Lesotho

RISK & COMPLIANCE REPORT

DATE: January 2017

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Executive Summary	
Sanctions:	None
FAFT list of AML Deficient Countries	No
Higher Risk Areas:	Non - Compliance with FATF 40 + 9 Recommendations Not on EU White list equivalent jurisdictions Failed States Index (Political Issues)(Average Score)
Medium Risk Areas:	Corruption Index (Transparency International & W.G.I.) World Governance Indicators (Average Score)

Major Investment Areas:

Agriculture - products:

corn, wheat, pulses, sorghum, barley; livestock

Industries:

food, beverages, textiles, apparel assembly, handicrafts, construction, tourism

Exports - commodities:

manufactures (clothing, footwear), wool and mohair, food and live animals, electricity, water, diamonds

Imports - commodities:

food; building materials, vehicles, machinery, medicines, petroleum products

Investment Restrictions:

The Government of Lesotho (GOL) maintains a strong commitment to private investment and is generally open to foreign direct investment

Virtually all business sectors are open to foreign investors. No government approval is required, and there are almost no restrictions on the form or extent of foreign investment, except investment in small-scale retail and services businesses.

Contents

Section 1 - Background

Basutoland was renamed the Kingdom of Lesotho upon independence from the UK in 1966. The Basuto National Party ruled the country during its first two decades. King MOSHOESHOE was exiled in 1990, but returned to Lesotho in 1992 and was reinstated in 1995 and subsequently succeeded by his son, King LETSIE III, in 1996. Constitutional government was restored in 1993 after seven years of military rule. In 1998, violent protests and a military mutiny following a contentious election prompted a brief but bloody intervention by South African and Batswana military forces under the aegis of the Southern African Development Community. Subsequent constitutional reforms restored relative political stability. Peaceful parliamentary elections were held in 2002, but the National Assembly elections of February 2007 were hotly contested and aggrieved parties disputed how the electoral law was applied to award proportional seats in the Assembly. In May 2012, competitive elections involving 18 parties saw Prime Minister Motsoahae Thomas THABANE form a coalition government - the first in the country's history - that ousted the 14-year incumbent, Pakalitha MOSISILI, who peacefully transferred power the following month.

Section 2 - Anti – Money Laundering / Terrorist Financing

FATF status

Lesotho is not on the FATF List of Countries that have been identified as having strategic AML deficiencies

Compliance with FATF Recommendations

The last Mutual Evaluation Report relating to the implementation of anti-money laundering and counter-terrorist financing standards in Lesotho was undertaken by the Financial Action Task Force (FATF) in 2011. According to that Evaluation, Lesotho was deemed Compliant for 4 and Largely Compliant for 0 of the FATF 40 + 9 Recommendations. It was Partially Compliant or Non-Compliant for all 6 of the Core Recommendations.

Key Findings from latest Mutual Evaluation Report (2011):

This report gives a summary of the anti-money laundering (AML) and combating financing of terrorism (CFT) measures in place in the Kingdom of Lesotho as of the time of the on-site visit from the 29th of November 2010 to the 10th of December 2010 and shortly thereafter. The report describes and analyses those measures and provides recommendations on how certain aspects can be strengthened. It also sets out the Kingdom of Lesotho's levels of compliance with the Financial Action Task Force (FATF) 40 + 9 Recommendations (see the attached table on the Ratings of Compliance with the FATF Recommendations).

The Kingdom of Lesotho is a low-income developing country which is completely landlocked surrounded by its only neighbour, the Republic of South Africa. The country is part of a Common Monetary Area comprising Namibia, the Kingdom of Swaziland and South Africa. Within the Area the South African Rand (the Rand) freely circulates on par as part of medium of exchange with these countries' national currencies.

The economy of the Kingdom of Lesotho is closely linked to and dependent on the South African economy, with more than 85 percent of imports from and exports to the South African market. In addition, the country's economy is tied to the Southern African Customs Union, which includes the CMA members plus Botswana. Further, the Kingdom of Lesotho is a member of the regional economic bloc, Southern African Development Community together with other 14 nations.

The country has a small financial sector which is dominated by subsidiaries of South African financial institutions. Of the four commercial banks operating in the country, three are owned by South African banks. In addition, the insurance sector is dominated by a South African-owned insurance company which accounts for more than 80 percent of the market. In terms of value, the financial sector contributes about 6 percent to the GDP of the country. The financial sector is increasingly modernizing, spurred on by technological developments which have allowed financial institutions especially banks to offer a variety of financial products which would have been difficult to offer given the mountainous topography of the country.

The geographical location of the country provides strategic position for both illicit and licit trading activities. The following have been identified by the authorities as crimes generating proceeds: trafficking in drugs (mainly cannabis – locally known as dagga), fire arms and human beings; counterfeit and smuggling of tobacco/cigarettes and garments; smuggling of diamonds; robbery including cash-in-transit; corruption (especially government procurement), fraud and forgery, and stock theft. Luxury vehicles, purchasing of high value household goods and construction of residential estates are the main sectors in which the proceeds are being laundered. Given the cross-border and organized nature of the criminal activities generating the proceeds, there is increased cooperation and coordination of countermeasures between the law enforcement and intelligence agencies of the two countries.

Despite the law criminalizing money laundering and terrorist financing and setting out AML/CFT obligations being in force since 2008, the Kingdom of Lesotho is still at embryonic stages with the authorities still setting up and capacitating relevant institutions such as the Financial Intelligence Unit to effectively implement the provisions of the Act. The Kingdom of Lesotho is taking significant steps to implement effective AML/CFT programmes to protect its financial systems in a manner consistent with national development objectives and international standards.

US Department of State Money Laundering assessment (INCSR)

Lesotho was deemed a 'Monitored' Jurisdiction by the US Department of State 2016 International Narcotics Control Strategy Report (INCSR).

Key Findings from the report are as follows: -

Perceived Risks:

Lesotho is neither a regional nor an offshore financial center. Money laundering is related primarily to corruption and tax evasion. While there is no significant black market for smuggled goods in the country, undeclared and under-declared items pass daily between Lesotho and South Africa over the countries' extensive and porous land border. The smuggling is low level and largely committed by individuals. Smugglers commonly bring undeclared consumer goods or, occasionally, larger items like automobiles from South Africa into Lesotho. Smaller items are smuggled to avoid paperwork and other bureaucratic requirements, while larger items are smuggled to avoid paying import taxes at the borders.

DO FINANCIAL INSTITUTIONS ENGAGE IN CURRENCY TRANSACTIONS RELATED TO INTERNATIONAL NARCOTICS TRAFFICKING THAT INCLUDE SIGNIFICANT AMOUNTS OF US CURRENCY; CURRENCY DERIVED FROM ILLEGAL SALES IN THE U.S.; OR ILLEGAL DRUG SALES THAT OTHERWISE SIGNIFICANTLY AFFECT THE U.S.: NO

CRIMINALIZATION OF MONEY LAUNDERING:
"All serious crimes" approach or "list" approach to predicate crimes: All serious crimes
Are legal persons covered: criminally: YES civilly: YES

KNOW-YOUR-CUSTOMER (KYC) RULES:
Enhanced due diligence procedures for PEPs: Foreign: YES Domestic: YES
KYC covered entities: Banks, money lenders, money exchangers, brokers, insurance companies, securities dealers, real estate agents, gambling houses, casinos, the lottery, precious metals or stones dealers, and service providers

REPORTING REQUIREMENTS:
Number of STRs received and time frame: 52: January – October 2015
Number of CTRs received and time frame: Not available
STR covered entities: Banks, money lenders, money exchangers, brokers, insurance companies, securities dealers, real estate agents, gambling houses, casinos, the lottery, precious metals or stones dealers, and service providers

MONEY LAUNDERING CRIMINAL PROSECUTIONS/CONVICTIONS:
Prosecutions: 0 in 2015
Convictions: 0 in 2015

RECORDS EXCHANGE MECHANISM:
With U.S.: MLAT: NO Other mechanism: NO
With other governments/jurisdictions: YES

Lesotho is a member of the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG), a FATF-style regional body.

