KMPDU
Kenya Medical Practitioners
Pharmacists and Dentists Union

Centre for
International
Corporate Tax
Accountability
and Research

KENYA'S HEALTH CARE CRISIS: WHERE IS THE MONEY?

A Corporate Case Study Reveals Broader Problems

This is the first in a series of reports of reports to examine the role of 'development' finance and profit-seeking investments in Kenya's health care sector.

Multinational corporations win government contracts – no questions asked – while Kenya's health care unions have been forced to strike to demand adequate funding for training, placement, and retention of front-line workers. Much of Kenya's limited health budget is shifted away from direct provision of health care and towards medical equipment of questionable value. Health workers – doctors, clinical officers, laboratory staff, nurses, and others – are key to improving health care in Kenya. This report is a case study of VAMED, an Austrian multinational corporation which has sold European medical equipment, financed by 'development' agencies and international banks, to the Kenyan Ministry of Health and governments across the Global South. This case study reveals a major lack of transparency and accountability in Kenya's health care spending and recommends urgent reforms.

September 2024

Response from VAMED Engineering

CICTAR sent Fresenius a detailed list of allegations included in this report and offered an opportunity to respond and comment. CICTAR also engaged in a dialogue with VAMED Engineering in which these allegations were discussed. Some additional details were provided; however, many questions remained unanswered and the promised public disclosure on project evaluation has not been provided. The full written response from the Managing Directors of VAMED Engineering is published alongside this report on the CICTAR website, excerpts from the letter and the call are referred to in the text, as appropriate. The following quotations are provided as a summary of VAMED Engineering's written response from 10 September 2024.

> "In consultation with our colleagues, we have carefully reviewed your comments and we are convinced that the mentioned allegations are unsubstantiated as they are based on incorrect assumptions, disproven by the facts or relate to aspects that are an integral part of European development financing and fully comply with international OECD guidelines….
>
> All projects in Kenya have been implemented through concessional financing (soft loans) as part of development finance. Soft loans are used exclusively to support commercially non-viable projects that improve the lives of the general public in the recipient countries. Because they are fully covered by the public funds of the financing countries, soft loan projects are among the most strictly limited and best scrutinised projects in the world. All the points of criticism raised by CICTAR are either part and parcel of development finance and the corresponding OECD consensus (value added for the donor country, tax exemption) or can be ruled out by the comprehensive requirements (financing guidelines, tendering, approval, documentation and reporting obligations, training) and control mechanisms (use of funds, appropriateness and sustainable availability of the equipment provided, impact monitoring and external audits by experts on site) within the framework of soft loans, which all government export credit agencies."

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Executive Summary

Due to the pressure of excessive foreign debt, the Kenyan government's efforts to continue to cut public services and raise taxes from those who can least afford to pay – and the robust response from civil society – have drawn global attention. The situation in Kenya, including a chronic underfunding of public health care, reflects broader global trends and requires a deeper analysis of both causes and solutions. In Kenya, primary responsibility for health has been devolved from the national government to the 47 county governments. The majority of the health care workers are managed at the county level. However, about 80% of the ministry of health budget is retained at the national level. As a result, Kenya's health care unions have been forced to strike frequently to agitate for adequate funding to move towards the government's stated goal of universal health coverage.

Meanwhile, multinational corporations with large national government contracts to supply medical equipment and products appear to shift profit offshore, with little or no tax paid and no questions asked. Where is the money going and to what end? Health workers– doctors, clinical officers, laboratory staff, nurses, and others – are the key to improving healthcare in Kenya, not imported unrequested medical equipment of questionable value. Kenya has recorded many incidents where over-priced medical equipment lies idle with insufficient training to operate or maintain in public health facilities across the country. There appears to be significant misuse of limited resources that does not improve health care outcomes, but rather adds to Kenya's debt burden, and a further reduction of funding for front-line care.

Government spending on health care in Kenya is declining and currently wavers between 7% and 4.7% of the annual national budget. This funding level is far from the Abuja Declaration which calls for a minimum of 15% of national budgets spent on health care in order to meet the stated goal of achieving universal health care. Significant amounts of past and current health care spending are misdirected. Before a much-needed increase in funding for public health, it is important to ensure that current spending is accountable, transparent, efficient, and effective, in improving affordability, availability, and accessibility of quality health care services for all Kenyans. As this report discusses, there is currently a huge accountability and transparency deficit in large parts of Kenya's health care spending and serious concerns about efficiency and effectiveness in progress towards meeting the stated goal of universal health coverage.

This report provides a case study of one multinational corporation, which claims to have had more than 1,000 health care projects in 101 countries, that has been selling medical equipment to the Kenyan national government since at least 2014.[1] This corporation, VAMED, was selected because its business model in the Global South – with support from many European government 'development' and export credit agencies and international banks – is very clear. This extractive business model produces profits for European exporters but may be shifting scarce resources from front-line care while leaving importing governments deeper in debt.

VAMED (partly owned by the Austrian government) is a subsidiary of Fresenius, one of Germany's largest corporations and the world's largest for-profit hospital and health care company. As this report was being finalized, Fresenius announced that it was 'exiting' the troubled VAMED business, in part to reduce complexity and increase transparency.[2] Even though the VAMED business will come to an end by 2026, it provides an example of a broader problem of profit extraction driven facilitated by 'development' finance.

This analysis is the first in a series of reports that will examine the role of 'development' assistance and international investment in Kenya's health care sector and focusses specifically on multinational sales and leases of medical equipment of questionable value to the Kenyan government.

This analysis and previous reports strongly suggest that the Kenyan Government must re-evaluate the fixation of bilateral and multilateral development agencies that the private sector has an essential role in delivering public health. The facts on the ground in Kenya and global experience both indicate that profit-seeking detracts from, rather than improves, the provision of and access to public health care. Kenya's clear priority must be on strengthening and expanding its public health care system with a focus on health care workers and expanding access for all Kenyans, not only those that can afford private care. This priority must adhere to staffing norms and standards where human resources – health workers – take precedence over capital spending on equipment and physical infrastructure.

Kenyan national government contracts for the supply of medical equipment have a long track record of enriching multinationals while impoverishing front-line public health care delivery. The intent of this report is to stimulate deeper research and discussion on much needed health care spending reforms in Kenya. The issues raised here have broader relevance across Africa and the Global South.

Kenya's current health care spending needs to triple to meet its current goals and regional and global commitments. However, the Ministry of Health is regarded by Kenyans as one of the most corrupt ministries. As discussed below, the Ministry of Health has a long track record, from at least 2015 and up to the present, of awarding lucrative contracts to purchase medical equipment from multinationals. Despite some scrutiny, these contracts continue to be shrouded in secrecy. Who benefits and how? Limited information is shared on these contracts, even with national and county governments that are directly impacted. **This potentially misdirected spending directly takes funding away from front-line care, increases foreign debt and exacerbates existing problems around a lack of transparency and accountability.** Kenya's 2024-25 national budget allocated the highest amount in the past five years to debt repayments, amounting to 47% of projected ordinary revenue and 3.5 times more than allocated to the 47 county governments.[3] Pressure to raise revenue to service Kenya's ballooning debt led to the failed efforts to tax Kenyans and the recent political unrest in response.

Although not specifically with VAMED, widespread corruption and profiteering have been documented on government contracts for the supply of medical equipment in Kenya.

Despite concerns of corruption and commitments of improving public health, to our knowledge, there have been no substantive evaluations of how these contracts, have – or have not – improved health care outcomes in local communities. Donors funding these projects must also bear significant responsibility for the lack of evaluation in achieving stated goals of improving access and affordability for all Kenyans.

As discussed below, GE and Philips, two of the largest multinationals that have participated in the government's ongoing Managed Equipment Services scheme to supply medical equipment have recently admitted to and/or been convicted of bribing government officials in China to win contracts. Fresenius Medical Care, a sister company of VAMED, has also admitted to and been convicted of a decade long global pattern of bribery and corruption to win government contracts to supply medical equipment or services, including across Africa. There have been major concerns about VAMED's track record of supplying medical equipment to training hospitals in Nigeria. Equipment supplied by VAMED in the Philippines, as documented by a government inquiry, never functioned to standard and was ultimately discarded but left the government paying back millions in foreign loans. The examples in the Philippines and Nigeria are alarming and there may be others. Given this history, VAMED's projects in Kenya – and the role of officials in the Ministry of Health – should be closely examined.

Contracts with the Ministry of Health in Kenya to supply medical equipment have been done with little or no consultation with county health officials. While costs are taken from strained county health care budgets, there does not appear to be any meaningful consultation about what equipment might be needed in local communities. Interviews in February 2024 with county health officials in several counties with VAMED projects demonstrate that this pattern continues. County health officials all reported that they had no information on the financial arrangements surrounding VAMED projects, were not consulted adequately on what equipment was needed to serve local needs and were supplied with equipment – from manufacturers in donor countries – that generally did not meet expectations.

Very limited information on VAMED projects in Kenya – from VAMED, its' parent company Fresenius, from the Kenyan government or from several European government 'development' agencies – can be found from public sources. VAMED projects in Kenya were previously financed by the Austrian Ministry of Finance with no apparent disclosure that it was a 13% shareholder in the company. This period of funding coincided with major corruption issues within the Austrian Ministry of Finance and the state-controlled entities holding VAMED shares, under the former conservative government.

The UK government has been a major financier of VAMED projects in Africa, but it is unclear whether it has financed VAMED projects in Kenya. The stated goal of the UK government, via VAMED's UK subsidiary, is to increase "VAMED's procurement from UK suppliers of healthcare equipment and services", as well as to increase procurement from VAMED's own expanding operations in the UK. Currently, it appears that the financing role of the Austrian government on VAMED projects in Kenya has been replaced by the Finnish government and VAMED's Finnish subsidiary.

