



Legal  
Assistance  
for Economic  
Reform

## Somaliland Case Study: Adopting a PDIA approach in FCAS – Enhancing donor programming in Somaliland

DFID Legal Assistance for Economic Reform Programme

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**Abstract:** *This case study describes the ‘politically smart’ approach adopted by LASER in identifying problems, entry points and embedding a resident adviser in the Government in Somaliland. It explains how the programme is now positioned to cushion against turbulence in a complex fragile environment. It explains the nature of support provided on key electricity and trade issues and how the programme has contributed to enhancing the effectiveness of large scale, donor (DFID, TMEA, IFC) interventions. It comprises one of a suite of LASER products and illustrates phases one to five of LASER’s seven-phase hourglass methodology for undertaking institutional reform.*



The **Legal Assistance for Economic Reform (LASER) programme** is an institutional reform programme that supports developing countries to strengthen their investment climates. It is a £4.3 million DFID-funded initiative (2014-17) implemented by The Law & Development Partnership (LDP) and KPMG. LASER has three broad components:

- (1) Working with developing countries to support new approaches to investment climate reform/commercial law and justice that deliver results;
- (2) Supporting the appropriate targeting of legal technical assistance; and
- (3) Learning and disseminating lessons about good practice in investment climate programming.

LASER works in two main ways:

- Directly with developing country governments (including Ministries of Justice, Commerce, Trade and the Judiciary) on investment climate/commercial law and justice problems - in a demand driven, politically informed and highly flexible way; and
- With donors on the design of large-scale investment climate/institutional reform programming which incorporate flexible, adaptive approaches.

Current countries of operation are: Bangladesh, Kenya, Burma, Uganda, Rwanda, Sierra Leone, Somaliland and Tanzania.

This case study is part of a suite of LASER products which address latest thinking on approaches to institutional reform (including *doing development differently*, *thinking and working politically* and *problem driven iterative adaptation*), which can be accessed via the LASER website [laserdev.org/resources](http://laserdev.org/resources). The case study assumes some familiarity with thinking on doing development differently, problem driven iterative adaptation (PDIA), and systems approaches. For more background on these approaches see LASER's synthesis papers at [laserdev.org/resources](http://laserdev.org/resources).

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## Context

1. This case study explores how LASER has applied a politically smart approach to embark upon a programme of support in Somaliland and embedding a resident adviser in the Ministry of Foreign Affairs & International Cooperation (MOFAIC) 2015-2016. While there is no 'one size fits all' formula for taking such an approach, there are a series of guiding problem driven iterative adaptation (PDIA) principles to direct practitioners<sup>1</sup>. LASER has curated these principles into a seven-phase hour glass methodology<sup>2</sup> for doing development differently and taking institutional reform to scale. These seven phases are (overleaf):

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<sup>1</sup> Matt Andrews et al (2015). Building capability by delivering results: Putting PDIA principles into practice. In A Governance Practitioner's Notebook: Alternative Ideas and Approaches (2015) OECD

<sup>2</sup> LASER's second synthesis paper 'Doing Development Differently – Delivering institutional reform at scale' (Oct 2015) and LASER's Guidance Note 'Politically smart approaches to donor investment climate programming' (2015)

- Phase one: Identify the issues (service delivery problems or deficiencies with the existing programme)
  - Phase two: Do some analysis around sector-specific issues, but not too much
  - Phase three: Find an entry point - a problem that a relevant organisation cares about
  - Phase four: Growing the engagement organically
  - Phase five: Consider the scope for donor programming, but think outside the box about the shape of the programme
  - Phase six: Donor programme crystallises
  - Phase seven: Implement the programme, but maintain maximum flexibility
2. This case study illustrates phases one to phase five above which focus on identifying problems, carrying out initial analysis, determining entry points, and growing engagements organically. Given the exiting Somaliland context, rather than focus on taking donor programmes to scale (phase six and phase seven), the programme aims to leverage existing large scale programmes.

#### **Phase one: Identify the issues**

3. Engagement in Somaliland, a non-recognised fragile state with a highly complex political environment, presented an opportunity to demonstrate the value of adopting a politically smart approach to identifying problems and determining entry points. During initial LASER programme design all DFID priority countries were considered for potential LASER engagement. Discussions were held with the World Bank Somalia team and DFID Somalia private sector representative based in Nairobi, from which it was clear that there was strong interest in LASER's offer of support, and with already planned World Bank/DFID large scale programmes, strong potential to collaborate on leveraging emerging work streams.