ENFORCEMENT AND IMPLEMENTATION ISSUES AND COMMENTS:

While the Government of Lesotho is steadily increasing its ability to monitor international financial transactions in Lesotho for AML/CFT purposes, limited resources, capacity, and expertise, as well as a lack of both awareness and training pose serious challenges to the adequate implementation of Lesotho's AML/CFT legislation.

AML guidelines published by the Financial Intelligence Unit (FIU) require reporting entities to submit suspicious transaction reports (STRs) to the FIU only, as opposed to both the Directorate of Corruption and Economic Offenses (DCEO) and the FIU, as provided for in the Money Laundering and Proceeds of Crime Act (MLPCA). The government has reportedly been working to revise the MLPCA for the last few years. The DCEO continues to work toward operationalizing an asset recovery unit. The FIU continues to raise awareness among banks and other professions about their obligations under the MLPCA.

Mobile Payments, or M-Payments, are becoming a possible vehicle to launder criminal proceeds in Africa and elsewhere in the world. In Lesotho, the Central Bank regulates mobile money systems Ecocash and M-pesa for AML/CFT compliance. They are mandated to follow KYC rules. All transactions are local and limited. A three-tier system based on the types of users sets maximums for transaction amounts. In 2015, the maximum volumes were revised.

Under Tier 1, under which individuals use a mobile phone self-registration, transactions are only allowed up to a maximum of 2,500 maloti (approximately $179) daily and 7,500 maloti (approximately $535) per month. Under Tier 2, subscribers are required to present their passports and proof of their sources of income. The maximum transaction for Tier 2 customers is 5,000 maloti (approximately $357) daily and 15,000 maloti (approximately $1,071) per month. Under Tier 3, similar rules as Tier 2 apply, with a maximum transaction of 7,500 maloti (approximately $535) daily and 20,000 maloti (approximately $1,429) per month. The system also has unusual behavior triggers, which can lead to the filing of a suspicious transaction report (STR). In addition to existing mobile money systems, Shoprite store has developed a cross-border money transfer system consisting of remittances between Lesotho and South Africa. A money transfer can be made at any Shoprite in South Africa to be received at any Shoprite in Lesotho. There is a daily limit of 5,000 maloti (approximately $357) to be sent and received and a monthly limit of 25,000 maloti (approximately $1,786).

Customs enforcement and other weak points at Lesotho's borders continue to be key areas of concern. The Government of Lesotho should amend its MLPCA, implement its obligations under UNSCRs 1267 and 1373, and pass its Anti-Terrorism bill into law. Lesotho should also take steps to tighten its borders controls and to curb corruption. Additionally, Lesotho should continue its efforts to monitor various forms of M-Payments and guard against possible money laundering abuse.

Current Weaknesses in Government Legislation (2013 INCRS Comparative Tables):

According to the US State Department, Lesotho conforms with regard to all government legislation required to combat money laundering

EU White list of Equivalent Jurisdictions

Lesotho is not currently on the EU White list of Equivalent Jurisdictions

World Governance indicators

To view historic Governance Indicators Ctrl + Click here and then select country

Failed States Index

To view Failed States Index Ctrl + Click here

Offshore Financial Centre

Lesotho is not considered to be an Offshore Financial Centre

Reports

US State Dept Narcotics Report

No report available

US State Dept Trafficking in Persons Report 2014 (introduction):

Lesotho is classified a Tier 2 (watch list) country - a country whose government does not fully comply with the Trafficking Victims Protection Act's minimum standards, but is making significant efforts to bring themselves into compliance with those standards.

Lesotho is a source, transit, and destination country for women and children subjected to conditions of forced labor and sex trafficking, and for men subjected to conditions of forced labor. Within Lesotho, women and children are subjected to domestic servitude and children—both boys and girls—increasingly endure commercial sexual exploitation. Basotho women and children endure these same forms of exploitation in South Africa. Basotho women and girls voluntarily migrate to South Africa seeking work in domestic service and are detained in prison-like conditions and/or forced to engage in prostitution. Some Basotho men who migrate voluntarily, though illegally, to South Africa for work in agriculture and mining become victims of forced labor; many work for weeks or months, only to have their employers turn them over to South African authorities to be deported for immigration violations in order to avoid paying them. In 2013, traffickers were suspected of recruiting three Basotho nationals into forced labor in South Africa. Basotho are also coerced into committing crimes, including theft, drug dealing, and drug smuggling under threats of violence or through forced drug use. Chinese and Nigerian organized crime rings reportedly acquire Basotho victims while transporting foreign victims through Lesotho to Johannesburg. The trend of foreign nationals subjecting their compatriots to trafficking in Lesotho, first observed in 2011, reportedly continued, although no specific cases were identified by government or NGO stakeholders during the reporting period.

The Government of Lesotho does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government did not demonstrate evidence of overall increasing efforts to address human trafficking over the previous reporting period; therefore, Lesotho is placed on Tier 2 Watch List for the second consecutive year. The government initiated several prosecutions of trafficking offenses in 2013. The government also appointed a new chair to its anti-trafficking committee charged with finalizing a national action plan to combat human trafficking; however, the committee was inactive for much of the reporting year and failed to develop formal referral procedures and establish victim care centers—key portions of the 2011 anti-trafficking act that remained unimplemented for the fourth consecutive year. The government has not successfully prosecuted a trafficking offender under the 2011 anti-trafficking act and failed to address systematic weaknesses—including questions of jurisdiction among courts, lack of anti-trafficking training for officials, and official complicity—during the reporting period. The government identified four trafficking victims and referred three for care; however, the government made minimal efforts to protect victims. It continued its reliance on NGOs to identify and assist victims, without providing funding or in-kind support for these services.

International Sanctions

None Applicable

Bribery & Corruption

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	39
World Governance Indicator – Control of Corruption	60

Corruption and Government Transparency - Report by US State Department

Lesotho has laws, regulations, and penalties to combat effectively corruption of public officials. Parliament passed anti-corruption legislation in 1999 and provides criminal penalties for official corruption. The Directorate on Corruption and Economic Offenses (DCEO) is the primary anticorruption organ and investigates corruption complaints against public sector officials. The Amendment of Prevention of Corruption and Economic Offences Act of 2006 enacted the first financial disclosure laws for public officials. The disclosure form to be used has been developed but has not yet been implemented. The law may also be applied to private citizens if deemed necessary by the DCEO. The law prohibits direct or indirect bribery of public officials, including payments to family members of officials and political parties. While the government made significant efforts to implement the law, some officials engaged in corrupt practices with impunity.

In 2013, the DCEO indicted both a sitting minister and a former minister for separate incidents of corruption; their cases are pending in court. In an effort to prevent corruption and economic offences, the DCEO encourages companies to establish internal codes of conduct that, among other things, prohibit bribery of public officials. Most companies have effective internal controls, ethics, and programs to detect and prevent bribery.

Lesotho acceded to the UN Anticorruption Convention in 2005 but it is not yet a signatory to the OECD Convention on Combating Bribery. Lesotho acceded to the African Union Convention on Preventing and Combating Corruption in 2003. Lesotho is also a member of the African Peer Review Mechanism (APRM), and the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG), a FATF-style regional body.