While the Finnish government appears to have greater transparency with publicly accessible information on the funding of VAMED projects in Kenya, the problems and priorities remain the same. Interviews reveal that every single piece of equipment supplied, including doors, in current VAMED projects financed by the Finnish government are manufactured by companies (including GE) in Finland. While the Finnish government finance includes a significant aid component, it appears that the Kenyan government will be paying off up to €19 million in loans over a 10-year period. The debt is denominated in US dollars or other foreign currencies which increases the burden as the exchange rates is rarely in favour of the weakening Kenya shilling. The local currency tends to be at its weakest point when loans reach maturity, resulting in even higher burdens at repayment time.

VAMED secures government contracts across the Global South to buy medical equipment from manufacturers in European countries whose governments provide 'development' or export finance. While labelled 'development', this model prioritizes profit extraction and increasing European exports over providing medical equipment that is genuinely needed to improve public health in local communities. While the partner changes, the primary game – to support European industry and exports – remains the same. There appears to be no meaningful evaluations of whether 'development' objectives, improving access to and the quality of public health, are met, or not.

The report provides further background on VAMED's governance and problematic track record across the Global South. The priority of VAMED and other corporations, along with bilateral and multilateral 'development' agencies, appears to be on the sale and export of medical equipment, rather than meeting the health care needs of local communities. This approach takes already scarce government funding for public health away from front-line care and diverts it toward increasing profits for multinationals. The Ministry of Health's acceptance of these contracts, and the failure to communicate and consult with county health officials, exacerbates an existing lack of transparency and accountability.

The Kenyan government needs an urgent and independent review of all major contracts involving the Ministry of Health and needs to ensure that spending is supporting its stated goals rather than undermining capacity at the county level. As mandated in the Kenyan Constitution, there must be full transparency and accountability on health care spending and direct and ongoing consultations with all stakeholders, including the public health care workforce and their representatives.

Finally, multilateral and bilateral development and finance agencies need to evaluate current and future programmes against publicly stated 'development' objectives rather than an increase in exports. It is time to abandon the myth that the private sector has a strong role to play in Kenya, or across the Global South, in improving quality and access to health care for all. It is time for all governments to put people over profit and invest directly in public health care.

Introduction

Government spending on health in Kenya is not matching national, regional and global commitments and is leaving the Kenyan people behind. Furthermore, significant amounts of health spending and donor "development" funds are diverted from front-line care. Policies pushed and promoted by multilateral and bilateral development agencies – and followed by the Kenyan government – appear to provide greater benefits to global corporations than to local communities. There is an urgent need to invest in the healthcare workforce to achieve a public health care system that serves the Kenyan people. This urgent need manifested itself in the national strike by KMPDU (Kenya Medical Practitioners, Pharmacists and Dentists' Union), the doctors' union, to require the government to fulfill its 2017-2021 Collective Bargaining Agreement and fully fund placement and salaries of medical interns or graduate doctors, who are the backbone of Kenya's public health care system.

This report is expected to be the first in a series of reports on the role of "development" and private sector for-profit investment in Kenya's healthcare sector. This first report focusses on contracts with the public health care system, as opposed to direct operators of private health in Kenya. This report is a case study of profit extraction from Kenya by one multinational, with direct support from Kenyan and European governments. The problems outlined here are not unique to one corporation but exemplify a broader problem in Kenya and across the Global South. The contracts within the public health care system on this company, and many others, directly impact access to public health care services for all Kenyans. Globally, governments must focus on supporting stronger public health care systems and abandon the notion that there is a market solution, through the private sector, to improve quality and access to health care for all.

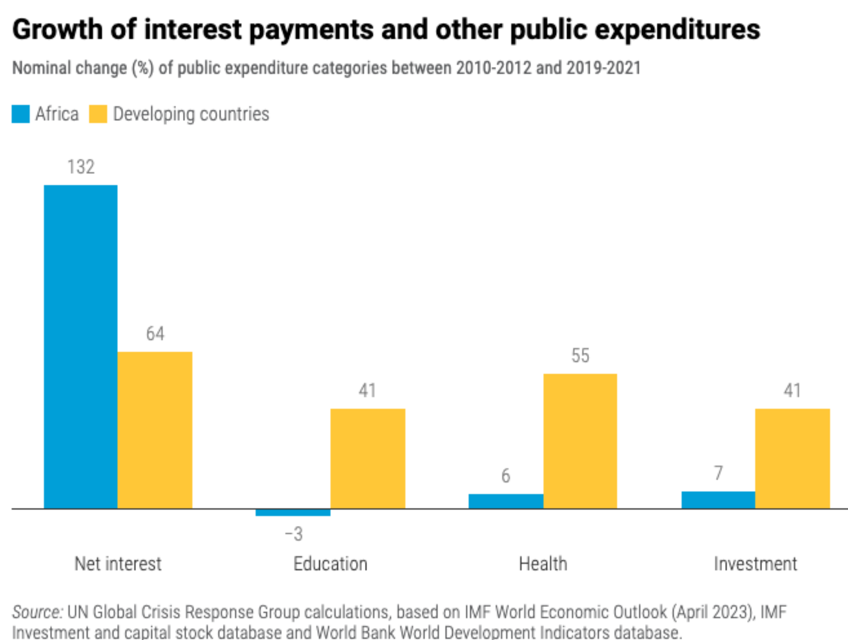
This report, as a case study, examines the role of VAMED, an Austrian subsidiary of Fresenius, a major German healthcare multinational. VAMED has secured contracts with the Kenyan government, under-written by European government financing, that best serve itself and other European medical equipment businesses, **at the direct expense of frontline health care service provision for Kenyans**. While Fresenius, the parent company, is selling off, transferring or phasing out the VAMED business, the case study remains relevant. This study is by no means comprehensive, but strongly suggests that further research – and reform – is needed far beyond the practices of only one multinational corporation and its relationship with Kenyan and donor governments and institutions.

Our intent is to stimulate a broader look into the role of foreign corporations and "development" institutions that has shifted public health care spending towards powerful external interests rather than meeting the direct and urgent needs of local communities. The lack of transparency and accountability at all levels needs an urgent review. The issues in Kenya, and in the other examples provided, represent a broader problem across the Global South, with corporate profit extraction reducing spending on public services while claiming to advance "development". These issues are particularly acute in the health sector, where the priority must be to adequately fund public health and not divert public resources to private profits.

Public Health in Kenya: Grossly Under-funded

To begin with Kenya's budget for healthcare is grossly underfunded. An analysis of Kenya's 2022/2023 budget revealed that debt servicing accounted for 42% of the total budget and limited "the ability of Government to sustainably finance social spending."[4] Since 2019 until 2022 the share of social spending in the budget has decreased from 26% to 23% in 2022, the share of health sector spending is less than 4%, or under 7% (in 2021) including county health budgets.

Unfortunately, the drain of debt service and the impact on government spending on health is not unique to Kenya, but a broad long-term trend across Africa and the Global South. As the following chart from a recent UNCTAD report demonstrates, interest payments from Africa have increase by a staggering 132% over the last decade to the detriment of spending on health and education.[5] The debt service problem in Africa is far greater than across the Global South as a whole.



Both the Abuja Declaration and the World Health Organisation (WHO) call for investments of 15% of the national budget in health care.[6] Kenya needs to more than triple spending on healthcare to meet the commitments it has signed on to, but also needs to make sure the current health care expenditure is improving health and not the bottom line of multinational corporations.

Increasing Privatisation & Corruption

Further background on VAMED, its operations in Kenya, and examples of its track record across the Global South are explored in more detail below. However, some context on health care in Kenya – and the expanded role of the private sector – is required. VAMED's project business is part of this growing trend of broader involvement of the for-profit private sector

in global healthcare systems. VAMED, among others, has been a major global driver of public private partnerships in healthcare across the global south.

While the Kenyan government maintains the goal of reaching universal health care it remains a distant dream that may be pushed further away by reliance on the private sector and the draining of money from adequately financing public health care. A recent Oxfam report focussed on development finance institutions' investments in private for-profit hospitals – including in Kenya – found that, "patients are imprisoned for not paying their bills. The right to emergency care is denied. Treatment is impossibly expensive. Patients entitled to free care are instead pushed into poverty, having to pay high fees to access health services."[7]

VAMED's business in Kenya appears to have all been through government contracts within the public health care system and not supplying equipment or services to the private sector. How much Kenyan government (and/or foreign aid) resources have been used to purchase European medical equipment from VAMED is an open question. How much have purchases from VAMED, and other medical equipment suppliers, contributed to Kenya's foreign debt? What is clear is that this business, supported by 'development' agencies and international banks, has been conducted with limited transparency and no apparent evaluation on the impacts on health care delivery. The broader role of the Kenyan government contracting with multinationals for the provision of medical equipment has been shrouded in controversy for many years. VAMED is one example of a much broader problem.

There is increasing evidence that this reliance on private sector involvement in the health care sector is exacerbating existing inequality by undermining public health care and the goal of reaching universal health coverage.

The threat of corruption in Kenya's health care system, potentially enhanced by the push for profits and winning government contracts, is clearly demonstrated in the Ethics and Anti-Corruption Commission's National Ethics and Corruption Survey published in March 2024. This survey found that the Ministry of Health was perceived as the second Ministry (following the Ministry of Interior) in which Kenyans were "most likely to encounter corruption and unethical practices".[8] Additionally, County Health Services "were perceived to be the most corruption-prone County Government departments."[9] Two of the recommendations of the survey report were to "Undertake systems examination in institutions where bribery was either most likely or prevalent" and to "Institute preventative measures in Ministries, Departments Agencies and Counties (MDACs) most prone to corruption".[10]

What is happening in Kenya is part of a global expansion of investment, to generate returns for investors, in all aspects of global health care systems. In the context of the findings of the anti-corruption commission, this creates further risks of corruption. A recent report on the growth of private sector for-profit health in Kenya stated that:

> *Corruption is also a constant challenge in Kenya and transferring major healthcare functions to the private sector presents a very lucrative opportunity. Meaningful and independent*

transparency and accountability mechanisms are urgently required to ensure that public money is not wasted or used on private enterprise to the detriment of healthcare needs.

