

THE BUSINESS



ADVOCACY FUND

Supporting Private Public Dialogue

Annual Report 2016

DANIDA



The Business Advocacy Fund

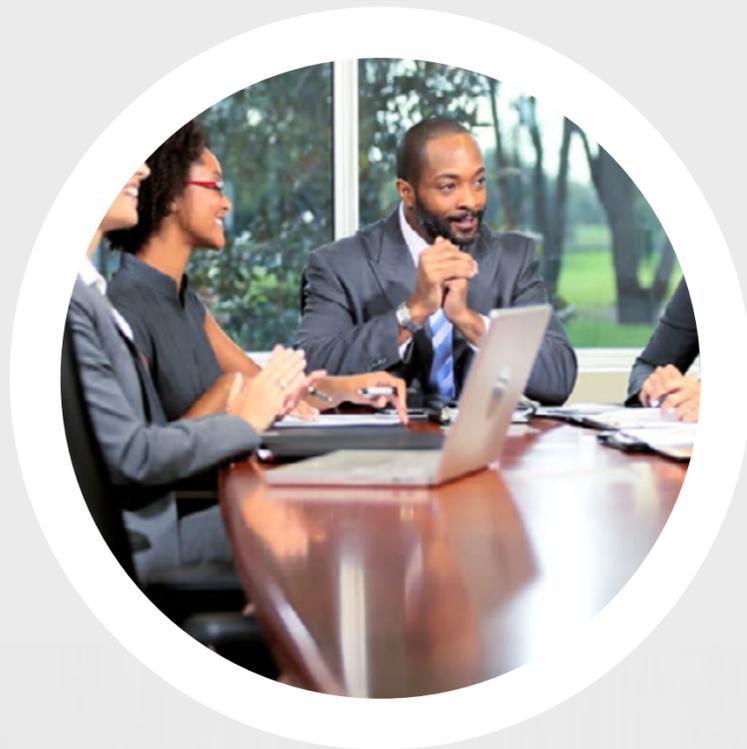
The Business Advocacy Fund (BAF) was established in 2006, to support Business Member Organisations (BMOs) to engage in effective private-public dialogue and to advocate reform of public policy to improve the business environment in Kenya. 2016 was a landmark year for the Fund as the second phase of support, which had started in January 2012, came to an end at the end of June and a third phase commenced at the beginning of July. Under the second phase of support, there were numerous successes, some of which are highlighted in this report, with a summary of key figures at the end.

The second phase of BAF provided support in four areas:

- Advocacy support: grant funding to support dialogue and advocacy;
- Capacity building: training and mentoring to build the capacity of business associations to engage in effective dialogue and advocacy;
- Sustainability support: we provided grants and mentoring to build long-term sustainability associations;
- Media awareness: to raise media awareness and encourage quality coverage of the importance of creating an enabling environment for business.

The Fund's support to the private sector through the course of the past four years resulted in 145 reforms of policy, legislation and regulation at national and county level.

The lessons learnt will be carried forward into the next phase. This third phase, as described at the end of this report, continues the efforts to improve the business environment in Kenya and is part of the Danish Embassy's Kenya Country Programme for 2016 to 2020.



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Advocacy support

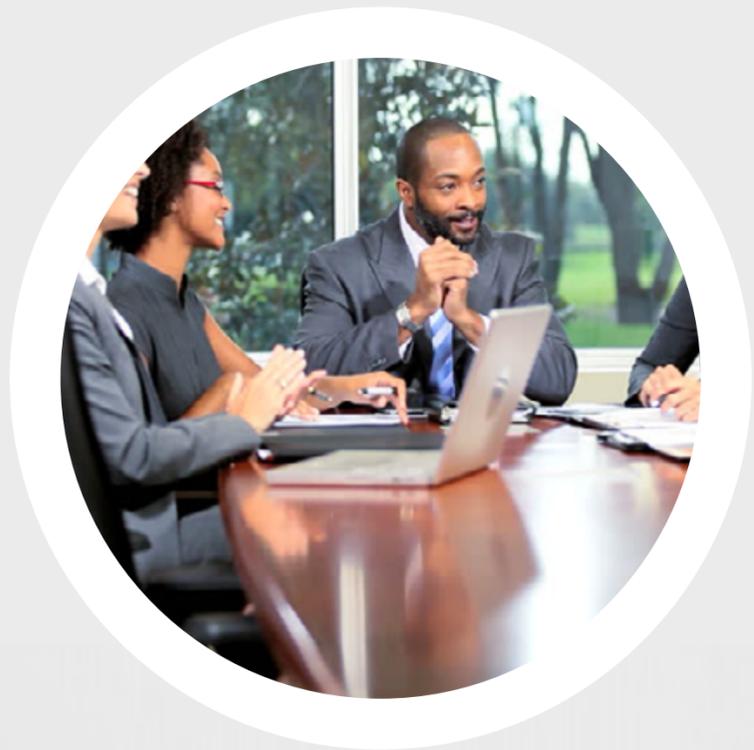
The Fund offers support through advocacy grants, based on the Five Step Approach to Advocacy (5AA). The five steps are as follows:

- Identifying the issues – this may come from business, government or sectorial stakeholders and may require investigation by the BMO to get a better grasp issues;
- Understanding the issue – this involves undertaking research to gather evidence on the issue to be addressed
- Formulating a policy position – the policy positions put forth by the BMOs are evidence-based and present strong cases for policy positions after the consideration and elimination of various options;
- Engaging with policy makers – to influence public policy; and
- Follow-up – which includes monitoring the progress of the public sector to implement agreed reform and assessing the impact arising from the reform, where possible.

Steps in the advocacy process



Source: Irwin Grayson Associates



Key successes

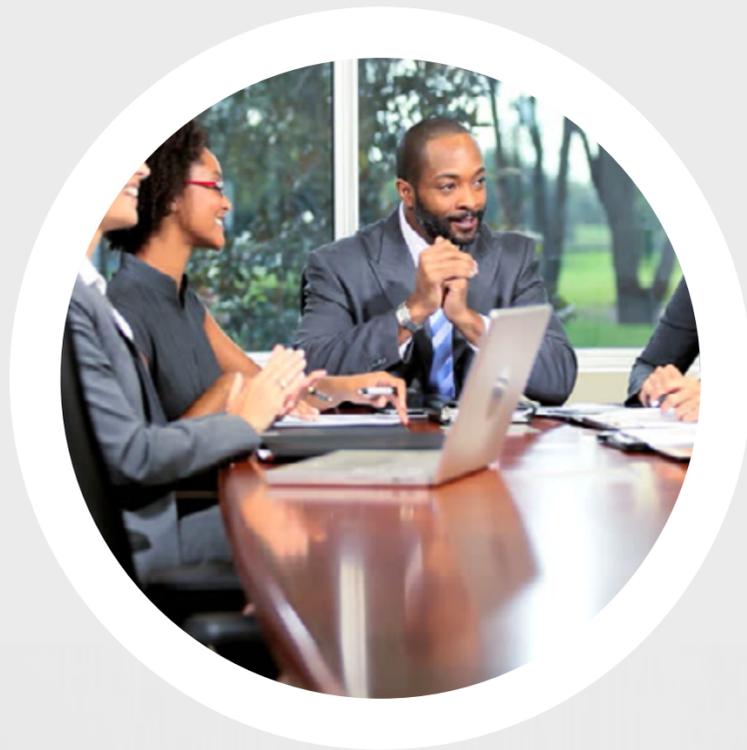
During the second phase of BAF, more than 300 BMOs were involved in BAF-supported advocacy projects across the country. Some successes are highlighted below.

Kenya Coffee Producers' Association (KCPA): improving representation and transparency in the coffee sector

In 2009 Kenya Coffee Producers' Association was formed. At the time the coffee sector in Kenya was regulated by the Coffee Board of Kenya under the 2001 Coffee Act as amended by the Finance Bill of 2005 and the General Coffee Rules.

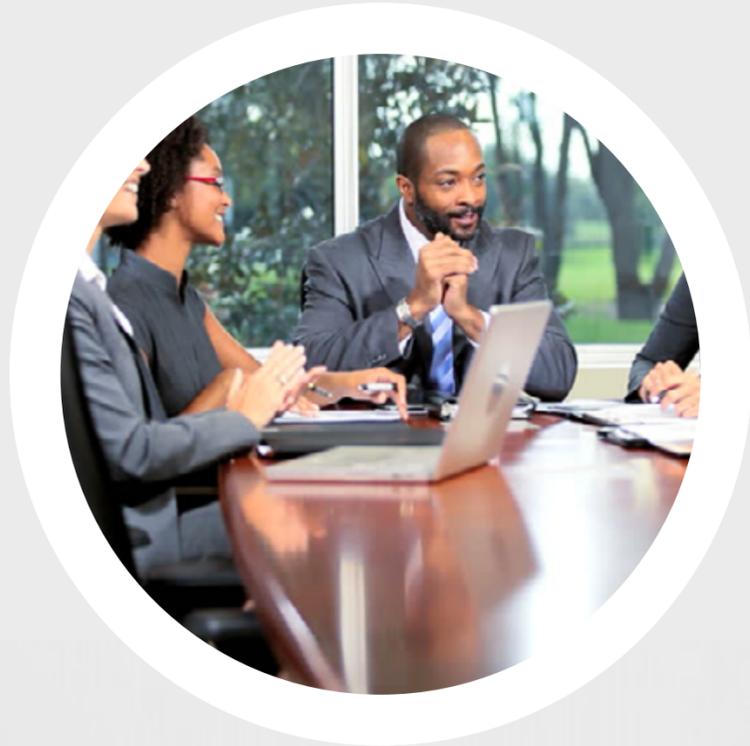


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In 2012 KCPA sought BAF's support to advocate greater representation of coffee producers, fairer taxes in the sector and a less restrictive regulatory environment with more opportunities for value addition. KCPA argued that there were too many statutory deductions made during the sale of coffee after auctions. These deductions were used to fund state organisations in the sector that included the Coffee Research Foundation (CRF), the Coffee Board of Kenya (CBK) and the Coffee Development Fund (CoDF).

