

# LASER

Legal  
Assistance  
for Economic  
Reform

Politically smart approaches to donor  
investment climate programming

## *A Guidance Note*

DFID Legal Assistance for Economic Reform Programme

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**The Legal Assistance for Economic Reform (LASER) programme** is a £4.3 million DFID-funded initiative (2014-17) implemented by The Law & Development Partnership (LDP) and KPMG that supports developing countries to strengthen their investment climates. LASER works with developing countries, including fragile and conflicted affected states (FCAS), on investment climate and institutional reforms including offering assistance to support the design and implementation of effective donor programming and leverage legal technical assistance, including pro-bono expertise. LASER shares lessons learned about what works and does not work, and partners directly with:

- Developing country governments (including Ministries of Justice, Commerce, Trade and the Judiciary) – in a demand driven, politically informed and highly flexible way; and
- Donors (such as DFID and the World Bank Group) on the design of large-scale investment climate/institutional reform programming which incorporate flexible, adaptive approaches.

LASER focus countries are Bangladesh, Kenya, Myanmar, Uganda, Rwanda, Sierra Leone, Somaliland and Tanzania.

This guidance note is part of a suite of LASER products which develops latest thinking on approaches to investment climate and institutional reform (including *doing development differently*, *thinking and working politically* and *problem driven iterative adaptation*), which can be accessed via the LASER website: [www.laserdev.org/resources](http://www.laserdev.org/resources). This note assumes some familiarity with those approaches (see LASER synthesis papers, which discuss the approaches in detail) and draws on a wide-ranging literature review (see Annex A); on experiences under the LASER programme; on discussions with implementers of other like-minded programmes<sup>1</sup>; on a recent review undertaken by LDP of DFID and other donor justice programming<sup>2</sup>; and more generally on LDP’s fifteen years’ experience of working on investment climate issues on the ground.

This LASER product has been written by Clare Manuel with support and inputs from Laura MacLean, Ian Mills, Deborah Mansfield, Naina Patel, Sarah Callaghan, Richard Hooper, Nima Elmi and Erika Kirwen.

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<sup>1</sup> Including Nigeria State Accountability and Voice Initiative (SAVI), the Budget Strengthening Initiative (BSI) and Nigeria Facility for Oil Sector Transparency and Reform (FOSTER).

<sup>2</sup> The Law & Development Partnership (2015) The Application of Problem Driven Iterative Adaptation approaches to DFID S&J assistance. London: LDP.

## Context

1. This guidance note is intended for the international development community, in particular donors and development practitioners engaged in designing and implementing investment climate programmes. It provides practical guidance on politically smart approaches to donor investment climate programming, including tools and examples (see Annexes in separate document). It draws on a range of literature (see Annex A) though specifically on David Booth and Sue Unsworth's use of the term 'politically smart' development<sup>3</sup>, which involves both political knowledge (being 'politically informed') and skills (being 'politically astute').
2. This guidance note sets out why politically smart approaches are important for investment climate programming. It argues that as investment climate reform is inherently political, seeking to engage with it as a purely technical issue, divorced from its political context, fails to deliver 'real' reform. Whilst a politically smart approach is not a panacea to solving complex investment climate problems, it does offer insights into what might be politically feasible, and how donor programming is most likely to support real reform.
3. This guidance note follows a programme cycle through scoping and design to implementation, explaining how politically informed and astute approaches can be applied each step of the way. Annexes provide further tools, examples and guidance:
  - Annex A: Literature on politically informed and politically astute approaches
  - Annex B: Anonymised examples of initial analysis to inform politically aware thinking
  - Annex C: Traffic light matrix: initial, high level analysis on specific investment climate issues
  - Annex D: Problem diary template and examples
  - Annex E: Example outline theory of change for flexible, adaptive large-scale programme to support investment climate reform

Note: Some of the examples and tools provided have been anonymised, with countries or precise situations not specified. This is because LASER continues to work on investment climate issues with our partner countries, with whom we are keen to maintain relationships of trust.

## Who this guidance is for

4. **This guidance note is for donors and development practitioners involved in designing and implementing investment climate programmes** – through supporting the development of new laws, regulations or administrative procedures, for example, or through more general organisational strengthening and capacity development. The ultimate beneficiaries are the population of the country, enabling them all to benefit from the economic growth that investment can bring. Though the entry point for engagement is with the developing country ministries, departments and agencies (or in some cases non state actors<sup>4</sup>) who administer 'the rules of the game' for private sector operations.

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

<sup>4</sup> For example non-state methods of commercial dispute resolution.

## Why a politically smart approach matters

5. **Investment climate reform is inherently political.** This is the case at a number of levels: it can involve legislative change (a political process); changing the general ‘rules of the game’ (both formal and informal) and operations of institutions where there are vested interests and winners and losers; and at its heart it involves the interface between business and the state where there may be complex relationships based on money and power, including in relation to political funding<sup>5</sup>. Economic development<sup>6</sup> is fundamentally a political process that poses a challenge to vested interests<sup>7</sup>; inequality in political and economic power are closely related.
6. **Seeking to engage with investment climate reform, as a purely technical issue divorced from its political context, fails to deliver ‘real’ reform.** Change that makes a difference on the ground, is ‘owned’ by those implementing it and so is sustained beyond the life of the donor intervention. The evidence base suggests that domestic political factors are often much more important in determining developmental impact than the design, scale or technical quality of aid programming<sup>8</sup>. Many investment climate practitioners are familiar with donor funded ‘best practice’ laws that are on the statute books but not implemented; government agencies which have been strengthened and reformed with donor assistance, but continue to deliver an unsatisfactory service<sup>9</sup>; and persistent, intractable binding constraints<sup>10</sup> to growth where the business and/or political elite have a vested interest in maintaining the status quo.
7. **This guidance note is provided in light of latest thinking about donor support to institutional reform in developing countries.** LASER’s approach comprises the following key features:
  - Problem focused: locally identified and defined problems provide the entry point;
  - Small bets: solutions are developed iteratively and first tested through ‘small bets’, which can be adapted and then scaled (or abandoned if unsuccessful);
  - Context specific: solutions are not locked in but based on on-going political and contextual analysis of ‘best fit’, ensuring that they are feasible and realistic for the local context;
  - Locally led: reforms are locally led and development partners/practitioners work as facilitators, not drivers of reforms;
  - Learning and adapting: requires ongoing data collection and analysis in order to adapt;

<sup>5</sup> For further explanation of why political economy matters to investment climate reform see P. Davis (2011) The Political Economy of Business Environment Reform: An introduction for practitioners. DCED; Donor Committee for Enterprise Development (2008) Supporting Business Environment Reforms: Practical guidance for development agencies. DCED.