The international actors who promote private healthcare, shaping policy from behind closed doors thousands of miles away, are arguably even less accountable than private providers in Kenya. Many have played a direct role in privatizing the health sector in Kenya, seemingly without analyzing (at least publicly) the impact on the enjoyment of the right to health, especially for the most vulnerable and marginalized.[11]

Corruption is recognised as a widespread problem in Kenya and one the government has made a priority to address. However, the role of multinationals and foreign investment – underwritten by western governments – may exacerbate corruption in Kenya's health sector. The corruption problem in Kenya led the US government in April 2024 to complain that its corporations are "losing out on business and contracts in Kenya because top government officials demand bribes".[12] A US government report found that "contracts are going mainly to foreign firms willing to pay bribes."[13]

The US does have strong laws in place to prevent US corporations from participating in international corruption. At least two firms that have held contracts to supply medical equipment in Kenya, GE Healthcare and Philips, have recently been under investigation or charged under the Foreign Corrupt Practices Act (FCPA) for bribing officials in China to win government contracts.[14] As discussed in more detail below, Fresenius Medical Care, a sister company to VAMED and part of the same Fresenius Group, has also reached a settlement under the FCPA for a global pattern of bribery and corruption. Other countries do not have the same level of penalties and enforcement to prevent international bribery and corruption as under the US FCPA.

A corruption scandal over a tendering process at the state-owned and donor funded Kenya Medical Supplies Authority (KEMSA) in May 2023 led President William Ruto to sack the Principal Secretary for Public Health and the entire board of the authority.[15] However, this move was met with some scepticism as former President Uhuru Kenyatta had dissolved KEMSA's board in April 2022, following a previous procurement scandal.[16]

Managed Equipment Services (MES) Scheme: Despite Gross Failures Does Not End

The KEMSA scandals follow a similar pattern in the Managed Equipment Services (MES) scheme which the government, acknowledging its controversial past, re-branded as the National Equipment Support to Counties (NESC) in June 2023.[17] However, despite these issues the re-branded MES scheme continues to receive national and county government funding into 2024.[18] VAMED projects have not been funded under the MES scheme, but through other undetermined Ministry of Health programmes.

A World Bank blog post from 2018 lauded the MES, which began in 2015 as a seven year project, as a way for the private sector to play an important role "in closing the healthcare gap" and described the MES as an arrangement to ensure "that public hospitals have access to modern health infrastructure, equipment and/or services".[19] By 2020, five years into the project, a Kenyan Senate committee report said the MES scheme "to lease various medical

equipment in a 63 billion shillings ($580 million) deal was a 'criminal enterprise' that flooded hospitals with overpriced, unnecessary equipment".[20]

General Electric (GE, now GE Healthcare) and Philips were both part of the deal, which lawmakers said "left many patients, some suffering from serious diseases like cancer, without proper care because there was no one to operate the equipment or problems replenishing supplies needed to make it function."[21] The committee also found that the cost of equipment supplied was "grossly exaggerated", that the MES project was "shrouded in opaque procurement processes" and said that the government had "contravened the constitution by deducting cash to pay for the deal from the accounts of county governments".[22] Both GE Healthcare and Philips continue to supply medical equipment in Kenya.

GE's CEO spotlighted the global giant's contracts with the Kenyan Ministry of Health in a 2015 earnings call stating that it had "closed a big healthcare deal in Kenya worth more than [US]$200 million" and that despite global orders being down in the healthcare business, "Africa was up 42%", based on the deal in Kenya.[23]

Despite the Senate report in 2020, scrutiny from civil society organisations, and other detailed critiques of the MES, the scheme continues to get additional funding up to the present and has in the past siphoned **up to 14% of some county health budgets**.[24] In a 2021 interview, a local county official stated that "much of the equipment did not work, and that the 'ghost project' had diverted funds that would have otherwise gone to support poor and marginalized people."[25] As with recent VAMED projects discussed below, it was found that the counties reported "being forced to sign off on the project without reviewing the terms of the MES contracts and not being informed about what equipment they would receive. Even the former Attorney General said his office was denied access to the contracts, despite his responsibility for scrutinizing and approving them to ensure their compliance with the Constitution and other relevant laws."[26]

Another critical examination of the MES demonstrated that the budget allocation for the MES scheme for the 2016/17 fiscal year, "de-prioritised preventative public health care", with the MES accounting for the **third largest component of the health care budget** after allocations to the two largest referral hospitals.[27] In this year, the budget allocation for the MES was 4.5 billion Kenyan shillings ($41.7 million) compared to only 3 billion shillings ($27.7 million) for internships for Doctors, Clinical Officers and Nurses.[28] This analysis also found that in 2018 payments for the MES "were deducted at sources by the National Treasury from allocations" to county governments, but without explanation were increased from 95 million Kenyan shillings to 200 million ($1.9 million).[29]

With this complete lack of transparency and accountability, the risk of corruption on large contracts, initiated at the national level with little consultation with county health officials, is very high. Limited government resources would be far better spent on funding front-line health workers rather than enhancing the profits of large multinational corporations in return for over-priced and often unwanted or un-needed medical equipment.

County Healthcare Budgets

The devolution of healthcare operations to the county level in 2013 created significant restrictions on spending. As discussed above, schemes like the Managed Equipment Scheme (MES), run by the Ministry of Health, pull resources from county health budgets. The question of how VAMED's projects interact with county spending limits is unclear. VAMED's projects are delivered via the Ministry of Health with limited consultation with county governments.

The Kenyan government's County Budget Operations Manual requires that 30% "of all expenditure is dedicated to development" and that the county wage bill is limited to 35% of total government revenue.[30] However, development spending on capital goods can be wasteful if the human capital to deliver frontline healthcare services is not available. Spending on health care delivery – health care workers – is an urgent priority to improve access and coverage for all Kenyans. The first point on Constitutional Principles in the County Budget Operations Manual is "Openness and accountability, including public participation in financial matters".[31] The role of the Ministry of Health and its relationship with VAMED, as with the MES scheme, seem to violate this basic principle.

A November 2023 study of county health systems in Kenya found that "weak budget monitoring and accountability mechanisms compromised county health system efficiency" which enabled "misappropriation of public resources" and limited "evidence-informed decision-making by weakening feedback that would be provided by effective monitoring and accountability."[32] It appears that the role of the Ministry of Health with VAMED projects may significantly reinforce these problems, based on the complete lack of consultation with counties, local communities and public health care workers and their unions.

While Kenya's budget monitoring and accountability measures are strong on paper, the reality is quite different in practice and these measures "were ineffective in enhancing health system efficiency."[33] One of several findings of the study, suggested that "it was difficult for healthcare workers to take ownership of their performance when they had no control over their resources" and that this led to "accountability loopholes".[34]

Due to the devolution of health care in Kenya, the study appropriately refers to accountability mechanisms within county governance structures. However, when major allocations of health spending are done at the national level, with little or no consultation with county health officials, this greatly exacerbates existing problems. The study had several conclusions, including that the health system, at national and county levels, "should be held to account not just for adhering to procurement guidelines, but also for the outcomes that result from invested resources" and that "county and national governments should increase budget transparency".[35]

VAMED projects appear to exacerbate existing problems with transparency and accountability, mirror the experience with the Managed Equipment Scheme, and exhibit the complete lack of consultation and coordination with county health officials on what their specific community needs might be. Further background on VAMED and its parent company

Fresenius is provided below, before analysing the limited public information on VAMED projects in Kenya.

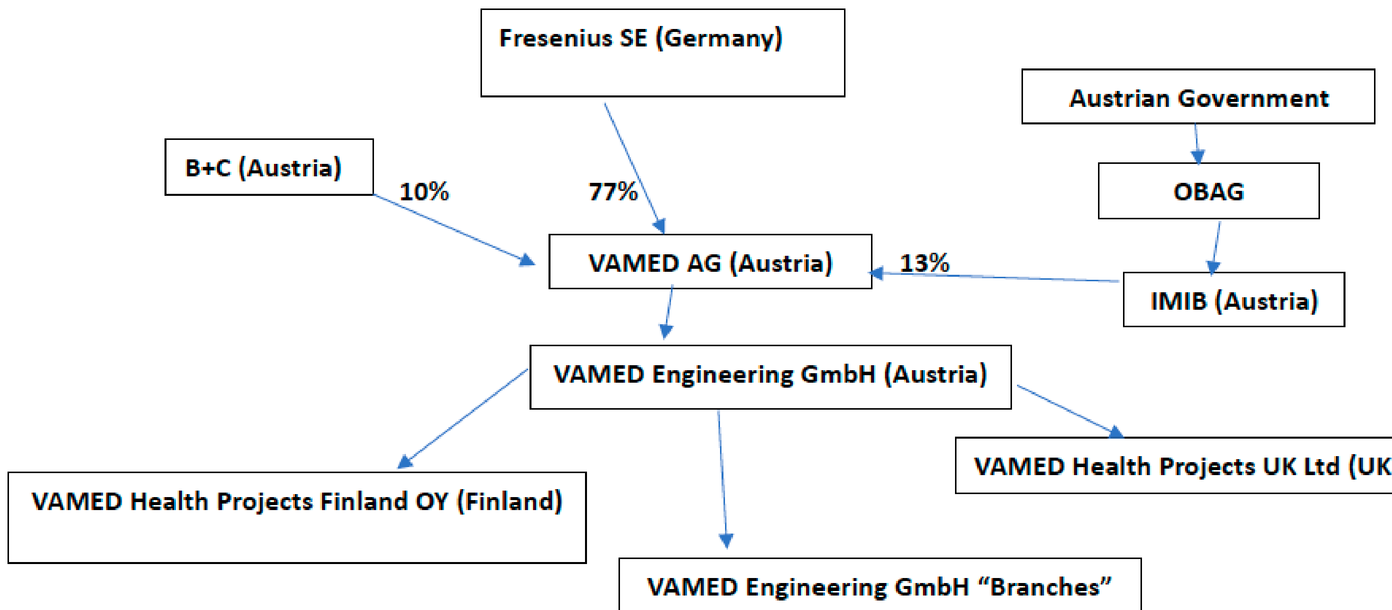
Who is Fresenius VAMED?