No U.S. firms have identified corruption as an obstacle to foreign direct investment in Lesotho. Giving or accepting a bribe is a criminal act under the Prevention of Corruption and Economic Offences Act of 2006, the penalty for which is a minimum of 10,000 maloti or 10 years imprisonment. Local companies cannot deduct a bribe to a foreign official from taxes. Corruption is mostly pervasive in government procurement; however, it is mostly low level corruption committed by lower ranking public officials.

Section 3 - Economy

Small, mountainous, and completely landlocked by South Africa, Lesotho is a least developed country in which about three-fourths of the people live in rural areas and engage in subsistence agriculture. Lesotho produces less than 20% of the nation's demand for food. Rain-fed agriculture is vulnerable to weather and climate variability; an estimated 725,500 people will require food assistance in 2012/13. The distribution of income in Lesotho remains inequitable. Lesotho relies on South Africa for much of its economic activity. Lesotho imports 90% of the goods it consumes from South Africa, including most agricultural inputs. Households depend heavily on remittances from family members working in South Africa, in mines, on farms and as domestic workers, though mining employment has declined substantially since the 1990s. Government revenue depends heavily on transfers from South Africa. Customs duties from the Southern Africa Customs Union accounted for 44% of government revenue in 2012. The South African Government also pays royalties for water transferred to South Africa from a dam and reservoir system in Lesotho. However, the government continues to strengthen its tax system to reduce dependency on customs duties and other transfers. Access to credit remains a problem for the private sector. The government maintains a large presence in the economy - government consumption accounted for 39% of GDP in 2013 and the government remains Lesotho's largest employer. Lesotho's largest private employer is the textile and garment industry - approximately 36,000 Basotho, mainly women, work in factories producing garments for export to South Africa and the US. Diamond mining in Lesotho has grown in recent years and may contribute 8.5% to GDP by 2015, according to current forecasts. Lesotho's $362.5 million Millennium Challenge Account Compact, which focused on strengthening the healthcare system, developing the private sector, and providing access to improved water supplies and sanitation facilities, will end in September 2013. Despite the 2008/09 global economic crisis, the economy has had strong, but declining growth since 2010.

Agriculture - products:

corn, wheat, pulses, sorghum, barley; livestock

Industries:

food, beverages, textiles, apparel assembly, handicrafts, construction, tourism

Exports - commodities:

manufactures (clothing, footwear), wool and mohair, food and live animals, electricity, water, diamonds

Imports - commodities:

food; building materials, vehicles, machinery, medicines, petroleum products

Banking

The banking system is essentially foreign-owned by South African Banks: Standard Bank, NedBank, and First National Bank. There is one state-owned bank which is mandated to access financial services to Basotho living in urban and rural areas of the country that do not have bank accounts. The banks are supervised by the Central Bank of Lesotho through the Financial Institution Act of 1999. For individuals, local currency accounts can be opened with any bank with an identity document and proof of residential address. For businesses, there is a need for an application letter with the specimen signatures of the signatories to the account. Banking regulations do not give power to the central bank to give directions as to interest rates, exchange rates margins, or the spread of services offered and the branch network. This is due to the currency peg with South Africa, which means that Lesotho has lost its leverage in the area of monetary policy. This creates a low political risk environment for banking investment.

Stock Exchange

There is currently no stock exchange in Lesotho, so companies are able to list on the Johannesburg Stock Exchange, however there are plans to have a stock exchange in operation by the end of 2011.

Section 4 - Investment Climate

Executive Summary

The Government of Lesotho (GOL), through its National Strategic Development Plan, recognizes the critical role that domestic and foreign investment and the development of the private sector play in driving shared economic growth. The government actively encourages foreign direct investment (FDI) in all areas of the economy, with limited restrictions on foreign ownership of small businesses. Foreign investors enjoy the same rights and protections as national investors. Lesotho's standards of treatment and protection of specific interest to foreign investors are good in practice, but the legal framework guaranteeing these norms is weakly developed. There is no foreign investment law, and there are limited bilateral investment treaties (BITs) to protect foreign investors and ensure their adequate treatment.

Lesotho's performance in attracting FDI has been credible by regional standards, particularly in view of its landlocked location. In recent years, FDI inflows have been mainly driven by investments in the mining sector. The investment climate is conducive to U.S. investment; Lesotho, a relatively small market of only 1.9 million people, is a member of the Southern African Customs Union (SACU) and the Southern African Development Community (SADC) market, allowing foreign businesses to use Lesotho as a gateway to larger regional markets.

The legal, regulatory, and accounting systems are transparent and consistent with international norms. The judicial system is an effective means for enforcing property and contractual rights, and Lesotho has a written and consistently applied commercial law. A Commercial Court was established in 2010 with the support of Lesotho's Millennium Challenge Compact, in an effort to improve the country's capacity in resolving commercial cases. Foreign investors have equal treatment before the courts in disputes with national parties or the government. The government has no history of investment disputes involving U.S. or other foreign investors or contractors in Lesotho.

No U.S. firms have identified corruption as an obstacle to foreign direct investment in Lesotho. Giving or accepting a bribe is a criminal act under the Prevention of Corruption and Economic Offences Act of 2006.

Lesotho is a member of the International Labor Organization (ILO) and has ratified 23 international labor conventions, including all the eight fundamental human rights instruments. Lesotho's Labor Code Order of 1992 and its subsequent amendments are the principal laws governing terms and conditions of employment in Lesotho. The law provides for freedom of association and the right to bargain collectively. The law stipulates that employers must allow union officials reasonable facilities for conferring with employees.

Lesotho's investment climate is improving as a result of recent policy reforms and the government plans to undertake further reforms. The Land Act of 2010 reformed the land tenure system, allowing foreign investors to hold land titles so long as 20% of the company is owned by local investors. The Land Act has also allowed the use of land as collateral, which has expanded access to credit. The Companies Act of 2011 reduced the time it takes to start a business from forty to five days, and strengthened investor protections. As a result of these reforms, Lesotho's rank in the World Bank's *Doing Business* report improved from 153 in 2012 to 136 in 2014.

1. Openness To, and Restrictions Upon, Foreign Investment

Attitude towards FDI

The GOL maintains a strong commitment to private investment and is generally open to FDI, with the exception of limited restrictions on foreign ownership of small businesses. The GOL welcomes foreign investments that:

- Create jobs and open new markets and industries in accordance with the national objective of diversifying Lesotho's industrial base;
- Improve skills and productivity in the workforce and nurture local business suppliers and partners;
- Support knowledge and technology transfer and diffusion;
- Improve the quality and accessibility of infrastructure.

Foreign investors enjoy the same rights and protections as national investors. The government is aware of the challenges it faces as a small, landlocked, and least developed country in facilitating investment and is committed to improving the climate for investment.

Other Investment Policy Reviews

The GOL has undertaken several policy reforms in recent years to improve the investment climate in Lesotho. The Land Act of 2010 allows foreign investors to hold land titles so long as the local investors own at least 20% of the enterprise. The GOL also enacted the Companies Act of 2011, which strengthened investor protections by increasing the disclosure requirements for related-party transactions and improving the liability regime for company directors in cases of abuse of power related-party transactions. To make it easier to do business and facilitate FDI, the government established a "One Stop Business Facilitation Centre" (OBFC), placing all services required for the issuance of licenses, permits, imports and exports clearances under one roof. OBFC services, coupled with the implementation of the Companies Act of 2011, have reduced the number of days it takes to start a business from forty days to five days. The OBFC also hosts the Lesotho Trade Information Portal, a single online authoritative source of all laws, regulations, and procedures for importing and exporting that provides transparency and predictability to trade transactions, and reduces the time and cost of trading across borders. In 2013, the government launched the Consumer Protection Policy, although the GOL has not yet established a competition authority.

