was significantly higher than reported. The figures for BAF3 reflect this higher coverage.*

Advocacy

BAF's primary focus is to support individual BMOs to advocate public policy reforms through mentoring, training and grant support. The Fund Manager's staff team has always provided some mentoring, but this has had to be supplemented to match the growth of BAF's operations. The appointment of Research & Policy Advisers (RPA) has been an initiative to bridge the gap among BMOs and the consultants that support them, in undertaking research, preparing compelling and evidence-based policy positions and engaging in dialogue to reform public policy. A cohort of four RPAs was recruited in late 2017 and they provided support to BMOs throughout 2018. The programme was then extended to operate throughout 2019. RPAs have also assisted BMOs to prepare grant applications, draft terms of reference for consultants and provided some project management.

> ***In 2018, BAF piloted a programme for BMOs to develop and implement detailed advocacy and communications plans, with the goal of making them more self-reliant in their communications and public relations initiatives***

In 2019, BAF adopted a new approach in which PR firms were recruited to implement this programme. During the year, PR support was initiated for 17 BMOs supported by five consultants. Whilst the objective is improved communications to all stakeholders, we also noticed an increase in the quality and quantity of media coverage.

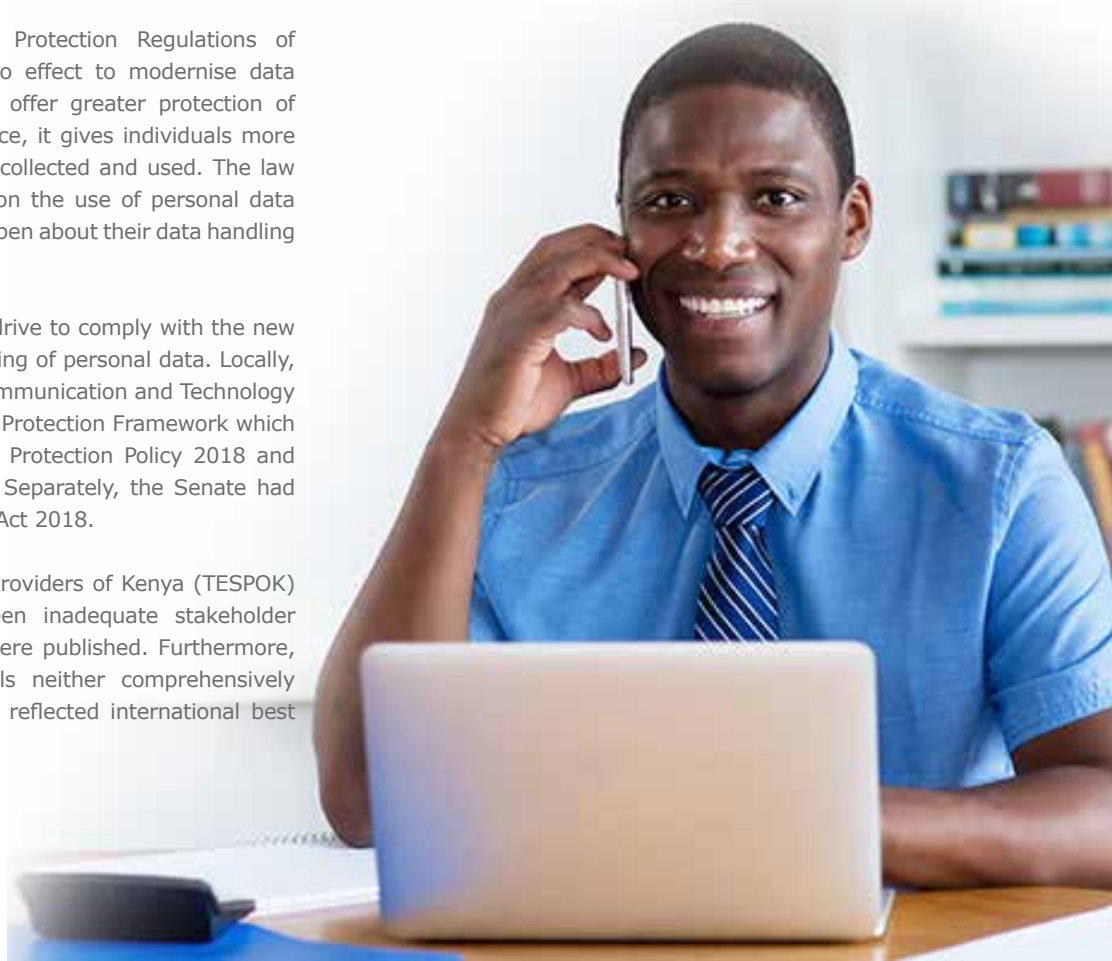
We have selected a handful of case studies to illustrate the breadth of activity by supported BMOs both at national level and at the county level with local BMOs supported by the Kenya Association of Manufacturers.

