

TERMS OF REFERENCE

LEGAL AND POLICY ADVISOR TO MINISTRY OF COMMERCE AND INDUSTRY

SOMALIA CAPACITY ADVANCEMENT LIVELIHOOD AND ENTREPRENEURSHIP UPLIFT PROJECT SCALED-UP

Job Title: Senior Policy and Legal Advisor

Assignment Location: Mogadishu, Office of the Ministry of Commerce and Industry (MoCI)

Duration of contract: 12Months, extendable

Background:

As part of the Federal Government's commitment to create a more enabling business environment, the Ministry of Commerce and Industry (MoCI) has prioritized policy and regulatory reform.

These reforms seek to foster increased private sector growth and investment. By identifying the regulatory gaps, understanding the Somalia context and embedding best fit international practice, the body of law put in place will facilitate the country to meet its economic development targets. In this regard, legislation prioritized by the Ministry of Commerce includes: the Companies law, subsidiary legislation to implement the companies' law; Business License law and implementing regulations; Business Registration online System supporting legal framework; Competition law and implementing regulations; Industrial Development law and regulations; Small and Medium enterprise, promotion and supporting laws and regulations. International commercial law, bilateral and multilateral agreements, regional economic integration agreements.

Nature of the Position:

The Senior Policy and Legal Advisor will coordinate and support the Ministry in all business policy and legal matters in taking forward the various pieces of legislations through drafting and approval process. The Senior Policy and Legal Advisor will provide business policy and legal advice to the Senior Management of the Ministry and departments to protect. ebusiness registration services through the legal framework outlined in the Company Law and in the existing regulations and make further development on the legal frame work.

General Roles and Responsibilities:

- Working closely with WBG team members and international legal expert(s):
 - Lead the process to operationalize the Company Act and implementing regulations, specifically undertaking the following:
 - Spearhead development of any additional implementing regulations required for implementation of the online system
 - Assess legal implications of roll out to Federal Member States, developing any additional draft implementing frameworks required
 - Lead within MoCI the process of review and amendment of the Company Act 2019. The Advisor will be expected to draft the amended provisions of the Company Act in line with international good practices.
 - Assess complementary laws required for registration of MSMEs using the online system e.g. sole proprietorship and initiate drafting
 - The Senior Advisor will assist the Ministry to review policies already in the books and spearhead adjustments and formulation of new business and industrial policies.
- Conduct legal analysis and research on various legal matters.
- Provide advice on different legal issues and assist in drafting legal opinions, memoranda and other legal documents.
- Be actively involved in preparing different acts and legal submissions and draft the authoritative legal opinions as well.
- Spearhead the review, update and development of Intellectual Property Law, Trademark Law, Licensing Law, Competition Law, and other key legislations important to trade and investment.
- The legal advisor may be expected to draft implementing regulations for the all the other laws that will be prioritized by MoCI, such as Intellectual Property Law, Trademark Law, Licensing Law, Competition Law, and other key legislations
- Lead drafting of bilateral and multilateral trade agreements and MOUs.
- Drafting of additional laws and regulations as prioritized by MoCI.
- Conduct legal research by utilizing various resources and selecting the relevant material to analyze the legal information.
- Assist in reviewing the legal material and any other relevant documents and to identify the most important issues that need to be sorted out on a priority basis.
- Draw up formalities regarding the settlement of disputes and monitor the implementation of the legal clauses.
- Report on the Legal matters on the various local and international trade and industrial issues.
- keep Copies of the draft legal decrees on various issues tackled and as requested by the Minister.

- Report on legal status of the various disputes studied with proposed recommendations.

The legal advisor will be expected to draft legal instruments in both Somali and English

Qualifications:

Skills and competencies:

- Analytical, observational, organisational and networking skills
- Knowledge in substantive law and legal procedure in the context of Somalia and international norms
- Experience in legal research and analysis in complex areas of law
- Experience in contract drafting and negotiation
- Good knowledge international business, trade and development regulations and protocols
- People management
- Report writing and presentation skills
- strong communication skills
- Ability to see and manage risks and consequences
- Functions effectively in a team of professionals
- Teamwork

Qualifications:

- Master degree in law
- Be a member of bar duly licensed to practice law and holding valid practicing certificate.
- Minimum ten years of professional experience in the legal field with demonstrated experience in Somalia commercial and business laws, public law and labor law
- Able to speak, read and write both Somali and English language

Language requirements:

- Fluency in written and spoken English and Somali.

Overall Deliverables:

- Review, update and development of Intellectual Property Law, Trademark Law, Licensing Law, and other key legislations important to trade and investment.
- Company Act and regulations full operationalizing.
- Drafting of further company regulations under the Company Law.
- Provide input to additional laws and regulations as prioritized by MoCI.

- Provide substantive input to bilateral and multilateral trade agreements and MOUs.
- Review government contracts and agreement, and provide legal advice to the minister
- Undertake review of current laws and prepare guidelines and rules and/or checklists as necessary to guide public officers in the administration of the said laws
- Undertake review of existing laws and prepare drafting instructions to enable the drafting unit to prepare a comprehensive Judicial Review Bill
- Undertake any further duties as directed by the Minister and the senior management team

Reporting:

The consultant will primarily report to the Ministry of Commerce and Industry, FGS reporting to the Ministry's Director General.