<sup>6</sup> The relationship between investment climate reform and economic growth is explored in C. Manuel (2015) Is there a causal link between investment climate and growth? A review of the Evidence. London: LDP Available at: <http://laserdev.org/media/1140/is-there-a-causal-link-between-ic-reform-and-growth-june-2015.pdf>

<sup>7</sup> Nicholas Waddell (October 14 2015) ‘Why those promoting growth need to take politics seriously, and vice versa’. From Poverty to Power. Available at <http://oxfamblogs.org/fp2p/why-those-promoting-growth-need-to-take-politics-seriously-and-vice-versa/> See also: further suggested resources on political economy and economic development in Annex A.

<sup>8</sup> S. Akmeemana et al (2015) The case for thinking and working politically: The implications of ‘doing development differently’. See also: Carothers and de Gramont (2013) The Almost Revolution: Development aid confronts politics; Fritz, Levy and Ort (2014) Problem-driven political-economy analysis: The World Bank’s experience; Faustino et al (2011) Built on Dreams, Grounded in Reality: Economic Policy Reform in the Philippines; Wild et al (2015) Adapting Development: Improving services to the poor.

<sup>9</sup> For summary, see - C. Manuel (2015) Investment climate reform, doing it differently: What, why and how. London: LDP. M. Andrews et al (2012) ‘Escaping Capability Traps through Problem-Driven Iterative adaption’. London. Center for Global Development. Working Paper 299 June 2012; L. Pritchett et al (2012) ‘Looking Like a State: Techniques of Persistent Failure in State Capability for Intervention’. UNU WIDER. WIDER Working Paper 2012/63, July.

<sup>10</sup> R. Hausmann, D. Rodrik, and A. Velasco (2004) Growth Diagnostics. Cambridge: Harvard University.

- **Flexibility:** requires donors to be flexible with log frames and work plans, and use procurement processes that allow for funds not to be linked to pre-defined outputs

More detail on these approaches can be found in LASER's synthesis papers<sup>11</sup>.

8. **A politically smart approach is not a panacea for solving complex investment climate problems,** but it does offer insights into what might be politically feasible, and how donor programming is most likely to support real reform. A politically smart approach may result in the same outputs as a traditional technically-led approach to programming (for example, new laws or reformed procedures). What should be different is (a) the choice of issues to engage with (those that are politically, as well as technically feasible); and (b) the improved likelihood that the reform will 'stick' because it is 'owned' by local actors.
9. **Donor support needs to be politically smart i.e. both 'politically informed' and 'politically astute'.** Much has been written about development and politics<sup>12</sup>; formal political economy analysis<sup>13</sup>; and the need to 'think and work politically'<sup>14</sup>. Much of the debate has revolved around how to integrate economic and political analysis. Useful references and guidance on these issues are listed in Annex A. LASER has drawn on David Booth and Sue Unsworth's helpful explanation of what they call 'politically smart' development<sup>15</sup> which involves:
  - **Knowledge (being politically informed):** this includes a sense of history (awareness of what has happened previously in a particular country and in the world); some in-depth understanding of country and sector-context, including embedded structures, local informal structures, relationships and actors. Understanding the political landscape requires a thorough understanding of the structure of the economy i.e. what are the current economic trends? Where are the likely sources of future growth? Donors and their (implementing) partners need to be armed with the best knowledge they can muster about local political economy dynamics (and this needs to be constantly renewed, not limited to undertaking formal analysis as a one-off exercise); and
  - **Skills (being politically astute):** this refers to ways of working that use information about the politics (including political economy) with intelligence and creativity. Donors and their implementing partners need political skills. That is they must be both well-informed and clever operators, with the capacity to work with the politics around them according to what works best in context. Political skills may be harder to acquire than political knowledge.

<sup>11</sup> C. Manuel (2015) Investment climate reform, doing it differently: What, why and how. London: LDP. Available at: <http://laserdev.org/media/1102/laser-synthesis-paper-investment-climate-reform-doing-it-differently.pdf>; C. Manuel (forthcoming) Doing development differently: Delivering institutional reform at scale. London: LDP.

<sup>12</sup> Adrian Leftwich defines politics as 'All the activities of conflict, cooperation and negotiation involved in the use, production and distribution of resources, whether material or ideal, whether at local, national or international level, or whether in the private or public domain' in States of Development: On the Primacy of Politics in Development (2000). London: Polity.

<sup>13</sup> Political economy is the study of politics, economics and the interactions between them with a view to understanding power and resource distributions and contests and their implications for intervention. Political economy analysis is the study of the institutions, incentives and dynamics at play in a given context. D. Balaam (2014) Encyclopaedia Britannica: Political Economy; D. Hudson and A. Leftwich (2014) From political economy to political analysis. Birmingham: Development Leadership Programme. See also DFID (2009) Political Economy Analysis: How to note. DFID Practice paper.

<sup>14</sup> For example J. Faustino and D. Booth (2014) 'Development Entrepreneurship: How Donors and Leaders Can Foster Institutional Change'. Working Politically in Practice Series - Case Study no 2, The Asia Foundation/ODI.

<sup>15</sup> D. Booth and S. Unsworth (2014) 'Politically smart, locally led development'. ODI discussion paper. London: ODI.

## Putting politically informed and astute approaches into practice

10. **Political knowledge and skills are vital for informing the content and the shape of large scale investment climate programmes as well as when working on the ground on particular interventions.** LASER works at both these levels. Through work on large-scale donor programming (in Bangladesh, Kenya, Tanzania and Uganda) LASER has been able to contribute to thinking on how politically informed and astute approaches can be adopted by traditional, large-scale investment climate programmes. In addition, LASER works on the ground, supplying relatively small-scale technical assistance, often in the form of embedded advisors to developing country governments and judiciaries, adding to a growing body of case studies<sup>16</sup> from a number of small-scale interventions<sup>17</sup> about how such low key, small scale, often under the radar interventions can operate in very politically attuned and flexible, adaptive ways.
11. **On large-scale programming, LASER has been piloting a new ‘hourglass’ approach to scoping, designing and implementing donor investment climate programmes** (see Figure 1 on page 7). This approach is relevant to large scale (multi-million pound) donor interventions designed to improve one or more aspects of the investment climate at national, sub-national or regional level. Typical interventions could include for example: contract enforcement; business entry; tax administration; and licencing reform. The hour glass model suggests some changes to the way investment climate programmes are currently developed: in particular (i) a lengthy scoping/design phase during which the key activity is not technical analysis, but rather ‘learning by doing’ (in line with latest thinking about systems approaches)<sup>18</sup>; and (ii) beginning the engagement where there is traction on the ground – a problem that a relevant organisation cares about, rather than what the donor or development practitioner perceives the problem to be (in line with ‘problem driven iterative adaptation’ thinking<sup>19</sup>). The approach is described in more detail in the second LASER synthesis paper: *Doing development differently: delivering institutional reform at scale*<sup>20</sup>.
12. **This guidance note is structured around the seven hourglass phases (listed below), but it is equally relevant to more traditional approaches to large-scale investment climate reform programme scoping, design and implementation.**
- Phase one: Identify the service delivery issues, and recognise their complexity
  - Phase two: Do some analysis, but not too much
  - Phase three: Find an entry point – a problem a relevant organisation cares about
  - Phase four: Grow the engagement organically

<sup>16</sup> LASER and the Government of Sierra Leone (2015) The UK Sierra Leone Pro Bono Network: a case study on demand led pro bono assistance. LASER/DFID; LASER (2015) Designing and operating a flexible and adaptive programme. LASER/DFID; LASER (2015) Rwanda case study: PDIA in practice – strengthening contract management. LASER/DFID; LASER (2015) Rwanda case study: PDIA in practice during the pilot – foreign direct investment. LASER/DFID; LASER (2015) Rwanda case study: PDIA in practice during the pilot – domestic resources. LASER/DFID; LASER (2015) Rwanda case study: Using pro bono support to build government capacity. LASER/DFID.