Laws/Regulations of FDI

The judicial system is generally independent and procedurally and substantively fair, although Freedom House Southern Africa noted politicization, chronic underfunding and structural problems in its 2012 report "Politics of Judicial Independence in Lesotho." The judicial system upholds the sanctity of contracts and enforces them in accordance with their terms and on a non-discriminatory basis. The government enforces judicial decisions through officers of the court, and if necessary, through criminal proceedings. A Commercial Court was established in 2010 under Lesotho's Millennium Challenge Compact in an effort to improve the country's capacity in resolving commercial cases.

Lesotho does not currently have a specific and overarching FDI policy. FDI policy instruments include the Companies Act of 2011, the Financial Institutions Act of 2012, as well as legislation covering mining, tourism, and manufacturing, particularly the textile industry. The Companies Act and the Financial Institutions Act of 2012 are the principal laws that regulate incoming foreign investment through acquisitions, mergers, takeovers, purchases of securities and other financial contracts and greenfield investments. There is no investment law per se. Instead, a licensing regime and established practice, supplemented by investment treaties, govern conduct towards the entry of foreign investment.

Industrial Strategy

Through the Lesotho National Development Corporation (LNDC), the government actively encourages investment in the following sectors: Chemicals, Petrochemicals, Plastics and Composites; Energy and Mining; Environmental Technologies; Health Technologies; Textile, Apparel & Sporting Goods; and Travel. LNDC implements the country's industrial development policies. LNDC provides assistance through supportive services to foreign investors and publishes information on investment opportunities and services it offers to foreign investors. It also offers incentives such as long-term loans, tax incentives, factory space at discounted rental rates, assistance with work permits and licenses, and logistical support for relocation. For more information, please visit: http://www.lndc.org.ls.

Limits on Foreign Control

Lesotho is open to foreign investment without case-by-case approval or requirement for partial national ownership, with the exception of a defined number of small-scale businesses in certain activities that are reserved exclusively for Lesotho citizens to encourage local entrepreneurship. The activities reserved for local ownership under the Trading Enterprises Regulations 2011 include: agent of a foreign firm; barber; butcher; snack-bar; domestic fuel dealer; dairy shop; general café or dealer; greengrocer; broker; mini supermarket (floor area $< 250m^2$); and hair and beauty salon. Foreigners are not permitted to own or sit on the boards of these businesses. Foreign firms must have at least 20% local ownership to title land.

The Mines and Minerals Act No.4 of 2005, restricts mineral permits for small-scale mining operations on less than $100m^2$ to local ownership. Diamond mining, regardless of the size of the operation, is subject to large-scale mines licensing regime, which has no restrictions on foreign ownership. However, the Government reserves the right to acquire at least 20% ownership in any large-scale mine.

Privatization Program

There is no ongoing privatization program in Lesotho.

Screening of FDI

The Ministry of Trade and Industry, Cooperatives and Marketing screens foreign investments in a routine, non-discriminatory manner to ensure consistency with national interests. The lack of local entrepreneurs has meant the government is under no pressure to exclude foreign investment to the advantage of local investment. No government approval is required, and there are almost no restrictions on the form or extent of foreign investment, except investment in small-scale retail and services businesses (*see 1.5 above*).

Competition Law

The government has a draft Competition Bill with the objective of improving the regulation of investments. It is unclear when the bill will be passed into law.

Investment Trends

Lesotho's FDI stock by 2010 was US$1443 million. Given the size of the country and its economy, Lesotho's performance in attracting FDI has been credible by regional standards, particularly in view of its landlocked location. The bulk of FDI flows into the financial, mining, and manufacturing sectors, and most of that investment goes into export activity. Most investment currently originates from South Africa, Taiwan, China, the United Kingdom, and Singapore. Lesotho's lead in export-oriented FDI gives it an advantage that it should build upon; however, that export activity is highly concentrated in a very narrow range of low technology products. There are 40 factories specializing in a very narrow range of woven and knit garments. Foreign affiliates have also invested in footwear, electronics, food processing and other manufacturing products such as plastics and card boards. South Africans also invest in insurance, telecommunications, financial services, tourism, and hotels.

Future FDI flows will depend on continued improvements to the investment climate, particularly such as improving access to credit and the land tenure reform, which constrain growth in key sectors such as tourism.

TABLE 1: The following chart summarizes several well-regarded indices and rankings.

Measure	**Year**	**Rank or value**	**Website Address**
TI Corruption Perceptions index	2013	55 of 177	http://cpi.transparency.org/cpi2013/results/
Heritage Foundation's Economic Freedom index	2013	154 of 177	http://www.heritage.org/index/ranking
World Bank's Doing Business Report "Ease	2013	136 of 189	http//doingbusiness.org/rankings

of Doing Business"			
Global Innovation Index	2013	124 of 142	http://www.globalinnovationindex.org/content.aspx?page=gii-full-report-2013#pdfopener
World Bank GNI per capita	2012	USD 1,380	http://data.worldbank.org/indicator/NY.GNP.PCAP.CD

TABLE 1B - Scorecards: The Millennium Challenge Corporation, a U.S. Government entity charged with delivering development grants to countries that have demonstrated a commitment to reform, produced scorecards for countries with a 2012 per capita gross national income (GNI) or $4,085 or less. A list of countries/economies with MCC scorecards and links to those scorecards is available here: http://www.mcc.gov/pages/selection/scorecards. Details on each of the MCC's indicators and a guide to reading the scorecards, are available here: http://www.mcc.gov/documents/reports/reference-2013001142401-fy14-guide-to-the-indicators.pdf

2. Conversion and Transfer Policies

Foreign Exchange and Remittance Policies

There are no restrictions on converting or transferring funds associated with an investment into a freely usable currency and at a legal market-clearing rate. Subject to foreign exchange control rules, Lesotho's policy is that foreign investors may access foreign exchange for day-to-day business purposes and can remit capital and profits overseas. Investors may hold foreign currency accounts in local banks. Lesotho has acceded to Article VIII of the IMF charter that provides for foreign exchange convertibility of current account transactions. For loan repayments, investors must notify the Central Bank of Lesotho (CBL) at the outset of an investment that the capital for that investment is a loan, and must disclose the terms of the loan. Lesotho is a member of the Southern African Common Policy on approval of foreign loans.

According to the CBL, there are no plans to change remittance policies in the near future. Foreign exchange is easily obtainable. The CBL has authorized the three commercial banks and two private bureaux de changes in Lesotho to deal in foreign exchange; however, the CBL still retains the power to approve foreign exchange requirements for all capital account transactions including FDI, capital disinvestment, and contracting and servicing offshore debt. The procedures for approving dividend remittances are somewhat bureaucratic, similar to other countries that have foreign exchange control regimes. Copies of audited company accounts are required for final dividend payments; interim dividends require only management accounts. Tax clearance certificates are required for both interim and final dividend payments.

Lesotho's fiscal and monetary policies operate within the context of its membership of the Common Monetary Area (CMA). The CMA consists of the following SACU countries: Namibia, Swaziland and South Africa. Under the CMA, the national currency, the loti, is pegged at par to the South African rand, which is also accepted as legal tender in Lesotho. As a member of the CMA, Lesotho has free convertibility of transactions with Namibia, South Africa and Swaziland. Under this regime, Lesotho has effectively surrendered its monetary policy to the South African reserve bank, and therefore cannot engage in currency manipulation. To maintain the rand/loti peg, Lesotho maintains reserves in rand and other foreign currencies. Lesotho's prudent management of its reserves enables it to offer free foreign exchange convertibility for all current account transactions.