#### **Phase two: Do some analysis around sector-specific issues, but not too much**

4. In October 2014, LASER undertook a scoping mission to Hargeisa to further explore opportunities for a possible intervention. Many of the contacts for the scoping mission were obtained through investigative discussions on the ground as leads were identified and followed up. Meeting a wide array of stakeholders from civil society, the private sector and government and discussing a range of issues (energy, health, and justice) allowed for responsiveness to where demand for LASER intervention was strongest, and where problems and feasible entry points might be identified (see box 1 on next page). Through this process it was also possible to start to explore potential champions and coalitions for reform – which are critical to successful reform but often outside the 'technical' approach of many other programmes. The scoping report identified 13 potential options for intervention ranked against a number of criteria, such as clarity of the problem, feasibility of the solution, and potential for transformative change. These options were illustrated in a traffic-light matrix (see template subsequently developed and included as an Annex to LASER's Guidance Note 'Politically smart approaches to donor investment climate programming' (2015).

**Box 1: A politically 'smart' approach**

LASER draws on David Booth and Sue Unsworth's use of 'politically smart' development<sup>3</sup>, which involves both 'political knowledge' (being politically informed) and 'political skills' (being politically astute). To enhance the team's 'political knowledge', right from the outset LASER hired a local trusted consultant based in Hargeisa (with whom the LASER country engagement director had worked before) along with an international expert on Somaliland political economy issues. The team regularly discussed potential political economy issues before, during and after the scoping mission. For example, at the scoping stage, LASER demonstrated political knowledge (and astuteness) by intentionally not meeting with too many ministers so as to not raise expectations, a pitfall which hadn't been avoided by other development partners in the past. Choosing how to engage ministers and ministries was key, and they were predominately approached via introductions through their close advisers, rather than via email. Ensuring the team had the 'politically skills' foremost relied upon selecting the right people, with not only the necessary technical skills, but also the right soft skills, and political antennae<sup>4</sup>. As well as being legally qualified technical experts, both the LASER country engagement director and resident adviser had prior extensive experience working in Somaliland with the latter having worked within the Government in Somaliland as well as having a working knowledge of Somali. The other team members – the local consultant and international expert on Somaliland politics – also had a strong understanding of the political environment, which proved crucial in enabling LASER to take an approach which built coalitions around feasible work streams. Whilst a politically smart approach is not a panacea to solving complex investment climate problems, it does offer insights into what can be politically feasible, and how donor programming is most likely to support real reform<sup>5</sup>.

**Phase three: Find an entry point – a problem that a relevant organisation cares about**

5. Embedding a long-term adviser, rather than solely providing short-term technical assistance, was deemed to be necessary given the highly complex, political and dynamic environment on the ground. Based on the feasible options set out in the scoping report further consultations allowed for specific ministries to be considered further. Given the extremely cross-cutting nature of the identified work streams (trade, electricity and investment) embedding an adviser in the Ministry of Foreign Affairs & International Cooperation (MOFAIC) or the Ministry of Presidential Affairs was desirable. Either of these would enable the programme greater access to the respective decision-makers and so enable the programme to operate with more ease at both the strategic as well as technical level. MOFAIC's position as the entry point for all foreign investment in Somaliland and its key role in trade agreements with Ethiopia had allowed the then-Minister of Foreign Affairs, Mr Mohamed Behi Yonis, to transform the Ministry from a somewhat marginal role to a more central position of influence. The Minister of Foreign Affairs expressed to LASER strong interest in addressing problems in the area of trade and investment in particular and requested LASER support and accordingly the programme moved forward accordingly.

**Phase four: Growing the engagement organically**

6. Since identifying entry points and embarking upon the work, LASER's programme has evolved in a number of ways. Regularly reviewing – including revising – the LASER Somaliland nested log frame in consultation with DFID has enabled levels of ambition to be retained while responding to changing demand and taking advantage of traction on the ground. Trade has become a

<sup>3</sup> D. Booth and S. Unsworth (2014) 'Politically smart, locally led development'. ODI discussion paper. London: ODI.

<sup>4</sup> LASER's Guidance Note 'Politically smart approaches to donor investment climate programming' (2015)

<sup>5</sup> LASER's Guidance Note 'Politically smart approaches to donor investment climate programming' (2015)

particular area of focus given increasing prominence of Somaliland-Ethiopia trade negotiations, with LASER working closely with the DFID funded Trade and Advocacy Fund (TAF) to roll out trainings and development of a trade policy.

