

A Case Study on the Impact of Stakeholder Engagement Strategy in Consensus Building



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1.0 Introduction

Kenya Revenue Authority (KRA) since 2015 has adopted an approach that strongly emphasizes stakeholder engagement, not only as key in building trust in the drive to promote voluntary tax compliance, but also key in providing a platform to constantly exchange ideas and generate mutually satisfactory solutions to common challenges.

This approach is fundamental in building and fostering consensus and relations to improve service delivery and support a friendly tax environment for businesses to thrive.

The achievement of this goal is pegged on a continuous dialogue with the business community and other key players to identify and resolve challenges affecting the ease of paying taxes.

The KRA has been keen in managing stakeholder relations and providing platforms to ensure compliance with the set laws and guidelines in public engagement and ensure that all stakeholders have the right of information and opportunity for engagement and feedback.

2.0 Basis of stakeholder engagements and preferred platforms:

KRA takes a deep interest in its stakeholder relationships and therefore conducts regular Customer Satisfaction Surveys, part of which is the assessment of the quality of KRA's relationships with its significant stakeholder groups. This provides opportunities to improve key drivers of stakeholder relational health, which include but not limited to operationalization of recommendations from the survey to build a more stakeholder oriented and high performance organizational culture.

Key objectives of the survey:

1. To conduct a qualitative assessment of the health of KRA's stakeholder relationships.
2. To produce a stakeholder Relational Health Index – a numeric, qualitative score, accurately representing the health of KRA's relational health, to serve as an objective basis for organization-wide action as well as a benchmark for every future assessment.
3. To collate recommendations to improve KRA's stakeholder relationships

The process of stakeholder engagement in the Authority is strategically built to address focus points centered on five key domains that are as follows:

1. **Engagement** – Means of accessibility and ability to use diverse platforms for dialogue and resolution of issues,
2. **Communication** – Available channels of information, simple, clear and proactive means of dissemination and outreach,
3. **Concern**- is a measure of the level of mutuality or focus on the welfare and best interests,
4. **Control** - addresses the level of fairness and voice, or the ability by each party to be heard. It also measures whether each party feels they have a sense of agency and roughly equal power to act on matters that affect their welfare,
5. **Trust**- This is based on the levels of transparency, accountability and integrity in committing to outcomes and agreements with our stakeholders.

The platforms preferred are based on the nature of the issue if it is policy or administrative/operational in nature this largely guides the type of dialogue that will be conducted and the timelines for a solution to be achieved / consensus and the next steps.

3.0 A Case of Dispute Resolution is the case of the Hs Classification of Imported Raw Materials:

The Harmonized Commodity Description and Coding System, commonly referred to as the Harmonised System (HS), is a multipurpose international product nomenclature developed by the World Customs Organization (WCO). This system of commodity coding entered into force on the 1st January, 1988.

Kenya is a party to the Harmonized Systems Convention that governs the implementation and enforcement of the HS.

Under the Harmonized System, goods of international trade are categorized into Chapters, Headings and Subheadings which are identified by specific codes.

It is reviewed every five years in order to reflect changes in technology and international trade patterns.

In regard to this, we look at the case between **(KRA & BASF East Africa Limited)** on the customs processes on classification disputes. BASF East Africa Limited was established in Kenya in 2011, with representation in 15 countries across the Continent.

Its business portfolio ranges from chemicals and materials to industrial solutions, surface technologies, nutrition, personal care and agricultural solutions. BASF East Africa limited regularly imports and distributes diverse range of chemicals as raw materials for the manufacturing industry and crop protection chemicals in Kenya, East Africa and adjacent regions.

Over the period from the year **2020 - 2022**, BASF has encountered several customs interceptions surrounding HS Code classification of its various products. The following are the key product categories that issues arose leading to the customs interceptions:

1. Performance Chemicals
2. Fuel & Lubricants
3. Home and Personal Care

The key issue sighted was the use of varying HS codes to classify different products which often led to an uplift of taxes.

Overview of these interceptions on the impact to the business:

1. Delayed clearance and delivery of raw materials to the manufacturers:

- i. Impacts on manufacturer production schedules
- ii. Delivery of products to the market-shortage

2. Increased costs on the products:

- i. Exposure to custom penalties & Interests on disputed taxes
- ii. Additional man hour costs disputing the re-classifications

3. Destination in attractiveness:

- i. Contradiction on general interpretative rules (GIR) on classification, World Customs Organization (WCO) rulings and heading explanatory notes
- ii. Increased cost of business and products in the market
- iii. BASF does not import the chemicals affected for retail sales but as raw materials for manufacturing purposes, duty remission is granted to gazetted manufacturers which they are not, but importing the raw materials in stock for the manufacturers.