The current average delay period for remitting investment returns such as dividends, return of capital, interest and principal on private foreign debt, lease payments, royalties and management fees through normal, legal channels is two days, provided the investor has submitted all the necessary documentation related to the remittance. There has never been a case of blockage of such transfers, and shortages of foreign exchange that could lead to blockage are unlikely given that the CBL maintains net international reserves at a target of 3.5 months of import cover.

3. Expropriation and Compensation

The constitution provides that the acquisition of private property by the state can only occur for specified public purposes. Further, the law provides for full and prompt compensation at fair market value. Affected persons may appeal to the High Court as to whether the action is legal and compensation is adequate. The constitution is silent as to whether compensation may be paid abroad in the case of a non-resident; such an additional provision would usually be contained in a foreign investment law. Currently, there are thirty five cases alleging inadequate compensation of expropriated land for the construction of Metolong dam lodged with the Transformation Resource Center (TRC), a non-governmental organization. The communities affected by the dam approached TRC to mediate between themselves and the Metolong Authority, because TRC mediated disputes around another dam project, the Lesotho Highlands Water Project. None of these cases have been brought to court yet. The government has no history of discriminating against U.S. or other foreign investments, companies or representatives in expropriation. The only local ownership law is the Trading Enterprises Act (see above).

4. Dispute Settlement

Legal System, Specialized Courts, Judicial Independence, Judgments of Foreign Courts

Lesotho's independent judicial system is an effective means for enforcing property and contractual rights, and Lesotho has a written and consistently applied commercial law. The judicial system is, however, inefficient – courts are overburdened and cases can take years to resolve. A Commercial Court was established in 2010 in an effort to improve the country's capacity in resolving commercial cases. Foreign investors have equal treatment before the courts in disputes with national parties or the government. The SADC Protocol on Finance and Investment enables investors to refer to international arbitration a dispute with the State if domestic remedies have been exhausted. Lesotho is a signatory of the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID) and also accepts ad hoc arbitration. Lesotho is a member of the International Center for the Settlement of Investment Disputes and the Arbitration International Investment Disputes Act of 1974 commits Lesotho to accept binding international arbitration of investment disputes.

The legal system is a mixture of Roman-Dutch and English Common Law. The judicial system consists of the High Court, the Court of Appeal, subordinate courts and the Judicial Service Commission (JSC). The High Court has unlimited original jurisdiction over civil and criminal matters, as well as appellate jurisdiction from subordinate courts. Subordinate courts, comprising resident magistrate's courts, judicial commissioner's courts, and central and local courts, administer statute laws, while chiefs administer customary and tribal laws. There is no trial by jury. Lesotho has accepted compulsory International Court of Justice jurisdiction with reservations.

Bankruptcy

The Companies Act is the principal commercial and bankruptcy law. According to the law, creditors, equity shareholders and holders of other financial contracts of a bankrupt company have a right to nominate a person to be liquidator, and if the creditors and the shareholders nominate different persons, the person nominated by the creditors shall be the liquidator. All claims against a bankrupt company shall be proved at a meeting of creditors, equity shareholders and the court or the liquidator may fix a time or times within which creditors of the company are to prove their claims. If the claim is rejected by the liquidator, the claimant may apply to the court by motion to set aside the rejection. Creditors who will act as witnesses are entitled to witness fees, to be paid out of the funds of the company, as they would be entitled to if they were witnesses in any civil proceedings. Creditors are paid first in a bankruptcy; equity shareholders and holders of other financial contracts then follow. According to the Labor Code, workers have the right to recover pay and benefits from local and foreign firms in bankruptcy before creditors, equity shareholders and holder of other financial contracts, regardless of the provisions of any other law in Lesotho. Monetary judgments are usually made in the local currency. An amount of a claim based on a debt or liability denominated in a foreign currency shall be converted into Lesotho currency at the rate of exchange on the date of commencement of the liquidation.

Investment Disputes

The government has no history of investment disputes involving U.S. or other foreign investors or contractors in Lesotho. Foreign investors have full and equal recourse to the Lesotho courts for commercial and labor disputes. Courts are regarded as fair and impartial in cases involving foreign investors.

International Arbitration

Lesotho readily accepts binding international arbitration of investment disputes. Lesotho has entered into a number of bilateral investment agreements that provide for international arbitration. For instance, under the Bilateral Investment Treaty with United Kingdom, an investor may take a dispute with the government to international arbitration. Lesotho does not have a bilateral investment treaty with the United States. The government has stated that Lesotho’s courts would readily accept and enforce foreign arbitral awards – there have been no such awards to date.

Lesotho is a member of the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID Convention) and the New York Convention of 1958 on the Recognition and Enforcement of Foreign Arbitral Awards.

Duration of Dispute Resolution

Before the establishment of the Commercial Court, commercial cases used to languish for years, exacerbated by the absence of specialized judges to deal with commercial disputes. The Commercial Court has reduced the time to resolve a commercial dispute, and reduced the costs of such litigation. Incidents of government interference in commercial cases have not been reported.

5. Performance Requirements and Investment Incentives

WTO/TRIMS

Lesotho has not notified the World Trade Organization (WTO) of any measure inconsistent with Trade Related Investment Measures (TRIMs) requirements, and has not introduced measures that violate TRIMs obligations.

Investment Incentives

There are no incentives for, and no performance requirements imposed on, foreign investors as a condition of investment. However, there are tax, factory space, and financial incentives available to manufacturing companies establishing themselves in Lesotho, such as: no withholding tax on dividends distributed by manufacturing firms to local or foreign shareholders; unimpeded access to foreign exchange; export finance facility and long-term loans. These incentives are applied uniformly to both domestic and foreign investors. For more information, see http://www.lndc.org.ls. The incentives are specified in government administrative policies and regulations.

Research and Development

U.S. and other foreign firms are able to participate in government financed and/or subsidized research and development programs on a national treatment basis, although such programs are rare in Lesotho.

Performance Requirements

Data Storage

The GOL does not follow a policy of “forced localization” designed to force foreign investors to increase investment and/or employment in the local economy. The government does not force foreign investors to establish and maintain data storage within Lesotho; however, foreign investors are required to keep records of local sales and employees’ remuneration locally for tax purposes. With the exception of textile companies that export to the United States under the African Growth and Opportunity Act (AGOA), which are bound by SACU regulations to export all their products, there is no requirement that investors purchase from local sources or export a certain percentage of output, or only have access to foreign exchange in relation to their exports. The GOL does not impose "offset" requirements, whereby major procurements are approved only if the foreign supplier invests in manufacturing, research and development or service facilities in the country related to the items being procured. The GOL does not impose conditions on permission to invest, with the exception of land titling, which requires the entity to have at least 20% local ownership.

Requirements for visas and residence permits are neither discriminatory nor excessively onerous. For executive positions, work permits to foreign nationals are issued and renewed easily; for technical positions, firms have to provide justification based on local skill shortage. The procedures for obtaining permits are transparent although foreign investors complain about excessive fees charged and long delays in processing. Work permits for the manufacturing sector are issued at the One Stop Business Facilitation Centre (OBFC), while all other sectors need to lodge their applications with the office of the Labor Commissioner. For more information on requirements for visas, residence permits and work permits, please visit: http://www.obfc.org.ls/business/default.php

6. Right to Private Ownership and Establishment

The right to private property is protected under the law. All foreign and domestic private entities may freely establish, acquire, and dispose of interests in business enterprises. Under the Land Act of 2010, foreign nationals are permitted to buy and hold land provided they have a local partner with at least 20% ownership. Lesotho has no competition law or overall competition regulator. Under the industrial and trading licenses system a business can apply for protection from competition for up to 10 years.