7. As a result of the politically smart approach adopted by LASER, it has positioned itself well to cushion against changing political dynamics. For example, in November 2015, the Minister of MOFAIC resigned from his post and was replaced by the then-Minister of Planning & International Development. Although LASER had benefited from the Minister of MOFAIC being a key champion, the programme operates across-government with coalitions built from different ministries and so has been able to manage the change effectively. LASER has also effectively navigated the complex political economy around responsibility for electricity regulation (see box 2 below). The flexible nature of LASER means that it is able to respond to emerging priorities and continue to support the reforms that are set within a complex political environment.

**Box 2: LASER’s approach to supporting electricity regulation**

The electricity sector in Somaliland is unregulated, highly fragmented and has suffered from years of under-investment in a large part due to the lack of a regulatory framework. Large inefficiencies mean that the cost of electricity is approximately US\$1 per kilowatt which is one of the highest rates in the world. In recent years, there have been unclear mandates on which ministry is responsible for electricity regulation, with both the Ministry of Public Works and Ministry of Energy claiming responsibility. While ministerial mandates were being reviewed by Government, LASER supported MOFAIC to prepare a research paper on challenges in the electricity sector along with an action plan. The Government has since selected the Ministry of Energy as the lead ministry, and so LASER is feeding those findings into their work in facilitating national Public Private Dialogues (PPD) on energy more broadly. As the resident adviser is situated within MOFAIC, which hasn’t contested leadership for electricity regulation, it has been easier for LASER to continue to offer its support to the Ministry of Energy. Furthermore, LASER has also been able to facilitate pro bono legal advice from a UK based international law firm on the development of Somaliland’s electricity sector so that the Ministry of Energy is now well equipped to move the issue of electricity regulation forward.

8. LASER is mindful of its exit strategy and the risks of capacity substitution or over-reliance by the Government on the resident adviser. Drawing and building on lessons learned from other flexible and adaptive programmes<sup>6</sup>, these risks have been mitigated in a number of ways. First, by acknowledging (within the programme) that there is a degree of capacity substitution caused by embedding a resident adviser but that that is very specifically related to a process of change management. Traditionally change management is lacking when bringing about institutional reform but is a role where an outsider can legitimately add value. A key aspect of LASER’s approach is that the resident adviser does not lead/own any initiatives, but rather has a supporting/facilitating role. LASER’s institutional positioning – within MOFAIC (rather than lead line ministries such as the Ministry of Trade & Investment and Ministry of Energy) enables this role, as does its use of existing mechanisms, such as the national PPD process. Finally, in addition to the above, there is also direct training of officials as part of the work streams, for example, through supporting training sessions for the Government trade committee.

<sup>6</sup> Including Nigeria State Accountability and Voice Initiative (SAVI), the Budget Strengthening Initiative (BSI) and Nigeria Facility for Oil Sector Transparency and Reform (FOSTER).

**Phase five: Consider the scope for donor programming, but think outside the box**

9. With respect to the hour glass methodology, given recently designed (large scale) donor programmes in Somaliland, LASER aims to primarily leverage those programmes, rather than scope out new design. Though as and when opportunities arise for LASER to support direct design of large scale programmes, LASER would provide the technical and contextual support required in a way so as to maintain maximum programme flexibility<sup>7</sup>. A few examples of currently leveraged donor programmes in LASER’s first year of operations in Somaliland include the following:
- TradeMark East Africa (TMEA) – LASER has shared lessons learned on trade policy challenges, set out in LASER’s paper ‘Somaliland Trade Policy Challenges and Priorities for Negotiation’ (2015), with TMEA senior management. LASER has contributed to bringing TMEA and Government officials together to discuss a potential TMEA offering of support for development of the Berbera Corridor.
  - DFID – The LASER resident adviser has collaborated with the large scale DFID funded Energy Security and Resource Efficiency (ESRES) programme supporting their initial design phase and plans for detailed design and implementation in the area of renewable energy.
  - IFC – LASER has worked with the public and private sectors to develop a research paper and electricity sector politically informed action plan. Key issues identified were included in the agenda of a national energy sector PPD process supported by the IFC.

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<sup>7</sup> See LASER’s second synthesis paper ‘Doing Development Differently – Delivering institutional reform at scale’ (Oct 2015)