<sup>17</sup> For example – BSI, SAVI, D. Booth (2014) ‘Aiding Institutional Reform in Developing Countries: Lessons from the Philippines on what works, what doesn’t and why.’ London: ODI; D. Booth and V. Chambers (2014) ‘The SAVI Programme in Nigeria: Towards Politically Smart, Locally Led Development’. London: ODI; M. Andrews (2014) ‘Can one retell a Mozambican reform story through problem-driven iterative adaptation?’ WIDER Working Paper 2014/094, UNU WIDER; G. Larson, Peter B. Ajak, and L. Pritchett (2013) ‘South Sudan’s Capability Trap: Building a state with disruptive innovation’ WIDER Working Paper 2013/120, UNU-WIDER.

<sup>18</sup> M. Laric (2012) ‘Systems change in the business enabling environment’. DFID Investment Climate Practice Note. London: DFID.

<sup>19</sup> M. 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.

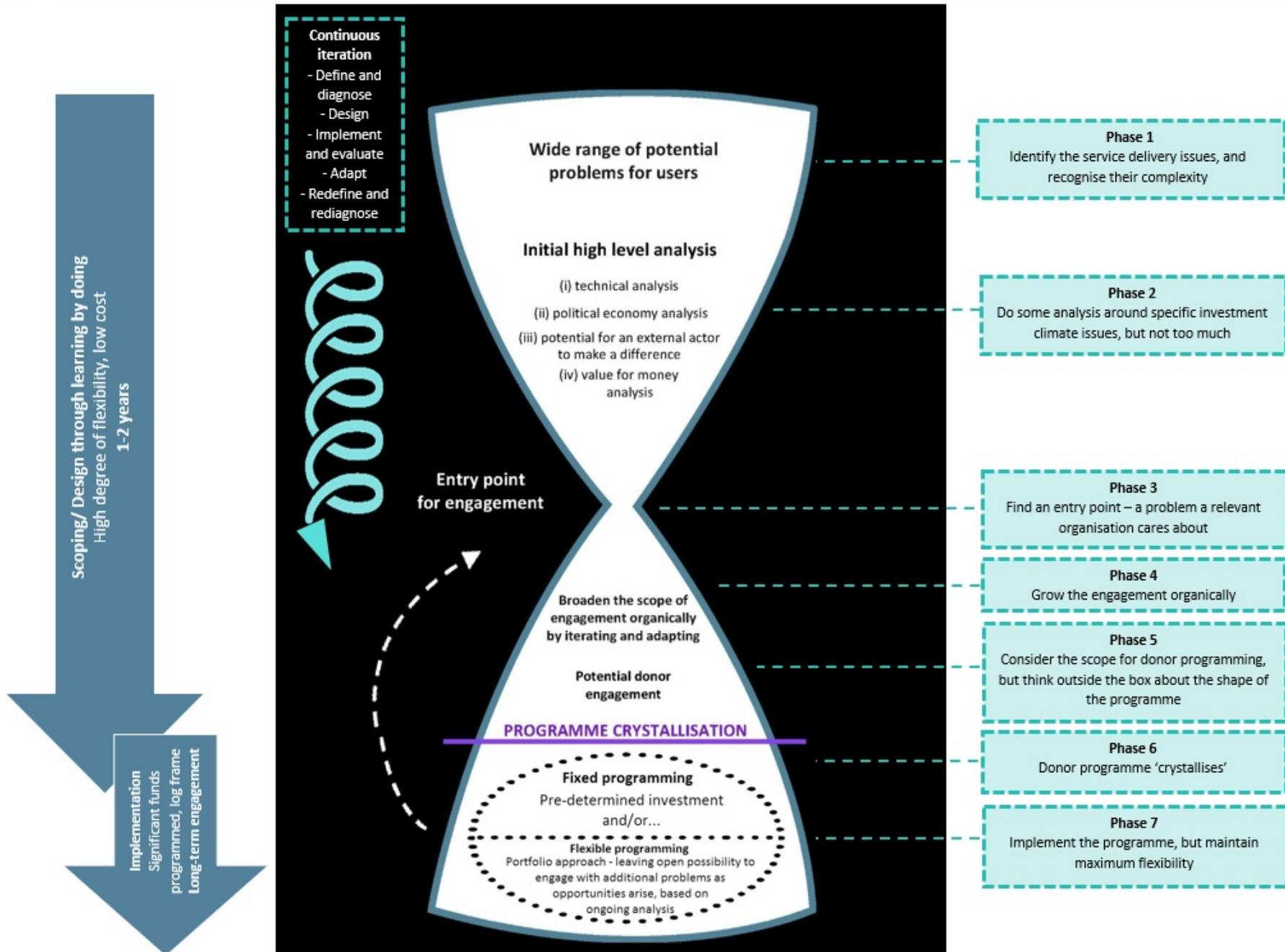
<sup>20</sup> C. Manuel (forthcoming) *Doing development differently: Delivering institutional reform at scale*. London: LDP.

- Phase five: Consider the scope for donor programming, but think outside of the box about the shape of the programme
- Phase six: Donor programme ‘crystallises’
- Phase seven: Implement the programme but maintain maximum flexibility

13. The guidance, examples and tools set out in this note and in the Annexes showcase the approach adopted by LASER and although not intended to be adopted wholesale, should be used as and when is appropriate and to spark creative thinking about how to work in ways that take on board political realities. The table below illustrates which material set out in the Annexes corresponds to which phase in the hour glass:

	Hourglass phase		LASER practical tools and guidance
Scoping/design through learning by doing	1	Identify the service delivery issues, and recognise their complexity	➤ Annex B
	2	Do some analysis, but not too much	➤ Annex C
	3	Find an entry point - a problem the relevant organisation cares about	➤ Annex C
	4	Grow the engagement organically	➤ Annex D
	5	Consider the scope for donor programming, but think outside the box about the shape of the programme	
Implementation	6	Donor programme ‘crystallises’	n/a
	7	Implement the programme but maintain maximum flexibility	➤ Annex E ➤ All of the above

Figure 1: The “hourglass” politically smart approach to investment climate reform