Technology Service Providers of Kenya champion data protection legislation

In 2018, the General Data Protection Regulations of the European Union came into effect to modernise data protection law in the EU and offer greater protection of personal information. In essence, it gives individuals more control over how their data is collected and used. The law specifically guides companies on the use of personal data and requires them to be more open about their data handling practices.

This initiative started a global drive to comply with the new status quo regarding the handling of personal data. Locally, the Ministry of Information, Communication and Technology had developed the Kenya Data Protection Framework which included the Privacy and Data Protection Policy 2018 and the Data Protection Bill 2018. Separately, the Senate had developed the Data Protection Act 2018.

However, Technology Service Providers of Kenya (TESPOK) perceived that there had been inadequate stakeholder engagement before the bills were published. Furthermore, TESPOK worried that the bills neither comprehensively addressed data protection nor reflected international best practice.



> ***In October 2018, TESPOK received BAF support to advocate a consolidated Data Protection Bill. TESPOK engaged with its membership and other private sector players to consolidate their proposals for a Data Protection Act. It engaged with the Senate Committee on ICT which subsequently embarked on merging the Ministry's draft with their own***

A year later, in November 2019, President Uhuru Kenyatta signed into law an agreed Data Protection Act 2019 which largely reflected TESPOK's position. The Act specifies that no personal information should be obtained, processed or used without the express or implied consent of an individual. In addition, the Act is aligned to the constitutional provisions on the right to data protection and proposes the establishment of an independent oversight authority, in line with global best practice. It is anticipated that the Act will enhance the level of data protection in the country and safeguard personal data.

Architectural Association of Kenya's quest for physical planning legislation

In 2010, the Architectural Association of Kenya (AAK) undertook research to explore how the technical capacity of Local Authorities affected development control process and their capacity to ensure that buildings are safe for the people who use them.

> ***AAK developed a policy position for an appropriate development control framework. As a result of its advocacy, the National Spatial Plan (NSP) 2015-2045, which sets out policies and strategies to guide the country's spatial development, was launched by the Government***

To implement the NSP, a Physical Planning Bill was tabled in the National Assembly Departmental Committee on Lands. AAK, however, had concerns about proposals in the draft Bill including a lack of alignment to the devolved functions of government and contradictions with existing national laws on land including the National Land Policy and the County Governments Act among others. AAK made written submissions and oral presentations to the Departmental Committee on Lands and also engaged with the Senate Standing Committee on Land. Many of AAK's proposals were accepted by the two committees and, in August 2019, the Physical and Land Use Planning Act was enacted.

This legislation should now provide for the coordination of physical planning at the national level and county level, supporting the development of harmonised physical planning across counties and, in doing so, help address the previous poor planning of Kenya's urban areas.

Eastern Africa Grain Council secures a Warehouse Receipt Systems Act

Since its inception in 2008, the Eastern Africa Grain Council (EAGC) has championed the structured trading of grain and driven the use of warehouse receipt systems (WRS) through the law of contract in lieu of specific WRS legislation. It also secured the support of financial institutions.

> ***In a WRS, a farmer deposits non-perishable goods, such as grain, coffee or cotton, at a warehouse in exchange for a warehouse receipt. The receipt provides evidence that specified commodities of a stated quantity and quality have been deposited in a warehouse and are stored in a protected environment, reducing post-harvest losses and allowing the farmer to choose when to sell. This enables the owner to sell the goods at fair prices or to access credit secured against the warehouse receipt***

In 2010, following EAGC lobbying, the Government initiated the process of developing a WRS Bill that was finally tabled in the National Assembly in 2015. EAGC noted several flaws with the draft which proposed several bureaucratic processes which duplicated existing regulatory bodies and imposed additional costs. Indeed, EAGC believed that this would have made the proposed system impossible to implement. In July 2015, EAGC with BAF support, successfully advocated amendments to the WRS Bill which was passed by the National Assembly in August 2016. Unfortunately, the Bill

was not passed by the Senate before the August 2017 elections and expired with the dissolution of the legislature. After the elections, EAGC sought BAF support to re-engage the Senate and to have the Bill re-introduced as a Senate Bill. In collaboration with the Ministry of Agriculture, Livestock and Fisheries, EAGC engaged with the Senate Standing Committee on Agriculture, Livestock and Fisheries and the National Assembly Agriculture Committee which championed the WRS Bill in the Senate.