KCPA, with BAF's support, undertook two research studies that provided objective evidence of the impact of the regulations on small producers and developed three policy positions that put forward a range of options for change. These were presented to the CRF, CBK, CoDF and MoA.

As KCPA was lobbying MoA, the Ministry was forming a new board to handle coffee trading and published the (Nairobi) Coffee (Exchange Trading) Rules, 2012. These rules established the Nairobi Coffee Exchange Management Committee, on which KCPA was allocated five seats.

KCPA's representation on the Nairobi Coffee Exchange has led to some important changes trading that have helped its members. The coffee sample size required per lot of coffee was reduced from 14 kilogrammes to nine kilogrammes and coffee dealers now pay for each sample. KCPA successfully lobbied the exchange to install coffee marketing screens at the county level to enable farmers to see proceedings. This has improved transparency as farmers are now aware of when their coffee is presented for auction and the price offered.

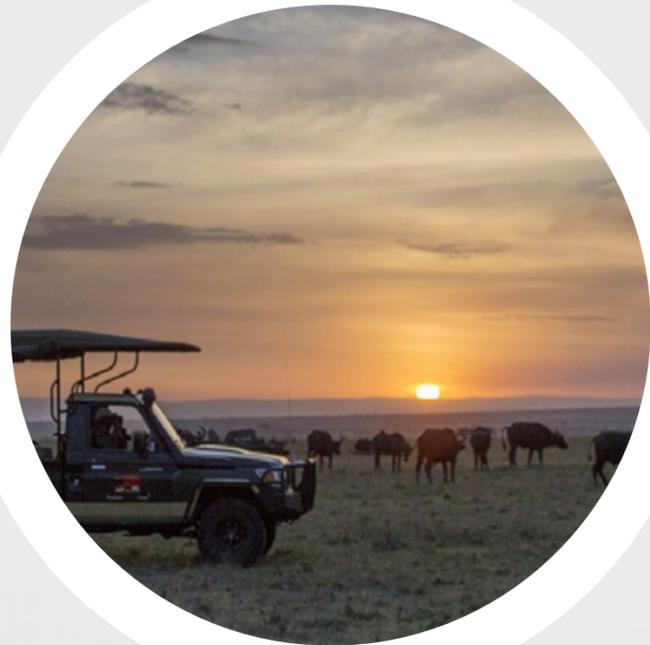
Kenya Association of Tour Operators (KATO) drives for better tourism service vehicles regulations

KATO seeks to promote Kenya as a prime destination in all markets worldwide; ensure high standards of service, and uphold strong business ethics among its members. Tourist Service Vehicles (TSV) are a key piece of the tourism infrastructure.

For years the transport sector was characterised by indiscipline and reckless behaviour. The government imposed stringent measures through the Traffic Act to address recklessness among Public Service Vehicles (PSV) and improve the standards of safety. However, these measures did not make a distinction between matatus, buses, lorries and Tourist Service Vehicles (TSV).



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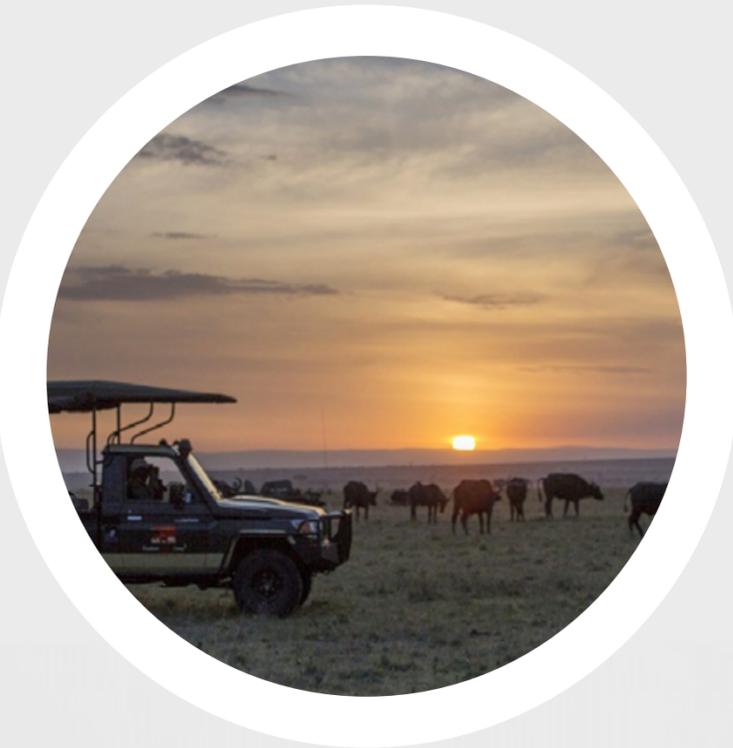
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KATO sought BAF's support to lobby the Ministry of Transport on the separation of TSVs from PSVs and to amend the Act to create a new Tourist Service Vehicle (TSV) category.