VAMED has been the smallest of the four main business segments within Fresenius, a giant German healthcare multinational, but is now in the process of being sold, transferred or phased out completely.[36] Although not a household name or well-known brand, Fresenius is one of Germany's largest corporations and the largest for-profit hospital company in the world, with group revenue of €22.3 billion in 2023.[37] The Fresenius Helios division is the dominant private hospital operator in both Germany and Spain, and expanding elsewhere. Fresenius Kabi is a major global producer of pharmaceuticals and medical devices. Fresenius has been undergoing a strategic restructuring and has now demerged its Fresenius Medical Care (FMC) business, the world's largest dialysis company, of which it continues to own 32%. Until the VAMED business is phased out entirely, Fresenius holds it and the substantial stake in FMC as "investment holdings".

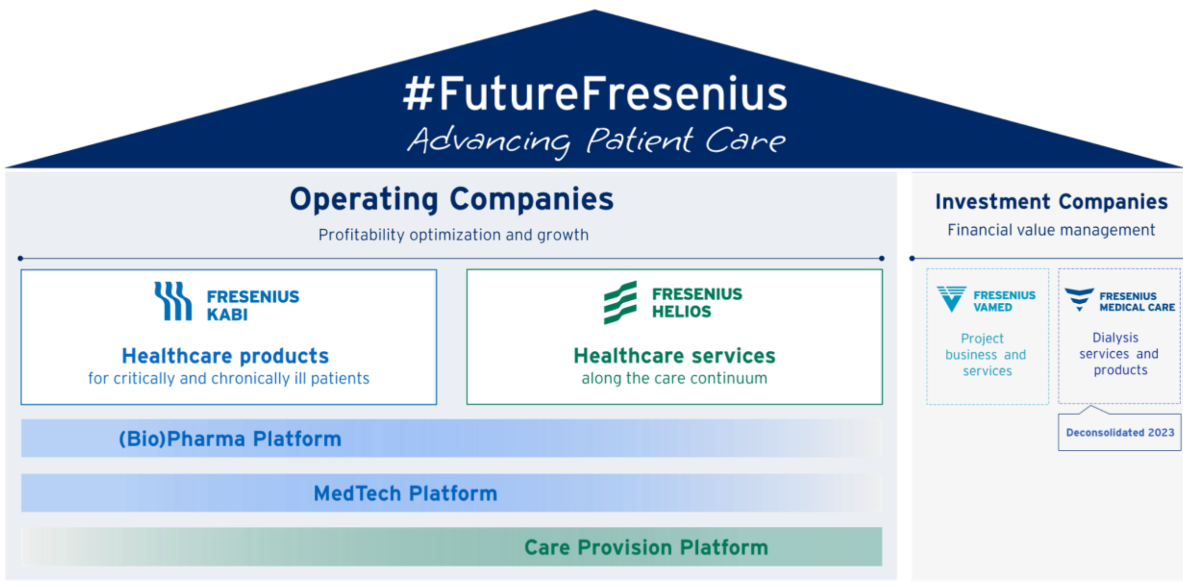
FMC is separately listed on the New York Stock Exchange but has long history of control by Fresenius. VAMED is a private company based in Austria that, until recently, was 77% owned by Fresenius, 13% owned by IMIB Immobilienund Industriebeteiligungen GmbH, and 10% owned by B&C Beteiligungs management GmbH.[38] IMIB is 100% owned by the Austrian government through ÖBAG (Österreichische Beteiligungs AG), an Austrian sovereign wealth fund.[39] B&C is owned by an independent private foundation which holds significant stakes in many large Austrian industrial companies.[40] While it is understood that B&C has fully divested its shares in VAMED, at the time of finalising this report, the Austrian government's divestment was still being finalised and terms of these transactions had not been disclosed.[41]

A recent scandal involving IMIB and ÖBAG, and other questions concerning the government support for VAMED under former right-wing chancellor Sebastian Kurz, are discussed in more detail below.[42] However, the 2019 settlement of charges of bribery and corruption at VAMED's sister company FMC may be more directly relevant to VAMED's ability to win major government contracts across the global south.

SIMPLIFIED VAMED CORPORATE STRUCTURE



Fresenius Group Structure[43]



Corruption at Fresenius Medical Care (FMC)

FMC, as with VAMED until recently, was reclassified as an investment company rather than an operating company of the Fresenius Group. In 2019, FMC reached a US$231 million settlement with the U.S. Government after it admitted to widespread and long-term patterns of bribery and corruption to win government contracts.[44] While VAMED's business in the Global South also relies on winning government contracts, this much smaller part of the Fresenius Group business has not received the same level of scrutiny.

The FMC settlement stems from charges spanning 17 countries with evidence indicating that Fresenius had repeatedly prioritised maximising profits at the expense of care and responsible, ethical business practices. The US Department of Justice press release stated

that between 2007 and 2016, Fresenius had "paid bribes to publicly employed health and/or government officials to obtain or retain business…."[45] In Angola, Morocco and across West Africa, "Fresenius knowingly and wilfully failed to implement reasonable internal accounting controls over financial transactions and failed to maintain books and records that accurately and fairly reflected the transactions…."[46]

In Angola "for the purpose of securing an improper advantage and assisting Fresenius with obtaining and retaining business in Angola", the company offered:

- an Angolan military health officer and an Angolan government-employed doctor "shares [15% each] in a joint venture in Fresenius's local subsidiary";
- "Storage contracts with a company owned by the sons of the Angolan military health officer", but "no Fresenius products were ever stored at the warehouse"; and
- "Consultancy agreements with publicly employed doctors for which no services were ever performed".[47]

"In West Africa, Fresenius knowingly paid bribes to publicly employed health officials and government-employed doctors in numerous countries, including Benin, Burkina Faso, Cameroon, the Ivory Coast, Niger, Gabon, Chad and Senegal…. Fresenius paid these bribes through a combination of direct payments, payments through third parties and payments through a third-party distributorship, all to obtain and retain business in those countries, the company admitted."[48]

As part of the settlement, FMC agreed to continue to cooperate with ongoing investigations, to "enhance its compliance programme, implement rigorous internal controls and retain an independent compliance monitor for at least two years."[49] There is however no indication that these terms extended beyond FMC in the Fresenius Group, and in particular to VAMED's business, which in Africa and across the Global South also relies heavily on obtaining government contracts.

VAMED's Declining Transparency in its "Project Business" in the Global South

In a recent Fresenius investor presentation, the company described itself as the "global leader in healthcare products and services" with revenue of €21.5 billion in fiscal year 2022 and a presence in over 100 countries.[50] VAMED was the smallest operating company within the group and currently the worst performer. Prior to the announcement that the VAMED business would be phased out entirely, significant restructuring and reform measures had already been initiated.

This analysis focusses on VAMED's international project business as opposed to the larger healthcare service business in Central Europe, including its network of spas. The project business was heavily reliant on revenue from Africa, but also operated globally. No research has been done for this report in relation to healthcare service business in Europe, which was understood to operate at high standards and accounts for the vast majority of VAMED employees, mostly covered by collective bargaining agreements. In 2023, VAMED reported 10,664 employees in Germany, 9,456 in the rest of Europe and only 80 in Africa and 5 in the Asia-Pacific region.[51] While the healthcare service business in Europe is either being sold or

transferred within Fresenius, the international project business is being phased out entirely by 2026.[52]

In May 2023, it was reported that the Fresenius legal department wrote a confidential letter to the then CEO of VAMED which stated that the Fresenius board, led by a new CEO, had "great concern" about VAMED's "performance, liquidity and compliance risks".[53] Since an examination of VAMED was announced, "VAMED management has been "in complete turmoil," according to insider reports.[54] Speculation began that once the VAMED business has been restructured, Fresenius would sell its majority holding. Speculation was initially confirmed when in December 2023 VAMED first announced it was selling its rehabilitation clinics, primarily in Germany, for an estimated €800 million.[55] A year later, the entire VAMED business is now phasing out completely.

According to Fresenius's most recent annual report, VAMED's revenue in 2023 was nearly €2.356 billion, only 9% of the group's total.[56] VAMED's revenues and profitability had declined significantly since 2021. Of the total VAMED revenue in 2023, only €558 million or less than 24%, (down from €674 million), was from its project business.[57] Interestingly, Fresenius reported a group tax rate of 66.7% in 2023 (2022: 23.8%), for which the "main reasons…were the negative result of Fresenius VAMED, for which no deferred tax assets could be recognized, closing of tax audit procedures as well as valuation adjustments of a deferred tax asset in Germany."[58]

There has been no separate annual report from VAMED since 2021. Since then, the only public reporting on VAMED is in the consolidated accounts of the Fresenius Group with significantly less detail. Therefore, much of the analysis of the VAMED business is from 2021 or earlier. VAMED's 2021 Annual Report highlighted a "Focus on health in Africa" including the "modernisation and redesign of 20 maternity clinics" in Kenya, that "will make an important contribution to reducing infant mortality".[59]

In 2021, after Europe, Africa was the strongest region accounting for 8% of sales and remained a continued focus for the expansion of its international project business.[60] In 2021, sales in Africa were nearly €173 million, a huge increase from €80 million in the previous year, but relatively small when compared to sales of over €1,016 million in Germany, €518 million in Austria and €388 in the rest of Europe.[61] Sales in Africa, and elsewhere in the global south (€119m in Asia and €82 m in Latin America), were primarily from the project business and not services.