In January 2019, the WRS Bill was passed by parliament and signed into law in June. The Act now provides a legal framework for the development and regulation of WRS and addresses marketing challenges affecting the grain sub-sector. It also creates a Warehouse Receipt Council which includes stakeholders drawn from the private sector and all the government institutions with a regulatory role. The WRS council should, in time, enable the establishment, maintenance and development of WRS for agricultural commodities produced in Kenya, broadening access to credit in the agricultural sector, and leading both to improved food security and improved farmer livelihoods.

The Kenya Private Security Consortium calls for better regulation

In 2012, the Kenya Security Industry Association (KSIA) secured a BAF grant with which it successfully advocated the enactment of the Private Security Regulation Act, 2016. This provided for the establishment of a Private Security Regulatory Authority (PSRA) intended to govern the operations of the industry.

Despite this success, there were challenges in implementing the Act. In particular, the governance provisions of PSRA were not implemented as expected. KSIA sought a BAF grant to collaborate with other associations to engage on those governance challenges and ensure the Act was implemented in a way that would improve the operating environment for the sector.

In July 2019, the Cabinet Secretary gazetted the Private Security (General) Regulations, 2019, in a bid to operationalise both the Act and the PSRA. However, the Private Security Consortium which included KSIA, the Private Security Industry Association (PSIA) and the Protective and Safety Association of Kenya (PROSAK), took issue with the regulations citing concerns with timelines to put the rules into effect and their inconsistency with the law, the Constitution

and other statutes. They also expressed their reservations on the proposed rules for the training of security officers, statutory fees and industry engagement in the formulation of the rules, all of which they argued was inadequate.

> ***KSIA developed a policy position and engaged the Ministry of Interior and Co-ordination of National Government and the Parliamentary Committee on Delegated Legislation who annulled the proposed regulations. It then convinced the Ministry to gazette new members to the Private Security Regulation Authority Board including representatives from the Kenya Private Security Consortium***

The Ministry has had to go back and rethink the regulations. In the meantime, it has provided guidance to the security industry to allow for the registration of security firms at no cost while subsequent conversations are held to draft appropriate regulations. The consortium continues to work closely with Government to ensure the PSRA Board is fully operational and the sector now has a regulatory framework that is fit for purpose.

Kenya Union of Savings and Credit Co-operatives protects savers

In 2017, BAF supported co-operative sector stakeholders to review the draft Co-operative Development Policy, dubbed 'Co-operative Enterprises for Industrialisation' and intended to replace the 1997 policy. The regulation of co-operatives is a devolved function, so a new policy was necessary to define clearly new roles for county and national government and to ensure effective governance of this critical sector. However, despite being agreed by stakeholders and completed successfully, the policy had neither been approved by Cabinet nor presented to the National Assembly for adoption.

The draft was, however, seemingly ignored when, in 2018, a State Law (Miscellaneous Amendments) Bill proposed amendments to both the Co-operative Societies Act and the SACCO Societies Act, which created a regulatory body, the Sacco Societies Regulatory Authority (SASRA). The Bill proposed the creation of a special class of member, a "Social Impact Member", who would not be subject to the rigorous governance systems established in SACCOs. The Bill further proposed the creation of Special Funds, to be financed by these members, complete with a Special Fund Investment Policy and a Special Fund Trustee. These amendments, if adopted, would thus have given rise to independent institutions within the SACCO sector not bound by the principles guiding other members of the co-operatives and would have exposed SACCOs to risks such as money laundering.