**Phase one: Identify the service delivery issues, and recognise their complexity**

14. **Scoping a potential investment climate intervention involves engaging with an extremely wide range of constraints on private sector development.** Typical issues could include for example: business entry, land regulation, contract enforcement and secured transactions. These are not just technical issues and change will involve engaging with a multi-institutional, political environment whose complexity includes layers of history, as well as a range of different interests, incentives and perspectives of the various actors involved in the system<sup>21</sup>. Before trying to change the system, and to provide solutions, it is important first to gain some understanding of it<sup>22</sup>.
15. **Gaining an initial understanding of issues, and beginning to think about priorities for new programming LASER considers not only what is technically possible, but also what is politically feasible<sup>23</sup>.** Annex B sets out two anonymised examples from LASER intervention countries of the kind of analysis LASER typically develops as a starting point for scoping potential investment climate interventions. This draws on existing literature, in particular economic and political analysis where it has been carried out, as well as lessons learnt from similar contexts elsewhere. It is supported by interviews with a range of individuals and organisations – from both the public and private sector – with a strong grasp of the country context and the stakeholder landscape, with key conclusions triangulated where possible. Box 1 below provides a framework for such political economy analysis.

**Box 1: A framework for initial, contextual political economy analysis<sup>24</sup>**

Issues typically considered include:

Institutional framework: What is the architecture of relevant formal institutions? What are the relevant informal institutions? Do accountability institutions work?

Interests and incentives: What incentives and interests do institutions and their actors face? Does the structure of the economy favour particular groups? How is economic power concentrated (e.g. de facto monopolies, oligopolies)? How do economic and political interest combine? How are rents generated and from whom?

Ideas, ideology and legacy: What is the role of political ideology, and cultural/religious influences? What has happened to investment climate reform efforts in the past? How do key political actors interact with institutions and other structures? What is the nature of the changing political landscape?

16. **Where countries are fragile or conflict affected states (FCAS) there is even greater need for development practitioners to be in tune with, and responsive to, the local context.** Understanding the political economy in FCAS is particularly important as it focuses practitioners on working with ‘what is there’, however functional or not. It enables programmes to keep abreast of changes that might need to be made in response to political, social and investment dynamics. It is also aligned with ‘do no harm’ principles, paying close attention to potential winners and losers and helping to manage risk and expectations around engaging or not engaging.

<sup>21</sup> J. Boulton (2015) Embracing Complexity – Strategic Perspectives for an age of turbulence. Oxford University Press.

<sup>22</sup> D. Meadows and D. Wright (2009) Thinking in Systems: A Primer. London: Routledge.

<sup>23</sup> D. Booth and S. Unsworth (2014) ‘Politically smart, locally led development’. ODI discussion paper. London: ODI.

<sup>24</sup> The intersection between the three issues laid out in box 1 is also critical. Political economy analysis requires an understanding of how political actors interact with and constantly navigate structures, institutions and the changing landscape, recognising that politics is unpredictable. For further information see: D. Hudson and A. Leftwich (2014). From Political Economy to Political Analysis. DLP Research Paper 25.

**Phase two: Do some analysis around specific investment climate issues, but not too much**

17. **A shorter, more manageable list of potential feasible options for donor engagement should emerge from the ‘long list’ of all potential investment climate problems at a national, sub-national or regional level.** LASER has developed a ‘light touch’ traffic light scoring approach to assess which of these still usually wide-ranging options are most likely to deliver reform. This includes consideration of the specific political economy around each issue, and the technical difficulty of the option, including looking at the problem with gender lens. A template is provided in Annex C, together with an anonymised worked example from a LASER country engagement.

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

18. **A key issue for an investment climate reform programme is the extremely wide range of organisations involved. The key is to find the one with the greatest potential to achieve change as an entry point for initial engagement.** The analysis undertaken during phases one and two should assist. For example, the conclusion in country example (ii) in Annex B was that engagement with the judiciary, rather than the executive, offered the best prospect of success. In another LASER country, the decision was taken to engage with what was initially perceived as a non-obvious Ministry but through consultations with stakeholders it became clear that that Ministry was actually able to effectively influence and bring together key stakeholders from other Ministries around key investment climate problems (see Box 2 below).

**Box 2: Selecting an Institutional Entry Point**

In country X, during scoping, meetings with a wide array of stakeholders (from civil society, the private sector and government) across a range of investment climate issues (energy, health, and justice) allowed the LASER team to explore local demand and identify initial entry points. Through the process it was also possible to start to explore key counterparts and coalitions for reform. Drawing on recommendations from in-country contacts a Ministry which would otherwise not have been selected was considered, and eventually chosen, as LASER’s main counterpart given its unique ability to influence and bring together stakeholders around cross-cutting key investment climate problems on the ground. The Minister expressed clear interest in LASER support and embedding an adviser in that Ministry proved to provide LASER with access to both technical counterparts as well as key political decision-makers across government which has been very important when supporting investment climate reforms that are dependent upon cross-government collaboration. During LASER’s engagement, the Minister left his position. However, LASER support continued, as a result of the broader coalitions for reform with which the programme had engaged.

19. **Consideration should go beyond the identification of an individual champion (‘authoriser’) for reform.** It should also look at the position of the relevant organisation within the overall institutional framework for investment climate reform, and consider other key players within and outside the organisation. The potential to facilitate broader coalitions for reform, including middle managers and front line staff should be a key consideration (see Box 4 in phase four below).

20. **A key insight of problem driven iterative adaption (PDIA) approaches<sup>25</sup> to organisational change and institutional reform is that change is most likely to happen when the starting point is a**

<sup>25</sup> See M. Andrews et al (2012) ‘Escaping Capability Traps through Problem-Driven Iterative adaption’. London: Center for Global Development. Working Paper 299 June 2012; M. Andrews (2013) ‘The Limits of Institutional Reform in Development: Changing

**problem that the organisation – and in particular people within the organisation who can bring about change - care about.** Understanding who these people are, and how the organisation works involves being politically informed. Engaging with a problem that those people care about is politically astute. More political astuteness is involved in using that problem as the starting point for strategic engagement to bring about investment climate change (see more in Box 4 under phase four below).