7. Protection of Property Rights

Real Property

Secured interests in property, both movable and real, are recognized and enforced under the Land Act 2010. The concept of a mortgage exists; mortgages are protected under the Deeds Registry Act of 1967. Secured interests, including mortgages, are recorded and filed by the Deeds Registry. Through the support of the Millennium Challenge Corporation, the government of Lesotho has significantly improved the process of registering land titles; it ranks 88 under the "Registering Property" index of the World Bank's *Doing Business Report*.

Intellectual Property Rights

Legal structures to protect intellectual property rights are relatively strong. Investors complain that enforcement is somewhat weak, although infringements and theft are not common. Lesotho respects international intellectual property laws, and is a member of the World Intellectual Property Organization (WIPO) as well as the African Intellectual Property Organization. Intellectual property protection is regulated by the Industrial Property Order of 1989 and the Copyright Act of 1989, which conform to the standards set out in the Paris Convention and Berne Convention. The law protects patents, industrial designs, trademarks, and grant of copyright, but does not protect trade secrets or semi-conductor chip lay-out design. The Law Office is responsible for enforcement of the Industrial Property Order, while the Ministry of Tourism, Sports and Culture is responsible for enforcement of copyright (reflecting the law's focus on protection of artistic works). The Deeds Registry carries out registration.

Lesotho is not listed in USTR's **Special 301 Report**, nor does it host a **Notorious Market**.

For additional information about treaty obligations and points of contact at local IP offices, please see WIPO's country profiles at http://www.wipo.int/directory/en/.

Resources for Rights Holders:

Contact at Mission:

- NAME of Economic Officer: Charles Perego
- TITLE: Political and Economic Officer
- TELEPHONE NUMBER: +266 2231-2666
- EMAIL ADDRESS: MaseruCommercial@state.gov

Local Attorneys List: http://maseru.usembassy.gov/service/information-for-travelers/legal-services/attorney-list2.html

8. Transparency of the Regulatory System

Business regulations in Lesotho are on the whole reasonable, but variable - modern and flexible in some areas and outdated and retrogressive in others - due to the government's piecemeal approach to reform. For example, the regulatory framework for utilities and the financial sector is modern, but mining regulation and the industrial and trading licensing system need improvements. The regulatory environment is generally weak, but it does not hinder competition, nor distorts business or investment practices. The legal, regulatory, and accounting systems are transparent and consistent with international norms.

Businesses in Lesotho are regulated by the Companies Act of 2011, which changed the process of registering private and public shareholding companies in Lesotho. The act has made business registration easy by abolishing the requirement to inspect proposed company premises before registration of the company, eliminating the need for a legal representative when registering a business and providing standard articles of incorporation. The act also envisages electronic company registration, as well as electronic regulatory filing, but the office of the Registrar is not yet set up to facilitate these improvements. The act also allows foreign companies to register as an external company, and companies must do so with within 10 days of opening a business in Lesotho. The company must nominate a person who is either resident or maintains a full-time office within Lesotho upon whom notices and processes can be served, and register the principal place of business of the company in Lesotho.

Every firm intending to engage in business must obtain a trader's license. The issuance of traders' licenses is governed by the Trading Enterprises Order of 1993, as amended in 1996, and the Trading Enterprises Regulations of 1999, as amended in 2011. Trading licenses are required for a wide range of services; some enterprises can require up to four licenses for one location. Manufacturing licenses are covered by the Industrial Licensing Act of 1969 (which is currently under reconsideration by Parliament) and the Pioneers Industries Encouragement Act of 1969. For the majority of manufacturing license applications, environmental certificates issued by the National Environmental Secretariat (NES) are sufficient. However where manufacturing activities are assumed to have actual or potential environmental impacts, an Environmental Impact Assessment is required, which must be approved by the NES. The introduction of the OBFC improved the industrial and trading license system. The OBFC has also streamlined other bureaucratic procedures, including those for licenses and permits.

The GOL modernized the regulatory framework for utilities through the establishment of the independent Lesotho Telecommunications Authority (LTA) and the Lesotho Electricity and Water Authority (LEWA). LTA regulates the telecommunications sector, while LEWA regulates both the energy and water sectors. The two authorities set the conditions for entry of new competitive operators. Currently the LTA allows Lesotho Telecom to maintain a monopoly for fixed-line and international services, while permitting competition in mobile telephone services. The LEWA allows both the Lesotho Electricity Company and the Water and Sewerage Company to maintain monopoly in their respective sectors.

The Mines and Minerals Act of 2005, the Precious Stones Order (1970), and the Mine Safety Act (1981), provide a regulatory framework for the mining industry. The Commissioner of Mines in the Ministry of Mines, supported by the Mining Board, is authorized to issue mineral rights to both foreigners and local investors. On approval, it takes about a month for both prospecting and mining licenses to be issued.

The CBL regulates financial services under the Financial Institutions Act of 2012.

Tourism enterprises are required to secure licenses under the Accommodation, Catering and Tourism Enterprise Act of 1997. The Act provides for a Tourism Licensing Board that issues and renews licenses for camp sites, hotels, lodges, restaurants, self-catering establishments, bed and breakfasts, youth hostels, resorts, motels, catering and guest house licenses. Applicants for any of the above licenses must apply to the Board three months before its next meeting. A number of government departments, specifically the Ministries of Health and Tourism, the Police and the Maseru City Council, must inspect and to submit inspection reports to the Board on prescribed forms. Licenses are granted for one year and can be renewed.

Parliamentary committees may, but are not required to, publish proposed laws and regulations in draft form for public comment. Parliament may also hold public gatherings to explain the contents of the proposed laws and these provide opportunities for comment on proposed laws and regulations. The committees generally make these consultations for laws that are perceived to be sensitive, such as the Land Act, the Penal Code and the Children's Welfare and Protection Act.

There are no private sector or government efforts to restrict foreign participation in industry standards- setting consortia or organizations.

9. Efficient Capital Markets and Portfolio Investment

Money and Banking System, Hostile Takeovers

The regulatory system is not effectively established to encourage and facilitate portfolio investment. The stock of portfolio investment liabilities amounted to $12.6 million at the end of 2009 and comprised mostly bonds. Lesotho's capital market is relatively under-developed, with no secondary market for capital market transactions to take place. The GOL issued treasury bonds at the end of 2010 to more broadly develop capital markets in Lesotho, although there is no secondary market for these bonds. The lack of a stock market also impedes the free flow of capital in the financial system since shares do not trade freely on the market, and there is insufficient liquidity in the markets to enter and exit sizeable positions. Current policies do not facilitate the free flow of financial resources to the product and factor markets. In 2013, the government adopted a financial sector development strategy to mobilize financial resources through the establishment of an over-the-counter market for equities, with a long term goal of establishing a stock market.

The government accepted the obligations of IMF Article VIII in 1997, and continues to refrain from imposing restrictions on the making of payments and transfers for current international transactions.

Credit is allocated on market terms, and foreign investors are able to get credit on the local market. However, the banking sector is characterized by conservative lending guidelines, high interest rates, and large collateral requirements. According to the IMF, as a result of structural reforms implemented under the first Millennium Challenge Corporation Compact, private sector credit is growing. In addition, the LNDC provides industrial and commercial credit to foreign investors. The private sector has access to a limited number of credit instruments, such as credit cards, loans, overdrafts, checks and letters of credit.

Three South African banks account for almost 90% of the country's banking assets, which totaled over M4.9 billion (US$449 million) in March 2013. According to the CBL, the banking system is sound - commercial banks in Lesotho are well- capitalized, liquid and compliant with international banking standards. Foreigners are allowed to establish a bank account and they may hold foreign currency accounts in local banks; however, they will be required to provide a residence permit as a precondition for opening a bank account to comply with the know-your-customer requirements.

