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**Kenya Country Programme  
2016–2020**

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**Thematic Programme for  
Green Growth and Employment**

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**Development Engagement  
Document**

**Improving the Business Climate  
for Greener Growth and  
Sustainable Development**

**(Business Advocacy Fund – BAF)**

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Dev. Engagement GGE 7	Outcome	Outputs
Improving the business climate for greener growth and sustainable development	<p>Business Membership Organisations (BMOs) and Civil Society Organisations (CSOs) have developed effective working relationships with public sector policy makers</p> <p>Media will have improved their coverage of business enabling environment and green growth issues</p>	<ul style="list-style-type: none"> <li>• BMOs and CSOs have improved their skills and capabilities to engage with government and participate effectively in dialogue and advocacy on a sustainable basis</li> <li>• BMOs and MDAs have worked together to achieve changes in public policy</li> <li>• Knowledge and information related to regulation, regulatory reform, government data and good practice in dialogue is more widely available</li> <li>• The media is more aware and has improved coverage of business enabling environment and green growth issues</li> </ul>
<b>Budget</b>	<b>Partner:</b>	
Danish contribution is DKK 68 million	Business Advocacy Fund – a project initiated by Danida in 2006	
<b>Management arrangements</b>		
A Fund Manager will be appointed through a competitive tender to be responsible of the operations of the Fund. A BAF Board will be appointed by the Embassy. The Board will be responsible for approving grants under the fund and for the overall monitoring of supported activities and outputs.		
<b>Description</b>		
Danida has supported BAF since 2006 through BAF-I and BAF-II. Support has been extended to Business Membership Organisations (BMO) and others to engage in public-private dialogue and advocacy with the objective of delivering policies, laws and regulations for an improved business climate at national and county level. BAF-I funded advocacy proposals and training support to build advocacy competence; BAF-II extended the scope with sustainability support to BMOs and pilot support to media. This current support to, BAF-III will expand the media support and add a fifth component on knowledge management. BAF-I and II have fostered a whole range of results to improve the business climate in Kenya, and the return on investment in further support to BAF is still high. BAF-III will include an explicit focus on improving the policy and regulatory framework for a green economy. In this way BAF-III will directly address the objective of the TP and underpin the work of the other DEs.		

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## Abbreviations

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BAF	Business Advocacy Fund
BEE	Business Enabling Environment
BMO	Business Membership Organisation
BSPS	Business Sector Programme Support
CSO	Civil Society Organisation
DKK	Danish Krone
EU	European Union
FDI	Foreign Direct Investment
GoK	Government of Kenya
GRT	Governor’s Round Table
KAM	Kenya Association of Manufacturers
KEPSA	Kenya Private Sector Alliance
KShs	Kenya Shillings
M&E	Monitoring and Evaluation
MDA	Ministry, Department and Agency
MSME	Micro, Small and Medium Enterprises
NGOs	Non-Governmental Organisations
OECD	Organisation for Economic Co-operation and Development
PPD	Private Public Dialogue
PSD	Private Sector Development
RSG	Revenue Support Grants
SME	Small and Medium Enterprises
SS	Sustainability Support
TMEA	Trade Mark East Africa
TU	Trade Unions

## **Development Engagement Document: Improving the Business Climate for Greener Growth and Sustainable Development (Business Advocacy Fund)**

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### **1. Introduction**

- 1.1 The present development engagement document details the objectives, expected results, implementation framework and management arrangements for the development cooperation concerning the Business Advocacy Fund Phase 3 (BAF3) 2016–2020 as agreed between the parties specified below. The engagement document is annexed to the support document between the parties and constitutes an integral part hereof, together with the documentation specified below. The Danish support is provided within the framework of the thematic programme on Green Growth and Employment, one of three thematic programmes under the Danish country programme for Kenya 2016–2020. This engagement document is also available to the External Grant Committee of Danida.
- 1.2 The development engagement entails Danish support in the form of core funding for The Business Advocacy Fund of DKK 68 million for the implementation of The Business Advocacy Fund, a Danida project, the activities of which are specified in the present document. The support covers the period January 2016 to June 2020.

### **2. Parties**

- 2.1 The Danish Embassy, Nairobi and the Business Advocacy Fund
- 2.2 Signatories will be the Danish Ambassador representing the Government of Denmark, and the Chairman of the Board of the Business Advocacy Fund.

### **3. Documentation**

- Overview of BAF3 (see **Annex 2**) on which the implementation plan will be based.

### **4. Brief description of the Business Advocacy Fund**

The Danish Government supported the establishment of the first phase of the Business Advocacy Fund (BAF1) from 2006 to 2010. This was an innovative initiative for the improvement of the business environment in Kenya. BAF1 was the first attempt to support private sector institutions to take ownership and responsibility for the improvement of the business climate and to encourage them to engage more effectively in public private dialogue and private sector advocacy.

The principal rationale of BAF is to enable Business Membership Organisations (BMOs) to develop policy positions, which they can then use to advocate policy reform to government. The expectations are: (a) that government is more inclined to change public policy as a result of dialogue with affected parties; (b) that reforming policy will improve the business enabling environment for business; and, (c) that an improved enabling environment will lead to a more vibrant and competitive private sector, investing more and creating more jobs, and stimulating more men, women and young people to start in business. More businesses, generating more profit, will lead to increased tax revenue; thus reinforcing the government's desire to make a difference.

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The two original main activities of BAF 1, funding advocacy proposals and training support to build advocacy competence, were successfully delivered and did lead to policy change. This was an important achievement in that it demonstrated that the Government of Kenya was prepared to engage in dialogue, to entertain proposals for policy reform and to agree to and implement policy change.

A third activity, to address BMO sustainability, was piloted in BAF1. A review of the 380+ BMOs that BAF had identified indicated that approximately 10 could be described as financially independent and organisationally sustainable. The implication was that unless more became sustainable there would be a continuing (and possibly growing) need for external support. Sustainability Support (SS) was developed and piloted as a programme of support to encourage the building of new streams of income. The results of the pilot were encouraging.