21. **The approach may involve a ‘leap of faith’ – while the entry point problem is one that the organisation cares about, it may not be the ‘right’ problem from a donor or development practitioner perspective.** But if it’s a problem that the organisation cares about, then it’s likely to be a good entry point. The approach which LASER uses is simply to ask a range of people within the organisation ‘what is the problem that you want solved?’ and to offer technical assistance to help to solve it<sup>26</sup>. This is in line with LASER’s concept that designing a programme is best done through ‘getting stuck in’ and finding out more about the problem as well as possible solutions to it through a process of discovery, rather than as a process of analysis. This involves local engagement, talking to those on the ground directly, who are indirectly involved or affected by the problem.
22. **A wide range of problems have emerged as entry points for LASER in different contexts from fragile and conflict affected states, to stable pushing on middle income countries.** The problems include commercial dispute resolution; commercial contract negotiation and management; the legal framework for investment; and regional trade agreements. It is very likely that the key identified issue will have already emerged on the ‘short list’ in the traffic light matrix (see Annex C). If it has not, that analysis should be undertaken, to ensure that the identified issue is a reasonable one for initial engagement. The traffic light type of analysis may be undertaken again further down the process, if options proliferate.
23. **The donor and the donor’s implementing partner are part of the political dynamic.** When a donor or implementing partner with funds to disburse asks an organisation in a developing country what their problem is, it is likely to receive responses driven by the hope of securing funds. The LASER model offers one way to mitigate this dynamic. As a centrally managed programme which just offers technical assistance, LASER has no money to offer and can to some extent be perceived as operating at ‘arms’ length’ from the funder (DFID) in country. There is no direct relationship between LASER and the DFID country office, and no sense in which the country office is the ‘client’ (although in practice LASER maintains good and cooperative relations with DFID country offices). The nature of the relationship between LASER and the relevant organisation is spelled out in a memorandum of understanding (including for example duty of confidentiality). The benefits of arm’s length aid are discussed further in Box 3 on the next page.

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Rules for Realistic Solutions’. Cambridge: Cambridge University Press; and M. 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>26</sup> Similarly, Matt Andrews’ work in Mozambique began with the question ‘*What problem do you need solved, Madam Minister?*’, thereby finding authorisation to start work. M. Andrews, M (2014) ‘Can one retell a Mozambican reform story through problem-driven iterative adaptation?’ WIDER Working Paper 2014/094, UNU WIDER; 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.

### Box 3: Donor/recipient dynamics – arm’s length aid

Ownership is the bedrock of successful reform. To achieve this, relationships and trust need to be built. This may be easier to achieve without an offer of large amounts of money<sup>27</sup>. This working method has the potential for powerful effects, by supporting state-level actors to take forward self-reliant reform efforts and avoiding donor driven initiatives. Donor agencies, such as DFID, report the difficulties they face in changing their own behaviour after training in ‘applied political economy analysis’ and an awareness of context specificity<sup>28</sup>. The political economy of their own position in the aid relationship is one of the key constraints<sup>29</sup>, with an emphasis on financial transfers and the distorted incentives which this generates on both sides. In contrast, Booth points towards a new group of development actors offering services directly to government and other public bodies, acting more as advisers than providers, and delivering ‘arm’s length aid’<sup>30</sup>. Facilitating difficult institutional change is the key purpose of such an approach. Recent research suggests that unresolved collective action problems, or brokering processes of change, provide a feasible entry point for external actors to tackle institutional blockages in a country<sup>31</sup>. The most promising approaches to this process are based on a problem-solving model, with an iterative, adaptive way of working<sup>32</sup>. Organisations delivering ‘arm’s length aid’ may have advantages in facilitating the process, including an ability to draw on local knowledge; sufficient independence to respond practically and creatively to problems on the ground; and some level of accountability to country partners as well as funders.

An example is how LASER has worked at the interface between donor and beneficiary institutions in the restructuring of a large scale institutional reform programme in the justice sector<sup>33</sup>. We discovered that a light-touch but politically informed engagement, was able to bridge some communication gaps, and help both "sides" discover problems that could form the basis of a more output-oriented approach, that was subsequently crystallised in a restructured programme. Critical to the success of the engagement was the opportunity to demonstrate technical competence and build trust on both "sides" prior to "bridging the gap"; and insights into the political incentives in both the recipient and donor institutions.

#### **Phase four: Grow the engagement organically**

**24. The need to work politically increases as the engagement begins, and broadens out, through facilitation of problem deconstruction, and identification of potential solutions.** Having got ‘stuck in’, LASER advisers (who are often embedded within organisations) work with their colleagues within the organisation, and outside it, to identify the fundamental nature of the problem, and undertake an iterative process of facilitating these local agents to identify context-specific solutions. Guidance on how to do this is provided in LASER’s document for its advisers ‘Monday morning in Kigali: Putting PDIA into practice’<sup>34</sup>. Political smartness is key: it involves facilitating enquiry about the problem and its institutional underpinnings, and drilling down into the drivers of why the problem is there in the first place and exploring and assessing possible solutions to the problem. Key concepts that may need to be explored, according to circumstances, are set out in Table 1 on the next page along with anonymised illustrations from LASER.<sup>35</sup>

<sup>27</sup> D. Booth and V. Chambers (2014) ‘The SAVI Programme in Nigeria: Towards Politically Smart, Locally Led Development’. London: ODI.

<sup>28</sup> D. Booth (2013) Facilitating development: an arm’s length approach to aid. London: ODI.

<sup>29</sup> A. Whaites et al (2015) A Governance Practitioner’s Notebook: Alternative ideas and approaches. Paris: OECD, p.85.

<sup>30</sup> Ibid.

<sup>31</sup> David Booth (2012) Development as a Collective Action Problem: Addressing the Real Challenges of African Governance. London: ODI.

<sup>32</sup> Andrews, M., Pritchett, L. and Woolcock, M. (2012) ‘Escaping Capability Traps through Problem-Driven Iterative Adaptation (PDIA)’. Working Paper 299. Washington, DC: CGD.

<sup>33</sup> LASER (2015) Kenya case study: Exploring how to use a problem-driven iterative adaptation approach in restructuring pre-existing institutional reform programmes. London: LDP.

<sup>34</sup> LASER (forthcoming) Monday morning in Kigali: Putting PDIA into practice. London: LDP. Will become available at: <http://laserdev.org/media>

<sup>35</sup> From the World Bank’s ‘Problem-Driven Governance and Political Economy Analysis’. Accessible at <http://siteresources.worldbank.org/EXTPUBLICSECTORANDGOVERNANCE/Resources/PGPEbook121509.pdf>