In 2012 the Ministry of Transport published the National Transport and Safety Authority (NTSA) Act (No. 33 of 2012) which established this new regulatory body as well including a new category of licences for TSVs. With support from BAF, KATO engaged NTSA with other stakeholders to draft regulations.

These efforts came to fruition when NTSA gazetted the operation of the Tourist Vehicles Regulations, 2015. They state the following key requirements: TSV operators require a tour operator's licence from the Tourism Regulatory Authority (TRA); drivers of TSVs require a tourism driver's guide licence issued by TRA in addition to a driver's licence and PSV licence, and all tour vehicles require a special insurance issued by the Insurance Regulatory Authority. These are expected to improve standards of service and professionalism in the sector.



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Agricultural Industry Network (AIN) lobbying in a reforming sector

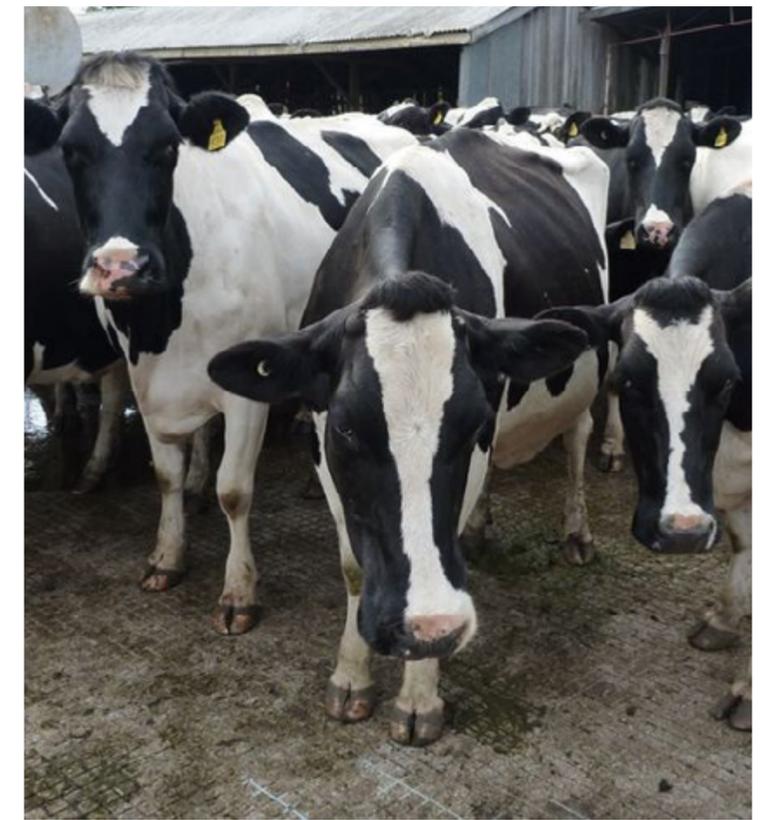
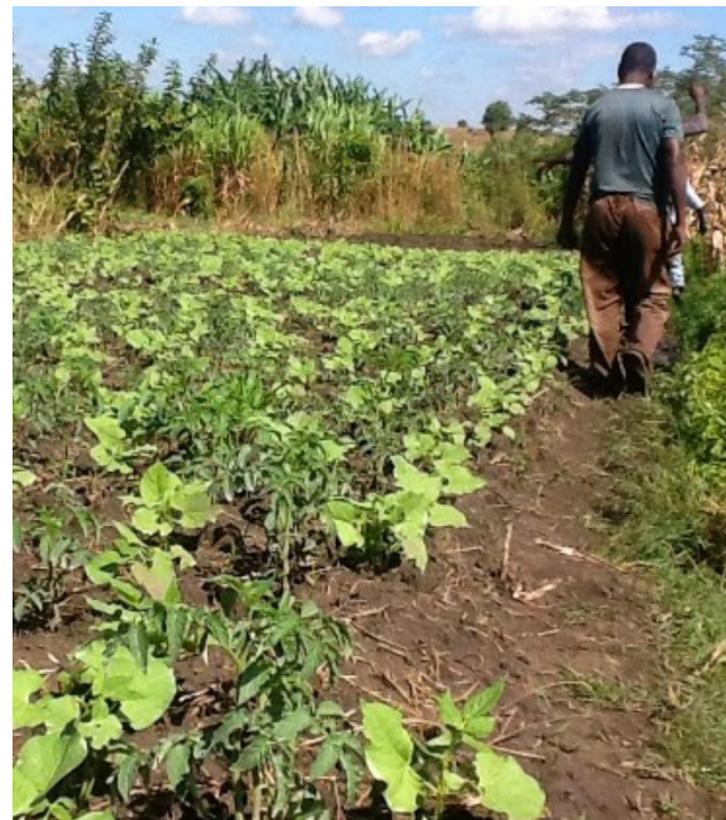
In 2012 and 2013 the Ministry of Agriculture (MoA) caused anxiety in the agricultural sector after it proposed merging 131 laws and regulations governing the sector into three new bills: The Agricultural Livestock, Fisheries and Food Authority Bill (ALFFA), the Crops Bill and the Kenya Agricultural and Livestock Research Organization (KALRO) Bill. The new laws signalled changes to Ministries, Departments and Agencies (MDAs) and key stakeholders argued that the laws would disrupt the sector.