A second programme of support was provided (BAF2) starting in 2011, which will run to the end of 2015. BAF2 focuses on three core activities: building competence to engage in dialogue; grants for advocacy and sustainability support. BAF 2 has an increased focus on micro, small and medium (MSME) business climate issues since regulations designed to work for small businesses are also appropriate for larger businesses, though the reverse is not necessarily true.

BAF1 focused its support on national BMOs, non-profit organisations supported by members with common interests in the business sector, and trades unions such as the Kenya Coffee Producers' Association. The BAF2 target market was expanded to include not-for-profit organisations with an interest in improving the business environment, although in practice this is still largely BMOs, and to promote more engagement between the private sector and county administrations following the adoption of the 2010 Constitution and its implementation after the 2013 general election.

Following the 2013 general election and the implementation of devolved governance, BAF being — aware that devolution would have a significant effect on businesses especially in the counties — sought to support the devolution process by establishing public private dialogue (PPD) platforms to facilitate dialogue between county administration and business in an attempt to avoid distortion in the business environment.

The private sector led Governors' Round Tables (GRTs) provided PPD platforms to engage with county governments. BAF supported six principal BMOs to establish GRTs in all 47 counties. These principal BMOs formed coalitions of business associations in each county to ensure that there was ownership of the GRT process by the county-based BMOs, of which 35 had been established by March 2015, and which secured commitments by county governments to address agreed priority areas in each respective county. BAF3 will further develop this PPD process by identifying county-based BMOs to lead private sector county dialogue. In this way, BAF's target market will be expanded beyond national BMOs.

BAF2 aims to assist more BMOs to become financially independent and organisationally sustainable and to create a greater critical mass of BMOs able to hold government to account.

BAF 2 has also added a fourth component – securing improved coverage in the media to raise awareness of the importance of the private sector to economic growth and the need to make it easier for them to do business.

The first two BAF phases were implemented by a fund manager contracted under an international competitive tender process. BAF is not a legal entity in its own right — it is a donor funded project.

BAF3 will be contracted and implemented in the same way. The proposed management arrangements are set out in Section 10 below.

## 5. Background and Theory of Change

### 5.1 Context

In Kenya, there has been considerable involvement of politicians in business and business people in politics since independence. Whilst a number of individual business people were able to influence politicians, there was little scope for independent business associations directly to influence policy and little public sector advocacy. In 2003, the President invited the private sector to participate in formulating economic policy, based on the recognition that it was the private sector that created jobs and not the government. A Presidential Private Sector Working Forum was established, and an important output, the Economic Recovery Strategy for Wealth and Employment Creation (ERS), was published in 2003. Economic growth followed and Vision 2030, Kenya’s development plan for 2008–2030, emerged from the ERS. The private sector thus claims to have conceived Vision 2030, public officials have confirmed this. During this period, there was de facto encouragement for ministers and ministries to consult with the private sector. But the position was undoubtedly complicated by the relationships between politicians and business elites. Indeed, there is good argument that there is a “close-knit alliance between Kenya’s planners and business elite” (2014: 551) though this is not always obvious to observers.

The establishment of a Business Regulatory Reform Unit, modelled on the UK’s Better Regulation Unit, was announced in the 2006 budget speech and based in the Ministry of Finance (now known as the National Treasury). Action was taken quickly to eliminate or simplify a large number of business licensing requirements. The principal business organisations continuously cited in the private public dialogue process during this period are the Kenya Private Sector Association (KEPSA) and the Kenya Association of Manufacturers (KAM).

Leading up to the 2007-8 election, there is some evidence that business associations were becoming more active and indeed were achieving some success in influencing public policy during this period. The Kenya Private Sector Association (KEPSA) was able, for example, to institutionalise (to some extent) dialogue by working with the Government to set up the Ministerial Stakeholder Fora. BAF assisted by providing KEPSA with the resources to hold bi-annual Presidential Round Tables (to consider economic policy reform issues). In the run up to the 2013 general election, KAM developed an Industrial Business Agenda, which they used, with BAF support, to encourage all the parties contesting the election to pledge to support private sector industrial development. KEPSA also produced a National Business Agenda, again with BAF support, many of whose proposals were incorporated into the party manifestoes and several have subsequently been implemented. Not surprisingly, business associations found it hard to lobby government while it was discussing the new constitution and then during the election campaign.

When the new constitution was approved by referendum in 2010, it introduced a system much more closely modelled on the US bicameral system than on the UK system: a National Assembly (NA) and a Senate to represent the counties, collectively known as Parliament. It also introduced the devolution of significant powers to 47 newly created counties. The 2013 general election gave effect to devolution, establishing in political terms the 47 new counties. This gives the county government policy and legislative powers over their economies so business associations need to lobby them as well.

The new (post 2013) Government is promoting Kenya as being business friendly and is keen to do more to improve the investment climate (Booth et al, 2014). There is talk of pro-market reform, including privatisation, better regulation and trade liberalisation, to improve the business environment and, it is hoped to boost economic growth and employment. But significant challenges remain. Kenya is ranked 136 in the ‘Doing Business’ league table (World Bank 2014). According to Principal Secretary of the Ministry of Industrialisation and Enterprise Development, the Government has set a target to reach position 20 by 2020 (KEPSA press release, 30 Sep 14). This suggests a real desire to improve the business environment and consequently a need to talk constructively with the private sector<sup>1</sup>.

## 5.2 Justification including lessons learnt

Governments create the political and economic environment in which their countries’ businesses have to operate. Factors that impact on the enabling environment include (see figure 1):

**Figure 1: The enabling environment**



Regulations are a form of government intervention in the economy. The OECD explains that regulation covers “the full range of legal instruments and decisions [...] through which governments establish conditions on the behaviour of citizens or enterprises” (OECD 1994: 9).