VAMED's Opaque Structures

While there is a considerable and increasing level of transparency with regards to other parts of the Fresenius Group, the reporting on the VAMED business has been relatively opaque and declining. VAMED has no incorporated entities in Kenya. Its Kenyan contracts appear to be signed directly with VAMED Engineering in Austria, and more recently with VAMED Engineering's subsidiary incorporated in Finland. VAMED's website does report a VAMED Engineering Branch Office in Nairobi, as it does in many other African countries.[62]

Based on standard national and global tax rules, it appears that without a separate legal presence in Kenya, profits earned from Kenyan government contracts would most likely not be subject to the 30% corporate income tax rate in Kenya. Branch profit remittances, as opposed to dividends from a separate legal subsidiary, would not be taxed in Kenya.[63] The branch structure could potentially help avoid a 15% withholding tax in Kenya.[64] However, VAMED Engineering's Managing Director stated that the projects in Kenya were fully tax exempt as a condition of 'soft loan' financing from European governments.[65] The same pattern of VAMED Engineering branch structures appears to be true elsewhere in Africa, despite extensive government contracts in many African countries. There are only four VAMED subsidiaries across all of Africa: one in Gabon, two in Ghana and an 85% interest in a joint venture company in South Africa.[66]

If not for VAMED's reported tax exempt status in Kenya, branch structures could be used to avoid income taxes on profits from government contracts earned in Kenya, or elsewhere in Africa. While the Kenyan government tried to increase tax payments from its citizens, there does not seem to have been any significant effort to increase tax revenues from VAMED or other multinationals that may continue to avoid tax payments on profits earned in Kenya.

VAMED's Presence in Kenya

As mentioned above, VAMED has had a series of contracts with the Kenyan Government to help design, build and supply medical facilities and equipment in Kenya over many years. It appears that until recently the Austrian government, a shareholder in the company, has been the primary financier of VAMED projects in Kenya. Today, it appears that financing is now coming from the Finnish government and that all equipment supplied is manufactured in Finland. There is a glaring lack of transparency on these projects, but the information that has been found is discussed in more detail below.

As indicated above, VAMED Engineering in Austria reports a 'branch' office in Kenya but is not incorporated as a business in Kenya or many other African nations where it operates. Fresenius Medical Care East Africa Limited, part of the broader Fresenius Group, is incorporated in Kenya. It is unclear whether this entity directly operates dialysis clinics in Kenya and/or sells dialysis equipment and supplies across the broader East Africa region to governments and/or the private sector. Fresenius Kabi, the pharmaceutical arm of Fresenius, like VAMED has a 'branch' office in Nairobi; its level of sales in Kenya and regionally are also unclear.

Information on VAMED's operations in Kenya – from the company, from the Kenyan government or the Austrian government, as both financier and shareholder – is extremely limited. According to VAMED's website, it completed the extension of the Kabarnet County Hospital with 100 beds and installed medical equipment on behalf of the "Government of Baringo County" in 2015-16.[67] This is the only project listed in Kenya. However, as discussed below, it appears that this project is also claimed by VAHEED in Abu Dhabi, whose ownership and current links to VAMED are not clear.

VAMED's 2021 annual report highlights contracts for the "modernisation and redesign of 20 maternity clinics" in Kenya, which will "make an important contribution to reducing infant mortality".[68] These were new contracts the company received at the beginning of the year. "VAMED has already successfully modernised maternity clinics at several locations and furnished them with biomedical equipment."[69] A separate VAMED website, states that "VAMED provided training in April 2019 in Eldoret and Makindu in hospital hygiene and maternal and neonatal care, and emergency care. Further training was provided in October".[70]

A Facebook post from the County Government of Nandi indicated VAMED would do an upgrade of Kapsabet and Nandi Hills Hospitals.[71] A Facebook post of the Kenyan Ministry for Health stated that VAMED had "refurbished and equipped maternity units at West Pokot, Elgeyo Marakwet and Makueni counties."[72] An archived web-page from the County Government of West Pokot announced the upgraded maternal and newborn unit at Kapenguria County Referral Hospital, "in partnership with the National Government, Austria Government and the County".[73] A picture from this post shows that the project was "funded with support of the Austrian Government (Ministry of Finance) and implemented by VAMED ENGINEERING GmbH in 2019."

The lack of disclosure on the costs to the Kenyan government of these projects or the arrangement with the Austrian government is alarming. No public disclosure of the finances or any evaluation of the outcomes has been found to date. As detailed below, county health officials that have been interviewed also have no information on the financing or costs of these VAMED projects.

Source: https://web.archive.org/web/20211017102428/http://www.westpokot.go.ke/index.php/county-launches-newly-upgraded-maternal-and-newborn-unit

A private letter from VAMED Engineering from June 2022, shared by a county health official, provides some explanation of the company's business model. VAMED's

> …innovative model enables the provision of highly attractive government-to-government financing that allows the implementation of projects on a fixed price basis and in a timely manner. Our global network of companies make things easy for us when it comes to arranging for

> exclusive financing solutions not only from Austria, but also from many other European governments such as Germany, the Netherlands, France, UK among others.[74]

After mentioning other projects in Africa, the letter goes on to state that "VAMED has been active in Kenya since 2014 and it so far has four reference projects in four counties…"[75]

UK Government Financing for VAMED

VAMED appears to have a clear business model of accessing development finance or export finance in European countries, to leverage government contracts in the Global South and explicitly sell medical equipment or services from the country providing the credit. The Austrian government has been key, but also the Czech Republic, Finland, the United Kingdom and others. The 2021 filing of **VAMED Health Projects UK Limited** provides significant insights into how – and why – this business segment operates. The key driver and motivation for the UK and other European governments appears to be finding markets for the export of medical equipment rather than supplying needed equipment and supplies. VAMED subsidiaries in various countries appear to play a key role in facilitating exports of domestically produced medical equipment.

In 2021, this UK subsidiary reported turnover of €1.85 million, down from €25.96 million in 2020, with 4 employees in 2020 and moving to zero employees in 2021. Almost all of the turnover was generated in Africa with the backing of the UK government.

VAMED Health Projects UK Limited reported:

> …an agreement with UKED, the UK's export credit agency, the Department for International Trade and VAMED Engineering to work together to increase VAMED's procurement from UK suppliers of healthcare equipment and services, as well as growing its operations in the UK. It also identifies opportunities for UK companies to secure business with VAMED projects, backed by UKEF financing in 20 countries over the next five years. The co-operation framework builds on previous collaboration between VAMED Engineering, UKEF and the Department for International Trade….
>
> Priority regions for co-operation and potential financing include sub-Saharan Africa, Latin America and Commonwealth countries. UK Export Finance will become a key partner, providing innovative finance to our overseas customers to match the unique capabilities of UK suppliers. Current potential pipeline projects agreed with UKEF amount to greater than £800 million…. This is further supported by UK government and UKEF requirement [to] … concentrate further on hospital projects post Covid 19 pandemic.[76]

Interviews with County Health Officials on VAMED Projects

Given the lack of public information and lack of transparency and accountability surrounding VAMED's projects in Kenya, a series of interviews were conducted with county health officials.[77] VAMED appears to have had multiple deals with the Kenyan Ministry of Health as

a major supplier of medical equipment and designer or refurbisher of medical facilities beginning in 2014, or earlier. However, almost no financial information on the nature or scale of the arrangement between VAMED and the Kenyan government has been found. In fact, county health officials have not been provided with information concerning the financial arrangements with VAMED or the potential impact of VAMED projects on the county's own healthcare budgets. On the most recent projects, county health officials were not consulted on what equipment was needed or what local needs might be. They were supplied with equipment – from manufacturers in donor countries – that frequently fell short of expectations.

These interviews, in late February 2024, were conducted to obtain first-hand information about VAMED projects that was not otherwise available. The participants universally said that they had no information about the financial arrangements with VAMED's projects via the Ministry of Health, who was financing the work and what the costs were. Other questions were also raised about the quality of equipment and the appropriateness of the projects, which were done with minimal input from county health officials. Equipment supplied was delivered directly to public health care facilities and did not go through any county budget process or consultation.

When county health officials were asked if they knew what equipment would be supplied in advance or if they were able to select what equipment was needed, the response was:

> *"I remember they just brought the equipment and shared what they brought rather than this is what we expect to get…"*

One county health official stated:

> *"Actually, I can confirm that no one in [my] county knows the value of the project, how much was spent, how much was put, or any of the particulars…"*

Another county health official commented that:

> *"the county is not involved at all. Even the governor's office tried to find out what the value is of this project"* but could not get any information.

On a current and ongoing hospital project, it was said that:

> *"the VAMED engineer was on site, but all they are doing is a shell, the shell building, the walls only. Everything else is coming from Finland, even the doors arrived two weeks ago…"*

There was no advanced consultation about what equipment was needed or what equipment would be delivered. A similar pattern appeared across the counties.

In one case, a project initiated in 2018 would clearly not meet the needs of the hospital when it will be completed in 2024. The COVID pandemic is a partial reason for the delay, but

plans could have been revisited if there were any genuine communication with county health officials. One county health official stated:

> *"Unfortunately, the period of time between 2018 and 2024, the hospital has grown beyond the capacity of the maternity they are building. At that point we had maybe 25-30 deliveries a month and our maternity ward was a very old small room. After we opened our theatre and now, we are doing all the CSs [C-sections] in… [the county] the capacity of the maternity had to grow. So, we got World Bank support to do a new maternity renovation. But now what VAMED are bringing in is a four-bed antenatal, four-bed post-natal. It will help us because of the equipment, but the unit is now even too small for our needs."*

When asked about the quality of the equipment provided, one county health official said:

> *"I wouldn't be an expert at making comments on updated equipment, but based on my own assessment there is some equipment that were pretty outdated considering we are in a digital era."*

A specific example was given about a back-up generator supplied by VAMED for the health facility.

> *"What they supplied initially didn't work, brought another, didn't work. We all started suspecting the equipment were not as high standard as we expected, but even currently the generator doesn't work. They kept promising they would come back and replace it. I don't know, I'm not an expert but of course I thought there is some equipment that I thought would be way better than what they supplied."*

County officials confirmed that some training on using the supplied medical equipment had been provided in Finland and that a future training in Finland was expected. However, communication between the Ministry of Health and the counties on this training was limited. There was no information communicated on the cost of the training and who was covering the costs of the training and travel from Kenya to Finland.