4.0 The need for an elaborate engagement process with the sector players:

Following the challenges faced it was prudent to ensure the business environment is favorable to this sector and facilitate ease of doing business.

A number of interventions and strategies were undertaken to ensure KRA understands the business and issues of the industry to ensure a smooth resolution of issues which is also emphasized on the Authority's stakeholder key domains of **Engagement, Control, Concern, Communication** and **Trust**.

To this end KRA intervened and undertook specific objectives to enable:

- 1. Know your customer** – Enhance knowledge about the customer by enabling KRA officials proactively identify customer concerns, build an understanding of a customer's operating environment and unique challenges.
- 2. Customer Feedback** – To understand the needs, wants, sources of satisfaction and dissatisfaction.
3. To also promote a shared vision and understanding of what customers need and expect.

The Authority proceeded with elaborate strategies and undertook a **Customer Journey Mapping in the year 2020** to understand the customer journey under the customs processes. This was to enable KRA understand the industry for interventions to reduce the pain experienced in the process of trade facilitation from their view (BASF) on the challenges experienced. The projected outcome of this was to increase ease of doing business, evidence based decision making for mutual agreements and consensus building.

Additionally, we have undertaken **customer visits** to their premises to understand the business processes / nature of business, also build relations and foster confidence in supporting the business, which is part of our strategy for meaningful and impactful engagements for building trust and long-term partnerships.

5.0 The game changer - Stakeholder Engagements:

Following the undertaking of these activities and the issues arising from these strategic initiatives there was need to delve deeper and get a solution on the disputes arising from the HS classifications which was deemed as a major pain area for BASF EA Ltd.

It is on this premise that a technical committee was constituted on 17th August, 2022, to deliberate on HS Classification of imported raw materials for BASF EA Limited.

This was a **fourteen (14)** member technical working group (TWG) with members from KRA and BASF. The engagement was based on a two tier super structure approach as follows:

1. Technical Working Group engagements
2. Commissioner Round Table

A series of consultative meetings were held between **23rd August, 2022** and **7th September, 2022**, to enable the two parties to deliberate and understand the nature of some of the goods imported by the company so as to facilitate resolution of tariff classification challenges experienced by the importer during clearance.

The schedule of the meetings this was based on the specific issues/areas that set the agenda in each meeting as follows:

Item	Monday 22.08.22	Tuesday 23.08.22	Wednesday 24.08.22	Monday 29.08.22	Thursday 01.09.22
Agenda	Review of Performance Chemicals	Review of fuel & Lubricants	Review of Home and Personal Care products	Internal Meeting engagement with the KRA technical Team for a preliminary report to the Commissioner of Customs & Border Control on findings.	Commissioners meeting with BASF on the resolutions/ Commitments

These engagements were intense and took an average of **two and a half hours** for each session to delve in the issues and resolutions. To this extent there was need to ensure the comfort of all party's recommendations to have a series of testing to verify the arguments for informed decision making and agreements. A joint decision as part of the discussions was to have a series of tests on the disputed products and verify this as per the working group engagements arguments on the composition of the raw materials and classification.

KRA has a section that deals with Inspection Technology and Testing Laboratory Section that deals with:

1. Provision of timely analytical and scientific advisory services to revenue departments
2. Strengthening KRA's expertise and effectiveness in development and management of high-technology inspection and enforcement equipment.
3. Establishing accurate identity and nature of goods
4. Preparation of technical reports, appeal/ tribunal affidavits for compliance with tax laws and border legislation
5. Conducting verification of factory processes and reports on findings
6. Maintenance of integrity of samples drawn for testing

In this regard, the categories of the HS classifications in dispute were run through a series of tests to determine the nature and as per the arguments presented during the engagement.

This led to a Critical outcomes and findings for the resolution as follows:

1. Official ruling and consensus for all products under review as previously identified /mutual agreement of the findings
2. All matters in Tax Appeals Tribunal expunged and forwarded to KRA Alternative dispute resolution (ADR) mechanism
3. Elaborate framework put in place for engaging BASF as a key stakeholder in the trade facilitation process.
4. Customer visits for continuous engagements and understanding of their operations.
5. Appointment of key relationship managers to act as liaison persons between KRA and BASF for turnaround of emerging issues

6.0 Conclusion

This case has been a key enabler for confidence and flexibility in consensus and building of trust with parties that have been in dispute with the Authority and critical that the key domains Engagement, Communication, Concern, Control and Trust were a key guide as part of the stakeholder engagement strategy. The stakeholder engagement framework works and is a key pillar to the success of mutual understanding and consensus for revenue growth and enhanced tax compliance / ease of doing business. The framework is a powerful tool for evidence based decision making and of great impact to the relational health of KRA and its stakeholders.



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