Lesotho does not have a competition law; other existing legislation is silent on measures to prevent hostile takeovers.

10. Competition from State-Owned Enterprises

OECD Guidelines on Corporate Governance of SOEs

Lesotho privatized most state owned enterprises (SOEs) following the adoption of the privatization Act of 1995, including telecommunications, banks, and government vehicle fleet. The government did not privatize the electricity and water utility companies, which enjoy monopolies in their respective sectors. In 2004, the government established the Lesotho Postbank, which is mandated to provide Basotho greater access to financial services. The government also introduced state-owned buses in the public transportation sector in 2008, with a mandate of providing public transport to the underserved areas of the country. The government also has stakes in private companies in utilities and the telecommunications, mining, and manufacturing sectors. There is a significant level of competition within these sectors - SOEs do not play a leading role. There are no laws that seek to ensure a primary or leading role for SOEs in certain sectors/industries. SOEs operate under the same tax law, value added tax rebate policies, regulatory and policy environment as other private business, including foreign businesses.

Private enterprises are allowed to compete with public enterprises under the same terms and conditions with respect to access to markets, credit and other business operations, such as licenses and supplies. Private enterprises have the same access to financing as SOEs and on the same terms as SOEs, including access to financing commercial banks and government credit guarantee schemes. SOEs are subject to hard budget constraints under the law and these provisions are enforced in practice. SOE senior management reports to an independent board of directors; some of the directors may be politically-affiliated individuals. SOEs are required by law to publish an annual report and to submit their accounts to independent audit. SOEs are subject to the same domestic accounting standards and rules as other private investors, and these standards are comparable to international financial reporting standards.

SOEs do not exercise delegated governmental powers. U.S. firms have not reported any commercial activity by government departments or quasi-government institution that has an adverse commercial impact on their operations. There are no reported cases of SOEs being involved in investment disputes. Lesotho's judicial system is fairly independent; court processes are transparent and non-discriminatory.

Sovereign Wealth Funds

There is no sovereign wealth fund or asset management bureau in Lesotho.

11. Corporate Social Responsibility

OECD Guidelines for Multinational Enterprises

There is a general awareness of corporate social responsibility among both producers and consumers. Foreign and local enterprises tend to follow generally accepted corporate social responsibility (CSR) principles such as those contained in OECD Guidelines for Multinational Enterprises and the United Nations' Guiding Principles on Business and Human Rights, although the government does not actively promote adherence to these principles. Firms who pursue CSR are viewed favorably by society, not necessarily by government.

The government maintains and enforces domestic laws with respect to labor and employment rights, consumer protections and environmental protections. Labor laws and regulations are rarely waived in order to attract investment; however the government does not compromise on environmental laws. There are no independent NGOs operating in the country that promote or monitor CSR.

12. Political Violence

In May 2012, Lesotho held national elections widely regarded as free and fair, followed by a peaceful transfer of power. Since the transition, there have been no incidents of political violence. Businesses and foreign investors are not targets of political violence.

13. Corruption

UN Anticorruption Convention, OECD Convention on Combatting Bribery

Lesotho has laws, regulations, and penalties to combat effectively corruption of public officials. Parliament passed anti-corruption legislation in 1999 and provides criminal penalties for official corruption. The Directorate on Corruption and Economic Offenses (DCEO) is the primary anticorruption organ and investigates corruption complaints against public sector officials. The Amendment of Prevention of Corruption and Economic Offences Act of 2006 enacted the first financial disclosure laws for public officials. The disclosure form to be used has been developed but has not yet been implemented. The law may also be applied to private citizens if deemed necessary by the DCEO. The law prohibits direct or indirect bribery of public officials, including payments to family members of officials and political parties. While the government made significant efforts to implement the law, some officials engaged in corrupt practices with impunity.

In 2013, the DCEO indicted both a sitting minister and a former minister for separate incidents of corruption; their cases are pending in court. In an effort to prevent corruption and economic offences, the DCEO encourages companies to establish internal codes of conduct that, among other things, prohibit bribery of public officials. Most companies have effective internal controls, ethics, and programs to detect and prevent bribery.

Lesotho acceded to the UN Anticorruption Convention in 2005 but it is not yet a signatory to the OECD Convention on Combating Bribery. Lesotho acceded to the African Union Convention on Preventing and Combating Corruption in 2003. Lesotho is also a member of the African Peer Review Mechanism (APRM), and the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG), a FATF-style regional body.

No U.S. firms have identified corruption as an obstacle to foreign direct investment in Lesotho. Giving or accepting a bribe is a criminal act under the Prevention of Corruption and Economic Offences Act of 2006, the penalty for which is a minimum of 10,000 maloti or 10 years imprisonment. Local companies cannot deduct a bribe to a foreign official from taxes. Corruption is mostly pervasive in government procurement; however, it is mostly low level corruption committed by lower ranking public officials.

Resources to report corruption:

- NAME: Litelu Ramokhoro
- TITLE: Director General (a.i)
- ADDRESS: P.O. Box 16060, Maseru, 100 Lesotho
- TELEPHONE NUMBER: +266 2231-3719
- EMAIL ADDRESS: info@dceo.org.ls

14. Bilateral Investment Agreements

Lesotho does not have a bilateral investment treaty, or a free trade agreement with an investment chapter, with the U.S. Lesotho has bilateral investment protection agreements with the United Kingdom (1981) and Germany (1985). In 2004, Lesotho signed a bilateral investment agreement with Switzerland; the agreement has not yet been ratified. The three agreements are posted in full on the UNCTAD website. Lesotho signed an interim Economic Partnership Agreement (EPA) with the European Union in 2009; negotiations for a full EPA are ongoing. In 2008, SACU member states and the United States signed a Trade, Investment, and Development Cooperative Agreement (TIDCA).

Bilateral Taxation Treaties

Lesotho does not have a bilateral taxation treaty with the United States. There are no taxation issues of concern to U.S. investors.

15. OPIC and Other Investment Insurance Programs

Lesotho does not have an OPIC agreement with the United States. OPIC insured one American-owned company: Lesotho Flour Mills, Seaboard Corporation's joint venture with the Lesotho government. Seaboard started operations in 1998 and currently employs about 290 people.

With the implementation of the $1.75 billion Lesotho Highlands Water Project second phase, there is potential for operation of OPIC’s programs in Lesotho. The project involves construction of a dam, an expanded water delivery system to South Africa, and 1,000MW pump storage hydropower plant. OPIC can provide political risk insurance or finance for equipment to U.S. companies interested to bid in the project.

16. Labor

Lesotho has abundant supply of unskilled labor, but limited supply of skilled labor. The official unemployment rate is 25.3%, and youth unemployment is widespread. To augment the limited supply of skilled labor, the Labor Code allows firms to hire of non-citizens with a work permit. A work permit is issued based on a labor quota formula by the Labor Commissioner who must be satisfied that no qualified Lesotho citizen is available for the position. Within the textile and garments sector, an informal policy permits a company to employ one expatriate worker for every 20 Basotho workers. The statutory maximum duration of a work permit is two years. A work permit may be cancelled before term or renewed.

The government is aware that Lesotho needs to preserve its competitive labor costs while affording workers fair wages and conditions. Statutory minimum wages are fixed annually by the Ministry of Labor and Employment with recommendations from a tripartite Wages Advisory Board, representing the government, employers and employees.