> ***The Savings and Credit Co-operatives sector in Kenya is the largest in Africa and among the top 10 globally with domestic savings of KShs 800 billion (c. $7.5 billion), accounting for 33 per cent of national savings***

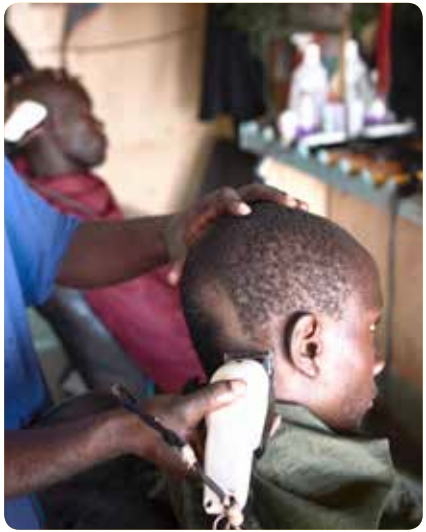
The proposed amendments also sought to devolve some of the powers accorded to SASRA, contrary to the new Co-operatives Development Policy. In addition, a proposal to increase SASRA's levy on SACCOs had been submitted to the Committee of Delegated Legislation in the National Assembly.

KUSCCO approached BAF for support which was quickly agreed. Three policy positions were presented to relevant policy makers. KUSCCO engaged the Ministry of Industry, Trade and Co-operatives and the relevant Parliamentary Committees in the National Assembly and the Senate to advocate the adoption of the co-operatives policy and the withdrawal of the proposed legislative amendments. KUSCCO undertook a public relations campaign amongst parliamentarians - to raise their awareness of KUSCCO's concerns, to rally their support and to become champions in Parliament.

KUSCCO successfully advocated the withdrawal of the proposed amendments and averted the potential dangers posed by creating social impact members and special funds. Moreover, the Cabinet has now approved the Co-operatives Development Policy and it awaits adoption by Parliament. This policy will now guide stakeholder-inclusive reforms in the sector including the review of the SACCO Societies Act and the Co-operatives Act.

100 new laws improve County business environments

Devolution brought about new challenges and concerns for the private sector. A key concern was the enactment of Finance Acts by counties without the requisite revenue raising legislation as set out in the Constitution of Kenya 2010 and the Public Finance Management (PFM) Act, 2012. This resulted in an unpredictable business environment with haphazard levies and fees across counties and significant impact on the cost of doing business.



The Kenya Association of Manufacturers (KAM) sought BAF support to develop county-specific revenue laws for all 47 counties in collaboration with the Commission on Revenue Allocation (CRA), the Kenya Law Reform Commission, the Council of Governors (CoG) and County Business Coalitions (which had been formed as a result of BAF funding KAM to coordinate Governors' Round Tables across the country).

This partnership resulted in the drafting of over 300 county laws to regularise revenue raising by counties. The laws included Revenue Administration, Rating, Trade Licensing, Agricultural Cess, Public Participation, Finance and Tariff Policy. In addition, two policy guidelines – the Economic Policy Framework Guidebook and the Constitutional and Legislative Policy Guidebook – were prepared to guide the drafting of county revenue laws.

CRA sent an advisory notice to all 47 counties to comply with the Constitution and the PFM Act through the enactment of appropriate legislation. The Transition Authority reiterated this message by sending a circular to all county governors requesting they enact these laws to reduce the multiplicity of levies and to improve the business environment.

As a result of the revenue laws engagement, KAM was invited to make submissions to the Intergovernmental Budget and Economic Council chaired by the Deputy President. KAM's participation at this forum led to building consensus on key issues which required a national approach such as:

- Multiple licensing and taxation specifically emphasising the importance of the development of a national legal framework to manage 'county own source revenue' and 'county taxation';
- The development of a National Tariff and Pricing Policy; and,
- A national public participation law.

In October 2019, the CoG published its County Policy and Legislation Mapping Report which documented legislative changes relating to revenue raising that had been achieved in the counties. BAF later engaged with CRA to seek an update on the status of enacting the revenue laws. An analysis of both CoG and CRA reports show that a total of 100 legislative changes has been achieved so far with many more still expected.

Dr. Jane Kiringai, Chairperson, Commission on Revenue Allocation, comments on the work of BAF…

The Commission on Revenue Allocation (CRA) appreciates the collaboration and support received from the Business Advocacy Fund (BAF) through the Kenya Association of Manufacturers (KAM).