Finland: VAMED's New Partner in Kenya

As indicated in the interviews, Finland appears to have replaced Austria as VAMED's financing partner in Kenya and is now the source for medical equipment and all other materials being imported. While the partner changes, the primary game – to support domestic industry and exports in Europe – remains the same.

VAMED Health Projects Finland Oy in Helsinki is a direct and 100% subsidiary of VAMED Engineering GmbH in Vienna.[78] A brochure from Business Finland state that VAMED "has set up a subsidiary in Finland to fund and promote exports of Finnish health care technology

products in international hospital projects."[79] A March 2023 news article from Business Finland, headlined "Finnish Health Technology is the Golden Egg of Exports that Needs to be Nurtured", reported that the export of health technology products from Finland "has accumulated a surplus of over" €16 billion over the past 20 years.[80]

In March 2023, the Finnish Ministry of Foreign Affairs reported on approval of a project to support the renovation of maternal and child health care units in Kenya.[81] The price of the project is reported as €24.5 million, of which €16.9 million is financed by a loan arranged by Mizuho Bank Europe NV Netherlands. The Ministry is providing €7.6 million as a "gift" and agrees to pay interest on the loan at an estimated cost of €8.2 million. The total grant from Finland is estimated at €15.8 million. However, the loan also finances a "guarantee premium" of €2.4 million to be paid to Finnvera, a state-owned finance company, increasing the total value of the loan to €19.4 million.[82]

While the terms of the financing appear generous – with no interest paid by the Kenyan government over 10 years – this may still leave the Kenyan government to pay back €19.4 million for the principal of the loan. However, based on the interviews above it does not appear that the equipment supplied matches the healthcare needs of local communities. Furthermore, the counties receiving this medical equipment and other materials have no idea of the costs of the equipment or any process used to determine what equipment would be supplied and by whom.

The lack of communication may be the fault of the Ministry of Health, as much if not more than with VAMED, as communication and consultation with county health officials should have been facilitated by the Ministry.

As part of the arrangement VAMED Health Projects Finland Oy signed subcontracts with several Finish health companies[83]:

- Lojer Oy - hospital beds, tables, trollies, etc…
- Merivaara Oy - operating tables and hospital lighting
- Porkka Oy - hospital refrigerators
- Isku - hospital furniture
- Woikoski - hospital gas systems
- GE Healthcare Finland - patient monitors

In May 2022, Lojer bought the entire business of Merivaara from a private equity firm, increasing the annual turnover of the combined company to nearly €60 million.[84] Lojer and the other firms, excluding GE Healthcare, appear to be significant Finnish family-owned businesses. As mentioned above, GE was a huge beneficiary of the controversial Managed Equipment Scheme (MES) and is currently being investigated by the US government under the Foreign Corrupt Practices Act (FCPA) for bribing officials in China to win contracts to sell medical equipment. Given the problems identified with the MES in Kenya and the global history of corruption in the supply of medical equipment, there are clearly grounds to investigate potential corruption further in respect of VAMED's projects, and others, in Kenya.

The funding for the Kenya project is:

> "to be financed with investment support for developing countries (Public Sector Investment Facility, PIF). PIF is a publicly supported export credit that is used to finance projects that promote the economic or social development of developing countries, with a significant Finnish contribution. PIF financing covers the financial costs included in the project and part of the purchase price of the investment, so that the gift portion is at least 35%."[85]

Another Finnish government website shows commitments for 2023 of €15.5 million and lists the organisations involved as Finland's Ministry of Foreign Affairs and the Ministry of Finance of Kenya. It reports that the project,

> "implemented by the Kenyan Ministry of Health and VAMED Health Projects Finland Oy, will modernize the maternal and new-born units of 20 public health facilities across 12 counties in Kenya. This will include the construction and/or refurbishment of the departments, the supply and installation of medical equipment, and the provision of a wide range of training services and maintenance."[86]

While there is significant assistance from the Finnish government for this project in Kenya, it is not without cost to the Kenyan government. A Kenyan government budget estimate from October 2023, includes a budget item for the fiscal year ending June 2024 for the State Department of Medical Services for capital expenditure of 1.1 billion Kenyan shillings (€7.9 million) on "Upgrading of Maternal & New Born Units Project – VAMED-FINLAND".[87] However, the total amount is categorised as appropriation in aid, with no net impact on the budget. It is not clear how the Kenyan government contribution of up to €19.4 million will be accounted for and when.

The same project is also mentioned in the Kenyan Government's 2023/2024 Budget with the only relevant Key Performance Indicator of a target of moving the current 8 "Facility based neonatal deaths per 1000 live births" to 6 by 2025/2026.[88] The project is also listed in a presentation by the Kenyan Ministry of Health on Medium-Term Expenditure Framework for 2024/25 – 2026/27 which indicates foreign aid allocation in the budget of 1.1 billion Kenyan Shillings for 2023/24 and for 2024/25.[89] However, the estimated financing cost, also indicated as "foreign" and not the Government of Kenya, is nearly 3.2 billion Kenyan Shillings (€22.9 million). Again, there seems to be no accounting for the Kenyan government's cost of repaying up to €19.4 million in principle from the loan arranged by the Finnish government through the Dutch branch of a Japanese bank.

This expense to the Kenyan government of up to €19.4 million to purchase medical equipment and supplies from VAMED Finland, does not appear to be the best possible expenditure for improving maternal health in Kenya. Based on the interviews of county health officials, it seems clear that the Finnish government will not meet its stated goals of "better professional health services" and ensuring that women's "visits to the health units will increase considerably" given that there is no consultation about what is needed with county health officials providing those services.[90]

There are many other large expenditures in the budget estimates for medical equipment, but this is the only one with VAMED's name attached. How much has the Kenyan government spent on VAMED sponsored projects in this year and in previous years or with other multinational healthcare corporations? Could this money have been better spent by consulting with counties on what is actually needed? While some medical equipment may be useful and necessary, the priority should be making sure that public health facilities are well staffed and have the basic resources needed to meet local health needs.

Given the shortage of funding for public health in Kenya, these issues deserve a more thorough investigation.

VAMED's Austrian Governance and Track Record in the Global South

The clear problems with VAMED's projects in Kenya may be at least partially attributed to the failure of the Ministry of Health to communicate and collaborate with county health officials. However, the governance concerns over VAMED in Austria and a few examples of its track record across the Global South also are cause for significant concern. Below we briefly examine the corruption scandal in the Austrian government entities controlling its shares in VAMED and previously involved in the financing of VAMED's projects in Kenya and elsewhere around the world with no transparency on possible conflicts of interest.

This is followed by a review of VAHEED, an entity in Abu Dhabi that was formerly connected to VAMED, that also claims ownership of VAMED projects in Kenya and elsewhere in Africa. There is similar pattern in the Philippines, with an entity that also had been partially owned by VAMED but then also disappeared from VAMED and Fresenius accounts. There has not been any public disclosure of who VAMED's joint venture partners were in these companies and who controls them now. This lack of transparency on business partners raises serious concerns given the admitted use of joint venture structures by Fresenius Medical Care to bribe government officials and win contracts.

In the Philippines, it has been documented by a government inquiry that equipment supplied by VAMED never functioned to standard and was ultimately discarded but left the government paying back significant foreign loans. Finally, we briefly review major concerns about VAMED's track record of supplying medical equipment to training hospitals in Nigeria. The examples in both the Philippines and Nigeria are alarming. There are other allegations, not discussed in this report, of VAMED's poor performance and possible cases of corruption in the Global South. Given these broader concerns, VAMED's projects in Kenya, as well as the role of officials in the Ministry of Health, should be closely examined.

VAMED's Austrian Government Financing and Scandal

As described above, 13% of VAMED's shares have been directly owned by IMIB, an Austrian government investment vehicle, giving the Austrian government significant influence and

oversight of the company. A private Austrian investor owned an additional 10% of VAMED shares, resulting in total Austrian public and private ownership of 23%. The rest of the shares are held by Fresenius, which has now agreed to buy shares from the Austrian investors.

IMIB is 100% owned by ÖBAG, which controls the government's interests in many other Austrian companies. As mentioned above and discussed further below, the Austrian government, through the Ministry of Finance, has been a major financier of VAMED's work in Kenya (and other countries). While the Austrian government's financing in Kenya was public information, the Austrian government's ownership of a significant stake in VAMED, and potential conflicts of interest, does not appear to be publicly known in Kenya. No public information has been found concerning the details of financing arrangements between the Austrian government and the Kenyan government in support of VAMED's projects in Kenya.

VAMED appears to have received Austrian government-sponsored export credit finance, for its activities in Kenya and elsewhere, during the period from 2017 to 2021 when Kurz was chancellor in two coalition governments, before resigning in response to corruption charges. While there may have been additional forms of Austrian government finance, "Soft Loans" appear to have been delivered to VAMED via the "Austrian Control Bank" (OeKB), a public-private partnership.[91] The Soft Loans are delivered on behalf of the Austrian Ministry of Finance.[92] In 2022, 52% of Soft Loan disbursements were paid out in the health sector, with one company in receipt of Soft Loan finance in Kenya's health sector. In 2019, 58% of Soft Loan disbursements were paid out in the health sector, including two companies in Kenya's health sector.[93] The Austrian Ministry of Finance has been acknowledged as a funder of VAMED projects in Kenya. VAMED Engineering confirmed that its financing in Kenya was in the form of Soft Loans, which are the only export finance system delivered on behalf of the Ministry of Finance.[94]

Soft Loans are tied to supply contracts with Austrian companies.[95] At least 50% of the product or service must have an Austrian origin.[96] Soft Loans must be commercially non-viable, contribute to "sustainable development in the recipient country", and "be implemented by an Austrian exporter so that the Austrian economy also benefits…."[97] The Ministry of Finance claims that Soft Loans contribute to sustainable development and the fulfilment of development policy goals – while simultaneously "[making] it easier for Austrian export companies to access markets in these countries".[98]

An evaluation of Austrian Soft Loans conducted by the Austrian Institute of Economic Research (WIFO) in 2018 found that for every euro spent on Soft Loan projects, between 1.3 and 1.5 euros in value-added are generated in Austria.[99] "Tied aid loans are intended to act as a 'door opener' to open up new markets for the Austrian economy. The presence and perception of Austrian companies and their technology in the selected recipient countries should also create positive framework conditions for future commercially financeable projects…"[100]

Were VAMED's operations in Kenya, with Austrian government finance, focused primarily on "development" in Kenya or a financial boost for VAMED and other Austrian businesses?