While there are costs associated with regulation, benefits also accrue, though generally it is society that gains from the benefits whilst business pays the costs. For example, imposing health and safety requirements on business creates costs for those businesses, but aims to reduce the risk (and the cost to society and to the business) of people having accidents at work. Governments, therefore, have a responsibility to weigh the advantages and disadvantages of every viable response to any situation that may merit government intervention and recommend regulation when it is the best option. This responsibility involves balancing a number of different and often competing priorities such as public health and safety, environmental protection and sustainable development, economic efficiency and performance. The World Bank (2005) asserts that improving the enabling environment leads to economic growth and makes a difference to all businesses unlike, say, business support interventions

<sup>1</sup> Ease of doing business ranks economies from 1 to 189, with first place being the best. A high ranking (a low numerical rank) means that the regulatory environment is conducive to business operation. The index averages the country's percentile rankings on 10 topics covered in the World Bank's Doing Business.

which only support a small number of businesses and which are often market distorting (say, by awarding grants) in the belief that this approach will address perceived market failure.

BAF's main concern at the outset was that developing country governments would be unwilling to listen to private sector associations and change rules and regulations to support development. BAF1 and BAF2 tested whether the economic policy discussion and formulation process had truly been opened up to private sector inclusion. Up to 2003, the Government's position was that it was solely responsible for economic policy and deliberately excluded the private sector. BAF1 and BAF2 were able to demonstrate that a private public dialogue platform had been created, and Government welcomed (in most cases) private sector input to the creation of a business friendly investment climate in its desire to create and support private sector job creation. BAF1 and BAF2 have also tested the extent to which there was capability among private sector BMOs to engage government on policy and regulation. Key tools were developed, e.g. the Five Step Approach to Advocacy, and has been used as a critical tool to support BMOs to improve their chances of success when engaging government. As a result, BMOs have been remarkably successful in influencing policy reform. Some examples are provided in Annex 3. Further detail and examples are available in '*BAF Case Studies: Key Wins for Kenya's business membership organisations*', 2014. The focus on evidence based policy positions and advocacy has resulted in significant policy changes being agreed to by government (157 to date). The conclusion is that supporting advocacy has yielded significant public policy results, and in the light of the current political economy of Kenya, there is every reason to believe that further public policy change can be achieved. The Constitution requires that all new legislation is rooted in a formal policy document and the need to create many new policies provides many opportunities to business associations keen to explain the policy most appropriate to their sector.

Climate change is increasingly becoming an issue for businesses especially where new regulations and compliance requirements inevitably introduce additional costs on business. BAF2 opened a dedicated window on Climate Change (CC) advocacy. This was funded by attracting additional donor support from the UK's Department for International Development (DFID) aimed at ensuring Kenyan BMOs are more able to engage with the government on climate change. While it has been appreciated that BAF is uniquely placed to initiate the necessary public private dialogue on climate change and help BMOs bring this discussion to the public domain, it has been a challenge. Lack of understanding and awareness of CC, together with limits on available investments capital means businesses are unable to take advantage of the opportunities that arise from new policy and business environment regulations governing low carbon development and climate resilience. Moreover, there is no regulatory requirement for them to comply, given that CC regulations have not been yet fully developed in Kenya. A total of nine advocacy grants have been approved to date and issued to eight BMOs.

The OECD explains that green growth is an approach to development which “integrates environmental considerations and the value of natural capital into economic decision making and development planning” (OECD 2013: 13). The objective is to “achieve sustainable economic growth and social stability, safeguard the environment and conserve resources for future generations” (ibid). BAF will take up this challenge and endeavour to play an important role in ensuring that all proposals for policy reform take note of the need for a greener economy, build on the Government of Kenya's green growth policies and work closely with other components in the Green Growth and Employment thematic programme. There is a growing body of evidence, which demonstrates that investment in climate improvements does make a difference to economic growth and that it can achieve far more results in poverty alleviation). It encourages competition and promotes market development .

BAF's intervention has demonstrated its relevance by facilitating a more inclusive and capable economic policy and regulatory formulation process, a private public dialogue process that delivers an improved business climate on a sustainable basis, and more monitoring publicly by the private sector of government's commitment to implementation and enforcement. While this has led to important regulatory change, much more needs to be done to create a sustainable and conducive business climate. In developed countries, the private sector is able to finance its private public dialogue from its own resources. There are no examples where this is true in developing countries, and Kenya is no exception. In the foreseeable future therefore, and based on the evidence of the last ten years of Danish support, the continuation of such a donor funded intervention is necessary if Kenya is to build a revised business climate leading to improved competitiveness, sustainable growth and poverty alleviation. In addition, BAF3 has the opportunity to capitalise on the lessons learnt over the last 10 years. These are, principally, that the Kenyan government will listen to the private sector; that it recognises the important role of the private sector in creating jobs; and that it understands that the role of government is to create a supporting business climate. Finally, and perhaps most importantly, some areas of government recognise there is still much to do and are prepared to engage the private sector for help.

Within the Kenya Country Programme, BAF's role is to support private sector advocates of a better and sustainable investment climate. BAF will support other programme partners in the transition to greener growth with higher employment by assisting them in identifying legal and regulatory issues that affect businesses within their remits. It will seek to build partnerships, alliances and coalitions (where applicable) with these partners and their target beneficiaries. In particular, BAF will encourage partners to identify issues related to the business enabling environment and regulatory reform and will then encourage BMOs or others to pick up those issues and seek reform. Other potential areas of collaboration include capacity building, research, knowledge building and wider discussion of common issues in the media.