Notably, the commission achieved significant milestones and to just highlight a few of these:

- *Through the partnership five model laws were developed in 2014 to guide counties to legally collect revenue at the onset of devolution. This intervention was in response to major concerns about the nature and quality of most of the revenue laws that had been passed by county governments considering that it was a new process for counties. Some complaints were registered by the members of the public and the business community regarding the manner of revenue imposition, collection and administration by the counties which were business unfriendly.*
- *47 County Assembly members of trade and finance committees were trained on how to develop business friendly legislation.*
- *Over 235 bills were drafted and developed for the 47 county governments. Of these bills, 30 finance bills are up to date, and about 60 revenue laws have been enacted as at September 2019.*
- *Published a Constitutional and Legislative Policy instructing the drafting of county revenue laws.*
- *Published an Economic Policy Framework instructing the drafting of county revenue legislation.*
- *And developed the CRA data portal, the go-to place for devolution data in Kenya.*

All these initiatives would, if successfully implemented, ensure that the business environment in the counties is conducive for investors and suitable for county governments to raise revenue sustainably.

Promoting private public partnership

Since 2016, BAF has encouraged BMOs, rather than just lobbying government, to partner more closely with government to promote public policy reforms of mutual interest. By the end of 2019, 24 BMOs had partnered with Ministries, Departments and Agencies (MDA) to review existing policy, commission research and develop new joint policy positions. In 2019, 11 BMOs reported partnerships with MDAs in the implementation of their advocacy projects. Highlights of this new approach include:

- The Kenya Fish Processors' and Exporters' Association worked with the State Department of Fisheries at the Ministry of Agriculture, Livestock, Fisheries and Cooperatives to develop regulations and guidelines to implement the Fisheries Management and Development (FMD) Act, 2016.
- The Retail Trade Association of Kenya together with the Kenya Association of Manufacturers worked with the Ministry of Industry Trade and Cooperatives to address unfair trade practices in the retail sector. This has resulted in the launch of a Retail Code of Practice, the creation of a Dispute Resolution Committee and an amendment to the Competition Act, 2019 to address abuse of buyer power.
- The Kenya Alliance of Resident Associations has partnered with Nairobi County Government to implement the Nairobi Non-Motorised Transport Policy.
- The Kenya National Chamber of Commerce and Industry (Vihiga County) and Vihiga County Government are working in partnership to institute a County Dialogue Forum to discuss and agree a county work plan and a county legislative agenda.
- The Kenya Association of Manufacturers is working closely with the government's Multi Agency Team (MAT) to combat illicit trade. The MAT comprises the Anti-Counterfeit Authority, the State Department for Trade and the Office of the Deputy Head of Public Service.

Assessing the wider impacts of policy reforms

BAF recognises the importance of assessing outcomes and impacts beyond the immediate objectives of a specific project though these may only emerge a considerable time after a project is complete. Highlights of such positive consequences which had not been anticipated include:

- KAM worked with the judiciary, the National Council on Administration of Justice and the Kenya Magistrates' and Judges' Association to develop a commercial bench book to support the speedy resolution of commercial cases. Not only did this lead to the launch of the bench book in 2017, but also resulted in the formation of a Business Court Users' Committee. Other African countries are now seeking to emulate both the Court Users' Committee and the bench book approach.
- BAF supported the Kenya Chamber of Mines (KCM) to seek revisions to the Mining and Minerals Policy and the Mining Act 2016 and to support the adoption of 13 sets of regulations. Not only does KCM perceive significant improvements in the business environment, but also the Ministry of Mining and the Counties have partnered to engage with and train miners to address health and safety concerns. The reforms have led to the registration of 10 women's groups in two counties and 11 youth groups in three counties.
- A project to develop standards for hermetic bags and containers by the Eastern Africa Grain Council led to the adoption of two Kenya Standards (KS 2873:2019 and KS 2874:2019). These standards are the first of their kind anywhere and are expected to contribute to reduction of post-harvest losses of cereals and reduced use of food preservatives, thus boosting food safety and farmer incomes. Other East African countries are now seeking to develop their own standards based on those in Kenya.

Media

BAF's media activities have been designed on the premise that media engagement can be a valuable tool for advocacy when used strategically, recognising the agenda setting role played by the media in framing policy issues in their reporting. This perspective informed our various media interventions in 2019, working with BMOs, journalists, communications consultants and media stakeholders that include Strathmore Business School's Africa Media Hub and Aga Khan University Graduate School of Media and Communication

Journalists' policy breakfasts

In 2019, BAF continued to host Business Journalists' Policy breakfasts. There were nine events during the year managed by Strathmore Business School's Africa Media Hub.