**Table 1: Political economy concepts and LASER anonymised examples**

Political economy concepts	Explanation	LASER investment climate examples
Path dependency issues	Path dependency suggests that the decisions one faces in any given circumstance are affected and limited by past decisions. In relation to institutional development, the idea states that present institutions retain elements of the institutions that preceded them, which also helps to predict future behaviour.	In country X the political incentives are for senior officials to meet their performance and policy targets. This has led to a focus on achieving the set target, rather than considering whether the often top-down, imposed, target is the most appropriate in the context. Past decisions to demote, sack and transfer officials who do not meet their targets, rather than a focus on longer term impact and effectiveness of those targets, reinforces decisions to not question or propose amendments to set targets.
Principal-agent problems	A principal-agent problem occurs when one party (the agent) acts on behalf of another (the principal) and incentives between the two parties are not aligned. As a result, the agent may be motivated to act in their own interests rather than in the principal's interests.	In country X one agency has responsibility to coordinate and plan for reforms that will improve the country's ranking in the World Bank Doing Business Indicators. However, due to poor incentives to coordinate across government, that agency often proposes reforms which are not aligned with sector priorities. This results in a series of ad hoc reforms being implemented to varying degrees of success, rather than holistic strategies to improve the business environment.
Collective action dilemmas	A situation where everyone in a group would benefit from a certain action or share a common goal, yet the associated individual disincentives or costs means it is unlikely that any individual will undertake it alone.	In country X there is recognition across government that there needs to be a concerted effort to improve the management of major investment projects. Strengthening the government's capacity requires coordination amongst finance, procurement, legal, public service and capacity building agencies to address the causes which are interdepartmental and interdisciplinary. The disincentives to coordinate and the financial and human resource costs for an individual institution to engage and attempt to lead a response to this problem mean that it largely goes unaddressed.
Veto players and gatekeepers	A veto player is a political actor who is able to decline a choice being made, in particular a change from the status quo. The term particularly relates to choices made over public policy outcomes. Gatekeepers are individuals who are in a position to stop a process or to make it happen.	There is currently resistance to change in the regulatory environment from many groups including influential members of the business community in country X. The relationship between the state and the business community is complex and ambivalent, including elements of both opposition and clientelism. Policy delivery (or prevention) is often dependent on interventions by the President. As evidenced by a recent example where the environmental authority's decision to ban the production and sale of polythene was averted in favour of the business community by the President.
People with a voice in selection of leaders, and building coalitions	Some officials within governments are significantly more influential as power is often concentrated in developing economies consolidating power into a	In country X there has been a continuous battle between Ministry A and Ministry B over the mandate of governing a specific industry sector. One Minister had managed the industry sector for years despite the fact that the

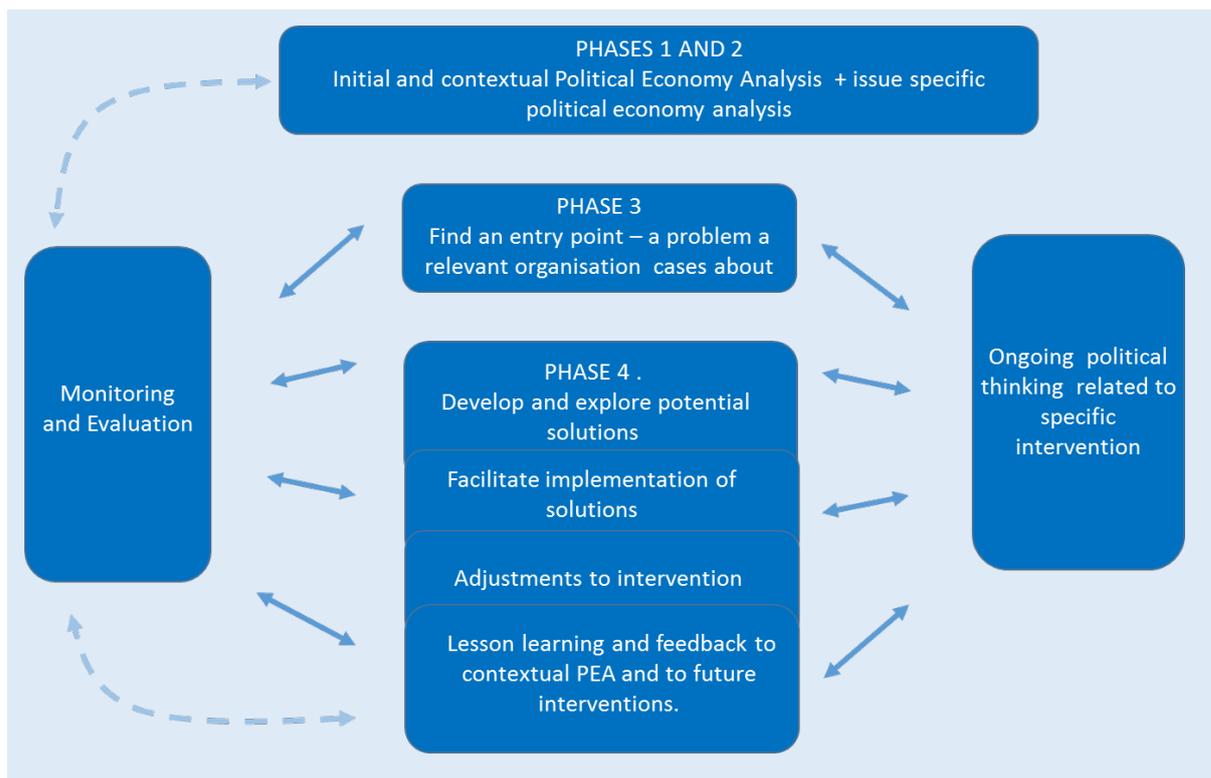
Political economy concepts	Explanation	LASER investment climate examples
	<p>small faction. One of the ways of combating this is through building coalitions amongst less powerful actors, to counter the influence of one or two powerful officials.</p>	<p>industry sector was officially mandated to another Ministry. Through a dialogue process with a coalition of officials from a number of Ministries, spearheaded by the Ministry where the LASER resident adviser was based, the stalemate regarding the appropriate Ministry to govern the industry sector was put to one side in order to allow external support to be secured by Ministry C to aid the development process of the specific industry sector.</p>
<p>Rent generation and distribution</p>	<p>Economic rent is a payment that is in excess of the minimum required to bring a factor of production – labour, capital or land – into productive use. Rent generation occurs when there is capture of public power by private interests to gain access to economic rents, through such means as the granting of monopoly or cartel rights, imposition of import tariffs, quotas and prohibitions, rationing of licenses, bias in award of public contracts and selective enforcement of laws, contracts and property rights.</p>	<p>Examples of rent generation and distribution include high levels of corruption, extensive patronage networks, with durable informal institutions which militate against proper enforcement of regulatory standards. More specifically investors (within a ruling party, or those who have access to high level champions) have been offered land free of charge, despite breaching legal procedures on land allocations.</p>
<p>Patronage networks, clientelism and neo patrimonialism</p>	<p>A patronage network is based on a patron dispensing resources, protection, or some other benefit, to a client who provides loyalty and support in return. It is usually founded on differences in power, status and wealth in a country. Closely related, clientelism involves the exchange of goods or services for political support. In a system of neo patrimonialism, state resources are used by patrons to ensure the loyalty of the general population. The system can replace the bureaucratic structure of the state, if real power is based on connections rather than official position.</p>	<p>Generally the civil service, businesses, professionals and politicians have vested interests in a system in which patron-client relationships are the norm. Examples include when poorly paid civil servants in countries use regulatory processes as rent seeking opportunities.</p>

25. **Be prepared to adjust to change and new information.** As the development practitioner (in the case of LASER normally an adviser embedded in government) facilitates a dynamic process of iterating around a problem, the landscape within which the problem is located may well be changing. New information may come to light (for example, a corruption scandal), or new events may occur (for example, a change in key personnel, such as an election). It is important to allow space for less predictable or unanticipated events which means that initial problems change, or new problems emerge. It is therefore important to:

- Examine trends;
- Scan the horizon for potential future events;
- Keep an eye out for opportunities and threats;
- Recognise that some opportunities that emerge could be for transformational reform; and
- Navigate and re-examine the project as these events emerge;

Figure 2 below, illustrates this process of discovery through incremental learning. Box 4 on the next page sets out some examples from LASER’s experience of working in this way.