The work of BAF is fully aligned with the overall Danida development strategy "The Right to a Better Life" with its emphasis on a human rights-based approach (HRBA). A supportive and inclusive business climate will promote one of the fundamental human rights, economic freedom, which in turn incorporates principles of non-discrimination, participation, transparency and accountability. In addition, BAF's support to BMOs promotes capacity development of the dialogue between civil society and public authorities on legal reforms. Finally, BAF encourages the development of the Kenyan business climate to be consistent with international trade arrangements. Efforts to reform regulation and thus improve the enabling environment are entirely consistent with the definition in Danida's guidance on green growth that "inclusive green growth reduces poverty, promotes equity, and creates economic growth without harming the environment" (2014: 38). BAF 1 and BAF 2 have applied the core principle that changes to public policy should consider the impact on public health, public order, public safety and the environment. BAF 3 has been designed to be more proactive in relation to the environment by incorporating principles underpinning sustainable inclusive green growth.

### **5.3 Narrative for Theory of Change**

The Green Growth and Employment thematic programme objective e is "inclusive greener growth with higher employment". The country programme theory of change notes the importance of improving the enabling environment for investing in natural capital to deliver increased sustainable growth and jobs from investment and trade, especially for women and youth. It also recognises the importance of improving both the policy environment and coordination between BMOs and MDAs. So, BAF3 will support BMOs and others to engage in public private dialogue and advocacy with the

objective of reforming public policy to deliver improved policies, laws and regulations formulated and implemented for an improved natural environment and business climate at national and county level.

Given the complexity of interest group / state interaction, the BAF3 Theory of Change is explained in the form of a causal loop. In this way one can capture the feedback loops, which is not possible when expressed as a linear results chain in which it is assumed that outcome follows output follows activity. The causal loop is shown in Annex 4; the same annex also shows a more traditional results chain, divided to show each of the stages, and to provide more clarity about the specific areas of activity.

When BMOs fully understand their role in representing the interests of the members and in influencing public policy they will want to engage the public sector in dialogue and advocacy. This requires further developing their capacity (competence and resources such as gathering the evidence) to undertake dialogue and influencing (both highlighted in yellow). It is important for BMOs to engage in dialogue and advocacy whilst building their capabilities, so that tools and techniques can be applied straight away. When BMOs are successful, they will publicise their success. There is an assumption, backed by empirical evidence, that visible success will lead to an increase in members and thus an increase in income. Evaluation of successes (or otherwise) can be gained from follow-on / post project completion evaluations.

The primary focus remains the provision of support to BMOs, CSOs and trade unions. They typically take an ‘insider’ approach, providing evidence to, working with and lobbying government to change policy. Whilst donors and many academics support this approach, some see it as undemocratic. Others, however, would argue that it is an important component of participatory democracy. To encourage more participation, it is proposed to continue with a media component intended to stimulate public debate and to raise awareness of issues amongst a broader group of policy makers as well as other interest groups.

BMOs will thus become credible and effective partners whom the public sector not only can but will want to collaborate with, to improve the business environment, and additionally, there will be more media stories, thus raising awareness further. This will lead to government recognising legitimate needs and taking appropriate actions to reform policies, laws and regulations, to improve the ways in which regulations are implemented and to streamline the ways in which regulations are enforced. This should all contribute to improving the enabling environment, which will in turn raise the confidence of the private sector in the stability and predictability of the business environment and lead to the investment necessary to create sustainable employment and higher incomes.

BMOs need to support their arguments with good evidence — the ability to commission and use evidence is an important competence that BMOs need to develop. In Kenya, this is supported via the BMOs, although the range of organisations undertaking research should be expanded to include research institutions that may be able to provide a wider perspective and indeed may add to the credibility of the evidence. All research will be expected to cover, inter alia, an assessment of whether there are human rights or gender issues and thus whether these need specifically to be highlighted in any policy proposals that might be developed from the research. In addition, there would be merit in undertaking research that looks more generally at the policy process and the role of interest groups and others in influencing public policy.

Inevitably there are a number of assumptions. Key assumptions include the expectation that government (both at national and county levels) will listen to proposals and will reform policy, and that such changes will lead to improvements in the enabling environment, and that such improvements will lead to economic growth. Whilst these are assumptions, there is evidence to support all of them. BMOs supported through BAF1 and BAF2 have been successful in achieving policy change, and there is evidence that they were the cause of the change. In addition, the World Bank has evidence that improvements in the enabling environment lead to investment, small firm creation and economic growth. Further investigation on the applicability of these assumptions in Kenya would provide a good research agenda for a partner research institution.

As an intervention, BAF has addressed legal reform as it applies to business. It must be recognised that for ‘the rule of law’ to be adopted and complied with generally, legal reform must incorporate certain principles, some of which are laid down elsewhere in legislation. These include constitutional rights in Kenya under the Bill of Rights and equality of gender. BAF3 will be expected to conform to these principles by supporting advocacy for business legal reform that will also advance the principles underpinning Danida’s HRBA to economic development.

Additionally, it is recognised that good business legal reform should be consistent with promoting investment in businesses that will be sustainable, and not just reducing the costs imposed by business regulation, though good regulation can achieve the policy imperative without necessarily imposing costs on business. It is now recognised as good practice that the promotion of an enabling environment for business involves better regulation. At times, this may require more regulation rather than less. This is particularly true in relation to issues of the natural environment. The principle that BAF3 will be expected to advance is ‘better regulation’, which will have a higher likelihood of creating an investment climate within which sustainable businesses can be built, and within which sustainable jobs can be created. Reviewing the costs and benefits to business of regulation could be part of the research agenda for a partner research institution as could the link between regulatory reform and job creation.

Finally, under BAF3, support to the media will continue, specifically to raise awareness, to introduce them to new sources of information, and to encourage an increased media focus on business issues and public private dialogue. This should encourage more general writing intended to raise awareness amongst policy makers and the general public of the importance of the private sector as the creator of jobs and wealth, and thus the importance of minimising the barriers that impede growth.