In March, Karin Boomsma, Director, Sustainable Inclusive Business and Nancy Kariuki, Advocacy Manager, the Kenya Alliance of Resident Associations reflected on solid waste and the opportunities for the green economy and the challenges in the policy framework. In April, Kennedy Manyala and Antony Mveyange of TradeMark East Africa explained how the African Continental Free Trade Area can unlock business potential in the East African Community. In June, Siddharth Chatterjee, the UN Resident Coordinator, UNDP Resident Representative, and Head of UN Agencies in Kenya described the UN's support for Kenya's flagship projects under the United Nations Development Assistance Framework 2018-22. In October, Architect Lee Kariuki, Chair of the Board of Trustees of KEPSA Foundation talked about the business environment in Kenya and experiences working with the government and other stakeholders.

Feedback from regular participants indicated an approval rating of over 90 per cent on the quality of speakers and perceived value of the events. The attendance has grown from an initial average of 25 participants in 2017 to an average of 40 by the close of 2019.

An unexpected but welcome outcome from the breakfasts has been the formation of a Business Journalists' Association, which was in the process of registration at the end of 2019, with the support of the Media Council of Kenya.

Simon Libafu, a Business Daily journalist, comments…

Attending the Policy Breakfast meetings organized by Strathmore Business School and the Business Advocacy Fund, mostly on Fridays, is usually a great way to end the week as well as get to meet and engage policy experts – both Kenyans and from the rest of the world.

As a business journalist, it is enriching to have an opportunity to listen to various topical issues that help me in my work. I am also able to meet and build sources as well as network with colleagues in the industry.

Last year, in August, I was one of the recipients of the BAF-sponsored Kenya Impact Reporting Fellowships for investigative reporting offered by the Aga Khan University Graduate School of Media and Communications.

The fellowship enabled me to assess the status of single-use plastic bags in Kenya, especially what the business community is doing to curb plastic pollution as well as green options available to promote sustainable use of resources.

I believe these and more initiatives by BAF have helped a lot in helping set the media agenda through highlighting pertinent issues in business such as the technological disruption and the emergence of the gig economy, interrogating taxation policies, global value chains and African Continental Free Trade Agreement.

With these and more, business journalism in Kenya is destined for greater heights and playing a meaningful role in the economic prosperity of Kenya and the rest of Africa.

Field visits for business journalists

In 2019, BAF commissioned the Aga Khan University Graduate School of Media and Communications to implement field visits by journalists to BMOs to introduce journalists to specific business environment topics and improve their understanding whilst also helping BMOs to build contacts with journalists and improve their media relations. Six field visits were undertaken over the year, with three to six journalists on each mission. These were:

- Sugar Campaign for Change in Awasi, Kisumu County to look at the impacts of sugar regulations;
- Pyrethrum Growers' Association in Molo, Nakuru County to explore the effects of the Pyrethrum and Other Industrial Crops regulations;
- Kenya Alliance of Resident Associations in Nairobi County to look at the potential impact of the National Sustainable Solid Waste Management Policy & Bill;

LPG dealers, regulator clash over new rules

BY COLLINS OMULO

Liquefied Petroleum Gas (LPG) dealers and the regulatory agency are headed for a showdown over the implementation of rules relating to the cylinder pool exchange.

This comes after the Energy and Petroleum Regulatory Authority (EPRA) rejected a request by the Energy Dealers Association to have the implementation [illegible] to come into effect three month extension was granted by EPRA, is the bone of contention.

The 2019 Petroleum Act requires LPG retailers, wholesalers and transporters to hhave licences for every business location.

It follows the abolition of the compulsory LPG cylinder exchange pool.

It also says the permits should be specific to the authorised cylinder brands and retailers are required to obtain written consent from brand owners.

On December 23, 20[illegible] Secretary Kepher Odongo – called for the implementation of the law to be delayed to June.

Mr Odongo said the implementation of the 2019 Legal Notice 100 from January would not be possible since few retailers have been issued with relevant licences from EPRA.

He added that the effect of the deadline for implementing the notice would be loss of jobs.

Mr Odongo said most retailers have not obtained [illegible] county licences and permits as it was

- Kenya Association of Hotelkeepers and Caterers in Kwale County to understand the challenges along Kwale Beaches, caused by excessive sand harvesting and dumping dredged materials, affecting both tourism and the environment;
- Regional Society for Blood Transfusion Kenya in Nairobi County to discuss the difference that could be made by the Kenya National Blood Service Bill; and,
- Pharmaceutical Society of Kenya in Nairobi County to review the proposals set out in the Kenya Food and Drug Authority Bill.