The Agricultural Industry Network (AIN) was formed as a BMO coalition at about this time to promote information and experience sharing between agriculture BMOs and improve advocacy effectiveness. AIN approached BAF for support to lobby MoA on the agricultural laws, citing their concerns about bureaucracy and disorganisation in the implementation of the new laws.



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Over the following two years, AIN and its members succeeded in bringing about a number of changes to the new legislation.

- Kenya Veterinary Association (KVA), supported by other AIN members, succeeded in removing livestock from the ALFFA Bill leading to the promulgation of a revised Agriculture Food and Fisheries Authority (AFFA) Act; Crops Act 2013; and KALRO Act 2013. In addition, the Pyrethrum Act 2013 was signed into law.
- AIN successfully lobbied for the retention of the Kenya Plant Health Inspectorate Service (KEPHIS) and Pest Control Products Board (PCPB). This led to the maintenance of uninterrupted exports to foreign markets, which grew by KShs. 8 billion from 2013 to 2014.
- In 2014 AIN was appointed to the implementation taskforce for the AFFA and KALRO Acts, to determine how best to operationalise the new laws so that regulations would address market needs.
- AIN was invited to make comments on the six draft regulations under AFFA: the Coffee General Regulations; the Crops (Arbitration tribunal) Rules 2014; the Fibre (General regulations) 2014; the Horticultural Crops Regulations; the Crops (Oils and Nuts) Regulations; and the Pyrethrum Industry Regulations.
- AIN's efforts demonstrate the effectiveness of a coalition approach to advocacy in improving the quality of lobbying and helping hold the government accountable.

The Kenya Association of Manufacturers (KAM) spurs the development of county revenue laws

The constitution of Kenya 2010 gives counties the power to raise taxes and fees to provide devolve government services. It directs that counties can only raise these through the enactment of county legislation.

In 2014, KAM approached BAF for support to develop County revenue raising laws to enable the 47 counties to have laws that met constitutional requirements, considered the needs of the private sector and did not affect inter-county trade.

The private sector had raised alarm over increased taxes and fees levied by county governments. KAM sought to put in place county legislation that provided for a consistent business environment in all counties.

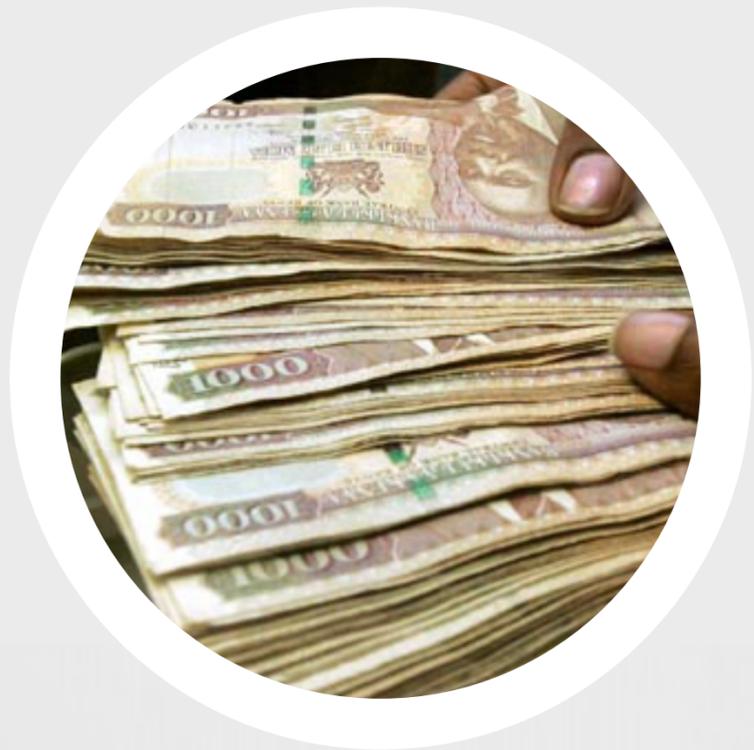
KAM partnered with the National Treasury and Commission on Revenue Allocation (CRA) to develop Model County revenue-raising laws. CRA, Kenya Law Reform Commission and the Council of County Governors had separately developed the Model County Legislation Handbook. Both of these were used to craft revenue-raising laws tailored to the 47 counties. These included:

- Property laws
- Trade licence laws
- Revenue administration laws
- Finance laws
- Public participation laws

As a result of this engagement, counties that enacted the revenue laws recommended by CRA would have legitimate finance laws supported by the suitable revenue-raising legislation.



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Kenya Alliance of Resident Associations (KARA) lobbies for better waste management legislation for Nairobi County

Waste management is one of the key functions of county governments. In 2014 Nairobi City County published a Waste Management Bill that sought to put in place the legal framework for management of waste in the County. The Bill had gone through the first reading in the County Assembly. However, the bill had not been subjected to public participation.

KARA and other private sector players were concerned with key provisions in the Bill including

- New licences for waste management in spite of the existing single business permits.
- Levies proposed in the Bill (Environmental levy) which the County Executive could increase arbitrarily
- The County would be the primary waste collector ignoring the private sector in waste collection
- Lack of provision for private sector participation in decision making



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KARA received a BAF grant to lobby for amendments to the Bill prior to its enactment. KARA, the Kenya National Chamber of Commerce and Industry (KNCCI) and Ruaraka Business Community Society (RUBICOM) prepared and presented a joint critique of the Bill to the County Assembly's Committee on Agriculture, Environment and Natural resources. They also requested more time to discuss the Bill which the county assembly granted. This provided the opportunity for discussion with a wider section of private sector stakeholders.

After the input from the private sector the Nairobi Solid Waste Management (NSWM) Act, 2015 was enacted. These laws are the first step towards a cleaner county with more favourable Waste Management laws for residents and business people in the sector.

Following this success, KARA received further BAF support to develop Solid Waste Management regulations for Nairobi Country.



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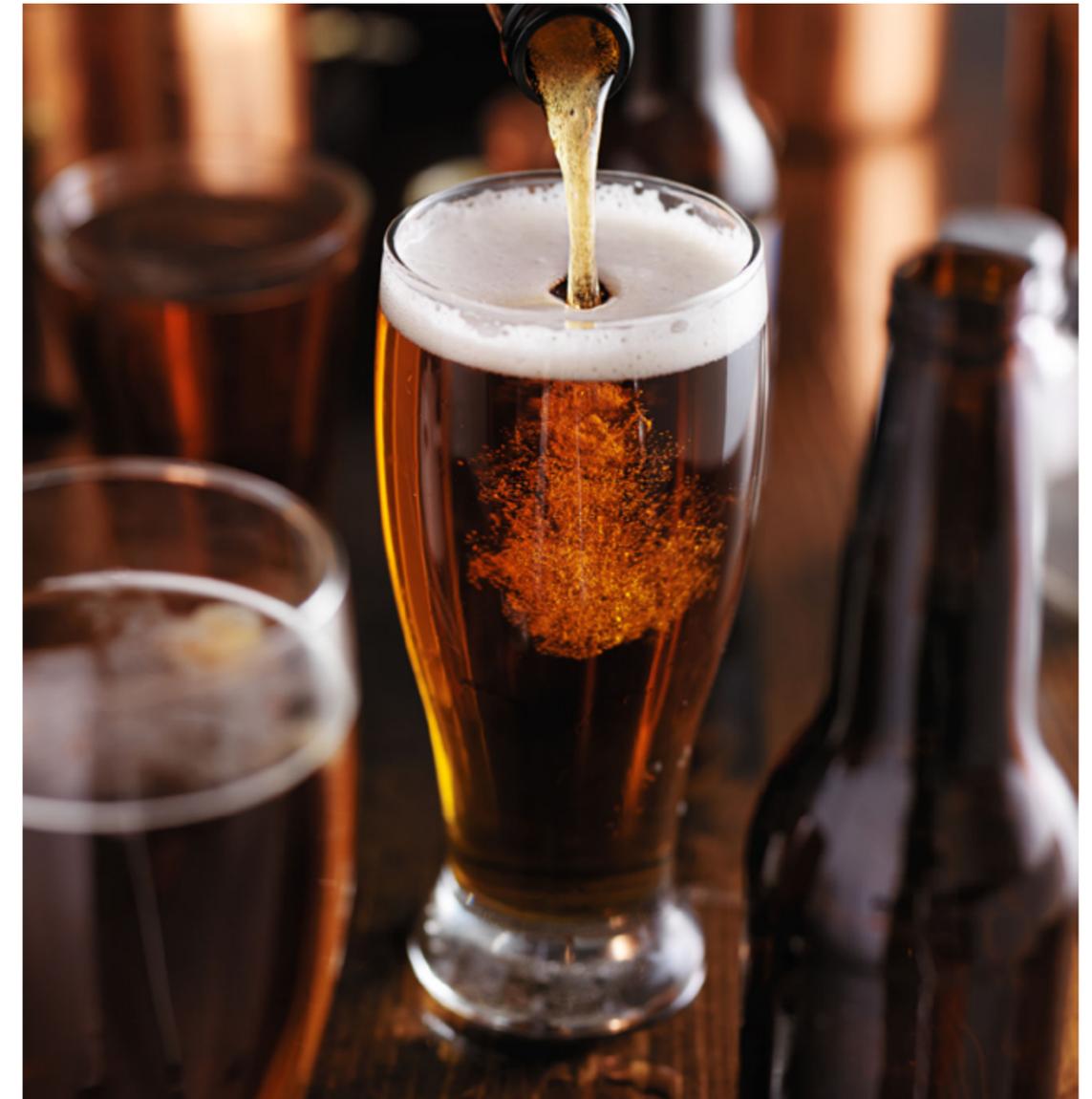
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Kenya Association of Hotelkeepers and Caterers (KAHC) pursues effective liquor legislation