## 6. Development Engagement Objectives

- 6.1 The overall vision for the partnership is to support the Government and people of Kenya in implementing their *Vision 2030* to create ‘**a globally competitive and prosperous country with a high quality of life by 2030**’.
- 6.2 The Kenya Country Programme has three thematic programmes, including Green Growth and Employment thematic programme with a development objective to transition to ‘**inclusive greener growth with higher employment**’.
- 6.3 The Green Growth and Employment thematic programme has three areas of intervention. BAF will focus on just one: **improved policies, laws and regulations formulated and implemented for an improved natural environment and business climate at national and county level**. It will also, indirectly, contribute to the Governance thematic programme focusing on the implementation of the constitution and participatory democracy.

### 6.4 Outcomes

The 2 key outcomes are:

- 1) BMOs and CSOs have developed effective working relationships with public sector policy makers.
- 2) The media will have improved their coverage of business enabling environment and green growth issues.

### 6.5 Outputs

The outcomes can be delivered by achieving four outputs which will in turn be delivered through five project activities. The four outputs are listed below together with the supporting activities:

- BMOs and CSOs have improved their skills and capabilities to engage with government and participate effectively in dialogue and advocacy on a sustainable basis. *(delivered through two activities: Capacity Building & Mentoring support; and Sustainability Technical & Financial Support)*
- BMOs and MDAs have worked together to achieve changes in public policy *(delivered through provision of Advocacy Grants)*.
- Knowledge and information related to regulation, regulatory reform, government data and good practice in dialogue is more widely available *(delivered through creation and management of a Knowledge Portal)*
- The media is more aware and has improved coverage of business enabling environment and green growth issues *(delivered through Media Awareness Creation)*

## 7. Results Framework

- 7.1 BAF is responsible for monitoring and reporting on the progress and achievements of the development engagement using its own results framework and M&E system as detailed in Section 12 below. The parties have, however, agreed that the Danish Embassy will use the results framework presented in the table below, with a limited number of outcome and output indicators, for reporting to the Danish constituency. Data to inform the reporting will be supplied by BAF as part of the routine engagement monitoring.

7.2 Within the first ½ year of implementation BAF will present annual targets for the indicators.

<b>Engagement Title</b>		<b>Business Advocacy Fund</b>	
<b>Outcome 1</b>		<b>BMOs and CSOs have developed effective working relationships with public sector policy makers</b>	
Outcome indicator 1.1		Number of BMOS and CSOs that have engaged in policy dialogue	
Baseline	Year	2014	35 (during the year)
Target	Year	2020	75 (over the period of BAF3)
Outcome indicator 1.2		Number of BMOs presenting policy proposals to government	
Baseline	Year	2014	25 (during the year)
Target	Year	2020	50 (over the period of BAF3)
Outcome indicator 1.3		Changes in public policy	
Baseline	Year	2014	157 (56 in BAF1 and 101 to date in BAF2)
Target	Year	2020	200 (over the period of BAF3)
<b>Output A</b>		<b>BMOs will have improved their skills and capabilities to engage with government and participate effectively in dialogue and advocacy on a sustainable basis</b>	
Output indicator A.1		Research reports published	
Baseline	Year	2013/4	21 (average per year)
Target	Year	2020	25 (of higher quality: all will include a discussion on gender and human rights issues)
Output indicator A.2		Policy position papers published	
Baseline	Year	2013/4	29 (average per year)
Target	Year	2020	35 (annually: all will include reference to gender and human rights issues)
Output indicator A.3		BMOs will be earning sufficient revenue to cover all their expenditure.	
Baseline	Year	2015	5
Target	Year	2020	8 (during BAF3)
<b>Output B</b>		<b>BMOs and MDAs have worked together to achieve change in public policy</b>	
Output indicator B.1		BMOs and MDAs will have jointly commissioned reviews, research or policy positions	
Baseline	Year	2015	[This has not been an objective previously; there is some evidence that it is beginning to happen but no detail]
Target	Year	2020	20 (during BAF3)
<b>Outcome 2</b>		<b>Media will have improved their coverage of business enabling environment and green growth issues</b>	
Outcome indicator 2.1		Media coverage has raised awareness amongst policy makers	
Baseline	Year	2015	0
Target	Year	2020	50% of policy makers surveyed say that they saw press coverage about relevant issues
<b>Output C</b>		<b>Knowledge and information related to regulation, regulatory reform, government data and good practice in dialogue and green growth is more widely available</b>	
Output indicator C.1		Number of resources provided through knowledge portal	
Baseline	Year	2015	Zero
Target	Year	2020	1000
Output indicator C.2		Number of times resources accessed from knowledge portal by BMOs	
Baseline	Year	2015	Zero
Target	Year	2020	2500
Output indicator C.3		Number of times resources accessed from knowledge portal by policy makers and media	
Baseline	Year	2015	Zero
Target	Year	2020	1,000

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<b>Output D</b>		<b>Media is more aware of business enabling environment and green growth issues</b>	
Output indicator D.1		Number of articles in the media at the initiative of journalists (rather than responding to BMOs)	
Baseline	Year	2015	Zero
Target	Year	2020	Tbd
Output indicator D.2		BMOs will have achieved press coverage	
Baseline	Year	2014	BMOs achieved 499 press articles, 145 radio articles and 138 TV articles (over the period of BAF2)
Target	Year	2020	BMOs achieved 900 press articles, 300 radio articles and 300 TV articles (over the period of BAF3)

## 8. Risk Management

The risk assessment for BAF3 has been carried out using the Danida standard methodology. The risks are discussed in the risk matrix below.