**Figure 2: On-going adjustment to change and new information**



#### Box 4: Examples of politically savvy strategies and tactics

##### **Support home-grown reform and reformers**

In Kenya, LASER responded opportunistically to a request for assistance from the Judicial Transformation Initiative (a home-grown initiative under the auspices of the Chief Justice) to provide technical assistance in relation to a pilot project to introduce alternative dispute resolution (ADR) into the Kenyan justice system. This issue had been discussed for over fifteen years, but resistance from the legal profession and parts of the Judiciary meant that there had been no progress. Taking a ‘small bet’ LASER supported a planning workshop organised by the Judiciary, providing facilitation assistance, and international examples of ADR, including participation from Uganda and Nigeria where there are well-developed ADR systems. LASER is now providing on-going support to the piloting process, focusing on programme management and assisting with a robust M&E system, also having facilitated the leveraging of World Bank funds to support the pilot.

##### **Facilitate coalitions for reform, rather than relying on individual champions**

Investment climate issues often involve a broad set of organisations, entities, and individuals to bring about change. For example in Kenya, there are three separate committees within the Judiciary all of whose input is required to bring about the ADR pilot, as well as a range of individual actors. Co-ordination and communication between organisations, between agents within organisations, and between organisations and external actors – all of whom may be required to bring about the required change is often a key constraint to reform. Matt Andrews<sup>36</sup> suggests that there is need to build up ‘coalitions of reformers’ with technical and political skills including:

- *Authorisers* - allow activities to take place;
- *Motivators and inspirational agents* - keep other agents moving ahead;
- *Connectors and conveners* - bring other agents together;
- *Resource providers and finders* - ensure that teams and coalitions have capabilities required;
- *Problem identifiers and communicators* - identify, construct, and deconstruct problems;
- *Ideas people* - deconstruct, analyse, and solve problems; and
- *Implementers* - establish the new rules of the game emerging from the reform processes.

While not sticking rigidly to this formula, LASER, as an external actor has had a key role in facilitating co-ordination and communication for change management at an operational level, and bringing together coalitions for change. For example, in Rwanda LASER has played a key role in ensuring that the private sector’s voice is considered in the annual justice sector planning process. LASER worked with the justice sector and other government agencies to obtain perspectives from foreign investors and domestic companies on the major justice related constraints they face. An existing local mechanism, the justice sector working group, is being used to consider the findings and how they feed into the national planning process. As a result of LASER’s engagement, the sector has recognised the need to engage with a broader range of government and private sector actors on investment climate issues. In Somaliland, through consultations with both the public and private sector LASER carried out research on key issues holding back regulation of the electricity sector which were fed directly into the agenda of a large public-private dialogue on energy hosted by Government and supported by the IFC.

##### **Work with local partners to develop a joint understanding of the political dynamics**

LASER’s Retrospective Study of the Uganda Commercial Court<sup>37</sup> illustrates how a local reformer (Head of the Commercial Court) and a technical adviser providing change management support can

<sup>36</sup> M. Andrews and L. Bategeka (2013). Overcoming the limits of institutional reform in Uganda. Centre for International Development, Harvard University Working Paper No 269, October 2013. Accessible at [http://www.hks.harvard.edu/var/ezp\\_site/storage/fckeditor/file/pdfs/centers-programs/centers/cid/publications/faculty/wp/269\\_Andrews\\_Uganda.pdf](http://www.hks.harvard.edu/var/ezp_site/storage/fckeditor/file/pdfs/centers-programs/centers/cid/publications/faculty/wp/269_Andrews_Uganda.pdf)

<sup>37</sup> LASER (2015) Retrospective study of the progress, performance, and impact of the Uganda 1996 – 2015. London: LDP. (see particularly chapter 4 on DDD).

together navigate around problems and political opposition to bring about real, sustained change. This was done through regular meetings, where potential problems were identified and strategies agreed to deal with them. Similarly in Rwanda, LASER worked closely with the Ministry of Trade and Industry to think through the political dynamics of a proposed new competition regime, assisting the Ministry to consider the most appropriate technical approach given the realities of the landscape for private sector competition. In Somaliland, LASER was instrumental in working with the Ministry of Foreign Affairs to develop an electricity sector politically informed action plan that was discussed across Ministries and which set out clear next steps which were included in the agenda of the broader energy PPD supported by the IFC. In Sierra Leone, LASER is beginning to work with the Law Officers Department in the Ministry of Justice in a series of regular meetings to identify and deconstruct problems in relation to commercial contracting across government and potential ways to addressing them. This includes building an agreed understanding of the nature of political economy constraints to potential reform pathways.

**Use ‘best fit’ approaches to reform, rather than solely ‘best practice’**

In Rwanda, LASER adopted a politically informed approach in the provision of technical assistance for advising on draft competition legislation. LASER highlighted the potential impact of proposed articles with both government and key development partners, sharing lessons learned from other jurisdictions on key issues such as independence of regulatory bodies and transparency of operations. The provision of technical assistance provided an entry point for discussions on these issues and, as a result, a joint position with donors was adopted and agreement with government for further consultations with public bodies which play key roles in enforcement to take place. In part, these consultations have now contributed to plans for a national workshop to raise awareness within government on the proposed reforms. In Somaliland, LASER secured pro bono legal support to assist the development of Somaliland’s electricity sector through instigating a dialogue between the Government of Somaliland and a leading City law firm. LASER helped focus the remit of support required from the law firm so that the structure of a national electricity company, in particular whether it should be wholly public, PPP or a private consortium, could be given sufficient attention. This was particularly in light of the currently close state-private sector relations in Somaliland. The law firm’s advice on articles for incorporating a national electricity company are due to be reviewed by both government and broader stakeholders in early 2016 and are anticipated to be instrumental in informing design of the electricity regulator in the future.

**26. Tools that may assist with this process include:**

- A **problem diary** which involves recording actions and events in relation to each particular problem on a regular basis, and recording reflections and analysis. See Annex D for a template, further explanation and worked examples.
- Regular testing of the intervention’s **theory of change** (see Box 5 below)

**Box 5: Theories of change<sup>38</sup>**

“Theories of change” (ToC) may be used as a tool to model the world in which an intervention is taking place, to help understand and explore potential causal relationships, particularly the more political/personal aspects of change. ToCs offer greater flexibility than more rigid logical or results framework approaches, and allow some reflection of the complexity of the real world in which there

<sup>38</sup> D. Ladner (2015) Strategy testing: An innovative approach to monitoring highly flexible aid programs. Working politically in practice series – case study no. 3. San Francisco: The Asia Foundation and DFAT. This paper provided excellent guidance on how to use theories of change in practice as an active management tool. For further information, see also: J. Copstake and R. Williams (2012) The evolving art of political economy analysis – Unlocking its potential through a more interactive approach. Oxford: Oxford Policy Management; A. Whaites (2015) Thinking and working politically – Enable add-ons. Governance for Peace and Development. Available at <http://g4dpblog.blogspot.co.uk/2015/07/thinking-and-working-politically-enable.html> LASER’s third synthesis paper will further address the issue of how to do adaptive management in practice.

are many, and usually unknown, causes and effects of change; where change feeds on itself in recursive unpredictable ways; is episodic, and can fade away or take an unexpected direction. ToCs can provide a “language” (of boxes, arrows, links, feedback loops etc.) to deconstruct implicit assumptions about political behaviour and interests which can be the main cause (and potential solution) of developmental problems. This ToC language can be used by development practitioners and (in a simpler form) with stakeholders to delve into problems and – perhaps – find intervention pathways that address or otherwise get around relevant aspects of the political and institutional environment.