The Alcoholic Drinks Control Act 2010 (ADCA 2010) stipulated that the National Authority for the Campaign Against Alcohol and Drug Abuse (NACADA) should oversee licensing and managing of liquor activities at the county level. However, the Senate through a senate law on alcohol reverted this function to County governments.

Counties were expected to develop and enact the necessary legislation to implement the Act within their jurisdictions. KAHC sought to work with county governments to develop county liquor laws based on the County Alcoholic Drinks Control Model Law, developed by NACADA in 2013.

The private sector was concerned with aspects of the Model Bill that included maintaining 300-meters distance between alcohol outlets and learning institutions; access to places where alcohol is manufactured, stored or sold by persons under 18; and the stipulated drinking hours and stakeholder representation in county licensing committees. These posed a significant challenge in the operations of liquor businesses and especially in facets of the hospitality sector which are family oriented.



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KAHC sought to engage in the development of liquor laws in counties with significant tourism activity and KAHC membership presence. Through engaging with county governments aspects of the Model Bill were reviewed. The KAHC engagement led to the development of the Mombasa County Liquor Bill, the Kilifi County Liquor Bill and the Kwale County Liquor Bill.

KAHC successfully lobbied for the enactment of the Mombasa County Liquor Licensing Act. The Act provided for the formation of the Mombasa County Directorate for Liquor Control which provided slots for private sector representatives. This has improved the understanding of private sector needs among county and national government representatives.

Through their advocacy KAHC has sought successfully to balance the needs of businesses that sell alcohol and the regulatory measures to curb its negative societal effects.



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Capacity building support

Since it commenced operations, BAF has developed and delivered a suite of training programmes to improve advocacy and institutional competence in BMOs. The training is based on the five step approach to advocacy and cover the advocacy process as well as providing tools and tactics to advance advocacy. BAF has added training in influencing skills and media relations to help enhance advocacy effectiveness.

Over the years, BAF has offered capacity building support to BMOs to address skill gaps and ensure BMOs are professionally run to deliver value for their members. The needs of BMOs vary, however, and most BMOs have also benefitted from skills building on leadership and management, governance, financial management and resource mobilisation for the staff within their secretariats and their boards.

During the second phase, 165 training programmes were conducted for 3,600 participants from 261 organisations, including 105 county BMOs across 42 counties.

These training programmes are augmented by mentoring and coaching for BMOs by specialist consultants trained by BAF. This can take the form of commissioning and evaluating research, advising on the preparation of policy positions and using the media.



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Sustainability support

BAF defines sustainability as “the ability of an organisation to service and respond effectively to the needs of its members while generating enough income through a range of sources (including external donor project funding) to cover all of its costs and to continue to do so such that the BMO would find the resources to engage in advocacy”.

Since its first phase, BAF has noted that many BMOs generally lack the financial and organisational capabilities to engage in sustained dialogue and advocacy. In response, BAF has designed interventions to address these resource gaps. These interventions include assisting BMOs to think about broader strategy, financial growth and support to introduce or scale up existing fee-earning services.

During the second phase of BAF, 26 organisations received sustainability support; of which 16 increased revenues from membership subscription and services fees. However, a number of these BMOs have struggled to sustain these gains. BAF has taken these findings into account and is redesigning its sustainability support strategy.