Risk Factor	Likelihood	Background to assessment of likelihood	Impact	Background to assessment of potential impact	Risk response	Residual risk
<b>Programmatic</b>						
MDAs (at both national and county level) unwilling to form partnerships with the private sector	Likely	Some MDAs are less forthcoming than others. This increases the degree of difficulty of effective advocacy.	Minor	The number of such MDAs is relatively small	Even the most sophisticated techniques adopted by BMOs may not overcome this issue	Minor
Insufficient quality of governance in BMOs	Likely	The motivation of BMO leaders is variable	Minor	BAF2 has already experienced this issue and found it to be minor	Risk acceptance: The balance between supporting BMOs and demanding integrity is a risk in BAF3	Minor
BMO capacity does not develop as expected.	Likely	Effective advocacy is virtually absent at county level.	Major	Devolution conveys important additional regulatory powers to the counties.	Risk acceptance: The ability to build such capacity during BAF3 will remain a risk.	Major

## 9. Inputs

The proposed budget for 2016–2020 is set at DKK 68 million, comprising DKK 56 million to support BMOS and other stakeholders and DKK 24 million to meet the Fund Manager’s costs (fees and expenses). The table below shows the indicative budget for BAF3 in the five year period to December 2020. It has been constructed to show the activities costs that will be undertaken to deliver BAF3’s outputs and outcomes.

<b>Development engagement: Improving the Business Climate for Greener Growth and Sustainable Development (BAF3) (budget in DKK millions)</b>							
<b>Outputs</b>		<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>TOTAL</b>
Output 1	Capacity Building	0.8	0.8	0.8	0.8	0.8	4.0
Output 2	Advocacy, Networks	5.0	7.0	7.0	7.0	4.0	30.0
Output 3	Knowledge Portal	0	0.1	0	0	0	0.1
Output 4	Media	0.4	0.4	0.3	0.3	0.1	1.5
Output 5	Sustainability Support	2.0	2.0	2.0	1.4	1.0	8.4
Sub total		8.2	10.3	10.1	9.5	5.9	44.0
	Management Contract	4.8	4.8	4.8	4.8	4.8	24.0
<b>Total</b>		<b>13</b>	<b>15.1</b>	<b>14.9</b>	<b>14.3</b>	<b>10.7</b>	<b>68.0</b>

9.1 The budget is based on the following assumptions:

- The budget aligns to the outputs set out in the results framework.
- The final budget for BAF2 is DKK56,4 million, comprising DKK 38,4 million for grants and DKK 18 million for Fund Manager costs, over a 4.25-year period.
- Current spending on the Fund manager budget is DKK 4.8 million per annum following amendments 1 and 2 in 2012 and 2013. The budgeted spend on the Fund Manager for BAF3 is set at the same level as that for BAF2; DKK 4,8 million per annum.
- BAF3 will run for five years from 1 January 2016 to 31 December 2020.
- Full time personnel work for only 10.5 months per annum; and short term personnel inputs are calculated as per Danish Embassy guidelines.

## 10. Management Arrangements

The overall principles for management of the present development engagement are described in the implementing Partner Agreement to which this Development Engagement Document is annexed

A Fund Manager will be appointed to run BAF through a competitive tender with, where necessary, participation by other development partners that indicate a willingness to contribute to the BAF.

The Fund Manager will be responsible of the operations of the Fund. The BAF Board will be appointed at the invitation of the Embassy. It will ensure that the objectives and strategies are realised and that the fund remains fully aligned to and supportive of national policies and strategies. It will oversee the implementation of the Fund by the Fund Manager, which will include discussing and submitting the annual work plans and budgets to the BAF Board for approval. The Board will be responsible for approving grants under the fund and for the overall monitoring of supported activities and outputs, and monitoring of auditing procedures and results.

The BAF Board will comprise (but will not be limited to) seven members:

- Four prominent business leaders from the private sector, with the chairperson appointed from this group;
- A representative from the Treasury;
- A representative from the Danish Embassy.

Should other development partners agree to contribute to the BAF, it is necessary to consider options for their participation on the Board.

The Fund Manager shall serve as Secretary to the Board. The Danish Embassy will appoint BAF Board members through a formal letter of appointment.

BAF will report to the Board on the following:

- Annual work plans (for approval)
- Progress reports (for approval)
- Annual audits (for endorsement)

For purposes of long term sustainability of the BAF institution, Danida will explore the option of transforming BAF into a Company of Limited by Guarantee. This could enable BAF to fund raise as an institution and remove the current situation of donor dependency.

## 11. Financial Management and Audit

- 11.1** Both parties will strive for full alignment of the Danish support to the implementing partner rules and procedures.
- 11.2** Accounting of the Danish funds will be undertaken by the BAF fund manager. Yearly audits will be performed by external auditors in accordance with “General Guidelines for Accounting and Auditing”. [http://amg.um.dk/en/technical-guidelines/financial-management/accounting\\_and\\_auditing/](http://amg.um.dk/en/technical-guidelines/financial-management/accounting_and_auditing/)
- 11.3** Accounting records shall be available for control by the Embassy of Denmark, by a representative appointed by the Embassy, or by the Danish Auditor General.

## 12. Monitoring and Evaluation

BAF is responsible for monitoring and reporting on the progress and achievements of the development engagement using its own results framework and M&E system.

BAF will establish an M&E system that will focus on the key information required for effective management of the BAF at each level: BAF operations, projects supported by BAF, and BAF’s achievement of its outputs and outcomes. The objectives of M&E will be to:

- Measure the results and effectiveness of the BAF in meeting its objectives to help ensure informed decision making;
- Measure the achievement of objectives and assess their impacts on the development of target BMOs;
- Enhance organisational sustainability and learning; and
- Generate information to disseminate learning arising from the BAF and stimulate replication among the BMOs as a whole.