The law provides for freedom of association and the right to bargain collectively. Employers sometimes violate those rights. The law stipulates that employers must allow union officials reasonable facilities for conferring with employees, but, according to union officials, some employers denied employees access to union officials, even during lunch breaks. Collective bargaining at the factory level is restricted in practice because the law requires that any union entering into negotiations with management represent 50 percent of workers at a factory, and only a few unions meet that condition. The labor movement is also fragmented, with multiple unions competing for membership among workers. Most unions focus on organizing apparel workers. All worker organizations were independent of the government and political parties except the Factory Workers Union, which is affiliated with the Lesotho Workers Party. The Labor Commissioner’s Office reported that the fragmented union movement did not influence labor market decisions. The law provides for a limited right to strike. In the private sector, the law requires workers and employers to follow a series of procedures designed to resolve disputes before the Directorate of Dispute Prevention and Resolution, an independent government body, authorizes a strike. The law does not permit civil servants to strike, and therefore all public sector strikes are illegal. In practice, strikes are rare in Lesotho, and they do not pose an investment risk because the government response to strikes is usually reasonable and measured.

Lesotho has been a member of the International Labor Organization (ILO) since 1966 and has ratified 23 international labor conventions, including all the eight fundamental human rights instruments of the ILO. In addition, Lesotho is a signatory to the following Conventions which enable social dialogue to take place: Freedom of Association and Protection of the Right to Organize Convention, 1947 (No. 87); Right to Organize and Collective Bargaining Convention, 1949 (No. 98); Workers' Representatives Convention, 1971 (No. 135); Tripartite Consultation Convention, 1976 (No. 144); and Labor Administration Convention, 1978 (No. 150). Lesotho has also ratified the Prohibition and Elimination of the Worst Forms of Child Labor Convention (No. 182) and the Minimum Age of Employment Convention (No. 138).

Lesotho's Labor Code Order of 1992 and its subsequent amendments are the principal laws governing terms and conditions of employment in Lesotho. The Labor Code regulates terms of employment and conditions for worker health, safety and welfare. The law permits union organization. The Labor Court and the Labor Court of Appeal are the key judiciary entities dealing with labor disputes. In addition, the Labor Code Amendment Act of 2000 established the Directorate of Industrial Dispute Prevention and Resolution (DDPR), which is a semi-autonomous labor tribunal, independent of the government, political parties, trade unions, employers and employers' organizations. LNDC is another key institution that deals with labor disputes. The function of LNDC in this realm is to bring parties together before any formal process is set in motion. For example, LNDC intervenes in strikes and tries to reconcile workers and employers. When this informal process fails, the more formal process of the DDPR can be engaged which can consist of conciliation and arbitration.

Lesotho's high HIV/AIDS prevalence, estimated at 23 percent of the adult population, has heavily impacted the labor market; companies need to take the health of their workforce into account when making management decisions. With the support of external donors, such as the Global Fund and PEPFAR, the anti-retroviral drugs are easily accessible to HIV positive workers.

17. Foreign Trade Zones/Free Ports

Lesotho does not have any free or foreign trade zones. However, the labor intensive textile manufacturing companies that export beyond the SACU market enjoy the benefits of free trade zones since they can import raw materials the export finished products duty and tax free. The LNDC maintains five industrial areas with direct road links to attract foreign investors. These areas are mainly occupied by foreign manufacturing firms which enjoy the same investment opportunities as local entities.

18. Foreign Direct Investment and Foreign Portfolio Investment Statistics

TABLE 2: Key Macroeconomic data, U.S. FDI in host country/economy

	Host Country Statistical source*		USG or international statistical source		USG or international Source of data (Source of Data: BEA; IMF; Eurostat; UNCTAD, Other)
Economic Data	Year	Amount	Year	Amount	
Host Country Gross Domestic Product (GDP) (*Millions U.S. Dollars)*	2012	2128	2012	2448	http://www.worldbank.org/en/country
Foreign Direct Investment	Host Country Statistical source*		USG or international statistical source		USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, Other
U.S. FDI in partner country (*Millions U.S. Dollars, stock positions)*	2010	18.14	2012	5	(BEA) click selections to reach. • Bureau of Economic Analysis • Balance of Payments and Direct Investment Position Data • U.S. Direct Investment Position Abroad on a Historical-Cost Basis • By Country only (all countries) (Millions of Dollars)
Host country's FDI in the United States (*Millions U.S. Dollars, stock positions)*	2010	n/a	2012	n/a	(BEA) click selections to reach • Balance of Payments and Direct Investment Position Data • Foreign Direct Investment Position in the United States on a Historical-Cost Basis • By Country only (all countries) (Millions of Dollars)

Total inbound stock of FDI as % host GDP	2010	66%	2010	8%	

* Host country sources: Central Bank of Lesotho, and Ministry of Finance.

* Exchange rate in 2010: 1USD = 7.3198 Maloti

Section 5 - Government

Chiefs of State and Cabinet Members:

For the current list of Chief of State and Cabinet Members, please access the following - Central Intelligence Agency online directory of Chiefs of State and Cabinet Members of Foreign Governments

Legal system:

mixed legal system of English common law and Roman-Dutch law; judicial review of legislative acts in High Court and Court of Appeal

International organization participation:

ACP, AfDB, AU, C, CD, FAO, G-77, IAEA, IBRD, ICAO, ICRM, IDA, IFAD, IFC, IFRCS, ILO, IMF, Interpol, IOC, IOM, IPU, ISO (correspondent), ITU, MIGA, NAM, OPCW, SACU, SADC, UN, UNAMID, UNCTAD, UNESCO, UNHCR, UNIDO, UNWTO, UPU, WCO, WFTU (NGOs), WHO, WIPO, WMO, WTO

Section 6 - Tax

Exchange control

For more information - http://www.gov.ls/

Treaty and non-treaty withholding tax rates

For more information - http://www.gov.ls/

Methodology and Sources

Section 1 - General Background Report and Map

(Source: CIA World Factbook)

Section 2 - Anti – Money Laundering / Terrorist Financing

	Lower Risk	Medium Risk	Higher Risk
FATF List of Countries identified with strategic AML deficiencies	Not Listed	AML Deficient but Committed	High Risk
Compliance with FATF 40 + 9 recommendations	>69% Compliant or Fully Compliant	35 – 69% Compliant or Fully Compliant	<35% Compliant or Fully Compliant
US Dept of State Money Laundering assessment (INCSR)	Monitored	Concern	Primary Concern
INCSR - Weakness in Government Legislation	<2	2-4	5-20
US Sec of State supporter of / Safe Haven for International Terrorism	No	Safe Haven for Terrorism	State Supporter of Terrorism
EU White list equivalent jurisdictions	Yes		No
International Sanctions UN Sanctions / US Sanctions / EU Sanctions	None	Arab League / Other	UN , EU or US
Corruption Index (Transparency International) Control of corruption (WGI) Global Advice Network	>69%	35 – 69%	<35%
World government Indicators (Average)	>69%	35 – 69%	<35%
Failed States Index (Average)	>69%	35 – 69%	<35%
Offshore Finance Centre	No		Yes

Section 3 - Economy

General Information on the current economic climate in the country and information on imports, exports, main industries and trading partners.

(Source: CIA World Factbook)

Section 4 - Foreign Investment

Information on the openness of foreign investment into the country and the foreign investment markets.

(Source: US State Department)

Section 5 - Government

Names of Government Ministers and general information on political matters.

(Source: CIA World Factbook / https://www.cia.gov/library/publications/world-leaders-1/index.html)

Section 6 - Tax

Information on Tax Information Exchange Agreements entered into, Double Tax Agreements and Exchange Controls.

(Sources: OECD Global Forum on Transparency and Exchange of Information for Tax Purposes PKF International)

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Any questions or queries should be addressed to: -

Gary Youinou

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