How much have these projects cost the Kenyan government and how much funding has been diverted from front-line health care services?

ÖBAG, the state holding company indirectly holding the 13% stake in VAMED, is at the centre of a corruption scandal that led to the former Austrian Chancellor, Sebastian Kurz, receiving an 8-month suspended jail sentence for perjury in February 2024. The court found that Kurz lied to an Austrian parliamentary inquiry when he said he did not play an active role in selecting board members for ÖBAG while he was Chancellor. In particular, one of Kurz' close allies had been selected as head of ÖBAG. Due to the scandal, the head of ÖBAG resigned in 2021.[101]

Kurz should not have had a role in this process, which was the responsibility of the finance minister.[102] Text messages reveal that Kurz's ally, the former head of ÖBAG, wanted to "get rid of" the company's Works Council. When his friend replied that you can't just do it like that, and that we have to understand other ideologies, he wrote, "Other ideologies. Fuck that".[103] Kurz was forced from office in 2021 over accusations of corruption and bribery, and has since become a "globally operating entrepreneur, investor and consultant" in a range of controversial businesses.[104] Kurz's ties to Trump-linked venture capitalist Peter Thiel and the founder of the Israeli spyware company Pegasus have been widely reported.[105] However, Kurz's position as director of a Dutch subsidiary of a United Arab Emirates (UAE) state-owned energy firm, only months after leaving office, have received far less attention.

The groundwork for this arrangement appears to have been set up during Kurz's time as chancellor and numerous engagements with Sultan al-Jaber, the president of the recent COP28 summit.[106] The Dutch subsidiary was set up by Sultan al-Jaber in 2008 as a 'cooperative' which has minimal reporting requirements and has been able to distribute dividends from the Netherlands tax-free.[107] However, the Netherlands introduced a new law in 2024 that requires "cooperatives to pay dividend tax unless the host country levies a minimum profit tax of 9 per cent. Exactly six months earlier, the UAE first introduced a profit tax of…9 per cent."[108]

Sultan Al-Jaber controls both Mubadala, a sovereign wealth fund, and the Abu Dhabi National Oil Company (ADNOC) which have owned a quarter of Austrian energy company OMV, 31.5% owned by ÖBAG.[109] In 2021, ÖBAG's stake in OMV was valued at over €5 billion, making it the third largest investment and nearly 15% of the value of all ÖBAG investments.[110]

The scandal over appointments of Kurz' political allies to well-paid positions in ÖBAG extends to the managing director responsible for Austria's direct stake in VAMED. This person was appointed managing director of IMIB despite lacking the relevant experience specified in the position description. Before her appointment to IMIB, she worked hand in hand with Kurz' close ally at the Ministry of Finance. Text messages between these individuals and Kurz, appear to show how these positions were secured as the state holding company was reorganised.[111]

VAHEED Engineering Emirates Mystery

In addition to former Austrian chancellor Kurz's ties to Abu Dhabi, there appear to be other unexplained and unreported connections of VAMED there as well, with links back to Kenya. There is an entity in Abu Dhabi called VAHEED Engineering Emirates LLC (VEE), which is not reported in recent VAMED or Fresenius filings. However, VAHEED claims credit for projects that VAMED also claims, including in Kenya.[116] The VAHEED website makes no mention of VAMED, except stating that it was "formerly known as VAMED Emirates LLC", established in 2008.[117] A VAMED annual report from 2019 does show a 20% (joint-venture) interest in VAMED Emirates LLC, abbreviated as VEE, in Abu Dhabi.[118] However, there is no reference to VEE in VAMED's 2020 annual report.[119] VAMED does continue to list a VAMED Engineering GmbH Abu Dhabi Branch Office on its website.[120]

VEE's areas of operation match those of VAMED's and its list of Africa Projects include projects that are also claimed by VAMED in Kenya, Gabon, Ghana, Mozambique, and Cape Verde.[121]

What happened to VAMED's interest in this entity? Does VAMED have any ongoing interest in VEE? Who were the other investors in VEE and who owns the company now? Is there a current connection between VEE and VAMED projects in Kenya and elsewhere in Africa? Why would VAMED run projects in Africa and elsewhere through UAE?

VEE's Kenya project is listed as the Kabarnet Hospital. A Facebook post from a Baringo County Official in March 2016 thanks VAMED for the partnership on the Kabarnet Hospital.[122] VAMED has a brief description of the Kabarnet County Hospital on its own website that uses the exact image found on VEE's website.[123]

VEE's promoted project in Ghana is the Polyclinic in Janga. VAMED created a video in late 2018 to promote its involvement in this project.[124] VEE's website lists the University Hospital in Gabon as its project and uses the same photo as on VAMED's website listing it as a project.[125] Other projects in Mozambique and Cape Verde also appear to be claimed by both entities as completed projects.[126]

There are three VAMED entities that are listed in the United Arab Emirates, a 100% interest in VAMED Competence and Management Center Middle East Limited and a 49% interest in VAMED Middle East Healthcare Management and Consultancy Services LLC, both in Abu Dhabi, and a 12% interest in RIHH OpCo Holdings (DIFC) Ltd in Dubai.[127] While VAMED

continues to have significant operations in the Middle East, do these entities have an ongoing connection to VAMED's business in Africa or elsewhere around the world?

VAMED Mystery and Medical Waste in the Philippines

There is a similar mystery of a disappearing interest in a VAMED entity in the Philippines with another undisclosed joint venture partner, as well a troubling track record of VAMED contracts with the Philippine government.

From 2010 to 2021 VAMED published annual reports on its website.[128] Until 2020, a Philippine subsidiary – the Philippine Hospital Project Development Corporation – in which VAMED had a 40% capital interest is mentioned.[129] As with the Abu Dhabi entity above – but one year later – this entity disappears in VAMED's 2021 Annual Report.

What happened and why is there no disclosure if VAMED's interests were divested?

This company is not listed with the regulator, the Philippine Securities and Exchange Commission, however a "VAMED Eng. Manila Representative Office" has been listed since obtaining a foreign company licence in 1997. Another VAMED subsidiary, VAMED Engineering GmbH, lodged an application to do business in the Philippines in 2019. While neither of these companies are listed in VAMED's annual reports, it seems possible that the former entity is used to operate the Philippine Hospital Project Development Corporation. VAMED still reports a VAMED Engineering GmbH Branch Office in Manila on its website.[130]

The website for the Philippine Hospital Project Development Corporation – www.vamedphd.com – (which was functional until November 2023) labelled the company a "subsidiary of VAMED Engineering of Austria" that was established in 1998.[131] It goes on to describe how the Philippine Hospital Project Development Corporation (PHD for short):

> "…executed the first Austrian Government-funded project in the health care sector for the Department of Health (DOH). Its initial undertaking involved the setting up of solid healthcare waste management facilities in 36 government hospitals in the country. In addition, medical equipment in critical areas was also upgraded in 7 hospitals.
>
> The initial project was followed by successive Austrian-funded undertakings for the upgrading of public health care facilities under the Austria-Philippines Industrial Cooperation in the Health Sector.
>
> …The four projects under the DOH amounting to more than US$ 65.0 million were the result of bilateral discussions under the health cooperation agreement.
>
> …As competence in these areas was enhanced, the company was eventually tapped by VAMED to support the implementation of projects overseas, particularly in Malaysia, Vietnam, Nigeria, and Ghana."[132]

The pattern of Austrian government financing for healthcare projects through VAMED, in which it is a significant shareholder, is repeated in Kenya and elsewhere. While subsequent VAMED projects in the Philippines may have had greater success, the initial project was an unmitigated disaster.

In November 1996 the Philippine Government entered into a supply contract with VAMED Engineering to supply and install disinfection units, medical equipment and twenty-six medical waste incinerators.[133] In March 1997 it was agreed that the project would be financed by Bank Austria AG, and repaid over 24 consecutive semi-annual payments, from 2002 to 2014.[134] VAMED had been an Austrian government entity until July 1996 at which time 77% was sold to Fresenius and a 10% stake to Bank Austria AG.[135] The Austrian government maintained a 13% interest in VAMED.

More than half of the total price of the 1996 contract was related to the purchase, installation and maintenance of medical waste incinerators by VAMED.[136] The incinerators that were installed were manufactured by Liechtenstein-based Hoval using a design developed in the 1950s.[137] The incinerators were exempted from environmental impact assessments, based on the assumption that installation would not involve much site development and VAMED guaranteed emissions values for the incinerators.[138]

During a 1998 training session an installed incinerator failed (incoming) Clean Air Act standards for sulphur dioxide emissions and exceeded the upper limit of carbon monoxide emissions guaranteed by VAMED. These amounts exceeded European regulatory limits, suggesting that the incinerators would have been prohibited in Austria or elsewhere in Europe.[139] Testing at another VAMED installed medical waste incinerator also exceeded Clean Air Act standards for sulphur dioxide, even though the incinerator was not operating at full capacity.[140]

The Clean Air Act entered into force in 1999, making all medical waste incinerators illegal beyond 2003. The DOH sought to exempt the incinerators from this ban and commissioned a private firm to undertake emissions testing. New testing showed that on four parameters the incinerators well exceeded the incoming standards. One incinerator had emissions 9 times the limit for particulates, twelve times the limit for hydrogen chloride, double the limit for lead and an astounding 870 times the standards for dioxins and furans.[141] In 2006-07, researchers from the EcoWaste coalition visited 18 of the 26 hospitals and found that all the incinerators had been decommissioned.[142] Due to intense pollution, some incinerators were shut down prior to the Govt phase-out period.[143]

The Philippine Government continued to comply with the terms of the loan agreement – in line with its policy to service all foreign debt to safeguard its international credit rating – despite the clear failure of the incinerators to operate safely.[144] Given the shareholdings of both the Austrian Government and Bank Austria AG, and separate financing via the Austrian Government, there are legitimate questions around whether these parties were aware – or should have been aware – that the incinerators being supplied by VAMED may not have passed European air quality emission standards. In a written response, VAMED Engineering strongly denied these allegations and said the equipment VAMED supplied "complied with

national and international technical standards at the time. …A later change in the law, which prohibited the use of waste incinerators in the Philippines from 2002, was neither under discussion nor foreseeable at the time of the project phase."[145]

While the Philippine government is left holding the debt on medical waste incinerators supplied by VAMED, that should have never been sold, there is less government funding to provide essential public health services in the Philippines.