Field visits are intended to be educational and networking opportunities and so immediate media reporting is not a key output. However, the visit to the Regional Society for Blood Transfusion Kenya generated considerable coverage with an article in the Daily Nation and in the Lancet, a weekly peer-reviewed general medical journal.

Reporting bursaries for journalists

In 2018, BAF commissioned the Aga Khan University Graduate School of Media and Communications (GSMC) to manage a programme that offers bursaries to journalists. These are awarded on a competitive basis to explore the practicalities of supporting journalists to undertake more serious investigation of public policy and economic matters with emphasis on inclusive green growth. By the end of the year, GMSC had awarded 25 bursaries.

A story funded through the bursaries won an award at the 2019 Annual Journalism Excellence Awards. This was a 10-minute radio documentary for Pambazuko FM by Margaret Matunda about the trials of gold miners in Taita Taveta. It explored how county government policies around mining allow brokers to take advantage of the miners, many of whom are economically disadvantaged women.

Some of the stories have snowballed. A piece in May for the online publication Kenyan Wall Street, by John Robinson Njiru, entitled "Kenyan Small Scale Traders Plea to the Chinese: please leave our mitumba (secondhand goods) businesses to us" explored how SMEs who focus on second-hand goods had been affected by Chinese traders who had cornered the market. This was picked up by other media outlets in early June and featured across various platforms of mainstream media including television, radio, print and online. This culminated in Dr Fred Matiang'i, the Cabinet Secretary for the Ministry of Interior, announcing that Chinese traders operating businesses illegally would be deported.

Beatrice Gitau Kangai worked undercover to follow economic migrants from Nairobi to Johannesburg, South Africa, as they were smuggled into the country. Her investigative piece for the Daily Nation entitled "Smuggled" was published in August as a front-page piece and also featured on prime time of the media group's TV channel NTV and online at Nation.co.ke.

10 | National News

ANALYSIS

How to revamp local sugar industry

The setting up of the earlier sugar factories such as Nzoia, Muhoroni, Sony and Mumias in the 1960s was driven by two main objectives: To help make the country more self-sufficient in sugar, and to create job opportunities in large swathes of Nyanza and Western provinces, where unemployment was high.

Today, more th

yardsticks were used. For example, cane was paid for by weight rather than by sucrose content. This meant that the same amount was paid for old cane as the younger, much sweeter cane.

Bad habits like zoning crept in, meaning, certain areas plantw

in unison. At the moment, the sad irony is that they are almost in competition.

County governments must also live up to their

quotas. Imports thou handled by such bodi the Kenya National T Corporation

Tuesday, O

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Risk> Counterfeits endanger lives o

Gas cylinders in illegal refill scam impounded

Unlicensed traders liable to a fine of not less than Sh10 rules

at Swift Gas Refilling Pl Syokimau along Mombas by a multi-agency tear DCI said, signalling in surveillance just a mon police arrested and a operators suspected to illicit gas products in a wide crackdown.

The suspects wer leased on bond.

Police added that the refilling plant, Z had been arrested arraigned to answ flouting the limit o ferried using a car

Unsuspecting cu

Industry regu Petroleum Reg (EPRA) recen

forms of kerosene However,

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TAXATION>

Need for clarity on tax amnesty

Tax amnesty in Kenya was introduced vide the Finance Act 2016 to ensure repatriation of funds held abroad so as to

fewer suits, litigation and criminal proceedings.

On the flipside, tax amnesty and asset repatriation programmes have tended to have huge costs to the economy and financial system.

DAILY NATION | Tuesday, October 22, 2019

cover story

WITH SOME COMPANIES UNWILL E IN CYLINDERS WHOSE SOURCE THEY ARE UNSURE OF

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BUSINESS DAILY

A NATION MEDIA GROUP PUBLICATION

STEPHEN GITAGAMA Chief Executive Officer | MUTUMA MATHIU Group Editorial Director

NGANGA MBUGUA Managing Editor

TOP NEWS

Farmers reject cane zones plan

Restricting cane farmers to zones not the solu

A report by a task force proposing that sugarcane farmers be restricted to selling their produce to millers in their locality is retrogressive and should not be implemented.