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Media awareness

The media plays an important role in supporting BMOs to improve the enabling environment for business. The media can foster discussion on matters affecting the business climate, revealing the challenges faced by investors and the wider public; and can create wider support to increase the chances for regulatory reform.

BAF has provided support to BMOs to develop knowledge and skills for successful engagement with the media. BMOs, after receiving this support, can position themselves as credible sources of information and enhance their advocacy ability. During the second phase, 22 BMOs undertook training sessions on subjects including media relations and PR, press release writing and interview skills.

In 2015, BAF organised media breakfasts targeted at business. The Policy Breakfast for Journalists series is an initiative of the Strathmore Business School (SBS) and BAF. They are interactive sessions between business journalists and key policymakers and business leaders to enhance understanding, knowledge and reporting on the business environment in Kenya.

The topics covered and speakers in attendance at the breakfast in 2016 are listed below.

- 'Kenya's Manufacturing Sector: Challenges and Opportunities', with Ms Phyllis Wakiaga, CEO, Kenya Association of Manufacturers in February
- 'Spotlight on Kenya's Agricultural Sector', with Mr John Omiti the Former Director at the Kenya Institute for Public Policy Research and Analysis (KIPPRA) in May
- 'Explaining the Interest Rate Cap dilemma', with Mr Joshua Oigara, Chairman, Kenya Bankers Association in May
- 'UNCTAD XIV and its importance to Kenya' with Amb. Monica Juma, Principal Secretary, Ministry of Foreign Affairs in July
- 'Does Media Influence Public Policy in Kenya' with Andy Kagwa, Editorial Manager: Standard Group and Kevin Bosire, Chief sub-editor: People Daily, Mediamax Group as panellists discussing a study undertaken by Strathmore Business School 'Media Influence on Public Policy' in Kenya, in October



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BAF phase three

The third phase of BAF is part of the Embassy of Denmark's green growth and employment thematic programme in the Kenya Country Programme for 2016 to 2020. Green growth is the drive for economic development that is sustainable, that reduces pollution and greenhouse gas emissions, and minimises waste and inefficient use of natural resources while maintaining biodiversity and reinforcing energy security.

This phase includes an explicit focus on improving the policy and regulatory framework for a green economy and will directly address this objective of the thematic programme.

The activities to be promoted during this phase include building competence to engage in dialogues, providing grants for advocacy and sustainability support, increasing media support and developing a knowledge management component. Knowledge management will involve the creation of a web-based portal that will make it easier for all stakeholders, whether public or private sector, to access the knowledge and opinion generated by BAF activities. This is an initiative to promote and support dialogue and advocacy. BMOs will consequently have easier access to information to support their positions, share information and engage with stakeholders on their sectorial issues.

BAF will instigate media interventions towards improving the coverage of the business enabling environment and green growth issues.



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BAF in figures

	Phase 2					Total	Phase 3
	2012	2013	2014	2015	2016 (Jan - June)		2016 (July - Dec)
Advocacy project applications by volume	42	40	32	15	-	192	24
Advocacy project applications by value	97m	155m	113m	49m	-	414m	105m
Advocacy approvals by number of projects	40	37	32	15	-	124	24
Advocacy approvals by value	91m	154m	113m	35m	-	394m	105m
Advocacy disbursements by value	49m	81m	75m	102m	10.2		17.8m
Unique BMOs projects supported	26	14	24	11	-	57 _(unique)	19
Projects completed	2	12	19	19	38	90	-
Sustainability projects approved	13	16	5	-	-	34	-
Sustainability projects approvals by value	27m	101m	40m	-	-	168m	-
Sustainability project disbursements	26m	94m	17m	15m	1.7m	154m	-



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BAF in figures

	Phase 2						Phase 3
	2012	2013	2014	2015	2016 (Jan - June)	Total	2016 (July - Dec)
Increased subscription revenue	4m	10m	14m	7m	-	35m	-
Increased services revenue	12m	74m	36m	8m	-	130m	-
Capacity building expenditure	6m	6m	22.5m	7.5m	2.5m	44.5m	2m
Participants in training programmes	325	304	850	275	110	1864	100
Dialogues started by supported BMOs	122	299	368	420	137	1346	79**
Consultations with government	146	296	324	399	142	1307	73**
Policy proposals published by supported	26	32	28	47	17	150	7**
Alliances & partnerships developed	127	302	214	172	72	887	20**
Number of articles in the press	110	277	112	76	26	601	17**
Policy changes	5	20	14	99*	7	145	3**

*These policy changes include 18 reported by BMOs receiving direct BAF support and 81 other successes identified during the impact assessment process reported by BMOs working in coalitions with the principle BAF grantees

**Includes data from BAF2 projects carried over to BAF3



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