M&E activities are divided into four main areas:

- Monitoring BAF operations: M&E at the level of the BAF itself will be derived primarily from the Fund Manager's reports to the BAF Board. At individual project level, quarterly and project completion reports will be provided by the BMOs. Whilst it will be necessary to record inputs and outputs, the overall objective is to identify outcomes and impacts. Reporting on BAF operations will be achieved through quarterly reports to the BAF Board.
- Evaluating the effectiveness and efficiency of BAF operations: The evaluation of the effectiveness (i.e., impact) of the BAF will be based on demonstrating the extent to which the Fund meets its strategic objectives. Evaluation of the efficiency of the BAF will be based on the Fund Manager's quarterly progress reports.
- Monitoring BAF projects: The task of managing and monitoring BAF funded projects is the responsibility of the Fund Manager. Monitoring BAF funded projects will be based on the quarterly financial reports, quarterly progress reports prepared by each BMO and project completion reports, prepared by each BMO.
- Evaluating the impact of BAF supported projects: Evaluation of projects will be the responsibility of the Fund Manager. During BAF2 case study evaluations on the outcome of completed advocacy projects have been carried out. These demonstrate real benefits to the economy and included:

These case studies may be subjected to independent external evaluation so that the outcomes achievable from successful advocacy and improved policy formulation can be demonstrated to both the private sector (BMOs) and the government (Ministries and County administrations) with credibility.

The following reports will be produced:

- Inception report after 3 months of start of implementation. The inception report replaces the first progress report;
- Half yearly progress reports, including rolling Annual Work plans and budgets, monitoring results and progress on reaching synergetic effects;
- Draft Completion Report 6 months before completion of BAF3. The final Completion Report will be uploaded in the Programme Data Base of Danish Embassy when the final BAF3 financial report has been approved.

The reports will follow the formats as described in the Danida Aid Management Guidelines.

The Danish Embassy shall have the right to carry out any technical or financial mission that is considered necessary to monitor the implementation of the programme.

The Danish Embassy will contract a strategic monitoring support for the entire country programme and all DED partners including the Business Advocacy Fund will provide data needed to measure progress.

Danida Copenhagen will carry out Real Time Evaluation during the implementation period covered by this agreement and Danida will also, after the termination of the programme support reserve the right to carry out additional evaluation in accordance with this article.

### 13. Prerequisites

Not applicable

### 14. Signatures

On behalf of

On behalf of

The Business Advocacy Fund

The Danish Embassy, Nairobi

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Signature

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Signature

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Chairman of the Board

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Ambassador

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Date

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Date

## Annex 1: References

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## Annex 2: Overview of BAF 3

The underlying strategy of BAF3 is a continuation of the activities and outputs that will contribute to the development of an improved business climate in Kenya. The change in BAF3 will be the addition of a focus on the development of a business climate that is supportive of inclusive and sustainable economic growth. The revised objective is therefore the building of a business climate that protects the environment by developing policies and regulations that promote sustainable economic growth. BAF3 will continue to support economic policy and regulatory formulation that promotes inclusion of all groups of society but women and youth in particular.

BAF3 will continue to deliver the four main work streams (outputs also shown in the BAF3 Results Chain –*see diagram*) previously developed in BAF2, though now refined to address more closely the desire for green growth, and a fifth stream as follows:

- 1. On advocacy** – BAF3 will continue to encourage the private sector to address major issues such as FDI restrictions and corruption through commissioning research and assisting BMOs formulate policy proposals. BAF3 will also encourage relevant/sector based BMOs to form coalitions and alliances to address issues jointly – improvements to the business climate have a greater chance of being adopted if BMOs work in alliance with each other and with MDAs. Building MDA commitment in this way also improves the likelihood of implementation and enforcement of policy change without which it is meaningless. BAF3 will ensure that BMOs' policy proposals will be compliant and consistent with Danida's HRBA policy and will contribute to green growth. This work stream will cover two principle activities: working directly with BMOs at both national and county level, and promoting / working with coalitions both amongst BMOs and between BMOs and MDAs.
- 2. On capacity building** – BAF has developed and delivered a menu of advocacy and organisational development training modules to BMOs. The capacity building component in BAF3 is expected to expand as more county engagement is necessary. The training modules will also be enhanced to include GG awareness creation.
- 3. On sustainability** – to be able to engage in dialogue sustainably, BMOs themselves need to be sustainable. BMOs need therefore to offer other services, either to attract subscription paying members, or to generate income directly. BAF3 will refine its intervention support so that more predictable outcomes can be expected. It has become apparent that assisting BMOs to become sustainable takes time and effort (as well as considerable commitment by the BMO leadership). It is anticipated therefore that BAF3 will support fewer BMOs over a longer time period (say three years) to attain sustainability allowing BAF3 to devote more resources for a longer time to each of those who are assisted.
- 4. On media** – BAF3 will digest the outcomes from the work of BAF2 in training BMOs and engaging with journalists to enable them to be more effective advocates of the business agenda. In this way, policy makers' decisions may be positively influenced by the media. These activities will need to be undertaken in such a way that the likelihood of successful outcomes is improved without attempting to change the media landscape itself.
- 5. On knowledge management** – information and knowledge are powerful tools in advocacy. Knowledge about other BMOs' advocacy projects and achievements as well BMOs' own advocacy motivates collaboration and coalition forming which in turn improves the chances of success. Knowledge of government data, government regulatory reform and proposals for regulation also encourage private sector advocacy. BAF3 will commission research that looks generally at the policy process and the role of BMOs and others within it. BAF3 will increase this knowledge

sharing by the creation of a knowledge portal. There is an intention therefore to set up, ideally with a research institution or perhaps with a BMO, a knowledge portal.

### Annex 3: Achievements of BAF1 and BAF2

The achievements of BAF 1 and BAF2 (to end 2014) are summarised below.

**Table 1: BAF1 & 2 results**

Output	Item	BAF 1	BAF2	Total
Capacity Building	Total participants	629	2819	3448
	Organisations in training	117	212	329
Advocacy	Grants (number)	58	107	165
	Grants (total value)	KShs 98 m	KShs 223 m	KShs 321 m
	BMOs supported	37	53	66*
	Policy wins	56	101	157
	Issues brought to government	167	222	389
	Position papers published	52	86	138
	Dialogues & consultations	419	1155	1574
	Research reports	52	63	115
Sustainability Support	RSGs	3	34	37
	Committed	KShs 22 m	KShs 168 m	KShs 190 m
	Increase members by >30%	n/a	21	21
	Increase in paid members by >30%	n/a	21	21
	Increased services to members	n/a	21	21
	Press articles	487	499	986
Media	Radio	322	145	467
	TV	262	138	400

\*Note: In BAF1 37 BMOs received advocacy grants. In BAF2, 29 new BMOs were funded making the total number of BMOs funded 66.