Authors of the report say zoning will help curb the problem of cane poaching, adding that

ation getting that farmer best prices Millers offer must have ca can remain make a decen

This fosters ensures that are managed w equate funding

IDEAS & DEBATE

270,0

New rules will bring PG market

New LPG rules leave users a confused lot

consumers will have a choice to the current cylinder they to the brand

PHOTO | EVANS HABIL

LPG usage in

Victor Bwire, Head of Media Development and Strategy at the Media Council of Kenya and a grantee, comments…

This initiative has given fresh impetus to investigative, in-depth public interest journalism in Kenya, through providing resources to facilitate journalists to do 'out of routine' stories, seek information through field research and show the face of Kenya through stories done outside towns - greatly reducing 'arm chair journalism' and exposing the grantees to journalism of the people.

A number of media houses in Kenya lack investigative desks because of capacity and resource issues, while a number will not invest in public interest issues that require money and time. Journalists, some of whom are paid per story, would not want to embark on stories that require a lot of time and travelling. Investigative stories are costly; if funded, journalists will take their time and do serious sourcing to generate content.

Media coverage of the business enabling environment

Assessing how the media covers stories about the enabling environment is challenging as the media rarely uses that term, so any review would require wholly manual methods of assessment. However, a crucial factor impacting the enabling environment, and one that is prominent amongst business perceptions in Kenya, is corruption. Moreover, the media uses relatively few terms to describe corruption, so it is much easier to search the archives using electronic methods. This was used as a proxy to explore how the media's reporting of the business enabling environment had changed from BAF's inception in 2006 to 2019. BAF commissioned OdipoDev, a research firm, to undertake a study to explore the media's reporting of corruption. The study found that stories about corruption in the press increased steadily from 2007 to 2015 and then reduced. However, 2015 saw the eruption of a scandal at the National Youth Service which continued to be mentioned through to 2019. Additionally, the study found that, out of 107 selected scandals, 42 per cent were broken first by the media before being publicised by other sources.

Influence of the media on public policy

In 2018, BAF commissioned a study to provide a baseline on how the media impacted the perspectives of policy makers. The study found that most respondents relied on print media for news. It also found that although the media brought issues to the attention of policy makers, they were generally not strong enough to sway opinion or lead to any action. In 2019, BAF repeated the research reaching more respondents. It once again found a majority of respondents relied on print as their main source of news, followed by TV and international news sources. There appeared to be a high level of awareness about the business enabling environment coverage among policy makers. The study found evidence that the media impacts policy making, raising the awareness of issues for 92 per cent of respondents. In general, respondents felt that media coverage was sensationalised. However, they acknowledged the media had influenced their work and on occasion alerted them to issues of which they were unaware. In many cases, this led to issues being placed on the public policy agenda and in some cases to policy reforms.

The private sector has continued to be the key driver of Kenya's economic development. Over the last decade, government policy has responded to private sector needs to enable the sector's growth. BAF has been an important institution in supporting evidence-informed public-private dialogue that has resulted in important reforms across all sectors of the economy. BAF has provided to the private sector the support to engage in conversations of national importance propelling the growth of our economy and the progressive advancement of human rights-based advocacy. It is our hope as government that these reforms will deepen Kenya's growth to create more jobs for our young men and women.

Betty Maina, Cabinet Secretary,
Ministry of Trade and Industrialization

BAF's time is up!

It has been a privilege to be able, for the last 15 years, to support business associations in Kenya to advocate reform of public policy and to see them grow more effectively into that role as evidenced by the growth of policy reforms (as shown in the tables earlier). When we started on this journey, there were perhaps three or four associations who could command the attention of government and few who could persuade government to change its mind about policy or legislation. Moreover, there was a suspicion within government about why the private sector would ever want to persuade government to make it easier to do business. Now, however, government is much less suspicious, recognises that involving the private sector leads to better and more legitimate legislation, is more likely to consult and is more willing to listen to good arguments; associations are more able to approach government, are more likely to prepare research evidence and are able to make better, more reasoned arguments. The Business Advocacy Fund will no longer exist though the need, if anything, has increased. Associations will need to remember the lessons that they have picked up from their work with BAF but they will also need to be willing to work more closely together and more closely with government, recognising that close collaboration is a strength and not a weakness and that interests often overlap. There is now considerable expertise available to support associations engaging in dialogue and advocacy. It is however up to the business associations to ensure that they make use of that expertise and to continue to press for reforms that will drive Kenya even further up the World Bank's Doing Business league table.

The Business Advocacy Fund

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Website: www.businessadvocacy.org

Knowledge Portal: www.dialogKenya.info