The lack of transparency on VAMED's operations in the Philippines and the selling of poor outdated medical equipment raise broader questions about VAMED's operations across the Global South.

Does VAMED dump equipment in the Global South that can no longer be sold in European markets? In its global project business, is VAMED's business model to aid the export of European medical equipment rather than to improve health care outcomes? Who are VAMED's joint venture partners and why is there no disclosure on key financial relationships?

The VAMED Experience in Nigeria

In November 2002 a VAMED subsidiary was awarded a N17 billion (US$22 million) contract to rehabilitate and modernise eight teaching hospitals across Nigeria. A second phase N12 billion contract upgrade was awarded in September 2006 to rehabilitate another six teaching hospitals.[146] The facilities had become extremely run down, and some had lost their former status as World Health Organisation centres of excellence for tropical medicine. According to VAMED's 2010 annual report they had a 60 percent shareholding in "VAMED Engineering Nigeria Ltd",[147] however by the time of the publication of the 2011 report (once the contract work had been completed), this shareholding had fallen to 15 percent.[148] Once again, VAMED's joint venture partners have not been reported.

The teaching hospital contracts were surrounded in controversy due to an alleged relationship between the daughter of Nigerian President Olusegun Obasanjo at the time the contract was awarded and the Chairman of VAMED's Nigerian subsidiary.[149] The Senate Committee on Health had agreed to investigate the deal, however in November 2008 the Committee on Health noted that it had decided not to proceed with the investigation.[150]

In July 2011, the Federal Government took delivery of N1.5 billion worth of equipment, including diagnostic and therapeutic equipment, and emergency response equipment. At the time, the Permanent Secretary of the Federal Ministry of Health Linus Awute told the *NigerianEye* news outlet that "This will gradually bridge the gap between us and the rest of the advanced countries… We believe that the provision of modern tools, equipment and trained hands will inevitably trigger commitment. It will also encourage staff to give their best in the interest of patients who access care."[151]

However, concerns about the quality of material provided mounted. In December 2015, *The Guardian* reported that the equipment received by the Lagos University Teaching Hospital from VAMED eight years prior had stopped working and that the biomedical engineers

VAMED had trained to repair the machines were insufficient.[152] Only two of the seven linear accelerators provided by VAMED to the Nigerian government were still operational.

In 2017 the House of Representatives' Committee on Health uncovered abandoned medical equipment worth billions of naira at the University of Calabar Teaching Hospital and at 13 other federal health institutions across the country. The Committee did not name the hospitals, however "The Guardian gathered that the equipment might not be unconnected to a VAMED Engineering Nigeria Ltd contract that brought equipment to some health institutions years ago."[153] A medical doctor at the University of Calabar Teaching Hospital who pleaded anonymity was quoted saying, "I am very sure this must have been one of those bogus contracts in past regimes. The contractors were to procure and install the equipment but they just dumped everything here and disappeared for over seven years, and nobody asked any question."[154]

A 2020 study in a Nigerian peer-reviewed health journal, based on a structured questionnaire completed by the heads of anesthesia departments, assessed the quality of 10 items of frequently-used equipment provided by VAMED and the Federal Government of Nigeria under the 2002 contract and its subsequent 2006 upgrade.[155] It found that faulty equipment was being used in all of the hospitals, and 54.6% of the installed equipment were spoilt and no longer in use. Functional status varied across different equipment: 90% of arterial blood gas analysers were spoilt, 80% of central patient monitors, and 75% of infusion pumps; some other equipment was faulty but still in use, for example 70.5% of anaesthetic machines, 39% of ICU patient monitors, and 34.7% of ICU ventilators.

Ninety-one percent of the VAMED-supported teaching hospitals were practicing sub-optimal preventive maintenance on the provided equipment. The questionnaire asked about the reasons for suboptimal functionality, with 42.6% attributed to unavailability of equipment parts, 28.6% to non-functional equipment parts, and 21.4% because equipment was or had become obsolete. The authors noted that the five-year maintenance contract was too short a period and that more training was required. The study's authors stated that "many hospitals in developing countries have become medical equipment graveyards".[156]

There is a reference to the medical equipment upgrade for the Ministry of Health at 14 University Teaching Hospitals from 2003 to 2012 on VAMED's website, but VAMED no longer reports an office or any subsidiary in Nigeria.[157] In response to these allegations, VAMED Engineering stated that "each equipment has certain warranty period during which the manufacturer / supplier is obliged to replace the equipment in case of production defect. VAMED Engineering has no record of such claims being made in Nigeria."[158]

A search conducted on the Nigerian Corporate Affairs Commission connects VAHEED and VAMED together. Both VAMED Engineering Nigeria Ltd and VAHEED Engineering Nigeria Ltd are listed as inactive at the same Abuja address, the same company number, the same person having 'significant control', and were registered on the same day in 2001.[159] A LinkedIn profile for the person listed as having 'significant control' reports her role as an accountant for "VAHEED Engineering Emirates LLC formerly VAMED Emirates LLC" from December 2016 through February 2024.[160]

Was VAHEED created in the UAE, a tax haven and secrecy jurisdiction, to hide the identity of VAMED's joint venture partners in Nigeria?

The priority of VAMED and other corporations, along with bilateral and multilateral 'development' agencies, appears to be on the sale and export of medical equipment, rather than meeting the health care needs of local communities. Under these circumstances it is no surprise that in Nigeria and elsewhere in the Global South hospitals and healthcare facilities turn into "medical equipment graveyards". If VAMED and other medical equipment producers and suppliers can no longer sell outdated equipment in the Global North, it appears the "development" institutions will facilitate the equipment being dumped in the Global South at inflated prices.

Conclusions & Recommendations

This report is a preliminary analysis focussed on the Kenyan government contracts with one multinational corporation, Fresenius VAMED, facilitated by bilateral 'development' and export credit agencies along with international banks. The findings of this report strongly suggest that a deeper examination of the Kenyan government's spending on health care, particularly in relation to procurement from multinational corporations, is urgently required. Healthcare spending should be re-adjusted to ensure that the staffing and training needs of the public sector healthcare workforce are fully met. Spending on the direct provision of public health care services is the best way to improve quality and access to health care for all Kenyans and meet the government's stated plans and domestic and international obligations.

Additionally, health care spending requires far greater levels of transparency and accountability as well as increased coordination between the Ministry of Health and county health departments and consultation with front-line health care workers and their unions.

Once these fundamental, long over-due and much needed changes are in place, current spending in healthcare should be re-directed to where it is needed the most and can have the greatest impact. Once current spending is more efficiently allocated, assessments should be made about how Kenyan government spending on healthcare can be further increased.

As outlined in the Kenyan Constitution, the county health budgets and the national health budget process should genuinely engage all stakeholders, including the unions representing the healthcare workforce, to achieve the best outcomes to improve public health care. Transparency and accountability in health spending at all levels must be at the core of planning, budgeting and implementation to control corruption and restore public faith in the most significant and wide-reaching area of government spending.

On an international basis, multilateral and bilateral development organisations must re-evaluate the current focus on the role of the private sector in improving public health in the Global South. Development agencies must genuinely consider if their priorities are boosting

exports or improving the quality and access to healthcare for all. Development agencies must also take a critical look at whether current approaches serve to deepen rather than lessen the potential for corruption.

The health care workers in Kenya should use their collective expertise to form and train multidisciplinary county and national teams to spearhead health departmental budget priority areas that will have higher impact and outcome. The unions in the health sector have a caucus that can be utilized to enhance participation of professionals in deciding how budgets are prioritized and escalate concerns raised by both patients and professionals in public health care facilities across the country to the national teams for monitoring and enforcement.

The government should disclose details of all financial dealings in the health sector to increase transparency and accountability on spending, when multinational corporations are involved in leasing or selling of medical equipment or financing of a medical project. The unions should use the powers to access information stipulated in Article 35 of the Kenyan Constitution[154] and the office of Ombudsman (The Commission on Administrative Justice)[155] to compel state agencies and departments to release information needed to understand where the public money is being spent. This could also determine whether the contracts being entered into are legally binding to the state or if individuals who make careless engagements can be held personally liable for committing the state outside of the framework in Kenyan law.

County staff and relevant personnel in the national government should be allowed to lead on procurement of needed equipment and supplies following the procedures established in Kenyan law. This would help to put the strong language in the Constitution on participation in the county budget process, currently not being followed, into practice. Irregular and deliberate flaws in adhering to the legally established tendering process should be punished by law. The obligations made in secrecy without following standards set should not be honoured by the state but by the individuals who took the responsibility.

Finally, Fresenius and the Austrian government should have a thorough examination of past and current practices of VAMED and explore possible remedies for past practices that have taken limited funding away for front-line health care services. European governments, including but not limited to the UK and Finland governments, that have partnered with VAMED in the Global South also need to take a critical look at whether these efforts are meeting stated development goals, or merely subsidising domestic exports. All debts due for "development" projects that have not achieved stated objectives or clearly improved public health systems must be written off.

If Kenya is to meet its goals of universal health coverage and recover from its current debt foreign debt crisis, debt relief on loans and purchases that served multinational financial interests over local community needs must be written off immediately. Multilateral and bilateral donors must change current practices to increase – rather than reduce – transparency and accountability and improve the effectiveness of public health care spending in Kenya.

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