#### Influencing public policy and impact

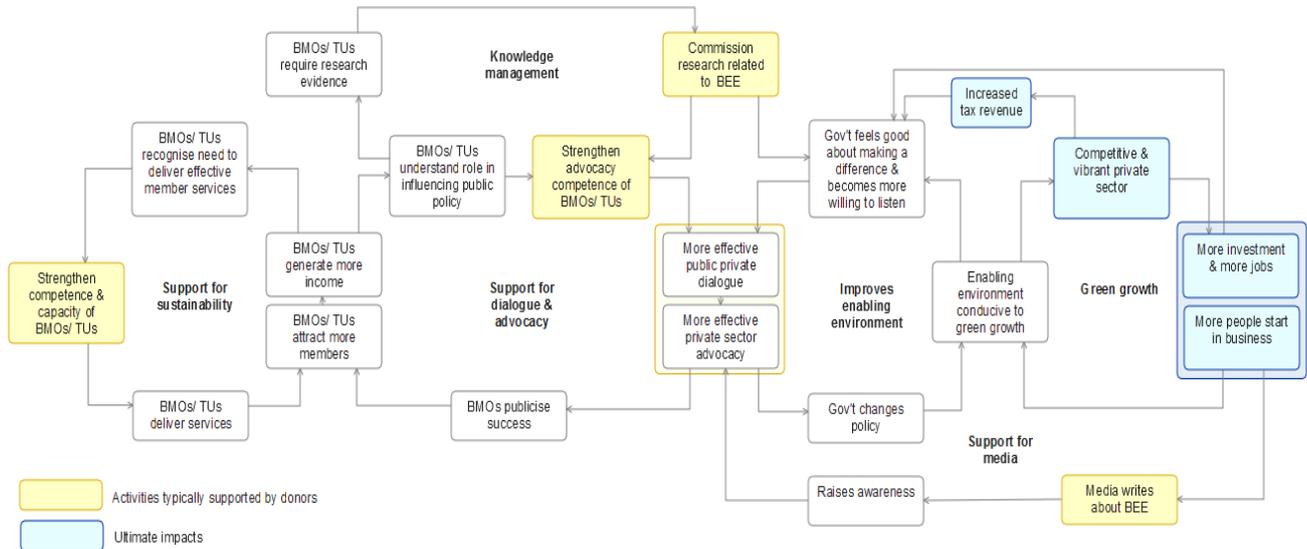
The concern at the outset of the programme was that governments of developing countries would not be willing to listen to private sector associations and would be unwilling to change rules and regulations to support development. However, BMOs have been remarkably successful in influencing policy reform. Some brief examples are provided in the table below. More detail and more examples are available in BAF case studies: *Key wins for Kenya's business membership organisations*. Brief examples of policy successes are shown in Table 2 below.

**Table 2: Examples of policy success**

Name	Acronym	Policy Win
African Biotechnology Stakeholders' Forum	ABSF	Persuaded government to adopt guidelines for the labelling of genetically modified organisms and derived products intended for use as food, feed or ingredients
African Cotton and Textile Industries Federation	ACTIF	Persuaded the US government to extend for three years the African Growth Opportunity Act (AGOA) which was worth as much as \$1bn in garment exports that would otherwise have been threatened
East African Tea Traders' Association	EATTA	Persuaded government to adopt a number of amendments to the Tea Act and to reject an alternative proposal which, they argued, threatened small scale growers
Fresh Produce Exporters' Association of Kenya	FPEAK	Successfully lobbied for the signing of an interim Economic Partnership Agreement with the EU which was worth around \$180m per annum to Kenya's fresh produce exporters. They also persuaded the government to waive cess (local tax) on horticultural exports and to repeal a tax of 120 per cent on plastic packaging (which they could not avoid since the packaging is specified by their European customers). Additionally, they lobbied for an export cess waiver resulting in savings of KShs. 76 million in 2012
Institute of Certified Public Secretaries of Kenya	ICPSK	Persuaded the government to enact legislation on unclaimed financial assets.
Kenya Association of Potato Farmers	KENAP OFA	Argued that the government should enforce legislation requiring that potatoes be sold by weight and not by volume, resulting in an additional \$50 million in the pockets of potato farmers every year.
Kenya Private Sector Alliance	KEPSA	Persuaded the government to enact legislation intended to support micro and small enterprises
Kenya Shippers' Council	KSC	Argued for 24/7 operations at the port and border crossings, resulting in dwell time at the port dropping from more than 11 days to five days and delays at border crossings falling from 27 hours to three hours.
Seed Trade Association of Kenya	STAK	Lobbied for the government to approve a number of seed varieties so that they could be used commercially
<b>CC Advocacy</b>		
Association of Biogas Contractors of Kenya	ABC-K	Successfully lobbied Kenya Bureau of Standards (KEBS) to develop and gazette two Kenya Standards: domestic biogas stoves and domestic biogas lamps.
Kenya Association of Hotelkeepers and Caterers	KAHC	Successful advocacy to the National Environmental Management Authority (NEMA) on the review of the Water Quality Amendment regulations 2012 of the Environmental Management and Controls Act (EMCA) by Legal Notice No. 85 of 2012. The costs of compliance on medium and small establishments were reduced by an estimated KShs. 2.1 billion over five years.
Kenya Association of Manufacturers	KAM	The Ministry of Environment, Water and Natural Resources (MoEW&NR) worked with the private sector led by KAM to draft the Climate Change Policy and Bill which meet international standards. The Climate Change Bill has been passed by the National Assembly and awaits approval by the Senate.

## Annex 4: BAF3 Causal loop and results chain

### BAF3 Causal loop



### BAF3 Results chain