Using a ToC approach helped stakeholders in the Kenya justice system identify what changes would be needed to enable ADR to be taken forward within the court system, and what could drive and hinder these changes. Change analysis included an understanding of the shifts in governance of the judiciary, and the willingness and power of “pro-ADR” individuals to influence the process, whether through formal institutional powers (creation of Mediation Accreditation Committee), formulation and enactment of key legislation (amendments to rule of law procedure) or informal encouragement and support. It also helped identify practical problems (lack of physical space for mediation), assess their significance and suggest solutions (low cost partitioning of an anteroom). ToC thinking also helped map out wider “political” drivers of reform, including potentially sensitive and complex inter-relationships between the judiciary, the executive and the legal profession, that helped target support more effectively.

- 27. Tools can help with developing political knowledge and encouraging political astuteness, but being politically smart ultimately comes down to the skills and competences of the individual development practitioner.** A common challenge for LASER and for other technical assistance programmes seeking to work in politically smart ways, is finding the right people with not only the necessary technical skills, but also the right soft skills, and political antennae. Where embedded advisers are involved (see Box 6 below for more details) the additional challenge is finding people able to relocate. LASER’s practice is for the selection process to have a good understanding of the institutions preferences and organisational culture, have a strong focus on soft skills and competencies, and to offer the organisation where the adviser will be located, the preferred candidate only. This occurs after spending time to understand what the candidate will look like, what they want, and who fill fit into the institution. In country X, this proved successful, with the Ministry providing the following feedback: ‘Thank you for spending time to understand the type of person we want and to find that person. She has exactly the kind of soft skills we were after’. This process is a key ‘service’ that LASER provides.

**Box 6: LASER embedded advisers**

LASER’s embedded advisers typically share an office with their local counterparts, and report to a senior member of staff. The proximity and time spent together, helps the adviser build solid relationships across the ministry. By interacting day-to-day with government colleagues (in particular middle managers and front line staff), resident advisers become privy to the types of institutional challenges they face, and can develop a deeper understanding than is possible from short trips. This approach allows government counterparts to get to know the adviser and feel confident that he or she understands their needs. LASER’s experience is that over time as trust has grown, the scope of matters that counterparts are willing to discuss broadens to include politically sensitive matters, or those of particular importance to the organisation’s leadership. This has enabled influencing of policy, without directly being asked to support sensitive matters. The informed role played by the embedded advisers enables them to influence and inform other donor projects, assisting programmes to function better on the ground.

28. **Embedded advisers face the challenge of ‘organisational capture’ and capacity substitution** – being diverted from their agreed role by the day to day demands of a capacity-constrained organisation. To some extent capacity substitution (for example, in relation to change management) may be a reasonable response to a highly resource constrained environment and being responsive and opportunistic can yield results. But a strong challenge and accountability function (in the case of LASER from the central programme management team) helps to ensure that any new activities contribute to the overall strategic purpose of the engagement.

**Phase five: Consider the scope for donor programming, but think outside the box about the shape of the programme**

29. **Work out whether to scale up or scale down donor engagement.** Learning by doing/discovery may reveal openings for programming significant donor funds for institutional reform – for example to support capacity development, training or infrastructure (for example, management information systems, computerised business registries etc.). LASER advisers have the mandate to support organisations to leverage additional funds and technical assistance. For example, in Kenya LASER has assisted the Judiciary to access funds from the World Bank US\$120 million Judiciary Performance Improvement Project. In other cases LASER has scoped out the potential for new programming. A core aspect of the hourglass approach is that such new programming is more likely to succeed when based on an understanding of locally defined problems and solutions, understood and defined through a process of discovery with local stakeholders, rather than analysis done to them.
30. **Recognise the political economy around new donor programming.** The hourglass approach delays programme crystallisation and the programming of significant donor funds until after a significant period of discovery and learning by doing. This is because it enables time for the most appropriate programme form to be determined, in the light of its required function. In addition, (as suggested in Box 2 above) a donor programme generates its own incentives (including those of the donor/implementing agent whose role is to disburse funds). Careful consideration will need to be given to this issue in the design of the programme, including whether the intention is that the programme should indeed be a ‘player’ in seeking to bring about change with a life of its own and potentially its own convening power (a very large example of this model is Trade Mark East Africa), or whether the model is an ‘under that radar’ approach, where the programme does not seek its own convening power, but supports that of local actors (an example is SAVI).<sup>39</sup>

**Phase six: Scalable donor programme ‘crystallises’**

31. **If it is concluded that new, large-scale donor programming is required, it is now time for the donor programme to ‘crystallise’.** Having identified service delivery issues, carried out some initial analysis, found an entry point, grown the engagement organically and considered the scope for donor programming, the programme is ready to ‘crystallise’. This means shifting from scoping/designing through learning by doing to implementation, and moving forward with a programme design. This may be fixed or flexible programming, though as explained below, in the area of investment climate reform it is likely that programmes should retain as much flexibility as possible.

**Phase seven: Implement the scaled-up programme but maintain maximum flexibility**

32. **Not all donor programming needs to be equally flexible.** Some interventions have a more straightforward, linear, trajectory, such as constructing a court house, which by its very nature requires less flexibility in implementation. Though even those programmes would benefit from some flexibility to assess changes in the political context around them. Accordingly, programmes should incentivise staff to take time to regularly assess political economy assumption, and if necessary, allow course corrections along the way. Arguably, however, most investment climate

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<sup>39</sup> Nigeria State Accountability and Voice Initiative (SAVI) - see D. Booth and V. Chambers (2014) ‘The SAVI Programme in Nigeria: Towards Politically Smart, Locally Led Development’. London: ODI

programmes, which are essentially about institutional reform and hence organisational change, should retain maximum flexibility. Annex E provides an example of an outline theory of change for a fully flexible large-scale investment climate programme, with on-going political economy analysis as its core intervention strategy.

33. **At an operational level, the approaches and tools described under phase four above, are equally applicable once the programme has crystallised and is being implemented.** Politically informed approaches require the process of discovery and thus of on-going, adaptive design to continue after programme crystallisation and throughout implementation.